REVENUE ACT OF 1932

HEARINGS

BEFORE

THE COMMITTEE ON FINANCE
UNITED STATES SENATE

SEVENTY-SECOND CONGRESS

FIRST SESSION

ON

H. R. 10236

AN ACT TO PROVIDE REVENUE, EQUALIZE TAXATION AND FOR OTHER PURPOSES

APRIL 6 TO APRIL 21, 1932

WITH INDEX

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PREFACE

It became apparent months ago that a revision of the revenue laws would be necessary during the present session of Congress. A detailed analysis of the fiscal condition of the Government and a recommendation as to increased tax rates on individual and corporation incomes and on estates, and also the imposition of sundry excise and miscellaneous taxes, were presented to Congress in the annual report of the Secretary of the Treasury.

In contemplation of the necessary revision, the Ways and Means Committee of the House of Representatives held hearings beginning January 13, 1932, and concluding April 4. That committee framed a proposal which was introduced and reported to the House of Representatives on March 8. After a lengthy debate on the measure, the bill was passed by the House, with amendment, on April 1 and came to the Senate on April 4. It was immediately referred to the Committee on Finance.

A meeting was called by the chairman for April 6, and public hearings were held pursuant to the following notice authorized by the committee:

NOTICE OF REVENUE HEARINGS

(H. R. 10236)

In connection with the revenue bill of 1932, which has recently passed the House of Representatives and which has for its purpose the equalization of taxes and the providing of additional revenue through increased and additional taxes, the Senate Committee on Finance announces to all concerned that it will hold public hearings at Washington, D. C., beginning April 6, 1932, at 10 o'clock a. m.

A tentative schedule of hearings has been arranged as follows:

General statements—
Wednesday and Thursday, April 6 and 7.

Income-tax rates—
Monday, April 11.

Income-tax, general and supplemental provisions—
Tuesday, April 12, 10 a. m. to 12 noon.

Estate and gift taxes—
Tuesday, April 12, 2 p. m. to 4 p. m.

Sales tax—
Wednesday, April 13.

Postal rates—
Thursday, April 14.

Miscellaneous taxes—
Friday, April 15; Monday, Tuesday, Wednesday, Thursday, April 18 to 21, inclusive.

Administrative and general provisions—
Friday, April 22.

Hearings will be conducted in the hearing room of the committee, room 312 Senate Office Building, Washington, D. C. Sessions will begin at 10 o'clock a. m. and 2 o'clock p. m. unless otherwise ordered by the committee.

Persons desiring to be heard should apply to the clerk of the committee at least one day prior to the date of the hearings on the subject concerned, in order to be assigned time on the calendar for that day. In making such application, the following information should be given: Name; business address; temporary

address in Washington; business or occupation; the person, firm, corporation, or association represented; subject concerning which testimony will be given; number of the section of the revenue bill, or number of the section of the revenue act of 1928, or other act to which it relates, if any; and the amount of time desired.

In order to avoid duplication of arguments or suggestions, it is requested that persons having the same problems to present agree upon one representative to present their views. So far as practicable, the committee will seek to recognize witnesses who are qualified to give first-hand information.

Briefs may be submitted in lieu of or to augment oral testimony; but if such papers are printed on both sides of the sheet, two copies must be filed with the clerk for printing in the record.

In accordance with the foregoing notice, hearings were commenced April 6 and concluded April 21, one day in advance of the schedule, during which time 209 witnesses were heard. Stenographic reports were taken of all testimony presented to the committee.

The testimony presented, together with the briefs and other exhibits submitted, is grouped together as far as practical in the numerical order of the House bill. This necessitated the abandonment of the sequence of statements and the order of appearance.

A general index, both as to witnesses and subjects, has been prepared and appended hereto.

ISAAC M. STEWART, *Clerk.*

REVENUE ACT OF 1932

WEDNESDAY, APRIL 6, 1932

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to call, at 10 o'clock a. m., in room 312, Senate Office Building, Senator Reed Smoot presiding.

Present: Senators Smoot (chairman), Reed, Shortridge, Couzens, Keyes, La Follette, Thomas of Idaho, Jones, Harrison, King, George, Walsh of Massachusetts, Connally, Gore, and Hull.

The CHAIRMAN. The committee will come to order. The committee has met to open hearings on the tax bill, H. R. 10236. The first witness is the Secretary of the Treasury, The committee would like to have Secretary Mills present to us whatever statement he has in relation to the bill now pending before the committee.

GENERAL STATEMENTS

STATEMENT OF HON. OGDEN L. MILLS, SECRETARY OF THE TREASURY

Secretary MILLS. Mr. Chairman and gentlemen of the committee, I have divided this statement in two parts: One, general in character, and the other dealing with individual items. I should very much appreciate it if the committee would permit me to complete the general statement without interruption, and after that I will be glad, of course, to answer any questions as to the individual items.

The revenue for the fiscal year 1932-33 under existing laws, it is estimated, will amount to $2,375,000,000. Expenditures, likewise under existing laws, are estimated at $4,113,000,000. As far as the expenditure figures are concerned these are the figures submitted in the annual budget message. The revenue figures represent the revenues as estimated by the Treasury for the Ways and Means Committee. Thus the prospective deficit amounts to $1,738,000,000. If we exclude sinking fund requirements, the amount needed to balance the budget in the sense that current expenditures will be covered by adequate receipts, and that there will be no increase in the public debt, is $1,241,000,000. This must be obtained through decreased expenditures and increased taxes.

The Treasury's position is that the budget must be balanced in the sense above described. There is no need of my presenting to this committee the compelling and unanswerable arguments in favor of a balanced budget. It is essential to preserve unimpaired the credit of the United States Government. Bring that credit into question and our difficulties of to-day, great as they are, become infinitely greater and recovery from the business depression will be indefinitely

postponed. The House has declared its determination to balance the budget. I am confident the Treasury Department will have the support and cooperation of the Senate in maintaining the finances of our Government on a sound basis.

The House proposes to balance the budget by raising according to our estimates, about $1,030,000,000 in additional revenue and by reducing expenditures by $200,000,000, in addition to those reductions already provided for in the annual Budget submitted to the Congress in December. The Treasury Department urges the necessity of reducing expenditures. When asked to assume an enormously heavy tax burden the people are entitled to have the cost of Government reduced to a minimum and every expenditure not essential to the proper functioning of Government eliminated. I need not point out to this committee that to accomplish any such reduction as $200,000,000 in expenditures will require amendments to existing law relieving the departments and independent establishments of obligations now existing. This is one of the essential tasks which confronts the executive and legislative branches of the Government. It is a fundamental and indispensable element in our program. The more you examine the difficulties of raising adequate revenue, the more you will appreciate the compelling necessity of addressing yourselves as well to the task of reducing the cost of government.

The causes which have led up to our present critical situation are well known to you. Our expenses in the fiscal year 1933, including sinking fund requirements, are estimated at $4,113,000,000, as compared with $3,994,000,000 in 1930, whereas under existing law our revenues in the next fiscal year are estimated as $2,375,000,000, as compared with $4,178,000,000 in 1930. It is apparent that our budgetary problem arises from a collapse in our revenue collections due to the business depression acting directly on a tax system particularly sensitive to business fluctuations.

It is no easy task to raise a billion dollars in additional taxes, or an amount which exceeds half the revenue provided for under existing statutes. If we except the estate tax, broadly speaking, there are only three ways in which money can be raised by the Federal Government through taxation: First, by a tax on income; secondly, by a tax on outgo; or, third, by a combination of the two. The income tax is in many respects an ideal tax. Advantages of this tax are as follows: It is direct and unconcealed so that each man knows what Government is costing him. It can be made to yield a very large revenue even in very bad times if applied on a broad base. It only reaches those who have ability to pay and through a progressive rate compels those best able to contribute to pay relatively most.

Disadvantages are: As a practical matter it is very difficult to impose on all citizens having taxpaying ability. Being direct it is felt, and being felt it is unpopular. Consequently, the tendency is to impose it on fewer and fewer taxpayers. This enormously limits its usefulness as a money raiser and weakens its fundamental fairness. It involves trouble to the taxpayer and administrative difficulties to the Government. It is neither easy, unnoticed nor painless. Therefore, in practice we limit its application and even in ordinary times look elsewhere for additional revenue.

Under the income-tax system developed in this country high exemptions relieve people of small and moderate means from contributing

to the support of the Federal Government in the form of income taxation. Because of the great volume of tax-exempt securities, which, as long as 10 years ago, the Treasury urged Congress to do away with through a constitutional amendment, the application of the income tax to the large income derived from inherited or accumulated wealth is necessarily limited. The result is that our income tax of necessity rests essentially on the active American business man and on the successful professional classes.

In times of active business when their capital is fruitfully employed and profits are large the Government collects from them considerable revenue. When industry and commerce go flat, capital ceases to work, and profits disappear, their income likewise vanishes, and so do our taxes. That is why the income tax as applied to individuals has failed us in this emergency. The large profits and the big incomes have melted away. Taxes on incomes of $100,000 and over fell off by 66 per cent from 1928 to 1930, and have fallen off to a great extent since then.

I think the figures indicate that the taxable net income of those having $100,000 and more amounted to approximately $4,500,000,000 in 1928, and it is estimated will amount to but $550,000,000 in 1931.

Senator GORE. State that again, Mr. Secretary.

Secretary MILLS. I am talking now from memory, and not reading from the statement. My recollection is that our figures show that net incomes of $100,000 and over amounted in 1928 to $4,500,000,000, and that our Treasury estimates indicate that in the calendar year 1931 they amounted to but $550,000,000.

Men talk of doubling or tripling the rates on the very large incomes. Those that remain would probably seek isles of safety. But that isn't the point. Raising the rates on the larger incomes does not solve our problem. They are no longer there. There is no nourishment in the hole in a doughnut.

What I wish to bring home to you very definitely is that if we turn to the income tax as a means of furnishing in large measure the additional revenue required, we can not think of the problem in terms of simply raising the rates on those who already pay income taxes. To raise greatly increased revenue through income taxation we must be prepared to lower the exemptions to as low a point probably as England does, and to impose a substantial normal tax on all taxpayers, even in the lower brackets.

The British normal rate I think is 25 per cent, with a very low exemption. Our lowest normal rate is 2 per cent, with a comparatively high exemption even in the proposed revenue bill.

While recommending some broadening of the base, the Treasury Department has not advocated such a course. In spite of its theoretical advantages there are very cogent arguments which may be urged against it. For a long period of years we have relied on a limited rather than a general income tax. We have become accustomed to high exemptions and very low rates on the smaller taxable incomes. That is our fixed conception of an income tax, and it is very difficult as a practical matter to change fixed conceptions of this character. Moreover, it must not be forgotten that the real burden of taxation in this country is due for the most part to local and State taxes, and they are borne, generally speaking, by people of small and moderate means.

There is a very real justification, therefore, for hesitation when it comes to the adoption of a Federal income tax which would really reach the lower incomes. But, having reached that conclusion, the next conclusion becomes inevitable, and that is that we must look elsewhere and to other forms of taxation in order to fill the greater portion of the gap that has developed in our revenues. To impose the full weight of the additional taxes on the present income tax-paying class would make their burden almost unbearable and would so penalize the capital actually employed in business as to seriously affect the general economy of the Nation.

In its study of the problem the Treasury Department early realized that it was necessary to look elsewhere than to the income tax for the necessary revenue. We recommended, to be sure, a broadening of the income tax base by a reduction of the exemptions and an increase in the surtax rates to the level of the 1924 act, which meant practically a doubling of the rates in the upper brackets, as a means not only of obtaining such additional revenues as these measures would yield, moderate though the amounts are, but because we recognized that if ever there were a time when the doctrine of ability to pay should apply, it is now. In searching for additional sources of revenue, we canvassed the entire field.

We considered a general sales or turnover tax, and rejected it because of administrative difficulties and because we considered it unsound in principle.

We considered the manufacturers' sales tax as exemplified by the Canadian law. And I want to make a very sharp distinction between a manufacturers' sales tax and a general sales, or turnover, tax. They are something totally different, from the administrative standpoint, from the standpoint of pyramiding, and from the standpoint in many cases of incidence. In the recent debates which took place in the House, a general sales tax was frequently confused with the manufacturers' sales tax reported by the Ways and Means Committee, and on more than one occasion the Treasury's opposition to a general sales tax was quoted in opposition to the Canadian manufacturers' tax system. This was absolutely unwarranted.

We gave very serious consideration indeed to the Canadian manufacturers' sales tax. Doctor Adams and Mr. Alvord made a special trip to Canada at our request to make a study on the ground and to give the Treasury a report as to the workings of this tax and the benefit of their advice. We did not recommend it because we concluded that there exist in this country administrative difficulties that might be hard to overcome, and because on the whole we felt it was safer to travel along known roads rather than to venture into untried paths.

We decided to recommend instead a series of selective excise taxes, applied to subjects which, generally speaking, had a broad base; which would yield in each case a very considerable revenue; involve no administrative difficulties; were not open to evasion; and would not affect the competitive position of the subjects taxed. The articles or services selected were, therefore, picked for very definite reasons. They may be summarized as follows: Ease in administration; large revenue yield; lack of effect on the competitive position of the industry; and the fact that the purchase of the article or service would, generally speaking, indicate tax-paying ability.

The Treasury program, which I am submitting herewith in detailed form in Schedule A, comprised, generally speaking, a progressive income tax at increased rates; a progressive estate tax at increased rates; a series of selective excise taxes, following in the main the lines of the 1921 and 1924 acts; and increased rates on postage adequate to put the Post Office Department on a self-sustaining basis.

The Ways and Means Committee reported a bill in which the income tax rates were increased substantially along the lines of the Treasury recommendations; the estate-tax rates were sharply increased over the recommendations of the Treasury; a gift tax was included; generally speaking, in lieu of the series of excise taxes recommended by the Treasury, while some were retained, a manufacturers' sales tax, based on the Canadian model though more comprehensive in character and at a lower rate, was sustituted. An increase in postal rates was not recommended.

The details of the Ways and Means Committee bill and the revenue yield under each head appear in Schedule B, hereto attached.

The Treasury stated that while the recommendations of the committee did not conform to those originally made by the Treasury, nevertheless the Ways and Means Committee bill was acceptable to the Treasury.

The bill now before you lowers the income-tax exemptions from $3,500 to $2,500 for married couples, and from $1,500 to $1,000 for single individuals; it increases the normal-tax rates to 2 per cent, 4 per cent, and 7 per cent; does away with the exemption of dividends from the normal tax; and sharply increases surtaxes, particularly those applicable to the upper brackets; it provides for much higher estate-tax rates than have ever existed in this country, even in war time, and supplements them with a gift tax at correspondingly higher rates; it raises the corporation income-tax rate from 12 per cent to 13¾ per cent, and for corporations filing consolidated returns to 15 per cent; it provides for a very great number of manufacturers' excise taxes, which, generally speaking, seem to be directed at what might be described as luxuries, though I am a little at a loss to know why soap and toothpaste should be included in this category; it imposes two new tariff duties; and provides increased postal charges calculated to yield approximately $165,000,000.

The detailed schedules are presented in Table C, hereto attached.

The great merit of the House bill is that it raises $1,030,000,000 of new revenue, and that, from the standpoint of the Treasury, is a most vital consideration. It is, however, susceptible to improvement in a number of important respects. I should like to mention the more important features which we think subject to criticism and submit as a part of this report a more detailed analysis of the principal sections of the bill.

I believe that the corporation income tax rate is too high; that there is no justification for compelling corporations to pay for the privilege of filing income tax returns in accordance with their usual method of doing business and keeping their books; that the concealed double taxation involved in discontinuing the exemption of dividends from normal tax is unsound, resulting as it does in discrimination against the corporate form of doing business for smaller corporations as compared with partnerships; that completely doing away with the

net loss provision is hard to justify in times like these; that the stock transfer tax is excessive under existing conditions; and that the estate tax rates are altogether too high.

It must not be forgotten that the bill already provides for a sharp increase in normal and surtax rates; that losses on the sales of stocks and bonds are to be limited to any gains which happen to be derived from sales of securities in the same year; that the Treasury Department and the Ways and Means Committee were ready to limit the net loss carry-over provision to one year, and that very heavy taxes indeed were proposed in the Ways and Means Committee bill on the issuance and transfer of securities.

The cumulative effect of all these provisions is very great. They tend to converge the full weight of each of them separately upon capital actively employed in business, and to discourage the normal flow of capital into industry and commerce at a time when business men are hesitant and industry stagnant. Their combined restrictive effect magnified by the deadening influence of the depression will in my judgment tend to retard business recovery.

What we want to accomplish above all else at the present time is to break down the vicious circle of deflation of credit, industrial stagnation, falling prices and loss of purchasing power. To put men to work capital must go to work. Credit must be sought and freely offered. But capital must see some chance of profit to compensate for the risk. Business men will not borrow and banks will not lend unless the enterprise offers some fair chance of a reasonable return.

Yet the particular provisions to which I refer, and which were written into the House bill at the very last minute, certainly without mature consideration, have a very definite inhibiting effect. On the one hand, at a period when looses are only too real and too common they would deny to business the right which it now enjoys to carry over the losses from this, a very bad year, to next year, which it is hoped will be a better one; and on the other hand, the tax on any possible profits is very greatly increased. To illustrate: Take the case of a corporation that sustains a loss of $200,000 this year and makes a profit of, say $100,000 next year. Its operations over a 24-month period show a loss of $100,000. Yet under this bill it will be taxed at higher rates on the $100,000 of earnings next year, and at still higher rates when it distributes those earnings, while no recognition whatsoever is to be given to the $200,000 loss sustained during this calendar year.

The corporation income tax is to be increased in some cases to 13¾ per cent and in others to 15 per cent, and on top of this distributed profits are to bear an additional tax of 7 per cent, making in the one case a tax of 20¾ per cent and in the other 22 per cent, as compared with 12 per cent to-day. This is apart from the fact that the stockholder in any event is to pay increased surtaxes.

For the purpose of illustration, consider the case of the railroads. Their bonds are largely held by the great insurance companies, savings banks, and other fiduciary institutions, or, in other words, the savings of the American people are invested in them to a very great extent. These bonds, as we all know, are much depreciated in value. A diminished earning power is of course largely responsible, though fixed charges are for the most part being earned. But the serious part of the situation is that the equities back of these bonds are gradually

being eaten away. With the heavy taxes proposed on future possible railroad earnings and on railroad dividends, coupled with the inhabition on carrying over losses from one year to another, the restoration of equity values essential to the restoration of the high standing of the underlying securities and of the ability of the railroads to obtain essential capital becomes increasingly difficult.

In this connection it should not be forgotten that in normal times railroads spend annually anywhere from $600,000,000 to $800,000,000 for capital improvements, giving employment directly to many thousands of men in making their capital improvements and indirectly to many thousands of others through the orders they place. These funds must be obtained from investors through the security markets. But what reason is there to believe that the capital needed by these railroads for these capital investments will flow freely into railroad securities when with the railroad industry prostrate and flat on its back the Congress of the United States selects this particular moment to impose these punitive business taxes?

I do not want the committee to understand that my criticism is directed to the bill as a whole. There are, however, as I have pointed out, certain very serious defects. These relate to provisions for the most part written in the bill in the last 48 hours, some of which had earlier in the year been definitely turned down by the Ways and Means Committee and on some of which no hearings whatsoever were held. Those are the provisions to which I direct your particular attention with an expression of hope that this committee, after mature considertion, will find it possible either to eliminate them entirely or to modify them so as to make them sound from a tax standpoint.

I wish now, Mr. Chairman, to turn to the analysis of some of the more important provisions of the bill, a discussion of which I hope may prove helpful to this committee. And I shall be ready, I may say, from now on to answer any questions that any member of the committee cares to ask.

Senator KING. By that you mean that you have indicated heretofore the objections to the bill?

Secretary MILLS. Generally speaking. I now want to take up the individual sections.

Senator KING. In a way they comprise first the thought that the taxes upon corporations are too high; that the inheritance and gift taxes are rather too large, and the same with regard to some of the higher brackets?

Secretary MILLS. Not so much a question of the taxes being too high. After all we were willing to go to 13 per cent on corporations, and it can be argued that there is not any great difference between 13 and 13½. I hesitated to recommended 13. I am very sure that 13½ is going a bit too far. But what I am objecting to is the double taxation involved in taking away the exemption from the normal tax on dividends, which is a concealed form of double taxation. I am objecting to the net loss provisions. If you want to tax people put your rates on the actual income which they receive, but do not tax losses. Do not tax the income which they have not got. Those are the kind of errors that have crept into this bill—hidden double taxation.

Senator WALSH of Massachusetts. Just what do you mean by your statement that distributed profits are to bear an additional tax of 7 per cent?

Secretary MILLS. I mean that now the corporation pays a normal tax of 12 per cent on all of its earnings, and up to the present time, ever since we have had an income tax law, beginning in 1913, it was felt that since the corporation had paid the normal rate on earnings the normal rate should not be applied again when the dividends were distributed.

Senator WALSH of Massachusetts. This is for the first time that this is done.

Secretary MILLS. Now for the first time since 1913 the House has done away with that historic conception and has decided to tax not only the profits of the corporation but to apply the normal tax a second time when the dividends are distributed. You understand, of course, that the dividends were always subject to surtaxes. But they were not subject to normal taxes because the normal taxes had already been paid by the corporation. And that puts the small corporation at a very serious disadvantage with the large corporation. If you and I, Senator, are in partnership and run a comparatively small business, or even a large business, and if we incorporate under this bill we will first pay 13½ per cent on our profits, and then when we distribute those profits in the form of dividends to ourselves we pay another 7 per cent. If we were a partnership we would only pay the individual normal rates, the highest of which as proposed is 7 per cent, on those profits.

Senator WALSH of Massachusetts. I take it you have considered this one of the grievous injustices in the bill?

Secretary MILLS. I think it is a very serious injustice. And, as I tried to point out in this general statement, if you take any one of these provisions standing alone it may be unjust, but we can probably stand it during a comparatively short period. But it is the cumulative effect of these provisions that I think makes it worth while for me to speak of them with such emphasis at this time. You can stand injustice in taxation if it is for a limited period of time, but you just can not stand too much injustice for even a limited time.

Senator HARRISON. Mr. Secretary, may I ask you a question? This statement that I have been reading and what you have been saying is in criticism of the House bill and the House action?

Secretary MILLS. Certain provisions, Senator.

Senator HARRISON. Yes, certain provisions. And then you attach here the recommendations of the Treasury to the House Ways and Means Committee?

Secretary MILLS. Yes, sir.

Senator HARRISON. Are you making specific recommendations to this committee as to how you think the budget should be balanced, and are they different from the recommendations that you made to the House Ways and Means Committee?

Secretary MILLS. No, but I think this committee would be fully justified in keeping a large part of the House bill, eliminating some of these faulty provisions, and inasmuch as their elimination would involve a loss of revenue, turning to the Treasury program to supplement the loss occasioned by the elimination of some of the unsound features. That would be my recommendation.

Senator HARRISON. Then you do not propose to recommend specifically to the Finance Committee a particular program, notwithstanding the action of the House?

Secretary MILLS. As I see it this committee has three courses it can follow. Possibly more. But it certainly can either take the Treasury recommendations, which represent, whether you agree with it or not, a fairly well balanced tax program. You can take the Ways and Means Committee bill, which after all was a carefully worked out revenue bill, also well balanced. Or you can take the House bill.

The House bill is before you. I say to you that there are certain features of this House bill that I think are bad. You asked me a very proper question, Senator Harrison, if I understand it. You say if we eliminate these bad provisions we will be short of revenue. What do you suggest? My suggestion is that if you desire to proceed on the basis of the House bill that after eliminating those bad provisions you then turn to the Treasury recommendations and you can find excise taxes that will be ample to make up the revenue.

The CHAIRMAN. Speaking of the House bill, you mean the bill that was reported from the Ways and Means Committee to the House?

Secretary MILLS. No, I mean the bill now before the Senate Finance Committee, Senator.

Senator HARRISON. Would the Treasury Department object to furnishing the Finance Committee now specifically a proposal to balance the budget, taking into consideration the defects in the House bill, the Treasury eliminating them, and then putting it up in a proposal as you did to the Ways and Means Committee, to see just how much revenue we then would get?

Senator WALSH of Massachusetts. In other words, Senator, you would like to have an opportunity—I am sure other Democrats join with you—to have a vote upon a bill drafted in every detail and particular by the Treasury Department, saying that this is what the Treasury wants to balance the budget?

Senator HARRISON. Yes.

Senator WALSH of Massachusetts. Can that not be done, Mr. Secretary?

Secretary MILLS. Yes. I say to you this morning perfectly frankly that I prefer the Treasury program to the House bill. If it was good in December it is still good, and I stand by it. If I had my choice I should prefer the Treasury program to the bill now before you. I prefer the Treasury program to the Ways and Means Committee bill, though I think that was a pretty good bill.

The CHAIRMAN. Mr. Mills, can you not take the bill as it comes to the Senate and point out or delete the provisions that you think are really bad legislation?

Secretary MILLS. And suggest substitutes?

The CHAIRMAN. Yes.

Secretary MILLS. I will be very glad to do that.

The CHAIRMAN. And then suggest legislation that will bring the same amount of money, or the amount necessary for the balancing of the Budget?

Secretary MILLS. I will be very glad to do that.

The CHAIRMAN. I will ask you to do that.

Secretary MILLS. As a matter of fact, when you have an opportunity to study this statement and the annexes you will see that all of that material is right here. It is simply a question of putting it together.

Senator HARRISON. We have not been able to study that yet. For instance, in your recommendation to the Ways and Means Committee the Treasury recommended a retroactive tax. The House has expressed itself very strongly on that proposition. So eliminating the retroactive tax in your proposal will you then furnish us the items and the programs which would raise sufficient money?

Secretary MILLS. I will be very glad to.

Senator WALSH of Massachusetts. The administration has abandoned the retroactive tax, has it not?

Secretary MILLS. We have abandoned the retroactive tax, Senator Walsh, through sheer necessity, because March 15 has rolled by. People have made their returns and paid their taxes, and it is water over the dam. I still think that we were right and that there was no reason whatsoever why the rates on 1931 incomes should not have been raised so as to help the Budget not only this year but next year. I think we were right, and I think the House was wrong.

Senator CONNALLY. Do you still favor the retroactive tax if we can put it in now?

Secretary MILLS. I do not think you can.

Senator CONNALLY. I know, but if we can do it now, do you favor it?

Secretary MILLS. I do not favor it now after people have made their tax returns and in some cases paid their full taxes.

Senator CONNALLY. Part of them are still payable in July.

Secretary MILLS. I do not favor it now. I favored it prior to March 15.

Senator CONNALLY. You did favor it?

Secretary MILLS. Yes.

Senator CONNALLY. And now you do not favor it?

Secretary MILLS. Now I say, however, that it is water over the dam.

The CHAIRMAN. The first payment has already been made.

Secretary MILLS. That is all settled.

Senator CONNALLY. I understand all that, but we could put them on now if the Treasury wants them.

Secretary MILLS. The Treasury does not recommend them now.

Senator CONNALLY. The Treasury does not recommend them now?

Secretary MILLS. No, the Treasury says to you very frankly that we consider that the time has passed.

Senator SHORTRIDGE. As a matter of law do you think we could?

Senator CONNALLY. Yes; we can tax anything, anywhere, any time.

Senator SHORTRIDGE. After the payment has been made?

Senator CONNALLY. Why certainly.

Senator SHORTRIDGE. Under the guise of—

Senator CONNALLY. Under the Constitution you can tax anything out of existence if you want to, so it is a question of being willing, and if the Treasury wants to have a retroactive tax.

Senator SHORTRIDGE. Yes; I follow you.

Senator CONNALLY. Now it is our duty to consider it, and I am trying to find out if the Treasury now advocates a retroactive tax on the 1931 income.

Secretary MILLS. No; the Treasury believes that the time has passed, Senator Connally. It is too late.

Senator CONNALLY. Then the Treasury has retreated from that position?

Secretary MILLS. Not at all.

Senator SHORTRIDGE. You say you could not fix it now. Why not, Mr. Secretary?

Secretary MILLS. Because I think the time has passed. This law will not go into effect in all human probability now until six months of this year have elapsed. The position of people has now been changed. They are budgeting for 1932 on the basis of a fixed schedule of taxes. It was my contention, Senator Shortridge, when we urged making the tax retroactive that it conformed with the practice always followed by the Congress when we were reducing the rates, and if it was right when you were reducing the rates it was just as right when you were raising the rates. I contend that the average individual pays the tax on his 1931 income out of 1932 income. There are very few individuals that, during the course of 1931, set up a reserve for taxes to be paid in 1932. There may be some very careful and businesslike gentlemen who do. But the average man pays his 1931 income tax out of his 1932 income. Therefore, if he had known as early as January that the rates were going to be raised no hardship would have been imposed. But now there is a hardship. Why? Because he has made his March 15 return. In some cases he has paid his entire tax. By the time this bill becomes law half the year will have passed, and he will have adjusted his 1932 budget on the basis of the old rates. You do him an injustice if you change now. Our assumption was predicated on the fact that a revenue bill would be enacted by February 1.

Senator CONNALLY. Mr. Chairman, may I ask one other question on that point? Mr. Secretary, you have served in Congress, and did you believe when you submitted the retroactive feature that the tax bill would get through both Houses of Congress and be signed by the President by the 15th of March?

Secretary MILLS. No; but——

Senator CONNALLY. Then why did you recommend the retroactive feature?

Secretary MILLS. I thought if the suggestion was well received by the Ways and Means Committee that it was perfectly possible to put a joint resolution through covering income tax rates, and that is what we were prepared to suggest. We knew very well that you could not get a complicated tax bill through by the 15th of March, but if the Ways and Means Committee had said, "We favor the retroactive tax," we would have said at once, "All right, segregate that from your general tax bill, put a joint resolution through making the 1924 rates applicable to 1931 income," and that could have been put through both Houses in 10 days or 2 weeks. You gentlemen can move awful fast when you have a mind to.

Senator CONNALLY. The Treasury can change awful fast when it has a mind to.

Secretary MILLS. Yes; we have to be agile.

Senator GORE. There is one question I want to ask at this point. You have asked the Secretary to submit a schedule of taxes, eliminating certain features, and suggesting other sources of revenue. Is

it the desire of the committee that he should recommend the general sales tax in that?

Senator WALSH of Massachusetts. The manufacturers' tax?

Senator GORE. The manufacturers' tax.

Senator WALSH of Massachusetts. Rather than the sales tax.

Secretary MILLS. I will say to Senator Gore that it is not my intention to make that recommendation. I shall return to the original recommendation made by the Treasury to the Ways and Means Committee.

Senator GORE. While I have the Secretary's attention, let me say this. In regard to the capital profit and loss, the gain and loss provision; I have had an idea that that ought to be eliminated entirely in the long run or in the future, both ways. I have a concrete case in mind. This is off the record.

(At this point Senator Gore made a short statement off the record.)

Secretary MILLS. I agree with the Senator. And we agree with the Ways and Means Committee, recognizing that in many cases it is going to be a real hardship because the losses are not going to be paper losses, but they are going to be genuine.

Senator GORE. I think you are right. It is not playing the game to cut them off now.

Secretary MILLS. But in order to do away with the practice of wiping out what I call other income, that is income from dividends or other business profits through so-called paper losses in stocks we agreed with the Ways and Means Committee, and it is in this bill, and we indorsed it, that you should only be allowed to deduct losses sustained through the sale of capital assets from the profits made by the sale of capital assets in that same year. That is in the bill.

Senator GORE. But that does not meet your approval, does it?

Secretary MILLS. Yes, sir, it does.

Senator GORE. I understand you to criticize it.

Secretary MILLS. No, sir. I am criticizing the net loss provision, which is the right that a man in business or a corporation now enjoys of carrying over the loss in any given year to the next year and in part to the second year.

Senator GORE. I did not understand your point.

Senator HARRISON. Mr. Secretary, under your estimate of the House bill they would raise, as I understood you to say, $1,109,000,000?

Secretary MILLS. $1,030,000,000.

Senator HARRISON. $1,030,000,000?

Secretary MILLS. Yes.

Senator HARRISON. There is some difference between the House estimate and your estimate with reference to the cutting of expenditures for this year. There is a difference on that. As I understood, at first you said they would only be able to cut down and save $125,000,000. The estimate of the Ways and Means Committee was $200,000,000, and you afterwards cut it to $100,000,000, as I understood it.

Secretary MILLS. No, I said that I was willing to reach for $125,000,000. Mind you, I do not want you to misunderstand me, Senator Harrison. I am fully in accord with the Ways and Means Committee that we ought to try to reduce expenditures $200,000,000. But I was not quite as optimistic as the Ways and Means Committee was as to whether we will reduce them actually $200,000,000.

Senator HARRISON. I understand there is a difference between the Ways and Means Committee estimate and yours, and it is due largely to that expenditure item.

Secretary MILLS. Yes. There was not any very substantial difference on the revenue side.

Senator HARRISON. Yes.

Secretary MILLS. Though I think I ought to call your attention to the fact that since those estimates were made up, the Post Office Department has notified us that their estimates will be cut by $10,000,000. In other words, that it should be $155,000,000 instead of $165,000,000. So that makes really $1,020,000,000.

Senator HARRISON. So in balancing the proposition you estimated at first that there would be some deficits still, and then it was that the House put on this tax on stock dividends, and so on. Now what is the estimate for 1933, according to your figures? I do not have them here.

Secretary MILLS. Of the expenditures?

Senator HARRISON. Of the revenues.

Secretary MILLS. Under existing law?

Senator HARRISON. No; under this item where you have balanced the Budget. You have said that you will get $1,030,000,000 in increased revenues by virtue of this bill that passed the House. What will you get from it the next year?

Secretary MILLS. In 1934?

Senator HARRISON. Yes; the fiscal year 1934.

Secretary MILLS. I can not give you that offhand, but I will get it for you.

Senator HARRISON. Well, it would be considerably larger than for this year?

Secretary MILLS. Not as much as you suppose.

Senator HARRISON. How much would you say?

Secretary MILLS. I will get you the exact figures, Senator Harrison, but you are going to be disappointed, because the income tax figures are going to rise very slowly due to the fact that the 1934 income-tax figures—the first six months of 1934 will include taxes on income during the year 1932, which we know is a low year. And the second six months will include 1933; that being, we hope, a year of moderate recovery. So you can not hope that 1934 will be very much higher than these estimates for 1933.

Senator HARRISON. On the corporation income tax, for instance, you will only collect for practically one-half a year. You put in your estimate, $43,400,000 for the fiscal year 1933?

Secretary MILLS. Yes.

Senator HARRISON. Now for the calendar year 1933 estimate it would be around $86,000,000 increase?

Secretary MILLS. Yes. Oh, you will pick up all right.

Senator HARRISON. Yes.

Secretary MILLS. But you do not pick up quite as much as we hope.

Senator HARRISON. Because you will have a full year to operate there.

Secretary MILLS. Yes; but you do not pick up as much as you would hope.

Senator HARRISON. Additional income taxes in 1933 you estimate at $132,000,000. Of course, Mr. Parker, of the Joint Committee, estimates $145,000,000.

Secretary MILLS. Well; we are probably nearer right than he is.

Senator HARRISON. He has been nearer right than you have been in the past.

Secretary MILLS. I believe he is high on his 1932 collections.

Senator HARRISON. Yes; he is higher on that.

Secretary MILLS. And we already have the March returns in, and they indicate that our estimates of income-tax collections in 1932 are still somewhat too high.

Senator HARRISON. At any rate, on the $132,000,000 for 1933, operating for practically half of the year, you estimate you will at least get $200,000,000 for 1933?

Secretary MILLS. For 1934 you are talking about?

Senator HARRISON. Yes, 1934.

Secretary MILLS. Yes, you will go up in 1934, Senator Harrison. I am not denying that. You do not go up as much as we had hoped, that is all.

Senator HARRISON. And the estate taxes estimate for this year $20,000,000?

Secretary MILLS. Yes, sir.

Senator HARRISON. Whereas in the next year it will go up considerably, will it not?

Secretary MILLS. It will jump up, but not by such an enormous amount.

Senator HARRISON. It will jump up to $120,000,000, will it not?

Secretary MILLS. Yes, it might.

Senator HARRISON. That makes a difference of approximately $200,000,000 or $250,000,000 on those three items.

Secretary MILLS. I will give you the exact figures. That is safer.

Senator HARRISON. Oh, yes, that is safer, but the idea is that this year on those three items you will get something over $150,000,000 more?

Secretary MILLS. Yes, but are we not going to have a balanced Budget in the sense that we are going to take care of the sinking fund?

Senator HARRISON. I hope we will.

Secretary MILLS. After all we are talking about a balanced Budget in 1933 without a sinking fund.

Senator HARRISON. I appreciate that.

Secretary MILLS. And the Treasury's program—and I would not be willing to back up on that program one bit—is to balance the Budget with the sinking fund included, Senator, in 1934.

Senator HARRISON. You have estimated that for this year we would receive $1,030,000,000?

Secretary MILLS. Yes.

Senator HARRISON. It would be more the coming year, 1934?

Secretary MILLS. Yes.

Senator HARRISON. It would be more by $150,000,000. You say you will figure out the exact amount.

Secretary MILLS. Yes.

Senator HARRISON. The country has not gotten that at all.

Secretary MILLS. Well, the country ought to have gotten it, because in our original estimates we stated very frankly what our program

was. Balance the Budget without the sinking fund in 1933. Balance the Budget with the sinking fund in 1934. And the Treasury taxes were calculated to accomplish both those objects. I still insist that your revenue bill ought to do those two things. Not just balance in 1934 with the sinking fund still out, but balance in 1934 with the sinking fund in. And that means you have got to pick up quite a bit in 1934.

Senator GORE. What is the exact amount of the sinking fund?

Secretary MILLS. About $440,000,000 in 1934.

The CHAIRMAN. That is not for one year?

Secretary MILLS. Yes.

Senator CONNALLY. Mr. Secretary, you estimate that this House bill will bring in $1,030,000,000?

Secretary MILLS. $1,020,000,000 now, because the Post Office knocked off $10,000,000.

Senator CONNALLY. If you strike out these items that you are objecting to in that bill, how much will that take off?

Secretary MILLS. I have not figured it out, but I will figure it out and suggest the substitutes.

Senator CONNALLY. That is what I want to know. How much will it reduce the prospective revenue under this bill if the committee should strike out the items to which you object, and where would we get the additional revenue?

Secretary MILLS. I will give you the dividend item now. I think that is about $90,000,000.

Senator CONNALLY. On the 7 per cent?

Secretary MILLS. At the normal rates.

Senator CONNALLY. $90,000,000?

Secretary MILLS. Yes. On the stock transfer tax, assuming that you can collect it—and I think you gentlemen will have to have some testimony on that, as to whether the traffic in the present conditions will bear one-fourth of 1 per cent—assuming that you can collect it, why the difference there is $42,000,000, I think.

Senator CONNALLY. So that is $132,000,000, additional revenue in two items.

Secretary MILLS. Yes. There is not any doubt about what happened, Senator Connally. It was under the pressure of finding needed revenue after the Ways and Means Committee bill had been rejected that the House turned to these provisions which we object to. They did not have them in originally.

Senator CONNALLY. Where would you get that additional revenue?

Secretary MILLS. A tax on checks will bring in $95,000,000.

Senator CONNALLY. Do you recommend that?

Secretary MILLS. Yes, sir, most decidedly, as compared with this double hidden taxation. There is nothing wrong about a tax on checks. It is a perfectly legitimate excise tax. It is one that I suggest.

Senator HARRISON. How do you get that estimate, Mr. Secretary, of an additional tax on checks in that amount?

Secretary MILLS. Well, Mr. Stark made a pretty complicated estimate. I would rather have him explain it to you. He explained it to me at the time, and I understood it.

Senator HARRISON. We had it in force during the Spanish-American War for a brief period, as I understand, and we raised then something like $30,000,000.

Mr. STARK. Something over $30,000,000 for a group of items, the chief of which was the check tax. We do not know exactly what was collected under the check tax even at that time.

Senator KING. Mr. Secretary, have you not underestimated the deficit that will exist this year, or rather the appropriations which will be made this session before we adjourn? And also perhaps deferred items which will have to be met in the deficiency bill, or with a supplemental bill or special appropriation bill in December?

Secretary MILLS. I do not know. The economy wave seems to be rolling up right now. I do not know how much it is going to sweep in.

Senator KING. I am afraid it will lose its force. It will not be a force measure by any means.

Senator SHORTRIDGE. I think I understand you, but assuming that the items to which you offer objection are eliminated entirely, you intend to submit to the committee substitute sources of revenue to equal the amount?

Secretary MILLS. Taken from our original program.

Senator HARRISON. May I ask you, Mr. Secretary: Have you recommended— you did not in your first recommendation— anything in reference to second-class mail matter?

Secretary MILLS. No.

Senator HARRISON. Have you given much thought to that?

Secretary MILLS. No. I thought that was a matter for the Postmaster General. All the Treasury did was to take the position that there was no reason on earth why if you exclude the special subsidies the Post Office Department should not pay its way. And we suggested that the Ways and Means Committee call the Postmaster General and ask him as to the best means of raising the necessary revenue so as to have a balanced budget in the Post Office Department.

Senator SHORTRIDGE. And they suggested 3 cents instead of 2 cents?

Secretary MILLS. They suggested the 3 cents.

Senator GORE. And the increase was limited to first-class matter?

Secretary MILLS. The increase was limited to first-class matter.

Senator HARRISON. You did not recommend anything being done with second-class matter?

Secretary MILLS. Not as far as I know, Senator Harrison.

Senator GORE. Have you made any study or report with respect to the House bill rate on crude oil and gas or not?

Secretary MILLS. The House bill does not lay any tax on gasoline, Senator Gore.

Senator CONNALLY. Imported, he is talking about.

Senator GORE. Imported crude oil.

Secretary MILLS. We made an estimate that the tariff on imported oil would yield $5,000,000 in revenue. That was based, I may say, on analyses by the Department of Commerce and in part on Tariff Commission data. We did not make any original studies in the Treasury Department.

Senator GORE. The point I was making is that the House bill, through inadvertence or otherwise, fixed the same rate on crude oil and on gasoline.

Senator SHORTRIDGE. That manifestly was erroneous, was it not, Senator Gore?

Senator GORE. Yes. I was asking the Secretary if he had made any study or any report on that point.

Secretary MILLS. No, sir; we did not. All we did was to report the amount of revenue, because we felt that whether the tariff duty should be imposed or not was a matter of policy for the Congress to determine, and the Treasury did not express an opinion as to that tariff schedule any more than it expresses an opinion on any tariff schedule in any general tariff bill.

Senator GORE. Could you submit a report as to what the compensating duty should be? As to what the rate on gasoline ought to be if it remains to-day 1 cent a gallon on crude oil?

Secretary MILLS. I will be glad to act as an intermediary; in other words, to get the information from the Tariff Commission or the Department of Commerce.

Senator GORE. Well, I would not want to trouble you with it.

Secretary MILLS. We have not got it, but we can get it easily enough.

Senator GORE. The committee can get it from the sources that you suggest.

Secretary MILLS. If you want the information, we will get it, Senator Gore. Did I understand that you wanted it?

Senator GORE. Yes.

Senator HARRISON. In talking about the manufacturers' excise taxes, I notice the statement:

> Those taxes which are in effect protective tariff duties present problems usually dealt with under a tariff act. Whether they should be included in a revenue bill is a matter of policy for the Congress to determine.

Will you give us your opinion as to whether there ought to be included in this bill the proposition of the tariff on oil or any other proposition?

Secretary MILLS. I do not believe we should do that. We have never, so far as I know, Senator Harrison, in the making of a tariff bill ever been called upon to express an opinion as to individual schedules. All the Treasury has ever been called upon to do is to advise as to the administrative provisions of a tariff law.

Senator HARRISON. What is your opinion as to the policy of putting a tariff rate on a revenue bill?

Secretary MILLS. Well, I do not care to express an opinion. I think that is a matter for you gentlemen to determine.

Senator SHORTRIDGE. Would you give us an estimate as to the revenue that would flow from it?

Secretary MILLS. Perfectly willing. We have given you an estimate.

Senator WALSH of Massachusetts. With all due respect to you, Mr. Secretary, let me say that you have already criticized things in the House bill. Why do you hesitate to make an answer to this?

Secretary MILLS. Because that is a matter of pure policy. I pick those two out and say these are tariff items. Now if you gentlemen think as a matter of policy you want to include tariff items in this bill, that is for you to determine.

Senator HARRISON. But you picked out the items of soap and toothpaste and referred to them.

Secretary MILLS. I said that I did not understand why soap and toothpaste should be regarded as luxuries.

Senator HARRISON. I agree with you.

Senator SHORTRIDGE. Well, are they not luxuries?

Senator JONES. Mr. Secretary, before you start on that let me ask you a question: Is there anywhere in the Ways and Means Committee hearing a statement showing the English income tax system?

Secretary MILLS. No, I think not.

Senator JONES. I mean of the income taxes that they impose on their citizens.

Secretary MILLS. No, there is not.

Senator JONES. Can you furnish to this committee a synposis anyway, or a statement showing the taxes that the English Government imposes?

Secretary MILLS. I will be glad to do that. But, generally speaking, their exemptions are very much lower than ours.

Senator JONES. And their taxes are very much higher as imposed upon their citizens?

Secretary MILLS. Yes. For instance, I think the exemption for a married couple is about $730 exclusive of the earned income allowance. The normal tax in Great Britain is 25 per cent, which applies to all net income above the exemptions, though the first £175 are taxed at one-half the normal rate.

Senator JONES. Will you furnish for our record a statement of that tax?

Secretary MILLS. Yes. In addition to that they have sharply graduated surtaxes, so that generally speaking their income tax is much more drastic and a much more effective tax than ours is. The principal revenue, however, is as might be expected derived from the very high normal tax which applies of course to a very broad base.

Senator JONES. Yes; I so understand.

Secretary MILLS. I am speaking from memory now, but my impression is that they will collect this year from the normal tax rate more than a billion and a quarter dollars, including corporations.

Senator JONES. I should just like for you to furnish a statement of the income taxes of Great Britain for the purpose of our record.

The CHAIRMAN. Yes, Mr. Secretary; if you have that information please send it to us.

Secretary MILLS. I will be glad to do so.

(A statement of the income taxes imposed by Great Britain is as follows:)

BRITISH INCOME TAX

The British income tax includes two forms of levy. One, known as the income tax, is at a standard flat rate of tax (comparable to our Federal normal tax) payable on total annual income, less allowable deductions, allowances, etc., of all individuals and corporations. This tax is in part collected directly from the recipient of the income and in part collected at the source. The tax is paid by corporations at the standard rate—this is the only tax on income paid by corporations—and is treated as effecting the collection at the source of the tax, at the standard rate, due by individuals on income received in the form of dividends. The second class of levy is known as the surtax and applies at graduated rates to the total annual income less allowable deductions of individuals from all sources in excess of £2,000 without deduction of personal exemptions and similar allowances.

For purposes of reporting income for the assessment of tax under the British system, income is classified under one or more of five schedules according to its character and source. This classification of income is significant primarily in connection with such considerations as the basis of assessment, the deductions allowed, and the method and time of collection. Tax rates are applied to the aggregate of taxable income as reported under all schedules.

Under the last finance act (Finance No. 2 Act 1931) the standard rate of income tax (which corresponds to our normal rates) was fixed at 25 per cent, except that the first £175 of net taxable income is taxed at one-half the standard rate of 25 per cent.

The standard rate applies to the income in excess of certain specified deductions and allowances. The most important of the so-called allowances are the following:

Married individual	£150
Single individual	100
Credit for first dependent child	50
(Other dependent children £40 each.)	
One-fifth the amount of earned income up to	300

The surtax rates imposed on net income, without deduction of the above and similar allowances, are as follows:

Net income:	Per cent tax rate
First £2,000	Nil.
Next £500	5.500
Next £500	6.875
Next £1,000	11.000
Next £1,000	16.500
Next £1,000	19.250
Next £2,000	22.000
Next £2,000	27.500
Next £5,000	30.250
Next £5,000	33.000
Next £10,000	35.750
Next £20,000	38.500
In excess of £50,000	41.250

The general structure of the British income tax presents many important points of difference as compared with our Federal system in respect of the basis of assessment, the taking of deductions, the rates and time of payment.

In general, the basis of assessment of tax in a given year is the income of the preceding year, as is the case under our Federal system. In the case of certain classes of income, however, the tax is assessed on the basis of income in the year of assessment.

In general, payment of British income taxes is not due as soon after the close of the year in which income arises as is the case of our Federal taxes. The full or first quarter payment of our income taxes (both normal and surtax) is due 2½ months after the close of the income year and the last quarter is due 11½ months after the close of the income year. Except for certain collections at the source, payment of the British income tax at the standard rate is not due until nine months after the close of the income year, and payment of the last quarter of the amount due may be posptoned under certain schedules for six months longer. Payment of the British surtax is not due until 21 months after the close of the income year. The surtax is therefore a deferred payment of income tax because the surtax on the income of a given year is paid a year later than income tax at the standard rate.

Profits from dealings in securities and other capital assets, which under our income-tax law have been an important source of revenue in recent years, are not included in the taxable income of Great Britain, except profits from such dealings carried on as a business.

For purposes of illustration, the following table is submitted in which there is presented a comparison between the computed tax for various incomes under the above British income tax rates and the rates as proposed under H. R. 10236 as passed by the House.

Total income tax payable, married individual, one dependent, earned income only

Net income	United States (H. R. 10236, as passed by House)	United Kingdom (Finance No. 2 Act 1931)	Net income	United States (H. R. 10236, as passed by House)	United Kingdom (Finance No. 2 Act 1931)
$1,500		$28.34	$25,000	$1,892.00	$7,366.14
$2,000		78.34	$50,000	7,142.00	19,583.13
$2,500		150.22	$100,000	26,592.00	48,021.13
$5,000	$29.50	650.22	$250,000	97,092.00	142,102.83
$7,500	88.25	1,160.24	$500,000	214,592.00	307,817.83
$10,000	194.00	1,700.94	$1,000,000	449,592.00	639,067.83

Senator JONES. Could you give us any idea of the situation at this time?

Secretary MILLS. I have here in my statement some figures on our normal tax. In 1932 it is estimated at around $82,000,000. When I was discussing a truly effective income tax raising a vast volume of revenue I had in mind a tax similar to the British tax; which, however, I do not recommend.

Senator JONES. But you will furnish us a statement of the income taxes of Great Britain?

Secretary MILLS. Yes.

Senator SHORTRIDGE. Mr. Secretary, when you speak of Great Britain do you mean England and Scotland, do you limit it to those two countries?

Secretary MILLS. Yes; and the north of Ireland, I believe, comes under their internal revenue system.

Senator SHORTRIDGE. For instance, Ulster.

The CHAIRMAN. All right, Mr. Secretary, you may proceed with your statement.

Secretary MILLS. Corporation income tax: The bill increases the rate of corporation income tax from 12 per cent to 13½ per cent. As I have said, I think that this increase may be too great. In dealing with the rate of the corporation income tax, it is to be borne in mind that the income which we refer to as the income of the corporation is in reality the income of a group of individual stockholders. The tax imposed upon the corporation may fall unfairly upon the individual stockholders. It can not be apportioned or levied with reference to the individual status of the different stockholders. When the corporation rate is increased, the increase affects equally stockholders of small means and stockholders of large means, and does not rest fairly on these different classes of stockholders. It is also to be borne in mind that when it comes to a relatively high rate for income of corporations, the relation of the income of the corporation to the capital involved in the enterprise is a very important factor. An increase in the corporation rate may be entirely bearable by a corporation which is fortunate enough to be earning a high rate of return on its capital. In the case of a corporation, however, which is earning a low rate of return upon its capital the increase in the flat rate of the corporation income tax may bear with great hardship. The increase in the rate of the flat corporation income tax should be kept within bounds. I felt some doubt as to the soundness of recommending as we did, that the corporation income tax rate be increased from 12 per cent to 13 per cent.

Consolidated returns of corporations: Certain income tax provisions relate to the treatment under the tax law of business enterprises conducted through the medium of corporations. I refer first to the wholly novel treatment in this bill of consolidated returns of corporations. The bill provides that consolidated returns may be made by corporations having subsidiaries, but that for the right to make such return the corporations shall pay a price in the form of 1½ per cent more of their net incomes than would be required as tax in the case of a corporation filing a separate return. I can conceive of no sound argument for putting a price upon the right to file a particular kind of income tax return.

The provision for consolidated returns should be retained as part of the law, like other parts of the law which recognize sound business practices and are designed to permit recognition of such practices in the computation of taxable income. When the revenue act of 1928 was enacted, it was determined to confine the use of consolidated returns to cases in which affiliation rests upon 95 per cent ownership of the voting stock by another corporation. It has been the practice of most corporations operating with subsidiary corporations to file consolidated returns of income and of operations of the group, and under this provision the income and operation of the group are reported for tax purposes in the same manner in which they are reported and dealt with in the corporation's reports for stockholders, for banks, and for other purposes.

In other words, the consolidated income tax return permits a corporation to report its income in accordance with its normal method of keeping its books and in accordance with its normal method of reporting its income for business purposes. And it seems to me that in so far as an income tax return can conform to legitimate business practice it is all to the good to have it do so.

Senator SHORTRIDGE. Mr. Secretary, just in a word what was the reason assigned for imposing this additional 1½ per cent?

Secretary MILLS. I do not know of any reason, Senator Shortridge, and I can not conceive of any legitimate reason if the consolidated return is the proper way of filing an income-tax return; and on that question I want to refer you to the report of this committee made in 1928, in which this committee held in the strongest possible language that the consolidated return was not only proper but highly desirable. If that be so, I can see no conceivable justification for making a corporation pay 1½ per cent for the privilege of doing what is the right thing anyhow. You might just as well say: "All right; we will give you your exemption for your wife and dependents provided you pay 1 per cent extra."

Senator CONNALLY. Mr. Chairman, might I ask the Secretary a question?

The CHAIRMAN. Certainly.

Senator CONNALLY. How did the original consolidated return come about in the first place? As I understand the situation some concerns own a number of corporations or a number of different plants.

The CHAIRMAN. Yes; in all sections of the country.

Senator CONNALLY. That is right. Under the old law each one had its own return. Now, when you consolidated them you permitted the prosperous ones to offset gains by losses in others, and therefore a special provision was put in that if you are going to give a

concern that has a number of plants that advantage over those that have only one plant, in the way of taking up the slack, they would pay this additional tax. Now, isn't that the real reason for it?

Secretary MILLS. I do not think there is any advantage. Let us suppose, Senator Connally, that you own a department store. And let us say that the profits of the toy department were very satisfactory while the operations of the dry-goods department showed a loss. Now, would you say it was proper to tax you as the owner of that department store, which is one going concern, on the profits of your toy department while refusing to recognize the losses sustained in your dry-goods department?

Senator CONNALLY. That is not a fair comparison.

Secretary MILLS. Well, let me go one step further.

Senator CONNALLY. That is a refinement.

Secretary MILLS. Let us suppose, as happens, that you own a single business but that that business operates through three corporations, and that you own all the stock of those corporations. Whether you make a profit depends upon the success or failure of all three businesses, the sum total of all three operations. It would be entirely illogical to say that we will recognize the profits of one but won't allow you a deduction for the others.

But I can not answer that better I think than by reading the language of your own report to which I have just referred.

The CHAIRMAN. Mr. Secretary, isn't this to be taken into consideration, and I know it was when that bill was passed: Take the Piggly Wiggly stores, and they have hundreds of them throughout the United States. They will go into a new community and start a store. They can run out the store operating there by underselling and making losses, and can keep it up for 1 year or 2 years, or, if necessary, for 3 years, and by taking losses they will run out the store located in that community and thereby drive out competitors. Then they are allowed to deduct that loss from the gains made in other parts of the country. That was the object of it.

Senator CONNALLY. Yes, and they have already driven them out.

The CHAIRMAN. Doubtless so. I do not mention the Piggly Wiggly stores in particular, or any more than I would any other similar organization.

Secretary MILLS. At the same time, if you are a manufacturing concern doing a nation-wide business and because of State laws it becomes necessary to form selling corporations of which the parent corporation owns all the stock, you can see the situation. Do you get a fairer picture of the entire business by having a consolidated return, or do you get a fairer picture by having the parent concern file its return and then have the subsidiaries file separate returns?

Senator Connally, if you were a business man——

Senator CONNALLY. Oh, now, Mr. Secretary, don't classify me as a business man. I object to that.

Secretary MILLS. Then you as a statesman making an investment——

Senator CONNALLY (interposing). Well, I will accept that statement. [Laughter.]

Secretary MILLS. You would want the entire picture of that parent manufacturing corporation and of its various sales corporations. You would not be satisfied to have simply a picture of the

manufacturing operations if they were selling the goods at cost and without profit to the several subsidiaries. Moreover, if you do away with the consolidated return you inevitably permit all sorts of intercompany transactions, which through manipulation can result in a writing down of profits for income tax purposes.

Now, as I have said, I believe I can not state it any better, nor indeed half so well, as you gentlemen did four years ago, and this is what this committee said at that time——

Senator CONNALLY (interposing). Mr. Secretary, before you read that let me suggest another point so as to get one answer for all points. The point I now want to make is that the consolidated return gives an advantage to the concern with a great many subsidiaries over the large number of individual proprietors.

Secretary MILLS. I do not think so. I think it puts them on the same basis.

Senator CONNALLY. I disagree with the Secretary, with all due respect. And I have to disagree with the Treasury Department, although I admit that I am generally out of agreement with anything that has money in it.

Secretary MILLS. Well, you can not accuse us of having any money these days. [Laughter.]

Senator CONNALLY. I want to ask you about chain banks. Here is a great string of banks all over the country owned by one concern. Their competitors are individual banks all over the country. Individual banks that make a profit would have to pay, and individual banks that did not make a profit would not have. But the chain banking system instead of paying on profits from their banks that did prosper, would be able to deduct the losses suffered by any of the others, and the sum total of the chain banks would pay a lower tax than the same number of individual banks. That is why I am insisting that the consolidated return gives a benefit to the monopolistic concerns that have great chains of stores or factories or banks throughout the country, and penalizes their independent competitors. And therefore it is that if they are to have the privilege of making a consolidated return they ought to be taxed for it.

The CHAIRMAN. And that, as I have stated, was the object when the law was agreed to.

Senator CONNALLY. Certainly.

The CHAIRMAN. In the act that Senator Connally is referring to not only banks but Piggly Wiggly stores and these other concerns that have branches all over the country, in every little town, and there are dozens of them in Washington, were to be reached, and that was the object of it.

Secretary MILLS. Might I now read this report made by this committee in 1928, because it states the situation very clearly and succinctly (reading):

> The permission to file consolidated returns by affiliated corporations merely recognizes the business entity as distinguished from the legal corporate entity of the business enterprise. Unless the affiliated group as a whole in the conduct of its business enterprise shows net profits, the individuals conducting the business have realized no gain. The failure to recognize the entire business enterprise means drawing technical legal distinctions, as contrasted with the recognition of actual facts. The mere fact that by legal fiction several corporations owned by the same stockholders are separate entities should not obscure the fact that they are in reality one and the same business owned by the same individuals and operated

as a unit. To refuse to recognize this situation and to require for tax purposes the breaking up of a single business into its constituent parts is just as unreasonable as to require a single corporation to report separately for tax purposes the gains from its sales department, from its manufacturing activities, from its investments, and from each and every one of its agencies. It would be just as unreasonable to demand that an individual engaged in two or more businesses treat each business separately for tax purposes.

Much of the misapprehension about consolidated returns will be removed when it is realized that it is only when the corporations are really but one corporation that the permission to file consolidated returns is given, and that no ultimate advantage under the tax laws really results. The present law permits the filing of consolidated returns only where one corporation owns at least 95 per cent of the stock of the other corporation of it at least 95 per cent of the stock of both corporations is owned by the same interest. The provision is a business man's conception of a practical existing state of facts. Your committee believes that rather than departing from business practices and standards our revenue laws should be brought nearer to a recognition of them.

Now, that was from the report of the Senate Finance Committee on the revenue bill of 1928.

Senator SHORTRIDGE. That means that the holding company must own a full 95 per cent of the stock of the other company.

Secretary MILLS. Yes.

The CHAIRMAN. You may proceed, Mr. Secretary.

Secretary MILLS. Dealing with income returns of corporations in this way, with the elimination of the effect of purely intercompany transactions, causes the tax to rest upon a true net income of the group as a whole. This provision eliminates the necessity of going into questions of intercompany accounting, and eliminates artificial effects upon income which might be harmful to the revenue resulting from considering the operations of single subsidiaries, without regard to what may be offsetting or modifying operations of other subsidiaries.

The provision of the bill following the carefully considered provisions of the present revenue act, treats affiliated corporations on a basis which accords with business practice, which appears to be sound and practicable in the light of many years of experience of the Treasury with such returns, and any departure from the use of that basis in the law would be a backward step. The novel idea of putting a price upon the use of sound accounting methods by affiliated corporations, should be eliminated from the bill.

The statement of this committee on the subject of consolidated returns in reporting the revenue bill of 1928, was in part as follows—and I am now giving a quotation other than the one I just read:

> Your committee has considered the matter very carefully and is convinced that the elimination of the consolidated returns provision will not produce any increase in revenue, will not impose any greater taxes on corporations and will in all probability permit of tax avoidance to such an extent as to decrease revenues.

Now, that was the opinion of the Finance Committee in 1928.

Changed treatment of dividends: A new feature of great importance embodied in this bill is the giving up of the exemption of dividends on corporate stock from normal tax. And I dwelt on that somewhat this morning. Under all of the revenue acts since 1913, dividends received by individuals have been exempt from normal tax. The reason for this treatment of dividends was, of course, the idea that the actual receipt by the individual stockholder of a portion of the income of the corporation, which had already been subjected to the basic income tax, should not create a new liability to the same basic normal tax. You will recall that under the first income tax, the

rate of normal tax upon individuals was 1 per cent, and the rate of tax upon the net income of corporations was also 1 per cent. It was believed that when the income of the corporation had been subjected to the 1 per cent tax, it should not again be subjected to the same tax when received by the individual stockholder. It was concluded that unless dividends received by individual stockholders were made exempt from normal tax, there would be a duplication of tax in the case of income realized by individuals through the medium of corporations.

Senator SHORTRIDGE. What revenue would that bring about provided you carried out the original law of not allowing the deduction?

Secretary MILLS. This provision by eliminating the exemption brings in about $90,000,000 of revenue.

Senator SHORTRIDGE. All right.

The CHAIRMAN. You may continue, Mr. Secretary.

Secretary MILLS. This treatment of dividends in the manner to prevent what was regarded as a duplication of normal tax and a discrimination against the use of the corporate form, was continued, as I have said, under all the succeeding revenue acts.

Senator HULL. Does this tax apply on dividends derived from corporations by individuals, or does it apply to dividends derived by one corporation from another?

Secretary MILLS. I think it applies only to individuals.

Senator HULL. And not to a corporation that holds stock in another corporation?

Secretary MILLS. I do not so understand.

Senator HULL. That was the provision that was inserted in the original law temporarily and then stricken out. There it did not relate to individuals at all.

Secretary MILLS. No; but it did relate to individuals in all subsequent revenue acts. In other words, we have never applied, so far as I know, the normal tax to dividends.

Senator HULL. You are entirely correct as to that.

Senator CONNALLY. One corporation though would pay the normal tax on its dividends received from another corporation 13 per cent.

Secretary MILLS. No. The first corporation pays the tax.

Senator CONNALLY. Oh, I see. It is paid by the earning corporation before it reaches the other corporation by way of dividends, and there is no additional tax to the corporation.

The CHAIRMAN. You may proceed, Mr. Secretary.

Secretary MILLS. The exemption of corporate dividends of normal tax may be said to be one of the basic ideas or principles which has hitherto been followed in the structure of our income tax. There can be no doubt that the financing of business enterprises has been based to some extent upon the expectation of the continuance of this treatment of corporations' dividends under the law. Exemption of dividends from normal tax has played an important part in the securing of equity money for business enterprises. It has been a consideration of particular importance in connection with the financing through the sale of preferred stock. The exemption of dividends from normal tax gives the preferred stock some compensating attraction as compared with the bond, which, while ranking ahead of the preferred stock does not have this exemption.

It will, of course, be borne in mind that the interest paid on the bond constitutes a deduction by the corporation in computing its

net income and hence has not been subjected to the corporation income tax rate, as are the earnings from which preferred and other dividends are paid.

The changed treatment of dividends found in the House bill would rest with particular hardship on small corporations. It is obvious that in the case of enterprises controlled by a few individuals, carried on in a corporate form, the change would mean that the income from the business having been subjected to the corporation income tax at an increased rate, would, when distributed as dividends, be subjected to the normal tax; while, if the business were carried on under the partnership form the income would be subject to the normal tax only. Exemption of dividends from normal tax does not fully equalize discrimination which has been involved ever since the corporation income tax rate was made to exceed the normal tax rate. Taking away that exemption, however, materially increases discrimination against the corporate form. Some effort was made in the bill to relieve against this effect in the case of small corporations by providing that dividends should be exempt where received from a corporation the gross income of which in the previous year did not exceed $25,000. This provision is obviously not inclusive and would be difficult of satisfactory application.

Notwithstanding the large amount of revenue which this change would yield, I think that it is a sounder course to adhere to the treatment of dividends which has been followed in all the revenue acts up to the present time, and not to embark now upon a novel treatment of that subject. Business recovery depends in a very material degree upon the securing of capital for new enterprises and more capital for existing enterprises. The most needed funds are those which should be brought in through investments in stock. The securing of such funds will be rendered more difficult by the proposed change and the discrimination against the using of corporations for the conduct of business would be sharply increased.

Senator SHORTRIDGE. What was the estimated amount of revenue to come from the additional tax on dividends?

Secretary MILLS. It is $90,000,000.

Senator SHORTRIDGE. And of course the House might have been looking for revenue.

Secretary MILLS. I can assure you, Senator Shortridge, that the House of Representatives was looking very hard for revenue when it reached that point.

Senator JONES. Does that change the practice and policy or decisions made by the Treasury Department under the acts heretofore?

Secretary MILLS. No; it is a matter of law. We have always exempted dividends from the normal tax. It is not a matter of regulation or interpretation.

Senator JONES. So that previous decisions under the existing law would apply now to that provision?

Secretary MILLS. I do not quite get the force of your question. However, it is not a matter of interpretation or of regulation. The exemption has been written into every statute.

Senator JONES. This relates solely to exemptions?

Secretary MILLS. Yes.

Senator HULL. What proportion of dividends go to other corporations and what proportion to individuals?

Secretary MILLS. I can not answer that question offhand, Senator Hull. But ultimately, of course, they must all find their way to individuals.

Senator CONNALLY. Mr. Secretary, you have mentioned partnerships. Do you advocate treating partnerships and corporations absolutely on the same basis?

Secretary MILLS. No, you can not do that. The ideal system would be to bring them as closely as possible together, however.

Senator CONNALLY. Don't you think a corporation ought to pay an additional amount for the privilege it has over individuals in not being subject to debts for their stock?

Secretary MILLS. They do not get that privilege from the Federal Government.

Senator CONNALLY. If they do business under interstate commerce they get it from the Federal Government?

Secretary Mills. They get that privilege from the State governments, and I might add the State governments make them pay for it.

Senator CONNALLY. When they come across the State line they are under Federal jurisdiction?

Secretary MILLS. To-day a corporation does relatively pay a higher amount.

Senator CONNALLY. And you think they ought to pay on the same basis?

Secretary MILLS. I think you ought to bring them as close together as possible, but I do not see any possibility of ever producing a condition whereby a corporation will pay the same as a partnership. I think it will inevitably be more.

Senator CONNALLY. And for my part I hope it will.

Senator HULL. There is no new idea about making the individual rather than the corporation more and more the unit in this income-tax situation, is there?

Secretary MILLS. Do you mean involved in this bill?

Senator HULL. I asked if there had been any new development in the way of an effort to make the individual the unit of income tax rather than lodging some of it in the corporation.

Secretary MILLS. I have not seen any signs of it.

Senator HULL. That would be the more equitable method of measuring it if it could be done.

Secretary MILLS. Of course if you want to have an entirely equitable income tax base the way to do is to reach the individual in accordance with his taxpaying ability after granting him a minimum exemption covering a certain amount; and after that taxing every one at a progressive rate whereby you make the ones best able to pay pay the most. But we are a long ways from that ideal.

Senator HULL. What is the average of corporate earnings of corporations that are paying a tax for this last year? I mean, what is the average percentage of their earnings? Is it as much as 6 per cent?

Secretary MILLS. Do you mean on capital invested?

Senator HULL. Yes. That would be the only way you could get at it.

Secretary MILLS. Mr. Stark tells me there was a decline of about 42 per cent in the tax income last year. But I do not believe that was your question, Senator Hull.

Senator HULL. No. What was the percentage of return of profits of corporations during the past calendar year? Would the average earnings level be 6 per cent or 8 per cent or 10 per cent? Or more especially what percentage of them have an average earning level of 8 per cent on income?

Secretary MILLS. Of course that would involve going into the whole question of capitalization, wouldn't it?

Senator HULL. Yes, to some extent.

Secretary MILLS. I do not think we have any statistics showing that.

Senator HULL. And you would not be able to approximate that?

Secretary MILLS. Senator Hull, you will remember that that was the great difficulty we had with our war taxes, on the matter of invested capital.

Senator HULL. But we finally got that worked out pretty well, didn't we?

Secretary MILLS. Well, I do not know whether the Internal Revenue Bureau ever admitted that excess profit tax was ever successfully worked out.

The CHAIRMAN. You may proceed, Mr. Secretary.

Secretary MILLS. Net losses: Another change embodied in the bill, which is likely to have adverse effect upon the conduct of business enterprises, is the change which denies to any business the right to carry over as a deduction for a succeeding year a net loss which may be the result of the operations in a particular year. Under our law the computation of taxable income is, in general, required to be made upon the basis of annual accounting periods. For many years, however, it has been recognized that in the case of business enterprises continuously carried on, the requirement that each year should be treated as a unit without reference to what happened in other years, works a hardship. If no recognition whatever were to be permitted of losses for particular years in business continually carried on, the result, of course, is that business enterprises would actually be required to pay tax on more income than they have had, because the income over a series of years represents the combined effect of gains and losses for these years.

In reporting the bill the Ways and Means Committee recommended that the net loss deduction be confined to a deduction for the year immediately succeeding the year of the loss, cutting off the right to a deduction for a second succeeding year. The bill, as it passed the House, however, provides that until 1935 there shall be no deduction of a loss for a prior year. I believe that the net loss provisions of the recent revenue acts rested upon sound principle. I believe that it was justifiable, in view of the existing emergency, to qualify the application of that principle to the extent of limiting the right to a 1-year carry-over. But the total elimination of recognition of the effect of losses for particular years upon the income account and of the hardship which results from always having to pay tax on profit for a good year, without any right to offset profits by losses of a bad year, is unsound.

Indeed, the House bill recognizes that it is unsound because it provides for a 1-year carry-over of net losses beginning in 1935. In other words, what the House bill says is: Because we need the money during the 1-year period we are going to deny you the right to deduct

losses which we consider to be fundamentally sound, but after the immediate pressure is relaxed we will restore this equitable provision. If that be true, it means that you are going to get this money by taxing losses. That is all it can mean. That is unsound. I think it is indefensible, really. It takes income on whatever rates are necessary. After all, when a man has income he has taxpaying ability, but do not tax him on his losses and then pick out the two years when his losses will probably be the greatest in a decade.

Senator CONNALLY. Right on that point, Mr. Secretary, let me ask you: You think the ability to pay is the true test, don't you?

Secretary MILLS. Oh, yes.

Senator CONNALLY. And that the man who makes money ought to pay and the man who loses ought not to pay.

Secretary MILLS. Exactly.

Senator CONNALLY. Well, don't you think it would be fair with reference to corporations, that those that have a high return, say 12 per cent, should pay a higher tax than those making only 6 per cent? In other words, an excess profit tax.

Secretary MILLS. Theoretically an excess profits tax is a beautiful tax, but practically it is an abomination, because when we tried it we were not able to find out what invested capital was. That is why it was repealed in 1921.

Senator CONNALLY. No; I think not. It was repealed in 1921 because so much pressure was brought against it by the big concerns that were taxed under it. I think it is as fair a tax as the graduated income tax.

Secretary MILLS. Theoretically it is, but those who have attempted to administer it will testify that from an administrative standpoint it is a horror.

Senator CONNALLY. No doubt it is hard of administration. But the Government ought to smoke out these corporations and boil down their water to the point where the Government will find out what is actually invested in these corporations. There is no more useful pursuit the Government can engage in that that. I believe it is a fair tax.

The CHAIRMAN. I think if you will make an investigation, Senator Connally, you will find out that the smaller corporations and the medium-sized corporations, take a period of five years, make a larger percentage of profit than the larger corporations.

Senator CONNALLY. Well, that is all right if it is a corporation that is making money. Take a man who is 5 feet 4 inches and you do not tax him any more than the man who is 6 feet 4 inches, do you?

The CHAIRMAN. No; but that is your theory.

Senator CONNALLY. Oh, no. For instance, if Mr. Mill's earning power is $150,000 a year you would make him pay a graduated tax on that, and if my earning power is $5,000 a year I would pay on that. And if here is one corporation that is earning 12 per cent, and here is another one earning, we will say, 6 per cent, the first corporation ought to pay a higher tax because it is making more money in its invested capital. I am not basing the argument on the size of the corporation. Of course it would not be a fair thing to tax the corporation simply because it was big. The rate of return is the true measure. If it has a million dollars of capital and makes 6

per cent it ought to be taxed the same as the little corporation with only $10,000 capital but which makes but 6 per cent. Now is a good time to rectify this matter and put it into effect in this bill.

Secretary MILLS. Senator Connally, Mr. Ballantine was in the Treasury Department during the war years, and he knows about the excess profits tax, and I am sure he knows how it worked and why it was repealed, I am sure there are men here who will tell you the way that worked and not to try it again. And I think Mr. Alvord will tell you that. They are both here. It is a pretty dangerous prophesy for me to make, perhaps, but I will venture that Mr. Ballantine will tell you that.

Senator CONNALLY. It is the right way to tax.

Secretary MILLS. Theoretically it is a beautiful tax.

Senator CONNALLY. It is fair, honest, and square.

Secretary MILLS. In theory, yes, but how a tax will work out in practice is the real test.

The CHAIRMAN. You may proceed, Mr. Secretary.

Secretary MILLS. I spoke this morning about limitation on the reduction of losses from the sale of capital assets——

Senator HULL (interposing). Before you leave the other subject, Mr. Secretary, let me ask you: I have not looked at this for some time but this portion you went over applies to corporations, does it not?

Secretary MILLS. Do you mean the carry-over?

Senator HULL. Yes.

Secretary MILLS. It applies to all business concerns, individuals, partnerships, or corporations.

Senator HULL. The English income tax, which is stronger than ours, they were trying to get back to the 1-year period that we were using, presumably on the theory that the taxpayer might have two or three fine years, and as you say he pays out of his current income as a rule. So that if he should strike a panic he would not be able to pay at the end of three years maybe on three profitable years. I think that was the thought advanced. Now, have the English taken any active steps in this direction?

Secretary MILLS. I am not sure. But I have the same impression that you have, that they are working back to the 1-year statute rather than the average of three years. But as to what they are doing on the net loss carry over I do not know. I can look it up and put it into the record if you wish.

Senator HULL. If there is anything new on that subject, I should be glad to see it go into the record.

Secretary MILLS. I will be very glad to comply with your request.

(The data called for is as follows:)

TREATMENT OF NET LOSSES FROM BUSINESS

The British income-tax system has more liberal provisions for offsetting business losses against the assessable profits of other years than is provided by our Federal income tax. As under our Federal law, the basis for assessment of income tax on business profits in a given year is the profits of the preceding year. If the British taxpayer suffers a business loss, he may offset this loss first against profits on which his taxes are assessed in that year (that is the profits of the preceding year). If the loss is not offset against, or is in excess of, such profits the loss or the excess may be carried forward and offset against the assessable profits of the six following years. The loss must be deducted from the earliest possible assessment of the succeeding years and its must be deducted from net profits before any allowances.

The CHAIRMAN. You may resume, Mr. Secretary.

Secretary MILLS. Limitation on the deduction of losses: Another provision which should, in my opinion, be amended, is the section limiting the right to deduct losses on transactions in securities to the offsetting of gains from similar transactions in the same taxable year as provided in section 23. In recent years income from business profits, from salaries, and from other sources, has in many cases been offset by losses on security transactions. It is the effect of such losses in diminishing the tax upon forms of income, such as I have mentioned, which, to a considerable extent, is responsible for the diminished yield of the income tax in these years. Undoubtedly, a very serious case can be made for continuing the right to so deduct such losses. In many cases, however, the losses thus deducted may be said to be paper or fictitious losses. In place of the securities in which the losses were taken, other securities were purchased without substantial change in income. The Treasury was disposed to agree that it was not unreasonable under present conditions to deny to taxpayers the privilege of offsetting forms of ordinary income through security losses. I think, however, that banks should be expected. Banks, as a part of their regular business, purchase securities for investment purposes, which become an important element in their necessary secondary reserves. Speculation is not involved, nor is the question of protecting the revenues from improper deductions. It is my opinion that, particularly in the case of banks, a tax upon the gains and a denial of the losses is not necessary and can not be justified. I also recommend that the provision not apply to bonds, which are normally purchased and held for investment purposes and which are not susceptible of manipulation so as to create fictitious losses.

In other words, people have been able through the taking of losses on sales of securities to wipe out any profits by way of dividends, or from business, and so forth. And in some cases the selling of securities and the taking of losses have not represented actual losses, but nevertheless they have been enormously effective in wiping out what we have described as other income.

Now, the Ways and Means Committee felt, and the Treasury agreed, that that abuse has grown to such a point that something ought to be done about it. And something ought to be done about it in spite of the fact that we are going to hit some people that have suffered some very genuine losses and not mere paper losses. But we do not know how to remedy that particular abuse without doing some injustice, and I am afraid some people have got to suffer because of the general abuse of the privilege by many other taxpayers. So the Treasury did agree with the Ways and Means Committee that you ought to limit the deduction of losses from the sale of securities to the amount of profits made in that same year from the sale of securities, and that the loss resulting from sale of securities should not be used to wipe out other income.

Senator HULL. That was in the act of 1916.

Secretary MILLS. Yes, it was. But in reaching for a particular abuse, once you have remedied that abuse you may not be able to stop short of interfering wtih ordinary business transactions.

Now, the bill does exempt the dealer in securities. It does not, however, exempt banks, and I think banks should not come under this provision. Banks necessarily have to buy securities. They

hold them as secondary reserves. It is a part of their business to buy and sell investment securities. Therefore to say to a bank: We are going to tax you whenever you make a profit on the sale of your investment securities but we are going to deny to you the right to take losses is, it seems to me, unsound in dealing with the normal business of a bank. And that business is not connected with the well-to-do individual with a large income from other sources who wipes it out by a sale of securities, during October and November, at the close of the calendar year. Therefore I suggest that this committee amend this provision so as to include not only dealers in securities but banks.

I think also that generally speaking you could well afford to exclude bonds from the provision, because after all—while it may not be entirely true to-day, generally speaking, bonds do not fluctuate enough in value or price to permit them to be used for the purpose which we are attempting to curtail. I think that this provision is a very drastic one at best, and that you will accomplish all we are really seeking to accomplish if you limit the application to stocks and exclude bonds, and exclude banks, as well as dealers in securities.

Senator HULL. Where would you draw the line between banks that are performing largely a legitimate banking business and banks that have security affiliates and all kinds of security connections?

Secretary MILLS. Well, banks are inevitably in the business of buying and selling securities to some extent. Their income from buying and selling securities is normal business income, and I think they are entitled to take losses on their normal business income. But the fellow we are trying to hit is the man who is wiping out his normal income from dividends and business profits by taking paper losses on the sale of stocks. We are perfectly willing to give him a deduction on his normal business losses and to tax him on his normal business gains. But we are unwilling to allow him to wipe out his normal business gains by this arbitrary taking of losses on outside transactions. I do not think that is true of banks. It is a part of their normal business to buy and sell securities and therefore their losses arise in the normal course of events and they are not arbitrary or fictitious losses made for the purpose of wiping out the normal income.

The CHAIRMAN. That would apply also to the broker, whether a company or an individual. That is all of his business. He does no business outside of the buying and selling of stocks. How would you treat him?

Secretary MILLS. Well, if he is a security dealer in the sense that he merchandises securities, the bill already exempts him from this provision. But the ordinary broker would not be exempt from this provision as I understand it.

Senator SHORTRIDGE. And who determines that?

Secretary MILLS. It is written into the law. I suppose ultimately, like all these things, the Bureau of Internal Revenue will have to write a regulation; that is, unless Mr. Beaman has done a good enough job so that we do not have to. Have you, Mr. Beaman?

Mr. BEAMAN. I do not know.

Senator SHORTRIDGE. But you say when he is an ordinary broker, or his business is almost exclusively the buying and selling of securities, then he might write it off.

Secretary MILLS. No, I did not say that. I say we would exclude the firms that are in the business of buying and selling securities the way the grocer buys and sells groceries, those who merchandise securities. The bill already excludes them. Now then, we say you ought to go a step further. It is likewise the business of a bank to buy and sell securities, and banks ought not to be under this section. That is the only suggestion I make, except that inasmuch as this is a very drastic provision and bonds are not particularly adaptable instruments for effecting this purpose, that you might very well exclude bonds and limit it to stock.

Senator CONNALLY. Then it would not matter about bonds. In other words, if it does not affect anything, why take them out?

Secretary MILLS. I think if you take banks out the bond provision is not so important. If you do not take banks out then the bond provision is very important because that is their principal form of investment.

The CHAIRMAN. Was this matter presented to the Committee on Ways and Means of the House?

Secretary MILLS. Do you mean this particular argument?

The CHAIRMAN. Yes.

Secretary MILLS. I did not present it to them.

The CHAIRMAN. You may proceed with your statement, Mr. Secretary.

Secretary MILLS. Estate tax: The recommendation of the Treasury with regard to additional estate tax was that it should be such as to increase the rates to the level of the 1921 act. This would have increased the maximum rate from 20 per cent to 25 per cent. It was proposed that this tax be so framed as to constitute an additional tax to which credits for the payment of State inheritance or estate taxes permitted the amount of 80 per cent as against the present estate tax should not apply. In other words, this was to be a sort of supertax the full benefit of which would be derived by the Federal Government.

In the House bill the recommended basis for the treatment of additional estate tax is preserved but the rates are drastically increased. The schedule begins with amounts in excess of $50,000 instead of $100,000 as at present; is graded sharply upward with narrow brackets and reaches a maximum rate of 45 per cent. The effect of the steeper gradation of a tax will be seen when it is observed that under the present law the maximum rate on an estate of $500,000 is 5 per cent while in the new law it would be 13 per cent. The maximum rate is 80 per cent higher than the highest rate employed during the war, and the gradation upward is very much more rapid than under the war-time schedule.

So far as the production of additional revenue in the immediate emergency is concerned, the estate tax is not an available source for the reason that new rates apply only to estates of decedents dying subsequent to the passage of the Act and the tax is not due until one year after the date of the death, and the time for payment may be long extended. In the bill it is recognized that the higher rates necessitate the allowance of a much longer period for payment, and it is provided that in the case of tax shown to be due by the return the period may be extended up to eight years, while in the case of deficiencies the period may be extended to four years. In the case of any

extension interest must be paid at the rate of 6 per cent. The total amount of additional revenue from the estate tax during the year 1933 is estimated at $20,000,000.

The CHAIRMAN. In that provision does it provide any deductions on account of taxes imposed within a State?

Secretary MILLS. As I understand it, in so far as the States are concerned they get the benefit of 80 per cent under the present rates and the Federal Government gets the benefit of all the additional revenue under the new rate.

Senator KING. That is to say, this is a supplemental tax to the existing one?

Secretary MILLS. It is.

Senator KING. And you leave the present law as to the States?

Secretary MILLS. You leave the present law on revenue derived by States as it is to-day, and the additional revenue enures to the benefit of the Federal Government.

Senator KING. You do not attempt to combine them either for the purpose of credits or of debits?

Secretary MILLS. No.

Senator CONNALLY. You recommend a maximum of 25 per cent on estates?

Secretary MILLS. Yes.

Senator CONNALLY. And the bill fixes a maximum of 45 per cent in the highest brackets.

Secretary MILLS. Yes; and in the much closer brackets with a sharper gradation.

Senator CONNALLY. Do you know what the English rates are?

Secretary MILLS. No, but I believe the maximum rate is 50 per cent.

Senator CONNALLY. On what size estate?

Secretary MILLS. Fifty per cent on the amount of net taxable estate (after credit of £100) in excess of £1,999,900 ($9,732,713 at par of exchange).

Senator KING. As I understand the situation, Senator Connally, here is a dual tax imposed.

Senator CONNALLY. No——

Senator KING (continuing). You have the existing tax with a credit of course of 80 per cent, and then you have the additional tax and if the additional tax is 45 per cent that does not take cognizance of the anterior tax.

Senator CONNALLY. Forty-five per cent includes the old tax and the present tax.

Senator KING. Is there a combination for the purpose of determining it?

Senator CONNALLY. Yes.

Secretary MILLS. The first thing I want to point out is that this estate tax increase does not help us materially during the emergency. In the first place, so far as the fiscal year 1932–33 is concerned the new rates do not apply as to anyone who dies before the law goes into effect; furthermore the executor or administrator has a year to file a return, and under the terms of this bill would have eight years to pay the tax on the amount actually returned, and four years to pay any deficiencies. So that as a result of the one year provision, which really carries you over into the fiscal year 1934, as a practical matter,

though the yield is estimated at $20,000,000 in the year 1933 on the assumption that this bill becomes a law prior to June, as a matter of fact we can not look to the estate tax as a means of balancing the Budget in the fiscal year 1933.

Senator CONNALLY. It would be very much heavier, though, in the following year, would it not?

Secretary MILLS. Yes; it will begin to grow after that.

Senator CONNALLY. It will help to pay the bonds that we will have to issue now.

Secretary MILLS. Oh, yes. And you ought to consider it, therefore, not as a part of an emergency program to balance the Budget next year, but strictly from the standpoint of long-time tax policy and the economic effects which it will have from a long-time standpoint. You can not consider the estate tax as a part of your emergency program, but you must consider it from the standpoint of permanent legislation.

Senator CONNALLY. As a man having conservative views on taxation, do you not regard the graduated estate tax as a legitimate field for permanent taxation for the Federal Government?

Secretary MILLS. Most decidedly. I want to be quite sincere. In the first instance I felt very strongly that the estate and inheritance taxes belonged to the States as a matter of legal theory and as a matter of tradition and a matter of revenue need. I thought the States needed the estate and inheritance taxes much worse than the Federal Government did. That was my opinion for a very long time. But it was perfectly obvious that when certain States were able by constitutional amendment or otherwise to create——

Senator KING. Isles of safety.

Secretary MILLS (continuing). Sort of migratory bird refuges, or isles of safety, that estate taxes imposed by the States must be ineffective. And therefore, I voted when I was a Member of Congress and a member of the Ways and Means Committee for the present law under which the Federal Government assesses the tax and allows an 80 per cent credit for estate or inheritance taxes paid to the State. I am entirely satisfied with it. And I believe in an estate tax as part of our revenue system. The only thing that I questioned—and I question it as a matter of fundamental economic doctrine—is as to how high you should put the rates.

Now we might as well be perfectly honest about it. Either you are imposing a tax with an idea of getting considerable revenue, and then probably 25 per cent is as high as you want to go, or as a matter of social and economic policy you want to use the taxing power of the Federal Government to break up large estates. Now I think that both of those considerations enter into this picture.

The CHAIRMAN. Would it not be better for the States to use that power? Why not leave the estate tax to the States?

Secretary MILLS. Senator Smoot, I think that is water over the dam. I think the Federal Government is in the field, that the 80 per cent provision is furnishing much more revenue to the States than they ever could get on their own account, and I consider that a matter of settled policy. As far as I am concerned, while I was not for it in the first instance, because I felt the tax revenue from estates should belong to the States, I have become convinced it is the right policy, and as far as I am concerned I am for a Federal estate tax.

Senator CONNALLY. Mr. Secretary, whatever your theories about State rights might have been with reference to it in the beginning, is this not true with regard to the great fortunes. Take Mr. Ford, for instance. His body is in Detroit, but his fortune has been made off of the people of the United States, and it is not just to let Michigan have all of the inheritance tax off of his estate. The same thing is true with regard to the great fortunes in New York held in the great corporations, the railroads and others that extend throughout the whole Union. Those fortunes have been made and contributed by all of the people, and the Federal inheritance tax is the only tax that will adequately reach them and give the Federal Government or all of the people of the United States the benefit of that tax.

Personally I am opposed to the 80 per cent. I do not think that we ought to give the States as much as 80 per cent. I think the States ought to be entitled to levy their own inheritance taxes and the Federal Government levy its taxes. We do not have any income taxes from which the States are allowed to deduct. Some States have income taxes and some do not. This 80 per cent was merely a compromise at the time between the proponents who wanted an entire Federal tax and those who did not want any, but wanted it left entirely for the States. I think 80 per cent is too high for the States.

Secretary MILLS. Senator Connally, if you are going to have the Federal Government and the State governments each taxing the same subject entirely independently you are going to have the greatest tax chaos in this country that you have ever seen. We are rapidly approaching that point. I venture to say that before another year is up what you gentlemen will be considering in both the House and the Senate is the relationship between State and Federal taxes. There is a very direct relationship. In your State, Senator La Follette, you have a 14 per cent tax on incomes, do you not? Now, you can not in levying an income tax just blindly shut your eyes to the fact that Wisconsin has a 14 per cent income tax, and therefore its action deprives you of the right of going as high as you might care to. Suppose some other State puts the rates as high as 25 per cent or 50 per cent. What we have to do is to recognize that there exists a real comity between the Federal and the State governments. We have got to consider the respective rights of each and adjust our respective systems of taxation so that the unfortunate taxpayer will not be crucified between two different systems of taxes by two separate sovereignties acting entirely independently.

The CHAIRMAN. That is the same position I take.

Senator CONNALLY. Yes; but the Secretary just suggested that we can not use the same field. Yet his own State of New York has a heavy personal income tax. Would he therefore not levy any income tax in New York?

Secretary MILLS. No; but I think we have got to consider this whole question sooner or later.

Senator CONNALLY. I agree with you that we ought to let the States have certain sources, and that we ought to stay off of those sources. But I do not think the inheritance tax ought to be relinquished to the States entirely. They ought to get some, but I think they are getting too much when they get 80 per cent.

Secretary MILLS. I agree with you on that. But I think the States need it more than the Federal Government. After all where is the real tax burden in the United States to-day?

Senator CONNALLY. All over.

Secretary MILLS. It is the State and local taxes that are crushing the people, not the Federal taxes. You hear about the troubles of the farmer. One of his chief troubles is that he is being crucified by taxation, local and State taxation. Consider the dweller in the cities. Is he troubled by Federal taxation? Not to any great extent. But he is burdened by the heavy taxes on real estate which he pays through rent and does not know that he is paying it. That is where the real tax problem in the United States is. I am not troubled about the revenues of the Federal Government. Eventually we will have all we need, and probably more than we should have. But there is a terrible problem in the States and the local communities. And to the extent that we can give them a clear field and relieve these burdens on real property, we will be doing something that represents real statesmanship.

Senator KING. I hope that you will approve a resolution which I offered six years ago, and which I am offering now, calling for a conference between the Federal Government and the States for the purpose of agreeing upon a plan to levy estate taxes and for proper allocation. For one source of income. That is, one collecting agency. And then a proper allocation in order to avoid the conflicts which you have stated and the pyramiding, because in some estates that have come to my attention where the property is in five or six States the entire amount has been eaten up.

It does seem to me that there ought to be one source of collection, one collecting agency, and then a proper allocation of the funds derived from your estate taxes between the States and the Federal Government. If a conference were called between the Federal Government and the representatives of the States and a treaty entered into which would be crystallized into law by the Federal Government and the States for the purpose of settling that problem, I think that would be real statesmanship.

Senator SHORTRIDGE. May I ask a question for the record, and perhaps for others? The case of Mr. Ford is cited. Now, he is a resident, let us assume, of the State of Michigan. He dies leaving a vast estate. The present bill proposes 45 per cent, would it not be, on his estate?

Secretary MILLS. I do not know how much Mr. Ford is worth.

Senator KING. In the highest brackets.

Senator SHORTRIDGE. Exactly. Eighty per cent of that tax, then, would be remitted to the State.

Secretary MILLS. Providing the State of Michigan has taken full advantage of the 80 per cent provision.

Senator COUZENS. Oh, no.

Secretary MILLS. No, not the new tax. No, only 80 per cent of the old.

Senator COUZENS. Yes.

Senator SHORTRIDGE. That is what I wanted to have cleared up.

Secretary MILLS. 80 per cent of the old. All of the new tax goes to the Federal Government.

Senator COUZENS. I would like to ask the Secretary this question, and if I am asking him something that he has already answered, I will drop it. Why the difference in the graduation between the gift tax and the estate tax? It seems to me that they ought to be comparable.

Secretary MILLS. I think the reason for the differential is that it was hoped to get a little revenue from gifts. Though I think properly looked at a gift tax is not a revenue measure at all. It is a measure intended to protect both the estate and the income taxes from evasion. That is the reason for the gift tax. I think the differential is due to the hope that some persons might be tempted to make some gifts and we might get some revenue.

Senator LA FOLLETTE. Theoretically there ought to be some definite ratio in the rates between estate tax and the gift tax, should there not?

Secretary MILLS. I suppose the real purpose of the gift tax, Senator La Follette, is to prevent gifts, is it not?

Senator LA FOLLETTE. That is, where they are made in contemplation of death and for the purpose of evading the estate tax.

Secretary MILLS. Yes. I think the gift tax as drafted by the House probably goes farther than that. I am in entire accord with the gift tax intended to prevent a distribution for the purpose of avoiding either the estate or the income tax. But I think the gift tax that goes beyond that is very questionable.

Senator KING. I want to ask one question. Mr. Secretary, I have been told that some wealthy people have formed corporations in Newfoundland or Canada or some other country, on the Western Hemisphere, however, usually in Canada or Newfoundland, and transferred their property to that corporation for the purpose of avoiding inheritance or estate or gift or income taxes. Has the Treasury Department any information relative to this, and, if so, whether the administrative provisions of the pending bill sufficiently guard and protect us against such flagrant evasions or attempted evasions?

Secretary MILLS. I think so. I think that there are some provisions in here that have been written in for the purpose of taking care of those situations, and the experts tell me they do. Frankly, I have no personal knowledge of those devices. I am told that they exist, and I am also told by gentlemen who are familiar with them that the provisions in the House bill do plug those particular holes. But when you get to the administrative provisions I think you had better have the exports explain them to you.

Senator KING. I shall pretermit any further questions, but I am told that those are things that ought to be guarded against.

Secretary MILLS. Now if I may get back to the estate tax and the question of rates. You put rates as high as 45 per cent, and it is very obvious that in many many cases executors and administrators are going to find difficulty in making payment because of insufficient liquid assets, that is, assets that can at once be turned into cash. And it is by no means sure that this particular problem can be solved by extending the time of payment, particularly when your delayed payments carry an interest rate as high as 6 per cent. Therefore, in many many cases the necessity of paying these high taxes is going to mean the disruption of individual business and the destruction of capital values. I think that is perfectly inescapable when you get a capital levy as high as 45 per cent.

Now there is no immediate effect, of course, on the revenues, but I think that it is possible—though this seems somewhat remote, and I am basing my objections on much more fundamental grounds—that the imposition of these drastic rates may put pressure on constructive business men to refrain from making certain character of investments and for the protection of their families, their children, to prefer to keep part of their assets in liquid form. That means that they are not going to make the greatest possible productive use of their capital.

Senator COUZENS. I assume that it is not practical to assess this tax in kind, is it?

Secretary MILLS. What would you do with the factories, Senator Couzens?

Senator COUZENS. That is what I am asking you. The suggestion has been made that the estate tax be collected in kind.

Secretary MILLS. It would be fine in the case of securities. It would be much better. But I do not see what you can do with a factory.

Senator COUZENS. Well, of course, it would put the Government in business if it took a percentage of a factory, that is true.

Secretary MILLS. Yes.

Senator COUZENS. I just wanted to know how much thought you had given to it, and what your views were.

Secretary MILLS. I go further. I think that when you get up to 45 per cent, not just of income, but 45 per cent of capital, you are doing something more than collect revenue.

Senator CONNALLY. It only applies, though, above $10,000,000.

Secretary MILLS. But it is sharply graded all the way. And whether it applies to $10,000,000 or $5,000,000, 45 per cent assessment on capital is something more than a tax. I know it is argued, and I recognize the sincerity and naturally the right of people who believe that it is better for the country to break up these so-called large estates. I question, though, the wisdom of using the taxing power to re-distribute wealth, either through the agency of income or estate taxation.

Personally I think it an unsound economic view. If I did not agree with the present social and economic order, if I thought that it was better for the Nation to have large aggregations of capital not in the control of a given number of individuals, I would much rather—and of course I do not agree with that contention, because I believe in the present economic order—but if I did not believe in it, then I would much rather keep capital intact and put it in semipublic corporations as a sort of a semipublic trust with a fixed return to the owners of the capital, than to destroy working capital by taxation. When we levy these 50 per cent taxes on income and these 45 or 50 per cent taxes on estates we tend to suck into the unproductive channels of current Government expenditures the working capital of the Nation.

I am not interested, here, in the individual point of view. Taking the large point of view and looking at the life of a nation, what consequence is it whether for a short term of 25 or 30 years a particular individual or 10 or 20 individuals do control a certain amount of capital. What does that mean in the life of the Nation? Nothing, if those funds during those years are all being productively used to increase the wealth of the Nation through increased industrial

capacity, and the production of goods and the satisfaction of human wants.

Senator COUZENS. The point arises, though, Mr Secretary, as to how that is distributed while that earning power is going on.

Secretary MILLS. I do not think that that is the real point, Senator Couzens.

Senator COUZENS. Well, I know you do not, but I do.

Secretary MILLS. I do not think that is the real point. The question is, do we want to destroy or at least cripple the effective functioning of the existing machine by taxation? That is a perfectly honest facing of the issue. I would not do it, but if I were not satisfied with the existing order, subject to improvement, I would go clean over to the other side and at least have a system that would work. But I would not sabotage the existing order by destroying working capital or the incentive to create it. That it seems to me is the worst thing we can do, for that would mean that the present economic machine would not function to the fullest possible extent and give its fullest possible value, which would mean suffering and failure of progress for the Nation as a whole.

Senator HULL. Mr. Secretary, what would be an average amount of an estate tax under the graduations as at present proposed, up to 25 per cent? What would be the actual amount when you allow for the exemptions and for the graduations?

Secretary MILLS. It depends on the size of the estate. I could give you the different amounts. I am not particularly concerned, Senator Hull, with our rates, as compared to anyone else's rates. I say that we do not want to go too high, because when we go too high we destroy working capital and the incentive to create it by risk, effort, and saving. And if you study the history of a great industrial nation like England over the course of the last decade you can not help but wonder their economic prostration is not due in part to a policy which resulted in depleting their capital through taxation.

Senator CONNALLY. Mr. Secretary, let me ask you a question. You say levying high rates on these estate destroys the working capital and sucks it out. Suppose an estate consists in stocks and bonds in a going concern. They are taxed and put up and sold. Does not somebody else buy them? Does not the business go on just like it was always doing? And is there the subtraction of a single dollar from the capital of that concern? There is simply the changing of hands in the owners of those stocks.

Secretary MILLS. It does not work out that way, because, to begin with, if you are dealing with a large estate there is a considerable block of stock. Therefore the forced sale of it breaks the value of the stock.

Senator CONNALLY. The intrinsic value of that plant and that investment has not changed a dollar, has it? It is still there?

Secretary MILLS. No; but the value of its securities.

Senator CONNALLY. I am talking about things. I am not talking about stocks and bonds.

Secretary MILLS. All right; let us talk about things.

Senator CONNALLY. If the stock changes hands, is there any change whatever in the plant, or necessarily in its business?

Secretary MILLS. Yes, sir; but that isn't the real point.

Senator KING. Many of the securities, may I say, Senator, are put up as collateral by the owners of them in order to continue the plant's

operation so as to build additions thereto. So that securities are not free from a lien. Many securities held by rich men are subject to liens, and they have been utilized for the purpose of obtaining liquid capital in order to make investments in capitalistic enterprises.

Secretary MILLS. The real answer to Senator Connally's question is that you can not view this transaction simply as a transfer of a given block of securities from one individual to another individual or individuals. You must visualize all of the productive capital in the country as forming a common pool. When the United States Government makes a capital levy through the form of an estate tax, it takes just that much out of this pool for its own purposes. If this process be continued indefinitely, it is bound to have an effect on the working capital of the country. But there is a second point that I would like to make: We have not got anything in this country that resembles a rentier class. We have not got people living off of accumulated wealth or inherited wealth, generally speaking.

Senator CONNALLY. Mr. Secretary, you point that out in your own report this morning.

Secretary MILLS. Let me finish, if you will, this one sentence. Most of the rich men in this country—there are exceptions but most of the rich men in this country are men who are in active business, using their capital every day in the year. Now when you take a large block of stock in any given concern, why was it in that particular estate? Because you will generally find that the rich man who owned that particular block of stock was a very active business man in building up that particular company. What is more, he stood back of that company. And if you study the history of most of these companies you will find that at one stage or another of their life some one or two or three men had to have sufficient confidence in them to see them through some very bad times. To lend them money. To stand back of them. To pledge their own personal fortunes to see that a particular industry in which they were active was pulled through.

Now spread that particular aggregate of capital, scatter it, among thousands of individuals, and what do you do? You no longer have that wealth mobilized for the support and use of that particular industry. You have destroyed a mobilized unit. That is what you have done. And when you destroy a mobilized unit, you destroy in effect an asset just as effectively as if you disband a regiment of a thousand men and make of them once more a thousand different individuals. Acting as a regiment there are, to be sure, one thousand individuals in that regiment, but that regiment is infinitely stronger because those thousand men are acting together as a unit than if those thousand men are each acting alone.

The same is true of concentrating capital in a particular industry in the hands of a man or men who have built up the industry. It is more actively used, and potentially stronger than when completely distributed among countless small stockholders. And whatever their faults may be—and I have no doubt there have been many, and I am not appearing here to-day as defending people of wealth; I am trying to discuss a fundamental economic conception as I see it, and with all sincerity—whatever may be said of the American business man who has amassed wealth, he has not only amassed wealth for himself, but he has created wealth for others by developing this great

country of ours and making it the greatest industrial nation in the world. And how has it become the greatest industrial nation? Through the development of its resources and the accumulation of capital.

Many men in this room can remember the day when capital was considered the most vital element. When we did not have any capital of our own. When we had to draw capital from all over the world in order to develop our own country. Why do you suppose the banker throughout the United States occupied his great position of power and respect in the community, was usually the leading man in the community? Why? Because he had capital which men needed more than anything else in that community in order to develop it, in order to build up their enterprises and make of it an industrial community able to produce more and more goods for the satisfaction of its needs and the welfare of its citizens. That is the reason why the banker in American history played so important a part particularly in the newer communities.

People when they did not have capital recognized its tremendous value to the country. But having acquired capital, having seen it productively used by intelligent and industrious men for the development of the country, we ought to go very slow before we begin to destroy it, simply because of some vague economic theory that somehow or other we can make a better world through the use of the taxing power.

If we are dissatisfied with the existing system, the consistent and sound course to pursue is to seek to improve it, or even radically to change it, not to attack it by indirection and to prevent its functioning at its maximum efficiency.

To say that I do not like the present system and therefore I am going to destroy it by indirection, through taxation, through diverting and dissipating and working capital, and by making it difficult for it to function efficiently, seems to me to be all wrong. The very essence of the capitalistic system under which we live and under which we have prospered is the free flow of capital and the free right of every man to make use of his own powers to the utmost possible extent consistent with the rights of others.

I did not live up to my promise, Senator Couzens. I told you I would not grow oratorical, and I apologize. But I have a very deep feeling that when it comes to a long-time policy, we ought to consider the whole problem objectively and think it clean through before reaching a final decision.

Senator COUZENS. In that connection may I ask you this question? What is the primary object in disseminating this stock among the utility users so that the corporations eventually became owned by the users, such as the A. T. & T. and the diversification of stock among the employees of the United States Steel Corporation and general movements along that line that have been going on for years? Does that not do just what you are objecting to?

Secretary MILLS. No; I do not think it does. After all the public utility corporations are thoroughly regulated anyhow.

Senator COUZENS. Well, we will take the Steel Corporation.

Secretary MILLS. Take a corporation like the Steel Corporation. I do not know how many stockholders there are in it.

Senator COUZENS. Several hundred thousand.

Secretary MILLS. But I think they still have enough large stockholders who devote their personal attention to the enterprise to give it that element of personal supervision which to my mind spells the difference between success and failure. In any business that I might be connected with, Senator, the last kind of a board of directors that I want is a board of directors that does not own stock in the concern. They may be the best and wisest men in the world, but if they sit on the board of directors I want them to own stock in the business and know the business.

Senator COUZENS. How much stock do you want them to own to be directors?

Secretary MILLS. I am not talking about these great corporations that may be affected with a public interest, but the run of ordinary business enterprises. The way to have a business successful is to have it run by men who know the business and who have a direct interest in the business.

Senator COUZENS. Does the Secretary believe that our railroads are run by a board of directors of that character?

Secretary MILLS. No. The railroads of to-day I think for all practical purposes are run by their executives to the extent that the Interstate Commerce Commission lets them run them, and they constitute a group of skilled technicians.

Senator COUZENS. But the board of directors are made up of a great many men who do not hold substantial holdings in the railroad.

Secretary MILLS. That is absolutely true. But I think the success of railroads nowadays depends very largely on the executive management rather than on the board of directors, and it depends even more on the Government agencies that control their policy than on the executive management.

Senator COUZENS. Then there is not much use having a board of directors for the railroads, is there?

Secretary MILLS. Well, I would not go that far. But railroads are no longer free enterprises. They are controlled.

Senator KING. That largely accounts for their inefficiency.

Senator CONNALLY. Mr. Chairman, I want to ask one other question if I may.

The CHAIRMAN. Yes, Senator, and then we will ask the Secretary to continue with his statement, as we want to get through by 4 o'clock.

Senator CONNALLY. The Secretary made the statement a moment ago that there were not many people in this country that were living on inherited or idle wealth. And yet I quote from page 3 of his statement as follows:

> Because of the great volume of tax-exempt securities, which, as long as 10 years ago, the Treasury urged Congress to do away with through a constitutional amendment, the application of the income tax to the large income derived from inherited or accumulated wealth is necessarily limited.

The Secretary there was pointing out that because of these tax-exempt securities that these great fortunes of accumulated wealth were free from income tax largely. If they are free from income tax, how are you going to reach them unless you tax them when the owner dies?

I want to express my entire dissent from the idea that the Secretary suggested that because the stock has got the name of John Smith written on it or Henry Ford written on it, that it has a different

valuation than if it has the name of Bill Johnson or Sam Jones written on it. It is still the same property. According to his theory when Henry Ford dies, if his children get the property free of an inheritance tax, why, fine, business is going to go along good. But if that same stock is sold to somebody else, why, it is a destruction of capital and a sucking out of the fortunes of the land—our productive capital.

Secretary MILLS. Well, if he dies you will have to find another Henry Ford.

Senator CONNALLY. But we do not tax Henry Ford when he dies. There is no pocket in the shroud. It is going to go to somebody. You talk about a man accumulating property and enjoying it. Fine. We do not disturb that. But when he seeks to entail it down through the generations I think it is sound policy from the social standpoint and from the economic standpoint to impose that tax. Every tax you levy here is viewed in its social aspect as well as its economic aspect. When a tax is put on income you say, "Do not make it too heavy, because you affect the economic situation." When you put it on land you view it from the social as well as the economic standpoint. And I do not see when you come to the great fortunes of the land why you should have a great halo thrown around them while you are taxing every picture show and every little article of the poor.

Secretary MILLS. Do not misunderstand me. I am willing to tax them.

Senator CONNALLY. But you are protesting against the high rate.

Secretary MILLS. I am.

Senator CONNALLY. England is a conservative country—perhaps it may not be now under the present government, but it has always been looked upon as a conservative country, and yet when they levied the recent taxes the rich and everybody else said, "Fine, we are willing to pay these inheritance taxes."

Secretary MILLS. And they have been paying them for 10 years, and I do not notice that England's economic prosperity has been a shining example of conspicuous success for the last decade.

Senator CONNALLY. Their deficit is less than ours to-day, with these taxes that they have been getting, as compared to ours.

Secretary MILLS. Oh, yes; they balanced their budget this year. It is a magnificent performance. I do not want to take any credit away from them. I think it is a magnificent performance. But I think very few of them would argue in favor of 45 per cent estate taxes or 50 per cent income taxes except on the ground of sheer necessity. I do not think you could get any Englishman to tell you that they had benefited their industry or improved their national welfare by imposing those taxes.

The CHAIRMAN. Will you proceed, Mr. Secretary?

Senator CONNALLY. I beg your pardon for taking up so much time.

Secretary MILLS. Well, I must beg the committee's pardon for taking up so much time. I must have had a speech in my system.

Senator CONNALLY. Well, it is always a good one. I do not want to see the Secretary, though, carry out the threat of going plumb Bolshevik and going over to the Socialists, which he said he would rather do.

Secretary MILLS. I did not say that I would do it.

Senator CONNALLY. You said you would prefer to do it rather than to take up these higher brackets.

Secretary MILLS. Than to use the taxing power to redistribute wealth.

Senator CONNALLY. I hope the Secretary will let us know before he turns entirely Bolshevik so we can get prepared for the shock.

Secretary MILLS. Well, I might lead the parade. You can not tell.

The CHAIRMAN. Let us get back to the statement.

Secretary MILLS. The manufacturers' excise taxes provided for under Title IV of the act include a considerable list, but a number of them of a very minor character so far as expected revenue is concerned.

These contrast with the relatively few taxes of much larger expected yield embodied in the Treasury proposals and with the manufacturers' excise tax as appearing in the bill reported by the Ways and Means Committee.

Those taxes which are in effect protective tariff duties present problems usually dealt with under a tariff act. Whether they should be included in a revenue bill is a matter of policy for the Congress to determine.

Each of the special sales taxes is deserving of being studied with reference to its scope and particularly its effect on the competitive position of the article taxed.

I think you ought to consider when it comes to these special excise taxes whether in imposing a tax on any given industry that particular industry selected is in as good a position to bear the tax as some other industry not selected. And I suspect that there are some industries subject to these sales taxes whose present condition is none too happy.

Sales taxes applying to great numbers of small establishments with no exemptions are, of course, very much more difficult and costly to administer and more subject to evasion than the broader taxes suggested by the Treasury.

Tax on transfer of stock:

Senator KING. Before you leave that, Mr. Secretary. My attention has been called to a number of manufacturing organizations that have control of patented commodities such as a shoe company—I do not recall the name of it.

Senator CONNALLY. The United States Shoe Machinery Co.

Senator KING. It is an organization that manufactures machinery, and they have a monopoly of it, and they make enormous revenues because it is a monopoly. They will not sell; they only lease. If they sold it would be different, but they refuse to sell and obtain enormous revenues from leasing. I should be very glad before we get through with this bill to have the views of the Treasury as to whether or not that might be a field which we might invade to obtain some little tax.

Secretary MILLS. If you will give us the industries that you would like to have studied, Senator, we would be very glad to do it.

The provision for additional tax on transfers of capital stock and similar interests introduces a new principle of basing the tax, not upon the number or par value of the shares, or certificates, but upon the selling price of the shares in case there is a selling price. It is provided that the transfer tax imposed shall not in any case be less than one-fourth of 1 per cent of the selling price. The additional taxes to be imposed must be considered in the light of the recent doubling of the transfer tax imposed by the State of New York.

As to whether the proposed tax is so high as to seriously interfere with the volume of security transactions in normal times the Treasury Department has not the information upon which to base an opinion. In view, however, of the present conditions existing in the security markets, it is a doubtful wisdom to attempt an experiment of this kind. Indeed those men competent to know advise us that such a tax will seriously curtail legitimate and necessary activity on the security markets.

The provision appearing as section 723 (b), intended to effect the application of the stock transfer tax to transfers occurring outside the United States, calls for close study. Obviously, there is doubt as to the legal power to give the tax extra territorial effect and doubt as to whether the provisions of this section are capable of administration, or of just application.

From the administrative standpoint, there is some objection to basing a stamp tax liability upon a consideration of selling price or value instead of upon the simpler consideration of number or par value of shares which permit the tax to be most readily and definitely determined.

Tax on the transfer of bonds. The bill includes a tax upon the transfer of bonds, which is to be 2 cents on each $100 or a fraction thereof, but not less than one-eighth of 1 per cent of the selling price. (Section 724.) No tax on transfers of bonds was included in the war revenue acts, or in any subsequent act. The reason for this sprang, undoubtedly, from the fact that bonds are, in general, negotiable instruments in bearer form, which can be transferred from hand to hand by mere delivery without the use of any instruments of transfer. In view of this freedom of transfer, the imposition of the tax upon a transfer is peculiarly difficult to enforce. It seems impossible to avoid widespread evasion of such tax. Particularly as the great masses of bonds are sold, as you gentlemen know, over the counter and not through established exchanges.

The introduction of the determination of the tax by the selling price has the objection of making the tax less easy to determine automatically and does not seem to be suitable for a stamp tax.

I think, Mr. Chairman, that concludes my analysis.

I would like to emphasize in conclusion the vital need of raising adequate revenue to balance the Budget, after effecting all possible economies. In so far as the present bill is concerned, as I said in the beginning, the Treasury is not here to oppose it, but as I pointed out, it does contain many provisions that are certainly worthy of serious examination on your part; and of course if you should decide to eliminate any of these provisions and thereby lose some revenue, that revenue will have to be found elsewhere. When it comes to that, we suggest that you examine the original program submitted by the Treasury Department to the Ways and Means Committee.

The CHAIRMAN. That is in the hearings.

Secretary MILLS. And it is attached as an exhibit to this statement.

Of course, Mr. Chairman, during the consideration of this measure all of us at the Treasury Department are entirely at the disposal of this committee, and I trust you will not fail to call on us if we can be of any service to you in any way.

Senator LA FOLLETTE. There are a few questions that I would like to ask you, Mr. Mills, if it is satisfactory to you at this time.

I have been interested in the emphasis on balancing the Budget. Have we not balanced Budgets in the past, particularly during the war, not only by taxing to secure revenue, but also by borrowing?

Secretary MILLS. We did, of course. That is how we created our very large war debt.

Senator LA FOLLETTE. Also, in connection with that, why is the fiscal year taken as the objective to be attained? Why not the Budget be balanced, assuming that Congress wanted to adopt it as a policy, over a period of 18 months or 36 months, instead of over a period of 12 months?

Secretary MILLS. I think it could, Senator La Follette; but there the trouble is that we are not dealing with a single year. We closed the year 1931 with a deficit of over $900,000,000. We shall close the fiscal year 1932 with a deficit of over $2,500,000,000, and we have not done anything about either one of those deficits; and we are now faced with a third one, a deficit aggregating $1,700,000,000, and a fourth year following with another large deficit. So the Treasury, while it did not raise any cry of alarm in 1931 when the first deficit occurred, when it saw the second deficit reaching such a monumental figure as $2,500,000,000, to be followed by a third and fourth, was obliged to raise a cry of warning that the time had now come to do something about it.

Senator LA FOLLETTE. I admit that.

Secretary MILLS. If we were just dealing with the deficit of a single year I would agree with you—why all this pother? Just carry over one year. But this is a succession of years. That is the trouble with this situation. These are not ordinary deficits, but monumental deficits.

Senator LA FOLLETTE. I recognize that; but there is a question, however, of the exercise of judgment, is there not, with respect to the matter of keeping the deficit within bounds, rather than the necessity, as a definite policy and objective of securing a balanced Budget within a 6-months or a 12-months period?

Secretary MILLS. But all we are trying to do, following two years of large deficits, is to balance the Budget within the subsequent 24-months period, because next year it will not be balanced.

Senator LA FOLLETTE. In other words, it is your judgment that to let it extend beyond the 24-months period would be an unsound and unwise policy?

Secretary MILLS. Not only that, but very dangerous. I go the whole distance on that, for we have reached the point that, unless we do something about it, we are in serious trouble.

Senator LA FOLLETTE. What do you envision as the new dangers and evils, I think you termed it in your statement—that recovery would be indefinitely prolonged if the Budget were not balanced in the time recommended by the Treasury? Could you be more specific about that?

Secretary MILLS. Yes, I can, though I have taken up so much time of the committee that I hesitate to go into fundamentals again.

But as I see the latter phases of this business depression, we have had, certainly since last September, what may be called a credit crisis. In other words, up to last September I think that on the whole the liquidation of credit did not proceed quite as fast as the liquidation of prices and the rapid restriction in industrial activity.

But certainly after England went off the gold standard we had a very real credit crisis in this country, and from September to the present time credit in this country has been deflated much more rapidly than either prices or industrial activity.

We had a period when there were a great number of bank failures, and the situation was sufficiently serious so that, first of all, the banks got together and mobilized their resources in order to strengthen the credit of our financial structure as a whole; and then, as you know, later on the Government came along, and in order to bolster up the credit structure, put the credit of the National Government back of the general commercial credit structure of the country. That is what the Reconstruction Finance Corporation was really intended to do. I do not say that the ordinary credit structure of this country had become finally weakened, but it became sufficiently weakened so that we felt that there was a great enough emergency to come to you gentlemen, and you gentlemen said, "All right; we will step in and underpin the credit structure of the country by putting back of it $2,000,000,000 of Federal credit."

That is all you did. You did not put any funds back of it, because we did not have any. We had nothing but a deficit. But you had to invoke the public credit in order to support the private credit of the Nation.

What does that mean? It means that the public credit must be kept beyond all question; and it so happens that after you have had a deficit of almost a billion dollars, then one of more than $2,500,000,000 if you are so improvident that you simply say, "What of it?" and do nothing about it, the mere fact that you do not take it seriously necessarily creates in the public mind the apprehension that the public credit may be impaired through the improvidence of those in control of the National Government.

Against that background you would then have to begin to issue an enormous volume of securities apparently for an indefinite period. We have had to issue, and will issue this year, an enormous volume of securities. But remember that from November on it has been announced by all in authority, both in the executive branch of the Government and in both Houses, that this budget is going to be balanced after June 30, in the sense that there will be no further increase of the public debt. The people who invest in Government securities have been proceeding on that assumption.

If you were to declare to-morrow that we are going back on that program, you would see almost at once a rapid and precipitous decline in the value of all Government securities, because people would be perfectly sure that apparently for an indefinite period of time we were going to pump out Government securities.

After all, when we borrow we have got to find lenders. That means that some one has got to be willing to buy our securities and loan us their private funds. When we come to tax, we use the taxing power and take theirs away from them; but when we borrow, it requires the voluntary action of the lender. The lender, knowing that it is not just a question of selling five hundred millions on the 1st of May and five hundred millions on the 1st of June, but that it is going to be kept up for an indefinite period, and that the more we pump out the higher the interest rate is going to rise, is going to refuse to buy the initial issues because he would foresee a loss. Suppose you begin by selling

at 4 per cent and after 5 or 6 months, in order to sell the securities, you have to begin to sell at 6 per cent. That means the securities that are at par at 4 per cent go to a discount when you are obliged to put out 6 per cent securities. So that, knowing that you are going to borrow for an indefinite period and that the interest rate will be totally inadequate to finance the Government 12 months from now, no one will buy your securities. That is sufficiently obvious. At least, the ordinary investor will not buy them because he will not want to take a loss.

Senator LA FOLLETTE. Is it the position of the Treasury, then, that the public debt should not be further increased?

Secretary MILLS. After June 30?

Senator LA FOLLETTE. Yes.

Secretary MILLS. Yes; very decidedly.

Senator LA FOLLETTE. What is the present size of the public debt?

Secretary MILLS. About $18,000,000,000.

Senator LA FOLLETTE. Can you give me any estimate as to what the total volume will be on June 30, 1932?

Secretary MILLS. It will be somewhat in excess of that.

Senator LA FOLLETTE. How much has it increased since June 30, 1931?

Secretary MILLS. It will be increased from 1931 to 1932 by about the amount of the deficit less statutory debt retirements; that is about two and a half billions of dollars and over.

But I have not completed all of the picture, if you want to know what happens with an unbalanced Budget. That is just the beginning. You impair the value of your Government securities and later the value of private securities. The day you permit the Government credit to become impaired you bring again into question the whole credit structure that only six weeks ago required the support of the public credit. But the fundamental question is: How are you going to sell your securities? I say that the private investor—and by that I mean banks as well as individuals and insurance companies and other large purchasers—will not be willing to buy.

The CHAIRMAN. Gentlemen, I have got to go to another committee at 4 o'clock. The Secretary of the Interior will be there. Let Mr. Mills continue with his testimony, and then the committee will take a recess until 10 o'clock to-morrow morning.

(The chairman withdrew from the committee room.)

Secretary MILLS. That means, Senator, that you then have got to take the next step. How did we finance the war? Not through actual investment sales; not at all. Government bonds were purchased by banks and by individuals. The individuals borrowed from their banks. The banks, in turn, hypothecated the bonds with the Federal reserve banks. This was inflation. So that the Government, if it could not sell to investors, would then be driven to sell to banks, with the understanding that the banks in turn would get the funds from the Federal reserve banks, or even directly to Federal reserve banks, and you would than have a classic example of the effects of an unbalanced budget, the Government resorting to the central bank and the central bank issuing paper money to the Government with which to pay its bills.

I have only to refer you to the two recent examples of Germany and France to show what happens when that process is undertaken.

It is all very well to say that never could happen to us. I say to you that any Nation that disregards sound financial principles, that has not got the fortitude and the courage to tax itself when able to stand it, and to pursue a sound financial policy, but prefers to follow the easy road of inflating its currency in order to pay Government bills—I say to you that that Nation is starting on the toboggan, and no one can tell how deep the bottom of the toboggan is.

Senator LA FOLLETTE. Of course I was not suggesting that nothing should be done about it. The thing I was interested in was the emphasis that had been placed on no further borrowing to balance the Budget after a drastic increase in tax, let us say, had been enacted by Congress.

Can you give me some indication as to how the estimates that the Treasury makes as to the revenue to be produced from taxes are made up? Take the income tax, for instance: When rates are suggested, or as they are contained in this bill, how is the estimate which the Treasury presents made up? How is that done?

Secretary MILLS. I will be very glad to have Mr. Stark, who presides over those mysterious operations, explain the processes through which these figures are finally evolved. I have sat down with him and gone through the processes, but I think it would be much more satisfactory if Mr. Stark explained the basis on which these estimates are made, rather than to have you hear it from me secondhand. We have got an economic section that I think is a very competent section, that throughout the year studies all of the factors that are likely to affect revenues, and makes a continuous study of the different trends and of these different factors, and then, based on certain methods which they have developed, they make the estimates which come to the Secretary of the Treasury and are transmitted by him to the Congress. In other words, the estimates that come to Congress represent the very best estimates that trained economists can work out. Of course they may make mistakes. It is very difficult to judge. But, on the whole, their judgment and forecasts are likely to be better than others, because that is their job, and they devote 12 months of the year to it; and they are highly intelligent, well-trained individuals.

I should be very glad if the committee wants to take the time to have Mr. Stark tell you in detail just how these estimates are prepared.

Certainly they did a very remarkable job in estimating the 1931 income, because on the basis of those estimates our figures showed that we would collect in March, which is of course, the test month, $200,000,000, and actually collected $193,000,000. When you consider what happened during the calendar year 1931 and the difficulty of measuring what business trends were and what the business losses were, and the falling off of dividends and the writing down of inventories and the taking of losses on the stock exchange, and so on, to hit the March estimates within $8,000,000 I think is a very remarkable performance.

Senator LA FOLLETTE. I am not casting any reflection on the methods that are being pursued, but I was interested in the procedure.

Secretary MILLS. I should be delighted to have you go into it, and for the whole committee to go into it, and to have Mr. Stark

explain to you just by what methods he reached the estimates which are now before you.

Senator LA FOLLETTE. Perhaps we can do that at some later time.

Secretary MILLS. Certainly it would be better to have him do it.

Senator SHORTRIDGE. The committee will recess until 10 o'clock to-morrow morning.

(The explanation above referred to is here printed in full, as follows:)

H. R. 10236 as amended in the House—Estimated yield, fiscal year 1933 (Treasury revised estimates)

	Millions of dollars
Title I. Income tax:	
Individual income tax—	
H. R. 10236, as introduced	112
Amendment increasing highest normal rate to 7 per cent	3
Additional surtax brackets, beginning $6,000	7
Dividends subject to normal tax	89
Total	211.0
Corporation income tax—	
H. R. 10236, as introduced	21
Reduction in exemption from $2,000 to $1,000	6
Further increase in rate, 13 to 13½ per cent	8.4
Additional increase in rate from 13½ to 15 per cent for consolidated returns	8.0
Total	43.4
Other income tax changes, largely administrative—	
H. R. 10236 (administrative changes in bill as introduced)	100
Repeal of net loss provisions	7
Dividends (sec. 115 b)	6
Dividends (sec. 115 d)	2
Revision of depletion allowance	1
Dividends, tax on foreign corporations and nonresident aliens	3
Total	119.0
Title II. Additional estate tax (H. R. 10236, as amended)	[1] 20
Title III. Gift tax (H. R. 10236, as amended)	[2] 5
Title IV. Manufacturers' excise tax:	
Lubricating oils (4 cents per gallon)	35
Brewer's wort and malt, 5 cents and 35 cents per gallon; grape concentrates (40 per cent)	46
Imported gasoline, fuel oil, etc. (1 cent per gallon)	5
Imported coal ($2 per ton)	.5
Toilet preparations (10 per cent manufacturers' sales)	20
Furs (10 per cent manufacturers' sales)	15
Jewelry (10 per cent manufacturers' sales)	15
Passenger automobiles (3 per cent manufacturers' sales)	44
Trucks (2 per cent manufacturers' sales)	4
Accessories (1 per cent manufacturers' sales)	8
Yachts, motor boats, etc. (above $15 value, 10 per cent)	.5
Radio and phonograph equipment and accessories (5 per cent manufacturers' sales)	11
Mechanical refrigerators (5 per cent manufacturers' sales)	6
Sporting goods and cameras (10 per cent manufacturers' sales)	6.5
Firearms and shells (10 per cent manufacturers' sales)	2.5
Matches (4 cents per 1,000)	11
Candy (5 per cent manufacturers' sales)	12

[1] Assuming collections beginning May 1, 1931.
[2] Assuming tax effective beginning July 1, 1932.

	Millions of dollars
Title IV. Manufacturers' excise tax—Continued.	
Chewing gum (5 per cent manufacturers' sales)	3
Soft drinks (basis 1921 act)	10
Total	255. 0
Title V. Miscellaneous taxes:	
Part I. Telephone, telegraph messages, etc., except newspapers (5 cents on messages costing 31 cents to 49 cents and 10 cents on messages costing 50 cents or more)	33
Part II. Admissions (1 cent for each 10 cents over 45 cents)	40
Part III. Stamp taxes—	
Issues of bonds and capital stock, etc. (10 cents per $100)	8
Transfer of stocks, etc. (4 cents per $100 par value or 4 cents per share no par, but not less than one-fourth of 1 per cent, 4 cents to apply to loans of stock)	70
Transfer of bonds, etc. (2 cents on each $100 par value but not less than one-eighth of 1 per cent)	25
Conveyances (50 cents on $100–$500, 50 cents per $500 in excess)	10
Sales of produce for future delivery (5 cents per $100)	6
Part IV. Oil transported by pipe line (8 per cent of charge)	20
Part V. Leases of safety deposit boxes (10 per cent of rental)	1
Total	213. 0
Total additional taxes	866. 4
Title VIII. Increased postage rates and other postal provisions (estimate of the Committee on Ways and Means)	[1] 165. 5
Total	1, 031. 9
Required to balance Budget (excluding debt retirement)	1, 241. 0
Surplus (+), deficit (−)	−209. 1

DISCUSSION BY COMMITTEE REGARDING SUPPLEMENTAL TREASURY RECOMMENDATIONS

Senator HARRISON. Mr. Chairman, before the witness proceeds I would like to know if Mr. Mills has complied with the request that he said he would comply with in sending his specific recommendations to the committee?

The CHAIRMAN. I have a letter from Mr. Mills. Do you want this in the record?

Senator HARRISON. Yes.

The CHAIRMAN. I have a letter from Mr. Mills, Secretary of the Treasury, dated April 12, 1932, reading as follows [reading]:

MY DEAR SENATOR SMOOT: I understand from my telephone conversation with you that the Senate Finance Committee at a meeting this morning instructed you to request the Treasury Department to submit a program of revenue legislation adequate to balance the budget.

I wish respectfully to call to your attention that after many weeks of careful study and mature consideration, the Secretary of the Treasury submitted to the Ways and Means Committee a well-balanced program intended to provide the necessary revenue in the existing emergency. Later, when on the basis of additional information the Treasury estimates of revenue were revised, I submitted to the Ways and Means Committee some suggestions supplementing the original Treasury program.

Subsequently, the Ways and Means Committee reported out a bill constructed on somewhat different lines from the Treasury program, but nevertheless constituting a well-balanced and sound revenue measure. I then stated that while

[1] Includes estimated effect on Budget of H. R. 10236 and of other bills recently passed by the House.

the Ways and Means Committee bill did not conform to the original proposals submitted by this department, it was acceptable to the Treasury.

On Wednesday last I appeared before the Finance Committee and expressed in detail the views of this department regarding the revenue bill which passed the House of Representatives and is now before your committee for consideration. In the exhibits attached to my formal statement submitted to the Finance Committee I set forth a summary of the Treasury recommendations, the Ways and Means Committee proposals, and the House provisions.

It seems to me, therefore, that the Treasury's position has been fully presented.

If the committee desires us to recommend a complete plan as an entire substitute for the House bill, I must refer you to the program submitted to the Ways and Means Committee or to the Ways and Means Committee bill, which I declared to be acceptable to this department. Either of these plans is preferable to the measure now before you. If, however, the Senate Finance Committee decides to deal with the problem by taking the House bill as the basis of the revenue measure which it will recommend to the Senate—and I am not to be understood as opposed to such a course—then I shall, of course, be only too glad to cooperate with the committee in any way I can in attempting to perfect this measure, and shall hold myself in readiness to appear before you at any time you may call upon me.

Sincerely yours,

OGDEN L. MILLS,
Secretary of the Treasury.

Hon. REED SMOOT,
Chairman Committee on Finance, United States Senate.

Senator HARRISON. Well, Mr. Chairman, I just desired to say that he has evaded the question. He has not been fair with this committee, and he has not lived up to the promises that he made to this committee.

The CHAIRMAN. I can not agree to that, Senator.

Senator HARRISON. If you will remember what he said you will certainly agree with me on it, because here is the testimony of Mr. Mills. And I can see no reason in the world why Mr. Mills would object to furnishing a specific program in view of what has gone on in the House of Representatives. There has been no disposition on the part of the minority members of this committee, and I hope there will not be, to inject any partisan politics into it. And certainly his recommendation will tend toward removing friction and expedite the consideration of the proposition.

The CHAIRMAN. Senator, do you not consider that he has already made recommendations now to the committee?

Senator HARRISON. The recommendations that he made to the Ways and Means Committee included the retroactive tax, which would fall short of balancing the budget over $100,000,000. There can be no reason in the world when he thought well enough to specify and particularize to the Ways and Means Committee as to the administration's program of balancing the Budget, why, in view of what has gone on before, he can not do the same thing to the Finance Committee here.

This is what Mr. Mills said in his testimony [reading]:

Senator HARRISON. Would the Treasury Department object to furnishing the Finance Committee now specifically a proposal to balance the Budget, taking into consideration the defects in the House bill, the Treasury eliminating them, and then putting it up in a proposal as you did to the Ways and Means Committee, to see just how much revenue we then would get?

Senator WALSH of Massachusetts. In other words, Senator, you would like to have an opportunity—I am sure other Democrats join with you—to have a vote upon a bill drafted in every detail and particular by the Treasury Department, saying that this is what the Treasury wants to balance the budget?

Senator HARRISON. Yes.

Senator WALSH of Massachusetts. Can that not be done, Mr. Secretary?

Secretary MILLS. Yes. I say to you this morning perfectly freely and frankly that I prefer the Treasury bill to the House bill. If it was good in December it is still good, and I stand by it. If I had my choice, I should much prefer the Treasury program to the bill now before you. I prefer the Treasury program to the Ways and Means Committee bill, though I think that was a pretty good bill.

The CHAIRMAN. Mr. Mills, can you not take the bill as it comes to the Senate and point out or delete the provisions that you think are really bad legislation?

Secretary MILLS. And suggest substitutes?

The CHAIRMAN. Yes.

Secretary MILLS. I will be very glad to do that.

Senator HARRISON. And I may say that in a conference with Secretary Mills over the telephone he told me that he was going to send it up immediately. He waits here four or five days and then sends it up. And I want to say to the administration that they will get nowhere by such propositions as that.

The CHAIRMAN. I will call Secretary Mills's attention to what you read from the testimony that was given in the committee. But he says, of course, he is perfectly willing here now to cooperate with the committee in any way if it be desired that he come here.

Senator HARRISON. He has camouflaged the issue. There are certain people here who think that it might be well to take the administration's program in toto. Why does he refuse to furnish to this committee here the recommendations as he did to the Ways and Means Committee? We are not asking an unnecessary or unreasonable proposition.

The CHAIRMAN. No; it is not unnecessary——

Senator HARRISON. But he is not willing to assume responsibility in this crisis for making new recommendations.

The CHAIRMAN. I think he has assumed in this letter that he has made recommendations. I think he says here that the Treasury Department has not only submitted one, but two plans. If the committee desires Secretary Mills to come before us he is only too willing to come, because he says so in his letter.

Senator REED. Let us go ahead with the hearing.

Senator COUZENS. Is this charged against the witnesses who are appearing against the bill at this time?

The CHAIRMAN. No. The Senator asked for this, and it came up the first thing this morning.

SUPPLEMENTAL STATEFENT OF HON. OGDEN L. MILLS, SECRETARY OF THE TREASURY, WASHINGTON, D. C.

The CHAIRMAN. Mr. Secretary, at the request of the committee I wish to say that we called you here for the purpose, perhaps, of answering certain questions that may be submitted to you by members of the committee.

Secretary MILLS. Mr. Chairman——

Senator HARRISON. One moment before the Secretary proceeds. I did not understand that he was called here for the purpose of submitting himself for questioning. A controversy arose with reference to the testimony of the Secretary of the Treasury, touching a request that I made and Senator Walsh made, and that you made, in furnishing the committee up to date, as he did to the Ways and

Means Committee, information specifying particularly his recommendations brought up to date. When the chairman talked to me about bringing him down here, I said I did not care anything about that; that all I wanted was that statement. So I do not want the statement to go in here that he was brought here by the committee for the purpose of asking questions.

The CHAIRMAN. I will say to the committee that I understood that the Secretary had stated that he submitted to the committee his recommendations and said if there was anything else he would come to the committee and answer whatever questions might be asked; and I am quite sure that the Secretary came with that in view, or to tell the committee just what he wanted to do in relation to the pending measure.

Senator REED. I have some questions I would like to ask him, Mr. Chairman.

Secretary MILLS. Mr. Chairman, if the committee would permit, I would like to make a brief statement, and then, if possible, do what I can to explain away this misunderstanding, which I think arises from questions that were asked which were somewhat confusing, and the record disclosed, I think, the cause of the misunderstanding. But I do understand that I am here at the request of the committee, due to the misunderstanding as to the scope of the information which I was to furnish, and due, possibly, to some misunderstanding as to the attitude of my department.

There is no doubt as to the position of the Treasury Department. I stand ready to cooperate with this committee as heartily as I did with the Ways and Means Committee of the House, with a view to drafting the best revenue measure possible to meet the present emergency.

I believe that the way to proceed is to lay aside all partisanship, to sit around this table with one single thought in our minds, the national interest, and with an unequivocal willingness on the part of all concerned to assume their share of the responsibility and their share of whatever unpopularity goes with imposing a great tax burden at this time.

That has been our position from the first, Mr. Chairman. When the Congress met, it would have been perfectly possible and it would have been perfectly proper for the Secretary of the Treasury to have simply submitted a report on finances to the Congress, pointing out the great and the growing deficits, and recommended to the Congress that they impose such additional revenue as would balance the Budget, and have stopped there. But we did not consider that our duty stopped there. We considered that it was our duty to assist the Congress and to share with the Congress all of the burdens of the exacting task which lay before them. Therefore, the Treasury Department did not just recommend raising additional revenue. It told in complete detail how it would propose to raise the revenue if it were writing the tax law.

And I may say for the benefit of my good friend from Mississippi, that one of the most distinguished members of his party told me, "You were a mighty poor politician when you went out on the limb and recommended a lot of taxes, when you could have rested satisfied with a general recommendation." He said, "It was a fine thing

to do and it was a courageous thing to do." And I want to add whether it was fine or courageous, it was the right thing to do.

When the Ways and Means Committee met they told us very frankly that they did not propose to adopt the recommendations of the Treasury, but proposed to follow their own ideas and to draft their own bill. We said very promptly, "All right; our time, our judgment, and all of the information we have are at your disposal in the drafting of that measure," and all three were given freely during the weeks which ensued.

What is more, I told the chairman of the Ways and Means Committee:

> Not only will we help you draft the best possible measure we can along your lines and in accordance with your ideas, but when the job is completed, if we think it is a sound tax measure, we will say publicly that it is acceptable to the Treasury and the Treasury stands ready to accept whatever responsibility goes with the adoption of that measure.

And as soon as that bill was reported by the Ways and Means Committee, I made that public declaration.

Understand, I am not citing this record or these facts to pat the Treasury on the back, but simply as evidence of the spirit which the Treasury has shown ever since this question of a new revenue bill has been before the Congress.

Our position to-day is what it was in December, and ever since. We stand ready to cooperate with this committee as we cooperated with the Ways and Means Committee, without partisanship, without bias, with complete frankness, and with an absolute willingness to share whatever responsibility may ensue in the drafting of a revenue bill.

So much for the attitude of the Treasury.

Mr. Chairman, how did this misunderstanding arise? It is very simple. If you turn to page 18 of the record of the hearing of last week you will find that Senator Harrison asked:

> Would the Treasury Department object to furnishing the Finance Committee now specifically a proposal to balance the Budget, taking into consideration the defects in the House bill, the Treasury eliminating them, and then putting it up in a proposal as you did to the Ways and Means Committee, to see just how much revenue we then would get?
>
> Senator WALSH of Massachusetts. In other words, Senator, you would like to have an opportunity—I am sure other Democrats join with you—to have a vote upon a bill drafted in every detail and particular by the Treasury Department, saying that this is what the Treasury wants to balance the Budget?
>
> Senator HARRISON. Yes.

In other words, what was requested of me was a complete program for balancing the Budget, representing the Treasury's views. There can not be any question about that.

If you go a little further you will find that you, Mr. Chairman, asked me:

> Mr. Mills, can you not take the bill as it comes to the Senate and point out or delete the provisions that you think are really bad legislation?

And I said:

> And suggest substitutes?
>
> The CHAIRMAN. Yes.
>
> Secretary MILLS. I will be very glad to do that.

Now, then, I had two entirely different requests. The Senator from Mississippi and the Senator from Massachusetts requested me

to submit a complete Treasury program for balancing the Budget, and when you telephoned me—I think it was the day before yesterday—saying that the committee would like a Treasury program, it was my understanding that what was wanted of the Treasury Department was a complete Treasury program and not a rewrite of the House bill.

In response to that inquiry I said in my letter—and I must repeat now—that the Treasury Department recommends the program submitted to the Congress in December, as amended and supplemented by the program submitted to the Ways and Means Committee.

We did not just submit a program to the Ways and Means Committee, Mr. Chairman. We submitted our mature judgment as to the best means of raising this additional revenue to the Ways and Means Committee, the House of Representatives, the Senate of the United States, and the people of the United States.

That was our program. That is still our program. If you told me to go back to-morrow and draft a revenue bill I would be obliged to draft that revenue bill around the program already submitted.

But I went further in my letter of yesterday. I said:

> If you do not like the Treasury program, if you want another program in its entirety, then I say to you that the bill reported by the Ways and Means Committee is acceptable to my department.

I can not do more than that, Mr. Chairman. The summary of the program is contained in the annex to the statement I submitted when I was last here. It is contained in detail in the report of the Secretary of the Treasury to the Congress. That is the Treasury program, and I submit in all earnestness that that answer is completely responsive to the question asked me by the Senator from Mississippi and the Senator from Massachusetts, though it does not do what you asked in your question.

Having explained that, I stand ready, of course, to submit any information that this committee desires, or, if they want, a brief of our views on any one of these taxes that may be proposed. I am here to help. I am here to play ball. That is my position.

Senator REED. Mr. Mills, could you take the bill as it finally passed the House and by changing a section here and a section there make an acceptable bill out of it?

Secretary MILLS. Very frankly, Senator Reed, if you asked me to take the House bill as a basis, I would take the income-tax provisions, leaving out and doing away completely with net losses, limiting it to one year, leaving out the double tax involved by taking away the exemption on dividends. I should take the estate tax and reduce the rates. I should keep to the rates in the 1921 tax. I should keep the gift tax, adjusting the rates of the gift tax to the rates of the estate tax. I should keep the stamp taxes provided in the bill, although reducing the rates on stock transfer. And around those provisions, practically all of which are contained in the original Treasury recommendation, with the exception of the gift tax, I would write a new bill.

The CHAIRMAN. That is the idea that I had when I asked you simply if you were going to submit items that could be deleted from the bill.

Secretary MILLS. What I would really do would be to take those portions of the House bill which are already contained in the Treasury recommendations and then write a new measure around those provisions.

Senator REED. You do not mean that you would reduce the rates of the income tax and the estate tax to the levels of the present law?

Secretary MILLS. Oh, no; not at all. I would keep the income-tax rates provided for in the House bill, which represents a doubling of the rates, and the application of the 40 per cent rate to $100,000 incomes. I would keep those. I do not want to be misunderstood, Senator Reed. I would keep the increase in the surtax rates provided in the House bill.

The CHAIRMAN. And how about the estate taxes?

Secretary MILLS. No; the estate-tax rates in the House bill are, in the judgment of the Treasury, too high. I would recommend the rates of the 1921 act for the estate tax. But, in substance, I would take the provisions in the House bill which are already in the Treasury program, and then I would build a new bill around those provisions, which would necessarily involve these excise taxes.

Senator REED. Do you think the list of excise taxes is comprehensive enough?

Secretary MILLS. You mean in the House bill?

Senator REED. Yes.

Secretary MILLS. I think in the main, Senator Reed, that either the Ways and Means approach to this problem, or the Treasury approach is, either one of them, better than the House approach to the problem.

Senator REED. We were told this morning, for example, that the tax on matches amounts to a sales tax of 55 per cent.

Secretary MILLS. Yes; and then a lot of taxes were imposed very hurriedly, without any consideration as to the state of the industry, or without any consideration as to how it would affect the competitive position of the industry, and a lot of them comparatively insignificant in character, like the tax on cartridges, and that sort of thing, the tax on sporting goods, a lot of little taxes here and there which are difficult of administration and nothing like as satisfactory as either adopting a perfectly simple plan such as the Ways and Means adopted or selecting a comparatively few articles that have a very large volume, that are productive of real revenue and whose competitive position is not affected in the slightest degree by the tax that is imposed, which was the Treasury's approach to the problem.

Senator BINGHAM. Do you prefer the manufacturers' excise tax as reported by the Ways and Means Committee to the bill as finally passed by the House and which has come over to us?

Secretary MILLS. I think the Ways and Means Committee, Senator Bingham, is a better bill than the House bill, without any question.

Senator BINGHAM. I am asking particularly with reference to the manufacturers' excise tax.

Secretary MILLS. I look upon a revenue bill as constituting an entity. You have got to view the bill as a whole. I do not admit that when you have got the problem of raising over a billion dollars

in new taxes that you can just consider that part of the bill which raises $200,000,000 here or $200,000,000 there. I think each part has got to have a definite relationship to the whole, so as to apportion the weight of the burden.

The weakness of the House bill is that, constructed as it was on the spur of the moment and practically being written on the floor of the House, it is not a balanced bill. A lot of taxes were submitted hurriedly, one superimposed on top of the other, without any great consideration of the whole field. The Ways and Means Committee spent three or four weeks working out a tax bill, and when they got through you might not agree with it, but it was a pretty well balanced unit.

Senator BINGHAM. How much would that provision in the House Bill, which was known as the manufacturers' sales tax, be likely to yield, in your opinion?

Secretary MILLS. I think we gave a figure of $595,000,000. But by applying a rate of 1½ per cent to all manufactured articles, doing away with pyramiding, exempting all food products and all clothing, you could get $320,000,000.

Senator REED. Mr. Mills, it has been suggested that the most effective way to prevent pyramiding it to impose the tax on the manufacturer's gross sales, after deducting all of his purchases of supplies of every sort. That would conclusively prevent pyramiding, wouldn't it?

Secretary MILLS. Senator Reed, I would want to study that out a little more carefully. Off-hand, I think it would.

Senator REED. Will you study it or have it studied?

Secretary MILLS. Yes. Of course, we do know that the licensing system employed in Canada does effectively do away with pyramiding.

Senator REED. Yes; but this is simpler, simpler of administration, and does not mean creating a lot of new jobs.

Secretary MILLS. As I said when I was here the other day, we might as well face this fundamental and inescapable fact: You can only get revenue from two sources. You can either get it by means of an excise or sales tax or you have got to get it from income. If you gentlemen want to face that de novo, you have got to meet that inescapable fact. Senator Couzens tells me he has under consideration the income method of solving this problem, and he believes that by going back to the war rates, with a high normal tax, 6 and 12 per cent, and normal surtaxes, that you can raise a very large amount of revenue.

Senator REED. You could if this were England, without a great mass of tax-free securities; but would not the problem be more difficult here?

Secretary MILLS. It would be more difficult, Senator. Therefore, I think in so far as as some of the upper brackets are concerned, you will have a fixed volume of revenue, once you put your exemptions down to a reasonable point, and I am willing to start in with a 6 per cent rate on the first twelve thousand and 4 per cent on the next. However, I am not prepared to make any recommendation as to that proposal. In fact we have not had an opportunity to really consider it, but I cited that as a perfectly consistent applica-

tion of the alternative cost. If you say I am not prepared to impose excess taxes in such a way as to raise the revenue, then you have got to turn to income taxes, and when you turn to income taxes, then you have got to be prepared to do pretty much what was done in war taxation, and, that is, begin to impose real rates sufficiently down on a line where the base is broad to raise the real revenue.

As a matter of fact, I do not think you can do this whole job that way, Senator Couzens, because our figures do not quite show the raising of the necessary revenue; but you will raise a very large amount of revenue by a perfect, thoroughgoing application of the taxing of income in accordance with ability to pay, and that means taxing all income above the margin of subsistence, and not doing what we are doing in this country to-day, for all practical purposes, exempting all people of moderate means from any income taxation. After all, we give an exemption of $3,500, and then when we begin to tax we only impose a 2 per cent tax. The British give a much lower exemption, and then when they begin to tax they impose a 12½ per cent rate on the first $750 of taxable income, and then they go the whole hog and apply a 25 per cent normal rate right down the line to all incomes, large or small.

You were not here, Senator Reed, when I appeared before the committee before. I think it is enormously difficult to get the American people, accustomed as they are to our conception of the income tax, with very high exemptions and very low normal rates, to adopt anything as drastic as the British system; but anyone honestly considering this program has got to look at those two alternatives—either you are going to tax all income as representing tax-carrying ability, at rates that will produce the revenue, or else you have got to have a modified income-tax system, and you have got to further face the fact that you are going to impose excise taxes in one form or another; and then I say, if you are going to impose excise taxes, you should do it along the lines suggested by the Treasury and along the lines suggested by the Ways and Means Committee rather than this heterogeneous conglomeration in the House bill.

Senator COUZENS. Do you believe, Mr. Secretary, it is better to tax income than it is to tax consumptive goods?

Secretary MILLS. Senator Couzens, all things being equal, there is nothing fairer than an income tax, after all, because you do not tax anyone unless he has got an income, and if you tax at a progressive rate, you can make each man contribute to the support of the Government in accordance with his ability to pay. It is the fairest tax I know if you can apply it honestly right down the line.

Senator REED. Is not this the fallacy of the situation: If we resort to war-time tax rates, we put a terrific burden on the man with the comparatively small income and we drive the richest men, inevitably, into tax exempts?

Secretary MILLS. Senator Reed, I pointed out that that was the great weakness in our form of income tax.

Senator REED. So in practice it means at both ends socking the little party.

Secretary MILLS. Not quite. I think that if the tax were made temporary in character, so you could say to the public, "Here, we are going to ask you to pay a very high tax, because this is an

emergency that is just as serious as war, and we are going to ask you to play the game for two years and submit to this very high taxation, that at the end of two years this automatically goes off," and you really mean it, then I think the people might approach the problem in that spirit, as they did in war time, and not seek to evade the tax. But I think you have got to be honest about it. I do not think you ought to say that we think a 65 and a 72 per cent income tax imposed by the Federal Government, with 14 per cent on top of it imposed by Wisconsin, making 86 per cent of a man's income, or 6 per cent imposed by New York, making 78 per cent of a man's income—I do not think we ought to say to the taxpayer that "We, the Congress of the United States, think that that is a proper form of taxation," because, if you do, they step from under, being human beings.

Senator REED. Being human beings, they are offered 6 per cent tax-free bonds by the city of New York right now.

Secretary MILLS. I do not think you can quite buy them on 6 per cent, but you can buy them, completely tax exempt, on a 5 per cent basis.

Senator REED. They would have to get about 30 per cent on an ordinary mortgage or a promissory note to equal that.

Secretary MILLS. I honestly think if you can afford at this time to impose fairly high surtaxes—and I am not prepared to say just how high, without much further study, but I am perfectly willing to go to 40 per cent with the distinct understanding that it is an emergency measure which Congress will repeal or which will automatically cease when the emergency is over, then you are free to consider the whole problem. But, of course, investors and people who keep their capital actively engaged in business are going to be scared to death. As I said here the other day, if this is treated not as an emergency revenue measure but as a new plan to redistribute your taxation, if that idea gets abroad, then, of course, all of the means of tax avoidance which you suggest, and a good many others which you have not mentioned, come into being.

Senator REED. There are plenty of others. The purchase of annuities, and so on.

Secretary MILLS. The taxpayer is always one step ahead of the tax collector. Don't forget that. We have never caught up with him yet.

The CHAIRMAN. Your maximum rate from incomes would be 40 per cent.

Secretary MILLS. That is the maximum rate we recommended. That is the maximum rate the Ways and Means Committee recommended and that is the maximum rate recommended in the House bill.

Senator REED. That really means 47 per cent, counting the normal tax.

Secretary MILLS. Oh, yes; that is the surtax rate, in addition to the normal.

Senator COUZENS. Of course, it is understood we do not take 40 per cent of anybody's income.

Secretary MILLS. Oh, no; of course we do not.

Senator COUZENS. I mean, there is a general public impression that when you talk about that, that that means 40 per cent of the man's whole income, and it does not take into account that the lower brackets pay a much lesser amount.

Secretary MILLS. A much lesser amount; yes.

Senator REED. Do you believe in the action of the House in striking the earned income exemption down to $12,000 from $30,000?

Secretary MILLS. No; I do not. I think I was responsible for getting the first earned income item into a revenue bill, when I was a member of the Ways and Means Committee, and I have always been in favor, up to a certain point, of greater earned income in the preferred class.

Senator REED. The British allow one-sixth deduction, don't they?

Secretary MILLS. Yes; but up to a very limited amount. Only up to 300 pounds, Senator Reed.

Senator REED. I am finished, Mr. Chairman.

Senator HARRISON. Mr. Secretary, I understood you to say that you did not gather the impression from your testimony that the committee expected to receive from you a new proposal, whether it embodied the old proposal of the various items in the first proposition to the Ways and Means Committee in such form as would specify the recommendations of the committee so as to show a balanced budget at this time.

Secretary MILLS. Yes; I understood that that was the only thing that you asked for, Senator Harrison.

Senator HARRISON. Why is it you do not give it to us?

Secretary MILLS. I have given it to you. I have read you——

Senator REED. What is the objection to your furnishing it to us on 1 sheet or 2 sheets or 3 sheets of paper, as you furnished it to the Ways and Means Committee?

Secretary MILLS. If you will turn to——

Senator HARRISON. I have it before me, as you presented it to the Ways and Means Committee.

Secretary MILLS. If you will turn to Annex A——

Senator HARRISON. I have it before me.

Secretary MILLS. There is our proposal in detail.

Senator HARRISON. So you stand on that proposal?

Secretary MILLS. I stand on that proposal, reserving the right to make some modifications; but in substance and for all practical purposes, I stand on that proposal.

Senator HARRISON. In other words, if the Committee on Finance should report out to the Senate and the Senate should pass just this, it would be perfectly satisfactory to the Treasury Department.

Secretary MILLS. It would be satisfactory to the Treasury Department, though if you propose to take this as the basis, as your working basis, I should like the opportunity to make some minor suggestions. But in substance, I stand on this program. I do not mean that to be a qualification. I stand on that program.

Senator HARRISON. You stand on that program?

Secretary MILLS. I do.

Senator HARRISON. Then the Treasury has not changed its mind at all; in other words, it is not influenced by what has gone on in the House or the present condition of the Treasury or anything else? You stand on that proposal?

Secretary MILLS. May I call your attention to the fact that the House has never had the opportunity of passing on our program. It was never submitted to them in any form.

Senator HARRISON. I understand, but it went to the committee of the House, just as you are now presenting it to this committee.

Secretary MILLS. The committee of the House rejected our plan, and the committee of the House made and adopted one of their own, and then the House rejected the committee's plan. So the Treasury's proposal has never been considered by the House.

Senator HARRISON. So when you answered these various questions, you thought that this Exhibit A to your statement would suffice for the Finance Committee, that that was what we were seeking to obtain?

Secretary MILLS. If what you wanted was the Treasury's program, that is the Treasury's program.

Senator HARRISON. Did not you consider at the time you were answering those questions that that matter was before us and you had cited it in your testimony and that each member of the committee could look at it and see it?

Secretary MILLS. You asked me for a complete Treasury program.

Senator HARRISON. Yes.

Secretary MILLS. I say to you that Annex A constitutes a complete Treasury program. Now, if you say to me, "Mr. Secretary, I want you to go back and prepare a new program," that is something else again; but that is our program, and I say if you do not want that, turn to Annex B, and I will accept the Ways and Means Committee bill. I will state publicly that that is acceptable.

Senator HARRISON. But you state that is the program, notwithstanding when you appeared before the Ways and Means Committee and submitted it as a balanced program that would be agreeable, the Budget carried with it $107,000,000 in retroactive taxes, and you stated the other day before the committee you did not insist on that.

Secretary MILLS. I do.

Senator HARRISON. And yet is it not a program to balance the Budget, with the $107,000,000?

Secretary MILLS. Yes; it is a program to balance the Budget within $25,000,000. We lose $107,000,000 through the failure of Congress to follow our recommendation and apply the increased rates to the 1931 incomes. That we are not responsible for. But faced with that new situation, there is another favorable factor. I had estimated on the likelihood of not being able to reduce expenditures by much more than we have, $118,000,000.

Senator HARRISON. You said $118,000,000 in this statement.

Secretary MILLS. In that statement. In the last few days I have had the privilege of associating with the Economy Committee of the House and the President and working on a Nation economy program. It is now perfectly clear to me, if there is a real determination to economize, that we can certainly have a national economy program that will cut expenditures by a minimum of $200,000,000. It is definitely in sight, and therefore the figures which you now have before you balance the Budget within $25,000,000. That is an insignificant amount. I won't have any difficulty whatsoever in suggesting the means of finding that $25,000,000. If you want to know now, I will suggest tentatively taxing wort and malt, and that will give

you $35,000,000, and we then balance the Budget with $10,000,000 over.

Senator HARRISON. Then, as I understand, now, you submit to this committee, as your particularized program, these items that were included in your statement of January 18, I believe it is: Corporation incomes, according to their program; individual incomes, according to that statement and not according to the bill as passed: estates, according to the recommendation and not according to the bill as passed by the House.

Secretary MILLS. Estates according to the recommendation?

Senator HARRISON. Yes.

Secretary MILLS. But I am perfectly willing to accept the minor change made by the committee involving the application of 40 per cent. I think we applied 38 per cent at one hundred thousand and 40 per cent at two hundred thousand, and the House bill provides 40 per cent at one hundred thousand.

Senator HARRISON. Yes.

Secretary MILLS. That is perfectly acceptable to the Treasury Department.

Senator CONNALLY. He is talking about estates.

Secretary MILLS. I am talking about the surtax on incomes. On the estates, we stand on our recommendation, which was to return to the 1921 rates.

Senator HARRISON. That is what I understand. And you would insist under your program now, before this committee, on the tax on tobacco manufactures.

Secretary MILLS. I never insist, Senator.

Senator HARRISON. Well, you recommend.

Secretary MILLS. Senator——

Senator HARRISON. I am just unfortunate in the use of the word.

Secretary MILLS. I am here as an adviser. It is your constitutional duty to raise the revenue.

Senator HARRISON. I appreciate that, and I apologize to you for using the word "insist," because you never insist on your point. But you recommend the substitution in this bill of tax on tobacco manufactures in order to raise $58,000,000 in that way.

Secretary MILLS. I do not recommend a substitution. I stand on the original program recommended by the Treasury Department.

Senator HARRISON. But that includes tobacco manufactures, to obtain $58,000,000.

Secretary MILLS. It does.

Senator HARRISON. That is not in the House bill.

Secretary MILLS. No, sir.

Senator HARRISON. And on conveyances or realty, you would stand on that?

Secretary MILLS. That is in the House bill.

Senator HARRISON. Yes. And sales or transfers of capital stock. You still stand on that?

Secretary MILLS. Yes; but that is at a lower rate than the House provided.

Senator HARRISON. That is at 2 cents.

Secretary MILLS. Doubling the present rate.

Senator HARRISON. You stand for another 2 cents, or 4 cents?

Secretary MILLS. Yes; I stand for doubling the present rate, which makes it 4 cents.

Senator HARRISON. But you did not recommend that.

Secretary MILLS. I did.

Senator HARRISON. Automobiles and accessories according to the tax imposed in 1924.

Secretary MILLS. That is correct.

Senator HARRISON. You still stand on that?

Secretary MILLS. I do.

Senator HARRISON. Although the House did not go that high?

Secretary MILLS. No; but the whole principle back of our recommendations, Senator Harrison, was to take a step backwards and restore the 1924 act, which was passed by the overwhelming vote of both Houses of Congress.

Senator HARRISON. I understand that thoroughly.

Secretary MILLS. And which the country was accustomed to.

Senator HARRISON. And you still stand on the admissions as recommended in this exhibit?

Secretary MILLS. I do.

Senator HARRISON. And not the admission provisions as fixed in the House bill?

Secretary MILLS. I do.

Senator HARRISON. And your telephone and telegraph messages, you still stand on those?

Secretary MILLS. I do.

Senator HARRISON. Do you still stand on checks and drafts, 2 cents each?

Secretary MILLS. I do.

Senator HARRISON. And you still stand on the 1-cent gasoline tax?

Secretary MILLS. I do.

Senator HARRISON. And on the domestic consumption of electricity and gas?

Secretary MILLS. I should want to modify that.

Senator HARRISON. How would you want to modify it?

Secretary MILLS. I would want to reduce the rates.

Senator HARRISON. Well, it is 1 cent here. No, it is 7 per cent.

Secretary MILLS. Seven per cent.

Senator HARRISON. You would reduce it to what?

Secretary MILLS. I would want to reduce it. I am not sure how far I would want to reduce it until I could study to see where I could get the additional revenue, but that is one adjustment I should want to make.

Senator HARRISON. You proposed to get ninety-four millions out of it under your tax.

Secretary MILLS. Yes.

Senator HARRISON. How much would you propose to get out of it under your modified recommendation?

Secretary MILLS. I should want to get fifty or sixty millions out of it.

Senator HARRISON. And you have not yet determined just where you will get the difference?

Secretary MILLS. No; I have not.

Senator HARRISON. Could you supply the committee with any recommendation you have on that?

Secretary MILLS. Oh, I would be very glad to.

Senator HARRISON. So there would be no question raised in the future about just what we want?

Secretary MILLS. Oh, no; there is no question as to the record. It was made long before to-day. This record was made back in December or February.

Senator HARRISON. And for the postal deficit you recommended getting $150,000,000. Do you still stand on that?

Secretary MILLS. Most decidedly.

Senator HARRISON. The House bill gives you more than that.

Secretary MILLS. No; it does not.

Senator HARRISON. According to the estimate I have here, it is more.

Secretary MILLS. No. The Post Office Department has since informed us you have to reduce it by ten millions.

Senator HARRISON. Ten millions?

Secretary MILLS. Yes.

The CHAIRMAN. From the testimony that was given to-day, I should think you would have to reduce it a great deal more than that.

Secretary MILLS. But on the basis of the House recommendations, the Post Office Department informed us it should be 150 and not 160.

Senator HARRISON. Did this recommendation carry with it just the 1-cent increase in postage?

Secretary MILLS. Our recommendation in the first instance was that the Post Office Department should be self-supporting, exclusive of subsidies or so-called free service, and we recommended to the Ways and Means Committee to ask the Postmaster General to make the recommendations as to how best to make it self-supporting.

Senator HARRISON. Did you have in mind that prices on second-class mail should be changed or modified?

Secretary MILLS. I did not have anything in mind.

Senator HARRISON. How did you mean to go about it then?

Secretary MILLS. I am not familiar with the Post Office Department. I asked the Ways and Means Committee to call the Postmaster General, and simply took the position that as a business proposition the Post Office ought to be self-supporting.

Senator HARRISON. You do not care to make any specific recommendation as to second-class mail then?

Secretary MILLS. No, because I do not know, Senator Harrison.

Senator HARRISON. That is a dangerous proposition, to advocate one way or the other ——

Secretary MILLS. I think that is an uncalled-for remark.

Senator REED. Won't the Post Office Department take the responsibility for it?

Secretary MILLS. And I should like to have that on the record, that that is an uncalled-for remark.

Senator HARRISON. I hate to take up the time of the committee, but I want to ask you specifically as to various provisions in the House bill, as to whether or not you O.K. them or disapprove them.

Secretary MILLS. What are we doing this afternoon, seeking information on a tax bill or attempting to make a political record?

Senator HARRISON. There have been no politics in this proposition, but I want to read the testimony, all of it, just to show you there is a

real misunderstanding between you and me, and, I think, between you and the committee, as to just what you have given us and what you have stated you would give us:

Senator HARRISON. Mr. Secretary, may I ask you a question? This statement that I have been reading and that you have been saying is in criticism of the House bill and the House action?

Secretary MILLS. Certain provisions, Senator.

Senator HARRISON. Yes, certain provisions. And then you attach here the recommendations of the Treasury to the House Ways and Means Committee?

Secretary MILLS. Yes, sir.

Senator HARRISON. Are you making specific recommendations to this committee as to how you think the budget should be balanced, and are they different from the recommendations that you made to the House Ways and Means Committee?

Secretary MILLS. No; but I think this committee would be fully justified in keeping a large part of the House bill, eliminating some of these faulty provisions, and inasmuch as their elimination would involve a loss of revenue, turning to the Treasury program to supplement the loss occasioned by the elimination of some of the unsound features. That would be my recommendation.

Senator HARRISON. Then you do not propose to recommend specifically to the Finance Committee a particular program, notwithstanding the action of the House?

Secretary MILLS. As I see it, this committee has three courses it can follow; possibly more. But it certainly can either take the Treasury recommendations, which represent, whether you agree with it or not, a fairly well balanced tax program. You can take the Ways and Means Committee bill, which, after all, was a carefully worked out revenue bill, also well balanced. Or you can take the House bill.

The House bill is before you. I say to you that there are certain features of this House bill that I think are bad. You asked me a very proper question, Senator Harrison, if I understand it. You say if we eliminate these bad provisions, we will be short of revenue. What do you suggest? My suggestion is that if you desire to proceed on the basis of the House bill, that after eliminating those bad provisions you then turn to the Treasury recommendations and you can find excise taxes that will be ample to make up the revenue.

The CHAIRMAN. Speaking of the House bill, you mean the bill that was reported from the Ways and Means Committee to the House?

Secretary MILLS. No; I mean the bill now before the Senate Finance Committee, Senator.

Senator HARRISON. Would the Treasury Department object to furnishing the Finance Committee now specifically a proposal to balance the Budget, taking into consideration the defects in the House bill, the Treasury eliminating them, and then putting it up in a proposal as you did in the Ways and Means Committee, to see just how much revenue we then would get?

Senator WALSH of Massachusetts. In other words, Senator, you would like to have an opportunity—I am sure other Democrats join with you—to have a vote upon a bill drafted in every detail and particularly by the Treasury Department, saying that this is what the Treasury wants to balance the Budget?

Senator HARRISON. Yes.

Senator WALSH of Massachusetts. Can that not be done, Mr. Secretary?

Secretary MILLS. Yes. I say to you this morning perfectly freely and frankly that I prefer the Treasury bill to the House bill. If it was good in December it is still good, and I stand by it. If I had my choice, I should much prefer the Treasury program to the bill now before you. I prefer the Treasury program to the Ways and Means Committee bill, though I think that was a pretty good bill.

The CHAIRMAN. Mr. Mills, can you not take the bill as it comes to the Senate and point out or delete the provisions that you think are really bad legislation?

Secretary MILLS. And suggest substitutes?

The CHAIRMAN. Yes.

Secretary MILLS. I will be very glad to do that.

The CHAIRMAN. And then suggest——

You did not read this a moment ago.

The CHAIRMAN. And then suggest legislation that will bring the same amount of money, or the amount necessary for the balancing of the Budget?

Secretary MILLS. I will be very glad to do that.

The CHAIRMAN. I will ask you to do that.

Secretary MILLS. As a matter of fact, when you have an opportunity to study this statement and the annexes you will see that all of that material is right here. It is simply a question of putting it together.

Senator HARRISON. We have not been able to study that yet. For instance, in your recommendation to the Ways and Means Committee the Treasury recommends a retroactive tax. The House has expressed itself very strongly on that proposition. So eliminating the retroactive tax in your proposal will you then furnish us the items and the programs which would raise sufficient money?

Secretary MILLS. I will be very glad to.

I did not think there was any question about that. I did not see that there was any objection to it, other than the members might think that you had convinced them that you did not understand the exact proposition.

Secretary MILLS. I do not know what you want to-day.

Senator HARRISON. But I think you have not complied with the request.

Secretary MILLS. I do not know what you want to-day, because you accepted Senator Walsh's interpretation of your question, and he said that what you wanted was a bill drafted in every particular and detail by the Treasury Department, saying "This is what the Treasury wants to balance the Budget." Now, if I am to furnish you that, then I stand on my original program. If you want something else, I wish you would tell me what it is. Let us clear it up right now. Just what is it that you do want?

Senator HARRISON. I think everybody generally knows what is wanted.

Secretary MILLS. Well, then, tell me. I don't know.

Senator HARRISON. All right. I have got a very high respect for your ability.

Secretary MILLS. I am beginning to suspect, but——

Senator HARRISON. I am willing to admit you are one of the smartest men that has ever been in the Treasury Department, and I can not understand why there has been such a change come over you so quickly. Now, would you object to furnishing to the committee, brought up to date, just as you furnished to the Ways and Means Committee, the Treasury's proposal, itemized, and showing a balanced Budget?

Secretary MILLS. Yes.

Senator HARRISON. You have no objection to that?

Secretary MILLS. No; because it is all there.

Senator HARRISON. And you will kindly send that over to us?

Secretary MILLS. The only modification I know of now is that I may propose to reduce the rate on the domestic consumption of gas and electricity, but otherwise the program you now have represents the program on which I shall stand.

Senator HARRISON. So you will send it up?

Secretary MILLS. Again.

Senator HARRISON. Again, all right. That will be the first time.

The CHAIRMAN. Mr. Secretary, in the testimony before the committee this morning it was testified by at least a dozen men that at least an increase of 1 cent in the postal rates would not bring an

increased revenue but more than likely a deficit. You have not made up your mind as to that?

Secretary MILLS. Senator Smoot, I tell you very frankly, I have not studied the post-office end of this at all. All we did, as I told Senator Harrison, was to take the position, as the responsible head of the Treasury Department, that the Post Office Department of the United States should be self-supporting, outside of the free services provided for by law; and, having said that, we recommended to the Congress that they call the Postmaster General and ask him how to bring about such a businesslike result. I have never even discussed it with the Postmaster General. If you want to go into that matter, you will have to call him. I do not know.

Senator REED. I am told that last summer the Postmaster General did submit a plan for balancing the post-office budget, including an increase on second-class mail matter. Do you know whether that is true?

Secretary MILLS. Senator Reed, I do not. I have never seen it.

The CHAIRMAN. Then we will have to get the information from the Postmaster General.

Secretary MILLS. You really will.

The CHAIRMAN. We have got to know just the amount before we would know whether the Budget would be balanced or not. In other words, you have here a postal deficit of $150,000,000. That was upon the information furnished you by the Postmaster General.

Secretary MILLS. No, that was on the definite assumption that as a matter of policy the rates would be so adjusted as to do away with the post-office deficit; and since we have made that recommendation the House went into the matter and reached the conclusion that the rates which I recommended would do that very thing, and the Treasury has accepted their judgment in the matter. If there is any question as to the validity of those figures, then I think you ought to get first-hand information from the Post Office Department, Mr. Chairman.

The CHAIRMAN. I think that is what the committee will do, of course, but if the testimony that was given to the committee this morning is borne out by the increased rate, as suggested, we would fall short here at least $50,000,000; and if that is the case, then we would have to raise it from some other source.

Secretary MILLS. That convinces me—and I am not saying this seriously—that the thing to do is to report this revenue bill out as fast as possible, because every week the Ways and Means Committee considered it we lost revenue and had to make it up as we went along.

Senator HULL. Have you considered in here the matter of the tariff?

Secretary MILLS. If our items were not included in the original Treasury recommendation——

Senator HULL. They would not be included in the next?

Secretary MILLS. Certainly. As you know, during my 11 years experience, most of which have been spent either as a member of the Ways and Means Committee or in the Treasury Department, it has always been the policy of the Treasury Department to look upon the tariff policy as one to be exclusively determined by the Congress; and whenever you made up a tariff bill the Treasury Department has

never been called upon to express an opinion as to individual schedules, but simply as to the administrative provisions of the tariff law; and having found that tradition established for a long time, I should hesitate to disturb it, in view of the perils which it involves. [Laughter.]

Senator HULL. You mean by that that the condition of the Treasury is not safe enough to take the responsibility or the Government's credit is not eminent enough to justify any such consideration of the question as to whether we shall undertake to make up a combined income revenue and tax bill, or whether we should separate those for the purpose of taking care of the Treasury situation?

Secretary MILLS. Senator Hull, you have no illusions—I know some people have, but you have none—as to the character of the two items in this bill.

Senator HULL. I was just hoping that I had not.

Secretary MILLS. I certainly have not. They are not revenue measures. They are protective tariff measures.

Senator SHORTRIDGE. Would not they raise some additional revenue, Mr. Secretary? We are framing a bill for the purpose of securing additional revenue.

Secretary MILLS. Not carfare, though, Senator.

Senator SHORTRIDGE. But we are seeking additional revenue. And, speaking for myself, if we can secure a large additional revenue by imposing a tariff on some imported articles, there is no reason on earth, no logical reason that I now see, which would preclude us or prevent us from including it in this revenue raising bill.

Senator HULL. Even if it takes until October.

Senator SHORTRIDGE. It need not take that long, Senator, not at all.

The CHAIRMAN. It would not be the first time that it had been done in a revenue bill.

Senator SHORTRIDGE. No.

Senator HARRISON. May I ask the Secretary, if there is no other question right now, would you have any objection, as Secretary of the Treasury, to taking the House bill as it passed and giving the committee the benefit of your views on each of the items, whether you approve them or disapprove them or substitutions should be made, in the opinion of the Treasury Department?

Secretary MILLS. I would be perfectly willing to take the House bill as a whole and write a new revenue bill. I would not want the responsibility of being tied to the House bill and then having the product labeled a Treasury product. I am here as an adviser. I will do anything you want me to do. If you direct me to take out certain provisions of the House bill and attempt to find adequate revenue for you, I will furnish you the schedules. In other words, I consider myself as a servant of the committee, to carry out its wishes, and I will follow out any instructions that you may give me, Senator Harrison, but in following your instructions it has got to be understood that it is a Harrison product and not a Mills product. That is the only distinction I want made.

Senator HARRISON. I have no idea of having it styled a Harrison proposal, but I am just wondering now if you have any objection to taking this bill as it passed the House and giving the committee your

various views as to the various items, if you approve of the items, or if you disapprove of them, what you offer as a substitute.

Secretary MILLS. I will rewrite the House bill, if you so desire.

Senator HARRISON. I really would like to get that, Mr. Secretary.

Senator WATSON. Do you really think that is a fair way to get at the proposition?

Secretary MILLS. No; of course not. You can not ask me to take out a tax on cartridges, which brings in $2,000,000, and find another item that will bring in $2,000,000 also. You have got to say, "If you do not like the House bill, then recast it along the lines that you think are satisfactory, so as to furnish adequate revenue." That I will do.

Senator HARRISON. Yes.

Secretary MILLS. But you must not ask me to take out the tax on candy, if I do not happen to agree with it, and find another item that will exactly bring in $10,000,000.

Senator HARRISON. If there are a certain number of items that will entail a loss of thirty millions, you can set out other items, generally, that will aggregate that amount.

Secretary MILLS. I will rewrite the House bill for you in its entirety, keeping in such parts as I think are good.

Senator HARRISON. I will be very glad to have you send it over.

The CHAIRMAN. If the Secretary does that, will the Senator be content with the recommendations that he makes?

Senator HARRISON. I may. I no doubt will on a majority of the propositions. There are certain features of the House bill I am very much opposed to, and there are certain other features of the House bill that I am for.

Secretary MILLS. But it must be understood, Senator, that that can not be labeled a Treasury program.

Senator HARRISON. I understand that.

Secretary MILLS. I just want that understood.

Senator REED. You are not accepting any share in the paternity of the House bill?

Secretary MILLS. No, I am not; not at any stage of the game.

Senator HARRISON. I hope when we get through here you will not go on the radio and lambast these fellows who have worked so hard to evolve something here.

Secretary MILLS. Within 48 hours after the Ways and Means Committee had reported, I was on the radio supporting it 100 per cent.

Senator HARRISON. But the ex-chairman of the Republican Committee was on the radio in a short time giving the leaders over in the House the devil for their stand on the sales tax.

Secretary MILLS. Let us avoid all partisanship, Senator Harrison. If you will stop sparring for position, I will sit down with the members of this committee at any time and put all the cards on the table, face up, and give every bit of information we have got, the way we played the game for four weeks with the Ways and Means Committee. The Ways and Means Committee had all of their cards on the table, face up, all of the time, and all of those four weeks we dealt on that basis, and with the most satisfactory results in the way of producing the revenue needed.

Senator HARRISON. The cards are up with this committee, but whenever you say in your testimony you are going to do a thing and then do not do it, some of the members won't have much faith in your promises.

The CHAIRMAN. Mr. Secretary, I want to say this, and also to Senator Harrison, that as soon as we get through with these hearings and the testimony is closed and all printed, so that each member of the committee can have a copy of it, as chairman of the committee, I want the Secretary, as far as I personally am concerned, either the Secretary himself or some representative who could speak for him, to be with this committee in rewriting the bill, if we do rewrite any part of it; and I have not any doubt but what a great part of it will be rewritten.

Senator CONNALLY. Mr. Chairman, I want to ask the Secretary a question. Your first preference, of course, is to your own recommendations made in December to the Ways and Means Committee.

Secretary MILLS. With the supplemental additions that we had to make when the estimates were revised.

Senator CONNALLY. In other words, you were running behind later more than you thought you were, and you had to fill up the gaps to get some more money?

Secretary MILLS. Yes.

Senator CONNALLY. So the first preference is the recommendations of the Treasury, with the substitutes.

Secretary MILLS. Yes.

Senator CONNALLY. Then your next preference is the House Ways and Means bill as reported?

Secretary MILLS. Yes.

Senator CONNALLY. And then, finally, you did approve the House bill itself, didn't you, at the time it was up?

Secretary MILLS. No, sir.

Senator CONNALLY. Didn't you say you generally accepted it?

Secretary MILLS. No; I never accepted the House bill.

Senator CONNALLY. I thought I heard you over the radio make that statement.

Secretary MILLS. No; that was the Ways and Means Committee bill.

Senator CONNALLY. The Ways and Means Committee bill that you did approve is the one that carried the manufacturers' sales tax?

Secretary MILLS. It did.

Senator CONNALLY. So you prefer that bill to the one passed by the House finally?

Secretary MILLS. Yes; it is a better bill than the bill now before you, in my judgment.

Senator CONNALLY. Then you have indicated here some of the features in this particular bill you disagreed with, such as the estate tax, the deduction of dividends and stock transfer tax, and others.

Secretary MILLS. The rates that apply rather than the taxes themselves.

Senator CONNALLY. As carried in the bill.

Secretary MILLS. The rates that apply, Senator.

Senator CONNALLY. I want to say, Mr. Chairman, that I do not agree to support this bill when the secretary reports it back here.

The CHAIRMAN. That is understood, of course.

Senator CONNALLY. Some of us are not gamblers, and I do not propose to go into this card game.

Secretary MILLS. I am going to report back the Harrison bill; I want that understood. [Laughter.]

Senator HARRISON. I did not commit myself to stand by all your proposals. [Renewed laughter.]

Senator LA FOLLETTE. Mr. Chairman, may I ask the Secretary as to his purpose in rewriting this House bill? It really is not going to be any different than the recommendations you made in December, is it, except with those adjustments?

Secretary MILLS. It is not, Senator La Follette. Of course, it is not.

Senator LA FOLLETTE. Then, why all this shooting about it? After all, unless you want to do the thing which you refused to do, I see no point of your going and taking out a little item here or there and plugging that up with another little item that you prefer. If you are simply going to take the House bill and retain the features which you think are good and substitute in lieu of the features which you think are bad others which you prefer, won't you come back to your Treasury recommendations of December?

Secretary MILLS. Come very close to it. We may improve on them a little, but we won't be very far from it when the job is finished.

The CHAIRMAN. It won't take you long to do it, and we would like to have it just as quickly as possible.

Secretary MILLS. But I want it understood—and I am quite serious about this—that if I am to write a revenue bill, I want complete freedom of action in writing it. If I am told that I have got to take a particular bill as a base and write around it, then I am not writing a revenue bill. That, I think, ought to be understood.

The CHAIRMAN. I do not think it is understood that way.

Senator SHORTRIDGE. What is he called upon to do? Rewrite the whole bill?

The CHAIRMAN. That is what I said, that he was not called upon to do, in my opinion.

Senator SHORTRIDGE. I think it is a waste of time. He is not the legislative department.

The CHAIRMAN. This is a recommendation to the legislative branch of the Government.

Senator SHORTRIDGE. Well, it is a waste of time.

Senator REED. It is all as clear as mud.

Senator CONNALLY. Mr. Secretary, you made a statement a while ago that it was not the business of the Treasury Department to advise the Congress about tariff policies. You adhere to that, don't you?

Secretary MILLS. I say that is a tradition which exists.

Senator CONNALLY. And you are observing that tradition?

Secretary MILLS. I am not prepared to disturb the tradition.

Senator CONNALLY. But in answer to Senator Hull you did seem to express some opinion with reference to certain items in this bill. Do you want to depart from that now?

Secretary MILLS. I am not making any recommendation as to those items. They struck me as smacking more of protective tariff measures than restrictive revenue measures.

Senator CONNALLY. That does not hurt your soul.

Secretary MILLS. No, that does not hurt my soul, because I am a good protectionist, but it must wring the hearts of some members of your party. [Laughter.]

Senator CONNALLY. Mr. Chairman, I am prepared to answer that if I can get a little quiet from this ribald and coarse audience. [Renewed laughter.] I will say to the Secretary that he is obtruding his views here when he announces it is a traditional policy of the Treasury Department not to, and then when we come in here with a few items which are revenue producers and are not protective, because of the findings of the Tariff Commission that the rates fixed are less than half of the differential between foreign cost and production, the Senator from Texas is not departing from the traditional policy of his party, any more than the Treasury is departing from its traditional policy in advocating revenue-producing measures on imports.

Senator SHORTRIDGE. Tariff for revenue only.

Senator CONNALLY. But revenue.

Senator SHORTRIDGE. No protection at all, but just for revenue.

Senator CONNALLY. Up to 1913 every revenue bill we had here was a tariff measure, if you want to call it such. It was a tax on imports to raise revenue.

The CHAIRMAN. Until when?

Senator CONNALLY. Until we passed the income tax law.

Senator SHORTRIDGE. Leaving out the element of protection, do you mean, Senator? It was merely for revenue only.

Senator CONNALLY. It is a revenue tariff.

Secretary MILLS. We had some excise taxes in those days, as I remember.

Senator CONNALLY. We had tobacco and whisky, of course.

The CHAIRMAN. Is that all with the Secretary?

Senator SHORTRIDGE. I have nothing further.

The CHAIRMAN. Thank you, Mr. Secretary.

(The statement of the Secretary of the Treasury is here printed in the record in full, as follows:)

I am here at the request of the committee, due apparently to some misunderstanding as to the scope of the information to be furnished by me in response to inquiries made by some members of the committee and as to the attitude of my department.

There can be no doubt as to the position of the Treasury Department. I stand ready to cooperate with this committee as heartily as I did with the Ways and Means Committee of the House with a view to drafting the best revenue measure possible to meet the present emergency. I believe that the way to proceed is to lay aside all partisanship, to sit around this table with one single thought in mind—the national interest—and with an unequivocal willingness to share the responsibility, and, I may add, whatever degree of unpopularity may come from the imposition of additional taxes in times such as these.

That has been our position from the first. When the Congress met we could have contented ourselves with calling attention to the great and growing deficit and simply urged the Congress to impose such additional revenue as would balance the Budget, and thus have avoided the difficult and responsible task of submitting a detailed program of additional taxation. But we felt that it was our duty to share in the exacting task confronting the Congress, and we submitted, therefore, a detailed tax program adequate to raise the revenue necessary to balance the Budget in the sense in which it has been discussed.

When the Ways and Means Committee told us that they did not propose to take our program but to prepare one of their own, I told the chairman that

our time, information, and judgment were at his disposal in the working out of the committee program. All were freely given over a period of several weeks.

I told the chairman of the Ways and Means Committee that if their program when completed was in our judgment sound, even though it differed from what we had recommended, I would support the program and that the Treasury would assume its share of the responsibility involved in imposing the proposed taxes.

This I did at once as soon as the Ways and Means Committee report was presented to the House of Representatives.

I mention this record because the question has been raised as to our willingness to cooperate. I say to you that I stand ready now and until you complete your consideration of the revenue bill to work with you as sincerely, as wholeheartedly, and as cooperatively as I did with the Ways and Means Committee. As far as I am concerned, there will be no partisanship and no shirking of responsibility.

STATEMENT OF M. L. SEIDMAN, NEW YORK CITY, REPRESENTING NEW YORK BOARD OF TRADE

The CHAIRMAN. Mr. Seidman, where do you live?

Mr. SEIDMAN. New York City.

The CHAIRMAN. Whom do you represent?

Mr. SEIDMAN. I represent the New York Board of Trade.

The CHAIRMAN. Do you want to speak upon any particular provision of the bill?

Mr. SEIDMAN. No, sir; I want to make a general statement on the bill.

The CHAIRMAN. Well, no statement outside of what this bill contains. We do not want any rambling around.

Mr. SEIDMAN. That is correct. I will stay within the bill.

The CHAIRMAN. You understand that, do you not?

Mr. SEIDMAN. Yes, sir.

The CHAIRMAN. All right, then. You may proceed.

Mr. SEIDMAN. Gentlemen, the New York Board of Trade stands first and foremost for the balancing of the Budget at any price, if necessary. It hopes that it can be done to a great extent by the cutting of Government expenditures. In that connection it was much encouraged yesterday by the statement of Secretary Mills before you here when he stated:

> The Treasury Department urges the necessity of reducing expenditures. When asked to assume an enormously heavy tax burden the people are entitled to have the cost of government reduced to a minimum and every expenditure not essential to the proper functioning of government eliminated.

The great majority of salary and wage earners employed in private industry throughout the United States have had to take cuts in their earnings of from 10 per cent to 40 per cent in the past two years or so, and they considered themselves fortunate to have employment at all. It is a great satisfaction to know that the idea has finally taken root that governmental expenditures must be cut. The reorganization of boards and bureaus, however, is a slow process, and we wonder whether during the emergency and until a complete reorganization takes place if it would not be a fair thing in getting up your estimates and budgets here to figure on the cutting down of governmental salaries, at least in proportion to the reduction in the cost of living during the last two years. We make this statement with the full recognition that Government employees generally have

not been too liberally paid in the past, but this is an emergency to which private individuals have had to comply.

With reduction of expenditures as a primary condition the New York Board of Trade, and for that matter I believe that most of the industry in this country, will stand for almost anything in taxation that is fair and reasonable.

Senator HARRISON. Do you fix any definite amount that you think it ought to be cut?

Mr. SEIDMAN. I understand that the average reduction in the cost of living has been somewhere around 20 per cent, and I should assume that if employees were reduced to the extent of 20 per cent they would be back in the same position where they were in 1929. Their purchasing power would be available to the same extent as it was available during 1929.

Senator REED. Some of them are paying 1929 debts, however.

Mr. SEIDMAN. That is most unfortunate. That is most unfortunate. But I do not know that you can exempt those who have debts to pay.

Senator KING. You can raise commodity prices.

Mr. SEIDMAN. Yes: if you know a way of doing that as quickly as reducing costs, why, that would be an ideal thing to do.

Senator KING. Well, I know a way it can be done, but I will not enter into a discussion of it now.

Mr. SEIDMAN. We believe that the Treasury Department has made to you about as fair and equitable a presentation of this pending bill as business generally would want to have stated for it were it represented directly by the Treasury Department, as I assume in fact it is.

Specifically the board of trade recommends that the net loss provision permitting losses to be carried forward a year, repealed by the House, until July 1, 1934, be resorted; that the estate tax be reduced from the maximum of 45 per cent adopted by the House to 25 per cent; that the exemptions from normal income taxes of dividends on stock that have been repealed by the House bill for a period of two years be restored.

Senator KING. You mean to say that you do not believe in taxing dividends the normal tax?

Mr. SEIDMAN. I do not believe in putting a tax on dividends when that tax has already been placed on the corporation, and the corporation has already paid a normal tax greater than that which would be imposed upon the individual had he received the profit or his share of the profit directly. It is purely double taxation.

The CHAIRMAN. Do you propose to suggest additional taxes to take the place of the taxes that you now ask to be repealed?

Mr. SEIDMAN. Mr. Chairman, we are, generally, in agreement with Secretary Mills on his recommendation.

Senator HARRISON. But he has not recommended yet what he would substitute for these other changes that he would make in the House bill.

Mr. SEIDMAN. I do not know exactly how the situation will figure out, but from the statement appearing in the press yesterday I understand that the Secretary has recommended definite items.

Senator COUZENS. He recommended, Senator, going back to the original proposition which he made.

Senator HARRISON. Yes, he suggested that he stood by his original recommendations. But since the time of the original recommendations there was an increased deficit, and he said in answer to the committee's questions that he would furnish the committee a bill of particulars and again make the recommendations of the Treasury Department in view of the changes in the House bill, which we have not received.

Mr. SEIDMAN. The New York Board of Trade, as I said, in the first place believes that in an effort to balance the Budget, after everything has been done to cut expenditures, and after the program of the Treasury Department has been exhausted, if there is a shortage in balancing the Budget then it is in favor of a manufacturers' sales tax, and only then.

The CHAIRMAN. That is what I was trying to get you to state. Evidently you know, as has been indicated from the statement you have already made, that there will be a shortage in the meeting of expenses of our Government, and what I wanted you to do was to express an opinion, if you have an opinion to express to the committee, as to how you would raise that money. You say you would raise it by the sales tax?

Senator KING. Manufacturers'.

Mr. SEIDMAN. By the manufacturers' sales tax only as a last resort, if the committee please.

The CHAIRMAN. You know we would be compelled to raise more money?

Mr. SEIDMAN. I do not know exactly. When you take into consideration the possibility of perhaps a 20 per cent cut in salaries generally, I do not know to what extent that would eliminate the necessity of raising revenue.

The CHAIRMAN. I will say to you very frankly that it would not meet the situation.

Senator COUZENS. You might as well find some other means of reducing the budget, because that is not going to happen.

Mr. SEIDMAN. Well then, I will say to you very frankly that under such circumstances the New York Board of Trade would be in favor of a manufacturers' sales tax.

Senator CONNALLY. You have favored that all the time, have you not? You would like to see that put on as a permanent proposition?

Mr. SEIDMAN. No; our board has been in favor of a selective sales tax.

Senator CONNALLY. As a permanent policy of taxation?

Mr. SEIDMAN. I do not believe so.

Senator CONNALLY. Well now, if you do not know, why, of course you can not say.

Mr. SEIDMAN. Well, I do know that.

Senator CONNALLY. Well, do not say you believe. Tell us what you know.

Mr. SEIDMAN. I do know that the board has not been in favor as a permanent policy of taxation of any sales tax.

Senator CONNALLY. Could we not lower these high and oppressive income tax rates if we put on a manufacturers' sales tax all the time?

Mr. SEIDMAN. I do not think it would be fair to lower "the high and oppressive" income-tax rates.

Senator CONNALLY. You do not think it would be fair?

Mr. SEIDMAN. I would much rather, and I am sure the board would much rather see a high income tax as against a sales tax. The sales tax here if it is recommended at all is recommended in conjunction with a high income tax.

Senator CONNALLY. What do you mean by "high"? How high?

Mr. SEIDMAN. Surtaxes as high as 40 per cent. Normal taxes as high as 10 per cent.

Senator CONNALLY. You are here to say just "amen" to Mr. Mills, in effect that is your attitude? You just want to approve what Secretary Mills said yesterday?

Mr. SEIDMAN. I did not start out to do that, Senator. I came here with my own ideas and those of the board of trade.

Senator CONNALLY. I am not trying to reflect on you at all. But the effect of your testimony is to just approve what the Secretary of the Treasury just submitted? Is that right?

Mr. SEIDMAN. I think that is probably a fair statement on my testimony thus far.

The CHAIRMAN. Proceed.

Senator HARRISON. Would you provide in this bill sufficient taxes to supply the sinking fund this year?

Mr. SEIDMAN. I would not.

Senator HARRISON. Would you supply them next year?

Mr. SEIDMAN. I would not.

Senator HARRISON. You differ from Mr. Mills to that extent, then?

Mr. SEIDMAN. I do.

Senator COUZENS. Would you agree to a moratorium next year on the foreign debts and put the amount in the Budget?

Mr. SEIDMAN. That is a nut which better men that I am will have to crack.

Senator HARRISON. How does the board get its recommendations up? Do you have a committee of the board of trade and they discuss all these plans?

Mr. SEIDMAN. Yes, sir.

Senator HARRISON. Or do they just designate a committee of two or three men to get them up?

Mr. SEIDMAN. We have a standing committee of six. A committee of taxation and finance that is constantly giving study to tax questions, and recommendations are made to the body as a whole and voted upon. These policies have been discussed and considered from time to time throughout the past year.

Senator HARRISON. Do you believe that there ought to be so many taxes laid for this fiscal year as to create a surplus next year?

Mr. SEIDMAN. No, by no means. I think we will be very fortunate if we can manage to balance the Budget.

Senator HARRISON. Do you think it would be wise to take this year and next year and strike an average so that there would not be any appreciable surplus, but just enough receipts and disbursements to balance?

Mr. SEIDMAN. I think the whole country has its eye on the balancing of the Budget, and I believe the quicker we do that the better. I do not think I would carry over a deficit from this year to next.

Senator HARRISON. No. But how about creating a surplus next year? Under Mr. Mills's figures you would have a surplus of over $300,000,000 next year if you do not supply the sinking fund next

year. Under his figures and recommendations. You do not believe in that?

Mr. SEIDMAN. I do not believe that will be necessary. I do not believe in taxing industry any more than is absolutely necessary to balance the Budget.

The CHAIRMAN. In other words, you believe that the sinking fund ought to be delayed?

Mr. SEIDMAN. I believe that is a matter of payment of debt. It should not be a matter of balancing the Budget for the time being anyway during the period of this emergency.

The CHAIRMAN. Go on.

Mr. SEIDMAN. There is one element in this bill which Mr. Mills skimmed over yesterday, although I believe he commented upon it fairly, and that is the provision whereby taxpayers are deprived of deducting from other income in their current tax returns, losses on securities. Mr. Mills in describing this provision stated:

> Another provision which should, in my opinion, be amended, is the section limiting the right to deduct losses on transactions in securities to the offsetting of gains from similar transactions in the same taxable year, as provided in section 23.

And then he goes on to explain:

> In recent years income from business profits, from salaries, and from other sources, has in many cases been offset by losses on security transactions. It is the effect of such losses in diminishing the tax upon forms of income, such as I have mentioned, which, to a considerable extent, is responsible for the diminished yield of the income tax in these years.

He then goes on to say:

> Undoubtedly, a very serious case can be made for continuing the right to so deduct such losses. In many cases, however, the losses thus deducted may be said to be paper or fictitious losses. In place of the securities in which the losses were taken, other securities were purchased without substantial change in income.

Then he goes on to say that the Treasury was disposed to agree with the elimination of the deduction of these losses, but suggests that that situation should not apply to banks and security dealers.

I believe this is a provision which has a more widespread effect than has been generally recognized. And I want to comment for a moment or two on that feature of the bill. To illustrate the effect of the bill simply, we will take an individual who has an income from his business or profession of, say, $25,000, and he loses an equal amount during the same year through security investments. He will have to pay the tax on the full $25,000, without a single dollar of deduction, unless he happens to have, that same year, profit from the sale of securities. Then only will he be able to deduct the loss from such profit, but from no other income or profit.

The arrangement, if enacted, is bound to drastically affect security owners who have counted on at least being able to deduct such losses in their current income-tax return, and thus cutting their tax bill to that extent. The proposed change will deny them that right. In my opinion, it is by far the most serious change affecting investors, although there has not been a general recognition of its possible far-reaching consequences.

Considering the widespread effect it is bound to have upon a large number of people, it is really surprising how little comment or discussion the proposal has received in the public press. Interest has

been quite generally absorbed by the major revenue raising issues. Those issues, affecting only a particular group of taxpayers, have therefore been overshadowed by the more spectacular issues.

Senator CONNALLY. Mr. Chairman, may I ask a question right on this point? Let us take two men. One of them has an income of $25,000 salary, and that is all he has. Another man is rich and has $25,000 salary, and he speculates and invests his millions in stock operations, and he loses, as you say. The man that has a salary only would still pay on his $25,000 income, would he not?

Mr. SEIDMAN. I think I——

Senator CONNALLY. Will you answer that question?

Mr. SEIDMAN. I will supply the answer to that question, if you will permit me, Senator.

Senator CONNALLY. All right; go ahead.

Mr. SEIDMAN. I will cover that point.

Considering the proposed arrangement for the treatment of security losses it is not only inequitable, but results in a tax not in accordance with ability to pay. I think I can illustrate that with a simple example We will use an extreme case for emphasis and for brevity, as I think yours was an extreme case. Take an individual who starts out with no capital at the beginning of the year at all and we will say during the year he makes a profit from his business or profession of, say, $10,000. With this profit he buys securities and, before the year is over, he is cleaned out. Thus he had nothing at the beginning of the year and he has nothing at the end of the year. Now he is told this: "You have made a taxable profit of $10,000 because the security loss which you have taken during the year is not deductible from your business profit."

Now just where is the profit? Just where is it, and in what tangible form is it? It has disappeared. It is in fact a very real loss to this taxpayer; and, not having any capital, he has at least nothing to worry about. In that, at least, he is fortunate, for the tax under such circumstances can not be collected by the Government. They can not take anything from him unless they put a lien on his future income.

But in the case of one who has capital the tax would have to be paid out of his capital. And I think that that tax then becomes a tax on capital and not on income. And it is income that we are taxing here.

The arrangement certainly gives an unfair advantage to those taxpayers who took their security losses during 1930 and 1931. Those who listened to the promises of prosperity being "just around the corner," or who, from patriotic motives, refrained from aggravating an already aggravated situation in the security markets, are now confronted with not only an additional shrinkage in their security values but with a further loss of the income tax deduction given to others who did sell before 1932. The man who took his loss is thus, by law, placed at a substantial advantage over him who listened and was persuaded.

Senator CONNALLY. Mr. Chairman, may I interject? I am going to leave in a minute. Do you think, Mr. Witness, you have answered my question? Is that your answer to my question?

Mr. SEIDMAN. I believe so, Senator.

Senator CONNALLY. I submit you did not answer it at all. I submitted to you the case of a man who has a $25,000 salary and nothing else. Another man who has $25,000 salary and in addition he has a large fortune, we will say. When the income taxpaying time comes the man with the salary only would have to pay on it, would he not?

Mr. SEIDMAN. That is right.

Senator CONNALLY. Under your plan the other man, who was much richer and had a larger income, if he had losses would be able to offset the loss and might be able to pay no income tax at all, is that it?

Mr. SEIDMAN. That is correct.

Senator CONNALLY. And that is your view of the justice of taxation, is that right?

Mr. SEIDMAN. It is absolutely just, because income is something which can not take in only one side of the profit and loss statement. It must take in both sides.

Senator CONNALLY. Your complaint is that because in the one case the fellow goes busted and the Government can not take any tax, therefore, that in the case of the man who has an income and the Government can get it out of him, that he ought not to pay any?

The CHAIRMAN. In either case, Senator, there would be the loss.

Senator CONNALLY. Yes, the Government would lose on both ends, that is true.

The CHAIRMAN. No; in either case there would be a loss to the individual taxpayer. Of course, the one could stand it a great deal better than the other.

Mr. SEIDMAN. If he had enough capital.

Now, regarding these security losses, we were told that security selling for tax purposes creates an artificial market condition, particularly around the end of each year, which this proposed remedy is intended to cure. In addition, it is supposed to provide a source of revenue not heretofore available to the Government. In my opinion neither of these are likely to be accomplished. The arrangement is bound to dry up speculative enterprise. Certainly it will make more difficult the attraction of capital. What incentive would there be for a man to put his money into securities for profit when, as and if he realizes such a profit, he will have to part with the major portion of his profit for income taxes? And in addition he will probably have to pay a stiff State income tax.

Senator KING. May I interrupt you just a moment? Do you know what proportion of those who have losses by reason of stocks, and have gains, are what might be denominated speculators in contradistinction to pure investors? My understanding is from a little inquiry which I have made that most of the losses have been made by persons who have some gains, that is, by speculators. "A" buys certain stocks and makes a gain, and he buys certain other stock and takes a loss. And in order oftentimes to obviate the payment of taxes on his gains, he sells stocks at a loss in order to offset them. I was wondering to what extent the element of speculation rather than investment, if you could reduce it to percentages, enters into this matter.

Mr. SEIDMAN. Senator, I am afraid I can not reduce it to percentages, but I know this to be a fact from contact with a great many people——

Senator HARRISON. Mr. Chairman, the Democrats have got a conference, and I have got to go for a few moments.

The CHAIRMAN. We will go right on with the hearing. Proceed.

Mr. SEIDMAN. To answer Senator King's question—although he is not here to listen to it he will get it on the record—my own work has brought me in contact with a great many business men who have to some extent been able to accumulate savings in one form or another. Most businesses have a reserve invested in securities. Most individuals have laid away money for a rainy day. I am speaking of those individuals who have invested in securities instead of putting their money in savings banks. Now those men are the men who have not sold. They have hung on. They have lived in hopes that the security values will come back, and that they will not be the losers. They have been undoubtedly sadly disappointed, at least to this point. A great many of them must sell. A great many businesses must sell securities in order to draw upon their reserves. A great many individuals must do the same. Now when they sell these securities they are not taking paper losses. They are taking real losses. I believe that the paper losses have to a very great extent already been taken and by those very ones who will now by law be guaranteed their tax deduction. They have taken them. Thus the fellow who has not taken his loss is now told that he can take it all right, but of course if he did not take it earlier he can not have it as a deduction from his income tax at this time. That is the unfair part of it.

Now I have said that I do not believe that this provision will raise any revenue, because the arrangement is bound to dry up speculative enterprise and investment. Because there will be no incentive. A man has saved money and is about to invest it. If he makes a profit a great portion of it will be taken away from him. If he makes a loss he has got to stand 100 per cent of it. Now where is the incentive for him to risk his money? And of course if money is not risked you can not produce income and if income is not produced you can not collect an income tax.

I think there is something particularly inequitable and discriminatory about such an arrangement. It singles out securities from all other forms of property and provides that only security losses shall not be deductible from taxable income. All other losses are recognized. As for security losses, even the fellow whose sole business is trading in stocks, or buying and selling stocks and bonds, is denied what to him is a business loss. May be his sole and only business. Every other business can deduct its losses from all taxable income, but not the security business. Why single out securities, when the owners of them have already been made to absorb the most staggering losses in this country's financial history?

It has been stated that the plan is directed against stock market losses; but in practice it is bound to operate against all other security losses, although this may not have been intended by the framers of the law. For instance, it will apply to the small fellow who, having been doing business as a corporation, winds up his business, and takes his loss. That would be a "security" loss, because he takes his loss

on his investment in his little corporation, and he can not deduct that loss from his other income if he has other income.

Senator SHORTRIDGE. May I ask you a question? It has been suggested that there are a considerable number of cases where men took a loss for no other reason than to have an offset to their income tax. Have you any information as to how extensive, if extensive, that is? How extensively that is done?

Mr. SEIDMAN. I have information, Mr. Senator, to the effect that that has been very extensively done. There is no doubt about it. There is no doubt about it. That losses have been taken through the sale of securities and the repurchase of such securities or other securities. Now of course if a man is going to rebuy the same securities he must wait, under the present law, 30 days before he rebuys. He can not deduct his loss unless he waits 30 days for the repurchase. But he can, of course, buy similar securities, or a security of the same type, of the same class. So that he would keep his investment. And yet will have realized his loss. Now I say that that has been already done to a great extent. Undoubtedly it is so. There can not be any dispute about it; 1929 was a good, prosperous year, and if a fellow had losses at the end of 1929 he took them and deducted them from the income he had to pay tax on thus reducing his tax in that way. If he did not do that, if in 1929 he listened to rosy stories and promises and hopes that he will be better off if he waits until 1930, he had another chance at the end of 1930 to take his loss and wipe out his income, if he had any taxable income. If he did not do that in 1930 he had another chance in 1931.

Now all of that has been done. I say that this is now trying to lock the door of the stable when the horse is gone. Those paper losses have been taken. And it is the real honest-to-goodness losses that remain. The fellow that waited and hoped must now take his loss because his resources are nearly exhausted. Businesses must now draw upon their resources, who have not been called upon to draw on their reserves before. These are honest-to-goodness losses. These are the very losses that are penalized at this time. That is the unfair part of that arrangement.

Senator SHORTRIDGE. Whereas formerly they were allowed?

Mr. SEIDMAN. Whereas formerly they were allowed. Now is that not placing a premium by law upon the disregard of what our administration has been advocating for the last two or three years?

Senator GEORGE. Will you not have the same thing happening in 1932 that happened in 1931?

Mr. SEIDMAN. Mr. Senator, I wish I could answer that question. That of course is dealing with the future possibilities of business. But we know this, that paper security losses certainly have been taken to a far greater extent than actual losses still remaining. These if they are taken during 1932, will be taken by people who can less afford the loss, and who could less afford to lose the income tax deduction on account of the loss.

The CHAIRMAN. In other words, they prefer now to take a chance on a rise in the market and sell a stock for the purpose of taking a loss? Is that not the picture?

Mr. SEIDMAN. No; my point, Mr. Chairman, is that whoever has securities left has done at least two things. In the first place he has waited to a time when he has to sell. When his resources are ex-

hausted; when his reserves are exhausted. And second, he has co-operated with the administration in that he did not throw over his securities upon an aggrevated market situation. And that fellow is being penalized.

The CHAIRMAN. Nobody is going to sell securities now unless they are compelled to.

Mr. SEIDMAN. I think that is right.

The CHAIRMAN. They are not going to sell any securities to get the tax deduction.

Mr. SEIDMAN. That is right.

Senator SHORTRIDGE. Your point is, then, that where a man is compelled to sell at a loss he should be given credit for that loss?

Mr. SEIDMAN. That is right. Except that I am afraid we can not embody in our law that provision that only when a man is compelled to sell he can get a deduction. We can very well assume that the compulsory sales are coming along now. That the longer a man has waited the more likely the chances are that he will now be forced to sell, and it is those very losses that he will not be able to deduct.

Senator GEORGE. There were a great many voluntary sales made for that purpose in the past years?

Mr. SEIDMAN. Undoubtedly so.

Senator GEORGE. Will there not be some voluntary sales made for that purpose, for that same purpose, this year?

Mr. SEIDMAN. No question about that. No doubt about that. No question but that some voluntary losses will be taken. But I firmly believe that they will be in the great minority at this time, almost three years after the market break.

Senator GEORGE. They will be less?

Mr. SEIDMAN. Yes.

Senator GEORGE. I imagine so. Profits might be less too.

Mr. SEIDMAN. That is true; or non existant.

Senator GORE. Do you not think that a great many people sold and then bought back for the purpose of taking their loss?

Mr. SEIDMAN. Those people have already taken a loss, and own their securities now at a price where they have got an additional loss, in some cases anyway.

Senator GORE. I understand. But what I am referring to, and what I mean is as to the future. They might do the same thing in the future. Sell at a low figure and take their loss against the income, and then buy it back later on.

Mr. SEIDMAN. Well, Senator, there will always be a certain amount of that kind of loss taken. But it is my opinion that the worst on that score has happened, and at this time if you do this thing you will penalize those fellows who will take a legitimate loss, though even the so-called "paper losses" are in fact legitimate losses.

Senator GORE. I understand that. What would you think eventually, however, of abolishing this plan entirely both as to capital gains and losses?

Mr. SEIDMAN. Well, of course, that is the English system of income taxation. They have been operating under that system for a good part of a century. But their arrangement is at least fair. They do not tax the gain and do not allow the loss.

Senator GORE. I understand that. I am not making any point about that. It is fair to play it both ways; if you tax the gains, to

deduct the losses. Aren't there a great many securities in people's hands in this country who said that they would not sell because they did not want to pay the high tax on the high price?

Mr. SEIDMAN. Well, they have paid the penalty, Senator.

Senator GORE. That is not the question I asked. Do you not think it obstructs the free disposition of securities?

Mr. SEIDMAN. By all means, and I believe this proposed arrangement will as well obstruct the free disposition of securities, because a man will not sell if he can at all avoid selling until he has a profit from the same source. It will force the realization of profits.

Senator GORE. And when his profits are extraordinarily large he will not sell because he does not want to pay such a heavy tax. During the bull market in 1929 was not the free exchange and disposition of stocks and securities interfered with by the tendency which it had to prevent people who held stock on which they had a large profit from selling them, because they did not want to pay a heavy income tax on the profits that they would take on the capital sales?

Mr. SEIDMAN. I think that is entirely correct.

Senator GORE. Do you not think that is a mistake?

Mr. SEIDMAN. Yes; I think it is.

Senator GORE. That is the point I wanted to get at.

Senator REED. Is not the effect to accentuate the peaks of the booms and to accentuate the depths of the depression?

Mr. SEIDMAN. That is exactly the way of stating it.

Senator REED. It is to the taxpayer's interest to hold on when he ought to sell, and it is to his interest to sell when he ought to hold on.

Mr. SEIDMAN. That is correct, Senator. And this proposed change will accentuate it.

Senator GORE. And this makes the gyrations work both ways.

Mr. SEIDMAN. I think so. I think it certainly interferes with free markets of securities.

Senator REED. And furthermore, from the standpoint of revenue, taking it over a long period of years, it is probably true that the Government loses in revenue more than it gains by treating these capital transactions as income; is that not so?

Mr. SEIDMAN. It has been my experience in tax matters that I have come in contact with—and we have had occasion to advise on tax matters and prepare tax returns for clients—that the taxpayer has always gone out of his way to record losses when he had offsetting income and to record income when he had offsetting losses. And it creates an artificial situation which you could undoubtedly eliminate if you eliminated the taxation of capital gains and, as an offset to that, prohibited the deduction from income of capital losses.

Senator GORE. Now if the people who held securities in 1929 during the boom period, who had large profits on those securities, and did not want to sell them and pay the heavy income tax, if they had been free to sell their securities without facing that danger, would not the unloading of their securities on the market have had a tendency at least to prevent stock from reaching these dizzy summits?

Mr. SEIDMAN. Those are exactly my own conclusions on that question after mature deliberation.

I was about to say that the New York Board of Trade has always been a staunch supporter of the income tax as the fairest kind of a tax to be imposed upon industry, but if the income tax is to remain a

permanent American institution the framers of our tax laws must avoid attempts to collect revenue at the expense of fairness and equity. And I believe that this provision as to the denial of a deduction of a security loss under the circumstances I have here explained is an inequitable provision. The proposed plan not only violates the rules of equity, but, as I have shown you by an illustration, violates the fundamental principle that a tax must be imposed only in accordance with ability to pay. One who has lost his income in a business transaction is manifestly unable to pay a tax imposed upon such income.

Thank you.

STATEMENT OF BENJAMIN C. MARSH, BLISS BUILDING, WASHINGTON, D. C., REPRESENTING THE PEOPLES LOBBY AND JOINT COMMITTEE ON UNEMPLOYMENT

The CHAIRMAN. Mr. Marsh, you may proceed.

Mr. MARSH. Mr. Chairman and members of the committee. My name is Benjamin C. Marsh. I am speaking on behalf of the Peoples Lobby, which has headquarters here in the Bliss Building. The president of it is Prof. John Dewey.

I understand that the discussion this morning is to be on the general features of the bill, including the income tax, and I want to point out that the variety of taxes proposed in the House bill and all the taxes we have had, except the estate tax, are substantially income taxes, and to suggest that if you want to prevent widespread defaulting and panic you have got to tax incomes much higher than we have ever taxed them here. Starting at least with $10,000. And that I may be purely personal I will say that I ought to pay $500 or $600 more a year taxes than I do, and I am perfectly willing to do it providing you apply the general principle.

The assumption that a sales tax is not an income tax is an assumption that it is going to be paid by those who haven't any income. The only question is whether the Congress of the United States has the courage in an election year to face the situation and to realize that only Congress can through this revenue bill redistribute the national income in time to prevent a collapse.

We all know about this 4-power pact that is on in Europe, and what the situation is there. The House passed a 4 per cent tax, I believe, on stock sales out of which perhaps the Federal Government was to get $25,000,000, and in three days, if I am correctly informed, following the adoption of that provision by the House, the value of securities fell off something like $739,000,000. That was a capital levy, but the Government got $25,000,000 out of it. And the value of the securities went down considerably more.

We suggest that the Federal Government raise its revenue this year—and I shall give you figures to support our reasons—by reducing the exemption for income tax, by increasing the normal rate and the surtax rates very heavily, by increasing the estate-tax rates, which admittedly will not yield very much immediately, by taxing tax-exempt securities, by taxing corporation surpluses, and by plugging the holes in the administrative features of the revenue bill.

With regard to the last matter I shall not go into detail, but I am going to ask, Mr. Chairman, if I may file with the committee a series of something like 16 specific suggestions for amending the tax law to

insure increased revenue yield. The references are to sections of the revenue law and articles of regulations 74, prepared for us by a very experienced certified public accountant in New York. They will be more valuable than my going into detail.

The CHAIRMAN. They will be put into the record at this point.

Mr. MARSH. Thank you.

(The matter presented by Mr. Marsh for the record is as follows:)

SUGGESTIONS FOR AMENDING TAX LAW TO INSURE INCREASED REVENUE YIELD

(NOTE.—References are to sections of law and articles of regulations 74.)

Section 21—Net income. Article 60—Sale by corporation of its capital stock: This article provides that a corporation derives no gain or loss from the sale of its own capital stock. Recently many companies have been manipulating their own stock in the market, buying and selling it as though it were another company's securities. An amendment to stop this loophole should provide that all such profits in excess of losses be subject to tax, and losses be allowed only to the extent of the gain.

Section 22—Gross income. Article 105—Inventories by dealers in securities: There has been a great deal of confusion regarding who is and who is not a dealer in securities. A recent ruling allowed a person who had made a certain number of transactions all for his own account, to be treated as a dealer, so that he could take losses by the inventory method without even selling his securities. This article should be amended so that no one may be deemed a dealer unless he trades for others.

Section 23—Deductions from gross income Article 126 (1)—Compensation for personal services: Under this provision, unreasonable salaries are allowed to officers of corporations. This has the practical effect, in many instances, of paying out all of a company's profits as salaries, leaving the latter no taxable income. This is especially true of the small or closed corporation. New York State, in exercising its franchise tax, places a limitation on such salaries and if a similar minimum tax were to be placed by the Government based upon profits prior to the deduction of officers' salaries, a tremendous increase of revenue could be effected. If you believe this item important, I will explain the New York State plan and other plans I have regarding limitation of officers' salaries.

Section 23, article 191—Bad debts: Under this article, bad debts actually incurred may be deducted when so "ascertained" by the taxpayer. Where the latter does not choose to "ascertain," he is enabled to juggle these losses in order to cut down income in profitable years. It is suggested that the only correct method of allowing bad debts would be by the reserve method as explained in subsection 2 of article 191. The amount of the reserve is estimated based on the actual experience of the taxpayer and under this method, the losses are spread in accordance with sound accounting practice. Where the reserve becomes too large, the Revenue Department can require a reduction of the amount of the annual charge to bad debts. The word "ascertain" leaves many loopholes and the taxpayer can always maintain in numerous cases that he did not know that the account was bad when he may have known it right along.

Section 23, article 124—Repairs: A great many taxpayers deduct repairs which are really in the nature of replacements for which a reserve for depreciation has been accumulated so that taxpayers receive the benefit of a double deduction, one for repairs, and the other for depreciation. During prosperous years, items are charged to repairs that should be included in the capital account as improvements, and in lean years, repairs are capitalized in order to provide for future depreciation charges. It is suggested that this item be amended so that repairs may only be deducted in the form of a reserve for repairs, in the same manner as a reserve for bad debts. This may be done by determining the annual repair charges for the period of five years and allowing the taxpayer to deduct this average, setting up a reserve. A system of this kind is used by public utilities and other uniform systems of accounts. This has the effect of spreading repair expense and more accurately determining the income for each year.

Section 23 (k)—Depreciation: A requirement should be inserted in this section that all fully depreciated property should be written off against a reserve each year. In many cases depreciation is computed on the total value of the property even though part of this property has been fully depreciated. The regulations should be changed giving the allowable depreciation rates on various classes of property and thus bring about uniformity in connection with this item.

Section 44—Installment basis: Where property is sold on the installment plan, the gain or loss upon repossession of such property is not clearly defined, and it appears that the Board of Tax Appeals and the commissioner disagree in the treatment of this matter. Where the taxpayer surrenders a mortgage and receives back his property, the gain or loss is computed on the difference between the value of the property and the basis of this mortgage. The regulations provide that the value of the property is the bid price at the auction. Such bid price, however, does not reflect value and it is apparent that at any auction sale of real estate, no real public bids are made but the mortgagee is allowed to take the property for the approximate amount of his mortgage, and this does not represent market value. In cases such as these, the assessed or appraised value should be used in determining the taxpayer's gain or loss.

Section 25 (d)—Credit for dependents: Very often credit is taken for dependents for children over 18 years of age, and for distant relatives. Taxpayers claiming credit for dependents should supply all necessary information so that errors may be readily detected by an office audit.

Section 41, article 323.—Methods of accounting: While this section requires the keeping of accounts, nothing seems to have been done to enforce the provision, and numerous evasion, result from keeping incomplete records or no records at all. It is suggested that special regulations be prepared which would give the minimum accounting requirements for each trade or business, consideration being given for the amount of business done.

Section 104—Accumulation of surplus to evade surtaxes: Numerous companies retain surplus far above the normal expansion needs. In this way stockholders avoid payment of surtaxes. Should dividends become subject to normal tax under the proposed law, this evasion will become even more important. As a remedy, I would suggest that where a corporation announces a fixed policy of distributing 40 per cent of its annual net earnings to its stockholders, that such corporations be taxed 1 per cent less than other corporations.

Section 113 (b)—Property acquired before March 1, 1913: The gain or loss upon property acquired before March 1, 1913, is based upon actual cost or 1913 value, whichever is higher. Under the New York State law, where a loss is incurred, the basis is the value, whichever is lower. If this provision be inserted in the Federal act, a large gain in revenue will result. The following will illustrate: Cost of property in 1900, $80,000; market value March 1, 1913, $100,000; sold in 1932, $50,000. Under the New York State law, the loss is $30,000: under the Federal law, the loss is $50,000.

Section 115 (c)—Distribution and liquidation: The profit of a taxpayer when he receives a liquidating dividend is the difference between the market value of the corporate assets he receives and the cost to him of his stock. Where the taxpayer originally purchased his stock by turning over securities to the company and upon liquidation receives the identical securities back again, he may be receiving the benefit of a loss without actually having disposed of his securities. Thus, A transfers 1,000 shares of X stock costing him $50 per share in exchange for the stock of Y company. The X stock depreciates in value. Y liquidates, and turns back to A his X stock which now is worth $5 per share, giving A a deductible loss of $45 per share without actually surrendering the control of the stock.

Section 142—Affiliations: In many instances the same interests control enterprises doing business as individuals, partnerships, and corporations. By means of intercompany transactions, losses of one company may be transferred to offset the gains of another company. Where such conditions exist, it is suggested that one consolidated return be required from the entire affiliation, and that the tax rate be higher in such cases.

Section 144—Withholding tax at source: Where individuals receive salaries of $5,000 or over per annum, the tax based on the individual's exemption should be withheld by his employer, and paid directly to the Government. Many individuals spend their entire income and do not set aside a reserve to meet the Federal tax, with the result that when the tax report is due, they haven't sufficient funds to meet the payment, and evasion usually occurs.

Article 811: Information at the source should be required where annual payments are made such as attorneys on the annual retainer basis. Under the present law, such payments need not be reported. It is further suggested that information returns be required where payments are $500 per annum, as numerous taxpayers change their position several times during the year.

Article 841—Dividends: In view of the possibility of taxing dividends at the normal rates, information returns regarding all payments above $250 during the year should be reported by all corporations and exchange brokers.

Section 182—Partnerships: All partnership agreements should be submitted with each new or change in partnership. It is a very simple matter to add a partner to a firm and thus reduce each share of the partnership earnings. Upon submitting the partnership agreement with each change, this loss may be avoided.

Joint reports—husband and wife: This should provide that where husband and wife choose to file a joint or a separate report, that this method be followed consistently, once adopted. In many cases, husband and wife file separate returns, and in the following year joint returns, depending upon the nature of the income and how much they could save thereby. This is a privilege extended in the law, but with the need of additional revenue, the above limitation will create additional revenue.

Senator REED. When you say you would tax tax-free securities——

Mr. MARSH. May I take that up a little later, Senator?

Senator REED. Yes, surely; if you are going to do so.

Mr. MARSH. If you want me to do it now I will be glad to do so, but I am going to take it up later on.

Senator REED. Very well.

Mr. MARSH. Now this point must be stressed. You can put on a capital levy. I do not think you are ready to do it yet. Ultimately of course you have got to do it or have repudiation. But here are the figures as to the income. In Great Britain—I do not know whether Mr. Mills told this to the committee yesterday—he made this statement in a speech before the Economic Club in New York several months ago—in Great Britain a man with a wife and a dependent child, and an income of $5,000, pays approximately twenty times as much income tax as in the United States. A man similarly situated, with a wife and a dependent child, with an income of $10,000, pays approximately twelve times as much. But in Great Britain, as well as in most other countries, when you get up to the $100,000 income they get a little bit more solicitous for the perpetuation of the Government and the validity of securities, so it is only two and one-quarter times as much that a man with $100,000 income pays in Great Britain compared with what a man with a similar income pays in the United States.

Senator GORE. Have you got the rate there? Would that not be 100 per cent?

Mr. MARSH. I beg your pardon?

Senator GORE. Would that not be 100 per cent in England?

Mr. MARSH. I do not know what the English rate is. No; that is the average.

Senator GORE. You mean two and one-half with reference to the existing law?

Mr. MARSH. I am speaking about the law, Senator, not about the bill.

Senator GORE. I understand.

Mr. MARSH. We tried to get some information from the Secretary of the Treasury as to what exemption you would have to have and what income tax rates to raise the revenue to balance the Budget, if you are going to balance it. And we respectfully submit that it is not fair nor decent to call a Budget balanced that does not meet the Federal Government's responsibility on unemployment. It has passed the buck to the cities and States, and they are going broke.

I wrote, therefore, to the Secretary of the Treasury, Mr. Mills, and under date of March 31, 1932, I have this brief letter in reply, which I would like to read, because it confirms all that our contentions

will be this morning. It was signed by Mr. A. A. Ballantine, Undersecretary of the Treasury. It is as follows [reading]:

THE UNDERSECRETARY OF THE TREASURY,
Washington, March 31, 1932.

DEAR SIR: For the Secretary of the Treasury, receipt is acknowledged of your letter of March 14, 1932, requesting Treasury estimates for individual incomes for the calendar year 1932, including the number of individuals with net incomes, the net income, and also the net income by certain income classes.

The Treasury's estimates for periods not yet elapsed are based on a continuous study of many factors, such as business profits, volume of production, prices of commodities and securities, dividends, etc. Under existing conditions it is particularly difficult to forecast, a full year in advance, aggregate incomes and taxes. Estimates are, of course, made by the Treasury, broken down into broad classes, but there is no attempt to predict the amount of income in each individual bracket in the manner which you have in mind.

It is much too early to form an opinion as to the accuracy of the Treasury estimates for 1932. That the Treasury forecast of the yield of income taxes from income of 1931 is reasonably accurate is indicated by the fact that collections for March have been but about 5 per cent under the final estimate.

The latest year for which the distribution of income is available is the year 1930, and I am inclosing a copy of the "Statistics of Income for 1930" (preliminary report).

Very truly yours,

A. A. BALLANTINE,
Under Secretary of the Treasury.

Mr. BENJAMIN C. MARSH,
The People's Lobby, Washington, D. C.

Now we submit that it is only the actuaries of the Treasury Department who have the data on which the Senate Finance Committee or the House Ways and Means Committee or anyone else can determine what the exemptions must be and what the rates of normal income tax and of surtaxes must be to balance or come near balancing whatever Budget is adopted, and that is put at the figure of $4,482,000,000 for this year by the Secretary of the Treasury. You should get, we respectfully suggest, this specific information as a basis for determining your rates.

We regard a sales tax as a coward's method to soak the helpless. You must recall that there are about 8,000,000 people unemployed. There is no indication that any of the policies hitherto adopted by the administration—and I am not talking in a partisan way, because it has been bi-partisan action, we are told—has relieved the economic situation, nor is there any prospect that it is going to relieve it in any material way unless you transfer at least six or seven billion dollars of the income of those with incomes above $5,000 to those who have less, or nothing. In other words, the whole problem to-day is redistribution of the national income to start up industry.

What good will it do Mr. Ford to put out a million more automobiles on the market, if he is planning to do so, if nobody can buy them. No individual industry and no combination of industries and no business men's organizations can meet the situation any more than they could take charge and run a war. It is up to the point where the Federal Government has got to act.

The income is adequate. Of course it is going to be less in 1932 than it was in 1930. Although the figures I have seen are only estimates I would say that the national income this year will be around $65,000,000,000. That may be two or three billion dollars off either way. I am inclined to think it is rather high. It will still be adequate.

Great Britain collected in the income tax last year 10 per cent of the total net taxable income. We collected only 3½ per cent. It is perfectly obvious that if we collected anything approximating the same amount that Great Britain collected or substantially the same amount that we would not have the deficit.

Senator GORE. Do you remember the total amount they did collect?

Mr. MARSH. I do not have it in mind, Senator Gore, I am sorry. I will try to look it up for you.

Senator GORE. Yes.

Mr. MARSH. Now an excise tax on any necessity of life of course is direct encouragement to hoarding. Probably a heavy income tax is the most effective way of ending hoarding, because you pay the income tax on what you have, whereas if you say "We will wait until people buy things," you know, if they are scared they will 'not buy them.

There is nothing more definite, nothing more sure and certain to unbalance a budget when you think you have got it beautifully balanced than to have reliance upon a sales tax. For instance, the very last time that the House Committee on Ways and Means was sitting—I think it was their last guess at the yield of the sales tax from manufacturers—I figured out that instead of yielding as they claimed $585,000,000, it would yield at the outside $360,000,000, and probably less than $325,000,000. Certainly not very much over half of what they estimated.

Senator Reed, you made an estimate last summer of what a certain sales tax would yield. I got all the figures, and found it would yield between one-fifth and one-sixth of your estimate. I am not criticizing you, but simply pointing out the very great unreliability of a tax like that.

Now we have practically gone into State capitalism in this country through the Reconstruction Finance Corporation etc. I do not speak of the success of the measure, because that remains to be seen, but it is not out of place to realize that somewhat changing the policy of Government toward the public welfare is equally imperative. I do not need to say that no sane person has any idea of vindictiveness or punishment of those who have large incomes or large fortunes. But we simply have reached the stage where two years have proven, to the satisfaction I think of every fair-minded, informed person, that the old methods are through, and the Federal Government must act.

Now have we adequate revenue? I am using Government figures. In 1930, 6,152 persons with incomes over $100,000 each had an aggregate net taxable income of $1,556,000,000. Using round figures. Their gross incomes—and it is on gross income that most of the sales taxes would be paid on purchases—their gross income was about $1,950,000.

Now, gentlemen of the committee, those persons with incomes of over $100,000 paid to the Federal Government on 1930 income in income taxes and surtaxes, only $237,716,046. We feel that they should pay about $600,000,000 more.

You must remember a few of the people, in fact it is true to-day that 3½ per cent of the people and the families of those people, get very close to a quarter of the national income, and the rest of the people have to live.

Senator GORE. Just one minute, Mr. Marsh. Did I understand you to say that 3½ per cent of the people get about a quarter of the national income?

Mr. MARSH. Approximately that, Senator Gore. In other words, I am saying, and have the figures to prove, that in 1930, 736,357 persons with incomes of over $5,000 had an aggregate net income of $10,198,753,000, and a gross income of approximately $14,784,000,000. But what did they pay? They paid in Federal income taxes and surtaxes only $462,439,563. Those persons with incomes of over $5,000 should have paid at least $1,200,000,000 more, which would have been only 16.3 per cent of their net income, not of their gross income.

We believe that this shows very clearly that if you are going to get the money from those able to pay the only direct, fair, and satisfactory way to do it is through the income tax. You would better reduce the income tax exemption for a married person to $2,000, and suppose you would put a single man's exemption at $1,000 or even $750, if you please. Then suppose you had a sales tax of 2½ per cent—and that would be only an entering wedge in what the chairman of the committee has said is the proper way to raise revenue by a general sales tax—and if a man bought $800 worth of goods for himself and family, and for the purpose of easy figuring, say you had a 2 per cent sales tax, he would then pay $16, it is only a dollar more, and when you get down to the lower incomes, where the larger percentage of the income is paid, if you have a sales tax you will see where you would be. The assumption generally is this, that——

Senator REED (interposing). Mr. Marsh, would that be true if you excluded foodstuffs and clothing?

Mr. MARSH. No, not if you have a selective sales tax.

The CHAIRMAN. Oh, Mr. Marsh, no one has ever suggested a sales tax without eliminating farm products and food of every kind.

Mr. MARSH. Well, then, you can not get much money. You certainly can not get any money for the Federal Government by exempting everything.

The CHAIRMAN. And nobody has ever said we should exempt everything. No one has ever made any such proposition as that. Let us confine this discussion to the proposal before us, or at least not go beyond any proposals that have ever been made.

Mr. MARSH. Well, you can not keep on making exemptions and expect to get any revenue for the Federal Government. And might I at this point suggest that you read the testimony of Dr. Thomas Adams given before the House Committee on Ways and Means in which he criticized the House severely for making the exemptions they did make.

The CHAIRMAN. Oh, well, whatever statements he may have made represented his view of the matter.

Mr. MARSH. Well, I want to say—but I will not repeat a personal conversation with the chairman or anybody else. At the same time it seems to be somewhat the general idea to get money from those who are helpless to protect themselves.

The CHAIRMAN. The only time a sales tax has ever been voted upon in the Senate of the United States was upon a proposal in which all farm products were exempted.

Mr. MARSH. Oh, well, a man can not live on farm products alone, not in a civilized community.

The CHAIRMAN. If we confine the discussion to the proposal that is before us, the situation will be better understood.

Mr. MARSH. Isn't this a fair statement, Mr. Chairman: If you say a man is entitled to a certain exemption, be it $2,000 or $3,000 or if you will, $1,000, in the matter of an income tax, and then you turn around and soak him with a sales tax covering everything on which you levy a sales tax you are repudiating your assumption of an exemption if that figure is the exemption to which you hold he is entitled. In other words, you nullify his exemption, but I do not like to use the word "nullify."

Senator GORE. Mr. Marsh, let me see if I understand your position: Do you use the term general sales tax to mean the same thing as a turnover tax? In other words, you are not limiting it to a manufacturer's tax.

Mr. MARSH. Any tax which is paid by the consumer now is going to limit consumption, and the job of the Federal Government to-day is to make possible wider consumption out of current income. Now, the gentleman who appeared before you this morning representing the New York Board of Trade, if I understood him correctly, spoke of the horrible injustice of taxing a man who happened to have no income but a million dollars' worth of property. How about the injustice of taxing a man who has no income and no proprety? And that is about the alternative with which you are facing some of us. A man ought to be grateful to be able to pay on property. You might have to vote a capital levy.

Now, as to an estate tax: Frankly I think it is very problematical what the Government will receive at once, but we think the rate should be raised in this matter just as we think the maximum surtax rate should be raised to 75 per cent on incomes in excess of $1,000,000. At that only 145 would have been liable in 1930. So we think the estate tax rate should be raised to a minimum at least of 75 per cent on an excess of $10,000,000. For 1929, the last year for which I have been able to get figures, the value of the net estates of all resident decedents as to which estates were filed was $2,377,000,000.

Senator GORE. Did you say that was for the year 1929?

Mr. MARSH. Yes. And the tax on those estates was $152,391,000, out of which the Federal Government got the sum of $39,003,061. Obviously that is not a fair return to the Federal Government from estate taxes. I will say that I thought they were all going to drop off, but the New York Times reported that the late Paul M. Warburg left an estate, valued some two months ago, at $50,000,000 at least—and you understand that I am now quoting the New York Times. And Mr. Eastman's estate is valued at least at $20,000,000, according to the figures I am quoting now from the press. Every year the gross value of estates transferred is between three and a half and five billions of dollars, and in normal years it is quite obvious that the Federal Government should get at least $400,000,000 or $500,000,000 from an estate tax. And none of us, of course, suggest that it should be paid in one installment. We therefore do not stress this as a method for raising revenue for 1933. But we do suggest that the most of these rates, or at least the increase in the income surtax rates

must be made retroactive if you are going to begin to get out of the hole financially for some time to come.

Now, Senator Reed, may I take up the question of tax-exempt securities?

Senator GEORGE. What was that?

Mr. MARSH. Taxation of tax-exempt securities. The Secretary of the Treasury reports that on December 31, 1930—and that is in his last report, at page 563—the estimated amount of securities outstanding, interest on which is wholly exempt from the Federal normal income tax and surtax, was $23,041,000,000, of which $17,559,000,000 were securities of States, counties, cities, and so forth; $166,000,000 of Territories and insular possessions; $3,485,000,000 of the United States Government, and $1,831,000,000 were securities of the Federal farm loan system.

The Secretary also reported that at the end of September, 1931, United States securities outstanding, interest on which is exempt from normal income tax only, of the Federal Government was $12,807,000,000.

Senator GORE. And is that entirely apart from the $23,000,000,000 you mentioned above?

Mr. MARSH. Yes, sir. This $23,000,000,000 is wholly exempt in addition to bonds partially exempt.

Senator GORE. And that includes only about $3,500,000,000 of Federal securities.

Mr. MARSH. Those wholly exempt are $3,500,000,000. But the total of the completely or wholly and partly exempt securities is approximately $36,000,000,000. These figures are sometime back. Of the total outstanding securities at the end of 1930, $2,526,000,000 were held in sinking funds all owned by the United States Government, so the net outstanding was only $20,515,000,000.

Now, 10 years ago the present Secretary of the Treasury, Mr. Mills, was a Member of the House of Representatives, and on the floor of that body he stated:

> Tax-exempt securities must inevitably destroy the progressive income tax law, and I am by no means sure that the evil has not already reached such proportion as to make any possible action too late to save our present income tax.

The Federal Trade Commission in a report submitted to the Congress on tax-exempt income differs entirely from that opinion, and I should like to read to you just a few lines from that report, if I may [reading]:

> The Supreme Court has also held that the Sixteenth Amendment did not extend the taxing powers of Congress to new subjects, but merely did away with an erroneous principle of legal interpretation that had been imported into the Pollock case. The erroneous principle referred to consisted of looking past the particular income that was being taxed to the property from which the income was derived and thereby discovering that the tax was a direct tax in the constitutional sense, instead of an indirect tax like customs duties and excises. If, therefore, the court should refuse to look past the taxed income to its source, it might hold that taxation of the interest from these securities does not constitute taxation of those instrumentalities, expecially when not separately and differently taxed, but merely comprehended in the aggregate income received irrespective of source.

Also on pages 6 and 7 of this report by the Federal Trade Commission it was stated [reading]:

> There appears to be an avenue by which the Supreme Court can consistently uphold the validity of a Federal Act to tax interest received from investments in

State and local government obligations. It consists of holding that taxation of this interest not specifically but incidentally as part of all income of all individuals and companies in the United States, does not constitute a tax upon the governmental instrumentalities. Failing this, the only recourse would be a constitutional amendment. An amendment that does not subject the existing issues of Federal, State, and local obligations to income taxation will not, however, be effective in preventing wealthy individuals from escaping surtaxes until the present issues are retired or refunded into taxable securities.

Senator GORE. Mr. Marsh, will you read that again? I seem to have lost your point.

Mr. MARSH. The report of the Federal Trade Commission says [reading]:

An amendment that does not subject the existing issues of Federal, State, and local obligations to income taxation will not, however, be effective in preventing wealthy individuals from escaping surtaxes until the present issues are retired or refunded into taxable securities.

I should say, of course, that a lot of those securities have been retired since then. And they report back in 1922 it was estimated that [reading]:

Of the entire $31,921,000,000 of interest-bearing tax-exempt bonds, notes, and certificates outstanding at or near the close of 1922, business corporations held $10,700,000,000, or about one-third; individuals whose taxable incomes for 1922 exceeded $10,000 held over $4,450,000,000, and that the remaining $16,771,000,000 was distributed, in the main, among that great body of individuals whose taxable incomes were below $10,000, or by eleemosynary corporations.

Now, I think you will all agree that the Supreme Court is inclined to follow the bread lines.

Senator GORE. Follow what?

Mr. MARSH. The bread lines. I think it would be a very good proposition to put up to the Supreme Court as to whether anybody has the right to escape taxes, as they have done in this case, through tax-exempt securities. It has not meant any material advantage, as was claimed, in the way of pu[illegible] I had hoped it would but it has not.

Senator SHORTRIDG[illegible] it would be to their advantage to i[illegible]

Mr. MARSH. Th[illegible] wo[illegible]e, but[illegible] are beginning to learn th[illegible]ade a ve[illegible]eat mist[illegible]. And if the Government[illegible]d for the [illegible] it pro[illegible]ould not now have $60[illegible] retirement, which w[illegible] W[illegible], and it is not a pleas[illegible]g.

Senator Go[illegible]want [illegible]on or t[illegible]t that, and I will add[illegible]am ine[illegible] you a[illegible]ng the expenses of t[illegible]s we we[illegible]

Mr. MARS[illegible]or G[illegible] there: I am not a la[illegible] a [illegible]s had a great deal of e[illegible] New Y[illegible] and who has been very a[illegible] prac[illegible] come ar[illegible] the constitutionality of [illegible]e your com[illegible]e, next [illegible] I am not a lawyer and I can n[illegible] legal qu[illegible]

Senator GORE. M[illegible] with you that we ought to have paid t[illegible] out of the profits made during the war. But[illegible]se I want to ask you about now. Is it your idea tha[illegible] tax-exempt securities tempt

capital to invest in them in order to escape taxes? That is your point about the trouble with them, isn't it?

Mr. MARSH. It provides about the only way of escaping taxes, except hoarding.

Senator GORE. Don't you think that has a tendency to raise the price of tax-exempt securities higher than they otherwise would be?

Mr. MARSH. It has that tendency unless you counteract it by the rapidly progressive surtax. It is a sort of game of hide and seek between the Government and the wealthy of America to-day as I see it.

Senator GORE. I am talking now entirely about tax-exempt securities. The Federal Government can not tax local and State securities, and the State can not tax Federal securities.

Mr. MARSH. The argument the Federal Trade Commission made is that the Federal Government can tax income from tax-exempt securities, merged with other income.

Senator GORE. And the constitutional amendment says they can tax it regardless of source.

Mr. MARSH. Yes, sir.

Senator GORE. But that is not the source. These tax-exempt securities tempt investors who want to evade taxation undoubtedly, but they pay the price when they buy them, do they not?

Mr. MARSH. Who do you mean pays the price, the Federal Government?

Senator GORE. No; whoever buys such securities buys them partly because they are exempt from taxation.

Mr. MARSH. Yes, sir.

Senator GORE. And that exemption from taxation contributes more or less to the price of the security.

Mr. MARSH. Quite so.

Senator GORE. In other words, the man who is buying that immunity has to capitalize it and pay for it.

Mr. MARSH. Well, he tries to do so, but——

Senator GORE (interposing). Here is the point that concerns me. If you permit the Federal Government to tax State and local securities, and permit State Governments to tax Federal securities, wouldnit prospective purchaser in the first instance capitalize the prospect of the tax and subtract it from the price he paid for the security?

Mr. MARSH. He might.

Senator GORE. And if he did wouldn't you come out just where you went in?

Mr. MARSH. I think no, because you can reach it by means of the income tax and the surtax.

Senator GORE. No.

Mr. MARSH. It seems to me you could.

Senator GORE. Well, if they are exempt from such taxes he pays the price for that exemption, doesn't he?

Mr. MARSH. Yes.

Senator GORE. And if you remove the exemption and subject such securities to a tax, doesn't it really work the other way, and doesn't the investor capitalize the tax he has got to pay and subtract it from the price he pays in the first instance? And if he does that aren't you in fact going around in a circle and just having your pains for your trouble?

Mr. MARSH. No. There are two ways to get out of it. First, you must realize that to-day you have capital seeking investment. And I believe the Government in its recent offering had the tax-exempt bonds bearing a low rate of interest oversubscribed nearly fourfold. In the second place, the Federal Government and the States and municipalities do not have to use bankers to float their bonds. You will recall that in the construction bill introduced by Senator Wagner and now before the Senate Committee on Commerce, it bears the provision that bonds for $1,100,000,000 shall be issued in units of $50 or less and that the Federal Government may sell them directly. So you have two ways to avoid that as it seems to me.

Senator GORE. I do not see how you can avoid it. I have given a good deal of thought to this tax-exempt security business, if the members of the committee will pardon me for saying so, and it has always occurred to me that the prospective buyer, whenever a State or the Federal Government sold bonds, would capitalize that situation and subtract it from the price he paid, so that the Government would get less in the first instance, which you would undertake to make up in the second instance. Now, if that is true it is a futile thing to do. There is no way to ascertain with absolute certainty but it is a good deal like the single tax. As I remember some years ago when we were figuring on a canal from Chicago to deep sea, the point was made by the single taxers that if the Government did that it would simply capitalize the value of real property in Chicago and the people would not really get any advantage out of it. I can see how that would be. But the point is that when a man went to buy a United States bond that was going to be subject to taxation by States and cities, he would figure out what that tax would amount to in the long run and subtract it from the price he paid the Federal Government for the bond. The Federal Government would get less than it would otherwise get, and then you say they will go ahead and tax the bond in the future and make it up.

Mr. MARSH. Of course, we do not need to issue many more bonds. Fortunately the discussion now is on the question of balancing the budget so as not to run into debt. There would be difficulty in the matter of outstanding bonds, but many of them would be retired within a short time.

Senator GORE. Cities are having trouble now selling bonds even though tax exempt.

Mr. MARSH. Cities are having trouble, yes. But answering your question so far as the Federal Government is concerned, since the Federal Government will not issue more bonds, if any hardship enured, and I can not see that it would, through a lower price for bonds, it would be a hardship for State governments and for local governments and not for the Federal Government. The Federal Government I think can stop the leak by increasing the surtaxes.

Senator GORE. But the point according to your plan, as I understand it, contemplates subjecting bonds now outstanding to State taxation.

Mr. MARSH. Yes.

Senator GORE. And of course if the States can tax Federal bonds they can tax them to any extent they see fit, and if the Federal Government can tax State bonds they can do it to any extent.

Mr. MARSH. It would be a question according to the lawyer whom I should like to appear before this committee next week, as to what extent States could tax Federal securities. He feels it is a very questionable thing. On the other hand, the Federal Government can tax State securities and the Federal Government has got to retire its securities in a hurry. I will say that I think you are going to have to have a capital levy in order to pay the public debt, if the Federal Government allows things to go on as to-day, where 4 per cent of the people have four-fifths of the national wealth. I think the American people are too patriotic to stand for that kind of hogging. They are in a mood to do something of the kind, and I think are thinking on that point quite vigorously.

Senator GORE. There isn't any doubt but what the people are having to pay the war bonds two, three, and perhaps four times over. That was one reason why I wanted to pay the expenses of the war out of the profits of the war as we went along.

Mr. MARSH. I remember that you made that point, Senator Gore, at the time.

Now, there are only two more points I want to make. We suggest also a tax on corporation surpluses. The report of the Commissioner of Internal Revenue for 1929, on pages 338 and 339, and on page 42, gives the following facts:

For 1929 the total net income of 259,849 corporations reporting net income was $11,653,886,000, of which 1,042 had $7,002,709,440 of net income, while at the close of that year the surplus and undivided profits of 239,637 corporations with net income whose balance sheets were tabulated, was $50,725,383,062, but 1,314 of them had nearly three-fifths of the total surplus and undivided profits, amounting to $29,388,368,967.

We suggest a direct tax upon the surplus and undivided profits of corporations. There is as big a concentration in that as in net personal income, and there is certainly no question of the constitutionality of such a tax upon the surplus and undivided profits of corporations.

In closing we suggest that you limit yourselves to direct taxation. I think everyone agrees, or at least many economists and others agree, that an indirect tax costs the consumer anywhere from 50 per cent up more than the Government gets, yes, up to twice as much as the Government gets. The House Committee on Ways and Means suggested——

Senator REED (interposing). Mr. Marsh, is that true of taxes on tobacco, for example?

Mr. MARSH. I think it is about half as much, although I do not know exactly. Of course in a time of falling prices it is much more difficult, admittedly, to shift the tax. I agree to that. But I believe prices are so low for a good many things that there will be some increase. And further, as you have doubtless seen, as to goods under price-fixing agreements, the retail price has not fallen as retail prices of other goods have. But as a general proposition I think nearly every economist agrees that an indirect tax always costs the consumer a great deal more than the Federal Government gets from it. I believe one of the principles of taxation we have to adhere to this year is to have it so as to penalize as little as possible the payer and get the maximum for the Federal Government.

Senator COUZENS. For the purpose of a question, let me give you an illustration: Assuming an article was selling for $1 and the Government put a 10 per cent sales tax on it, and the retailer sold it for $1.10, do you mean to say the Federal Government would not get the whole of the 10 cents from it?

Mr. MARSH. Oh, yes; if it insisted upon collecting it.

Senator COUZENS. Well, I mean for the Government to do that.

Mr. MARSH. But ordinarily a seller will try to raise the price more than 10 per cent tax: I mean what he gets in order to pay the 10 per cent tax over to the Government.

Senator COUZENS. How would he do it in the case of a retail sales tax? I am merely asking you for the purpose of getting information.

Mr. MARSH. He could not do it of course if his competitors were constantly reducing their prices and reducing their profits. But it would tend, of course, to price-cutting unquestionably, and limit the profits, which might be a good thing, might it not? Ordinarily, if a retailer is just breaking even he has to advance the tax when he buys the goods, and he is going to add something for advancing the tax and taking the risk incident thereto.

Senator COUZENS. But he does not advance the tax until he sells the goods.

Mr. MARSH. Do you mean the retailer?

Senator COUZENS. I say, he does not pay the tax when he buys the goods.

Mr. MARSH. He does not pay the tax when he buys the goods?

Senator COUZENS. No. If it is a retail sales tax he does not pay it until he sells the goods.

Mr. MARSH. Well, he figures the cost of the business and the price he has to pay plus the 10 per cent tax. If he does pay it himself, it is a part of his cost of doing business, isn't it?

Senator COUZENS. I am not talking about his paying it himself. It is the same as we apply to the theater tax. If the seat is 50 cents and the theater tax is 10 per cent, obviously the man collects 55 cents and the Government gets the 5 cents, doesn't it?

Mr. MARSH. Yes, sir.

Senator COUZENS. What is the difference between that and a retail sales tax?

Mr. MARSH. There may not be any difference so far as the Government getting the revenue is concerned, but it puts the Government in the position of picking the pockets of poor individuals, and that is what I object to.

Senator COUZENS. I am not in favor of a general sales tax but am asking you for information.

Mr. MARSH. I know you are not, Senator Couzens.

Senator COUZENS. But what you are trying to impress upon this committee, and perhaps the audience, is that the Government does not get the tax, and I contend that it does.

Mr. MARSH. Well, Senator Couzens, perhaps I did not make myself clear.

Senator COUZENS. You said the Government did not get all of the tax.

Mr. MARSH. No; Senator Couzens, I think you misunderstood me. What I meant to say was this, that the consumer pays more than the amount of the tax which the Government gets.

Senator COUZENS. And I contend that they do not any more than they do in the case of a theater tax.

Mr. MARSH. The theater tax is on one article where you have a printed price. When the ordinary purchaser goes into a retail store, how does he know what the tax is, and what the first price of the goods is? And if the retailer is any good he will mark the price up to more than the amount of the tax. Or if he did not he would not be a good business man.

The CHAIRMAN. Well, if his competitor did not do that he would not get any trade.

Mr. MARSH. Of course, he might have an agreement.

The CHAIRMAN. Oh, yes, he might have many things.

Senator COUZENS. Mr. Marsh, I may have to leave the committee room in a moment. You spoke about asking for the privilege of having a constitutional lawyer come here to argue that income from State and municipal securities was taxable because the Federal Government does not tax the instrument. I wish you would have him draw up an amendment in order to include that idea in this tax bill. I should like to propose it because I think it is a perfectly justifiable proposition.

Mr. MARSH. All right, Senator Couzens, I will write to him to-day about it. And I will say to you that I think there are some people now with the Federal Trade Commission and who have access to a great deal of data up to date which no private person can get, if you would ask them to furnish that data.

Senator COUZENS. Have you any record as to where the Supreme Court of the United States has passed upon taxing income is the same as taxing the instrumentality itself?

Mr. MARSH. No. I discussed that with the lawyer I refer to, and he can go into the details of that.

Senator COUZENS. You do not know whether there is any Supreme Court opinion about that or not?

Mr. MARSH. I think it is doubtful. And what I stressed before is, that the Supreme Court is made up of gentlemen who have been attorneys for great corporations, and they know exactly what we are up against.

Senator SHORTRIDGE. Now, Mr. Marsh, I do not think that is a proper remark. The inference to be drawn would be that the Supreme Court is influenced by what you have just said, namely, that perhaps some of its members formerly represented certain groups.

Mr. MARSH. Senator Shortridge, could you name one member of the Supreme Court of the United States who did not represent corporate interests?

The CHAIRMAN. Oh, Senator Shortridge, you must remember that that is a very moderate statement for Mr. Marsh to make.

Senator SHORTRIDGE. That may be so, but I think every member of the Supreme Court of the United States is an honorable man, and abstracts himself from all partisanship, abstracts himself from all considerations of prior employment by anybody.

Senator COUZENS. Why do Senators have a discussion of that here anyway?

Senator SHORTRIDGE. That is what I think.

Mr. MARSH. I was referring to the fact that as business men they know we are up against a proposition we never faced before, and

that the Constitution, if it is to survive, has got to be just as Mr. Justice Brandeis says, adaptable to existing conditions. I was not in this instance trying to criticize the Supreme Court.

Senator SHORTRIDGE. Well, do you think that Mr. Justice Brandeis, or Mr. Justice McReynolds, or Mr. Chief Justice Hughes, or any other one of the Justices of the Supreme Court of the United States, is influenced in his decision in the way that you inferred by your statement?

Mr. MARSH. The inference which you draw and impute to me, Senator Shortridge, is your privilege. But it is my privilege to disavow any such inference, and point out that we have had honorable men on our Supreme Court, but that our system has gone to smash, and you are here to deal with a system that has smashed, and whether considering the way these people are being dealt with we can have prosperity with 4 per cent of the people having four-fifths of the money.

Senator SHORTRIDGE. But you made a reflection upon the Supreme Court of the United States.

Mr. MARSH. I made a statement which your intimate acquaintance with the members of the Supreme Court of the United States led you to consider a criticism. It was not so intended. You have a perfect prerogative to make that inference as you know them better than I do.

Senator REED. Oh, Mr. Chairman, let us get back to a discussion of the bill that is before the committee.

The CHAIRMAN. Certainly.

Mr. MARSH. All right, but I want to say that I can not be bluffed by any Senator.

Senator SHORTRIDGE. There was no attempt on the part of any Senator to bluff you, and I want to say that you certainly can not bluff me.

Mr. MARSH. All right.

The CHAIRMAN. Oh, go ahead with your statement.

Mr. MARSH. Mr. Chairman, we want to ask that next week your committee will hear Rev. Dr. John A. Ryan, Rabbi Stephen S. Wise, and other representatives of churches and other organizations who are members of the joint committee on unemployment, who will ask that income taxes and surtaxes be raised. And also to emphasize that this Budget which you are trying to balance must include the Federal Government's responsibility for the unemployed. I would ask that you permit them to appear, and I will try to arrange for any day that is convenient to the committee. Also to have some economists and lawyers who will speak on the direct aspects of the situation.

Senator COUZENS. Mr. Marsh, have you any suggestion as to a limit for the exemptions that ought to be placed in the income tax law?

Mr. MARSH. I will speak personally on that matter, and I think $1,000 for a single man and $2,500 for a married person is probably as low as you can go in justice.

Senator REED. That is what the House bill did.

Mr. MARSH. Yes. You might shave it to $750 for a single man and $2,000 for a married man, because, of course, you have an exemption for children of $400 for each dependent. But I should like to stress this point, that the great bulk of the additional revenue must

be derived from increasing the normal tax rates and increasing the surtaxes on people with incomes of $4,000 up to $25,000 or $40,000. You can not really depend upon the top brackets, I will say very frankly. I know that you are going to hit campaign contributors and city editors all over the country, and that you are going to hit me and the most of the groups working on this unemployment problem, but we ought to pay more and have got to pay more, and we are not trying to pass the buck to a few wealthy people, because they can not pay it if you take 100 per cent of their incomes. You have got to follow the example of Great Britain, which started with surtaxes at a low rate.

Senator SHORTRIDGE. I understood you to speak of estate taxes, that you thought the greater brackets should bear up to 75 per cent.

Mr. MARSH. On an excess of $10,000,000.

Senator SHORTRIDGE. Yes; did you say the full 75 per cent?

Mr. MARSH. Yes.

Senator SHORTRIDGE. Well, now, there would be 25 per cent of your estate levy if the Government took 75 per cent of it.

Mr. MARSH. Oh, no; that is a misunderstanding, I think. I heard Senator Reed over the radio the other day say we were going to take 72 per cent of certain incomes, and we are talking about estates now, but a progressive rate means that you have a certain rate to pay on a certain amount, and then you raise the rate, but it does not mean 72 per cent of the total.

Senator COUZENS. Certainly not.

Mr. MARSH. It even means less than half of that percentage. The proof of that is that last year we got only 3½ per cent of the net taxable income, and with all our surtaxes we got a miserably small amount. No; I would very much prefer that you put it so folks could know what is happening as a direct tax, and say it is 50 per cent on an income of $100,000.

Senator SHORTRIDGE. But what about estates?

Mr. MARSH. This progressive idea is somewhat confusing, but you can not get away from it now. But I think the misunderstanding should be corrected. No one has suggested 72 per cent on all incomes, but 72 per cent on part of the excess of what anybody should have. No patriot will retain an income of $50,000 if it means levying a tax upon 8,000,000 unemployed.

Now, Mr. Chairman, may we understand that we may instruct the witnesses from the joint committee on unemployment to appear before your committee next week?

The CHAIRMAN. If the gentleman makes application to the chairman of the committee I will tell him.

Mr. MARSH. But they asked me to arrange it to suit the convenience of yourself and the committee.

The CHAIRMAN. If he comes down here I will give him an opportunity the first chance we get.

Mr. MARSH. We will appreciate it, inasmuch as they are very busy men.

STATEMENT OF CHESTER H. GRAY, WASHINGTON REPRESENTATIVE OF THE AMERICAN FARM BUREAU FEDERATION, WASHINGTON, D. C.

Mr. GRAY. Mr. Chairman, I wish to inquire this morning, if I may, first, what is the pleasure of the chairman and of the committee in relation to the testimony of the American Farm Bureau Federation? You have an announced schedule in which for this morning you are listing income-tax rates, and then for subsequent days this week other rates. However, do you wish myself and the other farm organizations to make our full presentation this morning?

The CHAIRMAN. Yes. We have them all down here on the first sheet of the calendar. Mr. Fred Brenckman of the National Grange and John A. Simpson of the National Farmers' Union. And you are the first one called, on behalf of the American Farm Bureau Federation. You may proceed.

Senator REED. Better cover the whole subject, Mr. Gray.

The CHAIRMAN. And, Mr. Gray, may I say this, that wherever there are items appearing in the House hearings I wish you would not repeat those, because we use the House hearings as well as we do the Senate hearings, and we hate to have to take time here to examine both of them. So if you will eliminate as much as you can the statements you made in the House it will help the committee a great deal.

Mr. GRAY. I shall try to do so, and I think I can succeed in complying with that request.

I suppose that it is unnecessary to say in the beginning that the approach of the Farm Bureau to the tax question, as well as the approach of every other organization and the Congress itself is, first, to balance the Budget. Whether that Budget is going to be balanced next year or the second year from now is a debatable point, but need not be gone into. We are going to balance the Budget as soon as we can. It is with that purpose and from that point of view that the American Farm Bureau Federation desires to submit this morning to the committee its revised schedule of tax items which, in our judgment, will balance the budget in an early year.

The CHAIRMAN. What we hope to do is to balance the Budget this coming year.

Mr. GRAY. That is what we all hope to do.

The CHAIRMAN. That is what we are going to try to do at this time.

Mr. GRAY. Whether that can be done will depend upon the collections from these revised rates which will be ordered by Congress in due time.

The CHAIRMAN. All right; you may proceed, then, Mr. Gray.

Mr. GRAY. On that basis we are contemplating in the American Farm Bureau Federation a possible economy in government of perhaps $150,000,000. Some estimate a great deal more economy than that. But in our judgment if the Government next year can reduce its massed budgetary expense one hundred and fifty millions of dollars it will have accomplished as much as reasonably can be expected.

Then we have eliminated also, Mr. Chairman, and gentlemen of the committee, any payments on the sinking fund, which run between

$400,000,000 and $500,000,000 per year. We have eliminated that arbitrarily until the Budget can be balanced. And then we hope that those payments will be resumed as of former years.

Taking up now the schedule that we have for your consideration this morning, which will be substantially, I assume, the program to be presented to you later by the National Grange and the Farmers' Union by Mr. Brenckman and Mr. Simpson, respectively, let me say that for the income tax rates we desire to retain the rates in the House bill which bring in or are designed to bring in approximately $122,000,000 in excess of rates formerly and now in effect.

We have a hope and make the recommendation to this committee that in regard to the surtaxes the rates in the so-called Swing amendment will be considered for incorporation in the bill.

Senator REED. What are those rates, Mr. Gray?

Mr. GRAY. Without defining them in detail, let me say that they reach a maximum of 65 per cent. You can find them, Senator Reed, on page 7524, April 1 issue of the Congressional Record.

Senator REED. I remember hearing about that. I did not know them by name.

Mr. GRAY. They were first adopted by the House, then were disallowed, and another rate schedule for surtaxes was adopted by the House reaching a maximum of 45 per cent.

Senator REED. Would you apply those rates to earned income?

Mr. GRAY. Yes.

Senator REED. That would mean 72 per cent altogether on earned income of the highest bracket.

Mr. GRAY. On the very highest bracket. It would be so.

Senator COUZENS. Do you know of any earned income that reaches 72 per cent?

Mr. GRAY. No, not at the present time.

Senator REED. Where does the 65 per cent rate begin to apply?

Mr. GRAY. Above five million dollars per annum. The information along that line might be helpful to the committee, which is contained in a recent summary in the National City Bank Bulletin of April, 1932, which, if it please the committee, I should like to have offered for the record.

(The summary in the National City Bank Bulletin of April, 1932, presented by Mr. Gray, is here printed in the record in full, as follows:)

Summary of business profits for the years 1929–1931

[Net profits are shown after depreciation, interest, taxes, and other charges and reserves, but before dividends. Net worth includes book value of outstanding preferred and common stock and surplus account at beginning of each year]

No.	Industry	Annual net profits (fiscal years)			Per cent change		Net worth Jan. 1, 1931	Rate of return (per cent)		
		1929	1930	1931	1930–31	1929–31		1929	1930	1931
13	Agricultural implements	$75,650,000	$42,198,000	[1] $6,057,000			$587,880,000	14.3	7.3	
17	Amusements	42,077,000	33,081,000	11,713,000	−64.6	−72.2	303,319,000	17.0	11.8	3.9
28	Apparel	21,430,000	7,735,000	[1] 2,904,000			167,133,000	12.5	4.4	
26	Automobiles	355,909,000	160,600,000	57,114,000	−58.2	−81.1	1,690,247,000	22.0	9.2	4.0
48	Automobile accessories	68,212,000	22,455,000	[1] 331,000			385,033,000	19.7	5.5	
16	Aviation	21,285,000	6,269,000	4,998,000	−21.0	−76.6	164,585,000	14.7	3.9	3.0
18	Bakery	52,892,000	50,463,000	40,499,000	−19.8	−23.4	367,614,000	15.1	13.8	11.0
44	Building materials	56,235,000	32,486,000	[1] 36,000			678,348,000	8.7	4.8	
28	Chemicals	294,973,000	151,140,000	115,081,000	−23.9	−43.9	1,433,100,000	18.0	11.2	8.0
20	Coal mining	20,575,000	19,697,000	6,787,000	−65.5	−67.2	600,200,000	3.4	3.3	1.1
15	Confectionery and beverages	43,895,000	42,946,000	38,114,000	−11.3	−11.0	187,731,000	23.6	23.3	20.3
42	Cotton mills	11,561,000	[1] 15,283,000	[1] 16,123,000			325,261,000	3.3		
9	Dairy products	47,699,000	53,280,000	43,940,000	−18.8	−9.3	354,943,000	20.8	17.1	12.2
21	Drugs and sundries	79,977,000	81,922,000	75,888,000	−7.4	−5.1	497,445,000	21.9	19.1	15.6
47	Electrical equipment	175,284,000	103,574,000	47,911,000	−53.7	−72.7	1,165,900,000	19.2	9.4	4.1
6	Fertilizer	5,295,000	6,704,000	[1] 1,230,000			117,840,000	4.0	4.8	
30	Food products—miscellaneous	120,010,000	97,423,000	70,208,000	−27.7	−41.3	837,100,000	15.3	11.7	8.4
6	Furniture	2,128,000	[1] 2,145,000	[1] 4,704,000			43,214,000	4.5		
13	Hardware and tools	16,794,000	5,081,000	[1] 6,309,000			113,029,000	15.7	4.4	
22	Heating and plumbing	52,844,000	20,472,000	[1] 8,777,000			176,852,000	24.8	10.8	
37	Household goods	35,993,000	9,552,000	5,078,000	−46.8	−85.5	282,144,000	13.2	3.3	1.8
57	Iron and steel	408,721,000	191,315,000	[1] 22,220,000			4,283,916,000	11.2	4.6	
12	Laundry and cleaning	2,668,000	2,280,000	1,793,000	−21.4	−33.5	21,200,000	13.3	10.8	8.4
10	Leather tanning [2]	[1] 8,270,000	[1] 6,300,000	[1] 5,478,000			99,695,000			
9	Lumber	1,710,000	[1] 581,000	[1] 2,166,000			31,608,000	4.9		
72	Machinery	78,116,000	39,111,000	[1] 9,879,000			622,771,000	13.7	6.5	
18	Meat packing	36,586,000	28,157,000	[1] 8,526,000			656,537,000	5.4	4.1	
	Merchandise:									
43	Chain stores	122,556,000	94,681,000	97,445,000	+2.9	−22.7	769,678,000	19.3	12.9	12.7
27	Department stores	35,818,000	20,761,000	2,615,000	−87.4	−92.7	357,537,000	10.5	5.7	.7
6	Mail order	44,988,000	8,026,000	[1] 24,000			378,931,000	14.4	2.0	
12	Wholesale, etc	8,775,000	[1] 988,000	[1] 3,421,000			107,638,000	7.6		
14	Mining, copper	123,452,000	20,774,000	[1] 5,049,000			1,013,278,000	16.2	2.0	
20	Mining, other nonferrous	98,717,000	42,785,000	10,827,000	−74.7	−89.0	845,196,000	13.7	5.1	1.3
15	Office equipment	47,994,000	29,383,000	11,248,000	−61.7	−76.6	238,109,000	20.8	12.2	4.7

[1] Deficit.
[2] Includes principally calf-leather tanners.

Summary of business profits for the years 1929–1931—Continued

No.	Industry	Annual net profits (fiscal years)			Per cent change		Net worth Jan. 1, 1931	Rate of return (per cent)		
		1929	1930	1931	1930–31	1929–31		1929	1930	1931
9	Paint and varnish	$14,135,000	$2,816,000	$4,044,000	[2]+43.6	−71.4	$119,686,000	13.1	2.2	3.4
30	Paper and products	18,805,000	10,518,000	[1] 1,772,000			311,980,000	6.0	3.3	
52	Petroleum	345,231,000	156,623,000	[1] 63,704,000			3,205,018	13.1	5.2	
9	Petroleum—Pipe line	12,934,000	11,974,000	12,649,000	+5.6	−2.2	70,388,000	14.6	15.2	18.0
26	Printing and publishing	52,177,000	41,550,000	26,675,000	−35.8	−46.9	277,380,000	19.1	14.9	9.6
23	Railway equipment	64,884,000	53,276,000	475,000	−99.1	−99.3	800,700,000	8.1	6.4	
22	Real estate	20,235,000	16,667,000	5,199,000	−68.8	−74.3	211,458,000	10.2	8.2	2.5
9	Restaurant chains	8,439,000	7,298,000	4,997,000	−31.5	−40.5	77,447,000	15.1	10.6	6.5
20	Rubber tires, etc.	26,843,000	[1] 17,501,000	[1] 6,560,000			543,714,000	6.5		
9	Shipping	15,201,000	6,697,000	3,313,000	−50.5	−78.2	155,365,000	9.1	3.8	2.1
10	Shoes	25,415,000	9,731,000	11,365,000	+16.8	−55.3	207,258,000	12.4	4.6	5.5
16	Silk and hosiery	9,829,000	[1] 1,433,000	[1] 2,901,000			107,504,000	8.8		
9	Stock yards	6,215,000	5,777,000	5,514,000	−4.6	−11.3	59,643,000	10.7	9.8	9.3
	Sugar:									
12	Cuban	[1] 1,125,000	[1] 11,000,000	[1] 12,027,000			133,921,000			
20	Other	20,031,000	18,394,000	12,281,000	−32.7	−38.2	224,527,000	6.2	5.7	3.8
20	Textile products, miscellaneous	77,903,000	4,156,000	263,000	−93.7	−99.7	248,374,000	31.4	1.6	.1
25	Tobacco	112,146,000	120,220,000	124,013,000	+3.1	+10.6	850,997,000	14.6	14.4	14.4
7	Warehouse and storage	3,486,000	2,961,000	2,690,000	−9.2	−22.8	41,565,000	8.6	7.1	6.5
4	Wool	[1] 5,503,000	[1] 8,715,000	[1] 3,693,000			117,283,000			
	Miscellaneous:									
99	Manufacturing	138,799,000	82,472,000	38,143,000	−53.8	−72.5	907,271,000	15.1	8.9	3.8
41	Services	35,970,000	23,080,000	7,510,000	−67.5	−79.1	366,125,000	9.8	6.1	2.1
1,302	Total	3,523,500,000	1,936,635,000	718,086,000	−62.9	−79.6	20,230,851,000	13.5	6.7	2.5
156	Class 1 railroads	896,807,000	523,906,000	[4] 131,000,000	−75.0	−85.4	12,998,378,000	7.6	3.9	1.0
60	Electric light, etc.[5]	414,760,000	419,822,000	404,221,000	−3.7	−2.5	4,846,807,000	10.6	9.3	8.3
24	Bell Telephone Cos.	217,105,000	201,646,000	193,379,000	−4.1	−10.9	2,856,211,000	11.2	9.7	6.8
60	Insurance companies [6]	72,988,000	[1] 107,503,000	[1] 144,996,000			824,567,000	8.7		
18	Finance companies	36,575,000	35,297,000	26,859,000	−23.9	−26.6	325,096,000	17.4	10.7	8.3
1,620	Grand total	5,162,035,000	3,009,805,000	1,328,527,000	−55.9	−74.3	51,081,910,000	11.3	6.0	2.6

[1] Before certain charges.
[2] Preliminary.
[3] Figures refer to shareholders only. Because of the large proportion of bonded indebtedness, actual return on the property investment is less than the above.
[4] Fire and casualty. Figures represent total shareholders' gains or losses on both underwriting and investments.

Mr. GRAY. In this Bulletin is this summary which comes from 1,620 industrial groups over the Nation, 1,302 of which are individual manufacturing and trading groups, the rest being the railroad groups and such as that.

Senator BINGHAM. What is the date of that?

Mr. GRAY. The date of it is April, 1932; the last Bulletin of the National City Bank. In that Bulletin is shown, among other data, the rate of return in percentages of 1929 and 1931 with 1930 compared. And although, as is obvious, 1931 does not show as hopeful a condition of rate return as in 1929, it still shows that for a great group of industrials there were in 1931 fairly good returns.

Senator REED. You are speaking of dividends now?

Mr. GRAY. Returns in dividends, surely. The Bulletin, I believe, would be helpful to the committee if it could be put into the record, and without any further comment on it I shall submit it for the record.

Senator BINGHAM. We have not got it before us. How does it bear on your recommendation of 65 per cent surtax?

Mr. GRAY. It is corollary, Senator Bingham, to that idea in that it shows that a fairly representative per cent of the industrial groups in the United States in 1931 was making dividends and consequently could stand increased Federal taxation. Whether or not these groups can stand the rate of surtaxes as in the Swing amendment is a thing that all of us will have to consider more, and perhaps a little bit more thoroughly, than we have done to this date; and consequently in recommending your attention to the Swing amendment, I am not asking unequivocally that the rates of the Swing amendment be incorporated in whatever bill you shall report, but that you consider it in making up your surtax rates. And if you should include the Swing amendment you will add to the income derived from individual income tax rates about $17,000,000 a year.

Senator BINGHAM. Provided those persons do not buy nontaxable bonds, of which there are $12,000,000,000 outstanding.

Mr. GRAY. Will you pardon a correction, Senator Bingham, in that regard as to your total? There are slightly in excess, according to the estimates I have, of $20,000,000,000 of tax-free securities out at the present time.

Senator BINGHAM. I thank you for the correction.

Senator GORE. Does that include national, State and municipal—all three?

Mr. GRAY. All kinds, Senator GORE. All kind of tax-free securities are now slightly in excess of $20,000,000,000.

Senator GORE. I have not figured them out. I have seen three statements; one of them was that the total, including those that are entirely exempt and partially exempt, runs up to about $36,000,000,000.

Mr. GRAY. There are different estimates. And referring to Chairman Smoot's suggestion a while ago, that we do not duplicate too much of what was in our House testimony, may I refer the committee to a table which was submitted to the Ways and Means Committee from governmental sources showing for a recent 15-year period the gradual growth of tax-free securities amounting in 1931 to about $20,000,000,000.

Senator BINGHAM. You have simply made my point a little stronger, Mr. Gray, that quite a lot of these tax-exempt securities can be ob-

tained, and did we not find before, when we have very high surtaxes, that we received more income from lowering the surtaxes than when the surtaxes were high?

Mr. GRAY. That was true at one time. And you, or any other group writing a tax law realize, of course, that there is a point beyond which a tax rate becomes nonremunerative. It reaches beyond the point of usefulness; destroys its own efficacy.

Senator BINGHAM. I remember when William G. Rockefeller died that there were discovered in his portfolio some $27,000,000 worth of tax-exempt securities.

Mr. GRAY. Dealing with that question further, may I say, Mr. Chairman, that the American Farm Bureau Federation 10 or 12 years ago enunciated its position, which it has not modified since, that any tax structure is not complete so long as in that structure there is a haven of tax exemption, to which haven large wealth can flow. Accordingly in this schedule which I am seeking as briefly as may be to analyze this morning, we are suggesting to this committee that there be in this forthcoming revenue law a tax on the income of tax-exempt securities.

Senator KING. You mean Federal tax-exempt securities?

Mr. GRAY. That would perhaps be the logical elimination. Pardon me, you had a question, Senator Reed?

Senator REED. What kind of faith is that, Mr. Gray, to issue a tax-exempt bond of the United States and then break the promise and tax it?

Mr. GRAY. There is only one argument to justify it, and that is the necessary argument of balancing the Budget. Otherwise it would be a wholly untenable proposition.

Senator BINGHAM. That would justify a man in helping himself to my pocketbook if he could not get money any other way, would it not?

Mr. GRAY. No; pardon me.

Senator GORE. Why no quit paying the debt?

Mr. GRAY. We are not advocating the taxing of the capital invested in tax-exempt investments, but taxing the income from the tax-exempt securities.

Senator REED. However, we have sold them with the agreement that we will not do that.

Mr. GRAY. No; you have not given that agreement specifically; only by implication have you given that agreement. You have given the agreement by the Federal Government that you are not going to tax the capital invested in those things.

Senator REED. Oh, no.

Senator BINGHAM. Oh, no; the income.

The CHAIRMAN. Tax exempt.

Senator REED. Principal and income.

Mr. GRAY. There is only one argument, as I see, Senator Reed, to justify that position, and that is the argument as to the necessity of balancing the Budget, which requires all citizens and groups of citizens to bear a part of the load.

The CHAIRMAN. Do you think for a moment that if that question were taken to the Supreme Court that the Supreme Court would sustain it?

Mr. GRAY. I would not assume, of course, to say what the Supreme Court would do.

The CHAIRMAN. I asked you what you thought.

Mr. GRAY. From other decisions the Supreme Court has given, under modern conditions, recently, it might support that kind of a Federal tax.

Senator GORE. I would like to interject here that the Supreme Court in the Trapp case held that a tax exemption which constituted a part of the consideration of the contract was a vested property right entitled to protection under the fifth amendment.

Senator HARRISON. You spoke, Mr. Gray, of increasing the rate in the higher brackets to 65 per cent, according to the Swing amendment. The Swing amendment did not deal with the lower brackets at all. It started with $100,000 and then lifted it up. What is your reaction with reference to increasing the income tax in the House bill between $5,000 or $10,000 and $100,000? Do you think it is sufficient in the House bill?

Mr. GRAY. The House bill, Senator Harrison, very largely adopted the schedule of rates which the Farm Bureau advocates, so I would answer your question by saying that the schedule of tax rates, as in the House bill applicable to the income tax is worthy to be copied on the Senate side.

Senator GEORGE. You are not making any recommendations with respect to that?

Mr. GRAY. I am not making any recommendations with respect to changing those rates.

Senator GORE. Do you mean the 40 per cent?

Mr. GRAY. Pardon me?

Senator GORE. Do you mean the 40 per cent?

Mr. GRAY. No; I understood Senator Harrison's question to apply to the income tax and not the surtax.

Senator HARRISON. Yes. Well, the surtaxes between $10,000, say, and $100,000; you do not advocate any change in the House bill on those? You merely want to go about the $100,000 income according to the Swing amendment, I understand?

Mr. GRAY. I get your point more thoroughly now. We advocate a $50,000 exemption instead of $100,000, to begin with.

Senator HARRISON. You are talking about the estate taxes now. I am talking about the income taxes and surtaxes. The Swing amendment did not have anything to do with the estate tax. That was the Ramseyer amendment.

Mr. GRAY. Yes.

Senator HARRISON. And the Swing amendment dealt with incomes above $100,000.

Mr. GRAY. That is right.

Senator HARRISON. Would you go below $100,000 and make any changes in the House bill, or would you leave that intact?

Mr. GRAY. Leave it as it is in the Swing amendment or the $100,000 starting point.

Senator GORE. Your point is that it ought to be made 65 per cent, the highest rate?

Mr. GRAY. That would be the maximum rate for incomes of $5,000,000 and above annually.

Senator GORE. Yes. Now this Bulletin of the National City Bank that you submitted showed that the industrial and trading companies for 1929 had profits amounting to $3,500,000,000 and in 1930 amount-

ing to $2,000,000,000 and in 1931 amounting to about $715,000,000, is that correct?

Mr. GRAY. You are approximately correct, as I remember the figures.

Senator GORE. In 1929 the personal income brought a billion dollars and the corporate income brought a billion dollars. Each one brought a billion dollars.

Mr. GRAY. Yes; in that year.

Senator GORE. Yes. Now that category of concerns had dropped down to about $715,000,000?

Mr. GRAY. That is true, as I remember the figures.

Senator GORE. And you want the tax raised to 65 per cent, the summit of the surtax?

Mr. GRAY. We should desire that the committee consider the Swing amendment, which has a maximum of 65 per cent in surtaxes, in writing this bill, and if that 65 per cent does not go beyond the point of profitable returns, adopt it.

Senator GORE. That would make the surtax and the normal amount to 72 per cent, would it not?

Mr. GRAY. Yes, it would.

Senator GORE. And some of the States have an income tax of 15 per cent, do they not? That would be 87 per cent.

Mr. GRAY. Some of them have.

Senator BINGHAM. Be careful, Senator. You will be getting above par presently.

Senator GORE. I was wondering if you wanted to exclude the States entirely from the income tax field, or retard the movement that had been in effect in some of the States with regard to the income tax.

Mr. GRAY. No; that is not our desire. And I do not think that anyone who testified before the Ways and Means Committee had the thought that these extraordinary rates that we are advocating, and in some form or another would be written in the law, should continue except for a temporary period. Whenever the Budget is balanced, which we hope will be within the 2-year period consummating the life of this law, these rates automatically will be terminated by the writing of the next revenue bill. And we would not advocate, Senator Gore, the imposition of rates of this nature except that the emergency faces us of balancing the Budget.

Senator GORE. Yes; we have got to get taxes wherever we can. But I have been wondering whether these incomes are not largely phantom incomes in this depression? I do not know of anybody that has escaped it.

Mr. GRAY. Some of them are, there is no question about that.

Senator GEORGE. You are not suggesting that the income or estate taxes imposed by whatever act we arrive at expire at a given time?

Mr. GRAY. No.

Senator GEORGE. As was done with reference to certain of the excise taxes in the House bill?

Mr. GRAY. That is not our recommendation. Our recommendation is that whenever the Budget is balanced, and it is definitely known to be balanced, which likely will not be for another 2-year period, then in the writing of the next revenue bill you can adjust the rates in keeping with the conditions that exist at that time.

Senator GEORGE. Yes; that is, Congress itself would simply write another act. That is, of course, another proposition. I was simply wanting to get clear your position on the point that I raised.

Mr. GRAY. Senator Couzens, you had a question?

Senator COUZENS. I have to go to the meeting of the Committee on Banking and Currency. I was wondering whether you were going to deal with the question of taxes on transactions on the commodity and stock exchanges? Do you want to have such taxes imposed?

Mr. GRAY. That is in our list. If you desire, Senator, I will take that up right now.

Senator COUZENS. No. I will read it in the record.

Mr. GRAY. I will take that up later.

Senator GORE. What was that, Mr. Gray?

Mr. GRAY. Tax rates on transactions on commodity exchanges.

Senator GORE. Yes. I also have to go to the meeting of the Committee on Banking and Currency. Do you favor or oppose that?

Mr. GRAY. We favor it.

Senator KING. On commodity exchanges as well as stock exchanges?

Mr. GRAY. On commodity as well as stock exchanges.

Senator GEORGE. The same as the House rates?

Mr. GRAY. Since that question has been brought up at this time it had just as well be discussed, because there is no particular order in which these things might be discussed. We are advocating a progressive rate on speculative sales on stock exchanges graduated from one-half per cent to 2 per cent of the gross sales. And the same kind of a graduated scale on speculative sales on the grain and cotton exchanges, which would bring in really sizable amounts of money to the Federal Treasury. Such taxes have never been imposed in times prior.

Senator CONNALLY. Would you make that assessable against the operations of the Farm Board on the exchanges?

Mr. GRAY. If its transactions fell within the definition of the Internal Revenue Bureau as to a speculative transaction.

Senator BINGHAM. What is a speculative transaction?

Mr. GRAY. This sort of a proposal, Senator Bingham, if it were written into the law would have to be made conditional upon rules and regulations promulgated by the Bureau of Internal Revenue, in which rules and regulations speculative trading would be defined.

Senator BINGHAM. No; I asked you what your idea was.

Mr. GRAY. You can approach it from two points of view. You could say that whenever the speculation exceeded a certain amount per day or a certain amount per individual or a certain amount per commodity it became speculative. Or you could approach it from the other point of view of letting the Internal Revenue Bureau devise any other yardstick which it wanted to devise in conjunction with the other departments which have the regulatory control of these exchanges, and thereby get at the yardstick to determine speculation.

Senator BINGHAM. I am not so sure of the wisdom of these bureaus, but I would like to have your definition of a speculative transaction that ought to be taxed two per cent.

Mr. GRAY. My definition of it would be just as it is in Senator Capper's bill now pending before the Committee of Agriculture of the Senate, in which he says that a transaction in excess of 2,000,000

bushels of grain by any one operator constitutes a speculative transaction, which amount may, at the discretion of the Secretary of Agriculture be reduced to 500,000, leaving the Department of Agriculture, through the Secretary, the medium to devise what shall constitute speculation. Now in cotton similar amounts would be 50,000 bales the maximum, and ten or fifteen thousand bales the minimum, compared to 2,000,000 bushels of wheat and 500,000 bushels of wheat, as in the Capper bill.

Senator GORE. Would you require it to be speculative at both ends, Mr. Gray, or if either end is speculative would you place that in the category of speculative transactions?

Mr. GRAY. What do you mean by both ends, Senator Gore?

Senator GORE. Well, I mean that a man might be selling an honest hedge against spot cotton or cash wheat. It might be speculative at both ends, or it might be just a short sale or a long purchase.

Mr. GRAY. No: we have no intention of putting a Federal tax on actual cash transactions either on the commodity or stock exchanges, nor on what is ordinarily called legitimate hedging. Only on speculative transactions.

Senator GORE. Well, you know often a man could not hedge at all unless some speculator was at the other end of it.

Senator THOMAS of Idaho. Mr. Gray, do I understand that you say that you favor taxing only speculative transactions on the exchanges, either the stock or on the grain exchanges?

Mr. GRAY. That is our position. If you put a tax on the commodity exchanges; for instance, if you put a tax as is now carried in the House bill of whatever the rate is—it escapes me for the moment——

Senator HARRISON. One-fourth of 1 per cent.

Mr. GRAY. One-fourth of 1 per cent.

And the transactions run into millions of bushels and millions of bales, it cumulates as a pretty heavy burden on the actual trading. But if you get into the speculative side, which has been running rampant on the commodity and the stock exchanges both, in recent years, you put a burden on transactions which are in many cases, such as short sales, harmful in the ordinary course of events to the trading, and also bearable by those who conduct the business on those exchanges. For instance, may I submit, Senator Harrison, exactly in line with your question, that taking the Chicago wheat pit as example, the commissions charged on cash wheat in 1900 were one-half cent a bushel. In 1905 they were 1 cent a bushel. In 1917 they were 1 per cent of the value, with the minimum of 1 cent per bushel. In 1921 they were 1 per cent of value, with the minimum of 1½ cents per bushel. And that is where they stay to-day. And although in 1921 wheat was a fairly good price, and now it is at 50 cents, the commission is the same now as it was in 1921, which makes the rate that the farmer must pay to get his goods sold unbearably high compared to 1921, in proportion.

Turning now to the wheat futures on the Chicago Board of Trade, in 1900 the commission was one-eighth of 1 cent per bushel; in 1905, one-quarter of 1 cent per bushel; in 1906, one-eighth of 1 cent per bushel; in 1911, three-twentieths of 1 cent per bushel; in 1919, one-quarter of 1 cent per bushel—all of these being applicable to nonmembers of the board, with members getting one-half those rates. The rate for

1919, as I quoted, one-quarter of a cent per bushel on futures, as I have the data, is now continuing.

What I am meaning by this data, Senator Harrison, is that the commission men who are dealing in cash and in future wheat on the Chicago Board of Trade, as well as those who deal in what I have denominated speculative transactions, are getting just as large commissions as they got several years ago when prices were higher; and this kind of a rate schedule which we are advocating, beginning at one-half per cent, and running up to 2, is not exorbitant in comparison with the commissions that they are getting.

Senator GORE. You figure, Mr. Gray, that the speculators could not and would not pass that back to the farmers, and that the burden of this tax would not finally fall on the farmers?

Mr. GRAY. I am not figuring that, Senator Gore, because you would have to confess that a part of this, maybe all of it, maybe in some instances none of it, would go back to the farmer.

Senator GORE. I think that is an important point.

Mr. GRAY. If it were on the stock exchange a part of it would go back to those who own the stocks and bonds. But we can not avoid that in a revenue bill. So far as I know, if you put any rate on these things at all the same thing would apply.

Senator THOMAS of Idaho. Would you change the present provision in the House bill, Mr. Gray, to limit the stock transfer tax only to speculative transactions?

Mr. GRAY. Yes, because as the House bill stands now, Senator Thomas, I fear that the whole burden would come back on the farmer on the commodity exchanges. Whereas if you transfer it to the speculative field, although it may in part come back to the farmer it will not wholly come back to him; and it will have the secondary and special effect somewhat of curtailing short selling, which we are seeking to do by other kinds of legislation now pending before the House and the Senate.

Senator THOMAS of Idaho. That applies, of course, to the grain and the cotton, but I also had reference to the transfer of stock. Corporation stock on the stock market.

Mr. GRAY. That is a portion of our schedule of tax items, and there is provided in the Farm Bureau schedule what you might call a stamp tax for those transfers.

Senator HARRISON. Mr. Gray, as far as I am concerned this tax on stock sales and produce sales is about the hardest nut to crack in this whole proposition, and I want all the information that I can get with reference to it. As I understand you, you think that the tax is too high and is liable to affect legitimate business, as it is incorporated in the House bill?

Mr. GRAY. It seems so.

Senator HARRISON. And you would change it so as to apply a tax on speculative sales, but not on legitimate sales, as I understand it?

Mr. GRAY. On legitimate sales, whether the word "legitimate" applies to hedging or cash transactions. The incidence of the tax, under the Farm Bureau recommendations, would apply to but speculative transactions. We are hitting at what is ordinarily called short selling, but which is a terminology that covers a great many transactions.

Senator HARRISON. You would wipe out short sales altogether?

Mr. GRAY. If we could.

Senator HARRISON. If you could.

Mr. GRAY. But this would not do it.

Senator KING. You would not do that by the taxing power, but by direct statute punitive in provision?

Mr. GRAY. We are advocating a bill on the House side and on the Senate side which would, by their direct legislation, either severely limit or exterminate short selling. This, as proposed in the revenue bill, will have a secondary effect in the same line, but not to the point of extermination.

Senator HARRISON. In other words, you would think that the present law even would be more preferable than the law as written in this bill, if you had to choose between the two?

Mr. GRAY. No, I believe, Senator Harrison, choosing between the House bill as written and the present law, we in the Farm Bureau would take the House bill.

Senator HARRISON. You would rather have the House bill?

Mr. GRAY. But we would like to have it modified in the way I have suggested to you this morning.

The CHAIRMAN. What are the particular reasons why you would prefer to have it? As far as I am concerned I do not see that there is very much difference.

Mr. GRAY. Looking at it, Senator Smoot, as I am almost required to do, from the point of view of the commodity exchanges, dropping out for the present the stock exchanges, we fear that the House mechanism in this particular tax item would be a burden on the farmer who has the commodity to sell. It would be passed back to him through his commission charges, and would deduct whatever the tax is from the price per unit that he secured on his commodity. That is the fundamental objection that we have in the House bill.

Senator GORE. That is probably true.

Mr. GRAY. Whereas if you put it on the speculative basis you get away from that, Senator Gore, as I suggested a while ago, in part, and put the burden more directly where it will be paid, on the speculators and manipulators; and if in part it should be turned back and passed back to the farmer it will be only so in part.

Senator REED. Have you thought, though, what that would give in the way of encouragement to the establishment of bucket shops?

Mr. GRAY. Somewhat.

Senator REED. All speculative transactions would tend to go through bucket shops, would they not?

Mr. GRAY. That is a very noticeable development in recent years.

Senator GORE. In practical truth it would be segregating the speculative and the nonspeculative transactions.

The CHAIRMAN. I do not see how you can tell what is in a man's mind when that transaction is undertaken.

Senator GORE. You almost have to search their minds.

Senator HARRISON. Mr. Gray, you are wrong in your figures. In the House bill it is one-twentieth of 1 per cent on produce. One-fourth of 1 per cent on stocks.

Mr. GRAY. Well, even that is a quite noticeable sum when it is laid on the unit of the farm commodity flowing into the markets. Now the same thing would apply to the unit of the stock transaction,

but I am not speaking of that so much, because that does not as directly concern agriculture as the other does.

Now continuing, Senator Smoot, and gentlemen of the committee, it is evident that the American Farm Bureau Federation is not trying to lay all this increased Federal burden on some group other than agriculture; but we are approaching it from the point of view that every citizen, no matter what group he may be in, has got to bear a portion of the tax burden. So we desire that the conditions of the House bill relative to exemptions of the individual be retained, being stricken down as they are now to a thousand dollars for the unmarried person, $2,500 for the married person, with $300 for the dependent. And if that does not broaden the thing out so that you get enough people on whom to apply this tax, we in the Farm Bureau by our most recent resolution, would not be at all averse to your still further reducing those exemptions.

We are in favor, whether it hits agriculture or industry, citizens in farming or citizens in town life, of broadening this tax-income base of the Federal Government so that we get more people paying the income tax to the Federal Government.

Some people object to that because they say it adds to the expense of collection if you do not get more than $5 from the individual. It adds only a slight trifle more; because now most of those people have to send their returns in to the Bureau of Internal Revenue every year. Their returns have to be audited and checked and scrutinized, and it would cost only a few cents more to get the check from them to pay their Federal income tax than is the cost at the present time.

Senator HARRISON. You have no objection to the increased normal tax in the House bill, have you?

Mr. GRAY. None whatever.

The CHAIRMAN. What would you suggest on the exemptions? Would you suggest a reduction to $1,000.

Mr. GRAY. I would not suggest less than $1,000 on the unmarried person, perhaps. The married person's exemption might go a bit lower. Perhaps $500 lower. The exemption for the dependent might go down to $250, if you choose to make it so.

Senator HARRISON. It is $400 now.

Mr. GRAY. It is $300 in the bill pending. It was $400 in the law.

Senator GEORGE. Yes, $400 in the law.

Mr. GRAY. The House has stricken it to $300, and it could be stricken still further if you desire, and the Farm Bureau would not criticise that sort of reduced exemptions; because the time has come when so many of our people are on the salaried list, and without an income tax that reaches them they do not contribute to Government in any way unless it be in automobile taxes.

Senator HARRISON. Mr. Gray, let me call your attention to the fact that in Great Britain, for instance, on a $30,000 income they pay $9,475 income tax. Under this bill the income tax payment would be $2,660. In other words, Britain raises tremendous amounts of income in the brackets from $5,000 say, on up to $100,000. Of course you take the $10,000,000 income, and under the House bill one would pay $4,679,560. In great Britain under their law they would pay $6,988,000.

Mr. GRAY. Generally speaking you would say that the tax rates in England are more severe than they are with us.

Senator KING. Three to four times.

Senator HARRISON. Yes; very much more.

Mr. GRAY. Yes.

Senator HARRISON. And especially in the brackets ranging from $10,000 to $70,000 or $80,000.

Mr. GRAY. Yes, that is true.

Senator BINGHAM. May I say along the line that Senator Harrison just brought out relative to the tax on the very largest incomes up to 65 per cent, which is what Mr. Gray has recommended, that it is my information that in England there are extremely few available tax-exempt securities, whereas in this country the amount is indeterminate, or is at least $15,000,000,000 of tax-exempt securities.

Senator HARRISON. I do not think there is any doubt about that.

Senator BINGHAM. Whereas in England there are very few tax-exempt securities. And you can not get it when you charge 65 per cent. What I am maintaining is that you can not get it in this country because you simply drive them into the purchase of tax exempts, and then you get less than you did before.

Senator HARRISON. I did not ask the question carrying any idea that I was in favor of Great Britain's income tax law, but there is that difference that in the lower brackets, between $10,000 and $100,000, they are tremendously higher than in the United States, ranging anywhere from two to three times as much.

Mr. GRAY. That is true. And, reverting again to Senator Bingham's comments upon income tax exemptions, let me say again that most anything that this committee or this Congress might do to correct that situation will have the approval of the American Farm Bureau Federation, whether it be along the line that I suggested a while ago, taxing the incomes from them, or in any other way. Right now, Senator Bingham, I do not need to call to your attention the fact that Congress recently has enacted a law which of necessity will throw onto the market a billion and one-half more tax-free securities in the Reconstruction Finance Corporation. There is added to our untaxed wealth a billion and one-half, granting that General Dawes and the board of directors will find it necessary to issue the debentures to the extent that the law authorizes them to do.

Senator CONNALLY. May I ask you a question there? Suppose you tax the income on those bonds, do you think you can sell them at the same rate that you now do?

Mr. GRAY. No; the rate would go up.

Senator CONNALLY. So you would raise the rate and try to get some of it back. Do you not know, as a matter of fact, that a great body of the tax-exempt securities are held by trust companies, and savings banks, and other corporations who do not pay any surtax at all? They pay a flat corporation tax. And that even if you taxed them you would not get anything like the revenue that you anticipate?

Mr. GRAY. Senator Connally, we would not get the revenue which should be secured from those sources, let us agree on that.

Senator CONNALLY. Yes.

Mr. GRAY. But we would get a very measurable income to the Federal Government, and we would close that haven to which invest-

ments now flow, and which destroys to a certain extent, just like Senator Bingham points out, the efficacy of any high income or corporate tax rates.

Senator CONNALLY. You would get back about 25 per cent in taxes of what you would pay in interest rates on tax-free securities. That was thoroughly demonstrated when we had up here the constitutional amendment to tax tax-free securities. I want to ask you this question: Do you favor the Federal Government taxing the income from State, county, and municipal tax-free bonds?

Mr. GRAY. Yes.

Senator CONNALLY. Then you favor adding at least 1 per cent interest rate to every schoolhouse, municipal, county, and State security that is in existence? Or that would ever afterwards be issued? Because that is what the Secretary of the Treasury, Mr. Mellon, testified years ago, that if you put a potential tax against these tax-free securities that you would add at least 1 per cent per annum increased interest rate before you could sell it.

Mr. GRAY. Whether it be 1 per cent or less than that, of course, is a question of difference of opinion.

Senator CONNALLY. It is the potentiality of the tax, not the actual tax, that depresses the price and forces the interest rate up. If a man buys a bond and knows that the Government can come along later and assess him whatever tax the Government wants to place on it, he is not going to buy that bond at a low rate of interest; he is going to insist on being paid a higher rate of interest. I think you are entirely wrong in your attitude that the Federal Government should have the right to tax municipal and State bonds.

Senator BINGHAM. Do you think it can be done? Do you think the Supreme Court would uphold it?

Senator CONNALLY. It can not be done. There would have to be a constitutional amendment. The Supreme Court has held that repeatedly.

Mr. GRAY. The Treasury Department, as was called to this committee's attention last week by Mr. Mills, advocated the prevention of all tax-free bonds.

Senator CONNALLY. Yes; but it has got to be by constitutional amendment. It can not be done here in the Finance Committee. We can do a lot of things, but not that.

The CHAIRMAN. Mr. Gray, you have taken nearly an hour. If you will go along now with your statement.

Mr. GRAY. Then by reducing tax exemptions you can get a better and bigger tax base and get more people paying Federal income taxes, and thereby get more revenue to the the Federal Government without much increased cost to the Federal Government.

Then there is another way of getting income to the Federal Government, more effective, in my judgment, than hiking up the rates.

Before I describe that other way may I say that almost our invariable approach to a tax proposition in getting more money is to raise the rates. The other way that I am bringing to your attention now is the question of deductions. I have not had time, gentlemen of the committee, to analyze the data of the Internal Revenue Bureau for 1930, because it is only out recently, and somewhat tentatively, but I have analyzed the deduction figures for 1929, which was a more prosperous year than we are in now, and the data from which are not

wholly applicable to the condition which exists now. It is worthy to note, however, that in 1929, of all the aggregate wealth of corporations reported upon to the Internal Revenue Bureau, reaching an approximate amount of $130,000,000,000, deductions were permissible to the extent of $118,000,000,000, approximately; leaving only an approximate $12,000,000,000 tax base for corporations to pay upon.

Senator KING. That is, the gross earnings were over $100,000,000,000?

Mr. GRAY. One hundred and thirty billion dollars, approximately.

Senator KING. And after allowing the deductions it only gave you a base of $12,000,000,000 upon which you might raise your tax?

Mr. GRAY. Yes. For the personal income-tax structure the same year, Senator King, as I remember the figures, there was a gross return from individuals of approximately twenty-two and one-half billion dollars, a deductible amount of approximately four and one-half billion dollars, leaving a tax base for individuals to pay on between $17,000,000,000 and $18,000,000,000 for the same year.

Now the deductions for corporations are classified in the bulletins of the Internal Revenue Bureau under five or six great heads, like costs and losses, and bad debts, and deprediation, and whatnot.

The fact of it seems to be that with no fault in the way of enforcement on the part of the Bureau of Internal Revenue, but with a fault of the last revenue law, deductions are too easily secured. So I am pointing out to this committee that other than raising the rates, which is always a troublesome proposition to do, but which in this case is necessary under certain limits, let us consider the matter of deductions, and write this law in such a way that the Bureau of Internal Revenue can be a little but more severe in denying deductions than it can be under the present and existing law. The House bill has covered that matter of deductions in some particulars, but not wholly.

Taking up then, Senator Smoot, a very important portion, as I view it, of the situation which confronts all of us at the present time—the matter of deductions—may I say, and considering exemptions at the same time, that the reduction in corporation income-tax exemptions from $2,000 to $1,000 should be put into effect, and it will bring in, according to our estimates, about $6,000,000. The normal income rates should be applied to stock dividends of corporations.

Senator CONNALLY. That is in the bill.

Senator GEORGE. Is that not in the bill, Mr. Gray?

Mr. GRAY. Yes. And it should be retained. It will bring in, according to the best estimates of the Treasury Department and others, about $88,000,000. Some have a very great dubiousness about putting that in. They say that if the stock dividends of corporations are taxed and the individual receiving the dividends later has to pay a tax on that later, that it is double taxation. I guess it is double taxation. I guess there is no denying that it is double taxation. But many another piece of property in the United States, town property and farm property and others, have double taxation. Take a farm like mine in Missouri. It has three or four taxes on it. And if I lived in an irrigation district, such as they have in Senator Thomas's State, it would be taxed again. And if we had a library in my district, I would have a library tax on top. And then if I lived in

a territory where we had special roads bonds, I would be paying another tax. So that this sort of a tax which would bring in $88,000,000 confessedly would be double taxation. But that is not a novelty in our tax structure of the American Government at the present time, nor is it a novelty in our State taxation system. Double taxation is the vogue rather than the exception, it seems to me.

Senator KING. Mr. Gray, was the evidence that was adduced before the House committee reasonably satisfactory that the tax be about approximately $88,000,000 upon these dividends?

Mr. GRAY. Yes.

Senator KING. I saw the general result, but I did not read the evidence, and I was not satisfied, and I am not satisfied that the evidence justified that. I do not dissent from the view.

Senator CONNALLY. Secretary Mills testified here the other day that it would be $90,000,000.

Mr. GRAY. There is a little bit of difference in the estimate between the Ways and Means Committee, the Treasury Department and the Joint Committee of Internal Revenue Taxation. But about $88,000,000 to $90,000,000.

Senator HARRISON. One estimated $88,000,000 and the other $89,000,000.

Mr. GRAY. Yes.

The CHAIRMAN. Mr. Gray, have you any list that you can put in without reading, because we will never get through the way you are going.

Mr. GRAY. I have a list of the deductions as well as all the other items, which I will put in the record.

The CHAIRMAN. Anything that you can put in in the way of a list or a statement prepared, please put it in without going into it. Just simply stating what it is.

Mr. GRAY. The reason why I called attention to one or two of these deductions was on account of the rather large amounts of money that would be brought in if they were incorporated in the law.

I think that if I should conclude then, Senator Smoot, and gentlemen of the committee, by submitting the complete schedule of tax items from which some comments have been drawn this morning, it will be satisfactory. May I in conclusion say that according to this list of the Farm Bureau it will bring in $1,318,000,000, which is a bit more than necessary to balance the Budget, not including in it even any excise taxes on imports, which is another available source of revenue if we either desire, or by necessity are forced into, that to raise revenue.

Senator KING. Are you not optimistic in assuming that it will only need $1,000,000,000 plus to balance the Budget? You do not know the appropriations that are to be made between now and the adjournment.

Mr. GRAY. I do not know what appropriations will be made.

Senator KING. And what deficits will be submitted to us before we adjourn, and submitted in December. If I were guessing, I would guess that not $1,000,000,000 nor $1,300,000,000 would be sufficient.

Mr. GRAY. You may be correct.

Senator GEORGE. Do you refer in your list there to the duties on oil, as in the House bill?

Mr. GRAY. No.

Senator GEORGE. And coal?

Mr. GRAY. No. We have taken no position in regard to tax on oil and coal.

Senator GEORGE. I mean, did you include them in the list?

Mr. GRAY. No; I have not.

Senator GEORGE. Have you got all your recommendations tabulated therein order, Mr. Gray?

Mr. GRAY. Yes.

Senator GEORGE. And you are putting that in the record?

Mr. GRAY. I am seeking to do so.

Senator REED. I offer that for the record.

(The proposed tax program presented by the American Farm Bureau Federation is printed in the record, in full, at the conclusion of Mr. Gray's testimony.)

Mr. GRAY. In conclusion, I should just like to call to your attention perhaps the joint position of the three farm organizations, the American Farm Bureau Federation, the National Grange, and the National Farmers Union on the negative side of the tax structure. What I have said thus far is positive. We are approving certain things. Now, on the negative side we shall continue to resist a general sales tax, a manufacturers' excise tax, the Federal gasoline tax, a bank-check tax, or a tax on automobiles and trucks.

Senator REED. Why do you resist a manufacturers' excise tax?

Mr. GRAY. Fundamentally it violates the principle that taxes should be levied as mush as possible on the basis of ability to pay.

Senator REED. If you exclude rent, food, and clothing, it would seem that you did put the tax on ability to pay, would it not?

Mr. GRAY. The fundamental criticism of that, Senator Reed, as approached first by the Ways and Means Committee of giving a lot of exemptions to this, that, and the other, is that it puts one group, like agriculture, in the position of advocating a tax for everybody else, and then getting out from under for ourselves. May I say this, that when that fight was on before the Ways and Means Committee we did not become involved in the advocacy of getting exemptions for food and food products. We fought the entire manufacturers' excise tax fundamentally; and realized that when it was defeated we would have to stand for special taxes on certain commodities which are in this list that I have filed; and so bear a part of the burden on a few commodities rather than have the entire burden put over the retail counter to the consuming public.

Senator REED. Do you think it is better to put a large sales tax on a few commodities than a general sales tax on everything that is a matter of necessity?

Mr. GRAY. I think that is true, and that is the position we took.

I am through, Mr. Chairman, and I thank you sincerely for your attention, and request permission to file an appendix to this verbal presentation.

The CHAIRMAN. Thank you for your statement.

(The statement is as follows:)

Proposed tax program submitted to Senate Finance Committee by American Farm Bureau Federation

Individual income-tax rates:	
Retain increases in House bill	$122,000,000
Adopt Swing amendment	17,000,000
Corporation income-tax rates: Increase rate to graduated basis, 10 to 16 per cent	50,000,000
Reduction of exemptions and deductions:	
Retain provisions in House bill—	
Reduction in corporation income-tax exemption from $2,000 to $1,000	6,000,000
Application of normal income rates to stock dividends of corporations	88,000,000
Additional increase in corporation income rate from 13 to 15 per cent for consolidated returns	8,000,000
Revision in capital gains and losses tax to prevent evasions	100,000,000
Repeal of net loss provision	15,000,000
Elimination of certain exceptions in the case of stock dividends	8,000,000
Revision of depletion allowances	3,000,000
Additional recommendations—	
Make income on tax-exempt securities taxable	180,000,000
Additional curtailment of exemptions and deductions	20,000,000
Estate tax: Retain House rates	20,000,000
Gift tax: Retain House rates	10,000,000
Postage rates: Double second-class postage rates	25,000,000
Miscellaneous taxes:	
Tax on short sales and other speculative sales on stock exchanges (graduated tax from one-half to 2 per cent of gross sales)	100,000,000
Tax on short sales and other speculative sales on grain and cotton exchanges (graduated rate, one-half to 2 per cent of gross sales)	50,000,000
Sales of bonds (one-eighth per cent)	25,000,000
Conveyances, mortgages, contracts, and other realty transfers (5 cents on each document)	5,000,000
Stamp tax on receipts, acquittances, etc. (1 cent under $100; 2 cents above)	25,000,000
Issues of capital stocks and bonds	8,000,000
Theater admissions (1 cent on each 10 cents above 25 cents)	75,000,000
Telephone and telegraph messages (5 cents on 31 to 49 cents; 10 cents on 50 cents or more)	33,000,000
Cosmetics (10 per cent on manufacturers' sales)	20,000,000
Furs (10 per cent on manufacturers' sales)	15,000,000
Jewelry, precious stones, etc. (10 per cent on manufacturers' sales)	15,000,000
Sporting goods and cameras (10 per cent on manufacturers' sales)	6,500,000
Beverages (1921 rates)	10,000,000
Matches (2 cents per 1,000)	5,500,000
Chewing gum (5 per cent on manufacturers' sales)	3,000,000
Radios and phonographs (5 per cent on manufacturers' sales)	11,000,000
Mechanical refrigerators (5 per cent on manufacturers' sales)	6,000,000
Candy (5 per cent on manufacturers' sales)	12,000,000
Lubricating oil (2 cents per gallon)	15,000,000
Yachts, motorboats, etc. (above $15 in value, 10 per cent)	500,000
Radio advertising (5 per cent of gross receipts)	5,000,000
Safety deposit boxes (10 per cent of annual rental)	1,000,000
Corporation registration tax (under $10,000 capitalization, $5; from $10,000 to $150,000, $10; from $150,000 to $250,000, $20; from $250,000 to $500,000, $40; from $500,000 to $1,000,000, $50; from $1,000,000 to $5,000,000, $100; over $5,000,000, $500)	50,000,000
Savings from governmental economy	150,000,000
Total revenue	1,318,500,000
Total required to balance Budget	1,241,000,000

EXCISE TAXES ON IMPORTS TO YIELD ADDITIONAL REVENUE

Coffee (2 cents per pound)	$35,000,000
Tea (3 cents per pound)	2,500,000
Spices, that are now free of duty (5 cents per pound)	3,500,000
Tapioca and other tropical starches free of duty (2½ cents per pound)	3,000,000
Jute (unmanufactured, 5 cents per pound; manufactured, 6 cents)	10,000,000
Sugar, raw and refined (½ cent per pound)	25,000,000
Bananas (25 cents per bunch)	14,000,000
Total	93,000,000

ITEMS IN HOUSE BILL SPECIFICALLY OPPOSED BY AMERICAN FARM BUREAU FEDERATION

Tax on automobiles (3 per cent of manufacturers' sales)	$44,000,000
Tax on trucks (2 per cent on manufacturers' sales)	4,000,000
Accessories (1 per cent on manufacturers' sales)	8,000,000
Increase in first-class postage (1 cent additional)	165,000,000

PROPOSED TAXES OPPOSED BY AMERICAN FARM BUREAU FEDERATION

1. General sales tax.
2. Manufacturers' excise tax.
3. Federal gasoline tax.
4. Federal tax on bank checks.

EXPLANATION OF ITEMS IN PROPOSED TAX PROGRAM SUBMITTED BY THE AMERICAN FARM BUREAU FEDERATION

INDIVIDUAL INCOME-TAX RATES

The increases in individual income-tax rates provided in the House bill should be retained, and in addition some further increases should be made in the rates on the very large incomes. The so-called Swing amendment, which was adopted by the House in the Committee of the Whole and later rejected by a close vote by the House, would bring in approximately $17,000,000 additional revenue under a very conservative estimate. It would not affect very many people and would be paid by those who are most able of any of our citizens to pay additional taxes.

The provisions of the amendment are as follows:

Net incomes in excess of $100,000 and not in excess of $150,000, 40 per cent in addition of such excess.

42 per cent of the amount by which the net incomes exceed $150,000 and do not exceed $200,000.

44 per cent of the amount by which the net incomes exceed $200,000 and do not exceed $250,000.

46 per cent of the amount by which the net incomes exceed $250,000 and do not exceed $300,000.

48 per cent of the amount by which the net incomes exceed $300,000 and do not exceed $400,000.

50 per cent of the amount by which the net incomes exceed $400,000 and do not exceed $500,000.

52 per cent of the amount by which the net incomes exceed $500,000 and do not exceed $750,000.

54 per cent of the amount by which the net incomes exceed $750,000 and do not exceed $1,000,000.

56 per cent of the amount by which the net incomes exceed $1,000,000 and do not exceed $1,500,000.

58 per cent of the amount by which the net incomes exceed $1,500,000 and do not exceed $2,000,000.

60 per cent of the amount by which the net incomes exceed $2,000,000 and do not exceed $3,000,000.

62 per cent of the amount by which the net incomes exceed $3,000,000 and do not exceed $4,000,000.

64 per cent of the amount by which the net incomes exceed $4,000,000 and do not exceed $5,000,000.

65 per cent of the amount by which the net incomes exceed $5,000,000.

The American Farm Bureau Federation does not insist that the provisions of the Swing amendment be adopted in toto, but recommends that the higher income groups pay a little larger share of the increase in taxes than is provided for in the House bill. This recommendation is not made for the purpose of "soaking the rich." It is made solely upon the principle of "ability to pay." In times of extreme suffering and economic depression such as we are now experiencing, it is more important than ever before to observe the principle of ability to pay in levying taxes. The problem of raising a billion dollars of additional revenue in a time like this resolves itself mainly in the question where can additional revenue be obtained with the minimum of burden. Obviously, little additional revenue can be exacted without hardship and privation from the masses of our working people and our farmers whose incomes are scarcely sufficient to meet the necessities of life. There are a considerable number of our citizens, however, who are situated much more fortunately and who are able to pay additional taxes out of their abundance.

Our income tax schedules can be made to yield a great deal more revenue than they have been yielding during recent years, when Government necessity requires it, as it does at the present time. In 1930 the total income taxes collected from individuals on a total net income of $17,220,753,620 amounted to $473,689,563. The average tax rate for all returns was 2.75 per cent, and for taxable returns the average tax rate was 3.56 per cent (p. 2, Statistics of Income for 1930, Preliminary Report, Bureau of Internal Revenue, 1931). This is a very modest rate of taxation and shows clearly that the rates can be sharply increased without undue hardship. This is particularly true in the case of the higher incomes which would be reached under the Swing amendment. In 1930 there were 137 individuals reporting a net income of $5,000,000 and over, 531 with a net income between $1,000,000 and $5,000,000, 655 persons with a net income between $500,000 and $1,000,000, 1,211 persons with a net income between $250,000 and $500,000, 3,145 persons with a net income between $100,000 and $250,000, according to statistics published by the Bureau of Internal Revenue.

CORPORATION INCOME TAX RATES

It is recommended that the flat rate provided for in the bill be changed to a graduated tax. It is believed that a graduated tax will not only bring in more revenue, but also will distribute the tax burden much more equitably than a flat rate. The following rates are suggested in lieu of the rates in the House bill:

	Per cent
Under $2,000 net income	10
$2,000 under $3,000 net income	11
$3,000 under $5,000 net income	12
$5,000 under $25,000 net income	12½
$25,000 under $100,000 net income	13
$100,000 under $500,000 net income	14
$500,000 under $1,000,000 net income	15
$1,000,000 and over net income	16

A flat rate for all corporations penalizes the small corporation or the one which has a small net profit, because it pays the same rate as the large corporation, or as a corporation with an enormous profit. The movement for consolidation and mergers has reached such alarming proportions in this country, that there is grave danger of eliminating individual business initiative and enterprise through the concentration of business in a few large corporations or combinations. A recent investigation by the Federal Trade Commission showed that one-fifth of all the bread sold in the United States was produced by less than a half-dozen large corporations and their subsidiaries. According to statistics published by the Bureau of the Census, the number of manufacturing establishments with a production of $1,000,000 and over worth of goods each has trebled since 1914; the number with a production between $500,000 and $1,000,000 has more than doubled; the number between $100,000 and $500,000 has increased about 60 per cent; while the number between $5,000 and $20,000 has declined about 20 per cent.

Thousands of small enterprises have been forced out of business by ruthless competition of "big business." A graduated tax would serve the dual purpose of providing additional revenue, and incidentally helping to equalize to some extent competitive opportunity.

A graduated tax would distribute the tax burden more equitably. This is more necessary now than it was a few years ago. Even in 1929, when industrial

groups were enjoying prosperity, the largest part of the corporate net income was earned by a relatively small group of large corporations. Statistics published by the Bureau of Internal Revenue show that one-fourth of all corporations reporting a net income in 1929 received less than $1,000 each in net income; 40 per cent received less than $2,000 each; 67 per cent, or more than two-thirds, received less than $5,000 each; and 93 per cent received less than $50,000 each. In striking contrast with these modest net incomes for the bulk of the corporations reporting net incomes, a little group of corporations, representing only 1 per cent of the total number reporting net incomes received 68 per cent, or more than two-thirds, of the total corporate net income in the United States, or $7,900,000,000, out of a total corporate net income of $11,653,886,000. Included in this little group were 300 corporations, or eleven-hundredths of 1 per cent of all corporations reporting net incomes, who received 42 per cent of the total corporate net income in the United States, receiving $4,885,929,000 out of $11,653,886,000 for all.

The concentration of corporate income was even greater in 1930 than in 1929. In 1930, 82 per cent of the corporations reporting net incomes received less than $1,000 each, compared to 25 per cent in 1929; 49 per cent received less than $2,000 each, compared with 40 per cent in 1929; 75 per cent received less than $5,000 each, compared with 67 per cent in 1929; 95 per cent received less than $50,000 each, compared with 93 per cent in 1929.

While the net income of corporations has declined considerably since 1929, it is still large enough in volume, particularly among the larger corporations, to bear additional taxation. In 1931 a survey of 900 industrial corporations showed a total net profit of $592,105,000 on the basis of a net worth of $17,703,055,000, or an average net return of 3.3 per cent. Several groups of corporations made handsome profits in 1931—in some cases greater profits than they made in the preceding year. For example, chain stores made an average net profit of 15.7 per cent in 1931 compared to 14.8 per cent in 1930. Tobacco corporations made an average net profit of 13.6 per cent in 1931 compared with 13.7 per cent in 1930. Printing and publishing corporations made an average net profit of 10.9 per cent. Drugs and sundries made an average net profit of 17.6 per cent. Bakery corporations made an average net profit of 11.3 per cent. Food product corporations made an average net profit of 6.9 per cent. Shoe corporations made an average net profit of 5.7 per cent. Stockyards made an average net profit of 8.3 per cent.

It is estimated that the graduated tax proposed above would bring in a total revenue of approximately $50,000,000. As an alternative suggestion to a graduated tax as proposed above, it is suggested that the flat rate be increased to 15 per cent. It is estimated that this would bring in approximately $40,000,000 additional revenue.

REDUCTIONS OF EXEMPTIONS AND DEDUCTIONS

The Federal Government has been much too liberal in allowing deductions and exemptions in computing individual income taxes and corporation income taxes. In the case of individual income taxes for the year 1930, deductions were allowed totaling $4,444,752,230 out of a total reported income of $21,665,505,850, leaving a net taxable income of $17,220,753,620. In the case of corporation incomes, in 1930 deductions were allowed totaling $102,528,596,848 out of a total gross income of $112,789,903,992, leaving a net taxable income of $10,261,307,144. (Statistics of Income, 1930, Bureau of Internal Revenue, 1931.)

There may have been some justification for this when ample revenues were pouring into the Federal Treasury and surpluses were being applied to the reduction of our national debt. But now when the Federal Government is confronted with an enormous deficit, these exemptions and deductions should be sharply curtailed.

The House bill made helpful progress in reducing the number of exemptions and deductions. In the case of the corporation income tax, it reduced the exemption from $2,000 to $1,000. It made the normal individual income rates apply to stock dividends of corporations. It increased the income rate from 13 per cent to 15 per cent upon corporations filing consolidated returns. It revised the capital gains and losses tax to prevent evasions. It repealed the net loss provision. It eliminated certain exemptions in the case of stock dividends. It revised the provisions relating to allowances for depletion. All these provisions will be helpful in bringing additional revenue into the Treasury and should be retained.

Still further curtailments should be made, and if properly done should result in yielding considerable additional revenue. The following additional suggestions are offered for consideration:

1. *Taxation of income on tax-exempt securities.*—The American Farm Bureau Federation for many years has held to the position that the practice of issuing tax-exempt securities should be discontinued and such securities should be taxable. On January 1, 1931, the value of tax-exempt securities outstanding totaled $19,679,000,000. The rates of interest on these securities, which include Federal, State, municipal, and other governmental securities, would vary considerably, but assuming an average yield of 3½ per cent per annum, the total annual income to the holders of these securities would total $686,760,000. It is recommended that the income from these securities be made taxable. It is contended that the tax-exemption privilege extended to these securities does not extend to the income derived therefrom, but only to the principal.

The income from these securities is now deductable in computing individual net income. If this deduction were no longer permitted, the tax yield from this source would depend on how the securities are distributed among the different classes of income taxpayers—the larger the percentage held by the big income groups, the larger the yield which would be obtained from this tax because of the higher rates which apply in the larger income groups. Even if they were all held by taxpayers in the $10,000 class who pay no surtaxes, the tax yield at 7 per cent would total $48,213,000. Assuming a distribution, however, that would pay an average tax of 26 per cent (rate on $51,000 income), the tax yield from this source would total $179,078,000.

2. *Eliminate all deduction of dividends.*—The House bill curtails to some extent the privilege of deducting dividends from corporations in computing individual net income. Congress would be justified under the existing emergency in eliminating all deduction of dividends in computing individual net incomes. The criticism of "double taxation" is not a valid argument against this action. The corporation makes its profit as an institution, and as such should bear its share of the tax burden. Its net earnings in the form of dividends accrue to individuals as an individual profit, and should bear their share of the tax burden. It is no more double taxation than the taxing of a farmer first in the form of property taxes on his land, and then again in the form of income taxes both State and Federal on the net income derived from the land, after paying a property tax and other expenses.

3. *Eliminate deduction of income earned from sources without the United States.*—People residing in the United States and enjoying its protection should pay proportionately out of their income, regardless of where their income is obtained to help support the Government. If the elimination of this deduction in computing individual net incomes has the effect of discouraging the export of their capital for investment abroad, it would be beneficial to the country from that standpoint.

4. *Limit deductions for salaries and bonuses.*—The practice of paying huge bonuses in excess of handsome salaries has become prevalent among our corporations. For example, the head of the American Tobacco Co. is reported to have received a bonus of at least $850,000 in 1931, in addition to his salary of $168,000. This salary was more than double that of the President of the United States, in addition to the bonus of more than three-fourths of a million dollars. Such lavish and extravagant diversion of profits of corporations should not be allowed as a deduction in computing their net taxable income. A limitation of $50,000, or some other reasonable limit, might well be placed as the maximum deduction to be allowed as a payment to any one employee for salary or bonus in computing the taxable net income of corporations.

5. *Repeal deduction of foreign taxes in computing net income.*—Some progress is made in the House bill along this line, but the repeal of all deductions of foreign taxes might well be considered for the same reasons as apply in the case of eliminating deduction of income earned abroad.

6. *Eliminate deduction of losses from short sales of stocks, bonds, and commodities.*—The purpose of this recommendation is not only to provide an additional source of revenue, but to place an additional penalty upon purely speculative transactions such as short sales, "bear raids," etc.

7. *Lowering of income-tax brackets.*—If congress finds it necessary in order to balance the Budget, a still further lowering of the individual income tax brackets would be proper in order to broaden our tax base and bring in additional revenue.

ESTATE TAX

The increased rate on estates provided for in the House bill should be retained. It may be possible to obtain even more revenue from this source than provided for in the House bill, but at least these rates should not be curtailed. The estimate of $20,000,000 additional revenue from this source is extremely conservative. It will require several years for this tax to yield its maximum rate. It is estimated that these rates will yield $500,000,000 in revenue annually to the Federal Government when they reach their full productive capacity. These rates are in the form of a "supertax," in excess of the existing Federal estate taxes.

GIFT TAX

The gift tax rates provided in the House bill are somewhat lower than the estate tax and should not be reduced. If the estate taxes are raised, the gift taxes should be raised proportionately in order to prevent evasion of the estate taxes. It is essential to maintain this form of taxation in order to safeguard the effectiveness of the estate tax.

POSTAGE RATES

The House bill contains a provision which proposes to increase the first class postage rates from 2 cents to 3 cents per ounce. The American Farm Bureau Federation is opposed to this provision because it violates the fundamental pricipie of "ability to pay." The burden of the $165,500,000 proposed to be raised from this source will fall in the main upon the classes of people least able to bear additional expense. The unemployed, the workers and farmers who are struggling to make ends meet, will have to pay an additional cent for every letter mailed.

A great hue and cry has been raised against the proposal to increase sharply the surtaxes on individual incomes and the rates of the corporation tax. This is condemned by some as "soaking the rich," but it does not even compare in extent with this proposal to increase first class postage rates which just as accurately can be characterized as an attempt to "soak the poor." If the increases in income tax can be said to "soak the rich," then the increase in first class postage rates by comparison can be said to drown the poor. This is apparent by comparing the additional revenues expected from these sources. Under the Swing amendment increasing individual surtaxes a total of $17,000,000 additional revenue is expected. Under all of the increases in corporation income taxes a total revenue of $43,400,000 is expected to be raised. Whereas, it is proposed to raise from the increase in letter mail a total of $165,500,000.

The first-class mail service has been earning a surplus of approximately $100,000,000, whereas second-class mail service has been carrying a loss of approximately $75,000,000, according to estimates of the Post Office Department. The Parcel Post Service, which has been alleged to operate at a loss, is to receive increases in the rates, already ordered by the Postmaster General, and to become effective October 1, 1932. Why should the poor people of the country be called upon to raise $165,500,000 to pay a subsidy of $75,000,000 to the publishing interests of the country who use second-class mail service, particularly when the users of the first-class service are already paying a great deal more for this service than it actually costs. The millionaire publishers are much more able to pay additional taxes on second-class matter than the masses of our people are to pay additional postage on letters.

In this connection attention is invited to the fact that the printing and publishing business still remains an exceedingly profitable one for many of those engaged in it, particularly corporations engaged in this enterprise. Printing and publishing corporations made an average net profit of 10.9 per cent in 1931, according to a tabulation published in the National City Bank Monthly Letter, March, 1932, previously referred to.

Furthermore, the Post Office Department is paying approximately $19,000,000 annually in mail subsidies to steamship lines. Adding these subsidies to the subsidy maintained for second-class mail service, there is a total of $94,000,000 which the Post Office Department is paying out annually. We submit that it is unfair to place an additional tax upon letter postage to pay these subsidies.

In order to meet this situation and deal with it fairly, the American Farm Bureau Federation is recommending that no increase be made in first-class postage rates and that these subsidies be eliminated as soon as practicable. To this end an increase in the second-class postage rates in the present revenue bill,

by doubling the existing rates, is suggested. It is conservatively estimated that this would bring in $25,000,000 additional revenue.

The objection usually offered against this proposal is that no more revenue can be secured from second-class postage. The statement that no more revenue can be secured from the users of second-class postage is open to challenge in view of the profitable showing made by these companies last year. Certainly, even if true, it would not justify taking advantage of the necessities of the poor by exacting from them an additional cent on every letter mailed, which would constitute an increase of 50 per cent in the tax rate.

Furthermore, there are numerous other sources of revenue which can be utilized and which are sufficient in all to balance the Budget without resorting to an increase in first-class rates.

MISCELLANEOUS RATES

1. *Tax on speculative sales on exchanges.*—The House bill places a tax on all transactions on the stock exchanges and on the commodity exchanges. The American Farm Bureau Federation recommends as a substitute for this proposal that a tax be placed only upon the purely speculative transactions on the exchanges. In lieu of the taxes provided in the House bill, it is recommended that a graduated tax of from one-half to 2 per cent of the gross sales be placed on short sales and on other sales of a purely speculative nature on the stock exchanges and on the grain and cotton futures exchanges.

It is further recommended that the tax on speculative trading on the grain exchanges be made to rest mainly upon speculative transactions in excess of 500,000 bushels of any one trader during any one day in any one future, with a more moderate burden on speculative transactions between 100,000 and 500,000 bushels. Similarly, it is recommended in the case of the cotton exchanges that the tax on speculative sales of cotton be made to rest mainly upon the speculative transactions in excess of 25,000 bales of any one trader during any one day in any one future, with a more moderate burden on speculative transactions between 1,000 bales and 25,000 bales.

By limiting the tax to speculative transactions only, no penalty is likely to reach back to the farmers in the form of lower prices for his commodities, because these speculative transactions are purely "phantom" and do not involve usually the actual transfer of any commodity.

A specific exemption should be provided in the statute for hedging, cash trading and other legitimate forms of trading. The problem of determining what constitutes a purely speculative transaction and what constitutes hedging may be left to the Bureau of Internal Revenue to work out by regulations, in cooperation with the United States Department of Agriculture. As a suggestion along this line, it may be practicable for the bureau to require through its administrative rulings that customers state on their orders whether the transaction is a hedging operation and thereby place the burden of proof on the operator to show that his transaction is not a speculative one. In other words, it would be assumed that all future trading operations are speculative for the purposes of the revenue act unless the customer shows proof to the contrary.

2. *Stamp tax on conveyances.*—The rate of 50 cents on each $500, as provided in the House bill, is somewhat excessive. A large portion of the transfers of real estate at the present time represent forced sales and are usually exceedingly unprofitable transactions for the seller. This tax in such sales would be deducted as a part of the expense of sale and would therefore fall on the seller, who is least able to pay it. It is recommended, therefore, that this tax be reduced to 5 cents on each document, which would not be an excessive burden and would bring in the modest sum of $5,000,000.

3. *Sales of bonds.*—The provisions for a tax of one-eighth per cent on sales of bonds, provided for in the House bill, is approved.

4. *Stamp tax on receipts, acquittances, etc.*—A moderate tax of 1 cent per $100 and 2 cents for amounts in excess of $100 is suggested on receipts, acquittances, etc. It is estimated to bring in a total revenue of $25,000,000. This is not provided for in the House bill.

5. *Issues of capital stocks and bonds.*—The House bill provides for a rate of 10 cents per $100, estimated to bring in $8,000,000 in additional revenue. This should be retained.

6. *Theater admissions.*—The House bill provides a tax of 1 cent for each 10 cents over 45 cents, with an estimated revenue therefrom totaling $40,000,000.

The American Farm Bureau Federation recommends the same tax rate but suggests that the exemption limit be lowered to 25 cents, making the tax apply to all admissions in excess of 25 cents. This will exempt virtually all of the so-called neighborhood movies and the least expensive forms of amusement.

7. *Corporation-registration tax.*—A graduated registration tax on corporations is suggested ranging from $5 on corporations under $10,000 capitalization to $500 for those with capitalization in excess of $5,000,000. This is estimated to yield $50,000,000 in additional revenue. This tax is based upon the theory that a corporation enjoying as it does special privileges and benefits by virtue of its corporate status, should properly pay to the Government a measure of taxes commensurate with the benefits received.

8. *Matches.*—An excise tax of 4 cents per 1,000 is contained in the House bill. This is perhaps excessive as it would mean a tax of 2 cents on a 5-cent box of matches. It is suggested that this be reduced to 2 cents per 1,000, which would be 1 cent on a 5-cent box.

9. *Luxury taxes.*—In addition to the theater-admissions tax, numerous other taxes on luxuries are contained in the recommendations of the American Farm Bureau Federation, including the following items: Cosmetics, furs, jewelry, sporting goods and cameras, beverages, chewing gum, radios and phonographs, mechanical refrigerators, candy, yachts, and motorboats. It is suggested that these taxes be provided for a temporary period and that they be collected at the point of manufacture in order to facilitate their collection and to avoid not only the expense, but the inevitable irritation incident to collecting taxes on retail sales. All of these luxury taxes are included in the House bill and should be retained if necessary to balance the Budget.

10. *Miscellaneous.*—A tax of 4 cents per gallon on lubricating oil is contained in the House bill. If necessary to balance the Budget, this form of tax may properly be retained temporarily, but the rate should be reduced to 2 cents per gallon as the 4-cent rate is too high. A tax on lubricating oil has not been exploited by the States to the extent that the gasoline tax has, and because of its higher value per gallon can bear increased taxes to a greater extent than gasoline.

A tax of 10 per cent on the annual rental of safety deposit boxes is included in the House bill and should be retained, not only because of the revenue received, but as a penalty upon hoarding.

A tax of 5 per cent of the gross receipts of radio advertising is suggested as an additional item which is not in the House bill, and which could be used if necessary to balance the Budget.

In presenting its program of suggested sources of revenue to balance the Budget, the American Farm Bureau Federation has not taken the position of transferring all the burden to other groups than agriculture. Many of the taxes which have been suggested will fall in part upon farmers. An effort has been made to formulate a tax program which will provide sufficient revenue to balance the Budget and which will distribute the burden on the basis of ability to pay.

EXCISE TAXES ON IMPORTS

The sources of revenue thus far suggested by the American Farm Bureau Federation are estimated to yield $1,318,500,000, if an allowance of $150,000,000 be included as savings through economy. If these estimates are correct, this sum would be approximately $77,500,000 in excess of the $1,241,000,000 estimated to be required to balance the Budget.

If additional revenue is necessary to balance the Budget, it is estimated an additional $93,000,000 may be obtained through the imposition of excise taxes on certain imports into the United States which are now free of duty for the most part. Coffee, tea, most of the spices, tapioca and other tropical starches, jute in unmanufactured form, and bananas all enter the United States free of duty. If additional revenue is needed to balance the Budget, these items should bear some portion of the additional tax burden. Taxes of 2 cents per pound on coffee, 3 cents per pound on tea, 5 cents per pound on spices that are now free of duty, 2½ cents per pound on tapioca and other tropical starches, 5 cents per pound on unmanufactured jute and 6 cents per pound on manufactured jute, one-half cent per pound on sugar, and 25 cents per bunch on bananas are suggested. While sugar is already dutiable, the price of sugar has dropped to such an extremely low point that it can easily bear an additional one-half cent if applied for revenue purposes, if necessary to balance the Budget.

ITEMS IN THE HOUSE BILL SPECIFICALLY OPPOSED BY AMERICAN FARM BUREAU FEDERATION

1. *Taxes on automobiles, trucks, and accessories.*—This tax will be more burdensome to the farmers and the working people than to any other groups in the Nation, which would be affected thereby. Over 90 per cent of the passenger automobiles sold in the United States are below $1,000 in value. There is no question but what the manufacturers will pass this tax on in full to the consumers. This means that the bulk of the tax will be paid by the purchasers of low-priced cars of less than $1,000 in value. So far as the farmer is concerned the automobile and the truck are more of a necessity than a luxury. It is his means of transportation to market.

Furthermore, the States have already utilized this field of taxation rather severely. The estimated average annual tax per motor vehicle, not including gasoline taxes, is $145, or including gasoline taxes, $288.

State and municipal taxes on motor vehicles have almost reached the "saturation" point. In 1930 the amounts in taxes for motor vehicles were:

Registration fees	$355, 704, 860
Personal property and municipal taxes	150, 000, 000
Total	505, 704, 860
Gasoline tax	494, 683, 410
Total	1, 000, 388, 270

The following table shows how extensively automobiles, trucks, and tractors are used on the farm:

Farm machinery and facilities by States, 1930

State	Automobiles	Motor trucks	Tractors	State	Automobiles	Motor trucks	Tractors
Alabama	73, 634	12, 838	4, 664	New Hampshire	11, 079	4, 539	1, 066
Arizona	9, 916	3, 062	2, 558	New Jersey	22, 371	14, 753	8, 088
Arkansas	65, 935	11, 000	5, 684	New Mexico	15, 395	5, 328	2, 497
California	136, 842	40, 971	44, 437	New York	141, 916	58, 974	40, 369
Colorado	52, 258	16, 918	13, 334	North Carolina	132, 876	18, 556	11, 426
Connecticut	13, 154	6, 344	2, 667	North Dakota	78, 796	16, 990	37, 605
Delaware	8, 724	2, 996	1, 600	Ohio	201, 552	39, 210	52, 974
Florida	26, 387	12, 203	5, 618	Oklahoma	127, 448	23, 930	25, 962
Georgia	33, 966	6, 281	4, 691	Oregon	47, 440	9, 741	9, 838
Illinois	192, 873	40, 371	69, 628	Pennsylvania	152, 222	47, 062	33, 513
Indiana	154, 556	30, 037	41, 979	Rhode Island	2, 569	1, 701	589
Iowa	240, 512	32, 669	66, 258	South Carolina	61, 754	6, 966	3, 462
Kansas	171, 018	33, 648	66, 275	South Dakota	81, 923	14, 816	33, 837
Kentucky	86, 784	7, 188	7, 322	Tennessee	89, 032	9, 039	6, 865
Louisiana	43, 082	9, 281	5, 016	Texas	300, 176	52, 580	37, 348
Maine	26, 227	10, 781	3, 410	Utah	17, 574	4, 189	1, 426
Maryland	37, 972	11, 284	7, 206	Vermont	18, 620	5, 035	2, 426
Massachusetts	17, 638	9, 572	3, 921	Virginia	88, 463	19, 459	9, 757
Michigan	150, 922	36, 768	34, 579	Washington	55, 995	18, 836	8, 388
Minnesota	185, 717	36, 557	48, 457	West Virginia	36, 978	7, 432	2, 792
Mississippi	85, 563	16, 503	5, 542	Wisconsin	176, 764	51, 786	50, 173
Missouri	176, 466	20, 132	24, 909	Wyoming	12, 824	4, 108	4, 110
Montana	38, 166	14, 615	19, 031	Idaho	33, 906	6, 281	4, 691
Nebraska	141, 144	26, 045	40, 729				
Nevada	2, 921	1, 241	360	Total	4, 080, 112	890, 618	919, 188

2. *Increase in first-class postage.*—The American Farm Bureau Federation opposes any increase in the first-class postage rate. The reasons for this position have already been set forth under the discussion of the proposed increase in second-class rates.

OTHER PROPOSED TAXES OPPOSED BY AMERICAN FARM BUREAU FEDERATION

1. *General sales tax.*—For 10 years the American Farm Bureau Federation has consistently opposed the general sales tax. Its principal objection to this tax is that it is not based upon "ability to pay" but upon the "necessity to consume." It places too much of the tax burden upon the people least able to bear it. It is highly irritating from an administrative standpoint. Even though food, clothing, and certain other necessities of life should be exempted from the tax, it would be

an unwise public policy to embark upon this form of taxation, because once started it would probably never be abandoned, but instead it is feared that each time the Federal Government is pinched for revenue, some extension of the tax would be made on the theory that it is easy to collect. As a result, it is feared that this tax, if once established in our tax structure, would be broadened more and more until it would largely displace the estate tax, the gift tax, and the income tax as the basis of our Federal revenues. Such a development would be exceedingly unfortunate from the standpoint of public policy because it would penalize the poor for the benefit of the rich.

2. *Manufacturers' excise tax.*—The American Farm Bureau Federation opposes the manufacturers' excise tax for the same reasons that it opposes a general sales tax. The same arguments apply to both except that the manufacturers' excise tax, although collected with less irritation to the consumers, nevertheless opens the way for the abuse of pyramiding between the manufacturer and the consumer so that the consumer would probably pay in many instances several times the amount of the tax actually collected in the first instance.

3. *Federal gasoline tax.*—The American Farm Bureau Federation opposes the Federal Government entering this field of taxation because it has been so thoroughly exploited by the States that the commodity can scarcely bear any additional taxes. Some States now collect as much as 6 and 7 cents per gallon on gasoline, which, with retail prices of approximately 15 cents, is near the point of confiscation in the sense that if the tax goes much higher many consumers will have to forego its use. Inasmuch as the States have already exploited extensively this form of taxation, the Federal Government should leave it to the States exclusively as a source of revenue.

4. *Federal tax on bank checks.*—This is a particularly onerous tax upon the cooperative marketing associations and particular types of business enterprise which deal with a large number of patrons. It hits the dairy industry particularly hard because of the large volume of small milk checks which are a necessary part of the marketing methods in this industry. There is no necessity for resorting to this tax, which particularly penalizes the dairy farmers, the poultry and egg producers and their cooperative associations, as well as a large number of individual citizens. Ample funds can be obtained from other sources with which to balance the Budget.

STATEMENT OF FREDERIC BRENCKMAN, WASHINGTON, D. C., WASHINGTON REPRESENTATIVE OF THE NATIONAL GRANGE

The CHAIRMAN. You represent the National Grange, Mr. Brenckman?

Mr. BRENCKMAN. Yes, sir.

The CHAIRMAN. Are you in accord, substantially, with the statement made by Mr. Gray?

Mr. BRENCKMAN. The entire statement?

The CHAIRMAN. Well, substantially.

Mr. BRENCKMAN. Well, in the main we are in accord.

The CHAIRMAN. If so, a mere statement to that effect would be very, very acceptable to the committee; but if you have anything else or have any criticism you want to offer, I wish you would confine yourself to that.

Mr. BRENCKMAN. There are various things that I would like to mention, Mr. Chairman, that were not touched upon by Mr. Gray.

The CHAIRMAN. Very well.

Mr. BRENCKMAN. I will try to be as brief as possible so as to conserve the time of the committee.

The CHAIRMAN. I wish you would.

Mr. BRENCKMAN. Our organization is the oldest general farm organization in the country. It was established 65 years ago. We have approximately 800,000 members, and we maintain State organizations in 32 States.

Our policy with reference to public questions is framed at our annual conventions, at which all States in which the grange is established are represented by voting delegates. At our last annual convention, held at Madison, Wis., in November, 1931, we outlined our program on the subject of taxation in a series of short resolutions. If there is no objection, I would like to read that program into the record at this time.

The CHAIRMAN. Yes; that may be done.

Mr. BRENCKMAN (reading):

We, your committee on taxation, submit the following report:

As outlined in detail further in our report we indorse the recommendations made by the national master in his annual address, agreeing that economy and efficiency are the crying needs of government; that the first step in tax reduction is to curtail tax spending and eliminate duplication in government; that a conscious taxpayer means a conscious tax spender; and that no man should be permitted to enjoy his share of government free of charge.

We reaffirm our stand for equity and justice in taxation as summarized in three simple declarations passed during previous sessions:

1. "*Resolved*, That the National Grange express its conviction that any just system of taxation requires that taxes be levied in proportion to benefits received and to ability to pay." (Sacramento, 1925.)

2. "We urge the passage of laws that will force luxury and privilege to pay a part of the cost of government, thus relieving farms, homes, and general business from some of its too heavy burden." (Cleveland, 1927.)

3. "We favor distribution of a portion of the proceeds of the Federal income and estate tax among the States on the basis of school registration or some other similarly equitable basis." (Cleveland, 1927.)

General points:

1. This committee believes that the time has come when immediate relief from oppressive real estate taxes should be granted to our farmers. The share of the cost of Government defrayed by the general property tax is disproportionate and unfair, and the amount of real estate required in relation to income is far greater in farming than in most occupations. Our system of taxation, even in the face of far-reaching economic changes, has undergone comparatively little fundamental revision. If it were possible to wipe the slate clean of all existing tax laws, no sane person would consider for a moment building up in our country a tax system which required that general property should pay 80 per cent or more of the taxes. Any plan for equalizing taxation should have for its first object, not the obtaining of more revenue, but the shifting of the tax base away from real estate. Now, when there is so much of delinquent taxes and of tax sales in rural communities, seems to be the psychological time to make our demands heard. When the present depression shall have come to an end, and when its effects shall be forgotten in a period of reasonably general prosperity, public opinion will change and will desire expansion in public expenditures. Unless some form of tax equalization is adopted previous to that period, the farmer will feel, even more heavily than now, the burden of unjust taxation.

Our task is threefold:

1. To formulate plans for reducing total expenditures without injury to essential services.

2. To develop plans for improvement in the administration of existing tax laws.

3. To propose tax-revision which will more justly distribute tax burdens.

Budgeting is the first step in controlling expenditures; but the Budget itself must be controlled. There is need of a study of budget laws, and especially of the new State budgetary control laws, now being tried out in Indiana, Iowa, and New Mexico. It is suggested that in the publishing of proposed budgets, the expenditures and budgets of previous years be also published, tabulated for ready reference. Consolidation of some local governmental units should also prove helpful in reducing tax expenditures. Proposed expenditures should be given wide publicity in plainest terms in advance of action. When finances, through borrowing, there should be required a substantial sum out of current taxation. This would have a sobering effect. Federal and State relationships should be worked out carefully so as to avoid harmful double taxing.

In the administration of existing tax laws, all property should be assessed equitably. Each district should study its tax exemptions to discover if all income-bearing property legally taxable is carrying its share of the tax burden.

The duties of a tax assessor require experience and honesty, and their decisions should not be politically influenced. Care should be exercised by voters in the choosing of such officials. Methods should be perfected to enforce legal assessment and to improve assessment laws in the interest of equitable assessment. In the States not having a strong central taxation authority in the form of a tax commission or commissioner, such authority should be established. This body could do much to bring on to the tax rolls property now escaping, thus reducing farm tax burden.

To the end that tax burdens may be more justly distributed, your committee makes the following recommendations:

FEDERAL

1. No reduction in the Federal income tax.
2. Maintain and increase the estate tax, and allow the States to retain a greater portion of tax collected.
3. The collection of a limited tax on luxuries.
4. A substantial portion of the Federal corporation income tax returned to the States, and the individual paying both Federal and State income tax to be allowed to deduct from his Federal tax a substantial portion of his State income tax.
5. To avoid evasion of the purposes of the estate tax, there should be a Federal and State gift tax.

STATE AND LOCAL

1. A debt control law.
2. Pending the enactment of Federal legislation under which a substantial portion of Federal income tax is apportioned to the State, there should be an equitable graduated income tax, with low exemptions and low rates. Credit to the Federal income taxpayer for State income taxes paid up to a reasonable per cent of the Federal tax would help to induce States to adopt the personal income tax, and would be conducive to greater uniformity in income taxation among the States.
3. Limitation of all special assessments against real estate.

We urgently recommend the study of the relative merits of various State budgetary control laws, especially those of Indiana and Iowa, to the end that those being followed might be improved and local governments following no budget law might be induced to adopt the better system.

We oppose:

1. Issuing bonds to cover current expenses.
2. General sales tax, either Federal or State.
3. The use of funds obtained from automobile licenses and gasoline tax for other than highway purposes.

We were well aware when our convention was held that it would be necessary to levy additional taxes in order to balance the Federal Budget. With this in mind, we advocated increased income and estate taxes, together with a restoration of the gift tax, to prevent evasions of the law. Our organization has always been opposed to a general sales tax, because it ignores the principle of ability to pay and is a tax upon the necessities of the people.

In our opinion the House acted wisely in rejecting the proposal for a manufacturers' sales tax, and we trust that no effort will be made by the Senate to revive it.

In his apperance before the committee last Wednesday, Mr. Mills, the Secretary of the Treasury, well said: "There is no nourishment in the hole of a doughnut."

To say that a general sales tax under prevailing conditions would be a legislative monstrosity is but stating the truth. It is conceded that there are probably 7,000,000 people in this country to-day who are unemployed. Adding their dependents, it would probably be conservative to say that about 25,000,000 people have little or no income, while many of them are subsisting upon charity.

The disproportionate burdens of taxation placed upon agriculture, together with the collapse of farm prices have worked the virtual ruin of a large part of our farmers. Combining the unemployed in our industrial centers with our agricultural population gives us a total of approximately 50,000,000 people whose purchasing power has been greatly impaired or wholly destroyed.

Reputable economists tell us that 80 per cent of the wealth of the country is owned by 4 per cent of the people. It is plain that the inequitable distribution of wealth was one of the major factors in bringing on the present depression, and it stands to reason that our troubles can not be remedied by the imposition of a sales tax on the necessities of the people.

Treasury figures show that during the year 1929 there were 504 men in the United States who had net taxable incomes of over $1,000,000.

Senator GEORGE. One billion.

Mr. BRENCKMAN. More than $1,000,000 each.

Senator GEORGE. $1,000,000 each?

Mr. BRENCKMAN. Yes. The aggregate net incomes of these 504 men was $1,212,098,000.

Senator BINGHAM. What was it last year?

Mr. BRENCKMAN. It dropped considerably.

The Yearbook of the Department of Agriculture shows that the farm value of the cotton crop as of December 1, 1930, was $674,000,000

Senator BINGHAM. Just a moment. You gave us the figures for 1929, which was a very abnormal year.

Mr. BRENCKMAN. Yes, sir.

Senator BINGHAM. Have you got the figures for 1930?

Mr. BRENCKMAN. The figures are included in the hearing, which I put in before the Ways and Means Committee.

Senator BINGHAM. Very well.

Mr. BRENCKMAN. The farm value of the wheat crop was $517,000,000.

Senator REED. What year was that?

Mr. BRENCKMAN. 1930. Adding these figures together gives us a total of $1,191,000,000. From this it will be seen that these 504 men had a net income which was greater than the value of the wheat and cotton crops combined during the year 1930, in the whole United States.

Senator BINGHAM. But you have given us the figures for 1929, have you not?

Mr. BRENCKMAN. Yes, sir.

Senator BINGHAM. When it was very high. And the other figures you have given us were for 1930, when it was down. Do you think that is fair?

Mr. BRENCKMAN. Well, I think that the figures for farm income are not far from the average.

How can we expect prosperity to be general when the wealth of the country is concentrated in such a few hands?

What is needed is greater consumptive capacity on the part of the people. That is a fact which Congress should bear in mind in passing legislation to balance the Budget.

In general terms, we approve of the increased income and inheritance taxes contained in the House bill. We also approve of the gift tax.

Senator HARRISON. Do you mean by that that they went high enough, in the House bill, on the gift tax provision?

Mr. BRENCKMAN. Well, if, in the opinion of the committee, more money could be secured by raising those rates, I think it would be much fairer than taxing the people who have no income.

There is justification for saying that the Federal Government has been receiving only a small portion of the revenue that it should derive from the estate tax. This is a just tax and does not in the least stifle enterprise or initiative.

Senator HARRISON. May I interrupt there to say that Mr. Parker has just handed me the figures which show that there were 456 people who had over $1,000,000?

Mr. BRENCKMAN. Yes.

Senator BINGHAM. That is compared with the 504 men who he said had $1,000,000.

Senator HARRISON. Yes; that is his figures.

Mr. BRENCKMAN. However, there isn't any class of people whose income has been cut down in the last few years to the same extent as the farmer's income has been reduced. The value of farm commodities to-day is, roughly, just half what it was in 1921, while the fixed expenses, such as taxes, freight rates, interest on the mortgage, and so forth, cost just the same as before.

Senator HARRISON. It is higher in some cases, because in many cases the freight rates have been increased. And local taxes have been increased.

Mr. BRENCKMAN. Yes; and I might say that during some of our most prosperous years, from 1926 to 1929, when we saw the greatest era of prosperity ever known in times of peace in this country, there were 682,000 men who lost their homes and farms through tax sales and foreclosures. That is more than one-tenth of the number of farmers in the United States. And all that happened before the present depression set in.

Senator BINGHAM. Did you say one-tenth?

Mr. BRENCKMAN. One-tenth.

Senator BINGHAM. We were told last year that in the city of Philadelphia 30 per cent of the people lost their homes through tax sales and foreclosures.

Mr. BRENCKMAN. I don't suppose that is true throughout the country. But if a more horrible example is needed, look at the news of a few days ago from Senator Harrison's own State of Mississippi, where more than one-fourth of the homes of the State were sold for taxes in a single day.

Senator HARRISON. I do not think it is any worse there than in some other parts of the country.

Mr. BRENCKMAN. No.

Senator HARRISON. We, of course, sell them all at one time, and not at various times throughout the year, as is the case in some States.

Senator CONNALLY. And that is not final; they have the opportunity to buy them back.

Senator HARRISON. If they can get enough money, yes.

Senator BINGHAM. My idea in interrupting was to suggest that in the cities just as many people are suffering and are unable to pay their taxes and the interest on the mortgages on their homes as in the farming communities.

Mr. BRENCKMAN. I do not mean to convey the impression that the farmers are the only people who are suffering. I know there are others who are suffering as well.

The purposes of the estate tax are twofold: First, to prevent the accumulations of wealth in the hands of those who did little or nothing to create it; and, second, to lighten the burdens of taxation that weigh so heavily upon the backs of those who toil.

Andrew Carnegie, one of the wealthiest men of his time, was a firm believer in the justice of the estate tax. In his book, The Gospel of Wealth, published in 1900, he said:

> The growing disposition to tax more and more heavily large estates left at death is a cheering indication of the growth of a salutary change in public opinion. Of all forms of taxation this seems the wisest. Men who are hoarding great sums all their lives, the proper use of which for public ends would work good to the community from which it chiefly came, should be made to feel that the community, in the form of the State, can not thus be deprived of its proper share.

Senator HARRISON. Would you go higher than the estate tax law as incorporated in the House bill?

Mr. BRENCKMAN. I think, under present conditions, we would be justified in doing that, Senator Harrison.

I just want to cite you these figures that are contained in bill. On a $10,000,000 estate, that estate, under the old law, would have paid $1,334,500; under the new bill it would pay $3,094,500.

Under a $100,000,000 estate, under the old law it would have paid $19,333,500; under this law it would pay $43,593,500.

Senator GEORGE. Nearly half.

Senator HARRISON. Yes.

Mr. BRENCKMAN. I think that is the rate.

Senator HARRISON. Take a $400,000 estate, it now pays, under the present law, $8,500; under this new bill it would pay $30,500. So they have graded it up so that in the smaller ones there is a very large increase.

Mr. BRENCKMAN. Continuing, Mr. Carnegie said:

> It is desirable that nations should go much farther in this direction. Indeed, it is difficult to set bounds to the share of a rich man's estate which should go at his death to the public through the agency of the State, and by all means, such taxes should be graduated, beginning at nothing upon moderate sums to dependents, and increasing rapidly as the amounts swell.

I am tempted to say just a word at this time about something that Mr. Gray touched upon.

Senator CONNALLY. You do not want to forget Mr. Roosevelt.

Mr. BRENCKMAN. I think he did.

Mr. Gray spoke of the possibilities of getting increased revenue by stiffening up the law with reference to exemptions and abatements and refunds. The Ways and Means Committee has stated that by administrative changes in that connection about $100,000,000 additional could be covered into the Treasury. In my opinion, that is a very modest estimate. According to figures furnished by the Joint Committee on Internal Revenue during the years from 1922 to 1930, inclusive, the deductions and abatements and cash refunds allowed by the Treasury Department under the existing law reached the colossal sum of $3,400,000,000.

The CHAIRMAN. You say under the existing law?

Mr. BRENCKMAN. Well, under the laws during those years.

The CHAIRMAN. The laws in affect during the war.

Mr. BRENCKMAN. Well, it dated from 1922 to 1930, inclusive. It would seem, therefore, that an estimate of $100,000,000 a year to be saved to the Government in that connection is a very modest estimate, and that the committee of the Senate might well consider what could be done by stiffening up the rules about exemptions, abatements, and refunds.

The wisdom of imposing tariff items in an internal revenue measure, as the House bill does in two instances, is to be doubted. The inclusion of a few more such items might easily lead to a tariff fight which, with its unsettling effects, would be likely to work more harm than good to the country under prevailing conditions.

Senator SHORTRIDGE. Pardon me. Assuming, however, as to tariff items, that it could be limited to one or two or three or four, that would not necessarily prolong discussion, would it, in your judgment? As, for example, take oil, coal, copper, and possibly one or two other items: should we not limit the discussion to those three or four or five?

Mr. BRENCKMAN. Possibly it could be done. I know that there are various people around Washington now who are being encouraged by the existing situation, and inquiring whether it would not be possible for them to get increased tariff rates on commodities in which they are interested.

We are opposed to the imposition of a Federal tax on automobiles, accessories, and gasoline. In our opinion, that is a field of taxation which is already well exploited and which should be left to the States. The gasoline tax in 1931 amounted to $524,000,000; license fees totaled $348,000,000.

Senator SHORTRIDGE. All State legislation?

Mr. BRENCKMAN. Yes. While personal property and municipal taxes on motor vehicles took $150,000,000. This makes a total of $1,022,000,000, or about one-tenth of all taxes paid in the United States—Federal, State, and local.

Senator BINGHAM. How much of that money goes into the building of roads?

Mr. BRENCKMAN. The theory is that it should all go into the building of roads, but the tendency is to divert those taxes to other uses, which is an unsound proposition.

Senator HARRISON. But as a general rule, the imposition of the gasoline tax in the States is for the purpose, and it goes toward putting up the State's part for the building of roads; is that not true?

Mr. BRENCKMAN. Yes; as a general rule, although I heard recently that the State of New Jersey was intending to put up State buildings costing millions of dollars and pay for them out of the taxes on gasoline and license fees.

We have expended billions of dollars in building improved highways, and it would be unwise to adopt a policy of taxation that would tend to make it prohibitive to use those highways.

The House bill places a tax of 3 per cent on passenger automobiles, 2 per cent on trucks, and 1 per cent on accessories. It is estimated that these combined taxes would yield $56,000,000. But in view of the heavy taxes already levied on motor vehicles, these new taxes would be discriminatory and unjust.

Roughly speaking, one-fifth of all the automobiles and trucks in the country are on the farms of the United States. The trucks on our farms alone number more than 900,000. They form a part of the necessary equipment of our farms. They are no more luxuries than freight cars and locomotives are luxuries, yet no one would think of placing a special tax on freight cars and locomotives.

If these items should be stricken from the House bill, as we think they should be, the question naturally arises as to where we should look for the——

Senator SHORTRIDGE (interposing). I was about to ask that question.

Mr. BRENCKMAN (continuing). Where we are to look for the $56,000,000 in revenue which these proposed special taxes are estimated to produce.

The record shows that the Ways and Means Committee considered the propriety of placing a tax on gas and electricity. The Treasury Department likewise suggested a tax on the domestic consumption of electricity and gas. According to the estimates of the Treasury, a tax of 7 per cent on domestic consumption would produce revenues of $94,000,000 a year. But if such a tax is to be levied, why should it be limited to domestic consumption?

According to figures furnished to the Ways and Means Committee by the Federal Trade Commission, the total revenues of the electric power companies during the past year were $2,137,000,000. The value of the natural gas produced was $415,000,000; while manufactured gas was valued at $521,000,000. This makes a total of $3,073,000,000. Three per cent on that sum would net $92,190,000. And if 7 per cent is not excessive as a rate of taxation on domestic consumption, I do not see why anybody should claim that 3 per cent is too much for all of us to pay.

Such a tax would be more fair and equitable than the proposed special taxes on automobiles, trucks, and accessories. There is reason to believe, moreover, that such a tax could be largely absorbed, instead of being passed on in full to the consumer.

I just want to say at this point, Mr. Chairman, that the other two farm organizations are in accord with the stand taken by the National Grange regarding taxes on automobiles, trucks, and accessories.

It is gratifying to note that in taking steps to balance the Budget Congress is not depending on the levying of taxes alone. Efficiency and economy are quite as necessary as additional taxes in meeting the financial situation with which the Government is confronted.

Senator SHORTRIDGE. Let me ask you one question: Assuming that your views should prevail as to exempting from the suggested taxes the items you referred to, you have suggested other sources of taxation?

Mr. BRENCKMAN. Yes; that was my purpose. I believe the proposed automobile taxes should be dropped and that we should find other sources of revenue to take their place.

The CHAIRMAN. Thank you, Mr. Brenckman.

STATEMENT OF JOHN A. SIMPSON, PRESIDENT FARMERS NATIONAL UNION, WASHINGTON, D. C.

The CHAIRMAN. Mr. Simpson, your name is John A. Simpson?
Mr. SIMPSON. Yes, sir.
The CHAIRMAN. You represent the Farmers National Union?
Mr. SIMPSON. Yes, sir.
The CHAIRMAN. You may proceed.
Mr. SIMPSON. In the main, I agree with what the other gentlemen, who represented the Grange and the Farm Bureau, have said. I want to emphasize the position of the National Farmers Union on the fundamental principle of taxation, that the burden should be placed where they are most able to bear it; that those able to pay should be the ones that are taxed.

On that basis, we think there is no fairer tax than a net income tax. If a man has a net income he can pay without having his capital investment confiscated. When he has no net income and he has to pay a tax, he is paying it out of his capital investment, and that is wrong.

The CHAIRMAN. Under this bill, if he does not have a net income he would not have to pay a tax.
Mr. SIMPSON. If you have a general sales tax he would pay whether he had an income or not.
The CHAIRMAN. That is correct. But not under this bill.
Mr. SIMPSON. Yes.
Senator CONNALLY. Of course, you do not carry that over as against the estate tax, do you? You favor that, do you not?
Mr. SIMPSON. Yes. I will come to that in a minute, Senator.
Senator CONNALLY. All right.
Mr. SIMPSON. One of the troubles of the farmer to-day is that he has been taking out of his capital right along to pay taxes and, of course, to pay his other bills, too.
Senator BINGHAM. How about the millions of industrial workers who have been paying money out of their savings accounts to pay for everything that they have bought in the last few years?
Mr. SIMPSON. Under the Good News Flashes in the papers, I see where our industrials pay dividends right along.
Senator BINGHAM. I am not talking about the industrialists who own the plants, but about the 3,000,000 or 4,000,000 people who are compelled to pay expenses out of the savings they have accumulated, their Liberty bonds, and such things as they have. They have been living on their savings for the last two or three years.
Mr. SIMPSON. It is on their behalf that I speak, as well as on behalf of the farmers. I don't want any tax placed on that sort of an individual. I don't want them to have to pay tax when they purchase something. I want the man taxed who has a net income.
Senator BINGHAM. Then you would not be in favor of the suggestion made a few moments ago that they be compelled to pay a tax on the electric light which they consume in their houses in the city.
Mr. SIMPSON. I would say that I do not like that tax. I don't want a tax that applies to the poor man, I don't want a tax that goes on the man with no net income.

In this distressed time—I think as great as any time in the history of our Nation—war time, or any other time, I would say that war-time income tax rates are not inconsistent with the situation.

Senator BINGHAM. War-time incomes?

Mr. SIMPSON. War-time income tax rates are not inconsistent with the situation.

Senator BINGHAM. I wondered whether you thought anyone had war-time incomes.

Mr. SIMPSON. Inheritance and gift tax rates on large estates should be in line with income tax rates. Our position is that the life of this Nation depends on estate taxes and gift taxes that will redistribute the wealth of the country. We believe that we are the friends of the unfortunate individual, who has acquired large wealth, when we propose such measures. The history of all nations teaches that the people of a nation will not stand for more than so much concentration of wealth, and if there is not a redistribution there is revolution and overthrow of government. That is the history of all nations. Anybody that studies it will find that true.

In this country, I have Senator Borah's statement, made a year ago, and unchallenged, that we have reached a place in the concentration of wealth where 4 per cent of the people own 80 per cent of the wealth; and 96 per cent have only 20 per cent of the wealth.

Senator SHORTRIDGE. And you would bring about redistribution by way of taxing estates?

Mr. SIMPSON. That, I think, is one of the best ways of saving this Nation from the menace of the concentration of wealth.

I am sure you will agree with me on this, that somewhere between 4 per cent owning 80 per cent of the wealth of the country, and one family owning it, there would be a revolution. The people would not stand for it. I am sure you will agree that is true. Now how much further we have to go before you reach the point of overthrow of the Government on account of the concentration of wealth, none of us know, but it may not be very far. The organization I represent is in favor of such rates of inheritance and gift taxes as will save this Nation from that situation.

Senator HARRISON. Do you think, Mr. Simpson, that the House rate provisions are sufficient?

Mr. SIMPSON. No, sir; that will not save the Nation.

Senator HARRISON. How much further would you go?

Mr. SIMPSON. I think that the inheritance and gift taxes should go at least as high as the income taxes were during the war.

Senator HARRISON. Under the amendment put on in the House, we have the highest estate tax we have ever imposed.

Mr. SIMPSON. Yes; I think that is right, but not as high as the income rates.

The CHAIRMAN. Where a State has fixed an inheritance tax of 40 per cent, do you think the Government should impose 40 per cent also?

Mr. SIMPSON. It is my understanding that when a State puts on a tax, the Government allows whatever is put on by the State.

Senator HARRISON. That was true under the old law; that is not the case under this bill.

Mr. SIMPSON. This all goes to the Federal Government.

The CHAIRMAN. For instance, I know of estates now that if those rates are carried into the law and the State would impose the same inheritance tax that is now imposed, there will be very little left of any estate, no matter how large it is.

Mr. SIMPSON. If you leave the thing uncorrelated as to State and Federal Governments, it is possible to have more than it should be. It is necessary to take the two into consideration. You might have a State tax that would put on more than 50 per cent and a Federal Government tax that would put on more than 50 per cent, and that would take the whole estate.

Senator CONNALLY. Under this bill an estate of $100,000,000 would pay an estate tax of $43,600,000.

Mr. SIMPSON. That is going pretty good, but that will not save this Nation under the circumstances.

Senator SHORTRIDGE. Immediately, we are looking for some revenue.

Mr. SIMPSON. Yes; and that will give you revenue.

Senator HARRISON. Mr. Simpson, this is what gives me some concern: Suppose a man who has a large ranch; a man who is a large landowner; everything he has is in lands. Of course, you appreciate now and may be for several years, it is going to be impossible to dispose of those lands. How is the State going to collect its money? If it is sold now, the whole value of it would be jeopardized. When we sell land, we sell at the market price, and there is no market price.

Mr. SIMPSON. That is true, whether you make it 40 per cent, or 75 per cent.

Senator HARRISON. Yes; but that is different from where a man has stocks and bonds, which you can sell.

Mr. SIMPSON. Yes; that is different.

Senator HARRISON. That is what is giving me some concern.

Senator BINGHAM. Mr. Simpson, your idea is that in order to save the country there must be a redistribution of wealth?

Mr. SIMPSON. There must be.

Senator BINGHAM. And you go so far as to say that a man who has 500 acres of land should give up half of that to a man who has only 100 acres, in order to equalize it?

Mr. SIMPSON. Well, I think it is a long ways from a man who has $2,000,000,000, or more, down to a farmer who has something that he can not sell.

Senator REED. What reliable information have you that anybody is worth $2,000,000,000?

Mr. SIMPSON. It is in the papers every day.

Senator SHORTRIDGE. Who are they? Mr. Ford and Mr. Rockefeller, or who? I have never heard the name given of any man who is supposed to be worth that much.

Mr. SIMPSON. Well, the Mellon family is said to be worth over $2,000,000,000.

Senator REED. They do not think so.

Mr. SIMPSON. That they control over $8,000,000,000 worth of property; are worth $2,000,000,000, and control over $8,000,000,000 worth of property.

Senator REED. Where did you get that?

Mr. SIMPSON. Out of a financial report in one of the papers.

The CHAIRMAN. Well, if they control it, have $2,000,000,000, they have $10,000,000,000, instead of $8,000,000,000.

Mr. SIMPSON. Not necessarily. They control that much. I understand Mr. Rockefeller controlled the Santa Fe when he had only 10 per cent of it.

Senator GEORGE. The $8,000,000,000 may not represent what they own.

Mr. SIMPSON. No. You are in a hurry.

The CHAIRMAN. Yes.

Senator BINGHAM. You are not in favor of equalizing farms, then? If you have a man with a large farm, and one with a smaller farm——

Mr. SIMPSON. Possibly with very large holdings.

Senator BINGHAM. Suppose one man has 1,000 acres, and the man next to him has only 40 acres, do you think they should be equalized?

Mr. SIMPSON. It depends a lot upon the value. The 40 acres might be worth more than 2,000 acres.

Senator BINGHAM. Yes; it might be.

Mr. SIMPSON. It not only might be but is often true.

Senator REED. Then the man with 40 acres should give up something to the man with 1,000 acres?

Mr. SIMPSON. Senator Reed, there is not any joke about this.

Senator REED. No; there is not any joke; but to be logical, I am trying to get your idea.

Mr. SIMPSON. Let me sound the warning that, unless there is a redistribution of wealth in this country something is going to happen.

Senator REED. Why wait for people to die? Why not do it now and call it communism?

Mr. SIMPSON. You will have communism if you don't do something to redistribute the wealth of this country. Let me give you an illustration.

You invite a dozen of your friends to your home, and seat them around the dining table. At plate is soup and greens. On the table there is a lot of good things, roast turkey, pie, cakes, nuts, and fruit. One of your guests reaches out and says, "I will take all the goodies, you fellows can have the greens and the soup." You wouldn't have a guest there that would not have the manhood to get up and say, "You can't do that, you hog." [Laughter.] In the whole United States there is not a man whose family would permit him to do that. And yet we sit down around the national table at the end of the year and 4 per cent of the people say, "We will take the goodies, and you, 96 per cent, can have the soup and greens." There will come a time when the 96 per cent will rise up and say to the 4 per cent, "you can not do it."

Senator SHORTRIDGE. You do not include beverages?

Mr. SIMPSON. We are all supposed to be dry.

Senator REED. Where do you get that 4 per cent?

Mr. SIMPSON. I told you, from Senator Borah.

Senator REED. Where do you get any confirmatory evidence of it?

Mr. SIMPSON. The Senate ought to at least chastise him if his statement is not true.

Senator CONNALLY. Mr. Simpson, let me see if I understand you correctly. If you fix these rates on inheritance, the fact that a man has that in lands, you would do it?

Mr. SIMPSON. Sure.

Senator CONNALLY. I was saying that in answer to Senator Bingham. The fact that he was a farmer, you would not make any difference to him?

Mr. SIMPSON. It doesn't make any difference whether it is in stocks, bonds, or farm land, or what it is.

The CHAIRMAN. If he took his money, then, and invested it in foreign bonds and foreign stocks and lands, would you confiscate that?

Mr. SIMPSON. At the present time they are not worth anything.

The CHAIRMAN. I want to get your idea.

Mr. SIMPSON. Whatever is in his estate.

The CHAIRMAN. No matter where it is?

Mr. SIMPSON. Wherever it is. Whatever is his estate would be the subject of taxation in this country to apply just the same, whether you have 10 per cent inheritance tax, or 75 per cent, the same rules would apply.

Senator SHORTRIDGE. Mr. Simpson, I do not want to delay you, but you would distribute and divide up this 1,000-acre ranch quite regardless of what it was devoted to, would you? What I mean is this: Suppose it were being cultivated and many, many men were employed producing a necessary crop, would you consider the uses to which the land was devoted?

Mr. SIMPSON. Senator, that would be taken care of the very same as they would take over a Ford plant; they wouldn't break it up into a million different plants. They would go on operating it, but the Government would own a certain interest on it.

Senator SHORTRIDGE. The Government, then, would take it?

Mr. SIMPSON. The Government would take it. No one would buy.

Senator SHORTRIDGE. And the Government would carry on the cultivation or operation of this 1,000-acre ranch?

Mr. SIMPSON. In some cases it would be the Government that would get the property, instead of so many dollars. If somebody bought it, then it would be so many dollars.

Senator SHORTRIDGE. Do you think it a wise provision for the Government to own the lands of the Nation?

Mr. SIMPSON. They owned about all of it originally. They can own an interest in it until such time as it could be sold to good advantage. The States have taken 70,000,000 acres for taxes in the last four years.

Senator SHORTRIDGE. Very well.

Mr. SIMPSON. They should not press sales. The Federal land banks are not Government owned, but Government controlled, and are pressing foreclosures too much. They should give those people an opportunity. To foreclose mortgages and sell for taxes now, Senator, is a good deal like the fellows who follow up after a battle and rob the wounded and dead.

The CHAIRMAN. Would you have a distribution every 10 years, or every 5 years?

Mr. SIMPSON. Every time there is a death; every time a man's estate is to be divided up, there would be distribution.

Senator SHORTRIDGE. And it goes to the Federal Government?

Mr. SIMPSON. It goes to inheritance and gift taxes.

Now, there is another part of the bill on which I take a positive position. As a poor substitute for what Congress ought to be doing for home production, the bill provides a tax on oil and coal. I am for this provision. It ought to include copper.

The CHAIRMAN. You mean a duty?

Mr. SIMPSON. It is a tax in this bill. It should be a duty that would protect home production.

Senator SHORTRIDGE. I agree with you on that.

Mr. SIMPSON. The Farmers Union stands for an American market for American producers.

Senator SHORTRIDGE. That is my theory.

Mr. SIMPSON. If your new tariff bill had taken care of oil, coal, wood pulp, and copper, there would be a million men at work to-day that are out of jobs.

I believe that is about all I have to say.

The CHAIRMAN. Thank you.

Senator SHORTRIDGE. Right there, I think the rate of 1 cent a barrel on imported oil should be more than doubled.

Mr. SIMPSON. You should have the same rule with the refined products as you have the 1 cent on the crude.

Senator SHORTRIDGE. That would be 3 cents.

Mr. SIMPSON. It is inconsistent to say that crude bears 1 cent per gallon, and gasoline 1 cent, when it takes 3 gallons of crude lubricants to make 1 of gasoline.

Senator SHORTRIDGE. Certainly three times as much. It should be at least three.

Mr. SIMPSON. Yes. That is all.

Senator CONNALLY. Mr. Chairman, before we adjourn for the morning, I would like to move that we limit the speakers hereafter to 15 minutes each. If we do not, we will never get through.

Senator BINGHAM. I second that motion and amend it to include that they talk about subjects on which they are qualified.

Senator CONNALLY. If a man knows what he is talking about, he can tell us more in 15 minutes than we can act upon in a month.

Senator SHORTRIDGE. Then if we should interrupt him to ask him questions, that time should not be counted against him.

Senator CONNALLY. No; I think if we ask him questions, his time might be extended.

The CHAIRMAN. His time can be extended when it has expired, if the committee desires.

The CHAIRMAN. All in favor of limiting the speakers hereafter to 15 minutes, will say aye. Contrary no. The motion is carried.

Senator BINGHAM. I understand his speech should be limited to 15 minutes, and then if he is pressed, we can extend the time afterwards.

The CHAIRMAN. Yes.

STATEMENT OF REV. JOHN A. RYAN, D. D., CATHOLIC UNIVERSITY, WASHINGTON, D. C.

Doctor RYAN. Mr. Chairman and gentlemen, I was asked to appear here by the Joint Committee on Unemployment, because that committee feels that there is a considerable relation between some of the provisions of the bill providing for new taxes which passed the House of Representatives the other day and the general subject of unemployment. I was asked to present the subject from the point of view of ethics, although I shall not neglect the economic side, inasmuch as I happen to teach both these branches.

The moralists agree with the economists that the right rule of taxation is ability to pay. Now the proper measure of ability is current income rather than total wealth. The latter may be wholly unproductive, as stocks that pay no dividends. The principle of ability to pay implies equality of sacrifice, not equality of rates. The

who pays 2 per cent on an income of $2,000 makes a greater sacrifice than the man who is taxed at the same rate on an income of $10,000. The same rate deprives the former of more important goods. In fixing income tax rates, therefore, the just method is not that of uniformity but that of progression. The same principle applies to the rates imposed upon estates or inheritances. The principles of ability to pay and equality of sacrifice are themselves corollaries of the far-reaching principle of distributive justice, namely, that the state should distribute benefits according to needs and burdens according to capacities.

How high may the progression of rates go without violating justice? In the House of Representatives, it was asserted a few days ago that a 65 per cent surtax, plus a 7 per cent normal tax, on that portion of a man's income which exceeds $5,000,000 would amount to confiscation. Presumably this term was used as a synonym for injustice, or at least as connoting injustice. I am unable to find any line of argument by which this contention could be substantiated. The person who was fortunate, or unfortunate, enough to come under these maximum rates would still be permitted to retain more than one-half of his first $5,000,000 of income and 28 per cent of the remainder. In view of the fact that God created all men equal and that he gave the earth as a common bounty to all the children of men, the receivers of such enormous incomes are not unjustly treated when they are required to contribute approximately half of their annual gains for the welfare of their country and the maintenance of the Government under whose protection the incomes have been obtained. If we are to reject the 72 per cent schedule, or even a higher schedule, we shall have to do so on other grounds than that of injustice to the individuals that pay these taxes.

Certain social reasons may be and have been urged against these high rates. The receivers of the very large incomes would be tempted to put their money into tax-exempt bonds. To this objection there are two obvious answers: First, the law might limit the amount of any individual investment in Federal bonds that would be immune from Federal taxation; second, the purchase of public bonds is a benefit to the political community which issues them, particularly at the present time.

Therefore, the injury which the very rich might do to the Federal Government by putting some of their money into tax-exempt bonds would be offset by the service which they rendered to the States or cities issuing the bonds and in need of the money. The second objection urged upon social grounds is that very high income and inheritance tax rates tend to discourage the flow of capital into industry. No person who raises this objection need be taken seriously until he can point out a considerable number of manufacturers or merchants who are unable to meet an increased demand for their goods solely because they can not obtain capital or credit to finance the new sales. To-day we have an abundance of idle capital seeking employment on almost any terms. The assumption that the owners of this capital would prefer no income at all to an income from which the Government took half, or even more, does not deserve fearful or prayerful consideration.

The great need of industry to-day is not more capital but more sales. In this connection, a statement made before his committee a

few days ago by Secretary Mills in answer to a question by Senator Couzens is sadly typical of the fallacious theory long entertained by the masters of capital, industry, and finance.

According to Secretary Mills, it is not important how the product of industry is distributed in relation to the demand for goods. The rulers of our economic system have assumed that production might be increased and multiplied indefinitely without making adequate provision for the sale of this huge product. They failed to see to it that sufficient purchasing power was put into the hands of those economic classes who were willing, if they had it, to exercise that power. Hence the existing depression.

The general principle of ability to pay not only justifies high income and inheritance taxes but condemns all taxes levied on the staple articles of consumption. A tax upon necessaries and comforts affects practically the whole of the smaller incomes, but touches only a small portion of the large incomes. Hence the injustice of all sales taxes except those upon such luxuries as are purchased mainly by persons enjoying high incomes and, therefore, possessing ample ability to pay. In general, we may say that the greater the proportion of any commodity which is purchased by persons of moderate means, the less suitable, ethically speaking, is that commodity for taxation. Ford cars or Chevrolet cars are not as reasonable objects of tax levies as Lincolns, Cadillacs, or Rolls-Royces. To forestall any argumentum ad hominem, let me say I have a Lincoln car, not a Ford or a Chevrolet.

While the observations just made are of universal application, they are particularly apposite in the existing depression. No improvement in business can take place without an increase in the sales and purchases of consumption goods. Any diminution in the amount of money available for such purchases inevitably makes the depression deeper. Such will be the effect of any tax upon these commodities which are mainly consumed by persons in receipt of small incomes. The money available for the purchase of goods and the maintenance of production will be diminished by almost the full amount of money derived from this sort of taxation. On the other hand, any tax, whether upon incomes, goods or transactions, which is paid mainly by the well-to-do and the rich will diminish only slightly if at all the total purchases of consumption goods and the level of business activities. What such taxes will diminish is the amount of money which is vainly seeking investment in an already overdeveloped capital structure.

To the objection that high taxes upon incomes and inheritances together with all other possible taxes upon the better-off classes would not be sufficient to balance the Budget, I would make the following reply: The demand for a balanced Budget has become, in the minds and mouths of the majority who are most articulate about it, an empty slogan. The slogan is working or being worked overtime as a facile substitute for the arduous processes of analysis and thinking. The budget of any government is always balanced in the sense that the annual income is equal to the annual expenditure. Money can not be paid out unless it has come in. The vital questions are the source of the income and the time of balancing. The current cant implies that the Budget must be balanced immediately and without borrowing. Both assumptions are without foundation. Every solvent business man must balance his budget,

but he does not think it necessary to balance it in any given year at the beginning of July. He may prudently effect the balance between income and outgo at the end of December. And he may have good reason to produce this result by borrowing against the future.

Similarly, the Federal Budget need not be balanced without borrowing this year nor next year. It was not balanced in that way during the Great War. At that time, the Federal Government borrowed, through the sale of Liberty bonds, against its taxation possibilities not only for the following 2 or 3 of 5 years, but for the following 20 or 25 years. It can use the same method now. In so far as the Budget can not be completely balanced through taxes upon incomes and inheritances and other taxes which will take the maximum from those who do not want to spend money for immediate consumption and the minimum from those who do, the required remainder can and should be obtained through the sale of bonds or Treasury certificates; in other words, by borrowing. This is the way, and the only way, in which the Federal Government can avoid intensifying the depression through its fiscal legislation.

If the foregoing argument is sound it yields the following brief conclusions and inferences:

1. The just principle of taxation is ability to pay as illustrated in progressive levies upon incomes and inheritances.
2. The highest rates that have been advocated for the pending bill can not be proved unjust.
3. Nor are these rates detrimental to social welfare in the matters of tax-exempt bonds and the alleged need of new capital.
4. Taxes upon the necessaries and elementary comforts of life violate the principle of ability to pay because they absorb a much greater proportion of a small income than of a large income.
5. Since a general sales tax would lessen the buying of consumption goods, it would be peculiarly harmful in the existing depression.
6. If balancing the Budget involves diminution of consumption, whether through a sales tax, a business tax, reduction of wages, or reduction of moderate salaries, it will prove a distinct hindrance to business recovery.

Senator SHORTRIDGE. Thank you, Doctor.

Is Mr. Raymond here? Is there any other witness present who wants to appear this afternoon? Mr. Raymond has not yet come. If not, the committee will stand in recess until 10 o'clock to-morrow morning.

(Whereupon, at 4 o'clock p. m., Monday, April 11, 1932, the committee adjourned to 10 o'clock a. m. of the following day, Tuesday, April 12, 1932.)

STATEMENT OF JAMES A. EMERY, REPRESENTING THE TAX COMMITTEE OF THE NATIONAL ASSOCIATION OF MANUFACTURERS, WASHINGTON, D. C.

The CHAIRMAN. You may proceed, Mr. Emery.

Mr. EMERY. Mr. Chairman and gentlemen of the committee, my name is James A. Emery. I appear representing the tax committee of the National Association of Manufacturers, consisting of the following:

Mr. George H. Coppers, National Biscuit Co., New York, N. Y., chairman.
Mr. Fred Arn, J. M. Card Lumber Co., Chattanooga, Tenn.
Mr. C. B. Towle, Curtis, Towle & Paine Co., Lincoln, Nebr.
Mr. John Tomec, Sloane-Blabon Corporation, Trention, N. J.
Mr. A. L. Green, Farr Alpaca Co., Holyoke, Mass.
Mr. William S. Bennet, Edwin Hines Associated Lumber Interests, Chicago, Ill.
Mr. R. H. Knowlton, Connecticut Light & Power Co., Hartford, Conn.
Mr. R. E. Blake, International Shoe Co., St. Louis, Mo.
Mr. J. Frank Zoller, General Electric Co., Schenectady, N. Y.
Mr. Eugene Chrystal, Eastman Kodak Co., Rochester, N. Y.
Mr. Harrison Jones, Coca-Cola Co., Atlanta, Ga.
Mr. W. L. Cherry, Cherry-Burrell Corporation, Chicago, Ill.

Mr. Chairman and gentlemen of the committee, the membership of the National Association of Manufacturers, engaged in industrial production in every State of the Union, recognizes the fiscal emergency confronting the country. They are prepared to make their contribution to any sacrifice essential to the maintenance of unimpaired national credit. The first essential is the passage of a sound tax act to dispel the bewildering uncertainty now preventing business from making future commitments until it understands the nature and extent of the burdens and obligations it is required to assume.

We venture to suggest to your committee that there are four considerations preliminary to the proper consideration and approach to any bill.

The first is that it should balance the Budget in the next fiscal year. And by that we mean equalizing current receipts with current expenditures without further increase in the public national debt.

The second is that the first step to that end is drastic reduction in Federal expenditure. For declining private income justly requires the adoption by the Government of every saving a well-informed Congress can identify and effect. We are greatly encouraged and appreciative of the nonpartisan legislative efforts now being made and trust they will be pursued with vigor and determination. And we think that this effort should be accompanied by stern resistance to any new appropriation not demonstrably essential, or a balanced Budget will be immediately unbalanced.

And, thirdly, the Government should avoid undue entrance to the loan market in competition with private business for the limited credit now available.

And, fourthly, we urge upon your committee the overwhelming need of the prompt adoption of a sound tax policy as essential to any future progress in business recovery. Private industry hesitates to make new commitments until it knows the nature and amount of its public obligations. Every day of delay means a loss of revenue to the Government itself.

Now, in a general condition of loss, additional burdens should be fairly distributed with due regard for the circumstances of the situation and without the arbitrary selection of particular groups for excessive rates. Double taxation should be avoided and reasonable consideration given to recognized losses. For every form of business

endures not by the returns of the year, but by its average returns. We recognize, too, that no protest should be made against any particular proposal for the raising of revenue, unless we can accompany that protest with suggestions for the raising of revenue from another source—another source from which revenue may be produced.

This association, therefore, ventures to urge several substitute tax proposals, one of which it urges is that the corporate rate should be fixed at 13 per cent, as is recommended by the Treasury, and without the additional rate of 1½ per cent, as in the House bill, and that the rate of 14½ per cent for consolidated returns should be abandoned.

And we urge that individual credit for dividends received be restored and allowed. That the taxpayer be allowed to carry over losses for one year. That the stock transfer tax be limited, as originally recommended, to 4 cents per share, with such rate for "short" loan purposes as Congress deems advisable, and that special manufacturers' excise taxes be abandoned.

The CHAIRMAN. Mr. Emery, in your statement do you suggest ways to raise money?

Mr. EMERY. Yes: I shall come to that just as soon as I point out to you what we suggest should be changed in the pending bill.

Senator KING. A manufacturers' sales tax, I suppose?

Mr. EMERY. Will you permit me to reach that in a moment, Senator?

Senator KING. Certainly.

Mr. EMERY. It may be I will suggest more than that.

Senator KING. All right.

Mr. EMERY. We further urge, as a matter of sound policy, first, that import duties, as amendments to the tax act, be dealt with separately; and, second, no tariff duty should be considered by Congress that has not been the subject of previous investigation and recommendation by the Tariff Commission.

In lieu of the revenue losses involved in these proposals, amounting, by the revised estimate of the Joint Committee on Internal Revenue Taxation, to a total of $488,000,000, we urge the consideration and adoption of the following:

First, that the committee reconsider and adopt a manufacturers' excise tax of 1 per cent. This is 1¼ per cent less than was proposed in the House bill. This is estimated to yield $200,000,000, an estimate that, we think, is the minimum of the yield by such an excise tax.

Second, that your committee adopt a tax on stock transfer, sales and stock-loan tax, as recommended by the Ways and Means Committee of the House, which would raise $28,000,000.

And, third, amend the Volstead Act to permit the regulation, manufacture, and sale of a wholesome, palatable cereal beverage, nonintoxicating in fact, and taxed to raise revenue which is estimated at a minimum of $270,000,000.

This would provide a total substitute revenue of $500,000,000, as against the $488,000,000 which would be affected by the changes which were previously suggested. And we venture to suggest that you might consider whether that surplus might be properly employed to equalize the lowest surtax with the highest normal income-tax rate, which is the only suggestion we make with reference to the income tax, because, I think, for the first time in the United States you have a surtax beginning below the highest normal income rate.

Now the reasons for the proposed changes in the continually increasing spread between the highest normal individual and corporate rate and which is manifestly unjust. From the beginnings of our our income-tax system, we recognized a tax on a corporation is a tax on the stockholder and undertook to maintain parity between the highest normal individual income-tax rate and the corporate rate.

It was 1 per cent, to begin with, and when those rates were raised, they raised in conjunction with each other, and then you began to spread and to provide what was argued to be a difference in the corporate rate, predicated upon the advantages and privileges of doing business in a corporate form. We venture to suggest that while that is worthy of consideration as a ground for emergency taxation, that it is unfair to make the difference between the two from 600 per cent, which is the lowest normal rate, to a spread of at least 100 per cent between the highest normal rate and the rate for corporation income taxes.

Now it is generally recognized that a tax on a corporation is a tax on the shareholder and, therefore, a differentiation between the tax on the corporation and the tax derived from a person individually or from a partnership is a tax that must be just, because often the income of the individual consists in nothing but the business of the corporation or partnership from which it is derived. So a man deriving the same income from a partnership or corporation business will reach the same rate when they reach a certain point, no difference existing there, and yet there is a difference of at least 100 per cent in the rate on the highest normal rate, and if his income is low from savings and investments of his lifetime, it represents the lowest income brackets, but he will pay 600 per cent more taxes than he would if he derived the same income from his exertions as a professional man, or individual form of business, and the individual form of business is still spread widely over the United States in our towns, and reaches an enormous source in the employment of the country and the employment of its revenues.

Senator COUZENS. Are you going to bring out whether there is any way to discern between earned and unearned income?

Mr. EMERY. Yes; I think there are certain tests, Senator. I have not touched on that here, because, representing this committee, we undertook to confine ourselves to those features which had, primarily, a bearing on the manufacturing industries. Not that the individual man would, perhaps, make any distinction in the payment of it, but we think we must have some part of a bill that we do not like, but the sacrifice must be made by every citizen for the condition in which we find ourselves.

Senator COUZENS. When you reach the higher rate, it as you point out affects the stockholders?

Mr. EMERY. Yes, sir.

Senator COUZENS. That, in itself, makes the difference between earned and unearned income, does it not?

Mr. EMERY. Yes; because the earned income is the income derived in large measure from the efforts of the private individual; a man's wages, a professional man's income, a business man's income from the standpoint of salary. It all represents income. If he invests his savings from those efforts, the dividends returned to him are, in themselves, earned income, because they represent his effort. That

distinction is not always made; but I say this, personally only, Senator, that I think one of the greatest injustices that can be done is to recognize amortization, obsolescence, and deterioration of material and machinery and give no consideration whatever to the wearing out of the human brain and human energies.

Senator COUZENS. I quite agree with that, but I am trying to point out that the tax on corporations will be a difference between the tax paid by the corporations and the tax paid by the individual who exerts his human body and brain, and that it represents a substantial difference between earned and unearned income.

Mr. EMERY. Do I understand you are considering the investment of a man, a corporate investment, and an earned income?

Senator COUZENS. Yes.

Mr. EMERY. It is not an unearned income so far as it represents the savings of the individual. He puts that in there as his savings and because it is his savings from his personal efforts, it represents earned income.

Senator COUZENS. So you do not recognize, in that statement, the difference between earned and unearned income?

Mr. EMERY. I do, but I recognize that as secondary, as distinguished from primary income, where it represents savings from an earned income of the individual.

Senator COUZENS. Have you any method by which we can depreciate the human energy and human brain, as we do in machinery?

Mr. EMERY. You have done that hitherto, Senator, by reducing by a certain amount the taxable income, and giving credit.

Senator COUZENS. But that is done only by giving credit on the taxable income.

Mr. EMERY. Yes, sir.

Senator REED. The first $5,000.

Mr. EMERY. The first $5,000, and for administrative reasons, the rest is income itself.

The CHAIRMAN. All right, proceed, Mr. Emery.

Senator REED. One more question. Mr. Emery, I do not know whether you included the question of any possibility of pyramiding the excise taxes on the primary producers. Has it occurred to you that if we make a tax on the gross sales after deducting all the purchases, it would conclusively prevent pyramiding?

Mr. EMERY. You mean the purchases of materials and supplies?

Senator REED. Yes.

Mr. EMERY. And then a tax on the balance?

Senator REED. Yes.

Mr. EMERY. Well, that has been very carefully considered by our committee in the course of its hearings.

Senator REED. What conclusion did you come to?

Mr. EMERY. Well, it reached the conclusion that it had a great many administrative difficulties that they can see; that it has the difficulty of novelty of administration. Their view was, Senator, that the administrative side of the Manufacturers' excise tax which was proposed in the House bill represented a very practical method of avoiding, to the greatest extent of any bill I have ever seen in that form, which is through a licensing system, the pyramiding of taxes, and that it represented, through the authority given to the Treasury Department, as complete and distinct a determination of level as we

have ever had and, in comparison with the Canadian system, with limited exemptions, it was a very successful system and that it would work. And we do not suggest to this committee for a moment the reconsideration of the manufacturers' tax because in most cases they can pass it on. In many cases they can not, because of the condition of business. It is much more easy to pass on a 1 per cent manufacturers' tax as a contribution to the public revenue, than to undertake to pass on 14 selective taxes of 10 per cent each, in which groups of industries are arbitrarily taken out and taxed at a high rate; because if it is taken out, anybody who objects to a sales tax has far more reason to object to them.

Senator REED. I agree with you thoroughly. But anybody who objects to a sales tax should object to the House bill, because it is a higher rate.

Mr. EMERY. It is a higher rate, but ——

Senator REED (interposing). But let me ask you this final question: It seems to me the House bill is ineffective by setting up a great amount of machinery that is unnecessary. I think that is a great objection to the House bill—a system of licensing that is needlessly complicated. But if every person or corporation who are obliged to pay a sales tax were permitted to deduct purchases of materials and supplies it would be a conclusive argument to the charge of pyramiding.

The CHAIRMAN. You would not get much tax that way.

Mr. EMERY. You would get considerable tax. We have had it advocated by men experienced in it over a long period of time.

Senator REED. You would not get 1 per cent.

Mr. EMERY. We are advocating the 1 per cent sales tax, which is a very low tax and which certainly reduces the argument, even assuming the translation of it, to a minimum. But I am satisfied our committee's thought is it would be absorbed in a large proportion. But the absorption of 1 per cent, in the present condition of business, would be easier that the other.

Senator REED. Let me ask you if in your consideration you would not exempt foodstuffs and clothing?

Mr. EMERY. We are exempting all the things that were exempted in the last bill in the House, and we have included, in addition to that, a number of other things, including wearing materials, and food, and farm fertilizers, and fungicides, and insecticides, and materials employed in the manufacture of malt syrups, and also including machinery used in bakeries. That was the final conclusion of our committee.

The CHAIRMAN. Your time has passed, Mr. Emery.

Senator COUZENS. I move that he be permitted to finish his statement.

Mr. EMERY. I will be able to finish it very quickly, Mr. Chairman.

The CHAIRMAN. Proceed.

Mr. EMERY. I had reached that point where I had given the suggestions our committee is making to your committee. It will take only a few moments to finish the rest. I was saying that from the beginnings of our income-tax system, we recognized a tax on a corporation is a tax on the stockholder and undertook to maintain parity between the highest normal individual income tax and the corporate rate.

We insist that this has been unfairly abandoned to create a continually increasing arbitrary discrimination, because of the source from which income is derived, between the corporate stockholder and the individual and partnership. The important thing, we urge, is to encourage, without unduly burdening in this emergency, business activity. Our position is that we should urge, and stimulate in every way a continued resumption of production and consumption of services and products. The care of the unemployed, important as it is, is less important than the encourgement of those conditions that will bring about employment in every form by those who are anxious to give it. This can be done by encouraging and urging the fixing of a rate that will encourage the resumption of production, consumption, and employment.

There is no good reason for treating an accepted business practice, such as the making of consolidated returns, under departmental regulations that identify and prevent abuse, as a privilege to be penalized.

Nothing could be more unfair than failure to recognize that numerous individuals and businesses have suffered and are suffering severe losses. To permit these to be carried for but a single year is the maximum sacrifice that may be fairly asked without bringing many to the verge of ruin.

To tax the assets of the shareholder in his corporation and again upon distribution is to levy an indefensible double tax, arbitrarily discriminating against him, because of the form of business from which he derives his income as against the partnership and corporation.

It should be recognized that the stock-transfer tax affects a fundamental business activity and, carried to the limits proposed, reacts to injure normal business functions and to lessen the volume of anticipated revenue.

We believe it far wiser to spread a tax over all manufacturing operations than to levy $250,000,000 upon an arbitrarily selected group. The general manufacturers' tax was debated and defeated as a general sales tax rather than a tax spread over industry. We do not urge it because we believe it can be passed on but because its absorption, in whole or part, is less likely to retard the recovery of the employing power of manufacturers than the imposition of heavy special taxes upon arbitrarily selected groups. A sober reconsideration of such a tax at less than half the rate proposed will yield abundant and reliable revenue, impose hardship on none, and relieve many of unbearable burdens, while the exemptions suggested include all the substantial necessities of life.

We urge the amendment of the Volstead Act and the regulated manufacture of a cereal beverage with a higher alcoholic content as an indispensable revenue measure. We are concerned neither with the pros or cons of prohibition. The only issue is whether we shall have beer with or without revenue. The bill before you recognizes a market for many illicit beverages, and proposes to tax the raw materials. We urge the permissible manufacture of a palatable non-intoxicant, competing with an illicit beverage, to produce revenue in a national emergency.

The cumulative effect of the rates and administrative features we protest threaten to retard that business recovery in which we are all vitally concerned. The program we submit, while involving inevi-

table hardships, will encourage industry, yield abundant and reliable revenue, and stimulate industrial operation and employment.

The CHAIRMAN. Thank you, Mr. Emery.

Mr. W. A. Dower.

Mr. DOWER. Mr. Chairman, Prof. F. R. Fairchild, professor of political economy in Yale University, has been asked to speak on behalf of the Manufacturers' Association of Connecticut, in my stead. If that is agreeable to the committee, Professor Fairchild will speak in my place.

The CHAIRMAN. Very well. Is Professor Fairchild here?

Mr. FAIRCHILD. Yes, sir.

Mr. DOWER. As a matter of qualification for Professor Fairchild, let me state that he has been the professional adviser of the local government in Porto Rico, and also the financial adviser in the Territory of Hawaii.

STATEMENT OF F. R. FAIRCHILD, PROFESSOR OF POLITICAL ECONOMY, YALE UNIVERSITY, NEW HAVEN, CONN.

Mr. FAIRCHILD. Mr. Chairman and gentlemen of the committee, my name is Fred Rogers Fairchild, professor of political economy at Yale University.

I have been asked by the Manufacturers' Association of Connecticut to appear here this morning. For a good many years I have worked with this association as general adviser on tax matters, an association which I have found agreeable, because this organization has always permitted me to express my own ideas as to general public interest, and I think you will see, when I am through, that I have had that in mind this morning, rather than any special plea for this particular group.

I might add that this association represents some 800 manufacturers in Connecticut, being virtually the entire industrial employing strength of the State.

I am, first of all, favorably impressed with the evident attitude on the part of the administration and Congress to balance the Federal Budget. And if that attitude is adhered to, I am very sure that it will meet most favorable response, not only on the part of the business manufacturing interests of the country, but on the part of serious thinkers on public problems, and it especially meets with the favor of those who are students of political economy.

The American policy, from our first establishment, has always looked in this direction. The Revolutionary public debt, which was inherited from the war, was a thing that was looked upon to be wiped out at the earliest possible moment. Surplus revenues were used for that purpose until, in 1835, the United States stood free of public debt. I think that is an achievement that has never been equaled in any government.

The Civil War debt of $3,000,000,000 which, at that time, looked like a tremendous burden, was likewise attacked in the same spirit, and in the last decade of the nineteenth century it had been reduced to one-third of that amount.

The CHAIRMAN. We want to balance the Budget to-day, Professor, if you will tell us about that.

Mr. FAIRCHILD. Perhaps it is not necessary to urge that point, and I would simply suggest, then, that we take it for granted that at the

present time the Budget is to be balanced. Further borrowing and inflation have always produced unfortunate results in the past, and there seems to be less excuse for that to-day than before.

Another gratifying thing is the evident interest in economy. The American public has been bearing a tax burden of tremendous weight and one which has been increased at a very rapid rate during the past generation. You are doubtless aware that the burden of taxation which we bear to-day is some six or seven times what it was a generation ago. And while that burden could be borne with some resignation during prosperous times, this tremendous burden of taxation during a period of depression is a staggering blow to the public as a whole, and a special blow to industry which is seeking to recover from the depression and bring about a restoration of prosperity, to which we all look with hope and desire.

Now, at the present time, an increase in taxation is inevitable. I think the public is expecting that, as the administration is. But I think the public is looking to the administration and to Congress also to see that public expenditures will be kept at the lowest possible level, and that the increased taxes will come only after the most careful scrutiny of public expenditures.

And I think we have learned, in the last two and a half years of depression, the futility of seeking to ward off depression and restore prosperity by means of lavish governmental expenditure, whether by means of public works or other expenditures. Whatever theorists may have thought of that three years ago, I think bitter experience must have taught them a lesson. So that increased taxation must be made acceptable by good faith in the reduction of the cost of Government.

The increased taxes which, I think, the public is well prepared to accept in order that the Budget may be balanced should, I think, be levied as a part of a well-rounded taxing system. The revenue system of the Government up to the time of the World War consisted almost entirely of consumption taxes, the tariff revenue and excise taxes dividing the burden about half and half.

With the World War came a swing to inheritance and income taxes, forms of direct taxation, which has thrown the center of gravity far the other way, until, during the past few years, the Government has depended upon that form of taxation, and now, in time of emergency, when it becomes necessary to find further revenue and, mind you, in a time of depression when former rates are yielding us far less than before, it will inevitably be necessary to seek now increased and new revenues in many different fields.

If I could offer criticism of the general spirit of the House bill, it would be to the effect that too much attention has been given to raising this additional needed revenue from the few who are wealthy and well to do, and too little from the mass of the people. The attempt to legislate drastic increases in the rates on the income and the estate taxes may well push those taxes beyond the point at which they can bear the burden. Remember that taxable incomes and taxable estates have been shrinking seriously in the past three years. In fact, it is the shrinking of just that tax base which is one of the reasons for the depressed and the financial crisis which the Government is to-day facing. And, remember that any amount of increases in these rates is not going to bring any tremendous increases in.

revenue, and many have serious adverse effects in evasion and the destruction of the very base upon which those rates rest. The time, it seems to me, has certainly come when we must seek revenue not only from estate taxes or inheritance taxes as the base, but to an extent from consumption taxes.

That is done in the bill before you, but not as far as it should be. I am convinced that a well-rounded revenue system must involve both the use of the income and inheritance taxes, which rest upon the few, and upon a consumption tax, which rests upon the many. I think the attempt should be to rest on a wide tax base, in which all shall contribute in some capacity and ability to pay.

And with this idea it would seem idle to attempt to apply consumption taxes, and then, at the same time, attempt to select the commodities which are consumed chiefly by the well to do. The idea of a consumption tax is to develop a wide tax base. We can not have our cake and eat it too. We can not relieve the burden of some by an inheritance tax, by levying a consumption tax, and then let this tax rest not on those who consume, but on a few. That does not get the necessary revenue.

My first general criticism, then, is that; and my second point on the House bill before you is that in the selection of articles for a consumption tax the base has not been made so broad as it might be.

I have been speaking in general terms, and if I might, I will now take up certain specific points. I would offer, very briefly, these suggestions: On the whole, I believe that the rates on the income tax have been made higher, really, than a traffic will bear, and that not much less revenue and a much better balanced tax system would come from slightly lower rates.

I would suggest that the surtax starts rather too low; and that the third normal tax seems unduly high.

The earned income credit, it seems to me, should be kept. It does not amount to much anyway, and to reduce it as now proposed is a minor irritation, reducing the advantages of an income tax, without sufficient increased revenue to justify it.

The double taxation of dividends, as proposed, I believe is not justified. Dividend income is already discriminated against in that the 12 per cent corporation tax rate is offset only by the 5 per cent normal tax rate.

Going on, in addition to the normal tax rate, it is not merely a discrimination between earned and unearned income, but is a hit and miss double taxation on a particular class of unearned income, leaving income from bonds and mortgages, and income from partnerships and individual business not so treated.

The extra 1½ per cent from incomes reporting by consolidated returns, it seems to me, not to be justified. There would seem to be every reason, from the Government's point of view, for permitting corporations to report according to their regular system of business accounts and, on the whole, I think the Government is more served than the taxpayer by eliminating the necessity of meticulous accounts of corporations subsidiary to each other.

Denial of the carrying over of loss to the next year, I think, is unfortunate.

On the other hand, the lowering of personal examptions, as proposed in the House bill, it seems to me is entirely justifiable. That is

in line with my idea of a broad tax base, to bring the revenue income down to a large number of taxpayers.

Likewise, limiting the losses to the gain is a good thing.

The admission tax is a good tax. And I would suggest that the 10-cent limit of the administration bill is better than the 45-cent limit, and the 45 cents is not so good as the 24 cents.

STATEMENT OF NORMAN THOMAS, NEW YORK CITY, REPRESENTING JOINT COMMITTEE ON UNEMPLOYMENT

Mr. THOMAS. Mr. Chairman and gentlemen, may I begin by saying that owing to lack of time I was unable to consult officially any Socialist committee, and therefore I appear as an individual, but I think I am warranted in saying that what I say expresses in general the Socialist position.

I want to emphasize in the beginning that to our mind it is impossible to talk of a budget being balanced in any true sense which leaves us without a provision in sight for the very desperate and increasingly urgent situation of the unemployed in America. Owing to constitutional limitations on their power in part and owing to the economic situation and the great volume of delinquent taxes that fall on real estate it is simply not true that local government areas are going to be able to take care of the unemployed even as they have been. In a city as rich and powerful as New York there is not at present a dollar in sight for unemployment relief. Although there are about 1,160,000 needy persons dependent upon such relief, according to our welfare workers, there will not be a dollar in sight after June first. Conditions are worse rather than better, proportionately, in many other cities. And any kind of budget, to our minds, any kind of financial legislation, ought to take into account this very desperate and urgent situation and the need of making direct provision for it.

I think that that does not require a direct provision by taxation. I think that it is entirely possible to use Government credit. But in order to use Government credit effectively and efficiently I think that the amounts provided in the House bill should be raised.

Beyond that it seems to me that if in the war we could carry a weight of debt of $26,000,000,000 for the war against poverty that is now on it would be possible to add to our $18,000,000,000 of debt another $5,000,000,000, providing the rest of the Budget is balanced, for public works and other necessary unemployment relief. I want to stress that because it seems to me that it has been too little considered in Congress, that there is no balancing of a budget with this need so largely neglected.

May I say in this connection that, of course, this particular need, which is the need of a whole class of workers, can never be met by the arbitrary payment, on any terms, of a bonus to veterans, some of whom are unemployed and some of whom are not.

May I also say in this connection that in speaking of balancing the Budget and the possibility of carrying, if necessary, further loads of credit to be repaid out of future income and inheritance taxes, I am not unmindful of the importance of economy. It seems rather unnecessary to go on, for instance, building ships when you can not house people decently in the United States of America.

Senator KING. And when there is nothing to put into the ships.

Mr. THOMAS. When there is nothing to put in.

Senator KING. In the way of cargo.

Mr. THOMAS. I was speaking of building up to any Navy treaty limits, among other things.

Now with regard to the House bill——

Senator COUZENS. Before you start on that may I ask if you see any difference between a Government debt of some $18,000,000,000 or $19,000,000,000 in these times and the $26,000,000,000 debt during times when the whole country was prosperous and making money?

Mr. THOMAS. As a Socialist I see considerable difference—some that I am a little surprised that non-Socialists would want to stress. In other words I think we have come to a point in the history of capitalism when it takes a good war to make us prosperous while the war is on and for a while afterwards. As a Socialist I think a system that has to be saved and made prosperous by war is in a bad way. But I assume that this committee does not accept that premise. And assuming that your capitalistic system still has vitality I think it ought to be revived by something less than a war so it could carry this weight. Indeed I am inclined to think that to a certain limited degree a proper program of large scale public works and housing would actually stimulate revival because it would create employment that means real social wealth in housing, in roads, and so forth.

Senator COUZENS. Have you any yardstick by which you can measure the vitality of the capitalistic system?

Mr. THOMAS. I have got 15 minutes, Senator, and I have a yardstick that I would like to apply and I hope to apply with increasing accuracy through the days and months to come. I would like to get on to this tax bill.

The CHAIRMAN. Proceed. You have only got 10 minutes more.

Mr. THOMAS. I am aware of that, and that is why I did not want to answer the Senator as fully as I would like in this place at this time.

The CHAIRMAN. Well, I hope he will not ask you any more questions.

Mr. THOMAS. I hope he will if I can shed light on the subject.

The present tax bill, that is the House bill, has the great virtue of having defeated a general sales tax which is not only unjust in the way in which it falls upon the poor, but is likely to still further check that resumption of purchasing power upon which any moderate return of prosperity depends.

Senator REED. Mr. Thomas, if it exempts rent and food and clothing, through what method does it fall upon the poor?

Mr. THOMAS. Well, statistics of how much you wanted to raise proves that it falls upon your general purchasers, and your general purchasers, even with those exemptions, do not by any means purchase goods in proportion to wealth, which is a fair principle of taxation. Moreover, may I add, it has other vicious effects. Not only are sales taxes pyramided on the way from the manufacturer to the consumer but also they are so lost and concealed in the general price structure that their vicious weight is concealed even from their victims, and as it goes on people are not aware of how much they are paying. And as time goes on and you get prosperity, then the drive will be not

to reduce your sales tax, but to reduce your income taxes, leaving a still further burden to fall on the unscientific method of sales tax rather than the more scientific and just method of income and inheritance taxes.

Senator REED. It has not been found to be pyramided in Canada, has it?

Mr. THOMAS. I think it has been. I read a rather favorable statement about it. But it is a rather unheard-of thing if there is no pyramiding of these taxes. I should expect them to be pyramided.

While I am glad that the general sales tax was defeated, may I say that I object to most of the sales taxes in the House bill, and in particular to the raise in postage rates to three cents which is not designed primarily to balance scientifically your postal deficit. That would require a different treatment of second-class mail and newspapers and magazines which carry great advertising, 99 per cent of which are altogether opposed to all doles except to newspapers and magazines in second-class rates. That is another reason for opposing this particular increase.

Senator GEORGE. And all of which want to balance the Budget.

Mr. THOMAS. They all want to balance the Budget their way. You know how it is; it is always that way. It depends on who gets the dole. I favor what you call doles to the unemployed. I think it is justice. From that point of view I am opposed in general to the sales tax.

Professor Seligman, of Columbia, in a statement that I can not readily lay my hands on, but which statement I will file, writing in the New York Times in December, 1931, said that if the British estate tax rates were applied to American inheritance you would raise some $640,000,000, which is more than the entire amount estimated to be forthcoming from your sales tax, plus the additional income estimated to be forthcoming by broadening the basis of income tax.

The widely quoted estimates that appeared in Walter Lippman's article showed that in America you would get about 1 per cent on your estate tax, whereas in England they get about 10 per cent on their estate tax. I mean in the new House bill. That in England they get 50 per cent from their income tax, and in America under the House bill we will get 37 per cent on our income tax.

I am quite aware that you could, especially in time of depression, put inheritance taxes to such a point that it would be necessary for the Government to arrange to go into business still further. As a Socialist I do not mind that in the least. It is evidently having to go into business anyhow in worse ways. But I do advocate then at least the application of the British estate tax rate; making allowance for some State inheritance taxes, it should still be done.

Mr. Henry Rosner, research secretary of the Socialist Party of New York, at my request has prepared a statement showing what would happen if the British rates were applied on incomes from $10,000 up. He figures on this statement that you would get over $2,600,000,000 in the 1931 returns based on the 1930 income. Allowing for that further depreciation which the Treasury Department expects, you would still get a return, if the British rates were applied here in the United States—and I will file a statement with the exact figures—you would still get a return of about $1,500,000,000, again allowing

for some reductions in estate and income taxes. You have in the income tax above $10,000 statistically a sufficient means of balancing your Budget and a very much more just means than any other means now applied.

(The tables presented by Mr. Thomas are here printed in the record in full, as follows:)

Estimate of 1931 revenue from personal income tax based upon 1930 statistics of income if rates comparable to British rates had been in force. Increased rates applied to incomes beginning with $10,000

Income category	Rate applied	Tax collected
	Per cent	
$10,000 to $11,000	20	$74,574,000
$11,000 to $12,000	21	68,832,000
$12,000 to $13,000	22	63,723,000
$13,000 to $14,000	24	61,374,000
$14,000 to $15,000	26	59,474,000
$15,000 to $20,000	28	239,888,000
$20,000 to $25,000	31	178,549,000
$25,000 to $30,000	35	145,622,000
$30,000 to $40,000	38	219,147,000
$40,000 to $50,000	45	171,705,000
$50,000 to $60,000	48	137,853,000
$60,000 to $70,000	50	106,004,000
$70,000 to $80,000	51	86,357,000
$80,000 to $90,000	52	69,347,000
$90,000 to $100,000	54	61,237,000
$100,000 to $150,000	57	211,749,000
$150,000 to $200,000	58	115,843,000
$200,000 to $250,000	60	72,315,000
$250,000 to $300,000	62	58,750,000
$300,000 to $400,000	63	84,757,000
$400,000 to $500,000	64	46,312,000
$500,000 and up	65	356,180,000
Total		2,680,593,000
Tax collected on low incomes under existing rates		35,000,000
Total tax collected in 1931		2,721,593,000

Comparison of present British rates and rates in new revenue bill

Effective rate of present British tax in case of married couple with 1 child—income earned			Treasury Department figure; effective Federal tax under new bill		
Income in pounds	Rate per pound		Percentage rate of tax	Income in dollars	Tax in percentage
	Shillings	Pence			
2,000	3	6½	17½		
2,500	4	0½	20		
3,000	4	5	22	10,000	1.53
4,000	5	1½	25½		
5,000	5	9	28½	15,000	3.04
6,000	6	3½	31½	20,000	4.35
7,000	6	8½	33½		
8,000	7	0½	35.2	25,000	5.62
9,000	7	5½	37.2		
10,000	7	9	38.7		
15,000	8	10	44	50,000	11.10
20,000	9	6½	47.7		
25,000	10	0½	50.2		
30,000	10	5	52	100,000	22.03
40,000	11		55		
50,000	11	4	56.6		
100,000	12	3½	61½	500,000	39.81

NOTE.—The rates vary, depending upon dependents and unearned income. There is an allowance for earned income as well as dependents. In the higher brackets, however, the effective rates will not vary much although conditions vary. This particular category, therefore, shows the trend.

Mr. THOMAS. Prof. Clair Wilcox, of Swarthmore, in a recent estimate of probable incidence of taxation under the House bill pointed out that on incomes below $3,500—that is, what you might call the mass of poor and moderately off—would fall the responsibility for providing 41 per cent of the present deficit of the United States. And that is grossly too high.

Senator KING. You mean under the House bill?

Mr. THOMAS. Under the House bill. That was the estimate of Prof. Clair Wilcox. I haven't his figures with me.

May I also point out that it seems to me that this committee should give its very urgent attention to the importance of preventing the escape of big fortunes in tax-exempt securities. I am not a lawyer, and I do not know the constitutional argument. I hope it is not unconstitutional to stop the escape of great fortunes that are in tax exempt bonds. If it is, so much the more need for revising the constitution.

May I also call attention to the fact that the House bill makes what seems to me the serious error of stopping the sharp graduating of the rate of income taxes at $100,000, if I remember correctly. Which means that if a man has an income of a million dollars a year—and I understand such still exist—or even $30,000,000 or $40,000,000 a year—and it is rumored that even such may exist—he is paying at the same rate as the man with an income of $100,000, which is frankly absurd, I think.

May I suggest that Mr. Maxwell Stewart in The Nation of March 23, 1932, printed some very interesting statistics to show the evasion of income taxes. To meet this evasion I earnestly recommend the reinsertion of the provisions of publicity that were in the 1924 law. It does make a difference, this general knowledge of the matter, and I see no unfairness in it.

I think I have kept pretty well within the time, and I want to file this statement with you.

(The excerpt from the article How to Tax the Rich, by Maxwell S. Stewart, appearing in The Nation, March 23, 1932, presented by Mr. Thomas, is here printed in the record in full, as follows:)

The amazing drop in income-tax receipts in 1931 leads one, moreover, to wonder now much of the decline is due to reduced incomes and how much is the result of a growing facility in dodging the tax. While the secrecy with which individual returns are shrouded makes it impossible for outsiders to detect specific cases of tax evasion, there are substantial reasons for suspecting the gradual growth of such evasion. An analysis of the income-tax reports for 1929 and 1930 bears out this suspicion. Despite the general depression, it is common knowledge that salaries were almost universally maintained at their former level throughout 1930, especially in the higher income groups. Yet the tax reports show a decline in wages and salaries of over 16 per cent. It is difficult to say how much represents falsified returns, but it is likely that both factors were present. A glance at the next largest source of income reveals even more conclusive evidence. Although the total payments for interest and dividends in 1930 reached the highest mark since the war—$8,208,000,000 as compared with $7,588,000,000 in 1929 and $7,073,723,000 in 1928—the returns of the individual taxpayers indicate a decline of 14.5 per cent in this category over the previous year. This point carries especial significance when we consider the fact that 70 per cent of the corporation stock in this country is owned by the 1 per cent of the population "earning" over $10,000 a year, and that 43 per cent of our national income goes to the owners of land and capital.

Further evidence of the inadequacy of the present arrangement for tax collection may be obtained by a comparison of the income-tax reports with the estimated distribution of the national income. According to a careful and apparently

accurate compilation, the gross income of the approximately 45,000 persons receiving more than $50,000 in 1928 was 9.4 per cent of the entire national income, or approximately $8,400,000,000; while the total tax paid by the 43,184 persons reporting a net income of over $50,000 was only $900,000,000. After making full allowance for the small difference in the number of persons involved, it will be seen that the tax paid by this group is less than 11 per cent of their total income, although the official tax rate for this income group in the year stated was 5 per cent plus a surtax of between 13 and 20 per cent. Even more startling results are obtained from an examination of the amount paid by the 355,000 moderately well-to-do persons whose incomes ranged between $10,000 and $50,000 during 1928. Although the total income of this group is estimated to have been approximately $8,800,000,000, the 339,000 persons reporting a net income between these figures paid only $220,000,000 in taxes—just 2.5 per cent of their gross income.

Mr. THOMAS. What I am pleading for is, first, recognition here and in every committee of Congress of the very grave fact that no Budget can be balanced that leaves out of account the desperate urgency of help for the unemployed. That what we are actually doing in America is to invite men either to starve or to riot, unless such provision is made. That this is a national emergency. That the state of our laws as well as of our economy makes it necessary to deal with it on a national scale. That we invite unrest otherwise.

In urging increased expenditures here I am also urging economy where economy can be applied without still further reducing employment. Curtailment of work, as the Federal Government and States have contemplated, actually increases the burden we have to meet and bear.

May I urge that any plan for the use of credit or otherwise for large-scale help should first go to the unemployed, and that ought to be assumed in all Budgets, and not arbitrarily under pressure to a particular class of veterans.

Allowing, then, that what we have got to do is to raise the money that the House bill calls for, may I urge that the proper method of taxation is estate and income taxation, and I submit suggested figures in that connection. I do not consider that there is an economic argument of weight against it.

What we need in a country of idle machines is increase of purchasing power and not increased capital investments. We need working capital, but large estates are not investing in working capital. They do not provide working capital, commercial banks provide that, and they provide it in proportion to demand—to need of goods. And that demand or need is in turn furthered by increasing, not reducing, purchasing power.

I think that the argument against income and inheritance taxation in this connection is political and not economic. It is the people with incomes of $10,000 and up who are most vocal in America, who control the papers, and those who write a large part of the articles are paid by the people who have incomes of over $10,000. Witness the present newspaper discussion. Also they are the ones that contribute to campaign funds—not socialist campaign funds, but other campaign funds.

Senator COUZENS. Have you dealt with the corporation tax?

Mr. THOMAS. I have not.

Senator COUZENS. Have you any views on that?

Mr. THOMAS. I think the House meets that fairly adequately, but I reserve the right to change my mind with more education. I am

particularly interested in the kind of taxes, income and inheritance taxes, of which I spoke. I do not believe that it is an unfair form of double taxation in this emergency to do as the House bill does, and to forbid for two years at least the exemption of dividends from personal incomes if the corporations have paid the tax.

Senator COUZENS. What would you say as to eliminating double taxation by making the corporation tax 20 per cent and cutting out the duplication of taxation by taxing dividends?

Mr. THOMAS. I would be perfectly willing to consider that if I had the figures to know how it would work out. I am not familiar enough with the situation off-hand to give an intelligent answer.

The CHAIRMAN. Have you anything further, Mr. Thomas?

Mr. THOMAS. That is all. I will file a statement.

The CHAIRMAN. You may do so.

(The statement presented by Mr. Thomas is here printed in the record in full, as follows:)

STATEMENT OF NORMAN THOMAS

I desire to make it plain that owing to lack of time for consultation with any official committee of the Socialist Party I am appearing as an individual socialist rather than as a spokesman of a carefully considered official position of the party. Nevertheless, I think I represent accurately the general Socialist opinion.

May I begin by stressing the fact that in no proper sense can the budget be said to be balanced by the House bill now before us. In particular, no budget is balanced which utterly ignores the demands for direct Federal relief for the unemployed. Provision for the unemployed is an absolute and urgent necessity. Present conditions in America and the constitutional and financial incapacity of a great many local government areas to meet the need invites men to riot as the only alternative to starvation, unless Congress makes adequate provision for the emergency. Such provision, especially in the form of a great program of public works, should be financed, not by immediate taxation, but by loans to be repaid out of future income and inheritance taxes.

The public debt of the United States in the emergency of international war reached $26,000,000,000. In spite of precipitant haste to reduce income taxes in the gambling era which has closed, the public debt has already been reduced to about $18,000,000,000. You who believe that capitalism is not completely played out can not in sincerity hold that the public debt can not be increased in a necessary war against the poverty of unemployment without impairing our credit structure. I should like to make it plain that this is no argument for foolish expenditures. It is no argument for building a big navy in a country where human beings are homeless. It is no argument for putting the demands of veterans, employed or unemployed, ahead of the desperate needs of unemployed workers and bankrupt farmers. It is an argument that the United States can and must face the unemployment problem without trying to evade it under any talk of balancing the budget or any fear of weakening our credit structure.

Assuming that the House bill provides the minimum necessary for proper financing I desire to protest against the way in which this burden is apportioned under the terms of the law. Some good things can be said for the law as it passed the House. The general sales tax was defeated. Not only is such a tax monstrously unfair in that it would fall with peculiar weight upon the poor. It is also of all taxes the one most likely to check any resumption of active purchasing on which any slight degree of recovery from depression depends. Not only are sales taxes pyramided on the way from the manufacturer to the consumer but also they are so lost in the general price structure that their vicious weight is concealed even from their victims. They tend to be perpetual because they are not seen and the future drive to reduce taxes will be made to apply to income taxes.

Although the House did well to defeat the general sales tax which on no account should be reinstated, it served the masses of the producers in the United States very ill when it kept in as many particular sales taxes as it did.

Prof. Clair Wilcox, of Swarthmore, has computed that under the House bill as passed 41 per cent of the total def 't must be paid by taxes on the poor, that is on incomes below $3,500. Particularly, I object to the increase in first-class postage

rates. This is not intended to balance the postal Budget but simply to raise revenue. If there is to be an increase in postal rates it ought to be on second-class matter carrying advertising that is now heavily subsidized by a generous Government in the interest of newspaper proprietors who then decry doles for the unemployed.

I also object in varying degrees to the other sales taxes and in fact to all sales taxes except those on super luxuries. If the Congress were to adopt the rates applied in British estates' taxes the United States would be able to get from the inheritance tax alone about $650,000,000, or an increase sufficient to cover the entire amount estimated as forthcoming from the proposed sales taxes and the lowering of the income taxes. My authority for this estimate is a statement by Prof. Seligman, of Columbia, in the New York Times of December 10, 1931.

Under the House bill, according to the widely quoted estimate of Walter Lippman, the new income taxes will raise about 37 per cent of our revenue, the estate tax about 1 per cent of our revenue, whereas British revenues are derived 50 per cent from income taxes and 10 per cent from estate taxes.

Mr. Henry Rosner, research secretary of the Socialist Party of New York, has drawn for me a table showing the application of the British income-tax rates to American incomes, from $10,000 up. His figures are on the 1930 incomes and they show that on this basis the total income tax collected in 1931 would have been $2,721,593,000. Assuming that the decline in incomes from 1930 to 1931 follows the prediction of the Treasury Department it is still true that the Federal Government could collect for 1932, $31,528,524,000. Even allowing for some readjustment in American rates in consideration of the fact that some States have income taxes, the Budget could still be easily balanced, with a margin to strengthen the Government position in meeting the needs of the unemployed by the application of British rates to incomes of $10,000 and over, plus the British estate tax. In this connection it is important to note that contrary to all sound policy the upper limit to which sharp income-tax graduation has been carried has fallen in the House bill to only $100,000. Which means that a man receiving an income of $1,000,000 a year and over—and remember there are thirty and forty million dollar incomes in America—pays the same surtax rate as if his income were $100,000. The graduation should be carried up sharply to the very top of reported incomes in the United States. The possibility of these great fortunes going into tax-exempt bonds should be ended.

Figures set forth in some detail by Mr. Maxwell Stewart in The Nation of March 23, 1932, show on the face of them the great evasion of effective income taxation. It would help in remedying this evasion if the publicity feature of the 1924 income tax law were reinserted.

The economic objections to high income and estate taxes which the Secretary of the Treasury and others have expressed are not sound. America with its idle machines suffers from the lack of purchasing power, not of adequate investment. Large estates are not invested in working capital but in fixed capital, of which we have too much. It is commercial banks which create and provide working capital whenever business men want it. They want it whenever there is a demand for the goods they produce. Taxes which check a demand for goods have the effect that Mr. Mills fears. There is no reason to think that the Treasury Department's present estimates of economic consequences of taxes which it dislikes are any more accurate than its previous estimates concerning surpluses in good years and deficits in bad years. It has been wrong on both counts.

The real case against high income taxes is political. People with incomes in excess of $10,000 are vocal. They control the newspapers. They contribute to the campaign funds of both old parties. Hence their astonishing success in putting over their class interest as if it were a public interest.

In these recommendations for meeting the deficit by income and inheritance taxation I do not assume that we can tax our way out of depression into prosperity. As a Socialist, I look upon income and inheritance taxation not only as a means of providing revenue but as a means to facilitate the transition of our chaotic capitalism to an intelligently planned socialism, under which alone the evils of unemployment can be solved. But on your own premises on the vitality of capitalism—premises which I do not share—you have no case against the taxation of the rich into whose laps the gambling era has poured such great wealth but who now want to escape their just responsibility in this hour of tragic need.

COMMUNICATION FROM HON. W. G. McADOO

McADOO, NEBLETT & GLAGETT,
Washington, D. C., February 3, 1932.

Hon. THOMAS J. WALSH,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Replying to your recent letter, I feel honored that you should want my views on taxation, and I am glad to submit a few suggestions without attempting to go into all phases of the problem.

I expressed the conviction some years ago that the policy of paying our war debt over a short term of years, was unjust to the present generation because it imposed upon it a larger part of the burden than it should be required to bear. I believe, of course, that the quicker the Nation gets out of debt, the better; but in determining what is the reasonable period over which the war burden should be spread, we should have regard to economic conditions and the ability of the taxpayers of this generation to carry the load. During the past 12 years a larger portion of the debt has been paid than should have been justly apportioned to the present generation. For this reason I think that we may with wisdom fund a considerable part of the Treasury deficit into long-term bonds and thereby reduce the amount of new taxation which the public will otherwise be forced to bear. This is particularly necessary in view of the exhausted condition of the country. Reports are so conflicting that I am unable to make a satisfactory estimate as to the probable Treasury deficit for the fiscal year 1932. I understand that it will amount to $2,000,000,000 or more. In any case, I should say that it would be sound and wise to fund 60 per cent of it into long-time obligations and to raise the remaining 40 per cent by taxation.

When it comes to the distribution of the new tax burden, we naturally turn first to incomes.

Having regard to the present distressing conditions, I think it would be unwise to reduce existing exemptions; and I think, too, that it would be extremely hurtful to make the new income taxes retroactive to 1931. Manifestly, the surtaxes should be increased on large incomes, especially on those above $100,000, although it should be borne in mind that the heavier this tax, the greater will be the inducement to owners of large incomes to escape it by investing in tax-exempt securities. Already there are more than $30,000,000,000 of tax-exempt bonds in the United States. The income from this vast amount of wealth is immune from all taxation except inheritance taxes. I have long been opposed to the practice of issuing tax-exempt bonds. Our Federal, State, and local Governments have carried it to extremes. The courts have upheld the validity of these exemptions and there is no escape from what has already been done. But the policy ought to be discontinued. It is unsound and uneconomic to enlarge this tax-exempt refuge and to further increase that privileged class which makes no contribution to the support of our Federal, State, and local Governments. I mention this fact not because it is altogether relevant to the subject of this letter, but to indicate that the return from excessive surtaxes on large incomes is not, for the reasons stated, a safe reliance for greatly increased revenues.

In the field of excise taxes, it is difficult to say where the burden may be placed with least distress to the masses of the people. Excise taxes are consumption taxes. If confined to luxuries, or so-called luxuries, they are not sufficiently productive, especially in hard times; nevertheless we should get all the revenue obtainable from that source. Obviously, taxes should not be laid upon the necessaries of life. Gasoline is a case in point. Gasoline has become a necessity of modern life—to the farmer who operates his tractor to cultivate his field, and his automobile to haul his produce to market; to the laboring man who must have a motor to carry him to and from his work, and to every class of our people to which the automobile is an indispensable accessory of present-day life. Already the various States have imposed large taxes on domestic gasoline, and it seems to me that it would be unwise for the Federal Government to invade this field and put new burdens on gasoline users. I think it would be better to lay a tax on imported crude and fuel oil and on imported gasoline. This would produce not only a substantial revenue, but it would tend to revive the domestic oil industry in some of the most important States of the Union, all of which are now suffering from a flood of foreign oil importations with resulting shutdowns of wells and enforced idleness of thousands of oil workers who, with their families, are suffering from actual want. Moreover, the reduction and, in many cases, the actual cessation of royalty payments to great numbers of farmers and others who own oil-bearing lands, and the reduction or suspension of oil dividends, have

contributed in no small degree to the prevailing distress in large sections of the country.

FEBRUARY 8, 1932.

It occurs to me—and I submit it merely as a suggestion—that it would be wise to impose, for the year 1932, a very heavy tax on passports with a special provision for reductions in cases where it can be shown to the satisfaction of the State Department that passports are required for necessary business purposes or to meet emergencies arising from illness or accidents. While the revenues from this source might not be great, the contribution to our domestic prosperity would be substantial if our citizens who now spend in European and other foreign countries vast sums of money on holiday tours would spend that money at home this year. It would stimulate American summer resorts and American trade in thousands of directions with marked benefit to the economic situation. I am sure that patriotic Americans are willing to cooperate by this means to help their country in this trying period.

I think, too, that a levy should be made on the initial offering of all foreign securities in the United States. The evidence developed by Senator Johnson in his recent investigation of foreign bonds sold in our markets will, doubtless, put an end to or greatly reduce such offerings for the present, but the time is opportune to establish the policy, and it should have a salutary effect. This form of taxation is not without precedent in other countries.

We all read, from time to time, statements about the vast amount of money the Government is losing because of the prohibition laws. It is said that bootleggers are making a billion and a half dollars per annum from their illicit trade; that if the Government would legalize and tax the liquor business this immense sum would flow into the coffers of the Treasury.

Without discussing the accuracy of these statements or the futility of the suggestion because of insuperable legal obstacles, or the merits or demerits of prohibition, I think that if the bootleggers are profiting each year to the extent of $1,500,000,000, or any other sum, through violation of the laws of the United States, it is the obvious duty of the Government to take the entire amount of such profits through taxation. It is a fundamental principle of law that no one shall be permitted to profit by his own crime. Bootlegging is a crime under the laws of the United States. The Government has the unquestioned power to destroy the illegal business by taxing all the profit out of it. If there is no profit, there will be no incentive to engage in the business and there will be no money to corrupt officers of the law and to instigate murder and other crimes. If, in the new revenue bill, an income tax of 100 per cent should be laid upon all profits arising from any business, occupation, or operation conducted in violation of the antinarcotic laws and the prohibition laws, we might succeed in transferring to the Federal Treasury the income derived from those sources until they are dried up. Such a tax, combined with the inquisitorial power possessed by the Bureau of Internal Revenue, is one of the most effective weapons that could be employed to destroy the bootleggers and narcotic dealers.

It may not be possible to collect 100 per cent of the illegal income, but certainly the wholesalers, the crux of the problem, can be reached; and if they should be driven out of business, the small operator or retailer will find it difficult to ply his nefarious trade. Those who argue that the Government should not tax unlawful business, fail to realize that if incomes from illicit operations are exempted from or permitted to escape taxation while incomes from lawful operations are not, the criminal is rewarded and the honest man is punished.

I have not attempted to enter upon a full discussion of the tax problem. I submit these reflections merely for what they may be worth.

With warm regards, I am, cordially yours,

W. G. McADOO.

LETTER AND BRIEF OF WAGER FISHER

Mr. ISAAC M. STEWART,
Clerk Committee on Finance, United States Senate, Washington.

MY DEAR MR. STEWART: In accordance with my letter of request and your telegram of April 3, find inclosed brief which I desired to submit to revenue hearing.

If it should be that any questions need to be answered I could conveniently make use of special railroad rates, on Thursday, April 21, to be present during middle of day.

In preparing this brief I have excluded matter not germane to the plea of the brief.

I had anticipated taking more time to its preparation, but it will suffice.

Sincerely,

WAGER FISHER.

BRIEF FOR REVENUE READJUSTMENT ON LINES MORE CONFORMABLE WITH WELFARE OF CITIZEN-PRODUCER CLASS COMPRISING TWO-THIRDS OF POPULATION

TO COMMITTEE ON FINANCE,
United States Senate:

The citizen enmeshed in this period of contracted business and employment has need to strive mightily for removal of causes of his unemployment and to preserve saleability of property values purchased for old age and dependent's protection and is therefore greatly interested in the objects to be accomplished by the proposed revenue measure, not only for his own sake, but those of his fellows who are so situated that they can not well diagnose the origin of their trouble.

Roughly dividing the 30,000,000 families of this country into two groups, one of 20,000,000 direct producers of current wealth and revenue, and the other a group of 10,000,000 families revenue supported, it becomes evident that the interest of both groups is common in preserving the salability at somewhere near the price purchased of the various forms of property acquired by them for old age and dependent's protection, whether held in individual ownership or mass savings through fiduciaries, such as banking and life insurance companies whose very existence depends on a reasonable stability and salability of values.

It has been held that this is one object of the revenue measure.

In the continued employment and prosperity of the 20,000,000 citizen producer families depends the prosperity of the 10,000,000 revenue supported, who otherwise must return to the generally lesser emoluments of life to be found in the citizen-producer class from which they came.

Aside from these two common interests, the two groups are diametrically opposed in that each addition to the revenue-supported group, or to its revenue, contracts the employment and business of the citizen-producer class and its ability to support its public servants and public works for which it receives not one penny of pay except the satisfaction of having them.

A secondary object of the revenue measure is to continue Federal establishments and public works on the extensive scale now inaugurated, otherwise no revenue measure at all would be required on only a minor one.

It is the object of this brief to show that the balancing of the Budget can be better accomplished by collecting less taxes and to the permanent benefit of all.

It is desired to point out, on behalf of the 20,000,000 citizen producer families and also on behalf of the 10,000,000 Governmental class families, that the contraction in prices and employment and in the values of capitalized goods purchased for old age and dependent's protection, can not be checked, nor prices and general employment set on the up-grade, until taxation is reduced below its present status of confiscating more than the annual economic surplus of goods. An estimated tax reduction of 75 per cent is required.

Fortunately, there is below the collapse point in taxation a wide zone of revenue ample to provide all needed conveniences, more properly supplied by collective action.

It is thus greatly to the interest of both classes of families to assist in a readjustment, both being in a precarious economic position through expansion of governmental activities to a point where one-third of our population is sustenance and sustained by the remaining two-thirds, not voluntarily but by enactment of revenue laws.

If this enforced support of one-third by two-thirds were a voluntary overhead, economic laws would quickly and readily bring about readjustment without serious shock to the business and employment structure of the country. This, however, is not the case. The position of the citizen-producer class is daily becoming more onerous and unremunerative nor can he gain relief except by appeal to his constitutional rights established by his forefathers in their wisdom as a protection to people for all time against the encroachments of a tax-supported class. It is a debatable point just how and why too much of our annual income has been diverted into governmental services, but such being the case the situation has to be faced.

The mere fact that some 50 per cent of the family budget is drafted is evidence of the unbalanced, unhealthy condition; nor is it a healthy condition when the entire "business income of the country," all rents, interest dividends, business, and corporation profits merely equal tax expenditure; nor when the entire income of 80 to 85 per cent of those not supported by taxation only equals taxes.

It has been contended that the way to remedy things is to bolster values held in banking and fiduciary institutions by loans from taxes but as the shrinking and nonsalcability of such values is primarily due to tax confiscation of the earnings of property and of the earnings of the people, it is obvious that to correct values and employment and to permit full interchange of goods and production, the prices of Government must correspond to our lower level, otherwise, business, employment, and values can not again get on the upgrade.

As the Federal Government has run up expenditures exceeding $4,000,000,000, an amount nearly equalling the safe taxation load for the entire country (that is if prosperity and values are expected to advance), it is incumbent for all sections of Government to retrench. The unfortunate stimulation of tax supported business in the past dozen years by borrowing against future taxes has had not only a bad effect on the normal citizen business of interchange, but almost precludes much tax expenditure except for interest and repayment of existing loans, which will have to be paid back with dearer dollars.

It is, therefore, too much to expect recovery in values, business, and employment, if an additional billion in taxes is levied, the shrinkage in present tax collections being the safety value of business.

The probability is that a billion extra taxes will cause further shrinkage and suffering whereas, if it is not levied and if State and local taxation is also reduced, business may not sink much lower.

Under present conditions each billion of taxes saved doubles itself in national income restoring about 2,000,000 families to employment as fast as readjustment can be made, thus caring for any tax supported families displaced. Conversely a billion extra in taxes leaves 1,000,000 families destitute of their money earned, and their buying power, and reduces the national income two billions by withdrawal of a million families from interchange in production as they are provided for by the billion taxes taken.

The point is soon reached at which taxes are less collectible no matter how ingeniously levied, nor will it be possible to balance budgets under existing conditions by attempting to collect more taxes but only by collecting less of them and permitting business and employment to recover.

Taxes if assessed unduly on any particular form of goods or industry either the price or consumption of that goods will go down until those engaged in that industry must work for but little.

Fixed capital as represented in land, mortgages, stock, bonds, and other earning capital based on land, buildings, machinery, equipment, and so forth, such as houses, offices, buildings, factories, and railroads have so depreciated in value under direct and indirect taxation (Federal, State, and local) that those dependent on them for support and employment in either their operation or construction are greatly handicapped.

Respectfully submitted and based on intimate and personal contact with the effects of taxation and with present conditions. Figures submitted are believed to be as reasonably correct as the statistics available admit of.

WAGER FISHER.

STATEMENT OF J. A. ALBRECHT, BUFFALO, N. Y.

Mr. ALBRECHT. My name is J. A. Albrecht, attorney at law, Buffalo, N. Y., partner in the firm of Albrecht, Maguire & Mills.

The CHAIRMAN. How much time do you want, Mr. Albrecht?

Mr. ALBRECHT. Fifteen minutes.

The CHAIRMAN. You may proceed.

Mr. ALBRECHT. Mr. Chairman and gentlemen of the committee, since 1918 we have had a very wide experience in preparing tax returns and in appearing before the departments at Washington in the interests of taxpayers. From this experience we desire to call to your attention what we believe will be the effect of limiting losses

on sales to the amount of gains on sales, and to the gift tax now in the revenue bill before you. I also want to present an administrative idea for the Treasury Department.

Regarding the capital gain and loss provisions of the House bill: The applicable provisions of the revenue act of 1928 should not be changed. Before the revenue act of 1921 allowed gains to be taxed at a maximum of 12½ per cent, say, from 1917 to 1922, many sales of property and securities were not made because the profit therefrom was subject to the then normal tax and to surtax rates beyond those which the ordinary net income would have brought into play. The Government lost much revenue in those days because of the absence of the 12½ per cent provision. We know because we kept fairly busy calculating what the tax would be on the owners should they sell.

Representative Hawley, Congressional Record, volume 61, page 5201, said, in discussing the capital gain and loss provision of the revenue act of 1921:

> Under the present law the surtaxes are so high that many transactions are prevented from consumation, to the detriment of the development of the community. The owner feels it will be better for him to retain his property than to sell it and pay the very high rate of tax.

Page 5289 of the same volume of the Congressional Record, Mr. Garrett, of Tennessee, said:

> Mr. GARRETT of Tennessee. What effect will this amendment have on the amount of revenue raised under this particular provision?
>
> Mr. GREEN of Iowa. The Treasury Department thinks that the ultimate result will be to bring in more revenue. The gentleman will remember that it is often stated under the provisions of the present law a man would refrain from making a sale of land or other property constituting capital assets because he would have to pay so large a proportion to the Government that he would not realise very much out of it. It would so increase his income taxes that he would not make the sale. This amendment, of course, will reduce the rates in many instances which people will pay on sales of real estate and in some instances on sales of personal property that are capital assets, but it is quite certain that it will bring about sales which otherwise would not occur. The gentlemen is aware that a large portion of property is being held which people would like to sell but will not sell on account of the amount it would add to their surtaxes, and therefore they refrain from selling and the Government gets no return. It has been the opinion of all of the experts of the Treasury—at least of Secretary Houston and Secretary Glass—I do not remember whether Mr. McAdoo expressed an opinion or not—that the ultimate working out of this would bring more revenue into the Treasury.
>
> Senator SHORTRIDGE. Who made that statement?

Mr. ALBRECHT. Mr. Green, of Iowa, who, at that time, I believe, was chairman of the Ways and Means Committee.

Senator SHORTRIDGE. Very well.

Mr. ALBRECHT. From the same page occurs this:

> Mr. STAFFORD. I understand that the rate that is proposed is for the purpose of taxing, in many instances, unearned increments of land values.
>
> Mr. GREEN of Iowa. In many instances it would apply to that. It is not entirely for that purpose.
>
> Mr. STAFFORD. In those cases that have heretofore occurred, when property has been owned by a corporation, if the increased profits arising from the sale of real estate would take the transaction into the 30 per cent or the 40 per cent class, the owner of the property would be compelled to pay a tax to the Government of 40 per cent.
>
> Mr. GREEN of Iowa. He would if he should sell it, but the experience of the Government has been that under the circumstances he would not sell.

On page 545 of the hearings before the Senate Finance Committee in 1921:

Senator McCUMBER. Suppose property was purchased in 1914 and held until 1921 and it has increased in value 100 per cent. A dollar has decreased 50 per cent. The property has increased mainly because of the inflation and the cheaper dollar rather than from any more income that you could get out of it. It is not unjust to say that a person, because he sells it for the same number of dollars that he purchased it for in the general market, has got to pay the Government some money?

Mr. KELLOGG—

who was a witness—

Mr. KELLOGG. I think you have touched the most vital point in the whole matter.

Senator McCUMBER. The fact is that he has not made a cent if those figures are correct.

Mr. KELLOGG. I believe that is one of the strongest reasons. I am very sorry that I did not think of it myself. But it is absolutely sound, as it appeals to me now.

Senator CALDER. I know of a transaction where a man bought a piece of property that cost him $140,000 in 1913. In 1920 it would have cost him $290,000. He was offered $210,000 for the property, and he was disposed to sell it but he discovered he would have to pay $30,000 of that profit in taxes to the Government, and he did not sell the property. He could not afford to sell it.

Mr. KELLOGG. That is another experience of exactly the same kind that I have given before you came in. I had given a number of similar illustrations from my own personal experience, and I believe that they can be duplicated by nearly everybody you come in contact with.

Coming in contact with a great many taxpayers, preparing many tax returns, every year, I can say truthfully that that was my experience, and what I tell you will be the experience if the House bill is passed.

The revenue act of 1921 allowed capital gains to be taxed at a maximum of 12½ per cent and allowed capital losses to be deducted from those gains, and further allowed the individual to calculate the tax with all his capital gains and losses as part of his ordinary income and to pay the tax so calculated if it happened to be lower than when calculated under the capital gain provision. The Government must have found that that provision was a tax raiser, at least we found that those who had previously refused to sell were now willing to pay the Government one-eighth of the profit. The years up to and including 1929 were years when it was almost impossible to establish losses and the Government by this provision, in effect, lured the people to sell and got the tax. The people naturally reinvested what was left of the proceeds and naturally at costs much higher than the cost of the item sold. Had they suspected that the Government intended to change its policy as the House bill would have it do, they would not have sold at the high prices of 1922 to 1929, inclusive. It is in our opinion manifestly unfair for the Government to change its policy now, so that looking back it can be said that it looks like a trap.

During those fat years people, believing the policy of the Government regarding capital gains and losses was fixed, sold at a profit (it was difficult to make anything else during that period), and the Government must have reaped a good harvest. Since 1929 these individuals have been selling to register losses and it has been practically impossible to register anything else. The House bill provides that unless you can make one or more of these at present impossible gains, you can not have the benefit of the easily and, if you own any

money, forcibly acquired losses. Not being able to cover his loss, which he got into often because he sold something else during the boom on which the Government got the tax, his misfortune is made worse by the resultant increase in his tax. This is manifestly an unfair change of policy.

Senator CONNALLY. You recognize that Congress can change the tax laws at any time?

Mr. ALBRECHT. I do, sir.

Senator CONNALLY. You are talking about it being a trap, and because it was such in 1929 it should stay that way.

Mr. ALBRECHT. I do, sir, but there is more to the Government than to raise taxes.

Senator CONNALLY. Being wrong, you would not advocate its staying that way, would you?

Mr. ALBRECHT. I can not admit that what it was made in 1929 is wrong. It produced revenue and it has gotten the people into the position from which they can not escape.

Senator CONNALLY. If that were true we could not raise any taxes at all. It would have to stay just as it is.

Mr. ALBRECHT. I did not want to get into a discussion of the tax laws, but I do believe that Congress should have something determined as its policy.

Senator CONNALLY. I think when we get through with this bill you will think it has.

Mr. ALBRECHT. I think it is wrong for the Congress to get the people into a position from which they can not escape and then sock them. I did not mean that for the record, Senator.

Senator SHORTRIDGE. Well, there may be a changed condition——

Mr. ALBRECHT. Very true, sir.

Senator SHORTRIDGE. A change which would justify a change in taxation.

Mr. ALBRECHT. I wish I could find it so in this case.

Senator SHORTRIDGE. Necessity knows no law, it is said.

Mr. ALBRECHT. I take it the power to tax is the power to regulate, and not exactly the power to destroy, and if Congress would use the power to regulate, I think we would not be in the present position.

Just as business was held back before capital gains and losses were allowed, so will business be held back if the House bill on this item is allowed to stand. We are now in a period when one can not make a capital gain. What good is it to him to sell? Under the House bill he makes only a nondeductible loss. The Government got the tax on the transaction which allowed him to buy what he now holds, and if it refused to allow him a deduction if he sells at a loss, confidence in the stability of Government policy will be lost and people will not know which way to turn for fear that any turn may prove to be a bad one when the next revenue bill is introduced. Congress should not vacillate when by doing so it creates uncertainty as that directly retards business and consequently produces less tax.

The Congress may modify the rates and the exemptions, the people expect that, but it ought not to change a policy which has put the people, by their acceptance of it, in a vulnerable position. The law as it stands is fair, has been accepted by the people, and the Government has profited by it. To change it now in principle would make the Government subject to the same criticism that is made of the

bulls and bears shearing the lambs when their clever maneuvering get the latter in the right position for the operation.

While the Government should not change the present law regarding capital gains and losses as a matter of policy, the next point is how will the law work if passed. The stock market generally, and all other markets, for the great majority, run in periods. In one period gains can be made, in another, losses can be established, but both can not be made in the same year at one's option. How, then, can one cover his losses with gains, or, in better times, his gains with losses? The Government would be in the position, if the House bill is passed, of having refused to allow losses when they were all that could be made, and of taxing gains during the period when they were the rule. The House bill increases the tax during a period of depression and decreases it during a period of prosperity, because people will not sell when losses only can be made and don't count, and likewise will not sell when gains only can be made and do count in making up the tax.

Do you see what I am getting at, Senator?

Senator CONNALLY. I think I see what you are getting at.

Mr. ALBRECHT. The Treasury has noticed how people are now "Getting away with murder" by taking losses and presents a method of stopping it. It is up to you gentlemen to say to the Treasury Department that there are some reactions that it must stand for because it accepted the benefits of a certain policy for years, and should not now, when it finds conditions reversed, say, "Heads I win, tails you lose." Policies established and continued by a Government lend more confidence to the sum total of confidence needed to make the people go forward on a contented career than will a balanced budget made up by taxes which destroy the former policies.

(There was a signal for a vote on the floor of the Senate.)

Senator REED. This is a very important vote, Mr. Albrecht.

The CHAIRMAN. It is a very important vote, and we will suspend until the members of the committee return from voting.

(Upon the Senators returning from the floor of the Senate the proceedings were resumed, as follows:)

The CHAIRMAN. You may proceed.

Mr. ALBRECHT. Before the intermission I had just said that the policies established and continued by a Government lend more confidence to the sum total of confidence needed to make the people go forward on a contented career, than will a balanced Budget made up by taxes which destroy the former policies.

The House bill would cut down the number of transactions, limiting the return from the stock transfer tax, and reducing commissions paid on sales. This latter will cause less income tax to be paid by those who otherwise would get the commissions, and it undoubtedly would reduce the number of people employed by them. The bill has already had that effect. Our clients have refused to buy or sell since the bill was introduced, and it is our opinion that the recent stock market drop is as much the fault of the House bill as it is that of bear raiders.

The present law: To leave the law as it is will result in nearly everyone selling, taking his loss, thereby getting back indirectly part of the tax he previously paid the Government, and buying something else which has a very low cost. Soon, we hope, but certainly in the

years to come, business will improve and he will be unable to sell without registering a gain. The Government then, in the long run, will not lose under the present law. The Government had its day up to 1930, since then the people have had their day, so to speak. As they enjoy that day their costs come down, and it will soon be the Government's day again. The people understand and are willing to go along on that basis, but if the Government follows the House bill and tries to take both ways, people will do as they did before the capital gain and loss policy was established—just not sell and not selling produces no tax.

Increase the income tax rates and tax what you may to increase revenues, but don't change the established policy of the Government regarding capital gains and losses. To do so will, in the language of the street, double-cross the Treasury Department as well as the public. Pardon such language, but the shortness of the time allotted seems to justify using short common expressions that say much in a small space.

Regarding the gift tax——

Senator REED. Before you leave the capital gains I want to ask you a question or two.

Mr. ALBRECHT. Yes, sir.

Senator REED. It is a fact, is it not, that the inclusion of capital gains and capital losses tends to prevent people from selling in boom times, is that not so?

Mr. ALBRECHT. Not under the present law.

Senator REED. Do you not think that many persons refrained from selling in 1929 when prices were high because of the very high tax that they would have had to pay?

Mr. ALBRECHT. I think that the 12½ per cent tax in 1929 did seem high to a lot of people.

Senator REED. And lots of people hesitated to sell on that account?

Mr. ALBRECHT. Just before 1929 the 12½ per cent provision, for some reason, did not seem to be so high. And for a long time sales were made. But in 1929 it did happen just as you say. The people got kind of scared even of the 12½ per cent tax.

Senator REED. And if they had not been scared and had not refrained from selling, the boom would not have gone to such heights, would it?

Mr. ALBRECHT. That is one way of saying it.

Senator REED. And is it not true that at times like the present, when prices are very low, and when one can register a loss by selling at these low prices, even if he buys in again subsequently, it has a tendency to depress the level of prices in periods of panic?

Mr. ALBRECHT. I would say so.

Senator REED. It showed it last December, did it not?

Mr. ALBRECHT. Yes, sir.

Senator REED. With all the tax selling that went on in December?

Mr. ALBRECHT. Yes; but he could get his loss.

Senator REED. Yes, and that is why he sold in many cases.

Mr. ALBRECHT. Because he had bought at a high price.

Senator REED. Even as you and I, I dare say.

Mr. ALBRECHT. As you and I.

Senator REED. Yes.

Mr. ALBRECHT. If he had not sold in 1927, 1928, or 1929 he would have been able to sell in December at a loss, because the thing he

had then cost him less. The point I make is that if you had something that you bought in 1913, 1914, up to 1921 or 1922 you had a low cost, you were tempted to sell, because you only had to pay the Government one-eighth, and as the years rolled along up to 1927 and 1928 you were tempted to sell and you did, and you paid the Government one-eighth, and you bought something with that money, and you necessarily had to pay a high price for it. And because you bought in that boom period you are now able to sell at a loss. But if you had kept what you had purchased prior to 1920 you would not be in any such position. So the Government had put down a trap that lured us into the position of selling and of buying something at a high price, and now we can not get out of it.

Senator REED. Yes, we have got your point all right on that.

Mr. ALBRECHT. And therefore we sell.

Senator REED. I want you to put your mind on my point. Now is it not true that the purchasing price of the dollar has greatly risen since 1929?

Mr. ALBRECHT. Yes.

Senator REED. So that a man who sells a block of stock or a house and lot to-day for a smaller number of dollars may actually score a profit in purchasing power of the price he gets? And yet that is considered a loss because for tax purposes we consider a dollar as worth the same all the time, is that not true?

Mr. ALBRECHT. That is right.

Senator REED. And it works just the other way when the purchasing power of the dollar goes down; many a man is taxed for an apparent profit when he really incurs a loss, is that not so?

Mr. ALBRECHT. You are right. Perhaps for that reason England does not tax capital gains and losses. They just tax them all together.

Senator REED. With the present low level of prices it is apparent that most sales this year are going to result in losses, is that not right?

Mr. ALBRECHT. That is right.

Senator REED. Is not this a fine time for the United States Government to adopt the policy of excluding capital gains and capital losses entirely?

Mr. ALBRECHT. It would be a wonderful thing to do that.

Senator REED. And would we not make money by doing it?

Mr. ALBRECHT. I think we would.

Senator REED. Certainly we would in 1932's results.

Mr. ALBRECHT. Either that or reduce the 12½ per cent tax down so that people would sell, because they would consider the amount they would pay the Government as no hardship.

Senator REED. Instead of getting all the way out you would get half way out.

Mr. ALBRECHT. Yes.

Senator REED. I see.

Mr. ALBRECHT. In other words, there is a certain amount of tax that people will willingly pay. And if you find that just, keep it. The policy of the Government is one thing I am most concerned in. Do not change the policy and get us in a trap and soak us.

Senator GORE. Can you mention any particular tax that you would be willing to pay?

Mr. ALBRECHT. That I would be willing to pay?

Senator GORE. Yes.

Senator REED. Mostly a beer tax.

Mr. ALBRECHT. I am just coming to that. I have got that in here, if you don't mind. If the Congress paid strict attention to the will of the people there would be no revenue tax.

Senator SHORTRIDGE. There would be no tax at all.

Mr. ALBRECHT. You can not, of course, allow the people to tell you what they want in the way of service and also to tell you how much they want to pay for it.

The CHAIRMAN. Are you through?

Mr. ALBRECHT. No, sir. Are there any more questions on the capital gain and loss provision?

Now the policy of the taxation is an important thing in my mind, Mr. Chairman. Would you allow me to go on?

The CHAIRMAN. How long do you want?

Mr. ALBRECHT. Well, I think that it is the intermission that has taken up the time rather than my statement, because I have read this over and it took me only 15 minutes.

Senator REED. It is estimated that we are losing about $3,000,000 a day in excise taxes by every day's delay on the bill. Now every speaker ought to appraise his own importance by that.

Mr. ALBRECHT. I will quit if you want me to do so.

Senator SHORTRIDGE. You can file that, you know, and it can go into the record.

The CHAIRMAN. How much more time do you want?

Mr. ALBRECHT. I have got a couple of pages to read.

The CHAIRMAN. We have got to get on with these hearings.

Senator HARRISON. It is not fair to the other witnesses who are limited to 15 minutes to give 45 minutes to a witness.

Mr. ALBRECHT. I came down here on Saturday because I thought I would be heard on Saturday, and I have here seen other witnesses take an awful lot more time than I thought they were going to have, and while I stood out there kind of grumbling because I was being put back, I was in hopes that you would not cut me short, but would allow me to finish my statement.

Senator HARRISON. Not over 15 minutes. We will never get through with this bill if we do not expedite these hearings.

The CHAIRMAN. We are not going to get through with it unless you do cut it short.

Mr. ALBRECHT. Do you want me to stop now?

The CHAIRMAN. If you have anything else put it in the record at this point.

Mr. ALBRECHT. No, the point, Mr. Chairman, is that if you people want to ask me any questions I will be very glad to answer them. But if I do not make my statement there will not be the opportunity for answering questions that may come up in reference to it. In that way I will not have an opportunity to make my point clearly.

Senator SHORTRIDGE. You state it clearly in your brief, do you not?

Mr. ALBRECHT. I hope so.

Senator SHORTRIDGE. Yes. Submit the balance of your brief and it will be printed in the record.

Mr. ALBRECHT. I will submit it then, if you wish me to do so.

Senator SHORTRIDGE. Presumably the Senators will read it.

Mr. ALBRECHT. Very well, then, I will do so, because I have got something here that is, I think, very, very important.

(The balance of Mr. Albrecht's statement is here printed in the record in full, as follows:)

Regarding the gift tax: I understand it is and I believe it should be the aim of the Government to cause wealth to be disseminated. To this end in part it passed the income tax and the estate tax laws. The gift tax is a damper on the progress along that line that these laws have made, as it will tend to make people hold their wealth. It therefore puts the Government in the position of blowing hot and cold.

The gift tax is like keeping the missionary in a pen that he may grow fat, so you can have a better meal out of him at your desired time.

The good that comes to this Nation from a distribution of wealth before death far exceeds the good that will come from the tax raised, even granted that the gift tax only slows up the distribution.

Estate taxes should be arranged to encourage and stimulate the distribution of wealth, and to get a tax from those who die without having taken the stimulant or encouragement. The Government should consider it a greater gain to the country to have caused such a distribution of wealth that little or no tax is received. In other words, it should not count on the revenue as part of its certain and necessary income. Let such income be produced from other sources and count on the funds from the estate tax only after they have been received.

The proposed gift tax is one which will make it necessary for each giver to keep a record of his gifts from now till he dies. In this more than active country, with its roving people, romances, fires, accidents, thefts, and so forth, this will be an unsatisfactory and expensive feature.

I therefore hope you will not pass the gift tax.

Suggestion for change in administrative policy: In order to cut down the growing disrespect for law and order I wish you would incorporate a provision in the new revenue bill declaring it to be the duty of the Treasury Department to assist taxpayers to arrive at the lowest tax they should pay under the law and that it shall not take advantage of a taxpayer's mistakes.

Go into any collector's office, follow many of the field men, and you will find that they believe it is their duty to get all the tax they can get. I wish I had time to tell you about them, but next to the Volstead Act I think the way the small taxpayers are treated in most of the collectors' offices, to which he must go at the loss of a day's pay, is the second best reason for disrespect for law. Perhaps I should have put justice of the peace courts second.

For instance, why should a man and wife not be allowed to change from a joint return once filed to individual returns, or vice versa, if by doing so they can pay less tax. Has our Government got to be so hard and cold and autocratic that it says, "You made your bed, now lie in it," and then the next day, so to speak, the Government through the Treasury Department, the Board of Tax Appeals, or the courts, declares that such and such are no longer taxable. The people must abide by their choice, but the Government need not. I therefore ask you to include such a declaration of duty on the Treasury Department that the taxpayer will learn from experience with it that it can be trusted to help him produce the lowest legal tax, and that it will not take advantage of his mistakes.

Suggested sources for additional revenue: It probably is in place for me to suggest from what other source I would derive a similar amount of tax. Of course if no other source could be found, I'd rather have the country go without the income involved in my suggestions than to change the policy and in my opinion the character of our Government.

"It has been my work to tell people how to avoid taxes, so I am not very well posted on what should be taxed. I find, however, that income taxes are easiest to pay and people complain less to me about it than they do about bad Government ideas, such as the change in the capital gain and loss and gift tax provisions. The gasoline tax does not seem to be a burden, and I feel that taxes on admissions and drinks are also willingly paid.

Raising the charge for handling second-class mail matter would be a move that all but the selfish would applaud.

A tax on checks cashed to be paid by the maker and collected for the Government by either the receiving bank or the one on which drawn, without the necessity of using stamps, has always appealed to me. For instance and without knowing the amount of revenue involved, suppose the bank on which a check is drawn charged 1 cent for each check up to $100, and 1 cent for each additional

$100 or fraction thereof, to the maker's account and paid the amount monthly to the Treasury Department. It would save the cost and time of making and using stamps, prevent fraud as is the case with stamps, make it easy for the revenue department to check the correctness of the bank's reports, and put no more work on the bank than the proposed sales and admission taxes put on other taxpayers.

I would also suggest a 1 per cent or even a half per cent sales tax. We should get started on a revenue producer, the base of which is more sure or less subject to disappearance than is that of the income tax. I think the rate proposed by the House bill killed the sales tax it proposed.

Closely allied with this in my opinion is the Volstead Act and the eighteenth amendment. When they are repealed you will surely be able to pass a sales tax that will produce much revenue. I hear it from nearly every one that the depression will be over the day after the eighteenth amendment is repealed. They all know a heavy tax would be placed on the sale and yet seem willing to have it so. The kind of a sales tax the people want to pay is bound up in that amendment.

Respectfully,

JOSEPH A. ALBRECHT.

Mr. ALBRECHT. That is all.

LETTER FROM IRA A. CAMPBELL

AMERICAN STEAMSHIP OWNERS ASSOCIATION,
New York, April 21, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee,
United States Senate, Washington, D. C.

DEAR SIR: The American Steamship Owners Association respectfully recommends an amendment to H. R. 10236 by adding to section 23 thereof, as paragraph (o'), the following provision:

(o') Mail contract compensation applied to new ship construction and reconditioning: In case of a steamship corporation receiving compensation for the carrying of mails under a contract with the United States of America, such part of said mail compensation as the corporation shall use, or shall set aside in reserve for use, in constructing new vessels or reconditioning existing vessels employed or to be employed in the performance of such mail contract, or shall use in repaying to the United States of America moneys borrowed from the construction loan fund, under the provisions of the merchant marine act, 1928, and acts amendatory thereof, which shall have been or shall be used for such aforesaid construction or reconditioning, upon the corporation giving a bond, with sureties and in such sum as the commissioner may require, conditioned upon the payment of the tax computed without the benefit of this subsection in respect of any amounts allowed as a deduction under this subsection and not actually expended for the aforesaid purposes.

The purpose of the proposed amendment is to permit the deduction of mail compensation paid by the Government from the net income of a steamship corporation carrying ocean mails under a contract with the Government which provides for or contemplates the construction of new vessels or the reconditioning of existing vessels for use in the performance of such mail contract.

Mail contracts have been made by the Postmaster General under the merchant marine act, 1928, which provides for ocean mail service on 56 different essential trade routes in the foreign trade of the United States. Many of these contracts require the construction in American shipyards of new vessels; other provide for the modernizing, through reconditioning, of existing vessels, most of which were acquired from the Shipping Board when the trade routes were purchased by the private interests holding the mail contracts. The cost of constructing vessels in American shipyards greatly exceeds that in foreign yards and a large part of the mail compensation is paid to meet such excess costs, thus helping to place the American shipowners on a parity with the foreign owner.

A large part of the costs of constructing new vessels and reconditioning existing vessels for the aforesaid purposes has been loaned by the Government to shipowners through the construction-loan fund provided by the merchant marine act, 1928. These loans are generally repayable over a period of 15 to 20 years, whereas the mail compensation covers a period of 10 years. Thus, the shipowners are required to set up during the 10 years reserves from mail compensation in amounts necessary to meet the future maturities on the construction loans.

If mail compensation applicable to such new construction and reconditioning is to be included in net income then in those years when profits from operation are earned, the effect of taking away part thereof by taxation will be the same as if the mail compensation was partially reduced.

The theory of the mail compensation provided for in the merchant marine act, 1928, is to place the American shipowner on a parity with its foreign competitor by granting mail compensation sufficient to meet the differentials in costs of construction and operation. The mail compensation has been determined by the Government on that basis. Inclusion of the full amount thereof in net income defeats the purpose of the act.

For this reason we respectfully request that your committee give consideration to the proposed amendment and incorporate it in the pending bill.

Very truly yours,

IRA A. CAMPBELL, *General Counsel.*

STATEMENT OF R. H. WHITEHEAD, NEW HAVEN, CONN.

The CHAIRMAN. I think, Mr. Whitehead, you have testified before.

Mr. WHITEHEAD. That is correct.

The CHAIRMAN. You are here at the request of the Senator from Connecticut.

Senator BARKLEY. I think you were given permission to submit a supplemental brief.

The CHAIRMAN. Is that the brief you are ready to submit?

Mr. WHITEHEAD. I am ready to submit it now. It would take me only a few minutes to read it, and I would like to.

Senator BARKLEY. Is that down in black and white?

Mr. WHITEHEAD. Yes.

Senator BARKLEY. Then we will read it.

The CHAIRMAN. It would be better to file it. There is no need of reading it, because we have to go over every one of these items.

Senator HARRISON. The only trouble, Mr. Chairman, is that a lot of witnesses' names have been put down, and some other witnesses come in now to file an additional brief.

Mr. WHITEHEAD. This brief is not in behalf of my industry; it is an attempt to solve the problem and get around the technicality in the administration of the present law; and the committee asked me if I knew how to stop it, and I have a method to stop it.

Senator SHORTRIDGE. We will give it careful consideration.

The CHAIRMAN. Every one will read it.

(Mr. Whitehead thereupon submitted the following brief:)

BRIEF OF R. H. WHITEHEAD

COMMITTEE ON FINANCE,
United States Senate.

GENTLEMEN: It is with the desire to be helpful in what the business men of the country believe to be something close to a national emergency that I offer for your consideration a plan of taxation which it is believed will avoid much of the criticism directed to tax bill H. R. 10236, now pending before your committee.

Any tax program now offered for the consideration of the country must frankly recognize and as frankly avoid certain industrial, social, and political repercussions.

1. It must not intensify the cutthroat competition which has been born of industrial desperation.

2. It must not be susceptible to the pyramiding, so costly and so despised by the customer.

3. It must not require the payment of any greater sum than that which actually goes to the Government.

4. It must not be levied on a few commodities or a few industries for the benefit of the many.

5. It must be so small and of necessity so broad in scope that neither its application nor cessation will disturb industrial and mercantile progress.

6. It must not fail to recognize the present necessity for exempting vital necessities like food and clothing.

7. It must not be merely a tax that is a revenue producing measure but a part of a constructive effort at the solution of domestic industrial difficulties.

8. It is obvious that it must produce immediate revenue. It must fit the existing methods of doing business.

9. It must be simple in operation, cheaply collected, and its operation be free from the obligation to tie up any large amounts of sorely needed working capital in business and industry.

10. That it should not subject many special commodities to double taxation.

It is therefore suggested that a tax be levied along the following lines:

ECONOMIC RECONSTRUCTION TAX

On and after the 1st day of May, 1932, there shall be levied, collected, and paid an excise tax of 1 per cent on each transaction whereby the title of any goods, wares, merchandise, or material passes from any vendor to any vendee who is within the territorial limits of the United States, to be based on the price paid or the value given therefor.

That the amount of such tax shall be plainly set forth on each and every invoice, bill, or other written evidence of each transaction and shall be paid by the vendee to the vendor and accounted for by him to the Government. Where written evidence of each transaction is impracticable, the tax may be levied on the difference between the gross receipts and gross purchases of commodities subject to tax under this law.

That there shall be deducted from any tax owing by a vendor hereunder such amount as the said vendor has either paid or become liable for as a vendor to the Government on any goods, wares, merchandise, or material taxable under this act, provided that no vendor shall deduct any tax paid by him in his capacity of an ultimate consumer.

The operation of this suggested tax is exemplified by the following:

Material to manufacturer valued $2, tax 1 per cent, or 2 cents. Billed to manufacturer at $2.02. Pays to the Government 2 cents.

Manufacturer fabricates and sells to wholesaler at $6 plus 1 per cent tax, or 6 cents, and bills at $6 plus 6 cents tax. Manufacturer receives from wholesaler $6.06 and deducts 2 cents tax heretofore paid to material supplier and pays to the Government 4 cent tax.

Wholesaler sells to retailer at $8 plus 1 cent tax, or 8 cents. Receives tax from retailer 8 cents, deducts 6 cents which he paid to the manufacturer, and remits to the Government 2 cents tax.

Retailer sells to the consumer at $10 plus 1 per cent or 10 cents tax, and receives from the consumer $10.10. He deducts 8 cents paid by him to the wholesaler and remits balance of 2 cents to the Government.

Of the foregoing 10-cent tax, on the retailer pays 2 cents, the wholesaler pays 2 cents, and the manufacturer pays 4 cents tax, and the material supplier pays 2 cents.

The foregoing may be described as a tax on "value added by manufacture" or in the case of commodities sold in the condition in which purchased a tax on "gross mercantile profits." It cares also for the numerous instances where merchants add to the value of their products by manufacturer without specially classifying them as such.

Based on the estimated normal domestic turnover of $70,000,000,000 per year, this tax will produce revenue to the amount of $700,000,000 less whatever exemptions the committee in its wisdom may see fit to make. This exemption may include certain essential commodities; or tax liability on sales by small retailers doing less than a certain amount of gross business annually, say $20,000. If such small retailers were exempted they would, however, still pay taxes on wholesaler's or manufacturer's invoices.

It takes up the slack in the income tax due to the present inability of industry to make any net taxable income, as this tax produces revenue whether or not any profit is made on operations.

It was suggested by your committee that some plan be presented which would render impossible the evasions of the pending tax bill to which your committee's attention was called. This has been found practically impossible under the provisions of the pending bill. Largely due to the fact that such terms as "fair

value," "manufacturer," etc., are so elastic as to be inapplicable to the very conditions of present day business. There is no selectivity in the levy proposed herewith, therefore no dispute as to who pays, and no loopholes for attempted evasions. Tax can not be avoided by setting up sales subsidiaries, as it is levied on each transaction. Amount of available revenue is enhanced when tax is first levied as it will cover all commodities not in possession of the ultimate consumer, and it will not slow down or speed up business to beat the tax at any point of distribution either when levied or discontinued.

STATEMENT OF HARRISON E. FRYBERGER, NEW YORK CITY

Mr. FRYBERGER. I will state to the chairman of the committee that I have lived in New York for the last year—a little more than a year. Before that my home was in Minnesota. For 25 years I have made a special study of stock ownership. I should be as familiar with that question as anyone.

Mr. CHAIRMAN. Mr. Fryberger, go right on with your statement.

Mr. FRYBERGER. You mean without anything about my personal history?

Senator HARRISON. You are taking up time with your personal history.

The CHAIRMAN. No; do not take up time with that.

Mr. FRYBERGER. I just thought you should know why I am here. It is stated that I am here for myself. That is not correct. I have been making a study of economics for the last several years, and published a book which has received more favorable comment, I think, than any other book in the last 50 years.

The CHAIRMAN. All right. We are glad to hear from you.

Mr. FRYBERGER. I am in favor of a higher inheritance tax; of a broader income tax; of a high protective tariff; of compensatory laws distributing the benefits. I am in favor of a bond issue that will carry us along until the inheritance tax can be put into full force and effect.

I am opposed to a transfer tax on stocks. I am opposed to a cut in the wages of the Federal employees, and I do not think that the Members of the Senate or the House should be making any cuts.

I think that the inheritance tax, when it can be brought into effect, should furnish something like a billion dollars a year, according to my best estimate. And a broader income tax——

Senator REED. What do you mean by a broader income tax? Do you mean higher?

Mr. FRYBERGER. No; I mean that it should include, I think, those not in the higher brackets; that they should pay a little more. That is what I mean. And I think the House is right, though, in the higher brackets of income tax.

But it seems to me that the tax on stocks does not serve any good purpose. And one reason is that in my judgment short selling is not the real objection to the present wrongs going on in the stock market. I was asked by the president of an association to look into the question, and when I looked into the question I came to the conclusion that short selling was not the real objection, although there is objection enough.

Now, speaking briefly, I am profoundly of the opinion that the concentration of wealth in the hands of a few is the real cause of our present depression, and that there are seven wrongs, more particularly, which are producing it.

First, the unlimited inheritance of unearned wealth.
Second, the chain store.
Third, stock speculation.
Fourth, corporate defects and abuses.
Fifth, the excesses practiced by banks, including especially the speculation by them in securities.
Sixth, the exploitation of individuals and sections by means of tariffs, freight rates, and so forth.
Seventh, unjust taxation.

As to the tariff, I think we must have a high tariff. I fully agree with the present law, but I think there should be compensatory laws passed distributing the benefits.

Now as to the first remedy, the inheritance tax. I am convinced that Congress should have full jurisdiction of this subject. I am convinced that a law should be passed amending the Federal Constitution, giving Congress full power over the subject of inheritance tax throughout America. At the present time the State legislatures are passing inheritance tax laws and Congress is passing inheritance tax laws, and no one to-day knows what power or right they have to pass such laws. Now that should all be cleared up by an amendment to the Federal Constitution.

Likewise a law should be passed giving Congress full and complete authority to tax out of existence the chain store, or to abolish it altogether.

Third, about stock speculation, I think we should have two remedies applied. Especially, one, we should have a department of corporations in Washington. That department should have full and complete authority to require the corporations organized in 48 States to show that they are entitled to sell their stock on the stock exchange. And then when an investor buys a stock on the stock exchange he has some reason for knowing he is getting value received. I think that would be more beneficial to the investors of American than any other law which could be passed.

One of the great causes of this depression is the fact that millions of investors have been mulcted out of everything they had, and to-day they are out of employment, and the country no longer has buying power, which, after all, is always the casue of every depression.

I think a law should be passed prohibiting the banks and trust companies from carrying on any business such as buying and selling securities or speculating in securities.

Now I think that that covers briefly my statement, and I would be glad to submit a detailed statement to the committee.

Senator HARRISON. You wanted to put that in the record, did you not?

Mr. FRYBERGER. I will furnish a complete statement to the committee.

Senator HARRISON. What is the name of your book?

Mr. FRYBERGER. The Abolition of Poverty.

Senator HARRISON. I want to read it.

Mr. FRYBERGER. I will be glad to send every member of the committee a copy of the book.

(The statement presented by Mr. Fryberger is here printed in the record in full, as follows:)

STATEMENT OF HARRISON E. FRYBERGER, OF NEW YORK CITY

A LEGISLATIVE TAX PROGRAM IN THE PRESENT CRISIS

A legislative tax program, in order to meet the present crisis, should be dictated by the causes of the present depression.

In view of the fact that America has more wealth of every kind than she knows what to do with, it is obvious that the present depression is caused by the extreme concentration of our wealth in the hands of the few and that poverty is to-day the portion of the masses.

More particularly, this depression—every depression—is caused by the fact that the masses of the people have no money with which to buy. In the first phase, the masses are the chief sufferers. In the second phase, the rich suffer, as their holdings become valueless.

Fifty years ago, Henry George criticized the economic system of England on the ground that a very small percentage of the population owned almost the entire wealth of the country. He praised the economic system of France because a very great proportion of the population (I think, 80 per cent) owned the wealth of that country. To-day England is on the verge of bankruptcy, while France has hardly felt the depression.

In this country, it is claimed that 4 per cent of the population control to-day even more than 80 per cent of the wealth. Our problem is to secure with the least possible delay the equitable distribution of our enormous wealth and income.

As intimated by my introductory remarks, in my judgment, in order to frame an intelligent program for tax legislation, it is essential to outline the particular prime causes of the present depression. In my opinion, they are seven in number, and are as follows:

(1) The unlimited inheritance of unearned wealth.
(2) The chain store.
(3) Criminal stock speculation.
(4) The frauds arising out of corporate defects and abuses.
(5) The excesses practiced by banks, including especially the speculation by them in securities.
(6) Exploitation of individuals and sections by means of tariffs, freight rates, etc.
(7) Unjust taxation.

I propose to discuss these evils in the order stated.

1. *The unlimited inheritance of unearned wealth.*—The basic principle of capitalism is found in the proverb, "As the service is, so the reward." Our present system of unlimited inheritance violates this basic principle. This is one of the chief causes of the depression.

In my opinion, there should be a sweeping amendment of the United States Constitution, which shall give Congress complete jurisdiction over the general subject of the laws of descent and distribution of property throughout the Nation.

Congress already has qualified jurisdiction. In any event, such an amendment is necessary in order clearly to authorize Congress to exercise complete jurisdiction as between the States and Federal Government and in order to exercise complete authority over the entire subject.

Even now an heir at law has no vested right to any portion of the estate of a decedent.

The rights of a widow and of adult heirs who have contributed to the accumulation of a fortune should be protected.

United States Government statistics of 1929 disclose such a law would yield about $1,500,000,000 annually. In my opinion no heir at law should be permitted to inherit more than $100,000 from a single estate. An estate should be exempt from taxation up to half a million dollars. Everything above should revert to the people to whom it belongs.

An inheritance tax of this nature is to-day an economic necessity. We are compelled to raise a huge sum of money for the support of our Government. Who shall bear the tax? The farmers are already overburdened. Likewise the wage earner. A sales tax would place too great a burden upon the masses of the people. We should not levy an excessive income tax on account of the injurious effect upon business.

How should the revenue be divided? In the first instance, the State of which the decedent was a resident at the time of his death would have jurisdiction over his property, but the National Government has always maintained that its rights are paramount. It would be a natural solution to make an equitable division of the revenue as between the State of the residence of the decedent and the United States Government.

Such a law would release billions of dollars now tied up in foolish trusts.

The decisions of the United States Supreme Court are unanimous in holding that Congress has the constitutional and paramount right to pass an inheritance tax law.

The revenue derived should be expended in enterprises which should give employment to those who are now unemployed.

Such an inheritance tax would not only permit our Budget to be balanced, but it would create a continuing reservoir for the stabilization of trade. It would serve as a fountain of youth, perpetually refreshing, revivifying our economic system and tending strongly to make it immortal.

2. *The chain store.*—This evil is converting America into a nation of clerks and economic serfs. It is causing unemployment. It is aiding in the concentration of wealth. If left alone, the chain store, in and of itself, would likely bring communism to America inside of 10 years.

The power of the States to secure relief is inadequate.

The United States Constitution should be amended by granting Congress full jurisdiction either to curb or entirely destroy this evil. It is possible that Congress even now has such power and jurisdiction, but such jurisdiction is subject to grave doubt.

If Congress were given full jurisdiction, it could destroy the chain store either by the taxing power or by direct prohibition.

3. *Criminal stock speculation.*—This evil was the prime cause of the 1929 stock crash and one of the chief causes of the present depression.

One way in which criminal stock speculation caused our present depression is that a great number of our investors were mulcted out of all their property, to be either thrown out of employment or in any event deprived of their purchasing power.

The primary objection to our present stock speculation is not simply short selling, but a criminal conspiracy to defraud.

A few months ago, if I may be pardoned for a personal reference, I was invited to meet certain business men at luncheon, and they requested me to accept the presidency of a national association, the object of which was to destroy short selling. After reflection, I declined, on the ground that this was not the real objection to the present stock speculation.

The reason for complaint lies in the fact that pools may be formed, and certain persons may conspire together to raise and lower the price of stocks in some corporation, irrespective of its actual value, and by fictitious and fraudulent means.

In 1929 we were told that the bankers and business leaders were far wiser than Congress, but they have not proved themselves to be so. Our leaders have had their way for the past 12 years and to-day the country is on the brink of disaster.

I do not agree with many persons who believe that the stock exchanges should be entirely abolished. The American people are possessed of a flair for speculation, if not gambling, and the world would be a drab place in which to live if the element of speculation were entirely removed. Stock exchanges should be regulated, not abolished. Federal laws should be passed providing rules of stock regulation.

All stock exchanges should be incorporated under Federal and very likely under State laws in all States where a stock exchange does business. A citizen should be given the right to bring suit in the State of his own residence.

Laws should be passed prohibiting the conspiracies to defraud mentioned above and providing for adequate remedies for a violation of such laws.

The rights of honest investors would be protected by laws providing for the national supervision of corporations whose stock is permitted to be listed for sale on the stock exchange. An investor has the right to know that when he buys securities on the stock exchange he is getting value received.

4. *The frauds arising out of corporate defects and abuses.*—Corporate charters are now issued by 48 States. In many cases these corporations do business in one State while they may be organized thousands of miles away in some foreign State.

One of the great causes of the 1929 stock crash was that indiscriminate mergers took place and stocks were unnecessarily split up, not for any good purpose, but simply to aid majority stockholders and officers to gain profit for themselves.

The chaotic conditions of our incorporation laws constituted one of the chief causes of the Coolidge bull market and of the 1929 stock crash. We now learn that the Coolidge bull market was in some respects essentially fraudulent.

In order to remedy the chaotic condition of our incorporation laws there should be established a national department of corporations.

Mergers and split ups should be permitted only upon a clear showing of merit and necessity.

The National Government should not permit any corporation to sell its stock on a stock exchange unless the corporation should be able to make a proper showing as to its financial condition and as to its management, including a requisite that its officers and agents were not receiving more than a reasonable compensation.

A simplified procedure should be adopted as to remedies of minority stockholders.

5. *The excesses practiced by banks, including especially the speculation by them in securities.*—This evil was one of the causes of the 1929 stock crash and of the present depression. Both banks and trust companies which are engaged in buying and selling securities or in stock speculation are disqualified from acting disinterestedly as banks or as fiduciaries. It is immaterial whether such speculation is carried on by the bank or the trust company or some subsidiary dominated by it.

Laws should be passed limiting banks and trust companies to the carrying on of their legitimate business.

6. *Exploitation of individuals and sections by tariffs, freight rates, etc.*—Our present tariffs and freight rates are apparently an economic necessity and unavoidable. But it is possible to ameliorate the present hard conditions as between the citizens of our own country.

Compensatory laws should be passed securing an equitable distribution of the benefits arising from this necessitous exploitation.

7. *Unjust taxation.*—At the present time many of our rich citizens are not paying their share of the taxes. The present apportionment of taxes is highly unjust as between various citizens and classes of citizens in this Nation.

Laws should be passed providing for much higher income taxes in the upper brackets. There should be a complete revamping and definition of the boundaries of taxes as between the States and the Federal Government.

8. There is still another remedy not yet mentioned, which is essential to tide over our economic system until such time as the remedies mentioned under the first seven sections can operate.

I refer to a bond issue in such an amount as may be necessary, whether it requires $1,000,000,000 or $2,000,000,000 for the first year, in order to give employment to all our citizens who are now unemployed.

It is possible, but not probable, that the United States Constitution might be amended and the proposed remedies put into effect within a year from date. It is more likely to be two years or even three years before the Constitution could be amended and the amendments put into full force and effect.

But this is essentially a minor consideration. The remedies provided for should be complete and adequate in a comparatively short space of time.

In my judgment the compensation of a large proportion of Federal employees should not be reduced, except in extreme cases. It seems to me it would be far more reasonable to secure the same result by a bond issue. The latter, in its essence, is one method of securing the equitable distribution of wealth, and it should be adopted.

The same reasoning applies to the adoption of nuisance taxes and other undesirable forms of taxation.

The seven evils above mentioned are national; they do not include international wrongs.

The remedies proposed herein are, in my opinion, the minimum to be adopted, and if these are not adopted, we are bound to have a recurrence of present conditions.

I am opposed to the transfer tax on securities. It would only penalize business.

Instead of salary cuts, also, I think that the income tax should be broadened in the intermediate brackets.

STATEMENT OF DAVID A. GASKILL, CLEVELAND, OHIO, CHAIRMAN THE COMMITTEE ON FEDERAL TAXATION OF THE CLEVELAND CHAMBER OF COMMERCE

The CHAIRMAN. Give your name to the reporter.

Mr. GASKILL. The name is David A. Gaskill. Appearing as chairman of the committee on Federal taxation of the Cleveland Chamber of Commerce. Representing the Cleveland Chamber.

Senator GEORGE. What section are you referring to, first?

Mr. GASKILL. Various sections, sir. The statement is rather general.

It is my purpose to state first the position which the Cleveland Chamber of Commerce has taken with reference to what might be termed the general provisions and features of the revenue bill. The reasons for and against the plan of taxation, which I shall suggest, have been discussed rather fully before your committee, and I shall not take your time to give the reasons and the wherefores and the whys for and against it. I do want to state, however, in summary fashion the measures which we approve and disapprove.

First, we believe that the balancing of the Budget of the Federal Government is imperative and necessary.

Second, we believe that sufficient revenue can not be obtained from present sources, with the result that we must turn to excise tax, which presents, as we see it, two alternatives: General manufacturers' excise tax or special excise tax. As between the two we prefer the general manufacturers' excise tax.

With reference to the income tax rates, we take the position that the surtax rate as passed by the House is high and probably taxes income beyond the point of diminishing returns.

We approve the normal tax rates as passed by the House and consider the broadening of the base of the tax affected by the decrease of the exemption as a permanently desirable feature of our income tax law.

We regard the rate applicable to capital gains as too high. We believe the rates should be not more than 6 per cent, and that the holding period should be reduced to one year.

We consider the rates adopted by the House for the Federal estate tax as un-American and confiscatory, and should be materially reduced.

We consider the tax on stock transfers, the increase to 2¼ per cent, as excessive, and believe that it will detrimentally affect our security markets, with the resultant effect upon our credit and general business conditions.

The CHAIRMAN. Have you suggestions to offer to collect the necessary amounts from other sources?

Mr. GASKILL. Yes. It is our suggestion that to whatever extent the recommendations made would reduce income that that be made up by excise taxes, preferably by a general manufacturers' excise tax. But if that can not be adopted, then by the addition of further special excise taxes.

Senator CONNALLY. What on?

Mr. GASKILL. Generally speaking, if we must have special excise taxes we would prefer a wide range of selection or articles at a low rate. In other words, approximate as nearly as possible the general manufactuers' excise tax.

Senator CONNALLY. You really prefer the general sales tax rather than the general manufacturers' tax, do you not?

Mr. GASKILL. Not a sales tax upon retail, if that is what you mean.

Senator CONNALLY. Oh, no; I mean a tax on everything that is sold?

Mr. GASKILL. With as few exemptions as possible, except, of course, bare necessities of life.

Senator REED. You would exempt food and clothing and rent, would you?

Mr. GASKILL. Yes, sir.

Senator GORE. You do not mean a turnover tax?

Mr. GASKILL. No. The turnover tax, as I understand it, is a tax upon retail turnover.

Senator GORE. It is on all sales between the manufacturer and the consumer.

Mr. GASKILL. Perhaps that might be theoretically preferable, but it seems to be difficult or impossible to collect.

Senator HARRISON. Does your organization believe that the 1924 tax on automobiles and trucks and accessories should be applied?

Mr. GASKILL. We have not given particular consideration to that. Our general statement on that—and I must confine myself necessarily to what our chamber has approved—is that a general tax upon all articles is preferable to a special tax. When you come to the matter of special taxes, as to how far you should go and what you should tax, we have not made a determination as to just the particular articles that should be selected. It amounts, as I see it, to a determination of a tax with which we are not favorably impressed.

Senator REED. What would you think of an excise tax on producers of everything except food and clothing at, say, 2 per cent?

Mr. GASKILL. We do not know enough about the fiscal measures of the Government—that is, we do not know just what the rates should be, if that is what you mean. We believe that the rate should be as low as possible and applied as broadly as possible. But just what that rate is required to bring in the needed amount of revenue to balance the Budget—with reference to that we make no recommendation.

The CHAIRMAN. In other words, you believe in a general manufacturers' tax?

Mr. GASKILL. We do, sir.

Senator CONNALLY. How low would you make the estate tax? You are against these high rates.

Mr. GASKILL. Well, we recognize that there must be an increase in all of our regular tax rates.

Senator CONNALLY. You say you are against these high rates of the estate taxes.

Mr. GASKILL. We think that the rates as adopted by the House are too high. We think that they are confiscatory and un-American.

Senator CONNALLY. How low would you put them?

Mr. GASKILL. Well, we have not made a definite recommendation as to how low it would be. We think that a reasonable increase in the rates would be justified.

Senator CONNALLY. How about income taxes and surtaxes?

Mr. GASKILL. The same is true there. We believe that the rate as fixed in the House bill is too high. We think that it will cause people to invest in tax-free securities.

Senator CONNALLY. Well, how is the Government going to sell its tax-free bonds if somebody does not invest in them?

Mr. GASKILL. If the credit of the Government of the United States is kept on a high plane we anticipate that there would be no difficulty in selling the required bonds of the United States.

Senator CONNALLY. But you say you are against anybody buying tax-exempt securities.

Mr. GASKILL. I do not know as I am against any one buying tax-exempt securities. That is up to the particular investors. I merely point out that if you take away the expected reward of those who are able to invest in business enterprise—and that it what we think that business needs—you thereby chase them into tax-free securities, if I make myself clear.

Senator GORE. What we need is a recommendation of something that will enable us to get revenue and votes both. That is the trouble.

Senator CONNALLY. About all that you really have materially considered then is that you are in favor of the manufacturers' tax?

Mr. GASKILL. Yes. With the reductions in the rates that I suggested and in the surtaxes and the individual income tax, and we also think that the one-half of 1 per cent additional increase adopted by the House——

Senator WATSON. Did you ever have anybody in your chamber of commerce sit down and find out how much revenue would be paid on the rates you are proposing here?

Mr. GASKILL. No sir. We are not proposing any definite rates.

Senator WATSON. You are against certain things then, and not particularly for something else? Just in the most general way?

Mr. GASKILL. I beg your pardon, sir. We recommend that the needed revenue be secured from a broadening of the general excise tax.

Senator BINGHAM. In other words, you are in favor of the manufacturers' excise tax as it was proposed by the Ways and Means Committee, as proposed in the House?

Mr. GASKILL. Yes.

Senator WATSON. Suppose that was out of the question, then what?

Mr. GASKILL. If that was out of the question we would broaden the range of excise taxes on particular products and services at a low rate.

We have in addition a number of miscellaneous and general provisions upon which we would like to comment. First, section 141 (c). The rate applicable to corporations filing consolidated returns. It is our position that the 1½ per cent additional increase proposed against such corporations is unfair and unwise and should not be adopted. The reasons were just stated by the man who preceded me.

On gains and losses. Provision has been made in the bill to allow losses only to the extent of the gains. Our position on that is that so long as we are having an income tax which is based upon the taxation of gains that losses should be allowed and that these losses under our system of taxation may be genuine losses and should be allowed even though they do exceed the gains.

Senator GORE. You realize there are some fictitious losses, do you not?

Mr. GASKILL. Yes, sir.

Senator GORE. Have you devised any plan to prevent that?

Mr. GASKILL. Our committee has not gone on record, but my personal preference would be to do away with all gains and losses whatsoever.

Senator GORE. In the long run, finally, yes.

Mr. GASKILL. Take them out of the revenue act, except in the case of a dealer or one who made that his professional business.

Senator GORE. Have you considered the two plans, one to eliminate them entirely, and the other the graduated plan?

Mr. GASKILL. Our committee has not considered the plan to eliminate the losses entirely. We understand that that is more or less fixed in the revenue bill. I am merely stating my personal preference on that.

Senator GORE. I thought that was your suggestion.

Senator REED. Have you ever seen the study of the graduated plan made by the Joint Committee on Internal Revenue Taxation?

Mr. GASKILL. Yes, I did. I read that a year or so ago.

Senator REED. What is your opinion on that?

Mr. GASKILL. You refer to the taxation of capital gains upon a percentage determined by reference to the period in which they were held? Is that it?

Senator REED. Yes.

Mr. GASKILL. It seemed like a good idea, to me, sir, but in application it seemed to tax at too high a rate the securities that had been held for one year or less. Or two years or slightly more than that. In other words, I thought that it did not get away from the main objection to the capital gains tax, namely, that in times of inflation it discourages people from selling and further produces an inflation, and in times of depression it accelerates the depression by giving them a higher rate than is perhaps necessary.

Senator REED. It would loosen up the market to a certain extent, however, in securities and properties that have been held, say, 15 years?

Mr. GASKILL. It would, yes.

Senator REED. And would get us away from this March, 1913, provision.

Mr. GASKILL. That is a very admirable feature. If somebody could combine that admirable feature in some way with the feature that I consider objectionable I would be in favor of it.

Senator GORE. Do you think it is better than the present plan?

Mr. GASKILL. No; I do not. Not on the whole, because of the objectionable feature to which I referred.

Senator REED. What would you say to extending the one month period for wash sales to, say, a year?

Mr. GASKILL. I have not given that any particular thought. But it seems to me that the 30-day period is long enough. You take a real gamble then in being able to buy it back at as low a price as you sold it at in 30 days. There may be quite a variation during that period. The fact that you may take losses, and I believe should take losses, if you are taxed on the gains, creates a doubtful revenue producer, and on the whole I believe presents a situation that is unfortunate.

Senator REED. Well, it is practically certain that if we include 1930 and 1931 the United States Government has lost more in revenue since 1913 by trying to take these items into consideration. It has lost more revenue than it has gained.

Mr. GASKILL. I have heard statements to that effect. I have no means of knowing whether they are correct.

Senator REED. Nobody knows what the 1931 returns show, because they have not been analyzed.

Mr. GASKILL. No. I have heard it said that the Treasury took the position that the capital gains tax as a whole had been a revenue

producer for us. I do not know whether that statement is correct, or whether the Treasury made that statement.

Senator REED. It depends on where you stop your figure. If you stop at 1929 it shows a profit, but if you take the next two years into consideration we have lost more money than we have gained.

Mr. GASKILL. I would like to point out that our recommendation which we have made calling for a rate of 6 per cent will in effect represent the collection of additional taxes from taxpayers, provided losses are allowed in excess of gains. The reason for this is that we anticipate that losses will exceed gains.

The CHAIRMAN. Your time is up.

Mr. GASKILL. I had a number of provisions, sir.

The CHAIRMAN. Have you got them so they could be put into the record at this point?

Mr. GASKILL. I have a report to our committee which includes them.

The CHAIRMAN. Put that into the record at this point.

(The report of the committee on Federal taxation, Cleveland Chamber of Commerce, presented by Mr. Gaskill, is here printed in the record in full, as follows:)

REPORT OF THE COMMITTEE ON FEDERAL TAXATION, CLEVELAND CHAMBER OF COMMERCE

The Federal taxation committee of the Cleveland Chamber of Commerce herewith submits its report with respect to the revenue bill of 1931 (H. R. 10236), which recently passed the House of Representatives and is now before the Senate.

The House of Representatives had completed consideration of the new Revenue bill. The House voted down the manufacturers' excise tax recommended by the Ways and Means Committee and submitted therefor various special excise taxes. The corporation income tax rate and the normal and surtax rates of the income tax were increased beyond the rates originally recommended by the Ways and Means Committee and the normal tax was made to apply to dividends from corporations. The House voted increases in the Federal estate tax and gift tax beyond the rates recommended by the Ways and Means Committee.

I. EXCISE TAXES—GENERAL STATEMENT

The committee has previously approved in principle the enactment of a manufacturers excise tax as an expedient of balancing the Budget and maintaining the credit of the Federal Government. The credit of the Federal Government is regarded as the keystone of the general credit situation.

It appears that special excise taxes present the only alternative to the general manufacturers' excise tax. As between these two alternatives, a general manufacturers' excise tax at a low rate is preferred. The imposition of high excise taxes on particular services and industries is unfair to the businesses selected, and will have the effect of materially reducing and curtailing the business of such industries. Such impediments will reach to other fields and will probably tend to increase unemployment. The seriousness of a general manufacturers' excise tax is recognized, but it is considered that it will be better absorbed and will not place so serious a strain upon our economic structure.

II. INCOME TAX PROVISIONS

1. *Surtax rates.*—In the bill submitted to the House of Representatives by the Ways and Means Committee, the surtax rates ranged from 1 per cent upon incomes in excess of $10,000 to 40 per cent upon incomes in excess of $100,000. In the bill as passed by the House, the surtax rates range from 1 per cent upon incomes in excess of $6,000 to 40 per cent on incomes over $100,000. Your committee is of the opinion that a reasonable increase in the surtax rates is justified as a matter of fiscal expediency, but believes that the surtax rates recommended by the Ways and Means Committee and the rates adopted by the House are excessive and are probably so high as to tax income beyond the

point of diminishing returns, with the result that the tax will be avoided through the purchase of tax-free securities by wealthy taxpayers. Those who are able will be less inclined to invest money in business ventures. Our securities markets are a part of our credit and financial structure and the reduction of the yield from taxable securities will tend further to deflate security values. The committee accordingly takes the view that the surtax rates are excessive.

2. *Normal tax rates.*—Under the present law the normal tax brackets are 1½ per cent, 3 per cent, and 5 per cent. The Ways and Means Committee recommended that these rates be increased to 2 per cent, 4 per cent, and 6 per cent. On the floor of the House the rates were changed to 2 per cent, 4 per cent, and 7 per cent. The committee has no objection to the increases voted by the House. The personal exemptions have been reduced from $1,500 to $1,000 in the case of a single person and from $3,500 to $2,500 in the case of a married person. Your committee approves this reduction in the exemption and in fact considers that the broadening of the base of the tax thus effected is a permanently desirable change in our income tax law.

3. *Application of both normal and surtaxes to dividends paid by corporations.*—The amendment adopted by the House to subject dividends to both normal and surtaxes in cases where the dividend is received from a corporation having a gross income in excess of $25,000 for the preceding taxable year will be highly unfair in its operation. The income distributed has already been taxed to the corporation. The previous exemption from the normal tax was an endeavor to relieve this income, at least in part, from double taxation. The change proposed will result in unfair discrimination against a business man who has incorporated his business. He will be called upon to pay two taxes, whereas his competitors who are doing business as unincorporated firms will pay but one tax. This burden has been added when the burden upon incorporated businesses is already disproportionately high. The policy of exempting dividends from the normal tax is deeply imbedded in our revenue system and Congress should not now depart from this plan. The committee also points out that this provision will be difficult to administer and will tend to confuse taxpayers who may have no knowledge of the statutory "gross income" of corporation in which they hold stock.

4. *Corporation income tax rates.*—(*a*) *General corporation rate.*—The Committee on Ways and Means of the House voted to increase the corporation tax rate from 12 per cent to 13 per cent. The House voted a further increase of one-half of 1 per cent to make the rate 13½ per cent. The committee considers that the tax burden placed upon incorporated businesses is already disproportionately heavy and burdensome and feels that additional revenue should be raised from other sources. The committee has been disposed to accept a reasonable increase in the corporation rate not because the increase was justified, but simply as an indication that the business interests were willing to share in the increased tax burden even though the increase was not considered as justified. The committee regards the additional increase of one-half of 1 per cent as entirely unjustified and belives that the 1 per cent increase recommended by the Ways and Means Committee should be the limit.

(*b*) *Rate applicable to corporations filing consolidated returns.*—An amendment was adopted in the House to increase the corporation rate applicable to corporations filing consolidated returns to 15 per cent. In view of the strict limitations placed upon the filing of consolidated returns in recent revenue acts (a direct control of 95 per cent being required) the election to file consolidated returns is limited to cases where the consolidated group is an economic unit. In many cases, the income of the group can not be properly determined unless a consolidated return is filed. Accordingly, there seems to be no occasion for placing a penalty upon corporations which elect to file a consolidated return. The committee accordingly makes the position that this increase is not justified.

5. *Gains and losses.*—The revenue bill as passed by the House and as recommended by the Ways and Means Committee contains provisions which deny the deduction of losses from sales, except to the extent of gains. For example, a taxpayer having gains of $10,000 and losses of $15,000, with excess of losses in the amount of $5,000, would report no gain and would not be permitted to take the excess loss. On the other hand a taxpayer who had $10,000 in gains and no losses would be required to pay a tax upon the gains. This represents a departure from the system that has been in effect for a number of years. Taxpayers have paid tax upon their gains and have been allowed deductions for their losses. The present measure is regarded as unfair to taxpayers who have already paid to the Government a substantial share of the gains which they realize during more

prosperous times. Under our system of taxation a loss from the sale of securities is considered as a genuine loss and if we are to have an income tax it should be a tax upon the net income. The committee accordingly takes the position that this provision is unfair and should be defeated, and considers that any additional revenue anticipated from this provision should be made up from other taxes.

6. *Capital gains—Rate.*—The 12½ per cent limitation upon capital gains (i. e., property held more than two years), has been continued in the present revenue bill. The committee has previously taken the position that this rate is too high and should not be more than 6 per cent. The committee adheres to this position.

7. *Capital gains—Holding period.*—Under the present law capital gains is defined as including property held by the taxpayer more than two years. The committee has previously taken the position that this period should be shortened to one year. The committee adheres to this position.

8. *Contributions by corporations.*—Charitable and other contributions, under the present and preceding revenue acts have been allowed only in the case of individuals. Your committee considers that contributions made by corporations, particularly to community funds and charitable foundations, should be allowable as deductions under the statute. It is pointed out that gifts to charities at the present time would be encouraged by the adoption of the measure suggested.

9. *Bad debts.*—Under the present and prior revenue laws bad debts are allowed only when ascertained to be worthless in whole or in part and charged off within the taxable year. In the discretion of the commissioner a reasonable addition to a reserve for bad debts may be made. Many taxpayers do not keep books and have not adopted the system of providing for bad debts through a reserve. When no reserve is maintained there seems to be no good reason for the requirement that debts must be both ascertained to be worthless and charged off within the taxable year. It is often difficult to determine just when a debt becomes wholly or partially worthless and the taxpayer is required to guess, at his peril, as to the exact time of worthlessness, and must also make a charge off of the debt. The committee believes that, except in cases where a reserve is maintained or where a partial charge off is permissibly made, the debt should be allowed as a deduction when it becomes worthless, without regard to the mechanical function employed by the taxpayer in making the charge off. The change suggested is in harmony with the rule applicable to losses from worthless securities, and the committee considers that the same rule should apply in both cases.

10. *Adjusted-cost basis.*—In section 113 of the proposed bill, provision is made to the effect that the cost basis of assets sold shall be reduced by depreciation, etc., previously sustained "to the extent allowed, but not less than the amount allowable." The present law provides that the cost basis shall be reduced "by the amount allowable." The change is intended to prevent a taxpayer from obtaining the benefits of excessive annual depreciation and then obtaining a smaller deduction from the cost basis in determining the cost of the property when sold. The provision drafted by the House appears to overlook the possibility that a taxpayer may deduct inadequate depreciation annually and the Treasury Department may then reduce the cost basis by depreciation sustained, but not claimed by or allowed to the taxpayer. This injustice has actually occurred under the present law in cases decided by the Treasury Department and by the Board of Tax Appeals. In such cases the operation of the statute of limitation does not permit a related increase of the depreciation allowable in prior year returns. The committee recommends that this provision be changed so as to require reduction of the cost basis by the amount allowed by the Treasury Department for years in which a tax was paid, and that depreciation for other years be deducted "to the extent allowable."

11. *Net losses.*—(Sec. 117.) The Ways and Means Committee of the House recommended that net losses be carried over one year only. Under the previous law it has been permissible to carry over losses for two years. The House amended this provision further so as to deny the carrying over of any net losses in determining the net income for the calendar years 1932 and 1933, the provision being that net losses for 1933 and subsequent years may be carried over for one year. The committee considers that the adoption of the practice permitting the carry-over of net losses represented a fair and equitable feature of our income tax law. As an emergency measure the committee is not adverse to the proposal made by the Ways and Means Committee to permit the carry-over for a period of one year only, but the committee regards the further restrictions made in the House amendment as unfair and disapproves the change.

III. FEDERAL ESTATE TAX

1. *Rates.*—The committee considers that the high rates proposed for the estate tax in the new revenue bill are un-American and amount to a virtual confiscation of property by the Government. The proposed rates seek to penalize thrift and success. The tendency of such an imposition is to destroy and not merely to tax property values. Financial support of the Federal Government should come from the country's income or turnover and not from its capital. It has been the consistent position of the Cleveland Chamber of Commerce that this field of taxation should be left to the States as soon as fiscal considerations of the Federal Government permit. The increased Federal estate tax as an emergency measure will not produce any material amount of revenue during the Government's fiscal year ended June 30, 1933. The tax is not payable until one year after the date of death and the tax can not apply to estates where the decedent dies prior to the enactment of the law.

2. *Section 810—Revaluation of depreciated estates—Retroactive*—(*a*) *General plan of provision.*—The bill introduced from the Ways and Means Committee made provision for revaluation of depreciated estates and provided, in effect, that the tax should be reduced retroactively in accordance with the percentage of depreciation sustained during the period of administration. The committee gives its hearty approval to this plan of relief. No one foresaw the serious deflation of property values that has come about, and estates have been called upon in effect to pay a tax much higher than was ever contemplated by Congress. The depreciation in values has been so serious that some estates will be largely, if not entirely, confiscated. The committee considers that as a matter of fairness relief should be given to estates so affected.

(*b*) *Limitation of reduction to 40 per cent voted by the House.*—The House adopted a limitation to the effect that in no case shall the tax, as recomputed under section 810, be less than 60 per cent of the tax as computed under the revenue act of 1928. The committee sees no logic in this limitation and recommends that it be eliminated.

(*c*) *Relief where closing agreements signed.*—It is stated in the report of the Ways and Means Committee that this amendment is not available to estates where the liability thereof has been finally fixed by compromise agreement or one made pursuant to the provisions of section 606 of the revenue act of 1928. Section 606 of the revenue act of 1928 makes provision for the execution of final closing agreements between the Treasury Department and the taxpayer as to the amount of tax liability. In many cases the Treasury Department solicited the execution of these agreements, and taxpayers signed them as a matter of course. According to the report of the Ways and Means Committee this provision would deny relief in cases where such an agreement was signed, but would permit relief in cases where the taxpayer did not happen to sign such an agreement. It is submitted that there is no logical distinction between the two cases. An estate may be just as seriously affected by the depreciation in security values where such an agreement was signed. It is considered that the extension of relief to such case would not constitute a precedent for setting aside such closing agreements. The purpose of this section is to grant relief from an unusual and unforseen hardship, and there appears to be no occasion for denying relief merely because of the procedural manner in which the case was handled by the department.

IV. TAX ON STOCK AND BOND TRANSFERS

(Secs. 723–724). The Committee on Ways and Means recommended that the stamp tax on stock transfers be increased from two cents to four cents per share. In the bill as passed by the House, the tax is one-fourth of one per cent of the sale price, with a minimum of four cents per share. The House added a tax on the transfer of bonds in the amount of one-eighth of one per cent of the selling price, with a minimum of two cents per $100 of face value or fraction thereof. The Committee considers that the increases made in the House are unwise, from an economic point of view. It is considered that the increased tax will tend either to deflate further or to retard recovery of securities markets, with a resulting adverse effect upon credit and business conditions. The Committee accordingly considers that the further increases in this tax voted by the House are unwise and should be defeated.

V. BOARD OF TAX APPEALS

Jurisdiction of refund claims.—Under the present law the board may take jurisdiction only after a deficiency in tax has been asserted by the Treasury

Department, but once jurisdiction is established by reason of the deficiency, the board may determine an overassessment in favor of the taxpayer. In cases where the department does not assert a deficiency the taxpayer must file suit in Federal court to obtain a refund denied by the Treasury Department. The new revenue bill does not propose any changes in this respect. The committee sees no reason why the Board of Tax Appeals should not be given jurisdiction in refund cases. The operation of the board is considered as successful. The machinery for redetermination of taxes by the board is already provided and the committee recommends that the board be given jurisdiction to determine refunds of taxes regardless of whether a deficiency has been previously asserted by the Commissioner of Internal Revenue.

VI. GENERAL EFFECT OF THE NEW REVENUE BILL AS PASSED BY THE HOUSE OF REPRESENTATIVES

The general plan and purpose of the revenue bill as passed by the House is regarded as unfortunate. The committee is in entire sympathy with measures intended to balance the Federal Budget, but the plan evolved is considered as running counter to our accepted theories of economics. The general purpose of the bill is to collect as much tax as possible from corporations and wealthy individuals. Your committee is not unsympathetic with a general plan of taxation which bases the tax upon the ability to pay and the committee considers that some increase in all income tax rates is justifiable as an emergency measure. Your committee considers, however, that some of the principles embodied in the new bill which are apparently intended to redistribute wealth will carry certain repercussions that will be immeasurably harmful to our economic structure. The committee subscribes to the belief that under our present system the nation advanced to an extent not paralleled in history and believes that this system in the future will be preferable to any that has yet been devised. The present Secretary of the Treasury recently stated to the Senate Finance Committee that "you can't help wondering if the reason for England's present prostration is not that she embarked upon a course of redistribution of wealth."

The committee considers that the cumulative effect of the various so-called "soak the rich" endeavors expressed in the new revenue bill will be a positive detriment to business and if enacted will tend to retard business recovery. As stated by Secretary Mills, the new law will tend "to discourage the normal flow of capital into industry and commerce at the time when business men are hesitant and industry stagnant. To put men to work, capital must go to work. But capital must see some chance of profit to compensate for the risk. Business men will not borrow and banks will not lend unless the enterprise offers some fair prospect of return."

The committee subscribes to this view. Our citizens, from the working man to the executive, are in business. The fortunes of our whole body of citizens go hand in hand with the fortunes of business. The committee concludes that the plan of taxation evolved by the House bill will do positive harm to our economic structure. The committee expresses the hope that a sane and sensible plan will be evolved in the Senate which will eliminate depressive and confiscatory rates and which will raise the revenue needed to balance the Budget by a wider range of low rate excise taxes, and preferably by a general manufacturers excise tax, which the committee previously approved.

Respectfully submitted.

THE COMMITTEE ON FEDERAL TAXATION,
By DAVID A. GASKILL, *Chairman.*

LETTER FROM SILAS H. STRAWN, PRESIDENT CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

WASHINGTON, *April 21, 1932.*

THE COMMITTEE ON FINANCE,
United States Senate.

GENTLEMEN: Every member of your committee, I am sure, is conscious that it is of the utmost importance that a great revenue measure such as you are preparing should not lay any handicap that can in any way be avoided upon the country's economic activities, our mines, our industry, our agriculture, our channels of distribution, and the fields of service activity that go with them. Upon the development of our economic activities we must depend both for employment of our unemployed and for revenues to maintain our National Govern-

ment. There is no substitute. Your task is to raise from business activities an amount in revenues which proportionately exceeds even the tax levies of war times, and do it with the least possible obstruction to the development in economic activity that is so essential.

As you will understand, this is the point of view from which the chamber of commerce, its committee on Federal taxation, its committee on Federal expenditures, and its membership have approached the subject. I have already had the honor to transmit to you the report of our committee on Federal taxation and the vote of the organizations in our membership upon the committee's recommendations. I now wish to place before you some applications of the policies of our organization, determined as outlined above, to the measure which you are considering. In doing this I have the benefits of the results of recent studies of our committee on Federal taxation. In everything I have to say, I wish to be understood as being wholly sympathetic in my recognition of the problems which confront you.

BALANCING THE BUDGET

The efforts of your committee and of Congress to balance the Budget, the organizations in our membership almost unanimously support. Of 1,173 organizations casting ballots in the referendum to which I have alluded, all but 6 took the position that the Budget should be balanced. Beyond any possibility of doubt, this is the position of business men's organizations in all parts of the country.

REDUCTION IN EXPENDITURES

The first step in balancing the Budget, the business men's organizations in our membership with almost equal unanimity declared, should be reduction in Federal expenditures. But nine organizations out of the 1,173 that recorded themselves upon this question were of opinion there is any alternative.

Assuredly, when there has been a large increase in expenditures for the ordinary operations of the Federal Government, including postal deficit, but excluding all items in the nature of fixed charges and the increase between the actual figure of 1924 and the Budget before Congress for the fiscal year of 1933 stands at more than $400,000,000 there is not only opportunity but pressing need for a large reduction before the amount is reached to be met through increased taxation.

Another consideration which you will have before you is the general tax burden, now so increased by existing conditions that there can be no justification for the maintenance of [illegible] that are not demonstrated to be essential. Present [illegible] are suggested by total expenditures made by all [illegible] as well as Federal. In 1913 they were app[illegible] $96, and in 1929 were $107; the latest [illegible] r 19[illegible] much evidence that the current fig[illegible], if a[illegible]minution

INCREASED FE[illegible] TAXATIO[illegible]

The further a[illegible] there has been elimination [illegible] ons in our membership vo[illegible] by [illegible] taxation. Of the 1,157 [illegible] estion all but 54 voted fo[illegible] axation. [illegible] st with [illegible]tion that the taxation w[illegible] chiefly u[illegible]

This position [illegible] would be levied for reven[illegible] objects a[illegible] quitable distribution would [illegible] venue bill [illegible] enacted embodies taxes and [illegible] that depart [illegible] he use o[illegible]ing power to raise revenue it wi[illegible] detrimental [illegible] upon th[illegible] business situation, and thus be in[illegible] the t[illegible]on [illegible]nd the country, of aiding recovery in [illegible] I am confident I am expressing the delibe[illegible] ut our organizations in submitting the following [illegible]

The corporation income tax.—[illegible] of this tax has since the war been kept at a rate so much above the rate on individual income that there has been a penalty upon the characteristic form of business enterprise, the rate

would by the House bill be raised from 12 to 13½ per cent. Such a rate means severer taxation than was imposed upon corporations in war times and for war purposes. The increase exceeds the moderate increase which most of our members voted in our referendum to support, although no less than 294 organizations stated their conviction that this rate should not rise above 12 per cent. Thirteen per cent should be considered the maximum, and should be used only in the event of necessity.

Consolidated returns.—Upon corporations filing consolidated returns the House bill would impose a rate of 15 per cent. In view of the strict limitations now placed on the filing of returns of this character, a consolidated return can at present be used only if the corporations involved form a true economic unit. The earnings of corporations forming such a group can not be determined by the earnings or loss of one, but only by the aggregate for the group. For the guidance of officers, for the information of stockholders, for statements to be used for credit information, and for every other normal business purpose, earnings must be consolidated. The provision in the House bill would impose a penalty upon a normal and desirable business procedure. The penalty could be avoided only by additional administrative costs in allocating intercompany charges and credits. Every consideration seems to support elimination of this provision.

Corporate dividends.—The provision of the House bill which would subject dividends in the hands of stockholders to the normal income tax should have no place in a revenue bill. Its effect would be disproportionately heavy upon small stockholders and upon stockholders in small corporations, and would be far-reaching in creating an unsound financial structure in corporations, since an undue preponderance of bonds would have to be used. The Corporate financial structures which would be encouraged would lead to widespread disaster in times of business depression. The immediate effect would be substantial depreciation in the value of all outstanding stocks.

Corporate earnings before 1913.—Under existing law earnings and surplus accrued before March 1, 1913, may be distributed, under certain conditions, without being taxable to recipients. Organizations in our membership representing natural resource industries, many of which for continuance of operations have to hold reserves, as of timber and minerals, for long periods, are concerned by reason of this provision. It is submitted that the law in this respect should not be changed in an emergency revenue bill which, I scarcely need reiterate, should be limited to the purpose of raising revenue.

Life insurance corporations.—A system of taxation for life-insurance companies has been evolved that produces the same revenue to the Federal Government in bad years and in good years, and regardless of the current results of operations. The House bill, however, produces changes in the taxes for such companies which could scarcely have been intended. By increasing the rate from 12 to 13½ per cent, and by reducing the deduction in reserves from 4 to 3½ per cent, the House bill, according to figures which have now been collected, increases the tax on legal reserve life-insurance companies by approximately 112 per cent. The nature of life insurance and the public importance of the stability of life-insurance companies in times of depression would seem to make such a discriminatory increase contrary to public policy.

Individual income tax—The base.—The House bill broadens the base of the individual income tax. A large proportion of our organization members have recorded their support of this feature of the House bill.

Individual income tax—Normal rate.—The House bill increases the normal rate of individual tax. The organizations in our membership, with only 89 filing dissenting ballots, have supported an increase in the normal rate.

Individual income tax—Surtax rates.—By the same very large vote our organization members have supported a moderate increase in the surtax rates applicable to individual incomes. In this vote our members undoubtedly were contemplating rates that would increase revenues. The present maximum rate of 20 per cent would be raised by the House bill to 40 per cent. A large part of our membership would undoubtedly question this rate, on the ground that instead of producing revenue it will tend to produce a shift of capital otherwise available for the maintenance and development of business activities into tax-free securities. Of such securities there is an abundant supply. Imposition of the normal tax upon dividends, as proposed by the House bill, will accelerate the transfer of capital from business enterprise into tax-free securities. The appropriate increase in surtax rates will probably be dependent upon the other rates upon which you decide, but I can not urge too strongly that care be taken to avoid placing upon

our overburdened securities markets an additional load of securities sold in transferring funds into tax-free securities.

Transfer of stocks and bonds.—There are other provisions in the House bill which will seriously affect the resources at the disposal of business enterprise. These are the proposed new taxes upon the transfer of stocks and bonds. They are calculated to restrain a free market for securities, and thus will cause depreciation of existing stocks and bonds as well as cause obstacles for the future. These provisions can not have a revenue purpose, and should be omitted.

Capital gains and losses.—The position of our membership is that the tax rate on capital gains, and the corresponding deduction allowed for capital losses, should be reduced to a low rate. The general reduction in capital values means that for the time being capital losses in the aggregate will exceed capital gains. Consequently, a reduction in the rate would now save revenues to the Government.

Capital gains and losses—securities.—The House bill discriminates against securities as a form of property, by allowing losses from the sale of investments in securities to be deducted only from gains in transactions in securities. This discrimination against one form of capital investment can have no revenue purpose, and should be removed from the revenue bill.

Credit for taxes paid abroad.—A business in the United States can have no net income for purposes of Federal taxation until it has paid its expenses of operation, including its taxes, domestic and foreign. The House bill, however, would make a discrimination against taxes paid to other countries, permitting their deduction only in certain ways. The consequence would be that some taxes paid abroad could not be deducted. This provision would have a detrimental effect upon our foreign trade, which the public interest certainly requires should be encouraged.

Net losses.—True earnings of a business enterprise are not usually demonstrated by the result for 12 months. This has been recognized by the Federal revenue acts, in a provision allowing a loss in one year to be charged against earnings in the two succeeding years, if necessary to absorb the loss. Such a provision preserves the integrity of a business enterprise. The House bill, however, suspends the provision for two years. In view of the emergency need of revenues it may be justifiable to limit the charge of a loss to the earnings of the succeeding year, but entire elimination would mean unfair taxation of true earnings.

Estate tax.—The organizations in our membership have steadily declared that the Federal Government should leave estate and inheritance taxes to the States. In our referendum which closed on April 4, and to which I have been alluding above, they voted that by reason of needs for revenues in an emergency the estate tax should be kept as it is, without increase. The House bill, however, would raise the maximum rate 80 per cent over the highest rate used in war times. The purpose is obviously ulterior. It is respectfully submitted that the rates for the estate tax should not be increased in a measure designed for revenue purposes.

Depreciated estates.—Equity requires a reasonable measure of relief for a class of estates which are seriously affected by the rigid provisions of the present estate tax. These are estates of persons who happened to die when prices were high, whereas the tax has to be paid from the property they left at a time when the only possible realization is at low values. But for the intervention of death and the estate tax most of the property which is in question would not have been liquidated in times of depression. The result of forced liquidation is that the present law takes more of the estate than Congress could have contemplated. There are instances in which it is said the tax will take the entire estate. The high prices prevailing when death happened to occur may have been of no interest, and of no benefit, to the person whose estate has now suffered serious depletion through no fault of the decedent or of those now in charge of the property. Of the 1,156 organizations which recorded their position on this subject all but 42 were in favor of some form of relief which would cause the tax to have the approximate relation to the estate that was intended by Congress. The House bill provides that, in the event that death occurred between September 1, 1928, and December 31, 1931, inclusive, the tax may be decreased to an amount that has the same ratio to the tax determined under present law as the ratio of the value of the estate 18 months after the death to the value at the date of the death. There is a limitation that the reduction from the tax fixed by existing law may not exceed 40 per cent. The substance of this provision in the House bill is eminently fair. It is submitted that the limitation which is attached contravenes the principle recognized by the House bill, and should be removed.

A fixed period for increases.—The revenue measure which you are preparing is intended to meet an emergency. In the opinion of our members, expressed in their advocacy of increased taxation of the character I have outlined above, the emergency character of the measure should be made clear by a limitation upon the period during which the new and enlarged taxes now enacted will be levied. A period of two years would seem appropriate to existing circumstances.

In presenting these comments, I should like to repeat my earlier description of the taxes our membership has supported. Our members have urged that, after the Budget expenditures for next year has been reduced to a point consistent with the times, the amount then needed to balance the Budget should be obtained by taxes levied for revenue purposes. If there are in the opinion of Congress other matters which are within the jurisdiction of Congress and which should be subjects for remedial legislation, they should be taken up separately and dealt with upon their merits.

Very truly yours,

SILAS H. STRAWN, *President.*

LETTER OF CHANNING E. SWEITZER

APRIL 20, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee, Washington, D. C.

SIR: On January 14, 1932, the chairman of the taxation committee of the National Retail Dry Goods Association appeared before the Ways and Means Committee and presented for that association and seven other national associations of retailers whose interests are closely affiliated with those of the National Retail Dry Goods Association the views of their membership as to necessary revision of the revenue act.

As chairman of the Finance Committee you have consented to our filing a brief in behalf of the National Retail Dry Goods Association on H. R. 10236, which when enacted will be known as the revenue act of 1932.

The opinions which we here voice in behalf of our association have been ratified by members in the annual convention held in February and by vote of the board of directors at a regular meeting in March; they express convictions in regard to the measure now before your committee for consideration, varying from our presentation before the Ways and Means Committee only as has been necessitated by the difference between H. R. 10236 in its present form in the Senate of the United States and the report of the Secretary of the Treasury to the Ways and Means Committee on January 13.

We shall touch on only those parts of the bill which, while they have an interest common to all taxpayers, possess particular interest to the members of our association.

TITLE I, SECTION 13—TAX ON CORPORATIONS

We believe the rate of 13½ per cent suggested as the tax on the income of corporations is too high, and that consideration must be given to the effect upon the thousands of stockholders to whom the increase at this time will be a matter of vital importance. In the present condition of business, while such increase may not weigh heavily upon a corporation which is earning high return on its capital, nor on its stockholders, corporations falling in this class are few, and we earnestly recommend the Treasury program of making the tax rate on corporations 13 per cent.

Believing that if we follow the sequence of H. R. 10236 our presentation will be clearer, the next point we shall endeavor to make is in regard to Title I, sec. 23—Deductions from Gross Income.

PARAGRAPH (R) LIMITATION ON STOCK LOSSES

We can not concede that equity rests in a proposal to tax all gains from the sale or exchange of stocks and bonds and to deny deduction from income of all losses in excess of balancing gains. It would seem that in the present condition of the country and particularly of investments in stocks and bonds, there should be no curtailment of the rights of taxpayers to deduct losses, regardless of the proportion such losses bear to the taxpayer's gains from similar transactions. For months, investors in a falling market have held on to such investments in stocks and bonds in the hope of an upward turn, until in far too many cases liquidation has been absolutely necessary and heavy losses have been sustained.

Possibly it may be conceded that in the future, as the Treasury Department suggests, consideration should be given to the limitation of such losses, but we can not agree that the position of the Treasury Department in recommending an exception to banks from the suggested limitation rests on any greater economic need than would the continuation of the present law which allows the deduction to all taxpayers. However necessary a change in the future may be, it is certain to us that such change should under no circumstances be effective retroactively to January 1, 1932, whcih is the effective date of Title I. Investors in securities, with no intimation of the proposed change, have handled such investments with an underlying understanding of its effect upon their income, based upon existing law. If this limitation is retained in the bill, there appears to be little justification in applying it to transactions which have already eventuated, and we believe simple equity demands, if it is retained in the bill, that it become effective after its passage. The theory of retroactive application of the income tax sections with the proposed changes of rates, can not be applied to this particular section. There was a general understanding of the necessity of raising rates and anticipation of such increases, but there was no premonition, no advance information by which taxpayers could govern their actions in regard to investment transactions.

Title I, Section 25. Credits of Individual Against Net Income

We believe there is no justification for the provision in the section by which dividends from corporations become subject to the normal tax when the gross income of the corporation exceeds $25,000 in the preceding year. In previous revenue acts the exemption of dividends from the normal tax of individuals has been a step toward the equalization of taxes on income from corporations, with other income. Complete equity has never been given the taxpayer in respect to his income from corporations. As a matter of fact, it would seem that equity demands a parity of the total normal tax with the corporation tax and exemption of dividends from the normal. In the present bill, corporate rates are increased. We believe it should not be increased beyond 13 per cent, but even that increase widens the spread between the corporate rate and the normal tax, with a consequent increase in the inequity against corporate income. To remove the normal tax exemption on dividends, is to increase the inequity and discriminate entirely and without reason against a form of business. It must be recalled that in the original income tax law the normal tax and the rate of the tax on corporations, was the same. The underlying theory of the framers of the original law was that income from a corporation having paid the corporate tax, it should not be double taxed in the hands of the individual. We are convinced that the retention in the bill of this provision, will be a departure from one of the basic principles of the income tax structure and will intensify the present difficulty in securing money for corporate enterprises. No one studying the financing of corporate business can escape the conclusion that the exemption of income from corporations from the normal tax of individuals is necessary to attract investors. Sound business reasoning urges us to recommend the elimination of this provision. The discrimination between corporations and other forms of business is already too great. Need of additional revenue does not justify an unjust tax.

The same section reduces the earned income credit from $30,000 to $12,000, and from a deduction figured at 25 per cent to 12½ per cent. In addition, the earned income credit by this same section becomes a credit against net income. Under the old law the earned income credit was a credit against tax. In other words, there are three distinct reductions made and as we interpret this earned income provision in the bill it would appear that the "tax credit" on earned income would only apply to an amount up to $1,500 (up to 12½ per cent of the maximum amount of earned income which earned income limitation is fixed at $12,000) and that the bill therefore reduces the earned income credit from $30,000 under existing revenue law to $1,500 in the bill now before your committee. Further, this change becomes a permanent fixture of the tax law, with no indicated intent that it shall be temporary in nature and restored at the end of 1934. We believe there is no equity in the proposed change. There has been a recognition in preceding acts of the principles that income from wages paid for mental or physical work, should not be taxed so heavily as income from investments—money wage. This has been evidenced by the original allowance and subsequent increases to the $30,000 allowed under the present act. To withdraw the differential allowed earned income at the present time, seems to us indefensible. Never has need for it been greater nor more just. If proper interpretation of that part of the change

which makes earned income a credit against net income rather than against tax, means that even with the present rates and present limits, the benefit to the earner of the credit is to be reduced, there is added inequity. We believe the earned income credit in its present form should be retained in the bill.

TITLE I, SECTION 117. NET LOSSES

The bill denies business the right to carry over in 1932 and 1933 net losses of the preceding year. There can be no question that such a provision may actually place a tax over a period of years upon a greater net income than business makes in those years. There may be some equity in the original report of the Ways and Means Committee, which limited the deduction of net losses to one year, denying the present right of deduction in the second succeeding year, but if such recommendation by the Ways and Means Committee is a declaration of a principle that the net loss provisions of previous acts were unsound, few taxpayers will agree with it. It must be borne in mind that most businesses are continuing businesses:—in existence for a period of years, and any revenue act which by its provisions exacts a tax on an income which does not actually materialize, must be regarded as unjust. We do not believe that three years is an unduly long period for determination of real taxable income. Further, we do not believe, if for any reason the change remains in the bill, that it should deny the right to deduct net losses for the year 1931. We believe investigation would show that in 1931, relying upon the net loss provision of the present act for relief in succeeding years, many conservative corporations developed net losses by their treatment of inventories, bad debts, investment in temporary equipment, etc., while others, just as properly deferred writing off values in order to make a showing. In the case of the conservative corporation, they will in such case be placed at a serious disadvantage by denial of the right of deduction for 1931 net losses.

TITLE I, SECTION 141. CONSOLIDATED RETURNS OF CORPORATIONS

The increase from 13½ per cent proposed by the bill as a tax on corporations, to 15 per cent when the corporation return is a consolidated return of affiliated corporations, is not a tax. It is a penalty on a form of business entirely unjustified. Never has a revenue act penalized business because it filed a certain kind of permissible return. Affiliated corporations are not illegal. They are based on sound business reasoning, and the filing of consolidated returns is a necessity for the computation of taxable income of the business as a whole. Previous acts have protected the interest of the Government by requiring very high percentages of common ownership, reaching 95 per cent in the existing law. The consolidated return filed with the Government seldom varies from the form of statement issued to banks. Only by consolidated returns can the true income of a group business be determined, and there is by consolidated returns, a simplification of examination, because it eliminates questions as to intercompany relations and makes intensive investigation of such relations unnecessary.

We respectfully refer to a conclusion of the Finance Committee when considering the revenue bill of 1928, which was to the following effect: "The committee has considered the matter very carefully and is convinced that the elimination of the consolidated return provision will not produce any increase in revenue, will not impose any greater tax on corporations, and will in all probability permit of tax avoidance to such an extent as to decrease revenue."

We strongly urge the elimination of the penalty of 1½ per cent, which the increase from 13½ per cent to 15 per cent imposes on consolidated returns of affiliated corporations.

TITLE II, SECTION 401. ADDITIONAL ESTATE TAX

We believe this section has no part in H. R. 10236, which we regard as an emergency tax measure. It is a tax running up to 45 per cent, superimposed upon an existing tax on net estates, which in its highest bracket reaches 20 per cent. Your committee is considering a bill by which it is hoped sufficient additional revenue to the Government will accrue to balance the Budget in 1933. We respectfully submit that little revenue will go to the Treasury before June 30, 1933, as a result of an increase in the rates of the present estate tax. As no immediate revenue will result from the additional tax, there is no reason for the elimination of Title II from your present deliberations. Consideration of Title

II should be unhurried. If it were removed, ample time could be given to its later consideration, which the present emergency of extreme necessity for promptly reporting the revenue measure will prevent, if it remains in the bill.

We believe this suggestion of elimination is particularly sound when it is recalled that the section extends the period of payments for years, taking it by such extension, entirely out of the class of emergency revenue to which almost all the other sections of the bill belong. We can not believe your committee will wish to impose such drastically heavy increases as the title provides, without due and deliberate consideration of the results on the economic structure of the country. The whole subject of estate taxes is one of controversy and we believe no change in the present law should be made the limited time which Congress will have for its consideration before the bill should be passed.

TITLE III. GIFT TAX

Our association has declared itself in favor of a gift tax as a necessary corollary to an estate tax, but does not agree that such a tax should run in its highest bracket to 33⅓ per cent. There must be a careful interlocking not only of the rates imposed by the gift tax, but of all the provisions of the gift tax which the rates and provisions of the estate tax. We do not believe the same objection to immediate enactment of the gift tax exists as we believe it exists in regard to the estate tax. If in the time which Congress has for its study, proper consideration can be given so that it is fair to the taxpayer and fixed at rates which will produce the greatest revenue to the Government, we believe it should be at once enacted as a necessary corollary to the existing estate tax, but its immediate effective rates should be enough less than the present estate tax rates as to give a proper differential between the two.

TITLE IV. EXCISE AND SALES TAXES

The National Retail Dry Goods Association, by a resolution unanimously adopted at its twenty-first annual convention, held in February, 1932 is vigorously opposed to every plan of raising public revenue through any and every form of sales taxation.

This resolution included within its scope opposition to the enactment of a manufacturers' general excise tax, a manufacturers' or retailers' selective or so-called luxury tax, a general retail sales tax, or a general turnover tax.

The opposition of the members of this association to any and all forms of sales taxes by whatever name known or designated is based on the following considerations:

SALES TAXES NOT BASED UPON ABILITY TO PAY

Any form of sales tax is contrary to the well established fundamental principle of taxation, inasmuch as it is not based upon ability to pay. It is a tax on sales, and not on earnings. It need hardly be pointed out that during the current period of economic depression that any form of sales tax can not be absorbed by the industrial and mercantile crafts of our country, because in most instances their profits have already reached the vanishing point, and any additional tax burdens would jeopardize the very existence of many of them. Speaking specifically for the department store craft, which is represented by this organization, according to statistics collected by the Bureau of Business Research of Harvard University, department stores with net sales of less than $2,000,000 incurred a loss of 1.8 per cent for the year 1930; while department stores with net sales of $2,000,000 and more experienced a loss of 0.5 per cent for the same year. (Statistics are not yet available for the year 1931, but it is generally conceded that these losses will be materially increased when the facts are made known.)

Similar conditions exist in almost every field of business endeavor. Furthermore, it must be remembered that these losses are incurred even though business has been compelled during the past 30 months to reduce operating costs to a minimum.

In view of these facts, any sales tax imposed upon business at this time, will be a tax not based upon ability to pay, and must of necessity be passed on to the ultimate consumer.

AS A TAX ON CONSUMPTION, THEY WILL INCREASE COST OF LIVING

As a sequence of the foregoing consideration, any form of sales tax is a tax on consumption and will increase the cost of living to the American people at a time when the purchasing power of our Nation is at a low ebb, due to the almost universal reduction in salaries and wages, further aggravated by the unemployment of eight millions of our people. The enactment of sales taxes now would prove to be not only untimely, but would impose added financial burdens on the great mass of American people when they are struggling to obtain the necessities of life.

Furthermore, it need hardly be pointed out that any form of sales tax, including within its scope all commodities, or a wide-spread range of commodities, will affect most severely those of our people in the lower income classes, who are required to spend all of their income in meeting living costs.

WILL INJURE THE INDUSTRY AND COMMERCE OF OUR NATION

Any form of sales tax will create a sales resistance against these commodities taxed, and will inevitably lead to a decline of consumer demand for the articles so taxed. This would be a most unfortunate development at a time when all business is striving to promote the consumption of goods in order that normal economic conditions may be restored as soon as possible, and our acute unemployment emergency relieved.

Even an excise or sales tax imposed upon the so-called luxuries of life would, because of the sales resistence created, further adversely affect these industries. It must be remembered that a large percentage of American labor is employed directly or indirectly in the production and distribution of so-called luxury goods, and any form of taxation which further jeopardizes these industries, or retards their recovery, will add to our present unemployment problem and make itself universally felt in the economic life of the entire Nation.

THE ENACTMENT OF ANY FORM OF SALES TAX WILL ENCOURAGE EXTRAVAGANCE IN GOVERNMENT

During the past two decades, the cost of government in the United States has mounted upward and upward. In 1913 the cost of all government, local, State, and Federal, amounted to $2,919,000,000, while in 1931 the cost of all government had mounted approximately to $14,000,000,000.

May we further point out that in 1929, the last of the so-called boom years of prosperity, the cost of all government amounted to $13,075,000,000, and despite the fact that our national income has dropped from $85,000,000,000 of that year to $57,000,000,000 in 1931, the percentage of Government cost to national income has increased from 15.4 per cent in 1929 to 24.6 per cent in 1931? The answer is evident, Government has continued to increase its expenditures in the face of the most adverse economic conditions which have ever confronted our country.

There perhaps has never been a time in the political history of our country when the American citizenry is more keenly conscious of the rising costs of operating our governmental institutions, and the resulting apparent need for new and additional tax levies, than it is to-day. Present economic conditions have forced the attention and interest of the American taxpayer to these problems. He rightfully expects his legislators to curb this upward tendency in the expenditures of public funds, and hence avert the necessity for unwarranted and unsound methods of taxation at this time.

American business and the American people regard the enactment of any form of sales taxes as a dangerous precedent. The experiences of other countries which have resorted to sales taxes, have shown that when public expenditures apparently called for additional funds, the situation was met by increasing the rate of the sales tax.

Sales taxes are not conducive to economic and businesslike conduct of government. In fact they encourage extravagance. Once the precedent is set, there is nothing to prevent future Congresses from raising the rate of the sales tax or broadening its scope to cover increased public expenditures.

Against such a possible development in the furture, our farseeing legislators, American business and the American people generally are most anxious to be protected and safeguarded, because the future economic stability of the Nation is seriously dependent on the relation between the cost of government and economically sound direct and indirect tax levies.

For these reasons, which are advanced solely in the interests of an early recovery of the economic well-being of our Nation, and for the present and future welfare of the American people generally, the National Retail Dry Goods Association stands vigorously opposed to every form of manufacturers' or retailers' excise or sales tax, either general or selective, being enacted.

TITLE VIII. POSTAL RATES

Our association believes that Title VIII has no proper place in the bill, but that, being there, its proposal is entirely unfair to business. It believes the Post Office Department should be self-supporting. It can not admit, however, that first-class postage, which is a highly profitable class of mail carrying, should be required to balance the postal deficit. The necessary levy to balance the deficit, estimated at $150,000,000, should be made on those classes of mail the carrying of which develops the deficit. First-class mail is already doing more than its share. For reasons well known to your committee, it has been in the past difficult to increase the rates on the other classes of postal matter. It would seem that now there should be no hesitancy in placing the burden of meeting the Budget exactly where it belongs. Business very properly will resent an increase of 50 per cent in the cost of a service which already is showing a profit.

The fundamental basis of postal operation from the beginning of our Government has been to make it self-supporting from the revenue derived; and not only that, the intent as service was increased was that each class of the service should be self-supporting. We feel the obligation to do this rests squarely upon Congress and that the increase on first-class matter should be eliminated. Under no circumstances, regardless as to how the deficit in the post office is balanced (if it is balanced by an increase in the rate of any class of postage), should there be any increase in the emolument or allowance of postmasters or postal employees because of the increase. Paragraph b of section 1001 should be eliminated unless the increase in rate increases the task of postal employees in handling mail. That the handling of a first-class letter, because it bears a 3-cent stamp instead of a 2, is any more difficult can not be granted, and certainly if there is an increase in rates, and particularly in first-class rates, those who pay such increase are entitled to an application of the entire amount of the increase to the postal deficit without reduction as provided in paragraph b of section 1001.

BALANCING BUDGET

The Budget must be balanced. There may be differences of opinion as to the necessity of balancing it in 1933, and in fact we ventured the opinion in our appearance before the Ways and Means Committee that such necessity did not exist, that it could be deferred for a year or two, and we are still of the opinion that if there were a reasonable certainty of even a moderate revival of business, and of business profits, there would be no danger to the credit of the United States if the balancing of the Budget were planned for 1935 rather than in 1933.

Congress itself holds the key to the balancing of the Budget, and business looks to Congress to intelligently use that key. Business is not satisfied, taxpayers in general are not satisfied with the reductions in expense which so far have been proposed. Realizing that a large part of the appropriations of the Government are caused by fixed expenses, we still believe a reduction in controllabe expenses of less than $300,000,000 for the year 1933 will not satisfy taxpayers.

In closing, we wish to thank you for the opportunity to submit this brief. The numerous courtesies which you personally have extended to our association are greatly appreciated. We believe we are in unanimous agreement with all taxpayers when we voice the opinion that never before in the history of the United States has such responsibility rested upon its Congress. The appropriations for the year ending June 30, 1934, msts be held to a minimum, with no additions of any nature whatever to the present estimates. The burden already is too great in times like this. It must be lightened.

Yours respectfully,

NATIONAL RETAIL DRY GOODS ASSOCIATION,
CHANNING E. SWEITZER, *Managing Director.*

BRIEF OF J. ANTHONY SCHWARZMANN, LL. D.

GENTLEMEN: For the second time within the last two decades the emergency has arisen to call on all resources for the purpose of raising revenue. The last emergency was in 1917 when the war had to be financed. Then the commerical and industrial structure of the United States was such that the needs of the country could nearly be covered through taxation of income, corporate and individual. This source of revenue carried the country even over the depression of 1920 and 1921 when entire pivotal industries like the textile industry and leather industry were on the brink of ruin and were entirely eliminated as income revenue producers. To-day, however, income taxes as revenue are reudced to near stagnation.

Nevertheless, in order to protect the credit of the United States, a balanced Budget must be produced. While such an accomplishment is difficult in itself, it has been rendered immeasurably more difficult by the fact that it has to be accomplished in a presidential election year.

While there is no doubt of the sincerity of both parties as such, the fundamental principles of taxation are nevertheless politically handicapped and split into two maxims, the one being "Tax the rich", the other "Tax all through a sales' tax." But the general sales tax, on the one hand, will lose the votes for its advocates and, on the other hand, the advocates of taxing the rich see empty campaign coffers.

There is, therefore, in my opinion, for the tax legislature, only one sound solution, to wit: A compromise between both principles.

1. INCOME TAXES

Individual.—The normal rates of the 1926 act of 2 per cent, 4 per cent, and 6 per cent should be restored and a surtax beginning with $6,000 and a maximum rate of 40 per cent on incomes above $100,000 should be levied.

Corporate.—A corporate tax as proposed by the House of 13½ per cent appears just and adequate, conditioned that corporate dividends are not subjected to to normal individual tax.

2. SPECIAL TAXES

As a special tax there should be considered only one item, namely, the permanent adjustment of postal rates. No branch of the Government which has been created on a business basis should be privileged to work with an accepted deficit. No citizen or resident of the United States has a right to ask or expect the Government to partly pay for the upkeep of his correspondence. The United States has to-day the lowest postal rates, although at the same time it has the vastest expansion.

We pride ourselves that a letter can be sent for 2 cents 3,000 miles, while, for instance, in Switzerland the basic rate is 3 cents and the farthest a letter can travel with this rate is 200 miles.

The proper and most just solution would be doubtless a regional zoning of rates as it was done originally with the parcel post. Local rates should remain at 2 cents, a second zone should be 3 cents and a third zone 4 cents. Thus every letter would pay adequately for its transportation. Whatever may be done in this respect, increase in postal rates is mandatory.

3. SALES' OR MANUFACTURERS' TAX

No discriminatory sales' taxes should be levied because, first of all, discrimination is unjust in itself and un-American. No industry should be singled out to carry a heavier tax burden than any other industry. Experience shows that such discriminatory taxes are usually unproductive in the long run. When France, during the war, taxed windows, the result was that windows simply were cemented up; when Germany, after the war, put a heavier tax burden on the railroads, the result was that the final revenue from railroads was considerably smaller than before the increase in rates caused by increased taxes.

The House bill singles out, above all, the automobile industry. This industry is the one industry that led us out of the slump of 1921 and it may well be again the industry that will lead the recovery out of the present debacle. But in order to prevent such leadership, the House bill provides a discriminatory tax against it.

There should, therefore, be first a basic decision that a general sales' tax will be the only solution and that from such general sales' tax only absolute necessities of life should be exempted. In such sales' tax should be included admissionn

taxes, telephone and telegraph taxes and such sales' tax would automatically include a gasoline tax.

After having taxed wealth through increased income tax and increased estate taxes sufficiently, there should be no hesitation to draw on a sales tax for the remainder of a balanced budget. Such adjustment would be also politically satisfactory because it satisfies both the "tax the rich" and the "tax all" camps. The rate of such sales tax is secondary and purely scientific. An estimate will have to be made of the revenue resulting from increased income tax, from the increased estate tax revenue, from increased postal rates, and the remainder of the deficit will simply have to be covered by such sales tax by finding the proper rate.

4. SPECIAL REMARKS

The elimination of allowing security losses as a deduction is unjust as long as security gains are taxable.

Taxation of dividends by individual normal tax is double taxation and therefore unconstitutional and should be eliminated.

The estate tax should be levied on the estate value as of the time of filing the estate tax return and such provision should be made retroactive to the 1st of January, 1930.

No tariff issue should be raised in connection with the tax bill and necessary tariff adjustments should be made a matter of special legislation in form of amendments to the present tariff law.

Ceterum censeo: Manufacture and sale of beer with a heavy consumption tax attached to it would eliminate most of the above problems.

Respectfully submitted.

J. ANTHONY SCHWARZMANN.

STATEMENT OF LAURENCE ARNOLD TANZER, NEW YORK, N. Y., REPRESENTING THE MERCHANTS' ASSOCIATION OF NEW YORK

The CHAIRMAN. Mr. Tanzer, any brief that you have you have the privilege of putting it into the record, and you need not take the time to read it.

Mr. TANZER. Thank you. I shall be brief.

My name is Laurence Arnold Tanzer. I am chairman of the committee on taxation and public revenue of the Merchants' Association of New York.

The Merchants' Association of New York, which I have the honor to represent at this hearing as chairman of the committee on taxation and public revenue, is a chamber of commerce comprising about 6,000 business concerns, corporations, firms, individual business men and professional men doing business in New York City.

I have here a copy of the yearbook of the association which indicates the character and extent of its membership and which, with the permission of the committee, I shall file with the clerk.

Our association fully supports the proposition that the Budget must be balanced during this year ending June 30, 1933, and that whatever sacrifices it is necessary to bear, should be borne.

The conclusions which I desire briefly to present to your committee with reference to the pending revenue bill, have been carefully considered by the association's committee on taxation and public revenue and its board of directors, which is composed of some 25 prominent and leading business men and industrial and financial leaders of New York City.

The CHAIRMAN. It would be just as well to put it in the record without reading, if you desire.

Mr. TANZER. What I should like to do is to state briefly our views and then file this.

Senator SHORTRIDGE. You see, there are very few members of the committee present at this time; therefore, an oral statement made by you will not be heard by many Senators, but if you put the brief into the record, it can be read by the members of the committee.

Mr. TANZER. Well, I shall confine myself simply to a few of the salient features. I do not propose to read any lengthy statement.

Senator SHORTRIDGE. Just give the outstanding points.

Mr. TANZER. Yes.

Senator SHORTRIDGE. It will be carried into the record and the other members of the committee can read what you have to say.

Mr. TANZER. The most important feature to apply to any revenue measure is the amount of taxation to be raised by it. The Ways and Means Committee of the House proposes to meet the deficit of $1,231,000,000 entirely by taxes, with the exception of some $125,000,000 which it is proposed to meet by a reduction in expenditures.

Senator HARRISON. They have revised that to $200,000,000.

Mr. TANZER. I understand the Secretary of the Treasury the other day has increased it to $200,000,000. Even the figure of $200,000,000 is, as I view it, entirely too small and inadequate. It is a budget of $4,000,000,000.

The statement that is often made that the expenditures of the Federal Government have not recently increased is contrary to the facts.

I have here some figures which I should like to file with the committee. These figures have been prepared from the latest annual report of the Secretary of the Treasury, and show the fact that the total operating expenses of the major departments, commissions, and bureaus of the Federal Government have been increased by an average of 63 per cent in the period from 1927 to 1932. They have increased for the administration and operation of the administrative departments of the Government, an average of 63 per cent in those five years, the total amount of that increase being, during that period, $1,231,100,000. So that the Government, with a return merely to the figures of 1927 could take care, practically, of any deficit, with practically no additional taxation.

Senator BINGHAM. Just a minute. I want to ask a question.

Senator REED. And repeal the soldiers' bonus bill?

Mr. TANZER. I am talking about the running expenses of the departments. That does not include the payment to the veterans.

Senator BINGHAM. Oh, yes; it does. This total shows that there was expended in 1927 the amount of $391,500,000; in 1932 there was expended the sum of $784,400,000.

Mr. TANZER. Yes, sir; but that is the expense of maintenance of the bureau, Senator, and not the amount paid to veterans.

Senator REED. Oh, yes; it is.

Senator BINGHAM. Of course, it includes the payment for hospitalization, and care of the veterans, and so forth.

Senator SHORTRIDGE. What is the increase of 1932 over 1927?

Mr. TANZER. $1,231,100,000.

Senator BINGHAM. Do you mean to say that it cost $784,400,000 to administer the Veterans' Bureau?

Mr. TANZER. Yes, sir.

Senator BINGHAM. That is preposterous.

Senator HARRISON. Mr. Witness, those figures have been presented to this committee numerous times, and the committee is familiar with the growing expenditures. And the Government is trying every possible way to cut it down. And in that you are in accord with us?

Mr. TANZER. Yes, sir. We agree with the United States Chamber of Commerce that the administration and the Congress should have the courage to do what should be done to effect a reduction in the Federal expenditures by at least $500,000,000. And I need hardly say to this committee that every dollar saved in this manner is a much greater contribution to the ending of the depression than a dollar raised by additional taxes to balance the Budget.

Senator BINGHAM. Does your brief indicate how we can save $500,000,000, in detail?

Mr. TANZER. Senator, we have not the facilities that you have, but your Treasury has. We are not presuming to transgress the province of your committee or of the Government, but the business men of the country feel that every business has been called upon to make drastic retrenchment, and certainly taking that into consideration, and taking into consideration the increased purchasing power of the dollar, a decrease of only 5 per cent in the Budget is out of all proportion to the retrenchment business has had to make throughout the country.

Senator SHORTRIDGE. What you think is that the Federal Government should reduce its expenses?

Mr. TANZER. It should reduce its expenses.

Senator SHORTRIDGE. And to do that it would have to eliminate or do away with certain departments or activities.

Mr. TANZER. In the first place, make consolidations; in the second place, the elimination of certain activities, which should be done at this time. And then you have the elimination of unnecessary places, and the recognition of the increased purchasing power of the dollar.

Senator BINGHAM. I am very much interested in this, and we are trying to do it. What do you consider the unnecessary activities.

Mr. TANZER. That would take a great deal more time than I have.

Senator BINGHAM. Just mention four or five of them.

Mr. TANZER. I am not undertaking to go into those details. I have not the facilities you have got, and that is your job, Senator. All we can do is to give you our views of it.

Senator BINGHAN. Here is the item of the Veterans' Administration and the Veterans' Bureau, $784,400,000. That is the biggest item on the whole bill. How much do you propose to cut that?

Mr. TANZER. I am not in position, Senator, to go into that in detail with figures, because I have not been furnished with them.

Senator BINGHAM. You say you want us to go back to 1927?

Mr. TANZER. I did not say that. I said the 5 per cent saving that is proposed is inadequate.

Senator BINGHAM. Do you not know that the Senate has been cutting 10 per cent right along on the appropriation bills?

Mr. TANZER. I know, but many measures have been under discussion, and we will support any proper reduction.

Senator BINGHAM. No, but you criticize us for making a reduction of only 5 per cent. The House made a reduction, but we have made a further reduction, of 10 per cent.

Mr. TANZER. I am not criticizing anybody, Senator.

Senator HARRISON. You are expressing the hope that we may cut off more than $500,000,000?

Mr. TANZER. Yes, sir.

Senator HARRISON. These suggestions you are making you have in your brief?

Mr. TANZER. Yes, sir.

Senator HARRISON. We will all read it.

Mr. TANZER. Coming now to the question of an increase in taxes, the income tax rates, and the surtax rates, we believe not only should the exemptions be reduced as proposed, but some further reduction should be made to the level which prevailed in 1919; that is to say, an exemption of $1,000 for single persons; $2,000 for married persons, and $200 for each dependent. These proposals are important from the standpoint of securing additional revenue, but it is probably more important by reason of making more people directly conscious of the tax burden and because by broadening the base of this form of tax they tend to decrease the wide range of fluctuations in the yield of the income tax.

On the other hand, we are opposed to an increase in the corporation income tax as proposed by the House of Representatives. We believe that the corporation income tax is a bad form of tax. It is not only an unfair burden, but it is a discriminatory act, because it taxes at the rate of 13½ per cent all of the net profits, and we believe that is too great a percentage even in this emergency. And it taxes the holder of stock who has $500 invested just the same as it does the man who has hundreds of thousands of dollars invested.

And for the same reason we oppose the taxing of corporations making consolidated returns at the rate of 15 per cent on the net income. That tax would simply put a penalty upon the sound reasonable method of accounting which simplifies and facilitates administrative supervision and taxation.

We oppose, also, the laying of a normal tax on dividends from corporations for substantially the same reasons.

The CHAIRMAN. And those things are all in your brief?

Mr. TANZER. Yes, sir.

Senator HARRISON. You favor the estate tax as proposed in the House bill?

Mr. TANZER. The estate tax our association have not taken a definite stand on, and I am not prepared to say anything about it.

We are opposed to the provision which would eliminate the deduction of net losses over the succeeding one or two years. We think in the present state of business that change would have a serious effect upon many organizations and is not an equalizing tax, and the assistance which the business corporations need at this time was never more needed in order to allow business to get back on its feet.

The CHAIRMAN. Your time is up in one minute, Mr. Tanzer. You may file anything else that you have that is further than that.

Mr. TANZER. Let me close, then, by saying that we are opposed to the proposed import tax on oil, and to the laying of an import tax by a revenue bill.

Senator SHORTRIDGE. Well, if it yielded good revenue—we are looking for revenue, are we not?

Mr. TANZER. We are certainly looking for revenue, but we do not think there should be any impoistion of import taxes in a revenue bill. Import taxes have no place in a revenue bill.

Let me say, further, that we believe in a system of selective excise taxes, rather than in a general sales tax.

The CHAIRMAN. Your time has expired.

Mr. TANZER. I would like leave, Mr. Chairman, to file this brief.

The CHAIRMAN. It may be made a part of your remarks at this point.

(The brief filed by Mr. Tanzer is printed in the record in full, as follows:)

BRIEF OF MR. TANZER, REPRESENTING THE MERCHANTS' ASSOCIATION OF NEW YORK

The Merchants' Association of New York, which I have the honor to represent at this hearing, is a chamber of commerce comprising about 6,000 corporations, firms, individual business men and professional men doing business in New York City. They include most of the city's leading business enterprises. The conclusions which I am presenting to this committee were reached after this matter had been carefully studied by the association's committee on taxation and public revenue and by its board of directors, which is composed of some 25 prominent business, industrial and financial leaders.

We believe that before passing any revenue bill Congress should make reductions in Government expenditures which are strictly in line with the drastic retrenchment to which all private business has been forced. We do not believe that the taxation program, as set forth in the House bill, has given sufficient recognition to the possibilities of further retrenchment.

Federal expenditures have been growing at a rate which is scarcely appreciated. As proof of this statement I desire to submit to the members of the committee figures which have been prepared from the latest annual report of the Secretary of the Treasury, showing the astounding fact that the total operating expenses of the major departments, commissions, etc., of the Federal Government increased by 63 per cent in the period from 1927 to 1932. It will be noted that several of the Government departments showed an increase of 100 per cent or more.

[Figures to nearest hundred thousands]

	1927	1932	Amount of increase	Per cent increase
Total expenditures	$3,493,600,000	$4,482,200,000	$988,600,000	28
Less interest and sinking fund payments (statutory)	1,120,500,000	1,016,800,000	[1] 103,700,000	[1] 9
Less miscellaneous, not included in budgets of major departments	409,100,000	270,300,000	[1] 138,800,000	[1] 34
Balance	1,964,000,000	3,195,100,000	1,231,100,000	63
The foregoing balance was expended by major departments, commissions, etc., as follows:				
Department of Agriculture	156,300,000	333,500,000	177,200,000	113
Agricultural marketing fund—net (Farm Board)		155,000,000	155,000,000	
Post Office deficit	27,300,000	195,000,000	167,700,000	614
Treasury Department	151,600,000	312,900,000	161,300,000	106
War Department	360,800,000	483,700,000	122,900,000	34
Navy Department	318,900,000	378,900,000	60,000,000	19
Shipping Board	19,000,000	60,800,000	41,800,000	220
Department of Justice	24,800,000	53,800,000	29,000,000	117
Department of Commerce	30,900,000	54,700,000	23,800,000	77
Other independent offices and commissions	35,400,000	57,600,000	22,200,000	63

[1] Indicates decrease.

[Figures to nearest hundred thousands]

	1927	1932	Amount of increase	Per cent increase
The foregoing balance was expended by major departments, commissions, etc.—Contd.				
Legislative Establishment	$19,700,000	$32,400,000	$12,700,000	64
Department of Labor	9,900,000	14,100,000	4,200,000	42
Adjusted-service certificate fund	115,200,000	200,000,000	84,800,000	74
Veterans' Bureau (Veterans' Administration since 1930)	391,500,000	784,400,000	[2] 392,900,000	100
Interior Department	302,700,000	78,300,000	[1] [2] 224,400,000	[1] 74
Total of major departments, commissions, etc.	1,964,000,000	3,195,100,000	1,231,100,000	63

[1] Indicates decrease.
[2] Since the Bureau of Pensions was transferred from the Interior Department to the Veterans' Bureau in 1931, in order to make a fair comparison with 1927 it is necessary to combine the expenditures of the Interior Department and the Veterans' Bureau for each period, which results in an increase in expenditures in these 2 divisions of $168,500,000 for 1932 as compared with 1927.

It is not necessary for me to burden you with reading the details of these comparative figures. Suffice it to say that the actual amount of the increase was $1,231,000,000, or almost exactly the sum of the estimated deficit for the year 1933.

In other words, if the expenditures of these departments were returned merely to the 1927 level there would be no deficit for the forthcoming year and no necessity for additional taxation.

Federal expenditures should, therefore, be adjusted promptly to a much more modest scale than has prevailed in the past 15 years. The responsibility is upon both the administrative and the legislative branches. We believe that the business community will show no tolerance toward the evasion of this disagreeable task on such pretexts as invasion of the prerogatives of one branch of the Government by the other or lack of information upon such thoroughly explored subjects as departmental reorganization. The pruning knife should be vigorously applied to excessive costs in the operation of the Government and the Government should withdraw from activities which, however desirable they may be in themselves, are not indispensable to the performance of the essential functions of that Government.

Every dollar saved in this manner makes a much greater contribution to ending depression than a dollar raised by additional taxes to balance the Budget.

If the administration and Congress have the courage to do what can be done along these lines it should be feasible to effect the reduction of Federal expenditures by at least $500,000,000 as suggested by the committee on Federal expenditures of the Chamber of Commerce of the United States.

INCREASED TAXATION

Our association believes that the interests of business and of the country will be best served if the Federal Budget is balanced by June 30, 1933. We recognize that if this is to be accomplished, even with all reasonable reduction in expenditures, a substantial sum will still have to be raised by additional taxation. It is reasonable and proper that a part of this amount should be raised by increasing the normal and surtaxr ates on individual incomes as proposed by the bill adopted by the House of Representatives.

The association also advocates a further decrease in the exemptions from personal income taxes to the level which prevailed in 1919, at which time an exemption of $1,000 was allowed for single people, $2,000 for married people and $200 for each dependent. These proposals are important from the standpoint of increased revenue, but probably more important by reason of making more people directly conscious of the tax burden and because by broadening the base of this form of tax they tend to decrease the wide range of fluctuations in the yield of the income tax.

We oppose the increases in the corporation income tax proposed by the House of Representatives. This form of taxation is the least defensible in the whole present scheme of Federal taxation. In effect it merely decreases the amount which can be distributed in dividends and which is taxed in the hands of the

recipients, by taxing at an unjustifiably higher rate the net income of corporate business as distinguished from all other business. This tax furthermore falls unfairly upon individual stockholders because it falls at the same rate upon stockholders of large means and those of small means. An increase of 8 per cent in the present corporation tax to 13½ per cent of all net profits is too great even in the present emergency.

The association is convinced that there is absolutely no justification for taxing corporations making consolidated returns at the rate of 15 per cent of net income. Such a tax would simply put penalty upon a sound reasonable method of accounting which, if anything, facilitates and simplifies the administrative supervision and taxation.

The corporation income tax is unsound in principle and we oppose any increase in the rate of that tax at the present time.

The proposed withdrawal of the exemption of dividends on corporate stock from normal income tax is one of the most unsound and indefensible provisions in the bill adopted by the House of Representatives. As the measure stands it is proposed to take from 13½ to 15 per cent of net corporation income and then to tax the remainder at from 2 to 7 per cent additional. Such a rate is not only severe in itself, but in direct violation of the basis upon which the corporation income tax was fixed in 1913, and even if the corporation income tax were not increased would still be a clear case of double taxation.

The association opposes the change in the present law, which would eliminate the provision for the deduction of net losses over the succeeding one or two years. In the present state of business the proposed change would have a very serious effect upon many organizations and would probably necessitate liquidation with further depression of prices in order to obtain funds for payment of taxes.

The proposed change in the law covering capital gains and losses does little if anything to mitigate the pernicious effects of this unsound form of taxation and should be opposed. Capital gains are not properly classifiable as income. The policy of treating them as such materially encouraged the extremes of inflation leading up to the collapse in 1929, and the corresponding treatment of capital losses has contributed very heavily to the current deficit. The sooner this form of taxation is ended the better for the equilibrium of the business community and the stability of Government revenue.

The proposed changes in the law which would permit the revaluation of depreciated estates at the election of the executor are highly desirable. Such a change is merely equitable in view of the serious shrinkage which has occurred in many cases in the past three or four years.

The proposed tax on the transfer of stocks is so heavy and badly conceived that it will defeat its own purpose by bringing in far less revenue than is estimated, and at the same time will seriously interfere with long-established methods of obtaining capital for the prosecution of business enterprises and maintaining their credit. The proposed tax would unquestionably have a tendency to curtail most seriously transactions in all securities, and in the case of some stocks of small companies would be absolutely confiscatory. This tax is ill-conceived, punitive, and would be distinctly less productive than a much lighter tax in better form.

The proposed tax of 1 cent per gallon on imports of petroleum and petroleum products should be eliminated. It is prohibitive in amount, will bring in no revenue and, while its imposition would to some extent benefit domestic petroleum producers, it would at the same time and to a far greater extent affect adversely our merchant marine and domestic users of fuel oil, asphalt, and other derived products, particularly along the Atlantic coast. It would also reverse the sound policy of conservation of indispensable natural resources by development of foreign sources of supply under American control. This proposal is furthermore essentially a tariff measure and, as such, has no proper place in an internal revenue bill.

This latter objection also applies with equal force to the proposed tax on imported coal. The tax on petroleum imports, the tax on imported coal and any other tariff proposals should be eliminated from the pending bill.

Let me conclude by saying that the association supports, in principle, the use of selective excise taxes as the most effective means of raising such revenue as may be needed in addition to that which will be provided from the other taxes in the pending bill. Such excise taxes will have the advantages of being definitely ascertainable, simple of administration and infinitely less harassing to business and industry as a whole than the manufacturers' sales tax, which was proposed by the Committee on Ways and Means.

STATEMENT OF WILLIAM H. MEREDITH, DETROIT, MICH.

Senator REED (presiding). Just state your name and address to the reporter, Mr. Meredith.

Mr. MEREDITH. William H. Meredith, Detroit, Mich.

I would like to speak for a moment or two on section 23 of the bill. I understood there was to be another speaker yesterday and I came down to hear him. So I did not come prepared to make a very elaborate talk on the subject.

Pages 29 to 31, particularly sections R to V.

Senator REED. That will be page 32 in our print. We have had a committee print made that shows the text of the old bill, too.

Mr. MEREDITH. Oh, I see. Pardon me.

Senator REED. That is the limitation of the stocks lost to the amount of the gains.

Mr. MEREDITH. Yes. This is the first time since we have had an income-tax law that losses have been eliminated or been restricted to the gains from similar transactions in the same year. Naturally, I favor the continuation of the provision in the 1928 act, with one exception: I do not think that the wash-sale provision limited to a month is the cause of a lot of avoidance of tax.

Senator REED. Are you a lawyer?

Mr. MEREDITH. No; I am a tax representative.

Senator REED. You are a tax specialist?

Mr. MEREDITH. I would not say specialist. I represent taxpayers.

Senator CONNALLY. You are the man we need here before the committee, then, if you represent the taxpayers.

Mr. MEREDITH. Well, I trust that I can do a little for them to-day.

Senator REED. All right; go ahead.

Mr. MEREDITH. I would suggest that the wash-sale provision be extended to a year, coupled with it an affidavit that they had not repurchased, either directly or indirectly, the securities, the same securities of the same company.

Senator REED. Mr. Meredith, you have had a lot of experience in tax returns. Do you know how common it is for a man to sell Union Pacific, let us say, at a loss and buy Atchison the same day?

Mr. MEREDITH. Yes, sir.

Senator REED. Feeling confident that the two will rise and fall together.

Mr. MEREDITH. About the same; yes.

Senator REED. Or if he does not do that, he sells to his wife or to his secretary. It is almost impossible, is it not, in actual practice to discover a wash sale?

Mr. MEREDITH. Generally so; yes.

Senator REED. Then are we not just pecking at the surface of things when we allow that kind of security losses to be deducted from one's income?

Mr. MEREDITH. Is there any difference in selling General Motors stock, we will say, and buying a piece of real estate with the proceeds? In other words, it is a realized loss if he sells at a loss.

Senator REED. If he really sells, yes, but if he has an understanding secretly with the purchaser that the security will be resold to him when the period has expired, that is not an actual realized loss.

Mr. MEREDITH. That is a tax evasion, Senator. It is not tax avoidance, but an evasion, and that is why I think that you might properly have every taxpayer that claims a loss sign a specific affidavit to the effect that he did not sell with an option to rebuy.

Senator REED. The option is never expressed if one sells to one's wife.

Mr. MEREDITH. Well, there are two separate taxpayers if they file separate returns.

Senator REED. What I am driving at is that no matter how we safeguard it here is a method by which a capitalist can always escape a fair share of taxation. Now, ought we to continue that?

Mr. MEREDITH. You can continue it by eliminating the separate returns or a provision in the filing of separate returns that it would be considered a wash sale if the husband sold and the wife bought.

Senator REED. As a practical matter the field agents do not discover those cases, though; isn't that so?

Mr. MEREDITH. There may be a good many cases of it; yes.

Senator CONNALLY. But could not possibly the wife or a man's brother or his uncle do the same thing? You could not avoid that by just saying to his wife. He could have any fake purchaser.

Mr. MEREDITH. I would not go so far, Senator, as to say that if a wife has got a separate estate from her husband, got separate money, she is a fake purchaser.

Senator CONNALLY. Well, it would be under these circumstances Senator Reed detailed, in order to take a loss he sells to the wife.

Senator REED. The Supreme Court of the United States has decided that it is not within our power to require husband and wife to file a joint return.

Mr. MEREDITH. That is true, in the Wisconsin case just recently. But that was predicated on saying that her income was his income and must be included in his return.

Senator REED. I have heard of a good many cases where fake sales were made by a husband to his wife; the field agent makes the examination and never discovers it or criticizes it. It seems to me it is our duty if we can to put an end to that kind of tax evasion.

Mr. MEREDITH. Have you done so—or at least has the house done so—in the present bill? I think not.

Senator REED. I do not think so.

Mr. MEREDITH. Here is an individual who has a hundred thousand dollars income from dividends, interest, miscellaneous income. He has a hundred thousand gain and he can eliminate the tax on that gain by making a wash sale. You are penalizing the party who has nothing but losses to take, has nothing that he can sell at a gain, and those are the people who in a great many cases have paid terrific taxes.

I am not here representing any particular taxpayer, but I have a client who paid a tax of $650,000 several years ago. Now, he did not bury his money in the ground after realizing that profit. He has invested it and taken a terrific shrinkage. The Government has had its tax on the rise. Now they will deny him the right to any loss, and it is quite possible, though not probable in his particular case, that he will end up with very little and that the Government will probably have more out of it than he has had, and it was a lifetime work in building up his institution.

Senator REED. I have not any use for the provisions in the tax bill. I think they are entirely unjust. They bear heavily on a person in misfortune, and they help the man who has had moderately good luck.

Mr. MEREDITH. That is true.

Senator REED. So that we are not committed to that at all. But would it not be better for us to follow the example of the British and exclude capital gains and losses entirely from the calculation of income?

Mr. MEREDITH. I agree with you, Senator.

Senator REED. And would the Government not make money in the long run by doing it?

Mr. MEREDITH. I am not prepared to say that. My personal experience extending over 10 years has been that there have been more gains than losses. Now, that is just my personal experience with numerous large clients in Detroit and vicinity.

Senator REED. Detroit has been going uphill during that time until recently.

Mr. MEREDITH. Till recently. Now we are the other way around.

I have one suggestion that I would like the committee to consider. Apparently in the House bill they have attempted to segregate income, income from salaries and rents, interest, and so forth, and income from securities. That is to say, the losses are limited to the gains from securities.

Now I make an investment in a security. I hope that I am going to gain some profit from the rise, but in many cases I make it for dividend purposes, and I buy a share of the surplus of the corporation under normal times in my price that I pay for the security. If I buy a stock to-day at a hundred and next week it declares a special dividend of $20, in reality I have got $20 return of capital, but under the present law that is classed as dividends.

Next year I sell that stock at $80. I am denied the loss of $20, though I have been taxed on the $20 dividends, unless I am fortunate enough to have a profit.

So my idea is that if you are going to segregate income you should class in with securities the dividends and allow the deductions to be taken from the dividends from securities, plus the gains from securities, and allow the losses to be taken. I think that is fair. I know of numerous instances of men that are practically bankrupt who will have large taxes under this provision, and it is possible that some of those men that I know will be wiped right out this year, can not help themselves. They owe too much to the banks, and so forth.

That is the first suggestion I would make, and I think that we ought to go at least that far with it.

There is just one instance in Detroit; the Eureka Vacuum Cleaner Co.—stock selling around $6—are declaring an ordinary dividend of $3, which will be taxed, which will immediately cut off half the value of that stock, and yet the man can not take the loss when he sells unless he has these gains. That is only one instance. I do not want to burden you with a lot of them.

Senator REED. In other words, you think that all gains realized from the ownership of securities ought at least to be offset against all losses?

Mr. MEREDITH. Yes, sir. As you said a few minutes ago, you are not reaching the speculator; you are reaching the investor. Because the speculator is in and out and he has not got in many cases very much ordinary income. So it is confined to that class.

I had a case back in 1929 of an individual who had several millions at the beginning of the year and had considerable income. He was unfortunate. He was like a babe in the woods when he got into the stock game and he ended up bankrupt. Under this law he would have had a tax of a large amount. And yet he has not got a penny in the world except that friends of his took a mortgage on his house and are not foreclosing on him. But he is bankrupt. He can not pay his debts.

I have not spoken of bonds. I am assuming that the bonds may be eliminated, regardless of whether this provision stands or not. I noticed that the Secretary of the Treasury has recommended that bonds be excluded.

If they are not, I just want to say this about it: The provision now provides that you can not take a loss on bonds issued by corporations except against gains. You can take a loss on bonds issued by individuals. Now, a great many real-estate bonds are issued by individuals on apartment houses which are owned by individuals.

Now, if I make an investment in a bond of an apartment house which is issued by a corporation and I lose, I should not be barred from taking that loss if you make a similar investment in the apartment next door which is issued by an individual.

Furthermore, you allow the losses on Government and municipal bonds. I refer more to the municipal bonds. Bonds are sold in normal times on a yield basis. So that a bond that is issued at 4½ or 5 per cent rate of interest will sell at a premium if money is at 4 per cent. So the man that pays the premium is actually making a 4 per cent investment, but he is getting 4½ annual return and takes his loss at the time the bonds were disposed of. You charge him nothing on the interest that the receives, it being tax-exempt, and then you allow him the loss which he knew that he was going to take when he bought it and he did not figure it at a loss; he just figured it at a lower rate of interest. He is favored, because he gets his loss.

So if I invest $100,000 in $85,000 worth of municipal bonds—that is probably a high ratio—but I get the interest, whatever it may be, during the life of that bond, tax-exempt, and then I get my $15,000 exempt, the loss, and the gain from ordinary income. I am not restricted to the gains from securities.

Senator REED. I think that has been so ever since we have had an income-tax law.

Mr. MEREDITH. That is true, Senator. I am not complaining about that, but I am complaining about the intent.

Senator REED. It is wholly illogical, of course.

Mr. MEREDITH. Yes. We are still taxing gains under the present bill, and I think that probably it was answered when you spoke of the British system. That would eliminate it. From a practical standpoint, though, I think that there would be some administrative difficulties as to where to draw the line.

Senator REED. Could you not draw the line where we draw it to-day, an asset held two years or more?

Mr. MEREDITH. In normal times that might be fair, but it probably would work a hardship in times like this.

Senator REED. It would prevent a lot of people from charging off losses.

Mr. MEREDITH. That is true.

Senator REED. Probably double the yield of your income tax next year.

Mr. MEREDITH. General Motors sold at 20, around 20, the first of the year, and I thought it was a pretty good buy at around 20 as an investment, not for speculation, and I paid cash for it. I did not have to borrow on it. But supposing I had brorowed $10 a share. I would have considered that a very conservative borrowing, at the bank: I am not speaking of a margin account. This week, unless I could have covered, I would probably have been sold out entirely. The bank probably would have sold it out. So I would have probably been forced to take a loss, and under your proposal it would have been disallowed.

Senator REED. No, no: because you had held it less than two years.

Mr. MEREDITH. Oh, that is right. I see now: yes. So there are many conditions that would warrant the allowance of the loss in some way.

Senator REED. The Treasury always opposes such a change in times of high prices, because they say we will be foregoing a lot of tax that we could get.

Mr. MEREDITH. Surely.

Senator REED. But now here at the bottom of the slump, certainly if we are ever going to change the system, now is the time to do it.

Mr. MEREDITH. No recognition is given to this fact, Senator, that if I buy stock at a hundred and am forced to sell at ten, and I think that most of the selling in these times is forced selling. When a man has bought at a hundred and selling at ten he is not selling for a nickel, because a good many of them have not got income to sell. They are forced out. Somebody buys that stock at ten, and unless we are admitting that the country is never coming back, that $10 stock is coming up and there is going to be a tax on it's gain, and so you are taxing the uprise always and only allowing losses in certain cases coming up.

Senator REED. That is what the House bill does.

Mr. MEREDITH. Yes.

Senator REED. That is not my suggestion.

Mr. MEREDITH. No. Of course, I am talking to the House bill. So it is quite possible, if you could trace a given stock through, that you could find taxes on all the uprises and no losses to compensate. I admit that you have a very difficult feature of the bill here and a very hard one to administer, but I do not think we should discriminate as the proposed bill does do.

Senator REED. I think we have your point, Mr. Meredith.

Mr. MEREDITH. There is just one other thought. Of course, if there is no relief in that way, losses should be allowed to be carried forward from securities. In other words, if a man has a $50,000 loss this year that he can not take, it should go forward and be applied against his capital gain, if we are going to segregate those cases.

Thank you very much.

LETTER AND MEMORANDUM OF THE AMERICAN BANKERS ASSOCIATION

THE AMERICAN BANKERS ASSOCIATION,
Washington, D. C., April 28, 1932.

Hon. REED SMOOT,
Chairman Finance Committee, United States Senate, Washington, D. C.

MY DEAR SENATOR SMOOT: Referring to the permission granted by your good self for the American Bankers Association to file a memorandum relative to section 23 with particular reference to subsections (r) and (s) of H. R. 10236 on which hearings are now being held, I am herewith transmitting to you on behalf of the association a memorandum relative to this section and subsections.

It is our understanding that you will be so kind as to have this memorandum made a part of the record of these hearings.

With assurances of our appreciation of your courtesy, I remain

Yours very sincerely,

ROBERT V. FLEMING,
Chairman Committee on Federal Legislation.

MEMORANDUM SUBMITTED ON BEHALF OF AMERICAN BANKERS ASSOCIATION AND INVESTMENT BANKERS ASSOCIATION OF AMERICA

Section 23 (r) of H. R. 10236 provides as follows:

"(r) *Limitation on stock losses.*—Losses from sales or exchanges of stocks and bonds (as defined in subsection (v) of this section) which are not capital assets (as defined in section 101) shall be allowed only to the extent of the gains from such sales or exchanges. This subsection shall not apply to a dealer in securities in respect of transactions in the ordinary course of his business with his customers."

This memorandum does not attempt to deal with the question whether the proposed limitation on the deductibility of losses is economically sound or constitutional in its general application.

But if some limitation of the deduction of losses is to be imposed, then it is respectfully submitted that the last sentence of this subsection should be changed to read as follows:

"This subsection and subsection (s) shall not apply to stocks and bonds employed in the banking business, nor to a dealer in securities in respect of transactions in the ordinary course of his business."

Section 23 (r) soundly recognizes one exception to this limitation, viz, losses on sales by dealers in securities to their customers. It is submitted that principle, fairness, and good business practice require the extension of this exception to include (1) stocks and bonds employed in the banking business and (2) all securities sold by dealers in the regular course of their business.

1. The provision should not apply to stocks or bonds employed in the banking business.

In his statement to this committee on April 6 Secretary Mills, referring to the above provision limiting the right to deduct losses on transactions in securities to the offsetting of gains from similar transactions, said:

"I think, however, that banks should be excepted. Banks, as a part of their regular business, purchase securities for investment purposes, which become an important element in their necessary secondary reserve. Speculation is not involved, nor is the question of protecting the revenue from improper deductions. It is my opinion that, particularly in the case of banks, a tax upon the gains and a denial of the losses is not necessary and can not be justified."

The report of the Ways and Means Committee, accompanying H. R. 10236, recognizes that banking institutions which underwrite securities and sell them to other banks or to their customers should be allowed to deduct their losses upon such sales without limitation. We believe that banking funds invested in securities in the regular course of the banking business should be entitled to at least the same treatment for income-tax purposes.

All banks are subject to fluctuations in their resources, due to the fact that additional deposits and withdrawals of deposits never exactly balance, and that deposits tend to rise or fall in response to general conditions of credit. Banks must necessarily employ their resources, as a part of their regular business, with a view to obtaining a reasonable return and, at the same tme, maintaining available assets to meet the swings in deposits. For this purpose banks necessarily invest a part of their resources in securities having a ready market for either purchase or sale, and it is inevitable that a bank will make losses as well as profits in the normal handling of its investments. Such losses are an unavoidable incident of the banking business, and are a proper deduction from current income. Nor are there usually gains in the same year against which such losses may be offset, since in a given year the trend is usually either up or down.

There is a clear analogy between securities employed in the banking business and the securities in which the assets of insurance companies are invested. The taxable income of insurance companies (except mutual and life insurance companies, which latter are not taxed on capital profits) is ascertained under the special provisions of section 204 and they are not subject to the restriction of stock and bond losses provided by the proposed section 23 (r). Under section 204 an insurance company, which in the course of its business sells securities, in which it has invested its premiums, is properly permitted to deduct such loss from its income. A banking institution, selling as a part of its regular business securities in which it has invested its banking funds, should clearly be permitted to deduct the precisely similar losses from its income.

2. The excepted transactions by a dealer in securities should not be confined to transactions "with his customers."

The primary source of income of a dealer in securities is from the purchase and resale of stocks and bonds. Ordinarily these securities are sold to customers of such dealer and such transactions, in the present language of the draft, resulting in a loss, would be allowable deductions against other income of such dealer. It not unfrequently happens, however, that a bona fide dealer in securities, who has acquired stocks and bonds for the purpose of resale to his customers, is unable, by reason of unfavorable change in market levels or other circumstances, to dispose of them through the usual channels of retail distribution. Under these circumstances the dealer customarily would dispose of such securities on one of the stock exchanges, if they were listed, or, if not, to other dealers or traders. Although the purchasers in such cases might not, strictly speaking, be described as the "customers" of the dealer, the loss incurred in such a sale is obviously a bona fide loss in the course of the dealer's principal business, just as is the loss incurred by a manufacturer or dealer in commodities where the latter is compelled to sell articles outside the usual channels.

It is therefore submitted that the words "with his customers" should be omitted from the provision. Since the deductible losses under our proposed amendment would still be confined to those incurred in the "ordinary course" of the dealer's business, a dealer who, aside from his business as a merchant of securities, speculated on his own account, would not be able to deduct losses so incurred, since they would not be suffered in the ordinary course of his business as a dealer.

LETTER FROM PARKE A. GALLEHER

WASHINGTON, D. C., *April 18, 1932.*

Hon. REED SMOOT,
Chairman Committee on Finance,
United States Senate, Washington, D. C.

Subject: H. R. 10236, proposed amendment of section 23, paragraphs (r), (s), (t), (u), and (v).

DEAR SIR: In behalf of the executors of various estates now in the process of administration, I desire to respectfully invite the attention of the Committee on Finance to certain sections of the bill H. R. 10236, known as the revenue act of 1932, which provisions if enacted into law will have an effect entirely beyond the purpose and intent of the proposers of the legislation.

Section 23, paragraphs (r), (s), (t), (u), and (v), of this bill provide under the heading "Limitation on stock losses" that losses from sales of stocks and bonds shall be allowed as deductions from gross income only to the extent of the gains from such sales.

Executors and administrators are required by the law governing the administration of estates to pay the debts of the decedent and to make a distribution either to the beneficiaries or to the heirs at law and next of kin. In many cases the performance of these duties is impossible without a sale of some or all of the assests of the estate. The payment of the Federal estate tax, the payment of the State inheritance taxes and the payment of general debts of the estate are essential steps in the process of administration and executors and administrators have no discretion in the matter and no control over the question as to whether compulsory sales of estate property may result in gain or loss to the estate. Under the conditions existing at this time there are very few instances in which executors and administrators can sell stocks and bonds at anything other than a loss.

There is, of course, no criticism of the purpose of the provisions of the bill or any desire to justify practices which may in the past have resulted in an unwarranted reduction in the public revenues. It is believed, however, that the problem with which executors and administrators are confronted in the administration of estates is not the situation which the statute is designed to correct. The Committee on Ways and Means in its report to the House of Representatives gave the following explanation of the purpose of these provisions of the bill:

"Many taxpayers have been completely or partially eliminating from tax their income from salaries, dividends, rents, etc., by deducting therefrom losses sustained in the stock and bond markets, with serious effect upon the revenue. Your committee is of the opinion that some limitation ought to be placed on the allowance of such losses." (H. R. Report No. 708, pp. 12 and 13.)

Executors and administrators compelled to sell in order to pay taxes and debts of the estate are not taxpayers who sell deliberately of their own free will in order to offset salaries, dividends, rents, and other taxable income. These fiduciaries can not buy and sell securities for either investment or speculation. They can only sell and if such a disposition is made necessary in order that debts of the estate may be paid, it can not be fairly said that the purpose of the sale is to offset income which otherwise would be taxable. It is suggested therefore that the following sentence be added as an amendment to sach of the paragraphs of the bill referred to (sec. 23, pars. (r), (s), (t), (u) and (v)):

"This subsection shall not apply to sales by executors and administrators in the course of the administration of an estate."

These amendments will, of course, not affect in any way the application of the provisions of the bill to the situations which they obviously were designed to correct.

Very truly yours,

P. A. GALLEHER.

LETTER FROM ARTHUR E. SUFFERN

NEW YORK UNIVERSITY,
New York, February 3, 1932.

Hon. REED SMOOT,
Senate Office Building, Washington, D. C.

DEAR SENATOR SMOOT: While you are changing the income tax law why not revise the exemption provision as applied to married men separated from their wives? They have long been subjected to an unfairness which I am surprised has not been eliminated before. Perhaps I can make my point clear by citing a case and raising a few queries about it.

For example, a married man earning $5,000 a year and living separately from his wife is obligated by a separation contract to pay the wife $1,800 a year and carry insurance in her favor.

Queries: Why should the man be allowed an exemption of only $1,500 in view of the fact that he supplies all the income for both parties and that it costs more for both parties to live separately than it would if they lived together? In view of the fact that when husband and wife are living together and file separate returns, the exemption of $3,500 may be taken by either or divided between them, why should not a husband living separately from his wife and supplying all of the income for the support of both parties be allowed to take the exemption of $3,500? If the arrangement which I have suggested in the last query is not feasible, why should not the husband living separately from his wife be allowed, when arriving at his net income, a deduction of a portion, at least, of the amount that he pays his wife? This would seem only fair as putting married men separated from their

wives on a parity with single men, in accordance with the principle of taxation in proportion to ability to pay. Why should the total exemption when the parties live separately and make separate returns be $3,000 instead of $3,500?

Since the changes involved in these queries which I have raised would not cause the Government much loss of income it would seem that they could well be made. It is well recognized that petty inequities in the law and its administration are the sources of much digruntlement and invite taxpayers to use every method possible to evade the tax. In perfecting the income tax system every effort should be made to convince taxpayers that it is the fairest possible. Doubtless the Government would then gain much more from the diminution of evasion than it would lose by being as liberal as possible in helping taxpayers to meet the exigencies of life which they face.

Hoping that these suggestions will receive careful consideration, I remain,

Yours sincerely,

ARTHUR E. SUFFERN.

STATEMENT OF GOVERNOR PAUL M. PEARSON, GOVERNOR OF THE VIRGIN ISLANDS

Senator SHORTRIDGE. You may proceed, Governor.

Governor PEARSON. I appear, gentlemen, to request that for the Virgin Islands the exemption of the income tax shall be reduced from those now appearing in the present proposed bill; that those exemptions shall be $600 for an unmarried man, and $1,200 for a married man, or heads of families.

The reasons for this proposal are that in the Virgin Islands the standard of living is considerably lower than in the United States and so that it appears to be an equitable law that this deduction shall be at the rate proposed.

Now, before the United States took charge of the Virgin Islands, they had an income tax law which made an exemption at $900 and $1,800.

Senator BINGHAM. Governor, before you proceed, may I inquire whether the receipts from income taxes levied on residents of the Virgin Islands go into the Federal Treasury or into the treasury of the Virgin Islands?

Governor PEARSON. They go into the treasury of the Virgin Islands, and the income tax which was levied before brought in about 20 per cent of the entire revenue of the Government. And the present law, which was made after the Virgin Islands were taken by the United States, with the same exemptions that we have in the United States, has gradually decreased the revenue for the Virgin Islands, so it seems fair that an exception be made and in the bill which you are now considering the proposal that we have made shall be granted. This will increase the number of income taxpayers by about 200 per cent. At present there are a large number of young men in the Virgin Islands who pay nothing toward the Government expenses, as they have no property, and their income tax exemption allows them to go without paying anything toward the support of the Government.

Senator CONNALLY. What other kinds of taxes have you in the Virgin Islands—property taxes?

Governor PEARSON. Property taxes and the customs taxes. We have a tariff on goods from other countries.

Senator CONNALLY. Who levies those; your territorial authorities?

Governor PEARSON. Yes, sir.

Senator CONNALLY. A council, or something of that kind?

Governor PEARSON. Yes; that is called the municipal council.

Senator CONNALLY. Have they got power to levy an income tax of their own?

Governor PEARSON. They dropped that, as the law provided that income taxes applicable to the United States should also be applicable to the Virgin Islands.

Senator BINGHAM. Was that at the time of the passage of the organic act?

Governor PEARSON. No; it was about three years later, Senator.

Senator BINGHAM. Was it a part of the revenue bill?

Governor PEARSON. It was a part of the revenue bill of 1920, as I recall, that was made applicable to the Virgin Islands, and they reduced our exemptions from $900 to $1,500.

Senator BINGHAM. How much do you figure that your proposal would increase the receipts of the treasury of the Virgin Islands?

Governor PEARSON. Of course, I can only guess at that, but I think about $20,000.

Senator REED. Are there any other possessions of the United States in which the American income tax law applies?

Governor PEARSON. I do not know, Senator.

Senator REED. Of course, it does in the Territories like Hawaii, and Alaska, but it does not in Porto Rico, does it?

Governor PEARSON. No; they make their own, but the legislature, now in session, is asking for a reduction to $800. That is below what is their present exemption.

Senator REED. What is your present income from the income tax?

Governor PEARSON. Last year it was $16,000 from 101 persons. But this will increase our income by 179 persons who are on the Government pay roll alone, and I do not know form how many others.

Senator SHORTRIDGE. Well, in point of dollars, how much?

Governor PEARSON. I can only guess at that, Senator.

Senator SHORTRIDGE. Approximately $20,000, you said?

Governor PEARSON. It would more than double our present income from that source.

Senator SHORTRIDGE. Is there anything further, Governor, you wish to add?

Governor PEARSON. That is all.

Senator SHORTRIDGE. Thank you.

STATEMENT OF FRANK W. MONDELL, WASHINGTON, D. C.

Mr. MONDELL. Mr. Chairman and Senators, while all the new taxes proposed in the House bill are in excess of a normal peace-time tax burden, and a number of the levies are particularly questionable, it is my opinion that none is so objectionable and so subject to criticism, from the standpoint of an equitable spread of tax burdens, and of ability to pay, as the provisions of section 25 which, for the years 1932 and 1933, assesses the normal income tax on corporate dividends.

It is proper to consider the conditions under which this tax was adopted. The House Committee on Ways and Means had submitted and the House had adopted a program which, it was understood, would practically, if not entirely, balance the Budget, taking into consideration certain anticipated economies. The Treasury was not convinced that economies could be effected to the extent estimated.

Furthermore, its estimate as to the income from certain proposed levies was less than that of the committee, and from the Treasury viewpoint additional revenue was necessary. In this situation, between adjournment and reconvening the House committee selected, proposed, and the House on reassembling accepted—reluctantly, no doubt—this further suggestion. The effect of the tax could not well have been, under the circumstances, carefully considered.

Senator HARRISON. May I ask you, Mr. Mondell, if, when the House had finished consideration of the bill the last time, and the statement had emanated from the Treasury that it was not balanced, that they lacked some $100,000,000, or $90,000,000 of balancing the Budget, that was on the estimate of the Treasury Department that there could only be economies worked out to the amount of $118,000,000. Mr. Mills yesterday testified that he believed without question now that there could be economies of $200,000,000 effected in savings. If he had made the statement at that time that we would effect savings of $200,000,000, is it your opinion that this tax on normal stock dividends would have been put on then?

Mr. MONDELL. My understanding of the situation was that it would not.

Senator HARRISON. That was one of the last things put on in order to balance the Budget.

Mr. MONDELL. Yes; in the hope that no one anywhere at any time, under any circumstances, would say that the Budget had not been abundantly balanced, and some more.

Senator REED. I understood Mr. Mills to say yesterday that those economies could be made. I did not understand him to say they would be.

Mr. MONDELL. That is the question for you gentlemen to decide.

It will be remembered that our division of the income tax into normal and surtaxes was adopted because of the corporation tax, and the income subject to the corporation tax was exempt from the normal tax, with a view of somewhat equalizing the burdens as between corporation and individual incomes. After it was all done, with a corporate tax as high as 12 per cent, there was a pronounced inequality of tax on income from a corporation as compared with that from individual or partnership activities. It is now proposed to tremendously increase and accentuate this inequality.

This proposed tax is inequitable and excessive, even as an emergency tax, from whatever angle one may view it:

First. It is double taxation;

Second. It is particularly burdensome on a taxpayer of small or intermediate income;

Third. It penalizes incomes from corporate sources as compared with individual or partnership incomes by 13½ to 15 per cent; if the corporation tax proposed by the House is adopted;

Fourth. It tempts the piling up of corporation reserves, thus withholding earnings from circulation; and

Fifth. It further hastens the flight of capital from industry to the snug harbor of tax-free securities.

That it is double taxation there can be no question, for the incomes thus proposed to be taxed are already bearing a tax burden greater than that of incomes from other sources. I have said it is particularly burdensome on a taxpayer of small or intermediate incomes. Let us see how it works.

Assuming that the normal and surtax rates were to remain as written in the House bill, the effect of the provision to which I have referred upon an income of $100,000, wholly from dividends, would be to increase the tax about 33 per cent. On the other hand, the tax on an income of $20,000, wholly from dividends, would be multiplied four times, and on an income of $10,000, wholly from dividends, would be multiplied ten times.

It would be difficult to figure out a tax proposition more fantastically inequitable in its results. I speak rather emphatically in regard to the matter, notwithstanding my high regard for the House and my belief that the House generally acts with excellent judgment. Conditions were such, as has been stated, that this tax was brought in at the eleventh hour, and never had consideration.

Mr. Chairman, the provisions of section 23, (r), (s), (t), (u), and (v), limiting stock losses to an amount equal to gains, were first suggested at a time when retoractive application of the income tax provisions of the bill to cover the calendar year 1931 was in contemplation. Under the conditions that existed during that year, and in view of the then existing provisions of the law, there was a great temptation, from the standpoint of revenue, to include such provisions, but on the abandonment of the idea of making the act retoractive, and with the adoption of various other administrative provisions in this act—including the provision with regard to wash sales—it occurs to me that this limitation is by no means justified at this time.

It is difficult at any time to justify the change in the rules of the game unless they can be defended from the standpoint of equity to all concerned. Taxpayers have been paying taxes on their gains at a time when gains were the rule. It is now proposed to limit credit for losses at a time when losses are the rule. In view of the great need of revenue, the proposed action is no doubt held to be justified, perhaps without full realization of the fact that its burdens will be upon those who have most severely suffered from the depression, while the benefits of the recognition of losses to the extent of gains will be enjoyed, in the main, or almost wholly, by the speculative trader.

I think it goes without saying that so far as the average citizen security holder is concerned, he has not been selling his securities in the present market except under pressure, and at very great loss and sacrifice. The same average citizen security holder is not likely to realize any gains from the sales of securities during 1931, at least, and perhaps not 1932. His experience in connection with securities will be wholly confined to losses unless belated prosperity advances much more rapidly than is now anticipated. On the other hand, the speculative trader will undoubtedly make some gains, and if conditions improve his gains are likely to be at least equal to his losses, and therefore he will benefit.

As an instrumentality for considerably increasing the revenue, this provision is about two years too late. As a means of adding burdens to those who have already suffered grievously, it may be said to be entirely opportune. I think it is one of the provisions of the bill which are scarcely justified from the standpoint of fair play. It is true, it sounds very well to say that we credit losses to the extent of gains, but unfortunately those who have most severely suffered from losses are not likely to have any gains. It would be much fairer and

more equitable, if the law must be changed in this regard, to eliminate all taxes upon, or credits for, capital gains and losses.

With regard to income taxes, in times like these, there is no doubt a great temptation to secure revenue by increasing income-tax rates. Within certain limits this is justified. Under conditions of expanding prosperity and large profits, very heavy burdens can be temporarily borne, but at a time when industry is as greatly depressed as at present tax rates may easily reach a point which will seriously discourage and greatly retard improvement in business. I am of the opinion that the income-tax provisions of the bill will have that effect. It is proposed to lay a surtax of 40 per cent on all incomes in excess of $100,000. With the normal tax this amounts to 47 per cent. On so much of the income as is derived from dividends, 13 per cent has been paid at the source, or a total of 60 per cent, and when to this is added the income tax of certain States the tax amounts to from 66 to as high as 77 per cent. What our opinions may be as to the theory of "soaking the rich," I assume we are all united in the hope of a revival of business. Anyone who anticipates a revival under such a burden of taxation must be optimistic indeed. If under present conditions these maximums must be temporarily established, the higher rates should at least be confined to higher brackets of incomes.

Under low or reasonable income-tax rates the effect of the existence of great quantities of tax-free securities does not consititute any serious handicap to industry, but every increase adds to the temptation to avoid the chances and vicissitudes of business by sailing into the safe harbor which such securities afford. We discourage investment in new enterprises by these high taxes, the retention of funds in established business, and not only increase the profits and benefits of tax-free securities, but we greatly encourage the increase of taxation through an increased volume of such securities brought out to meet an increased demand. Beyond all question, the income-tax rates in this bill are far beyond fair, normal rates. In my opinion they are beyond the rates that can be justified even in these days of needed additional revenue. To a very considerable extent they will not realize the hope of revenue. It is much like taxing "the pot of gold at the foot of the rainbow."

With respect to estate taxes, unless we have reached a time when we are frankly, under the pretense of taxation, attempting to embark upon a distribution of estates, the highest estate taxes in the bill can not be justified. The recommendations of the Treasury in this regard are, perhaps, under present conditions, temporarily justified. The higher rates are in the region of confiscation; a menace to estates in periods of decreasing values and particularly estates invested in going-business concerns. They add greatly to the temptation to shift investments from business to negotiable tax-free securities. High as they are, they will not go far toward increasing revenue in the period within which it is proposed to balance the budget; but they will hang over every large estate in the country invested in industry, as a menace, tempting, if not compelling, withdrawal from active participation in business enterprises.

LETTER FROM HON. PATRICK J. HURLEY

Hon. REED SMOOT,
Chairman Committee on Finance,
United States Senate, Washington, D. C.

DEAR SENATOR SMOOT: The Bureau of Insular Affairs of this department has received a communication from the Governor of Porto Rico relative to H. R. 10236, Seventy-second Congress, first session, stating his concern over reports which have reached him indicating the possibility of the elimination or amendment of so much of section 31 of the revenue act as permits credit to be taken against Federal income taxes, to the extent provided in section 131 of the revenue act, for the amount of income taxes and certain other taxes imposed by possessions of the United States.

H. R. 10236 (revenue act of 1932) which was passed by the House on April 1, 1932, was introduced in the Senate on April 4, is understood to be now before your committee.

The Governor of Porto Rico was probably moved to send his communication by the fact that an effort was made in the House to amend H. R. 10236 as reported (Report No. 708) as follows: "That lines 2 to 7, inclusive, on page 36, be stricken out." (Congressional Record, of March 19, 1932, pp. 6661–6662 and of March 29, 1932, pp. 7248–7253.) The specific part of the bill referred to above reads as follows:

"SEC. 31. *Taxes of foreign countries and possessions of United States.*—The amount of income, war profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax, to the extent provided in section 131."

The amendment, however, was rejected, and the above-quoted provision appears in the bill as passed by the House.

The elimination of the provision quoted above would operate to place American citizens and corporations doing business in Porto Rico and in the Philippine Islands at a serious disadvantage as compared both with their foreign competitors in the islands and with Americans doing business in the United States.

It is recommended therefore that, should any such amendment as was rejected by the House be offered in the Senate, it do not receive the favorable consideration of your committee.

Sincerely yours,

PATRICK J. HURLEY,
Secretary of War.

STATEMENT OF DONALD A. CALLAHAN, OF WALLACE, IDAHO, REPRESENTING NORTHWESTERN MINING ASSOCIATION

The CHAIRMAN. On what subject do you speak, Mr. Callahan?

Mr. CALLAHAN. The subject of mine depletion.

The CHAIRMAN. You may proceed.

Mr. CALLAHAN. Mr. Chairman and gentlemen of the committee. My name is Donald A. Callahan, of Wallace, Idaho, and I am representing the Northwestern Mining Association.

I am not appearing here in opposition to anything in the way of tax, but I am appearing here in support of an amendment which was offered by Senator Thomas of Idaho, and which would provide as the basis of depletion in metal mines a percentage rate of 15 per cent of the gross.

Now, a little bit of the history of this. Back, I think it was, in 1926, or prior to that, the percentage method of depletion was applied to oil and gas. In the bill as it comes from the Ways and Means Committee of the House that percentage method is applied also to sulphur.

A great many people have the idea that this matter of depletion of mines is a technical and involved subject, and they throw up their hands rather when we commence to talk about it. I am going to

try to show you to-day that this is not a technical question at all, but has become technical only because of the method in which depletion has been arrived at in the past under the methods now in use in the Treasury. I am going to start out with a definition, if you please, of depletion of mines, which is in language that I think conveys the idea.

Depletion of mines under our income tax laws means an annual deduction from gross income of an amount which is estimated will compensate the miner for the capital which has been used up or destroyed through the operation of his mine during the year. Obviously all the ore in his mine at the beginning of his operation is capital. Plainly, also, when he takes that ore out of the mine and sells it he has disposed of his capital. Our income tax laws have never attempted to tax him on that portion of the proceeds of his sales which may be regarded as a return of capital. The only question which has been considered in past income tax laws, and which is being considered here, is: "What is the proper method of ascertaining the amount of the proceeds of his sales of ore which may be regarded as return of capital and upon which he should pay no tax?" Looking upon it from another angle it may be said that depletion for mines represents the same element as the cost of raw materials in a manufacturing process.

The CHAIRMAN. You take the same position as when the bill was up providing for the depletion under existing law? That was not satisfactory to you at that time; to the Idaho people, I know.

Mr. CALLAHAN. No.

The CHAIRMAN. What you want is exactly what you asked for before when the bill was up for consideration?

Mr. CALLAHAN. Well, in the year 1930 we had a hearing before the Joint Committee on Internal Revenue Taxation, and in that we presented our arguments for this particular method. At that time the method that we contended for was an allowance of 33⅓ per cent of net. Now the amendment itself here is 15 per cent of gross. And the figures show from the experiences that 15 per cent of the gross income represents approximately 30 per cent of the net. Those are the figures.

Senator BINGHAM. Mr. Chairman, may we have a copy of Senator Thomas's amendment so that we can have it before us? Has it been printed?

The CHAIRMAN. Yes.

(The amendment is as follows:)

Amendment intended to be proposed by Mr. Thomas of Idaho to the bill (H. R. 10236) to provide revenue, equalize taxation, and for other purposes, viz:

On page 84, line 15, after "for" insert "metal mines,"; and beginning with the word "In" in line 16, strike out through the period in line 19 and insert in lieu thereof the following: "The allowance for depletion shall be, in the case of metal mines, 15 per cent, and in the case of sulphur, oil, and gas wells, 27½ per cent of the gross income from the property during the taxable year."

Senator REED. Mr. Callahan, looking at the figures for 1929, the only separation of income-tax payers appears to be mining and quarrying. And of course that would include some companies that are not metal miners.

Mr. CALLAHAN. Yes.

Senator REED. But I notice that their gross is 3,552,000,000. Fifteen per cent on that for depletion would amount to about 525,000,000. The depletion allowed the same companies in that year was only 242,000,000.

Mr. CALLAHAN. That is for what year?

Senator REED. For 1929.

Mr. CALLAHAN. 1929. The figures that have been compiled by the Joint Committee on Internal Revenue Taxation, and which are contained in the preliminary report that was presented, covers those very figures. It covers them not for one year but over a period of years. In which it is shown that the average of depletion allowed amounted to better than 17 per cent.

Senator REED. On gross?

Mr. CALLAHAN. Yes. Those figures are in this preliminary report which was prepared by Mr. Parker and his staff.

Senator REED. Have you a copy of that report here, Mr. Parker?

Mr. PARKER. Yes.

Senator REED. The hearings before the joint committee?

Mr. CALLAHAN. That is page 67.

Senator REED. Gives only percentage of net.

Mr. CALLAHAN. This is the gross receipts. That is for the period 1922 to 1926.

The CHAIRMAN. Well, that does not cover all classes of mining, does it?

Mr. CALLAHAN. They are all broken down. Allowance for lead and zinc ores, 17.21; iron ores, 17.74; for copper, 17.21; for gold and silver, 16.94; and the weighted average was 17.127.

Senator REED. What page is that—page 67?

Mr. CALLAHAN. Page 67.

Senator BINGHAM. Mr. Chairman, it is impossible to tell from the amendment itself where this comes in this copy of the bill which we now have before us. What paragraph are you on? What section?

The CHAIRMAN. On page 91, Senator.

Senator BINGHAM. Thank you.

The CHAIRMAN. Giving the general rules for the basis of depletion. Proceed.

Senator REED. I have not found that place, Mr. Callahan.

Mr. CALLAHAN. Page 67. Have you this preliminary report on depletion?

Senator REED. Yes.

Mr. CALLAHAN. Page 67; right down at the bottom.

Senator REED. Page 65?

Mr. CALLAHAN. Page 67. No; in this report it is page 67. I will hand you my copy.

Senator REED. I have got the table anyway.

Senator COUZENS. Do you approve of cutting out the discovery provisions if these schedules were adopted?

Mr. CALLAHAN. Yes.

Senator COUZENS. You think the discovery provision ought to be cut out?

Mr. CALLAHAN. Personally I do; yes.

Senator REED. Why, Mr. Callahan?

Mr. CALLAHAN. Because I do not believe in options in a revenue law. If this thing is right it reaches the same result as discovery,

and I think as a matter of fact discovery would in the future be absolutely eliminated if this were in vogue. Men are not going to the trouble and expense of establishing these valuations, and they are troublesome and expensive, and all that, if this method was in vogue.

Senator COUZENS. Do you believe that 27½ per cent, as provided in the Thomas amendment, is correct?

Mr. CALLAHAN. It is 15 per cent.

Senator COUZENS. I mean on sulphur and oil and gas.

Mr. CALLAHAN. I do not know anything about sulphur and oil and gas. This refers only to metal mines.

Senator COUZENS. Yes; but I mean Senator Thomas's amendment proposes a different per cent on the other.

Mr. CALLAHAN. The provision as to oil and gas is already in the law. The one as to sulphur was put in the House and adopted in the bill there. So that is really not an amendment. The only amendment here is the amendment applying to metal mines, 15 per cent of gross.

Senator REED. This committee put in 15½ per cent after a long study.

Mr. CALLAHAN. Yes. The method now in use is called a scientific method, that is the method of determining how depletion shall be arrived at. To my mind it is simply a pseudo-scientific method. Nothing is scientific that does not rest upon the actual basis of facts. And it is impossible to determine that under the present analytic appraising method.

The CHAIRMAN. Do you think that it can be definitely determined? For instance, take the veins, the lodes, the ore deposits in Idaho. They are quite different from what they are in some of the other States, and I doubt very much whether any figure can be named that would cover the whole field of mining.

Mr. CALLAHAN. By attempting to fix it upon a valuation of the units according to the actual valuation, yes, I agree with you.

The CHAIRMAN. That is a mighty hard thing to do.

Mr. CALLAHAN. Yes, sir; that is a hard thing to do. And that is the reason we suggest this method. Now we are in a different position than we were when these bills were originally written. We have back of us here a world of experience in production and all that sort of thing. We know what the percentage of depletion now would mean as related to what depletion has actually been allowed in the past, and we have purposely placed this even lower than the figure which the weighted average shows at the present time in order that there will be no decrease in revenue, and we contend that there will be an actual increase in the stability of revenue, because under the method now in use it is necessary first of all to determine how much ore you have in your mine, something which in our locality of course we have to guess at. We have to determine or estimate how much it is going to cost per unit to take that mine out of the ground. We have got to predict the price of it. We have got to estimate the metal content of all of this ore. All of those things rest upon estimates and predictions. And then when that is finally done we will figure how much profit there will be in mining that out, and then that is reduced to a formula of present worth, and then the number of units that are estimated in the beginning to be in that mine, they divide the present worth of that by the number of units,

and then arrive at a unit of depletion which is taken off year by year as the shipments are made and returns made.

Senator COUZENS. Leaving out of consideration your district, do you think that the 15 per cent is fair to all districts?

Mr. CALLAHAN. I think it is fair to all districts because it is the nearest approach to the average that we can attain. And I think it is absolutely fair. It is our opinion that it is fair. Never been denied that it was not fair.

Senator KING. How can you establish a uniform rule, Mr. Callahan, when you have different conditions in different places? For example, with respect to the copper deposits in Utah and Arizona and some parts of Nevada, and other places you have porphyry deposits, or deposits where by reason of the underground workings and the sinking of small shafts they can tell within a few hundred tons just the limits of the production. For instance, in one deposit there in Arizona they sank shafts, 40 or 50 of them, around on the periphery, and they could determine within a few tons the quantity of copper. Then they can determine also by reason of the shafts which they had run the content and they could measure the quantity of ore there. Take the Utah copper. A huge porphyry deposit. You can see by going on the mountain the limitations. That is very different from the lead and silver lodes where you have a little seam perhaps just a few inches, and it will open up into a large deposit and you take out ten or fifteen million or perhaps a few million ounces, and then the deposit would be exhausted, and you have a little seam that you can follow over an indefinite distance and then open up another deposit. It seems to me it is difficult to establish uniform plans for the purpose of applying the rule of depletion.

Mr. CALLAHAN. It is very difficult. Not only difficult, but absolutely impossible under the present plan.

Now then the experience is simply this, that there are mines which are operating and which have been valued according to this plan, and which, in an individual mine you might say might be able to be absolutely correct. Yet the range of depletion for coppers alone, according to the tables that are published and have been compiled by the Government, range from 3 mills a pound to over 8 cents a pound. As a matter of fact, there are companies operating to-day whose valuation has been determined under this method, whose valuation for depletion purposes, which represents the value of that ore in the mine discounted to present worth, is more than what they can get for the finished product shipped to-day. And, of course, they pay no tax. Now, under this amendment it would not make any difference what your conditions were, if you made no profit at all, under this provision 50 per cent of that would have to be paid upon. You could not wipe it all out as they do at the present time under the percentage depletion method.

The CHAIRMAN. Your time has expired.

Senator COUZENS. I move, Mr. Chairman, that he be permitted to go on. We have asked him a lot of questions.

The CHAIRMAN. I was going to suggest that.

Senator REED. Are there many companies that have 8 per cent depletion allowance?

Mr. CALLAHAN. I am not able to say that, because I am simply quoting from the appendix to the hearings before the Joint Committee on Internal Revenue Taxation, 1930.

Senator REED. I should not think that they would be very enthusiastic for your 15 per cent suggestion.

Mr. CALLAHAN. No; I do not think they are.

Senator REED. That is not the test, however.

Mr. CALLAHAN. That is not the test. There is no question about that.

There are three sources, of course, of opposition to this. One of them is that perhaps the department itself would oppose it, because I think you gentlemen know, as all of us know, that when anything is established and comes under the jurisdiction of experts, why the opportunity to make a change in that depends too much upon what the experts think about it, because the men in actual responsible charge of those departments, like business men, rely upon the men whom they have specially chosen to do certain things.

The CHAIRMAN. You can hardly charge that to the department.

Mr. CALLAHAN. No; I am not at all, Senator. But I am saying that that might be a source of opposition.

There is another, that certain companies may have certain allowances for depletion that would be affected if this were adopted.

There is another class that is opposed to it very strenuously, and that is the class that has grown up of experts who represent taxpayers, and who have been making a very nice thing out of it, and it is perfectly natural that they should. There is no complaint to be made about them at all. That is their business.

But we are firmly convinced that the application of the percentage method will do away with a large amount of the expense of the department. It will do away with a tremendous amount of expense to the taxpayer in first establishing his valuations and afterwards maintaining them. That it will mean a more stable revenue if it is adopted with the provision that it can not exceed 50 per cent of the net. And it will mean this, that valuations will not be established, as they have been in the past, in times of high prices, when there was a big price for a unit of ore, and then depleted at a time of lower prices. I think you gentlemen will agree that that is one of the weaknesses of income tax, that in fair weather it is a wonderful thing, and in foul weather it is no good at all. And as far as mines are concerned that is one of the things that affects us most of all, that these depletion rates for units were established when prices were high; that when the time comes when the Government actually needs the money they are able to return their income tax with a depletion that wipes out entirely all profit.

Senator COUZENS. From a competitive standpoint is it not a detriment to the man who creates his mine now as compared to the man who created it when the prices were high?

Mr. CALLAHAN. Absolutely. And let me tell you another thing from a competitive standpoint. I have shown this discrepancy as between the valuation per unit allowed for depletion in coppers. Now take the lead and zinc industries in which I am interested particularly. We have a weighted average of 30.5 per cent of depletion for the entire industry. But in the tri-State field that ratio of depletion is 43 per cent. And out in the Rocky Mountain section it is a little better than 25 per cent. Now those are competing for the same business. In the tri-State field that is largely due to the fact that they have been able to establish discovery depletion, where it is very

difficult under the law and under the rules to establish discovery depletion in our section, but that has been brought about. And they at the same time have a tremendous advantage in the matter of freight rates and nearness to market.

Senator REED. Does you ore come in the same spotty formation a theirs?

Mr. CALLAHAN. Well, theirs is more in the flat sheet formation. Ours is true fissure. And exceedingly difficult to tell under the law which provides that if the ore is continuous that it can not be regarded as a new discovery. Now it depends upon the question as to what may be considered as continuous, and it is very difficult to establish that in our section particularly.

Senator REED. All those questions would be wiped out of the law.

Mr. CALLAHAN. All those questions would be wiped out of the law, and all those entirely unnecessary. If we could arrive at something which the experience of the department itself has shown would not exceed the average weighted ratio of depletion to gross income.

Senator KING. If your plan were adopted would it inure to the advantage of your property as well as to those similarly situated?

Mr. CALLAHAN. To my property?

Senator KING. Yes.

Mr. CALLAHAN. No.

Senator KING. Then why are you interested in it?

Mr. CALLAHAN. I am interested in it because it is a method under which the mines of my district would be materially benefited. Let me give you an example of how this works with the mine owners.

Senator COUZENS. Before you get to that point. The adoption of this plan would put you all on the same basis?

Mr. CALLAHAN. The adoption of this plan would put us all on the same basis, absolutely.

Senator COUZENS. And these concerns that now have this big advantage over you would have that advantage taken away?

Mr. CALLAHAN. Yes.

Senator KING. It would inure to your advantage in a little way, but to the disadvantage of some others that you think now have an advantage?

Mr. CALLAHAN. No; I do not think it would inure to their disadvantage. No, I do not think it would. I think they imagine it would. And there is also a tendency of those going along in business to say, "Let well enough alone."

The CHAIRMAN. I can not conceive of any mine, unless it was a wild-catter, but that this amendment would be an advantage to.

Mr. CALLAHAN. I think it would. Not in the matter of taking away revenue from the Government, but in the matter of their carrying on their own business.

Let me tell you something, if I may, since you referred to my company, of what happened to my company. Back in 1924 we had a claim made against us by the Government for excess profit and additional income taxes for the year 1917. That claim was based entirely upon a difference of opinion as to the figuring of our depletion and the valuation per unit. Now mind you, that money that had been taken out that year had been distributed in dividends when this claim was made. We had that uncertainty. But we did have a surplus. We had enough money to pay this bill. It amounted to $165,000.

Our company had a general counsel—an excellent lawyer in New York—but he did not feel that he was competent to represent our company in this technical and highly involved matter before the bureau. So he recommended to us to employ a tax expert in New York to come down here to Washington to figure that out. We sent that man down here. He had never seen our property in his life; he had never seen our mine. He went down to Washington. The men before whom he appeared in the bureau had never seen our mine. They sat down in comfortable chairs here in Washington—2,500 miles away from the actual property itself—and figured valuations according to formulas; while we, who had lived and worked with that property for years, awaited their determination of our liability. As a result of their deliberations we were able to save to our company, after paying the expert fees which were not inconsiderable, a sum approximating $50,000. Now we reached the conclusion after that case had reached its conclusion and we had made final settlement, that mining in Washington was even more profitable than it was out there in Idaho.

The CHAIRMAN. Was that one of those cases where a jeopardy assessment was arbitrarily put upon the mine?

Mr. CALLAHAN. That must have been the case or they could not have reduced it $50,000. But that shows us how helpless we are. In other words, the mine operator who is able to maintain a staff of experts, who is able to first establish his valuation and then maintain it, and then represent it before these departments properly, and spend a lot of money for it, he is able to get by and get by without any injury to himself. But there are a lot of little fellows that never make any depletion claims at all.

Senator COUZENS. May I ask you what you paid your experts in that case, or is that confidential?

Mr. CALLAHAN. I think our attorney's fees and experts' fees ran up around $15,000.

Senator REED. Mr. Callahan, what would be your feeling toward basing your depletion upon a percentage of net income instead of gross?

Mr. CALLAHAN. Well, probably we would favor that. It has been figured out that 15 per cent of gross will amount to about as much as 30 per cent of net. That is the experience. And we would have no objection to figuring it on that basis.

Senator COUZENS. It seems to me that to figure on percentage of net would encourage extravagance.

Mr. CALLAHAN. Yes. This is simpler.

Senator COUZENS. Do I understand that if this plan were adopted it would be necessary to eliminate the discovery percentages?

Mr. CALLAHAN. It is not necessary to eliminate, but you gentlemen know and I know that it should be eliminated.

Senator COUZENS. Would not those who get a discovery allowance have an advantage over you if this plan were adopted and you only got the percentage?

Mr. CALLAHAN. It would be an advantage temporarily, perhaps, but it would not be an advantage that would be continuous. And what we are asking is a permanent change of policy with regard to this thing, which we feel will be to the advantage of all mines and will be tremendously to the advantage of the Government.

May I now say in conclusion that a number of the States have recently adopted income tax laws. Senator Smoot's State of Utah, after a thorough investigation by a commission, adopted an income tax law, and they incorporated in that after their investigation the percentage method of depletion.

Senator REED. Based on gross?

Mr. CALLAHAN. I do not know whether theirs is based on gross or net.

The CHAIRMAN. On net, I think.

Mr. CALLAHAN. On net. Our State of Idaho based theirs on net. The State of Oregon and the State of California—all of those that have recently enacted income-tax laws—provided the percentage depletion for mines in their laws.

Senator COUZENS. On net or gross?

Mr. CALLAHAN. Well, I think they are principally on net. I think that that was done in all of them. I know it is in our State.

Senator COUZENS. Why did they adopt net and you recommend gross?

Mr. CALLAHAN. Well, as a matter of fact there has been just a question always as to which is which.

Senator REED. As a matter of fact it is based to some extent on both where you say that it shall not exceed 50 per cent net.

Mr. CALLAHAN. Yes, it is. This, of course, has that saving provision. But, as I say, the estimate from the figures is that this amounts to about 30 per cent on net.

I am filing this statement, Mr. Chairman.

The CHAIRMAN. Very well, that may be placed in the record.

(The statement presented by Mr. Callahan is here printed in the record, in full, as follows:)

STATEMENT OF DONALD A. CALLAHAN, OF WALLACE, IDAHO, REPRESENTING NORTHWESTERN MINING ASSOCIATION

I am appearing in support of the amendment offered by Mr. Thomas of Idaho relative to the allowance for depletion in the case of metal mines.

Depletion of mines under our income-tax laws means an annual deduction from gross income of an amount which is estimated will compensate the miner for the capital which has been used up or destroyed through the operation of his mine during the year. Obviously all the ore in his mine at the beginning of his operation is capital. Plainly, also, when he takes that ore out of the mine and sells it he has disposed of his capital. Our income-tax laws have never attempted to tax him on that portion of the proceeds of his sales which may be regarded as a return of capital. The only question which has been considered in past income-tax laws, and which is being considered here, is: "What is the proper method of ascertaining the amount of the proceeds of his sales of ore which may be regarded as return of capital and upon which he should pay no tax?" Looking upon it from another angle it may be said that depletion for mines represents the same element as the cost of raw materials in a manufacturing process.

I am starting out with the assumption that the members of this committee are agreed that a suitable allowance should be made in order that mine operators may have a return of their capital, tax free, and that the tax shall only be levied upon what may properly be called "income."

The organization which I represent is of the opinion that the present method of ascertaining the proper allowance of depletion is inequitable as between taxpayers in the same industry; that it is uncertain and therefore productive of controversy; that the determination of the depletion allowance is expensive, both to the Government and to the taxpayer, and that the revenue of the Government from mining is adversely affected because of these methods. I could not appear at this time to urge upon this committee a change in the law which would result in a decrease of revenue. Despite the depressed condition of the mining industry,

due to the lowest metal prices in history, I do not feel that we should ask the approval of this committee for any change that would result in the reduction of our taxes. However, I do feel that the present economic situation, and the emergency which the Government is facing in the matter of the Budget, make it extremely opportune that we urge a change in the law which will bring about—first, a decrease in governmental costs; second, a simplification of the method of ascertaining tax liability, and third, a stabilizing of the revenue. All of these we believe will be accomplished through the amendment to which I have referred.

Simplification of governmental machinery and the lowering of the cost of government are very much to be desired at the present time. We are beginning to learn, I believe, that a popular government can not long survive if its administrative functions become too involved and intricate, and if we are obliged to rely, not upon the common sense of our legislators and administrative officers but upon the technical knowledge of experts. This is particularly true with relation to taxation. More advantage has been taken of Federal, State, and local governments by reason of technicalities in their tax laws than through any other means, and when any revenue act becomes so involved that it requires the judgment of experts to determine tax liability, inequalities are bound to result.

First of all, the present method of determining mine depletion is highly technical. It is based upon a determination of factors with which only the accountant and engineer are familiar. In order to secure a valuation for the purpose of depletion, it is necessary to have a valuation made of the units of metal in a mine. This, in itself, because of the hidden character of the metal, must very often be determined through pure guesswork, reasoning from certain known factors. For instance, under the analytic appraisal method by which valuation for depletion is now largely determined, it is necessary to make an estimate of the tons of ore in a mine at the beginning of the mining operation; to estimate the annual rate of extraction of metal; to estimate the duration of the life of the mine; to estimate the metal content per ton of ore in the mine; to estimate the production cost per unit of metal; to predict the selling price for the estimated number of years of the life of the mine, and then through a formula, to reduce the expected profit to present worth. When all this has been done and the estimated value of the plant necessary to carry on the operation has been deducted from the present worth, the vaule of the ore in the mine is fixed as the basis of depletion. This is then divided by the number of units of recoverable ore and a definite value per unit is fixed which may be deducted as depletion over the years of operation.

This is only a pseudoscientific method, but is the most common method applied in this determination, and you can readily see that the result depends upon unknown and unknowable factors. It will readily be seen that the administration of such a system depends upon expert knowledge in the Internal Revenue Bureau, and you must further realize that, as far as the taxpayer is concerned, his interest demands the employment of experts to protect his interests.

As a result of the administration of this law we find tremendous inequalities between taxpayers who are engaged in the same line of business. For instance, in the case of copper, we find that the highest unit of depletion actually allowed is a little more than 8 cents per pound, and the lowest, a trifle under 3 mills. We find further that the weighted average ratio of depletion to net income for property allowed for a 7-year period beginning in 1922 was as follows:

	Per cent
Gold and silver	37
Copper	60.5
Lead and zinc	32.5
Iron	41.2
Coal	31.6
Sulphur	45.8

(These figures are taken from the appendix to the hearings before the Joint Committee on Internal Revenue Taxation, December 9, 10, 11, and 12, 1930, at p. 162.)

Besides this we find that even in the same branch of the industry the ratio varies materially for different sections of the country. For instance, while the weighted ratio of depletion allowed to lead and zinc is 32.5 per cent, the ratio in the tristate field is 43 per cent, while that in the Rocky Mountain district is but a trifle over 25 per cent. It will be conceded, I think, that as between competitors in the same line of business, the tristate field has a tremendous advantage by reason of this difference in depletion allowance, and in addition to this, this field

also enjoys the great benefit of nearness to market and consequently lessened freight rates in an industry where freight rates play a large part in the cost of production.

Besides these inequities as between different branches of the industry and different districts in which the same metal is produced, there are also tremendous inequalities as between individual taxpayers. You will appreciate, I am sure, that the taxpayer who has a considerable amount at stake and has the means with which to fortify himself with expert assistance, can meet the Government experts upon an equal footing. In the first place, he makes his own valuation at the beginning and is able to engage the best talent available for that purpose. Then he must defend his valuation before the bureau and, again, his expert assistance is extremely valuable, and through it, and by means of it, he can be reasonably sure that at least the Government is not getting the best of him.

But what of the smaller operator, who has not the means with which to make the proper valuation in the first place, and who must accept the judgment and final determination of the Government experts when he makes his returns?

I am not charging that the technical men in the employ of the Government favor the large operator; neither do I assert that they discriminate in any sense against the smaller operator; but it is the common experience of business, as far as technical questions are concerned, that one must be thoroughly fortified in establishing claims which are involved and about which there very often are reasonable and proper differences of opinion.

Let me quote from the preliminary report on depletion made by the staff of the Joint Committee on Internal Revenue Taxation, on September 17, 1929, which report is commonly referred to as the "Parker report." I am quoting now from page 7:

"The analytic method generally employed by the bureau in the valuation of gold, silver, copper, lead, zinc, and other metal mines involves at least six important factors which are the subject of individual judgment. In many cases reliable data from which the engineer may draw his conclusions in estimating these factors are not available. Conclusions in such cases must vary according to the experience and viewpoint of the individual. Reputable mining engineers admit that it is impossible to value a mine accurately as of a specific date by this method due to many speculative factors involved."

Then follows on the same page a comparison of the separate valuation of ten companies, ranging from some of the smallest to some of the largest in the industry, which tables show as between two reputable engineers a variation in valuation of from 100 to 566 per cent.

That this method of determining valuation for purposes of depletion results in inequalities and tremendous expense. both to the Government and to the individual taxpayer, is well illustrated by an experience of my own company. About 1924 the Government presented to us a claim for additional income and excess profit taxes for the year 1917. The sum claimed was considerable and the claim grew entirely out of the depletion claimed. Our company had a general counsel—an excellent lawyer in New York—but he did not feel that he was competent to represent our company in this technical and highly involved matter before the bureau. Accordingly we, on his advice, employed an expert to represent us. The expert had never seen our mine. The men before whom he appeared in the bureau had never seen our mine. They sat down in comfortable chairs here in Washington—twenty-five hundred miles away from the ascual property itself—and figured valuations according to formulas; while we, who had lived and worked with that property for years, awaited their august determination of our liability. As a result of their deliberations we were able to save to our company, after paying the expert fees which were not inconsiderable, a sum approximating $50,000. It was rather the opinion of our directors after that case had reached its conclusion and we had made final settlement, that mining in Washington was even more profitable than it was in Idaho.

I would like to quote you in this regard a statement made by a gentleman who, I think, is recognized as an authority on income tax law and its administration. This statement was made before the Senate Select Committee on Investigation of the Bureau of Internal Revenue during 1925, by Mr. A. W. Gregg, formerly Solicitor of Internal Revenue. This is Mr. Gregg's language upon that occasion:

"If something could be done in the law to do away with the necessity for valuing mineral properties for the purpose of determining depletion, it would be the biggest help of anything that has ever been done to the Bureau of Internal Revenue. This would help the administration of the bureau tremendously and would certainly be more accurate than the present system."

Let's turn now to the matter of stability of revenue, in which I feel that this committee is particularly interested. I believe we are all convinced at the present time that the great weakness of income taxes generally is that they afford only "fair weather" revenue. When times are good and everybody is making money, income tax returns are high, and the governmental unit that enjoys them is prone to indulge in an orgy of public expenditures. Depressed business conditions arrive—as inevitably almost as the seasons—business income diminishes, our revenue is dried up at the source, but the capital structure of Government which we had built up in "flush" times still remains to be maintained. Any change in the law that will help to stabilize revenue is indeed much to be desired, and it is our opinion that this particular amendment will bring about that result.

It is easy to see that valuations of mines made at a time when business is good means high valuation per unit, and higher anticipated profits, consequently depletion valuations are fixed at a high rate per unit. Depressed conditions arrive, prices go down and mining companies are able, even though making an actual profit upon their operation and paying substantial dividends, to cover their net income entirely with a depletion allowance fixed at the time of high prices. There are companies operating to-day that have a depletion valuation per unit for their ore in the ground higher than the price which they receive for their finished product.

Under the percentage plan this could not occur, if the limitation of deduction for depletion be fixed, as it is in this amendment at 50 per cent of net income. Under the present system a taxpayer may show a profit before depletion and wipe it out completely by depletion allowance. Under a straight percentage plan, with a limitation such as in this amendment, he must, in any event, pay upon 50 per cent of that net income.

There is proposed in this amendment a plan by which, instead of the involved processes now employed, the taxpayer may deduct 15 per cent of his gross income, provided it does not exceed 50 per cent of his net income. There will be no valuations, no estimates, no predictions. It is the same principle as was applied by Congress to the oil and gas industry, with a different rate because of the difference in the nature of the two industries.

The question may be asked "Why the rate of 15 per cent of gross?" That rate has been determined as one which, according to actual experience will amount to less than the average of depletion which has been allowed in the past. These figures are given in the Parker report, heretofore referred to, at page 67. I think it is agreed as between the Bureau of Internal Revenue and the mining industry that the average of depletion allowance has been above 17 per cent of gross. The amendment here offered, therefore, will result not in a lessening, but in an increase of revenue, and because of the fact that not more than 50 per cent of net can be deducted will, in my judgment, result in a considerable increase and a much more stable income to the Government.

It is probable that there will be opposition to this change. It is probable that this opposition may come from men high in authority in certain departments of the Government. Changes, particularly when they may result in the lessening of governmental activities, have always met with opposition—and always will. That is the reason why governmental costs are constantly going upward. It is unfortunately true that we are facing a situation to-day where, while we admit that governmental expenses are throttling business, are causing honest men and women to lose their homes, are taking our capital, in addition to our earnings, still a concrete attempt to lower those costs by decreasing personnel meets with stubborn opposition.

I ask you to consider this proposal upon the merits of its application, and not upon the opinion of those who, intrenched in public positions, may be opposed to change in administrative methods. I do not mean this a criticism of our Treasury Department. The men in authority rely in technical matters upon their technicians, as business men do under similar circumstances. The technical men are committed to the present system because that is their job and they can put up a mighty stiff argument for it.

Then, again, there may be opposition from those in the industry itself who are to-day enjoying exceptional advantage by reason of depletion allowances which enable them to avoid the payment of a whole or part of the tax that would be due if this amendment were adopted and put in effect.

Then, again, we may have opposition of that class of experts which has grown up because of the technicalities of the present method, and which enjoys very substantial fees for services rendered to individual taxpayers. The administra-

tion of our income tax laws generally has built up vast armies of experts in and out of Government service who are engaged among themselves in the delightful controversy of seeing which can prevail in interpretation of laws, the administration of which involve the revenue of the Government and the earnings of the taxpayer. I personally believe we have too many experts, both within and without Government service.

I believe it is time we took some steps to so simplify our revenue laws that this tremendous burden to both the Government and the taxpayer may be removed. May I call your attention to the fact that a number of the States which have within their borders a considerable mining industry have recently enacted state income tax laws? Among these is the State of Utah, so ably represented in the Senate by the chairman of your committee. This State investigated the question of income rax through a commission, and when it wrote its law it incorporated a provision for percentage depletion. The State of California, represented here by another member of your committee—Senator Shortridge—likewise adopted the percentage method. The State of Oregon in writing its income tax law incorporated the percentage method. In my own State of Idaho—as Senator Thomas of your committee is well aware—in writing an income tax law in the last session of its legislature incorporated the percentage method of depletion. This simply shows the trend of the times and also emphasizes the fact that these States, realizing that they can not build up technical staffs to handle their revenue laws, have hit upon a method which obviates such necessity.

Then again there is the example of our neighbor, Canada. For years they have used the percentage method of depletion with success and satisfaction. Years ago our Congress adopted it as applied to the oil and gas industry. The House of Representatives extended the provision so as to apply the principle to sulphur, where it is just as applicable and will be just as satisfactory.

When we are offered a plan which will result in simplification of administration as opposed to involved and technical processes; in equality of burden as opposed to gross inequalities; in stability of revenue as opposed to serious fluctuations; in economy in government as opposed to unnecessary expense, why should we not adopt it in these days when economy and stabilized revenue are crying needs?

As a member of a special tax committee, I have during the past week visited many of the sections of my own State of Idaho, consulting with the people, who are burdened beyond their ability to pay and who are seeking a remedy for our tax situation. Wherever I went I heard the same cry: "Cut down the expenses of government. Take this load off our shoulders." Pioneer men and women—who have bowed their backs and worked their "fingers to the bone" seeking to acquire a competence for their declining years—are forced in these times of lessening income and of high governmental costs to lose their homes through lack of ability to pay their taxes.

Some one may say—and I know it will be frequently urged before your body—that if we can only find the means of raising the money from those who have sufficient income to pay it, that that is the first thing to be considered. I do not agree with that theory, unless you couple it with the determination to reduce costs, for it does not matter so much in this country what is the original incidence of taxation—all the wealth of this Nation comes from its natural products and its labor, and as they are the sources of the wealth, so inevitably back upon their shoulders will be placed the burden of taxation. It may be a long, tortuous route, but nothing can pay the costs of government except the wealth that is created, and that wealth consists of the natural products of this land and the labor of its people. It is because we believe that the amendment which we propose here will have the effect of lessening of governmental costs, a stabilization of governmental revenue, and an equalization of the burden, that we support it before your committee.

Brief Submitted by National Coal Association and District Association of Bituminous Mine Operators

Percentage Depletion Allowance for Bituminous Coal Mines

To the Finance Committee,
United States Senate, Washington, D. C.

Gentlemen: The signers of this brief urge your earnest consideration of the following statement regarding the need of the coal-mining industry for relief through appropriate modification of the present depletion provisions of the

internal revenue act. The brief is submitted on behalf of bituminous-mine operators with the indorsement of their national organization, the National Coal Association, and of the local and district associations in the industry whose signatures are appended below.

We feel that we are justified in demanding such relief on the general ground that however uniform and equitable the present depletion provisions may sound, in practice they have been applied in such a way as to amount to a serious discrimination against the coal-mining industry as compared with other mining industries.

It is a well-recognized principle of taxation that no system can be regarded as equitable under which the burden of taxation rests unequally upon different taxpayers of the same class. As will be demonstrated herein, the coal-mining industry for many years have been taxed to an inequitable extent in comparison with other mining industries. The effect of the existing inequitable tax burden might be borne with more equanimity if the condition of the coal-mining industry were one of substantial prosperity, but the effects of such inequity are grievously felt when, as in the present case, the overtaxed industry is one that to-day is, and for several years has been, passing through a period of great financial depression. The situation is made particularly unbearable in view of the fact that the petroleum industry is one of the chief beneficiaries of the present inequitable distribution of the tax burden. The encroachment of fuel oil and other petroleum products upon the market formerly supplied by the coal industry is one of the chief factors contributing to the depressed condition of that industry.

The inequitableness of the tax burden laid upon the coal-mining industry arises chiefly from the practical effect of the present provisions of the internal revenue act relating to the depletion of mining properties. Under the present law mining industries in general receive a depletion allowance based upon cost or March, 1913, value, so computed that such cost or value will be recovered during the prospective life of the mine. There is a further provision that where new mineral deposits are "discovered," such deposits shall be given a value for depletion purposes based upon the market value of the mineral at the time of discovery. For the petroleum industry there is a special section, under which a depletion allowance of 27½ per cent of gross income is made an alternative to depletion based on cost or March, 1913, value.

Apart from the petroleum industry, all mining industries seem to be treated alike in the matter of depletion so far as the wording of the statute is concerned. In the practical application of the law, however, great inequalities have arisen. These have resulted chiefly from two causes.

In the first place, the coal-mining industry in 1913 was in a very depressed condition. Consequently the values established for coal lands at that time were inadequate. There were few sales of mining properties, and those that took place were made under circumstances tending to reduce rather than maintain established values. For lack of current earnings few companies were able by the use of the analytical appraisal method to prove adequate value for their mining properties. The result was that in many cases the values which coal-mining companies were allowed bear no relation to the normal value of the mineral in place. The amounts recovered through depletion, even when the life of the property is such as to permit complete recovery of the allowed 1913 value, are far below actual values of the same property and unjustly below corresponding values established for mineral reserves by mining industries which were then in a relatively prosperous condition.

In the second place, the coal mining industry has derived no benefit from the discovery value provision of the act, while other branches of the mining industry have been able to set up current values for substantial percentages of their output through their ability to take advantage of this principle. The Commissioner of Internal Revenue has consistently maintained that coal deposits are so well mapped out that the discovery of new deposits is impossible. In only one instance has a coal mining company been allowed discovery value, and that was by a decision of the Board of Tax Appeals overruling the commissioner; and even in that case the commissioner has not acquiesced in the decision of the board. On the other hand, the metal mining industries and, before the adoption of the percentage method of depletion, the petroleum industry, were allowed to establish discovery values for substantial parts of their output and thereby to enhance greatly their depletion allowances.

The effect of these dissimilar conditions upon the amount of tax paid by the coal mining industry is shown in the analysis of taxes actually paid by the

different branches of the mining industry. Such an analysis is contained in the preliminary report on depletion, rendered to the joint committee on internal revenue taxation by L. H. Parker, chief of staff, and by that committee submitted to Congress on September 17, 1929.

In this report (see p. 8) Mr. Parker's analysis of actual tax returns filed by different branches of the mining industry shows clearly that during the years when the coal industry was fairly prosperous it paid an excessive percentage of the total tax of all the mining and quarrying industries. The percentages paid by coal mine operators, metal mine operators, and oil and gas producers for the years 1918 to 1923, inclusive, were as follows:

Year	Coal mining	Metal mining	Oil and gas	Year	Coal mining	Metal mining	Oil and gas
1918	40	12	31	1921	48	2	33
1919	24	4	51	1922	50	7	15
1920	61	2	23	1923	50	11	15

During later years the percentage paid by the coal industry has declined substantially, but that decline has been due to the rapid decrease in the earnings of the industry, a decrease which resulted in losses for the coal-mining industry as a whole in the generally prosperous years of 1928 and 1929, the latest years for which complete statistics of income have been published by the Internal Revenue Bureau.

From the table on page 10 of Mr. Parker's report it appears that in the years 1918, 1920, and 1921 the percentage of net income paid as war and excess-profits taxes by the coal-mining industry was substantially larger than that paid by any other branch of mining. Coal mining paid 35.4 per cent of its net income in 1918 as against 25.15 per cent paid by oil and gas producers, and 24.23 to 5.03 per cent by different metal-mining industries. In 1920 coal mining paid 22.8 per cent; oil and gas producers, 10.92 per cent; and metal-mining industries, from 10.35 to 0.00 per cent.

These figures constitute a striking evidence of the excessive amount of tax levied upon the coal-mining industry as compared to the tax paid by other mining industries. How that excessive tax is tied up with the application of the provisions relating to depletion of mining properties is indicated by a further statement found on the same page of Mr. Parker's report, which reads as follows:

"The low rate of tax paid by a substantial portion of the mining and quarrying industry appears to have resulted primarily from depletion allowances based upon values in excess of the cost of the properties."

As further evidence of that fact, he quotes figures from a table on page 8 of the report, from which it appears that in the years 1924, 1925, and 1926 the ratio of depletion to net income before depletion in certain specified branches of the mining industry was as follows: Coal mining, 20, 13.6, and 15.7 per cent for the three years, respectively; metal mining for the same years, 55, 40.2, and 38.3 per cent; oil and gas wells, 53.1, 35.7, and 36.5 per cent. These figures are direct and conclusive evidence of the inequitable results of the present statutory provisions relating to depletion and the administrative application of those provisions.

Another indication of the inequitable results of these depletion provisions may be briefly pointed out without comment. From the figures given in the third table on page 8 of Mr. Parker's report it is possible to compute for the single year 1924 the ratio of depletion allowances to gross sales. For metal-mining industries depletion allowances constituted approximately 14 per cent of gross sales; for oil and gas wells, 12.9 per cent, while for coal-mining enterprises the allowance was only 2 per cent. Mr. Parker emphasizes the relative tax burdens of those three branches of the mining industry in the following summary statement (see p. 11):

"For the total period of 10 years, beginning with 1916 and extending through the year 1926 (omitting 1917, figures for which are not available), coal companies paid 39 per cent of the total tax for the entire mining industry, although it received only 30 per cent of the net income. During the same period metal mines paid 10 per cent of the total tax and earned 18 per cent of the net income. The oil and gas industry paid 34 per cent of the total tax and received 34 per

cent of the net income. These computations are based on net income after depletion. If, on the other hand, we should use the net income before depletion, the differences in percentage between the subclassifications would be much greater and the inequities more glaring."

Mr. Parker's final conclusion as to the injustices resulting from the practical application of the present depletion provisions, and especially the hardship imposed by them upon the coal industry, deserves to be quoted in full (see p. 22):

"This report shows that the present system for determining depletion is neither simple in its application nor equitable in its results. The present system is not only inequitable between taxpayers in the same branch of the mining and quarrying industry, but the distribution between the different branches is unjust. For example, bituminous coal mine operators have not received the relief given other mine operators. The coal industry has been profitable only in a few years and is now in a condition as depressed as agriculture. The present system results in taking away from the bituminous coal industry a large proportion of it profits in taxes in the infrequent year of prosperity. It appears, therefore, that a substitute method is desirable."

In view of the conclusively established injustice inflicted upon the coal mining industry as the result of present rules and practices relating to mine depletion, your petitioners, speaking on behalf of the bituminous mining industry of the country, feel that they are justified in requesting relief through changes in the income-tax law so far as it relates to depletion allowances. We respectfully urge that the present provisions relating to depletion be amended by the insertion of the following paragraph (3) immediately after the present paragraph (2) of section 114 of the revenue act of 1928:

"(3) *Percentage Depletion for Coal Mines.* In the case of coal mines the allowance for depletion shall be 33⅓ per cent of net income before depletion; provided that such depletion allowance shall not be less than 5 per cent of the gross income from the sale of coal at the mine; and provided, further, that in no case shall the depletion allowance be less than it would be if computed without reference to this paragraph."

The reasons for urging the adoption of each of these alternative methods of computing depletion may be briefly stated. The net income rate of 33⅓ per cent is recommended because the results of the studies contained in Mr. Parker's preliminary report on depletion indicate that such a rate will yield from the mining industry as a whole approximately the same amount of tax revenue as is now paid. The effect of substituting this 33⅓ per cent allowance for the allowances now provided will be, according to Mr. Parker's report, not to augment to any great extent the aggregate depletion allowance of the entire mining industry but to reapportion it among the different branches of the mining industry in such a way that the tax burden will fall more equitably upon these different branches and upon the different individual companies in each branch.

Certainly in the present depressed condition of the coal-mining industry a depletion allowance of 33⅓ per cent of net income will not be excessive in amount. In the Statistics of Income for 1929, the last year for which detailed statistics have been published by the Bureau of Internal Revenue, it will be found that in that year 967 coal-mining corporations reported a net income, while 1,613 reported no net income. The losses of those in the latter group exceeded the net income of those in the former group by a substantial amount. In other words, even before paying the income tax the industry operated at a loss. Metal mining, on the other hand, during the same year showed a net gain of $165,224,000 and oil and gas wells a net gain of $29,602,000. It is evident that 33⅓ per cent of the net income of an industry showing as little net income as does the coal-mining industry can not be regarded as an excessive depletion allowance.

Finally, where the valuation on which the depletion allowance is based was arrived at by the analytical-appraisal method there should be little difference between depletion computed on March, 1913, value and depletion computed on the basis of current values. The principle involved in the analytical appraisal method is that of estimating the future profits of the mine. If those profits are correctly forecast, they will approximate actual profits during the life of the mine. In so far as they fail to agree the condition is a reflection upon the success with which the analytical-appraisal method has been applied.

The proposed amendment provides for an alternative depletion allowance of 5 per cent of gross income from the sale of coal. The immediate purpose of this provision is to take care of companies producing so-called captive tonnage. Many such companies owned by railroads, electric power plants, steel mills or other industries sell no coal in the open market but deliver their entire output to the parent company. The aggregate amount of such tonnage in the coal mining industry is very large. In many instances the price at which the tonnage is transferred from the subsidiary to the parent company is arbitrarily fixed and bears no relation to current market value. Indeed in some States utilities owning subsidiary coal mining companies are required by law to take over the tonnage of such subsidiaries at cost. In the case of the last mentioned companies there is no figure on the books representing net profit. Unless such companies are to be entirely deprived of depletion allowances provision must be made for computing such allowances on the basis of gross income from the sale of their product.

The only alternative method that can be applied to such companies is an arrangement under which the Commissioner of Internal Revenue will set up a constructive net income based upon market conditions at the time and place of the transfer of the product. Arrangements imposing upon the commissioner the duty of constructive action of this kind have never proven satisfactory. An example of such a provision is found in sections 327 and 328 of the revenue act of 1918 under which the Commissioner of Internal Revenue was empowered to determine the tax liability of an individual corporation on the basis of the amount paid by other corporations under similar conditions with respect to units of production, costs, net income, etc. This provision has led to innumerable disputes and appeals to the Board of Tax Appeals and to the courts. The construction of a theoretical net income for companies producing captive tonnage will prove equally unsatisfactory as a method of arriving at the depletion allowance of subsidiary companies of the kind under consideration.

The provision for an allowance of 5 per cent of gross income will have wider application. Without regard to the effect of the present depression upon the coal-mining industry, its financial experience in recent years has been very unsatisfactory. The period 1928 and 1929 to October of the latter year was one of unexampled prosperity for industry in general. Even during those years the coal mining industry was far from prosperous. The Statistics of Income, issued by the Bureau of Internal Revenue, show that in 1928 two-fifths of the coal mining companies reported net losses for the year and that the losses so reported exceeded the net income reported by the remaining companies by nearly $20,000,000; in 1929 nearly two-thirds of the companies reported no net income and the aggregate losses of these companies exceeded the net income of the remaining companies by nearly $9,000,000. In other words, in those two years the coal-mining industry as a whole not only had no net income but was substantially in the red.

Other branches of the mining industry had better records. Metal-mining industries reported net profits after deducting deficits amounting to nearly $95,000,000 in 1928 and of $105,000,000 in 1929; oil and gas wells showed a net profit of nearly three and one-half million dollars for the industry as a whole in 1928 and a profit of more than twenty-nine and one-half million dollars in 1929.

While undoubtly all branches of the mining industry are suffering during the present period of general depression it is safe to assume that the relative position of coal mining and other branches of the mining industry has not changed.

It is obvious that in a year in which the coal-mining industry as a whole operates at a loss a depletion allowance computed as a percentage of net income will not be a measure of substantial relief. If in such a period the industry is to be relieved from the inequitable burden of taxation under which it now suffers, its relief can not come solely from a provision giving it a depletion allowance based on net income. Only an allowance computed as a percentage of gross income can adequately meet the situation. Whether or not 5 per cent of gross income is a smaller or a larger allowance than 33⅓ per cent of net income depends upon the ratio of net income to gross income. When that ratio is what it should be to make the industry reasonably remunerative to the capital and labor engaged in it, depletion allowance computed in the two ways under discussion will be substantially alike; and whenever the gross income allowance materially exceeds that based on net income the discrepancy is due to

the unremunerative condition of the industry, and that condition itself is our justification for asking for relief from the inequitable share of the tax burden of the mining industry now resting upon the coal-mining branch.

The proposed amendment contains one more provision to the effect that in no case shall depletion computed on either net income or gross income be less than the depletion allowance now received by the company on the basis of cost or March, 1913, value. This provision is intended to take care of the relatively small number of coal-mining companies which acquired their properties at times when the coal-mining industry was profitable and the price of coal mines proportionately high, as a result of which their investment per unit of product is also high. Such companies have made large expenditures of time and money to establish their right to depletion allowances based upon the unusually high prices paid by them for their coal reserves. The industry believes that companies of this type should be protected, and accordingly is unalterably opposed to the adoption of any new depletion regulation which will deprive such companies of the right to continue to use the present method of computing depletion allowances.

To illustrate the effect of the different methods of determining depletion, let us consider the cases of three hypothetical coal-mining corporations. Company No. 1 operates a "captive mine," the production of which is passed along to a parent public utility company at cost. It has no established depletion rate per ton on the basis of original cost or 1913 value. Company No. 2 and Company No. 3 sell their product in the open market at $1.20 a ton. Company No. 2 has established a depletion rate of 3 cents per ton, while Company No. 3 has been allowed under the present law a rate of 8 cents per ton. The table below shows how the different methods of computing depletion provided for in this proposed amendment would work out in cents per ton:

	Company No. 1	Company No. 2	Company No. 3
Selling price (gross income)	$1.00	$1.20	$1.20
Cost of production	1.00	1.00	1.00
Profit (net income)	----------	.20	.20
Depletion as 33⅓ per cent of net income	----------	.0667	.0667
Depletion as 5 per cent of gross income	.05	.06	.06
Depletion on basis of 1913 value	----------	.03	.08

Under the circumstances assumed in this table it is evident that the company producing the captive tonnage would select the depletion allowance of 5 per cent on gross income; the company having a depletion allowance amounting to less than 6 cents a ton would select the allowance of 33⅓ per cent of net income, while the exceptional company that had proven its right to a depletion allowance of 8 cents per ton because of the unusually high price paid by it for its coal reserves would continue to use that rate.

The position of the coal mining industry with reference to this question of depletion is briefly as follows: The industry has always been and still is the victim of an inequitable distribution of the income tax burden. Such unequal treatment is unjustifiable under any circumstances and violates every principle of equity in taxation. Its evil effects upon the industry are most severely felt because of the economic depression through which the industry is passing. The inequitableness of the arrangement is more manifest because one of the chief beneficiaries of the present arrangement, the oil and gas industry, is an only too successful competitor in the fuel market. Its competition is itself one of the chief causes of the depressed condition in which the coal mining industry finds itself.

The tax discrimination grows directly from the method employed in computing depletion allowances. However uniform and equitable the provisions of the present law may sound, they work out in practice, as has been conclusively shown above, in such a way as to lead to an unjustly high rate of tax on the coal mining industry. As the depletion provisions are responsible for the discrimination, we are asking for such changes in those provisions as will remove that discrimination. We challenge the successful denial of the soundness of the arguments advanced by us in this brief, and in the absence of such denial we feel that we are justified in requesting such action by Congress as will afford us the relief to which we are entitled.

National Coal Association, Washington, D. C., Carroll B. Huntress, executive secretary.
Alabama Fuel Association, Birmingham, Ala., James L. Davidson, secretary.
Central Pennsylvania Coal Producers' Association, Altoona, Pa., W. A. Jones, secretary-treasurer.
Coal Operators' Association of the Thick Vein Freeport Seam of Pennsylvania, Pittsburgh, Pa., C. W. Gibbs, secretary.
Coal Trade Association of Indiana, Terre Haute, Ind., Jonas Waffle, managing director.
Colorado & New Mexico Coal Operators' Association, Denver, Colo., F. O. Sandstrom, secretary.
Eastern Ohio Coal Operators' Association, Cleveland, Ohio, D. F. Hurd, secretary.
Fairmont Coal Operators' Association, Fairmont, W. Va., T. N. Moran, secretary.
Harlan County Coal Operators' Association, Harlan, Ky., George S. Ward, secretary.
Hazard Coal Operators' Exchange, Lexington, Ky., J. E. Johnson, secretary.
Illinois Coal Operators' Association, Chicago, Ill., Joseph D. Zook, president.
Indiana Coal Producers' Association, Terre Haute, Ind., Michael Scollard, secretary.
Kanawha Coal Operators' Association, Charleston, W. Va., D. C. Kennedy, executive secretary.
Logan Coal Operators' Association, Logan, W. Va., J. W. Colley, secretary.
New River Coal Operators' Association, Mount Hope, W. Va., S. C. Higgins, secretary.
Operators' Association of Williamson Field, Williamson, W. Va., Joseph J. Ardigo, secretary.
Pocahontas Operators' Association, Bluefield, W. Va., W. E. E. Koepler, secretary.
Southern Appalachian Coal Operators' Association, Knoxville, Tenn., R. E. Howe, secretary.
Southern Wyoming Coal Operators' Association, Rock Springs, Wyo., L. W. Mitchell, executive secretary.
Southwestern Interstate Coal Operators' Association, Kansas City, Mo., W. L. A. Johnson, general commissioner.
Virginia Coal Operators' Association, Norton, Va., C. B. Neel, secretary.
Utah Coal Producers' Association, Salt Lake City, Utah, John R. Doolin, secretary.
Winding Gulf Operators' Association, Beckley, W. Va., P. C. Graney, secretary-treasurer.

The CHAIRMAN. Mr. J. F. Callbreath.

STATEMENT OF A. W. DICKINSON, CHIEF, TAX DIVISION, THE AMERICAN MINING CONGRESS

Mr. DICKINSON. Mr. Chairman, the tax committee of the American Mining Congress has prepared a brief on matters affecting mining which I ask to have entered in the record.

The CHAIRMAN. Yes; that will be done at this point.

(The brief of the American Mining Congress is here printed in the record in full, as follows:)

BRIEF OF THE AMERICAN MINING CONGRESS

APRIL 22, 1932.

To the honorable Chairman and Members of the Committee on Finance of the United States Senate.

GENTLEMEN: The American Mining Co., representing a broad range of the mining industry throughout the country, presents its protest against certain provisions of the now pending revenue act of 1932, H. R. 10236, as passed by the House of Representatives.

We are wholly in accord with the principle that the Federal Budget should be balanced. We recognize that this requires the raising of additional taxes, but we urge that such additional taxes should not be more than necessary after every possible economy has been made in the Government's expenses. In time of prosperity, with liberal yield of taxes, government activities and expenditures increased tremendously. This is a time for drastic retrenchment. Depressed industry can not fairly be called on for taxes for liberal Government expenditures.

The industry of the country is striving to meet conditions of depression and win recovery. Taxes should not be imposed which would cripple industry or retard recovery. Even the yield of tax revenues is dependent upon business recovery. From the revenue standpoint business recovery is important, as it is for restoration of employment and general welfare of the country. Furthermore, taxes must be fair and equitable to the taxpayers, for it is a fundamental principle of taxation that an unjust tax will in the end defeat itself.

I. There are a number of features in the bill which we believe are not fair and equitable, and we first present certain, which relate particularly to mining and other wasting industries:

1. DEPLETION

Amendment is proposed to section 23 (l) as follows:

"In any case in which it is ascertained as a result of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimates."

It seems to us quite unfair that when a basis for depletion has been duly established, it should be proposed thereafter that additional ore reserves should be recognized to be taken into account as to the unit computation without likewise taking them into account in the valuation basis. If such reserves are to be recognized as existing in the mine, it seems fundamental that they should be recognized as representing additional values to be reflected in the basis for depletion. We urge that the proposed amendment is unsound, unwarranted, and improper.

Furthermore, this provision would impose an unnecessary burden and expense upon the Government, as well as upon the taxpayer, requiring almost interminable work and expense to redetermine periodically the recoverable units in all minable reserves subject to depletion so that the expense of administration alone would materially minimize if not wipe out, the entire expected additional revenue of $1,000,000 per year which the Treasury Department estimates might be received from this source.

Few, if any, of the mining companies are now making any incomes. We believe that this proposed amendment can not be counted on to yield any material present revenue but would merely serve to raise difficulties, confusion, and uncertainties wholly unwarranted.

2. DISTRIBUTION OUT OF EARNINGS OR PROFITS ACCUMULATED OR INCREASE IN VALUE ACCRUED BEFORE MARCH 1, 1913

A change is proposed in section 115 to reverse the long-established principle that dividends should be recognized only as represent distributions by a corporation out of its earnings or profits accumulated after February 28, 1913, and that distributions should be recognized as nontaxable which were made from earnings or profits accumulated or increases in value of property accrued before March 1, 1913, except as such distributions are to be taken into account on sale or other disposition of the stock.

We believe there is no intention on the part of Congress to reverse the long-established principle that, as stated by the late Senator Underwood (see Cong. Rec., September 28, 1921, pp. 6517–6518), March 1, 1913, was "the beginning of the time when incomes or profits could be treated as such for the purpose of taxation, holding that before the time the accumulated profits and dividends were treated as the body of the estate, as principal." This was in a discussion on the floor of the Senate when the revenue act of 1921 was pending, and the Senator was raising question as to whether the wording of the bill then before the House adequately recognized this principal in its provisions as to dividends. Senator McCumber replied in part as follows:

"The committee agree entirely with the Senator that all accumulations prior to March 1, 1913, become a part of the principal, a part of the invested capital,

of the corporation, and there is no intention to take those profits which had accumulated at that time and bring them forward and levy a tax upon them as profits."

Senator Underwood further stated:

"As a matter of fact, a number of years ago we agreed in conference on this proposition. I think it will prevent future law suits and future differences if the Finance Committee will propose a simple amendment, declaring that nothing in this act shall be construed as warranting a construction that the bill taxes accumulated profits or dividends accruing prior to the first day of March, 1913."

When the revenue bill of 1928 was pending the House bill had eliminated this provision but these provisions were restored by the Committee on Finance of the Senate with the statement (p. 12) of its report:

"The provisions of the present law have been enforced except for certain amendments, since the 1916 act, and your committee believes they should continue in force."

The Senate so voted and the House concurred.

It must be recognized, of course, that some criticism might be directed against section 115 of the act in that it makes the basis of the corporation determinative of the taxable status of distributions instead of using the basis of the individual stockholder. Rarely will the stockholder's basis for his stock to him be the same as the basis of the corporation's property to it. When the shareholder buys his stock, the corporation may have a large accumulation of surplus which presumably will be reflected in the cost of the stock to a then purchaser. Accordingly, what is surplus or profits to the corporation is reflected in the invested capital of the stockholder. If the corporation should thereupon distribute its accumulate surplus this would in fact be no profit or gain to the stockholder who had paid dollar for dollar for it as reffected in the purchase price of his stock.

We have recognized in our laws the administrative difficulties which would be involved in trying to determine for each separate stockholder his own individual basis of whether or not distributions he received from a corporation represented in fact a real gain to him or were simply a return to him of his invested capital. To avoid such difficulties the law has adopted the standpoint of the corporation for determining the taxable status of distributions. This is a simpler rule aimed in the end to do fair justice. It is, however, a rule which to be fair must be consistently applied. If we are to say that any distribution made to a stockholder is to be taxable to him if it is made out of the taxable income of the corporation regardless of whether or not its amount represents dollar for dollar of a price which he paid for his stock, it should then naturally follow that distributions made otherwise than out of the taxable earnings of the corporation should not be taxable to the stockholders.

The pending bill would continue to recognize distributions which were made out of the actual capital which had been paid in to the corporation, whether such amounts has been paid in before or after Match 1, 1913. To this extent it is consistent in adopting the corporation's position in measuring the taxability of the stockholder. It also continues to recognize that the realization by the corporation of values existed at March 1, 1913, does not constitute taxable income. Yet it would propose to break down this measure or standard in its determination of the source of distributions to stockholders.

We would further call attention to the fact that almost from the beginning of our income tax legislation, this principle has been included in the law, and administrative and court decisions have been based upon it. It is hard to see how much of uncertainty and confusion will be introduced if this principle is now overturned.

We urge both as a matter of fairness to taxpayers and of consistency in the law that no change should be made in this provision.

3. DISTRIBUTION FROM DISCOVERY DEPLETION

An amendment is proposed to section 115 (d) to change the status of distributions from depletion reserves based on the discovery value of mines. This is a companion question to that of other nontaxable distributions and we believe would stand or fall accordingly.

4. COMPUTATION OF ADJUSTED BASIS

Section 113 (b) (1) (B) of the bill provides that the basis shall be adjusted "for exhaustion, wear and tear, obsolescence, amortization and depletion * * * to the extent allowed (but not less than the amount allowable) under this act or prior income tax laws."

This would impose a double standard of test as to the deduction to be made which may work very unfairly against the taxpayer. Much argument can be made for using the amount allowed and much for using the amount allowable, but we can see no sound basis for the double standard.

The amendment as now proposed might permit the bureau to reduce depreciation allowances year by year as they were deducted in computing current income and then, at a later date, if the property were sold, claim that the amounts allowed were less than the depreciation which was actually allowable, and so bring about double taxation.

If it is desired to sustain the principle of finality of decisions once made, then the amount which has been allowed should be used. If, however, it is desired to apply the principle that each year's taxes should be determined on its own appropriate basis, regardless of any errors which may have been made in the past, then the standard of the amount allowable should be used.

But there should not be a confusion of the two, with the certainty of injustice to taxpayers respecting a matter over which they have so little control as that of the commissioner's determinations of what constitute reasonable allowances for depreciation and depletion.

II. We also add our protest as to certain more general features which will likewise affect seriously the mining industry.

5. CONSOLIDATED RETURNS OF CORPORATIONS

We believe the provision of section 141 (c) of the House bill imposing a penalty rate of 1½ per cent for using a consolidated return is unjust and discriminatory. It would place a penalty upon what should be a simple right, based on sound judgment and essential fairness, as in the present law.

The present law and the pending bill limit consolidated returns to cases where there is practically complete ownership (at least 95 per cent of voting stock) by one corporation of others, so that a single financial entity exists which may be taxed accordingly. If a single corporation has numerous branch establishments and is engaged in many different lines of business, its net income considered as a whole would be reported upon a single return and subject to the ordinary corporation tax rate of 13½ per cent as proposed by this bill. Yet if this business were in every way the same excepting only that certain of its divisions or branches represented corporate subsidiaries under the same corporate ownership, the bill would make the tax rate of 15 per cent for reporting their same true net income through a consolidated return.

The present law treats affiliated corporations on an equitable basis that accords with good business practice, is sound and practicable and should be continued.

It is submitted that the consolidated return produces more nearly the true net income of the financial entity represented thereby and that there should be no penalty assessed for the use thereof.

The most that the Treasury estimates as the yield from this penalty tax is $8,000,000. Even if it would yield this relatively small amount, this would not justify all the bother, confusion, and difficulty attendant upon the changes in forms of organization and in intercompany business arrangements that would undoubtedly be made in order to avoid such an increased tax burden if it were imposed.

We agree with the findings of your committee as expressed in reporting the revenue bill of 1928 (May 1, 1928, p. 13) in part as follows:

"That the elimination of the consolidated returns provision will not produce any increase in revenue, will not impose any greater taxes on corporations, and will in all probability permit of tax avoidance to such an extent as to decrease revenues."

6. NET LOSSES

We urge the continuation of the net loss provision of section 117 of the existing law. The law has long recognized that there is a continuity in business such that the amount of gain realized in a single year may not be a true measure of ability to pay, but the real income and real ability to pay is only to be found by taking into account the losses as well as the gains. The pending bill continues to give some recognition to this principle in allowing net losses after 1933 to be deducted in one succeeding year. We believe they should be allowable for two succeeding years, as in the present law; but we particularly protest the proposed elimination of this deduction in the years 1932 and 1933. Businesses which have sustained

heavy losses in prior years are not in the same position as to ability to pay as those which have been earning profits. This should be recognized and the net loss provisions of the present law should be restored to the bill.

7. CORPORATION INCOME TAX RATE

We add our protest to the protests of others against the substantial increase in the corporation rate which is proposed in the House bill.

We respectfully bespeak on behalf of the now sorely oppressed mining industry the fullest consideration of your committee to the points here made the subject of protest. Naturally, there are in this tax bill many other points which we do not welcome, which we wish might be avoided and which we hope in more prosperous times may be eliminated or improved. We have, however, confined this protest to those matters which seem so burdensome or unfair that even under present circumstances we are entitled to ask their revision in the now pending bill.

Respectfully submitted.

THE AMERICAN MINING CONGRESS,
J. F. CALLBREATH, *Secretary.*

A. W. DICKINSON,
Chief Tax Division.

Mr. DICKINSON. I also have some copies of a brief statement or skeleton of this brief which I would like to present for distribution to the committee.

The CHAIRMAN. They can go into the record at this point.

Mr. DICKINSON. Thank you.

The CHAIRMAN. We want that to go into the record.

(Summary of protest of American Mining Congress regarding pending tax revenue bill H. R. 10236, is here printed in the record as follows:)

SUMMARY OF PROTEST OF AMERICAN MINING CONGRESS REGARDING PENDING TAX REVENUE BILL H. R. 10236

1. Eliminate amendment proposed to section 23 (1) which reads as follows:

"In any case in which it is ascertained as a result of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate."

2. Restore prior provisions of Section 115 regarding March 1, 1913 distributions. This involves Section 115 (a), (b), (d), and (g); also Section 112 (c) (2).

3. Restore the language of the prior act regarding distribution from discovery depletion, section 115 (d).

4. In section 113 (b) (1) (B) eliminate "(but not less than the amount allowable)," so that the adjustment of basis to be made with respect to depreciation, depletion, etc., will be "to the extent allowed."

Or, if it is considered that the standard should be the amount allowable, then eliminate this parenthesis and change the word "allowed" to "allowable."

5. Consolidated returns of corporations: Eliminate the provision in section 141 (c) for the additional rate of 1½ per cent on consolidated returns.

6. Net losses: Restore the provisions of section 117 to accord with the present law allowing net loss deductions in two succeeding years.

Even if the change should be made to make net losses deductible only in one succeeding year, in any event eliminate the provisions of section 117 (b) which would make this allowance applicable only "after the taxable year 1933", and eliminate the provision of section 115 (d) which provides that a loss for 1930 or 1931 shall "*not*" be allowed as a deduction in computing net loss under this title.

7. Restore corporation income tax rate as nearly as possible to the present 12 per cent rate, instead of the 13½ per cent rate proposed by the bill.

STATEMENT OF WILLIAM S. BENNETT, CHICAGO, ILL.

Mr. BENNETT. Mr. Chairman and gentlemen of the committee, my name is William S. Bennett. I represent the National Lumber Manufacturers Association. My address is 100 West Monroe Street, Chicago, Ill.

While I represent specifically the National Lumber Manufacturers Association and various regional associations of that association, such as the West Coast Lumbermen, the Southern Pine Association, the Southern Pine Manufacturers, the Northern Hemlock and Hardwood, and one or two others, I have conferred on this subject with the officials of the American Mining Congress, and I represent their viewpoint also, so that I am, practically speaking, for all of the natural resource industries.

The subject on which I am speaking is the amendments proposed by the House, section 115 of the existing law, a subject which has been before this committee and always decided the same way, in the revisions of 1916, 1921, and 1928.

A very brief history of the legal situation——

Senator REED. Mr. Bennett, first, let us know what part of the section 115 it is. It is many pages long.

Mr. BENNETT. Yes; I shall ve very glad to do that. There is struck out, after line 11 on page 85, the words "any earnings of profits accumulated"——

Senator REED. In our print section 115 begins on page 19. Do you mean the elision in paragraph (b)?

Mr. BENNETT. I have this print, Senator. This is as it has been referred to this committee.

Senator SHORTRIDGE. As it passed the House and comes to us?

Mr. BENNETT. Yes, sir.

Senator HARRISON. It is section (d), is it not?

Mr. BENNETT. There are several sections.

Senator REED. After line 11 on page 85?

Mr. BENNETT. Yes, sir.

Senator REED. In our print that is line 3, page 96.

Mr. BENNETT. The first is subdivision (b), Senator Harrison.

The CHAIRMAN. Proceed.

Mr. BENNETT. On page 85, on line 11, there has been struck out the following.

> Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax free distribution shall be applied against and reduce the basis of the stock provided in section 113.

The crux of the whole matter is right there. On page 69, line 8, in order to carry that out, they have struck out the words "accumulated after February 28, 1913."

Senator REED. Page 94, line 7. They have struck out the 1913 sections?

Mr. BENNETT. They have struck out everything relating to the 1913, and prior, profits.

Senator REED. Now, Mr. Bennett, to get to the point quickly, do you not think the time must come when those accretions prior to 1913 must be disregarded?

Mr. BENNETT. No.

Senator REED. It is 19 years since that time, and that has caused great complexity in the Internal Revenue Bureau, and there is a constant quarrel on between the companies and the natural resource division of the Internal Revenue Bureau, over these administrative features.

Mr. BENNETT. Those quarrels are all over now, Senator. You are referring, Senator, to the 1913 settlements?

Senator REED. Yes.

Mr. BENNETT. They are all settled. This is a proposition to open a new quarrel. Every copper company, every lumber company, every coal company, has had its March 1, 1913, valuations fixed. Now the House proposes to reverse the situation from March 1, 1913, which have been well established, in which stocks have been bought and sold. Now they are in a situation to which the principle of stare decisis is applicable, and to revive that old law, and to go back now to any 1913 date to fix the valuation, or to go back to the date of the original incorporation and fix the cost is now the effort.

I was shown a copy of a letter this morning to Senator Smoot and also to Senator La Follette, by a gentleman from Wisconsin, who was a member of a corporation formed in 1888, which had accumulations on March 1, 1913, consisting of sawmills, land, timber—no cash—and the same thing yet. And if this provision goes through and they make these distributions, partial distributions, the Natural Resource Division has got to go back to 1888 and find out what the original cost was.

This question has been before the Senate, particularly in 1921 and in 1928. In 1921 the work of this committee developed that there were two weaknesses: First, a man might have put in $100,000 in 1900 and had a valuation on March 1, 1913, of $200,000; then in 1918, we will say, he might have sold—or between 1913 and 1918 he might have received dividends out of the accumulations prior to March 1, 1913, of $100,000, and sold his stock for $100,000 and claimed a loss. That was absolutely wrong, and this committee reported out a provision, which was modified on the floor, and it was put in the law then, that under those circumstances a man could not claim a loss.

There was also, at the same time, brought to the attention of the Senate the question as to whether when a man received those tax-free dividends they ought not to be reduced from his basis of cost, and in 1928 that was put into the law.

Now here is the situation: Let us take four mining organizations that are working on the same ore body; one owned by an individual; one owned by a partnership; and two owned by corporations. They are all organized at the same time, 1900, all with the same capital, and all made about the same progress up to March 1, 1913. Now, to-day, they have all had their values fixed by the natural resource division. All right.

Now if this House amendment stands as it is, what can happen to those four different mines? The individual, when he gets his capital and accumulations prior to March 1, 1913, gets it tax exempt, of course. The partnership gets it tax exempt. Corporation No. 1 is willing to quit. It is decided by the Supreme Court of the United States that that is not taxable income of the corporation, so they make a complete distribution to their stockholders of what they have, and that is tax exempt, under the case of Lynch *v.* Terrish.

Now there remains the other corporation. It has built up a town that has an interest in the business. There is another ore body, smaller, and they say to their legal adviser, "Here is what we would like to do: We would like to make a distribution to our stockholders 50 per cent of what we had on the 1st of March, 1913, and keep this business and this town going."

Senator KING. Distribution in kind, or distribution in cash?

Mr. BENNETT. Distribution in cash, just the same as the other people did. The individual distributed his in cash. The partnership distributed its in cash. The corporation that is completely liquidated distributed its in cash. But this corporation under the present law as it has been written in the statute three times by Congress would not have the same right of the other three people I mentioned. If this change stands, their legal adviser would have to say to them, "Well, gentlemen, you can not do that; you have got to quit totally and wind up and abandon your town, and everything else. You can do that and distribute then in cash to your people."

Of course, that is wrong. That is not proper. That is a taking of capital, because the Surpeme Court has decided several times—you referred to it, Senator Smoot, in the 1921 debate; and so did you, Senator King, that what an individual or a corporation had on the 1st of March, 1913, is capital.

But there is just this one little loophole where Congress takes advantage of it and they can tax capital. If a corporation that has the vision and the desire to keep their business going and to keep the industry going and makes a distribution of less than the total and stays in business, they pay a tax.

Senator GORE. You mean the corporation has to wind up and distribute all of its assets in order to save the payment of tax on a distribution?

Mr. BENNETT. Yes; that is it exactly, Senator.

Senator GORE. If they distribute only a part they have to pay a tax?

Mr. BENNETT. They have to pay a tax.

Senator REED. Take the situation of a large corporation, a Utah corporation, a large copper mining corporation, they distribute every three months, and it takes every kind of means to evade the tax. I am the trustee of an estate now that is a subject of constant litigation. It is a cestui que trust, and we are constantly taking the matter up with the Internal Revenue Bureau, and no sooner is the litigation over than you discover that part of what was distributed was capital and that you ought to have held it. The net result of it is, Mr. Bennett, that the mining industry pays less in Federal taxation than almost any other industry we have.

Mr. BENNETT. The mining industry, the lumber industry, and every other natural resource industry pay just as much taxes as any other industry; no more, and no less.

And, Senator, while I am not familiar with the company of which you are the trustee, if this stays in the bill everything you have had settled—and you must have had something settled—as of March 1, 1913, as to your cestui que trust, is wiped out and gone.

Senator SHORTRIDGE. That has been agreed upon, has it not?

Mr. BENNETT. Yes, sir.

Senator HARRISON. March 1, 1913, was fixed because they thought that was right?

Mr. BENNETT. Yes, sir.

Senator HARRISON. And the increase has to pay taxes on it.

Mr. BENNETT. Yes, sir.

Senator HARRISON. And they would not go behind that date.

Mr. BENNETT. No, sir.

Senator HARRISON. They had to fix some date, and they fixed that and would not go behind it. They thought that was right?

Mr. BENNETT. Yes, sir. And to do anything else is to discriminate against every lumber company, every coal company, every copper company, and everything else in the natural resource industry, and even to discriminate in the industry between the members of it. Take the people who have been more or less thoughtless about continuance and have wound up and have distributed their assets, they are tax exempt. Take the people that in the next five years get discouraged and wind up, they are tax exempt. But take the people that want to continue and build up the business of this country and keep it going, but to get back to the place where they were on March 1, 1913, any of the distributions they make have to be out of that situation, and they have to pay a surtax which, under the House bill, runs up as high as 40 per cent.

And so it has two things that I want to call attention to, first—and, Senator Reed, no one fought harder than you against it, because it is an exaction from capital, and this is an exaction from capital, and the only exaction from capital that is attempted to be made. And it is a discrimination both as between natural resource industries and other industries, and among the natural resource industries themselves.

Here is a gentleman sitting in this room, a friend of mine, connected with several organizations of this kind, and they had one they came to a time they wanted to get it liquidated. It liquidated and distributed its entire assets tax free. The others kept the business going. Now, if the present law remains unchanged, those stockholders do not pay a tax on the capital. If you change it, you put a capital exaction on them which, if you have income enough, may run up to 40 per cent.

Senator HARRISON. Mr. Bennett, let me see if I get this straight from you. Suppose in 1900 two people in my State went into an organization——

Senator KING. You mean 1913?

Senator HARRISON. No; I mean in 1900. Two people organized corporations, each with $100,000. One of them left it in there, and let it run along for a time, and then liquidated the corporation, and distributed the cash to its stockholders. The other made money, but declared no dividends, and has now practically nothing left. You tell me that if we leave this this way you can go back and tax the concern that left the money in the concern, and we can not tax the one that paid all the money out?

Mr. BENNETT. I tell you that exactly, Senator Harrison. It is an attempt to exercise stark brute power as against equity.

The CHAIRMAN. Mr. Bennett, your time has expired.

Mr. BENNETT. I want to say, Mr. Chairman, that Mr. Compton, who was to appear will not be here to be heard, but will file a brief.

The CHAIRMAN. Very well.

Senator GORE. You mentioned one or two authorities.

Mr. BENNETT. You will find the principle enunciated in four cases, Southern Pacific *v.* Lowe and Lynch *v.* Terriah. Those are the two cases that hold that what a part had on the first of March, 1913, in capital they could have distributed tax exempt.

Senator CONNALLY. What are the references?

Senator GORE. That is your contention?

Mr. BENNETT. Yes.

Senator GORE. That it was frozen in there at that time.

Mr. BENNETT. Yes, sir. These references are in 247 U. S. The four cases are all in 247 U. S. The other two cases say that Congress has the stark power, and those are Lynch *v.* Horndeeck, and Peabody *v.* Erwin, all are in the same volume.

The CHAIRMAN. All right, Mr. Bennett.

Senator REED. Before you go, Mr. Bennett, I think I should correct the statement I made as to the proportionate taxes paid by the quarry and mining industry. I have just looked at a statement for 1929, and I think you are correct. You paid your full share that year.

Mr. BENNETT. Thank you, Senator. We always pay.

The CHAIRMAN. Did I understand you, Mr. Bennett, to say that Mr. Wilson Compton would not be here?

Mr. BENNETT. Yes: Mr. Chairman.

(The brief submitted by Mr. Bennett is here printed in full.)

MEMORANDUM BY THE NATIONAL LUMBER MANUFACTURERS ASSOCIATION AND ASSOCIATED AMERICAN FORESTS PRODUCTS INDUSTRIES

In opposition to the amendment to section 115 of the revenue bill of 1928 which propose to tax distributions made by corporations to their shareholders from capital and surplus accumulated before March 1, 1913

In section 115 of H. R. 10236 (the revenue bill of 1932), as passed by the House of Representatives, section 115 has been amended by striking from subdivision (b) thereof the following:

"Any earnings or profits accumulated, or increase in value of property accrued before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the basis of the stock provided in section 113."

and by making corresponding changes in other subdivisions of the section and in section 112. The effect of this amendment is to tax capital and to do so in a manner both arbitrary and highly discriminatory.

PROBABLE REVENUE DURING THE FISCAL YEAR 1933 INCONSEQUENTIAL

There is no probability of any substantial amount of revenue to be derived from this amendment during the fiscal year 1933. As will be shown later, this tax will fall practically, almost exclusively, on the owners of shares in natural resource corporations, such as mining and lumber companies. The deplorable financial condition of mining, such for instance as copper and coal, and of lumber is notorious. Practically all of these companies are struggling to maintain cash balances and necessary working capital and none of them would think of declaring dividends on property accumulated prior to March 1, 1913. The tax does not fall on the corporation but on the stockholder and then only when a dividend is declared. The chief stockholders who might be called on to pay any tax during the fiscal year 1933 would be those belonging to that unfortunate class who own stock in companies which are in receivership or in bankruptcy and to whom partial distributions out of capital accumulated prior to March 1, 1913, might be made during that period. The number of these companies although as yet few is increasing; and we do not believe that the Congress intends to pass, even for the emergency, an act which makes exactions from the capital of unfortunate

shareholders who own stock in companies in receivership or bankruptcy and thus have already suffered large losses.

The amendment does not propose to tax anything that was earned subsequent to March 1, 1913, since all such earnings are already taxable under existing law both when earned by the corporation and when distributed to the stockholders.

LEGISLATIVE HISTORY

Congress has always, in its legislation, at least in every act since the 1913 act, endeavored to draw a sharp line between property accumulated prior to March 1, 1913, and property accumulated after March 1, 1913. It has recognized that property accumulated prior to March 1, 1913, is capital and in this position it has been upheld by the Supreme Court of the United States, the two leading decisions being Lynch *v.* Turrish, 247 U. S. 221, and Southern Pacific Co. *v.* Lowe, 247 U. S. 330, the court stating in the latter case:

"We are bound to consider accumulations that accrued to a corporation prior to January 1, 1913, as being capital, not income, for the purposes of the act. And we perceive no adequate ground for a distinction, in this regard, between an accumulation of surplus earnings, and the increment due to an appreciation in value of the assets of the taxpayer."

The date January 1, 1913, appears in this quotation because it was the date appearing on the books of the Southern Pacific Co. But the reasoning is based on the broad proposition that the Congress had no right, prior to the adoption of the sixteenth amendment, to levy income taxes at all except in proportion to population, and therefore everything that had been accumulated prior to the adoption of the amendment was capital and not income.

Between 1913 and 1916 the question was raised that there was a distinction between a corporation and the stockholders and the dividends ordered after March 1, 1913, were taxable to the stockholder, even though from capital accumulations prior to March 1, 1913. As soon as this contention was made the Congress promptly met it in the 1916 act and amended the definition of dividends so as to read as follows:

"*Provided*, That the term 'dividends' as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March 1, 1913."

This definition in substance has been continued in the acts of 1917, 1918, 1921, 1924, 1926, and 1928. An attempt was made in the Senate in 1921 to change this so as to make taxable dividends to stockholders out of capital in surplus earned or accrued before March 1, 1913, and the House in 1928 inserted such an amendment. The proposed amendment in 1921 was defeated on the floor of the Senate by a vote of 56 to 12, and in 1928, the Finance Committee of the Senate refused to concur in the House amendment, was upheld unanimously by the Senate, and later in conference.

It is fair to say that in 1921 the work of the Finance Committee and the discussions on the floor developed two situations in connection with such dividends, both of which merited study. The first was, to use an illustration, that a man might have invested $100 in stock of a corporation prior to March 1, 1913; that this investment might have increased until on March 1, 1913, the value of the stock was $200; that subsequent to March 1, 1913, the man might have received $100 in tax exempt dividends under the 1916 and succeeding acts and then sold his stock for $100 and attempted to claim a loss of $100 deductible from other income. It is not on record that any stockholder ever attempted to do this, but, at any rate, as soon as the matter was brought to the attention of the Senate an amendment was inserted in the 1921 act, which has been carried forward in substance in all succeeding acts, in those provisions relating to the basis of cost, which prevents any such claim.

The other question was whether the amount of tax exempt dividends received by a stockholder should be deducted from the basis of the stock. This question is not free from doubt. It can be argued with great force that, while it is clearly wrong for a stockholder to claim a loss under such circumstances, to compel him to deduct the amount of his tax exempt dividends from his basis of cost of stock will in some circumstances, result in taxing capital owned by him prior to March 1, 1913. But, be that as it may, the doubt has been resolved in favor of the Government. An amendment was adopted in the 1924 act which is carried in the 1928 act in the following language: "But any such tax free distribution shall be applied against and reduce the basis of the stock provided in section 113."

If constitutional authority exists in the decisions for the change now proposed, it is found in the cases of Lynch v. Hornby (247 U. S. 339), and Peabody v. Eisner, (247 U. S. 347). These were decisions under the 1913 act, made after there had been written into the acts of 1916 and 1917, the present provisions making dividends from accumulations from property prior to March 1, 1913, tax-exempt. Whether under the much higher taxes now in effect, and with evidence of the discriminations which would result before it, the court would adhere to these decisions is open to question. The fact is that in Lynch against Hornby the court said: "We repeat that under the 1913 act dividends declared and paid in the ordinary course by a corporation to its stockholders after March 1, 1913, whether from current earnings or from a surplus accumulated prior to that date, were taxable as income to the stockholder." If this confers constitutional authority on the Congress to adopt the proposed change, it is sufficient to say that the Congress recognizing what the opinion in Lynch against Hornby refers to as "the equity of stockholders granted in the 1916 act," has declined to make this capital exaction even within the narrow limits set on the same day by the same court in the cases of Lynch v. Turrish and Southern Pacific Co. v. Lowe.

PRINCIPAL OBJECTIONS

The outstanding faults of the proposed change are:

(a) It is a tax on capital.

(b) It discriminates between stockholders of the same kinds of corporations.

(c) It discriminates as between natural resource corporations and all other corporations.

(d) It discriminates between stockholders in corporations who have been receiving tax exepmt dividends since 1916 and stockholders in corporations which have kept their tax-exempt capital invested for the benefit of industry.

(e) It would impose upon the natural resources division of the imcome tax bureau of the Treasury the difficult task of ascertaining, as to the stockholders discriminated against, the original cost of their stock in addition to the March 1, 1913, value which already has been ascertained and established.

The facts are as follows:

IT TAXES CAPITAL

(a) It is a levy on capital. There is no doubt as to this. The Supreme Cour has decided in the cases cited that investments, earnings, accumulations, and increase in value of property prior to March 1, 1913, are all capital. What this amendment seeks to do is to distinguish between the corporation, which can not be taxed because of any earnings or accumulations prior to March 1, 1913, and the stockholders of the corporation. This is highly technical. The stockholders own the corporations as was said by Secretary Mills before the Finance Committee of the Senate on April 6:

"In dealing with the rate of the corporation income tax, it is to be borne in mind that the income which we refer to as the income of the corporation is in reality the income of a group of individual stockholders."

If the power, under Lynch against Hornby, exists to tax the stockholder upon an accumulation of capital, upon which the corporation itself can not be taxed, it is a mere stark, brutal, power based on a merely technical differentiation, and the Congress has properly repeatedly and emphatically refused heretofore to exercise the power under its oft-declared policy of refraining from taxing as income any property which had been accumulated by anyone prior to March 1, 1913.

IT DISCRIMINATES BETWEEN STOCKHOLDERS

(b) It discriminates between stockholders of the same kinds of corporations. Under the law as it stands at present if an individual, a partnership, and a corporation own property accumulated prior to March 1, 1913, all three can distribute that property as capital and as tax exempt. If the amendment made by the House is agreed to, the situation is changed. The individual can still retain his property tax exempt; the partnership can distributo its property tax exempt; but the same business if in corporate form can not. Assume two corporations, either mining or lumber, each of which acquired its property prior to March 1, 1913, and had increases in value of property and in earnings which on March 1, 1913, had doubled the value of its property. Both of the corporations have now come to a point where distribution can be made of the accumulations prior to March 1, 1913. One corporation decides to retire from business. It goes through a complete liquidation and distributes its property, either in cash or in kind, to

its stockholders pro rata. The stockholders can not be taxed. (Lynch *v.* Turrish.) The other corporation realizing possibly that it owes a duty to the community, knowing that it can acquire additional ore or standing timber, as the case may be, decides that it will make a partial distribution to its stockholders, say 25 per cent, either in cash or in kind, and devote the remaining 75 per cent to acquiring additional ore or timber. The stockholders who receive this 25 per cent distribution of capital accumulated prior to March 1, 1913, pay a surtax on it which under the terms of the bill now before the Congress may run as high as 65 per cent. This is clearly a discrimination as between individuals, partners and partnerships, and stockholders in completely liquidated corporations on the one hand, and on the other, stockholders in corporations which for some reason or other desire to continue in business and be a benefit to the community. Why, in times like these, when every effort should be made to encourage industry, should a statute be adopted which places a premium on complete liquidation and retirement from business and discriminates against those who are willing to continue in business?

IT DISCRIMINATES BETWEEN INDUSTRIES

(*c*) It discriminates as between natural resource corporations and all other corporations. While, in terms, this amendment would be applicable to all property owned by corporations prior to March 1, 1913, when distributed to stockholders in dividends, as a practical matter the only ones to be substantially affected are some stockholders in some natural resource corporations. The reason for this is that banks, railroads, and other large corporations plan to expand and continue and do not distribute the property they owned prior to March 1, 1913, unless they meet with severe reverses and distributions are made by the courts or through forced sales. Farmers who owned their farms prior to March 1, 1913, are usually not incorporated and, therefore, the proposed amendment does not affect them.

On the other hand, mining and lumbering operations are usually of considerable size and require the corporate form, and as ore and bodies of standing timber are inevitably exhausted, there comes a time when distribution must be made of the accumulations prior to March 1, 1913. As has been shown, if the corporation is fortunate enough to be so situated as to be able to make a complete distribution, its stockholders receive the distribution tax exempt. If, on the other hand, through dire misfortune they became insolvent and their assets are distributed in partial dividends through the courts; or if they desire to acquire new properties and continue in business, making only partial distributions out of property which they owned on March 1, 1913, or if for any reason they are compelled to make partial distributions out of accumulations prior to March 1, 1913, then the stockholders receiving distributions are taxed. This, of course, is inexcusable discrimination as between some natural resource industries on the one hand and the remaining natural resource and all other industries on the other.

IT DISCRIMINATES AGAINST CONTINUING BUSINESS

(*d*) It discriminates between stockholders in corporations who have been receiving tax-exempt dividends since 1913 and stockholders in corporations which have kept their tax-exempt capital invested for the benefit of industry. The proposed amendment discriminates against the carefully planned, well managed corporation whose officers have had a sense of responsibility to the community, and in favor of the corporation which has not. Take two corporations, A and B, both organized in 1900 and each in existence in 1931 with a March 1, 1913, accumulated capital: Corporation A has exhausted its ore body or cut out its timber. It has made no effort to remain in business for the benefit of the community or of the country. It has completely liquidated and its stockholders have received their distributions tax exempt. Corporation B years ago on the other hand made plans to continue. In 1930 it acquired the additional ore or timber necessary to continue its operation in the interest of its employees, its shareholders, the industry, and the country. But its expansion has made it inevitable that because of the size and the different dates of acquisition of its raw material, it will be difficult indefinitely to suspend distribution of its property acquired prior to March 1, 1913, or until a time when there can be complete liquidation. So in a few years it makes distributions out of its March 1, 1913, accumulations and its stockholders pay taxes up to 65 per cent.

Take another illustration: Corporations which exhausted their ore bodies or timber between 1916 and 1931 and made no attempt to acquire additional raw materials, liquidated and made complete distributions to their stockholders who received them tax exempt. Similar corporations relying on the statute which has received the sanction of Congress seven times, thrice against attempts to amend it, find the law, which has become in effect a rule of property, repealed and their stockholders subjected, because of the plans of the corporation for continuance, to heavy tax exactions on their capital.

It should be borne in mind that during these 16 years stocks in natural resource corporations have been purchased with the knowledge that the March 1, 1913, capital could be distributed tax exempt. Wills have been made and those making them have died and rights have been fixed, all with the same knowledge. Courts recognize this situation in their holdings that a long-continued practice either of legislation or of judicial decisions creates what is known as a "rule-of property" and the rule of property in connection with capital acquired prior to March 1, 1913, clearly is that it is entitled to be distributed tax exempt if it is owned by an individual, by a partnership, by a completely liquidating corporation, or by a corporation which through legal necessity or otherwise is compelled to make partial distribution.

IT IMPOSES DIFFICULT AND UNNECESSARY ADMINISTRATIVE BURDENS

(*e*) It would impose upon the natural resources division of the Income Tax Bureau of the Treasury the task of ascertaining as to the stockholders discriminated against, the original cost of their stock in addition to the March 1, 1913, value already ascertained and established. There is no escaping the fact that a great deal of the work that has been done by the natural resources division of the Income Tax Bureau would have to be done over again if this amendment were allowed to stand. Lynch *v.* Hornby does not allow actual investments prior to March 1, 1913, when distributed to stockholders as dividends, to be taxed. The decision is limited to distributions "from a surplus accumulated prior to that date." (March 1, 1913.)

There are many mining corporations which have been in existence for 40 years or more. There are lumber corporations which have been in existence for a similar length of time, and one is known to have been in existence for 80 years. Suppose a stockholder in such a corporation were to receive a distribution from accumulations prior to March 1, 1913, which was not the result of a complete liquidation and therefore taxable under the proposed amendment. Two questions would at once arise: First, was this distribution solely out of surplus second, if not, what was its original cost? Owing to the lapse of time how could this be ascertained? In this connection another discriminatiln arises, that is: Between the stockholder who has reently bought his stock and who sells it and whose gain or loss is based entirely on cost, while the purchaser who thought he was getting tax-exempt property finds that he has not, and the other class of stockholder who has stood by the ship, held his stock kept his investment in the natural-resource corporation only to find that the reward of his stewardship is that he is compelled to pay taxes on the difference between his original investment, even if made 50 years ago, and the March 1, 1913, increased value. Of course, all classes of stockholders have to pay a tax on earnings and accumulations since March 1, 1913.

SUBMITTAL

For these reasons, always recognized as sound and conclusive by this committee, and by the Senate, when brought to its attention, the amendments suggested by the House of sections 115 and 112 should be disagreed to and the law restored to the situation in which it has continued in substance since and including the 1916 act.

Respectfully submitted.

WILSON COMPTON,
Secretary and Manager National Lumber Manufacturers Association and Associated American Forest Products Industries.
WILLIAM S. BENNET,
Of Counsel.

STATEMENT OF R. C. FULBRIGHT, HOUSTON, TEX., AMERICAN SULPHUR ROYALTY CO., APPEARING ON BEHALF OF THE OWNERS OF VARIOUS SULPHUR PROPERTIES IN TEXAS

Mr. FULBRIGHT. Gentlemen of the committee, I appear here in behalf of the owners of various sulphur properties located in the State of Texas, representing a substantial portion of the production of sulphur.

Senator BINGHAM. May we get the section to which you are referring?

Mr. FULBRIGHT. I will give it to you in just a second, Senator. I want to refer to Judge Bennett's statement first. I also have been for some time the general counsel for the Southern Pine Association. Both the sulphur owners that I represent and the Southern Pine Association are interested in the matter presented to you by Judge Bennett with respect to the restoration to section 115 of the language which was stricken out by the House, although it had not been recommended to be stricken when the Ways and Means Committee made its report.

Senator CONNALLY. That was stricken out on the floor, was it not? An amendment from the floor?

Mr. FULBRIGHT. Well, I think there was a subcommittee acted on it. It came up after the House had rejected the sales tax and when various and sundry devices were being offered to bridge the chasm. But it was never the subject of any hearings in the Ways and Means Committee, nor did the taxpayers have any idea that such action would be taken.

I wanted to add this to what Judge Bennett said. In 1928, gentlemen, the House committee in reporting its bill did strike out this language. But they did so upon the following assumption. And I refer right now to House Report No. 2 of the Seventieth Congress, first session, at page 20, where the House committee said:

> There appears to be no reason for continuing this exemption indefinitely. Over 14 years have elapsed since March 1, 1913, and most corporations have distributed the surplus accumulated by them prior to March 1, 1913.

They also said that in the interest of simplifying the matter they were striking out the provision.

It came over to the Senate, and the Senate made an investigation and restored the language and the House receded. This affects all natural resource industries that have not exhausted their supplies that they had on hand in 1913.

I have some sympathy with the suggestion made by the Senator from Pennsylvania about the fact that we need to simplify these problems of depletion. I have been connected with the subject of depletion in various and sundry ways before the commissioner and otherwise for many years. In the case of the Calumet and Arizona, for example, the Senator is of course aware that their March 1, 1913, values have been fixed. But they have many properties. For example, the Campbell ore body was developed a few years ago. They had to fix the value of that ore body. And since they were wasting their capital they should be permitted to return that capital as they retired it. I think that is only equitable.

We have many lumber companies, close corporations and groups of individuals in the South, who for many years have had timber

resources, holding them on, paying taxes and interest on them, protecting them from fire, protecting the natural resources, as we desire them to do, and this would simply put a penalty on them and let go scot-free the man who has used up his resources and let go already. It is certainly unfair to the timber industries to put that language in. I just wanted to add that to what Judge Bennett had to say about it.

I now wish to direct your attention, gentlemen, to section 23 (1) at page 24 of H. R. 10236. On the bottom line of page 24 the following sentence occurs, which was interpolated in like manner in the House after the Ways and Means Committee had submitted its bill, and which showed no such change. The subject, by the way, is "Depletion." Depletion of mines and mineral properties. The bottom of page 24.

Senator SHORTRIDGE. Read now the language which was added to it.

Mr. FULBRIGHT. The language which was added.

Senator LA FOLLETTE. Page 27.

Mr. FULBRIGHT. No; at the bottom of page 24.

Senator LA FOLLETTE. That is a different print.

Mr. FULBRIGHT. I beg your pardon.

Senator KING. I wish the witnesses who come before us would get the print that we have, so that we could follow.

Mr. FULBRIGHT. That was my error. I beg your pardon.

Senator KING. Oh, no.

The CHAIRMAN. All of them have done it so far.

Mr. FULBRIGHT. The second sentence in section 23 (1) was interpolated by the House, and reads as follows:

> In any case in which it is ascertained as a result of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate.

Now, gentlemen, that means simply that where the Commissioner of Internal Revenue has made an erroneous determination of the property on hand on March 1, 1913, that he may revise as to the amount of the property, but give no consideration to the value of the additional property. And I want to illustrate that.

Senator KING. Is it not intended, though, in a word, to mean this, that if a new vein is discovered of very great value, which was not taken into account when the original value of the property was fixed in 1913, that the Government may appraise that additional property and consider that in determining the question of revenue?

Mr. FULBRIGHT. Well, the principal effect of this that I complain of—as a matter of fact the Government has always followed the practice of doing that very thing, Senator, and there is nothing in the law that keeps them from doing that to-day, but the provision of this is that they shall not change the basis for depletion. For example, on March 1, 1913, you had a piece of mineral property in which the surveys indicated 2,000,000 tons of ore. The Government appraised that, but they estimated only 1,000,000 tons of ore. Now, if the Government discovers that it has made a mistake in the matter it may correct it under this amendment by taking the unexpired depletion and spreading it over pro rata the 2,000,000 tons, but not give you any value whatever for the additional million tons that they overlooked.

I will illustrate it, gentlemen, by a concrete case. For quite a few years I have been counsel for the American Sulphur Royalty Co., of Texas. They owned the first sulphur deposit developed in the State of Texas. I handled the depletion matters for that company. We came up here during the war time to get the March 1, 1913, value on our properties. Before March 1, 1913, the company had spent several hundred thousand dollars in thoroughly testing out and ascertaining that property. Our engineering estimates showed the presence of 17,000,000 tons of sulphur. The estimates as to the part of it that would be recoverable were that it would be 50 per cent recoverable. The estimates ranged from 40 per cent to 50 per cent recoverability. We made our claim for a March 1, 1913, value based on a 50 per cent recovery. During the course of the negotiations we agreed that if they would use the minimum of 40 per cent and give us the 6,800,000 tons, that would be perfectly agreeable to us. It, as I say, was during the war times, and we were trying to get things through in a pretty big hurry, and the Government had sent an Army engineer down there to estimate the amount of sulphur. That estimate was 3,400,000 tons, or only 50 per cent of the amount that under our minimum estimate we claimed. So they gave us that. As a matter of fact, we told them in the course of the negotiations that if they would give us 5,000,000 tons we would sign an agreement. We never signed any agreement, but we went ahead and took what they gave us, and went on that basis.

Now, in 1927 the Government's engineers come along and examine this property and say that there should be 1,500,000 tons added to that, making it about 5,000,000 tons, which, by the way, was the figure we wanted to agree on originally. But they did not give us any value for that. They simply took the unexpired depletion that they had given us and spread it over 5,000,000 units instead of 3,500,000 units, you see, giving us no value whatsoever for that. We protested that. When we protested it they simply canceled the finding of the engineer that there was additional sulphur there, and there we stand to-day.

Now, the purpose of this amendment is to legalize their error. That is all the purpose it is, to legalize the error made by the commissioner, so that they may spread it over the additional amount, when they find the mistake, but give the taxpayer no value whatsoever for it.

The contention on the part of the Government is that under the existing law they may so distribute it, but we are not going to argue the existing law. We simply object at this time to going into this technical subject and putting in a provision which will have the effect of legalizing the action of the Government where it has made an error. We think that if a man is to be given his March 1, 1913, value he should be given that value. And, besides, there are many cases where the estimates have been substantially correct. On the whole, though, gentlemen, the Government has been very conservative in estimating the contents of these properties as of March 1, 1913, and there are probably a substantial number of cases where similar mistakes have occurred because of their desire to be ultraconservative at the outset.

Senator KING. That claim might neutralize your claim of allowance of depletion altogether, might it not?

Mr. FULBRIGHT. Oh, yes.

Now, before I leave I want to say that this subject of depletion is technical. It is a very difficult subject. I doubt the wisdom of undertaking to revise the laws on depletion at a time when you are trying to get a bill through in a short time. I think there are some criticisms that can be made and some amendments that could be made in the law, but you are going into a subject upon which there are numerous mining interests that ought to be heard, and it ought to be gone into thoroughly.

The CHAIRMAN. Let me ask you: At the time the Government finally determined there were 3,000,000 tons reserve, had you any actual information as to whether there were 5,000,000 tons, or was that just a mere estimate that the Government made and also that you made?

Mr. FULBRIGHT. Senator, we spent several hundred thousand dollars on this. We had down numerous wells. We had logs from all of these wells. We had the best mining engineers on sulphur in the world consulted in that case, and we had definitely ascertained the location of the ore body and that part of the ore body that was commercial ore, and we could make the computation from it that was fairly accurate. Subsequent years have borne us out in it. The ore body existed just exactly where we had located it by these drillings. You do the same thing in every mining industry. The Calumet and Arizona does the same thing, as I happen to know.

Senator KING. You had no faults in the ground?

Mr. FULBRIGHT. No, Senator; the sulphur is taken out a good deal like oil.

Senator KING. Yes; I know.

Mr. FULBRIGHT. Yes; there were faults, but none that affected this particular finding, as I recall. Sometimes that becomes very important in mining.

Senator KING. But none that drained away the liquid sulphur content?

Mr. FULBRIGHT. No.

Senator REED. Mr. Fulbright, what have you to say to the change that is made by the House in section 114 where sulphur is put in with oil and gas under the 27½ per cent provision?

Mr. FULBRIGHT. Senator, that was put in at the request of the operating companies. I understand it would greatly simplify the problems of depletion of the operating companies. So far as we are concerned it would not make any difference to us.

Senator REED. On your royalties.

Mr. FULBRIGHT. And I am informed by the largest one of the companies that it would give them a lower rate of depletion than they now pay. I do not know the facts. But we have no quarrel with that. That would simplify their own problem, but does not affect ours. We had a March 1, 1913 value there. We had our properties on March 1, 1913, Senator.

Senator REED. I see.

Mr. FULBRIGHT. Before I leave I just wish to very briefly indorse two or three things that the Secretary of the Treasury has to say. One is with respect to taking out bonds from the net loss provisions where you restrict the losses to be taken on stocks and bonds to the gains on those transactions, for the simple reason that bonds are

held as investments. You can not buy them on margin and speculate on them like you do stock. And we wish to indorse what the Secretary of the Treasury has to say on that. It refers to the provisions of this same section from subdivisions (r) to (v) that refer to the word "bonds."

I also have made a computation here. You may have it. The Secretary of the Treasury referred to the discrimination involved when you apply the normal income tax on dividends of a corporation. I have here a set-up of a corporation making $100,000 taxable income owned by four stockholders equally in a partnership with the same taxable income owned by four stockholders equally.

Senator GORE. Four partners?

Mr. FULBRIGHT. Four partners equally. Under this bill, gentlemen, each individual partner would pay $1,430 normal tax and $700 surtax, or $2,130. But if it were a corporation and the earnings were distributed each individual would pay and bear $3,375 corporation tax and the same amount of other tax. Or he would be paying $5,027 instead of $2,100. In the one case, in the case of the partnership, they would pay 8½ per cent of the income to the Government. In the other they would pay over 20 per cent of their income.

The CHAIRMAN. Put the whole statement in the record.

Mr. FULBRIGHT. I will be very glad to do that, Senator.

Also, I wanted to indorse what the Secretary of the Treasury had to say about the affiliated corporations being penalized because so many of them have for years carried on their business as one concern. Under the provisions to-day as to affiliations the Government permits affiliated companies to report consolidated returns. Now it will only permit them to depart from that practice for good cause shown. But it requires them to follow a consistent practice. It is of great advantage to the taxpayers usually to report as consolidated tax returns for the reason that they avoid all of the disputes over intercompany transactions. When you make separate reports of subsidiaries you have almost interminable disputes with the department over whether a certain transaction should properly go to one company or to the other, or contentions that income or deductions should be properly prorated among the constituent companies. All of those questions give rise to a great deal of controversy. And we avoid it when we file affiliated returns, consolidated returns, and we do not feel that we should be penalized when we do that.

I thank you, gentlemen.

May I file just a brief memorandum, Mr. Chairman?

The CHAIRMAN. We would like you to file whatever briefs you want to file.

Mr. FULBRIGHT. Thank you. I would like to put this memorandum in the record.

(The memorandum presented by Mr. Fulbright is here printed in the record, in full, as follows:)

MEMORANDUM PRESENTED BY R. C. FULBRIGHT

To the Chairman and Members of the Committee on Finance:

This brief is submitted in behalf of the Southern Pine Association, a trade organization made up of owners of timber resources in the South and manufacturers of lumber from such resources and also in behalf of owners of sulphur properties located in the State of Texas representing a substantial proportion of the production of sulphur in the United States.

In behalf of these interests protest is made against changes which have been made in subdivisions (b), (d), and (g) of section 115, and in subdivision (1) of section 23 of the revenue act of 1928. These changes in the existing law affect peculiarly the natural-resource industries of the United States and particularly your petitioners. Briefly stated the changes in section 115 would have the effect of assessing income taxes upon distributions of earnings or profits and increase in value of property accrued prior to March 1, 1913, and the changes in section 23 (1) would prohibit taxpayers from getting the benefit of the basic value of their properties as of March 1, 1913. These changes will be explained more in detail as the respective subjects are discussed.

Neither of the changes was recommended by the Secretary of Treasury in his presentation of recommendations to Congress and neither was recommended by the Ways and Means Committee of the House when it reported out H. R. 10236 on the Union Calendar on March 8, 1932. No hearings were held by the Ways and Means Committee upon either subject.

I. PROPOSAL TO TAX EARNINGS OR PROFITS ACCUMULATED OR INCREASE IN VALUE OF PROPERTY ACCRUED BEFORE MARCH 1, 1913

Section 115 (b), (d), (g)

There is appended hereto Exhibit A, which shows the language of section 115 of the revenue act of 1928, with lines drawn through the provisions of such section which have been eliminated by the House in its consideration of H. R. 10236.

The first income tax act passed under the sixteenth amendment was the act of October, 1913, which undertook to tax earnings and profits accruing on and after March 1, 1913, which was approximately the effective date of the constitutional amendment. The next act was that of 1916, which was the first act definitely to recognize the principle embodied in the language now sought to be eliminated. From the beginning until the present the law has not undertaken to tax income of an individual or corporation which was realized prior to March 1, 1913, or increase in value of property where the increase took place prior to that date. There is a distinction, however, between taxing a distribution made by a corporation to its stockholders and the realization of income by the corporation, and yet the same policy has been followed since 1916 with respect to distributions for the reason that in substance the distribution of property acquired prior to March 1, 1913 by a corporation gives to the stockholders directly that which they enjoyed indirectly as stockholders on that date.

In this connection the position taken by the Secretary of the Treasury before this committee on April 6 is significant in which he stated "It is to be borne in mind that the income which we refer to as the income of a corporation is in reality the income of a group of individual stockholders." Again in his statement the Secretary referred to the concealed double taxation involved in discontinuing the exemption of dividends from normal taxes of individuals receiving such dividends. The policy of the income tax law through the war-time period of higher taxation was at all times to exempt the realization of profit or income which had accrued or accumulated prior to March 1, 1913, either by an individual, a corporation, or a stockholder receiving a distribution through a corporation. The law has also further protected the Government by requiring that cumulated earnings since March 1, 1913, be first exhausted before the stockholders could avail themselves of the benefit of the exemption. The effect of this has been to keep intact surpluses which existed on March 1, 1913.

Your petitioners own properties upon which the value was definitely ascertained as of March 1, 1913. The mere fact that this ownership was in the form of a corporation should not render your petitioners subject to additional taxes now if a liquidation should be made for the simple reason that it would create a discrimination as between them and taxpayers similarly situated.

The following concrete illustration will serve as an example. Let us suppose that three individuals A, B, and C, each purchased a tract of timberlands in 1900 for the sum of $50,000, and that each tract was reasonably worth that amount when purchased. Let us further assume that because of the building of railroads into the timbered sections of the Southwest the values of these timberlands had increased until March 1, 1913, each tract was worth $150,000.

Let us suppose that A has continued ever since then to hold his tract of timber and that in 1932 after the passage of the proposed law, he sells his timber for $150,000 net. In this case he would not be and could not be made subject to income taxes, as he has realized no additional income since March 1, 1913. This

was specifically decided by the Supreme Court in the case of Lynch *v.* Turrish (247 U. S. 221; 62 L. ed. 1087), which dealt with a similar situation.

Let us assume that B on or before March 1, 1913, formed a corporation with $150,000 capital and transferred to the corporation the timber for its stock. If this corporation should sell the timber in 1932 for $150,000 and the proceeds be distributed to B, the latter would also be free from any liability to tax. This was also decided by the Supreme Court in the authority above cited.

On the other hand, let us suppose that C formed a corporation for $50,000, which represented the original cost of the timber, and the corporation had continued since the purchase of the timber and owned and held the same. Now, if this corporation should sell in 1932 after the proposed law became effective, and distribute the proceeds, C would have to pay taxes on $100,000 net income. At the rates proposed in the House bill he would have to pay $27,160 taxes. Numerous illustrations could be given to show the manifest injustice of such a proposal. The Treasury Department has never sought such a change, and although there was a change of this character contained in the House bill passed in 1928 the report of the Ways and Means Committee set forth that this was done because it was the opinion of the House committee that "most corporations have distributed the surplus accumulated by them prior to March 1, 1913." The action had been taken without hearings, and the committee stated that it was merely done in an effort to simplify the language of the act. The Senate committee, however, investigated the matter and found that the change would substantially affect the natural resource industries and create discriminations such as are here cited. Accordingly the Committee on Finance restored the language and the House conferees accepted the restoration.

On Friday, April 8, Senator Broussard, of Louisiana, and Senator Steiwer, of Oregon, offered an amendment to restore the language stricken out by the House from section 115, and your petitioners respectfully request that the Finance Committee accept this amendment.

There are set forth in Appendix B, attached hereto, excerpts from decision of the Supreme Court in the case of Lynch *v.* Turrish, and other authorities are there cited.

II. HOUSE AMENDMENT TO SECTION 23 (l)

Section 23 (l) provides the general statutory rule for depletion of mineral properties and timber. The language of the present law is substantially the same as that which has been in effect since 1918. The Secretary of the Treasury did not recommend any change in this in his report to the Ways and Means Committee, nor did the committee suggest any change in the bill reported out by the committee last month. In the closing days of the consideration of the measure, however, the House passed an amendment inserting the following sentence in section 23 (l):

"In any case in which it is ascertained as a result of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate." (See p. 24 of H. R. 10236.)

The effect of the above amendment is to deny to taxpayers the value of their property on March 1, 1913, as a basis for depletion where the Government has admittedly made an erroneous determination thereof. For example, the Government valued a number of mining properties in 1918 and 1919 under the stress of war-time conditions, when only hasty surveys had been made of the data supplied by the taxpayers bearing upon the value and character of the property. In an effort to be conservative there have been a number of cases where the Commissioner of Internal Revenue has realized that the determinations were in error and that the taxpayers had substantially more property or a greater value than had been allowed in the prior determination made by the commissioner. If the taxpayer had substantially more property on March 1, 1913, and he produced evidence to show that such property should have been recognized and proper value assigned thereto as of that date, the Government should not only be permitted but should be required to rectify the mistake. The effect of this amendment, however, would be to deny to the taxpayer any added value in the property not originally recognized. For example, where the surveys of the mining property showed 2,000,000 tons of ore and the original determinationof the Government fixed a value of 1,000,000 tons of ore, the effect of the amendment would be to redistribute the unused depletion as representing the remaining tons without giving it any more value than was assigned to 1,000,000 tons in the original determination.

Depletion is a technical subject and no changes should be made in the law as to depletion without taxpayers having ample opportunity to present their situation to the congressional committees. Some of your petitioners will be seriously affected by the change proposed by the House, and since there has been no demand for such a change we respectfully request that the law be allowed to stand as it is in this respect. This change also works a discrimination for the reason that in some cases the Government has recognized the full amount of the property owned by the taxpayer on March 1, 1913, and fixed its valuation thereon. In those cases where it has underestimated the amount and value of property of other taxpayers it would create a serious discrimination if such taxpayers be denied the same character of treatment that has been afforded in those cases where the original values were found to be correct.

In conclusion your petitioners respectfully represent that they are willing to bear whatever burden of taxation Congress in its wisdom may feel is necessary to meet the needs of our Government in the present emergency, but we do not believe that technical provisions of the law should be tampered with where the effect would be to create rank discriminations between taxpayers of the same class who are competing in the same line of business.

Respectfully submitted.

R. C. FULBRIGHT, *Attorney.*

NOTE.—There is also attached an exhibit marked "C," illustrating the discrimination involved in assessing the normal income tax on corporate dividends.

EXHIBIT A

SECTION 115 OF THE REVENUE ACT OF 1928 AS CHANGED BY H. R. 10236 (PORTION OF LANGUAGE IN BLACK BRACKETS IS PORTION WHICH HAS BEEN ELIMINATED IN H. R. 10236)

SEC. 115. *Distributions by corporations.*—(a) *Definition of dividend.*—The term "dividend" when used in this title (except in sec. 203 (a) (4) and sec. 208 (c) (1), relating to insurance companies) means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913.

(b) *Source of distributions.*—For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. [Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the basis of the stock provided in section 113.]

(c) *Distributions in liquidation.*—Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. In the case of amounts distributed in partial liquidation (other than a distribution within the provisions of section 112 (h) of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subsection (b) of this section for the purpose of determining the taxability of subsequent distributions by the corporation.

(d) *Other distributions from capital.*—If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders [is not out of increase in value of property accrued before March 1, 1913, and] is not out of earnings or profits, then the amount of such distribution shall be applied against and reduce the basis of the stock provided in section 113, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property. [The provisions of this subsection shall also apply to distributions from depletion reserves based on the discovery of value of mines.]

(e) *Distributions by personal service corporations.*—Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the revenue act of 1918 or the revenue act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the revenue act of 1918 or section 218 of the revenue act of 1921, shall be exempt from tax to the distributees.

(f) *Stock dividends.*—A stock dividend shall not be subject to tax.

(g) *Redemption of stock.*—If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits [accumulated after February 28, 1913,] shall be treated as a taxable dividend.

(h) *Definition of partial liquidation.*—As used in this section the term "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

EXHIBIT B

MEMORANDUM RELATIVE DECISION OF SUPREME COURT IN THE CASES OF LYNCH *v.* TURRISH (247 U. S. 221); SOUTHERN PACIFIC CO. *v.* LOWE (247 U. S. 330); AND LYNCH *v.* HORNBY (247 U. S. 339)

The substance of the above decisions is that income accumulated prior to March 1, 1913, is not subject to Federal tax and that distributions in the nature of liquidated dividends of corporations were not so subject to tax under the revenue act of 1913, but that ordinary dividends paid by corporations after March 1, 1913, became subject to surtax against the stockholder under that act but not under subsequent acts. The most important of these cases is that of Lynch *v.* Turrish. The following excerpts and comments show the effect of that decision. The following quotation was taken from the statement of facts by the court:

"The reassessment was based upon certain sums received by the plaintiff in the year 1914 as distributions from corporations subject to the income tax law and held by the commissioner to be income derived from dividends received by the plaintiff on stock of domestic corporations, of which the sum of $79,975, received as a distribution from the Payette Lumber & Manufacturing Co., and without which no tax could have been levied against the plaintiff, is here in dispute.

"Prior to March 1, 1913, and continuously thereafter until the surrender of his stock as hereinafter mentioned, plaintiff was a stockholder in the Payette Co., which was organized in the year 1903 with power to buy, hold, and sell timberlands, and in fact never engaged in any other business than this except minor businesses incidental to it. Immediately after its organization this company began to invest in timber lands, and prior to March 1, 1913, had thus invested approximately $1,375,000.

"On March 1, 1913, the value of its assets was not less than $3,000,000, of which sum the value of the timberlands was not less than $2,875,000. The increase was due to the gradual rise in the market value of the lands. At that date the value of Turrish's stock was twice its par value, or $159,950, and about that time he and all the other stockholders gave an option to sell their stock for twice its par value."

The statement of facts further shows that instead of selling their stock the terms of the trade were changed so that the corporation sold its assets for cash, distributed the cash to the stockholders upon the surrender of their certificates, and wound up the business, as a result of which Turrish received $159,950, being double the par value of his stock. The following excerpt recites the action taken by the lower courts in the case:

"The district court and the circuit court of appeals decided that the amount so distributed to Turrish was not income within the meaning of the statute, basing the decision on two propositions, as expressed in the opinion of the circuit court of appeals, by Sanborn, circuit judge: (*a*) The amount was the realization of an investment made some years before, representing its gradual increase during those years, and which reached its height before the effective date of the law, that is, before March 1, 1913, and the mere change of form of the property 'as from real to personal property, or from stock to cash,' was not income to its holders because the value of the property was the same after as before the change; (*b*) the timberlands were the property, capital, and capital assets of their legal and equitable owner, and the enhancement of their value during a series of years 'prior to the effective date of an income tax law, although divided or distributed by dividend or otherwise subsequent to that date, does not become income, gains, or profits taxable under such an act.'"

The supreme court concurred in both propositions of the lower courts and affirmed the case. It is unnecessary to repeat the reasoning of the supreme court, but the following sentence from the opinion is significant:

"If increase in value of the lands was income, it had its peculiar time, and such time must have been within the time of the law to be subject to the law; that is, it must have been after March 1, 1913. But, according to the fact admitted, there was no increase after that date, and therefore no increase subject to the law."

In Southern Pacific Co., *v.* Lowe, the Southern Pacific Co., a corporation, received dividends in 1914 from a subsidiary corporation, the Central Pacific Railway Co., which dividends were paid out of a surplus that had accrued to the Central Pacific Co., prior to January 1, 1913. The following excerpts are pertinent:

"Certainly the term 'income' has no broader meaning in the 1913 act than in that of 1909 (see Stratton's Independence *v.* Howbert (231 U. S. 399, 416, 417, 58 L. ed. 285, 293, 34 Sup. Ct. Rept. 136)) and for the present purpose we assume there is no difference in its meaning as used in the two acts. This being so, we are bound to consider accumulations that accrued to a corporation prior to January 1, 1913, as being capital, not income, for the purposes of the act. And we perceive no adequate ground for a distinction, in this regard, between an accumulation of surplus earnings and the increment due to an appreciation in value of the assets of the taxpayer.

"That the dividends in question were paid out of a surplus that accrued to the Central Pacific prior to January 1, 1913, is undisputed; and we deem it to be equally clear that this surplus accrued to the Southern Pacific Co., prior to that date, in every substantial sense pertinent to the present inquiry, and hence underwent nothing more than a change of form when the dividends were declared.

"It is true that, in ordinary cases, the mere accumulation of an adequate surplus does not entitle a stockholder to dividends until the directors, in their discretion, declare them. * * * But this is not the ordinary case. In fact, the discretion of the directors was affirmatively exercised by declaring dividends out of the surplus that was accumulated prior to January 1, 1913; it does not appear that any other fair exercise of discretion was open; and the complete ownership and right of control of the Southern Pacific, at all times material, makes it a matter of indifference whether the vote was at one time or another. Under the circumstances, the entire matter of the declaration and payment of the dividends was a paper transaction to bring the books into accord with the acknowledged rights of the Southern Pacific; and so far as the dividends represented the surplus of the Central Pacific that accumulated prior to January 1, 1913, they were not taxable as income of the Southern Pacific within the true intent and meaning of the act of 1913."

In the case of Lynch *v.* Hornby, dividends were paid out in 1914, part of which were from the current earnings of that year and part from the conversion into money of property which the corporation owned on March 1, 1913. This was not a case of a liquidation of the company but merely the result of its ordinary current operations. The court distinguished between this and the cases cited above and also called attention to the change in the congressional policy in 1916, having in mind the equities of the situation. The following excerpts are significant:

"The fact that they resulted in converting into money, and thus setting free for distribution as dividends, a part of its surplus assets accumulated prior to March 1, 1913, does not render Hornby's share of those dividends any the less a part of his income within the true intent and meaning of the act, the pertinent language of which is as follows (38 Stat. L. 166, 167, ch. 16):"

* * * * * * * *

"It is evident that Congress intended to draw and did draw a distinction between a stockholder's undivided share or interest in the gains and profits of a corporation, prior to the declaration of a dividend, and his participation in the dividends declared and paid; treating the latter, in ordinary circumstances, as a part of his income for the purposes of the surtax, and not regarding the former as taxable income unless fraudulently accumulated for the purpose of evading the tax."

* * * * * * * *

"In the more recent income tax acts, provisions have been inserted for the purpose of excluding from the effect of the tax any dividends declared out of earnings or profits that accrued prior to March 1, 1913. This originated with the act of September 8, 1916, and has been continued in the act of October 3, 1917.

We are referred to the legislative history of the act of 1916, which it is contended indicates that the new definition of the term 'dividends' was intended to be declaratory of the meaning of the term as used in the 1913 act. We can not accept this suggestion, deeming it more reasonable to regard the change as a concession to the equity of stockholders, granted in 1916 act, in view of constitutional questions that had been raised in this case, in the companion case of Lynch v. Turrish, and perhaps in other cases. These two cases were commenced in October, 1915; and decisions adverse to the tax were rendered in the district court in January, 1916, and in the circuit court of appeals September 4, 1916."

EXHIBIT C

DISCRIMINATION INVOLVED IN APPLYING NORMAL TAX ON DIVIDENDS

Thousands of small business organizations have for convenience operated as corporations although they are in fact closely owned by a small group of individuals who are actively identified with such organizations. They are in competition with other thousands of partnership organizations run in very much the same way.

To illustrate the discrimination involved in the proposal to levy the normal income tax on the dividends received from corporations let us take the hypothetical case of two concerns each of which is owned equally by four individuals who depend upon the business for their principal income. Assuming that each concern earned $100,000 net income subject to tax during the taxable year the difference in the tax paid by the individuals would be substantially as follows:

1. Taxes upon individual member of partnership:

Partnership taxable income	$100,000
Individual partners one-fourth share	25,000
Normal tax on $25,000	1,430
Surtax on $25,000	700
Total tax paid by each individual partner	2,130

2. Income tax paid directly or indirectly by individual stockholder of corporation:

Taxable income of corporation	100,000
Corporation tax	13,500
Proportion of tax borne by individual stockholder owning one-fourth interest	3,375
Normal tax of individual on his share	1,194
Surtax of individual	458
Total	5,027

In the above case it will be noticed the individual partner with an income of $25,000 will pay 8.5 per cent of his income as taxes to the Federal Government while the individual stockholder with the same income (if the corporation distributes its income) will have to pay and bear 20.1 per cent of his income as taxes to the Federal Government. In addition to this, the corporations have to pay franchise taxes and various other governmental fees which are not assessable against partnerships.

STATEMENT OF HON. V. S. K. HOUSTON, DELEGATE IN CONGRESS FROM HAWAII

The CHAIRMAN. You may proceed, Mr. Houston.

Mr. HOUSTON. Mr. Chairman and members of the committee, I appear here in support of an amendment to section 116 (b), which is on page 96.

Senator REED. What is it, Mr. Houston, you are calling attention to?

Mr. HOUSTON. Section 116 (b). The section is headed, Teachers in Alaska and Hawaii, and undertakes to carry on the existing exemp-

tion, or the exemption which existed in the previous revenue bill on the payment of income tax, and the income tax exempts only the school-teachers in the Territory of Hawaii.

In 1930, not further back than April 12, 1930, this Congress passed an amendment to the Hawaiian organic act, which is the nearest thing we have to a State constitution, which reads as follows [reading]:

(b) The salaries or wages paid by the Territory of Hawaii, or any of its political subdivisions, for services rendered in connection with the exercise of an essential governmental function of the Territory or its political subdivisions, shall not be taxable by the United States in the administration of the income tax laws.

Now this section, as passed in the House, not only undertakes to repeal this section of our organic act without having been considered in the Committee on Territories, or without having given me an opportunity to be heard, but reintroduces in Hawaii the income tax of the governmental officers there, so that you have in the Territory of Hawaii—and the same thing holds good in Alaska, and the Delegate from Alaska joins me in this appeal—there you have officers and employees who are taxed on their incomes, not only by the Federal Government, but by the Territorial government.

In the Territory of Hawaii the income tax of the Territory begins at 2 per cent on salaries below $5,000, with only $1,000 exemption, and that is even now being revised so as to increase the percentage in the lower brackets. The amendment which I suggest and which I attempted to have adopted on the floor of the House, is to strike out in line 1 of that section, the words "teachers in," so that the heading of the subsection would read "Alaska and Hawaii." And then on the third and fourth lines, strike out the words "a teacher in any educational institution," and insert the words "an officer or employee," so that the exemption would then apply to the officers and employees of the Territory or its political subdivision who are in receipt, either directly or indirectly, of Federal moneys.

Senator WATSON. Did you present your argument to the Committee on Ways and Means of the House?

Mr. HOUSTON. I did not have an opportunity of appearing there, and, furthermore, this proposition was carried in our organic act. I had no idea it would be repealed in a revenue bill. As soon as I found out about it I asked the privilege of appearing, but the hearings were closed, and the only matters that were debatable were the ones that came up subsequently.

Senator KING. You do not deny the power of Congress, notwithstanding that organic act, to impose an income tax on the employees in Hawaii, just as we impose an income tax on the employees of the District of Columbia? Do you claim that because we do not tax employees or the salaries of employees in the States and within the municipalities within the States, that we should not impose any tax on the employees of Hawaii?

Mr. HOUSTON. That is it.

Senator BINGHAM. A law was passed putting the employees on the same basis as State employees.

Senator KING. I know, but I wondered whether he denied the power of the Congress to impose a tax?

Mr. HOUSTON. Oh, no. In fact, in the original law, there was such a tax. And Mr. Timberlake made this statement in a hearing held in April, 1926, before the Committee on Ways and Means of the

House, on a bill exempting from the payment of Federal income taxes certain employees of the Territories of Hawaii and Alaska, when the question was asked as to whether it was thought that the committee desired to single the teachers of Hawaii and Alaska out and make an exception of them in the payment of tax, Mr. Timberlake said this:

> Because I believe it was the desire of the committee to have all teachers throughout all of the States pay an income tax, except for the constitutional provision which makes that impossible in the case of appointees of a State.

In other words, it was the exercise of a right of might, so far as the Territories are concerned only. They would have liked to have applied it to the employees of the States, but because of the decision of the Supreme Court they were not able to do it.

Now, may I invite your attention to the decisions of the Supreme Court. The decisions are based on what you might call reciprocal relations. The Supreme Court has said that—

> As the States can not tax the powers, the operations or the property of the United States, nor the means which they employ to carry their powers into execution, so it has been held that the United States have no power under the Constitution to tax the instrumentalities or the property of a State.

It would appear that there is a matter of reciprocity that entered into this decision, and inasmuch as the Territory may not tax the employees of the Federal Government in the Territory, it would seem that reciprocity should enter into the picture to some degree. And we have a large number of Federal employees in the Territory, of course, when you consider the Army and Navy, which number almost 20,000, but we do not allow the taxing of them upon the Federal income.

Senator KING. Do you have an income tax in Hawaii?

Mr. HOUSTON. We have an income tax which begins at 2 per cent on salaries below $5,000, with only $1,000 exemption, and, of course, with higher rates in the higher brackets.

Senator KING. Of course, you must admit there is a difference between the States and a Territory. A Territory is the recipient of Federal money, in the way of salaries paid by the Federal Government for the governor, and many of your officers. It is not a question of reciprocity at all, because you are not a sovereign State.

Senator BINGHAM. But, Senator, since you have spoken of that, it is only fair to remember that the Federal Government takes out of the Territory nearly $10,000,000 a year in taxes received and not returned. So it is not like one doing them a favor. We take a great part of the $10,000,000, and we do give them a small part in that we pay the salaries of the officers.

Senator KING. The United States furnishes a market for the sugar barons over there.

Senator BINGHAM. So we do for the sugar barons from Cuba, and the Cuban refiners.

Senator KING. It is a question of what you conceived it to be, just a right, instead of a power.

Mr. HOUSTON. Congress has the right or power to do it, of course.

The provision which the Congress, in its wisdom had found desirable to apply to Hawaii has been repealed in this legislation by indirection without a hearing and without our having a chance to be heard.

Senator SHORTRIDGE. You would have the law remain as it is?

Mr. HOUSTON. I would have the law remain as it is, and for that viewpoint we hope that there will be adopted the subsequent language of that section wherein that particular provision is repealed, and we ask that that should be stricken out also. That is all. I thank you very much.

Senator BINGHAM. Just one question to straighten that out. If we acted in accordance with the law, and did not change the organic law, the entire paragraph (b) should come out, should it not?

Mr. HOUSTON. No; because Alaska then would suffer, and it is my thought that Alaska and Hawaii, carrying on about the same functions, should be treated in the same way. Senator King referred a while ago to the employees in the District of Columbia. There is this difference between the Territories and the District of Columbia, that a certain proportion of the salaries of the teachers and employees in the District of Columbia are paid indirectly by the Federal Government, through a contribution. So, to that extent, it is not quite the same thing.

Senator KING. But the Federal Government makes a contribution to your Territorial government.

Mr. HOUSTON. In a minor way. The governor and the judges are the only ones who are paid by Federal appropriations. The others are all paid by Territorial appropriations. And the function by which the Federal Government undertakes to pay throughout the country, and from which we should have a certain benefit, are not applied. For instance, in the care of leper dependents, the legislation is general and provides that the Federal Government shall care for these dependents. Yet we have, notwithstanding the commissioners have recommended in their original report that the United States should care for these unfortunates, unfortunately we have to carry a large budget for the care of these unfortunate dependents.

The CHAIRMAN. Mr. Houston, your time is up.

Mr. HOUSTON. Yes; Mr. Chairman. I thank you.

Senator BINGHAM. And yet every State that has any of these unfortunates, can have them cared for at the Federal sanitariums.

HOUSE OF REPRESENTATIVES,
Washington, D. C., April 12, 1932.

Hon. REED SMOOT,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: Referring to the testimony that I gave to-day before your committee with reference to the exemption of Territorial officers and employees from payment of Federal income tax on their official earnings.

The last available data with respect to the amount involved in Hawaii shows that for the year 1928 the payments were about $3,000. It is reasonable to assume that the amounts for Alaska would be about half that sum, so that the amendment I suggested would involve a sum somewhat less than $5,000.

Very sincerely yours,

V. S. K. HOUSTON,
Delegate in Congress from Hawaii.

115102—32——18

STATEMENT OF JOSEPH J. WECHSLER, CERTIFIED PUBLIC ACCOUNTANT, NEW YORK, N. Y., REPRESENTING THE PEOPLES LOBBY

Senator SHORTRIDGE. For whom are you speaking?

Mr. WECHSLER. I am speaking for the peoples lobby.

Senator HARRISON. He appears for the people.

Mr. WECHSLER. One of the previous speakers mentioned the fact that we have reached about the limit of productivity on the surtax rate. I want to put myself on record as disagreeing with that point to Great Britain and the high surtax rate that she imposes on her subjects.

Senator REED. There are no tax-exempt securities in Great Britain.

Mr. WECHSLER. There are no tax-exempt securities in Great Britain.

Now the Secretary of the Treasury, on December 31, 1930, estimated that there were about $18,000,000,000 worth of totally tax-exempt securities. I have computed the interest roughly and figure that the interest would be about $850,000,000, and the tax thereon, based on 25 per cent, since our surtaxes run to 45, would be $200,000,000. There was in addition about $12,000,000,000 that were exempt from normal taxes. The interest on that, roughly, is about $480,000,000, and 5 per cent on that would be about $24,000,000. That is just the normal tax, and that is the amount that is exempt. It is all subject to the surtax, with the exception of a small amount.

Senator REED. Do you not realize that all of those are subject to the exemption of the corporation tax without depreciation, at 12 per cent? It is going to be higher. That $12,000,000,000 of securities are totally exempt when held by corporations.

Mr. WECHSLER. Yes; that is why I figured averaging the corporation rate that way all along.

It is estimated that the exemption of various Federal, State, and municipal bonds from income taxation results in a loss of from $120,000,000 to $300,000,000 in taxes each year. As far back as 1922 it was estimated by the Federal Trade Commission that approximately half of the total interest-bearing tax-exempt bonds were held by individuals whose taxable incomes were below $10,000, and by charitable and other tax-exempt organizations. If that is so, the exemption privilege has little effect upon the rates of interest borne by these securities, and, therefore, the State and local governments are not in fact saving interest by reason of these privileges.

Wealthy individuals owning such securities, however, largely escape both these normal and surtaxes. This is evident from the fact that the average holdings of tax-exempt securities was $7,500 of principal in the $10,000 to $25,000 income group, and $3,080,000 in the $500,000 to $1,000,000 income group.

Fears that the taxing of securities now exempt would hurt the borrowing power are, therefore, unwarranted.

Many investors choose Government securities from the consideration of safety of principal, the yield being of secondary consideration. Besides, trust companies and individuals acting in a fiduciary capacity are practically limited by law to the purchase of these securities.

Under the present conditions taxpayers feel that as a result of the tax-exempt situation the burden of taxation is inequitably spread and that many are carrying the burden of the few who are blessed with tax-exempt securities and who pay very little, if at all, for enjoying the privilege this country affords them. The old arguments must be carefully considered in the light of economic changes that have occurred and action taken to correct existing conditions.

Now, the brief I have prepared contains an argument regarding the constitutional phase of tax-exempt securities, and I would like to submit it.

Senator SHORTRIDGE. I was about to ask that question. There is now outstanding a vast amount, in value, of tax-exempt securities. Is it your position that we have the power to levy a tax on such securities?

Mr. WECHSLER. Yes, sir.

Senator REED. That is what his brief states?

Mr. WECHSLER. Yes, sir.

Senator SHORTRIDGE. You undertake to show that?

Mr. WECHSLER. Yes, sir.

Senator SHORTRIDGE. That the Federal Government has constitutional power to levy a tax on a State security that, by the law of the State, is made tax exempt?

Mr. WECHSLER. That is right.

Senator SHORTRIDGE. I understand your point.

Mr. WECHSLER. Now, a brief review of the brief that I will file is presented herewith as follows:

There is no express provision in the Constitution prohibiting the taxation of securities now tax exempt. In its earlier decision the Supreme Court has held that by implication our Federal and State Governments may not tax each other's obligations.

In 1894 the famous case of Pollock *v.* Farmer's Loan & Trust Co. was decided, wherein the income tax was declared to be unconstitutional for the reason that it was an attempt to levy a direct tax without an apportionment as provided for in the Constitution—Article I, section 9.

The decision was a close one and it was later shown that the court had made an error by looking at the source of the income and coming to the conclusion that the tax being on the source was a direct tax.

To correct this error Congress was obliged, at great expense and with a considerable loss of time to adopt the sixteenth amendment which provided "Congress shall have the power to lay and collect taxes on income, from whatever source derived, without a portionment among the several States and without regard to any census or enumeration."

The courts have since held that income taxes belong to the class of excise taxes and the purpose of the amendment was merely to restore them to this class from the direct taxes which the courts' decision in the Pollock case had erroneously place them. The words "whatever source derived" were therefore disregarded, and it was construed that under the amendment the taxing power of Congress did not extend to new subjects.

The Supreme Court decisions since the amendment are more or less confusing. This is apparent from a consideration of the opinions in some of the leading cases, viz:

In the State of Missouri *v.* Gehner (281 U. S. 313) the court held that the value of Government bonds should be disregarded in making up the estimate of taxable values. Justices Stone, Holmes, and Brandeis dissented. In his opinion Justice Stone states:

A taxpayer having no tax-exempt securities and legitimately bearing the burden of a State tax on net worth may put off the burden completely by the simple expedient of purchasing on credit Government bonds equal in value to his net taxable assets. The success of a device so transparently destructive of the taxing power of the State may well raise doubts of the correctness of the constitutional principles supposed to sustain it. So construed, the Constitution does more than protect the ownership of Government bonds from the burden of taxation. It confers upon that ownership an affirmative benefit at the expense of the taxing power of the State by relieving the owner from the full burden of taxation on net worth to which his taxable assets have in some measure contributed.

In the Indian Motor Cycle Co. *v.* U. S. the Government sought to collect an excise tax on motor cycles sold to a municipality. Justice Van Devanter held that by implication both by Federal and State Governments can not tax each other's instrumentalities. Here again Justice Stone dissented, stating:

The implied immunity of one Government from taxation by the other should not be enlarged. The practical effect on enlargement is commonly to relieve individuals from a tax at the expense of the Government imposing it without substantial benefit to the Government for whose theoretical advantage the immunity is invoked.

In MacAllen *v.* Mass. the Court decided that income from Government bonds were not includable in determining the annual franchise tax where the State amended the laws to reach such income.

After writing a strong dissenting opinion in the MacAllen and Gehner cases, supported each time by the concurrence of Justices Holmes and Brandeis, Justice Stone wrote the prevailing opinion in Educational Films Corporation of America *v.* Ward (282 U. S. 379), wherein a tax on a corporation for the privilege of doing business, computed on a basis of corporation's entire net income for preceding year, was held not void as tax on Federal instrumentalities, though authorizing the inclusion of income from copyrights.

While this court, since McCulloch *v.* Maryland (4 Wheat. 316), has consistently held that the instrumentalities of either government, or the income derived from them, may not be made the direct object of taxation by the other, it has been held with like consistency that the privilege of exercising the corporate franchise is no less an appropriate object of taxation by one government, merely because the corporate property or net income, which is made the measure of tax, may chance to include the obligations of the other, or the income derived from them. The constitutional power of one government to reach this permissible object of taxation may not be curtailed because of the indirect effect which the tax may have upon the other.

The decisions of the Supreme Court since the Sixteenth amendment was passed, it will be seen, are often hairsplitting and are not always consistent. The theory of the implication that taxation of each other's obligations would destroy the borrowing power may well be questioned

Investors have learned a great lesson in the past few years and there are an increasing number who would be willing to sacrifice a little of the income in order to safeguard the principle. The attractive feature to the investor being safety, government must increase revenues and decrease expenses in order to present sufficient inducement for investors. The increase yielded from tax-exempt securities would

by its same economy attract investors so that interest rates instead of going up as predicted may actually decrease.

The rate of increase in State and municipal obligations has been steadily gaining and the question of tax exemption if not solved now will assume alarming proportions in the near future. It is in the power of the Senate to amend the House bill striking out the exemption of State and municipal obligations to bring in the revenues and income that will grow larger each year and will lighten the burden of taxpayers who are not fortunate enough to own tax-exempt securities.

Senator SHORTRIDGE. Just a question. As I understand your position, it is this: Let us suppose that in a given State, under its laws, there is outstanding, let us say, $1,000,000,000, par value, of State exempt bonds. Now the State collects no tax on the income derived by the holders of those bonds. Now your position is that under the Sixteenth amendment, properly interpreted, the Federal Government may impose a tax on those incomes?

Mr. WECHSLER. Yes, sir.

Senator SHORTRIDGE. I see. It is a very, very interesting question. You have elaborated it, as I see, in your brief.

Mr. WECHSLER. Yes; and the brief goes into it at a great deal more length and detail.

Now, if I may, I will read my brief.

The CHAIRMAN. That may be made a part of the record in connection with your remarks.

Mr. BENJAMIN C. MARSH. May he say something and present an amendment for an excise tax?

The CHAIRMAN. Yes.

(The brief presented by Mr. Wechsler is printed in the record in full, as follows; also the proposed amendments presented by Mr. Wechsler are printed in the record in full, as follows:)

BRIEF OF JOSEPH J. WECHSLER

AN INCOME TAX ON FEDERAL, STATE, AND MUNICIPAL SECURITIES IS CONSTITUTIONAL

Why is it that Great Britan, with one-third of the population of the United States, raises a much larger revenue from the taxation of incomes and profits? Because, principally, the rates in the high brackets are much greater than those imposed by our Government. Then why, when Congress is eagerly seeking for new sources of revenue with which to balance the budget do we not tax large incomes as much as Great Britain does? The answer is that if we attempt to do so, those large incomes will be withdrawn from productive enterprises and invested in tax exempt securities issued by Federal, State, and municipal governments. If Great Britain can get along without exempting its own obligations from taxation (as she does) why can not we do likewise? As shown in this brief, there is no express provision in the Constitution (including the Sixteenth amendment) prohibiting such taxation. Why then is it prohibited? Not because of any act of the Congress, which under the Constitution is the Government's only law making branch, but because of judicial legislation by the Supreme Court.

This brief will concisely sketch the decisions of the majority of that court upon this point and call attention to dissenting opinions which may some day be adopted by a majority of that court as then constituted.

POINT 1

There is no express provision in the Constitution of the United States prohibiting the taxation of securities now tax exempt.

It is an established principle of our constitutional system of dual government that the instrumentalities, means and operations, whereby the United States exercises its governmental powers are exempt from taxation by the States, and

the instrumentalities, means and operations whereby the States exert governmental powers belonging to them are equally exempt from taxation by the United States. This principle is implied from the independence of the national and State government within their respective spheres and from the provisions of the Constitution which look to the maintenance of the dual system. (McCulloch *v.* Maryland, 4 Wheaton 316; Collector *v.* Day, 11 Wall. 113.)

By resorting to this "implication," the Supreme Court held that a State did not have the constitutional right to tax the instrumentalities of the Federal Government (McCulloch *v.* Maryland, supra) and that bonds of the United States issued to raise money for governmental purposes, and the interest thereon, are immune from State taxation because such a tax, even though inconsiderable in amount and imposed only on holders of the bonds, would burden the exercise by the United States of its power to borrow money (Weston *v.* Charleston, 2 Pet. 449), and the salary of an officer of the United States is immune from State taxation because the salary is the means by which his services are procured and retained and its taxation by the State would burden the exertion by the United States of powers belonging to the latter (Dobbins *v.* Commissioners of Erie County, 16 Pet. 435), and, for like reasons, it has been held that the salary of a State officer is immune from Federal taxation (Collector *v.* Day, 11 Wall. 113); and this immunity has been held to induce bonds of a municipal corporation, in a Territory, issued to raise money for municipal purposes, the decision being put on the ground that such a corporation is an instrumentality of the United States, exercising delegated governmental powers (Farmers Bank *v.* Minnesota, 232 U. S.), and finally in Pollock *v.* Farmers Loan & Trust Co. (157 U. S. 429), the court held "bonds of a municipal corporation in the several States issued to raise money for public municipal purposes, and the interest thereon are immune from Federal taxation, and this on the ground that such corporations are representative of the State and exercise some of their powers, and that under the implications of the Constitution, the governmental agencies and operations of the State have the same immunity from Federal taxation that like agencies and operations of the United States have from taxation by the States."

In the last-mentioned case, however, the Supreme Court covered much more ground. By tracing the incomes from the municipal securities, real estate rentals, and the like to their sources, the court found the attempt to tax these incomes to be an attempt to tax their sources and to fall into the class of direct taxation, which, according to the Constitution (Art. I, sec. 9) could be imposed only by apportionment among the States in proportion to population.

As a result of the courts' decision in the Pollock case above, the people of the United States adopted the sixteenth amendment which reads:

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

POINT 2

The sixteenth admendment does neither expressly nor impliedly prohibit the taxation of tax-exempt securities.

According to one view the purpose of this amendment was to make an exception to the general rule that direct taxes might be imposed by the Federal Government only by apportioning them among the States in proportion to population, namely, by conferring upon Congress the power to impose this particular variety of direct tax without such apportionment and without regard to any census or enumeration.

The other view is that additional power is conferred upon Congress to tax incomes, namely, "from whatever sources derived." In this view, the amendment might be considered as extending the taxing power of Congress to those fields denied by the Supreme Court in Collector *v.* Day (above) and the other decisions limiting by judicial interpretation the Federal Government's power to tax the instrumentalities of the States, or conceivably as doing away for the future with the application of the principle upon which the decisions in these cases rested.

Without adopting either view, the court has consistently held that the sixteenth amendment did not extend the taxing power of Congress to new subjects. It has not, however, considered the amendment as having amended the provision in the Constitution that required all direct taxes imposed by the Federal Government to be apportioned among the States in proportion to population (Art. I, sec. 9). It has rather held that income taxes belong to the class of excises, customs, and

imports, and that the purpose of the amendment was to restore them to this class from the class of direct taxes in which the court's decision in the Pollock case had erroneously placed them (Brushaber *v.* Union Pacific R. R., 240 U. S. 1). In other words, it was necessary to amend the Constitution because the Supreme Court erred in the Pollock case.

Having properly classified income tax as an excise tax, we find that the only limitations in the power of Congress to levy excise taxes are that they must be for the public welfare and must be uniform throughout the United States; they do not have to be apportioned (Flint *v.* Stone Tracy Co., 220 U. S. 107). Thus in the case last cited, the Supreme Court held that a corporation tax is not a direct tax within the enumeration provision of the Constitution, but is an impost or excise which Congress has the power to impose under Article I, section 8, of the Constitution. The court went further and held that franchises of corporations are not governmental agencies of the State and the tax is not invalid as an attempt to tax State governmental instrumentalities; not being direct taxation, but an excise, the tax is properly measured by the entire incomes of the parties subject to it, notwithstanding a part of such income may be derived from nontaxable property.

POINT 3

Congress has the constitutional power to levy a tax on the total income, including any income from State and local government securities.

The Supreme Court, having adopted the view that the income tax is an excise tax (Brushaber *v.* Union Pacific R. R., 240 U. S. 1), upheld the imposition of a tax on the entire income, part of which income was derived from non-taxable property (Flint *v.* Stone Tracy Co., supra), and it has been held that Congress may tax State banks upon the average amount of their deposits, although deposit of State funds by State officers are included (Manhattan Co. *v.* Blake, 148 U. S. 412).

The real question at issue arose in Macallen *v.* Commonwealth of Massachusetts (279 U. S. 620), wherein the State of Massachusetts sought, by means of an amendment to the taxing statute to reach the income from tax exempt national and municipal bonds, which had previously not been included in the measure of the tax. The Supreme Court, by a divided vote, held the act void, Justice Stone writing a dissenting opinion concurred in by Justice Holmes and Justice Brandeis.

In the State of Missouri *v.* Gehner (281 U. S. 313) the Supreme Court held that the value of government bonds should be disregarded in making up the estimate of taxable net values. Again, Justice Holmes, Stone and Brandeis dissented. Justice Stone wrote a most illuminating opinion wherein he states on page 328:

"A taxpayer having no tax exempt securities and legitimately bearing the burden of a State tax on net worth may put off the burden completely by the simple expedient of purchasing on credit Government bonds equal in value to his net taxable assets. The success of a device so transparently destructive of the taxing power of the State may well raise doubts of the correctness of the constitutional principles supposed to sustain it. So construed, the Constitution does more than protect the ownership of Government bonds from the burden of taxation. It confers upon that ownership an affirmative benefit at the expense of the taxing power of the State by relieving the owner from the full burden of taxation on net worth to which his taxable assets have in some measure contributed."

The next case was that of Willcuts *v.* Bunn, 282 U. S. 216 (Chief Justice Hughes wrote the prevailing opinion concurred in by all members of the bench), wherein it was held that the profits on sale of State or municipal securities constituted gains, profits, and income from sales or dealings in property within the statute, revenue act of 1924, section 213, and hence are taxable, although the said act expressly exempted interest on obligations of State, Territory, or any political subdivision. The court further held that the power of Congress to lay excise taxes can not be denied as imposing burden on State's borrowing power unless it appears that that burden is real and substantial, and that the power to tax is no less essential than the power to borrow money; and in preserving the latter, it is not necessary to cripple the former by extending the constitutional exemption from taxation to those subjects which fall within the general application of nondiscriminatory laws, and where no direct burden is laid upon the governmental instrumentality and there is only a remote, if any, influence upon the exercise of the functions of government.

Again, it must be remembered that we are dealing not with any express constitutional restriction, but only with an asserted implication. The constitutional provisions authorize the Congress to lay taxes (Art. I, sec. 8, and sixteenth amendment), and before we can restrict their application upon the ground of a burden cast upon the State's borrowing power, it must clearly appear that a substantial burden upon the borrowing power of the State would actually be imposed.

The history of income-tax legislation is persuasive if not controlling upon the question of practical effect. Before the power of the Congress to lay the excise tax in question can be denied in the view that it imposes a burden upon the State's borrowing power, it must appear that the burden is real, not imaginary; substantial, not negligible.

After writing a strong dissenting opinion in the Macallen and Gehner cases, supported each time by the concurrence of Justices Holmes and Brandeis, Justice Stone wrote the prevailing opinion in Educational Films Corporation of America *v.* Ward (282 U. S. 370), wherein a tax on a corporation for the privilege of doing business, computed on a basis of corporation's entire net income for preceding year was held not void as tax on Federal instrumentalities, though authorizing the inclusion of income from copyrights.

"While this court, since McCulloch *v.* Maryland (4 Wheat. 316), has consistently held that the instrumentalities of either government, or the income derived from them, may not be made the direct object of taxation by the other, it has been held with like consistency that the privilege of exercising the corporate franchise is no less an appropriate object of taxation by one government, merely because the corporate property or net income, which is made the measure of the tax, may chance to include the obligations of the other, or the income derived from them. The constitutional power of one government to reach this permissible object of taxation may not be curtailed because of the indirect effect which the tax may have upon the other."

Justice Stone distinguishes the Macallen case by holding that the opinion rested the decision on the distinguishing fact that the tax exempt securities were included in the measure of the franchise tax, by virtue of an amendment to the taxing statute which, it was held, was specifically intended to reach the income from tax exempt national and municipal bonds, which had previously not been included in the measure of the tax. The amendment was adopted for the very purpose of subjecting it pro tanto to the burden of the tax.

The latest case on this subject is The Indian Motorcycle Co. *v.* U. S., decided May 25, 1931 (283 U. S. 570). wherein the Supreme Court held that the sale of motor cycles to a State agency, such as a municipal corporation, for use in its police service, is not subject to taxation by the United States. Justice Stone wrote a dissenting opinion concurred in by Justice Brandeis. He says in the course of his opinion:

"The implied immunity of one government, either national or state, from taxation by the other should not be enlarged. Immunity of the one necessarily involves curtailment of the other's sovereign power to tax. The practical effect of enlargement is commonly to relieve individuals from a tax, at the expense of the government imposing it, without substantial benefit to the government for whose theoretical advantage the immunity is invoked. * * * The court has many times held, as recently as in Educational Films Corporation of America *v.* Ward (282 U. S. 379), that an excise tax, imposed directly on the individual, is not invalid because indirectly it may buredn either the state of the national government."

POINT 4. CONCLUSION

Wherefore it follows that the fine distinctions made by the courts, on the one hand, in upholding in Brushaber *v.* Union Pacific (240 U. S. 1) the imposition of a tax on income part of which is derived from nontaxable property, or in upholding a tax on State bank deposits which include State funds Manhattan Co. *v.* Blake (148 U. S. 412), and on the other hand denying right to tax values made up of Government bonds, as in State of Missouri *v.* Gehner (281 U. S. 313), are arbitrary and not altogether consistent with the sixteenth amendment which grants express power to tax income from whatever sources derived. The strong dissenting opinions of Justices Holmes, Brandeis, and Stone seem to be, as they often subsequently become, the better and more logical view.

Little can be said for a view which holds that income from municipalities is exempt but general income which includes income from municipalities is not exempt.

Respectfully submitted.

Dated April 21, 1932.

FREDERICK CYRUS LEUBUSCHER,
Counsel at Law.
JOSEPH J. WECHSLER,
Certified Public Accountant.
H. STEIN,
Counsel at Law.

With Mr. Leubuscher on the brief.

PROPOSED AMENDMENT OF H. R. 10236, NOW PENDING IN THE SENATE, TO TAX THE INCOME FROM PRESENT TAX-EXEMPT SECURITIES

Strike out at the top of page 18, being section 22 (b) (4) the following words: "(a) The obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or."

Change (B) to (A) in line 4.

Change (C) to (B) in line 6.

In line 9 insert the word "or" between (A) and (B), strike out the words "or (C)."

TITLE—EXCISE TAX ON THE PRIVILEGE OF OWNING GOVERNMENT OBLIGATIONS

SEC. —. In addition to any other tax imposed by law there shall be imposed an excise tax on the privilege of owning obligations of a (A) State, Territory, or any political subdivision of a State or Territory and of the District of Columbia; and of (B) securities issued under the farm loan act and amendments thereof; and of (C) the obligations of the United States or its possessions. Every person, corporation, or association owning any of the obligations or securities enumerated in clauses (A), (B), and (C) shall, in the return required by Title I of this act, submit a statement showing the number and amount of such obligations and securities owned by him and the income received therefrom, in such form and with such information as the commissioner may require.

SEC. —. There shall be levied, collected, and paid for each taxable year an excise tax of 20 per centum of the interest paid on such obligations and securities held by individuals, corporations, and associations in excess of interest aggregating $500.

SEC. —. All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this act, shall, in so far as applicable and not inconsistent with this act, be applicable in respect of the taxes imposed by this title.

STATEMENT OF ROWLAND STEBBINS, OF LAURENCE RIVERS, INC., NEW YORK CITY

Mr. STEBBINS. I wish to speak very briefly regarding the proposed taxation of the theater, but from a different angle from that which Mr. Brady and others have spoken to you.

In 1928 I formed a small corporation called Laurence Rivers (Inc.), for the purpose of producing plays in the theater.

My first two productions occurred in 1929 and resulted in a net loss to the corporation of something over $80,000. My 1930 production, "The Green Pastures," resulted in a net profit to the corporation during that year amounting to something over $95,000. In 1931 I produced two plays, resulting in a net loss of over $54,000, but due to the fact that "The Green Pastures" was still successful the net loss to the corporation was $30,000.

The net result of my three years of productive effort is, therefore, or was as of the 1st of last January, a deficit of $15,000. But under

the proposed corporation tax law, eliminating the right of the taxpayer to carry over a net loss sustained in one year in his return to the next two succeeding years, I should be obliged to pay a tax on $95,000, even though in one year only I made a profit.

And it has now been proposed to superimpose upon this a tax of 10 per cent on theater tickets. The temptation to seek shelter in the haven of tax-exempt securities is very great, as you will see. It was my hope to produce two and possibly three plays next year, but I have temporarily given up all thought of doing so, at least until such time as I can feel assured that they might have some chance of success.

It is practically out of the question for me to continue in business under such handicaps as have been proposed, and should they become law a legitimate and praiseworthy organization, which in the short time it has been in existence has paid out over $1,500,000 in salaries and other production costs, will have to be wound up, which will certainly not aid in removing the depression or in decreasing unemployment. A nonexistent theatrical business yields neither an income tax nor an admission tax.

I should like to ask that this letter, written by my counsel, to the two Senators from New York, be read into the record [reading]:

APRIL 9, 1932.

Hon. ROYAL S. COPELAND,
United States Senate, Washington, D. C.

MY DEAR SENATOR COPELAND: This letter is written in connection with the proposed amendment of the income tax law eliminating the right of the taxpayer to carry over a net loss sustained in one year to his return for the next two succeeding years.

As an example of the hardship and injustice of this elimination we would like to submit to you the actual facts and figures of a client of this office, Laurence Rivers (Inc.), of which the writer is also secretary, director, and counsel. Laurence Rivers (Inc.) is a theatrical producing corporation the stock of which is owned almost entirely by Mr. Rowland Stebbins. It is the producer of "The Green Pastures," which, as you are possibly aware, aroused unusual commendation upon its presentation in New York and elsewhere.

However, not unlike other businesses, for every successful venture there is apt to be an unsuccessful venture, and in the theatrical business the ratio is frequently as low as one success for every five ventures. The following facts and figures are taken from the Federal income-tax returns of Laurence Rivers (Inc.) for the past few years.

In 1929 Laurence Rivers (Inc.), sustained a net loss of $80,732.02 from the production of two plays "Merry Andrew" and "Maggie, the Magnificent." The expenditures that year, salaries of employees, actors and production costs, not including any officers' salaries, royalties, or theatrical rental, exceeded $100,000.

In 1930 due to the production of "The Green Pastures," the corporation reported a net income of slightly over $95,000 on which it paid a Federal income tax of $11,417.50. The loss of the previous year was not carried over to 1930 as it had been written off. In the year 1930 the corporation paid in salaries of actors alone the sum of $239,676.59, the highest salary paid to any actor being $13,000, and the average salary being about $2,500. Theatrical rental amounted to $334,000, and royalties and other expenses, not including officers' salaries, to over $200,000.

In 1931 in spite of the continued success of "The Green Pastures" the corporation sustained a net loss of $54,600.64 through the production of two plays "Philip Goes Forth" and "Mr. Whistler" winding up the year with a deficit of over $30,000 Salaries paid to actors and employees during 1931 not including any officers were approximately $300,000. Theatrical rental was about $310,000, with miscellaneous production expenses not including officers' salaries, of over $200,000.

In 1932 it is hoped that the loss of $54,000 sustained in 1931 will be offset by continued income from "The Green Pastures." Mr. Stebbins had also contemplated the production of two or three further plays this year of distinguished American authors on the same high plane as the previous productions of Laurence Rivers (Inc.).

However, even a casual consideration of the foregoing figures will reveal the dire effect of the amendment to the tax laws eliminating the carrying over of net losses from one year to the two succeeding years, which will undoubtedly deter Mr. Stebbins from attempting any future productions whatsoever.

Under the proposed law, when the corporation sustains a loss one year it must merely endure it and the stockholder under another section of such law is even prohibited from offsetting his capital loss on his investment against his other income. The very next year, through the production of a play probably conceived and commenced in the year of the previous failures, the producers are able to show a profit offsetting their previous loss, yet they can not carry over the previous loss but must pay the full corporation income tax thereon, and in addition the stockholder must pay the full normal and surtaxes on any dividends.

It is practically out of the question for Mr. Stebbins to continue the business under such a handicap and we believe that his situation is not an isolated one among theatrical producers. Coupled with the additional tax on theatrical admissions, it can have only the one effect of dissolving a legitimate and praiseworthy organization which in the short space of four years has paid out over a million and a half dollars in salaries, wages and production expenses.

While the effect of the proposed tax legislation may be particularly disastrous for theatrical producers in comparison with other business enterprises, it must be apparent that many other businesses will be similarly affected. The dissolution of the organizations and the abandoning of their enterprises will certainly not aid in removing the depression, or in decreasing unemployment. A nonexisting theatrical business yields neither an income nor an admission tax.

Respectfully yours,

BAILEY & MULLER.

STATEMENT OF E. J. JONES, BRADFORD, PA.

Senator WATSON (presiding). Just state your name and address and whom you represent for the record, Congressman Jones.

Mr. JONES. E. J. Jones, Bradford, Pa. I presume in justice to the committee I might say that I am simply representing myself, because of a case that came to my attention as a lawyer, and I often gave wrong advice because in the meantime Congress had been in session and changed what I thought was the law.

By way of diversion, because it has nothing to do with balancing the Budget, I want to call attention of the committee to a provision of the revenue act of 1928 and carried in the bill as approved by the House which is working very serious hardship.

Senator WATSON. What section is that?

Mr. JONES. It will be section 44 of the act of 1928, and I presume it will be section 44 of the present bill. It is carried on page 38 of the House bill as reported to the House. I do not know what page it will be on.

Senator CONNALLY. What is it about?

Mr. JONES. It is about installment basis.

Senator CONNALLY. That is section 44, page 44.

Mr. JONES. The revenue act of 1926, and possibly prior revenue acts, made provision by what has been headed "Installment basis" in determining gain or loss on capital sales to be reported as income. Section 212 (d) of the act of 1926 recognized the right of a seller of property (if the cash payment did not exceed 25 per cent of the purchase price) to return as income in any taxable year that proportion of the installment payment actually received in that year which the total profit realized or to be realized when the payment is completed, bears to the total contract price.

Section 44, paragraphs (a) and (b), of the act of 1928 carry the same thought or principle. The only substantial change that was made

in the act of 1928 was in raising the cash payment to 40 per cent but the act of 1928 added a new paragraph to section 44, known as paragraph (d), which reads as follows:

(d) *Gain or loss upon disposition of installment obligations.*—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (1) in the case of satisfaction at other than face value or a sale or exchange, the amount realized; or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange, the fair market value of the obligation at the time of such distribution, transmission, or disposition. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

Now, under section 212 (d) of the act of 1926, the Treasury Department held that the basis for determining gain or loss in the case of installment notes originally received by decedent and collected by the estate of the decedent, or by his next of kin, after the distribution of the notes to them by the estate, is the same as it would have been had the decedent not died and the notes had been collected by him. In other words, if A sold property to B and received, under the act of 1926, 25 per cent or less in cash (under the act of 1928, 40 per cent), and the balance of the purchased price was evidenced by installment notes, either secured by a mortgage or the deed to be delivered upon the payment of the last note, the seller would allocate the profit in that transaction through the deferred period, putting in as income each year the proportionate amount of profit on the installment received during the year.

The Treasury Department held the same position after the act of 1928 until a case reached the Court of Claims, and they held that a decedent taxpayer and an estate were two separate entities and that when a taxpayer died, all of the installment notes, at their fair market value, became subject not only to the estate tax on that value but also that the entire profit not accounted for in the installment notes not paid became income for the year in which the decedent died. This decision forced the Treasury Department to reverse itself and overrule its solicitor's opinion heretofore followed. The opinion of the Court was based upon the interpretation of 44 (d) of the act of 1928.

It is obvious that this has created a very serious hardship to many widows and is confiscatory in many instances. For instance, a case in point is that of Mr. A, who died September 26, 1929. I will say frankly that it was this case that came to my attention and brought me to the position of asking the committee, first over in the House, to remedy what apparently was not the intention of Congress at the time the act of 1928 was passed.

Senator HARRIS. In other words, you are applying a different rule to a man after he is dead, because even then the installment provision applies?

Mr. JONES. Yes, sir. In other words, the estate is penalized by a debt.

Senator REED. The provision was for an estate tax upon the estimated value of these deferred obligations?

Mr. JONES. That is right.

Senator REED. That is, soon after the death?

Mr. JONES. That is right, and that is not asked to be changed, of course.

Senator REED. And next they say for their purposes of the income tax the death changes the rule provided by section 44 and all of the face value of those deferred notes is to be treated as if it were actually received in the year of the death?

Mr. JONES. Yes. Only to the extent of the profit.

Senator REED. I understand.

Mr. JONES. Yes.

Senator REED. But the whole thing is treated as if received and that proportion that represents an imaginary profit is taxed for that year?

Mr. JONES. Income of that year in which he died.

Senator HARRISON. What you meant to say, Congressman, was that the note of the estate in that respect would be on the same basis as an individual?

Mr. JONES. That is right; and I suggest the wording of paragraph D of the act so that it will not apply to installment transmission in case of death and in order to protect the department, the department may require a bond from the executor or the administrator or the next of kin that they will make a return of the profit as these installment notes are being paid.

Senator HARRISON. I do not think that question was ever raised when the Senate considered it in 1927 and 1928.

Mr. JONES. I do not think it was considered, Senator. And I looked up the reports very carefully and I do not think it was the intention at that time to affect the transmission by the death. It was the contention that where these installment notes passed to the estate or to the next of kin the basis of the notes was to be the same as it would have been had the decedent not died. This would be confiscatory and discriminatory in great measure. That is the reason I suggest the amendment that I have.

To come back to the illustration that I myself was particularly interested in, this man held interest in nine mortgage installment notes, dated June 7, 1929, which nature serially one each six months, beginning one year after date. The face value was $61,750. It represents practically the widow's whole estate. The Internal Revenue Department placed a market value thereon of $54,732,84. Letters from 10 bankers placed the market value as questionable at any value, inasmuch as long-time paper not acceptable for discount, not listed, and no market value. Yet the Revenue Department insists that the fair market value is as given above and requests an additional tax under section 44 (4) of $6,787.88. The widow can not discount these notes; can not sell them. The maker can not pay the principal; in fact, has asked for an extension of time on part-principal. Had Mr. A lived, he would have reported as income the proportional profit on the tansaction as each payment made bears to the whole profit, but because he died the installment notes are appraised at a fair market value and the whole profit becomes income for that year. It must be observed the taxes are on profit not yet earned and there may be default, in which event the installment notes would be wiped out and the balance of the profit likewise.

Section 44, as it was embodied in the act of 1928, is carried in full and with the same wording in H. R. 10236.

As I say, I made a careful study of the reports made by the committee of the House when this new paragraph (d) was inserted in

the act of 1928 and am led to the conviction that it was not the intention of Congress to effect the transmittal of installment notes by death; that where these installment notes passed to the estate or to the next of kin, the basis of the notes was to be the same as it would have been had the decedent not died and the notes had been collected by him. I therefore believe that I am simply asking Congress to do what it intended to do, clarifying paragraph (d) by inserting an amendment at the end of paragraph (d), reading as follows:

The provisions of the preceding paragraph shall not apply to the transmission on account of death of installment obligations if the executor or administrator or the beneficiaries of the decedent file with the commissioner, at such time as he may, by regulation, prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return by them as income in any taxable year of the same proportion of the installment payments actually received in such year which would be returnable as income by the decedent were he living at the time of their receipt.

It is the contention of the taxpayers seeking this relief through your committee that a law which provides that "gain or loss resulting from the transmission of installment obligations should be included in the decedent's return for the taxable year in which his death occurred," where such transmission is merely that of the passage of his property upon his death to his executors, is discriminatory, and may be confiscatory.

Article 863, Regulation 74, relating to the income tax under the revenue act of 1928 provides:

No taxable income is realized from the passage of property to the executor or administrator on the death of the decedent even though it may have appreciated in value since the decedent acquired it.

It is discriminatory to deny the benefits of article 863 in the case of transmittal or passage of installment obligations by death to the executor or administrator or to next of kin.

It is discriminatory to deny the decedent, his executors, or administrators or next of kin the rights which the decedent had under the law while he lived. Section 44 (a) and (b), revenue act of 1928, provides that:

The taxpayer may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

It is discriminatory inasmuch as it imposes an income tax on an involuntary transmission of property through death. An "involuntary conversion of property" while living would not under conditions prescribed by the commissioner result in taxable gain or loss.

It is discriminatory to exact a tax because of the transmittal of installment obligations when any and all other forms of property may be transmitted by death without taxable gain or loss.

It is confiscatory inasmuch as an income tax payable in cash is exacted as a result of an involuntary transmission which does not convert the property into cash or its equivalent.

It is confiscatory because it exacts an income tax on a profit which has not been realized and can not be realized until the deferred payments fall due.

It is unreasonable to cause an estate undue hardship by compelling the sacrifice of installment obligations in order to pay an income tax

exacted because of the mere passage of such installment obligations from the decedent to the executors or administrators.

I urge you therefore to give consideration to the suggested amendment, as above, or such other phraseology as, in your opinion, will carry out the purpose and intent.

STATEMENT OF GEORGE F. Von KOLNITZ, JR., NEW YORK CITY

Mr. VON KOLNITZ. Mr. Chairman and gentlemen of the committee, I appear specifically on behalf of H. H. De Loss, of Bridgeport. I ask the consideration of the committee to the end that the following provision may be included in the revenue bill.

Senator HARRISON. What section is that?

Mr. VON KOLNITZ. Section 117.

Senator HARRISON. Page 101.

Mr. VON KOLNITZ. Yes, sir. And I ask that it be included either in section 117 or a separate section, as the draftsman might think best. The section is as follows:

Net loss for 1920. If for the taxable year 1920 a taxpayer sustained a net loss, the amount of such net loss shall be allowed as a deduction in computing net income for the two succeeding taxable years in the same manner as a net loss sustained for one taxable year is, under the Revenue Act of 1921, allowed as a deduction for the two succeeding taxable years; and any tax paid in respect of income for either or both of said succeeding two years which would not have been payable had the said net loss or any part thereof been so deductible under existing law shall, subject to the statutory period of limitations applicable thereto, be credited or refunded.

Senator KING. You want to carry that loss forward for two years?

Mr. VON KOLNITZ. Yes, 1920 being the only year since the act of 1918 that the taxpayer is not permitted to carry forward his net loss.

Senator KING. Then people who have sustained enormous losses on the Stock Exchange could carry them forward for two years and offset any gains they may make in their speculations hereafter?

Mr. VON KOLNITZ. That has been the law since 1918, on the theory that there is no net income. Where a man has a loss of $100,000 this year and a gain of a like amount the next year, he has sustained no income.

Senator BINGHAM. I think, Senator King, this is not an attempt to make a general change in the law. I understood you to say that it applies only to 1920?

Mr. VON KOLNITZ. That is true; and 1920 is the only year since 1918 in which a taxpayer has not been permitted to carry over a loss.

Senator BINGHAM. The only change you are proposing is for a year, affecting 1920?

Mr. VON KOLNITZ. Yes, sir.

Senator BINGHAM. The fiscal year 1920?

Mr. VON KOLNITZ. Yes, sir.

Senator KING. It has not any relation in future?

Mr. VON KOLNITZ. No; it applies to the year 1920.

Senator REED. Let me ask you, how much did your client get back in refund?

Mr. VON KOLNITZ. About $25,000. Frankly, my client sold some stock in 1920 at a substantial loss. He took his loss in 1921. He had a slight carryover in 1922. The commissioner audited it in his reports and determined that the stock had, in fact,

become worthless in 1920, and although he sold the stock in 1921 and actually closed the transaction in that year, the commissioner held the tax, and the Board of Tax Appeals sustained the commissioner, and the court of appeals sustained the Board of Tax Appeals, the court saying that a man is not compelled to be an incorrigible optimist with reference to his securities. At any rate, the courts held that because this stock became worthless in 1920 that that was the year in which the taxpayer could have taken his loss, and not in the year 1921, the year in which the stock was sold. Now that having been the case, and the loss having been determined to have been sustained in 1920, there is no provision in the law which permits such a loss to be carried over into 1921.

Now inasmuch as 1920 is the only year since the Revenue Act of 1918 in which taxpayers are not permitted to carry over net losses, I ask the inclusion of this provision in the act.

Senator CONNALLY. Let me ask you, everyone else settled on the 1921 law as written?

Mr. VON KOLNITZ. I do not know.

Senator CONNALLY. You want us to make an exception in the case of your client?

Mr. VON KOLNITZ. My client, and everyone else who is in the same situation.

Senator BINGHAM. He is asking that it apply generally to the year 1920.

Senator CONNALLY. He is here representing a man who has exhausted his resources in the courts, and he wants us to give him $25,000.

Senator REED. The provision would be general.

Mr. VON KOLNITZ. The provision would be general, and where there is an offset one against the other, I do not ask any favors.

Senator CONNALLY. This bill does not permit that, so why should we go back and permit it where we are going to sock all these fellows in this law?

Mr. VON KOLNITZ. Because I say that during the entire period from 1918 down to date, it was allowed, except in the year 1920.

Senator CONNALLY. I know, but that does not change the law, if it was the same law since Adam and Eve. Now you want to change this so as to make an exception for your client.

Senator BINGHAM. He is not asking us to make an exception simply for his client, but the provision would be a general provision.

Senator REED. Let me ask you, Would the statute of limitations bar you?

Mr. VON KOLNITZ. No, sir. I have a very short memorandum for the committee, in which I set out the proposed section, and in which I say that any tax paid in respect of income for either or both of said succeeding two years which would not have been payable had the said net loss or any part thereof been so deductible under existing law shall, subject to the statutory period of limitations applicable thereto, be credited or refunded.

Senator REED. Your case has been closed so recently that you could still come in?

Mr. VON KOLNITZ. Yes; in the last four years, so I could still get a refund.

Senator REED. Would it be square to give you that without opening up the statute of limitations and not let everybody else come in?

Mr. VON KOLNITZ. Everybody else under the same circumstances.

Senator GEORGE. As it was then.

Senator REED. I am told by one of the experts that if we opened that up and gave everybody the same right that you are asking it would cost the United States $50,000,000.

Senator KING. We had better make an appropriation for you of $25,000.

Mr. VON KOLNITZ. I do not know the Treasury figures on it. But I would say that you have some precedent for this, in that this section 1003 as passed by the House contains substantially the same thing, at least in principle; not in the same situation, of course, but there it opens up years that have been closed.

Senator BINGHAM. You do not mean 1003?

Mr. VON KOLNITZ. 1003.

Senator BINGAHM. There is no section 1003 in this bill.

Senator REED. I do not find any section 1003 in the bill.

Senator BINGHAM. It is 1103.

Mr. VON KOLNITZ. I do not have a copy of that before me. The title is, Refund of Taxes for Taxable Year 1918.

Senator REED. That is section 1104.

Senator LA FOLLETTE. What page is that on, Senator?

Senator REED. Page 304 of our print.

Mr. VON KOLNITZ. The report of the hearings before the Ways and Means Committee disclosed a situation not unlike mine in principle, where a specific taxpayer was involved. I think the amount of his refund was some $40,000.

Senator KING. We shall have to study that.

Senator CONNALLY. That is a joker that helped some individual case, is it not?

Mr. VON KOLNITZ. Yes; apparently it is.

Senator CONNALLY. And you are invoking that joker to help you through.

Senator REED. We are very much obliged to you for calling attention to it, anyway.

Senator KING. Yes; you have earned $25,000 for that.

Mr. VON KOLNITZ. I do not know whether mine would be called a joker, or not.

Senator GORE. You figured it is a tragedy, instead of a joke?

Mr. VON KOLNITZ. At the time of the passage of the revenue act of 1921 the law with respect to making a deduction for stock which became worthless in a given year was, at least, doubtful, The first regulation of the Treasury on it provided that a taxpayer could take a loss for worthless stock which was ascertained to be worthless, and charge it off in a particular year. That regulation was subsequently amended by providing that you may take a loss for stock which was ascertained to be worthless, but which actually became worthless in a given year.

The CHAIRMAN. Your time is up, Mr. Von Kolnitz.

Mr. VON KOLNITZ. I have a short statement, Mr. Chairman.

The CHAIRMAN. You may put that in the record.

(The statement presented by Mr. Von Kolnitz is here printed in the record in full, as follows:)

STATEMENT SUBMITTED BY GEORGE F. VON KOLNITZ, JR., ESQ., ON BEHALF OF H. H. DELOSS, OF BRIDGEPORT, CONN.

In every revenue act since that of 1918 Congress has consistently followed the policy of permitting a taxpayer who has sustained a net loss in one year to recover such loss from income in the succeeding year or years, before subjecting the latter income to taxation. This policy is based on the sound legal, economic and moral ground that nothing should be taxed as income unless and until the taxpayer has in truth and in substance experienced a net gain. Where a taxpayer suffers a loss of $100,000 this year and a gain of a like amount next year, clearly he has merely made himself whole. He has become possessed of no net income which should be taxed.

Due to the peculiar provisions of the revenue act of 1918, which was enacted at a time of great national stress and therefore could not be drawn with the care which subsequent acts evidence, taxpayers who sustained a net loss in 1920 were not permitted to carry over such a loss and offset it against positive income for 1921 and 1922. A taxpayer who sustained a net loss for 1919 was permitted to offset it against income of 1918 and/or 1920. For 1921 and subsequent years net losses were allowable deductions from income in the two succeeding years. The injustice of this situation with respect to taxpayers having net losses in 1920 is obvious, and it is accordingly sought to remedy the same by including in the present revenue act the following section:

NET LOSS FOR 1920

If for the taxable year 1920 a taxpayer sustained a net loss, the amount of such net loss shall be allowed as a deduction in computing net income for the two succeeding taxable years in the same manner as net loss sustained for one taxable year is, under the revenue act of 1921, allowed as a deduction for the two succeeding taxable years; and any tax paid in respect of income for either or both of said succeeding two years which would not have been payable had the said net loss or any part thereof been so deductible under existing law shall, subject to the statutory period of limitations applicable thereto, be credited or refunded.

STATEMENT OF FAYETTE B. DOW, WASHINGTON, D. C., REPRESENTING THE AMERICAN PETROLEUM INSTITUTE

Mr. Dow. Mr. Chairman, the other day I yielded my time to Judge Ames. We had not reached the point of this tax, and I have a statement which I will put in the record.

The CHAIRMAN. Put it in the record either following his testimony or at this point, if you wish.

Mr. Dow. I will put it in the record at this point.

(The statement presented by Mr. Dow is here printed in the record in full, as follows:)

STATEMENT OF FAYETTE B. DOW, REPRESENTING THE AMERICAN PETROLEUM INSTITUTE

Members of the Finance Committee of the Senate:

The American Petroleum Institute, representing the oil industry of the United States, desires to call your attention to the change in the existing law relative to credit for foreign taxes incorporated in section 131 (b) (1) of the proposed revenue act of 1932 (H. R. 10236), and to give you our reasons for believing this change unsound and inequitable.

As you know, the present law (sec. 131 of the revenue act, 1928) provides that American concerns engaged in foreign trade are entitled to claim credit, in part, for the income taxes which they are required to pay to foreign countries on their income earned abroad. This credit is limited to an amount not in excess of the tax levies in the United States on the company's total foreign income. This provision of the law has been in continuous existence for the past 14 years, and has been consistently recognized by Congress as not only just and

proper, but as vital to the development and security of American foreign trade. In other words, Congress has repeatedly said to American industry in every revenue law enacted since 1918: If you will develop and promote American foreign trade, we will assure you that to the extent you have already paid in income tax abroad on the income derived from such trade, we will not levy a further tax against such income in the United States, unless the total amount of such foreign tax payments is less than the tax levied in the United States on your total foreign income.

The House bill, H. R. 10236, in its present form, however, by section 131 (b) (1), changes the existing law so that American concerns engaged in the promotion of American foreign trade will have to pay not only the total foreign taxes levied on their foreign income by the foreign countries but, in addition, pay to the United States Government a tax on any part of such income as has not already borne a tax abroad equal to that levied in the United States, despite the fact that, as a whole, the company's foreign income may have already been subjected to foreign income taxes in excess of the American tax rate.

If this proposed change should become law, it would result in American companies operating abroad being in a much more unfavorable position than foreign companies operating outside of their respective countries. For instance, the French income tax law exempts entirely from commercial profit or income tax earnings derived from operations outside of France. This is true of practically all of the major foreign countries, either as a result of statutory provisions or various reciprocal trade treaties entered into. The purpose of the original enactment in 1918 was, without question, to foster foreign trade and commerce by enabling American individuals and corporations to engage in business on an equality as to taxation with their competitors. Thus, an American corporation establishing a foreign, necessarily subjected to at least the same local taxes as its competitors, even in the absence of discriminatory burdens, could not ordinarily carry on business in the foreign country profitably if the income from such business were to be further subjected to an additional tax in the United States; and no doubt this exemption from double taxation has been, in a large measure, the cause of the tremendous growth of American foreign trade in the last 14 years. The United States has lost nothing by exempting the foreign income from American taxes, because without the exemption there would have been no such income. The United States, however, has been the gainer, both from the additional wealth brought into this country and from the surtaxes on this income when distributed to shareholders of American corporations.

At the present time American enterprise abroad is contending with unprecedented burdens and discriminations which make their continuance both difficult and problematical. To add to these burdens by what is, in effect, a new tax, will certainly discourage and probably prevent any extension of foreign business and may even prove the last straw to many already overburdened and struggling enterprises. If American trade carried on by Americans is to continue, it must have some reasonable assurance of permanence and not be subject to unexpected tax burdens and changes.

Foreign trade, like domestic trade, should be considered as a whole. The bitter must be taken with the sweet and the United States should be glad if a company which makes earnings in one country is willing to use its earnings in carrying on at a loss in other countries in the hopes that more trade will develop and more American goods be sold in the future, rather than penalize the companies doing business in a number of foreign countries by driving them out of the countries where the business is being carried on at a loss or at a bare margin of cost.

If foreign trade develops, it should develop geographically rather than by the boundaries of countries. Moreover, in any widespread foreign business there are nearly always disastrous conditions in some part of the world, such as the Smyrna fire, the Japanese earthquake, wars, extensive and local, and the like, and an exporter to survive in such countries must be able to balance the loss in one country against better conditions in less distributed countries. The important question is not so much whether American trade should be promoted in a particular country as it is that American goods should be exported from the United States, keeping up industry in the United States; and the distribution should be as wide as possible, averaging unstable conditions in one locality against temporarily stable conditions in another part.

The provision of section 131 (b) (1) of H. R. 10236 are not only unsound and particularly dangerous at this time but they are discriminatory and inequitable. Instead of encouraging the expansion of our foreign markets, it places a premium on their restriction. This is illustrated by the following example of the cases of taxpayers A and B:

	A		B	
	Amount	Foreign tax paid	Amount	Foreign tax paid
Source of income:				
Great Britain	$1,000	$250	.....	.....
Argentine	1,000	None	.....	.....
Union of South Africa	.....	.....	$2,000	$250
United States	1,000	.....	1,000	.....
Total	3,000	.....	3,000	.....
United States tax, before credit (at 13½ per cent)	$405	.....	$405	.....
Proportion of foreign income to total income	⅔	.....	⅔	.....
Credit for foreign taxes under sec. 131 of H. R. 10236	$135	.....	$250	.....

Thus B, who develops and promotes American foreign trade in only one foreign market, is permitted to receive almost twice as great credit as A, although A has the same amount of foreign income as B, has paid the same amount of foreign taxes, and is engaged in developing and promoting American foreign trade in twice as many foreign markets. This result, of course, is just the reverse of what it should be. It is, moreover, directly contrary to the policy and provisions of the existing act (sec. 131 of revenue act 1928), in accordance with which the taxpayer who develops and promotes American foreign trade in the greatest number of foreign markets receives the greatest credit. It seems clear that A, who is engaged in developing and promoting American foreign trade in twice as many foreign markets as B, who has the same amount of foreign income as B, and has paid the same amount of foreign income taxes, should receive credit for foreign taxes at least equal to that received by B.

H. R. 10236, in changing the present credit provisions of the 1928 act for foreign taxes, would operate to prolong the present depression and increase its intensity. Our foreign markets are already prostrate, almost paralyzed, both as to export and import business. We must revive these markets. Until that aim has been achieved, surplus products will continue to pile up, commodity prices will remain low, and business recovery will be deferred.

As advised by the United States Department of Commerce in 1928:

"Our total volume of exports translated itself into employment for 2,400,000 families, while its increase in the last seven years has interpreted itself into livelihood for 900,000 additional families in the United States. And in addition to these, millions more families find employment in the manufacture of imported raw materials. The farmer has a better market for his produce by reason of their employment."

If the Department of Commerce was right in 1928 in attributing the livelihood of 2,400,000 families to a thriving export trade, the present status of this trade explains why wage earners in 1,500,000 families now lack work. This is confirmed by the further statement of the United States Department of Commerce made only this month (April 15, 1932), namely:

"The significance of our export trade to American labor is clear when one realizes that more than 1,400,000 workers, receiving more than $1,500,000,000 in wages, were directly engaged in producing goods for export in 1931. Furthermore, there was probably an equal additional number employed indirectly to serve the activities and to supply the needs of those engaged directly."

Presumably the House of Representatives thinks that by further limiting the present credit for foreign taxes, thereby placing on American foreign trade an increased tax burden, the United States will be able to collect additional income taxes equivalent to the amount of the reduced credit. The fallacy of this assumption is self-evident. If Congress is not willing to permit American concerns to compete on an equal footing with foreign concerns, the American concerns will not only cease to have foreign profits against which a United States tax could be levied, but, in addition, failure of American concerns to find outlets for their surplus products will depress domestic markets, will increase the cost of the production of goods made for domestic consumption, and, as a result, decrease the profits from domestic operations. If American industry has an outlet abroad for its surplus products, it is enabled thereby to spread the fixed charges, such as depreciation, taxes, maintenance, and general overhead over a larger number of units, whereas if such surplus production can not be sold, these total fixed charges

must be added to the cost of the domestic production, and thereby decrease the domestic profits.

It is apparent, therefore, that this proposed change in the law defeats its own purpose. Instead of increasing income it operates to decrease both the foreign profits and the domestic profits. At the same time it would only serve to prolong the depression and would, in accordance with the statement of the Department of Commerce, keep millions of people out of work.

As stated above, the provisions of the present law, section 131, allowing credit for foreign income taxes have been in continuous existence since 1918 (with slight modifications made in the 1921 and 1928 acts), and during that time American foreign trade has progressed and developed as it has never done at any other time in the history of this country. If 14 years' progress in the furtherance of foreign trade is not to be jeopardized, and if American business abroad is to be permitted to compete with foreign enterprizes, it is imperative that American companies doing business abroad be given at least the same protection at home that they have had under the present revenue act. At a time when American foreign trade is most in need of encouragement, and at a time when burdens of depreciated currency and retaliatory tariff walls make it most difficult, almost impossible in some cases, to carry on foreign trade, it would be a pity if Congress should show so little concern for the welfare and furtherance of our country's foreign trade as to take away from that trade (so vital to the well-being and prosperity of our country) the relief which past experience has shown was a paramount need, and the worth of which has conclusively been proven by the record of the past 14 years. Certainly it is not wise to choose the worst period of the worst depression that we have ever experienced as the time to disrupt that part of our commercial machinery on which we most directly rely for the furtherance of our foreign commerce. Rather than decrease the benefits to be granted American foreign trade, Congress should exempt such earnings from all tax in the United States. Such exemption was proposed and seriously considered by Congress at the time of the passage of the revenue act of 1928.

To sum up: If this proposed change in the law should become effective—

1. It would cause American companies operating abroad to be in a much more unfavorable position than companies of other countries with which they have to compete.

2. It would operate to restrict our foreign trade to the boundaries of individual countries, and this at a time when the development of world-wide markets is most needed.

3. It would result in discrimination and inequality between American concerns engaged in promoting foreign trade.

4. It would tend to prolong the present depression in the United States and increase its intensity.

5. Instead of increasing taxable income it would operate to decrease both the foreign profits and the domestic profits.

In view of the vital importance of this matter to the prosperity and well-being of our Nation, the American Petroleum Institute respectfully urge you to give this proposed change in the law your careful consideration. The institute recommend that section 131 (b) (1) be stricken from the bill, thereby making the provisions of section 131, of the proposed new revenue act, accord in substance with the existing provisions of the revenue act of 1928.

Members of the Finance Committee of the Senate:

In your consideration of the new revenue act, in the form passed by the House, I desire to call your attention to the possible harmful results of the proposed changes in the provisions of the existing act, which were originally enacted to relieve foreign trade and commerce from the burdens of double taxation.

Under these provisions, by a system of credits and deductions, since the revenue act of 1918 became effective, corporations and individuals trading abroad, either directly or through subsidiary foreign corporations, have not been required to pay additional American taxes on their foreign income where it has already been subjected to foreign taxes greater in amount than the American tax.

They have, in addition, been afforded further relief, where the foreign taxes have exceeded the American tax on the foreign income, by being allowed to deduct the excess from their American income.

The bill in its present form, by section 131 (b) (1), limits the exemption to the foreign income which has been actually taxed. The result of this change is that if business is done in several foreign countries, in some of which the tax rates are heavy, and in others of which the income taxes are light, or where they

tax on the enterprise is not in the form of an income tax, a large American income tax may also be imposed on a part of this foreign income, despite the fact that as a whole, it has already been subjected to taxation in excess of the American tax rate.

In its present form, the act also, by section 23 (c) (2), in effect does away with the right to deduct the excess of the foreign tax.

These amendments, although in form restricting a privilege as a practical matter, impose an additional tax on income from foreign trades and businesses which were embarked upon in reliance on the continuance of the existing law.

At the best, the change will work a hardship. At the worst, it may, under present adverse conditions and the increasing discrimination of foreign governments against American trade, render our foreign commerce so unprofitable as to cause it to cease, with the resultant loss of the investment involved and the attendant diminution in the revenue heretofore brought here from foreign countries.

The purpose of the original enactment in 1918 was, without question, to foster foreign trade and commerce by enabling American individuals and corporations to engage in business on an equality as to taxation with their competitors. Thus, an American corporation, establishing a foreign branch, necessarily subjected at least to the same local taxes as its competitors, even in the absence of discriminatory burdens, could not ordinarily carry on business in the foreign country profitably if the income from such business were to be further subjected to an additional tax in the United States; and no doubt this exemption from double taxation has been in a large measure the cause of the tremendous growth of American foreign trade in the last 14 years.

The United States has lost nothing by exempting the foreign income from American taxes, because, without the exemption, there would have been no such income. The United States, however, has been the gainer both from the additional wealth brought into this country and from the surtaxes on this income when distributed as dividends to the stockholders of American corporations.

From the standpoint of the United States, it is immaterial that some part of the foreign income has not been subjected to income tax, where the tax on the balance of the foreign income has exceeded the American tax on the whole; and in many instances, it will be found that where a foreign country has imposed no income tax as such, that the income has been in fact subject to a heavy taxation in the form of turnover taxes (France), or other business taxes, which are not construed to be income taxes and which, therefore, can not be allowed as a credit under the terms of the existing law.

At the present time, American enterprises abroad are contending with unprecedented burdens and discriminations which make their continuance both difficult and problematical. To add to these burdens by what is in effect a new tax, will certainly discourage and probably prevent any extension of foreign business and may even prove the last straw to many already overburdened and struggling enterprises.

The amount of revenue which might be derived from these changes in the law, even if they have no ill effect on foreign trade and commerce, can be but small in the aggregate, however burdensome and harmful the additional tax may be in any individual case.

If, on the other hand, these changes have the effect of diminishing the amount of foreign income brought into this country, they will further retard recovery from the existing financial depression and defeat their own purposes by diminishing the income of American corporation, which distributed in dividends, would have been subject to surtaxes.

It is even possible that American corporations having foreign subsidiaries, might transmit income to this country only from the countries where the income tax rate is greater than the American tax, allowing the subsidiaries in other countries to accumulate their income until such time as the burden of taxation in the United States decreases, with the immediate result of diminishing the usual flow of their income into this country.

The taxation of foreign commerce or business is, in principle, similar to a tax on exports and open to the same objection. Each tax represents an obstacle or an obstruction to the outflow or unusable surplus—in the one case of commodities, and in the other of business activities or capital which can not be profitably employed in this country.

On the other hand, the income resulting from each represents an increment to the wealth of this nation, whereas the income from domestic business is frequently merely an exchange of wealth from one hand to another.

The history of the supremacy of the great commercial nations of the world, from Carthage to Rome and from Venice to England, demonstrates the close relation between the growth of the nation's foreign trade and the increase in its material prosperity. That any obstruction or hindrance should be placed on the continuance of growth of our own foreign commerce is deplorable and unthinkable.

MEMORANDUM CONCERNING CERTAIN REQUIRED CHANGES IN THE REVENUE ACTS RESPECTING THE JURISDICTION OF TAX SUITS AND THE STATUTES OF LIMITATIONS

The absurdities which now exist in connection with the jurisdiction of the courts of the United States Board of Tax Appeals in suits involving internal-revenue taxes and in connection with the statutes of limitations respecting refunds and deficiencies make it manifest that some changes should be made in the sections of the statute relative thereto. A few illustrative cases will adequately present these absurdities.

Case No. 1: In this case the taxpayer in 1927 paid certain additional taxes. He filed a claim for refund in 1928 in which he claimed that the Commissioner of Internal Revenue had failed to allow sufficient depreciation on assets. The claim was rejected and suit duly filed in the Court of Claims upon the grounds stated in the claim. After the case was tried by the Court of Claims, but while the statute of limitations was still open for filing further claims for refund, new facts came into existence which had the effect of entitling the taxpayer to an additional refund upon another and entirely different ground. The statute of limitations was still open for filing claims for refund, which claim was filed. The Treasury Department and the Department of Justice now claim that no relief whatever is possible on this claim. They say (1) that the suit before the Court of Claims definitely disposes of the entire taxable year involved. The absurdity arises from the fact that the new issue could not be raised in the suit before the Court of Claims because it had not been expressly stated in the first claim for refund. (2) The filing of the second refund claim was entirely legal and within the statute of limitations, but the government contends that the question there presented has been res adjudicata in a suit in which the issue therein contained could not even be raised.

Case No. 2: In this case a taxpayer paid his income taxes in 1922. Within the statute of limitations he filed a claim for refund claiming an additional credit for foreign taxes determined subsequent to the time the return was originally made. The Commissioner of Internal Revenue waited until the statute of limitations for filing new claims had [illegible] allowed in full the credit claimed for foreign taxes, but [illegible] issues not theretofore raised and disallowed all the [illegible] alties claimed in the return. The taxpayer [illegible] bring a suit to test this action because [illegible] cate that [illegible] ely claim. In other words, the statu[illegible]ed the com[illegible]ate all claims for refund simply b[illegible] until [illegible] statute of [illegible]n for filing new claims and the [illegible] adverse [illegible]ons u[illegible] questions which will wipe out [illegible] and.

Case No. 3: In [illegible] the return [illegible] taxes paid [illegible] in March, 1921. Waivers [illegible] extended waivers [illegible] ich ext[illegible] time for making additio[illegible] Under [illegible] filing such waivers au[illegible] ling claim [illegible] and until April 1, 1928. [illegible] deficiency in which he disa[illegible] full notice, and disallowed [illegible] of these issues had not be[illegible] and he had failed, therefo[illegible] taxpayer du[illegible] properly filed petition befo[illegible] he board will be authorized by law to consider all [illegible] and [illegible] tax of t[illegible]le year in which the decision [illegible] overpayment or refund. Despite [illegible] is worthless because the refund can not be made.

Many other cases could be cited showing the [illegible] which might arise under the statutes [illegible] These difficulties are due to the fact that the sections of the [illegible] upon refunds and deficiencies and to the jurisdiction of the [illegible] courts have just grown up piece by piece without any attempt to [illegible] a uniform, comprehensive system dealing with the whole subject of tax litigation. Thus the jurisdiction of

the Board of Tax Appeals dealing only with deficiencies has been imposed upon the preexisting limitations provisions relating to both refunds and deficiencies, and both of these have been superimposed upon the rules of law applicable to the jurisdiction of the courts in suits for the recovery of internal revenue taxes. I will consider first the statute of limitations.

Some basic thinking is necessary in connection with the statute of limitations rather than the present tendency to add a phrase here and a section there. There are no morals connected with a statute of limitations. Its sole and only purpose is to finally dispose of cases. If the statute of limitations itself does not finally dispose of the case, it accomplishes no purpose whatever. It is manifest that the statute of limitations as it now is written regarding tax returns does not accomplish this basic purpose. For example, there is the provision as to waivers being filed. This keeps open the case for the purpose of determining an additional tax, but other sections of the statute close the case for the purpose of refunds. As long as the case is pending at all it is utterly impossible for the taxpayer to file claims for refund and prophesy all the grounds which might arise during the audit of the case before the department and thus protect himself by filing claims which state the grounds upon which the refund is to be made. If the case is open for any purpose, it should be opened for all purposes, because if it is open at all there is no justification whatever for a statute of limitations which does not have the effect of finally disposing of the case. Thus, no State legislature would ever think of passing a statute of limitations which entitles the purchaser in a contract to five years within which to bring his suit for the goods and the seller only three years within which to sue on his half of the contract for the sales price.

In addition, it should be borne in mind that the basic reason for a statute of limitations is to bar a suit in court, not to affect the rights of the parties after they get into court and obtain the judgment. The vagaries of the present statute of limitations have the effect of entirely vitiating certain judgments of the Board of Tax Appeals in cases where the case is validly and legally before the board for trial. The statute of limitations should be directed against the determination by the Commissioner of Internal Revenue which forms the basis for jurisdiction by the Board of Tax Appeals. If his determination is validly made and the case timely filed before the board, the entire case should be open for whatever determination the board may make upon the merits. In other words, if the statute permits a suit to be litigated before the board at all, it should permit it to be fully litigated.

RECOMMENDATION No. 1

The second sentence of subdivision E of section 284(a) of the revenue act of 1926 as amended by section 507 of the revenue act of 1928, should be repealed as to cases still pending or hereafter instituted. This would leave only the first sentence of that subdivision, which provides:

"If the board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the commissioner determined the deficiency, the board shall have jurisdiction to determine the amount of such overpayment and such amount shall, when the decision of the board has become final, be credited or refunded to the taxpayer as provided in subdivision (a)."

Under this section as thus amended no other cases could be brought before the board than those which may now be brought, in other words, there would be allowed no litigation which is not now allowed. The elimination of the second sentence, however, would base the jurisdiction of the board upon the broad general principle outlined in section 274, which is to redetermine the entire amount of tax shown by the return in dispute. The second sentence of section 284 (e), which it is recommended be eliminated, provides:

"Unless claim for credit or refund or the petition was filed within the time prescribed in subdivision (g) for filing claims, no such credit or refund shall be made of any portion of the tax paid more than four years (or, in the case of a tax imposed by this title, more than three years) before the filing of the claim or the filing of the petition, whichever is earlier."

This sentence does not serve the primary purpose of a statute of limitations because it does not finally close a case nor prevent litigation. It merely places a restriction upon the effective right of the board to fully redetermine the correct tax due after it has the case validly before it. Similar adjustments should be made of the estate tax provisions and of section 322 (d) of the revenue act of 1928.

The second great weakness of the present statute lies in the restrictions upon the jurisdiction of the courts to hear suits for the recovery of internal revenue taxes.

Section 3226 of the Revised Statutes as included in section 1113 of the revenue act of 1926 requires that no suit shall be brought until a claim for refund or credit has first been filed with the Commissioner of Internal Revenue. The purpose of this requirement is to give the commissioner an opportunity to allow the refund before going into court. It is a wise provision. However, the courts have injected into this section of the statute a further restriction which produces the absurdities noted in the above illustrative cases. The courts have held that the precise ground upon which the suit is based must be stated in the claim for refund or the court will have no jurisdiction to consider the case.

This rule is a heritage from the simple conditions existing prior to the enactment of the complex income tax acts since the War. It may have served very well where a return was capable of producing only a few simple questions which could be foreseen by all the parties and protection taken. It does not, however, wrok satisfactorily under statutes so involved and so complex that it is humanly impossible for the taxpayer to foresee all the questions which may raise during the pendency of the suit before the Commissioner of Internal Revenue. As has been shown in case No. 3 above, the commissioner has a perfect right under the statute to delay the consideration of a valid claim for refund until after the statute has expired for filing further claims, and then arbitrarily disallow many of the reductions claimed in the return, thus precluding the taxpayer from any consideration of those deductions in the courts. Nor is the purpose of Section 3226 of the Revised Statutes applicable, because in raising new questions and disallowing further deductions after the time for filing refund claims has lapsed, the commissioner does consider those new questions, which is the purpose of section 3226, but precludes the taxpayer from his legitimate rights.

Here must be noted an important distinction between the Board of Tax Appeals in suits involving additional taxes and the courts in suits involving refunds. The board is given the broad general jurisdiction to consider the whole tax return and redetermine the correct taxes due. The courts are given jurisdiction only to consider the precise questions raised in the claim for refund. There should not be this lack of uniformity. A tax case is a tax case and inevitably involves the entire tax return from which it arises. The jurisdiction of the courts should, therefore, be made analagous to that of the Board of Tax Appeals in that they should be authorized to consider the whole tax return once a suit comes before them. The courts should consider the entire return and determine the correct tax due upon that return regardless of how it affects the parties. The tax return upon which the tax is computed, not the issues, should govern the jurisdiction of the court.

Recommendation No. 2

It is therefore recommended that the existing statutory provisions be changed where necessary to conform to the following provision:

"Where the taxpayer has within ——— years after the payment of taxes imposed by this title, filed a claim for refund or credit, the commissioner shall, after consideration of such claim, mail to the taxpayer by registered mail a notice of determination of the total tax upon the return in respect of which such claim is filed.

"(a) If such determination results in a deficiency, such notice of final determination shall be deemed to be a notice of deficiency as defined in Section 274(a), and the taxpayer shall have the same rights and privileges to file a petition with the Board of Tax Appeals as provided in section 274, 283, etc.

"(b) If such determination finds an overpayment or finds that there is no overpayment or deficiency, thus resulting in a rejection of the claim in whole or in part, the taxpayer may within six months from the date of such notice of determination bring suit for the recovery of any taxes paid upon the return in respect of which the claim was filed.

"In any case in which a suit for the recovery of internal revenue taxes is pending before the courts at the time of the enactment of this act and in which final decision is not rendered until after the enactment of this act, and in any cases hereafter brought for the recovery of such internal revenue taxes, the court before which such suit or proceeding is brought shall have jurisdiction to determine the correct tax due upon the return filed in respect of which such suit is brought. If the court finds that there is due a deficiency, the amount thereof shall be assessed and collected. If the court finds that there has been an overpayment of taxes in respect of the return, the amount thereof shall be refunded without the necessity of filing further claims."

The foregoing provisions will have the effect of placing the courts and the board on the same basis. In other words, if a suit is legally instituted it will be a suit based upon the return which has been filed, and the judgment of the board or the court will be to finally determine the taxes due on that return for all purposes. It is manifest that the jurisdiction of any court should be based upon the instrument out of which the litigation arises—in this case, the income tax return. The mere issues which might be raised should be a matter of pleading.

One other worthless section will be considered. Section 608 (b)2 of the revenue act of 1928 provides that the taxpayer and the commissioner may enter into an agreement to suspend the statute of limitations for bringing suit "to the date of final decision in one or more named cases." The purpose of this section is to prevent litigation when there is a case pending before some court which will decide the question in dispute. The trouble with the section lies in the fact that the statute can only be suspended until the date when the final decision in the pending case is rendered. In other words, the statute provides that you may suspend the statute of limitations in order to find out what the decision will be in some pending case, but that after the decision has been rendered, you can't do anything about it.

RECOMMENDATION No. 3

It is therefore recommended that the phrase "to the date of final decision in one or more named cases" be amended to read "to a date agreed upon not more than six months after the final decision in one or more named cases." This will allow the parties to agree to suspend the bringing of the suit, find out what the decision of the court is in the pending named case, and then have time to bring the suit.

Respectfully submitted.

R. KEMP SLAUGHTER.
HUGH C. BICKFORD.

STATEMENT OF E. G. BUCKLAND, NEW HAVEN, CONN., PRESIDENT OF THE RAILROAD CREDIT CORPORATION, CHAIRMAN OF THE BOARD OF DIRECTORS OF THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

Mr. BUCKLAND. Mr. Chairman, my name is Edward G. Buckland. I am president of the Railroad Credit Corporation; chairman of the board of directors of the New York, New Haven & Hartford Railroad Co.

I appear in behalf of the Association of Railway Executives, which represents substantially all of the class 1 railroads of the United States, whose revenues aggregate a little over 98½ per cent of the total revenues.

I shall only advert to two points in this tax bill, and will call attention to section 141, subparagraph (c), page 109, adding to the rate of taxation upon the net income of corporations an additional 1½ per cent tax in case such corporation makes a consolidated return.

I wish to point out that this addition of 1½ per cent tax is not likely to result in substantial additional revenue, excepting in the cases of corporations like interstate common carriers by rail, a change in whose corporate organization is subject to the prior approval of the Interstate Commerce Commission.

Corporations other than those subject to such regulation are at liberty to change their form of organization and to absorb into themselves affiliated corporations and thereafter make a return for the reorganized corporation, upon which the 1½ per cent additional tax would not be assessable. In the case of interstate common carriers by rail, subject to the provisions of the interstate commerce act, corporate mergers or consolidations may be made only with the prior

approval of the Interstate Commerce Commission. For years, many railroads have been, through subsidiary companies, operating properties, the operation of which they would discontinue because of the losses sustained were it not that the public interest requires such operation, and that they may not abandon such operation excepting with the approval of the Interstate Commerce Commission.

I quote very briefly from section 1 of the interstate commerce act, subparagraph (18):

* * * No carrier by railroad subject to this act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity permit of such abandonment.

That is the law to-day.

Senator SHORTRIDGE. Whether it is profitably conducted or not?

Mr. BUCKLAND: Whether it is profitably conducted or not.

The reason for this is that the character of transportation has materially changed with the advent of improved highways. There are many tap lines and logging railroad companies which have for years been operated at a loss, but the operation of which must be continued in the public interest. There are many interurban railways which are being currently operated at a loss—that is, street railways, trolley lines, electric railroads—due to the improved highways and the advent of the motor bus, the motor truck, and the privately-owned automobile. Railroads owning such properties, as affiliated lines, are continually confronted with the necessity of either abandoning these lines or continuing to operate them at a loss because their operation is necessary in the interest of the public. The effect of penalizing consolidated returns is to impose upon railroad systems additional taxation, because of losses which they can not avoid. It is not believed that the Congress intended to throw a special burden upon railroad systems, but this is the effect of section 141 (c). Apparently, the proviso was inserted in the thought that the consolidated return gives some corporations, like chain stores and branch banks, an advantage over their local competitors. It is submitted that this provision will not accomplish the intended result. These enterprises can be just as readily conducted by a single corporation or through agents, as by means of subsidiaries. The process of merging or consolidating private corporations is so easy and so quick—any lawyer that has had anything to do with it knows that—that undoubtedly the corporations intended to be taxed would no longer file consolidated returns, but would file one return which would include all the business previously included in the consolidated return.

It seems to us as if that 1½ per cent penalty will not accomplish what was intended. If, however, in the opinion of this committee the 1½ per cent penalty on consolidated returns should remain, then we suggest as a constructive suggestion that section 141 (c) be changed to read as follows:

In any case in which a consolidated return is made by a corporation not subject to the provisions of the interstate commerce act—

That is what I have inserted in there. The rest of the section is substantially as it is, and I will not take the time to read it.

The CHAIRMAN. Do you agree with the amendment on page 121, line 10?

Senator REED. No; that is what he is objecting to.

The CHAIRMAN. You are objecting to that?

Mr. BUCKLAND. I am objecting to section 141 (c) as it at present reads.

Senator REED. Was that put in on the floor of the House or was that recommended by the Ways and Means Committee?

Mr. BUCKLAND. I think that was put in on the floor of the House. It is my recollection that it was.

Senator WALSH of Massachusetts. Will you state your amendment again?

Mr. BUCKLAND. My amendment is—if you have section 141 (c), and if you will just follow the first two or three lines:

In any case in which a consolidated return is made by a corporation not subject to the provisions of the interstate commerce act, * * *

The CHAIRMAN. That is your proposed amendment?

Mr. BUCKLAND. That is my proposed amendment. Down to—if you wish to get the exact language—down to the end of the line, reading "a rate of 1½ per centum."

Then in order to make the language conform to the requirements there would have to be a new sentence in which the language would be:

In any case in which a consolidated return is made only one specific credit, computed as provided in section 26 (b), shall be allowed in computing the tax.

I will give this to the clerk, so he will understand. (The paragraph, as amended, is as follows:)

In any case in which a consolidated return is made by a corporation not subject to the provisions of the interstate commerce act, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations, under subsection (b) prescribed prior to the date on which such return is made; except that there shall be added to the rate of tax prescribed by sections 13 (a), 201 (b), and 204 (a), a rate of 1½ per cent. In any case in which a consolidated return is made, only one specific credit, computed as provided in section 26 (b), shall be allowed in computing the tax.

Mr. BUCKLAND. There is one other very short matter to which I direct your attention. Section 725, on page 259, provides a tax on conveyances of "any lands, tenements, or other realty" of 50 cents for each $500 of the consideration or value of the interest or property conveyed, exclusive of the liens and encumbrances thereon. Stamp tax to apply to conveyances. Is my time up?

The CHAIRMAN. It is pretty close to it now.

Mr. BUCKLAND. I only want to call your attention to the fact that this may be a very serious deterrent to the conveyances of very large amounts of property involved in railroad consolidations. It is quite likely that in the process of the consolidations already authorized by the Interstate Commerce Commission there may be conveyances of property aggregating over a billion dollars. And the stamp tax I think was not intended to apply to matters of that sort.

I have made a suggestion, which I will file with the clerk here, as to exempting intercorporate conveyances given to effect a railroad consolidation approved by the Interstate Commerce Commission. It is suggested that there be added to the last sentence of section 725 the following clause:

* * * nor to intercorporate conveyances given to effect a railroad consolidation approved by the Interstate Commerce Commission.

With the permission of the committee, I will file my statement with the clerk to be inserted in the record.

The CHAIRMAN. That may be done.

(The statement presented by Mr. Buckland is here printed in the record in full, as follows:)

STATEMENT OF E. G. BUCKLAND

(1) Section 141 (c), page 109, adding to the rate of taxation upon the net income of corporations an additional 1½-per cent tax in case such corporation makes a consolidated return.

I wish to point out that this addition of 1½-per cent tax is not likely to result in substantial additional revenue, excepting in the cases of corporations like interstate common carrier by rail, a change in whose corporate organization is subject to the prior approval of the Interstate Commerce Commission.

Corporations other than those subject to such regulation are at liberty to change their form of organization and to absorb into themselves affiliated corporations and thereafter make a return for the reorganized corporation upon which the 1½ per cent additional tax would not be assessable. In the case of interstate common carriers by rail subject to the provisions of the interstate commerce act, corporate mergers or consolidations may be made only with the prior approval of the Interstate Commerce Commission. For years many railroads have been, through subsidiary companies, operating properties the operation of which they would discontinue because of the losses sustained were it not that the public interest requires such operation, and that they may not abandon such operation excepting with the approval of the Interstate Commerce Commission. See interstate commerce act, section 1 (18).

"* * * no carrier by railroad subject to this act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity permit of such abandonment."

The reason for this is that the character of transportation has materially changed with the advent of improved highways. There are many tap lines and logging railroad companies which have for years been operated at a loss, but the operation of which must be continued in the public interest. There are many interurban railways which are being currently operated at a loss, due to the improved highways and the advent of the motor bus, the motor truck, and the privately owned automobile. Railroads owning such properties, as affiliated lines, are continually confronted with the necessity of either abandoning these lines or continuing to operate them at a loss, because their operation is necessary in the interest of the public. The effect of penalizing consolidated returns is to impose upon railroad systems additional taxation, because of losses which they can not avoid. It is not believed that the Congress intended to throw a special burden upon railroad systems, but this is the effect of section 141 (c). Apparently, the proviso was inserted in the thought that the consolidated return gives some corporations, like chain stores and branch banks, an advantage over their local competitors. It is submitted that this provision will not accomplish the intended result. These enterprises can be just as readily conducted by a single corporation or through agents, as by means of subsidiaries. The process of merging or consolidating private corporations is so easy and so quick that undoubtedly the corporations intended to be taxed would no longer file consolidated returns, but would file one return which would include all the business previously included in the consolidated return.

If the 1½ per cent penalty is to remain in the bill at all, it is suggested that section 141 (c) be changed to read as follows:

"In any case in which a consolidated return is made by a corporation not subject to the provisions of the interstate commerce act, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) prescribed prior to the date on which such return is made; except that there shall be added to the rate of tax prescribed by sections 13 (a), 201 (b), and 204 (a) a rate of 1½ per cent. In any case in which a consolidated return is made, only one specific credit, computed as provided in section 26 (b), shall be allowed in computing the tax."

(2) Section 725, page 259, of the bill provides a tax on conveyance of "any lands, tenements, or other realty" of 50 cents for each $500 of the consideration

or value of the interest or property conveyed, exclusive of the liens and encumbrances thereon.

This wording might be held to apply to intercorporate conveyances in the process of effecting a railroad consolidation. If so, it is directly opposed to the policy of consolidations favored by the transportation act, since it imposes a heavy financial burden upon them. If the bill could be amended so that the tax would not apply to intercorporate conveyances when the capital stock of one of the conveying companies is owned by one of the other companies in the system, the effect of the tax, as a deterrent to consolidations, would be removed. Otherwise the railroads are going to be slow to consolidate when they have to pay a transfer tax of $1 a thousand on the value of the property conveyed.

It is suggested that there be added to the last sentence of section 725 the following clause:

"* * * not to intercorporate conveyances given to effect a railroad consolidation approved by the Interstate Commerce Commission."

BRIEF OF JOHN S. PRESCOTT, GENERAL FOODS CORPORATION

APRIL 21, 1932.

Mr. ISAAC M. STEWART,
Secretary Committee on Finance,
Senate Office Building, Washington.

DEAR SIR: I inclose herewith a brief which we respectfully request to have incorporated with the committee record of hearings upon the revenue bill of 1932.

Very truly yours,

JOHN S. PRESCOTT.

To the Committee on Finance, United States Senate, Washington:

We have not asked this committee for time to present an oral argument in opposition to that part of section 141 (c) of the revenue bill of 1932 as passed by the House of Representatives, imposing an extra tax of 1½ per cent upon the net income of affiliated corporations for the privilege of filing consolidated returns, but would like to have our views made a part of the committee record through the medium of this brief and taken into account by the committee in its final consideration of the testimony offered during the course of the hearings.

We respectfully urge the committee to recommend that the provision referred to be eliminated from the House bill for the reason that we believe it to be discriminatory in principle and in all probability unproductive of revenue. Its elimination has been recommended by a number of witnesses who have testified before the committee, including the Hon. Ogden L. Mills, Secretary of the Treasury, and Mr. J. A. Emery, counsel for the National Association of Manufacturers. A review of press reports of the hearings fails to disclose that any witness has recommended its retention in the bill.

It appears that the House of Representatives inserted this provision in the bill as a substitute for the abolition of consolidated returns which have, in cases of corporations affiliated through intercompany stock ownership been permitted for a period of 15 years. Enactment of the provision would be tantamount to prohibiting consolidated returns in all cases involving an affiliated group for a taxable year in which the total net loss of members having net losses is less than 10 per cent of the total net income of members having net incomes. In other cases of affiliated corporations it would represent inherently the assessment of an excess tax upon a wholly aritificial basis. There is no warrant for this distinction. If the assessment of the tax of affiliated corporations upon the basis of consolidated returns were unsound such returns should be abolished outright in all cases. If not unsound they should be permitted in all cases.

The effect of consolidated returns is to render intercompany transactions between affiliated corporations immaterial to the determination of their tax liability. The effect of the foregoing provision would be to lend an artificial but material importance to such transactions, and it is evident that in the event of its enactment affiliated corporations throughout the country will endeavor through such transactions to minimize or avoid a net loss on the part of any member of an affiliated group.

Published estimates of the Treasury Department and of the Ways and Means Committee of the House of Representatives forecast a revenue of $8,000,000 from the extra levy of 1½ per cent upon corporate net income reported in con-

solidated returns. In so far as these estimates are based upon statistics derived from consolidated returns heretofore filed we suggest that they are wholly illusory, and that it is extremely likely that such small amount of actual revenue as may be derived from this source will be more than offset by the additional cost to the Government of the extra burden of administration and litigation.

Assessment of the tax of affiliated corporations upon the basis of consolidated returns, which alone serve to reflect the net income of the business unit, represents the only sound fiscal policy whether considered from the viewpoint of equity in taxation or production of revenue. This has been the position of the Committee on Finance since the year 1918. In its report upon the revenue bill of that year the committee stated, in part, that:

"While the committee is convinced that the consolidated return tends to conserve, not to reduce, the revenue, the committee recommends its adoption not primarily because it operates to prevent evasion of taxes or because of its effect upon the revenue, but because the principle of taxing as a business unit what in reality is a business unit is sound and equitable and convenient both to the taxpayer and to the Government."

In considering the revenue bill of 1928 the committee had before it a situation similar to the present one. The Joint Committee on Internal Revenue Taxation had for reasons of simplified administration recommended that the consolidated return be abolished, but with a proviso that the operating loss of any member of an affiliated group might be offset against the net income of any other member. The report of the joint committee contained the following statement with respect to its recommendations on this point:

"The treatment of the corporations as separate corporate entities in the above manner appears to eliminate the most troublesome features of the present law, and at the same time retain what would appear to be the meritorious principles, namely, the right to offset operating losses in the case of companies operated as a business unit."

The Ways and Means Committee had followed the recommendation of the joint committee, but the bill had been changed by House amendment to eliminate the proposed substitute for consolidated returns.

The action of the Committee on Finance in restoring the provision to permit the filing of consolidated returns of affiliated corporations is reported at page 13, et seq., of its report on the revenue bill of 1928, reading, in part, as follows:

"From the discussion it appears that the action by the House was based upon the fact that additional revenues would be derived. Your committee has considered the matter very carefully and is convinced that the elimination of the consolidated returns provision will not produce any increase in revenue, will not impose any greater taxes on corporations, and will in all probability permit of tax avoidance to such an extent as to decrease revenues."

It has been suggested that depriving affiliated corporations of the privilege of offsetting corporate net losses against corporate net incomes without payment of the additional tax affords a means of equalizing in some measure competition between chain store organizations and independent merchants. Whatever the merits of equalizing such competition may be it will not be accomplished or aided by this provision due to the fact that the several stores of a chain are in virtually no case whatever owned or operated each by a separate corporation. An examination of Moody's Manual of Industrials for 1931 reveals data for 45 chain organizations having for the year 1930 aggregate sales of more than $3,320,000,000 and an aggregate net income of approximately $134,000,000, and employing during that year some 285,000 persons. These data indicate that 118 corporations owned or operated a total of 45,404 separate stores, an average of 355 stores for each corporation. It is manifest that the prohibition of consolidated returns would not operate in any appreciable degree to prevent offsetting the loss of one or a number of stores against the income of others in the same chain.

We suggest our own case as representative of those in which the provision referred to would result in an unreasonable burden. General Foods Corporation and its wholly owned domestic subsidiaries comprise an affiliated group of 42 corporations engaged in the competitive manufacture and sale of food products throughout the United States. A chart showing the organization and relation of the principal corporate units of the group is attached.[1] The existence of certain of the subsidiaries is absolutely required for the ownership of property the title to which can not under State laws be held by a foreign corporation.

The affiliated group has resulted for the most part from the acquisition of operating units through a number of reorganizations effected during the past

[1] Chart on file with the committee.

seven years. These acquisitions and the resulting structure of the affiliated group have been designed and carried out with a view to full compliance with all provisions of the various revenue acts and with all regulations promulgated thereunder with respect to consolidated returns. We suggest that the assessment of a penalty upon such compliance at this time would represent an unfair burden upon a group of taxpayers arbitrarily classified.

The great majority of our corporate competitors in the food products industry consists of corporations having either no subsidiaries or a much smaller number thereof than has General Foods Corporation, and to the extent that the difference in tax rate on account of filing consolidated returns might result in a burden upon the stockholders of General Foods Corporation it would operate unfairly against them in favor of the stockholders of competing concerns. The outstanding capital stock of General Foods Corporation consisting of some 5,270,000 shares is held by approximately 53,000 stockholders, of whom more than 42,000 or some 80 per cent, own less than 100 shares each. We believe our situation in this respect to be typical of numerous large corporations owned by many thousands of small stockholders.

We appreciate that the chief consideration of the committee and of the Congress is the balancing of the Budget. For the reasons given, however, it is our belief, based upon several years of experience with consolidated returns, that this provision will not increase the net revenue of the Government.

Respectfully submitted.

GENERAL FOODS CORPORATION,
By J. S. RRESCOTT,
Vice President and General Counsel.

NEW YORK, N. Y., *April 21, 1932.*

STATEMENT OF B. C. MOISE, FRICK BUILDING, PITTSBURGH, PA.

Mr. MOISE. Mr. Chairman and gentlemen of the committee, I am here to call attention to the serious results to beneficiaries of trusts created as part of a stock bonus payments or profit-sharing plan, if the provisions relating thereto of section 165 of the revenue act of 1928 are reenacted as proposed without change in the act of 1932. That section in effect provides that stock held in trust is taxable, at the time the stock is delivered at the expiration of the trust, on the basis of price at which put into the trust. I am an employee of a subsidiary of the United States Steel Corporation, and I am here on behalf of myself and many other employees of that corporation and other corporations.

In 1926 stock was allotted to us on the basis of $106.36 per share. Such stock was delivered at the expiration of the trust in 1932, the market value being at the time of delivery $36 or $40. Under the present law, we will be required to pay a tax based on a value of $106.36, whereas the stock actually has a value of about $40. The tax thus imposed would be more than two and a half times what it would be on its actual value to the recipient. For example, it would be at the rate of 21 per cent on its actual value, instead of 8 per cent, as proposed in the first surtax bracket of the 1932 act.

We submit that the tax should be based upon value at the time of receipt, instead of value at the time of creating the trust, years previous.

In order to save the time of the committee, I am submitting without reading a detailed memorandum of my position.

(Mr. Moise submitted the following memorandum:)

MEMORANDUM OF PROTEST AGAINST CONTINUANCE OF THE PROVISIONS CONTAINED IN SECTION 165, REVENUE ACT OF 1928, RELATING TO EMPLOYEES' TRUSTS, EXCEPT IN A MODIFIED FORM

The revenue act of 1928 contains the following provision in section 165 relating to employees' trusts:

"A trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under section 161, but the amount contributed to such fund by the employer and all earnings of such fund shall be taxed to the distributee in the year in which distributed or made available to him. Such distributees shall for the purpose of the normal tax be allowed as credits against net income, such part of the amount so distributed or made available as represents the items of dividends and interest specified in section 25 (a) and (b)."

The above provision, if continued in the revenue act of 1932, would be grossly inequitable, under the conditions existing at the present time, for the reason that the tax would be imposed upon a valuation existing five years prior to the date when an employee obtained unrestricted title to the securities received by him under a typical profit-sharing plan. This may be illustrated by the situation confronting the employees of the National Tube Co. and employees of other subsidiary companies of the United State Steel Corporation who are participants in the profit-sharing plan of the United States Steel Corporation. For example, in 1926 the employees of the National Tube Co. and other subsidiary companies of the United States Steel Corporation were allotted conditional interest in certain shares of common stock of the United States Steel Corporation having a market value at that time (after giving effect to the 1927 stock dividend and 1929 "rights") of $106.36 per share. Early in 1927 this stock was turned over, under the provisions of an irrevocable trust, to the profit-sharing committee of the United States Steel Corporation under an agreement that the stock would be held by the trustees for a period of five years and at January 1, 1932, would be distributed to those employees then living and still in the employ of the United States Steel Corporation and its subsidiary companies if, in the meantime, such employees had rendered faithful and continuous service.

On January 2, 1932, the market value of this stock ranged from $36 to $40.37½ per share, or say, $40 per share.

While the common stock above referred to was acquired by the trustees in February, 1927, unrestricted ownership did not pass to the participating employees until January 2, 1932. Therefore, to say that the participating employees received on that date shares of stock having a value of $106.36 per share, when as a matter of fact, the market value of this stock was only $40 per share, and to require the participating employees to pay Federal income tax on basis of a valuation of $106.36 per share would, to say the least, be grossly unfair and would be inequitable in that it would compel them to pay an absurdly high rate of taxation calculated at the true value of the stock at the date when it was received.

The following summary shows the rates of tax which would be imposed upon the participating employees of the United States Steel Corporation and its subsidiary companies, calculated on the market value of the stock if the present provision of the law, as contained in section 165 of House bill 10236, is enacted. The rates shown are for individuals paying a normal tax of 7 per cent and surtaxes at the rates specified below:

Surtax rates	Total tax per share which would be assessed on the value of $106.36	Per cent the foregoing tax would be of the true market value of $40
		Per cent
1 per cent	$8.50	21
5 per cent	12.76	32
10 per cent	18.08	45
15 per cent	23.40	58
20 per cent	28.72	72
25 per cent	34.04	85
30 per cent	39.35	98
35 per cent	44.67	112
40 per cent	49.99	125

From the above it will be noted that if section 165 is not changed in the revenue act of 1932, it might result in imposing a tax upon the shares of stock received by participant employees under the profit-sharing plan of United States Steel Corporation in excess of the market value of such stock at the time unrestricted title to the stock passed from the trustee to the employees and even in cases where employees were subject to tax at the lower surtax rates, they would still have to pay abnormally high tax as compared with the tax which would be paid by individuals receiving cash income in the same taxable years. This gross inequity could be corrected by changing section 165 to read as follows:

"A trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under section 161, but all earnings from the fund and the cash value of any distribution made therefrom on the date made available to the distributee shall be taxed to the distributee in the year in which distributed or made available to him. Such distributee shall for the purpose of the normal tax be allowed as credits against net income such part of the amount so distributed or made available as represents the items of dividends and interest specified in section 25 (a) and (b)."

Another feature which makes the above provision doubly inequitable, under present conditions, comes about by reason of the proposed revision of section 23 (r) (s) (t) of the pending revenue act of 1932, relating to "limitation of stock losses." Under the revenue act of 1928, claim might be made that if a participating employee were required to initially pay a tax on a stated value of $106.36 per share in a year when the actual value of the stock received by him was only $40 per share, this would ultimately be corrected by reason of the fact that when he sold the stock he would be permitted to deduct the loss from his gross income in the year when sold. But under the provisions of H. R. 10236, deductible losses would be limited by an amount not exceeding profits realized from the sale of stock in the same year. Accordingly, under the pending bill, if an employee paid tax on basis of the valuation of $106.36 when the true value of the stock received by him was only $40 per share, he would in all probability never have an opportunity to recoup this loss and by reason of the fact that during the 5-year period when his interest in the stock held by the trustees consisted of nothing more than a conditional interest, he was not in a position to sell the stock during such 5-year period.

In future years participating employees in the profit-sharing plan of the United States Steel Corporation will be confronted with a situation which is far worse than the one described in this memorandum of protest, for the reason that in certain years subsequent to 1926 the acquirement value of the common stock delivered by the United States Steel Corporation to the profit sharing trustees greatly exceeded $106.36 per share. These prices in the various years were as follows:

1927	$141.41
1928	177.91
1929	177.00
1930	142.00

It is believed that the situation which exists under the profit-sharing plan of the United States Steel Corporation, as herein described, also exists in the profit-sharing plans of many other corporations. It is therefore apparent that the request to correct this inequity is fair and reasonable.

This protest is presented by the undersigned, who is an employee of one of the subsidiary companies of the United States Steel Corporation, and as such, received in January, 1932, certain shares of stock of United States Steel Corporation under their profit-sharing plan. In addition, the undersigned holds certain certificates of conditional interest of United States Steel Corporation common stock, which stock is deliverable in future years provided the conditions therein stated are complied with.

The attached circular describes in detail the profit-sharing plan of the United States Steel Corporation.

B. C. MOISE,
Frick Building, Pittsburgh, Pa.

APRIL 13, 1932.

UNITED STATES STEEL CORPORATION,
New York, February 8, 1927.

To the Officers and employees of the United States Steel Corporation and of its Subsidiary Companies:

In accordance with and under the provisions of the profit-sharing plan adopted by the stockholders on April 18, 1921, the Board of directors of United States Steel Corporation has set aside from the net profits for the calendar year 1926, as ascertained and declared by the board, the fund for the year 1926 under such profit-sharing plan at the rate fixed therein.

As provided and authorized by the plan, the committee elected by the stockholders to administer the same has designated the employees of the corporation and its subsidiary companies qualifying for participation in the fund and has allotted the amount of the fund to such designated employees in the manner provided by the plan.

The committee has decided that the allotment to the respective participating employees shall be distributed to them as follows: Sixty per cent in cash and 40 per cent in common stock of the United States Steel Corporation at the rate of $154 per share on the conditions herein stated. Awards for less than $385 and all fractional parts of the stock proportion of awards will be paid in cash.

The payments in cash in accordance with the foregoing will be made forthwith without deduction of Federal income tax or any State income taxes. But payments made in cash to all employees participating in the distribution will be reported by their respective employing companies to the United States Internal Revenue Department and to States, as may be required by laws, as a part of the compensation for services paid such employees during the year 1927. In case the employing companies are required to withhold any tax from these payments, the employees receiving the same will be notified by their respective companies that they will be obliged to pay to such companies any amounts of tax which may be required to be withheld and paid in connection with such distributions.

The distribution of interest in common stock will be made in the form of non-assignable certificates of conditional interest providing for the distribution of shares of common stock under and upon certain conditions set forth in said certificates, which will provide, among other things, as follows:

First. That if the participant remains continually in the service of the corporation or of one or another of its subsidiary companies until January 1, 1932, and shall during all of such time have rendered faithful and satisfactory service to such corporation or to one or another of its subsidiary companies, then, as soon after January 1, 1932, as may be, and upon surrender of such certificate, there will be delivered to him as his property, the shares of stock referred to in the certificates issued to him as aforesaid.

Second. That until the delivery of such shares and while the employe remains in the service of the corporation or of one of its subsidiary companies, he shall receive the dividends, if any, declared upon the shares of stock referred to in such certificate.

Third. That if before January 1, 1932, the employee shall voluntarily quit the service of the corporation or of a subsidiary company, or shall be discharged or removed for cause by his employer, then, in either case, he shall thereby lose all interest in the said certificate and in the shares of stock referred to therein; and thereupon such shares of stock shall be held in a fund, which at the end of the period above named will be divided pro rata among such officers and employees as shall then be entitled to the delivery of the shares of stock referred to in the certificates of conditional interest held by them respectively; provided, however, that retirement under any general pension scheme at the time in effect shall not of itself cause such loss of interest.

Fourth. That if before January 1, 1932, the employee dies or becomes totally and permanently disabled while in the employ of the corporation or of one or another of its subsidiary companies, or retires under any general pension scheme then in effect, the shares of stock referred to in the certificate issued to him shall be delivered to his estate (or to him, if so disabled or retired), together with a pro rata amount of the fund, if any, which has accrued up to the time of his death, disability, or retirement, by reason of any loss of interest as specified in the preceding paragraph.

Fifth. That all questions relating to the interests, rights, and claims of any officer or employee in, or growing out of, the proposed distributions and fund above specified shall be finally determined and disposed of in its discretion by the committee of stockholders of the United States Steel Corporation, elected

from time to time to administer the profit-sharing plan, as said committee may be constituted when and as any questions arise.

By order of the committee of stockholders referred to in the foregoing.

UNITED STATES STEEL CORPORATION,
GEO. K. LEET, *Secretary.*

STATEMENT OF JAMES LEE LOOMIS, PRESIDENT OF THE CONNECTICUT MUTUAL LIFE INSURANCE CO., HARTFORD, CONN., REPRESENTING THE ASSOCIATION OF LIFE INSURANCE PRESIDENTS

Mr. LOOMIS. My name is James Lee Loomis. I am president of the Connecticut Mutual Life Insurance Co., Hartford, representing the Association of Life Insurance Presidents. I will confine myself, I think, to less than 15 minutes. The Presidents' Association is comprised of 60 United States companies, with about 85 per cent of the resources in the life-insurance business.

I want to take just a moment to express our appreciation for this hearing, because this is the first time that we have had an opportunity to have this cause heard upon its merits, and also because I appreciate the responsibility that rests upon me, representing the Association of Life Insurance Presidents, and also to bring some intelligent discussion to your committee to help solve this most difficult problem.

We have no objection to the increase of the rate from 12 to 13½ per cent. I need to waste no time upon that. However, by the bill as it has come over from the House the base rate is changed. The reserve deduction, which I will explain in a moment, is cut down from 4 to 3½ per cent. The result of that reserve change is to almost double the base rate, and when the 13½ per cent figure is substituted for the 12 per cent the net result is that the tax upon the life-insurance companies is more than doubled. In fact, the aggregate payment we estimate to be about 212 per cent, and that, we submit, sir, is more than the life-insurance companies, even in the face of the emergency that the Government is faced with, should be called upon to bear.

We appreciate the necessity of sustaining the credit of the Government. I think no one more than a life-insurance executive appreciates the necessity of credit and faith and confidence. I think that we may well say that the life-insurance business is a great reservoir of public faith and confidence at the present time.

I need to take a moment to explain the method by which this tax is arrived at. It is by a special formula quite technical. I will try to make it simple. We start with the gross income, which I will call the investment income, made up of interest, dividends, and rents. We then make a deduction of various items, two important ones of which are the tax-exempt interest and investment expenses, and then a deduction under the law as it now stands of 4 per cent of the amount of the legal reserve, and what remains is the taxable income, and upon that income the income tax applicable to other corporations is laid.

The result of this is—I might phrase it this way—that the companies are in a sort of a strait-jacket. It makes no real difference to the Government what our mortality losses may be. Premium income, other expenses than those of the investment expenses, capital gains and losses do not in any way enter into the picture. And the result is that the life-insurance companies are having and probably

will have many occasions when under this law as it now stands—and in substance it probably will continue—it makes no difference whether they have made a profit or a loss. The tax to the Government will go along with the great consistency. In fact I think that I can say without being challenged that there is probably no revenue that the Government receives from any source that can be so accurately estimated and that will with such fidelity live up to its estimate as the tax upon the life-insurance companies.

Senator SHORTRIDGE. Under existing law.

Mr. LOOMIS. Under existing law. Whether we are in a period of depression or whether we are in a period of prosperity. Because the investment income will remain substantially constant. The deductions will remain substantially constant. There are no capital gains and losses, and our mortality losses and these other factors do not enter. Therefore the Government is very highly favored, Senator, by that method of taxation. That is one reason why we feel and I would urge upon your committee to seriously consider the advisability of retaining the law as it now is so far as the reserve deduction is concerned, allowing us, if you please, to accept the rate of 13 or 13½ per cent, whatever rate is applied to the other corporations to the tax. It seems as if that might fairly be considered. We have many capital losses that under these times must be absorbed. The policyholders need consideration. And I do believe that as a matter of sound public policy that position should very carefully be weighed and considered.

However, that brings me to the discussion of what is called the National Life decision. The National Life decision cut out of the law the tax-exempt interest that by a method that I will explain to you was really included in the taxable interest. Again we will start with the investment income and deduct the investment expenses and the tax-exempt interest which had to be deducted, and then from the reserve deduction was subtracted an amount equal to the tax-exempt interest, the result of which was to nullify the tax-exempt interest, and the United States Supreme Court said this can not be done. The result was that the Government lost from four to five million dollars a year, as a result of that decision.

This is an administrative change that is suggested here.

Senator HARRISON. Let me ask you, was that in the 1928 act?

Mr. LOOMIS. 1928, Senator Harrison.

Senator HARRISON. We had changed the 1924 act in the act of 1928 with reference to this matter.

Mr. LOOMIS. The result of the National Life decision has not been taken care of in any bill, so far as I know of, up to this point. But this bill eliminates that feature that the Supreme Court found unconstitutional.

Senator SHORTRIDGE. Which action was commenced by the insurance companies?

Mr. LOOMIS. It was commened by one of the insurance companies.

Senator SHORTRIDGE. Yes.

Mr. LOOMIS. And I might say parenthetically, Senator, that some of the companies employed counsel in the person of Charles E. Hughes to assist the Government in attempting to preserve that revenue to the Government. That is all a matter of record, sir. Now we submit that if any change in the law is made at all, that it

should be confined to a recovery on the part of the Government by only so much as the National Life decision took away. And this being an administrative change I assume that that is the desire of this bill. However, the rate as changed here from 4 to 3½ per cent would give the Government about twice as much as is necessary to restore the loss of the National Life decision.

Senator SHORTRIDGE. How much was the loss, you say, by virtue of that decision?

Mr. LOOMIS. About $4,000,000 or $5,000,000. Half way, or somewhere between. And this bill as it has come over from the House will, according to the best estimates that we can make, nearly double that amount from the life insurance companies. So we submit that it should not be extended beyond what is necessary to restore that amount. Therefore we would suggest to you that the rate of 3¾ be substituted for 4, if it is the desire of Congress to increase the tax upon the life insurance companies at all at this time in excess of the rate of 13½ per cent. If that is the intent and desire of Congress, to recover that $4,000,000 or $5,000,000 as the result of that decision, then we would suggest that that base rate be 3¾ instead of the 3½ as it comes over in this bill. And also to preserve another principle——

Senator HARRISON. How does the 4 per cent affect these reserves? And does it endanger the policyholders anything?

Mr. LOOMIS. The 4 per cent, Senator Harrison, does not trespass upon any company reserve. I would like to discuss that just a moment, if I may. Have I as much as five minutes, Mr. Senator?

Senator SHORTRIDGE. Yes. Proceed.

Mr. LOOMIS. I would like to discuss that just a moment. There are two basic principles that we believe should be carefully observed. The first is that there should be an equal and uniform and, as far as possible, equitable distribution of the tax burden over the various companies. It is very important in competition and as a matter of fairness that that should be disturbed as little as possible.

The next is that the tax should not trespass upon the companies' reserves. That the Government should not reach in and take any portion of the investment income necessary to discharge our policy obligations.

That these two principles should go along together: Equality of distribution of the burden, and that the reserve should not be in any way affected, otherwise it might be difficult to discharge our policy obligations.

Senator HARRISON. Well, the reserves are fixed by law, are they not? You have got to maintain certain reserves?

Mr. LOOMIS. We have to maintain certain reserves. The companies are now operating, part of them, on a 3 per cent reserve basis, and in part on a 3½ per cent reserve basis. There may be 3 per cent companies of course, where the law would not permit a company to operate on any lower reserve than 3½. And that is our proposal, that if the Congress is desirous to recover the amount lost by the National Life decision, that the rate be changed from 4 to 3¾, with the added provision, which I will read merely as a suggestion, Senator, to put into the record in case this thought should be adopted (reading):

Reserve funds.—An amount equal to 3¼ per cent of the mean of the reserve funds required by law and held at the beginning and end of the taxable year (but, if any such reserve funds are held on a higher-interest assumption rate than 3¼ per cent, then such higher per cent shall be substituted for 3¼ per cent in computing the amount of deduction with respect to the reserve funds actually held on such higher-interest assumption rate).

I think that is about our story, Senator.

Senator SHORTRIDGE (presiding). Thank you.

Senator BINGHAM. Mr. Chairman, unfortunately I was out while Mr. Loomis, of Hartford, Conn., was testifying and, in view of the fact that we have only a very few witnesses to be heard at this time, I would like to ask, as a favor, that Mr. Loomis might be recalled so that I might ask him one or two questions.

Senator SHORTRIDGE. Is Mr. Loomis present?

Mr. LOOMIS. Yes, Senator.

Senator SHORTRIDGE. We are attempting to limit the time, Senator.

Senator BINGHAM. I know.

Senator SHORTRIDGE. Proceed, however.

Senator BINGHAM. Mr. Loomis, I am sorry I was not here when you were speaking. I wanted to ask you particularly whether you agreed with the other witnesses testifying with reference to insurance taxes under sections 201 to 203?

Mr. LOOMIS. The position, as I see it, Senator Bingham, is about this: The suggestion of the substitution of the actual reserve required plus one-half does not meet, as I see it, three essentials. The first is that it does not make for equality and evenness of distribution of the burden; the second is that it adds materially to the problem of competition, because as between companies it is a question of how much we pay out in taxes in the final analysis; and the next is from the Government standpoint purely and simply it fails to produce the revenue that has been allowed by the National Life decision.

I would like to comment, and I will not spend much of the committee's time. But I would like to comment just a moment, if I may, on what Mr. Cleary said about the 3 per cent distribution. He belongs to a 3 per cent company, and so do I. Perhaps we speak more feelingly on the subject. But if the plan of actual plus one-half were substituted, the 3 per cent companies would take up the entire burden.

I have made up some figures, with the assistance of our actuarial authorities—and this is rather an involved subject, as you know.

Out of 53 companies for which we have the figures, 20 companies whose average reserve basis is less than 3½ per cent, under the present law using 4 per cent deduction at 13½ per cent would pay a tax of $4,870,135. If the plan of the basis of actual requirement plus one-half per cent were used, they would pay $7,148,091, an increase of $2,277,000.

Thirty-three 3½ per cent companies, including, by the way, our two largest 3½ per cent companies, under the 4 per cent reserve deduction, using 13½ as the rate, would pay in taxes, $4,921,971. On the basis of actual requirement plan plus one-half per cent, they would pay $4,732,639, or $189,000 less.

In other words, the first group of companies, which contains 3 per cent companies, would take the entire increase of $2,088,000, lifting $189,000 off the shoulders of the 3½ per cent companies. That is what results in the redistribution of the burden.

And if it will not take too long, I would like to comment just a moment about the 3 per cent company. And I can not resist speaking feelingly on that subject.

Senator SHORTRIDGE. You represent a 3 per cent company?

Mr. LOOMIS. I represent a 3 per cent company.

We are permitted to use the ledger assets of two companies, as of January 1, 1932. The one is the New England Mutual Life Insurance Co.; and the other is the Provident Mutual Life Insurance Co. One is a 3 per cent company, and othe other is a 3½ per cent company. The ledger assets as of January 1, 1932, of the New England Mutual Co. were $259,000,000. That is the 3 per cent company. The ledger assets of the Provident Mutual, as of the same date, were $246,000,000. That is the 3½ per cent company. The mean of reserve of the New England Life Insurance Co. was $224,000,000. Of the Provident Mutual Life Insurance Co. it was $218,000,000. That is the 3½ per cent company.

Their surplus is substantially the same, $18,000,000. Under the present law, using the 13½ per cent rate of taxable income—not the tax, but the taxable income of the New England Mutual Life Insurance Co., is $1,704,000. Of the Provident Mutual Life Insurance Co. it is $1,942,000.

If we take the actual interest required, plus one-half of 1 per cent of mean reserves, the taxable income of the New England Mutual Life Insurance Co. goes from $1,704,000 to $2,243,000, or an increase of $539,000. The taxable income of the Provident Mutual Life Insurance Co. would go from $1,942,000 to $1,737,000, or a decrease of taxable income of $205,000, a complete redistribution of the tax burden.

Senator BINGHAM. Are you suggesting how this apparent unfair redistribution should be best met?

Mr. LOOMIS. Our suggestion was, Senator Bingham, that we use the 3¾ per cent level, instead of the 4 per cent of the present law, and evenly as possible—there is no such thing as actual justice—but substantial justice in that fashion would be more equitably met than by any other method, using an added rate of reserve for any companies that had higher rates on portions of their reserves than 3¾ per cent.

Senator SHORTRIDGE. How could that be administered?

Senator REED. That is easy enough.

Senator SHORTRIDGE. You need not answer. My friend says it is easy enough.

Mr. LOOMIS. Probably it is where reserves, Senator, are divided into groups and classes, and where the reserve was at a higher rate than 3¾.

Senator CONNALLY. What would be the increase in taxes over the present law? Have you figured that out in those cases there?

Mr. LOOMIS. No, I have not, Senator. Inasmuch as it would increase the whole tax substantially 50 per cent that, I assume, would be about the average increase for the companies generally. It would vary in individual companies. There is no way of avoiding some variation.

Senator CONNALLY. I mean your company, under 3¾, would pay substantially more than you have been paying under the present law?

Mr. LOOMIS. We would pay something more than 50 per cent more.

Senator CONNALLY. Fifty per cent more?
Mr. LOOMIS. Using 13½, the rate here.
Senator BINGHAM. Your company is a mutual company?
Mr. LOOMIS. Yes, and I would like to develop that idea just a moment. All of the 3 per cent companies are mutual companies. Their policyholders, of course, are scattered all over the United States, and the policy holder must bear the burden.
I would like to throw in this illustration. It will take but a moment, and I believe it is strictly in line with the investigation. Take two companies, a 3 per cent company, and a 3½ per cent company having exactly the same insurance in force, distribute the same by classes, if their investments were the same, their expenses the same, their mortality the same, and they distribute all of their surplus to the policyholders, then carrying the policy through to maturity, the net should be precisely the same to each company.
Senator BINGHAM. How many policyholders have you in your company?
Mr. LOOMIS. About 200,000.
Senator BINGHAM. What is the average amount of insurance carried?
Mr. LOOMIS. About $3,500 to $4,000 per member.
Senator BINGHAM. You say you have 300,000 policyholders?
Mr. LOOMIS. About 200,000.
Senator BINGHAM. And about 100,000 of them have less than $3,500 insurance?
Mr. LOOMIS. Well, I do not know that we have made any estimate on that basis. The average policy is about $3,800, as I recall.
Senator BINGNAM. The average?
Mr. LOOMIS. The average.
Senator BINGHAM. So that half of your policyholders must have less than the average?
Mr. LOOMIS. Oh, yes; the greater number are small policyholders, of $2,000 and $2,500.
Senator BINGHAM. So that this tax would come directly out of their receipts and dividends?
Mr. LOOMIS. It must.
Senator BINGHAM. That is all.
Senator REED. Mr. Loomis, do you sell annuities?
Mr. LOOMIS. Yes; we do.
Senator REED. And, of course, you sell endowment policies?
Mr. LOOMIS. Yes; we do.
Senator REED. Some of them mature a considerable time after they are taken, and some a shorter time?
Mr. LOOMIS. Some are written for 10 years, some for 15 years, some for 20 years, and some for 25 years.
Senator REED. Of course, an endowment policy is very much like an annuity in its effect. Now we are confronted with the necessity of raising money by taxation from those who are best able to bear the burden. I have been wondering whether our present laws dealing with annuities and with matured endowments is just to other taxpayers of the country. I know some rich men—I have one case in mind of a man who paid $1,000,000 for an annuity on the joint lives of himself and his wife, and with any reasonable expectation of life he will go through all of his life, and so will his wife, and never pay one

penny of income tax, although they receive a very substantial income from that policy every year that they live. Have you ever considered the justice of putting some kind of a tax on the annuities?

Mr. LOOMIS. No; I have not, Senator Reed. The annuity side of our business, and any business, is such a small portion of our total that we do not pay much attention to it.

Senator REED. Have you sold any large annuities in recent years?

Mr. LOOMIS. Very few.

Senator REED. Did you sell many after the war, when income-tax rates were higher?

Mr. LOOMIS. Well, I do not recall that we sold enough to make any impression on our minds at the time. I think you may have an interesting point there, Senator.

Senator REED. It is just as obvious a method of evasion of taxation as buying municipal bonds.

Mr. LOOMIS. Yes.

Senator SHORTRIDGE. Thank you, Mr. Loomis. Have you anything further, Mr. Loomis?

Mr. LOOMIS. I have concise statements here, Mr. Chairman, that I would like to offer for the record, as follows:

Effect of pending Federal revenue bill on life-insurance companies.

Reserve deduction of actual interest requirement plus one-half of 1 per cent would inequitably redistribute Federal income tax as between various life-insurance companies.

Effect of various possible reserve deductions on different life-insurance companies under Federal revenue bill.

Possible working bases for an amendment to paragraph (2), subsection (a), section 203 (lines 22 to 25, page 137), pending Federal revenue bill to provide life-insurance reserve deduction at flat rate of 3¾ per cent with higher rate for such reserves as are held on a higher interest assumption basis.

Senator SHORTRIDGE. Without objection, they will be received.

(The statements are as follows:)

EFFECT OF PENDING FEDERAL REVENUE BILL ON LIFE INSURANCE COMPANIES

Under the pending Federal revenue bill (H. R. 10236) the income tax rate on life insurance companies is increased from 12 per cent to 13½ per cent, as on corporations generally. In addition the method of computing net taxable income is changed so as to materially increase net taxable income as determined under the act without any corresponding increase in earnings. This is accomplished by reducing the present deduction of 4 per cent of the reserves to 3½ per cent. In other words, this change artificially increases net taxable income although the corporation enjoys no actual increase in net income. We are not objecting to the payment of the same income tax rate to be paid by other corporations, but we do protest against this proposed broadening of the tax base.

PROPOSED CHANGES WOULD DOUBLE LIFE-INSURANCE TAXES

This change in base (coupled with the increase in the rate) would more than double the aggregate income tax on life insurance companies on the basis of 1931 returns. Under the measure as passed by the House life insurance companies would pay 212 per cent of what they now pay. Appreciating the necessity of balancing the Federal Budget, and the desire of Congress to secure revenue sufficient for this purpose, there is no thought on our part to avoid our fair share of the necessary increase of taxes. The present law, by segregating just one portion of a life company's business, and requiring the payment of tax whether or not the company actually earns a net income, puts the busines in a straight-jacket such as is applied to no other business. For this reason, we submit the proposed change will result, even in the face of the present emergency in a disproportionate and unfair increase in the tax on life insurance policyholders.

PRESENT METHOD OF TAXING LIFE INSURANCE COMPANIES

The net taxable income of a life-insurance company is determined by a formula, which produces a tax regardless of whether or not the year's operations result in net earnings in the ordinary sense. In this respect the treatment of life-insurance companies differs from that of other corporations, the net taxable income of which has a relation to the net income actually earned. Under the present act, a life-insurance company may be required to pay a heavy tax in a year, or in a series of years, when the company actually earns no net income. Since the present method of ascertaining net taxable income was enacted in 1921, some companies have paid taxes in years when they earned no net income. This fundamental difference should be borne in mind in any consideration of the taxation of life-insurance companies. The present method does not favor life-insurance companies, but rather the Government.

GROSS INCOME DEFINED AS INVESTMENT INCOME

Interest, dividends, and rents constitute the gross income of a life-insurance company under the present act. Premiums are not included in income since they are in the nature of capital deposits to be subsequently returned to policyholders or beneficiaries. No deduction is allowed for ordinary expenses of doing business (other than investment expenses) nor for payments under policy contracts. No deduction is allowed for investments losses or bad debts, neither is gain from investments included as a part of gross income. If such items were allowed, the next taxable income would be materially altered from year to year and reduced for some years to come. The Government is highly favored by this exclusion.

PRESENT PLAN AVOIDS WIDE FLUCTUATION IN REVENUE

The purpose of Congress in 1921 in adopting this method of establishing the net taxable income of life-insurance companies was to avoid the wide fluctuations in net taxable income experienced in previous years, when the method of determining net taxable income was that applied to other corporations. This result has been achieved.

PRESENT PLAN AND TAX-EXEMPT INTEREST DECISION

The present formula, as enacted in 1921, provided for the deduction of 4 per cent of the mean of the reserve funds required by law (less tax-exempt interest) from gross income. This deduction was arrived at by the Ways and Means Committee after careful consideration of all factors involved, such as the elimination of capital gains and losses, and disregard of whether or not the year's operations actually result in net income. It was the purpose not only to adopt a formula producing a dependable net taxable income, but also one of simple nature and easily checked by the Government. This avoided many troublesome questions which had resulted in litigation under former acts. It was necessary to permit the deduction of interest on tax-exempt securities from gross income. To nullify this deduction, the act of 1921 provided that the deduction of 4 per cent of the mean of the reserve funds should be decreased by the amount of such tax-exempt interest. This nullification of the benefits accruing from the ownership of tax-exempt securities was found unconstitutional by the United States Supreme Court (277 U. S. 508). That decision struck from the act the provision for the deduction of tax-exempt interest from 4 per cent of the mean of the reserves.

PURPOSE OF CHANGE TO OVERCOME SUPREME COURT DECISION ONLY

It is understood that the purpose of the Ways and Means Committee in making the change in the reserve deduction from 4 per cent to 3½ per cent, was to overcome the reduction in Government revenue on account of the United States Supreme Court decision in 1928 (277 U. S. 508). The effect of this decision was to give life-insurance companies the benefit of ownership of tax-exempt securities which previously had been denied.

CHANGE FAR MORE THAN OVERCOMES COURT DECISION—WOULD RETURN MORE THAN TWICE AMOUNT

Reports from 53 companies holding 84.8 per cent of the assets of all United States legal reserve life-insurance companies show that the reduction in revenue to the Government on account of the Supreme Court decision—at the new 13½

per cent tax rate—aggregates $4,993,000 annually. (At the present 12 per cent tax rate it aggregates approximately $4,438,000 annually.) Reports from these same companies reveal that under the present law and the existing 12 per cent rate, these companies will pay in 1932 on 1931 business, $8,704,000 in Federal income taxes. The same companies would have paid $18,456,000 if the present bill with the 3½ per cent reserve deduction and the 13½ per cent rate had been in effect, or an additional tax of $9,752,000. In other words, the proposed change, instead of merely recouping to the Government the reduction in revenue on account of the Supreme Court decision, would actually more than double the tax on life-insurance companies and thus recoup to the Government more than twice such reduction. It is submitted, therefore, that the change from 4 per cent to 3½ per cent in the reserve deduction should not be allowed to stand in the bill.

If, however, in view of the expressed purpose of the Ways and Means Committee, it is intended that life-insurance companies be made to recompense for the reduction in Government revenue on account of the Supreme Court decision, some change in base is to be made, it is urged that such change be not more than necessary to restore such an amount. Inasmuch as the change in the reserve deduction from 4 per cent to 3.5 per cent, as proposed by the pending bill, would result in a grossly excessive tax—an increase for the 53 companies from $8,704,000 to $18,456,000—it is respectfully urged that the present 4 per cent deduction be not reduced lower than to 3.75 per cent. On a basis of 3.75 per cent reserve deduction, the 53 companies referred to would pay an additional tax of $5,344,000 or more than the amount of the reduction in revenue from the Supreme Court decision.

Following are given income taxes of these companies under the present law and under the various bases herein discussed:

Data of 53 life-insurance companies which have 84.8 per cent of the assets of all United States legal reserve companies. (Based on 1931 business)

Taxes on present basis, 4 per cent deduction, 12 per cent rate	$8,704,000
Taxes that would have been incurred:	
At 4 per cent deduction, 13½ per cent rate	9,792,000
At 3¾ per cent deduction, 13½ per cent rate	14,048,000
At 3½ per cent deduction, 13½ per cent rate	18,456,000

JAMES LEE LOOMIS,
President Connecticut Mutual Life Insurance Co., Hartford, Conn.;
Chairman Federal Tax Committee Association of Life Insurance Presidents.

RESERVE DEDUCTION OF ACTUAL INTEREST REQUIREMENT PLUS ONE-HALF OF 1 PER CENT WOULD INEQUITABLY REDISTRIBUTE FEDERAL INCOME TAX AS BETWEEN VARIOUS LIFE INSURANCE COMPANIES

The proposal that the life-insurance provisions of the pending Federal revenue bill be so amended that there would be allowed a deduction of the actual rate of interest required to maintain reserves plus one-half of 1 per cent of mean reserves be substituted for the 4 per cent allowed by present law, would cause a material and inequitable redistribution of the tax burden, as clearly demonstrated by the attached illustrations. The additional taxes imposed as a result of such a change would fall entirely upon companies operating upon a 3 per cent reserve basis (those with an average rate under 3½ per cent) and such burden must, therefore, be borne by their policyholders throughout the United States. Such proposal, in addition, would decrease the taxable income of companies holding over six and one-half billions of assets.

Table A shows approximately how 336 companies would be affected.

Table B shows actually how 53 companies would be affected.

Table C is a simplified hypothetical illustration indicating the taxable income and the tax at 13½ per cent as between a 3 and a 3½ per cent company.

Table D indicates how a 3 per cent and a 3½ per cent company, selected for their similarity in size, would actually be affected.

The proposal, as explained by these illustrations, thus would make a most inequitable redistribution of the tax burden. Such increased burden would fall upon the policyholders of the 3 per cent companies. It would thereby raise a serious question in the matter of competition. It would but partially restore the additional revenue the Government desires to raise from life insurance.

TABLE A

To change the deduction of 4 per cent of mean reserves, as provided for in present law, to a deduction of actual interest required to maintain reserves plus one-half of 1 per cent of mean reserves would violently redistribute the aggregate tax burden among the companies. It is obvious that, under such a plan, a company with its business on a 3.5 per cent basis would be allowed exactly the same deduction (3½ per cent plus one-half of 1 per cent) as the 4 per cent under present law. The net taxable income of such a company would, therefore, not be changed. A company with a rate higher than 3½ per cent would be allowed a greater deduction than at present and its net taxable income would be less than under present law. A company with an interest requirement of less than 3.5 per cent would be allowed a smaller deduction and its net taxable income would be increased.

It has been possible, from published reports, to aggregate the assets and compute the average interest required to maintain reserve for 336 of the 410 legal reserve life-insurance companies. The aggregate results are as follows:

UNITED STATES LEGAL RESERVE LIFE-INSURANCE COMPANIES

Effect on net taxable income that would result by changing reserve deduction from 4 per cent to actual plus one half per cent:

47 companies with total admitted assets of $8,950,660,913 (47.4 per cent of total assets of all United States companies) would have their net taxable income increased.

223 companies with total admitted assets of $3,308,374,995 (17.5 per cent of total assets of all United States companies would have no change in their net taxable income.

66 companies with total admitted assets of $6,591,525,146 (34.9 per cent of total assets of all United States companies) would have their net taxable income reduced.

TABLE B

Fifty-three member companies of the association of Life Insurance Presidents which hold 84.8 per cent of the assets of all such United States companies, for which the net 1931 taxable income is available, would show the following redistribution of tax at the 13½ per cent tax rate now in the bill:

	Average requirement	Present basis (4 per cent deduction)	Basis of actual requirement plus one-half of 1 per cent	Increase (+) or decrease (−)
20 companies	Less than 3½ per cent.	4,870,135	7,148,091	+2,277,956
33 companies	3½ per cent or over.	4,921,971	4,732,639	−189,332
Total (53 companies)		9,792,106	11,880,730	+2,088,624

Result: Twenty companies holding reserves at less than 3½ per cent would take entire increase of tax burden plus $189,000 relief which would accrue to the 33 companies on basis of 3½ per cent and over.

TABLE C.—*Illustration of effect on a 3 per cent company and on a 3½ per cent company of a deduction from investment income of actual interest required to maintain reserves plus one-half of 1 per cent of such reserves*

	3 per cent company	3½ per cent company
Required reserves	$100,000,000	$100,000,000
Investment income	[1] 5,000,000	5,000,000
Investment expenses and exempt interest, etc	500,000	500,000
	4,500,000	4,500,000
Deduction of actual interest required to maintain reserves plus one-half of 1 per cent of reserves	[2] 3,500,000	[3] 4,000,000
Taxable income	1,000,000	500,000
Tax at 13½ per cent	135,000	67,500

[1] 5 per cent. [2] 3.5 per cent. [3] 4 per cent.

TABLE D.—*How it would work in the redistribution of the tax burden in two individual cases*

[Based on 1931 business]

	New England Mutual Life Insurance Co. (3 per cent company)	Provident Mutual Life Insurance Co. (3½ per cent company)
Ledger assets, Jan. 1, 1932	$259,000,000	$240,000,000
Mean of reserve	224,000,000	218,000,000
Surplus funds (about)	18,000,000	18,000,000
Taxable income (present law)	1,704,000	1,942,000
Taxable income at actual interest required plus one-half of 1 per cent of mean reserves	2,243,000	1,737,000
Taxable income would increase	539,000	
Taxable income would decrease		205,000

EFFECT OF VARIOUS POSSIBLE RESERVE DEDUCTIONS ON DIFFERENT LIFE INSURANCE COMPANIES UNDER FEDERAL REVENUE BILL

A level rate of interest credit for all companies, such as the present rate of 4 per cent, does not operate in favor of the companies which assume a lower interest rate for valuation purposes.

This is best seen by considering two model companies, each with the same amount of insurance in force and with the same distribution of business, according to plan, age, and year of issue. These two companies are to be identical in all respects except that one company, Company A, chooses to value its business on the American Experience Table with 3 per cent interest while the other company Company B, selects for its valuation basis the American Experience Table with 3½ per cent interest. In other words, each policy in force in one company is duplicated in the other company, being on the life of the same person. Provided that each company earns the same net interest rate on its funds, experiences the same mortality and is subject to the same operating expenses, the two companies will show the same cost per policy (before payment of Federal tax) and will therefore be on an equal footing. Calculations have been made for two such model companies, the results being shown in Schedule I. The assumed distribution of business as between plan, age, and year of issue, as set out in this schedule, it is believed is a reasonable approximation to actual facts. It has been assumed that total funds in each case include surplus of 6 per cent of the reserve which is about the average at the present time. In this schedule the tax is computed on three different bases:

1. Four per cent deduction and a 13½ per cent tax rate.
2. Three and three-fourths per cent deduction and 13½ per cent tax rate.
3. Deduction of actual valuation interest rate plus one-half of 1 per cent and 13½ per cent tax rate.

This schedule shows that in the aggregate the policyholders under Company A (3 per cent company) pay a tax 6 per cent higher than that paid by Company B (3½ per cent company) under method 1. Method 2 retains this differential; method 3 would impose a 46 per cent higher tax on the policyholders in Company A.

Method 2 would increase the tax for both companies by approximately 19 per cent over method 1.

Method 3 would increase the tax for Company A by 38 per cent without any increase for Company B.

While these are aggregate figures, the assets that earn investment income with respect to different policies are proportionate to the reserve on such policies. Therefore, the same relation would hold with respect to different policies as holds in the aggregate; as set out in Schedule I.

The taxable income for Company B under methods 1 and 3 being the same it follows that, due to the change in tax base, method 3 would place all of the additional tax on companies valuing their policies on a rate lower than 3½ per cent.

In order to test the effect on individual policies two representative companies have been selected, one with reserves on the American Experience 3 per cent basis, called Company A, and one with reserves on the American Experience 3½ per cent basis, called Company B. A 20-year endowment policy has been chosen for this comparison because the entire transaction is completed in the period covered by the illustration. The net cost is based upon the published dividend scale for 1931, and the illustration for age 20 at issue. The tax payable each policy year has been calculated both for the 3¾ per cent deduction and for a deduction of 3 per cent plus one-half per cent for Company A and 3½ per cent plus one-half per cent for Company B, and then this tax has been put in ratio to the net cost for the year. The results are shown in Schedule II.

SCHEDULE I.—*Model life insurance office*

Amount of insurance in force, $81,000,000, distributed as follows:

L. 55 5/9 per cent—one-third in sixth calendar year.
20 P. 33 3/9 per cent—one-third in eleventh calendar year.
20 E. 11 1/9 per cent—one-third in sixteenth calendar year.

100 per cent.

One-third at age of 25; one-third at age of 35; one-third at age of 55.

	Company A (3 per cent)	Company B (3½ per cent)
Reserve	$20,824,370	$19,696,940
Surplus (estimated at 6 per cent of reserve)	1,249,462	1,181,816
Funds; reserve; surplus	22,073,832	20,878,756
Income at 5 per cent on funds	1,103,692	1,043,938
Less deduction (4 per cent on reserve)	832,975	787,878
Taxable income	270,717	256,060
(1) Tax at 13½ per cent	36,547	34,568
Income at 5 per cent	1,103,692	1,043,938
Less 3¾ per cent deduction	705,914	738,635
Taxable income	322,778	305,303
(2) Tax at 13½ per cent	43,575	41,216
Income at 5 per cent	1,103,692	1,043,938
Less 3½ per cent deduction:		
3 per cent plus ½ per cent	728,852	
4 per cent (3½ per cent plus ½ per cent)		787,878
Taxable income	374,840	256,060
(3) Tax at 13½ per cent	50,603	34,568
	Per cent	*Per cent*
Increase (2) over (1)	19	19
Increase (3) over (1)	38	0
Increase (A) over (B):		
(1)	6	
(2)	6	
(3)	46	

SCHEDULE II.—*Ratio of tax to net cost*

[Company A holds reserves on American 3 per cent basis. Company B holds reserves on American 3½ per cent basis]

Year	Net cost to policyholder, Company A	Net cost to policyholder, Company B	Deduction of 3¾ per cent		Deduction of actual valuation rate plus ½ per cent	
			Company A	Company B	3½ per cent (3 per cent plus ½ per cent), Company A	4 per cent (3½ per cent plus ½ per cent), Company B
					Per cent	*Per cent*
First	41.66	38.84	0.21	0.20	0.24	0.18
Second	41.13	38.56	.34	.34	.41	.28
Third	40.57	38.26	.49	.49	.57	.39
Fourth	40.00	37.97	.64	.64	.77	.52
Fifth	39.40	37.65	.81	.80	.97	.64
Sixth	38.80	37.33	.99	.98	1.17	.77
Seventh	38.15	36.96	1.17	1.15	1.41	.91
Eighth	37.50	36.58	1.37	1.35	1.65	1.07
Ninth	36.81	36.20	1.59	1.55	1.92	1.23
Tenth	36.10	35.81	1.83	1.77	2.20	1.40
Eleventh	35.36	35.41	2.08	1.99	2.51	1.58
Twelfth	34.60	35.00	2.37	2.24	2.87	1.78
Thirteenth	33.81	34.61	2.65	2.50	3.21	1.97
Fourteenth	32.99	34.20	2.97	2.76	3.60	2.19
Fifteenth	32.13	33.78	3.33	3.12	4.03	2.46
Sixteenth	31.24	33.35	3.72	3.40	4.51	2.68
Seventeenth	30.32	32.92	4.14	3.74	5.03	2.94
Eighteenth	29.36	32.48	4.61	4.10	5.60	3.22
Nineteenth	28.36	32.02	5.14	4.49	6.23	3.52
Twentieth	27.32	31.55	5.73	4.89	6.94	3.85
20-year total	705.61	709.48	2.11	2.04	2.54	1.61

Possible working bases for an amendment to paragraph (2), subsection (a), section 203, (lines 22 to 25, page 137) pending Federal Revenue bill to provide life insurance reserve deduction at flat rate of 3¾ per cent with higher rate for such reserves as are held on a higher interest assumption basis

(1)

(2) *Reserve Funds.*—An amount equal to 3¾ per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year (but, if any such reserve funds are held on a higher interest assumption rate than 3¾ per centum, then such higher per centum shall be substituted for 3¾ per centum in computing the amount of deduction with respect to the reserve funds actually held on such higher interest assumption rate), plus * * *

(2)

(2) *Reserve Funds.*—An amount equal to 3¾ per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, provided in the case of any such reserve funds held on an interest assumption basis at a rate higher than 3¾ per centum, the amount as to such reserve funds shall equal the interest assumptions per centum of the mean thereof, plus * * *

(3)

(2) *Reserve Funds.*—An amount equal to 3¾ per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, except that in the case of any such reserve funds held on an interest assumption basis at a rate higher than 3¾ per centum, the amount as to such reserve funds shall equal the interest assumption per centum of the mean thereof, plus * * *

(4)

(2) *Reserve Funds.*—An amount equal to the following per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year—

(A) Four per centum in the case of such funds held for reserves computed at any interest rate in excess of 3¼ per centum, and (B) 3¼ per centum in all other cases, plus * * *

(These various phrascologies are submitted for consideration as possible working bases and preliminary drafts for the purpose of expressing the thought intended.)

LETTERS FROM W. F. KIRK AND JOHN C. ROBINSON

APRIL 19, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am inclosing for the committee record in the committee hearing re proposed tax on imported petroleum and petroleum products statements from Walter F. Kirk, master of the Ohio State Grange, and John C. Robinson, president of the Kentucky Farm Bureau Federation.

This is in accordance with the request which I made on Saturday, April 16, which was conditionally granted by the committee.

It was manifestly impossible to secure these statements on Monday, as Mr. Kirk and Mr. Robinson were at their homes at the time the matter was presented to the committee and it was not possible to receive replies to telegrams sent to them in time to file on Monday. I am hastening to send these to you the first thing this (Tuesday) morning.

Yours respectfully,

A. M. LOOMIS.

PORT CLINTON, OHIO, *April 16, 1932.*

In harmony with the action of the National Grange and its own general policy of conservation and economy, the delegate body of the Ohio State Grange adopted the following resolution at its Fifty-ninth annual sesson at Sandusky, Ohio, December 10, 1931, thereby making it a part of the policy and program of our State organization representing 830 subordinate granges:

"We oppose a tariff upon crude petroleum, rough lumber, and any other natural products, because such tariff would unjustly increase costs to the general public and would hasten the depletion of the natural resources of the United States."

W. F. KIRK,
Master of Ohio State Grange.

Senator M. M. LOGAN, *Washington, D. C.*

MY DEAR SENATOR: The articles before your Finance Committee that are under consideration for increased tariff would vitally affect agriculture. One in particular, I want to call your attention to, is the tariff on petroleum products.

Increased tariff on these products would increase expense of agricultural operations of farm machinery, trucks, cars, and road building.

Being a farmer and a taxpayer, I am sure that the farmers of Kentucky are more interested in economy of Government than in increased tariffs.

Agriculture's present perilous condition, any increase in this tariff would be fatal.

Trusting that after due consideration you will vote against this tariff and stand four-suqare for more economy in Government.

As a representative of the taxpayers and agricultural interests, I would like to know what decision you may reach on this matter.

Very sincerely,

JOHN C. ROBINSON.

FRANKFORT, KY., *April 14, 1932.*

Mr. A. M. LOOMIS,
Washington, D. C.

DEAR MR. LOOMIS: Sorry to have disappointed you, but the secretary of our State taxpayers league, of which I am president, had scheduled two meetings which make it impossible for me to come.

I have written to both of Kentucky United States Senators and am sending you a copy of the letter.

Very sincerely,

JOHN C. ROBINSON.

STATEMENT OF FRANK W. McALLISTER, KANSAS CITY, MO., GENERAL COUNSEL OF THE KANSAS LIFE INSURANCE CO. AND CHAIRMAN OF THE TAXATION COMMITTEE OF THE AMERICAN LIFE CONVENTION

Mr. MCALLISTER. Gentlemen, as chairman of the taxation committee of the American Life Convention, which is an organization of 135 legal reserve life insurance companies domiciled in 35 States and the District of Columbia, we have some suggestions to make with reference to this bill.

Mr. Loomis has already explained to you the result of the decision of the Supreme Court known as the National Life decision, under which about $4,500,000, I believe, of revenues theretofore paid by life insurance companies was not collectible because it included income on tax-exempt securities. We have no fault to find with the effort of the Treasury Department to replace that revenue. But, as said by Mr. Loomis, the bill in the form in which it came over from the House will more than double that, in addition to the increase from 12 per cent to 13½ per cent.

If I may I would like to spend just a moment—and I hope you will call me if I overstep the bounds—in explanation, as an understanding of the accumulation of the reserves is necessary to understand this tax and what we are really driving at. The reserve on a life-insurance policy does not belong to the life insurance company. It belongs to the policyholder. Under practically any life insurance policy that is issued to-day and in most of the States such provisions are necessary under the law. The policyholder can walk into the office any day in the week and take down the reserve on this life insurance policy, either by a policy loan or by a surrender value of that policy. So that to all practical purposes the reserves belong to the policyholder and not to the company, and therefore it is generally conceded that the reserves are not taxable to the company. And, of course, if the reserves themseves are not taxable to the company the income is not taxable, because to tax the income is really to tax the reserves.

Now what I am driving at is to try to explain the basis upon which this tax is levied against life insurance companies. The reserves must be improved or increased at a specified rate of interest, 3, 3½, or 4 per cent. I know of no policies issued by any company on any other than one of these three rates. That means that at the end of every year there must be added to the reserves a sum which equals the reserve basis rate, or the reserve rate, as it is generally called.

Now, the ability of the company to meet the obligations in the policy depends upon this addition to the reserve on that policy, because it is fundamental in the theory of legal reserve life insurance that from the very minute the obligation is assumed provision must be made

for its payment. So that as the policy goes on the fund is gradually accumulated, so that at any time in the history of that policy, from the day it is issued until it is matured by death or otherwise, the company must have in these sacred reserve funds the money with which to meet that obligation, and to do that it must add to it and increase it at these rates.

Now the present law and this bill proceed upon the theory that a deduction is granted from income from these three sources, which is the basis to meet these reserve requirements—what the company must add to the reserve year by year.

Senator HARRISON. General, may I ask you this question in that connection. Taking all the insurance companies in America, what is the surplus that is carried over their reserve?

Mr. MCALLISTER. I do not understand you, Senator.

Senator HARRISON. There is a surplus carried over the reserve by some companies, is there not?

Mr. MCALLISTER. Oh, yes. I will get to that in a moment. The purpose of this is to devise a formula that will levy the tax upon the part of the income which comes to the company and does not go to the policyholder. It is generally called free interest. Or it is free earnings. And is the difference between the earnings the company actually has and the reserve basis upon which its policy is based. For instance, taking a 3 per cent company and it earns 4½ per cent on its reserve assets. Then its free interest is 1½ per cent. If it is a 3½ per cent its free interest is 1 per cent. If it is a 4 per cent company its free interest is one-half of 1 per cent. Now that is the basis of this tax. And our companies think that the fair way to do the thing and the equitable way to do it would be to base the deduction in proportion to the free interest the company has, which is the difference, as I said, between the reserve rate upon which its policies must be accumulated, and what is actually earns on these reserves.

The present law has a flat deduction of 4 per cent. The bill proposes a flat deduction of 3½ per cent. This is not as between companies, because many companies will have business on all three of these reserve bases. Many of them on two of them. Now, we think it is fair to base that thing on the actual reserve basis the companies' policies are on. For instance, you take it under this bill a 3 per cent company has a one-half of 1 per cent free interest. One-half of one per cent of its free interest is not taxable.

Senator SHORTRIDGE. Under existing law?

Mr. MCALLISTER. Yes; and under this bill just the same.

Senator SHORTRIDGE. Yes. Very well.

Mr. MCALLISTER. With the result now under this bill that a 3 per cent company has free interest represented by the difference between 3½ per cent and its earning rate, or the difference between 3 per cent and 3½, which pays no taxes and is not included in the basis upon which the tax is levied or based. The 3½ per cent companies will have none. And a 4 per cent company—its reserves are invaded thereby, because it is a simple matter of calculation.

Senator HARRISON. General, have you some estimate there of how much the Government will realize on the basis of taxing the free interest, as you say, instead of on this basis?

Mr. MCALLISTER. Well, that is what this is driving at, really. That is the whole excuse for it. Yes; the best available figures we

could get are that putting it, as we figure it, at the actual reserve basis, plus one-half of 1 per cent, which I will explain the reason for, the Government ought to get 25 to 40 per cent more out of it than it is getting under the existing law. I would say around 33⅓ per cent more.

Senator SHORTRIDGE. Do you carry in your mind in point of dollars what that would amount to, General?

Mr. MCALLISTER. That would amount to around $5,000,000, I think. Is that right, Mr. Parker?

Mr. PARKER. Thirty-three and one-third would only be about $3,500,000.

Mr. MCALLISTER. Well, our figures run about $5,000,000 as the estimate of what that would attain. But we are vitally interested, if you please, not only in the amount of revenue it would attain, but we think this puts the tax on a fair basis as between policies of the various classes on the 3, 3½, and 4 per cent basis. And, of course, the increase from 12 to 13½ per cent will produce considerably over a million dollars, I believe, in addition. And, by the way, I think it is worthy of your consideration that that represents the increase in taxes of corporations generally, whereas this other provision will greatly increase the taxes of life insurance companies in addition to the increase from 12 to 13½ per cent.

Now we think in the first place that the reserves should not be invaded, and that is fundamental and, we think, necessary to the future of legal reserve life insurance. To accomplish that it is absolutely necessary to make an additional allowance.

Now there is a provision in the law—and, as I understand, it remains there—a deduction allowed on account of administration expenses and costs, and so forth. But if you took a fund that must yield 3½ per cent annually, anybody knows that you can not loan it at a flat 3½ per cent and meet the requirements at the end of the year. There will be some loss in time in investment, in the shifting, there will be some capital losses, and there will be some income losses. We think a deduction of the reserve rate plus one-half of 1 per cent will make allowance for that situation. It will enable every life-insurance company to maintain the integrity of its reserves, and we think will bring to the Government what has been said it had in mind to recover in lieu of the loss in the National Life case.

In that connection I have here a letter from Hon. Charles D. Livingston, insurance commissioner of the State of Michigan, and he is president of the National Convention of Insurance Commissioners, in which he explains the importance of maintaining these reserves, and also explains that something above the reserve basis is necessary for them to be maintained.

(The letter is as follows:)

STATE OF MICHIGAN,
DEPARTMENT OF INSURANCE,
Lansing, April 9, 1932.

FINANCE COMMITTEE,
United States Senate, Washington, D. C.

GENTLEMEN: There is nothing more important to the prosperity of the country at this moment than to maintain the soundness and solvency of the institution of life insurance, one of the principal media of savings for more than 68,000,000 of our citizens.

It is absolutely necessary for life-insurance companies to maintain the integrity of their legal reserves in order to carry out the contracts which they issue. The legal reserve system which requires such reserves is the very foundation of the strength and solvency of the companies.

It is absolutely vital to the public interest that the income from the investment of these reserves should not be taxed in any event beyond the interest earning required to maintain them, and in my judgment, a margin above the reserving rate on each class of business proportionately should be granted to take care of possible capital losses which might encroach from time to time upon the integrity of the reserves themselves.

Insurance companies can not carry out their contracts unless their reserves remain intact and are increased each year by the interest rate assumed in their calculations. In my judgment, therefore, it is of vital interest to the vast multitude of policyholders that the deduction now permitted for interest earnings upon their reserves should not in any event be reduced below the interest rate required to maintain them, and in my judgment, as an element of safety, a margin above such reserving rate should be allowed.

Respectfully,

C. D. LIVINGSTON,
Commissioner of Insurance, State of Michigan.

Senator REED. May I interrupt you a moment, Mr. McAllister?

Mr. MCALLISTER. Yes.

Senator REED. Before I came in did you touch on the subject of capital gains and losses?

Mr. MCALLISTER. No; I have not.

Senator REED. Will you tell us in a word, if it is not interrupting the thread of your argument, why in your opinion insurance companies alone of all corporations should not have to take into account their capital gains and losses?

Mr. MCALLISTER. Senator, I believe both the companies and the Government are interested in avoiding that basis for taxation.

Senator REED. Personally I do not believe that any corporation or individual should take account of capital gains or losses of permanent investments in calculating income, but as long as we make every individual take it into account, and every corporation, why should insurance companies alone be excepted?

Mr. MCALLISTER. Well, Senator, it is the difficulty involved in correctly ascertaining what the actual profit or income of the company is because of the relationship between the reserve funds which they hold as trustees and income which belongs to them and may properly be charged to them. It is a very difficult proposition. And I should think that the Government would be better satisfied with the tax on this basis, because on this basis it is not affected much. It is not a question of whether we make money or lose money. These reserves must be carried and the tax is based upon income from those reserves; not whether we make money or whether we lose money. It does not make any difference. And many companies—I think unquestionably on a basis that measured them fairly with other corporations they would be paying much less tax than they are now.

Senator REED. Well, if it is not sound policy to tax capital gains of life-insurance companies why should we tax capital gains of savings banks?

Mr. MCALLISTER. Well, I do not know much about that subject, Senator. I have not gone into it from that angle. But I believe a careful study will convince you that both the Government and the companies are better off on this special basis, because they have a peculiar business, wholly unlike any other line of commercial activity. The structure is entirely different. I am not talking about the bill as based on that. I am just discussing it from that angle.

Senator REED. I think the Government would be better off if it ignored capital gains and ignored capital losses entirely in all corporations and in all individuals. But as long as we tax them and everybody else in the country why should not life-insurance companies go along with the rest?

Mr. MCALLISTER. Well, they ought to go along with the rest. But our theory is that on this basis they should go along with the rest, with this exception——

Senator REED. Well, why should there be an exception?

Mr. MCALLISTER. Well, I say that it should go along with other corporations, except our taxes from year to year are not so fluctuating or affected so much by whether you lose money or make money, or what you gain or do not gain. They had that in 1918 to 1921, and it apparently was unsatisfactory to everybody. For that reason there was constant irritation over computing these taxes. I knew nothing about the matter at that time, but that is my understanding of why this formula was adopted in place of the formula of computing the tax of all corporations.

Senator REED. I had a strong suspicion that the man who wrote the formula forgot to put in capital gain.

Mr. MCALLISTER. Well, I do not know about that. But it is a tax on income. You can not deny that. It can not be made to correctly reach income.

Now, one other suggestion and then I expect I will have overstepped the time. This bill—and I think it is a serious matter—this bill would increase the income taxes of many insurance companies, and especially companies domiciled in the Middle West and the southern and southwestern part of the country, and even some in other parts of the country. It will greatly increase them. One reason is that those companies carry very little tax-exempt securities in their investment portfolio. They have practically none. So that all the income they get is subject to the tax. The taxes of the company I represent will be about two and one-half times, under this bill—would have been this year—what we pay under the present law.

Senator REED. What is your company?

Mr. MCALLISTER. The Kansas Life Insurance Co. of Kansas City, Mo. The taxes of some of them will be increased four, five, six, even ten fold because of peculiar situations that increase the taxes on them.

Our suggestion in the matter is that the basis of the tax ought to be the reserve rate plus some percentage that will cover these inevitable losses, whatever the reserve rate is, and in such an amount that the Government will get what revenue it ought to have from life insurance companies.

I have a memorandum which I am going to file, which I will supply you with. I believe that states about as well as I can the position of the companies.

Senator REED. You figure it would work an injustice if we would base the income tax upon the net increase in surplus during the year—I am not talking of reserves—net increase in surplus, plus the dividends paid, if it is a stock corporation?

Mr. MCALLISTER. Yes.

Senator REED. You think that would be unfair?

Mr. McALLISTER. Yes, I do. I think it would be bad policy. I think the life-insurance companies, above all other corporations, ought to be encouraged to increase their surplus all they can.

Senator REED. And so with banks.

Mr. McALLISTER. Well, I have not studied banks. But the effect of that sort of a tax would be to penalize a company that likes to add up a large surplus and add to it every year.

That is all I have to say. Thank you.

(The memorandum presented by Mr. McAllister is here printed in the record in full, as follows:)

OBJECTIONS OF THE AMERICAN LIFE CONVENTION, AN ORGANIZATION OF LEGAL RESERVE LIFE INSURANCE COMPANIES WITH 135 MEMBERS, DOMICILED IN 35 STATES AND THE DISTRICT OF COLUMBIA

The American Life convention objects to the provisions of (a) (2) section 203 of H. R. 10236 (the pending revenue bill) for the following reasons:

1. It includes and taxes income necessary to maintain policy reserves.
2. It discriminates against policyholders whose policies are on a 3½ per cent and a 4 per cent reserve basis.
3. It imposes an excessive and unfair tax burden on legal reserve life insurance.

PROPOSED AMENDMENT

(a) *General rule.*—In the case of a life insurance company the term "net income" means the gross income less—

(1) * * *

(2) *Reserve funds.*—An amount for the maintenance of policy reserves to be ascertained by computing the percentage of the mean of the reserve funds required by law and held at the beginning and end of the taxable year at a rate one-half of 1 per cent above the rate at which the reserves are maintained, plus (in case of life insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation) 3¼ per cent of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the commissioner find to be necessary for the protection of the holders of such policies only.

I. POLICY RESERVES

(a) A brief explanation of the character and significance of policy reserves will be helpful in considering the objections urged.

Policy reserves are vital in the plan of legal reserve life insurance and their maintenance without depletion or impairment is imperative. The legal reserve system requires that from the inception of the policy, from the very date the obligation is assumed, the accumulation of the fund required to meet the obligation must begin. By policy reserves is meant a special fund set apart and continuously increased and maintained during the life of the policy to meet the policy obligations, and at maturity the reserve must equal the benefits promised in the policy. Policy reserves are determined with mathematical certainty and the amount of the reserve required on any policy of legal reserve life insurance at any time is a fixed, definite sum and is not a matter of discretion, estimate, or speculation. Roughly speaking, the reserve on a life insurance policy is a sum made up of premium payments which, if put at interest on the reserve rate basis at which the policy is carried, will equal the amount payable to the policyholder at any time. Policy reserves can be legally used solely and exclusively for the purpose of meeting the obligations of the policy to the policyholder, and substantial depletion or impairment of the policy reserves inevitably falls on the policyholder.

The rate at which the policy reserves must be annually increased or improved is referred to as the reserve basis and policies are classified accordingly. Practically all legal reserve life insurance is on either 3 per cent, 3½ per cent, or 4 per cent reserve basis.

The excess of actual earnings on reserves over the amount necessary to maintain and improve the reserves is commonly referred to as "free interest" or "free earnings." If a company is on a 3Q per cent reserve basis, and it actually earns on its reserves 5 per cent annually it has what is called "free interest" or "free

earnings," that is earnings over and above the requirements for its reserves, of 1½ per cent.

Printed at the conclusion hereof, is a letter marked "A," addressed to the committee by Hon. Charles D. Livingstone, insurance commissioner of the State of Michigan, and president of the National Convention of Insurance Commissioners, in which he very forcibly directs attention to the importance of policy reserves and their maintenance.

(b) So completely are the policy reserves set apart for the exclusive payment of policy obligations that in effect they are the property of the policyholder and the company is merely the custodian. The actual status is made apparent by the loan and surrender value provisions, available at the option of the policyholder, found in all legal reserve policies. Any charge or burden of any kind imposed on reserves or on income necessary to maintain them is necessarily borne by the policyholder in the reduced value of their policies and would certainly be contrary to sound public policy. Accordingly, it is generally agreed that policy reserves are not taxable, and as it is axiomatic that to tax the income from property is to tax the property itself, it follows that to tax the earnings from policy reserves would be to tax the reserves themselves.

The present law recognizes that income from the reserves necessary to maintain them is not taxable and allows an income deduction to meet reserve requirements. It is true that the amount of the deduction is fixed arbitrarily, and not in accordance with actual reserve requirements, but undoubtedly the deduction is for the sole purpose of avoiding the taxation of income necessary to maintain the reserves.

A deduction from reserve income of less than the amount required to maintain the reserves necessarily imposes the tax on a part of the policy reserve income, which really belongs to the policyholder.

With a flat deduction of 3½ per cent, as provided in the pending bill, it is apparent that the income from a part of all policy reserves carried on the 4 per cent reserve basis are directly subject to the tax, and, as hereafter explained in practical effect, the same is true of policy reserves on the 3½ per cent reserve basis.

II. DISCRIMINATION

It is fundamental in taxation that the burden shall be equitably distributed among tax payers and without discrimination against any. Exact equality between classes is largely a matter of speculation, but discrimination between numbers of the same class can be avoided and can not be justified.

The purpose of the reserve deduction, both in the present law and in the pending bill, is to exclude income required to maintain policy reserves, leaving the "free interest" or "free earnings" as the basis for the tax, but it fails to accomplish that result, as may be clearly demonstrated. If a company with the three classes of policies in force, that is, on the 3 per cent, 3½ per cent, and 4 per cent reserve basis actually earns 5 per cent on its policy reserve funds, the "free interest" or "free earnings" on the reserves held on the 3 per cent reserve basis is 2 per cent, on the reserves held on the 3½ per cent reserve basis is 1½ per cent, and on the reserve held on the 4 per cent is 1 per cent. Or, to state it differently, the "free interest" or "free earnings" on the reserves on policies on the 3 per cent basis is approximately 39.9 per cent of the actual earnings, on the reserves on policies on the 3½ per cent reserve basis the "free interest" or "free earnings" is approximately 30.1 per cent and on the reserves on the policies on the 4 per cent reserve basis, the "free interest" or "free earnings" is 20 per cent of the actual earnings.

With a flat deduction of 3½ per cent as provided in the pending bill 75 per cent of the "free interest" or "free earnings" on policies on the 3 per cent reserve basis will be taxable, 100 per cent of the "free interest" or "free earnings" on policies on the 3½ per cent reserve basis, while 150 per cent of the "free interest" or "free earnings" on the reserves on the policies on the 4 per cent reserve basis will be taxable.

This is not only discriminatory against policyholders whose reserves are on 3½ per cent ad 4 per cent basis, but directly taxes the income from policy reserves held on 4 per cent reserve basis.

It is apparent, therefore, that the present law does, and the pending bill in its present form would, require the payment of a proportionately greater amount of tax on the "free interest" or "free earnings" on reserves on policies on the 3½ per cent and 4 per cent reserve basis than on the "free interest" or "free earnings" on the reserves on policies on the 3 per cent reserve basis. As the tax is measured by the "free interest" or "free earnings," this is clearly discriminatory against policyholders whose policies are on the higher reserve basis. The effect is exactly the same as it would be if the difference was in the rate of the tax, and, of course, any discrimination in the rate of taxation within the class would be purely arbitrary and indefensible.

The following table clearly shows the percentage of "free interest" or "free earnings" which will be subject to the tax under various deductions of income for policy reserves.

Ordinary life policy; amount, $1,000; age at issue, 40; tenth year tax payable under various reserve interest rates and deductions

	3 per cent	3½ per cent	4 per cent
Legal reserve	170.22	160.14	150.70
Net income at assumed rate of 5 per cent thereon	8.51	8.01	7.54
Interest income required to be set aside to maintain legal reserve	5.11	5.60	6.03
Difference representing free interest income	3.40	2.41	1.51
(1) Deduction of 4 per cent of legal reserve:			
Taxable income	1.70	1.60	1.51
Tax at 13½ per cent thereon	.23	.22	.20
Percentage of free income subject to tax	50.0	66.4	100.0
(2) Deduction of 3½ per cent of reserve:			
Taxable income	2.13	2.00	1.89
Tax at 13½ per cent thereon	.29	.27	.26
Percentage of free income subject to tax	62.6	83.0	125.2
(3) Deduction at reserve rate plus one-half of 1 per cent:			
Taxable income	2.55	1.60	.76
Tax at 13½ per cent thereon	.34	.22	.10
Percentage of free income subject to tax	75.0	66.4	50.3
(4) Deduction at reserve rate plus one-fourth of 1 per cent:			
Taxable income	2.98	2.00	1.14
Tax at 13½ per cent thereon	.40	.27	.15
Percentage of free income subject to tax	87.6	83.0	75.5
(5) Deduction of 3½ per cent of legal reserve:			
Taxable income	2.55	2.41	2.27
Tax at 13½ per cent thereon	.34	.33	.31
Percentage of free income subject to tax	75.0	100.0	150.3
(6) Deduction at reserve rate:			
Taxable income	3.40	2.41	1.51
Tax at 13½ per cent thereon	.46	.33	.20
Percentage of free income subject to tax	100.0	100.0	100.0

The purpose being to exclude income required to maintain policy reserves from the tax, to actually accomplish that some deduction in addition to the actual reserve basis must be allowed, because in practice a fund required to be annually improved at a fixed rate can not be invested at the required rate and meet the requirement. Reference is not made to the necessary administration or investment expenses incident to the administration of the funds, but to the fact that as an incident to the investment of funds there will necessarily be some capital losses and some income losses, which must be made up, and that it is impossible to keep the entire fund constantly invested and earning every day in the year. Losses of this character will vary and can not be estimated with a strict degree of accuracy, but it is thought that a deduction of one-half of 1 per cent in addition to the reserve rate would in a large measure cover such losses, and that with such deduction in addition to the reserve rate there will be no appreciable invasion of the policy reserves of any company.

Furthermore the companies very generally credit the policy holder with annual earnings substantially in excess of the actual reserve basis, so that the deduction allowed in the proposed amendment will be much less than is actually passed on to the policyholder.

A careful detailed computation will show that with the reserve deduction determined in accordance with the actual reserve basis, plus one-half of 1 per cent, as provided in the proposed amendment, the three classes of life insurance policies, those on the 3 per cent, 3½ per cent, and 4 per cent reserve basis will be taxed on the same percentage of their "free interest" or "free earnings," and tax payments will be equally and fairly distributed between them.

Various exhibits have been submitted by the representatives of the Life Presidents Association.

One of these exhibits contains various proposals for changing the present deduction of 4 per cent to 3¾ per cent, but it will be noted that an exception is made to that in fixing the deduction for reserve funds held on a higher reserve rate than 3¾ per cent, which can only refer to 4 per cent reserves, the actual legal reserve interest rate 4 per cent shall be substituted for the proposed 3¾ per cent deduction. This exception in the proposal of the Life Presidents Association recognises the contention of the Ameridan Life Convention that the legal reserve rate is the proper basis for fixing the deduction. Life Presidents Association wishes this recommendation to be limited only to 4 per cent policies while American Life Convention contends that it should be recognized for all classes of policies, 4 per cent, 3½ per cent, and 3 per cent alike.

Another exhibit presented by the representatives of the Life Presidents Association discusses the tax exempt interest decision on the suit which was brought by the National Life of Vermont, a company on the 3 per cent interest reserve basis. The Life Presidents Association contends that if the purpose of the Government in reducing the reduction allowed on policy reserves is to recover the loss arising from the National Life case, this can be accomplished by changing the deduction from 4 per cent to 3¾ per cent. This same purpose would be better accomplished if the change is made from 4 per cent to the interest reserve rate, plus one-half of 1 per cent. That would be to 3½ per cent on 3 per cent business and 4 per cent on 3½ per cent business, and 4½ per cent on 4 per cent business, and the larger amount of the recovery would thereby be made from the 3 per cent companies, and valued rightly so, as it is the 3 per cent companies which carry the larger amount of tax exempt securities.

Another exhibit presented by the Life Presidents Association purports to show that the use of a level rate deduction for all companies does not operate in favor of the companies which assume a lower interest rate for valuation purposes. This is directly contrary to the belief of the representatives of the American Life Convention. In this diversity of views lies the only difference among the company representatives. A company which only accumulates its policy reserves at 3 per cent has a greater amount and proportion of "free interest income" available for taxation purposes than a company which guarantees to its policyholders to accumulate the reserves at an interest rate of 3½ per cent or 4 per cent. The use of a level rate of interest credit has in the past unduly favored companies which reserve on the 3 per cent rate.

This discrimination has, during the period of operation of the present law, extending over a period of more than 10 years now, been a continual source of dissatisfaction to member companies of the American Life Convention maintaining reserves on 3½ per cent and 4 per cent. The American Life Convention freely admits that the use of the reserve rate as the basis of exemption will change the established level of the tax burden and will place the greater part of the increase on the 3 per cent companies. It is with that actual object in view that the change is recommended.

For the past 10 years at least, 3 per cent companies have failed to pay their proper proportionate share of taxes and it is because of this unfair distribution in the past that the correction to the equitable basis of the reserve rate will cause an unequal; but not an unfair distribution of the increased tax.

Life Presidents Association presents an exhibit of two model life insurance companies, the reserve of A on a 3 per cent rate and of the other, B on a 3½ per cent rate. This exhibit shows a very substantial increase in the amount of tax that will be paid by the 3 per cent company with no increase on the part of the 3½ per cent companies, if the reserve rate plus one-half of 1 per cent is used for the deduction.

The second table as presented by the Life Presidents Association is intended to show the ratio of tax to net cost in the case of two companies, one reserving on a 3 per cent basis and the other reserving on a 3½ per cent basis, but it will be

noted that both policies are participating, and the dividends according to the 1931 published dividend scale have been taken into account. There is no guarantee that dividends will be paid in accordance with the illustration, but the 3 per cent company guarantees only to accumulate reserves at 3 per cent interest and the 3½ per cent company guarantees to accumulate its reserves at 3½ per cent interest. Again let it be stated 3 per cent companies have the larger "free interest" income, and should properly pay the larger tax.

A fourth exhibit is presented by the Life Presidents Association for the purpose of showing that the use, as the reserve deduction, of the actual interest requirements plus one-half of 1 per cent would inequitably redistribute the tax as between various companies. As has already been stated, it has been the view of the American Life Convention that redistribution of the tax is necessary to remove a discrimination that has existed, ever since the present law became effective, in favor of the companies reserving on a 3 per cent basis, and the increased taxes which the 3 per cent companies would be called upon to pay under such redistribution are only large as compared with the taxes they have paid in the past because these past taxes have represented less than these companies' proper share.

This exhibit shows that 47 companies would have their net taxable income increased. This is the group of companies reserving on the 3 per cent basis and we contend should bear the largest proportion of any increase because of the unfair advantage they have enjoyed in the past at the expense of companies reserving on a higher interest rate.

The 223 companies cited as showing no change in their taxable income are companies which reserve on a 3½ per cent basis, and if the deduction is fixed at the reserve rate, plus one-half per cent these companies will continue to receive a deduction of 4 per cent, the present rate.

The third group of 66 companies mentioned would have their net taxable income reduced. This group can only represent the companies which have business of which reserves are accumulated on the basis of 4 per cent interest rate. The amount of this business is insignificant, and to allow on the whole of this 4 per cent business a deduction equal to the 4 per cent reserve rate, plus one-half of 1 per cent, that is 4½ per cent, as compared with the 4 per cent provision of the present law, would result in a reduction in taxes on this account of something less than $200,000 for all of these 4 per cent companies combined. A somewhat different impression of this situation might be gained from reading of the statement presented by the Life Presidents Association, showing that the 66 companies which each have some 4 per cent business have total admitted assets of over six and a half billion dollars. A very insignificant portion of this total is represented by business on the 4 per cent reserve basis.

Table B of this exhibit shows that 20 companies with an average reserve requirement of less than 3½ per cent would have their taxes increased over two and a quarter million dollars. If the basis of the addition is fixed at their reserve rate, plus one-half of 1 per cent, this two and a quarter million dollars represents the measure of discrimination in favor of the 3 per cent companies which has existed during each of the past 10 years.

That there are 33 companies with average reserve requirements of 3½ per cent or over which on the same conditions would have their taxes reduced by $189,000 is doubtlessly explained by the fact that these are the companies which have a small proportion of their business on the 4 per cent reserve basis.

Table C of this exhibit clearly shows the reason for the greater tax on model 3 per cent company as compared with model 3½ per cent company, though enjoying exactly the same investment income, and incurring exactly the same investment expenses the 3 per cent company guarantees to its policyholders only 3,000,000 in interest reserve accumulations, and is allowed three and a half million as a deduction, whereas, the 3½ per cent company guarantees three and a half million dollars interest accumulation, and is allowed a deduction of 4,000,000. The difference of $500,000 represents the additional amount of interest guaranteed by the 3½ per cent company.

The following computation is based on the illustration submitted by Life Presidents Association of two model life insurance companies "A" and "B," and shows the percentage of "free income" which would be actually taxable at the various percentages of reserve deduction.

	"A"	"B"
Income at 5 per cent on funds	$1,103,692	$1,043,993
Income required to maintain reserves	624,731	689,393
Amount of free income	478,961	354,545
(1) Reserve deduction at 4 per cent:		
Taxable income	$270,717	$256,060
Tax at 13½ per cent	$36,547	$34,568
Percentage of free income subject to tax	56.5	72.2
(2) Reserve deduction at 3¾ per cent:		
Taxable income	$322,778	$306,308
Tax at 13½ per cent	$43,575	$41,316
Percentage of free income subject to tax	67.4	86.1
(3) Reserve deduction at reserve rate plus one-half per cent:		
Taxable income	$374,840	$256,060
Tax at 13½ per cent	$50,603	$34,568
Percentage of free income subject to tax	78.3	72.2
(4) Deduction at reserve rate plus one-fourth per cent:		
Taxable income	$426,900	$305,302
Tax at 13½ per cent	$57,631	$41,216
Percentage of free income subject to tax	89.1	86.1
(5) Deduction at 3½:		
Taxable income	$374,840	$354,545
Tax at 13½ per cent	$50,603	$47,864
Percentage of free income subject to tax	78.3	100.00
(6) Deduction at reserve rate:		
Taxable income	$478,961	$354,545
Tax at 13½ per cent	$64,660	$47,860
Percentage of free income subject to tax	100.00	100.00

Table D shows how the proposed change would work in the case of the New England Mutual and the Provident Mutual, the former a 3 per cent company, and the latter a 3½ per cent company. It is interesting to note from the figures presented that under the present law the taxable income of the 3 per cent company is actually $240,000 less than the taxable income on the 3½ per cent company. Under the present law the two companies combined pay on a taxable income of $3,600,000, and on the proposed change the combined taxable income would be $4,000,000, but the tax is redistributed in an equitable manner, placing the higher tax on the 3 per cent company where it properly belongs. It may be said that there must be some special factors applicable to one or both of these companies, such as a disproportionate amount of tax-exempt securities which result in the distorted figures shown as the taxable income under the proposed change.

Those who favor the continuance of a flat exemption rate for all companies contend that a change to the reserve basis plus one-half of 1 per cent is open to the following objections:

1. It shifts the established level of the tax burden.
2. It adds materially to the difficulty of computing the tax.
3. It fails to produce the required amount of revenue.

It may be freely admitted that the use of the reserve rate as the basis of exemption will change the established level of tax burden. It is with that actual object in view that the change is recommended. The companies reserving on the 3 per cent basis have for the past 10 years at least had an unfair advantage over the 3½ per cent and 4 per cent companies, and have failed to pay their proper proportionate share of tax burden on life-insurance companies. It is because of this unfair distribution in the past that the correction to the equitable basis of the reserve rate will cause an unequal but not an unfair distribution of the increased tax burden.

If the 3 per cent companies had been paying during the past 10 or 12 years their equitable share of the tax they would have been paying very much greater taxes than they actually have paid. These greater taxes that they would have been paying would have little more than offset the loss which the Government suffered from the National Life decision relating to tax-exempt securities, and as these tax-exempt securities were largely held by 3 per cent companies, the loss to the Government would have been recouped largely from the companies responsible for it.

The objection that the use of the reserve rate plus one-half of 1 per cent will add materially to the difficulties of computation has no merit. All companies are required in their reports to the State insurance departments to separate their 3, 3½, and 4 per cent reserves, and the Government requires each company to file with its income-tax return a copy of the statement it files with the State insurance department.

The third objection raised that the use of an exemption based on the reserve rate plus a percentage fails to produce the necessary revenue is also without merit, as the use of the reserve rate itself will produce more revenue than the Government seeks, and this can be modified to a greater or less degree by the addition to the reserve rate of a specified percentage fixed by the needs of the Government, but in no event must the exemption fall below the reserve rate.

III. THE TAX IS EXCESSIVE

The pending bill will seriously affect the business of many of the medium sized and smaller life insurance companies of the Middle West, Southwestern, Southern, and Western parts of the country, their taxes being largely increased, in many instances, three, four, five and even ten fold. This is to some extent due to the fact that their policy reserves are invested largely in real-estate mortgages, with but little or none in tax-exempt securities.

The increase of the general corporate rate from 12 go 13½ per cent represents the extent of the increase of the tax burden on ordinary corporations under the pending bill. The rate applied to life-insurance companies is also increased from 12 to 13½ per cent and is within itself a substantial increase in the amount of income taxes they will be required to pay. In this connection it should be kept in mind that by reason of the different basis upon which the tax against life insurance companies is levied, net profit or net income not being a factor, the taxes paid by life-insurance companies do not fluctuate to the same extent as other corporations. If the tax were on the net-income basis many life-insurance companies paying substantial amounts would, along with hundreds of business corporations, escape the tax entirely, as they would have no taxable income. Life-insurance companies have paid, under the present law, especially in the years 1930 and 1931, much more taxes than they would have paid under the law of 1918, and much more than they would have paid if the basis of the tax had been net income or net profit, as in the case of business corporations generally.

We appreciate the contention of the Government that provision should be made to replace the revenue lost as the result of the National Life decision, but the present bill goes far beyond that. Estimates based on the most complete actual figures obtainable indicate the pending bill would increase the amount of taxes paid by life insurance companies by approximately 125 per cent, while the increase on ordinary business corporations, will be 12½ per cent. From the most reliable figures available, for the year 1931, it is estimated that under the amendment here proposed the tax paid by life insurance companies would be increased approximately 25 per cent over the taxes paid by them in the year 1931. It is submitted that under present business and economic conditions such increase is very substantial and that it more than replaces the loss in revenue resulting from the National Life decisions.

The companies of the American Life Convention are not adverse to paying such equitable additional taxes as the Government considers necessary.

If the general increase in the corporation rate from 12 to 13½ per cent is not adequate for this purpose the American Life Convention will not oppose further taxation derived from a change in the 4 per cent deduction provided due recognition is given in the change to the principle that the deduction must be based on the reserve rate plus a specified addition such as ½ per cent which would make the deduction 3½ per cent for 3 per cent companies, 4 per cent for 3¼ per cent companies, and 4½ per cent for 4 per cent companies.

If this last suggested change is objected to on the grounds that it does not produce enough additional revenue the American Life Convention will not object to a change in the deduction rate from 4 per cent to the reserve rate plus one-fourth of 1 per cent as a temporary expedient in the present emergency. This would make the deduction 3¼ per cent for 3 per cent companies, 3¾ per cent for 3½ per cent companies, and 4¼ per cent for 4 per cent companies. This change will produce fully as much additional revenue as the change in the deduction as set out in the new bill from 4 to 3½ per cent, and has the great merit of recognizing the principle of equality of distribution of the tax among companies.

Respectfully submitted.

AMERICAN LIFE CONVENTION.

"A"

LANSING, MICH., *April 9, 1932.*

To the SENATE FINANCE COMMITTEE:

There is nothing more important to the prosperity of the country at this moment than to maintain the soundness and solvency of the institution of life insurance, one of the principal media of savings for more than 68,000,000 of our citizens.

It is absolutely necessary for life-insurance companies to maintain the integrity of their legal reserves in order to carry out the contracts which they issue. The legal reserve system which requires such reserves is the very foundation of the strength and solvency of the companies.

It is absolutely vital to the public interest that the income from the investment of these reserves should not be taxed in any event beyond the interest earning required to maintain them and in my judgment a margin above the reserving rate on each class of business proportionately should be granted to take care of possible capital losses which might encroach from time to time upon the integrity of the reserves themselves.

Insurance companies can not carry out their contracts unless their reserves remain intact and are increased each year by the interest rate assumed in their calculations.

In my judgment therefore it is of vital interest to the vast multitude of policyholders that the deduction now permitted for interest earnings upon their reserves should not in any event be reduced below the interest rate required to maintain them and in my judgment as an element of safety a margin above such reserving rate should be allowed.

Respectfully,

C. D. LIVINGSTON,
Commissioner of Insurance, State of Michigan,
President National Convention of Insurance Commissioners.

STATEMENT OF M. J. CLEARY, VICE PRESIDENT, NORTHWESTERN MUTUAL LIFE INSURANCE CO., MILWAUKEE, WIS.

Mr. CLEARY. I want to express, also, Senators, our appreciation of this opportunity to be heard.

I think I might urge on you Senators the logic of treating a corporation, the sole business of which is life insurance on a purely mutual basis, on a somewhat more preferential basis than a corporation that is engaged in the general business for gain and profit. However, we, too, are appreciative of the fact that you gentlemen are confronted with the fact of a necessity of finding revenues to meet the Government's needs.

And, together with the other two men who have appeared, and speaking for our company, we are entirely content to go along with the rate that you ultimately determine to apply to corporations generally, whether that be the present 13½ per cent or some other rate.

I should like to make this point, also, that the depression has brought to life insurance some very important problems, problems that are going to continue with us after general business has readjusted itself and found its new road.

The field of investment for the life-insurance company is a prescribed and a limited field.

Senator REED. Except for Canadian companies.

Mr. CLEARY. Well, that is true. I meant the American companies, Senator. Generally speaking, the most liberal provision is a certain amount of preferred stock.

In connection with a point or two I would like to make, I would like to refer, in round figures, to the portfolio of our own company. At the end of the year just closed we had, in round figures, $216,000,000 invested in farm mortgages, 30,000 of them. We had $192,000,000

invested in city mortgages. We had, in round figures, $200,000,000 invested in railroad and utility bonds. And something in excess of $100,000,000 in Federal, State, and municipal securities. That represents about the range permitted to us.

We have already had a measurable number of foreclosures in the farm field. And some losses. Happily, from our viewpoint, the losses are comparatively small. I am sure it is not necessary to urge upon you gentlemen the fact that in that portfolio there are still problems. We will be most fortunate, indeed, if there are not losses of material proportions.

Now, in connection with the point that Senator Reed made when General McAllister was talking, I do not know why, in the 1921 bill, the Congress and those engaged in its drafting determined to eliminate investment gains or capital gains, and capital losses, but the fact is that under the present law we are not permitted to take into account capital losses in determining our tax basis. It is true enough that we are not required to include capital gains. But, again, I feel that it is perfectly clear, restricted to the field of investments that we are, our opportunity for capital gain is relatively small, while, in the light of conditions such as now prevail, our chances of capital losses, the mortgage field and the bond field, is altogether too apparent.

I do not want to go over things that other men have touched upon, but I do wish to again refer to the fact that the tax upon life insurance is stabilized in a degree that no other tax imposed by the Federal or other governments, I think, is stabllized, because of its imposition upon this item of investment income.

Safety and solvency in life insurance is of outstanding importance to the individual, to society, and to the companies as well, of course. Having in mind the condition that confronts life insurance, Mr. Loomis said, in fields of mortaility and investment, as well as in other fields, we believe that it is entirely sound to contend that the margin of safety to-day is none too great. The excess of interest over the 4 per cent allowed as a margin of safety to absorb those losses that may occur and are occurring in capital investment, is none too great.

We believe, further, that the bill as it is before you Senators imposed upon life insurance an unfair—I might say a discriminatory—increase as compared with the great majority of other corporations that are taxed.

Senator REED. What is your company, sir?

Mr. CLEARY. The Northwestern Mutual Life, of Milwaukee.

Senator REED. Would you mind telling us how much refund you got from the Treasury on the basis of the National Life case decision?

Mr. CLEARY. I can not give you the exact figure, Senator, but in the neighborhood of $2,250,000. That was over a period of 2 years.

Senator REED. How much was your tax last year?

Mr. CLEARY. Last year?

Senator REED. Yes.

Mr. CLEARY. $618,000.

In the bill as it stands to-day you are increasing the rate from 12 to 13½, or just 12½ per cent increase.

Senator SHORTRIDGE. What is that?

Mr. CLEARY. The increase of the rate from 12 to 13½ is just 12½ per cent increase.

We believe, in view of the character of the business, and the conditions confronting us, that that increase is all that should be imposed upon life insurance. We believe that to enact the bill as it stands would impose upon life insurance an increase that is out of proportion to the increases that would be imposed upon other corporations. We believe that the bill as it now stands would result in a tax upon life insurance that would be out of proportion to the tax imposed upon other corporations.

On the 1931 business the Northwestern Mutual Life Insurance Co. paid the Government $618,210. If this bill as it now stands were in force we would have paid the Government $1,264,439.

Senator REED. What was your increase in surplus during that period?

Mr. CLEARY. A shrinkage of $3,500,000, Senator. That is not pleasant to admit, but that is a fact.

Senator SHORTRIDGE. That is temporary?

Senator REED. It would not be that much if we placed a tax as we have it here?

Mr. CLEARY. I do not know, Senator.

Senator SHORTRIDGE. That is not permanent; that is temporary, is it not?

Mr. CLEARY. A very material part of that resulted from an adjustment in values, but there seemed to be a reason for the adjustment.

But this bill would have increased our taxes $614,000, or 104½ per cent. We feel that that is an excessive increase to impose upon us. As I said before, the increase in rate alone would result in an increase of 12½ per cent.

Now I want to join the other men in saying that if, in the opinion of Congress, the losses that the Government suffered in the so-called national life decision should be recaptured, we will accept that as having a background of justification.

You do not, however, need to make the radical change that is proposed here from a deduction of 4 per cent of the mean reserve to 3½ per cent; a change of 3½ to 3¾ per cent will more than make the Government whole.

Senator REED. What rate do you use in your own company for calculating your reserve?

Mr. CLEARY. Three per cent. We have a little old business, away back that is, possibly, 4.

If the bill as it now stands were changed only to the extent of substituting a 3¾ deduction for the proposed 3½ deduction and applied to the business of the Northwestern in 1931, instead of $618,000 we would have paid $980,000, in round figures, or 58½ per cent more than we actually paid. It is our view that that is as great an increase as can be justified under the present-day conditions, and to the end that equity, as between ourselves and other corporations, should be done.

Senator SHORTRIDGE. You would have 3¾ instead of 3½?

Mr. CLEARY. Yes. And I would like, also, to join in Mr. Loomis's suggestion that the qualification of covering the company that may perchance be reserving on the basis or higher than 3½ per cent be covered. For instance, a 4 per cent company be permitted to deduct its actual values.

Now, I do not want to argue this, but it was touched on before and it has force. While the tax that is proposed here will be levied

upon the corporate entity, in our case it is actually levied upon the 700,000 men scattered in every State in the Union who own that company. Every dollar of its assets is a trust fund. We hold the legal title, yes; but only that. And of course it is true that the life insurance business, totaling in excess of $100,000,000,000, is owned by more than 60,000,000 people, the vast percentage owning but a small amount.

Now, I want to touch on one point made by Mr. McAllister, representing the taxation committee of the American Life Convention, and that is as to the equity of the basis of the deduction. Regardless of the differences that exist in company plans and methods; regardless of the differences that do exist in the basis upon which reserves are set up; and the differences in the standards of valuation—and I do not attempt to go into that; I am not an actuary, and they are complicated, and time would not permit anyhow—notwithstanding those differences, a level rate of deduction such as that now prevailing, to change 4 per cent available to all companies, does produce a substantial equality and equity in the tax burden levied upon the companies. To change that to permit a deduction of the amount actually required to maintain the reserve plus a percentage—one-half or one-fourth, or some other percentage—would result in inequality of burden; it would result in a shifting from the established level of burden.

Assume that you change to the actual reserve required, plus one-half of one per cent, what would it mean? It would mean that the entire increase in the tax burden would be shifted to a relatively small group of companies. The company that would be operating on a 3½ per cent reserve basis would have exactly the same deduction that it has to-day. The company that would be operating on a reserve basis in excess of 3½ per cent would have a larger deduction than it has to-day. It would be only those companies that are operating on a reserve basis that is the equivalent of less than 3½ per cent who would be burdened with an increase in taxes.

Now the actuaries of the Association of Life Insurance Presidents have made some computations in connection with that. They have assumed, for instance, if that principle were applied, and if the actual reserves plus one-half of 1 per cent was permitted as a deduction, they have made an investigation of 336 out of the 410 legal reserve life insurance companies in the country, and they find these results. Again, let me say that thesse are actuarial compilations. I assume they are accurate. Forty-seven companies out of the 336, with assets of $8,950,000,000 would have their taxes increased. Two hundred and twenty-three companies out of the 336, with assets of $3,300,000,000 would stay where they are under the present law. Sixty-six companies, with assets of $6,590,000,000, and 35 per cent of the assets of the American companies, would have an actual decrease in the amount upon which they would pay taxes, as compared with that existing under the present law.

Senator SHORTRIDGE. Assuming those facts as they are stated to be correct, what would be the result as to Government revenue?

Mr. CLEARY. I have a computation on that, also, Senator, from the actuarial unit connected with the Association of Life Insurance Presidents, the same men who made the previous one. And I find this statement: The amount that would be returned to the Govern-

ment under a 13½ per cent rate with deduction for the required interest plus one-half of 1 per cent, the tax accruing to the Government would be $11,880,000 in round figures. On the other hand, the amount which would accrue to the Government if the rate was 13½ per cent with a 3¾ deduction and 4 per cent wherever the company reporting was using a 4 per cent basis, the amount returned to the Government would be $13,896,000, or, in round figures, $2,000,000 more under the level deduction of 3¾ per cent, with a saving clause to cover the 4 per cent company, than it would be if you used the actual reserve plus one-half of 1 per cent.

Thank you, gentlemen.

LETTER FROM FRED A. HOWLAND, PRESIDENT NATIONAL LIFE INSURANCE CO.

APRIL 20, 1932.

Hon. REED SMOOT,
Chairman United States Senate Committee on Finance,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR SMOOT: Taking advantage of the kind permission granted at our brief interview this morning, I will summarize below as briefly as possible the status of the pending tax measure as relating to the proposed increase in the tax on life insurance companies.

Some 10 years ago, the special provisions of the Federal law taxing life insurance companies were adopted with the understanding that the net income as therein provided furnished a taxable base which in fairness would place the life companies on a parity with other corporations. That taxable base was undisturbed till the decision in the so-called National Life case in 1928 reduced the amount of the base (and, therefore, the amount of the tax) by holding that it was unconstitutional to treat the income from Government, State, and municipal securities as a part thereof.

It is understood that the House bill, now before the Senate committee, which fixed the deduction from gross income at 3½ per cent of the mean reserves, instead of the 4 per cent deduction in the present law, was intended to restore the taxable base of life companies to substantially the same status as it was prior to the decision in the National Life case and again place life companies, as to taxable net income, on a parity with other corporations.

It has developed, however, that this proposed change in the law would much more than make up for the loss of revenue resulting from the National Life decision, and that a 3¾ per cent deduction (instead of the 3½ per cent now in the bill) will more nearly bring the taxable base back to its original status and fairly and equitably allow to life companies the application of the 13½ per cent tax proposed to be levied on other corporations.

There seems to be no serious objection on the part of any of the life companies to a change in the taxable base to make up for the loss of taxes due to the National Life decision, but there is a difference of opinion between the companies of the American Life convention group (practically all of which compute their reserves on a 3½ per cent basis) and the Association of Life Insurance Presidents' group (many of which compute their reserves on a 3 per cent basis) as to the method of determining the new taxable base.

The former group suggests that the rate actually used in determining reserves plus one-half of 1 per cent be utilized in fixing the new taxable base, while the latter group advises that 3¾ per cent of the mean reserves be the amount to be deducted.

The companies in the Association of Life Insurance Presidents' group urge that the 3¾ per cent deduction for all companies is the fairer test because it applies an equal ratio of deduction to all companies. On the other hand, the suggestion of the American Life convention would not increase the taxable net income of the companies figuring their reserves on a 3½ per cent basis, but would require the companies computing their reserves on a 3 per cent basis to pay the additional tax.

This is not only inequitable in itself, but is precisely contrary to the logic of the situation, because the 3 per cent companies are practically all mutual companies, while the 3½ per cent companies of the American Life convention are largely stock companies, and it is the policy of the Federal tax laws to at least

treat mutual companies as considerately as stock organizations. In fact, the Government exempts altogether from taxation under the income tax law mutual savings banks and many other mutual and cooperative organizations.

The 3 per cent mutual life companies do not ask for exemption, but do protest against discrimination against themselves and in favor of the stock companies such as would result from the proposed amendment of the American Life convention companies.

In fact, this discrimination is so obviously unfair, that various stock companies in the presidents' association, and all the 3½ per cent mutual companies in the presidents' association (representing together in volume of business, more than all the companies in the American Life convention group) recognize the equity of, and favor, the 3¾ per cent reserve deduction to determine net income, although it would cost them more than the American Life convention proposal.

To-day it has come to my attention that the American Life convention group has tentatively proposed a new modification which fixes the rate of reserve deduction for all life companies at the rate actually used by each company in computing its reserves, plus one-quarter of 1 per cent.

This would even more discriminate against the 3 per cent companies of the presidents' group, and throw a still heavier burden upon them.

Regretting my limited time in Washington has not permitted me to reduce this letter to briefer form, and appreciating your indulgence in allowing me to submit it, believe me,

With great respect,

FRED A. HOWLAND,
President National Life Insurance Co.

STATEMENT OF HENRY B. FERNALD, MONTCLAIR, N. J., REPRESENTING AMERICAN INSTITUTE OF ACCOUNTANTS

Mr. FERNALD. Mr. Chairman, and gentlemen of the committee, my name is Henry B. Fernald, of Montclair, N. J. I am chairman of the committee on Federal legislation of the American Institute of Accountants, a national organization of professional accountants throughout the country.

In part, from a technical accounting standpoint, and, in part, as we see in our accounting practice the actual working of income tax laws, we urge for your consideration the following:

I shall only summarize the points here and ask your permission to cover them more fully in a brief to be filed.

(The brief referred to appears at the conclusion of Mr. Fernald's testimony.)

CONSOLIDATED RETURNS

Mr. FERNALD. We believe the additional 1½ per cent tax proposed, if consolidated returns are used, is quite unwarranted and should not be imposed.

We believe consolidated returns are the best means of presenting fairly and equitably the true net income of a group of affiliated corporations. Such returns should be encouraged rather than discouraged.

Long before any income-tax legislation, the accountants had adopted the principle of the consolidated statement, as necessary to give a true picture of the affairs of an affiliated group. Taken separately the accounts of individual corporations might show, properly for each, profits or losses from intercompany transactions, which, however, represented no true income or loss to the group as a whole.

Intercompany sales or other transfers may be made, service or other contracts entered into, all quite legal and valid, but which will show gains or losses for the separate corporations which represent no real

gain or loss to the entire group. So in our consolidated statements we eliminate them. There is no more profit or loss to the group from the passage of goods from one corporation to another than there is from the transactions of one branch with another or the same corporation. To show the true facts for the entire group, and to minimize opportunity for evasion and concealment, the consolidated statement was adopted and is generally used in the business and financial world.

In 1917 the American Institute of Accountants urged the adoption of similar consolidated income-tax returns.

For 15 years these provisions have been in effect. Many corporations have never submitted anything but a consolidated return. Others have done it so long that the statement and audit of separate returns will call for practically a new basis from that now established. Great difficulty, confusion, and uncertainty, probably years of disputes and litigation, will result if consolidated returns are now practically discontinued because of an excess tax imposed for their use.

We doubt if there would be any material addition to the revenue, with a distinct probability that, in a period of depression at least, there would be a reduction in the revenue from separate as compared with consolidated returns.

Consolidated returns are not a device to give an affiliated group some special-tax advantage, but represent sound accounting and business procedure. We urge they be continued without any increased rate therefor.

NET LOSSES

We urge continuance of the present net loss provisions.

Each taxable year of a business does not stand by itself unassociated with the results of other years. Business activities overlap from one period to another. There is much artificiality in year-to-year cut-offs, as our income tax laws have long recognized by the "net loss" provision.

Moreover, a business which has been losing money is not in an equal position for payment of taxes with one which has had a consistent record of profits.

We believe, in fairness to the taxpayers, the net loss provisions should be continued for present as well as future years.

TAX ON DIVIDENDS

We believe the bill wrongly departs from our long-established recognition that dividends received by the stockholders have already been subjected to tax as corporate earnings and so should be exempt from normal tax to the stockholder.

The bill would made clear discrimination of 13½ per cent against doing business in corporate form.

A man subject to the 47 per cent individual tax, with the 13½ per cent corporation tax, a total of 60½ per cent tax, would have to receive a 12⅝ per cent business profit to have it equivalent to a 5 per cent tax-exempt bond; or 11⅓ per cent to be equivalent to a 4½ per cent tax-exempt bond.

To make business investments unprofitable by heavy taxes, will naturally limit the amount of such investments and the amount of employment which business enterprises can give the people.

TAX-FREE DISTRIBUTIONS

The bill recognizes the tax-free status to stockholders of distributions from actual paid-in capital of a corporation but fails to recognize distributions from March 1, 1913, surplus or values, which are generally recognized as having a capital status for income-tax purposes.

If we were trying to measure the taxability of distributions to each stockholder by his own investment in the stock and what he had individually paid for an interest in the corporation's earning and distributions, we could well ignore the corporation's basis. But we are not trying to do this, and so long as we use the corporation's basis in determining the taxable status of distributions to stockholders we should use it consistently and recognize the March 1, 1913, basis where it exists.

CREDIT FOR FOREIGN TAXES

We believe the bill does less than justice in its allowance of credit for foreign taxes, because of the drastic formula which it proposes. This is a technical matter which I shall not try here to enlarge upon, but ask your consideration to the discussion in our brief.

SURTAX RATES

We believe the surtax rates of the bill are passing the point of productivity.

A simple example will illustrate this. A man with an income of over $100,000 would be subject to a 47 per cent tax rate. To him a tax-exempt 5 per cent bond gives a net yield equivalent to a taxable bond which yields a 9.4 per cent; or a 4½ per cent tax-exempt is equivalent to a taxable 8½ per cent yield.

A 6 per cent, 20-year taxable bond yields approximately 9.4 per cent if selling at 70, or yields approximately 8.5 per cent if selling at 76.

High surtax rates will certainly tend to retard recovery in our bond markets and make it more difficult for our railroads and industries to obtain the additional funds they may require.

A high income-tax rate may help the market for tax-exempt securities, but only as it passes the point of productivity as a revenue measure and discourages investment in commercial enterprises.

EARNED INCOME

From a personal standpoint, as professional men, we urge that a more substantial allowance for earned income should be made as fair recognition that the professional man in his comparatively few years of substantial return is simply realizing upon his reserves of accumulated thought, energy, and experience, which are practically his capital.

We urge economy in Federal expenditures. We believe in balancing the Budget, but not by what we think are unfair or unsound income-tax provisions.

I have tried to be concise, and have omitted some things I should like to have said, but would ask your further consideration to the brief which, with your permission, we will file.

Senator HARRISON. Let me ask you one question. That is a very fine discussion. But have you figured what the loss of money would be if the changes were made according to your suggestions?

Mr. FERNALD. Most of them would be comparatively small amounts.

Senator HARRISON. In the aggregate, however, it would be quite large?

Mr. FERNALD. Only one is of any considerable size, the normal tax on dividends—that is $89,000,000. The others run, I think, in no case over $8,000,000. I think the other items would not run over $25,000,000 or $30,000,000.

Senator HARRISON. It would go around $139,000,000?

Mr. FERNALD. Somewhere around there.

Senator REED. What alternative do you suggest for that loss?

Mr. FERNALD. I am not trying to suggest an alternative. I am simply trying to say that the income tax is limited in its possible productivity. You can not work a willing horse to death. I think it will have to come from some other source.

(The brief of Mr. Fernald is printed here in full:)

BRIEF OF HENRY B. FERNALD

To the COMMITTEE ON FINANCE OF THE SENATE OF THE UNITED STATES:

The committee on Federal legislation of the American Institute of Accountants, a national organization of professional accountants throughout the country, makes the following presentation to your committee with respect to certain features of the proposed revenue act of 1932 now pending before your committee:

There are certain accounting matters of which we speak from the technical standpoint. There are other matters of which we speak from the standpoint of practicing public accountants who see in a rather wide range of practice the actual working of income tax laws as they affect business affairs and as business matters are reflected in the tax returns submitted.

We urge for your consideration the following:

1. CONSOLIDATED RETURNS

The bill as it stands before your committee contains in section 141 the provision for consolidated returns of corporations, but imposes an added rate of tax of 1½ per cent on consolidated net income if consolidated returns are used. We believe this additional tax is quite unwarranted and should not be imposed.

The American Institute of Accountants has consistently urged the principle of consolidated statements as best adapted fairly and equitably to reflect true net income. Long before the matter was raised through income-tax legislation the accountants had adopted the principle of the consolidated statement.

In 1917 the institute urged the adoption of consolidated income tax returns. In 1928, when it was proposed to eliminate them, the institute joined with others in urging their continuance.

We believe that consolidated returns are proper and should be encouraged rather than discouraged. They are in accord with sound business principles and good accounting practice.

The consolidated balance sheet and consolidated income statement were really forced upon accountants as the best means of giving a true picture of the affairs of a group of related corporations. If we have simply the separate accounts of each member of an affiliated group, we may find that, taking them corporation by corporation, the accounts may, by accident or design, show profits or losses for the separate corporations on intercompany transactions which, however, represent no true income or loss to the affiliated group. Sales or other transfers may be quite legal and appropriately made from one corporation to another at wholly proper prices, with resulting gain or loss computations. Service or other contracts

may be entered into by one corporation with another. There may be no question as to the good faith and business honesty of such transactions, yet they may show gains or losses to the separate corporations which represent no real gain or loss to the entire group.

We do not question that each member of an affiliated group considered as a separate corporation is entirely free to deal with any other member of the affiliated group in a wide range of wholly legitimate transactions which will involve no fraud or wrong to anyone. Without criticizing or objecting to such transactions, we simply say that such items of gain or loss on transactions between individual members of the group must be eliminated in the consolidated statement, so that it will show the true gain or loss of the group in its dealings with outsiders.

There is no more profit to the group from the passage of goods from one corporation to another than there is by the transactions of one branch with another of the same corporation. To show the true facts as to the group as a whole and to minimize the opportunity of evasion and concealment, the consolidated statement was adopted and now has general recognition among accountants, lawyers, bankers, business men, and stockholders.

In the income tax laws from 1917 on, this principle has been incorporated as representing the fair and equitable principle of taxing true income. Such affiliated groups have accordingly been left free so far as the income tax law was concerned to conduct their affairs under such corporate forms as they might wish without having these various subdividions materially affect taxable net income. To such a group it is generally immaterial from an income-tax standpoint whether one corporation shows a loss while another shows a gain. It is not necessary for such a group to make various changes and rearrangements of its affairs which it would certainly do if there were an advantage to be derived from having each corporation show as earnings some income and no corporation operating at a loss unless all corporations in the group were sustaining a loss.

Consolidated Federal income, tax return provisions have now been in effect for 15 years. Great difficulty, confusion, and uncertainty will result if they are now to be practically discontinued because of an excess tax imposed for their use.

Many corporations have never submitted anything other than a consolidated Federal income-tax return. Other corporations have so long had their Federal income-tax returns stated and audited on a consolidated basis, eliminating intercompany transactions, that the statement and audit of separate returns will call for practically a new basis from that to which they have been accustomed. It may take years to straighten out the disputes and litigation which would result.

Under the present provisions relating to consolidated returns there has developed greater simplicity than in prior acts. Many of the controversies have been settled and the complications eliminated so that at the present date the preparation and auditing of consolidated returns is not a very difficult matter.

One point is certain, and that is that none of the difficulties regarding consolidated returns which may exist in the future will compare with the difficulties which would result from trying now to unscramble the affairs of corporations which for years have been making their consolidated returns.

As to the revenues, we doubt if there would be any material addition to the revenue, with a distinct probability that, in this period of depression at least, there would be a substantial reduction in the revenue from separate returns as compared with that from consolidated returns. Statistics of the results shown by consolidated returns will not be reliable because the very principle of the consolidated return is to make unimportant the question of whether there may be losses in one corporation at the same time that there are profits in another so long as the true income of the consolidated group is reported. If consolidated returns are penalized it will be to the interests of such groups to equalize the income of their respective separate members. As already stated, there are wholly legitimate, proper, and valid means by which this may, to a large extent, be done.

We believe that any gain which might arise from the corporations that might pay additional taxes on account of consolidated returns would be more than offset by the reductions which could be made by others who under separate returns could do what would not be permissible under consolidated returns.

The accountants of the country have consistently urged the consolidated-return principle which has also been urged by the Bar Association, the Chamber of Commerce and others. The principle of consolidated statements is in general use

in business. It is not a device intended to give to affiliated groups some particular tax advantage. We urge that it be continued without any increased tax rate therefor.

2. NET LOSSES

The pending revenue bill continues in section 117 the provision for the deduction of a business net loss of one year in the next or subsequent year, excepting that the right to this deduction is limited to one year instead of two years as in existing law and that no such deduction is to be allowed in computing income for the years 1932, 1933, and 1934.

The net loss provision is recognition that each taxable year of a business does not stand entirely by itself unassociated with the results of other years. We, as accountants, well recognize the difficulty of trying to determine the exact income of a particular period. There is a continual overlapping from one period to another of business transactions and business activities. The only reason why business men are in many cases continuing their operations to-day, standing their expenses and accepting their losses, is for the future benefits which they believe will be given by the continuity of the business. We fully recognize that for income-tax administration it is necessary to adopt fixed periods for determination of net income realized, but business men know and our income tax laws have long recognized that there is much artificiality in these cut-offs from year to year.

The business which can show a consistent record of profits from one year to another can well pay a fair tax on each year's results as determined. The business which has been losing money for one year or two years is far from being in an equal position as to the payment of taxes. In effect, because of overlapping transactions, the elimination of the net loss provision will mean that a business which can less afford to pay a tax will actually be paying at a higher rate than one which is prosperous and stable.

Under the existing law it is not important to strive for meticulous accuracy in the computation of business income. A statement of business income at best represents many features of estimate to be determined by opinion and judgment. The matter is not serious if a loss shown for one year may be carried forward and applied as against income of another. These matters may, however, become subjects of serious disputes and difficulties between taxpayers and the Treasury, if this provision is changed, so that each year must stand wholly separate from any other year.

We believe, in fairness to the taxpayers, this net loss provision should be continued.

3. TAX ON DIVIDENDS

Section 25(a) of the pending bill would make dividends for the taxable years 1932 and 1933 subject to the normal tax. This is directly contrary to the policy of all our prior income tax laws.

Originally, under the 1913 and 1916 acts, dividends carried to the stockholders exemptions equal to the full rate of the corporate tax which had been paid. During the war years and the postwar years as the tax rates of corporations and of individuals were from time to time changed the full exemption has not been maintained. Nevertheless, all of these laws recognized the principle that since dividends were paid from earnings on which the corporate tax had already been paid, an allowance should be made to the stockholder accordingly. The present bill continues to recognize this principle excepting only for the years 1932 and 1933.

We believe, in fact, that dividends when distributed to the stockholders should carry to him the exemption for the full amount of tax which has been paid by the corporation. We do not, however, urge at this time an attempt to restore this principle fully, but we do believe it is unfair to eliminate the recognition of this principle because this would be a clear case of double taxation. It makes a clear discrimination of 13½ per cent against doing business in corporate form. It will tend to discourage investments in stocks. It will decrease the value of stock investments and it will discourage the doing of business in corporate form.

What this will mean is readily seen if we note that the bill proposes a 40 per cent surtax and a 7 per cent normal tax on individual incomes of over $100,000. Adding to this a 13½ per cent tax will make a total tax of 60½ per cent to be paid on business incomes earned by a corporation and distributed to stockholders if their incomes are over $100,000. This means that such business incomes would have to amount to 12.658 per cent on the investment in order that after

tax they might be equivalent to the yield of a 5 per cent tax-exempt bond; or they would have to amount to 11.392 per cent to be equivalent to a 4.5 per cent tax-exempt bond.

A tax on income may not be an item which is directly included in the cost of goods sold or services rendered, but certainly it is an item which directly affects the capital which will be invested in business enterprise. If business investments are made unprofitable by heavy taxes, this will naturally limit the amount of such investments and the amount of employment which business enterprises can give to the people.

Not merely is it right in theory that business investments should yield fair and reasonable returns without attempt to impair or recapture these by heavy taxation, but it is moreover a practical necessity that business investments must continue to be attractive and productive if we are to expect a return of prosperity and a recovery of business.

4. TAX-FREE DISTRIBUTIONS

The income tax laws since 1916 have adopted the principle that the taxable status of distributions to stockholders should be determined by the fact of whether or not such distributions were out of corporate earnings accumulated since March 1, 1913. Any distributions which were made out of the actual capital of a corporation or which were made out of March 1, 1913, surplus or values (which for income tax purposes are generally recognized as having a capital status) were not considered as taxable dividends to the stockholders, but rather they are to be taken into account as reducing the basis for computing gain or loss on the sale or other disposition of the stock.

It is, of course, recognized that to each stockholder his capital investment is what he has paid for his stock, but it would be impracticable to try to measure whether or not each distribution made was or was not a return to each stockholder of a part of his own particular investment in that corporation. The law has, accordingly, adopted as an accounting basis the capital status in the corporation as determinative of the tax status of the distributions to the stockholders.

It is quite possible that the capital basis of its assets to a corporation may only be equivalent at any date to $50 a share for the stockholder. When a stockholder pays $50 for his stock he will have the same capital basis for his stock as the corporation has for its assets. However, the stockholder who pays $100 for his stock at a subsequent date, while the corporate basis still remains fixed at the equivalent of $50 a share has a capital investment which is twice that of the corporation.

We grant that it is impracticable to try to figure the separate capital basis of each individual stockholder in measuring the status of distributions, but the least justice that can be done is to allow to such a stockholder whatever benefit may come from the adoption of the corporation basis.

The bill continues to recognize this fact as to distributions from actual capital of the corporation. It fails, however, to give such recognition to the surplus or values which existed at March 1, 1913, which have their quasi capital status.

Some question may be raised as to why corporations have not after all these years fully distributed all March 1, 1913, surplus or values. The reason is found in the law which prohibits such distributions until after all subsequent earnings have been distributed. There is no question that if it were not for this provision of the law, practically all such March 1, 1913, surplus and values would long since have been distributed in the form of free tax distributions. The law itself has prevented doing this.

As an accounting matter it is certainly sound and equitable that where a corporate basis is adopted as a standard for determining the taxable status of distributions such basis should be consistently followed, including the recognition of the nontaxable status of accumulations or values prior to March 1, 1913.

5. CREDIT FOR FOREIGN TAXES

The bill in section 131 continues the allowance for credit for foreign taxes which we believe should be continued, but it imposes certain technical limitations which, to some extent at least, we believe to be quite unwarranted. Commerce among the nations may represent business conducted in part in one country, perhaps in part in another, and perhaps with ownership and management in a third. If each country in which the business is conducted, owned, or managed,

endeavors to levy the maximum possible tax on the entire income derived from this international business, there will be international double taxation or even treble or quadruple taxation which would mean the breakdown of international business and commerce.

This question of international double taxation is one to which a committee of the American Institute of Accountants has been long devoting its study in cooperation with other committees and organizations who are studying it and endeavoring to find the best practical solution. We must recognize the right of each country to impose income taxes upon incomes earned within its boundaries. Our own country imposes such a tax on all incomes of foreign individuals, partnerships, or corporations derived from sources within the United States. The United States also asserts its right to tax all incomes received by its citizens or residents even though they are derived from sources without the United States. We have, however, under our revenue acts for some years been giving a certain recognition to the principle of avoidance of international double taxation by our allowances of the credit for foreign taxes. This has never gone as far as some of us have felt it should go, but it has been distinctly a step in the right direction and was intended to work fair justice.

A formula was written into the law intended to prevent, and which reasonably did prevent, the deduction of foreign taxes at rates higher than the income tax imposed by our Government. There has been some criticism of this formula on the ground that under certain conditions it might work out so as to make the net tax collectible by the United States somewhat less than the full tax rate on that part of the income of the corporation which was derived from sources within the United States. Perhaps there was reason for amendment of the wording of the law in that particular and the bill makes such amendment in section 131 as to insure that the total credit for foreign taxes will not reduce the tax payable on the taxpayer's income derived from sources within the United States. We do not criticize this feature of the bill as expressed in section 131 (b) (2).

We believe, however, that an injustice is done in applying a further limitation in section 131 (b) (1) which would make a separate limitation to be applied as to the credit in respect of the tax which may be paid to each separate country in which a taxpayer may be doing business.

Take, for example, (A) the case of a corporation having $100,000 income from sources within the United States and $100,000 of income from a foreign country which imposes a 20 per cent rate of tax. The formula of section 131 (b) (2) would provide that credit may not be taken for more than $13,500 (of the $20,000 paid to the foreign country) so that the net tax payable to the United States should not be less than the 13½ per cent on the $100,000 income from sources within the United States. This seems not unreasonable.

Next take example (B) of a corporation having $100,000 income from sources within the United States, $100,000 of income from a foreign country imposing a 20 per cent rate, and $100,000 of income from a foreign country imposing a 7 per cent rate—the foreign taxes it will be required to pay will be $27,000, an average of 13½ per cent on its foreign income. It might receive credit for the full amount of these foreign taxes it has paid and still not reduce its tax payable to the United States below 13½ per cent on its income from sources within this country. It could then, under the limitation of section 131 (b) (2), receive this full credit.

The bill, however, would impose the further limitation of section 131 (b) (1) which, applied country by country, would work out as follows:

On the $100,000 income on which a 20 per cent foreign tax was paid, the credit allowable would only be $13,500. On the $100,000 income on which the 7 per cent foreign tax was paid the credit allowable would only be $7,000. This would make a total credit of $20,500: In figuring the total tax on $300,000 of income at 13½ per cent, making a total of $40,500, credit would be given of $20,500, leaving a tax to be paid to the United States of $20,000. This would be $6,500 more than the amount of a 13½ per cent tax on its income from sources within the United States. This amount of $6,500 additional taxes to the United States would result from denying to the taxpayer credit for $6,500 foreign taxes actually paid by it.

We do not criticize the formula of section 131 (b) (2) intended to provide that the foreign tax credit should not be allowed to reduce the tax on incomes derived from sources within the United States. Our criticism is directed particularly against what seems the wholly unnecessary and unwarranted limitation of section 131 (b) (1) which may result in the United States collecting more than

the amount of tax on incomes earned within this country because by a segregation of payments it would deny credit for foreign taxes which have actually been paid.

We believe that fairness and every requirement for safeguarding the revenues will be met by the limitation of section 131 (b) (2) and that the separate limitation of section 131 (b) (1) should be eliminated from the bill.

6. SURTAX RATES

The surtax rates proposed in the bill are very high. We believe they are passing the point of productivity.

A simple example will illustrate this. The bill proposes in Section 12, a surtax rate of 40 per cent on net incomes in excess of $100,000, which with the 7 per cent normal tax of Section 11 will make a total tax of 47 per cent. For a man subject to this 47 per cent tax, a tax-exempt 5 per cent bond will give a net yield equivalent to that of a taxable bond which yields 9.434 per cent. A 4½ per cent tax-exempt bond becomes equivalent to a taxable 8.49 per cent yield.

A 6 per cent 20-year taxable bond will yield approximately 9.4 per cent if it is selling at 70, or it will yield approximately 8.5 per cent if it is selling for 76.

Different rates of interest and different maturities would naturally give different prices, but the fact still stands that a 47 per cent income tax will mean a very much higher interest rate or a very much lower price for taxable than for tax-exempt bonds.

It is perfectly true that the bond market is not wholly confined to the individuals with large incomes, but nevertheless they constitute a very important factor, and much of our business recovery depends directly on obtaining a reasonable bond market for industrial and railroad securities. If our tax laws practically eliminate all persons of large incomes as investors in industrial and railroad bonds at reasonable rates of interest or reasonable prices, we can hardly hope for any very satisfactory market for such securities.

Even for a $50,000 income, for which the normal and surtax rate would aggregate 28 per cent, a 5 per cent tax-exempt bond becomes equivalent to practically a 7 per cent taxable yield.

Certainly we can not expect that any man free to pick and choose his investments to his best advantage will select taxable securities which will yield him net after payment of the tax less than the yield obtainable from tax-exempt securities of equal grade. A high tax rate certainly gives every inducement to those of large incomes to withdraw from the taxpaying class and place their investments in tax-exempt securities. A high tax rate such as that proposed in this Bill will certainly tend to retard recovery in our bond markets. It will make a much more difficult proposition for the railroads and industries to obtain the additional funds they may require and, to a substantial extent at least, it will pass the point of productivity as a tax measure.

The effect of these high income tax rates is readily seen in the case of bonds, but they will likewise have their effect on other sources of taxable income. An investment in construction of new buildings must be measured no less from the standard of net yield after allowing for payment of the income tax as compared with the yield which might be obtained from tax-exempt securities.

Undoubtedly a high income tax rate will tend to help the market for tax-exempt securities, but it will do this as it passes the point of productivity as a revenue measure and as it discourages investment in commercial enterprises.

7. EARNED INCOME

This is a matter on which we speak from the standpoint of professional men who are directly affected by this.

The professional man usually spends many years of work, thought, and study before he reaches his best earning power. During the early years of professional life his income is usually not large. Later he may reach a comparatively few years of maximum return when he realizes on the reserves of accumulated thought, energy, and experience. We grant that it is quite impossible for him to express in figures year by year the possible allowance for his wasting of himself. Yet we generally recognize that such professional earnings are not the same as the income derived from interest on capital, where the income leaves the capital unimpaired.

The principle that earned income should be taxed at a less rate than other income has been recognized for several years and the present bill allows a credit

on account of earned income. We believe, however, that the present law has reduced the credit to an amount that is negligible and we, as professional men, personally believe that a more substantial allowance should be made.

We are entirely in accord with the policy of balancing the Federal Budget but we can not subscribe to changes in the law and provisions which we believe violate the fundamental principles of income taxation which have been developed over a period of many years.

We believe that there is a limit to the revenue which income taxes can produce and, if rates are arbitrarily increased and unsound and unscientific provisions enacted, that there will not be a material increase in revenue but that in many cases these provisions will have the effect of seriously handicapping business operations with a resulting loss in income tax revenue.

Respectfully submitted.

WILLIAM R. MAIN,
LEON E. WILLIAMS,
HENRY B. FERNALD, *Chairman.*

Federal Legislation Committee American Institute of Accountants.

APRIL 20, 1932.

ESTATE TAXES

LETTER FROM FRANKLIN W. JOHNSON

UNITED STATES SENATE, *April 7, 1932.*

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

MY DEAR SENATOR SMOOT: I inclose a letter which I have received from President Johnson of Colby College, Waterville, Me., in regard to section 807 of the revenue bill. I wish you would have the committee look into the matter carefully and see if there is merit in his contention.

Sincerely yours,

FREDERICK HALE.

COLBY COLLEGE,
Waterville, Me., April 4, 1932.

Hon. FREDERICK HALE,
United States Senate, Washington, D. C.

MY DEAR SENATOR HALE: My attention has been called to section 807 of the revenue bill (H. R. 10236) reading as follows:

"Section 303 (a) (3) and 303 (b) (3) of the revenue act of 1926 are amended by inserting after the first sentence of each a new sentence to read as follows:

" 'If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes.' "

A highly qualified legal expert has said that in a concrete instance the bill will operate in the following manner:

"Suppose a will contains but two bequests, a gift of $500,000 to the testator's widow and a gift of the residue of the estate to your college. Suppose after payment of debts, the estate consists of $750,000. Were no taxes payable, the gift to your college would be $250,000. Under the law as it now reads, this amount is deductible from the gross estate as a gift to charity, leaving a taxable net estate of $500,000. If the tax rate on an estate of this size is 10 per cent, there is payable a tax of $50,000. Now, unless the will otherwise directs, the estate tax is payable out of the residuary bequest. Consequently here the executors, having $750,000 in their hands, will pay $500,000 to the widow, $50,000 to the Federal Government, and the residue ($200,000) to your college. Thus, notwithstanding the fact that only the net estate is taxed and that the gift to your college was deducted from the gross estate in ascertaining the net estate, the gift to your college has been reduced by reason of the fact that taxes are payable on the estate.

"The proposed change in the law makes deductible from the gross estate as a gift to charity the sum which the charity will actually get after the payment of taxes rather than the larger sum which the charity would get were there no taxes payable. To compute this amount in the case put above would require the use of a very complicated formula. At any rate it is clear that with a smaller deduction, the net estate will be larger; this will mean a larger tax; the tax being payable out of the residuary bequest, the final result is that your college will get less than it would get under the present law. In the above case, the tax under the proposed statute would be more than $55,000, so that your college would get less than $195,000.

"There are many situations other than that which I have used as an illustration (a residuary bequest to charity with the Federal estate tax payable out of it) where inheritance taxes (State or Federal) are payable out of a gift to charity

with a consequent reduction of the amount payable to the charity below that which would have been payable had no taxes been imposed. The proposed amendment to the Federal estate tax law is phrased broadly enough to cover all of these situations and would make the reduction greater in each case."

With full understanding of the difficulty which confronts Congress in securing a balanced Budget, I wish to express the hope that this may be done without enacting laws which will tend to diminish the support of our colleges. I will appreciate anything that you may do to prevent this.

Yours very truly,

FRANKLIN W. JOHNSON.

STATEMENT OF HENRY P. VELTE, NO. 43 CEDAR STREET, NEW YORK CITY

Mr. VELTE. Gentlemen of the committee, I appear before the committee with reference to section 811, in regard to the revaluation of estates.

Senator REED. Section 811?

Mr. VELTE. Yes, sir.

Senator HARRISON. Page 298 of our print.

Mr. VELTE. Now this section provides in the case of the death of a decedent who died on or after September 1, 1928, and before January 1, 1932, that at the election of the executor of any estate affected, he may petition the Commissioner of Internal Revenue. I take it it means to have the value of the estate revalued, to take effect as of the period of 18 months from the date of the death of the decedent.

This section is very broad, but I do not think it is broad enough to cover a particular case which I have in mind.

I represented the estate of Lysander W. Lawrence, and we filed our tax return and the estate was assessed at a valuation of something like $4,500,000.

Senator REED. You were counsel for the estate?

Mr. VELTE. Yes, sir.

Senator CONNALLY. When did he die?

Mr. VELTE. He died July 18, 1929.

Subsequently, after filing our return a compromise was effected with the Commissioner of Internal Revenue by which there was a reduction along the whole line of securities, of about 10 per cent, and we were then asked to enter into an agreement with the Commissioner of Internal Revenue, in writing, in which it was stated—

that said taxpayer and said Commissioner of Internal Revenue hereby mutually agree that the said tax of said $——— shall be final and conclusive.

Under this present section as proposed, we might be barred from taking advantage of this new law, and not be able to go before the Commissioner of Internal Revenue and have our securities revalued.

Senator SHORTRIDGE. You did enter into that agreement, did you?

Mr. VELTE. We entered into that agreement, yes; at that time under the assumption that the law which was then in effect and is now in effect would remain that way. Had we had any inkling of Congress forbidding us at some subsequent date to revalue our securities, we certainly should not have entered into any compromise; and if the present section is enacted into law as it is proposed here, why, we will probably be barred and suffer a penalty, whereas other people who have not paid their taxes and simply waited, or else paid their taxes and had

some provision in the receipt that they paid it under protest, will be able to have a revaluation.

What I come down here for is to ask if the committee in its good judgment would insert some provision in this section 811 permitting those estates which have compromised the amount of taxes to nevertheless come in with the others and have a revaluation made.

Senator HARRISON. What about those estates that have not compromised it, but have paid the taxes?

Mr. VELTE. I assume under this present section they would be able to come in anyway.

Senator HARRISON. It is only in those cases where you have entered into a complete understanding with the commissioner that you think you would be left out?

Mr. VELTE. Yes; but that complete understanding was based on the law being on the statute books at that time.

Senator CONNALLY. Well, have you figured as to whether or not under this 60 per cent clause here, you would be benefited by the new provision? You got a reduction of how much?

Mr. VELTE. About 10 per cent.

Senator CONNALLY. About 10 per cent?

Mr. VELTE. Yes, sir. But I have not figured what it would be under this clause.

Senator REED. You are exactly in the same position as the man who settles his taxes, either by agreement or under protest, and then the Supreme Court comew along a week or two later and decides that his liability is not a liability.

Mr. VELTE. Yes; but if you please, we settled this thing on the theory that this law would not be changed or made retroactive.

Senator REED. Surely.

Mr. VELTE. Now bringing in a new law——

Senator REED (interposing). You are like all the people who have settled their taxes and then discovered, under a ruling of the Supreme Court, that they need not have paid so much. It is the same thing, is it not?

Mr. VELTE. I do not think so.

Senator REED. The subsequent law has changed by this happening. Now should we allow all the people who have paid before the decision of the court to get the benefit of the decision to which they were not parties?

Mr. VELTE. I know, but, on the other hand, if we went forward and paid our taxes, even though there was no agreement, why, should those who paid the taxes be permitted to come in, and those who unfortunately made an agreement with the Commissioner of Internal Revenue be barred?

Senator REED. Yes, but suppose subsequent events had happened to increase the taxes that had not been paid, you would certainly assert your compromise and say the Government could not make any further claim on you.

Senator SHORTRIDGE. Could he?

Senator REED. Surely.

Senator SHORTRIDGE. Could he rely on the agreement with the Government?

Mr. VELTE. I think we could.

Senator SHORTRIDGE. I am asking the question.

Senator REED. In other words, the settlement is binding on the Government, but not on you if we afterwards change the law so that it would benefit you.

Tell me, Mr. Velte, how much tax did you pay?

Mr. VELTE. We paid three hundred and forty thousand odd dollars. I have a copy of the compromise agreement here.

Senator REED. That is close enough. Has distribution been made of the remaining assets of the estate?

Mr. VELTE. It is a trust estate. We have not distributed the remaining assets.

Senator REED. The trustee was an executor?

Mr. VELTE. Yes, sir.

Senator REED. What was the value of the residue of the estate at the time it was turned over to the trustee?

Mr. VELTE. At the death——

Senator REED (interposing). No; at the time of the distribution of it.

Mr. VELTE. Well, the trustees immediately went into possession of the assets jointly with the executors. There has not been any actual physical transfer from the executors over to the trustees, because, as I said before, it is a trust estate, and the executors and trustees are bound to hold the assets of the estate until a certain party arrives at a certain age.

Senator REED. The executors are the trustees?

Mr. VELTE. Yes, sir.

Senator REED. What is the present value of the estate?

Mr. VELTE. The present value of the estate is about, roughly, $1,500,000.

Senator REED. Roughly, you have paid a tax of 16 or 17 per cent?

Mr. VELTE. More than that.

Senator SHORTRIDGE. As of the time of the death?

Mr. VELTE. Yes.

Senator SHORTRIDGE. The estate was valued at what?

Mr. VELTE. About $4,100,000.

Senator SHORTRIDGE. But by your compromise you reduced it to what?

Mr. VELTE. About 10 per cent, in round figures.

Senator CONNALLY. You realize, of course, that this bill will increase the tax on the estates of people who die after its enactment and probably tax them more heavily than you have already paid.

Mr. VELTE. That might be, but I claim we should be put in the same position as any other estates that have either paid their taxes or have not paid them. It would be in the nature of a penalty for us to have to suffer, thinking at the time we made the compromise that that law would remain in effect. Of course, at that time I raised the question, and I was told there would not be any change in the law, and we did not have to put in any clause which would protect us, therefore, I move for a revaluation, because they assured us practically, that there would not be any change in the law.

Senator SHORTRIDGE. How would you be affected by this proposed change in the law?

Senator REED. He would not be affected; he wants to be affected.

Mr. VELTE. We might be affected this way: That the law as it is proposed now would reduce the value of our estate beyond the amount at which we compromised.

Senator SHORTRIDGE. I thought you said you might rely on the compromise with the Government to prevent that. I understood you to say—I do not want to argue the matter—but I understood you to say that you might rely upon this agreement entered into with the Government.

Senator REED. He did rely on it, but now he wants us to open it up and let him have the benefit of this further reduction.

I think we have got your point, Mr. Velte.

Senator SHORTRIDGE. Have you got it in short form there?

Mr. VELTE. Yes, sir.

Senator SHORTRIDGE. You might file that for the record.

Senator HARRISON. It is your opinion, then, that if the law can not be changed to meet your case, that the whole thing should be stricken out?

Mr. VELTE. No, sir; I do not claim that, but I think we should have as much right as those people who have not paid their tax, or have paid it.

Senator HARRISON. I think there is a good deal of point in what you say.

Senator SHORTRIDGE. Yes.

Senator REED. We are not deciding it now.

If you have a brief, you may leave it with the shorthand reporter for the record.

Mr. VELTE. Thank you.

(The brief filed by Mr. Velte is printed in full, as follows:)

MEMORANDUM OF HENRY P. VELTE, OF NEW YORK CITY, IN REFERENCE TO SECTION 811, REVALUATION OF DEPRECIATED ESTATES—RETROACTIVE

Annexed is a copy of the proposed section 811 in regard to the revaluation of depreciated estates. This section is expressly made retroactive. This section refers to the estates of decedents who died on or after September 1, 1928, and prior to January 1, 1932, and gives to the executor the election to have the gross estate and the net estate computed based upon values as of the dates of 18 months after the decedent's death. It further provides that such election is to be exercised by the filing of a statement under oath "which shall set forth all the necessary information and shall be filed not later than one year after the date of the enactment of the revenue act of 1932." It is to be noted that the section is very general and it might be argued that it applies likewise to estates where a compromise was entered into between the representative of the estate and the Commissioner of Internal Revenue. However, this undoubtedly is not the intention of the legislators, since a compromise agreement signed both by the estate and the Commissioner of Internal Revenue provides "that said taxpayer and said Commissioner of Internal Revenue hereby mutually agree that the said tax of $——— * * * shall be final and conclusive * * *." Therefore in order that estates in which a compromise agreement has been signed may benefit by this proposed section 811 a specific reference should be made to such estates in this section.

That estates in which a compromise agreement was signed should also be entitled to the benefit of this revaluation is undisputable. The representative of such an estate entered into an agreement of compromise having only before him the law as it then existed and only by reason of that law did he enter into the compromise agreement fixing the valuation of the securities. To now prevent him from receiving the benefit of the provisions of the new section would be decidedly unjust and would constitute preferring those estates where no compromise had been attempted or effected. Certainly the Senate should not countenance the enactment of the section as now drawn.

STATEMENT OF PAUL B. BARRINGER, NEW YORK CITY

Senator REED (presiding). Your name and address first, Mr. Barringer?

Mr. BARRINGER. Paul B. Barringer, jr., 15 Broad Street, New York.

I would like to speak, gentlemen, on behalf of the same amendment as the gentleman who has last spoken.

We represent the estate of the late John F. Archbold, of New York, who died on January 5, 1930, and in the regular course, after audit, and so forth, we signed a closing agreement with the Federal Government, I think, in November last.

Senator REED. How much reduction did you effect under the value at the date of the death?

Mr. BARRINGER. The maximum difference between our figures and our return and what the Government had ever at any time asked for, I think was less than 4 per cent. The adjusted figures, as I have figured it roughly—I was just doing it while you were talking here—was 2 per cent. In other words, the adjustment was approximately 2 per cent.

Senator REED. That is, the value of the estate was 2 per cent less, or the tax was 2-per cent less?

Mr. BARRINGER. The value of the estate was approximately 2 per cent less.

Senator REED. How much tax did you pay?

Mr. BARRINGER. We paid slightly over $2,000,000.

Senator REED. What is the present value of the revenue of the estate?

Mr. BARRINGER. The present value of the revenue of the estate, down to the last figures I have, were from February 29, Senator Reed, and they are much off to-day.

Senator REED. We have noticed that.

Mr. BARRINGER. The gross estate at the date of death was $15,000,000, and the value as of February 29 was $4,500,000.

Senator CONNALLY. Had you distributed any of it?

Mr. BARRINGER. We sold and transferred—I am glad you brought that to my attention, sir. The gross value of the estate was $15,000,000. We have sold and transferred $1,800,000, so we have not checked up the value to date on that. The value of what we have sold and transferred and the value on hand to-day is $6,600,000. And the stocks that are now on hand, which comprised the bulk of the estate, their value at time of death was $13,200,000, and that value to-day is $4,500,000. On the stocks we have a depreciation of 65.28 per cent.

Senator REED. So that the tax that you paid represents slightly less than 25 per cent, based on present values, or values at February 29.

Mr. BARRINGER. No, sir; our values on February 29—what we have on hand is $4,500,000, and we paid upward of $2,000,000, or nearly 50 per cent.

Senator REED. Oh, yes; but you transferred $1,800,000.

Mr. BARRINGER. We transferred $1,800,000, and what we realize on is $6,600,000.

Senator REED. Now add to that your tax, and that is $8,600,000.

Mr. BARRINGER. Oh, no, sir; that is not after deducting the tax.

Senator REED. The $6,600,000 is before deducting the tax, you say?

Mr. BARRINGER. Yes, sir.
Senator REED. So that you paid $2,000,000 out of $6,600,000.
Mr. BARRINGER. Yes, sir.
Senator REED. Is that a correct statement?
Mr. BARRINGER. Yes, sir.
Senator REED. That makes your tax around 30 per cent.
Mr. BARRINGER. 30 per cent—the tax would be around 35 per cent, or thirty-odd per cent.
Senator REED. And yet if Mr. Archbold were to die after the passage of this act, the tax would be even higher on an estate of $6,600,000.
Mr. BARRINGER. I was under the impression that we paid more than we would pay on to-day's taxes.
Senator CONNALLY. Senator Reed, I was going to suggest, would this gentleman be willing that this reappraisement come under the terms of this bill?
Mr. BARRINGER. I think we would.
Senator CONNALLY. I think that would be fair; if they are willing to take the rates in this bill, we are willing to give them the shrinkage.
Mr. BARRINGER. I think our taxes would be less.
Senator REED. You would pay about $700,000 on the rates stated in the House bill.
Mr. BARRINGER. That is on the gross estate?
Senator REED. On the net estate of $6,600,000.
Mr. BARRINGER. Of course, you realize that a good many of those are stocks that have sold—of course, we can not complain—but stock that were turned over at a much higher price than they are to-day.
Senator REED. Surely, you do not want us to compensate you for anybody else's loss?
Mr. BARRINGER. No; I do not.
Senator SHORTRIDGE. Well, what is your point?
Mr. BARRINGER. Well, we are requesting that this law be amended to include in the provisions of this section estates which have settled their liability under a closing agreement under the 1928 act.
Senator REED. It seems to me your case is a harder one than that which Mr. Velte has given us. With his agreement he seems to have gotten 10 per cent left off. You seem to have gotten less.
Mr. BARRINGER. I am perfectly frank to state that the settlement was not——
Senator REED (interposing). Like most of us, you settled to get rid of the wretched thing.
Mr. BARRINGER. We settled to get rid of the thing, and not have the Government change its mind, and then have the Board of Tax Appeals upset the whole thing.
Senator REED. I have been through it several times myself.
Senator SHORTRIDGE. This proposed law would upset, so to speak, or disturb the agreement you entered into; is that right?
Mr. BARRINGER. Well, we would be perfectly willing to reopen it, so far as we are concerned. All we would ask is that the same remedy, which was not in the contemplation of anybody at the time we entered into the agreement, that this same relief be applied to our case for revaluation. In other words, when we go into the Court of Claims for a refund, that we would not be met with the plea of a closing agreement which, in one case, has been held to bar you where the statute was held unconstitutional.

Senator HARRISON. I was just noticing the rates in the House bill which is now before us. You would pay around $7,000,000. You would not have enough to pay it with under these deflated stock market prices, if the bill that is now before us were passed. If Mr. Archbold had died after the passage of this act, you would pay around $7,000,000.

Mr. BARRINGER. I dare say, based on the values at the time of his death there would not be enough to pay it.

Senator REED. Thank you, Mr. Barringer. I think we have your point. If you have a brief we would be glad to have you put it into the record.

Mr. BARRINGER. Yes, I will.

(The brief filed by Mr. Barringer is as follows:)

MEMORANDUM WITH RESPECT TO AMENDMENT OF SECTION 811 OF THE REVENUE ACT OF 1932. (H. R. 10236.)

To the Finance Committee of the United States Senate:

The undersigned, on behalf of an estate which will be adversely affected by the bill as at present drawn, respectfully urge that section 811 of the revenue act of 1932 as passed by the House of Representatives providing for the revaluation of depreciated estates be amended so that it will include within the relief afforded by that section the estates of decedents (otherwise entitled to relief) which have settled their tax liability prior to the passage of the act by the execution of a closing agreement under section 606 of the revenue act of 1928.

General purposes of the proposed statute: Section 811 of the proposed act is remedial in its nature and its general purposes are highly to be commended. The position in which the estates of decedents who have died within the past three years find themselves due to the terrific decline of all values in this period is one which calls for legislative relief if a taxing statute is not to be made a means of of wholesale confiscation. The executors of such estates have been placed in a most difficult position. In many cases, almost before their appointment had been confirmed the market values of the securities comprising the estate had declined to a point where it was almost impossible to raise money to meet the Federal taxes which were due and payable within one year after the death of the decedent. Where realization was possible, the decline in values were so utterly unprecedented that few people believed that they could be permanent, and executors were inclined to postpone the sacrificing of securities until payment was actually due. If they sold securities to provide for the payment of the tax at the time it was due meant, in many cases, the practical destruction of the entire estate, a step which any executor would hesitate to take. If, on the other hand, believing that the decline in values was not permanent, they borrowed money for the payment of the tax, the subsequent decline invalues has caused even greater financial embarrassment. We heartily indorse the general purpose of this section, and nothing in this memorandum is intended to detract from the desirability and necessity of the relief which it affords.

Section 811 as drawn applies only to pending cases: The section as drawn, however, seems to apply only to pending cases and does not seem to include within the relief afforded by its terms the estates of decedents who died within the period covered by the section which have settled their tax liability by so-called closing agreements entered into pursuant to section 606 of the revenue act of 1928.

The portion of section 811 with which we are here concerned reads as follows:

"SEC. 326 (a). In the case of the estate of a decedent who died on or after September 1, 1928, and prior to January 1, 1932, and at the election of the executor, the value of the gross estate and of the net estate shall be computed based upon values as of a date eighteen months after the decedent's death (hereinafter referred to as 'subsequent value'), and the tax to be paid under this title shall bear the same ratio to a tax computed without reference to this section as the subsequent value of the net estate bears to the value of the net estate computed as of the date of the decedent's death, but in no case shall the tax be less than 60 per centum of the tax computed without reference to this section. Such election shall be exercised by the filing of a statement under oath which shall set forth all the necessary information, and shall be filed not later than one year

after the date of the enactment of the revenue act of 1932. Any amount of tax refundable by reason of this section shall be refunded where such statement is filed within the prescribed time, but the amount refunded shall be without interest."

The language of this section is plain and unequivocal and contains no exceptions and it might well be argued that under it the estates of all decedents who died within the period covered by the act should be entitled to relief afforded by this section regardless of whether their cases were still pending or whether they had settled their tax liability pursuant to a closing agreement or otherwise. Were it not for the statement of the Ways and Means Committee upon the subject we might be inclined to rest upon this assumption. The Ways and Means Committee, however, in their report to the House of Representatives made the following statement with respect to this section:

"The relief afforded by this amendment is confined to pending cases by which is meant that it is not available to estates where the liability thereof for Federal estate tax has been finally fixed by a compromise agreement or by one made pursuant to the provisions of section 606 of the revenue act of 1928."

This statement leaves no doubt as to the intention of the committee which originally framed this section, and in view of it we believe that an amendment is necessary in order to bring such estates within the relief afforded by this section.

Effect of section: The effect of such a construction is to work a grave discrimination between the estates of decedents who died within the period covered by the act which is based upon purely artificial distinctions and to discriminate against estates which have settled their tax liability by the most expeditious method possible and have paid their tax without a controversy in favor of estates which are still in process of settlement either because the decedent died at a later date or because settlement has been prolonged by litigation or other dilatory tactics. In the ordinary course of events the estates of decedents who died during 1928 and 1929 would be wound up and the tax paid by the present time. It is only in cases where an appeal was taken due to some controversy having arisen that the cases would still be pending. The law in existence during all of this time was plain and unequivocal and required that the tax be based upon valuations at the time of the decedent's death. Certainly the taxpayer who made a settlement and paid his tax upon the basis of the existing law, without controversy, should not be prejudiced with respect to this relief.

Nature of closing agreement: A closing agreement is an expeditious method by which the tax liability of an estate can be fixed so that the taxpayer may know his liability and the Government may be paid its tax promptly. The use of such agreement is distinctly encouraged by the department as it makes for expedition and certainty in the payment of taxes. By the terms of the statute such an agreement can not be set aside except for fraud or misrepresentation, and it has even been held that a closing agreement would bar a claim for refund by the taxpayer where the law under which the tax was paid should subsequently be held to be unconstitutional, the court stating that the taxpayer should look to Congress for his relief. (Bankers Reserve Life Insurance Co. v. United States, 42 Fed. (2d) 313.)

We appreciate that a closing agreement is supposed to effect a final settlement of all questions entering into the amount of the estate tax in a given case and such settlements should not be lightly disturbed. Such an agreement, however, is of necessity entered into by both parties having in mind the statute dealing with the basis of valuation. A change of the entire basis of valuation and theory of taxation such as is permitted under the proposed section 811 can not be said to have been within the contemplation of the parties at the time such an agreement was entered into and this section being remedial in its nature we respectfully urge that to exclude such estates from the benefits of its provisions simply because their cases have been settled would be to defeat its evident purpose.

The only objections which could be urged to giving such cases the benefit of the statute would be that a closing agreement is presumed to be in the nature of a compromise in which both parties have made concessions and received benefits and that the taxpayer should not be heard to reopen such a settlement in which he doubtless received benefits. To this it can be replied, in the first place, closing agreements are not necessarily compromises. They are frequently entered into simply to give finality to a settlement in which there were no disputed questions and, on the part of the taxpayer, to prevent the reopening of the whole case due to subsequent changes of rulings on the part of the department such as occur only too frequently. Secondly, if this agreement was in the nature of a compromise

it was entered into in the light of the existing statute with respect to the method of valuation and the proposed amendment completely changes the whole basis of such understanding.

While there has been general discussion during the past year with reference to proposed legislation for the relief of depreciated estates, the taxpaying public and the members of the bar generally had no information as to the details of such relief and it was generally assumed that any such relief would necessarily apply without discrimination to the estates of all decedents who died within the period in which the extraordinary conditions existed which called for legislative relief. The reliance on the part of the taxpayers and their attorneys that such relief, if granted, would apply to all estates equally and that the settlement of their tax liability would not prejudice them with respect to any such relief, if granted, was, no doubt, one of the factors which led them to execute such closing agreements.

A situation has recently come to our attention which emphasizes the discrimination which will result under the statute as passed. In the case of the estate with which we are principally concerned a closing agreement was executed by the taxpayer on November 13, 1931. It was forwarded to Washington and was executed by the Commissioner of Internal Revenue and was approved by the Acting Secretary of the Treasury on February 1, 1932, at which time the proposed legislation was no doubt under discussion by the committee of the House of Representatives. We are now informed by the Commissioner of Internal Revenue that he is powerless to open this settlement agreement so as to grant the relief to the taxpayer under the proposed legislation. Another case has recently come to our attention of the estate of a decedent who died shortly after the decedent with whom we are concerned. In this case a settlement was arrived at between the executor and the Treasury Department with respect to the estate taxes and a closing agreement was executed by the executor of that estate on February 15, 1932. The agreement was in the hands of the commissioner when the present bill was passed by the House. We understand that the commissioner, without any request on the part of the taxpayer, has returned the original closing agreement to the taxpayer unsigned with a new form of agreement, which he has requested the taxpayer to execute, in which a clause has been inserted reserving to the taxpayer the benefit of the relief granted under Section 811.,

In both of these cases the department and the taxpayer had arrived at a settlement of all outstanding questions concerning the estate under the law as it then stood. In both cases the taxpayer had executed and forwarded to Washington a formal closing agreement containing no reservation with respect to any amendment to the law. In the one case the commissioner and acting secretary in the ordinary course had affixed their signatures; in the other they had not done so, when the new legislation came under consideration. Certainly both of these cases are equally entitled to relief.

It must not be overlooked that the effect of this law, as now proposed, works an inequity and hardship on those who have signed closing agreements, not only with respect to their Federal taxes but with respect to their State taxes, for the reason that the States ordinarily settle their taxes on the basis of the settlement of the Federal estate taxes. From this it follows that, where a closing agreement is entered into and the Federal tax paid on the basis of it, it is impossible to get any readjustment of the State taxes.

Recommendations: We recommend the following amendment, which we believe will afford the relief which we are seeking:

Section 811, in paragraph 326 (a), on the twelfth line of page 279, after the words "prescribed time," insert "although a closing agreement may previously have been entered into fixing the amount of such tax pursuant to section 606 of the revenue act of 1928."

As an alternative to the above amendment, add at the end of section 326 (a) the following sentence:

"A taxpayer shall be entitled to the benefits of this section and to the refund of any estate tax paid in excess of the tax as determined under this section although a closing agreement may previously have been entered into fixing the amount of such tax pursuant to section 606 of the revenue act of 1928."

Respectfully submitted.

JACKSON, FULLER, NASH & BROPHY,
Attorneys for Taxpayer.
PAUL B. BARRING, JR., *of Counsel.*

LETTER FROM RUSSELL L. BRADFORD

NEW YORK, *April 9, 1932.*

Hon. REED SMOOT,
Senate Office Building, Washington, D. C.

DEAR SENATOR SMOOT: I have given some consideration to the revenue bill of 1932 (H. R. 10236). The following observations concerning the bill, I think, deserve and merit the consideration of your committee and of the Senate.

Section 811 of the bill having to do with the revaluation of depreciated assets limits the relief, as indicated by the report of the chairman of the Ways and Means Committee, to those estates that have not paid the tax or attempted to settle with the United States Government. But those estates that did pay the tax and undertook to settle with the Government under the provisions of section 606 of the revenue act of 1928 are penalized for their prompt cooperation with the Government. If the act is to apply to estates of decedents dying after September 1, 1928, and prior to January 1, 1932, in fairness it seems to me the remedial benefits should be applied to all estates whether they have agreeably settled with the Government or have opposed and fought the Government.

Section 802 of the bill amending section 301 (b) of the revenue act of 1926 extends the period for actually paying to the several States inheritance, legacy or other death taxes, and claiming the credit for the payment of such taxes against the Federal estate tax to a period of four years, instead of three years, as provided in the act of 1926; and extends the time similarly for making refund claims in respect of such credits. However, it specifically excepts from this extension those estates in which the overpayment was made prior to the enactment of the act of 1932. Again, why should the Congress undertake to go out of its way to penalize those estates that have cooperated with the Government and paid the tax, and favor those estates that have not paid the tax?

If the extension of one year to make claims for refund is to be granted in respect of decedents dying after the revenue act of 1926, then it should be appropriate to extend the period another year in respect of refund claims under the revenue act of 1924. Under the 1924 act there was no time limit in respect of the payment of State taxes and the claiming of the credit. On the other hand, a claim for refund based upon such credit could not be made after a period of four years from the date of payment of the Federal estate tax. If the time limit is extended under the 1926 act one year it also should be extended a year under the 1924 act.

I am doubtful whether any limit at all should be placed upon the claiming of such credit and the filing of claims for refund in respect of such credit. The purposes of the Congress in the enactment of the 1924 act, as well as the 1926 act, was to collect only that portion of the full tax as calculable under either of the two laws not paid to a State within the limits of the credits. If because of litigation or for other reasons an estate was not able to pay the tax within 3 years or 4 years or 5 years, but eventually did pay the tax to the States, the purpose of the Congress would be served if proofs of such payment could be made at any time, and a refund of the taxes held by the Government should be made regardless of the times. (Of course, this refund should be made without interest where any unusual time was taken in the payment of the State taxes.) It seems to me harsh and unjust that an estate, because it has been forced into litigation (or for any other substantial reason) should lose the benefit of the credit, while an estate the cost of administration of which has been quite small would be the favored taxpayer. This would be doubly harsh as the cost of litigation, plus the necessary doubling of the tax to the extent of 25 per cent or 80 per cent, as the case may be (whether under the 1924 act or the 1926 act), would seem to be a more severe penalty on such an estate than it ought to be made to bear.

Certainly the minimum limit in which claims for refund could be made in respect of credit for the payment of State taxes ought to be six years. Hardship, I have understood, because of the limitation has been worked upon several estates. I represent an estate in which the State taxes were paid prior to the rendition of the Federal estate tax return, and claim for the credit was made in and by the Federal estate tax return. The formal proofs of such payment, as required by the technical rules of the commissioner, however, had not been submitted. A formal claim for refund was subsequently filed, but the commissioner has claimed it was filed more than four years after the payment of the tax. This case is now pending in the courts (1) as to the issue of fact of whether the claim for refund was timely filed; and (2) whether or not the commissioner and the Government were on notice that the State taxes had been paid and the

credit claimed before the filing of the formal claim for refund; and (3) whether or not the informal claim for refund should not have been honored by the commissioner; and (4) whether or not the statute of limitations did not begin to run after the final payment. The injustice in this case is striking. The tax was duly paid to the Federal Government. In the return the claim for credit for the payment of State taxes was made. The Government refused to allow the credit until the proofs were filed. There was no time limit under the 1924 statute for the filing of proofs. The Government was on notice that claim had been made for these taxes and that these taxes had been paid and credit was to be taken therefor, and yet the mere filing of a formal claim for refund more than four years after the payment of the Federal tax (assuming the Government's contention of fact be correct) bars this estate and taxpayer from recovering a sum of money that ought never to have been collected by the Government and, in good conscience, ought not now to be held by the Government.

If the purpose of the Federal estate tax law, as enacted in the 1924 act and again in the 1926 act, was that it should receive as death taxes only the sum of money indicated by the death rates less the credits for taxes paid the states and claimed as such credits, then in fairness there should be no limitation upon the recovery of this money. Certainly, the limitation ought not to be a period of 3 years, 4 years or even 5 years. I say this because in many large estates not only may there be a great deal of litigation, but if the will be at all complicated and contain provisions for the setting up of trusts and future estates, the necessary state proceedings may take many more than 3, 4 or 5 years. Of course, in small estates this may be done with a great deal of rapidity but in small estates (that is those under $100,000, under the proposed bill $50,000), the Federal Government does not impose any tax at all.

I take the liberty of suggesting that under the 1924 act and the 1926 act, so far as claims for refund of taxes paid to the Federal Government based upon credits by reason of the payment of death duties to the several States are concerned, the minimum limitation upon such claims for refund should be six years from the payment of the Federal tax. Personally, I lean to the view that the period should be at least 10 years (if there be any limitation at all), the period indicated in the 1928 act and the present bill in respect of the lien upon the transfer of such estates.

Such a provision should apply retrospectively so as not to penalize those estates that have paid the tax the use of which tax the Government has enjoyed, and favor those estates that have not paid the tax and withheld from the Government the use of the money representing the tax.

I very earnestly recommend the serious consideration of this matter and the whole draftsmanship of section 802 of the proposed bill by your committee.

I have given consideration to the gift-tax provisions of the law and had occasion during the pendency of the 1924 act to give consideration to the effect of this class of legislation.

I raise these points for your consideration.

Under the provisions of section 504 (b), of the gifts (except of future interests in property) made to any one person by the donor during the calendar year to the extent of the first $3,000 of such gifts to such person shall not, for the purposes of subsection (a) of section 504 be included in the total amount of such gifts made during such year. But the gifts from the date of the adoption of this statute, throughout the period of its operation, are taxable to the extent that the total of those gifts exceeds $50,000. The statute does not undertake to define gifts nor does the report made by the chairman of the Ways and Means Committee of Congress. I take the liberty of inquiring whether a gift of a man to his wife for the purpose of operating their establishment (or home, as the case may be) is a gift. As an illustration, we will say a member of Congress has an income of $10,000 in addition to the $10,000 compensation from the Government. We will assume that he turns over to his wife yearly the sum of $20,000 for the purpose of operating the establishment or home; $3,000 of this sum, of course, is exempt; $17,000 may not be, and an account must be kept of that sum. After a period of approximately three years $50,000 would be reached and from that time on if the letter of the statute is followed every such gift in excess of $3,000 to the wife or child or anyone else must be reported and a tax thereon paid. This might be peculiarly so in a case where a husband and wife kept joint accounts to the extent that the wife draws upon the joint account. (See p. 28 of the report of the Committee on Ways and Means.)

However, it may be assumed and, no doubt, appropriately, that the statute would not apply to a gift from a man to his wife, for the purpose of conducting the establishment or home. The statute, however, draws no such distinction.

But assuming that the administrative department and the courts would construe the statute as not applicable to such gifts, nevertheless, the following would be the result, and necessarily so: Assume the wife, out of the $20,000 so given to her each year, spent only $10,000 in the operation of the house and that the $20,000 is construed to be not a gift by the husband but an expenditure by his agent, his wife, in his behalf. Nevertheless, the remaining $10,000, if the wife should prove to be a good housewife and had saved the money or invested it for herself and concluded it belonged to her, would come within the gift-tax provisions; $3,000 of such sum would be free from the tax; $7,000 would be subject to the tax or must be applied against the $50,000 exemption. After a period of approximately seven years the $50,000 exemption would be exhausted, but even during the period of seven years (in the illustration given) it would be necessary under any intelligent administration of this law to require of the housewife a strict and accurate account of the money she has expended, because how may the Government in the administration of this law know how much of the $20,000 per year is a gift to the wife and how much is expended for the support of the family, unless a definite detailed account is kept of every expenditure for the benefit of the family?

It may be answered that the husband need not give his wife anything for the payment of the expenses of the household, but pay them himself. Is the revenue of the Government so urgent and exigent that it must change the whole normal course and conduct of the family life in America? Clearly, the Congress does not mean to impose upon every family in the United States that spends more than $3,000 per year in the operation of its household the necessity for keeping a detailed bookkeeping account of such expenditures.

Personally, and I say this without meaning to be critical at all, I think a gift tax based upon cumulated gifts is meretricious in the extreme and is or ought to be foreign to our political economy as well as the genius of our Government. I can conceive of nothing that will so fully prevent and preclude the breaking up of large fortunes as a gift tax of this nature. Few men would dare, under such a statute, to make gifts to their daughters who had married or to their sons who were going into business, or to other relatives who might be in need of money, or to others of any substantial sum. Personally, I very definitely doubt that the amount of Federal-estate tax or income taxes that would be safeguarded to the Government compensates for placing on the statute books a law that in the end has as its result (regardless of what may be its purpose) the building up of large fortunes and the entrenchment of those fortunes in single hands.

I think in this day that the division of fortunes is the desirable thing than by statutory enactment the retention of fortunes should be fostered and encouraged.

I have written at some length but my reason for doing so is that I feel very keenly that the bill should be amended in the respects to which I have above referred so that these serious defects may be corrected to the end of a fair administration of the tax laws of this country. I can see that a gift tax with progressive rates imposed cumulatively may be very harmful. If the Congress wishes to tax gifts either as a preventive of the avoidance of income taxes or of death taxes it could, it seems to me with almost the same effectiveness, impose a tax similar to that imposed under the 1924 act with a specific exemption for the amount of gifts given each year. If, as is suggested, a person would spread his gifts over a period of years and thus always remain in the lower, instead of the higher, brackets, the answer is readily at hand: (1) Reduce the amount of the exemption per year from, say, $50,000 to $25,000 or $20,000 or such other figure as may be thought appropriate, and (2) increase the rate of the gift tax not progressively over years but starting at a higher rate and having progressive rates applicable only to gifts made within the year. Personally, I can not see the force of the desire of Congress by legislative enactment to place a barrier against the distribution of wealth by those who possess it, and the necessary legislative act of building a wall around fortunes that they may be kept intact. This to my mind is bad economy. It would make for a nation of a few rich and many poor. Such a nation is composed of an unhappy people, and the Government that fosters such a policy necessarily will become an unsuccessful Government. The actual backbone of every progressive and sturdy people rests upon no division between the poor and the rich, but upon a class of medium well to do.

The breaking up of large fortunes by excessive or extortionate death taxes (which are in the end nothing more nor less than capital levies, regardless of what name may be applied to them) not only will not bring about social reform in the United States, but will have a tendency seriously adversely to affect the support of business and commercial enterprises in the United States.

Of course, I take it for granted that the excessive Federal estate tax rates as are included in the bill that passed the House and is now before your body may be, in all probability, reduced, but even if not reduced, are intended to be temporary only. Even so, should the few people who may die during the pendency of a high death tax rate alone bear the brunt of furnishing the Government with sufficient revenue to balance its Budget, or should an equitable and reasonable death tax rate be applied over a period so that all may appropriately bear the burden, rather than the few?

I shall take the liberty of sending a copy of this letter to Senator Pat Harrison, to Senator David Reed of Pennsylvania, to Senator Robert Wagner, and Senator Royal S. Copeland, of New York

Again, with my apology for writing at such great length, I am

Yours sincerely,

RUSSELL L. BRADFORD.

STATEMENT OF W. C. HUSHING, NATIONAL LEGISLATIVE REPRESENTATIVE AMERICAN FEDERATION OF LABOR, ON ESTATE TAX

It is the belief of the American Federation of Labor that a just form of taxing great wealth is through the estate tax, as there is no question of the ability to pay. And it can not be denied that in many cases the owners of great fortunes fail during their lifetime to pay their fair proportion of taxes. Because of that it makes the estate tax a fair tax. Besides, it is a direct tax.

In 1906 the American Federation of Labor unanimously declared for "an inheritance tax that would increase with the inheritance." In 1918 it approved the levying of taxes on "War profits and swollen incomes." In 1919 it declared that there should be provided a "progressive increase in taxes upon incomes and inheritances," and in 1921 it demanded "that the Government promptly levy a rapidly progressive tax upon large estates." This was reiterated in 1922.

You have been told by the Secretary of the Treasury that 98 per cent of the population in 1930 paid no Federal income taxes whatever. Nevertheless, the 2 per cent who did pay Federal income taxes had previously passed them on to the 98 per cent in whole or in great part. But the estate tax can not be passed on.

During the war the American Federation of Labor approved of all taxation laws enacted, as the only thought was to win the war no matter what the sacrifice. It has not asked for any reduction of taxes that bear upon those least able to bear them.

Those who favor the repeal of the Federal estate tax insist on the retention of what are termed "nuisance" taxes, otherwise sales or buyers' taxes. The argument is that the estate tax was a war-emergency tax. The "nuisance" taxes also were war-emergency taxes. The estate tax is more easily paid by the few than is the "nuisance" taxes by the many.

Those who accumulate fortunes great enough that their estates pay the Federal tax obtain their wealth through the good will of the whole American public. And good will has been declared by the Supreme Court to be property. If the accumulators of great fortunes have a property right in the patronage of the people it is no more than right that they pay for that good will in an estate tax. Besides, all the forces of government are freely given to the protection of these fortunes both before the death of the owners and after they have been passed on to the heirs.

There is nothing more dangerous to our country than the accumulation of enormous wealth in the hands of a few, and the fact that a steadily decreasing number of persons pay an income tax is an added indication that the wealth of the country is being concentrated in the hands of a few.

Thousands and thousands of homes and farms at present are being sold for nonpayment of taxes and mortgages and this is accelerating greatly to the concentration of wealth just mentioned.

It has been truly said that "none are so blind as those who will not see." In our opinion it is time for the few who are holding the wealth of this country, to see the light and change their attitude toward taxation, as a matter of self-preservation for things can not continue on as they are headed. The estate tax results in its distribution for the benefit of the whole people.

Legacies received by the heirs of great estates have been justly called unearned income, for few of the heirs had anything to do with their accumulation.

Andrew Carnegie became one of the richest men of his time in the United States. He knew where his fortune came from and the reasons for its growth, as evidenced by the following statement made by him:

"Now, who made that growth? The American public—that is where that wealth came from, and that is the partner in every large enterprise where money is made honorably; it is the people of the United States."

He reasoned undoubtedly that the good will of the American public made the people a partner. Why then should not the people demand through an estate tax a squaring of accounts?

Mr. Carnegie also said:

"The growing disposition to tax more and more heavily large estates left at death in a cheering indication of the growth of a salutary change in public opinion Of all forms of taxation this seems the wisest. By taxing estates heavily at death the State marks its condemnation of the selfish millionaire's unworthy life. It is desirable that nations should go much further in this direction. Indeed, it is difficult to set bounds to the share of a rich man's estate which should go at his death to the public through the agency of the State, and by all means such taxes should be graduated, beginning at nothing upon moderate sums to dependents, and increasingly rapidly as the amounts swell."

Who is more entitled to a share of such fortunes than the people who made them possible? Few, if any, of the heirs of these estates had anything to do with their accumulation. It is what might be called a "windfall" for them. Although these legacies came without any effort on their part they are among the persons who are crying for a repeal of the estate tax law as well as the State inheritance taxes.

Dr. Thomas S. Adams, the famous authority on taxation and formerly financial adviser for the United States Government, declared "that if we must tax it is better to tax him who merely receives than him who earns."

It should be the American policy to demand that this tax be levied to prevent in the future the perpetuation and further accumulation of immense fortunes in the hands of those who did little, if anything, to create them.

Theodore Roosevelt in a message to Congress in December, 1907, said:

"A heavy progressive tax upon a very large fortune is in no way such a tax upon thrift and industry as a like tax would be on a small fortune. No advantage comes either to the country as a whole or to the individuals inheriting the money by permitting the transmission in their entirety of the enormous fortunes that would be affected by such a tax."

In his inaugural address in 1909 President Taft declared:

"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."

On March 23, 1909, Chairman Payne, of the Ways and Means Committee, made this statement on the floor of the House:

"What easier tax to pay than this? A man gets a legacy, a stranger perhaps to the testator, a clear gain to him; why should not he pay a part of that to the support of the Government? * * * It is a fair tax; it is a tax easily collected; and it is a tax that this class of people ought not to hesitate to contribute for the support of the Government and the protection of the law."

One of the most conservative of Republicans was Senator Cullom, of Illinois. In his Fifty Years of Public Service he said:

"An income tax is the fairest of all taxes. It is resorted to by every other nation. It falls most heavily on those who can best afford it. The sentiment in the Republican Party has changed, and I believe that at no far distant day Congress will pass an income tax, as well as an inheritance tax law."

In 1914 the American Federation of Labor presented to both political party conventions a demand for the inclusion of the following plank in their platforms:

"Labor favors graduated income and inheritance taxes and opposes the sales tax as well as all other attempts to place excessive burdens on those least able to bear them."

In a letter to the Iowa Legislature in February, 1927, William Green, who was then chairman of the Ways and Means Committee of the House, stated that the estate tax is a just tax. He added:

"It is a reasonable tax. The exemption is $100,000, and it is very light up to $500,000, and then moderately increasing.

"It is a fair tax, because the great fortunes upon which it is levied have not paid their fair proportion during the lifetime of the owners."

Mr. Green also said:

"It is a tax that is not easily evaded and is the only tax which everybody agrees can not be passed on to those who ought not to bear this burden."

He also referred to the aggressive campaign of various persons to repeal the estate tax by saying:

"The purpose of those who have raised an enormous fund which has been and is now being spent for the repeal of the Federal estate tax, is to repeal all State inheritance taxes, and they admit it."

Organized labor has no quarrel with those who honestly accumulate great wealth, but it does insist by all that if fair and right that at death a just portion of those fortunes should go to the people who helped to accumulate them and to the States to prevent them from growing larger and larger and becoming too dangerous to the welfare of our Republic. The power that could be exercised by their owners might be disastrous.

If the Federal estate tax is abolished it would create extensive competition between the States that do not collect an inheritance tax to induce rich men to locate in them. It would encourage States with inheritance tax laws to repeal them for the same purpose for self-protection.

Organizations have been formed by professional lobbyists to fight all inheritance taxes, and there is no doubt that if the Federal estate tax is repealed their efforts will be continued to repeal all State inheritance taxes, and there is no doubt that if the Federal estate tax is repealed their efforts will be continued to repeal all State inheritance tax laws. On the payment of $10 or more an expectant heir of an estate can be made a member of some of these self-constituted organizations whose organizers make a living on the cupidity of the selfish overly rich. Through misrepresentation they have sought to induce the State legislatures to pass resolutions calling upon Congress to eliminate the estate tax. Some have done so while others have refused.

I heard an insurance actuary one day say that more than 80 per cent of the people who died did not leave a dime. Nevertheless, everything they bought while alive went to pay some of the taxes of those who accumulated great fortunes in financial or commercial life. What labor fears is that taxes will be gradually taken off of the well to do and finally placed through a consumption tax upon those least able to bear them. The sales tax—or, rather, the buyers' tax—on the necessaries of life is the most vicious of all methods of taxation.

In 1922 there was quite a campaign to establish the sales tax. At that time Senator Smoot publicly declared:

"While the manufacturers' or sales tax is not embodied in the revenue laws of our country at this session of Congress, it will be in the very near future just as sure as God lives."

The argument in favor of the sales tax that was passed about among Members of Congress at that time was this:

"If you tax the people so they do not know it, they can not object; but if they know they are being taxed they will object."

At that time the owner of a large department store in Washington in a newspaper interview said:

"I am not only in favor of the sales-tax plan for raising funds for the soldiers' bonus, but I would like to see it adopted as a permanent plan for raising Government revenues to replace the present taxation system."

We believe that this plan is being followed: First, stock dividends were declared nontaxable; then excess profits were abolished, and now there is an attack on the estate tax.

We believe that the proposal to retain the "nuisance" taxes is part of the program to eventually bring about the desire of those who advocate the consumption tax on the necessities of life. The effort to repeal the estate tax, a direct tax, and continue the "nuisance" tax, an indirect tax, seems to us to be sufficient proof of this.

Estate taxes should not be considered war measures. They are becoming a permanent tax in many countries and should be continued permanently in the United States. There is no other tax that is more directly levied or is easier to pay.

The statement of the Secretary of the Treasury that less than three-tenths of 1 per cent of our population paid 95.5 per cent of our total income tax should warn us that wealth is getting into fewer and fewer hands. It is also an argument that a portion of those great fortunes should be given back to the people who helped to accumulate them to conduct the affairs of government, which did so much to protect the interest of the owners.

We hear much of prosperity, but apparently this applies only to the 2 per cent who pay income taxes. The more than 119,000,000 other people in the United States must have accumulated very little money to be absolved from paying any income taxes at all.

It might be well to quote another economist of great renown. Dr. Edwin Robert Anderson Seligman, of New York. In a hearing held in 1925 before the Ways and Means Committee of the House, he said:

"If the States keep for themselves the inheritance tax, they can not and will not * * * ever succeed where they have a situation like the one in Florida. You will never succeed, no matter how model a tax law you have; no matter how many hundreds or thousands of reciprocal laws you pass among the States, because unless you get every single one of the States to come in and agree you will not have solved the problem, because you will always have a Botony Bay to which the rich man will of course repair, if he is at all a wise man. Therefore, I say the States themselves can not, will not, and never have in any country abolished those evils of multiple taxation. Secondly, as Congressman Green and others have pointed out, they will not be able to tap to the full the rightful revenues which ought to come in a country like this from inheritance taxation."

The American Federation of Labor insists that the welfare of our Government demands that the estate tax be made a permanent feature of our taxation system

LETTER AND MEMORANDUM OF HON. AMOS L. TAYLOR

APRIL 18, 1932.

Hon. REED SMOOT.
Chairman Senate Committee on Finance,
Washington, D. C.

DEAR SENATOR: I am sending you herewith correspondence which I have received from Hon. Amos L. Taylor, the chairman of the Massachusetts Republican State Committe, which outlines a stiuation which has arisen under the present revenue laws. It would seem to me that there should be legislation to prevent the recurrence of such a case and I shall greatly appreciate any attention your committee may give his letter during its consideration of the tax bill.

With kindest regards, I am

Very sincerely yours,

FREDK. W. DALLINGER.

BOSTON, *April 13, 1932.*

Hon. FREDERICK W. DALLINGER,
Member of Congress, Washington, D. C.

DEAR FRED: I have a matter which is bothering me a good deal in behalf of one of my clients. It is specific and concerns the estate of Edward C. Donnelly, late of Boston, Mass., deceased, the billboard man. The Massachusetts legacy taxes were settled in full and the Federal estate taxes were settled in full after his death. Under the statute the Federal Government allowed the estate, as a reduction from the Federal tax, 80 per cent of the amount of the legacy taxes paid the Commonwealth.

After these matters had been adjusted and the tax questions closed in both the Federal office and the State office, as we supposed, the State tax commissioner's office reopened the matter and assessed an additional tax of $24,041.18. Apparently, there is some basis for this additional tax. We then immediately filed a petition with the Federal department for refund of that amount of money as we would still be within the allowance of 80 per cent under the Federal statute. In other words, this amount should be refunded to the Donelly estate and the Donnelly estate then should pay it to the State.

The Federal estate tax department has given a ruling that they can not allow this refund because the Federal statute provides that a petition for such refund must be made within three years after the tax return has been filed with the Federal department.

In other words, if this ruling stands it will cost the Donnelly estate the full amount of this additional tax, which otherwise should be allowed to the estate and refunded from the Federal Government to pay the additional State tax.

The matter is till pending before the Federal estate tax department and there may be some possible way out of it. Such condition, however, should not arise

and there should be a change in the Federal law making it impossible for such a situation to occur.

I inclose, herewith, a memorandum of the proposed changes. These have already been sent to Mr. Ballantine, Assistant Secretary of the Treasury, and some others, and should be carefully considered in the revision of the tax act which is now being considered in the Senate.

Will you kindly see what you can do to bring this about and also to make it retroactive so as to apply to existing cases.

Yours respectfully,

AMOS L. TAYLOR.

MEMORANDUM AS TO ALLOWANCE ON ACCOUNT OF FEDERAL ESTATE TAXES OF 80 PER CENT CREDIT FOR TAXES PAID TO THE STATES

The revenue act of 1926, as amended by the revenue act of 1928, provides in section 301 (b) as follows:

"The tax imposed by this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia in respect of any property included in the gross estate. The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by this section, and shall include only such taxes as were actually paid and credit therefor claimed within three years after the filing of the return required by section 304."

A taxpayer may file a claim for refund for estate taxes illegally or improperly collected within three years from the date of payment of the tax, and may correct the tax in an action at law in all cases except in the case where the taxpayer has failed to take or has been unable to take within three years from the filing of the return a deduction on account of State inheritance taxes as provided in section 301 above set forth.

The above provision may operate to prevent a taxpayer from getting the benefit of the 80 per cent credit, which, it would seem, the law expressly grants. The period of three years from the date of filing the return may elapse before the amount of the Federal estate tax is finally determined. In such case it is impossible in many States (such as Massachusetts) to determine the amount of the tax to be paid to the State until the Federal tax has been finally adjusted. It would seem improper for the law to tender a credit of 80 per cent with one hand and then to snatch it back with the other because the complete tax liability was not determined within a given period.

The Treasury Department apparently recognizes this hardship and has included in the new law a provision for the evident purpose of correcting the situation. This appears in Senate bill H. R. 10236 which provides in section 802 (c) as follows:

"The tax imposed by subdivision (a) of this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia in respect of any property included in the gross estate (———). The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by subdivision (a)(———), and shall include only such taxes as were actually paid, and credit therefor claimed within four years after the filing of the return required by section 304, except that

"1. If a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed in section 308, then within such four-year period or before the expiration of sixty days after the decision of the board becomes final.

"2. If, under subdivision (b) of section 305 or subdivision (i) of section 308, an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such four year period, or before the date of expiration of the period of the extension.

Refund based on the credit may (———) be made if claim therefor is filed within the period above provided, etc."

Section 802 (b) provides as follows:

"If any return required by section 304 of the revenue act of 1926 was filed more than three years before the enactment of this act, the credit for estate, inheritance, legacy or succession taxes shall be determined as if this section had not been enacted."

It is apparent from subsection (b) that the suggested relief is not to be given in any cases where the return was filed more than three years before the enactment

of the 1932 law. Cases arising more than three years before the enactment of this legislation are just as deserving of consideration and relief as those cases arising within said period. It, therefore, seems that subsection (b) should be eliminated from the law.

Subsection (c) provides for relief during a period of four years and thereafter under certain circumstances. The extension from three to four years is, of course, helpful and will give relief in many cases, as will also the additional provisions, but I suggest that all such cases be provided for and that the 4-year period be extended to six years. Such an extension would, I believe, cover most cases. If the law was amended in this manner it would give the relief which is desired, but there must be some better and simpler provision which would cover all cases.

If the law should provide that the period within which the 80 per cent credit could be claimed should coincide with the period within which claim for refund might be filed, both the Government and the taxpayer would be adequately protected. Such a period is not unduly long for the final settlement of taxes, and it gives the taxpayer reasonable time in which to make corrections, not only in values, but also in credits.

The present period of limitation permits the tax to be corrected, if it is in error, by filing a claim for refund within three years from the payment of the tax. I believe that the law should likewise provide for the correction of the tax by granting proper credit for State inheritance taxes if claim therefor is made within the same period.

I have never known the reason for providing a period of limitation from the filing of the return within which credit for inheritance taxes must be claimed, when the limitation period within which other corrections in the tax runs from the payment of the tax. Unless there is some necessity for distinction between these cases with which I am not familiar, I believe that the two periods should coincide.

STATEMENT OF HON. CLYDE L. KING, SECRETARY OF FINANCE, STATE OF PENNSYLVANIA

Mr. KING. Mr. Chairman and gentlemen of the committee, I am here representing the Board of Finance and Revenue of Pennsylvania, and ask for the elimination of the retroactive provision of section 811 of the revenue act now before the Senate. Its enactment would lead to arbitrary class legislation, and it would mean practically bankruptcy at the present time to the Commonwealth of Pennsylvania.

The Board of Finance and Revenue of Pennsylvania is composed of the State treasurer, Hon. Edward Martin; of the auditor general, Hon. Charles A. Waters; of the attorney general, Hon. William A. Schnader; and myself, as head of the department of revenue. This request is put before the Finance Committee of the Senate because of the financial situation that would result. I shall not go over at this time the provisions of this act, as I am sure you all understand it.

Section 811 of the revenue act of 1932, as passed by the House, provides that the executor or administrator of a decedent who died on or after September 1, 1928, and prior to January 1, 1932, may elect to have the estate valued for purposes of the Federal estate tax as of a date 18 months subsequent to the date of death. It is then provided that the amount to be paid as the tax shall be an amount which bears the same ratio to a tax computed without reference to the section as the value 18 months after death bears to the value at the date of death, but in no event is this amount to be less than 60 per cent of a tax computed without reference to the section.

Under the Pennsylvania constitution, as interpreted by the courts, there can be no exemptions and no graduation in inheritance or estate taxes except for a flat rate for direct heirs now fixed at 2 per cent and a flat rate for collateral heirs and charities now fixed at 10 per cent.

Pennsylvania collects taxes from about 35,000 estates per year, whereas the Federal taxes about 7,000 estates per year. Most of the Pennsylvania estates are in amounts less than $100,000. All of the Federal estates are over $100,000 in value.

During the period covered by this proposed section over 100,000 Pennsylvania estates that have already paid inheritance taxes to Pennsylvania can secure no redress whatsoever from this legislation, whereas 7,000 estates taxed under the Federal law, all of them very large, will receive back $40,000,000.

Senator HARRISON. Let me get this straight. You are not addressing yourself to the so-called Ramseyer proposition on the estate tax? The proposition you are addressing yourself to is where we seek to give some relief to estates where at the time of the death of the decedent the values of their securities were high, but the values of which securities have gone down recently?

Mr. KING. Yes.

Senator HARRISON. By opening up the proposition the State of Pennsylvania, having made great collections, they may have to cough up too?

Mr. KING. Yes.

Senator HARRISON. That is your proposition?

Mr. KING. We have two problems before us. First, we now have in the State treasury $12,107,000 of estate taxes already paid which we would be normally expected to refund. In addition there is now around $14,000,000 still to be derived from known estates of Pennsylvania decedents who died during this period, on which the tax has not yet been paid. And to take from Pennsylvania at this time $26,000,000, or anything like $26,000,000, means that we will not be able to pay our subsidies to our common schools, welfare institutions, and so forth, and which can not be maintained unless the State legislature is called in immediate session and new revenue is raised to this amount, which in Pennsylvania we think would be ruinous at this time.

The CHAIRMAN. All right. Proceed, Mr. King.

Mr. KING. This proposed action would reduce the Federal income by $40,000,000. The States will lose another $150,000,000, and Pennsylvania alone stands to lose about $25,000,000.

It seems to this board that if tax legislation is to be retroactive, it should be made uniformly retroactive to all taxpayers throughout all parts of Pennsylvania as in every State in the Union. There are now long lists of farms and homes being advertised for sale by the sheriff because general property taxes can not be paid. This is true not only in Pennsylvania but throughout the country. To relieve all such taxpayers retroactively would be a serious matter to every county, city, and State in the country. To relieve some but not all is a matter of doubtful public policy. The States can not be expected to follow this precedent for retroactive tax legislation set in this provision for Federal estate taxes.

This proposed section presumes to reduce the hardship on the heirs of wealthy decedents who died when securities were high. But this principle has not been recognized by the Federal Government in taxing either the incomes of individuals or corporations, many of whom are still struggling to pay delinquent taxes on incomes earned during the years 1928, 1929, and 1930. This same shrinkage in assets that besets

the rich man's estate has also depleted the capital of many individuals and corporations so that their ability to pay the Federal and State taxes when due now becomes a very heavy burden as compared with their ability to pay the tax when the incomes were being earned.

Since the Federal estate tax is imposed by the Federal Government and not by the States, the same authority that imposes it may unquestionably amend its provisions and provide refunds. Nevertheless there is a serious question whether the Federal Government can compel, or ought to compel, States through such retroactive legislation to reimburse revenues which have already been paid. In the event that the States neglect or refuse to pass legislation conforming to the retroactive clause of this section, the result would be that the estates of those who died within the statutory period on which the tax was paid would find it impossible to recover moneys paid to such States, whereas the estates of those who died during the statutory period but had not not yet paid the tax at the time this revenue bill becomes effective could insist on the benefits of this section. And that represents about $8 out of $10 of all the Federal tax moneys collected.

Pennsylvania alone stands to lose about $25,000,000 in this biennium from this proposed retroactive legislation, for the reasons stated, that $8 out of $10 go to the States.

Senator HARRISON. That is provided that in these cases where agreements have been made and they have been closed they are reopened?

Senator REED. No; not at all.

Mr. KING. Not at all.

Senator REED. We have got $12,000,000 in which probably the State could retain because it was a valid tax when the money was collected. But if we pass this section 811 it means that those estates that have not yet paid up will be able to say, "Well, the Federal tax has been reduced. You get only four-fifths of it." Consequently you lose $14,000,000 of expected revenue.

Mr. KING. In the unpaid estates alone. And then we would be confronted with a number of the States that in the same statutory period have paid, and of course they would come to the legislature and say, "Well, the other folks got it. We want it refunded."

Senator HARRISON. Would that include the Archbold estate?

Senator REED. That is not Pennsylvania. That is New York, I think.

Mr. KING. Prior to the drawing up of the present tax bill Secretary Mellon, and, subsequently, Secretary Mills and their assistants, according to the newspapers, expressed themselves very clearly as to the desirability of not disturbing the quota of estate-tax money now turned over to the States. Their view was stated as being that any additional estate tax should be raised for the Federal Government without curtailing in any way the amount of estate tax at present paid over to the States.

We are not in here in any sense complaining of the additional taxes put on at this time. We feel that it is not our province. But the effect of this retroactive provision is that the States will be denied their fair quota under the past laws.

It may be said that Pennsylvania need not follow the proposed Federal legislation, but Pennsylvania, like some other 16 States at least, has based her inheritance tax law on the Federal estate tax

law. Other States, which have their own inheritance tax legislation, need not follow at least materially the changes made in the Federal legislation. But not so with Pennsylvania and with some of the other States.

In effect our law says that the inheritance-tax returns shall be 2 per cent for direct heirs and 10 per cent for collateral heirs provided that in any given estate the tax is equal to 80 per cent of the Federal estate tax. Hence, if the Federal legislation falls all that part of our act falls. And that is true not only of Pennsylvania but several States in the Union.

Senator REED. How many?

Mr. KING. Certainly to our knowledge 16, and we think more, have legislation by reference. Now in some of the States that do not have legislation by reference, but have their own tax schedule set up, this provision would not be as harmful as it would be to Pennsylvania and some of the other States.

I submit that Pennsylvania, as other States, in common justice ought to give to its small and more heavily burdened taxpayers the same advantage offered to the large estates. This Pennsylvania can not possibly do without a loss of revenue that will be ruinous to many of the essential services of this State.

For these reasons we respectfully urge the members of the Senate to refrain from placing this burden on State treasuries and take this retroactive provision out of the bill.

Senator HARRISON. Let me see your brief. You are going to file it?

Mr. KING. Yes.

Senator REED. It just comes to this, does it not, Doctor King, that section 811 in being generous to these depreciated estates is being generous with State money and not Federal money?

Mr. KING. To the tune of $8 out of every $10.

Senator REED. To the tune of 80 per cent?

Mr. KING. Yes.

Senator REED. Now within the class of cases covered by section 811 in Pennsylvania alone you have collected $12,000,000 of taxes which on the principle of section 811 ought equitably to be refunded?

Mr. KING. Yes. sir.

Senator REED. And you are expecting and there is already due to you $14,000,000 more, which you will never be able to collect if section 811 is passed?

Mr. KING. That is exactly right, sir.

Senator REED. And there are 16 States—fifteen others besides Pennsylvania—that will be similarly affected?

Mr. KING. All of them will be affected, Senator. There will be 16 at least that have legislation by reference and will not be able to collect the sums of money that are involved at all.

Senator REED. When you speak of legislation by reference you mean that they have expressed their tax as being eight-tenths of the Federal tax?

Mr. KING. Yes, sir. That is what Pennsylvania has done.

Senator REED. What are some of those other States that have done that?

Mr. KING. California, Colorado, Delaware, Georgia, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana,

Nebraska, North Carolina, Ohio, Rhode Island, Tennessee, Vermont, and Virginia are among those that we have checked.

Senator WALSH of Massachusetts. What was the statement, Senator?

Senator REED. He is protesting against section 811, which allows a reduction of tax to these depreciated estates, and he is pointing out that 80 per cent of that reduction will fall upon these states whose names he read.

Mr. KING. It will fall on all of them, Senator, but particularly heavy on these that have legislation by reference.

For instance, New York's law is practically the same as the Federal law, but it is expressed in New York statute and not by reference to legislation.

Senator REED. I see.

Mr. KING. It will cost the States $150,000,000. Of that we are very sure.

Senator REED. Now, if it is going to give real relief to the estates of these people who have died it will have to bring about a reduction of the State taxes?

Mr. KING. Absolutely.

Senator REED. If the States stand pat then this section 811 does not give any substantial relief to those taxpayers?

Mr. KING. To those taxpayers that have already paid. There will be relief only to those taxpayers, to those estates whose decedents died in this period but for which the tax has not yet been paid.

Senator WALSH of Massachusetts. And those who have delayed making payments.

Mr. KING. And those who have delayed making payments, yes.

The CHAIRMAN. And those that have made payments will no doubt ask for refund.

Mr. KING. Those who have made payments will no doubt ask for refund. And Pennsylvania and the other States will be in a mighty uncomfortable position if they refuse.

Senator REED. I think that is very clear. Thank you, Doctor.

Mr. KING. I will file this statement.

The CHAIRMAN. It may be placed in the record at this point.

(Statement presented by Mr. King is here printed in the record in full, as follows:)

STATEMENT IN RE SECTION 811, REVALUATION OF DEPRECIATED ESTATES—REVENUE ACT OF 1932

(By Clyde L. King, Secretary of Revenue of Pennsylvania)

I come to you to-day to ask that the Senate strike out Section 811 of the revenue act now before it, because the effect of that retroactive provision will be of very serious consequence to the revenues flowing into the treasury of Pennsylvania, and because its enactment will lead to arbitrary class legislation in giving to large estates exemptions and privileges which the small estates can not possibly be given at this time either by the Federal Government or by the States.

I come as a committee of one representing the Board of Finance and Revenue of Pennsylvania. This board is composed of the State treasurer, Hon. Edward Martin; of the auditor general, Hon. Charles A. Waters; of the attorney general, Hon. William A. Schnader; and myself, as head of the department of revenue. This board is the official representative of all the fiscal affairs of the State in its various ramifications. I am asked to state definitely in their behalf by unanimous vote that this legislation would be ruinous in its fiscal effects on Pennsylvania.

Section 811 of the revenue act of 1932, as passed by the House on April 1, 1932 provides that the executor or administrator of a decedent who died on or after September 1, 1928, and prior to January 1, 1932, may elect to have the estate valued for purposes of the Federal estate tax as of a date 18 months subsequent to the date of death. It is then provided that the amount to be paid as the tax shall be an amount which bears the same ratio to a tax computed without reference to the section as the value 18 months after death bears to the value at the date of death, but in no event is this amount to be less than 60 per cent of a tax computed without reference to the section.

The provisions of this section operate retroactively so as to include estates in which the tax has already been paid. The amount refundable shall be refunded, but without interest, if the election is evidenced by a statement properly filed not later than one year subsequent to the enactment of the revenue act.

This section, if enacted, will prove of very serious consequences to the Commonwealth of Pennsylvania and to other States. The Federal estate tax applies only to estates valued at $100,000 or more. Estates of less than this amount are taxed only by the States.

Under the Pennsylvania constitution, as interpreted by the courts, there can be no exemptions and no graduation in inheritance or estate taxes except for a flat rate for direct heirs now fixed at 2 per cent and a flat rate for collateral heirs and charities now fixed at 10 per cent.

Pennsylvania collects taxes from about 35,000 estates per year, whereas the Federal Government taxes about 7,000 estates per year. Most of the Pennsylvania estates are in amounts less than $100,000. All of the Federal estates are over $100,000 in value.

During the period covered by this proposed section over 100,000 Pennsylvania estates that have already paid inheritance taxes to Pennsylvania can secure no redress whatsoever from this legislation, whereas 7,000 estates taxed under the Federal law, all of them very large, will receive back $40,000,000. Relative to ability to pay, these smaller estates are harder hit now than the larger ones whether the estates have their value in real estate or in stocks and bonds. Such class legislation has but little to be said in its behalf. To relieve the wealthy and to tax the poor is not good legislation, especially when retroactive.

If tax legislation is to be retroactive, it should be made uniformly retroactive to all taxpayers throughout all parts of Pennsylvania as in every State in the Union. There are now long lists of farms and homes being advertised for sale by the sheriff because general property taxes can not be paid. This is true not only in Pennsylvania but throughout the country. To relieve all such taxpayers retroactively would be a serious matter to every county, city, and State in the country. To relieve some but not all is a matter of doubtful public policy. The States can not be expected to follow this precedent for retroactive tax legislation set in this provision for Federal estate taxes.

This proposed section presumes to reduce the hardship on the heirs of wealthy decedents who died when securities were high. But this principle has not been recognized by the Federal Government in taxing either the incomes of individuals or corporations, many of whom are still struggling to pay delinquent taxes on incomes earned during the years 1928, 1929, and 1930. This same shrinkage in assets that besets the rich man's estate has also depleted the capital of many individuals and corporations so that their ability to pay the Federal and State taxes when due now becomes a very heavy burden as compared with their ability to pay the tax when the incomes were being earned.

Since the Federal estate tax is imposed by the Federal Government and not by the States, the same authority that imposes it may unquestionably amend its provisions and provide refunds. Nevertheless, there is a serious question whether the Federal Government can compel or ought to compel States through such retroactive legislation to reimburse revenues which have already been paid. In the event that the States neglect or refuse to pass legislation conforming to the retroactive clause of this section, the result would be that the estates of those who died within the statutory period on which the tax was paid would find it impossible to recover moneys paid to such States, whereas the estates of those who died during the statutory period but had not yet paid the tax at the time this revenue bill becomes effective could insist on the benefits of this section.

Pennsylvania alone stands to lose about $25,000,000 in this biennium from this proposed retroactive legislation. It must be remembered that as much as $8 out of every $10 of the Federal estate tax is now being paid into the State treasuries of all the States that have taken advantage of this opportunity, and that includes all but about three. If I am correctly advised the Federal Treasury

will lose but $40,000,000 by this legislation. That means the States will lose another $150,000,000.

In recent years the tendency of Federal estate tax legislation has been to fix the tax with the proviso that there be a certain proportion turned over to the States. So well established had this become that practically all the States have arranged their tax legislation to dovetail into this system. Their budgets have also been adjusted with this in mind.

One of the most objectionable results of section 811 of the revenue bill would be to shatter this confidence and establish a counter trend.

Prior to the drawing up of the present tax bill Secretary Mellon and, subsequently, Secretary Mills and their assistants, according to the newspapers, expressed themselves very clearly as to the desirability of not disturbing the quota of estate tax money now turned over to the States. Their view was stated as being that any additional estate tax should be raised for the Federal Government without curtailing in any way the amount of estate tax at present paid over to the States. Section 811 goes directly counter to this idea, especially as it would take from the States from existing Federal estate legislation practically four times as much as the amount lost by the Federal Government.

We have carefully checked the tax returns of every estate that has been settled in and for Pennsylvania during the period covered by this proposed legislation. We find that $12,107,139.59 in taxes which have already been paid into the State treasury, would have to be refunded should the Pennsylvania law and practice conform to the Federal proposal. More than this, we estimate that an additional $14,000,000 is still to be derived from known estates of Pennsylvania decedents who died during this period on which the tax has not yet been paid. This is a total of $26,107,139.59. Possibly the total taxes actually to be lost to Pennsylvania may not be $26,107,139.59 because of the 60 per cent provision in the proposed legislation but we believe that it may amount to $25,000,000.

To deprive the State of Pennsylvania of anything like that amount at this time means practical bankruptcy. It means that without new tax legislation immediately, the needs of our welfare institutions, State subsidies to our common schools and salaries for essential State services can not all be paid when due and some of them not at all.

It may be said that Pennsylvania need not follow the proposed Federal legislation but Pennsylvania, like some other 16 States at least, has based her inheritance tax law on the Federal estate tax law. Other States, which have their own inheritance tax legislation, need not follow at least materially the changes made in the Federal legislation. But not so with Pennsylvania and with some of the other States.

In effect our law says that the inheritance tax returns shall be 2 per cent for direct heirs and 10 per cent for collateral heirs provided that in any given estate the tax is equal to 80 per cent of the Federal estate tax. This latter provision covers all of our larger estates, and all of these would fall under the proposed provision. Our tax losses would therefore be about $14,000,000 even though we refused to make any refunds for taxes already paid. For Pennsylvania to take this tax from some and not from others under identical conditions would be unfair and unjust.

I submit, however, that Pennsylvania, as other States, in common justice ought to give to its small and more heavily burdened taxpayer the same advantage offered to the large estates. This Pennsylvania can not possibly do without a loss of revenue, that will be ruinous to many of the essential services of this State.

For these reasons we respectfully urge the members of the Senate to refrain from placing this burden on State treasuries and take this retroactive provision out of the Federal revenue act now before you.

MANUFACTURERS' SALES TAX

STATEMENT OF B. H. LERNER, EXECUTIVE DIRECTOR OF THE BUREAU OF TRADE RELATIONS OF THE CREDIT CLEARING HOUSE OF NEW YORK, NEW YORK CITY

Senator WATSON (presiding). Give your name to the committee and whom you represent and where you live.

Mr. LERNER. B. H. Lerner; executive director of the Bureau of Trade Relations of the Credit Clearing House of New York.

We have in our organization a little more than 1,100 of the 1,500 dress manufacturers and wholesalers in New York City. What brings me down here is as a result of a meeting of our advisory board, who are fearful of the bringing up again of the proposed manufacturers' sales tax. I have a brief here and with your permission I will file it later. I did not want to read from it; I just wanted to talk informally for a few moments.

I merely wanted to bring to your attention that the dress industry particularly is in a very, very bad condition at the present time. Coming down on the train I took some statistics from a booklet issued by the National Credit office. There has been in the past two years a 20 per cent turnover in manufactures in the dress industry. The failures in the dress industry during the past two years have run about 45 per cent of those who have gone out of business, and the other 55 per cent are firms who have liquidated because they have lost their capital.

The reason for that is this: Dresses, while they are a necessity with women, are essentially a style article, and with the 1,500 very small units we have in our industry there is a very keen and intense competition to match whatever business there comes to-day from the retail field, which, as you well imagine, is rather small. Buying has been very piece-meal and hand-to-mouth. There has been a terrific price competition because of organized retailer aggression, and these weak unit men foolishly, because there are no trade regulations that can be sustained or maintained, have been giving their products away. When one fellow upstairs takes a $10.50 dress and sells it for $10 the fellow downstairs sells it for $10, and he does not do any real business.

That has resulted in this: The dress manufacturers are not the most profitable clientele of banks to-day, and our industry is rapidly losing its financial resources through banks. I do not have to tell you that when a dress manufacturer turns over a financial statement to a dress-goods house, if he does not show a solvent condition he is not going to get a great deal of favor.

An industry that used to do a volume of $800,000,000 a year wholesale, that runs at retail approximately $1,200,000,000, is quite an industry. Now, if an industry in that weakened economic and financial position is forced to absorb a tax of 2¼ per cent, it is definitely

confiscatory, and it just takes the man and his capital. They go out of business. That is the situation with reference to the dress industry.

One of the reasons that we are suffering in our industry is this, if I may have a few minutes more time: We sell to a retail store, and you gentlemen know that retail stores have really been giving merchandise away. I hold no brief for the retailer. Some of them, again, made a profit. But now they want us to absorb some of their losses in dealings. We have done that. How much further can an industry that used to do $800,000,000 a year, a successful industry in New York City, employing about 175,000 people—how long can they keep it up?

This is what happened: We have reduced salaries in our industry from 10 to 25 per cent in the last six months. Manufacturers who had large lofts are occupying only a quarter of that space to-day, either by arrangement with the landlord or by liquidating and starting over again in a smaller space.

Senator WATSON. Now apply all this to the tax bill.

Mr. LERNER. If the dress industry or the garment industry is forced to adopt that 2¼ per cent manufacturers' sales tax, then the industry is going to be in a pretty bad shape, because we can not absorb it.

Senator HARRISON. You do not favor it then?

Mr. LERNER. Not a manufacturers' sales tax as applied to clothing.

Senator REED. If manufacturers excise tax were made general but exempted rent and food and clothing it would not touch your afflicted industry, would it?

Mr. LERNER. No; I would take the train back to New York.

Senator REED. You would approve of such a tax as that, would you not?

Senator HARRISON. You would be with that strong, wouldn't you?

Mr. LERNER. You do not want me to answer that, Senator.

Senator WATSON. We evidently will not get you to.

Mr. LERNER. May I say this, that the men comprising the garment trades in New York are men who came to this country in the last generation or two. They have built up their successes in their businesses on a shoe string, as you know. Nobody put a silver spoon in their mouth, and they are just as patriotic as anyone else, and they certainly want to support the Government. We had a mass meeting of them on March 17. They are not trying to dodge anything, but they do not want to go out of business.

Senator CONNALLY. They are not all Irish, are they?

Mr. LERNER. That is a fair question. I think we have two that are Irish.

Senator CONNALLY. They met on the 17th of March, you say.

Mr. LERNER. They did meet on St. Patrick's Day. I am not lobbying for anything.

Senator REED. Quite seriously, I do not know anybody that is urging the manufacturers tax that would apply to clothing or foods.

Mr. LERNER. Would you say to me, Senator, that I could go back to my 1,100 people and indicate to them that there is every possibility of an exemption on clothing?

Senator REED. So far as I am concerned I should not ask a tax on either clothing or food.

Mr. LERNER. I want to thank your for your time.

Senator REED. But I call your attention to the fact that the House bill, the bill as we get it from the House, does tax at the rate of 10 per cent any article of clothing that includes a bit of fur.

Mr. LERNER. The dress industry is not disturbed by that.

Senator REED. Don't they use fur?

Mr. LERNER. No, sir.

Senator HARRISON. You ought to be happy.

Senator WATSON. You ought to accept Senator Reed's dictum on this thing and go home perfectly satisfied.

Senator CONNALLY. I think he can be excused.

Mr. LERNER. If there is no provision for my fare back, I will pay it out of my own pocket. [Laughter.]

STATEMENT OF M. D. MOSESSOHN, NEW YORK CITY, EXECUTIVE CHAIRMAN ASSOCIATED DRESS INDUSTRIES OF AMERICA, UNITED WOMEN'S WEAR LEAGUE OF AMERICA.

The CHAIRMAN. You are here to talk upon the question of sales the tax?

Mr. MOSESSOHN. I am here to talk primarily against any manufacturers sales tax if there is any talk of revising it, and generally against the sales tax.

The CHAIRMAN. Well, is that all that you are here for?

Mr. MOSESSOHN. Yes.

The CHAIRMAN. There is no need of taking any time then. Did you testify before the House?

Mr. MOSESSOHN. No. I did not have the opportunity, sir. The organizations which I represent are absolutely opposed to any sales tax for fear it is going to retard business. Business is having a hard enough time as it is to get on its feet. And we are, of course, particularly opposed to any sort of a manufacturers' sales tax because of the condition of the industries at the present time.

The CHAIRMAN. Whom do you represent?

Mr. MOSESSOHN. I represent the Associated Dress Industries of America and also the United Women's Wear League of America, and we have an output of $1,250,000,000 worth of products.

The CHAIRMAN. You are opposed to a general sales tax, and you are opposed to a special sales tax if it takes in articles manufactured by you and the concerns represented by you?

Mr. MOSESSOHN. That is correct, sir.

The CHAIRMAN. In other words, you are opposed absolutely to the sales tax?

Mr. MOSESSOHN. We are.

The CHAIRMAN. Is there any other information you want to give to the committee?

Mr. MOSESSOHN. I have a brief here that I can leave with you.

The CHAIRMAN. We will be glad to have you file it right now. Put it in the record at right this point. And we thank you for it.

(The brief presented by Mr. Mosessohn is here printed in the record in full, as follows:)

BRIEF OF M. D. MOSESSOHN

NEW YORK, *April 18, 1932.*

The SENATE FINANCE COMMITTEE,
Washington, D. C.

GENTLEMEN: Industry must be encouraged and not taxed out of existence.

It is mainly through the efforts of the manufacturers that the depression will be overcome. Adding burdens on the manufacturers' shoulders will certainly prevent a revival of business.

The proposed manufacturers' sales tax will be obviously a burden on manufacturers and not a tax on manufactures. If it is intended that a sales tax is to be paid by the consumer then it should be so stated. If, on the other hand, it is the object of the proponents of the sales tax to have the manufacturers absorb the tax, the sooner they so inform the manufacturers plainly, the better it will be for all concerned. In so far as the ready-to-wear industries are concerned, it may definitely be put down that if they should attempt to do so it would mean commercial suicide.

As executive chairman of the Associated Dress Industries of America and executive chairman of the United Women's Wear League of America, national organizations, located in New York City, I represent several of the industries that manufacture women's, misses', and children's ready-to-wear. The largest of these is the dress industry which has the preponderance of production in all of the women's ready-to-wear. The dress manufacturers produce over $800,000,000 worth of dresses a year, or, to be exact, in 1931 they produced $805,183,000 worth of dresses. It is the largest yardage consumer of any single cutting unit in the textile industry and the primary market for silk piece goods. To-day it is daily consuming more cotton yardage than any other industry.

The children's wear industry produces $115,256,251 a year. The underwear and negligee industry has an annual production of $153,533,041. The corset industry has a production of $110,000,000; the blouse industry has a production of $11,000,000; the infants' clothing industry has a production of $15,695,876 annually; the neckwear industry has a production of a little over $11,000,000 annually. This makes a total of $1,221,068,768 annually, which is the factory value of the products of the industries which I represent. Adding on the salaries of the white collared employees, rent, taxes, sales cost, interest on investment, etc., one can readily appreciate the tremendous sales volume of these industries. They employ over 150,000 wage earners. All of these would be vitally affected if a manufacturers' sales tax is passed.

These are fashion industries. In its very nature, the harnessing of fashion and industry is a decidedly hazardous undertaking. This, added to the fact that the past few years have seen a buyers' market, tends to add materially to the chaotic condition in which the industries now find themselves. Competition has been so keen that it is commonly referred to as of a cut-throat variety. Over 90 per cent of the manufacturers of these great industries have been losing money during the past few years; and the very small percentage that has made a profit show the same to be a possible 4 or 5 per cent on volume of sales. Thus, in the latter class, is the manufacturer, for instance, who does a volume of $500,000 a year. His profit on this volume is about $20,000 to $25,000. Under the original provision of a 2¼ per cent manufacturers' sales tax on the volume of sales, he would practically contribute one-half of his profits to the Government. This does not take into consideration the other taxes that he has to pay out of his profits. What about the 90 per cent who have lost and are losing money in their respective businesses? If the manufacturers' sales tax is passed, they apparently will be called on by the Government to add to their losses.

There are standard prices in the entire ready-to-wear field. For instance, the manufacturer sells dresses to the retailer at stipulated prices, such as $6.75, $10.75, $16.50, etc., per dress. The retailer will still call for the same dresses at these prices. He will expect the manufacturer to absorb the tax. This the manufacturer can not do as he has not a bit of margin on which to work. Manufacturers making this merchandise are at present producing same in order to keep their factories running and their workers occupied. In doing so they are lending their decidedly material aid in checking an increase in the unemployment situation. If the manufacturer will be called on to pay a manufacturers' sales tax, he will either be forced out of business completely with a resultant increase in the ranks of unemployed, or, if he remains in business, he will be compelled to curtail his help. In either case the results will be disasterous.

To-day the dominant industry in ready-to-wear is dress manufacturing. The turnover in the number of manufacturers in 1930, according to reliable statistics, was 25 per cent. In other words, 504 concerns out of 2,072 in the dress manufacturing industry went out of business in one year. In fact, 50 per cent of the total number of concerns now in business have been operating only since 1928. There were more failures in this industry in the first nine months of 1931 than in the whole of 1930. It is particularly important to remember that 78.6 per cent of the production of dresses in the United States is confined to New York City, although but 66.4 per cent of these manufacturers are located here.

The effect of any undue burdens laid on the manufacturer will naturally be felt by those dependent on him, and there is hardly a line of business in New York City that is not dependent directly or indirectly on the ready-to-wear manufacturer.

The manufacturers in our industry to-day are practically flat on their backs. Not only are they suffering from the inherent weaknesses of the industry and the effects of the depression, but they are not receiving the necessary support from their banks, with the result that they are being hurt from all sides.

What applies to the dress industry is also applicable to the other women's and children's wear industries, in proportion. Clothing is a necessity and should be excluded from any tax.

As other patriotic citizens, our manufacturers are only too anxious to assist in balancing the Budget, but they feel that loading burdens on them in their present condition will create more havoc than can be measured in the amount that may be received from any tax that may be levied on them.

Respectively submitted.

M. D. MOSESSOHN,
Executive Chairman Associated Dress Industries of America;
United Women's Wear League of America.

STATEMENT OF W. A. DOWER, INDUSTRIAL SECRETARY OF THE MANUFACTURERS' ASSOCIATION OF CONNECTICUT

Mr. DOWER. By the circumstances of location, the specific 14 excise taxes in the present bill apply particularly to the members of this association. Among those are three paragraphs which I will mention as samples.

No. 602, the one referring to toilet preparations and cosmetics, includes a number of items which are not luxuries. It applies to soaps, for example, which is the necessary cleaning material of the man who toils in the factory.

Paragraph 604, the jewelry paragraph, so called, includes a number of items which, while bearing a luxury tax of 10 per cent, could hardly be classed in that category. Clocks that retail at $1, electric clocks, are not distinguished from the large hall affair.

Another item is silverware, that is, silver-plated ware, which is the ware of the man in the street.

Another refers to paragraph 606, boats, bearing a luxury rate of 10 per cent. I have in mind one which was produced at $125,000 in our State.

These are mentioned not for the purpose of exclusion but the inclusion in the excise tax.

I refer especially to the broad inclusion of jewelry of all kinds.

In conclusion, I would suggest that if the general sales tax goes back before the passage of the bill, the $20,000 exemption originally provided in the House should be lowered, which will afford an added advantage to the producers of many of the articles, many outside of Connecticut, in competition with Connecticut, in so far as they refer to some of the things which were exempted in the original bill.

I thank you, gentlemen.

STATEMENT OF BENJAMIN BERMAN, VICE PRESIDENT CROWN OVERALL MANUFACTURING CO., AND REPRESENTING THE UNION MADE GARMENT MANUFACTURERS ASSOCIATION OF AMERICA, CINCINNATI, OHIO

Mr. BERMAN. Mr. Chairman and gentlemen of the committee, it is not our intention to discuss the theory of the sales tax, nor to repeat the arguments already advanced against this method of taxation. We are opposed to a general sales tax, but we are more concerned with apprising this committee of the situation as it affects the wearers and manufacturers of overalls. To the workingman and farmer the overall is a vital necessity. Next to food and shelter, the overall is indispensable to those who keep the wheels of industry turning and raise the produce that feeds our people. No picture of a worker is complete without the blue denim overall that is symbolical of productive labor. It is, therefore, easy to appreciate how necessary the overall is to those who till the soil, those who fashion the mechanisms of industry, those who form an integral part of the transportation systems, in fact, to all who perform the manual labor of the country.

These men constitute the majority of our population, the backbone of our civilization and of our economic existence. Many of them are now idle, many are working but part time, and those who are fortunate enough to have employment are on a smaller wage basis. All are in reduced circumstances and are living from hand to mouth, with the better part of their meager savings already absorbed in the attempt to maintain themselves and families.

Any proposal to add to the living expense of the workman and farmer by means of a sales tax on absolute necessities such as overalls is unfair. It saddles them with an additional load which will retard, that much more, their financial recovery. It would be an unpopular tax, falling on an item almost as necessary as a job itself, and will create a long-remembered resentment.

And the poor overall wearer would have to pay the tax. The manufacturers are virtually selling overalls at cost and in some cases below cost. The merchants likewise sell them without profit. Overalls have never carried a proportionate mark-up and the majority of stores have used them for loss leaders. Overall manufacturers are operating at about 25 per cent to 35 per cent capacity. Almost all have lost money during the past several years, and most of them have not been able to earn their fixed charges. Only the hope that better times will enable the manufacturers to improve their positions gives them the tenacity to hold on. A tax on overall sales could not be other than ruinous. It would therefore have to be passed on through the retailer to the poor workman and farmer.

This tax would not mean much to the Government. Department of Commerce census figures show the value of overalls produced to be less than $100,000,000 per year. This will net in taxes less than $2,000,000, 2¼ per cent tax, a very small sum indeed. Certainly, not much considering that its collection will likely help to ruin already distressed industry and bring hardship to those least able to pay.

The laborer and farmer spends, as you well know, most of his time in overalls, and to many the overall is even a Sunday garment. Conditions to-day make it impossible for many of these poor folk to buy new overalls. Tattered, patched, and worn-out garments in

general use serve as silent testimony to existing poverty. Surely, when our workmen and farmers must wear their overalls until they fall apart, it is not difficult to understand their condition and that of the overall industry. It would be most unfair to add to the staggering burden of the poor and hopeless workingman, farmer and laborer. Taxes should come from those items which produce a superfluity of profit—certainly not from those persons unable to earn enough to buy the mere necessities of life for themselves and their families.

LETTER FROM W. W. BALDWIN

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
March 18, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee, Washington, D. C.

MY DEAR SENATOR: I am inclosing herewith a letter which I have to-day from Mr. W. W. Baldwin, of Millersville, Md., in which he proposes an amendment to the pending revenue bill.

I shall appreciate it very much if you will place Mr. Baldwin's letter in the hands of the subcommittee to consider this phase of the bill, in order that his proposed amendment may be carefully considered in connection with the bill when it comes to the Senate.

Thanking you in advance, I am,

Very truly yours,

M. E. TYDINGS.

MILLERSVILLE, MD., *March 17, 1932.*

Hon. MILLARD E. TYDINGS,
United States Senate, Washington, D. C.

DEAR SIR: Permit me to call your attention to a matter relating to the new proposed sales tax which will, it seems to me, unless corrected, be the cause of an immense amount of difficulty in collecting the tax, as well as endless confusion among those manufacturers who will be held responsible for accounting to the Government for the money. As the bill now reads, it will also undoubtedly involve a great deal of pyramiding of the tax, which, as I understand it, is not the intention of the bill.

To prevent these difficulties, the bill itself should plainly prescribe the means which will defeat su h a result, and to this end should prohibit inclusion by manufacturers of the tax in the selling price. If this is done, the tax can and will be passed on down to the consumer as a single levy of 2¼ per cent. If, on the other hand, manufacturers and others include the tax in their selling prices for goods and so invoice them to customers, others rehandling the goods will base their selling prices upon their gross cost with the sales tax again included in the price.

To prevent this, I would suggest for your consideration that section 616 of Title IV be amended by substituting therefor the following:

"SEC. 616. *Regulation.*—The commissioner, with the approval of the Secretary, shall by regulation require those liable to pay the taxes imposed by this title to list and bill the said taxes as separate items on all invoices, bills, statements, or like evidences of sale or transfers of title, and not as part of or included in the selling price of the said article taxed, and he shall prescribe and publish such other and further regulations as he may deem necessary for the enforcement of this title."

I think it will be quite clear to you that if the tax is kept separate on each invoice as rendered, duplication and pyramiding will be prevented and the collection of the tax and accounting therefor enormously simplified.

Hoping that you can see your way clear to give this matter your most serious and careful consideration, I remain,

Yours very truly,

WILLARD A. BALDWIN.

STATEMENT OF HAROLD R. YOUNG, WASHINGTON REPRESENTATIVE OF THE NATIONAL RETAIL DRY GOODS ASSOCIATION

Mr. YOUNG. Mr. Chairman, I have a very short statement.

The CHAIRMAN. And you desire to speak on the sales tax?

Mr. YOUNG. Very briefly.

The CHAIRMAN. Proceed.

Mr. YOUNG. My name is Harold R. Young. I am the Washington representative of the National Retail Dry Goods Association, a voluntary organization composed of some 3,700 retail dry goods and department stores, located in every State in the Union.

My purpose in appearing before your committee is to express to you, at the direction of my board of directors, opposition of the membership of the association to every form of sales tax including a manufacturers' excise tax, a selective or so-called luxury tax, a general retail sales tax, or turn-over tax, for the following reasons:

1. Any form of sales tax is contrary to the fundamental principle of taxation, inasmuch as it is not based upon ability to pay.

2. Any form of sales tax will increase the cost of living to the American people and will affect most severely those in the lower-income class, because a greater percentage of their income is spent in living costs.

3. It is a tax on consumption, which will create a sales resistance against those commodities taxed, it will inevitably lead to a falling off of consumer demand for the articles taxed, and will therefore affect adversely the industry and commerce of our Nation.

4. It will encourage extravagance in government. Once any form of sales tax is enacted there is nothing to prevent succeeding Congresses from increasing the rate of taxation when confronted with the problem of raising additional public revenue.

That concludes my statement, Mr. Chairman.

The CHAIRMAN. Have you any suggestions to make to the committee on where to raise this money?

Mr. YOUNG. I am not directed by my board of directors to offer any alternative suggestions, Senator; they feeling that is the committee's function.

The CHAIRMAN. All right. You said you had concluded your statement?

Mr. YOUNG. Yes.

STATEMENT OF MAXWELL COPELAF, REPRESENTING THE MERCHANTS LADIES GARMENT ASSOCIATION, NEW YORK CITY

The CHAIRMAN. You may proceed, Mr. Copelaf.

Mr. COPELAF. My name is Maxwell Copelaf, 225 West Thirty-fourth Street, New York City. I represent the Merchants Ladies Garment Association, of New York City, and also the American Cloak and Suit Manufacturers' Association. Those two groups produce and distribute what is probably a major portion of women's coats and suits in this country.

The House bill has definitely excluded the tax on clothing, so I only appear here in the event that the committee should reconsider the inclusion of a tax on clothing, and to call your attention to the

fact that our industry is not in a position to absorb that tax. Our industry is made up of a number of small units——

Senator COUZENS (interposing). Mr. Chairman, may we not assure the witness that we will not put on a general sales tax, and save his time and ours?

Senator REED. Mr. Chairman, I hope we will assure him we will try to.

Senator HARRISON. Why could we not take a vote on that subject and settle it now?

The CHAIRMAN. We have almost exhausted our list of witnesses for to-day.

Senator COUZENS. We are not going to put on a sales tax, and why take up the time of the witness and our time?

Senator REED. The House bill does include some articles of clothing; anything with fur on it.

The CHAIRMAN. Yes; anything with 10 cents worth of fur on it is taxable.

Senator REED. Do you think that is fair, Mr. Copelaf?

Mr. COPELAF. No, sir.

Senator REED. You do not approve of the House bill as it stands?

Mr. COPELAF. Not entirely. I feel that fur, as far as it applies to coats, is not a luxury; it is a necessity. We have a great many coats trimmed with fur, and if you consider that fur—it does not pay to put 10 per cent on fur particularly, and if it is interpreted that the fur is the greatest component part of the coat, we may be taxed on the fur part, whereas the coat is only a small proportion of it. That will add to the cost tremendously.

Now, if you care to have me go along——

The CHAIRMAN (interposing). Yes; go on.

Senator REED. The men and women both wear a great deal of fur, in the northern part of the country.

Mr. COPELAF. Yes.

While the industry is one of the largest in the United States, it is composed of a very large number of small units, each firm not too heavily capitalized and not in a position to dictate or control selling policies or prices.

The organized buying groups representing either individual stores through a buying representative resident in New York, or the buying offices maintained by powerful chain organizations, dictate, in the main, the wholesale prices which are needed to fit into their set retail prices, and such prices as will yield to them a satisfactory mark up.

A manufacturer's sales tax, if applied to our trade, would mean a practical compulsory absorption of the tax by the wholesalers or manufacturers, and if it is to be 2¼ per cent, it will, in most instances, wipe out a firm's entire profit, the average capital being about one-tenth, or less, of the yearly turnover, and the net profits on the volume, when there is a profit, is usually under 5 per cent, and in most instances only 2 per cent or 3 per cent.

Therefore a manufacturers' sales tax, as originally included in the House bill, if applied to women's clothing, would mean a serious unbearable imposition on the industry, and a definite direct loss to the Government in other ways of taxation through the further depletion of business firms, decreases in employment, and so forth.

If, in the judgment of the Government, this tax must be passed, then there must be definitely provided a provision in the law that the tax be passed on to the retailer, in segregated form, from the charge for the garment sold, and while it is to be collected from the manufacturer, it is actually to be paid openly by the ultimate consumer, the retailer being, in the main, in no position either to absorb 2¼ per cent of additional charge in his markup.

Now, I heard it mentioned this morning about the Canadian tax. In discussing this question with women's clothing manufacturers in Canada, they passed the tax on to the retailer there, and I am informed that the retailer makes a profit. And unless it is marked up, it means that the consumer does pay it.

Senator REED. Where do you suggest that we get the money to balance the Budget?

Mr. COPELAF. Well, my own opinion is that there should be a tax distributed generally; you might call it a sales tax, but openly paid by everybody in that way. Everybody would have to pay.

The CHAIRMAN. Thank you, Mr. Copelaf.

STATEMENT OF SAMUEL L. DEITSCH, REPRESENTING THE INDUSTRIAL COUNCIL OF CLOAK, SUIT, AND SKIRT MANUFACTURERS (INC.), THE MERCHANTS LADIES' GARMENT ASSOCIATION, AND THE AMERICAN CLOAK AND SUIT MANUFACTURERS' ASSOCIATION, NEW YORK CITY

Senator WATSON (presiding). Mr. Deitsch, give your name and city, and tell us whom you represent.

Mr. DEITSCH. Samuel L. Deitsch, New York City. I represent the Industrial Council, which comprises the——

Senator WATSON. Is that the same organization that this last man represents?

Mr. DEITSCH. No; it is not, Senator. It is an organization that represents the coat, suit, and wrap department of the industry. It does not handle dresses at all.

Senator CONNALLY. But do you handle furs?

Mr. DEITSCH. We handle furs; yes, sir. I would like to tell you how we understand furs to mean in relation to our industry, if you will permit me. It is a small statement. Furs are not luxuries in our industry. They are a component part. The industry uses one hundred and twenty-five to one hundred and fifty million dollars worth of fur. It uses it in a sense that it is a part of the garment and not as a luxury; as a necessity. It is used as a necessary article to the garment, as, for instance, on the collar. We recognize that a coat that is two-thirds fur and the rest cloth would be a fur coat. We are not interested in that. We are only interested with furs that are to-day a component part of the garment that your wife would wear, or any man's wife would wear.

Senator WATSON. In the summertime—the women all wear these furs in the summertime.

Mr. DEITSCH. Well, the furs that are worn in the summertime, Senator, are a decorative part of the garment. They are not a necessary part of the garment. But the furs that are worn in the wintertime are worn for warmth, and that is the part I would like to read, if you will permit me. It is just a small statement.

Senator WATSON (presiding). Yes; very well.

Mr. DEITSCH. I have prepared here a statement along the lines of the——

Senator HARRISON. Any part of your statement you do not want to read and want to put in the record you can do so.

Mr. DEITSCH. I would like to read it all. I have heard the previous gentlemen. I also heard the reaction of the Senators in relation to the tax on our industry.

Senator WATSON. That section has reference to a tax on furs alone. That is section 603, page 248.

Mr. DEITSCH. Yes. Gentlemen, I will read that part of it.

Our association is a spokesman body of the manufacturers in the New York coat and suit market. Our field comprises about 1,800 firms, employing 25,000 factory workers and 10,000 other employees and produces and distributes approximately $350,000,000 worth of merchandise annually, sold to the public through upwards of 20,000 retail stores.

Having heard that there was a likelihood that the Senate would revive the manufacturers' sales tax feature of the revenue bill, we requested an opportunity of presenting our views against that provision, because we sincerely believe that its enactment would acutely aggravate an already critical situation in our industry; that it would add an intolerable burden upon a trade that is already weighted down by more than five years of continuous adversity. We were not beneficiaries of the period of prosperity that preceded the present era of general recessions. Drastic competition due to the multiplicity of units in our field and rigorous pressure for price exerted by solidly welded groups of retailers deprived our individual enterprises of all semblance of profit during those years when other industries were booming. With the decrease in public purchasing of even so basic a commodity as apparel, due to a psychology of fear as well as to reduced income, the forced liquidations in our trade have risen at an alarming rate.

According to statistics of the national credit office, 8.3 per cent of the coat and suit firms became insolvent in 1929, 10 per cent in 1930, and 11.3 per cent in 1931—in other words, one in every three concerns in an industry engaged in the vital task of preparing apparel for the millions of American women encountered insurmountable financial difficulty in the past three years. This does not include the considerable number of concerns that, reaching the end of their resources, averted bankruptcy by withdrawing from business. In this connection, permit me to cite the fact that in August, 1929, the industrial council had a membership of 291 as compared with 203 at present. You must visualize, in the passing of each of those firms, the loss of employment for office and factory workers and the loss of customers for the textile, fur, and other trades from which we purchase our supplies.

Our industry should be exempt from any manufacturers' sales tax not only because of the demoralization that it would engender among us but also because we are dealing with a fundamental necessity. The average family to-day does not budget apparel as a decorative luxury. Expenditure for attire is invariably held down to minimum requirements despite our efforts to accelerate consumption through

the creation of fetching fashions. It is interesting but not encouraging to note that 75 per cent of the merchandise sold by us is priced at less than $30.

A manufacturers' sales tax of 2¼ per cent would cost our industry approximately $9,000,000 a year. It would take $12,250 from the firm doing an annual volume of $500,000. We say with all the emphasis at our command that this assessment would mean the difference between solvency and insolvency for scores of firms. The units in our trade operate on small capital and frequent turnover. The volume often seems great when compared with the capital, but that is due to the peculiar character of this field and not to overextension. A $12,250 tax on a $500,000 turnover would consume one-third or more of the capital of many of the concerns.

The question may be asked, "Why isn't the tax computed as a legitimate item of cost and thus passed along to the retailer?" Our answer is that we are faced with the most decisive buyer's market ever experienced in the history of our industry. We are, individually, small and ineffectual when contrasted with the powerful retail entities who comprise our patronage. We believe that any endeavors on our part to pass along the tax to the retailers would be successfully resisted. Some of the more strongly entrenched manufacturers and wholesalers might attempt to do this, but eventually they would be compelled to absorb the tax by reason of the fact that their less hardy competitors had already done so.

Were we able to compute the tax as an item of cost, the consuming public would be required to defray an amount from 30 to 40 per cent greater than that which we turned over to the Government. This would be brought about through the addition of the stores' mark-up upon the manufacturers' tax item. It would mean a tax of almost 4 per cent as far as the public was concerned and would evoke infinitely more potent sales resistance than is now encountered by the purveyors of apparel, despite the fact that current garment values are superlatively attractive. We have eliminated every semblance of inflation, having radically curtailed our overhead and enhanced our efficiency. We have avoided the costly waste of overproduction by operating conservatively, and we have been purchasing our supplies as thriftily as possible. In short, a tax levy would gnaw deeply into the very vitals of our enterprises with disastrous results.

The limited time allotted to us does not permit of the amplification of the premises we have briefly outlined. We have, however, endeavored to accord you some conception of our reasons for urging that our product be exempt from any manufacturers' sales tax measure that may be recommended by your committee.

Permit me at this time to voice our views on the impost on furs which has been approved by the House of Representatives. We understand that this has been designated as a "luxury tax." Our industry consumes, on a conservative estimate, between $125,000,000 and $150,000,000 worth of furs annually. In the fall and winter season about 80 per cent of the coats and suits manufactured are trimmed with furs.

Senator REED. Does fur constitute the component of chief value?

Mr. DEITSCH. I will show you, Senator, how it does.

In the vast majority of instances they serve, not as a luxurious embellishment but as a warmth-giving and health-protective medium. Being more costly than woolens and silks, they are the major component of the garments on which they are used. A 10 per cent tax on fur trimmings—as we understand it, it is trimming, it is not a fur—will appreciably increase the price of even the most inexpensive coats and suits as much as 4 per cent.

Senator WATSON. Of course, that is all you use the fur for, is it, as trimming?

Mr. DEITSCH. As trimming, yes; and that is what we are interested in.

On higher quality merchandise the fur trimming tax of 10 per cent will advance the cost of the entire garments by upwards of 6 per cent. When a similar tax was in effect in 1920 the garment producer included the levy in the computation of his selling price. The tax was listed separately in the fur manufacturers' sales to the apparel firms. In attempting to pass the tax along to the retailer under present conditions, we shall encounter a stern resistance. They will make us absorb that. In fact, a situation will be created similar to that which would follow the enactment of a manufacturers' general sales tax in our industry.

Senator WATSON. How many of you manufacturers are there?

Mr. DEITSCH. In my former statement which I read I believe that was set forth.

Senator WATSON. You can tell us that.

Mr. DEITSCH. Yes; I can tell you. The industry does a business of $350,000,000 worth annually.

Senator WATSON. But how many of you are in the business in New York City, or wherever you are in business?

Mr. DEITSCH. Manufacturers, you mean?

Senator WATSON. Yes.

Mr. DEITSCH. About 2,000. There are 25,000 factory workers; there are 10,000 other employees, producers, and distributors. We sell annually, at the present figures, $350,000,000 worth of merchandise, and we sell it to 20,000 retail stores.

Senator WATSON. And you could not pass the tax on if it were imposed?

Mr. DEITSCH. We could not very well, because the retail stores would have to take that tax and add it to the price of their garments and then figure a profit on that total amount. They would, in fact, make a profit on the tax.

Senator CONNALLY. Furs are cheaper now than they were formerly, are they not?

Mr. DEITSCH. Sir?

Senator CONNALLY. You are getting furs much more cheaply now than you did formerly, are you not?

Mr. DEITSCH. Yes, sir; we are getting them cheaper.

Senator CONNALLY. Would not you try to increase your price on the furs?

Mr. DEITSCH. Yes.

Senator CONNALLY. Telling the retailer that you are simply adding on the tax and sell to him in that way, wouldn't you?

Mr. DEITSCH. He would not stand for it.

Senator CONNALLY. That is what you would do, is it not?

Mr. DEITSCH. We would try to do that, but I don't think he would stand for it. He would insist on our absorbing it.

Senator CONNALLY. I mean, if you would fix a price at which you would sell to the retailer, a flat price, he would either have to pay that or not get the goods.

Mr. DEITSCH. Not if he knew there was a tax item on that.

Senator CONNALLY. He would not?

Mr. DEITSCH. He would not; no.

Senator CONNALLY. I don't see how he could find out.

Mr. DEITSCH. He could find out through his strength of position.

Senator HARRISON. Is it your contention that as manufacturers of these goods you would have to pay a tax, and then the retail merchant who bought from you would have to pay a tax if he sold the goods, and the consumer pay it again?

Mr. DEITSCH. The consumer would pay the tax in the last analysis.

Senator HARRISON. Finally.

Mr. DEITSCH. Finally. At the same time we are afraid of it because of our weakened condition. There is a strong buyer's market. If he would get a bill for $100, with 10 per cent taxes, he would not accept it that way.

Senator WATSON. Is fur the principal component part of all of these dresses?

Mr. DEITSCH. It is not. It is only one part of it.

Senator WATSON. This says, "Articles made of fur on the hide or pelt or of which any such fur is the component material of chief value."

Mr. DEITSCH. Exactly so.

Senator WATSON. More than 50 per cent of the value of a dress of that kind is not fur, is it?

Mr. DEITSCH. That is exactly what we are trying to make you understand, that woolens and silk are so cheap to-day in relation to fur that there will be very few garments where fur is used where the fur would not exceed the amount of those two items. In fact, fur is the only thing that seems to sell these garments to-day.

Senator REED. So you think the bill as passed by the House would just about put you out of business?

Mr. DEITSCH. There is not any question about it, sir.

Senator REED. Then the Senate will have to try to help you.

Mr. DEITSCH. Thank you.

STATEMENT OF W. C. HUSHING, NATIONAL LEGISLATIVE REPRESENTATIVE AMERICAN FEDERATION OF LABOR, ON SALES TAX

Almost every tax now imposed is passed on to the consumers, who, to a large extent, are wage earners.

The taxes on property are passed on to the tenant and the taxes of the manufacturer are included in the sale price of his finished product.

To add a sales tax puts an additional tax on the consumer and in effect is double taxation.

During the spring and summer of last year certain influential public officials declared that in order to raise sufficient funds to pay Government obligations that the sales tax must be established. They told how much could be raised by an overturn sales tax of one-half of 1 per cent on all sales including food, wearing apparel, household utilities, restaurants, and other necessaries of life. Furthermore, it was pointed out that exemptions of married and single persons should be lowered.

The executive council alarmed at this crusade to relieve the well-to-do from taxation and place the burden on those least able to bear it, made a report to the convention of the American Federation of Labor in Vancouver, British Columbia, October 5–15, 1931. In corroboration of the report to the convention it is only necessary to refer to the recommendations of the Secretary of the United States Treasury to the President. He proposes to increase the tax on all incomes up to $4,000 from 1½ per cent to 2 per cent, decrease the exemption of single men from $1,500 to $1,000, and married men from $3,500 to $2,500. These increases and the reductions in exemptions were foretold in the executive council's report.

The plan of the Treasury Department proposes that those who have suffered the most during this depression must pay the taxes of those who have neither hungered nor wanted for any of the necessaries of life.

It must be understood that 8,000,000 of our wage earners are out of employment and that they, with their families numbering approximately 25,000,000, have had to exist more or less upon contributions from relatives and friends who, despite their own sufferings from the depression, divided the incomes they received or their savings in order to save thousands of sufferers from starvation.

Then there are millions of farmers who have suffered the greatest privations during the depression who will also be overburdened by the sales tax. There are hundreds of thousands of families none of whose members are at work. In hundreds of thousands of other families they rely on the wages received by one of the members. Therefore it is plainly understandable that those who have been fortunate enough to have had employment have already divided up their wages and savings to help those in need. The wage earners can not be expected to suffer the entire burden of unemployment.

Another important feature of the taxation problem is the fact that every public man who has advocated the sales tax on all sales has been very well to do and propaganda undoubtedly was spread by them in the hope that they will eventually succeed in lowering the income tax they will have to pay.

In protesting against the sales tax or any increase that will bear down upon those struggling for existence the American Federation of Labor herewith submits evidence proving that those who advocate the sales tax do it with the sole purpose of reducing their own taxes. Much is said about the Canadian sales tax. It is said the people pay it with pleasure because they do not know they are paying it.

In 1922 the Canadian Manufacturers' Association submitted to the Government a brief asking that certain taxes should be repealed and the loss made up by increasing the sales tax. It is as follows:

"Last year a special committee of the Canadian Manufacturers' Association, in cooperation with other organizations, investigated the problems of taxation, not only in Canada but also in the United States, Great Britain, France, and other countries. This committee submitted the following recommendations to the Dominion Government:

"'(*a*) That the business profits war tax shall not be reenacted.

"'(*b*) That the income war tax act as regards corporations shall be repealed.

"'(*c*) That the present sales tax shall be adjusted so as to provide the additional revenue needed by the Dominion Government.'"

Then, listen to this:

"At the last session of Parliament the business profits war tax act was not reenacted, the sales tax was readjusted so as to provide additional revenue, but the income war tax as regards corporations was not changed.

"As we believe that the general policy outlined in these proposals is sound, we respectfully beg to submit the following similar representations to the present Government of Canada in the hope that Parliament will see fit to act favorably on them at the coming session:

"(*a*) That duplication of taxation be avoided as much as possible.

"(*b*) That the income war tax act as regards corporations shall be repealed.

"(*c*) That the present sales tax shall be adjusted so as to provide additional revenue."

Does that not prove our contention that the well-to-do will benefit by the sales tax?

Then to secure greater protection the Canadian Manufacturers' Association requested the following safeguard to their profits:

"In regard to the sales tax we beg to advocate: That as the sales tax is a tax payable by the purchaser, manufacturers and wholesalers should not be

held liable for any taxes which they can not collect owing to the purchaser becoming insolvent or refusing to pay, even though the manufacture or wholesaler has in the meantime advanced the amount of the tax to the Government when making his monthly returns."

This proves effectually that the consumers pay the "sales" tax.

There is no denial of the fact that at least 50,000,000 people, consisting of wage earners and farmers and their families, have expended practically all their savings in endeavoring to keep the wolf from the door. There could be no more cruel method of adding to that suffering than to force them to bear a tax on all purchases they make. Those who advocate such a proposition undoubtedly base their argument on the Biblical injunction:

"For unto everyone that hath shall be given, and he shall have abundance, but from him that hath not shall be taken away even that which he hath."

The last convention of the American Federation of Labor held in October, 1931, reaffirmed its position on the "sales," estate, and gift taxes and adopted the following declaration on all taxation:

"Although defeated year after year in every attempt to saddle the 'nuisance tax' under the name of 'sales tax' upon the people, another campaign has been launched to bring about that legislation in the next Congress.

"High public officials also have advanced the idea that the best way in which income taxes could be increased would be by increasing the exemption of married men to $2,000 and single men to $1,000. The objective of those who pay high taxes is to relieve the well-to-do from taxation and place the burden upon those least able to bear it.

"The argument used in advocating the sales tax has been:

"'If you tax the people so they do not know it they can not object; but if they know they are paying a tax they will object.'

"We pay an indirect tax on every purchase we make. In 1927 only 2.2 per cent of our then 114,000,000 population paid income taxes and three-tenths of 1 per cent paid 95.5 per cent of the total income tax. For 1930 2 per cent of the population paid all the income taxes. These are Treasury figures.

"The only persons to be benefited by the consumption tax are the 2 per cent of the population who pay an income tax. On the other hand, the burden of taxation would fall upon the 98 per cent who do not pay an income tax. Besides they now pay an indirect tax on everything they buy. The sales tax will increase that tax load.

"In all the statements given out in reference to taxation none suggests, that estate taxes should be increased. The greater part of many estates was created without paying any taxes as the taxes were passed on to the consumers. The Federal Government collects an estate tax before the estates are distributed to the heirs. Then those States where the descendants live that have inheritance taxes are credited with 80 per cent of the Federal estate tax collected. The heirs pay the inheritence tax to the States in which they live where such laws are in effect and operative. States that have no inheritance tax laws do not receive the 80 per cent collected by the Government.

"Mr. Andrew Carnegie, one of the richest men in the United States at one time, said that 'the American public is a partner in every large enterprise where money is made honorably.' He added:

"'The growing disposition to tax more and more heavily large estates left at death is a cheering indication of the growth of a salutary change in public opinion. Of all forms of taxation this seems the wisest. By taxing estates heavily at death the States marks its condemnation of the selfish millionaire's unworthy life. It is desirable that nations should go much further in this direction. Indeed, it is difficult to set bounds to the share of a rich man's estate which should go at his death to the public through the agency of the State, and by all means such taxes should be graduated, beginning at nothing upon moderate sums to dependents, and increasing rapidly as the amounts swell.'

"In a message to Congress in 1907, Theodore Roosevelt said:

"'A heavy progressive tax upon a very large fortune is in no way such a tax upon thrift and industry as a like tax would be on a small fortune. No advantage comes either to the country as a whole or to the individuals inheriting the money by permitting the transmission in their entirety of the enormous fortunes that would be affected by such a tax.'

"It always has been the belief of the American Federation of Labor that the most just forms of taxing great wealth are through the estate, gift, and inheritance taxes as there is no question of the ability to pay.

"Dr. Thomas S. Adams, the famous authority on taxation and formerly financial adviser for the United States Government, declared that, 'If we must tax it is better to tax him who merely receives than him who earns.'

"The executive council is alarmed at the persistent agitation of the well to do to relieve themselves of taxation. Because of that fact we urge upon all State federations of labor, city central bodies and local unions to urge their respective United States Senators and Representatives to vote against the enactment of a sales tax. They should also insist upon an increase in the estate tax and the restoration of the gift tax as they are the fairest taxes collected by the Government.

"Forty-five States have inheritance tax laws. Alabama, the District of Columbia, Florida, and Nevada have neglected this source of revenue. The State federations of labor in those States and the District of Columbia should urge the enactment of inheritance tax laws. It is generally believed that the three States and the District of Columbia have not enacted inheritance tax laws because they wished to induce persons of great wealth to become residents. Representatives of these States named also appeared before the House Ways and Means Committee in 1929 and urged repeal of the estate tax. This was to still further encourage wealthy people to go to those States and become residents. Congress, however, refused, declaring that no more just tax could be collected. The exemption provided for in the estate tax law are $100,000 and the cost of administration. This cost is sometimes as high as $50,000.

"Few, if any, heirs of a large estate have had anything to do with its accumulation. Their legacies can be termed gratuities. Therefore, there is no doubt of the ability to pay the inheritance tax, which is paid to the States having such laws. We, therefore, recommend that more stringent State inheritance tax laws be enacted so that the great sums accumulated from the consuming public will be more equitably distributed.

"A tax that should not have been repealed was the Federal gift tax. The executive council, therefore, believes that before considering an increase in any other taxes, the estate and inheritance taxes should be increased and the gift tax restored. In these three taxes there is no doubt of the ability to pay.

"If the sales tax is established and exemptions are reduced, then the taxes of the well-to-do will be greatly reduced and the burden placed on those least able to pay.

"Members of Congress should not forget that while wages were increasing from 1923 to 1929 only from $11,000,000,000 to $11,421,000,000, corporation dividends were increasing during the same period from $930,648,000 to $3,478,000,000. Net additions to profits of banks were increasing from $279,000,000 to $550,000,000, and interest paid to bondholders was increasing from $2,469,000,000 to $7,588,000,000.

"Congress, therefore, will find a fertile field from which to garner more income tax, if needed, among those who are well able to pay."

The report was referred to the committee on legislation, which unanimously approved of the recommendations of the executive council and called especial attention to this statement made in that report:

"Members of Congress should not forget that while wages were increasing from 1923 to 1929 only from $11,000,000,000 to $11,421,000,000, corporation dividends were increasing during the same period from $930,648,000 to $3,478,000,000. Net additions to profit of banks were increasing from $279,000,000 to $550,000,000, and interest paid to bondholders was increasing from $2,469,000,000 to $7,588,000,000.

"Congress, therefore, will find a fertile field from which to garner more income tax, if needed, among those who are well able to pay."

STATEMENT OF DANIEL R. FORBES, REPRESENTING THE NATIONAL PRESERVERS ASSOCIATION, WASHINGTON, D. C.

The CHAIRMAN. You may proceed, Mr. Forbes.

Mr. FORBES. Mr. Chairman and gentlemen of the committee, I represent the National Preservers Association. The National Preservers Association represent approximately 85 per cent of the fruit production, in the terms contained in the production of fruit for preservation.

In event this committee goes back to a serious consideration of a general sales tax, we would like to say that we are generally in favor of a tax on fruit products or tax none of them under a general sales tax.

When the Ways and Means Committee brought out this bill, you remember it exempted certain fruit products. We suppose that was predicated upon the idea of a separation of certain things that were necessities from those that were luxuries. As a matter of fact, I think there is a great deal of canned products that should be taxed absolutely, such as canned fish and canned meats, and which do not bear a tax and sell up to 50 cents a pound, whereas peanut butter, selling for 8⅓ cents a pound, would be subject to a tax.

There is another thing to consider: In many sections of the United States jams and jellies selling under 20 cents a pound are used by people who can not get butter or where it is inconvenient for them to get it. We do not see how Congress can work up a list of exempted food products without doing injustice to a large number of products that are daily necessities of the people.

I would like to direct the attention of the committee to the fact that the human stomach is only so large, can contain only so much food, and that every food product competes with every other food product.

So we say that if food products are to be taxed and the taxing power is to be invoked we want ours to be taxed along with others; we want to do our share, but we do not think that it is proper and we think it is unfair competition between necessities of life if they are not taxed equally.

The CHAIRMAN. Thank you.

MANUFACTURERS' EXCISE TAX

PROPOSED TAX ON OIL

STATEMENT OF HON. MILLARD E. TYDINGS, UNITED STATES SENATOR FROM THE STATE OF MARYLAND

Senator TYDINGS. Mr. Chairman and gentlemen of the committee. In order to be as brief as possible, I have reduced what I desire to say on the oil question to writing.

This tariff was injected into the revenue bill in the House by tariff proponents. It had been excluded from the bill on its merits by the committee after full hearings, when proponents were heard twice, to one hearing for the opposition. The Treasury had reported the tariff of 1 cent a gallon on crude, fuel and gas oil and 2 cents a gallon on gasoline, would being no revenue, being prohibitive.

Oil tariff proponents then led the committee to infer that a gasoline tax of 1 cent a gallon would not diminish imports and, in return for a promise of 40 votes to support the sales tax, secured committee approval of a tax of 1 cent on imported crude oil, per gallon, 1 cent on imported fuel and gas oil, per gallon, which the Treasury reported would produce no revenue at all—and of 1 cent per gallon on gasoline which, by some unexplained calculation, is estimated to bring $5,000,000 into the Treasury. Secretary Mills, before this committee, passed responsibility for this estimate to another department of Government.

It is certain that in this tariff [illegible] bill, you have three items—the tax on crude, the [illegible] on gas oil—that will produce no revenue [illegible] ght. The tax is 70 per cent ad va[illegible], and we import mo[illegible] oils and their products than we export.

In 1931 the figures were as follows:

	Barrels
Exports for 1931:	
Crude oil	[illegible] 000
Refined products	[illegible] 000
Bunker fuel oil, foreign bound	[illegible] 000
Total	[illegible] 000
Imports for 1931:	
Crude oil	[illegible] 000
Refined products	[illegible] 000
Total	[illegible] 000

The total imports [illegible] 86,0[illegible] barrels as against 168,229,000 barrels exp[illegible]

But the tax of 1 cent [illegible] on gasoline also will be barren of revenue. It is 25 per cent of the [illegible] (4 cents a gallon) at American refineries. Besides, [illegible] only 13,621,000 barrels, and exported 45,332,000 [illegible] three times as much.

Those 1931 imports will naturally go to European countries where there is no discriminating tax and back up just that amount of gasoline ordinarily exported from here, into the American market. Or, the oil may be imported here as crude, the gasoline and fuel oil extracted, and all exported, receiving the drawback.

However it works out, those four items will produce no revenue at all.

But even assuming they will produce the one-half of 1 per cent of the total needed revenue calculated; the net result is a deficit.

And mark what I am about to say, gentlemen, as something exceptionally worthy of consideration.

The American Government is the largest consumer of all oils. In fuel oil, gasoline and lubricants, the Government uses, according to the Oil Conservation Board, 20,000,000 barrels a year or 840,000,000 gallons. Our Government buys in the open market. It pays the price the public pays. Proponents of this tax admit prices will go up, by the amount of the tariff for crude and fuel oils. Their argument that gasoline will not also rise is baseless and is belied by the rise in gasoline price that has already been posted since this schedule was passed by the House.

On the 840,000,000 gallons of all oils our Government uses, it will pay an increased price of at least $8,400,000 every year—an addition to the deficit. If by an economic miracle the gasoline schedule produces $5,000,000 as estimated, we still have a deficit of over $3,000,000 as a result of this section of the revenue bill. What additional tax can we impose to make up this deficit?

We are therefore considering, in a bill intended only to produce revenue, a measure to create a net deficit, however, we look upon it. This should go into some bill for outgo, not for income for our Government.

So much for the propriety of this measure as a revenue producer. It simply is not that kind of a measure with reference to fuel oil, or gasoline or crude.

It is also because of the sure effect of this measure on the American public that I oppose it. It should be opposed by all members of the committee.

The increased cost to the industrial, motoring, house owning, and farming public will be—if the effect admittedly desired and predicted by the proponents, and already indicated by higher fuel oil and gasoline prices, eventuates—over $300,000,000 every year.

Increased cost of gasoline, 1 cent on 15,853,000,000 gallons	$158, 853, 000
Increased cost of fuel oil, 1 cent on 14,642,960,000 gallons	146, 429, 000
The total increased cost, therefore, is (per year)	305, 282, 000

Right now, when all industry is stagnant and prices are at the lowest for years, when the 25,000,000 motorists are put to it to get the small change needed to buy their daily gasoline supply, when our farmers can not pay their taxes, is no time to penalize them all for the supposed benefit of the one industry that has enjoyed a price increase from depression low, an increase of from 90 to 800 per cent. Oil is going up—has been going up since last August, and every other commodity, especially farm produce, is down to bedrock. Why further penalize all of us for the sole benefit and privilege of the sole industry on the upgrade. and still going up? The oil man's

prices are up. This tariff would tax us all for the further enhancement of his prices.

But it is not the producer in the mid-west who would benefit. The record of hearings in the House contains a presentation by Congressman Nelson of Maine, which you should all read, and which shows:

Twenty major companies own 97 per cent of the 623,000,000 barrels of oil in storage, and the stored oil is 70 per cent of one year's supply. The $300,000,000 tribute on the public this measure imposes, will go direct to those companies in unearned increase in inventory values. No wonder they do not oppose this measure.

The tariff umbrella will enable them to raise their prices, as they have already done. They control the pipe-line transport, the refining and the service station outlets, and produce about half of all the oil. They need no help; but the proceeds of the tribute set up by this measure goes right to them, and not to the so-called independent who, however innocently, are here working for further privilege for the major oil companies.

What wonder Mr. Gallagher, the new president of the Consolidated Sinclair and Prairie companies stated publicly:

> That he favored the proposal to levy a duty on foreign oil and thought that if it went through the oil market would benefit temporarily at least. (New York Sun, March 23, 1932.)

And what wonder that Mr. Sinclair himself has publicly stated:

> I voted for the tariff on crude oil importations and am definitely in favor of a high protective tariff on oils. A tariff would help, as anything that would reduce the supply would naturally strengthen prices and create a greater demand for American-produced oils. (New York Sun, November 19, 1931.)

There is frankness. The majors want the public forced by a tariff to pay higher prices so they may profit. We all would enjoy that privilege, but it is the expense to the public to which I object and to which I believe the committee will or should object.

The State of Maryland alone will lose or pay up $10,000,000 of this tribute—twice the maximum of so-called revenue estimated.

The farmers of the country will pay $38,000,000 of this gross tribute on the 3,800,000,000 gallons of gasoline alone that they consume.

We all will pay. The major companies will profit, the Government will lose, and our oil supply, now estimated as good for a scant 19 years if intensively produced, will be the sooner depleted, leaving us to the tender mercies of European and Asiatic oil enterprises for our most important fuel.

To summarize—this tariff in a revenue bill will, then, produce no revenue, according to our Government agents and experts; it will increase the national deficit, according to our own revenue experts; it will burden the public—conceded to do so by those who advocate the measure; it will enrich the major companies that need no help. The facts prove this point; it will hasten the depletion of our own oil resources; a fact that needs no further argument; it will stir up a maelstrom of tariff haggling when we can least afford delay in the important matter of balancing the Budget.

In the few moments that remain, I would like to insert in the record book valuation and estimated quantities of crude and refined oil inventories, which shows that the 32 large companies have now in

storage and in their pipe lines nearly a year's oil supply, and that they will be the beneficiaries of this increase in price.

(The tabulation of book valuation and estimated quantities of crude and refined oil inventories is here printed in the record in full as follows:)

Book valuation and estimated quantities of crude and refined oil inventories, showing approximate distribution of oil stocks among companies listed below

[Data as of December 31, 1930, unless otherwise noted]

Company	Actual valuation as per balance sheets	Percentage of 32 companies	Estimated barrels in storage
		Per cent	
Standard Oil Co. of New Jersey	$233,845,360	19.6	130,144,000
Standard Oil Co. of New York	136,707,056	11.5	76,083,000
The Texas Corporation	123,461,068	10.4	68,711,000
Standard Oil Co. of Indiana	117,198,969	9.8	65,220,000
Prairie Oil and Gas Co	69,978,535	5.9	38,940,000
Gulf Oil Co. of Penna	65,029,844	5.5	36,192,000
Standard Oil Co. of California	55,125,383	4.6	30,670,000
Vacuum Oil Co.[1]	48,342,115	4.1	26,904,000
Shell Union Oil Corp	47,471,046	4.0	26,420,000
Union Oil Co. of California	38,066,112	3.2	21,185,000
Tidewater Associated Oil Co.[2]	36,070,844	3.1	20,412,000
Ohio Oil Co.[1]	29,379,042	2.5	16,351,000
Atlantic Refining Co.[1]	28,132,843	2.4	15,658,000
Sinclair Consolidated Oil Corporation	24,085,948	2.0	13,405,000
Continental Oil Co	22,652,985	1.9	12,607,000
Sun Oil Co.[2]	13,720,660	1.2	7,636,000
Phillips Petroleum Co	13,394,754	1.1	7,455,000
California Petroleum Co	13,204,494	1.1	7,349,000
Pure Oil Co.[3]	12,334,602	1.0	6,864,000
South Penn Oil Co.[1]	9,897,629	.8	5,508,000
		95.7	
Richfield Oil Co. of California [1]	8,322,377	.7	4,631,700
Mid-Continent Petroleum Co	7,825,223	.66	4,355,000
Standard Oil Co. of Ohio [1]	7,318,768	.61	4,073,000
Pan American Petroleum & Transportation Co.[4]	6,850,949	.57	7,310,000
Standard Oil Co. of Kentucky	5,730,423	.48	3,189,000
Barnsdall Oil Corporation [1]	5,388,516	.45	2,982,000
Rio Grande Oil Co	4,474,067	.37	2,490,000
Simms Petroleum Co	2,683,065	.25	1,493,000
Standard Oil Co. of Nebraska [1]	1,047,374	.08	583,000
Standard Oil Co. of Kansas	858,029	.07	477,000
Amerada Petroleum Co	688,618	.06	383,000
Wirt Franklin Petroleum Co	293,407	.02	163,000
		4.3	
Total of 32 companies above	1,190,156,002	100.00	665,870,000

[1] Includes merchandise inventories.
[2] As of June 30, 1931.
[3] As of Mar. 31, 1931.
[4] Figures for Pan American represent actual valuation and quantities of oil stored in United States, but not stocks held in foreign countries.

NOTE.—Valuations are actual figures as per balance sheets from Poor's Manual. Calculation of barrels in storage is on the assumption that these companies held 100 per cent of all stocks as reported by United States Bureau of Mines at December 31, 1930. Actual barrelage figures are in most cases unavailable. The figures in the third column may therefore be greater or less than the actual stocks held by many of the companies listed.

Oil in storage in the United States at December 31, 1930

[U. S. Bureau of Mines]

	Barrels
Crude oil	512,797,000
Gasoline, including natural	41,119,000
Other refined products	111,954,000
Total liquid stocks	665,870,000

Senator TYDINGS. Also a table showing in the United States the crude petroleum production by districts, which shows the amount the production has dropped off during the depression. The greatest decrease is 17 per cent in the California district from the year 1927 to date. While the imported oils have dropped off 19 per cent. So that the importation has declined more than our local production.

(The table showing in the United States crude petroleum production by districts is here printed in the record in full, as follows:)

United States crude petroleum production, by districts

[Barrels of 42 gallons]

Year	Eastern [1]	Mid-Continent [2]	Gulf coast [3]	Rocky Mountain [4]	California [5]	Imports (all oil) [6]
1927	40,448,000	546,987,000	52,069,000	30,429,000	231,196,000	71,736,000
1928	40,748,000	553,027,000	46,689,000	29,199,000	231,811,000	91,557,000
1929	47,136,000	584,280,000	57,106,000	26,267,000	292,534,000	108,710,000
1930	46,058,000	531,447,000	60,676,000	23,501,000	227,329,000	105,618,000
1931	41,095,000	542,814,000	57,794,000	19,742,000	188,830,000	86,028,000

[1] Off 10⅛ per cent in 1930-31.
[2] Up 2½e per cent in 1930-31.
[3] Off 17⅛e per cent in 1930-31.
[4] Off 13 per cent in 1930-31.
[5] Off 17 per cent in 1930-31.
[6] Off 19 per cent in 1930-31.

Figures from Bureau of Mines.

Senator TYDINGS. I would also like to insert a table showing a comparison of domestic production of crude petroleum with imports of crude petroleum and refined petroleum products from 1929 to 1931. This shows that in the United States last year the percentage of decrease was 5.32, while the percentage of decrease of imported crudes was 18.50—over three times as much.

(Statement showing comparison of domestic production of crude petroleum with imports of crude petroleum and refined petroleum products, 1929–1931, is here printed in the record in full, as follows:)

Comparison of domestic production of crude petroleum with imports of crude petroleum and refined petroleum products, 1929-1931

[Barrels of 42 gallons]

Year	Total domestic production of crude petroleum	Percentage decrease under preceding year	Percentage decrease under 1929	Imports crude petroleum and refined petroleum products	Percentage decrease under preceding year	Percentage decrease under 1929
1929	1,007,323,000			108,565,000		
1930	898,011,000	10.85	10.85	105,618,000	2.71	2.71
1931	850,261,000	5.32	15.59	86,082,000	18.50	20.71

Figures from Department of Commerce.

Senator TYDINGS. I would also like to put in the tank-wagon prices of gasoline for various cities in the country, which table is self-explanatory and which I will not detail further here.

(Statement of tank-wagon prices is here printed in the record in full, as follows:)

Tank-wagon prices of gasoline (exclusive of tax) [1]

[Prices in effect January 4, 1932, as posted by principal marketing companies]

MID-WESTERN CITIES

Des Moines, Iowa	9.9
Davenport, Iowa	12.5
Sioux City, Iowa	12.1
Mason City, Iowa	12.5
St. Louis, Mo	11.4
Kansas City, Mo	11.9
Wichita, Kans	10.8
Omaha, Nebr	10.9
McCook, Nebr	11.0
Norfolk, Nebr	12.75
North Platte, Nebr	13.75
Scottsbluff, Nebr	13.0
Muskogee, Okla	8.0
Oklahoma City, Okla	10.0
Tulsa, Okla	10.0
Little Rock, Ark	12.0
Fort Smith, Ark	12.5
Texarkana, Ark	10.0
Dallas, Tex	11.0
El Paso, Tex	12.0
Fort Worth, Tex	11.0
Houston, Tex	10.0
San Antonio, Tex	10.0
Alexandria, La	8.5
Baton Rouge, La	12.0
New Orleans, La	8.5
Lake Charles, La	10.5
Shreveport, La	12.0
Lafayette, La	12.0
Average of prices for Mid-Western cities	11.12

EASTERN CITIES

Augusta, Me	12.8
Manchester, N. H	11.4
Burlington, Vt	13.3
Fall River, Mass	9.0
Boston, Mass	10.5
Springfield, Mass	11.5
Worcester, Mass	11.3
Providence, R. I	9.5
Hartford, Conn	12.5
New Haven, Conn	12.6
Albany, N. Y	11.6

EASTERN CITIES—continued

Greater New York City: Boroughs of Manhattan, Bronx, Queens, and Kings	10.3
Borough of Richmond	10.7
Atlantic City, N. J	12.7
Camden, N. J	11.8
Newark, N. J	11.7
Trenton, N. J	12.2
Allentown, Pa	12.0
Philadelphia, Pa	11.0
Scranton, Pa	12.0
Annapolis, Md	12.2
Baltimore, Md	11.4
Cumberland, Md	13.2
Hagerstown, Md	11.5
Dover, Del	12.0
Wilmington, Del	12.0
Washington, D. C	11.9
Danville, Va	13.0
Norfolk, Va	11.5
Petersburg, Va	12.5
Richmond, Va	11.5
Roanoke, Va	13.2
Charlotte, N. C	11.5
Hickory, N. C	13.8
Mount Airy, N. C	13.7
Raleigh, N. C	13.4
Salisbury, N. C	13.7
Wilmington, N. C	11.6
Charleston, S. C	11.5
Columbia, S. C	13.4
Spartanburg, S. C	13.7
Atlanta, Ga	13.0
Augusta, Ga	14.0
Brunswick, Ga	13.0
Macon, Ga	14.0
Savannah, Ga	13.0
Jacksonville, Fla	13.0
Miami, Fla	14.0
Pensacola, Fla	12.0
Tampa, Fla	12.0
Average of prices for eastern cities	12.21

[1] Prices taken from National Petroleum News of Jan. 6, 1932.

Senator TYDINGS. I would like to put in the record the comparative statistics showing all imports and all exports of oils, and the price in connection with the same by months.

(Table giving comparative statistics of imports and exports of oil, 1930, is here printed in the record in full, as follows:)

Comparative statistics

Month	Average price per barrel of crude oil, United States [1]	Imports all oils, daily average	United States production crude oil, daily average	East Texas production crude oil, daily average
		Barrels	*Barrels*	*Barrels*
Daily average, 1930	$1.456	269,356	2,456,000	
1931				
January	1.211	256,258	2,129,000	
February	1.187	274,821	2,160,000	24,000
March	.962	250,838	2,239,000	93,000
April	.808	253,533	2,437,000	251,000
May	.839	237,096	2,489,000	308,000
June	.604	212,033	2,504,000	355,000
July	.6344	226,258	2,515,000	519,000
August	.7358	191,200	2,207,000	460,000
September	.829	229,800	2,121,000	343,000
October	.848	259,500	2,357,000	414,000
November	.886	206,100	2,428,000	397,215
December	.882	232,839	2,360,000	358,000

[1] From Oil, Paint, and Drug Reporter—Weekly Price Average. All other figures from Bureau of Mines.

Senator TYDINGS. Also a comparison of production of crude petroleum in the United States with production of crude petroleum in Mexico and Venezuela, which table is self-explanatory.

(Comparison of production of crude petroleum in the United States with production of crude petroleum in Mexico and Venezuela is here printed in the record in full, as follows:)

Comparison of production of crude petroleum in the United States with production of crude petroleum in Mexico and Venezuela, 1929–1931, inclusive

[Barrels of 42 gallons]

	Total	Decrease	Per cent of decrease
United States:			
1929	1,007,323,000		
1930	898,011,000	109,312,000	10.85
1931	850,261,000	47,750,000	5.32
Mexico:			
1929	44,088,000		
1930	39,530,000	5,158,000	11.54
1931	32,783,000	6,747,000	17.07
	Total	**Increase (+) or decrease (−)**	**Per cent of increase (+) or decrease (−)**
Venezuela:			
1929	137,472,000		
1930	137,675,000	+203,000	+0.15
1931	116,180,000	−21,495,000	−15.61

United States figures from Bureau of Mines.
Mexican figures 1929-30 from Bureau of Mines; 1931 official Mexican figures with November unofficial and December estimated.
Venezuelan figures 1929-30 from Bureau of Mines; 1931 figures from O'Shaughnessy's Oil Bulletin.

Senator TYDINGS. And finally, to read several lines from the hearing yesterday in the testimony of the Secretary of the Treasury [reading:]

Secretary MILLS. Senator Hull, you have no illusions—I know some people have, but you have none—as to the character of the two items in this bill.

Senator HULL. I was just hoping that I had not.
Secretary MILLS. I certainly have not. They are not revenue measures. They are protective tariff measures.
Senator SHORTRIDGE. Would not they raise some additional revenue, Mr. Secretary? We are framing a bill for the purpose of securing additional revenue.
Secretary MILLS. Not carfare, though, Senator.

That shows what the Treasury Department thinks of this provision as a revenue measure.

I thank you.

Senator GORE. Mr. Chairman, I ask leave to insert at this point an estimate prepared by the Independent Oil Producers Association, showing that the House rates would raise revenue amounting to $42,000,000.

The CHAIRMAN. It may be put in the record at this point.

(The estimate prepared by the Independent Oil Producers Association, presented by Senator Gore, is here printed in the record in full, as follows:)

Potential revenue from imports of petroleum and its products based on average for the three years 1929, 1930, and 1931

Crude oil, 2,636,367,888 gallons at 1 cent	$26,363,678
Fuel and gas oil, 1,002,734,334 gallons at 1 cent	10,027,343
Gasoline, naphtha and other finished light products, 551,349,414 gallons at 1 cent	5,513,494
Total	41,904,515

The United States Tariff Commission reports a differential of $1.03 per barrel between domestic and foreign production costs. The addition of an excise tax of 42 cents per barrel, therefore, would not consititute an embargo and should not decrease these estimated revenues in any marked degree.

The sections of the present revenue bill providing for the excise tax on foreign petroleum products should be amended to include the following which would prevent evasion through false declarations and would also add a substantial amount to the revenue receipts.

Tops and other refined distillates, 2,717,534 gallons at 1 cent	$27,175
Kerosene, 5,873,994 gallons at 1 cent	58,739
Lubricating oil, 1,339,548 gallons at 4 cents	53,581
Paraffine and petroleum wax products, 46,928,711 pounds at 1 cent	469,287
Natural asphalt, and petroleum asphalt and bitumen, 73,770 long tons at $2	147,540
Total	756,322

Amendment of the bill to impose a tax of 3 cents per gallon on gasoline would produce a total revenue of $16,540,482 instead of only $5,513,494.

STATEMENT OF C. B. AMES, REPRESENTING THE TEXAS CO.

Mr. AMES. Mr. Chairman, and gentlemen of the committee, I am one of the directors of the American Petroleum Institute, and also a director of the Texas Co.

Senator REED. What is the American Petroleum Institute?

Mr. AMES. I will state that in a moment, Senator.

There are three proposed taxes on domestic petroleum before your committee. Two of them are embodied in the bill as it passed the House and the other in the Treasury proposal. In the bill which passed the House there is included a tax of 4 cents per gallon on lubricating oils, estimated to yield a revenue of $35,000,000; a tax of 8 per cent on the transportation charge of oil transported by pipe

line, estimated to yield $20,000,000; and in the schedule submitted by the Treasury for your consideration there is included (according to the press) an item of 1 cent a gallon on the domestic consumption of gasoline, estimated to yield $165,000,000. These three items involve a total additional tax of $220,000,000 or approximately 22 per cent of the entire amount which it is proposed to raise by the emergency levies. This enormous burden upon an already overburdened industry is a threat which has aroused the entire industry.

The American Petroleum Institute believes that it speaks the unanimous voice of the entire industry in opposing these taxes, or any of them. The institute is a national organization with a membership of about 3,700 individuals who are connected in important positions with practically every producing, pipe line, refining, and marketing company in the United States. This membership includes many of the important executives of local or regional associations such as the Independent Producers Association of America, the Mid-Continent Oil & Gas Association, the Rocky Mountain Oil & Gas Association, the California Oil & Gas Association, and others. We, therefore, in speaking for the institute believe we speak for the entire industry.

We wish, first, to point out some general objections which apply to all three of the proposed taxes. After this, we will state some particular objections applying to each one. At the outset, we make the bold statement that the petroleum industry at present is burdened with excessive taxation and pays taxes both beyond its ability to pay and beyond its fair share of the cost of government. The three great oil-producing States are Texas, Oklahoma, and California. Of these three States, Texas is the greatest and produces approximately 40 per cent of all the crude oil produced in the United States during 1931. We therefore take the taxation of the industry in Texas as typical of the tax burdens which we bear. In that State we pay the following taxes:

(*a*) A tax of 2 per cent of the gross value of the crude oil at the mouth of the well.

(*b*) An ad valorem tax on all the physical property used in producing this oil.

(*c*) An ad valorem tax on the leasehold interest of the producing company whether the lease is producing oil or not.

(*d*) Ad valorem taxes on all refineries, pipe lines, terminals, bulk stations, and filling stations. In addition, in many of the States which are passing chain-store legislation, our filling stations are included in the chain-store tax. That is not true, however, in Texas.

(*e*) The volume of this taxation in Texas was recently stated by a contributor to the Texas Oil Weekly as follows [reading]:

> It is probable that few States or nations derive so large a proportion of their public revenue from perhaps any product of one business as Texas draws from those in the oil industry. Ad valorem State taxes paid by the oil industry last year amounted to $4,768,000, which was more than one-sixth of all State ad valorem taxes. Its production tax totaled $6,371,000, which was more than one-half of all gross receipts and occupation taxes collected by the State. In addition, the oil industry paid $807,000 in miscellaneous State taxes, bringing this total contribution to State tax revenue to $11,946,000, without counting the gasoline tax. It also paid $15,000,000 in local taxes, including city, county, and school taxes. The gasoline tax of 4 cents per gallon on gasoline sold within the State amounted to $32,208,000, bringing the total of State taxes produced by oil

to $44,154,000, and the total of State and local taxes to $59,154,000. Counting the gasoline tax the oil industry paid 56.8 per cent of the total State revenue from taxation.

When one industry in a great State like Texas, with such vast and diversified resources, pays 56.8 per cent of all the cost of State and local government, no further argument is needed to show that this industry is already overburdened with taxation. And Texas is typical. Other oil-producing States do not have exactly the same system of taxation, but they do not differ in many particulars.

One other thing we wish to say by way of objection to any further discriminatory taxation against this industry. The impression seems to prevail that the petroleum industry is so prosperous that an additional tax of 50,000,000 or 200,000,000 is immaterial. We would be delighted if this were true, but, unfortunately, we are losing money instead of making it. The following table contains a brief statement of the 1931 operations of a number of petroleum companies which were available up to the first of this month.

I am tempted to read that list, if you will bear with me while I do it, because it is illustrative of the general condition of the petroleum industry. [Reading:]

PETROLEUM INDUSTRY EARNINGS, 1931, COVERING MAJOR COMPANIES, FROM REPORTS ISSUED TO APRIL 1, 1932

Amerada Corporation, with an invested capital of $45,778,212, lost $1,701,648.

Atlantic Refining Co., with an invested capital of $190,889,723, showed a profit of $516,453.

Barnsdall Corporation, with earnings adjusted for crude and refined oil stocks to lower of cost or market, with an invested capital of $91,050,415, lost $3,332,727.

Buckeye Pipe Line Co., with an invested capital of $25,331,724, showed a profit of $915,243.

Continental Oil Co., with an invested capital of $277,337,209, lost $10,683,313.

Empire Gas & Fuel Co.—earnings adjusted for crude and refined oil stocks to lower of cost or market—with an invested capital of $215,105,968, lost $2,986,592.

Gulf Oil Corporation, with an invested capital of $599,940,431, lost $23,670,052.

Houston Oil Co., with an invested capital of $58,449,971, lost $356,484.

Humble Oil & Refining Co., with an invested capital of $283,023,766, showed a profit of $2,765,092.

Ohio Oil Co.—earnings adjusted for crude and refined oil stocks to lower of cost or market—with an invested capital of $367,952,707, lost $9,334,138.

Pacific Western Oil Corporation, with an invested capital of $21,120,475, lost $903,124.

Phillips Petroleum, with an invested capital of $241,467,506, lost $5,576,409.

Rio Grande Oil Co., with an invested capital of $51,268,357, lost $2,476,499.

Standard Oil Co., Kansas, with an invested capital of $12,004,343, lost $618,616.

Standard Oil Co., Ohio, with an invested capital of $69,051,348, showed a profit of $2,359,173.

Sun Oil Co., with an invested capital of $107,165,983, showed a profit of $3,107,147.

The Texas Corporation, with an invested capital of $653,401,809, lost $9,954,478.

Texas Pacific Coal & Oil, with an invested capital of $35,806,417, lost $1,413,235.

Union Oil Co. of California—earnings adjusted for crude and refined oil stocks to lower of cost or market—invested capital $327,174,803, lost $4,363,835.

Simms Petroleum Co., invested capital, $26,309,136, lost $2,651,222.

H. T. Wilcox Oil & Gas Co., with an invested capital of $24,347,554, lost $1,069,783.

Skelly Oil Co., with an invested capital of $83,272,811, lost $2,117,110.

The total of these listed shows that they have an invested capital of $3,807,250,668 and that their consolidated earnings showed a loss of $73,546,157, or 1.93 per cent.

Senator COUZENS. Might I ask you at that point how you arrive at your capital invested?

Mr. AMES. Capital, surplus, and reserves.

Senator COUZENS. All put in in cash?

Mr. AMES. All put in in cash, in the case of my own company. I can not speak for the others.

The CHAIRMAN. That is not the case, though, generally, is it, Mr. Ames?

Mr. AMES. I beg your pardon?

The CHAIRMAN. That is not the case generally.

Mr. AMES. I think it is the case quite generally with these companies named. I think this invested capital represents actual money invested in the corporation, part of which, of course, would be out of earnings, not all paid in by the stockholders.

Senator REED. You mean cash contribution, the accumulated earnings?

Mr. AMES. The accumulated earnings.

Senator REED. Accumulated in the business.

Mr. AMES. Yes; plus the amount paid in for the capital stock of the corporation. This is a cross section of the industry, and there is no doubt in my mind but when all 1931 statements are available, it will show a consolidated loss for the entire petroleum industry that reports earnings statements. It is obvious if you add anything to this you are imposing a tax on capital. It can not be anything else but a capital tax, when the industry as a whole is losing money.

Senator COUZENS. You do not know of any company that had any write ups in these capital accounts, do you?

Mr. AMES. There are some companies—I do not know which they are—which at one time wrote up discovery value when they found producing oil on a lease which had cost them little or nothing. That is not true, however, of the principal companies here. It is not true, for instance, of the Texas Co.

Senator COUZENS. They never write up anything at all?

Mr. AMES. Never wrote up a cent for discovery value or anything else. The invested capital is the money invested, in our case, by the company.

Senator COUZENS. Does that include adding to the capital all the money put into dry holes?

Mr. AMES. That is expense. That is deducted from earnings.

Senator COUZENS. That is not put into capital account?

Mr. AMES. That is not put into capital account at all.

Passing now from these general objections which apply to any further taxation on this industry which is not applicable to all industry, I take up the subject of the gasoline tax, and assign the following reasons why there should be no Federal tax on domestic gasoline. My remarks are not addressed to the excise on imports, but purely to the tax on domestic products.

The gasoline tax is an important and necessary source of State revenue and the States have already imposed a tax on gasoline far beyond all reasonable bounds. The highway program of the States rests on

the gasoline tax. There are more than $1,000,000,000 of State highway bonds, the payment of which is predicated on the State gasoline tax.

There is no possible excuse for a gasoline tax except for highway uses. The gasoline tax was originally intended to improve the roads and it was thought that as the automobile uses the roads, a gasoline tax for road purposes was just. The soundness of this principle has never been challenged but the gasoline tax has increased so rapidly and in recent times, the tendency to impose a gasoline tax for other purposes has become so noticeable that the public is beginning to demand an end of gasoline tax increases, a beginning of reductions, and the exclusive use for highway purposes.

At present the gasoline tax in the various States ranges from 2 cents to 7 cents a gallon. The average is slightly in excess of 4 cents a gallon. During 1931, the average refinery price for gasoline in the mid-continent area was less than 4 cents per gallon. The gasoline tax, therefore, is now equal to 100 per cent of the value of the product in the hands of the manufacturer.

I passed around for the consideration of the members of the committee a chart which will show the growth of the gasoline tax. The top line shows the price of crude oil over a period of years; the bottom shows the price of gasoline, and the space between the two lines shows the growth of the gasoline tax.

Senator GORE. That is the price of the gasoline at the refinery or the filling station?

Mr. AMES. At the refinery; and vast quantities of gasoline in Oklahoma were sold by the refineries last year for less than 4 cents a gallon.

Senator GORE. And some a good deal less; some less than three.

Mr. AMES. Some about two and a half.

Senator GORE. Yes.

Mr. AMES. I have distributed also to the members of the committee a pamphlet showing the statements that were made to the House Ways and Means Committee, on pages 22 and 23 of which you will find a history of the gasoline taxation.

In 1919 the first gasoline tax was passed, and by 1931 there was a gasoline tax everywhere, going up as high as 7 cents in two States. I would like to have that table shown on those two pages inserted in the record, if the committee will permit.

The CHAIRMAN. Without objection, it will be done.

(The table presented by Mr. Ames is printed in the record in full as follows:)

United States Department of Agriculture, Bureau of Public Roads—Gasoline tax rates by years and dates of rate changes

[As reported by State authorities]

State	Gasoline tax rate in cents per gallon during calendar years													
	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932
Alabama					0-2	2	2	2	2-4	4	4	4	4-5	
Arizona			0-1	1	1-3	3	3	3	3-4	4	4	4	4-5	
Arkansas			0-1	1	1-3	4	4	4	4-5	5	5	5	5-6	
California					0-2	2	2	2	2-3	3	3	3	3	
Colorado	0-1	1	1	1	1-2	2	2	2	2-3	3	3-4	4	4	
Connecticut			0-1	1	1	1	1-2	2	2	2	2	2	2	
Delaware					0-1	2	2	2	2-3	3	3	3	3	
Florida			0-1	1	1-3	3	3-4	4	4-5	5	5-6	6	6-7	
Georgia			0-1	1	1-3	3	3-3½	3½	3½-4	4	4-6	6	6	
Idaho					0-2	2	2-3	3	3-4	4	4	4-5	5	
Illinois									0-2	2-0	0-3	3	3	
Indiana					0-2	2	2-3	3	3	3	3-4	4	4	
Iowa							0-2	2	2-3	3	3	3	3	
Kansas							0-2	2	2	2-3	2-3	3	3	
Kentucky		0-1	1	1	1	1-3	3	5	5	5	5	5	5	
Louisiana			0-1	1	1	1-2	2	2	2	2	2-4	4-5	5	
Maine					0-1	1	1-3	3	3-4	4	4	4	4	
Maryland				0-1	1	2	2	2	2-4	4	4	4	4	
Massachusetts											4	4	4	
Michigan							0-2	2	2-3	3	3	2	2-3	
Minnesota							0-2	2	2	2	2-3	3	3	
Mississippi				0-1	1	1-3	3	4	4	4-5	5	5	5-5½	
Missouri							2	2	2	2	2	2	2	
Montana			0-1	1	1-2	2	2	2	3	3	3-5	5	5	
Nebraska							0-2	2	2	2	2-4	4	4	
Nevada					0-2	2	2-4	4	4	4	4	4	4	
New Hampshire					0-1	2	2	2	2-3	4	4	4	4	
New Jersey									0-2	2	2	2-3	3	
New Mexico	0-2	2	2-1	1	1	1	1-3	3	3-5	5	5	5	5	m
New York											0-2	2	2	
North Carolina			0-1	1	1-3	3	3-4	4	4	4	4-5	5	5-6	
North Dakota	0-1	1	1	1	1	1	1	1-2	2	2	2-3	3	3	
Ohio							0-2	2	2-3	3	3-4	4	4	
Oklahoma					0-1	1-2½	2½-3	3	3	3	3-4	4	4-5	4
Oregon [1]	0-1	1	1-2	2	2-3	3	3	3	3	3	3	3	4	
Pennsylvania			0-1	1	1-2	2	2	2	2-3	3	3-4	4-5	5	
Rhode Island							0-1	1	1-2	2	2	2	2	
South Carolina				0-2	2-3	3	3-5	5	5	5	5-6	6	6	

[1] A tax on "distillate" in imposed, which is one-half cent less than gasoline tax in each instance.

United States Department of Agriculture, Bureau of Public Roads—Gasoline tax rate by years and dates of rate changes—Continued

State	Gasoline tax rate in cents per gallon during calendar years													
	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932
South Dakota				1	1-2	2	2-3	3	3-4	4	4	4	4	
Tennessee					0-2	2	2-3	3	3	3	3-5	5	5-6-7	
Texas					0-1	1	1	1	1-3	3-2	2-4	4	4	
Utah					0-2½	2½	2½-3½	3½	3½	3½	3½	3½	3½-4	
Vermont					0-1	1	1-2	2	2-3	3	3-4	4	4	
Virginia					0-3	3	3	3-4½	4½	4½-5	5	5	5	
Washington			0-1	1	1	2	2	2	2	2	2-3	3	3-5	
West Virginia					0-2	2	2-3½	3½	3½-4	4	4	4	4	
Wisconsin							0-2	2	2	2	2	2	2-4	
Wyoming					0-1	1	1-2½	2½	2½-3	3	3-4	4	4	
District of Columbia						0-2	2	2	2	2	2	2	2	
Average rate	0.97	1.02	1.10	1.08	1....	2.04	2.26	2.38	2.76	3.09	3.22	3.35		
Number of States	4	5	15	19	35	[2] 35	[2] 44	[2] 44	[2] 46	[2] 46	[2] 48	[2] 48	[2] 48	

[2] And District of Columbia.

Senator GORE. Judge, did casing-head gas get down below 2 cents?
Mr. AMES. Casing-head gas got down below 1 cent.
Senator GORE. That is what I thought.
Mr. AMES. It got down to a point where they could hardly give it away.
Senator COUZENS. As I understand the position you are taking, it is that the gasoline tax reimburses the States for all the capital they invested in good roads.
Mr. AMES. Yes, sir.
In 1931 the total gasoline tax paid in the United States was $549,150,000. During the same period the total crude oil production was 850,275,000 barrels. The average price received by the producer for his crude oil was 67 cents per barrel.
The CHAIRMAN. Is that net?
Mr. AMES. That was the weighted average gross that he received at the mouth of the well.
Senator GORE. That aggregated how much in dollars?
Mr. AMES. I have not it figured, Senator.
Senator GORE. It would be about two-thirds of your total?
Mr. AMES. About two-thirds of the 850,000,000 or about five or six hundred million dollars.
Senator GORE. Yes.
Mr. AMES. The gasoline tax, therefore, when related back to the crude production, was equal to 64.5 cents per barrel, with 67 cents a barrel for his crude.
Senator GORE. That makes the point.
Mr. AMES. Put in another way, the oil industry received 67 cents per barrel for its crude production, and by the time the refined product was put into consumption, there was added to it 64.5 cents per barrel, under the name of a gasoline tax. The States, therefore, receive a net revenue from the petroleum industry of 64.5 cents per barrel on the total crude produced as against a gross revenue received by the producers of 67 cents.
Senator GORE. And a good deal of that was produced at a loss?
Mr. AMES. It was practically all. The average cost of producing crude, according to the Tariff Commission, was $1.09 per barrel at the mouth of the well, so that the average producer lost 40 cents a barrel on his crude during the year 1931, on all of it, on an average. The only producer who made any money in 1931 was the man who had the flowing wells, the flush pools.
Senator GORE. The prices down in east Texas got as low as 10 and 15 cents a barrel.
Mr. AMES. Got down to 10 cents?
Senator GORE. Yes.
Mr. AMES. In Oklahoma got down to 10 cents. Thirty-six gravity crude in Oklahoma got to 18 cents. When other taxes are added to the gasoline tax, the oil industry paid, during 1931, more than 100 per cent of the total value of its crude oil production.
Senator COUZENS. I hardly see how those figures have much relation to each other, when it is considered the gasoline tax is for roads and other activities and for the use of motor cars.
Mr. AMES. It shows the burden on the oil industry as a whole has gotten to the point where it is almost confiscation. It has certainly

reached a point where taxation has taken from the industry more than the gross value of its crude product.

The CHAIRMAN. You lost 40 cents a barrel last year, you say?

Mr. AMES. Crude was produced on an average of 40 cents less than cost.

The CHAIRMAN. Less than cost?

Mr. AMES. Yes.

The CHAIRMAN. And how many barrels were produced?

Mr. AMES. Eight hundred and fifty million. That is a loss of over $320,000,000 on the average.

The CHAIRMAN. What did you do; borrow money?

Mr. AMES. Senator, I heard a question asked at lunch that in a way answers your question. I do not mean to introduce levity into this discussion, but the question was asked of an oil producer, what is the difference between a major company and an independent? His answer was that the major company is broke, but the banks do not know it, while the independent does not know he is broke, but the banks do. [Laughter.] The simple fact is that there is not anybody in the oil industry making any money. They are hanging on by their teeth. There are more than 50 oil companies in the hands of receivers to-day.

The CHAIRMAN. It seems to me that if you lost $320,000,000 last year you, at least, would not produce any more than there was a demand for, at a reasonable price.

Mr. AMES. I wish I had time to discuss that subject, Mr. Chairman.

The CHAIRMAN. Never mind, if it is going to take any time.

Mr. AMES. The only reason oil is being produced as abundantly as it is is because when a man has got a 10-acre lease in a pool and drills a well in it, everybody else has got to do the same thing or see their oil taken from under their land by what is beginning to be thought in the industry as theft.

The CHAIRMAN. I would rather have it taken than lose 30 per cent.

Mr. AMES. That is the only oil that is being produced at a profit. The oil from wells that are flowing is the only oil that is being produced at a profit.

Senator COUZENS. Then you do not charge any of this gasoline tax to the motor-car industry at all; you charge it all up against the oil industry, is that it?

Mr. AMES. If you look at that chart you will see that while the user or consumer pays the tax, the price, plus tax, has been going down, and it is now cheaper with the tax than it was without the tax a little while ago.

Senator COUZENS. You assume then that the gasoline tax influenced the low price on the crude?

Mr. AMES. Yes. I assume that it does, to this extent: The crude is being crowded into an unwilling market. Taxes are being piled up on it. The producers of the gasoline, in order to sell their product, keep cutting the price, and the result is that while the purchaser pays the tax, the gasoline plus tax is being sold for less than the gasoline without a tax a few years ago. If the price of gasoline was as high now, with the tax, as it was in 1919, without the tax, there would not be half as much consumed. So it is the low price which makes the consumption possible.

Gasoline consumption is already on the decline. It would be declining much more rapidly were it not for the fact that gasoline itself is so cheap that the exorbitant taxes still leave it selling so reasonably.

Senator GORE. A year ago, if you remember, Judge, when crude oil was selling at less than a dollar, gasoline was selling at about the same level at which it sold when crude oil was $3.

Mr. AMES. No. In 1920 when crude was selling for $3, gasoline was selling for 32 cents. (See chart.)

Senator GORE. It was 18 cents.

Mr. AMES. Yes. A year ago; 18 cents including tax.

Senator GORE. I do not know what the figures show now.

Mr. AMES. Now the gasoline is a little over 13 cents on an average of 50 cities, not including tax.

Senator GORE. It sold at 18 plus when crude oil was $3 a barrel.

Mr. AMES. No, it sold, Senator, at that time for—well, the average was 32 cents in 50 cities in 1920.

The CHAIRMAN. What? Gasoline?

Mr. AMES. Gasoline.

The CHAIRMAN. What time was that?

Mr. AMES. That was in the year 1920. You will see it on the chart before you. The average price in 50 cities was 32 cents.

Senator COUZENS. Then your assumption is that if there had been no tax on gasoline, the levels of the crude would have been higher?

Mr. Ames. Yes.

The CHAIRMAN. I never paid that much for gasoline in my life.

Mr. AMES. That is the record, Senator. That is the average of 50 cities.

I am going to read a list of the States in which the consumption of gasoline declined last year and give you the tax in each State:

Alabama, 5 cents; Arizona, 5 cents; Arkansas, 6 cents; Georgia, 6 cents; Idaho, 5 cents; Mississippi, 5½ cents; Montana, 5 cents; New Mexico, 5 cents; North Carolina, 6 cents; North Dakota, 3 cents; Oklahoma, 5 cents; South Dakota, 4 cents; Tennessee, 7 cents.

It is rather significant that the States in which the gasoline consumption is declining are the States where the taxes are high. Another thing to bear in mind in considering whether you are going to impose any additional burden on this industry is the prospect for the future. The industry estimates a sharp decline in consumption of gasoline this year. The figures of automobile registration for the year 1932 are not yet available in any accurate form, but we have assembled the registration figures for the State of Texas. In that State the following figures are shown:

On March 25, 1931, there were 858,137 passenger cars; on March 23, 1932, there were 776,131, or a decrease of 82,006.

Of trucks, on March 25, 1931, there were 135,897; on March 23, 1932, there were 118,795, or a decrease of 17,102.

Trailers, on March 25, 1931, there were 11,956; on March 23, 1932, there were 11,782, or a decrease of 174.

Motor busses, on March 25, 1931, there were 1,011; on March 23, 1932, there were 569, or a decrease of 442.

Motor cycles, on March 25, 1931, there were 1,965; on March 23, 1932, there were 1,519, or a decrease of 446.

Therefore, in total, on March 25, 1931, there were 1,008,966; on March 23, 1932, there were 908,796, or a decline of 100,170.

Senator GORE. That means from the 1st of January up to those respective dates.

Mr. AMES. Yes. That is the total registered for that 3-month period. So there is a decline in registration in Texas of 10 per cent this year.

I have a tabulation here which shows what it would cost a number of States to add a tax of 1 cent on gasoline. This table indicates for the States named the present gasoline tax, the estimated 1931 gasoline consumption, and the cost to each State of an additional tax of 1 cent. [Reading:]

State	Present tax	1931 consumption (estimated)	Extra cost	State	Present tax	1931 consumption (estimated)	Extra cost
	Cents				*Cents*		
Utah	4	61, 175, 000	$611, 750	Washington	5	272, 608, 000	$2, 726, 080
Indiana	4	481, 471, 000	4, 814, 710	Rhode Island	2	98, 157, 000	981, 570
Pennsylvania	3	1, 062, 602, 000	10, 626, 020	Mississippi	5½	115, 224, 000	1, 152, 240
California	3	1, 401, 544, 000	14, 015, 440	Georgia	6	221, 893, 000	2, 218, 930
Michigan	3	521, 584, 000	8, 215, 840	Massachusetts	3	577, 197, 000	5, 771, 970
New Hampshire	4	68, 305, 000	683, 050	Kentucky	5	176, 203, 000	1, 762, 030
Connecticut	2	248, 927, 000	2, 489, 270	Texas	4	826, 107, 000	8, 261, 070
Wisconsin	4	455, 649, 000	4, 556, 490	Oklahoma	4	300, 357, 000	3, 003, 570
Idaho	5	59, 753, 000	597, 530	Colorado	4	176, 494, 000	1, 764, 940
				Tennessee	7	214, 369, 000	2, 143, 690

Another thing about the gasoline tax which is a real problem in the industry and which is causing very great and serious concern throughout the United States is the problem of tax evasion. Where a man can evade the tax and save 7 cents a gallon there is a premium put on evasion and it has incited a new racket that we call "bootlegging" in the petroleum industry. It has resulted in criminal prosecutions in a number of States. The industry is up in arms about it. It is doing everything possible to cooperate with the State officials to stop the evil. Any addition to that tax accentuates the evasion.

I now pass to some specific objections.

Senator GORE. Mr. Chairman, I would like to reserve the right to insert at that point, and exercise it later on if I decide to, a report by an associate of Judge Ames, Mr. Hill of the Texas Co., after a survey made in the various States, indicating the extent to which this "bootlegging" prevails and how it has developed into a racket.

The CHAIRMAN. That may be done.

Mr. AMES. The House Ways and Means Committee heard us on the gasoline tax and did not vote it. The statements that were made before the Ways and Means Committee have been reprinted by us and placed on the desks of the Senators. Would it be possible, Mr. Chairman, to have these printed in your record?

The CHAIRMAN. We have the House hearings.

Mr. AMES. I would like, in all events, to have pages 22 and 23 put into your record.

The CHAIRMAN. That has been done, I believe.

Mr. AMES. And if any of you are interested in the House hearing on the subject, it has been reprinted here in convenient form for your use.

The petroleum industry had no opportunity for a hearing before the House on the tax on lubricating oils. That was put in after the hearings closed, and, therefore, this is the first time we have been able to present our objections to a tax on lubricating oils to the Congress.

The tax imposed by the House committee is 4 cents a gallon on lubricating oils falling within ranges 20 to 70 of the Society of Automotive Engineers' grades. The Society of Automotive Engineers, as its names indicates, is a society of engineers representing the automobile industry. It is not a society representing the petroleum industry. These viscosity numbers 20 to 70 simply mean so many different grades of oil, 20, 30, 40, 50, 60, and 70, indicating greater or lesser viscosity. Twenty years ago there were no such grades. Of the lubricating oils made by the refining industry at that time none would fall within these classifications. So these ranges are arbitrary, advisable, and constructive, so that the oil industry can make an oil which the maker of the automobile wants for his particular machine. They are suitable in different seasons of the year, for different classes of cars, trucks, and so forth.

This tax of 4 cents a gallon on lubricating oils, as defined by the House committee, is one which simply invites people to avoid its payment. In the process of refining lubricating oils, in the main, in order to get these particular grades, oils outside of those grades are first manufactured and then blended, so that your original manufacturer is not subject to the tax. If a consumer wants to do his own blending, all he has to do is to buy the higher and lower viscosities and mix them. If any one of the 200,000 service stations in the United States wants to evade this tax, all it has to do is to buy the product of the refinery outside of these grades, and then mix them at the filling station and pay the tax if you catch it. But you are not going to police 200,000 service stations.

Senator REED. The service-station man does not even need to do that, does he? He can put in a pint of one and then a pint of the other and call it a grade.

Mr. AMES. Certainly; he can mix it in the crank case of the car. He does not need to violate the law at all. The estimated revenue from this tax is $35,000,000. There were about 20,000,000 barrels of lubricating oils made in 1931. You can use almost any sort of oil for lubrication. Of that 20,000,000 barrels, approximately 5,000,000 were used in the arts, for printer's ink, and things like that, not used for lubrication. Of the remainder, about 9,000,000 as made by the manufacturers fell outside of those ranges. So that it would not be subject to the tax unless the man blends it, and why blend it when you are penalized 4 cents a gallon for blending? That leaves about 6,000,000 barrels made at the refineries which would fall within these ranges under normal processes of manufacture, and your revenue is 4 cents on 6,000,000 instead of $35,000,000.

Another thing in connection with this tax is that great quantities of lubricating oils are used in industry and are sold at from 8 to 12 cents a gallon. I imagine that the House in passing this tax was thinking about the 25 cents a quart product at the filling station. They were probably not thinking about industry at all. But the tax on industrial oils will increase the cost from one-third to one-half.

Typical examples of the effect of the tax upon manufacturers or particular industries are as follows:

Railroads are large consumers of car oils and black oils for which they pay approximately 10 cents a gallon. The tax, therefore, is an addition of 40 per cent.

Street railroads are likewise large consumers of such oils costing from 8 to 10 cents per gallon.

Cement companies, lumber mills, coal companies, automobile manufacturers are all consumers of large quantities of lubricating oils, and the 4-cent tax would increase their burden approximately 50 per cent.

Senator COUZENS. Would they all come within these viscosities you mention?

Mr. AMES. Some of them would.

The ordinary farm tractor uses a large quantity of lubricating oil. It is estimated by some of the oil companies that 25 per cent of their potential market is found in the farm trade.

Every industry uses lubricating oils and this tax is not only directed against these industries but aganist the automobile user, the farm tractor, and the petroleum industry as a whole.

A lubricating oil is an oil which when placed between two surfaces, one or both of which are in motion, eliminates or reduces the friction. In this machine age it is a vital necessity and enters into every phase of industrial life. Without modern petroleum lubrication practically the only kind of work that could be accomplished in any industry would be that performed by manual operation of the most simple devices. In the arts there are hundreds of purposes for which oils are used that have nothing to do with lubrication, such as ink oil, cable oil, leather oil, rust-proofing oil, pipe-threading oil, electrical-insulation oils, medicinal oils, wood-preserving oils, wool oil, soap oils, putty oils, and many others too numerous to mention, all of which have qualities almost identical with certain grades of lubricating oil. Thus lubricating oil does not have any set properties which distinguish it from these other oils.

Many so-called black oils are sold for lubricating purposes. These are cheap residual products, large quantities of which are used by railroads, mining companies, and so forth. There are many high grade fuel oils produced which have almost the identical qualities and characteristics that are possessed by these black oils. A tax evader could readily purchase one of a number of these high-grade fuel oils and by reselling it as black oil would not only deprive the Government of the revenue but would take the business away from the legitimate source of supply. Similarly a tax evader could purchase oils intended for use in the arts and divert them into lubricating trade.

The proposal to tax lubricating oils having viscosities in the range of S. E. A. 20–70 presents an additional difficulty in that it will encourage the blending by the consumer of oils having viscosities outside the taxable range thus avoiding the payment of any tax. It is quite possible for the bulk of the lubricating oil produced to have viscosities entirely outside the range of the 20-70 specified, and it is also possible by blending oils made outside the range of the proposed law to produce products entirely satisfactory for most uses.

We all know that the evasion of gasoline taxes throughout the country has become a major nation-wide racket, and with the tremendous increased possibilities of evasion which would be possible

under this proposed law it would be difficult to make even a crude estimate as to how much money the Government would collect.

During the year 1929 the total sales in the United States of oil for lubricating purposes and of similar oils for the so-called use in the arts amounted to approximately 20,000,000 barrels. Of this quantity 21 per cent was consumed by commercial motor cars, busses, trucks, etc.; 22 per cent by the automobile; 4 per cent miscellaneous uses; and 53 per cent by industry for commercial lubrication and for the arts. Of this latter 53 per cent we have estimated that slightly less than one-half was used in the arts. I have quoted these figures from a survey made by the McGraw-Hill Publishing Co., which agree substantially with other studies that have been made. There are no figures available as to the exact quantity of oil produced outside the 20–70 viscosity range in the proposed bill but I am told that at least 50 per cent of the refinery production falls outside of this range. The tax under the bill as now written would yield the Government, if you could eliminate the tax evader, a return on one-half of the lubricating oil produced—7,500,000 barrels—of $12,600,000.

There is practically no element of luxury and no nuisance use connected with any grade of lubricating oil. Its consumption is well nigh universal in the work-a-day world. It makes of industry a going concern. Fast transportation, by land, by sea, by air, would be impossible without it. With the tractor, the combine, the electric generator and other mechanical devices in such general use on the farm, the oil companies estimate that 25 per cent of their potential market is found in the farm trade. Our statisticians estimate the refinery value of lubricating oils produced in 1931 at $150,000,000, of which $15,000,000 or 10 per cent was purchased by the railroads. At this time when agriculture and transportation by rail and water are on the verge of collapse it does not seem economically sound to place so heavy a tax on such an essential commodity.

The average price at which one refinery sold its lubricating oils during the month of February was 7.7 cents per gallon. This special excise tax of 4 cents per gallon would be an average tax of 50 per cent. On the higher grades of lubricating oils it would be much less, but on the large volumes of black oils it would be from 100 to 150 per cent. There is no industry in the United States which is taxed so heavily or in so many devious ways as is the oil industry. But no tax heretofore assessed or even proposed had been so obnoxious to the large majority of the industry who carry on their business in a legitimate way or so welcome to those few who would evade the law as the tax on lubricating oil which Congress now proposes.

Reasons why paragraph (D) (1) of section 601, the special excise tax on lubricating oils, should be eliminated.

1. The effect of the proposed tax.

The proposed 4 cents per gallon tax would increase the cost of the 55-gallon barrel of lubricating oil $2.20.

The provisions of the House bill apply to all lubricating oils, as classified in the bill, used by industry and in manufacturing operations and for motor car lubrication. A heavy hand is laid on the large industrial users, manufacturers, and transportation agencies of the Nation, among which are steam and electric railroads, lumber mills, steel mills, textile mills, automobile manufacturers, cement mills, electric and other power plants, coal mining, paper and pulp

manufacturers, manufacturers of food products, cotton gins, cotton seed oil mills, grain elevators, rubber companies, farm tractors, harvesters and farm machinery of all character, box factories, furniture factories, planing mills, ice plants, irrigation plants, packing plants, mines and smelters, fertilizer plants, sulphur plants, and every other industry which uses lubricants.

The proposed special excise tax of 4 cents per gallon will in many instances equal the full wholesale price of the industrial oil and will amount to 30, 40 or 50 per cent of the cost price to the manufacturer or industrial user.

Typical examples of the effect of the tax upon manufacturers or particular industries are given below:

Railroads are large consumers of car oils and black oils. A barrel of oil in this classification to-day costing $5.50 would, under the 4 cent tax provision, cost $7.70, or an increase of 40 per cent. A typical Class 1 railroad, for example, in one of its main divisions has an annual requirement of 1,400,000 gallons of lubricating oil valued at $178,000, of which 76 per cent would fall within the viscosity limits of the proposed bill. The tax which this railroad would pay at 4 cents per gallon would amount to $41,900.

Street railroads are large consumers of oils, costing 8, 9, and 10 cents a gallon delivered. Their cost would be increased 40 to 50 per cent on the largest item of their lubricating consumption.

Analysis of the lubricating contract of one cement company shows that on a purchase of $4,710 worth of lubricating oils the additional cost would be $2,040.

Lumber mills are large consumers of lubricating oils delivered to them at a price range of 8 to 12 cents a gallon. The cost of these particular items would be increased 33⅓ to 50 per cent.

Coal mines are large consumers of cheap low-grade lubricaitng oils. This large part of their lubricating cost would be increased 33⅓ to 50 per cent.

Automobile manufacturers buy lubricating oils on a specification basis at the lowest possible figure. Many of their specification items would be increased in cost approximately 30 to 35 per cent. They would use quantities of taxed oil.

The ordinary tractor farmer uses as much lubricating oil as a small manufacturing plant. Practically all of the oil used on a farm would be increased in cost $2.20 a barrel. Oil companies generally estimate that 25 per cent of their potential market is found in the farm trade.

Lubrication is an important item of cost with rice mills, cottonseed-oil mills, manufacturers of food products, textile mills, ice plants, packing plants, fertilizer plants, and irrigation pumping units. Steel mills will be adversely affected.

Every industrial center must pay a disproportionate tax upon this commercial necessity.

A survey by a leading farm publication shows 42 per cent of the automobiles are to-day on the farms and in towns of under 1,000 people. The greater part of the lubricating oil consumed on the farm to-day is bought in quantity at wholesale prices, and a 4 cent tax will represent a substantial percentage increase in the cost of this necessary commodity.

There is practically no element of luxury and no nuisance use connected with any grade of lubricating oil. Its consumption is as universal as any necessary commodity could be. Its use is more generally devoted to industrial, manufacturing and commercial operations than any other purpose. (See 1929 Lubricating Oil Survey, by McGraw-Hill Publishing Co., attached hereto.) There is no social, economic, or political reason why any manufacturer or user of this product should be singled out and penalized to bear the burden of a special tax for the maintenance of general governmental budgets.

It should not be overlooked that in 1931 the motor-car owners of the Nation paid an aggregate tax—because they were motor-vehicle owners—of $1,030,000,000 which amounted to almost 20 per cent of the combined value of all motor vehicles and which was about 10 per cent of all the taxes of all kinds collected in the United States by all Government divisions, and that all element of fairness disappears when additional special excise taxes in any form or however slight are added to their burden.

2. Fundamental difficulty of attempting to tax lubricating oils.

An almost insurmountable difficulty in taxing a product like lubricating oils is that they can not be defined adequately except in terms involving their use. Lubricating oils vary greatly in their properties both as to viscosity and other characteristics. A lubricating oil does not have any set properties which distinguish it from other petroleum products. Oils which may be used for lubrication are also used for—

(*a*) Transformer oils.
(*b*) Electric-switch oils.
(*c*) Heating systems using oil as the heating medium.
(*d*) Quenching oils for steel, etc.
(*e*) Leather oils for tanning and preparation of hides.
(*f*) Textile oils used in the manufacture of textiles such as rayon.

Lubricating oils can not be separately distinguished by any degree of refinement. Transformer and turbine oils must be very highly refined. So-called black oils used for very crude lubrication such as in lumber mills and on railroads go through the same general process of refinement as in the production of fuel oils. Products generally known as fuel oils could, if of proper viscosity, be used for very crude lubrication.

There is no way for the oil refiner to ascertain whether the oil he sells is used for a lubricant or for other industrial needs as the same oil may be used for either purpose. Neither the manufacturer nor the Treasury Department without elaborate and complicated administration machinery, can possibly trace the oil to its ultimate use.

Further, the proposal to tax lubricating oils having viscosities in the range of S. E. A. Nos. 20–70 presents an additional difficulty in that it will encourage the blending by the consumer of oils having viscosities outside the taxable range, thus avoiding the payment of any tax.

It is at present common practice to blend an oil of high viscosity with one of low to produce whatever viscosity is required in the finished product. Either or both of the blending oils may have viscosities outside the proposed limits. It is logical to expect that the imposition of a 4-cent tax upon a certain group of oils will result in a rapid increase in the number of consumers who will purchase tax-free

oils and blend them to produce the viscosity required in their operations.

If this 4-cent tax should be adopted, it is fair to say that it is entirely possible the method of manufacture and sale of lubricating oils, at least for industrial purposes, may be completely revolutionized to no good purpose except to evade lawfully the payment of the tax.

Senator REED. Before you leave this subject, Judge, is it not a fact that this tax would bear with particular hardship on the Pennsylvania oils, because they run so much higher than the oils of the Gulf States?

Mr. AMES. Mr. Pew can answer you that question, really, Senator, much better than I can.

Mr. J. HOWARD PEW. What the Senator says is quite right. Most all of the Pennsylvania lubricating oils, Pennsylvania crude oils, are manufactured into lubricants. That is to say, there is only about one-third of the crude in the United States which is run for lubricating oil, and most all of the Pennsylvania crude is so run.

Mr. AMES. I will now take up the 8 per cent tax on pipe-line transportation.

Senator HARRISON. Just a minute. Was there any hearing in the House on that proposition?

Mr. AMES. Not on this. The only hearing in the House was on the gasoline tax.

Senator GORE. And after the hearing, they declined to put it on?

Mr. AMES. Yes. By the act which passed the House, a tax is imposed of 8 per cent of the amount paid for transportation by pipe line to be paid by the shipper and collected by the pipe-line company.

There are two objections, either one of which is so convincing that it is unnecessary to elaborate the opposition to this tax.

(*a*) The tariff rate on crude oil by pipe line from Oklahoma and North Texas to the Atlantic seaboard is 96¾ cents per barrel. The tax, therefore, would be 7.74 cents per barrel. Oil can be shipped from Venezuela to the Atlantic seaboard by water, or from any other foreign country by water, for that matter. Not only is water transportation cheaper than pipe-line transportation, but, in addition, oil shipped in from Venezuela would escape this tax of 7.74 cents per barrel, which would have to be paid on oil shipped by pipe line from Kansas, Oklahoma, or Texas. The tax, therefore, is a direct discrimination against the entire mid-continent area.

(*b*) The following table shows the production of crude oil in the United States in 1931, the per cent produced in the important producing States, and the amount of the proposed tax allocated on the basis of 2½ cents per barrel. This basis may not be right but both the Treasury and the House committee estimated that this tax would yield a revenue of $20,000,000. If this sum be applied to the total production of the United States, it would amount to approximately 2½ cents per barrel, and the table is, therefore, prepared upon that basis; 2½ cents per barrel, obviously, is an arbitrary figure, because on shipments for longer distances, as I have just pointed out, the rate would get up to 7¾ cents per barrel.

Senator REED. What is the pipe line rate from Oklahoma to the Gulf?

Mr. AMES. From Oklahoma to the Gulf, I believe, is about 40 cents. I wonder if anybody here can give me that rate. As I understand, it is approximately 40 cents. As I recall the tariff rate from New

Mexico, for instance, which is coming into very great importance as an oil production State, to Houston and Port Arthur it is 60.5 cents. The rate from east Texas, which is close to the Gulf, to Houston and Port Arthur is in the neighborhood of 25 cents, may be 22½. I do not keep these rates with accuracy in my mind. I am told, however, now, that it has been reduced to 20 cents.

But assuming an overall charge on the oil producers of only 2½ cents per barrel, here is where the tax would fall, based on 1931 production:

	Production	Per cent of total	Proposed tax
Texas	331,544,000	38.99	$8,288,600
California	188,830,000	22.21	4,720,750
Oklahoma	180,900,000	21.26	4,520,225
Kansas	36,885,000	4.34	922,125
All other States	112,207,000	13.00	2,805,175
Total United States production	850,275,000		

It will be observed from a glance at this table that of this total tax, Texas producers would pay 38.99 per cent, California producers 22.21 per cent, Oklahoma producers 21.26 per cent, and Kansas producers 4.34 per cent. In other words, this tax, supposed to be levied by the Nation upon a fair basis, would force four States to pay 86.4 per cent.

The table above is correct on the basis figured, but, as a matter of fact, crude oil in California is not transported to such great distances as the crude oil in Kansas, Oklahoma, and Texas; so that these three States would really have to pay more than is indicated by these figures, and this tax, which is for a national purpose, for general revenue, is a burden upon only three States, or four, and is obviously an unfair burden to impose upon those States.

Senator COUZENS. Are you going to suggest any substitute taxes for these taxes you want eliminated?

Mr. AMES. Yes, sir.

Senator HARRISON. How many pipe lines are there, Mr. Ames?

Mr. AMES. Senator, there are probably 50, not very far from that. I should guess, offhand, that there were 50 pipe lines of considerable importance, not counting small local lines.

Senator HARRISON. Could you put into the record or will you put into the record a list of the pipe lines and who controls them and dominates them?

Mr. AMES. I can put in a list of pipe lines. I am not sure that I can——

Senator HARRISON. I have understood that the big companies, generally speaking, own the pipe lines, or most of them, and that a large per cent of the big companies' production goes over the pipe lines. I would just like to see the figures.

Senator CONNALLY. This tax does not reach them, though. It is supposed that it is paid by the producer.

Mr. AMES. Paid by the shipper.

Senator HARRISON. It is paid by the shipper?

Mr. AMES. Yes.

Senator HARRISON. But some of the big companies produce themselves, don't they?

Mr. AMES. Yes.

Senator HARRISON. And to that extent they would pay it themselves?

Mr. AMES. Yes, sir.

Senator HARRISON. Could you put into the record those facts?

Mr. AMES. I will put in what I can get on that. I can not say, for instance, who controls a number of these eastern pipe lines, which are pure transportation companies and not connected with any producing or refining company. They are merely transporting agencies, common carriers. My company has some six or seven thousand miles of pipe line through which we transport our own production and through which a great many other people transport their oil. We are common carriers.

There was this tax during the war period, but at the time that tax was in effect producers were getting $3.50 a barrel for their oil, part of the time. Toward the end of that time the price declined to about $1 a barrel, and the tax was repealed. Now $1 is the top price. The average is possibly 80 cents, 83 cents.

Senator REED. Speaking of mid-continent oil?

Mr. AMES. Yes. Mr. Boyd, I wish you would make a memorandum of the information requested by Senator Harrison.

(The list of pipe lines requested by Senator Harrison appears at conclusion of Mr. Ames's testimony.)

There is one other feature of the tax bill that is not related directly to the oil industry, but to which we have a peculiar relation and which I wish to mention merely in passing.

In 1906 you passed a law requiring the pipe lines to become common carriers. Prior to that time they were owned in the main by companies which were likewise refiners and marketers.

Senator CONNALLY. What was that date again?

Mr. AMES. I think it was 1906. That was the pipe line bill, so-called. As a practical result of that legislation, you forced us to disassociate our pipe lines and our producing and refining operations and organize pipe-line companies. Now because they are affiliated and embodied in our consolidated returns, you penalize us by this bill 1½ per cent for filing a consolidated return, when it was your own act, so far as the pipe lines are concerned, which compelled us to do so. So that we are penalized by you for doing what you required us to do.

Senator CONNALLY. You have the option, though, have you not, of filing a separate return?

Mr. AMES. Yes. But sometimes the only money we make is in our pipe lines. Take our statement for last year. The Gulf, for instance, lost $23,000,000 on a $600,000,000 investment, which included its earnings on pipe lines. We lost $10,000,000 on a larger investment, and that included our pipe-line earnings.

Senator COUZENS. So you took the loss in the oil industry and deducted it from your pipe line earnings?

Mr. AMES. We took a consolidated statement, of course.

Senator COUZENS. Yes.

Mr. AMES. And the earnings on the pipe lines generally depend, of course, on the volume.

We do not content ourselves merely with opposing the burdensome taxes which have been proposed and which we think will unfairly

and oppressively injure our industry, but we propose a constructive tax in the payment of which we will share equally with others, namely, a manufacturers' tax applicable without any exceptions to all manufacturing plants in the United States. The following table gives the available figures of factory output:

Wholesale value of manufacturers—combined summary for all industries in the United States, factories only

[Establishments having value of products of $5,000 or over]

Year	From biennial census of manufactures	Estimated by National Industrial Conference Board	Year	From biennial census of manufactures	Estimated by National Industrial Conference Board
1914	$23,974,957,468		1925	$62,713,713,730	
1919	62,041,795,316		1926		$63,800,000,000
1920		$65,800,000,000	1927	62,718,347,289	
1921	43,653,282,833		1928		65,400,000,000
1922		49,400,000,000	1929	70,137,459,352	
1923	60,555,908,200		1930		59,700,000,000
1924		57,000,000,000			

Source: 1914 from biennial census of manufactures, 1927, p. 15; 1919-1929 (odd years) from Biennial Census of Manufactures, 1929, preliminary summary; 1926-1930 (even years) are estimates of National Industrial Conference Board.

There may be later figures available in the Bureau of the Census. The latest figures shown on the table are those of the National Industrial Conference Board for 1930 when the total was approximately $60,000,000,000. If we assume that the reduction in value in 1931 as against 1930 was approximately the same as the reduction in 1930 against 1929, we would have a total output in 1931 of $50,000,000,000. A tax of 1 per cent without exceptions would, therefore, yield a revenue of $500,000,000.

The House voted down the sales tax, and then it voted $444,000,000 of taxes on sales. We propose a manufacturers' tax, applicable to everybody who manufactures anything for any purpose in the United States. And we pay our share of it. We will do that gladly. Not that we like to pay taxes, but we recognize the problem that confronts the Congress and the necessity for our country paying its debts.

The total output of all of the refineries in the United States is somewhere between a billion and a half and two billion dollars. We will pay our share of that tax and it will not be passed on; and if you limit it to 1 per cent, very little of it will be passed on. It is too small to pass on. But it is worth 15 or 20 million dollars to the oil industry of America to have you balance the Budget on a sound basis. We will make it back in the increased prosperity which follows statesmanlike action by this great body.

Senator REED. Did you testify to that effect in the House, Judge?

Mr. AMES. I made a statement in the House, which is on the last page of the pamphlet which I have distributed, and I made this point in the House, too. I said to them, describing the gasoline tax: "You are proposing to put a cent tax on gasoline. That means that you are putting 25 per cent on the manufacturers of one commodity. A tax of 1 cent on gasoline is 25 per cent of the value of the gasoline at the factory. If you are going to collect a tax of a cent a gallon

on gasoline, you are going to have to collect it at the refinery. You can not collect it at 200,000 filling stations. It would cost you more to get it than you would get out of it. Therefore, when you propose a gasoline tax, you are proposing a manufacturers' tax, and you are proposing a 25 per cent manufacturers' tax."

We advocated at that time a general manufacturers' tax, and we advocate it now.

I say to you it is my candid opinion that a 1 per cent manufacturers' tax imposed upon the oil industry would not be passed on to the consumer in any way except as prosperity results to the industry as a whole from an improvement in our national situation.

Now, if I may, I want to ask permission to file this chart showing the price of crude oil and the price of gasoline. Statements have been made in the Congress that the price of crude oil has nothing to do with the price of gasoline; that no matter what the price of crude oil is, the price of gasoline stays up. It is not true, and the figures demonstrate it, and I want you gentlemen to know that that picture of prices shows a direct relation between the price of crude and the price of gasoline.

(The chart offered by Mr. Ames is on file with the committee.)

Mr. AMES. I also want leave to file with your committee a statement from Successful Farming, showing the automobile ownership by population groups.

Senator GORE. Is that Successful Farming?

Mr. AMES. Yes.

Senator GORE. What is that? A picture or something? [Laughter.]

Mr. AMES. Yes, that is a novel, a detective story. [Renewed laughter.]

Senator GORE. Go ahead.

Mr. AMES. This chart shows that 42.06 per cent of the automobiles, passenger cars, are owned by people living on farms and in towns under 1,000 population, and shows by towns and classes where the people live who own the passenger cars.

(The chart furnished by Mr. Ames is on file with the committee.)

Senator REED. So the House drafted a 2¼ per cent sales tax to protect the poor man, and then they put on a 25 per cent sales tax on the gasoline that he is using.

Mr. AMES. No: they did not put on a gasoline tax in the House.

Senator HARRISON. No; that was in the recommendation of the Treasury. [Laughter.]

Senator REED. The Senator has scored one on me there, all right. The point remains anyway that somebody proposes a 25 per cent tax, 42 per cent of which will be paid by people in little towns and on the farms.

Mr. AMES. Yes, and the House did put on a 4-cent tax on lubricating oil, which is 50 per cent of the manufacturing price.

Senator REED. And being Democrats, they treated soap as a luxury and put 10 per cent on that.

Mr. AMES. I yield to Senator Harrison. When you and I were boys in Mississippi, Senator, we used soap, didn't we?

Senator HARRISON. We are not putting a tax on cheap soap either.

Mr. AMES. I also want to file for the record another page from that same mystery story, Senator Gore, of the successful farmer, showing farm machinery and the kind of classification of it and the average

operating season of a tractor, for instance, and the annual grease needed and the annual oil needed.

(The tabulation referred to is here printed in the record in full, as follows:)

Farm machinery

	Average operating season	Annual grease needed	Annual oil needed	Oil can needs		Average operating season	Annual grease needed	Annual oil needed	Oil can needs
	Hours	*Pounds*	*Quarts*			*Hours*	*Pounds*	*Quarts*	
Tractor	500	107	1.50	Yes.	Balers	120	4	.....	No.
Plows	160	6	.....	Yes.	Hay rakes	100	1	.....	No.
Disk harrows	160	1	.....	Yes.	Planters	60	2	.....	Yes.
Mowers	150	3	.....	Yes.	Cultivators	300	2	.....	Yes.
Corn picker	100	31	.....	No.	Pump jacks	300	1	.....	No.
Spreaders	140	1	.....	No.	Power jacks	60	1	.....	No.
Threshers	200	47	.....	No.	Seeder	120	10	.....	Yes.
Grain binders	100	13	.....	Yes.	Wagons	800	1	.....	No.
Corn shellers	150	11	.....	No.	Windmill	.....	2	.....	No.
Silo fillers	80	2	.....	No.					
Ensilage cutters	80	2	.....	No.	Total	.....	251	150	
Rotary hoe	80	3	.....	No.					

Mr. AMES. Mr. Chairman, I thank you very much.

(The information requested by Senator Harrison is here printed in full.)

Pipe lines in United States

Name of company	Controlled by—
Ajax Pipe Line Co	55 per cent Standard Oil Co. (New Jersey), 25 per cent Pure Oil Co., and 20 per cent Standard Oil Co. of Ohio.
Arkana Transit Corporation	Atlantic Refining Co.
Arkansas Pipe Line Corporation	Cities Service Co.
Arkansas-Louisiana Pipe Line Co	Do.
Associated Pipe Line Co	33⅓ per cent Standard Oil Co. of California, 33⅓ per cent Tide Water Associated Oil Co.; other interest unknown.
Atlantic Pipe Line Co	Atlantic Refining Co.
Atlas Pipe Line Co. (Inc.)	Shreveport-El Dorado Pipe Line Co.
Barnsdall Oil Co	Barnsdall Corporation.
Bartex Pipe Line Co	Phillips Petroleum Co.
Bradford Transit Co	50 per cent Tide Water Oil Co. and 50 per cent South Penn Oil Co.
Buckeye Pipe Line Co	Independent.[1]
Central Pipe Line Co	Unknown.
Continental Pipe Line Co	Continental Oil Co.
Cosden Pipe Line Co	Mid-Continent Petroleum Corporation.
Crown Central Pipe Line Co	Crown Central Petroleum Corporation.
Crusader Pipe Line Co	Unknown.
Cumberland Pipe Line Co	Independent.[1]
DeLeon Pipe Line Co	Unknown.
Derby Oil & Refining Co	Derby Oil & Refining Co.
Empire Pipe Line Co	Cities Service Co.
Eureka Pipe Line Co	Independent.[1]
General Pipe Line Co	Socony-Vacuum Corporation through General Petroleum Corporation of California.
Grayburg Pipe Line Co	Indiana Southwestern Gas & Utilities Corporation.
Gulf Coast Pipe Line Co	Atlantic Refining Co.
Gulf Pipe Line Co. (Texas)	Gulf Oil Corporation.
Gulf Pipe Line Co. of Louisiana	Do.
Gulf Pipe Line Co. of Oklahoma	Do.
Healdton Pipe Line Co	Atchison, Topeka & Santa Fe R. R. Co.
Hill Pipe Line Co	Unknown.
Humble Pipe Line Co	Standard Oil Co. (New Jersey) through Humble Oil & Refining Co.
Illinois Pipe Line Co	Ohio Oil Co.
Imperial Pipe Line Co., (Ltd.)	Standard Oil Co. (New Jersey) through Imperial Oil (Ltd.).
Independent Pipe Line Co	Independent.
Indiana Pipe Line Co	Do.[1]
Inland Waterways Pipe Line Co	Do.
Liberty Pipe Line Co	Do.
Los Angeles-Midway Pipe Line Co	Richfield Oil Co. of California.

[1] Controlled by Standard Oil Co. (New Jersey) until the dissolution ordered by United States Supreme Court on May 15, 1911.

Pipe lines in United States—Continued

Name of company	Controlled by—
Magnolia Pipe Line Co	Socony-Vacuum Corporation, through Magnolia Petroleum Co.
Maryland Pipe Line Co	National Transit Co.
Mid-West Refining Co	Standard Oil Co. (Indiana).
National Transit Co	Independent.[1]
Natrona Pipe Line & Refining Co	Mid-West Oil Co., which is subsidiary of Salt Creek Producers Association.
New Mexico Pipe Line Co	50 per cent Continental Oil Co. and 50 per cent in hands of public.
New York Transit Co	Independent.[1]
Northern Pipe Line Co	Do.[1]
Oklahoma Pipe Line Co	Standard Oil Co. (New Jersey).
Panhandle Pipe Line Co	Producers & Refiners Corporation through Southwest Development Corporation.
Panola Pipe Line Co	Independent.
PasoTex Pipe Line Co	Standard Oil Co. of California.
Pecos Valley Pipe Line Co	Independent.
Pierce Pipe Line Co	Sinclair Consolidated Oil Corporation.
Pure Oil Pipe Line Co. of Texas	Do.
Pure Oil Pipe Line Co. of Ohio	Pure Oil Co.
Pure Oil Pipe Line Co. of Pennsylvania	Do.
Pure-Van Pipe Line Co	Do.
Rusk County Pipe Line Co	Independent.
Sabine Pipe Line Co	Do.
Shell Pipe Line Corporation	Shell Union Oil Corporation.
Shreveport-El Dorado Pipe Line Co. (Inc.).	Holding company for Atlas Pipe Line Co. (Inc.).
Sinclair Prairie Pipe Line Co	Sinclair Consolidated Oil Corporation.
Skelly-Burford Pipe Line Co	Skelly Oil Co.
Southern Pipe Line Co. (operates in Pennsylvania).	Independent.[1]
Southern Pipe Line Co. (operates in Texas and Arkansas).	Standard Oil Co. (Indiana) through Pan-American Petroleum & Transport Co.
South West Pennsylvania Pipe Lines	Independent.[1]
Standard Pipe Line Co. (Inc.)	Standard Oil Co. (New Jersey).
Stanolind Pipe Line Co	Standard Oil Co. (Indiana).
Sun Oil Line Co	Sun Pipe Line Co. (Delaware).
Sun Pipe Line Co	Sun Oil Co.
Sun Pipe Line Co. (Inc.)	Sun Pipe Line Co. (Delaware).
Sun Pipe Line Co. (Delaware)	Affiliated company of Sun Oil Co.
Sun Oil Line Co. of Michigan	Sun Oil Co.
Sun Yount Lee Pipe Line Co	50 per cent Sun Oil Co. and 50 per cent Yount Lee Pipe Line Co.
Tidal Pipe Line Co	Tide Water Associated Oil Co., through Tide Water Oil Co.
Tide Water Pipe Co. (Ltd.)	Tide Water Oil Co.
The Texas-Empire Pipe Line Co	50 per cent Texas Corporation and 50 per cent Empire Gas & Fuel Co.
The Texas Pipe Line Co	The Texas Corporation.
The Texas Pipe Line Co. of Oklahoma	Do.
The Texas-Empire Pipe Line Co. of Texas	37½ per cent Texas Corporation, 37½ per cent Empire Gas & Fuel Co., and 25 per cent Tidal Refining Co.
The Texas Co. (California)	Texas Corporation through California Petroleum Corporation (Virginia).
Thurber Pipe Line Co	Texas Pacific Coal & Oil Co.
Toronto Pipe Line Co	British American Oil Co. (Ltd.).
Tyler Pipe Line Co	Independent.
Union Gulf Pipe Line Co	Union Gulf Corporation, which is owned 45 per cent by Gulf Oil Corporation of Pennsylvania and 55 per cent by certain Gulf Oil Corporation stockholders.
Union Pipe Line Co	Independent.

[1] Controlled by Standard Oil Co. (New Jersey) until the dissolution ordered by United States Supreme Court on May 15, 1911.

Gasoline pipe lines in United States

Name of company	Controlled by—
Atlantic Pipe Line Co	Atlantic Refining Co.
Great Lakes Pipe Line Co	Barnsdall, Continental, Mid-Continent, Phillips, Pure and Skelly.
Keystone Pipe Line Co	Atlantic Refining Co.
Phillips Pipe Line Co	Phillips Petroleum Co.
Susquehanna Pipe Line Co	Sun Oil Co.
Tuscarora Oil Co. (Ltd.)	Standard Oil Co. (New Jersey).

STATEMENT OF HON. JOHN E. NELSON, A MEMBER OF CONGRESS FROM THE STATE OF MAINE

Mr. NELSON. Mr. Chairman and gentlemen of the committee, there are four Members of Congress here appearing in opposition to this tax on oil, Congresswoman Rogers of Massachusetts, Congressman McCormack and Congressman Martin, and I think they are all willing that I should present roughly their views on this matter. So that will dispose of at least four witnesses.

The CHAIRMAN. Proceed, then, Congressman.

Mr. NELSON. I became interested in the situation of the oil industry about a year ago, when representatives of the independent producers from the mid-continental fields appeared before the House committee of which I am a member, that on Interstate and Foreign Commerce. They were appearing in behalf of a law which would divorce the pipe lines from transportation—that is, that would impose on the pipe lines the same prohibition as now applies to railroads against transporting their own products—and it is my humble opinion that the enactment of that law would go much farther toward remedying the conditions of which they complain than any so-called tariff or excise tax.

The evidence given at that time by the experts of the independents furnished a rather illuminating background against which perhaps we might view the testimony that is produced here in behalf of this tariff.

The evidence showed, and I have it here embodied in the hearing and it never has been questioned, that while there are thousands upon thousands of persons and individuals and companies producing oil, yet nearly all of that oil passes immediately out of the hands of the producers into the hands of a comparatively few refining companies.

I think it was in 1911 that the Supreme Court dissolved the various holdings of the Standard Oil Co. into 34 groups, and I say without hesitation that there is to-day an oil monopoly in this country as complete and uneconomic and destructive as ever there was in the past.

This evidence shows that out of the thousands of oil companies in this country less than a hundred absolutely dominate the industry and fix the prices of both crude and refined products.

Senator REED. Fix them pretty low, if that is the case.

Mr. NELSON. Yes. This is accomplished by owning the pipe lines, the refineries, the storage facilities, and the distribution outlets.

You can select 20 companies out of the thousands of companies, 10 of them the Standard companies, 10 of them the non-Standard companies, and those 20 companies will represent 80 per cent of the capitalization of this oil business, which is $12,000,000,000. Those 20 companies will produce a half, or 48 per cent, of the oil. They own perhaps 95 per cent or 90 per cent of the pipe lines. They transport practically all the oil. They own 73 per cent of the refining process, 93 per cent of the cracking process, so-called, more important than the other perhaps, nearly a hundred per cent of the storage facilities, and about 85 per cent of the distribution outlets.

That means this: That when a territory is opened up this parent company goes into it with its subsidiary companies, its purchasing company, its pipe line, its refinery. The independent producer is in this situation: He has no storage facilities. He has but one

purchaser and that is the purchasing company of the parent corporation. He has but one means of transportation, and that is the company's pipe line, and he has but one customer, and that is the company's refinery.

I have here figures which have not been disputed, taken from a petroleum magazine, which show that when oil was selling in Texas for 10 cents a barrel one of these great integrated companies, through its purchasing company, its pipe line and its refinery, was making 84 cents on every barrel of oil for which they paid the producer 10 cents, and that was before they had begun to refine it.

The CHAIRMAN. Eighty-four cents profit?

Mr. NELSON. Eighty-four cents a barrel charges on every barrel of oil that they were paying the producer 10 cents for.

The CHAIRMAN. That is not what I mean. After paying the transportation cost, was the 84 cents the cost of transportation?

Mr. NELSON. No; it could not have been that, Senator.

The CHAIRMAN. Or was it 84 cents per barrel profit?

Mr. NELSON. It was made up in this way: It was not the profit. The posted price as of a given date would be 10 cents. The gathering charge—and this happened in the case of the Humble Pipe Line Co.——

Senator BARKLEY (interposing). Is that an imaginary illustration or is it an actual fact?

Mr. NELSON. This was given to the oil people from the oil journal, and I think it is correct.

Senator BARKLEY. Where and when did crude oil sell for 10 cents a barrel?

Senator CONNALLY. Texas, last year.

Mr. NELSON. Posted price for 41 degree—you know what that means—oil 1931 to producer, 10 cents; gathering charge 12½ cents; trunk-line charge to tidewater 40 cents; ship-loading charge 2½—65 cents.

Then it gives a charge here of a service charge, or premium of 20 cents, and figured out they made 84 cents charges on the barrel of oil for which they paid 10.

Senator CONNALLY. You mean after they refined it?

Mr. NELSON. Before it had got to the refinery or been refined.

Senator CONNALLY. You mean it cost that to the consumer; is that what you mean, 84 cents?

Mr. NELSON. I do not think I am very clear. I simply say this, that for the barrel of oil for which they paid 10 cents these affiliated companies had accumulated a charge of 84 cents before they had begun to refine it.

Senator CONNALLY. Well, certainly it cost them that, in other words.

Mr. NELSON. I can give some idea of the profits that the pipe lines made, and I will.

Senator REED. How much did the Humble Co. lose last year, do you know?

Mr. NELSON. It stated in this magazine—and I do not think it would have stated it unless it was correct, as it was broadcast to the companies—that the Humble Oil & Refining Co. in three years down there in Texas lost $20,000,000, but that the Humble Pipe Line Co. in the same time made $79,000,000. By owning the purchasing company, the pipe line, the refinery, these integrated companies can

make the money wherever they want to and where it will best serve to put the other fellow out of business; and in this conflict which they had there in Texas they made a net profit in that time of $59,000,000.

Senator REED. During this time when you say they made 84 cents on a barrel of oil my impression is that they lost money.

Mr. NELSON. I will give you the figures on what those pipe lines made.

Senator REED. I meant the enterprise as a whole.

Mr. NELSON. Yes.

Now, these pipe lines, according to the returns filed to the Interstate Commerce Commission during the year 1930, the Humble Pipe Line made 40 per cent; the Magnolia line, 46 per cent; the Gulf Pipe Line Co., 338 per cent; the Gulf Pipe Line Co. of Oklahoma 400 per cent; the Texas Pipe Line Co., 93.4 per cent; and the Texas Pipe Line Co. of Oklahoma, 100 per cent.

Senator CONNALLY. What year was that?

Mr. NELSON. 1930.

To me the evidence given at that hearing was interesting. It was to this effect, and it showed that apparently there is some money being made in the oil business, and suggests that if it was properly distributed it might be sufficient.

It seems that in the whole oil industry of the United States they have invested about $12,000,000,000, and in that production represent $6,000,000,000. I do not put my hand on the other figures. I think transportation was about $1,500,000,000; and so on. But the significant fact is this, that production, represented largely or in part by these independents, with an investment of $6,000,000,000, received for the entire product approximately $1,000,000,000, and when that product went into the hands of the public it cost them about five and a half billion dollars.

The CHAIRMAN. Do you know what their rate is now on a barrel of oil? I should not say the rate—what do they pay for a barrel of oil in Texas now?

Mr. NELSON. That I do not know, Senator. I have not looked at the figures lately.

The CHAIRMAN. Is it only 10 cents a barrel now?

Mr. NELSON. Oh, no; it is much more. The oil business has been going up for some months. I think I have the figures, if I can find them.

Mr. Ames was asked in regard to what the company had made or lost.

Senator BARKLEY. I am informed that the price is a dollar a barrel now in Texas.

Mr. WIRT FRANKLIN. Mr. Chairman, I can give you that information.

The CHAIRMAN. Yes.

Mr. FRANKLIN. The price last July went to the lowest point in all history, and it reached 10 cents a barrel for the lowest grade. Since then there have been three raises in price, the last of which was the 1st of this month. The low price now is 76 cents a barrel for 28 gravity and below, and for 40 gravity and above it is a dollar a barrel.

Mr. NELSON. The matter came up as to whether the companies were making or losing money, and the previous witness suggested that on the basis of the average cost of oil they had made or lost so

many million dollars during the year, but that did not cover the question as to whether or not his company had made money.

Now, this $1.09 standard which we have here may be confusing. This $1.09 is the average cost of the production of crude oil throughout all the fields in the United States as found by the Tariff Commission, covering I think the years 1927 to 1930, inclusive, and that included interest at 6 per cent and depreciation.

Now, Mr. Franklin, who is to appear here, stated before the House committee that of the 330,000 wells in the United States 300,000 produced on an average of but a barrel and a half a day, and that by pumping, and some of them 40 years old.

In the last 40 years they have made great strides in the methods and processes in the oil business. It does not seem proper that the American consuming public should be charged the price of the highest cost well. The free flowing wells out in Oklahoma or Texas produce many thousands of barrels of oil, of course, in a day. Even the wells of east Texas, I am informed, flowed as much oil in one day as these 300,000 wells combined, plus 100,000 barrels.

Senator CONNALLY. They are shut down, though, now by law.

Mr. NELSON. Well, if you would shut down some of those wells that pump—the average wells in Pennsylvania, New York, and West Virginia only averaged as a group four-fifths of a barrel a day by pumping. If you take off your proration and give your wells a chance and shut down these uneconomic and inefficient wells, you can produce oils in Texas at a figure, according to the Tariff Commission, of less than 46 cents a barrel.

Senator CONNALLY. Who is going to shut down these wells in Pennsylvania?

Mr. NELSON. Well, I do not know; but that condition is an economic defect in the business for which the American public ought not to be made to pay. If you are going to say that the consuming public must pay a dollar and nine cents a barrel, which would be the average of these inefficient and uneconomic wells, for all time, although the proponents of this measure tell us that the reserves of oil here in this country are inexhaustible, and that there are great reserves as yet unexplored and unopened, that is not equitable. And, on the other hand, if our reserves are, as I believe they are, insufficient and questionable, why, then, the importation of this small amount of oil on the Atlantic seaboard, which is the only part of the country not supplied with oil, which takes 95 per cent of all the imports and none of which goes into the interior in any way, why, then, that is a proper conservation measure.

Senator Tydings, it seems to me, very intelligently and conclusively showed that this item, this oil tax, is a tariff item in a revenue bill; that it was put in there not for the purpose of raising revenue, but for the purpose of shutting out imports, and the proponents of this measure in the House were very frank in their statements that that was the object which they sought.

The first proposition was 2 cents a gallon on crude, 2 cents a gallon fuel, and 4 cents a gallon on gasoline, and the evidence showed conclusively that that would be prohibitive and that there would be no revenue.

The committee then took up with the Treasury experts the proposition of 1 cent on crude, 1 cent on fuel oil, and 2 cents on gasoline, and I have here the report from those experts.

Now, suggestion is made—I do not know upon what it can be based—that we might get $40,000,000 but the evidence of the experts of the Treasury Department and of the Commerce Department and the mature judgment of the Committee on Ways and Means which listened to this evidence for days, is entirely to the contrary.

Senator HULL. Will you put in the record the detailed bases on which the Treasury officials computed their estimates?

Mr. NELSON. The basis on——

Senator HULL (interposing). I want the detailed facts on which this $5,000,000 will be derived.

Mr. NELSON. Well, I give you that to the best of my knowledge, and that is a guess, but I think I can guess pretty near to it. Here is what the Treasury said——

Senator CONNALLY (interposing). Right there—the Treasury did not estimate it at all. The Treasury called on the Department of Commerce and took their figures, and Secretary Mills testified here that the Treasury made no estimates whatever on the subject.

Mr. NELSON. The Treasury evidently concurred in the findings of the Commerce Department experts, and the head of the Treasury Department now says that this would mean simply car fare or chicken feed.

Here is the report:

> In the opinion of experts of the Department of Commerce such a tax (1 cent and 2 cents per gallon on imported oil) would yield no revenue, since the levy which would be added to the import price exceeds the margin of advantage under which oil is imported into this country, and would therefore exclude the products affected.

In other words, according to the best opinion of the experts—and anybody can make a fantastic guess—but according to the experts, there would be no revenue from such a proposition.

Then the committee put up this proposition: 1 cent a gallon on crude, 1 cent a gallon on fuel oil, and 1 cent a gallon on gasoline, and I have here the exhibit submitted by a member of the Ways and Means Committee of the House giving the estimates, the estimates of the Treasury Department and the estimates of the committee, and the estimate of the Treasury Department is a blank, and the estimate of the committee is $5,000,000.

Senator Tydings has already called your attention to the fact that the increased cost to the Government from the petroleum products used in our national defense department alone for a year would exceed that by some $3,000,000.

Now, I was asked how the committee arrived at an estimate of $5,000,000. I can only say this, that in 1931 we imported 13,000,000 barrels of gasoline. Multiplying that by 42, the number of gallons in a barrel, and you have 546,000,000 gallons, which would figure $5,640,000, and it is evident that that is the method by which the committee arrived at that guess.

Senator HULL. Of $5,000,000?

Mr. NELSON. $5,000,000; and it is very doutbful if there would be any revenue or tax paid from imports of gasoline more than a few weeks, until they could obtain it from other sources.

Senator HULL. Mr. Nelson, would it interrupt you if I should ask you to state where the facts or figures which tend to offset that estimate have been offered?

Mr. NELSON. I do not know of any, except various persons who are very much interested in an oil tariff would put it anywhere from forty million up. I think revenues of some $138,000,000 were suggested before the House Ways and Means Committee.

Senator HULL. On what theory do they estimate that?

Mr. NELSON. Well, I do not know. That is a mystery.

Senator CONNALLY. Nobody has estimated it would bring in two or three hundred million?

Mr. NELSON. I think in the House they came pretty near that.

Senator CONNALLY. Not on 1 cent a gallon.

Mr. NELSON. Yes. I can not remember, but it was a very large figure.

Senator CONNALLY. The oil people themselves do not claim over forty million.

Mr. NELSON. Oh, no; I think they have claimed considerably more than that.

It seems to me that a revenue measure—in the first place, this item has no place in a revenue measure unless it is intended to raise revenue, and according to the best evidence, very little if any would be raised, and that would be more than offset and a deficit would be incurred by the purchases which the Government itself must make.

It seems to me that a revenue bill should bear equally and equitably upon every part of the country. If this measure is passed, you lay upon the Atlantic seaboard not only the general taxes provided by the bill and which the people are glad to pay to balance the budget, but you lay upon one particular section of the country an additional tax of 70 per cent on its fuel bill, which affects all the shipping of the Atlantic coast, all our industries, agriculture, and many other industries of that kind.

Now, in order for this committee or for the House Committee to impose a tariff on oil both the Democratic and Republican Members must reverse absolutely their previous historical stand on this proposition.

Senator BARKLEY. You do not think that is very hard for members of either party to do, do you?

Mr. NELSON. I do not suppose so; no. Still, this is a rather vital matter. No Republican Ways and Means Committee have ever countenanced or advocated a tax on oil or on fuels of any kind. No Republican administration, believing as we do in proper protection to all industries, has ever levied such a tax.

Oil is different from almost any other commodity. It is a prime necessity in the production of practically every article in industry and in agriculture. It is essential to the economical life of this machine age. It is vital to our national defense and it is a great natural resource which once destoryed or wasted can never be supplied.

Senator REED. There is no lubricating oil made out of this imported product, is there?

Mr. NELSON. Well, the gentleman referred to—he and I have no quarrel—but he is referring to the inequality of this lubricating-oil tax from the fact that oil would be imported, and as a matter of fact the amount of lubricating oil imported into this country is relatively insignificant. It is not worth considering. I think it is about 64,000 barrels out of perhaps 68,000,000 barrels produced here in this country, nearly, perhaps, one-quarter of which is exported.

Senator BARKLEY. How many did you say imported?
Senator CONNALLY. Are you talking about lubricating or crude?
Mr. NELSON. Lubricating.
Senator BARKLEY. What are the imports of crude?
Senator CONNALLY. One hundred and eight millions.
Mr. NELSON. I am going to take that up briefly. I will say advisedly that there never was a time that the imports of crude or its derivatives into this country were of so little singificance or importance as compared with production, consumption, and exports, as they are to-day. Back in 1922 the imports of crude oil into this country were 130,000,000 barrels, and last year they were 47,000,000, but with the derivatives they amounted to 86,000,000 barrels. In 1922, 130,000,000 barrels. Last year 86,000,000.

Now, in 1922, as you know, there was no tariff placed on petroleum and its products. In 1929, when you gentlemen were considering the tariff bill, the imports of crude and refined oil were 108,500,000 barrels. That was in 1929. In 1930 they were 3,000,000 barrels less. No tariff was placed on petroleum or its products, although an effort toward that end was made.

Last year the imports decreased about 20,000,000 barrels. They decreased 24 per cent, something like 85,000,000 barrels, against 130,000,000 in 1932.

Last year they decreased 24 per cent, and the imports from Venezuela decreased 28 per cent. We have proration in this country, and we prorated down 5½ per cent, and Venezuela prorated down 14 per cent.

The crude oil and its derivative constituted the second largest item in our foreign trade last year. We exported about $270,000,000 of products and imported $93,000,000. Most of this comes, as you know, from Venezuela. Venezuela's trade is increasing by leaps and bounds in normal times, and 55 per cent of all her goods she buys from us.

Now this oil business—the question was aked of me as to the price of oil. All our industries are prostrated. The principal industry in my State is paper and pulp, the principal industry both as regards the money invested and its product, and the number of its employees, and it is absolutely unprotected. They are working in the red. The next six months when the contracts are made is liable to see many of them absolutely fail. And those industries are using 600,000 barrels of oil per year.

Senator REED. Mr. Nelson, was the proposal to the House that there be a tariff put on wood pulp or pulp wood?
Mr. NELSON. I would say that this matter of a tariff on oil in the House passed beyond the bounds of economics and got into politics.
Senator REED. Was there such a proposal?
Mr. NELSON. Well, I think not, because—I think there would have been. I have in mind a man who I think intended to offer the motion, but apparently there was a combination between the coal men and the oil men, and after a tariff was placed on coal and oil the books were closed.
Senator CONNALLY. Mr. Chairman, I raise a point of order. I do not think it is proper for the Senate or any of its committees to reflect upon the House or its membership. I do not know anything about what happened in the House.

The CHAIRMAN. That is a rule of the Senate.

Senator CONNALLY. It is a rule of the Senate and I am invoking the rule.

Senator HULL. This is a part of the current legislative history of the measure.

Senator CONNALLY. The rule is also a part of the current legislative history.

Mr. NELSON. If I said anything objectionable——

Senator CONNALLY (interposing). I do not know anything about it, but I do not think it is proper for a Member of the House to come over here before the Senate and libel his own body, and the rules of the Senate prohibit it, and I invoke the rule.

Senator BARKLEY. The rule only applies to the Senate. It does not apply to Members of the House.

Mr. NELSON. Senator, if you read in the proceedings of the House, had at the time, comments by a prominant Democratic leader, I do not think——

Senator CONNALLY (interposing). That is the House business and he made those remarks in the House, but they are not appropriate here.

Senator REED. What I am driwing at, Mr. Nelson, is whether you favored the tax on pulp wood and wood pulp.

Mr. NELSON. I think it is vital to the life of that industry in my State.

Senator REED. Did you support it?

Mr. NELSON. We had no opportunity.

Senator REED. Would you have voted for it?

Mr. NELSON. Well——

Senator CONNALLY. I think that is an unfair question.

Mr. NELSON. I am hesitating, Senator, not on the proposition of protection or otherwise, but there are some mills in my State on the line, on the northern border, which own woods in Canada, and there are others who are buying some baled pulp, and before I voted I should have assured myself definitely as to what would be for the welfare of my State. That is all.

Senator REED. But you would not have been deterred by any prejudice about this being an internal revenue bill?

Mr. NELSON. Well, I will say this—no; that does not disturb me, Senator. I did not ask for it before the Committee on Ways and Means, not believing that it was a proper item in a revenue bill. We did ask for a countervailing duty, and I was interested in what a preceding witness said. In my State, in the paper business, and in other States in other lines of industry, where there was no protection, or where there was what we believed inadequate protection, we were working alohg just keeping going, sometimes operating in the red, but as soon as these countries—the Baltic countries and England—went off the gold basis, immediately those countries had over us, and I speak particularly now in regard to the pulp and paper business, an advantage of at least 33 per cent, and the mills which had formerly been just staggering can no longer run. And I am informed since September the imports from those countries have increased something like 35 per cent, with a similar reduction in price.

Senator GORE. Mr. Nelson, you seemed to have an impression that there was a sort of an entente in the House between the oil tariff people and the coal tariff people.

Mr. NELSON. Well, that was my impression, but if I am interpreted as libeling the House, as you say——

Senator GORE (interposing). And the combination was strong enough to insert those two items?

Mr. NELSON. Now you ask me if I believe that?

Senator GORE. I say, those two elements in combination were strong enough to write those two provisions in the bill?

Mr. NELSON. They were written, and that was my interpretation of the action, Senator.

Senator GORE. Do you think that they would probably be strong enough to keep it in?

Mr. NELSON. In the House?

Senator GORE. Yes.

Mr. NELSON. Well, I think if we had had a little more time it would have come out. We came within about 16 votes of beating it on the final vote.

Senator GORE. Which one?

Mr. NELSON. On a vote which embodied the question as to whether coal and oil should remain in the bill.

Senator GORE. On that clear-cut issue?

Mr. NELSON. Well, as clear-cut as you would get, Senator.

The CHAIRMAN. All right, Mr. Nelson, if you have anything more to say.

Mr. NELSON. I do not want to weary the committee too long.

The CHAIRMAN. We have a lot of witnesses.

Mr. NELSON. I will say just a word and close.

We use 180,000,000 barrels of fuel oil along the Atlantic seaboard. We never have used the domestic oil. The cost of transportation was too much. When they developed these fields of cheap oil in Mexico, gradually we began to build up our industries on the basis of that cheap oil. On the coast we have and should have the natural advantage of water transportation, and all along the Atlantic coast are built up industries based on the cheap foreign fuel oil. When the Mexican wells began to play out, we got this oil from Venezuela.

Now, these contracts which we have in New England contain a provision that, in case a tariff is placed on oil, that extra cost shall be borne by the purchaser. You can now buy fuel oil—or could within a few weeks at least, the last time I informed myself as to the price—at about 60 cents. If this tax goes into effect, of 42 cents a barrel, immediately you have an increase on the fuel cost on the Atlantic seaboard of 70 per cent.

Senator GORE. You think that would all be added to the price, Mr. Nelson?

Mr. NELSON. Well, let's take the other end of it, Senator. Let us assume it would not.

Senator GORE. I just wanted your opinion as to whether or not it would be added to the price.

Mr. NELSON. My opinion is that it will be, because it is in the contract, and if there is a tariff of 42 cents and the contract says that the purchaser shall pay it, he has got to pay it. Now, whether that is in all the contractors, I do not know.

Senator GORE. What I had in mind was, I was in Michigan yesterday and the tariff on beans is 3 cents a pound and they were selling it at a cent and a half.

Mr. NELSON. Well, let us assume that the cost will not come up at all. Here on the Atlantic seaboard the Tariff Commission found these figures, Senator: They found that the average transporation costs of a barrel of oil to the Atlantic seaboard for the years 1927 to 1930 were in round numbers as follows: From Venezuela, 24 cents; from all domestic sources, 81 cents; from California, 64 cents; from Oklahoma, 84 cents.

Senator REED. That is by pipe line you mean, Mr. Nelson?

Mr. NELSON. That would be the way the oil naturally comes. From Oklahoma I think it goes by pipe line and then tankers, and then up around by sea.

Senator REED. Have you the figures of cost by tank steamer from Houston or Port Arthur?

Mr. NELSON. Those are the figures. They took the whole territory of the United States and figured out the way the oil comes, and those were their figures taken from the commission's report. So there is a difference of from 40 to 60 cents a barrel on oil which is selling for 60 cents. That is, you would have an increase on our fuel bill, if the tariff had no effect, of from 66 to 100 per cent, and that would go to the transportation companies, and to these pipe line companies which do not seem to need very much help, and would be in my opinion of no benefit to the independent producers.

Senator REED. Can you tell us how much of that 180,000,000 consumption of fuel oil was used for bunkering?

Mr. NELSON. Well, I can say this; In 1930, and this is important—in 1930 we turned over to foreing-going vessels about 51,000,000 barrels of bunker fuel.

Senator REED. That answers my question.

Mr. NELSON. Well now, it is more than that. You have got a tariff on fuel oil and petroleum here. It is not in the tariff bill. It does not help that item in the tariff bill which provides that where articles are imported, manufactured, and the manufactured goods shipped out, and there can be a rebate. That does not apply to this bunker oil.

There is no country in Europe that has a tariff on oil but that has a provision that it may be stored, and when it is shipped out as bunker fuel it goes free. By this bill you are placing a tremendous burden on the shipping of this country, a burden I do not believe they can bear.

Senator REED. The bill is capable of amendment, is it not?

Mr. NELSON. I hope so, considerable amendment.

Senator BARKLEY. Are you able to give an opinion as to what the effect of this tariff would be on the production of oil in this country?

Mr. NELSON. Well, I can only say this, that, according to the evidence taken out last year, and some of it before this committee, I think, and it has been corroborated since and has never been disputed, we have in this country to-day a potential capacity, kept back and kept off the market to-day only by proration and by the militia, of from five to eight times the consumptive needs of this country, and I think no man can successfully deny that.

And I would say further that to my mind there are two economic evils inherent in the oil industry such that no tariff of 1 cent a gallon or no import tax can bring about right economic conditions, or if

once restored can preserve them against this uneconomic and unfair attack of these integrated companies, and in the second place that the industry is overproduced. It seems to me that by an artificial raise in price through a tariff, if that is what you accomplish, you are seriously complicating the one tremendous problem of the oil industry, and that is keeping down overproduction. But I speak out of a vast ignorance, and of course I know but little about the oil business.

Senator HULL. Mr. Nelson, have you made any computation to see what would be the effect of this proposed tariff on road materials and road construction?

Mr. NELSON. Yes. I ought to say this—when you are talking about Venezuelan crude and American crude you are talking about two things that are almost as different as black and white. American crude is run, as you know, for gasoline, paraffin, and lubricating oil, and this Venezuelan crude which comes in here is run for asphalt and fuel oil, and there is where we get 93 per cent of all the asphalt we use on the eastern seaboard and 54 per cent of all we use in the United States.

Now, according to the former report of the Interstate Commerce Commission—

Senator GORE (interposing). A good deal of the mid-continent oil, though, is asphalt?

Mr. NELSON. They say only that from California. That is all I can tell, Senator. I have an official report which I think substantiates that.

Now, American crude runs about 44 per cent gasoline and 30 per cent fuel oil, while Venezuelan crude runs about 9 per cent gasoline and 82 per cent fuel oil. Suppose we are importing a considerable quantity of this Venezuelan oil into this country, which runs, say, 9 per cent gasoline. Most of it goes for fuel oil, used right on the Atlantic seaboard, and the rest for asphalt. If you stop that importation and some other portion of this country, either midcontinental field or the California field, is to furnish those millions of barrels of fuel oil that we are using on the Atlantic seaboard, you have got to distill a barrel of oil that produces not 9 per cent gasoline but 40 per cent gasoline. If I had time I could give you the figures of what that would mean.

The oil experts say that the proper reserves of gasoline in this country is 36,000,000 barrels. This year we had about 40,000,000 barrels and you had the lowest price on gasoline, owing, perhaps, or possibly in part, to that surplus that you ever had, which caused it to go down 29 per cent.

Now, if you add to that natural oversupply the tremendous amount of gasoline that would have to be produced from 40 per cent crude to furnish that fuel oil which we need, you would absolutely destroy the price structure of the oil industry throughout the United States. The mid-continent field has its own zone and the California field has its own zone, and they need in California for their industrial progress all the oil they have there and they used last year practically the same amount there that they produced in that field.

The CHAIRMAN. From what you have already said I judge that you are against this duty on oil.

Mr. NELSON. Yes, sir: I was going to mention that before I got through. I beg the pardon of this committee for taking so much time, but I have not covered many things that I should have liked to.

STATEMENT OF HON. EDITH NOURSE ROGERS, A CONGRESSWOMAN FROM THE STATE OF MASSACHUSETTS

Mrs. ROGERS. Mr. Chairman and members of the committee, I am going to take only a moment of your time, because I realize how extremely vital time is in balancing the Budget. I also realize now vital it is to us who live on the Atlantic seaboard to remove if possible any possibility of any tariff on imported oil. The Commerce Department told me this morning that already the price of imported oil or oil on the Atlantic seaboard had increased 10 cents a barrel.

I see Senator Hull is here, and I just want to read one or two sentences from yesterday's record:

Senator HULL (speaking to Secretary Mills). Have you considered in here the matter of the tariffs?

Secretary MILLS. Senator Hull, you have no illusions—I know some people have, but you have none—as to the character of the two items in this bill.

Senator HULL. I was just hoping that I had not.

Secretary MILLS. I certainly have not. They are not revenue measures. They are protective-tariff measures.

Senator SHORTRIDGE. Would not they raise some additional revenue, Mr. Secretary? We are framing a bill for the purpose of securing additional revenue.

Secretary MILLS. Not car fare, though, Senator.

Senator SHORTRIDGE. But we are seeking additional revenue. And, speaking for myself, if we can secure a large additional revenue by imposing a tariff on some imported articles, there is no reason on earth, no logical reason that I now see, which would preclude us or prevent us from including it in this revenue-raising bill.

Senator HULL. Even if it takes until October.

I know a witness has no right to ask a question of any member of the committee, but I am very much troubled by that "even if it takes until October," the statement made by Senator Hull.

STATEMENT OF HON. JOHN W. McCORMACK, A CONGRESSMAN FROM THE STATE OF MASSACHUSETTS

Mr. MCCORMACK. I just wanted to expedite matters. I will just take a few minutes, because I realize what the members of the committee are going through, because I went through it for eight weeks as a member of the Committee on Ways and Means when we had this bill under consideration.

The Senator from Pennsylvania a moment ago asked a question about lubricating oil, and while that is not relevant to the purpose that I had in appearing before this committee, I might call to the attention of the committee that we never intended to impose a 4-cent tax on lubricating oil used in industry; and I am also frank in saying that my impersonal opinion of this latter remark is that the same thing should apply to tractors on the farm, because in a sense they are to the farmer just what machinery is to the industrialist.

If you will read the debate in the House, you will note that the acting chairman of the committee, Mr. Crisp, in response to an inquiry that I made of him, stated on the floor that they never intended to have the tax of 4 cents per gallon on lubricating oil apply to such

lubricating oil used in industry, and my impersonal opinion is that the same thing might reasonably extend to the tractor on the farm.

In the original bill as reported by the committee we obviated that by the use of the licensing system, as provided under the provisions which created the manufacturers' excise tax, and of course when that was stricken out that brought every field of activity within the purview of the 4-cent tax on lubricating oil. However, that is for you gentlemen to consider, and I hope you will not misunderstand my gratuitous reference to that.

So far as the tariff is concerned, I am opposed to a tariff in any form in a revenue measure. That is the position I take. It is not a question of what section of the country will be benefited or which section of the country will be affected. I believe it is wrong in principle and unsound and unwise in practice. I took that position as a member of the subcommittee that considered the various methods of raising sums in addition to the changes in the internal revenue laws and the administrative changes, and I opposed it in the full committee. It appealed to me as being an improper place to inject tariff provisions, because the Committee on Ways and Means and I know I did not as a member consider many of the elements which go into the consideration of a tariff measure. The only question before the committee so far as I was concerned was: What was the estimated deficit for the fiscal year of 1933? That information was given to us by the Treasury Department. And then the question of whether or not we should balance the Budget. That was a committee question, and I felt it was of extreme importance to the best interests of the country that we should.

Then the next question as to the best means of raising the revenue necessary to balance the Budget. In considering the latter question it was my opinion, and I advance it on this occasion, that the use of a revenue bill for tariff purposes is absolutely wrong in principle. The indirect effect of this will undoubtedly be to increase the price of oil, and in the case of coal increase the price of coal to the consumer. That is the purpose of putting this provision in the bill.

Now, so far as revenue is concerned, the committee estimated that the oil provision would bring into the Treasury $5,000,000. The Treasury Department recommended that it would bring into the Treasury nothing. The committee reported to the House that that provision would bring in an estimated revenue of $5,000,000. Later they revised that upward to $25,000,000, after the excise provisions were stricken out of the bill, and another subcommittee was appointed to bring in other provisions as a substitute therefor.

There is nothing further I desire to say except that I take the position that it is absolutely wrong to use a revenue bill for tariff purposes, and I say frankly as a Democrat that I hesitate and I dislike this form of advocating the results of the Hawley-Smoot bill and at the same time undertaking to defend the injection of tariffs into a revenue measure.

Senator HULL. Have you any other facts there on which this $5,000,000 estimate was based?

Mr. MCCORMACK. Guesswork, pure guesswork, Senator.

Senator GORE. Did you discuss this in the House?

Mr. MCCORMACK. I did. I led the fight against it in the House. I made the motion to strike both provisions out. That was when

the roll call was 204 to 288. In the Committee of the Whole, where there was no roll call and a teller's vote, it was one hundred and ninety-odd.

Senator GORE. You presented the arguments in the House?

Mr. MCCORMACK. Absolutely. Of course, in the House we did not have a direct question on the elimination of the oil and coal and wort. It was a part of the so-called Crisp amendment which brought into the Treasury a revenue of $81,000,000. We could not get a direct vote. After we came from the committee of the Whole into the House I had to demand a separate vote on the Crisp amendment, which included not only coal and oil but included wort and libricating oil, which some of us wanted to keep in because of the revenue which it would bring into the Treasury, although personally I voted against wort in the committee and I would again if I had a separate opportunity.

Senator GORE. They were voted on separately in the first instance?

Mr. MCCORMACK. Here is the way it developed——

Senator GORE (interposing). Wasn't there one vote on the oil and another on coal?

Mr. MCCORMACK. Oil came out of the committee.

Senator GORE. Yes; and there was a vote on it alone?

Mr. MCCORMACK. No. The only place we ever had a vote on oil alone was in the Ways and Means Committee.

Senator GORE. Oh. Did they amend that proposition by attaching coal before they were both voted on?

Mr. MCCORMACK. Here is what happened, if I might—I do not like to take up the time.

The CHAIRMAN. I do not see what that has got to do with this.

Mr. MCCORMACK. When the excise tax was stricken out—at least the manufacturers' excise tax provided a 2¼ per cent base. That applied to imports as well as domestic manufactures, finished articles, in the form that they would ultimately get to the consumer, and all sorts of finished manufactured forms.

When that was stricken out another motion was made which also took out of the bill the domestic tax on lubricating oil and on wort and leaving the import tax, which of course was ridiculous, because the money that we were going to get into the Treasury was from the domestic tax or the tax on this operation internally, because wort, of course, is not imported, and very little lubricating oil is imported, very, very little. It is all of domestic production.

But it happened to develop that one motion followed the other and the result was that we had left wort in the bill and we left lubricating oil in the bill, but we only left them in the bill so far as an import tax was concerned, and eliminated the domestic tax. Therefore, we were in a parliamentary situation that we had to get that tax back into the bill so far as the domestic production is concerned.

Mr. Crisp moved a substitute to the provision remaining in the bill providing for the import tax on wort, lubricating oil, and on oil, the oil which you refer to which was originally an import tax. That substitute was pending the Committee of the Whole and these various amendments were offered, several of which were for the purpose of tariff, tariff on additional articles imported into America, and coal was one of them and, of course, it got voted on and because oil was in. Oil is really the whole thing around which this bill is centered.

The whole history of this bill and its troublesome journey throughout the House in the main can be attributed to oil, because certain Representatives from certain sections when they put oil in, in their opposition to it, did everything they could, naturally to make the journey of the bill harder and harder through the House.

And coal was put in, in a sense, to embarrass oil, upon the theory that many said, "Well, if oil is in, why not an import duty for everything? If you take up one, take it up all the way through."

The CHAIRMAN. Both of them are in the bill. So let us go on.

Mr. MCCORMACK. So when we came out of the Committee of the Whole we had the Crisp substitute as a separate amendment, and under the rules of the House you know you can demand a separate vote on any amendment, also the Committee of a Whole, and a separate vote had to be demanded and everything that was included in the Crisp amendment, which was not only coal, which had been moved in as an amendment, but oil, lubricating oil, and wort, and that was what the vote was, on striking out the Crisp amendment.

Well, now, if that had been successful I was going to move on a motion to commit to put back wort and lubricating oil and strike out the import tax on oil, which would have still been in the bill, because, while it was a part of the Crisp amendment, it is still a part of the original bill.

So we had to make two motions in order to get in oil.

Senator GORE. Yes.

The CHAIRMAN. Is there anything further that you wanted to say, Mr. McCormack?

Mr. MCCORMACK. No; nothing further that I wanted to say.

STATEMENT OF WIRT FRANKLIN, PRESIDENT OF THE INDEPENDENT PETROLEUM ASSOCIATION, ARDMORE, OKLA.

Mr. FRANKLIN. Mr. Chairman and gentlemen of the committee, there has been a good deal of confusion created as to whom we represent. So at the inception of my remarks, I desire to make that clear.

I appear before you as president of the Independent Petroleum Association of America, having branches in each of the oil-producing States. The subject which I desire to present has been by resolution approved by all the oil and gas associations and marketing associations in the United States, including the American Petroleum Institute, of which I am a member of the board. That includes the California Oil and Gas Association, the Mid-Continent Petroleum Corporation, and Oil and Gas Conservation Association of the States of Texas, and many others too numerous to mention.

In addition to that, the business and banking interests and the farming interests of the oil-producing States have spoken in no uncertain terms upon this question of a tax on imported oil.

I would like to hesitate right now to say that while much has been said about the cost to the farmers of the oil and gas which they buy, there no interest so vitally interested in the domestic production of oil as is the farmer. He owns one-eighth of all the oil produced and he receives a dollar an acre rental upon all the lands, amounting to millions and millions of acres, which are under lease.

Now, I would desire to make clear, in view of what has been said at this meeting also, those who oppose this tax on imported oil. Let

us make the issues clear. That branch of the American Petroleum Industry which is engaged in importing oil is the only part of the petroleum industry which opposes a tax on imported oil. And who are they? The Royal Dutch Shell group, two companies of the Standard Oil group, the Pan-American Petroleum & Transport Co., a subsidiary of the Standard of Indiana, the Standard of New Jersey being the other one.

Senator CONNALLY. And the Gulf.

Mr. FRANKLIN. And the Gulf, or the Mellon company. Those are the interests which have opposed a tariff on oil in the past and which now appear to oppose this revenue measure, and before I am through I do not think there is a man on this committee who will doubt that this is a revenue measure as it is written.

Now, I presented this matter to the Ways and Means Committee rather fully, and I refer for much of the statistical information, which I will refrain from introducing here, to page 925 to 960, and pages 1116 to 1132, of the hearing before the Ways and Means Committee.

First, I wish to address myself to this as a revenue measure and to refer briefly to the reports, two of them, made at the request of Congress by the Tariff Commission on the difference in cost of foreign oil and domestic oil. The Tariff Commission's report made in February, 1931, found that there was a difference in cost between Gulf-coast and mid-continent oil delivered at Atlantic ports and foreign oil delivered at Atlantic ports of $1.19 a barrel.

The more recent report, made in December, 1931, said there was a difference of cost of $1.03 a barrel. The more recent report said that the cost of mid-continent oil delivered at Atlantic ports, including a cost of $1.09 a barrel at the well, and that includes all the oil-producing States of the Union, the weighted average cost of the oil at the well $1.09, delivered at the Atlantic seaboard was $1.90; that the cost of refining that oil was 73 cents a barrel, making $1.63 a barrel for mid-continent oil refined at Atlantic-coast refineries.

Senator REED. $1.63 or $2.63?

Senator GORE. $2.63, is it not?

Mr. FRANKLIN. Yes, $2.63; you are correct. Total cost of this oil refined ready for the market in its refined state $2.63. The value of those products was $2.74 a barrel, or a profit per barrel on domestic oil of 11 cents.

The cost of Venezuelan oil—and we are talking about Venezuelan oil, because that is the principal source of imported oil at the present time—delivered at Atlantic ports is 87 cents a barrel. That is the report of the Tariff Commission, although we could show it is very much less actually, as has been admitted by some of the opposing witnesses.

The cost of refining that oil by the methods now in use is 30 cents a barrel, or a total cost refined of $1.17 a barrel, while the value of the products as reported by the Tariff Commission is $1.71, which makes a profit of 54 cents per barrel on foreign oil as against 11 cents a barrel profit on the domestic oil.

Senator REED. These are the figures found by the Tariff Commission?

Mr. FRANKLIN. These are the Tariff Commission's figures.

An analysis of that report from the refining standpoint as to present-day conditions and profits, made by Dr. W. W. Holland,

now one of the chief refiners of the Pure Oil Co., but who built the plant for the Pan American on the island of Aruba off the coat of Venezuela and operated it as superintendent for more than nine months, until his health failed and he had to return to the United States, shows that the present-day profit on that oil is 94 cents a barrel. That report of Doctor Holland is a part of the record in the Ways and Means Committee hearing in full.

These figures show, gentlemen, a profit of 5.29 per cent on domestic oil and 62.4 per cent on foreign oil, on Venezuelan oil.

Now right at this point, while I have said that the Venezuelan oil is the principal source of imported oil, we are also confronted with the very serious situation which has grown worse in the last year, and that is the situation with reference to Russian and Rumanian oil. Russia is increasing its production of oil by leaps and bounds, and using the American experts who have built for them the latest refineries, they are in a position soon to commence dumping Russian gasoline upon the American market.

Senator REED. Haven't they already done it?

Mr. FRANKLIN. They have already dumped that gasoline on the American market, four tankers of it and the declared valuation of that gasoline at the port of Baltimore was 1.96 cents a gallon. It has reached as far inland as Detroit, where it was advertised in 23 issues of the Detroit Evening Press to sell for 5 cents a gallon below the price of domestic gasoline [exhibiting advertisement], declaring it to be "Zip, a premium motor fuel oil the equal of any premium gasoline in the United States."

Senator REED. That was taken up the St. Lawrence River, was it not, by tanker?

Mr. FRANKLIN. This one was, this particular tanker. But this company, the Sunny Service Oil Co. of Detroit, bought 15,000,000 gallons of this gasoline for delivery over the coming year, enough to demoralize the market of the mid-continent district for more than a year. And they bought it on a contract payable in sterling just before England went off of the gold standard, and even at the price bought they are only paying about 66⅔ per cent of their contract price, due to their depreciated currency.

Senator REED. That would seem to be a joke on the Russians, would it not?

Mr. FRANKLIN. A joke on the Russians, but a very serious joke on us also.

Now, gentlemen, you have heard considerable about the price of fuel oil on the Atlantic seaboard and in New England. The present low price is 60 cents a barrel by contract in large quantities. If you added all the tax of a cent a gallon or 42 cents a barrel to that cost you would have fuel oil at $1.02 a barrel, and up until the 1st of last April New England or the Atlantic seaboard never had fuel oil for less than $1.05 a barrel. So it would be no new thing to them if all of that cost should be added.

But it is well known that in the case of any imported article—and the experience of the past will bear me out; I have here a sheet of such figures—that the full tariff is not added to the price. Take wheat, for instance. Has the full amount of tariff on wheat been added to the price? It has not. Nor on a vast number of other articles.

Senator HULL. Mr. Franklin, is there any purpose to increase the price of oil and avail yourself of this tariff? Is that what you mean to be understood as saying, or not saying?

Mr. FRANKLIN. Senator, the purpose of the domestic oil industry in advocating this tax—we might as well speak frankly—is to bring about an ameliorated condition of the American petroleum industry.

Senator HULL. That was not exactly what I first asked you.

Mr. FRANKLIN. That would be brought about by an increase in the price.

Senator HULL. Undoubtedly. Then your suggestion, if I understood you, is to exclude this oil that is imported, which would being about an increase of employment of about 300,000 persons? That is what you have in mind, is it, as a part of it?

Mr. FRANKLIN. If the oil business gets back on its feet so that it can supply the American market at a fair price, as it has over a period of years before these imports became so large as to demoralize the industry, then these men could be reemployed. The Department of Labor figures show that there are 359,000 men now out of work in the oil-producing States formerly engaged in the producing branch of the industry.

Senator HULL. What I was getting at was, how do you reconcile your statement, as I understood you, that this would be a large revenue or a substantial revenue producer, which would mean that a large amount of oil would have to be imported, but at the same time you would make leeway here for this resumption of employment?

Mr. FRANKLIN. I will get to that, Senator. That is the next thing I have to discuss here, and I have the figures.

Senator BARKLEY. Will you also discuss at the same time what your judgment is as to the effect that this tariff would have on the increase in production in the American oil fields.

Mr. FRANKLIN. I will be glad to.

Senator BARKLEY. That is one thing that bothers me. If, by shutting out a certain amount of oil, we encourage an increase in our own production that would offset that, it may have a pertinent bearing on whether the industry would be benefited by the tariff or not.

Mr. FRANKLIN. To answer the first question, it is my opinion—and I think the figures will bear me out—that the tax of 1 cent a gallon will not keep out any oil from importation. The Tariff Commission having found that the difference in cost of production here and abroad is $1.03 a barrel, how in the world could a tax of 42 cents a barrel, which is only about 40 per cent of the difference in cost, keep out any oil? Before I am through I want to suggest a correction by this committee of the measure as it passed the House, in order to make it fair to all interests involved. Does that answer your question?

Senator HULL. You are making headway. I want to hear you a little further.

The CHAIRMAN. Is that correction an increase?

Mr. FRANKLIN. Not in oil.

I have before me, gentlemen of the committee, a statement showing the average imports of petroleum and refined products for the years 1929, 1930, and 1931. I have taken the three years, and these figures are from the Bureau of Mines, the Government figures, in order that it might be absolutely fair. I have not taken a year of

high imports or a year of low imports, but the average of the last three years.

Senator BARKLEY. Is that a fair period? I mean by that, does that sufficiently represent an average normal period, so as to be fair to both sides of this question?

Mr. FRANKLIN. Absolutely, in my opinion.

It has been brought out already that imports last year declined from 105,000,000 barrels in 1930 to 86,000,000 barrels for 1931. That was not due to the desire of the importers to curtail their imports, but it was brought about as a cooperative measure on the part of certain of the importers to do their fair share toward the curtailment movement which was in process in the United States.

Senator BARKLEY. Do those figures of 109,000,000 and 87,000,000 represent crude?

Mr. FRANKLIN. One hundred and five million. That is crude and refined products combined.

Senator BARKLEY. What percentage would be crude?

Mr. FRANKLIN. About 46,000,000 barrels of crude and about 13,000,000 barrels of gasoline; the remainder fuel oil.

Senator BARKLEY. Which year are you taking now?

Mr. FRANKLIN. That is 1931.

Senator BARKLEY. For 1930 how much would it be?

Mr. FRANKLIN. For 1930, it was 16,000,000 barrels of gasoline and 69,000,000 barrels of crude, if I remember correctly; and the balance fuel oil.

Senator REED. How does that compare with the situation 10 years ago, when we were getting in the oil from Tampico?

Mr. FRANKLIN. It is about the same situation we had 10 years ago. If you gentlemen will remember, a large delegation of oil men from the mid-continent district appeared before Congress when this condition was the same—and I was with them—and tried to get a tariff on oil to protect us from that flood of Mexican oil. You will probably hear some of the gentlemen appearing in opposition to this say that they reduced their imports from Mexico. I know the statement was made by one of their number in another hearing before the Federal Oil Conservation Board. Until recent years they reduced their imports, from 1922 on, because the production of Mexico declined and they could not get it until they developed Venezuela. Then they commenced their imports again, which have increased steadily until last year, that reduction being brought about through the intervention of Secretary Lamont, of the Department of Commerce, to bring about a ratable importation compared, as nearly as might be, with the curtailment of production in the oil-producing States.

Senator BARKELY. How did the——

Mr. FRANKLIN. Pardon me. Let me finish my statement, please, Senator.

Congressman Nelson said the curtailment in the United States has been only a little over 5 per cent. The curtailment of the oil fields in the United States, the fields of flush production, has been about 98 per cent of their potential production. Kettleman Hills, Calif., Oklahoma City, Okla., and east Texas have been producing during the last year not to exceed 2 per cent of their potential production. Gentlemen, they are shut in, with hundreds of millions of

dollars of American capital invested, and not producing enough oil to pay the labor, in consequence of which the labor has been discharged.

Senator BARKLEY. How much of that restraint, or how much of the restrained oil, would be released by the passage of this tariff on oil?

Mr. FRANKLIN. It would not be released, except to furnish the market demand. In each of those States mentioned, California, Oklahoma, Texas, and also Kansas, there are conservation laws giving State commissions authority to determine how much oil may be produced without waste, and it has been conceded that the excessive storage of oil is waste, because of the large amount of evaporation which takes place.

Senator BARKLEY. May I ask one question there? At the time of the Tampico importations 10 years ago, which you say were about the same as the average for the last three years, how did domestic production compare with the average domestic production for the last three years?

Mr. FRANKLIN. Domestic production at that time was very much less. You have heard a great deal about overproduction of oil in the United States. As a matter of fact, there has not been an overproduction of oil in the United States in the last 13 years. During that period there have been imported into the United States 1,010,000,000 barrels of oil. During that period the United States lacked 686,000,000 barrels of producing as much oil as it consumed.

Senator CONNALLY. Are you deducting exports from that?

Mr. FRANKLIN. No. That resulted in the excessive storage of 341,000,000 barrels of American oil, due solely to importations, and that is the storage oil which you hear so much about, which is a burden on the American petroleum industry.

While I am talking about this question of overproduction, I wish to give you some more figures of more recent date. I want to give these figures to show you what the American petroleum industry, through cooperative efforts, with the assistance of State regulatory bodies, has done to put its own house in order.

Congressman Nelson said that all the troubles of the industry were internal, and I offer this in refutation of that statement.

In 1930 domestic oil production was reduced 109,000,000 barrels as compared with 1929, and during the same period there was imported 105,000,000 barrels of oil, which nullified our curtailment. During that year, 1930, there was taken out of storage over 23,000,000 barrels of oil to supply the demand in the United States; and in 1931 that curtailment continued, so that we produced in 1931 48,000,000 barrels less than in the year 1930, while the imports in 1931 were only reduced, as I have said, to 86,000,000 barrels, again nullifying the efforts of domestic operators in the way of stabilizing the domestic oil industry.

Senator HARRISON. What happened during that period to the exports? Did they fall off, or remain steady?

Mr. FRANKLIN. Yes; the exports fell off, too. I will give you that later.

In 1931 there was taken out of storage 45,000,000 barrels of domestic oil. In all previous history of the American petroleum industry when as much as three or four million barrels a month was being drawn out of storage the price of oil went up by leaps and bounds, but last year we had this strange condition, that with the removal of as much as

200,000 barrels daily of oil from storage, the price went down last July to the lowest point in all history, as has already been stated, the low price being 10 cents a barrel and the high price 22 cents a barrel, for oil of Pennsylvania grade in the mid-continent field.

That condition was brought about by the importation of this cheap oil. You can not understand this question and how this foreign oil acts unless you know the whole story. Reference has been made to the control of production in the United States and its marketing through the ownership of pipe lines by a few. Those same interests that own the pipe lines and control the transportation of oil, and which receive these high rates of tariff for the transportation of oil are the interests which import this oil. Therefore, through the importation of oil at will, as much as they desire, they control the price of oil at the well in the United States.

While this tariff, or tax, rather, of 42 cents a barrel will not keep out any oil, it will form a cushion on price, below which oil can not go. If they have to pay 42 cents tax, they can not reduce the price of oil in the United States to 10 cents a barrel, as they did last summer.

Senator HULL. Would it interrupt you to ask about this trade situation? For instance, the exports of petroleum and petroleum products for 1930 were $494,339,000, while the imports were $145,116,000, or a favorable trade balance of $350,000,000. For 1931 the exports were $270,293,000 and the imports $92,746,000, or, for those two years, a favorable trade balance of $528,000,000. I am trying to see how you work out a situation here where you can get tariff benefits, really, if you have imposed any kind of a tariff, unless you abandon the antitrust law so as to peg your prices in some manner.

Mr. FRANKLIN. That story about these imports and exports, Senator, is only a part of the story. The facts are, in relation to exports and imports, that the bulk of the exports of oil from the United States are from the Pacific seaboard to Asia and the Orient.

Senator BARKLEY. Are they refined products?

Mr. FRANKLIN. Refined products in large measure. And the large part of our exports that appears in these figures, as totals, goes to Canada, across the line. When you deduct the exports from the Pacific coast and the exports to Canada from the total exports, you will find that there is a large excess of imports to the Atlantic seaboard over exports.

Then there is another feature whichI desire to impress, and that is that it is not the same oil which is exported that is imported—far from it. The exports from the Atlantic seaboard are largely of Pennsylvanian grade lubricating oil, which is the best in the world, and this foreign oil that is imported is in the form of gasoline and fuel oil, which displaces oil produced in the United States in the markets of the East. The oil that is exported is not the same oil that is imported, and will not be, because the oils are of a different grade.

Senator BARKLEY. Are there any refineries in Canada?

Mr. FRANKLIN. Yes; there are refineries in Canada. These same companies import oil to Canada from South America.

Senator HULL. What I was getting at is this: I notice a great many nations, as soon as they see us run a tariff up on anything, immediately run theirs up against us on any particular items we have.

We have now employment for labor here to produce a favorable balance of oil exports of $520,000,000 for the last two years, and I would like to have you, Mr. Franklin, before you conclude——

Mr. FRANKLIN. Before I conclude, I will show you that our export market is lost, that it has been steadily declining for the last three years; that last year we lost, as compared with the preceding year, 21 per cent of our exports.

Senator HULL. I did not make myself entirely clear, if you will pardon me. A country that sees us run our tariffs up, will run theirs up, if not against one item we are trying to sell, then against another.

Mr. FRANKLIN. We lost 21 per cent of our export market last year in volume, and in value we lost 45.3 per cent of our export market of oil—45.3 per cent in one year.

Senator BARKLEY. How does that compare with our loss in exports in everything?

Mr. FRANKLIN. This is very much greater than it is in everything. That is due to the condition I said a while ago, in the world development of oil. While the United States has been curtailing its production, Rumania and Russia have been increasing their production by leaps and bounds, and they come in competition with our exporters in the markets of Europe. Russia and Rumania are taking away the export market for oil of the United States. It will be retained in some degree for several years, due to the fact that our large exporting companies control certain outlets in Europe which they can retain if they are willing to meet the competition in price with Russia and Rumania. That has been another factor in reducing the price of oil in the United States—the desire of these large interests with the export business to compete in the markets of the world with Russia and Rumania, putting our labor and our oil, and the United States, so far as oil is concerned, on a level with the labor of Russia, to a large extent.

Senator HULL. Is it your plan, if you get a tariff high enough, to fence in our oil situation here and depend on domestic consumption for whatever it could take care of, and dump the balance, or not undertake to sell systematically outside?

Mr. FRANKLIN. We are forced, by the very conditions I have described, to rely upon the domestic market for domestic oil. In the end, that is the answer, because, as I have said, and as the figures show, which the Senator has quoted, we are losing our export market, but the domestic market of the United States is 70 per cent of the market of the world. If we can retain our domestic market for domestic oil, and we have ample supplies of domestic oil to supply that market, it is all we need.

We have lost our export market, anyhow, all but a small part of it, and the line between exports and imports has already been crossed. The exports to-day are less than imports.

Senator BARKLEY. In value?

Mr. FRANKLIN. In volume.

Senator HULL. What level of prices do you seek here through the tariff situation?

Mr. FRANKLIN. Only the chance to live and compete with this imported oil. Under present conditions, if they are continued, gentlemen, the American oil-producing industry will be destroyed. It can not live another year. Judge Ames gave you the figures on

the profits and the cost last year, which show conclusively that the American petroleum industry can not live unless this condition is equalized in some measure, unless some protection is given to the American oil industry, and that means the prosperity of States west of the Mississippi covering a third of the area of the United States, with over 22,000,000 people, nearly one-fifth of the population of the United States, whose purchasing power has been completely destroyed in the last three years, and who are now unable to buy any of the goods from the eastern and northern manufacturing States which they formerly did.

The depression in the oil industry commenced three years ago. We were up here two years ago asking for protection, which we did not get, and we predicted this condition would be brought about if we did not get the protection. This depression in the oil industry and the distressed conditions in the oil-producing States occurred prior to the general depression and had a great deal to do with bringing about the depression generally in the United States, because we are purchasers from the Eastern States, from these very New England States which now deny to us the protection which they have always enjoyed. We buy hundreds of millions of dollars' worth of goods in normal times.

Last year the price of oil in Oklahoma, the average price, as Judge Ames told you, was 67 cents a barrel for the entire year. The average price of oil in the mid-continent field for 10 years prior to that, taking in two years of low prices, was $1.60 a barrel. We lost nearly a dollar a barrel on every barrel produced, which amounted to over $200,000,000 for Oklahoma alone, over $300,000,000 for Texas, and over $300,000,000 for California, leaving out the other 16 oil-producing States which suffered in like manner to the extent of their production.

Senator HULL. If you had your choice, Mr. Franklin, which would the industry, in your judgment, prefer, an entire suspension of the antitrust laws, or tariffs, as high as you want them?

Mr. FRANKLIN. I am not one of those, Senator, who believes in the suspension of the antitrust laws. I am one of those who believes that the antitrust laws should be kept as they are, or improved, if possible. I am not more in favor of combinations in restraint of trade and monopoly than the humblest citizen in this land. In fact, I believe monopoly should be suppressed, and I want to say to you that that is one of the reasons I am here before Congress fighting for the protection of the domestic oil industry from the four great companies who form the monopoly, and if this protection is not granted, the imported oils will be used for the purpose of recreating and reestablishing a complete monopoly of oil in the United States, when these four companies can tell you how much you will pay for every gallon of oil or oil products which you buy; and after that monopoly has been reestablished, I might say, through the destruction of all the independent producers, refiners, and marketers, the people of the United States will pay through the nose, and those losses now being sustained by those companies can be made up from the people in less than a year, and they will squeeze out every interest in this country. The only protection the American people have now in the oil industry is the competition offered by the independent producer, refiner, and marketer of oil. That competition keeps the price level with the amount of oil produced in the United States, which these independents are able to produce, and they have produced over 50 per cent

of it. If they had the protection, they could refine a greater part of it than they have been refining. The only safety of the American people so far as the price of oil is concerned is that you enable them to live so that there will be some competition in the industry in the United States.

Senator HULL. I am very much interested in your opinion. I agree with you. I was trying to see that really is the way out for the oil people, because we all recognize the distress we are in, and I wanted to see what your views were on that question.

Mr. FRANKLIN. Of course, the way out is to put this tax on, which, at 42 cents a barrel, will not keep out any oil, but will enable the price to be somewhat equalized.

Senator HULL. We told the wheat grower that some time ago, and put 42 cents a bushel on his wheat.

Mr. FRANKLIN. The price of wheat has never gone below 42 cents a bushel.

Sdnator HULL. Almost.

Mr. FRANKLIN. It almost went to that.

Senator BARKLEY. It went below that to some of the farmers out in the mid-Western fields.

The CHAIRMAN. We produce more wheat than we consume.

Senator BARKLEY. We have been doing that for years.

Mr. FRANKLIN. That is the answer to it.

Senator CONNALLY. The tariff on wheat did not hurt anybody.

Mr. FRANKLIN. The tariff on wheat did not hurt anybody, and if we do not get a benefit from the tax of 42 cents on oil, it will not hurt anybody.

Senator BARKLEY. Probably the oil producer will get more benefit from this than the wheat grower got from the same amount on his product.

Let me ask you this; I do not know whether you said it, or whether someone else said the profit on the imported oil per barrel amounted to something above 60 cents a barrel, after paying the cost of production and transportation; it was landed in this country at a price at which it brought a profit of some 60 cents a barrel.

Mr. FRANKLIN. After refining. The refiner realized a profit of 54 cents a barrel, accordiing to the report of the Tariff Commission.

Senator BARKLEY. Could the oil importers pay this 42-cent tariff, and at the same time sell their imported oil at the same price they now sell it for, or would they be compelled to add that, or some substantial portion of it, to the price of the imported product? I am referring to crude oil.

Mr. FRANKLIN. The imported oil is refined in a refinery of the same company which imports it, in large measure. There are some exceptions to this rule.

Senator BARKLEY. That is true where it is refined; but where it is used as fuel oil, or for purposes for which crude oil may be used, of course it is not refined. What is the average price of that imported product at the shore?

Mr. FRANKLIN. The lowest contracts made at the present time are on a basis of 60 cents a barrel; but in past years the price of fuel oil at New York, commencing in 1927, was $1.52 a barrel. In 1928 it was $1.18 a barrel; 1929, $1.05; in 1930, $1.09 a barrel; in 1931, 84 cents a barrel; in 1932, 60 cents a barrel. So that if you added,

as I said a while ago, the full tax to the 60 cents price of fuel oil at New York, it would then be 3 cents less than the lowest price ever paid for fuel oil at New York up to April 1, 1931. Since that time we have had this demoralized condition. We all recognize that the last year does not represent normal conditions, and I take it that no Member of Congress would desire to freeze conditions as to prices on any commodity—oil, farm products, manufactured products, or anything else—at the present low level. No industry can recover, and we can never have any prosperity in the United States, in any part of it, if we are to seek to freeze prices at the present level, because they are all below the cost of production, not only in oil, but in everything else. As Judge Ames showed to you in his presentation, oil sold all last year at some 40 cents below the average cost of production.

Senator BARKLEY. Leaving out of consideration for a moment the companies that produce oil in South America and import it and refine it in their own refineries, of course, they would all have to pay the 42-cent tariff on oil. Leaving them out of it, where oil is imported for sale in this country, my question was whether the profit on the imported oil for sale, and not for refining, is now sufficient to enable them to absorb the 42 cents, or would they add all of it, or a considerable portion of it, to the price?

Mr. FRANKLIN. Perhaps some part of it would have to be added to the present prices, but, as I say, the present prices of oil are entirely too low.

Senator BARKLEY. I agree with you about that. I know something about that myself. Do you know what proportion of the world's known supply of reserves of oil we have in this country?

Mr. FRANKLIN. That question has fooled a great many eminent experts in the oil industry. Back in 1925 the experts of the Federal Oil Conservation Board reported that there were only 5,000,000,000 barrels of recoverable oil in the United States. Since that time we have produced more oil than those experts said existed, and we now have in sight a greater expanse of oil territory than ever before in history, and a greater production developed, ready to produce, than ever before.

Senator GORE. The Senate committee in 1923 reported that gasoline, before a great while, would be selling at a dollar a gallon.

Mr. FRANKLIN. Yes. That was based upon these reports of these so-called experts.

Senator GORE. Yes.

Mr. FRANKLIN. They were unable to see much deeper into the ground, or make much more accurate estimates of the future oil reserves of the United States, than the average citizen.

Senator BARKLEY. My question was based on the statement I saw recently, that Russia had 35 per cent of all the known oil reserves in the world at this time—regardless of the amount of those known oil reserves, that Russia had 35 per cent of them. Of course, looking over this question from the standpoint of not merely a year or two, but looking at it over a period of years, I was wondering whether we would deplete our own resources so rapidly by any artificial stimulation that we might give to domestic production, as to put us, in the course of a few years, at the mercy of Russia, if she does hold 35 per cent of the world's oil reserves at this time, and if the known reserve

in our own country are such as to forecast their depletion within any reasonable length of time.

Mr. FRANKLIN. I will say in answer to that, Senator, I have already partially answered it, but in addition, let me say that one of the best known experts on oil in the United States, or in the world, for that matter, is Ralph Arnold, who testified before a committee of the Senate last year that we had enough oil in the United States to last us for 500 years at the present rate of consumption.

Senator BARKLEY. Perhaps that is true.

Mr. FRANKLIN. In a vast territory extending from the Canadian border east of the Rocky Mountains to the Gulf of Mexico, even embracing the States of Mississippi and Alabama. That territory is all probably productive oil territory. I do not mean that it is all oil land, but scattered across that territory will be pools of oil.

For instance, these same experts who made the misleading reports in past years, said there could be no oil found in Oklahoma County, Okla., or east Texas; geological conditions were not favorable. And still, since that report was made by these gentlemen, there have been discovered in these places where the experts said oil could not exist, the two greatest oil fields the world has ever known, Oklahoma City and east Texas. That shows how uncertain it is.

I would like to say that we have oil, according to the present developed state, and the present known probably productive territory, to last us anywhere from 300 to 500 years.

Senator BARKLEY. I am not going to worry beyond that.

Mr. FRANKLIN. The statisticians and experts of the Standard of New Jersey admit that to be correct. This propaganda which has been put out in the past about the exhaustion of our petroleum reserves has been put out by these very importing companies for the purpose of getting the market of the United States for these imported oils, and I say that advisedly. They paid for the propaganda—a press sheet which has gone out weekly for nearly three years.

The CHAIRMAN. It reminds me of the situation back in 1908, when Mr. Pinchot and certain people believing in conservation had us all scared to death that there would not be a pound of coal left in the United States by the year 1928. It would all be consumed.

Mr. FRANKLIN. A similar condition, exactly.

The CHAIRMAN. We have more coal now than we can possibly use for the next 500 years, anyhow.

Mr. FRANKLIN. Let me say, Mr. Chairman, that this is the oil age. It is valuable now. It brings great wealth to the citizens of the United States. The oil consumed in the United States should be produced in the United States, and that great wealth retained at home to employ labor and capital of the United States. It is newly created wealth. It takes nothing from anybody, but brings great wealth to the people of this country. Who knows but that to-morrow some scientist may discover a substitute for oil which will entirely supersede its use? Let us use it while it is valuable. Let us get the benefit of these resources while we may.

You heard a while ago a gentleman say that these imports were decreasing. Let me show you what has happened. This year, since the Committee on Ways and Means reported to the House and recommended the passage of a tax of 1 cent a gallon on the imported oil, this is what has happened:

The imports for January averaged 206,161 barrels a day; for February, 253,827 barrels a day; and for the four weeks of March on which reports are in, 256, 393, 307,429, 252,280, and 266,857 barrels a day. For the last week on which we have an authentic report, April 2d, the imports averaged 590,143 barrels a day, of which 662,000 barrels during that week was gasoline, or nearly 100,000 barrels a day of gasoline imported.

Senator REED. That always happens when you begin to talk about a tariff.

Mr. FRANKLIN. They talked about how they were cooperating, and reduced their imports. I just want to show that that is not taking place, and it is natural that they should increase their imports, but in the next six weeks, at the present rate of imports last week, they will import 25,000,000 barrels of oil or more into the United States, which will escape this tax, even though Congress passes it.

Senator REED. It has been the same way with copper in the last two or three months, and with coal.

Mr. FRANKLIN. I would like to put the sheet showing the imports into the record.

(The statement referred to is as follows:)

1932 oil imports

[American Petroleum Institute reports]

Week ending	Crude	Gasoline	Kerosene	Gas oil	Fuel oil	Total	Daily average
Jan. 2	973,000	104,000	.....	106,000	561,000	1,743,000	249,000
Jan. 9	527,000	435,000	.....	.....	367,000	1,329,000	189,857
Jan. 16	538,000	360,000	.....	11,000	526,000	1,438,000	205,429
Jan. 23	923,000	214,000	.....	94,000	459,000	1,690,000	241,000
Jan. 30	959,000	165,000	.....	2,000	487,000	1,613,000	230,429
January, average	3,090,000	1,187,000	.....	107,000	1,998,000	6,391,000	206,161
Feb. 6	791,000	248,000	.....	.....	320,000	1,359,000	194,143
Feb. 13	683,000	349,000	4,000	.....	367,000	1,403,000	200,429
Feb. 20	1,116,000	68,000	.....	.....	823,000	2,009,000	286,999
Feb. 27	1,093,000	480,000	.....	76,000	541,000	2,180,000	311,429
February average	3,791,000	1,130,000	4,000	154,000	2,282,000	7,361,000	253,827
Mar. 5 [1]	1,093,000	.....	.....	35,000	459,000	1,587,000	256,393
Mar. 12 [1]	1,300,000	165,000	.....	.....	678,000	2,152,000	307,429
Mar. 19 [1]	791,000	481,000	.....	.....	494,000	1,766,000	252,286
Mar. 26 [1]	1,000,000	[2] 158,000	.....	56,000	648,000	1,862,000	266,857
Apr. 2	2,705,000	662,000	.....	21,000	743,000	4,131,000	590,143

[1] Corrected totals for March not available.
[2] 55,000 barrels gasoline imported in Norwegian S. S. Raila, from Constantza, Rumania, arriving Mar. 20, 1932.

1931 oil imports

[U. S. Bureau of Mines statistics]

Crude	47,250,000
Gasoline	13,621,000
Kerosene	10,000
Gas oil and fuel oil	24,998
Lubricants	31,000
Wax (pounds)	37,084,000
Liquid imports daily average	166,951

Senator REED. May I ask you one question? I would like to get an answer before we conclude, and we are almost at the end of the hour.

Mr. FRANKLIN. There is one matter I would like very much to get in to-night.

Senator REED. Let me direct your attention to two items. You can answer them to-morrow morning if you want to.

The first is the question of exempting bunker oil from the general language of this tax.

Senator CONNALLY. By a drawback, you mean?

Senator REED. By a drawback, or some such method.

The next is the question of differentiating between products of refining and crude oil itself—whether there ought not to be some difference in the amount of the tax on the refined product.

Mr. FRANKLIN. Your second question is the one I wished to present to you to-night. I will reserve the other one until to-morrow.

Senator GORE. I have an amendment that has been prepared on that.

Mr. FRANKLIN. The second question is the one I did wish to present to you to-night, to show where this revenue is coming from.

I have in my hand a sheet, which I desire to make a part of the record.

(The statement referred to is as follows:)

Imports of petroleum and its products, 1929, 1930, and 1931, average for the three years

Crude oil, 2,636,367,888 gallons, at 1 cent	$26,363,678
Fuel and gas oil, 1,002,734,334 gallons, at 1 cent	10,027,343
Gasoline, naphtha, and other finished light products, 551,349,414 gallons, at 3 cents	16,540,482
Tops and other refined distillates, 2,717,534 gallons, at 1 cent	27,175
Kerosene, 5,873,994 gallons, at 1 cent	58,739
Lubricating oil, 1,339,548 gallons, at 4 cents	53,581
Paraffine and petroleum wax products, 46,928,711 pounds, at 1 cent	469,287
Natural asphalt, and petroleum asphalt and bitumen, 73,770 long tons, at $2	147,540
Total	53,687,825

Mr. FRANKLIN. The average imports for the last three years are shown, on the basis of which I would recommend these taxes.

This is to correct some of the inequalities, which I later desire to explain, in the bill as it passed the House.

Crude oil, based upon these average figures, would bring, in revenue, $26,363,678 at 1 cent a gallon. Fuel and gas oil, at 1 cent a gallon, would being in $10,027,343. Gasoline, naphtha, and other finished products would bring in, at 3 cents a gallon—and that is the rate which this committee should fix in this bill for gasoline, to make it it equal with the tax of 1 cent a gallon on crude—$16,540,482. The other liquid products would bring in—tops and other distillates, $27,175; kerosene, $58,739; imported lubricating oil, at 4 cents a gallon, $53,581; paraffin and petroleum wax products, $469,287, at 1 cent a pound.

Natural asphalt, and petroleum asphalt and bitumen, at 10 cents a pound, would bring in $147,540.

Senator HULL. I could not catch all those figures. What is the total amount of the imports of petroleum and its products that you have down there?

Mr. FRANKLIN. These are the average imports for the last three years, based upon the average imports for the last three years.

Senator HULL. Do you figure they will continue to come in?

Mr. FRANKLIN. I do, because the tax suggested is only about 40 per cent of the difference in cost of production here and abroad, and with this tax paid, the refineries of this oil in the United States can sell and make more profit on it at the refinery than they can by refining domestic oil.

Senator HULL. You do not agree, then, with the Department of Commerce in its estimates?

Mr. FRANKLIN. Absolutely, I do not agree with the Department of Commerce about this bringing in revenue—or the Treasury, either—of only $5,000,000, and these figures completely refute that. The total revenue this would bring in, at these rates, is $53,687,825.

With reference to the statement from the Treasury Department that it will only bring in a revenue of $5,000,000, one of the witnesses who preceded me said that was only guesswork; and it was only guesswork, as anybody with a lead pencil can prove, knowing that there were 86,000,000 barrels of oil imported last year.

Senator CONNALLY. If that will bring in $5,000,000, it means they would bring in some oil. If it is probitable to bring in some, why would it not be profitable to bring in a lot of it?

Mr. FRANKLIN. They will bring in just as much as they have in the past, and they will bring in more, because the agreement to restrict imports will no longer be in force.

I want to quote Mr. Morgan Sanders, who was a member of the Ways and Means Committee, and who stated on the floor of the House—and it is in the Congressional Record—that the committee asked the Treasury experts to figure out the revenue this would bring in at 1 cent a gallon on all these products, and the Treasury experts reported to the committee that it would bring in $44,000,000. That is the statement made by Mr. Sanders on the floor of the House, as coming from the Treasury experts, in executive session with the committee—that is, at one cent a gallon.

Senator REED. The estimates of the revenue seem to compare with the estimates of the total reserves of oil. It seems to be anybody's guess.

Mr. FRANKLIN. These figures which I have given completely agree with these Treasury experts, except that at 3 cents a gallon on gasoline it would increase the revenue up to $53,000,000.

Senator REED. Mr. Franklin——

Mr. FRANKLIN. I want to say just a word about why this should be 3 cents.

Senator REED. Let me interrupt you. I asked you to direct your attention to the matter of bunker oil. One of the gentlemen from the Treasury Department tells me that the present provisions for the drawback on exported materials would apply to oil, so you need not bother about that.

Mr. FRANKLIN. I want to emphasize why this committee should raise the tax on gasoline to 3 cents a gallon in this provision. This provision of the bill, as it passed the House, is a gross discrimination

against the refiners in the United States on the Atlantic seaboard using foreign oil, and I know that this committee does not want to discriminate against capital and labor in the United States.

Senator REED. This bill, as it comes from the House, would shut up all the refineries around Bayonne and Marcus Hook, would it not?

Mr. FRANKLIN. Yes; it would discriminate against domestic refineries. Therefore the tax on gasoline should be raised to 3 cents a gallon. The average recovery of gasoline from a barrel of Venezuelan oil—and off the coast of Venezuela there are two refineries belonging to the Royal Dutch Shell and the Pan American Co., with a capacity of 325,000 barrels a day, which obtain from Venezuelan oil 12 gallons of gasoline to the barrel.

Senator REED. That is by cracking.

Mr. FRANKLIN. Yes; and they are cracking plants. The remainder of that is fuel oil. They could sell that fuel oil in other parts of the world, not importing the fuel oil to the United States, but importing the gasoline and bringing in the gasoline from a barrel of oil for 12 cents tax, while the Mellon Co., the Gulf Co., and the Standard of New Jersey, with their refineries in the United States, to get the same amount of gasoline per barrel of oil, would have to pay a tax of 42 cents. That is the reason that should be corrected, without any doubt.

Senator REED. Of course, if it was not corrected, they would simply have to establish refineries down in Venezuela.

Mr. FRANKLIN. It might cause these refineries in the United States to move down to South America, and nobody desires that.

Senator HULL. How much oil is brought up here and refined and then sold to merchant fleets of this and other countries, and exported, together?

Mr. FRANKLIN. I can not answer that question offhand. As I said awhile ago, most of our exports are from American produced oils, because of their higher grade and their lubricating content.

Senator HULL. This application has brought about one new term in tariff nomenclature. We are now calling a tariff a tax for the first time.

Mr. FRANKLIN. I would call the attention of the Senator, however, to the fact that up to the year 1913 the principal revenue bill prepared by Congress was a tariff bill, and that the first income tax ever passed by Congress was put on a tariff bill as an amendment; so that we are not violating any precedent. If, perchance, you should call this a tariff and put it in the revenue bill, it will produce revenue.

Senator HULL. I am very much interested to see what will be the effect of a tariff rate here on oils that we have been bringing up here and refining and then distributing in some way, on the seas or abroad—whether that would be diverted to refineries in Europe and elsewhere and sold to the merchant fleets of the different nations over there instead of being brought here and refined and distributed.

NOTE FROM MEXICAN AMBASSADOR

DEPARTMENT OF STATE,
Washington, April 15, 1932.

The Hon. REED SMOOT,
Chairman Finance Committee, United States Senate.

SIR: I inclose translation of a note dated April 6, 1932, from the Mexican Ambassador containing a suggestion made by some of the companies exporting

petroleum from Mexico to the United States. The department transmits this communication merely for the information of the committee, as requested by the Mexican Ambassador, and without having examined into the merits of the suggestion or the propriety of embodying it in legislation.

Very truly yours,

W. R. CASTLE,
Acting Secretary of State.

[Translation]

EMBASSY OF MEXICO,
Washington, D. C., April 6, 1932.

Mr. SECRETARY: Without intending to meddle in matters which are exclusively within the competence of the legislative power in this country, and solely because of considering this procedure more honorable than that of exerting private influence or dealing directly with the Sentors of the Republic, I venture to request your excellency kindly to bring to the knowledge of the appropriate committee of the Senate, by way of information, if there be no objection to so doing, the following argument, which has been submitted to me by some of the companies exporting petroleum from Mexico to the United States:

"The Mexican crude petroleum which is imported into the United States is used almost exclusively in the manufacture of asphalt and does not come into competition in any way with American crude oils on the Atlantic coast. There is, therefore, ample justification, even if the tariff should be adopted, for excluding Mexican petroleum from the action of said tariff. It goes without saying that it would not be feasible to exclude Mexican petroleum as such, but this could easily be obviated by stating in the law, for example, that crude petroleum of more than 13° Baume could be imported free of duty. The United States exported 400,000 tons of asphalt in 1931, which shows its need of heavy Mexican oils, not only for domestic consumption, but for exportation."

I request your excellency kindly to accept my thanks for whatever you may do in this matter, and I take advantage of this opportunity to repeat the assurances of my highest and most distinguished consideration.

PUIG.

LETTER FROM ED. R. MAYER

JOHNSON RANCH ROYALTY CO. (INC.),
Amarillo, Tex., April 9, 1932.

Hon. SENATOR SMOOT,
Chairman Senate Finance Committee,
Capitol Building, Washington, D. C.

DEAR SIR: Inclosed herewith please find report, on the above subjects, which I am respectfully requesting that you present to the committee and have introduced in the record by having same read on the floor of the Senate.

Yours very truly,

ED. R. MAYER, *President.*

AMARILLO, TEX., *April 8, 1932.*

Hon. SENATOR SMOOT,
Chairman Senate Finance Committee,
Capitol Building, Washington, D. C.

DEAR SIR: At this time, while you have the House revenue bill before you for consideration and reconstruction, it is proper that any citizen and business man, who will be seriously affected by your decision, should write you and disclose to you, in advance, the effect that your decision is going to have on his business, which is expected to pay taxes for the support of this Government.

Also what effect your decision will have, as it pertains to his line of business, on the city, county, and State in which he lives, and upon the general business condition of the Nation.

I fully realize that you gentlemen have been selected as statesmen and because of your knowledge of economic conditions, and I have no desire to occupy your time with an uninvited perusal of my personal opinion, which may add nothing to the fund of knowledge which you have already accumulated relative to the above bill. But I feel charged with the responsibility of placing before you a short and concise report covering the facts pertaining to the line of business in

which I am engaged, both as developed in the past and the conditions under which we are now doing business.

In the House revenue bill you are asked to vote an excise tax on what is now tax-free imported oil and its refined products. Your action in this matter will influence not only my lines of business, but the welfare of the entire South and West.

The taxing of what is now tax-free imported petroleum oil and its products involves a vital economic issue which, so far, has been the controlling factor in the failure of Congress to grant a protective tariff to the oil industry of the United States.

This issue has, so far, been viewed only from the standpoint of the relation of exports to imports, and the major oil companies have furnished data showing that exports have exceeded the imports.

Congress has, in the past, decided that there was no issue, and as a result the prosperity of the oil industry of this country has been practically annihilated, to the sole profit of the importing oil companies doing an international business.

The real issue before Congress is whether the great oil industry of the United States shall be sacrificed for the benefit of some half dozen importing and exporting companies engaged in international trade, and whether these companies shall take the American markets (which constitute 70 per cent of the world market) through the medium of tax-free imported oil from which the United States Government has been obtaining not one cent of revenue to replace the revenue formerly obtained from thousands of tax-paying and prosperous domestic businesses.

The present prolonged business depression now brings this matter forcibly to your attention, and in viewing the situation a statement of the following facts is pertinent at this time:

The present depression has been brought about through a number of economic causes, developing over the past 15 years, to some of which I think it is necessary to call attention, as they have a direct or indirect, bearing upon the present situation and general depression of the oil business. They are as follows:

First. The World War and the hysterical and tremendous expenditure of money and extension of credit to the European countries, reported to be about $10,000,000,000.

Second. The reparations agreement, under the terms of which foreign countries agreed to repay foreign loans.

Third. In anticipation of the repayment of these foreign loans, together with interest, Congress has yearly made appropriations of large amounts of money for various purposes.

Fourth. American bankers doing an international business, and anticipating the wealth that would accrue to this country through the repayment of foreign war debts, floated many private bond issues for innumerable foreign countries among private investors in the United States, such bond issues poorly secured, and to a reported amount of approximately $18,000,000,000.

Fifth. Now, 14 years after the war, European countries have plainly indicated that they are not even able to pay interest on their war debts, and every indication points to the fact that the principal and interest to date may be repudiated.

Sixth. From an economic standpoint, $18,000,000,000 of wealth has been swept out of this country (the savings of 25 years), without the economic balance of the anticipated reparations payments, and to-day the United States Government faces a current indebtedness of over one billion dollars and a bonded debt of over $30,000,000,000.

Seventh. During the above term, blue-sky laws have been actively lobbied in every State in the Union, by interested parties, the effect of which was to "outlaw" local domestic securities and to promote those issues handled by the New York Stock Exchange by providing liquid collateral to the loans of local State bankers.

In this way those stocks handled and promoted by New York Stock Exchange members, with 1,600 branch wirehouses scattered throughout the nation, have sold to American investors in many instances at the high price of fifty times the annual earnings of those companies. The stock-market crash of October 17, 1929 represented the culmination or saturation point of the sales of these inflated eastern stocks and foreign bonds to the American investing public.

We find, upon investigation, that a number of these international bankers own or control the stocks of oil companies doing an international business, and that the securities of these companies have not only been favored by promotion

through the New York Stock Exchange, but that these large oil companies, having favorable intervention on the part of these international bankers, have obtained large oil concessions in other countries (principally in South America) and have thereafter proceeded to import to this country an every increasing amount of tax-free foreign oil, ranging to so high a volume as over 100,000,000 barrels per year.

During the past 30 days these imports have been coming in at the rate of over 200,000,000 barrels a year, which clearly demonstrates the ability of these importing companies, by transportation facilities already in existence, to take control of the oil market in the United States.

This tidal wave of tax-free foreign oil landing on the eastern seaboard of this country has necessarily affected the posted price of crude oil throughout the Nation by being used as a club to beat down prices through influencing the eastern markets and export trade, both of which have been the largest factors in the American oil market.

This tidal wave of foreign oil has moved from the Atlantic coast to the Pacific coast, and by wrecking prices, has supplied all of the major oil companies' requirements for refineries and oriental export trade by taking over domestic oil at ruinous posted field prices.

Major oil purchasers have ruthlessly enforced proration rulings to cut down the production of old established fields, while these same companies took an active part in the development and acquisition of such new fields as Seminole, Oklahoma City, Hobbs, New Mexico, Van Zandt, many fields on the Gulf Coast, Kettleman Hills, and the giant new east Texas field.

A tremendous volume of domestic oil and innumerable domestic properties were acquired at ruinous prices based on the low price of 10 cents a barrel. In the Panhandle fields the posted price was 11 cents per barrel in the months of July and August, 1931, which meant the extermination of independent producers landowners in this area.

In the hearing before the Ways and Means Committee of the House of Representatives the fact was brought out that in 1930 the exports from this country were 145,870,000 barrels of crude oil, or its equivalent in refined products, having a sale value of $404,243,000, or $3.39 per barrel. The posted field price for crude oil in the United States was based upon the price of tax-free imported oil, and was far below the actual cost of production. In 1931 the shrinkage of exports was 20.2 per cent in barrels with a shrinkage of 45.3 per cent in value, and the major oil companies, in maintaining their usual profits, posted for us a price of 10 cents per barrel for crude oil in the Mid-continent fields.

They could do this with perfect safety, because we find that these companies, which are the major purchasers, transporters, refiners, and distributors of oil in this country, are also the importers of foreign oil, exporters of oil and that, working together, they actually own and control 80 per cent of the transportation, refining, and distribution facilities of this country.

So Congress, when it considers only the relation of imports to exports, does not decide the issue which has confused everyone with regard to the effect of importing tax-free foreign oil upon the domestic oil industry of the United States.

The facts are that the five or six companies which import tax-free foreign oil to the United States own the transportation facilities for the ocean transportation of oil and its refined products. They, together with allied companies, also own the transportation facilities which export crude oil and its refined products from the United States (and from foreign fields) to foreign countries. In other words, when our United States Senators discuss the relation of imports and exports, they are merely discussing the private business affairs of these importing oil companies.

The facts are that these importing companies produce oil in the Western Hemisphere, from South America and elsewhere, and transport this foreign oil to the eastern seaboard of the United States where it is dumped (tax free) upon the American market. The facts are that these same importing oil companies have a tremendous market in the Orient, but do not produce any oil in the Eastern Hemisphere to supply this oriental market.

In the conduct of their business heretofore referred to as "imports" and "exports," what they in fact accomplish to the advantage of their private business is that sufficient tax-free imported oil is dumped on the eastern seaboard to set the price and smash the entire oil industry throughout the United States.

These importing companies are also producers, refiners, and distributors throughout the entire length and breadth of this Nation. They have oil-purchasing departments, pipe-line gathering systems, refineries, sales-distribution

points at strategic locations (with relation to the oil production and markets) in every oil-producing State of the Union.

As there is plenty of domestic oil, the effect of dumping this tax-free imported oil on the eastern seaboard has been to create a condition of oversupply of crude oil in the United States to the point where these companies could post a low price for crude oil in every field in every State in the Union, thereby demoralizing the oil industry, and thereby obtaining the United States domestic supply at their own price.

Thus they have carried this tidal wave of foreign oil across the entire United States to the Pacific coast. In this manner over $53,000,000 worth of foreign oil was transported across the United States for shipment from the western coast to the Orient.

California is the second largest oil-producing State in the Union, and by this depression in the price of oil these same companies have been able to load their exporting tankers with cheap California oil. It is notorious that these big companies have, for the past three or four years, obtained the flush production of the State of California, at ridiculously low prices and at a tremendous loss to that State.

With exporting tankers thus loaded with cheap domestic oil (below 50 cents a barrel) these exports have gone out into the Orient to return a price in 1930 of $3.39 a barrel.

So it is easily comprehended, when this situation is scrutinized, that the effect of importing tax free oil to the eastern seaboard which brings about a condition of oversupply of oil in this country, accomplishes the following beneficial rewards to those companies doing an international business:

First. Rewards these importing companies with a saving of tax on all of the oil imported to this country.

Second. This saving gives them a club with which to cut crude oil prices and still maintain a profit in competition with domestic producers, and also delivers into their hands the special privilege of creating, at will, a condition of oversupply of crude oil, the threat of which demoralizes the entire industry and its lines of credit. Ten per cent surplus of any national commodity will control the price.

Third. By such price cutting and by forcing a condition of oversupply, our domestic production has become forcibly "prorated," or curtailed, to the point where the business of domestic producers and refiners has been demoralized and these importing companies, as major oil purchasers, have been able to acquire domestic oil at their own price in any quantity which they have required to meet the demands of their business, both for their domestic refineries and their export trade.

What the domestic producers have been doing is to furnish oil for export trade on the Pacific Coast at the destructive price set by the importation of tax free foreign oil. Also for the same reason domestic oil producers and refiners have been delivering all of the oil needed to meet all of the requirements of the major oil companies' refineries (strung out across the United States) and to meet the storage requirements of those companies at confiscatory prices.

What the major importing and exporting companies have been really doing is producing sufficient cheap oil in foreign countries (South America and Mexico), transporting it to the Eastern seaboard, tax-free, and demoralizing the price structure of the industry.

Theoretically, they transport this same oil entirely across the continent (4,000 miles) without any transportation charges and thereafter load this oil on the Pacific coast into tankers for shipment into the Orient, leaving a condition of destruction and disaster in the wake of this tidal wave of oil entirely across the United States and in every State in the Union.

The result has been extremely gratifying to them from a business standpoint, as they rate this tax-free foreign oil at 89 cents a barrel on the eastern seaboard, while they load their tankers on the West coast with domestic oil at 25 cents a barrel and have obtained mid-continent oil for their refineries at so low a posted price as 10 cents a barrel.

Fourth. By this monoply, created only through the sufferance of the Federal Government, domestic competitors are either controlled or ruthlessly put out of business, and their property bought in at 10 cents on the dollar.

Fifth. By this monoply it is now known that the major companies have come into control of all the ocean transportation, and approximately 80 per cent of the land transportation, pipe lines, refining and distribution facilities of the entire domestic oil industry, even to the invasion and the ownership and development of oil lands in the oil fields throughout the various States in the Union.

Thousands of long established, tax paying domestic companies have been ruthlessly put out of business, the stocks of those companies being owned by local citizens in various oil producing States of the Union.

All lines of business in the cities of the Southwest have been paralyzed and demoralized by the ruin of the oil industry on which the civilization of the entire Southwest has been built and has prospered. Railroads have suffered tremendous losses of business, due to the discontinuance of a major industry and its collateral lines of business in the South and West. Innumerable bank failures and business failures testify to the changed condition to what is now an unprofitably conducted industry.

That is the reason why governors and railroad commissions of various oil-producing States have been nonpulsed and confused by a situation which they found no way to remedy, except to curtail local production and enforce proration rulings at the point of a bayonet and by military police power, in the vain hope that by doing their share to curtail production they would thereby raise the price of oil and benefit the citizens and businesses within each oil-producing State.

That this hope and these efforts have proved futile is clearly evidenced, because the companies doing an export and import business have merely increased the ratio of imported oil to press the advantage which this curtailment of domestic production gave them, and because of their control of refineries, transportation and distribution facilities, they have continued to sell lubricating oil to the American consuming public at a price of over $50 per barrel and to obtain such a sufficiently high price for gasoline in those nonproducing oil States as would give them a good profit when they sold gasoline in the nonproducing States to meet the prices offered by local distressed refiners.

So it has developed that such action upon the part of governors and railroad commissions of the various oil-producing States without any action upon the part of the Federal Government to curtail the importation of tax-free foreign oil (by tariff embargo or excise tax), has placed the oil industry squarely into the hands of the importing and exporting companies by forcing military control, proration rulings and what is in effect "unitization" of oil fields upon all of their tax paying domestic competitors, to the destruction of their business and to the loss of taxes for the support of the schools, cities, counties, and States in over 20 oil-producing States of the Union. Also the destruction of a tremendous market in those 20 States, for the manufactured supplies formerly furnished by the Northern and Eastern States.

Domestic producers and refiners were told that there was a condition of overproduction in this country and that for the good of the industry they must shut in their fields and submit to proration rulings by major oil purchasers. These rulings were later enforced by military control.

After five years and after the demoralization of their business they have learned that there was a condition of overproduction in this country, but that the economic balance in the industry had been upset by a well-conceived and well-financed scheme to take advantage of the present tariff schedule, under which $1,000,000,000 worth of tax-free foreign oil has been imported to this country.

From an economic standpoint, there is no advantage whatever for the people of our Nation to maintain (through a political set-up) this sort of condition in the oil industry to the destruction of the prosperity of some 20 great sovereign States. For, while it may be pointed out with pride that these major companies have made tremendous profits at the expense of domestic competitors, the fact remains that these profits so made have been invested in foreign lands for the development of foreign oil fields in other nations, with the economic result that this money has been taken out of the United States, disaster brought to the oil industry, destruction to thousands of prosperous domestic companies which represented the taxable property of 20 oil-producing States of the Union, and a tragic condition of unemployment brought about, which not only represents an economic loss but for the past two years has become a tremendous burden.

Nor can it be claimed that this condition should be maintained under the cloak of a so-called "pleasant foreign relations policy," when the so-called foreign relations are merely American firms producing and exporting tax-free foreign oil for the extremely profitable conduct of their private businesses, simultaneously with the flotation of foreign bond issues among American investors to finance the development and equipment of those foreign fields.

With due respect to all foreign countries, our Government is not required to continue a policy which has now actually proven to be destructive to the economic welfare of this country.

I am now going to speak to you directly for myself and the business which I represent.

In the month of January, 1929, the intrinsic value of these businesses, all successful, going concerns, was $9,337,728.26.

The total taxes paid from this office, being city, school, county, State, and Federal, were $214,647.93, of which the Federal Government received $133,830.84 as Federal income tax.

Dividends and interest paid to the stockholders and others was $1,051,681.25, out of which the Federal Government received income taxes not herewith recorded.

The foregoing represents the former prosperous condition of the businesses of which I am president, and from which hundreds of stockholders, employees, and local beneficiaries received support.

To-day, since the failure of Congress to protect these businesses and other similarly situated, by placing a tariff, embargo, or excise tax on tax-free imported oil, with the disastrous results heretofore set forth, the properties of the companies which I represent, if liquidated on the open market would bring only about $560,263.60—most probably being paid for with long-term paper instead of cash. This represents a destruction of national wealth which it has taken a lifetime to build up.

To-day the stocks of these companies, which were formerly held by the stockholders on the open market at a premium of 100 per cent above par, are offered at 5 cents on the dollar, representing a capital loss to the stockholders of $1,812,600.

During the past year of 1931 our business not only did not make any money, but operated at an actual loss in revenue of about $100,000, so that the Federal Government will receive no income tax from any of the companies, nor from thousands of individuals who were former beneficiaries of the companies.

Money has been borrowed to pay school, city, county, and State taxes.

Our business is typical of thousands of others. It is a travesty on justice and a political paradox indeed, that the United States Government should not only forfeit over a quarter of a million dollars of income taxes from these little companies which I represent in the Southwest, but should at the same time fail or refuse to collect taxes on the very oil imported to this country which has brought about the above-described disastrous condition to our American businesses.

From an economic standpoint, this situation is intolerable, as it represents the welfare of this entire Nation in contradiction to the profits of four or five large corporations, gracing this country with their presence and subjecting it to the ramifications of their business.

We have conceded to the "regulation" of the oil business in every oil-producing State of the Union, but the above facts clearly disclose that such regulation should not be enforced to the extinction of every domestic producer, refiner, and landowner, and for those few companies doing an international business at the expense of this country, without the Federal Government stepping in and by placing an excise tax on what is now tax-free imported oil, thereby restore the economic balance and protect the various oil-producing States of the Union.

The tax on foreign imported oil should be not less than $1 per barrel, and no concern need be felt by the Federal Government that such tax will defeat the purpose of the tax, as restored domestic business will immediately respond to this protection and again become a substantial source of revenue to the Federal Government.

Yours very truly,

JOHNSON RANCH ROYALTY CO. (INC.),
By ED R. MAYER,
President, Capitol Hotel, Amarillo, Tex.

P. S.—Attached hereto please find copy of Congressional Record, House of Representatives, Friday, February 1, 1929, speech of Hon. E. B. Howard, which contains report which I submitted on January 12, 1929, and in which the present condition of the oil industry was predicted.

AMARILLO, TEX., *January 12, 1929.*

Congressman E. B. HOWARD,
Tulsa District of Oklahoma, Washington, D. C.

DEAR SIR: It is my understanding that you are preparing a bill providing for a tariff on oil and that you now have this bill or will have this bill before the present session of Congress.

Notice that you are working on this matter should be interesting to independent oil producers, royalty companies, landowners, and even States throughout the entire oil-producing districts of the United States.

A disastrous condition has occurred and been maintained for the past two years, which has adversely affected every investment in or contingent to the oil-producing business, save and except those investments which are so organized that they represent a vertical line of business, having production, transportation, refining, and marketing. The last-mentioned interests have benefited largely and comprise large corporations only, and actually represent but a small fraction of the commonwealth of this country, and should not be permitted to maintain a condition and special interest which operates adversely and disastrously to the vested rights and the welfare not only of individuals but of counties, towns, cities, and even States.

An examination of producing-oil areas and geographic surveys of the Nation shows that there are millions of acres of proven, semiproven, and potential oil lands. This land is the vested property of individuals, States, or of the Nation. The act of proving this land to contain great mineral wealth immediately enhances the value of such lands far above that for which it could be valued for any other purpose. The finding of oil in any community or State represents an increase in local and national wealth; that is, providing such increase in wealth accrues to those to whom it rightfully belongs.

It is a common fallacy for the public at large to think and believe that the discovery and production of oil confers benefits only upon that particular landowner and that particular oil company which is so fortunate as to enjoy the direct benefits of such discovery. However, a most casual investigation will show that this is not correct.

Railroads haul immense tonnage to such oil fields and generally invest much capital in extensions, switch tracks, terminal facilities, etc.

Supply houses, material men, lumbermen, and countless lines of manufacturers are at once interested, investing capital in warehouses, labor organizations, and untold millions of dollars of storage supplies.

Adjacent towns and even cities are at once made famous by the fact that new sources of national wealth are found at their doorsteps, and generally reflect an immediate expansion and growth in the way of new industries, new office buildings, jobbing houses, and untold millions in investments in real estate, home building, and countless other lines affecting the welfare of that entire community. Because of this added population and contingent lines of business, cities expand and grow and counties undertake bond issues for paving highways.

The State in which this community is located immediately becomes the beneficiary of increased taxes, and even the income-tax men of the Federal Government at Washington find this new community of sufficient interest to send special agents to check the income of the Government, which is a beneficiary from income taxes in these new and flourishing districts.

When it is considered that not only thousands of small towns, hundreds of thousands of individuals, and the welfare of countless counties of various States throughout the Union are affected by the possibility of production and the oil industry, but also that great cities, such as Los Angeles, Austin, Dallas, Shreveport, Beaumont, Fort Worth, Amarillo, Tulsa, Oklahoma City, and numberless other large cities throughout Indiana, Pennsylvania, Louisiana, Wyoming, Montana, Colorado, and other States, can suffer and do suffer tremendous losses in wealth, population, and shrinkage in business due to the violent fluctuations in the revenue received from the production of oil without any local power or machinery to prevent these disasters, then it is time for the people or their constituted authority to investigate the conditions that permit such a situation to exist and reoccur from time to time.

The marketing of the products of petroleum oil is a well-organized and profitable business, the bulk of the business being conducted by about 200 powerful corporations throughout the entire United States.

The refining of these oil products is a highly technical and well-organized business, also largely under the control of these same corporations.

The transportation of oil is also a well-organized business, allied with and largely under the control of the above-named corporations.

It will be noted that the sales price of petroleum products which the public at large obtains is well regulated and suffers no violent fluctuations that would cause disastrous losses and disorganization to either the transportation, refining, or marketing companies in the petroleum industry.

It is only in the production department of the industry, which has the most to do with the welfare of the greatest number of individuals, small corporations, allied industries heretofore mentioned, and the taxable value of cities, counties, and States that boom conditions are enjoyed or disaster suffered which wipes out the investments of literally hundreds of thousands of people, either in the oil-producing business or in allied lines of industries and community activities.

This situation is brought about by the violent fluctuations in the price of crude oil, which is arbitrarily set from time to time by those corporations which are primarily interested in the transportation, refining, and marketing of crude oil and its products.

The law of supply and demand governs the actions of this last-named group. When the production of crude oil shows to be in excess of current refinery demands and at the same time new crude oil discoveries are encountered, the posted field price for crude oil is ruthlessly put down, thereby paralysing smaller producing companies in all allied lines of industry and depreciating property values through the entire district, adjoining cities, States, and the Nation.

This disastrous shrinkage may occur overnight upon the discovery of one or two new potential oil fields which show promise of furnishing sufficient additional oil to warrant safety in such procedure to the transporters, refiners, and marketers of crude oil.

Although this new strike may be in a far western State, yet every field throughout the Nation and every community in which such fields exist immediately suffer by this general marking down in the price of crude oil.

There appears to be no proportional relation whatever between the price which the public at large pays for refined products and the price which producers and marketers receive for the production of crude oil.

When the posted price of crude oil was $3.60 a barrel throughout the mid-continent field, the public paid from 20 to 30 cents per gallon for gasoline and 20 to 40 cents per quart for lubricating oils.

With the posted field price at an average of 80 cents per barrel in the Panhandle oil fields, the price of refined products still hovers around 20 cents per gallon for gasoline and a good fair price for lubricating oils.

It then can not be stated that a fair profit to independent oil producers, which affects the welfare and taxable values of landowners and property owners in adjoining cities and communities, is the yardstick by which the petroleum industry is operated and that the public at large in buying the refined products are gainers through the fact that the producers are suffering such losses.

There are too many intermediate stations between the production and valuation of crude oil and the ultimate purchase of its products for such condition to exist.

The oil industry and its allied lines of business is to-day the biggest industrial business in the United States. Its ramifications affect more people than any other line of business. As such, it is the only line of business that has been marshaled, organized, and controlled by a relatively few closely allied corporations without any endeavor on the part of the commonwealth to intelligently comprehend and better regulate this industry.

Great credit should be given to those corporations who have developed this tremendous industry, and in writing you this letter it is not to be construed as a disparagement or attack upon any of them in the conduct of their business.

It is most likely that this condition would exist in any other line of business which affected the public largely if no protective tariff were obtained to safeguard the vested interests of this country.

If it were possible for a great merchandising corporation, such as Montgomery Ward or others, to obtain an unlimited supply of cheaply manufactured articles from Europe and import same to this country and distribute into a vast organization of retail stores owned and controlled by it, you would immediately note the same depression in business in countless towns and cities, due to the fact that tens of thousands of small merchants would be forced to close their doors, thousands of allied lines of industry would close down, and untold millions of dollars of wealth would be wiped out solely to the benefit of this one big merchandising corporation.

In the universal interest of landowners, tens of thousands of small independent oil producers, communities, counties, cities, and States, some sensible and flexible tariff should be considered and adopted which will protect and safeguard the vested rights and interests of all those directly connected with or whose business depends upon the production of crude oil through this Nation.

Trusting that you will give this matter the serious thought and earnest work which it deserves, and believing that the very act of making a comprehensive effort to stabilize this industry will meet the approval not only of the people to be benefited but also the sympathetic cooperation of transporters, refiners, and marketers of crude oil and its products, I remain.

Very truly yours,

JOHNSON RANCH ROYALTY CO. (INC.),
By ED. R. MAYER, *President.*

STATEMENT OF PAUL H. HARWOOD, REPRESENTING THE PAN AMERICAN PETROLEUM & TRANSPORT CO.

Mr. HARWOOD. Mr. Chairman and members of the committee, a tariff on oil is unprecedented. This so-called revenue measure is a tariff.

The proponents of an oil tariff in advocacy of their demands allege:

1. That it will bring in great revenue.
2. That foreign producers enjoy an advantage over domestic producers, and this this tariff would tend to "equalize" costs.
3. That this advantage comes from the use of cheap peon labor.
4. That gasoline prices will not go up, although they admit fuel and crude prices will advance.

These arguments have been used repeatedly. They have all been answered in open hearings. They will be answered briefly here.

The CHAIRMAN. That is, in testimony before the House?

Mr. HARWOOD. I have not been before the House, Mr. Chairman.

The CHAIRMAN. You say, they have been answered, In what way?

Mr. HARWOOD. Before the House.

As my time is so short, Mr. Chairman, if I might continue without interruption, I should appreciate it.

The CHAIRMAN. I will not interrupt you at all.

Mr. HARWOOD. Thank you.

First, that this will bring in any revenue is most improbable.

The Treasury Department is reported to have estimated that it may bring $5,000,000. As the department reported a tariff on imported oil of 1 cent a gallon on crude and 2 cents on fuel oil and 1 cent on gas oil would bring no revenue, it must be that the revenue expected by the Treasury Department comes only from gasoline imports, now proposed to be taxed one cent per gallon. Calculated at 1 cent a gallon on the imports of 1931, 13,000,000 barrels or 546,000,000 gallons, would bring that amount if imports should remain undiminished. But the tax on gasoline is 25 per cent of its cost at refineries to-day; and is therefore unproductive, unless prices increase to a degree burdensome on the 25,000,000 automobile users, and our farming population.

Second. The proponents' contention that foreign producers and importers enjoy an advantage in production and transportation costs to the Atlantic coast is based on a reading of the first two pages only of the report of the Tariff Commission. There are 205 pages of this report, and the report shows the opposite of the contention that foreign oil is cheaper. They also ignore the supplemental report which shows still lower costs for domestic oil for 1931.

An analysis of the Tariff Commission's reports covering the comparison of costs on basis of like or similar products, as provided by the tariff act between foreign and domestic crudes for the years 1930 and 1931, clearly shows that there is no differential in cost between foreign crude oil and domestic crude oil to the advantage of the foreign oil, but on the contrary, if there be any differential at all it is distinctly in favor of the domestic product. The commission's report is admittedly indefinite for ——— the report does state that there was a decline in domestic cost of at least 22 cents a barrel for 1931 and the statements of the commission indicate that if this report were made accurate for 1931 the differential would be strongly

in favor of the domestic petroleum largely because of the tremendous new production of cheap oil in the East Texas fields and the large reduction in pipe-line charges.

The Tariff Commission, in its report for the years 1927–1930, reports not a difference in cost of $1.03 per barrel, as alleged by Mr. Franklin, but of 46 cents, on the basis of "like or similar products" as required by the tariff act (p. 3), but calls attention to three disparities in its calculation to the disadvantage of the Venezuelan product, each of which would, when properly determined and taken into account, reduce this difference in cost.

1. It admits that in figuration of cost to produce crude it has applied to the foreign oil the same rate of interest and depreciation as applied to the domestic crude. It admits (p. 59) an adjustment of interest charges would increase the cost of foreign crude 5 cents per barrel.

Adjustment of depreciation, recognizing that foreign crude is produced in tropical climates where destruction is rapid, would another 5 cents per barrel.

These items, properly taken into account, would lower the difference of 46 cents per barrel to 36 cents per barrel.

2. It calls attention (p. 2, last paragraph) to the fact that while actual bare cost of transportation has been used to calculate the cost of landing Venezuelan oil on Atlantic seaboard, 49 cents per barrel has been used in calculating cost of landing domestic crude oil here, this being an average, not of cost of pipe-line transport, but of actual published pipe-line charges. Interstate Commerce Commission's reports show that for 1930, the last year covered by this report, the ratio of operating expenses, taxes, and 6 per cent interest, to operating revenue, is 60 per cent.

May I here put in the Tariff Commission's analysis?

The CHAIRMAN. Certainly.

(The Tariff Commission analysis referred to and submitted by the witness is here printed in full as follows:)

Pipe-line companies (common carriers), 1930

[Financial and operating data published in Interstate Commerce Commission, Bureau of Statistics, Statement No. 3170, dated Washington, June, 1931, of all common carrier pipe-line companies filing report, and includes not only the transportation of crude oil, but also of refined products]

Miles operated:	
Trunk lines	45,922
Gathering lines	42,806
Pipe-line operating revenue	$237,910,083
Pipe-line operating expenses (including depreciation)	$90,363,742
Income and other taxes	$16,730,653
Investment in pipe lines	$772,710,908
Accrued depreciation	$329,110,719
Investment less depreciation (a return of 6 per cent annually would amount to $26,616,111)	$443,600,189
Ratio of operating expenses to operating revenue.....per cent	41.8
Ratio of operating expense plus taxes to operating revenue..do	48.8
Ratio of operating expenses, taxes, and 6 per cent on depreciated value to operating revenue.....per cent	60.0

Mr. HARWOOD. In other words, that the full cost of pipe-line transportation is only 60 per cent of the tariff rates. Reducing the domestic cost of transport to this amount, we must take 19.6 cents per barrel from the remaining 36 cents difference shown, leaving a differ-

ence in cost between Venezuelan and domestic crude of only 16.4 cents.

3. In its figuration of comparative values of yields from the two crudes, the commission admits that the value of the gas and fuel oil yield out of Venezuelan crude is much below that of the higher quality gas and fuel oil yields out of domestic crudes. (It admits value of foreign yield is only 2.55 cents per gallon while domestic yield is worth 2.93 cents per gallon, a difference of 0.38 cent per gallon.) But it states that nevertheless it applied the higher domestic value to both crudes in calculation of total value of yields of both oils. The report states (p. 54):

> The significance of any overvaluation of the gas and fuel oils from foreign crude is evident from the fact that these oils constitute considerably over 30 gallons of the product obtained from each barrel of crude (42 gallons) * * * there may be an overstatement of the value of the products from foreign crudes due to the method used, amounting to 10 to 15 cents per barrel, or even more.

The overvaluation of gas and fuel oil derivatives in each barrel of foreign crude might then, amount to 15 cents per barrel, which, subtracted from the remaining 16.4 cents, practically wipes out the remaining apparent advantage for Venezuelan crude oil.

Therefore the correct interpretation of the Tariff Commission's report for the year ending in 1930, is that there is no appreciable advantage in cost of Venezuelan crude, as compared with like or similar domestic products.

The supplemental report of the commission to the Ways and Means Committee, covering year 1931, shows still lower domestic costs due to the development of the cheaper but highly valuable crude of east Texas; and that the average domestic delivered cost at Atlantic points, without adjustment for lowered pipeline rates, has fallen 22 cents per barrel, or from $1.90, average for three years, to $1.68 per barrel.

Therefore, on the face of the two Tariff Commission's reports, there is no advantage in foreign crude costs but on the contrary, domestic crudes are deliverable at Atlantic ports, value for value, at at least 20 cents a barrel under the foreign costs.

A tariff on the more expensive foreign oil is not justified.

Furthermore, the Treasury and Commerce Departments of the United States, which have studied these matters, are correct in their report that a tariff of 1 cent a gallon or 42 cents a barrel on imported crude oil would produce no revenue as it is prohibitive.

On page 6 of the printed report appear the figures for "excess of domestic costs" of gasoline, gas, and fuel oils. It is to be borne in mind that these were based upon the crude prices used elsewhere in the report for 1930, and unadjusted for the three items above, and naturally did not take into account the lower cost of American crude in 1931; nevertheless they show an "excess of domestic costs" of less than 1 cent a gallon for gasoline and of less than half the proposed traiff as to gas and fuel oil. These figures of "excess of domestic costs," corrected by the use of the proper values for the foreign and domestic crudes above referred to, would be still further reduced. The tariff rate of 1 cent per gallon at all events is highly excessive and will bar any importation of crude, fuel, gas oil, or gasoline.

Therefore there is no case for a tariff to equalize costs, because already the domestic product is cheaper. Oil tariff proponents base

their appeal for equalization on a report covering only the year before last.

Senator HULL. Would it interrupt you if I were to ask you a question or two?

The CHAIRMAN. Senator, he has asked that he be not interrupted.

Senator HULL. Oh, I beg your pardon.

Mr. HARWOOD. In this connection it is interesting to note that while the importations of foreign petroleum products fell off 20,000,000 barrels in 1931, as compared with 1930, the production for the mid-continent field increased over 2 per cent, and the production in Texas increased by 41,000,000 barrels, or twice as much as the decrease of imports. In other words, the "cheap crude" which is "swamping the American markets" is not the foreign product which the tariff proponents wish to tax, but the east Texas field forming part of the territory sought to be protected by the proponents of a tariff.

The fancied advantage of American producers abroad, through the use of cheap native labor, which constantly recurs in all statements of the proponents, is simply a fiction, and has been refuted many times in open hearings. They went so far as to allege before the Ways and Means Committee that the American companies in Venezuela employ 100 natives for every American. The fact, put into the record of the Ways and Means Committee at the request of Congressman Saunders, is that in the case of our company less than one native is employed for every American, the figure being 1,005 Americans to 916 natives, in oil production and handling, and the average compensation is $298 for Americans and $74 per month for natives.

The American employees are paid at least the American base wage, and in addition are furnished by the companies with housing, hospitalization, schools, and all the facilities furnished by taxation in the United States. In addition to this expense, there is necessary work like clearing jungle, building and maintenance of roads and harbors, unknown in domestic oil fields.

There is no advantage to the American oil producers abroad in cheaper wages, though the tariff proponents persist in so stating in spite of the facts of the case.

The contention that gasoline will not increase in price under a tariff is unfounded. A tariff is now proposed on gasoline itself, and with the purpose of raising its price. Gasoline prices in fact went up last month one-half to 1 cent immediately after the approval of this tariff by the House of Representatives.

You have heard or will hear, in support of this strange argument, a statement of prices of crude and gasoline in February, 1926, and in February, 1929, alleging that when crude was lower, gasoline was higher. The American Petroleum Institute in its last yearbook specifically proves that this statement is false, and that gasoline was lower instead of higher in February, 1929.

The Federal Trade Commission reported in 1928, on page 3 of its report, as follows:

> Gasoline prices were promptly advanced throughout the country whenever there was an advance in crude prices.

And on page 175:

> (1) * * * advances in crude petroleum have been followed by gasoline price increase.

For full discussion and supporting figures of the facts of this matter, see hearings before the Ways and Means Committee on revenue revision 1932, page 972.

What will it cost the American people?

Mr. Wirt Franklin, principal proponent of this tariff, admitted that the price to the public of fuel oil would be advanced by the amount of the tariff, or 42 cents a barrel. American consumers use 184,000,000 barrels of fuel oil per year in Atlantic coast and Gulf States. The price advance might well reach $77,000,000 every year, to be paid by our industrial and domestic fuel users to the major companies.

If gasoline increases in price only by the amount of the tariff, it will cost the American public, east of the Rocky Mountains, $143,000,000 additional for the enrichment of the major companies.

Witnesses from districts and industries affected can tell the committee the effects on their industries of this unjustified tribute. The total charge on the American public might well, and probably would, exceed $200,000,000 every year, of which a large part would be paid by the farmer.

Who would profit?

As Senator Tydings has stated to this committee the small independent producer can not possibly profit from this tariff, but the 20 major oil companies will profit as they will receive most of the $200,000,000 tribute imposed on the people and industries of the United States by this tariff.

Senator REED. Would you permit an interruption?

The CHAIRMAN. He asked not to be interrupted.

Mr. HARWOOD. The time is so limited, Senator.

Senator HULL. These gentlemen are experts, and I would like to have the privilege of asking him some questions.

The CHAIRMAN. That can be done afterwards.

Senator HULL. I understand; but I want to get it before the committee.

Senator CONNALLY. Why not wait until he gets through on his own time, and then we can ask him questions on the committee's time. I want to ask him some questions, also.

Senator HULL. I do not want to see this rushed through without any chance to develop some of the main facts, if we are going to take it up at all.

The CHAIRMAN. They were given each an hour and a half and they have divided up the time.

Senator REED. I will wait until he has finished.

Senator CONNALLY. I want to ask him two or three questions, myself.

Mr. HARWOOD. May I proceed?

The CHAIRMAN. Yes; go ahead.

Mr. HARWOOD. At whom, then, is this tariff aimed?

Since the days of the Wilson administration successive administrations have urged and encouraged American capital and enterprise to go forth to secure and develop foreign oil fields, against the day when our own resources fail.

These American companies saved the day in the oil shortage of the years of the Great War. Their contribution in the shortage of 1920–21 tided us over that period of lack.

There follows here, Mr. Chairman, quotations of Secretary Lane, the Bureau of Mines, the Federal Oil Conservation Board, and President Coolidge.

These quotations extend over the period 1920 to 1931. In all of them Americans are urged to explore and develop petroleum in foreign countries, and most of these quotations point out the danger to the United States in the fact that it possesses only about one-fifth of the oil reserves of the world and is, nevertheless, supplying two-thirds of the world's demand for crude oil and the products resulting therefrom.

The democratic platform of 1920 stated the policy of Secretary Lane and the Wilson administration:

The Democratic Party recognizes the importance of the acquisition by Americans of additional sources of supply of petroleum and other minerals, and declares that such acquisition both at home and abroad should be encouraged.

In 1925, the President, alive to the fact that the United States was producing, consuming, and exporting 70 per cent of the world's oil production while only 18 per cent of the known oil resources of the world are here, organized the Federal Oil Conservation Board.

It reported in 1926:

* * * that our companies should vigorously acquire and explore such fields (in Mexico and South America) is of first importance not only as a source of future supply but supply under control of our own citizens. Our experience with the exploitation of our consumers by foreign-controlled sources of rubber, nitrate, potash and other raw materials should be sufficient warning as to what we may expect if we shall become dependent upon foreign nations for our supplies.

In a public address in New York, in April, 1927, President Coolidge defined the country's policy in unequivocal terms. He said:

Our country consumes vast quantities of oil and gasoline. * * * If these products are to be kept within a reasonable price, which is very important to a great body of our citizens, our people who go abroad to develop and to increase our supply ought to have the encouragement and support of our government. The person and property of a citizen are a part of the general domain even when abroad.

Again in 1920 the Federal Oil Conservation Board reported:

Roughly, the United States is producing more than two and one-half times and consuming nearly twice as much petroleum as the rest of the world * * *. Neither the high rate of domestic consumption nor the balance of exports over imports would be disquiting if the petroleum resources of the United States bore anything like the same ratio to the world's resources as the production ratio of 68 per cent. According to the present opinion of our best petroleum geologists, our total resources, instead of being 68 per cent of those of the whole world, are not more than 18 per cent. If our petroleum reserves are not to be drawn upon at a faster rate than those of all other countries, our resources should be several times larger.

The obvious reference is that the United States is exhausting its petroleum resources at a dangerous rate. If the international comparison is made, this country is depleting its supply several times faster than the rest of the world. The depletion rate of our resources can be brought more into accord with that of foreign resources only in one way—by importing a greater quantity of crude petroleum. The present imports of Mexican and South American crude oil come largely from American operators and, while not obtained from United States oil sands, they are the product of American engineering and enterprises. Cooperation in the development of foreign oil fields, through technical assistance and the further investment of American capital, would seem to be a logical conservation measure.

And in 1931, the Bureau of Mines reported through the Secretary of the Interior to the Committee on Commerce of the United States Senate:

> Foreign crude which is being imported into the United States is predominantly the output of American-owned and operated companies.
> * * * these American companies consistently receive the assistance of the United States Government in their efforts to explore and develop oil lands in foreign countries * * *. Discussing foreign oil sources in its first report, the Federal Oil Conservation Board advised "that our companies should vigorously acquire and explore such fields is of importance not only as a source of future supply, but supply under control of our own citizens."
> Having thus encouraged American oil companies to develop foreign oil production, in order that other nations would not control an undue share of the world's oil resources, it might be considered that there has been established an implied obligation to continue in the assistance of American companies engaged in foreign oil production and that the restriction or refusal of admission to the United States of the oil so produced would be contrary to the encouragement which these companies have received while engaged in foreign oil exploration and development work.

The Government was unqualifiedly right in all these appeals for foreign oil development in the hands of Americans. The best recent appraisals of our known natural oil resources agree that they will last a scant decade. You are referred to the report of the geologist Garfias, Ways and Means Hearings, page 1075. This has never been disputed.

American companies which obeyed the official urge to hazard their fortunes in securing for America its share in the oil wealth of the world, desire to continue their work. The believe they have the right to sell their products in the markets they created in the United States. They are as American as any company or person proponent of this tariff. Their American tankers represent a heavy investment and are 21 per cent of all shipping under the American flag.

The last three years have seen an apparent plethora of oil, temporary as always before, caused by too rapid drilling, especially in our mid-continent fields. It is important and a matter of justice to note how the American companies producing oil abroad have comported themselves. To the appeal of the Secretary of Commerce in April, 1931, to restrict domestic production and imports, they responded. Their imports decreased by the end of the year 14¼ per cent, while the domestic production increased 5¾ per cent. Domestic producers meantime brought in the devastating east Texas field, produced without restraint, and the militia had to be mobilized to keep their production in check.

The producers of American oil abroad have done their part. Had the domestic producers—the ostensible proponents of this tariff on oil—done as well, their problem would be solved, our oil would have been conserved in the only rational way, and the price situation would have been regularized accordingly.

It is against this American industry in foreign fields that this tariff is directed. Search as one will for another American tariff aimed at American industry, it will not be found. Ninety per cent of all imported oil is produced by these American companies.

A fair examination of the facts shows that the proposed tariff will, as Senator Tydings has already said—

(1) Cause a deficit rather than create revenue.

(2) Create a privilege for the major companies that need no help.
(3) Raise the price of oil and gasoline to all consumers.
(4) Penalize that branch of the American oil industry that has heeded repeated official admonition and urging to save the day for American living standards by securing oil reserves in other lands.

Mr. Franklin stated yesterday that Mr. Sanders—and that the Congressional Record reported him as saying—that the Ways and Means Committee asked the Treasury Department for a report of what this tax would bring in at 1 cent a gallon on all these products, and that the Treasury experts reported to the committee that it would bring in $44,000,000. I hand you a page of the Congressional Record covering this statement, which is quite different. Mr. Sanders only states that he personally had an opinion from the Treasury Department. The Treasury Department and Secretary Mills have since reiterated to you that the outside return would be $5,000,000.

Senator JONES. What is the number of that page from the Congressional Record?

Mr. HARWOOD. Page 6287.

(The excerpt from the Congressional Record of March 15, 1932, page 6287 thereof, referred to and submitted by the witness, is here printed as follows:)

Mr. NELSON of Maine. As I understand the gentleman, he does not agree with the experts from the Treasury Department?

Mr. SANDERS of Texas. I can answer that yes and no, because they have been on both sides of the creek. I will admit that Mr. Mills stated that it would not produce any revenue. I can also say that I had an opinion from the Treasury Department that it would produce $44,000,000. If you are importing something, you can take a lead pencil and state whether it will produce revenue. Now, I have the figures here of the collections under this bill. It will produce something over $58,000,000. If you will read the testimony before our committee and the evidence submitted on this, you will come to the conclusion, I believe fairly, that it will produce not less than $40,000,000 of revenue.

Mr. HASTINGS. Will the gentleman give us the total, the aggregate of the sums that he says will be produced by the importations?

Mr. SANDERS of Texas. I have already given it, but I will give it again—$102,571,198.72.

Senator CONNALLY. Mr. Harwood, you represent the Pan-American Co., do you not?

Mr. HARWOOD. Yes, sir.

Senator CONNALLY. That is a Standard Oil subsidiary, is it not?

Mr. HARWOOD. Yes, sir; the Standard of Indiana.

Senator CONNALLY. It is all Standard. It is a subsidiary of the Standard of Indiana, and that is one of the Standard chain?

Mr. HARWOOD. Yes.

Senator CONNALLY. You say it is part of the——

Mr. HARWOOD. I do not know that you ought to put in the record, Senator, the word "chain," because my experience with them is that they do a great deal of fighting between themselves.

Senator CONNALLY. Anyway, your company is a subsidiary of the Standard of Indiana?

Mr. HARWOOD. Yes, sir.

Senator CONNALLY. Do you think this tariff would raise the cost of oil and gasoline to the American people $200,000,000?

Mr. HARWOOD. I think it is easy to calculate that, Senator.

Senator CONNALLY. What proportion of the Standard Oil business is in the United States?

Mr. HARWOOD. Of the Standard of Indiana?

Senator CONNALLY. All the Standard companies.

Mr. HARWOOD. I can only speak as to the Pan American Co., of which I am an officer. I would be guessing if I spoke of the Standard of Indiana. I know practically nothing about the other Standard companies. But what you are getting at is the percentage of production in foreign countries?

Senator CONNALLY. Oh, no. Does not the Standard Oil Co. do more business in the United States than any other oil company?

Mr. HARWOOD. As a group?

Senator CONNALLY. Yes.

Mr. HARWOOD. I do not know.

Senator CONNALLY. If that raises the cost of gasoline and oil $200,000,000, would not the Standard Oil Co. make more money out of it than anybody else?

Mr. HARWOOD. I think they would.

Senator CONNALLY. And therefore you as a Standard man are fighting it?

Mr. HARWOOD. I am fighting it as a Pan-American Petroleum and Transport Co. officer.

Senator CONNALLY. How do you reach this figure of $200,000,000?

Mr. HARWOOD. It is on fuel oil and gasoline, Senator. I exclude California, because the freight rates are so heavy that oftentimes the market in California is quite independent of the market east of the Rocky Mountains.

The CHAIRMAN. Will you give the plan by which you arrive at that in your statement?

Mr. HARWOOD. It is based, Senator, on 184,000,000 barrels of fuel oil at an increased price of 1 cent a gallon, and $143,000,000 on gasoline.

Senator CONNALLY. You figure that 3 cents a gallon?

Mr. HARWOOD. One.

Senator CONNALLY. So you figure that the tariff would be 100 per cent effective?

Mr. HARWOOD. Yes, sir; I do.

Senator CONNALLY. If the fields are opened up that are now prorated, in the event of necessity for increased production, would not that have any effect on the price at all?

Mr. HARWOOD. I think it might for a short time, Senator. But the best geological advice that I can get on this east Texas field is that in 18 to 20 months it will be pumping and the crude oil which is derived from the Oklahoma field is from extremely deep production. The wells may cost upwards of $100,000 a well; and I doubt whether either field is going to have cheap oil very long; and the proponents of this bill must have more money for their oil, or else there would be no point to the bill. They believe they will get an increase in crude. If they get an increase in crude, an increase in gasoline follows almost automatically.

Senator CONNALLY. It does not necessarily follow that they would prefer to sell their oil even at the same price than for you to bring it here from abroad and sell your oil?

Mr. HARWOOD. Not if it costs more to produce it than they get for it.

Senator CONNALLY. If they have a well that is shut down and they can open up the valves and let the oil come out, they figure they would get more for their oil than for you to bring in this Venezuelan oil even at the same price that they are getting now?

Mr. HARWOOD. I think there is a limited amount of oil like that that can be produced at a profit.

Senator CONNALLY. What have you to say about the Tariff Commission figures showing a differential between the cost of producing your oil and American oil? Do you deny those findings?

Mr. HARWOOD. Yes; as they were presented. You came into the hearing a little late, did you not, Senator? I read an analysis of it. It is in the transcript. It is rather long.

Senator CONNALLY. There is not a differential of $1.03 on all grades, but only on certain grades, is there not?

Mr. HARWOOD. No; when properly analyzed the Tariff Commission finds no difference at all in the average crude oil produced in the United States as against the average crude oil produced abroad or in Venezuela, after taking into consideration the values of products. In other words, Senator, I am told that in the Kettleman Hills field in California you can put gasoline directly into the tank of your motor car and the engine runs very well on it. In the northern field in Mexico the prolific production there is of oil that is of about the consistency of molasses. In the Kettleman Hills oil you would probably get 90 per cent gasoline out of it. Of the Mexican oil that I refer to you would get 6 per cent gasoline.

Senator CONNALLY. On your oil you only get 9; do you not?

Mr. HARWOOD. You can get a little higher than that through cracking; but cracking is very costly. You have to have a fairly good price or else you can not afford to crack.

Senator BARKLEY. Is there any real relationship between the price of crude oil and the price of gasoline?

Mr. HARWOOD. Yes; it is very distinct.

Senator BARKLEY. When oil was at its lowest price in Texas, several months ago, was the reduction in the price of crude reflected in a proportionate reduction in the price of gasoline?

Mr. HARWOOD. Yes, it was; to the extent that that production was coming from the east Texas field; but these figures are made up from all the different producing fields and 52 cities in the United States.

Senator BARKLEY. The low price of oil was not limited to Texas. In Kentucky our best grade of oil went down to 35 cents a barrel.

Mr. HARWOOD. Quite so.

Senator BARKLEY. And it is an oil that has a high gasoline content. It grades along with certain Pennsylvania oils. Of course, the price has gone up since somewhat, but I wondered to what extent the price of gasoline refined out of these high gasoline oils would be reflected to the public by that ridiculously low price of crude oil.

Mr. HARWOOD. Well, at that time, along about the second quarter of last year, the average price that the refiners were getting for gasoline was only slightly over 2 cents a gallon. There is a chart prepared which shows the curves of gasoline prices and crude oil prices, and they have followed each other for the last nine years, to my own knowledge, excluding State taxes——

Senator BARKLEY. There was no loss involved in selling that gasoline at 2 cents a gallon, was there?

Mr. HARWOOD. Yes, sir.

Senator BARKLEY. How much?

Mr. HARWOOD. I am told that none of the refiners made any money.

Senator BARKLEY. I know. Nobody has made any money recently, anywhere. But what is the average cost of producing a gallon of gasoline?

Mr. HARWOOD. At the refinery?

Senator BARKLEY. Yes, including all the things that go into it.

Mr. HARWOOD. Senator, that is a difficult question to answer, because every crude oil is likely to be different.

Senator BARKLEY. But there ought to be an average, even at that.

Mr. HARWOOD. I should hesitate to venture just what the cost of refining the average barrel of crude oil is. It might be, if it is just a matter of topping, just skimming the gasoline off—it would probably not be over 8 or 9 cents a barrel. If it is cracked, the price may go up to 25 cents a barrel, or more than half a cent a gallon just for the refining operation.

Senator HULL. I wanted to ask some questions. I did not hear much more than a third of what happened.

The CHAIRMAN. If the committee wants to run into Monday, you may ask some questions.

Senator CONNALLY. I think Senator Hull ought to be allowed to interrogate the witness.

Senator HULL. I was the first person to raise the question that if we brought up these matters in this emergency bill we would be delayed. I do not want to take up any great amount of time.

The CHAIRMAN. It was agreed yesterday that we would give this time and it would be divided up; and the witness has kept within his time, which was 30 minutes. If you are going to ask questions we will discard this program entirely.

Senator HULL. I move to strike it out of the bill now, Mr. Chairman, if we are to proceed in this fashion so that we can not get at any of the technical facts when these technicians are on the stand.

The CHAIRMAN. He has made his statement.

Senator CONNALLY. The chairman used a lot of Mr. Franklin's time asking questions. Why should not these gentlemen take some of their time? We gave them an hour and a half extra time.

The CHAIRMAN. Mr. Harwood, Senator Hull wants to ask you some questions. I will say that this program is set aside.

Senator HULL. I will take just as little time, Mr. Chairman, as possible. I do not usually consume much of the time of the committee in an ordinary proceeding.

Are you familiar, Mr. Harwood, with the figures and the bases on which they compute the revenue from this?

Mr. HARWOOD. No, sir; I am not. I tried to deduce it, and I judge, as they have stated that there was no revenue to be expected from crude oil, that it must rest on the gasoline.

Senator HULL. If the full 1 cent a gallon results in an increase of price, what would that amount to to the general public?

Mr. HARWOOD. I do not know. I have not made that calculation.

Senator HULL. You have not gone into those things?

Mr. HARWOOD. No, sir.

Senator HULL. I notice here in the report of the Tariff Commission, in computing the cost in the American mid-continent field that they have down for depletion of leasehold 11 cents a barrel; amortization of the tangible development, 15 cents a barrel; intangible development, 24 cents a barrel. There is 50 cents out of a total cost of $1.04 of actual expenses. That is allocated to depletion of the leasehold and tangible and intangible development. This is nearly 50 per cent of the total cost as computed by the Tariff Commission.

In the Venezuelan field the corresponding allowances are about one-fourth of the cost of producing as computed by the Tariff Commission. For instance, depletion 0.01, tangible development 0.06, intangible development 0.09.

Mr. HARWOOD. The reason for those lower figures in Venezuela is a very large proven production which is used as the divisor in establishing those figures. The proven oil in the Venezuelan field, in Lake Maracaibo alone, is very large. It probably runs between 400,000,000 and 500,000,000 barrels.

Senator HULL. With reference to these three items, I take it that this method of accounting corresponds to the accounting method for purposes of income taxation here in this country; 11 cents for depletion of the leasehold, for instance?

Mr. HARWOOD. I am not sure of that, Senator, because the Treasury Department has certain arbitrary rules that they insist on for handling matters of depletion and that sort of thing, and the companies' accounting practices may vary from the Treasury Department's rules.

Senator HULL. So these figures here, then, do not signify anything in particular as they relate to no profits computed for purposes of taxation. Here is what I mean. I notice that the oil and gas companies return for purposes of income taxation a gross income of $780,000,000 and a net income of $104,000,000. Is it or not true that our depletion allowances in the income tax system are more liberal than any other system of taxation?

Mr. HARWOOD. I do not think that the oil companies would agree with you, Senator, on that. You mean, that they are more liberal?

Senator HULL. Yes.

Mr. HARWOOD. That we are allowed to take higher depletion rates?

Senator HULL. Yes.

Mr. HARWOOD. No. We have disputes all the time with the Treasury Department with respect to depletion rates.

Senator REED. Since the 27½ per cent provision was adopted?

Mr. HARWOOD. I am not familiar with that particular provision, Senator.

Senator HULL. One more question. I notice that since 1925, of petroleum and petroleum products we have exported and sold to other countries something over two and a quarter billion dollars' more than had been brought into this country. In that situation on what sort of theory do you predicate a proposal to ask the Government to vote authority to impose a subsidy of $130,000,000 or $140,000,000?

Mr. HARWOOD. I can not see the reasonableness of it.

Senator HULL. Why should not agriculture and other groups who would be called upon to pay this $130,000,000 or $140,000,000 to this $12,000,000,000 industry come here and make demands, if we are going to parcel out great subsidies of one or two hundred million dollars to the most powerful industries we have in this country?

Mr. HARWOOD. I am given to understand that they are very sympathetic in their opposition to this bill, I can not tell you——

Senator HULL. I am just as sympathetic with one industry in this country as another, and just as anxious in every practicable way to cooperate, but I can not possible see where we would get to if we just baldly and brazenly authorized the levy of $130,000,000 or $140,000,000 in the way of a subsidy, off of the general public, for the most powerful industry, almost, that we have in this country. That is all.

Senator CONNALLY. Just a question. I will be very brief.

The CHAIRMAN. Take all the time you want, Senator.

Senator CONNALLY. Thank you, Mr. Chairman.

You have a cracking plant down in Venezuela, at Oruba?

Mr. HARWOOD. In the Dutch West Indies.

Senator CONNALLY. You crack oil in that refinery and get about 30 per cent out of it?

Mr. HARWOOD. We both crack and top oil in that refinery.

Senator CONNALLY. What percentage do you get?

Mr. HARWOOD. We can get up to 25 per cent for cracking. When the prices are very low it leaves very little profit.

Senator CONNALLY. From the Dutch West Indies do you bring that oil and gas into the United States?

Mr. HARWOOD. Yes, sir.

Senator CONNALLY. A while ago you referred to foreign-produced American oil. Do you call oil that is produced in the Dutch West Indies and in Venezuela American oil?

Mr. HARWOOD. I consider oil which is produced by American companies in Mexico or in Venezuela as very little different from oil produced in Texas.

Senator CONNALLY. You have strange ideas of geography.

Mr. HARWOOD. There is not any difference except that the oil happens to be located there.

Senator CONNALLY. Does it not cost you anything to pay these lease people in Venezuela?

Mr. HARWOOD. Yes; you pay royalty in Venezuela and Mexico.

Senator CONNALLY. The four large companies that bring in this oil are the Pan American Petroleum—that is your company?

Mr. HARWOOD. The Pan American Petroleum and Transport Co.

Senator CONNALLY. That is the old Doheny company, is it not?

Mr. HARWOOD. Yes, sir.

Senator CONNALLY. And who else?

Mr. HARWOOD. The Gulf.

Senator CONNALLY. That is the Mellon interests. Who else?

Mr. HARWOOD. And the Creole, which is the Standard of New Jersey.

Senator CONNALLY. And then the Dutch Shell?

Mr. HARWOOD. Yes, sir.

Senator CONNALLY. The Dutch Shell is a foreign company, is it not?

Mr. HARWOOD. Of course it has American companies also; but I think that the property down there is owned by the foreign company.

Senator CONNALLY. Do you call that American oil?

Mr. HARWOOD. There is only 10 per cent of their oil that is imported; only 10 per cent of the imports into the United States brought in by the Dutch Shell.

Senator CONNALLY. That is not American oil?

Mr. HARWOOD. No, sir.

Senator GORE. Is there any reason why the users of oil should not pay a tariff as well as the users of any other protected article or commodity?

Mr. HARWOOD. That is too involved a question for me to answer intelligently, Senator; I do not know.

Senator GORE. If the tariff is a burden, should not everybody bear it; and if it is a benefit, should not everybody share it?

Mr. HARWOOD. Yes; and along that line it seems to me that a general sales tax would be a much better instrument to use.

Senator GORE. You think you could escape it, do you?

Mr. HARWOOD. No, I don't think I could escape it.

Senator CONNALLY. You are against taxing imports with a tariff, but you are in favor of taxing everybody who buys anything in the domestic market with a general sales tax?

Mr. HARWOOD. Yes.

Senator CONNALLY. Food, clothes and everything else?

Mr. HARWOOD. Yes, if it is evenly distributed.

Senator CONNALLY. You are against taxing joyriding and in favor of taxing food and clothing.

Senator GORE. Undoubtedly the sales tax is one which the Government gets the revenue from, and that is not always true of the tariff.

You submitted a curve here showing prices of crude oil and gasoline. Does that take oil at the refinery?

Mr. HARWOOD. No, sir.

Senator HULL. You were asked about everybody paying the tariff. I wanted to ask you if it is not true that if it were possible to give everybody relatively equal tariff benefits, that would be one proposition——

Mr. HARWOOD. There would be no objection to that at all.

Senator HULL. But with agriculture, for instance, on most of its products, especially wheat, cotton, tobacco, corn, rye, and oats and hog products and all those things, if a tariff were levied of a thouand per cent they would not get any tariff benefits, whereas if one cent a gallon is levied on gasoline and collected, that is an entirely different proposition, is it not?

Mr. HARWOOD. Quite.

Senator GORE. The farmers are enjoying the luxurious protection of 42 cents a bushel on wheat and wheat has been selling at 20 cents a bushel, or did last spring, in my State.

However, I do not want to get into a tariff discussion here. I was simply trying to ascertain Mr. Harwood's views without giving any expressions of my own.

Senator HULL. Just one more question, please. If it were possible for us to levy tariffs in this situation, where all commodity prices are nearly on a bankrupt level, all of them practically alike—if it were possible to levy tariffs to lift all of them up together, on farm products for instance—if all commodities could be lifted up together or in relative proportion, that would be one proposition; but to single out one industry, where the tariff is effective, and leave agricultural prices

hopelessly below the pre-war level, would not that further dislocate our whole economic situation?

Mr. HARWOOD. Yes, sir.

Senator HULL. That is all.

STATEMENT OF MICHAEL O'SHAUGHNESSY, EDITOR AND OWNER OF O'SHAUGHNESSY'S OIL BULLETIN, NEW YORK CITY

Mr. O'SHAUGHNESSY. Realizing the gravity of the national emergency which faces your committee in balancing the Budget, and being mindful of the importance of time as an element, I shall be very brief, avoid tedious statistics which can be made to prove anything or nothing, and address myself directly to the oil tariff item in the House bill as a possible source of revenue and in its broad application to the interests of consumers in the United States as well as the American oil industry itself.

The improperly called excise tax on oil in the House revenue bill, being considered by your committee, is not an excise tax to raise revenue because it will raise no revenue; nor is it an import tax for protection, because the oil industry does not need protection. It is a subsidy from consumers to the oil industry.

The oil tariff advocates are not trying to help your committee to find revenue to balance the Budget in a national crisis, nor are they entitled to ask protection, certainly not a subsidy from consumers to cover their inefficient and wasteful stewardship in handling an irreplaceable natural resource of the country, of inestimable value and basic necessity to all the people.

Eliminating a discussion of the Tariff Commission's figures of comparative domestic and foreign costs of production, which is largely "dust in the eyes," it is a fact that if the American oil industry could curb its greed in overproducing crude oil or increasing its developed supply under ground in huge potential production, which is a constant menace to prices, and if it could eliminate unfair and destructive competition in marketing, that wastes the profits of the business, crude petroleum and petroleum products could be produced as cheap or cheaper in the United States than anywhere else in the world—and that includes Russia.

It is true that present laws, determining the rights to subsoil oil, stimulate the greed of operators to overproduce and our antitrust laws make it difficult for marketers of petroleum products to curb their greed, which results in destructive competition.

But the remedy is certainly not a subsidy from consumers to correct these conditions, but a change in the laws covering subsoil rights to oil, a limited revision of the Federal laws which promote destructive competition and defeat the object for which they were passed, and a development of a state of mind in the oil industry which will induce all oil operators to agree upon measures which work the greatest good to the greatest number in the industry, and to the greatest good of their customers, the people.

While present daily production of crude oil is approximately in balance with demand, unnecessary drilling has created a potential production of from six to eight million barrels per day, while only 2,000,000 barrels per day are required, which is a constant menace to profitable crude prices. By that I mean, gentlemen, if the valves

of the wells controlling the flow of oil in the United States were opened to-day for a very considerable period, the oil wells of the United States would produce from six to eight million barrels of oil a day.

It is also a fact that the oil industry has an unnecessary investment of perhaps a billion dollars in three times as many gasoline service stations as are required to efficiently serve the public, which leads to a waste of around $450,000,000 a year. In such circumstances a subsidy from consumers whose purchasing power is constantly contracting is indefensible.

The change desirable in the laws covering subsoil oil rights would be to compel unit development and operation of single oil pools. The antitrust law might be revised so as to define, as not a restraint of trade, the creation of a monopoly in which all units in the oil industry doing an interstate business would be permitted to cooperate in conducting the business in an economic and efficient manner, subject to Federal supervision.

Gentlemen, a subsidy of 42 cents a barrel on crude, gasoline, and fuel oil in the House bill, should it be finally written into the revenue law, to balance the Budget, will have the eight following results:

The first effect: It will produce no revenue for three reasons: Forty million barrels of crude or fuel oil per year, normally imported and furnished by east coast marketers to shipping, would produce no revenue as through the drawback provision in the House bill, no duty would be collected. It is interesting, however, here to note that, in anticipation of a tariff on fuel oil, five great passenger steamers arriving in New York from Europe this past week took on no fuel oil in New York harbor, having filled their bunkers in European ports for the round trip. Incidentally, it is worth mentioning that our already sorely tried merchant marine would be further crippled by very substantially higher fuel oil prices.

The second result: The eastern seaboard requirements of the thirty-odd million barrels of fuel oil and asphalt now being furnished to eastern seaboard industries from Venezuela would be furnished by California producers, in this country, with no revenue.

And, third, competition for gasoline business is so keen in the eastern seaboard States that the protection of 1 cent a gallon would be used by domestic producers to undersell the Venezuelan product and consequently exclude imports of gasoline. Well, I put it the other way; that would simply mean that they would send gasoline to Europe where it would displace just that much American exports.

The second effect it would have: The subsidy would provide the American oil industry a plausible excuse to unjustifiably raise prices of petroleum products to consumers in defiance of world's supply and demand.

It would raise the price of fuel oil to 50,000,000 consumers in the eastern seaboard States from present prices of around 60 cents a barrel to at least $1.02, and undoubtedly considerably higher, as the only source of supply in the United States of fuel oil for these consumers is in California, and it is questionable whether California oil operators would supply eastern seaboard requirements unless the price were substantially higher than $1.02 a barrel.

Third, the subsidy would be of very temporary benefit only to the American oil industry and would eventually greatly complicate its effort toward stabilization.

South American crude and fuel oil is imported into the United States only to provide the fuel oil and asphalt requirements of eastern seaboard consumers. The American oil industry has never done this business and never can.

Following the discovery of heavy oil in Mexico, an educational campaign of several years was required to induce industry and shipping to change their boiler equipment to use oil instead of coal. When Mexico killed its oil industry by high taxes and unwise interference, the companies who had built up this fuel-oil business, transferred their operations to Venezuela, where a large supply of crude of fuel grade was discovered, adjacent to tidewater. They were simply getting abroad material that they could not get here to supply a business that they had already built up. Those are the plain facts, gentlemen. Nowhere in the United States can a sufficient amount of oil be secured of a similar low grade to that produced in Venezuela to supply the fuel oil and asphalt requirements of the eastern seaboard consumers, except in California. The Pacific Coast States, however, have no supply of coal and their economic life depends upon their supply of low grade oil and gas, which is not sufficient to warrant California operators depleting it to serve eastern seaboard consumers. Should the industry in the Mid-Continent fields attempt to do the eastern seaboard fuel oil business, it would result in an oversupply of gasoline which would demoralize the domestic market and consequently, the market for crude in the United States which, in the end, would be disastrous to the industry and to the consumers of the country.

Should the temporary and artificial prices for petroleum products, which is the only possible excuse for a duty, be maintained, for any length of time, it would make more difficult, if not impossible, the task of restricting crude production to demand, for every artificial raise in price of crude oil in the last eight years in the United States you will find that immediately after the production goes very much higher.

Fourth reason: The subsidy would stimulate the expansion of refining capacity in the Caribbean area, the products of which would displace American petroleum products in foreign markets and drastically reduce the oil exports of the United States, which was the second item of importance in our export trade in 1931. The value of petroleum exports exceeded imports by $177,000,000 in that year.

Fifth, the subsidy, if te nporarily but artifically helpful, would delay the industry in adopting fundamental reforms which are necessary to make the oil business of the country profitable.

Senator WATSON. Do you say it would not raise the price of oil in the United States?

Mr. O'SHAUGHNESSY. I say it would most certainly do it, Senator.

Senator WATSON. It would?

Mr. O'SHAUGHNESSY. Yes.

Senator WATSON. What about imports? Would imports increase, or would they decrease?

Mr. O'SHAUGHNESSY. They would not increase nor decrease. The only object of bringing them in primarily is to furnish a product that can not be furnished in the United States—40,000,000 barrels of bunker oil, about 16,000,000 barrels of asphalt, which I doubt

could be had in the United States, anyway, and 16,000,000 barrels of oil that goes to industry—house heating, and that sort of thing.

Senator WATSON. If it increased the price, would it not increase the imports, and therefore would there not be a revenue derived from it?

Mr. O'SHAUGHNESSY. No, sir; it would not.

Senator WATSON. It would not have any effect at all on imports?

Mr. O'SHAUGHNESSY. It would absolutely exclude fuel oil. Fuel oil would come in under the drawback and go abroad without paying any revenue; 42 cents a barrel tariff would exclude all other. Consequently, an attempt would have to be made to furnish it in this country, and there would be no revenue. Do I make myself clear?

Senator WATSON. I understand you, but I do not believe it.

Senator BINGHAM. You say in one breath it would not affect imports, and in another breath that it would not increase revenue.

Mr. O'SHAUGHNESSY. Just one moment. Let us get this cleared up before we go along. A duty or subsidy of 42 cents a barrel on crude or fuel oil would exclude the oil from this country, and it would go abroad. However, under the drawback provision of the House bill, oil that is brought in here from abroad and delivered to ships pay no duty. Consequently, the Government would get no duty, and the American oil industry would not get that market.

Senator BINGHAM. A few moments ago you said there was no place we could get oil from except Venezuela, because California could not spare any.

Mr. O'SHAUGHNESSY. They should not do it.

Senator GORE. Senator, his arguments contradict each other, and you can not believe them all.

Senator WATSON. I am trying to reconcile them.

Senator GORE. It can not be done.

Mr. O'SHAUGHNESSY. I want to be helpful. I am not arguing the case for any particular interest or any person. I would like to be helpful to the committee.

Senator WATSON. We are just sitting here as a court, in an unbiased way, to get your position.

Mr. O'SHAUGHNESSY. That is my viewpoint. I am not interested in the tariff one way or the other personally.

Sixth, the subsidy would mark a distinctly backward step in the conservation of the petroleum resources of the United States. The use of American crude, more valuable for other purposes, to supply the fuel oil and asphalt requirements of eastern seaboard consumers, would be an indefensible waste against the interests of all the people of the country.

Seventh, the subsidy would jeopardize a very large investment by American citizens in South American oil production, which was encouraged by the United States Government as a move to conserve the petroleum resources of the United States, which is consuming two-thirds of the petroleum products produced in the world, while the country contains but one-fifth of the world's oil reserves. This is likely to become a serious factor in our industrial life in the next decade.

Senator BINGHAM. Do you think this tax would raise the price of oil just as much as the tax proposed?

Mr. O'SHAUGHNESSY. That would be the only reason for it, Senator.

Senator BINGHAM. Then, how would it keep out any of the Venezuelan oil, because it could come in and pay the tariff and sell for just that much more, according to your own statement?

Mr. O'SHAUGHNESSY. They could sell the oil abroad, and make that much more favorable conditions. You would not pay any duty abroad, and here you would have to pay it.

Senator BINGHAM. If it increased the price by the amount of the duty, then the imported oil could afford to pay the duty and get the increased price. Then it would keep coming in just the same.

Mr. O'SHAUGHNESSY. Provided they want to sell it in this market. They will sell it in a market where they do not have to pay any duty.

Senator BINGHAM. Why will they not sell it in this market, if they can get the same price they were getting before?

Mr. O'SHAUGHNESSY. There is only a limited market here, Senator. They certainly would not take oil and sell it here if they could get 42 cents a barrel more for it abroad.

Eighth, the subsidy would unfavorably affect our trade relations with Latin American countries, which offer the most attractive opportunity for trade expansion for this country in this generation.

I presented data to support all of the above statements to the Ways and Means Committee of the House at their public hearings, much of which appears in the printed record of their hearings. To save time, I refer you to that record, or should you desire it, I will file such data in the form of supplementary material to this testimony.

In opposing this indefensible oil subsidy, I feel that I am assisting, rather than embarrassing your committee in the stupendous task of writing a revenue law in a national crisis. Tariff duties and certainly subsidies, are out of place in such a measure.

In conclusion, only a word on just taxes. Paying a very small income tax myself, I should be glad to bear my part of the burden imposed by the 2¼ per cent sales tax, originally proposed in the Ways and Means Committee bill. The rate is not high, and it is an equitably distributed burden. I can not understand why those citizens whose circumstances do not warrant them paying an income tax, would not be glad to pay the sales tax and have that much of a share in helping their country in one of the greatest crises in our history.

Senator CONNALLY. Mr. Chairman, I would like to ask the gentleman a question or two. What is the name of your publication?

Mr. O'SHAUGHNESSY. O'Shaughnessy's Oil Bulletin.

Senator CONNALLY. Have you a copy of it there?

Mr. O'SHAUGHNESSY. I may have, Senator. I have not a full copy. They are mutilated.

Senator CONNALLY. Have you your advertising section there?

Mr. O'SHAUGHNESSY. I have no advertising.

Senator CONNALLY. You publish the South American Oil Reports, do you not?

Mr. O'SHAUGHNESSY. That is the name of the little company, the private company that owns the paper, and I own all the stock.

Senator CONNALLY. You own all the stock of your company. That company prints the South American Oil Reports, is that correct?

Mr. O'SHAUGHNESSY. Yes.

Senator CONNALLY. Your subscribers are principally among the oil importers, are they not?

Mr. O'SHAUGHNESSY. No; all of our companies that are interested in foreign production.

Senator CONNALLY. Foreign production. So, your livelihood is derived from foreign-produced oil?

Mr. O'SHAUGHNESSY. No.

Senator CONNALLY. That is what you said.

Mr. O'SHAUGHNESSY. Very many American oil companies who want to keep track of what is going on abroad, subscribe to the paper.

Senator CONNALLY. I say, you get your revenue and your livelihood from people in this country who are interested in foreign production of oil, do you not?

Mr. O'SHAUGHNESSY. Financially, no; not necessarily.

Senator CONNALLY. Not necessarily? How much.

Mr. O'SHAUGHNESSY. I could not say.

Senator CONNALLY. You derive a large portion of your income from interests who are interested in producing foreign oil.

Mr. O'SHAUGHNESSY. Yes, sir.

Senator CONNALLY. So, naturally, you are interested in keeping that industry going.

Mr. O'SHAUGHNESSY. Senator, let me say that it would not make a particle of difference in my publication whether there is a tariff or not.

Senator CONNALLY. I understand that, but if you get your revenue from these people that are interested in South American oil, you want to help them and cooperate with them. You came down here when the House hearings were on, did you not?

Mr. O'SHAUGHNESSY. Several times.

Senator CONNALLY. You came down at the invitation and at the instance of the Pan American Oil Co., did you not?

Mr. O'SHAUGHNESSY. I did at one time, yes.

Senator CONNALLY. Did they aid you in preparing this paper?

Mr. O'SHAUGHNESSY. Certainly not.

Senator CONNALLY. You did that purely from an altruistic, unselfish standpoint?

Mr. O'SHAUGHNESSY. Senator, I have published that report for eight years, and it is on file there at the library. Nobody has ever seen anything published in that paper until it appeared.

Senator CONNALLY. I understand that; but I am talking about your argument here. Did you get aid in that?

Mr. O'SHAUGHNESSY. Absolutely not.

Senator CONNALLY. But you came at the instance of the Pan American Petroleum Co.?

Mr. O'SHAUGHNESSY. I did not, sir.

Sentor CONNALLY. You said you did a while ago, in the House.

Mr. SHAUGHNESSY. You asked me if at one time I did go to the House at their instance. I said yes. I wrote to Senator Smoot, when this hearing was proposed, and suggested that I had certain information which might be useful to the committee, and asked him if he considered it of service, that I would be glad to appear.

Senator CONNALLY. Did you not testify a minute ago that when the House hearings were on, you came here at the invitation and instigation of the Pan American Petroleum Co.?

Mr. O'SHAUGHNESSY. I did three years ago.

Senator CONNALLY. How about the hearing about two months ago?

Mr. O'SHAUGHNESSY. No, sir. I wrote to the chairman of that committee, and simply told him that if he wanted me to come, I would come.

Senator CONNALLY. Did you come?

Mr. O'SHAUGHNESSY. I did; at nobody's instigation whatever.

Senator CONNALLY. Three years ago, however, you were here at the instance of the Pan American Petroleum Co.?

Mr. O'SHAUGHNESSY. No; not at their instance, Senator.

Senator CONNALLY. You said so, did you not?

Mr. O'SHAUGHNESSY. Well, then, I want to correct it.

Senator CONNALLY. All right.

Mr. O'SHAUGHNESSY. Not at the instance of the Pan American Co. at all. Mr. Walker simply suggested the process by which I could appear. I was entirely unfamiliar with these hearings. I never knew how to get there, or what the process was, and he simply said, "I will put your name down as a witness." That is all he had to do. It was not at anybody's instigation. Let me be clear about that.

Senator CONNALLY. I hope you will.

Mr. O'SHAUGHNESSY. I do not want the impression to get abroad that I am here arguing for anybody. I am arguing simply facts, or trying to give the committee facts.

Senator CONNALLY. Then you want to correct your statement that you came here at the instance and invitation of the Pan American Petroleum Co.?

Mr. O'SHAUGHNESSY. I do, most assuredly.

Senator CONNALLY. Why did you say that, if it is incorrect?

Mr. O'SHAUGHNESSY. You are trying to confuse me into saying what I do not mean.

Senator CONNALLY. No. I did not suggest your answer. I asked you if you did not come here at the instigation and invitation of the Pan American Petroleum Co., and you said yes.

Mr. O'SHAUGHNESSY. I wish to correct it, and I hope you will make the correction in the record.

Senator CONNALLY. It will be in the record. Who is Mr. Walker, that you conferred with about coming down here?

Mr. O'SHAUGHNESSY. Vice president of the Pan American Petroleum Co.

Senator CONNALLY. You are pretty close to him?

Mr. O'SHAUGHNESSY. No, sir. I am not any closer to him than anybody else. I see him perhaps twice a year, if I am lucky.

Senator REED. Can we not assume that the companies that do not want the duty have asked witnesses to come and speak against it, and the companies that do want the duty have asked witnesses to come and speak for it?

Senator CONNALLY. Certainly. That is what I assume.

Senator REED. I do not see that that is a sin.

Senator CONNALLY. I did not say it was a sin. I simply want the facts. He has appeared here from an unselfish viewpoint, with no interest in it.

Mr. O'SHAUGHNESSY. I am rather sensitive about that.

Senator CONNALLY. I am not attacking you. You have a perfect right to come here.

Mr. O'SHAUGHNESSY. I have tried to be fair about everything I have printed in the paper, and I do not want it to appear that I am appearing here biased, for or against any proposition.

Senator GORE. I want to ask one question. You stated that six large ships recently coming into our ports had filled their bunkers with oil abroad for the return trip.

Mr. O'SHAUGHNESSY. Yes.

Senator GORE. What was the point in that?

Mr. O'SHAUGHNESSY. Simply that this agitation about the tariff has alarmed the shipping companies in this way, that they are beginning to make their arrangements for their bunker oil so that if the tariff goes on, they will have their arrangements all made.

Senator GORE. Do you mean that any of those concerns thought this tariff act would pass before they could get over here and get oil and get out?

Mr. O'SHAUGHNESSY. No; but, you see, they make their arrangements quite a little in advance, and as long as it is in the wind——

Senator GORE. Is there not a drawback on this bunker oil?

Mr. O'SHAUGHNESSY. Yes; but for a long time that has been a very much mooted question, and the language is so ambiguous that it is very difficult to tell whether there is or is not.

Senator GORE. Then, the harm has already been done, and we might as well go ahead——

Mr. O'SHAUGHNESSY. To the extent of six ships; not to the extent of 40,000,000 barrels of oil a year.

Senator GORE. That would go out under the drawback provision now. We know that.

Mr. O'SHAUGHNESSY. If that is the construction of the law.

Senator GORE. You want the committee to believe that six ships thought this bill might pass, or some other contingency might occur, and that they could not get their bunker oil on this trip going out now?

Mr. O'SHAUGHNESSY. No. I do not mean that at all. I simply stated the fact. I made no inferences at all. I simply stated the fact that six large ships came in and took all of their bunker oil supply from abroad.

Senator GORE. I thought your implication was that it was due to this bill.

Mr. O'SHAUGHNESSY. Only as an interesting incident bearing on the whole subject.

The CHAIRMAN. Are you through?

Mr. O'SHAUGHNESSY. Yes, Senator.

STATEMENT OF JOSEPH K. MILLIKEN, MOUNT HOPE FINISHING CO., NORTH DIGHTON, MASS.

Mr. MILLIKEN. Mr. Chairman, and gentlemen of the committee, my name is Joseph K. Milliken. I am treasurer of the Mount Hope Finishing Co., North Dighton, Mass. I speak in behalf of a group of employers engaged in the business of finishing cotton goods. As I sat here listening to the discussion on the proposed oil tariff, it seemed to me that there was danger that these great industries and the wage earners engaged therein, who have most at stake, might be

overlooked and that the hearing might assume the form of a contest between the importing and exporting oil companies. The group that I speak for has no interest in such a contest. They are the plants engaged in an old-established industry which is greatly dependent upon fuel oil, and which would be seriously affected by the increase of 1 cent a gallon.

I am appearing in the interest of the following group of bleachers, dyers, printers, and finishers of cotton textiles who are users of fuel oil to generate steam for power and for heat in the various processes of scouring, bleaching, dyeing, drying, printing, and finishing cloth:

The Apponaug Co., Apponaug, R. I.
Fall River Bleachery, Fall River, Mass.
Harodite Finishing Co., North Dighton, Mass.
Mount Hope Finishing Co., North Dighton, Mass.
Pacific Mills, Lawrence, Mass.
Providence Dye, Bleach & Calender Co., Providence, R. I.
Sayles Finishing Plants (Inc.), Saylesville, R. I.
American Printing Co., Fall River, Mass.

Other textile plants using fuel oil, as disclosed by the records of the National Association of Finishers of Textile Fabrics, are the following:

COTTON FINISHERS

Algonquin Printing Co., Fall River, Mass.
Cranston Print Works, Cranston, R. I.
Eddystone, Manufacturing Co., Eddystone, Pa.
Farwell Bleachery, Lawrence, Mass.
Imperial Printing & Finishing Co., Providence, R. I.
Lincoln Bleachery & Dye Works, Longsdale, R. I.
Slater Co. (Inc.), Webster, Mass.
Standard Bleachery & Printing Co., Carlton Hill, N. J.
Manhattan Print Works (Waldrich Bleachery), Delawanna, N. J.
Greenwich Bleachery, East Greenwich, R. I.
Great Falls Bleachery & Dye Works, Somersworth, N. H.

SILK FINISHERS

Cheney Bros., South Manchester, Conn.
Cretona Print & Dye Works, Clifton, N. J.
International Print & Dye Works, Paterson, N. J.
National Silk Dyeing Co., Paterson, N. J.
United Piece Dye Works, Lodi, N. J.

The work in these plants consists in preparing for use and sale the gray cloth as it comes from the loom, converting it by bleaching, dyeing, printing, and finishing into the form of finished fabric that is used for shirts, dresses, linings, underwear, draperies, and all the other manifold uses of finished textiles.

The textile finishing industry has found fuel oil a desirable form of fuel.

First. It is cleaner than coal. It avoids the dirt from the handling and storing of coal and the removal of ashes.

Second. It is easier to store than coal.

Third. It is free from the danger of spontaneous combusiton that menaces a large storage of coal.

Fourth. For a steam demand that varies widely from day to day and from hour to hour during the day it is easier to start up more fires with as needed and take off boilers as not needed.

Fifth. Along the Atlantic Seaboard the imported fuel oil has been available at prices more advantageous than coal.

From the figures supplied by the eight finishing plants first named above I have prepared a table which shows:

First. The total amount of fuel oil purchased by these plants in 1930 and 1931.

Second. The number of wage earners in these plants in 1930 and 1931.

Third. The total wages paid in 1930 and 1931.

Fourth. The proportion of cost of fuel oil to plant wages in 1930 and 1931.

Fifth. The cost of alterations that would be required to change from fuel oil to coal.

Sixth. The value of material that would be scrapped by a change from fuel oil to coal.

The table shows that the eight finishing plants used in 1930, 57,560,993 gallons fuel oil; in 1931, 56,025,725 gallons fuel oil.

An increase in cost of 1 cent a gallon means an added cost to the group of $560,257 per annum.

In 1931 these plants report a total of 10,303 wage earners with total plant wages of $12,293,056.

The cost of the fuel oil purchased in 1931, even at the low prices prevailing, represents 12.15 per cent of the plant wages.

If the cost of fuel oil is increased $560,000 to these plants, it means an increased cost of fuel oil per employee of $54.38 per annum, almost 5 per cent of the average plant wage.

With the present idle capacity in the finishing industry and the keen competition for each order—this increased cost, if it comes, can not be passed on to the buyer; it must be absorbed by the industry to show itself later in efforts of management to balance their budgets by further reductions in wages. There may be those managements who are already showing losses who will see in the mounting costs of their fuel the final argument that will prompt them to liquidate their business and discharge their employees altogether. Let us assume, however, that the plant owners and management, recognizing the misery that results to their employees and the community by a liquidation of their business, do the obvious thing and try to save the amount of the tax; where else can they get it except out of the pay envelope of the workingman? If that happens we are putting a tax directly on the workingman twice that contemplated in the sales tax.

The table shows the estimated cost to change back to coal of $1,229,900 for seven plants. While some of these companies have the money to make this plant expenditure to change back to coal, others with old boiler plants have not; they will have to make almost a complete new power plant installation to provide suitable boilers, bunkers for coal storage, automatic stokers or pulverizers, and all that goes with a modern efficient coal-fired plant.

The textile finishers have installed their oil-burning equipment and the storage facilities that go with it in the firm belief that the established policy of the Government of no embargo or tariffs on fuels is wise and would be continued. They believe it is in the best interest of their employees, their stockholders, their customers, and the ultimate consumer that the present Congress shall follow the established national policy of admitting foreign fuels free of any tax.

They believe, furthermore, that with the proposed duty on foreign fuel oil the price will mount so rapidly that it will only be a short time when the industry, that is, such of it as survives, will be back again using coal, and the revenue to be derived from imports of fuel oil will be positively negligible.

(Mr. Milliken submitted the following tables:)

Plant No.	Fuel oil purchased		Number wage earners in plant		Total plant wages paid	
	1930	1931	1930	1931	1930	1931
	Gallons	*Gallons*				
1	3,350,110	2,855,920	607	542	$930,448	$813,720
2	2,328,144	2,556,952	477	461	398,998	381,210
3	360,234	352,838	91	88	123,730	107,817
4	7,444,810	7,890,501	844	803	999,378	1,017,022
5	18,705,979	17,672,593	4,929	4,409	5,208,374	5,125,529
6	2,004,273	2,046,688	280	268	409,988	386,698
7	12,459,143	12,315,621	1,547	1,572	2,317,407	2,272,752
8	10,716,300	10,338,612	2,200	2,100	2,325,000	2,188,000
Total	57,560,993	56,025,725	10,975	10,303	12,800,323	12,293,064

Plant No.	Proportion of total cost of fuel oil (including cost of transportation to plant) to total of plant wages (not including administrative salaries)		Estimated expense of alterations that would be required to enable plant now using oil as fuel, to use coal instead	Book value of equipment that would have to be scrapped if were equipped to use coal instead of oil
	1930	1931		
	Per cent	*Per cent*		
1	10	9	$200,000	
2	10.77	12.39		
3	9.7	8.6	3,000	$6,000
4	21.7	18.7	250,000	120,000
5	11	10	173,000	
6	18.5	15.9	50,000	15,000
7	14	13.1	103,900	32,674
8	12.5	9.5	450,000	
Total	[1] 13.52	[1] 12.15	[2] 1,229,900	[3] 173,674

[1] Average.
[2] Estimate for 7 plants.
[3] Estimate for 4 plants.

Average plant wages paid: 1930, $1,166.31; 1931, $1,193.15

Plant No.	Name	Location
1	The Apponaug Co.	Apponaug, R. I.
2	Fall River Bleachery	Fall River, Mass.
3	Harodite Finishing Co.	North Dighton, Mass.
4	Mount Hope Finishing Co.	Do.
5	Pacific Mills	Lawrence, Mass.
6	Providence D. B. & C. Co.	Providence, R. I.
7	Sayles Finishing Plants (Inc.)	Saylesville, R. I.
8	American Printing Co.	Fall River, Mass.

QUESTIONNAIRE RE PROPOSED TARIFF ON FUEL OIL

1. Name of company: Taunton Municipal Lighting Plant.
2. Location of plants where oil is used as fuel: West Water Street.
3. Number of gallons of fuel oil purchased by your company:
   (*a*) In 1930, 3,667,146.
   (*b*) In 1931, 3,960,390.
4. Number of wage earners employed in plant:
   (*a*) In 1930, 98.
   (*b*) In 1931, 98.
5. Total plant wages paid:
   (*a*) In 1930, $154,207.59.
   (*b*) In 1931, $163,522.89.
6. Proportion of total cost of fuel oil (including cost of transportation to plant) to total of plant wages (not including administrative salaries):
   (*a*) In 1930, 60.84 per cent.
   (*b*) In 1931, 60.61 per cent.
7. Estimated expense of alterations that would be required to enable your plant now using oil as fuel, to use coal instead: Approximately $300,000.
8. Book value of equipment that would have to be scrapped if your plant were to be equipped to use coal instead of oil: Approximately $50,000.

TAUNTON MUNICIPAL LIGHTING PLANT,
By CHESTER F. BUCKLEY, *Assistant Manager.*

APRIL 2, 1932.

Mr. MILLIKEN. I have a brief statement showing a different type of user of fuel oil in our locality in Massachusetts. I refer to the Taunton Municipal Lighting Plant, located in Taunton, Mass. In 1930 this municipal lighting plant burned 3,367,000 gallons of fuel oil. In 1931 it used 3,960,000 gallons of fuel oil. They estimate their expense of alterations that would be required to enable this plant to change back to burning coal at $300,000, and they estimate the book value of the equipment that would require to be scrapped at $50,000.

I have here a more complete brief that has been prepared in the interest of this group of employers that I referred to, that I would like to put into the record.

Senator WATSON. Very well. We are very much obliged to you.

Senator CONNALLY. Do you favor taking the tariff off cotton goods?

Mr. MILLIKEN. I come from a part of the country that is supposed to have profited, and profited a good deal, by high tariffs, Senator. I would like to say, in answer, that the only end of the tariff that I am competent to speak of at all is the cotton manufacturing end to which you have referred, and I have seen the manufacturer of cotton goods in New England, which, as you know, is a very old established industry, drying up and drying up and drying up, and with plants in liquidation. I have seen the cities of Fall River——

Senator CONNALLY. We have all seen that, but do you favor taking the tariff off cotton goods?

Mr. MILLIKEN. I do not think taking the tariff off cotton goods would make any great amount of difference.

Senator CONNALLY. Therefore, you do not mind if we take it all off?

Mr. MILLIKEN. I should say to you that I am not a cotton mill manufacturer. Our business is supplying the service on these cotton goods after they are made and off the loom. But, so far as our business is concerned, we do not to-day set any store by the value of the

high protective tariff that there is on cotton goods, because there is so much competition right here at home that the profit is all gone, anyhow.

Senator CONNALLY. Then you think it would be all right to take the tariff off cotton?

Mr. MILLIKEN. So far as we are concerned in our business; and so far as I am concerned, looking at it from the standpoint of our locality——

Senator CONNALLY. Look at it from the national viewpoint. Do not look at it from your narrow viewpoint.

Mr. MILLIKEN. I am not in love with a high protective tariff on cotton goods.

Senator CONNALLY. Do you favor repealing the cotton goods tariff?

Mr. MILLIKEN. Whether it would be better——

Senator CONNALLY. I did not ask you that.

Mr. MILLIKEN. I am not competent to express a definite opinion on just how far that should be reduced.

Senator CONNALLY. And yet you come here professing to express an opinion on a tariff on oil, that you say you know nothing about.

Mr. MILLIKEN. I do not see a great deal of similarity between the problem represented by a protective tariff on cotton textiles, and a protective tariff on fuel, any more than I see the connection between these two forms of tariff and the protective tariff on the products of coal tar that are used for dyestuffs in this country. I think the only appearance I have ever made down here was in the interest of the manufacturers of dyestuffs in America, to help put on a protective tariff, believing that that was a good thing.

Senator CONNALLY. You favored that, did you not?

Mr. MILLIKEN. Yes.

Senator CONNALLY. You are against the tariff on oil. That is all.

Senator GORE. Do you think there is any argument against the tariff on oil that does not apply equally to the tariff on everything else?

Mr. MILLIKEN. Yes, sir; I would like to say specifically, as applied to our industry, as I set it out in our brief——

Senator GORE. I did not want to lead you into that.

Senator REED. There is no use asking him questions unless you are going to give him a chance to answer them.

Senator GORE. If it is printed in the record, it will be available.

(Mr. Milliken submitted the following brief:)

BRIEF IN OPPOSITION TO PROPOSED TAX ON IMPORTED PETROLEUM AND ITS PRODUCTS IN BEHALF OF MOUNT HOPE FINISHING CO., PACIFIC MILLS, SAYLOS FINISHING PLANTS, AMERICAN PRINT WORKS, WHITTENTON MANUFACTURING CO., FALL RIVER BLEACHERY, PROVIDENCE DYEING, BLEACHING & CALENDERING CO., GREENWICH BLEACHERY, CRANSTON PRINT WORKS, THE APPONAUG CO., HARODITE FINISHING CO., (INC.), POOLE SILVER CO., REED & BARTON, TAUNTON MUNICIPAL LIGHTING PLANT.

(Presented by Mark M. Herblit of Boston, Mass.)

THE WIDESPREAD PROTEST AGAINST THE OIL TARIFF

I. Public opinion aroused.
II. The Avowed object of the legislation is revenue only.
III. Why a protective tariff is out of place in a bill for revenue only.
A. The objects of a protective tariff differ from these of a bill for revenue only.

B. The investigations which are necessary to supply the facts as a basis for intelligent consideration of a protective tariff differ greatly from those required in a revenue bill.
C. Permitting protective tariff proposals as part of revenue bills will unsettle tariff conditions, and will seriously affect business and industry.
IV. Our traditional policy is against a tariff on oil.
A. Our domestic source of supply is limited.
B. The necessity for conservation of our limited domestic supply of petroleum has been recognized and adopted as a settled policy.
C. Oil is a giant industry, whose exports far exceed the imports—it lacks the basis for the application of a protective tariff.
V. The proposed tariff will produce no revenue to the Government but on the contrary would result in a positive and direct deficit.
A. The tariff on crude petroleum and on fuel oil would be in effect an embargo and would produce no revenue.
B. Little, if any, revenue can be expected from the levy on gasoline.
C. The increase in price which would inevitably follow the enactment of the proposed tariff would result in a direct loss and a positive deficit to the Government.
VI. If tariff legislation is a remedy for depression, many other industries are equally entitled to consideration.
VII. Who will benefit?
A. The big oil companies will be the real beneficiaries.
B. Very little, if any, benefit will result from it to the small independent oil producer.
VIII. Who will be damaged by the increase in price induced by the proposed tariff?
A. The increase of one cent a gallon in the price of fuel oil means an increase of about 70 per cent in fuel costs and such an unusual and exorbitant jump will seriously affect industry and the wage earners.
B. It will seriously affect our shipping and fisheries.
C. It will cast a direct burden on our citizens by increasing the cost of roads, construction, and that of operating our municipal lighting plants.
D. More than 750,000 home owners will be affected.
E. It will be detrimental to the farmers.
IX. The proposed tax will reduce our exports to Venezuela.
X. Summary and conclusion.

I. PUBLIC OPINION AROUSED

The proposal in the emergency revenue bill now before the Senate Finance Committee to place a tariff of one cent a gallon on imported crude petroleum and its products has evoked vigorous protest in practically all parts of the country except only in Oklahoma, Texas, Kansas, and California. Rarely has any legislative proposal aroused such widespread opposition. Newspaper editorials and articles, running into the hundreds and appearing in publications, ranging from the important metropolitan dailies to weekly farm magazines, have emphatically given voice to an aroused public opinion.

An examination of several hundred such editorials discloses that this protest comes alike from Democrats and Republicans. Nor does this intense opposition emanate from any one class. It seems apparent that farmers, wage-earners, home owners, manufacturers, business men, fishermen and maritime interests are all agitated by this proposed tariff. The inclusion of this oil tariff as part of a revenue bill presents features which are of prime importance to every American.

II. THE AVOWED OBJECT OF THE LEGISLATION IS REVENUE ONLY

That the sole purpose of the bill was to meet the urgent necessity for raising revenue to meet the deficit in the Budget can not be doubted. This is clearly established not only by the messages of the President, but also by the avowals in Congress of the Speaker of the House and the leaders of both parties. The entire record as to the origin and as to the expressed purpose of the legislation shows conclusively that the bill was not intended and does not purport to be a tariff bill, but purely and simply a bill to raise revenue, called forth by a serious national emergency. The legislation was approached by both parties without party spirit and with the high patriotic motive of accomplishing promptly an important result which the country sorely needs. It is in such a setting and under this guise that the proposal for a protective tariff on oil is presented.

III. WHY A PROTECTIVE TARIFF IS OUT OF PLACE IN A BILL FOR REVENUE ONLY

This inclusion of protective tariff legislation in a bill designed merely to raise revenue runs counter to sound principles of legislative procedure as well as to the established precedents and settled principles and traditions of Congress. The reasons for those principles and traditions are not far to seek.

A. The objects of a protective tariff differ from those of a bill for revenue only. The aim and purpose of an internal revenue bill is to provide the Government with necessary funds. Beyond providing this, an internal revenue bill has no object. President McKinley, in his introduction to Protection and Reciprocity Illustrated, said that a revenue bill "accomplishes but a single purpose—that of raising revenue; it has no other mission."

A protective tariff measure, on the other hand, has an entirely different object. That its major problem is not to provide revenue for the Government has been recognized by economists from the days of Adam Smith to the present, and by our statesmen since the founding of our Republic. Our very first tariff act, that of 1789, was in pursuance of Washington's message advising "the expediency of giving effectual encouragement—to agriculture, commerce, and manufactures." In Washington's second inaugural message, he speaks of giving "such encouragement to our own navigation as will render our commerce and agriculture less dependent upon foreign bottoms." Not only these messages, but the express words of our first tariff act shows that it was for "the encouragement and protection of manufactures." Professor Taussig in his Tariff History of the United States, seventh edition, at page 14, says, "The first tariff act, that of 1789, was protective in intention and spirit." Madison urged it for that purpose and when he later became President, he stated in his message to Congress on February 20, 1815, that a protective tariff was a "means to preserve and promote the manufactures that have sprung into existence." The first platform of the Republican Party (1860) urged a protective tariff "to encourage the development of the industrial interests of the country."

Our Tariff Commission, for instance, concerns itself not with the amount of revenue which the Government needs, but with the condition of business, industry, labor, domestic markets, foreign markets, costs of production, foreign exchange, the state of the allied industries and competing industries, reciprocity with foreign nations and many other considerations. Thus, from the beginning of our national existence until the present time, it has been recognized that a tariff measure concerns itself with numerous complicated problems that are foreign to the purposes of a bill for revenue only.

B. The investigations which are necessary to supply the facts as a basis for intelligent consideration of a protective tariff differ greatly from those required in a revenue bill.

The soundness of the principle and the wisdom of the precedents set by Congress in separating these two different kinds of legislation appears also when we consider the modus operandi which is required for intelligent tariff legislation, as distinguished from revenue legislation. The extent and variety of the considerations that must be borne in mind in enacting intelligent tariff legislation are almost without limit. These considerations involve practically the whole gamut of our domestic economic structure and of our relations with foreign powers. It has been shown again and again that a tariff on one article affects not only the producers of that article and the wage earners engaged in that industry, but the consumers, allied industries, foreign markets, domestic markets, and many other important and complicated considerations. It is, therefore, necessary that laborious and painstaking investigations be made to ascertain the facts as to the commodity on which a tariff is sought and as to the numerous interrelations with other commodities in order that an intelligent conclusion may be arrived at as to the effect of a proposed tariff on such a commodity.

There was a time, during the nineteenth century, when we had what Thomas Walker Page refers to as the era of "tariff making without method." But it is to be hoped that this haphazard era is behind us. Legislators and economists recognize that in the fixing of tariff duties, whether by executive order, or by a commission, or by Congress itself, a great deal of consideration, research and effort, an unusual amount of thought is necessarily involved and an extraordinary length of time is consumed. All tariff experts agree that a great volume of information much of a highly technical character, is absolutely essential for intelligent tariff legislation. That is what led to the creation of the permanent Tariff Commission. The history of past tariff legislation in Congress proves that such legislation has consumed many months and, at that, it has been said that our legislators have

not had sufficient time to study carefully all the problems involved. (See Taussig on Free Trade, Tariff and Reciprocity, pp. 184 and 185.) The experience of Congress shows that tariff legislation can not and should not be hammered out in the stress of an emergency which requires, above all, prompt action. A disinterested consideration of the clear distinction between the aims and purposes of the two kinds of legislation, of the necessary difference in the method of approach to each by reason of the wide divergence in the considerations and effects of each, thus convinces one of the wisdom of separating these two kinds of legislation.

C. Permitting protective tariff proposals as part of revenue bills will unsettle tariff conditions, and will seriously affect business and industry.

There is a further consideration of policy which should prohibit the merging of these two kinds of legislation. Of necessity, revenue bills frequently come before Congress. On the other hand, tariff measures have been before Congress at comparatively rarer intervals. During the 35-year period since 1897, there have been but four tariffs—1909, 1913, 1922, and 1928. The effect upon business and industry of the uncertainty caused by the consideration of tariff measures has long been recognized and has been brought home effectively to Congress. As far back as a hundred years ago, in February, 1832, Henry Clay, speaking in the United States Senate, said that proposals for tariff changes create "alarm and insecurity" and he added that, with respect to tariff, "Nothing is more prejudicial to the great interests of a nation than unsettled and varying policy." The profound effect of unsettled tariff conditions can not be doubted.

The principle and policy of separation, therefore, finds another important reason for, if we allow tariff measures to be included in revenue bills, business, industry and labor will be in an almost constant state of uncertainty by reason of the frequency with which revenue bills necessarily come before Congress, and each would offer an opportunity for proposed tariff legislation. Moreover, the pulling and hauling which a tariff measure involves consumes so much time of Congress that, if such legislation is to be a part of every revenue measure, our already overburdened legislators will find their tasks almost unbearable and, being only human, they will be necessarily unable to devote to other legislation the same amount of energy and thought as at present. There can, therefore, be no doubt of the wisdom of our established policy and that the inclusion of the oil tariff in a bill for revenue only, would set a bad precedent.

IV. OUR TRADITIONAL POLICY IS AGAINST A TARIFF ON OIL

Aside from these important considerations which apply to any tariff measure in a bill for revenue only, there is a serious question of policy with respect to a tariff on oil in particular. Even if the oil tariff were presented in a proper bill, a consideration of the merits of such a proposed tariff shows that it runs counter to our settled policy.

A. Our domestic source of supply is limited.

After a study of the probable world supply of underground petroleum, geologists have estimated that we have within our borders only about 18 per cent of the estimated world underground supply. This estimate is a most important consideration when we find that the United States produces about 68 per cent of the total of the world production of petroleum and consumes about 64 per cent. There is no escape from the conclusion, in view of this rate of consumption, that our supply will be exhausted within the not far distant future, unless measures to conserve the same are promptly inaugurated. The Federal Oil Conservation Board in its report of January, 1928, says at page 5:

"Neither the high rate of domestic consumption nor the excess of exports over imports would be disquieting if the petroleum resources of the United States bore anything like the same ratio to the world's resources as the production ratio of 68 per cent. According to the present opinion of our best petroleum geologists, our total resources, instead of being 68 per cent of those of the world, are not more than 18 per cent. If our petroleum reserves are to be drawn upon at a faster rate than those of all other countries, our resources should be several times larger."

Those entitled to speak on the subject have estimated that at our present rate of consumption our domestic supply will last a scant 10 years. In this respect the situation of oil differs from that of coal and iron. The report of the Federal Oil Conservation Board, September, 1926, on page 5 states:

"There must be natural concern over our future supply of oil because of the manifest dependence of so large a part of our industrial life, national defense, and domestic comfort upon continued adequate supplies of lubricating oils for all

machinery and fuel for automobile engines. Our future resources in coal and iron have been so determined by geological evidence and exploration that we can measure our proved supplies by centuries."

It does not take an expert to recognize the vast difference between an agricultural product like wheat and cotton, which can be reproduced year in and year out, and a natural product like petroleum, which is irreplaceable and the supply of which is so limited.

B. The necessity for conservation of our limited domestic supply of petroleum has been recognized and adopted as a settled policy.

It is these urgent considerations of stubborn facts that have forced upon our statesmen and economists the policy of conservation with respect to petroleum. The Federal Oil Conservation Board, of which President Hoover, then Secretary of Commerce, was a member, says in its report of September, 1926, at page 12:

"The fields of Mexico and South America are of large yield and much promising geologic oil structure is as yet undrilled. That our companies should vigorously acquire and exploit such fields is of first importance, not only a source of future supply, but supply under control of our own citizens."

In its report of January, 1928, the board says at page 6:

"The depletion rate of our own resources can be brought more into accord with that of foreign resources only in one way—by importing a greater quantity of crude petroleum. The present imports of Mexican and South American crude oil come largely from American operators and, while not obtained from United States oil sands, they are the product of American engineering and enterprise. Cooperation in the development of foreign oil fields, through technical assistance and the further investment of American capital, would seem to be a logical conservation measure."

This policy has been adopted by both of our political parties.

The Democratic Party, in its platform for 1920 says:

"The Democratic Party recognizes the importance of the acquisition by Americans of additional sources of petroleum and other minerals, and declares that such acquisition should both at home and abroad, be fostered and encouraged."

The Republican Party has also recognized the wisdom of conserving our limited supply of petroleum by permitting imports duty-free. The Republican Handbook for 1928 specifically calls attention to crude petroleum, gasoline and lubricating oil "which are on the free list"; and thus impliedly promised that they will continue to be on the free list.

This policy has been adopted not only by both of the political parties, but by Congress. Congress considered at great length proposals for a tariff on oil in connection with the tariff bills of 19[illegible] in 1930 on a proposal for an embargo. It had availa[illegible] the Tariff Commission, by the Bureau of Min[illegible]encies. It gave lengthy hearings to delega[illegible]d those representing business and indu[illegible]rings, study, and research were acco[illegible]ubject on e[illegible]ca[illegible] each case Congress, in pursuanc[illegible]ed policy [illegible]oil on[illegible]t among the other irreplaceab[illegible]hose [illegible]c supp[illegible] limited.

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C. Oil is a gia[illegible]try, whos[illegible] lacks the basis for the [illegible]on of a pr[illegible]

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Another important fact be[illegible]rative rate of production by the various oil produ[illegible]Commission reports that in 1931 the United States pro[illegible]0 per cent of the entire

world production." It may therefore be said without fear of contradiction that the oil industry of our country has far outgrown the infant stage.

The historical basis for a protective tariff, i. e., the necessity of fostering a struggling infant industry, is entirely absent. The statement of Madison, with respect to our first tariff measure, aptly shows the historical distinction. He said:

"There may be some manufactures which one being formed can advance toward perfection without adventitious aid, while others for want of the fostering aid of the Government will be unable to go on at all."

Our oil industry has certainly advanced to a predominant position "without adventitious aid." Moreover, what Professor Taussig said in his Tariff History of the United States, seventh edition, at page 378, is also strongly applicable to the proposed oil tariff:

"There can be nothing in the nature of protection to young industries—no prospect of ultimate cheapening through stimulus to improved domestic production Even the 'true' principle of equalized cost of production could not be applied to a flourishing export industry."

The oil industry lacks the essential grounds for tariff protection: (*a*) It is not an infant industry; (*b*) the limited supply affords no hope of "ultimate cheapening" of oil through production; and (*c*) it is an industry whose exports are immensely in excess of the imports. In view of this lack of the essential grounds as a basis for a protective tariff, it seems clear that the enactment of this tariff on oil would inaugurate a new policy of protection. There is thus a further important consideration which should deter the enactment of a tariff on oil. In view of the many recognized principles and settled policies to which the proposed tariff runs counter, the proponents certainly bear a heavy burden when they undertake to persuade Congress to enact that proposal into law as part of the emergency revenue bill.

V. THE PROPOSED TARIFF WILL PRODUCE NO REVENUE TO THE GOVERNMENT BUT ON THE CONTRARY WOULD RESULT IN A POSITIVE AND DIRECT DEFICIT

A. The tariff on crude petroleum and on fuel oil would be in effect an embargo and would produce no revenue.

This inclusion of an oil tariff as part of a revenue bill ought at least to have in its favor a reasonable basis for expectation that it will produce revenue, but a consideration of the facts and of the conclusions therefrom convincingly shows that it lacks even that saving grace. The proposed tariff has three main divisions: (*a*) Crude petroleum, (*b*) fuel oil, and (*c*) gasoline. The Ways and Means Committee inquired of Secretary Mills whether a tariff of 1 cent on crude petroleum, 1 cent on fuel oil, and 2 cents on gasoline would produce any revenue. His reply was as follows:

"In the opinion of experts of the Department of Commerce, such a tax would yield no revenue, since the levy which would be added to the import price exceeds the margin of advantage on which oil is imported to this country, and therefore would exclude the products affected."

Thus, experts hold, and it seems clear that 1 cent a gallon on crude petroleum and on fuel oil would act as an embargo and would therefore produce no revenue. Certainly, then, there is no justification for a tariff on fuel oil or on crude petroleum. The same is true concerning gasoline at 2 cents a gallon. Even with respect to deliveries at our eastern seaboard, which is the only part of the United States that is aided by ijports of oil, the "margin of advantage" of foreign gasoline is apparently less than 2 cents a gallon.

B. Little, if any, revenue can be expected from the levy on gasoline.

After the receipt of this opinion from Secretary Mills, the proposal was modified so as to reduce the tariff on the item of gasoline from 2 cents to 1 cent a gallon. But the proponents still left crude petroleum and fuel oil in the bill, in spite of the total lack of revenue from those items. The question is whether the modified proposal concerning gasoline would make a difference as to expectation of revenue from that particular product of petroleum.

The Treasury estimate as to the expected income from imported gasoline at 1 cent a gallon was about $5,000,000. This was no doubt based on the amount of gasoline imported in 1931, to wit, 546,000,000 gallons, and also upon the assumption that imports of gasoline would in fact continue at about the same volume in spite of the proposed tariff. But it does not take an economist to figure out that, as the "margin of advantage" on which gasoline is imported to this country would be reduced by the levy of 1 cent a gallon, no such volume of imports of gasoline could be expected. In other words, the proposed tariff

would not only be an absolute embargo on fuel oil and on crude petroleum, but even as regards gasoline, it would deter imports and would therefore produce very little, if any, revenue.

C. The increase in price which would inevitably follow the enactment of the proposed tariff would result in a direct loss and a positive deficit to the Government.

There is no dispute that the enactment of the proposed tariff would result in an increase in price to consumers in our country. This is the avowed purpose of the proponents. There can be no doubt but that this would be the result with respect to crude petroleum and fuel oil This price trend is definitely indicated by an increase of over 10 per cent in fuel oil, which has already occurred in the few days that have elapsed since the Ways and Means Committee included the proposed tariff in the revenue bill. Experience has shown that the price of gasoline quickly follows the price changes of crude petroleum. The 1928 report of the Federal Trade Commission says on page 175:

"As a rule, price advances in crude petroleum have been followed promptly by gasoline price increases."

This conclusion is amply established by a mass of indisputable facts, collected in the August, 1931, issue of Petroleum Facts and Figures, published by the American Petroleum Institute and reprinted in the Report of the Hearings conducted by the Ways and Means Committee on this proposed tariff (pp. 40 to 56).

In view of this expected and certain increase in price, it is important to note that the United States Government uses over 20,000,000 barrels of petroleum products a year. The first report of the Federal Oil Conservation Board (September, 1926) says at page 22:

"Current peace-time requirements of those branches of the Government responsible for the national defense are approximtaely 20,000,000 barrels of petroleum products a year. In case of war, the national defense requirements would, of course, immediately increase many fold."

It is to be noted that the 20,000,000 barrels served only peace-time requirements for purposes of national defense. The total consumption of our Government, even in peace time, is much in excess of this. It is one of the largest oil consumers in the world. But, even on the basis of the 20,000,000 barrels only, we have the following ridiculous result:

	Per year
Used by the Government.....barrels..	20,000,000
In gallons (42 gallons per barrel).....gallons..	840,000,000
At 1 cent per gallon increase in cost.....	$8,400,000
Income from tax on imported gasoline upon assumption that imports will continue at same rate as in 1931.....	5,000,000
Minimum net loss to the Government.....	3,400,000

Thus, we see that the proposed tariff will net to the Government a direct and substantial loss, and will lead to the ridiculous position of an avowed revenue bill creating an actual deficit.

VI. IF TARIFF LEGISLATION IS A REMEDY FOR DEPRESSION, MANY OTHER INDUSTRIES ARE EQUALLY ENTITLED TO CONSIDERATION

The present economic depression has seriously affected industry, business, shipping, farmers, laborers; everyone, in fact. Although the oil industry has been selected as the beneficiary of this special tariff, an examination shows that it has not been as badly hit as many others. The Department of Labor has issued a report which shows that the price index declined generally between January and December, 1931, and that the decline in oil between those dates has been less than in many other lines. A few examples are illuminating:

Item	Index for January, 1931	Index for December, 1931
Farm products	73.5	55.7
Semimanufactured articles	73.4	62.8
Raw material	72.9	60.2
Textiles	71.0	59.2
Miscellaneous	64.7	56.9
Oil	69.8	63.6

These facts, collated by a disinterested and reliable source, clearly indicate that raw materials, farm products, textiles and the products of industries in general have suffered a greater decline in price between January and December, 1931, than oil, and that in December, 1931, the price index in many other lines and industries was lower than that of oil. Aside from other objections to the proposed oil tariff, those figures show that there is no reason for singling out the oil industry as the beneficiary of a protective tariff at this time. Many other industries are in at least an equally depressed plight. If a tariff is the simple remedy for this condition, why the discrimination?

VIII. WHO WILL BENEFIT?

In view of the fact that the Government will receive no revenue but will suffer a deficit, it is pertinent to inquire who will be the real beneficiaries of this tariff. The proposal is being urged in the name of the small independent oil producers who are pictured as people of small means, each owning a little well that produces about a barrel and a half a day. But an examination into the facts reminds one of the Biblical story of the voice of Jacob and the hand of Esau.

A. The big oil companies will be the real beneficiaries.

The control over the oil industry exercised by a few large companies presents a picture approaching monopoly which is unequalled in any other large industry that is not regulated or controlled by the Government. The United States Tariff Commission reports show that a few large companies own the pipe lines, the refineries, the storage plants and the means of transportation and of marketing. A turn of the valves on one of their gushers brings forth thousands of gallons a day and the figures show that these companies own, store, and market practically all the refined oil, and themselves produce a very large proportion of all the crude petroleum. Practically nine-tenths of the increase in price which American consumers will pay will, therefore, go into the coffers of these few large oil companies.

B. Very little, if any, benefit will result to the small independent oil producer.

The position of the independent oil producers is no different from what might be expected in such a state of the industry. They constitute but a small and negligible factor in the oil industry. It is not competition of imported petroleum that affects them. They are situated at such great overland distances from eastern tidewater, where imported oil is used, that the freight rate removes them from the field of competition. Alfred M. Landon, the chairman of the Kansas delegation to the governor's oil relief conference, says:

"To-day the greatest danger facing the oil industry is not from without but from within—and that danger is the elimination of competition through 'integration,' which is only a gentle-sounding phrase under which a monopoly masquerades."

This is effectively shown by an analysis of the figures which go to make up the base price of petroleum. In the July–August, 1931, issue of the Independent Monthly of the Petroleum Association of America, we find that out of the base price at tide water of 85 cents a barrel, only 10 cents per barrel went to the producer of petroleum. The remainder—75 cents—went to the big companies, as follows:

	Cents
Trunk-line charge for transportation	40
Gathering charge	12½
Shiploading charge	2½
Service charge or premium	20
Total	75

Those figures show indisuptably that any small oil producer, being entirely dependent upon the means of transportation, the refinery and storage plants and marketing facilities, all under the control of the big companies, must accept what these companies see fit to give him as the price of crude petroleum. Another cent a gallon taken from industry, shipping, the farmers and other consumers will not remedy these conditions. The small independent oil producer will still remain in the grip of these big companies—without any other means of refining, storing, transporting, or marketing.

The few big oil companies that exercise this ironclad control, and who will be the chief beneficiaries of this tariff, are certainly not in need of "the fostering hand of the Government." A compilation made by the Interstate Commerce Commission in its statement No. 3170 shows that, for the year 1930, six large

pipe-line corporations have declared dividends ranging from 40 per cent upwards. It is evident that they are not languishing for lack of a tariff, and it is they who will be by far the real beneficiaries of the tariff.

VII. WHO WILL BE DAMAGED BY THE INCREASE IN PRICE INDUCED BY THE PROPOSED TARIFF?

In addition to the considerations that the proposed tariff on crude petroleum and fuel oil will produce absolutely no revenue, and that on gasoline very little, if any, revenue, and that the net result of its operation will be a direct loss and a positive deficit to the Government, all without substantial benefit to anyone except to the few big oil companies which control the industry, there is the further important consideration of the effect of the tariff on industry, wage earners, home owners, farmers and consumers, generally.

A. The increase of 1 cent a gallon in the price of fuel oil means an increase of about 70 per cent in fuel costs and such an unusual and exorbitant jump will seriously affect industry and the wage earners.

Many large and important industries use oil as fuel. It is that portion of crude petroleum which is the residuum left after gasoline, naphtha, kerosene, and other more expensive products have been removed by the so-called cracking process. Until the recent rise in price, which followed quickly and directly upon the adoption of the oil tariff in the House, fuel oil was obtainable at tide water on the Atlantic coast at 60 cents a barrel, which is less than a cent and a half a gallon. An increase of 1 cent per gallon, therefore, means an increase of 70 per cent in the cost of fuel to those industries. That such a tremendous increase is unusual may be seen by an examination of the average duties imposed by past tariffs. Aside from the question whether any tariff on fuel oil is warranted, it thus appears that the amount of the increase which this particular tariff would involve is all out of proportion to the prevailing price of fuel oil.

In many industries, fuel oil is a very large and important item. It enters to a substantial degree into the cost of production. In the textile finishing plants, for example, the cost of fuel oil, according to carefully compiled figures, has averaged more than 12 per cent of their entire factory pay rolls. An increase of 1 cent a gallon on fuel oil will therefore practically double an important item of cost in those industries.

That such an increase will be a serious blow to those industries can not be doubted. Many of the plants have been shut down and the rest are running only part time, struggling under the pressure of general economic conditions. In many plants, wages have been reduced, but there is but little work. In view of the conditions, the increase in fuel oil can not be absorbed by the manufacturers, for most of the industries show large deficits, and the rest very little, if any, profit. If this increase in the cost of fuel oil is passed on to the wage earners engaged in those industries, millions of employees will be directly affected. On the other hand, if this great increase in the cost of turning the wheels of industry and of shipping should result in increasing the price of the manufactured products, then consumers generally will be affected. On any view of the condition that seems certain to follow the wake of this proposed tax on fuel oil, there can be no doubt of its detrimental widespread effect.

B. It will seriously affect our shipping and fishing interests.

The present plight of shipping is well known. The largest trans-Atlantic liners are being advertised for 3-day cruises—at unheard of low rates. Fuel oil is a very large item of the cost of operation. At present, they are receiving their fuel in our ports. A 70 per cent increase in the price of fuel oil will drive this substantial business to the other side of the Atlantic, with resultant loss to us.

Our fisheries afford employment to many men. By time-told custom, their wages depend on the results of the voyage. It is one of the few lines in which the worker is a direct partner in the profits. After the expenses are deducted from the amount realized from the catch, the balance is divided among the shipowners and the crew. Almost 50 per cent of these expenses is the cost of fuel oil. The effect of a 70 per cent increase in this item upon these seafarers is easily seen.

C. It will cast a direct burden on our citizens by increasing the cost of road construction and that of operating our municipal lighting plants.

Asphalt is a by-product of certain kinds of petroleum—those of an asphaltic base. There are only two sources within our country where such petroleum is obtainable to any appreciable extent, namely California, and a small area in Texas. A cent a gallon on fuel oil and crude petroleum will mean an increase

of 70 per cent in the cost of asphalt for road building. This is of direct concern to all our citizens.

Another direct affect of this tariff upon our public interests is with relation to our municipal lighting companies. For example, 1 cent a gallon on fuel oil will mean an increase of more than $150,000 a year in the cost of operation of the Taunton municipal lighting plant. Our municipalities are already bearing great burdens and a finding it difficult to balance their budgets. Even some of our large cities have suffered a loss in their financial status. The proposed tariff adds another burden to them.

D. More than 750,000 home owners will be affected.

Fuel oil has come to be widely used as fuel for homes not only for heating but for cooking purposes. The American Oil Burner Association reports that more than 750,000 American homes have been equipped with oil burners and that in excess of $500,000,000 has been invested in the industry of producing oil burners for homes. (See report of hearings before Ways and Means Committee, p. 119.) The increase in the cost of fuel oil of course directly affects the home owners and the thousands of employees engaged in the industry of producing, installing, and selling oil burners.

E. It will be detrimental to the farmers.

The proposed oil tariff is very detrimental to the American afrmer. An increase of 1 cent in the price of the gasoline necessary for his tractor, trucks, and other gasoline motors will cost our farmers in excess of $150,000,000 a year. This is shown by an elaborate schedule detailing the number of vehicles and engines used on our farms and the amount of gasoline used by the farmers, introduced at the recent hearings before the Ways and Means Committee.

Furthermore, the farmer has a direct interest in the improvement and extension of our roads and in having manufactured goods come to him at as low a price as possible. The price of his clothing, tools, roofing, building materials, and manufactured commodities generally are dependent in some degree on the cost to the manufacturer and shipper of the heat and power that turns the wheels of the industries. The increase of the cost of fuel oil to industry and to shipping will result in an increase in the price of these commodities to the farmer, and thus, in addition to his direct loss, by reason of the increase in the price of gasoline, the farmer will bear an indirect loss by reason of the increase in the cost of production of these manufactured articles.

It is no wonder that farmers' organizations are protesting against this tariff. Protests have already been received by the Committee on Ways and Means from the representative farmers' associations in Minnesota, Indiana, Nebraska, Ohio, South Dakota, Tennessee, New Hampshire, and elsewhere. (See report of hearings before Ways and Means Committee, p. 108.)

IX. THE PROPOSED TAX WILL REDUCE OUR EXPORTS TO VENEZUELA

The great importance of foreign trade to our wage-earners and industries can not be overestimated. The Bureau of Foreign and Domestic Commerce of the United States Department of Commerce (Bulletin No. 783) reports that Venezuela is buying from us 55 per cent of all the goods which she imports, and says:

"Since the World War, Venezuela has become of increasing interest to the American public, primarily through the intensive development of its oil fields, but also because of the increased trade between the two countries."

We sell Venezuela food products and increasingly large amounts of manufactured goods. (See Bulletin of United States Department of Commerce, No. 783, pp. 46 to 48.) Venezuelan imports from the United States in 1913 and from 1926 to 1929, were as follows:

	Our exports to Venezuela	Our imports from Venezuela (p. 39)
1913	$6,829,000	$8,335,000
1926	44,063,000	18,926,000
1927	36,058,000	19,896,000
1928	46,069,000	32,619,000
1929	48,179,000	42,308,000

The growth of our exports to Venezuela has thus been steadily and substantially increasing. The comparison of the figures of recent years with 1913 is impressive

Our Department of Commerce, in Bulletin No. 783, page 40, recognizes that "the importance of petroleum in this rapid trade development is striking."

It is the export of petroleum and its products that furnishes Venezuela a means of payment for our goods, and therefore has established it as a good potential customer. The trade balance with Venezuela has been steadily in our favor, as shown by the above schedule. Our total imports from Venezuela in 1930 aggregated $38,868,010 (p. 46). Of this amount, nearly $26,000,000 consisted of petroleum and its products (p. 46). In other words, more than 72 per cent of the payment by Venezuela for our goods is in petroleum and its products. If, by reason of this tax, imports from Venezuela are cut off, as the Treasury Department says they will be, Venezuela will have to look for other markets for her petroleum and its products. Venezuela must and will import from those countries that buy her oil. It follows that our foreign trade with Venezuela will be greatly reduced. The effect of this reduction in our expert trade will of course further reflect upon our industries and wage earners. Our foreign trade is not in such condition that we can afford to tamper with it—it has already fallen off nearly 40 per cent from 1927 and we must carefully foster and develop our remaining foreign markets.

XI. SUMMARY AND CONCLUSION

In this national emergency which imperatively demands the speedy balancing of the budget, a tariff measure is entirely out of place. There is no time for the careful investigation of the plight of other industries, their comparative conditions, the complicated results and all the numerous incident accompanying tariff legislation. The proposed tax opens the door wide to demands by other industries equally distressed and with an equal measure of justice. The soundness of the principle that tariff legislation should not be confused with emergency revenue measures is made clear when we consider the confusion and delay that will inevitably follow the opening of the doors to these numerous demands for tariff legislation.

The proposed oil tariff is not only out of place, but it will produce no revenue. Citizens might be resigned to added burdens of taxation, even in these hard times, if at least the taxes imposed resulted in revenue. But the only possible justification for the proposed tax disappears when we find not only lack of revenue, but a direct and positive deficit to the Government itself on its own peace-time requirements for national defense.

It has been shown that the burdens to industry, to the wage earners, to commerce, to the farmer, to the home owner, which the proposed tax involves, will be many and far-reaching. It does not even have the redeeming feature of helping the independent oil producers, for whose sole benefit it is ostensibly imposed. The corporations that exercise a monopolistic control over the means of transportation, refining, storing, distributing and selling the oil, certainly do not need it. And when, to top all, it appears that it is contrary to our established policy, and that it will substantially interfere with our foreign trade, it would seem that the last vestige of justification for including such legislation in the emergency revenue bill disappears.

STATEMENT OF WILLIAM C. McTARNAHAN, PRESIDENT OF THE PETROLEUM HEAT & POWER CO., 511 FIFTH AVENUE, NEW YORK CITY

Mr. McTARNAHAN. I am William C. McTarnahan, president of the Petroleum Heat & Power Co., New York, representing the American Oil Burner Association of America.

Mr. Chairman and gentlemen, I am here in behalf of the American Oil Burner Association to offer our protest against the proposed tax on importations of petroleum and its products, including fuel oil from foreign countries, into the United States.

In order to give you a fair idea of the growth of the oil-burner industry and thereby lend proper weight to our protest, it should be noted that during the past 16 years the oil burner business has had a phenomenal growth in the United States, and as compared with 5 or 10 manufacturers of oil-burning equipment, mostly located in Cali-

fornia, 16 years ago, there are now over 600 manufacturers in the business with over $100,000,000 invested. These same manufacturers have created over 10,000 dealers in the United States who have established themselves in almost every city, town, and village throughout our country where fuel oil is available for use in homes, hotels, and for commercial and industrial purposes. These dealers in order to enter this business have invested capital running anywhere from a few thousand dollars to as high as $500,000 and a low estimate would probably average $15,000, or $150,000,000 invested by the dealers, a total of $250,000,000 invested capital by dealers and manufacturers to say nothing of the money invested by the manufacturers of kindred products, such as oil-storage tanks, fire brick, pipe fittings, electric equipment, electric motors, automatic controls, and so forth.

The manufacturers and distributors have installed over $1,000,000,000 worth of oil-burning equipment in 805,794 installations and employ a total of approximately 250,000 people, to say nothing of the employees of the manufacturers of commodities depending upon us for their business.

These manufacturers and distributors are renting show rooms and stores in the various cities and towns and are employing salesmen, service men, and are purchasing motor trucks and service cars. The employees of these dealers have rented or purchased homes, put their children in school, and are firmly established in their respective communities.

The above figures do not take into account the tremendous investment in oil-burning equipment by steamship companies, steel mills, mining operations, railroads, and other industries, but are confined to plants installed primarily for heating and the generation of power in private and public buildings.

The only reason it has been possible to build up an American industry as large as the oil-burner business is because of the fact that there has been, by reason of the importation of fuel oil into the United States an adequate supply at a reasonable price.

Now, after our Government for years past has encouraged enormous sums of American capital to be invested in foreign countries in the production of oil, with the idea of conserving our own supply, it certainly would be unjust to place a prohibitive tax or tariff on the importation of foreign petroleum products which would result in a virtual embargo of 100,000,000 barrels of oil mostly consumed as fuel oil on the Atlantic Coast.

The American Oil Burner Association represents almost 100 per cent of the manufacturers of oil-burning equipment in the United States and as good American citizens the members of the Association are unanimous in their desire that the National Budget should be balanced and are all willing to do their part in assisting to this end. But, it seems to us that the mid-continent and western producers should set their own house in order by cutting down their production to supply the demand, instead of trying to make the taxpayers subsidize their mistakes.

Many manufacturers in the United States could turn out ten or more times as much finished product as they are now manufacturing. Many of them expanded unwisely during the 1928–29 boom period, and I am sure this committee would consider it ludicrous if these manufacturers were to ask Congress to tax the public so that they

could either make a profit on reduced output or beg the Government to buy their excess products when there was no demand for the article manufactured.

Protecting a deserving American industry is one thing, but subsidizing poor judgment at the expense of the oil-burner industry and the American taxpayer is something entirely different.

As stated above, the members of the American Oil Burner Association are just as much interested in balancing the National Budget as any other good American is, but we most strenuously object to an import tax on fuel oil of 1 cent per gallon or 42 cents per barrel, which is equivalent to a tax of 70 per cent on the present price of Bunker C fuel oil along the Atlantic seaboard and would be prohibitive. It would simply shut out the oil as would an embargo, with the result that no tax would be collected and, therefore, would bring no return to the National Treasury.

On the other hand, such a tax would increase the price of the domestic product, resulting in the curtailment of the manufacturer and sale of oil-burning equipment and increase the price of one of the necessities of life, heat, by $25,000,000, to over 800,000 home owners, or between four and five million people now being kept warm through the use of fuel oil in oil-burning apparatus. The only beneficiaries from such a tax, if imposed, will be the domestic oil producers. It will not return one penny of revenue to the National Treasury.

It has been estimated that the combined revenue to help balance the Budget from the import tax on both coal and oil would result in approximately $8,000,000. I understand this figure has since been reestimated at $5,000,000. If the proposed petroleum import tax is enacted the United States Treasury would at once be called upon to pay for the oil and petroleum products it consumes for the Army, the Navy, the Post Office Department, and in the operation of the thousands of trucks, automobiles, dredges, and other oil-consuming equipment in the various Government departments, including fuel oil for heating Federal and other buildings, at least $10,000,000 additional caused on account of the immediate increase in price of the domestic product which would result after the imposition of the proposed tax.

I wish to quote here a resolution passed by the Independent Oil Association of Oklahoma on February 4, 1931, from the printed records of the hearings on H. R. 16585 by the House Ways and Means Committee, during the third session of the Seventy-first Congress, which resolution was read into the records by the proponents of the Garber bill.

Resolved, That the Independent Oil Association of Oklahoma, with headquarters at Okmulgee, Okla., call upon the Congress of the United States to enact legislation that will serve to bar, either by a high tariff or an embargo, all imports of crude or refined oils from foreign countries until the developed supply of the United States fields can be marketed in an economic manner.

Mr. Wirt Franklin represented the Independent Oil Association of Oklahoma before the House Ways and Means Committee. I call your attention, gentlemen, to the words "bar all imports."

The domestic producers have been trying for several years to have our Government place an embargo on high tariff on imported petroleum and petroleum products, not for the benefit of the American people, not for the benefit of the Government, but for their own selfish interests. When they discovered the words "tariff" and "embargo"

were not popular, the proponents of the petroleum import tax, which has recently been adopted by the House, seized an opportune moment as the psychological time to accomplish their desired end, and cloaked in the guise of a producer of revenue for our national Budget, suggested this import tax on foreign oils. It was a very smart idea, I must admit, on the part of the sponsors of this tax measure, and unless this committee goes below the surface, I can see where they might very easily feel the measure a worthy one on the grounds of helping to balance our Budget.

The truth of the matter is the proposed tax on imported oils is nothing more or less than a subterfuge and is just another name for a tariff or embargo to accomplish what the proponents of the Garber bill failed to accomplish last year, only dressed up in a different suit of clothes and erroneously earmarked as something that will increase the revenue of our National Treasury.

I am sure the members of this committee will see through the intent back of this proposed import tax and realize that it would be economically impossible to import oils pay 42 cents a barrel and compete with the domestic product, which would result in no oil coming in and, therefore, no return to the Government, and if no return to the Government, then certainly such a tax has no business in a Treasury bill.

Even if this were the only reason, it should be thrown out; but you should consider that if passed this import tax would affect the employment of 250,000 people, to say nothing of thousands of American citizens, engineers, and oil men employed in foreign countries by American firms, which firms would be forced to shut down their refineries and curtail operations in foreign countries and bring home their people, only to add to the already vast army of unemployed, piling another problem on the Emergency Relief Committee.

According to the Index of Prices compiles by the Department of Labor, it shows that crude oil produced in the United States has had a phenomenal price rise since June and July, 1931, when it struck its low, more than practically any other commodity. For instance, prices in the State of Texas rose from 10 cents per barrel to $1, an increase of 900 per cent; in the mid-continent field, 24 cents to 77 cents, an increase of 220 per cent; and in all American fields, from 41 cents to 81 cents, an average increase of 102 per cent.

Notwithstanding this, Mr. Franklin is howling for still higher prices and wants our Government to put the equivalent of an embargo on foreign oil for the express purpose of further increasing the prices, throwing them further out of line as compared with depression low prices, of other commodities and putting a further burden on the consumer without one penny's return to the Government to help balance the Budget.

Just a little more—and I am well within my time: I now wish to dispute some of the statements made before this committee yesterday by Mr. Wirt Franklin.

1. Mr. Franklin stated that petroleum imports had now reached such proportions as to drive the domestic price down to its present low level. This is an erroneous statement, as the actual records will show during the past 8 or 10 years that when domestic prices were at their very highest was the time that the greatest amount of oil was being imported. As a matter of fact, importations of all petroleum

into the United States during this period has ranged between one hundred and one hundred and thirty million barrels per year, until the past year, when it dropped to 87,000,000 barrels.

2. Mr. Franklin stated yesterday that production in the United States had dropped 98 per cent. I think the record of his testimony will show this. As a matter of fact, the average top production for any one year has been approximately two and one-half million barrels per day, and for the past year it has averaged approximately two and one-fourth million barrels, or a decline of approximately 10 per cent.

Probably what Mr. Franklin wished to convey to this committee was that from the enormous potential production if all wells were turned wide open in the Oklahoma City and east Texas pools they could produce 98 per cent or 100 per cent more than they were producing, and I assure you this would also be true of practically every manufacturer of various commodities in the United States.

3. Mr. Franklin also stated yesterday that Russian gasoline had been brought into Detroit. I am quite sure the Government records will show that this gasoline came not from Russia but from Rumania.

Senator GORE. That would make a difference, wouldn't it?

4. Mr. MCTARNAHAN. Mr. Franklin also quoted Ralph Arnold, the oil geologist, as having estimated the oil reserves in the United States as being able to endure at the present rate of production for from 300 to 500 years. I also listened to as well as read Mr. Arnold's remarks, and I wish to correct Mr. Franklin, or rather amplify what he claims Mr. Arnold said, which was that at best such estimates are only a guess as no one can see beneath the surface. But taking into consideration the shale beds located in Colorado, Wyoming, and Utah and considering the hydrogenation of coal plus the so-called well oil, it should supply our Nation's needs for from three to five hundred years.

Let us assume that all Mr. Arnold said proved to be facts instead of guesses and that the same condition we find ourselves in to-day existed when Columbus discovered America in 1492. Then, when I was born 50 years ago or, more correctly, 1882, 390 years after Columbus discovered America, this Nation would have been completely out of petroleum and I would have missed my first baby-buggy ride in a spring buckboard in the mountains of California, as there would have been no axle grease with which to grease the axles. And to-day, 440 years later than the discovery of America, we would have been dependent upon Russia, Rumania, or some other foreign country for our petroleum supply and undoubtedly have paid through the nose for it and probably told that we could use none of it to sustain an army or a navy.

What is 300 or 500 years in the life of a nation? Our Nation is the youngest of any importance in the world. What would 300 or 500 years be to China, Japan, India, or even France, Germany, or Great Britain? If it is true that our complete petroleum reserves will only last three to five hundred years at the present rate of consumption, then this time will naturally be cut down, as our country is growing rapidly, and undoubtedly a hundred years from now our consumption will be many times greater than it is to-day; or, in other words, we will be reaching the end of our string so far as oil is concerned much sooner than expected.

Now, gentlemen, when you consider that petroleum is one of the absolute necessities of life to-day and that our people would start dying off rapidly within a few weeks if we had exhausted our last drop of petroleum, say to-day, then certainly it would be wise planning to import as much of the petroleum from foreign countries as we possibly can and conserve our supply, looking to the future welfare and prosperity of this United States as did some of our wise statesmen who signed the Declaration of Independence.

We can continue to produce wool, cotton, spinach, wheat, corn, and thousands of other necessities of life as long as we have our soil, but we can not plant or grow petroleum. When it is gone it is just gone. And certainly if we are going to have to import it later on when we have none of our own and pay, maybe, $20 a barrel for it, why not import it now when we can get it for a dollar a barrel.

In closing I want to emphatically state once more that if a tax is imposed on imported petroleum products of 42 cents a barrel, it will shut it out as would an embargo and, therefore, no tax will be collected to help the Treasury.

I thank you.

Senator CONNALLY. Mr. Chairman, I wish to ask the witness some questions, please.

Mr. McTarnahan, what is the name of your company?

Mr. McTARNAHAN. My company I am not testifying for. My company happens to be the Petroleum Heat & Power Co.

Senator CONNALLY. Yes, sir.

Mr. McTARNAHAN. And I am a director and one of the organizers of the American Oil Burner Association.

Senator CONNALLY. Yes; but I want to talk about your company now. You are with the Petroleum Heat & Power Co.?

Mr. McTARNAHAN. Yes, sir.

Senator CONNALLY. And that is a subsidiary, is it not, of the Mexican Petroleum Co.?

Mr. McTARNAHAN. No, sir.

Senator CONNALLY. Who owns it?

Mr. McTARNAHAN. I organized that company originally. The Pan American Co. have some stock in that company, but they do not control it.

Senator CONNALLY. Yes. Well, the Pan American Oil Co. that imports this oil owns a big chunk of your stock, does it not?

Mr. McTARNAHAN. They own some of our stock; yes.

Senator CONNALLY. The same company that Mr. Harwood testified for here a while ago?

Mr. McTARNAHAN. Yes, sir.

Senator CONNALLY. How long have they owned stock in your company?

Mr. McTARNAHAN. Oh, they originally bought it quite some time ago. Within a couple of years they bought some more.

Senator CONNALLY. Yes, sir; business was good and they took another chunk?

Mr. McTARNAHAN. No. On the other hand, business was not good. As a matter of fact, we were so far behind that we could not get money from the banks, and we had to go to them for some more money, and we sold them some stock.

Senator CONNALLY. How about the Standard of New Jersey? How much does it own in your company?

Mr. MCTARNAHAN. Does not own a nickel's worth.

Senator CONNALLY. The Pan American, however, is a subsidiary of the Standard, is it not?

Mr. MCTARNAHAN. Of the Standard of New Jersey?

Senator CONNALLY. Of Indiana.

Mr. MCTARNAHAN. Of Indiana, but not the Standard of New Jersey.

Senator CONNALLY. All right; let us not be technical. Standard is Standard. You sell fuel oil in New York. You are the largest seller there?

Mr. MCTARNAHAN. We are a large dealer, but I would not say the largest.

Senator CONNALLY. What do you get for your fuel oil on the Atlantic coast?

Mr. MCTARNAHAN. An average of 5.85 right now.

Senator CONNALLY. 5.85. What does that fuel oil cost you per barrel?

Mr. MCTARNAHAN. It costs us——

Senator CONNALLY (interposing). Forty-two gallons to the barrel, is it not.

Mr. MCTARNAHAN. Forty-two gallons a barrel. That is per gallon. We are paying an average on the Gulf now of 3 cents for that oil. We bring it to New York at a cost of about half a cent a gallon.

Senator CONNALLY. Wait a second now—3 cents a gallon?

Mr. MCTARNAHAN. Three cents a gallon on the Gulf.

Senator CONNALLY. From whom do you buy principally?

Mr. MCTARNAHAN. Well, we buy it from different people. I started to say that we bought a million and a quarter barrels of oil last year, not from Pan American; we bought a little over half the supply of Pan American, but we buy it where we can get it the cheapest. We do not buy it of Pan American unless we can get it cheaper.

Senator CONNALLY. What did you pay the Pan American for this oil you bought from them?

Mr. MCTARNAHAN. We bought it from them at the same price we paid the other people.

Senator CONNALLY. How much?

Mr. MCTARNAHAN. Three cents.

Senator CONNALLY. Three cents a gallon?

Mr. MCTARNAHAN. An equivalent of 3 cents a gallon on the Gulf; 3½ a gallon in New York.

Senator CONNALLY. On the Gulf 3 cents a gallon. That would be about a dollar and twenty-six cents a barrel for the crude?

Mr. MCTARNAHAN. Yes. Not crude; that is fuel oil, domestic fuel oil.

Senator CONNALLY. What do you get for that, 5.85 or 8 cents?

Mr. MCTARNAHAN. After all costs of distribution about a cent a barrel for delivery and paying the salesmen who have to pay to sell it and take their credit losses, why, we——

Senator CONNALLY (interposing). I do not want to go into all your itemized accounts. What did you get for it?

Mr. MCTARNAHAN. Sold it for 5.85.

Senator CONNALLY. Is that the highest you have been selling it at?

Mr. McTARNAHAN. That is our average price.
Senator CONNALLY. Average price?
Mr. McTARNAHAN. Yes, sir.
Senator CONNALLY. That is the price now?
Mr. McTARNAHAN. That is the price now, just under 6 cents.
Senator CONNALLY. But most of your oil you bought from the Pan American Co. because it owns stock in your company?
Mr. McTARNAHAN. We bought about half of our supply from them last year.
Senator CONNALLY. Do you favor a tariff on oil-burning equipment?
Mr. McTARNAHAN. We would be very glad to pay a manufacturers' tax along——
Senator CONNALLY (interposing). I did not ask you anything about manufacturer's tax; I asked you about tariff on oil-burning equipment.
Mr. McTARNAHAN. You mean a tariff on imports?
Senator CONNALLY. Yes.
Mr. McTARNAHAN. There is none imported.
Senator CONNALLY. So you are not worried about a tariff, on that, because you do not have any imports. Is there a tariff on it?
Mr. McTARNAHAN. No; there is no tariff on it. It would be foolish to put it on. There are no oil burners imported into the United States.
Senator CONNALLY. So the tariff would not bother you?
Mr. McTARNAHAN. No.
Senator CONNALLY. If you did have imports, you would favor a tariff, would you not?
Mr. McTARNAHAN. Why, probably a reasonable one.
Senator CONNALLY. Probably a reasonable one. So you want a tariff on your stuff but you do not want a tariff on what you burn in this equipment?
Mr. McTARNAHAN. All I say is what I covered in my brief, Senator——Connally, is it?
Senator CONNALLY. That is right.
Mr. McTARNAHAN. All I want to say is we should have something fair and equitable.
Senator CONNALLY. Certainly, and your idea of "fair and equitable" is a tariff on what you produce but not a tariff on anybody else's products?
Mr. McTARNAHAN. I do not think fair and equitable would be to put a tax which would be equivalent to a prohibitive tariff and shut out the hundred million barrels of oil that are coming in here from American manufacturers who invested their money abroad and have been encouraged to do so by the Oil Conservation Board for years past, to shut it out and have them shut their refineries up, because they can not take it abroad and compete with other oil there.
Senator CONNALLY. Well, couldn't you buy American oil—of course it will not shut it out, but even if it did shut it out, couldn't you buy American oil and sell it just like everybody else in this country?
Mr. McTARNAHAN. We could buy it, but it would curtail our business and it would increase the cost to our consumers, a necessity of life, as I pointed out here by $25,000,000. And I also say that the oil

industry is the only industry practically that has enjoyed a hundred per cent rise, and in some cases 900 per cent rise, they ought to be satisfied.

Senator CONNALLY. You quoted there the price of oil at 10 cents in Texas, and you think it ought to have stayed at 10, do you?

Mr. MCTARNAHAN. No, sir; I do not.

Senator CONNALLY. Well, you are complaining because it rose.

Mr. MCTARNAHAN. No; I am not complaining. I said they ought to be satisfied.

Senator CONNALLY. You get $1.26 a barrel and your Pan American Co.——

Mr. MCTARNAHAN (interposing). That is for light domestic crude, and we are talking about 10 cents a barrel at the well.

Senator CONNALLY. All right, I know, but you pay $1.26 for South American fuel oil a barrel, and yet you are kicking because the oil, the crude oil at the well, was 10 cents, and now that it rose to a dollar.

Mr. MCTARNAHAN. No; I beg to differ, Senator. I am not speaking about that at all.

Senator CONNALLY. You said they ought to be satisfied with that profit.

Mr. MCTARNAHAN. No; I didn't say that. I said they ought to be satisfied with a dollar a barrel as compared to 10 cents a year ago.

Senator CONNALLY. How about $3 several years ago?

Mr. MCTARNAHAN. Well, I think that is too high.

Senator CONNALLY. You think that is too high?

Mr. MCTARNAHAN. Yes, sir.

Senator CONNALLY. What is your idea of what it ought to be?

Mr. MCTARNAHAN. Why, I think some price depending on the cost of it, depending on the transportation on the Gulf; but I should say that considering the fact that all commodities we have to-day, including hats and shoes and everything, are down, that oil ought to stay more or less in its general level with other commodities, and not expect to get away up above everything else.

Senator CONNALLY. What is that level according to your idea?

Mr. MCTARNAHAN. I do not know what the level is. You mean the level of oil? I certainly should say a dollar a barrel, and I think the Governor of Oklahoma, Mr. Murray, was talking some time ago and his ambition was dollar oil. Well, all right; they have got dollar oil now.

Senator CONNALLY. You tie yourself to Mr. Murray?

Mr. MCTARNAHAN. No; I do not. I never met Mr. Murray.

Senator CONNALLY. Do you realize the Tariff Commission reported that domestic oil cost $1.03 a barrel more to produce than this foreign oil?

Mr. MCTARNAHAN. Well, you can juggle all kinds of figures. If you analyze the figures, why you will find that there are all sorts of things in there about depreciation and depletion and all sorts of things. It is not actual money out of pocket.

Senator CONNALLY. So you do not agree with the Tariff Commission?

Mr. MCTARNAHAN. Well, I would not go so far as to say that. But I say that figure will bear analyzing. It includes everything.

Senator GORE. Mr. McTarnahan, about what is the range in the price of oil burners for the average dweller?

Mr. McTARNAHAN. The average price?
Senator GORE. Residence; yes.
Mr. McTARNAHAN. Our average price that we get, the manufacturer gets?
Senator GORE. Yes.
Mr. McTARNAHAN. The average price that we get for our product is about $145 a plant to the dealer.
Senator GORE. Yes. Now, you would not object to a reasonable excise tax?
Mr. McTARNAHAN. No, sir.
Senator GORE. What would you regard as a reasonable tax? I am glad to hear you say that, because we want to find some source.
Mr. McTARNAHAN. I do not know that I have figured out what that should be, but certainly in order to help balance the Budget for as many years as is necessary, if other manufacturers were agreed to it, our association has already passed a resolution that we would be glad to pay our share of the tax.
Senator GORE. Without any regard to other manufacturers, you are willing to do your duty anyway?
Mr. McTARNAHAN. You mean what price?
Senator GORE. No, I say without regard to them.
Mr. McTARNAHAN. Yes, certainly; we are willing to do our share and bear our share of the burden.
Senator GORE. Yes, that is the point. You say the oil producers "ought to put their own house in order." Don't you think they have made a pretty strenuous effort to do that?
Mr. McTARNAHAN. Well, it seems to me, Senator Gore, that when one man gets a piece of ground and drills a well and the other fellow runs over and sticks a well alongside of him, the same thing that has happened in the oil industry ever since I have known anything about it, and that is 25 years, it creates overproduction.
Senator GORE. That is the point I am coming to. You say they ought to put their own house in order?
Mr. McTARNAHAN. Yes, sir.
Senator GORE. The point is that it is the hardest of all industries to do that very thing. You know that when an oil company takes an oil lease it pays so much rent an acre, and sometimes pays a very large bonus, and sometimes has to drill a well to hold its lease—isn't that true?
Mr. McTARNAHAN. I think that is true.
Senator GORE. Now, take the very case you put, and this is the state of facts in the east Texas field; there are a great many small leases. You had a lease of 10 acres, and I had a lease of 10 acres, and I drilled a well offsetting your lease. You would have to drill a well under your contract whether you wanted to or not, would you not?
Mr. McTARNAHAN. All right.
Senator GORE. Or forfeit your lease?
Mr. McTARNAHAN. All right.
Senator GORE. You would not have any choice about it?
Mr. McTARNAHAN. All right.
Senator GORE. Now, doesn't that make it rather difficult for the oil people to control it?
Mr. McTARNAHAN. I say that is a fault in the petroleum industry. Let me cite then another case in answer to that: I build an oil-burner

factory on one side of the street and start to enjoy a nice business, and another fellow sees I am doing that and he builds another factory on the other side of the street, and that results in overproduction and down goes the price. Then should I sit by and be protected and get a higher price?

Senator GORE. The cases are not analogous at all, Mr. McTarnahan.

Mr. MCTARNAHAN. The Government did not put the oil man in and make him take his oil lease. He gambled his own money of his own free will.

Senator GORE. Yes, but he has to produce oil in order to run your oil burners.

Mr. MCTARNAHAN. And oil burners have to go on in order for oil to be used also.

Senator GORE. Have you any solution for that difficulty that inheres in the situation?

Mr. MCTARNAHAN. As I said before, I think they should put their own house in order.

Senator GORE. How would that be done? Would you forbid a man to drill a well on his lease?

Mr. MCTARNAHAN. I don't know how it could be done, but there is an overproduction, and therefore more than the demand will consume, and the price is down.

Senator GORE. Yes, and in the east Texas field and in the Oklahoma City field they are holding this overproduction down to 2 per cent of their capacity.

Mr. MCTARNAHAN. That is all right. The same thing happened in Mexico, the Tampico pool. It is now exhausted, but when Doheny and the Gulf and all of them went in there and struck a very rich pool of oil they took it out just as fast as they possibly could, some wells at the rate of 300,000 barrels a day.

Senator GORE. And you think the Government ought to have prohibited that?

Mr. MCTARNAHAN. I think they ought to have prohibited wasting our national oil reserve as fast as that; yes, sir; and shutting out imports of petroleum and using it up as fast as possible.

Senator GORE. Who do you figure has the power in this country to do that? Do you think Congress has any power to regulate the drilling of oil wells in Oklahoma and Texas?

Mr. MCTARNAHAN. I do not know, but they seem to want to get some power to shut out oil and regulate the price of the industry.

Senator GORE. Yes; taking recourse to what they regard as the only alternative?

Mr. MCTARNAHAN. Well, gentlemen, all I can say is that I am speaking for the American Oil Burner Association. I do not own any oil wells, and I do not own any production. We are not producers. We purchase oil for resale to our customers for one of the necessities of life, and we are interested to see it stay at something like a reasonable price in reach of the people, and we believe that if an impossible tax is placed on imported oil it will increase the price and the burden of our people and our consumers, and to the detriment of our own business and to the profit of the oil consumer in a few of the oil States.

Senator GORE. In other words, you think it will injure your business and you are against it?

Mr. McTARNAHAN. Yes, sir.

Senator GORE. Mr Chairman, resulting from a remark of Mr. McTarnahan's that Mr. Franklin and some of his associates here undertook to obtain an embargo on imported oil, I want to insert in the record following Congressman Nelson's statement—he very kindly enlightened the committee yesterday—a bill introduced by the Congressman in the House to lay an embargo on imported lobsters—not to impose a tariff on imported lobsters, but an embargo. I think it might shed some light on his general philosophy.

(The bill referred to by Senator Gore appears in the printed record following Mr. McTarnahan's statement.)

Senator CONNALLY. Mr. McTarnahan, you do not own any stock in the Pan American Petroleum Co., do you?

Mr. McTARNAHAN. No, sir.

Senator HULL. What was the average pre-war price for petroleum in this mid-continent field?

Mr. McTARNAHAN. It has varied up and down during the war.

Senator HULL. I mean just before the war.

Mr. McTARNAHAN. It went up. Well, I bought oil in 1915 at 87 cents a barrel in Providence, R. I., and Boston, fuel oil brought up here ready for delivery.

Senator HULL. I was speaking about the mid-continent field. You do not happen to have the exact figures?

Mr. McTARNAHAN. The price was low. The price was low before the war. It was high during the war, and in 1919——

Senator HULL (interposing). That is all right. Unless you have the exact figures, I do not care to consider it.

Mr. McTARNAHAN. In 1919 shortly after the war the price went away down.

Senator HULL. You were asked something about one or two units of the Standard Oil Co. Just for my information I would like to ask you how many units of that company there are now in this country?

Mr. McTARNAHAN. I could not answer that, but there are a great many. I can name some: Standard of California, Standard of Kentucky, Standard of Indiana, Standard of Ohio, Standard of New York, and Standard of New Jersey, and I do not know how many more there are, but there are quite a number. I never counted them.

Senator HULL. I think I heard one of the witnesses say that two of these units were supporting this proposal and the others were opposed to it.

Mr. McTARNAHAN. As long as you asked the question, Senator, last week I happened to be talking to one of the higher officials of the Standard Oil of New Jersey and in a private conversation he admitted to me that the amount of oil they import into the United States would be so small as compared with the amount they produce in the United States that a tariff would proably be beneficial in the last analysis. Now that happened to come from the Standard of New Jersey. I can not quote who it was or anything about it. That is all, sir.

The CHAIRMAN. Are you through?

Mr. McTARNAHAN. Yes, sir.

The CHAIRMAN. Michael O'Shaughnessy.

Senator CONNALLY. Mr. Chairman, are you going to close these hearings at 12 to-day?

The CHAIRMAN. I should think we would go right on and get through with it.

Senator CONNALLY. What I mean is, Mr. Franklin, you know, has some more time coming, and if you are going to close——

The CHAIRMAN (interposing). He has 30 minutes or whatever time he wants to take.

Senator CONNALLY. If you are going to close I shall insist you go on until 1.30, because his time has been allotted to him.

The CHAIRMAN. I think we will go beyond 12.

Senator HARRISON. I thought it was the understanding yesterday that it would be equally allocated.

The CHAIRMAN. It was.

Senator HARRISON. Let us adhere to that, then.

Senator REED. The witnesses have not taken the time; it is the questions of the committee that took time.

(The bill referred to by Senator Gore is here printed in full.)

[H. R. 6586, Seventy-second Congress, first session]

A BILL For the conservation of lobsters, to regulate interstate transportation of lobsters, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this act the word "person" includes company, partnership, corporation, association, and common carrier.

SEC. 2. It shall be unlawful for any person to deliver or knowingly receive for transportation, or knowingly to transport, by any means whatsoever, from any State, Territory, or the District of Columbia, to or through any other State, Territory, or the District of Columbia, or to or through any foreign country, any lobster (Homarus americanus), if (1) such transportation is contrary to the law of the State, Territory, or the District of Columbia or foreign country from which such lobster is or is to be transported; or (2) such lobster has been either caught, killed, taken, sold, purchased, possessed, or transported at any time contrary to the law of the State, Territory, or the District of Columbia or foreign country in which it was caught, killed, taken, sold, purchased, or possessed, or from which it was transported, or contrary to the law of the State, Territory, or District of Columbia into which it was transported; and no person shall knowingly purchase or receive any such lobster which has been transported in violation of the provisions of this act; nor shall any person receiving any shipment of lobsters transported in interstate commerce make any false record or render a false account of the contents of such shipments.

SEC. 3. The importation into the United States, or any Territory or District thereof, of any lobster less than three and one-half inches in length, measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the body shell, or any lobster meat frozen, chilled, cooked, or in the raw state, unless hermetically sealed in tin cans by soldering or rolling the edges with machines made for that purpose and bathed in a retort and subjected to not less than two hundred and thirty-five degrees of heat for not less than thirty-five minutes, is hereby prohibited. It shall be unlawful for any person to deliver or knowingly receive for transportation, or transport by any means whatsoever from any State, Territory, or District of the United States to any other State, Territory, or District thereof, any lobster the importation of which is hereby prohibited.

SEC. 4. Any package or container containing lobsters or lobster meat transported or delivered for transportation in interstate commerce, except any shipment covered by section 10, shall be clearly and conspicuously marked on the outside thereof with the name "lobsters," or "lobster meat," an accurate statement of the number of such lobsters or the poundage of lobster meat contained therein, and the names and addresses of the shipper and consignee.

SEC. 5. All such lobsters transported into any State, Territory, or the District of Columbia for use, consumption, sale, or storage therein shall upon arrival in such State, Territory, or the District of Columbia be subject to the operation and effect of the laws of such State, Territory, or the District of Columbia to the same extent and in the same manner as though such lobsters had been produced in

such State, Territory, or the District of Columbia, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

SEC. 6. The Secretary of Commerce is authorized (1) to make such expenditures, including expenditures for personal services at the seat of government and elsewhere, and for cooperation with local, State, and Federal authorities, including the issuance of publications, and necessary investigations, as may be necessary to execute the functions imposed upon him by this act and as may be provided for by Congress from time to time; and (2) to make such regulations as he deems necessary to carry out the purposes of this act. Any person violating any such regulation shall be deemed guilty of a violation of this act.

SEC. 7. (a) Any employee of the Department of Commerce authorized by the Secretary of Commerce to enforce the provisions of this act (1) shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this act or any regulation made in pursuance of this act, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; (2) shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this act or regulations made in pursuance thereof; and (3) shall have authority, with a search warrant issued by an officer or court of competent jurisdiction, to make search in accordance with the terms of such warrant. Any judge of a court established under the laws of the United States or any United States commissioner may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) All lobsters or lobster meat, delivered for transportation or which have been transported, purchased, received, or which are being transported, in violation of this act or any regulations made pursuant thereto, shall, when found by such employee or by any marshal or deputy marshal, be summarily seized by him and placed in the custody of such persons as the Secretary of Commerce shall by regulations prescribe, and shall, as a part of the penalty and in addition to any fine or imprisonment imposed under section 8 of this act, be forfeited by such court to the United States upon conviction of the offender under this act, or upon judgment of the court that the same were transported, delivered, purchased, or received in violation of this act or regulations made pursuant thereto.

SEC. 8. In addition to any forfeiture herein provided, any person who shall violate any of the provisions of this act shall, upon conviction thereof, be punished by a fine not exceeding $200, or imprisonment for a term of not more than three months, or by both such fine and imprisonment, in the discretion of the court.

SEC. 9. Nothing in this act shall be construed to prevent the several States and Territories from making or enforcing laws or regulations not inconsistent with the provisions of this act, or from making or enforcing laws or regulations which shall give further protection to lobsters.

SEC. 10. Nothing in this act shall be construed to prevent the shipment in interstate commerce of live lobsters and eggs for breeding or stocking purposes.

STATEMENT OF FREDERICK S. WHITESIDE, REPRESENTING PACIFIC MILLS, BOSTON, MASS.

Senator WATSON. Will you please state your name?

Mr. WHITESIDE. Frederick S. Whiteside.

Senator WATSON. Where do you live?

Mr. WHITESIDE. Boston, Mass. The Pacific Mills is one of the mills Mr. Milliken has just told you about. We employ about 5,000 men and women, and we burn oil in those mills. Through competition, and all sorts of restrictions and troubles, we are in very serious condition, and if this tax is put on the oil, whether it is right or wrong—we do not know—but it may make us close down those mills and throw 5,000 people out of employment, and we thought we might as well tell you that.

The larger aspects of the matter are for you to settle, but so far as we are concerned, that may be the result.

Senator WATSON. How much do you spend a year for oil there?

Mr. WHITESIDE. We use half a million barrels, and we spend about $600,000 now, and this would be another $200,000 for the tax. It amounts to a quarter of a cent on our goods.

Senator WATSON. All right. Much obliged.

Senator GORE. One question. Mr. Whiteside, do you not think that both fuel oil and cotton fabrics ought to be on the free list, or that neither fuel oil nor cotton fabrics ought be on the free list?

Mr. WHITESIDE. I am not prepared to answer that, sir.

Senator GORE. You are just specializing on this one point?

Mr. WHITESIDE. Having this tariff on cotton goods sounds very nice, but the fact is——

Senator GORE. Would you be willing to have it taken off?

Mr. WHITESIDE. I could not say that, sir.

Senator GORE. All right.

Senator CONNALLY. You say you use 500,000 barrels?

Mr. WHITESIDE. Yes.

Senator CONNALLY. And you pay $600,000 for it?

Mr. WHITESIDE. Yes.

Senator CONNALLY. So, you pay $1.20 a barrel for it?

Mr. WHITESIDE. I was speaking of the mill cost, plus the freight, and everything.

Senator CONNALLY. I know; but that is what you pay?

Mr. WHITESIDE. Under our boilers.

Senator CONNALLY. You pay $1.20 a barrel for the fuel oil in Boston?

Mr. WHITESIDE. That was last year.

Senator CONNALLY. That is what I am talking about. That is what you pay. You testified you paid $600,000 to get 500,000 barrels of oil.

Mr. WHITESIDE. Last year.

Senator CONNALLY. You pay $1.20 a barrel.

Mr. WHITESIDE. The price has gone down since.

Senator CONNALLY. That has gone down since. Why didn't you you say that? As a matter of fact, you testified that you use 500,000 barrels, and you pay $600,000 for it. That is $1.20 a barrel, is it not?

Mr. WHITESIDE. Yes.

Senator CONNALLY. All right. What are you paying now?

Mr. WHITESIDE. We are paying 85 cents a barrel delivered.

Senator CONNALLY. Then you are not spending this year, $600,000?

Mr. WHITESIDE. No, sir.

Senator REED. What is that, imported oil?

Mr. WHITESIDE. Yes.

Senator REED. Venezuelan oil?

Mr. WHITESIDE. Yes, sir.

Senator GORE. Mr. Chairman, I do not want to call Mr. Milliken back, but I would like to have him include in his statement when he corrects it the reason why a tariff of 1 cent a gallon on imported fuel oil would lead him to substitute coal-burning apparatus for oil-burning apparatus, when this very act imposes a tariff of $2 a ton on coal, and it is selling at 60 cents a ton at the mouth of the mine in West Virginia?

Senator WATSON. He can incorporate that.

STATEMENT OF WILLIAM HARWOOD, SECRETARY-TREASURER AMERICAN FEDERATION OF TEXTILE OPERATIVES, FALL RIVER, MASS.

Senator WATSON. Give the committee your name, and tell where you live and what your business is.

Mr. HARWOOD. William Harwood. I am secretary and treasurer of the American Federation of Textile Operatives, Fall River, Mass. I reside in Fall River, Mass., and have been connected with labor in the textile industry for over 30 years. I am now, and for over 10 years have been, secretary and treasurer of the American Federation of Textile Operatives. This is a national association of the cotton textile operatives covering the entire industry. Its national office is in Fall River, and it has branches in practically every principal location where textiles have been manufactured. At this hearing, I have been authorized by our national organization to represent it, owing to the inability of our president, James Tansey, to be present, and, in its behalf, to protest against the proposed oil tariff. In normal times the textile industry of the United States offers a source of livelihood, according to my best information, to employees exceeding 500,000 in number, and our national organization and its local unions represent and speak for the employees of that industry.

The reasons why we are interested in opposing this tariff are not far to seek. The textile industry is and for some years has been in very dire straits. Although it is one of our old-established industries and represents generations of effort and large investments in plant and machinery it has recently been facing a very serious situation, resulting in the closing down and actual abandonment of a large number of plants and in the curtailment of employment in the remaining plants. Only recently the Whitman Mills of Bedford were abandoned and their machinery sold at auction. The result has been disastrous to the workmen employed in the industry.

Textile employees require a course of apprenticeship and training in order to fit them for their employment. It is difficult for them, when the plants go out of business, to adapt themselves quickly to other employment. There are hundreds of thousands of textile workers now out of employment, not only in the six New England States but in every textile location. The records of our national organization show that our textile workers have been particularly hard hit—all without any fault of their own.

The few mills that are not entirely closed are running only part time, many of them only about one-third capacity. It seems very clear to our national organization and to all familiar with the conditions that the industry can not possibly stand any further burden in view of the strained conditions which it now faces. To the great number now constituting the army of the unemployed, will be added those who still are fortunate enough to obtain part-time employment in the industry, if the few plants now in operation should be forced to shut down. This danger is not remote, but is a very threatening one.

We know what serious efforts have been made to maintain the plants and what rigid economies have been practiced. Our workmen in the industry have cooperated toward this economy by accepting lower wages, although the standard of pay in our industry has never, according to our light, been adequate. But in spite of these ecomo-

mies and wage reductions, many of the plants have been shut down and only about one-third of the wage earners of the industry now find part-time employment therein. Our unemployment relief funds have been exhausted, and actual suffering is imminent.

The proposed oil tariff is therefore a most serious matter to this industry, that is already facing a critical situation. Fuel oil is used for heat and power in many of the industrial plants and it enters to a substantial extent in the cost of production. The addition of 1 cent a gallon to the price of fuel oil means a large increase in the cost of that important item. To operate some of the plants requires more than 10,000,000 gallons a year. A cent a gallon on that amount will mean an increased expense of $100,000 a year to such a plant. This tax forebodes clearly a closing down of more plants, increases in the army of unemployed, and further reduction in wages. Our sorely burdened American textile workers are therefore vitally interested in opposing the oil tax. It bears down particularly on them. We call to the attention of the committee that the Treasury Department has estimated that a tariff on crude petroleum and fuel oil will produce no revenue. This in itself should exclude those items from the bill. As to the tariff on gasoline, the estimated amount of revenue to the Government is altogether out of proportion to the amount of loss, suffering, and distress that the proposed oil tariff will cause to industry and hundreds of thousands of American workers.

We are not opposed to a balancing of the Budget, but we believe that a tax should be enacted which is more equitable, more uniform, less exorbitant, and which bears in its train results other than the suffering and distress the oil tariff would cause to the American textile workers.

STATEMENT OF GEORGE M. ROMMEL, INDUSTRIAL COMMISSIONER, THE INDUSTRIAL COMMITTEE OF SAVANNAH, GA.

Mr. ROMMEL. Mr. Chairman and gentlemen of the committee, my name is George M. Rommel. I am industrial commissioner of the Industrial Committee of Savannah, Ga. That committee is a federation representing the leading business institutions of the city. In addition to representing the committee I have credentials from the city of Savannah, the Savannah Chamber of Commerce, the Savannah Junior Chamber of Commerce, the Savannah Clearing Association, and the Savannah Real Estate Board. I will file this brief, with those credentials, with the committee.

I wish to say only this, and take as little of your time as possible, that so far as revenue is concerned, we do not believe that there will be any revenue produced in Savannah by reason of this bill, for the simple reason that the price of fuel oil will rise to such a point that we will be compelled to return to the use of coal, which we formerly used for industrial fuel in Savannah. That is the whole story. The details are in this brief.

Senator GORE. Do you figure that a tariff of 1 cent a gallon on oil will bear heavier on you than $2 a ton on coal?

Mr. ROMMEL. The coal tariff will not affect us at all, sir.

Senator GORE. Why? I do not want to take too much time on it.

Mr. ROMMEL. The trouble in Savannah in regard to the use of coal is simply this. We are so far from the coal fields that we must pay a

freight rate of not less than $3.05 a ton, and that is for a poor grade of steam coal. For good Pocahontas slack from West Virginia, the freight rate is $3.60 a ton. The question of the price of coal is immaterial. You can not reduce those freight rates. They are down as low now as the railroads can afford to charge.

Senator GORE. Coal in West Virginia, as I understand, is selling at 60 cents a ton at the mouth of the mine.

Mr. ROMMEL. That is a distress price, of course.

(Mr. Rommel submitted the following brief:)

REMARKS ON THE PROPOSED EXCISE TAXES ON IMPORTED PETROLEUM AND PETROLEUM PRODUCTS BY GEORGE M. ROMMEL, INDUSTRIAL COMMISSIONER, THE INDUSTRIAL COMMITTEE OF SAVANNAH, GA., BEFORE THE FINANCE COMMITTEE, UNITED STATES SENATE

Mr. CHAIRMAN. My name is George M. Rommel. I am the industrial commissioner for the Industrial Committee of Savannah, Ga., which represents and is supported by the leading business organizations of the community, including the city of Savannah. I am here under the instructions of the industrial committee. I also have credentials authorizing me to represent at this hearing and present the views of the city of Savannah, the Savannah Clearing Association, the Savannah Real Estate Board, the Savannah Junior Chamber of Commerce, and the Savannah Chamber of Commerce. The latter body includes in its membership more than 1,400 associate members in the surrounding counties in Georgia and South Carolina.

The people of Savannah, of Chatham County, and of the State of Georgia believe it wise to put their own official houses in order. Therefore we stand four-square with the leaders in Congress who are determined to do the same thing for the business of the Nation. And we will take the next step. We are willing loyally to pay our share of increased Federal taxes, and pay them as cheerfully as anyone pays taxes.

For three years the Industrial Committee of Savannah and the community it represents have consistently opposed the efforts which have been made to induce Congress to place a tariff on imported petroleum and petroleum products, or even to prohibit such importations. We have taken this stand in self-defense

When the oil-tariff proposal comes to the fore as an item in the revenue bill, we are just as strongly opposed to it as when it was presented as an honest-to-goodness tariff measure, and for the same reasons.

As citizens of the State of Georgia we again oppose it in self defense and we also oppose it as loyal citizens of the United States because we believe it to be our duty to point out to the Congress that no revenue can be derived from these sources so far as Savannah is concerned.

About four years ago the leading industries in Savannah and the steamship lines in overseas service whose home port is Savannah stopped using coal for fuel and changed over to fuel oil. This action at once removed Savannah and Chatham County from the high-cost-fuel class, because grade bunker C fuel oil at a normal price of around $1 per barrel is a reasonably priced industrial fuel, while coal has always been a high-priced industrial fuel in Savannah on account of the long freight haul. There is no reason ever to expect any change in this condition in respect to coal.

The lowest coal price which has come to our attention was a quotation of 50 cents a ton in large lots at the mine for Pocahontas slack. The freight on this coal to Savannah is $3.60 per ton, making the cost $4.10 f. o. b. cars Savannah. However, this was a "distressed" price and not a normal one. Pocahontas slack usually sells for much more. But let us allow that 50 cent figure to stand for purposes of comparison.

Considering all details of cost, our engineers in Savannah estimate that three and one-half barrels of grade bunker C fuel oil are equivalent to 1 ton of good steam coal averaging 18,000 to 19,000 British thermal units per pound. At $1 per barrel of oil, the cost-equivalent price is therefore $3.50 per ton, for which coal has never been delivered in Savannah and never will be.

The fuel oil contracts in Savannah are based on New York prices. They call for delivery in customers' tanks and hence are practically the cost of the oil in the furnace. To the f. o. b. Savannah coal price must be added various incidental costs such as unloading, powdering, conveying, ash disposal and the like,

so that there is a normal differential in favor of fuel oil of at least $1 per ton, coal equivalent.

As a result of the change from high-cost coal to reasonable-cost fuel oil, industrial activity has increased in Savannah. It is especially important to note that electric rates have decreased on this account until the local electric company claims that it sells current at lower rates than those of any other steam generating plant on the Atlantic coast.

So long as reasonable prices prevail for fuel oil in Savannah, we may expect these cheap electric rates to continue. If fuel costs increase, however, the cost of generating electricity will increase, the charge for electricity to the consumer will increase and the ability of the user of electricity to pay taxes to the Federal Government will decrease to a corresponding extent.

With normal prices for fuel oil we can depend on it as an industrial fuel in Savannah. Increase the price above normal by the imposition of a tariff and we will be compelled to stop using oil, we will pull the oil burners out of our furnaces, replace the coal grates and go back to coal.

In that event no fuel oil would be used in Savannah industrial plants and hence, so far as Savannah is concerned, the United States would derive no revenue from the proposed excise tax on imported fuel oil.

Now what effect would this have on users of electricity, of whom there are more than 15,000 in Savannah, ranging from the small householder whose bills average a few dollars each month, to the manufacturer whose monthly consumption of current costs him thousands of dollars?

A change from oil to coal in Savannah is to be expected if a tariff in the guise of an excise tax is placed on imported fuel oil and no revenue would accrue to the United States. However, consumers of electricity and gas would be heavily taxed indirectly as a result.

Engineers for the public utilities in Savannah estimate that a change from oil to coal would increase the cost of generating electricity approximately one-half cent per kilowatt-hour and that of gas 20 cents per 1,000 cubic feet. This would be equivalent to a tax of nearly 10 per cent on monthly bills of the smallest user of domestic electricity current and of nearly 50 per cent on those of the large industrial user.

Most of the gas manufactured in Savannah is used for domestic purposes. Permit me to cite my own case as a convenient illustration. My gas bill for March last was $10.73 net. An increase of 20 cents per 1,000 cubic feet would have increased my March bill $1.48, or just under 14 per cent.

And all to no purpose so far as it helps to raise revenue for the National Treasury. The United States Government would derive no benefit whatever from these increased expenditures. On the contrary, my ability and my neighbor's ability, the ability of Savannah merchants and manufacturers, to pay our just share in supporting the United States Government through the present crisis would be diminished.

The proposed excise tariff on crude oil would also hit us hard with similar negative results in revenue production. Three years ago Pan-American Petroleum and Transport Co. erected an asphalt refinery at Savannah to supply asphalt to the roofing plant of Certainteed Products Corporation across the street. The crude oil refined at this plant comes from Mexico and Venezuela, and is said to be especially high in asphalt content.

This asphalt goes into the manufacture of low-cost roofing which has a wide distribution in the Southeast.

It also has great importance as a cheap material for the construction of secondary highways. In fact, it promises to be a godsend to communities where soils are sandy and there is no stone or gravel nearby. Using this asphalt and local sand with no other ingredients, satisfactory hard surfaced highways are being built in the Southeast for less than $5,000 per mile.

There is grave doubt whether the Savannah refinery could continue to operate if the proposed tax on imported crude oil is imposed. In that event, crude oil imports at Savannah would stop and again the United States would fail to derive revenue in Savannah by the proposed legislation.

If the oil refinery at Savannah is closed the roofing plant will close, throwing several hundred men out of work and shutting off Savannah pay rolls of $200,000 a year.

Finally, a word on the proposed tax of 1 cent per gallon on imported gasoline.

The State gasoline tax in South Carolina and Georgia is 6 cents per gallon. In Florida it is 7 cents. The price of gasoline has recently advanced 2 cents per gallon, making the retail price 21 cents. I submit that it is contrary to human

nature to pay another cent of gas tax without resort to all sorts of schemes to avoid it. It would be difficult to collect any more gas tax than is now being paid in the Southeast. In our opinion it would be quite impossible to sell imported gasoline in that section with a 1-cent tax on it. Again the proposed item would fail to be a source of revenue and this is a revenue bill before Congress.

To sum up, we oppose these proposed taxes not because we object to the payment of taxes per se, but because they will be futile in effect. The United States can look for no revenue from these sources in Savannah, and we will be so seriously handicapped by their operation that we will be much less able to pay Federal taxes in other ways than we will be if the Congress leaves the oil tariff alone.

We maintain that these proposed excise taxes are not revenue items; they are prohibitive tariffs.

In conclusion, may I express our wonderment as to the necessity for these excise tariffs?

I am in no sense an oil expert and I am the veriest layman on oil prices, but surely any layman should be allowed to call attention to the rise in the price of domestic crude oil, in the absence of a tariff. The Oklahoma price rose steadily from a low of 20 cents a barrel in July last to more than 90 cents a barrel in the first week of April this year. My authority for these quotations may be found on page 12 of the Oil and Gas Journal, of Tulsa, Okla., for April 7, 1932.

Not only have crude oil prices advanced, but the prices of refined products are going up. There has been a recent advance in fuel oil of 5 to 10 cents a barrel and, as I have already stated, we are paying 2 cents a gallon more for gasoline in Savannah than we paid two weeks ago.

What other commodities can show such a spectacular rise during the depression? Certainly not cotton or corn, peanuts, pecans, peaches, watermelons, or sweetpotatoes in Georgia, nor butter, eggs, potatoes, or hay in New York or Minnesota, nor hogs and cattle in Iowa, nor wheat in the Dakotas, nor lambs in Utah or Wyoming, nor any other agricultural commodity that might be mentioned, to say nothing of steel, copper, and other staple commodities.

In view of these facts, why does the oil industry need tariff protection?

THE INDUSTRIAL COMMITTEE OF SAVANNAH,
Savannah, Ga., April 5, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR SENATOR SMOOT: This will introduce Mr. George M. Rommel, industrial commissioner, who is appearing before the Senate Finance Committee to file the protest of Savannah and Chatham County against the proposed excise taxes on petroleum and petroleum products. He is hereby authorized to represent the Industrial Committee of Savannah in this connection.

Very truly yours,

H. C. FOSS,
Chairman The Industrial Committee of Savannah.

EXECUTIVE OFFICE,
Savannah, Ga., April 5, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

MY DEAR SENATOR SMOOT: This will serve to introduce Mr. George M. Rommel, Industrial Commissioner of the Industrial Committee of Savannah, which is a federation representing the leading business institutions of this city. Mr. Rommel is appearing before the Senate Finance Committee to file the protest of Savannah and Chatham County against the proposed excise taxes on petroleum and petroleum products. He is authorized to represent the city of Savannah, and every consideration shown Mr. Rommel will be greatly appreciated by both him and myself.

Respectfully,

T. M. HOYNES, *Mayor.*

SAVANNAH CLEARING ASSOCIATION,
Savannah, Ga., April 4, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR SENATOR SMOOT: This will introduce Mr. George M. Rommel, Industrial Commissioner of the Industrial Committee of Savannah, which is a federation, representing the leading business institutions of this city. Mr. Rommel is appearing before the Senate Finance Committee to file the protest of Savannah and Chatham County against the proposed excise taxes on petroleum and petroleum products. He is hereby authorized to represent the Savannah Clearing Association in this connection.

Very truly yours,

GEO. H. SMITH,
President Savannah Clearing Association.

SAVANNAH REAL ESTATE BOARD,
Savannah, Ga., April 5, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR SENATOR SMOOT: This will introduce Mr. George M. Rommel, Industrial Commissioner of The Industrial Committee of Savannah, which is a federation representing the leading business institutions of this city. Mr. Rommel is appearing before the Senate Finance Committee to file the protest of Savannah and Chatham County against the proposed excise taxes on petroleum and petroleum products. He is hereby authorized to represent the Savannah Real Estate Board in this connection.

Very truly yours,

GEO. S. CLARKE,
President, Savannah Real Estate Board.

CHAMBER OF COMMERCE,
Savannah, Ga., April 4, 1932.

Hon. REED SMOOT,
Chiarman Finance Committee,
United States Senate, Washington, D. C.

DEAR SENATOR SMOOT: This will introduce Mr. George M. Rommel, Industrial Commissioner of The Industrial Committee of Savannah, which is a federation representing the leading business institutions of this city. Mr. Rommel is appearing before the Senate Finance Committee to file the protest of Savannah and Chatham County against the proposed excise taxes on petroleum and petroleum products. He is hereby authorized to represent the Savannah Junior Chamber of Commerce in this connection.

Very truly yours,

W. H. CAIN,
President, Junior Chamber of Commerce.

CHAMBER OF COMMERCE,
Savannah, Ga., April 4, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR SENATOR SMOOT: This will introduce Mr. George M. Rommell, Industrial Commissioner of The Industrial Committee of Savannah, which is a federation representing the leading business institutions of this city. Mr. Rommel is appearing before the Senate Finance Committee to file the protest of Savannah and Chatham County against the proposed excise taxes on petroleum and petroleum products.

He is hereby authorized to represent the Savannah Chamber of Commerce in this connection. In addition to its membership in Savannah and Chatham County, Ga., the Savannah Chamber of Commerce has more than 1,400 associate members in near-by territory in Georgia and South Carolina.

Very truly yours,

PETER R. NUGENT, *President.*

STATEMENT OF BENJAMIN A. FRANKLIN, SPRINGFIELD, MASS., REPRESENTING THE ASSOCIATED INDUSTRIES OF MASSACHUSETTS

Mr. FRANKLIN. My name is Benjamin A. Franklin, Mr. Chairman and gentlemen of the committee, of Springfield, Mass. I represent the Associated Industries of Massachusetts, about a thousand manufacturers, four hundred thousand employees, one billion and a quarter of investment, and one billion and a half of sales. A'so the Writing Paper Manufacturers Association of America. I have been president of both of these concerns. All of these concerns are perfectly in the belief that we ought to balance the budget. They are all willing to do a fair share in helping to raise the necessary money, helping to pay the necessary money to do it.

It is very evident that this has developed purely into a tariff matter and not into a revenue-raising matter. We would like to call your attention to the fact that the whole Atlantic Seaboard is without a natural supply of fuel, and that it has developed oil as a fuel. All other sections of the country have natural supplies of both coal and oil, and the Atlantic Seaboard, having developed this situation with a very considerable expenditure, believes that it is entitled to a very definite consideration. There have been so many of the points already covered that I am not going to raise any new ones.

I would like to call your attention, however, to the fact that a considerable portion of our gas is now made from oil, and can only be made from coal provided the coke as a by-product can be sold, which seems difficult.

A great many of our industries employing very many more people than can possibly be affected in the oil fields are dependent very definitely upon this oil situation, and if they have to pay much more money they will very definitely have to either take it out of the public in price, which is difficult at this time, or they will have to take it out of wages, which ought to be made difficult at this time.

You have heard about the householders, and what that involves in the steamships. In New England our fishing industry is very considerably a user of this oil, and will be very materially affected.

In short, this tariff, which is purely a tariff, will unquestionably cost the Atlantic Seaboard, and probably the country, a very considerable number of millions of dollars, and bring in very little income.

Now if the Government is going to get any income out of gas, it occurs to me to suggest that in a democratic country the taxes should be somewhat democratic.

Senator REED. They are, I assure you.

Mr. FRANKLIN. And 1 cent a gallon on gasoline for automobiles, for example, would bring in a great deal of money and cost the ordinary man no more than five or ten dollars a year.

The idea, I think, has developed considerably in this bill that wealth ought to be taxed. I would like to call your attention to the fact that in this country wealth does not exist in great estates. Wealth in this country is productive wealth. If you overburden it, particularly at a time like this, you will very definitely restrict its incentive to develop production, and it seems to us that this bill, appreciating fully the point of view of the oil men, will merely add a very much greater burden to an already overburdened industry

than it can possibly produce in the way of taxes in this particular situation. We are therefore definitely opposed to it.

Senator WATSON (presiding). Thank you, Mr. Franklin.

Senator GORE. Mr. Franklin, you see a fundamental difference and distinction in principle between a tariff on fuel oil and a tariff on wool and cotton fabric?

Mr. FRANKLIN. I will answer your question in another way.

Senator GORE. I wish you would answer the question as I asked it.

Mr. FRANKLIN. In the past 10 years America has permitted a great many excesses, and one of them is the excess of tariff, and I do not want to see them go any further.

Senator GORE. Yes. You would not want it reduced on cotton, would you, and woolen fabrics?

Senator WATSON (presiding). Thank you, Mr. Franklin.

STATEMENT OF A. M. LOOMIS, WASHINGTON, D. C.

Mr. LOOMIS. Mr. Chairman, if agriculture can get two minutes between these two contending oil industries, I want to say one word. You will notice by the record that two large farm organizations have asked for an appearance here. The two men representing those farm organizations, not being familiar with the situation here, will not be here. I want to file briefs on behalf of both of them. Mr. Kirk, the master of the Ohio State Grange, and Mr. Robinson, of the Kentucky Farm Bureau Federation.

Senator CONNALLY. For or against?

Mr. LOOMIS. Against. It is the position of agriculture over the United States.

Senator CONNALLY. I want to ask Mr. Loomis a question or two. You said, Mr. Loomis, that you were speaking for agriculture. Are you, generally, or not?

Mr. LOOMIS. I did not say I was speaking for agriculture.

Senator CONNALLY. Well, you said if agriculture could have two minutes of the committee's time you would tell them about the attitude of agriculture on oil, did you not?

Mr. LOOMIS. I said I spoke for two agricultural representatives whom I was personally representing.

Senator CONNALLY. All right. You are supposed to represent the Dairy Council here in Washington, as their representative?

Mr. LOOMIS. One of my pieces of work. Not the Dairy Council. You will have to have a diagram to keep straight among these dairy industries.

Senator CONNALLY. There are a lot of them. Well, are you representing them here to-day?

Mr. LOOMIS. No.

Senator CONNALLY. Have you not been employed to appear here or anywhere else to lobby for an American importer of oil?

Mr. LOOMIS. I have not been employed to appear here for anybody.

Senator CONNALLY. Before the House committee, then?

Mr. LOOMIS. No. I have been employed to do certain work.

Senator CONNALLY. Yes. For an American ——.

Mr. LOOMIS. For an importing oil company.

SENATOR CONNALLY. For an importing oil company?

Mr. LOOMIS. Yes.

Senator CONNALLY. And you have been paid to do that work?

Mr. LOOMIS. Yes, sir.

Senator CONNALLY. And that has nothing on earth, of course, to do with your appearing here to-day?

Mr. LOOMIS. That has nothing to do with what these two men wish to testify about.

Senator CONNALLY. But you spoke up and said you wanted to get two minutes for agriculture. Did agriculture help pay your fee that you got from this American importer of oil to prepare this work?

Mr. LOOMIS. No, sir.

Senator CONNALLY. Were you speaking a moment ago, then, for the great downtrodden American agricultural interests, or were you speaking for this American importer of oil that has paid you a fee for doing this work?

Mr. LOOMIS. I have never done a piece of work in Washington in the 12 years I have been here and I am not now doing a piece of work except for what I was convinced is for the benefit of American agriculture.

Senator CONNALLY. That was your motive in accepting this fee from the oil importer?

Mr. LOOMIS. It was, and so understood.

Senator CONNALLY. You say that American agriculture accepts a nice fee from the American importer on behalf of this great American industry?

Mr. LOOMIS. No; I accepted a fee. Not that agriculture did.

Senator CONNALLY. You said you represented agriculture.

Mr. LOOMIS. No, I did not say——

Senator CONNALLY. Well, why did you say a while ago——

Mr. LOOMIS. I said this, and I want that to appear on the record, and I made myself plain, and I want to do it again. I never have taken a task of any kind in the 12 years I have been in Washington, or 13 years, but what I was thoroughly convinced in my own mind was for the interest of American agriculture. And that is irrespective of who may have paid me for the work I was doing.

Senator CONNALLY. Who is the American importer of oil that employed you?

Mr. LOOMIS. Pan American Petroleum & Transport Co.

Senator CONNALLY. A branch of the Standard Oil Co. of Indiana; that is right, isn't it?

Mr. LOOMIS. Subsidiary.

Senator CONNALLY. Subsidiary of the Standard Oil Co. of Indiana?

Mr. LOOMIS. Subsidiary of the Standard Oil Co. of Indiana, I am informed. I know nothing about that.

Senator CONNALLY. So in accepting a fee from that company you thought you were doing a great service to American agriculture?

Mr. LOOMIS. Exactly.

Senator CONNALLY. Are you on the pay roll regularly, or just now and then?

Mr. LOOMIS. No, not regularly.

Senator CONNALLY. You hope to get on again, do you not?

Mr. LOOMIS. I will be very glad to.

Senator CONNALLY. Yes. I thought so. That is all.

Senator WATSON. Do you have the statements?

Mr. LOOMIS. They are not prepared.

Senator CONNALLY. I object to opening the record to something that is not even in existence. If he has got a brief and wants to file it, let him file it, but if he has got something that he wants to go back and cook up I object to his doing that.

Senator WATSON. Who is it wants to file these briefs, Mr. Loomis?

Mr. LOOMIS. The master of the Ohio State Grange, Mr. Walter F. Kirk, and the president of the Kentucky Farm Bureau Federation, a Mr. Robinson, whose first name escapes me.

Senator CONNALLY. Let them file them, but not have someone come and ask to file something that is not in existence.

Senator REED. He says the men will have their statements here, and he has requested our permission to file them.

Senator CONNALLY. We can pass on them Monday when the statements come.

Senator WATSON. Have they been prepared, Mr. Loomis?

Mr. LOOMIS. Not that I know of.

Senator WATSON. They have not. Well, get them in here Monday and we will give you an opportunity to make the offer, at all events.

Senator WATSON (presiding). Mr. James O'Hara of Fall River, Mass., vice president of the National Loom Fixers' Association, and Mr. William McNamara of Lowell, Mass., of the Weavers Progressive Association, ask the privilege of filing briefs on this question, and if there be no objection they may do so.

STATEMENT OF JAMES O'HARA, FALL RIVER, MASS., VICE PRESIDENT OF THE NATIONAL LOOM FIXERS' UNION

Mr. O'HARA. Gentlemen, I have been designated to present the protest of the National Loom Fixers' Union against the proposed tariff on fuel oil. All the loom fixers of the carpet industry and the textile industry are unionized and our locals cover every locality where looms are used in mills. Our members require at least five years of apprenticeship to fit them for their work and they have to own their own tools. It is, therefore, very hard for them to turn their hand to other employment, even if employment were available. Conditions prevailing in the mill districts are pitiful. More than half of our men are out of work entirely and the rest are only partly employed.

Many of the mills use fuel oil and the few mills that are operating on part time are barely hanging on. We have cooperated by taking large cuts in wages because the mill management has shown us what tremendous losses they have sustained. Committees of our organization in connection with other labor organizations are cooperating with the management to reduce expense so as to enable them to keep the mills from shutting down altogether.

We ask this committee not to add any expense to these tottering industries because we are fearful that the additional burden of the proposed oil tariff will be the cause of further unemployment.

I am shortening my remarks in compliance with the wishes of this committee, and I hope that my few words will convey my important message which my organization wanted me to deliver.

STATEMENT OF WILLIAM McNAMARA, LOWELL, MASS., SECRETARY OF THE WEAVERS PROGRESSIVE ASSOCIATION

Mr. McNAMARA. Gentlemen, I have been commissioned to appear here for the Weavers' Progressive Association to protest against a tariff on fuel oil. This organization of which I am secretary is composed of over five thousand workers in the textile industry in Fall River, Mass. I had prepared a few remarks as to the effect of this tax on our group of workers. On account of the limited time at my disposal, I will simply say that my organization agrees with the stand taken by the organization represented by Mr. Harwood, and I want to add that out of the 35,000 textile workers in Fall River, less than 7,000 are now employed, and these have only part-time employment; that is, not more than two or three days a week. The rest of the plants are entirely shut down, some of them for good.

The tax on fuel oil will add a great expense to the few mills that have been able to hold on, and there is grave danger that even these will close and the few part-time employees will be thrown out of work. Our community chest for the unemployed is dry. Fall River is in the hands of a finance commission. I can not adequately describe the black outlook in our city, and I hope that this committee will not add a burden to our industry which will increase the army of the unemployed.

STATEMENT OF BERNARD FRANKEL, NEW YORK CITY, OF THE WARNER QUINLAN CO.

Mr. FRANKEL. Gentlemen of the committee, my name is Bernard Frankel. My office address is No. 2 Park Avenue, New York City. I am the general sales manager of the Warner Quinlan Co.

Mr. Chairman and members of the Senate committee. I wish to preface my remarks by stating very definitely that I appear before you as a private citizen—not as spokesman for any oil company—not as a shareholder in any oil enterprise.

At the same time I would hardly presume to come before this committee unless I felt myself somewhat qualified to do so by years of active practical experience in the industry that is now struggling for a chance to live.

In the course of my business, I naturally come in contact with all forms of competition—particularly in the metropolitan New York area. I have been able without undue exertion to influence the conversion of many important customers of coal into switching from coal to oil. This accomplishment, gentlemen, has been very simple because—using the commonly accepted formula that four barrels of oil are equivalent in heating value to 1 ton of coal—the price of oil, at current market levels, is actually below the single item of railroad freight on coal to tidewater.

Furthermore, the price of foreign crude is selling for less laid down in New York Harbor than the actual pipeline charges, plus ocean transportation to the same market from our important domestic fields. Clearly, it is impossible for American producers to compete on this basis. I have had ample time to reflect that while aforementioned process of changing from coal to oil and from domestic oil to foreign oil has been progressing, hardly any of our own people were

benefiting thereby. On the contrary, we were doing ourselves an irreparable damage by assisting in the depreciation of our own purchasing power. The oil we sold was of foreign origin—the railroads were losing the revenues derived from haulage of coal—the coal people were losing a vital market for their product—coal miners were losing the opportunity to earn their daily bread and the American royalty owner, usually the farmer, was deprived of his rental and royalty income which very often spelled the difference between a reasonable degree of comfort and starvation standards.

Senator WATSON (presiding). How long is it going to take you to read that, Mr. Frankel?

Mr. FRANKEL. I have just got about four more pages.

Senator WATSON. Well, that is a long time. Can you not file that statement in the record so that we can save time?

Mr. FRANKEL. I certainly can, Mr. Chairman. But I do not like to see it mutilated in this way.

Senator WATSON. It is not going to be mutilated. It will be published in the record.

Senator CONNALLY. He is one of the proponents, that have only had an hour, against 3½ hours on the other side.

Senator WATSON. Oh, he is one of the proponents?

Senator CONNALLY. Yes. He is speaking for the bill.

Mr. FRANKEL. Mr. Chairman, that is one reason why I would not like to have it just put in the record. I would like to have you listen to it.

Senator WATSON. Well, are you a proponent of this tariff on oil, or excise tariff on oil?

Mr. FRANKEL. I am in favor of anything that is good for the country.

Senator WATSON. Oh, I understand. We are all on one platform.

Mr. FRANKEL. I am certainly in favor of an excise duty on oil.

Senator WATSON. Well, that is the point. Then if Senator Connally insists on hearing you, why, we will hear you.

Mr. FRANKEL. Thank you, Senator.

It is significant to note that less than 300,000 barrels of daily importations from foreign lands controls the entire price structure of the country. Not only has it demoralized out domestic oil industry, but it has also had a ruinous effect on the price structure of the coal industry.

Crude oil and refined products therefrom are admittedly selling below the cost of production. Thus we find an industry that represents billions of dollars of invested capital flat on its back—unable to report anything but deficits to a vast army of shareholders throughout the country.

An excise duty of 1 cent a gallon will not shut out our importation of foreign oils but it will at least serve to reduce the paralyzing handicap that now exists between the cost of foreign and domestic production. Your own tariff commission in a committee report prepared during the course of debate on this measure, presented official figures to the effect that the differential in the cost of producing and transporting oil to the Atlantic seaboard between domestic and foreign producing fields amounted to $1.03 a barrel. With these authentic figures at your disposal, it is difficult to see how anyone can legitimately minimize or question the revenue-producing benefits of the

proposed duty to the Government. I believe such income will readily approximate $40,000,000 per annum.

The argument has been advanced that the added cost of petroleum products used by the Government would more than counterbalance the potential revenues from this measure. The accuracy of such figures can be easily challenged. I wish to direct the attention of your honorable body to the fact that the Government would benefit a hundredfold through the potential increase in taxable corporation incomes in this one industry alone if it receives this modest degree of protection. Surely no right-minded individual or sane economist desires to see a great key industry held down so that the Government can buy its requirements below cost. Such a policy would be palpably penny wise and pound foolish. We have only to consider the frantic efforts made by our Government to raise the market price for wheat to realize the fallacy of the aforementioned contention.

I have heard a great deal of talk about the depletion of our oil reserves. This spectre has been dragged across the trail like the proverbial red herring on many previous occasions and your own Congressional Record carries facts and figures which thoroughly refute it. In the course of an extended analysis of world oil conditions, I came inevitably to the conclusion that as soon as the pipeline from Iraq field—which is in Mesopotamia—to a Mediterranean loading port was functioning—and such construction is now under progress—the American exports about which we hear so much will be practically excluded from continental European markets. If the proposed duty on petroleum imports is not sustained there is no question that the exploration, development, and exploitation of South American oil will be expedited and immeasurably encouraged, while our own domestic producers and our own independents are further squeezed to the wall. I wonder whether oil prices have advanced because of this proposed excise tax as some of its opponents state, and I wonder also whether anyone can actually prove that the principal purchasers of pipeline crude are actually buying the entire available production at their own posted prices.

In August of 1929, our daily domestic production of crude totaled 2,973,000 barrels. At the present time daily production has slumped to 2,100,000 barrels—a reduction of approximately 30 per cent. Surely nobody can accuse our domestic producers of not cooperating in the curtailment program.

As near as I can figure it out, the railroads by virtue of the present large-scale dumping of foreign crude and refined products along the Atlantic seaboard, have been deprived of hundreds of millions of dollars in coal freights. If the railroads, the coal producers and our domestic oil industry fit into our economic scheme of things—if the millions of our citizens who depend for a livelihood on those and affiliated industries are entitled to any consideration, there can be no plausible argument against this excise duty. I, for one, firmly believe that business generally will turn that long heralded corner when this duty is exacted.

When you toss a pebble into a pond the ripples caused by that pebble spread out to every corner of the pond. If you extend a helping hand to these great industries you will do more than cause a ripple in our economic cycle—you will give it sufficient impetus not

only to snap out of its present deplorable status, but also to tone up the whole economic fabric of this country.

Senator WATSON (presiding). Thank you, Mr. Frankel.

Mr. FRANKEL. Is that all, Mr. Chairman?

Senator WATSON (presiding). That is all. Thank you.

STATEMENT OF WIRT FRANKLIN, PRESIDENT OF THE INDEPENDENT PETROLEUM ASSOCIATION, ARDMORE, OKLA.—Contd.

Mr. FRANKLIN. Mr Chairman and gentlemen of the committee, I desire to resume where I left off yesterday afternoon.

Senator GORE. Mr. Chairman, just one moment. I was conferring with Mr. Franklin a moment ago. I think he has so much ground to cover and has so little time in which to cover it, that he would prefer to finish his statement and then subject himself to questions at the hands of the Senators. I feel that when he has finished his statement there will be little left to question him on.

Senator WATSON. We have no objection to that.

Senator GORE. Thank you.

Mr. FRANKLIN. The last thing I stated yesterday afternoon was the statement showing the average imports of oil and oil products into the United States for the years 1929, 1930, and 1931, showing that these importations, based upon that average would produce a total revenue of $53,687,825. That somewhat refutes this idea of "car fare' revenue that has been mentioned, and that this proposed tax in the revenue bill is a tariff.

Gentlemen of the committee, were I presenting this to you from the standpoint of a tariff on oil, a protective tariff, such as Massachusetts enjoys, and has enjoyed from time immemorial, I would be asking for a tariff of a dollar a barrel and 50 per cent ad valorem on refined products, and that would only be a trifle less than the difference in cost of foreign and domestic production. But I presented this matter to the Committee on Ways and Means from a standpoint of revenue. It is true that from that standpoint I asked, and proved that 2 cents a gallon on imported oil would not keep it out, because that would still be more than 20 cents a barrel less than the difference in cost of production. But the committee in its wisdom saw fit to fix a cent a gallon tax on the merits of this case, after a very exhaustive hearing.

Senator REED. Mr. Franklin, if it does not keep the oil out, how is it going to help Oklahoma and Texas?

Mr. FRANKLIN. By equalizing the price and keeping competition alive.

Senator WATSON. Would there not have to be a great restriction in American production if any kind of a tariff was to be helpful?

Mr. FRANKLIN. I answered that question yesterday I thought very thoroughly.

Senator WATSON. I beg your pardon.

Mr. FRANKLIN. I would like to repeat it for your information.

Senator WATSON. No.

Mr. FRANKLIN. Last year, in 1931, the American oil industry reduced its production as compared with the year 1929, 157,000,000 barrels, and it is under thorough control now under the conservation agencies of the oil-producing States. And no oil in excess of market demands are now allowed to be produced by the authorities of those

States. It is another red herring that has been drawn over the trail. There has not been any overproduction in the United States in 13 years. That is a fallacy. It is a false impression that has been created here by those importing oil.

Senator WATSON. Do you mean to say that we do not produce more oil in the United States than we consume?

Mr. FRANKLIN. Never in thirteen years, except in two years, and then the excess was very slight. As a whole we produced 686,000,000 barrels less in those 13 years than we consumed, and during that period there were 1,010,000,000 barrels of oil imported, resulting in the excessive stocks which we now have of 341,000,000 barrels.

Senator WATSON. I can not see your argument. If the demand and the supply in the United States are equal, what advantage is the tariff going to be to you unles it greatly raises the price to the producer?

Mr. FRANKLIN. I answered that also yesterday.

Senator WATSON. All right. I beg your pardon. Go right on, I won't bother you.

Mr. FRANKLIN. There has been a question arise here before this committee as to the vote in the House on the oil measure. The question was asked yesterday by Senator Gore of Mr. McCormack. I know Mr. McCormack had no intention of misstating the facts, due to the multiplicity of things in which he is engaged, but I have before me the record of the vote in the House on oil alone. This is on page 7040 of the Congressional Record of March 25.

Mr. MCCORMACK. Mr. Chairman, I offer an amendment to the Crisp amendment.

The clerk read as follows:

Amendment by Mr. McCormack: Strike out page 4 of the Crisp amendment.

The CHAIRMAN. Without objection, the clerk will report the matter proposed to be stricken out.

This was in Committee of the Whole. [Continuing reading:]

The clerk read as follows:

This is the matter that was proposed to be stricken out. [Continuing reading:]

(4) Crude petroleum, fuel oil derived from petroleum, gas oil derived from petroleum, and gasoline, 1 cent a gallon; but the tax on the articles described in this paragraph shall apply only with respect to the importation of such article.

After the debate on that, on page 7052 of the Congressional Record of March 25, the committee divided and the tellers reported that there were ayes 97, noes 190. That was the only vote taken on oil alone. When the vote was 204 to 188, it was the united opposition to the Crisp amendment that was voted on. But on oil alone the vote was 190 to 97 in favor of oil.

Senator GORE. I thought there was a clearcut vote on that issue alone.

Mr. FRANKLIN. Well, that is what the record shows.

Senator GORE. Yes, sir.

Senator JONES. No record was made, however.

Mr. FRANKLIN. It was a tellers' vote.

Senator JONES. Yes, I understand the vote in the House.

Mr. FRANKLIN. Now, Senator Gore stated yesterday that he had an amendment to suggest to carry out the provisions of this schedule which I filed, which, as I said, raised a revenue in excess of $53,000,

000. I desire to read that amendment suggested by Senator Gore, and to explain why these changes should be made. [Reading.]

(4) Crude petroleum fuel oil derived from petroleum, gas oil derived from petroleum and all liquid derivatives of crude petroleum, except lubricating oil and gasoline or other motor fuel, 1 cent a gallon; on gasoline or other motor fuel, 3 cents a gallon; on lubricating oil, 4 cents a gallon; on paraffin and other petroleum wax products, 1 cent a pound; on natural asphalt and asphalt and bitumen derived from petroleum, 10 cents a hundred pounds; but the tax on the articles described in this paragraph shall apply only with respect to the importation of such articles.

Senator REED. Mr. Franklin, why is it fair to charge as much duty on crude oil as on fuel oil derived from crude oil?

Mr. FRANKLIN. For this reason, Senator Reed. Under the modern methods of refining, the residuum from oil, after it has been topped for its light products, may be cracked and practically as much gasoline made from fuel oil as from the original crude. It was therefore thought fair to make the tax the same on fuel oil and crude oil, otherwise the tax on crude oil may be defeated by the cracking of the fuel up into gasoline after its importation.

Senator REED (presiding). That is just what occurred to me. It seems to me that with that in mind the fuel oil ought to carry a higher tax than the crude.

Mr. FRANKLIN. Well, I can not subscribe to that doctrine myself.

Senator REED. I think you have got things just twisted around.

Senator CONNALLY. Well, the crude has the gasoline content in it; that is the point you are making, is it?

Mr. FRANKLIN. Yes.

Senator CONNALLY. And, therefore, having that content it is more valuable than a derivative that has not got that content.

Senator REED. But he has just told us that the derivative can be cracked up into gasoline and would be imported and used to defeat the tariff on crude.

Senator CONNALLY. It does not get as much gasoline as the crude has. It may have some, but you have taken the most valuable element out of it in the topping.

Senator REED. Well, it would look to me that the effect of such a tariff would be to drive the refining industry right out of the United States. I think that deserves a little thought on your part.

Mr. FRANKLIN. Well, if the tax on fuel oil is the same as on crude, I think it would equalize things between the domestic and the foreign refiner.

Now in explaining the reasons for this suggested amendment of Senator Gore, there has been added into it "and all liquid derivatives of crude petroleum." Gentlemen, that is for the purpose of preventing the evasion of the tax as passed by the House. If that provision is not included in this amendment it would be very easy for the importers to evade the tax that is levied, because there is such a slight difference in the scale, in the gravities of these different products of crude petroleum that it would be easy to ship a product in here and call it kerosene, and after it got here subject it to a very slight refining process and sell it as motor fuel. So it is necessary to include in here "and all liquid derivatives of crude petroleum."

Senator GEORGE. What are some of the light products?

Mr. FRANKLIN. Some of the products, these light products which would not be covered by the bill as written at present, Senator George, are benzine, kerosene——

Senator CONNALLY. Naphtha.

Mr. FRANKLIN (continuing). Naphtha, and there is a variety of others listed by the Department of Commerce under the head of light distillates. This clause that I have here would include them all and would be a fair and equal tax.

Then the present bill does not provide any tax on the importation of lubricating oil. Now importation of lubricating oil at the present time and in the past has been very little, due to the fact that Pennsylvania and West Virginia oils supply a much superior lubricating oil. But if this was not put in the bill there would immediately commence at these refineries down off the coast of Venezuela the manufacture of lubricating oil on a large scale, and it would be imported if it was not equalized. Therefore, this provision must be in here of 4 cents a gallon on lubricating oil.

The same thing applies to the paraffin and other petroleum wax products. The importations of these run into a considerable amount. 46,000,000 pounds last year. Or the average of the three years, I should say.

That same thing applies to natural asphalt and petroleum asphalt and bitumen, of which there were 73,770 long tons imported. That is the average figure for the three years.

Senator GORE. Is there a good deal of asphalt base oil located in Texas and Louisiana?

Mr. FRANKLIN. I wanted to get to that.

Senator GORE. Yes.

Mr. FRANKLIN. There has been an attempt to create the impression here that the United States can not furnish certain products to the American markets, and especially to the Atlantic seaboard and New England market. That is not true. There are large quantities of oil of this class produced in California, Texas and Arkansas, and they can supply adequately from those sources all the demand for such products.

I desire to have this suggested amendment made a part of the record.

(The amendment is as follows:)

On page 232 of H. R. 10236, as passed by the House and now pending in Senate, insert in lieu of lines 16 to 20, inclusive, the following:

"(4) Crude petroleum, fuel oil derived from petroleum, gas oil derived from petroleum, and all liquid derivatives of crude petroleum, except lubricating oil and gasoline or other motor fuel, 1 cent a gallon; on gasoline or other motor fuel, 3 cents a gallon; on lubricating oil, 4 cents a gallon; on paraffin and other petroleum wax products, 1 cent a pound; on natural asphalt and asphalt and bitumen derived from the petroleum, 10 cents a hundred pounds; but the tax on the articles described in this paragraph shall apply only with respect to the importation of such articles."

Mr. FRANKLIN. Congressman Nelson made a reference to the 300,000 little wells. He said those wells ought to be abandoned.

Senator REED. I would not advise him to say that up in Bradford, Pa.

Mr. FRANKLIN. He said those wells ought to be abandoned in the interest of economy of American production. In that regard, gentlemen, I want to call your attention to the fact that most of those little wells are in the Eastern States, in New York, Pennsylvania, West

Virginia, Ohio, Indiana and Illinois, and Kentucky. They represent billions of investments. At a rough estimate I would say that there are 115,000 separate leases, and that there are 200,000 families living on those leases operating those properties.

To make a suggestion that reserves be abandoned which contain from two to four billion barrels of oil in order that that district of the United States which has fattened on a prohibitive tariff and without which it could not exist might still obtain cheaper fuel is the most preposterous assertion that I have ever heard in my life. A sacrifice of 200,000 families, of $6,000,000,000 of invested money in the States which I have named, all that Massachusetts and Maine may continue to buy fuel oil below the cost of American production.

Senator GORE. Mr. Franklin, those little wells, some three hundred thousand—is that not the kind of a ballast that keeps the industries going?

Mr. FRANKLIN. Why, those 300,000 wells, Senator, are the backbone of the American petroleum industry. The flush wells are here to-day and gone to-morrow. To-day we bring in a flush field, and to-morrow that flush field with its wells takes its place alongside of the other pumping wells. And in the aggregate they produce 500,000 barrels of oil day in and day out. That is the steady source of supply.

Senator GORE. That is, wells producing less than three barrels a day.

Mr. FRANKLIN. About a barrel and a half a day on the average. And without those the American oil industry would be in a serious condition, because that supply is steady. The flush wells go up and down.

Senator GORE. Now, Mr. Franklin, on that point. If those wells were abandoned now, the production is so small it never would pay to drill new wells to open up those sands again?

Mr. FRANKLIN. Once abandoned they are gone, because the water will take them if they are not pumped continuously. It takes continuous operation of these wells to save them.

Senator GORE. And there would be no flush production if new wells were drilled?

Mr. FRANKLIN. No. These wells are what is left after the flush production is gone, and they continue to pump day in and day out over a period of 20 to 40 years. There are some in Pennsylvania and New York that are more than 40 years old, that are still operating, still supporting a vast population, and which is their sole means of livelihood.

Now I wish to clear up another matter. There have been inferences here by one distinguished gentleman that I appear here not in the interest of the independent petroleum industry but that I have appeared—to use a common phrase—as the stool pigeon of the Standard Oil group. That has been of long standing.

Senator REED. No member of this committee has done that.

Mr. FRANKLIN. No, indeed.

Senator GEORGE. No. We do not believe that you do, Mr. Franklin.

Senator GORE. No.

Mr. FRANKLIN. I want that cleared up, because two years ago on that theory I was haled before the Lobby Committee and treated as if

I had been a criminal. In the end the Lobby Committee exonerated our group of all blame. But it had a very serious effect. And there have been attempts at this session of Congress to create that same impression. I want that cleared up once and for all.

I have stated who I represented here. I represent the American petroleum industry generally except the import group, but more particularly I represent the independent petroleum branch of the industry, and I have not hesitated to speak the truth on this matter, and I have never exaggerated facts and figures. I have given the truth, which can always be substantiated. But my statements have been twisted and turned around, and I want that matter cleared up once and for all as to who I represent.

I might add that by reason of my fearless representation of the independent group I have suffered enormously. My production of oil in the Oklahoma City field was being prorated, I was entitled to run so much oil. But these pipelines, which are owned by the same companies that import oil, were my only market, and although the Corporation Commission of Oklahoma said I was entitled to a certain percentage of my production, for some unaccountable reason I got 600,000 barrels behind when the price of oil was a dollar and 35 cents a barrel. That production was made up and run when oil was 18 cents a barrel. That is what I lost at one swoop by reason of my representation of this industry. I am not saying it in any sort of regret, because the question has become one of welfare for my State of Oklahoma and for the entire Southwest, and what happens to Wirt Franklin is of little moment when the condition of 22,000,000 people is involved.

Senator CONNALLY. Any of that material that you want to put in the record you can put in it.

Mr. FRANKLIN. I shall be glad to do so.

Senator REED (presiding). You may go on with your statement.

Mr. FRANKLIN. Gentlemen of the committee, I wish to call your attention, in view of some things that have been said here, to some news articles. First is one taken from the New York Herald-Tribune of March 17, 1932.

OIL COMPANIES IN MEXICO PROTEST UNITED STATES TARIFF PLAN—AMERICAN AND BRITISH INTERESTS FEAR TAX ON IMPORTS

[By cable to the Herald Tribune. Copyright, 1932, New York Tribune (Inc.)]

MEXICO CITY, March 16.—American and British oil interests in Mexico have taken the first step in objecting to the passage of the proposed revenue act now before the Ways and Means Committee of the House of Representatives at Washington, which calls for a tax of 1 cent a gallon, or 42 cents a barrel, on oil imported from Mexico or any other country into the United States. Objection to the law is contained in an appeal made by the Confederation of Industrial Chambers of Commerce over the signature of Hilary Branch, legal representative of the Mexican Standard Oil of Indiana interests, Gaylea Steel, general manager of the Sinclair interests in Mexico, as spokesman for the Mexican oil group that is composed mostly of American companies.

The appeal, voiced in a telegram to the Secretary of Industry, Commerce and Labor, General Abelardo Rodriguez, is understood to have the sympathy of the Mexican government, which has shown more than ordinary interest in the proposed American revenue bill. It is claimed locally that this bill would still further depreciate petroleum production in Mexico and react unfavorably both on the general economic condition of the country and upon the unemployment problem. Should the measure become a law, in the opinion of oil interests, it "would make exportations to the United States, which last year amounted to 9,000,000 barrels, unprofitable."

The possibility that the Mexican Government may take up the objection through diplomatic channels is foreseen in that part of the message which requests the government to "take whatever steps it may deem necessary to prevent the passage of the proposed bill," which oil interests assets would "react disadvantageously on the economic condition of Mexico; would paralyze completely our exports, reduce the Federal income and increase the number of unemployed."

Senator REED (presiding). Mr. Franklin, your time is getting short.

Mr. FRANKLIN. Now here is an article that appeared in the New York Times of April 14, 1932 [reading]:

MEXICAN OIL RACING HERE TO BEAT TARIFF—TAMPICO SHIPS NEARLY 2,000,000 BARRELS IN A FEW DAYS TO GO INTO STORAGE

[Wireless to the New York Times]

MEXICO CITY, April 13.—The Huasteca, Aguila, Transcontinental, and Sinclair Oil Cos. have exported from Tampico to the United States more than 2,000,000 barrels of petroleum in the last few days, according to press dispatches.

The extraordinary activity is said to be to get the oil in storage in the United States before the new tariff goes into effect, as it is expected to make future shipments from Mexico unprofitable.

A protest against the new tariff has been placed before Abelardo Rodriguez, the Minister of Industry, Commerce, and Labor, by the Confederation of Industrial Chambers of Commerce, which contends that not only would enforcement of such taxation have a grave repercussion on the Mexican economic situation, but would make oil export to the United States impossible. The confederation recalls that last year nearly 10,000,000 barrels of petroleum were exported to the United States and observes that a serious economic situation would be produced here if this business is curtailed or wiped out.

And here is an article that appeared in the Wall Street Journal on April 15, 1932 [reading]:

MEXICAN OIL RUSHED TO UNITED STATES

[Special to the Wall Street Journal]

MEXICO CITY.—With 26 extra tankers loading oil at Tampico during the past month, growing activity is reported from that port. The unseasonal petroleum exodus is attributed to a desire on the part of large corporations to rush the fuel into the United States, in anticipation of the enactment of an import duty on oil.

And next I should like to call to your attention the following:

The detailed reports of companies importing into the United States is not available from the Treasury Department. By resolution of the Senate in the Seventy-first Congress the Treasury Department was directed to make a report. From this report we have prepared the attached statement showing the principal importers and the products imported. The same relationships of imports exist today as did then.

Imports of crude petroleum and refined products, calendar year, 1929

[Compiled from report of Secretary of Treasury (S. Doc. No. 125, 71st Cong., 2d sess.)]

	Crude oil	Gasoline	All other products
Standard of Indiana	12,574,775	1,924,312	20,599,448
Standard of New Jersey	22,585,000	.....	294,460
Gulf Oil Corporation	21,691,487	.....	.....
Dutch-Shell	480,503	3,577,036	7,599,311
Total	57,331,771	5,501,348	28,593,219
All other	17,427,651	1,249,461	1,364,665
Grand total	74,759,422	6,750,809	29,957,884
Per cent of each item imported by above companies	77	81	96
Grand total, all imports by companies named.....per cent	.....	.....	82

Senator REED (presiding). Your time has run out, Mr. Franklin.

Mr. FRANKLIN. Now, further, referring to the available oil to supply these markets, I wish to refer to page 97 of the Petroleum Refinery Statistics for 1929 published by the Department of Commerce.

Imports of refined oils, after declining steadily during 1927 and 1928, rose rapidly in 1929. Total imports of refined oils in 1929 amounted to 29,777,000 barrels, a new high figure, and an increase over 1928 of 17,987,000 barrels (153 per cent). Imports of gasoline rose from 4,198,000 barrels in 1928 to 8,834,000 barrels in 1929. From the standpoint of quantity this increase was equivalent to only about one-third of the increase in imports of fuel oil, yet on the basis of value and general economic significance it was of much the greater importance. Practically all of the increase in gasoline imports in 1929 resulted from increased receipts from the Dutch West Indies. This gasoline was produced in the Dutch West Indies from crude obtained in the near-by Venezuela fields. Although the increase in imports in 1929 from the standpoint of quantity was 153 per cent, the gain in value was only slightly over 50 per cent.

The peak of oil transportation through the canal occurred in 1923, when approximately 54,000,000 barrels were carried eastward from California. The following is quoted from Petroleum in 1929, published by the United States Department of Commerce, page 476:

Shipments of crude oil from California through the Panama Canal to eastern ports in the United States continued to decline and amounted to only 1,299,000 barrels in 1929, compared with 2,301,000 barrels in 1928. No shipments were recorded during the last four months of the year, as contrasted with 1923, when an average of approximately 150,000 barrels of crude passed through the canal every day.

I wish to call the attention of the committee particularly to that feature and to the bearing it has upon the welfare of the United States as a whole. The exports of oil from California formerly furnished the needs of the Atlantic seaboard. Gentlemen here have made the statement that from no other source can the Atlantic seaboard get oil. I say that plenty of oil can be shipped upon American tankers, and that at the present time there are 85 tankers tied up in ports.

And I would further call the attention of the committee to the fact that Congress appropriated over $300,000,000 for the assistance of the merchant marine, and one of the reasons for its decline is the fact that we are importing oil from foreign countries in ships flying foreign flags, whereas our own ships flying the American flag would have to transport this oil should it be brought from California or the Gulf coast, which would give employment to hundreds of American seamen and to those 85 idle tankers now tied up in port.

Another great effect it would have, as an analysis of the records will show, although I will not take up the time of the committee at this time to read it, but it is a report from the Governor of the Canal Zone, a Government report, which sets out the serious fact as to the effect the cessation of shipments of oil from California to the Atlantic seaboard has had upon the revenues of the Panama Canal.

Pacific to Atlantic: Since the beginning in the fiscal year 1923 of shipments of mineral oils on a large scale from the California fields, this product has been the leading commodity shipped from the Pacific to the Atlantic. As pointed out in the report of last year this item of cargo reached its high point in 1924 with 9,721,446 tons. In 1925 the shipments declined to 5,989,622 tons and in 1926 they were slightly lower, with 5,930,716 tons. The year 1927 saw an increase to 7,143,165 tons, followed by decreases in 1928 and 1929. In 1930 shipment of mineral oils aggregated 5,700,587 tons, the highest since 1927. In the past year they decreased to 4,824,338 tons, the lowest for any fiscal year since 1923, when 4,334,664 tons were reported. In comparison with 1930 the past year's mineral-

oil tonnage from Pacific to Atlantic decreased 876,249 tons, or 15.4 per cent. Of this decrease 547,455 tons, or 16.2 per cent occurred in the United States intercoastal trade, and 436,661 tons, or 31.2 per cent in the trade between the United States and Europe. The trade between the United States and the West Indies showed an increase in this business of 102,344 tons, or 119.3 per cent over the preceding year.

Furthermore, this oil is largely produced upon lands belonging to the United States Government, and the royalty on that oil belongs to the United States Government. In producing that oil the Government would be buying its own product, and that would offset in toto the purchases of oil made for the benefit of the United States. Why, gentlemen of the committee, I repeat, why in the world shouldn't the United States purchase its own oil produced on the public domain in preference to buying foreign oil?

Here are some further figures I should like to place in the record. This is statistical information as to oil in the world at large, not only the United States but covers the entire world, which we have prepared for the convenience of the members of the committee, and in which answers can be found to any question that might arise in the mind of any member of the committee. These are figures taken from the Department of Commerce and also the Treasury Department. And I should like to have this made a part of the record.

Senator REED. That may be done.

Mr. FRANKLIN. It is as follows:

MEMORANDA AND DATA COMPILED BY THE INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

The following information has been compiled for those interested in the oil industry and will show:

1. That the proposed tariff on oil will prevent an excessive domestic price for gasoline by keeping alive a healthy competition.

2. That under the present policy of "no tariff on oil" with unrestricted imports of gasoline, many independent producers and refiners have been bankrupted during the past year, and the remainder are being rapidly forced out of business. They will be practically eliminated unless that policy be changed. This will result in concentration of the oil business in the hands of a relatively few companies, creating monopoly and destroying competition, with consequent higher prices to consumers.

3. That our national supply of oil is adequate to supply all demands and is practically inexhaustible, and that the fundamental objective of true conservation will be advanced by a reasonable tariff on oil by preventing the abandonment of 300,000 small wells of settled production, producing more than 500,000 barrels daily.

4. That the principal beneficiaries of the present policy of importing oil "free of duty" are the following companies: Gulf Refining Co., two large units of the Standard Oil group, and the Royal Dutch-Shell group.

5. For more than two years stabilization of the oil industry has been attempted through curtailment and proration of production. Production declined from 2,975,000 barrels daily in August, 1929, to less than 2,100,000 barrels, January 1, 1931. The posted price of crude declined for mid-continent 36 gravity crude from $1.45 per barrel in August, 1929, to $0.18 per barrel in July, 1931. Present price through martial law, $0.77. We produced 109,312,000 barrels less in 1930 than in 1929, while imports increased to 105,000,000 barrels and gasoline imports increased about 100 per cent. Domestic production decreased 54,000,000 barrels first 11 months, 1931, as compared first 11 months, 1930. Between November 30, 1930, and November 30, 1931, crude-oil stocks were reduced 54,000,000 barrels. Truly curtailment of production has been accomplished. Stabilization of crude prices, however, has not materialized because of low-cost imports from Mexico, South America, Rumania, and Russia. The one link necessary to complete stabilization program is a reasonable tariff on oil.

WIRT FRANKLIN,
President The Independent Petroleum Association of America.

DECEMBER 31, 1931.

Summary of facts relating to petroleum industry

	United States production	United States percentage of world	Foreign production
1927	901,129,000	71	361,463,000
1928	901,474,000	68	423,259,000
1929	1,007,323,000	68	476,718,000
1930	898,011,000	63	520,712,000
1931 [1]	850,000,000	62	529,000,000

[1] Preliminary estimates

Note large annual increase in foreign production.

Classification of oil producers.—The petroleum directories have listed about 9,000 persons, firms, and corporations producing oil in the United States. Of these, over 8,000 were small producers. Recently, their ranks have been and are being rapidly reduced by industrial conditions forcing them to sell, actually at great loss, to larger companies.

Oil reserves of the United States.—Various well-known authorities have from time to time made estimates of the total oil supply of the United States. These estimates were made with all information available, but subsequent production has in most instances amounted to more than the total estimated reserves, and we are producing oil sufficient to supply all demands with many fields restricted to only a small percentage of their potential output. This shows how unduly we have been alarmed over the possibility of the early exhaustion of the domestic oil supply. From the discovery of the Drake well in 1859 to December 31, 1931, the United States produced 13,966,000,000 barrels, and each year sees production sufficient to meet all demands. Vast areas of possible oil territory from Canada to the Gulf are unexplored and will not be until the demand for oil indicates possibility of profit in development of new fields.

Shale oil and coal deposits of the United States.—Immense deposits of oil shale exist in several States. Colorado, Utah, and Wyoming have great reserves. Coal deposits in Colorado are estimated by the Colorado Bureau of Mines to contain 80,000,000,000 barrels of recoverable oil, an amount that would be sufficient for about 80 years of present demands. More than 50 per cent of the world's coal deposits are in the United States. If ever needed coal can fill all of our oil requirements for centuries.

Gasoline recovery from oil.—Improved refining processes are giving greater recovery of gasoline from a barrel of crude oil. Some of our high grade crudes are refining as much as 60 per cent motor fuel. Under the Bergius hydrogenation process, adapted for American use by the Standard Oil Co. of New Jersey, a barrel of most any quality of crude oil can be converted into a barrel of gasoline. One hundred per cent gasoline recovery by this process makes it imperative that our domestic markets be protected.

Comparative cost of domestic and foreign production.—The recent report of the United States Tariff Commission indicates that a barrel of mid-continent Gulf coast crude oil laid down at Atlantic seaboard refineries costs $1.90, and a barrel from the Maracaibo Basin, 87 cents. The "differential" is, therefore, $1.03 a barrel and indicates that a tariff of $1 a barrel will about equalize this difference in cost. The report further shows a refining profit on domestic crude oil of 11 cents per barrel and a profit of 54 cents per barrel on oil imported from Maracaibo Basin, of Venezuela.

FORMER ESTIMATES OF FUTURE OIL PRODUCTION IN THE UNITED STATES

KNOWN WELL OIL RESERVES ARE INCREASING, NOT DECREASING; SUPPLY WITHIN UNITED STATES SUFFICIENT FOR CENTURIES

1908—David T. Day.
Estimated minimum of 8,500,000,000 barrels.
Estimated maximum of fifteen to twenty-two and one-half billion barrels.
From January 1, 1908, to December 31, 1931, inclusive, United States has produced 12,209,000,000 barrels.
All of Day's minimum, plus 43 per cent.

1914—Ralph Arnold.
Estimated future production at 5,700,000,000 barrels.
From January 1, 1914, to December 31, 1931, inclusive, United States has produced 10,927,000,000 barrels.
All of Arnold's estimate, plus over 92 per cent.
1915—United States Geological Survey.
Estimated future production at 7,600,000,000 barrels.
From January 1, 1915, to December 31, 1931, inclusive, United States has produced 10,660,000,000 barrels.
All of that estimate, plus 40 per cent.
1921—Certain Petroleum Geologists of A. A. P. G.
Estimated future production at 9,150,000,000 barrels.
From January 1, 1921, to December 31, 1931, inclusive, United States has produced 8,566,000,000 barrels.
Nearly 93 per cent in 11 years.
1925—Committee of Eleven.
Estimated future production from proven acreage on present methods, 5,300,000,000 barrels.
From January 1, 1925, to December 31, 1931, inclusive, United States has produced from these properties and new pools 6,090,000,000 barrels, almost 115 per cent of the estimate.
1930—In the year 1930 the United States produced 898,011,000 barrels, compared with 1,007,323,000 barrels in 1929. This reduction was caused by curtailment of United States fields. Millions more could have been produced. Foreign production, in 1930, increased 44,000,000 barrels.
1859 to December 31, 1931, inclusive, from the beginning to date, the United States has produced a total of 13,996,000,000 barrels.
1929, 1930, or 1931. The country could have produced the Nation's needs, including all oil supplied by imports and several hundred million barrels additional, which would have placed the industry and Government in better financial condition.

RESERVES AMPLE FOR FUTURE NEEDS

Now oil deposits of the greatest importance are continually being discovered, and only a small fraction of the probable oil territory of the United States has as yet been prospected. Deeper drilling in old fields is constantly bringing in hereto unanticipated new production. The visible supply of oil is thus constantly increasing. In addition to the supply from oil wells, there are untold billions of barrels of potential shale oil in the shale deposits of the Rocky Mountain States and other untold billions in the trillions of tons of world coal, about 50 per cent of which is in the United States.

Dr. Ralph Arnold and Mr. William J. Kemnitzer, in their recent book, Petroleum in the United States and Possessions, have this to say:

"The ultimate quantity of crude oil available from these three sources in the United States is estimated to have been on January 1, 1929, about 726,236,862,000 barrels, of which approximately 39,091,877,000 barrels, or 5.4 per cent was natural crude oil; 92,144,985,000 barrels, or 12.7 per cent, shale oil; and 595,000,000,000 barrels, or 81.9 per cent, coal oil. Of the total crude oil from all sources, less than 2 per cent had been produced. Of shale oil and coal oil together less than 0.1 per cent had been produced, but of natural crude oil 26.2 per cent had been produced.

Approximate quantity crude oil obtainable in the United States from various sources

[Thousands of barrel of 42 United States gallons]

Source	Originally available	Produced, quantity	1859-1929, per cent [1]	On hand, Jan. 1, 1930	
				Quantity	Per cent [1]
Natural reservoirs	[2] 39,091,877	[2] 11,488,403	29.4	[2] 27,603,474	70.6
Oil shales	92,144,985	[3] 550	(4)	92,144,635	100.0
Coals	595,000,000	[3] 25,000	(4)	594,975,000	100.0
Total	726,236,862	11,513,753	1.6	714,724,109	98.4

[1] Per cent of quantity "originally available."
[2] Crude oil and natural-gas gasoline.
[3] Estimated.
[4] Less than 0.1 per cent.

"Natural reservoirs constitute the only source of crude oil of commercial importance at the present time. Oil shales and coals comprise important reserves of crude oil, but as yet, they are of no commercial value. The time when oil shales and coals will become of commercial value depends entirely on when the cost of producing natural crude oils equals or exceeds the cost of extracting or manufacturing similar oils from oil shales, and coals. That time is apt to be remote in light of enormous foreign resources of natural crude oils, the unrestricted importation of which keeps the price of domestic oils low regardless of the quantity of domestic oils available. Of present concern, then, are the future possibilities of natural crude oils only.

"The resources of natural crude oil in the United States are estimated to have been, on January 1, 1929, a little more than 50 per cent developed, but less than 30 per cent exhausted. At the rate wells were then being drilled, average full development would be reached in 30 years at the end of which time would begin a long period of post-development production lasting 113 years to practical exhaustion. Of the 39,091,877,000 barrels estimated ultimate production, 11,488,403,000 barrels or 29.4 per cent was produced during the period of past development from 1859 to 1929 inclusive; 13,182,278,000 barrles, or 33.7 per cent, would be produced during the average period of future development from 1929 to 1959 inclusive; and 14,421,196,000 barrels or 36.9 per cent, during the average period of post-development from 1959 to 2072 inclusively."

A TARIFF ON OIL WILL ADVANCE TRUE CONSERVATION

Of 331,070 oil wells in the United States at the end of 1930, nearly 300,000 were producing about 500,000 barrels of oil, or a daily average of 1½ barrels per well. The operation of these 300,000 small wells can not be continued permanently at a loss. They are being abandoned before they have recovered all of their oil, and if fair prices for crude prevailed they might furnish employment and produce oil for many years. Maintaining a policy of "duty free" imported oil will cause continued early abandonment of small wells, and, with that abandonment, hundreds of millions of barrels of oil will be absolutely lost. A tariff on oil would give our old fields the opportunity to produce more oil for more years and is practical conservation by which we would recover all of our oil instead of abandoning our partially produced oil reserves. The reserves in the pools where these 300,000 small wells are producing have been estimated at from two to four billion barrels, certainly worth saving from the standpoint of true conservation.

Intense and destructive competition between oil and coal is causing the uneconomic use of oil for fuel where substutution could be made and thereby conserve oil for higher uses.

Crude oil production, imports, exports, refinery runs, miscellaneous uses, and stocks of crude oil in the United States, from January 1, 1918, to December 31, 1931

[All amounts in barrels of 42 gallons, compiled from annual statements of United States Bureau of Mines, except for year 1931, in which 11 months are Bureau of Mines figures and December is estimated]

Year	Current supply		Current demand		
	Production	Refinery runs	Exports	Other uses	Total current demand
1918	355,928,000	326,025,000	4,901,000	89,492,000	420,418,000
1919	378,367,000	361,520,000	6,019,000	58,630,000	426,169,000
1920	442,929,000	433,915,000	8,757,000	106,340,000	549,012,000
1921	472,183,000	443,363,000	8,940,000	77,368,000	529,671,000
1922	557,531,000	500,706,000	10,163,000	99,664,000	610,533,000
1923	732,407,000	581,238,000	17,385,000	132,917,000	731,540,000
1924	713,940,000	643,719,000	17,973,000	104,743,000	766,435,000
1925	763,743,000	739,920,000	13,335,000	[1] 58,285,000	811,540,000
1926	770,874,000	779,264,000	15,407,000	65,932,000	860,603,000
1927	901,129,000	828,835,000	15,843,000	43,754,000	888,432,000
1928	901,474,000	913,295,000	18,968,000	30,512,000	962,773,000
1929	1,007,323,000	967,708,000	26,401,000	28,480,000	1,042,589,000
1930	896,011,000	927,447,000	23,705,000	32,272,000	983,424,000
1931	850,000,000	888,000,000	27,000,000	26,000,000	941,000,000
Total	9,745,839,000	9,354,955,000	214,795,000	954,389,000	10,524,139,000

[1] Includes 17,827,000 barrels "adjustment" in California stocks on account of adding fuel oil to heavy-oil stocks. Add 17,827,000 to supply when setting up "balance sheet" for either the year 1925 or for the entire 14 years.

Crude oil production, imports, exports, refinery runs, miscellaneous uses, and stocks of crude oil in the United States, from January 1, 1918, to December 31, 1931—Continued

Year	Excess of demand over production	Imports	Added or withdrawn from stock	Stock Dec. 31
1917				171,090,000
1918	64,490,000	37,736,000	[1] 26,754,000	144,336,000
1919	47,502,000	52,822,000	5,020,000	149,356,000
1920	106,063,000	100,175,000	92,000	149,448,000
1921	57,488,000	125,364,000	67,876,000	217,324,000
1922	53,002,000	127,308,000	74,306,000	291,630,000
1923	[2] 867,000	82,015,000	82,882,000	374,512,000
1924	52,495,000	77,775,000	25,280,000	399,792,000
1925	47,797,000	61,824,000	[1] 31,854,000	431,646,000
1926	89,729,000	60,382,000	[2] 29,347,000	402,299,000
1927	[2] 12,697,000	58,383,000	71,080,000	473,379,000
1928	61,299,000	79,767,000	18,468,000	491,847,000
1929	35,266,000	78,933,000	43,667,000	535,514,000
1930	85,413,000	62,129,000	[1] 23,284,000	512,230,000
1931	91,000,000	46,000,000	[2] 45,000,000	467,230,000
Total	778,300,000	1,056,613,000	386,140,000	

[1] Includes 17,827,000 barrels "adjustment" in California stocks on account of adding fuel oil to heavy-oil stocks. Add 17,827,000 to supply when setting up "balance sheet" for either the year 1925 or for the entire 14 years.
[2] Crude oil withdrawn from storage in 4 years (1918, 1926, 1930, 1931) of the 14 years.
[3] Domestic production exceeded total demand for 2 years (1923 and 1927) of the 14 years.

World production of petroleum by countries

[In thousands of barrels]

	1928		1929		1930		1931	
	Barrels of 42 United States gallons	Percentage of total by volume	Barrels of 42 United States gallons	Percentage of total by volume	Barrels of 42 United States gallons	Percentage of total by volume	Barrels of 42 United States gallons	Percentage of total by volume
United States	901,474	68.0	1,007,323	68.0	898,011	63.3	856,000	62.0
Venezuela	105,749	8.0	137,472	9.3	137,675	9.7	118,000	8.5
Russia	84,704	6.7	99,507	6.7	135,165	9.5	158,000	11.5
Mexico	50,151	3.8	44,688	3.0	39,530	2.8	34,000	2.5
Persia	43,461	3.2	42,145	2.8	45,420	3.2	47,000	3.4
Rumania	30,773	2.3	34,758	2.3	41,080	3.0	48,000	3.4
Netherland East Indies	32,118	2.2	39,279	2.6	40,150	2.8	39,000	2.8
Colombia	19,897	1.5	20,385	1.4	20,346	1.5	18,000	1.3
Peru	12,006	0.9	13,422	0.9	12,458	0.9	11,500	0.9
Argentina	9,080	.7	9,391	.6	8,910	.6	10,000	.8
India	8,741	.6	8,747	.6	8,280	.6	8,000	.6
Trinidad	7,684	.6	8,716	.6	9,120	.7	10,000	.8
Poland	5,492	.4	4,988	.3	4,840	.3	4,400	.3
British Borneo, Sarawak	5,223	.4	5,290	.4	5,830	.4	5,000	.4
Egypt	1,842	.1	1,868	.1	1,910	.1	1,800	.1
Japan and Taiwan	1,944	.1	2,010	.1	1,950	.1	2,000	.1
Ecuador	1,084	.1	1,381	.1	1,550	.1	1,700	.1
Germany	630		704		1,161	.1	1,200	.1
Iraq	713		798		750		800	
Canada	624		1,117		1,500	.1	1,700	
France	512		535		520		(1)	
Sakhalin, Russia	677	.2	1,134	.2	1,070	.1	2,000	.4
Czechoslovakia	94		93		150		(1)	
Italy	46		44		63	.1	(1)	
Bolivia					56		(1)	
Other countries	15		34		30		900	
Total	1,324,733	100.0	1,484,041	100.0	1,418,725	100.0	1,379,000	100.0

Production of crude petroleum in the United States (by States)

[Barrels of United States gallons]

	1928	1929	1930	1931
Arkansas	32,000,000	24,017,000	19,702,000	15,000,000
California	231,811,000	292,534,000	227,329,000	188,500,000
Colorado	2,774,000	2,358,000	1,656,000	1,540,000
Illinois	6,462,000	6,319,000	5,736,000	5,000,000
Indiana	1,052,000	981,000	994,000	842,000
Kansas	38,596,000	42,813,000	41,038,000	36,750,000
Kentucky	7,359,000	7,775,000	7,390,000	6,500,000
Louisiana	21,847,000	20,554,000	23,272,000	21,750,000
Michigan	594,000	4,528,000	3,911,000	3,750,000
Montana	4,015,000	3,980,000	3,349,000	2,840,000
New Mexico	943,000	1,830,000	10,189,000	15,250,000
New York	2,603,000	3,377,000	3,647,000	3,400,000
Ohio	7,015,000	6,743,000	6,486,000	5,300,000
Oklahoma	249,857,000	255,004,000	216,486,000	178,500,000
Pennsylvania	9,950,000	11,820,000	12,803,000	11,770,000
Tennessee	40,000	19,000	21,000	8,000
Texas	257,320,000	296,876,000	290,457,000	334,000,000
West Virginia	5,661,000	5,574,000	5,071,000	4,500,000
Wyoming	21,461,000	19,314,000	17,568,000	14,800,000
Alaska and Utah	6,000	7,000	7,000	.....
Total	901,474,000	1,007,323,000	898,011,000	[1] 850,000,000
Daily average	2,463,000	2,760,000	2,460,000	2,330,000

NOTE.—1931 production 51,000,000 barrels less than 1928, and 157,000,000 barrels less than 1929.

[1] Production for December, 1931, estimated.

Venezuelan production, 1929

	Barrels
Venezuelan Oil Concessions (Ltd.), subsidiary of Royal Dutch-Shell	45,627,532
Caribbean Petroleum Co., subsidiary of Royal Dutch-Shell	14,226,218
Venezuelan Gulf Oil Co., subsidiary of Gulf Oil Corporation	30,113,380
Lago Oil & Transport Corporation, subsidiary of Standard of Indiana	36,405,969
Creole Petroleum Co., subsidiary of Standard of New Jersey	7,585,431
British Controlled Oil Fields (Ltd.)	2,031,500
General Asphalt Co	346,600
Total, by companies	136,336,630
Total, United States Bureau of Mines	137,472,000
Production in 1930	137,675,000
Production in 1931 [1]	118,000,000
Daily average production:	
Year 1928	289,000
Year 1929	377,000
Year 1930	377,000
Year 1931	[2] 323,000

[1] Estimate by Valentine R. Garfias of Henry L. Doherty & Co.; appeared in Daily Oklahoman, October 7, 1933.

[2] Based on 118,000,000 estimated production.

Principal importing companies, 1929

IMPORTS OF CRUDE PETROLEUM AND REFINED PRODUCTS

[Compiled from Report of Secretary of Treasury (S. Doc. No. 125, 71st Cong.—2d sess.)]

	Crude oil	Gasoline	All other products
Standard of Indiana	12,574,775	1,924,312	20,599,448
Standard of New Jersey	22,585,000	.....	294,460
Gulf Oil Corporation	21,691,487	.....	.....
Dutch-Shell	480,503	3,577,036	7,699,311
Total	57,331,771	5,501,348	28,593,219
All other	17,427,651	1,249,461	1,364,665
Grand total	74,759,422	6,750,809	29,957,884
Per cent of each item imported by "Big Four"	77	81	96
Grand total, all imports, by "Big Four," 82 per cent.			

NOTE.—On account of oil and its refined products being on the free list the Treasury Department does not make public the names of the importers. These figures and names are available only in the report made in response to a Senate resolution requesting the report of the companies and amounts of their imports for 1929. This information is not available for later or other years than 1929.

IMPORTS OF CRUDE PETROLEUM AND LIQUID REFINED PRODUCTS, 1927-1930, AND FOR 1931 WITH DECEMBER ESTIMATED

Year	Crude Oil	Refined Product
	Barrels	*Barrels*
1927	58,383,000	13,353,000
1928	79,767,000	11,790,000
1929	78,933,000	29,777,000
1930	62,129,000	43,489,000
1931	46,000,000	38,000,000

Authority: United States Bureau of Foreign and Domestic Commerce and United States Bureau of Mines

Retail gasoline prices in representative cities of the world as of third quarter of 1930 and third quarter of 1929

(R) Refinery located in immediate vicinity. (R. N.) Refinery reasonably near.

Country	City	Container	Price in United States third quarter 1930	Cents per gallon, third quarter 1929
Argentina	Buenos Aires (R. N.)	Bulk	28.0	35.1
Australia	Melbourne (R.)	do	[1] 50.7	.....
Belgium	Brussels	do	28.1	.....
Bolivia	La Paz	Tins	57.0	64.8
Brazil	Rio Janeiro	do	45.0	42.7
British Malaya	Singapore (R. N.)	do	45.5	42.8
Canada	Calgary (R.)	.....	32.0	32.0
	Regina (R.)	.....	35.0	33.0
	Vancouver (R.)	.....	32.0	31.0
	Ottawa	.....	28.0	24.5
Chile	Santiago	.....	41.3	39.3
China	Harbin	Tins	39.9	.....
Colombia	Bogota	.....	47.2	.....
Ecuador	Guayaquil (R. N.)	Tins	32.0	34.0
Egypt	Cairo (R. N.)	do	43.7	.....
France	Paris	.....	30.0	34.0
Germany	Breslau (R. N.)	.....	35.9	31.5
India	Calcutta	Tins	46.7	39.0
Iraq	Baghdad (R. N.)	do	42.6	33.0
Italy	Genoa	.....	39.7	40.7
Japan	Tokyo	Tins	27.4	23.8
Mexico	Mexico City	Bulk	[2] 26.5	.....
Netherland East Indies	Batavia (R. N.)	do	36.5	36.4
Persia	Teheran	Tins	51.0	52.2
Peru	Lima	do	38.0	31.5
Poland	Warsaw	.....	36.1	34.9
Portugal	Lisbon	Bulk	41.7	.....
Rumania	Bucharest (R.)	.....	26.1	.....
Turkey	Constantinople	Tins	39.7	35.9
Union of South Africa	Johannesburg	Bulk	50.0	55.0
United Kingdom	London (R.)	.....	33.4	34.5
	Southern Scotland (R.)	.....	34.4	35.5
	Northern Ireland	.....	36.5	37.6
Venezuela	Caracas	.....	.....	32.8
Yugoslavia	Belgrade	Bulk	45.6	45.2

[1] Includes tax of 14 cents per Imperial gallon. [2] Includes tax of 6.3 cents per gallon

NOTE.—All data from United States Bureau of Foreign Commerce, Minerals Division, Special Circulars, Nos. 726 and 749.

Gasoline prices in 52 cities, 1926 and 1929

	Feb. 1, 1926	Feb. 1, 1929		Feb. 1, 1926	Feb. 1, 1929
	Cents per gallon	*Cents per gallon*		*Cents per gallon*	*Cents per gallon*
Newark, N. J.	17	18	Baton Rouge, La.	16	16
Baltimore, Md.	18	18	Lake Charles, La.	17.5	17.5
Charleston, S. C.	18	18	New Orleans, La.	17.5	17.5
Norfolk, Va.	18	18	Shreveport, La.	16	17
Richmond, Va.	18	18	Lafayette, La.	17	17
Roanoke, Va.	18	18	Bristol, Tenn.	18.5	19
Charleston, W. Va.	18	18	Chattanooga, Tenn.	17	18.5
Clarksburg, W. Va.	18	18	Knoxville, Tenn.	18	19
Parkersburg, W. Va.	18	18	Nashville, Tenn.	17	18
Wheeling, W. Va.	18	18	Memphis, Tenn.	16.5	17
San Antonio, Tex.	15	15	El Paso, Tex.	18	18
Dallas, Tex.	18	18	Houston, Tex.	18	18
Peoria, Ill.	12.5	15.2	Helena, Mont.	23	22.5
Huron, S. Dak.	16	16.3	Los Angeles, Calif.	16.5	17.5
Casper, Wyo.	19	18	Fresno, Calif.	18.5	18
Butte, Mont.	19	22	San Francisco, Calif.	18	18
Salt Lake City, Utah.	21.5	21.5	Seattle, Wash.	18	18.5
Boise, Idaho.	23	22.5	Spokane, Wash.	22	22.5
Charlotte, N. C.	18	18	Tacoma, Wash.	18	18.5
Boston, Mass.	20	18	Portland, Oreg.	18	18.5
Springfield, Mass.	19	18	Reno, Nev.	21.5	22
Mobile, Ala.	19	19	Cheyenne, Wyo.	20	19
Savannah, Ga.	16.5	18	Omaha, Nebr.	17.25	16.25
Jacksonville, Fla.	19	19	Washington, D. C.	18	18
Tampa, Fla.	19	19	Average gasoline price Feb 1.	18.09	18.39
Pensacola, Fla.	16	20	Crude oil price Feb. 1.	$2.04	$1.20
Alexandria, La.	17	17			

Authority: Oil Price Handbook, 1926, 1929, compiled by the National Petroleum News, Cleveland, Ohio.

Above prices do not include the gasoline tax which varies in different states.

OIL EXPORT TRADE VANISHING

Our export trade is being lost regardless of tariff legislation as shown by following figures:

Commodity	Value of exports January to September—		Value loss	Volume gain (+) or loss (−)
	1931	1930		
			Per cent	*Per cent*
Gasoline, naphtha, and other light products	$87,878,000	$202,723,000	56.7	−30.6
Lubricating oil	48,526,000	70,779,000	31.4	−20.9
Illuminating oil	27,036,000	50,132,000	46.1	−27.5
Gas and fuel oil	18,894,000	26,040,000	27.5	−18.9
Crude petroleum	15,820,000	25,490,000	37.9	+6.5
Paraffin wax	5,853,000	7,853,000	7.3	−7.3
Oil well and refinery machinery	9,430,000	20,810,000	54.7	.....

Exports of petroleum and petroleum products averaged 46 per cent lower in value than a year ago. The volume of crude petroleum shipped abroad during three quarters of 1931 was 19,626,000 barrels, valued at $15,820,000, an increase in quantity of 6.5 per cent above the 1930 figure, but a decline in value of 37.9 per cent. The volume was 32 per cent above and the value 29 per cent below the 5-year average.

Third among the chief exports is gasoline and naphtha, with a value of $87,878,000, 56.7 per cent lower than a year ago and 53 per cent below the 5-year average value. The quantity exported during the first nine months of 1931 was 34,198,000 barrels, 30.6 per cent less than in 1930, but only 14 per cent below the 5-year average. Although the average export price was only $2.57 a barrel against $4.11 a year ago, most of our best customers purchased smaller quantities. However, larger amounts were taken by the Netherlands, Sweden, Japan, Philippines, and Mexico.

Exports of lubricating oil totaled 6,038,000 barrels, valued at $48,528,000, a decline in quantity of 20.9 per cent below both 1930 and the 5-year average and 31.4 per cent below the 1930 value and 31 per cent lower than the 5-year average. Illuminating oil volume was 27.5 per cent less than in 1930 and 37 per cent below the 1926–1930 average. The value was off 46.1 per cent from 1930 and 57 per cent below the 5-year average. The volume of gas and fuel oil was 18.9 per cent smaller than the 1930 exports and 26 per cent below the 5-year average. The value was 27.5 per cent below that of the January-September period of 1930 and 40 per cent smaller than the 5-year average.

NOTE.—Authority 44th Quarterly Issue, "Our World Trade" Chamber of Commerce of the United States, January–September, 1931.

Price of gasoline does not follow price of crude oil—Comparative statement of prices of gasoline at service stations, less gasoline tax, in 52 representative cities of the United States for the years 1926 and 1929

	36 gravity crude oil price at well	Average per cent gasoline recovery for year	Average gallons of gasoline recovery from barrel crude oil	Average retail price in 52 cities without tax	Retail price of gasoline from barrel crude oil	Difference between crude cost and retail price of gasoline from barrel crude
		Per cent	*Gallon*	*Cents per gallon*		
February, 1926	$2.04	38.5	16.17	18.98	$2.92	$0.88
February, 1929	1.20	44.0	18.5	18.39	3.40	2.20
January, 1931	.95	49.0	20.6	(1)	(1)	(1)
July, 1931	.18	49.0	20.6	(1)	(1)	(1)
December, 1931	.77	49.0	20.6	(1)	(1)	(1)

[1] Average retail values not available Dec. 31, 1931.

The above figures show that losses to the producer and landowner, due to lower priced oil, did not proportionately benefit the consumer.

Production and price relationships

Area	Reduced production		Reduced prices	
	Year	Production	Date	Average crude prices
		Barrels		
United States	1929	1,007,323,000		$1.27
Do	1930	898,011,000		1.19
Do	1931	850,000,000		.69
Oklahoma	1929	255,004,000	Jan. 1	1.36
			Jan. 28	1.20
			May 20	1.45
Do	1930	216,486,000	Feb. 15	1.20
			Apr. 10	1.29
			Oct. 25	.95
Do	1931	180,000,000	Mar. 5	.59
			June 1	.33
			July 3	.18
			July 24	.38
			Aug. 22	.62
			Nov. 2	.77

Imports of crude petroleum and refined products from principal countries, 1927–1931 [1]

[Quantity in barrels of 42 United States gallons]

Principal countries	Year	Crude petroleum	Topped oils, including fuel oils	Tops and other unfinished distillates	Gasoline, naphtha, and other finished light products	Illuminating oil (kerosene)	Lubricating oils	Total
Mexico	1927	26,019,048	6,233,802	54,071	1,823,005	41,500	2,903	34,174,329
	1928	17,584,211	3,811,505	15,000	760,202	194,000	3	22,364,921
	1929	12,663,419	1,653,065		229,371	191,500	44	14,737,999
	1930	10,003,333	1,619,651	133,012	240	154,387	2	12,000,625
	[1] 1931	4,992,473	794,034	953		193		5,787,653
Trinidad	1927	454,467		4,304	399,466	1,698		859,935
	1928	406,822	5,407		661,472	357		1,164,058
	1929	212,996	8,000		1,012,037	690		1,233,723
	1930	227,663			1,216,070	9,657		1,453,390
	[1] 1931	212,132			722,512	1,563		936,227
Netherland West Indies	1927	10,136,258	1,553,520	25	2,501,856	11,411	4	14,203,074
	1928	24,980,387	2,847,350		2,461,752	5,922	3,344	30,307,755
	1929	16,222,480	18,317,358		7,494,107	13,086	5,986	42,053,017
	1930	9,780,217	23,933,196		15,472,085	33,246	6,505	49,225,849
	[1] 1931	1,908,308	13,029,037		7,749,320	7,063	6,443	22,700,171
Colombia	1927	7,962,001						7,962,001
	1928	11,838,025						11,838,025
	1929	12,620,000				6		12,620,006
	1930	14,204,000						14,204,000
	[1] 1931	7,395,000						7,395,000
Peru	1927	1,886,474			50,612			1,937,086
	1928	1,224,125			51,500			1,275,625
	1929	1,454,346						1,454,346
	1930	1,281,010						1,281,010
	[1] 1931	224,541						224,541
Venezuela	1927	11,423,575			7,023			11,430,598
	1928	21,987,319	90,232		148,548			22,226,099
	1929	34,431,388	3		64,443			34,495,834
	1930	25,299,349	66,212		136,180		6	25,501,756
	[1] 1931	13,836,852			65,173			13,902,025
Ecuador	1927							
	1928	765,251						765,251
	1929	1,278,838						1,278,838
	1930	1,215,472						1,215,472
	[1] 1931	528,295						528,295
Total from principal countries	1927	57,881,823	7,787,322	58,400	4,781,962	54,609	2,907	70,567,023
	1928	78,885,140	6,754,494	15,000	4,083,474	200,279	3,347	89,941,734
	1929	78,883,467	19,979,026		8,799,958	205,282	6,055	107,873,763
	1930	62,101,044	25,619,059	133,012	16,825,184	197,290	6,653	104,882,102
	[1] 1931	29,097,601	13,823,071	953	8,537,005	8,819	6,463	51,473,912
Total from all other countries	1927	500,809	336,870	32,903	220,344	836	5,045	1,096,797
	1928	881,532	513,653	4,942	114,234	1,466	9,299	1,525,146
	1929	49,105	566,472	5,203	34,344	2,726	33,299	691,174
	1930	28,375	461,324	15,981	101,616	2,796	18,075	628,307
	[1] 1931	13	230,271	11,759	23,210	140	13,010	278,403
Total from all countries	1927	58,382,632	8,124,192	91,303	5,002,306	55,435	7,952	71,663,820
	1928	79,766,672	7,268,147	19,962	4,197,708	201,745	12,646	91,466,880
	1929	78,932,572	20,545,498	5,203	8,834,302	208,008	39,354	108,564,937
	1930	62,129,419	26,080,383	148,993	16,926,800	200,086	24,728	105,510,409
	[1] 1931	29,097,614	14,053,342	12,712	8,560,215	8,959	19,473	51,752,315

SOURCE: Bureau of Foreign and Domestic Commerce.

[1] Seven months; preliminary figures.

Imports for three years—all products

Product	1928	1929	1930
	Barrels	*Barrels*	*Barrels*
Crude petroleum	79,766,672	78,932,572	62,129,419
Gasoline, naphtha, and other finished light products	4,197,708	8,834,302	16,920,000
Kerosene	201,745	208,006	200,086
Lubricating oil, including paraffin oil	12,646	30,354	24,728
Topped oils, including fuel oil	7,268,147	20,545,498	26,080,383
Tops and unfinished distillates	19,962	5,203	148,993
	Pounds [1]	*Pounds* [1]	*Pounds* [1]
Paraffin and paraffin wax	27,740,996	40,859,824	30,269,509
Mineral wax	10,901,389	9,791,990	12,474,894
Candles	1,215,870	1,391,717	722,162
	Long tons [2]	*Long tons* [2]	*Long tons* [2]
Asphalt and bitumen	106,775	107,053	47,498

[1] 280 pounds equal a barrel.
[2] 5.5 barrels equal 2,000 pounds.

Exports of crude petroleum and liquid refined products, 1927–1930–1931

[December, 1931, estimated]

Year	Crude oil (barrels)	Refined products (barrels)	Total value
1927	15,843,405	115,398,500	$485,903,000
1928	18,961,302	126,166,841	525,852,000
1929	20,394,349	126,377,138	561,191,000
1930	23,705,000	130,844,000	494,243,000
1931	27,000,000	100,000,000	270,455,000
Export shrinkage in 1931 (about 45 per cent)			223,788,000

NOTE.—Authority, U. S. Bureau of Foreign and Domestic Commerce and U. S. Bureau of Mines.

Imports of crude and refined products

Year	Barrels	Total value
1929	108,710,000	$143,557,000
1930	105,618,000	145,116,000
1931	85,000,000	95,000,000

Revenue which would accrue to the United States Treasury if the proposed tariff on petroleum and refined products were in effect—principal imported items

[Based on statistics for 1930]

Product	Quantity imported	Unit of duty	New York wholesale price average	Rate of duty	Tariff revenue
	Barrels	*Barrels*			
Crude oil	62,129,419	62,129,419		$1.00	$62,129,419
Fuel oil	26,080,383	26,080,383		1.00	26,080,383
		Gallons		*50 per cent*	
Distillates and topped oils	148,993	6,257,706	0.0604	0.302	188,982
Gasoline	16,926,800	710,825,600	.080765	.0403	28,650,301
Kerosene	200,086	8,403,612	.070077	.0353	296,647
Lubricating oil	24,728	1,038,576	[1].30	[1].15	155,786
	Pounds	*Pounds*			
Wax (paraffine)	42,764,399	42,764,399	[1].36	[1].018	769,759
Total					118,271,277

[1] Does not include asphalt, pertoleum coke, and medicinal oils.

NOTE.—Should a tariff cause importations of oil to cease, the increased value of domestic oil, coal, and allied industries will provide an equal amount of Federal revenue.

Democratic Platform, 1928, Promises Protection to United States Natural Resources

The Democratic tariff legislation will be based on the following policies:

(*a*) The maintenance of legitimate business and a high standard of wages for American labor.

(*b*) Increasing the purchasing power of wages and income by the reduction of those monopolistic and extortionate tariff rates bestowed in payment of political debts.

(*c*) Abolition of log-rolling and restoration of the Wilson conception of a fact-finding tariff commission, quasi-judicial and free from the executive domination which has destroyed the usefulness of the present commission.

(*d*) Duties that will permit effective competition, insure against monopoly and at the same time, produce a fair revenue for the support of government. Actual difference between the cost of production at home and abroad, with adequate safeguard for the wage of the American laborer, must be the extreme measure of every tariff rate.

(*e*) Safeguarding the public against monopoly created by special tariff favors.

(*f*) Equitable distribution of the benefits and burdens of the tariff among all. Wage earner, farmer, stockman, producer and legitimate business in general have everything to gain from a Democratic tariff based on justice to all.

MINING

Mining is one of the basic industries of this country. We produce more coal, iron, and copper than any other country. The value of our mineral production is second only to agriculture. Mining has suffered like agriculture and from similar causes. It is the duty of our Government to foster this industry and to remove the restrictions that destroy its prosperity.

COAL

Bituminous coal is not only the common base of manufacture, but is a vital agency in our interstate transportation. The demoralization of this industry, its labor conflicts and distress, its waste of a national resource and disordered public service demand constructive legislation that will allow capital and labor a fair share of prosperity with adequate protection to the consuming public.

Republican Platform, 1928, Promises Protection to United States Natural Resources

We reaffirm our belief in the protective tariff as a fundamental and essential principle of the economic life of this nation. While certain provisions of the present law require revision in the light of changes in the world competitive situation since its enactment, the record of the United States since 1922 clearly shows that the fundamental protective principle of the law has been fully justified.

It has stimulated the development of our natural resources, provided fuller employment at higher wages through the promotion of industrial activity, assured thereby the continuance of the farmers' major market and further raised the standards of living and general comfort and well-being of our people. The great expansion in the wealth of our nation during the last fifty years, and particularly in the last decade, could not have been accomplished without a protective tariff system designated to promote the vital interests of all classes.

ALL SECTIONS BENEFITED

Nor have these manifest benefits been restricted to any particular section of the country. They are enjoyed throughout the land either directly or indirectly. Their stimulus has been felt in industries, farming sections, trade circles, and communities in every quarter. However, we realize that there are certain industries which can not now successfully compete with foreign producers because of lower foreign wages and a lower cost of living abroad, and we pledge the next Republican Congress to an examination and where necessary a revision of these schedules to the end that American labor in these industries may again command the home market, may maintain its standard of living, and may count upon steady employment in its accustomed field. Adherence to that policy is essential to the continued prosperity of the country. Under it the standard of living of the American people has been raised to the highest levels ever known. Its example has been eagerly followed by the rest of the world, whose experts have repeatedly reported

with approval the relationship of this policy to our prosperity, with the resultant emulation of that example by other nations.

TARIFF VITAL

A protective tariff is as vital to American agriculture as it is to American manufacturing. The Republican party believes that the home market, built up under the protective policy, belongs to the American farmer, and it pledges its support of legislation which will give this market to him to the full extent of his ability to supply it. Agriculture derives large benefits not only directly from the protective duties levied on competitive farm products of foreign origin, but also, indirectly, from the increase in the purchasing power of American workmen employed in industries similarly protected. These benefits extend also to persons engaged in trade, transportation and other activities.

The tariff act of 1922 has justified itself in the expansion of our foreign trade during the last five years. Our domestic exports have increased from $3,800,000,000 in 1922, to $4,800,000,000 in 1927. During the same period imports have increased from $3,100,000,000 to $4,400,000,000.

EXPORTS NOT HAMPERED

Contrary to the prophecies of its critics, the present tariff law has not hampered the natural growth in the exportation of the products of American agriculture, industry and mining, nor has it restricted the importation of foreign commodities which this country can utilize without jeopardizing its economic structure.

The United States is the largest customer in the world today. If we were not prosperous and able to buy, the rest of the world would also suffer. It is inconceivable that American labor will ever consent to the abolition of protection which would bring the American standard of living down to the level of that in Europe, or that the American farmer could survive if the enormous consuming power of the people in this country was curtailed and its market at home, if not destroyed, at least seriously impaired.

MINING

The money value of the mineral products of the country is second only to agriculture. We lead the countries of the world in the production of coal, iron, copper, and silver. The Nation suffers as a whole from any disturbance in the securing of any one of these minerals, and particularly when the coal supply is affected. The mining industry has always been self-sustaining, but we believe the Government should make every effort to aid the industry by protection, by removing any restrictions which may be hampering its development, and by increased technical and economic research investigations which are necessary for its welfare and normal development. The party is anxious, hopeful, and willing to assist in any feasible plan for the stabilization of the coal-mining industry which will work with justice to the miners, consumers, and producers.

Senator REED (presiding). Mr. Franklin, your 30 minutes have expired.

Mr. FRANKLIN. I should like to put in an analysis of the Tariff Commission's report, prepared by Mr. R. C. Osterstrom and Mr. J. W. Chewning, of the Pure Oil Co.

Senator REED (presiding). Without objection permission will be given.

Mr. FRANKLIN. This is in addition to the report which is a part of the record of the hearings of the Ways and Means Committee of the House of Representatives.

THE PURE OIL CO.,
Chicago, February 24, 1932.

Mr. WIRT FRANKLIN,
Washington, D. C.

DEAR MR. FRANKLIN: I am attaching a letter written by our Mr. Chewning in further connection with the Tariff Commission's report, which you will undoubtedly find interesting and possibly of some value.

This is being forwarded to you for what it is worth.

Very truly yours,

R. C. OSTERSTROM,
The Pure Oil Co.

PURE OIL CO.,
February 16, 1932.

DEAR MR. WAGNER: Continued study of the Tariff Commission's report on relative cost data of foreign and domestic petroleum and its products reveals that the cost tables the commission presents are all right as statistics, out misleading to one who undertakes to arrive at true relative costs. Its method of allocating costs obscures the relative value of Venezuelan crude—which dominates foreign costs and values—almost to the vanishing point.

It is well known in the refining industry that Venezuelan and other crudes of its class are suitable for making just two products, viz, commercial gasoline and bunker C fuel. As has already been shown in Mr. Osterstrom's letter to Mr. Wirt Franklin dated January 26, this crude, when refined by the proper methods, yields these two products approximately volume for volume. That is the sum of the volumes of the products (gasoline and fuel) approximate the original volume of the crude, and consist of 30 per cent gasoline and 70 per cent bunker C fuel. Actual yields are 30 per cent gasoline, 5 per cent fixed gases and 65 per cent fuel oil. But since the fixed gases are used as fuel it comes to the net result of 30 per cent gasoline and 70 per cent fuel oil which figures are used for simplicity.

If we forget for a moment the ponderous mass of data with which the commission has become entangled and consider its determined average cost of Venezuelan crude delivered to the Atlantic Seaboard for the 4-year period 1927–1930 compared to the average price of gasoline and bunker C fuel for this same period the calculation of the cost and profits obtainable from a barrel of this crude becomes simple. We have:

Average cost of 1 barrel crude delivered to Atlantic Seaboard	$0.87
Average cost of refining (Maximum of Commission's Findings)	.30
Total cost of 1 barrel finished products consisting of 30 per cent gasoline and 70 per cent bunker C fuel	1.17
Average value of 30 per cent barrel of gasoline over same 4-year period[1]	1.25
Average value of 70 per cent barrel of bunker C fuel same 4-year period[1]	.86
Total value per barrel	2.11
Net profit per barrel	.94

Regarding these figures from a standpoint of practical common sense supplies the most trustworthy evidence of their essential truthfulness. We know that the United States Government has often in the past years delivered Mexican crudes of essentially this class to Atlantic and Gulf coastal refiners and received in return bunker C fuel barrel for barrel. Inspection of the above figures shows that the excess value of a barrel of fuel oil over the original crude from which it came is a little more than sufficient to pay carrying charges. These values would tally up almost exactly if we placed the crude on a market basis instead of a cost basis.

It will be noted that the crude and refining costs given above are those the commission compiled (obtained from refiners). If we substitute the transportation and refining costs which Dr. Holland has already shown should be used here and which are brought out in Mr. Osterstrom's letter to Mr. Wirt Franklin dated January 26, 1932, the net profit will become $1.15 per barrel instead of $0.94 per barrel.

Returning to the commission's cost comparison it will suffice to point out a few of the absurdities to which these comparisons lead:

(1) By grouping gas and fuel oils together it arrives at an average value for those products combined somewhat higher than the real market value of industrial fuel oils. This fact is drawn out and made to appear that it is assigning too high a value to the foreign crude products grouped in this class when in reality—if gas oil and industrial fuel oil were segregated—it could be shown that relatively too low a value is assigned to the industrial fuel portion of which the Venezuelan product should consist entirely for this purpose of comparison.

(2) In allocating costs the domestic fuel products, being of low market value compared to the other products from this crude are made to absorb only about 17 per cent of the costs, while the same products from foreign crude must absorb 50 per cent of the costs. The result is a cost factor for the foreign products close

[1] Taken from Oil Price Handbook for 1930, which shows detail prices for 1930 and average price for the period.

to the actual, while for the domestic product it is probably less than one-half the actual cost. This is brought out very strikingly when one notices that the costs the commission determines for fuel and gas oils from foreign crude [2] are 93 per cent of the cost of the crude from which they came, while the costs determined for the same group of materials from domestic crude are only 59 per cent of the cost of the crude from which they came. All of this simply means that bunker C fuel from Venezuelan crude can be sold at a very handsome profit under average market conditions, while it must be sold from domestic crude at a great loss. Note again that gas oil is grouped here and hence does not get its fair share of costs. From Venezuelan crude properly handled, there is no gas oil, other than that which is cracked, so that this grouping simply serves to obscure the enormous difference in cost of making bunker C fuel from Venezuelan crude as compared to domestic crude.

NOTE.—These figures were calculated by averaging the costs shown in Appendix Tables 118 and 119 for foreign crude and Tables 120 and 121 for domestic crude. These tables give the commission's summary of costs for the years 1929 and 1930, respectively.

(3) A comparison of Appendix Tables 128 and 120 which show detailed distribution of refining costs for 1929 and 1930 shows that it cost 5 cents more in 1930 than in 1929 to refine a barrel of foreign crude. This increased cost is attributed by the commission to installation of cracking equipment and is pointed out several times, both in connection with increased gasoline yields and increased costs—notably on pages 52 and 60 of Part II and on page 43 of Part III. Yet Table 41,[3] Part III, shows that the cost of a gallon of gasoline from foreign crude was 51 cents [4] less in 1930 than in 1929, and that the foreign products cost 90 per cent of the domestic product's cost in 1929 while it cost only 86 per cent of the domestic product's cost in 1930.

In other words, one must conclude—from the commission's figures and discussions of the same—that it costs considerably less to make a gallon of gasoline by cracking Venezuelan crude than straight run gasoline costs from the same crude. No one who understands the principles of petroleum refining could agree to this.

(4) On page 30, Part III, the commission states:

"Fuel and gas oil have necessarily been treated as one product. House Resolution 391 calls for the determination of costs for fuel oil, but there is no clear line of demarcation between it and gas oil, and the questionnaires make no consistent distinction."

Here again the commission has been so grossly misled that it has failed utterly to comply with the explicit direction of House Resolution 391. There is just as clear a line of demarcation between gas oil and fuel oil as there is between gasoline and kerosene or for that matter between any other two commercial products of petroleum which lie adjacent to each other in their distillation ranges.

Yours very truly,

J. W. CREWNING.

Mr. FRANKLIN. By way of extension of my remarks, as suggested by the presiding officer, I should like to say:

The oil excise taxes in the proposed revenue law are practically the only ones which will produce large receipts for the Federal Government without imposing additional burdens upon industry, commerce or the ultimate consumer. At the rates fixed of 1 cent per gallon upon the various petroleum products, over $40,000,000 will be assured, if we base this estimate upon the average amount of imports for the past three years. The various items upon which this total is estimated are as follows:

Crude oil, 2,636,367,888 gallons, at 1 cent	$26,363,678
Fuel and gas oil 1,002,734,834 gallons at 1 cent	10,027,343
Gasoline, naphtha, and other finished light products, 551,349,414 gallons, at 1 cent	5,513,494
Total	41,904,515

[2] Also appendix basic cost Tables 118, 119, 120, and 121.
[3] Percentages calculated from comparative costs given in above tables.

If the proper distinction had been made between gasoline and crude oil so that the former were taxed at a rate proportioned upon the tax levied on crude oil, a 3 cent impost would have been set as the rate on imported gasoline. In round terms, it requires three barrels of crude oil to produce one barrel of gasoline. If the same rate is fixed for both of these commodities, it would be more economic to refine the crude oil before importing it, thus affecting American labor now engaged in American refineries. If this amendment were made, solely to equalize the rates in the present bill, then a tax of 3 cents per gallon upon gasoline would produce from this single item $16,540,482 instead of only $5,513,494.

In order to prevent evasion through false declarations and also to add a substantial amount to the revenue receipts, the foreign petroleum products now omitted from the bill might be included as follows, the figures given here, as also above, being based upon the official government data:

Tops and other refined distillates, 2,717,534 gallons at 1 cent	$27,175
Kerosene, 5,873,994 gallons, at 1 cent	58,739
Lubricating oil, 1,339,548 gallons at 4 cents	53,581
Paraffin and petroleum wax products, 46,928,711 pounds, at 1 cent	469,287
Natural asphalt and petroleum asphalt and bitumen, 73,770 long tons, at $2	147,540
Total	756,322

Since, according to the United States Tariff Commission, the differential between foreign and domestic production costs is $1.03, it is self-evident that the imposition of a 42-cent tax upon a barrel of foreign crude oil will not constitute any embargo and should not materially affect the volume of these imports. Neither should the gasoline tax, even at the increased figure which would make it equitable, constitute any barrier against this foreign product.

The suggestion that these excise taxes would adversely affect the importations upon which they are estimated is less valid when addressed to this tax than when it is considered in relation to the many other forms of taxation proposed in this measure. All tax history demonstrates the fact that the imposition of a tax burden upon any commodity or upon any business practice (such as stamp taxes, etc.) acts as a handicap or a deterrent. This is especially true in the case of the "nuisance taxes," so called. It is also especially true in the case of ordinary taxation upon commodities in which the margin of profit is very low. There have been cases in which importations have ceased and other cases in which importations have ceased because the tax burdens have become prohibitive. This is not true in the case of the oil excise taxes. According to the analysis of the United States Tariff Commission report made by Dr. W. W. Holland, of Toledo, Ohio, and quoted in the House Ways and Means Committee hearing, the importer of foreign petroleum now enjoys a net profit of 94 cents per barrel. Computations based upon other portions of the report show a net profit of $1.15 per barrel. The imposition of an excise tax of 1 cent per gallon or 42 cents per barrel would still leave the foreign importer a net profit of 73 cents.

This same report of the United States Tariff Commission gives the profits on the domestic product as only 11 cents. It requires no higher mathematics to demonstrate that a tax of 42 cents upon

foreign petroleum, which leaves the importer a net profit of 73 cents or a clear advantage of 62 cents over his American competitor, should not seriously decrease the continued importation of the foreign product. It would decrease the enormous profits now made by the oil importers at the expense of American industry and to the detriment of American labor. It would probably be the first blow struck at the approaching monopoly of the American petroleum industry now being created by these great oil-importing corporations. It would constitute a positive encouragement to the American oil interests and might prove the entering wedge through which, ultimately, they may obtain a fair competitive field.

The imposition of this tax upon imported petroleum and its refined products would not impose any additional burdens upon the prices paid by gasoline consumers. It is well known that there is no essential relation between the prices paid for gasoline and the prices paid for crude oil. Comparison of these prices in typical cities of the country over a period of years demonstrates the fact that gasoline has sold at its highest price when the crude oil from which it was produced sold at an unusually low price. Conversely, gasoline has sold at record low prices when the crude oil from which it was produced had reached an unusually high figure. Actually the price of gasoline is determined by the great distributing corporations which manipulate it at their will.

The fact that incredible dividends were paid during the depression period by the subsidiaries of the oil-importing concerns ranging from 100 per cent to 400 per cent per annum, demonstrates the enormous profits now being reaped by these organizations, at the expense of the consumer.

It is apparent to the unprejudiced student of the petroleum situation that while the Federal Government might realize from approximately $40,000,000 to $60,000,000 annually through these excise taxes, or, by justified increases in the rates an even larger sum, no excessive burden would be placed by them upon American industry, American labor, or any American capital except that which has been profiteering through the duty-free admission of these foreign products.

In the event that the purposes of this tax measure should be defeated by any movement on the part of the great oil-importing corporations to decrease their importations, the Nation's requirements could be adequately met by the American petroleum industry which would thus be enabled to reemploy approximately 300,000 oil workers now idle with a stimulating effect upon related industries upon which approximately 2,000,000 persons depend for their livelihood. The restoration of the consuming power of these people would be reflected at once in a new development of prosperity and would be registered in the tax receipts of the Federal Government from income taxes, corporation taxes, and from items included in this bill now under consideration.

Furthermore, the imposition of this tax would have a stimulating effect upon the petroleum situation in this country. While it should not necessarily cause any decrease in oil imports for legitimate purposes, such as supplying the demand of those now using foreign oil or its derivatives, it would prevent the use of these imports as a club to force down the prices of the American product below the

amount of tax thus fixed. In the past, through either the fact or the threat of greatly increased importations of foreign oil, American producers have been forced to sell their product at the price of 10 cents a barrel of 42 gallons. This low price has not been passed on to the consumer but has been absorbed in profits by the subsidiaries of the oil importers. The excise taxes in their present form would thus establish a 42 cents minimum price. While this would not affect the consumer and would not create any serious competition with imported oil, it would be of great value to the American petroleum industry.

The propriety of this excise tax should not be seriously disputed. Both political parties have repeatedly declared in favor of the principle involved in this measure. They have at times been so specific as to urge the imposition of excise taxes on foreign products for the purpose of creating revenue, especially when national emergencies such as the present arise. If it is right to tax the products of American industry, then it should also be right for us to tax the products of foreign labor. If it is right to tax the poverty of the poor, it should also be right for us to tax the profits of corporations now paying dividends ranging upward as high as 400 per cent.

This measure is justified in advance by the example set us by other nations, many of whom levy heavy excise taxes upon imported foreign petroleum and its products. The Netherlands have just put into effect a special import duty of 6 florins per 100 kilos, or approximately 6.83 cents for each gallon of gasoline, in addition to the former excise tax of 1.25 florins per 100 kilos, or 1.43 cents a gallon which had been levied upon all gasoline, both import and domestic refining. The Government of Batavia has just increased its gasoline excise tax to 9 florins on each 100 litres or 13.7 cents per gallon. This is in harmony with what seems to be the consistent and widespread attitude of other countries on taxation, many of them levying extremely heavy taxes, especially upon petroleum products even when these countries neither have petroleum reserves in their own lands or in their colonies. Compared with the oil excise taxes imposed by other countries, those suggested in the proposed revenue bill are extremely modest.

Most of the arguments offered against the excise tax on the ground that it might unwarrantably limit oil importations are based upon the present production figures in Venezuela. While it is true that Venezuelan crude oil last year totaled 25,224,620 barrels out of the 47,249,655 barrels imported, and while the fuel oils and gasoline from that country almost constituted the total amount of such importations, we must face the fact that Russia is rapidly becoming an important factor in our oil-importing situation. During the past year and in the present year cargoes of Soviet oil have been landed in this country at prices far below the production prices current in Venezuela. The Russian oil output last year totaled approximately 160,809,840 barrels, exceeding Venezuela's total by about forty-three and two-thirds million barrels, representing a gain of 21 per cent over the 1930 figures. In view of the prices declared at port of delivery, sometimes as low as 1.96 cents, it is clear that the excise taxes stated in the present bill will not constitute any protective tariff or embargo so far as Russia is concerned.

Objection to the inclusion of the excise taxes in the revenue bill on the ground that they should be brought up in a special tariff measure

is ill-founded. If these proposals were designed solely for the protection of the American industry, they should be much larger. They do not constitute a tariff, properly considered. They will produce revenue. They are appropriate provisions in any revenue measure. There are a number of precedents for their inclusion.

The American petroleum industry sought a tariff from the present session of Congress. It did not propose these excise taxes. The Ways and Means Committee of the House, on its own motion, inserted this provision in the revenue bill for the purpose of obtaining additional revenues. In order to expedite the balancing of the Budget and that we might not appear to obstruct, in any degree, such action by Congress, the American petroleum industry did not press the bills establishing a tariff upon foreign petroleum and its products. It tacitly agreed to the sacrifice of a goal toward which it had been working for several years with very bright prospects of success at this session. Although suffering from the unfair competition of duty-free foreign products which make no contribution whatever to State or Federal treasuries to which the American product paid tremendous taxes, it was willing to subordinate its interests and possibly its whole future, for the next few years at least, to the national necessities. It practically stepped aside and supported the present revenue bill although the consideration given the American oil industry through these oil excise taxes was far below what might have been expected if the condition of this American industry and its intimate relationship to general prosperity had been considered.

While we do not stress this moral responsibility and prefer not to over emphasize any implied obligation, we, nevertheless, feel that the fullest consideration is due these oil excise taxes. If they are eliminated merely through the influence of those who are profiting through foreign oil importations, then we must feel that a gross injustice is being done and that millions of dollars of potential revenue are being sacrificed without adequate justification. That such revenue can be obtained is indisputable; that most of those who oppose it are concerned about their own profits more than they are about the potential receipts by the Federal Government must be clear. Had the same motives actuated the responsible leaders of the American petroleum industry, they would have either directed their efforts toward securing a high protective tariff or else would have urged upon the other branch of Congress the correction of the very low tax figures proposed in the bill.

Senator CONNALLY. Senator Hull, would you be willing to wait 10 minutes longer?

Senator HULL. Yes.

Senator CONNALLY. Mr. Franklin, there is one point you have not had time to develop, the relation between gasoline and crude oil; the price of crude oil is not always reflected in the price of gasoline, is it?

Mr. FRANKLIN. What I said to your Senators about the revenue this would produce, I will refer you to a member of the Ways and Means Committee, Mr. Sanders of Texas, who on the floor of the House, when challenged as to the revenue this bill would produce, said, and I am quoting from the Congressional Record, page 6287, from a speech made on Monday, March 14, 1932:

> Mr. SANDERS of Texas. I can answer that yes and no, because they have been on both sides of the creek.

Senator CONNALLY (interposing). That is now about the matter of revenue.

Mr. FRANKLIN. Yes. He is referring to the Treasury Department:

I will admit that Mr. Mills stated that it would not produce any revenue. I can also say that I had an opinion from the Treasury Department that it would produce $44,000,000.

Now, as to this question about the cost of gasoline as compared with the cost of crude oil, it is a matter of general knowledge in the oil country that there is very little relation between the price of gasoline at the filling station and the price of crude oil at the well.

Senator CONNALLY. But if natural laws were permitted to operate there would be.

Mr. FRANKLIN. Yes. If like any ordinary branch of industry it were permitted to live, and the price of foreign oil was equalized with that of domestic oil, there would be some relation. But with imported oil used as a club to drive down the price paid for oil to the American producer, they can say: Our price is 10 cents. Sell it to us or we will bring in Venezuelan oil. In fact, that statement was made by one of the representatives of a pipe line in Kansas. And my authority for it is Mr. Loe, of Wichita, Kans. That was made last summer.

Senator GORE. I recall a statement made about a year ago as to a comparison when crude oil is $1 a barrel and when it is $3 a barrel, showing that in both cases the price of gasoline at the filling station was 18 cents a gallon. Could you prepare a statement and show the items of expense intervening between the well and the filling station?

Mr. FRANKLIN. It is in the statistics I filed a while ago.

Senator GORE. Very well.

Mr. FRANKLIN. There is a page on that and it gives the cities and prices in detail.

Senator GORE. All right.

Mr. FRANKLIN. In that relation I should like to call the attention of the committee to an investigation made by the Federal Trade Commission on resolution adopted by the Congress as to the petroleum industry, prices, profits, and competition, this report being dated December 12, 1927.

Senator HULL. Might I interrupt you for one moment to clear up a matter and then I will not bother you any more.

Mr. FRANKLIN. Senator Hull, don't you think I better finish this?

Senator HULL. Very well. Go ahead.

Mr. FRANKLIN. But I want you to understand that I always welcome questions.

Senator HULL. I know, but it is a question of time with the committee. Go ahead.

Mr. FRANKLIN. This was an investigation made by the Federal Trade Commission as to the relation of refined products of crude oil to the price of crude petroleum, and on page 19 in a latter of transmittal of the report to the Congress, appears this language:

In general as to the prices of crude petroleum this inquiry tends to establish the conclusion that the price movements for the longer periods are substantially controlled by supply and demand conditions, but that those conditions are reflected quite imperfectly in shorter periods, partly because crude prices are determined by the decisions of a few large purchasing companies among which there is generally little real competition. With respect to refined products, at least in local sale and distribution, the price conditions reflect oven less closely the actua changes in supply and demand, so far as they can be measured by concrete sta

tistical facts. In part this corresponds to the normal conditions of local marketing over wide areas, but in part also to the fact that the varying prices at which the different Standard companies offer their products at the same time in their respective marketing territories are generally followed by their competitors.

Senator HULL. Now, Mr. Franklin, the matter I referred to is this: I think you inadvertently gave the impression, to me at least, a while ago, that the Federal Government itself might be buying foreign oil. I think the statute requires the Government itself to buy from home producers anything it buys.

Mr. FRANKLIN. I am glad you asked me that question. That provision in the present statute which requires the Government to buy home-produced rather than foreign oil, was put in on an amendment to the appropriation bill introduced into the House of Representatives by Mr. Ayres, of Kansas last year and has become a permanent feature of this appropriation bill without inconvenience to the Navy. But up until that time a very large quantity of the purchases made by the Government were from the Royal Dutch Shell, being a foreign oil company and being foreign oil.

Senator CONNALLY. That question was injected by the opponents of this measure, who stated that if we passed this tariff the United States would spend from $8,000,000 to $10,000,000 more for its oil supply.

Senator HULL. I understand, but I was merely trying to get at the facts.

Senator CONNALLY. I know.

Mr. FRANKLIN. Now, gentlemen of the committee, I do not wish to take up any more of your time. I wish to thank the committee for the courtesies I have enjoyed. But I do wish to add that I welcome any questions. All I wanted to do was to have an opportunity to get before you our side of this matter, and now if there are any questions you would like to ask I will be very glad to answer them if I can.

LETTER FROM THE NETHERLAND MINISTER

DEPARTMENT OF STATE,
Washington, April 21, 1932.

Hon. REED SMOOT,
United States Senate.

MY DEAR SENATOR SMOOT: The Netherland minister this afternoon handed me a memorandum, a copy of which is attached, commenting on a statement Mr. Franklin is said to have made to your committee concerning the Dutch import duty on gasoline. The minister said he would be very grateful if I could get this memorandum in your hands immediately, as he believes the hearings are to be closed to-morrow. He feels it important for you to understand that the duty imposed in Holland is for revenue only and that it does not penalize the production of foreign countries, since the same duty is charged on the production of the Dutch Colonies themselves.

Sincerely yours,

W. R. CASTLE, Jr.

The Netherland minister presents his compliments to the Acting Secretary of State and begs leave to draw Mr. Castle's attention to a statement, reported by the United States Daily of April 18, to have been made by Mr. W. Franklin, president of the Independent Petroleum Association of America, before the Senate Finance Committee at the hearing which was held on the 16th in the matter of levying an import tax on foreign petroleum, etc., as prescribed in the revenue bill No. H. R. 10236, at present under consideration.

Mr. Franklin is cited to have stated that "The Netherlands have just put into effect a special import duty of 6 florins per 100 kilograms, or approximately

6.83 cents for each gallon of gasoline in addition to the former excise tax of 1.25 florins per 100 kilograms, or 1.43 cents a gallon, which had been levied upon all gasoline, both of import and domestic refining."

It is not Mr. van Roijen's intention to contest any of the figures given by Mr. Franklin, but as it is possible that the Senators before whom the statement was made have obtained the impression that the Netherlands are protecting their own oil industry (which is not established in the Netherlands in Europe but in Netherland India) to the extent of the above quoted duty, the minister would like to make it clear that the tariff in question applies in equal measure to imports from Netherland territories overseas as to those from foreign sources.

Foreign and domestic mineral oils and the products derived therefrom compete in the markets of the Netherlands on absolutely equal terms.

That the American oil industry in particular meets the Netherland Indian producers in the markets of the Netherlands on perfectly equal terms is demonstrated when the imports of American petroleum, etc., during 1930 are compared with those from the Netherland East and West Indies.

The figures are:

	Imports from the United States of America	Imports from the Netherland East Indies	Imports from the Netherland West Indies
	Kilograms	*Kilograms*	*Kilograms*
Kerosene	144, 275, 972	701	.....
Fuel oil	15, 189, 241	499, 771	83, 446, 287
Gasoline	183, 649, 631	7, 286, 411	3, 022, 726
Crude oil not specified	103, 270, 256	3, 016, 602	84, 146, 533

The above figures represent the quantities imported for consumption; for storage in bond the import statistics are:

	From the United States of America	From the Netherland East Indies	From the Netherland West Indies
	Kilograms	*Kilograms*	*Kilograms*
Kerosene	150, 868, 968	.....	1, 269, 308
Gasoline	349, 630, 930	52, 762, 659	40, 204, 292
Gas oil	835, 062	.....	76, 890, 429

The imports from the Netherland West Indies do not of course constitute oil and products of oil mined in the Netherland West Indies, as no mineral oil is found there, but oil from foreign sources refined or in some way processed in the Netherland West Indies.

In view of the fact that the import duty of 1 cent a gallon on petroleum and petroleum-products, proposed in revenue bill H. R. 10236, will place, if enacted, such a heavy burden on the Netherland West Indian oil industry, the main importer in the United States of refined oil and gasoline, that all competition with the domestic producers will become impossible and the very existence of the industry itself may be threatened, Mr. Van Reijen would feel much obliged if Mr. Castle would transmit the contents of this communication to the Finance Committee of the Senate for consideration.

WASHINGTON, D. C., *April 21, 1932.*

STATEMENT IN OPPOSITION TO TAX ON TRANSPORTATION OF OIL BY PIPE LINE

(Submitted on behalf of Southwestern Oil Producers)

This statement is submitted by and on behalf of the producers of oil and particularly in the interest of the nonintegrated, independent producers of the mid-continent field. The mid-continent field is composed of the States of Kansas, Oklahoma, north and central Texas, Arkansas, and north Louisiana.

These producers, by reason of their financial distress and the certainty that the imposition of any further taxes or charges upon them at this critical time would mean the elimination of many of them and the loss of thousands of their stripper wells through inability to carry the additional loss, feel impelled to appear in their own behalf to petition the Finance Committee to eliminate from the revenue bill the tax on transportation of oil.

As grounds for this request these inland producers of domestic petroleum respectfully show and represent to the Finance Committee that—

1. Any tax levied upon or on account of, the transportation of oil inevitably will fall on the producer of oil;

2. It will bear most severely upon and will, therefore, be a discrimination against those inland producers who have to depend upon long pipe-line hauls to reach the refining centers;

3. The domestic producer has so severely suffered for three years from falling prices, demoralized and declining markets, and the excessive burden of State taxation that he is entirely without ability to pay any additional taxes, directly or indirectly; and

4. The effect of such an additional burden would be of far-reaching consequence in that it would not only drive many small producers out of business but would involve the loss of many old, small wells and the irreplaceable natural resource which they represent.

THE INCIDENCE OF THE TAX

The tax upon the transportation of oil by pipe line would be passed on to the public or passed back against the producer. Since the retail markets for petroleum products are demoralized by competition and prices are held down by excessive gasoline taxes and the undermining influence of evasion thereof, this transportation tax could not be passed on to the public by the refiner but would fall upon the producer for the reason that we have now, and probably will have for several years, a buyer's market for crude oil. Actual overproduction of crude oil, plus a great potential production awaiting a market, place the producer in the predicament of being unable to control the price of his commodity. (See Appendix B.) On the contrary, he must take what is offered him just as the farmer does in the case of his products. Naturally the refiners who because of extreme competition are all doing business upon an extremely narrow margin of profit, if any, can not and will not absorb an extra charge upon the transportation of crude oil but will recoup it by paying a correspondingly lower price to the producer. Thus the transportation tax will fall on the producer.

DISCRIMINATION AGAINST PRODUCERS IN THE INTERIOR

The mid-continent field depends upon pipe-line transportation to reach the refining centers near Kansas City, St. Louis, Chicago, Toledo, Cleveland, the international boundary near Detroit, and the Atlantic seaboard. Therefore a long haul is involved and since the tax is a percentage of the pipe-line charge the greater portion of the total revenue raised will be collected from mid-continent producers. In Appendix A hereto attached representative pipe-line rates from Oklahoma, Kansas, and north Texas fields to points north and east are listed. These range from 50 cents per barrel to Sugar Creek, Mo., to over 96 cents per barrel (including the gathering charge) to Atlantic coast points and would call for a tax of from 4 cents to nearly 8 cents per barrel under the terms of the pending bill. Such a tax would exceed the present day profits of the relatively few mid-continent producers who are making any profit, and that from flush production, and in the case of the others it would merely add to current losses.

PRODUCING INDUSTRY PROSTRATED AND UNABLE TO BEAR ADDITIONAL TAXATION

For three years the producers of domestic oil have been struggling for existence and many of them have passed out by the bankruptcy route. The price of crude oil in the mid-continent field is now only 33.6 per cent of what it was in May, 1926. The average grade of mid-continent crude now sells for 77 cents per barrel, which is the lowest price (with the exception of certain months in 1931) since prior to the world war and contrasts with a price of $2.29 per barrel for the same grade in 1926. The present price is below the cost of production and jeopardizes the existence of approximately 300,000 old small wells which constitute about 90 per cent of the producing wells in the United States. These wells can not stand the imposition of an additional tax of 5, 6, or 7 cents per barrel, and if imposed the rate of abandonment will be materially increased.

The losses of the producers both large and small have been appalling. Financial statements of individuals and small companies are not available, but the following data from statements of representative larger companies, some of them integrated, will reveal the generally depressed condition of the industry.

Year 1931 net losses

Amerada Petroleum Corporation	$1,701,648.00
Barnsdall Corporation	3,268,637.00
California Petroleum Corporation	712,048.00
Continental Oil Co	10,683,312.98
Gulf Oil Corporation	23,670,052.00
Ohio Oil Co	21,488,763.00
Panhandle Producing & Refining	515,644.00
Phillips Petroleum Co	5,576,409.00
Prairie Pipe Line Co. (11 months)	547,313.00
Sinclair Consolidated Oil Corporation (6 months)	10,415,088.00
Skelly Oil Co	2,117,110.00
South Penn Oil Co	820,191.00
Standard Oil Co. of Kansas	618,616.00
Texas Corporation	9,954,478.00
Texas Pacific Coal & Oil Co	1,413,235.51
Universal Consolidated Oil	301,898.00
Indian Refining Co	3,130,986.00
Signal Oil & Gas Co	269,405.00
Colonial Beacon Oil Co	2,365,780.00
Valvoline Oil Co	311,205.00
Republic Petroleum Co	78,293.00
Rio Grande Oil Co	2,476,499.00
Houston Oil Co	356,484.00
Pacific Western Oil Co	903,124.00
Wilcox Oil & Gas Co. (9 months)	718,862.00
National Refining Co	752,286.00

In large part these losses are caused by excessive State taxation of the oil industry and its products. They are subjected by the States to extraordinary burdens because of popular misconception of the industry's ability to pay. It has been fairly estimated that the tax burden of the oil industry is now in excess of a billion dollars per annum. The oil producer is particularly harassed by exorbitant taxation.

Illustrative of this condition is the fact that in the various States the property and business of the industry are subjected to the heavy ad valorem or general property tax, plus State income and corporation license taxes, tank-car taxes, and, particularly, gross production and severance taxes; in some States transportation taxes, and in all States exorbitant gasoline taxes.

Gasoline taxes of the States during the past year aggregated approximately $550,000,000 and ranged in rate from 2 cents per gallon to 7 cents per gallon, plus, in some instances, local county and municipal gasoline taxes. These taxes have become a heavy burden on the sale and distribution of the industry's principal product—so heavy, in fact, as to invite widespread bootlegging, evasion, price cutting, and other demoralizing marketing practices which have undermined the power of the industry to maintain itself upon a legitimately profitable basis.

The average rate of State gasoline tax alone is equivalent to a tax of from 84 cents to $1 per barrel of crude oil from which the gasoline is extracted and is therefore equal to a tax of 100 per cent of the selling price of such crude oil. In those States having the highest rates the tax is equal to 200 per cent of the market value of the crude.

To now add a tax upon the transportation of the crude oil which inevitably would be passed on to the producer would simply augment the growing deficit of the industry and render more remote the day when the producer could hope to emerge from the depression.

Furthermore, the producer in the interior who is already losing his markets for crude oil would suffer further in that respect by the imposition of the discriminatory transportation tax. The demand for oil in Oklahoma has declined from approximately 700,000 barrels per day in August 1929, to only about 400,000 barrels per day at this time. A supercharge upon the transportation and use of Oklahoma oil would be at this time particularly unfortunate.

THE EXCESSIVE RATE OF TAX AND ITS PROBABLE ILL EFFECTS

Unquestionably the rate of tax contained in the House bill, 8 per cent of the amount paid for transportation, is too high. It is the same rate as that assessed during and immediately after the war when business was flourishing and prices booming. Now, with bankruptcy threatening us, the depressive effect of the tax would be incalculably greater. It would add fifteen to twenty millions of dollars to the current net losses of the oil producer. An examination of the facts will reveal that, in the case of approximately 100,000 of the smaller wells in the mid-continent field which are yielding on the average only about 1 barrel per well per day and the cost of operation exceeds the gross income therefrom, the addition of such a tax would be ruinous. To a great extent it would set at naught the nation-wide efforts toward conservation of our oil resources.

For these reasons the American oil producers respectfully urge the finance committee and the Senate to refrain from inflicting this destructive additional burden upon them.

APPENDIX A

Representative pipe-line transportation charges

[From published I. C. C. tariffs and local State tariffs]

From—	To—	Transportation rate per barrel	Tax per barrel
Oklahoma-Kansas-north Texas	Baltimore, Md	$0.9675	$0.0774
Do	Bayway, N. J	.9675	.0774
Do	Bayonne, N. J	.9675	.0774
Do	Philadelphia, Pa	.9675	.0774
Do	Titusville, Pa	.8925	.0714
Do	Olean, N. Y	.8800	.0704
Do	Buffalo, N. Y	.8800	.0704
Do	Oil City, Pa	.8725	.0698
Do	South Charleston, W. Va	.8475	.0678
Do	Cabin Creek, W. Va	.8475	.0678
Do	Coraopolis, Pa	.8475	.0678
Do	Franklin Station, Pa	.8475	.0678
Do	Pittsburgh, Pa	.8475	.0678
Do	Heath, Ohio	.8300	.0664
Do	International boundary, Michigan	.8250	.0660
Do	Cleveland, Ohio	.8250	.0660
Do	Earhart Station, Mich	.8100	.0648
Do	Bayshore, Ohio	.7950	.0636
Do	Findlay & Cygnet, Ohio	.7900	.0632
Do	Latonia, Ky	.7800	.0624
Do	Whiting, Ind	.6600	.0528
Do	Wood River, Ill	.5725	.0458
Do	Sugar Creek, Mo	.5075	.0406
Oklahoma points	Anchorage, La	.5750	.0460
Augusta Station, Kans	do	.6875	.0550
New Salem Station, Kans	do	.6075	.0534
Augusta Station, Kans	Beaumont, Tex	.6875	.0550
Burbank, Okla	do	.5250	.0420
Depew, Okla	do	.3750	.0300
Healdtown, Okla	do	.4500	.0360
Wewoka, Okla	do	.4750	.0380
Oklahoma points	Baytown, Tex	.6000	.0480
Burkburnett, Tex	Beaumont, Tex	.4250	.0340
Electra, Tex	do	.4250	.0340
Luling, Tex	do	.3000	.0240
Iatan, Tex	do	.5000	.0400
Midland, Tex	do	.5000	.0400
Miranda, Tex	do	.6000	.0480
McCamey, Tex	Baytown, Tex	.4250	.0340
Winkler, Tex	do	.4250	.0340
Pecos, Tex	do	.4250	.0340
Kemper, Tex	do	.4250	.0340
Big Spring, Tex	do	.4250	.0340
Crane, Tex	Ingleside, Tex	.4000	.0320
Bruni, Tex	do	.2500	.0200
McCamey, Tex	do	.4000	.0320
Pecos, Tex	do	.4000	.0320
Refugio, Tex	do	.2000	.0160
Lea County, N. Mex	Baytown, Tex	.4500	.0360
Do	Texas City, Tex	.4500	.0360
Do	Ingleside, Tex	.4250	.0340
Jal and Lynch, N. Mex	Houston, Tex	.6500	.0520

Representative pipe-line transportation charges—Continued

[From published I. C. C. tariffs and local State tariffs]

From—	To—	Transportation rate per barrel	Tax per barrel
Burnett, Tex.	Baytown, Tex.	$0.5000	$0.0400
Allanread, Tex.	do.	.5000	.0400
Kingsmill, Tex.	Beaumont, Tex.	.7250	.0580
Do.	West Tulsa, Okla.	.5250	.0420
Arp and Longview, Tex.	Whiting, Ind.	.7600	.0608
Do.	Sinco, Tex.	.3500	.0280
Van and Longview, Tex.	Anchorage, La.	.3500	.0280
Joiner and Kilgoro, Tex.	West Tulsa, Okla.	.4000	.0320
Arp and Bateman, Tex.	Baytown, Tex.	.3500	.0280
Arp and Longview, Tex.	Sugar Creek, Mo.	.6075	.0486
Bullock Station, Tex.	Whiting, Ind.	.5600	.0448
Winkler County, Tex.	do.	.7000	.0560
Big Sandy Station, Tex.	Neville Island, Pa.	.8975	.0718
Do.	Bayshore, Ohio.	.8450	.0676
Batson, Tex.	Olean, Tex.	.2000	.0160
Big Creek, Tex.	do.	.3500	.0280
Blue Ridge, Tex.	do.	.3000	.0240
Saratoga, Tex.	do.	.1750	.01 0
Sour Lake, Tex.	do.	.1500	.0120
Goose Creek, Tex.	do.	.2500	.0200
Hull, Tex.	do.	.2000	.0160

APPENDIX B

POTENTIAL PRODUCTION OF CRUDE PETROLEUM GREATLY EXCEEDS MARKET DEMAND, THUS CREATING A BUYER'S MARKET

The potential production of crude petroleum in the various oil-producing areas in the United States, as officially ascertained by the various State commissions and officials, has exceeded the actual market demand many times over since August, 1926. The following tabulation presents representative data for April, 1932, on the potential production as contrasted with the market demand for crude petroleum:

[In barrels per day]

Area	Potential production	Indicated demand	Excess production available
Hobbs Field, New Mexico	1,144,435	31,376	1,113,059
San Joaquin Valley, Calif.	537,180	164,650	372,530
Coastal District, California	121,385	59,450	61,935
Los Angeles Basin, California	400,465	232,600	167,865
Oklahoma City Field, Oklahoma	3,371,425	103,000	3,268,425
Other Oklahoma Fields, Oklahoma	631,879	339,163	292,716
Van Field, Texas (Oct. 1, 1931)	499,722	50,000	449,722
Yates Field, Texas	2,359,493	65,000	2,294,493
Darst Creek Field, Texas	130,727	18,000	112,727
Crane, Upton, Ector, Howard, Glasscock, and Winkler County Fields, Texas	260,893	84,000	176,893

The above producing areas provide 1,150,000 barrels per day of the present market demand for crude oil, and have a potential production in excess of the current market demand of approximately 8,300,000 barrels per day, the total present potential daily production of these areas being approximately 9,450,000 barrels per day.

To the above list of flush production areas, must be added the great east Texas producing fields of Longview, Kilgore, and Joiner. No official gage of the potential production in this area has been made in recent months, and few, if any, of the wells will ever be opened to full flow production during the flush stage. At the present time (April 15, 1932) there are 4,632 producing wells in the area, and it is variously estimated that if they were opened on full flow for one full day, the area would produce from 10,000,000 to 50,000,000 barrels that day. It is further variously estimated that the field could average from 2,500,000 to 7,500,000

barrels per day for several months. At the present, the market demand from this area is only approximately 325,000 barrels per day, and the total market demand in the United States does not exceed 2,250,000 barrels per day.

RESOLUTION OF THE GENERAL BOARD OF DIRECTORS OF THE MID-CONTINENT OIL AND GAS ASSOCIATION IN OPPOSITION TO THE OIL TRANSPORTATION TAX

Respectfully submitted to the Finance Committee of the United States Senate.

Whereas there is pending before the Senate of the United States as a part of the revenue bill a provision for a tax of 8 per cent upon the amount paid for the transportation of oil by pipe line, which tax, by the terms of the pending bill, is to be collected by the person furnishing the transportation from the person paying for such transportation, and is also to be levied and collected even in those instances where the transportation for any reason is not paid for; and

Whereas no similar transportation tax is levied against other commodities but is confined to oil and at an extremely high rate:

Now, therefore, the general board of directors of the Mid-Continent Oil and Gas Association, representing the southwestern producers of oil, hereby protests against the enactment of part 4, title 5, being section 731 of said proposed bill for the following reasons, to wit:

That the domestic petroleum industry and its products are now overtaxed in comparison with other industries. The oil business and its products are subjected by the States to extraordinary burdens because of some popular misconception of the industry's ability to pay. Illustrative of this condition is the fact that in the various States the property and business of the industry are subjected to the heavy ad valorem or general property taxes, plus State income and corporation license taxes, tank car taxes and, particularly, gross production and severance taxes; in some States transportation taxes, and in all States exorbitant gasoline taxes.

Gasoline taxes of the States during the past year aggregated approximately $550,000,000, and ranged in rate from 2 cents per gallon to 7 cents per gallon, plus, in some instances, local county and municipal gasoline taxes. These taxes have become a heavy burden on the sale and distribution of the industry's principal product—so heavy, in fact, as to invite widespread bootlegging, evasion, price-cutting, and other demoralizing marketing practices which have undermined the power of the industry to maintain itself upon a legitimately profitable basis.

The average rate of State gasoline tax alone is equivalent to a tax of from 84 cents to $1 per barrel of crude oil from which the gasoline is extracted and is therefore equal to a tax of 100 per cent of the selling price of such crude oil. In those States having the highest rate the tax is equal to 200 per cent of the market value of the crude.

Financial reports for 1930 and 1931 will reveal widespread and appalling losses throughout the industry. It has been fairly estimated that the tax burden of the oil business is now in excess of a billion dollars per annum. The producer of oil is particularly harassed by exorbitant taxation. To now add a tax upon the transportation of oil, which tax would be largely borne by the producer, would be but to add to the growing deficit of this industry and to retard, if not to indefinitely postpone the date of its recovery. And this would be true whether the tax in the first instance was levied directly against the pipeline company or the shipper.

Aside from the welfare of the oil industry, the public interest is involved here because oil is an unreplaceable natural resource and the addition of a heavy tax upon its transportation from the inland pools will have a depressing effect upon the price and demand for such inland oil, thus jeopardizing the continued existence of some 300,000 old small wells which after being subjected to every economy are unable to make a profit at present prices. The imposition of additional taxes directly or indirectly would mean the abandonment of thousands of them and consequently the permanent loss of the natural resource which they represent.

We, therefore, respectfully petition the Finance Committee of the United States Senate to eliminate this item from the revenue bill, believing that its destructive effects, if enacted, would far outweigh the importance and value of any revenue that might be derived therefrom.

MID-CONTINENT OIL AND GAS ASSOCIATION

TULSA, OKLA.

STATEMENT OF WILLIAM G. WINSOR, JR.

UNITED STATES SENATE, *April 21, 1932.*

Hon. REED SMOOT,
United States Senate.

MY DEAR SENATOR: I have a letter this morning from Mr. William G. Winsor, jr., president of the Rhode Island Welding Co., and one of my constituents, in which he expresses disappointment at his failure to be heard by the Finance Committee when he came to here and stayed last Friday and Saturday to oppose the proposed tariff on imported oil.

Mr. Winsor incloses with his letter a copy of a statement which he desired to read to the committee. It is brief and it occurred to me that under the circumstances you might be willing to have it incorporated in the record of your hearings. If you can do so, will you please let me know in order that I may reassure Mr. Winsor?

Yours very truly,

FELIX HEBERT.

In appearing in opposition to the proposed oil tariff, I represent the Rhode Island Welding Co. of Providence, R. I., manufacturers of Ray-Dio Sunshine Burners that convert oil into sunshine. I also speak in behalf of the oil-burner industry of Rhode Island in particular and of the country in general, and, last but not least, for users of oil-burning equipment.

Sir Roger de Coverly used to say, "There is much to be said on both sides." Surely, there has been a lot of talk on both sides—how much has been said is for you gentlemen to determine. Many figures have been submitted by proponents—and by opponents, as well. Both can't be right.

My conception of a protective tariff has been that it should protect an infant industry or one where imports exceed exports. The oil industry in the United States is not exactly an infant. Recent Government figures show our oil exports to be increasing—about three times the amount of imports. Figures have been advanced to show the very opposite—and figures don't lie, they say.

The Boston Post carried an advertisement day before yesterday, stating that the first oil burning equipment in the East was installed in Boston in 1915. It has been in use on the west coast at least 15 years longer.

I have here figures given me by the editor of Fuel Oil Journal that will appear in their 1932 Survey of the Oil Burner Industry, not yet published. From this I find the following estimates:

	Number of burners in use
Automatic domestic burners	773, 400
Range oil burners	350, 000
Circulating oil burning heaters	100, 000
Total	1, 223, 400
Of these, there are in New England alone:	
Automatic domestic burners	101, 470
Range oil burners [1]	300, 000
Circulating oil burning heaters	40, 000
Total	441, 470
Money invested by users	$528, 210, 000
Money invested by manufacturers and dealers	95, 000, 000
Employees of 225 manufacturers	10, 000
Employees of 8,000 bona fide dealers	40, 000
Total (a conservative estimate)	50, 000

[1] The range burner business originated in New England and until recently the volume of sales has been confined to those six States, but now is heeding that famous bit of advice to young men, and is "going West."

Estimated sales for 1931, in dollars:	Number of burners in use
Automatic domestic (103,997)	$57, 198, 350
Commercial (large buildings, 2,300)	4, 600, 000
Industrial (manufacturers, marine, locomotive)	25, 000, 000
Range burners (148,212)	5, 928, 480
Circulating heaters	3, 468, 320
Total	96, 195, 150

In addition to employees directly connected with the manufacture and sales, many people are employed by manufacturers of motors and other electrical equipment, piping, tubing, fittings, asbestos, refractories, storage tanks, etc.

Domestic burners are owned, in the main, by people of moderate means. Range and stove (circulating heaters) burners are owned mostly by wage earners. Being more familiar with these two classes, I shall confine my remarks to them.

The sale has increased rapidly the past two years, particularly range and stove burners, because oil could be had at reasonable cost. In fact, in the past the high cost of oil presented the principal sales resistance. Even during these two years, many people have refused to buy, fearing that the price of oil would be advanced as soon as large numbers were installed. Those who did buy, did so because their fears were allayed by statements such as one given by the president of one of the large oil companies in the Fuel Oil Journal of June, 1931, saying:

"We have knowledge at this time of petroleum resources gained by actual drilling, as well as resources of new refining technique and methods, upon which to base the belief that there will be an ample supply of oil at reasonable prices for many years. Under the circumstances, there can be no hesitancy by a prospective oil burner purchaser on the ground that the supply of oil may give out."

During the past eight years, and mostly in the last two, a substantial business has been developed in the manufacture and sale of blue-flame, vaporizing, atmospheric type burners, such as our Ray-Dio Sunshine, adaptable to ordinary kitchen ranges, parlor stoves, and small heating plants, at reasonable prices—within the reach of the wage earner.

These burners bring to the workingman's home the same relative comfort the rich man enjoys. In many homes, the only means of cooking and heating is the kitchen range. The installation of these small burners has been a real boom to the laborer's homes, for it is not uncommon for both man and wife to be employed in mills or factories.

Before the advent of these Emancipators of Stove and Furnace Slaves, they would come home to find the fire out and the house cold, which meant cleaning out the stove, chopping kindling, lugging in coal or wood, carting out ashes, and—waiting for supper. Now, they come home to a warm house, kettle singing on the stove, and—no waits for supper.

These people have invested their money on the assurance of an adequate supply of oil at reasonable price. They are not concerned with the differences between groups of oil companies, especially since they both make us weep—one, because they bought oil at 10 cents per barrel, with gasoline that much per gallon to the rest of us, which made them look to their pipe-line companies for their profit, while the other, so an oil man told me Wednesday of this week, could maintain here in Washington a suite of offices in one of the hotels, a fleet of taxicabs at their beck and call, jewelry-bedecked stenographers, and telephone operators in low-necked dresses, topped off with a retinue of attendants that would put an Indian prince to shame. The users of oil-burning equipment are interested in the price of oil, however.

It was admitted by one witness yesterday that the adoption of this tariff—in the guise of revenue—would boost the price of oil. This same witness claimed there would be no decline in imports. Department of Commerce experts say it would mean virtually an embargo on oil and a positive loss to the Government. Again, both can't be right.

Undoubtedly, the proposed oil tariff, if adopted, will bear down on these people of moderate means, who have to count the pennies in normal times, and pinch them now. An oil burner means much to the workingman's wife, for she can cook any time, day or night, and her house work is cut in two, for there's no coal dust or ashes on curtains and sashes—or anywhere else. It makes this dream come true:

No ashes to cart out,
No coal to lug in,
No grates to shake down,
No knuckles to skin.

The manufacturers of oil-burner equipment, the wage earners in the industry and hundreds of thousands of users, therefore, believe that your committee should not permit a tariff on oil, especially since such a tariff will mean an embargo of foreign imports and an admitted increase in the price of oil, and will produce no revenue to help balance the Budget.

WASHINGTON, D. C., *April 16, 1932.*

STATEMENT OF HARRY H. SMITH, TULSA, OKLA., REPRESENTING THE MID-CONTINENT OIL & GAS ASSOCIATION

Mr. SMITH. Mr. Chairman and members of the committee, I only desire a moment or two to present one or two phases briefly of the Transportation Act as affecting the inland oil producers in the Southwest.

Senator GORE. Tell who you are, Mr. Smith.

Mr. SMITH. I represent the Mid-Continent Oil & Gas Association, headquarters Tulsa, Okla.

Senator GORE. What is your connection with that organization?

Mr. SMITH. I am secretary. My name is Harry H. Smith.

Senator GORE. And the Mid-Continent Oil & Gas Association embraces which States?

Mr. SMITH. The Mid-Continent Oil & Gas Association covers the fields of Kansas, Oklahoma, Texas, Arkansas, north Louisiana, and a part of New Mexico; represents the oil producers. And I particularly appear for the nonintegrated or independent producers as distinguished from the large pipe line companies.

There are just four points that I wish to present to the committee very briefly. The first is that this tax upon the transportation of oil by pipe lines inevitably will be a tax upon the producers of oil themselves. Not upon the pipe-lines.

Secondly, it will bear most severely upon those producers who are in the inland regions of the country and must use pipe-line transportation.

Senator COUZENS. Do the oil producers own the pipe lines?

Mr. SMITH. No, sir; the producers I represent do not. They sell their oil at the mouth of the well.

Senator GORE. He is representing the nonintegrated groups, Senator.

Mr. SMITH. Third, the domestic producer has so severely suffered for three years from falling prices, demoralized markets, and particularly the excessive burden of State taxation, that they simply can not pay any additional taxes at this time.

Fourth, necessarily the effect of such tax would be to put many of them out of business and cause the abandonment of thousands of the small oil wells.

Briefly, as to the incidence of the tax, the reason why the producers would have to pay it is simply this. It would be taxed on either to the public or back to the producer. Because the retail markets are demoralized, held down by the gasoline tax. There is no opportunity to pass it on to the public.

Secondly, we have a pronounced buyer's market for crude oil, with a daily demand for crude oil in this country of approximately two and one-quarter million barrels per day. We have a potential production of 10,000,000 barrels per day. And so the little oil producer in the Southwest merely takes for his oil what the great refiners offer him

for it, just as the farmer does when he takes his products to the railroad station.

Senator COUZENS. Are not the pipe-line companies showing a profit now?

Mr. SMITH. The great pipe lines operating under rates prescribed by the Interstate Commerce Commission show a profit. They are about the only people that do. But this tax is assessed not on the pipe line but upon the person who pays for the transportation.

Senator GORE. A tax on the shipper?

Mr. SMITH. A tax on the shipper.

Now in conclusion I merely want to call the attention of the committee that the price of crude oil in the mid-continent field at this time is only about 33.6 per cent of what it was in 1926. In other words, oil selling at 77 cents a barrel is at the lowest point since the World War, and compares with the price of $2.29 for the same crude in 1926. The present price is below the cost of production, and this is reflected by the losses of the oil-producing companies as contained in the brief which I submit for the record.

In conclusion I want to call the committee's attention to the fact that this tax at 8 per cent is the same rate that was assessed during and immediately after the war, and that unquestionably if it was a reasonable tax at that time with business good and prices booming it is not a reasonable tax at this time when bankruptcy is threatening us. So I hope the committee will find its way clear to eliminate this tax which in its incidence is a tax upon the people least able to pay it in this country.

Senator GORE. You want to file a brief, do you not?

Mr. SMITH. Yes. I wish to file this brief.

The CHAIRMAN. It may be placed in the record at this point.

(The brief presented by Mr. Smith is here printed in the record in full, as follows:)

STATEMENT IN OPPOSITION TO TAX ON TRANSPORTATION OF OIL BY PIPE LINE

(Submitted on behalf of Southwestern Oil Producers)

This statement is submitted by and on behalf of the producers of oil and particularly in the interest of the nonintegrated, independent producers of the Mid-Continent Field. The Mid-Continent Field is composed of the States of Kansas, Oklahoma, north and central Texas, Arkansas, and north Louisiana.

These producers, by reason of their financial distress and the certainty that the imposition of any further taxes or charges upon them at this critical time would mean the elimination of many of them and the loss of thousands of their stripper wells through inability to carry the additional loss, feel impelled to appear in their own behalf to petition the Finance Committee to eliminate from the revenue bill the tax on transportation of oil.

As grounds for this request these inland producers of domestic petroleum respectfully show and represent to the Finance Committee that—

1. Any tax levied upon or on account of, the transportation of oil inevitably will fall on the producer of oil;

2. It will bear most severely upon and will, therefore, be a discrimination against those inland producers who have to depend upon long pipe-line hauls to reach the refining centers;

3. The domestic producer has so severely suffered for three years from falling prices, demoralized and declining markets and the excessive burden of State taxation that he is entirely without ability to pay any additional taxes directly or indirectly; and

4. The effect of such an additional burden would be of far-reaching consequence in that it would not only drive many small producers out of business but would involve the loss of many old, small wells and the irreplaceable natural resource which they represent.

THE INCIDENCE OF THE TAX

The tax upon the transportation of oil by pipe line would be passed on to the public or passed back against the producer. Since the retail markets for petroleum products are demoralized by competition and prices are held down by excessive gasoline taxes and the undermining influence of evasion thereof, this transportation tax could not be passed on to the public by the refiner but would fall upon the producer for the reason that we have now, and probably will have for several years, a buyer's market for crude oil. Actual overproduction of crude oil, plus a great potential production awaiting a market, place the producer in the predicament of being unable to control the price of his commodity. (See Appendix B.) On the contrary, he must take what is offered him just as the farmer does in the case of his products. Naturally the refiners who because of extreme competition are all doing business upon an extremely narrow margin of profit, if any can not and will not absorb an extra charge upon the transportation of crude oil but will recoup it by paying a correspondingly lower price to the producer. Thus the transportation tax will fall on the producer.

DISCRIMINATION AGAINST PRODUCERS IN THE INTERIOR

The Mid-Continent field depends upon pipe-line transportation to reach the refining centers near Kansas City, St. Louis, Chicago, Toledo, Cleveland, the international boundary near Detroit and the Atlantic seaboard. Therefore a long haul is involved and since the tax is a percentage of the pipe-line charge the greater portion of the total revenue raised will be collected from Mid-Continent producers. In Appendix A hereto attached representative pipe-line rates from Oklahoma, Kansas, and north Texas fields to points north and east are listed. These range from 50 cents per barrel to Sugan Creek, Mo., to over 90 cents per barrel (including the gathering charge) to Atlantic coast points and would call for a tax of from 4 cents to nearly 8 cents per barrel under the terms of the pending bill. Such a tax would exceed the present-day profits of the relatively few Mis-Continent producers who are making any profit, and that from flush production, and in the case of the others it would merely add to current losses.

PRODUCING INDUSTRY PROSTRATED AND UNABLE TO BEAR ADDITIONAL TAXATION

For three years the producers of domestic oil have been struggling for existence and many of them have passed out by the bankruptcy route. The price of crude oil in the Mid-Continent field is now only 33.6 per cent of what it was in May, 1926. The average grade of Mid-Continent crude now sells for 77 cents per barrel, which is the lowest price (with the exception of certain months in 1931) since prior to the World War and contrasts with a price of $2.29 per barrel for the same grade in 1926. The present price is below the cost of production and jeopardizes the existence of approximately 300,000 old small wells which constitute about 90 per cent of the producing wells in the United States. These wells can not stand the imposition of an additional tax of 5, 6, or 7 cents per barrel and, if imposed, the rate of abandonment will be materially increased.

The losses of the producers, both large and small, have been appalling. Financial statements of individuals and small companies are not available but the following data from statements of representative larger companies, some of them integrated, will reveal the generally depressed condition of the industry.

Year 1931, net losses

Amerada Petroleum Corporation	$1,701,648.00
Barnsdall Corporation	3,268,637.00
California Petroleum Corporation	712,048.00
Continental Oil Co	10,683,312.98
Gulf Oil Corporation	23,670,052.00
Ohio Oil Co	21,488,763.00
Panhandle Producing & Refining	515,644.00
Phillips Petroleum Co	5,576,409.00
Prairie Pipe Line Co., 11 months	547,313.00
Sinclair Consolidated Oil Corporation, 6 months	10,415,088.00
Skelly Oil Co	2,117,110.00
South Penn Oil Co	820,191.00
Standard Oil Co. of Kansas	618,616.00
Texas Corporation	9,954,478.00

Texas Pacific Coal & Oil Co	$1, 413, 235. 51
Universal Consolidated Oil	301, 898. 00
Indian Refining Co	3, 130, 986. 00
Signal Oil & Gas Co	269, 405. 00
Colonial Beacon Oil Co	2, 365, 780. 00
Valvoline Oil Co	311, 205. 00
Republic Petroleum Co	78, 293. 00
Rio Grande Oil Co	2, 476, 490. 00
Houston Oil Co	356, 484. 00
Pacific Western Oil Co	903, 124. 00
Wilcox Oil & Gas Co., 9 months	718, 862. 00
National Refining Co	752, 286. 00

In large part these losses are caused by excessive State taxation of the oil industry and its products. They are subjected by the States to extraordinary burdens because of popular misconception of the industry's ability to pay. It has been fairly estimated that the tax burden of the oil industry is now in excess of a billion dollars per annum. The oil producer is particularly harassed by exorbitant taxation.

Illustrative of this condition is the fact that in the various States the property and business of the industry are subjected to the heavy ad valorem or general property tax, plus State income and corporation license taxes, tank car taxes, and, particularly, gross production and severance taxes; in some States transportation taxes, and in all States exorbitant gasoline taxes.

Gasoline taxes of the States during the past year aggregated approximately $550,000,000, and ranged in rate from 2 cents per gallon to 7 cents per gallon, plus, in some instances, local county and municipal gasoline taxes. These taxes have become a heavy burden on the sale and distribution of the industry's principal product—so heavy, in fact, as to invite widespread bootlegging, evasion, price cutting and other demoralizing marketing practices which have undermined the power of the industry to maintain itself upon a legitimately profitable basis.

The average rate of State gasoline tax alone is equivalent to a tax of from 84 cents to $1 per barrel of crude oil from which the gasoline is extracted and is therefore equal to a tax of 100 per cent of the selling price of such crude oil. In those States having the highest rates the tax is equal to 200 per cent of the market value of the crude.

To now add a tax upon the transportation of the crude oil which inevitably would be passed on to the producer would simply augment the growing deficit of the industry and render more remote the day when the producer could hope to emerge from the depression.

Furthermore, the producer in the interior who is already losing his markets for crude oil would suffer in that respect by the imposition of the discriminatory transportation tax. The demand for oil in Oklahoma has declined from approximately 700,000 barrels per day in August, 1929, to only about 400,000 barrels per day at this time. A supercharge upon the transportation and use of Oklahoma oil would be at this time particularly unfortunate.

THE EXCESSIVE RATE OF TAX AND ITS PROBABLE ILL EFFECTS

Unquestionably the rate of tax contained in the House bill, 8 per cent of the amount paid for transportation, is too high. It is the same rate as that assessed during and immediately after the war when business was flourishing and prices booming. Now, with bankruptcy threatening us, the depressive effect of the tax would be incalculably greater. It would add 15 to 20 millions of dollars to the current net losses of the oil producer. An examination of the facts will reveal that, in the case of approximately 100,000 of the smaller wells in the Mid-Continent Field which are yielding on the average only about one barrel per well per day and the cost of operation exceeds the gross income therefrom, the addition of such a tax would be ruinous. To a great extent it would set at naught the nation-wide efforts toward conservation of our oil resources.

For these reasons the American oil producers respectfully urge the Finance Committee and the Senate to refrain from inflicting this destructive additional burden upon them.

MID-CONTINENT OIL & GAS ASSOCIATION, TULSA, OKLA.

APPENDIX A

Representative pipe-line transportation charges

[From published I. C. C. tariffs and local State tariffs]

From—	To—	Transportation rate per barrel	Tax per barrel
Oklahoma, Kansas, Northern Texas	Baltimore, Md	$0.9675	$0.0774
Do	Bayway, N. J	.9675	.0774
Do	Bayonne, N. J	.9675	.0774
Do	Philadelphia, Pa	.9675	.0774
Do	Titusville, Pa	.8925	.0714
Do	Olean, N. Y	.8800	.0704
Do	Buffalo, N. Y	.8800	.0704
Do	Oil City, Pa	.8725	.0698
Do	S. Charleston, W. Va	.8475	.0678
Do	Cabin Creek, W. Va	.8475	.0678
Do	Cornopolis, Pa	.8475	.0678
Do	Franklin Sta., Pa	.8475	.0678
Do	Pittsburgh, Pa	.8475	.0678
Do	Heath, Ohio	.8300	.0664
Do	International Boundary, Mich	.8250	.0660
Do	Cleveland, Ohio	.8250	.0660
Do	Earhart, Station, Mich	.8100	.0648
Do	Bayshore, Ohio	.7950	.0636
Do	Findlay and Cygnet, Ohio	.7900	.0632
Do	Latonia, Ky	.7900	.0632
Do	Whiting, Ind	.6600	.0528
Do	Wood River, Ill	.5725	.0458
Do	Sugar Creek, Mo	.5075	.0406
Do	Anchorage, La	.5750	.0460
Oklahoma points	Anchorage, La	.6875	.0550
Augusta Station, Kans	Anchorage, La	.6975	.0558
New Salem Station, Kans	do	.6875	.0550
Augusta Station, Kans	Beaumont, Tex	.5250	.0420
Burbank, Okla	do	.3750	.0300
Depew, Okla	do	.4500	.0360
Healdton, Okla	do	.4750	.0380
Wewoka, Okla	do	.6000	.0480
Oklahoma points	Baytown, Tex	.4250	.0340
Burkburnett, Tex	Beaumont, Tex	.4250	.0340
Electra, Tex	do	.3000	.0240
Luling, Tex	do	.5000	.0400
Iatan, Tex	do	.5000	.0400
Midland, Tex	do	.6000	.0480
Miranda, Tex	do	.4250	.0340
McCamey, Tex	Baytown, Tex	.4250	.0340
Winkler, Tex	do	.4250	.0340
Pecos, Tex	do	.4250	.0340
Kemper, Tex	do	.4250	.0340
Big Spring, Tex	do	.4000	.0320
Crane, Tex	Ingleside, Tex	.2500	.0200
Bruni, Tex	do	.4000	.0320
McCamey, Tex	do	.4000	.0320
Pecos, Tex	do	.2000	.0160
Refugio, Tex	do	.4500	.0360
Lea Co., N. Mex	Baytown, Tex	.4500	.0360
Do	Texas City, Tex	.4250	.0340
Do	Ingleside, Tex	.6500	.0520
Jal and Lynch, N. Mex	Houston, Tex	.5000	.0400
Burnett, Tex	Baytown, Tex	.5000	.0400
Allanread, Tex	do	.7250	.0580
Kingsmill, Tex	Beaumont, Tex	.5250	.0420
Do	West Tulsa, Okla	.7600	.0608
Arp and Longview, Tex	Whiting, Ind	.3500	.0280
Do	Sinco, Tex	.3500	.0280
Van and Longview, Tex	Anchorage, La	.4000	.0320
Joiner and Kilgore, Tex	West Tulsa, Okla	.3500	.0280
Arp and Bateman, Tex	Baytown, Tex	.6075	.0486
Arp and Longview, Tex	Sugar Creek, Mo	.5600	.0448
Bullock Station, Tex	Whiting, Ind	.7000	.0560
Winkler County, Tex	do	.8975	.0718
Big Sandy Station, Tex	Neville Island, Pa	.8450	.0676
Do	Bayshore, Ohio	.2000	.0160
Batson, Tex	Olean Tex	.3500	.0280
Big Creek, Tex	do	.3000	.0240
Blue Ridge, Tex	do	.1750	.0140
Saratoga, Tex	do	.1500	.0120
Sour Lake, Tex	do	.2500	.0200
Goose Creek, Tex	do	.2000	.0160
Hull, Tex	do		

APPENDIX B

POTENTIAL PRODUCTION OF CRUDE PETROLEUM GREATLY EXCEEDS MARKET DEMAND, THUS CREATING BUYERS' MARKET

The potential production of crude petroleum in the various oil-producing areas in the United States, as officially ascertained by the various State commissions and officials, has exceeded the actual market demand many times over since August, 1926. The following tabulation presents representative data for April, 1932, on the potential production as contrasted with the market demand for crude petroleum.

Area	Barrels per day		
	Potential production	Indicated demand	Excess production available
Hobbs field, New Mexico	1,144,435	31,376	1,113,059
San Joaquin Valley, Calif.	537,180	164,650	372,530
Coastal district, California	121,385	59,450	61,935
Los Angeles Basin, Calif.	400,465	232,600	167,865
Oklahoma City field, Oklahoma	3,371,425	103,000	3,268,425
Other Oklahoma fields, Oklahoma	631,879	339,163	292,716
Van field, Tex. (Oct. 1, 1931)	499,722	50,000	449,722
Yates field, Texas	2,359,493	65,000	2,294,493
Darst Creek field, Texas	130,727	18,000	112,727
Crane, Upton, Ector, Howard, Glasscock, and Winkler County fields, Texas	260,893	84,000	176,893

The above producing areas provide 1,150,000 barrels per day of the present market demand for crude oil and have a potential production in excess of the current market demand of approximately 8,300,000 barrels per day, the total present potential daily production of these areas being approximately 9,450,000 barrels per day.

To the above list of flush-production areas must be added the great East Texas producing fields of Longview, Kilgore, and Joiner. No official gage of the potential production in this area has been made in recent months, and few, if any, of the wells will ever be opened to full-flow production during the flush stage. At the present time (April 15, 1932) there are 4,632 producing wells in the area, and it is variously estimated that if they were opened on full flow for one full day, the area would produce from 10,000,000 to 50,000,000 barrels that day. It is further variously estimated that the field could average from 2,500,000 to 7,500,000 barrels per day for several months. At the present, the market demand from this area is only approximately 325,000 barrels per day, and the total market demand in the United States does not exceed 2,250,000 barrels per day.

RESOLUTION OF THE GENERAL BOARD OF DIRECTORS OF THE MID-CONTINENT OIL & GAS ASSOCIATION IN OPPOSITION TO THE OIL TRANSPORTATION TAX

[Respectfully submitted to the Finance Committee of the United States Senate]

Whereas there is pending before the Senate of the United States as a part of the revenue bill a provision for a tax of 8 per cent upon the amount paid for the transportation of oil by pipe line, which tax, by the terms of the pending bill, is to be collected by the person furnishing the transportation from the person paying for such transportation, and is also to be levied and collected even in those instances where the transportation for any reason is not paid for; and

Whereas no similar transportation tax is levied against other commodities but is confined to oil and at an extremely high rate;

Now, therefore, the General Board of Directors of the Mid-Continent Oil & Gas Association, representing the Southwestern producers of oil, hereby protests against the enactment of Part 4, Title 5, being section 731 of said proposed bill for the following reasons, to-wit:

That the domestic petroleum industry and its products are now overtaxed in comparison with other industries. The oil business and its products are subjected by the States to extraordinary burdens because of some popular misconception of the industry's ability to pay. Illustrative of this condition is the fact that in

the various States the property and business of the industry are subjected to the heavy ad valorem or general property taxes, plus State income and corporation license taxes, tank car taxes and, particularly, gross production and severance taxes; in some States transportation taxes, and in all States exorbitant gasoline taxes.

Gasoline taxes of the States during the past year aggregated approximately 550 million dollars, and ranged in rate from 2 cents per gallon to 7 cents per gallon, plus, in some instances, local county and municipal gasoline taxes. These taxes have become a heavy burden on the sale and distribution of the industry's principal product—so heavy, in fact, as to invite widespread bootlegging, evasion, price-cutting and other demoralizing marketing practices which have undermined the power of the industry to maintain itself upon a legitimately profitable basis.

The average rate of State gasoline tax alone is equivalent to a tax of from 84 cents to $1 per barrel of crude oil from which the gasoline is extracted and is therefore equal to a tax of 100 per cent of the selling price of such crude oil. In those States having the highest rate the tax is equal to 200 per cent of the market value of the crude.

Financial reports for 1930 and 1931 will reveal widespread and appalling losses throughout the industry. It has been fairly estimated that the tax burden of the oil business is now in excess of a billion dollars per annum. The producer of oil is particularly harassed by exorbitant taxation. To now add a tax upon the transportation of oil, which tax would be largely borne by the producer, would be but to add to the growing deficit of this industry and to retard, if not to indefinitely postpone, the date of its recovery. And this would be true whether the tax in the first instance was levied directly against the pipe line company or the shipper.

Aside from the welfare of the oil industry the public interest is involved here because oil is an unreplaceable natural resource and the addition of a heavy tax upon its transportation from the inland pools will have a depressing effect upon the price and demand for such inland oil, thus jeopardizing the continued existence of some 300,000 old small wells which after being subjected to every economy are unable to make a profit at present prices. The imposition of additional taxes directly or indirectly would mean the abandonment of thousands of them and consequently the permanent loss of the natural resource which they represent.

We, therefore, respectfully petition the Finance Committee of the United State Senate to eliminate this item from the revenue bill, believing that its destructive effects, if enacted, would far outweigh the importance and value of any revenue that might be derived therefrom.

MID-CONTINENT OIL & GAS ASSOCIATION, *Tulsa, Okla.*

BRIEF SUBMITTED BY NATIONAL COAL ASSOCIATION

To the FINANCE COMMITTEE,
United States Senate, Washington, D. C.

GENTLEMEN: On behalf of the bituminous mining industry, the organization of which is the National Coal Association, this brief is submitted in support of the request of the industry for adequate protection against the demoralizing influence of the unrestricted importation from Caribbean ports of fuel and gas oil and of crude petroleum, a large part of which enters the fuel oil market. This foreign oil, produced in countries with a standard of living far below anything that would be considered tolerable in the United States, enters into direct competition with bituminous coal in the markets of the Atlantic seaboard. Its effects are seen in the thorough demoralization of the bituminous coal market. Mine operators in the attempt to meet this competition have been compelled to lower their prices to a point where neither the capital nor the labor engaged in the bituminous mining industry is receiving a return adequate to protect the employment and the standard of living of the workers or to yield any return to the operators.

PLIGHT OF THE BITUMINOUS MINING INDUSTRY

Both on account of the magnitude of the industry and because of the difficult times through which it has been passing the bituminous mining industry is deserving of your most earnest solicitude. The investment in bituminous mine operations is in excess of $3,000,000,000. Nearly 500,000 wage earners, as well as some 35,000 salaried men about the mines and in the offices of the com-

panies, are engaged in the industry even in these times of great industrial depression. Three million people are directly dependent upon the industry for their daily living, and operators' expenditures for supplies and materials to be used in connection with mine operation and the personal expenditures of 535,000 employees for needed articles of consumption, are a substantial factor in the total demand for goods and service. Moreover, the transportation systems of the country are seriously affected by declines in coal shipments. Coal constitutes the largest single item in the traffic of the railroads and yields them more revenue than any other commodity. The effect of a falling-off in the shipments of bituminous coal is seen to-day in the large amount of coal-handling equipment now standing idle on railroad sidings and in the large number of men with whose services the railroads have dispensed, partly because of the decline in this traffic. In these times of general unemployment and of abnormally restricted demand for consumers' goods, we feel that we have social as well as individual justification in asking for protection against such further decline in employment and contraction of demand as is bound to result from a continuation of the present excessively low prices for this imported fuel oil.

Since the close of the World War the bituminous mining industry has had to contend with a number of adverse conditions, for the existence of which it was itself in no way responsible. In patriotic response to the war need of coal the industry rapidly increased its productive capacity to a point far in excess of what was needed to meet peace-time demands. After the close of the war the elimination of such excess capacity began, but because of the permanent character of mine investments and because of the unavoidable loss involved in the abandonment of such investments this process of elimination has necessarily been slow and costly.

Moreover new conditions were continually arising to make progress more difficult. While high cost operations were being eliminated at one extreme the mechanization and electrification of coal mine operations have been adding to the capacity of the better mines with a consequent decline in the cost of mine operation, the saving from which has been passed along to the public in the form of lower prices. The market for bituminous coal has failed to advance in proportion to the rate of growth of industry and transportation. On the one hand improved methods of preparation and combustion have brought about great economies in the use of coal, until in many lines of consumption not much more than half the amount is required for the performance of a given amount of work that was required a decade ago. On the other hand, rival sources of power have encroached upon what was in pre-war days the nearly exclusive market for bituminous coal. Owing to this combination of factors (increased capacity developed to meet war-time demands, increased efficiency of mining methods, increased competition of other sources of energy, declining rates of consumption per unit of work) the bituminous industry has had to make a long series of profound adjustments.

COMPETITION OF DOMESTIC FUEL OIL

The competition of fuel oil has been one of the most serious factors in the bituminous coal situation in all the years since the war. This competition has been growing more intense with the increase in the quantity of fuel oil seeking a market. From table I attached hereto it will be seen that the average annual production of fuel and gas oil in the United States in the three years 1920, 1921 and 1922 was 207,229,000 barrels, while the average domestic consumption for the years 1928, 1929 and 1930 was no less than 357,954,000 barrels. If we use the usual rate of equivalence of 4 barrels of oil to the ton of coal, we find that during the earlier period oil was annually performing the work of approximately 50,725,000 net tons of bituminous coal per year, while during the latter period it was equivalent to 89,489,000 tons. The increase in annual displacement amounted to 38,764,000 net tons.

In spite of the rapid increase in the available supply of domestic fuel and gas oil in the years following the war and the resulting intensity of competition between that fuel and bituminous coal, the bituminous industry had succeeded until recently in adapting itself to such competition and arriving at a fair degree of stabilization. It is now face to face with new and more intense competition from the same fuel, and it may be frankly stated that it is in no condition to face with equanimity the situation thus created.

COMPETITION OF IMPORTED CARIBBEAN OIL

The source of the new competition is the cheap imported petroleum and fuel oil entering the country from Caribbean ports. Reference will be made here only to such figures as have a direct bearing upon the effect of the new flood of cheap foreign importations upon the interests of the bituminous mining industry.

Even as recently as 1924 the imports of crude petroleum and fuel oil from Colombia and Venezuela, whether direct or through the Dutch West Indies, amounted to little more than a million barrels. By 1927 they had increased to over 31,000,000 barrels. In 1929 they amounted to more than 81,500,000 barrels. In 1930 they declined slightly to 73,000,000 barrels, but this decline is entirely due to the current industrial depression and indicates no permanent change in the trend of this movement. The detailed figures for recent years are given in Table II in the appendix.

This Caribbean oil is a particularly serious competitor of bituminous coal because of its physical constitution. By the topping process, still used to a considerable extent in treating this oil, only 10 to 12 per cent of crude petroleum is removed as gasoline. Ninety per cent of the petroleum so treated must find a market as fuel oil. Even with the more advanced methods of refining, through which a part of the Venezuelan crude is now passed, only 20 to a maximum of 30 per cent is removed. On the average at least 75 per cent of the crude petroleum passed through the refineries enters the fuel-oil market. It is this flood of fuel oil which is now demoralizing the market for bituminous coal along the Atlantic seaboard. The immediate effect of these new importations is largely confined to that section of the country, but indirectly it reaches every bituminous mine operator in the country.

Table III in the appendix shows importations of crude petroleum and topped and fuel oils into New England and the other Atlantic States for the years 1927-1930, inclusive. From this table it will be seen that between 1927 and 1929, the last year of normal business activity, the importation of crude petroleum and topped and fuel oils into these States had increased more than 55 per cent—from 56,000,000 to 87,000,000 barrels. If we assume that 75 per cent of the imported crude enters the fuel oil market we find that in the aggregate approximately 70,000,000 barrels, or the equivalent of over 17,000,000 tons of bituminous coal, entered that market in 1929. From the small total equivalent of 250,000 tons of bituminous coal in 1924 the annual imports of crude and fuel oil from Caribbean ports had increased by 1929 to sixty eight times that quantity. Much of this oil directly or indirectly replaced bituminous coal. That the rapid rate of increase of such importations hitherto prevailing will be resumed with the return of normal business conditions can not be questioned in view of the enormous reserves already known to exist in the Venezuelan oil fields.

EFFECT OF CARIBBEAN OIL ON LABOR IN THE UNITED STATES

The most serious effect of this replacement of coal by oil lies in its influence upon the employment of labor in this country. That effect is far-reaching but is most severely felt in the bituminous mining industry and in railroad transportation.

The average f. o. b. mine price for coal in 1929 was more than $1.70 per net ton. The sale of 17,000,000 tons of bituminous coal at that figure would have returned to bituminous mine operators $28,900,000. Careful statistics presented before the Interstate Commerce Commission in 1923 showed that for every dollar received by the operator in payment for bituminous coal over 68 cents was paid to labor. Making all allowances for the increased use of machinery and any decline in wage rates that may have occurred, it is safe to assume that fully 60 per cent of the present mine price of coal goes for wages. Out of the $28,900,000 loss suffered by the operators $17,300,000 represented loss of income to mine labor. If we add to this the indirect payments to labor engaged in the manufacture of mine supplies and equipment and of commodities for the consumption of mine labor, the total decline in remuneration to direct and indirect mine labor could not be less than $20,000,000.

The loss to railroad labor is even more serious. The average freight transportation charge on coal shipped to the Atlantic seaboard is approximately $2.75 per net ton. At that rate the revenue obtained by the railroads for transporting 17,000,000 tons of coal would be $46,750,000. According to figures published by the Bureau of Railway Economics the share of the gross income of railroads going to labor is 44.8 per cent. On that basis the direct loss of wages due to the

decline in freight traffic would be approximately $21,000,000. The indirect loss because of the reduced demand for railway supplies and the reduced consumption of railway employees would easily raise that amount to $25,000,000. Moreover, the income of railroads and railroad labor would be further reduced by the decline in the transportation of mine equipment and supplies due to the lessened mining activity, and the loss on the transportation of consumers' commodities to mining communities brought about by the decline in the purchasing power of mine labor. Undoubtedly in the aggregate the replacement of 17,000,000 tons of coal by imported petroleum and fuel oil would mean a loss of fully $50,000,000 to the laborers of the country. Such a loss is felt with special severity in a time of depression and unemployment like the present.

RELATION BETWEEN IMPORTS AND EXPORTS OF OIL

The effect of the importation of crude petroleum and its products upon the bituminous market on the Atlantic seaboard is not mitigated, as is sometimes alleged, by a withdrawal of these imported commodities from the domestic market for exportation. It is true that the exports of crude petroleum, fuel oil, and refined products from the United States as a whole, exceed in volume the imports of the same products, but the effect of the two movements is felt in different parts of the country. Table IV in the appendix illustrates that point very forcibly. From that table, taken from the annual report of the Department of Commerce on Foreign Commerce and Navigation of the United States, 1930, it appears that in that year the net imports into the States bordering on the Atlantic ocean, after deducting exports from the same States, were as follows: Crude petroleum, 58,745,670 barrels; topped and fuel oil, 22,679,389 barrels; gasoline and other finished light products, 8,933,499 barrels. The aggregate imports of all these commodities into the Atlantic States amounted to 97,705,476 barrels, and the aggregate exports, mostly gasoline, to only 7,340,918 barrels. For the rest of the country, for the States bordering on the Gulf of Mexico, the Pacific Ocean, and the Canadian frontier, exports exceeded imports by the following quantities: Crude petroleum, 21,320,412 barrels; gas and fuel oil, 28,976,704 barrels; and gasoline and other finished light products, 55,202,030 barrels. The aggregate imports into that territory, amounting to 6,431,126 barrels, were far exceeded in volume by the aggregate exports of 111,930,333 barrels. The net result of the whole movement is that the bituminous coal industry is rapidly losing its market on the Atlantic coast to cheap imported oil, while the domestic oil producers ship out to foreign countries that portion of their output which can no longer find a market in the Eastern States.

SUBSTITUTION OF OIL FOR COAL

The full effect of this new competition upon the consumption of bituminous coal in New England has not yet been felt. The change from coal to oil often involves substantial expense, an expense which consumers have been slow to incur until they became assured of the continuance of the low prices of fuel oil now prevailing. In the past the effect of this competition has been shown by the failure of the consumption of bituminous coal in this territory to advance with the rapid increase in the rate of industrial activity, especially between 1927 and 1929. The decline in shipments of bituminous coal into the Atlantic seaboard States would have been noteworthy had it not been for the rapid growth of the by-product coke industry in parts of that territory, the increase in shipments for that purpose having to a considerable extent offset the decline in shipments for other uses.

It is impossible to secure a complete list of the formerly coal-burning steam installations which have been changed over to oil. A partial list, compiled some time ago, showed substitutions displacing more than three and one-half million tons of coal. The change is going on at an increasing rate as consumers come to rely upon the continuation of the present supply of cheap foreign oil. Among the more striking instances of changes recently chronicled in the trade press, the following may be mentioned: The Grasselli Chemical Co., whose plant at Grasselli, N. J., replaced coal with oil some time ago, has now made the same change at its plant in Philadelphia. Barrett & Co. have already changed over two of their plants in Pennsylvania and are stated to be contemplating a similar change in two plants in New Jersey. The Narragansett Electric Co., operating a modern, highly efficient steam power plant in Providence, R. I., and supplying power and light to a large and densely populated surrounding territory, is con-

templating a similar change. The substitution of oil for coal in this last plant alone will cost the bituminous industry a market for 250,000 to 350,000 tons a year.

EFFECT OF IMPORTED OIL ON MARKET PRICE OF BITUMINOUS COAL

Utter price demoralisation is as yet the most outstanding result of the new competition. In their desperate efforts to retain their markets, bituminous mine operators have reduced the price of their product to less and less remunerative levels, until to-day such prices are below the level necessary to yield to the labor engaged in the industry an adequate return even after all profit for the operating companies has been eliminated.

As evidence of this price decline two sets of quotations are given in Table V in the appendix. The first set is taken from the well-recognized trade publication, Coal Age. It shows the average f. o. b. mine spot price in the Boston market for run-of-mine coal from three sections of the central Pennsylvania field and for similar coal from southern West Virginia low volatile fields. Both average high prices and average low prices for each year are shown. An examination of the table indicates that between 1927 and 1930 the average high quotation on central Pennsylvania coal declined approximately 30 per cent, and the average low quotation by amounts varying from 10½ to 17 per cent. In the southern West Virginia coal the declines were 25 and 6.4 per cent, respectively.

The decline in prices during the current year has been at a more rapid rate than for any of the years here shown. Coal Age spot prices are not available for the entire year 1931. Careful records kept by a responsible statistical trade organization show that between 1927 and 1930 there was a decline of 13 per cent in the average realization for the coal covered by its reports. This was at the rate of approximately 4 per cent a year. The same coal between 1930 and the first 11 months of 1931 registered an average decline in price of more than 8½ per cent.

The greatest effect of oil competition has been felt in the market for small sizes of bituminous coal which are used with mechanical stokers in industrial plants. The price obtainable for this grade of coal has been steadily declining for a number of years, because it is largely this grade of coal that is being replaced by cheap fuel oil. Coal Age quotations on this coal are given f. o. b. vessel Hampton Roads. At the beginning of May, 1930, the minimum price quoted was $4 per gross ton. For the corresponding week of 1931 the minimum price was $3.42, while for September, 1931, the last month for which comparable figures are available, the minimum was $2.91. The freight rate from the mines to Hampton Roads is $2.52 per gross ton. Deducting this from the prices quoted and making no allowance for handling charges, there was left for the coal operator on these dates $1.48, 90 cents, and 39 cents per gross ton, respectively, equivalent to $1.32, 80 cents, and 35 cents per net ton. It is such excessively low prices as these, forced upon the industry by the disastrous competition of cheap fuel oil, which are largely responsible for its present depressed condition. These figures are typical of what has been going on in the whole Atlantic seaboard territory. It is well known to the trade that the price movement continues to be downward.

The effect of this new competition and the resulting price decline would not have been felt so severely if it had come at a time when the bituminous-mining industry was in a prosperous condition. It is a well-known fact that the industry was already experiencing serious financial hardship because of the loss of market from such causes as the increased use of hydro-generated electricity, competition of domestic fuel oil, and the economies in coal consumption brought about by improved methods of preparation and combustion. For years the record of the industry has been one of steadily declining prices. Thus the Coal Age average spot price referred to above, which was $2.21 in 1926, declined steadily to $1.99 in 1927, $1.80 in 1928, $1.79 in 1929, $1.75 in 1930. The latest such price available, that for September, 1931, was $1.62. The last figure reflects the precipitousness of the decline now going on as a result of the increasing use of cheap imported oil. Economies of operation had enabled mine operators to meet the moderate declines of earlier years, but the sudden, rapid decline in 1931, forced upon the industry by the foreign oil competition, is one which will inevitably bring disaster upon many coal-mining companies and loss of employment for many bituminous-mine employees.

COMPARATIVE COST OF DOMESTIC AND IMPORTED CRUDE PETROLEUM

Unless relief is afforded by the imposition of a duty on imported petroleum and fuel oil sufficient to offset the differences in the cost of production in this country and in the Caribbean countries, the industry is fighting a losing battle. The striking differences in such costs are conclusively shown in the recent report of the Tariff Commission on the cost of crude petroleum. For the purpose of this brief it is sufficient to refer to the table found on page 29 of that report and reproduced as part 1 of Table VI in the appendix to this brief. In that table figures are given which show that in the year 1929 the total delivered cost of Venezuelan crude oil at Atlantic ports was 79 cents, an amount substantially below either the cost of production of Midcontinent crude at the well, which was reported at $1.03½, or the cost of transportation and other charges from the well to Atlantic coast refineries, which was 87.77 cents. The total cost of domestic crude laid down at Atlantic ports was nearly two and one-half times that of Venezuelan crude at the same ports, exceeding it by $1.12 a barrel. In view of these figures it is evident that purveyors of imported fuel oil can, if necessary to meet bituminous coal competition, make further substantial reductions in their quoted prices, especially as the same report, in another table found on page 32 and reproduced as part 2 of Table VI in the appendix, supplies figures from which it can be shown that in 1929 the prices which refineries paid for Midcontinent crude were only 11½ cents in excess of the total delivered cost, while the average price paid for Venezuelan crude was more than 23 cents in excess of the total delivered cost.

The effect of any increase in price that may be brought about by the imposition of a duty on imported petroleum and its products will be confined almost entirely to the fuel oil market. Not only is it true, as has already been pointed out, that a very large percentage of the imported oil enters that market, but it is equally true that the low price paid by refineries for imported oil has been of little or no benefit to consumers of gasoline and lubricating oil, the two most widely used products of refining. The price of gasoline has not declined as the price of crude has gone down, nor will the price of gasoline advance if the price of crude again rises. In 1926 when the price of domestic crude oil at the well was $2.26 a barrel and when comparatively little Venezuelan oil was entering the country, the average retail price of gasoline in 52 cities scattered throughout the United States was 18.1 cents. In 1929 when the price of domestic crude had declined to $1.20 a barrel and large quantities of cheap imported crude, for which, according to the Tariff Board, the refiners were paying $1.10 a barrel, were entering the Atlantic ports, the price of gasoline in these same 52 cities had actually increased to 18.4 cents per gallon. Nor did the price of gasoline decline materially during the year 1931, although the price of domestic crude reached the lowest point in its history and cheap imported crude was available in the East in almost unlimited quantities. Similar figures could be produced with reference to the price of lubricating oil, for different grades of which motorists have paid prices ranging from 20 to 35 cents a quart throughout this period of declining prices of crude. The price of gasoline and lubricating oil is fixed at the point where the refiners make the largest profit. If the price of crude should advance again to that prevailing in 1926 the refiners would still maintain the price in different communities that their experience has shown to be most advantageous to them.

THE RIGHT OF THE COAL INDUSTRY TO THE RELIEF DEMANDED

The facts and figures quoted above furnish incontrovertible evidence of our claim that unless the importation of foreign petroleum and fuel oil is checked the bituminous mining industry, with its billions of investment and its hundreds of thousands of employees, will suffer irreparable harm. While the effect of this competition is felt first on the Atlantic seaboard, it gradually permeates the entire coal mining industry, for operators who lose their eastern market will have no recourse except to attempt to force their product upon the already oversupplied markets of the Middle West. In the attempt to meet this competition prices will fall still further, laborers will lose employment, and the standard of living will decline. Surely no industry could ever present a more meritorious case for the application to itself of the protective principle as a means of safeguarding American markets and maintaining the American standard of living. Especially in a time like this not merely the bituminous mining industry but the whole country will suffer from an increase in unemployment on the part of those working in and about the mines as well as on the part of the employees of transportation

companies which move the coal to market and of laborers in many industries, the demand for whose products comes directly from the mining and transportation of coal.

That a duty on imported petroleum and fuel oil would cause an increase in the price of such oil in this country is no argument against the application of the protective principle. The entire case for protection is based on the fact that the low prices at which imported oil is sold are made possible by the low standards prevailing in the countries in which it is produced, and that a continuation of the importation of this oil will inevitably bring about a decline in the standard of living of millions of people in our own country. No one has a right to purchase fuel at such a price as to make impossible the maintenance of American standards.

The greater part of the imported Caribbean fuel oil is consumed by industrial plants and chiefly by manufacturing industries located along the Atlantic seaboard. Many of these industries have for more than a century enjoyed the benefits of import duties on competing products. They have owed their success largely to this protection. In all fairness such industries should be the last to oppose the application of the same principle to another industry as much in need of similar protection as the manufacturing industries ever were. It is certainly inconsistent for these eastern manufacturing industries to refuse the benefits of protection to the bituminous mining industry simply in order that they may keep down the cost of their fuels, when such low cost is secured at the expense of the employment and the standard of living of hundreds of thousands of American laborers. Moreover, a sharp limit is set to the possible increase in the price of foreign oil by the competition of domestic producers, who are prepared to supply the entire legitimate demand for their product at the minimum price consistent with the remunerative operation of the industry and the maintenance of the American standard of living. The so-called conservation of natural resources, which it is maintained the use of foreign oil encourages, is surely purchased at an excessive price so long as it involves the demoralization of American markets and the degradation of the standard of living of American workers. The bituminous mining industry feels that in view of the many years of adversity through which it has recently passed, brought upon it by circumstances entirely beyond its own control, its present condition, as threatened by the importation of foreign petroleum and fuel oil, should receive your sympathetic consideration. It appeals with confidence to your sense of social expediency and to your spirit of fair play to relieve it from the demoralizing effects of this new iniquitous competition.

NATIONAL COAL ASSOCIATION,
CARROLL B. HUNTRESS,
Executive Secretary.

WASHINGTON, D. C., *February, 1932.*

TABLE I.—*Gas and fuel oil available for consumption in the United States for specified years*

(Authorities: Statistical abstract of the United States, 1924; and National Survey of Oil Distribution, 1930)

Year	Quantity in barrels of 42 gallons	Year	Quantity in barrels of 42 gallons
1920	185,971,000	1928	353,232,000
1921	195,656,000	1929	371,999,000
1922	240,057,000	1930	341,630,000
Total	621,684,000	-------	1,073,861,000
Average per year	207,229,000	-------	357,954,000

TABLE II.—*Imports of crude petroleum and topped and fuel oil from Caribbean ports, 1927–1930*

[Barrels of 42 gallons]

Year	Netherland West Indies		Venezuela			Total	
	Crude petroleum	Topped and fuel oils	Columbia, crude petroleum	Crude petroleum	Topped and fuel oils	Crude petroleum	Topped and fuel oils
1927	10,136,248	1,553,520	7,902,000	11,423,575	.....	29,521,823	1,553,520
1928	24,989,387	2,847,350	11,833,025	21,987,319	90,232	58,809,731	2,937,582
1929	16,222,480	18,317,358	12,620,000	34,431,388	3	63,273,868	18,317,361
1930	9,780,217	23,933,196	14,204,000	25,299,349	66,212	49,283,566	23,999,408

Authority: Annual reports on foreign commerce and navigation of the United States, 1927–1930, U. S. Department of Commerce.

TABLE III.—*Imports of crude petroleum and topped and fuel oil, by customs districts 1927–1930*

[Barrels of 42 gallons]

Customs district	1927		1928		1929		1930	
	Crude	Topped and fuel oils	Crude	Topped and fuel oils	Crude	Topped and fuel oils	Crude	Topped and fuel oils
Maine and New Hampshire	65,000	249,823	.....	170,143	.....	463,419	.....	640,662
Massachusetts	6,682,284	2,096,000	8,564,097	688,825	5,272,520	4,024,601	1,435,414	6,299,209
Rhode Island	488,000	1,103,000	472,737	324,000	476,034	2,400,071	901,000	2,286,463
Maryland	7,411,616	276,010	7,282,087	65,000	9,083,632	235,335	6,886,702	371,756
New York	25,622,811	2,009,739	40,034,085	2,220,418	37,991,234	8,129,910	34,390,660	10,573,483
Philadelphia	4,210,533	.....	11,767,780	1,500	14,554,775	66,000	13,087,520	.....
Virginia	185,000	60,000	174,000	.....	231,143	451,527	324,925	318,947
South Carolina	3,445,500	.....	1,730,700	.....	1,122,303	.....	1,201,447	.....
Georgia	370,000	.....	185,000	.....	70,000	.....	519,482	.....
Florida	865,400	1,095,000	241,000	1,358,000	192,852	2,080,254	.....	2,723,978
Total	49,346,144	6,879,572	70,451,495	4,827,886	68,995,459	17,857,117	58,747,240	23,214,498

Authority: Annual reports on foreign commerce and navigation of the United States, 1927–1930, U. S. Department of Commerce.

TABLE IV.—*United States imports and exports of crude petroleum; topped, fuel and gas oil; and gasoline, naphtha, and other finished light products, 1930*

[Barrels of 42 gallons]

Customs districts on Atlantic seaboard	Crude petroleum		Topped and fuel oil		Gasoline, naphtha, and other finished light products	
	Imports	Exports	Imports	Exports	Imports	Exports
Maine and New Hampshire	.....	386	640,662	4,073	76,592	28,280
Massachusetts	1,435,414	24	6,299,209	30,694	2,664,077	258,135
Rhode Island	901,000	.....	2,286,463	.....	333,716	.....
New York	34,390,660	936	10,573,483	286,900	5,821,252	1,550,272
Philadelphia	13,087,520	.....	.....	18,204	385,211	4,755,905
Maryland	6,886,702	.....	371,756	183,786	3,851,738	186,741
Virginia	324,925	.....	318,947	.....	677,974	.....
North Carolina	.....	.....	.....	.....	890,561	.....
South Carolina	1,201,447	.....	.....	.....	.....	.....
Georgia	519,482	.....	.....	.....	307,822	.....
Florida	.....	224	2,723,978	10,362	734,795	31,906
Total	58,747,150	1,570	23,214,498	535,169	15,743,738	6,810,239
Excess of imports	58,745,670	.....	22,679,389	.....	8,933,499	.....
All other customs districts	2,382,179	23,702,592	2,865,885	31,842,649	1,183,062	55,385,092
Excess of exports	.....	21,320,413	.....	28,976,764	.....	53,492,030

Authority: Foreign commerce and navigation of the United States, 1930.

TABLE NO. V.—*Price quotations f. o. b. mines for bituminous coal on the Boston market, 1927–1931*

COAL AGE SPOT PRICES

Point of origin	1927		1928		1930	
	High	Low	High	Low	High	Low
Clearfield	$2.41	$1.73	$1.82	$1.58	$1.70	$1.43
Cambria	2.74	1.07	2.14	1.80	1.93	1.73
Somerset	2.54	1.80	2.07	1.70	1.79	1.61
Southern West Virginia low volatile	2.41	1.39	1.88	1.20	1.81	1.30

AVERAGE REALIZATION ON LOW VOLATILE WEST VIRGINIA MINE RUN COAL SHIPPED TO TIDEWATER

	Average realization
1927	$1.88
1928	1.61
1929	1.65
1930	1.62
1931 (11 months)	1.49

TABLE VI

CRUDE PETROLEUM: COST OF PRODUCTION AND OF DELIVERY TO REFINERIES ON ATLANTIC SEABOARD OF MID-CONTINENT-GULF AND OF VENEZUELAN OIL, 1927–1929

[The Venezuelan costs relate only to Lake Maracaibo oil]

	Costs of production and delivery		
	Cost of production at well	Transportation and other charges [1]	Cost delivered at Atlantic seaboard refineries
Mid-Continent-Gulf oil:			
1927	$1.2000	$0.0595	$2.2604
1928	1.0652	.8258	1.9810
1929	1.0352	.8777	1.9129
3-year weighted average	1.0382	.8845	1.9828
Venezuelan oil:			
1927	.8724	.3111	1.1835
1928	.6272	.2356	.8628
1929	.5016	.2288	.7904
3-year weighted average	.6470	.2428	.8898

[1] Purchasing charge of 10 cents per barrel on domestic crude is included.

PRICES, INCLUDING TRANSPORTATION AND DELIVERY, PAID BY ATLANTIC SEA BOARD REFINERIES FOR MID-CONTINENT-GULF AND FOR VENEZUELAN (LAKE MARACAIBO) CRUDE PETROLEUM

Year	Crude Mid-Continent-Gulf	Crude Venezuelan
1927	$2.2584	$1.4004
1928	1.9004	1.0416
1929	2.0284	1.0218
3-year weighted average	2.0606	1.0967

TAX ON MALT, MALT SIRUP, AND WORT

STATEMENT OF JOHN L. FITZSIMONS, BALTIMORE, MD., PRESIDENT THE AMERICAN MALT CO.

Mr. FITZSIMONS. My name is John L. Fitzsimons, and I represent the American Malt Co., of Baltimore. I operate my own business, and I would like to have, in considering this tax of 35 cents per gallon proposed on malt sirups, a special sirup which I manufacture eliminated from this tax. We manufacture a malt sirup that is used by cereal beverage manufacturers who are licensed under permit from the United States Bureau of Industrial Alcohol. I only sell to a small proportion of these manufacturers; in fact, I only sell to about 10 per cent of them. They are now paying a price of about $33 per barrel for this product. They can get along without it entirely if necessary. If this tax goes on it will mean on this particular product a 50 per cent increase in the cost. This would eliminate the product entirely from my business.

Senator SHORTRIDGE. What is the rate suggested in the bill?

Senator REED. Thirty-five cents a gallon.

Mr. FITZSIMONS. Thirty-five cents a gallon. That would mean $17.50 per barrel.

This particular sirup that I refer to is the foundation of my particular business. I am not up here about any other tax that we might pay on any regular sirups whatever. That would be terminated in my plant as it is if imposed. But this one sirup, as I mentioned, is the foundation of the financial structure of our concern. We are rather small in this line of business and only 6 years old. These particular people with whom I do business are all well rated, and I have the privilege at any time of going to my bank and using the commercial paper from these concerns to borrow on.

Senator GORE. Is your product used only in licensed and legitimate business?

Mr. FITZSIMONS. This particular product is used only by cereal-beverage manufacturers to make cereal beverage and who are now taxed under section 615 at the rate of 2 cents per gallon.

Senator GORE. You want yours lifted out of that general distribution?

Mr. FITZSIMONS. Out of this tax, yes; for this particular product.

The loss of this particular product to me would not only mean a loss to myself but to the railroads and farmers as well. For instance, last year, in this particular product, we used over 100 carloads of barley malt, 25 carloads of coal, and about 27 carloads of barrels. We shipped out about 99 minimum carloads of sirup to all parts of

the United States. The freight bill was about $35,000 on this product. This does not include the freight on coal or barrels, because they are prepaid to us.

Senator CONNALLY. Is your stuff handled in the general trade, or does it just go to these manufacturers?

Mr. FITZSIMONS. I just have a few customers.

Senator CONNALLY. You do not sell it through the grocery stores?

Mr. FITZSIMONS. No, sir.

Senator REED. Do you also manufacture other articles which are sold to the general trade?

Mr. FITZSIMONS. Yes.

Senator REED. And they are pretty generally used in making home-brew beer, are they not?

Mr. FITZSIMONS. Yes, sir. This one particular product would just simply disappear, because if the price were raised 50 per cent, as it will be raised under this particular clause, it will mean $17.50 a barrel, where they are now paying $33 a barrel; it will mean $17.50 additional. It is merely a flavor. Although it must be considered and construed a malt sirup or a malt extract it really is a flavor.

Senator SHORTRIDGE. What is the name of it in the market?

Mr. FITZSIMONS. We call it material No. 12. I have nothing to say about any other tax on sirup.

Senator SHORTRIDGE. It is the article known as No. 12?

Mr. FITZSIMONS. Yes.

Senator REED. Have you prepared an amendment in form to suggest to us that would take care of your case?

Mr. FITZSIMONS. Yes, sir. In section 601 (c) (2) on page 247, line 5, after the word "products" and before closing the parentheses, insert the words: "or unhopped malt sirup or extract sold to cereal-beverage manufacturers operating under permit from the United States Bureau of Industrial Alcohol, for manufacturing into cereal beverages containing less than one-half of 1 per cent of alcohol."

Senator HARRISON. Somebody has moved to make it 4 per cent.

Mr. FITZSIMONS. I would like to also say that that is only one item of my business. And if I lose this business in my particular case of course it is my loss. I am the only person that makes this particular sirup. The Government would not get any tax anyway, because I would quit it, and it would jeopardize the balance of three-fourths of my business, amounting to $881,000 a year.

Senator REED. You have been very candid. I would like to ask your opinion on the balance of this section, as to the probable result of this effort to tax the home-brewing business.

Mr. FITZSIMONS. The results of it?

Senator REED. Can we succeed in doing it?

Mr. FITZSIMONS. Do you mean collecting taxes?

Senator REED. Yes.

Mr. FITZSIMONS. Yes.

Senator REED. That ought to be a pretty good revenue raiser.

Mr. FITZSIMONS. I do not think it would be as much as the papers seem to think.

The CHAIRMAN. What would be your opinion as to the brewers' wort?

Mr. FITZSIMONS. I would not have any idea, sir.

The CHAIRMAN. You have not had any experience with that?

Mr. FITZSIMONS. No; but I have figured out that if all the barley malt manufactured in the United States was made into either malt sirup or wort, the taxes, even if they used 30 per cent of other grain with that barley malt, would probably amount to about $15,000,000.

Senator GORE. What is that?

Mr. FITZSIMONS. $15,000,000. I am figuring on their using other grain with that. Which very few people do.

The CHAIRMAN. What was the amount?

Mr. FITZSIMONS. I say that if all the barley malt made in the United States were made into malt sirup, we will say, for instance, that if it was all made of barley malt the taxes would not be $12,000,000.

The CHAIRMAN. That is malt sirup?

Mr. FITZSIMONS. Yes.

The CHAIRMAN. What about brewers' wort?

Mr. FITZSIMONS. Well, I have not the slightest idea how much of that is made. But predicting on the basis of the manufactured product of barley from which wort and malt is made, I say $12,000,000, if it is all made without any raw grain being added. About $15,000,000 if the other were added.

Senator GORE. What is the total amount of barley used in this process in the United States?

Mr. FITZSIMONS. In the United States?

Senator GORE. Yes.

Mr. FITZSIMONS. In the malt business?

Senator GORE. Yes.

Mr. FITZSIMONS. There are about, I should say, 17,000,000 bushels. Some of that stuff is exported and some of it is used for other purposes.

Senator REED. The Treasury estimates that we would get about $46,000,000 out of the taxes on malt sirup and brewers' wort and grape concentrate. Have you any reason to think that that is excessive?

Mr. FITZSIMONS. Well, I could not tell you on the grape concentrate or wort. I do not think there is as much wort as the people seem to think there is. But predicated on my previous statement of all the barley that is made into malt in the United States it would be around $12,000,000. Provided that all these wort people did not cheat you out of it.

Senator REED. Yes. I have seen estimates of an incredible number of bottle caps made for capping home-brew bottles. Have you ever seen the estimate of the number of bottles and bottle caps that are made and sold for that purpose?

Mr. FITZSIMONS. No, sir.

Senator GORE. I saw an estimate of 2,000,000, Senator Reed, once.

Senator REED. 2,000,000, Senator?

Senator GORE. Yes. My authority for that is the attorney for the association of the manufacturers of these bottle caps.

The CHAIRMAN. Is that all?

Mr. FITZSIMONS. Yes. I would like to put a statement in the record.

The CHAIRMAN. That may be done.

(The statement presented by Mr. Fitzsimons is here printed in the record in full, as follows:)

STATEMENT OF JOHN L. FITZSIMONS

THE AMERICAN MALT CO.,
1700 North Gay Street, Baltimore, Md.

Hon. REED SMOOT,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR SMOOT: We manufacture a product designated, when sold, as material No. 12. This product, however, is made of barley malt, and could be construed as a malt sirup or a malt extract. It is made under a special process which we have perfected, and is sold in 50-gallon barrels to manufacturers of cereal nonalcoholic beverages only.

As stated, it is sold exclusively to manufacturers who use it in the production of their cereal beverages, or so-called near-beer, and who operate under permit from the United States Bureau of Industrial Alcohol.

Section 601 (c) (2) of House bill 10236, a bill to provide revenue, equalize taxation, and for other purposes, now before the Senate Finance Committee, imposes an excise tax of 35 cents per gallon on malt sirup, or malt extract, containing over 15 per cent of solid matter. Such a tax, if applied to material No. 12, would impose a burden of $17,50 per barrel upon our product, or over 50 per cent of the sale price.

Our product is a raw material used in the manufacture of cereal beverages, and upon which the same bill (section 615 (a) (1) imposes a tax of 2 cents per gallon. Thus, a double tax would be imposed if material No. 12 were also taxed. Since a manufacturer's excise tax is thus proposed upon the cereal, nonalcoholic, soft-drink beverage, the addition of the tax proposed on malt sirup, or malt extract would, if considered in terms of the finished product, near beer or cereal beverage, amount to an additional tax to the cereal beverage manufacturer of over one-half cent per gallon.

The House of Representatives did not intend to impose double taxation under the provisions of H. R. 10236. It should be clearly emphasized, for instance, that all finished or fountain sirups are taxed 5 cents per gallon when manufactured into a finished product to be sold in bottles. Our material No. 12 malt extract is used as a flavor just as is any finished or fountain sirup and should really be classed as such. In lines 11 to 18, page 241 (Senate print), finished or fountain sirups are exempted from the tax when used in the manufacture of a beverage which is taxable under another paragraph of the bill, but our malt extract, though used for the same purpose, is not exempted—it is placed in the same class as "regular malt sirups."

We therefore respectfully suggest and urge the following amendment:

Section 601 (c) (2), on page 247, line 5 of the committee print No. 1, or on page 232, line 5 of the Senate print, after the word "products" and before closing the parentheses, insert the words: "or unhopped malt sirup or extract sold to cereal beverage manufacturers operating under permit from the United States Bureau of Industrial Alcohol, for manufacturing into cereal beverages containing less than one-half of 1 per cent of alcohol."

Plain malt extract No. 12 is a product that is used by some manufacturers of cereal, nonalcoholic, soft-drink beverages as an extract to improve their product. The fact that the prices at present are as high as the trade will stand, and as low as we can afford to make them, makes it an absolute certainty that if a tax is placed on this malt extract it would confiscate and destroy our business. The trade will stop using this material No. 12 rather than pay a high price, since it is not essential to their product, because even now, only a small proportion of cereal-beverage manufacturers are using same.

As we have centered our entire beusiness upon the development of this material No. 12, we will be in no position to continue if this discriminating tax is imposed. In the manufacture of this product alone we purchased in 1931 raw materials amounting to $134,420. Our purchase of barley malt for this one item totaled over 120,000 bushels in the same year.

These raw materials, of which the larger portion is the product of agriculture, are as follows:

Inbound freight:	
Minimum carloads of barley malt	109
Minimum carloads of coal	25
Minimum carloads of barrels	25
Total carloads	159
Outbound freight: Minimum carloads of material No. 12	99

In 1931 the freight charges on the barley malt used in the material No. 12, and the outbound shipments of this product, which were paid by ourselves, totaled $35,708, thus contributing materially to the business of the railroads.

The imposition of this excise tax upon our product will mean the destruction and confiscation of a business amounting to $881,000 in terms of sales annually. This in turn will mean a loss to the railroads of the country of over $100,000 annually, as well as a loss to the farmers of the country of a market of over 400,000 bushels of barley. Thus, the Government will have exercised its power to tax, so as to destroy not only our business, but indeed its own revenue.

By means of extensive research we have produced a product which has resulted in an increasing demand for our material No. 12, which is a plain sirup, and is sold to a small number of manufacturers producing a legitimate cereal beverage.

That the House of Representatives manifestly did not intend to impose a tax on malt sirups of the type here referred to must be evident from the fact that H. R. 10236, in the section which imposes the tax on wort, malt sirups, etc., exempts malt sirups used by bakers for the production of bread, and when used in the production of malted milk, malt tonics, and similar medicinal preparations.

It is reasonable to infer that although the House of Representatives did intend to impose a tax upon regular malt sirups, it did not intend to impose a tax upon malt sirup used in the production of products already taxed under some other paragraph of the bill.

It is likewise reasonable to assume therefore that the action of the House of Representatives in so imposing a tax upon malt sirups of the kind we produce, and for the purpose we produce it, was due to a lack of full knowledge of all the facts prevailing in this case; and it is therefore the purpose of this communication to bring these facts before your committee.

Undoubtedly the tax imposed in section 601 (c) (2) of H. R. 10236 was aimed primarily at the manufacture of a certain class of malt sirup or extract. Manifestly, our product is not of this type, and should not be so classified. We respectfully request that the committee and Congress allow us to continue free from tax this legitimate business of the production of malt sirup which we designate as material No. 12 and is used in the manufacture of cereal beverages free from alcohol only, as well as malt sirups used in the baking of bread, or sold to manufacturers of malted milk or medicinal products for use in the manufacture of such products. The tax, if levied, will mean that we will be forced out of business.

Our relief from taxation on this particular product does not mean that we will not pay taxes, because on the other sirups which we manufacture in our plant it will be necessary for us to pay an annual tax of over $200,000.

Very respectfully yours,

JOHN L. FITZSIMONS, *President.*

LETTER FROM JOHN L. FITZSIMMONS

UNITED STATES SENATE,
COMMITTEE ON NAVAL AFFAIRS,
April 11, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee, Washington, D. C.

MY DEAR SENATOR SMOOT: I have your letter of the 7th instant advising me that the names of Mr. Robert R. Carman and Mr. John L. Fitzsimons, of the American Malt Co., will be reached for hearing on the 15th or perhaps the 18th.

Mr. Carman tells me that he will be in court on the 15th, so I am wondering if you will be so kind as to arrange definitely for him to appear on the 18th.

As a matter of record in connection with their position on the question of

a malt-sirup tax, I inclose herewith a copy of a letter from the American Malt Co. to Mr. Carman and shall appreciate it if you will be so kind as to have this letter carefully considered by the subcommittee having this question up for consideration.

Thanking you in advance for your kind cooperation in this matter, I am

Very truly yours,

M. E. TYDINGS.

AMERICAN MALT CO.,
Baltimore, Md., April 7, 1932.

Mr. ROBERT CARMAN, *Baltimore, Md.*

DEAR MR. CARMAN: Since Senator Tydings was good enough to state that he would see to it that our difficulties in reference to paying the malt-syrup tax on some of our products would be placed before the Senate for approval, we beg to submit the following:

We manufacture an unhopped malt extract, called material No. 12, which is sold in 50-gallon barrels to manufacturers of cereal beverages only who operate under permit from the United States Bureau of Industrial Alcohol.

Manufacturers of cereal beverages, under section 615, paragraph 1, pay a tax of 2 cents per gallon on their finished product. If it should be necessary for us to pay a tax on this material No. 12 that they use, it would amount to double taxation; and since they use 50 gallons of this malt extract to 3,100 gallons of their product during its manufacture, it would mean that their tax would really be increased over ½ cent per gallon, in addition to the 2 cents tax per gallon.

Under the original sales tax, which was not passed by Congress, section 601, paragraph 1 shows that a double taxation was not intended.

However, under the new bill nothing is mentioned in reference to double taxation. To eliminate this double taxation, therefore, we suggest that on page 232, lines 2, 3, 4, and 5, where, in parentheses, certain malt extracts are exempt from this tax, that the following be inserted before closing the parentheses, "or unhopped malt extracts sold to cereal-beverage manufacturers operating under permit of the United States Bureau of Industrial Alcohol for manufacturing into cereal beverages containing less than one-half of 1 per cent of alcohol."

If the tax of 35 cents per gallon is not eliminated on this product it will mean that these cereal-beverage manufacturers will stop using this product because of the prohibitive price and due to the fact that other materials which they can use as a substitute for this sirup are not taxed.

Last year we used the following products in the manufacture of this No. 12 malt extract, and the cost of these products amounted to $134,420.26.

Inbound freight:	
Minimum carloads of barley malt	100
Minimum carloads of coal	25
Minimum carloads of barrels	26
Total	100
Outbound freight: Minimum carloads of material No. 12	99
Total carloads used in handling this product	250

Freight charges, with the exception of coal and barrels amounted to $35,768.91 (paid by ourselves).

Our outbound sales on this product amounted to $233,429.17.

Of course, there are other numerous small purchases and expenses which any manufacturing plant must bear, which we did not enumerate, including labor.

As stated, if we are not successful in getting this tax eliminated on this particular product, we will lose that part of our business, with a consequent loss of the above mentioned sales. The railroads will lose their portion of the revenue, and the parties from whom we purchase the other materials above mentioned will also lose their portion of this business. It naturally follows that the ultimate result will be that neither will the Government collect any tax on this portion of our business.

The foundation of our business success rests upon this material No. 12, since same is shipped to legitimate concerns of good rating, who pay promptly, and the business on this malt extract has been growing yearly since we began manufacturing same in 1926. Through extensive research we have made every

effort to improve this product in order to increase our sales on some, and also on our other sirups which we manufacture to be used by other manufacturers in products that can not be considered other than legitimate.

Our reason for doing this, rather than concentrating our entire manufacturing on so-called "home-brew sirups," was because it has always been our intention to build a sound institution along the lines of which there could be no question as to the legality of the products manufactured and sold.

It is our opinion that bakers sirup, for instance, which is exempt under paragraph 2, was exempted in the House of Representatives principally because under the reading of the old sales tax, a baker would not have had a license, and therefore, the sirup sold by a licensed manufacturer to him would have carried the 35 cents per gallon tax because he would not have had a manufacturers license, and that portion of that act which exempts a tax on sales from one licensed manufacturer to another would not have applied to him.

We hope, Mr. Carman, that we have made our predicament clear. If not, we should be very glad to furnish any further information in reference to this portion of our business, and we trust sincerely, that Senator Tydings will see the justice of our plea, and use his good offices to right this situation in our behalf, which otherwise would prove disastrous to ourselves and of injury to others.

Yours sincerely,

JOHN L. FITZSIMONS, *President.*
THE AMERICAN MALT CO.,

P. S.—Even though the No. 12 sirup above-mentioned is relieved of this tax, we will still have to pay the Government approximately $180,000 per year on the sale of the other sirups which we manufacture, and which would be subject to this tax.

JOHN L. FITZSIMONS.

STATEMENT OF M. J. DONNELLY, NATIONAL MALT PRODUCTS MANUFACTURERS ASSOCIATION, CEDAR RAPIDS, IOWA

Mr. DONNELLY. My name is M. J. Donnelly, Cedar Rapids, Iowa. I represent the National Malt Products Manufacturers Association, the manufacturers of 95 per cent of all of the malt sirup made in the United States.

I want to say at the outset that I am not here to oppose taxation. I am here to call the committee's attention to certain facts which I believe if they give consideration to them they will realize that the proposed tax on this particular product is so excessive that it will interfere with any revenue that may be expected to be recovered by this bill.

Malt sirup is originally a bakers' product. It was first manufactured in the United States about 42 years ago. It was used exclusively for baking up until some time prior to the war. During the war, at the solicitation of the Agricultural Department, a number of manufacturers engaged in the malt-sirup business as a substitute for sugar. Since that time many uses have developed to which malt sirup is put. It is used in the textile industry, in the laundry industry, the ice-cream industry, the bakery industry, which is the largest user, and the breakfast-food industry; also the drug industry.

The bill in its present form exempts from the provisions of this tax all malt sirup sold to the baking industry and to the manufacturing druggists and the malted-milk industry. I do not think there is any malt sirup that is sold to the malted-milk industry. They manufacture their own.

The estimate, as I understand it, is that about $50,000,000 is to be recovered from malt sirup and wort and grape concentrates. I do

not know what would be recovered from grape concentrates, but if the estimate on malt sirup is anything like $50,000,000, that is way in excess of what it will produce.

There was manufactured in the United States last year 30,000,000 gallons of malt sirup. Ten million gallons of that product went directly to the baking trade in barrel lots and half-barrel lots, and I include in that figure also the drug trade. The rest, or 20,000,000 gallons, was divided between the textile industry, the breakfast-food industry, and miscellaneous industries, such as the ice cream, chewing gum, and the like, and to the home in small packages.

This product that went to the home in small packages was used for cooking, baking, and the manufacture of home-brew beer. It is utterly impossible to tell how much of this product was used in the manufacture of home beverages. A wife night buy a can of malt sirup for baking and the husband might use it in the manufacture of home-brew beer.

I might say that I receive a statement from the manufacturers on the first of each year—and I am the only one that does receive it—showing the exact amount of malt sirup that sold in this last year, and I know positively that there was not to exceed 36,000,000 gallons of malt sirup sold in the United States. The tax on that product alone, after exempting those that I have named, would bring approximately $9,000,000.

The CHAIRMAN. What is the difference between malt sirup and brewers' wort?

Mr. DONNELLY. Brewers' wort is unfermented beer. It can be used for no other purpose than the manufacture of beer. Malt sirup is a thick, viscous liquid, resembling molasses, only one is made from cane and the other made from barley.

The CHAIRMAN. You have no idea as to the quantity of brewers' wort that is made, then, have you?

Mr. DONNELLY. From the most reliable figures available there were about 100,000,000 gallons of brewers' wort manufactured and sold in the United States last year. The only way we have of arriving at that is the amount of barley sold to the malsters in the industry. As you are perhaps aware, that industry is confined to the alley, largely because the product goes directly to the alley brewer.

Senator GORE. That is, you mean illegal?

Mr. DONNELLY. Illegal alley brewer.

The CHAIRMAN. Bootleggers?

Mr. DONNELLY. Bootleggers. You ask how much revenue the tax on wort will produce. It depends entirely on the activity of the Prohibition Department. My guess would be that if wort is sanctioned by this tax or indirectly legalized, and with the present number of prohibition agents, my guess would be that there would be at least 250,000,000 gallons of wort manufactured in the United States during the coming year, which means 250,000,000 gallons of beer. A gallon of wort means a gallon of beer. At that rate the present tax would not bring any great amount of money.

The present wholesale manufacturer's price of malt sirup is 75 cents a gallon. The tax on wort that is sold to the alley brewer is from 20 to 25 cents a gallon. The tax on wort is about 25 per cent while the tax on malt sirup is 45 per cent.

Malt sirup has many legitimate uses in the home. It can be used for all the purposes of baking to which the commercial baker puts it. It seems somewhat unreasonable that a product which goes to the housewife and which is consumed in the home for baking—and if it be used for any other purpose the manufactured product is confined to the home and not sold—that that product should bear a tax twice what the product which goes to the alley brewer bears.

There are about seven States in the United States that now impose a tax on malt sirup. I want to refer to that and call your attention to it for what value it may be to you as to the amount of the tax.

The State of Louisiana imposed a tax of 10 cents a pound on malt sirup, and that tax was in existence for a little over a year. The legislature, at its own volition, reduced that tax to 3 cents a pound, because the tax of 10 cents a pound was so excessive that it curtailed the sale of the product and diminished the returns. I am told by a member of the department of taxation that the tax of 3 cents a pound, taking into consideration the expense entailed in collecting the 10 cents a pound tax, brings more net money to the State of Louisiana than the tax did of 10 cents a pound.

Michigan has a tax to-day of 5 cents a pound on malt syrup; and, by the way, that is the only State that has a tax on wort. A tax of 5 cents a pound means a tax of 57 cents in Michigan per gallon. If you add that to the tax of 35 cents a gallon, you have a total tax of 92 cents a gallon on a product which is selling to the housewife at 75 cents a gallon. I submit that a tax of 92 cents on a product which sells to the housewife at 75 cents it too heavy.

Senator GORE. Do you know how much that produces in Michigan?

Mr. DONNELLY. No, I do not; because the wort tax and malt sirup tax are all one. My guess would be that it produces about $700,000.

Senator GORE. The two combined, in Michigan?

Mr. DONNELLY. No; I think the wort produces that alone. I think the tax on malt sirup alone would be something around $80,000.

Senator GORE. Do you know whether that tax reduced the consumption of malt sirup in the state?

Mr. DONNELLY. It did. It very materially reduced it. Arkansas has a tax of 10 per cent. South Carolina had a 10 cent tax.

Senator GORE. That is ad valorem?

Mr. DONNELLY. Ad valorem.

Senator GORE. Ten per cent?

Mr. DONNELLY. About 2 cents a pound. South Carolina reduced their tax from 10 to 2 cents. Tennessee had a tax of 5 cents a pound and reduced it to 2 cents. I am unable to furnish the returns on those. South Dakota has a tax of 10 per cent. So that the averge tax of the seven states, outside of Michigan, coupled with the Government's tax, gives about 72 cents a pound on a product that sells for 75 cents.

Senator GORE. You do not mean 72 cents a pound, do you?

Mr. DONNELLY. Seventy-two cents a gallon.

Senator GORE. Yes.

Mr. DONNELLY. We submit that that tax on malt sirup is too high. I am not here to say that this product should be exempted from taxation. But that is more of a tax than this product should be asked to bear. In speaking for my association—and I speak for 95 per cent of the manufacturers of this country—I think this product should bear some tax, the same as any other product, but I think that they

got the tax too high. It is higher than the sale of the product will allow and will interfere with it. I do not think that is true of any other product to the same extent.

Senator SHORTRIDGE. It would stop the sale entirely, would it?

Mr. DONNELLY. I would think so. A 10 per cent tax, according to those who have estimated it, reduced the sale of the products in those States about 20 per cent; some said 15. A 5 cents a pound tax on this product, or 57 cents a gallon, such as in Michigan now, has seriously injured the malt-sirup industry in Michigan. I think it has cut it down to about 60 per cent of what it was.

Malt sirup goes entirely to the home. There is none of it that goes to the alley brewer. He would not buy it; he would not bother with it. Wort is delivered in 500-gallon, 1,000-gallon, and 1,500-gallon tank cars direct to the alley brewer. The alley brewer and the wort factory are segregated. The alley brewer sells his product, according to a statement by Capone in one of the magazines, at $8 a case, or $96 a barrel.

I was amused to read the testimony of a gentleman before this committee in which he suggested that the tax on wort should be equal to the tax on beer. I am not here to suggest to your committee what they should make it. I am here, however, to argue that the tax on malt sirup is excessive, and if the Government expects to recover any revenue from that tax, they will have to reduce it, or it will wipe out the industry and there will be no revenue. Here is a tax of 35 cents a gallon, from 40 to 42 per cent of the wholesale selling price, and when you add to that the taxes set by the different States that I have already given you, you can readily see what that would mean to any industry.

Senator GORE. Where is this article of Capone's that you speak of?

Mr. DONNELLY. What is that, Senator?

Senator GORE. In what magazine was this Capone article published?

Mr. DONNELLY. Some writer gave an interview with Capone in one of the magazines. I don't know whether it was the Saturday Evening Post or Collier's, or what it was. But he interviewed Capone at his Michigan Avenue residence near the Loop.

Senator SHORTRIDGE. A more important question is, Where is he?

Mr. DONNELLY. I don't know where he is now. He is headed for the Federal penitentiary. I don't know whether he has landed there yet or not.

LETTER FROM H. E. MYERS, VICE PRESIDENT AND TREASURER OF THE POWDERED MALT CORPORATION

UNITED STATES SENATE,
April 18, 1932.

Hon. REED SMOOT,
Chairman, Senate Finance Committee, Washington, D. C.

MY DEAR SENATOR: The inclosed letter has just come to me from the Powdered Malt Corporation of Lima, Ohio, suggesting that the paragraph regarding the tax on malt should distinguish between powdered malt and malt sirup.

Sincerely yours,

ROBERT J. BULKLEY.

LIMA, OHIO, *April 5, 1932.*

Hon. ROBERT J. BULKLEY,
Senate Office Building, Washington, D. C.

DEAR MR. BULKLEY: We are writing you regarding the proposed tax on malt extracts and wish to call your attention to the fact that our company is probably

the only company of its kind in the United States, being manufacturers of malt extract in powdered form. The powder manufactured by us is very light in weight and consequently takes a large-size package to hold a pound when compared with a package holding a liquid malt. For instance, we pack 2 pounds of our powder in a half-gallon size can, whereas the malt sirup manufacturers pack 2½ pounds of malt sirup in a quart-size can.

Wish to call your attention to paragraph D–2 of section 601 of H. R. 10236, which reads as follows:

"(2) Brewers' wort, liquid malt, malt sirup, and malt extract, fluid, solid, or condensed (unless sold to a baker for use in baking or to a manufacturer of malted milk or medicinal products for use in the manufacture of such products), if containing less than 15 per cent of solids by weight, 5 cents a gallon; if containing 15 per cent or more of solids by weight, 35 cents a gallon."

You will note from the above-quoted paragraph that the only method outlined for taxing our product is by the gallon, and if it is taxed on the basis of the size of container in which the powder is packed, we will be discriminated against, as we will pay twice as much tax as our competitor, the malt-sirup manufacturer, and would practically put us out of the running as far as competition is concerned. However, if all malt extracts either in sirup form or in powder form were taxed on the per pound basis, then we would be on an equal footing with all competition.

We are bringing this matter to your attention so that if possible you can recommend a correction in the above-quoted paragraph if it is finally determined by the United States Senate to tax malt extracts the same as was done by the House of Representatives.

Our reason for writing you at this time is that we have been in correspondence with our representative from this district, Hon. John L. Cable, and the writer is to-day in receipt of a letter from him advising us to communicate with the Senators from Ohio, our views on the proposed tax bill.

Knowing that the Commissioner of Internal Revenue will have a difficult time in assessing tax on our product if it is allowed to remain in the bill when finally passed on the per-gallon basis, and may be the cause of our paying an unfair and unjust tax on the product manufactured by us, and as we will have to pass this tax on to our purchasers, who are mostly wholesale grocers, tobacco and fruit houses in the West and South, it will be difficult for us to determine just what the exact tax would be so we can in turn advise our customers regarding it. We are hopeful that you will be able to have this paragraph corrected before it finally becomes a law.

Thanking you for any effort that you may be able to put forth in our behalf in this matter, we are

Very truly yours,

THE POWDERED MALT CORPORATION,
By H. E. MURSEN, *Vice President and Treasurer.*

LIMA, OHIO, *April 7, 1932.*

Hon. ROBERT J. BULKLEY,
Senate Office Building, Washington, D. C.

DEAR MR. BULKLEY: Supplementing our letter to you of April 5 in regard to the proposed tax on malt extracts as it will apply to our powdered malt extract, wish to advise that our sales manager, Mr. Tom Shackford, was in Washington on Monday of this week and called on Mr. John L. Cable. We are to-day in receipt of a letter from Mr. Cable telling us of Mr. Shackford's visit, and also advising us that he has communicated with Mr. G. E. Turney, of the Treasury Department, and Doctor Doran, Director of the Bureau of Industrial Alcohol, and that he has also seen Senator Fess and was expecting to see you on the same date.

Mr. Cable inclosed a brief covering the proposed change in the section as far as the tax is concerned and requested us that if it were satisfactory to send a copy of it to you as well as to Senator Fess. The brief is herewith inclosed, and we sincerely trust that the correction can be made before the bill becomes a law, changing the method of taxation on malt extract from 35 cents a gallon to 3 cents a pound as outlined in the inclosed brief.

Thanking you in advance for any effort you may put forth in our behalf to obtain this correction, we are,

Very truly yours,

THE POWDERED MALT CORPORATION,
By H. E. MURSEN, *Vice President and Treasurer.*

BRIEF OF THE POWDERED MALT CORPORATION OF LIMA, OHIO, AS TO SECTION 601 (d) (2)

Your petitioner manufactures powdered malt extract. This is sold in cans by weight and is not sold by the gallon or volume. The provision as passed by the House, either (*a*) imposes no tax on our product or (*b*) the tax is so excessive as to amount to confiscation.

We suggest that a comparable tax be imposed on all malt extracts by the pound, as is done in the States of Michigan, Louisiana, and Tennessee. This section of the bill as it came from the House reads as follows:

"(2) Brewer's wort, liquid malt, malt sirup, and malt extract, fluid, solid, or condensed, if containing less than 15 per centum of solids by weight, 5 cents a gallon; if containing 15 per centum or more of solids by weight, 35 cents a gallon."

We suggest that it is in order to modify the last portion of the paragraph that now reads "if containing 15 per centum or more of solids by weight, 35 cents a gallon," by striking out "35 cents a gallon" and inserting in lieu thereof "3 cents per pound," so that the paragraph will read:

"(2) Brewer's wort, liquid malt, malt sirup, and malt extract, fluid, solid, or condensed, if containing less than 15 per centum of solids by weight, 5 cents a gallon; if containing 15 per centum or more of solids by weight, 3 cents per pound."

We suggest that this particular product—namely, powdered malt extract—can not be measured by volume, but must be measured and taxed by weight, as it is sold by weight and not by volume. All malt powders, if the 35-cents-a-gallon rule should apply, would be taxed at a rate greatly in excess of competing items. For example, figured at 35-cents-a-gallon rate it would make a tax on powdered malt of about 5⅓ cents a pound, whereas it would tax malt sirup 3 cents a pound.

THE POWDERED MALT CORPORATION,
By H. E. MYERS, *Vice President and Treasurer.*

BRIEF OF JOHN B. HAMMOND, LEGAL RESEARCH SECRETARY, NATIONAL CIVIC LEAGUE

John B. Hammond, Des Moines, Iowa, legal research secretary for the National Civic League, superintendent of legislation, Iowa Civic League, and president of the National Uniform Prohibition Law Association, presents the following statements and briefs, in re taxing of wort, malt, concentrate, and cereal beverages (near beer), and offers amendments to certain sections, to prevent abuses of National and State laws.

We call attention to subsection (2) of subdivision (c) of section 601 of H. R. 10236, under title of "Manufacturers' excise tax" (p. 232), which reads:

"(2) Brewer's wort, liquid malt, malt sirup, and malt extract, fluid, solid, or condensed (unless sold to a baker for use in baking or to a manufacturer of malted milk or medicinal products for use in the manufacture of such products) if containing less than 15 per centum of solids by weight, 5 cents a gallon; if containing 15 per centum or more of solids by weight, 35 cents a gallon."

We propose the following amendment:

Substitute a semicolon for the period at the end of the said subsection (2) and add thereto the following: "*Provided*, That the payment of the tax imposed by this section shall not be held to exempt any person from any penalty, punishment, or forfeiture provided for by the laws of any State, Territory, or District, or by the national prohibition act, as supplemented and amended, or in any manner to authorize the commencement or continuance of such business contrary to the laws of such State, Territory, or District, or by the national prohibition act, as supplemented and amended, or in any place prohibited by local or municipal law."

Webster's new International Dictionary gives the definition of "wort": "An infusion of malt unfermented, or in fermentation; the sweet infusion of malt which ferments and forms beer." The Standard Dictionary defines "wort" as "The unfermented infusion of malt that when fermented becomes beer."

In all State and Federal laws, "beer" is classed as an "intoxicating liquor." The Willis-Campbell Act of 1921 eliminated "beer" as a medicine, and hence it has no applicable use other than as a beverage, and its manufacture is prohibited by the eighteenth amendment to the Constitution, and any law enacted to manufacture beer is in defiance of the Constitution and can not stand. The courts have universally held that every step taken in the manufacture of intoxicating liquor

brings each person who engages in preparing or producing materials designed for the purpose of making intoxicating liquors as guilty of manufacturing intoxicating liquor as the person who finishes the product, and the person who fills the vessels in which it is to be marketed and attaches the labels to such vessels is performing part of the manufacturing.

The amendments proposed follow very closely the provisions of section 35 of title 11 of the National prohibition act and section 701 of the excise tax act of February 26, 1926. These are the precedents for the proposed amendments.

Sections 18 and 25 of the national prohibition act prohibit the possession of materials for the manufacture of intoxicating liquor. Without these suggested amendments those provisions of the national prohibition act would be repealed by implication, as wort, malt, and wine concentrate are used almost exclusively in the manufacture of intoxicating liquors.

Further, the implied provision is to legalize the manufacture of beer, whether the final act of converting these materials into beer is consummated in a family home, or elsewhere, unless it be specifically stated in the law that the payment of the tax will not legalize the product.

There is a law now taxing the manufacture of beer $6 per barrel (31 gallons) and the tax, as provided in section 35 of the national prohibition act, which doubles that tax and adds to that double tax a penalty of $1,000 and an excise tax of $1,000, as provided in the revenue law of 1926. Are the fines and penalties now provided to be repealed by implication by the proposed tax of 5 to 35 cents per gallon on the wort with which to make beer?

Beer is now being made on a large scale, within the knowledge of the Prohibition Bureau of the Department of Justice, and for the year ending June 30, 1931, that same department reports the seizure of 14,921 "beer frementers" and 5,319,613.41 gallons of beer. In a monograph published under the auspices of this same department September, 1930, they showed that the beer seized in that year, carefully analyzed by Government chemists, showed an average alcoholic content of 3.4 per cent, such beer ranging from 2 to 6 per cent alcohol. In this confession of the Prohibition Department it is further shown that there were enough materials produced and unaccounted for as having been used for legitimate purposes to make 683,032,000 gallons of beer (home-brew)—22,033,290 beer barrels at the present minimum tax of $6 per barrel, the Treasury would have profited by $132,199,740. However, a statement issued by the Commissioner of Internal Revenue shows than not one cent of revenue was received from this source in the years 1930 and 1931.

Some States prohibit the manufacture and sale of mash, wort, or wash. As an example of some of these laws, I refer to chapter 30, General Laws of Oregon, 1923, section 2: "No mash, wort, or wash, fit for distillation or for the manufacture of spirituous, malt, fermented, alcoholic, or other intoxicating liquors shall be made, fermented, or possessed within this State by any person who does not, at the time, hold a permit, issued under the laws and regulations of the United States, etc."

The Supreme Court of Oregon, in the case of Pack *v.* State et al. (241 Pa. 390), after quoting the above section, says: "It is clear that the purpose of the statute was to prevent the manufacture of intoxicating liquor. There is no difference in the constitutional principle between the prohibition of the sale of intoxicating liquor as a beverage and the prohibition of its manufacture, in order to stop the sale.

"When we digest the meaning of the statute quoted above, it is plain that the lawmakers intended to prohibit the making, fermentation, or possession of mash, wort, or wash, for the purpose of the manufacture of intoxicating liquor, that the statute means more than that the mash, wort, or wash, which is prohibited, is fit for distillation, or fit for the manufacture of intoxicating liquors, but that it was the intention, or the apparent intention, to be used for that purpose."

We think it should be clearly stated in the act that the State laws now in effect on Oregon and other States with similar laws may be not interferred with and set aside.

We next call attention to subsection (2) of subdivision (c) of section 601 of H. R. 10236, under title of "Manufacturers excise tax," (p. 232), which reads:

"(3) Grape sirup, grape concentrate, and evaporated grape juice, if containing more than 35 per centum of sugars by weight and not containing preservatives sufficient to prevent fermentation when diluted, 40 per centum of the price for which sold, or in the case of such articles imported into the United States, 40 per centum ad valorem."

We ask that this section be amended as follows:

Substitute a semicolon for the period at the end of the said subsection (3) and add thereto the following: "*Provided*, That the payment of the tax imposed by this section shall not be held to exempt any person from any penalty punishment, or forfeiture provided for by the laws of any State, Territory, or District or by the national prohibition act, as supplemented and amended, or in any manner to authorize the commencement or continuance of such business contrary to the laws of such State, Territory, or District, or by the national prohibition act, as supplemented and amended, or in any place prohibited by local or municipal law.

All the facts and laws before set out in re "wort" will apply with equal force to this section providing for the taxation of wine concentrate. The manufacture of wine concentrate is the first step in the manufacture of wine. The manufacture of wine for beverage purposes is a violation of the Constitution. Any law that will permit manufacture is unconstitutional and void. However, to assist in the enforcement of prohibition a tax may be laid on the unlawful business as an additional penalty in the suppression of the business, but not as a license. The suggested amendment should be adopted that there may be no misunderstanding.

The legal standing of concentrate as a commercial commodity is clearly stated in an opinion handed down by Judge Otis, western district of Missouri, October 16, 1931, in the case of United States *v.* Brunett (53 F. (2d) 219).

The court in a finding of facts says:

"4. I find the fact to be that the product sold by the defendants and possessed for sale by the defendant company as set out in the preceeding findings of facts, was a preparation compound, and substance manufactured by the defendant company * * *. And I further find that neither the concentrate nor the liquid sugar or nulomoline separately would undergo the process of fermentation, but that, when mixed together they were capable of and did ferment so as to have an alcoholic content of one-half of 1 per cent, and more by volume after a period of seven days from their admixture. And I find that the said preparation, compound, and substance was inherently capable of and designed to become, after a process of fermentation, a potable beverage having an alcoholic content of from 8 to 14 per cent of alcohol by volume.

"6. I find the fact to be that the defendant sold the preparation, compound, and substance, manufactured by the defendant company with the intent and design on their part and that the defendant company possessed for sale said preparation, compound, and substance with the intent and design on its part, that the purchaser of said preparation, compound, and substance should use it in the manufacture of wine and a vinous liquor containing more than one-half of 1 per cent of alcohol by volume and containing from 8 to 14 per cent of alcohol by volume, and intoxicating in fact, and that the said wine and vinous liquor would be used for beverage purposes, and that the manufacture of said wine and vinous liquor would not be by those who had permits to manufacture such wine and vinous liquor."

The Commissioner of Internal Revenue in his statement previously cited shows that in 1920 the internal revenue on wine was $4,017,596.82. From that date on that revenue has been decreasing, until 1931, the total revenue from that source was only $228,496.06. The legitimate production of wine has decreased with the production of concentrate, and grapejuice in other forms has increased, and as the grape production of wine in dwellings has been assured safety, law or no law.

Judge Otis found in the Brunett case, supra, that wine with an alcoholic content of from 8 to 14 per cent was intoxicating in fact. The Prohibition Bureau finds that homemade wine as seized in the United States averages 12 per cent alcohol. (P. 35, monograph previously referred to.) On page 34, the monograph shows that 100 per cent of wine grapes and 100 per cent of fresh raisin grapes are used for making wine, and on page 50 that 118,000,000 gallons of wine were possible from the material available.

The Agricultural Yearbook for 1931, table 228, page 743, shows the production of wine grapes:

1921	310,000
1930	415,000
1921 (fresh raisin grapes)	130,000
1930 (fresh raisin grapes)	550,000

The production of grapes for wine making had increased from 440,000 tons in 1921 to 965,000 tons in 1930. Evidently the illegitimate wine production is crowding the legitimate production out of the market.

Your attention is next called to the necessity of amending section 615, "Tax on soft drinks."

"(a) There is hereby imposed—

"(1) Upon all beverages derived wholly or in part from cereals or substitutes therefor, containing less than one-half of 1 per centum of alcohol by volume, sold by the manufacturer, producer, or importer, a tax of 2 cents per gallon."

Section 615 must necessarily be amended. This is a tax on soft drinks made of malted grain. Seventeen States and the District of Columbia, prohibit the sale of malt liquors regardless of alcoholic content. The supreme courts of these States have universally sustained the constitutionality and validity of these laws, and the rights of the States to enact such laws sustained by the Supreme Court of the United States.

The legislatures of many of these States have considered the repeal or modification of these laws but have been universally denied, excepting Wisconsin, which repealed this provision with all other intoxicating liquor laws. In none of these States is the manufacture of malt liquor permitted. This does not apply to the District of Columbia where malt liquors are unlawfully permitted to be both manufactured and sold.

We submit the following amendment:

Amend section 615 of H. R. 10236, tax on soft drinks. Following subsection (1), substitute a semicolon for the period at the end of the paragraph and add thereto the following: "*Provided*, That the payment of the tax imposed by this section shall not be held to exempt any person from any penalty, punishment, or forfeiture provided for by the laws of any State, Territory, or District, or in any manner to authorise the commencement or continuance of such business contrary to the laws of such State, Territory, or District, or in any place prohibited by local or municipal law."

The reasons of the people for prohibiting the manufacture and sale of malt liquors regardless of alcoholic content, or whether containing any alcohol, are set out and interpreted by the supreme courts of any of these 17 States a few of which opinions I submit briefly.

IOWA

"We reach the conclusion without the slightest doubt that the beverage in question, being liquor manufactured from malted grain irrespective of the amount of alcohol which it actually contains, and also without regard whether it is in fact intoxicating, is within the statutory description of liquors the sale of which is prohibited. We think that such liquor is beer within the statutory definition, but, whether or not, it is unquestionably a malt liquor." (Sawyer *v.* Botti, 147 Ia. 457; State *v.* Sickle, 151 Ia. 304.)

NORTH CAROLINA

"Although near beer properly made is a nonintoxicating beverage, the sale of it furnishes extraordinary opportunities for the violation of the State prohibition law; that it is made by those who make beer; sold by those who sell beer, and drunk by those who drink beer; and that it looks like beer, smells like beer, and tastes like beer. It stands legitimately in a different class from the business of selling soda, mineral water, lemonade, and the like. The very possibilities which the business gives for palming off real beer and other intoxicating drinks and prohibited drinks places it properly under the guardianship and control of the police power." (State *v.* Donnenberg, 66 S. E. 301.)

IDAHO

"The legislature in the enactment of this law evidently had in mind a twofold object: First, that of discouraging and as far as possible preventing intoxication and intemperance in the use of intoxicants; second and equally important, is that of protecting and preventing the boys and young men of the State from acquiring a taste for intoxicants and the habit of indulging in drinks and beverages that contain the intoxicating element.

"The legislature likewise recognized the fact that vinous, malt, and fermented liquors all contain, to some extent, the elemnet of alcohol, although it may not be to such a degree as will produce intoxication. They therefore concluded when writing this statute definding the words 'intoxicating liquors' to declare as a matter of law that all spirituous, vinous, malt, and fermented liquors are intoxicating, irrespective of the amount of alcohol they may contain and whether or

not the particular kind of drink will in fact produce intoxication." (In re Lockman, 18 Idaho 465.)

MISSISSIPPI

(Opinion by chief justice)

"I do not think the constitutionality of the statutes of this character (prohibiting malt liquors) can be successfully controverted. The police power of the State is broad enough to prohibit the sale of those things which it considers destructive of the health, the good morals, and the peace of its citizens. If the State has this power, it is necessarily vested with the authority to make its laws effective, and the subterfuges and disguises resorted to by the ingenious violators of the liquor laws are as well known to the legislator and the judges as to those who violate the law, knowing the schemes resorted to by those who would destroy the prohibition laws and make them farcical by their failure to give that protection from the evil of intoxicants, which is their design and purpose, the legislature has met all schemes of those who would evade, by prohibiting the sale of such subterfuges.

"It has prohibited the sale, not only of intoxicants, but of that character of nonintoxicants which go hand in hand with intoxicants. That is, have the character of intoxicants, though in truth they do not intoxicate. The police power of the State is not so impotent or restricted as that it can not come back and repel evasions. If this great power of the State could be thus thwarted by those engaged in criminal acts, it would indeed be an important thing. In criminal and in civil law, fraud, disguise, and pretense, whatever form it has assumed in an effort to subvert the good faith of the law, had not been subtle enough to evade the legislatures and the courts for long." (Fuller v. City of Jackson, 52 So. 877.)

MAINE

"While the legislature can not make that intoxicating which is in fact not intoxicating, it may prohibit the sale of a specific article as it has done in this case; and its right to do so is clearly a constitutional exercise of the police power. The issue was whether the defendant sold malt liquor. If he did sell it, it was in violation of the statute and it was not necessary in order to establish his guilt for the jury to go farther, revise the judgment of the legislature and determine whether malt liquor was or was not intoxicating." (State v. O'Connell, 58 Atl. 59.

NEBRASKA

(Opinion by chief justice)

"As we have seen, the statute prohibits the sale of either 'malt,' 'spirituous,' or 'vinous' liquors in specific terms by name. This is a specific and direct prohibition, but the legislature, recognizing the fact that there are other intoxicants which do not come strictly within the classes named, the words 'or any intoxicating drinks,' as in section 20, were used to cover all kinds not within the classes named, that if the charge and proof of any one of the classes be sold or kept for sale no proof of the intoxicating property of the liquor was necessary, and that it is only necessary to prove that the liquor sold or kept for sale is one of the classes forbidden." (Luther v. State (Nebr.) 120 N. W. 123.)

ALABAMA

(Opinion by chief justice)

"The legislature may not, in the exercise of the police power, prohibit the sale of malt liquor which is not intoxicating nor otherwise deleterious in any way, where the sole purpose and object is the prevention of the sale of that particular quality of malt liquor. But it is common knowledge that most malt liquors are intoxicating and harmful when used excessively. The sale of such, of course, the legislature has the power to prohibit, but if the prohibition should in terms go only to the sale of intoxicating malt liquors there would be less open opportunity for evasions of the law and there would arise such difficulties of proof as that the law could not be effectively executed; and the law makers having the undoubted power to prohibit and to prevent the sale of intoxicating malt liquors, and to enact to that end a law which can be executed so as to secure it, and finding that that can not be accomplished without extending the prohibition to all malt

liquors, whether intoxicating or not, such extension necessary to prevent the sale of intoxicants, is as essentially the proper exercise of the police power as the inhibition with reference to intoxicants." (Feibelman *v.* The State, 33 So. 384.)

MISSISSIPPI

"The sale of malt liquor is prohibited, whether in fact it intoxicates or not. 'Poinsetta' may or may not be an intoxicant; but it is a malt liquor, and as such is prohibited from being sold in this State. The prohibition law can not be made effective unless it includes all subterfuges." (Purity Extract & Tonic Co. *v.* Lynch, 100 Miss. 650.)

The above case was appealed to the Supreme Court of the United States, and Justice Charles E. Hughes, in writing the opinion of the Supreme Court, said:

"It was competent for the legislature of Mississippi to recognize the difficulties besetting the administration of laws aimed at the prevention of traffic in intoxicants. In thus dealing with a class of beverages which in general are regarded as intoxicating, it was not bound to resort to a discrimination with respect to ingredients innocuous beverages from the condemnation would facilitate subterfuges and frauds and deter the enforcement of the law.

"A contrary conclusion logically pressed would save the nominal power while preventing its effective exercise. The statute establishes its own category. The question in this court is whether the legislature had power to establish it. The existence of this power, as the authorities we have cited abundantly demonstrates, is not to be denied simply because some innocent articles or transactions may be found within the prescribed class. The inquiry must be whether, considering the end in view the statutes passes the bounds of reason and assumes the character of a merely arbitrary fiat.

"That the opinion is extensively held that a general prohibition of the sale of malt liquors, whether intoxicating or not, is a necessary means to the suppression of trade in intoxicants, sufficiently appears from the legislation of other States and the decision of the courts in its constructions. We can not say that there is not basis for this widespread conviction.

"The State, within the limits we have stated, must decide upon the measures that are needful for the protection of its people, and having regard to the artifices which are used to promote the sale of intoxicants under the guise of innocent beverages, it would constitute an unwarrantable departure from accepted principles to hold that the prohibition was beyond its reserved power." (Purity Extract Co. *v.* Lunch, 226 U. S. 204.)

Are we to jeopardize important laws of the United States and many State laws for the one purpose of revenue, when more money may be realized from enforcing the laws we now have than could possibly be realized from the proposed law if the tax was collected on every gallon of liquor sold. In passing the sections of the bill to which I have called attention without the protection of the amendment suggested we have everything to lose and nothing to gain.

If the enforcement agents refuse or neglect to enforce the laws we now have, how can the same agents be expected to collect the tax proposed, loyally and efficiently?

TAX ON GRAPE CONCENTRATES

STATEMENT OF MUNSON G. SHAW, SHAW SALES CO., NEW YORK CITY

Mr. SHAW. My name is M. G. Shaw, Shaw Sales Co., New York.

The CHAIRMAN. Proceed with your statement, Mr. Shaw.

Mr. SHAW. In regard to the tax on concentrated grapes, which is 40 per cent on the sales price, with the provision in there that if the concentrate contains a preservative sufficient to prevent fermentation when diluted, it is free.

The future of the grape grower lies in the sale of the concentrate. The product of the grape grower from his fresh fruit has a very limited market in the sale for table use, for the manufacture of raisins, for the manufacture of preserves and confections, particularly so as it is one of the most perishable products and must be sold within a period of two or three months.

The invention of concentrates, gentlemen, is simply this. It is the extraction of the water by vacuum under controlled temperature, which brings the natural segregation of the grape up to 70 per cent. At 70 per cent it can not ferment. It will keep indefinitely if properly stored. It may be stored economically. It may be transported economically. It has in that condition a real future. It is the only salvation which the grape grower of this country has. It is the modern, up-to-date method of marketing grapes.

Senator SHORTRIDGE. This is grape concentrate?

Mr. SHAW. Grape concentrate. It is condensed grapes, that is what it is.

Now, there is a use on the market of grapes for the production of pasteurized grape juice. When you pasteurize grape juice you lose the exquisite flavor of the fresh fruit. You get an insipid beverage, which has never become very popular in this country. The concentrate is to be taxed, unless, as you claim in this present bill, a preservative is added sufficient to prevent fermentation as diluted. That means an enormous amount of preservative. The usual preservative in any fruit is benzoate of soda. If you add benzoate of soda in sufficient quantity to grape concentrate, you immediately preclude the use of grape concentrate in baking, because your yeast won't work with that preservative in there. You put it out of the soft drink business, because you kill the flavor with your benzoate of soda or any other preservative that you may add there, because you have got to add a tremendous quantity in the concentrate.

Senator SHORTRIDGE. To prevent fermentation?

Mr. SHAW. To prevent fermentation, yes. Now, the concentrate does this: A manufacturer or user of it can buy fresh fruit the year round, instead of having to buy in the short season of two months. There are two or three times the quantity of grapes produced to-day that there were before prohibition. The market is glutted with them.

The grape grower to-day can not get enough money out of the sale of his grapes to pay for cultivation. No end of grapes hung on the vines last year and were destroyed. The market for grapes in this country—and it is a tremendous market—is in the concentrate. To tax that concentrate to-day, when neither the manufacturer nor the consumer knows what he can get out of his concentrate, means that it can not compete with grape juice, on which there is no tax placed.

You find with the concentrate that the home owner may have his fresh fruit by simply taking a small quantity of concentrate and adding water to it and mixing it in a glass and it is just as though he squeezed the fresh juice right out of the grape. On that branch of the business it can not be taxed and it should not be ordered to have a preservative put in it, but there is a field for the sale of concentrate in which it can bear a tax.

The CHAIRMAN. You make just about as good an argument as all of the others have.

Senator HARRISON. It makes a mighty poor wine, doesn't it?

Mr. SHAW. No, sir; it makes a delicious wine. [Laughter.] I want to say this: If in phrasing that section you will put in there certain wording which will permit the sale of grape juice and grape concentrate for use in the home for the manufacture of nonintoxicating fruit juices, you can stand a tax. But that is the only juice that can stand a tax. That is provided for, as you all know, by section 29. In a recent decision it has been held that the home owner is only exempt if he actually goes and takes his fresh fruit and squeezes the juice himself.

The CHAIRMAN. Very well.

Senator SHORTRIDGE. Very well stated.

LETTER FROM MUNSON G. SHAW, REPRESENTATIVE OF SHAW SALES CO. (INC.)

APRIL 18, 1932.

Hon. REED SMOOT,
Chairman Senate Committee on Finance,
Washington, D. C.

DEAR SIR: Section 601 (c) (3), the tax of 40 per cent of the price for which sold levied in this section on grape sirup, grape concentrate, and evaporated grape juice, if containing more than 35 per cent of sugar by weight and not containing preservative sufficient to prevent fermentation when diluted, will be a fatal blow to the grape growers in the United States whose only hope for expansion of the market for grapes lies in development of the sale of grape concentrate. The market for grape concentrate has not been developed. The sale of this product is in its infancy.

There are over three times as many grapes grown in the United States to-day as were grown before prohibition. There is an overproduction of grapes, so that the price obtained by the grape grower is not sufficient to reimburse him for the cost of production. Every grower is being carried by his banker with the only hope of liquidation of either being by the possibility of an increased demand. The increased sale of grape concentrate is the only solution. In 1930 over 300,000 tons of grapes were left to rot on the vines in California alone.

The limited market for the sale of grapes is because grapes are a most perishable product and must be sold and delivered within a very short time after being harvested, but grape concentrate may be sold 12 months in the year, making it possible for both manufacturers and consumers to have fresh grape juice continually.

Grape concentrate is a new product, prepared as the result of a recent discovery by extracting the water from the freshly expressed juice of the grape by vacuum under controlled temperature, thus raising the natural sugar of the grape to about 70 per cent.

With this percentage of sugar, grape concentrate can not ferment and will keep indefinitely. It may be economically stored and economically transported.

The superiority of grape concentrate is not as yet appreciated by either the manufacturer or by the individual consumer. When this is known, there will be innumerable uses for it in the preparation of many food products. Grape concentrate also gives the individual fresh grape juice all the year round. It is simply necessary to take a small quantity of grape concentrate, add water to it, and the consumer has a beverage equal to the fresh juice of the grape, and superior to pasteurized grape juice, for when grape juice is pasteurized it loses the exquisite flavor of the fresh grape and is rather insipid.

If grape concentrate is taxed at 40 per cent of the price sold, the sale will be almost eliminated. Grape concentrate is sold in competition with grapes which are not taxed and with grape juice also untaxed, except as provided in section 615.

If a preservative is added to grape concentrate it will destroy its use for home consumption and for manufacturing purposes. The usual preservative in foods is benzoate of soda. If sufficient benzoate of soda is put into the concentrate so as to prevent fermentation when the concentrate was diluted, the concentrate could not be used in baking, as the benzoate of soda would prevent the action of the added yeast. It could not be used for fountain sirups or for the making of grape juice, as the flavor would be destroyed and the taste of the benzoate of soda would render it most unpalatable. Besides some States prohibit the sale of food products which contain benzoate of soda. Whatever action Congress takes in regard to taxing grape concentrate, no provision should be made that a preservative must be added.

Grape concentrate and grape juice, when sold for manufacture in the home of nonintoxicating fruit juices, as provided in section 29 of the national prohibition act, can afford to pay a reasonable tax.

Section 29 of the national prohibition act reads—

"The penalties provided in this act against the manufacture of liquor without permit shall not apply to a person for manufacturing nonintoxicating cider and fruit juices exclusively for use in his home, but such cider and fruit juices shall not be sold or delivered except to persons having permits to manufacture vinegar."

This provision was put in the national prohibition act on the recommendation of many members of Congress to exempt their constituents from a violation of the prohibition law when they made in their homes fermented cider and fruit juices. Unless this exemption had been put in, this act could not have been passed over President Wilson's veto.

When the Volstead law was enacted a new product was created, namely a nonintoxicating fruit juice. A nonintoxicating fruit juice is made by converting a fruit juice by natural fermentation in the home.

A nonintoxicating fruit juice is one that contains more than one-half of 1 per cent of alcohol by volume. Otherwise it had no place in the national prohibition act.

There have been many decisions on this section of the Volstead law, some judges holding one way and some another. The majority have held that section 29 legalized the fermentation in the home of fruit juices, but one judge holds that for a householder to benefit by this exemption he must express the juice of the fresh fruit in his home.

There is about three times as much grape juice sold for home fermentation as grape concentrate. Grape juice when sold for this purpose should be taxed proportionately.

If, therefore, in taxing grape juice and grape concentrate for sale for use for manufacturing a nonintoxicating fruit juice in the home, Congress will clarify section 29 of the Volstead law, the Government will obtain considerable revenue.

The 40 per cent tax of the price for which sold is an unsatisfactory tax, a difficult one to determine and subject to evasion. We, therefore, advocate a flat rate of, say 40 cents a gallon on grape concentrate and a corresponding tax of 10 cents a gallon on grape juice. One gallon of concentrate will produce 4 gallons of grape juice.

We recognize the necessity of the Government's raising money by increased taxes. Our object is to point out to you where a tax on grape concentrate and not a tax on grapes or grape juice when used for the same purpose is a handicap to the expansion of the grape concentrate business. A tax can be paid if assessed against all branches of the grape industry on the sale for use for the manufacture of nonintoxicating fruit juices in the home. We suggest the following wording:

"Grape juice, grape syrup, grape concentrate and evaporated grape juice, when sold for use for manufacturing in the home of nonintoxicating fruit juice,

which is hereby authorised, if containing less than 35 per cent of sugar by weight 10 cents a gallon; if containing 35 per cent or more of sugar by weight 40 cents a gallon, or in the case of such articles imported into the United States 40 per cent on both the ad valorem price and on the import duty provided by law."

This wording does not go beyond the provision of section 29 of the national prohibition act, but will clarify it so that the householder will know that he may legally make in his home nonintoxicating fruit juices, either from fresh fruit, grape juice, or grape concentrate.

Respectfully submitted.

SHAW SALES, (INC.),
By MUNSON G. SHAW,
Representative.

STATEMENT OF MARION DE VRIES, REPRESENTING THE CALIFORNIA VINEYARDISTS ASSOCIATION

Mr. DE VRIES. Mr. Chairman and members of the Finance Committee of the Senate, this appearance is made on the request of Mr. Donald D. Conn, managing director, and in behalf of the California Vineyardists Association, an agricultural cooperative representing approximately 18,000 growers in California.

Grape sirup, or grape concentrate, has been developed into an economically marketable product of the grape.

The economic picture of this agricultural product is well analyzed by Dr. Alonzo E. Taylor, nationally known economist, in part as follows:

Grape sirup, or concentrated grape juice, is only one of a long series of concentrates of fluid foodstuffs. As other illustrations will serve, milk (for animal products) and tomato juice (for vegetable products). Many fruit juices are concentrated in different countries. It is not a peculiarly American practice, nor was it developed—though perfected—after the war. Originally the concentrated fruit juices were designed for special reference to tropical markets; but they are now being developed for markets in the temperature zone in order to check spoilage, prolong season of availability, facilitate handling, and lower freight and other costs of distribution.

The grape juice is concentrated by evaporation in a vacuum until the sugar content runs over 70 per cent, with corresponding contraction of volume. It is then stored in cans. This concentration prevents spoilage and reduces the volume two-thirds or more.

This method of marketing has the advantage for producers of increasing the outlets, presenting alternate products, prolonging the season of distribution and consumption and of much lower freights and other costs of distribution.

Grapes have four customary uses in the diet: As fresh fruit; as a conserved fruit in many forms, such as jelly, sauce, catsup, and so on; as unfermented beverage; and as fermented beverage.

The product is a thick semifluid, with an invert-sugar content of over 70 per cent and total solids approaching 80 per cent.

The purpose of concentration is twofold; to prevent spoilage and to facilitate handling and reduce transportation charges. Since spoilage is prevented by high sugar concentration, refrigeration is dispensed with, which means a heavy saving. The saving in handling and freight charges is the direct result of reduction of volume. When grapes are dried to raisins, the same two objectives are accomplished. Spoilage is avoided, handling facilitated, and freight charges reduced. Raisins are changed, however, by drying in the sun, whereas grape juice is practically unchanged when properly concentrated. When the water is restored, the redfluted juice has the same odor and aroma as the virgin juice. Whatever has been lost has no known significance in the physiology of digestion or in the chemistry of foodstuffs. It is a hypothetical loss; it is not a practical loss to which any importance is ascribed by the consumer.

The ability to concentrate a fruit juice increases enormously the potential outlet of the grape growers. If grape juice must be shipped in small individual bottles, it remains a high-priced soft drink. If it may be shipped concentrated in cans, then this may be used as stock, and the daily supply of the unfermented

beverage prepared. More and more the soft drink fountains rely upon concentrates for their flavors; many of them use butter for their ice cream, and dry milk for their milk shakes. The use of concentrates along the entire line is in the direction of efficiency, and the saving becomes of importance in the low-priced popular but very great trade, such as the 5-cent drink of orange, pineapple, and grape juice.

Properly construed, in the essential sense of the term, concentration of grape juice is a marketing process, a method of preventing spoilage during distribution, and very greatly extending the period of distribution. There are many analogies with other food products.

I may well here add to this statement of Doctor Taylor that contrary to the general impression, the manufacture of grape sirup or concentrate was inspired and adopted as an economical method of marketing food products, to wit, the grape and all its products. These include table and manufacturing sirups, grape jellies, meat sauces, ice cream, candy, carbonates, soft drinks, and many food products. The saving in freight charges alone over that of the fresh grape is said to be about $40 per ton estimated on the fresh-grape rate, a sufficient saving, if generally effective, to convert an unprofitable agricultural industry into a profitable one.

Section 601 (c) (3), page 247 of the proposed revenue act of 1932, before the committee for consideration reads:

Grape sirup, grape concentrate, and evaporated grape juice, if containing more than 35 per centum of sugar by weight and not containing preservative sufficient to prevent fermentation when diluted, 40 per centum of the price for which sold or in the case of such articles imported into the United States, 40 per centum ad valorem.

The proposed tax as therein provided will render economically impossible the marketing of any grape sirup or grape concentrate.

The estimates of revenue under the proposed act do not segregate those for brewers' wort from those for grape sirup. However, much the former may be, the latter, in any event, would be relatively infinitesimal; and under this provision of the proposed law, entirely nil.

Practically one-half if not more of the holdings and production of grape sirup or concentrate in the United States are by Fruit Industries (Ltd.). The quantity now in warehouse in the United States owned by Fruit Industries (Ltd.) is estimated to be 1,400,000 gallons. When any part of this 1,400,000 gallons is sold, Fruit Industries (Ltd.) is obligated to pay the Federal Farm Board approximately $1 per gallon as and when withdrawn upon warehouse receipt. The wholesale price of grape sirup for all purposes ranges from 85 cents to $1.50 per gallon, dependent upon use. The amount of grape sirup actually sold in the United States during the past year by Fruit Industries (Ltd.) was approximately 210,000 gallons.

The cost of production of the same delivered in warehouse subject to the Government mortgage is approximately 60 cents per gallon.

From the foregoing figures we deduce the following:

The average sales price of grape sirup is $1.75 per gallon.

The average annual sales that can be expected under present conditions without the tax will not under normal conditions exceed 500,000 gallons.

The average value of 500,000 gallons, the estimated annual sales per year, would be $587,500.

Senator SHORTRIDGE. Of the 500,000 gallons?

Mr. DE VRIES. 500,000 gallons, yes. The average value of 500,000 gallons, the estimated annual sales per year, would be $587,500.

Therefore, if concentrated sales continued under the proposed tax, up to the standards of the present, it is entirely improable, the total tax per year that could be expected under this proposed law from grape sirup would be 40 per cent of $587,500 or $235,000 should sales nor be diminished under this tax, a very minor portion of the estimated revenue from the tax laid in this bill upon brewers' wort malt sirup and grape sirup of $46,000,000.

But how may it be expected that, with this tax levied thereupon, a single gallon of grape sirup could or would be economically marketed?

As pointed out, Fruit Industries (Ltd.), must pay the Government approximately $1 per gallon upon all withdrawals. Under this proposed tax, therefore, there would be added thereto on an average 40 per cent of the $1.175, the average sale price, of 47 cents tax per gallon, making the tax and mortgage releasure price $1.475 per gallon.

The withdrawals from warehouse, therefore, under this proposed law would be practically equal to the highest wholesale price of grape sirup in the markets of the United States. When, in addition to that, we take into consideration the cost ot Fruit Industries (Ltd.), of delivering grape sirup into the warehouse at 60 cents per gallon, the economic impossibility of operating under this proposed tax is presented in its fullness.

On the accepted basis that a ton of grapes will produce 35 gallons of grape sirup or concentrate of the average value of $1.175 per gallon, this proposed tax amounts to $16.45 per ton on every ton of grapes produced and is in effect a direct tax of that tremendous amount directly against the grower of an industry already found by the Federal Farm Board in dire necessity of Government aid. On the basis of an average production of 5 tons of grapes per acre this would amount to $82.50 per acre against the grape farmer, as against the producer where grapes are not marketed as a syrup or concentrate but as fresh grapes or grape juice and not taxed, it will readily be seen that under this tax, business would be impossible and the marketing progress of the grape grower would be ended.

Why with the one hand give aid by the Government and with the other wreak destruction by the Government? It will serve the Government revenues far better upon this subject matter by eliminating this proposed tax, thereby permitting Fruit Industries (Ltd.), to continue to market its grape sirup, which comprises between 5 and 8 per cent of its business, and accordingly increase the Government's revenues by permitting payment of the Government's mortgage on Fruit Industries (Ltd.).

Bearing in mind that 1,400,000 gallons of grape sirup of Fruit Industries (Ltd.), is stored in warehouses in different sections of the country; that all additional such by it made must likewise be stored subject to the Farm Board's obligations; the cost of overhauling such or any part thereof on sale, opening and possibly supplying new containers, and so forth, in order to introduce the statutory preservative, obviously would entail what easily might be a prohibitive expense as well as render the product commercially worthless.

Senator SHORTRIDGE. Judge, the Government has advanced to the companies for whom you speak how much money?

Mr. DE VRIES. I do not know exactly, Senator. I think the total advances by the Government to the grape industry were about $24,000,000, and they paid back about $12,000,000 of that.

Senator SHORTRIDGE. The company gives a mortgage in effect upon the grape concentrate?

Mr. DE VRIES. Yes.

Senator SHORTRIDGE. When a sale is made, a certain amount of money must be paid to the Government?

Mr. DE VRIES. Yes; $1 per gallon and this tax will make it $1.47 a gallon. The highest wholesale price is about $1.50 a gallon. So it is readily to be seen that the enforcement of this tax would put Fruit Industries out of business; the Government would not get its mortgage back; there would be no sales of grape concentrate or grape sirup.

Senator SHORTRIDGE. I think I understand that, but others may not. In other words, for the benefit of some of us who may not understand, and for the record; what is the technical name of that company?

Mr. DE VRIES. Fruit Industries (Ltd.).

Senator SHORTRIDGE. Fruit Industries (Ltd.) have borrowed from the Government a large sum of money?

Mr. DE VRIES. Yes.

Senator SHORTRIDGE. And it in a sense mortgages its product to the Government?

Mr. DE VRIES. Among other properties, yes.

Senator SHORTRIDGE. And the agreement as between the company and the Government is, among other provisions, that upon the sale of a gallon of this article, $1 must be paid to the Government?

Mr. DE VRIES. Exactly.

Senator SHORTRIDGE. In the reduction of the Government's debt?

Mr. DE VRIES. Exactly. Now, this tax amounts to 47 cents a gallon. You add 47 cents a gallon to a dollar a gallon. You will readily see there is no possibility of operating under a tax as high as that.

The CHAIRMAN. Not unless you can increase the price.

Mr. DE VRIES. Yes. That is impossible in present trade conditions.

Senator SHORTRIDGE. The general average market price for the article is how much?

Mr. DE VRIES. Between 85 cents and $1.50. The average retail price is $1.175 a gallon.

Senator SHORTRIDGE. Sold to the consumer?

Mr. DE VRIES. In wholesale quantities; yes.

Nor is any substantial exception made to the above conclusions by the exemption from the tax in the proposed act of such grape sirup to which has been added "preservative sufficient to prevent fermentation when diluted," as by the act provided. The only known and practically usable preservatives of this character for this product are benzoate of soda and formaldehyde. The latter has recently been used in attempted importations of so-called sugar sirups to prevent fermentation while being imported. In such cases the preservative is evaporated off in the refining processes. To introduce such a preservative into grape sirup or other food products, of course, is unthinkable. To introduce benzoate of soda therein, as in this bill provided, will equally destroy grape sirup or concentrate for its chief,

if not all, of its recognized commercial uses. In witness of this there is here produced a letter from the department of public health of the State of California, which I read:

STATE OF CALIFORNIA,
DEPARTMENT OF PUBLIC HEALTH,
Sacramento, April 7, 1932.

Mr. DONALD D. CONN,
Managing Director Fruit Industries (Ltd.),
San Francisco, Calif.

DEAR MR. CONN: The following is in reply to your inquiry concerning the effect of benzoate of soda in grape concentrate when the latter is used in certain food products.

Benzoate of soda is added to food products only for the purpose of retarding fermentation. If enough were added to prevent a diluted sirup from fermenting, it would have the same retarding effect on the fermentation of bread dough if the grape concentrate were used as a source of sugar. Consequently, such grape concentrate would be impractical in the baking industry.

If benzoated sirups were used in any food products, the presence and amount of benzoate in the finished product would have to be declared on the label in order to conform to the requirements of State and Federal food laws.

Physicians will object to the presence of benzoate of soda in grape concentrates supplied to hospitals for dilution back to grape juice.

Benzoate of soda has a disagreeable flavor which makes its use impractical in table sirups.

Yours very truly,

C. H. MCCHARLES.

I am unofficially advised by officials of the United States Department of Agriculture that the addition of benzoate of soda in grape sirup in sufficient quantities to "prevent fermentation when diluted" would render it unsuitable for use in the baking industry.

I am further unofficially advised by such officials that the introduction of the required amount of benzoate of soda in grape sirup to "prevent fermantation when diluted," as provided in the proposed act, would be unpleasantly perceptible to the taste in beverages made therefrom. That would, of course, detract from if not destroy their marketable value.

It may be taken therefrom as established that the introduction of benzoate of soda into grape sirups which are to be used in the manufacture of soft drinks and for baking purposes, will entirely destroy the suitability of such sirups for these uses.

Moreover, there is no such legal requirement as to other sugar sirups nor as to malt sirups provided for in the same section of this bill. So why thus discriminate against grape sirups? Furthermore, some States prohibit the sale therein of such products as contain benzoate of soda.

Recent economical marketing processes of sugars in the United States for manufacturing purposes are in the form of liquid sugar. Those bakeries, canneries, candy manufacturers, and other consumers of vast quantities of sugars are purchasing the same in the form of liquid sugar. Extensive enterprises for the conversion of raw and refined sugars into liquid sugar and the marketing of the same in tank cars or trucks, pumping the contents into especially prepared tanks by the particular manufacturer, in order to save the use of bags and other containers, the more extensive handling and the greater incidental losses are being rapidly established at various distributing points throughout the United States. This comparatively new method of handling and marketing sugars in the form of

liquid sugar recently attracted extensive efforts to import sugars into the United States in the form of alleged "sugar sirups" by dissolving a pound of sugar in a gallon of water, introducing a temporary preservative that was evaporated on its refining, and entering the same as a "sugar sirup" under paragraph 502 of the tariff act of 1930, thereby reducing the rate of duty upon the contained sugar approximately from 2 cents to one-fourth cent per pound. So far these efforts have been rightfully checked by decisions of the Treasury Department and the courts. This new form of marketing sugar, however, has opened an extensive field for the sale of grape sirup. The best talent of the appropriate departments of some of our universities has been invoked, and outside talent employed, by Fruit Industries (Ltd.) in the perfection of a grape sirup suitable for this trade and for all sugar manufacturing purposes. Successful results have been attained and this extensive market is rapidly being invaded by grape sirup. It affords a tremendous outlet for an extensive agricultural product of the United States. It is estimated that more than 500,000 acres of land in the State of California alone are planted to grapes. The annual output is more than 2,000,000 tons and the investment more than $350,000,000.

The potential grape sirup market for baking purposes alone is 5,000,000 gallons annually. Fruit Industries (Ltd.) has commenced to tap this market with grape sirup at a wholesale price of $1 per gallon. Volume must be developed to realize a profitable return. But neither Fruit Industries (Ltd.) nor the California grape grower can expect or hope, if handicapped with this tax, to compete in these markets with the other sugar sirups, none of which is by this bill, when so used, taxed. The discrimination becomes more marked when we note in the next preceding paragraph of the proposed act that the tax laid upon malt sirup is expressly excepted from such when used for baking purposes. The placing of the tax provided by this proposed bill upon grape sirup of 40 per cent is therefore an unjust discrimination against that kind and class of sirup.

The requirement that benzoate of soda or formaldehyde be added thereto, as is by this bill had, in order to be relieved of the tax will destroy the product for baking purposes and for soft drinks, not to mention other uses. It is therefore an unjust discrimination against a particular agricultural product, particularly an agricultural product of such magnitude and condition that the Federal Farm Board has found Government aid warranted for its resuscitation from its depressed condition.

Some idea of the magnitude of this market is afforded by a recent report upon the table sirup from grapes by W. V. Cruess and D. S. Glenn, of the Fruit Products Laboratory of the University of California, as follows:

> According to statistics published by the United States Department of Agriculture, about 4,000,000 gallons of pure maple sirup, about 35,000,000 gallons of sorghum sirup, more than 125,000,000 gallons of "blended sirups" made of cane sugar, water, and corn sirup or of cane sugar and water, and about 20,000,000 gallons of sirup made by concentrating sugarcane juice are produced annually in the United States. The total of these classes of sirup is about 184,000,000 gallons. Corn table sirup is not included in this list. Industrial sirups such as malt sirup for bakers' use, and corn sirup and invert sugar sirup for confectioners' use also have been omitted. It would appear safe to assume that in the United States more than 185,000,000 gallons of table sirup is consumed annually. It

would require, on the basis of 40 gallons of sirup per ton, about 4,625,000 tons of grapes to produce this quantity of sirup, or 462,500 tons to produce 10 per cent of this quantity. While it is doubtful whether even 10 per cent of the table sirup now consumed in this country could be displaced at once with grape sirup, nevertheless it is believed that grape table sirup of the proper quality would be favorably received and that its manufacture would in time utilize a considerable proportion of the grape surplus.

The wholesale value of table sirups, with the exception of maple, is not sufficiently high to yield a very large return for grapes and raisins. However, if the manufacture of table sirup is considered as one means of disposing of some of the grape surplus, the relatively low direct return would be justified. The present wholesale prices of table sirups are $1.55 to $1.75 per gallon for imitation maple sirups in gallon containers, $1.09 to $1.30 per gallon for blended sirups, $1.10 for a 10-pound can of best quality sugar cane sirup, $1 for a 10-pound can of sorghum sirup, and 63 to 72 cents per 10-pound can of corn sirup for table use in California. A 10-pound can of sirup contains approximately nine-tenths of a gallon. The average is about $1.18 a gallon, according to California quotations. At this average wholesale price and a yield of 40 gallons per ton of grapes, the value from a ton of grapes would be approximately $47.20.

It is unbelievable that, in the presence of this great a market, consuming more than 185,000,000 gallons of sirup per year, after the expenditure by Fruit Industries (Ltd.) of thousands of dollars and years of experimentation in perfecting a quality grape sirup, an agricultural product, and its successful entry into competition with other sirups in this market, Congress would lay a tax of 40 per cent upon grape sirup and not one cent of tax on other sirups when competing in this market. Not only does this bill single out grape sirups and place this tax handicap upon them, but there is added a statutory quality handicap. What possible justification can there be for such discrimination?

The sale of carbonated beverages in the United States may be estimated from the luxury tax collected by the Internal Revenue Department. The year 1923 was the last year in which this tax was collected. Based on the figures for 1923 and allowing 1 per cent increase in consumption per year with the growth of population, 17,565,000,000 six-ounce carbonated drinks were consumed in the United States. The Department of Agriculture estimated that much less than 1 per cent were fruit drinks containing a substantial amount of fruit juice. Over 99 per cent were classed as synthetic, with flavors made from coal tar, or flavored with essential oils, or made from roots and herbs.

From this it may be seen that a pure fruit beverage, having a flavor in keeping with the public's taste and having the vitamin essential to health and which can be sold at a price to compete with the cheapest synthetics, has every advantage possible. It might be thought that 90,000 gallons of 6:1 concentrate, which, when diluted for use, will make 360,000 gallons of prepared sirup, which, at 120 drinks per gallon, will make 43,200,000 drinks, is a lot of concentrate to make and market. It would be a lot to make and market if no use for the product was already established. However, this is not the case as other than the beverage industry can consume this amount. Even if the beverage industry was the only market 43,200,000 drinks is only 0.246 per cent of the total consumed yearly, less than one-fourth of 1 per cent. One per cent of the total would require 360,000 gallons of concentrate. Ten per cent of the total would require 3,600,000 gallons of 6:1 concentrate. Coca Cola sales average 9,000,000 glasses per day. This is 3,285,000,000 per year, or 18.7 per cent of the total

consumed, so that, while it took years to develop Coca Cola to its present position, it proves that it is possible for a good beverage to sell nearly one-fifth of the total consumed.

In the great commercial field of carbonated and soft-drink beverages, the latter estimated at 17,565,000,000 6-ounce carbonated drinks in the year 1930, grape sirup has made appreciable inroads. As a prospective field of advantageous marketing it is most promising. Much money and scientific effort has been devoted by Fruit Industries (Ltd.) to this development and trade progress. This proposed tax provision will destroy that trade. A pure fruit drink will thus be denied this market. For not only is an unjustly discriminating tax laid on grape sirup by section 601 (c) (3), but a commercially damaging added preservative is required as to grape sirup alone. The average proposed tax upon grape sirup (sec. 601) as we have seen is 47 cents per gallon, while upon other sirups (sec. 615) it is from 5 to 9 cents per gallon and that solely when used for carbonated and soft drink purposes.

There is a serious question as to whether or not the provision of the bill before the Senate levying a duty upon imported grape sirup does not repeal the provisions of the existing law thereupon, to wit, section 806 of the tariff act of 1930. In any event, the addition of the words "in addition to the import duty provided by law" at the end of the sentence, line 15, page 247, would obviate any such inevitable issue being raised in the courts.

In conclusion it is respectfully suggested:

(1) That subdivision (3) (c), section 601, page 247, be stricken from the bill.

(2) That if this proposed tax be not stricken from the bill, the words "and not containing a preservative sufficient to prevent fermentation when diluted," the figures "40" in lines 11 and 12, and the figures "40" in line 14, be stricken from the provision, and that in line 10, after the words "grape juice" there be inserted, in parentheses, words and figures as follows: "(unless sold to a baker for use in baking or to a manufacturer or producer for manufacturing or producing other than beverages, or for use in the manufacture of or as soft drinks as provided in section 615)."

And if taxed at all, insert, in lieu of "40" as so stricken, more reasonable rates of taxation. So that the provision, with the newly added matter in italic and the deleted matter inclosed in black brackets, would be as follows:

(3) Grape syrup, grape concentrate, and evaporated grape juice (unless sold to a baker for use in baking or to a manufacturer or producer for manufacturing or producing other than beverages, or for use in the manufacture of, or as soft drinks as provided in section 615), if containing more than 35 per centum of sugars by weight [and not containing a preservative sufficient to prevent fermentation when diluted, 40] — per centum of the price for which sold, or in the case of such articles imported into the United States, [40] — per centum ad valorem *in addition to the import duty provided by law*.

(4) It is respectfully suggested that in lieu thereof, if grape syrup or grape concentrate is to be made a subject of taxation in the bill, the sale of the same as authorized by the words of the Volstead Act, section 29, should be expressly reaffirmed without adding anything to or changing the words of the Volstead Act, thus counteracting the erroneous construction thereof by certain inferior courts and legislatively interpreting the same as long interpreted by the departments of the Government. Such a provision might well be inserted in the act so effecting with reasonable though necessarily small tax rates. A legislative formula therefore with rates left blank is here submitted. Such rates, however, should be very small in order that the trade relationship between grape concentrate, fresh grapes, and grape juice be not unbalanced. The committee, of course, will bear in mind that grape concentrate in use is almost uniformly diluted

into grape juice, therefore, any tax upon grape concentrate puts the grape juice made therefrom to a commercial disadvantage when sold in the markets in competition with fresh grapes not taxed and grape juice not made from grape concentrate and not taxed. This reason alone must be convincing that any tax whatsoever save a very minor one upon grape syrup or concentrate will drive the same from our markets, and thus without any benefit to the Government an economical method of marketing these agricultural products be destroyed.

The suggested provision follows:

Grape sirup, grape concentrate, and evaporated grape juice, when sold, which is hereby authorized, to be made by or for the householder into nonintoxicating fruit juices for use in the home only and not for sale, if containing more than 35 per centum of sugars by weight ————; or, in the case of such article imported into the United States, ———— in addition to the import duty provided by law.

We appeal to you in behalf of the third greatest industry of the State of California, an industry which more than any other in the United States shares its gross returns with labor and other industries, more than one-half thereof being paid out for freight alone running into millions each year; an industry which the Government encouraged into tremendous investment in order to share in its profits by way of revenues from its wine output and then, barring a year or two thereafter, was throttled almost to destruction by its prohibition laws; an industry wherein, although its concentrate sales amount to approximately 500,000 gallons per year, is harrassed in its sales thereof, while sales of malt concentrate known as brewers' wort, used solely to make beer, in a single State, as shown by the tax returns to that State, amount to more than 20,000,000 gallons in a single year, ten times as much as all the grape concentrate in existence in the whole United States, thrive comparatively unharrassed.

We submit that in all fairness this proposed tax should be entirely eliminated; or the existing statutory right to sell grape sirup or concentrate for use in the home and not for sale should be by the Congress affirmed, whereupon a fair but necessarily small and not exterminating tax confined thereto might be laid upon this minor source of resuscitating revenues of an already unprofitably depressed industry.

I thank the committee for the courtesy of this hearing.

TAX ON COAL IMPORTS

STATEMENT OF ARTHUR HALE, WASHINGTON, D. C., CHAIRMAN COAL EXPORTERS ASSOCIATION

Mr. HALE. My name is Arthur Hale, Washington, D. C. I am chairman of the Coal Exporters Association. I appear against the excise on imported coal.

Senator REED. Whom do you represent? How many concerns are in this Coal Exporters Association?

Mr. HALE. The Coal Exporters Association has five members. They export 74 per cent of the coal overseas.

Senator REED. Will you give us the names of those five, please?

Mr. HALE. The Consolidation Coal Co., C. W. Hendley & Co., Baltimore, the Smokeless Fuel Co., Corey-Mann-George Co., J. B. Rolph Co.

Senator REED. You do not represent Berwind-White Coal Co.?

Mr. HALE. We do not, no; not in that particular matter.

Senator REED. They are very large exporters.

Mr. HALE. Yes; they are very large exporters. I do not know that they export to Canada. And I am speaking chiefly with regard to trying to preserve our exports to Canada. Our exports abroad, overseas, have fallen off very largely in the last year, but we are still preserving exports to Canada, and it is in order to preserve those exports that I ask you to consider the elimination of the excise tax on imported coal.

If you will look at the map which I have distributed you will see that out total imports of coal are less than three-quarters of a million tons. Our exports of Canada alone are over 10,000,000 tons. These 10,000,000 tons to Canada brought us in $55,000,000 last year. And in prior years it was very much more.

Senator GORE. Was that mostly anthracite or bituminous?

Mr. HALE. It is mostly bituminous.

Senator HARRISON. What are the total exports?

Mr. HALE. Our total exports during 1931 were 11,073,000 tons.

Senator HARRISON. There were about 400,000 tons of exports outside of Canada?

Mr. HALE. No; about one and one-half million outside of Canada last year. About a million and a half overseas.

Senator HARRISON. You say all the exports from the United States to Canada were 11,073,000 tons?

Mr. HALE. Yes; that is right. But excuse me. I did not give you our total exports.

Senator SHORTRIDGE. To what other countries do you export?

Mr. HALE. We export—or did last year—we exported to Italy and the other Mediterranean countries, to Brazil and other South American countries, about one and one-half million tons. And we are not afraid of the influence of this import tax on those exports. But we are afraid of the influence on Canada.

Senator SHORTRIDGE. How would it affect it? What is the philosophy of it? What is your reason for the opinion you have expressed?

Mr. HALE. We are afraid that Canada will put on a retaliatory duty.

Senator REED. Her exports of coal to us are only 57,000 tons, according to this?

Mr. HALE. That is all that there are on here; yes.

Senator REED. Do you think that to protect 57,000 tons she will expose her people to an import tax on 11,000,000 tons?

Mr. HALE. It is not so much that, Mr. Senator. It is to increase the use of her own coal. She has coal in Nova Scotia. She has coal in Alberta. She is now giving subsidies for the use of that coal, and she is considering, I understand, giving higher subsidies. There is to be an imperial conference in Ottawa in July and the question of empire trade will be discussed. If the Canadians can make the proper arrangements with Great Britain they will be very glad of an excuse to put a high duty on our coal in order to protect not only their own coal but British coal, which is now coming into Canada in some considerable volume.

Senator REED. Will they not do that regardless of our action with respect to this matter?

Mr. HALE. I do not think that they will have the excuse—I do not think that they can excuse themselves before their own people, if we leave their coal alone.

Senator REED. They will be guided by an enlightened national selfishness, I presume, just as we are.

Mr. HALE. Yes, sir.

Senator HARRISON. What is the total importation of coal into Canada?

The CHAIRMAN. Fifty-seven thousand tons.

Senator HARRISON. I see you have got 73,000 tons up here in one place on your map, 23,500 in another, and 57,000 in another.

Mr. HALE. Well, the grand total is 176,271. They did not all get on the map. But the grand total is 176,000.

Senator SHORTRIDGE. Do you mean of imported coal?

Mr. HALE. From Canada into this country, 176,000.

Senator SHORTRIDGE. Very well. Go on.

Mr. HALE. It is not all on the map. It comes in smaller driblets.

Senator SHORTRIDGE. Your reasoning is that if we put a tariff duty on coal, one hundred thousand and odd tons of which come from Canada, Canada will in turn put a tariff duty on our coal?

Mr. HALE. On our coal, exactly.

Senator SHORTRIDGE. And that, you think, is a well-grounded fear?

Mr. HALE. Yes, sir.

Senator SHORTRIDGE. Very well. I see your point. Go on.

Mr. HALE. That is the point.

Now, I do not think any one expects this excise tax to result in any revenue. In the debate in the House the gentlemen who spoke for this intimated that it would give more work for certain coal miners. And I have no doubt it would. This duty would in my opinion, and the opinion of all the coal men I have talked to, absolutely cut out this 746,000 tons of coal. But, gentlemen, supposing all that coal were replaced by our coal, it would only put to work some hundred of our miners. Perhaps 1,000. Now to dig this 11,000,000 tons that is going to Canada takes 11,000 or 12,000 men.

Gives 11,000 or 12,000 men work all the year around. And as the mines are only working half time it really means giving the work that they are getting to twice that number.

Senator HARRISON. This coal that is exported to Canada comes from what section?

Mr. HALE. It comes from western Pennsylvania, from West Virginia, and from Kentucky. A little may come from Tennessee and Virginia, but that would be very little. The bulk of it comes from those three States. And Ohio—excuse me—a large amount comes from Ohio. And as you will notice by the little arrows on the map, it comes in through the Niagara and the Detroit gateways, and it comes across the Lakes. It is a very large block of coal, gentlemen, in international trade. As we have looked into it in the last few years we find it is the largest block of coal from any one country to another country. Of course, Great Britain is the greatest exporting country. France is the greatest importing country. But France is supplied from other countries besides England.

Senator SHORTRIDGE. You mean as to coal?

Mr. HALE. Yes. And the total exports from Great Britain to France are a few thousand tons less than our exports to Canada. We have one big piece of export business left, and we want to preserve it.

Senator HARRISON. Mr. Hale, have the exports into Canada in the last few years been on the rise?

Mr. HALE. No; they have fallen off. I have given you their 1931 figures. If you ask me for 1930, for instance, the total was 14,400,000. But I am giving you the present situation, which is 11,000,000.

Senator SHORTRIDGE. To what do you attribute the falling off of our exported coal to Canada?

Mr. HALE. It is the general depression in the first place, and in the second place the efforts that the Canadian people are making to use their own coal and Empire coal.

Senator HARRISON. What would you say about the imports; have they been going down or up in the last few years?

Mr. HALE. Imports into Canada?

Senator HARRISON. No; imports in this country of coal? Has there been any increase?

Mr. HALE. Why, they have been gradually increasing. I have not got the figures, but the increase has been practically small in the last year, and we anticipate no increase this year as far as I can find out. Although I do not know as much about imports as exports.

Senator REED. Mr. Hale, the imports in the last three months have been bigger than they were in the same period of last year, have they not?

Mr. HALE. My figures do not show that. I have not looked into the figures for three months, but I have seen figures, including everything that has been loaded and everything that will get in during the first six months, and they indicate it is just about the same; that the increase that has been noted in the last few years will not continue this year.

Senator REED. Have not the imports from Soviet Russia increased very much in the last two months?

Mr. HALE. There have been large figures. But I understand there are no further imports that are expected.

Senator REED. That is because of this tax presumably.

Mr. HALE. Very possible. Oh, there is no doubt, Senator, that this tax will shut out those imports.

Senator REED. And is it not a fact that in the Donetz Basin in Russia the miners are working under military guard, and that in all fairness it is forced labor?

Mr. HALE. I have seen that statement, and it is no doubt the case.

Senator HARRISON. We have got a provision that will keep it out.

Senator REED. And we have been trying to enforce it in the last two years.

Senator HARRISON. Under this law it could be prevented.

Senator REED. Yes; but apparently this is the result.

The CHAIRMAN. That was what was intended.

Mr. HALE. If my suggestion is desired on this—all the other countries make discriminatory duties against other countries. I see no reason why we should not put a tariff against Russian coal.

Senator SHORTRIDGE. But thus far we have never adopted that policy.

Mr. HALE. I know we have never adopted that policy, but why not do directly what you are trying to do by indirection?

Senator SHORTRIDGE. From what other countries does the coal reach us?

Mr. HALE. I beg your pardon—does it come from?

Senator SHORTRIDGE. Yes. Just for the record here.

Mr. HALE. I have that here. Last year the total imports of coal from Belgium were 12,790 tons. From Germany, 32,107 tons. From Soviet Russia, 216,990 tons. From the United Kindgom, 305,945 tons. From Canada, 176,271 tons. From Austriala, 1,002 tons. From Indo-China, 102 tons. And from Mexico, 439 tons.

Senator GORE. Is that the largest—Mexico?

Mr. HALE. The smallest, 439 tons. Not hundred of thousands of tons.

Senator GORE. I though you said hundreds of thousands.

Mr. HALE. No.

Senator SHORTRIDGE. From Mexico?

Mr. HALE. Yes. If you will take the United Kingdom and Canada together it is over 480,000 tons.

Senator SHORTRIDGE. What was the total import?

Mr. HALE. The total import was 746,546 tons.

Senator REED. Just enough to break the market all through New England; is that not so?

Mr. HALE. I do not understand that that coal is sold cheaper. I understand that a premium is given for some of that coal.

Senator REED. Not for the soviet coal.

Mr. HALE. Well, I was thinking more of other coal.

Senator REED. Do you think it is fair to ask our American miners to compete for those markets with the product of labor that works for a bare existence at the point of a bayonet?

Mr. HALE. No, sir. And if there were no question of retaliation I would be for this. In the first place, suppose this is shut out, there is the danger that our friends the Yankees—and I am a Yankee myself—will go to oil instead of coal. And they are going to oil very largely. I do not think that coal will get all of it. Coal will get some of it. But, as I said, it can only put a few hundreds of our miners to work to

produce that. And I am trying to preserve as far as possible the work of 10,000 or 12,000 of our miners in Western Pennsylvania, West Virginia, and especially in Ohio.

Senator SHORTRIDGE. You are only concerned lest Canada would put on such a tariff rate as would shut out our coal?

Mr. HALE. Exactly.

Senator SHORTRIDGE. You have no fear that other countries would attempt to shut out our coal?

Mr. HALE. No; I do not think so.

Senator SHORTRIDGE. I see.

Mr. HALE. Because the other countries buy where they can the cheapest. The other countries that we export to have no coal. Take the Mediterranean Basin. There is no coal there. There is no coal available in the eastern part of South America where we do send coal. We do send a little to Chile, too.

Senator HARRISON. In view of what Canada has done already in retaliation it is a perfectly natural conclusion that they might do that in the event we put on a tariff.

Mr. HALE. Certainly. And furthermore, we have told you how they now put on a duty of 70 cents a ton on the bituminous and 40 cents a ton on the anthracite.

Senator GORE. Who is that?

Mr. HALE. Canada does. And we imposed a retaliatory duty on them. I did not mention that because the question is very complicated. Some coal which they turn into coke they do not charge duty on. And we do take some free. It would take a half an hour to explain that, gentlemen. But they are perfectly ready to retaliate and they only want an excuse.

Senator REED. And they are now imposing a duty on our coal?

Mr. HALE. Yes; 70 cents on the bituminous and 40 cents on the anthracite.

Senator REED. And you think we ought not to impose a duty on theirs?

Mr. HALE. Oh, we do. We do.

Senator SHORTRIDGE. What is the present rate?

Mr. HALE. The present rate—it is under the countervailing statute.

Senator GORE. Countervailing.

Mr. HALE. Under the countervailing statute which you were good enough to keep in the last time the tariff bill came up, the State Department to the contrary.

Senator SHORTRIDGE. You fear if we increase the rate they will retaliate?

Mr. HALE. They will, of course.

Senator SHORTRIDGE. And that will in that way affect your trade with Canada?

Mr. HALE. Certainly. It will; yes. It will allow just so much more English coal to come up the St. Lawrence, just so much more Nova Scotia coal to come into Quebec and Ontario, and just so much more Alberta coal to come in from the West. I have here the subsidies that they are already paying on those coals. They are paying 75 cents to a dollar a ton on their coals from the East to the West, and that subsidy takes the place of a reduced freight charge on the railways largely.

Senator SHORTRIDGE. Did you give us the total imports of coal into this country?

Mr. HALE. Yes.

Senator SHORTRIDGE. Did you give that?

Mr. HALE. Yes. I gave you the total imports from all countries.

Senator SHORTRIDGE. That is 746,000 tons?

Mr. HALE. Yes; from all countries.

Senator SHORTRIDGE. And which is the largest?

Mr. HALE. Great Britain is the largest.

Senator SHORTRIDGE. Importing coal to us?

Mr. HALE. Yes. Great Britain is nearly half. If you add Great Britain and Canada together you have two-thirds of the total.

Senator GORE. Now is our tariff on coal coming in from Canada or is their tariff 70 cents on anthracite and 40 cents on bituminous?

Mr. HALE. No; it is the other way around; 70 cents on bituminous and 40 cents on anthracite. It may be 35 cents. I have not got that very firmly in my mind.

Senator HARRISON. Mr. Chairman—if the witness is through—I do think that the Treasury Department ought to do something with reference to changing its ruling on this indentured or forced labor, because it was the clear-cut intention of Congress that it should not come in from those countries where such forced labor was in effect.

Senator SHORTRIDGE. That is true.

Senator HARRISON. If the law needs to be strengthened it ought to be strengthened.

Senator REED. The trouble is, Senator Harrison, that the Russian Government plays tricks on us. They issue a proclamation that the labor in the Donetz coal basin is free and untrammeled, and that is done the next day after it is proven before the department that such is not the case. After that is proved before the department they do that the next day. The Treasury can not keep up with them.

STATEMENT OF GEORGE W. ANDERSON, BOSTON, MASS., REPRESENTING THE ASSOCIATED INDUSTRIES OF MASSACHUSETTS

Mr. ANDERSON. My name is George W. Anderson, Boston, representing the Associated Industries of Massachusetts. And I am also interested in concerns mining and shipping anthracite and bituminous coal in this country.

I am appearing in opposition to the provision of the revenue act, as adopted by the House of Representatives, which places a tariff on imports of anthracite and bituminous coal amounting to 10 cents per 100 pounds, equivalent to $2 per net ton, or $2.24 per gross ton.

This provision was not part of the original bill as presented by the Committee on Ways and Means, but was added by amendment from the floor of the House after a discussion consuming about one hour. There has been no preliminary committee hearings, no inquiry as to the facts, and no opportunity for all parties interested to be heard. The procedure was so abnormal, the enactment of tariff duties as an amendment to a revenue act was so exceptional, that a few minutes after the amendment was adopted the gentleman from Georgia, acting chairman of the Committee on Ways and Means, in a moving appeal to the House said:

Mr. Chairman, this is a sad day for me. * * * I also love my party, and to-day I am seeing my party destroy itself. * * * If these embargo tariff rates are adopted, I shall vote against the bill. * * *

In this brief space of less than one hour, during which the coal tariff was under discussion, a decision was reached, based, as will be seen, on a misconception of the facts, which threatens long-established business relations with our two best customers in world trade, Canada and Great Britain. Our total imports of anthracite coal in 1931 were 570,000 gross tons. Of this total, 60 per cent, or 305,000 tons, came from Great Britain and Canada. During the same year, our exports of all coal to Canada alone totaled 11,500,000 tons, or more than 15 times our total coal imports from all countries, which amounted to 747,000 tons.

Senator SHORTRIDGE. Your figures do not agree with the figures of the preceding witness.

Mr. ANDERSON. Very closely, I think, Senator.

Senator SHORTRIDGE. You say 11,500,000 tons, do you?

Mr. ANDERSON. To Canada. Export to Canada.

Senator SHORTRIDGE. He says 11,073,000 tons.

Mr. ANDERSON. That is fairly close.

Senator SHORTRIDGE. Well, that is 400,000 tons difference. However, proceed.

Mr. ANDERSON. Well, I have the figures here.

Senator SHORTRIDGE. All right, sir.

Mr. ANDERSON. Approximately 15 times our total coal imports from all countries, which was 747,000 tons. Our total coal exports for 1931 were 13,168,000 tons, shipped to 36 different countries.

It is reasonable to expect that Canada and Great Britain will take this blow against their relatively small exports of coal to the United States without striking back against our 11,500,000 tons of coal exports to Canada? Have the sponsors of this tariff, supposedly for the benefit of the anthracite industry, reflected upon what it would mean to lose the Canadian market to British coal, as the result of excluding British coal from our market?

What are the benefits which are claimed by the sponsors of this tariff, as compensation for the grave risk of retaliation?

In the first place, the author of the amendment stated, "This will produce over $3,000,000 of revenue." When he made that claim he was discussing a rate of 15 cents per 100 pounds, which was later scaled down to the present 10 cents per 100 pounds. A proportionate reduction of the estimated revenue gives us over $2,000,000. But this is almost double the revenue that actually would have been collected on the total imports of 570,000 tons in 1931, and makes absolutely no allowance for the reduction in imports which it is the main object of the tariff's sponsors to bring about. The fact is that the proposed rates deserve the characterization of the member from Georgia. They are literally embargo tariff rates.

It is practically certain that no foreign anthracite can afford to pay an import duty of $2.24 per gross ton. All but 25,000 tons of last year's imports came to the five New England States, Maine, New Hampshire, Massachusetts, Connecticut, and Rhode Island, where the price of American anthracite is highest. Even now, without duty, the foreign anthracite can not be imported at a cost to compete on a price basis with American anthracite. Consumers pay from 50 cents

to $1 per ton more for foreign than for the American coal. The imports for 1931 showed a drop of 34,000 tons from the figure for 1930. They were less than 1 per cent of the American anthracite production in 1931, and I repeat, it is my matured opinion that the proposed duty would result in practically complete exclusion. As a revenue producer, the tariff on coal is a snare and a delusion.

What other advantages, besides revenue, are claimed for the duty? The author of the amendment, speaking in the House in support of his proposal, said:

> At the present time over 40,000 of our miners are unemployed, others have not worked for over a year. The free importation of foreign coal is responsible to a great degree for this condition.

Another gentleman from Pennsylvania, arguing for the amendment, said:

> Thirty-five thousand miners are out of employment. There are 130,000 who have been employed who only work half time.

But the gentlemen are deceiving themselves if they suppose that the complete exclusion of 570,000 tons of foreign anthracite would have any appreciable effect on our unemployment problem. According to the statistics on coal appearing in the latest publication of the Bureau of Mines Coal in 1929, Table 1–A, pages 824–825, the average output per man per day is 1.93 gross tons, and the average number of days worked is 225.

The 40,000 idle miners have therefore a productive capacity of 80,000 tons per day, and 20,000,000 tons per year. At the outside, less than 2½ per cent of this unemployment is attributable to foreign imports. Even this is on the assumption that all of the consumers who would be deprived of foreign anthracite by the embargo tariff rates would buy American anthracite in its place.

I know the conditions in the New England States, and I deny that every ton of foreign anthracite drives out a ton of American anthracite. In 1931 the production of American anthracite showed a decline of about 9,000,000 tons while the imports stood practically still

Senator GORE. Did you say production went down nine million?

Mr. ANDERSON. The production of American anthracite in 1931 showed a decline of about 9,000,000 tons, while the imports stood practically still.

Senator SHORTRIDGE. A decline over the preceeding year?

Mr. ANDERSON. A decline under the preceding year.

Senator SHORTRIDGE. That is what I mean, a decline under the preceding year.

Mr. ANDERSON. That is right.

These small foreign importations are being made the scapegoat for the industry foreign anthracite, because of its low ash content is easier for the consumer to burn than American anthracite. He has to move fewer barrels of ashes out of his cellar for every ton burnt. In this respect the foreign coal stands between American anthracite on the one hand and oil or gas on the other. You can keep out the foreign coal, but I am convinced that it is a mistake to suppose that the consumers who have been willing to pay more for its superior convenience will all go back to American anthracite. Many of them will abandon coal altogether, and turn to oil or gas.

The sponsor of the amendment in the House said:

> Anthracite coal from foreign countries is now being transported thousands of miles over the sea and sold in Boston at prices as low as we can sell ours at the mines.

The only explanation for this statement is that the gentlemen had been misinformed. The price of egg coal at Scranton during March of this year—1932—was $7.75 at the mines, while I paid $16.50 per ton for imported coal delivered in my cellar in Boston.

The burden of the argument in the House in support of the tariff was a plea for the protection of the anthracite coal industry. It has been pointed out that the total imports are less than 1 per cent of the American production. The only place where this limited foreign tonnage comes into competition with the American anthracite is along a small fringe of the Atlantic seaboard of New England. Even in these States, 93 per cent of the coal consumed in 1931 was American anthracite, of which 7,000,000 tons were shipped into New England against 545,000 tons of foreign coal.

But assuming for the sake of argument that the admittedly bad condition of the American anthracite industry is due to these relatively trifling importations from abroad, rather than to more deep-seated evils in the fundamental organization of the industry, the question remains, does the industry deserve protection at the expense of the American consumer, who wishes to buy foreign coal?

What is the record of the anthracite industry that it should ask special favors? Last winter anthracite coal was almost, if not absolutely, the only basic commodity whose price had not fallen since the preceding winter. The householder whose wages had in many instances been cut in half, if indeed he was so fortunate as to be receiving wages at all, found that his coal bill remained the same.

No general reduction in wages has yet taken place in the American anthracite industry, and a new wage scale was signed on July 19, 1930, to run until April 1, 1936, which agreement maintained the wage scale established in 1923. With reference to this wage scale, Saward's Annual 1931 quotes the National Industrial Conference Board of New York City as follows;

> The average hourly earnings of wage earners in anthracite mining reached in 1923 the highest point on record * * * increase in average hourly earnings is 190 per cent over the rate of June, 1914 * * *.

That means that the anthracite miner to-day is getting three times the wage he got in 1914.

Senator REED. The wages he was getting in 1914 were pitifully unfair to him, though.

Mr. ANDERSON. I suppose the wages that everybody got in 1914 were unfair, but I do not believe there is any other industry that is paying 300 per cent to-day.

Senator SHORTRIDGE. Three hundred per cent of what?

Mr. ANDERSON. Three times what they received in 1914, three times as much.

> * * * the board's index figures reveal that anthracite mining wages have risen to a higher peak than those of any basic industry.

Saward's Annual for the same year, page 127, quotes:

Record of wage increases secured by anthracite mine workers since January, 1916, as follows:

	Per cent
January, 1916	100
April, 1916	7
May, 1917	10
November, 1917	25
November, 1918	25
April, 1920	20
September, 1923	10

1923 rates were renewed in 1926 and 1931.

Would you say to the users of 65,000,000 tons of American anthracite that it was the duty of the United States Government to protect this industry by a tariff against importation of anthracite coal to points like Boston, where the price of coal is $16 per net ton in the consumer's cellar?

We repeat, that the sponsors of this amendment were misinformed when they were told that the difficulties in the American anthracite field were due to foreign importations, and we repeat that the House was misinformed when they voted to pass this amendment.

Senator GORE. Mr. Anderson, you say the price in Pennsylvania at the mouth of the mines was what? Seven dollars a ton?

Mr. ANDERSON. At the mouth of the mines?

Senator GORE. Yes.

Mr. ANDERSON. In March this year, was it?

Senator GORE. You gave it a while ago that it was $7 and something.

Mr. ANDERSON. It is around $7, yes. I want to be sure, though—$7.75.

Senator GORE. Then that is a spread of $8.25 between there and Boston.

Mr. ANDERSON. Yes, sir.

Senator GORE. Do you know what the freight rate is?

Mr. ANDERSON. The freight rate by rails is approximately $4.22 a gross ton.

Senator GORE. Yes.

Mr. ANDERSON. About $3.88 a net ton.

Senator REED. Who gets the other $4, Mr. Anderson?

Mr. ANDERSON. Between the $7.75 and the $16?

Senator REED. Yes.

Mr. ANDERSON. It is the cost of transportation, the cost of handling, and the delivery.

Senator REED. In other words, the spread is $8; the railroads get $4 and somebody up in New England gets the other $4.

Mr. ANDERSON. Yes. But you must take into consideration the degradation.

Senator REED. That is very slight in anthracite, is it not?

Mr. ANDERSON. Yes. By rail only about 2 or 3 per cent. But I will say that I think the average spread in New England is no greater than it is in any other section of the country. I think the comparative spread between the two is approximately the same in every section of the country. Our retail dealers over there do not have much profit; I promise you that.

Senator SHORTRIDGE. Distance cuts some figure, of course.

Mr. ANDERSON. Yes; but I mean the spread between the cost and the selling price.

Senator SHORTRIDGE. Yes.

Mr. ANDERSON. For instance, the freight to New York is $2.39 and the freight to Boston is around $4.22. The coal sells for $2 a ton or $2.50 a ton less in New York.

We believe that this committee will be acting in the interests of the millions of anthracite coal consumers and, in fact, we believe you will be acting for the best interests of the anthracite industry itself by striking out this amendment.

Senator SHORTRIDGE. You come from Boston, Mr. Anderson, did you say?

Mr. ANDERSON. Yes.

Senator SHORTRIDGE. And your immediate business is what?

Mr. ANDERSON. I am in the coal business myself.

Senator SHORTRIDGE. You mentioned the price of anthracite, say, American anthracite in Boston or Massachusetts during the last year.

Mr. ANDERSON. During March of this year.

Senator SHORTRIDGE. How much was it?

Mr. ANDERSON. $16.

Senator SHORTRIDGE. What was the price of English anthracite?

Mr. ANDERSON. $16.50.

Senator SHORTRIDGE. I understood you to say that you bought the English anthracite.

Mr. ANDERSON. At $16.50, yes.

Senator SHORTRIDGE. In the belief that it was of a superior quality?

Mr. ANDERSON. Exactly. No other reason. It does not sell for less money. It usually sells at from 50 cents to a dollar a ton higher.

Senator REED. Do you deal in Russian coal at all?

Mr. ANDERSON Yes, sir.

Senator REED. From what basin does it come?

Mr. ANDERSON. There is no one basin. Donetz Basin.

Senator REED. What were you selling, in tons, in 1931, of Russian coal?

Mr. ANDERSON. I do not believe I can answer that question.

Senator REED. Just approximately.

Mr. ANDERSON. Well, we handled all the Russian coal that came into Boston.

Senator REED. Are you still handling it all?

Mr. ANDERSON. Yes.

Senator REED. How much have you imported in the last two months?

Mr. ANDERSON. I might say that Mr. Oswald has got those figures and he is following me with his testimony. I believe he can give you the figures.

Senator SHORTRIDGE. In quality, how does the Russian coal compare with the English or the American?

Senator REED. It is not anthracite at all.

Mr. ANDERSON. Oh, yes; it is.

Senator REED. The Russian?

Mr. ANDERSON. Nothing but anthracite that is coming in, Senator Reed.

Senator REED. Would you call it true anthracite?

Mr. ANDERSON. Positively true anthracite. There is more misinformation on this subject than can possibly be imagined.

Senator SHORTRIDGE. What can you say as to the quality of those three?

Mr. ANDERSON. Of those three coals?

Senator SHORTRIDGE. Yes.

Mr. ANDERSON. The English and Russian are supposed to be approximately similar. Both are superior to the American anthracite.

Senator SHORTRIDGE. How does it reach you?

Senator GORE. Where do they load this Russian coal?

Mr. ANDERSON. Pardon me.

Senator GORE. Pardon me. Just answer Senator Shortridge's question.

Mr. ANDERSON. What was that?

Senator SHORTRIDGE. How does it reach Boston, the route?

Mr. ANDERSON. By steamer through the Mediterranean.

Senator SHORTRIDGE. Of course it comes by steamer, but what is the route?

Mr. ANDERSON. Through the Mediterranean and the Black Sea, from southern Russia.

Senator REED. Where is it loaded?

Mr. ANDERSON. At Mariupol.

Senator SHORTRIDGE. That is on the Black Sea?

Mr. ANDERSON. It is on a tributary to the Black Sea.

Senator SHORTRIDGE. And they are able to mine that anthracite away yonder in Russia, transport it a long distance, land it in Boston and undersell the American anthracite?

Mr. ANDERSON. You must realize we are paying nearly twice the price for American anthracite in Boston as we usually pay.

Senator SHORTRIDGE. That is not an answer. They do that, though, do they not?

Mr. ANDERSON. Yes.

Senator SHORTRIDGE. They mine it away yonder?

Mr. ANDERSON. Yes.

Senator SHORTRIDGE. Transport it thousands of miles and unload it at the wharf in Boston and are able, as I gather from your testimony, to undersell the American anthracite?

Mr. ANDERSON. No; not undersell. At a higher price. And, might I say for your information, that a lot of the coal in 1930 came in American Shipping Board boats. It is not brought in Russian boats.

Senator GORE. Does it come in the nature of ballast?

Mr. ANDERSON. No, indeed.

Senator GORE. As cargo?

Mr. ANDERSON. Yes.

Senator SHORTRIDGE. The steamers are loaded with it?

Mr. ANDERSON. Yes.

Senator SHORTRIDGE. Freight vessels loaded with coal?

Mr. ANDERSON. Yes.

Senator REED. Can you tell us what the Russians get for that at the port on the Sea of Azov?

Mr. ANDERSON. I can get it. I have not got it in my mind.

Senator SHORTRIDGE. Would your business be affected by this proposed impost?

Mr. ANDERSON. Yes, it would.

Senator SHORTRIDGE. Because you are an importer, is that the reason?

Mr. ANDERSON. Yes; but I would like to say for the benefit of this committee that I thoroughly believe that any gain in the State of Pennsylvania or any gain that would result from shutting out any of this foreign coal, which, bear in mind, of the total importations last year were 570,000 tons, and our statistics show that a man produces about 450 tons a day.

Senator GORE. What?

Mr. ANDERSON. Four hundred and fifty tons a year. I beg your pardon. (Continuing). It would amount to work for about a thousand men; not 40,000.

Senator SHORTRIDGE. But the imports were more than you have just stated, according to these figures.

Mr. ANDERSON. Those figures include anthracite and bituminous.

Senator SHORTRIDGE. Seven hundred and forty-six thousand?

Mr. ANDERSON. Seven hundred and forty-seven thousand is the total of anthracite and bituminous.

Senator SHORTRIDGE. Both?

Mr. ANDERSON. Yes.

Senator GORE. What did anthracite sell at in Boston in March, 1929?

Mr. ANDERSON. About the same price as it is now. There has been substantially no difference.

Senator SHORTRIDGE. Did your organization make any inquiry as to whether this Russian coal was mined by forced labor?

Mr. ANDERSON. Yes.

Senator SHORTRIDGE. You made some inquiry?

Mr. ANDERSON. Yes.

Senator SHORTRIDGE. What was the result of your inquiry?

Mr. ANDERSON. It is not mined by forced labor.

Senator REED. Have you ever been in the Donetz Basin?

Mr. ANDERSON. No; but Mr. Oswald, who will follow me, has much more of that information, having been there himself. I would like to say this to you, Senator Reed: I have exported a lot of Pennsylvania anthracite coal to Canada, and I am in fairly close touch with the Pennsylvania situation, and I make this prediction: That if you shut out this foreign anthracite coal, you will stop ten times as much work of men in Pennsylvania and West Virginia as you can possibly gain by this.

Senator REED. It seems strange to me then that the coal people of my acquaintance should all say that this is necessary to their preservation.

Mr. ANDERSON. I say that the coal people who have informed you, and I say the coal people who have sent down a lot of memoranda to Congress, are thoroughly misinformed. They are even going right against the statistics. One man whom I have seen quoted says that the Government's statistics show 216,000 tons of coal imported from Soviet Russia, but I know there is 350,000. That is the misinformation that is being handed out. One paper is New York said there were 5,000,000 tons came in. Russian anthracite coal is not a menace to this country.

Senator SHORTRIDGE. If it did not come in, American coal would be burned, wouldn't it?

Mr. ANDERSON. Would be burned?

Senator SHORTRIDGE. Yes.

Mr. ANDERSON. No, sir; not necessarily.

Senator SHORTRIDGE. If we did not import any coal, American coal would be burned unless the industry turned to oil or other sources of power.

Mr. ANDERSON. If they did not turn to something else to replace the anthracite, of course they would burn anthracite, but the trouble with the anthracite industry is that it would result in turning it over.

Senator SHORTRIDGE. You really believe in the free-trade doctrine, I take it.

Mr. ANDERSON. Well, I always have been a Republican.

Senator SHORTRIDGE. I hope you will always continue to be such. [Laughter.]

STATEMENT OF GEORGE P. OSWALD, VICE PRESIDENT GEORGE E. WARREN CORPORATION, NEW YORK CITY

The CHAIRMAN. Give the reporter your name and occupation, sir.

Mr. OSWALD. George P. Oswald, vice president of George E. Warren Corporation. My headquarters are in New York. The head of the firm is in Boston, the head office.

Mr. Chairman and members of the committee: The George E. Warren Co., which I represent, has been in business in New England and New York for over 30 years. We are an American firm, handling American anthracite and American bituminous. In 1926 we went into the importation of foreign anthracite. That was the year of the English coal strike. We started under an arrangement on Welsh anthracite; and if you are interested in the figures year by year, I have them here.

Starting with 1926, on Welsh anthracite, we had 2,714 tons.

In 1927, following the strike, they were not anxious to ship, and we only got 8,604 tons.

In 1928 there were 118,001.

In 1929 there were 115,493.

In 1930 there were 162,266.

In 1931 there were 127,000.

In 1929 we entered into a contract with the soviets for the exclusive agency for Russian anthracite in this country.

Senator REED. You are with the same concern as Mr. Anderson?

Mr. OSWALD. Mr. Anderson is the treasurer and I am vice president.

I went to Russia and visited the Donetz Basin. One of the principal things, on account of all the rumors that we had heard, that we wanted to find out, was whether or not we were going to violate any of the United States regulations. After visiting the mines, and I could see nothing, we went ahead and made a contract.

We started with shipment of 105,575 tons in 1929. In 1930, 178,185, and in 1931, 216,287.

Senator REED. You and the soviets are not having any depression at all, are you?

Mr. OSWALD. We are doing pretty well so far. We only hope it is going to continue.

In 1932, in reply, I think it is, to Senator Reed's query of Mr. Anderson as to the amount of coal that was coming in in two months, including everything that has arrived in Boston to date, it amounts to 69,163 tons.

Senator GORE. That is this year?

Mr. OSWALD. That is this year. And all the boats that have been arranged for, and all the coal that is en route amounts to 37,377 tons.

Senator GORE. That is added to the 70,000?

Mr. OSWALD. That is added to the 69,000; yes, sir. Those deliveries will be completed, as near as we can tell, some time between the 1st of May and the 1st of June. If they are completed, if those vessels come through—and there is nothing else under charter right at the minute to increase that—and we take practically the same amount in the second half of the year, our tonnage in 1932 would be approximately the same as in 1931. I might say here that in any event I do not think it will exceed that.

Senator SHORTRIDGE. And what was the amount you gave for the year?

Mr. OSWALD. Two hundred and sixteen thousand two hundred and eighty-seven.

Senator GORE. That is for the year?

Mr. OSWALD. That is for the year; yes.

Senator GORE. How much of that would come in in American boats and how much in Russian bottoms?

Mr. OSWALD. We have never had anything, to my knowledge, in a Russian bottom. The highest prices that we paid on freights was on the American Export Line, the United States Shipping Board bottoms, when we were paying up to 16, 17, and 18 shillings, as compared with 12½, 12 shillings sixpence, 13 shillings——

Senator GORE. Could not you translate that into American money?

Senator SHORTRIDGE. American currency?

Senator GORE. Yes.

Senator REED. $3.25 now.

Mr. OSWALD. Around that.

Senator REED. Less 30 per cent discount on the currency.

Senator GORE. That is the ocean freight?

Mr. OSWALD. That is the ocean freight.

Senator REED. So that the ocean freight from the Sea of Azov to Boston is about $2.50 or $2.60.

Mr. OSWALD. Around that.

Senator REED. As against the American freight by rail from Scranton to Boston of some $4.30.

Mr. OSWALD. I am not sure, but I think the Scranton rate is $3.88. As I say, I am not sure. Maybe that is a net ton. I am not real familiar with those coal rates.

Senator REED. If it is not giving away a business secret, what do you pay the Russians for that coal f. o. b. steamer?

Mr. OSWALD. We do not buy it f. o. b. steamer.

Senator REED. Do you buy it delivered in Boston?

Mr. OSWALD. We buy it delivered alongside.

Senator REED. Alongside steamer in Russia?

Mr. OSWALD. Alongside a New England port.

Senator REED. Do you prefer not to say what you pay for it?

Mr. OSWALD. I would prefer not to say in public, but we have nothing at all to conceal from the gentlemen of the committee.

Senator REED. I won't ask it at this time, then.

Mr. OSWALD. We have nothing at all to conceal. In fact, you might be interested to know that before I went to Russia I took the trouble to come to Washington and see Secretary Lamont. Also I went over to the State Department and I consulted with them to find out if, in their judgment, it was a trip I should not make. I told them that I knew that there was no official sanction that they should give or could give, but as an American business house and with the feeling toward the soviets, should I make the trip?

Now, if I am not taking too much of your time, I might explain that the reason I did that and the reason why we were anxious to have it is because with our very good friends the English we had this contract for the exclusive agency for the Welsh coal. That is a monopoly, if ever there was one, because they own and control 86 per cent of the output. And we have that. We had heard all sorts of stories about what the soviets could do to us, and we certainly did not want somebody else coming in with that agency and putting us out of business—putting the Welsh out of business.

I discussed that thing with Mr. Lamont and his assistant, and he said that he had absolutely in his official capacity nothing to say. He said, "As a business man I can see absolutely no reason why you should not do it."

I told him that I was going and that when I returned, so that he personally could be absolutely satisfied in case anything came up, that I would be glad to come down and give him a copy of my agreement, of the contract, and all and any correspondence that was pertinent to that contract; and I did—he has it.

I have also filed with them within a year more than 200 letters from representative dealers, all American firms, up in New England, showing the prices for American anthracite in one column, and in the next column the prices on foreign anthracite, both Welsh and Russian.

Senator GORE. When you say that, do you mean retail prices?

Mr. OSWALD. Retail prices, the prices the consumers are paying for the coal. And in each instance it was higher than the price of the American anthracite from, I think, 25 cents to $2 a ton maximum.

Senator REED. On account of the low ash content?

Mr. OSWALD. Yes. Now, bear this in mind, gentlemen: We are handling more American anthracite than foreign. We do not want our business sunk with a duty that is not going to produce any revenue, because as certain as this impost goes on, we are going to lose some of it. We can not convert the foreign into American, because the oil people are going to take it, and it is not going to be anthracite at all. That is the reason we are down here fighting as the importers of this coal to keep it in line. It is not going to do the American anthracite operator as much good as he thinks.

Senator REED. But you think it will do the oil operator some good?

Mr. OSWALD. I certainly do. And I think it will do the coke man some good.

Senator REED. They are Americans, too.

Mr. OSWALD. Absolutely. And we are handling coke as well. If you can show us how we can put the whole thing out of the window

and can hold our business in American anthracite, we will be glad to do it.

The CHAIRMAN. Is anthracite all that you import?

Mr. OSWALD. Yes.

Senator GORE. What is the freight rate on the Welsh coal?

Mr. OSWALD. The freight rate on the Welsh coal is 7 shillings.

Senator REED. Do you bring in any coal from St. John's, Newfoundland?

Mr. OSWALD. No, sir.

Senator REED. Isn't the quality of that good enough?

Mr. OSWALD. There isn't anything up there that is any good.

Senator REED. Mr. Oswald, if I am not breaking the thread of your testimony, I want to say that within the last two or three weeks I talked with an engineer who had spent a long time in the Donetz Basin, and he tells me that they stage a show there for distinguished guests like yourself.

Mr. OSWALD. Thank you.

Senator REED. And others. But when the distinguished guests are not present, the barracks of the miners are guarded by soldiers, that the men have no choice of their occupation, that if they refuse to work or try to get other work, their bread tickets and meal tickets are taken away from them and the alternative offered to the Russian miner is starvation or working at a particular spot. Is that true?

Mr. OSWALD. Senator, I do not believe it is true. I am not saying that your informant is deliberately misleading you.

Senator REED. Oh, no; I think he was trying to tell the truth.

Mr. OSWALD. I think he was probably trying to give you the facts but he is away off from the facts, in my opinion.

Senator GORE. What is your information about how much a miner mines per day in that field, and what he gets for it?

Mr. OSWALD. I am sorry to say that, as close as we are under this contract with the Russians, there is a lot of information we can not get about it.

Senator REED. He does not get any money wage at all, does he?

Mr. OSWALD. Yes, indeed; and you would be astonished if you saw the living quarters of the men. If it is forced labor at the mines that I went through, with the living quarters and shower baths and the cinema, then I guess there are a lot in our region who would like to be forced labor, because they are doing pretty well.

Senator GORE. The Government owns those mines?

Mr. OSWALD. Yes; the Government owns everything up there.

Senator GORE. That is what I thought.

Senator SHORTRIDGE. I thank the Senator for asking that question. Is your contract, then, with the Russian Government?

Mr. OSWALD. Our contract started with the Donetz State Coal Trust, the performance of the same being guaranteed by Amtorg, which is an American company.

Senator REED. All owned by the Russian soviets, however.

Mr. OSWALD. Of course, yes. Then, as is their custom over there, another trust took it over. It went to Ugal, which expired, and something else succeeded it, which I do not recall. But now it is back to Amtorg. Amtorg is handling it all again.

Senator SHORTRIDGE. Just what is that?

Mr. OSWALD. It is a Russian sales agency.

Senator GORE. That is what I was coming to. It is a Russian concern.

Mr. OSWALD. Yes. Even Amtorg, an American firm, is, of course, all owned by Russians.

Senator REED. It is an American corporation and the stock is owned by the Russians.

Mr. OSWALD. By the Russians; yes.

Senator SHORTRIDGE. Under what State is that organization?

Mr. OSWALD. I am not sure, but I think it is New York State. That is the firm, as you undoubtedly know, that has done all of the buying. Very little lately, however.

Senator REED. Of course the Russians operate with reduced overhead, because they stole all of the property to begin with.

Mr. OSWALD. They use a more polite term. They say they nationalized. [Laughter.]

Senator REED. Yes.

Mr. OSWALD. We have other interests in this thing besides just the foreign anthracite. The figures—I do not want to start repeating them—show that American anthracite went into Canada in 1931, to the amount of 1,580,000 tons, bituminous 9,354,000, coke 645,000, or 11,579,000.

Of course, no one knows what would happen. I talked with my principals in London over the telephone a couple of times recently to try to have them tell me, and they practically said we would have to work out our own salvation. They hoped I would be able to ship, but I could get nothing from them. But here is a letter I have from the International Paper Co., which I will read, if you would like to have me, and then I will leave it for the reporter.

This is from the International Paper Co., 220 East Forty-second Street, New York, purchasing department [reading]:

File No. 751. APRIL 5, 1932.

Mr. G. P. OSWALD,
Vice President, George E. Warren Corporation,
Grand Central Terminal, New York City.

DEAR MR. OSWALD: We customarily purchase a part of the coal requirements of our Canadian mills in the United States.

If the United States places the proposed $2 per ton duty on the importation of coal, it will probably lead to Canada placing a similar duty on the importation of coal into Canada. This would make the price of United States coal prohibitive for use in our Canadian plants.

We have no interest in the matter other than a hope that we can continue to buy in the United States market.

You are among our suppliers of coal, and as such we want you to realize the probable effect of such action by the United States on the exports to Canada.

Yours very truly,

G. E. SMITH, *Manager.*

Senator REED. Did you ever think how glad the International Paper Co. would be to have no tariffs written in this bill?

Mr. OSWALD. Yes; I have thought of that, Senator. I think that Mr. Anderson and Mr. Hale have covered some other points that I was going to mention and I do not want to take up any more time than is necessary.

The duty simply means, in my opinion, that foreign anthracite is out the window; and then we have to see what we can get for American anthracite. I am afraid we are going to lose some business. The ton-

nage can only be increased in a very small area, because it is a tidewater proposition. We can not compete on the inland markets. Consequently, there is not the danger that some people seem to feel that the market is going to be flooded, and I can assure this committee that whether it is Russian or Welsh—we imported 60 per cent of the 570,000 tons in 1931—I can assure the committee that the market will never be flooded by us with Russian; and nobody else can handle it. And I am sure the English have no desire to do it. They can not get the coal if they wanted to.

STATEMENT OF BRICE P. DISQUE, EXECUTIVE DIRECTOR, ANTHRACITE INSTITUTE

Mr. DISQUE. Mr. Chairman and gentlemen of the committee: I represent here the entire anthracite industry. I know of no operating company that takes exception to that statement, and I have affirmative authorization from them.

I would like to just read into the record the imports, as we have received them from the Government.

1927, this is anthracite coal, 106,000 tons—these are net tons; 1928, 369,000; 1929, 483,000; 1930, 658,000; and 1931, 628,000.

The CHAIRMAN. Where did that coal come from?

Mr. DISQUE. That is from Wales and Russia principally. Some from Scotland, some from Germany, and, this year, some from China, but I have not that included in this statement.

Senator SHORTRIDGE. Anthracite?

Mr. DISQUE. Anthracite. The freight rates, as we have them, from Russia—this is conversion of currencies into our money—$3.16; from China, $3.45; from Wales, Scotland, and Germany, $1.75.

Our freight rate on the net ton from the coal mines in Pennsylvania to Boston is $3.88.

While the aggregate amount of anthracite received is small in proportion to the total, it constitutes about 10 per cent of the anthracite that the American industry ships into the New England States.

It is true that foreign anthracite, particularly the Russian and Chinese, can and probably will command a higher price than our own. It should. It should command a higher price than it does, because they are sending over here the "porterhouse" of their production. If the American industry attempted to segregate that portion of its coal, it could not operate, because probably the percentage of that quality of coal would be in the neighborhood of 2 or 3 per cent of the total production.

Senator GORE. Is this mine run over in Russia?

Mr. DISQUE. I understand it is the "porterhouse", so to speak, of their production.

Senator GORE. Do they screen it or how do they separate it?

Mr. DISQUE. I am told—it is awfully hard to find out, Senator, anything that you can depend upon about Russia—that it is hand picked. This situation is one in which the anthracite industry is not particularly keen about, keeping the word "bituminous" in the bill. The industry has thought very thoroughly into this subject; given it mature consideration. We understand the Canadian condition, and it is pertinent at this time to say that while Canada is a part of the British Empire, the Canadians have put a tax of 40 cents a ton on the importations of American anthracite, and we bring in

Welsh anthracite without any tax. The amount of anthracite introduced into the New England States means work for about 1,800 miners for a year.

Senator GORE. Where? Here or in Wales?

Mr. DISQUE. In Pennsylvania. It represents about 375,000 man days. We have got about 30,000 men up in Pennsylvania who are not employed. Those men are being maintained through appropriations of counties, cities, and donations from the industry. It seems to me rather grotesque that we should be carrying on in Pennsylvania under those conditions and giving our sales into countries where Chinese coolies, at maybe 15 cents a day, are producing coal, and Russian labor at any price, any way, a price which can not be determined, and under a government control whereby the government may allocate any of its costs to any other industry that suits their pleasure.

Senator REED. What can you tell us about the conditions of labor in the Donetz Basin?

Mr. DISQUE. We have been active in endeavoring to get a true story about that, Senator. I talked with five engineers who have lived over there from one to three years. They have convinced me beyond doubt that labor over there is compulsory. It is practically impossible to satisfy our Treasury Department in a manner that would probably be acceptable except in court. We thought we had done that about a month ago, and the next day they brought in a new edict from the Russian Government that seemed to wipe out the conditions as we had been reporting them, and that will continue, I suppose, until it is next to impossible for any American to go into the Donetz Basin free and unhampered and talk to Russian labor without supervision.

Our witnesses are men who are engineers and who impress me as careful men, who would make no statements that they did not believe, and particularly two of them have no unfriendly feeling toward the soviets. One of those men lived there three years, helped develop the mines. He tells me that if a man does not work in those mines as he is ordered, he is refused a bread card and can not eat. He tells me that no man can leave Russia without permission of the Government, and they won't grant it. He has recited to me several instances of which he had personal knowledge where engineers were compelled to serve their sentences imposed by the G. P. U. (Gay-pay-oo) or whatever organization that is working there.

Senator HARRISON. It is not G. O. P.? [Laughter.]

Mr. DISQUE. This sentence was imposed, not for any criminal conduct, but because of some error in industrial management.

Senator GORE. Then it was not G. O. P. [Renewed laughter.]

Mr. DISQUE. And they were compelled to work out a year or two years of their sentence in the offices of the engineer. He told me of seeing three different groups of peasants herded under guard and brought to the mines. I saw, and turned over to the Treasury Department, an order of the Russian Government directing that certain skilled labor, who had been wandering about the country through the activities of other trusts, should be corralled and brought in there and put to work at specified jobs under penalty. They did not describe the penalty, but the penalty was a threat to both the governmental executives and the skilled labor. That document I turned over to the Treasury Department.

Senator REED. That is about a month ago?

Mr. DISQUE. About a month ago; yes, sir. It is only recently that Chinese coal has begun to come into this country. It is just a question of whether we propose to try to maintain our railroads and American standards here, or allow those products to come in. Each ton of foreign coal that comes in here means about a half a day's work for an American miner and about a sixth of a day's work for an American railroad man.

I would like to say this to the committee: That the American anthracite industry has been energetically at work for the past eight months, that I know of, in a most determined effort to make their product more available to domestic consumers. One of the first results of that effort has been two price reductions in the past two months, aggregating $1.50.

Senator GORE. What is it selling at now at the mouth of the mines in Pennsylvania?

Mr. DISQUE. At the mine it is selling from $6 to $6.50.

Senator GORE. What do they pay the miner per day to mine it?

Mr. DISQUE. I can not answer that, Senator. I did not expect to appear before this committee. I did not know there was any opposition to our bill until this morning.

Senator GORE. Yes.

Mr. DISQUE. The miners up there have got a very high wage compared to what they enjoyed before. The industry itself is hardly responsible for that. A number of those increases have been forced upon it.

Senator GORE. There are a good many miners out of employment, are there not?

Mr. DISQUE. There are approximately 32,000 miners out of employment.

Senator GORE. And how many are employed?

Mr. DISQUE. About 130,000 now. They are employed now not over 60 per cent of their time.

Senator GORE. The Chinese coal that comes in, is that delivered on the Pacific coast?

Mr. DISQUE. No, sir. All of the importations of anthracite are concentrated in the New England States, Portland, Me., Boston, Gloucester, Providence, and I believe some into New Haven, although I am not sure of that.

Senator SHORTRIDGE. How does it get there?

Mr. DISQUE. By ship.

Senator GORE. By the Panam Canal.

Mr. DISQUE. The Chinese coal comes through the Panama Canal, at least, the last shipment I heard of did.

Senator SHORTRIDGE. Do the miners work by the hour or the output?

Mr. DISQUE. There is the most complicated schedule of wages you ever saw there, Senator; some by the ton, some by the day, some by the hour. Every job has a special schedule that is arranged for it.

Senator GORE. Do they do machine mining?

Mr. DISQUE. Where is that, sir?

Senator GORE. In anthractie.

Mr. DISQUE. In America?

Senator GORE. In Pennsylvania, yes.

Mr. DISQUE. Quite a number of the mines out in Pennsylvania are mechanized.

Senator GORE. Yes.

Mr. DISQUE. It is believed that the most of those that will lend themselves to it have been mechanized. Certain anthracite veins do not lend themselves to it.

Senator GORE. In China they are not mechanized?

Mr. DISQUE. I understand not.

Senator GORE. In Russia?

Mr. DISQUE. I understand not.

Senator GORE. In Wales?

Mr. DISQUE. I do not know about Wales. By no stretch of the imagination can this tax result in an increase in the cost of coal to the consumer. That is not a possibility. It simply means 1,800 more American miners put to work. And we are not a bit fearful that the people who are paying an extra dollar for that anthracite are going to abandon anthracite, because they are buying Pennsylvania.

I might repeat that the entire anthracite industry has given mature consideration to all aspects of this question and are for this tax.

The CHAIRMAN. Are you through, General?

Mr. DISQUE. Yes.

STATEMENT OF HON. ANNING S. PRALL, REPRESENTATIVE, 11TH DISTRICT, NEW YORK

Representative PRALL. Mr. Chairman and gentlemen: I respectfully protest against the proposed tariff embargo on coal and coke as passed by the House of Representatives, and offer for your due consideration the following facts:

1. The balance of trade, that is, exports over imports, is greatly in our favor. The Department of Commerce figures for 1931 show that during that year we exported 13,088,259 tons of coal and coke, whereas we imported only 836,769 tons of coal and coke, a ratio of almost 16 to 1 in favor of our exports. The Department of Commerce figures give the total production of coal and coke in the United States during 1931 as 459,716,104 tons, so that the coal and coke importation of 836,769 tons represents less than one fifth of 1 per cent of the total coal and coke production in this country. I believe, therefore, that it is obviously inadvisable and a shortsighted policy to embargo the comparatively small amount of coal and coke exports, which figures show can have but little, if any effect upon the American coal and coke industry. On the other hand, with tariffs mounting all over the world, it is conceivable, in fact, strongly probable, that this embargo tariff may lead to retaliation, especially in Canada, to which country during 1931 we shipped over 90 per cent of our export coal.

It becomes increasingly dangerous when it is considered that about 60 per cent of our imported coal in 1931 came from England and Canada, and these two countries in July will be holding a conference to foster Empire trade. By excluding British and Canadian coals from this country, we certainly would be presenting a most opportune invitation to this conference for retaliation.

Gentlemen, do you believe the coal industry in its present deplorable condition in this country can afford to take a chance of losing

sixteen times as much in exports as it can gain by placing an embargo on imports? Do you believe it advisable to take a 16 to 1 chance of increasing unemployment in the coal fields of America for the sake of shutting out a comparatively small amount of imported coal?

2. I desire next to call your attention to the fact that a coal and coke tariff might work hardships on over 30,000,000 people in the Eastern States where because of stingent smoke laws they are almost entirely dependent on anthracite coal and coke for fuel. It is generally recognized that the Pennsylvania anthracite industry is almost entirely controlled by a half dozen powerful corporations and that the by-product coke industry in the east, which is the source of most of the household coke, is almost entirely in the hands of the Koppers Coke Co.

It is also well known that though incomes of the consumers and prices of almost all other commodities have fallen greatly within the past two years, anthracite coal and coke prices have not come down proportionately.

No less a representative of the anthracite industry than Mr. L. F. Loree, president of the Delaware & Hudson Coal Co., within the past three weeks publicly stated that one of the great ills of the anthracite industry was that prices are entirely too high in relation to other commodities. See clipping attached hereto. In support of the fact that coke prices are too high, the Massachusetts State Commission on the Necessities of Life, in a recent report, has published the following:

> Retail prices of coke are too high and are based presumably upon the market prices for anthracite.

In addition, I point out the situation in New York City, where it is estimated 70 per cent of the anthracite consumption is in the sizes called pea and buckwheat, because the burning equipment is made for these sizes. It will interest you to know the prices of these sizes have been increased during the past three years as follows:

	Pea	Buckwheat
1929	$8.75	$7.15
1930	9.25	7.15
1931	10.50	7.50

It is the consensus of opinion among the coal trade that with normal or an extra cold winter there would be an actual shortage of these sizes; so that the coal consumers of New York City each year would be at the mercy of exorbitant and pyramiding prices which result from shortages of supply if their only other source, namely, imported coal, is cut off by this embargo. The real-estate conditions in New York City, representing investments of billions of dollars, is admittedly in a serious condition. It is certainly in no condition to be paying higher fuel costs, with prospects of still higher prices to come if imported coal is embargoed.

Gentlemen, I feel that any industries, such as the anthracite coal or the by-product coke industry, powerful enough to maintain prices at an unreasonably high level in face of the unprecedented depression, do not need protection but rather competition and plenty of it. In

my humble judgment, it is the 30,000,000 American citizens dependent upon anthracite coal and coke, the poor man's fuel, who need the protection, and their only hope for more reasonable prices is the limited competition that imported fuels can afford these two practically monopolized industries. I would also emphasize at this point that the coal industry can not be considered solely from the viewpoint of one industry, namely, coal. For it is in fact two industries, bituminous (soft) and anthracite (hard), which are as far apart as the North and South Poles. We are aware that the bituminous industry is in a chaotic condition, that it is deflated perhaps more than any other industry, due to too much competition, and that both wages and selling prices of bituminous coal have been too greatly reduced. However, the proposed tariff does not help this industry, for less than 100,000 tons of bituminous coal was imported into this country, whereas almost 10,000,000 tons of bituminous coal was exported from this country during 1931. On the other hand, the anthracite coal industry is actually strange as it may seem, suffering, from inflation, with the result of far too high prices in relation to other commodities.

As to the by-product coke industry, it is generally recognized that coke being a by-product could be sold to the consumer at materially lower prices, but it is apparent that this highly centralized industry, and because of lack of competition, endeavors to get all that the trade will bear, and thus maintains its prices at only slightly under prices of anthracite coal.

Do you know that in the States of New Jersey and Massachusetts and in New York City by-product coke production increased in 1931 over 1930 and previous years; that the largest by-product coke plants in these States are situated along the Atlantic seaboard and supply the only market which imported coke can compete in; that in the case of Massachusetts this increase in production was 44.8 per cent over 1930.

Just think of it, when almost every commodity and industry in the country has been decreased in production from 10 per cent to as high as 75 per cent, you are asked to place a prohibitive tariff in a revenue bill to protect an industry which has actually increased its production in the last year and in one case almost 50 per cent. Gentlemen, I believe you will agree that even the most zealous advocate of protection could not justify a tariff for an industry that can increase its production so materially in times like these.

It is inconceivable, therefore, that this committee will protect in the form of exorbitant tariff perhaps the only two inflated industries remaining in this country, at the expense of over 30,000,000 American citizens, and in reality at the expense of the long-suffering bituminous coal industry, which would stand in great danger of losing the great part, if not all, of the 10,000,000 tons of export business.

3. I desire next to point out for your consideration the fact that imported coal is definitely advantageous in aiding the export of our bulk agricultural products, such as wheat, cotton, and corn. Of the 800,000 tons of coal imported, approximately 600,000 tons are carried in vessels from overseas. These steamers after discharging their coal and coke cargoes here are in the market to carry back wheat, cotton, and corn to Europe and to other parts of the world.

They cause greater competition, tending to stabilize and lower the vessel freight rates on our exports of agricultural products to Europe, placing the exporters of these commodities and other bulk commodities in a more favorable position to compete in the word market.

It must be borne in mind that steamship owners who are able to earn a freight for their vessels to this country rather than sending their boats in ballast, are able, and do accept lower freights on their return trips to Europe and other parts of the world. There can be no questioning of the fact that vessel freight rates are a very important part of an export sale. I do not believe, gentlemen, that you would want to do anything that might even tend to increase vessel rates on grain, cotton, and corn, and other bulk agricultural products, and thus tend to further diminish the export market for these commodities, which the farmer is so vitally in need of.

4. In addition to the above, I desire to point out that the proposed tax of $2.20 a gross ton is so excessive that it is my opinion it will bring in very little, and probably no revenue; that it is in reality an embargo, and that it was voted for in the House of Representatives hastily and without due consideration by both the Members of the House and of the Ways and Means Committee. I feel that if the Members of the House of Representatives and their committee, namely, the Ways and Means Committee, had given hearings and full discussion to this proposal and has been aware of the facts pointed out, that neither the committee nor the House of Representatives would ever have placed a coal and coke tariff embargo in the revenue bill.

It should also be pointed out that the final Treasury and House estimate to be procured from a coal and coke tariff was only $500,000. This stands out among the other proposed taxes so insignificantly small as to immediately make one inquisitive as to why it is there. It is certainly too small to be of any practical value in a $2,000,000,000 revenue bill. Could it be that it came into the revenue bill in an unguarded moment to protect an industry that on its own merits would never have a chance in a real tariff bill? Of course, gentlemen, that is the answer.

5. Next, I wish to point out to the committee that coal and coke are bulky commodities and that sizeable importations would be prevented by two very natural barriers, namely, the number of vessels available for transportation to this country at economical rates.

You will appreciate that any sizeable increase of coal and coke imports, sufficient to have any real effect upon our coal and coke industries, would so increase vessel freights that the imports would no longer be able to compete. Secondly, to distribute on any extensive scale imported coal would require large seaboard storage facilities centrally located in large cities, which I understand are not available, and which, if they were available, would require exceedingly large capital investments for equipment and machinery for handling and rehandling this coal and coke so as to provide proper service to dealers and consumers. No sane business man would invest large sums of money in such a business venture when the sources of supply are from 3 to 12,000 miles away, depending, as it does, upon rapidly

fluctuating vessel and exchange rates to be able to compete. I point out these two facts in order to show that under any conditions imported coal and coke can never be a menace to our coal and coke industry.

6. Next, I wish to point out to the committee the record of imported anthracite coal and coke as given by the Department of Commerce reports during the past five years:

Coke: 1927, 158,859; 1928, 147,701; 1929, 119,724; 1930, 132,674; 1931, 86,223.

Anthracite coal: 1927, 119,030; 1928, 384,707; 1929, 487,172; 1930, 674,812; 1931, 569,599.

According to these statistics, coke imports have decreased since 1927 almost 50 per cent, whereas anthracite coal imports during the year 1931 from the year 1930 decreased about 15 per cent. I do not mention bituminous coal imports because they have been insignificant.

In addition to the facts I have already mentioned, what more conclusive evidence could be offered to this committee that the anthracite coal and coke industries not only do not require any protection, but that in a tariff bill on the merits of their case their cause would be a hopeless one.

7. In conclusion, from whatever angle, you can consider this proposed exorbitant tariff on coal and coke—whether it be from the viewpoint of a revenue producer, from the viewpoint of a tariff, from the viewpoint of millions of consumers, from the viewpoint of a decreasing import coal and coke competition, and, lastly, but not least, from the point of view of injury from retaliation against the industry itself because of the large balance of its exports over imports—it is unquestionably wrong, and as such I think you will agree with me should be immediately stricken from this bill.

I thank you.

LETTER FROM THE FUEL IMPORTERS (INC.)

NEW YORK, *April 20, 1932.*

To the United States Senate Finance Committee.

GENTLEMEN: We protest against the proposed tariff embargo on coal and coke as placed in the House revenue bill and offer for your consideration the following information:

The Department of Commerce records for the year 1931 show that we exported in total 3,088,259 tons of coal and coke and during the same year we imported a total of 832,769 tons of coal and coke, or an export balance in our favor of about 16 to 1. The above total export figures on coal and coke are made up as follows:

	Tons
Bituminous coal	10, 827, 000
Anthracite coal	1, 587, 775
Coke	673, 484
Total	13, 088, 259

The total import figures on coal and coke were as follows:

	Tons
Bituminous coal	176, 947
Anthracite coal	569, 599
Coke	86, 223
Total	832, 769

Of our total exported coal and coke, over 90 per cent was shipped to Canada. Of our imported coal and coke, about 65 per cent came from England and Canada.

Over the past five years, the record of our imported anthracite coal and coke was as follows:

Year	Anthracite coal	Coke
1927	106,277	150,707
1928	343,488	131,876
1929	434,975	106,896
1930	604,169	118,459
1931	569,599	86,228

In 1931 the production of coal and coke in the United States was as follows:

	Tons
Bituminous coal	378,110,000
Anthracite coal	59,115,375
By-product coke	32,454,604
Beehive coke	1,273,000
Total	470,952,982

We believe the above record is the best evidence we can offer to the committee that a tariff embargo on coal and coke is not only unnecessary but that it may be exceedingly harmful to these interests, because:

(1) Our exports are sixteen times greater than our imports of coal and coke.

(2) Ninety per cent of our coal and coke exports go to Canada; 65 per cent of our imports come from England and Canada.

(3) To embargo English and Canadian coal and coke from this country at this time would be nothing less than an invitation to the British Empire Trade Council meeting in Canada in July, for Canada to retaliate; thus we stand to lose much more business than could be gained by the embargo and increase unemployment among the American miners to a very considerable degree.

(4) Our imports of coke have decreased over 40 per cent during the last five years, and our imports of anthracite coal have decreased about 15 per cent in 1931 over 1930. (NOTE.—Bituminous coal imports are too small to consider. Also, we do not have the figures for imported coal and coke during the first three months of 1932 available, though these figures probably show up comparatively high with the yearly average, as most of the coal and coke imports come into this country during the winter season.)

(5) Our imports of coal and coke represent less than one-fifth of 1 per cent of the production of coal and coke in this country. Therefore, it is obvious that these industries are very little, if at all, affected by these imports.

Whether one takes the coal and coke industry as a whole, or segregates it into bituminous coal, anthracite coal, or coke, the same arguments remain, that exports are greater than imports; that imports represent an exceedingly small percentage of the American production, and imports are decreasing rather than increasing. Therefore, obviously there is no need of an embargo.

We understand such features of this embargo tax as no revenue being possible, the anthracite coal and coke industries being virtually monopolies, and prices and wages in these industries being inflated and abnormally high compared with other industries, that production of by-product coke along the Atlantic seaboard having increased in 1931 in the case of Massachusetts almost 50 per cent, whereas imports of coke have decreased, that the need of protection for 30,000,000 consumers in the Eastern States because forced by smoke orders and because of burning equipment to use these fuels, have all been discussed by other protestants of this bill; therefore, we will not take up the committee's time with the details of these features.

We do wish to point out to the committee that we do not believe the members of the coal and coke trades as a whole are sympathetic to this proposed tariff embargo, and many feel that it is jeopardizing these industries for the sake of shutting out a very small amount of imported coal and coke. We may add, that many members of the coal and coke trades with whom we discussed this, are connected not only with the bituminous industry but with the anthracite industry as well, and are not connected in any way with the importation of coal and coke.

Finally, we ask the committee not to be influenced by the phantom of inducted

(Russian) or coolie (Chinese) labor causing American labor to be put out of work. This makes excellent rhetorical material, but, in fact, is sheer nonsense, because:

(1) Less than 25 per cent of the coal imported came from Russia, and only 5,000 tons came from China.

(2) If the Russian coal is produced by inducted labor, there is already a law which would bar it (Canada bars Russian coal, but it does not bar German, Welsh, American, or other coals).

(3) Any experienced steamship man will tell you that it is absurd to expect any but the smallest amount of coal to come 12,000 miles from Indo-China; that it is an unusual and uneconomic trade route; that the voyage is too long, and that only an occasional steamer could be obtained at a reasonable rate to bring coal from this distance.

(4) Our company imported the only cargo of Chinese coal that came to the eastern United States. The voyage of this steamer took 65 days. We had to wait three months before we could charter a steamer at the competitive rate of $4.75 freight for one port and $5 for two discharging ports (steamship owners wanted from $6 to $8 per ton freight for this trip). We had to pay for this coal in American dollars f. o. b. Indo-China within 50 cents to $1 per ton of the present f. o. b. mine prices of American anthracite, regardless of what kind of labor they employ, and we know that the price at which we purchased was at least a dollar a ton lower than any of this coal had heretofore been sold for. In addition to this, the cost was greatly added to because of the necessity of financing this shipment for a period of three months, and the excessive degradation in the coal caused by such a long sea voyage. Finally, if we desired to import additional quantities of this same coal, we could not obtain another cargo until next September, which would mean arrival here almost in 1933. We would be glad to present the cables and our records to your committee, establishing these facts.

(5) Thus, Russian coal can already be barred by law, if it is produced by inducted labor, and common sense dictates that Indo-China coal is unable geographically to compete in this market, except in very small quantities, and then, probably, only temporarily.

We feel that all the evidence is against having a coal and coke tariff embargo in the revenue bill, and that such evidence as has been presented in its favor is not based on facts, and that, therefore, this embargo tariff should be stricken by your committee from this bill.

We wish to take this opportunity to thank the committee for the privilege of presenting our side of this question, and trust it may aid them in determining this feature of the revenue bill.

Respectfully,

J. CLIFFORD MCCHRISTIE,
President.

BRIEF SUBMITTED BY JOHN B. STEVENSON, 3D, FOR AND IN BEHALF OF THE AMERICAN BRIQUET CO.

The American Briquet Co. is a Delaware corporation, with head office in the Philadelphia Bank Building, Philadelphia, Pa., and manufacturing plants located at Lykens, Pa., and Charlestown, Mass.

The Lykens plant has been in operation since the latter part of 1919 and a market was established chiefly in New England, for its manufactured product. The raw material used is an anthracite culm, being the residue after all marketable sizes have been screened out. The success of the Lykens plant warranted the erection of a plant at Charlestown, Mass., in 1928. Creating a market for the product necessarily involved the expenditure of a large outlay of money, and after a market was established the pioneer work done by the American Briquet Co. was taken advantage of, to its detriment, by foreign manufacturers and foreign fuels manufactured from anthracite, bituminous, and lignite coals are being imported at various seaports in New England, including Portland, Me., Boston, Mass., seaports in Rhode Island and further south. In Boston alone, from December, 1930, to November, 1931, inclusive, 64,241 tons of German Ovoids were imported. Unless checked, importations will not only increase from German factories but be quickly followed by similar fuels manufactured by other foreign countries.

In addition to the initial expense incurred by the American Briquet Co. to establish a market, it has recently been compelled to expend large additional sums in its attempt to maintain its market, but, in view of the very low price

at which foreign manufactured fuels, above referred to, are offered, its tonnage has materially decreased. Such foreign fuels are now being sold from $3 to $4 per net ton below the price of domestic manufactured fuels. Under existing conditions, neither a profit on the moneys invested in the plants, which exceeds $1,000,000, can be anticipated nor their continued operation.

The rated tonnage capacity per annum of the American Briquet Co.'s Lykens plant is 225,000 tons and the Charlestown plant 100,000 tons. In 1931 the American Briquet Co. produced less than 80,000 tons at its Lykens plant and less than 80,000 tons at its Charlestown plant. This decrease in tonnage is directly attributable to foreign manufactured fuels imported into this country—sold at a price which the American Briquet Co. can not possibly hope to meet and maintain a wage scale which will insure for its employees a living in accordance with the American standard.

The total tonnage produced in 1929, the first full year the Charlestown plant was in operation, amounted to 145,785 tons. In 1930 the total tonnage produced amounted to 127,237 tons and in 1931 the total tonnage produced amounted to 96,935 tons. This loss in tonnage can not properly be attributed to depressed business conditions inasmuch as our product is sold at a price which would be particularly attractive during such a period.

The total manufacturing pay roll of the company, if operating to capacity, would be about $175,000 per annum. Its manufacturing pay roll in 1931 was approximately $78,000.

The above facts clearly indicate that the manufacturing activities of the American Briquet Co. will be destroyed unless a tax of not less than 10 cents per 100 pounds is imposed on the imported fuels referred to herein.

Unless the present situation is corrected at an early date by a tax, labor will suffer severely, the capital invested will be jeopardized, and not only will the railroads be deprived of a substantial revenue but many other business activities will suffer from whom the American Briquet Co. purchases materials, while, on the other hand, cheap foreign labor is employed, foreign capital engaged, low trans-Atlantic freight rates secured on Ovoids, etc., shiped in foreign vessels, and the materials used in their manufacture are purchased abroad.

In conclusion, attention is called to the fact that the American Briquet Co., in its process, converts finally divided particles of coal, having merely a nominal value, into a highly satisfactory domestic fuel, thereby giving a substantial value to a waste product. In this transformation not only is American machinery used but other American products, together with the consequent employment of labor.

The industry, meeting this foreign competition, can not survive in this country unless it is protected against the underpaid, undertrained, and underfed labor of Europe. A protective tax is the only reparation.

PROPOSED TAX ON LUMBER AND WOOD PULP

STATEMENT OF H. B. VAN DUZER, PORTLAND, OREG.

Mr. VAN DUZER. Mr. Chairman and gentlemen, I am one of a group of lumbermen who have come here from the Pacific Northwest. What few general remarks I have to make I must apply, naturally, to the Northwest country.

We are in a very distressed condition in that country to-day. Mills are idle and labor is unemployed. The condition is such that only by viewing it personally can you properly appreciate it. We are coming here and asking that we be included in this revenue bill. We appreciate that what we are asking might be properly termed a tariff impost. But we further think, gentlemen, that the situation is so acute that when you have an unprecedented time you have to meet it with an unprecedented remedy.

We have found, especially from the British preferential tariffs, running as high as 30 per cent in favor of the United Kingdom as against America, down to 3 per cent plus differential due to the depreciation in the currency in South Africa, that we have something that we simply can not live under; that we can not employ our men. Our cities, our counties, and our States have gone practically to the limit in attempting to take care of the idle men and to aid the families.

We have come here asking you for help. The industry for the last few years had been losing money—using lots of money; so much money, gentlemen, that how long there can be any employment in the lumber business in the Northwest is truly a problem.

We are not asking you gentlemen to put lumber or other forest products in this bill to make money for the lumbermen. We are asking it to prevent their losses being so great—because there will still be losses—that they can not continue to furnish employment to idle labor.

When you take the territory from northern California up through and including the States of Oregon and Washington, and you realize that something like 100,000 men of 140,000 are now out of employment, you can see what it means to our country.

The CHAIRMAN. Is that on account of importations?

Mr. VAN DUZER. On account of the situation that arises, Senator, on account of the fact that Canada has this preference, and is now producing this lumber which they can sell here, in these foreign countries—and they are foreign country although a part of the British Dominions, and they produce a certain amount of lumber and sell it at prices that we can not meet in competition.

The CHAIRMAN. That is on account of importation, then?

Mr. VAN DUZER. Yes, sir.

Senator WALSH of Massachusetts. Mr. Chairman, have these petitioners suggested an amendment? I would like to see it and know how broad it is.

The CHAIRMAN. I suppose they will present it in their testimony.

Senator WALSH. You will do that?

Mr. VAN DUZER. Yes, sir.

Senator WALSH of Massachusetts. I think it would be well to do it in the beginning, so that we may follow it.

Mr. VAN DUZER. Colonel Greeley will follow me and will make that statement and give the details.

Just one more statement, Senator Smoot, if I may make it.

When we have had hearings in the past affecting lumber, and so forth, we have had, apparently, a division in the ranks of the lumbermen and, as you stated, somebody else will be here to-day, I want to call your attention to the fact, on behalf of our delegation from the Northwest country, that there are along on this side of the line all the way across, those who own and operate timber holdings in British Columbia. In other words, that is American money in a foreign land. If we were here discussing a purely tariff proposition as to whether their costs and our costs were thus and so, then we might be prepared to argue it. But when we are here to-day discussing the distress of an American industry employing American labor, trying our best to prevent what we fear may happen before fall and winter set in, we maintain, in all sincerity that American dollars in foreign lands, or lands just over the border should not be concerned in a bill which is of a temporary character, or a bill which only furnishes a measure of relief for two years, and which can not be directly construed as a tariff measure.

That is all.

The CHAIRMAN. Who is next, Mr. Van Duzer?

Mr. VAN DUZER. Colonel Greeley will proceed next.

Senator GORE. I want to ask him a question. I got in a little late. Are you asking for certain duties, or certain articles to be transferred to the free list?

Mr. VAN DUZER. We are asking for protection on certain articles, and certain articles to be taken from the free list.

Senator GORE. Have you made an application to the Tariff Board?

Mr. VAN DUZER. Yes, sir.

Senator GORE. What was their ruling on it?

Mr. VAN DUZER. I do not know. Can you answer that question?

Mr. GREELEY. Yes, sir.

Senator GORE. You have relief from the Tariff Board?

The CHAIRMAN. Senator Gore, the next witness will answer all questions on the subject.

Senator WALSH of Massachusetts. He said the details would be given by the next witness.

Senator GORE. Very well.

STATEMENT OF W. B. GREELEY, SEATTLE, WASH., REPRESENTING WEST COAST LUMBERMEN'S ASSOCIATION

The CHAIRMAN. Just give your name and address to the reporter.

Mr. GREELEY. My name is W. B. Greeley, Seattle, Wash., representing the West Coast Lumbermen's Association.

Mr. Chairman, all of the forest industries of the Pacific Northwest are represented here to-day as a unit asking that the principle of reasonable protection for natural resources, which has already been written into this bill in the case of oil and coal, be extended to the forest resources and forest labor.

We make that request because we believe that there is no natural resource industry where reasonable protection is so needed to-day in this country as in the case of the forest industries, or where such protection would be of so much immediate benefit in the relief of unemployment.

The CHAIRMAN. I suppose you will give the rates you ask for.

Mr. GREELEY. Yes, sir.

The CHAIRMAN. Do you want to put that in now?

Mr. GREELEY. The rates are——

The CHAIRMAN. No; go right on with your statement.

Senator WALSH of Massachusetts. We would like the form of his amendment. When they come here particularly asking an amendment, we would like to know, and ought to know, the amendment. Let us have the form of the amendment.

Mr. GREELEY. The rates that we request are $3 per thousand feet board measure on rough lumber of all species.

Senator GORE. What is it now?

Mr. GREELEY. Now it is on the free list.

We ask for $5 per thousand feet board measure on dressed lumber, which is now dutiable at $1 per thousand feet.

Senator GORE. You just want to raise it to $5?

Mr. GREELEY. Yes, sir.

Senator HULL. And very limited in its being dressed, too.

Mr. GREELEY. On logs, poles, and piling of all species, now admitted free of duty, we request $1.50 per thousand feet log scale.

On pulpwood of all species, now admitted free, we request $1 per standard cord of 128 cubic feet.

On woodpulp, now admitted free of duty, we ask one-sixth of 1 cent per pound, dry weight on mechanically ground wood pulp; one-third of 1 cent per pound, dry weight, on chemical wood pulp, unbleached; one-half of 1 cent per pound, dry weight, on chemical wood pulp, bleached. These are all articles that are now on the free list.

We also ask that a duty of 25 per cent ad valorem be imposed on several other forest products, specifically lath, shingles, fence posts, and crossarms.

Senator GORE. And they are on the free list?

Mr. GREELEY. They are now on the free list.

Senator GORE. Yes.

Mr. GREELEY. Each one of these forest products, from our country, come out of the same woods, from the same trees, or the same variety of trees that grow together. They must all be logged by the same logging operation. And to utilize our timber efficiently and to maintain a stable growth for the future of the forest industry, they should all be treated as a unit.

Now I will not take your time to enumerate the imports of forest products into this country.

The CHAIRMAN. You may put them in the record.

Mr. GREELEY. I will put them in with this general brief.

The CHAIRMAN. Very well.

Senator GORE. Are they considerable, as compared with the mass of production here?

Mr. GREELEY. Yes; they are substantial, in a number of them.

For instance, wood pulp amounts to 1,800,000 tons, roughly, a year, and so on.

Senator GORE. And what is the domestic production?

Mr. GREELEY. The domestic production is about double that amount. I will be corrected if this figure is inaccurate; but about one-third is imported.

A rough calculation based upon the present imports, indicates that if the present volume of these various forest products were continued, the duties collected would yield the Government a revenue in excess of $17,000,000 a year. This is assuming that the volume of imports in 1931 should be continued undiminished.

Senator COUZENS. If that assumption were carried out, that would not help the labor in your district, of course, would it?

Mr. GREELEY. Correct. Of course, we realize there is some diminution in those imports.

The CHAIRMAN. If there is not, it would not help you at all?

Mr. GREELEY. From the revenue standpoint the results will be substantial.

Now, the other benefits that we anticipate from these duties will be: First, an equalization of competitive conditions for American forest industries in this country.

Secondly, and particularly, increased employment for our idle men.

Now, I want to tell you gentlemen that the lumber industry and its allied forest industries in the Pacific Northwest is in an extremely critical condition; so critical that it is not overstating the case to say that we are on the verge of complete financial collapse. The main reason for that situation is the terrific shrinkage that has taken place in the domestic consumption of our lumber, along with other varieties of lumber, during the period of the depression.

I just want to point out that since 1929 the lumber consumption in this country shrank 25 per cent in 1930; 49 per cent in 1931; and at the rate at which it is being used to-day we will encounter a shrinkage this year of 60 per cent below the volume consumed in 1929. In other words, we are back to the same level of lumber consumed as we were in the year 1869.

Senator GORE. There has been that much shrinkage in consumption, notwithstanding the reduction in price? There has been a reduction in price?

Mr. GREELEY. There has been a terrific reduction in price, yes, Senator, in addition to the shrinkage in consumption.

Senator GORE. Now you think if we put on a tariff that it would increase the amount of lumber used?

Mr. GREELEY. It would divert and cut off a certain amount of foreign lumber. It would give us an opportunity to supply domestic lumber and to employ our labor.

Senator GORE. Now, what do you think; that it would raise the price, or increase the amount of lumber?

Mr. GREELEY. In my judgment, it would raise the price not in one particular, because of the stocks of lumber on hand now. But it would enable us to manufacture some more lumber that is manufactured at home, in lieu of lumber coming in from other countries, in addition to employing our labor.

Senator COUZENS. Did you make an application in 1931 for a tariff on pulpwood?

Mr. GREELEY. No, sir; we were not in any such application.

Senator WALSH of Massachusetts. Let me ask you a question. Do you exclude northern white pine?

Mr. GREELEY. No, sir; we cover all woods.

Senator WALSH of Massachusetts. Is it not a feat that northern white pine is not a product on which you employ labor in the Northwest?

Mr. GREELEY. Not that species; no, sir. But we produce a certain species of lumber that is in competition with the white pine.

Senator WALSH of Massachusetts. The only place where that is produced is the Northern States?

Mr. GREELEY. Yes; in Minnesota, and some of the other Northern States.

Senator WALSH of Massachusetts. There is not enough produced, and it is imported from Canada?

Mr. GREELEY. Yes; they import it.

Senator GORE. Have you made an application to the tariff board for a tariff on this lumber?

Mr. GREELEY. An application was made last summer, Senator, and the tariff board did not grant the increase. I want to point out, since that question has been raised, that the reason we are coming to the Congress now instead of to the tariff board is that the present importation keeps 45 per cent of the lumber on the free list. On paper there is reciprocity, because Canada has the same free list on lumber. In fact, there is no reciprocity, for the movement is all one way, and when 45 per cent of lumber is on the free list, the Tariff Commission has no jurisdiction to deal with the situation.

Senator GORE. Not with the free list part of it?

Mr. GREELEY. No, sir; not with the free list part of it.

Senator GORE. What is the price of stumpage across the Canadian line, across in the British Columbia line, as compared with American stumpage?

Mr. GREELEY. That has been covered by the investigation by the Tariff Commission. I would say that the thing that we are concerned with regarding the stumpage cost, with all the elements, was gone into, and it was from $1 to $1.50 less in the British Columbia price.

Senator GORE. Has the Tariff Commission covered that?

Mr. GREELEY. The Tariff Commission has covered that, and their conclusions would substantiate that full difference, or very close to it.

Senator GORE. What is the prevailing rate of wages across on the American line, as compared to the wages in Canada?

Mr. GREELEY. Well, there has been a lot of testimony submitted to the commission on that subject, and there are different viewpoints. I would prefer to refer you specifically to the report of the commission than to attempt to quote it offhand. But there has been a substantial difference, amounting to 20 or 25 per cent in the prevailing base wages paid on the Pacific coast district, less in British Columbia, as compared with the United States.

Senator COUZENS. Could you tell us just what has happened since we took up the tariff bill, to make these high markets? That was in 1930 we went through this, and what happened to make these enormous increased markets?

Mr. GREELEY. What has happened, Senator Couzens, is that with the tariff and shrinkage in our home consumption, as I mentioned, with a corresponding shrinkage in our export business because of depreciated currency difficulties, and the preferential tariffs that have to-day practically shut us out of the British Empire and all its Dominions, and because of the foreign regulations and quotas that have shut us completely out of France, our industry is prostrated.

Senator COUZENS. So those are the real reasons that you are asking this to-day?

Mr. GREELEY. Those are reasons, Senator, and the real primary reason is that 75 per cent of our men are unemployed. Now when you consider the communities in which these men lived, it is a very critical situation.

Senator GORE. You have no way of telling why these preferential rates were granted and the quotas cut to keep out our stuff?

Mr. GREELEY. Oh, I know the common reason that is given, or the reason that is commonly cited is that it was in retaliation against us in this country. I am no expert on those subjects, but I do know, so far as our tariff is concerned, there are no tariffs that keep a single pound of foreign wood-pulp production out of the United States.

On the other hand, we are in a position where their preferential tariffs benefit them and they shut us out. And while our friends in British Columbia are steadily increasing their importing business, and are running their mills at capacity, we are shut off from the export business and have a shrinkage in our home market which has just reached a point where the industry is going to pieces.

Senator THOMAS of Idaho. Mr. Greeley, is Russia a competitor here.

Mr. GREELEY. In a mild way, Senator. They range from a maximum of 70,000,000 feet to about 14,000,000 feet in 1931, which is not, of course, an important quantity. The Russian imports of pulpwood, however, have been a very substantial factor at one time or another, and a very serious threat to our pulpwood industry.

Senator GORE. Does Canada get preferential rates in England under this new tariff?

Mr. GREELEY. Yes; 10 per cent.

Senator GORE. When did that go into effect?

Mr. GREELEY. It went into effect on the 1st of March. The trade agreement between Canada and Australia levied a preferential tariff against America of 20 shillings per thousand feet. That is on rough lumber. That has been operating almost a year, and has kept the American lumber out of the Australian market. And the same thing is happening in Great Britain, and in Africa. In other words, we have had this double burden: This shrinkage in our home market, and this competition in our home market from British Columbia. We have had a very rapid loss in our domestic market.

Now, gentlemen, there is just one other statement I wish to make, which is to picture to you as graphically as possible these conditions to which I refer on the West Coast. We have in Western Oregon and Washington, or had, on December 31, 1931, 722 living sawmills, of which number 402 did not operate at all during 1931. The remaining mills operated as they could, two days a week, three days a week, or a week now and then, followed by a week of complete shut-

down. We are running to-day at 22 per cent of our actual productive capacity.

Senator WALSH of Massachusets. And 40 per cent of the actual productive capacity in 1929; is that correct?

Mr. GREELEY. In 1929 we operated about 45 per cent; this year at 22 per cent of the same rated capacity.

Our association maintains a current record for cost accounting purposes, and has for many years, of the cost items of a large number of representative mills, and without going into detail with regard to that record, I want to tell you that, based upon authoritative reports from a large number of sawmills, the average mill that is attempting to operate to-day can not recover the cost of its raw material, and can not recover the cost of operation. The industry is living simply on its resources and capital assets.

Now, just a word on the unemployment situation. In the Pacific Northwest the only large basis of employment is lumber and other forest industries. In normal years we send out pay rolls of $100,000,000 a year, and we supply over 60 per cent of the industrial pay rolls of that region. So you can appreciate the regional effect when this major industry is prostrated, as it is to-day. And our actual employment, in the first quarter of 1932, in hours per month, was but 20 per cent of the hours of employment in 1929. Seventy-five per cent of our labor is completely without a job, and the remainder are working on short hours and on short shifts, and at wages averaging 40 per cent below those of 1929.

Now, that is the situation, gentlemen, and that is the primary reason why we are here asking for such relief as you can give us through duties.

The CHAIRMAN. Mr. Van Duzer, who is the next witness?

Senator THOMAS of Idaho. Just a minute, Mr. Chairman.

Senator COUZENS. I want to ask him a question, too.

Senator THOMAS of Idaho. Do you feel that these rates would give you the domestic market and help the employment situation?

Mr. GREELEY. The rates would give us the greater part of the domestic market, and would considerably help the employment situation. The rates would shut out a great deal of foreign forest products, and distinctly help the situation.

Senator COUZENS. What rule did you use to arrive at these rates which you ask for?

Mr. GREELEY. The difference in the cost of production and the difference in exchange, plus the little extra benefit that we felt was due as an emergency measure on account of the unemployment.

Senator COUZENS. What figure did you use in arriving at the depreciated currency item?

Mr. GREELEY. The way it actually works out, Senator, at the present time the competitive advantage of Canadian lumber is very close to 10 per cent, or 9 per cent, over the cost on the American market, because it includes a substantial part of the transportation. Not all of it, but part of it.

Senator CONNALLY. Have you a copy of the report of the Tariff Commission on lumber?

Mr. GREELEY. Yes, sir.

Senator CONNALLY. What did they do?

Mr. GREELEY. They left it unchanged.

Senator CONNALLY. Did they find that it did not need any more tariff?

Mr. GREELEY. Their report, which was lengthy, was based on their study of it.

Senator CONNALLY. I want to get a copy of that report.

Mr. GREELEY. It brought out that 45 per cent is on the free list, and they had no power to deal with it.

Senator HULL. What is the date of that?

Mr. GREELEY. November, 1931.

Senator GORE. Do you think 25 per cent would be sufficient?

Mr. GREELEY. In——

Senator GORE (interposing). What is the mill price?

Mr. GREELEY. In Washington the price on dressed stock would be about $14 per thousand.

Senator GORE. About 40 per cent?

Mr. GREELEY. Yes.

The CHAIRMAN. Is that all?

Senator WALSH of Massachusetts. What is the depreciation in the building-material business throughout the country?

Mr. GREELEY. You mean the shrinkage in building?

Senator WALSH of Massachusetts. Yes.

Mr. GREELEY. I think this year, to take this year alone, 50 per cent in value in all classes of building.

Senator GORE. Is the breakdown in the Northwest in regard to lumber worse than it is with the wheat producers or the wool producers?

Mr. GREELEY. I am not prepared to say, Senator, except in this way, that it is more serious in its community effects, because this strictly concerns the communities——

Senator GORE. The employment situation?

Mr. GREELEY. The employment situation, and these men lived in communities, and many of those towns do not really exist more than ghost towns. That is all there is to it. They are just ghost towns.

Senator GORE. Now you spoke about lumber as a natural resource and referred to it in the same category with coal and oil. You realize, of course, that while it is a natural resource, that it is reproducible.

Mr. GREELEY. Yes, I admit, Senator, that lumber is reproducible, but I group it as a natural resource and entitled to consideration because, after all, these resources are basic wealth. And in the case of our lumber industry, that natural resource has been entrusted to private ownership as custodians for the country. We have to carry it; we have to pay taxes on it; and protect it from fire. And we are carrying out there forty years of a maximum supply of lumber. I think from that standpoint of a natural resource it would stand in a natural relation to the economic welfare.

Senator GORE. Could you give the prevailing price for stumpage out there?

Mr. GREELEY. The stumpage now being manufactured, as reported by operating mills will average from $2.85 to $3.50 per thousand board feet.

Senator GORE. And the rough lumber is averaging what price?

Mr. GREELEY. The rough lumber?

Senator GORE. Yes.

Mr. GREELEY. Nine to ten dollars per thousand.
Senator GORE. And the dressed lumber $14?
Mr. GREELEY. Approximately.
Senator STEIWER. The chairman has permitted me to ask a question. I want to inquire about the carriage rates from the west to the east coast. At the time the Tariff Commission made this report, was there a conference agreement?
Mr. GREELEY. Not in effect. It was broken.
Senator STEIWER. Is there a conference agreement now?
Mr. GREELEY. Yes; there is a conference agreement now.
Senator STEIWER. What effect has that had on the carriage rates from your place to the Atlantic Coast?
Mr. GREELEY. The new agreement has raised the intercoastal rate to $10 per thousand feet board measure, where formerly it had been around $8 or $9. Other than that stable rate, as long as the American shipper can employ only American tonnage, we are immediately put up against a new form of competition—not new, but a different form of competition, in the fact that the British Columbia shipper is enabled to employ any foreign-flag tonnage that he can find in any part of the world, and does employ it freely, at a rate of $9 per thousand feet. In fact, when the new rate went into effect, we have had cargoes——
Senator GORE (interposing). What is this conference agreement?
Mr. GREELEY. It is an agreement between carriers to stabilize rates and forms of service, and so on.
Senator GORE. And that has been increased during this depression?
Mr. GREELEY. Yes; it went into effect the first of March. And it may be that their rate was a reasonable rate, but it immediately lifted our rate above what it had been, and made it impossible for us to successfully compete with such a competitor.
Senator HULL. You believe that your situation is as bad as the situation that has been represented with reference to oil and coal?
Mr. GREELEY. To my knowledge, sir, I would say that ours is more serious than any of them.
Senator HULL. Who is going to pay this tariff and subsidy to these big industries when others are all broken down too?
Mr. GREELEY. In our judgment, these duties would not increase the price of foreign products at all, because of tremendous quantities available seeking a market in this country. We have to-day in stock of softwood lumber a quantity nearly equal to 50 per cent of the previous year's consumption. Under those conditions it would not be possible to increase prices to the consumer.
Senator HULL. Do you think that this country should carry out the policy, which has been advocated by some, to the effect that the manufacturers should cut down their domestic consumption and have no export trade, except such exchanges as coffee for cotton, that leave the country to deal speculatively with another?
Mr. GREELEY. Oh, I would favor keeping up all the export trade that we can secure. We are a large exporting industry. We do not want to see the export trade drop out of the picture. But we do feel that under these conditions we are dealing with a critical emergency.
Senator HULL. I am not speaking of your industry more than the others, but you know that every time we run up the tariff rates—we are told they did it in the case of wheat, and tobacco, and rye,

and a number of other things—every time we run those rates up, they run the rate up, the other countries do, on our products, such as automobiles, and cotton, and so on, and our trade is less than one-third of what it was.

The CHAIRMAN. Yes, and it would be still less without a tariff.

Mr. GREELEY. I can assure you that no act of ours is going to keep a foot of lumber out.

Senator CONNALLY. May I ask just this general question?

The CHAIRMAN. Certainly.

Senator CONNALLY. Have you seen any change since this $1 tariff went on a year ago?

Mr. GREELEY. It has had no effect.

Senator CONNALLY. No effect at all?

Mr. GREELEY. The lumber came in just the same.

Senator CONNALLY. Did it keep out any imports?

Mr. GREELEY. It did not affect it at all. It gave the Government a little revenue.

Senator CONNALLY. Not at all?

Mr. GREELEY. No.

Senator JONES. Just a moment, Mr. Chairman. I have not been able to be here very much. But Colonel Greeley has been answering questions practically all the time he has been on his feet. He has not been making his speech at all. Is his time taken out of that time used by the committee?

The CHAIRMAN. That has been the practice. I try to keep track of the interruptions. Out of the 20 minutes he has been on the floor, 10 minutes have been taken out by questions.

Senator GORE. I want to ask one more question, and then I will be good. This conference agreement that resulted in the increases in the marine trade rates, that was on account of the coastwise traffic?

Mr. GREELEY. Intercoastal carriers.

Senator GORE. Enrolled as American shipping?

Mr. GREELEY. Yes, sir.

Senator GORE. Coast to coast?

Mr. GREELEY. Yes; under the general regulation.

Senator GORE. Did any governmental agency sanction that increase in rates?

Mr. GREELEY. Well, the whole thing is done under the general regulations of the Shipping Board. I do not know that the Shipping Board sanctioned the rates. It has power to deal with those questions.

Senator GORE. Do they have the power to go in there and make agreements without the sanction of the Shipping Board?

Mr. GREELEY. There have been some agreements.

Senator GORE. That is all I wanted to get at.

The CHAIRMAN. Do you have a brief you wish to present?

Mr. GREELEY. Yes, sir.

The CHAIRMAN. It may be made a part of the record at this point.

(The brief presented by Mr. Greeley is here printed in the record in full, as follows:)

BRIEF FOR IMPORT TAX ON FOREST PRODUCTS

1. The forest industries of the Pacific Northwest, acting as a unit, respectfully request the Congress of the United States to extend the principle of protecting the natural resources of this country and the labor engaged in their conversion, already

incorporated in the pending revenue bill in respect to oil and coal, to the forest resources, industries, and labor of the United States. The forest industries and their labor, now suffering from an acute financial crises and widespread unemployment, are entitled to such protection as may be afforded by reasonable import taxes to at least an equal degree with any other natural resource industry. And, furthermore, the imports of forest products into the United States offer an appropriate means of obtaining additional Federal revenue.

2. The import taxes which we propose are:

(1) On rough lumber of all softwood species, $3 per thousand feet board measure.

(2) On dressed lumber (planed on one side or more) of all softwood species, $5 per thousand feet board measure.

(3) On logs, poles, and piling of all species, $1.50 per thousand feet log scale.

(4) On pulp wood of all species, $1 per standard cord of 128 cubic feet.

(5) On mechanically ground wood pulp, one-sixth of 1 cent per pound, dry weight; chemical wood pulp, unbleached, one-third of 1 cent per pound, dry weight; chemical wood-pulp, bleached, one-half of 1 cent per pound, dry weight.

(6) On cross-arms, shingles, lath, handles, turnery, and fence posts, 25 per cent ad valorem.

3. Present imports of forest products affected. The principal imports of forest products to which the proposed import taxes would apply are as follows for the last three years:

(1) *Softwood lumber*

Year	Total M board feet	From Canada M board feet	Per cent	From Russia M board feet
1929	1,418,419	1,352,507	95.4	37,936
1930	1,140,105	1,059,982	92.5	70,767
1931	698,942	671,589	96.2	13,831

Of the above softwood lumber imported from Canada, 53.5 per cent pays a duty of $1 per thousand board feet under the tariff act of 1930. The remainder is cedar lumber, or lumber of other softwood species not planed or dressed more than one side, which enter the United States free of duty. The imports of cedar lumber were 46,534 M board feet in 1929, 37,239 M board feet in 1930, and 23,221 M board feet in 1931.

(2) Shingles (imported from Canada):

1929	1,716,651,000
1930	1,248,223,000
1931	998,473,000

Shingles now enter the United States duty free.

(3) Logs (imported from Canada):

	M feet
1929	175,000
1930	139,116
1931	156,563

Log imports enter the United States, duty free, almost wholly in Puget Sound where they compete in the log market directly with American timber.

(4) Pulpwood (chiefly from Canada):

	Cords
1928	1,409,411
1929	1,259,007
1930	1,582,201
1931	1,021,667
From Russia:	
1929	360,000
1930	238,437
1931	78,000

(5) Woodpulp (chiefly from Canada, Sweden, Finland, Norway, and Germany):

	Tons
1928	1,762,325
1929	1,887,504
1930	1,830,714
1931	[1] 1,650,000

[1] Preliminary estimate.

4. Prospective revenue from the import taxes proposed. If the imports of the various classes of forest products specified continue at the same volume as in 1929, the Federal revenue obtained from the import taxes recommended would be approximately $20,500,000 per year. On the same volume of such imports as in 1931, the Federal revenue would be somewhat in excess of $17,000,000 per year. While some reductions in the volume of imported forest products would follow the imposition of the import taxes proposed, the revenue therefrom to the Federal Government would constitute a substantial item.

5. Other benefits from import taxes on forest products. Other benefits resulting from the import taxes proposed would be:

(1) An equalisation of competitive conditions for American forest industries.

(2) Increased employment for our idle men, resulting from some increase in the volume of domestic forest products which would be absorbed by our home markets.

These benefits will now be presented in regard to the lumber industry of the Pacific Northwest and its labor and dependent communities. The critical condition of the lumber industry and the very serious regional effects of idle mills and unemployed labor necessitate any possible relief that may be obtained.

This is because, first, of the terrific shrinkage in the domestic consumption of softwood lumber. In 1929, the United States consumed 28,581,000,000 feet of softwood lumber. In 1930, consumption dropped to 21,462,000,000 feet, a shrinkage of 25 per cent. In 1931, consumption dropped to 14,573,000,000 feet, a shrinkage of 49 per cent. The consumption for 1932, indicated by the lumber sales to date, will not exceed 12,000,000,000 feet, a shrinkage of 58 per cent below the level of 1929. The use of lumber this year is back to approximately the basis of 1869.

This sudden and rapid shrinkage in the consumption of lumber in the United States has forced upon the domestic industry a most drastic curtailment in production, closed down over half of its sawmills, and thrown over 60 per cent of its labor out of employment.

Notwithstanding this distress and sacrifice from the curtailment of production, the survey of the United States Timber Conservation Board, on December 31, 1931, showed nearly 8,000,000,000 feet of softwood lumber in stock at American mills, or over half the preceding year's consumption. The Timber Conservation Board found these stocks to be 2,600,000,000 feet in excess of sound and reasonable inventories, and recommended a reduction of that amount as rapidly as practicable.

Under such conditions, every foot of imported lumber simply adds to the distress and unemployment in the American industry, while bringing no benefit whatsoever to lumber consumers. The lumber imports of the last three years more than equal the present excess of softwood stocks, as determined by the Timber Conservation Board, which are breaking the back of the domestic industry.

The critical condition of the American industry is due, in the second place, to an almost proportionate loss of foreign markets for its products. In 1929 our softwood exports were 2,609,000,000 feet. In 1930, they dropped to 1,856,000,000 feet, a shrinkage of 25 per cent. In 1931, there was a further drop to 1,325,000,000 feet, a shrinkage of 49 per cent below the level of 1929.

The reasons for this drastic loss of foreign markets go far beyond the shrinkage in their consumption. They include:

(1) Depreciated currencies and rates of exchange, which are diverting export lumber trade from the United States to Canada. Since Canadian exchange dropped below par, Canadian exporters have had an advantage of from 10 to 20 per cent over American exporters in the delivered price of soft-wood lumber, transportation, included, at most of the common, competitive foreign markets. American shippers even suffer discrimination from American subsidized steamship companies in the Pacific, who accept freight payments from British Columbia shippers in Canadian funds, but require payment from American shippers in American funds.

(2) The preferential tariffs within the British Empire, which are rapidly closing many important former markets to American lumber. The trade agreement between Australia and Canada, made effective nearly a year ago, gives the Canadian lumber exporter a preference of 20 shilling per thousand board feet on the usual Douglas fir items, and has largely shut out American lumber from this market. South Africa gives Canadian lumber a preferential tariff of 3 per cent; Great Britain a preferential tariff of 10 per cent, with every indication that it will be materially increased in pursuance of the British Empire trade policy. American lumber exports to Great Britain have already shrunk materially; and that market will hereafter be practically closed to our sawmills.

(3) Many special tariffs, quotas, and embargoes, adopted in recent months by foreign countries, have materially diminished—in some instances completely closed—former export markets of the American lumber industry. For example, application of the French embargo system has, at least for the time being, completely closed that market to American lumber.

In the case of the lumber industry on the Pacific Coast, the operation of these factors has to a large degree diverted export business from the United States to Canada. Between 1929 and 1931, American sawmills on the west coast lost 43 per cent of their export business. (1929—1,613,000,000 feet; 1931—917,000,000 feet.) In the same period, British Columbia lumber exports dropped but 10 per cent. (1929—399,000,000 feet; 1931—358,000,000 feet.)

West coast lumber exports in January and February of 1932 were at the lowest ebb for 20 years (91,000,000 feet), shrinking 40 per cent below 1931 and 66 per cent below 1929. In the same two months, however, the water-borne lumber movement from British Columbia increased 22 per cent over the corresponding months of 1931 (1931—90,000,000 feet; 1932—111,000,000 feet). In the same period, British Columbia lumber exports to Great Britain increased 58 per cent over the corresponding months of the previous year; and British Columbia lumber exports to China and Japan increased 73 per cent. A consular report in March states that the British Columbia sawmills operated in February at 44.5 per cent of their capacity. During the same month American mills on the west coast operated at 22 per cent of capacity.

6. The American lumber industry is in the thick of a trade war, at home and abroad. The lumber industry of Canada frankly declares that the entire British empire is its domestic market. American lumber will be excluded therefrom by high preferential tariffs.

Depreciated exchange is Canada's powerful weapon for wresting other export markets from American lumber products. To the extent the American producer sells in such markets, it can only be at the ruinous prices established by Canada's lower cost of production and transportation.

At the same time, Canada retains an American market for 30 to 35 per cent of her lumber production, by virtue of:

(1) A normal lower production cost, with no offsetting duty on 46.5 per cent of her softwood lumber exports to the United States; no duty on shingles; and no duty on logs. There is no trade reciprocity, in fact, under the no-duty provision of the tariff act of 1930 on lumber rough or dressed one side, because the movement is practically all one way—from Canada into the United States.

(2) An average lower intercoastal transportation cost—than that available to American mills on the West Coast—to American markets on the Atlantic seaboard. This affects from 15 to 20 per cent of the Canadian lumber imports. British Columbia shippers may employ any foreign-flag tonnage in moving their lumber to American ports, an opportunity denied the American shipper under our marine laws. Experience has demonstrated that whenever the American intercoastal lumber rates exceeds $9 per thousand board feet, foreign-flag tonnage is freely employed by British Columbia shippers at less than the American rate. For example, within a few weeks after the American intercoastal rate of $10 per thousand board feet had been announced for the month of March, 1932, five cargoes were chartered by British Columbia shippers at rates reported to be $9 per thousand board feet.

(3) The depreciation in exchange, which applies not only to costs of production but in part to costs of transportation both by rail and water. The portion of the cost of rail haul from Canadian mills to American markets which is over Canadian railways is paid in Canadian funds. Foreign-flag charters for water transportation from Canadian mills to American markets are commonly reported as paid in Canadian funds. To a considerable extent, therefore, the gain from depreciated Canadian exchange applies to the delivered price of the product at American selling points.

On account of these competitive advantages, American lumber is to-day commonly undersold in its own domestic markets by Canadian lumber. This applies particularly on the Atlantic seaboard and the "back haul" territory available to it and in the large competitive markets in the regions of the Great Lakes and prairie States. American saw mills have been constantly forced to meet lower prices until they were compelled to shut down.

7. These adverse factors have brought on a crisis in the lumber industry of the Pacific Northwest with widespread unemployment. Western Oregon and Washington contained on December 31, 1931, 722 "living" sawmills, of which 320 operated to some extent during 1931 and 402 were down completely.

Of the productive sawmill capacity of the region, 73 per cent was utilized in 1929; 54 per cent in 1930; 36.8 per cent in 1931; and 22 per cent in the first quarter of 1932. Mills representing 40 per cent of the region's capacity were shut down completely during much of 1931 and are "down indefinitely" at the present time. Most of the mills attempting to operate are running from 24 to 36 hours per week.

The lumber produced in 1931 represented a shrinkage of 42 per cent from the production in 1929; and the lumber produced in the first quarter of 1932 showed a shrinkage of 66 per cent below the same period in 1929. (1929, 10,377,000,000 feet; 1931, 5,368,000,000 feet; 1932, 3,500,000,000 feet indicated.)

The volume of lumber sales in 1931 shrank 45.3 per cent below 1929; and the volume of sales to date in 1932 has shrink 58.4 per cent below the corresponding period of 1929.

The average price received by West Coast mills for the lumber sold in February, 1932, showed a shrinkage of 48.6 per cent below the average price received in the spring of 1929.

(Average sales price of 162 key items reported by Davis Statistical Bureau of Portland, Oreg.: May, 1929—$20.18 per M feet; February, 1932—$10.36. Loss, $9.82 per M feet.)

In seven out of the last eight years, the average west coast sawmill has not recovered its cost of production on lumber sales, with no interest included. This is based upon complete operating costs and sales returns at a considerable number of representative mills reporting to the West Coast Lumbermen's Association. In 1930 the average operating loss, without interest, was $2.10 per M board feet; in 1931, $2.16 per M board feet. These losses represented about 75 per cent of the average cost of the standing timber manufactured. The mills attempting to operate in 1932, on the average, recover neither interest nor cost of standing timber and largely failed to recover depreciation. In many cases only actual labor and supply costs are recovered without tax or insurance charges. The West coast lumber industry is subsisting at all only by heavy drains upon its capital assets and credit resources. The industry is on the verge of almost complete financial collapse.

These conditions have resulted in a terrific shrinkage in the value of the timber lands which constitute the principal basic resource of the region and its largest source of tax revenue to States and counties. Tax delinquent timber lands are rapidly increasing and already seriously threaten the income of local government and communities.

There is a like shrinkage and threat of complete collapse in the value of the Federal-owned timber lands in national forests, Indian reservations, and revested grants, which contain 38 per cent of all the timber in the region.

The most serious effect of all these distressing conditions on the West Coast is the appalling shrinkage in employment. The primary logging and sawmill industries of western Oregon and Washington employed 94,000 men in 1929. The additional employment in the pulp and paper industry, sash and door plants, and other woodworking factories brought the aggregate up to approximately 125,000 employees. The forest industries are the great basis sources of labor employment in the region, supplying over 60 per cent of its total industrial pay rolls. The logging and lumber industries alone, in 1929, disbursed $120,000,000 in pay rolls.

Employment was steadily forced down during 1930 and 1931. In the first quarter of 1932, less than 35,000 men, or 37 per cent of the normal number of workers, were obtaining any employment in the sawmills and logging camps. At least two-thirds of this number were working on short shifts of from 24 to 36 hours per week, or intermittently—a few days or a week at a time. In hours per month, present employment is not over 20 per cent of that in 1929. And the economic distress of the industry has forced an average shrinkage of probably 40 per cent in the hourly wage as compared with 1929.

The Pacific Northwest is wholly without other industries or resources capable of providing for even a small fraction of the seventy or seventy-five thousand men who have lost their normal employment in forest industries. Tremendous efforts have been made to provide relief through both public and private agencies; but these are approaching exhaustion. The effect of unemployment upon many northwestern communities built in connection with and dependent upon forest industries is serious in the extreme. Many cases could be cited where, with 20 per cent or more of their people now on public charge, and with both public and private financial resources and credit almost exhausted, such communities face complete economic and social collapse.

Every additional 1,000 feet of lumber that can be produced in the United States by protecting our home market means two days labor for logging camp and sawmill workers. We respectfully submit that the National Government should provide the only effective solution of this staggering problem of unemployment in the Pacific Northwest by permitting its major industries to resume some degree of their normal activity.

8. All forest products should be dealt with as a whole. At least in the Pacific Northwest, a unified policy of import taxes dealing with all forest products is essential, for the following reasons:

(1) Only such a policy will effectively conserve the value and taxpaying capacity of the basic natural resource, standing timber, and permit its economic utilization with a minimum of waste.

(2) All of the various forest products come out of the same forest and the same logging operations, where the different classes and species of timber occur together. Economical logging requires varied markets for the different classes of material produced—pulp plants for logs of certain species, cedar lumber and shingle plants for cedar logs, and so forth.

(3) Further manufacture is closely integrated, as in the case of pulp mills which afford a market for much of the waste material from sawmills, both as pulp stock and fuel.

That is, efficient use of raw material and economical production require maintenance of all the different forms of forest industries. Therefore, they should all share in the protective benefits of a Government policy.

While dealing primarily with the lumber industry of the Pacific Northwest, we believe that the conditions set forth apply to all forest regions and industries of the United States; and that the national emergency in these and other natural resource industries demands relief through import taxes on their products.

Respectfully submitted.

WEST COAST LUMBERMEN'S ASSOCIATION,
By W. B. GREELEY, *Secretary-Manager.*

Indorsed by:

Inman-Poulsen Lumber Co., Portland, Oreg., H. B. Van Duzer, vice president.
Eastern and Western Lumber Co., Portland, Oreg., Frank Ransom, president.
Coos Bay Lumber Co., Marshfield, Oreg., H. W. Bunker, president.
Silver Falls Timber Co., Silverton, Oreg., M. C. Woodard, president.
Pacific National Lumber Co., Tacoma, Wash., E. W. Demarest, president.
Shaffer Box Co., Tacoma, Wash., Ralph Shaffer, president.
E. C. Miller Cedar Lumber Co., Aberdeen, Wash., R. J. Ingram, vice president.
Puget Sound Pulp & Timber Co., Everett, Wash., Ossian Anderson, president.

STATEMENT OF OSSIAN ANDERSON, EVERETT, WASH., REPRESENTING WOOD PULP MANUFACTURERS

Mr. ANDERSON. Mr. Chairman and gentlemen, I will just take a few minutes to summarize the brief I have prepared here.

The import taxes proposed in the attached brief will produce a dependable minimum revenue for our Government of $10,000,000 to $12,000,000 annually.

That is a part of the forest product industry that Colonel Greeley has spoken of.

This will directly provide immediate full-time employment for at least 10,000 American workmen now in distress and in need of some immediate relief.

It will serve to encourage gradual expansion in this national resource industry to the end that we will eventually supply our own requirement of pulp. On the basis of our present rate of imports of this commodity it will eventually give 47,000 American workmen all the year round employment.

Such legislation will partially serve to help equalize costs between American and foreign producers of this commodity.

It will help to offset the trade advantage now enjoyed by countries who have wilfully or otherwise deserted the gold standard.

It will prove a helpful means of proper utilization of our overabundant timber resources now a burden in carrying charges on distressed taxpayers.

Our foreign trade in this product has never exceeded 1 per cent of our total production and is, therefore, insignificant. It now has been practically eliminated by import restrictions, duties, and the impossible competition of debased currencies abroad.

Prevailing prices inclusive of the proposed taxes will still be lower than the general price level experienced in the past 25 years; therefore, no injustice can be claimed by the users of these pulp products. In fact, these factors will help add some stability to the endless downward fluctuations in prices of this semiraw material.

I have the whole brief here, which I will file.

Senator GORE. I want to ask him one question. Colonel Greeley, who preceded you, said that with the surplus lumber on hand it would not increase prices at all. Now, I think you claim you can put 10,000 people to work to increase the product.

Mr. ANDERSON. I was speaking of wood pulp alone.

Senator HULL. Is your industry as badly broken down as coal and oil, and other industries, whether they are plastered all over with tariffs, or not?

Mr. ANDERSON. They would produce material. This is mills that produce pulp and do not manufacture it into paper.

The CHAIRMAN. Your brief will be made a part of the record.

(The brief presented by Mr. Anderson is here printed in the record in full, as follows:)

BRIEF OF OSSIAN ANDERSON

1. The import taxes proposed in the attached brief will produce a dependable minimum revenue to our Government of ten to twelve million dollars annually.

2. This will directly provide immediate full time employment for at least 10,000 American workmen now in distress and in need of some immediate relief.

3. It will serve to encourage gradua. expansion in this national resource industry to the end that we will eventually supply our own requirement of pulp. On basis of our present rate of imports of this commodity this will eventually give 47,000 American workmen all year round employment.

4. Such legislation will partially serve to help equalize costs between American and foreign producers of this commodity.

5. It will help to offset the trade advantage now enjoyed by countries who have wilfully or otherwise deserted the gold standard.

6. It will prove a helpful means of proper utilization of our overabundant timber resources now a burden in carrying charges on distressed taxpayers.

7. Our foreign trade in this product has never exceeded 1 per cent of our total production and is therefore insignificant. It now has been practically eliminated by import restrictions, duties, and the impossible competition of debased currencies abroad.

8. Prevailing prices inclusive of the proposed taxes will still be lower than the general price level experienced in the past 25 years; therefore no injustice can be claimed by the users of these pulp products. In fact these taxes will help add some stability to the endless downward fluctuations in prices of this semiraw material.

The wood pulp manufacturers of the United States join with the other branches of the forest products industries in an appeal to this Congress for relief from the destructive competition now forced on us in our own home markets by the foreign producers of this product.

If the present untenable competitive conditions forced upon the Nation's manufactirers of wood pulp are permitted to continue the outcome will be eventual extinction of this important basic national resource industry in the United States and transfer of it to foreign lands. Such a condition will contribute in tremendous proportions to this Nation's already serious problem

of unemployment, want, and economic distress. The situation is acute. It is an emergency. Many mills have already closed. The mortality among them has increased sharply coincident with the drastic decline in wood pulp prices experienced during the past 18 months.

The wood pulp manufacturers of the United States feel strongly, as do the representatives of other branches of the forest industries, that it is obviously unfair to expect a domestic industry to compete its costs and meet its pay rolls with a dollar worth 100 cents and sell its product in the home market in competition with the foreigner who pays his costs with a 70-cent dollar. That is what is happening. The intolerable factor is that the foreigner has utilized this wide spread in exchange values to beat down the sales price of his wood pulp far below the irreducible minimum cost of domestic manufacture.

To fix clearly the position occupied by the domestic wood pulp manufacturer in the national industrial scheme it is necessary to outline the United States' billion-dollar paper industry, of which wood pulp manufacture is an important integral part. In 1929 the United States consumed twelve and a quarter million tons of paper of all grades. The principal ingredient in this staggering total was wood pulp, amounting to six and four-tenths million tons. Domestic producers contributed 72 per cent of the pulp total. To meet this demand our industry was responsible for the cutting, transportation, and processing of more than 7,000,000 cords of wood, the greater part of which grew on American soil, providing thereby employment for thousands of workmen, a return to timberland owners, and the backbone for a major trade in allied industries supplying our industry with chemicals, equipment, and materials of all kinds.

The function of the wood pulp manufacturer is to convern pulp timber into wood pulp by mechanical or chemical means. His product is essentially a semi-manufacture, infrequently entering into final consumption without further processing. Wood pulp is often a separate item of commerce, but also in many cases enters directly into manufacture of paper in another department of the same mill.

Whether a mill sells its output as pulp, or converts it into paper in its own establishment, is of no competitive consequence. The value is set by the going prices on imported pulp which is available in excessive quantities for purchase on the open market. Economic conditions recently have directed a pressure of pulp tonnage on the American market and have so destroyed prices that many self-contained plants—those operating both pulp and paper mills—have been forced to close their pulp mills and turn to the purchase of cheap foreign pulp. This closure has contributed seriously to unemployment by shutting off the outlet for pulpwood, eliminating the crews of domestic pulp mills, and stifling the important trade of the auxiliary allied industries. The position of the domestic mills which manufacture only pulp and no paper has been even more difficult.

The production of the domestic woodpulp industry is consumed almost wholly in the United States market. Less than 1 per cent is exported. Great as this domestic industry is, larger than that of any other nation in the world, it was nevertheless able to capture only 72 per cent of its own home market. This condition was due not to any lack of domestic raw materials or native ability, but solely to competitive conditions. Woodpulp has no protection, a condition that has invited a wholesale competition from foreign manufacturers who operate not necessarily more efficiently, but with the benefit of generally lower wage scales. A lucrative export market has induced the foreign manufacturer to increase his sales of pulp to the United States by more than 1,000 per cent in the past quarter century. In 1930 we imported one and eight-tenth millions tons. This tonnage absolutely dominates the sale price in our domestic market.

I have a detailed statistical record of the industry which I ask to file with your committee in support of my oral statement and for further study. This record will show the development of the industry, its importance in our national economy, production, and import statistics and their trends, price movements, and costs of domestic manufacture.

Study of the statistics will show that within recent years a tremendous excess capacity has been built up in foreign countries largely on the expectation of sales in the United States. Bearing in mind that this Nation maintains an unprotected pulp market, it will be readily realized that with a generally diminishing demand attending a widespread economic disturbance in other world markets, the pressure of competition upon our market has been increased in proportion. In the peak year of 1929 the United States imported 1,887,000 tons. Although total consumption fell off 22 per cent in 1930, the import volume declined less than 3 per cent. Preliminary figures show that the 1931 imports have been well main-

tained in volume, in spite of further severe reductions in demand. Preliminary figures for January, 1932, show the largest pulp import of any month in our history.

To maintain a volume business the foreign producers have resorted to drastic price cutting. As an example, the price on prime bleached sulphite, delivered Atlantic coast ports, declined from $78 per ton to $52 in the period from January, 1929, to September, 1931. This decline was steady, but following the severe depreciation of currency incident to the departure, willful or otherwise, of some 39 nations from the gold standard, the price of this grade of pulp dropped further and precipitately to present levels of $38 and $40 per ton. The situation on other grades is comparable. Present sales prices on pulp are from $8 to $10 below bare costs of domestic producers. Obviously, no industry can survive such a blow.

A better picture of the decline in total values occasioned by the price depressing tactics of the foreign producers is shown in the accompanying short table, in which the average annual values prevailing for 1929, 1930, and at the present, have been extended on the basis of the tonnage imported in 1930. Virtually one-half of the value has disappeared.

Kind of pulp	1930 import (short tons)	Price per ton	Value on 1929 average price	Price per ton	Value on 1930 average price	Price per ton	Value on actual basis present prices
Unbleached sulphite	777,663	$85	$60,955,915	$48	$35,743,344	$30	$22,339,590
Bleached sulphite	361,843	75	27,138,225	62	22,434,266	40	14,473,720
Sulphate	422,384	49	20,694,366	35	14,781,690	30	12,670,020
Mechanical	299,232	30	8,976,960	26	8,378,490	26	7,780,032
Total	1,626,062	.....	97,765,466	.....	81,337,796	.....	57,263,362

Although 1929 was a peak year in pulp consumption, it was not a peak year in prices. The average prices for the period 1922–1929 show a slight increase over the prices received in 1929.

Sweden, Canada, and Finland, of importance in the order named, contribute the principal pulp exports to the United States; Germany, Norway, and a few other North European countries make up the insignificant balance. The currency of each of the three principal pulp-exporting countries depreciated sharply in sympathy with the departure of Britain from the gold standard in September, 1931, varying in degree from 15 per cent to an excess of 30 per cent.

Inasmuch as the United States continued on the gold standard the practical effect of this debasement of currency was to provide the exporting nations with a formidable trade weapon for further cutting prices that had already been reduced to the bone for domestic producers. Here is a practical example. On a grade of pulp selling for $40 a ton in August, 1931, prior to currency debasement, the Swedish producer received 139 kronor. On the same grade of pulp, which is today selling for $30 per ton, the Swedish producer receives 152 kronor, a handsome premium above former prices, although the final price in terms of our gold coin is 25 per cent lower. Sweden alone supplies nearly one-half of our pulp imports. Normally she buys from the United States foodstuffs, of which this Nation has an excess, but, faced with the necessity of paying a 30 per cent premium on her imported necessities, it is seriously doubted whether her imports will continue to be sought in any country which continues on the gold standard.

It is at this point that we are able to demonstrate an urgent need for legislative relief to meet this emergency.

That continuation of present conditions without equalization spells disaster for domestic producers having to face foreign competition is now obvious. That a normal adjustment is not to be hoped for can be demonstrated. If but one or two countries were off the gold standard, the situation would be entirely different. In such a case the nation with a depreciated currency would find itself forced to pay a premium wherever it sought to purchase in the world markets, a condition that provides a powerful stimulant to restore a gold standard. However, with 39 important nations functioning with debased currencies, it is possible to carry on a highly profitable business by dumping export goods in gold-standard countries at a handsome premium, while confining purchases to those nations which had a similarly depreciated exchange.

France, Germany, and Canada visualised this danger to their domestic industries and promptly levied an import tax to effect equalisation.

To return once more specifically to the pulp industry: The foreign pulp manufacturers are not compelled to purchase in a gold-standard country any major item necessary to their process, with the single exception of sulphur. This item represents only about 6 per cent of the cost in those grades where it is used. The United States market remains the largest and most lucrative market for pulp in the world. It pays in gold. Its domestic manufacturers are helpless to retaliate. Drying up of other markets has served to hand an additional million, possibly two million tons of wood pulp over the United States market. It is a pressure that will certainly lead to lower prices, a further loss of tonnage for domestic producers, and further unemployment in our land.

On basis of the import taxes proposed on pulp of one-sixth of 1 cent per pound on mechanical ground wood, one-third of 1 cent per pound on unbleached chemical pulp, and one-half of 1 cent per pound on bleached chemical pulp, this schedule of rates will on the basis of 1930 imports provide annually approximately $12,700,000 for national revenue, which, together with the rates proposed on forest products, will provide a total revenue in excess of $20,000,000.

It may be assumed that with this helpful legislation enacted a large percentage of idle and curtailed plants will be able to resume normal operating schedules; this will reduce imports about 10 per cent to 15 per cent under present condition of reduced paper consumption, so that a safe revenue on pulp alone under present subnormal consumption would at least be in excess of $10,000,000.

We further want to point out that in general these rates are not sufficient to reestablish the prices on the commodity that existed prior to October last year, which prices were then considered extremely low. These schedules will not fully compensate for the advantage gained by countries whose currencies are depreciated in excess of 18 per cent, and since paper prices in general have not come down in proportion to the reduced prices of the raw material, no injury can be shown to converting mills or exentual consumer of the finished product.

The pulp industry is an integral part of the forest industry. To produce the total tonnage of pulp normally imported would offer all-year-round employment for 57,000 Americans now in want and distress. To produce the portion of this tonnage for which we already have idle plants and equipment will promptly employ at least 10,000 men in our forests and plants, and this help to equalize costs with our foreign competitions in our own markets will gradually encourage the increase in our home production to the end that we will soon be able to produce all our own requirements of pulp from abundant forests and waste in our timber operations. The pulp industry is the greatest help for proper utilization of our timber resources, a help to conservation through selective cutting and outlet for waste.

Presented for the industry by—

OSSIAN ANDERSON.

APPENDIX

Table 1. Fibrous raw materials used in the United States paper production, 1879–1929.
2. United States paper and wood pulp production and consumption and the consumption of domestic and imported pulpwood, 1899–1930.
3. General census statistics for pulp, by States, 1927.
4. United States wood pulp and paper production and pulpwood consumption in 1927, by States.
5. United States wood pulp requirements and production, 1899–1930.
6. United States pulpwood requirements and consumption of domestic and imported pulpwood, 1899–1930.
7. United States wood pulp consumption, production, and imports, 1899–1930.
8. United States mechanical pulp requirements, consumption, production, and imports as wood pulp and as paper, 1923–1930.
9. United States unbleached sulphite wood pulp imports, by countries, 1929–1931.
10. United States bleached sulphite wood pulp imports, by countries, 1929–1931.
11. United States sulphite pulp requirements, production, consumption, and imports as pulp and as paper, 1923–1930.
12. United States sulphate wood pulp requirements, consumption, production, and imports as pulp and as paper, 1923–1930.

Table 13. United States sulphate wood pulp imports, by countries, 1929–1931.
14. Wood pulp prices ex dock New York, by months, 1929, 1930, 1931, 1932.
15. Average pulp prices, c. i. f., Atlantic ports of entry.
16. Weighted average costs of pulp manufacture, by kinds of wood pulp and by regions, as of June, 1931.
17. Balance of regional costs and transportation charges in common markets.
18. Weighted average wood pulp manufacturing costs as of June, 1931, adjusted approximately to conditions of February, 1932, by kinds of pulp.

TABLE No. 1.—*Fibrous raw materials used in the United States paper production, specified years, 1879–1929*

[Quantity in tons of 2,000 pounds]

[Source: Bureau of the Census]

Year	Total	Wood pulp	Waste paper	Rags	Manila stock	Straw	All other
1879	642,257	[1] 22,570	87,840	200,005	54,786	245,838	1,218
1889	1,615,863	349,917	139,081	246,892	524,862	355,131	.....
1899	2,220,193	1,172,880	356,193	234,514	92,301	367,305	.....
1904	3,312,473	2,018,764	585,643	294,552	107,029	304,585	.....
1909	4,617,552	2,836,501	983,862	287,470	117,080	303,137	29,422
1914	5,848,056	3,490,123	1,509,961	361,667	121,170	367,839	97,276
1919	6,729,174	4,019,696	1,854,586	277,849	116,994	353,309	106,850
1929	11,522,131	6,245,349	3,841,942	739,571	126,800	566,469	.....

[1] Domestic production; exports and imports, not reported, are assumed to be equal.

TABLE No. 2.—*United States paper and wood pulp production and consumption and the consumption of domestic and imported pulpwood—specified years, 1899–1930*

[Source: Bureau of the Census, Federal Trade Commission, and the U. S. Forest Service]

Year	Paper		Wood pulp		Consumption of pulpwood		
	Production	Consumption	Production	Consumption	Domestic	Imported	Total
	Tons	*Tons*	*Tons*	*Tons*	*Cords*	*Cords*	*Cords*
1899	2,167,593	2,158,000	1,179,525	1,216,254	1,617,093	369,217	1,986,310
1904	3,106,696	3,040,324	1,921,768	2,001,006	2,477,099	573,618	3,050,717
1909	4,216,708	4,224,000	2,495,538	2,556,562	3,207,653	793,964	4,001,607
1914	5,270,047	5,496,164	2,893,150	3,556,377	3,641,063	829,700	4,470,763
1917	8,919,647	6,255,725	3,509,939	4,148,600	4,706,327	773,748	5,480,075
1918	6,051,523	6,387,066	3,213,861	3,869,746	4,506,276	744,518	5,250,794
1919	6,190,361	6,479,490	3,517,962	4,113,911	4,445,517	1,032,015	5,477,532
1920	7,334,614	7,846,827	3,921,704	4,666,035	5,014,513	1,099,559	6,114,072
1921	5,356,317	6,053,915	2,875,601	3,544,218	3,740,406	816,773	4,557,179
1922	7,017,800	8,007,068	3,521,644	4,756,105	4,496,806	1,050,034	5,548,842
1923	8,029,482	9,339,573	3,763,673	5,149,695	4,636,789	1,236,081	5,872,870
1924	.....	.....	3,723,266	[1] 5,216,265	4,720,191	1,047,891	5,768,082
1925	9,182,204	10,590,000	3,962,217	5,590,304	5,005,445	1,088,376	6,093,821
1926	.....	.....	4,394,766	6,096,279	5,489,517	1,276,490	6,766,007
1927	10,002,070	11,915,283	4,313,403	5,960,865	5,526,689	1,224,046	6,750,935
1928	10,403,338	12,447,641	4,510,200	6,229,641	5,750,689	1,409,411	7,160,100
1929	11,070,543	13,247,925	4,862,885	6,704,341	6,286,004	1,259,007	7,545,011
1930	10,079,656	12,227,335	4,610,408	6,404,124	6,059,306	1,096,282	7,155,588

TABLE No. 3.—*General census statistics for pulp by States, 1927*

	Number of establishments	Total persons engaged in the industry	Salaries and wages	Cost of materials, supplies, fuel, and power	Value of products	Value added by manufacture [1]
United States	219	26,896	$37,490,790	$151,825,425	$218,198,201	$66,872,776
Louisiana	7	1,047	1,473,027	3,974,174	7,348,812	3,374,638
Maine	26	4,034	5,962,108	30,133,455	40,280,291	10,146,836
Michigan	12	1,338	1,755,185	6,889,955	9,582,235	2,692,280
Minnesota	7	807	1,169,903	4,951,884	7,546,912	2,595,028
New Hampshire	7	2,750	3,545,780	12,873,326	18,545,615	5,672,289
New York	61	3,400	4,364,487	24,518,650	32,937,012	8,418,362
Oregon	6	812	1,142,703	3,341,981	4,951,914	1,609,933
Pennsylvania	12	1,827	3,013,836	10,164,724	15,753,242	5,588,518
Tennessee	4	494	483,001	1,963,730	3,047,402	1,083,672
Vermont	4	153	182,152	632,074	1,039,285	407,211
Virginia	8	1,551	1,999,486	7,545,092	11,244,639	3,699,547
Washington	13	1,324	1,999,525	5,896,997	9,201,570	3,304,573
Wisconsin	33	3,987	5,714,686	24,382,418	34,876,945	10,494,527
Other States [2]	19	3,452	4,584,819	14,036,946	21,522,327	7,785,381

[1] Value of products less cost of materials, supplies, fuel, and power.
[2] California, 1 establishment; Delaware, 1; District of Columbia, 1; Maryland, 2; Massachusetts, 3; Mississippi, 1; North Carolina, 2; Ohio, 2; South Carolina, 1; Texas, 1; and West Virginia, 4.

TABLE No. 4.—*United States wood pulp and paper production and pulpwood consumption in 1927, by States*

[Source: Bureau of the Census]

State	Paper production	Wood pulp production	Pulpwood consumption
	Tons	*Tons*	*Cords*
California	219,366	[1] 200,869	[1] 267,235
Connecticut	176,706	----------	----------
Delaware	31,453	----------	----------
Illinois	531,434	----------	----------
Indiana	236,898	----------	----------
Louisiana	204,426	179,878	349,272
Maine	969,907	942,162	1,273,268
Maryland	108,519	----------	----------
Massachusetts	539,513	31,822	49,473
Michigan	1,004,391	198,530	351,688
Minnesota	281,314	191,220	281,156
New Hampshire	207,421	200,324	358,376
New Jersey	488,047	----------	----------
New York	1,457,717	710,227	873,780
Ohio	512,212	----------	----------
Oregon	167,663	(3)	(3)
Pennsylvania	716,344	216,587	309,021
Tennessee	32,536	(3)	(3)
Vermont	87,251	32,502	31,795
Virginia	192,854	170,630	316,082
Washington	233,200	268,349	445,664
West Virginia	47,769	(3)	(3)
Wisconsin	991,939	690,921	1,199,615
Other	[4] 268,298	[5] 284,313	[5] 556,560
	10,002,069	4,313,408	6,780,935

[1] Includes Oregon.
[2] Shown with California.
[3] Shown in "all other" States.
[4] Alabama, Colorado, District of Columbia, Georgia, Iowa, Kansas, Mississippi, Missouri, North Carolina, Rhode Island, South Carolina, Texas.
[5] Delaware, District of Columbia, Maryland, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Texas West Virginia.

TABLE No. 5.—*United States wood pulp requirements and production, specified years, 1899–1930*

[Quantities in short tons]

[Source: Production from the Bureau of the Census. Requirements are computed by applying conversion factors to imports and exports of paper]

Year	Requirement	Production	Percentage of requirement
1899	1,147,000	1,179,525	103
1907	2,062,000	1,921,768	93
1909	2,753,000	2,495,528	90
1914	3,798,000	2,893,150	76
1917	4,467,000	3,509,939	78
1918	4,270,000	3,313,861	77
1919	4,497,000	3,517,952	78
1920	5,315,000	3,821,704	72
1921	4,345,000	2,878,601	66
1922	5,847,000	3,521,644	60
1923	6,543,356	3,788,672	58
1925	7,062,757	3,962,217	56
1926	8,041,551	4,394,766	54
1927	8,101,061	4,313,403	53
1928	8,545,473	4,510,800	53
1929	9,197,808	4,862,885	53
1930	8,764,520	4,610,408	53

TABLE No. 6.—*United States pulpwood requirements and consumption of domestic and imported pulpwood, specified years, 1899–1930*

[Quantity in cords of 128 cubic feet]

[Source: Bureau of the Census and United States Forest Service]

Year	Requirements [1]	Consumption		
		Total	Domestic	Imported
1899	1,949,712	1,986,310	1,617,093	369,217
1904	3,259,289	3,050,717	2,477,099	573,618
1909	4,419,749	4,001,607	3,207,653	793,954
1914	5,885,712	4,470,763	3,641,063	829,700
1917	6,782,700	5,480,075	4,706,327	773,748
1918	6,360,350	5,250,794	4,506,276	744,518
1919	6,806,491	5,477,832	4,445,817	1,032,015
1920	8,299,757	6,114,072	5,014,513	1,099,559
1921	6,649,358	4,557,179	3,740,406	816,773
1922	9,148,226	5,548,642	4,496,608	1,050,034
1923	9,924,161	5,872,870	4,636,789	1,236,081
1925	10,752,765	6,093,821	5,005,445	1,088,376
1926	12,129,041	6,766,007	5,489,517	1,276,490
1927	12,196,909	6,750,935	5,526,889	1,224,046
1928	12,939,145	7,160,100	5,750,689	1,409,411
1929	13,806,101	7,645,011	6,386,004	1,259,007
1930	13,060,813	7,155,588	[2] 6,059,306	[2] 1,096,282

[1] Pulpwood requirement is a computed figure which represents the pulpwood required to manufacture the total paper consumption of a year.

[2] Estimated on the basis of 1929 relationships.

TABLE No. 7.—*United States wood pulp consumption, production, and import, specified years, 1899–1930*

Year	Consumption[1]	Production	Percentage of consumption[2]	Imports	Percentage of consumption[2]
	Short tons	*Short tons*		*Short tons*	
1899	1,216,254	1,179,525	97	57,335	5
1904	2,091,006	1,921,768	91	179,324	9
1907	2,832,238	2,547,870	90	296,778	10
1908	2,358,135	2,118,947	89	250,485	11
1909	2,856,593	2,495,523	88	370,023	13
1910	3,032,391	2,533,976	83	506,776	17
1911	3,230,084	2,686,134	83	562,424	17
1914	3,556,377	2,893,150	81	675,564	19
1916	4,078,748	3,435,001	84	683,765	17
1917	4,148,600	3,509,939	84	677,841	16
1918	3,869,743	3,313,861	85	578,209	15
1919	4,113,911	3,517,952	85	636,016	15
1920	4,406,035	3,821,704	81	606,297	20
1921	3,544,218	2,875,601	81	697,100	20
1922	4,755,105	3,521,644	74	1,255,961	26
1923	5,140,695	3,785,672	73	1,384,091	27
1924	5,216,265	3,723,256	71	1,525,097	29
1925	5,550,304	3,962,217	71	1,665,992	30
1926	6,099,279	4,304,766	72	1,735,733	28
1927	5,990,665	4,313,403	72	1,679,468	28
1928	6,239,641	4,510,800	72	1,762,325	28
1929	6,704,341	4,862,855	72	1,867,504	28
1930	6,404,124	4,610,408	72	1,830,714	28

[1] Computed by adding imports to production and subtracting exports.
[2] May slightly exceed 100 per cent because exports are not subtracted from the production record.

TABLE No. 8.—*United States mechanical pulp requirements, consumption, production, and imports as wood pulp and as paper, specified years, 1923–1930*

[Computed from official statistics]

[Quantities in short tons]

Year	Domestic requirements	Domestic consumption	Domestic production	Imports	
				As pulp	As paper
1923	2,967,327	1,864,593	1,567,794	300,078	1,137,396
1925	3,167,255	1,933,262	1,612,019	331,092	1,249,092
1926	3,635,736	2,068,007	1,764,248	303,759	1,566,416
1927	3,596,261	1,856,008	1,610,409	245,599	1,761,386
1928	3,742,485	1,860,187	1,610,988	249,199	1,911,407
1929	3,958,557	1,911,114	1,637,653	273,461	2,004,453
1930	3,792,045	1,858,053	1,558,821	299,232	1,967,560

TABLE No. 9.—*United States unbleached sulphite wood pulp imports by countries, 1929–1931*

[Quantities in short tons]

	Total	Canada	Sweden	Norway	Germany	Finland	All other
Year:							
1929	785,631	213,433	392,170	20,524	18,841	122,216	18,447
1930	744,651	190,838	382,156	22,631	21,330	111,845	15,848
1931	607,652	99,237	339,113	11,418	24,877	109,163	23,844
For last quarter:							
1929	205,410	54,792	102,156	4,841	3,506	33,904	6,209
1930	193,005	40,928	106,660	3,001	4,772	32,428	5,216
1931	166,867	18,903	96,248	4,563	11,260	32,990	2,903

Source: Bureau of Foreign and Domestic Commerce.

TABLE No. 10.—*United States bleached sulphite wood pulp imports by countries, 1929–1931*

[Quantities in short tons]

	Total	Canada	Sweden	Norway	Germany	Finland	All other
Year:							
1929	374,343	209,965	52,863	44,029	50,929	8,183	8,373
1930	361,841	203,906	49,714	41,163	51,625	8,215	8,218
1931	361,091	207,409	54,950	20,172	55,903	9,992	12,665
For last quarter:							
1929	95,180	55,842	11,767	10,119	12,937	2,550	1,965
1930	91,400	49,517	15,902	8,019	11,561	2,789	3,612
1931	90,211	55,435	10,949	6,298	10,586	1,917	5,026

Source: Bureau of Foreign and Domestic Commerce.

TABLE No. 11.—*United States sulphite pulp requirements, consumption, production, and imports as pulp and as paper, 1923–1930*

Year	Domestic requirements	Domestic consumption	Domestic production	Imports	
				As pulp	As paper
1923	2,508,086	2,192,716	1,411,227	797,925	312,232
1925	2,488,535	2,347,901	1,408,086	970,211	329,790
1926	2,998,697	2,560,385	1,558,175	1,034,590	422,181
1927	3,017,281	2,561,522	1,552,699	1,035,984	471,073
1928	3,079,208	2,596,156	1,558,858	1,062,416	508,303
1929	3,278,898	2,797,633	1,681,511	1,159,974	550,660
1930	2,987,789	2,587,309	1,515,795	1,106,497	513,936

TABLE No. 12.—*United States sulphate pulp requirements, consumption, production, and imports as pulp and as paper, 1923–1930*

Year	Domestic requirements	Domestic consumption	Domestic production	Imports	
				As pulp	As paper
1923	693,953	691,495	312,483	279,012	10,674
1925	769,114	772,079	409,766	362,311	5,887
1926	911,445	913,024	519,960	393,064	5,497
1927	992,448	997,387	609,253	394,185	8,909
1928	1,213,300	1,217,578	774,225	443,348	10,600
1929	1,346,001	1,365,377	918,084	447,293	19,376
1930	1,352,464	1,374,616	952,282	422,334	22,162

TABLE No. 13.—*United States sulphate wood pulp imports by countries, 1929–1931*

[Quantities in short tons]

[Source: Bureau of Foreign and Domestic Commerce]

Year	Total	Canada	Sweden	Norway	Germany	Finland	All other
1929	447,293	130,245	253,834	18,475	567	35,680	8,492
1930	422,621	95,481	277,607	15,333	412	39,672	4,116
1931	419,838	59,021	291,093	4,911	.....	62,273	2,440
For last quarter—							
1929	121,005	32,602	76,439	5,190	.....	5,537	1,237
1930	121,578	19,289	91,743	3,043	.....	6,921	582
1931	141,388	16,962	98,187	1,949	.....	23,089	1,201

TABLE No. 14.—*Wood-pulp prices ex-dock New York, by months, 1929, 1930, 1931, 1932*

(Dollars per hundredweight)

[From Daily Mill Stock Reporter, first issue in each month]

	Sulphite				Kraft		
	Domestic		Foreign		Domestic		Swedish
	Bleached, No. 1 book	Unbleached, No. 1 book	Bleached, prime	Unbleached extra strong	No. 1	Southern	
1929							
January	4.00-4.25	2.75-3.00	3.85-4.00	2.50-2.75	2.75-3.00	.....	2.50-2.70
February	4.00-4.25	2.75-3.00	3.85-4.00	2.50-2.70	2.75-3.00	.....	2.50-2.65
March	4.00-4.25	2.75-3.00	3.85-4.00	2.50-2.70	2.75-3.00	.....	2.50-2.65
April	4.00-4.25	2.75-3.00	3.75-4.00	2.60-2.75	2.75-3.00	.....	2.40-2.55
May	4.00-4.25	2.75-3.00	3.75-4.00	2.65-2.80	2.75-3.00	.....	2.40-2.60
June	4.00-4.25	2.75-3.00	3.70-4.00	2.65-2.80	2.60-2.90	.....	2.40-2.50
July	4.00-4.25	2.75-3.00	3.70-4.00	2.70-2.85	2.60-2.90	.....	2.40-2.50
August	4.00-4.25	2.75-3.00	3.70-4.00	2.75-2.90	2.60-2.90	.....	2.40-2.50
September	4.00-4.25	2.75-3.00	3.70-4.00	2.75-2.90	2.60-2.90	.....	2.40-2.50
October	3.50-3.75	2.75-3.00	3.65-4.00	2.80-3.00	2.60-2.90	.....	2.40-2.50
November	3.50-3.75	2.75-3.00	3.65-4.00	2.80-3.00	2.60-2.90	.....	2.40-2.50
December	3.50-3.75	2.75-3.00	3.65-4.00	2.80-3.00	2.60-2.90	.....	2.40-2.50
1930							
January	3.50-3.75	2.75-3.00	3.40-3.75	2.80-3.00	2.50-2.75	.....	2.35-2.50
February	3.50-3.75	2.75-3.00	3.40-3.75	2.70-2.90	2.50-2.75	.....	2.35-2.50
March	3.50-3.75	2.75-3.00	3.35-3.75	2.70-2.90	2.50-2.75	.....	2.25-2.40
April	3.50-3.75	2.75-3.00	3.35-3.75	2.65-2.80	2.40-2.65	1.90	2.20-2.35
May	3.50-3.75	2.75-3.00	3.10-3.75	2.50-2.65	2.50-2.65	1.90	1.90-2.10
June	3.25-3.50	2.75-3.00	3.10-3.75	2.50-2.65	2.30-2.60	1.90	1.75-2.00
July	3.10-3.50	2.60-2.80	3.10-3.75	2.40-2.60	2.50-2.75	1.90	1.65-1.85
August	2.85-3.25	2.40-2.60	3.00-3.75	2.20-2.40	2.50-2.75	1.90	1.65-1.85
September	2.85-3.25	2.40-2.60	3.00-3.75	2.20-2.40	2.50-2.75	1.90-2.00	1.60-1.85
October	2.85-3.25	2.40-2.60	3.00-3.75	2.20-2.40	2.50-2.75	1.90-2.00	1.60-1.[illegible]
November	2.75-3.25	2.40-2.60	3.00-3.75	2.20-2.40	2.50-2.75	1.90-2.00	1.55-1.85
December	2.75-3.25	2.35-2.60	2.85-3.50	2.15-2.30	2.50-2.75	1.90-2.00	1.50-1.75
1931							
January	2.75-3.25	2.35-2.60	2.85-3.50	2.15-2.30	2.50-2.75	1.90-2.00	1.50-1.75
February	2.75-3.25	2.35-2.60	2.85-3.50	2.10-2.30	2.50-2.75	1.90-2.00	1.50-1.75
March	2.85-3.25	2.35-2.60	2.85-3.50	2.10-2.30	2.50-2.75	1.90-2.00	1.50-1.75
April	2.85-3.25	2.35-2.60	2.85-3.50	.....	2.50-2.75	1.90-2.00	1.50-1.75
May	2.60-3.25	2.35-2.60	2.65-3.50	2-10-2.30	2.50-2.75	1.90-2.00	1.50-1.75
June	2.50-3.00	2.25-2.50	2.60-3.50	2.00-2.25	2.50-2.75	1.90-2.00	1.40-1.65
July	2.50-3.00	2.25-2.50	2.60-3.50	2.00-2.25	2.50-2.75	1.90-2.00	1.50-1.65
August	2.50-3.00	2.25-2.50	2.60-3.50	2.00-2.25	2.50-2.75	1.90-2.00	1.50-1.65
September	2.50-3.00	2.15-2.35	2.50-3.50	1.90-2.15	2.50-2.75	1.90-2.00	1.55-1.80
October	2.40-2.75	2.15-2.35	2.30-3.50	1.80-2.00	2.50-2.75	1.90-2.00	1.55-1.80
November	2.40-2.70	2.15-2.35	2.25-3.00	1.75-2.00	2.25-2.50	1.85-2.00	1.50-1.75
December	2.40-2.75	2.00-2.25	2.25-3.00	1.75-2.00	2.25-2.50	1.85-2.00	1.50-1.75
1932							
January	2.25-2.50	1.90-2.15	2.15-2.75	1.55-1.75	.....	1.80-2.00	1.45-1.65

TABLE No. 15.—*Average pulp prices c. i. f. Atlantic ports of entry*

	Sulphite, bleached, per ton 2,000 pounds	Sulphite, unbleached, per ton 2,000 pounds
1922	$80	$59
1923	78	56
1924	72	52
1925	75	55
1926	73	60
1927	68	53
1928	71	55
January, 1929	78	52
December, 1929	75	56
June, 1930	70	50
December, 1930	65	43
August, 1931 (prior to debasement of currency)	52	42
December, 1931 (prevailing market)	41	30

TABLE No. 16.—*Weighted average costs of pulp manufacture by kinds of woodpulp and by regions as of June, 1931*

[Dollars per ton of wood pulp]

Kind of pulp	United States	New England	Middle Atlantic States	Lake States	Southern States	Pacific coast
Mechanical	$25.66	$25.34	$28.55	$26.37	.....	$21.55
Sulphite—						
Unbleached	41.33	45.35	47.50	42.27	.....	30.31
Bleached	54.18	58.75	[1] 71.36	52.71	.....	39.95
Mitscherlich	57.60	.....	55.50	60.38	.....	.....
Sulphate	31.84	[2]	[2]	40.57	25.64	21.67
Soda	48.32	51.88	4.. 49	.....	.....	.....

[1] Abnormal because of inclusion of one report of unusually high-grade mill.
[2] One report only, included in total but not shown separately to avoid revealing identity.

TABLE No. 17.—*Balance of regional costs and transportation charges in common markets*

[Dollars per ton]

	North-east	Mid-Atlantic	Lake	South	Pacific coast	
					Rail	Water
Transport rate per ton:						
New York	$5.50	$5.25	$11.50	$13.25	$26.00	[1] $7.50
Chicago	9.00	7.75	3.80	9.40	20.00	.....
Mechanical:						
New York	30.84	33.80	39.87	.....	47.55	29.05
Chicago	34.84	36.30	32.17	.....	41.55	.....
Unbleached sulphite:						
New York	50.85	53.05	53.77	.....	56.31	37.81
Chicago	54.85	55.55	46.07	.....	50.31	.....
Bleached sulphite:						
New York	64.25	76.61	64.21	.....	65.95	47.45
Chicago	67.75	79.11	56.51	.....	59.95	.....
Sulphate:						
New York	.....	.....	52.07	38.89	47.67	29.17
Chicago	.....	.....	44.37	35.04	41.67	.....
Soda:						
New York	57.38	52.74	.....	.....	.....	.....
Chicago	60.38	55.24	.....	.....	.....	.....

[1] Includes $1.50 per ton loading charge.

TABLE No. 18.—*Weighted average woodpulp manufacturing costs as of June, 1931, adjusted approximately to conditions of February, 1932, by kinds of pulp*

[Dollars per ton]

	Total		Wood		Mill conversion		Expense
	June, 1931	February, 1932	June, 1931	February, 1932	June, 1931	February, 1932	
Mechanical (U. S. average)	$25.66	$22.03	$14.50	$12.00	$8.26	$7.43	$2.60
Bleached sulphite:							
New England	58.75	48.50	32.11	24.00	21.34	19.21	5.29
Pacific coast	42.27	38.56	14.11	12.50	20.11	18.01	8.05
Unbleached sulphite:							
New England	45.35	40.20	27.69	24.00	14.50	13.05	3.15
Pacific coast	30.31	26.83	14.65	12.50	13.25	11.93	2.40
Sulphate:							
Lake States	40.57	34.74	18.05	14.00	17.63	15.87	4.87
South	25.64	23.29	8.03	7.50	12.29	11.07	4.72

STATEMENT OF RALPH SHAFFER, TACOMA, WASH., PRESIDENT SHAFFER BOX CO.

Mr. SHAFFER. Mr. Chairman and gentlemen, attempting to show the interdependence of the logging, lumber, and pulp industries in the State of Washington, I beg to call your attention to the fact that 45 per cent of the timber now standing in the States of Washington and Oregon is hemlock. This hemlock lies higher up on the mountains and because of that fact, more costly conditions prevail against the logger.

In normal times the logger is unable to sell all of his hemlock logs to the lumber mills, since these mills can not find an adequate market, even at lower than cost prices, for their hemlock lumber.

During the last two or three years the pulp mills have come to be a savior in respect to hemlock logs and timber, as all the pulp in the Pacific Northwest is made of hemlock and white fir, with some sprinkling of spruce.

The pulp mills in the Pacific Northwest are utilizing not only the low-grade logs but utilizing the waste lumber from the sawmills. In its effort to secure some market for the logger, some market for his hemlock logs, a market has been developed in Japan, for a very high-grade hemlock log. This must be cut in 10, 13, and 20 foot lengths, and must have a very small number of knots. In order to get this cut of the average run of hemlock timber the logger must cut a great amount of fall-downs or waste material running from 2 to 12 feet in length. There is no possible market for these short lengths except for pulpwood cutters or pulp mills that cut their own pulpwood. The pulp mills, therefore, are assisting the lumber industry and the logging industry in that respect.

Speaking directly of the unbleached sulphite pulp. Figures prepared by the American Paper and Pulp Association for from 1920 to 1930 show that the increase in consumption in unbleached sulphite pulp in those 10 years was 9 per cent in the United States. At the same time the decrease in production of unbleached sulphite in these United States was 35 per cent. And during that same period the increase of importation of unbleached sulphite to this country was 72 per cent. It therefore shows the economic necessity of the pulp mills, the unbleached sulphite and the sulphite mills in the United States.

The pulp mills employ labor 24 hours a day seven days a week.

Senator CONNALLY. Seven days a week?

Mr. SHAFFER. Seven days a week, sir.

Senator CONNALLY. Do you work them on Sunday?

Mr. SHAFFER. Yes, sir.

Senator CONNALLY. Gosh! You ought to give the employees a tariff instead of the manufacturers.

Mr. SHAFFER. The employees work but six days, Senator. We have to have a staggered shift. To get efficiency in pulp mills they must not shut down, on account of the chemical reactions. Pulp mills running normally are shut down but two days a month, and then practically all the labor in the mill is working repairing and cleaning out the mill.

We in the Northwest now have more than 100,000 men out of employment. In the city of Tacoma, where I have a combined sawmill,

box factory, and pulp mill, we have 8,000 men now dependent upon charity. In a city of 108,000 people, which normally employs 18,000 industrial workers. Our funds are exhausted. We have but about 20 per cent of the amount of men employed in other projects that we normally have in fair times. Not abnormal years like 1929.

We appeal to you that we have a problem both in our pulp and in our lumber that can only be settled by some assistance temporarily that will put our men back to work. There can be no chance for us as an employing class to make money, but we can give our men employment, especially our best men, whose money is tied up in frozen building and loan associations, all their savings of years, and are now dependent entirely upon charity of their friends and upon the people of the community whose money is not already exhausted.

Senator COUZENS. I would like to ask the witness the question as to what effect he expects these rates would have upon the cost of the material to the paper mill?

Mr. SHAFFER. The cost of the material to the paper mill, Senator Couzens, compared with at the present time, if this went into effect?

Senator COUZENS. Yes.

Mr. SHAFFER. It would increase the paper mills' cost probably about $5 to $6 a ton.

Senator COUZENS. And how would that cost to the mills compare with when we passed the tariff act of 1930?

Mr. SHAFFER. The cost to the mills at that time was $58 a ton on the Atlantic seaboard, and at the present time the Swedish depreciated currency and other adverse conditions such as recited, forced our price down to $28 a ton at the same place.

Senator COUZENS. And this rate would only raise that $28, five or six dollars per ton?

Mr. SHAFFER. This rate would only raise that $28, five or six dollars per ton, but it would make it possible to employ our men and borrow sufficient additional capital to operate until generally good conditions return.

Senator COUZENS. Are you not optimistic in expecting to be able to borrow more money from the banks?

Mr. SHAFFER. Senator, a westerner has to be optimistic.

Senator SHORTRIDGE. What rates are you seeking?

Senator COUZENS. It is in the record, Senator.

Mr. SHAFFER. I will present this brief for the record.

(The brief presented by Mr. Shaffer is here printed in the record in full, as follows:)

BRIEF IN SUPPORT OF IMPORT TAXES ON PULP, LOGS AND LUMBER IN THE REVENUE BILL NOW BEFORE THE UNITED STATES SENATE—PRESENTED BY RALPH SHAFFER FOR THE INDUSTRY

The interdependence of the logging, lumber and pulp industry in the Pacific Northwest is becoming more marked as years pass; the present stand of timber runs 45 per cent hemlock, and, of necessity, lies higher up on the mountains; this makes far more costly logging each succeeding year.

In normal times the logger is unable to sell all of his hemlock logs to the lumber mills, since these mills can not find an adequate market—even at lower that cost prices—for their hemlock lumber; during the last two or three years the pulp mills have come to be a savior in respect to hemlock logs for the logger and in respect to waste lumber for the lumber mills. One without the other can not steadily employ labor, nor can they comply with the regulations of the Federal Government on logging Government land.

In its effort to secure cost of logging from hemlock timber, the loggers of the Pacific Northwest have developed a rather good trade in hemlock logs with Japan; these logs must be of but three lengths, 10, 13, and 20 feet and must be a top diameter of 18 inches and up, or a butt diameter of preferably 23 inches and up. To cut these logs from logs running from 26 to 40 feet—the average logging lengths—complying with the rigid grade as to small number and low diameter of knots prescribed by the Japanese, gives a very great amount of fall-downs, or short length logs running from 2 feet to 12 feet in length; there is no possible market for these short lengths except for pulpwood cutters or pulp mills that cut their own pulpwood. Therefore the pulp industry is the sole protection for this rather lucrative trade of the hemlock loggers. Then in taking these higher grade logs from the rafts of camp-run logs, the logger has left but medium grade and low grade logs, which are distinctly unattractive for hemlock sawmill business; again the pulp industry must absorb this type of logs.

In the manufacture of sulphite pulp steady employment of labor is imperative, since the mill, to be efficient, must run 24 hours every day, and seven days each week; labor is employed in shifts of 8 hours each, three shifts per day; from one to two days per month are used to clean up the mill but during that shut down time practically every laborer is employed in cleaning and repairing the plant and its machinery.

Speaking directly on unbleached sulphite pulp its economic necessity to the nation is shown by the carefully prepared figures issued by the American Paper and Pulp Association for the years from 1920 to 1930, inclusive—the consumption of this pulp increased 9 per cent; the production of unbleached in the United States decreased 35 per cent; the importation of unbleached increased 72 per cent.

In effect, it has been decreed—we can not have the cheap, immigrant labor—which we prefer not to have—but must be paralyzed by the product of that cheap labor in its home country. That is a disadvantage to be reckoned, but when, on top of that, the foreigner can pay for his raw material, his raw labor, and his transportation charges to our country in something we can not use for money, which he acquired by converting 100 United States dollars, which he obtains over here for his cheaply produced article, into anywhere from $118 to $131 of his money, it would seem discernible that United States industry is not going to operate; that United States labor is going to be hungry; that there will be no revenue for taxes in our country, and that neither the Budget for industry nor the Budget for Government can be balanced.

Any industry or individual in the United States that temporarily profits by reason of conditions described must be reaping at the expense of the great mass and to the irreparable detriment of our laboring men and of our industrial stability and progress.

More than 25,000 men in the pulp and lumber industry now out of work; many more to be added shortly; lumber credit and pulp credit frozen in the banks; everything shut down. Receiverships and bankruptcies increasing tremendously. No money to pay State taxes. No money to give employment relief. No revenue for corporations to pay corporation taxes. No incomes from which to get income taxes. Savings and loan associations frozen tight with the money of our best laboring men. Banks unable to extend credit, and closing. Stagnation everywhere—in our America—and what is next?

STATEMENT OF FRED N. OLIVER

Mr. OLIVER. Those in opposition, Mr. Chairman, to this measure are divided into three groups: The spruce producers, the white pine producers and the fir producers. There is no cooperation between them, but we have decided upon an agreement as to division of time. Mr. Winton will speak for the spruce producers. But prior to doing that I should like to file for the record, with the permission of the committee, a short statement in behalf of the Carlos Ruggles Lumber Co. of Springfield, Mass.

The CHAIRMAN. You may do so.

(The brief on behalf of the Carlos Ruggles Lumber Co. is as follows:)

For generations the New England States have used large quantities of spruce lumber. It is one of our best known and best liked woods; it has a well established

place and fills a very real need in our construction industry. It is a wood that New England wants and can ill afford to do without.

The supply of spruce in the United States has been decreasing rapidly and is not now nearly sufficient to supply domestic needs. The United States production of spruce in 1928 was only about two per cent of the total softwoods produced. Canada has been called upon to supply the deficiency. If an additional tariff is placed upon spruce lumber, it will either shut spruce out of our New England yards and industries, where we want it, or it will increase the price our people will have to pay for their lumber. Neither alternative appeals to us.

The New England States consume four and one-half times as much spruce as we produce. It is a specialty wood, and we sincerely trust that the Congress will not levy an additional tariff upon this lumber which is so valuable to the New England States.

STATEMENT OF E. W. DEMAREST, PACIFIC LUMBER CO. (INC.)

The CHAIRMAN. Proceed.

Mr. DEMAREST. I want to speak with regard to imports of logs.

Log imports which are chiefly from Canada, were as follows for the last three years:

	Feet
1929	175,000,000
1930	139,116,000
1931	156,563,000

The principal imports of logs are into Puget Sound, where they compete in the log market directly with American timber. The volume of such imports has been maintained during the depression far more than has been possible in the production of domestic logs. This is shown by the following record:

In 1929 log production on Puget Sound in the United States was 2,896,000,000 feet. Log imports from British Columbia, 173,000,000 feet, or 6 per cent.

In 1930, log production on Puget Sound, 2,230,000,000 feet; 137,000,000 feet from British Columbia, or 6 per cent.

In 1931 log production on Puget Sound, 1,543,000,000 feet; 153,000,000 feet from British Columbia, or 16 per cent.

In 1932, the first quarter, we only produced 186,000,000 feet as compared to 25,500,000 feet that came in from British Columbia, or 12½ per cent.

(The table is as follows:)

Year	Log production on Puget Sound	Log imports from British Columbia	Per cent of Puget Sound production
	Feet	*Feet*	
1929	2,896,000,000	173,000,000	6.0
1930	2,230,000,000	137,000,000	6.0
1931	1,543,000,000	153,000,000	16.0
1932 (first quarter)	186,000,000	25,500,000	12.5

In 1931, a year of rapidly declining log consumption and log prices, the domestic production of logs in the Puget Sound district declined 46.7 per cent below the volume in 1929, whereas the imports of British Columbia logs were curtailed but 11.5 per cent.

Similarly, in 1932 to date, log production on the American side has been drastically curtailed, running but 26 per cent of the average pro-

duction in 1929; while log imports from British Columbia equalled 67 per cent of their average 1929 volume.

These facts indicate conclusively that logs are more cheaply produced in British Columbia; and that importations from British Columbia reduce the use of American timber and the employment of American labor in its conversion.

During 1930, 1931, and the first quarter of 1932, 10 large American operations in the Puget Sound district, each including a supply of timber for 10 years or longer at a normal rate of cutting, should have produced 1,200,000,000 feet of logs. Their actual production was only 403,000,000 feet. During this same period the log imports from British Columbia totaled 313,000,000 feet. Log production averages 1,000 feet per man per day. Hence during the last two and one-fourth years, American logging camp labor has lost 313,000 man-days in employment. The wages for such labor went to British Columbia; and part of it was paid to orientals while skilled American labor in the Northwest was idle.

The State of Washington normally employs over 28,000 men in logging and nearly 6,000 in cutting pulpwood. The production of these commodities is now down to 25 per cent of normal. This has thrown approximately 25,000 men out of work. The men still employed are receiving not over 70 per cent of the wages paid in 1929.

Log prices are to-day less than 60 per cent of the prices obtained in 1929.

Senator GORE. What per cent?

Mr. DEMAREST. Sixty per cent.

Senator GORE. Sixty per cent. I did not quite get the figures.

Mr. DEMAREST. I will repeat. The State of Washington normally employs over 28,000 men in logging and nearly 6,000 in cutting pulpwood. The production of these commodities is now down to 25 per cent of normal. This has thrown approximately 25,000 men out of work. The men still employed are receiving not over 70 per cent of the wages paid in 1929.

Senator GORE. Much obliged.

Mr. DEMAREST. Log prices are to-day less than 60 per cent of the prices obtained in 1929. The competition of foreign logs has depressed prices below any possible cost of domestic production that includes a living wage. Further economies that will permit American loggers to compete with imported logs are impossible without forcing labor down to a starving wage level.

Many American logging operations, furthermore, are now going into their third year of idleness. Their equipment is deteriorating. Bridges and logging railroads will have to be extensively repaired or rebuilt before operations can be resumed. Continued idleness will multiply this loss to this industry, without benefit to log consumers or anyone else, and create still further obstacles in the resumption of employment.

Senator JONES. I would suggest that you have that all printed.

The CHAIRMAN. That may be done.

Senator SHORTRIDGE. Without giving the details, the outstanding, controlling facts you may state in a sentence.

Senator COUZENS. Let him put that in the record.

The CHAIRMAN. The balance of that will be printed in the record. Your five minutes are up.

(The balance of Mr. Demarest's statement is here printed in the record in full, as follows:)

The taxation of standing timber in western Oregon and Washington, in contrast with the prevailing system in British Columbia, requires special consideration. There are approximately 347,000,000,000 feet of privately owned timber west of the Cascade Mountains in the two States. This is sufficient to carry the maximum annual cut of lumber yet attained (10,411,000,000 board feet in 1926) 32 years, and the annual production in 1931 over 60 years. The privately owned timberlands represent a total cash investment in excess of $502,000,000, or over $48 per thousand board feet of yearly production in the best year the industry has yet experienced.

The private timberlands on the American side are all subject to yearly ad valorem property taxes. They constitute the main source of tax revenue for many Oregon and Washington counties and of a large majority of the towns in the western portion of the two States. Timberland taxes have steadily increased and constitute one of the most serious financial problems of the industry.

In 1926 the timberland taxes in the Douglas fir region of Oregon and Washington averaged $1.52 per acre, and totaled $8,848,545. On many of the more accessible properties, the acreage tax rate is double or treble the above amount.

In 1926, the tax cost on timberlands equalled 85 cents per thousand board feet on the total production of lumber; in 1931 it easily exceeded $1.40 per thousand board feet on the total production of lumber.

In the case of timber properties now being operated, the current tax on the "developed" timber embraced within going operations averages approximately 48 cents per thousand board feet on the logs produced. In the case of non-operating properties, there is a steadily accumulating tax cost, averaging from 2½ cents to 5 cents per thousand board feet annually, and tending constantly to increase. However this tax is carried, it becomes a charge against the timber and can only be recovered through the conversion of the timber into logs and lumber.

In the present financial situation of the industry, the annual timber land taxes form a back-breaking burden that in many instances can not be met. Tax delinquency of merchantable timberlands is now state-wide in both Oregon and Washington; and is becoming a very critical problem in providing public revenue and maintaining established communities.

In British Columbia, on the other hand, the great bulk of the timberlands are under a lease system from the Dominion or Province, paying a nominal annual tax of $140 per square mile, together with a royalty or severance charge at time of cutting. In 1931, the Province of British Columbia reduced certain timber royalties 15 per cent (Hemlock and Balsam logs and No. 3 logs of all other species.) Further adjustments downward have been recently proposed. The present royalties on crown grant lands in western British Columbia are $1.35 per thousand feet on No. 1 and No. 2 logs and 60 cents on No. 3 logs.

The important comparison is that the great bulk of British Columbia timberlands pay only a nominal annual tax, with the royalty when the timber is cut and an immediate return is received. But timberland taxes in the States are fixed charges, payable annually whether there is any cutting or not; have tended constantly to increase in relation to the value of the timber; and are determined solely by community needs for public revenue.

Hence an import tax on logs is not only necessary to equalize competitive relations between American and Canadian operators and to provide additional employment at American logging camps. It is also necessary to protect the tax-paying capacity of American timberlands and maintain the property tax system upon which existing western communities have been built.

If the Pacific Northwest logging industry is to survive, it must have some protection in obtaining the small volume of business now available. An import tax of $1.50 per thousand feet would not exclude British Columbia, if really needed, because of their lower production cost; but would to some extent equalize American competition with the lower stumpage prices, depreciated exchange, and cheap oriental labor of Canada.

STATEMENT OF R. M. INGRAM, SECRETARY AND SALES MANAGER OF THE E. C. MILLER CEDAR LUMBER CO., ABERDEEN, WASH.

Mr. INGRAM. My name is R. M. Ingram. I am secretary and sales manager of the E. C. Miller Cedar Lumber Co., of Aberdeen, Wash.

The CHAIRMAN. If you do not desire to be interrupted you have the right to say that you do not.

Mr. INGRAM. I would be glad to answer all questions the Senators wish to ask me, if I may.

The CHAIRMAN. You have five minutes. Go on with your statement.

Mr. INGRAM. Of all the shingles manufactured in the United States and Canada the figures show that in 1929, 28.2 per cent were manufactured in Canada, in 1930, 30.1 per cent and in 1931, 38.1 per cent. In other words, the production of shingles is constantly increasing in Canada in percentage ratio at the expense of the United States.

In 1929, 77 per cent of all the shingles manufactured in Canada found their market in the United States. In 1930, 77.7 per cent. In 1931, 79 per cent. In other words, they are constantly increasing the percentage of their manufacture entering the United States as a market.

The percentage of Canadian production is being maintained in Canada far better than in our United States industry. They must sell most of their production in the United States, as they have always done, as by no stretch of the imagination could their product be sold to any considerable extent elsewhere.

I grant you that this foreign industry is represented largely by the capital of American citizens residing in the United States; but is that capital to be protected, invested in a foreign country, while our laboring people and our American entrepreneurship are depending upon our industry for actual existence? At the present time our people are losing their homes and property, and fast getting to the stage where serious consequences are facing our organized Government as we now know it.

Let me describe to you the conditions on Grays Harbor, where I live, where practically the entire population is dependent upon the lumber, shingles, and pulp business for existence. In 1929 we had 21 shingle mills. Now we have 11 shingle mills.

Of these 11 shingle mills, 2 are operating half time. One has turned co-op. I have included our own plant in this estimate. We have operated 17 days since the 1st day of November. Normally we operate 17 machines. We have been operating 5.

In 1929 we had 20 sawmills operating on Grays Harbor. Now we have 5 operating part time, in which, however, I included our own, which has operated 17 days since November the 1st.

In 1929 we have 10 principal loggers operating and many small ones. To-day there are two principal loggers, who are operating with skeleton crews composed only of key men, producing a few logs.

On Grays Harbor we market exports, intercoastal and rail. Our export markets are practically gone because of British Empire preferentials in Australia, New Zealand, England, and import tariffs into Canada. Japan has been lost because of the difference in exchange. France because of quotas and embargoes. Our intercoastal business

is fast being superseded, what little there is left, by Canadian lumber and shingles.

The other day there were two trainloads of cedar shingles from Canada that went through the city of Everett, about 125 miles from Vancouver. Transshipped from that point on American ships and shipped to the eastern part of the United States for distribution there. At the same time not a single shingle mill in the city of Everett was operating.

We have all tried to fight this thing through and in some way take care of our people.

Senator GORE. They paid a higher rate, did they not, on account of the coastwise shipping?

Mr. INGRAM. I would presume they did; yes, sir, because they move in American ships.

We have dissipated our capital to keep our people, who have spent their lives in our country and in our industry, from starving.

The banking resources of Grays Harbor three years ago were over $14,000,000. To-day they are less athan $3,000,000.

There are over 2,100 heads of families who are receiving charity from our county in order that they may exist. That represents over one-sixth of our population.

Ours was one of the most prosperous communities in the United States four years ago. Now the Red Cross is distributing flour made from Farm Board wheat in order that our people may not starve.

Senator BARKLEY. Can you not say that about nearly every industry in the United States? If the Red Cross activities are to be the criterion for the tariff bill and the revenue measure we ca- find a similar situation all over the country.

Mr. INGRAM. But, Senator, in our country, as I say, down there, we were one of the most prosperous communities in the United States three or four years ago, but because of these conditions beyond our control in the lumber business this situation has resulted.

The CHAIRMAN. Your time is up, Mr. Ingram. You may file your brief.

Mr. INGRAM. Thank you.

(The brief presented by Mr. Ingram is here printed in the record in full, as follows:)

BRIEF OF R. M. INGRAM, OF ABERDEEN, WASH., PERTAINING TO WESTERN RED-CEDAR SHINGLE INDUSTRY OF THE PACIFIC NORTHWEST AND DISCUSSING SPECIFICALLY ECONOMIC CONDITIONS AT GRAYS HARBOR TERRITORY

In discussing the red-cedar shingle industry as one of the three major divisions of our great natural timber resource, lumber, pulp, and shingles, I first want to indicate the trend of American and Canadian production, using figures from United States Forest Service Reports on forest products and Canadian Forest Service figures.

[Using 1928 as a base=100 per cent]

Year	Manufactured in United States	Manufactured in Canada	Per cent
1928	5,256,000,000	2,828,000,000	34.9
1929	5,664,000,000	2,229,000,000	28.2
1930	3,710,000,000	1,002,000,000	30.1
1931	2,045,000,000	1,261,000,000	38.1
1932[1]			

[1] Will probably show American production about one-half of 1931, with only a slight change in the 1931 Canadian figure.

Using the exports to United States figures from monthly reports Trade of Canada, this very significant fact is learned.

Year	Shingles produced	Shingles shipped, United States	Per cent
1928	2,528,000,000	2,059,000,000	72.8
1929	2,229,000,000	1,717,000,000	77
1930	1,602,000,000	1,248,000,000	77.7
1931	1,261,000,000	998,000,000	79

The percentage of Canadian production is being maintained in Canada far better than in our United States industry. The percentage of their production exported to the United States is steadily being increased. They must sell most of their production in the United States, as they have always done, as by no stretch of the imagination could their product be sold to any considerable extent in any other market. Should this great foreign industry not properly be asked to pay something as their part in helping us balance our national budget in this emergency revenue bill which you gentlemen are now considering in return for the privileges and the United States as a market they have always enjoyed and depended upon? I grant you that this foreign industry is represented largely by the capital of American citizens residing in the United States; but is that capital to be protected, invested in a foreign country, while our laboring people and our American entrepreneurship are depending upon our industry for actual existence? At the present time our people are losing their homes and property, and fast getting to the stage where serious consequences are facing our organized government as we now know it. Canadian shingle mills employ large percentage orientals in their mills.

Let me describe to you the conditions on Grays Harbor, where I live, where practically the entire population is dependent upon the lumber, shingles, and pulp business for existence.

In 1929 we had 21 shingle mills; now we have 11 shingle mills. Of these 11 shingle mills 2 are operating one shift, or 50 per cent of production; 1 has been turned over to the employees and is being operated cooperatively; our own plant has operated 17 days since November 1—4 or 5 machines—we normally operate 17 machines.

In 1929 we had 20 sawmills operating on Gray's Harbor; now we have 5 operating part time, in which I have included our own—17 days since November 1.

In 1929 we had 10 principal loggers operating and many small ones; to-day there are two principal loggers with skeleton crews, composed only of key men producing a few logs.

On Gray's Harbor we market exports intercoastal and rail. Our export markets are practically gone, because of British Empire preferentials in Australia, New Zealand, England, and import tariffs in Canada. Japan has been lost because of the difference in exchange; France, because of exchange and quota, which, in effect, is embargo. You know the Russian labor situation. Our intercoastal business is fast being superseded, what little there is left, by Canadian lumber and shingles.

NOTE.—Two trainloads shipped through Everett the other day for water shipment.

Our rail markets are identical with our intercoastal problem.

We have all tried to fight this thing through, and in some way take care of our people. We have dissipated our capital to keep our people, who have spent their lives in our country and in our industry, from starving.

The banking resources of Gray's Harbor three years ago were over $14,000,000; to-day they are less than $3,000,000.

Our county commissioners told me just before I left that over 2,100 heads of families are dependent solely upon our county for the food they are getting to live on; averaging five to the family, this is something over 10,500 people, which is over one-sixth of our entire county population. City and private charity is supporting a large part of our population that is left. Ours was one of the most prosperous communities in the United States four years ago. Now the Red Cross is distributing flour made from Farm Board wheat in order that our people may not starve. For extra relief, our county spent $43,508.37 in 1929; $48,799.77 in 1930; $88,308.23 in 1931; and for January and February

alone in 1932, $37,989.04. Our county, along with our cities, to-day is bankrupt and can go no further. That avenue of charitable relief is gone. Local government relief is depleted. Up to March 15, less than 25 per cent of the taxes had been paid in our county, and usually collections amount to over 60 per cent. Taxes are not being paid on timber lands, mills, or homes, either real or personal property. How are our laboring people going to live? We are not an agricultural country.

Let me tell you what our people want. Here is a petition that tells the story far better than I can express it:

HOQUIAM, WASH *April 6, 1932.*

Hon. WESLEY L. JONES, *United States Senate,*
Hon. C. C. DILL, *United States Senate,*
Hon. ALBERT JOHNSON, *House of Representatives,*
Washington, D. C.

SENATORS AND CONGRESSMAN: We want to work but can not as the camps and mills here are shut down. We see by the papers that camps and mills in Canada are running and know that lumber and pulp in great quantities are being shipped into the United States. We do not want welfare aid or charity. We want our jobs and ask you to do your part by securing a tariff or an absolute embargo on all kinds of foreign logs, lumber, shingles, and pulp. Why should all this stuff be dumped into our country causing poverty and misery for us and the confiscation of our homes when it is possible to open the camps and mills here and give us work. We are American citizens with families and demand your help now to give us back our jobs.

Twenty-one signatures annexed to this petition.

Gentlemen, it is in your hands to help these American workmen get jobs, and not force them to demand the dole and Federal charity which they must have if something is not done soon to get them back even part-time jobs on a basis that will permit them to earn enough money to weather through this economic crisis. No self-respecting American citizen wants the dole or will accept charity, except as a last recourse, and then it will either be demanded or gotten in some other way. A temporary duty of 25 per cent ad valorem will make jobs for thousands of loggers and shingle workers in the American shingle indsutry, and at the same time raise considerable revenue for our Federal Government and help balance our National Budget.

Gentlemen, the situation which I have described on Gray's Harbor is identical with a similar condition which prevails in all other parts of Washington and Oregon where the shingle industry and lumber industry and pulp industry are subjected to the same factors we are. My prayer to you from our people is that you grant us this temporary protection in the revenue bill which you are now considering, and I am afraid, without threatening, because I am certainly not here for that purpose, that if something is not done, serious consequences for organized government as we know it must be anticipated.

POLSON LUMBER & SHINGLE CO.,
Hoquiam, Wash., April 11, 1932.

Mr. R. M. INGRAM,
E. C. Miller Cedar Lumber Co., Aberdeen, Wash.

DEAR MR. INGRAM: The following is the list of statistics which I secured from the county treasurer and county auditor Saturday, April 9.

One-quarter of all the vacant property in Grays Harbor County is either in the hands of the county through foreclosure or in the process of foreclosure. Up to March 15, 25 per cent of the taxes for 1931 had been paid, while usually the collections amount to 60 per cent by March 15.

The following figures are the amounts spent on extra relief in the past four years: 1929, $45,508.37; 1930, $48,799.77; 1931, $88,308.23; 1932, $37,989.04 (this amount for first two months only).

The above amounts do not include the county hospital, county farm, or widows' pensions. In addition to this, Aberdeen, Hoquiam, Montesano, and Elma have spent large sums for their own relief.

Very truly yours,

C. S. POLSON.

SCHOOL DISTRICT No. 123,
Ocosta, Wash., April 8, 1932.

C. H. ROBERTS,
Chairman, Ocosta.
MARGARET CONAWAY,
Clerk, North Cove.
GUSTAF NIELSON,
Westport.
PAUL H. HITCHCOCK,
Superintendent, Ocosta.
Mr. R. D. MACKIE, *Markham, Wash.*

MY DEAR MR. MACKIE: Replying to your inquiry of this date I wish to advise you that the Weyerhaeuser Timber Co., the Milwaukee Land Co., and other lumber interests in this district have not paid their taxes this spring, and we find our finances in a serious condition. I understand this is the first time in the history of this district when these two major companies have not paid their taxes on or before the 15th of March in order to claim their cash discount.

You may know that four timber companies pay 57 per cent of the taxes in this district. Unless they are able to meet these taxes or a major portion of them before the close of the current school year it will probably be necessary for us to close our high school altogether for the coming year.

At the close of last school year (June 30, 1931) we had a cash balance of $7,136. To-day we have outstanding warrants in excess of $10,000. I think you can see the seriousness of this nonpayment of taxes to the public schools of this section. I believe our situation is typical of many others.

Very truly yours,

PAUL H. HITCHCOCK.

Shingle production

[From United States Tariff Commission Report on Shingles, p. 51]

	Washington and Oregon	Per cent loss, 1913	British Columbia	Per cent gain over 1913
1913	[1] 7,718,000,000	.....	643,000,000	.....
1914	[1] 7,289,000,000	6	1,060,000,000	64
1915	6,650,000,000	14	1,895,000,000	194
1916	7,211,000,000	7	2,010,000,000	212
1917	6,794,000,000	12	2,390,000,000	272
1918	4,520,000,000	41	2,162,000,000	234
1919	7,625,000,000	1	2,151,000,000	234
1920	5,136,000,000	33	2,136,000,000	232
1921	5,735,000,000	26	2,374,000,000	269
1922	7,153,000,000	7	1,826,000,000	185
1923	6,308,000,000	17	1,893,000,000	195
1924	6,082,000,000	21	2,537,000,000	295
1925	6,639,000,000	14	2,685,000,000	317
1926	[2] 5,445,000,000	29	[2] 3,200,000,000	399
1927	[2] 6,000,000,000	22	[2] 2,554,000,000	297
1928	[2] 5,256,000,000	32	[2] 2,828,000,000	340
1929	[2] 5,664,000,000	27	[2] 2,229,000,000	247
1930	[3] 3,710,000,000	52	[3] 1,602,000,000	149
1931	[3] 2,045,000,000	74	[3] 1,261,000,000	96

[1] Figures from Edwards brief before Ways and Means Committee in behalf of United States cedar industry.
[2] Figures from U. S. Forest Service reports on forest products and Canadian Forestry Service.
[3] Figures are estimated.

NOTE.—Gains and losses all figured from 1931, the year of tariff removal.

Western red cedar shingle production

	Washington	Oregon	British Columbia	Total
	Feet	*Feet*	*Feet*	*Feet*
1928	5,019,061,000	236,641,000	2,828,890,000	8,084,592,000
1929	5,333,374,000	330,072,000	2,229,473,000	7,893,519,000
1930	3,407,776,000	301,979,000	1,602,084,000	5,311,819,000
1931	2,044,670,000	180,990,000	961,240,000	3,186,900,000

1928, 1929, and 1930 figures are by the U. S. Forest Service and the Canadian Forestry Service. 1931 figures are estimated.

Canadian shingle exports

[U. S. Tariff Commission report on shingles, p. 70]

Year	Total exports	Exports to United States	Year	Total exports	Exports to United States
1918	1,838,000,000	1,819,000,000	1925	2,566,000,000	2,536,000,000
1919	2,023,000,000	1,999,000,000	1926	1,867,000,000	1,848,000,000
1920	1,970,000,000	1,936,000,000	1927	2,470,000,000	2,434,000,000
1921	2,193,000,000	2,152,000,000	1928	2,090,000,000	2,059,000,000
1922	2,359,000,000	2,337,000,000	[1] 1929	1,749,000,000	1,717,000,000
1923	2,622,000,000	2,585,000,000	[1] 1930	1,268,000,000	1,248,000,000
1924	2,645,000,000	2,611,000,000	[1] 1931	1,008,000,000	998,000,000

[1] From Monthly Reports, Trade of Canada.

Senator JONES. I have a short telegram from our governor which I would like to have read.

The CHAIRMAN. We would like to hear from the members of the American Legion so we can get through in time for adjournment.

Senator WALSH of Massachusetts. Read the governor's telegram into the record.

Senator GORE. Is it understood that the oil and coal people can have two legionnaires at least appear in their behalf? I would like to proceed that way.

Senator JONES. I would like to have read this telegram from our governor. It will take but a moment.

Senator GORE. Why not have the legionnaires furnish their statements and have them printed in the record? I am sure we would all be glad to read them.

The CHAIRMAN. If the Senator will read the telegram from the Governor of Washington.

Senator JONES. Mr. Ramwell will read it.

Mr. RAMWELL (reading):

OLYMPIA, WASH., *April 19, 1932.*

H. RAMWELL,
Hotel Mayflower, Washington:

Please impress upon legislative bodies we can not endure another winter of unemployment and hardship such as we are now passing through without very serious consequences. Thousands of honest deserving citizens of the State of Washington are without work and our means of furnishing them subsistence are practically exhausted. Am fearful of what may happen unless Congress provides relief that will enable us to start our industries going again and market the products of the State in our own country.

ROLAND H. HARTLEY,
Governor of Washington.

Senator STEIWER (interposing). Mr. Chairman, might I take just a minute to make a request?

The CHAIRMAN. Yes.

Senator STEIWER. I do not want to make any unreasonable request and will not attempt to press it unduly, but I should like to state to the committee that there are four lumbermen here from Oregon who have come here to support this tariff. They have not been represented by any of the speakers who appeared before you this morning. They have very earnestly requested that I ask the committee to give them five minutes apiece. Could that be done?

The CHAIRMAN. I should like to ask whether they have briefs prepared or statements?

Senator STEIWER. I do not know whether they have or not. I see that one of the men shakes his head. I am told that briefs are not prepared. Their statements will be very limited in point of time, and I wish to say that they are most reputable and representative men; they are not employees but principals who are vitally concerned in this matter.

The CHAIRMAN. That would be 20 minutes more.

Senator STEIWER. I should be very glad indeed if that allowance could be made to them.

Senator HARRISON. Mr. Chairman, if you are going to do that it will disarrange the program. I suggest that if you are going to permit them to appear you let them come at the close. We have a lot of witnesses present who have remained here to be heard.

Senator STEIWER. There will be no objection to that. They have come from a great distance and certainly would like to be heard, and they would be willing to be heard at a later time.

Senator HARRISON. We will have a request from the other side for 20 minutes more, if this be allowed.

Senator STEIWER. I realize it is a little imposition on the committee and that the other side would be entitled to consideration, but I hope you will grant this request.

Senator HARRISON. We have had that request from everyone.

Mr. FRED M. OLIVER. The opposition has been given 45 minutes.

The CHAIRMAN. Yes, and I assume if any additional time is granted they will have to be given additional time in accordance with that granted to the opponents.

Senator STEIWER. I will appreciate your giving them this time at your pleasure.

The CHAIRMAN. We must get along as fast as we can, and we have certainly been trying to be fair to everybody. You may proceed, and if you allow interruptions that will be taken out of the 45 minutes.

Mr. OLIVER. A division of time has been agreed upon among the witnesses. First we will have the spruce producers. Mr. Winton will speak for them, and I will ask that no interruptions be made during his direct statement, which will require about 15 minutes, and he will reserve five or seven minutes to make answers to any questions propounded by members of the committee.

The CHAIRMAN. You may proceed.

Mr. WINTON. I will appreciate it if you gentlemen will reserve your questions until after I have completed my statement. We hope we will anticipate the most of your questions in our testimony.

The CHAIRMAN. Proceed.

STATEMENT OF DAVID J. WINTON, MINNEAPOLIS, MINN., APPEARING ON BEHALF OF THE AMERICAN STOCKHOLDERS WHO ARE SUBSTANTIAL OWNERS OF THE THREE LARGEST SPRUCE-PRODUCING MILLS IN THE INTERIOR OF WESTERN CANADA, THE EAGLE LAKE SPRUCE MILLS, THE PAS LUMBER CO., AND THE B. C. SPRUCE MILLS (LTD.)

Mr. WINTON. My name is David J. Winton; I appear here on behalf of the American stockholders who are the substantial owners of the three largest spruce-producing mills in the interior of western Canada, the Eagle Lake Spruce Mills, the Pas Lumber Co., and the B. C. Spruce Mills (Ltd.). These three mills produce substantially one-half of the spruce lumber manufactured in western Canada, excluding a special variety known as sitka spruce.

These owners are citizen of the United States who have invested their money in Canada. Their Canadian lumber holdings are much less important than their United States holdings; they own or control about 8 feet of timber in the United States as compared with each foot in Canada.

These American interests are primarily concerned with spruce lumber and will accordingly confine their testimony. Our competition is negligible with the fir producers in Washington and Oregon, who are the principal proponents of the proposed tax.

We are strongly in favor of any measure which will protect American labor against unfair competition or which will assure to our American unemployed additional sources of employment. We believe, however, that an additional tax or tariff on spruce lumber will not accomplish any of these things.

Gentlemen, I should like to first dispose of the tariff features of the lumber situation. Some questions were asked about the Tariff Commission's findings this morning. Only a few months ago the Tariff Commission, after an exhaustive investigation, found that the present duty of $1 was sufficient to equalize the difference in production costs of lumber as between the United States and Canada, without taking into consideration the effect of depreciated currency. In other words, the American producer with a tariff of $1 is at no disadvantage with the Canadian producer.

Some of the proponents of this tax have suggested a new feature in the situation; namely, the effect of depreciated currency, intimating that 8 or 10 per cent difference in exchange gives the Canadian producer an advantage. This phase has just been investigated by the Tariff Commission. We understand that it has only to-day issued its report on wood pulp in response to a Senate resolution in which it investigated and reported on the effect of currency depreciation and the necessity for placing some additional tariff to compensate for this depreciation. We have not had time to thoroughly analyze this report, but we understand that it finds in substance that no additional tariff is needed, generally speaking, for the reason that relative production costs have finally adjusted themselves to new levels so that production costs are now on the same relative basis as formerly. This finding is in harmony with studies made by other economists which show substantially the same result. This being true, an additional tax or tariff on lumber is not needed for the purpose of putting both the American producer and the Canadian producer on an equal basis from the standpoint of production costs.

In general, neither American nor Canadian producers are operating at a profit. Lumber manufacturers are not selling lumber for enough to cover depreciation or the full investment in standing lumber. The present low prices are barely sufficient to cover direct operating expenses. This means that there is no margin above direct operating costs out of which any additional tax might be absorbed by the Canadian spruce producer to enable him to enter the American market. The imposition of an additional tax would mean, therefore, that the Canadian spruce producer must obtain higher prices for his production and that one of two things would happen; either prices would be increased to the consumer or the Canadian imports would be shut out of the American market.

The only question for the committee to determine, we think, is whether as a matter of policy all spruce imported lumber from Canada should be shut out of the American market or the prices should be raised to the American consumers. I shall speak briefly as to the second proposition, namely, the advisability of increasing the price to the spruce consumer.

American consumer should not pay increased prices for spruce lumber. I want to make it clear that the manufacture of spruce lumber is a distinct industry to itself, and its problems are in no way embroiled in the problems confronting the west coast lumberman. Canadian spruce is not a material factor, generally speaking, in competition for ordinary building purposes with fir. Consequently, spruce is not a material factor in the depressed condition of the fir industry.

The proponents of the tax say that no increase in price to the consumer will result from the proposed tax, but this is a debatable question. It is certainly improper that the consuming public be required to pick out this particular industry from all of the suffering industries and subsidize it by paying increased prices. Particularly is this true as to lumber because lumber falls among the class of commodities which are necessary to our economic life and especially in the rural districts.

It is important that the price be not increased to the consumer for the reason that spruce importations are needed in this country for special purposes. Although theoretically there is some degree of competition between all woods, from a practical standpoint spruce is not an important competitor with fir and yellow pine for ordinary building purposes.

There are certain localities such as New England where spruce has been used for generations and where there is still a considerable demand for spruce by users who are willing to pay the higher prices.

While spruce has been practically forced out of the market as a common building material, spruce has many important characteristics differing from other woods which make its use desirable, even essential, for certain purposes. Some of these principal characteristics are that it is odorless, has no resin in the fiber of its wood, lighter than other softwoods of the same strength, and so forth. Because of these characteristics spruce is desirable for use as egg boxes, butter boxes, refrigerators, and numerous other important purposes which are not enumerated because of the limited time. Generally speaking, therefore, spruce is now used principally for special industrial uses and for certain building uses where its characteristics make its use essential.

The total softwood lumber produced in the United States during 1929 was 29,813,000,000 feet. The total spruce produced in the United States during that same year was 568,257,000 feet, substantially all of which was consumed for domestic purposes. The total spruce imported into the United States, substantially all from Canada, in the same year was about 500,000,000 feet. These figures indicate, first, that the spruce importations are not an important factor in the general lumber trade; and, second, that the spruce produced in the United States was not sufficient to take care of local needs and that additional spruce was imported from Canada for that purpose.

If the spruce consumer continues to insist on the wood which he has used for so many generations, and which is so adequately fitted to his needs, he will be forced to pay a higher price for it.

The next point I want to make is that there is no reason for preferential treatment of the lumber industry. The main argument of the proponents is that the lumber industry is in a depressed condition; that something must be done to save it; that the tax would not increase the price to the consumer but on the other hand the American lumber industry will be aided through a greater market, thus increasing employment for American labor.

The condition of the lumber industry is generally attributable to two factors: First, the general business depression and second, needless overexpansion by the industry itself. The present economic depression has seriously affected industry, business, farmers, laborers, everyone. The condition of the lumber business compares favorably with many others. The Department of Labor's price index figures show that the decline in lumber prices between January and December, 1931, corresponded in a general way to the decline in prices of other commodities as follows:

Item	Index for Jan., 1931	Index for Dec., 1931	Percentage of decline
Lumber	70.4	65.8	13.3
Semimanufactured articles	73.7	63.7	13.5
Farm products	73.5	55.7	24.5
All commodities	78.2	68.6	12.2

The decline in the price of lumber during 1931 has corresponded generally with the all-commodity trend whereas the decline in prices on farm products has about doubled that of lumber. A more comprehensive compairson has been made of the price tendency on lumber with all commodities and certain other trends which shows that from 1924 to 1930 the trend on lumber prices has followed very closely the all-commodities trend. These figures are available for verification.

Aside from other objections, these figures are alone sufficient to reject the special treatment proposed to be accorded the lumber industry as the beneficiary of a prohibitive tax at this time. Other and more basic industries are in at least an equally depressed state. No good reason can be advanced for this preferential treatment.

I next want to say that the lumber industry will not benefit by the tax. We believe that the American producer will not be benefited by this additional tax. While Canadian lumber will be sub-

stantially eliminated from the American market, the total United States production will not be increased. Canada will be forced through preferential trade agreements, or through other means to take from America a corresponding amount of exports to other countries. The present American lumber exports to foreign countries are more than double the Canadian imports to this country, the imports from Canada being less than one-half of the American softwood exports to other countries. The Canadian producers would be forced to obtain a sufficient amount of this foreign trade to offset the markets which they would lose in the United States. The net result in so far as the American producer is concerned might very well be worse. This is demonstrated by what has happened already since the establishment of the tariff rate of $1 since the Canadian producer upon losing a part of his American market with prospects of even greater losses has been forced to recoup elsewhere through preferential trade agreements.

The other principal trouble in the lumber business is the needless overexpansion by the industry itself. The solution of the problem lies in the hands of the fir producers themselves. They should take some active steps on their own part to eliminate unreasonable competition and indiscreet overexpansion. The general public should not be required to pay for the economic evils within the industry.

I next want to take up the preferential tariff situation. The proponents of the tariff refer to the preferential tariffs in seeking an additional tax on lumber.

In 1929 the United States exported 3,079,000,000 feet and imported 1,368,000,000 feet of softwood lumber. In 1931 the proportions of the foreign lumber trade balance were approximately the same, there being exported 1,629,000,000 feet of softwoods as compared with 750,000,000 feet imported. Our softwood lumber exports during 1931 were approximately two and one-eighth times our imports.

If Canada is shut completely out of the United States market she may be able to formulate further preferential agreements which would completely restrict the United States producer; furthermore she may negotiate trade agreements with other countries with like effect.

The result of eliminating the Canadian importations may cost us double that amount by the loss of exportations to other foreign countries.

I will now take up the proposition that the proposed tax will not create additional revenues. In our judgment, an additional tax on lumber would in fact reduce existing revenues instead of increasing them. About 95 per cent of the softwood importations into the United States are from Canada. An additional tax would place such a burden upon the Canadian operator that he would be substantially eliminated from the American markets. There would be no additional revenue from the tax; also because of the stoppage of shipments the present revenue from the duty of $1 per thousand board feet would in large part cease.

Lumber manufacturers are not selling lumber for enough to cover depreciation or the full investment in standing timber. The present market prices are barely sufficient to cover direct operating expenses. There is no margin above direct operating costs out of which any

additional tax might be absorbed by the Canadian spruce producer to enable him to enter the American market.

My next point is that spruce lumber and woodpulp must be treated alike. Spruce lumber and woodpulp must be considered together, otherwise a great injustice will be done to American owners of spruce lumber mills in Canada. The same spruce forests can to a great extent produce either spruce lumber or pulpwood. If by assessing a tax on import spruce lumber further importations are stopped from Canada, the inevitable result will be for Canadian spruce timber to be converted to pulp rather than to lumber. Pulp is on the free list and can continue to be imported into the United States on the same basis as heretofore. As a matter of fact, the tendency is already in that direction under the present tariff rate. This is particularly true in eastern Canada where spruce lumber producers are rapidly switching from lumber production to pulp manufacture. The injustice in this is apparent. The tax on spruce lumber would not injure seriously the Canadian owner of the standing timber whether it be an individual or the Canadian Government because the forests could be utilized for pulp production instead of spruce lumber. However, the American producers of spruce lumber would be ruined, their plants would become valueless, and their property in effect confiscated. The point is that the two must be considered jointly. This has reference primarily to spruce lumber as distinguished from other species of lumber imported from Canada.

My next point is that any benefit to lumber producers will be at the expense of the general public. It is our belief that the American lumber producer will not ultimately obtain a greater market. However, a benefit from either increased prices or increased markets would be at the expense of the general American public.

The total American investments abroad at the end of 1930 approximated $15,000,000,000. Of this amount approximately $4,000,000,000 were invested in Canada, about evenly divided, $2,000,000,000 each, between (1) bonds, and (2) stocks, or equities in businesses. This amount is almost equivalent to the total American investment in Europe, amounting to approximately $5,000,000,000, and is $1,000,000,000 in excess of the total American investment in South America. The American people are more vitally interested in Canada than in any other foreign country. Over 21 per cent of Canada's entire wealth is owned by investors in the United States. Only 12 per cent by Englishmen and 2 per cent by other nationals.

Canada is not primarily a manufacturing country. It exports raw products and in return imports manufactured articles to a large extent from the United States. Of the total exports from Canada into the United States, forest products constituted approximately 54 per per cent for the year ending March 31, 1931.

Of the total exports to the world from Canada, forest products constituted 28.9 per cent, and agricultural products 36.6 per cent. The predominating exports to the world from Canada are agricultural products, whereas to the United States the predominating exports are forest products, including, of course, pulp as well as lumber.

Canada must be permitted to pay for goods with goods. If Canada is unable to pay for its manufactured articles by exporting into this country its forest products which constitute over one-half of its

total exports into the United States, then one of several contingencies may happen, any one of which would be detrimental to the United States.

The first, and the most likely, contingency is that Canada would market her lumber elsewhere and would to that extent displace lumber previously sold in those same markets by American producers. While this would enable Canada to pay her interest obligations, and so forth, on securities held in this country, it would not give the United States the same amount of export trade of manufactured articles to Canada in the future, and to that extent the public generally would be injured; nor would the American lumber manufacturer be benefited because his total output would not be increased.

If the Canadian forest products are driven out of our markets a second possibility, of course, is that Canada will be unable to sell its lumber elsewhere. In that event, the probable effect would be to cause the rate of Canadian exchange to fall, thus endangering interest payments by Canada on securities held by American banks and insurance companies, as well as endangering the integrity of the principal amounts. If this contingency were to result, the American investors would suffer, and the lumber producer would also probably indirectly suffer.

A third possibility: If Canadian lumber is shut out of the United States and if Canada is unable to sell the same amount of lumber in other markets, she might, in order to meet her obligations, further displace a portion of her agricultural products in the markets of the world. In this instance our agricultural interests would suffer and the lumber producers benefit at the expense of our most depressed industry.

I thank you, gentlemen of the committee.

The CHAIRMAN. Mr. Oliver, who will you have speak next?

Mr. OLIVER. Mr. Chairman, may we file, with your permission, for the record a short brief which will elaborate somewhat the testimony just given by Mr. Winton?

The CHAIRMAN. That will be perfectly agreeable.

Mr. OLIVER. I now hand it to the committee reporter.

(The paper referred to is here made a part of the record, as follows:)

BRIEF IN BEHALF OF SPRUCE LUMBER

My name is D. J. Winton; I appear here on behalf of the American stockholders who are the substantial owners of the three largest spruce producing mills in the interior of western Canada, the Eagle Lake Spruce Mills, the Pas Lumber Co., and the B. C. Spruce Mills (Ltd.). These three mills produce substantially one-half of the spruce lumber manufactured in western Canada, excluding a special variety known as sitka spruce. They ship much more than one-half of the spruce lumber exported from western Canada into the United States.

These owners are citizens of the United States who have invested their money in Canada. Their Canadian lumber holdings are much less important than their United States holdings; they own or control about 8.65 feet of timber in the United States as compared with each foot in Canada. These producers feel, however, that an additional tax would not benefit their American interests but would only injure their Canadian properties.

These American interests are primarily concerned with spruce lumber and will accordingly confine their testimony, dealing only briefly with the general lumber situation. Our competition is negligible with the fir producers in Washington and Oregon, who are the principal proponents of the proposed tax. We shall attempt to show the committee that there is no justification economically or otherwise for the assessment of a tax on imported spruce lumber due to the special circumstances and conditions surrounding the production and use of spruce.

We want it distinctly understood that we believe in the policy of protection for our infant industries. We also are strongly in favor of any measure which will protect American labor against unfair competition or which will assure to our American unemployed additional sources of employment. We believe, however, that an additional tax or tariff on lumber, especially spruce, will not accomplish any of these things.

SPRUCE IS PRIMARILY A SPECIALTY WOOD AND IS LARGELY NONCOMPETITIVE

Although theoretically there is some degree of competition between all woods, from a practical standpoint spruce is not an important competitor with fir and yellow pine for ordinary building purposes. These two woods have practically superseded spruce as a common building material because of their low-cost production. There are certain localities such as New England where spruce has been used for generations and where there is still a considerable demand for spruce by users who are willing to pay the higher prices.

While spruce has been practically forced out of the market as a common building material, spruce has many important characteristics differing from other woods which make its use desirable, even essential, for certain purposes. Some of these principal characteristics are that it is odorless, has no resin in the fiber of its wood, lighter than other softwoods of the same strength, etc. Because of these characteristics spruce is desirable for use as egg boxes, butter boxes, refrigerators, and numerous other important purposes which are not enumerated because of the limited time. Generally speaking, therefore, spruce is now used principally for special industrial uses and for certain building uses where its characteristics make its use essential.

The production of spruce in the United States has been decreasing and is not now sufficient to take care of domestic needs. Canadian spruce is needed to supplement this inadequate supply. Furthermore, spruce timber in the United States is being diverted to pulpwood purposes because of the increasing need for paper, with prospects for a continued increase in that use. This points to a still further deficiency in the supply of spruce lumber for future domestic needs.

The total softwood lumber produced in the United States during 1929 was 29,813,000,000 feet. The total spruce produced in the United States during that same year was 568,257,000 feet, substantially all of which was consumed for domestic purposes. The total spruce imported into the United States, substantially all from Canada, in the same year was about 500,000,000 feet. These figures indicate, first, that the spruce importations are not an important factor in the general lumber trade; and, second, that the spruce produced in the United States was not sufficient to take care of local needs, and that additional spruce was imported from Canada for that purpose.

THE PROPOSED TAX WILL NOT CREATE ADDITIONAL REVENUES

In our judgment, an additional tax on lumber would in fact reduce existing revenues instead of increasing them. About 95 per cent of the softwood importations into the United States are from Canada. An additional tax would place such a burden upon the Canadian operator that he would be substantially eliminated from the American markets. There would be no additional revenue from the tax; also because of the stoppage of shipments the present revenue from the duty of $1 per thousand board feet would, in large part, cease.

In general, neither American nor Canadian producers are operating at a profit. Lumber manufacturers are not selling lumber for enough to cover depreciation or the full investment in standing timber. The present market prices are barely sufficient to cover direct operating expenses. There is no margin above direct operating costs out of which any additional tax might be absorbed by the Canadian spruce producer to enable him to enter the American marktet. If the spruce consumer continues to insist on the wood he has used for so many generations and which is so adequately fitted to his needs, he will be forced to pay a higher price for it. In other words, one of two things will happen. Either prices will be increased accordingly and the consumer will pay the increased prices or the Canadian imports will be shut out of the American market.

This is susceptible of demonstration by reference merely to the Tariff Commission's report on lumber. The Tariff Commission made an exhaustive investigation as the result of a Senate resolution, and found in its report recently issued that the present duty of $1 was sufficient to equalize the difference in production costs of lumber as between the United States and Canada without taking into consideration the effect of depreciated currency on the situation. We believe

that the Tariff Commission was in error and that Canadian producing costs are actually higher than those in the States.

However, assuming the Tariff Commission's finding correct, the tariff rate of $1 per thousand feet equalizes production costs between the Canadian and American producer. If the American producer is facing ruin because of his inability to sell his product at a profit, then it is obvious that the Canadian producer whose costs have been equalized, can not absorb any additional amount out of the selling price and continue to compete. In view of the commission's finding it is unnecessary to produce further figures to demonstrate that fact.

Proponents of the tax contend that conditions have changed, and that the Tariff Commission's finding is now inapplicable due to the depreciation of Canadian money which they allege enables the Canadian producer to manufacture his product at a lower cost. They insist that an additional tax is necessary to overcome the effect of currency depreciation.

Our investigation shows that conditions have since adjusted themselves so that the Canadian producer has no advantage in production costs as the result of the depreciation in Canadian currency, and therefore no additional tax or tariff duty is necessary for the purpose of offsetting the so-called advantage. Studies have been made which develop that temporarily the foreign producer has an advantage when his producing country departs from the gold standard, but that very shortly thereafter there begins a process of adjustment with the ultimate result that the relative production costs are finally on the same basis. These studies show in substance that there is an adjustment to the new currency values through various processes, for instance either the cost of producing the article in the foreign country tends to increase or the cost of production in the United States tends to decrease, or the domestic costs fall faster than the foreign costs. That is exactly what happened in general as between the United States and countries whose currency is off the gold standard.

The effects of currency depreciation is a matter which requires expert study and analysis. It is impracticable in a hearing to demonstrate the correctness of incorrectness of cost figures; such a matter should be referred to a body of experts for determination. If the committee is to give consideration to the necessity for compensating for depreciated currency, that question, we feel, should be made the subject of study by impartial experts whose duty it is to report to the committee their finding. It is highly unfair to accept partisan figures as conclusive evidence of the supposed facts.

An excellent illustration against the acceptance of partisan studies can be had by reference to two studies recently made on woodpulp. One of such studies was prepared by interests representing the so-called self-contained American woodpulp mills. It proves conclusively that an additional tariff should be levied to compensate for the effect of depreciated currency. On the other hand, a study made by a committee of woodpulp converters in the United States in opposition to this position equally conclusively finds that conditions have since adjusted themselves and no tariff is justified.

Here we have two studies, both apparently conclusive but arriving at exactly opposite conclusions. The point is that studies of this kind should be carefully analyzed and should receive the sanction of a body of disinterested experts.

Neither the proponents nor ourselves are in a position to make such a study. Sufficient information is not available to them or to us. They have not access to Canadian costs nor to all of the costs in American mills. Only a governmental agency can with any reasonable degree of accuracy make such a study.

Spruce lumber and woodpulp must be treated alike. It would be inequitable to single out spruce lumber from other spruce forest products for special treatment in the way of taxes. Spruce lumber and woodpulp must be considered together otherwise a great injustice will be done to American owners of spruce lumber mills in Canada. The same spruce forests can to a great extent produce either spruce lumber or pulp wood. If by assessing a tax on import spruce lumber further importations are stopped from Canada, the inevitable result will be for Canadian spruce timber to be converted to pulp rather than to lumber. Pulp is on the free list and can continue to be imported into the United States on the same basis as heretofore. As a matter of fact, the tendency is already in that direction under the present tariff rate. This is particularly true in eastern Canada where spruce lumber producers are rapidly switching from lumber production to pulp manufacture. The injustice in this is apparent. The tax on spruce lumber would not injure seriously the Canadian owners of the standing timber whether it be an individual or the Canadian Government because the forests could be utilized for pulp production instead of spruce lumber. However, the American

producers of spruce lumber would be ruined, their plants would become valueless, and their property in effect confiscated. The point is that the two must be considered jointly. This has reference primarily to spruce lumber as distinguished from other species of lumber imported from Canada.

There is no good reason for preferential treatment to the lumber industry. The main argument of the proponents is that the lumber industry is in a depressed condition; that something must be done to save it; that the tax would not increase the price to the consumer but on the other hand the American lumber industry will be aided through a greater market, thus increasing employment for American labor.

In our opinion this is not the proper time to determine the propriety of a tariff rate or the amount of the protection necessary for an industry. This is a revenue bill, and it is our view that the measure will not increase revenues but will, in fact, reduce them.

The plight of the lumber industry is generally attributable to two factors. First, the general business depression, and second, needless overexpansion by the industry itself. The present economic depression has seriously affected industry, business, farmers, laborers, everyone. Although the lumber business would have itself selected as the beneficiary of this special tax or tariff, an investigation reveals that in fact its condition compares favorably with many others. The Department of Labor's price index figures show that the decline in lumber prices between January and December, 1931, corresponded in a general way to the decline in prices of other commodities as follows:

Item	Index for January, 1931	Index for December, 1931	Percentage of decline
Lumber	76.4	65.8	13.3
Semimanufactured articles	73.7	63.7	13.5
Farm products	73.5	55.7	24.6
All commodities	78.2	68.6	12.2

The decline in the price of lumber during 1931 has corresponded generally with the all-commodity trend whereas the decline in prices on farm products has about doubled that of lumber. A more comprehensive comparison has been made of the price tendency on lumber with all commodities and certain other trends which shows that from 1924 to 1930 the trend on lumber prices has followed very closely the all-commodities trend. These figures are available for verification.

Aside from other objections to the proposed tax these figures are alone a sufficient reason to reject the special treatment proposed to be accorded the lumber industry as the beneficiary of a prohibitive tax at this time. Other and more basic industries are in at least an equally depressed state. No good reason can be advanced for this preferential treatment.

The proponents of the tax say that no increase in price to the consumer will result from the proposed tax, but this is a debatable question. It is certainly improper that the consuming public be required to pick out this particular industry from all of the suffering industries and subsidize it by paying increased prices. Particularly is this true as to lumber because lumber falls among the class of commodities which are necessary to our economic life and especially in the rural districts.

The other principal trouble in the lumber business is the needless overexpansion by the industry itself. A tax on import lumber will not cure the present plight but the solution of the problem lies in the hands of the fir producers themselves. They should take some active steps on their own part to eliminate unreasonable competition and indiscreet overexpansion. The general public should not be required to pay for the economic evils within the industry.

The manufacture of spruce lumber is a distinct industry to itself, geographically and economically, and its problems are not to be embroiled in the problems of the coast. As I have already stated Canadian spruce does not compete for ordinary building purposes with fir.

The lumber industry will not benefit by the tax. Assuming that there will be no increase in prices, we believe that the American producer will not be benefited by this additional tax. While Canadian lumber will be substantially eliminated from the American market, the total United States production will not be increased. Canada will be forced through preferential trade agreements, or

through others means to take from America a corresponding amount of exports to other countries. The present American lumber exports to foreign countries are more than double the Canadian imports to this country, the imports from Canada being less than one-half of the American softwood exports to other countries. The Canadian producers would be forced to obtain a sufficient amount of this foreign trade to offset the markets which they would lose in the United States. The net result in so far as the American producer is concerned might very well be worse. This is demonstrated by what has happened already since the establishment of the tariff rate of $1 since the Canadian producer upon losing a part of his American market with prospects of even greater losses has been forced to recoup elsewhere through preferential trade agreements.

Any benefit to lumber producers will be at the expense of the general public. It is our belief that the American lumber producer will not ultimately obtain a greater market. However, a benefit from either increased prices or increased market would be at the expense of the general American public.

Canadian securities are widely disseminated in this country and are held largely by insurance companies, savings banks, commercial banks and by individuals. The total American investments abroad at the end of 1930 approximated $15,000,000,000. Of this amount approximately $4,000,000,000 were invested in Canada, about evenly divided, $2,000,000,000 each, between (1) bonds, and (2) stocks, or equities in businesses. This amount is almost equivalent to the total American investment in Europe, amounting to approximately $5,000,000,000, and is $1,000,000,000 in excess of the total American investment in South America. The American people are more vitally interested in Canada than in any other foreign country. Over 21 per cent of Canada's entire wealth is owned by investors in the United States.

Canada is not primarily a manufacturing country. It exports raw products and in return imports manufactured articles to a large extent from the United States. Of the total exports from Canada into the United States, forest products constituted approximately 54 per cent for the year ending March 31, 1931; minerals 22.4 per cent; animal products 9.7 per cent; agricultural products 7.9 per cent; and all other miscellaneous products, including manufactures, 5.9 per cent.

The total exports to the world from Canada were as follows: Forest products 28.9 per cent, minerals 21.6 per cent, agricultural products 36.6 per cent, animal products 10.5 per cent, and miscellaneous 2.4 per cent. The predominating exports to the world from Canada are agricultural products, whereas to the United States the predominating exports are forest products, including, of course, pulp as well as lumber.

Over a long period the balance of trade must be maintained; Canada must be permitted to pay for goods with goods. If Canada is unable to pay for its manufactured articles by exporting into this country its forest products which constitute over one-half of its total exports into the United States, then one of several contingencies may happen, any of which would be detrimental to the United States.

The first, and the most likely, contingency is that Canada would market her lumber elsewhere and would to that extent displace lumber previously sold in those same markets by American producers. While this would enable Canada to pay her interest obligations, etc., on securities held in this country, it would be not give the United States the same amount of export trade of manufactured articles to Canada in the future, and to that extent the public generally would be injured; nor would the American lumber manufacturer be benefited because his total output would not be increased.

If the Canadian forest products are driven out of our markets a second possibility, of course, is that Canada will be unable to sell its lumber elsewhere. In that event, the probable effect would be to cause the rate of Canadian exchange to fall, thus endangering interest payments by Canada on securities held by American banks and insurance companies, as well as endangering the integrity of the principal amounts. This is illustrated by conditions in South America, where the bonds of most of the countries have been defaulted and in the remaining countries where they are worth but a fraction of their face value. If this contingency were to result, the American investors would suffer, especially insurance companies, savings banks, and commercial banks, and the lumber producer would also probably indirectly suffer

A third possibility: If Canadian lumber is shut out of the United States and if Canada is unable to sell the same amount of lumber in other markets she might, in order to meet her obligations, further displace a portion of her agricultural

products in the markets of the world. In this instance, our agricultural interests would suffer and the lumber producers benefit at the expense of our most depressed industry. Gentlemen, you have been told often enough that 50 per cent of our lumber is consumed in rural districts. We don't intend to bore you by dragging the agricultural industry into this discussion by its tail. I do say that Canada regards her debts as real debts, and will repay them. If we bar our markets to her spruce mills, she has one big industry left, the farm. She will be compelled to negotiate every possible trade agreement for the profitable sale of her farm products.

What has been said as to the contingencies which might occur has to do with the lumber situation in general. It should not be overlooked that in the case of spruce, there would be an inevitable diversion from production of Canadian spruce lumber to the increased manufacture and exportation of pulp from Canada. In this manner the lumber producer in the United States would be benefited at the expense of the pulp producer.

Preferential tariff situation: The proponents of the tariff have claimed that the preferential tariffs initiated between Canada and other members of the British Empire are unfair and use this argument in seeking an additional tax on lumber.

In 1929 the United States exported 3,079,000,000 and imported 1,368,000,000 feet of softwood lumber. In 1931 the proportions of the foreign lumber trade balance were approximately the same, there being exported 1,629,000,000 feet of softwoods as compared with 750,000,000 feet imported. Our softwood lumber exports during 1931 were approximately two and one-eighth times our imports.

The duty on lumber imposed by the Smoot-Hawley bill penalized the Canadain manufacturer. The natural result was that the Canadian producer felt that, having been thus penalized in the American market, he should insure his other markets by negotiating preferential duties for his lumber.

There is to be held in Ottawa this coming summer an Empire conference concerning tariff matters between members of the British Empire. If Canada is shut completely out of the United States market she may be able to formulate further preferential agreements which would completely restrict the United States producer; furthermore she may negotiate trade agreements with other countries with like effect.

The result of eliminating the Canadian importations may cost us double that amount by the loss of exportations to other foreign countries.

STATEMENT OF PRENTISS BLOEDEL, REPRESENTING BLOEDEL-DONOVAN LUMBER MILLS OF SEATTLE, WASH.; AND BLOEDEL, STEWARD & WELCH CO. (LTD.), OF SEATTLE, WASH., AND VANCOUVER, BRITISH COLUMBIA

Mr. BLOEDEL. Mr. Chairman and gentlemen: My name is Prentiss Bloedel and I am here as the personal representative of my father, J. H. Bloedel, president of the Bloedel-Donovan Lumber Mills of Seattle, Wash.: and Bloedel, Steward & Welch Co. (Ltd.), of Seattle, Wash., and Vancouver, British Columbia. I represent as well Mr. James D. McCormack, president of the Anacortes Lumber & Box Co. of Anacortes, Wash. These gentlemen oppose any change in the charges now assessed on imported softwood lumber, and in particular on fir, on the following grounds:

A proposal is being made to impose an excise tax or tariff duty upon importations of lumber and timber of fir, spruce, pine, hemlock and larch through an amendment to the revenue bill. In response to Senate Resolution 321 of the Seventy-first Congress the Tariff Commission made an exhaustive investigation of the lumber industry of the United States and Canada—the principal competing country. On November 9, 1931, only five months ago, the Tariff Commission rendered its report to the President and concluded its findings by saying that the facts with regard to the difference in costs of production, including transportation to the principal markets in the United

States, did not warrant a change in the duty of $1 per thousand feet board measure on sawed lumber and timber of fir, spruce, pine, hemlock or larch.

It would not seem justifiable, therefore, from the competitive point of view to further increase the duties on these products.

If, however, the matter of levies against imported lumber is to be reopened on the basis of taxing it for revenue, then it will most surely defeat its own end. Any rate sufficiently high to produce appreciable revenue will be so high as to entirely exclude importations.

It might be mentioned in that particular respect, as Colonel Greely pointed out to you this morning, that approximately 45 per cent or a little less than 400,000 of imports of softwood lumber from Canada June, 1930 to June, 1931 carried a duty, and that at $1 a thousand would be $400,000, or less.

A tariff or excise tax on lumber would be of no benefit to domestic lumber producers and would work a serious harm on industry in the United States generally. We export to world markets approximately twice as much lumber as we import. Domestic exports for 1931, according to the Timber Conservation Board, are 9 per cent of domestic consumption; imports are 5 per cent. Were imports of lumber to be entirely excluded as a result of an excise duty it would mean a shift in world markets and the Canadian lumber now entering the United States would be sold in other world markets, replacing American lumber. Our exports would be diminished to the extent that our imports are diminished. Canada now purchases 63 per cent of her imports in the United States. To make these purchases she must build up credits. She does this partially through her exports of lumber to the United States, and if these lumber export credits are shifted to other world markets Canada will purchase the commodities she needs in those other world markets and American industries will suffer. Furthermore, lumber is a raw material; the articles Canada purchases from us are usually finished products.

Various figures of cost disadvantage to the domestic producer have been alleged, varying from $1 to $5 per thousand board feet. With all the pressure to liquidate stocks of manufactured lumber and standing timber which has been felt equally in British Columbia and in Washington and Oregon in the current depression, British Columbia has not been able to capture a larger share of the domestic lumber market. A comparison of domestic consumption and imports from Canada over the period of the past three years shows a surprising uniformity. According to the report of the United States Timber Conservation Board, January 25, 1932, imports of Canadian softwoods were 4.9 per cent of domestic consumption in 1929, 4.8 per cent in 1930 and 5.1 per cent in 1931, a variation of only three-tenths of 1 per cent of domestic consumption. Certainly if Canada had advantages in production cost she would have increased her exports to the United States at a time when liquidation of stocks of lumber and timber were essential to business survival.

Similarly, Canadian competition has not threatened the position of the United States in the markets of the world. Domestic manufacturers enjoy in these markets an 80 per cent share of the fir and hemlock lumber sold. In markets which might legitimately be called British, domestic markets, Washington and Oregon sold 44 per cent of the lumber of these species, and this in spite of the operation of preferential tariffs in favor of Canadian lumber.

		British Columbia	United States
1931	In Australia	65.5	34.5
FLIB	South Africa	65.2	34.8
Report for 1931	United Kingdom	56	44

Another aspect of the partial or total exclusion of Canadian lumber from the American domestic market is the possibility that she will be driven to seek preferential trade agreements within the British Empire. The same relationship exists within British Empire as exists between United States and the Philippines and United States and Cuba.

You have been told of the distress in the American lumber industry. Of course this is true, gentlemen. There is distress in every industry and it is true there is particular distress in the lumber industry. It is not possible that the amount of Canadian softwood exports to the United States, which were in 1931 750,000,000 feet, or 5 per cent of the domestic production, could cause such distress. The distress in the lumber industry is not to competition from foreign imports but unsound and unstable conditions of timber ownership. This was fully developed on the Senate floor during the writing of the 1930 tariff act.

It was mentioned that just prior to the time when the conference rates on shipping went into effect, I believe March 1, or just after that time, that tonnage was booked in Canada at $9 and the conference rate was $10. I can not say whether that is correct or incorrect, but I will be willing to take Colonel Greely's figures. At any rate, it may be admitted that that was so, and that does not preclude the fact that at all times the conference rate has been very unstable. It has been subject to change and breaking up for its whole history. The conference rate is now supposed to be in effect for six months, and yet there is nothing to indicate that the conference rate will be something else later.

There is another point in this connection, that the Canadian exporters, under certain circumstances, can not get foreign tonnage. In fact, tramp steamers, which is the class in question in the particular point that has been mentioned, do not come to Vancouver unless there is some movement of trade. Grain is the principal movement that draws them, and they may or may not be there. But it is not a regular source of transportation, and in general the Canadian producer must rely upon American shipping lines the same as Americans.

In respect to the effect of depreciated Canadian exchange, I should like to go into it from another angle than that Mr. Winton mentioned. A substantial part of the costs of production of logs in Canada depends upon equipment purchases in the United States. All the equipment which is used in producing logs in Canada comes from the United States, and all repair parts must be purchased in this market. Furthermore, on that part of the purchases of Canadian manufacturers that do not come from the American market, the manufacturer in Canada naturally increases his price right up to the limit at which the same product may be brought in from the United States. There is, therefore, a tendency for costs of production to increase by an amount equal to the amount of the currency depreciation.

I would like now to submit this brief for your consideration and ask at this time for your permission to file a supplemental brief before the committee hearing closes.

The CHAIRMAN. How soon can you furnish it?

Mr. BLOEDEL. Within the next 48 hours.

The CHAIRMAN. If you can get it here by Friday evening it will be all right.

Mr. BLOEDEL. All right. I will do that.

SEATTLE, WASH.

PRENTICE BLOEDEL,
Washington, D. C.:

Governor Hartley not now interested in timber so far as I know, but is still interested in cedar lumber and shingle mill; called Clough Hartley Mill, located in Everett. Before entering politics was partner in Irving Hartley Co., loggers, but sold out.

J. H. BLOEDEL.

(The brief furnished by Mr. Bloedel is as follows:)

BRIEF PRESENTED TO THE SENATE FINANCE COMMITTEE IN OPPOSITION TO THE PROPOSED INCREASE IN THE DUTY ON LUMBER OF FIR, SPRUCE, PINE, HEMLOCK, AND LARCH, AND THE TRANSFER OF SOFTWOOD LUMBER AND LUMBER PRODUCTS NOW ON THE FREE LIST TO THE DUTIABLE LIST

APRIL 19, 1932.

Coincidental with measures now before Congress dealing with equalization of tariff duties for the purpose of compensating depreciation in foreign currencies, a request is being presented by western lumber interests for an increase in the existing duties on softwood lumber from $1 to $3 per thousand and the transfer of softwood lumber and lumber products now on the free list to the dutiable list. It is not the purpose of this brief to discuss the merits of the currency equalization measures which are before Congress, nor is it our purpose to take any exception to the object of Senate Resolution No. 187 (S. Cong. Rec., Mar. 11, 1932, p. 5924) which provides as follows:

"*Resolved*, That the United States Tariff Commission be, and it is hereby, authorized and directed to make a complete investigation of foreign competitive conditions relating to the forest industry of the United States, including all branches thereof such as timber, lumber, pulpwood, pulp and paper industry, naval-stores industry, and any lumber [illegible] industries, and to report its findings to Congress at the earli[illegible] such investigation the commission shall make use of [illegible] of the Timber Conservation Board which dur[illegible] survey relating to the domestic field and f[illegible] industry."

But to present the [illegible] oppo[illegible] crease in the existing duties, and to [illegible] val of [illegible] ood lumbe[illegible] now on the free list to the dutia[illegible]

The question of [illegible] in the exis[illegible] ties on [illegible] h, spruce, and pine, lumber [illegible] n by the United States Ta[illegible] ovis[illegible] tion 336 of the tariff act o[illegible] sted i[illegible] and submitted its report [illegible], found[illegible] facts as obtained in their [illegible] ncrease o[illegible] in the existing rate of d[illegible] per tho[illegible] although[illegible] nditions generally have b[illegible] ore depre[illegible] s work, competitive con[illegible] between[illegible] mpeting country, Canada[illegible] ot ch[illegible] there is consequently, no [illegible] e exis[illegible]

The proponents [illegible] to press d[illegible] contained in the Portland Or[illegible] main reaso[illegible] ir request that certain British [illegible] are opera[illegible] what is [illegible] a cooperative basis whereby th[illegible] permit the e[illegible] es to [illegible] plant with no charge for depreciat[illegible] the net r[illegible] er deducting a percentage for material[illegible] wals, and such items, and they point out "[illegible], and the American lumber industry is to survive [illegible] mpage values and the

financial structure of mortgages and real estate will be undermined." They infer that preferential trade agreements which Canada has negotiated with Australia and the United Kingdom are causes of the present condition of the American lumber industry, and they also infer that a prohibitive duty, such as that proposed, which will shut out Canadian imports of softwood lumber from this country, will rectify or at least materially improve the condition of the domestic lumber industry.

It will be seen, therefore, that this request is apparently based on grounds which have departed a long way from the accepted principles on which tariff adjustments are usually made. It savors more of an attempt to use tariff adjustment as a means of correcting the effects of the existing world trade depression in certain localities, and as will be seen, it is based on very misleading grounds.

SENATE RESOLUTION NO. 187

In so far as the resolution now before the Senate Finance Committee is concerned, we submit that the United States Tariff Commission, having just completed a comprehensive investigation of competitive conditions as between the United States and Canada in the matter of fir, spruce, hemlock, pine, and larch, no useful purpose could be served by an immediate repetition of its labors in respect of these species, but we are confident that should Congress decide to authorise such an investigation, it will be found, that while the value of the products may have declined since the date of the commission's report, and the various elements of the cost of proudction have been affected by the depression, the same general relationship in competitive conditions between the two regions still exists.

Cooperative principle of lumber manufacture.—Considerable capital is made of the fact that certain plants in British Columbia operate on what is termed the "cooperative" plan. These plants, in point of fact, actually consist of three small mills in the Douglas fir region in that Province and their combined daily production does not exceed 375,000 feet b. m., or 5.8 per cent of the normal operating capacity of the region. During the last 12 months less than 2 per cent of the output of mills in British Columbia operating on the cooperative plan has been shipped into the United States domestic market.

The advocates of an increase in the tariff, in putting forward this as a justification for their request, have omitted to state that this system of operation is not confined to British Columbia; nor have they drawn attention to the fact that the cooperative plan not only originated in the State of Washington, but that there are at the present time numerous shingle mills and sawmills being operated in both Oregon and Washington on this basis. These include the Robinson Manufacturing Co., of Everett, Wash., cutting 200,000 feet of lumber daily; the Nettleton Lumber Co., of Seattle, Wash., producing 175,000 feet per day; Bloedel Donovan Sawmills (shingle mill) cutting 300,000 shingles per day. It is as well to point out here also that the cooperative plan was in practically every instance initiated by the workmen at various plants in order to provide employment and keep mills running, which under stress of present internal competitive conditions would have otherwise been forced down. Under no stretch of imagination could it be contended that even a prohibitive duty, which would completely bar Canadian lumber imports, would result in these mills going back to a normal plan of operation as long as the present intensity of internal competition exists in the domestic market. It may be added that mills operating on the cooperative basis in British Columbia are subject to the same legislative restrictions in the matter of minimum wage act, hours of work act, workmen's compensation act, and other social legislation in effect in the Province, as are the other mills in the Province which operate under ordinary conditions. Similar restrictions in the matter of hours of work and minimum wage do not, of course, apply to mills operating in the States of Washington and Oregon. There is nothing therefore to support the contention that the three small mills operating on the cooperative plan in British Columbia constitute a material factor in competitive conditions between the two regions in regard to the domestic market.

United States lumber industry maintains its position in domestic and world's markets.—Domestic lumber consumption statistics, as set out in the Timber Conservation Board memorandum of January 27, show that the United softwood lumber consumption figures for the three full years 1929–1931, inclusive, declined from twenty-eight and one-half billion to fourteen and one-half billion. During the same period exports of lumber from the United States declined from a total of 2,619,000,000 to 1,314,000,000. The ratio between production and exports declined only from 9.1 per cent to 9.01 per cent.

Softwood lumber imports for the same period declined from 1,418,000,000 to 750,000,000. The ratio, however, of imports to consumption remained practically constant, being 4.9 per cent in 1929 and 5.1 per cent in 1931.

An analysis of export shipments of West Coast woods from the United States and British Columbia to world markets indicates that American producers continue to enjoy the greater percentage of business in all foreign export markets, and have a virtual monopoly in the United Atates domestic markets, including all the United States dependencies, and further reveals that Canadian shipments to all United States markets, in the aggregate, constitute a very small percentage of lumber consumption in these markets.

Certain table are submitted hereunder in support of the above.

Table 1 shows the percentage of exports and imports against annual consumption in the domestic market.

Table 2 indicates the percentage and volume of lumber shipments from British Columbia to United States domestic markets, including United States dependencies. It is to be noted that in both the Hawaiian Islands and the Philippines British Columbia gets absolutely no business. The percentage to Alaska and California is only about 4 per cent. The highest percentage to any United States market is only 10 per cent, namely, to the Atlantic coast, while the average to the domestic market is, as stated, 4.8 per cent.

Table 3 shows shipments to foreign markets from British Columbia and Washington and Oregon (official Pacific Lumber Inspection Bureau statistics, 1931). Of the total foreign markets, Washington and Oregon secured 80 per cent of the business. The percentage secured by British Columbia in Europe ranges from nothing to 8.5 per cent; in South America, 5 per cent; Japan, 29 per cent; China, 14 per cent; the highest percentage being Central America, where the total shipments were around a quarter of a million feet only.

It will be noted that, in addition to the preferences enjoyed by American shippers in all domestic markets, amounting to total exclusion in certain domestic markets, that the high percentage in certain foreign markets is also governed by certain preferences enjoyed through trade agreements with foreign countries. The United States has favored nation trade agreements which give them a controlling preference in Germany and Belgium, where 98 per cent of the business is secured.

Table 4 indicates the business secured in what might be termed British domestic markets, where United States secured 44 per cent of the total business in 1931. In spite of a 3 per cent preference in South Africa for lumber of British origin, Washington and Oregon secured 36 per cent of the shipments. In Australia, where preferences operated during half of 1931, Washington and Oregon secured 34.5 per cent of the business. In the United Kingdom, where no preferences existed during 1931, Washington and Oregon secured 54.7 per cent of the business. A small preference exists in South Sea Islands (Fiji), in spite of which 16.6 per cent of the business went to the United States, and all other British Empire markets are open to free competition with no preferences.

It will be noted further that, whereas the total domestic shipments declined 19.2 per cent and the total of all export 17.6 per cent, the decline for the State of Washington was only 16.3 per cent; that of Oregon 18.7 per cent; while the decline for British Columbia between 1930 and 1931 was 20.6 per cent.

TABLE 1.—*United States consumption, exports and imports*

[Report of the Timber Conservation Board, January 27, 1932]

SOFTWOODS

[In thousand feet board measure]

	Consumption	Exports	Percentage exports over consumption	Imports	Percentage imports against consumption
1929	28,581,000	2,619,000	9.1	1,418,000	4.9
1930	21,462,000	1,856,000	8.6	1,035,000	4.8
1931	14,573,000	1,314,000	9.01	750,000	5.1

TABLE 2.—*West coast shipments to United States markets*

[Pacific Lumber Inspection Bureau Report for 1931, Circular No. 583]

WEST COAST SOFTWOODS

[In thousand feet board measure and percentage of total]

	Feet b. m., total	British Columbia	Washington and Oregon
		Per cent	*Per cent*
Alaska	5,268	3.7	96.3
Atlantic coast	1,376,038	10.2	89.8
California	860,932	4.3	95.7
Hawaiian Islands	56,095	.....	100.0
Panama Canal	10,357	2.2	97.8
Philippine Islands	2,120	.....	100.0
Total	2,310,000	7.6	92.4

TABLE 3.—*Shipments to foreign markets of West Coast softwoods*

[In thousand feet board measure and percentage of total]

	Total feet board measure	British Columbia	Washington and Oregon
		Per cent	*Per cent*
Central America	268	64.6	35.4
China	368,331	14.6	85.4
East Indies	70	.....	100
Japan	464,616	29.9	71.1
Mexico	7,905	3.9	96.1
South American:			
East coast	21,879	.2	99.8
West coast	25,081	5.2	94.8
Belgium	21,374	1.6	98.4
Denmark	2,422	2.6	97.4
France	8,801	2.8	97.2
Germany	7,884	2	98
Holland	26,189	1.6	98.4
Italy	3,560	8.5	91.5
Norway and Sweden	443	4.1	95.9
Spain	2,334	.....	100
Europe, unclassified	1,570	.....	100
Total	990,000	20	80

Source: Pacific Lumber Inspection Bureau Report for 1931, Circular No. 583.

TABLE 4.—*West coast exports of softwoods to British Empire markets*

[In thousand feet board measure and percentage of total]

	Total feet board measure	British Columbia	Washington and Oregon
		Per cent	*Per cent*
South Africa	20,439	64.2	35.8
Australia	77,526	65.5	34.5
Egypt	4,436	94.6	5.4
India	2,545	14.5	85.5
New Zealand	2,851	90.4	9.6
South Sea Islands	2,998	84.3	16.6
United Kingdom	179,752	45.3	54.7
East Indies	21,680	34.7	65.3
Eastern Canada	30,839	100.0	.....
Total	342,000	56.0	44.0

Source: Pacific Lumber Inspection Bureau Report for 1931, Circular No. 583.

It will be further noted that comparing exchange of crude or semimanufactured and manufactured wood products, as classified in the Yearbook, volume 2, 1931, of the United States Department of Commerce, that in 1929 the United States bought $72,300,000 of such products from Canada, whereas Canada bought wood semimanufactured and manufactured products from the United States to the extent of $26,400,000. On a per capita basis United States citizens bought 60 cents worth each of these wood products from Canada, whereas Canadian citizens bought $2.64 worth of wood and wood products from the United States. In 1931 the figures were: Canada sold the United States $47,100,000 worth of wood and wood products in this classification and Canada bought from the United States $15,800,000 worth of wood and wood products. On a per capita basis American citizens bought 40 cents worth of lumber products each from Canada, whereas Canada bought $1.58 per capita.

United States purchases from Canada declined 66 per cent from 1929 to 1931, whereas Canadian purchases of wood, crude and semimanufactured and manufactured wood products from the United States declined only 60 per cent.

GENERAL CONDITION OF THE DOMESTIC LUMBER INDUSTRY

While admittedly the lumber industry of this country is extremely depressed, as are most other domestic industries, it is surely absurd to say that the relatively small percentage of Canadian imports is responsible for the present condition of the domestic industry. The cause is unquestionably of more complex origin.

Mr. Wilson Compton, secretary-manager of the National Lumber Manufacturers' Association, in a report to the executive committee of the association on January 25, 1932, has this to say on the situation, discussing the economic value of stumpage in the United States and referring to the adverse trends in recent years in the forest products industries he states, "that they are due to any other fundamental cause than unsound and unstable condition of timber ownership, is not probable," and he adds that if this is the condition in the timber industry generally, one of the chief remedies lies in the form of a reduction in annual timber carrying costs, and he suggests further that timber reserves, which may be considered as surplus, in so far as they have been a factor in bringing about overproduction, which has been primarily responsible for the present demoralization of lumber values, should be returned to public ownership on an equitable basis, and that those continuing in private ownership should be taxed, at the owner's option, either under an annual property tax or an equitable yield tax, at the time of cutting. Mr. Compton stresses the great importance of this phase of the problem in relation to the future value of timber properties in the United States and to the future opportunities for profitable lumber manufacture in this country. There has been under way for a considerable time an investigation into methods of timber taxation, authorized by the United States Government, which has for its ultimate objective, we believe, an equitable basis of timber taxation, which, if carried to final conclusion, will no doubt, go a long way toward offering a sound solution of this problem. Certainly a tariff expedient, which could only have the effect of stimulating liquidation could not be expected to do so, in fact it could quite conceivably depress timber and stumpage values below their present low levels.

REPORT OF UNITED STATES TARIFF COMMISSION TO THE PRESIDENT ON FIR, HEMLOCK, SPRUCE, PINE, AND LARCH, NOVEMBER 9, 1931

The general principles on which a tariff or tariff adjustments are based, so far as this country is concerned, are well known, and no discussion of them is needed at this time. They are based primarily on the differences which may exist in the costs of production of an article or commodity in the United States and the competing country. The report to the President, covering the Tariff Commission's investigation of fir, spruce, pine, hemlock, and larch, dated November 9, found that these differences in these species, at the date of its investigation, did not justify any increase or decrease in the rates of duty then in force on the species mentioned. The details of the report show that while an advantage may be held by the competing producer in one element of costs, it is offset by an advantage held by the domestic producer in another, the net result being a differential in production costs in favor of the Canadian producer, of 46 cents per thousand feet board measure or less than one-half of the amount of the existing duties.

We detail briefly hereunder, the commission's findings on the differences in certain of the main elements of the cost of production as between the two countries:

1. Log costs: Log costs show a Canadian advantage of 79 cents per thousand feet board measure being $13.18 for the imported product as against $13.97 for logs produced in the United States.

2. Labor costs: These were not segregated by the commission in respect of woods operations, but in direct labor charges they show a lower cost to domestic mills of 23 cents per thousand for log buying (green) mills, a lower cost of 19 cents to domestic mills per thousand for log buying (dry) mills—a lower cost of 6 cents per thousand for Canadian log producing (green) mills, a lower cost to Canadian log producing (dry) mills of 13 cents or an average lower labor cost to domestic mills for sawmilling of 8 cents per thousand.

Planing mill operations show a considerable variation between the various types of mills, and an average higher cost to domestic mills of 20 cents per thousand.

3. Transportation: The two major consuming markets considered were New York and Chicago. Taking into account minor differences in railway transportation from the mill to Pacific coast seaports, the total cost of transporting Douglas fir to New York was $10.45 per thousand for the domestic product as against $10.11 for the Canadian. The aggregate cost of Douglas fir landed at New York was $33.41 for the domestic product, $32.61 for the Canadian, a differential in favor of the imported product of 80 cents. The aggregate delivered cost of Douglas fir at Chicago was $40.24, domestic, as against $39.81 Canadian, an advantage to the competing country of 43 cents.

4. Rough lumber: Total cost of rough lumber at mill showed an advantage to domestic product of 18 cents per thousand.

5. By-products: Realization on by-products, waste, etc., advantage of 13 cents per thousand to the domestic product.

6. Operating expenses: Operating expenses show a lower cost to the domestic product of 47 cents per thousand.

7. Planing costs: Expenses of planing show a lower cost to domestic producers of 10 cents per thousand.

8. Interest charges: Interest charges were 15 cents per thousand higher to domestic mills, due apparently to larger timber holdings held by American concerns than their Canadian competitors.

9. Mill cost of lumber: The mill cost of Douglas fir was $22.96 per thousand feet board measure domestic as against $22.50 for that of the Canadian product, a differential in favor of the competing country of 46 cents.

UNEMPLOYMENT IN THE LUMBER INDUSTRY

A further attempt is made to justify an increase on the existing duties by reason of the unemployment which exists in the lumber industry in the Pacific Northwest. Those requesting this increase have omitted to state that unemployment exists in the Canadian industry to the same extent. It is submitted that any attempt to place a prohibitive tariff on Canadian lumber entering the United States would have little or no effect in the volume of employment in the domestic industry, since exclusion of Canadian imports would naturally result in more intensified competition from that country in other export markets, and, it is only reasonable to suppose that these imports, finding their outlet into the United States stopped, would find other markets, and displace American lumber now marketed there.

No justification for a tariff exists on the grounds that Canadian lumber workers are paid lower wage schedules or have a lower standard of living than those employed in the domestic industry, since it is well known that such is not the case. Workers in the lumber industry in British Columbia are protected by an 8-hour day and a minimum wage law, while in the domestic industry, the Douglas fir region of Washington and Oregon is the only one to observe the 8-hour day and even there it is not compulsory. In the southern pine and other domestic lumber-producing regions, there is no minimum wage law and the working day is 10 hours. Social legislation in British Columbia is a material factor in higher production costs in that region.

As a result of the general depression in trade, downward revicion in wage schedules, not only in the lumber industry but in all industries, has been general all over the continent. In the so-called Douglas fir producing regions of Washington, Oregon, and British Columbia, reductions have been made, but wages

have remained fairly uniform as between those regions, until comparatively recently, when some Washington and Oregon mills adopted a minimum of $2 per day, which is appreciably lower than that of their competitors in the same States, and also lower than the prevailing minimum wage paid in the mills in British Columbia.

CANADIAN TRADE PREFERENCES ON LUMBER IN THE BRITISH EMPIRE

Mention has been made of recent Canadian trade preferences on lumber granted by the United Kingdom and Australia and these have been cited as additional reasons for an increase in duties on Canadian lumber imports into the United States. While the trade preference granted by the United Kingdom is temporary only, and may be revised at the British Empire economic conference in July, this year, that negotiated with Australia was the direct outcome of the duties placed on Canadian lumber by the United States tariff act of 1930, Canadian lumber interests finding their market curtailed in the United States, naturally sought another and consequently displaced United States exports of Douglas fir and hemlock to Australia, but also succeeded in getting the preferences which the United States formerly enjoyed on redwood removed. However, from the tables discussed in the earlier part of this brief it will have been observed that these agreements have little effect on the general position of the United States in maintaining its share of the world's lumber business.

As additional evidence there is attached herto Exhibit A, copy of letter from the Secretary of the British Columbia Lumber and Shingle Manufacturers Association to Col. W. B. Greeley, of the West Coast Lumbermen's Association, giving an analysis of shipments from the Pacific coast which are taken from the report of the Pacific Lumber Inspection Bureau, for the month of January, 1932, which shows that, notwithstanding these agreements, the north Pacific coast region of the United States continues to obtain a proprotion of business in the various markets of the British Empire in direct relation to her operating capacity as compared with that of British Columbia. In considering any advantages Canadian mills may have by reason of these trade agreements, it should not be overlooked that American mills enjoy substantial compensating advantages by reason of ship subsidies granted to American lines not only in these, but in other trade routes, where Canada has no trade preference. Shipping subsidies to American lines affecting the shipment of lumber and other commodities in the following routes: Pacific coast to Chile, Peru, Australia, New Zealand, China, Japan, and Argentina, amounted to $6,479,049 in the fiscal year ending June 30, 1930.

There has been a marked tendency recently within the British Empire to draw closer as an economic unit, and a conference of the various Dominions comprising the Empire, is scheduled to take place in Ottawa in July this year to consider this question. It should be borne in mind, therefore, that while shipments to various Dominions may decrease by reason of trade agreements as in the case of Australia, the main exports in repsect of Douglas fir and west coast softwoods is in the United Kingdom, which has been a liberal purchaser of softwoods from the Pacific coast regions of the United States for several decades. It is quite obvious that a prohibitive duty on Douglas fir and other British Columbia softwoods entering the United States would naturally force these woods into the United Kingdom and in other markets, and such action may conceivably have the effect of raising the existing preference of 10 per cent which now applies against United States west coast softwoods entering the United Kingdom.

It should further be borne in mind that in recent years American exports of more finished wood products from the west coast, such as doors, window sash, and other finished stock, to the United Kingdom has increased very rapidly. It would seem decidedly unwise to invite an increased tariff against American lumber in this important market by the imposition of additional duties on Canadian lumber entering the United States, particularly in view of the fact that such tariff increases can not benefit the domestic producer.

In conclusion we desire to again point out with regard to the proposal to increase the existing duties on fir, spruce, hemlock, pine, and larch, that the recently completed investigation of the Tariff Commission found no justification for any increase, and that competitive conditions have not changed in the meantime.

The cooperative plan of operation in force in a few plants in British Columbia has been cited as one reason for a tariff increase. This argument falls to the ground in view of the fact that the plan not only originated in Washington, but production by mills operating on this basis is much larger in the domestic industry than in British Columbia.

Reduction of unemployment is given as a further justification for a higher duty. A prohibitive duty which would bar Canadian lumber imports into this country would not provide more employment, for the reason that competition would simply be intensified in other markets, and American lumber displaced there. On the other hand, while the imposition of additional duties might stimulate domestic production, it would inevitably further demoralize present low lumber values.

We desire to particularly stress the low percentage of Canadian lumber imports into the domestic market, as against the total lumber consumption of the United States, and to emphasize the absurdity of the contention that these imports can be considered responsible for the present condition of the domestic industry in regard to the low value of its product. We also wish to draw attention to the relationship between the volume of these imports and the extent to which American lumber is marketed in the United Kingdom and the other Dominions within the British Empire. It has been pointed out that an economic conference of the various Dominions within the British Empire is to be held in Canada in July this year to consider the question of trade within the Empire. It must be assumed that if through a tariff adjustment Canada is denied her present small percentage of the domestic market, she will be forced to seek another outlet for these imports and the logical field is in the United Kingdom and other markets in the British Empire. It is also reasonable to assume that if by reason of adverse tariff legislation, Canada's lumber imports to this country are seriously curtailed, there will be an increased tendency on the part of British interests to extend her more consideration in the way of a preference on Canadian lumber. The Pacific Coast States as has been pointed out, have for several decades, enjoyed a large business with the United Kingdom in lumber and in recent years a growing business in more finished lumber products. Inasmuch, therefore, as Canadian lumber imports to this country do not constitute unfair competition in any sense of the expression, we earnestly urge that Congress make no change in present duties, which are ample for the protection of the domestic producer, rather than risk a retaliatory curtailment of American exports to the United Kingdom and other desirable markets by increasing these duties.

Respectfully submitted.

J. H. BLOEDEL,
President Bloedel, Stewart & Welch (Ltd.)., Seattle, Wash.
By J. D. MCCORMACK,
President Anacortes Lumber & Box Co., Anacortes, Wash.

I, Thomas Hooper Wilkinson, secretary-treasurer, of the British Columbia Lumber & Shingle Manufacturers (Ltd.) (association), do hereby solemnly declare:

1. That I did on February 17, 1932, forward by mail, postage prepaid, addressed to Col. W. B. Greeley, West Coast Lumbermen's Association, 364 Stuart Building, Seattle, Wash., a letter dated at Vancouver, B. C., February 17, 1932, a true copy of which letter is now produced and shown to me marked "Exhibit A" to this my declaration.

2. And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada evidence act.

THOMAS H. WILKINSON.

Declared before me at the city of Vancouver, in the Province of British Columbia this 12th day of April, 1932.

L. H. JACKSON,
A Notary Public in and for the Province of British Columbia.

BRITISH COLUMBIA LUMBER & SHINGLE MANUFACTURERS (LTD.),
Vancouver, British Columbia, February 17, 1932.

Col. W. B. GREELEY,
West Coast Lumbermen's Association, Seattle, Wash.

DEAR SIR: I have received a copy of the Pacific Lumber Inspection Bureau report for the month of January, and in making an analysis of the figures contained therein it occurred to me that they afford an excellent illustration of the

point that Mr. McDonald and one or two others tried to bring out in the discussion yesterday.

I would like to draw your attention to one or two facts which, it seems to me, the Pacific Lumber Inspection Bureau report for January sets forth very clearly.

(*a*) Take the case of South Africa: We shipped in round figures 84,000 feet while Washington shipped 524,000, yet in the case of South Africa Canada enjoys a 3 per cent ad valorem preference. This is unquestionably a case where the United States ship subsidy of $2.37 per nautical mile brings the business to Washington.

(*b*) We secured 4,371,000 feet from Australia, and of this total amount there was 4,000,000 feet of mining timbers upon which there is no preference.

(*c*) In the case of India we shipped 90,000; Washington and Oregon shipped 125,000; yet India is a British possession.

(*d*) The United Kingdom took in excess of 2,000,000 feet from British Columbia while Washington and Oregon shipped in excess of 5,000,000 feet. I would particularly like to draw your attention to the amount of lumber shipped into Germany, France, Holland, Italy and Spain by Washington and Oregon. It would hardly appear that British Columbia is getting a lion's share of that territory in view of the fact that Washington and Oregon shipped in excess of 4,000,000 to those territories while British Columbia shipped a mere 63,000.

(*e*) The West Indies, also a British possession, purchased 798,000 feet from British Columbia and nearly 2,000,000 from Washington and Oregon.

(*f*) The figures set forth for the Atlantic coast speak for themselves, but one would hardly believe that British Columbia's 8,000,000 feet against Washington's 84,000,000 could be considered an unreasonable share of that market.

(*g*) The amount of business which British Columbia participated in in California is surely insignificant in comparison with the total purchases.

(*h*) I would particularly like to draw your attention to the amount of lumber shipped into the Hawaiian and Philippine Islands by Washington and Oregon. British Columbia did not share in any of this business in any way whatsoever, yet these two United States possessions purchased in the neighborhood of 5,000,000 feet.

I merely draw your attention to these figures because the thought occurs to me that possibly some of the manufacturers on your side of the line do not fully appreciate just what the true picture is in the matter of foreign business, and it seems to me they are worrying possibly a little unnecessarily about advantages which they are under the impression we possess, which, viewing the matter from a broad angle, are really not existent.

I expect to be in Seattle some time next week and will take the liberty of calling on you with a view to discussing any points which we may have overlooked during your visit to Vancouver yesterday.

I want to assure you that I know it is the wish of the manufacturers of this association to cooperate with the manufacturers on the other side of the line to the fullest extent possible, but of course it must be recognized that under these very trying conditions it is sometimes difficult to do all that one would wish to do.

I am communicating with all our mills to-day, requesting them to let me have at their earliest possible convenience, their operating plans for the next six months.

With best personal wishes and many thanks for your courtesy in coming to Vancouver yesterday.

Yours very truly,

T. H. WILKINSON, *Secretary.*

The above Exhibit A referred to in the declaration of Thomas Hopper Wilkinson, sworn before me the 12th day of April, 1932.

L. H. JACKSON,
A notary public in and for the Province of British Columbia.

(The supplemental brief to be furnished by Mr. Prentiss Bloedel, will, when furnished be inserted at this point for printing.)

SUPPLEMENTAL BRIEF OF PRENTISS BLOEDELL

This brief is being filed in answer to several statements made by witnesses before the Senate Finance Committee asking an increased tariff on lumber.

We wish to emphasize that we are not asking that imports of Douglas fir be permitted at the expense of the domestic fir producing industry. Mr. J. H. Bloedel and Mr. J. D. McCormack take the position that the domestic industry

will not and can not possibly be benefited by the imposition of a duty or tax on either logs, lumber, or shingles which will exclude imports of these products. These gentlemen oppose in no way the levy of a sales tax on these items. They do not oppose a revenue producing levy which would be borne equally by all lumber products.

Allegations were made that American manufacturers are being excluded from foreign markets, particularly from markets of the British Empire. Foreign exchange and preferential tariffs between the dominions and colonies in the British Empire were advanced as causes.

In this connection we refer you to the tables cited on pages 3 and 4 of the original brief which has been filed as part of the record of this hearing. Table 3 indicates that in foreign markets other than the so-called British domestic market the United States exporters enjoyed 80 per cent of the business and Table 4 shows that within the British domestic market the American producers enjoyed 44 per cent of the business. This was in the year 1931.

Mr. J. H. Bloedel testified before the Tariff Commission on March 20, 1931, that exports from the United States to England of Pacific coast lumber rose from 175,000,000 board feet in 1929 to 400,000,000 board feet in 1930.

We should like to point out particularly the United States' share of the business in certain other markets. In Belgium the United States enjoys 98 per cent of the business; in Germany 95 per cent of the business; east coast of South America, 99.8 per cent of the business; west coast of South America, 95 per cent of the business. (Circular 583, Pacific Lumber Inspection Bureau.)

With respect to the foreign exchange situation, we cite from the Tariff Commission report to Congress on wood pulp and pulpwood of April 20, 1932. This report, so far as the effects of exchange differences are concerned, may be applied also to logs and lumber, because the same raw material is used in both industries and the same items of cost enter into production. On page 4 of the Tariff Commission report we find the following statement:

"The effect of exchange depreciation in foreign countries upon their competition in the markets of the United States can, of course, be judged correctly only on the basis of facts concerning actual imports in comparison with domestic production and concerning actual prices of imported as compared with domestic commodities. It should be pointed out, however, that whatever advantage in competition the foreign country may gain must depend not merely on the exchange rate but on the relation between that rate and costs of production in terms of the country's own currency. If the costs of production should rise as rapidly as the exchange rate fell, there would be no advantage in competition. The commission has not undertaken to ascertain the actual costs of production of wood pulp in foreign countries during the period since depreciation set in, nor has it obtained evidence as to changes in rates of wages or other elements in costs in those countries during that period. But some light on tendencies as regards costs of production may be drawn from wholesale price indexes. When depreciation sets in a given country, the prices of products which that country imports from gold standard countries tend to rise in terms of its currency, and this in turn exercises some influence on prices of domestic commodities and on the cost of living."

This report goes on to show that the foreign trade of the United States with Canada has dropped rather than increased during the period in which Canadian currency has not been at par. This is quite the reverse of what one might expect to find if the exchange situation gave Canadian producers an unfair advantage over the domestic.

Returning to the specific case of the lumber industry, we call your attention to the fact that all of the logging and half of the saw-mill equipment used in the Canadian forest-products industry is of American manufacture and repair parts for this equipment must be bought in the United States. The effect of exchange on these purchases is to raise the price to the Canadian operator according to the law stated above. It is true that a great deal of the timber which is now being cut into lumber in Canada was purchased from American investors. Without exception purchase contracts called for payment in American money and in most cases substantial amounts remain unpaid on the timber holdings of the various operators. It is obvious that these payments impose a heavy burden on operations in Canada.

It was stated at the oral hearing before the Tariff Commission that in the Douglas fir region of Oregon and Washington and California, 100,000 of the 140,000 men normally employed were now our of work. It was further stated that out of 722 saw mills considered "living" mills only 402 operated during 1931. Current production was stated to be at 22 per cent of normal capacity.

The lumber industry is not alone in its distress. In other basic industries in the United States, percentages similar to that cited for the lumber industry are in evidence. The following table, taken from the United States Bureau of the Census publication, Survey of Current Business for 1931, page 7, shows the situation. This table shows on a comparative basis the position of the various industries with respect to inventories or stocks on hand. You will observe that lumber stocks are well below the average and are with two exceptions the lowest of the industries listed.

Commodity stocks, end of month, manufactured goods monthly average, 1923–25=100

Year	Total	Food-stuffs	Textiles	Iron and steel	Nonferrous metals	Lumber	Leather	Chemicals and oils
1927	114	97	104	121	117	120	70	117
1928	118	103	128	141	119	107	71	111
1929	120	117	122	143	129	107	72	121
1930	123	107	115	149	207	111	79	126

In this connection we wish to quote from the Survey of Current Business for April, 1932, page 19:

"Progress has been made recently by the lumber industry in meeting the adverse conditions brought about by reduced consumption. Production has been brought more into balance with orders and the increase in stocks checked."

Late figures issued by the Department of Commerce also show that a reduction of 15 per cent has been made in stocks of softwood lumber in the hands of manufacturers, additional evidence of the healthier condition of the lumber industry.

Canadian mills have been alleged to be running practically at capacity. The fact is that of the 40,000 men normally employed in the fir timber producing industry of British Columbia only 10,000 are now employed; of the 40 mills which are still considered "live" mills 24 are down and the 18 that are running average only a few days a week.

Without in any sense minimizing the extreme distress of the American lumber industry on the west coast we believe that the figures cited above prove that there is equal distress on the other side of the border and that when it is considered that of all the softwood lumber consumed in the United States only 5 per cent is of Canadian origin, you will be convinced, as we are, that the trouble can not be laid at the door of foreign competition.

Mr. Woodward stated in his testimony that taxes on timber owned by operators represented 85 cents per thousand feet of lumber produced in 1928 and that this figure had risen in 1931 to $1.40 per thousand feet. We believe that Mr. Woodward has laid his finger on one of the most significant sources of trouble in the lumber industry.

It can not be too emphatically stated that those who have studied the lumber industry from an impartial point of view, are unanimous in the conclusion that the distress is attributable in some way to the system under which stumpage is owned and taxed.

It has been claimed that British Columbia exporters to the Atlantic coast markets have an advantage over domestic shippers to the same markets on account of water-borne rates. In the year 1931, 40 per cent of the exports from British Columbia to the Atlantic coast were carried in American bottoms. For the first quarter of 1932 this figure has increased to 45 per cent. The reason for this lies in the fact that the United States has 120 ships on regular schedule in intercoastal service and these ships provide the only reliable transportation. Frequently it is necessary to pay a premium for this service in order to induce ships to leave Puget Sound ports and move empty to Vancouver to pick up a cargo.

British Columbia has been reported to have production cost advantages over Washington and Oregon. As recently as November, 1931, the Tariff Commission found that differences in cost of production do not justify an increase in the existing duty and also said, in the introduction to its report, that although cost data for 1929 was used, nevertheless, in their opinion conditions in 1931 had not appreciably altered.

Imports of logs into Puget Sound were cited as a conclusive proof that British Columbia logs were produced more cheaply than American logs. We wish to call your attention here to the fact that logs are sold not on price entirely but

to a very large degree on quality or grade. Certain types of logs are suitable for certain types of lumber. It frequently happens that one type of log is available from British Columbia and not available from Puget Sound and vice versa. It is interesting to note here that during 1931 and in fact in 1932, Bloedel-Donovan lumber mills of Bellingham, Wash., have sold a considerable quantity of logs produced in Clallam County, Wash., in the Vancouver market. These logs are a special type of log and were sold at a price considerably in excess of the average selling price of logs in the Vancouver market.

We stated at the beginning of this argument that there was no foundation for the belief that the conditions in the domestic lumber industry will be corrected by the exclusion of foreign lumber. We believe the foregoing has shown that no single argument has been advanced by the proponents of such exclusion which provides any hope that the proposed tax would indeed provide this relief.

PRENTICE BLOEDEL.

STATEMENT OF CLARENCE L. BAHR, WASHINGTON, D. C., REPRESENTING THE DAVENPORT-PETERS CO. OF BOSTON, MASS.

Mr. BAHR. My name is Clarence L. Bahr, my address Washington, D. C., and I am appearing for the Davenport-Peters Co. of Boston, Mass. This firm has been in the business of marketing and exporting lumber for over 120 years and is the oldest firm in this line in Boston. We are appearing only in opposition to any duty or excise tax on virgin northern white pine lumber. This species is not produced in the Pacific Northwest States, and is not directly competitive with the species produced in those States.

While there is still some pine production from scattered sections in New England it is largely second growth, coarse grained wood, not adapted to the specialized uses for which virgin northern white pine lumber and timber is demanded.

There appears to be no justification for a tax on this special purpose wood. The pine lumber principally affected by the duty imposed in the tariff act of 1930 is the virgin northern white pine imported into the United States because we no longer possess a sufficient supply of this species in our own lumber producing areas to supply the normal domestic demand.

Virgin northern white pine is a special-purpose wood. It is close grained, close knit, stands all sorts and character of weather and does not check, split, warp or curl, as do inferior woods.

In pattern making, a wood is required which will hold its shape and is impervious to moisture and changes in temperature. In the navy yard in Washington, for instance, large quantities of virgin northern white pine are used for pattern making, and they carry in stock there more than 300,000 complete patterns. These patterns vary in size from the lamp-socket pattern for a range finder, which I exhibit to the committee at this time—to patterns for some of the largest guns, gun parts, and innumerable other items used for ordnance purposes. These patterns are all made from virgin northern white pine, a wood that is indispensable as a raw material in the pattern making industries, the steel foundries, and manyother industries.

The Forest Service has estimated that of the original stand of 540,000,000,000 feet of virgin northern white pine less than 1 per cent remains. In 1892 at the peak of production the reported output of virgin northern white pine was a little more than 8,900,000,000 feet, largely white pine. The remaining stand of virgin northern white pine in the United States is estimated by the Forest Service to be less than

4,000,000,000 feet. This figure does not include Norway pine or any other species or subspecies of pine.

An excise tax or increase in tariff would tend to exclude all imports of northern white and Norway pine, which in 1931 amounted to only 105,000,000 feet, of which about 95,000,000 feet was virgin northern white pine.

The question of costs of production has been determined by the Tariff Commission and is favorable to our position.

We believe that it would be more logical to place a premium on imports of virgin northern white pine rather than exclude them with an excise tax or tariff.

I also request permission to include in the record a statement on behalf of the Herman H. Hettler Lumber Co., of Chicago, also in opposition to a tariff or excise tax on virgin northern white-pine lumber.

The CHAIRMAN. They may be included as a part of the record.

Senator CONNALLY. Right there let me ask, what is the value of the imports of that wood?

Mr. BAHR. In 1931 they were $3,066,286, and in that figure is included some Norway pine.

Senator CONNALLY. Is Norway pine comparable to the white pine you are talking about?

Mr. BAHR. It is a comparable wood in some respects probably, but for purposes such as pattern making there is no wood that can take the place of the virgin northern white pine.

Senator CONNALLY. And none of that is produced domestically, I mean in this country?

Mr. BAHR. There is one large mill operating in Minnesota and two or three small mills, and there are a few small mills in Wisconsin, and some production throughout the New England States. The total domestic production is about 152,000,000 feet annually.

Senator CONNALLY. How is it as compared with imports?

Mr. BAHR. The imports were 95,000,000 feet in 1931.

Senator THOMAS of Idaho. Would it be easy to discriminate in describing that timber as between pine grown in the Northwest and this kind of white pine?

Mr. BAHR. Yes; it could be described as virgin northern white pine.

Senator THOMAS of Idaho. And your brief is directed directly against a tax on the northern white pine?

Mr. BAHR. It is that one species. I am not involved in the other species whatsoever.

Senator JONES. What is the price of this pattern lumber?

Mr. BAHR. As I understand it, the pattern lumber would be sold along with the regular white-pine lumber of the highest grade. I could not give you the exact figure but would be very glad to furnish that information. Of course there would be some second-grade lumber which would be included in the lumber sold for pattern purposes.

Senator JONES. About what would the price be, just approximately?

Mr. BAHR. I could not give you that figure now, Senator Jones. I am not a lumber man myself. I take that up in the brief.

Senator JONES. All right.

Senator CONNALLY. A gentleman sitting behind me here says it is $120 per thousand.

Senator JONES. All right.

The CHAIRMAN. The additional statements that Mr. Bahr wishes to be made a part of the record, will be made a part of the record at this point.

(The communications from the Davenport-Peters Co. and the Herman H. Hettler Lumber Co., are here made a part of the record, as follows:)

DAVENPORT PETERS CO.,
Boston Mass. April 18 1932.

Hon. REED SMOOT
Chairman Senate Finance Committee
United States Capitol, Washington, D. C.

MY DEAR SENATOR: We have been informed that proposals have been made to impose an excise tax or an additional tariff duty on importations of lumber by means of amendments to be offered to the revenue bill (H. R. 10236) now pending before the Senate Finance Committee. We feel that we are qualified to address the Finance Committee upon this proposal as Davenport, Peters Co. is by direct descent the oldest firm of lumber distributors and exporters in Boston, having been established by Edward D. Peters in 1811, 121 years ago.

Our business was developed through the use of the notable "Pinus Strobus"—virgin northern white pine—of colonial and continental history. While there is still some white-pine production in New England it is largely second-growth, coarse-grained timber, not adapted to specialized uses for which virgin northern white-pine lumber is demanded. As the Forest Service says, second-growth white pine is relatively inferior material. The small, scattered production of lumber from virgin timber in New England combined with the production of the Lake States does not exceed 150,000,000 feet annually, far too little to supply the normal domestic demand for virgin white pine. We feel that if any excise tax or tariff on lumber is included in the revenue bill, such tax or tariff should not be made to apply to virgin northern white pine.

The tariff act of 1930 imposed a duty of $1 per thousand board feet on lumber and timber of fir, spruce, pine, hemlock, or larch, but exempted from such duty rough lumber imported from contiguous countries which admit similar rough lumber from the United States free of duty.

The pine lumber principally affected by the duty imposed in paragraph 401 of the tariff act of 1930 is the indispensable virgin white pine lumber of Canada, imported into the United States because we no longer possess a sufficient supply of this species of lumber in our own lumber-producing areas to satisfy the domestic demands. The only other pine lumber affected by the tariff and imported into the United States in any appreciable quantity is red pine, a species closely related to virgin white pine.

The duty of $1 per thousand feet imposed upon virgin northern white-pine lumber under the tariff act of 1930 is not justifiable. After extensive investigation, the United States Tariff Commission in its report on lumber made to the President, November 9, 1931, recommended that no change be made in the duty of $1 per thousand feet imposed by the Congress. The Tariff Commission concluded its findings by saying:

The commission finds that the facts with regard to the difference in costs of production, including transportation to the principal markets in the United States * * * do not warrant a change in the duty of $1 per thousand feet. (U. S. Tariff Commission, report to the President on lumber, p. 4.)

This report was rendered November 9, 1931, the investigation having extended from July, 1930, until late in 1931. If the Tariff Commission, with all its fact-finding resources, could not justify an increase in the duty on lumber, it is difficult to understand how there could be any justification at this time for a much larger increase.

Virgin northern white-pine lumber is indispensable to the many American industries which use it as a raw material, such as the pattern-making industry. An increased duty or an excise tax will merely burden these domestic wood-using industries without resulting in any substantial increase in revenue to the Treasury. Very little of our original virgin northern white-pine timber remains and imports are necessary to supply our normal domestic demand.

No special demand has been made by anybody for an excise tax or additional tariff duty on virgin northern white-pine lumber. During the committee hearings as well as during the extensive discussion and debate upon the tariff bill of 1930 not a single manufacturer of northern white-pine lumber appeared in favor

of a duty. Virgin northern white-pine lumber became dutiable under the tariff act of 1930 merely because it falls within the general category of softwoods. Its special uses, qualities, and characteristics were never considered.

In the hearings on lumber held before the United States Tariff Commission on March 19 and 20, 1931, pursuant to Senate Resolution 313 of the Seventy-first Congress, proponents of a tariff upon softwood lumber did not urge an increased duty specifically upon virgin northern white-pine lumber, nor did they furnish any facts or figures which would tend to justify the retention of the present duty on this special-purpose wood. They did not even mention northern white-pine lumber by name. No domestic manufacturer of northern white-pine lumber appeared at this hearing before the Tariff Commission. If domestic manufacturers of northern white-pine lumber in the United States had felt the need of a duty they would certainly have appeared before the Tariff Commission to urge an increase in the duty.

Northern white-pine lumber (pinus strobus) should not be confused with the pine produced in the Pacific Northwestern States—Pondosa pine (pinus Ponderosa), Idaho white pine (pinus monticola), and California sugar pine (pinus lambertiana). Virginia northern white pine is not produced in the Pacific Northwest. The total annual production of virgin northern white pine in the United States is only about 150,000,000 feet, some of which is produced in New England in small scattering quantities, but most of which is produced in Minnesota. Of the total production of white and Norway pine lumber in the United States in 1929 of 672,000,000 feet only approximately 150,000,000 feet were virgin northern white pine.

The imports of virgin northern white pine lumber into the United States come exclusively from Canada. The only competition between virgin northern white-pine lumber produced in Canada and that produced in the United States is confined to the region adjacent to the international boundary between Ontario and Minnesota.

For more than two centuries virgin northern white-pine lumber was the predominating softwood in America. From the standpoint of quality and adaptability, it ranks first among the species of lumber produced in the United States. It does not directly compete with other species of lumber for the purposes to which it is now primarily put.

In the past other species of lumber were frequently left in the forests until such time as the scarcity of virgin northern white pine brought about a sufficient differential in price to make them marketable. The United States has now arrived at the point of a national shortage of virgin northern white-pine timber. Although the original stand of virgin northern white pine was estimated at 540,000,000,000 feet, the United States Forest Service, in response to Senate Resolution 313 of the Seventy-first Congress, second session, reported that in 1931 only 4,790,000,000 feet of virgin northern white and Norway pine timber remained in the United States. The following table, taken from the report of the Tariff Commission on lumber (p. 27) gives the details of our present white and Norway pine timber resources, both virgin and second growth:

Region	White and Norway pine	
	Old growth	Second growth
	Board feet	*Board feet*
New England	2,507,000,000	5,883,000,000
Middle Atlantic	4,000,000	3,526,000,000
South Atlantic and Central	155,000,000	165,000,000
Lake States [1]	[2] 2,124,000,000	268,000,000
Total old growth and second growth	4,790,000,000	9,842,000,000

[1] Includes 912,000,000 Norway pine. Most of the Norway pine is in the Lake States.
[2] Includes 107,000,000 Norway pine.

The Forest Service reported to the Tariff Commission that it did not have satisfactory information as to the quality of the timber included in the foregoing tabulation. The Forest Service states: About all that can be said is that the better grades of lumber are cut mostly from the old-growth timber, and that the second growth yields principally box boards and other relatively inferior material. (United States Tariff Commission, report to the President on lumber, p. 4.)

If virgin northern white-pine lumber instead of being used only as a specialty lumber were put to all the uses for which it is the best adapted of all softwoods, even at the present depressed rate of softwood-lumber consumption the total remaining domestic timber and lumber supply would last only three months. If the inferior second-growth timber of New England and the Lake States were included, the domestic supply of northern white-pine timber would be insufficient to meet our entire normal softwood-lumber requirements for more than six months.

Virgin northern white-pine timber has been subjected to depletion far more extensive than has any other species of American timber, for not only was it the first of the great timber resources to be exploited, but because of its desirability it has been most actively exploited. The exhaustion of virgin northern white-pine forests has been continuous and progressive.

The exhaustion of virgin northern white-pine timber presents a startling picture of depletion. Less than 1 per cent of the original stand of virgin northern white pine in the United States remains. There remain in the United States only a few manufacturers producing any substantial output of virgin northern white pine, although there are in addition a few small, scattered mills. Our total remaining virgin northern white-pine timber supply is less than half the cut of 1899, which was seven and one-half billion feet.

All of New England, New York, a large part of Pennsylvania, Michigan, Wisconsin, and Minnesota were once a virgin white pine forest. By 1870 the virgin white pine forests of the New England States, from which the early colonists obtained their timber and lumber supplies, were practically exhausted.

As early as 1856 New York had so depleted its own forests that it was forced to go to the forests of Michigan for part of its lumber requirements. In 1860 Pennsylvania stood first among the States in the production of lumber, but by 1870 the stand of white pine, the most valuable species in Pennsylvania, had diminished to such an extent that imports of lumber from Michigan were necessary. In 1920 the virgin stands of white pine in Pennsylvania were practically gone.

Lumbering began in Michigan and Wisconsin about 1835. Pine in enormous quantities drew lumbermen from the East, and before 1870 these States had captured the lead in lumber production. The peak of production was passed in 1892 when the reported output was a little more than 8,000,000,000 board feet, largely white pine. In 1899 Wisconsin, Michigan, and Minnesota, in the order named, were the leading States in lumber production, with a total production of 8,700,000,000 board feet, two-thirds of which was pine. (U. S. Forest Service, Report on Senate Resolution No. 311, 1920, p. 17.)

The Census of Manufactures (Bureau of Census, 1929), shows that Wisconsin, Michigan, and Minnesota ranked fourteenth, eighteenth, and twentieth, respectively, in softwood lumber production in 1929. The production of white pine lumber in these three States in 1929 totaled only 350,000,000 board feet, including a large amount of inferior second growth and hemlock.

Imports of pine lumber from Canada in 1931 were only 105,000,000 feet, having a value of $3,066,286. (Report of Dominion Bureau of Statistics: Trade of Canada, 1931, p. 327). Practically all of this was virgin northern white pine. Were these imports to be excluded through import duties or excise taxes, the domestic production would be insufficient to meet the domestic demand. Any attempt to increase domestic production would simply hasten complete exhaustion. It takes from 100 to 175 years to grow merchantable northern white pine timber, and this second growth, according to the United States Forest Service (see report of Tariff Commission to President of the United States on lumber, November 9, 1931, p. 27), is much inferior.

Chief among the uses for which virgin northern white pine lumber is indispensable is the manufacture of high-grade patterns for castings in foundries and factories. The qualities which make virgin northern white pine indispensable for this purpose are its soft texture and straight grain, which permit it to be worked evenly by the patternmaker without showing any tendency to split or splinter under his tools. Patterns made out of well-seasoned virgin northern white pine are permanent assets, never shrinking, twisting, or changing their form.

Experience has demonstrated that the benefits and savings which accrue from the use of a wood with the characteristics of virgin northern white pine for certain types of boxes and crating are such that they more than make up for the higher price which they command. For certain chemicals and commodities such as high-grade leaf tobacco, the value of which is so great that complete protection is economy at any price, northern white pine is more economical than

any other lumber. Northern white pine lumber is unusually weather resistant and does not split under nailing. The well-set red knots of virgin white pine do not check or come out, and, combined with these other qualities, its lightness in weight, which reduces delivery costs to a minimum, makes it particularly desirable for many special uses.

I respectfully request the members of the Finance Committee to consider the testimony as to the high quality and special characteristics of virgin northern white pine developed before the Federal Trade Commission in 1929 in its hearings on the so-called white pine cases. The point at issue was the use of the words "California white pine" to describe a species of yellow pine lumber manufactured in California. In the testimony, briefs, and in the commission's findings all parties participating agreed as to the special qualities and desirability of the true virgin northern white pine (Pinus strobus). (See United States Federal Trade Commission, Dockets 1621, etc. Transcript of testimony, pp. 10, 11, 136-138, 222-223, 357, 369, 532, 690, 2080-2081, 2122, 2581. Brief of attorney for the Government, pp. 2 and after. Brief of respondents, pp. 6, 38, 49.)

Eighty-five per cent of the virgin white pine lumber imported into the United States originates in the Province of Ontario, Canada. From this Province the United States imported in 1928 (a normal year) a total of 204,000,000 board feet of lumber valued at $6,872,277. At the time the United States exported to Ontario 196,000,000 board feet of lumber (partly hardwood) valued at $8,900,480. Despite the fact that Ontario is a lumber-producing center, her imports of lumber from the United States are only 4 per cent less in quantity than her exports of lumber to the United States. In value Ontario imports 15 per cent more lumber from the United States than she exports to the United States. Exportation of yellow pine lumber in the common grades from the United States to the Province of Ontario further indicates the special character of the virgin northern white pine imported from Ontario.

An inclosed map prepared by the United States Forest Service illustrates the exchange of lumber between the United States and the Province of Ontario. Because of low freight rates the States of Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, Kentucky, West Virginia, Michigan, and Wisconsin are able to ship their surplus lumber into Ontario in competition with western Canadian species. The volume of these shipments is shown by the black squares on the map, and the black square in Ontario shows the quantity imported by this Province, 196,000,000 feet, in a normal year.

If Canada is obliged to sell the lumber she now sends to the United States in other world markets the money received from other world markets for Canadian lumber will be spent in those same world markets for commodities which Canada must purchase. American industries which are now selling many commodities to Canada will find their Canadian markets so weakened that they will have to curtail or find new markets.

Nothing can be gained in the attempt to keep Canadian lumber out of the United States. The shift of world markets will lose to the United States a volume of exports equal at least to the volume of imports shut out, and neither American capital nor labor will benefit. On the other hand, such a course will by completely disarranging world markets break down the good will between hitherto friendly neighbors. Canada is not only the best customer of the United States but even in the depression year, 1931, she purchased from the United States $393,775,000 worth of commodities, 63 per cent of her entire external purchases. At the same time the United States purchases from Canada were only $257,078,170.

In conclusion, may we not again emphasize that (1) virgin northern white pine lumber production in the United States is insufficient to meet normal domestic demands; (2) that the United States Tariff Commission in its recent investigation found that an increase in the present duty on northern white pine was not justified on the basis of foreign and domestic cost of production; and (2) that virgin northern white pine is a special purpose lumber indispensable to many American industries. An excise tax or tariff duty on virgin northern white pine lumber would burden domestic industries compelled to use it as a raw material without resulting in any substantial revenue to the Treasury.

We therefore respectfully request that no additional excise tax or tariff duty be placed upon virgin northern white pine lumber or timber.

Very truly yours,

LOUIS M. LRATT, *Secretary.*

HERMAN H. HETTLER LUMBER CO.,
Chicago, Ill., April 18, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee, United States Capitol,
Washington, D. C.

DEAR SENATOR SMOOT: It has been brought to our attention that the Senate Finance Committee is considering proposals to include in the revenue bill, H. R. 10236, a new tariff or excise tax on the imports of various species of softwood lumber. We are opposed to any proposal which includes a tax or duty upon northern white pine, a species of lumber that we are compelled to go to Canada to obtain in sufficient quantities of needed sizes and grades. Our domestic virgin northern white pine timber supply is almost exhausted and our domestic production has become so small that it is insufficient to meet normal domestic demands.

There is no justification for any tariff or tax on virgin northern white pine lumber on the basis of differences in foreign and domestic costs of production. Last year in response to Senate Resolution No. 313 of the Seventy-first Congress the Tariff Commission made an exhaustive investigation of the northern pine lumber industry. In this investigation the Tariff Commission found that domestic producers of virgin northern white pine lumber had an advantage of $2.66 per thousand feet in cost of production, including transportation to Chicago, over the costs of Canadian manufacturers. (Tariff Commission report to the President on lumber, 1931, p. 3.)

Chicago, the point to which transportation costs were computed by the Tariff Commission, is the central point of virgin northern white-pine lumber consumption in the United States. In evidence of this, the following table taken from a brief filed before the Tariff Commission shows the distribution of shipments of virgin northern white pine lumber to the United States from the principal Canadian mill producing virgin northern white pine lumber:

	Carloads		Carloads
Illinois	760	New York	60
Indiana	12	Ohio	234
Iowa	83	Pennsylvania	19
Massachusetts	23	Wisconsin	710
Minnesota	627	Other States	15
Missouri	28		
Michigan	211	Total shipments	2,791
New Jersey	9		

The shipments from this one mill comprise about one-third of the total imports of virgin northern white pine lumber into the United States. Shipments to Minnesota, Wisconsin, Illinois, Iowa, Indiana, Michigan, and Ohio, from this one Canadian mill totaled 2,414 cars in 1928, or 80 per cent of its entire shipments. The Tariff Commission report (p. 23) indicates that in all these States this mill was at a decided disadvantage in transportation costs as compared to domestic mills. In the Chicago market, according to the Tariff Commission report (p. 25) the disadvantage of the Canadian mills in transportation cost averages $2.92 per thousand board feet. The Canadian mill has comparable transportation disadvantages to all other markets in this principal consuming area.

There can be no justification for any duty or excise tax on imports of a commodity which is imported from a foreign country in competition with a domestic production of the same article produced at a lower cost.

The depletion of our domestic virgin northern white pine timber supply is appalling. Originally the United States had a supply of more than 540,000,000,000 feet of virgin northern white pine timber. We have left less than 4,000,000,000 feet. (Tariff Commission report on lumber, 1931, p. 27.) This 4,000,000,000 feet is less than the amount cut in six months, back in the nineties. The last of our original great virgin northern white pine timber resources were in Wisconsin and Minnesota. These are now practically exhausted and the wood users of Chicago and the surrounding territory are compelled to get a large share of their supply of this valuable species of lumber from Canada. The depletion of our timber is a national calamity. The true virgin northern white pine lumber is a national necessity. It is indispensable to many American industries and to our national defense.

It is reported that recommendations have already been made for the nationalization of the entire remaining supply of virgin northern white pine timber in case of war because of the urgent need for it in making patterns and in many

other distinctive uses in case of war. An example of the military uses of northern white pine is the construction of rifle boxes which must be tight and dry. Millions of feet of virgin northern white pine were used in the World War for this purpose, to which it is the best adapted of any softwood lumber. Another military use is in the manufacture of patterns for the molding of gun parts, etc. The navy yard in Washington uses large quantities of virgin northern white pine for such purposes.

The following quotations clearly show the indispensability of northern white pine for many special uses;

"Workableness and ability to hold its shape, combined with the capacity to take oils and paints well, are the principal requirements of woods that go into general millwork. White pine is unexcelled for this industry and occupies first place. For articles such as balusters, columns, posts, scrolls, and stair work white pine is used almost exclusively. Its clear grain and the ease with which it may be cut makes it a favorite for scroll and cornice work, and it is preferred above all others by cabinetmakers. It occupies a leading position in all of the States where the wood grows and not infrequently it is a leader in contribution to many of the industries in States where no white pine is grown, where it is given preference over all other woods for the manufacture of sash, doors, blinds, and patterns. Its desirability as compared with most native woods of other communities for general millwork is patent when more of it is consumed in many States than of native woods." (New York State College of Forestry, Technical Publications No. 14, Wood-Using Industries of New York, p. 55.)

"You wonder what kind of wood lies under the paint. If the house happens to be one of the century-old New England landmarks, you will be safe in guessing white pine. Although it was once extensively used for siding, genuine white pine is now considered so va'uable for other purposes that its use for siding on any but the most expensive houses has fallen off." (National Committee on Wood Utilization in How to Judge a House, p. 19.)

"* * * In quantity, it (pinus strobus) is the most used of any wood for manufacture in Pennsylvania, and owing to its valuable qualities of being light, soft, comparatively durable, of whitish color, easily worked, and holding its shape when in place, it is called for by the factories comprising 32 of the 54 industries." (Roger E. Simmons of the U. S. Forest Service in Wood Using Industries of Pennsylvania, p. 19.)

"Northern white pine is an 'all universal' wood. Formerly it went into waste and matches, and into almost every shape and size product between these two. It is a favorite in building and construction, for both interior and exterior use. Millions of feet are used annually in the box and container industry.

"It is said that over 50 per cent of the cut of northern white pine is now used in planing mill products. It is also a favorite pattern lumber. Among the products of importance for which it is now used are blinds, doors, sash, boxes and crates, containers, matches, rollers, woodenware novelties, caskets and coffins, molding stock, siding, tank stock, interior knotty pine paneling, cornices, kitchen cabinets, sheathing, etc." (Phillips A. Hayward, of the National Committee on Wood Utilization in Wood, Lumber, and Timbers (1930), p. 397.)

"Fully 75 per cent of the wood flour manufactured in the United States is made from white pine * * *." (National Committee on Wood Utilization in Sawdust and Wood Flour (1927), p. 18.)

"The manufacture of shade rollers is a special line, and several firms are engaged exclusively in the production of this article. A large part of the white pine reported is used by such establishments. Some plants are equipped only to manufacture shade roller blanks bored and fitted to receive the spring. The dimensions of shade rollers used in large quantities are fifteen-sixteenths of an inch in diameter and 36½ to 42 inches in length, bored in one end to a depth of 9 inches to receive the spring. and chamfered on the same end to receive the ferrule. The raw material is largely shipped in from Canada and is well-seasoned and kiln-dried white pine. Some of the rollers are made of two pieces and joined together with a plug splice which is, of course, glued. Local manufacturers have for years reported a scarcity of suitable clear stock." (New York State College of Forestry, Technical Publication No. 14, Wood Using Industries of New York, p. 74.)

"Scores of millions of feet are demanded by the manufacturer of window-shade rollers, though individually the roller is a small commodity. In this, as for patterns and many other things no satisfactory substitute for white pine has been found." (Henry H. Gibson in American Forest Trees, p. 22.)

There is probably no wood put to a greater variety of uses and no wood better adapted to special uses than white pine.

Instead of discouraging imports we should rather encourage conservation of our small remaining domestic supply of this fast diminishing, much needed species of timber. There is no conceivable reason why the Senate should at any time tax a natural resource, the domestic supply of which is insufficient to fulfill domestic demands.

Virgin northern white pine lumber is imported exclusively from Canada and practically all the pine lumber imported from Canada is virgin northern white pine.

Our balance of trade with Canada furnished a very good reason for exempting any Canadian product from special taxation. In 1930 we sold Canada $85,000,000 worth of manufactured and unmanufactured wood products. The following table shows the interchange of trade in all commodities between Canada and the United States in 1931:

Groups of commodities	Exports to Canada from United States	Imports from Canada
Agricultural and vegetable products	$48,476,700	$12,210,282
Animals and animal products	17,026,618	24,071,463
Fibers, textiles, and products	35,017,712	1,790,008
Wood and paper	25,365,125	151,264,316
Iron and products	97,126,666	3,568,066
Nonferrous minerals and products	30,914,645	41,198,185
Coal and coal products	31,500,919	1,322,580
Other nonmetallic minerals and products	50,126,377	7,993,580
Chemicals and allied products	21,149,849	4,646,634
Miscellaneous products and commodities	34,051,218	9,113,130
Total	393,775,829	257,078,170

Source: Dominion Bureau of Statistics, Trade of Canada, Calendar Year 1931.

We exported to Canada in the depressed markets of 1931, $393,775,829 worth of commodities as compared to imports from Canada whose value was only $257,078,170. The balance of trade in our favor was more than $135,000,000. The United States had had a consistently favorable balance of trade with Canada for many years. In addition to the obvious monetary value of this balance of trade there is the additional fact that our exports to Canada were largely manufactured products while our imports were almost entirely raw materials. In other words, the value represented by our exports is comprised largely of labor costs, whereas our imports values represent raw material upon which American labor will be expended in producing finished products.

When the subject of a tariff on lumber was before the Congress in 1929 and 1930, more than 200 agricultural organizations and lumber dealer and millwork manufacturers associations passed resolutions in opposition to any tariff on lumber. The position of these organizations has not changed. While it is not generally known among the lumber dealers that a tariff on lumber is now being considered by the Senate, many have voluntarily expressed their continued opposition. Among the organizations which have consistently opposed any tariff on lumber are the National Grange and many State granges, most of the State farm bureaus, retail lumber dealer associations, millwork manufacturers associations, and many others.

More than 15,000 lumber dealers are represented among those who signed briefs in opposition to a tariff on lumber or passed resolutions in opposition to it. These resolutions were filed with the Finance Committee and appeared in the Congressional Record during the tariff hearings in 1930.

In conclusion may I again call your attention—

1. To the special characteristics of virgin northern white pine which have made it so desirable as lumber that our once immense domestic supply is practically exhausted. The demands of industry for virgin northern white pine can no longer be met from our domestic resources and importations are necessary to meet these demands.

2. To the fact that virgin northern white pine is indispensable in our domestic industries and for our national defense.

3. To the fact that the remaining domestic producers of virgin northern white pine have an advantage over imports in cost of production including

transportation to Chicago according to the report of the United States Tariff Commission on lumber.

4. To the favorable balance of trade between the United States and Canada, certainly a potent argument against raising any barriers which would disturb this favorable balance.

5. To the opposition expressed by the lumber dealers, millwork manufacturers, farm organizations, and others against any duty on lumber.

Very truly yours,

S. HETTLER, *President.*

STATEMENT OF CLARENCE W. DE KNIGHT ON BEHALF OF FRANK M. ZELLER, PHILADELPHIA, PA.

Mr. Chairman and gentlemen, on behalf of Frank M. Zeller, of Philadelphia, Pa., I beg leave to submit the tariff suggestions offered by Mr. Zeller on the lumber schedule.

As an American lumberman of 40 years standing, interested in the marketing and manufacture of maple and cedar lumber products, I beg leave to submit the following tariff suggestions on the lumber schedule:

1. Whilst it is true, that due to overproduction, there has been some slight recession in the price of cedar shingles, this has been due to other economical causes and the proposed tariff on cedar will not help the situation, except it will add an unwarranted charge on the roofing material and side boards of the home of the American wage earner, the farmer, and the modest bungalow owner. There is no rhyme or reason in this tariff makeshift: overproduction (and increased overproduction due to increased taxes) in our cedar-growing States is at the bottom of this disorder, a sample case in the State of Washington on a 30,000-acre tract shows that taxes increased from 12.2 cents per acre in 1905, to 83.3 cents per acre in 1913, an increased in eight years of 400 per cent or an average tax increase of 50 per cent per annum by the local tax board of Washington.

A rational tax rate on stumpage owned and a rational production stabilized and a reasonable prorating of controlled output as our Northern neighbors protect and stabilize their pulp and print paper production is what the Congress should recommend and this is not a tariff question at all.

2. The largest producers of cedar products in Seattle, Wash., import all their cedar logs from British Columbia free, and if the United States levies a tax of 25 per cent ad valorem on cedar, then cedar logs are prohibited from being exported to the United States and a double blow will be struck; that industry will be killed and our own cedar reserves will be that much depleted. The farmer's cedar shingles will be increased in cost in an amount equal to $25 per thousand board measure.

3. There has been millions of dollars of American capital invested in the cedar and allied wood production on Vancouver Island under the very beneficient tariff regulations promulgated between both countries, and it is a very manifest injustice, in the judgment of practical lumbermen, against these American investors in British Columbia if they are to be bankrupted by the imposition of a prohibitory tariff of 25 per cent against their investments there. I understand that 85 per cent of all timber on Vancouver Island is held by American lumbermen.

Statistics of the United States Lumber Industry

[United States Census (Sargeant's Reports, June, 1880)]

	Feet, board measure
Pennsylvania:	
1880 stand of white pine	1,800,000,000
1880 stand of hemlock	4,000,000,000
Total timber standing	5,800,000,000
1895 entire original stand practically all cut. (F. M. Z.).	
Michigan:	
1880 stand of white pine	35,000,000,000
1900 entire original stand practically all cut. (F. M. Z.).	
Wisconsin:	
1880 stand of white pine	41,000,000,000
1900 entire original stand practically all cut. (F. M. Z.)	
Minnesota (except Indian reservation):	
1880 stand of white pine	8,000,000,000
1900 entire original stand practically all cut. (F. M. Z.)	

In less than 20 years, in these four States, the entire virgin stand of sound merchantable timber, amounting to 90,000,000,000 feet, was practically all gone.

Two-thirds of the original forest area of the United States has been lumbered, culled, or burned.

Three-fifths of our original timber supply is gone.

Pennsylvania is now paying annually more than $25,000,000 freight on the lumber that it imports and uses, and $100,000,000 for the timber consumed in this State.

New England contains less than 5 per cent of her original virgin forest.

New York, with the scant remains of her forest areas, now only supplies one-tenth of her local requirements.

Pennsylvania, the leading lumber producing State, 1870–1880, has practically depleted her big stands of timber; she produces only enough to supply Pittsburgh.

What the American forests need now is conservation, until our controlled production will equal consumption requirements and until this time arrives, it is absurd to change the present schedule.

Respectfully submitted.

FRANK M. ZELLER.

Postscript.—United States Forest Bureau, some time since reported:

	Feet, board measure
Annual consumption of forest products	25, 000, 000, 000
Annual growth of forest products	6, 000, 000, 000
Annual net consumption	19, 000, 000, 000
Recent expert testimony shows annual consumption over	55, 000, 000, 000

Which, figured in terms of lumber delivered at points of consumption at an average price of $40 per thousand feet, board measure, annually amounts to the enormous sum of $2,200,000,000.

I append hereto a letter written by me to Hon. George S. Graham, House of Representatives, September 9, 1930, relative to the lumber schedule, when under consideration in that year, and which it is believed was submitted to Senator Smoot at that time.

PHILADELPHIA, PA., *September 9, 1930.*

Hon. GEORGE S. GRAHAM,
Washington, D. C.

MY DEAR CONGRESSMAN: Referring to our conference recently, I take pleasure in inclosing for your consideration an original galley proof of some of the facts taken from an article that I had the pleasure of contributing to the Evening Bulletin of this city, that was published during the recent forestry campaign in Pennsylvania.

The denudation of our national-forest growth, especially in these five (until recently), outstanding forest States, is appalling. It will be noted that this consumption and devastation of timber has practically all happened during the active business career of many men now living.

As a partial remedy we have adopted a program nationally, and locally, of forest conservation to husband the actual requirements of the American consumers of forest products, for the next few generations.

Pennsylvania holds a leading place in this policy.

The conservation of the remaining two-fifths of our State and national stands of timber must be carried out at all hazards; unless we intend to scrap the practical intents of this policy so wisely adopted; and place ourselves as to our lumber needs, entirely at the mercy of foreign forest growing countries.

This program must be encouraged continuously and persistently until the replacing of our forest capital is at least constructively assured; and our timber growth is sufficient to supply the requirements of our annual lumber cut.

The above facts make it obvious, that any study of the newly enacted tariff schedule on forest products must take cognizance of these conditions.

We are confronted with a replacement program, involving 90,000,000,000 feet board measure, that was taken from the above States, practically during your lifetime and mine.

Let us consider for example our own State, Pennsylvania, which in this short period consumed for commercial lumber purposes its entire forest capital of 5,000,000,000 feet board measure.

This State has a comprehensive Forestry program that is being applied to a limited area and has been in operation not exceeding 20 years.

From the observed data available the first of these forest areas cultivated and preserved in Pennsylvania will be available for producing merchantable lumber in about 35 to 50 years from now; and of course that lumber necessarily will be of rather narrow widths, when we compare it with the character of the lumber produced in our old Pennsylvania woods that had a life of from 150 to 400 years in maturing. As is stated in the galley proof, Pennsylvania produces at present barely enough merchantable lumber to supply Pittsburgh.

The consumers in this State of lumber are compelled annually to invest in purchases outside of the State at least $100,000,000 to fill their ordinary requirements; and on this consumption they are required to pay an additional $25,000,000 in freight on this necessity.

Until Pennsylvania's forests are capable of producing from these reserves, sufficient merchantable lumber for our ordinary requirements, the citizens of this State will be compelled to invest in that period at least $3,000,000,000 and contribute in freight charges an additional $1,000,000,000 to other States and nations for our lumber requirements. This serious economical charge against the citizens of our State is likewise applicable to all other States that are denuded of their forest areas and this charge will continue until their forestry program produces enough merchantable lumber for their own uses.

In the study looking to an adjustment of the tariff schedules on lumber, pulp, and allied products bearing these impressive facts in mind, the approach surely should be from a practical expert lumberman's standpoint, and should cover all phases of this very important question, and such an investigation; in the writer's judgment, can not be practically solved by any academic or theoretical approach.

Each element should be carefully analyzed, the question of consumption, conservation and the broad protection of the lumber industry, along rational lines, should be carefully considered.

The growing important question of the importation of raw and manufactured forest products, should be considered as a help to our conservation program, especially in those States that have been denuded of their forest areas.

The reduction of the cost of lumber in those States which are remote from the northwestern producing regions, and where low water freight rates permit the reestablishment of certain manufacturing phases of the lumber industry, would assist in the rehabilitating of the woodworking, paper making, and allied industries, and the opening of large avenues of labor; and the carrying out of such a program certainly must appeal as a sound, helpful and economical observation.

Such a program should be encouraged in every direction during the next 30 years while our forest areas are being cultivated to produce merchantable lumber therefrom.

As I look at it the great trouble with the northwestern Pacific Coast States, lies in the fact that their lumbermen are compelled to meet growing and excessive taxes, that are locally assessed against their standing timber.

In many instances they are obliged to overstock the market in order to relieve themselves of this burden of taxation. This is in distinct contradiction of the policy adopted by their northern Canadian neighbors, who have a very low tax rate on standing timber which is fixed on the cost to 1954. The local tax requirements of the Provinces is levied on the logs, as, and when, they are cut into lumber; this results in stabilizing the output, and puts the tax where it belongs. However, this is a local tax and not a tariff matter.

The questions involved in the tariff adjustment in the items to be immediately considered by the Tariff Commission, in my judgment, should be approached in a practical way, involving consumption, specific uses, quantity, character, and location of the items in question.

Logs, pulp, pulpwood, cedar shingles and hard woods, like hard white maple and oak lumber, should be met with an eye of a skilled expert who is familiar with the trade requirements, consumption and usages of such importations.

The free admission of logs and similar forest products might be broadened in a practical way that is familiar to the technique of lumber manufacturers, so that this paragraph which includes rough-hewn timber might take into consideration and include the so-called squares, which are simply tapered saw logs the sides of which have been smoothed by a saw instead of a broad ax. These rough materials are intended for manufacture by American labor.

The admission of these products necessarily carries with it the discussion of the labor questions involved in the production of these items; and this question will undoubtedly arise on the floors of the Congress at the coming session. In my judgment, a careful study of whether or not these admitted products are the

result of peonage, forced or impressed labor (which are prohibited under our tariff regulations), involves a personal study by a practical lumberman, whose varied experience in the woods and mills of this country makes his approach to this phase of production fair and equitable, especially if he applies the same rules that usually obtain in the woods and mills of the United States and are adopted as fair labor practices.

It should be borne in mind that the writer has been a constant advocate of the protective tariff policy of the United States all his life, and the suggestions herein offered are not to be construed as inconsistent with tariff protection; but the far-sighted view of the protection and development of American industry during the period of conservation of our forest growth, until such times as it becomes a practical source of supply.

That the adjustment of the lumber and forest product schedules, so that they may be distinctly helpful to industrial developments is apparent when we consider the enormous requirements of our eastern seaboard States and the hinterland adjoining their ports of entry.

The consumption of softwoods such as spruce, fir, hemlock, western larch, and pine has increased over 4,000 per cent in the last decade. From the west coast and Canada our requirements for such lumber exceeds three times the entire yellow-pine productions of the South.

Trusting that these few observations may be useful in considering the subject matter, I am,

Very cordially yours,

FRANK M. ZELLER.

STATEMENT OF ELISHA HANSON, WASHINGTON, D. C., REPRESENTING THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

Mr. HANSON. Mr. Chairman and gentlemen of the committee: My name is Elisha Hanson. My address in 729 Fifteenth Street, NW., Washington, D. C. I am attorney for the American Newspaper Publishers Association, a membership corporation organized under the laws of the State of New York, the members of which are the publishers of approximately 500 daily newspapers located in the United States. We have members in practically every State and our member publishers have publications which range in size from the small daily newspaper to the very largest metropolitan papers in this country.

Newspaper publishers are very much interested in this amendment for two reasons: First, it seeks to overturn a policy which has been long established by our Government; and, second, it seeks, indirectly, to place an additional burden, in the nature of increased prices of newsprint paper, on publishers of daily newspapers. While I do not represent the country weekly papers, nevertheless, the burden would possibly fall more heavily on them in proportion to their needs than on the daily newspapers, because the latter purchase their newsprint in larger quantities, usually in carload quantities or more, whereas the small country publisher frequently buys his newsprint in less than carload lots, and because of the increased cost of handling, pays a higher price therefor. There are approximately 1,800 to 2,000 daily newspapers in the United States and between 20,000 and 22,000 weekly newspapers which would be vitally affected by this amendment.

Newsprint paper, roughly speaking, is that kind of paper which is used in the publication of newspapers. It has been so defined by Congress in committee reports accompanying tariff bills which have been enacted into law in the past, and it has been so defined by our courts in controversies which have been decided by them. Normally, it is made up of 80 per cent mechanically ground woodpulp and 20

per cent sulphite pulp, but if the mechanically ground wood pulp is not of good quality a greater portion of sulphite pulp, which is chemical woodpulp, must be added in order to make a good sheet of paper.

For many years, newsprint paper and its component elements have been on the free list. They were placed on the free list for two reasons: One, because the production in the United States is not sufficient to meet the demands of our consumers; and the other, because the depletion of our forest reserves had progressed to such a state that the Congress, in its wisdom, determined to protect our forests by providing for the admission free of duty of certain forest products which were essential to our domestic consumption, believing that the free importation of these products would tend to slow up the devastation of our natural resources in timber, particularly in spruce and hemlock.

To show you just exactly what the situation is with respect to newsprint paper, in 1931, the total amount of domestic consumption was 3,212,751 tons. Of this amount, only 1,157,497 tons were produced in the United States. It was necessary for us to import 2,064,905 tons. Our exports of newsprint paper, in 1931, were but 9,651 tons. In 1930, our domestic consumption was 3,551,021 tons. Our production was 1,281,502 tons. Our importations were 2,279,730 tons, and our exports 10,211 tons.

During the last twenty years, in normal periods, there has been a steady increase in our importation of newsprint paper in proportion to our domestic consumption, due to the fact that domestic manufacture has been entirely unable to meet the demands of newspaper publishers. By far the greater amount of our imported newsprint paper comes from Canada, where American capital has been employed in the location of newsprint mills close to supplies of cheap pulpwood.

As newsprint paper is made up wholly of mechanically ground wood pulp and chemical wood pulp, it is patent that a duty on either one or both of these commodities would result in an increase in price of newsprint paper in the United States. It would certainly compel the domestic manufacturer of newsprint paper, who is largely dependent upon importations of wood pulp and chemical pulp, to raise his prices to meet the increased cost of his raw materials and the natural result would be a corresponding increase in the price of imported paper, or, conversely, a tremendous increase in the importation of newsprint from abroad and a decrease in domestic production.

The effect of the policy above outlined on the domestic manufacture of wood pulp has been to maintain almost in status quo the relation between importations of pulp and domestic production of pulp. For instance, in 1922, the domestic production of pulp of all kinds, that is, mechanically ground wood pulp and chemical wood pulp, was 73.7 per cent of the total consumption. In other words, our domestic producers furnished us with almost three-fourths of the amount of wood pulp which we needed for domestic manufacturing purposes. By 1924, this percentage had been reduced from 73.7 per cent to 71 per cent. In 1930, it had been increased from 71 per cent to 71.3 per cent. Between 1924 and 1930 there was an increase in the demand of American paper makers for wood pulp, and the total amount consumed increased from 3,723,266 tons in 1924 to 4,531,127 tons in 1930. But the relation between domestic production and imports, as pointed out above, remained almost stationary, the im-

portations in 1924 being 1,522,715 tons and, in 1930, 1,827,929 tons. Domestic production obtained the slight advantage of three-tenths of 1 per cent over imported wood pulp during this period of years.

While the relation between domestic production and imports has almost remained stationary during the last few years, there has been a shifting within the United States of the base of production during the last 10 years. In 1920, for instance, Pacific coast manufacturers of wood pulp produced only 14.3 per cent of the total United States capacity. By 1930, however, the Pacific coast producers had more than doubled their production and were furnishing 31.8 per cent of the total United States capacity. By 1931 the percentage had jumped to 45.2 per cent, or almost half the domestic production. This tremendous increase in production was brought about without the benefit of a tariff protecting the Pacific coast manufacturers of wood pulp, and, I might say, solely because of cheap sources of raw material and cheap cost of production.

In 1930, Pacific coast manufacturers of wood pulp were able to lay their products down on the Atlantic coast of the United States cheaper than domestic manufacturers in our eastern seaboard States and cheaper than foreign producers of pulp. For instance, bleached sulphite, which is the most expensive kind of wood pulp, was laid down on our Atlantic seaboard by the Pacific coast manufacturers of this country and sold at $46 a ton, with some individual manufacturers being able to sell it as low as $40 a ton. The east coast producers were able to put the same product in New York at from $55 to $58 a ton, and the average cost of European bleached sulphite was $60 per ton, although certain individual manufacturers in Europe were able to lay it down as low as $52 per ton. These figures show beyond any question of doubt that a tariff for the protection of the Pacific coast manufacturers is wholly unnecessary and that the only purpose of such a tariff will be to allow them to increase their price in a competitive market, where already they are able, because of the low cost of production, to undersell the world.

There is another point which, while probably not pertinent to my discussion of this subject strictly from the newspaper point of view, is pertinent to your general consideration of the problem. Roughly speaking, there are about 600 paper mills in the United States. Of course, not all of these manufacture newsprint paper, but they do manufacture paper of all kinds and descriptions. About 150 of of these 600 mills are known as self-contained mills, that is, mills which produce their own raw materials and from them, in turn, manufacture their own finished product. The other four-fifths of our paper mills are dependent upon the open market for the purchase of their raw materials, so that if a tariff be levied on their raw materials, it is quite apparent that such a tariff will place them at a tremendous disadvantage as against the fewer number of self-contained mills.

Newsprint paper, which is the cheapest of all papers now manufactured, is the only grade of paper which is on the free list in the tariff law. All other grades of paper are given protection in varying amounts for varying grades. No evidence has been submitted to your committee that, at the present time, the producers of the raw materials entering into the manufacture of paper have suffered from any greater depreciation of commodity prices than the manufacturers of the finished product. In fact, the prices of pulp have not fallen

lower in proportion to the fall in price of the commodities into the manufacture of which pulp enters.

I presume that the question of the effect of the depreciated currencies of foreign pulp-producing countries on the prices of imported pulp will be raised before your hearing adjourns. The Senate has asked the Tariff Commission to present it with a report on this problem. That report has not yet been presented and I do not know when it is likely to reach you. However, according to the best information I have been able to obtain, there has been no appreciable effect in the competitive situation by reason of the depreciation in foreign currencies. While the currency has been depreciated, the price of the product has been increased to offset the depreciation in money, and I feel confident that the Tariff Commission's report, when it reaches you, will indicate this clearly.

Senator WALSH of Massachusetts. It was filed to-day.

Mr. HANSON. And I hope their remarks will be taken into consideration by this committee.

Senator SHORTRIDGE. Whom do you represent?

Mr. HANSON. I represent the American Newspaper Publishers' Association, and Mr. Harry Chandler, of Los Angeles, is the president, and it has a membership made up of some 500 daily newspapers published in the United States, ranging from the smaller daily newspapers to the larger newspapers in the big cities.

Senator SHORTRIDGE. Do you know anything of the condition of the lumber men in Washington?

Mr. HANSON. I have heard a lot about it this morning. But even so, I hope you heard what I said, that they are still underselling the world in our American pulp market.

Senator SHORTRIDGE. That may be, and they are still losing money.

Mr. HANSON. We are all losing money these days.

Senator SHORTRIDGE. I hope not.

Mr. HANSON. Unfortunately it is so, I fear.

Senator JONES. How much have newspaper prices dropped in the last two or three years?

Mr. HANSON. How do you mean?

Senator JONES. Have the newspapers that use this print paper dropped their prices any?

Mr. HANSON. Yes, sir.

Senator JONES. How much, and in what way?

Mr. HANSON. I could not give you the figures, but in many places there have been decreases both in circulation and in advertising rates. And I heard this morning that in the case of one of the largest groups of newspapers there has been a falling off of more than 50 per cent in the volume of advertising which they are carrying. That shows that business is hit more or less generally throughout the country. But we are not coming here asking any special relief. We are merely asking that the policy which has been long established be continued unless there is some reason other than the fact of granting an increased profit to somebody who is now able to undersell the world, is advanced.

Senator JONES. Has newspaper advertising dropped in the last year?

Mr. HANSON. Newspaper advertising has dropped by a tremendous amount during the last year, and some of the largest chains of newspapers show drops of more than 50 per cent in their volume of advertising. Magazine advertising has dropped very greatly; in fact all

kinds of advertising has dropped in so far as printed advertising is concerned in the last year.

Senator JONES. How do you account for the fact, if you can, that the Washington Post here increased the price of its paper two or three years ago?

Mr. HANSON. I can not account for anything concerning the management of the Washington Post, Senator Jones. [Laughter.]

Senator SHORTRIDGE. I hope that is not intended as a reflection on the Washington Post.

STATEMENT OF CLARENCE C. STETSON, BANGOR, ME., CHAIRMAN OF THE STATE OF MAINE DEVELOPMENT COMMISSION

Mr. STETSON. Maine, Mr. Chairman, because of the critical condition with which her forest industry is confronted, is vitally interested in the principle now being considered by your committee, of imposing taxes on imports of natural resource products as a means, first, of raising revenue for the Government; and, second, of protecting like domestic natural resource industries; and, third, as a relief for unemployment.

In respectfully requesting the Congress to include the forest products industries among those natural resource industries as a means of accomplishing the three purposes mentioned, I, as chairman of the State of Maine Development Commission, can state that it approves the schedule which was submitted this morning by the representatives from the Northwest, and I am also following the memorial which was presented by Senator Hale, following the desire of the people of the State of Maine as expressed through the Legislature, which, at a special session held April 1, 1932, urged Congress (1) to impose a further tax upon all imported products equal to the difference between par of exchange and current quotations of exchange of those countries which, by going off the gold basis, have depreciated their currencies, and (2) to impose specific duties upon all imported pulpwood, baled pulp, paper and lumber, sufficient to offset the difference of labor and production costs.

Maine's greatest natural resource industry is that of forest products.

Seventy-eight per cent of our State area is in productive forest lands.

On this area the estimated stand, based on actual surveys, is 50,000,000 cords.

The annual growth is 1,250,000 cords.

This growth is sufficient to satisfy present mill requirements.

The State, which for some time has been the ranking pulpwood-producing and consuming State of the Nation, produces about 20 per cent of the national pulpwood cut.

	United States consumption of domestic pulpwood	Maine consumption	Cut
	Cords		
1928	5,750,689	1,309,988	1,175,000
1929	6,386,004	1,311,577	1,175,000
1930	6,059,306	1,208,577	900,000
1931 [1]	5,450,000	850,000	500,000

[1] Estimated.

NOTE.—Pulpwood consumption in Maine approximately equals production.

The State which, during the last decade, has been the greatest pulp-producing State, creates, in normal times, approximately 20 per cent of the national total.

	United States	Maine		United States	Maine
	Tons	*Tons*		*Tons*	*Tons*
1928	4,510,300	979,690	1930	4,610,408	906,088
1929	4,862,885	981,433	1931 [1]	4,000,000	650,000

[1] Estimated.

In addition, the State is a large national factor in the newsprint industry, producing between 38 per cent and 45 per cent of the national total.

	United States	Maine
	Tons	*Tons*
1928	1,415,450	537,455
1929	1,409,169	560,626
1930	1,232,611	558,237

The State is also a factor of importance in the paper industry as a whole, making between 9 and 10 per cent of the national production.

	United States	Maine
	Tons	*Tons*
1928	10,403,338	987,201
1929	11,090,579	1,061,384
1930	10,079,656	1,039,268

Maine uses forest products principally for pulpwood, and pulp and paper, although it still manufactures other soft and hard wood products.

This statement deals primarily with pulpwood. The pulp and paper situations will be handled by other witnesses.

Peeled pulpwood stumpage prices in 1927 ranged from $5 to $6 a cord. Present prices are from $1.50 to $2 a cord, or a drop of approximately 66 per cent.

The normal average cut is about 1,250,000 cords. The cut for the season of 1931–32 is 500,000 cords. This represents a drop of 60 per cent.

The stumpage value of the cut in 1927 was about $6,875,000. The stumpage value of the cut in the season 1931–32 was about $875,000, a drop of 87 per cent.

Woods wages in 1927–28 were $2.50 per cord on a piece basis and $2 on a day basis. For the season 1931–32 woods wages, on a piece basis, were $1.50 a cord and day wages were $1 per day. The number of men employed in woods operations in the cutting season of 1927–28 to cut, peel, haul, and transport to the mills the wood needed were

20,000. The labor charges were $7.50 per cord, making a total woods labor revenue of $9,375,000.

For the cutting season 1931–32 the estimated number of men employed was approximately 8,000, with an estimated pay roll of $1,875,000. This represents a falling off of 60 per cent in number of men employed and a drop of 80 per cent in pay roll.

The principal source of foreign competition to Maine in pulpwood comes from the neighboring Canadian Provinces of New Brunswick and Nova Scotia. Newfoundland and Russia also play a certain part.

Pulpwood imports into the first customs district—Maine and New Hampshire

	Cords
New Brunswick and Nova Scotia:	
1928	264,953
1929	247,310
1930	283,593
1931 [1]	300,104
	1,095,960
Newfoundland:	
1928	12,940
1929	7,222
1930	11,064
1931	None.
	31,226
Russia:	
1930	44,108
1931	3,181
	47,289
Total	1,174,475

Forest land in Canada has always been on a lower price level than in Maine and the cost of operation is conceded to be at least $1 per cord cheaper. As evidence of this, we have Canadian woods being delivered to Maine mills in competition with Maine wood despite an average excess freight charge of $2 per cord.

The competition in imported pulpwood affects not only the large landowner, but also our farmers. Approximately 2,500,000 acres of the 15,000,000 acres of forest land in the State are in farm wood lots varying in size from 50 to 100 acres. It is estimated that these wood lots contain 3,750,000 cords of pulpwood. Of the 40,000 farms in Maine about 20,000 depend on sales of pulpwood. Thus pulpwood constitutes one of the main sources of cash income to the Maine farmer which he uses for paying his taxes and ordinary living expenses. The wood cut from farm wood lots represents approximately 25 per cent of the annual pulpwood cut in the State. It is, therefore, a matter of vital importance that these sources of income and winter employment be preserved to the farmers of Maine.

The preservation of capital investment in wild lands and wood lots and in mills, is of vital importance in that they bear a considerable percentage of the direct tax of the State and in the counties and communities where located.

[1] 11 months.

Assessed value for tax purposes

	1928	1929	1930	1931
(a) Wildlands	$73,013,662	$73,013,622	$76,009,027	$76,009,027
(b) Woodlots	10,000,000	10,000,000	10,000,000	10,000,000
(c) Mills	19,867,449	22,855,182	23,908,165	21,546,898
	102,881,111	105,868,804	110,907,192	108,545,925

NOTE.—Items (a) and (c) from State tax assessors.

Wood pulp imports, as well as pulpwood imports are an important item in affecting the value of domestic pulpwood, the employment and the cutting and delivering of same.

Wood pulp imports, chiefly from Canada, Sweden, Norway, Finland, and Germany, averaged 1,677,003 tons for the 4-year period 1928 to 1931.

Wood pulp (chiefly from Canada, Sweden, Finland, Norway, and Germany):	Tons
1928	1,762,325
1929	1,887,504
1930	1,636,498
1931	1,421,686

Senator WALSH of Massachusetts. Do your factories in Maine import wood pulp from Canada?

Mr. STETSON. Very little.

Senator REED. Do they import pulpwood?

Mr. STETSON. Pulpwood is imported to some extent.

Pulpwood imports, chiefly from Canada, averaged 1,318,071 cords for the 4-year period 1928 to 1931, while the average from Russia for the 3-year period 1929 to 1931 was 225,479 cords.

Pulpwood (chiefly from Canada):	Cords
1928	1,409,411
1929	1,259,007
1930	1,582,201
1931	1,021,667
From Russia:	
1929	360,000
1930	238,437
1931	78,000

Maine feels that these large imports have largely contributed to its present condition, which shows a falling off in volume of woods operations of about 60 per cent, in value of cut of 87 per cent, in wages of 40 per cent to 50 per cent, in stumpage prices of 66 per cent and in employment of 60 per cent, as already cited above.

I wish to say very definitely that the State of Maine, in asking the imposition of import taxes is not requesting taxes that will shut out imports from other countries. The State does not want a subsidy. It is merely asking the equalization of production costs and the right to compete in our own domestic markets. And in so doing it is respectfully suggesting to the Federal Government a means of raising revenue which will be imposed upon the foreigner, instead of upon our citizens, and will at the same time restore our forest industries to a reasonable basis of operation, which it has not to-day. It is impossible to sell wood. It is impossible for the mills to say what their commitments in wood will be, hence it is impossible for the farmer, or any

other person to start operating. We hope that some relief may be given in order that we may help our present unemployment situation.

We, therefore, respectfully request that you give consideration to the plea of the State of Maine asking for the imposition of import taxes equivalent to $1 a cord.

Senator REED. Do you ask a tax on lumber, as well as on pulpwood?

Mr. STETSON. Yes, sir.

Senator WALSH of Massachusetts. Is it not a fact that domestic consumption of pulpwood, according to the report of the Tariff Commission, dropped 20 per cent during the year 1930 to 1931, and that the production of pulpwood in Maine dropped equally in Maine—20 per cent?

Mr. STETSON. I can not answer those figures, because I have not seen them.

Senator WALSH of Massachusetts. Your own production did drop about 20 per cent?

Mr. STETSON. This year?

Senator WALSH of Massachusetts. Yes.

Mr. STETSON. It was around 500,000 cords, according to the estimates I got, and those estimates were obtained by asking the mills, personally myself for the amount of wood they bought in the year 1932. We begin cutting in the spring, and it goes through the year, and that is why it is from 1931 to 1932.

Senator REED. How much of a reduction was that?

Mr. STETSON. Last year's cut was about 900,000 cords, estimated.

Senator CONNALLY. As against what the year before?

Mr. STETSON. About 1,250,000, the general average annually.

STATEMENT OF WALTER V. WENTWORTH, GREAT WORKS, MAINE, REPRESENTING THE PENOBSCOT CHEMICAL FIBRE CO.

Mr. WENTWORTH. Mr. Chairman and gentlemen, the west coast has covered the situation so fully that I will not give a great many figures, and not take your time unnecessarily.

The State of Maine, as the largest consumer of pulpwood in the United States, is vitally interested in the paper and pulp industry to-day, and that pulp industry, so far as the State of Maine goes, is threatened with almost complete extinction. The great difficulty is the importation of foreign pulp at prices far below anything which we can possibly meet.

And the State of Maine and the people there, I believe, favor the protection of our natural resources of any sort, when they are in a serious pinch and need it. And we are not asking for ourselves anything but what we are willing to concede to others. But we do feel that we should not be penalized by having duties put on materials which we use to make our pulp and at the same time be forbidden protection on the goods which we make.

As a result of that policy, to-day there are about 20,000 men idle in the State of Maine. Were we allowed to run normally—and we could run very nearly normally if we had reasonable protection—the most of that unemployment would disappear. The situation of the State is serious. We take care of our own poor. The State of Maine is not coming down here to ask for a dole. We do hope Congress will give us protection against these Swedish and Russian and other

pulp imports and help us to keep our mills in operation and to give employment to the men in cutting the wood in the forest.

The pulp and paper mills employed 9,109 people in 1929, directly in the mills, according to the census of manufacturers; and about 15,000 more men worked in the woods producing the pulpwood. That is, those that worked in the woods supplying the materials to make the pulp in the mills.

Last year the cut of wood fell from a maximum of 2,200,000 cords to approximately 200,000 cords. So far as I can learn, and I have talked to representatives of leading companies, the cut next year is likely to come to about 250,000 cords, unless you gentlemen can see your way clear to give us relief in a way which will help us keep up our rate of cutting.

The farmers are destitute. When you go around the country all you hear is that potatoes are 40 cents a bushel, and that pulpwood is practically unsalable.

The railroads are suffering very severely from the lack of pulpwood tonnage. The Maine Central and Bangor and Aroostook Railroads, as shown by their annual reports, derive about 35 per cent of their tonnage directly from pulp and paper mills, and nearly 50 per cent from the forest industries. Their trainmen are being laid off. Their trackmen are off. Their repairmen are off.

Now, here is one thing I would like to have remembered, if possible. For every ton of chemical pulp manufactured in our mills, about six tons of freight are moved, while for every ton of foreign pulp that is imported, only one ton is moved. And it means to our railroads down there whether they continue running or whether they go into receivership.

Now, the great trouble that we have now is due to the importation of foreign pulp.

When England and the other countries went off the gold standard, the price of Swedish pulp which sold at $3.30 f. o. b. the dock at Boston in February, 1931, had dropped to $2.10 in January, 1932. And on the 12th day of January, 1932, I know of a lot of second grade that was sold at $2, and I have letters here, which I will not take the time to read unless you want them in, that the Swedish pulp had gone much lower than that.

Now, the Timber Conservation Board has been making a study of United States costs and reports for New England as of June, 1931, $58.75 per ton of bleached sulphite, or $2.93¾ per 100 pounds. This cost has dropped since and $50 per ton, or $2.50 per 100 pounds would be nearer the present cost in the United States. Fifty dollars might be a better price now, because prices have dropped, but this Swedish pulp is still coming in. And our mills are all losing money and can not long continue operating under those conditions.

We belive that this condition can be helped, and unemployment in the State can be reduced to a minimum and a very substantial revenue raised, which I understand is the object of the bill now before you, by the imposition of a low import tax upon these products.

We are asking for one-half cent a pound on bleached chemical pulp, and that will not fully offset it, but will enable us to run. That is not prohibitive. It will still admit the foreign pulp. I believe it will be, as I said, a very substantial source of revenue. If the importations continue as they were in 1930, there would be a revenue of

$11,151,676 derived from an import tax such as I have suggested, one-half cent per pound on bleached chemical pulp, and one-third of a cent per pound on unbleached chemical pulp. The object of this bill, I understand, which you are now considering is to raise revenue. And we ask you to place such an import tax on pulp, at this time when the country needs it seriously, and enable us to put all our unemployed men to work, and unless you do something similar to that, I believe our unemployed situation will grow worse.

Now the gentlemen on the opposition, from the Robert Gair Co., says that the pulp made in this country is not of sufficiently good quality. I know we are running on a basis of making good pulp, and if we have the proper protection we can have the equipment and the place in which we can make pulp good enough to make his box woods. We will try it, anyway.

Now he has 10 per cent protection on his boxwood. He uses a small amount of this chemical pulp, and there is a great deal of waste material. He is unwilling that we shall have a small protection on what we make, but he wants 10 per cent.

I have a letter in my pocket sent out by the secretary of his organization, with a list of the mills that are in opposition. I have looked them up in the tariff bill, and I find 30 per cent protection from 3 to 5 cents a pound. It is 3 to 5 cents a pound plus 20 per cent protection. And that is from the mills that object to giving us in Maine a means of operating our mills and keeping them going.

Senator SHORTRIDGE. What are you asking?

Mr. WENTWORTH. I am asking for one-half cent a pound upon the bleached chemical pulp, and one-third of a cent a pound on the unbleached chemical pulp.

Senator SHORTRIDGE. It would be a revenue measure?

Mr. WENTWORTH. Yes, sir.

Senator SHORTRIDGE. And it would continue operation?

Mr. WENTWORTH. It would continue operation. It would give revenue and we have the capacity in this country to produce nearly all of the pulp that is needed.

Senator SHORTRIDGE. It is your mature judgment, as a result of your experience, that America could manufacture all of the pulp consumed in America?

Mr. WENTWORTH. You give us 12 to 15 months' time to get ready, and we will give you all the pulp that all of the consumers want, and give you the quality they want.

Senator CONNALLY. I want to ask one question. What about the International Paper Co.; do they have a duty or not?

Mr. WENTWORTH. I am not particularly familiar with the International Paper Co. and that branch of their business. That is distinct, entirely. They may feel qualified to answer.

Senator CONNALLY. They have factories in your State?

Mr. WENTWORTH. They have, but they are moving out of this country; they are practically a Canadian company to-day.

Senator CONNALLY. They have protection; have a tariff on pulpwood?

Mr. WENTWORTH. I doubt it very much. I have no authority to speak for them.

Senator CONNALLY. Very well.

Senator HULL. Is your condition and your property in as bad a situation as the coal and oil and copper?

Mr. WENTWORTH. I hope you are not as bad off as we are. If you are, I pity you.

(A brief presented by Mr. Wentworth is here printed in the record in full, as follows:)

BRIEF IN FAVOR OF TAXES ON IMPORTED CHEMICAL PULP, WALTER V. WENTWORTH, MANAGER OF MILLS, PENOBSCOT CHEMICAL FIBRE CO., GREAT WORKS, ME.

The State of Maine, as the largest consumer of pulpwood in the United States, 1,203,377 cords in 1930; the largest producer of pulp, 905,088 tons; the largest producer of newsprint, 558,237 tons, is vitally interested in the preservation of the pulp and paper industry. (Bureau of the Census, 1932.)

The pulp and paper mills employed 9,109 people in 1929 (Census of Manufactures) and nearly 15,000 more worked in the woods producing the pulpwood. Last year the cut of wood fell more than one-half and the number of men working in the woods below 7,000. Our farmers are destitute, for pulpwood is their chief reliance for a cash crop, except in Aroostook County.

The railroads are suffering severely from lack of pulpwood tonnage. The Maine Central and Bangor & Aroostook Railroads, as per their annual reports, derive about 35 per cent of their tonnage directly from pulp and paper mills and nearly 50 per cent from the forest industries. For every ton of chemical pulp manufactured in our mills, about six tons of freight are moved. When a ton of foreign pulp is imported only one ton of freight is moved.

A high grade of Swedish pulp which sold at $3.30 f. o. b. dock Boston in February, 1931, had dropped to $2.10 in January, 1932. A second grade sold the same day (January 12) at $2 and I have offers at less money.

The Timber Conservation Board has been making a study of United States costs and reports for New England as of June, 1931—$58.75 per ton of bleached sulphite, or $2.93¾ per 100 pounds. This cost has dropped since and $50 per ton, or $2.50 per 100 pounds would be nearer present cost in the United States. Our mills are all losing money and can not long continue operating under these conditions.

This condition can be quickly alleviated, unemployment in our State reduced to a minimum and a very substantial revenue raised, which I understand to be the object of the bill now before your committee, by the imposition of relatively low import taxes upon these products.

It is calculated that upon the basis of 1930 importations a revenue of $11,151,676 would be derived from an import tax of one-half cent per pound on bleached chemical pulp, one-third cent per pound on unbleached chemical pulp, and we urge that these taxes be levied. They would not be prohibitive, but would, we think, enable our mills to continue in operation and would provide a substantial amount of revenue, even though the importations were reduced. Without excluding all foreign pulp our mills could run at approximately capacity and our farmers and other wood operators would find a ready market for their labor and stumpage.

	Tons
Rated capacity of the chemical pulp mills in the United States	4,049,000
Production in 1930, U. S. Census	2,990,806
Idle	1,058,194

Production in 1931 was less, but have been unable to obtain complete figures.

Importation chemical pulp, 1930, 1,553,129.

Our mills could run full and still permit some importation while employing labor now idle.

Rate of production is declining and must so continue, unless Congress gives relief.

STATEMENT OF THOMAS ALLEN, BOSTON, MASS., REPRESENTING THE GREAT NORTHERN PAPER CO., MILLINOCKET, ME.; ALSO THE ST. CROIX PAPER CO., WOODLAND, ME.

Mr. ALLEN. Mr. Chairman and gentlemen, my name is Thomas Allen. I represent the Great Northern Paper Co. of Millinocket, and also the St. Croix Paper Co. of Woodland. Both companies manufacture newsprint paper entirely. The Great Northern has a production of approximately 300,000 tons a year. The St. Croix Co. has a production of about 60,000 tons. They are both running from 60 to 70 per cent of their capacity at the present time.

The Great Northern Co. owns its own timberlands in Maine. It buys timber in Maine, and makes its pulpwood, from which it makes newsprint paper. It buys some occasionally in Canada, but principally in Maine.

The St. Croix Co. owns timberland. As that plant is almost on the border they own land both in the United States and in Canada, but the greater per cent of their timberland is in Canada. Their supply, however, is inadequate for their use, and they are obliged to buy wood and woodpulp where they can get it.

We did not intend to come here to ask the Congress for any duty on our product, newsprint paper, but it is seriously proposed to Congress by other industries that a tariff duty be imposed upon our raw products—products that we use in our mills. There are taxes proposed on oil, which would cost us, perhaps, 20 cents a ton. And a tariff is proposed on coal, of which we use a large quantity, which would increase our cost about $1.20 a ton.

And on top of that is the proposal made by the paper industries, by the west coast and Maine companies to impose a further duty on wood and wood pulp.

Senator HARRISON. You do not use copper?

Mr. ALLEN. We do not use copper, except putting in wires, I suppose there is copper in them.

There is no suggestion that a duty be imposed on the newsprinting paper, by the proposal of these various organizations. We feel, therefore, that in order to keep our mills running that we have got to ask for a duty that would compensate us for the additional cost that is asked to be put upon us.

Senator WALSH of Massachusetts. If there is a duty on pulpwood, you want a duty on paper?

Mr. ALLEN. Yes, sir; if there is a duty on wood pulp and on coal and on oil, we want a duty on print paper. And I think that should be approximately one-half cent a pound, the same as is proposed for the pulp.

Senator HOWELL. Would that be revenue-producing and, incidentally, protection?

Mr. ALLEN. Yes; just enough to keep us going.

Senator WALSH of Massachusetts. A compensatory duty?

Mr. ALLEN. A compensatory duty, yes. If the other demands were not made, we would not be here asking for a duty on our product.

Senator SHORTRIDGE. Let me ask you, Mr. Allen, from what countries is this imported?

Mr. ALLEN. Chiefly from Canada.

Senator SHORTRIDGE. Paper?

Mr. ALLEN. Newsprint paper. And also from the Scandinavian countries. And there have been changes in the prices, starting in November where, ordinarily, it would be $50 a ton, it was dropped to $40, and then to $38, and lately, in Finland, $29.

Senator WALSH of Massachusetts. Briefly, it is a tariff measure?

Mr. ALLEN. I am not opposing our neighbors in Maine who want a tariff. I am not in their way. I think the trouble is, as Mr. Wentworth told you, largely caused by the depreciation of foreign currencies.

Senator WALSH of Massachusetts. You are not asking for a duty?

Mr. ALLEN. We are not asking for a duty but to protect ourselves, that is our position entirely.

Senator REED. There are not many newspapers here asking for a tariff on print paper, are there?

Mr. ALLEN. Not that I know of; no, sir.

Senator CONNALLY. Have you any mills in Canada?

Mr. ALLEN. No, sir; ours are in Maine.

The CHAIRMAN. The next witness may come forward.

STATEMENT OF H. P. CHRISTIAN, CHAIRMAN OF TEMPORARY COMMITTEE OPPOSING A TARIFF ON WOOD PULP, NEW YORK CITY

Mr. CHRISTIAN. Mr. Chairman, might I ask the indulgence of the committee as to questions until I finish my preliminary remarks?

The CHAIRMAN. You desire no questions until you finish your direct statement?

Mr. CHRISTIAN. If you please.

The CHAIRMAN. All right. You may proceed.

Mr. CHRISTIAN. My name is H. P. Christian. I am the general purchasing agent of the Robert Gair Co., of New York City, which is one of the larger purchasers of wood pulp, both domestic and foreign. It has mills in Connecticut, Illinois, Massachusetts, and New York.

I am appearing before your committee in my capacity as chairman of the temporary committee opposing a tariff on wood pulp. This temporary committee was formed early this year when it became known that a group of Washington and Oregon pulp and paper manufacturers and certain interests in Maine were organized to attempt to influence Congress to place a duty or tax of some kind on importations of foreign wood pulp.

The work of the committee is sponsored by a majority of the paper mills in the United States. Its efforts are confined to opposing a tariff, tax, or duty of any kind on wood pulp. In this connection I would like to distinguish between pulpwood and wood pulp. Pulpwood is a part of the tree cut in the form of bolts or logs from which wood pulp is made. In addition to the wood cut in this country pulpwood is imported principally from Canada. Wood pulp, the product in which we are interested, is the basic material for the manu-

facture of paper. It is a composition of cellulose fibers which are obtained from pulpwood by grinding, or cooking with chemicals. Wood pulp is imported chiefly from Canada, Sweden, Finland, Norway, and Germany. This committee is interested only in wood pulp.

There are three distinct and different classes of companies in the pulp and paper manufacturing industry as follows:

First. The pulp mill which converts pulpwood into wood pulp and disposes of its wood pulp on the open market. Such mills are known as independent pulp mills.

Second. Those companies engaged in the conversion of pulpwood into wood pulp and which further convert the wood pulp into finished paper. Such companies operate both pulp and paper mills and are known as self-contained mills.

Third. Companies which purchase domestic and foreign woodpulp and convert it into paper. Such companies have no connection with pulp mills and are known as converting mills.

From this it will be seen that the converting mill purchases wood pulp from the independent pulp mill and converts it into paper in competition with the self-contained mills which manufacture their own pulp.

According to the 1932 edition of Lockwood's Directory of the Paper and Allied Trades, there are 792 paper mills and 272 pulp mills in the United States. A study of the listings indicates that eight of these pulp mills manufacture pulp from products other than wood, leaving 264 manufacturing wood pulp. A further study indicates that approximately 245 of these 264 pulp mills are operated by firms which also manufacture paper, the self-contained mills, leaving less than 20 independent pulp mills whose pricipal business is the production of wood pulp for sale to the more than 500 converting mills.

The wood pulp offered for sale by the few independent pulp mills, together with the surplus production of the self-contained mills, if any, which is dependent upon their own requirements, furnishes only about one-third of the woodpulp required by the converting mills. This inability of the independent pulp mills to furnish a sufficient quantity of the quality required makes it necessary for the converting mills to import approximately two-thirds of their requirements. Therefore, any tax or duty on imports of wood pulp would work a hardship on the converting mills without being of any benefit to the independent pulp mills and would make it practically impossible for the converting mills to compete with the self-contained mills.

As a basis for the information I propose to give the committee I have prepared a table of United States production, imports, exports, and consumption, which I would like to have included at this point in my remarks.

The CHAIRMAN. That may be included in our record.

Mr. CHRISTIAN. I will hand it to the committee reporter.

(The tabulation headed "Wood pulp—United States production, imports, exports, and consumption," is here made a part of the record, as follows:)

Wood pulp—United States production, imports, exports, and consumption

[Tons of 2,000 pounds]

[Source: United States production from Bureau of the Census; imports and exports from Bureau of Foreign and Domestic Commerce]

Year	United States production	Imports	Exports	
			Foreign manufacture	Domestic manufacture
1925	3,962,217	1,663,614	(1)	37,995
1926	4,394,766	1,731,412	628	34,220
1927	4,313,403	1,675,769	164	32,006
1928	4,510,800	1,754,963	2,959	33,484
1929	[2] 4,862,855	1,886,346	2,063	54,068
1930	4,630,308	1,832,362	3,868	46,427
1931		1,596,421		

Year	Consumption			Percentage that consumption is of—	
	Consumption	Domestic manufacture	Foreign manufacture	Domestic manufacture	Foreign manufacture
1925	5,587,836	3,924,222	1,663,614	70.2	29.8
1926	6,091,330	4,360,546	1,730,784	71.6	28.4
1927	5,957,002	4,281,397	1,675,605	71.9	28.1
1928	6,229,320	4,477,316	1,752,004	71.9	28.1
1929	6,693,100	4,808,817	1,884,283	71.8	28.2
1930	6,410,375	4,581,881	1,828,494	71.4	28.6
1931					

[1] Not separately reported.

[2] Of the 4,862,855 tons of wood pulp produced in the United States only 740,930 tons were produced for sale, the balance of 4,121,955 tons being consumed in plants controlled by the manufacturing plant. Therefore, of the 6,693,100 tons consumed in the United States, a total of 4,121,955 tons (which is 62 per cent) was furnished by pulp mills operated in conjunction with the paper mills. Of the 2,565,528 tons (38 per cent of the total consumption) which was consumed by paper mills that purchase their pulp, only 740,930 tons (29 per cent) was of domestic manufacture and the balance was imported.

Mr. CHRISTIAN. This table is prepared from figures published by the Bureau of Census and the Bureau of Foreign and Domestic Commerce. It shows that for the past several years the domestic consumption of wood pulp has been very constant, at a little over 6,000,000 tons per year. Of this amount approximately 72 per cent is of domestic manufacture and 28 per cent has been imported.

The reason for importing what is apparently such a large percentage are several fold, but principally is due to the fact that under normal conditions the domestic pulp mills which have pulp for sale do not have a sufficient quantity of the kind and quality of pulp received by the converting mills. The value of the pulp lies principally in the length of the fiber, and the length of the fiber depends on the kind of wood. It is similar to the difference between long and short staple cotton, and there are only certain sections of the United States which will produce wood in commercial quantities of a kind which will furnish the type of fibers required. It is not a question of the skill of the domestic manufacturers, for I believe the domestic pulp manufacturers are, on the whole, as capable as those in any other country, but it has been the experience of our group as well as my own company that we have not been able to obtain domestic pulp in sufficient quantities of the characteristics required in our business. This situation makes it necessary for the convert-

ing mills to import wood pulp, and any tariff or tax would place them at a distinct disadvantage in competing with the mills which make their own pulp and sell only the surplus since with a tariff wall the self-contained mill would be without competition and could entirely shut off the supply to the converting mill or raise the price of the pulp until the converting mill would be forced to close down as the mill could not compete with the self-contained mill in the price of the finished paper.

The table I referred to shows that the domestic production has increased during the past six years and that during this same period imports have just about held their own with a tendency to decrease. This is well shown by the fact that the percentage of our wood-pulp consumption which is of domestic manufacture has varied only 1.7 per cent during the six years shown on the table, and that that variation has been in the favor of the domestic pulp producers. The crux of the problem, as we view it, has been overexpansion of the pulp industry on the west coast and the self-contained operations in the south.

This transition of the wood-pulp production in the United States to the south and west coast is shown by a table I have prepared giving the production from 1925 to 1930, inclusive, as published by the Bureau of Census. The 1931 figures are not yet available. I ask that this chart be placed in my remarks at this point so it will be available to the committee.

The CHAIRMAN. Very well.

(The table referred to is as follows:)

United States production of wood pulp by geographical divisions

[Tons of 2,000 pounds. Source: Bureau of Census]

Year	New England States	Middle Atlantic States	Lake States	Central States	Southern States	Pacific Coast States	Other States	Total, United States
1925	1,214,390	[1] 995,176	932,200	([2])	[1] 232,766	322,594	265,091	3,962,217
1926	1,275,009	[1] 1,055,389	1,103,623	([2])	[1] 301,077	378,005	281,003	4,394,766
1927	1,206,870	[1] 926,814	1,075,680	([2])	[1] 350,508	469,218	284,313	4,313,403
1928	1,221,478	[1] 851,760	1,111,383	([2])	[1] 416,633	562,507	346,012	4,510,800
1929	1,250,006	955,649	1,101,296	46,473	728,967	780,494	.....	4,862,885
1930	1,097,845	852,190	1,076,885	29,995	758,664	814,729	.....	4,630,308

[1] Part of group included in "Other States."
[2] Included in "Other States."

Mr. CHRISTIAN. This table shows that during the 6-year period, the total United States production increased from 3,962,217 short tons in 1925 to 4,630,308 short tons in 1930. During this period the production in the New England States decreased from 1,214,390 short tons in 1925 to 1,097,845 short tons in 1930 while the production in the Pacific coast States increased from 322,594 short tons in 1925 to 814,729 short tons in 1930. The Southern States showed a similar gain and the production increased from 232,766 short tons in 1925 to 758,664 short tons in 1930, the entire increase being in the production of self-contained mills. The Middle Atlantic and Central States dropped down and the Lake States about held their own.

The industry on the West coast has expanded greatly in the past five or six years, with the thought on the part of those promoting the

enter rises that it would be possible to produce a high grade of pulp from the Western woods. The plants were built and the pulp manufactured and the converting mills purchased it and attempted to use it. However, they found it did not have the necessary qualities, and while the West coast interests have been working hard and the converting mills have been working with them to improve the quality of their product, they have not as yet been able to develop a wood-pulp which will meet the requirements of many of the converting mills.

Price has not been a factor, for foreign pulps have consistently sold in the United States at higher prices than domestic pulps of comparable grades. It is, as I mentioned a few minutes ago, a similar case to long and short staple cotton and it is no reflection on our producers that they are not able to produce the proper quality of pulp than it is on our cotton producers that they can not produce long-staple cotton in all sections of the cotton-growing region. I have prepared a table showing the average values per short ton of general imports into the United States of wood pulp for each of the past 14 months. This table is compiled from data made available by the Bureau of Foreign and Domestic Commerce and shows the foreign value or export value, whichever is the higher. The values do not include ocean freight and insurance. In general the amounts are the price f. o. b. the foreign plant in which the wood pulp is manufactured and are considerably below the price at which the wood pulp is sold in the United States, as freight, insurance, selling costs, and so forth, must be added. The figures do, however, show the trend, and I ask that the table be placed in my remarks at this point.

(The table referred to is as follows:)

Average values per short ton of general imports into the United States of wood pulp, by countries of origin

[Source: Bureau of Foreign and Domestic Commerce]

	Unbleached sulphite				Bleached sulphite				Soda, Canada
	Germany	Canada	Sweden	Finland	Germany	Canada	Norway	Sweden	
1931									
January	$45.82	$40.90	$41.11	$40.57	$60.82	$61.12	$48.83	$44.56	$50.12
February	43.85	38.65	37.79	36.58	51.07	61.97	45.54	46.39	49.09
March	40.61	39.94	43.19	38.91	56.36	59.88	54.32	53.85	45.69
April	37.97	37.48	44.22	31.45	55.52	59.53	45.01	53.96	48.08
May	39.12	38.84	39.76	34.52	52.70	59.25	57.53	48.73	48.51
June	37.63	38.62	39.34	32.55	53.40	56.74	47.79	48.00	49.96
July	39.11	38.00	36.88	39.09	51.89	57.00	60.86	53.76	47.77
August	36.39	36.06	38.61	42.06	51.84	51.15	42.01	47.51	53.54
September	38.85	34.64	39.27	40.55	51.66	52.33	48.11	47.29	48.44
October	38.19	34.92	36.88	40.93	48.85	53.03	36.19	41.70	47.53
November	39.53	35.20	35.87	40.08	48.91	49.61	48.68	46.02	46.50
December	32.75	36.32	35.23	36.77	48.01	50.66	42.93	42.23	42.56
1932									
January [1]	27.09	33.53	33.17	33.59	45.47	49.50	40.81	37.14	38.57
February [1]	30.61	32.49	33.21	37.19	40.67	51.34	37.67	36.22	37.87

[1] Preliminary, subject to correction.

Average values per short ton of general imports into the United States of wood pulp, by countries of origin—Continued

	Unbleached sulphate				Bleached sulphate		Mechanically ground	
	Canada	Norway	Sweden	Finland	Canada	Finland	Unbleached	Bleached
1931								
January	$53.23	$31.46	$33.33	$35.61	$90.74	$45.40	$23.78	$22.62
February	60.99	27.49	33.59	26.96	78.15	41.33	24.44	21.70
March	56.57	34.23	32.82	29.36	82.34	45.81	20.74	20.82
April	56.79	.....	31.42	26.13	81.73	40.10	21.35	21.04
May	51.59	.....	29.35	23.98	85.15	47.97	24.07	19.67
June	47.25	.....	20.20	29.96	84.22	49.73	23.08	23.30
July	54.54	.....	26.89	27.98	85.29	45.82	24.67	21.97
August	52.86	30.09	28.46	27.48	79.97	35.82	21.38	21.64
September	56.82	35.33	26.85	33.60	83.96	43.98	20.05	21.84
October	42.57	26.62	27.66	28.09	80.15	41.56	19.37	22.26
November	55.22	26.59	26.82	30.59	84.12	50.53	17.48	19.71
December	51.53	26.37	27.49	29.72	83.09	53.21	19.80	19.92
1932								
January [1]	38.48	27.28	27.32	28.85	81.71	50.23	18.11	20.67
February [1]	41.19	26.79	26.50	29.21	80.92	42.12	17.37	17.73

[1] Preliminary, subject to correction.

AVERAGES OF ALL KINDS

	Chemical pulp		Mechanical pulp,[1] countries off gold standard		Chemical pulp		Mechanical pulp,[1] countries off gold standard
	Countries on gold standard	Countries off gold standard			Countries on gold standard	Countries off gold standard	
1931				1931			
January	$57.49	$42.13	$23.66	September	$48.22	$39.17	$20.14
February	49.68	42.07	24.29	October	40.90	38.87	19.83
March	54.16	46.18	20.75	November	43.35	36.48	17.55
April	49.86	45.98	21.34	December	39.15	37.39	19.81
May	50.50	44.54	23.64				
June	49.74	40.30	23.09	1932			
July	48.26	37.75	24.28	January [2]	36.17	33.17	18.23
August	46.23	38.58	21.39	February [2]	36.31	34.58	17.39

[1] No imports of mechanical pulp from countries which have remained on gold standard.
[2] Preliminary, subject to correction.

Prepared and distributed by temporary committee opposing tariff on woodpulp, Graybar Building, New York City.

Mr. CHRISTIAN. The table shows that the values of certain grades of foreign pulps imported into the United States have been very steady and that certain others have shown a downward trend in keeping with other commodities. They do not show any severe declines or greater declines since the exporting countries went off the gold standard as many domestic pulp manufacturers claim to be the case. In fact there has been a slackening in the decline since several of the exporting countries left the gold standard last September and October.

A tariff or tax on wood pulp might in a few border-line cases cause a paper manufacturer to switch from foreign to domestic pulps, but in the majority of the cases it would simply mean that the converting mill would be required to pay an additional amount for its woodpulp, and place it at an even greater disadvantage than it now is with the self-contained mill which manufacturers its own pulp.

Such a situation would enable the self-contained mills to maintain lower prices for the finished paper, which would eventually put the

converting mills out of business. These self-contained mills are located near the timber supply, whereas the converting mills are scattered all over the United States and are the backbone of scores of small towns. To close them would result in widespread unemployment, loss of property values, and so forth, and a transfer of this business to the few pulp-producing States.

An interesting side light on the situation is brought out in a recent editorial in the Portland (Me.) News, which reads, in part, as follows:

> Considering the purely local angle of the situation, Portland's greatest port activity is now in the handling of foreign pulp brought into Maine by steamers of many nationalities. This traffic gives employment to 1,300 longshoremen; it gives practically their sole employment. Shut out foreign pulp and the country almost completely shuts up the port of Portland, as well as other seaports of Maine.

The elimination of the converting mill would further tend to concentrate the paper industry in the hands of a few powerful interests. The average converting mill of to-day is much smaller in size than the average self-contained mill. That is shown by the fact that while the converting mills greatly outnumber the self-contained mills, the converting mills use less than half of the wood pulp consumed in the United States.

The rates of duty on wood pulp provided in Senator Jones's proposed amendment to the revenue bill would cost the converting mills $11,229,929.30 a year based on the 1931 imports of wood pulp. This, at a time when the converting mills are already operating at a loss, would close many of the converting mills, which are not operating solely to hold their organizations together, and would add to the unemployment problem of scores of small villages.

We, the converting mills, are not here to plead escapment from revenue producing taxes. We know of no movement, organized or otherwise, to protest a fair tax. We are here, however, to protest the imposition of a tax on us which will, to put it affirmatively, enable the self-contained manufacturer to gobble our markets thereby tending to upt us out of business. The dependence for many years of many communities upon us for their livelihood, and the geographic position we occupy for economical distribution of our necessary finished product, entitle us to ask that no such discriminatory tax be placed upon us. We do believe that our problems are entitled to as much consideration as those of other branches of the industry.

Reference has been made in these hearings to the effect of depreciated currency on wood pulp imports and prices. I am submitting herewith, and asking that they be printed in the record of the hearing, two folders prepared by the committee of which I am chairman, covering depreciated currency and wood pulp. These folders show conclusively that the depreciation of the currency in foreign countries has had absolutely no effect upon our importations of wood pulp.

Early in this session of Congress, Senator McNary by Senate resolution called upon the Tariff Commission for a report of the effect of depreciated currency of foreign countries upon the importations of wood pulp. It is my understanding that this report was filed in the Senate to-day, and doubtless it will contain much information of value.

I also ask that there be included with my testimony a list of the active members of the temporary committee opposing tariff on

wood pulp. These members of the committee represent all branches of the paper-making industry and are the active representatives of the majority of the paper mills in the United States which are opposing a tariff or duty of any kind on wood pulp.

The active members of the committee are:

W. H. Anders, president Nashua River Paper Co., of East Pepperell Mass.
C. H. Burrows, president Mohawk Valley Paper Co., of Little Falls, N. Y.
Alexander Calder, president Union Bag & Paper Co., of New York City, with plants in New York, Wisconsin, Texas, Illinois, Louisiana, and Washington.
E. Victor Donaldson, president Robert Gair Co., of New York City, with plants in Connecticut, Illinois, Massachusetts, and New York.
A. G. Gilman, president Allied Paper Mills, of Kalamazoo, Mich.
Walker Hamilton, secretary Riegel Paper Corporation, of New York City, with plants in New Jersey.
J. W. Kieckhefer, president Kieckhefer Container Co., of Delair, N. J., with plants in New Jersey, Michigan, and Wisconsin.
H. M. Kieckhefer, secretary-treasurer Kieckhefer Container Co., of Delair, N. J., with plants in New Jersey, Michigan, and Wisconsin.
J. Kindleberger, president Kalamazoo Vegetable Parchment Co., of Kalamazoo, Mich.
R. C. Mateer, assistant treasurer Scott Paper Co., of Chester, Pa.
W. P. Paepcke, president Container Corporation of America, of Chicago, Ill., with plants in Illinois, Indiana, Ohio, and Pennsylvania.
H. Lee Rauch, vice president and general manager Consolidated Paper Co., of Monroe, Mich., with plants in Illinois and Michigan.
Z. W. Ranck, president Crystal Tissue Co., of Middletown, Ohio.
J. L. Riegel, executive vice president and general manager Riegel Paper Corporation, of New York City, with plants in New Jersey.
W. R. Shaffer, president New Haven Pulp & Board Co., of New Haven, Conn.
E. C. Tucker, vice president Chemical Paper Manufacturing Co., of New York City, with plant in Massachusetts.
G. R. Wallace, president Fitchburg Paper Co., of New York City, with plant in Massachusetts.

MARCH, 1932.

DEPRECIATED EXCHANGE AND THE TARIFF

Bills have been introduced in Congress which if passed would place a tariff duty on woodpulp in order to offset the so-called advantage of foreign producing countries which have departed from the gold standard. Such action is proposed in more than a dozen similar bills and is headed up in House bill H. R. 8688 which proposes to place, on all items imported into the United States from countries which have departed from the gold standard, an additional tariff duty equivalent to the depreciation from the standard value of currency of the country as of October 1, 1931.

For example, if on March 21, 1932 an article which had a value of 100 krona was imported from Sweden, the additional duty under the proposed bill would be equal to the standard value of 100 krona on Octover 1, 1931 ($26.80) less the value of 100 krona on March 21, 1932 ($19.92), which would be $6.88 in addition to the existing duty, if any, under the tariff act fo 1930. The result would be an additional ad valorem tariff duty of nearly 35 per cent.

In so far as woodpulp, which is on the free list, is concerned this proposal has two basic economic defects:

1. It assumes that the cost of production is evenly balanced between the United States and the principal foreign countries exporting to the United States, based on the standard value of the currencies of the countries as of October 1, 1931.

2. It assumes that the cost of all items entering into the production of woodpulp, such as labor, wood, chemicals, power, taxes, etc., have decreased, in terms of gold, proportionately to the decrease in the foreign exchange rate.

The first assumption is immediately disproved by the well-known fact that foreign pulps have consistently been sold in the United States at higher prices than domestic pulps.

The second assumption is entirely disproved by the economic fact that the cost of domestic materials, labor, etc., in a country which has departed from the gold

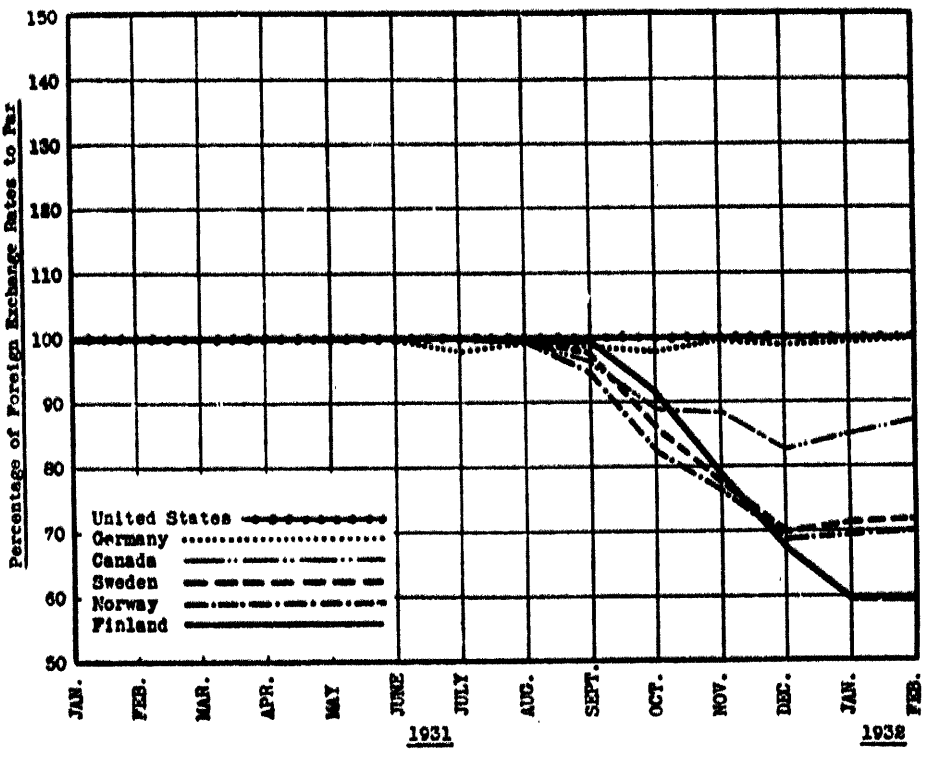
standard tends to increase and in due time adjust itself to the new values, and that other materials must be purchased in the world market in terms of gold.

The charts on the following pages show that the present situation is no exception and that an additional tariff duty, as provided in H. R. 8688, would be unjust and unsound.

FOREIGN EXCHANGE RATES

The chart shown below is based on monthly averages of daily quotations of foreign exchange rates as published by the Federal Reserve Board. In order to make the rates directly comparable they have been reduced to the percentage that the published rate bears to the par of exchange. (For example, the par of exchange of the Swedish krona is 26.8 cents. The monthly average of the daily quotations for January, 1932, was 19.19 cents. Therefore the percentage is the percentage that 19.19 is of 26.8, which is 71.6.)

Of the six countries shown, the United States and Germany are still on the gold standard. Gold payments were suspended by Norway and Sweden on September 29, 1931, and by Finland on October 12, 1393. On October 19, 1931, Canada prohibited the export of gold. The chart indicates that the drop in exchange rates has been arrested and that the present tendency is upward.



A comparison of this chart with the chart of Wholesale Commodity Price Indexes shows that in countries where the drop in exchange has been the greatest, the increase in wholesale commodity prices has been the greatest. Thus the increase in wholesale commodity prices tends to offset the apparent advantage created by the drop in exchange.

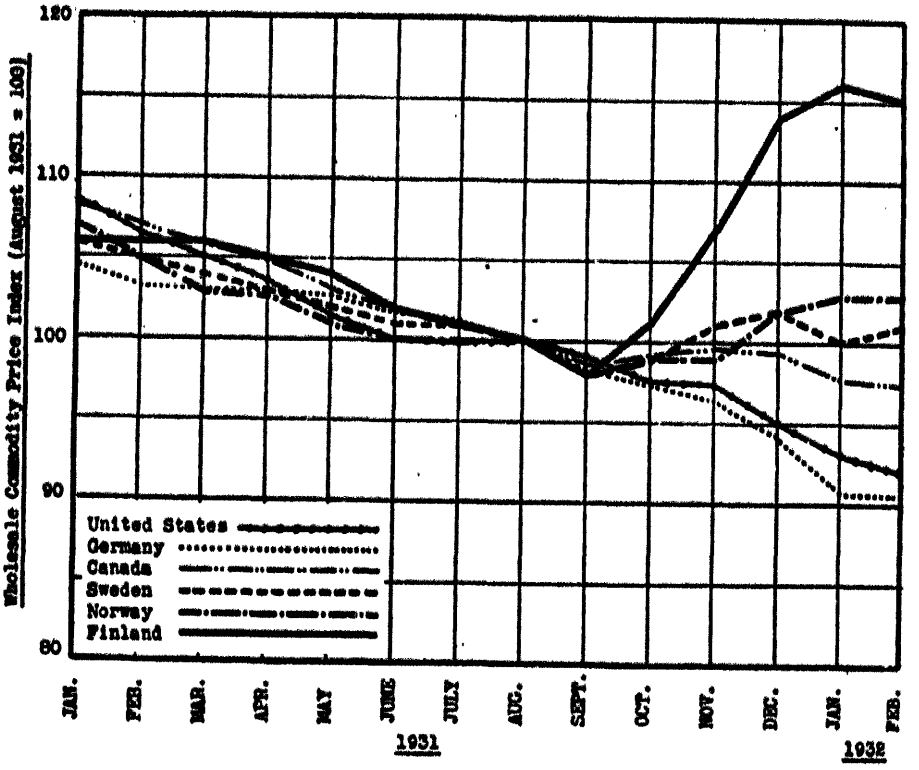
WHOLESALE COMMODITY PRICE INDEXES

The chart reproduced below is based on the wholesale commodity price indexes of the five principal countries exporting wood pulp to the United States, and the United States index. Indexes were taken from the United States Department of Commerce compilation and reduced to a common base (August, 1931) in order to make them directly comparable.

The chart shows that prior to September, when all the countries were on the gold standard, wholesale prices were declining at approximately the same rate in all six countries. Since that time four of the countries (Finland, Norway, Sweden, and Canada) have left the gold standard. The effect of this change is shown clearly as wholesale prices have continued downward in the United States

and Germany, which remained on the gold standard, and have remained approximately the same or increased materially in the other four countries. The increase is directly proportionate to the amount the currency has depreciated, showing conclusively that increasing prices tend to offset any depreciation in currency. As a result the cost of materials, labor, etc., tends to increase to a point which offsets the fall in exchange and completely wipes out what might on the face of it appear to be an advantage.

This relationship shows conclusively the injustice of any legislation which would levy duties based on depreciated currencies.



Foreign exchange rates—monthly averages

[Source: Federal Reserve Board]

	Canada	Finland		Germany		Norway		Sweden	
Unit	Dollar	Markka		Reichsmark		Krone		Krona	
Mint par (in cents)	100	2.52		23.82		26.80		26.80	
	Exchange rate [1]	Exchange rate	Per cent of par	Exchange rate	Per cent of par	Exchange rate	Per cent of par	Exchange rate	Per cent of par
1931									
January	99.79	2.52	100.00	23.77	99.79	26.73	99.74	26.76	99.85
February	99.98	2.52	100.00	23.77	99.79	26.75	99.81	26.77	99.89
March	99.98	2.52	100.00	23.81	99.96	26.75	99.81	26.78	99.93
April	99.95	2.52	100.00	23.81	99.96	26.75	99.81	26.78	99.93
May	99.94	2.52	100.00	23.80	99.92	26.77	99.89	26.81	100.04
June	99.72	2.52	100.00	23.73	99.62	26.78	99.93	26.80	100.00
July	99.66	2.52	100.00	23.26	97.73	26.73	99.74	26.76	99.85
August	99.66	2.51	99.60	23.66	99.33	26.73	99.74	26.75	99.81
September	96.25	2.51	99.60	23.42	98.32	25.40	94.78	26.09	97.35
October	89.10	2.31	91.67	23.24	97.57	22.07	82.35	23.11	86.23
November	88.99	1.98	78.57	23.68	99.41	20.52	76.57	20.74	77.39
December	82.71	1.69	67.06	23.62	99.16	18.48	68.96	18.71	69.81
1932									
January	85.13	1.50	59.52	23.65	99.29	18.70	69.78	19.[illegible]	71.60
February	87.29	1.50	59.52	23.74	99.67	18.77	70.04	19.29	71.98

[1] Since the mint par is 100 cents, the per cent of par is the same as the exchange rate.

Wholesale commodity price indexes

[Source: Bureau of Foreign and Domestic Commerce]

	United States		Germany		Canada		Sweden		Norway		Finland	
Number of commodities	784		400		502		160		95		139	
Base	1926	1931 [1]	1913	1931 [1]	1926	1931 [1]	1931	1931 [1]	1913	1931 [1]	1926	1931 [1]
1931												
January	78.2	108.5	115.2	104.5	76.7	108.2	115	106	128	107	86	106
February	76.8	106.5	114.0	103.4	76.0	107.2	114	105	126	105	86	106
March	76.0	105.4	113.9	103.3	75.1	105.9	113	104	124	103	86	106
April	74.8	103.7	113.7	103.2	74.5	105.1	112	103	123	103	85	105
May	73.2	101.5	113.3	102.8	73.0	103.0	111	102	121	101	84	104
June	72.1	100.0	112.3	101.9	72.2	101.8	110	101	120	100	83	102
July	72.0	99.9	111.7	101.3	71.7	101.1	110	101	120	100	82	101
August	72.1	100.0	110.2	100.0	70.9	100.0	109	100	120	100	81	100
September	71.2	98.8	106.6	96.5	70.0	98.7	107	98	117	98	79	98
October	70.3	97.5	107.1	97.2	70.4	99.3	108	99	119	99	82	101
November	70.2	97.4	106.6	96.7	70.6	99.6	110	101	119	99	87	107
December	68.6	95.1	103.7	94.1	70.3	99.2	111	102	122	102	92	114
1932												
January	67.3	93.3	100.0	90.7	69.4	97.9	109	100	123	103	94	116
February	66.3	92.0	99.8	90.6	69.2	97.6	110	101	123	103	93	115

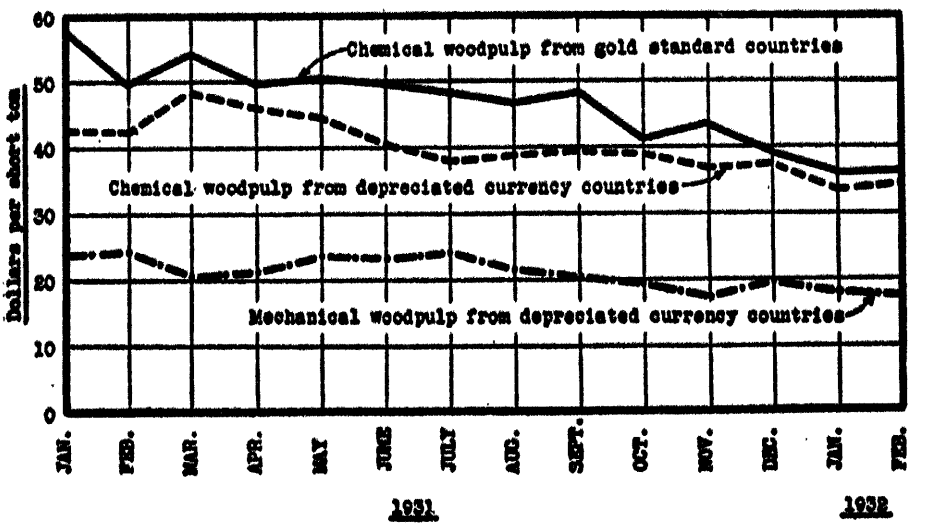
[1] August, 1931=100.

Prepared and distributed by Temporary Committee Opposing Tariff on Woodpulp, Graybar Building, New York City.

APRIL, 1932.

DEPRECIATED CURRENCY AND WOOD PULP PRICES

More than a dozen bills (headed up by H. R. 8688) have been introduced in Congress in an effort to place an additional tariff duty on articles imported from countries which have departed from the gold standard. It is frankly stated by those sponsoring the bills that the primary purpose is to place a tariff duty on wood pulp, which has been on the free list for many years.



On first thought it might seem reasonable that the selling price of articles exported from a country would drop as the currency of the country depreciated. However, it is a well-known economic fact that prices rise in a country which departs from the gold standard, which tends to offset the drop in exchange.

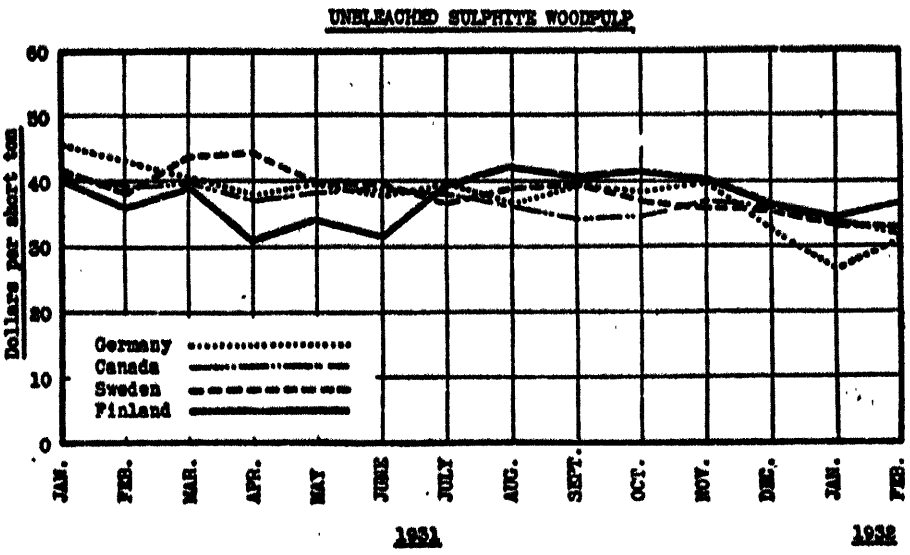
That wood pulp is no exception to this economic fact is illustrated by the chart below and the charts on the following pages.

The chart below presents in United States currency, by months, the average value per short ton of wood pulp imported into the United States from Germany, Canada, Sweden, Norway, and Finland. During 1931 these five countries furnished 97.6 per cent of the total tonnage of woodpulp imported into the United States. Of the five countries, Germany is still on the gold standard and has been shown separately. The other four departed from the gold standard during September and October, 1931.

The chart shows that the value per ton of the imports of wood pulp from the countries which left the gold standard did not show any greater fluctuation after the currency depreciated than before. In fact, the fluctuations in these four countries was less than that in Germany, which remained on the gold standard. When it is considered that the currency of Finland has depreciated as much as 40 per cent; Norway, 30 per cent; Sweden, 30 per cent; and Canada, 17 per cent; and that H. R. 8688, and the other bills, proposes to place a tariff duty which will offset this depreciation on all wood plup imported from the respective countries, the injustice of such a duty becomes very apparent.

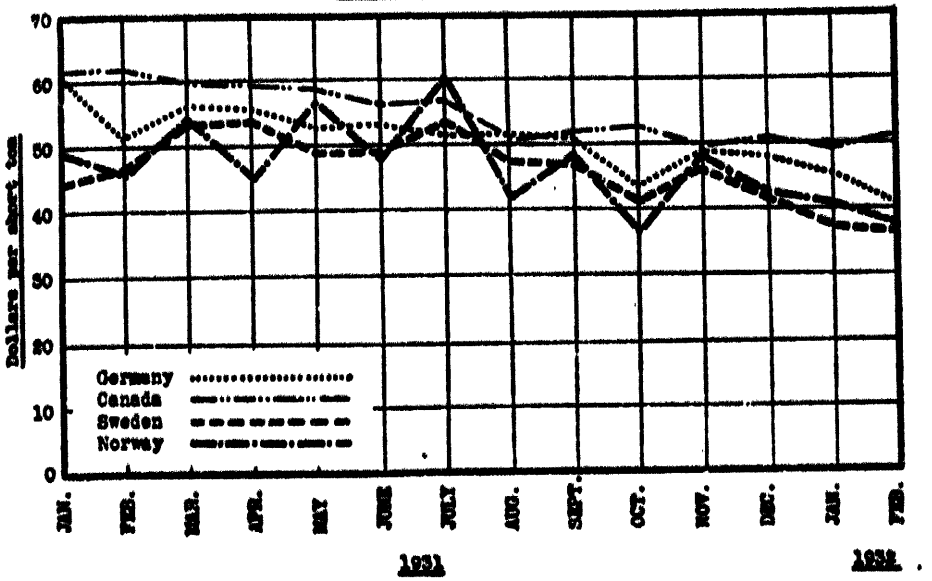
WOOD PULP PRICES HAVE NOT DROPPED AS A RESULT OF THE PRODUCING COUNTRIES DEPARTING FROM THE GOLD STANDARD

The six charts below show in detail the value per short ton of wood pulp imported into the United States by kinds of wood pulp and countries. All data used in compiling the charts are from official statistics of the United States Bureau of

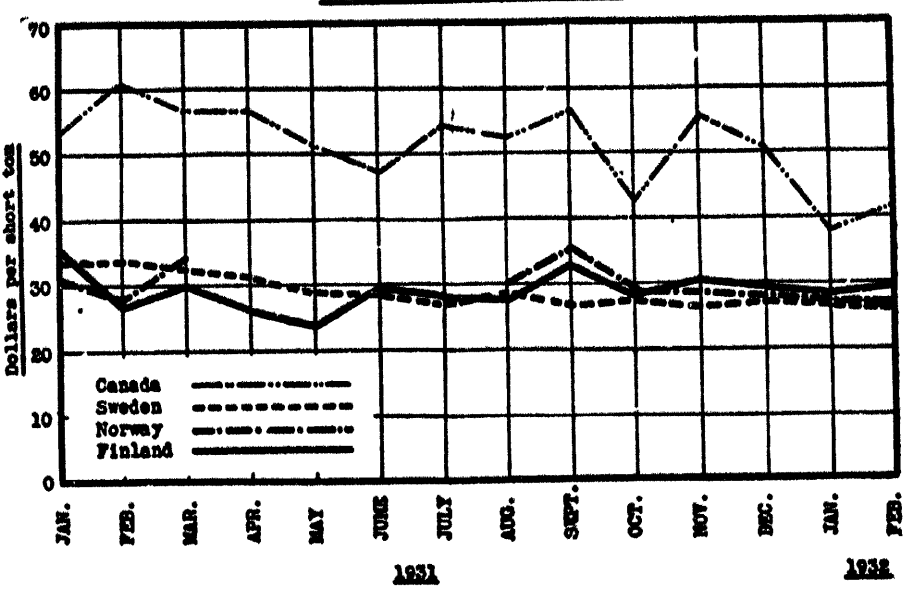


Foreign and Domestic Commerce. In each case, without exception, the data and charts show that the value per short ton of wood pulp imported into the United States has not dropped since the country of exportation departed from the gold standard, at a greater rate than prices were dropping prior to the change in basis of currency. In fact, the drop has been consistently greater in gold standard countries, which would not be affected by H. R. 8688 and the other depreciated currency bills. Therefore, any legislation which places a duty on wood pulp from countries which have departed from the gold standard would be discriminatory and in direct violation of treaty agreements.

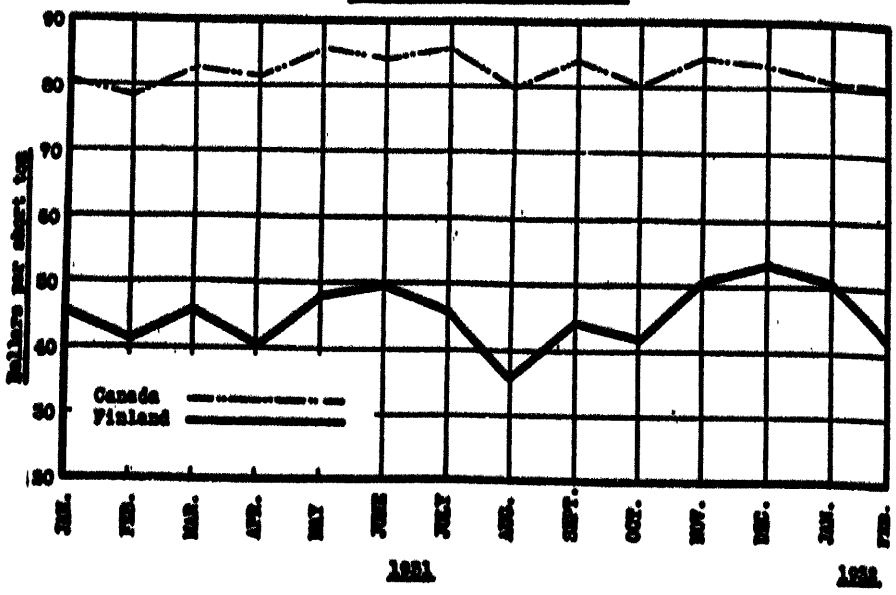
BLEACHED SULPHITE WOODPULP



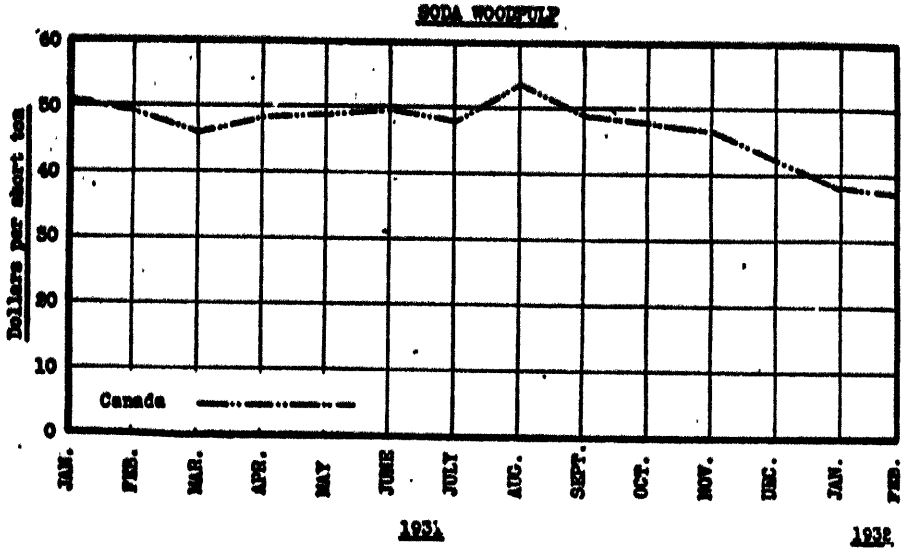
UNBLEACHED SULPHATE WOODPULP



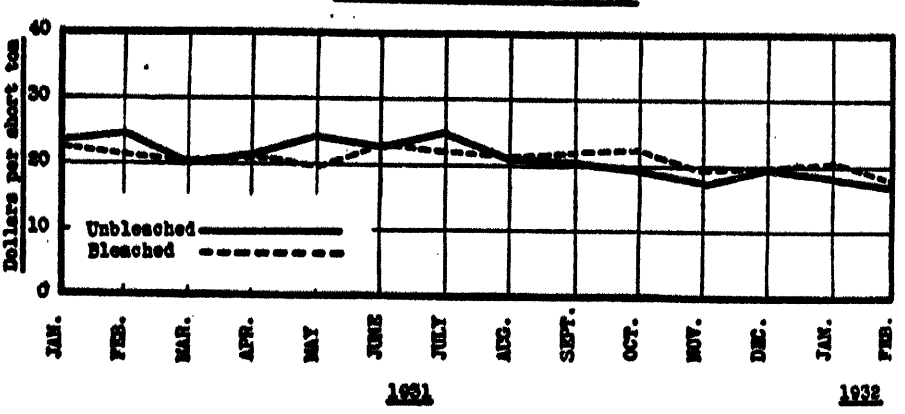
BLEACHED SULPHATE WOODPULP



SODA WOODPULP



MECHANICALLY GROUND WOODPULP



An example of the way in which H. R. 8688 would operate to disrupt wood pulp prices is shown in the following table based on imports of unbleached sulphite wood pulp and exchange rates during February, 1932.

Country from which imported	Value of imports per short ton	Per cent of par of exchange	Equivalent ad valorem duty (per cent)	Amount of duty	Value plus duty
Germany	$30.61	99.67	(1)	.....	$30.61
Canada	32.49	87.29	14.56	$4.73	37.22
Sweden	33.21	71.96	38.93	12.93	46.14
Finland	37.19	59.52	68.01	25.29	62.49

[1] No duty as H. R. 8688 provides that duty shall be levied only in case depreciation is 5 per cent or more below standard value as of October 1, 1931.

In other words, instead of equalizing the $6.58 per ton spread in value the bill, if enacted into law, would increase the spread to $31.87.

Average values per short ton of general imports into the United States of wood pulp by countries of origin

[Source: Bureau of Foreign and Domestic Commerce]

	Unbleached sulphite				Bleached sulphite				Soda
	Germany	Canada	Sweden	Finland	Germany	Canada	Norway	Sweden	Canada
1931									
January	$45.82	$40.90	$41.11	$40.57	$60.82	$61.12	$48.83	$44.56	$50.12
February	43.85	38.65	37.79	36.58	51.07	61.97	45.54	46.39	49.09
March	40.61	39.94	43.19	38.91	56.36	59.88	54.32	53.85	45.69
April	37.87	37.48	44.22	31.45	55.52	59.53	45.01	53.96	48.08
May	39.12	38.84	39.76	34.52	52.70	59.25	57.58	48.73	48.51
June	37.63	38.62	39.34	32.55	53.40	56.74	47.79	48.00	49.96
July	39.11	38.00	36.88	39.09	51.89	57.00	60.86	53.76	47.77
August	36.39	36.06	38.61	42.06	51.84	51.15	42.01	47.51	53.54
September	38.85	34.64	39.27	40.55	51.66	52.33	48.11	47.29	48.44
October	38.19	34.92	36.88	40.93	43.85	53.03	36.29	41.70	47.53
November	39.53	35.20	35.87	40.06	48.91	49.61	48.68	46.02	46.50
December	32.75	36.32	35.23	36.77	48.01	50.56	42.98	42.23	42.56
1932									
January [1]	27.09	33.53	33.17	33.59	45.47	49.50	40.81	37.14	38.57
February [1]	30.61	32.49	33.21	37.19	40.67	51.34	37.67	36.22	37.87

	Unbleached sulphate				Bleached sulphate		Mechanically ground	
	Canada	Norway	Sweden	Finland	Canada	Finland	Unbleached	Bleached
1931								
January	$53.23	$31.46	$33.33	$35.61	$80.74	$45.40	$23.78	$22.62
February	60.99	27.49	33.59	26.96	78.15	41.33	24.44	21.70
March	56.57	34.23	32.82	29.36	82.34	45.81	20.74	20.82
April	56.79	.....	31.42	26.13	81.73	40.10	21.35	21.04
May	51.59	.....	29.35	23.98	85.15	47.97	24.07	19.67
June	47.25	.....	29.20	29.96	84.22	49.73	23.08	23.30
July	54.54	.....	26.89	27.95	85.29	45.82	24.67	21.97
August	52.86	30.09	28.46	27.48	79.97	35.82	21.38	21.64
September	56.82	35.33	26.85	33.60	83.96	43.98	20.05	21.84
October	42.57	28.62	27.66	28.09	80.15	41.56	19.37	22.36
November	55.22	28.59	26.82	30.59	84.12	50.53	17.48	19.71
December	51.53	28.37	27.49	29.72	83.09	53.21	19.80	19.93
1932								
January [1]	38.48	27.28	27.32	28.85	81.71	50.28	18.11	20.87
February [1]	41.19	26.79	26.50	29.21	80.92	42.12	17.37	17.73

[1] Preliminary, subject to correction.

Averages of all kinds

	Chemical pulp		Mechanical pulp, countries off gold standard[1]
	Countries on gold standard	Countries off gold standard	
1931			
January	$57.49	$42.13	$23.66
February	49.68	42.07	24.49
March	54.16	48.18	20.78
April	49.86	45.96	21.94
May	50.50	44.54	23.64
June	49.74	40.30	23.09
July	48.26	37.75	24.25
August	46.28	36.56	21.39
September	46.22	39.17	20.14
October	40.90	33.87	19.83
November	43.35	36.48	17.55
December	39.15	37.39	19.81
1932			
January[2]	36.17	33.17	18.28
February[2]	35.31	34.58	17.39

[1] No imports of mechanical pulp from countries which have remained on gold standard.
[2] Preliminary, subject to correction.

Senator SHORTRIDGE. One or two questions. Are you an importer of wood pulp?

Mr. CHRISTIAN. My company is; yes, sir.

Senator SHORTRIDGE. How much did Sweden cut prices of wood pulp during the last year?

Mr. CHRISTIAN. I am sorry, Senator, you will have to ask me a little more specifically. Each grade is different. Which grade have you in mind?

Senator SHORTRIDGE. The grades that are imported from Sweden.

Mr. CHRISTIAN. There are four principal grades. Kraft sulphite has not changed in price, based on my purchases during the last spring and up until to-day.

Senator SHORTRIDGE. As to the other three kinds?

Mr. CHRISTIAN. As to the other three kinds, the trend has been downward since 1928.

Senator SHORTRIDGE. That is to say, you can but it cheaper from Sweden than you can from the American producer?

Mr. CHRISTIAN. No, sir.

Senator SHORTRIDGE. No?

Mr. CHRISTIAN. No, sir. My company is purchasing domestic sulphite pulp to-day and has been at from $2 to $4 a ton below the foreign producer's price.

Senator SHORTRIDGE. Do you stand upon the statement that the American-produced pulp is inferior to the Canadian pulp?

Mr. CHRISTIAN. I can only say this, that our experience has been that we can not get the same results with it as we can with the foreign pulps.

Senator SHORTRIDGE. I mean the wood pulp that is produced in the State of Washington, you say it is inferior in quality to that which comes from just across the imaginary line from Canada?

Mr. CHRISTIAN. We have never used and do not use wood pulp manufactured in western Canada. Our imports are negligible, except in the chemical pulp from abroad.

Senator SHORTRIDGE. But the Swedish pulp is quite superior, you think?

Mr. CHRISTIAN. Our results, based on our experience, demonstrate it to be superior to the domestic pulp.

Senator SHORTRIDGE. So you do not want any tariff on that kind of pulp?

Mr. CHRISTIAN. No, sir.

Senator SHORTRIDGE. You want to be protected in your own manufactured products?

Mr. CHRISTIAN. We wish to be protected, but we are not asking a protection, Senator. However, we vigorously protest a tax which will put an extra cost on us and not on those paper manufacturers who control their own wood-pulp operations.

Senator THOMAS of Idaho. Mr. Chairman, may I ask this witness just one question?

The CHAIRMAN. Yes.

Senator THOMAS of Idaho. You stated that you wanted the wood pulp left on the free list; that is, you oppose a tax on wood pulp?

Mr. CHRISTIAN. Yes, sir.

Senator THOMAS of Idaho. Is there a tariff on your product?

Mr. CHRISTIAN. I am unqualified to answer that question.

Senator THOMAS of Idaho. What do you manufacture?

Mr. CHRISTIAN. We manufacture folding boxes, and other containers, as a finished product.

Senator THOMAS of Idaho. I think there is about a 10 per cent ad valorem on your product. Now admitting ther eis a tariff on that, are you willing to give that up?

Mr. CHRISTIAN. I am not qualified to answer that question, Senator.

Senator SHORTRIDGE. I can answer that. You would not be.

The CHAIRMAN. Senator Hale, have you someone here you want to appear before the committee?

Senator HALE. I will not take up the time of the committee myself, Mr. Chairman, because there are a number of witnesses here who are better qualified to speak on the subject that I am. Senator White and I have come here to introduce these witnesses from our State. We are facing a very critical situation there, and we hope for relief. To show the importance of the situation, our legislature, which met on the first day of April, unanimously, I believe, adopted a memorial to Congress asking for relief in these matters, and I would like to put this memorial into the record, in connection with the telegram from the governor of our State.

The CHAIRMAN. They may be placed in the record at this point.

(The memorial presented by Senator Hale is here printed in the record in full, as follows:)

MEMORIAL TO THE CONGRESS OF THE UNITED STATES URGING THEM TO ASSIST IN EXCLUDING CERTAIN PRODUCTS FROM THIS COUNTRY

Whereas the eighty-fifth legislature of the State of Maine, appreciating the importance of the pulp, paper, lumber, farm wood lot, and timber land industry to the State of Mine; desiring to preserve said industry for the State; realizing the serious condition which has arisen in this industry as a result of large importations of pulpwood, pulp, paper, and lumber from countries of depreciated currencies and lower labor and production costs; and wishing to restore value to our forests, profit to our mills, work for our laborers, income for our farmers, freight for our railroads, and prosperity to our citizens, makes the following recommendations:

Resolved by the Senate and House of Representatives of the State of Maine in Legislature assembled, That we urge the Senators and Representatives of the Congress of the United States, for the protection of this and all other American industries, to impose a further tax upon all imported products equal to the difference between par of exchange and current quotations of exchange of those countries which, by going off the gold basis, have depreciated their currencies, and to impose specific duties upon all imported pulpwood, baled pulp, paper, and lumber, sufficient to offset the difference of labor and production costs; and be it further

Resolved, That copies of this resolution, duly certified by the secretary of state, be forwarded to the President of the Senate and to the Speaker of the House of Representatives at Washington and to the several Senators and Representatives from the State of Maine in the Congress of the United States.

In senate chamber April 1, 1932, read and adopted; sent down for concurrence.

ROYDEN V. BROWN, *Secretary.*

House of representatives read and adopted; in concurrence April 1, 1932.

CLYDE R. CHAPMAN, *Clerk.*

STATE OF MAINE,
Office of Secretary of State.

I, Edgar C. Smith, secretary of state of the State of Maine and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of the memorial to the Congress of the United States of the senate and house of representatives of the State of Maine in legislature assembled, with the original thereof, and that it is a full, true, and complete transcript therefrom and of the whole thereof.

In testimony whereof I have caused the seal of the State to be hereunto affixed. Given under my hand at Augusta, this 1st day of April, in the year of our Lord one thousand nine hundred and thirty-two and in the one hundred and fifty-sixth year of the Independence of the United States of America.

[SEAL.] EDGAR C. SMITH, *Secretary of State.*

(The telegram presented by Senator Hale is also made a part of the record, in full, as follows:)

AUGUSTA, ME., *April 18, 1932.*

Senators HALE and WHITE,
Care Senator Hale, Senate Office Building, Washington:

Regret impossible for me to appear. In accord with the memorial of the Maine Legislature to the Congress of the United States recently forwarded. I urge upon you the necessity of securing for the unprotected pulp and paper industry of our State immediate adequate protection against the destructive competition from Canada and the Scandinavian countries, accentuated by their depreciated currencies, which threatens the absolute ruin of this great industry.

WM. TUDOR GARDINER, *Governor of Maine.*

STATEMENT OF M. C. WOODWARD, SILVERTON, OREG.

Mr. WOODWARD. I am interested in the management of three sawmill operations and logging operations in the State of Oregon—one at Silverton, the Silver Falls Lumber Co.; one at Westport, known as the Westport Lumber Co.; and one at Westfir, known as the Western Lumber Co. The combined capacity of those three mills is approximately 700,000 feet per day, 8-hour shift, and require approximately 1,000 men to operate. At the present time we are running about 50 per cent capacity, short hours, and short weeks.

Two of those plants are located in towns that are wholly supported by the lumber company. One plant is located in a town of about 3,500 population, and is the largest industrial plant there.

The situation is so serious at the present time that we are about compelled to shut down, which will throw out in the neighborhood of 800 or 900 families, which we are supporting at the present time. The men have accepted very willingly 30 to 40 per cent cuts in wages.

Our sales averaged, from 1929 to 1930, a drop of $5 per thousand but the 1931 drop was $4, making a drop of $9 per thousand in the past two years, on sales average, which, I think, is in line with most of the fir plants.

The soft wood supply, as is shown by the conservation board's report, is 8,000,000,000 feet, the first of this year. I think the conservation committee figured that 2,600,000,000 was sufficient to take care of the demands for 1932.

One of our mills has been forced out of the Atlantic coast market on account of the Canadian competition from mills in Vancouver and Vancouver Island.

The export business has been practically nothing in the British territories, such as Australia, the United Kingdom, New Zealand, and South Africa. About the only export business on the Pacific coast to-day is China and Japan, which is running very close to 45 per cent of the export business. I am talking now of the mills in Washington and Oregon.

Senator REED. Can you not export to South America?

Mr. WOODWARD. Yes; but not in competition with Canada, on account of the preferential duty.

Senator SHORTRIDGE. Why? Get right to the point. Why?

Mr. WOODWARD. On account of the preferential duty.

Senator WALSH of Massachusetts. On the east coast of South America?

Mr. WOODWARD. On the east coast of South America, and also on the west coast of South America, we can export there.

Senator CONNALLY. Well, can you compete in China and Japan with Canada?

Mr. WOODWARD. To a large extent, but Canadian tonnage on British tonnage going out of Canada gets a lower freight than we do on account of the lower currency and the wheat cargoes also. The steamer wants a load.

STATEMENT OF H. W. BUNKER, SAN FRANCISCO, CALIF.

Mr. BUNKER. Mr. Chairman and gentlemen, I come before you with no brief for the owners of the lumber industry.

Earnings have long since ceased, and I doubt whether they can be recovered. Capital investment is melting away very rapidly. It may melt away to the vanishing point.

Neither do I want to bore you with any statistics. I think you have had about all that there are.

But I came clear across this continent to the court of last resort for help for our men and their dependents. I came here to ask you to join me in saying to these men that if anybody, whether he be a foreigner or an American with his dollars invested in Canada wants to ship lumber into these United States, he shall pay to the United States Treasury the amount of money that you would otherwise have received for making that lumber.

I thank you.

STATEMENT OF H. RAMWELL, EVERETT, WASH.

Mr. RAMWELL. Mr. Chairman and gentlemen, I am like Mr. Bunker, I haven't got any brief. I am not a lumberman, and am not a pulp man. But our business is the towboat business. When

the lumber business is shot to pieces as it is to-day, why, our business is shot to pieces.

Senator SHORTRIDGE. What is your business? I did not get it.

Mr. RAMWELL. Towboats.

Senator SHORTRIDGE. Towboats?

Mr. RAMWELL. Yes. But we are dependent upon the lumber industry. I am not going to speak very long on that subject.

I will say this, however, that ordinarily we have 250 to 275 men employed. To-day we have got about 25. The balance of our men are laid off. Those men are out of employment.

Senator SHORTRIDGE. Your headquarters are at Coos Bay?

Mr. RAMWELL. No; I am at Everett, Wash.

Now, we have about 15 mills in Everett. There are two running to-day, that is all. The balance of them are either broke, they are shut down, or else they are in the hands of the bank. They just simply can't operate the way conditions are. The result of that is this: We have 4,500 families in the city of Everett that are dependent upon charity. We have got to dig up every month from $6,000 to $7,000 and $8,000 to keep those families. Our city has a population of about 30,000. Now you can imagine what that means, when you have got to dig up to take care of between 4,000 and 5,000 families, to say nothing of the single men that are out of employment.

Senator SHORTRIDGE. What do you suggest to improve conditions?

Mr. RAMWELL. I do not care what you do. The only thing is, I object to seeing Canadian lumber and Canadian shingles and all kinds of logs, and everything else, coming into our country and our men lying idle. I think it is a crime. And just before I left most of the permanent citizens of our town asked me to talk to you and tell you the conditions that exist out there. You have not any realization of what it means.

One man came into my office the other day and said:

> I have not worked for 11 months. I built myself a little home, and I owed $400 on it. I have a wife and four little children. I had $500 in the bank. I have used that up. The groceryman and the butcher have told me, "We can not go any further with you." What will I do? I will do anything if you will give me a job. I don't want charity.

I have been 60 years in the Puget Sound country, Senator, and I never saw anything like this. I have been 30 years at Everett. To-day the Red Cross is asking for flour to deal out to those people. And those people have asked me to come here to-day and asked me to make that statement to you and said, "For goodness sake, tell them the condition we are in."

We need help, and it is up to you to do something. You can do it if you will.

Senator SHORTRIDGE. To put a leading question to you, you think that the conditions would be improved if a tariff were imposed on the Canadian products, do you? That our own people would be given employment?

Mr. RAMWELL. Absolutely.

I was quoted here this morning, I am the man that was quoted. The general agent of the Great Northern asked me to go over and look at two train loads of shingles that had come through from British Columbia, and our mills are shut down.

It is up to you gentlemen to do something. Don't pussy foot, the way this has been going on. It is absolutely a crime to let Canadian lumber come in that way, and Swedish pulp for the American market, and going to the Australian market, and our own people lying idle and starving

I read you the telegram from the governor of our State, which he sent you this morning, pleading with you people and asking me to ask you people to do something so that we can put our people back to work. I think it is up to you to do something, and not pussy foot around.

LETTER FROM W. A. PRATT, CHAIRMAN PORTLAND 4L JOINT LOCALS

LOYAL LEGION OF LOGGERS AND LUMBERMEN,
Portland, Oreg., April 12, 1932.

Senator FREDERICK STEIWER,
United States Senate, Washington, D. C.

DEAR SENATOR: Regarding the proposed import tax on foreign lumber shipped into the United States:

Our interest is in the matter of employment. In Report No. 32 on lumber, of November 9, 1931, the United States Tariff Commission to the President, we find from the period covered June 18, 1930, to June 30, 1931, there was 1,241,000,000 feet of softwood lumber imported into the United States. Under average production conditions this would furnish 2,298,148 direct labor days of employment for loggers and sawmill workers. In other words, on a slow production schedule like the present, operating on four days a week, employment would be furnished 11,000 men for one year.

Operating expense, other than labor, for oil, steel, wire rope, and numerous supplies would amount to $1,675,000, a great part of which would go to labor employed in other lines than direct logging and sawmilling. This does not include general administration expense, nor interest on investment.

Here on the Pacific coast, in the Douglas-fir region, water-borne lumber shipments of imports to the United States from British Columbia, as shown by figures furnished by the Pacific Lumber Inspection Bureau for 1931, are 207,586,216 feet. This footage would furnish under average conditions, 384,420 direct labor days at combined logging and sawmill operations. In other words, this would furnish labor for 1,850 men for a whole year, on a schedule of four days a week, or putting it another way, a large sawmill of about 225,000 feet daily capacity, such as the Eastern & Western Lumber Co., or the Inman-Poulsen Lumber Co., in Portland, could be kept running on their present schedule of four days a week for four years.

In addition, indirect operating expense for camp and mill would amount to $280,000, a great part of which would go to labor. This is exclusive of general administrative and interest expense. These water-borne shipments originating in British Columbia have an added advantage, inasmuch as foreign ships can be used in transportation.

After discussing the above and other facts, the Portland 4L Joint Locals, representing thousands of lumber workers of Oregon, passed the following resolution April 11, and instructed the undersigned to send this communication to you for your presentation to the Senate Finance Committee, which is to consider the proposed import tax:

"Whereas the lumber workers of Oregon are largely unemployed and the few jobs in the lumber line are mostly only part-time; and

"Whereas this unemployment, which has now lasted for more than two years, getting worse all the time, is causing serious distress to lumber workers and their families; and

"Whereas lumber from foreign countries is coming into the United States, thus taking from us the employment that would result from supplying our own home market: Therefore be it

"*Resolved*, That the Senate Finance Committee be requested to immediately place the proposed import tax upon all softwood lumber imported into the United States."

Respectfully,

W. A. PRATT,
Chairman, Portland 4L Joint Locals.

PROPOSED TAX ON COPPER IMPORTS

STATEMENT OF A. E. PETERMANN, CALUMET, MICH., REPRESENTING A GROUP OF AMERICAN COPPER PRODUCERS

Mr. PETERMANN. My name is A. E. Petermann, Calumet, Mich.

Mr. Chairman, I would like to have it understood, with Mr. Douglas's permission and Mr. Smith's permission, that I shall not be shut off exactly at the end of 15 minutes.

The CHAIRMAN. In other words, if you want to you may take more than 15 minutes.

Mr. PETERMANN. I may run over the 15 minutes, but I am sure the other gentlemen will take it off of their time.

The CHAIRMAN. All right.

Mr. PETERMANN. I am appearing here, gentlemen, on behalf of a group of American copper producers. I will hand the reporter a list of the companies, some 14 of them.

(The list of companies is as follows:)

Calumet & Hecla Consolidated Copper Co., Consolidated Coppermines Corporation, Copper Range Co., Ducktown Chemical & Iron Co., Miami Copper Co., Mohawk Mining Co., North Butte Mining Co., North Carolina Exploration Co., Old Dominion Co., Phelps Dodge Corporation, Quincy Mining Co., Seneca Copper Co., Shattuck-Denn Mining Co., Tennessee Copper Co.

Mr. PETERMANN. All of whom produce copper within the borders of the United States.

This subject is a large subject, and in order to cover it in a comprehensive way it would probably take a long time. We had originally expected to have five or six witnesses who would take in various phases of the subject. However, we are trying to meet your wishes by presenting it by one witness principally. I, myself, am going to try to talk for the entire industry and for those dependent upon it. I am going to try to be very brief.

Senator COUZENS. Were you before the Ways and Means Committee of the House?

Mr. PETERMANN. No, Senator. We did not have an opportunity.

Under the circumstances, while we are prefectly willing to answer all questions—in fact I welcome them—I prefer, if it is agreeable to the committee, to have the opportunity of making my statement first.

The CHAIRMAN. Very well.

Mr. PETERMANN. I think time will be saved in that way. Also with respect to some of the questions asked, I may have to ask permission to refer them to some of the gentlemen who helped prepare this data. We have prepared and have ready a complete statement of our case in the way of supplementary statement, with some very enlightening exhibits, showing by figures and graphs the actual condition in the copper industry to-day. And if I may I would like to have permission to file that with the committee.

The CHAIRMAN. It will be made a part of your statement.

Mr. PETERMANN. As I stated, I represent these various companies. The group does not include, however, one company which is also with us in this proposition of trying to procure a tariff or tax on copper, and I would like at this time to read into the record a short telegram dated April 14, addressed to Louis S. Cates. The telegram is as follows:

As President of the United Verde Copper Co. I believe that the best interests of our company, whose active properties are solely in this country, will be better served by a tariff on copper importations than by any other method of reviving this important industry which is now so nearly to the verge of total coollapse. You are at liberty to use this telegram in any way that you may feel will aid favorable action.

CHARLES W. CLARK.

The group of companies which I represent does not include, however, certain other companies which produce copper in the United States but whose greater interests by far lie in foreign production. These companies up to this time have not taken any active part in this campaign, but I may say that so far as I know there has been no opposition, at least open opposition, to this program on the part of any American copper producer.

In a much broader sense and truer sense, however, I am trying to speak to-day for the people who are dependent upon this industry. I am trying to speak for the thousands of American workmen who are to-day facing unemployment, their wives and their children facing distress and want and in some cases actual starvation on account of the condition of this particular industry.

Copper has been mined in the United States for something like 80 years, and during that long time there have grown up around it prosperous, populous communities filled with happy, contented people, people who are entirely dependent upon the copper industry. These communities are not, as you might suppose, fly-by-night mining camps, but they are permanent cities and villages in which living conditions are just as good and business opportunities are just as good as in any city in the United States. The weakness lies in the fact that they depend upon the copper industry for their means of living.

I have not time in this short space to detail conditions in those communities at the present time. They are deplorable. Because of the fact that copper has been selling below cost many of the mines have already shut down. Those that are operating are running on about a 20 per cent basis, and most of those are getting ready to shut down. During the winter some of the companies have managed to drag through. By staggering employment they have given employment to a large number of men and permitted them to live. There have been local relief associations contributing to the support of these people.

But, gentlemen, they can not go on. They have reached the end of their resources. The end is right now. And unless something is done the mines, most of them, will be closed in another six months, and these people will be subjects of relief either on the part of the Federal Government or the State governments.

I wish I could give you an idea of how they feel about this. They know that if their homes and their lives were threatened by flood or fire or some similar disaster the United States Government would not hesitate one minute to rush to their assistance, even though it

cost millions of dollars, to prevent the disaster. They are facing a disaster just as real to them as fire or flood. It means their homes and their lives. It means the difference between happiness and want. And they know that this is a permanent condition unless something is done. The only prospect they have, if this Congress does not act, is to abandon their homes and start out and trek for food, and that is an appalling prospect, gentlemen. We are not looking for charity, we are not asking for a dole, we are merely asking for a chance to continue to work.

I want to say at the outset very frankly to you that our primary interest in this legislation is to try to procure enactment of this amendment in order to help to preserve the copper industry—keep these people alive. I realize we are dealing with a bill designed to provide revenue. We believe this amendment is entirely germane to that bill for a number of reasons. In the first place, that bill is part of a great program undertaken by this Congress for the purpose of restoring public confidence and speeding the pick-up of business, and above all solving the unemployment problem. Unemployment is a pressing problem. I know it is nation wide. And I know it is going to be difficult to isolate some particular cause and apply the remedy. But to-day we are placing before your committee concrete cases of unemployment in which, if you desired it, we could give you an actual roster, giving the names and addresses of thousands and thousands of men whose employment depends upon your action to-day, or when the bill is under consideration.

In the second place this amendment will provide revenue. Will provide direct revenue. I will speak of that a little later on after I have given you some of the figures on which we base that statement. It will provide indirect revenue, because these communities I have spoken of are entirely dependent upon State and local taxation of the mining companies, and they have provided in the past millions of dollars for the support of their States and their localities. You will also remember that in the past these copper companies have paid millions of dollars in income taxes which have dried up absolutely now, and will never come back unless something is done to help out the industry.

In order to understand our situation I would like to and I must give you a little general information. I am not going to go into detail. In the first place I want to call to your attention the fact that this case of copper has been investigated by the Tariff Commission under instructions of the Senate, and the Tariff Commission has filed a report which is available, of course, and many of the things which I bring to you come directly from that report.

One thing in connection with that Tariff Commission report. It was limited to three years; 1928, 1929, and 1930. And the Tariff Commission found that 1928 seemed to be the most representative of the three years. It therefore picked 1928 as the year upon which to base its figures. And the figures it shows are the figures of 1928. That is important, gentlemen, because our entire plea for action at this time is based upon the fact that there has come a certain radical change in the copper industry since 1928. And the figures on which we base our request for this tax are the figures of 1928 brought up to date.

Copper is sold on a per pound basis. The average price over a long period of years has been 15 cents a pound. To-day it is selling for 6 cents or under.

The copper industry in the past has produced a great amount of wealth. I just want to show you where some of that wealth has gone. Fifty per cent of it in the United States goes to labor. Thirty-nine per cent of it goes to supplies and equipment, practically all of which is bought within the United States, and I might say practically all of which is protected by a protective tariff.

In 1928 and 1929—all the details are in our statement—the copper industry and the communities dependent upon it directly and indirectly contributed something like between $50,000,000 and $60,000,000 to the carriers of the United States in railroad revenue. That, of course, is a thing also that will be gone if this industry is permitted to disintegrate.

This industry is on the way to destruction. In fact, it has already commenced. I have said that a great many of the mines are already closed down and that others are about to close. This is due entirely and directly to new foreign competition which has come into the picture since 1928. For that reason the statistics of the industry of the past will not give you much of a guide as to what we have got to do in the future. We are facing an entirely new condition and one which we must deal with now as an absolutely new problem.

I said that our entire case was based on the fact that there has been a terrific change in the industry, and I want to by just a few figures bring that change to your attention.

In 1916 the United States produced 964,000 tons of copper. The foreign production was 535,000 tons. These are short tons and round figures. In other words, we produced 64½ per cent of the production of the entire world.

In 1925 we had dropped to 54 per cent. In 1930 we had dropped to 40 per cent. And to-day the present rate, based on the last few months, the United States is producing 33⅓ per cent of the world's production of copper, and the foreign mines are producing 66⅔ per cent.

From 1916 to 1929 the American industry only increased 4 per cent in its production. All the rest of the foreign mines increased 106 per cent, but Canada, Africa and South America, which are our real competitive countries, increased 211 per cent. This is due to the fact that there have been discovered and equipped and are now operating immense new high grade deposits in Canada, Africa, and South America, which have just come into the picture in the last two or three years.

Just a word about our imports and exports. Previous to 1929 in rough round figures the United States exported in excess of imports something like 200,000 tons of copper annually. That is 400,000,000 pounds.

Senator CONNALLY. Is that refined copper?

Mr. PETERMANN. No; copper of all kinds.

Senator CONNALLY. Does that include ore from Mexico?

Mr. PETERMANN. That includes copper in any form.

Senator GORE. Just the metal content?

Mr. PETERMANN. That is the metal content, yes.

Senator CONNALLY. That is what I was getting at. The metal content.

Mr. PETERMANN. On account of the time I will not read the figures I have in front of me, but I will give you the situation to-day. Based upon the latest available quarter to-day we are not only not net exporters, but the total imports of copper in the United States are running at the rate of 856,000,000 pounds a year, and we are net importers to the extent of 542,000,000 pounds. This is shown in a startling way by the manner in which copper has been rolling in from Canada. Senator Reed, I think, a week or so ago put into the record some figures which showed that. In the last three or four months of the year the imports to the United States from Canada increased at an amazing speed from 2,000 tons in September to over 15,000 tons in December. The world copper is simply pouring into the United States. There is nothing to stop it. And copper is coming in which is cheaper than we can possibly produce, piling on our shores.

Senator GORE. From where principally now?

Mr. PETERMANN. Canada and South America.

Senator GORE. The African copper is not coming in yet?

Mr. PETERMANN. The African copper, Senator, is competing with us in this way, that at the moment it is taking the European market and forcing South America and Canada into the United States. I might just as well deal with that subject right now.

It has been said that we are not in competition with African copper. The copper business covers a world market. Every pound of copper produced in the world, I don't care where it is, is in direct competition with every other pound, and it does not make any difference whether a pound of copper from Africa comes directly to the United States or whether it absorbs some of the European demand and shoots a pound of copper from Canada or South America in here to take its place. In either event the 2 pounds of copper are just as much in competition as though they lay right on the trade counters in New York or Chicago or Detroit or St. Louis or any other center. There can not be any question about that.

Senator CONNALLY. Well, what good will a tariff do you then?

Mr. PETERMANN. A tariff will do this. A tax or tariff, or whatever you want to call it. We are trying to keep out of the United States at least a portion of the world product.

Senator CONNALLY. I am in sympathy with you, but your argument would rather seem to be against your view. If it would not make any difference where the copper was, that it still competed, I do not see that it would make any difference.

Mr. PETERMANN. I am talking now about the condition without any tax.

Senator CONNALLY. Oh, well, of course that is true.

Mr. PETERMANN. It has been said that right now and in the past there has been no competition with copper from Africa.

Senator CONNALLY. That is true. I withdraw my question. I do not want to interrupt you.

Mr. PETERMANN. We just did not understand each other. How much time have I left, Mr. Chairman?

The CHAIRMAN. You have 23 minutes.

Mr. PETERMANN. I must say one word about exportable surplus, because that always comes into a picture of this kind. The United

States for a great many years has had an exportable surplus of copper. If you define that by the difference between your productive capacity or your production and your consumption, the United States has to-day an exportable surplus. But such an exportable surplus can not continue to exist for any length of time unless you have a market for it abroad.

Senator ASHURST. Mr. Petermann, I appreciate your able address, and Mr. Smith, of Arizona, who is himself an expert, will yield to you his time. No one could make a better or more concrete statement than you are making, so you need not feel limited as to time, because Mr. Smith will yield you his time.

Mr. PETERMANN. I do not know whether I ought to take it or not.

Senator ASHURST. But I do ask that Representative Douglas have a few minutes to conclude.

Mr. PETERMANN. Thank you. For years foreign production of copper was not sufficient to meet foreign demands. Not until the last two or three years, until this terrific foreign production came in, was there enough foreign-produced copper to meet foreign demand, and therefore we supplied that market. But now the foreign production has caught up to and passed foreign consumption to such an extent that our exportable surplus has dwindled away, and to-day it has finally and definitely disappeared. The exportable surplus appears in the foreign field, and it is so large that it completely overwhelms the American excess productive capacity, and makes it entirely improbable that we will ever produce again beyond our domestic demand.

Senator GORE. Is production cost in Africa lower than in South America?

Mr. PETERMANN. It depends. Senator, there are a number of mines in South America and a number of mines in Africa. Some in South America can produce cheaper than in Africa. Some in Africa can produce cheaper than some in South America.

Senator GORE. Can you file with your statement a schedule showing the production of these countries?

Mr. PETERMANN. Yes. We will cover this completely in this large statement which we are filing with the committee.

Senator GORE. Showing the resources and also the production?

Mr. PETERMANN. It is in very great detail. We are filing enough copies, Mr. Chairman, so that each member can have a copy, because there are graphs and tables which could not very well be put in.

The CHAIRMAN. I was wondering whether it would not be better if you had a complete statement there to put in, because you have only 8 minutes now, if you are going to take the 30 minutes, and leave 15 minutes to the other witness. We will refer to all of this in making the bill. I only wanted to say that you have 8 minutes now, and whatever you want to do, why proceed.

Mr. PETERMANN. All right, sir.

Senator CONNALLY. Mr. Chairman, may I ask a question? In your statement you are going to file have you got any data on the world consumption, as to whether it is rising or declining?

Mr. PETERMANN. Yes, sir.

Senator CONNALLY. Is it rising or declining?

Mr. PETERMANN. Right now of course it is falling.

Senator CONNALLY. I was wondering if on account of electrification and all that whether it had reached its peak?

Mr. PETERMANN. It had reached its peak in about 1929.

Senator CONNALLY. And therefore the world demand for it is not quite as great as it was?

Mr. PETERMANN. Yes.

Senator CONNALLY. You show that in your statement?

Mr. PETERMANN. Yes, completely.

Senator REED. Can you give us some figures about cost? International Nickel, for instance?

Mr. PETERMANN. Well, Senator, if I were going to go into costs—I can just throw them out to you without any explanation at all, if that will do. But before that I want to make it clear that you understand that to-day there are 1,000,000,000 pounds of foreign-produced copper above the foreign demand even at the peak. I mean the capacity to produce 1,000,000,000 pounds of copper. The latest copper that has come in has been produced and can be produced at about 6 cents a pound. Now, the range in the United States, according to the Tariff Commission, runs from 9 to 17 cents a pound.

Senator REED. Oh, no. Utah can make it cheaper than that.

Mr. PETERMANN. Well, it depends on if you take Utah's over-all costs. I am quoting the Tariff Commission now, Senator. I take that right out of their report.

Senator REED. When you say that we are net importers to the extent of 500,000 tons—I think that was the figure you gave—this committee is all used to tariff questions—it is apparent then that the foreign pressure is against this country.

Mr. PETERMANN. Yes, sir.

Senator REED. That there is a flood of copper pouring in here.

Mr. PETERMANN. Yes, sir.

Senator REED. Now, to me that establishes a prima facie case for a tariff.

Mr. PETERMANN. Yes, sir.

Senator REED. But what I am wondering is how much tariff is necessary.

Mr. PETERMANN. Well, I am coming to that in just a second.

Senator REED. If you are coming to that, I will not ask you any further questions.

Mr. PETERMANN. I just wanted to leave that with you, and that is the important fact, that there are a billion pounds of cheap foreign copper pressing on the shores of the United States and will be pressing against any tax you may put on there.

The CHAIRMAN. Tell the committee just why you think it ought to be 5 cents. Others say it ought to be 2 cents or 3 cents or 5 cents. Tell the committee why you want 5 cents.

Mr. PETERMANN. All right. The costs that are shown by these mines, the present-day cost, I mean the production that is coming in now, runs from 5 cents to 7 cents a pound.

Senator REED. And what is the freight?

Mr. PETERMANN. The freight is included in that. That is the cost including transportation to the United States.

Senator GORE. Was what? I did not catch it.

Mr. PETERMANN. Its transportation to the United States included.

Senator GORE. Yes. I thought you stated the price.

Mr. PETERMANN. Yes; from 5 cents to 7 cents, just roughly. If I had sufficient time, I would like to give you these figures. Inter-

national Nickel, Senator, produces copper from an ore which is valuable principally on account of the nickel content in it. They hold a monopoly on the nickel of the world. They must produce nickel. And they produce enough to fill that market, and when they do it they produce as a by-product a certain amount of copper which they can sell, if they wish, at any price they care to. And that copper is right next door to us.

The Noranda Mine in Canada has precious metal content which makes their product profitable to them even if they ignore the copper content.

Those two mines produce something like 350,000,000 pounds a year, and they are right on our borders, and their freight rates to our consuming centers are less than the freight rates of the American producers.

Now the reason why we ask for 5 cents is this. Various comparisons have been made between these foreign costs and our domestic costs. Averages in every way. And we finally took the difference, the adjusted present modern difference between the average cost of production abroad and the average cost of production in the United States. It works out, as shown in our statement, to about 5¼ cents. And we have asked for 5 cents. Now we think that that rate will protect a large part of the American industry. That is, it will give enough of the industry a chance to live to keep it going. Of course some of the very highest producers will pass out of the picture at that, but a substantial part of the industry will continue to exist. At the same time there is no question with this billion pounds of foreign copper pressing against the United States, with a cost of 5 or 6 cents a pound, that if copper in the United States ever reaches 8 or 9 cents some of that foreign flood is going to come over the wall. And it is going to come over and pay this 5-cent tax. And that is why we say that this bill is going to produce direct revenue.

Is my time up?

The CHAIRMAN. Your time is up. You can take five minutes.

Senator HULL. Mr. Chairman, I wanted to ask a question. There is a world agreement now, is there not, among most of the copper industry to curtail production to about 20 per cent of capacity?

Mr. PETERMANN. So I understand, Senator. I do not know anything about it myself. I am just—if I may say it—I am from northern Michigan. I have not been in on any of that at all.

Senator HULL. I got that out of the trade papers that they have that sort of an agreement. I am in sympathy with the oil situation and the cotton situation and the copper situation and the wheat situation and all these primary commodity situations, all of which are on their backs, and of unemployment. Of course, if our country should carry out that sort of an agreement we would not run over one-fifth of the time for the present, would we?

Mr. PETERMANN. No, sir.

Senator HULL. The copper industry, I notice, since 1922 has a favorable balance of exports over imports of nearly two and one-half billion of dollars. That would be about right, I guess?

Mr. PETERMANN. I do not know that figure. The fact, however, is, as I said a moment ago, that this terrific change which has come in in the last three years has entirely upset any value about past statistics. We are in an entirely new condition now.

Senator HULL. You are somewhat in the condition of the wheat grower and the oil man and the cotton man, are you not?

Mr. PETERMANN. I do not know what condition they are in, but if they are in the same condition that we are in they are in pretty bad shape.

Senator HULL. There is no question about that. And that is why I am so deeply concerned, not about one alone, but about all of them. Some of these are covered by high tariffs and some have none at all, and yet they are all experiencing the same fate apparently.

The CHAIRMAN. All right, go on. You have two more minutes if you want them.

Senator COUZENS. What is the cost of production in the upper peninsula of Michigan, may I ask you?

Mr. PETERMANN. That again is another question, Senator. There are a number of mines up there. Some of them can produce some copper at about 9 cents a pound. Some run about 14 cents. I would say the average was about 11 cents a pound.

Senator COUZENS. Well this would not help that very much up there, would it?

Mr. PETERMANN. It would not help all of it. It would permit a part of the industry to go on up there and help to support that population. And that is why I am so terrifically interested in this, because that is where I live.

Senator COUZENS. So in your opinion some of these mines will have to go out of existence in any event?

Mr. PETERMANN. I think there is no question about that, Senator. At least until such time that there comes back to the world such a tremendous demand for copper that these immense big foreign deposits plus the American mines then operating can not meet it. Then some of the older mines may open up again.

Senator GORE. Can you file a statement showing what American concerns, if any—of course some of them do own copper mines in Mexico and South America—could you file a schedule showing that ownership, and also show the ownership of any other mines in foreign countries that American concerns own?

Mr. PETERMANN. Yes, sir; I would be very glad to do that.

American ownership or control of foreign mines

Company	Country	Mine	Approximate annual productive capacity	Extent of interest
			Pounds	
Anaconda Copper Co.	Chile	Chile Copper Co.	368,000,000	Practically complete ownership.
Do	do	Andes Copper Co.	178,000,000	Do.
Do	Mexico	Greene Cananea Copper Co.	100,000,000	Do.
Kennecott Copper Corporation.	Chile	Braden	230,000,000	Complete ownership.
Cerro de Pasco Copper Corporation.	Peru	Cerro de Pasco	100,000,000	Do.
American Metal Co.	Cuba	Matahambre	45,000,000	Control.
Do	Rhodesia	Mufulira	80,000,000	Control through Rhodesian Selection Trust.
Do	do	Roan Antelope	150,000,000	Virtual control.
Do	do	Rhokana	300,000,000	Substantial interest.
Phelps Dodge Corporation.	Mexico	Moctezuma	40,000,000	Complete ownership.

Senator BARKLEY. Can you tell what proportion of the world's supply of copper is located in the United States? Do you know?

Mr. PETERMANN. I do not know. I can say this, that if the mines of the United States are operated in a normal way the reserves are ample to take care of the American needs for more years than we can think of. On the other hand, the reserves abroad are so large that they have just quit counting them up. They have quit diamond drilling their reserves because there is no use going any further. As to the proportion of them, it would be almost impossible to say.

The CHAIRMAN. Mr. Petermann, your time is up.

Mr. PETERMANN. I want to thank you gentlemen. I meant to try to get to an explanation of this little amendment. I would like to say this: Our purpose in this amendment has been to put the 5-cent tax on copper in its refined form and to follow it through and carry out necessary compensatory duties so as to leave everything else in exactly the same position as it was before we put the tax on.

(Mr. Petermann filed with the committee a supplementary statement and exhibits entitled "An Import Tax on Copper," which is as follows:)

SUPPLEMENTARY STATEMENT

Submitted on behalf of the following-named American copper producers in connection with the testimony in favor of such amendment given in open hearing by witness A. E. Petermann appearing in their behalf: Calumet & Hecla Consolidated Copper Co., Consolidated Coppermines Corporation, Copper Range Co., Ducktown Chemical & Iron Co., Miami Copper Co., Mohawk Mining Co., North Butte Mining Co., North Carolina Exploration Co., Old Dominion Co., Phelps Dodge Corporation, Quincy Mining Co., Seneca Copper Co., Shattuck-Denn Mining Co., Tennessee Copper Co.

I. THE PROPOSED AMENDMENT

The proposed amendment reads as follows:

"On page 247, after line 20, insert as a new subsection the following:

"'(5) On the copper content of imported copper-bearing ores and concentrates, and of imported materials and articles mentioned in paragraph 316, 380, 381, 387, 1620, 1634, 1657, 1658, or 1659, of the tariff act of 1930, 5 cents per pound: *Provided*, That such tax shall not be assessed on copper in any of the foregoing ores, concentrates, or materials which is lost in metallurgical processes, nor on a total annual maximum of 15,000 tons of copper contained in such ores, concentrates, or materials used for fluxing purposes only; on all imported articles and parts of articles, finished or unfinished, dutiable under the tariff act of 1930, not provided for in paragraph 316, 380, 381, or 387, in which copper, including copper in alloys, is the component material of chief value, 5 cents per pound on otal weight; and on all imported articles or parts of articles, finished or unfinished, dutiable under the tariff act of 1930, not provided for in paragraph 316, 380, 381, or 387, not in chief value of copper but containing 4 per cent or more of copper by weight, 3½ per cent ad valorem. The tax on the materials and articles described in this paragraph shall be levied, collected, and paid on such materials and articles only when imported into the United States."

"And on page 246, line 8, after (c) (4), insert the words 'or subsection (c) (5).'"

II. REPORT OF TARIFF COMMISSION

Senate Resolution No. 434 (71st Cong.), dated February 5, 1931, reads as follows:

"*Resolved*, That the United States Tariff Commission is hereby directed under section 332 of the tariff act of 1930 to investigate the differences in cost of production during the calendar years of 1928, 1929, and 1930 between foreign articles and domestic articles included in paragraph 1658 (copper) of said act, and to report thereon to the Senate as soon as practicable."

Pursuant to said resolution the Tariff Commission carried out its investigation and published a comprehensive report thereon under date of November 30, 1931. The facts set out in said report are freely used herein.

III. EXHIBITS

For convenience in presenting statistical information with reference to the copper industry, there have been prepared and attached hereto certain printed exhibits, Nos. 1 to 19, which will be referred to hereinafter.

IV. PARTIES INTERESTED

The copper companies hereinbefore named and who are active proponents of this legislation are all American companies with their operations and interests within the United States. They produce a substantial portion of our domestic copper. The group, however, does not include certain other American companies, financed largely by American capital which produce copper in the United States but whose greater interest lies in foreign production.

Open opposition to this legislation has been expressed by only two companies, the American Metal Co. (Ltd.) and the Cerro de Pasco Copper Corporation, both purely foreign producers having no American mines. These companies and the type of opposition raised by them will be discussed hereafter.

In a broader sense this statement is filed on behalf of many thousands of wage earners in the American copper industry who are now unemployed or facing unemployment; their wives and children who are facing poverty and distrress; whole communities, villages and cities which are entirely dependent upon this industry and are facing extinction, and indeed one of the States of the Union, Arizona, which is literally facing bankruptcy, all because of the rapid demoralization of this one industry.

Copper mining has occupied a position of great importance in our industrial history for over 80 years. During this long period there have grown up with the industry prosperous mining communities, villages and cities, whose population is directly dependent upon the mining operations and whose income is derived almost entirely from the taxation of mining and allied property. These are not fly-by-night mining camps, but are solid, substantial, up-to-date American communities in which living conditions and business opportunities are on a par with those of any average American city. Their weakness lies in the fact that they are almost entirely dependent upon one industry. The continued existence and prosperity of these communities and the livelihood and employment of hundreds of thousands of American citizens depend upon the operation of the copper mines.

The financial structure of the State of Arizona is built upon and around the copper industry. This one industry, directly and indirectly pays over 50 per cent of the taxes raised in the State, and supports about one-third of the population. The collapse of copper mining in Arizona literally means bankruptcy for the Commonwealth.

The same condition exists in more restricted areas in many other parts of the United States.

It is impossible within the limits of this statement to detail the deplorable conditions now existing in these various copper mining districts. Some description of the population dependent upon the industry was given at the hearing. To-day a large portion of this population is actually facing starvation.

Due to the fact that copper has been selling much below the cost of production in the United States, many of the American mines have already been forced to close down and the balance are operating on about a 20 per cent basis. This has thrown many wage earners out of employment. During the past winter some of the mines have continued to operate on a limited scale and by staggering employment were able to furnish a bare existence to a large number of people. Those who could have shared with their neighbors through local relief organizations, but they have come to the end of their resources. They can not go on. These mines are now getting ready to close and when they do almost all of this population will become dependent upon State or Federal relief for its existence.

These people are self-respecting, honest, hard-working American citizens. They are not here asking for a dole. They do not want charity. They want a chance to earn their own living. They believe in this Government. They know that their Government would not hesitate an instant to rush to their assistance and to spend millions of dollars if necessary to prevent the destruction of their lives and homes if they were threatened by flood or fire. They can not understand why there should be any hesitation in meeting a force just as real and just as destructive, especially when the legislative cure does not involve the expenditure of one dollar of public money. The situation, bad as it is at the present time, is aggravated by the certain knowledge that this is not a mere passing phase of the general depression. These people know that in the absence

of legislative action, this condition is permanent, and the prospect of abandoning their homes and treking for food is appalling, the people are frantic, panic-stricken, desperate. To them it is just beyond understanding that this Congress, with the power to alleviate this situation, should hesitate an instant in applying the remedy. That this relief may be withheld because of political expediency, or a difference of opinion as to tariff policies, or because of some parliamentary rule of House or Senate, to them is inconceivable.

V. PROPRIETY OF THIS AMENDMENT TO THE REVENUE ACT

We want to be perfectly frank at the very outset and say that our primary interest in this subject lies in the wish to procure speedy enactment of legislation which is necessary to preserve the American copper industry from destruction. The facts which we will present and the arguments which we may use are directed largely toward that objective.

We realize that we are dealing with a bill designed to raise revenue, but we feel that the amendment proposed is entirely germane for several reasons; first, this bill is in many respects an emergency measure designed to meet unusual conditions; it is part of the broad constructive program undertaken by this Congress intended to restore public confidence, to hasten the pick-up of industry, and to solve the present unemployment problem. Unemployment in the United States is the most pressing problem before the Congress to-day. It is quite understandable that because of the nation-wide extent of this condition, it is most difficult to isolate the basic causes and apply a universal remedy. But we present to-day a concrete case, so actual, so real, that if required, an exact roster giving names and addresses of the thousands of men whose employment or unemployment depends upon the action on this amendment, could be attached hereto.

In the second place this amendment to the revenue bill is germane because it will produce revenue, both directly and indirectly. We do not undertake to place an exact figure on the amount of the revenue which will flow from this legislation. In the present chaotic condition of the copper industry no one could possibly do that with accuracy, but hereinafter, after presenting the statistical information upon which our reasons are based, we do point out why this direct revenue must result and present a reasonable estimate of the amount to be anticipated.

The proposed import tax of 5 cents a pound can not possibly act as an embargo on foreign copper. Foreign cost figures which will be given to you will demonstrate that fact. A prohibitive tax calculated to absolutely bar foreign copper would probably have to be fixed at 9 cents a pound or more. It will be readily seen from the figures to be presented that a 5-cent tax, while affording a sufficient measure of relief to permit the bulk of the American industry to carry on, will nevertheless result in the displacement of our highest cost production by a portion of the tremendous excess of foreign production which is now pressing into our market. A 5-cent tax on this foreign copper should yield substantial revenue.

Aside from this source of revenue, however, attention is directed to the indirect revenue which for many years the copper industry has contributed to the United States, the various States and to their political subdivisions, and which will disappear entirely if the industry is not preserved. The flow of income taxes from American copper companies which in former years amounted to millions of dollars annually will permanently cease; the many millions of dollars contributed by way of local taxation for the support of the various States and their political subdivisions will no longer be forthcoming. This tax-income is absolutely vital to those communities—without it they face actual bankruptcy.

Every pound of copper produced in the United States accounts for more than 5 cents a pound in revenue by way of direct taxes, increased collateral business, and the employment, health, and happiness of those who produce it. There is no reason why every pound of copper produced outside of the United States under conditions beyond our competition should not make an equal contribution when it crosses our borders. And so in any event, viewed from either angle, this legislation must produce revenue.

It can not be overemphasized that the present condition of the American copper industry exhibits an emergency which must be met at once in order to avert disaster. The solution of this problem can not await another session of Congress without causing irreparable loss, a large increase in unemployment and widespread distress.

VI. GENERAL INFORMATION

It is realized that in order to justify this plea for immediate action we must not only show the emergency, but must also offer proof that the remedy proposed will be effective. For this purpose there is presented in as compact a form as possible certain facts about the American copper industry and its present status.

Location.—Copper is produced in many of the States of the Union. Arizona is the largest producer with about half of the total output, followed in order by Utah, Montana, Michigan, and some 10 or 12 other States.

Exhibit No. 1 is an outline map of the United States indicating the location of the copper mines, smelters and refineries and the approximate annual mine production from each State.

Arizona is the chief copper-producing State, supplying in 1929 about 40 per cent of the total domestic production. It is followed in order of importance by Utah, Montana, Michigan, Nevada, New Mexico, California, Tennessee, Colorado, and North Carolina. The States of Washington, Oregon, Idaho, Texas, and Pennsylvania, also produce some copper. In the case of Arizona, copper is the backbone of the entire State. It is of vital importance to Utah, Montana, Michigan, Nevada, New Mexico, and Tennessee. It is a helpful asset to the other copper-producing States.

There are five main centers of electrolytic refining; namely, at Tacoma, Wash.; Great Falls, Mont.; El Paso, Tex.; Baltimore, Md.; and the vicinity of New York Harbor. The plants at the seaports of Tacoma, Baltimore, and New York treat materials from foreign countries as well as from domestic sources. In the past, our greatest importations of copper have been in the form of blister copper, the domestic refineries having enjoyed the business of refining this copper. That the building of refineries abroad is rapidly changing this situation will be explained later.

Labor.—An analysis of the cost data supplied by the Tariff Commission shows that in the United States one-half of the total operating costs of mining, concentrating, and smelting copper are for labor. By means of adjustable wage scales and bonus systems, the American copper miner has been enabled to share to a marked degree in the past prosperity of the industry. The remuneration to the American miner has been on a high scale, permitting full participation in our superior standard of living, and insuring that high degree of independence and respect to which he is entitled.

The industry has spared no effort in providing for the maximum of safety and the highest type of working conditions.

In estimating the relative weight to be given to the factor of labor in production costs, we fall far short of a true appraisal if we confine ourselves to direct labor and ignore collateral labor. For example, large tonnages of coal and large amounts of lumber are used by the copper mining companies in their operations. These items carry no labor cost with them on the copper company's cost sheet; they appear as items of supplies purchased. The costs of this coal and lumber, however, represent in large part labor costs; they include the wage of the coal miner, the lumberman, the railroad worker, and numerous others.

Supplies and equipment.—The industry in the United States is a large consumer of a variety of miscellaneous products such as oil, coal, iron, steel, lead, zinc, brass, cement, explosives, lumber, timber, steam and electrical machinery. Approximately 39 per cent of the operating cost is taken up by expenditures for supplies and equipment and it is to be noted that most of these items are highly protected by import duties.

Railroad revenues.—Exhibit No. 19 presents certain railroad statistics to indicate the importance of the copper industry to the railroads in the United States. It will be noted that the estimated gross revenues of all United States railroads, attributable to the copper industry during 1928 and 1929, were close to $60,000,000 per year. This is the stake that American railroads have in the American copper industry.

Taxes.—Exact figures representing the actual amount of taxes paid by the copper mining industry in the United States are not available. These taxes occur in various forms, such as direct State and local ad valorem taxes, privilege fees, licenses, and income taxes.

Two examples will perhaps suffice to illustrate the general tax burden. The Michigan district lies in four counties in which the mining properties pay approximately 50 per cent of all of the taxes. In some of the local communities mining property pays over 90 per cent of all of the taxes. The entire taxable values in the four counties depend upon the operation of the mines.

Even under the present depressed conditions, these counties are on the State tax rolls for about $70,000,000. While the State as a whole could undoubtedly absorb without much difficulty the loss of this taxable value, such loss to the four counties mentioned unquestionably means financial chaos, closing of the schools, and abandonment of all public welfare work. In this connection reference is made to a letter from the Michigan State Tax Commission on this subject appearing in the record of the Senate under date of April 6, 1932, a copy of which is attached hereto as Appendix 1.

The tax situation in Arizona was described at the hearing. This Commonwealth, depending as it does upon the copper industry for over half of its tax revenue, presents an unique problem in that the closing down of one industry will inevitably be followed by the financial collapse of the State.

Raw material.—Copper is sometimes referred to as a "raw material," but this term can be applied to copper metal only in a relative sense. The real "raw material" is the ore from which it comes. The copper metal is derived only after laborious efforts of mining the ore, in many cases thousands of feet below the earth's surface, after which it must pass through many stages of treatment before it is reduced to a usable form.

There is filed herewith as Appendix No. 2 a statement giving a description of the various materials and forms in which copper appears in the course of its progress from ore in place to the finished product, refined copper.

Refined copper is cast in various shapes for the market and is sold on a per pound basis.

Prices.—For the 31-year period, 1900 to 1930, inclusive, the average selling price of copper was approximately 15.9 cents per pound. Even excluding the war period the average was 14.8 cents. In 1931 the price at times was as low as 6.02 cents per pound and averaged a trifle over 8 cents per pound. The recent price has been in the neighborhood of 6 cents per pound.

Smelting and refining.—A majority of the larger mining companies have their own smelters, but only a few have their own refineries. Those which do not own smelting and refining facilities arrange to smelt and refine their product through so-called customs smelters and refiners.

The custom smelter and refiner carries on his business in one of two ways. He either buys copper in the form of ore, concentrates, or blister copper, selling it again in the form of refined copper, or else he treats the material at a certain charge per ton and delivers the refined product back to the owner.

There are three major companies in the United States which are known as customs smelters and refiners of copper. These are the American Smelting & Refining Co., the American Metal Co., and the Nichols Copper Co.

The first, commonly known as the A. S. & R., has smelters at Garfield, Utah; Hayden, Ariz.; El Paso, Tex.; Maurer, N. J.; and Tacoma, Wash. The plants at Maurer, N. J., and Tacoma, Wash., include refineries. A. S. & R. also has a large refinery at Baltimore.

In addition to treating copper for such domestic mines as Utah Copper Co., Nevada Consolidated, Ray Consolidated, Chino Consolidated Copper Mines, and the Alaskan mines of the Kennecott Copper Co., the A. S. & R. plants treat some copper from Mexico, Canada, and South America. Approximately 20 per cent of the copper treated in 1928 by the A. S. & R. was of foreign extraction.

The American Metal Co. has a copper smelting and refining plant at Carteret, N. J. This company treats the copper from the United Verde Mine, of Arizona, the Cerro de Pasco Mine, in Peru, and the Matahambre Mine, in Cuba. It also does a considerable scrap-copper business. The normal production of United Verde is a little more than the combined production of the two foreign mines concerned. At the present time, however, United Verde, the largest single producer in Arizona, is shut down. Therefore, with the exception of domestic scrap, the American Metal Co.'s plant is now confined to the treatment of foreign copper.

Prior to 1930 the American Metal Co. treated the blister copper from the International Nickel Co. of Canada. In 1930, however, the new refinery at Copper Cliff, Ontario, was completed and the International Nickel Co.'s copper is now treated there. The American Metal Co. owns a 42 per cent interest in the Ontario refinery.

The Nichols Copper Co. is a subsidiary of the Phelps Dodge Corporation. It has a refinery at El Paso, Tex., and one at Laurel Hill, Long Island. The latter plant also has smelting facilities. In addition to its domestic plants, Nichols Copper Co. has a substantial interest in the Canadian Copper Refiners (Ltd.), at East Montreal, Quebec.

In 1928, the Laurel Hill plant of Nichols Copper treated the copper from several large domestic mines and also treated some copper from Canada, from the Katanga mine of Belgian Congo, and from South America. The construction of refineries in Belgium and Canada has eliminated all foreign business except the treatment of a small tonnage from South America.

From the foregoing it is seen that in 1928 the American customs smelters and refineries had a lucrative business in the treatment of foreign copper, much of which has since been lost. The loss of foreign business has been due to the recent construction of modern smelters and refineries abroad. Belgium has expanded its refining facilities to meet the requirements of Katanga. Canada has completed one large smelter and two refineries. Germany has a new refinery. Sweden and Russia now have new refining plants under construction.

The Tariff Commission says of this trend (p. 62):

"The construction of large smelting and refining plants in Canada and Belgium and the projected construction of large refining facilities in France and England are developments of the last few years.

"In Canada plants completed recently will avoid the diversion of most of the blister copper produced in that country to United States refineries; and in Belgium, France, and England, plants completed or projected will handle African copper which was formerly refined in the United States."

There has been a decided change with respect to smelting and refining. The foreign companies have taken advantage of American experience and technical skill and are no longer at a disadvantage with respect to smelting and refining.

VII. LOCATION AND GENERAL DESCRIPTION OF FOREIGN PRODUCERS

Foreign countries which produce copper are, in order of importance, Chile, Northern Rhodesia, Belgian Congo, Canada, Japan, Mexico, Spain, Russia, Peru, Germany, Serbia, Norway, Cuba, Australia, and several other countries. The copper producing industry is world-wide and complex in this respect. Although we are primarily concerned about those countries which produce a great deal and consume but little, the production in all foreign countries is indirectly in competition with our own production. For example, Germany is a net importer of copper but produces under Government subsidy a substantial portion of its requirements. This copper produced under subsidy displaces an equivalent tonnage of copper produced by some net exporting country, like Canada. This displacement directly increases the competition which the United States mines must meet.

However, we speak of the principal competing countries as being Africa, Chile, and Canada, because these countries produce a great deal more than they consume. Africa and Chile, the largest foreign producers, export practically their entire output. Canada is a large exporter of copper and its source of supply is nearer the main consuming centers of the United States than our own sources. Hence, Canada might be considered as our chief competitor. However, ocean freight rates are low and it costs no more to ship from Africa to the United States than to any other consuming area, such as Europe. Copper from Chile and Peru likewise finds its market either in the United States or in Europe with little difference in freight rates. The amount and cost of production delivered at seaports are the only important factors of competition. Proximity is of minor importance. For practical purposes, therefore, we may consider Africa, South America, and Canada as our principal competitors.

South America.—Practically all of the South American copper production is controlled by American companies. The Anaconda Copper Co. produces more copper in Chile through the Chile Copper Co. and the Andes Copper Co. than at its own mines in this country. The Chile Copper Co. is the largest producer of the South American mines and is one of the greatest mines of the world. Its ore is smelted and refined in Chile and the refined product marketed either in the United States or Europe. The Andes mine started production in 1927 and in 1929 produced 81,000 tons, an amount larger than the production of any single mine in Arizona. Part of the Andes production is refined at the Anaconda refinery at Perth Amboy, N. J.

The Braden mine in Chile is owned by the Kennecott Copper Corporation and is the second largest producer in South America. Braden copper is refined in Chile by fire method and is marketed in Europe.

Cerro de Pasco Mining Co. is an American company operating in Peru. Its ore is rich in silver as well as in copper. Cerro de Pasco produces around 50,000 tons of copper per year, or about as much as the Inspiration Mine, one of the

important mines of Arizona. Its copper is refined by the American Metal Co. at Carteret, N. J.

Canada.—It is only in the last few years that Canada has become an important producer of copper. The development of Noranda in Quebec, Hudson Bay and Sherrit-Gordon in Manitoba, and the Frood Mine of the International Nickel Co. in Ontario, has permitted Canada to more than double its productive capacity during the past three years.

The most formidable of the Canadian mines are Noranda and the Frood. Noranda ore carries important quantities of gold, so that in parts of the ore body, at least, copper can be produced as a by-product. The discovery of the rich copper bearing nickel ore of the Frood Mine has been one of the spectacular events of recent years in the mining world. International Nickel Co. produces about 90 per cent of the world's nickel and must produce copper to supply nickel because the two metals occur concurrently. It will, therefore, produce copper regardless of the market price of that metal.

Africa.—Although the developments of recent years in South America and Canada have been spectacular, of even greater importance are the developments which have taken place and are not taking place in Africa. The ore deposits of the Belgian Congo and Northern Rhodesia exceed in combined size and grade any that the world has previously known. Their importance is such that around the development of the copper mines a huge colonization plan is being carried out. The report of the Tariff Commission states (page 25):

"The Congo industry is controlled by the Belgian Government and operated as part of a huge colonization enterprise, having to do not only with the production of copper but with that of cobalt, radium, tin, precious metals, agricultural products, and the building of lines of communication, the clearing and sanitation of the jungle, and the education and civilization of the natives."

Referring to figures of Katanga's production through 1927, the Tariff Commission says on page 80 of its report:

"These are interesting but not seriously competitive quantities and were placed on the market under conditions beyond competition; that is, the copper was one of many mineral and agricultural products of a quasi-governmental agency, made and sold in the progress of a large colonization enterprise originally instituted in 1906 by the then King of Belgium. The basic differentiation from a strictly commercial enterprise still persists."

Katanga reports that its reserves contain an average of 128 pounds of copper per ton. The Tariff Commission reports that the ore mined in the United States during 1928, 1929, and 1930 averaged 32 pounds per ton, or only one-quarter as much as the Katanga ore.

Practically the entire output of Katanga is exported. Katanga is equipped to supply one-quarter of the peak requirements of the United States.

Rhodesia.—Northern Rhodesia adjoins Belgian Congo on the south. It is a crown colony of England and, like the Congo, is being nurtured into a state of civilization comparable with any of the great countries of the world. Copper provides the nucleus for such colonization.

Although copper was dicovered in Rhodesia as early as 1902, it was not until 1923 that any really significant development was attempted. Since that time, however, tremendous ore bodies have been discovered and developed. The Tariff Commission says in its report (page 25):

"In Northern Rhodesia, copper developments which have not yet reached the full production stage give promise of duplicating or even surpassing the results in the adjoining Congo. Present estimates indicate a tonnage of reserves five times as great as in the Congo of a grade approximately 4 per cent copper. Present plans contemplate the smelting and refining of these ores within the British Empire."

The mines of Northern Rhodesia are controlled by two main corporate groups; namely, the Rhodesian Selection Trust and the Rhokana Corporation. The Rhodesian Selection Trust group includes the Mulfulira and Roan Antelope mines. The Rhokana Corporation controls a group of mines which we shall designate as the Rhokana group.

The financing of the Rhodesian mines has been carried on through a combination of British and American interests. Mr. A. Chester Beatty, chairman of Rhodesian Selection Trust (Ltd.), made a statement in October, 1931, before the New York section of the American Institute of Mining and Metallurgical Engineers that the Rhodesian Selection Trust (Ltd.), is practically controlled by the American Metal Co. The American Metal Co. also owns very large interests in Roan Antelope and Rhokana. Rhodesian Selection Trust and Rhokana are associated, since both hold interests in the Mufulira property.

VIII. DEVELOPED RESERVES AND GRADES OF ORE

Under any given set of conditions the costs of mining, concentrating, and smelting, vary according to the tonnages of raw material handled, rather than according to the valuable metallic content of the material. The cost of mining a ton of ore is practically the same whether it contains 80 pounds of copper or only 22 pounds. If, for example, we assume a mining cost of $3.20 per ton, we find that the per pound cost for the lower grade ore is 10 cents, whereas for the higher grade ore it is only 4 cents.

Exhibit No. 13 shows the ore reserves of some of the world's large copper mines as reported by the American Bureau of Metal Statistics and annual reports of the companies involved.

It indicates that while domestic reserves are large and will serve the needs of this country for a great many years to come, the foreign reserves are even greater. More important than the tonnages of ore involved, is the relative grade of those tonnages.

The Tariff Commission states on page 20 of its report that "grade of ore is the outstanding factor that affects relative costs of production."

The exhibit shows clearly the great advantage that foreign countries have in this respect. In 1928, 1929, and 1930 the grade of ore mined in the United States averaged 32 pounds of copper per ton. The average foreign ores are shown to contain 56 pounds to the ton. The Rhodesian ores carry about 80 pounds per ton; Katanga, 128 pounds per ton, or four times the copper contained in our average ore. The ore of the Frood mine, our most serious competitor, in Canada, runs about 88 pounds of copper per ton, or over two and one-half times our average.

The known reserves of the Rhodesian field by no means represent the total that will eventually be developed. All of the three large Rhodesian companies have issued statements similar to the following, taken from the annual report of Rhokana, issued December 22, 1931:

"The ore bodies have only been partially tested, but owing to the very large tonnages of ore which have been proved and indicated, continuance of diamond drilling has been considered unnecessary; no useful purpose would have been served by continuing with the drilling program."

IX. PRESENT STATUS

The American copper mining industry is threatened with disintegration and destruction. This threat is not one which may only materialize in the distant future. The destruction has already commenced. At the present time, many domestic mines have already closed down. Others are operating on a greatly curtailed basis. Those operating are doing so only at tremendous loss, because the selling price of copper is below the cost of production—and rapidly diminishing financial resources and credit clearly forecast the early suspension of operations in most of the industry.

Unemployment in the mining districts is increasing by leaps and bounds. Where mines are still operating, the men are working only two or three days a week on an income basis which scarcely meets the requirements for bare existence.

Reductions in employment and pay are being patiently borne in the hope that some relief will materialize in the near future.

While this condition is due in some measure to the present unsatisfactory state of business in general, the copper industry, unlike other lines of business, sees no possibility of recovery without definite aid. The American copper miner is looking to the Congress of the United States to extend this aid and to meet this emergency promptly. It is only this expectation that encourages him to carry on a struggle which will otherwise be hopeless.

X. FUNDAMENTAL CAUSES

The rise in foreign production.—The fundamental, underlying cause of present conditions in the American copper mining industry, is the unprecedented rise in foreign production, and the basic change which has taken place in the world copper industry in the last three years. This change was taking place and actually affecting the American industry early in 1929, and long before the general collapse of business in the fall of that year. While the distress in the industry is undoubtedly aggravated by the present economic depression, it nevertheless would have arrived and have been present at this time, regardless of general business conditions.

It is this radical change in conditions which renders much of the past statistical history of the industry absolutely useless as a guide to present action and it is this change which makes remedial legislation necessary at the present time. This change has resulted in a complete reversal of the positions of the American and foreign producers with respect to production and productive capacity. It is shown clearly by Exhibits 3, 4, and 5.

Exhibit No. 3 shows what has taken place in the United States. The table gives the actual tonnage figures (in short tons) of United States production of new copper from 1880 to 1930. The accompanying chart gives the same information in graphic form. The lower line of the chart is plotted from the figures of actual production for each year, shown on the opposite page. The upper line represents the demonstrated capacity as indicated by the line of actual production. Prior to 1880, the bulk of our production came from Michigan. The period from 1880 to 1908 was one of general development of our West. The increase in copper production during this time reflects the discovery and development of most of the Arizona and Montana mines. The large increase from 1908 to 1916 reflects the developments of the low-grade porphries and the introduction of the flotation process, together with the development of the great Kennecott mines in Alaska.

It will be noted that in 1916, the United States mines produced 963,925 tons of copper. In 1929, under stress of large demand, the production was 1,001,432 tons, an increase over 1916 of only 4 per cent. Since 1916 there have been very few major discoveries of new ore bodies in the United States or Alaska.

It is fair to assume that during the two periods of unusual demand and high prices, namely, during the war years 1916 to 1918, and in the year 1929, the American mines produced at close to their capacity. The heavy line on the graph, therefore, indicates with a fair amount of accuracy the United States productive capacity.

Exhibit No. 4 in a similar manner gives the story of foreign production, and the development of foreign productive capacity. In 1916, foreign mines produced 532,938 tons. In 1929 they produced 1,098,470 tons, an increase of 106 per cent as against the increase of 4 per cent in the United States for the same period. It should be noted, however, that the very marked increase of foreign production has occurred in the last few years.

The ability of foreign producers to bring about this great increase in this short period was due almost entirely to developments in South America, Canada, and Africa. The increase in these countries accounts for 85 per cent of the total increase in foreign production. The changed condition is shown in Exhibit 4–A. This table shows that from 1916 to 1929, the combined production of South America, Canada, and Africa, our chief competitors, increased 211 per cent, while that of the United States increased 4 per cent.

These figures do not reflect the more recent developments in Canada and Rhodesia. Referring again to the curves shown on Exhibit No. 4, the sharp rise in the capacity line starting in 1929 indicates the effect of these new developments. It is certain that this line will reach the 1,600,000 ton mark before the end of this year. Where it will eventually go is purely conjectural.

Exhibit 4–B gives in detail the data upon which the projected foreign capacity line shown in Exhibit 4 is based.

The Canadian copper developments which have made that country one of the world's leading copper producers, have taken place within the last five years. Noranda's production in 1927 was negligible, but in 1930 it produced 38,071 tons. The Frood mine started production in 1928 and its potential production is now larger than that of the entire lake region in Michigan; Hudson Bay Mining Co. and Sherrit-Gordon did not start operations until 1931.

In 1923 Canada produced 40,230 tons. In 1930 it produced 151,833 tons. The latter figure does not include any production from Sherritt-Gordon or Hudson Bay, nor does it reflect capacity production of the Frood mine. Canadian capacity may now be placed at about 227,000 tons.

Katanga is recognized to have a plant capacity of some 220,000 tons annually. For comparison, Utah Copper Co., the largest single producing mine in the United States, produced 148,313 tons in 1929, its peak year.

The plant capacity of the Rhodesian coppers is summarized as follows:

Company:	Short tons
Roan Antelope	75,000
Mufulira	40,000
Rhokana	150,000
Total	265,000

Exhibit No. 5 shows on one chart the United States productive capacity and foreign productive capacity as previously presented in Exhibits 3 and 4. This comparison shows in a startling manner the change which has taken place in the relative positions of the United States and foreign copper mines. It also indicates in a general way why the copper tariff of 1869 became unnecessary after 1894 when the United States production began to dominate the world. This condition continued until 1928 although foreign production and productive capacity was gradually overtaking that from the United States. Since 1928 the condition is reversed and foreign producers now have the dominating position.

Exhibit No. 6 is a table showing the ratio of United States production and of foreign production of new copper to world production, for the years 1909 to 1930, inclusive. The tariff commission notes the loss of dominance to United States mines, and says on page 2 of the report:

"In the last five years the domestic output averaged about 48 per cent of the world total, but in 1930 the proportion fell to 40 per cent. For the years immediately preceding the World War, 1911 to 1914, the domestic mines output averaged 590,000 short tons annually, or about 56 per cent of the world production during that period."

Conversely, the foreign production in 1930 was 60 per cent of the world total.

The dominance of the United States in the past was particularly evidenced by the experience of the year 1921. That year found a tremendous stock of copper on hand as an aftermath of the World War. In the United States alone, according to the Bureau of Mines, stocks of refined and blister copper amounted to 562,000 tons, roughly a year's supply for United States consumption at that time. This condition pointed to a demoralization of the industry, and called for drastic action. The mines of the United States curtailed sharply and in many cases ceased operations entirely. In spite of the fact that only a few of the foreign mines did likewise, the situation was corrected, and prosperity was restored to the world's copper business in an orderly way. This was possible at the time because foreign production had not yet reached a point where it could menace the position of domestic production.

In 1930 stocks of copper increased rapidly, threatening a condition similar to that which existed in 1921. Domestic producers again curtailed sharply, but foreign producers did not follow their lead.

Exhibit No. 7 illustrates this condition strikingly. This exhibit shows the daily production rate of United States and foreign mines for the years 1923 to 1931, by means of tabulated figures and a graph. By September, 1931, United States production had dropped 60 per cent from the peak production in 1929, while total foreign production had dropped only 20 per cent.

More significant still is the fact that when South America is segregated from other foreign consumption, we find that while United States production declined 60 per cent for the period and South America 40 per cent, the other foreign mines suffered no decline at all but were still producing at 100 per cent of the 1929 peak. This was undoubtedly due to the fact that while some of the older mines reduced production, there was enough new production coming in to take up the slack.

Because foreign production dropped so slightly in a period of declining consumption, stocks have risen to an unprecedented amount and the industry is in a state of demoralization such as it never has seen before.

Exhibit No. 7 shows that foreign mines are now producing over twice as much copper as domestic mines. The normal ratio of foreign consumption to domestic consumption is about one and a quarter to one. There is no reason to believe that the foreign producers will give up the position they have thus gained over domestic producers. When stocks are eventually reduced to the point where an increase of production is warranted, the increase on the part of domestic producers will have to be measured by the will of the foreign producers.

In order clearly to understand the foregoing change in production and productive capacity on the exporting and importing status of the United States, it is necessary to take in the factor of consumption.

Exhibits 8 and 9, which should be considered together, deal with both production and consumption. Exhibit No. 8 shows by means of a table and a chart the relation between United States production and consumption of new copper for the years 1909 to 1930, inclusive.

Exhibit No. 9 gives the same information about foreign production and foreign consumption.

Taken together, these exhibits show that while in the past the United States produced more copper than was needed for domestic use, there was a demand for this excess in the foreign market. These two exhibits show that prior to 1929

there would have been a dearth of copper for foreign use if it could not have been supplied by the United States. The foreign market was open to our surplus production. In 1929, in spite of conditions of high consumption which we now recognize as abnormal, foreign production was more than sufficient to supply the foreign market. Since that time, as has been shown, new mines have been developed in Canada; Katanga has shown increasing productive ability; Rhodesia has developed plants of large capacity. The chart of Exhibit No. 9 also shows that foreign productive capacity may now be placed at approximately 1,600,000 tons a year.

The largest amount of copper ever consumed in any one year outside of the United States was consumed in 1928 and amounted to a little over 1,070,000 tons. Under present world economic conditions it is a matter of pure speculation as to when foreign consumption will again reach that figure. In the meantime, until foreign consumption does again reach and surpass the 1928 peak, the excess of foreign productive capacity over foreign consumption will amount to over 500,000 tons of copper annually.

This excess foreign production must seek its market in the United States and must necessarily come into competition with our domestic copper.

Exports and imports.—In the consideration of import tax or duty legislation with respect to any commodity, the existence of an exportable surplus assumes a rôle of considerable importance. Over a period of time the term "Exportable surplus" means the ability to produce more than is required for domestic consumption plus the ability to market the excess production abroad.

The Tariff Commission comments on this subject as follows:

"The excess of exports over imports is a rough measure, not taking into consideration increases and decreases in stocks, of the exportable surplus of copper from the United States.

"Before the entry of the United States into the World War, the excess of exports averaged roughly 200,000 short tons. From 1918 to 1928 the excess was substantially smaller in relation to production and in absolute quantity than before the war, but showed a slightly rising trend. During 1929, 1930, and 1931, however, not only did the excess disappear, but imports were greater than exports" (p. 3).

Previous to 1929, foreign production was not able to meet the requirements of foreign consumption, and this excess of consumption provided the market for the American surplus.

With the change in conditions which has taken place since 1929, this excess of foreign consumption over foreign production has definitely and finally disappeared, and in its place there now exists a large excess of foreign production which is invading the American market and driving the American producer out of business.

With respect to copper the United States has passed from the status of an exporting nation to that of an importing nation. This is shown by an examination of the statistics on exports and imports which are set up in Exhibits Nos. 10, 11, and 12.

Exhibit No. 10 shows the United States imports and exports of copper and the excess of exports or imports from 1911 to 1931. The chart used in this exhibit is a reproduction of the chart shown on page 4 of the Tariff Commission's report. The accompanying table contains the figures used by the commission.

The solid line of the chart represents the excess of exports or imports. The trend since 1911 is obvious.

Exhibit No. 11 shows the relation of exports to imports by months for the year 1931. In December, our net imports were 28,472 tons; or at an annual rate of 341,664 tons. This situation is without precedent. The stocks of the world are piling up on our shores. The longer this continues the longer will our mines lie idle. The longer they lie idle the greater will be the number that will be ruined by deterioration of timber and consequent caving. This is inevitable unless this unrestricted inflow is stopped. It should be noted that Exhibits Nos. 10 and 11 cover the imports and exports of unmanufactured copper in all of its forms, including both refined and unrefined copper. As has been shown, considerable quantities of blister copper have been imported for refining in the United States.

Exhibit No. 12 is a chart showing the relation of exports and imports of refined copper only by months during the year 1931.

It shows that for the last three months of the year imports of refined metal exceeded exports. This is a condition that is also without precedent, our exports of refined copper in the previous 10 years having exceeded imports in the ratio

of about seven to one. It marks the effect of the rapid growth of foreign refining capacity. In the past, our refineries have not only treated all the copper going into domestic consumption but have enjoyed the treatment of an additional amount that was subsequently exported for foreign consumption. Not only are domestic refineries losing their export business, but foreign producers are now supplying refined copper directly to our manufacturers for domestic consumption.

For example, prior to 1930 Canada had only one small refinery and the imports into the United States from that country were in the form of ores, concentrates, and blistered copper. This gave our smelters and refiners a good business from Canada. This business has practically disappeared. Instead, Canada is supplying refined copper directly to our manufacturers, with no benefit to our smelters and refiners. In 1928 we imported 75 tons of refined copper from Canada. The United States Department of Commerce reports that during December, 1931, January, 1932, and February, 1932, imports of refined copper from Canada aggregated 29,470 tons, or at an annual rate of 158,000 tons. Not only this, but this copper reaches our consuming centers at roughly half the transportation costs of domestic producers.

The foregoing statistical information clearly portrays the fundamental and comparatively sudden change which has occurred in the world industry since 1928. To grasp the significance of this change with respect to the question of import taxes it is only necessary to read a description of the status of the industry a few years ago as given in a "Tariff information survey" on copper published by it in 1921, as follows:

"Most of the world's largest copper deposits lie within the borders of the United States and domestic miners lead the world in every branch of the industry. Owing to our large export surplus of metallic copper, United States quotations set the price for the metal in foreign markets.

"The preeminent position of domestic copper miners and smelters due to our large production enables the United States producers to dominate the foreign copper market. The imports of ore, matte, and metal, though large, are small compared to the domestic output by the financial groups in control of the industry in the United States.

"The question of foreign costs does not affect the tariff situation. Europe must have our export surplus, and so long as the foreign export surplus is unable to meet the European demand, costs in the United States will be the controlling factor of the industry.

"While in some cases, notably in South America, production costs are lower than the average cost in the United States, the market price is governed by the cost to the large United States producers. This is natural because of the large domestic export surplus which Europe must have to meet its demands."

In contrast to the situation shown prior to 1928, we now find the following to be the existing conditions:

Most of the world's largest copper deposits lie outside the borders of the United States. Prices acceptable to foreign producers set the price for the metal in the United States.

The preeminent position of foreign producers due to large production enables them to dominate the United States market. Installed foreign productive capacity is far in excess of normal foreign demand and this excess amounting to approximately 1,000,000,000 pounds per annum has no other market than the United States.

The United States exportable surplus has disappeared and this country has became a net importer of not only unrefined but of refined copper in large amounts.

XI. FURTHER COMPETITIVE CONDITIONS

The American industry is not only threatened by the sheer volume of foreign production, but its defeat and destruction are assured by the fact that foreign copper can be, and is being, produced at a substantially lower cost than the domestic copper.

Detailed cost comparisons are shown hereinafter, but at this time it is sufficient to say that a tax of at least 5 cents per pound will be required to permit at least a portion of the American industry to survive.

Many factors enter into this comparison of costs, of which the following are of major importance:

Grades of Ore.—If the mines are operated in a normal manner, the United States has ample copper ore reserves to supply its demands for an indefinite

period. These ore reserves, however, are of an average grade substantially lower than the grade of ores from most other countries. The average copper content of domestic ores during recent years, as determined by the Tariff Commission, has been about 1.6 per cent, of which about 87 per cent is recovered as marketable metal.

Domestic producers have led the world in every branch of copper mining and metallurgy. Machines are used in place of manual labor in every conceivable way, making it possible to work at a profit deposits of low-grade ore that would be valueless under less efficient operative conditions.

It has already been shown that the vastly superior grade of foreign ore constitutes a material advantage in lowering costs of foreign producers.

National Policies—Foreign Policies.—Many nations have learned through experience to appreciate the vital importance of preserving within their own borders those industries which are essential for national defense and national independence.

The increase in foreign production of copper has been due in part to the policy of certain foreign governments in seeking to provide adequate supplies of the metal, either from their own domain or from their colonies and dominions.

In postwar years there has been a tendency among certain foreign nations to develop copper resources under financial or governmental control, and a reluctance to permit the entrance of American capital.

The Belgian Congo copper industry is controlled by the Belgian Government, and operated as a part of a huge colonization enterprise, having to do not only with the production of copper, but with that of cobalt, radium, tin, precious metals, agricultural products, and the building of lines of communication, the clearing and sanitation of the jungle, and the education and civilization of the natives. The enterprise includes the construction of metal refining plants in Belgium, and contemplates further refining and fabricating plants to the end that Belgium may become independent of other countries for such metallic materials as can be produced within its control.

That a similar policy will govern the Rhodesian production is indicated by the fact that present plans contemplate the smelting and refining of these ores largely within the British Empire.

In Germany, the industry is actually subsidized by the Government.

In addition, as hereafter stated, in many foreign nations the industry is protected by import duties.

Consideration such as the foregoing assure these foreign producers of their ability to maintain their present favorable competitive position.

Domestic policy.—In the United States, the copper industry operates without governmental assistance. Aluminum, nickel, lead, zinc, iron and steel, and many other commodities of similar importance are protected by high and rigid import duties. Many of these commodities are consumed by the copper industry in enormous quantities, but copper itself in its various forms remains upon the free list.

The American copper industry carrying on in the United States conforms to American standards of business. Operating in the midst of a highly developed civilization, its product must carry the burden of many cost factors which do not attach to copper produced in semicivilized regions, as, for example, taxation for school and other public purposes, workmen's compensation, welfare work, etc.

Labor Conditions.—Considerable mention has been made concerning the American laborer, the conditions under which he works and the wages paid. It is unnecessary to go into further detail here, as his superior standard of living is a matter of common acceptance.

Inasmuch, however, as this statement is made largely in behalf of those employed in the American mining industry, it is vital that consideration be given to the type, wages, and living conditions of competing foreign labor.

No claim is made that the African labor employed by the mines is "forced" or "slave labor." Undoubtedly also, it is not as efficient as American labor. Perhaps, as the African companies contend, the colonization plans incidental to the mining of copper include the education and betterment of the native. All this, however, is beside the question and small consolation to the American miner when he realizes that he must compete with an African native who works for as little as 5½ cents in cash per day, and who subsists largely on cornmeal or rice.

Exhibit No. 14 contains authentic information dealing with labor conditions and wages in the Belgian Congo and Northern Rhodesia. The sources of information are shown.

Because the question is important, the following enlightening excerpts from the exhibit are brought into this statement:

"The labor conditions in Africa and the kind of competition which the American miner is now forced to meet, is described by the Tariff Commission as follows (p. 28):

"African labor: Labor in the African copper mines and developments is performed by native blacks under white supervision. Usually 1 white man is employed (including medical staff) to every 7 to 10 blacks.

"According to the Northern Rhodesian blue book, the average number of natives employed in 1929 in the mines of Northern Rhodesia was 17,608.

"Wages and salaries are paid partly in cash and partly in allowance for food, housing, and transportation. Native labor is generally hired under a 6-month contract, and white employees under a 3-year contract.

"Public sources of information, such as annual reports of operating companies and the Northern Rhodesian blue book, indicate that in Northern Rhodesia the daily cash wage paid to native mine labor aveages from $0.19 for unskilled to $0.58 for skilled labor, with a total daily cost to the companies, including allowances in kind, of $0.35 and $0.75 for unskilled and skilled labor, respectively; the range of cash daily wages paid to native labor in the Katanga district is from $0.05½ to $0.34¼, the amount depending upon the length of service and the kind of work."

Wages and salaries are paid partly in cash and partly in food, housing, and transportation. The nature of the food and housing referred to is disclosed by the following extracts from the health and sanitation regulations issued by the department of mines of Northern Rhodesia:

"(1) Huts shall be built as far as possible in rows, and there shall be 15 feet between each, but reckoning from eaves to eaves.

"(9) The inside measurements of all huts shall conform as far as possible to the following:

(a) For 6 natives; diameter, 16 feet; height of walls from floor to thatch, 6 feet.
(b) For 5 natives; diameter, 15 feet; height of walls from floor to thatch, 5 feet.
(c) For 4 natives; diameter, 14 feet; height of walls from floor to thatch, 5 feet.
(d) For 2 natives; diameter, 10 feet; height of walls from floor to thatch, 4 feet.

"10. (*ii*) Sleeping accommodations shall not contain less cubic air space than 600 feet for Europeans and 250 feet for natives.

"The regulations prescribe the following rules covering rations:

"17. (*i*) Every employer shall provide all natives employed by him on any mining property with rations of good quality in accordance with schedule B of these regulations and the meal hours shall be so arranged as to allow of natives partaking of food at least twice daily, once before noon and once after noon.

SCHEDULE B

1. Minimum ration scale:
(a) Meal, mealie meal, millet, caffir corn and the like, or rice—1½ pounds per day.
(b) Beans; 2 pounds a week.
(c) Meat; 2 pounds a week.
(d) Vegetables (fresh) 2 pounds a week (such as tubers, gourds, wild spinach, cabbage, and onions, etc.).
(e) Peanuts (shelled); 1 pound a week.
(f) Salt; 3½ ounces a week.
2. Hot drinks. Natives, both surface and underground on coming off night shift shall be given 1 pint of hot soup, coffee, or cocoa.

It may be argued that this labor is not in competition with American labor because at the moment excessive amounts of African copper are not coming into the United States. The copper market to-day is of world wide scope and every pound of the metal produced, no matter where it originates is in direct competition with every other pound produced.

If at the moment African copper is being absorbed largely by the European market and driving Chilean and Canadian copper into the United States, it nevertheless is in as direct and positive competition with American copper a though the two products lay side by side on the trade counters of New York, Detroit, or Chicago. The argument is a manifest absurdity and designed only to confuse the issue. To-day, at this very moment, thousands of American workmen are being compelled to give up their employment and to step aside in order to make room for the type of black labor mentioned herein.

This situation is intolerable and should be corrected at the earliest possible opportunity. That opportunity presents itself here in the legislation proposed.

Reduction of domestic costs.—The American producer has been plunged into a life and death struggle to maintain his existence in competition with the low-cost foreign producer. Before giving up the fight and closing down, he will make a desperate effort to reduce his own costs. This effort can be made in only two directions, (1) by reducing cost of labor and (2) by attempting to improve the grade of ore mined. The first method can be accomplished only by paying lower wages in the industry. The second method can be attempted by adopting a policy of selecting for his operations only the higher grade portions of his reserves, leaving the balance in place. Ore once thus abandoned can rarely be recovered and consequently this policy means the irretrievable loss of a large portion of this valuable natural resource.

Admittedly, both of these methods of cost reduction are extremely undesirable, but under the stress of present conditions American producers are resorting to both methods at this very time, as temporary expedients to avert complete shutdown.

If the present Congress fails to see the gravity of this situation and fails to meet this emergency promptly, operations in many of the domestic mines will be completely suspended long before the next Congress convenes.

XII. FURTHER CONSIDERATIONS

Copper vital for national defense.—Copper-ore reserves and an industry equipped and ready to supply the refined metal in adequate quantities in any emergency, are vital factors in our program of national defense.

Both the reserves and the producing equipment must be located within our own borders.

Up to now, the United States has enjoyed an enviable position in this respect. The predominance which the American copper industry formerly enjoyed encouraged the search for and development of new ore deposits within the borders of the United States, with the result that the discovery of new ore reserves has kept pace with the depletion of the older ones.

The producing industry has attained and maintained the very highest degree of efficiency and has stood ready and able to supply fully the national necessities in times of stress.

During the Great War the American copper producers not only met without delay the enormous requirements of the United States but were able to supply in a large measure the needs of its allies.

As hereinbefore indicated, other large nations have not failed in appreciation of the importance of copper and have directed their national policies accordingly.

It will be a sad commentary on the foresight of the American Government if it now stands by, and, for lack of legislative protection, permits the American copper industry to succumb to the foreign competition here described.

Copper mines can not be closed down for long periods of time and then be reopened and put into operation without extensive preparation and delay and prohibitive cost. The search for new ore deposits and their development when discovered stops automatically when the industry in general ceases to be profitable.

Aside from every other reason, sound public policy points to the necessity for immediate legislation to preserve copper in the interest of national defense.

XIII. COSTS

The United States Tariff Commission, in the investigation leading up to its report of November 30, 1931, was confined by the wording of the resolution to a study of costs for the years 1928, 1929, and 1930. It found and so states in its report that "the year 1928 was more nearly normal in volume of production and in costs of mining than either of the two following years. Consequently, the cost comparisons are for 1928 only" (p. 6).

There has been hereinbefore shown the great basic change which has occurred in the copper industry in recent years by reason of the abnormal increase in cheaper foreign production. The complete effect of this change was not felt until after 1928 and consequently the cost figures for that year as presented by the commission by no means reflect fully the foreign costs now affecting competition.

The commission itself apparently appreciated this fact, as shown by the following quotations from its report:

"In 1928 the mining of copper in Africa was much less developed than in 1931, and cost comparisons based on that year are relatively not significant. Engineers'

estimates for the cost of production in Africa under present or prospective conditions indicate substantially greater potential cost differences than those shown" (p. 9).

"A thoroughly representative cross section of foreign costs even in 1930, will not portray the conditions which may obtain when Rhodesia reaches full-scale operations" (p. 33).

"Actual costs of the production of copper from these new large and relatively rich deposits (namely, northern Rhodesia) are practically nonexistent for the reason that the first of these properties (Roan Antelope) to be fully developed and equipped, turned out its first concentrates in June, 1931, and blew in its smeltery in October, 1931. Cost estimates must, therefore, take the place of cost facts, and gaps in available figures must be filled in from known cost elements developed in comparable operations" (p. 81).

"The only figures of Union Minere du Haut Katanga (Belgian Congo) that are available for calculating copper costs are those of the consolidated balance sheets and profit and loss accounts as published in the company's annual reports" (p. 82).

Since the commission's report was published, however, much additional information as to African and Canadian costs has become public and is now available. These costs are low and apply to large tonnages. Hence, they materially reduce foreign costs in comparison with those shown by the Tariff Commission's report. A further factor which has come into play since 1928, in fact, since the commission's report was published, is the depreciation of certain foreign currencies, which still further reduces individual and average foreign costs.

It is true, as has been pointed out, that costs in the United States have also been reduced since 1928. However, this has been done principally through the cutting of wages and by selective mining, and this type of cost reduction can not be carried on indefinitely. It is fair to say that in the United States no permanent change, either as to productive capacity or cost of production, has occurred since 1928. In that year, domestic mines operated at near capacity and the figures for that year used by the commission are fairly representative of the best that may be expected under normal conditions.

Exhibit No. 15 shows the new foreign productive capacity which has come into existence since 1928 and which must be considered in arriving at a figure for foreign costs. The increase in productive capacity from five mines—the Frood mine in Canada, Katanga, Roan Antelope, Mufulira, and Rhokana—since 1928, amounts to 470,000 short tons of copper per annum.

The mines listed above, together with those of the Chile Copper Co., are the principal low-cost competitors of the American mines at the present time. Costs of production for each of these properties have been worked out and are presented in detail in Exhibit No. 15. This exhibit also shows the sources of information used and the methods of computing costs. Foreign producers rarely publish their actual cost figures, and are extremely reluctant to disclose them, thus making it necessary to derive these costs from the type of information shown in Exhibit 15. The evidence presented there is from authentic sources; it can not be disputed, and it establishes the cost figures with reasonable accuracy. Many of the data used in Exhibit 15 were not available at the time that the commission made its report.

Frood mine: The first set of costs discussed in the exhibit are those of the Frood mine of the International Nickel Co. of Canada. This shows an operating cost per pound of 3.18 cents. Adding financial charges for Canada at the figure reported by the commission shows a total cost of 6.57 cents per pound.

Katanga.—The commission was unable to secure definite costs on Katanga, even on the production of 1928. In its report the commission states on page 45 that "costs allocated to mining of Serbian and African copper ores are estimates," and on page 82:

"The only figurse of Union Minere du Haut Katanga that are available for calculating copper costs are those of the consolidated balance sheets and profit and loss accounts as published in the company's annual reports. The company produces copper, cobalt, radium, tin, and through subsidiaries produces and distributes electricity, sulphuric acid, coal, forest and farm products, operates railroad and river transportation, handles banking in the Congo, and participates in metal refining in Belgium. The purpose of these subsidiary activities is to serve the production of metals, and it appears from the financial statements that copper is by far the largest revenue producer and its gross cost of production credited or debited with the financial results of the other activities."

It is obvious that, lacking other information, any attempt to isolate with any degree of accuracy, the cost of copper from a general profit and loss account of a company engaged in so many diverse activities is almost hopeless.

It is common knowledge that Katanga deliberately conceals the actual production costs. The truth of this statement is confirmed by the late president of the Union Miniere, Mr. Jean Jadot, who said at the shareholders' meeting in Brussels, on July 13, 1931:

"Some shareholders might be tempted to inquire as to the prospects for the current year, but they certainly could not expect him (the president) to reveal figures which would enable our production costs to be ascertained."

At the same meeting, however, Mr. Jadot did present certain information which definitely placed the cost of Katanga copper at that time at approximately 7.5 cents per pound. This information is shown on page No. 34 of Exhibit No. 15. When combined with the financial charges for Africa adopted by the Tariff Commission, and the effect of foreign exchange rates, it shows that Katanga's current costs are: Operating cost, 6.49 cents per pound; total, 7.27 cents per pound.

Rhodesia.—The derivation of costs of production for the Rhodesian companies, namely, Roan Antelope, Mufulira, and Rhokana, is fully explained in Exhibit 15, pages 35 and 36, and the costs are shown to be as follows: Operating cost, 5.3 cents per pound; total cost, 6.08 cents per pound.

Chile Copper Co. is the largest producer in South America, and produces approximately 50 per cent of all of the copper produced in Chile. Production costs of this company are shown in the exhibit, page 38, to be: Operating costs, 4.90 cents per pound; total costs, including financial charges, 9.69 cents per pound.

XIV. TAX RATES

Assuming that the facts in the case warrant the conclusion that the copper industry in the United States is worthy of preservation and maintenance and that it is advisable to enact legislation for that purpose, it becomes necessary to consider the reasonableness of the tax proposed.

In formulating such legislation, the rule most generally applied is that which attempts to impose a duty sufficient to equalize the difference in the costs of production, when efficiently and economically produced, of the domestic article and of the similar article produced in the principal competing country or countries.

If it were the objective to impose a tax high enough to constitute an absolute embargo on all imports, the necessary rate would be determined by the difference in the production costs of the highest cost American producer and of producers in the principal competing countries.

As shown by the commission's report, copper is produced in the United States at a wide range of costs running from a low of about 9 cents to a high of over 17 cents.

A comparison of the American high cost with the costs in principal competing countries as shown by Exhibit No. 15, indicates a difference of from 10 to 12 cents per pound.

The wide spread of costs in the United States is not due to difference in managing ability or efficiency in operation, but is due almost entirely to differences in the grade of the ore, the nature and accessibility of the deposits, the location of the operations and other natural conditions.

In attempting to determine an import tax on copper which will permit the production of substantial tonnages in the United States and at the same time will produce direct revenue on imports, it is obvious that a comparison between the highest cost American producer and the lowest cost foreign producer, or between the lowest cost producers in both fields, or between the highest cost producers in both fields would yield no results of value. It is almost equally as clear that in an industry where there exists a wide range of costs of domestic production, which can not be narrowed because of natural causes such as have been mentioned, a tax based upon a comparison of average costs will fail to protect fully the domestic producer whose costs exceed the average and will fall far short of acting as an embargo.

Exhibit No. 16 is a graph showing percentages of the American production produced at various costs in an ascending scale from low to high, reproduced from the report of the Tariff Commission. From these figures it is possible to point out quite definitely the lowest cost at which sufficient copper can be produced in the United States to meet the normal domestic consumptive demand. Exhibit No. 15 indicates the cost of the foreign copper, produced in excess of foreign consumption, which will seek its market in the United States in competition with the domestic product.

Exhibit No. 17 presents a comparison of these two sets of figures and shows a spread in some cases of almost 9 cents per pound.

Average costs.—The Tariff Commission reported the difference between foreign and domestic costs on the basis of the average unit costs of all companies whose figures were made available to the commission. The average was weighted according to the tonnage produced by each of the reporting companies. The commission was able to ascertain with accuracy the cost of only about half of the present total foreign production, whereas the domestic information was practically complete. In the case of Katanga, one of our most serious competitors, the Tariff Commission made an estimate because Katanga deliberately conceals its production costs. Moreover, the Tariff Commission recognized that the costs of 1928 would not portray the situation of to-day because of the developments in Canada and Africa since that year.

Using the commission's figures as a basis, there has been developed a comparison of average costs which takes into consideration the now known more accurate figure for Katanga, as shown in Exhibit No. 18. It shows the adjusted average foreign total costs to be 8.07 cents per pound, which, compared with the commission's figure of 13.29 cents for the United States, gives a difference of 5.22 cents per pound.

It has been previously shown that between the cost of that domestic production required to meet the demands of this country and the costs of the principal competing countries the differences range from 5.31 cents to 8.92 cents. A 5-cent rate, therefore, will not necessarily keep out all the copper from Canada, Chile, and Africa. But it is a rate which is in all respects consistent with data and information supplied by the Tariff Commission. It should provide a reasonable amount of protection without acting as an embargo.

In the final analysis, the facts of to-day speak for themselves. A 6-cent selling price for copper is an actuality, whereas the Tariff Commission shows that 40 per cent of domestic production costs over 14 cents a pound. Foreign copper is flowing into this country at an unprecedented rate. Rhodesia could supply over half of our needs at our present rate of consumption and make an operating profit at 6 cents per pound. The International Nickel Co.'s copper must be produced and will be marketed for whatever it will bring. The great Katanga produces copper under conditions beyond competition. If Africa chooses to sell most of its copper in Europe, as appears to be the case at the moment, the United States market becomes flooded with copper from Chile and Canada. This is exactly what is happening to-day.

There has been a clamor from the mining States for a tariff of from 6 to 9 cents per pound because these general facts honestly make them believe that nothing less than this will provide adequate protection. The mathematical formula which has been used shows a 5-cent difference between average foreign and domestic costs. A 5-cent tax would go far toward relieving the chaotic condition of the industry. It would relieve the great suffering in our mining communities, which, bad as it is now, will grow much worse if this tax is not imposed. It would save the State of Arizona from bankruptcy. It would insure employment for many a coal miner, lumberman, railroad worker, seaman, powder-plant worker, and a host of others. It would restore income to the Federal Government in the form of corporation income tax. If it accomplished no more than these things any emergency measure to bring it about would be justified. But existing conditions point to the creation of direct revenue from taxing importations of copper, a situation which permits us to seek a place in the revenue bill without apology.

XV. ANTICIPATED REVENUE

In a consideration of the proposed tax from a revenue standpoint certain facts must be borne in mind:

1. The enormous equipped foreign producing capacity in excess of peak foreign consumptive demand amounts to approximately 1,000,000,000 pounds annually, which will be under great pressure to find its way to the American market.

2. The new foreign tonnage which has been developed during the past few years can be produced for about 6 cents a pounds.

3. A substantial portion of this foreign copper is produced under quasi-governmental control in connection with colonization policies and will be produced and put on the market for less than the actual cost of production, if necessary.

4. Unit costs of producing copper in any mine decrease as production increases. It is probable that certain foreign producers could make money by increasing production and dumping some excess in the American market.

5. Certain foreign producers such as the International Nickel Co.'s Froom mine and the Noranda mine, both in Canada, are operating on ores in which the nickel

or gold content is so high as to produce a profit even if the value of the accompanying copper were ignored. International Nickel Co. holding a practical monopoly of the world's nickel production is forced to produce copper concurrently with nickel because of the intermingling of the two metals in the ore. This copper will be produced and marketed regardless of price. The capacity of the two mines mentioned is about 340,000,000 pounds of copper annually; Canadian consumption is approximately 40,000,000 pounds annually.

6. With a 5-cent tax and only 20 per cent of the potential excess foreign production sold in the United States, revenue to the extent of $10,000,000 would be realized.

If International Nickel and Noranda were able to market 100,000,000 pounds of their annual production in the European market and the balance of their excess production came into the United States, revenue to the extent of $10,000,000 would be realized.

7. During the last six months of 1931 the imports of copper into the United States have averaged about 27,000 tons per month and have exceeded exports by an average of nearly 13,000 tons per month, or an annual excess at the rate of approximately 150,000 tons. This means, of course, that unless this foreign copper could have been sold in the United States, it would not have been sold at all. Under present conditions the foreign producer is not apt to sacrifice the cash that the sale of this amount of copper would bring to him even though the amount of such cash might not be quite as high as under other circumstances. It is highly probable, therefore, that the present rate of net imports of 150,000 tons annually will continue even though an import tax of 5 cents a pound is imposed. It should be understood that this rate of importation is less than half of the present rate of imports of copper. If these imports continued under the import tax, the revenue to be derived would approximate $15,000,000 per annum. The immense foreign productive capacity has created a pressure to sell copper practically regardless of price. Copper is now selling in the United States at 5¾ cents per pound and the industry has been and still is concerned lest the price drop to 4 cents per pound or even lower. The situation has resolved itself into a battle among producers of copper to obtain cash, and under these circumstances it is extremely improbable that anything less than an absolute embargo will keep foreign producers (some of whom are under pressing financial commitments) from marketing a part of this product in the United States.

XVI. AUTOMATIC CONTROL OF SELLING PRICE

The imposition of a tax of 5 cents per pound on imported copper can not result in an inflated price for the metal in the United States. When such a tax becomes fully effective it may reasonably be expected that the domestic price of copper will reach and hold a level just under the price at which the cheaper foreign copper can afford to pay the tax and still break even. At the foreign cost level which will be shown in detail hereafter, the domestic price level should be in the neighborhood of 11 cents per pound. This level is lower than any average yearly price of the metal realized during the past 30 years but will permit a fair amount of American production.

The tremendous pressure of excess foreign production will inevitably send some foreign copper into the United States because a large portion of it can afford to pay the proposed tax and still break even or make a profit even at this price. Violent upward fluctuations in price will, therefore, be impossible.

The natural result of a 5-cent import tax should be to stabilize the domestic price of copper at approximately 11 cents.

XVII. EXISTING TARIFFS

In the United States copper metal has been on the free list since 1894, and from that time up to almost the present, the American copper producing industry has been able to operate successfully in competition with the world. The reason for this is found in the fact that the world needed American copper and the industry in the United States could market its product not only in meeting the requirements at home but also in filling a large consumptive demand from abroad.

But this situation has changed, as has been shown, and the industry is now in pressing need of legislative assistance if even a part of it is to survive.

Other countries have imposed import taxes and duties on copper metal. The existing duties are shown on page 50 of the Tariff Commission's report. On the

basis of a 14-cent value for copper, these duties in effect in 1931 varied from something over a quarter of a cent a pound to 9 cents a pound.

Canada and Mexico, whose own copper mines lie on our borders and a large part of whose product is shipped to our domestic market free of duty, nevertheless collect an import duty on copper entering from the United States.

XVIII. OPPOSITION TO AN IMPORT TAX ON COPPER

The American Metal Co. (Ltd.) and the Cerro de Pasco Copper Corporation are openly opposing the imposition of an import tax on copper.

The American Metal Co. (Ltd.).—The American Metal Co. (Ltd.) neither owns nor controls any copper mine in the United States but is heavily interested in the Rhodesian copper mines. It holds practical control of Rhodesian Selection Trust (Ltd.), which, in turn, controls Mufulira Copper Mines (Ltd.), one of the most formidable of the African producers. It holds a very large interest in Roan Antelope Copper Mines (Ltd.), and has substantial holdings in the Rhokana Corporation (Ltd.), the other two large copper producers of Rhodesia. The American Metal Co. has over $30,000,000 invested in these African copper properties.

In addition to its copper-producing interests in Africa, the American Metal Co. is part owner of the Ontario Refining Co. of Copper Cliff, Ontario, and controls the Matahambre mine in Cuba.

The American Metal Co. (Ltd.) holds a 95 per cent interest in the United States Metals Refining Co., owners of a copper refinery at Carteret, N. J. The capacity of this plant is about one-eighth of the total refining capacity in the United States. This company is the only American refining company that has openly voiced any opposition to a copper tariff or import tax.

The American Metal Co. (Ltd.) is sales agent for several large foreign producers. Among these are the International Nickel Co. of Canada, which is Canada's largest copper producer, and Cerro de Pasco Copper Corporation, producing copper in Peru. Mr. Vogelstein, chairman of the American Metal Co., stated at the annual meeting of stockholders in March, 1931, that the company has a 10-year selling contract covering the output of Roan Antelope and Mufulira and also a contract running several years covering sale of the output of the N'Kana and Bwana M'Kubwa mines, now owned by Rhokana Corporation.

Because of its large foreign interests, the American Metal Co. is the natural spokesman for the combined forces which are to-day bringing ruin to the great American copper industry and desolating our mining communities.

Cerro de Pasco Copper Corporation.—The Cerro de Pasco Copper Corporation is closely associated with and owns an interest in the American Metal Co. (Ltd.). It is a mining company, but neither owns nor controls any copper mine in the United States. Its copper mining interests lie wholly in Peru. This company ships blister copper to the American Metal Co.'s refining plant at Carteret, N. J., for refining and marketing.

If a copper import tax is imposed, the Cerro de Pasco Copper Corporation will be at a disadvantage to the American producer in marketing its product in the United States. It is the purpose of the American producer to attempt to create such a disadvantage to the foreign producer. Under such a condition the Cerro de Pasco Copper Corporation is a natural opponent to the imposition of a copper import tax.

Contentions of opponents.—The American Metal Co. (Ltd.) through its subsidiary the United States Metals Refining Co. has recently published its arguments against a tax or tariff on copper in a pamphlet entitled "The Case Against a Copper Tariff." These arguments are summarized in 12 brief statements. They are given below, together with our views concerning each point.

1. "Of the 11 copper-mining companies that are asking for a tariff, all but 2 have paid huge dividends for many years. Most of them have arrived at or are approaching a noncompetitive stage, due to old age, great depth, and, consequently, increased costs."

As a matter of fact there are now 15 copper-producing companies in the proponent group.

The statement with regard to dividends is sufficient evidence that before the present demoralization of the copper industry these companies were prosperous. They were able to maintain a high standard of wages and to build up and support large and splendid communities. It is stated, also, that most of these mines have reached a noncompetitive stage. We are willing to go further and say that under present circumstances none of these mines can operate without loss.

An examination of cost records would undoubtedly show that in a great majority of cases costs have been consistently reduced regardless of age or depth. The inability to meet competition is the change in the competition itself, as we have tried to show. The acceptance of this argument of our opponents as being sound signifies willingness to sign a death warrant for such cities as Bisbee, Morenci, Ray, Jerome, and Miami, Ariz.; Butte, Mont.; and also the entire copper district of Michigan.

2. "The copper tariff proponents represent, both on a basis of capacity and of recent output, only one-third of the industry. The large majority of copper companies are either neutral or opposed to it as futile and injurious."

In 1930 the mines of the proponents accounted for 43 per cent of the mine production of the United States. The amount of their production was more than was produced in that year in any single foreign country.

Of the American companies without large foreign affiliations the proponent group represents about 77 per cent of American production. In fact, the only open opposition to the proposition that we have seen to date has been that of the American Metal Co. and the Cerro de Pasco Copper Corporation, neither of whom owns or controls a single copper mine in the United States.

3. "The copper situation is not any more desperate than is that of lead or zinc, both tariff protected, or that of a very large proportion of American industries, all suffering in this extraordinary depression."

Lead and zinc have been adversely affected by the depression. Nevertheless, the domestic price of lead, low as it is, is about 50 per cent higher than the London price. The domestic price of zinc is about 40 per cent higher than the London price.

Mr. Clinton H. Crane, president of the St. Joseph Lead Co. and of the Lead Industries Association, stated in an article in the November, 1931, issue of the Mining Congress Journal that "the lead mining industry of the United States would be in sore straits to-day without (tariff) protection."

The case of copper, without protection, is therefore definitely more desperate than that of lead or zinc. Since the cases are granted to be comparable, the same sort of reasoning would indicate that if copper were protected to-day our domestic price should be 8½ or 9 cents a pound instead of 6 cents. Undoubtedly this would be true.

4. "A copper tax or tariff would yield no revenue and would be ineffective in increasing the domestic price of the metal."

We have previously given herein our reasons why a copper tax or tariff would be effective and also provide a substantial revenue.

5. "A copper tariff would bring disaster to the important American refining industry and do serious injury to its many contributing industries."

During the three months, December, 1931, January and February, 1932, out of 107,000 tons of copper imported into the United States, 57,881 tons came to this country already refined. If it were possible to replace this 107,000 tons of foreign copper with domestic metal, the refineries of this country would lose 50,000 tons of foreign business but receive in its place 107,000 tons of domestic copper for refining, for the entire United States production is produced in marketable forms within the country. The refining industry as a whole would be able to increase employment of United States workers by the exclusion of foreign copper.

The capacity of the American Metal Co.'s refinery is only 12½ per cent of the total refining capacity of the United States. If a copper import tax were to bring disaster to the refining business, the companies representing the other 87½ per cent would undoubtedly join the American Metal Co. in its protestation.

The American Smelting and Refining Co. is the world's largest smelting and refining company with six copper plants at various points in the United States. The combined copper refining capacity of its plants is practically three times as great as that of the American Metal Co. (Ltd.). Except in the matter of size, the smelting and refining business of the two companies is similar. Both treat domestic and foreign copper.

The attitude of the American Smelting and Refining Co. toward the imposition of a copper import tax was clearly defined by Mr. Francis H. Brownell, chairman, at the annual meeting of stockholders, held on April 5, 1932, in New York. The Daily Metal Reporter, reporting this meeting, states as follows:

"Mr. Brownell said that American Smelting has taken no position on the copper tariff since clauses covering smelting and refining in bond have been included in the bill. The copper tariff, in his opinion, would not hurt American

Smelting, and if it should stimulate American production, it might help the company."

6. "The annual cost of an effective tariff to the American consuming public for the purpose of temporarily reviving a few, scattered, high-cost, western copper mines would in normal times amount to about $100,000,000, or almost $1 per capita."

During 1927 and 1928 the United States were net exporters of an average of 148,000 tons of copper. In 1929 this situation was reversed (see pages 3 and 4 of Tariff Commission's report) with the result that during the past three years this country has imported more copper than it has exported. A radical drop in United States consumption at this same time, added to the need of absorbing at home the production previously reported, has resulted in a pressing supply of domestic copper which, by natural competition, will keep United States copper prices close to the cost of production. Excluding the war years, the average price of copper in New York for the past 30 years has been 14.8 cents per pound. The most optimistic of the copper tax proponents do not hope for 15 cent copper during the period covered by this revenue bill, but they do hope for some relief from the present ruinous price of 5¾ cents per pound. With a 5 cent tax on copper United States consumers will still be able to buy domestic copper at prices well below the average paid in the past, but an extremely important domestic industry will have been saved from ruin by application of the same American principles which protect the products of the industries using this raw copper. Justice will have been accomplished and unfair discrimination will have been avoided.

Incidentally the American Metal Co. has considered 1929 consumption as "normal." It is absurd to contend that the average consumption during the next two years will be at the 1929 rate.

If the argument of the opponents is logical in this respect, it would logically follow that all tariffs should be removed to afford lower costs to the "consuming public."

7. "An effective tariff would destroy the important export business of the copper fabricators and manufacturers."

The fabricators and manufacturers are now amply protected by tariff. Proper compensatory rates are included in the proposed amendment.

The exportation of fabricated and manufactured articles will continue under the drawback regulations just as in the cases of lead, zinc, and aluminum.

8. "The 'flood of African copper that is pouring into the country' much advertised by the advocates of a tariff, is a myth."

We are not aware as to the source of this quotation. For the first two months of 1932 African copper was imported at an annual rate of 35,000 tons.

However, it is of no consequence to the American producer whether African copper is sold in the United States or in Europe. If it were sold in the United States, Canadian and Chilean copper would be sold in Europe. Conversely, if the African copper is sold in Europe, as seems to be largely the case at present, Canadian and Chilean copper is forced to find a market in the United States. African competition is, therefore, direct regardless of whether or not a pound of African copper comes into the United States.

9. "The Tariff Commission reports an excess of domestic over foreign cost of refined copper of one-half a cent per pound."

This is a true statement but does not tell the whole truth. The difference of one-half cent is on the basis of costs before addition of financial charges and reflects a situation of four years ago. Our figure of 5 cents a pound reflects conditions of to-day. It is based on the Tariff Commission's report and will bear inspection by the Tariff Commission.

10. "The 'utter ruin of the copper industry' has been predicted six times in the last 45 years, but after each crisis copper has come back stronger and more virile than ever."

We hope the inference to be drawn from this statement is true. However, the mining communities of the United States are not willing to stake their very existence on conjecture that is based on statistics of many years ago. Who would support them while they were waiting for better days to come?

11. "The recovery of the copper industry depends on the revival of consumption, the expansion of the uses of the metal and the assurance of a reasonably low and reasonably stabilized price."

Even with copper consumption as high as in the peak year of 1929, the present foreign productive capacity is great enough to supply all foreign needs and over half the requirements of the United States. Without protection the revival of

consumption will be a great boon to foreign producers. The American Metal Co. is a foreign producer.

12. "Until copper consumption improves from its present low price, a continuance of the drastic voluntary curtailment program, participated in by the principal foreign and domestic mines, is imperative if a further decline in price is to be avoided. A tariff or tax on copper would immediately disrupt the present curtailment program and throw the industry into a new state of chaos."

It is well known that the present voluntary curtailment program offers only a very small measure of temporary relief that may at any time cease to exist. A change in the policy of any one of about fifteen companies, of which only three are wholly domestic producers, would disrupt any cooperation toward the end of bettering the present chaotic condition in the copper industry. It is largely the uncertainty of this situation that prevents a rise in the price of copper at this time. With reasonable tariff protection the American producer will need not fear the uncertain policy of ten or twelve low cost foreign producers of high productive capacity.

The Cerro de Pasco Copper Corporation has published and distributed a pamphlet entitled "Why a Tariff on Copper is Inadvisable." The following conclusions are set forth:

1. "That the present distress in the copper industry is part of the world situation affecting other nonferrous metals and not a special case.

2. "That it impose a tariff would not give the relief claimed at home but would inaugurate a sequence of foreign alignment injurious to this country."

3. "That America controls 70 per cent of the world industry and has some voice in about 20 per cent more, so that relief is to be sought along the lines of a world agreement and not through a short-sighted isolationist policy."

We have previously shown that it is a matter of the new foreign production, particularly that which has started in 1931 and 1932, which is bringing ruin to the American copper industry—not merely the depression. No other nonferrous metal industry is confronted with a factor of this nature. The depression alone would have caused the copper industry to suffer. The additional burden of a new, large, and low-cost foreign production augments a state of suffering to one of ruination.

The foreign market has been completely lost to the American producer. Our position as a net importer of copper is sufficient proof of this. Under this condition "foreign relalignments" bring no terror to the American producer.

It may be perfectly true that American capital controls 70 per cent of the world production. The Cerro de Pasco Copper Corporation contends that the investments of American capital in foreign countries will be injured by a copper import tax. This form of argument has been under consideration too many times to require further comment here.

The Cerro de Pasco Copper Corporation states that the solution of Arizona's problem lies in a policy of selecting for operation the higher grade portion of the ore reserves, leaving the balance in place. This suggestion calls for a deliberate wastage of a valuable natural and irreplaceable resource. The amount of copper thus left in place would be lost for all time. It is almost inconceivable that such a suggestion could emanate from an American company regardless of fears for its foreign interests.

Summary.—The Tariff Commission has delivered a splendid report of available facts for the years 1928, 1929, and 1930. The proponent group of American copper producers have brought these facts up-to-date and have interpreted them to mean that only an early and substantial measure of relief in the form of an import tax will save the American industry from utter destruction. The interpretation of available facts by the American Metal Co. (Ltd.) and the Cerro de Pasco Copper Corporation results in conclusions diametrically opposed to ours. One is the view of the American producer, the other is the view of the foreign producer.

It is seldom that an issue, as clean cut with respect to the interested parties as the present one, is presented for the consideration of Congress. One one hand we have American interest—on the other foreign interests.

It is entirely within the rights of American citizens to invest their capital in foreign enterprises if they so desire, even if such foreign enterprises are in direct competition with American industry and even if such foreign enterprises are profitable partly because of the exploitation of cheap foreign labor. The appearance of these foreign interests before the Congress of the United States to argue that the foreign enterprises must be given preferencial consideration over a competing American industry even though such consideration would mean the

destruction of the domestic industry, the loss of capital invested in America, and untold distress and suffering to many thousands of American workmen and their families, presents a curious and in many respects an amazing spectacle.

It is inconceivable that the arguments presented against this legislation emanating from this source and grounded entirely in ruthless self-interest will carry any weight.

XIX. CONCLUSION

An impartial examination of the facts will show that they justify the following conclusions:

1. The American copper-producing industry is of major importance in our industrial structure.

2. Hundreds of thousands of American citizens depend upon it for their employment, their welfare, and, in fact, their very existence.

3. It supports wholly or in part, many prosperous communities, cities, and villages, located all over the United States. Demoralization of the industry means the certain death of these communities and literally points to bankruptcy for one entire commonwealth, the State of Arizona.

4. The industry performs a vital function in the program of national defense.

5. The industry is now in a demoralized condition and is threatened with destruction from foreign unrestricted competition.

6. Foreign nations have encouraged the building up of the copper industry within their control as an essential to their national defense and their national independence.

7. Recent years have witnessed the discovery and development of tremendous foreign copper ore deposits of high grade and the installation of equipment necessary for large-scale production.

8. Foreign production and foreign productive ability by sheer size have now placed the foreign producer in a controlling and dominating position in the world copper industry.

9. Foreign copper is now being produced and will in the future be produced at a substantially lower cost than domestic copper.

10. Foreign copper is produced under conditions, with particular reference to African breech-clout labor, which the American producer will never attempt to meet.

11. Foreign production is now, and will for many years, be greatly in excess of the foreign consumption which may be reasonably anticipated.

12. The only outlet for this excess of foreign production over foreign consumption is the American market.

13. The unrestricted overflow of cheaper foreign copper in large quantities into the United States must result in the demoralization and disintegration of the American copper industry.

14. The American copper-producing industry operates in the United States side by side with other industries enjoying tariff protection, it consumes large quantities of highly protected commodities, but its own products remain upon the free list.

15. An import tax on foreign copper entering the United States of not less than 5 cents a pound, if imposed now, may save the industry.

16. Such an import tax will tend to stabilize the selling price of copper in the United States at a reasonable level and to place a large portion of the domestic industry on a sound operating basis.

17. An import tax of 5 cents per pound, being based upon the difference in average domestic and average foreign costs of production can not act as an embargo. If 15 or 20 per cent of the excess foreign copper displaces American high cost production, which it can easily do, a 5-cent tax may be expected to yield direct revenue of from $10,000,000 to $14,000,000 annually.

While this Congress has been in session, Great Britain has enacted a general tariff law almost overnight. We are confronted with an emergency problem affecting the lives of thousands of American citizens. We believe the proposed legislation presents the only practical solution of this problem.

At this very time foreign copper is flowing into the United States freely and without hindrance. That it is coming in, in increasing quantities is shown in a startling way by the import figures from Canada during the last four months of 1931, in September, 2,878 tons; in October, 3,396 tons; in November, 6,614 tons and in December, 15,113 tons, or at a rate substantially higher than Canada's present rate of production.

Delay in acting upon this legislative proposal means the storing in this country of such immense stocks of foreign copper that the beneficial effect of the tax when imposed is bound to be retarded.

As an emergency measure, to save an important American industry, to prevent the bankruptcy and extinction of whole communities, and to provide much needed revenue, this proposal is entitled to immediate consideration; as an unemployment relief measure it should meet with immediate approval.

The employment, welfare and happiness of hundreds of thousands of American citizens hang upon the action which will be taken.

CALUMET & HECLA CONSOLIDATED COPPER CO.,
CONSOLIDATED COPPERMINES CORPORATION,
COPPER RANGE CO.,
DUCKTOWN CHEMICAL & IRON CO.,
MIAMI COPPER CO.,
MOHAWK MINING CO.,
NORTH BUTTE MINING CO.,
NORTH CAROLINA EXPLORATION CO.,
OLD DOMINION CO.,
PHELPS DODGE CORPORATION,
QUINCY MINING CO.,
SENECA COPPER CO.,
SHATTUCK-DENN MINING CO.,
TENNESSEE COPPER CO.,
By A. E. PETERMANN, *Counsel.*

APPENDIX I

MICHIGAN STATE TAX COMMISSION,
Lansing, April 4, 1932.

Senator ARTHUR H. VANDENBERG,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: Our commission is right in the midst of the annual determiniation of assessments on mining properties for the State and local taxes, and we have this morning been considering the situation with reference to the copper properties in the Upper Peninsula.

In connection with our investigation we have found that conditions in the copper country are very deplorable. Only one or two of the mines are still operating, and these mines are merely working the men one or two days a week in order to give them enough money to barely support themselves and their families. It is common knowledge that these mines will probably close also along about the 1st of May, and this commission has found it necessary to make very drastic cuts in the taxable value, not only because of the absolute shrinkage of mine values, but also because some of the companies have not been able to pay their last year's taxes up to date.

In the past the copper district has been on the tax rolls for substantial amounts and has contributed large amounts in the way of taxes, both to the State and to the local subdivisions, and inasmuch as these copper counties have only this one industry to depend upon the closing of the mines brings them to a point of virtual bankruptcy.

We understand that an effort is being made to bring about the enactment of something in the nature of tariff legislation at this session of Congress. If you can consistently do so, we believe that any action which may be expected to help out the situation in the copper industry will be of direct benefit, not only to the particular counties in the Upper Peninsula in which the mines are located, but also to the State as a whole. From the information we have at hand, such legislation should be taken care of as speedily as possible because our mine appraiser feels that some of the mines that closed down will probably remain closed permanently.

We feel that our interest in this matter is entirely proper, inasmuch as the closing up of this particular industry means the dying up of a fairly important source of State taxation, and we hope that you will find it possible to lend your assistance to any relief legislation that may be deemed proper by you.

Very truly yours,

EDWIN F. SAUNDERS,
Chairman State Tax Commission.

APPENDIX II

GLOSSARY

	Definition
Black or coarse copper	An intermediate product in the process of smelting.
Blister copper	Product of smelting process, approximately 99 per cent copper but containing whatever gold and silver existed in original ore.
Blue vitriol	Copper sulphate, a salt of copper.
Brass	An alloy of copper and zinc, average proportions two-thirds copper and one-third zinc.
Bronze	An alloy of copper in which copper and tin are the metals of chief value.
Cement copper	An impure form of copper produced by chemical action of iron introduced into copper-bearing waters.
Concentrating	Process, preceding smelting, by which mineral particles are separated from rock particles.
Concentrates	Product of concentrating process which passes on to smelter.
Copper acetate and subacetate	Chemicals having a copper base.
Copper scale	By-product of smelting consisting mainly of copper oxide.
Flux	Material added in smelting process to encourage fluidity and to aid in the separation of valuable from worthless components.
Matte	Intermediate product in course of smelting—an artificial copper—iron sulphide.
Muntz metal	Common brass containing 60 per cent copper and 40 per cent zinc.
Nickel silver	An alloy composed chiefly of copper, with varying amounts of nickel and zinc.
Nonferrous	Applying to metals other than iron, steel, ferromanganese, etc.
Phosphor bronze	Bronze containing a small amount of phosphorus, which acts as a deoxidizer and improves soundness of ingots.
Phosphor copper	Copper containing phosphorus in appreciable amounts (10 to 15 per cent), used in casting copper and alloys as a deoxidizer.
Phosphorous copper	Copper which has been deoxidized with phosphor copper and contains a residual amount of phosphorus.
Regulus	Synonymous with "matte."
Smelting	Almost synonymous with "melting," usually for the purpose of eliminating iron, sulphur, and silica.

A TARIFF ON COPPER

EXHIBIT No. 2

Value of United States mineral production year 1928 (U. S. B. M.)

	Value	Rank in value
METALLIC		
Nonferrous:		
Copper	$262,930,000	7
Lead	72,630,000	13
Zinc	72,160,000	14
Aluminum	47,899,000	16
Gold	46,165,400	17
Silver	34,200,507	20
Miscellaneous	20,650,724	.....
Total nonferrous (20 metals)	556,650,691	.....
Ferro alloys	66,578,039	15
Iron, pig	661,351,270	3
Total	727,929,309	.....
Total metallic	1,284,580,000	.....
NONMETALLIC		
Coal	1,327,411,660	1
Petroleum	1,054,880,000	2
Clay	387,751,621	4
Natural gas	363,726,000	5
Cement	278,883,042	6
Miscellaneous	678,467,647	.....
Total nonmetallic	4,091,120,000	.....
Miscellaneous unclassified (metallic and nonmetallic)	8,700,000	.....
Total metallic and nonmetallic (85 minerals)	5,384,400,000	.....

EXHIBIT No. 3

United States production of new copper

[United States Bureau of Mines]

	Tons		Tons
1880	30,240	1906	458,903
1881	35,840	1907	434,498
1882	45,323	1908	471,285
1883	57,763	1909	546,476
1884	72,473	1910	540,080
1885	82,938	1911	548,616
1886	78,882	1912	621,634
1887	90,739	1913	612,242
1888	113,180	1914	575,069
1889	113,388	1915	694,005
1890	129,882	1916	963,925
1891	142,060	1917	943,060
1892	172,560	1918	954,267
1893	164,677	1919	643,210
1894	177,094	1920	604,531
1895	190,307	1921	252,793
1896	230,030	1922	475,143
1897	247,039	1923	717,500
1898	263,256	1924	817,125
1899	284,334	1925	837,435
1900	303,059	1926	869,811
1901	301,036	1927	842,020
1902	329,754	1928	912,950
1903	349,022	1929	1,001,432
1904	406,268	1930	697,195
1905	444,392		

EXHIBIT No. 4

Foreign production of new copper

(U. S. Bureau of Mines)

	Tons		Tons
1881	145, 502	1906	338, 874
1882	156, 713	1907	360, 206
1883	166, 543	1908	348, 819
1884	172, 532	1909	390, 226
1885	170, 182	1910	411, 568
1886	162, 207	1911	428, 803
1887	159, 709	1912	482, 711
1888	181, 623	1913	454, 406
1889	177, 630	1914	436, 603
1890	175, 452	1915	468, 992
1891	174, 612	1916	532, 938
1892	179, 689	1917	630, 569
1893	170, 251	1918	619, 999
1894	176, 399	1919	452, 487
1895	178, 656	1920	452, 645
1896	192, 808	1921	361, 846
1897	207, 492	1922	477. 254
1898	217, 648	1923	624, 012
1899	235, 002	1924	676, 506
1900	242, 380	1925	709, 107
1901	278, 975	1926	738, 460
1902	285, 208	1927	832, 390
1903	307, 460	1928	972, 002
1904	320, 724	1929	1, 098, 470
1905	334, 449	1930	[1] 1, 039, 282

[1] As reported by American Bureau of Metal Statistics.

EXHIBIT No. 4–A

Increase during period 1916 to 1929 of United States production and production in South America, Canada, and Africa

Country	1916 production	1929 production	Per cent increase
	Short tons	*Short tons*	
United States [1]	963, 925	1, 001, 432	4
Foreign:			
South America [2]	131, 706	416, 045	215
Canada [2]	52, 880	121, 151	129
Africa [2]	43, 876	172, 561	293
Total foreign	228, 462	709, 757	211

[1] Data from United States Bureau of Mines.
[2] Data from American Bureau of Metal Statistics.

EXHIBIT No. 4-B

Data on foreign productive capacity

[Short tons]

Country	Production 1930	Capacity	Capacity over 1930 production
South America:			
Andes	47,023	[1] 89,464	42,441
Chile	89,590	[1] 184,246	94,650
Braden	80,993	[1] 115,194	34,201
Total	217,612	388,904	171,292
Canada	151,833	[2] 227,000	75,167
Belgian Congo: Katanga	153,163	[3] 220,460	67,297
Rhodesia:			
Roan Antelope	None.	[4] 75,000	75,000
Mufulira	None.	[5] 40,000	40,000
Rhokana	None.	[6] 150,000	150,000
Total	None.	265,000	265,000
Grand total	522,608	1,101,364	578,756

	Tons
1930 total foreign production	1,039,282
Additional capacity new developments	578,756
Total foreign capacity by end of 1932	1,618,038

[1] South America:

Previously demonstrated capacity

Company	Period	Amount	Annual capacity
Andes	Nov. 1928–Apr. 1929	44,732	89,464
Chile	Dec. 1928–May 1929	92,123	184,246
Braden	June, 1928–Nov., 1928	57,597	115,194

[2] Canada:

Company	Capacity	Basis
Granby	30,427	1929 production as reported by A. B. M. S.
Brittania	22,633	1930 production as reported by A. B. M. S.
Noranda	38,071	Do.
Hudson Bay	15,000	Bureau of Mines estimate, "Copper in 1929."
Sherrit-Gordon	12,000	Estimated.
International Nickel	109,000	(7a)
Total	227,131	

[7a] Derived from statements regarding Frood Mine, made by operating heads of International Nickel Co., in articles appearing in Nov. 10, 1930, issue of Engineering and Mining Journal; namely: "At present the Frood Mine is producing 4,000 tons a day, and it is being deveoped and equipped to produce 8,000 tons—" (p. 435) "With full scale operation most of the ore furnished to the mill will be from the Frood Mine,—. The mill feed should average approximately 4.4 per cent copper and 2.2 per cent nickel, with a precious metal content (gold, silver and platinum-group metals) of slightly over $4 per ton" (p. 457).

[3] Statement of Sir Robert Williams (vice president of Union Miniere) at the ordinary general meeting of Tanganyika Concessions (Ltd.), held July 30, 1931, in London: "Under normal conditions, the Union Miniere would now have been producing at the rate of 200,000 tons per annum." (Metric tons—equivalent to 220,460 short tons.)

[4] Statement of A. Chester Beatty (chairman) at fourth ordinary general meeting of members of Roan Antelope Copper Mines (Ltd.), in London, Dec. 18, 1931: "Our proved capacity of the plant represents an annual copper output on average ore of 75,000 short tons."

[5] Statement of A. Chester Beatty (chairman), at shareholders meeting of Rhodesian Selection Trust (Ltd.), Sept. 23, 1931: "This unit would produce about 40,000 short tons of copper per annum."

[6] The London Times, reporting annual meeting of Rhokana Corporation in London on Dec. 16, 931, states: "The chairman said that the capacity of what he might now call their existing plant had been rated at 150,000 tons of copper per annum."

EXHIBIT No. 6

Volume and ratio of United States and foreign new copper production—Years 1909–1930 (U. S. Bureau of Mines)

Year	United States smelter—from domestic ores		Foreign		World smelter tons
	Tons	Per cent of total	Tons	Per cent of total	
1909	546,476	58.3	390,226	41.7	936,702
1910	540,080	56.8	411,568	43.2	951,648
1911	548,616	56.1	428,863	43.9	977,479
1912	621,634	56.3	482,711	43.7	1,104,345
1193	612,242	57.4	454,406	42.6	1,066,648
1914	575,069	56.8	436,603	43.2	1,011,672
1915	694,005	59.7	468,992	40.3	1,162,997
1916	963,925	64.4	532,938	35.6	1,496,863
1917	943,060	59.7	630,569	40.3	1,573,629
1918	954,267	60.5	619,999	39.5	1,574,266
1919	643,210	58.7	452,487	41.3	1,095,697
1920	604,530	57.1	452,645	42.9	1,057,175
1921	252,793	41.2	361,846	58.8	614,639
1922	475,143	49.9	477,254	50.1	952,397
1923	717,500	53.5	624,012	46.5	1,341,512
1924	817,125	54.7	676,506	45.3	1,493,631
1925	837,435	54.2	709,107	45.8	1,546,542
1926	869,811	54.1	738,460	45.9	1,608,271
1927	842,020	50.3	832,390	49.7	1,674,410
1928	912,950	48.4	972,002	51.6	1,884,952
1929	1,001,432	47.7	1,098,470	52.3	2,099,902
1930	697,195	39.8	1,052,777	60.2	[1] 1,749,972

[1] As reported by American Bureau of Metal Statistics.

EXHIBIT No. 7

Daily production rate—United States and foreign mines—Years 1923–1931, American Bureau of Metal Statistics

[Short tons]

Month	1923	1924	1925	1926	1927	1928	1929	1930	1931
United States mines:									
January	1,811	2,149	2,412	2,291	2,458	2,209	2,785	2,188	1,550
February	1,834	2,265	2,463	2,433	2,472	2,325	3,026	2,114	1,697
March	1,961	2,103	2,416	2,443	2,236	2,269	3,023	1,975	1,571
April	1,969	2,202	2,356	2,448	2,371	2,324	3,163	2,105	1,548
May	2,023	2,116	2,276	2,372	2,310	2,378	3,013	1,943	1,470
June	2,091	2,131	2,330	2,377	2,318	2,441	2,745	1,891	1,482
July	2,034	2,090	2,219	2,330	2,114	2,369	2,550	1,750	1,233
August	2,125	2,153	2,196	2,323	2,169	2,482	2,545	1,811	1,256
September	2,075	2,127	2,272	2,421	2,198	2,611	2,647	1,886	.....
October	2,130	2,225	2,292	2,423	2,225	2,790	2,664	1,805	.....
November	2,129	2,276	2,247	2,498	2,269	2,846	2,531	1,771	.....
December	2,091	2,182	2,244	2,335	2,168	2,761	2,412	1,572	.....
Foreign mines:									
January	1,500	1,683	1,792	1,887	2,263	2,422	2,982	2,894	2,624
February	1,439	1,791	1,929	2,083	2,381	2,763	2,942	2,996	2,899
March	1,711	1,852	1,950	1,903	2,259	2,500	3,196	2,994	2,847
April	1,614	1,771	1,774	2,117	2,253	2,557	3,398	3,005	2,748
May	1,708	1,892	1,796	2,030	2,274	2,668	3,200	3,008	2,739
June	1,679	1,939	1,859	1,760	2,257	2,875	3,075	3,132	2,742
July	1,586	1,836	1,820	1,686	2,247	2,669	3,073	3,054	2,686
August	1,750	1,691	1,759	1,824	2,283	2,739	3,050	3,181	2,694
September	1,858	1,758	1,902	1,979	2,345	2,640	3,158	3,338	.....
October	1,680	1,954	2,167	1,983	2,558	2,908	2,993	3,271	.....
November	1,836	1,791	2,187	2,446	2,564	3,281	3,105	3,003	.....
December	1,799	1,881	2,008	2,255	2,734	3,021	2,934	2,823	.....

EXHIBIT No. 8

Comparison of United States production and consumption of new copper—years 1909–1930 (U. S. Bureau of Mines)

Year	Smelter production from domestic ores	Apparent consumption	Surplus by deduction
	Tons	*Tons*	
1909	546,476	344,000	202,476
1910	540,080	366,200	173,880
1911	548,616	340,877	207,739
1912	621,634	357,989	233,645
1913	612,242	406,034	206,208
1914	575,069	355,812	219,257
1915	694,005	568,309	125,696
1916	963,925	739,441	224,484
1917	943,060	697,415	245,645
1918	954,267	830,835	123,432
1919	643,210	457,236	185,974
1920	604,530	526,919	77,611
1921	252,793	305,494	[1] 52,701
1922	475,143	448,317	26,826
1923	717,500	650,237	67,263
1924	817,125	677,371	139,754
1925	837,435	700,506	136,929
1926	869,811	785,068	84,743
1927	842,020	711,480	130,540
1928	912,950	804,269	108,681
1929	1,001,432	889,293	112,139
1930	697,195	632,508	64,687

[1] Deficit.

EXHIBIT No. 9

Comparison foreign production and foreign consumption of new copper, years 1909–1930

Year	Foreign production (U. S. Bureau of Mines)	Foreign consumption [1]	Deficit	Year	Foreign production (U. S. Bureau of Mines)	Foreign consumption [1]	Deficit
	Tons	*Tons*	*Tons*		*Tons*	*Tons*	*Tons*
1909	390,226	592,702	202,476	1920	452,645	526,638	73,993
1910	411,568	585,448	173,880	1921	361,846	464,052	102,206
1911	428,863	636,602	207,739	1922	477,364	569,859	92,605
1912	532,711	716,356	233,645	1923	624,012	631,660	7,648
1913	454,106	660,314	206,208	1924	676,506	766,643	90,137
1914	436,603	655,860	219,257	1925	709,107	887,479	178,372
1915	468,992	594,688	125,696	1926	788,460	844,711	106,251
1916	532,938	757,422	224,484	1927	832,390	962,847	130,457
1917	630,569	876,214	245,645	1928	972,692	1,072,155	100,153
1918	619,999	743,431	123,432	1929	1,008,470	1,012,111	[2] 86,359
1919	452,437	477,100	24,712	1930	[3] 1,039,252	960,534	[2] 78,758

[1] For years 1909-1918, inclusive, consumption based on world production less United States consumption. For 1919-1930, inclusive, consumption is as reported by American Bureau of Metal Statistics plus United States exports of rods to conform with method used by Department of Commerce in deriving consumption figures.

[2] Surplus.

[3] As reported by American Bureau or Metal Statistics.

EXHIBIT No. 10

Copper imports into the United States

[Data from Bureau of Foreign and Domestic Commerce]

Year	Ores, concentrates, mattes, etc.	Blister	Refined	Scrap	Total
	Short tons	*Short tons*	*Short tons*	*Short tons*	*Short tons*
1911	34,313	132,990	(1)	(1)	167,303
1912	52,456	152,684	(1)	(1)	205,140
1913	54,746	149,643	(1)	(1)	204,389
1914	52,401	100,775	(1)	(1)	153,176
1915	57,165	100,683	(1)	(1)	157,848
1916	87,444	143,724	(1)	(1)	231,168
1917	87,873	190,336	(1)	(1)	278,209
1918	78,606	209,294	(1)	(1)	287,902
1919	63,226	151,466	(1)	(1)	214,692
1920	58,218	184,617	(1)	(1)	242,835
1921	51,400	123,836	(1)	(1)	175,236
1922	56,420	151,290	51,572	11,226	270,508
1923	71,527	197,632	64,234	4,844	338,237
1924	73,978	235,514	72,955	1,958	384,405
1925	81,664	189,067	49,887	5,267	326,485
1926	76,797	271,999	85,283	5,743	389,722
1927	84,457	219,297	51,640	3,768	359,162
1928	74,152	271,595	42,365	5,424	393,536
1929	90,226	323,085	67,007	6,839	487,157
1930	81,446	280,235	43,105	3,791	408,577
1931	62,229	140,925	87,225	2,550	292,929

[1] Included with blister.

Copper metal, unmanufactured: Domestic exports

[Data from report of U. S. Tariff Commission]

Year	Unrefined	Refined	Scrap	Total	Total calendar year (U. S. Bureau of Mines)
Fiscal—	*Short tons*	*Short tons*	*Short tons*	*Short tons*	*Short tons*
1911	(1)	396,025	(1)	396,025	395,277
1912	(1)	402,643	(1)	402,643	387,500
1913	(1)	370,170	1,341	371,511	463,231
1914	(1)	432,302	2,915	435,217	374,451
1915	(1)	290,936	3,834	294,770	296,966
1916	2,460	328,946	156	331,562	367,847
1917	9,101	469,051	755	478,907	524,423
Calendar—					
1918	7,344	345,014	129	352,487	
1919	837	219,061	225	220,143	
1920	923	275,614	288	276,824	
1921	75	298,059	308	298,442	
1922	[2] 227	326,333	1,400	327,960	
1923	[2] 230	364,600	1,772	366,602	
1924	[2] 70	504,812	2,597	507,479	
1925	[2] 920	484,033	6,053	491,006	
1926	[2] 2,733	428,062	9,713	440,508	
1927	[2] 3,618	461,233	22,709	487,560	
1928	[2] 1,916	474,737	27,703	504,356	
1929	[2] 2,790	411,227	18,818	432,835	
1930	[2] 90	297,057	16,943	314,090	
1931 [3]	[2] 148	202,698	33,568	236,414	

[1] Included in "Refined."
[2] Includes ore, matte, and composition metal.
[3] As reported by the Bureau of Foreign and Domestic Commerce.

EXHIBIT No. 11

Copper, unmanufactured: Domestic imports, 1931 (short tons)

[Data from Bureau of Foreign and Domestic Commerce]

Month	Ores, concentrates, matte, etc.	Blister	Refined	Scrap	Total
January	5,749	13,144	4,289	181	23,363
February	2,256	11,538	2,001	220	16,015
March	5,645	13,302	2,921	323	22,391
April	5,026	11,299	5,027	195	21,547
May	5,074	12,139	4,050	198	21,461
June	4,189	12,946	8,109	165	25,409
July	5,123	12,253	3,207	160	20,743
August	3,136	11,069	5,050	179	19,445
September	5,980	12,095	6,985	216	25,276
October	6,874	10,794	10,659	301	28,628
November	7,948	4,025	16,359	133	28,465
December [1]	5,027	16,321	18,559	279	40,186
Total	62,229	140,925	87,225	2,550	292,929

[1] As reported by American Bureau of Metal Statistics.

Copper, unmanufactured: Domestic exports, 1931 (short tons)

[Data from Bureau of Foreign and Domestic Commerce]

Month	Ores and concentrates	Refined	Scrap	Total
January	10	34,008	4,332	38,350
February	56	22,868	2,553	25,477
March	1	24,901	3,331	28,233
April	39	16,918	2,681	19,638
May		16,709	3,499	19,208
June	35	16,637	3,025	19,697
July	1	16,540	2,278	18,819
August	1	13,869	2,318	16,188
September		12,251	2,786	15,037
October	6	7,989	2,013	9,978
November		11,072	2,219	13,291
December [1]		9,122	2,592	11,714
Total (by addition)			33,627	235,630
Revised totals (see note)			33,568	236,414

[1] As reported by American [illegible]

NOTE.—Revised totals are [illegible] American Bureau [illegible] Statistics [illegible] Jan. 26, 1932

115102—32—[illegible]

EXHIBIT No. 13

Ore reserves—Foreign and domestic

UNITED STATES COPPER ORE RESERVES COVERING THE LARGE PRODUCERS REPORTING RESERVES

	Year	Tons of ore	Per cent cu.	Tons copper
Consolidated Coppermines [1]	1930	35,000,000	1.10	385,000
Inspiration Consolidated [1]	1925	96,010,938	1.40	1,344,200
Miami Copper Co. [1]	1930	91,276,787	.95	869,700
Nevada Consolidated [1]	1930	300,000,000	1.47	4,410,000
Phelps Dodge—Morenci [1]	1930	379,349,000	1.02	3,869,400
Phelps Dodge—Copper Queen [1]	1930	24,500,000	1.55	381,300
Utah Copper Co. [1]	1930	640,000,000	1.07	6,848,000
Total		1,566,236,722	1.16	18,107,600

AVAILABLE DATA ON FOREIGN COPPER ORE RESERVES

Africa:				
Roan Antelope [1]	1930	108,000,000	3.44	3,715,200
Rhokana [2]	1931	270,780,000	4.3	11,788,500
Mufulira [1]	1931	162,000,000	4.14	6,709,700
Kanshanshi [1]	1930	8,000,000	4.15	332,000
Union Miniere du Haut Katanga [1]	1929	85,979,000	6.41	5,512,000
Total		634,759,000	4.42	28,057,400
South America: [3]				
Andes	1924	137,400,000	1.51	2,074,700
Braden	1930	230,750,000	2.18	5,030,300
Chile	1921	688,629,889	2.12	14,599,000
Total		1,056,779,889	2.05	21,704,000
Canada: [1]				
International Nickel Co	1930	206,704,000	[3] 2.00	4,134,100
Noranda	1931	7,891,000	4.09	323,100
Hudson Bay	1930	18,000,000	1.71	307,800
Sherritt-Gordon	1930	5,254,500	2.50	131,400
Granby Cons	1930	14,601,149	1.81	264,300
Total		252,450,649	2.04	5,160,700
Grand total		1,943,989,538	2.82	54,922,100

[1] From Table XIII, 1930 Year Book, American Bureau of Metal Statistics.
[2] From Rhokana Corporation (Ltd.), Directors' Report, Dec. 2, 1931.
[3] Estimated by American Bureau of Metal Statistics.

EXHIBIT No. 14

AFRICAN LABOR

An analysis of the cost data supplied by the commission shows that the items making up the combined operating costs of mining, concentrating, and smelting in the United States compared with those in Africa and Serbia, results in the following percentage segregation:

	United States	Africa and Serbia [1]
	Per cent	*Per cent*
Labor	50.5	33.3
Supplies	37.8	54.6
General and administrative	11.7	12.1
	100.0	100.0

[1] African supply equals 89 per cent of "Africa and Serbia."

In the United States, half of total operating costs are for labor; in Africa, one-third. The combination of higher grade ores and lower wages in Africa accounts for this great difference.

The labor conditions in Africa and the kind of competition which the American miner is now forced to meet, is described by the commission as follows (p. 28):

"*African labor.*—Labor in the African copper mines and developments is performed by native blacks under white supervision. Usually one white man is employed (including medical staff) to every seven to ten blacks.

"According to the Northern Rhodesian Blue Book, the average number f natives employed in 1929 in the mines of Northern Rhodesia was 17,608.

"Wages and salaries are paid partly in cash and partly in allowance for food housing, and transportation. Native labor is generally hired under a six month contract, and white employees under a three-year contract.

"Public sources of information, such as annual reports of operating companies and the Northern Rhodesian Blue Book, indicate that in Northern Rhodesia the daily cash wage paid to native mine labor averages from $0.19 for unskilled to $0.68 for skilled labor, with a total daily cost to the companies, including allowances in kind, of $0.35 and $0.75 for unskilled and skilled labor, respectively; the range of cash daily wages paid to native labor in the Katanga district is from $0.05½ to $0.34¾, the amount depending upon the length of service and the kind of work.

"The incomplete cost data available indicate a mine labor cost in Africa of $1.75 per ton of ore, equivalent to approximately 1.61 cents per pound of copper, as compared with a mine labor cost in the United States of 3.08 cents per pound of copper."

The Rhodesian Anglo-American (Ltd.) is a holding company having substantial interests in all of the most important mining companies operating in Northern Rhodesia. Until 1931, this company acted as consulting engineers and technical advisers to those companies which now make up the Rhokana group.

In February, 1929, Rhodesian-Anglo American (Ltd.) issued a booklet entitled "Mining Developments in Northern Rhodesia," from which are taken the following excerpts:

"One of the two outstanding aspects of the growth of mining in this colony is the very rapid transformation of large parts of the territory from a state of semi-savagery into a condition of civilized activity.

"Well arranged, sanitary, and orderly compounds house the natives employed in the mines. Huts are built in the same style as in the villages, but in a more permanent manner so that they can be kept clean and free from vermin.

"A certain amount of native beer is allowed. Often native drums are provided, and tribal dances are nightly occurrences. Life in a mine compound is in many respects similar to village life, with the added attraction that it tends to break down old tribal restraints and increase certain liberties. In place thereof it substitutes the discipline of regular hours and regular physical tasks. These unquestionably are good.

"What the final result of industrializing the native may be, no one can say. He will have to suffer growing pains and he may appear to have deteriorated at some stages of his development, but one feels that ultimately the European will make him a better and more useful man than he found him."

Wages and salaries are paid partly in cash and partly in food, housing and transportation. The nature of the food and housing referred to is disclosed by the following extracts from the health and sanitation regulations issued by the Department of Mines of Northern Rhodesia:

"(1) Huts shall be built as far as possible in rows, and there shall be 15 feet between each, but reckoning from eaves to eaves.

* * * * * * *

"(9) The inside measurements of all huts shall conform as far as possible to the following:

(*a*) For six natives: Diameter, 16 feet; height of walls from floor to thatch, 6 feet.

(*b*) For five natives: Diameter, 15 feet; height of walls from floor to thatch, 5 feet.

For four natives: Diameter, 14 feet; height of walls from floor to thatch, 5 feet.

(*d*) For two natives: Diameter, 10 feet; height of walls from floor to thatch, 4 feet.

"10. (*ii*) Sleeping accommodations shall not contain less cubic air space than 600 feet for Europeans and 250 feet for natives.

The regulations prescribe the following rules covering rations:

"17. (i) Every employer shall provide all natives employed by him on any mining property with rations of good quality in accordance with Schedule B of these regulations, and the meal hours shall be so arranged as to allow of natives partaking of food at least twice daily, once before noon and once after noon.

"SCHEDULE B

"1. Minimum ration scale:

"(a) Meal, mealie meal, millet, kaffir corn, and the like, or rice—1½ pounds per day.

"(b) Beans, 2 pounds a week.

"(c) Meat, 2 pounds a week.

"(d) Vegetables (fresh), 2 pounds a week (such as tubers, gourds, wild spinach, cabbage, and onions, etc.).

"(e) Peanuts (shelled), 1 pound a week.

"(f) Salt, 3½ ounces a week.

"2. Hot drinks: Natives, both surface and underground, on coming off night shift shall be given 1 pint of hot soup, coffee, or cocoa."

The October, 1931, issue of the Rhodesian Mining Journal carries an article which discusses the question, Can whites take the place of natives? The findings are summarized in the following excerpts:

"To deal first of all with unskilled labor; it is a class of labor which, if it could be replaced at all, could be totally so, for the simple reason that no knowledge is required in its performance, the only question being one of cost and efficiency

"Now, there are few natives seeking work on the mines who do not know how to use an axe. From time immemorial, he has made his own axe and chopped the trees around his kraal for firewood, and that which he gets through in a day for 6 pence is certainly equivalent to that which a white man engaged in this class of labor would accomplish for a pound; for one really can not employ white labor out here at much less than a pound a day.

"As with the axe, so with the pick and shovel. The cheapness of native labor at 6 pence a day is such that any question of replacement by Europeans is entirely out of the picture.

"The number of native clerks employed on a large mine is about 50, all told. Their wages vary from £2 to £5 per month ($6.80 to $17 with the pound at $3.40), the average being in the neighborhood of £3 ($10.20). Here, again, we have a class of labor it would be extremely difficult to dispose of or to replace.

"Native bricklayers have been employed only on such buildings which, while good work was expected, were not required to be elaborate or perfectly finished. White labor was employed on all European dwelling houses, but to use it for a class of work which would be done equally well by natives at £3 or £4 a month would have been sheer waste of money.

"Machine boys at £2 ($6.80 with the pound at $3.40) per month are trained to rig up the machines underground. Hammer boys operate jackhammers with an efficiency which is daily increasing.

"The total cost of each native on the average is estimated at N'Kana as 2s. 6d. per day (43 cents with pound at $3.40). This pays him, feeds him, houses him, gives him free medical attention, feeds his wife and children, pays the compound manager and his staff their salaries—in fact, includes everything, while the average wage throughout the mine is 25s. ($4.25 with pound at $3.40) a month, inclusive of unskilled and skilled labor. Economically, his replacement is impossible.

"Hence it is seen to on all mines that the natives are comfortably housed and fairly treated, both with regard to food and general living conditions. It may seem to some a pampering of the native, but actually it is nothing more than an acknowledgement of the fact that we can't do without him on account of his absurdly low cost.

"The day will never come when the native worker on the mines is a thing of the past. His replacement is as undesirable as it is impossible from the financial aspect, and whatever our attitude toward the unemployed overseas may be, they can not expect an avenue of escape from their trouble by way of replacement of natives by whites on the mines of this country."

That the efficiency of the native has surprised the managements of the Rhodesian companies is indicated by the following statement of Mr. A. Chester Beatty, addressing The American Institute of Mining and Metallurgical Engineers, in New York, on October 28, 1931. Mr. Beatty said:

"The labor has proved far more efficient than we had ever hoped."

The following are translated excerpts from a report presented by the Belgian Government to the Council of the League of Nations on the subject of the administration of the Ruanda-Urundi during the year 1930:

"The Union Miniere du Haut Katanga has fixed the scale of wage rates for native workers, according to the class of worker and the length of service, as under:

Scale of daily wage rates according to length of service (Belgian francs)—

First-class worker, 8–12 up to 22–25 maximum (22 cents–34 cents up to 61 cents–70 cents).

Second-class worker, 5–6.50 up to 13–15 maximum (14 cents–18 cents up to 36 cents–42 cents).

Third-class worker, 4–5 up to 9–10 maximum (11 cents–14 cents up to 25 cents–28 cents).

Fourth-class worker, 2.5–3 up to 7.5–8 maximum (7 cents–8½ cents up to 21 cents–22 cents).

Fifth-class worker, 2–2.5 up to 6–6.5 maximum (5½ cents–7 cents up to 17 cents–18 cents).

"In addition the workers receive rations, which are also supplies to the wives and children.

"A worker earns during his three years' contract, with the help of increments, a total sum of not less than 3,400 francs $94.86). He is engaged at 2 francs (5½ cents) a day for the first year, which is considered as a probationary period. After this recruits who give satisfaction become subject to the scale of wages of permanent workers as set out above.

"In December, 1930, the distribution of wages was as follows: 34 per cent of the workers from Ruandi-Urundi, with less than one year's service, received a daily wage of 2 francs (5½ cents); of 34 per cent who had commenced their second year of service, 10 per cent were paid at the rate of 3 francs (8½ cents), and 24 per cent at 4 francs (11 cents) per day; of 32 per cent with over two years' service, 8 per cent earned 3.50 francs, (10 cents), 12 per cent 5 francs (14 cents) and 12 per cent 12.50 francs (35 cents) per day.

"On engagement recruits are supplied with the regulation blanket, a loin-cloth and woolen singlet, together with a mat and cooking-pot. Women who agree to accompany their husbands are supplied with a loin-cloth, and if pregnant or accompanied by a child, receive a blanket in addition."

EXHIBIT No. 15

Increase in productive capacity since 1928 of Frood mine, Katanga, and the Rhodesian mines and derivation of production costs for these mines and for Chile Copper Co.

Country	Mine	1928 production (short tons)	Present rating (short tons)	Increase (short tons)
Canada	Frood mine	None.	109,000	109,000
Africa	Katanga	123,960	220,000	96,040
Do	Roan Antelope	None.	75,000	75,000
Do	Mufulira	None.	40,000	40,000
Do	Rhokana	None.	150,000	150,000
		123,960	594,000	470,000

DERIVATION OF COSTS

FROOD MINE (INTERNATIONAL NICKEL CO. OF CANADA)

International Nickel Co. does not publish figures from which the cost of production of copper can be derived. The data shown below are employed in the manner prescribed by the Tariff Commission for "complex ores."

Statement from November 10, 1930, issue of Engineering and Mining Journal, featuring articles by officials and operating heads of International Nickel Co., of Mr. William T. MacDonald, mill superintendent:

"The mill feed should average 4.4 per cent copper and 2.2 per cent nickel, with a precious-metal content (gold, silver, and platinum group metals) of slightly over $4 per ton."

Four and four-tenths per cent copper equals 88 pounds per ton, of which 85 per cent is assumed recoverable, making the recoverable content approximately 75 pounds of copper per ton.

Two and two-tenths per cent nickel on the same basis equals approximately 37 pounds of recoverable nickel per ton.

Of the $4 precious metal content, a value of approximately $3.40 would be recovered.

In allocating costs in cases of complex ores, "in which elements other than copper furnish a considerable part of the recoverable value," the commission used the following method:

(1) Credits for by-products were allocated, in the costs of mining, to the joint-product metals (copper, nickel, and zinc) on the basis of the sales value of each joint product; and (2) costs after by-product credits up to the point of separation of nickel and zinc from copper were allocated on the basis of the sales value of each of the joint-product metals.

A flow sheet accompanying the articles in the November 10, 1930, issue of Engineering and Mining Journal on treatment of Frood ore, shows that only a partial separation of nickel and copper takes place in the concentrating plant. Hence, the allocation on the basis of sales value, used by the commission, would carry through the concentrating process.

On the basis of known costs for mining and concentrating at comparable United States mines, the mining and concentrating costs at the Frood mine will be between $4 and $5 per ton of ore. Using the higher figure and taking nickel at 35 cents per pound, the established price for a long time, and copper at 8 cents per pound, and assuming an 85 per cent recovery, the distribution by the commission's method would be as follows:

Allocation of cost as between copper and nickel

Content per ton of ore	Unit value	Total value	Per cent of total
	Cents		
Copper, 75 pounds	8	$6.00	31.7
Nickel, 37 pounds	35	12.95	68.3
Total		18.95	100.0

Total cost per ton for mining and concentrating	$5.00
Reduced by precious metal content	3.40
Cost to be allocated to copper and nickel	1.60
Nickel, 68.3 per cent	1.093
Copper, 31.7 per cent	.507
Total	1.60

As the ore contains 75 pounds of recoverable copper per ton, the above per ton cost allocated to copper is divided by 75, giving a cost to copper for mining and concentrating of $0.68 per pound.

The new smelter of the International Nickel Co. is reputed to be a model of efficiency. Smelting a concentrated product, the cost per pound of metal would certainly be no higher than the commission's average cost per pound in the United States of 1.29 cents, reflecting smelting of both ore and concentrates.

The International Nickel Co.'s refinery at Copper Cliff, Ontario, is of the most modern type. The cost of refining per pound of copper should not exceed the cost of refining in the average American plant, which was found by the Tariff Commission (p. 69) to be $0.96 per pound. For this reason, refining costs are taken at $0.96 per pound.

The freight on refined copper from Copper Cliff to Buffalo, N. Y., is $5 per ton, or $0.25 per pound.

The depletion and interest charge found by the commission to be applicable to Canada was 3.39 cents per pound.

Summarizing the above costs, we reach the following results for the Frood production:

	Cents
Mining and concentrating	0.68
Smelting	1.29
Refining	.96
Freight to United States	.25
Total cost per pound without depletion or interest	3.18
Depletion and interest	3.39
Cost per pound including depletion and interest	6.57

KATANGA

At a shareholders' meeting of Union Miniere du Haut Katanga, held at Brussels on July 13, 1931, Mr. Jean Jadot, the president of the company, made the following official statement:

"Without being indiscreet, it could be said that, in spite of the price quoted for copper in the course of the last few weeks, a price lower than that which had ever been touched hitherto, the company was not running at a loss, but was still realizing profits, which, although they were not considerable, were profits nevertheless."

At the time this statement was made the price of copper had fallen to 8 cents a pound. In order to permit of profit making at this price, the cost of copper delivered to consumers must have been about 7.5 cents per pound. At that time the pound sterling was still at par.

The fall of the pound sterling since Mr. Jadot's statement was made has still further reduced Katanga's cost. The November, 1931, issue of the Rhodesian Mining Journal states:

"The fall of sterling in Great Britain and the Rhodesias has had favorable consequences for the Union Miniere du Haut Katanga.

"The fall of the Rhodesian pound lowers the cost of the company's purchases of coal, coke, etc., in Rhodesia, in respect of its important transports from Wankie and from and to Beira."

In the Belgian Congo (Katanga) the native wages include rations for the laborer and his family. The Northern Rhodesian Blue Book shows large exportations of food supplies to the Belgian Congo from northern Rhodesia, both the supplies themselves and the freight being paid for in British currency.

An analysis of the commission's figures for the Belgian Congo (Katanga) shows that 53.8 per cent of the total operating cost, with depreciation, is for freight and supplies. Sterling has dropped about 30 per cent. This drop in sterling automatically reduces the above cost of 7.5 cents as follows:

Fifty-three and eight-tenths per cent of a total cost of 7.5 cents equals 4.04 cents, which represents the cost of freight and supplies before the drop in sterling. The drop in sterling must have reduced this figure approximately 25 per cent, the decrease being 1.01 cents per pound. The previous cost of 7.5 cents per pound reduced by 1.01 cents as above leaves the present cost 6.49 cents before depletion and interest. Adding depletion and interest at 0.78 cents, the figure determined for Africa by the Tariff Commission, brings the total cost to 7.27 cents per pound.

ROAN ANTELOPE

Since the issuance of the commission's report, authentic figures of Roan Antelope's production costs have been made public and are amazingly low. At the fourth ordinary general meeting of the members of Roan Antelope Copper Mines (Ltd.), held in London on December 18, 1931, Mr. A. Chester Beatty, chairman, stated that in November, 4,362 long tons were produced at a cost of £30 3s.6d. per ton. At the current value of the pound (about $3.40) the cost is approximately 4.6 cents per pound. Mr. Beatty said that "These costs include all realization charges and working expenditures at the mine and in London with the exception of interest charges and depreciation."

Mr. Beatty stated, in part:

"These costs, which are on a basis of sterling, since the departure from the gold standard, compare with a cost of £33 per ton in September, when our accounts were on a gold basis.

"I want to make it quite clear, that these costs represent all in costs of electrolytic copper at the refinery, the London price of which is now about £42 per long ton.

"The current operating cost of about £30 per ton, which has been achieved in the sixth month after the commencement of milling operations, makes your company one of the cheapest copper producers in the world.

"The decision of the Northern Rhodesian Government to follow Great Britain in departing from the gold standard, is of material assistance to the company.

"We have proved unquestionably, that we rank among the cheapest producers in the world, and that we can operate at a profit, even at present day prices, which are by far the lowest in the history of the industry."

For several months, Roan Antelope's copper was refined at the American Metal Co.'s refinery at Carteret, N. J., preceding the completion of the fire-refining plant in Rhodesia. That the above costs include transportation to the United States is proved by the following item in the Progress Report of Roan Antelope Copper Mines (Ltd.). For three months ended September 30, 1931:

"Operating cost finished as electrolytic copper in New York, after allowance for losses in transit, smelting, refining, selling, and royalty, but before interest and depreciation: September, £33.020 per long ton."

Mr. Beatty's statement clearly puts Roan Antelope's cost, before depreciation and interest, at 4.6 cents per pound. The depreciation charge found for Africa and Serbia by the commission was 0.70 cents per pound. The depletion and interest charge was 0.78 cents per pound. Adding these financial changes, the cost after depreciation, but before depletion and imputed interest, becomes 5.30 cents per pound; including depletion and interest, 6.08 cents per pound.

MUFULIRA

The most reliable estimate of Mufulira's anticipated costs comes from Mr. A. Chester Beatty, chairman of the Board of the Rhodesian Selection Trust (Ltd.) which controls Mufulira. Mr. Beatty said to the shareholders of that company at a meeting in London on September 23, 1931:

"When you consider that Mufulira will be starting operations on ore with a much higher copper content than Roan, I think shareholders may have every confidence that the Mufulira Mine will fulfill our highest anticipations. Since the Roan Antelope and the Mufulira plants were designed by the same engineers, I have every reason to believe that Mufulira should equal, if not excel, the Roan plant, which not only started operations before its scheduled time, but is working so magnificently to-day."

Roan Antelope's average grade is officially reported as 3.44 per cent copper. Mufulira's grade is officially reported as 4.14 per cent. On the basis of Mr. Beatty's statement concerning Mufulira, the cost for this company is conservatively assumed to be the same as for Roan Antelope.

RHOKANA

According to statements of H. S. Munroe, consulting engineer of Rhokana, in a report accompanying the director's report to shareholders under date of December 2, 1931, Rhokana's ore reserves are calculated as having 270,780,000 tons carrying 4.3 per cent copper, 25 per cent higher than Roan Antelope. Mr. Munroe says that "experience has shown that the mining problems are not unusual, and that simple, economical methods of mining can be employed." Under the above circumstances, it is probable that Rhokana's production cost will be lower than that of Roan Antelope. For conservatism, we use the Roan Antelope figure of 5.30 cents per pound, before depletion and interest, and 6.08 cents per pound, including depletion and interest.

CHILE COPPER CO.

In order not to divulge the costs of any one company, the Tariff Commission published its 1928 cost figures by groups of countries. In its report, Spain and Latin America costs are combined. However, the production costs for Chile Copper Co. are available and are here shown as taken from the annual report for 1929.

Chile Copper Co.:	
Production costs, annual report, 1929.	
Production sold, 212,568,158 pounds copper.	
Production cost	$10,083,960
Depreciation and obsolescence	2,410,516
Total	[1] 12,494,476
Deduct miscellaneous income	2,081,039
Net cost before bond interest and income tax	10,413,437

This cost on a production of 212,568,158 pounds of copper equals 4.90 cents per pound. This is with no allowance for the ability to buy supplies in countrie which have gone off the gold standard.

[1] An amount of $4,230,869 charged as taxes and miscellaneous has been eliminated because it obviously covers Chilean income taxes.

Summary

Item	Annual productive capacity (short tons)	Cost	
		Without depletion and interest	With depletion and interest
		Cents	*Cents*
Frood mine	109,000	3.18	6.57
Katanga	220,000	6.49	7.27
Roan Antelope	75,000	5.30	6.08
Mufulira	40,000	5.30	6.08
Rhokana	150,000	5.30	6.08
Chile	184,000	4.90	9.69

Exhibit No. 17

Comparison of domestic costs of copper based on production required to fill consumptive demand for 1928 (see Exhibit No. 16) with foreign costs in principal competing countries (see Exhibit No. 15)

OPERATING COSTS

Domestic cost	Item	Cost	Difference
		Cents	*Cents*
10.5 cents	Frood	3.18	7.32
	Katanga	6.49	4.01
	Rhodesia	5.30	5.20
	Chile Copper Co.	4.90	5.60

TOTAL COSTS

15 cents	Frood	6.57	8.43
	Katanga	7.27	7.73
	Rhodesia	6.08	8.92
	Chile Copper Co.	9.69	5.31

Exhibit No. 18

Calculation showing the 1928 average cost of producing foreign copper as reported by the Tariff Commission (Table A), the adjustment of the same by taking in established costs of the Katanga, Rhodesian, and Frood Mines, and the resulting corrected foreign average cost

Item	Production (short tons)	Total cost
		Cents
Foreign production for 1928 for which costs were obtained per Tariff Commission Report (Tables A and 16)	422,016	11.87
Remove Belgian Congo (Katanga) and Serbian production included in above	146,715	11.65
	275,301	11.99
Reduce by 10 per cent of operating costs account depreciated currency [1]		.76
	275,301	11.23
Add adjusted production and cost for Katanga [2] [3]	220,000	7.27
Add total Rhodesian production [3]	205,000	6.06
Add Frood mine production [3]	109,000	6.57
	869,301	8.07

[1] Depreciation of currency in countries which are important exporters of copper is as follows:

	Per cent
Canada	15
Mexico	21
Spain	60
Northern Rhodesia	30

The ability of South American copper companies to purchase supplies from countries which have dropped the gold standard is of importance. The exact increment of cost difference which the factor of depreciated currency introduces is indeterminate because of lack of detailed information. An estimated reduction of 10 per cent is applied here.

[2] Serbian production and cost figures have been necessarily eliminated. The effect is negligible since Serbian tonnage represents only 2 per cent of the total.

[3] Figures taken from Exhibits Nos. 4-B and 15.

The commission's total cost for average United States production including depletion and interest is 13.29 cents. The foreign cost as above is 8.07 cents. The difference is 5.22 cents.

Exhibit No. 19

RAILROAD STATISTICS

Earnings of class 1 railroads on copper, ores, concentrates, and metal (per ton of copper produced by United States mines), from freight commodity statistics, issued by Interstate Commerce Commission; as follows:

1928, $12,733,204	$13.62
1929, $14,748,086	14.37
1930, $9,674,396	13.61
Average	13.90

Freight bill for railroad transportation only on copper, ores, concentrates, and metal, also fuel, timber and other supplies paid by 12 producers in Arizona, New Mexico, Nevada, Montana, Michigan, and Tennessee, representing about one-third United States production of copper (per ton produced by above group):

1928, $9,713,819	$32.75
1929, $11,216,417	35.14
1930, $7,676,286	28.94
Average	32.36

Estimated total freight bill for all United States producers on above basis:

1928	$29,141,457
1929	33,649,251
1930	23,028,858

Gross revenues of Southern Pacific Co. and connecting lines, freight, passenger and miscellaneous on the business of copper companies in Arizona and New Mexico and traffic incidental thereto, viz, the general traffic of the communities whose existence is dependent upon the continuance of the copper industry.

	Per ton
1928, $15,703,500	$54.87
1929, $19,257,900	61.84
1930, $11,320,700	49.80
Average	56.11

NOTE.—About 30 per cent of total United States production of copper is tributary to Southern Pacific rails in Arizona and New Mexico.

Estimated total gross revenues of all United States railroads attributable to copper industry on above basis:

1928	$52,345,000
1929	64,193,000
1930	37,736,000

STATEMENT OF HEATH STEELE, NEW YORK CITY, VICE PRESIDENT OF THE AMERICAN METAL CO. (LTD.)

Mr. STEELE. My name is Heath Steele. I am vice president of The American Metal Co. (Ltd.), in charge of operation, and in order that there will be no misunderstanding as to my position on the copper tariff, I wish to state that The American Metal Co. (Ltd.) has foreign interests in copper, including Cuba. I would also like to mention that we are operating a large lead-zinc property in New Mexico. Although these metals are protected by a traiff, I wish to assure you that we have been operating this property for a considerable time without profit, and that conditions are just as bad in the lead-zinc industry as they are in the copper industry.

I am opposed to a copper tariff as I do not see how it can possibly benefit the copper industry, produce revenue or help the unemployment situation in those States which are advocates of the copper tariff, or elsewhere. The world's copper market to-day is in a strained condition owing to enormous stocks above ground.

I believe that a copper tariff will disrupt the present marketing arrangments and will retard the recovery of the copper industry beyond the time when the corrective measures already in effect would normally bring about a recovery.

The United States is the copper refining center of the world. A duty, even with drawbacks, will place the refineries and smelters at a great disadvantage in competing for the treatment of foreign copper. I will repeat that a duty will not relieve the unemployment at the mines, but it will increase unemployment at the refineries and smelters.

Contrary to statements which are being made, and particularly considering the exportation of manufactured articles, this country is still an exporter of copper. It has a potential mine producing capacity of 1,318,000 short tons per annum. Its peak consumption of primary copper in 1929, exclusive of manufacturers' exports, was 847,000 tons, or 63 per cent of the production capacity. In 1931 we consumed about 454,500 tons, and we are now consuming at the rate of 330,000 tons, about 25 per cent of our producing capacity. If our mines and plants are to work at anything like capacity, we must participate in the world's markets. This can only be done by coopera-

[1] Copper produced tributary to Southern Pacific rails in Arizona and New Mexico.

tion with foreign producers. This cooperation is to-day in effect, and in an effort to bring about better conditions, 90 per cent of the world's producers of copper have volunteered to inaugurate a curtailment down to 20 per cent of their maximum capacity. A tariff here is almost certain to immediately cause a copper tariff wall to be placed around the British Empire. Germany and perhaps others will probably form immediately a tariff union with the Belgian producers. The markets that will be left outside of the tariff walls may consume only about 18 per cent of the world's copper. With such restrictions in the market, cooperation among the copper producers is impossible, each group will have a surplus production and will dump this into the markets remaining free, and there can be only one result in that case—an absurdly low price in the free market, which will drag down the prices in the protected markets to below the cost of production. This claim is not based on theory, but on actual experience.

As you know, Great Britain recently put a tariff of 10 per cent on many goods, among them pig lead, of course leaving Empire lead free of duty. This action shut out all non-Empire lead from the British market and created a scramble for an outlet in competitive fields with the result that the world open market price of lead declined over $10 per ton while the British Empire producers could recoup less than half of this decrease in a premium obtainable in Great Britain; at the same time a good premium up to that time obtainable in Asiatic markets disappeared. All these changes took place without an increase of production or a decrease of consumption merely in consequence of dislocation of markets.

I want to cite to you how ineffective tariffs are during periods of over-production: Copper in an unrestricted market is now selling at 45 per cent of its 1927 price as against dutiable lead, selling for 44 per cent. Silver, on the free list, is selling for 53 per cent of its 1927 price as against zinc, a dutiable metal, which is selling for 45 per cent.

Furthermore, the present stocks of copper above ground, represent one year's supply for the entire world at the present rate of consumption. The United States alone owns 71 per cent of this stock, and it would take us at the present rate, if no copper was produced, one and one-half years to consume this copper. The stock of copper in the United States has been largely increased by the fear of an import tariff; foreign producers have brought into the United States during the last few months, large tonnages of copper, in order to benefit if possible by a tariff. Normally, stocks equal a three months' supply.

We must also realize that American companies own about 70 per cent of the world's supplies below ground, and have a substantial ownership in at least 20 per cent additional underground supplies. Americans own nearly all the copper in the world, yet the tariff proponents claim that we must protect ourselves. Everything within reason is being done at this time by the bulk of the copper producers to bring about the return of better conditions and a sound basis for more production; but only with an increased consumption can we hope to bring about an increase in employment.

The United States are the world's copper refiners. Including non-custom and fire refining, the United States control 62 per cent of the world's refining capacity. Of custom electrolytic refineries only, the United States have 77 per cent of the world's refining capacity.

This is because we have had a free market which has enabled us to compete in the refining of foreign copper against Europe.

Foreign copper, coming here for refining, has always found a limited market here, but like the excess domestic production, most of it must be exported. As long as the United States has a surplus production, it must have a foreign market and it makes no difference where a particular lot of copper is consumed except for the advantages to be obtained through geographical locations.

In the marketing of copper, it is customary for refineries on the seaboard to swap deliveries of sales to save freight—refineries on the seaboard swap sales in the interior to interior refineries for the interior refineries' export sales.

It is cheaper for the Tacoma refinery to ship copper to Europe and the Orient. Montana refineries can deliver cheaper to the interior, mid-western Canada can deliver advantageously to the Detroit markets, and through these deliveries obtain export copper from the New Jersey refineries, because it is more expensive for Jersey refineries to deliver copper west of Buffalo than to Europe. It is cheaper to ship copper from El Paso to Europe via the Gulf than to deliver in New England.

And I want to mention here, that speaking of the Noranda copper, it is cheaper for Noranda to ship to Europe than it is for it to ship to New England. The freight rate shows a difference of $1.45 in favor of shipping to New England, but with the premiums that they secure abroad they lose from $1.15 to $3.55 a ton selling in New England.

During the shipping season it pays Michigan mines to ship to Scandinavian ports, and evidently this is profitable because they anticipate winter business by storing large tonnages in Scandinavia.

In 1928 the United States refineries refined 346,000 tons of foreign copper, and we shipped out 215,000 tons more copper from this country than we refined of foreign.

In 1929 we refined 378,000 tons of copper, and we again shipped out 118,000 tons more than we refined. This is why the foreign copper does not have such a depressing effect upon this market.

On the other hand, if we have a tariff it will exclude all foreign copper from this small participation in our markets. Even a drawback will not save the American refineries from losing this refining business.

Senator WATSON. While we were exporting that much, how much, if any, did we import and refine?

Mr. STEELE. We have had an excess of exports over imports.

Senator WATSON. All the time?

Mr. STEELE. All the time. In our refinery in New Jersey at present we are only refining 6,100 tons of copper per month as against an average for five years of 16,300 tons per month. A lot of this comes from South America and from Cuba. Our last contract from South America carried a clause in it, gentlemen, that it is cancelable within 60 days' notice after a tariff comes on here.

I might add that all the so-called recent deluge of African copper has come to this plant, and the total received by us to date has been less than 18,000 tons. The greater part of this has been fire refined for consumption in Europe. We do not expect to receive more than 700 tons per month of the African copper for refining. At present

the other African coppers are selling their copper in Europe in the form of blister copper.

The United States principal source of foreign copper for refining is South America.

Senator SHORTRIDGE. Read that again.

Mr. STEELE. The United States principal source of foreign copper for refining is South America.

These plants have been built up to their present capacity to take care of this South American business. If it is to be taken away from them it would be an irreparable loss to the industry and a very serious loss to the community.

Instead of foreign copper flooding this country or any other country, as the tariff proponents state, the Roan copper mine is voluntarily curtailing, along with all the other producers. It could produce 75,000 tons of copper per annum; it is now producing 27,000 tons per annum. The Mulfulira Copper Mines (Ltd.) could produce 150,000 tons per annum—but has voluntarily reduced this production to zero. It is this necessary cooperation which a tariff will disrupt.

To refute the extravagant statements which have been made about this copper and its flooding of the markets, I am going to give you the exact figures on production. The Roan Antelope mine in Rhodesia has sold, since commencing operations last June, 38,354 tons of copper, of which 9,982 tons is all that has been sold in the domestic market as electrolytic copper, the balance of 28,342 tons being sold in Europe.

We have been furnished with some pictures of brush huts and natives to represent the mines. Not one pound of this Katanga copper is sold here. The last that came in was in January, 1931. And the joke of it is that when it did come in it was imported and refined at one of the subsidiaries of the Phelps Dodge Corporation, one of your chief tariff proponents.

Also a great many extravagant statements have been made about the cost of this copper. I am going to give you the facts. The Tariff Commission to arrive at a total cost, including depreciation, depletion and interest, has added 1.42 cents per pound more than foreign production. But, to arrive at this difference it charged 4.07 cents per pound for depletion and interest and 0.69 cents for depreciation, a total of 4.76 cents per pound above operating cost.

The report of the Phelps Dodge Co. for 1931 shows that they have a cost of 2.90 cents for this.

Taking the operating costs of the Roan Antelope Mine, in Africa, and adding in one case the commission's figures and in the other the Phelps Dodge figure, on a normal exchange basis for the three months' average, shows that our cost on the commission's basis would have been 11.96 cents, and 10.1 cents on the Phelps Dodge basis, but at the depreciated exchange figures, on the commission basis it would be 9.94 cents, and 8.08 cents on the Phelps Dodge.

But I will go a little further and say that the depreciation of our properties can not be less than 1½ cents—it will be more—and adding this figure to the operating cost the three-months average on a normal exchange basis is 8.71 cents a pound and at the depreciated exchange, 6.68 cents.

I ask you to compare these figures with the recent statement in the Wall Street Journal of March 28, which states that the Phelps Dodge can produce 400,000,000 pounds of copper a year at 7 cents; and that

180,000,000 pounds a year can be mined from the Clay ore body at a cost of 5.5 cents per pound including depreciation. The Nevada Consolidated claims a 7 cents cost, and Utah Copper 5.5 cents operating at full capacity.

At Roan, African natives receive a wage of 27 cents per day. This is the wage that has been so widely quoted. But it is not the total. In addition he gets good living quarters and a regular diet of food is furnished him free of charge. This brings the total wage to about 81 cents a day, not including the cost of transporting him to and from the villages, medical treatment, and hospital care. The Tariff Commission states that the ratio of productivity is 1 to 12 in favor of the highly paid United States miner. It is no secret to those versed in the copper industry, that the United States can produce large tonnages of copper as cheaply as any other country in the world.

A tariff with all the necessary drawback to protect manufacturers' exports will be cumbersome and unworkable, resulting in a loss of foreign business to the United States and to the exporters and to the refiners. The importance of this trade is considerable, gentlemen, and it deserves a very careful study before a tariff can be considered.

Senator REED. Are you going to speak about International Nickel and Noranda?

Mr. STEELE. I mentioned it. I know nothing about their costs except I guess them to be somewhere about 6 cents on both. But I would like to mention that International Nickel has a by-product of platinum, and since it is unsalable to-day in any quantities it can not be credited. Everything is suffering from underconsumption; therefore any figures that we give to-day are not representative of what we do when we have a prosperous industry.

Senator REED. You say the International Nickel has a by-product of platinum?

Mr. STEELE. Has a by-product of platinum, but it is of no value to speak of to-day.

Gentlemen, I would like to ask permission to file this brief.

The CHAIRMAN. That may be done at this point in the record.

(The brief presented by Mr. Steele is here printed in the record in full, as follows:)

BRIEF OF HEATH STEELE

Attention is called to the fact that the following copper companies located in the United States are clamoring for a tariff:

Producing capacity	Pounds
Phelps Dodge & Co	400,000,000
Calumet & Hecla	150,000,000
Quincy Mining Co	25,000,000
Copper Range	40,000,000
Miami Copper	150,000,000
Total	765,000,000

The following American producers have not indorsed the petition for a tariff and have not taken any active part in the propaganda for a tariff, thereby indicating that they are to say the least indifferent to the question:

	Pounds
Anaconda, Butte mines	360,000,000
East Butte	7,000,000
Engels	12,000,000
Inspiration	140,000,000

	Pounds
Kennecott-Alaska	20, 000, 000
Magna	60, 000, 000
Mother Lode	12, 000, 000
Nevada-Ray-Chino	370, 000, 000
United Verde	160, 000, 000
United Verde Extension	54, 000, 000
Utah Copper	400, 000, 000
Utah Apex	4, 000, 000
Utah Delaware	5, 000, 000
Walker	15, 000, 000
Total	1, 627, 000, 000

It will be seen that the largest part of the production is not supportir. the request for a tariff.

1. I am vice president of the American Metal Co. (Ltd.) in charge of operations, and in order that there will be no misunderstanding as to my position on the copper tariff, I wish to state that the American Metal Co. (Ltd.) has foreign interests in copper, including Cuba. I would also like to mention that we are operating a large lead-zinc property in New Mexico. Although these metals are protected by a tariff, I wish to assure you that we have been operating this property for a considerable time without profit, and that conditions are just as bad in the lead-zinc industry as they are the copper industry.

2. I am opposed to a copper tariff as I do not see how it can possibly benefit the copper industry, produce revenue or help the unemployment situation in those States which are advocates of the copper tariff, or elsewhere. The world's copper market to-day is in a strained condition owing to enormous stocks above ground.

3. I believe that a copper tariff will disrupt the present marketing arrangements and will retard the recovery of the copper industry beyond the time when the corrective measures already in effect would normally bring about a recovery.

4. The United States is the copper refining center of the world. A duty, even with drawbacks, will place the refineries and smelters at a great disadvantage in competing for the treatment of foreign copper. I will repeat, that a duty will not relieve the unemployment at the mines, but it will increase unemployment at the refineries and smelters.

(A) Contrary to statements which are being made and particularly considering the exportation of manufactured articles, this country is still an exporter of copper. It has a potential mine producing capacity of 1,318,000 short tons per annum. Its peak consumption of primary copper in 1929, exclusive of manufacturers' exports, was 847,000 tons or 63 per cent of the production capacity. In 1931 we consumed about 454,000 tons, and we are now consuming at the rate of 330,000 tons, about 25 per cent of our producing capacity. If our mines and plants are to work at anything like capacity, we must participate in the world's markets. This can only be done by cooperation with foreign producers. This cooperation is to-day in effect, and in an effort to bring about better conditions, 90 per cent of the world's producers of copper have volunteered to inaugurate a curtailment down to 20 per cent of their maximum capacity.

A tariff here is almost certain to immediately cause a copper tariff wall to be placed around the British Empire. Germany and perhaps other will probably form immediately a tariff union with the Belgian producers. The markets that will be left outside of the tariff walls may consume only about 18 per cent of the world's copper. With such restrictions in the market, cooperation among the copper producers is impossible, each group will have a surplus production and will dump this into the markets remaining free, and there can be only one result in that case—an absurdly low price in the free market which will drag down the prices in the protected markets to below the cost of production.

This claim is not based on theory but on actual experience. As you know, Great Britain recently put a tariff of 10 per cent on many goods, among them pig lead, of course leaving Empire lead free of duty. This action shut out all non-Empire lead from the British market and created a scramble for an outlet in competitive fileds with the result that the world open market price of lead declined over $10 per ton while the British Empire produces could recoup less than half of this decrease in a premium obtainable in Great Britain; at the same time a good premium up to that time obtainable in Asiatic markets disappeared. All these changes took place without an increase of production or a decrease of consumption, merely in consequence of dislocation of markets.

I want to cite to you how ineffective tariffs are during periods of overproduction: Copper in an unrestricted market is now selling at 45 per cent of its 1927 price as against dutiable lead, selling for 44 per cent. Silver on the free list is selling for 53 per cent of its 1927 price as against zinc, a dutiable metal, which is selling for 45 per cent.

Futhermore, the present stocks of copper above ground, represent one-year's supply for the entire world at the present rate of consumption. The United States alone owns 71 per cent of this stock, and it would take us at the present rate, if no copper was produced, one and one-half years to consume this copper. The stock of copper in the United States has been largely increased by the fear of an import tariff; foreign producers have brought into the United States during the last few months, large tonnages of copper, in order to benefit if possible by a tariff. Normally, stocks equal a three months supply.

We must also realize that American companies own about 70 per cent of the world's supplies below ground, and have a substantial ownership in at least 20 per cent additional underground supplies. Americans own nearly all the copper in the world, yet the tariff proponents claim that we must protect ourselves. Everything within reason is being done at this time by the bulk of the copper producers, to bring about the return of better conditions and a sound basis for more production; but only with an increased consumption can we hope to bring about an increase in employment.

(B) The United States are the world's copper refiners. Including noncustom and fire refining, the United States controls 62 per cent of the world's refining capacity. Of custom electrolytic refineries only, the United States have 77 per cent of the world's refining capacity. This is because we have had a free market which has enabled us to compete in the refining of foreign copper against Europe.

1. Foreign copper, coming here for refining, has always found a limited market here, but like the excess domestic production, most of it must be exported. As long as the United States has a surplus production, it must have a foreign market and it makes no difference where a particular lot of copper is consumed except for the advantages to be obtained through geographical locations.

2. In the marketing of copper, it is customary for refineries on the seaboard to swap deliveries of sales to save freight—refineries on the seaboard swap sales in the interior to interior refineries for the interior refineries' export sales.

It is cheaper for the Tacoma refinery to ship copper to Europe and the Orient. Montana refineries can deliver cheaper to the interior, midwestern Canada can deliver advantageously to the Detroit markets, and through these deliveries obtain export copper from the New Jersey refineries, because it is more expensive for Jersey refineries to deliver copper west of Buffalo than to Europe. It is cheaper to ship copper from El Paso to Europe via the Gulf than to deliver in New England. During the shipping season, it pays Michigan mines to ship to Scandinavian ports, and evidently this is profitable because they anticipate winter business by storing large tonnages in Scandinavia.

Excluding Cuban copper which, under the commercial treaty, will come in duty free, and which furthermore, is all smelted as well are refined in this country, the United States refineries refined the following tonnages of foreign copper.

Cuban as domestic

	1928	1929
	Tons	*Tons*
Foreign copper refined	346,803	378,277
All copper exported [1]	562,510	496,444
	215,617	118,107
Cuba	18,869	15,740

[1] Does not include a considerable quantity of fabricated and manufactured forms

I have tried to explain why foreign copper does not have the depressing effect in the domestic market that the tariff proponents claim. On the other hand, if we have a tariff, it will exclude all foreign copper from this small participation in our markets. Even a drawback will not save the American refineries from losing this refining business. As a matter of fact, with the tariff walls set up as I have mentioned, I do not know where South American

copper can find a market (377,436 tons in 1929; 274,481 tons in 1920), and this copper is almost 100 per cent American owned.

Electrolytic refining capacity in this country is 1,607,000 tons per year; Canada, 180,000 tons; Europe, 328,000 tons.

	Tons per year
Chrome	350,000
Maumer	138,000
Baltimore	400,000
Raritan	270,000
Laurel Hill	250,000
Total	1,298,000

Seventy-six per cent of the United States capacity is situated on the Atlantic seaboard. In New Jersey our refinery has 240,000 tons' capacity. There is also a copper and lead smelter and secondary metals reclaiming plant. Our yearly expenditures during the last five years average $6,000,000. We have a plant investment of $14,000,000. Running full, we employ 2,200 men; we are now employing a little less than 1,100.

During the past five years we have produced 980,000 tons of copper, 1,711,139 ounces of gold, and 106,724,819 ounces of silver, as well as other by-products. Of this copper, 35 per cent came from foreign sources, principally South American, and 8 per cent came from Cuba and was not only refined but also smelted in this country. Foreign copper furnished 285,000 ounces of gold and 57,400,000 ounces of silver at this one plant.

At present we are refining only 6,100 tons of copper per month against an average for five years of 16,800. Of this blister copper, 2,900 tons is foreign and 1,300 tons from Cuba.

I might add there that all of the so-called recent deluge of African copper has been received at this plant, and the total received by us to date has been less than 18,000 tons. The greater part of this has been fire refined for consuption in Europe. We do not expect to receive more than 700 tons per month of the Roan Antelope copper; as for the other African coppers, we have a contract for refining only such blister as they may not sell in Europe. At present, they are selling their copper to Europe in the form of blister copper and the amount that will be refined in this country will be negligible.

Our principal source of foreign copper is from South America.

This plant pays 20 per cent of the local taxes and is a vital factor in the welfare of Carteret, N. J., and community. Normally, refineries work two-thirds of the month to pay all their expenses and earn profits only during the remaining one-third. These plants have been built up to their present capacity to take care of this South American business. If it is to be taken away from them it would be an irreparable loss to the industry and a very serious loss to the community.

Instead of flooding this or any other country with copper as the tariff proponents state, the Roan copper mine is voluntarily curtailing, along with the other producers. It could produce 75,000 tons of copper per annum; it is now producing 27,000 tons per annum. The Mufulira Copper Mines (Ltd.) could produce 150,000 tons per annum, but has voluntarily reduced this production to zero. It is this necessary cooperation which a tariff will disrupt.

To refute the extravagant statements which have been made about this copper and its flooding of the market, I am going to give you the exact figures on production. The Roan Antelope mine in Rhodesia has sold since commencing operations last June, 38,354 tons of copper, of which 9,982 tons is all that has been sold in the domestic market as electrolytic copper, the balance of 28,342 tons being sold in Europe. The remaining 30 tons were used for experimental purposes. Katanga copper is all sold in Europe. Now, gentlemen, so much for the flood of African copper which is supposed to have caused so much of the unemployment in the mines in this country.

Also as a great many extravagant statements have been made about the cost of this copper, I am going to give you the facts. The Tariff Commission's report on a comparative basis, shows that foreign copper is produced on the average of one-half cent a pound below the domestic cost. The tariff proponents would like to compare their costs with all the depletion, depreciation and interest charges included; against foreign costs stripped of all of these charges; which is neither fair nor reasonable.

The Tariff Commission's figures show the domestic production costing 1.42 cents per pound more than foreign production. But to arrive at this difference it charged 4.07 cents per pound for depletion and interest and 0.69 cents for depreciation, a total of 4.76 cents per pound above operating costs.

The 1931 report of Phelps Dodge Co. shows 0.945 cent for depreciation and 1.955 cents for depletion, total 2.90 cents.

Taking the operating costs of the Roan Antelope mine, in Africa, and adding in one case the commission's figures and in the other the Phelps Dodge figure, we get on normal and depreciated exchanges for the months of November and December, 1931, and January, 1932.

	Exchange at $4.86		Exchange at $3.71, $3.37, $3.43	
	Commission basis	Phelps Dodge basis	Commission basis	Phelps Dodge basis
November	6.568	6.568	5.017	5.017
	4.76	2.90	4.76	2.90
	11.328	9.468	9.777	7.917
December	6.60	6.60	4.576	4.576
	4.76	2.90	4.76	2.90
	11.36	9.50	9.336	7.476
January	8.46	8.46	5.968	5.968
	4.76	2.90	4.76	2.90
	13.22	11.36	10.726	8.868
Average	7.209	7.209	5.187	5.187
	4.76	2.90	4.76	2.90
(Read)	11.969	10.109	9.947	8.087

On a full operating basis, Roan's costs for these charges could not be less than 1.5 cents per pound. Adding this figure to operating costs, the three months average cost on normal exchange was 8.71 cents per pound and at depreciated exchange 6.687 cents per pound.

Compare these figures with the statement regarding Phelps Dodge and published in the Wall Street Journal of last March 28, which states that it can produce 400,000,000 pounds of copper per year at 7 cents cost including depreciation and all charges except Federal taxes; furthermore that 180,000,000 pounds per year can be mined from the clay-ore body at a cost of 5.5 cents per pound including depreciation. The Nevada Consolidated claims a 7-cent cost and Utah Copper, 5.5 cents operating at full capacity.

African labor is not cheap labor. Every mine manager knows that labor must be measured by rate of work as well as wage, and that the highly paid American miner has always produced the lowest cost. At Roan, African natives receive a wage of about 27 cents per day. This is the wage which has been so widely quoted, but in addition, he gets good living quarters and a regulated diet of food furnished him free of charge. This brings the total cost to about 81 cents per day, not including the cost of transporting him to and from the villages, medical treatment, and hospital care. The tariff Commission states that the ratio of productivity is 1 to 12 in favor of the highly paid United States miner. It is no secret to those versed in the copper industry that the United States can produce large tonnages of copper as cheaply as any other country in the world.

I want to repeat that with a copper tariff, no foreign copper can be sold in this country, therefore there can be no revenue. A tariff with all the necessary drawbacks to protect manufacturers' exports will be cumbersome and unworkable, resulting in a loss of foreign business to the United States rollers and fabricators. The importance of this trade is considerable, and in 1930 it amounted to 110,408 tons,

of which 47,850 tons were in widely distributed articles of manufacture. These figures were not included in the Tariff Commission's calculation of export surplus. This is a problem that deserves a very careful study before a tariff can be seriously considered.

	Tons
Rods	37,569
Pipes and tubes	1,349
Plates and sheets	5,492
Bare wire	7,875
Insulated wire and cable	10,273
Copper contained in manufacturing articles	47,850
Total	110,408

In conclusion, I wish to draw your attention to the conditions which led to the abolition of the copper import tariff in 1894. Circumstances to-day are, to a large extent, similar to those of the early nineties and it does not seem unreasonable to assume that history might repeat itself. There was a tariff on copper in this country for many years up to 1894. The rate varying from 1¼ cents to 5 cents and around 1892 the import duty was 1¼ cents. Of course, in those days the world's copper production and the United States production were much smaller than they are to-day. The world's production of copper in 1892 was 348,000 short tons. With a view to bringing about international cooperation the American copper producers had joined foreign producers and formed the Copper Producers Association, which compiled accurate statistics and endeavored, by an exchange of information, to keep production and consumption in equilibrium.

In order to allow the market in Europe to recover from the consequences of a corner which had been engineered by the French people from 1887 to 1889 and which had ended disastrously, and, furthermore, inasmuch as Europe was seriously upset by the repercussions of the Baring crisis, the American producers agreed that their shipments of copper during the period from the first of July, 1892, to the 30th of June, 1893, should not exceed 40,000 tons.

They lived up to this agreement, but, in spite of this and in consequence of the fact that the crisis which had started in Europe had also affected the United States and had been accentuated by the effect of the Sherman free silver coinage bill, the price of copper in the United States, prior to July 1, 1893, was most of the time below the European price, in spite of the duty.

During the six months following the period of restricted shipments, that is, from July 1, 1893, to December 31, 1893, the United States shipped to Europe 57,425 tons of copper, or nearly three times as much as during the six months previous.

The price of copper in the United States remained nearly all the time below the European price. Only casually American copper was reshipped from Europe to America, entering the United States free of duty as reimports and whenever such a transaction became known, the American price quickly dropped below the European parity. Finally, when the question of revision of tariffs came up during the second Cleveland administration, copper was included amongst the articles to be put on the free list.

A diligent search of the Congressional records of this period does not disclose any discussion or debates on the subject in Congress or

by the committee. Professor Taussig, the famous Harvard economist, in his books on tariffs, writes in regard to the copper duty before Congress as follows:

From "The Tariff History of the United States," by Frank W. Taussig, page 343:

> Already in 1890, the duty has been reduced to 1¼ cents per pound. As the copper mines, almost alone among the great enterprises of the country, had been enjoying uninterrupted prosperity, even during the period of depression, and had been exporting their product on a great scale, no one cared a straw for the duty. For good or ill, the copper duty had worked out all of its effects years before.

In short, the futility of a copper-import tariff had become so clearly evident that no voice was raised to maintain this artificial barrier. In fact, copper producers were keen to have an open and free market. None of the copper-consuming countries have ever placed an import tariff on copper during the last 50 years, with the exception of Russia, whose consumption was not an important item in the world's market.

To-day the danger is great that the British Empire will discriminate against foreign copper and be in favor of Empire copper. The present producing capacity of Empire copper is 190,000 short tons, while the Empire consumption is estimated roughly for 1931 at 175,000 short tons. In other words, the British Empire is in a position to supply more than the entire requirements of the Empire consumption. Recently when the United Kingdom placed a number of articles on the dutiable list and when pressure was being brought to include copper, common sense prevailed, at the end copper was left on the free list, but there is no doubt about it that the moment copper is put on the dutiable list in the United States, the recent action of the British Parliament or Tariff Commission will be reversed.

Today we are again like we were in 1893—in the throes of a panic. Domestic copper consumption has decreased more than foreign copper consumption. As compared with 1929, copper consumption in the United States was 72 per cent in 1930, 54 per cent in 1931, and is roughly estimated at 30 per cent during the first three months of 1932.

Foreign consumption of copper, compared with 1929, was in 1930 95 per cent; in 1931, 80 per cent; and is roughly estimated for the first quarter of 1932 at 67 per cent.

In the second half of 1893 the power of absorption of copper in Europe came to the rescue of the American copper producers and prevented the market from declining much below 9 cents per pound. The way conditions are to-day we are relying largely on the steadier demand of the European consumption of copper for the next few months, and it would appear to me to be utter folly to antagonize the European countries at this juncture.

Germany was, in normal times and up to the recent financial disaster, the largest taker of copper outside of our own country. She has consumed as much as 250,000 tons a year with a home production of less than 40,000 tons. France is one of the large copper-consuming countries, taking more than 125,000 tons per annum—153,000 in 1929—without any domestic production.

For some time discussions have been carried on in French parliamentary circles with a view of admitting crude copper free of duty, but making refined copper dutiable in France. If this plan should be carried out, it would be destructive to the refining industry of the United States. An import tariff in this country would immediately have these effects: To summarize—

The only remedy for the copper price is increased consumption.

A copper-import tariff is not likely to be effective because we have had and will have a large exportable surplus.

A copper-import tariff is going to be ruinous for the copper-refining industry in this country, and will create more unemployment than the slight reemployment in some mining districts.

A copper-import tariff will hurt the manufacturing industry of this country and ruin its export trade.

A copper-import tariff, if effective, will increase the cost of living in the United States by making electricity, telephone, and telegraph, etc., more expensive.

A copper-import tariff will lead to retaliatory tariffs, at least in the British Empire and probably in other countries.

A copper-import tariff will destroy the cooperation between the copper producers all over the world and will lead to further demoralization of the markets.

Senator CONNALLY. May I ask you a question? Do your concerns own foreign deposits of copper?

Mr. STEELE. We are heavily interested.

Senator CONNALLY. In Africa?

Mr. STEELE. In Africa.

Senator CONNALLY. How about South America?

Mr. STEELE. We have none in South America except refining of the shipments.

Senator CONNALLY. You do have refineries in South America?

Mr. STEELE. No; in New Jersey.

Senator CONNALLY. And import the raw material?

Mr. STEELE. We buy the raw material and treat it on toll and spend a great deal of money on that copper in New Jersey.

Senator CONNALLY. You buy the foreign copper in preference to American copper?

Mr. STEELE. No; we also treat American copper.

Senator CONNALLY. Wait. You did not let me ask the question. You buy foreign copper because you can buy it more cheaply, can you not?

Mr. STEELE. No, sir.

Senator CONNALLY. If you can not, why do you not buy American copper?

Mr. STEELE. Because we have to get tonnages for refining, and whenever we get a contract to treat this copper and make it into electrolytic copper we are delighted to do it, because we have plant capacity.

Senator CONNALLY. If you can buy it cheaper here than in South America you would not buy in South America?

Mr. STEELE. If we can buy it cheaper?

Senator CONNALLY. If you can buy it cheaper here at home you would buy American copper, would you not?

Mr. STEELE. Yes.

Senator CONNALLY. But you buy it cheaper in South America? You buy it in South America because you can get it cheaper there?

Mr. STEELE. No; you misunderstand the situation, Senator. We are refiners on toll.

Senator CONNALLY. Yes; I understand.

Mr. STEELE. And we have excess refining capacity in this country. And that copper must be refined. Therefore, we contract to refine it. We do buy some of it, and some of it is sold by the companies themselves. United Verde and Arizona Copper is refined by us, and they sell all of their copper.

Senator COUZENS. May I ask the witness: This is the brief you filed?

Mr. STEELE. It is.

Senator COUZENS. The ownership of the American Metal Co. is not indicated in this brief, is it?

Mr. STEELE. No. I can give it to you. It is all American owned.

Senator COUZENS. To save the time of the committee, Mr. Chairman, I would like to put in the record the details of the ownership and the officials of this company without taking time to read it, because the ownership is very important to be considered.

(The data presented by Senator Couzens is here printed in the record in full, as follows:)

THE AMERICAN METAL CO. (LTD.)

Corporate organization.—Incorporated 1887 under the laws of New York. Net worth as per consolidated balance sheet December 31, 1931, about $55,000,000.

Nature of business.—Primarily a holding company. Through various subsidiary corporations it is engaged in mining, smelting, refining, and trading in copper, lead, zinc, precious metals, etc.

(For subsidiaries, see last page of Annual Report for 1931.)

Control and management.—Directors: See annual report for complete list.

Among the directors of the American Metal Co. are the following:

Sir Albert Bennett, of London, director of Roan Antelope Copper Mines (Ltd.).

A. Chester Beatty, of London, who is chairman of the board of directors of Rhodesian Selection Trust (Ltd.), Roan Antelope Copper Mines (Ltd.), Mufulira Copper Mines (Ltd.), and director of Rhokana Corporation (Ltd.).

Robert C. Stanley, of New York, president International Nickel Co. of Canada (Ltd.), chairman Ontario Refining Co. (Ltd.).

Edward H. Clark, of San Francisco, president Cerro de Pasco Copper Corporation. (Cerro de Pasco Copper Corporation owns a substantial block of the capital stock of American Metal Co.)

Fred Searls, jr., vice president and director of Newmont Mining Corporation. Director Rhodesian Anglo-American (Ltd.). Newmont owns substantial stock interests in Rhodesian Copper Mines.

H. K. Hochschild, president Canadian Selection Co. (Ltd.), a Canadian corporation. (This company owns a substantial interest in American Metal Co. This is the 350,000 shares, nondividend bearing until December 1, 1932, shown in the December 31, 1931, balance sheet of the company.)

Robert C. Beatty, of New York, director and vice president of Canadian Selection Co. (Ltd.).

Heath Steele, president Ontario Refining Co. (Ltd.).

Otto Sussman, director, Canadian Selection Co. (Ltd.). Note that the president of International Nickel Co. and Verro de Pasco and the chairman of the board of Roan Antelope and Rhodesian Selection Trust and Mufulira and a director of Rhokana, are all directors of American Metal Co. In other words, the principal copper mines in Canada, Peru, and Rhodesia have a voice in directing the policies of American Metal Co.

Ownership.—Cerro de Pasco owns substantial block of American Metal Co. stock. Canadian Selection Co., a Canadian corporation, owns 350,000 shares of American Metal Co. Newmont Mining Co. owns substantial interest in American Metal Co. The officers of the company with the above probably control the company. Total capital outstanding, 1,288,158 shares, including 15,100 shares in treasury.

Officers.—Chairman of the board, Ludwig Vogelstein; president, Otto Sussman; vice president and secretary, Harold K. Hochschild; vice presidents, Heath Steele, Bernard M. Zimmer; treasurer, William H. Brady; assistant secretary, Ernest H. Hothorn; assistant treasurer, Norman Hickman; assistant to the chairman, Walter Hochschild; general auditor, John MacLetchie.

Principal properties owned—(A) In the United States.—1. Refinery and smelter at Carteret, N. J., capacity about 12½ per cent of the total refining capacity of the United States. This plant is owned through a subsidiary, United States Metals Refining Co. (2) Pecos Mine, New Mexico, a lead-zinc mine. Ores contain a very small amount of copper. (3) Zinc smelter and coal property near Pittsburgh. (4) Zinc smelter in Oklahoma. (5) Silver mines in New Mexico.

NOTE.—American Metal Co. does not own any copper-mining property in the United States.

(B) *In Cuba.*—American Metal Co. owns about 60 per cent of the Matahambre mine, a copper mine, which can produce about 40,000,000 pounds of copper a year.

(C) *In Africa (Rhodesia).*—Through stock ownership, American Metal Co. controls Roan Antelope and Rhodesian Selection Trust Co. It also has substantial holdings in Rhokana Corporation. These are the three large Rhodesian copper properties.

(D) *In Canada.*—American Metal Co. owns a 42 per cent interest in a new copper refinery at Copper Cliff, owned by Ontario Refining Co. (Ltd.). International Nickel Co. of Canada is a partner in this enterprise.

(E) *Miscellaneous properties in Mexico and South America.*—Not important in this memorandum.

Sales contracts.—American Metal Co. has sales and/or refining contracts with Roan Antelope and Rhokana and some other Rhodesian properties. However, the Roan Antelope copper is now fire-refined in Africa and the Rhokana production will go to Hamburg for refining. American Metal Co. also sells copper for Cerro de Pasco mines, Peru; Matahambre mines, Cuba; International Nickel Co., Canada.

The only domestic copper sold by American Metal Co. is the product of scrap copper refined by them. The only virgin domestic copper refined by the American Metal Co. at Carteret is that of the United Verde Co., whose mines are located in Arizona. In 1929 United Verde produced over 70,000 tons of copper, all of which was refined by the United States Metals Refining Co. (subsidiary of American Metal Co.). This tonnage is equivalent of 35 per cent of the total refinery capacity at Carteret. Because of the present low price of copper, the United Verde mine has been shut down for approximately one year. With the return of better prices, copper from this mine would again provide substantial employment at the Carteret refinery.

SUMMARY

American Metal Co. owned in part by foreign interests.
Policy directed in part by foreign interests.
Principal Investments, in Africa (about $35,000,000).
Their statements as to advisability or need for a tariff on copper must be influenced by the above.
Inclosed is a copy of the annual report of the company for 1931. The paragraphs marked show the importance to the company of their African investments.

Senator SHORTRIDGE. You are interested as a refiner, are you, and represent the refineries?

Mr. STEELE. As a refiner.

Senator SHORTRIDGE. You are also owners of and interested in foreign copper mines?

Mr. STEELE. Yes, sir.

Senator SHORTRIDGE. And you want that copper to come in free of duty?

Mr. STEELE. We object to all duties.

Senator SHORTRIDGE. Certainly.

Mr. STEELE. We are owners of coal mines, and we even object to coal duties.

Senator SHORTRIDGE. All right. And, just to be plain about it, you want to buy the copper where you can get it the cheapest?

Mr. STEELE. We want to refine it——

Senator SHORTRIDGE. Is that not true?

Mr. STEELE. We do not buy that foreign copper. We refine it and return the most of it to the owners.

Senator SHORTRIDGE. But you have foreign deposits; you own foreign mines?

Mr. STEELE. That will not be refined here eventually.

Senator SHORTRIDGE. Do you import any of the copper which is owned by your company?

Mr. STEELE. I gave you the figures. 18,000 tons.

Senator SHORTRIDGE. Well, do you, yes or no?

Mr. STEELE. Yes, we do.

Senator SHORTRIDGE. You want it to come in free?

Mr. STEELE. We want it to come in free because we feel that the cooperation that we have among the copper producers to-day, which is curtailing the entire production to 20 per cent of their maximum capacity, is doing more good than anything else to bring about readjustment of the copper business.

Senator SHORTRIDGE. Well, do you not think it would be better for American miners of copper to in a measure control the American consumptive market?

Mr. STEELE. Practically 71 per cent of the world's copper to-day is controlled by Americans; of the world copper, 70 per cent of the underground. And they have a large interest in 20 per cent in addition. So we are the owners to-day of nearly all the copper in the world.

Senator SHORTRIDGE. We are what?

Mr. STEELE. We are the largest owners of copper in the world, the Americans.

Senator SHORTRIDGE. That is by virtue of your foreign interests?

Mr. STEELE. By virtue of our foreign interests. And of the list that I gave you of 1,627,000,000 pounds of copper production in this country, of that their foreign production is only 900,000,000 pounds a year.

Senator SHORTRIDGE. Well, apart from the protective idea, you know we are looking for additional revenue.

Mr. STEELE. I do not think that you will have one dollar of revenue, because foreign copper can not be sold here at a discount that would be required under the tariff.

Senator SHORTRIDGE. Well, do you mean to say, to sum the matter up, that if a tax of 5 cents a pound were put on, that there would be no importing of foreign copper?

Mr. STEELE. Absolutely, there would not be.

Senator SHORTRIDGE. There would be an embargo, you think?

Mr. STEELE. There would be an embargo.

Senator SHORTRIDGE. We would receive no revenue from that source?

Mr. STEELE. Absolutely not; no producer can afford to sell here to-day on that basis; if he bought at present prices he would sell at 1 cent a pound.

Senator HULL. Just one question, Mr. Steele: What do you know about world agreements among proper producers to limit production to 20 per cent of capacity; is that agreement in operation, or not?

Mr. STEELE. It is now in operation. It takes some time for the curtailment to take effect.

I might mention, also, that the great bulk of copper which is coming in at present, gentlemen, is in anticipation of the tariff. That is why we have had an increase in imports.

Senator HULL. Now, if this advance of 5 cents a pound on copper should be taken advantage of by the producer, do you know how much increase that would be to the general public?

Mr. STEELE. I have not gone into those figures, but I think it is something like $100,000,000 a year at normal consumption.

Senator HULL. Is it not true that if we run ours up, the foreign countries will run theirs up against copper, or anything else that we have been selling to them?

Mr. STEELE. There is no question that Great Britain will immediately put on a tariff, as soon as we put one on here.

Senator HULL. That is, on copper and hides and furs and cotton and wheat and other primary commodities like those that are bought and sold in the international markets, are they not?

Mr. STEELE. Absolutely.

Senator HULL. For instance, we buy a lot of hides, and sell a lot of hides, in addition to what we produce?

Mr. STEELE. Yes, sir.

Senator HULL. And some other things.

Mr. STEELE. Yes, sir.

Senator HULL. Now, is there any chance at all for relief for our copper industry except, as you indicated, to bring about a better state of consumption, so people will use telephones, into which copper goes largely; so that people will use electricity, electric lights, and things of that sort, into which copper goes largely; and so that people can use automobiles, into which copper goes largely, unless we can find some way to restore consumptive power and purchasing power, is there any reason for this Nation and others running up their tariffs on commodities and materials that could be interchanged to mutual advantage? Do we get anywhere?

Mr. STEELE. I can not see how a tariff can increase the consumption at all, Senator, and at a certain price it can decrease it.

Senator CONNALLY. Is your company in on this world arrangement?

Mr. STEELE. We are.

Senator CONNALLY. As to cutting down your production?

Mr. STEELE. We are. I just quoted that.

Senator CONNALLY. Is that a written agreement?

Mr. STEELE. It is a verbal, voluntary agreement, a gentleman's agreement.

Senator CONNALLY. So the courts could hardly get hold of that?

Mr. STEELE. No.

The CHAIRMAN. Mr. Philip D. Wilson is next on the list.

Senator HULL. Just a minute, Mr. Chairman. So we have this situation, that if we put a tariff two miles high, we would then have the situation we have now, unless people can buy more copper?

Mr. STEELE. Yes, sir.

LETTER FROM HEATH STEELE

APRIL 20, 1932.

HON. REED SMOOT,
Chairman Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SIR: At the conclusion of my testimony yesterday on the copper tariff before your committee, Senator Couzens filed with your clerk for record a list which he stated showed the officers and stockholders of the American Metal Co.

Not knowing where the Senator obtained such a list and fearing it may not be correct or up to date, I beg permission to file with your committee certified copies:

First. Of 6 per cent preferred stockholders' list.
Second. Of common stockholders' list.
Third. Of directors and officers.
All of the American Metal Co. of New York.

Yours very truly,

HEATH STEELE,
Vice President American Metal Co.

STATEMENT OF PHILIP D. WILSON, CARTERET, N. J., REPRESENTING UNITED STATES METALS REFINING CO.

Mr. WILSON. Mr. Chairman and gentlemen of the committee, my name is Philip D. Wilson. I am a mining engineer associated with the American Metal Co., the headquarters of which are in New York, and which is interested in mines, smelters, and refineries in the United States and in various parts of the world. I am also assistant to the president of the United States Metals Refining Co., a subsidiary of the American Metal Co., which operates one of the large copper refineries of the country at Carteret, N. J.

I have been connected with mining, and particularly copper mining, as manager and examining engineer for over 20 years, have examined and visited almost every important copper mine in the world outside of Russia. For 15 years I lived in Arizona, most of the time as examining engineer for the Calumet and Arizona Mining Co. which was recently merged with the Phelps Dodge Corporation, one of the principal proponents of a copper tax. I mention this association because it furnishes a fair background for a considered opinion as to the need for and the usefulness of a copper tariff.

My sympathies would naturally lean toward a tariff if I could possibly convince myself that it would in any way help my many friends in Arizona and if I could blind myself to the general harm that it would do to the copper industry and to the country.

I am opposed to a copper tariff for the following reasons:

(1) Because it is economically unsound. With the existing and future export surplus of copper in the United States and the huge

stocks of copper metal in the country it could not possibly yield any revenue nor could it conceivably raise the American price of copper.

(2) Because it would injure irreparably the great copper-refining industry of the country, and if it could in any way be made effective it would cost the copper consumers of the country in normal years $100,000,000.

(3) Because while the copper industry is admittedly in bad shape, it is only one of the many productive industries of the United States, whether tariff protected or not, which are all equally depressed.

(4) Because it is advocated only by a belligerent minority, actually less than one-third, of the copper producers of the country. Those which demand it have been in the past exceedingly prosperous and have paid enormous dividends.

(5) Because as the amendment is proposed it would violate and result in the abrogation of the reciprocity treaty with Cuba, in existence for 30 years.

(6) Because it would inevitably disrupt the existing world production curtailment agreement and make conditions in the industry chaotic.

(7) Because the copper industry has successfully weathered many similar crises in the past—conditions were considerably worse in 1921—and with reviving consumption it will surely be prosperous again without a tariff.

(8) Because it would involve writing up tariff schedules on 44 items in the tariff act from 40 per cent to 300 per cent above existing duties.

A tariff could not possibly increase the American price of copper or put a single miner back to work.

Statistics and the economics of the situation, the huge stocks of copper above ground in the United States, over 1,200,000,000 pounds, which are two years supply at the current rate of American consumption, the greatly overdeveloped capacity to produce cheap copper in this country, the fact that we have been for over 30 years a large net exporter of copper and are sure to continue so for years to come, these facts all prove convincingly to anyone who studies them without prejudice or emotion that a tariff could not possibly raise the price of copper. Nor could it by any stretch of the imagination increase the production rate of western copper mines or put a single miner back to work.

With your permission, Mr. Chairman, I would like to extend in the record certain copper statistics which illustrate these points, which prove that a copper tariff would be just about as effective as the 42-cent wheat tariff or as the copper tariff was back in 1894 when it was abolished without a protest from a single American copper producer because of its acknowledged futility.

A copper tariff could not possibly yield any revenue.

The claim by certain proponents that a 5-cent import tax would raise between $15,000,000 and $20,000,000 of revenue is so fantastic that it scarcely deserves to be answered. Such revenue would require that between 300,000,000 and 400,000,000 pounds of copper would have to be imported, pay the tax and remain in the country. In 1931 total imports were 279,881 tons and exports were slightly greater. In every year of the last fifty, exports, when all fabricated

and manufactured copper is included, have exceeded imports. The Tariff Commission did not include exported fabricated and manufactured copper in the export figures in its report because its instructions in the Senate resolution allowed it to carry copper only to the point where the refinery delivers it to the fabricator.

The commission's export figures, which are always used by the proponent, therefore, do not include this large tonnage of exported copper and convey entirely the wrong picture of the export situation. Every pound of copper which might be brought into the country to be smelted and refined in bond would be reexported, and there could be no revenue, except perhaps a few hundred dollars from the copper contents of pocketknife handles, vanity boxes, and such trinkets.

No copper mine in the world can produce copper at a cost including depreciation which without any duty could compete with Utah copper. D. C. Jackling, its president, states that Utah can produce at 5½ cents per pound 400,000,000 pounds of copper per year, two-thirds of present American requirements. Mr. Jackling is also quoted as saying that Nevada Consolidated's three mines in Arizona, New Mexico, and Nevada, when running at capacity of 350,000,000 pounds per year can produce copper for not to exceed 7 cents per pound, including depreciation. Phelps Dodge Corporation is able to produce 400,000,000 pounds a year at the same cost of 7 cents per pound and with some capital expenditure on its Morenci ore body could add 180,000,000 pounds of 5½-cent copper to its annual production.

Senator SHORTRIDGE. Excuse me. Did you say Colonel Jackling said it could be produced in those States at 7 cents?

Mr. WILSON. Seven cents, including depreciation. That is quoted from the Wall Street Journal, which I have here, quoting him.

Senator SHORTRIDGE. You may go on.

Mr. WILSON. With the 1,150,000,000-pound capacity mentioned above, not including Phelps Dodge's unequipped 5½-cent production, almost exactly twice the current American consumption could be supplied by these three companies at a cost of under 6½ cents. And these are not by any means the only low cost American mines. I ask you members of the committee if it is not preposterous with this situation confronting us and with two years' supply of copper in stocks above ground to state that a 5-cent tariff could yield any revenue or that it could conceivably raise the American price of copper or help the high-cost mines. With this pressure of low cost American copper so greatly exceeding domestic consumption and demanding an export outlet, the American price would inevitably reach parity with the foreign price. No copper could be imported for sale in this country and there would be no revenue. It would act as a virtual embargo.

Repudiation of the Cuban reciprocity treaty of 1903.

In this connection I want to call your attention to a violation of an international treaty which this proposed copper tariff amendment involves. Section 601 (b) (5) of the revenue act reads:

> Such tax shall be imposed in full notwithstanding any provision of law or treaty granting exemption from ——— duties to products of any ——— country.

The reciprocity treaty between the United States and Cuba of 1903 states that—

During the term of this convention, all articles of merchandise being the product of the soil or industry of the United States which are now imported into the Republic of Cuba free of duty, and all articles of merchandise being the product of the soil or industry of the Republic of Cuba which are now imported into the United States free of duty, shall continue to be so admitted by the respective countries free of duty.

Copper was on the free list at the time this treaty was proclaimed and has remained there ever since. This proposed amendment to the act would tax imports of copper from Cuba at the rate of 5 cents per pound. In the opinion of the Cuban ambassador and of the legal advisers of the State Department and the Bureau of Customs, this amendment would be a deliberate repudiation of the reciprocity treaty. How could we justify to our Latin-American customers in Central and South America the utter bad faith of violating our only commercial treaty without giving even the prescribed six months' notice of its abrogation?

My company's interest is vital because we have expended several million dollars in developing a copper mine in Cuba and in equipping our smelter and refinery in New Jersey to handle the product, the annual copper content of which is between 10,000 and 20,000 tons, about 2 per cent of the output of the American mines. We can not believe that the committee would countenance the abrogation of treaty relations of 30 years' standing with a friendly nation, once our ward and now in truly desperate circumstances, by the adoption of this amendment.

The copper situation has been as critical before and is now only one of many industries suffering equally.

I have been much moved by the harrowing tales of starvation——.

Senator SHORTRIDGE. What is that about Cuba? You spoke about a treaty?

Mr. WILSON. The Cuban reciprocity treaty.

Senator SHORTRIDGE. The Congress can supersede its treaty.

Mr. WILSON. Yes.

Senator SHORTRIDGE. Do we import copper from Cuba?

Mr. WILSON. We import between 10,000 and 20,000 tons a year from Cuba.

Senator SHORTRIDGE. Go on.

Mr. WILSON. I have been much moved by the harrowing tales of starvation and unemployment and ghost cities in the western copper camps, where I spent so many years. Having heard these same heartrending stories before in the depression of 1921, when I lived in Arizona, and having read them, describing conditions in almost identical words in every previous crisis—you know that copper, like steel, is recognized to be a feast or famine industry, and there have been in the past six other crises from which at the time it was predicted that copper would never recover—I determined to find out just how present conditions compare with those I experienced in 1921, when a big majority of the western copper mines closed down completely for from 10 to 24 months. I have made during the past few

days a careful study of employment records at the Bureau of Mines, with the following results:

All copper mines

	Total shifts		Total shifts
1920	11,182,119	1929	11,983,712
1921 [1]	4,461,296	1930	8,250,237
1922	7,504,983	1931 [2]	5,450,000

Using these same years for comparison, Arizona copper mines alone showed in 1921 only 31.6 per cent of the shifts worked in 1920, while in 1931 the comparison with 1929 shows 45 per cent of the number of shifts. Michigan figures are comparable. A factor which definitely ameliorates the present situation is that staggering of employment has permitted more men to work than these figures would indicate. In fact, while the number of shifts worked in 1931 declined 33 per cent from 1930, the number of men decreased only 18 per cent, so that these figures of mine exaggerate the percentage of men actually out of employment.

To make a long story short, statistics show that employment conditions at the copper mines are much better to-day than they were in 1921. The only conclusion is that present conditions are not so disastrously bad as the perhaps understandable exaggeration of the proponents has insisted. They have been worse before, in 1921, and copper did recover and you know the many fat years the companies have had and the huge dividends they have paid since.

Walter Renton Ingalls, director of the American Bureau of Metal Statistics, and a recognized authority on metal and copper economics, said in the April 1 issue of The Annalist:

> It is conventional now to be pessimistic in respect of copper. We can not see any good things for this industry short of a good many years. We thought the same at the end of 1921, when proportionately the economic and statistical outlook was even blacker. We know what happened subsequently.

Arthur Notman, president of the Mining and Metallurgical Society of America, and one of the country's foremost copper authorities, wrote in the New York Sun of January 4, 1932:

> Producers who are now begging for help from the public's pocket in the form of a tariff never opened their mouths to protest against the unwarranted profits which poured into their treasuries in 1928 and 1929 any more than they did over the war profits. They were all willing parties to the price policy which allowed their potential competitors in South America, Africa, and Canada to expand and occupy the foreign market. Secondly, there is just as great an excess of domestic capacity over probable normal consumption as there is of foreign capacity over probable foreign consumption.

It is unnecessary to more than mention the fact that conditions in the American lead and zinc mining camps, both tariff protected metals, are equally as bad or worse than those in the copper camps.

The CHAIRMAN. You have one minute more.

Mr. WILSON. In the silver mines it is the same. Tables 3, 4, and 5 which I ask your permission to extend in the record, showing the distressing situation in those industries to-day, are sufficient proof

[1] 1921 compared with 1920, 39.9 per cent.
[2] 1931 compared with 1929, 45.5 per cent.

of this statement. The steel business is operating at 22 per cent capacity, practically that of the recently curtailed rate of copper production, and steel has a tariff.

A West Virginia coal operator told me a few days ago that in his field wages per day are just half what they were in 1929, and the men work two days a week. Only the strong, able-bodied miner can earn as much as $5.40 net a week to support himself and his family. I ask you gentlemen by what right can the copper miner claim that his industry is in such uniquely desperate circumstances that he deserves special discriminatory protective legislation when all the country's industries are prostrate.

The copper companies paid large dividends in 1931 and are far from poverty stricken.

Certainly the copper companies with their records of recent huge dividends or present cash surpluses do not play effective rôles as beggars with hats in hand asking for a dole at the country's expense. Even in the depression year of 1931 they managed to pay a total of over $47,500,000 in dividends. The proponent companies alone, representing one one-third of the industry, have paid out a total of more than $600,000,000, many times the original investment. The copper companies of the State of Michigan alone have dividends to their credit of over $300,000,000. The annual report of Phelps Dodge Corporation, one of the principal advocates of a tariff, has just been issued. It shows a total of $4,210,892 dividends paid in 1931, and net current assets after deducting all liabilities as of December 31, 1931, reach the astounding total of $27,145,278.49. Does Phelps Dodge, now mining 16 per cent ore from its large and rich Campbell ore body, and with $8,500,000 cash in its treasury need a tariff?

The "flood of African copper" is a myth.

Mr. Steele has shown you that "the great deluge of cheap African copper that is pouring into the country" with which the tariff proponents are filling their speeches and the newspapers, is a deliberate misstatement of fact. Customhouse figures show that the total African copper imported during the last 14 months has been only 18,000 tons, approximately 2 per cent of the United States refinery production for 1931. Not a pound of African Congo copper, represented by the large pictures of Congo miners that were broadcast in the Senate offices on Thursday, has entered the country for 14 months and the last lot of 1,000 tons which did come in, over a year ago, was imported by the refinery subsidiary of Phelps Dodge, one of the tariff proponents. Every pound of Congo copper mined is being refined and sold in Europe. We are indebted to the exaggeration, insinuation, and deliberate misstatements of the tariff proponents for giving us an opportunity to more easily bring out the true facts of the case.

Senator SHORTRIDGE. You are opposed, I see, to a tariff on copper.

Mr. WILSON. Yes. Doesn't everyone admit that this is a tariff and not a tax? I thought everyone did.

Senator SHORTRIDGE. You are opposed to a tariff on cotton, too?

Mr. WILSON. I, personally, do not believe a tariff on cotton could do any good.

Senator SHORTRIDGE. And you are opposed to a tariff on oil?
Mr. WILSON. I am not sure it would do any good.
Senator SHORTRIDGE. And you are opposed to a tariff on lumber?
Mr. WILSON. I do not know anything about the lumber situation.
Senator SHORTRIDGE. And as to many agricultural products? In other words, you believe in the philosophy or doctrine of free trade, do you?
Mr. WILSON. No, Senator; I do not. But I do believe where there is a large exportable surplus in the country a tariff is entirely useless, and I think copper, wheat, cotton, are all contained in that list.
Senator SHORTRIDGE. Take lemons, what about them?
Mr. WILSON. I do not know anything about lemons.
The CHAIRMAN. This is a revenue measure.
Senator SHORTRIDGE. How about bananas?
The CHAIRMAN. Mr. Patchin, you are next.
Senator SHORTRIDGE. Do you know that a tariff on bananas would yield probably $50,000,000.
Senator BARKLEY. How about prunes, and walnuts; and all nuts?
The CHAIRMAN. We will hear Mr. R. D. Patchin.
Senator HULL. Just a minute. Can you name any country, really, which is producing a surplus based on its consumption with respect to any of these primary commodities that is not in the same dislocated and collapsed conditions, whether it has tariffs on them, or not, that we are with respect to our cotton, and wheat, and lead, and zinc, and other commodities where we have a tariff?
Mr. WILSON. I can not think of any such country.
Senator HULL. I hope some gentleman will point out a few instances of that kind.
Mr. WILSON. Mr. Chairman, I have this information and statement that I would like to put in the record.
The CHAIRMAN. Make it a part of your statement.
(The statement and tabulations referred to by Mr. Wilson are here printed in the record, in full, as follows:)

BRIEF SUBMITTED BY PHILIP D. WILSON

THE CASE AGAINST A COPPER TARIFF

1. Of the 11 copper mining companies that are asking for a tariff all but 2 have paid huge dividends for many years. Most of them have arrived at or are approaching a noncompetitive stage, due to old age, great depth, and consequently, increased costs.
2. The copper tariff proponents represent, both on a basis of capacity and of recent output, only one-third of the industry. The large majority of copper companies are either neutral or opposed to it as futile and injurious.
3. The copper situation is not any more desperate than is that of lead or zinc, both tariff protected, or that of a very large proportion of American industries, all suffering in this extraordinary depression.
4. A copper tax or tariff would yield no revenue and would be ineffective in increasing the domestic price of the metal.
5. A copper tariff would bring disaster to the important American refining industry and do serious injury to its many contributing industries.
6. The annual cost of an effective tariff to the American consuming public for the purpose of temporarily reviving a few scattered high-cost western copper mines would in normal times amount to about $100,000,000, or almost $1 per capita.
7. An effective tariff would destroy the important export business of the copper fabricators and manufacturers.

8. The "flood of African copper that is pouring into the country," much advertised by the advocates of a tariff, is a myth.

9. The Tariff Commission reports an excess of domestic over foreign cost of refined copper of one-half a cent per pound.

10. The "utter ruin of the copper industry" has been predicted six times in the last 45 years, but after each crisis copper has come back stronger and more virile than ever.

11. The recovery of the copper industry depends on the revival of consumption, the expansion of the uses of the metal and the assurance of a reasonably low and reasonably stabilized price.

12. Until copper consumption improves from its present low rate, a continuance of the drastic voluntary curtailment program, participated in by the principal foreign and domestic mines, is imperative if a further decline in price is to be avoided. A tariff or tax on copper would immediately disrupt the present curtailment program and throw the industry into a new state of chaos.

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1. Of the 11 copper mining companies that are asking for a tariff, all but 2 have paid huge dividends for many years. Most of them have arrived at or are approaching a noncompetitive stage, due to old age, great depth, and, consequently, increased costs.

Most of the companies that are now asking for a copper tariff are operating mines which have had a long and exceedingly prosperous career. An incomplete record of the dividends paid by the proponent companies[1] shows a total of approximately $600,000,000 against a total capitalization of $171,000,000, which latter figure undoubtedly represents several times the amount of actual cash invested. The early unreported dividends paid by these companies probably total another $100,000,000; the return, therefore, that has been made on the original investments of the tariff proponents is already many hundred per cent. The dividends paid by the Michigan copper companies alone total over $300,000,000;[2] these companies, with dying mines which have been extremely prosperous for 70 years, are now among the most vociferous in crying for a tariff.

Unfortunately a mine is a wasting asset and can not live forever. Because of increasing depth, larger volumes of water to pump, decreased grade of ore and consequently high working costs, most of the mines which are now asking for help have reached, or are approaching, the point where they are unable to compete except during periods of abnormally high prices. Any relief afforded by an effective tariff could be only temporary.

Copper tariff proponents claim that they are merely asking for the right to share in the traditional tariff policy of the United States. The subsidizing of economic senility has not been part of the tariff policy. The American copper consumer should not be required to subsidize a small minority group of western mines which have had long and prosperous lives and paid huge dividends, but which are now reaching the stage of decrepitude where they should submit to the inevitable end which has awaited throughout history all mining enterprises.

2. The copper tariff proponents represent, both on a basis of capacity and of recent output, only one-third of the industry. The large majority of copper companies are either neutral or opposed to it as futile and injurious.

The copper industry is far from unanimous in the plea for tariff protection. The present productive capacity of the proponents of the tariff is 457,500 tons, and of those who apparently do not favor a tariff 861,400 tons. On this basis, therefore, the proponents represent one-third of the industry. In 1929 the proponents produced 30 per cent of the total United States mine production, roughly 300,000 tons out of a total of 1,000,000 tons. Conspicuous by their absence from the proponent group are Utah Copper and Nevada Consolidated, two of the largest and cheapest producers in the country, Anaconda in Montana, next to Utah the largest individual producer, Inspiration, Magma, United Verde, and United Verde Extension in Arizona, Walker in California, and Kennecott in Alaska. It would appear that barely one-third of the industry wants a tariff. The demand should certainly be more nearly unanimous before a particular industry is singled out for special protective legislation.

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[1] Table No. 1. Copper tariff proponent companies dividend records.
[2] Table No. 2. Dividends of Michigan copper companies.

In this connection, a quotation from an article published in the New York Sun of January 4, 1932, by Arthur Notman, president of the Mining & Metallurgical Society of America, one of the country's foremost copper authorities, is very apropos. Mr. Notman said:

"Producers who are now begging for help from the public's pocket in the form of a tariff never opened their mouths to protest against the unwarranted profits which poured into their treasuries in 1928 and 1929 any more than they did over the war profits. Theyo were all willing parties to the price policy which allowed their potential competitors in South Americr, Africa, and Canada to expand and occupy the foreign market. Secondly, tnere is just as great an excess of domestic capacity over probable normal domestic consumption as there is of foreign capacity over probable consumption."

In fact, both in the case of peak-year consumption and 1931 consumption, foreign capacity has been more fully used to supply foreign consumption than has United States mine capacity to fill domestic consumption. The present productive capacity of all mines outside of the United States is approximately 1,600,000 tons. The peak year of foreign consumption was 1928, when consumption represented 64 per cent of capacity. In 1931 it represented 48 per cent of capacity. The present productive capacity of United States mines is approximately 1,320,000 tons. The peak year of United States consumption was in 1929, when that consumption represented 57 per cent of mine capacity. In 1931 domestic consumption represented 34 per cent of the same productive capacity.

3. The copper situation is not any more desperate than is that of lead or zinc, both tariff protected, or that of a very large proportion of American industries, all suffering in this extraordinary depression.

That the copper industry is in serious straits is admitted. So are the lead and zinc industries, and both lead and zinc are tariff protected. Conditions in the Western lead, zinc, and silver mining districts are desperate. These are illustrated by the present disastrously low prices of these metals as compared with the levels of two and three years ago[1] and by the comparative rates of metal production[2] and the present activity of the Western mining camps.[3]

The January production of copper was 32.2 per cent of the 1929 average rate, of steel was 23.3 per cent of the 1929 average, while January production of pig iron was only 27.6 per cent of the monthly average of 1929. The copper industry is only one of many industries that are suffering in this tragic depression. It has been exceedingly prosperous and will be prosperous again when business recovers. Its difficulties are not unique, and it does not deserve the tariff equivalent of a dole. An effective 5-cent tariff would in normal times cost the American consumers of copper approximately $100,000,000 a year.[4]

4. A copper tax or tariff would yield no revenue and would be ineffective in increasing the domestic price of the metal.

A tax or tariff on imported copper is tantamount to an embargo. It would not yield any revenue. The United States has always produced and still does produce a large surplus over domestic requirements.[5] The productive capacity of United States mines is about four times current domestic consumption and nearly twice the maximum domestic consumption achieved in 1929.[6] Two alone of the forty or more domestic mining companies, Utah Copper and Nevada Consolidated, are capable of producing substantially more low cost copper than the United States is currently consuming.

A tax or tariff would not be effective in raising the domestic price of copper. It is an economic axiom that no tariff can raise the price of a commodity when there exists an exportable surplus of that commodity. For the last 11 years for which complete statistics are available, United States has had an average annual exportable copper surplus of 127,000 tons. To this figure should be added a considerable quantity of copper in fabricated and manufactured form, as electrical manufactures, automobiles, locomotives, in brass ingots, plates, bars, pipes, tubes, brass or bronze wire, builders' hardware, other brass and bronze manufactures, nickel—silver and copper sulphate. Copper exported in these forms would be included in the totals for exports if

[1] Table No. 3. Comparison of Commodity Prices.
[2] Table No. 4. Comparison of Production Rates.
[3] Table No. 5. Comparison of Mine Production Rates.
[4] Table No. 6. Cost of a Tariff to the American Copper Consumer.
[5] Copper Tariff Statistics booklet, Exhibits A–1 and A–2.
[6] Copper Tariff Statistics booklet, Exhibits D–1, D–2, and D–3.

authentic Government figures were available, and the exportable surplus totals for each year would be augmented by this very considerable amount.

In addition to the improbability of a tariff being able to raise the domestic price of copper in the face of a continuing exportable surplus, there is the further fact of the unprecedentedly high stocks of refined metal in this country. The pressure of these stocks, which are greatly in excess of those of the other nonferrous metals, can only be relieved by curtailment in mining operations and improvement in consumption. The most recent proof of the ineffectiveness in raising the domestic price of a commodity of which an exportable surplus exists is in the case of tariff-protected wheat [3] and its present disastrously low price. With respect to copper itself, the futility of the last tariff on this metal was recognized in 1894, when the tariff was abandoned without a protest because of its obvious uselessness.[4]

5. A copper tariff would bring disaster to the important American refining industry and do serious injury to its many contributory industries.

Although this country produces only half of the world's copper, it refines over 70 per cent of it and possesses over 75 per cent of the world's total refining capacity.[1] Every pound of the foreign copper imported, or its equivalent (plus a large annual tonnage of purely domestic copper) is reexported for sale abroad. By reason of geographical location and freight differentials, it is more advantageous for many domestic copper mines to export their copper and sell it in the foreign markets than to dispose of it in this country. For the same reasons of economical delivery, replacement tonnages of foreign-origin copper are delivered in the United States market. However, for many years more copper has been exported than imported because the United States produces and is able to produce more copper than it consumes. There is no present prospect of a change in this situation.[4]

A tax or tariff, even if the bonding and drawback privileges were provided for, would do serious and irreparable injury to this important refining industry, which depends for its efficiency and low operating costs on the large volume of copper treated. The refinery capacity of Europe would be increased and the foreign copper which now comes to our plants would be diverted abroad. Even at the present time large excess refining capacity exists in Europe. The saving in freight by shipping copper direct to Europe from, for instance, South America, over shipping to the United States with subsequent reshipment, after refining, to the European market would be between $4 and $5 per ton. This differential, added to the cost of unloading, reloading and handling, and the red tape and complications involved in drawbacks, would eliminate all incentive to have foreign copper refined in this country.

Over 28 per cent of the total refined copper produced in the United States originates abroad.[2] If foreign copper were excluded, it is obvious that at least 28 per cent of the country's refinery employees would have to be discharged, refining costs would rise, tax ratables in certain districts would be destroyed, and permanent and irreparable injury would be done to the industry. Repercussions would be felt in the many associated and contributory industries, which furnish annually about three-quarters of a billion dollars' worth of fuel, materials, and supplies to the country's smelting and refining plants. These include, of course, the railroads, coal, oil, lumber, refractories, many kinds of chemicals, altogether about 1,600 pounds of supplies for each ton of refined copper produced. Our industries can ill afford at the present time to suffer any additional losses of business and restrictions to their markets.

6. The annual cost of an effective tariff to the American consuming public for the purpose of temporarily reviving a few, scattered, high-cost western copper mines would in normal times amount to about $100,000,000,[1] or almost $1 per capita.

The burden of subsidizing through an effective tax or tariff the minority group of high-cost mines would be a heavy one on the consuming public of the United States. On the basis of 1929 consumption figures, an effective 5-cent tariff would result in an increased copper bill to the country of over $100,000,000, of which the electric manufacturers would contribute $26,000,000, the telephone and telegraph companies $16,000,000, and the automobile manufacturers $14,-

[1] Copper Tariff Statistics booklet, Exhibit C.
[2] Copper Tariff Statistics booklet, Exhibits B-1, B-2, and B-3.
[3] Copper Tariff Statistics booklet, Exhibit F.
[4] Copper Tariff Statistics booklet, Exhibits A-1 and A-2.

000,000.[1] And of this total bill, only $33,000,000 would go to those who are urging a tariff and the balance of $76,000,000 would be paid to those who do not admit either its necessity or usefulness under present conditions.

Sentiment in this country has not countenanced a Federal dole system for distressed industries, to say nothing of a dole for a minority group in one of the many industries in distress; however, it would be actually cheaper for the country to close down the high cost, noncompetitive mines and to maintain their unemployed workers by direct appropriations from the Federal Treasury than to pay this large annual tariff subsidy to keep these mines in operation.

7. An effective copper tariff would destroy the important export business of the copper fabricators and manufacturers.

A serious consequence of an effectual tariff would be the strangulation of the export business of the copper fabricators and manufacturers, in particular the business of those manufacturers located in the Middle West. Export business totaled in 1929, 103,362 tons of copper contained in the exported manufactured products and in 1930, 90,834 tons. With regard to the domestic business of these same fabricators, the only thing that could save it from destructive foreign competition in the event of an effective copper tariff would be the imposition of a complete new schedule of compensatory duties, some of which would of necessity so increase the existing duties that a radical change in fabricated copper schedules would be necessary. Such a radical change certainly could not be effected fairly or justly without reopening the entire tariff question.

8. The "flood of African copper that is pouring into the country," much advertised by the advocates of a tariff, is a myth.

Much has been made by the tariff proponents of the "flood of cheap African copper that is pouring into the country." This is a direct misstatement of fact. The last Belgian Congo copper to come into the United States was a shipment of 1,000 tons in January, 1931. This tonnage was delivered to a refining subsidiary of the Phelps Dodge Corporation, one of the chief copper tariff proponents. At that time the copper refinery at Oolen in Belgium was completed and since then no Congo copper has ever been refined in this country. Since that date the total African copper brought into the United States has been less than 18,000 tons, or about 2 per cent of the 1931 United States refinery production. This small tonnage has come from northern Rhodesia, principally from the Roan Antelope mine. It is anticipated that for some years to come less than 700 tons per month of Roan Antelope copper will be imported for refining and the resulting product, a fire-refined copper, will be practically all sold abroad.

The flood of cheap African copper so widely advertised by the tariff proponents is a myth. By far the greatest part of African copper production has been and will be refined and sold in Europe.

Much misleading emphasis has been placed by the tariff proponents on the difference between wages of miners in the United States and wages of miners in Africa and South America. Erroneous conclusions have been drawn from this comparison, because no emphasis has been placed on the essential corollary—the productivity of the miners. This subject has been exhaustively studied by the Tariff Commission. The latter's report estimates that the output of African mines is at the rate of 0.39 ton of ore per man per day as against 4.75 tons of ore per man per day in the United States, or a ratio of productivity of 1 to 12 in favor of the far more efficient and consequently more highly paid United States miner.

With regard to South American miners' wages and productivity, the Tariff Commission report states: "The service performed for equivalent remuneration was in the ratio of 100 in the United States to about 88 in South America."

9. The Tariff Commission reports an excess of domestic over foreign cost of refined copper of less than one-half a cent per pound.

With regard to the much misrepresented difference in production costs of foreign and domestic copper, the Tariff Commission's exhaustive report No. 29 shows, on page 7, an excess of domestic over foreign cost of refined copper of 0.49 cent per pound, without depletion or interest. Since it is customary for mining companies in the United States to write a much higher depletion charge into their costs than is usual or permitted in foreign countries, in most of which no depletion allowance for income-tax purposes is allowed, the above basis of cost comparison is the only fair one. It certainly offers no justification for a

[1] Table No. 6, "Cost of a Tariff to the American Copper Consumer."

4-cent or a 5-cent tariff. If production cost difference should, in principle, be the measure of a tariff, the Tariff Commission report would indicate that one-half cent is about the proper amount. But the difference is so small as to be negligible and could easily be entirely wiped out by metallurgical or operating economies which are continually being put into effect at the America mines.

10. The "utter ruin of the copper industry" has been predicted six times in the last 45 years but after each crisis copper has come back stronger and more virile than ever.

Periodically throughout the history of the industry, the copper producers have been menaced in periods of depression by "sudden floods of new cheap copper that the world could never absorb and that would permanently wreck the industry." The earliest of these was the development in 1886 and 1887 of the enormously rich ore body of the Cape Copper Co. in Namaqualand South Africa, with the concurrent drop in the price of copper from 24 cents to 10 cents. But when the depression had passed, copper reached over 17 cents in 1888, 1889 and 1890. Again in 1894, the development of the Butte, Mont., ore bodies created a panic in the unstable copper market and the metal dropped to 9 cents. However, it was 17 cents again in 1899. Increasing cheap Arizona production then caused another psychological panic among the copper producers which lasted until the 1907 boom, which carried the price up to 25 cents per pound. After the collapse of that boom and under the influence of increasing stocks the "copper porphyry" menace became imminent. It was feared that the world could never consume this increasing quantity of low cost copper. Nevertheless, with an improvement in business the "menace" subsided, the increased production was fully consumed and the price rose to 17 cents in 1912, to say nothing of the abnormally high war prices of 1916, 1917, and 1918. Another "crisis" seemed to confront the copper industry in the collapse of 1920, when the large South American mines, Chile, Braden, and Cerro de Pasco, and Katanga in the Belgian Congo provided a fresh "menace."

After every one of these threats; each heralded as a blow that the industry would never be able to survive, copper has come back each time stronger and more virile than ever, with always increasing consumption, minimum stocks and a prediction at the crest of each cycle of the imminence of a copper famine. The last peak was in 1929 when, in the "New Era" hysteria, the Northern Rhodesian coppers were welcomed as saviors of a critical situation, due to come into production at the psychological time to avert a copper shortage and a runaway market, since the probable increase of world demand bade fair to strain and outstrip the productive capacity of existing mines and plants.

Now, the picture has suddenly changed; consumption has melted away, the price has crumbled, stocks have mounted, and some producers are desperate. This general hysteria of despair is quite typical of the last stages of a major depression, the same psychology that has already seen "the utter ruin" of the copper industry six times in the last 45 years—in 1887, in 1894, in 1903, in 1908, in 1920, and in 1931. In 1920–21 it even went so far that most of the country's copper mines closed down completely for several months. The present depression has not reduced them to that extremity, largely because of the accumulation of abnormally large profits piled up during the many prosperous years behind them.

When all is said and done, a dispassionate survey of the present world copper situation as regards probably future production and consumption[1] clearly indicates that with any sort of a recovery to normal in Europe and the rest of the world, we may confidently expect world consumption to absorb potential world production, with the result that the situation will adjust itself naturally, as it has so often done in the past, without the economic dislocation of a tariff.

11. The recovery of the copper industry depends on the revival of consumption, the expansion of the uses of the metal, and the assurance of a reasonably low and reasonably stabilized price.

The real salvation of the copper industry depends fundamentally, as it always has, upon a revival in consumptive demand and the stimulation of widespread and increased uses for the metal. The achievement of these conditions is furthered and hastened by a period of reasonably low and relatively

[1] Copper Tariff Statistics booklet, Exhibits E–1, E–2, E–3, E–4, and E–5.

stable prices. The price should remain low enough to discourage unneeded production and to eliminate the competition of other metals in uses for which copper is particularly suited. This competition becomes a serious factor for copper and brass fabricators when the price of copper exceeds 13 cents per pound. Copper producers, including the American mines, have themselves largely to blame for their present plight. They can rehabilitate their industry only by now curtailing production rigorously and by not expanding it in future any faster than consumption justifies.

It is only a minority of producers who look for the illusory benefits of tariff relief. The majority recognize the futility of a tariff on a commodity of which there is an actual and potential exportable surplus and are bending their efforts to the practical problem of aligning their industry in accordance with the inexorable law of supply and demand.

At present we happen to be in a period when supply is exceeding demand. We have seen such periods before. Yet consumption of copper has shown for the last 50 years a steady upward trend. Despite many short-term divergences, corresponding to the cycles of business expansion and depression, the long-term trend established by the United States indicates a cumulative annual increase of 5 per cent minimum,[1] by the world 4 per cent minimum.[1] It is reasonable to believe that consumption outside of the United States, particularly in Europe, will tend to reestablish during the next decade the same ratio of growth which it shared with the United States prior to the World War. Since 1913 the per capita copper consumption of the United States has doubled, that of the chief European nations has merely regained its pre-war status. If, during the next decade European consumption only achieves one-half the per capita consumptive increase that the United States has shown since 1913, world consumption will overtake the world's present productive capacity within 10 years.

12. Until copper consumption improves from its present low rate, a continuance of the drastic voluntary curtailment program participated in by the principal foreign and domestic mines is imperative if a further decline in price is to be avoided. A tariff or tax on copper would immediately disrupt the present curtailment program and throw the industry into a new state of chaos.

In the meantime and until the normal demand for copper reasserts itself there should be nothing hastily and hysterically initiated to destroy the one real protection against a further growth of unsalable stocks and, consequently, a lower price for copper. This one real protection is the world-wide curtailment of mine production which began on January 1 and was made more drastic beginning in April. The imposition of a United States tariff on copper will promptly destroy the existing cooperation between the world's leading producers, assure a series of retaliatory tariffs abroad and plunge our entire copper industry into a new state of chaos.

While the recently started curtailment program is admittedly in the best interests of the industry as a whole, it is particularly beneficial to United States producers, since it permits the exportation of our surplus. It is not widely enough appreciated that the United States has a proportionately larger exportable surplus of copper than has the rest of the world, taken as a whole. During 1931, primary foreign consumption is estimated at 775,000 tons, or 48 per cent of the foreign capacity of 1,600,000 tons; the United States consumption of primary copper was 454,500 tons, or 34 per cent of its productive capacity of 1,320,000 tons. Consequently, under the curtailment program whereby the chief United States and foreign mines are reducing their United States and foreign mines are reducing their capacity, domestic mines are faring better than they would be if the imposition of a tariff restricted their outlets solely to the domestic market. Such restriction would be inevitable by reason of retaliatory tariffs and increased production abroad. Domestic production would then either have to contract below the rate of present curtailment or force prices still lower in a senseless struggle for the "survival of the fittest." Fabricating plants have already suffered onerous inventory losses through the decline in copper prices. Any tax or tariff would jeopardize the curtailment of production, which is their one safeguard against further disastrous losses.

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[1] Copper Tariff Statistics, Exhibits D–3, E–4.

At the present critical time the sentiment of the thinking man of this country and of the world is awakening to the unsoundness of many of the present tariff barriers, which have strangled international trade and intensified, if not actually caused, the current depression. Few otherwise sane and public-spirited men can conscientiously support a copper tariff, an instrument of special privilege with the manifest object of protecting a few high-cost producers. Such a tariff could do no good; on the contrary, if it could be in any way effective, it would seriously injure many of our important industries and would impose a heavy tax on the real victim of too many ill-considered legislative proposals, the ultimate consumer and taxpayer. He would pay the bill, and the assumed beneficiaries would be the few high-cost mines which do not deserve the alleged benefits of a tax or tariff and the many low-cost mines which do not need and are not asking for it.

The subject of a tariff with its many ramifications is complex and deserving, at least, of calm study and critical consideration. To bring out all the facts requires time. The present revenue bill requires speed. A copper tariff admittedly and obviously will not produce revenue and has no place in a revenue bill.

TABLE No. 1.—*Copper tariff proponent companies' dividend records*

	Dividends paid	Capital stock issued	Copper production	
			1929	1930
			Short tons	*Short tons*
Calumet & Hecla Consolidated Copper Co., to 1930	$181,329,779	$50,137,540	67,347	58,199
Ahmeek Mining Co	[1] 6,125,544	[2]	[2]	[2]
Allouez Mining Co	[1] 1,681,500	[2]	[2]	[2]
Centennial Copper Mining Co	[1] 194,000	[2]	[2]	[2]
Osceola Consolidated Mining Co	[1] 11,564,863	[2]	[2]	[2]
Consolidated Coppermines Corporation	None.	7,110,000	11,366	16,308
Copper Range, to 1930	31,043,865	9,857,325	12,099	11,900
Miami Copper Co., to 1930	37,332,623	3,735,580	29,422	33,502
Mohawk Mining Co., to 1929	13,510,000	2,875,000	10,022	6,553
North Butte Mining Co., 1905-1918	14,657,000	3,413,780	1,763	2,770
Phelps-Dodge Corporation 1909-1931	[3] 132,159,007	[4] 50,000,000	88,590	56,479
Arizona Copper Co., 1904-1921	31,805,628	[5]	[5]	[5]
Calumet & Arizona Mining Co., to 1931	77,596,304	16,857,140	63,570	43,690
New Cornelia Copper Co	[1] 5,833,000	[6]	[6]	[6]
Old Dominion Co., to 1918	[1] 5,762,062	8,750,000	9,472	8,798
Quincy Mining Co., to 1920	27,002,500	5,635,525	2,230	5,470
Seneca Copper Mining Co	None.	[7] 2,725,000 [8] 1,478,200	1,499	2,429
Shattuck-Denn Mining Co., 1910-1920	7,612,500	[7] 3,997,080	5,366	4,167
Tennessee Copper Co., to 1929	9,588,841	5,000,000	[9]	[9]
Total	594,799,036	171,562,170	302,745	[10] 250,353
Total United States mine production (A. B. M. S.)			1,006,203	[11] 690,471
Percentage of total by copper tariff proponent companies.....per cent			30.1	36.2

NOTE.—Ducktown Chemical & Iron Co. statistics are not included above because the complicated corporate structure of this and its related companies renders it impossible to determine accurate dividend totals. However, it may be stated that the dividend return upon the original "founders' shares" in the period 1895 to 1916 totaled 97253 per cent.

[1] Dividends paid to minority interests. Balance of dividends are included in income of the controlling companies.
[2] Included in Calumet & Hecla.
[3] Dividends since 1909. The large dividends paid previously by Copper Queen, Detroit Copper Co., and other subsidiaries can not be ascertained and are therefore not included—believed to have paid $75,000,000.
[4] Before acquisition of refining and fabricating subsidiaries.
[5] Included in Phelps-Dodge.
[6] Included in Calumet & Arizona.
[7] Balance sheet valuation of no par capital stock.
[8] Bonds.
[9] Not published.
[10] Decrease, 17 per cent.
[11] Decrease, 31 per cent.

TABLE No. 2.—*Michigan copper industry dividends paid to date*

Entire Michigan Copper Industry, 1861–1910	$180,302,000.00
Calumet & Hecla Consolidated Copper Co., 1911–1930	67,879,779.00
Copper Range Co., 1911–1930	20,287,140.00
Isle Royale Copper Co., 1913–1930	3,487,500.00
Mass Consolidated Mining Co., 1916–17	480,583.00
Mohawk Mining Co., 1911–1930	11,819,037.50
Quincy Mining Co., 1911–1920	7,590,000.00
St. Mary's Mineral Land Co.,[1] 1911–1920	13,700,000.00
Union Copper Land Mining Co., 1923–1926	140,000.00
Victoria Copper Mining Co., 1929	400,000.00
Total dividends, 1911–1930	125,850,048.50
Total Dividends, 1861–1930	306,152,948.50

TABLE No. 3.—*Comparison of commodity prices*

Commodity	Present tariff	1928–29 high	1930–1932 low	Per cent of high
Copper (New York electrolytic) cents per pound	Free.	[1]18.00	6.00	33.3
Zinc (St. Louis) cents per pound	1¼	6.80	2.75	40.5
Lead (New York) cents per pound	2¼	7.75	3.00	38.7
Tin (straits, New York) cents per pound	Free.	55.65	20.75	37.3
Silver (New York) cents per ounce	...do	60.019	25.75	42.9
Cotton (short staple) cents per pound	...do	21.00	5.30	25.0
Corn (No. 3 yellow, Chicago) cents per bushel	25	108.0	35.0	32.0
Oats (No. 3 white, Chicago) cents per bushel	16	68.0	21.0	31.0
Wheat (No. 1) cents per bushel	42	157.0	61.0	38.0
Wheat (No. 2) cents per bushel	42	196.0	47.0	24.0
Leather (green salted, packers heavy native steers) cents per pound	Free.	26.1	6.0	23.0
Beef cattle (Western dressed steers) cents per pound	3	28.4	.12	42.0
Hogs (heavy Chicago) cents per pound	2	12.43	4.22	34.0
Lambs cents per pound	[2]$3	16.45	4.89	30.0
Crude oil (Kansas-Oklahoma at wells) cents per barrel	Free.	130.0	23.8	18.0
Cocoa (Acra, New York) cents per pound	...do	15.0	4.125	27.0
Coffee (Brazil grades) cents per pound	...do	18.4	5.3	29.0
Silk (raw Japanese) cents per pound	...do	5.39	1.45	26.9
Rubber (smoked sheets, New York) cents per pound	...do	40.0	3.1	7.75

[1] Except for 1 month in 1929 when it reached a momentary peak of 24 cents.
[2] A head.

TABLE No. 4.—*Comparison of production rates*

	1929 average production	January, 1932	Per cent of 1929 average
Lead	82,749 short tons	32,100 short tons	38.8
Zinc	52,633 short tons	22,516 short tons	42.8
Silver	5,015,000 ounces	2,032,000 ounces	40.5
Steel	4,526,000 long tons	1,461,290 long tons	32.3
Copper	83,850 short tons	27,000 short tons (estimated)	32.2
Pig iron	3,624,000 long tons	972,784 long tons	27.0

[1] Largely from Champion Copper Co. interest.

TABLE No. 5.—*Comparison of mine production rates*

	1928	1929	1930	1931	Percentage 1931-1929
LEAD, ZINC, SILVER DISTRICTS					
Lake County, Colo. (mainly Leadville):					
Lead.....tons..	5,168	5,172	6,804	1,957	37.8
Zinc.....do....	14,802	13,414	11,519	2,897	21.6
Silver.....ounces..	378,800	394,270	614,794	90,310	22.9
San Juan County, Colo. (mainly Sunnyside):					
Lead.....tons..	8,347	9,506	8,816	505	5.13
Zinc.....do....	12,714	11,429	10,066	None.	.....
Silver.....ounces..	827,318	871,544	[1] 1,085,011	414,298	[1] 47.5
Park City, Utah: Tons of ore and/or concentrates shipped.....	701,103	777,909	456,387	166,000	21.4
Tintic, Utah: Tons of ore and/or concentrates shipped.....	379,249	455,316	375,408	218,200	47.9
ZINC DISTRICT					
Joplin, Mo.: Tons of concentrates shipped.....	585,790	618,500	434,460	232,000	37.5
Montana (zinc): Tons produced.....	82,830	68,176	59,421	5,800	8.5
SILVER DISTRICT					
Tonopah, Nev.: Silver.....ounces..	1,900,315	1,905,000	1,952,000	[2] 615,000	32.3
Presidio, Tex.: Silver.....ounces..	1,208,238	973,252	356,855	None.	.....

[1] Abnormally high on account of new silver production from Shenandoah-Dives Mine.
[2] Estimated.

TABLE No. 6.—*Cost of an effective 5-cent tariff to the American copper consumers*

Copper consumption in the United States, 1929	pounds..	2,191,966,000
Copper consumption in the United States, per capita	do....	19.06
Price paid for 1929 consumption, at 18.107 cents		$397,000,000
Increased cost of an effective 5-cent tariff per capita		$0.95
Increased cost to all consumers		$109,600,000

Industry	Consumption	Cost increase
Increased cost to following industries:	*Pounds*	
Electrical manufactures	522,000,000	$26,100,000
Telephone and telegraphs	328,000,000	16,400,000
Automobiles	275,200,000	13,760,000
Light and power lines	254,000,000	12,700,000
Wire	230,400,000	11,520,000
Buildings	118,000,000	5,900,000
Refrigerators	34,400,000	1,720,000
Radio receiving sets	31,000,000	1,550,000
Other uses	249,200,000	12,460,000
Manufactures for export	149,800,000	7,490,000
Total	2,192,000,000	109,600,000

TABLE No. 7.—*Dividends paid by principal American copper companies in 1931*

Anaconda	$12,180,233
East Butte	849,774
Iron Cap, preferred	4,654
Kennecott	14,089,725
Magma	714,271
Mohawk	111,700
Nevada Consolidated	3,885,799
Phelps Dodge (including Calumet & Arizona)	4,210,892
Tennessee	214,468
United Verde Extension	1,575,000
Utah Copper	9,739,466
Total	47,575,982

MEMORANDUM TO ACCOMPANY COPPER-TARIFF STATISTICS

Analytical study of these statistics and charts points to the following general conclusions:

1. Exhibits A–1 and A–2 show that there has existed an exportable surplus of copper in the United States for over 30 years. That, just as long as this condition of exportable surplus exists, a copper tariff would not be effective in permanently increasing the domestic as compared to the foreign price of copper is proved by

2. Exhibits B–1 and B–2, which show that during the last four years of the former copper tariff, 1891 to 1894, inclusive, when there was an export surplus of the metal, the difference between the New York and London prices of copper was negligible, so that in 1894 the duty, universally recognized to be useless, was removed without a protest.

3. Exhibit C, showing foreign and domestic prices of wheat with a 42 cent duty during recent years, offers further proof of the futility of a tariff where an export commodity is concerned.

4. Exhibits D–1, D–2, and D–3, showing in detail the present productive capacity of the United States copper mines and statistics of past United States consumption, indicate that with a normal annual increase in the latter our domestic mines as now equipped can and probably will produce more copper than the country can consume until at least 1943. It, therefore, follows that a tariff can not be made effective for over 10 years.

5. Exhibits E–1, E–2, E–3, E–4, and E–5 include a highly optimistic, detailed estimate of the world's productive capacity and indicate that world copper consumption is very likely to overtake this developed productive capacity of the world's copper mines within a much shorter length of time, which will soon place the industry once more on a sound basis.

6. Exhibit F shows the important part which foreign copper plays in the refining industry of the United States and suggests the serious injury which exclusion of foreign copper would cause to this important industry.

[NOTE.—All figures in these statistics come from published Government sources, except as otherwise noted.]

1931

Copper statistics, United States of America complete, including all copper exported and imported

		Short tons
Stocks beginning of year, refined and blister		532,500
Production of primary refined copper:		
United States		523,000
Cuba		10,498

IMPORTS (LESS CUBA)

Department of Commerce:		
Ore	11,790	
Concentrates	49,704	
Regulus, coarse, metal and cement copper	735	
Unrefined, black, blister etc	140,925	
Refined	87,225	
Scrap, scale, and clippings	2,567	
Old and brass (estimated average contents)	1,300	
		283,748
		1,349,746

EXPORTS

Department of Commerce:	
Ore and concentrates	150
Refined, ingots, bars, etc	202,698
Old and scrap	33,276
Pipes and tubes	1,035
Plates and sheets	2,269
Rods	29,415
Wire (except insulated)	3,134

American Bureau of Metal Statistics calculations for 1931:		
Insulated wire and cable	3,200	
Manufactures of copper	900	
Brass ingots, plates, bars	1,400	
Brass pipes and tubes	1,100	
Brass pipe fittings	800	
Brass or bronze wire	400	
Builders' hardware	400	
Other brass and bronze manufactures	1,600	
Plated ware	200	
Nickel silver	100	
Copper sulphate	900	
Electrical manufactures	9,000	
Automobiles	3,300	
Freight cars	50	
Locomotives	50	
In scrap brass	33,589	Short tons
		328,966
Stocks end of year		608,500
Apparent domestic consumption		412,280
Total		1,349,746

RECONCILIATION

Imports (less Cuba)	283,748
Exports	328,966
Excess exports	45,218
Increase in stocks	76,000
Exportable surplus	121,218

PRELIMINARY

1931

Stocks beginning of year:	
Refined	307,500
Blister	225,000
Production of primary refined copper:	
United States	523,000
Cuba	10,498
Imports (less Cuba)	279,881
	1,345,879
Exports	[1] 280,000
Stocks end of year:	
Blister	156,000
Refined	452,500
Apparent consumption	457,379
	1,345,879

RECONCILIATION

Imports (less Cuba)	279,881
Exports	280,000
Excess exports	119
Increased stocks	76,000
Surplus	76,119

[1] Returns for this figure not quite complete so estimated in small part.

NOTE.—Imports and exports taken from A. B. of M. S. monthly reports. These reports use Bureau of Foreign and Domestic Commerce figures which are the same as used heretofore.
Exports do not include a very considerable quantity of copper in fabricated and manufactured from etc., estimated for 1931 to be 48,000 tons by the American Bureau of Metal Statistics.

EXHIBIT A–1

Copper statistics, United States (Cuba considered as domestic)

[Short tons]

	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	Total, 11 years
Stocks beginning of year.												
Refined	315,500	329,500	229,500	108,000	132,000	121,500	62,000	73,000	85,500	57,000	153,000	315,500
Blister	136,500	232,500	141,500	180,500	216,000	196,500	216,000	227,500	200,500	211,500	250,000	136,500
Production of primary refined copper (United States and Cuba)	600,466	313,728	465,320	744,161	849,063	858,103	876,570	874,615	903,263	996,441	708,616	8,190,346
Imports (less Cuba)	233,561	166,215	257,522	326,158	372,451	309,831	378,800	344,022	396,173	482,081	395,574	3,652,408
	1,286,047	1,041,943	1,093,842	1,358,819	1,569,514	1,485,934	1,533,370	1,519,137	1,575,436	1,747,022	1,507,190	12,294,754
Exports	312,027	314,402	371,520	414,657	558,458	542,104	482,843	538,365	562,510	496,448	376,884	4,970,218
Stocks end of year:												
Refined	329,500	229,500	108,000	132,000	121,500	62,000	73,000	85,500	57,000	153,000	307,500	307,500
Blister	232,500	141,500	180,500	216,000	196,500	216,000	227,500	200,500	211,500	250,000	225,000	225,000
Apparent consumption	412,020	356,541	433,822	596,162	693,056	665,830	750,027	694,772	744,426	847,574	597,806	6,792,036
	1,286,047	1,041,943	1,093,842	1,358,819	1,569,514	1,485,934	1,533,370	1,519,137	1,575,436	1,747,022	1,507,190	12,294,754
RECONCILIATION												
Imports (less Cuba)	233,561	166,215	257,522	326,158	372,451	309,831	378,800	344,022	396,173	428,081	395,574	3,652,408
Exports	312,027	314,402	371,520	414,657	558,458	542,104	482,843	538,365	562,510	496,448	376,884	4,970,218
Excess exports	78,446	148,187	113,998	88,499	186,007	232,273	104,043	194,343	176,337	14,367	19,690	1,317,810
Decreased stocks		191,000	32,500		30,000	40,000		14,500	17,500			80,500
Increased stocks	110,000			59,500			22,500			131,500	129,500	
Surplus	188,446	42,813	31,498	147,999	156,007	192,273	126,543	179,843	158,837	146,867	110,810	1,398,310

EXPORTS

Exports do not include a considerable quantity of copper in fabricated and manufactured form, as electrical manufactures, automobiles, freight cars and locomotives, in brass ingots, plates, bars, pipes, tubes, brass or bronze wire, builders' hardware, other brass and bronze manufactures, nickel—silver and copper sulphate. Copper exported in these forms would be included in the totals for exports if authentic Government figures were available, and the exportable surplus totals for each year, shown above, would be augmented by this very considerable amount.

APPARENT CONSUMPTION

Calculation starts with stocks at beginning of year, both blister and refined, plus domestic refined production (including Cuba) and imports of all classes of material (excluding Cuba), giving a total supply from which are deducted all exports (except certain manufactures) and stocks at end of year, giving a figure which we call "apparent consumption."

	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919
Stocks beginning of year:											
Refined	60,938	70,743	61,402	44,196	52,749	45,193	86,820	41,215	64,028	57,000	90,000
Blister	117,007	133,377	122,609	109,932	137,036	123,895	101,534	137,000	212,000	205,500	281,000
Production of primary refined copper (United States and Cuba)	4,918	4,429	5,394	5,144	2,681	9,330	14,959	21,064	23,693	14,662	8,178
	532,782	535,947	550,635	601,838	618,412	605,212	639,853	944,376	936,773	941,437	716,743
Imports (excluding Cuba)	156,982	167,790	161,910	199,977	202,099	143,845	142,890	210,104	255,117	273,241	206,516
	871,627	912,286	901,950	961,077	1,012,977	927,475	1,040,056	1,353,759	1,491,011	1,491,840	1,302,437
Exports	341,423	354,158	393,277	387,500	463,221	420,040	340,959	394,896	566,416	373,845	258,314
Stocks end of year:											
Refined	70,743	61,402	44,196	52,749	45,193	86,820	41,215	64,028	57,000	90,000	315,500
Blister	133,377	122,609	109,932	137,036	123,895	101,534	137,000	212,000	205,500	281,000	136,500
Apparent consumption	326,084	374,117	354,555	383,792	390,668	319,081	520,882	682,835	662,095	746,995	582,123
	871,627	912,286	901,950	961,077	1,012,977	927,475	1,040,056	1,353,759	1,491,011	1,491,840	1,302,437
RECONCILIATION											
Imports (excluding Cuba)	155,982	167,790	161,910	199,977	202,099	143,845	142,890	210,104	255,117	273,241	206,516
Exports	341,423	354,158	393,277	387,500	463,221	420,040	340,959	394,896	566,416	373,845	258,314
Excess exports	185,441	186,368	231,367	187,523	261,122	276,195	198,069	184,792	311,299	100,604	51,798
Decreased stocks		20,109	29,893		20,697		10,139		13,528		
Increased stocks	26,175			35,667		19,266		97,813		108,580	81,000
Surplus	211,616	166,259	201,474	223,190	240,425	295,461	187,930	282,605	297,771	209,184	132,798

	1902	1903	1904	1905	1906	1907	1908
Stocks beginning of year:							
Refined	141,007	78,608	87,537	47,531	36,135	23,249	62,873
Blister					55,000	67,655	87,627
Production of primary:							
Refined copper (United States and Cuba)	329,754	349,022	406,269	450,954	443,841	392,136	437,925
Imports (less Cuba)	71,565	84,354	90,646	105,362	105,340	125,926	109,178
	542,326	511,984	584,452	603,847	640,316	608,966	697,603
Exports [1]	188,649	160,161	283,819	276,313	223,350	254,514	330,970
Stocks, end of year:							
Refined	78,608	87,537	47,531	36,135	23,249	62,873	60,938
Blister					67,655	87,627	117,607
Apparent consumption	275,069	264,286	253,102	291,399	326,062	203,952	188,088
	542,326	511,984	584,452	603,847	640,316	608,966	697,603
RECONCILIATION							
Imports (excluding Cuba)	71,565	84,354	90,646	105,362	105,340	125,926	109,178
Exports [1]	188,649	160,161	283,819	276,313	223,350	254,514	330,970
Excess exports	117,084	75,807	193,173	170,951	118,010	128,588	221,792
Decreased stocks	62,399	40,006	11,396	231			
Increased stocks		8,929				50,596	27,445
Surplus	54,685	84,736	153,167	159,555	117,779	188,184	249,237

[1] These figures do not include manufactures for export.

EXHIBIT B–1

[Published by the U. S. Geological Survey, 1900, pp. 162, 163, 165]

[Short tons]

	1889	1890	1891	1892	1893	1894	1895
COPPER IMPORTS							
per contents of ores	1,896	1,734	4,466	3,835	3,626	2,402	4,461
per contents of regulus, etc.	30	111	1,202	152	1,585	2,037	1,552
ingots, and pigs	2	3	1	11	277	803	3,990
	10	142	67	36	30	80	668
Total imports	1,938	1,990	5,736	4,034	5,523	5,722	10,671
COPPER EXPORTS							
and matte	409	216	336	472	418	44	138
ips, bars, sheets, and old	3,407	5,486	34,640	15,258	69,492	81,197	60,664
Total exports	3,816	5,702	34,976	15,730	69,910	81,241	60,802
Excess exports	3,888	3,722	29,240	11,696	64,387	75,519	50,131

EXHIBIT B–2

Copper prices

	New York lake	London best select	Difference
CENTS PER POUND DUTY			
1890—January	14.90	12.63	2.27
February	14.33	11.94	2.39
March	14.50	11.83	2.67
April	14.40	12.08	2.32
May	15.13	12.96	2.17
June	16.00	14.01	1.99
July	16.80	14.15	2.65
August	15.40	14.24	1.16
September	17.00	14.58	2.42
October	16.90	14.47	2.43
1¼ CENTS PER POUND DUTY			
1890—November	16.80	13.91	2.89
December	15.90	13.33	2.57
Average, 1890	15.75	13.33	2.22
1891—January	14.75	12.88	1.87
February	14.50	12.89	1.61
March	14.00	12.67	1.33
April	13.75	12.47	1.28
May	13.20	12.56	.64
June	13.00	12.97	.03
July	13.00	12.94	.06
August	12.20	12.48	*.28*
September	12.50	12.13	.37
October	12.25	11.40	.85
November	11.00	10.78	.22
December	10.63	10.79	*.16*
Average, 1891	12.63	12.27	.36
1892—January	11.00	10.80	.20
February	10.63	10.40	.23
March	10.38	10.90	*.52*
April	11.50	10.90	.60
May	11.63	11.05	.58
June	11.88	11.04	.84
July	11.50	10.66	.84
August	11.50	10.58	.92
September	11.13	10.53	.60
October	11.50	10.88	.62
November	11.88	11.16	.72
December	12.38	11.32	1.06
Average, 1892	11.55	10.87	.68
1¼ CENTS PER POUND DUTY			
1893—January	12.13	11.03	1.10
February	12.00	10.78	1.22
March	11.88	10.83	1.05
April	11.38	10.79	.59
May	11.00	10.57	.43
June	11.00	10.55	.45
July	10.88	10.35	.53
August	10.00	10.07	*.07*
September	9.88	10.26	*.38*
October	9.75	10.04	*.29*
November	10.00	10.06	*.06*
December	10.25	10.24	.01
Average, 1893	10.75	10.41	.34
1894—January	10.13	9.95	.18
February	9.53	9.66	*.03*
March	9.81	9.61	.20
April	9.50	9.61	*.11*
May	9.80	9.35	.45
June	8.94	9.11	*.17*
July	9.00	9.16	*.16*
August	9.13	9.30	*.17*
September	9.40	9.68	*.28*
FREE OF DUTY			
1894—October	9.88	9.89	*.01*
November	9.60	9.49	.11
December	9.80	9.54	.26
Average, 1894	9.56	9.44	.12
1895—January	10.00	9.65	.35
February	10.00	9.52	.48
March	9.75	9.31	.44
April	9.75	9.52	.23
May	10.25	10.15	.10
June	10.63	10.15	.48
July	11.25	10.43	.82
August	12.00	11.13	.87
September	12.25	11.34	.91
October	12.00	11.03	.97
November	11.00	10.44	.56
December	10.50	10.22	.28
Average, 1895	10.76	10.22	.54

Copper prices—Continued

	New York lake	London best select	Difference
FREE OF DUTY—contd.			
1896—January	9.87	9.94	.07
February	10.64	10.70	.18
March	11.03	10.97	.06
April	10.98	10.93	.05
May	11.15	11.34	.19
June	11.67	11.71	.04
July	11.40	11.60	.20
August	10.98	11.12	.14
September	10.66	11.03	.37
October	10.66	11.03	.37
November	11.23	11.63	.40
December	11.28	11.58	.30
Average, 1896	10.88	11.14	.26
1897—January	11.75	11.72	.03
February	11.92	11.86	.06
March	11.80	11.63	.17
April	11.48	11.31	.17
May	11.03	11.27	.24
June	11.11	11.37	.26
July	11.11	11.18	.07
August	11.16	11.28	.12
September	11.30	11.44	.14
October	11.13	11.20	.07
November	10.88	11.04	.16
December	10.78	11.08	.26
Average, 1897	11.29	11.36	.08

	New York lake	London best select	Difference
FREE OF DUTY—contd.			
1898—January	10.99	11.31	.32
February	11.28	11.44	.16
March	11.98	11.80	.18
April	12.14	12.08	.06
May	11.89	11.72	.17
June	11.89	11.72	.17
July	11.63	11.64	.01
August	11.89	11.91	.02
September	12.31	12.01	.30
October	12.41	12.31	.10
November	12.86	12.87	.01
December	12.93	12.95	.02
Average, 1898	12.03	12.01	.02
1899—January	14.75	14.65	.10
February	18.00	17.02	.98
March	17.54	16.01	1.53
April	18.43	16.98	1.45
May	18.25	17.55	.70
June	17.93	17.47	.46
July	18.33	17.63	.70
August	18.50	17.51	.99
September	18.46	17.58	.88
October	17.76	17.40	.37
November	16.93	17.30	.37
December	16.40	16.79	.39
Average, 1899	17.61	17.00	.61

EXHIBIT C

Comparative wheat prices received by the American farmer and in Liverpool

[Yearbook of Agriculture, 1931]

	American farmers [1]	Liverpool [2]	Differential: Liverpool less United States	Differential: Both prices referred to Galveston [3]
1926	*Cents*	*Cents*	*Cents*	*Cents*
January	158.10	181.00		
February	155.50	175.00		
March	146.00	161.00		
April	142.20	171.00		
May	142.10	173.00		
June	138.90	169.00		
July	127.70	167.00		
August	125.10	162.00		
September	117.70	160.00		
October	121.40	171.00		
November	123.60	171.00		
December	122.80	163.00		
Average	135.00	168.66	33.66	17.16

[1] Estimated average price per bushel received by producers of all wheat. Monthly prices weighted by production for each State.

[2] Average price per bushel of all imported wheat.

[3] After adding to American farmer price 23 cents per bushel, freight Kansas to Galveston, and deducting from Liverpool price 6½ cents per bushel, freight Liverpool to Galveston, or a net differential of 16½ cents per bushel.

Comparative wheat prices received by the American farmer and in Liverpool—Con.

	American farmers	Liverpool	Differential: Liverpool less United States	Differential: Both prices referred to Galveston
	Cents	*Cents*	*Cents*	*Cents*
1927				
January	122.20	160.00		
February	122.80	157.00		
March	120.90	155.00		
April	117.20	156.00		
May	123.20	165.00		
June	130.10	165.00		
July	127.30	161.00		
August	123.50	160.00		
September	119.20	151.00		
October	113.70	149.00		
November	111.40	147.00		
December	113.90	148.00		
Average	120.45	156.16	35.71	19.21
1928				
January	115.20	149.00		
February	116.20	146.00		
March	121.60	151.00		
April	129.20	159.00		
May	144.30	155.00		
June	132.00	147.00		
July	118.10	141.00		
August	95.20	126.00		
September	94.40	126.00		
October	98.70	129.00		
November	97.10	129.00		
December	98.20	126.00		
Average	113.35	140.33	26.98	10.48
1929				
January	98.50	131.00		
February	104.20	135.00		
March	104.70	131.00		
April	99.80	125.00		
May	90.10	116.00		
June	86.80	117.00		
July	102.40	141.00		
August	110.70	142.00		
September	112.10	137.00		
October	111.50	136.00		
November	103.40	125.00		
December	108.10	141.00		
Average	102.85	131.41	28.56	12.06
1930				
January	107.50	140.00		
February	101.30	124.00		
March	91.90	119.00		
April	93.40	120.00		
May	87.50	114.00		
June	87.90	110.00		
July	70.60	100.00		
August	74.00	105.00		
September	70.30	92.00		
October	65.60	86.00		
November	60.00	81.00		
December	61.30	74.00		
Average	80.94	105.83	24.89	8.39

EXHIBIT D-1

Potential copper production—United States of America

	Short tons
Anaconda, Butte	181,000
Calumet and Hecla	90,000
Copper Range	20,000
Consolidated Copper Mines	30,000
Ducktown	6,000
East Butte	3,500
Engels	6,000
Inspiration	70,000
Isle Royal	5,400
Kennecott-Alaska	14,000
[illegible]	2,000
[illegible]	30,000
[illegible]mbre (Cuba)	22,500
[illegible]	55,000
[illegible]	12,000
[illegible] Lode	6,000
Nevada-Ray-Chino	183,000
North Butte	4,000
Ohio	1,500
Old Dominion	10,000
Phelps Dodge—United States	220,000
Quincy	12,000
Seneca	2,000
Shattuck-Denn	5,000
Tennessee	7,500
United Verde	81,000
United Verde Extension	27,000
Utah	200,000
Utah Apex	2,300
Utah Delaware	2,700
Walker	7,500
Total primary	1,318,000
Secondary to primary refineries	150,000
Total copper	1,468,000

EXHIBIT D-2

United States copper consumption

	Short tons		Short tons
1890	95,224	1911	354,555
1891	88,534	1912	383,792
1892	128,165	1913	380,668
1893	75,805	1914	319,081
1894	98,745	1915	520,882
1895	129,351	1916	682,835
1896	97,626	1917	662,095
1897	116,997	1918	746,995
1898	139,703	1919	592,128
1899	205,756	1920	412,020
1900	181,446	1921	356,541
1901	258,881	1922	433,822
1902	275,069	1923	596,162
1903	264,286	1924	693,056
1904	253,102	1925	665,830
1905	291,399	1926	750,027
1906	326,062	1927	694,772
1907	203,952	1928	744,426
1908	188,688	1929	847,574
1909	326,084	1930	597,806
1910	374,117		

NOTE.—United States figures from 1890-1901, inclusive, are the "Available Supplies" as reported by the U. S. Geological Survey; from 1902 to 1930, inclusive, are the result of calculations made, details of which are shown in Exhibit A. All figures used in this connection come from Government sources.

EXHIBIT E-1

Potential world copper production

SUMMARY

	Short tons
United States, primary	1,319,000
United States, secondary to primary refineries	150,000
United States total	1,469,000
South America	495,000
Mexico	90,000
Europe	148,000
Australia	12,000
Asia	93,000
Canada	273,000
Africa:	
Rhodesia	272,000
Katanga	216,000
Miscellaneous	10,000
	498,000
Total	3,078,000

South America:

Andes	95,000
Braden	125,000
Cerro de Pasco	66,000
Chile	180,000
Gatico	3,000
Naltagua	7,000
Poderosa	3,000
Miscellaneous	16,000
Total	495,000

Mexico:

Boleo	12,000
Cananea	50,000
Mazapil	5,000
Moctezuma	21,000
Tesuitlan	1,700
Total	89,700

Europe:

Bor	45,000
Mansfield (and other Germany)	36,000
Rio Tinto	42,000
Miscellaneous Northern Ore (Scandinavian, etc.)	25,000
Total	148,000
Australia: Mount Lyell	12,000

Asia:

Furukawa	19,000
Indian Copper	3,500
Sumitomo	20,000
Japan, miscellaneous	50,000
Total	92,500

Canada:

Abana	3,000
Amulet	3,000
Britannia	24,000
Consolidated M. & S.	7,000
Eustis	2,000
Granby	27,000
Hudson Bay	25,000
International Nickel	120,000
Noranda	50,000
Sherritt-Gordon	12,000
Total	273,000

Africa:

Mufulira	66,500
Rhokana	130,000
Roan Antelope	75,000
Total Rhodesia	271,500
Katanga	216,000
Messina	7,000
Namaqua	2,500
Total Africa	497,000

EXHIBIT E-2

World copper consumption

	Short tons		Short tons
1890	318,019	1911	1,051,704
1891	331,475	1912	1,144,959
1892	344,770	1913	1,203,739
1893	330,902	1914	1,056,044
1894	366,142	1915	1,249,788
1895	391,730	1916	1,480,009
1896	426,311	1917	1,523,268
1897	464,301	1918	1,556,337
1898	477,870	1919	1,010,580
1899	515,546	1920	1,150,651
1900	565,149	1921	778,648
1901	514,757	1922	1,095,811
1902	642,090	1923	1,331,040
1903	646,719	1924	1,491,023
1904	730,164	1925	1,673,843
1905	801,813	1926	1,726,532
1906	706,522	1927	1,758,720
1907	731,486	1928	2,019,965
1908	785,389	1929	2,090,953
1909	871,589	1930	1,731,713
1910	1,010,589		

NOTE.—World figures from 1890-1912, inclusive, as reported by the Metallgesellschaft, Germany; from 913-1930, inclusive, as reported by the American Bureau of Metal Statistics.

EXHIBIT E-3

	Short tons
Potential copper production:	
United States	1,469,000
Foreign	1,609,000
World	3,078,000
Possible copper situation in 1941:	
World consumption in 1941 if it should reach potential would be	3,078,000
United States consumption (extimated)	1,350,000
Foreign consumption would be	1,728,000
Plus 50 per cent increase foreign consumption per capita	864,000
Foreign consumption might be	2,592,000
United States consumption (without per capita increase) (estimated)	1,350,000
Possible world consumption (1941)	3,942,000

EXHIBIT F

United States Refined Copper production [1]

EXCLUDING SECONDARY

[Pounds]

	1928		1929		1930	
	Total	Electrolytic only	Total	Electrolytic only	Total	Electrolytic only
Domestic sources	1,791,797,387	1,607,120,026	1,982,732,289	1,785,754,654	1,391,224,205	1,228,416,733
Foreign sources	695,810,392	693,787,036	757,380,087	756,555,087	765,834,973	765,189,037
Total	2,487,607,779	2,300,907,062	2,740,112,376	2,542,309,741	2,157,059,178	1,993,605,770
Per cent of total from foreign sources	28	30.1	27.6	29.7	35.5	38.4

Primary and secondary copper produced by primary refining plants

(Pounds)

UNITED STATES PRODUCTION [1]

	1928		1929		1930	
	Total	Electrolytic only	Total	Electrolytic only	Total	Electrolytic only
Domestic sources	2,024,443,192	1,796,443,055	2,316,800,392	2,117,612,757	1,671,753,089	1,507,840,103
Foreign sources	695,810,392	693,787,036	757,380,087	756,555,087	765,834,973	765,189,037
Total	2,720,253,584	2,492,230,091	3,074,270,479	2,874,167,844	2,437,588,062	2,273,029,140
Per cent of total from foreign sources	25.6	27.8	24.6	26.3	31.4	33.7

WORLD PRODUCTION [2]

Total	3,925,854,000	3,365,968,000	4,535,132,000	3,938,800,000	3,877,250,000	3,362,630,000
Per cent of world total refined in United States of America	69.3	74.0	67.7	72.8	62.8	67.5

[1] As reported by United States Department of Commerce (Bureau of Mines). Mineral Resources of Copper in 1928, 1929, and 1930.
[2] American Bureau of Metal Statistics.

Custom electrolytic refinery capacity (estimated) 1931–32

	Pounds
United States	3,394,000,000
Canada	360,000,000
Europe	656,000,000
Total North America and Europe	4,410,000,000
United States, per cent of total	76.9

STATEMENT OF ROBERT H. PATCHIN, VICE PRESIDENT, W. R. GRACE & CO., NEW YORK, N. Y.

Mr. PATCHIN. Gentlemen, my name is Robert H. Patchin. I am vice president of W. R. Grace & Co. New York.

Mr. Chairman, I beg to state that W. R. Grace & Co. are exporters and importers, chiefly in the Latin American trade. The company owns some 30 steamers on six different lines, operating from the Atlantic, Gulf, and Pacific coasts of the United States to the west coast of South America and Central America. Our company also owns and operates industrial enterprises on the west coast of South America, but has no investment in copper properties, or interest therein.

Our interest in the proposed excise tax on copper imports arises from the effect thereof upon trade and commerce between the United States and Chile and Peru upon business conditions in those countries.

We have considered whether we should appear here, and thought it was our duty to explain to the committee our opinion of the effect of this great change in policy upon the large trade between the United States and the west coast of South America, particularly Chile and Peru, which are large producers of copper from mines created and developed there by American capital and management.

We feel that it is going to work a great change to that trade, and considerable injury. I appear here to convey that information to the committee.

The large part which copper has in the trade between the United States and Chile and Peru is proven by statistics from the Department of Commerce, which I will summarize.

The CHAIRMAN. Why not put them in the record?

Mr. PATCHIN. I will, but I just want to cite one matter.

The CHAIRMAN. You have only two minutes more left.

Mr. PATCHIN. Well, I will say, then, that of all imports from Chile the copper represented in value, in 1928, 39 per cent; in 1929, 56 per cent. And from Peru, in 1928, it was 60 per cent; and in 1931 it was 77 per cent. That is a very large proportion of the total trade.

Senator COUZENS. How many ships do you own? Do you own any ships?

Mr. PATCHIN. About 30 ships.

Senator COUZENS. Where did you purchase them? From the United States Government?

Mr. PATCHIN. Well, we built some of them and purchased a very few from the United States Government.

Senator COUZENS. Are you receiving any United States subsidies?

Mr. PATCHIN. Yes; we are operating certain mail contracts, under which we are building certain ships.

Senator COUZENS. Are they profitable?

Mr. PATCHIN. Not at the present time, sir.

Senator COUZENS. But you are getting subsidies from the United States Government?

Mr. PATCHIN. Yes; for carrying mail, to apply on construction of a large amount of tonnage from this money.

Senator COUZENS. Are you borrowing money from the Federal Government?

Mr. PATCHIN. Yes, sir.

Senator COUZENS. At what rate of interest?

Mr. PATCHIN. On one ship it was 2¾, if I recall correctly.

Senator COUZENS. Pretty cheap money, was it not?

Mr. PATCHIN. It was, sir.

Senator BARKLEY. Are your ships registered?

Mr. PATCHIN. Yes, sir.

Senator REED. You say copper constituted some 60 per cent of our imports from Chile?

Mr. PATCHIN. No; not from Chile. I gave the figures for 1928 and 1929, and they were 39 per cent and 56 per cent, respectively. But it slacked off. Last year from Peru it was 77 per cent of the total value of the imports.

Senator REED. Of what percentage do the nitrates consist, approximately?

Mr. PATCHIN. I have not the figures, but it slacked off.

Senator REED. I was wondering what Chile had to send us but nitrates and copper.

Mr. PATCHIN. They send us some little wool, but not much of anything else. Copper is the bulk.

Senator SMOOT. If I can have two or three minutes more, I think I can summarize.

Senator REED. I move he be allowed to finish.

The CHAIRMAN. Very well.

Mr. PATCHIN. Now this trade is not only a large part of the import trade, but it produces a large part of the export trade. The copper mines in Chile and Peru are estimated to have consumed about $400,000,000 or $500,000,000 in machinery, equipment, and materials in their development during the last 30 years. And their expenditures in those countries adds to their purchasing power. So the trade due to the existence of these American-owned copper mines in those countries not only is the copper imported here, but the supply is going out. A tariff which would amount to a complete embargo would destroy a large amount of the trade between Chile and Peru and the United States, which countries have been brought closer to the United States than any other by the construction of the Panama Canal.

Now the labor question affects a large number of men operating those mines. It would work adversely to a large number, a veritable army of managers, engineers, machinists, metallurgists, railroad men, accountants, clerks, and all the people who find work in the plants.

The CHAIRMAN. Your time has expired.

Mr. PATCHIN. May I file this statement?

The CHAIRMAN. Yes; you may file it with the reporter for the record.

(The statement presented by Mr. Patchin is printed in the record in full, as follows:)

STATEMENT OF ROBERT H. PATCHIN

W. R. Grace & Co. are exporters and importers, chiefly in the Latin American trade. The company owns some 30 steamers on 6 different lines, operating from the Atlantic, Gulf, and Pacific coasts of the United States to the west coast of South America and Central America. The company also owns and operates industrial enterprises on the west coast of South America, but has no investment or interest in the copper industry.

Our interest in the proposed excise tax on copper imports arises from the effect thereof upon trade and commerce between the United States and Chile and Peru upon business conditions in those countries.

We fear an excise tax on copper imports would destroy a large part of both export and import trade between the United States and Chile and Peru.

The importance of copper in this trade is proven by the following statistics from Department of Commerce reports:

Imports from Chile

Total	Copper	Percentage copper is of total imports
$75,159,582	$29,965,249	39
102,024,606	56,910,414	56
54,612,528	24,253,114	44
39,977,280	6,394,669	16

Percentage of total trade (exports and imports) represented by copper imports

	Total exports and imports	Value of copper imports	Per cent of copper
Chile:			
1929	$115,510,188	$29,965,249	26
1930	157,800,630	56,910,414	36
1930	101,193,858	24,253,114	24
1931	61,488,686	6,394,669	10
Peru:			
1929	44,168,264	12,590,212	28
1930	56,243,674	17,915,322	32
1930	37,004,784	12,347,494	33
1931	14,668,443	6,914,816	14

The homeward freight of American vessels serving the west coast of South America includes far more copper than any other commodity. In 1931 copper constituted about 50 per cent of the tonnage transported by the Grace Line to the United States from the west coast of South America. Stoppage of these imports would have a far-reaching adverse effect upon American shipping, which has been steadily increasing in tonnage and number of ships operated in this trade since the opening of the Panama Canal, which period coincides with the development of the greater part of the copper industry of Chile and Peru by American copper companies. This, however, is but a part of the picture of the effect of the proposed tax.

Restriction of the foreign market for Chilean and Peruvian copper would cause permanent reduction of operations in those countries, and would gravely shrink their purchasing power, not only for the large amounts of American machinery, material, and equipment required for operation and maintenance of the mines, but for the merchandise required by the general public.

This means further reduction of export trade and perhaps a permanent goodbye to hopes of its recovery of the commerce which grew steadily from the opening of the Panama Canal until after the depression set in. There is not a State of the Union that has not shared in the increase of this trade directly due to the expansion of the copper industry. Shoes, textiles, wire products, instruments of precision from New England, electrical machinery from New York, New Jersey, Indiana, and Pennsylvania; mining machinery from a half dozen States, pneumatic tools and drills from Pennsylvania, Illinois, and Colorado; steel from every steel center of the country; lumber from Washington and Oregon; food stuffs from every where; steam shovels from Wisconsin and Ohio; motor cars from Detroit, South Bend, Toledo, and Cleveland; box shooks, turpentine and foodstuffs from the Gulf States; textiles from the South Atlantic States; canned goods and redwood lumber and flour from California; canned fish from Alaska. These are a few of the high lights of the export movement.

I think you could not stick a pin in a map of the United States that would be a hundred miles away from the point of origin of some article normally entering into export to Chile and Peru. In few foreign markets has our trade grown more rapidly. Unless the world is ready to fold up it will again need Chilean and Peruvian products, including copper, at far higher prices than now prevail. Are we to turn our backs on the potentialities of this great market because of the discouragement of the moment?

The American merchant marine, operating to the west coast of South America, has been built up on a basis of southbound cargoes of heavy machinery, equipment, and supplies for industries, such as copper mines, nitrate and oil fields, and railroads, and of miscellaneous merchandise for the general public and of assured bulk cargo of copper, nitrate, and coffee homeward. Without copper cargo, ships of the size and speed now operated, which reach Valparaiso in 16 days, instead of 21, as formerly, could not be operated normally except with serious risk of heavy loss.

Complete stoppage of copper shipments to the United States would seriously upset the balance of traffic in steamship operations.

As a considerable part of the copper imported from South America is reexported after treatment, to Europe, it may be suggested that a considerable portion of the cargo movement would continue. We are, however, concerned lest the excise tax now proposed would lead to the establishment in Europe of tariff preferences in favor of copper from the British dominions in Africa and elsewhere and in favor of the African copper which other European countries are interested in, and that such preference would operate to bar South America copper from Europe, whether imported directly or via the United States. We fear a reversal of American policy would throw the world copper trade into a tangle highly disadvantageous to the American-owned copper properties in Chile and Peru.

The copper industry in Chile and Peru is foreign to the United States only in location. It is domestic in origin and ownership. The mines and smelters located near the summit of the Andes owe their existence to the application of American inventive genius and engineering skill, backed by American capital, to low-grade copper deposits formerly unworkable. During 30 years, and particularly during the last 18 years, these properties have been developed by American copper companies as a supplementary source of supply. Their control by American hands was, we believe, a most valuable resource to the national defense during the World War.

Without American control and ownership, the development of the copper industry of Chile and Peru undoubtedly would have been undertaken by European interests. It is estimated that these properties have imported from the

United States during their life under American management, machinery, equipment, materials, and supplies to the value of more than $400,000,000. These products were drawn from all parts of the United States and by far the greater part of their value represents labor by the hands of our citizens. Had the enterprise been developed by European capital, the purchases would have been made in Europe, and the goods shipped on European vessels. Therefore the copper industry in Chile and Peru accounts for a considerable part of the growth of trade with those countries. Railroads have been built and expanded to accommodate the newly created traffic. Labor supply has been readjusted. Public works have been built and the public revenue increased, by the operations of the new industry.

The properties are not owned by Chileans and Peruvians, but by American copper-mining corporations whose bonds and shares are widely held by American private investors, trust funds, philanthropic institutions, and banks. To these have come, mostly in small amounts, a very large annual total of dollars in bond interests and dividends.

The labor in the copper mines of Chile and Peru is not "pauper" or "oppressed." The American companies have elevated the wage scale and industrial living conditions. They are subject to strict social welfare laws, and they are subject to taxations in many cases higher than that of other industries in the same countries.

The labor situation, however, does not stop with Chilean and Peruvian labor. In each country there is an army of American citizens, consisting of managers, engineers, mechanics, metallurgists, railroad men, accountants, clerks, doctors, and nurses, managing the mines and smelters and their related activities. With their families, these Americans constitute at the camps high in the Andean Cordilleras a series of communities dwelling in friendly relations with the Peruvian and Chilean people, who have made their enterprise welcome. A United States tariff on copper would go far to depopulate these mining camps and throw the Americans, as well as the thousands of Peruvians and Chileans, out of work. It would be incomprehensible to our Latin-American friends that the United States, after fostering these industries, should cut off entirely their principal market.

It has been a national policy at Washington for several decades past to encourage investment of capital in foreign countries, and particularly in Latin-America. This has been deemed a sound method of encouraging export trade and of rendering this country not entirely dependent upon its domestic supplies of raw materials. The effect upon the internal economy of these countries and upon their trade relationship with the United States having been noted, we feel that something of a moral and ethical problem is encountered.

Is it in the general interest of the United States that an industry created abroad by American capital and enterprise for the purpose of developing foreign resources of essential raw materials, and supplementing our not unlimited domestic supply should be suddenly crippled by a virtual embargo? With few dissenting voices, the doctrine of pan Americanism has come to mean something during the last quarter of a century. The sale which Latin American products have found in the United States has not injured the people of the United States. The ensuing trade has been mutually beneficial. The economy of both the United States and the sister Republics has conformed to conditions such as free-list copper. The present moment of acute depression attributable to many causes scarcely justifies a sudden and violent closing of the door against further imports from Chile and Peru, where the industry was evolved in a natural and logical way from so many normal necessities of our own people.

Copper is one of the basic commodities in the economic relationship of the United States and Latin America. The countries of Latin America constitute one of our largest and best markets for manufactured articles. They are bound to us by ties which do not exist elsewhere in the world. They oppose no discriminating tariffs upon our products. They have a sense of common interest with us.

The people of the United States have made investments in Latin America to a face value of more than $5,000,000,000. Of this, about $1,500,000,000 is in the bonds of Federal, provincial, and municipal governments, and in bonds guaranteed by those governments. The balance is in industrial, agricultural, transportation, and utility enterprises largely under American management. Normally, the people of the United States should receive from this investment payments of bond interest, amortization, and sinking fund, between four hundred and five hundred million dollars annually. Latin America has no vast gold reserve from which to satisfy this indebtedness. It must be paid in goods.

If, in the depths of depression arising from many causes, basic Latin American commodities which have long been absorbed here without impairing our domestic welfare are suddenly excluded, the capacity of Latin America to continue paying such debt service as is now being paid and to resume payment of suspended debt service will be permanently impaired.

Leaving aside the question of funded debt and industrial investment, the countries of Latin America can not buy our merchandise unless we buy here. At the present moment, trade both ways has dwindled. Little is being exported to Latin America because Latin America can not pay, and we are importing little from Latin America because of an abundance of domestic supply. A tariff on copper would go far to make permanent the impaired purchasing power of both Chile and Peru, and a further extension of tariffs to other basic commodities would have the same effect throughout the continent. While this country was in a debtor position, it could afford to be indifferent to the rise and fall of import and export trade, but far larger factors are now involved, not the least of which is the permanence of the American merchant marine.

The effect upon public sentiment in the South American copper-producing countries should be considered. While the United States long has admitted copper and nitrate free it has maintained a heavy duty on most of the other products which Chile and Peru produce. These duties are so high as to preclude their becoming large producers for the United States market. In fact our tariff history shows that just as soon as imports from these countries begin to have any marked effect on prices in the United States the duty is further advanced. This means that there is little chance of either country making up by shipments of other products what would be lost through the exclusion of their copper. They would be left with just so much less to pay for their imports of manufactured articles from the United States.

The CHAIRMAN. The committee will next hear Mr. Morss.

STATEMENT OF EVERETT MORSS, PRESIDENT, SIMPLEX WIRE & CABLE CO., BOSTON, MASS.

Mr. MORSS. Mr. Chairman and gentlemen, I am a manufacturer of electric wire and cable. I am here, also, representing other manufacturers of wire cable, and other fabricators of copper in the way of brass.

Now, gentlemen, it so happens that I have been running a business in which the principal raw material was copper, for 45 years. It so happens that I was educated as a mining engineer before that, and I have studied and followed the copper trade with a great deal of interest all these years. I am not a professional copper man, but am a fairly well-informed amateur, and I think sometimes an outsider sees a bit of the game.

For 38 years copper has been free. I ask you to look back over the history of the copper industry for the last 38 years and see how prosperous it has been, in spite of the fact that it has been menaced by destruction time after time by new mines coming in.

I claim the proponents of the tariff have not made out a case for a tariff, and they can not deny that they have been producing copper beyond our own consumption. We have been exporting domestic copper, in addition to the raw copper we brought in here for refining purposes.

Now they claim that they want a duty at this time because things have suddenly changed, and if we do not have it the American copper industry will be ruined.

Gentlemen, they have not proved it. I know how bad the copper industry is. It is not the only one that is down to 25 per cent. Everybody is suffering. As fabricators, we are suffering along with the rest of them, and we can not consume the copper we did some time

ago. I am using 28 per cent of the copper that I used in the year 1930, and there are hundreds more like me that do not use it either. Of course, the reason is that we can not sell it.

Now, gentlemen, I can not possibly see, with at least two years' supply of copper on hand at this moment at the present rate of consumption how a tariff, or anything else, can raise the price or increase the consumption of copper. The trouble absolutely is want of consumption. I have studied the statistics. I am satisfied if we could get back to normal times the trouble in the copper industry would be over.

Now one more thing, gentlemen. Something new has developed since the war. In pre-war times there were two sets of people; the producers of copper, and the fabricators of copper. Since the war the big producers have entered the fabricating business.

Now the menace to our business is this: With production in the United States more than the United States can consume, the only thing they can do is what they did back in the days of the 4-cent copper, and that is to dump it on the rest of the world. The pressure on them to put copper back on a low price to the small fabricators, like myself, who have businesses, is a tremendous pressure. Gentlemen, we are all trying to keep our heads above water. All I say in this crisis is, don't rock the boat.

The CHAIRMAN. The next witness——

Senator CONNALLY (interposing). I want to ask the witness a question. Is there a tariff on copper cable and wire?

Mr. MORSS. I believe so.

Senator CONNALLY. Do you favor taking that off?

Mr. MORSS. There is a duty on lead——

Senator CONNALLY. Wait.

Mr. MORSS. There is a duty on lead and other things we use. If you take that off——

Senator CONNALLY (interposing). I did not ask you that. Is there a tariff on what you manufacture—cable and wire?

Mr. MORSS. Yes.

Senator CONNALLY. Do you favor taking that off?

Mr. MORSS. No; I say if you take it off the other things we use in our business——

Senator CONNALLY (interposing). You want the tariff on your article, but do not want it on the raw product?

Mr. MORSS. If it was free, I would not care.

Senator CONNALLY. I am not talking about "if"; I am talking about just as we stand now. You favor a tariff on your products, but you are against paying the tariff on the raw copper?

Mr. MORSS. Yes. I want compensatory duties.

Senator ASHURST. May I ask a question, Mr. Chairman? The manufacturer does not see any need for it after he gets his own interest protected?

Mr. MORSS. No.

The CHAIRMAN. Mr. H. W. Steinkraus. You will have five minutes.

STATEMENT OF H. W. STEINKRAUS

Mr. STEINKRAUS. Mr. Chairman and gentlemen, I represent a group of 12 independent copper fabricators. We are the customers of the copper producers. We are absolutely independent. We do not own any copper producing mines, but we buy from them millions of pounds of copper every year. I represent 12 such concerns who have given me permission to represent them here as decidedly in favor of this copper tax. The main reason, therefor, is that we need something to help our industry get back on its feet.

Up until this present time there has been no 6-cent copper. These people speak about the past. Nine cents is the lowest priced copper there ever was before this recent depression, and that was back in 1894. We have 6-cent copper to-day. If you put a 5-cent tariff on that 6-cent copper, you still have only 11-cent copper. We are independent fabricators of brass and copper products, and are perfectly willing to take our chances and get out in the field and build our factories and conduct business on 11-cent copper. Still, that lets your importer bring his stuff in if he can produce it below 6 cents and add the 5 cents and still make money.

We need something to help the industry in which we are at present involved. Here is the thing we are up against: With the foreign copper coming in with just the threat of the foreign copper from Africa and other foreign countries, the market price of copper has gone down; and with every bit of curtailment we have been able to make in our plants, and with every saving we have been able to institute, we have not been able to meet the fall in the price of copper. We are still shipping materials out at a lower price for the copper than what we paid for it. During the last two and a half years we have lost enormous sums of money for no other reason except the continued fall in the price of copper as affected by the foreign mines.

Senator BARKLEY. May I ask if there has been any increase in the importation of copper in the last year?

Mr. STEINKRAUS. I can not tell you about the copper imports. I am not in the copper business. I am in the brass and copper fabricating business.

Senator BARKLEY. What I wished to know was whether there has been any increase in the importation since the price of copper began to fall.

Senator SHORTRIDGE. Those figures are in the record.

Senator BARKLEY. If they are in the record, I do not want to repeat them.

Mr. STEINKRAUS. All I can say is, as far as the present low price of copper is concerned, if there should be an improvement in business so that we would get a larger volume, we ought to keep it at 6 cents, but we are certainly not getting an increased volume of business due to the low price of copper.

I have just recently come back from a trip through the Middle West. I was talking to a good many of our customers. All of them are perfectly willing to buy products made out of brass and copper at the normal price of around 11 and 12 cents a pound. They have been through our industry and they know that the present market is very much depressed. Many of them have adjusted their prices of their own products downward, because they expect to get back

to somewhere near the normal level of about 10 to 12 cents. We do not fear competition of the copper producers. The copper producers do own many large fabricating companies. We compete with them every day. We do not fear that competition if this tariff goes in; that the copper producers' fabricating companies will compete unfavorably with us. We compete with them. What we want is always to have an ample supply of copper at reasonable prices.

Thank you very much.

(Mr. Steinkrauss submitted the following for the record.)

STATEMENT OF H. W. STEINKRAUSS

The following group of independent fabricators of copper favor the enactment of legislation placing a tax on imported copper:

Bridgeport Brass Co., Bridgeport, Conn.
Triangle Conduit & Cale Co., Long Island, N. Y.
Crescent Insulated Wire & Cable Co., Trenton, N. J.
Kerite Insulated Wire Co., Seymour, Conn.
Acme Wire Co., New Haven, Conn.
Rockbestos Products Corporation, New Haven, Conn.
Hatfield Wire Co., Newark N. J.
Driver Harris Co., Newark, N. J.
Seymour Manufacturing Co., Seymour, Conn.
Phila Insulated Wire Co., Philadelphia, Pa.
Collyer Insulated Wire Co., Pawtucket, R. I.
American Electrical Works, Phillipsdale, R. I.

An additional tax on imports would not affect our export business materially. Present prohibitory tariffs have not prevented our exporting some, and increases will not be met with retaliatory measures.

An import tax will tend to raise the price of copper and stabilize the price at a fair figure.

We fabricators are suffering because of the low price of copper; present price is not greatly increasing copper consumption and our customers feel that higher prices would improve their business.

Inventory shrinkage has been the cause of terrific losses to many of us; in spite of the most drastic curtailment our operating profits are more than wiped out by metal shrinkage in value.

We do not fear that producer owned fabricators will have an advantage over us because producers want their fabricating subsidiaries to make money rather than be merely an outlet for copper, and the major portion of producers capacities must be sold to others outside of their own subsidiaries, as follows:

Kennecutt, 25 per cent their own; 75 per cent to others.
Phelps Dodge, 45 per cent their own; 55 per cent to others.
Anaconda, 100 per cent their own if necessary.

They could not afford to sell their subsidiaries under the price to outsiders, to whom they must sell the major portion of their output.

It is very difficult to put any live independent concern out of business. Every experienced business man knows that.

Conclusion: We prefer to place our trust in the American producer of copper rather than face the possibility that the control of the copper market will shift into foreign hands.

We, therefore, favor the proposed amendment.

STATEMENT OF HON. EDWARD W. GOSS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Representative Goss. Mr. Chairman and members of the committee: In anticipation I would like to say that, first of all, I am not a free trader. I voted for the oil tariff, but I have been opposed to the 5-cent tariff on copper. As I looked over the Tariff Commission's report I noticed the low price recommended on the embargo was half a cent a pound and the high price, including interest and depreciation, was a cent and a half a pound. Now, there is a difference between

the amendment proposed of some 300 per cent increase or 900 per cent increase, as the case may be. I would favor a tariff on copper that would be equitable from the standpoint of the industry as laid out in the investigation of the Tariff Commission. But I think that the 5-cent duty as proposed is way out of reason.

I want to call attention to the fact that in my district—I presume it is the largest copper-fabricating district in the country if not in the world—we are fearful of many things. We feel that this tariff matter should be decided as a tariff matter, not as a tariff in a revenue bill with a flat tariff price, say, 5 cents or whatever the tariff may be. It is subject to the flexible provisions; and with the variance of price in the copper business over the last many years, it might very easily be out of line and do a lot of injury to the fabricators of brass and copper products.

Senator COUZENS. What is your district?

Representative GOSS. My district is the fifth district in Connecticut, the so-called Naugatuck Valley District. Most all of the copper-fabricating plants are in it.

We are the customers, naturally, of the copper producer. We began to study this matter some two years ago, realizing that perhaps this question would come up some day. I talked with most of the fabricators up there, and their opinion was that the thing that would help us most and help the copper producers most would be a stabilizing effect on the price of copper. In other words, add a certain price; make it 12 cents, enough to let the copper producers make money, if possible, under the law of supply and demand and try to have it remain steady there.

I will try to show you why. In the first place, if this duty of 5 cents a pound is imposed, it is my opinion that the world cartel will immediately be broken up, in reference to any agreements on production, with its effect on consumption. Now, if that is broken up, of course it would not be possible to curtail production or to fix prices—of course that is illegal—under the existing laws to-day; and we are very fearful with the small consumption anticipated this year, which I estimate at 350,000 tons, and which the proponents, I understand, estimated at around 400,000 tons—I might add that one of the American producers alone could produce that much copper—therefore we are fearful of an exportable surplus of copper. If we pass a 5-cents tariff, of course, we except retaliation in the foreign countries, and those markets would be shut out to our local American producers. Therefore the 5-cent tariff might not be effective. They might have to reduce their prices provided their consumption was not decreased; and, of course, it is not able to do that under the existing laws.

There is one other matter that is of interest to the independent fabricators, and that is this, that if the 5-cent duty is imposed and could be effective and we had an exportable surplus, the independent fabricator is fearful that the so-called producer—and there are many large ones that own fabricating plants—would have the independents at a disadvantage by shipping in to them copper at the reduced price provided your 5-cent tariff prevailed.

The CHAIRMAN. Congressman, your five minutes is up.

Representative GOSS. I thank you, gentlemen.

Senator ASHURST. May I say that Congressman Douglas from Arizona was born in a copper camp, and his father and his grandfather spent their lives in that industry. He is the best witness we can present to-day to tell the conditions in the State of Arizona.

The CHAIRMAN. Can you do it in five minutes?

Representative DOUGLAS. I might need 15 minutes, sir.

The CHAIRMAN. Proceed, Mr. Congressman.

STATEMENT OF HON. LOUIS W. DOUGLAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Representative DOUGLAS. Mr. Chairman and gentlemen of the committee, I am appearing to-day in behalf of the copper-producing States of the United States; but before I proceed to the main burden of my argument, to demonstrate the effect of foreign competition upon the copper-producing States, I would like to take three or four minutes to refute some of the statements which have heretofore been made.

Mr. Chairman, there has been much loose talk about the table this morning with respect to copper. It has been stated that only 30 per cent of those operating in the United States favor a tariff on copper. Permit me for a minute to analyze that statement. It is true that the Anaconda Copper Co. is not among the group of companies advocating a tariff, but it is equally true, Mr. Chairman, that approximately 60 per cent of the production of the Anaconda Copper Co. originates in South America. It is true, Mr. Chairman, that the Kennecott Copper Co. is not here advocating a tariff on copper, but it is equally true, Mr. Chairman, that a very large part of the production of the Kennecott Copper Co. originates in South America. As a matter of fact, practically every exclusively American producer—by that I mean practically every copper company which produces copper solely within the United States—is here asking you to grant them relief.

It has been stated, Mr. Chairman, that the United States is a net exporter of copper. Permit me just for a moment to recite the following figures: In 1929 the United States was a net importer in the amount of 55,000 tons. In 1930 the United States was a net importer in the amount of 86,000 tons. In 1931 the United States was a net importer in the amount of 61,000 tons. At the present date the United States is a net importer in the amount of over 300,000 tons.

Senator SHORTRIDGE. Does that take into account fabricated products?

Representative DOUGLAS. It does not take into consideration the fabricated products for 1929, 1930, and 1931; but if they were included we would still be net importers of copper.

It has been stated, Mr. Chairman, that there is practically no difference between the cost of production in the United States and the cost of production abroad. I do not propose to go into that question in detail, but I do propose to state, as a matter of fact, that the foreign reserves contain twice as much copper per ton as do the reserves within the United States. In other words, the foreign reserves are twice as valuable per ton as are the reserves within the United States; and even though the cost per ton of mining, smelting, and concen-

trating were the same in the United States as abroad, the cost per ton of copper would be substantially greater in the United States for that very reason.

It has been proved here, Mr. Chairman, that the tariff on lead and zinc has resulted in no benefit to the lead and zinc industry. As a matter of fact, Mr. Chairman, with your permission I will insert the exact figures in the record.

Since the tariff was put upon lead and zinc the differential in favor of the domestic market in both instances has ranged between 40 and 50 per cent. Mr. Chairman, I was born in Arizona. I was raised in Arizona. The whole history of that State is bound up with copper. It is because of that industry that the great transcontinental trunk lines, the railroad lines, were constructed, and the ramifications, the spurs from those lines were built. It is because of that industry, sir, that agricultural communities have prospered, that Federal reclamation projects have been constructed, and it is because of that industry, Mr. Chairman, that large modern communities have been built up permanently, not temporarily. They are not shack towns, such as one sees occasionally. They are real, modern communities, enjoying all of the facilities of modern life.

I ask you, gentlemen, to all observe this picture (exhibiting a photograph), which is characteristic of the mining community. These communities, sir, have been built up slowly around the mining companies. They have no other reason for existence than the mines. If the mines disappeared these communities would disappear; they would become desolate.

The CHAIRMAN. The Congressman's five minutes has expired. How much more time would you like?

Representative DOUGLAS. May I have a few minutes?

Senator CONNALLY. Mr. Chairman, I move that, in view of Senator Ashurst's request, Congressman Douglas be given 15 minutes in all.

The CHAIRMAN. You may continue.

Representative DOUGLAS. In fact, Mr. Chairman, practically every activity in my State is dependent directly or indirectly upon the copper-mining industry. The evidence that has been adduced here this morning shows that because of the great pressure of foreign production, the copper-mining industry of the United States, at least almost all of it, is faced with extinction. At least one great State of the Union and all of its people are faced with complete and absolute impoverishment. Permit me to give you a picture of the fiscal condition of the State of Arizona, and here may I interpolate that, though I speak of the State of Arizona solely this morning, what I say is equally true, or true in varying degree, of 13 other States. I speak of Arizona because I know more of the conditions within that State than elsewhere. The copper mines, the railroads dependent solely upon them, and the communities that have been built up about them in the State of Arizona, pay 56 per cent of the total taxes of the State, which represent $12,000,000 toward a total State budget of $21,000,000. If the State of Arizona be deprived of that $12,000,000, there will remain, Mr. Chairman, but $2,000,000 after servicing the public debt and its political subsidy. Is that not conclusive evidence that at least one State is faced with permanent bankruptcy?

In 1929, Mr. Chairman, the railroads received in revenue on account of freight shipped to the mining communities over $9,000,000. In

1931, during the first six months thereof, that revenue was but $1,500,000. And then it is estimated in 1932 that it will fall below $1,000,000. In 1921 the products of the mines resulted in over 6,000,000 tons of tonnage carried by the railroads, representing 86 per cent of the total tonnage originating in the State of Arizona. That has fallen off to 4,000,000 tons, and it is estimated in 1932 it will fall to 750,000, or almost 90 per cent. Is that not conclusive evidence, at least with respect to that one industry, that hundreds or thousands of men are dependent upon it for their employment, for their livelihood?

In 1929, Mr. Chairman, one reclamation project alone received over $1,500,000 on account of the sale of water to the copper mines. In 1931 their revenue had fallen to $600,000; and if the mines permanently shut down, that revenue will be nothing. Is not that evidence that the farmers that pay water charges are intimately connected with the copper-mining companies? Is not that evidence that to a very large extent their existence depends upon the copper-mining company?

In 1929, Mr. Chairman, the copper-mining communities purchased $16,000,000 worth of products produced in Arizona—lumber and various products produced in the agricultural communities. In 1930 that had fallen to $7,000,000, and in 1931 to $3,000,000; and it is estimated that in 1932 it will not exceed $1,500,000.

The mining communities themselves, Mr. Chairman, have a population of over 130,000. Twnety-one thousand one hundred and forty-two men were employed in the mining industry in the State of Arizona in the year 1929. By May 1 of this year, Mr. Chairman, there will not be in excess of 2,500 men employed, and by July 1, Mr. Chairman, there will not be in excess of 1,600 men employed in the copper-mining communities of the State of Arizona. And by the 1st of July it is estimated that there will be 28,000 destitute people within the State of Arizona. That, sir, gives you some picture of the extent to which my State depends almost exclusively upon the copper-mining industry, and it is a real emergency, Mr. Chairman, and I ask you, sir, to deal with the emergency and to grant us our request.

I have listened to the testimony of the American Metals Co. this morning; and I take this occasion, sir, to emphasize upon you that the American Metals Co. is a foreign producer. It owns not one single copper mine within the United States. It is the sales agent for the International Nickel Co. in Canada. It has one refinery in Carteret, a large part of whose capacity in the past has been devoted to American copper. It controls one of the greatest producing mines in Rhodesia. It has substantial interests in every great company within Rhodesia. It, sir, is here pleading the cause of the foreign producer, and I am here pleading the cause of the American producer. I am here pleading because of American commerce, of American communities that depend entirely upon this great industry. I am here, sir, pleading the cause of the American miner.

Senator GORE. I did not quite understand you. Did you say that other industries in Arizona had suffered as well as the copper industry?

Representative DOUGLAS. I say that because of the effect of this foreign competition upon the copper-mining industry in Arizona, practically every other industry within the State suffered.

Senator GORE. Is that true of your cotton business?

Representative DOUGLAS. No; that is not true of the cotton business. I would not make that charge.

Senator GORE. Cotton is still in great shape?

Representative DOUGLAS. I would not say it is in great shape.

Senator GORE. I was wondering about the effect of the tariff of 7 cents on cotton.

Representative DOUGLAS. The Department of Agriculture, sir, has gone into that question.

Senator GORE. It was put on at that time with the idea that if we did not put it on the industry would suffer, and if it was put on it would be profitable.

Representative DOUGLAS. Yes. As a result of the imposition, or prior to the imposition of that tariff, there were large imports of cotton.

STATEMENT OF HON. TASKER L. ODDIE, A SENATOR FROM THE STATE OF NEVADA

Senator ODDIE. Mr. Chairman, may I make a very brief statement? I have prepared a statement on this copper tariff question and submitted it to the committee. I would like to call the attention of the committee to it at a later date. In order to save time I will not submit it now, but I want to strongly indorse the plea of Mr. Douglas, of Arizona, and beg the committee to give us careful consideration and grant the request of the copper producers.

STATEMENT SUBMITTED BY HON. TASKER L. ODDIE

I wish to make a statement in support of a tax on copper imports, of 5 cents per pound.

Until recent years there has been an exportable surplus of copper produced in the United States, and the argument has been advanced that protection would result in little or no benefit to the industry. The marketing conditions in the copper industry, however, have undergone serious changes with the price of copper the lowest in history, and much if not all of the copper production of this country is resulting in operating losses. These losses have increased and will continue to increase as the volume of production is lessened and the copper mining industry under these adverse conditions can not longer be expected to sustain production even on the present reduced scale.

With the low cost of copper production in Africa and in South America and the low cost and protected copper production of Canada the American producers can no longer compete. Foreign-produced copper to-day is monopolizing to a large extent the domestic market at the expense of American copper producers.

For instance, Canada enjoys the benefits of the American market, especially as the costs of copper production are borne largely by the other metals recovered from copper ores. Furthermore, with a 10 per cent depreciation in Canadian exchange, Canada is in a still stronger position to take advantage of the American market. Depreciation in currency in other countries is and will continue to be a major factor in enabling foreign copper producers to continue to monopolize the American market to the detriment of the American industry.

The copper industry in the United States is suffering not alone from the low price of copper. It should be remembered that barely 35 per cent of all the silver produced in this country is derived from copper ores and the fact that the price of silver has also been the lowest in history has contributed in no small degree to the reduced revenues of the copper-mining industry.

From a purely national standpoint the copper industry occupies a prominent economic position, and copper ore resources are among this country's principal assets. To permit this industry to be destroyed and copper ore resources to be wasted or lost entirely would constitute a national liability. To assist the copper industry over this crisis will not only conserve the Nation's copper ore resources and the large investments which have been made in mines and plants but also will be beneficial in increasing the possibilities of employment.

The nonferrous metals, lead and zinc, are afforded protection in the Hawley-Smoot tariff act of 1930, but copper stands alone on the free list. I come before your committee to support the amendment to H. R. 10236, which provides for a tax on copper imports of 5 cents per pound. Under the present conditions of low-cost production in foreign countries and depreciating foreign currencies, I do not believe that a 5-cent tax will result in prohibiting imports of foreign copper. A complete embargo would be necessary to afford the fullest protection to the domestic copper industry.

However, a 5-cent tax should afford producers of copper in the United States an opportunity to compete for at least 50 per cent of the domestic market requirements. On this basis the amendment which has been introduced should properly be construed half protection and half revenue, and estimated on the basis of the imports of 1931 the revenue on 50 per cent of this amount would yield approximately $15,000,000.

This amount of revenue should be welcomed by those who are seeking ways and means to increase the income of the United States and to balance the Budget.

Unless this amount of protection is afforded to the American copper mining industry, operations will still further be reduced, adding more thousands to the present army of the unemployed. Copper-ore resources of the Nation will also be greatly diminished and the American consumers of copper will be largely at the mercy of foreign producers, who, after monopolizing the American market will be in a position to dictate the price. I therefore urge upon the committee the importance of giving this matter most careful consideration, with a view of including the 5-cent copper tax proposal in the bill to be reported.

The Hon. Fred B. Balzar, Governor of the State of Nevada, attended a meeting of the western governors' conference in Portland, Oreg., October 29, 1931, and delivered an address on the difficulties confronting the copper and silver mining industries. The western governors' conference passed a resolution on October 20 supporting adequate protection for the copper industry, and I herewith submit for the record a copy of this resolution:

RESOLUTION ADOPTED BY DELEGATES TO THE WESTERN GOVERNORS' CONFERENCE IN PORTLAND, OREG., OCTOBER 29, 1931, PETITIONING CONGRESS TO LEVY A TARIFF ON COPPER

Whereas the domestic copper-mining industry is threatened with destruction through excessive importation of duty-free foreign-produced copper from cheap labor areas throughout the world; and

Whereas the foreign-produced electrolytic copper can be laid down at our domestic ports at a cost of 6 cents as against an average domestic cost several cents per pound greater; and

Whereas a domestic commodity price for copper within our highly protected market can only be obtained through adequate tariff protection; and

Whereas the domestic copper-mining industry which is now utterly without tariff protection is now merely seeking an equitable degree thereof; and

Whereas the 11 Western States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming produce 90 per cent of our domestic copper; and

Whereas about 1,400,000 citizens within said 11 Western States are directly or indirectly dependent on the domestic copper-mining industry; and

Whereas the value of copper produced is not only greater than any other metal product, but is greater than the combined value of all other metals mined within said 11 Western States; and

Whereas a commodity price should be received for every pound of copper mined within and depleting the industrial resources of said 11 Western States; and

Whereas a fair commodity price for copper will salvage untold quantities of copper which under free trade conditions would be termed industrial waste; and

Whereas none of the 206 copper-producing districts within said 11 Western States have ever been explored with copper stabilized at a commodity price and utilizing modern mining and metallurgical efficiences; and

Whereas a maximum and efficient operating domestic copper-mining industry from ore to ingot stage is a national requisite during war as well as peace: Now, therefore, be it

Resolved by the conference of western governors assembled here to-day, That they petition Congress to forthwith levy a duty of at least 6 cents per pound as against copper imported in refined ingot forms; at least 5 cents per pound as against copper imported in the form of blisters, regulus, scrap, old, composition, or in concentrates containing more than 30 per cent of copper; at least 4 cents per pound as against copper imported in the form of ores or in concentrates containing less than 30 per cent of copper; be it further

Resolved, That a copy of this resolution be transmitted to each Member of the House of Representatives and the Senate of the United States.

I hereby certify that the foregoing is a true and correct copy of the resolution adopted by the western governors' conference at Portland, Oreg., October 29, 1931.

GEORGE C. SUTHERLAND,
Secretary Western Governors' Conference.

The Las Vegas Chamber of Commerce, Las Vegas, Nev., passed a resolution on March 8, 1932, which I submit for the record.

RESOLUTION BY LAS VEGAS CHAMBER OF COMMERCE

The copper-mining industry of Utah, Arizona, Montana, Michigan, Nevada, and many other States and communities is practically suspended, and threatened with complete extinction.

This condition has been brought about by the unlimited and unrestricted competition of foreign copper, produced from rich ores by cheap labor under conditions of actual peonage and proximating slavery.

As a result, 2,200 families, or about 10,000 persons, are destitute at Butte, Mont., looking to charity for food, clothing, shelter, and medical attention; about 17,000 are in the same condition in the copper-mining communities of Arizona, and in our own county of Salt Lake there are 35,000 persons whose immediate needs are a public problem. A fund of $100,000 is being raised at Salt Lake City for the benefit of the unemployed. Situations are similar in other mining districts.

The production and consumption of copper within the United States are practically in balance when American mines are producing normally, a condition

that assures the successful protection of this basic industry if an adequate tariff was in force.

American copper miners, American copper companies, the entire business, labor, and social structure that is dependent upon the copper industry, should be afforded ample tariff protection.

The revival and maintenance of the American copper industry by the enactment of an adequate tariff is absolutely essential, from the standpoint of economic readjustment; of the reemployment of many thousands; the reestablishment of thousands of businesses dependent directly on the industry; the revival of hundreds of mining communities and the reestablishment of business and taxable values; the resumption of production in order that the copper-mining industry may resume the payment of taxes necessary to maintain government within the many copper producing areas; the reestablishment of markets for farm products in the copper mining communities; and also from the standpoint of its vital importance to national defense, the necessity for which may arise at any moment from disturbed world conditions.

For these reasons we, the members of the Las Vegas (Nev.) Chamber of Commerce, do hereby resolve that it is urgently necessary that the present Congress enact an adequate tariff on raw copper, and that we urge upon our Representatives in Congress, and upon all Members of Congress who have the prosperity of this country, the employment of its people, and the protection of our country at heart, that they actively support the enactment of such a copper tariff by this session of Congress.

And we do further resolve that copies of this resolution be sent to our Representatives, to any Representatives from other States known to our members, to the President of the United States, and to the press.

THE LAS VEGAS (NEV.) CHAMBER OF COMMERCE,
By NYE WILSON, *Secretary.*

Adopted March 8, 1932.

The Kiwanis Club of Las Vegas, Nev., on March 19, 1932, wrote to me indorsing a resolution by the Kiwanis Club of Phoenix, Ariz., and I place both the letter and resolution in the record at this point.

KIWANIS INTERNATIONAL,
Las Vegas, Nev., March 19, 1932.

Hon. TASKER L. ODDIE,
Senator from Nevada, Washington, D. C.

DEAR SENATOR ODDIE: Inclosed is a resolution from the Phoenix (Ariz.) Kiwanis Club regarding the desirability of a duty on copper. Our club is firmly of the opinion that such a duty on copper would do much to restore prosperity to Nevada, and heartily indorses the resolution.

Very sincerely yours,

KIWANIS CLUB OF LAS VEGAS,
By GEORGE HARDMAN, *Secretary.*

RESOLUTION

The copper-mining industry of Arizona, Utah, Montana, Michigan, and many other States and communities is practically suspended and threatened with complete extinction.

This condition has been brought about by the unlimited and unrestricted competition of foreign copper produced by cheap labor under conditions of actual peonage and proximating slavery.

The production and consumption of copper within the United States are practically in balance when American mines are producing normally, a condition that assures the successful protection of this basic industry if an adequate tariff was in force.

American copper miners, American copper companies, the entire business, labor, and social structure that is dependent upon the copper industry, should be afforded ample tariff protection. The only important opposition to a tariff comes from those copper fabricators or manufacturers whose business is well protected by high tariffs on manufactured copper goods that gives them a practical monopoly on the American market, who have comparatively small interest in American production of raw copper, but who are heavily interested in cheap foreign production.

The revival and maintenance of the American copper industry by the enactment of an adequate tariff is absolutely essential from the standpoint of economic readjustment. It will mean the reemployment of many thousands; the reestablishment of thousand of businesses dependent directly on the industry; the revival of hundreds of mining communities and the reestablishment of business and taxable values. The resumption of production is necessary that the copper-mining industry may resume the payment of taxes necessary to maintain government within the many copper-producing areas and reestablish markets for farm products in the copper-mining communities. It is also necessary from the standpoint of copper's vital importance to national defense, the need for which may arise at any moment from disturbed world conditions.

For these reasons we, the members of the Kiwanis Club of Pheonix, do hereby resolve that it is urgently necessary that the present Congress enact an adequate tariff on raw copper, and that we urge upon our Representatives in Congress, and upon all Members of Congress who have at heart the prosperity of this country, the employment of its people, and the protection of our country, that they actively support the enactment of such a copper tariff by this session of Congress.

And we do further resolve that copies of this resolution be sent to our Representatives, to any Representatives from other States known to our members, to the President of the United States, and to the press.

KIWANIS CLUB OF PHEONIX,
L. A. STAPLEY, *President.*
CHAS. B. STAMBAUGH, *Secretary.*

Indorsed by the Kiwanis Club of Las Vegas, Nev.

A. S. HENDERSON, *President.*
GEORGE HARDMAN, *Secretary.*

The Hon. E. W. Durfee, State supervisor of trade and industrial education for the Nevada State Board for Vocational Education, wrote to me a letter on March 17, 1932, in support of a proper import tax on copper, and I herewith submit the letter for the record.

NEVADA STATE BOARD FOR VOCATIONAL EDUCATION,
Carson City, March 17, 1932.

Senator TASKER L. ODDIE,
Senate Office Building, Washington, D. C.

DEAR SENATOR ODDIE: I will appreciate it very much if you can support House Joint Resolution No. 319 or the alternative of amending the revenue bill to include a proper import tax on copper.

Very truly yours,

E. W. DURFEE,
State Supervisor of Trade and Industrial Education.

STATEMENT OF WILLIAM LOEB, VICE PRESIDENT OF THE AMERICAN SMELTING & REFINING CO., NEW YORK CITY

Mr. LOEB. Mr. Chairman and Senators: I have been conferring with the proponents of the tariff, but their amendment does not seem to cover the smelting and refining. I have suggested three amendments which I will leave for your consideration and in the hands of your experts in effecting the amendment which I believe is to be offered.

The CHAIRMAN. They can be placed in the record at this point.

(Mr. Loeb submitted the following suggested amendments, which are copied into the record as follows:)

Paragraph (b), section 601 of the proposed revenue act covers the bonded manufacturing and bonded smelting and refining provisions, sections 311, 312, and 313 of the 1930 tariff act.

Paragraph (b) merely covers the levying, assessment, collection, and payment of duties and there are no duties levied, assessed, collected, or paid on copper in bonded plants which is subsequently exported. Therefore, it is suggested that on page 230, line 10, after the figures "1930" insert "subject to all the adminis-

trative provisions of the said act, Titles III and IV, except as hereinbefore provided."

Our counsel also objects to the word "commercially" in the proposed amendment, otherwise the Treasury Department would compel us to establish the fact that it was a commercial practice, i. e., general, definite, and uniform. We trust "commercially" can be eliminated from the amendment.

Our counsel calls attention to the further fact that on page 231, line 5, after the word "effect" there should be inserted "and the provisions of Section 315 of the Tariff Act of 1930 shall not apply." This is to avoid the possibility of duty being assessed on copper imported prior to the passage of the bill, which might still be on hand when the bill passes, as section 315 of the present tariff act provides that duty shall be assessed on all goods, wares, and merchandise not removed from warehouses as of the date of the passage of the act.

Also on page 231, line 4, strike out the word "article" and insert "goods, wares, and merchandise." The Treasury Department might hold that copper is not an "article" within the meaning of the tariff act of 1930.

We consider it very important that these changes be made to protect the copper smelting, refining and fabricating business.

(Senator Hayden was granted permission to have the following resolution favoring a tariff on copper included in the hearing at this point:)

A RESOLUTION BY THE ARIZONA DEMOCRATIC ASSOCIATION

Whereas the Ways and Means Committee of the Congress of the United States on the 18th day of March, 1932, rescinded its action whereby it had agreed to recommend to the House of Representatives the adoption of a tax of 4 cents per pound on copper imported into the United States from foreign countries; and

Whereas the House of Representatives has recently voted to levy import taxes on coal and oil shipped into the United States from foreign nations, thereby certifying that Congress will impose tariffs if it so desires; and

Whereas copper is the only nonferrous metal produced in the United States which remains on the free list, thereby leaving the American copper market open to the exploitation and complete domination by foreign producers of this commodity; and

Whereas the market for copper in the United States is approximately equal to that of the rest of the entire world and should be preserved first for the American producer; and

Whereas Congress is at this time concerned with the problem of raising revenue to balance the National Budget by levying excise taxes, which are an additional burden on the American people; and

Whereas according to the Bureau of Railway Economics, Washington, D. C., there was imported in the year 1931 in copper ores and concentrates, and coarse, unrefined, refined, and scrap copper from Australia, 4,847,602 pounds; from Chile, 170,630,042 pounds; from Canada, 160,877,484 pounds; from Mexico, 110,236,533 pounds; from Africa, 1,397,333 pounds; a total from all foreign countries of 585,885,827 pounds; and

Whereas fabricators and manufacturers of copper products in the United States exported only 85,001,091 pounds of their wares to foreign countries in the year 1931; and

Whereas we believe foreign importers of copper together with the aid of said fabricators and manufacturers are exercising every influence upon Congress to prevent the adoption of a tariff on imported copper, and

Whereas if Congress intends to tax commodities produced in America it should likewise tax those commodities produced abroad, transported to, and sold in the United States, in competition with American industry and labor, and

Whereas we desire to impress the Members of Congress with the fact that the production and manufacture of copper is a basic and vital industry in the United States, and one which in time of war is an eminent and essential factor to our national defence and well-being, and

Whereas the levy of an adequate tariff upon imported copper would revive activity and confidence in the mining industry in all copper producing States of this Union, restore to immediate employment hundreds of thousands of miners, railroad men, and workers in all industries affected by, and kindred to that of copper production, and

Whereas the continuation of copper on the free list is aiding and encouraging development of competitive mines in foreign lands, promoting exploitation of kafir, coolie, and peon labor to the exclusion of the American worker, causing American wealth to be invested abroad instead of at home, and seriously undermining the industrial and financial stability of all States involved in the production of copper: Therefore be it

Resolved, by the Arizona Democratic Association regularly convened this the 8th day of April, 1932, that this association appeal to the membership of the House of Representatives and to the membership of the United States Senate to utilize their individual and collective influences toward the enactment of legislation which would result in the levy of an adequate tariff upon all foreign copper imported into these United States, the recommendation of the House Ways and Means Committee to the contrary notwithstanding; And be it further,

Resolved, That copies of this resolution be forwarded to the Speaker of the House of Representatives, the President of the United States Senate, and to the Members of the Arizona delegation in Congress.

Adopted this the 8th day of April, 1932.

ARIZONA DEMOCRATIC ASSOCIATION,
J. B. WEBER, *President.*

Attest:

EMERY JOHNSON, *Secretary.*

RESOLUTIONS BY THE KNIGHTS OF PYTHIAS GRAND LODGE

Be it resolved by the Grand Lodge, Knights of Pythias, of the Grand Domain of Arizona that:

Whereas the order of Knights of Pythias has, ever since its institution, been an intensely patriotic and fraternal organization, composed of the highest type of American citizenship, ever mindful of the public weal, and ever mindful and standing for all that tends to make for the good of the human race, and

Whereas, we have approximately 2,500 members in the State of Arizona, and approximately 1,000,000,000 members in the United States of America, and

Whereas the State of Arizona is, and has been in the past, the greatest of the States in copper production, and

Whereas the production of copper is, and has been the major source of income of said State, and

Whereas 90 per cent of the population of Arizona is, and has been entirely dependent upon the production of copper, laborers, miners, mechanics, farmers, retail and wholesale business firms and the producers, and

Whereas practically 100 per cent of our membership is, and has been totally dependent upon the copper industry, and

Whereas more than 90 per cent of our membership is now out of employment, as the direct result of the curtailment of copper production in our State, and

Whereas this condition is directly attributable to the importation, duty free, of foreign produced copper by cheap and in some instances by slave labor, and

Whereas we believe this condition can be remedied and relieved by an adequate tariff on raw copper: Now therefore be it

Resolved, That we favor the immediate passage of the bill now before the Congress of the United States, placing an adequate tariff on raw copper; that a copy of this resolution be sent to the chairman of the Ways and Means Committee, of the House of Representatives; a copy be mailed to Senators Hayden and Ashurst and Representative Lewis Douglas urging them to use every effort possible in behalf of a tariff on copper; a copy to our supreme chancellor, Leslie E. Crouch, urging cooperation of our entire membership throughout the supreme domain; and a copy to our supreme keeper of records and seal, Harry M. Love, urging action thereon by the supreme lodge at its next convention.

I hereby certify that the foregoing resolution was passed by the Grand Lodge Knights of Pythias, of Arizona, at their annual meeting held in the city of Phoenix on the 11th day of April, 1932.

JOHN D. LOPER,
Grand Keeper of Records and Seal.

MARICOPA COUNTY JURORS

PHOENIX, ARIZ., *February 16, 1932.*

Hon. CARL HAYDEN,
United States Senator, Washington, D. C.:

We, the undersigned, jurors now serving as such in the Superior Court of Maricopa County, State of Arizona, do hereby respectfully petition you and your colleague in the Senate, and the Hon. Lewis Douglas, member of the lower House, to do all in your power to secure the passage of a law providing for a tariff on copper.

We believe such a law to be vital to the further development of this State and to the welfare of its citizenry.

Respectfully,

L. G. HAMILTON AND 56 OTHER JURORS.

RESOLUTION BY THE WOMAN'S CLUB OF AJO, ARIZ.

Whereas copper mining is one of the principal industries of the State of Arizona, in which millions of dollars have been expended in the developing of mining properties and thousands of persons regularly employed; and

Whereas the prosperity of the people of Ajo, Ariz., is dependent entirely upon the operations of the copper mine, namely, the New Cornelia; and

Whereas in recent years large bodies of copper ores have been developed in Africa and other foreign countries, which are being mined with cheap labor and under poor living conditions, and great quantities of copper metal are being produced and brought into the United States and sold in competition with the metal produced in this country; and

Whereas because of the higher scale of wages and better living conditions existing in the United States, copper can not be produced and sold in competition with cheaply produced foreign copper; and

Whereas because of the great quantities of foreign copper being sold in the United States, mining operations in this country have been greatly curtailed and many mines have been entirely closed, resulting in thousands of persons being thrown out of employment; and

Whereas agricultural communities and business in general throughout the State are adversely affected by the low price of copper; and

Whereas the existence of the copper mining industry add to the welfare of the thousands of men employed in the industry, require the protection of an adequate tariff on copper brought in from foreign countries; and

Whereas copper is one of the few products which has not been afforded the protection of a tariff; and

Whereas a concerted movement is now being made to obtain a tariff for the protection of the copper mining industry of this country; now, therefore, be it

Resolved, That the business and professional Woman's Club of Ajo, Ariz., does hereby indorse and approve the movement to obtain an adequate protective tariff on copper imported into the United States; and do hereby urge all other business and professional women's clubs to give all possible support to the cause; and be it further

Resolved, That a copy of this resolution be forwarded to each of the Representatives in Congress from the State of Arizona; and also copies be sent to the legislative chairman of each business and professional women's club in Arizona, and to the national legislative chairman of the National Federation of Business and Professional Women's Clubs, with the request that it be given publicity in the Independent Woman.

Passed and adopted this 5th day of April, A. D. 1932.

DELORES GIBBS MACDONALD,
President.

DR. MAE PANKEY, *Secretary.*

STATEMENT OF LAWRENCE ADDICKS ON BEHALF OF CERRO DE PASCO COPPER CORPORATION, NEW YORK CITY

Eight thousand eight hundred and seventy-three stockholders, 97.8 per cent of whom are American; 1,122,842 shares of stock, 98.5 per cent of which are American held; $188,000,000 paid out in the United States for all purposes

including labor, supplies and taxes; 1,700,000,000 pounds of copper produced. Eleven cents per pound total paid out to Americans.

SUMMARY

The argument which runs through the following pages leads to the conclusions:

1. That the present distress in the copper industry is part of the world situation affecting other nonferrous metals and not a special case.
2. That to impose a tariff would not give the relief claimed at home but would inaugurate a sequence of foreign realignments injurious to this country.
3. That America controls 70 per cent of the world industry and has some voice in about 20 per cent more, so that relief is to be sought along the lines of a world agreement and not through a short-sighted isolationist policy.

INTRODUCTORY

For some months past there has been organized agitation on behalf of a group of "high cost" American producers for a protective tariff on imported copper. Up to now this has not been taken very seriously by the majority of the producers but the present confused situation in Congress coupled with active propaganda presenting arguments appealing to prejudice is beginning to draw the attention of those interested in the future of the industry.

Several documents have appeared on the subject, notably Senate Document No. 28, entitled "Production Costs of Copper" prepared by the United States Tariff Commission at the request of the Senate; Senate Document No. 58, entitled "American Copper Production," prepared for the Arizona Copper Tariff Commission appointed by Governor Hunt to "Carry forward the campaign for tariff protection against copper entering the United States from abroad," and a pamphlet entitled "Some Facts about Copper and its Need for Tariff Protection," issued on behalf of nine companies producing copper chiefly in the northern Michigan and southern Arizona districts which can not meet active competition from other American camps, quite apart from a question of imports, without curtailment of ore reserves previously counted upon.

The United States Tariff Commission report has evidently been prepared with great care, is fair and impartial and incidentally must give small comfort to the tariff proponents. The Arizona Tariff Commission report is largely discounted thereby as will be indicated presently. The company pamphlet errs in its use of statistics to extinguish the inconvenient "exportable surplus," which survives even these difficult times, and makes a lengthy appeal to prejudice on the labor question, quite ignoring the large use of Mexican labor in Arizona due to the lack of an immigration quota. This also will be fully discussed below.

THE PROTARIFF CLAIMS

The published protariff arguments may be epitomized as follows:

1. The domestic copper-mining industry is threatened with destruction.
2. This is due to increasing imports which wiped out our exportable surplus three years ago.
3. Foreign production will greatly exceed foreign consumption and cost less to produce than domestic copper, while domestic mines, if protected, will not overproduce domestic demand.
4. The duty on copper should not have been abolished in 1894 and should be restored now in sufficient amount to guarantee an embargo.
5. The American workingman is being kept idle in order to give employment to peons, "breechclout" labor, and slaves.
6. Protection is needed to secure adequate copper for military uses in time of war.
7. American capital invested abroad is quite soulless and unpatriotic and needs no consideration. American capital at home is compassionate and unmercenary.

REJOINDER

These seven claims will now be examined seriatim. Their accuracy of statement will first be shown in each case by quotations from the publications to which reference has already been made.

1. The domestic copper mining industry is threatened with destruction.

Company pamphlet, page 17: "The industry is now in a demoralized condition and is threatened with destruction from foreign competition."

Arizona commission, page 85: "The industrial momentum imparted during the long period of protection has carried the domestic copper-mining industry through its disastrous period of free tradeism up until this time, up to the very tottering edge of a yawning abyss of hopelessness, despair and utter ruin."

The obvious answer to this is that the industry seems curiously unconcerned with its own fate. After a long period of proselyting the list of company names printed on the flyleaf of the pamphlet is significantly small, representing perhaps a third of the country's tonnage, only about half of the State of Arizona and even lacking some of the wholly domestic companies. The supporters are almost wholly of two groups—the lake copper companies of Michigan and the southern Arizona group represented principally by the Phelps-Dodge Corporation.

Hard as it may sound, the Michigan properties can not be considered in this discussion. They have had a long and honorable life dating back to Civil War days, were once the world's greatest copper district, have paid immense dividends and are now suffering from the infirmities of old age and exhaustion. A tariff may be used for the nursing of infant industries but hardly as an old-age pension. California has had it gold fields but upon their exhaustion turned to fruit and motion pictures. Michigan has likewise turned to automobiles and furniture and is merely a mendicant in a copper-tariff appeal.

The situation in southern Arizona is somewhat different. Here by brilliant metallurgical development large tonnage of very low-grade ores have been made commercial during times of high prices. During the intervals of low price which recur from time to time it is necessary to use higher-grade ores. It is perfectly rational for low-cost producers to supply the copper needed during low-price periods when consumption is also low and in the same way for an operating group of mines to select their lowest-cost units for operation at such a time. This procedure is even indicated in the company pamphlet on page 6 reading:

"If compelled to compete with the low-cost foreign producer, the domestic miner will be forced to a policy of selecting for his operation the higher grade portion of his reserves, leaving the balance in place."

The solution of Arizona's problem lies in that sentence.

It is freely admitted that the copper industry is in real, if temporary, distress, the only purpose of this discussion being to contend that a tariff is not the way out. It is suffering from two troubles—the general depression and indiscreet overproduction.

The company pamphlet admits the first on page 4: "While this condition is due in some measure to the present unsatisfactory state of business in general * * *."

It is easily appreciated that copper is a common and not a unique sufferer by comparing its price position with that of other nonferrous metals:

Average cents per pound or ounce

[American Bureau of Metal Statistics]

	Copper, free	Lead, dutiable	Zinc, dutiable	Tin, free	Silver, free
1917	12.9	6.8	6.2	64.4	50.4
1928	14.6	6.3	6.0	50.4	58.2
1929	18.1	6.8	6.5	45.2	53.6
1930	13.0	5.5	4.6	31.7	38.2
1931	8.1	4.2	3.6	24.5	28.7
March, 1932	5.8	3.2	2.8	21.9	29.8

About the only conclusion to be drawn from this table is that copper was forced to too high a price in 1929, the abnormally high profits from which should cover some of the present losses.

As to overproduction, the difficulty lay for a while outside the United States although not necessarily outside the American sphere of influence, due partly to misjudging magnitude of the collapse in foreign markets and partly to the difficulties, political, financial and other, in the way of the sudden scaling down of distant enterprises. The check has now been effectively applied, however.

It should be noted that there is nothing exceptional about the present stocking of overproduction. The same thing happened in the 1921 slump as shown in the comparison below:

Short tons copper stocks in United States

[Department of Commerce statistics]

BLISTER PLUS REFINED

Jan. 1, 1918	262,500	Jan. 1, 1923	288,500
Jan. 1, 1919	371,000	Jan. 1, 1929	268,500
Jan. 1, 1920	452,000	Jan. 1, 1930	403,000
Jan. 1, 1921	562,000	Jan. 1, 1931	532,500
Jan. 1, 1922	371,000	Jan. 1, 1932	608,500

The peak of 10 years ago was restored to normal with the return of confidence without the intervention of any tariff.

2. Increasing imports wiped out our exportable surplus three years ago.

Two paragraphs from the company pamphlet, pages 6 and 7, read:

"Excess of imports is a rough measure, not taking into account increases and decreases in stocks, of the exportable surplus of copper from the United States."

And:

"With the change of conditions which has taken place since 1929, this excess of foreign consumption over foreign production has definitely and finally disappeared and in its place there now exists an excess of foreign production which is invading the American market and driving the American producer out of business."

The first of these paragraphs is taken almost verbatim from the United States Tariff Commission report, page 3. It is quite true in time of normal stocks, but if the extract had been made a little fuller it would have read:

"Taking account of increases and decreases in stocks, the exportable surplus had dwindled from about 120,000 short tons in 1927 to about 40,000 short tons in 1930."

This flatly outlaws the statement that it has "definitely and finally disappeared."

The actual figures are as follows:

Short tons

[Department of Commerce statistics]

	1929	1930	1931
Stocks first of year	268,500	43,000	532,500
Stocks end of year	403,000	532,500	608,500
Increase	134,500	129,500	76,000
Imports	487,156	408,577	290,379
Exports [1]	496,448	376,557	[2] 280,000
Exportable surplus	9,292	−32,020	−10,379
Corrected for stocks	143,792	97,480	65,621

[1] Including rod and similar semimanufactured exports.

[2] Small part estimated.

Figures are not available to show the proportion of foreign ownership in these stocks but if it be small the comparison is unaffected and if large it simply means that Americans have sold out at higher prices leaving outsiders to hold the bag on a falling market.

Again during the 1921 crisis there was a temporary upset in exportable surplus, so there is nothing novel in the present statistical position.

3. Foreign production will greatly exceed foreign consumption and cost less to produce than domestic copper, while domestic mines, if protected, will not overproduce domestic demand.

The Company Pamphlet, page 8, reads:

"The American industry is not only threatened by the sheer volume of foreign production, but its defeat and destruction are assured by the fact that foreign copper can be and is being produced at a substantially lower cost than the domestic product."

And from the Arizona Commission, page 61:

"The domestic copper mining industry will surely, when it again receives the protection taken from it 40 years ago, regulate its output to meet a price demand

to harmonize with the maintenance of an essential American industry for the benefit of essential domestic citizenship."

The first of these quotations assumes that the foreign producers, largely American in control, are fools; the second that the domestic producers only await a tariff embargo to set up a monopoly in restraint of trade for price boosting.

The foreign producer knows perfetly well that if he should invade the American market as predicted he would inevitably be shut by a duty. He also knows that retaliatory duties would follow in other parts of the world and he would find himself in a most unhappy situation. He has enough trouble with political revolutions, foreign taxes, ignorant labor, high altitudes, tropical diseases and frozen winters not to want to add nationalized markets to the list. No company in the world can make a satisfactory showing at current copper prices.

As to production costs the wisest course is to accept at face value the careful figures prepared by the United States Tariff Commission, while realizing the immense difficulties in the obtaining of accurate data.

In order to be perfectly fair in the matter the conclusions drawn in this report on pages 17 and 18 are reproduced in their entirety:

"The investigation herein reported shows that the largest item in the importation of copper into the United States is blister. The cost comparison between refined copper produced in the United States from domestic ores and blister copper produced in foreign countries plus the cost of refining such blister in the United States shows for 1928 the most representative year among the three years covered by the investigation, an excess of average domestic costs over costs for all the foreign countries covered by the investigation amounting to 1.42 cents per pound when depletion of ore and interest on investment are taken into consideration, and 0.49 cent per pound when these two items are excluded. Comparison with the lowest cost foreign region (Latin-America exclusive of northern Mexico, together with Spain) shows an excess of domestic over foreign costs amounting to 1.54 cents per pound when depletion and interest are included and 2.26 cents without those items.

"If in addition to the foreign produced blister copper refined in the United States, there should be added the copper refined in foreign countries, together with the cost of transporting it to the United States, the excess of domestic over foreign costs in the comparison with all foreign countries combined would be increased by about one-half cent per pound when depletion and interest are taken into consideration.

"The excess of domestic costs over those for Latin America and Spain would be increased still more by this procedure. On the other hand it should be noted that in computing both domestic and foreign costs, interest on investment has been calculated at 6 per cent. The question has been raised whether the risks of an enterprise in certain foreign countries would justify a higher rate of interest. If a higher rate of interest were allowed, the excess of domestic costs would be slightly reduced.

"The preceding cost comparisons relate to 1928. The cost estimates made by engineers with respect to copper now being produced (1931), or expected shortly to be produced in Africa, would tend to reduce the average foreign costs. It is impossible, however, to estimate with any precision the future cost of production in Africa."

Several explanatory comments may properly be made when examining this conclusion:

First, depletion is high in United States corporations because the Bureau of Internal Revenue permits an allowance when computing taxable income which does not correspond with that obtaining in foreign countries. In other words the issue is confused by a matter of bookkeeping and it is fairer to consider the comparison of 0.49 cent a pound excluding depletion and 6 per cent interest on investment. This is the more reasonable in that it can hardly be expected that capital would undertake the risks in foreign isolated regions at a return of 6 per cent.

Second, Africa is put down as a speculative matter for the future to determine.

Third, transportation is a formidable item of expense. At present the rate from mine to consumer of refined copper in the United States is often very devious and lower costs will come under pressure of competition.

Fourth, the Arizona Commission, page 67, gives average costs between high and low costs domestic producers of nearly 6 cents a pound. Closing a few high-cost mines and drawing a little more on low-cost ones would easily wipe out any such differential as 0.49 cent a pound.

Now as to boosting prices to what the petitioners really want, given the opportunity the Arizona Commission, page 65, reads:

"Copper should have sold about 50 per cent higher during the 1923–1929 period than it did or at a price approximating 22 cents per pound in order to enable the domestic copper mining industry to pay the adequate wage, supply, transportation and tax items that are necessary to maintain our domestic citizenship and institutions."

Aluminum, zinc, soft steel, and alloy substitutes for copper would certainly approve this recommendation but hardly the general public who pay the bill.

4. The duty on copper should not have been abolished in 1894 and should be restored now in sufficient amount to guarantee an embargo.

From Arizona Commission, page 66:

"All that the domestic copper miner demands is the restoration of the protective equities that he was deprived of in 1890 through the machinations of foreign copper producers and domestic internationalists."

From Arizona Commission, page 81:

"The domestic copper-mining industry is entitled to 100 per cent protection; a full measure thereof, not a fractional degree of protection, which would only benefit the low-cost producers and destroy one-half of the higher-cost domestic production."

From Arizona Commission, page 82:

"In order to sell the domestic electrolytic copper ingot within the domestic market it must be accorded a specific duty of 6 cents per pound as against the foreign ingot. This degree of protection only permits the domestic ingot to meet the foreign ingot competitively within its home market. If the American doctrine 'that a domestic product should control the domestic market' is applied, then the duty should exceed the base cost differential of 6 cents per pound."

The claim that the copper duty of 40 years ago should not have been abolished is best answered by a quotation from Professor Taussig's well-known book, Some Aspects of the Tariff Question, 1915, pages 167 and 168.

"During the decade 1870–1880, as has just been pointed out, the price of copper in the United States was higher than the English price, and during a considerable part of the decade it was higher by the full extent of the duty. There being no ground for giving any credit to protection because of its having given needed aid to a young industry, the free trader can find nothing to balance the loss then caused to the community by the tariff charge. And for a year or two, at the close of this period, he adds something to his indictment; the charge on the community was higher by combination among the copper producers. The mining companies of Michigan then produced almost all the American copper, price agreements among them were not difficult to arrange; the increasing output caused prices to fall, especially during the years of depression that followed 1873. In 1879–81 there was a combination and an abrupt rise in prices, the latter furthered of course by the revival of industrial activity. To maintain prices at home, the combination sold for export a lower prices. It was a clear case of dumping explicable on the theory of monopoly of price."

5. The American workingman is being kept idle in order to give employment to peons, "breechelout" labor, and slaves.

From Arizona Commission, page 59:

"The peon-labor refined copper ingot from Chile can meet the competition within the European market set by the slave-labor refined ingot from Central Africa.

"These two oppressed labor produced ingots can battle one another successfully for control of the world's copper market. It is impossible for the high-cost domestic labor produced copper ingot to meet the competition so destructively evident within this foreign area of debased labor products."

From the company pamphlet, page 18:

"Foreign copper is produced under conditions with particular reference to African breechelout labor, which the American producer will never attempt to meet."

These statements are an appeal to prejudice which is known to be effective in American politics. The American works under the best living conditions in the world and is properly zealous in regard to their maintenance. But his standards are not being challenged. Naturally the labor indigenous to the country must be employed in foreign mines. The living conditions must be those desired by these natives—it is with difficulty that even changes in custom to protect the public health can be inaugurated. Of course, slavery is meant only as an appealing figure of speech, but what does the American workingman care whether foreign copper is produced by slaves or by angels so long as his own standards are not attacked?

What he does care about is conditions in America. The very ones who attack native labor abroad are those who would oppose the application of an immigration quota to the Mexican border, shutting off the supply of Mexican labor to Arizona.

The appeal is also made for the benefit of the average American who has never come in contact with "native" labor. It is cost per ton, not cost per hour that counts. A white supervisor is required for about every 10 men. White men demand very high remuneration to work in such localities. Labor is very ignorant and inefficient. Food and shelter are supplied in addition to wages. Labor often vanishes at certain seasons of the year. The companies would be delighted could they develop such mines under American conditions. The United States Tariff Commission (p. 29) estimates the output of the Rhodesian mines at 0.39 ton of ore per man per day as against 4.75 tons in the United States.

Coming down to the actual cost of African copper the Arizona commission states on page 74:

"The writer is firmly of the opinion that refined Katanga copper can be laid down at any world port at a cost not to exceed 6 cents per pound."

Page 76: "The writer is certain that northern Rhodesia refined copper can be laid down in New York at a cost not exceeding 6 cents per pound."

Unfortunately for the claim the United States Tariff Commission investigated this question and reports, page 82:

"The estimates of costs of African copper, in cents per pound, ready for market, are summarized as follows: Roan Antelope (1932) after depreciation and interest, but before depletion and taxes, 8.68; Mufulira (1932) after depreciation and interest, but before depletion and taxes, 7.78; Nkana (1932) after depreciation and interest, but before depletion and taxes, 8.03; Katanga (1930) after depreciation and interest, but before depletion and taxes, 10.74".

Note that word "taxes." One of the risks of foreign mining is always taxes. The Arizona commission itself admits this on page 72:

"The rapacity of the Chileans as displayed during their decades of nitrate tax acquisitiveness will undoubtedly urge them to insist on securing the maximum tax perquisite out of the world's largest copper ore body."

Before leaving this labor discussion let us consider that will happen if a tariff is imposed as against present competitive conditions.

In the first place the effect of present competition will be to close some of the highest cost workings where labor has been largely dispensed with. The company pamphlet, page 6, says:

"Machines are used in place of manual labor in every conceivable way, making it possible to work at a profit deposits of low-grade ore that would be valueless under less efficient operative conditions."

But there would be an increase in tonnage demanded from the lower cost properties which lie at some distance from the Mexican border and where Mexican labor is not employed.

Now, if a tariff of 4, 5, or 6 cents were put in force a number of things would happen, the exact nature of which would depend upon world conditions.

If we assume, as most economists do, that while an exportable surplus exists no change in price would result, there would not necessarily be a shrinkage in our manufactured exports, but one can not tell to what extent retaliatory tariffs would bring this about. No foreign copper could enter for consumption and there would no longer be any object in sending foreign blister to this country to be refined, thereby incurring additional transportation expense between mine and market. The United States Tariff Commission (p. 3) says that—

"United States copper refineries have an annual output of about 1,400,000 short tons of refined copper. About 61 per cent of this quantity is derived from domestic ores, 12 per cent from domestic used scrap, and 27 per cent from imported ores, concentrates, and copper metal."

Labor will be discharged in proportion from these industries and American shipping lines will suffer. No improvement will result in the mining industry as the foreign price will control, so that there is a net loss to labor.

On the other hand, if we take the position of the copper tariff proponents themselves that the tariff will add to the price as well as exclude foreign copper, we lose in other ways as well as the diversion of the refining business already mentioned.

Under the Platt amendment the copper tariff will not be effective against Cuba and as the American price will be above the foreign, all Cuban copper will enter and displace an equivalent amount of domestic. Cuban production reached a peak of 18,869 tons in 1928, and under the stimulation of high prices might be a source worth reckoning with.

Next, our manufacturers would import copper in bond for fabrication and reexport. This item amounted to over 70,000 tons in 1930, and would displace American production. These shrinkages react back along the line of railroads, supplies, etc., again affecting labor.

Next manufacturers are apt to find barriers against their exported products made with foreign opper but with American labor, and the result is the establishment of foreign branches of American plants. Canada is already dotted with such branches.

Finally, the American will pay more for every article he uses containing copper, directly as in hardware, or indirectly as in electric light bills.

After all, has labor much interest in a tariff?

6. Protection is needed to secure adequate copper for military uses in time of war.

Company pamphlet, page 14:

"Copper ore reserves, with an industry equipped and ready to supply the refined metal in adequate quantities in any emergency, are vital factors in our program of national defense."

Arizona commission, page 83:

"It is obvious that from a national-defense standpoint alone it is rigidly essential that our domestic copper mining industry be able to function maximumly?"

These are statements of obvious truths rather than direct claims. It depends upon whether or not the industry is "ruined" as to their being germane.

7. American capital invested abroad is quite soulless and unpatriotic and needs no consideration. American capital invested at home is compassionate and unmercenary.

Arizona commission, page 78:

"It was a coterie of Americans, after securing control of certain Canadian copper and nickel deposits in 1886, who through specious, sleek, and sleazy pleas finally secured the near destruction of all copper ingot duties as of 1890. The writer is firmly convinced that prototypes of these 40-year-ago domestic internationalists are now trying to convey the impression that the present-day competition from Canada, Chile, and Africa is inconsequential."

One is tempted to ask whether a claim that a 4 or 5 cent tariff on copper would produce a revenue justifying its inclusion in a tax bill is not also a bit "sleazy" (flimsy). But more seriously, domestic internationalism is not a bad term for the position this country must assume, for better or for worse. We have invested and loaned immense sums abroad. We can not isolate ourselves economically by building a barrier against every possible means of repaying these sums. Also to destroy American-owned foreign values is just as surely to attack the average American as to deny him employment. In these days securities are very widely distributed in small amounts and often represent lifetime savings. In investing money in foreign mines there are political risks, ore deposit risks, market risks, and apparently home risks. Capital has therefore been brave in facing these and is it not better to control the world industry financially after our power to do so metallurgically has passed?

The United States Tariff Commission says (p. 63):

"The control of about seven-tenths of the world's production by United States capital has not meant the ability to control prices, chiefly by reason of the competition among the domestic producers themselves."

That sentence is worth pondering. It has been assumed by the tariff proponents that with an embargo in effect the domestic industry would act intelligently to regulate production. Disregarding legal problems for the moment the almost identical group of executive could regulate world production. Their power in control of foreign supplies is great enough to whip outsiders into line. With a tariff in effect this opportunity is gone. Britain would at once establish a preferential tariff favoring Canadian and Rhodesian copper. A continental group would take Katanga and so on.

Then it is unsportsmanlike. Domestic producers are continually selling large tonnages in the foreign markets which statistics do not disclose. Foreign companies having their product refined here permit part to be sold domestically thereby freeing an equivalent space in Europe. The European market is usually somewhat higher than the American and the very groups asking for the exclusion of foreign copper have been large exporters. Now when a temporary slump comes vociferous cries are made for a tariff.

American investments in South America are peculiarly threatened. In these countries there is no consumption and a ring of retaliatory tariffs started by America would virtually isolate them. Our Government has been at great pains

to cultivate cordial relations with South America. The West Coast countries rely almost wholly on the mineral wealth of the Andes for their support. The exploitation of these resources has been chiefly in the hands of Americans and the products are almost wholly exported. It can easily be seen how serious a matter a sectional nationalization may be for them.

How desirable it is to keep these companies in American hands can be appreciated from the fact that for every $1 they pay in dividends about $2 is spent in the United States for plant equipment, American employees, supplies, refining charges, freight, insurance, office expenses, etc. The Cerro de Pasco Copper Corporation, operating in Peru, has disbursed $188,000,000 in the United States, equivalent to 11 cents per pound of copper produced.

SUMMARY

The argument which has run through the preceding pages leads to the conclusions:

1. That the present distress in the copper industry is part of the world situation affecting other non-ferrous metals and not a special case.
2. That to impose a tariff would not give the relief claimed at home but would inaugurate a sequence of foreign realignments injurious to this country.
3. That America controls 70 per cent of the world industry and has some voice in about 20 per cent more so that relief is to be sought along the lines of a world agreement and not through a short-sighted isolationist policy.

STATEMENT OF HARRY S. JOSEPH

Mr. JOSEPH. Mr. Chairman and Senators, I shall be quite brief in my remarks respecting a somewhat important problem, so important to us particularly from the West.

I am bringing to you, and through you to the American people, appeals in writing from one of the richest resource areas in the United States, a land made habitable and a fit place in which to live through the vision and foresight of some of the outstanding pioneers of the United States who made the West. Our agriculture, our mining, our livestock heretofore have added to the wealth of this great Nation. We have a different story to tell you to-day.

If the people in the East could see the deplorable conditions and situations in the copper-mining districts in the West, they would surely extend a token of sympathy for our western people. Worse conditions are in sight unless copper is given protection against South American, Mexican, and other foreign copper-producing countries of semislave conditions.

The menace of the future to the American copper-mining industry is the African peril. We have often heard of the "yellow peril," but a surer peril is imminent from the breechclouted labor of Africa when it floods our country with duty-free copper, the African producer thus driving our copper industry to complete destruction.

We of the copper-producing States, of which there are more than 15, are endeavoring to aid in maintaining American mines, American towns, American families, and American living conditions against forces threatening to destroy them.

There are American mining companies working against us. They are closing down their works, pulling their pumps, discharging workmen, and even throwing off the pension roll men who carried the six-shooter and the rifle for them in the early days of the mining camps, turning them out to starve; and these companies call themselves supporters of our American civilization.

In 1929 the mines of the Southwest produced at the rate of $7,000,000 a month. What are they producing now? [Reading:]

WHAT MINING MEANS TO UTAH

In normal times the mining industry of Utah employed about one-third of the total number of employees carried by the State industrial commission, produced about one-third of the new wealth annually created in the State, and supplied four-fifths of all railroad freight tonnage of Utah. In actual figures its annual output was worth about $120,000,000. Of this gross value, approximately $85,000,000 was immediately expended, largely within the State, for wages, freight, smelting, and supplies. Thirteen million dollars of this was spent for labor at mines and smelters. The mining industry is indeed vital to Utah's present economic structure. With it diminished to any serious extent, Utah labor loses, directly and indirectly, one-third of its pay roll, Utah railroads lose four-fifths of their freight business, and Utah agriculture loses its closest and best market.

How many men are being employed by the mining industry of Utah to-day?

How much new wealth is the mining industry creating in the State to-day?

How much railroad freight tonnage is the mining industry supplying to-day?

How much, in actual figures, is the annual output of freight tonnage to-day?

How much is being expended in Utah to-day for wages, freight, smelting, and supplies?

I will let those gentlemen who are closing down their American copper mines so that they may work their foreign properties answer these questions.

There is nothing new about protection for copper. You honored Senators have access to records through the different departments of the Government, and hence it will be unnecessary for me to delve into the history of copper protection in this country.

However, we have some of the copper fabricators of the Delaware and Chesapeake and Connecticut Valleys trying to keep us on the free list, while they enjoy a prohibitive protective tariff of up to a maximum of 11 cents a pound on fabricated copper.

Some of the very copper producers who have enriched themselves at the expense of our labor in the western copper areas are now turned against us.

Arizona has produced $2,900,000,000 worth of copper and paid many millions of dollars to labor, yet many of their citizens are in want for the lack of copper protection.

Conditions in Utah are similar to those in Arizona. The other day I read a statement in the Salt Lake Desert News which said that in Salt Lake County there were 35,000 persons whose immediate needs were a public problem. I know this because I, as a member of the make-work committee, come in close contact with the situation. Did this condition exist when the mines of this country were prosperous?

Until this calamity came upon us, copper had averaged 14.8 cents a pound since the World War. It is now 60 per cent below this postwar average, selling at 5¾ cents a pound.

Senator WATSON. Is there anybody working in the copper mines now at all?

Mr. JOSEPH. Very, very few.

Senator WATSON. And how many would work if you had a protective tariff on it?

Mr. JOSEPH. I will say this, Senator, in answer to the first question, that there are to-day, I would say conservatively, and I gather this from my visits through the different parts of the West, that there are 20,000 men directly out of employment that formerly worked in the mines.

Senator WATSON. In the copper mines?

Mr. JOSEPH. In the copper mines of the West, all through Arizona, Utah, New Mexico, and the Anaconda. And in order to appreciate that, gentlemen, you just want to make a trip out there and see the conditions. There are a great many more affected indirectly because of the railroads not hauling the freight.

Senator WATSON. Do you think this excise tax would operate to put those men back to work?

Mr. JOSEPH. It would, in my judgment, alleviate the condition.

Any other question at this time, Senator?

Senator WATSON. None now, thank you.

Mr. JOSEPH. Two billion pounds of copper have been poured into the United States during the past three years, all of it from foreign mines.

Yes, we have copper roofs on some of the buildings in copper districts of the West. They are made of Chilean copper, I have been told.

The Western States are equipped to produce 1,200,000,000 pounds of copper annually. Put a substantial tax on copper produced by the merciless and devastating economic forces generated by competition of South American, Canadian, and African copper, and watch prosperity flow back to the States of the West.

In view of the approaching menace of the African production, unless you give us some measure of protection you will be aggravating the unemployment situation, as our copper mines, working to-day at a low ebb, will soon have to completely cease operations.

I am backing up the governor of my State and our congressional delegation headed by Senator Smoot in endeavoring to shut out this cheap-labor copper of foreign lands through the medium of a rigid copper import tax.

Senator WATSON. You mean that Senator Smoot is for a protective tariff. [Laughter.]

Mr. JOSEPH. Did you ask that question desiring an answer?

Senator WATSON. No; I did not, but I asked that question to see the expression on Senator Smoot's face.

The CHAIRMAN. Well, as long as it is a protective smile, it is all right, then.

Senator WATSON. It suits me.

Mr. JOSEPH. At this time, gentlemen, I might say in closing that since I have been here I have had several conferences with Senator Smoot and Senator King; and they have, in a measure, assured me, both of them, of the merits and support of our cause under certain conditions. [Laughter.]

Senator GEORGE. It would not be proper to ask the conditions.

The CHAIRMAN. I call your attention to the fact that your time is about up.

Mr. JOSEPH. Have I taken my time?

The CHAIRMAN. You have one minute.

Mr. JOSEPH. I just wanted to show an example of foreign copper competition [producing a photograph]. This is what they call a Bantu. He works for 35 cents a day, and some of our Americans, patriotic men, are using this labor and shipping their product into this country when the men of this country do not have work.

I thank you, gentlemen.

The CHAIRMAN. Thank you, Mr. Joseph.

Mr. JOSEPH. I will file these petitions with you, with your permission.

The CHAIRMAN. They will be used for the committee and not all for the record.

Mr. JOSEPH. They include petitions from 1,400 business men of Salt Lake City and County; 17 Lions Clubs in Utah; 12 town boards; wool, livestock, labor, and farm organizations; 9 chambers of commerce; 12 Kiwanis Clubs; 17 city councils and mayors; 18 newspapers; 27 lodges and presidents of stakes, as we call them in Utah; and 7 county boards, representing in all about 100,000 male citizens of Utah.

Senator THOMAS of Idaho. Mr. Joseph, I came in late, and I just want to ask you this question: Are you personally interested in the business, or are you just interested in the people out there?

Mr. JOSEPH. I am an engineer, gentlemen, by profession, and in politics for pleasure. And I am interested in the welfare of our laboring men and their wives and families in Arizona, Utah, and these other States.

The CHAIRMAN. Your time is up, Mr. Joseph.

Mr. JOSEPH. Thank you, Mr. Chairman.

LETTER FROM J. J. KEEGAN

ÆTNA INSURANCE CO.,
Globe, Ariz., April 9, 1932.

Senator REED SMOOT,
Washington, D. C.

MY DEAR SENATOR SMOOT: I have been in business in Globe, Ariz., for the past 34 years, and half of that time engaged in the insurance-agency business.

Globe has been the shipping point for one of the largest copper-producing districts in the United States. Forty per cent of Arizona's copper was shipped through Globe. Now, it is daily growing less and less. The people, who can, are leaving the district. The mines are constantly reducing their forces. One of the larger mines is completely closed. The small mines have been closed for months. Not much remains of the once prosperous business of the district. The entire State feels the paralysis of the copper districts. The agricultural districts depended on the mining districts for their markets. Now, they have but little market for their produce. It goes to waste. There is no one who can buy it.

The attached clipping cut from the Underwriters' Report, issue of March 31, an insurance newspaper published weekly in San Francisco, is only too true and too brief.

Only now we have returned to an insurance company for whom we are agents a tracer slip bearing the enlightening phrase "Owner has no tenant and no income with which to pay fire insurance."

If the entire State of Arizona is not to be in a similar condition soon we must have an immediate tariff on copper.

Fabricated copper is already protected by a tariff. Why should not an equal right be granted the raw material? What other base metal occupies so ignominous a position as copper? None.

I should appreciate your having this letter with its attached clipping published in the Congressional Record.

Thanking you for your attention to this request, I am,

Yours very truly,

J. J. KEEGAN.

ARIZONA PLIGHT TOLD

INSURANCE MEN ENLISTED TO FIGHT FOR COPPER TARIFF—STATE BANKRUPTCY THREATENS

Imminent danger of Arizona going bankrupt is reflected in a letter to McClure Kelly, Pacific coast manager for the Insurance Company of North America, from B. L. Smith, of the Arizona Insurance Agency at Bisbee, Ariz. He says that Arizona is "sunk" if an adequate tariff on copper is not passed at this session of Congress.

A copy of the letter has been sent to each manager and general agent in the Pacific coast territory and to the home office officials of each company, by the Arizona Advisory Committee, urging that they use their influence with their Congressmen to see that a tariff of at least 6 cents a pound is placed on foreign copper.

PAYS 50 PER CENT OF STATE'S TAXES

It is said that copper pays 50 per cent of the taxes in Arizona, and the industry employs a large percentage of the population of the State. With the continued importation of copper from Canada, Mexico, South America, and South Africa, delivered at 6 cents a pound, domestic copper, which costs 12 cents a pound to produce, will have to be discontinued. This will bankrupt domestic copper production regions, with Arizona probably the State principally affected. Already 1,500,000,000 pounds of foreign copper has been piled up in the United States and it is continuing to enter at the rate of 50,000,000 pounds a month free of duty. Mr. Smith said in his letter:

"If we don't get a tariff of 6 cents per pound on copper this session of Congress, so much foreign copper will have been piled up in the United States before the next session of Congress that our own mines will never again have a chance to compete."

STATEMENT OF CHILEAN AMBASSADOR

DEPARTMENT OF STATE,
Washington, April 21, 1932.

Hon. REED SMOOT,
Chairman Finance Committee, United States Senate.

SIR: I inclose herewith for your information and consideration a copy of a memorandum left with the department by the Chilean ambassador on April 14 last, outlining the apprehension of the Chilean Government as to the harmful effects which it anticipates would ensue in Chile were the United States to levy a duty on imported copper, as the Chilean Government fears it may be the intention of the Congress to do.

Very truly yours,

W. R. CASTLE,
Acting Secretary of State.

MEMORANDUM

1. The Chilean Government has noticed the action of a group made up of Senators and several governors of States of the Union in petitioning the President of the United States for the placing of an import duty on copper.

2. This action has caused serious anxiety in governmental and commercial circles of Chile on account of the crisis now affecting the entire world, and especially the economic life of Chile, the principal export products of which are in a condition of almost complete paralization.

3. Large sums of American capital are invested in the Chilean copper industry, and a duty on the importation of Chilean copper into the United States will affect such investments in equal degree with the economic life of Chile.

4. Attention is desired to be called to the above facts, at this time, in order that they may be at hand for reference when the question of a duty upon imports of copper into the United States must be finally decided.

STATEMENT OF EUGENE SULLIVAN ON THE PROPOSED TAX AN COPPER

Africa is generally known to the public as a big game country, and until recently, with the exception of gold and diamond mining, very little thought or interest was given to Africa in respect to copper. However, since our recent depression and very low price of copper, Africa has become of great interest in this respect. In recent years the interests of the American copper producing industry has been attracted to the new copper fields along the Congo or Rhodesian border. While it has been known that the Katanga district of the Belgian Congo has developed a large copper field, yet it was not generally considered until recently that this district would be of any great importance in competition with American producers. In the Katanga district there has been developed since 1904 9 copper producing mines, 4 that are not producing, and over 100 that have not had any development or prospecting work done. There has also been developed 2 tin producing mines, 1 radium mine, 1 cobalt mine, and 1 gold. The center of the mining district of the Katanga is Elizabethville, which is the capital of the Katanga and contains a population of 4,000 whites and approximately 30,000 natives. Elizabethville is situated 2,400 miles north of Capetown and is reached by the South African Railway from Capetown passing through Bechuanaland up into southern Rhodesia, which takes 3 days of traveling and one has 10 hours rest at Bulawayo. Then one takes the train in the evening on the Beriamasholand Railway which takes one through southern Rhodesia, passing over the great Victoria Falls and on up through northern Rhodesia through Broken Hill, a mining center, and from Broken Hill a privately controlled railway takes one on to the border of the Katanga to the Sakania Station. Sakania is 240 kilometers from Elizabethville.

The Katanga district elevation averages about 3,500 feet. Elizabethville is the center of the copper smelting of the Union Miniere du Haut Katanga. Here they have seven blow furnaces in operation, while at Panda, where the concentrating plant, leaching plant, and flotation plants are in operation, they also have four reverberatory furnaces. Over this entire district, extending east and west from Elizabethville, a distance of 350 kilometers, that has been so far prospected and found to be heavily mineralized.

The actual production of copper in the Katanga district began in 1911. This was shortly after the railway had reached Elizabethville. The first mine to begin producing was the Star of the Congo, situated 12 kilometers from Elizabethville. In 1911 there was produced 998 tons of copper while in 1928, with eight mines producing, the copper production was 130,000 tons. The present producing mines are Kambove mine, Kambove West M'sesa Chituru, Likaski, Prince Leopold, Luishia, Ruashi, and Lukni, there are also five mines now in preparation for production, including the Kakanda, Musonai, Kolwezi, Dikulwe, and Fungurume. The western mines, which comprise the above mentioned group, will have concentrating, flotation, and leaching plants, situated in close proximity to the mines. With these mines in operation the Union Miniere will be able to increase their production to approximately 300,000 tons of copper per year. With the mines that have been developed and in process of development there is a total of 70,000,000 tons of copper ore containing 4,200,000 tons of copper. No one knows the extent and magnitude of this copper district, as we have stated there are over 100 properties that have not been prospected or developed.

Speaking of labor, in the Katanga Province the natives are very sparsely settled. Native labor supply for a number of years has been recruited from northern Rhodesia and other surrounding districts. It was possible to recruit this native labor from northern Rhodesia due to the influence of the head of the recruiting company, Sir Robert Williams, who controls the railway from Broken Hill to the border of the Belgian Congo and who is vice president of the Union Miniere, and was also instrumental in constructing the railway from Lobieto Bay in Portuguese Angola from the west coast of the Katanga connected with the Katanga railway. The northern Rhodesian native, while living as his forefathers did for hundreds of years, planting small crops of corn, cassava beans, sweet potatoes, etc. when recruited and brought to the mines and smelters to work is very adept in picking up this work. These northern Rhodesian natives were recruited for a term of six months and during my stay in Congo, of 10 years, I don't know of ever meeting

with one of these boys who had reengaged for service after completing one contract. Since the development of the northern Rhodesian copper mining district there has been some opposition which has affected the recruitment of natives for the Congo mines. The Union Miniere now has to draw on the raw natives of Ruandi and Ruanda, the mandated territory, formerly East German Africa. These natives are not so easily trained in the work as the northern Rhodesian native.

The living conditions of the natives: All natives employed in the mines or elsewhere are compelled to live in compounds, this is a government regulation and not only exists in the Congo, but throughout Africa. The companies house, clothe, and provide for the native and for his wife and family if he is married, he is also provided with hospitalization, medicines, and after his term is completed the same conditions exist until he returns to the district from where he has been recruited. The cost over all the native labor is approximately in American money about $1 per day. This includes everything before mentioned and also the cost of the compound staff and recruiting staff.

Some mention has been made recently by Americans who are not acquainted with conditions in that country that the native of Africa is a very incompetent and inefficient laborer. I may mention that here in America in open-cut mines where track gangs are employed (all mines with the exception of Prince Leopold are open-cut mines in the Katanga) 18 to 20 men comprises the number of these gangs. This is also the number which constitute track-gang labor in the Congo, and they can do practically as much labor as the average track gang of the mines in this country. They are supervised mainly at the present time by white bosses. Under this white boss is a native boss called a capitoa. This capitoa in track gangs and other gangs are usually volunteer labor and in many instances the capitoas are replacing white bosses. On the steam shovels, which are fast disappearing, being replaced by electric shovels, the firemen are and have been since the commencement of shovel operations, natives. This is also true of the firemen on all locomotives, and in many instances the white drivers of locomotives have been replaced by natives. The native is also being instructed in the operation of the small-type electric shovel, and it will only be but a few years until the entire mechanical labor forces of white men will be replaced by native labor. White men will only be retained as instructors in the different departments. There is a large industrial school in this district under the charge of the Salasien Fathers instructing natives in the operation of machine tools of all descriptions. The Union Miniere also operates a school for mechanics in connection with their central shops. It has been the object of the Union Miniere to eliminate as much as possible all foreign white labor.

When I arrived in the Congo in May of 1920 there were employed by the Union Miniere 70 Americans in capacities of managers, mining engineers, instructors in building, erectors, and steam-shovel operators. Today there are only two Americans remaining in the employ of the company. In 1920 there were very few Belgians employed by the Union Miniere. Up to this time those Belgians who were in the country were looked upon by their countrymen as social outcasts, as it was a policy in Belgium for many years that one who transgressed the rules of society was advised to go to the Congo, and so it was very difficult to get the Belgians to volunteer for service in the Congo. However, since that time, through the efforts of the American, English, and South African engineers, the country has been developed to the extent where the Belgian is ready to engage in service in Africa and it is not difficult for the Union Miniere to procure all of the white labor necessary to operate their properties in the Katanga. While the cost of transportation of these men from Belgium, and their families in case he engages in a second contract, is quite heavy, yet they have adopted this policy in an endeavor to develop the Congo with their own people rather than secure more efficient labor at less expense from the Union of South Africa and Southern Rhodesia. The question of cost of copper production in the Katanga often arises and no one can actually determine cost except those who are in the control of the companies' affairs, as these things are not given out to the public.

However, up until 1930 the cost of transportation of copper to the seaboard and of transportation of heavy machinery and other materials inland was very heavy. The bulk of the copper was shipped to Beira in Portuguese East Africa, approximately 1,600 miles from Elisabethville, some copper was shipped to Dar-Es-Salaam, formerly German East African territory. Since the end of 1930 the railway has been completed from Lobito Bay in Portuguese West Africa, this means the shortening of rail transportation by 400 miles, and lessens by more than two weeks steamship transportation to Europe. Considering these factors their

costs since 1930 have been considerably reduced. Of the copper properties of northern Rhodesia we have been hearing quite frequently since 1928, this is due to the participation of American capital in the development of that district. In the latter part of 1927 it was decided to prospect the northern Rhodesian copper district and speaking of prospecting the northern Rhodesian district has the same characteristics as the Katanga district in the Congo. It was a very simple matter to find mineral bearing areas in the Congo. The first prospecting parties sent out would search out a high elevation, and from that elevation with field glasses inspect the country for outcrops of mineral. This was very simple because wherever mineral was to be found one would find no vegetation and by glancing over the country with glasses one could pick out the bald hills as copper-bearing ground. In the northern Rhodesian country more efficient methods were used. A crew of aviators were engaged and after a few months had completely covered the entire Rhodesian district and secured aerial pictures of all likely mineralised zones.

There has been in operation in northern Rhodesia the Bwana-M-Kubwa Copper Mine. This mine has never been worked on an extensive scale, but when prices were "right," an effort was made to extract the high grade malachite. This mine began operations on an extensive scale in 1926, but it was found that the cost of operation was excessive, and it has only been a short while since the mine has ceased operation; however, in the northern Rhodesia district the Rhone Antelope Mine commenced producing in May of 1931. The Mufalira Mine, the N-Changa, and the N-Kana mines are about ready to begin production.

As previously stated the Congo mines secured their labor from northern Rhodesia, but since there has been a restriction in recruiting this labor, this labor which has been trained for years in the Congo mines, is now available for the northern Rhodesia mines.

With the high-grade ores of the Congo and northern Rhodesia and in respect to the Congo I may state that nature has done for that country what she has not done for any other country known. That is to say apparently the original rocks in which the copper is found has been dissolved and the mineral has been precipitated as a carbonate from the sulphate, which means that a low-grade proposition has become by natural process of concentration a high-grade proposition. You find that all these mines have a copper content, running 20, 30, and even 40 per cent, whereas mines running from 4 to 6 per cent in America are regarded as rich. This richness of deposits enables the copper mines of the Katanga to keep in operation while the copper market is low and other copper districts are unable to produce. No one can as yet estimate the wealth of the copper in northern Rhodesia or in the Congo, but we must realize from the activities and production in those countries the low cost of production may bring us to a realization that we have very strong competition for the copper market. Due to the low cost production of copper we must realize that we will lose our European copper market, but there is no reason why we should sit calmly by and without any objection permit this cheap copper to absorb our domestic market.

It is to the interest not only of the people residing in the copper producing States, but citizens of all States, to see that adequate protection is given to an industry that employs hundreds of thousands of men and is the means of the upkeep of districts, schools, and other educational institutes in our country, and has been the main means in many States of the entire sustenance of communities. We owe it to these men, women and children to give the protection which should be given to and is given to many American industries. There is no reason why we should at this date turn back the pages of history and pay tribute to European producers, to the detriment of our own citizens.

EUGENE SULLIVAN.

(Formerly, from 1921 until 1931, superintendent open-pit operations of Union Miniere de Haut, Katanga, Belgian Congo.

PROPOSED TAX ON MANGANESE IMPORTS

STATEMENT OF HON. TASKER L. ODDIE, UNITED STATES SENATOR FROM THE STATE OF NEVADA

Senator ODDIE. When the 1922 tariff bill was under consideration, American manganese producers requested a duty of 2 cents per pound and the Congress reduced this to 1 cent per pound which proved to be inadequate protection to the domestic industry. Imports continued to increase and these facts I made available to the Senate when the 1930 tariff bill was being considered.

The Congress in the 1930 tariff bill again provided a 1 cent duty on manganese and since this act went into effect almost the entire American market has been monopolized by foreign manganese producers, principally Soviet Russia where the costs of production, under the communist system, are nominal.

The American manganese industry to-day is very largely shut down contributing materially to unemployment and consequently, I have introduced a proposed amendment to the tax bill now before the Finance Committee of the Senate to impose an excise tax on manganese imports into the United States. The amendment is as follows:

On page 232, between lines 15 and 16, insert the following:

"(4) An excise tax of 1 cent per pound shall be levied on the metallic manganese content of all imports into the United States of manganese ore (including ferruginous manganese ore) or concentrates, and manganiferous iron ore, all the foregoing containing in excess of 10 per cent of metallic manganese; and an excise tax of 1⅛ cents per pound shall be levied on the metallic manganese content of all imports into the United States of manganese metal, manganese silicon, ferromanganese, and spiegeleisen."

From my intimate know[illegible] developments in the United States si[illegible] than ever of the need for the addi[illegible] led by the enactment of the [illegible] amendmen[illegible] ich [illegible] troduced providing for a tax [illegible] pound [illegible] nganese. I am also certain that [illegible] hus affo[illegible] be no more than suffici[illegible] nited States the oppo[illegible] to [illegible] estic market requiren[illegible]

In brief, this [illegible] tax will [illegible] but [illegible] ably result in a reve[illegible] he Gov[illegible] on two[illegible] the manganese imp[illegible] to th[illegible]

In 1931 there [illegible] 2,000 tons of ferroman[illegible] a[illegible] to the United States. [illegible] ax of 1 cent [illegible] ound o[illegible] manganese content of [illegible] d with 1[illegible] per pou[illegible] metallic manganese content [illegible] ngan[illegible] overing o[illegible] thirds of the total imports in 1[illegible] the [illegible] he Government would be $4,069,6[illegible]

The manganese industry [illegible] to supply one-third of the domestic requirem[illegible] ng for no more than

sufficient protection to give it this small share of the business. It is to be expected, and it will naturally follow, that if the American manganese industry is afforded this tax protection that it will grow in size and that metallurgical improvements will tend to reduce the cost of American production so as to enable the industry in the years to come to obtain a larger share of the domestic market.

In all of the tariff campaigns the importance of manganese as a war essential material has been stressed, and if the American industry is compelled to remain shut down and the incentive of the American producers is to be killed, this country will continue to be dependent upon foreign sources of manganese supply.

Manganese has come to occupy an ever-increasing importance in the manufacture of steel and this to-day constitutes the principal demand for it, and this country should be absolutely independent of foreign manganese.

With the enactment of the amendment which I now propose I believe that the American manganese industry will be given a reasonable opportunity to develop and ultimately to satisfy all the Nation's requirements.

The ore resources of this country are distributed in some 34 States and are unlimited in volume, and there is no reason why this country should not be absolutely independent of foreign sources of manganese.

The War Department, on several previous occasions, has called the Nation's attention to the importance of manganese in our Nation's defense, and that department is still greatly concerned over the situation.

I wish to introduce for the record a letter of the Hon. F. H. Payne, Assistant Secretary of War, to Mr. Howard H. Cook, secretary of the American Iron and Steel Institute, on February 12, 1932, which I quote as follows:

FEBRUARY 12, 1932.

Mr. HOWARD H. COOK,
Secretary American Iron and Steel Institute,
75 West Street, New York City:

MY DEAR MR. COOK: The question of assuring during war time an adequate supply of manganese ore to maintain the production of the steel industry at the rate demanded by any military program is one that has received much thought in the War Department. This question resolves itself into a situation in which foreign sources of this ore are denied to this country and reliance must be placed on domestic or near-by producers.

It has come to the attention of the War Department that the Cuban American Manganese Co., a subsidiary of the Freeport Texas Co., has expended considerable effort and capital to determine methods to produce from Cuban manganese ores a product which will be the equal in every way of foreign ores now largely used by the steel industry and which can be marketed in this country on a price basis comparing favorably with foreign ores. The department is informed that both of these objectives have been attained.

In view of the dependence of the military requirements upon steel products and of the supreme importance of manganese in the making of sound steel, it is deemed essential to have available at the beginning of a major war a domestic or near-by operating source of manganese ore.

To create such an operating source during peace times the producers must have a market for their output. It is therefore suggested that you bring to the attention of the members of the institute, who are consumers of manganese ore, the viewpoint of the War Department and its hope that the domestic and Cuban projects may possess sufficient merit to warrant their assistance in encouraging the development during peace time of these sources of manganese supply for war-time needs.

Because I know of their interest in this matter I am taking the liberty of sending a copy of this letter to Mr. Farrell of the United States Steel Co., Mr. Grace

of Bethlehem Steel Co., Mr. Ricks of the Union Carbide Co., and Mr. Lavino of Lavino & Co.

Sincerely yours,

F. H. PAYNE,
The Assistant Secretary of War.

Secretary Payne also addressed a letter on the same day to the principal manganese consumers in the Uinted States requesting their cooperation and I introduce the same for the record.

FEBRUARY 12, 1932.

Mr. JAMES A. FARRELL, *New York City.*

MY DEAR MR. FARRELL: The question of assuring during war an adequate supply of manganese ore to maintain the production of the steel industry at the rate demanded by the expected military program, is one that has received much thought in the War Department. Recently there has been brought to our attention the effort of the Cuban American Manganese Co. to produce from Cuban manganese ores a product which will, to a large extent, meet our war-time requirements.

In order to bring to the attention of the manganese consumers the interest of the War Department in domestic and near-by production I have written a letter to the Secretary of the American Iron and Steel Institute, copy of which I inclose. I shall very much appreciate whatever attention you may desire to give this matter.

Sincerely yours,

F. H. PAYNE,
The Assistant Secretary of War.

Same letter to each of the following: Mr. Eugene G. Grace, Cunard Building, New York City; Mr. J. J. Ricks, president Union Carbide & Carbon Co., Carbide and Carbon Building, New York City; Mr. E. M. Lavino, Bullitt Building, Philadelphia, Pa.

With this effort on the part of the War Department adequately to protect the welfare of the Nation by requesting the cooperation of the steel industry with the domestic manganese producers there should be encountered no opposition to the imposition of the small tax proposed. The proposed amendment should be construed as one-third protection and two-thirds revenue, which at this time, should be welcome to those who are seeking ways and means to increase the income of the United States and to balance the Budget. The stimulus afforded to the American manganese industry will also result in the employment of some 50,000 men and in increasing the sources from which income taxes may be derived.

I, therefore, appeal to the committee to give this matter their most careful consideration with a view to including it in the tax bill to be reported.

STATEMENT OF J. CARSON ADKERSON, WOODSTOCK, VA., PRESIDENT OF THE AMERICAN MANGANESE PRODUCERS ASSOCIATION

Mr. ADKERSON. Mr. Chairman and members of the committee, my name is J. Carson Adkerson, and my home is Woodstock, Va. I am a miner of manganese ores. I am president of the American Manganese Producers Associations, representing 95 per cent of the manganese ore producers of the United States.

I would like the privilege of completing a brief statement. After that I shall be glad to answer questions if there are any.

I know it is not the desire of some of the members of the committee to inject tariff matters into the tax bill, but a situation exists which

concerns the welfare of every citizen of the United States. The matter is beyond the question of tariff policies, beyond partisan politics, beyond the matter of revenue, and beyond mere economic interests.

Sir Robert Hadfield, in an address before the Iron and Steel Institute of England quoted an old Chinese proverb:

They who own the iron ore rule the world.

He continued:

It would almost seem safe to add that they who own the manganese of the world have largely in their hands the control of steel of satisfactory quality such as is now necessary to meet modern requirements.

England is lending encouragement to the development of deposits in India and the Gold Coast of Africa. Control of these properties is retained by Great Britain for the avowed purpose of supplying the needs of the British Empire in an emergency.

France has no manganese deposits within her borders and is compelled to rely upon imported manganese to supply her requirements. The steel production of France has seldom exceeded 9,000,000 tons per year. The production of steel in the United States is normally almost 50,000,000 tons per year; more than five times as great as France. But France, though producing only one-fifth as much steel as the United States, has since the World War been buying more manganese than the United States. A huge reserve of manganese ore has thus been accumulated within the borders of France, and she is still buying more against a possible recurring national emergency.

Under date October 3, 1927, I received the following letter from the Assistant Secretary of War:

WAR DEPARTMENT,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, D. C., October 3, 1927.

Mr. J. CARSON ADKERSON,
Hy-Grade Manganese Co. (Inc.), Woodstock, Va.

MY DEAR MR. ADKERSON: Your work in the development of an adequate supply of manganese ore to meet the industrial needs of the United States has been brought to my attention. Your activities along this line are rendering valuable service in the solution of the problems of industrial preparedness, and I wish to express my appreciation of the work that you are doing.

It appears that manganese is essential to the production of steel and without steel national defense is obviously impossible. The safety of the country requires that we have a readily available source of manganese within the United States. Those who are working to meet this requirement have my best wishes for success.

Sincerely yours,

HANFORD MACNIDER,
The Assistant Secretary of War.

In November, 1930, the Assistant Secretary of War in an address before the American Manganese Producers in convention in Washington, said as follows:

Of the raw materials necessary to us in war none is more important than manganese. The problem of providing an adequate supply is aggravated by the fact that we largely rely upon foreign sources to meet our demands in this material. * * * We take a deep interest in the efforts of the domestic manganese producers to develop processes that would enable the United States to utilize its large deposits of law-grade ore and be at least partially self-sustaining in this respect.

At the same convention, following the Assistant Secretary of War, Maj. Alfred H. Hobley, in charge of the division of raw material of the War Department, spoke as follows:

After considering all possible solutions to the manganese problem it appears that one of the safest methods from the standpoint of the production in war time is the development of the domestic industry to the point where it would be in existence and offer a satisfactory nucleus for expansion to the necessary degree to meet the increased needs that might arise as a result of military activity.

In November, 1930, the War Department called a conference of American manganese producers from various parts of the United States in an effort to solve the vital problem of developing an adequate output of domestic manganese ore for the needs of the United States. Full record of the conference is in the hands of the War Department and it shows conclusively that the entire requirements of the United States may be supplied from domestic properties, providing the developments are carried forward.

In February, 1932, the Assistant Secretary of War addressed a letter to the American Iron and Steel Institute and to the consumers of manganese ore in this country, asking their help in the further development of the domestic manganese industry. The letter is as follows:

WAR DEPARTMENT,
Washington, D. C., February 12, 1932.

Mr. HOWARD H. COOK,
Secretary American Iron and Steel Institute,
New York City.

MY DEAR MR. COOK: The question of assuring during war time an adequate supply of manganese ore to maintain the production of the steel industry at the rate demanded by any military program, is one that has received much thought in the War Department. This question resolves itself into a situation in which foreign sources of this ore are denied to this country and reliance must be placed on domestic or nearby producers.

It has come to the attention of the War Department that the Cuban American Manganese Co., a subsidiary of the Freeport Texas Co., has expended considerable effort and capital to determine methods to produce from Cuban manganese ores a product which will be the equal in every way of foreign ores now largely used by the steel industry and which can be marketed in this country on a price basis comparing favorably with foreign ores. The department is informed that both of these objectives have been attained.

In view of the dependence of the military requirements upon steel products and of the supreme importance of manganese in the making of sound steel, it is deemed essential to have available at the beginning of a major war a domestic or near-by operating source of manganese ore.

To create such an operating source during peace time the producers must have a market for their output. It is therefore suggested that you bring to the attention of the members of the institute, who are consumers of manganese ore, the viewpoint of the War Department and its hope that the domestic and Cuban projects may possess sufficient merit to warrant their assistance in encouraging the development during peace time of these sources of manganese supply for war time needs.

Because I know of their interest in this matter I am taking the liberty of sending a copy of this letter to Mr. Farrell, of the United States Steel Co.; Mr. Grace, of Bethlehem Steel Co.; Mr. Ricks of the Union Carbide Co., and Mr. Lavino, of Lavino & Co.

Sincerely yours,

F. H. PAYNE,
The Assistant Secretary of War.

Admiral Jellicoe, former admiral of the British Navy, speaking before the Navy League of Canada, according to the Canadian press of September 4, 1931, stated that the reasons expressed by an American admiral at the Geneva conference for an equal American fleet was "manganese."

The United States Government has only one solution to its manganese problem and that is to give proper encouragement to the development of manganese mines in the United States.

A 1 cent tax on imported manganese should solve this problem and mean a revenue to the Government of from three to four million dollars a year. It will put new life into the manganese industry in a widely distributed area throughout the United States. It will add only 16 cents to the cost of a ton of steel. It will bring forth a supply of manganese to help serve American industry during times of peace and will insure a dependable supply to the United States during any major war.

In 1922 a tariff of 2 cents was asked for domestic manganese. A 1-cent tariff was granted covering ores down to 30 per cent manganese content, the lower grade ores coming in free. In 1930 the tariff was extended to cover ores down to 10 per cent manganese, but the tariff of 1 cent was not increased.

In spite of the inadequate protection developments of domestic manganese deposits proceeded and the production of high-grade manganese in the early part of 1930 increased 400 per cent over the same months of the previous years. This production kept up only a few months during 1930, when suddenly it was stopped by the dumping in the United States of foreign ores sold at prices far below the American cost of production. Foreign shippers have offered to undersell any American producer of manganese ore at any price the American producer may quote. Consequently, the manganese industry of the United States has been left without protection, the American manganese plants to-day stand idle, the mines are filling with water, and the workings are caving in.

It takes years to carry forward development of underground mines. It takes years to work out processes for the treatment of the ores and for the installation of plants. This can not be accomplished in a few months' time. If the manganese industry is compelled to wait a matter of two or three years before proper legislation can be passed and work started, you gentlemen may find it is too late.

That early action on manganese is of first importance and may suddenly become vital to the Nation's welfare is clear.

Therefore, I ask this committee to include in this revenue bill, the amendment offered by Senator Oddie, as follows:

Amendment introduced by Senator Oddie to the bill (H. R. 10236) to provide revenue, equalize taxation, and for other purposes.

Amendment to section 601, page 232, between lines 15 and 16, insert the following:

"(4) An excise tax of 1 per cent per pound shall be levied on the metallic manganese content of all imports into the United States of manganese ore (including ferruginous manganese ore) or concentrates, and manganiferous iron ore, all the foregoing containing in excess of 10 per cent of metallic manganese; and an excise tax of 1½ cents per pound shall be levied on the metallic manganese content of all imports into the United States of manganese metal, manganese silicon, ferromanganese, and spiegeleisen."

Mr. ADKERSON. Thank you. I would like the privilege of inserting a brief into the record.

The CHAIRMAN. All right; it can go in at this point.

(Brief of Mr. Adkerson is here printed in full.)

BRIEF OF AMERICAN MANGANESE PRODUCERS ASSOCIATION

Re an amendment to section 601 of H. R. 10236 providing for a tax on imported manganese ore.

The United States has only one solution to its manganese problem, and that is to give proper encouragement to the development of manganese mines in the United States.

Manganese is absolutely essential in the manufacture of steel; there is no substitute. The assurance of an adequate supply for American industries, in the event of a blockade or during the period of a major war, has, since the lesson learned during the World War, been a matter of grave concern to the United States.

A general review of the manganese industry is presented in the United States Bureau of Mines publication, Manganese and Manganiferous Ores in 1930 (Mineral Resources of the United States, 1930, Part I), as follows:

"SUMMARY FOR 1930

"Continuation, under the tariff act of 1930, of the duty of 1 cent per pound of contained manganese and its extension to cover ores containing as low as 10 per cent of manganese, probably constituted the most important event in the domestic manganese situation during 1930. The efforts of domestic producers to have an embargo placed on imports of manganese ore from Russia because of alleged dumping of ore and of its production by convict labor failed.

"The year 1930 was characterized by falling prices, decreased consumption, decreased imports, and increased domestic production. Domestic production (shipments) of manganese ore (35 per cent or more of manganese) increased 11 per cent but was still insufficient for domestic requirements.

"Domestic mines shipped 67,035 long tons of manganese ore (35 per cent or more of manganese), compared with 60,379 tons in 1929. Shipments of ferruginous manganese ore amounted to 77,417 tons, compared with 78,191 tons in 1929, and shipments of manganiferous iron ore amounted to 707,973 tons, compared with 1,110,067 tons in 1929. The production of ferromanganese decreased from 339,205 long tons in 1929 to 274,830 tons in 1930 and the production of spiegeleisen decreased from 137,143 long tons in 1929 to 87,059 tons in 1930.

"Imports of manganese ore amounted to 585,568 long tons, compared with 664,269 tons in 1929.

"From an international standpoint the continued development of the African manganese-ore deposits in the face of overproduction and active competition was the outstanding feature of the year. Among the developments of significance in Africa were (1) the completion of the railroad from Postmasburg to Koopmansfontein, South Africa; (2) the completion of the new wharf and loading facilities at Durban, South Africa; (3) the completion of the new ore-handling facilities at Takoradi Harbor, Gold Coast; and (4) the development of the deposits in Bou Arfa, Morocco. The increased production from Russia in spite of decreased world consumption and lowered prices was not without its effect upon the manganese situation."

TARIFF HISTORY

In 1922 a tariff of 2 cents was asked for domestic manganese. A 1-cent tariff was granted covering ores down to 30 per cent manganese content, the lower grade ores coming in free. In 1930 the tariff was extended to cover ores down to 10 per cent manganese, but the 1-cent tariff was not increased.

DOMESTIC PRODUCTION

In spite of inadequate protection, developments of domestic manganese deposits proceeded and the production of high-grade manganese in the early part of 1930 increased 400 per cent over the same months of the previous years. This production kept up only a few months during 1930, when suddenly it was stopped by the dumping in the United States of foreign ores sold at prices below the American cost of production. Foreign shippers have offered to undersell any American producer of manganese ore at any price the American producer may quote. Consequently, the manganese industry of the United States has been left without protection; the American manganese plants to-day are idle and the mines are filled with water and caving in.

DEPOSITS AND RESERVES

The official map of the United States Bureau of Mines shows 314 deposits of manganese in 34 States, as follows:

Alabama.	Maryland.	New York.	Utah.
Arizona.	Massachusetts.	North Carolina.	Vermont.
Arkansas.	Michigan.	Oklahoma.	Virginia.
California.	Minnesota.	Oregon.	Washington.
Colorado.	Missouri.	Pennsylvania.	West Virginia.
Connecticut.	Montana.	South Carolina.	Wisconsin.
Georgia.	Nevada.	South Dakota.	Wyoming.
Idaho.	New Jersey.	Tennessee.	
Maine.	New Mexico.	Texas.	

The United States has from 200,000,000 to 400,000,000 tons of low-grade ores. Processes have been developed for the recovery of high-grade ores from these low grade deposits. The domestic ores produced by the newer methods of beneficiation are higher grade than any other ores known in the world's market.

American ores run from 45 per cent to 60 per cent manganese, with the major production near 58 per cent.

Foreign ores run from 43 to 52 per cent manganese, as follows: Russia, 49.95 per cent manganese; Brazil, 43.56 per cent manganese; British India, 51.94 per cent manganese; Gold Coast, 49.40 per cent manganese.

The history of mining has largely disclosed that where mining operations are carried forward additional reserves are developed beneath the surface. Our present known reserve is sufficient to last from 50 to 100 years. Additional work will, undoubtedly, disclose additional reserves. There is no reasonable possibility of exhaustion of the manganese reserves in the United States.

Imports of manganese ore into the United States

[U. S. Bureau of Mines]

Year	Total from all countries	Imports from Russia	
	Gross tons	*Gross tons*	*Per cent*
1922 [1]	425,000	3,284	0.4
1923 [1]	419,000	23,340	5.9
1924 [1]	505,000	82,194	17.8
1925 [1]	615,000	220,074	40.0
1926 [1]	738,000	244,690	35.2
1927	622,067	253,544	40.8
1928	427,708	109,842	26.7
1929	664,269	329,336	49.6
1930	585,568	225,888	38.6
1931	502,518	195,834	39.0

[1] U. S. Bureau of Mines estimate of gross weight, based on actual manganese content.

GREAT BRITAIN AND FRANCE

Sir Robert Hadfield concluded an address before the British Iron and Steel Institute with these words: "It would almost seem safe to add that they who own the manganese of the world have largely in their hands the control of steel of satisfactory quality such as is now necessary to meet modern requirements." (The Metal Manganese and Its Properties, before the British Iron and Steel Institute, 1927.)

From the discussion which followed this address by Sir Robert Hadfield, The Iron and Coal Trades Review, June 10, 1927, quotes as follows: "In this discussion Colonel Levey (Gold Coast Government Commercial Intelligence Bureau) stated that he wanted to refer to the erroneous report with regard to the Americans having control of the West African deposits. That was not so. The Americans had been endeavoring for a long time to obtain concessions in the Gold Coast for the purpose of working deposits on their own, but so far they had not succeeded in obtaining a single concession of any kind in the Gold Coast Colony. Whatever they wanted from the Gold Coast they had to get through the existing British Company." (U. S. Bureau of Mines, Mineral Resources of the United States, 1927—Part I.)

England is lending encouragement to the development of deposits in India and the Gold Coast of Africa. Control of these properties is retained by Great Britain for the avowed purpose of supplying the needs of the British Empire in an emergency.

France has no manganese deposits within her borders and is compelled to rely upon imported manganese to supply her requirements. France, though producing only one fifth as much steel as the United States, has since the World War been buying more manganese than the United States. A reserve has thus been accumulated and she continues to buy more against a possible period of emergency.

Figures showing comparative steel production and manganese imports of France and the United States follow:

Imports of manganese ore into the United States by countries—for years 1930–31

[U. S. Bureau of Mines]

Country	1930	1931
	Gross tons	*Gross tons*
Brazil	185,048	133,927
Canada	15,998	18,832
Chile	3,485	1,748
Cuba	2,071	3,804
Germany	66	30
Gold Coast	93,142	87,439
Greece	9	.....
India (British)	58,150	47,850
Java and Madura	1,602	1,754
Soviet Russia in Europe	225,888	195,834
Union of South Africa	.....	5,002
United Kingdom	109	6,298
Total	585,568	502,518

Year	Imports of manganese ore		Manufacture of steel (ingot and castings)	
	France	United States	France	United States
	Gross tons	*Gross tons*	*Metric tons*	*Gross tons*
1927	649,172	622,067	8,306,000	44,935,185
1928	726,571	427,708	9,500,000	51,544,180
1929	787,596	664,269	9,699,000	56,433,473
1930	699,321	585,568	9,447,000	40,699,483

[Department of Commerce figures]

UNITED STATES

The Assistant Secretary of War, Hon. Frederick H. Payne, in an address before the American Manganese Producers in convention in Washington, November 10, 1930 (Proceedings Third Annual Convention American Manganese Producers Association), stated as follows:

"Of the raw materials necessary to us in war, none is more important than manganese. The problem of providing an adequate supply is aggravated by the fact that we largely rely upon foreign sources to meet our demands in this material. Consequently, it is easy to see why we are so interested in the activities of the American Manganese Producers Association.

"We take a deep interest in the efforts of the domestic manganese producers to develop processes that would enable the United States to utilize its large deposits of low grade ore and be at least partially self-sustaining in this respect. The existence of an organization such as the American Manganese Producers Association implies a mobilization of the nation's manganese resources and makes available a direct means of contact with the industry. The association has shown that it is a live, active body, in other words a "going" concern. As such, it can be of the greatest assistance to the War Department in developing a national industrial program for the nation's use should we unfortunately be thrust into war."

At the same convention (Proceedings Third Annual Convention American Manganese Producers Association) Maj. Alfred H. Hobley, in charge of the division of raw materials, of the War Department, spoke as follows:

"In considering the problems involved in supplying this country with raw materials in war time, it is well to keep in mind the relative difficulties involved. In the case of shortage of shipping, or enemy interference with shipping, volume becomes a matter of considerable importance. There is, of course, a great difference in the volume of the various essential raw materials. In the case of platinum, for instance, enough could be brought into the country in a trunk to last almost a year. In the case of manganese, the annual domestic consumption is in the neighborhood of 700,000 to 800,000 tons of ore which would require considerable shipping capacity. This fact is of some importance when considering the problem of the development of substitutes.

* * * * * * *

"It has been suggested that a large quantity of manganese ore might be imported into the country at the outbreak of an emergency. Such a solution to the manganese problem is, of course, possible, but is open to the serious objection that it is difficult to anticipate the outbreak of a war, and interference by the enemy with our imports would prevent the success of such a plan. It is also necessary to consider the practical operations of industry. They are usually keyed up to operate at a certain rate, and it is quite difficult, if not impossible, to suddenly accelerate them. Therefore whether it would be possible suddenly to obtain the necessary increase in the normal importation rate of manganese would depend upon other factors besides shortage of shipping or possible enemy interference with shipping.

* * * * * * *

"After considering all possible solutions to the manganese problem, it appears that one of the safest methods from the standpoint of production in war time, is the development of the domestic industry to the point where it would be in existence and offer a satisfactory nucleus for expansion to the necessary degree to meet the increased needs that might arise as a result of military activity. To a certain extent this is what the domestic manganese producers have been trying to do and in which they have encountered considerable difficulty and resistance. Entirely from a neutral standpoint, it appears that the controversy about manganese, like any other controversy, has two sides. One side is that of the producer, the other that of the consumer."

Excerpt from an address made by Admiral Jellicoe, of the British Navy, before the Navy League of Canada, follows:

"'There is the question of prosperity of our Dominions. Although the Dominions are largely self-supporting so far as foodstuffs are concerned there are imports and exports which are essential, if not for life, for prosperity. For that reason, we could not agree to the limit put before us by the United States of America.'

"The Admiral stated that he had advanced these points at the Geneva Conference, and recalled the fact that an American admiral had stated that the United States was dependent upon sea communications for foods. I said, 'In what direction?', and he said, 'Manganese'." (The Globe, Toronto, Canada, September 4, 1931.)

DOMESTIC ORE COSTS AND TAX RECOMMENDED

The brief filed by the American Manganese Producers Association before the Ways and Means Committee during the hearings on the 1930 tariff act, shows the cost of domestic production to be from 60 to 70 cents per unit ($30 to $35 per ton) with an average cost of 65 cents per unit ($32.50 per ton) delivered Pittsburgh. This brief also stated "that a price of between 65 and 70 cents per unit delivered at Pittsburgh is necessary in order to bring about a substantial contribution to domestic requirements of manganese."

	Cents per unit (22.4 pounds)	Dollars per ton
Sales price of foreign ore at Baltimore	16.00	8.00
Freight and handling to Pittsburgh	5.04	2.52
1930 tariff	22.40	11.20
Present price delivered Pittsburgh duty paid	43.44	21.72
Tax necessary to equalize costs (at 1 cent per pound 50 per cent ore)	22.40	11.20
Total	65.84	32.92

If a 1 cent per pound tax on metallic manganese content is levied on imported manganese ore and 1⅛ cent on manganese contained in alloys, it is estimated one-third of the tonnage now imported will come from domestic properties and two-thirds will continue to be imported. Therefore, the revenue to be derived will be $4,169,648 as shown by the following table:

Imports for year 1931

	Tons (2,240 pounds)	Metallic manganese content (tons 2,240 pounds)	Tax of 1 cent per pound
Manganese ore	502,518	245,910	$5,[illegible]98,384
Ferromanganese spiegeleisen and alloys	22,000	17,764	[1] 746,088
Total			[1] 6,254,472

[1] Tax of 1⅛ cents per pound.

Tax to be expected (two-thirds of 1931 total), $4,169,648.

Respectfully submitted.

AMERICAN MANGANESE PRODUCERS ASSOCIATION,
By J. CARSON ADKERSON, *President.*

APPLICATION OF IMPORT TAXES NOTWITHSTANDING TREATY PROVISIONS

STATEMENT OF GEORGE GORDON BATTLE, NEW YORK CITY, REPRESENTING THE CUBAN-AMERICAN CHAMBER OF COMMERCE OF THE UNITED STATES

Mr. BATTLE. Mr. Chairman, and members of the committee, I am here to-day to represent the Cuban-American Chamber of Commerce of the United States, which is an organization including a number of business houses doing business between this country and Cuba, and having its office in New York City at 67 Wall Street. The president of the chamber of commerce is Mr. Rogilio Garcia, and so it may be said here that I bring not a message to Garcia but a message from Garcia, and a message of very vital importance to the interests that I represent.

My message is directed, sirs, to subdivision (5) of subdivision (b) of section 601 of the act under consideration. That subdivision provides "such tax shall be imposed in full notwithstanding any provision of law or treaty"—"or treaty granting exemption from or reduction of duties to products of any possession of the United States or of any country."

It will be seen that the provisions of this subsection are in direct abrogation, and indeed, a violation of the provisions of the treaty between this country and Cuba.

The CHAIRMAN. We have a letter from the State Department on the same subject.

Mr. BATTLE. The commercial convention between this country and the Republic of Cuba in 1902 provided in its very first article that as to all articles of merchandise which were at that time being imported from Cuba to this country or from this country to Cuba free of duty, that such articles of merchandise were to continue to be imported into the respective countries free of duty.

The second and the third articles of that treaty provided that such articles of merchandise as had an import duty or a tariff duty at that time should receive a diminution of 20 per cent. In other words, that there should be a differential of 20 per cent on all articles as to which a duty existed at that time. Where there was no duty at all, then in the future there should be no duty. Where there was a duty, that in the future that duty should be reduced by 20 per cent.

So that by the express provisions of this commercial convention between this country and Cuba there was as to articles then free of duty a provision that there should be no duty in the future. And where as to articles on which there was a duty in 1902 there should be in the future a reduction of 20 per cent. So that the provisions of subdivision (5) of subsection (b) of section 601, which I have quoted, are in direct abrogation of those provisions of the treaty of 1902.

Now this treaty of 1902 has been since confirmed in several instances and notably in the tariff law of 1930, in which it was expressly provided by the terms of section 1316 of the Code of Laws of the United States forming a part of the tariff law of 1930, that nothing contained

in the tariff law of 1930 should in any way abrogate or impair the effect of the provisions of that treaty.

Senator REED. Mr. Battle, is this question of any importance on the House bill itself? We get no oil and no coal from Cuba.

Mr. BATTLE. I do not know, sir. I do not know how it came to come into the act. It seems to appear in the act without any special reason for it.

Senator REED. Well, I can understand that if manganese were subjected to a tax it would be an important question for Cuba. But as the House bill stands the only two items on which there is a tariff imposed are items in which Cuba has no concern.

Mr. BATTLE. Well, I understand that there are some imports of copper and some of oil. I do not think they are large.

The CHAIRMAN. I understood there were. It was testified to the other day.

Mr. BATTLE. Yes; but apart from the practical effects, the principle of it so vitally important to the people that they are interested.

Senator REED. It amounts to a pro tanto repeal of the Cuban treaty and treaties of the same sort, if we have any others.

Mr. BATTLE. It does. Pro tanto abrogation of those treaties.

The CHAIRMAN. We have a letter from the State Department on the same subject.

Mr. BATTLE. Your committee will recall the peculiar relations between this country and Cuba, by the treaty of 1903 when Cuba allowed our country to intervene for the purpose of maintaining the independence of Cuba or maintaining a stable government. So in a sense we are in a position somewhat as a trustee toward Cuba; there is a fiduciary capacity there, and along with the privilege there comes a corresponding responsibility to treat our obligations to Cuba with peculiar sensitiveness and tenderness.

The treaty itself provides for a method of abrogation. It says that if either side desires to abrogate any of the provisions of the treaty they can do so on a notice of one year. So there is an abundant means of abrogating the treaty legally and in due course if it is the desire to do so, and not by this one-sided process of abrogation.

Senator REED. You haven't any doubt but what this would be effective if we were to pass it?

Mr. BATTLE. No. Congress has the power to do it.

Senator REED. It would be discourteous and abrupt, but it would be effective.

Mr. BATTLE. It would be discourteous and abrupt, and I think it would even amount to a breach of faith.

The CHAIRMAN. I do not think there is any need to take much time on it.

Mr. BATTLE. Very good.

Senator HARRISON. We had this matter up on avocados when we sought a tariff on that in violation of that treaty.

Mr. BATTLE. There have been very heavy investments both by Cubans and Americans on the strength of this treaty, and I feel sure, just as your distinguished chairman has said, that when it is called to the attention of the committee they will see that the provision is deleted from the bill.

Senator REED. That is section 601 (b) (5)?

Mr. BATTLE. It is subsection (5) of subdivision (b) of section 601. Thank you very much.

PROPOSED TAX ON BUTTER IMPORTS

STATEMENT OF HON. A. C. CHRISTOPHERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH DAKOTA

Representative CHRISTOPHERSON. Mr. Chairman and gentlemen, you have heard arguments on tariffs on other things, and I am going, for a few minutes, to take you back to the tariff. I am going to ask you for an increased rate on butter.

In the Smoot-Hawley bill, you gave us 14 cents a pound. I believe that was reasonable at that time. But since that time the rate of exchange has fallen and as a consequence the foreign producer has advantage over us. As an effect of that, while in October, 1930, there were imports from Canada of 17,575 pounds, in October, 1931, the first month after the differential in the exchange rates, the imports were 499,007 pounds. And as an evidence of the effect that had on the butter industry during the summer prices on butter had increased. In my State it ran up until the butter fat was selling at 30 cent a pound in September, But as soon as the imports began to increase, in October, the price of butter began to decrease, notwithstanding the fact that we were entering the late fall and winter, when the prices ought to have gone up; and they kept falling until they reached 20 cents when I came here in December, and it is now selling for 16 cents in my State. I saw a clipping and took it out of a paper in my State this morning, showing where a farmer had brought in a can of cream, for which he received $2.10. Two years ago he would have received nearly $9 for that same can of cream.

Senator SHORTRIDGE. What State are you from?

Representative CHRISTOPHERSON. South Dakota.

Senator SHORTRIDGE. Go right on, Congressman.

Representative CHRISTOPHERSON. We produce a great deal of butter and cream out there.

Now it makes a vast difference to the farmer. The farmer, out of his butter products receives the money out of which he meets his home expenses, and if the prices are favorable he gets along fine, but as they are now, it does not reach around. Ten cents a pound to him was a tremendous drop in the price, but it has gone to as much as 20 cents drop. That is too much. The same thing is true in every State. It is not only in my State, but is is in every State that produces butter fats.

Now, gentlemen, I am not asking for a new tariff. I am only asking that you give us a tariff which will again equalize the difference in the exchange rates.

Senator WALSH of Massachusetts. And what was that?

Representative CHRISTOPHERSON. It was 14 cents. Now we ought to have from 7 to 8 cents. Last September, when I had the Tariff Commission look the matter up and report to me, the differential

was 6¾ cents. With the foreign countries, like Denmark, and New Zealand, the differentials are greater. The rates of exchange with Canada have increased somewhat, so there is about 11 cents difference there.

Senator CONNALLY. You have recourse to the Tariff Commission's discretion for a 50 per cent increase.

Representative CHRISTOPHERSON. Yes. I took that up, but I found they could not help us. I hope you will grant us this increase, because it is a great help to the farmers.

Senator REED. Let me ask you one question.

Representative CHRISTOPHERSON. Yes.

Senator REED. I understand the condition with your butter is about the same as that of all other products which are in competition with the countries whose currency has depreciated.

Representative CHRISTOPHERSON. Yes.

Senator REED. Ought we not to apply some general rule to the products coming from those countries?

Representative CHRISTOPHERSON. I am absolutely agreeable to that.

Senator REED. If it is fair on butter, it would be fair on other imports.

Representative CHRISTOPHERSON. I am only asking for it on butter, because we produce a great deal of butterfat.

Here is a letter which has been handed to me, which I will be glad to leave with the committee.

The CHAIRMAN. You may hand it to the reporter to be inserted in the record at this point.

(The letter presented by Representative Christopherson is printed in full in the record, as follows:)

APRIL 16, 1932.

Mr. OSSIAN ANDERSON,
Hotel Mayflower, Washington, D. C.

DEAR MR. ANDERSON: You may have noticed that Sweden is now shipping a quantity of butter to the United States with this propaganda printed on every package:

"We are sending this butter to balance, if possible, the large American exports to Sweden. American automobiles and Scandinavian butter are both world famous, but we can not continue to purchase your automobiles unless you purchase our merchandise."

As the dairy industry, in common with other industries, has been meeting difficult competition due to depreciated exchange of other nations and has as an industry started some defense measures, my thought was that in the event this new type of propaganda had escaped you it might be desirable to coordinate the defense of the dariy industry with tnat of the wood-pulp industry.

The inference of course is that Sweden opens her arms to goods exported from the United States, whereas the fact is that most of the United States exports must overcome Swedish tariff barriers.

Copies of this letter are being sent to several other executives interested in the protection of the pulp and paper industry who might be able to enlist some support from the dairy interests in their vicinity.

A picture of a Swedish creamery butter package showing the propaganda message appears in The Business Week for April 13, 1932.

Very truly yours,

PACIFIC PULP & PAPER INDUSTRY,
L. E. THORPE, *Editor.*

Representative CHRISTOPHERSON. I also have a tabulation showing the imports of butter for consumption into the United States from

Canada, Denmark, and New Zealand for the last three months of 1930 and 1931, and for January, 1931, and 1932.

Also a tabulation showing the prices and price differences of butter for domestic and foreign countries.

Also a tabulation showing the Canadian exchange rates.

The CHAIRMAN. They may go into the record in connection with your remarks.

(The tabulations presented by Representative Christopherson are here printed in the record, in full, as follows:)

Butter—Imports for consumption into the United States from Canada, Denmark, and New Zealand, for last three months of 1930 and 1931 and for January, 1931 and 1932

[Source: Monthly statistics of imports for consumption, U. S. Department of Commerce]

Year and month	Canada		Denmark		New Zealand		All other		Total, all countries	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
	Pounds		*Pounds*		*Pounds*		*Pounds*		*Pounds*	
October:										
1930	17,575	$3,574	11,202	$1,989	32,652	$9,675	5,366	$1,327	66,197	$20,965
1931	499,697	112,473	29,514	9,848	23,824	8,300	2,208	547	564,545	131,758
November:										
1930	3,227	1 218	2,428	2,913	78,495	22,127	14,546	5,591	108,689	30,839
1931	37,204	5,186	17,441	5,277	69,704	13,451	6,991	1,694	122,340	25,608
December:										
1930	7,063	1,486	15,897	8,153	67,388	18,271	6,654	1,522	96,992	29,422
1931	20,711	3,226	23,060	7,903	74,704	15,116	8,210	1,772	127,226	27,917
Total (calendar years)—										
1930	96,517	27,497	969,378	345,613	978,496	309,616	405,494	128,677	2,449,785	809,803
1931	603,946	127,803	235,723	100,583	844,424	217,402	65,865	14,539	1,749,958	460,604
January:										
1931	17,096	1,167	20,080	10,514	78,608	20,337	8,209	1,369	123,287	33,387
1932	14,435	2,011	15,718	5,869	78,406	14,589	6,613	1,367	115,172	23,836

Butter—Prices and price differences of domestic and foreign countries

[Source: New York price, Crops and Markets; London price, Foreign Crops and Markets; Montreal price, Mo. Bul. of Agric. Sta., Canada]

[Cents per pound]

Month	New York, 92 score	London			Montreal	New York price exceeds—			
						London price—			Montreal
		Danish	New Zealand	Australian		Danish	New Zealand	Australian	
1930									
January	37	37	34	33	40	0	3	4	−3
February	36	38	32	32	39	−2	4	4	−3
March	37	34	30	29	36	3	7	8	1
April	39	30	27	27	35	9	12	12	4
May	35	29	28	28	32	6	7	7	3
June	33	30	29	28	30	3	4	5	3
July	35	33	30	30	30	2	5	5	5
August	39	32	29	28	30	7	10	11	9
September	40	33	28	27	32	7	12	13	8
October	40	33	25	25	33	7	15	15	7
November	36	30	23	23	33	6	13	13	3
December	32	30	24	23	32	2	8	9	0
1931									
January	28	29	25	24	33	−1	3	4	−5
February	28	32	27	26	34	−4	1	2	−6
March	29	30	26	25	34	−1	3	4	−5
April	26	27	24	23	32	−1	2	3	−6
May	24	26	24	23	23	−2	.....	1	1
June	23	26	24	23	21	−3	−1	.....	2
July	25	26	25	24	23	−1	.....	1	2
August	28	27	25	24	24	1	3	4	4
September	32	26	23	23	26	6	9	10	6
October	34	23	21	20	25	11	13	14	9
November	31	22	18	18	23	9	13	13	8
December	31	21	15	15	24	10	16	16	7
1932									
January	24	19	15	15	.....	5	9	9	.....
February	22	22	16	16	.....	.....	6	6	.....
March	23	20	18	17	.....	3	5	6	.....

Canadian exchange rates

[Par of exchange, $1]

	Actual exchange rates
1931—January	$0. 9979
February	. 9998
March	. 9998
April	. 9995
May	. 9994
June	. 9972
July	. 9966
August	. 9969
1931—September	$0. 9625
October	. 8910
November	. 8899
December	. 8271
1932—January	. 8513
February	. 8729
March	. 8945

Representative CHRISTOPHERSON. Thank you kindly.

PROPOSED TAX ON TUNA, SWORDFISH, AND SALMON IMPORTS

PROPOSED TAX ON TUNA AND SWORDFISH IMPORT

SAN DIEGO, CALIF., *April 5, 1932.*

Senator SAMUEL SHORTRIDGE,
House of Senate, Senate Office Building, Washington, D. C.,

MY DEAR SENATOR: For some time there has been developing a necessity for the protection of the California tuna industry. Events have transpired during the last year, which now make it insistent that we go to our Congressmen for help.

Tuna canned in Mexico, and also in Japan, is put up on a silver currency, and labor paid accordingly; fishermen are also paid in the same way. Canned products from both of these countries are landed duty paid in our ports at less than our cost of production. Primarily this is because they pack on a silver basis and sell on a gold basis. Packs in both of these countries have been increasing so rapidly that they have already not only handicapped the industry of this State, but threatened to put out of business a number of canners if there is not a remedy forthcoming within the near future. May I bespeak your interest?

Very truly yours,

WESTGATE SEA PRODUCTS CO.,
W. V. AMBROSE, *President.*

LOS ANGELES, CALIF., *February 23, 1932.*

Hon. SAMUEL M. SHORTRIDGE,
United States Senate, Washington, D. C.

DEAR SENATOR SHORTRIDGE: The Los Angeles Chamber of Commerce has been requested by representatives of the fish canning industry on the Pacific coast to assist them in having the fisheries included as a natural resource in any legislation setting up a Federal authority to permit production control agreements in natural resource industries where conditions of overproduction may exist.

This request has been given careful consideration by our board of directors and they have instructed me to request that you give this matter your favorable consideration. As you are no doubt aware, the fish-packing industry has been in a very undesirable condition for the past several years, largely as a result of overproduction.

Our board of directors is firmly convinced that the establishment of legalized production agreements would be of material assistance in restoring this industry to a more stable condition.

It is understood that legislation of this type is now being considered and anything that you may do toward effecting the inclusion of the fisheries will be greatly appreciated.

Very truly yours,

LOS ANGELES CHAMBER OF COMMERCE,
A. G. ARNOLL, *Secretary and General Manager.*

RESOLUTION ADOPTED BY SAN DIEGO PARLOR NO. 103, NATIVE SONS OF THE GOLDEN WEST, SAN DIEGO, CALIF.

Whereas the fishing industry constitutes San Diego's largest and most prosperous commercial activity; and

Whereas this industry involves a very large investment in boats, tackle, docks, canneries, etc., and furnishes employment for thousands of our citizens; and

Whereas the importation of frozen tuna and swordfish from Japan threatens to destroy this great industry: Therefore be it

Resolved, That San Diego Parlor No. 108, Native Sons of the Golden West-petition Senators Hiram W. Johnson and Samuel M. Shortridge and Congressman Philip D. Swing to take such action as is necessary to place a high tariff upon swordfish and tuna entering this country in other than American vessels; and be it further

Resolved, That copies of this resolution be sent to each of our Senators and Congressmen and to the daily press.

Adopted February 24, 1932.

E. H. DOWELL.
JOHN P. MURPHY.
R. E. MAHONY.

SAN DIEGO, CALIF., *February 5, 1932.*

HON. SAMUEL SHORTRIDGE,
Senate Office Building, Washington, D. C.

DEAR SENATOR: The San Diego County Federated Trades and Labor Council has unanimously voted to support the United Fishermen of Southern California in their effort to secure legislation that will protect the local fisheries from the importation of frozen tuna and swordfish from Japan.

The tuna packing industry is the largest single industry in San Diego and the welfare of the whole community is vitally concerned with its success. May we ask that you use your best effort to secure such tariff regulations as will protect our boat owners, fishermen, and canners from Japanese competition?

With best personal regards, we are,

Yours truly,

SAN DIEGO COUNTY FEDERATED TRADES AND LABOR COUNCIL,
By E. H. DOWELL, *Secretary.*

SAN DIEGO, CALIF., *February 29, 1932.*

HON. SAMUEL SHORTRIDGE,
Senate Office Building, Washington, D. C.

DEAR SIR: We are pleased to acknowledge receipt of your reply in regard to our fight for a higher tariff on Japanese swordfish and tuna.

Several new situations have arisen that we feel that you should receive information on, and which we feel will demoralize one of the largest industries on the Pacific coast. Last year there was shipped from Japan to Los Angeles Harbor and canned in competition with American-caught tuna over 3,500 tons of frozen tuna. That represents the catch of about 40 boats. The canners of San Pedro have taught the people of Japan a valuable lesson. That there is a market for their cheaply caught and delivered fish, and as there are a number of Japanese boats engaged in hauling wheat and other products from Seattle they expect to put this knowledge to work. A cannery is at present being promoted in Seattle to can and sell under an American label a product of Japanese raw material. At present there is engaged in the catching of the raw fish for these American canneries a fleet of 65 tuna clippers that represent an investment of over $6,000,000, at present this huge fleet is tied at the docks because of this undue competition, but if we have the assurance that there will be no more foreign fish, except that caught and delivered by the American fisheries which under the tariff are exempt, this situation will be relieved and at least 50 per cent more boats given employment. We suggest that a tariff of at least 4 cents a pound be levied.

The next problem that confronts us is the canned tuna from Japan. At present this product bears a 30 per cent ad valorem duty, but at the existing rates of exchange this duty becomes small indeed; in fact Japanese tuna is now quoted in New York at $1.50 per case less than the American product. We join the canners in praying for any and all relief that you may be able to give us in this matter.

Problem No. 3 that confronts us is the matter of fish meal and we suggest that a duty of at least $10 per ton be levied on this product. If some such tariff is not levied our very own shores will soon be denuded of fish that are as suitable for edible purposes as for fish meal or fertilizer as there is a plan on foot to place Japanese reduction schooners outside the territorial waters of this country and manufacture from American fish meal without restriction. The American manu-

facturer is limited to the amount of fish meal he produces by the amount of fish he packs in his cannery.

Trusting that this information will assist you in helping us to solve our problems we remain,

Sincerely yours,

UNITED FISHERMEN'S UNION OF SOUTHERN CALIFORNIA,
JOHN MADINGA, *Secretary*.

SAN DIEGO, CALIF.,
February 4, 1932.

Hon. SAMUEL SHORTRIDGE,
Senate Office Building, Washington, D. C.

DEAR SENATOR: For many months the tuna-fishing fleets of San Diego and San Pedro have been tied up awaiting a "better market for the pack." The local swordfishing fleet also has been idle a great part of the time.

During this period there have been many tons of tuna and Japanese swordfish shipped into coast markets and canneries from Japan. There is quite a distinction between the Japanese swordfish and the broad-bill swordfish caught along this coast.

The United Fishermen of Southern California, representing the fishermen from Monterey south to the Mexican border, are appealing to you for protection. The Japanese freight carriers coming to the coast to load cotton and wheat are carrying the frozen tuna and swordfish in place of ballast, at a very low freight rate, we are given to understand.

This Japanese fish, if allowed to flood the American market will ruin the men, who have over four and one-half million dollars invested in tuna clippers alone, and will add several thousand fishermen to the ranks of the unemployed in California.

We realize how difficult it will be to draw a tariff bill to cover the importation of Japanese fish inasmuch as our clippers frequently are compelled to follow the schools of tuna as far south as the equator. But fortunately all our clippers are of American registry. We must leave the wording of any bill to men with experience, such as is yours, if it is to be done properly. With implicit faith we are leaving the matter in your hands.

With kindest personal regards, we are,

Yours very truly,

UNITED FISHERMEN OF SOUTHERN CALIFORNIA,
By JOHN MADINGA, *Secretary*.

TAX ON TOILET PREPARATIONS

STATEMENT OF H. E. FRIESELL, PITTSBURGH, PA.

Mr. FRIESELL. Mr. Chairman and gentlemen of the committee, I am H. E. Friesell, of Pittsburgh, Pa. I appear with respect to the proposed imposition of a tax on dentifrices and antiseptic mouth washes as is now provided by section 602 of the new revenue act. I am now and have been for the past 28 years dean of the Dental School of the University of Pittsburgh. I have been in dental practice for 37 years. I have held the office of president of the National Dental Association, the National Dental Teachers Association, am a member of the National Board of Dental Examiners, and have been for 20 years a member of the Dental Educational Council of America, and for the past 10 years have been engaged in dental research.

Tooth decay is a disease caused by germs. It always begins on the outer surface of the tooth. It never begins on that part of the surface which is scoured clean by food in mastication.

These germs attach themselves to tooth surfaces where they are not disturbed by food in mastication, secrete acids which decalcify the tooth structure, eventually leading to pulp exposure, resulting in toothache, abscesses, absorption in the blood stream of infection, as a result, and give rise in many cases to serious systemic conditions that are not infrequently fatal ultimately.

Another result of tooth decay near the gum margin is infection of the gums, leading to pyorrhea, with loss of the teeth and similar systemic results.

Dentifrices and antiseptic mouth washes are necessary to remove the adhesive microorganisms from these susceptible areas of tooth surface and to counteract their injurious effects.

In no sense are dentifrices and antiseptic mouth washes to be considered as merely cosmetic or toilet preparations. The whole program of mouth health and prevention of systemic diseases through focal infection would be nullified by such a classification. The dental profession's experience through the past 25 years has proved that mouth health, which can only be attained in this way, is the very foundation of preventive dentistry and preventive medicine.

Records show that where mouth health has been maintained by these measures, children so treated have been protected to an amazing extent from children's and other diseases to which the average child is subject.

I am not particularly interested in the tax feature except that I think it unwise to tax remedial agents essential to health. The dental profession has been conducting extensive oral health campaigns throughout the schools of the country for many years. The National Grange has recently recognized the importance of this work and is now carrying it on extensively throughout the country districts all over the United States. In this time of depression, the farmers and laborers who are less able to pay for dental services for themselves and their children must depend on preventive measures through the

maintenance of mouth health. Any classification that would convey the idea that dentifrices and antiseptic mouth washes are merely cosmetic agents would seriously handicap this country-wide program of preventive health measures.

Senator CONNALLY. What company do you represent?

Mr. FRIESELL. Just exactly as I stated at the beginning of my statement.

Senator CONNALLY. I was not here.

The CHAIRMAN. The Dental School of the University of Pittsburgh.

Senator REED. Dean Friesell is head of the dental department in the University of Pittsburgh.

Senator CONNALLY. You do not represent a toothpaste company?

Mr. FRIESELL. I do not.

Senator CONNALLY. Just the general dental industry?

Mr. FRIESELL. The general health program.

Senator CONNALLY. What is this company for which Amos 'n' Andy speak?

Mr. FRIESELL. They do not speak for me.

Senator CONNALLY. What company is that—some toothpaste company, is it?

The CHAIRMAN. Pepsodent.

Mr. FRIESELL. Perhaps you do not listen to it any oftener than I do. Most dentists do not care for it. I got tired of that long ago.

STATEMENT OF WILLIAM A. HINES, REPRESENTING HARRIET HUBBARD AYER (INC.), NEW YORK

Mr. HINES. Mr. Chairman and gentlemen of the committee, on behalf of Harriet Hubbard Ayer (Inc.), manufacturers of toilet articles, I present a brief in opposition to that part of the House bill imposing a tax of 10 per cent on the gross sales of cosmetics, and I ask that the brief be made a part of the record of these hearings.

The CHAIRMAN. It will.

(Mr. Hines submitted a brief, which is in full as follows:)

BRIEF OF WILLIAM A. HINES

THE FINANCE COMMITTEE,
United States Senate, Washington, D. C.

SIRS: We desire to register a protest against the proposed imposition of a 10 per cent excise tax upon the manufacturers of cosmetics, etc. We appreciate the necessity of raising sufficient revenue to balance the National Budget, and we are heartily in accord with the general theory that every American citizen, and every American industry should bear a proper share of this burden.

On the other hand, we do not believe that Congress should require a few selected industries to carry the load, particularly if the burden imposed on such industries would be equivalent to confiscation. Such a course defeats its own purpose and instead of producing revenue results in destruction of the source and recourse to other and further taxes to meet the Government's needs.

As we understand it, it is proposed to place upon the cosmetics manufacturing industry a tax of 10 per cent upon the gross sales. American manufacturers of cosmetics have been suffering from the present depression as much or more than manufacturers of many other commodities. Their products are sold almost exclusively for consumption by women. With the pinch of hard times, women have been cutting down their expenditures upon so-called luxuries. The decrease in the general volume of business in this trade has increased competition between manufacturers, increased the cost of manufacturing and distribution by reason of the fact that plants are not working at full capacity, and accordingly has reduced net profits. Net profits have come down to such an extent that at the present time we are operating on a basis

productive of less than 10 per cent net upon gross sales. If a manufacturers' sales tax of 10 per cent upon gross sales be now superimposed by the Congress and becomes chargeable against the manufacturers, it will mean practical bankruptcy of the industry unless the alternative of passing the tax along to the retailer and so to the ultimate consumer, is adopted. The only way in which this can be accomplished is to increase the wholesale price of individual items. Normally, an increase of 10 per cent in wholesale price means an increase of more than 10 per cent in the retail price, for the retailer figures his profits upon a percentage basis, using the cost to himself as the base. If the retailer's normal mark-up be 20 per cent upon his cost, this means that his retail selling price on merchandise where the wholesale has been marked up 10 per cent, will be more in dollars and cents than the increase in dollars and cents of the wholesale price. To illustrate: If an item prior to the enactment of this proposed tax was wholesaling for 50 cents, and when received by the retailer the item is marked up 20 per cent to give him his gross retail profit, the retail price for such item wholesaling at 50 cents, would be 60 cents.

Now, let the manufacturers tax of 10 per cent be considered; 10 per cent of the wholesale price of 50 cents would require the manufacturer to sell the item for 55 cents. If he proposes to pass the tax on, the retailer now marks up his merchandise 20 per cent so that the item costing the retailer 55 cents, will have to be marked by him for sale at 66 cents. This means an increase in cost to the consumer of 6 cents in order that the Government may receive its 5 cents manufacturers tax. It is not to be expected that the retailer will absorb any of this tax, for he has much less reason for doing so than the manufacturer.

While cosmetics may in the past have been looked upon as luxuries, it can not be doubted that there are now millions of women in the United States who do not look upon them as such, and to whose comfort cosmetics are quite as much of a necessity as clothing. While the present bill was in the House of Representatives exceptions were proposed to the flat 2¼ per cent sales tax covering such articles as clothing, certain kinds of medicine, etc. Fundamentally, clothing is a necessity, but individuals might differ as to whether a $100 coat or dress is to one person as much of a necessity as a $5 coat or dress to another. It is hardly fair to say that cosmetics which are used by millions of women are, nevertheless, luxuries because life might be sustained without them. In view of their general use at the present time, it would seem almost as unfair to select that particular class of merchandise for additional taxation as it would be to impose an additional tax upon wearing apparel.

Furthermore, a tax upon American manufacturers of cosmetics is simply playing into the hands of foreign manufacturers. There is no provision in this bill to equalize competition between foreign and domestic manufacturers by increasing tariff rates or otherwise. The proposed tax would simply mean that the American women to whom cosmetics are more or less of a necessity, will be diverted from the purchase of American to foreign products, thereby working a double injustice.

On the other hand, if a retail sales tax were imposed upon cosmetics, etc., regardless of the place of manufacture, there would be no discrimination against domestic manufacturers in favor of foreign manufacturers. If a retail sales tax were imposed upon all merchandise of every kind or nature, irrespective of whether it is manufactured in America or abroad, there would likewise be no discrimination against one class of merchandise in favor of another. All of us would bear an equal burden in supporting the Government and because of this the burden would be a comparatively small one for each of us.

To single out one particular industry and impose an inordinately high tax upon it, is, we submit, a hardship and an injustice which the Congress can not intend to bring about, particularly when the natural consequence of the damage inflicted upon the American manufacturer in that line will directly accrue to the benefit of the foreign manufacturer in the same line, and tend to divert American purchasers from domestic merchandise to foreign merchandise. If, in its wisdom, the Congress feels a manufacturers' tax is preferable to a sales tax, we submit that such a manufacturers' tax should be a small one, so small as to permit of being either (1) absorbed by the manufacturer without destroying the industry, or (2) passed on to the consuming public without alienating the public from the purchase of American merchandise to the purchase of the foreign product.

Respectfully,

HARRIET HUBBARD AYER (INC.).
By MARLOW & HINES, *Attorneys.*

APRIL 15, 1932.

STATEMENT OF MARK EISNER, ATTORNEY, NEW YORK CITY, REPRESENTING MANUFACTURERS AND PRODUCERS OF LOW-PRICED TOILET ARTICLES, COSMETICS, AND PERFUMERIES

Mr. EISNER. My name is Mark Eisner, New York.

The CHAIRMAN. You are speaking on section 602, tax on toilet preparations?

Mr. EISNER. Yes, sir.

The CHAIRMAN. Proceed.

Mr. EISNER. I represent, Mr. Chairman and gentlemen of the committee, about sixty-odd manufacturers of toilet articles, cosmetics, and similar products contemplated to be taxed under section 602.

The manufacturers I represent are the following:

North Eastern Laboratory, manicuring preparations.
Lamont Corliss & Co., Pond's.
Campana Corporation, hand lotions.
Frostilla, lotion, shaving cream.
Northam Warren Corporation, deodorants, manicuring—Odor-o-No and Cutex.
George W. Button Corporation, complete lines.
Primrose House (Inc.), complete lines.
A. A. Vantine Products Corporation, complete lines.
Wildroot Co. (Inc.), hair tonics.
Maybelline Co., eye preparations.
Affiliated Products Group, complete lines.
Jane E. Curran (Inc.), hair tonics.
B. Kronish & Bros. (Inc.), compacts.
Goodman Chemical Co., witch-hazel, talcum powder, and so forth.
E. E. Hess Co.
Illinois Cosmetics Co.
Jo-Cur (Inc.), hair tonic.
Keystone Perfume Co., complete lines.
A. L. Siegel Co. (Inc.), powder puffs.
The Trade Laboratories (Inc.), private brands, general lines.
William A. Webster Co.
The George H. Nowland Co., petroleum jellies, brilliantines.
Baronet-Lorna Co., powder puffs.
P. Beiersdorf & Co., Nivea creams.
Boncilla Laboratories (Inc.), creams.
Swindell Co., bottles.
Bridgeport Metal Goods Co., containers.
Edna Wallace Hopper, complete lines.
Kiss Proof, complete line.
F. N. Burt Co., paper containers.
Brooklyn Chemical Co.
Reich-Ash Corporation, compacts.
Ross Co.
Crystal Chemical Co.
Carlyle Laboratories.
J. B. Williams Co.
Minnard.
Kwix, manicuring products.
Van Ameringin-Hoebler Co.

Bristol-Myers.
William H. Loveland Co.
Vadsco Sales Corporation, general lines.
Pepsodent Manufacturing Co.
Tin Decorating Co., containers.
E. Burnham, creams.
Contis Products Co., shampoos and soaps.
Ybry, complete line.
Luxor Manufacturing Co. (Ltd.).
Delatone.
Colgate-Palmolive Peat.
Lockwood-Brackett, castile and baby soaps.
Beaver-Remmers Graham.
Nusheen.
Henkel Co.
Lehn & Fink.
Golden Peacock.
Henry Tetlow.
Princess Pat.
Lambert Pharmaceutical Co.

A reasonable tax on toilet articles, cosmetics, and perfumery is not objected to, if proper provision is made for the protection of that portion of the business which will be jeopardized.

A tax of 10 per cent upon articles sold at fixed low prices will defeat its purpose because it will result in elimination of the greater portion of an industry which at the present time has gross sales of approximately $75,000,000.

We will show to your honorable committee that this 10 per cent tax, so far as it affects low-priced merchandise, burdens necessities and not luxuries, and that it can not be absorbed by the manufacturer or passed on to the consumer by the retailer.

If the proposed tax was intended as a luxury tax, it does not accomplish its purpose, because it affects products which are not at all luxuries.

It is a tax upon the cleanliness and personal hygiene of the average citizen, in so far as this excessive tax applies to low-priced articles used for such purposes.

The Public Health Service of the United States maintains an elaborate organization, publishes and distributes widely reading matter, and employs the radio in the dissemination of information for the purpose of persuading the general public to use the very merchandise now proposed to be taxed as a luxury.

This governmental activity is not designed to educate the rich, but it is aimed to reach the average citizen.

Ten-cent packages of tooth paste, cold cream, petroleum jelly, and so forth, are made to suit the pocketbook not of the rich but of people of modest means. A luxury article is one which by its very nature is not a necessity, or one which, even though it may be a necessity, is priced so high as to place it beyond the purchasing power of the average income.

Ten-cent packages of tooth paste, mouth washes, dentifrices, cold cream, petroleum jelly, toilet powders, and cosmetics are necessities. Certainly, they are not sold at a price higher than the poor can afford to pay. They are necessities for personal cleanliness and

attractiveness and are essential to the happiness and comfort of the millions whose means are limited. American culture includes the recognition of cleanliness and personal appearance as desirable attributes of all citizens.

Excise taxes upon articles manufactured to sell at fixed low prices can not be absorbed by the manufacturers or producers, and can not be added to the purchase price of the consumer.

1. We state to the committee that the manufacturer's net profit on low-priced articles sought to be taxed at 10 per cent runs from 3 per cent to 6 per cent, depending on the volume of sales. Therefore, a 10 per cent tax on sales must result in a net loss to the producer, if it is to be absorbed.

A number of manufacturers in computing their profits from sales of this low-priced merchandise do not allocate to their cost any portion of the advertising expenses or full overhead. If they did, the result would be a showing of no profit. The benefit the manufacturer derives from the sale of low-priced merchandise is an increase in volume, and a consequent reduction in general overhead.

An excessive tax such as the House bill contemplates will curtail to a large extent the production of this class of merchandise by manufacturers who can not absorb the tax.

2. The manufacturer can not pass a 10 per cent tax along to the retailer because the retailer's net profit does not approach 10 per cent of the sales price. It approximates from 3 per cent to 6 per cent, depending upon volume of sales.

The retailer sells low-priced merchandise at certain fixed and familiar prices recognized by the public, which are standard. If this price is increased to take care of the manufacturer's tax, which is passed on to the consumer, it will cause intensified sales resistance in merchandising such articles, and result in the curtailment of production.

The harmful effects of this tax will be felt by suppliers of raw materials, bottles, tubes, cardboard and wrapping-material manufacturers, newspapers, periodicals, and labor.

If we have represented the situation fairly, and we assure the honorable committee that we have conscientiously endeavored to do so, a major portion of $75,000,000 in annual sales will be cut off by the attempt of the Government to collect approximately $20,000,000 in taxes from a source which can not bear the burden.

A reduction in the volume of business in the finished products must necessarily reduce the purchases of the materials which go into their manufacture.

There will be a lessened consumption of paper, glass, tin, paint, and other materials used for wrapping and for containers.

Advertising appropriations will be cut down, because the loss in business resulting from this tax will have to be supplied by economy in other directions. This naturally reacts unfavorably upon newspapers and periodicals.

Going down the line, it needs no argument on our part to demonstrate the adverse result upon labor of the lessened production.

Traffic over railroads and other means of transportation will be reduced because of the lessened volume of business.

A reduction in profits means a loss of revenue to the Government in its corporation and individual income taxes.

We can not afford to ignore the fact that if this confiscatory tax is established, unscrupulous manufacturers or suppliers will avail themselves of the opportunity to sell at cheap prices inferior products which will be detrimental to health and safety, and demoralize the entire industry. A defective product causing injury or death to one person can so inject fear into the users of such products so as to adversely affect the entire business.

We wish to call the attention of Congress to an inescapable fact: Even a 2 per cent tax on sales is equivalent to a 50 per cent income tax to a concern whose net income from sales is 4 per cent.

This is not an attempt on the part of an industry to avoid being taxed and to frighten Congress with that end in view. It is merely an expression of a desire of an industry to be taxed equitably so that it may continue in business, and, if possible, to expand and to aid, through the medium of just excise and income taxes, in the support of the Government.

I represent, Mr. Chairman and gentlemen, the manufacturers generally of comsetics, perfumery, and toilet articles. I represent those whose business it is, either in the main or in great part, to sell low-priced articles, retailing, many of them, at 10 cents apiece. As you gentlemen know, you can obtain tooth paste, tooth powders, mouth washes, talcum powders, and creams and articles of that sort at prices as low as 10 cents. Those manufacturers who produce to retail at that price are gravely concerned over this 10 per cent tax. It is more drastic than the war revenue act provided for similar articles, and it can not be borne by the manufacturer.

The chief reason we are here is that not only is it impossible for the manufacturer to bear the tax but it is impossible for him to pass it on to the retailer, because the retailer can not stand it, either. That is due to the condition of business, because, obviously, a business that makes a net profit on sales of 3 to 6 per cent can not stand a 10 per cent tax, because that would represent an absolute loss. And the retailer, who makes a similar profit, in the neighborhood of 3 to 5 or 6 per cent, can not stand it, and he can not pass it on, because when you have a public that is educated in the purchase of these articles at familiar fixed prices you can not expect them to pay more than those prices by imposing a tax upon them.

I do not come here and say that you should not tax at all. That is not our position whatsoever. We come here and say we want to bear our just burden of the taxation. But what we do say is do not place a tax upon us that in its very nature is going to be confiscatory. It may be very likely that the tax was hastily imposed, upon the theory that these articles are luxuries. Some articles that sell for 10 cents and that do a volume of $75,000,000 a year at that price are not within the luxury class. From seventy-five to eighty millions is the actual volume of these articles made to sell at these prices. They can not be luxuries if the Public Health Service of the United States, through the radio or through its publications, spends large sums of money advocating the very use of these articles which are here proposed to be taxed out of existence at the ratio of a 10 per cent tax.

Senator SHORTRIDGE. Your position is that among civilized people these articles are necessities?

Mr. EISNER. Yes, sir.

Senator SHORTRIDGE. Certainly.

Mr. EISNER. I would say that you do not approach a luxury until you possibly exceed a certain price line. Even clothing can become a luxury if you pay $100 for a suit of clothes, whereas under $100 it is not a luxury.

I want to say that in so far as observation is concerned, and anticipating the question which you, Senator Shortridge, and you, Senator Reed, asked a number of witnesses who have appeared here that we are perfectly satisfied to join with the rest of the industry in the United States in the payment of a uniform sales tax.

Senator SHORTRIDGE. That was just what I was about to ask. A general manufacturers' sales tax?

Mr. EISNER. A general manufacturers' sales tax. There is no objection to that on our part, and, mind you, we take that position, gentlemen, even though a concern which makes 4 per cent net on sales and has to pay a 2 per cent tax on sales is really paying a 50 per cent income tax. That is what those figures naturally result in. Nevertheless, we are willing to share our part of the burden.

The repercussions of a tax like this upon all of the industries that supply us are patent and obvious to this committee. The wrapping-paper people join us; the manufacturers of bottles and other containers are with us. They feel alarmed about this tax. The railroads would naturally suffer through any falling off of business, and it would fall off.

I have one witness who will just mention in two minutes' time the figure so far as his industry is concerned. It is Mr. Millard, of Loveland, a great portion of whose merchandise is manufactured to sell at 10 cents, and which comes squarely within this act. He will only give you the breakdown of his manufacturing cost and profit.

STATEMENT OF B. MILLARD, REPRESENTING WILLIAM H. LOVELAND & CO., NEW YORK CITY

Mr. MILLARD. On a million-dollar basis our raw material purchases are $700,000; salaries and wages, $200,000; fuel, $3,000; other overhead, $13,000; taxes, $15,000; freight and other transportation, $20,000.

Senator SHORTRIDGE. That is, on a million dollars of business?

Mr. MILLARD. A million dollars; yes.

Senator SHORTRIDGE. You expend those sums for the purposes named?

Mr. MILLARD. Yes, sir. Our net profit on that basis, which covers a period of 35 years, is 0.49.

STATEMENT OF CHARLES S. DEWEY, VICE PRESIDENT OF COLGATE-PALMOLIVE-PEET CO., CHICAGO, ILL.

Mr. DEWEY. Mr. Chairman and gentlemen, I would like to consume about 10 minutes of the committee's time, and then ask for about 5 minutes more to be followed by Dr. W. W. Peters, director of health service cleanliness institute of New York, and we will consume our 15 minutes between us.

Senator HARRISON. On what subject?

Mr. DEWEY. I am representing the soap manufacturers.

Senator HARRISON. This is not on the radio?

Mr. DEWEY. No, sir.

The CHAIRMAN. We are through with the radio.

Mr. DEWEY. I am vice president of the Colgate-Palmolive-Peet Co., and I am representing that company, together with my associates, the Procter & Gamble Co., and Lever Bros., and the Association of American Soap and Glycerine Producers, and our group represents 90 per cent of the soaps manufactured in the United States.

Section 602 of the House bill, H. R. 10236, imposed a 10 per cent tax on cosmetics and toilet preparations, and it is in objection and a protest to having toilet soaps classified among those articles as a luxury that we appear here before you.

Senator HARRISON. What is your purpose, may I ask? Would you put a limitation upon soap in this section?

Mr. DEWEY. I contemplate, Senator, coming to that on toilet soaps. Is that what you mean—toilet soaps?

Senator HARRISON. Yes.

Mr. DEWEY. I contemplate doing it in just a minute, if you please

Senator HARRISON. Very well.

Mr. DEWEY. The original sales tax of 2¼ per cent, as proposed in the House, was, apparently, rejected on the basis that it included a base tax on necessities. And yet when this bill finally emerged in House bill 10236 toilet soaps were included as a luxury, and we protest that inclusion. Soap, Senators, are divided into two classes—toilet soap and laundry soap. Toilet soap is chemically prepared to remove dirt from the body without irritation to the skin, and, incidentally, without removing the skin. Laundry soap, is intended for the rougher uses of removing grease and dirt from clothing and household utensils. In our life as everyday people one is as necessary as the other and about as cheap.

The nominal and normal price of what you might call the leading brands of toilet soaps used to be 10 cents.

Senator HARRISON. Ten cents a cake?

Mr. DEWEY. Ten cents a cake retail. To-day, owing to the low cost of fats, and the fall in the price of commodities going into the making of soap, they are selling at an average lower price, in the neighborhood of anywhere from 6 to 8 cents a cake. We used to sell 10-cent makes at three cakes for 25 cents, and to-day they are seven cents, or three cakes for 20 cents.

In speaking for my own company, we make a very broad variety of all types of toilet soaps, ranging from the cheaper ones I have just mentioned to the more expensive ones; but of our total volume 98¾ per cent of our volume of soap that we make sells for 10 cents, or less; and 1¼ per cent of our volume sells for 10 cents, or more. So you can see there is a very small proportion of the soaps that falls in the higher than the 10-cent limitation.

Senator HARRISON. If we put a limitation in here referring to soaps selling at higher than 10 cents, how would that affect it?

Mr. DEWEY. It would not hurt much.

Senator HARRISON. We would not get very much, I realize that.

Mr. DEWEY. You would not get very much. I doubt if the salaries of the reve ue collectors would be paid by the tax collected. While we have no objection, I do not think it would pay when you have 98¾ per cent at the cheaper price, and only 1¼ per cent at the higher price.

Senator HARRISON. What is a toilet soap that is a good soap?

Mr. DEWEY. There is so much of what we call stress soap at a low price, but they, perhaps, will not be in business when the price of fats advances.

Senator HARRISON. Can you get a fairly good soap at 5 cents?

Mr. DEWEY. I presume you could, but with fats reaching prices that they have never reached before, that will not be true when we reach the more normal prices on fats.

The Department of Commerce has produced some figures that gave an idea of the value and the total sales of toilet soaps in the United States in the past few years. In 1925, $49,387,000 worth was sold; in 1927, $53,572,000 worth; in 1929, $59,982,000 worth; and in 1931 the figures have not yet been obtained from either the Department of Commerce or the census.

The CHAIRMAN. What was it in 1931?

Mr. DEWEY. We have not had 1931. It is our belief, from our knowledge of the business, that it will be considerably lower than the ones I have named. And if the balance of 1932 continues as the first three months of 1932 have been, it will be somewhere in the realm of $35,000,000, producing a tax in the neighborhood of $4,500,000.

Senator HARRISON. That includes the higher priced soaps as well as the cheaper ones?

Mr. DEWEY. That includes all the soaps.

Now, probably the largest per capita user of soap are the laborers and industrial workers, due to the nature of their occupations. And we maintain that toilet soap is a necessity under our standard of living to-day. People do not use soaps except to keep clean.

I will not go into the subject of health because Doctor Peter will follow me on that subject. But the worker, as I have said, is the greatest user of toilet soap. And any tax of 10 per cent will be passed on to the consumer for the reason that the 10 per cent is greater than the net profit made by the producer. It will be passed on. But it will not be a 10 per cent tax by the time it is passed on to the consumer. We will say, for instance, the manufacturer sells to the middleman a soap for 6 cents. Six-tenths will be a tax on that. The middleman in making his sale will add his profit and pass that on to the retailer. He will say that the rate to the retailer or the price would be 8.6 cents. Then what has the retailer done? In making the retail price he can not split a penny, and he is not going to disturb it, so he calls it 10 cents, and he puts 9 cents on this 8-cent soap. So it will be about a 15 per cent tax.

Senator HARRISON. That will be pyramiding it, in a way?

Mr. DEWEY. You can not help but pyramid it. It is human nature to want to get a little more. And people will know that there is a tax, and they will put it on and the consumer will have to pay it.

Senator SHORTRIDGE. Will that increased price affect the total number of sales?

Mr. DEWEY. I doubt it, Senator, very much. As I say, we are dealing with a necessity. We have taught, ever since we have had a civilization in the United States, that it is a good thing to be clean. We teach it in our schools. And people do not consume soap for pleasure. They do it to keep clean. And I do not think it will reduce our sales, but it will place an additional burden on the laborer at a time when his producing power, according to statistics, has been reduced 42 per cent from the peak of 1929.

We believe that soap must be classified as a necessity, and it has no place in this section, and should not come under the same category with jewelry, furs, and so forth. It is a necessity.

Senator SHORTRIDGE. Of course, it is.

Mr. DEWEY. I would like to show just how much it means to the morale of a man. During the fall I had a part in the raising of a fund in Chicago for the unemployed. The Salvation Army maintains shelters for unemployed men. It was their policy there to send a man out clean in the morning, and it was just as necessary for his morale as to have a good breakfast. And that is one of the things that the Salvation Army, who knows the human man in trouble, have found to be necessary. It is necessary to have soap to be clean, and to give him good breakfast.

Senator SHORTRIDGE. I do not want to take up time in questioning, but under existing conditions and the question put by Senator Harrison to you, you gave us now the present average price of soap.

Mr. DEWEY. Yes, sir.

Senator SHORTRIDGE. With this suggested tax the price would be increased to the consumer?

Mr. DEWEY. It would increase to the consumer by at least 1 cent a cake.

Senator SHORTRIDGE. That is what I was getting at.

Mr. DEWEY. I will finish what I have to say by merely making our request. We request that the words "toilet soaps" be stricken from line 10 of section 602 in H. R. 10236, which line reads at present:

Pastes, aromatic cachous, toilet soaps, toilet powders, and

We request that the words "toilet soaps" be stricken out, and that in any bill that may take the place of this revenue act, that toilet soaps be not considered as a basis of tax as a luxury.

Senator SHORTRIDGE. You, I think, answered the question and are in favor of a general sales tax?

Mr. DEWEY. We are in favor of that, and have so notified our Representatives in Congress.

I would like to insert the brief we have prepared, and then to have Doctor Peter speak for a few minutes, representing the Cleanliness Institute. Doctor Peter has been abroad a great many times and has seen conditions in foreign countries, and he is qualified to speak on the subject of cleanliness.

The CHAIRMAN. You may file your brief for the record, Mr. Dewey.

(The brief presented by Mr. Dewey is printed in full in the record, as follows:)

BRIEF OF CHARLES S. DEWEY

Mr. Chairman and Members of the Senate Finance Committee:

My name is Charles S. Dewey, and I am vice president of the Colgate-Palmolive-Peet Co., and I am speaking as the representative of the Association of American Soap and Glycerine Producers, Procter & Gamble Co., and Lever Bros., representatives of which three organizations are here present with me, and may I state that our group represents 90 per cent of all toilet soaps manufactured within the United States.

Section 602 of House bill 10236 places a 10 per cent tax on cosmetics and toilet preparations, and it is in protest to the inclusion of toilet soaps in such a list of luxury articles that brings our group before your committee.

There was proposed in the House of Representatives a manufacturers' sales tax of 2¼ per cent. The House of Representatives in rejecting this form of tax expressed their disapproval of taxing necessities, and it now seems hardly consistent that one of the most common necessities of our every-day life should be included among items of luxury, taxed in the new revenue bill. I may say that I have been reliably informed that in the hurry of preparing this bill toilet soaps were included without the knowledge of many of the members of the House.

For several years past I have served as financial advisor to the Republic of Poland, and during my period of duty I had numerous opportunities of visiting in Soviet Russia, and I believe that this is the only country with an alleged modern civilization where toilet soaps are considered a luxury and are not in general use by the citizens.

No matter from where he comes, the first thing any immigrant to the States learns is personal cleanliness. It is taught in our public schools, and great stress has been laid on the health-giving properties of soap and water, and I think that few would contradict that in the high standard of living which we have attained in our country, soap may be grouped as a first necessity, together with food, clothing, and shelter.

Soap is divided into two classes—toilet soap and laundry soap. Toilet soap is chemically prepared to remove dirt from the body without irritation to the skin, while laundry soap is intended for the rougher uses of removing grease and dirt from clothing and household utensils. In our everyday life one is as necessary as the other and about as cheap.

The nominal prices of the leading brands of toilet soap have been 10 cents a cake and have been generally sold during the past several years at three for 25 cents, but to-day due to the low cost of fats are sold three for 20 cents or less. The amount of toilet soap selling for more than 10 cents a cake is small when compared to the whole. My company manufactures a full line of toilet soaps, our chief brand being Palmolive, intended to retail at 10 cents a cake, but in fact selling much cheaper. Of our total volume of toilet soaps 98¾ per cent is sold for 10 cents or less and 1¼ per cent is composed of toilet soaps selling at higher prices. I mention this to prove that there is only a very small percentage of fancy toilet soaps sold.

I have examined the figures of the United States Department of Commerce, Bureau of the Census, pertaining to the value of toilet soaps sold in the United States. In 1925, $49,387,000 was sold; in 1927, $53,572,000; in 1929, $59,082,000. The figures for the year 1931 have not as yet been compiled, but I believe that they will be considerably less than the average of the sums mentioned, which cover a period of high prices for fats and soap ingredients as compared to their cost to-day, and it is my best opinion that the sum received for toilet soaps in 1932 will be somewhere in the neighborhood of $45,000,000, thus producing under the proposed tax four and one-half millions of dollars of revenue.

It is not my right nor duty to suggest how such a sum, if lost to the Government by removal of the 10 per cent tax on toilet soaps, may be made up, but I do feel that there exist many luxury and nonnecessary articles which either are not taxed at all, or could stand a higher tax rate with far less injury to American health conditions and living standards than would be caused by a tax on soap.

I shall not attempt to discuss the use and necessity of soap to maintain our standards of health and sanitation. This will be done by Dr. W. W. Peter, director of health service of the Cleanliness Institute.

Aside from health standards there are the ordinary cleanliness standards which only soap can maintain. Perhaps what cleanliness means to the morale is best instanced by the custom of the Salvation Army in the unemployment

shelters in Chicago. In these shelters shower baths, soap, and razors are supplied, and every man before starting out to seek a job in the morning cleans up and goes forth with a feeling of respect for himself and greater courage. The Salvation Army believes to start clean is as necessary as to have a good breakfast.

Probably the greatest per capita users of soap are the laborers and industrial workers, due to the manual nature of their occupations. To them soap is no luxury, but a necessity, and if any tax on toilet soap is imposed, this class of our citizens will pay the greater share, together with the American children. What is more, the consumer will pay in reality a higher tax than the 10 per cent rate proposed.

Necessarily, a tax as high as 10 per cent on toilet soap will be passed on to the purchaser, but instead of paying 10 per cent, the consumer will more likely pay about 15 per cent. For instance, the manufacturer sells to the jobber and adds the tax to the invoice price. The jobber in making his price to the retailer is almost sure to add his profit and then compute the tax. In turn, the retailer is apt to justify a raise of 10 per cent to his consumer customer not on the amount of the tax computed upon the price which the manufacturer received, which might be six-tenths of a cent a cake, but he will figure that an article nominally priced at 10 cents will stand a 1-cent raise. So in reality, the consumer is likely to actually pay over 15 per cent advance. I can not believe that the Congress of the United States can wish to impose an additional burden upon the necessary living costs of the American people, especially at a time when the public buying power, according to recent index is 42.7 per cent below its peak in August, 1929.

It is the request of 90 per cent of American soap manufacturers who are represented here before you that toilet soaps be not taxed in the revenue bill now being considered, and that to accomplish this the words "toilet soaps" be stricken out of line 10 of section 602, H. R. 10236, which reads as follows:

"Paste, aromatic sachous, toilet soaps, toilet powders, and."

STATEMENT OF W. W. PETER, DIRECTOR HEALTH SERVICE CLEANLINESS INSTITUTE, NEW YORK CITY

The CHAIRMAN. We will hear Doctor Peter for two minutes.

Senator CONNALLY. On what subject?

Doctor PETER. On health and sanitation.

Senator CONNALLY. We will all agree with you on that. But we will be glad to hear you.

Doctor PETER. My interest in making a brief statement to your committee is public health. And because sanitation and cleanliness are among the first and most important public-health measures, I believe that any proposal which, in effect, would place a tax upon cleanliness, demands the most serious consideration.

There never has been a time when it was so vital to the interests of our people that the highest possible standards of public health be maintained throughout the Nation. Millions of men and women are going through a critical period of worry, doubt, and uncertainty, due to unemployment and industrial depression. These are elements that may well undermine the strongest physical constitution.

That public health during such a period has been maintained at the present high-water mark is a cause of self-congratulation. No one reason can account for this success. The story has not been told of the part played by the health forces of the country in this result. I mean the national, State, and municipal health officers; I mean the physician whose income is in abeyance, but whose service continues; I mean the public health nurse; I mean the teacher engaged in the task of health education.

I am aware of no health program here or abroad in which cleanliness education does not play an important part. There are vastly

more urgent reasons than the aesthetic why we should wash our hands often and use clean towels to wipe them. There are more vital reasons than fastidiousness why we demand the most scrupulous cleanliness on the part of those who have to do with the preparation or service of food. There are stronger reasons than comfort why cleanliness facilities should be supplied to every worker of the Nation at his place of work. It's a health, not a luxury habit, that we seek to give our children when we teach them the importance of washing hands, particularly after toilet and before eating.

As a barrier to the spread of communicable disease there is none more effective than consistent, thorough cleanliness. According to the last mortality, statistics studied, published by the Bureau of the Census, 22.2 per cent of all deaths in this country in the period of a single year were from communicable diseases. Ninety-two per cent of these deaths were due to those diseases whose causative organisms are known to leave or enter the mouth or nose.

In other words, over 22 per cent of the deaths in this country were due to the transference of disease germs from the sick to the well, in one form or another. It may have been a handshake after fingers had touched the mouth, that transferred the disease from hand to hand, and finally from hand to nose or throat of the last recipient. It may have been the unsterilized dish previously used by a sick person. It may have been the spray from nose or throat. In any event, this may be said: Cleanliness guards the routes to and from the mouth and helps to prevent the transfer of disease germs from sick to well. About 2 per cent of our American people are sick at any given time from preventable diseases, influenced in part by the lack of cleanliness understanding or the lack of cleanliness facilities.

Thus cleanliness has become an important feature in public-health work in hundreds of cities and counties in the United States. Physicians, public-health officers, and public-health nurses continually wage the battle of sanitation and cleanliness—a battle that touches every element of the population.

The family living under a single roof, whose cleanliness standards must be high if the infectious illness of one member is not to spread to all.

The workers in office, shop, or factory, whose health may be endangered by lack of cleanliness facilities or by carelessness in the primary precautions of sufficient hand washing, so that germs may not be transferred from hand to mouth.

Children in home or school, who must be taught the habits of cleanliness as a vital health protection.

Cleanliness is the necessity of the many—not the luxury of the few. Any measure that would remove it from the classification of necessity would be a serious blow to public health.

Public health demands that the necessity for cleanliness be stressed continually in our educational programs.

Public health demands that we encourage, not discourage, the maintenance of the highest possible cleanliness standards even among the poorest of our people.

Public health demands that every agency of cleanliness be placed within the easiest possible reach of our unemployed as well as employed workers.

Home and school education is teaching 25,000,000 school children to wash their hands and to bathe their bodies. Public health does not demand an extra levy for this privilege.

A tax on cleanliness is a tax on health.

And to support the position I have taken, I have some quotations from leading health authorities, both here and abroad, who unite in stressing the importance of cleanliness in the general progress of health education. They are as follows:

Ray Lyman Wilbur, M. D., Secretary of the Interior, and former president of the American Medical Association:

If I had to name one health measure which would be most effective in the control of the great transmissible diseases, I would say that a thorough washing of the hands at least each time before food was taken, would be most effective.

From address delivered before a convention of public health nurses.

L. L. Lumsden, M. C., formerly senior surgeon United States Public Health Service:

All infectious diseases are caused by what we call human parasites, little microscopic creatures depending for their existence upon the food pabulum which they find in human tissues and juices. Most of them can survive for only a short time outside the human body. These infections do not originate spontaneously. They are passed from one person to another because of lack of cleanliness.

The cleanliness movement is one of the most important lines of attack in this warfare on preventable disease. I have been selling cleanliness all my life, ever since I have been in health work. I can't help selling it because cleanliness is the foundation of health work.

From address delivered before the Linen Supply Association of America, 1929.

Milton J. Rosenau, M. D., Harvard University:

Cleanliness is the heart and soul of sanitation.

The CHAIRMAN. To which we all agree.

Doctor PETER. I am very glad to hear that said. [Reading:]

We are inclined to place it even before godliness, for cleanliness of body, cleanliness of mind and soul, and cleanliness of our surroundings are essential to a full appreciation of the spiritual virtues.

From Preventive Medicine and Hygiene, D. Appleton & Co., 1927, page 1458.

Frank Overton, M. D., and Williard J. Denno, M. D.:

Three artificial agents for disinfection are cleanliness, heat, and chemicals. Whatever is soiled with the discharges from the body of a sick person may contain germs of disease, and so the things which the sick person uses might transmit the disease unless they are cleansed. The danger consists in the presence of living germs and not of the dirt itself.

From the Health Officer, W. B. Saunders Co., 1926, page 191.

Edward Fisher Brown, formerly director diphtheria prevention commission, department of health, New York City:

The strongest bulwark in the fight against disease is cleanliness—cleanliness of surroundings, cleanliness of life. In its broadest aspect cleanliness includes every health precaution which makes for bodily well-being.

From Cleanliness Journal, July, 1930.

Fred J. Wampler, M. C., professor of preventive medicine, Medical School of Virginia:

With the degree of community sanitation we now have in many places the lack of personal cleanliness is the principal factor in the filth-borne diseases we still have.

Cleanliness Journal, April, 1931.
Sir W. Arbuthnot Lane, Bart., C. B.:

Cleanliness is one of the main foundations of health, which means that the aim of keeping clean must be kept in mind and practiced throughout our daily life—and not only in ourselves but in our surroundings. This is one of nature's laws, and the penalty for disobeying it is disease.

From New Health, November, 1930.
Florence Lyndon Meredith, M. D.:

No other single article can compare with soap in respect to the amount of sickness and death prevented by its use. Epidemics rage where little soap and water are used for personal and domestic purposes. Uncleanliness of habits of living may be considered responsible for more ill health than any other one cause.

From Hygiene, a textbook for college students, P. Blakiston's Son & Co., 1926, page 519.

Therefore, public health demands that we stress cleanliness. Public health demands that we make available all the agencies that make for cleanliness. And, therefore, a tax on this agency would be a tax on health.

The CHAIRMAN. Thank you, Doctor.

STATEMENT OF EUGENE C. BROKMEYER, WASHINGTON, D. C., REPRESENTING THE INTERNATIONAL BEAUTY AND BARBERS SUPPLY DEALERS ASSOCIATION

Mr. BROKMEYER. Mr. Chairman and Senators, I appear on behalf of the International Beauty and Barbers Supply Dealers Association as counsel. This organization represents approximately 85 per cent of the production and distribution of the supplies and equipment used by the beauty parlors and barber shops of the United States. There are approximately 60,000 beauty parlors and 120,000 barber shops in this country. The beauty parlors and barber shops combined employ about 500,000 persons. Manufacturers and dealers employ nearly 20,000.

About 80 per cent of the wholesale distributors of supplies to beauty parlors and barber shops are insolvent, because of heavy loss of business due to largely decreased volume of sales and greatly reduced prices. More than ever in the history of the industry beauty and barber shop installment notes are being returned, and manufacturers are being compelled to take back their equipment.

If a manufacturers' tax of 10 per cent is imposed on cosmetics and toilet preparations, as provided in section 602 of H. R. 10236, passed by the House, the doom of most of the beauty parlors and barber shops of the country will be sealed, and a large majority of all those who furnish them with supplies and equipment must go out of business—manufacturers and dealers alike. With their retirement the large army of unemployed will be increased by hundreds of thousands.

The proposed 10 per cent tax on cosmetics and toilet preparations is both discriminatory and confiscatory. It could not be absorbed by

the manufacturer, because the manufacturer is not making 10 per cent on his product to-day. Even if he were, a 10 per cent tax could not be passed on by the dealer to the beauty parlor or barber shop, because many of them are unable to pay their bills at present prices without a 10 per cent tax added, and dealers certainly could not absorb a 10 per cent tax.

Ever since the crash of 1929 the national administration properly has advised an organized campaign to encourage buying by the public to promote general business recovery and employment. Manufacturers and dealers alike have been compelled to sell at almost profitless prices to induce buying, which certainly will be discouraged by the addition of the 10 per cent tax, if imposed; the selling price to the public would be increased by more than 10 per cent if the tax were not absorbed by the manufacturer and dealer.

That business generally is in a chaotic condition, due to price cutting, is a fact impressed upon Congress recently by representatives of leading industries in their petitions for the enactment of the Nye bill, prohibiting the sale of merchandise below cost as a trade incentive to the injury of a competitor, and for the passage of the Capper-Kelly resale price maintenance bill. A 10 per cent tax on cosmetics and toilet preparations would still further demoralize business by promoting destructive competition. What is needed more than anything else is the stabilization of business.

The sales by manufacturers and dealers and the service rendered by beauty parlors and barber shops have reached the lowest level, with prospects for improvement anything but bright. The receipts of the beauty parlors and barber shops not only are not able to meet their installment notes but in many instances can not pay their rent. The pay received by the men and women at the chairs is so low, because the charge for the service to the public in beauty shops and barber shops is so small, that employees are not now given a living wage, and the list of those employed constantly is growing smaller. This certainly is no time to compel the industry to pay a discriminatory and confiscatory tax of 10 per cent.

The hundreds of thousands of women of this country do not regard cosmetics and toilet preparations as luxuries, because they have come to be necessaries in the evolution of human affairs. The hundreds of thousands of men who patronize barber shops certainly consider toilet preparations as necessities. It is recognized that well-groomed men and women have decidedly a better chance in life than those who appear to poor advantage. Good appearance of the hair and face are as necessary as good clothes to success in any pursuit. The combination of both makes a favorable impression, helps the individual, raises the standard of living, and materially contributes to the general welfare. The marked progress in society in this direction should not be halted by a discriminatory tax that will paralyze both the industry and the profession now licensed and regulated by State laws.

The Federal Government has had experience with a tax on cosmetics and toilet articles. Secretary of the Treasury Mills furnished this to the Congress in his testimony before the Ways and Means Committee of the House (hearings before the Committee on Ways

and Means, House of Representatives, 72d Cong., 1st sess., p. 25) in the following language:

> There are two facts to take into consideration; one as to the administrative features, the other the revenue you can bring in. You can think of some good taxes which administratively are impossible. The excess profits, for example. I defy anybody to think of a better tax in theory or a more abominable one in practice. We are not going to quarrel with you if you want to put a tax on cosmetics. We are going to tell you frankly these minor luxury taxes were very unsatisfactory from an administrative standpoint, and we could not enforce them uniformly, so that some people paid and some did not, whereas the ones we suggest are effective, and from an administrative standpoint fall within the uniformity contemplated by a tax law.

Beauty and barber supply manufacturers and dealers are entirely willing to bear their fair share of the additional tax burden required to balance the Federal Budget, but they must protest against any form of taxation that is not uniform and therefore not in conformity with the letter and the spirit of the Constitution. We feel constrained to urge that section 602 of the House bill under consideration be stricken out.

This statement is signed by W. L. Buck, president; Joseph Byrne, secretary; Walter F. Koken, chairman legislative committee; and E. C. Brokmeyer, general counsel.

Mr. Chairman, for the sake of economy in time I will ask permission to file a brief on behalf of the Federal Wholesale Druggists Association, representing 17,000 independent retail druggists as stockholders and members.

A brief on behalf of the Connecticut Pharmaceutical Association.

A brief on behalf of the North Carolina Pharmaceutical Association.

And a brief on behalf of the District of Columbia Pharmaceutical Association. All being briefs of just a page in length.

The CHAIRMAN. They will be printed in the record following your statement.

(The briefs on behalf of the Federal Wholesale Druggists Association, the Connecticut Pharmaceutical Association, the North Carolina Pharmaceutical Association, and the District of Columbia Pharmaceutical Association are here printed in the record in full, as follows:)

BRIEF OF FEDERAL WHOLESALE DRUGGISTS ASSOCIATION

APRIL 18, 1932.

Hon. REED SMOOT,
Chairman Finance Committee, United States Senate.
Washington, D. C.

DEAR MR. CHAIRMAN: The Federal Wholesale Druggists Association, on behalf of its 17,000 stockholders and members, independent retail druggists, who are represented by 25 local companies in the large cities of the United States, respectfully protests against the imposition of a 10 per cent tax on cosmetics and toilet articles, the tax on soft drinks and ingredients thereof, the tax on candy and chewing gum and the taxes on malt extract, grape sirup, grape concentrate, and evaporated grape juice imposed in H. R. 10236, recently passed by the House.

This association is entirely willing to bear its fair share of the burdens of additional taxation necessary to balance the Federal Budget, but it is respectfully submitted that the drug business should not be singled out to pay more than its fair share of the additional taxation required. The Federal

Constitution provides for uniformity of taxation as a fundamental principle and the proposed excise taxes limited to a few articles and industries would be discriminatory.

Since the crash of 1929 the national administration has made persistent efforts to encourage buying on the part of the consuming public. High excise taxes on semiluxuries or necessaries certainly would not promote buying by the public. Where its buying power has not been curtailed its buying disposition has. Business generally has found it necessary to stimulate buying by offering lower prices.

This association respectfully indorses the recommendations presented to the Ways and Means Committee of the House on January 18 by Hon. Andrew W. Mellon, Secretary of the Treasury, and Hon. Ogden L. Mills, Under Secretary of the Treasury, for additional taxation estimated as necessary to yield the revenue required to balance the Budget. The proposals of the Treasury Department include additional income taxes, estate taxes, tobacco and cigarette taxes, and additional taxes on capital-stock sales or transfers, conveyances of realty, automobiles and accessories, admissions, radio and phonograph equipment and accessories, telephone and telegraph messages, and checks and drafts. These proposed taxes would fall on the stockholders and members of this association as well as upon all other citizens and industries alike and be equitable for that reason.

Respectfully submitted.

O. J. CLOUGHLY,
President.
R. E. LEE WILLIAMSON,
Secretary.
E. C. BROKMEYER,
General Counsel.
PAUL PEARSON,
Chairman Legislative Committee.

BRIEF OF CONNECTICUT PHARMACEUTICAL ASSOCIATION

WASHINGTON, D. C., *April 19, 1932.*

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: The Connecticut Pharmaceutical Association, on behalf of the hundreds of retail druggists of the State, respectfully protests against the nuisance taxes imposed in H. R. 10236, passed by the House, to be found in section 602, taxing toilet preparations 10 per cent; section 611, taxing cameras 10 per cent; section 613, taxing candy 5 per cent; section 614, taxing chewing gum 5 per cent; and section 615, taxing fountain sirups 9 cents a gallon and carbonic-acid gas 4 cents per pound.

While these are taxes based upon the manufacturers' selling price of the articles named, the Ways and Means Committee of the House suggested that a general manufacturers' sales tax of 2¼ per cent be passed on by the manufacturer to the jobber, or retailer, where the manufacturer sold directly to the retailer. Unquestionably, the manufacturer will pass the taxes imposed on to the jobber if the House bill become a law, and the jobber in turn will pass them on to the retailer. He will have to absorb the taxes or add them to his selling prices to the consuming public. Retail druggists to-day are struggling for their existence under selling prices that now prevail and are finding it difficult to induce the public buy.

Adding 5 and 10 per cent to present-day prices certainly will not encourage buying by the public. In the case of fountain drinks it will be impossible to increase the selling price to the public, because they long have been established in the public mind and the consumer will not tolerate an increase. In many cases the soda fountain is the salvation of the retail druggist, his income from that source making up for the loss sustained during the rest of the year. Moreover, the addition of the taxes imposed by the House bill to the selling price of cosmetics and toilet articles, cameras, candy, and chewing gum will greatly reduce the volume of sales by retail druggists to the public, which already is too small to net a living profit.

Secretary of the Treasury Mills repeatedly has testified to the unsatisfactory experience of the Federal Government in the collection of "nuisance" taxes, which he has pronounced not worth while as revenue producers.

The retail druggists of Connecticut are willing to bear their fair share of the additional taxes needed to balance the Federal Budget. All we ask is that the additional taxes be spread generally and applied uniformly, as the Constitution provides.

Respectfully submitted.

HUGH P. BIERNE,
President.
ERNEST L. GYDE,
Chairman Legislative Committee.
P. J. GARVIN,
Secretary.
A. C. BROKMEYER,
Washington Counsel.

BRIEF OF NORTH CAROLINA PHARMACEUTICAL ASSOCIATION

WASHINGTON, D. C., *April 18, 1932.*

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: The North Carolina Pharmaceutical Association, on behalf of the hundreds of pharmacists of this State, respectfully urges the rejection of the revenue bill passed by the House, H. R. 10236, as it applies to cosmetics and toilet preparations, soft drinks and component parts thereof, candy, and carbonic acid gas, or sections 601, 602, 613, and 615.

This association well realizes that the Federal Budget must be balanced to save the Nation's credit and therefore favors the recommendations of the Secretary of the Treasury to Congress submitted last December, or the bill reported to the House by the Ways and Means Committee, providing for a general manufacturers' sales tax of 2¼ per cent.

Either of these proposals if made a law would affect the retail druggists of North Carolina as much and to the extent as all other citizens. To this they have no objection, but they do object to being subjected to high discriminatory excise taxes not applying to all industries and classes of business men alike.

The "nuisance" taxes provided for in the bill passed by the House are not acceptable to the Treasury Department, according to the testimony of then Under Secretary of the Treasury Mills in his testimony before the Ways and Means Committee. The Government had experience with nuisance taxes under the revenue act of 1918 and found them difficult of administration and not productive of much revenue because of the cost of collection.

This association is also opposed to section 611, imposing a tax of 10 per cent on cameras, based on the manufacturer's selling price, and section 614, imposing a tax of 5 per cent on chewing gum, based on the manufacturer's selling price.

Experience has shown that manufacturers pass the tax imposed on their products on to jobbers or retailers, where they deal directly with retailers, and expect them to pass these taxes on to the consuming public. The latter is in no condition to pay additional taxes for the necessaries and luxuries of life. Since 1929 the problem has been to induce the public to buy at prices the lowest in this country in many years. If the taxes proposed in the House bill affecting retail druggists are incorporated in the bill passed by the Senate and approved by the President, retail druggists will have to absorb them. This they can not do in their present circumstances.

Respectfully submitted.

A. EARL WEATHERLY,
President.
J. G. BEARD, *Secretary.*
FREDERICK O. BOWMAN,
General Counsel.
E. C. BROKMEYER,
Washington Counsel.

BRIEF OF THE DISTRICT OF COLUMBIA PHARMACEUTICAL ASSOCIATION

WASHINGTON, D. C., *April 18, 1932.*

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: The District of Columbia Pharmaceutical Association, representing the retail druggists of the District, hereby records its opposition to section 602 of H. R. 10236, passed by the House, imposing a tax of 10 per cent on cosmetics and toilet preparations, based on the selling price of the manufacturer; section 613, levying a tax of 5 per cent on candy, based on the manufacturer's selling price; section 615, taxing unfermented fruit juices 2 cents per gallon, based on the manufacturers' selling price; section 615, taxing finished or fountain sirups 9 cents per gallon and carbonic acid gas 4 cents per pound, based on the manufacturer's selling price.

The retail druggists of the District of Columbia are entirely willing to bear their fair share of the burden of additional taxation required to prevent a deficit in the Federal Treasury, but they object to being singled out and compelled to pay high excise taxes not imposed upon all other industries, or classes of business men. In reporting a general manufacturers' sales tax to the House the Ways and Means Committee frankly suggested that it be passed on to the ultimate consumer. While the manufacturer unquestionably would pass the proposed tax on cosmetics and toilet articles, soft drinks, and carbonic acid gas to the jobber or retailer, where the manufacturer deals directly with the retailer, experience has shown that retail druggists can not pass the taxes proposed on to the consuming public.

The selling price of most of the articles subject to the proposed tax is so well and long established with the public that if the tax were added to it the public would hesitate to buy, or not buy at all. Ever since the crash of 1929 an organized campaign has been conducted to encourage buying by the public, due either to the curtailment of buying power, or buying disposition. Imposition of the taxes proposed affecting retail druggists certainly would not stimulate buying by the public, promote business recovery and employment, so much desired.

The representative of the Treasury Department testified before the Ways and Means Committee of the House when the pending bill was under consideration that the department was opposed to a tax on cosmetics and other nuisance taxes because difficult of administration and unprofitable.

This association favors the recommendations submitted to Congress by the Secretary of the Treasury in December last, providing for revenue necessary to balance the Federal Budget.

Respectfully submitted.

PAUL PEARSON, *President.*
A. F. GORSUCH, *Secretary.*
E. C. BROKMEYER, *Counsel.*

Mr. BROKMEYER. If I may for the balance of my time ask two or three minutes for Mr. Byrne, who presents two brief statements in writing on behalf of two other trade associations in this industry.

Senator REED. Before you leave I would like to ask you to give us your definition of the word "luxury."

Mr. BROKMEYER. I would regard, Senator, a fair definition of "luxury" something that is not essential to human existence.

Senator REED. Would you think that nose powder and rouge came within that definition?

Mr. BROKMEYER. I would not, sir. But I would think that shampoos, preparations that in themselves possess value in the way of removing dandruff and preparations that help the skin, and toilet soaps, things of that sort, would not come within that definition.

Senator REED. I agree with you about toilet soaps.

Mr. BROKMEYER. Yes, sir.

Senator REED. But cosmetics are not in the same class as toilet soaps.

Mr. BROKMEYER. Well, if considered by themselves and alone, you are quite right, Senator, but in combination with other things that go to make up a favorable appearance, which has come to be recognized as necessary, certainly by the ladies and, incidentally, in business, I do not think so. A woman applies for a position and she is judged by her general appearance. The first impression. Men the same way. A good appearance is synonymous with success and prosperity, and makes a favorable impression.

STATEMENT OF JOSEPH BYRNE, NEW YORK CITY, SECRETARY INTERNATIONAL BEAUTY AND BARBERS SUPPLY DEALERS ASSOCIATION

Mr. BYRNE. My name is Joseph Byrne, 11 West Forty-second Street, New York.

The CHAIRMAN. I understand you want to file certain statements.

Mr. BYRNE. We have two statements here, Senator, one from the Beauty Industries Manufacturers Association, and the second one from the National Hairdressers and Cosmetologists Association, both organized groups that want to file protests with the committee against the 10 per cent tax.

The CHAIRMAN. Hand them to the reporter and they will be placed in the record at this point.

(The statements of the Beauty Industries Manufacturers Association, and the National Hairdressers and Cosmetologists' Association are here printed in the record in full, as follows:)

STATEMENTS OF THE BEAUTY INDUSTRIES MANUFACTURERS' ASSOCIATION AND THE NATIONAL HAIRDRESSERS' AND COSMETOLOGISTS' ASSOCIATION

APRIL 18, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: The Beauty Industries Manufacturers' Association, representing a majority of the leading producers of equipment and supplies used in beauty shops, has already filed with this committee a resolution declaring its position with regard to the proposed tax.

This association is opposed to any form of discriminatory taxation on industry. It is our belief that all lines of business should bear their fair share of the tax burden.

We are opposed, also, to the exemption of any one class or type of manufactured product from any tax which may be levied on other classes or types of products having the same general character. As between competitive products, it is unfair to tax some and not to tax others.

From the viewpoint of millions of American women the service of the beauty shop is as essential as is the service of the barber shop to the average man. During the last two years, however, the average beauty shop has suffered a heavy decline in the volume of its business and an even greater decline in its dollar volume. Prices have been reduced, in many cases to less than the cost of the service rendered, in a frantic effort to stimulate business and keep the revenue at a point high enough to meet rent and other fixed charges. Thousands of shops have failed and relatively few of the existing shops are able to meet their obligations promptly. Under these circumstances any tax which adds heavily to the cost of the materials used in these shops inevitably will force many out of business. Such a tax will stimulate bankruptcy rather than revenue.

The suggestion has been advanced that cosmetics and other beauty products fall in the luxury class and should be taxed as luxuries. We respectfully suggest that if these products were luxuries—which we emphatically deny—the present would be a most inopportune time to tax them as such. Most of the present difficulties of business may be traced to the fact that the public is not buying luxuries. The complete stagnation of the "luxury" industries is the focal point of the depression. Certainly it is not probable that the levying of a heavy tax on such products will stimulate their sale. The public is demanding lower, not higher, prices.

Our position is that cosmetics and other beauty products should be classified neither as "necessities of life" nor as luxuries, but as necessities to the maintenance of American standards of living. In this great class fall large numbers of products the consumption of which will be heavily curtailed if they are subjected to excessive taxation, with inevitable impairment of industry, reduction of employment and accentuation of the existing depression.

The argument has been advanced by proponents of this so-called cosmetic tax that American women will pay almost any price for cosmetic products and service. This argument is best answered by existing facts. The prices they are paying to-day and the aggregate of their present purchases of service and materials are insufficient to maintain the present industry and return a profit to those engaged in it. But advocates of such taxation are quite correct in the belief that the wealthy woman will pay any price. Their error lies in their failure to comprehend the fundamental fact that the 60,000 beauty shops of the United States draw most of their aggregate business from the ranks of the ordinary housewife, the shop girl, the factory worker and the office woman. These groups are not now in position to pay higher prices. Any tax which must be passed on to them will curtail sales to them.

We respectfully direct your attention, moreover, to the fact that beauty shops, which represent the principal outlet for the products of our group, are now subject to a multiplicity of taxes and regulations, particularly by States and municipalities, so that in many parts of the country these establishments are already laboring under an unreasonable burden. Our manufacturers have been striving earnestly to reduce costs and have been successful to an extent that has made possible some substantial reductions in prices. The shops have promptly passed these reductions on to the public. If now we are forced to increase prices, the effect can be nothing but disastrous.

We respectfully suggest that section 602 be eliminated from the bill for the reasons that it is unfair, unduly discriminatory and that it will have the effect of destroying in large part an industry which, under any equitable form of taxation, is ready and willing to contribute its fair share of the revenue required.

BEAUTY INDUSTRIES MANUFACTURERS' ASSO. (INC.),
WILLARD HOWE, *Secretary.*

NATIONAL HAIRDRESSERS AND COSMETOLOGISTS' ASSOCIATION (INC.)

SENATE FINANCE COMMITTEE,
Washington, D. C.

HONORABLE SIRS: I, Emile Beauvais, president of the National Hairdressers and Cosmetologists' Association (Inc.), of the United States, a nation-wide organization composed of hairdressing and beauty shops throughout this country, implore you to rescind the proposed 10 per cent tax on cosmetics and substitute a more even sales tax that will be borne equally by all.

A 10 per cent tax on cosmetics would be a discriminating act against our profession, while allowing other professions and industries to go untaxed.

We do not desire to escape taxation, but feel that an even 2¾ per cent tax on all concerned would be a fair levy for these times.

Cosmetics to-day are no longer considered a luxury and are to-day as essential to the modern woman's everyday needs as silk hosiery, etc. The working girl of to-day must have her cosmetics if she is to maintain her prestige amongst the other feminine workers of her office. She to-day is underpaid, and in a great many cases has suffered a reduction in salary during these depression times. To enact the 10 per cent cosmetic tax would be to place an unfair burden upon this mass of low-salaried workers in this country.

There are to-day in the United States nearly 60,000 hairdressing and beauty shops, employing approximately 190,000 people. These shops use cosmetics in nearly all of their operations, and in a great many cases depend upon the sale of cosmetics to balance their budgets. To impose a 10 per cent cosmetic tax would be to place a heavy load upon a staggering profession that is already weak and struggling to exist with present-day evils.

During these depression times, with no reduction from the landlord, our prices already reduced to meet the public's purse, and to decrease our income by 10 per cent taxation. I believe that Congress would be enforcing a great hardship upon not only the 190,000 workers of our profession but upon the countless thousands of low-salaried office workers of this country.

I therefore implore you gentlemen to veto this discriminating 10 per cent tax on cosmetics and to substitute in its place a tax that will be borne by all.

Yours very truly,

NATIONAL HAIRDRESSERS AND COSMETOLOGISTS' ASSOCIATION (INC.),
EMILE BEAUVAIS, *President.*

STATEMENT OF NORTHAM WARREN, NEW YORK CITY, REPRESENTING THE AMERICAN MANUFACTURERS OF TOILET ARTICLES

Mr. WARREN. Mr. Chairman and Senators, my name is Northam Warren. In appearing here to-day to represent the American Manufacturers of Toilet Articles I should like to make it clear at the start that we are not here to ask that the tax on toilet articles be eliminated. Rather, we come here to make certain suggestions in regard to the method of applying the tax to our industry which may be helpful to the committee in enabling you to impose this tax and raise the largest amount of revenue with the least amount of disturbance to our line of industry.

In considering this matter I should like to point out, first, that the weight of the tax on toilet articles will fall most heavily on the people of the least means.

Toilet articles are no longer a luxury in the sense that they were 25 years ago. Then toilet articles were bought only by wealthy people, and they were made in small quantities and sold at a high price, at a substantial margin of profit. That, gentlemen, is no longer true. Toilet articles are used by people in every walk of life, rich and poor alike. They are sold at all prices, from 5 cents up to many dollars. They are sold in every city, town, village, and farming community in this country. There is nothing in the daily life of our people, particularly as concerns the women, that has a greater bearing on their comfort, happiness, hygiene, and well-being.

I merely wish to make it plain that from our standpoint this is not a luxury tax.

At the outset I should like to say that our association is in favor of a sales tax as enabling the Government to collect the greatest amount of revenue with the least disturbance of businesses like ours. But since the tax that we are discussing to-day is an excise tax on toilet articles, I will confine my remarks largely to that.

First, let me say to you that we believe that a tax rate of 2 per cent represents the highest revenue-producing point in this bill at which our industry as a whole should be taxed. We base this not upon statistics, because during the period of depression these are not available—that is, statistics which will represent the industry as it stands to-day. It is based rather on our knowledge of our own

industry and upon the considered opinion of the leading operators in this business.

It is also based upon our experience with the 1917 tax on toilet articles. It was the unanimous experience of our industry at that time that a smaller tax placed directly upon the manufacturers would have produced a much larger net revenue to the Government than the tax which existed at that time.

I should like to make clear, however, that in recommending a 2 per cent tax we want a tax upon every article of our industry alike. We want no exemptions. It should include everything that goes into the field of toilet articles.

Now it is my understanding that an effort has been made to induce this committee to eliminate the tax upon soaps, dentrifices, and mouth washes as being necessities. We have no quarrel whatever with that position. We are not trying to define what are necessities and what are not. But we should like to make it clear that if you eliminate the tax upon that class of articles you eliminate $100,000,000 worth of the taxable turnover in this industry. I base my figures upon the census figures of 1929, and I deduct from that 30 per cent as representing a conservative estimate of the falling off in our business since then. That brings the total taxable income of this industry to $200,000,000, of which it is conservatively estimated that one-half consists of soaps, mouth washes, and dentrifices, leaving on the other a net taxable income of $100,000,000.

Now of that $100,000,000 there is quite a large subdivision which needs to be considered for a moment, and that is the class which you heard about last night at the hearing of this committee. The 5-and-10-cent store toilet article business. There is a class of manufacturers in our industry that makes nothing but articles for the 5-and-10-cent stores. There are many others of us 50 per cent of whose total turnover is in the 5-and-10-cent store field. These manufacturers make an average profit of 4½ per cent. I can not verify those figures, but I can say to you gentlemen that that is the profit which my own company makes on that class of business. And I am certain that some make less, and a few may make more. But I am certain 4½ per cent represents the average, or nearly that.

How can a man making 4½ per cent on his sales turnover pay a 10 per cent tax? The 5-and-10-cent stores, who are the customers for this class of merchandise, have already announced that they can not and will not absorb this tax, due to the fact that they are dealing with a low-priced, fixed-price class of merchandise. They have even gone so far as to tell us that they will remove the toilet-article counters in the 5-and-10-cent stores if an attempt is made to pass this tax on to them, and I think that that is probably true.

Now, if we manufacturers in that field can not absorb the 10 per cent tax, and if we can not pass it on and stay in business, we are confronted with a very serious situation which ultimately will affect the three or four thousand employees who are engaged in turning out that class of merchandise.

Not only will the effect be felt upon our own employees, it will be felt perhaps almost as quickly by the affiliated industries in this line. Take the glass manufacturers of the United States. They themselves have told us that of the small glass bottle industry 50 per

cent of its total output goes to the packaging of 5-and-10-cent store merchandise. Then, again, we have the box manufacturers, the label manufacturers, the lithographers, the manufacturers of metal collapsible tubes, and all these allied industries—there is not any question at all but what they will be adversely affected.

Now, having taken from the total $200,000,000 taxable turnover in this business, $100,000,000, we will say, on the assumption that you are going to exempt it for soaps, dentifrices, and mouth washes, having taken the $75,000,000 turnover in the 5-and-10-cent stores, by taking only half of it, since half of it is already included amongst soaps, we have then deducted $137,500,000 worth of taxable sales, leaving between $50,000,000 and $60,000,000 of the higher-priced merchandise to tax.

Now, I should like to make it plain to you, gentlemen, that I do not know of any house in our industry that can afford to absorb that 10 per cent tax. It will inevitably be passed on to the consumer. And what is the result? The result is going to be an immediate restriction in the sale of toilet articles. That, gentlemen, need not concern you excepting from a revenue standpoint, but it has been the experience in previous taxation and it has also been the experience in other countries. The 10 per cent tax will eventually restrict consumer demand. And the imposition of that 10 per cent tax will mean hardship to our industry. There is not any question in our opinion that there will be, to a certain extent, a consumers strike against paying this tax on an article of almost daily purchase.

The public wants better values and lower prices. They are constantly demanding it. And the proof of the fact that the tendency is in that direction is shown by the enormous growth of the 5-and-10-cent store, 25, 50 cent and $1 articles in our class of business.

Now, gentlemen, we want you to consider also not only the effect from a revenue standpoint, but the effect upon a class of retail merchants who have a great claim upon your sympathy and consideration. I am not authorized to speak for them, but they are our customers. And they have every claim upon your thought. I refer to the retail druggists of the United States. It is a well-known fact, as you gentlemen can verify from statistics already on record, that the average retail druggist's sales are about 40 per cent in the price of the class of articles we are describing here to-day. The retail druggists of the United States have been hit as hard as any other retail merchant, perhaps. Ask your neighborhood druggist.

I was in Texas recently, and I learned from one or two of the wholesale druggists in Texas that in some cases 50 or 60 per cent of the retail druggists are on the C. O. D. list of the wholesale drug houses; they no longer have credit with the drug houses and they have to pay for their purchases from the wholesale druggists from the cash receipts of the previous day's sales. And I want to tell you that any restriction, any artificial barrier which is placed on the sale of anything which is as important to them as toilet articles and allied articles, is going to cause them a very serious hardship indeed.

Senator REED. If you were in our place how would you raise this revenue that must be raised?

Mr. WARREN. Senator, I will come to that in just a minute. I am almost through, and I do not propose to close without recommending that.

There is one more thing I want to point out, and that is, we want to demonstrate, if we can, the sincerity of our argument. And I propose to do it this way: Why should we come down here to Washington to protest against the 10 per cent tax which we certainly are going to pass on to our customers, in favor of a 2 per cent tax that we have got to pay out of our own pockets, if it were not for the fact that we realize that 10 per cent tax will restrict our business and there would be a falling off of our sales almost to the vanishing point?

As to the effect of a tax of that size. The French Government recently placed a 10 per cent tax on toilet articles. I happen to have knowledge of the effect of that, because our particular company has a branch in France. And I can assure you gentlemen that the moment that tax was placed on toilet articles it met with an immediate restriction of demand in France. Sales have fallen in all classes of toilet articles in France. So much so that the French Government to-day is taking steps and discussing actively the early repeal of that particular act.

Now there is one thing in this bill which is largely technical, but which ought to be commented upon in passing, and that is this. The schedule in the bill should be clarified so as to eliminate the tax upon raw materials that go into the finished products. As it stands now these raw materials are taxed, and they are taxed a second time when they are put out in retail packages. I should like to suggest that we are strongly in favor of having the committee insert in this bill the exceptions that are in section 601(a) of the Ways and Means Committee bill, or similar effective language in the formal bill to prevent the pyramiding of the tax, which I know is contrary to the committee's intention.

Now, gentlemen, it is evident to us—and I hope we have made it plain to you—that adequate revenue from this tax can best be obtained by taxing the widest number of articles at a small rate of tax. And we stand on the recommendations of the Merchants' Association of New York, who have been active in measures to balance the Budget, and one of whose objectives is stated as follows:

> For further needed revenue, the imposition of exice taxes at lower rates on a broad range of articles not of first necessity.

First and foremost, we want to go on record as favoring a sales taxes, but whether that be called by the name of a sales tax or by any other name we want to make it clear, as we said before, that the tax should be imposed at a low rate and on the broadest possible base in order to distribute the burden equally and make the tax easy of collection and impose the least hardship upon business.

Gentlemen, in conclusion I just want to say one thing. We are a small business. America is made up of small business and large business. But I am pleading for a small business. I would just like to leave this one thought in your minds: American toilet articles have come to a place where they are supreme in the world. Such things as face creams, manicure preparations, tooth pastes, hair preparations, and articles of that kind can to-day be imported to France, which is the home of toilet preparations, and in many instances outsell the French product, due to the fact that our chemists and our business men have put their thought and their brains into

this business and made our toilet articles supreme. You can buy them in every civilized country in the world. And in almost every instance they will outsell the French, English, German, Spanish, and every other country's toilet articles.

We do not want coddling. We do not want favors. We would just like to have you tax us in a way that will not impair our industry, but will enable us to continue to do business on such a basis as will enable the Government to get a fair revenue from our business.

Mr. Chairman, may I submit a brief embodying our arguments, and also the manuscript which I had prepared as my statement, but from which I have departed somewhat in my talk?

The CHAIRMAN. That will be included in the record.

(The memoranda filed by the American Manufacturers of Toilet Articles are here printed in the record in full, as follows:)

MEMORANDUM FILED BY THE AMERICAN MANUFACTURERS OF TOILET ARTICLES

This memorandum is filed in opposition to the rate of tax at 10 per cent of the price for which sold (sec. 602 of H. R. 10236) of so-called toilet preparations. The section has a wide coverage with 17 separate articles mentioned eo nomine and with a catchall similitude clause.

GENERAL DESCRIPTION OF THE INDUSTRY

The manufacture of toilet preparations is an ancient industry which has grown with the elevation of the standard of living and human progress in hygiene until the business in the United States, including soaps and shaving creams, in 1929, the last year for which statistics are available, amounted to approximately $280,000,000. These figures as of to-day, with the falling off due to the depression, are approximately $200,000,000 (recent Department of Commerce Bulletin showing 40 per cent decrease in business for January and February, 1932).

There are approximately 700 large and small manufacturers of toilet preparations in the United States, the great majority doing an individual gross business of $150,000 or less per annum. There are approximately 150 active and associate members of the American Manufacturers of Toilet Articles.

Were soaps, mouth washes, dentifrices, shaving creams, and similar items eliminated—and this will be urged upon the committee by representatives of those particular items—the remaining turnover within the paragraph would amount to approximately $100,000,000 per annum.

Of the total remaining business, approximately 37½ per cent consists of products manufactured for sale in 5 and 10 cent stores. It is impossible to pass on to ultimate consumers a 10 per cent manufacturer's tax with respect to this portion of these products reaching consumption through the 5 and 10 cent stores.

With respect to the balance of the commodities, constituting some 25 to 30 per cent of the total present coverage of the section, the 10 per cent tax must be passed on by the manufacturers, and the inevitable result of this addition to the manufacturers' invoices will undoubtedly cause an increase in price to consumers and a consequent shrinkage in volume.

Profits garnered by manufacturers on merchandise manufactured for the 5 and 10 cent stores are in the range of 4 to 4½ per cent on turnover. Such manufacturers have every reason to believe that the 5 and 10 cent stores, per their announcement, must and will refuse to absorb any part or all of the proposed tax. Therefore, since the manufacturers can not pay the 10 per cent tax without losing all of their present profits and incurring more than the equivalent thereof in losses, it is obvious that this major portion of the industry will be extinguished; the sale counters carrying this line of merchandise will be eliminated by the 5 and 10 cent stores, and the trade will be disrupted.

The entire trade employs some 10,000 workmen, of whom approximately 4,000 are engaged in production of the 5 and 10 cent store products.

Most of the raw materials and ingredients for these products, such as the essential oils, balsams, waxes, etc., are imported from abroad and are subject to substantial duties, and the impairment of this industry will result in marked reductions in customs receipts from this source.

The Congress should keep in mind that the reduction of volume by virtue of the proposed tax will constitute a lower revenue yield than can be premised on present volume, and this will be coupled with the last-mentioned reduction of tariff-duty collections.

In a few words, the proposed 10 per cent manufacturer's tax will inevitably destroy one of the largest departments of industry, the serious impairment of the remainder, with consequent increase of ratio in overhead, the necessitous unemployment of some thousands of the workmen now engaged therein, a marked reduction of import-duty collections on materials, and the idleness of plant and capital now invested in the business.

Furthermore, bottle manufacturers, box makers, tube makers, and can makers will share proportionately in the reduction of the volume of their service supplies to this essential industry. It is estimated that some $50,000,000 per annum is paid by this industry to the other service industries. Special equipment now devoted to the manufacture of these service products will be rendered idle in whole or substantial part. The craftsmen engaged in the production of the service supplies will find their employment discontinued.

The Government can also look forward to the failure of income-tax collections from the business houses engaged in the trades affected, who must, of course, suffer largely in their earnings due to this substantial injury to their operations.

ARGUMENT ON THE FOREGOING FACTS

Toilet article manufacturers insist that Congress in dealing with their field must avoid any assumption that the products of this industry are to be treated as luxuries for the purposes of tax policy.

The mass of articles within this field have attained the character of necessities employed by men and women in the interest of personal hygiene, physical well-being, and appearance. The improvement in the standard of living has undoubtedly brought about the use of toilet articles by all classes of society. It may well be said that these articles are as much of a necessity to-day as is the bathroom itself. The person of small means, the wage earners, as well as the persons of independent income, have accustomed themselves to employ toilet articles in their daily habits of life.

While it may be argued that certain toilet articles are luxuries, the percentage of such articles within the coverage of this section is trifling. We believe that such portion does not exceed 2 per cent of the turnover. Yet the 10 per cent manufacturer's tax applies to all the articles mentioned within the section, and imposes this tax of 10 per cent thereon.

We point out that these necessitous supplies purchased by men and women throughout the United States are not occasional or merely incidental requirements, but are in daily use by the great mass of the American public as means of hygiene, physical well-being, and good appearance, now so necessary in the everyday life of the people. Consumers make regular and continuing purchases of these articles.

We now mention the other manufacturers' excise taxes in the bill:

(A) Fermentable grape juices and concentrates, 40 per cent; (B) furs, 10 per cent; (C) jewelry, 10 per cent; (D) automobiles, trucks, and accessories, 1 to 3 per cent; (E) boats, 10 per cent; (F) radios, 5 per cent; (G) refrigerators, 5 per cent; (H) sporting goods, 10 per cent; (I) cameras, 10 per cent; (J) matches, 40 per cent; (K) candy, 5 per cent; (L) firearms, 10 per cent; (M) chewing gum, 5 per cent.

We dismiss fermentable grape juice and concentrates as outside this range of discussion.

It will be noted that furs, jewelry, boats, sporting goods, cameras, and firearms carry the same proposed rate of 10 per cent; but all of these articles are only of occasional purchase; but can not be considered for the mass of the people as necessities; as are also pleasure boats, sporting goods, cameras, and firearms which in the main are likewise of occasional purchase only.

The 5 per cent taxed articles, such as radios and refrigerators, are similarly of occasional purchase, and are taxed at only half the rate laid on toilet articles. Candy and chewing gum, to a certain extent, are food products, but are

luxurious types of food products and even they are with many people only occasionally purchased. The tax thereon is 5 per cent only, as against 10 per cent on toilet articles.

The only articles taxed at a lower rate than 5 per cent are automobiles, trucks, and accessories, and the range there is from 1 to 3 per cent.

We submit, aside from other considerations of destruction or impairment of the trade here involved that a tax on toilet articles in daily use by the American public, equivalent to the proposed tax on furs and jewelry, constitutes an improper classification which can not but have a vicious consequence in its effect upon the habits of the people as well as upon the industry meeting the people's requirements in this field.

We respectfully state that the difficulty which confronts the committee and this industry finds its origin in the vice present in the frame of bill endeavoring to select a few industries for heavy excise taxation.

This industry believes in the economic philosophy of a general sales tax of 2¼ per cent, despite the fact that such a tax would impose burdens as against their industry, which would markedly reduce profits on that part of their business with 5 and 10 cent stores; and while in the hour of national fiscal need this trade would willingly bear its fair proportion of essential taxation, it most earnestly protests against being singled out as one of the four or five industries which is asked to bear a 10 per cent excise. This means inescapable and ruinous injury to their trade, accompanied by injury to a great part of the public at large who require their products.

The toilet article manufacturers do not seek escape from any tax, but they do cry out against a tax plied so high that their industry, beyond any question of doubt, must be put to such jeopardy and injury that such part of the industry as might survive would require years for restoration.

We bring to the committee's attention governmental experience in a foreign country which verifies what we earnestly assure the committee is the mature judgment of the experienced merchants in this country as to what will happen to the domestic trade here if the proposed 10 per cent tax on toilet articles is enacted in this measure.

The Republic of France recently imposed a tax of 10 per cent upon the cosmetics and toilet articles. This tax has been proven to be an absolute failure, the revenue produced from it being negligible and the effect upon the business and the falling off of the sales being so great as seriously to cripple one of the greatest industries in France. The French Government to-day is taking steps, so we are advised, to repeal the tax. The same we believe to be true in Argentina.

With full confidence in the merits of their case, the manufacturers of toilet articles state frankly that while they can possibly absorb and survive a reasonable tax of 2 per cent, they present to Congress their conviction that the tax of 10 per cent proposed in the measure is unbearable; that the Treasury will receive more revenue from the 2 per cent tax (and permit the manufacturers now in the business to survive) than from a 10 per cent tax which the manufacturers confidently assure the Congress will be destructive to their business.

CONCLUSION

We respectfully urge our request that the proposed 10 per cent rate be abandoned and that the Congress impose a tax in lieu thereof at 2 per cent.

AMERICAN MANUFACTURERS OF TOILET ARTICLES,
By H. HENRY BERTRAM, *President*.

APRIL 18, 1932.

Attached hereto are lists of the active and associate members of American Manufacturers of Toilet Articles.

AMERICAN MANUFACTURERS OF TOILET ARTICLES

ACTIVE MEMBERS

American products Co., The, 8265 Colerain Avenue, Cincinnati, Ohio.
Elizabeth Arden (Inc.), 681 Fifth Avenue, New York City.
Armand Co., The, 124 Des Moines Street, Des Moines, Iowa.

Bancoel, A. P., Co., 501 Fifth Avenue, New York City.
Beggs, Sone & Co., C. W., Marcelle Laboratories, 1741 North Western Avenue, Chicago, Ill.
Blasco Parfumer, 160 Livingston Street, Brooklyn, N. Y.
Bliss Laboratories (Inc.), The, 106 Seventh Avenue, New York City.
Blocki (Inc.), John, 1349 South State Street, Chicago, Ill.
Boncilla (Inc.), Boncilla Building, Indianapolis, Ind.
Burnham Products Co., E., 2710 South Park Way, Chicago, Ill.
Button Corporation, George W., 549 West One hundred and thirty-second Street, New York City.
California Perfume Co., 114 Fifth Avenue, New York City.
Citizens' Wholesale Supply Co., The, 306 Mount Vernon Avenue, Columbus, Ohio.
Colgate-Palmolive-Peet Co., 910 North Michigan Avenue, Chicago, Ill.
Crystal Chemical Co. (Inc.), The, 130–136 Willis Avenue, New York City.
Daggett & Ramsdell, 2 Park Avenue, New York City.
Dealers' Sales Corporation, 3400 Morganford Road, St. Louis, Mo.
Denney & Denney, 21 North Seventh Street, Philadelphia.
Earle (Inc.), Marie, 660 Fifth Avenue, New York City.
Elmo (Inc.), Twenty-first and Huntington Park Avenue, Philadelphia, Pa.
Evenol Perfumer (Inc.), 580 Fifth Avenue, New York City.
Factor & Co. (Inc.), Max, 1666 North Highland Avenue, Hollywood, Calif.
Golden Peacock (Inc.), (The Paris Toilet Co.) Poplar and Ruff Streets, Paris, Tenn.
Harper, Martha Matilda (Inc.), 1233 Main Street East, Rochester, N. Y.
Hopkins & Sons, Ferd T, 430 Lafayette Street, New York City.
Hoyt & Co., E. W., 295 Central Street, Lowell, Mass.
Hudnut, Richard, 113 West Eighteenth Street, New York City.
Jaciel Perfumers (Inc.), 333 West Thirty-third Street, New York City.
Jergens Co., The Andrew, Spring Grove Avenue, Cincinnati, Ohio.
Kiefer-Stewart Co., Capitol Avenue and Georgia Street, Indianapolis, Ind.
Klinker Manufacturing Co., The, 9210 Buckeye Road, Cleveland, Ohio.
Krank Co., A. J., 1885–1901 University Avenue, St. Paul, Minn.
Larkin Co. (Inc.), 680 Seneca Street, Buffalo, N. Y.
Lazelle, Perfumer, Newburgh, N. Y.
Lehn & Fink Products Co., 683 Fifth Avenue, New York City.
Leigh, Chemist (Inc.), 511 Fifth Avenue, New York City.
Lever Brothers Co., 164 Broadway, Cambridge, Mass.
Loveland Co., William H., Court and Alice Streets, Binghamton, N. Y.
Luxor (Ltd.), 1355 West Thirty-first Street, Chicago, Ill.
McBrady & Co., J. E., 1045 West Van Buren Street, Chicago, Ill.
Marinello Co., 72 Fifth Avenue, New York City.
Mennen Co., The, 345 Central Avenue, Newark, N. J.
Monte Cristo Cosmetic Co., 13 East Thirtieth Street, New York City.
Mulhens (Inc.), Ferd., 25 West Forty-fifth Street, New York City.
Noonan & Sons Co., T., 38 Portland Street, Boston, Mass.
Oxzyn Co., 154 Eleventh Avenue, New York City.
Palmer, Solon, 374 Pearl Street, New York City.
Parfumerie St. Denis, 48 East Twenty-first Street, New York City.
Paris Cosmetics (Inc.), 116 West Fourteenth Street, New York City.
Pinaud (Inc.), 220 East Twenty-first Street, New York City.
Plough (Inc.), 121 South Second Street, Memphis, Tenn.
Pond's Extract Co., 131 Hudson Street, New York City.
Prichard & Constance (Inc.), 48 Warren Street, New York City.
Rawleigh Co., The W. T., Spring and Liberty Streets, Freeport, Ill.
Reich-Ash Corporation, The, 307 Fifth Avenue, New York City.
Reiger & Co., Paul, 118–124 First Street, San Francisco, Calif.
Ross Co., 243 West Seventeenth Street, New York City.
Sayman Products Co., T. M., 2111 Franklin Avenue St. Louis, Mo.
Schultz Co., Lightfoot, 389 Fifth Avenue, New York City.
Selick (Inc.), C. H., 40 West Twentieth Street, New York City.
Sem-Pray J-Ve-Nay Co., 650 Turner Avenue, Grand Rapids, Mich.
Spencer Perfume Co., 1001 South Main Street, South Bend, Ind.
Spiehler (Inc.), Adolph, 202 Court Street, Rochester, N. Y.
Stearns & Co., Frederick, 6533 East Jefferson Avenue, Detroit, Mich.
Stuart, C. H., & Co., Newark, N. J.
Talcum Puff Co., 1140 Broadway, New York City.

Tetlow Co., Henry, American and Locust Streets, Philadelphia, Pa.
United Drug Co., Greenleaf and Leon Streets, Boston, Mass.
Vadsco Sales Corporation, V. Vivadou (Inc.), division, 580 Fifth Avenue, New York City.
Warren Corporation, Northam, 191 Hudson Street, New York City.
Watkins, Co., The J. H., 159 Liberty Street, Winona, Minn.
Williams Co., The J. B., Glastonbury, Conn.
Winarick, Ar. (Inc.), 790–805 East One hundred and fortieth Street, New York City.
Wrisley Co., Allen B., 6801–6833 West Sixty-fifth Street, Chicago, Ill.

ASSOCIATE MEMBERS

Addison Lithographing Co., the, 245 Hollenbeck Street, Rochester, N. Y.
Aluminum Co. of America, 2400 Oliver Building, Pittsburgh, Pa.
American Can Co., 230 Park Avenue, New York City.
American Commercial Alcohol Corporation, 405 Lexington Avenue, New York City.
American Perfumes Laboratories (Inc.), 151 West 19th Street, New York City.
Armstrong Cork Co., Lancaster, Pa.
Artcote Papers (Inc.), 380 Colt Street, Irvington, N. J.
Art Tube Co. (Inc.), 14 Renee Place, Irvington, N. J.
Bischoff Co. (Inc.), Ernst, 135 Hudson Street, New York City.
Bond Manufacturing Corporation, Monroe and Fifth Streets, Wilmington, Del.
Brass Goods Manufacturing Co., 345 Eldert Street, Brooklyn, N. Y.
Bromund Co. (Inc.), E. A., 258 Broadway, New York City.
Bruno Court, S. A. Grasse, France, Van Ameringen-Haebler, (Inc.) 315 Fourth Avenue, New York City.
Buedingen Co. (Inc.), Ferdinand, 315 Hollenbeck Street, Rochester, N. Y.
Buedingen & Son, Wm., 1500 Clinton Avenue, Rochester, N. Y.
Burt Co. (Ltd.), F. N., 514 Seneca Street, Buffalo, N. Y.
Bush & Co., W. J., 370 Seventh Avenue, New York City.
Carr-Lowrey Glass Co., Baltimore, Md.
Chiris Co., Antoine, 147–153 Waverly Place, New York City.
Colt's Patent Fire Arm Manufacturing Co., Hartford, Conn.
Compagnie Duval, 32 Cliff Street, New York City.
Compagnie Parento, 507 Fifth Avenue, New York City.
Consolidated Safety Pin Co., Bloomfield, N. J.
Continental Can Co. (Inc.), 100 East Forty-second Street, New York City.
Dennison Manufacturing Co., 220 Fifth Avenue, New York City.
Descollonges Frères, Lyon, France, Benj. French (Inc.), American agents, 160 Fifth Avenue, New York City.
De Vilbiss Co., the, 300 Phillips Avenue, Toledo, Ohio; also 25 West Forty-fifth Street, New York City.
Dodge & Olcott Co., 180 Varick Street, New York City.
Dreyer (Inc.), P. R., 26 Cliff Street, New York City.
Du Pont De Nemours Co. (Inc.), Newport division, Passaic, N. J.
Economic Machinery Co. (Inc.), 18 Grafton Street, Worcester, Mass.
Emery Industries (Inc.), St. Bernard, Cincinnati, Ohio.
Euler, C. G., 247 Pearl Street, New York City.
Fillkwik Co., Attleboro, Mass.
Flora Aromatics Co. (Inc.), 920 Broadway, New York City.
Florasynth Laboratories (Inc.), 1513–1533 Olmstead Avenue, New York City.
Foxon Co. the, 225 W. Park Street, Providence, R. I.
Fritzsche Bros. (Inc.), 78–84 Beekman Street, New York City.
General Drug Co., 170 Varick Street, New York City.
Giese & Son, August, 300 Fourth Avenue, New York City.
Givaudan-Delawanna (Inc.), 80 Fifth Avenue, New York City.
Goerts & Co., August, 270 Morris Avenue, Newark, N. J.
Hagerty Bros. & Co., 10 Platt Street, New York City.
Hazel-Atlas Glass Co., Wheeling, W. Va.
Hefter & Co. (Inc.), 1 Junius Street, Brooklyn, N. Y.
Heine & Co., 54 Cliff Street, New York City.
Helfrich Laboratories of New York (Inc.), 41 West Twenty-fifth Street, New York City.

Hinde & Dauch Paper Co., room 2012 Court Square Building, 2 Lafayette Street, New York City.
Imperial Metal Manufacturing Corporation, Queens Boulevard, at Thirty-eighth Street, Long Island, N. Y.
Innis, Speiden & Co., 117 Liberty Street, New York City.
Ising Corporation, C. E., 133-24 and 133-30 Forty-first Avenue, Flushing, N. Y.
Keller-Dorian Paper Co. (Inc.), 110 Fifth Avenue, New York City.
Kiefer Machine Co., the Karl, 919 Martin Street, Cincinnati, Ohio.
Krause (Inc.), Richard M., 304 East Twenty-third Street, New York City.
Landowne Co. (Inc.), J., 561 Grand Avenue, Brooklyn, N. Y.
Laning Co. (Inc.), E. M., 433 Stuyvesant Avenue, Irvington, N. J.
Lautier, Fils (Inc.), 70-80 Beekman Street, New York City.
Lemoine (Inc.), Pierre, 200 Varick Street, New York City.
Leonhard Wax Co., Theodor (Inc.), Church Street, Haledon, Paterson, N. J.
Liberty Can & Sign Co., Lancaster, Pa.
Lorscheider-Schang Co., the, 140 North Fitzhugh Street, Rochester, N. Y.
Lueders & Co., George, 427 Washington Street, New York City.
Majestic Metal Specialities (Inc.), New York City.
Maryland Glass Corporation, Morrell Park station, Baltimore, Md.
Maschmeijer, A., jr. (Inc.), 66 West Broadway, New York City.
Mason & Sons, F. E., Batavia, N. Y.
Metal Package Corporation, 110 East Forty-second Street, New York City.
Naef & Co., M., Geneva, Switzerland; Ungerer & Co. (Inc.), 15 West Twentieth Street, New York City.
National Art Division of American Colortype Co., 207 West Twenty-fifth Street, New York City.
New England Collapsible Tube Co., 21-35 Waller Street, New London, Conn., and 370 Lexington Avenue, New York City.
Norda Essential Oil & Chemical Co. (Inc.), 121 East Twenty-fourth Street, New York City.
Owens-Illinois Glass Co., 905 Wall Street, Toledo, Ohio.
Parsons, M. W., Imports & Plymouth Organic Laboratories (Inc.), 55 Ann Street, New York City.
Peerless Tube Co., Locust Avenue, Bloomfield, N. J.
Perfumer Publishing Co., 432 Fourth Avenue, New York City.
Perfumers' Jewelers' Box Co. (Inc.), 685 Sixth Avenue, New York City.
Phoenix Hermetic Co., 2444 West Sixteenth Street, Chicago, Ill.
Plumly Co., Eugene K., Juniper and Federal Streets, Philadelphia, Pa.
Pneumatic Seale Corporation (Ltd.), North Quincy, Mass.
Polaks Frutal Works (Inc.), 350 West Thirty-first Street, New York City.
Pope Publishing Corporation, 250 Park Avenue, New York City.
Powell & Co. (Inc.), John, 114 East Thirty-second Street, New York City.
Quartin Manufacturing Co. (Inc.), Rockaway Boulevard and One hundred and first Street, Ozone Park, N. Y.
Randolph Paper Box Co., the, 1307 Ross Street, Richmond, Va.
Ritchie & Co., W. C., 831 West Van Buren Street, Chicago, Ill.
Robertson Steel & Iron Co., W. F., 50 North Lowry Avenue, Springfield, Ohio.
Rossville Commercial Alcohol Corporation, Lawrenceburg, Ind.
Rowell Co. (Inc.), E. N. Batavia, N. Y.
Sagamor Metal Goods Corporation, 318 East Thirty-second Street, New York City.
Salem Glass Works, 50 Church Street, New York City.
Schmid (Inc.), Julius, 423 West Fifty-fifth Street, New York City.
Schmitt & Co. (Inc.), Geo., 253 Maujer Street, Brooklyn, N. Y.
Scovill Manufacturing Co., 99 Mill Street, Waterbury, Conn.
Shipkoff Co., 247 Pearl Street, New York City.
Sierra Talc Co., 426 Union League Building, Los Angeles, Calif.
Silver Import Co., George, 461 Fourth Avenue, New York City.
Societé Anonyme Tombabrel Fréres, Grasse, France (Orbis Products Trading Co.), agents, 215 Pearl Street, New York City.
Sonneborn Sons (Inc.), L., 88 Lexington Avenue, New York City.
Stanley Manufacturing Co., the, Monument Avenue and Meiggs Street, Dayton, Ohio.
Sun Tube Corporation, Long Avenue and Broadway, Hillside, N. J.
Swindell Bros., Bayard and Russell Streets, Baltimore, Md.
Synfleur Scientific Laboratories (Inc.), Monticello, N. Y.

Thurston & Braidich, 55 Vandam Street, New York City.
Tin Decorating Co. of Baltimore, Boston Street and Linwood Avenue, Baltimore, Md.
Todd Co., A. M., 1717 Douglas Avenue, Kalamazoo, Mich.
Topics Publishing Co., 291 Broadway, New York City.
Ungerer & Co., 15 West Twentieth Street, New York City.
U. S. Industrial Alcohol Co., 60 East Forty-second Street, New York City.
Van Ameringen-Haebler (Inc.), 315 Fourth Avenue, New York City.
Van Dyk & Co., 50 West Seventeenth Street, New York City.
Verley, Albert (Inc.), 11 East Austin Avenue, Chicago, Ill.
Voss, Karl Corporation, Lipton Building, Fifteenth Street, Hoboken, N. J.
Wangler-Budd Co., 205 West Fourteenth Street, New York City.
Waterbury Paper Box Co., the, 155 South Leonard Street, Waterbury, Conn.
Webb & Son (Inc.), James A., 110 East Forty-second Street, New York City.
Wheaton Co., T. C., Second and G Streets, Millville, N. J.
Wheeling Stamping Co., Twenty-first and Water Streets, Wheeling, W. Va.
White Metal Manufacturing Co., 1012-1024 Grand Street, Hoboken, N. J.
Whittaker, Clark & Daniels (Inc.), 245 Front Street, New York City.
Will & Baumer Candle Co. (Inc.), Syracuse, N. Y.
Wilson, Ralph W., 500 Fifth Avenue, New York City.
Wirth (Inc.), Phillipp, 31 Union Square, New York City.
Wirz (Inc.), A. H., Fourth and Palmer Streets, Chester, Pa.
Woods & Chatellier (Inc.), 516 Fifth Avenue, New York City.
Young Bros. (Inc.), 72[illegible] Eddy Street, Providence, R. I.

MEMORANDUM ON TOILET ARTICLES TAX—SECTION 602

In coming before this committee and representing the American manufacturers of toilet articles, it is not my purpose to ask that the tax on that industry be eliminated, but to express to you our feelings in regard to the tax in general.

In order properly to weigh the effect of the proposed tax, it should be clearly appreciated at the outset that the burden of the tax will fall not upon persons with large means, or upon the wealthy class, but upon those of limited and small means who are less able to bear it. The nature of the cosmetic and toilet businesses has completely changed in recent years. Some years ago cosmetics especially might reasonably have been classed as luxuries. They were sold in limited quantities at high prices and purchased by those of substantial means. There was a very limited and selected demand and a proportionately reduced output and high margin of profit. To-day, by reason of our higher scale of living, their use has increased with amazing rapidity, and it is a matter of common knowledge that cosmetics are to-day in the most general use by all classes throughout the United States. They are and form a part of general modern toilet necessities.

First, let me say that the American manufacturers of toilet articles are in favor of a general sales tax. We feel that a tax of this character as proposed by the Ways and Means Committee is the most logical way to raise the revenue sought and to affect business the least.

I feel that after having gone into this matter very carefully that the highest revenue-producing point at which our industry as a whole should be taxed is 2 per cent. This figure is not based upon statistics of to-day, as we have been unable in the short time to get up such statistics, but it is the result of my own experience and conversations had with other of the large manufacturers in our trade and the Government's own tax on our industry in 1917. It is true that the tax of 1917 was based upon the retail sales price, but it was found from experience that with the evasions and the cost of policing and collecting the tax that a manufacturer's tax at a lower rate would have produced as much or more revenue. In specifying 2 per cent, I wish to make it clear that this should include all of the items named in this schedule.

I understand that an effort will be made or has been made to exempt certain of the articles enumerated in the schedule. I am in complete accord with the exemption of soaps, mouth washes, dentifrices, etc., which constitute possibly one-half the entire production of our industry. If you eliminate these from the schedule, and they amount to about 50 per cent of the total of the schedule, you bring the total value of our trade to approximately $100,000,000

per annum turnover. In arriving at this figure I am taking the Government census figures for 1929, and deducting about 30 per cent for the falling off in our business for the last two years, the total business would be approximately $200,000,000.

The next subject is the 5-and-10-cent articles, or rather the articles which are sold in the 5-and-10-cent stores. There is a class of manufacturers in our trade who manufacture these articles of merchandise exclusively. The volume of the business in the 5-and-10-cent articles other than soaps, dentifrices, and mouth washes, is approximately $37,500,000. The average margin of profit to the manufacturer is about 4½ per cent. It is absolutely impossible for him to absorb this tax. He is confronted by the attitude of the 5-and-10-cent stores in which they have definitely stated that under no circumstances can they absorb the tax. Now, if the manufacturer of the 5-and-10-cent articles can not pass on the 10 per cent tax he can not remain in business and absorb it. This would mean, roughly, that of the total number of employees in the business upward of three to four thousand would be discharged.

The effect on the bottle industry would be equally disastrous. Fifty per cent of the entire small bottle industry to-day is occupied in the manufacture of 5-and-10-cent containers, and I can safely say that the same would be true of the box manufacturers, the label manufacturers, lithographers, and many allied interests which depend so largely on this class of business.

That brings us to the last proposition. If you eliminate soaps, tooth pastes, and mouth washes, etc., and put out of business or exempt the 5-and-10-cent articles you come down to a remainder of approximately fifty to sixty million dollars, which nonexempted articles are all that remains of the schedule. Now the effect of a 10 per cent tax on these articles would be an immediate increase in price, as the 10 per cent tax must be passed on. No manufacturer in business to-day, in my judgment, could absorb it. This means a higher selling price which is exactly contrary to the present temper of the American people. They are seeking always lower-priced merchandise, as is demonstrated by the enormous growth of the 5-and-10-cent stores. The falling off in sales, in my judgment, would be enormous.

A passing on of the 10 per cent tax to the retail druggists, numbering approximately 50,000 in the United States, who are already hard hit, and the volume of whose business in toilet articles is 40 to 50 per cent of their total sales, would cause an immediate restriction of their sales by the increase in the price of merchandise, as we believe they will be unable to sell the merchandise at any higher price in this falling market and would suffer serious loss.

Why would we manufacturers come down to Washington to protest a 10 per cent tax which we can not absorb and would not bear if we did not realize that the harm would be in the falling off of our sales to the almost vanishing point? So that the revenue which would be produced from the smaller volume of sales of the nonexempted articles would be unproductive. Whereas on a 2 per cent tax on all the articles in the schedule, it is safe to say, that little if any of it would be passed on to the ultimate consumer, and the maximum yield obtained.

The Republic of France recently imposed a tax of 10 per cent upon toilet articles. This tax has been proven to be an absolute failure, the revenue produced from it being practically negligible and the effect upon the business and the falling off of the sales being so great as to seriously cripple one of the greatest industries of France. The French Government to-day is taking steps, so I am advised, to seek the repeal of this tax.

Another loss of revenue which the Government would sustain from the falling volume of sales of the nonexempted articles would be the immediate falling off of the customs returns from the import duties on the raw materials going into the manufacture of toilet articles, as practically all of these raw materials, essential oils, balsams, waxes, and other articles going into the manufacture of the finished product, come from abroad.

I feel also that the schedule as written in the House bill should be clarified so as to eliminate the tax upon the raw materials which go into the finished product. Now it is a pyramiding of the tax up to the time they are put out as the finished product for final consumption. We are strongly in favor of having the committee insert the exceptions in section 601 (a) of the Ways and Means Committee's original bill or similar effective language in the formal bill.

It is evident that adequate revenue can be best obtained by reducing the tax and spreading it over a larger number of articles, and we wish it to be under-

stood that we stand squarely on the recommendation of the Merchants Association of New York, which has joined actively in further wide efforts to balance the Budget, and one of the objectives of the merchants' association is stated, as follows:

"For further needed revenue, the imposition of excise taxes at lower rates on a broad range of articles not of first necessity."

As I said in the outset, this association desires to go on record as favoring a general sales tax, and whether it be called a general sales tax or by some other name possibly more acceptable to Congress, we do believe and seriously urge that the imposition of excise taxes should be at a low rate and upon a very broad range of articles, and that we should not be singled out for the imposition of a tax so large that it will seriously impair the industry.

STATEMENT OF LEVI COOKE, WASHINGTON, D. C., REPRESENTING AMERICAN MANUFACTURERS OF TOILET ARTICLES

Mr. COOKE. Yes. If the committee please, the vice of this tax rests in this fact, that it is one of five or six 10 per cent taxes on turnover in industry.

Furs may be luxuries, and other items may be luxuries, but if they be luxuries they are articles of occasional purchase only. A lady buys a fur coat and wears it for two or three years. The same may be said of the other articles that are taxed at 5 and 10 per cent. But the product of this item are of daily purchase by the mass of the people of this country. It is unfair to this industry and the country that the manufacturers of the product should be subject to a 10 per cent tax on every bill of goods that they sell for constant, regular supply. This is an essential thing.

The Senator from Pennsylvania mentioned luxuries. There may be a trifling percentage of luxuries within this section 602, but the great mass of them have become necessities. For instance, face powder was mentioned. Every baby in the United States needs powder. There is not a hospital in the country that does not use powder in the treatment or handling of a young baby. Every mother needs it. It is as much of a necessity as swaddling clothes. It is considered so by doctors and nurses.

Senator REED. Babies do not need rouge, do they?

Mr. COOKE. They do not need rouge while they are babies. But the female child as she grows may require that as a matter of the common custom of the people, and that common custom of the people in the way of a necessitous custom, so far as the mass of these articles is concerned, should be considered by the committee.

I will call attention again to the list of those articles that are taxed at 10 per cent. I mentioned them the other day. We will leave out fermentable grape juice, which is at 40 per cent. But furs, jewelry, 10 per cent. Boats at 10 per cent.

Senator REED. Do you mean that fermentable grape juices are not the common custom of the people?

Mr. COOKE. I do not know about that. But they are out of the range of this 10 per cent tax because they are at 40 per cent, and I do not care to discuss them in comparison with toilet articles.

Sporting goods, 10 per cent. Cameras, 10 per cent. Fire arms at 10 per cent. Those articles are all of occasional purchase. A person who buys a fur coat or a shotgun does it only once in a long period. But the men and the women of this country are accustomed to buying these articles as a daily supply.

The matter was mentioned regarding a necessary correction in the section to prevent a double tax on many of the articles named in this section which go into manufacture. Such things as petroleum jelly are basic materials for the manufacture of these finished products. I do not think that you can rely on the section as shown in the House bill as being complete for this purpose, because that was designed for a general sales tax. That is the originally reported bill.

I would suggest that in line 5 on page 233 there be the insertion of the phrase: "If not sold for further manufacture." Otherwise, you will be taxing the basic raw material and then putting a tax on it again in the finished product.

The French experience which was mentioned by Mr. Warren appears about the same as in the Argentine. They have a 10 per cent tax on these products, and it is a tax that does not yield much and is very disturbing to the people—not yielding revenue, and therefore they are planning to do something else with it.

I speak primarily for the service-supply houses which furnish from $40,000,000 to $50,000,000 worth of containers and other necessities that go with the manufacture, production, and preparation for the market of these articles. They are glass blowers, tube makers, paper makers, and others operating in a number of fields which serve this trade. They employ some thousands of men furnishing these materials to the toilet article manufacturers. If there is a 50 per cent reduction, as is positively anticipated if this 10 per cent tax goes on, there is a 50 per cent reduction in the business of those many manufacturers who have their machinery, their workmen, all of the plant necessities and necessaries for producing this great variety of articles.

That brings me back to the original position. To pick out toilet articles, whether on the theory that they are necessities or otherwise, whether it is on the theory that they are luxuries or otherwise, to bear a 10 per cent excise tax, is piling a mountain on this industry that it can not sustain.

Senator REED. Would your clients object to a general manufacturers' excise tax?

Mr. COOKE. On the contrary, I think that Mr. Warren, who preceded me, expressly stated that to be their position. And I do not think they take that position only because they have been singled out amongst six industries to bear this terrific tax on this tremendous turnover. That is the wise way in which to make all trade and all consumption in the country bear this emergency taxation. You injure greatly any one business which, with a few others, you select to sustain so large a yield of tax from their particular business. This is ruinous to 50 per cent of the business of these merchants. They will not only make no profit, but they will see the business go to the point where they can not make a profit. It is the age-old failing of killing the sow in order to get quick pork. You should at least allow the production to continue. And only by spreading can you raise the sum which you have in mind and at the same time relieve the few individuals now named from very great injury.

I could speak equally earnestly in behalf of any other operation named for these special high taxes. It is a matter of common concern to the people that this business be not ruined, and it seems to me that the only way that the Congress fairly can acknowledge the existence of that concern, both within the individual industry and outside of it, is to make the spread so wide that at least it will be thin enough for the industries named thereby to breath thereunder.

Thank you, very much.

The CHAIRMAN. Dr. John F. Anderson.

STATEMENT OF DR. J. J. DURRETT, NEW YORK CITY, DIRECTOR OF PROFESSIONAL RELATIONS, E. R. SQUIBB & SONS

Doctor DURRETT. Mr. Chairman and members of the committee, my name is Dr. J. J. Durrett, director of professional relations, E. R. Squibb & Sons, New York City. I am appearing for Doctor Anderson, who can not be here to-day. Later I wish to insert Doctor Anderson's statement in the record.

I wish to make a short statement on behalf of the following manufacturers: E. R. Squibb & Sons, New York; Sharp & Dohme, Philadelphia; the Lambert Co., New York; the Zonite Products Corporation, New York; Lehn & Fink (Inc.), New York; the Pepsodent Co., Chicago; the Iodent Chemical Co., Detroit.

I am appearing in connection with section 602 of the act. We feel that dentifrices and antiseptic mouth washes are classified in this section with articles that are properly classifiable as toilet preparations. That dentifrices and antiseptic mouth washes are now medical necessities. The public-health programs throughout this country definitely require dentifrices and antiseptic mouth washes for their proper execution.

For 14 years I spent all of my time as a health officer, and I had to do with the forwarding of mouth-hygiene campaigns, and I know that they can not be successfully managed unless you have dentifrices and mouth washes.

I know, too, that the dentists of this country feel that they must recommend to their patients the use of dentifrices and antiseptic mouth washes in order to properly care for their patients.

Now, with these definite facts in view we ask that the committee consider the elimination from this section of these necessities.

We realize also that it is necessary for the committee to increase revenue in certain lines in order to balance the Federal Budget. Certain of the manufacturers represented here that I speak for manufacture a full line of toilet preparations, and we are not offering any objection to this committee's imposing the tax proposed in this act on those preparations that are not properly classifiable as medical necessities.

Senator REED. How about toilet soap?

Doctor DURRETT. I feel that toilet soaps probably are not in the class of medical necessities. They probably are necessities, however, if the broadest sense of the term is used.

Senator REED. That would include the cheapest form of hand soap as the section is written.

Doctor DURRETT. Yes. I think it could be properly classed as a necessity, but I think it can not be properly classed as a medical necessity.

I wish to present for the record the statement of Doctor Anderson.

The CHAIRMAN. That may be placed in the record at this point.

(The statement of Dr. John F. Anderson is here printed in the record, in full, as follows:)

STATEMENT OF JOHN F. ANDERSON, M. D.

Mr. Chairman and members of the committee, I am Dr. John F. Anderson, of New Brunswick, N. J. I appear in opposition to that part of section 602 of the proposed revenue act which makes subject to taxation dentifrices and antiseptic mouth washes. I happen to be a vice president of E. R. Squibb & Sons, but I am also a physician and was formerly director of the National Institute of Health, United States Public Health Service.

E. R. Squibb & Sons have, ever since the Civil War, been very closely allied with the medical and dental professions with pride in high-quality medicinal preparations. I may say that other manufacturers of dentifrices and antiseptic mouth washes are also very much interested in the elimination of this proposed legislation.

I am authorized to speak not only for E. R. Squibb & Sons but also for the Lambert Co., Zonite Products Corporation, Iodent Chemical Co., the Pepsodent Co., Sharp & Dohme, and Lehn & Fink (Inc.), which represent approximately 75 per cent of the production of dental creams and approximately 90 per cent of the production of antiseptic mouth washes in the United States. However, some of these manufacturers, including E. R. Squibb & Sons, manufacture in substantial quantity articles other than dentifrices and antiseptic mouth washes, which articles are included in the proposed tax; but no protest is being made against the inclusion of such other articles. It is only with respect to dentifrices and mouth washes, which have a distinct and broad health value, that any opposition is expressed.

I have come respectfully to request this committee to revise the provisions of House bill No. 10236, section 602, under which it is proposed to impose a tax of 10 per cent on the price of tooth and mouth washes, dentifrices, and tooth pastes. These articles are classed in this section with perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, pomades, etc., but it is submitted that they are of a distinctly different category and are not properly to be considered as mere toilet preparations, but rather as important means of protecting the health of the Nation.

The general sales tax as originally proposed to the House of Representatives was eliminated, but the present proposed bill, which imposes sales taxes only on such generic articles as toilet preparations, furs, jewelry, automobiles, boats, radio receiving sets, mechanical refrigerators, sporting goods, firearms, cameras, chewing gum, candy and soft drinks, also includes among its specific provision a very substantial tax on dentifrices and antiseptic mouth washes which are not only in common use by all classes of society throughout the Nation, but are actually very important preparations for the protection of health.

The importance of oral hygiene in connection with the general health of an individual has now become universally recognized. Great sums have been expended by the State, municipal, and Federal departments, boards of education and workers in child hygiene to instill in the minds of the people, and particularly in the minds of children and younger adults, the great importance of daily cleansing of the teeth and the use of mouth washes which will tend to prevent or counteract the spread of infections in the mouth and throat.

I think one may fairly say that, due to the emphasis placed upon the necessity for the constant use of dentifrices and mouth washes, as well as to the training and skill of our dental and medical professions, this Nation as a whole has advanced far beyond most other nations in the care of the teeth and the mouth. Any burden on the manufacture or consumption of these articles at any time

would seem to be inadvisable, but in the present depressed economic condition of the country any such burden is apt to cause very direct and harmful consequences.

It is an incontrovertible fact that in times of economic distress, such as those through which we are now passing, the health of the people as a whole is adversely affected. In an effort to make their reduced income cover what they deem their most essential needs, there is a definite tendency to avoid expenditures for what may be deemed health protection. It has been proved that the results of such neglect have far-reaching effects which persist years after the period of economic distress has passed.

This is particularly so in the case of children and young adults who may never recover from the years of neglect of well-known sanitary and health-promoting measures imposed by economic conditions. Among these neglected measures are proper care of the mouth and teeth. It is certainly true that when the teeth are not given proper care, decay of the teeth is more apt to occur. There is also a tendency for the development of the condition known as pyorrhea, which is a condition of the gums familiar to all. As a result of the decay of the exposed surfaces of the teeth and the effects from pyorrhea, abscesses which have far-reaching effects not infrequently develop at the roots of the teeth.

It is recognized that these conditions are to a considerable extent preventable by proper care and proper cleaning of the teeth with suitable and safe dentifrices and the use of antiseptic mouth washes, together with the oversight that is given by the services of a qualified dentist.

Dentists and physicians have for years been emphasizing the vital importance in general health of the proper cleaning of the teeth with suitable dentifrices or tooth paste, aided by the use of antiseptic mouth washes. The use of dentifrices and the toothbrush is of even greater importance at this time because many persons are unable to employ the services of a dentist due to reduced or failing income.

It is recognized that the mouth is the portal through which many infections reach the system and from which dangerous diseases result. Among the diseases contracted by germs gaining entrance through the mouth are influenza, septic sore throat, typhoid fever, diphtheria, scarlet fever, and others. Abscesses not infrequently develop at the roots of neglected and decayed teeth, causing the development of rheumatism or joint pains, kidney diseases, heart disease, and infections in other parts of the body.

It is, therefore, respectfully submitted that such a tax is definitely a tax on health protection and, therefore, is against public policy and the general welfare of the people. The imposition of such a tax will cause many persons, on account of the increased outlay required, to neglect the important health procedure of properly cleaning the teeth and mouth which will have its effect in increased morbidity and mortality from preventable diseases for many years after these trying times have passed.

The present section in which this proposed tax is levied has been taken in almost exact terms from a similar provision contained in the act of June 18, 1898 (30 Stat. 463), enacted during the Spanish-American War, by which certain so-called luxury taxes were imposed. It can only be said that this is a most unfortunate reversion to a concept which may have existed over a generation ago that the articles in question could be classed in the same category as luxuries or toilet preparations. However that may be, it is recognized, through the immense progress made in the realm of oral hygiene, within the last 20 years that these articles which may have been considered luxuries in 1898 are now necessities vital to the preservation of health. In 1929 The Country Home, a periodical in the farm field, determined that 91.8 per cent of families used dental cream. In 1931 the Memphis Commercial Appeal determined that 85.3 per cent of families used dental cream and that 63.9 per cent of families used mouth washes. In 1931 The Milwaukee Journal, in a very extensive survey, determined that 95.9 per cent of families used dental cream and that 70.6 per cent of families used mouth washes.

I therefore respectfully urge this committee and, through this committee, the Senate of the United States, to eliminate, in the interest of the health of the Nation, from the bill under consideration this anomalous provision.

STATEMENT OF W. BRUCE PHILIP, WASHINGTON, D. C., ATTORNEY AND DRUGGIST, REPRESENTING THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS

Mr. PHILIP. Mr. Chairman and members of the committee, I appear before you on behalf of the National Association of Retail Druggists as their counsel, and also as a retail druggist, and I hope to place this section of the bill on cosmetics and toiletries in a light where you can see how it will affect these retail druggists.

It has been stated that you are considering a 10 per cent tax on cosmetics, toiletries, and dental preparations to collect $25,000,000 revenue.

An analysis of this part of the revenue bill I hope will convince you that it is not in fact such a measure.

This so-called cosmetic tax is at least a $12,500,000 tax on the independent retailers throughout the Nation, for the retailer must absorb at least 50 per cent of the $25,000,000 tax.

This $12,500,000 that must be absorbed falls heavily on the 53,000 independent retail druggists. The majority of these 53,000 are represented by the National Association of Retail Druggists.

There is no legal or economic reason why the manufacturer should absorb this tax. The manufacturer of cosmetics and the other items taxed depends on advertising, his name, and the need for the article to sell his products.

Some few manufacturers of these articles may for a while absorb this tax, but common sense and past experience tells us that over half of the manufacturers will add the amount of the tax, with extras, to the wholesale price.

On items retailing for 50 cents and under this additional wholesale price of 10 per cent can not be added to the retail price.

Take an example: Daggett & Ramsdell's 25-cent at retail tube of cold cream is listed at $2 a dozen. Add the 20 cents a dozen, 10 per cent, and say 5 cents a dozen to take care of the manufacturer's bookkeeping, and we have a new wholesale price of $2.25 a dozen. The retailer's price would remain the same.

Items that cost the retailer from $1.75 to $2.25 a dozen sell at retail for 25 cents. Those costing from $3.75 to $4.50 a dozen have a selling price at 50 cents. Items selling under 25 cents at retail are even more difficult to change as to retail price, unless the price is downward.

Therefore, in this keen competitive market, the retailer is facing a 10 per cent tax on a line of products that can not be passed on to the consumer.

Therefore, you are not considering a cosmetic tax, for half must be absorbed at least by the retailer. This is a $12,500,000 tax on the retailer for the privilege of selling these items. These items are now a considerable part of his business. It is not a cosmetic tax. It is not a manufacturer's tax. It is not a tax on the consumer of cosmetics.

Income-tax returns for 1931 showed that the retail druggist made little money last year. To absorb this $12,500,000 for the privilege of selling these items the druggist must make still less money, get into the red, go further into the red, reduce clerks' salaries, or mark

up the selling price on items not mentioned in the revenue measure. Therefore, this becomes as to the retail druggist a tax on the sick.

Every independent retail druggist is in a smaller or a larger way a manufacturer of cosmetics and the items taxed. The keeping and checking of these records will be to the druggist an expense. The collecting of many small amounts will cost the Government more money than they will receive.

Coming to the question, What is a cosmetic and what is a medicine? It is no easy matter to decide, for a cosmetic is often a medicine. Hundreds of cosmetics to-day are in the opinion of millions just as essential to a sick body as a medicine. Burns from electric machines and ordinary sunburn are often healed by using cold cream and lotions. Those so-called cosmetics, when needed, are the best medicines. In fact, they are the only medicines the physician may prescribe. Therefore your tax is in part a medicine tax.

Schools spend thousands of dollars teaching our children hygiene of the mouth. The theory of your tax bill is to raise the price on items used to keep the teeth clean and the mouth healthy. Mouth-hygiene preparations that help to encourage children to follow healthful habits should not be increased in price.

Therefore taxes on cosmetics, jewelry, candy, chewing gum, and other items selling at retail for 50 cents or under are in reality a retailer's tax.

Taking the amount your bill intends to raise and we have $80,000,000 for the retailer to absorb. How can he do it?

Taking the soda fountain sirup tax, which I would like to touch on because it affects the retail druggist, can you seriously expect to collect the soda fountain sirup tax from all? Unless officers collect every Saturday or Sunday night from thousands of wayside beverage stands, you will have thousands of violators of this tax law.

The retail druggist with a fixed place of business is in keen competition with transient places of business.

The least I feel you should consider doing is to exempt items sold for 50 cents and under; exempt manufacturers up to $2,000 of manufactured products a year.

Every person now having any kind of an occupation that offers a living should be encouraged to keep at that calling.

Changes at this time crowd other industries, reduce wages, and increase the number of unemployed.

The CHAIRMAN. Would you prefer a general sales tax?

Mr. PHILIP. The National Association of Retail Druggists, from past experience, for instance with stamp tax in the Spanish-American War, has had such an experience that they have gone on record as opposed to a sales tax. We are willing, I am sure, to pay our fair portion of any burden or any tax that is imposed.

Senator REED. How about a uniform manufacturers' excise tax?

Mr. PHILIP. As I said, Senator Reed, I am in the position that our association has gone on record against a sales tax.

Senator REED. I know, but I am not talking about a sales tax; I am talking about a tax something along the Canadian system imposed on the manufacture of all manufactured articles except food or clothing.

Mr. PHILIP. Any sales tax we fear will be passed on to us. If the tax can be passed on so it is fairly borne, we will say, by the manufacturer, the retailer, and the consumer, or passed on to the consumer, we certainly would favor it. But the Canadian tax, as our Canadian druggists have told us, is in a measure not as satisfactory as we hoped it would be.

Senator REED. It is 6 per cent. Nobody suggested any such rate here.

Mr. PHILIP. We, of course, are consumers, and as consumers we always are willing to pay our fair share of the tax.

Senator CONNALLY. Have you any other suggestion to make where we are going to get this money if we take it off these articles you are complaining about? Where are we going to find it? Can you tell us?

Mr. PHILIP. I feel, as far as the retail industry is concerned, we will be in less of a position to help you with other taxes if this is put on. In other words, you will make the task of collecting your other millions or billions of taxes harder, both for ourselves and the community, for the community does depend on us for rent and a thousand and one other things.

TAX ON FURS

The CHAIRMAN. Mr. M. Gettleman, of Atlantic City, N. J.

Mr. SELIG C. BREZ. Mr. Chairman, I would like to submit for Mr. Gettleman a very short brief, as he was unable to be here [reading]:

STATEMENT OF M. GETTLEMAN, RETAIL FURRIER, ATLANTIC CITY, N. J.

Mr. GETTLEMAN. At the outset, we wish to say that we are not objecting to taxation of the fur industry. We are willing to do our share to balance the Budget, and our objection to the present tax is to the method of levying it.

The Government will never collect $20,000,000 from a manufacturers' or retailers' tax on furs, as it expects to do. The Government will be fortunate to collect one-quarter of that amount. A brief survey of conditions in the fur industry shows that it is one of the hardest hit by the depression or other defects. To burden it now with a 10 per cent tax virtually means ruin to many of the big houses in the business, with a consequent loss of the income taxes now being collected from them, increased unemployment, and so on. This certainly will not help balance the Budget. Is any business to-day able to stand a 10 per cent tax?

A manufacturers' or retailers' sales tax on furs will be hard to collect. There are thousands of small retailers and small specialty shops in ladies' apparel throughout the country in which furs are assembled. Most of these shops are so small they do not keep books, and with business as bad as it is, it is easy to see that many of these small shopkeepers will evade payment of the sales tax.

Past experience with the war tax on furs shows that the cost of collection and investigating tax returns on furs and the court costs incurred and putting people out of business were not warranted considering the total tax collected. Such a condition is quite unfair to the larger fur houses which are willing to pay their fair share of a tax and make correct returns, and they should therefore be protected by the Government from unfair competition in this respect.

But a tax on furs can be levied in such a manner as to distribute the burden equitably so as to be acceptable to the retailers, manufacturers, raw-skin dealers, and manufacturers of fur trimmings for cloth coat houses; and at the same time net the Government much more money with a much easier method of collection.

We submit a 5 per cent tax on cost be imposed on dressed skins, payable by the owner of the skins before they leave the dressing establishment. Such a tax gives the Government a check on every skin used in the country and the tax is also readily collectible. The committee should understand that dressed skins represent on the average 75 per cent of the value of the finished article.

To facilitate the collection of the tax the Government can put an agent in each dressing establishment in the country—there are only 84 in all. Such agent could cause each skin to be Government stamped before leaving the dresser, and in that manner the Government is assured of collecting 100 per cent of the tax due.

There is little likelihood of the Government being defrauded by the merchants undervaluing skins sent to the dresser. There is so much risk involved in dressing skins that no merchant can afford to risk undervaluation of merchandise to escape a 5 per cent tax. Dressers are usually responsible for all damage.

In the case of imported dressed skins, the tax can be collected at the customhouse.

Our plan is desirable because present stock of dressed skins in the hands of merchants would appreciate in value by the amount of the tax imposed. This would materially strengthen the morale of the industry, which at present is badly shattered.

We most earnestly urge your careful consideration of the above with a view to imposing an equitable tax in the manner described, which will serve the

double purpose of making it relatively easy for the Government to control the amount of tax due as well as placing the tax where it belongs.

The CHAIRMAN. Mr. Henry Rosen, New York City.

STATEMENT OF HENRY ROSEN, REPRESENTING NEW YORK FUR TRIMMINGS MANUFACTURERS' ASSOCIATION, NEW YORK CITY

Mr. ROSEN. Mr. Chairman and gentlemen of the committee, I represent the New York Fur Trimmings Manufacturers' Association. It is an organization composed exclusively of manufacturers of what are known as fur trimmings. There is a distinction between the articles that are manufactured by those engaged in the manufacturing business in the fur industries. Skins may be manufactured entirely into completed coats or into completed neck pieces, or they may be manufactured into collars and cuffs, and these collars and cuffs are called trimmings. A set consists of a collar and two cuffs, and these trimmings go on and are sewn on the cloth coat manufactured by the cloth-coat manufacturer, and the whole when finished forms what is known as a fur-trimmed coat.

Now, I represent exclusively that branch of the industry which is engaged in the manufacture of these trimmings. I am going to let the following speakers take up the question of the completed fur garment and the neck pieces. I am going to address myself specifically to this branch of the industry.

The article itself is an unfinished article. It is not an article which is sold to the consuming public. It is an article which is passed on to another manufacturer and by him manufactured into a fur-trimmed coat. It has utterly no utility as such, it has no separate value, it has no use whatever, unless it is first sewn upon a cloth coat.

I deem it my duty to call to your attention the fact that this bill was taken bodily from the revenue act of 1918, at a time when the fur-trimming industry was virtually in its infancy, and the general impression was that it was not intended to tax fur trimmings. The peculiar wording of the section itself taxing "articles made of fur on the pelt or hide" conveys to the mind of the reader an idea at first that it was intended to tax trimmings. But the Treasury Department set that doubt at rest by ruling very squarely that the trimmings were taxable within the meaning of that provision.

Now, when this bill came up in the House of Representatives again it was inquired into, as the record of the committee will show, because it appears there. It was questioned whether it was intended to include fur trimmings.

In answer to a suggestion that an amendment be placed in there to make it clear, it was stated at the time by a member of the committee: "Let us copy this amendment and then look it up and if it is necessary the committee can return to it and have a perfect amendment," a suggestion which was consigned to oblivion in the closing days upon the revenue act.

So we have gone to Congressman Crisp and we have gone to Congressman LaGuardia, who was one of the chief movers in the imposition of these excise taxes, and the Congressman has gotten a statement from the gentleman of Georgia in which he says:

I remember your query when the amendment was on the floor and my answer. It was my understanding that only when fur was the chief component part of an article, the tax should be applied, and that it should not be applied to coats simply trimmed in fur.

I don't want you to be misled, and, if the matter needs correction, I trust you can get it corrected in the Senate; and, if I am a conferee on the bill, I will agree to any clarifying amendment.

And Congressman LaGuardia says to the president of this association:

This is exactly in accordance with my understanding. I am sure it was our intention that a collar, cuff, or trimming to be applied to a coat was not to be taxed. If it was a neck scarf complete to be worn detached, then, of course, it is an article the chief component part of which is made of fur, and would be taxed.

The CHAIRMAN. The House passed it in this form:

Articles made of fur on the hide or pelt, or of which any such fur is the component material of chief value.

Mr. ROSEN. Yes; but the Treasury Department has construed that to mean that the fur manufacturer of trimmings pays a tax in the first instance, whether or not the fur later becomes a component part of chief value. So that the tax falls in the first instance on the fur manufacturer.

The CHAIRMAN. I do not see how that can be.

Mr. ROSEN. I have the ruling right here.

Senator CONNALLY. A sale, Mr. Chairman. When he sells it it is known as fur.

Mr. ROSEN. When we sell it we have no idea whether that fur is going to become the article of chief value in a coat. That rests with the manufacturer.

Senator CONNALLY. When you sell it the fur is the chief component, because there is nothing else in it except fur?

Mr. ROSEN. That is true.

Senator CONNALLY. That is why.

Mr. ROSEN. Now, I again say, I call attention to this because of the very obvious misconception of facts in the House of Congress when this bill was passed.

Senator CONNALLY. If you know that it is going to be the chief component of fur articles and taxable, why shouldn't your article be taxed?

Mr. ROSEN. Because this is not a finished article, Senator.

Senator CONNALLY. It is finished when it leaves your hands, so far as you are concerned.

Mr. ROSEN. Except that it is the only article in the entire list of subjects or articles taxed in this excise tax that has no separate utility. Accessories on automobiles are taxed but only 1 per cent, and in that instance they have a distinct replacement value because you can go in a store and buy a part.

Senator CONNALLY. It looks like we ought to take it off of the finished garment and tax it on the fur, because fur is what we are after.

Mr. ROSEN. I do not know what you gentlemen are after, but I know what we are after.

Senator CONNALLY. I think he has made it very clear as to where we ought to rearrange our schedule.

Mr. ROSEN. So far as the fur set is concerned, I want to make it clear, Senator, that these fur sets, the collars and cuffs can not be used by anyone. They are not sewed. They are sewed upon garments which are sewed by the coat manufacturer. If there is a tax upon the finished garment and cloth and on the fur trimmings, the tax will then not only be on the fur coat but on the fur trimmings. But there is no separate tax on the entire finished article, so far as I can find that falls into that class.

However, I am going to go on with the regular routine of my discussion.

The CHAIRMAN. You may proceed.

Mr. ROSEN. The effect of this tax, gentlemen, is not a subject of mere conjecture or speculation. It is very important to know that the industry as a whole is composed mainly of men of small capital. In this industry, Senators, the flight between capital and labor is very short, or rather, conversely, the flight between labor and capital is very short, and I know of no industry in which the term is virtually synonymous, because the man who is the fur-trimming manufacturer to-day is the man who sat at the bench or the cutting table yesterday.

Senator CONNALLY. He made lots of money.

Mr. ROSEN. He made lots of money—and he takes his thousand dollars and goes into business with it, and he does a volume of about ten or fifteen or twenty thousand dollars a year and sits at the bench and becomes a boss and rates himself a capitalist. That is the condition of that industry. There is no large capital invested in that industry. There are no organized forces in the industry. He is a man of limited means. In a very usual instance there is a firm possibly of two or three men, partners. One of them is the cutter; another is the nailer; the other one is a salesman. Each of them works, and they manage to eke out a livelihood. They are working for themselves, and strictly speaking they are not a capital sort of business.

Now, they work on a very small margin, and the articles they sell are for the most part articles of very cheap and inexpensive quality.

Fur-trim sets sell from 75 cents a set up anywhere to a very high, expensive fur set, which constitutes a very minor and small part of this industry. But the vast majority of these fur sets sell from 75 cents up to $3.50, and that includes the skin, it includes the dye, it includes the dressing, it includes the labor, and it includes the manufacturer's cost of making those things that go into these cloth coats which are sold at a price ranging from $9 up to $15 or $17 to the average person of limited means who can not afford an entire fur coat of expensive make.

The CHAIRMAN. What is your suggestion here in changing of the wording?

Mr. ROSEN. Well, I do not want anything I say to be taken in derogation of the general protest against the tax on furs. I do not want to be misunderstood as asking you gentlemen to tax all furs and to eliminate us, unless that is an inevitable thing, unless you are going to tax furs and garments in general.

But if there were going to be a clarifying amendment there the clarifying amendment would have to read "except the articles of collars and cuffs which are to be sewed on cloth garments are to be

exempt from this tax unless the cloth, fur-trimmed coat is composed of fur which is the component article of chief value."

That is the way I would handle it.

Now, I was going to address myself to the effect of the 1920 tax. Bearing in mind the composition of this industry, the small manufacturer, and the pathetic plight in which he is to-day, I do not know of any industry that has been so hard hit. But I am going to revert back to 1920 and 1921 and point out to you the paralyzing effect of this same tax on the industry.

In 1920 and 1921 I am referring to some comparisons. The decrease in the revenue would be the decrease correspondingly of the volume of business in the industry. From 1920 to 1921 in the automobile and allied industries 20 per cent; pianos 1½ per cent; cameras and photographic films, ⅓ of 1 per cent; candy 11 per cent; jewelry 6 per cent; capital stock tax 13 per cent; and furs 40 per cent.

Now, gentlemen, it is very evident that it is not a mere idle guesswork on my part or conjecture to say that the effect of a fur tax, bearing in mind the composition of that industry, is absolutely paralytical and destructive. These men can not survive this tax. It is impossible. It is a small business.

Everybody comes here and says not to tax their industry but tax the other fellow. But it is only axiomatic to me that a tax is going to hurt everybody, and it is all wrong to try to apportion the tax in relation to the industry to be affected. Some are going to be injured slightly. Some are going to be injured fatally. Some are not going to be injured at all. There might be a method of arranging the tax so that it may be fairly distributed by apportioning the tax so that it will not impose on those industries that can not bear it, because here is an instance where they can not carry it. This fur manufacturer, this man of limited capital, can not stand this tax, and I am going to point out why.

If a man has a capital of $5,000—and that is a high capital with the average manufacturer—he does a gross volume of $50,000. Out of that $50,000 he probably earns for his livelihood $2,500. This tax takes 10 per cent of that away and gives $5,000 to the Government, and he has not got enough for his own livelihood. That is the condition in this industry.

And now, if the tax is imposed on the trim manufacturer there is an easy spot for competition by the cloth manufacturer who makes the coat, so that he will not absorb the tax. As the matter now stands the cloth manufacturer is already established and manufactures his own product. All he has to do is go to the fur man and get him to make up the coats for him and avoid that step that is in between, because he is not selling furs. If articles of fur on the cloth coat are not the chief article, then he escapes the tax entirely.

So that there is a very ready source of competition against the fur-trim manufacturer which will leave him absolutely down.

Now, I want to say, gentlemen, in conclusion, that it is very obvious that the tax so far as trimmings are concerned was passed under a misapprehension of the facts. It is quite clear to me, gentlemen, that it was not known to the Congressmen that passed this and to the Ways and Means Committee that these fur trimmings are articles of inexpensive material, are parts of another garment

to be manufactured; that for the most part the men engaged in that business are men of limited capital and means, and that this tax will absolutely cripple that industry.

I have been connected with it for 10 years. I was counsel and organized the first fur-trimming association. I make this statement to you guardedly. Since 1920-21 I was receiving a very fair and very satisfactory retainer from that association. From 1931 to January of this year I have not received 1 cent of compensation. I have continued to serve and do what I can because of my friendship, but the association has somewhat fallen apart. I can not paint a picture of words which will suffice to indicate to you the condition of distress and desperation in that industry.

I say to you gentlemen it would be a very sorry thing for that industry if you imposed that tax.

Mr. Chairman, I ask permission to file a brief by to-morrow morning.

SUPPLEMENTAL BRIEF OF HENRY ROSEN

Section 603 of the revenue act of 1932 imposes a tax upon all articles made on the hide or pelt. This section has been construed by Treasury rulings under the 1918 revenue act to include fur trimmings consisting of collars and cuffs to be sewn upon cloth garments.

This memorandum is devoted only to the consideration of the tax upon fur trimmings. The considerations of the effect of the tax upon completed fur coats, garments and neck pieces have been treated separately by other spokesmen for the fur industry.

While this memorandum is confined to the subject of the tax upon fur trimmings, this confinement is not to be construed in derogation of the protest against the tax upon all other fur articles.

It is respectfully submitted that the excise tax directed at fur trimmings is unjust and improper for the following reasons:

(*a*) Fur collars and cuffs (trimmings) are unfinished articles and are used only as a component part of another article, to wit, a cloth fur-trimmed coat. These cloth coats are manufactured by members of another industry. The fur trimmings are sold to the manufacturers of cloth coats who sew the trimmings upon cloth garments and sell the manufactured articles as a cloth fur-trimmed coat. The collars and cuffs have utterly no utility or value unless sewed upon a cloth garment, hence, the tax is imposed upon articles which are not sold directly to the consumers, and it is respectfully submitted that it was not the intention of Congress to impose a tax upon such articles.

(*b*) The majority of fur trimmings are inexpensive and the complete set consists of a collar and two cuffs selling for an average of from $1 to $4 per set which includes the cost of the skins, the dressing, the dyeing and the labor, general overhead and the profit (?) of the manufacturers. These trimmings are placed upon inexpensive cloth garmets and are sold at prices ranging from $9 to $25 or an average price of about $17 thereby placing these fur-trimmed coats within the reach of the person of modest means. They are used strictly as articles of wearing apparel and in no sense can even remotely be considered a luxury.

(*c*) The fur trimming manufacturer's business is composed of manufacturers with very small capital. There is no large capital invested in the industry. There are no giant organizations or manufacturers. The average fur trimming manufacturer has but a few thousand dollars invested in his business. His factory consist of a sewing machine, a cutting table, and a nailing board. The fur trimming manufacturer is a former cutter, a nailer, or operator, who has invested his meager savings in creating a job for himself, for when he goes into business for himself with his modest capital, he sits down at the same cutting table and does even more work than he did before at less return to himself. The imposition of a 10 per cent tax upon the gross volume will completely destroy his means of earning a livelihood and wipe away the small capital he has left. It is not a question of injury; it is a question of complete destruction.

(*d*) The fur trimming industry is in such a pathetic condition of distress that the tax will legislate this business out of existence. While it is true that all

industries have been hit by the depression, the fur industry has suffered out of all proportion and particularly because of the small amount of capital in the industry and the large number of small manufacturers who eke out a livelihood from their meager capital. Insolvencies have been occurring at a rapidly increasing pace and the tax will accelerate this condition.

(e) The effect of such a tax upon the fur industry in view of the condition described is readily apparent from a comparison of the revenue derived from such tax in the years 1920 and 1921, the two years during which such tax was collected. In 1920 the first year during which such revenue was collected, the income from the excise tax on furs was $15,311,284.24. In 1921 the succeeding year, the revenue fell off more than 40 per cent and amounted to but $9,081,238.55. This decline of 40 per cent exceeding by more than twice the highest decline of any other industry taxed under the 1918 revenue act speaks eloquently of the havoc wrought in the fur industry and the destruction of capital which ensued on the imposition of the tax.

(f) The tax can not be passed on to the cloth coat manufacturer because the latter may purchase the skins direct fromthe dealer and manufacture them upon his own premises and thus avoid the tax. Indeed, there are quite a number of cloth coat manufacturers who now engage in this competitive practice and this tax will lend a strong impetus to this ruinous source of competition. Obviously, if the cloth coat manufacturer can avoid the tax by manufacturing them upon his own premises, there is a strong incentive to do so as he requires no intricate equipment or machinery to work out the furs on his own premises, for the manufacturing of the skins into sets is a comparatively simple process.

This will result in a complete destruction of the sales outlet of the trimming manufacturer now virtually in a practically, completely, depressed state.

(g) The tax on fur trimmings was obviously the result of a legislative error. A reading of the amendment will not disclose the intention to tax fur trimmings but any doubt with regard to its construction has been set at rest by the rulings of the Treasury Department under the 1918 tax which is the same as the present one holding that trimmings are taxable thereunder.

This misapprehension concerning the construction of the amendment was voiced in Congress at the time of its enactment. At page 7237 of the Congressional Record of March 29, 1932 there occurred the following colloquy regarding the doubt as to the construction of the amendment:

"Mr. O'CONNOR. Would it be much trouble to put something in there to make it clear?

"Mr. CRISP. Let us adopt this amendment, and then look it up, and if it is necessary the committee can return to it and offer a perfecting amendment."

Unfortunately, this intention was complete lost in the stress of the closing days of debate upon the revenue act.

As appears from the annexed letter from Hon. F. H. LaGuardia to Hon. C. R. Crisp, acting chairman of the Ways and Means Committee, both of these honorable gentlemen now urge the correction of this error by the Senate and its is respectfully submitted that the duty devolves upon this committee to correct this obvious mistake, and if an excise tax on furs in the form in which it now appears is inevitable, and no other solution or alleviation of this proposed tax can be adopted, it is respectfully urged that the present amendment should be clarified by omitting therefrom the tax upon fur trimmings.

This can be done by the insertion of the following amendment (new matter in italics):

"There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: Articles made of fur on the hide or pelt, *except fur collars, cuffs, or trimmings sold for manufacture into fur-trimmed garments. A fur-trimmed garment shall be taxable if the fur trimming is the component material of chief value.*"

Respectfully submitted.

NEW YORK FUR TRIMMING MANUFACTURER ASSOCIATION (INC.),
By HENRY ROSEN, *President.*
EMIL K. ELLIS, *General Counsel.*
NATHANIEL BERMAN, *Actuary.*

STATEMENT OF MAX WULFSOHN, REPRESENTING ASSOCIATED FUR COAT & TRIMMING MANUFACTURERS (INC.), AND OTHERS

Mr. WULFSOHN. Mr. Chairman, I am appearing here before you for 22 manufacturers' associations of the United States. I am not a lawyer and I can not talk as well as my former associate. May I read a memorandum?

The CHAIRMAN. Yes; just proceed, Mr. Wulfsohn.

Mr. WULFSOHN. I appear before you on behalf of an industry that has felt the depression for the last four years. While no general statistics are available giving a complete picture——

Senator CONNALLY (interposing). For how long—the last 40 years?

Mr. WULFSOHN. Yes; last four years.

Senator CONNALLY. Been under a depression for 40 years?

Mr. WULFSOHN. Four.

Senator CONNALLY. Oh, I thought it was 40.

Mr. WULFSOHN. No; four.

Senator CONNALLY. I beg your pardon.

Mr. WULFSOHN. Its relative position is indicated by the sales reports of the membership of the American Fur Merchants' Association, through whose hands a large part of the raw material of the industry passes. Their sales amounted in 1927 to $170,000,000; in 1928 to $134,000,000; in 1929 to $125,000,000; in 1930 to $72,000,000; and in 1931 to $58,000,000.

The present ratio of sales since the first of the year indicates a further falling off by about 50 per cent. This last-mentioned figure is further corroborated by the statistics of the Dressers & Dyers Association, processing skins for the use of manufacturers, likewise indicating a falling off of 50 per cent in quantity from the low figures of last year for the first three months of this year. Close to two-thirds of the workers have been out of employment for over a year.

Analysis of about 4,800 financial statements and other available information indicated a capital investment in the industry of about $225,000,000 in 1928, whereas similar investigation last summer showed a shrinkage to about $95,000,000. What the present capital investment amounts to, we will not be able to tell for a few months.

In the year of 1928, there were 382 failures recorded in the fur industry, with total liabilities of $13,582,748.47; in 1929 there were 330 failures, with total liabilities of $12,093,251.39; in 1930 there were 378 failures, with total liabilities of $11,162,230; in 1931 there were 361 failures, with total liabilities of $10,273,781.65. For the period from January 1, 1928, to November 31, 1931, the gross insolvency losses to the fur trade reached a total of $42,112,111.51.

A direct result of this condition is that the bank credit of the fur industry is at a very low ebb.

The industry may be roughly divided into two parts. A group, representing from 60 to 65 per cent of the output, produces trimmings made of fur, which are in turn sold to the ladies' cloth-coat industry. These fur trimmings are used on cloth coats selling wholesale from about $7 upwards, and as you can readily understand, the major portion of these fur trimmings is absorbed by cloth coats selling at a wholesale price of less than $40.

In contrast to practically every item appearing on the list of proposed excise taxes, this is the only semifinished product mentioned. While fur trimmings are not directly named, fur-trimmed cloth coats, whose component material of chief value is fur, are covered by the bill. A penalty of 10 per cent is placed on cloth-coat manufacturers who use our product in the form of trimming on the coats they manufacture. Merchandise of this type, which is used as industrial material by other industries, is naturally sold on the closest possible margin of gross profit.

Dealing with the manufacturers of fur coats, you will understand that it is possible to-day, and it actually is done, to produce good quality fur coats from about $28 upwards. In order to give you an idea of average fur-coat prices, I have before me the figures of one of the largest distributors of fur coats in the United States, handling so-called better-class merchandise. This company sold, in 1930, 22,000 coats at an average price of $117; in 1931, only 17,000 coats at an average price of $107.25.

You will note that while all other items appearing on the list of the proposed revenue taxes cover industries in their entirety, fur coats are the only item on the list of wearing apparel selected as a subject of the excise tax. Not only are fur coats included, but if the Treasury Department's regulations follow the regulations of 1918, even repairs to fur garments are subject to this excise tax.

I am unable to do more than guess at the effect of the excise tax on the fur industry, but I respectfully submit for your very careful attention the economic plight and the competitive scope of the fur industry.

This proposed tax of 10 per cent on furs places them at a serious disadvantage in competition with garments made of other materials. I would not appear in opposition to a tax shared by other competitors, but this tax, placed as it is on fur garments and fur-trimmed garments alone, is a serious handicap to us and a great benefit to our untaxed competitors.

I claim it is extremely unfair to place a tax on this commodity and to permit many items of women's and even men's apparel to go scot free. Dresses, lingerie, untrimmed cloth coats, bathing costumes, are some of the items sold at prices actually and comparatively much higher than a good many fur coats and surely most fur-trimmed cloth coats.

Moreover, I am sure it will defeat its own purpose of raising revenue as it will in all probability reduce our sales. The present period is not comparable with 1918 when excise taxes were levied during a period of rising prices. Such a tax to-day will result in wanton destruction of capital and add to the army of unemployed.

I also want you to bear in mind that in contrast to most of the items selected as subjects of excise taxes, furs are not produced under what I would term "industrial conditions," but being a product of craftsmanship, are produced in comparatively small shops, widely scattered throughout the United States. There are between 10,000 and 14,000 firms that would become subject to this tax. Legitimate manufacturers undoubtedly will pay the tax, but there will be an enormous opportunity for evasion, and evasion means illegitimate competition, besides the loss of revenue.

If, as we know, the evasion of this tax in former years by ignorant or unscrupulous producers was a very serious matter from a competitive standpoint, it will be infinitely more so under present conditions, in which falling prices lend additional significance to tax evasion.

The logical method by which an equitable distribution of excise taxes could be provided would be to tax the materials for all wearing apparel. If you are absolutely determined, however, to follow the outline of the House bill with regard to excise taxes, I believe the law should be drawn up so that no opportunity is given for evasion. The following method, which I submit for further investigation, will do this, and also recommends itself because of the relatively low cost of collection.

All raw furs prior to entering the process of manufacturing must pass through the channel of "dressing," which is the technical name of the tanning process. This dressing is performed in only about 88 establishments in the United States, and if you are determined on a tax, in spite of the conditions of the industry and in spite of the ensuing competitive handicap, the best place to tax furs is at the point where they leave the dressing plant.

A tax of from 5 per cent to 7½ per cent on the value of the dressed furs would result in a net revenue to the Government at least as great as under the system proposed by you without putting the terrific burden on the industry, which it probably can not stand.

A similar system, originally at the rate of 4 per cent and now increased to 6 per cent, is used in Canada in conjunction with their sales tax.

Legislation in this direction will probably need some further amplification to take care of the comparatively unimportant quantity of furs which are imported into the United States already dressed, or dressed and dyed, but undoubtedly there would be no legislative difficulty in having the excise tax added to the amount of the duty.

It should be clearly understood, however, that the tax should be levied on the value of the dressed fur, and if there is any necessity of dyeing skins the process of dyeing should not be made subject to the tax. This is an advanced process and not invariably applied, as is the case with dressing.

The fur trade, like every other industry, is interested in a balanced Budget, because we realize that before the return to normal commercial conditions governmental affairs have to be set in order; but again and again I wish to emphasize that you are dealing with an industry that has been bled white during the last four years and which can not continue to exist if the tax law places it under a competitive handicap to the benefit of other branches of the apparel industries.

STATEMENT OF HERMAN SCHEIDLINGER, PRESIDENT OF THE ASSOCIATED FUR COAT & TRIMMING MANUFACTURERS (INC.), NEW YORK CITY, N. Y.

Mr. SCHEIDLINGER. Gentlemen, I appear on behalf of the Associated Fur Coat & Trimming Manufacturers, of the city of New York. This organization represents or consists of some 500 so-called

manufacturers, and the volume of business done of furs throughout the entire country amounts to about 65 per cent produced by this association. As the president of that association I want to submit a short memorandum and just want to touch upon some of the high spots in this memorandum.

We particularly want to emphasize that we would be legislated out of business as a result of this tax, because we have been selected as the only wearing apparel in competition with all forms of wearing apparel. If a fur coat or a fur collar of the value of forty to fifty dollars is considered a luxury and should be taxed out of business—I assure you that we would be taxed out of business, when we take into consideration the cost or sale prices of other wearing apparel.

We feel that this tax would be a burden, and, as the previous speakers have mentioned, these are manufacturers or producers of very small units scattered throughout the country. The records of our own association show about 10,000 accounts throughout the country upon whom this tax would fall, and they would be the ones to be thrown out of business besides ourselves.

I want to join with Mr. Wulfsohn, the prior speaker, in the view that the amicable way of taxing us, if Congress must tax the fur industry, and I strongly oppose the system of taxation entirely upon the fur trade on account of its lack of capital and the condition that it is in, nevertheless, to collect an amicable tax, one that would be amicable and equitable to all, would be a tax on the fur skin as it appears at the point of the dresser, and it would be easier then to ascertain because of the invoices of the cost of the skins which would be furnished.

Every skin or every fur garment, whether it is a fur collar or fur coat or fur cuff, must first be dressed. It can not be used until it is dressed, and every skin that goes in there at the point of collection would be limited to some 80 units throughout the entire country. The revenue which we would get from that source would be far greater than the revenue upon the manufactured article.

The proposed reenactment of the old war-time 10 per cent excise tax on the sale price of furs to be levied on the manufacturer in the new revenue bill was probably induced on the same old theory underlying the war tax, that the fur industry is engaged in the manufacture and distribution of an unessential luxury and whether it is taxed out of existence seems to be of little importance to Congress. It will be recalled by this committee that during the war fur was the only article of wearing apparel that was taxed, and the theory that might have justified the imposition of such a tax during the war-time conservation of man-power and materials does not now exist. We have contended and we contend to-day that fur wearing apparel is no more a luxury than any garment that is worn by mankind for protection against the elements.

The fur industry has demonstrated in the past its willingness to share its equitable proportion of the tax burdens, but we now most strenuously object to being made the subject of a selective tax, when it is the only unit of the great wearing-apparel industry that is being singled out to bear a tax. When Congress proposed to impose a general tax of 2¼ per cent, we made no protest, but we are now

constrained to most strenuously object to this tax, as it does not give a great industry equal opportunity with competitive lines of wearing apparel.

By far the major portion of fur coats sold are of the cheaper grade, bought by consumers as a necessity for protection against the elements and are not purchased for luxury. Could it be said that a fur coat of $50 is a luxury on which there must be a tax of 10 per cent, while a cloth coat of $100, $200, or $300 bears no tax?

If it be the intent and theory of Congress to impose a tax, a special, selective, and discriminatory tax upon industries financially able to bear it, then we respectfully submit that a comparison of the income-tax reports of those engaged in the manufacture of furs with other branches of the industry of wearing apparel of cloth, woolens, and the like will satisfy this honorable body as well as the most exacting that the fur industry has suffered more in the last three years than almost any industry in the wearing apparel line, and that the fur industry, as a whole, is unable to bear any additional burdens.

As has been pointed out, the financial condition of the fur industry is deplorable and the losses in the last three years have been staggering, and never in the history of the fur industry has there been such great unemployment as now. How, then, under these conditions can the fur industry stand an additional burden of a 10 per cent tax?

For the reasons advanced, we respectfully request that the provision imposing a 10 per cent tax upon manufactured fur wearing apparel, when sold by the manufacturer, be entirely eliminated from the revenue bill of 1932, as being unfair, unjust, and discriminatory.

We quite appreciate the desire on the part of Congress to balance the Budget, but we submit that it is not fair to impose a discriminatory tax and not give an industry equal opportunity. Should, however, the Senate Finance Committee in its wisdom decide that the tax on furs is unavoidable despite the reasons advanced why this tax should be entirely eliminated, then we respectfully submit that this section be changed so that the tax be imposed upon each fur skin at the point of dressing, at a fixed amount, as advanced by the previous witness, Mr. Wulfsohn, as that form of taxation would be eminently fairer and would be less burdensome upon the industry, and, furthermore, imposing a tax upon the skins at the point of dressing would not be subject to evasion and would apply equally to everyone that is engaged in the manufacture of furs of any kind. If furs are to be taxed, let every kind and nature of fur be taxed, so that everyone should then share alike in the burdens of this taxation.

Gentlemen, this appeal I make on behalf of the Associated Fur Coat & Trimming Manufacturers.

Senator CONNALLY. Is anybody representing the dressers?

Mr. SCHEIDLINGER. The dressers and dyers and all their organizations are joined with us in this appeal to Congress.

Senator CONNALLY. I mean do the dressers agree that the taxes ought to be put on them instead of you folks?

Mr. SCHEIDLINGER. They do, and they would be glad to collect the tax from us and pay it to the Government. If there is any further question I would be glad to answer it, as a manufacturer.

STATEMENT OF SIDNEY HAAS, REPRESENTING THE MANUFACTURING RETAILERS OF AMERICA, NEW YORK CITY

Mr. HAAS. I represent the Fur Manufacturing Retailers of America, a group of manufacturers who are small in their source of business but in the aggregate do a rather large volume of business. I am not an orator and I am not an attorney. I am just a plain little retail manufacturer coming up here from New York, practical, all work, and incidentally the third generation in that particular establishment.

In behalf of my fellow constituents I beg of you, please, to permit us to stay in this little retail manufacturing business. We are all hanging by a thread, and it is not a silver one. It is a thread in which 95 per cent of the retail industry, the little fellow I speak of now, is on the verge of bankruptcy. We do not permit fly-by-night membership in the association. We do an honest business. We do a legitimate business. We have come through with the tax when things were prosperous in 1918. We do not want to avoid a tax now. We are not asking for an excuse in that direction, but we are asking you please not to drive us out of business.

And what do I mean by that? I mean that if you do burden us with this 10 per cent tax on the manufactured product we will be obliged to compete with the disreputable and dishonorable retailer—and there are plenty of them now—who will bootleg that merchandise in an apartment house and a tenement house, and upon which you will not get one iota of a cent, and you know it.

I am not being hired for coming here. I am talking honestly but earnestly in the manner in which I feel. I am not being paid for coming here. I am doing it for my own self-protection, as well as the association that I represent.

The CHAIRMAN. Do you want the tax imposed upon the fur?

Mr. HAAS. Yes, sir; by all means, imposing it at the dressing point. Thereby and therefore, each and every one of us will carry a responsibility. If you impose it in that direction, gentlemen, you are going to collect 100 cents on the dollar every 30 days, because the sources of intake amount to less than 90 establishments in this country. On the other hand you are maybe going to spend millions of dollars in trying to collect a tax and examine the books of 15,000 retail and wholesale manufacturers in this country.

Why not use the line of least resistance? You speak of economy. You speak of balancing the Budget. We want to do our bit toward that balancing, and even at the present time, gentlemen—and this is no reflection upon our honorable Government—there are the books in Chicago being examined for tax by your revenue collection department, for taxes evaded in 1918. To-day you have your income-tax men examining these books, practically 14 years after the luxury tax was enforced.

Now, I ask you, it would be a simple mathematical problem, is it not easier for you to tax us a 5 per cent or 6 per cent, like is now being done in Canada, favorably, than to tax us 10 per cent and possibly bring about a state of chaos, a state in which maybe two or three thousand men and women who are employed as producers in these establishments throughout the country will evade that tax?

You know that you are going to subject us to bootlegging. You are going to make the honest retail man who wants to pay his tax a thief and a crook, and you know it, and you can not get away from it. It is the truth.

And I beg of you gentlemen that we are all in accord with the preceding speakers. Every branch of the industry from dressing and dyeing to the sales end is in accord that we place that tax, or rather that you gentlemen place that tax, at the source of where we receive it, because no stitch of fur can be manufactured into a product until it first goes through the tanning process. I thank you.

MEMORANDUM SUPPLEMENTING TESTIMONY OF VARIOUS WITNESSES REPRESENTING FUR TRADE ORGANIZATIONS

There appears to be considerable confusion in the minds of Senators and Representatives in respect of the incidence of the tax on fur trimmings and in fact some misconception of the incidence of the tax in general. Similar confusion was evident in 1918 and a bit of chaos was then added by the Treasury Department regulations, which regulations were masterpieces of impracticability from the fur trade standpoint and fully justified the appellation of "nuisance taxes." As a matter of fact, it was the avowed purpose of the act of 1918 to drive labor out of the non-essential trades into essential trades and it is cause for amazement that the House has resorted to the 1918 method under present conditions.

If Congress determines upon the enactment of a tax law similar to that of 1918 (and I trust that it will not do so), then the least it should do would be to so clarify the meaning and purpose of section 603 as to keep the taxing power in Congress rather than give it to the Internal Revenue Bureau.

An attempt was made in this direction by Mr. John J. O'Connor, of New York, when this matter was before the House, but its result was merely a reference to the act of 1918 which was equally ambiguous. I have yet to find a Senator or Representative who claims to know just what that section does mean excepting that it means what it meant in 1918. In that year, however, the Treasury Department simply gave up trying to find out what the fur section meant and calmly wrote its own law as far as furs were concerned, or so it seemed to us at the time.

Questions and answers at the hearing on April 19, 1932, left the matter in a condition of uncertainty, which I shall hopefully essay to correct by placing the following information at your command:

The matter is of considerable significance, as about 60 per cent of the furs used in the United States at present are in the form of trimming on cloth coats. Furthermore, fur is the component material of chief value in the vast majority of fur-trimmed cloth coats, and is no such trifling matter as some Congressmen assume it is.

As a witness stated, fur trimming is not of itself a completely manufactured article. It has no value to any consumer until it has been attached to a cloth coat or a wrap of some fabric. It has the same relation to the finished garment as the buttons, or the lining, though more costly than these items.

As far as a literal reading of section 603 reveals, fur trimming is not treated as an article of fur, but a fur-trimmed cloth coat is certainly referred to as it is an article of which the component material of chief value is fur. It was merely a ruling of the Treasury in 1918 that applied the act of that year to fur trimmings not attached to cloth coats.

That fur-trimmed cloth coats and wraps should be taxed, rather than the fur trimming for use in the manufacture of coats and wraps, is indicated by the fact that such coats and wraps are in direct competition with taxed fur coats.

The question of luxury versus necessity in this case is largely a matter of imagination. The bulk of our business is done on a utilitarian basis. If a fur coat is somewhat more expensive than a coat of fabric, more is expected of it. A cloth coat is bought for a season or a year. A fur coat is bought with the expectation of from three to five years of service. With fur jackets selling at wholesale for six to sixteen dollars and fur coats from twenty-five to one hundred (fully 80 per cent of the product falls within these price ranges) furs can not be regarded as a luxury without considerable qualification.

Surely they are no more luxurious than the cloth coat "with a little fur on it," when that little bit of fur is worth more than the cloth in the garment; although

in the lower grades of coats used by the masses, in which the fur alone is depended upon to give warmth, the fabric being "so flimsy you could shoot a charge of buckshot through it without cutting a thread," the "luxury" may be regarded as a necessity.

If merely the fur trimming on a cloth coat is to be taxed then surely it is only fair that the fur-coat manufacturer should have an allowance for the untaxable material in his produce, which is, however, impractical.

But again if this tax must be applied to fur and fur trimmed coats, and you do not accept the suggestion of our witnesses to place it on dressed skins to avoid tax evasion and assure equal competitive conditions if only within the fur industry, then let it be clearly understood that the fur trimmed cloth garmet, like the fur garment, shall pay the tax on its wholesale price and not on the value of some component material alone. Let the fur-trimmed cloth-coat manufacturer pay the tax, as the fur-coat manufacturer must.

I repeat the testimony of other witnesses, that if this commodity is to be taxed at all, the only point at which tax evasion is impossible is at the dressing plant. It is there alone you may avoid an evasion of from 30 to 50 per cent of the tax, and it is there that the tax may be collected at the least cost.

Under present conditions it is my opinion that the taxable value of the skins after dressing is about 70 per cent of the taxable value of the manufactured furs, on an average, but it is capable of being collected in full at that point. In short, you will at a lower rate raise more revenue at less cost at this point and set up infinitely less disturbance in the much harassed fur trade.

I assume that Congress fully understands that the fur industry can not, and would not if it could, pay this tax, wherever it is placed. If conditions improve enough to create a seller's market the tax will be passed on, with costs to the consumer, in the retail price. If conditions remain as they are, namely, getting worse by the day, the tax will come out of the farmer's pocket.

It would be hard to find a more direct and effective way to tax the farmer. The public has to buy bread at the baker's price, and consume the farmer's wheat, but it certainly does not have to buy his fur catch next winter. It is safe to say that whether $15,000,000 are collected, as the House expects, or $5,000,000 which I regard as a reasonable expectation, every dollar will come out of the pocket of some Cajun, some cracker, some hill-billy, or some other poverty stricken countryman, here or elsewhere, who depends upon the sale of his fur catch for many of his necessities and all of his meager stock of luxuries. It is not that we are any more hard-boiled than the members of your honorable committee, or anyone else. It is merely because the producer of raw material whether furs or cotton or copper, gets the worst end on a falling market.

This is an interesting example of a tax aimed at the supposedly well-to-do and, passing them, by flying straight as an arrow at the poorest people in the country. Moreover, it will strike where it hurts most, namely, in their chief source of winter income.

I suggest that a general sales tax is more humane.

Respectfully submitted.

DAVID C. MILLS,
Director of the American Raw Fur Institute.

TAX ON JEWELRY

STATEMENT OF G. H. NIEMEYER, CHAIRMAN SPECIAL COMMITTEE ON TAXATION OF THE JEWELRY INDUSTRY, AND PRESIDENT OF HANDY & HARMAN, REFINERS AND DEALERS IN GOLD AND SILVER, NEW YORK CITY

Mr. NIEMEYER. I am G. H. Niemeyer, president of Handy & Harman, refiners and dealers in gold and silver, New York City.

The CHAIRMAN. Do you want 30 minutes?

Mr. NIEMEYER. Two of the men have yielded their time. I will get through just as quickly as I can. I hope it will not take any longer than that or as long.

Mr. Chairman and gentlemen, I represent 30,000 firms and individuals engaged in every branch of the jewelry business in every State of the Union, and more than 80 trade organizations. The men in our industry are patriotic citizens, and we always have and are willing now to bear our share of any tax equitably imposed upon every other industry. In their appearances before this legislative body they have always tried to state their case fairly, and have not tried to shirk responsibility. Just after our entrance into the World War, when this industry was doing a large volume of business and employing thousands of trained workers, and more thousands in the selling and distribution of our wares, Congress imposed a tax of 3 per cent on manufacturers of articles commonly and commercially known as jewelry, using the definition from the tariff laws.

This law was framed and passed without consulting the jewelry industry, but it was soon discovered that the law did not include unset diamonds, pearls, precious and semiprecious stones; in fact, it missed most of the expensive goods sold by the jeweler.

The Jewelers War Revenue Tax Committee called conferences with leaders in the diamond, pearl, and other groups; conferred with the officials of the Treasury Department, offered to pay a tax on all unset gems and get-set watches when sold for consumption and while no one was compelled by law to pay this tax, we never learned of an evasion and this additional tax produced more revenue than the law as originally written. We have not always come here to ask for something. We have given as well.

As the condition arising from the World War became more acute, a new tax was drafted and it had a two-fold object; first, to restrict the making and selling of articles not of absolute necessity, thus releasing all available labor for other industries; second, to secure the fullest possible tax return to pay the costs of the war.

In framing this bill our industry was asked to assist the Ways and Means Committee in drafting a section that would give a 100 per cent return on all goods, wares, and merchandise ordinarily sold in a jewelry store.

This we did, and paragraph 605, which is now section 604 in the proposed law, ironically as it may see, was actually written by jewelers and is now being used against them. Incidentally, the Congress took this law which was originally written to cover retail sales or consumption sales rather than trying to apply it as a law applying to manufacturers and producers.

As I say, this paragraph was written so that the trade paid the Government a tax on every dollar received in our industry.

In addition, many of our factories installed expensive machinery for the manufacture of surgical instruments and other war supplies; we relinquished our stock of platinum, accepted the governmental restrictions, and actually wrote and administered restrictions placed on the use of gold and silver.

Conditions were prosperous in our industry at that time, but to-day conditions are reversed. Our own committee is astounded at the facts disclosed by our investigation. The jewelry trade is virtually at a standstill.

We appear before you to oppose section 604, House bill 10236, known as the revenue act of 1932, and earnestly ask your consideration of the facts we have to present.

The CHAIRMAN. You want it stricken out entirely?

Mr. NIEMEYER. We do, sir. In our opinion this proposed tax on our industry was hastily considered. The wording is identical with the act of 1918 except that the tax is payable by the manufacturer, importer, and producer instead of the retailer. Certainly no effort was made to investigate conditions with the industry and its ability to bear this burden of taxation, or even to produce the revenue estimated. We feel that special taxes against certain industries singled out from thousands of others are discriminatory. Not being laid upon all businesses they necessarily make distinctions not existing in fact, and place the businesses they effect at a very definite disadvantage with other businesses. Competition to-day is between industries and we feel that we should not be handicapped by an unbearable burden in our struggle for survival. The proposed levy is higher than it was in war time; it is double or more than the tax proposed for other items. The imposition of such a tax will not only harass our industry, but damage it to an extent unjustified by the revenue that will be produced.

The immediate effect of this proposed tax will be to stop buying by the retailer; and with business among manufacturers, producers, and importers now at a standstill, we hesitate to contemplate the consequences. Furthermore, the provisions of the act call for a monthly accounting and cash payment of the tax by those against whom it is levied, despite the fact that the proceeds of the sale are not due for three months to one year, which is a trade practice, and not collectible in most cases for six months or a year—or never.

The ultimate effect contemplates taxed merchandise in the hands of the retailer at the expiration of the act in July, 1934, when this merchandise must compete with articles then offered for sale and not so taxable. Can you analyze the attitude of the retailer considering the purchasing of stock during the first half of that year? He will not do it.

This tax must be passed on by the manufacturer or importer and also by the retailer. Consequently, it must be paid by the consumer.

What little business has been done, or is being done in our industry, is based almost entirely on a price appeal, and any rise in retail prices will have a marked effect on the volume of business done and lessen the likelihood of raising the revenue expected.

Section 617 of the act makes it clear that retailers will be unable to compete with manufacturers who sell at retail, because articles sold by manufacturers would include the proposed tax in the cost price, and retailers would ordinarily add to this cost price their regular mark-up. Wholesalers who also sell at retail would compute the tax on the ordinary wholesale price; which would put the retailer at a decided disadvantage.

Unless corrective administrative procedure is provided to prevent it, there will be duplication of the tax; and in other cases certain trade customs will be upset and many old-established houses seriously affected, if not actually forced out of business. For example, precious and semiprecious stones are subjected to an import tariff of from 10 to 60 per cent. In addition to the import tariff, the importer of rough gems adds an additional 10 per cent when he sells the cutter. The cutter sells his produce as a producer to the manufacturing jeweler and adds his 10 per cent; the manufacturer sets the stone in a finished product, adds 10 per cent, and sells it to the retailer, and so forth. Competition will force the retailer to eliminate the payment of any excess tax, so he becomes an importer, thereby driving American cutters out of existence and forcing the elimination of many dealers in precious and semiprecious stones who have for generations been important factors in our industry. This example applies to other items, not the least important of which is the mail-order house, department store, or 5-and-10-cent store, which imports costume or novelty jewelry and retails direct. I shall say nothing about the cost of accounting where items sold to the 5-and-10-cent stores either are imported directly or bought without a tax being applicable.

I might point out that commercial smuggling of diamonds will again be profitable because the imposition of a tax of 10 per cent on the sale of diamonds by honest importers will be equivalent, for smugglers, to going back to a 20 per cent tariff on diamonds; and it will certainly encourage the smuggling of jewelry and unset gems by tourists.

Expensive jewelry items are not being bought. This statement is made by a large group of leading retail jewelers in the largest cities in this country. Every firm, without exception, suffered heavy losses in 1931. Every one has been compelled to reduce salaries, personnel, and other expenses, but can not do so in ratio to present declining volume.

They say bankruptcy stares our industry in the face, and added burdens mean hastened collapse. Millions of dollars worth of unsalable fine platinum jewelry is being held by banks or other creditors. You heard a gentleman this morning during the copper hearing say there was no market for platinum, and that is true.

I have heard figures quoted before this committee, having been here for several days, of a reduction in the volume of certain industries. I would like to have you listen to some of these:

Nine of the leading diamond cutters and importers in New York—and they are the most prominent in our industry—state that their

sales for the first three months of 1932 declined from 85.45 per cent to 97.5 per cent below the first three months of 1929. The average of the nine firms is 91.54 per cent less than in 1929.

Senator GORE. Could you give it in each year, 1930 and 1931?

Mr. NIEMEYER. I can supply it in a brief, Senator. I will be glad to do that, sir. That is a typical year, and it is not a selected peak year. It was not a peak year in our industry. We did not profit as did other industries during the boom.

Senator GORE. The third quarter would have been better, would it not?

Mr. NIEMEYER. The fourth quarter might have been different. I do not know that it would have been any better.

Senator GORE. The fourth; not the third.

Mr. NIEMEYER. The last three months are the peak months in our industry, sir.

Senator GORE. I know, but that was the crash—October, November, and December.

Senator CONNALLY. Because of Christmas and Thanksgiving?

Mr. NIEMEYER. On account of the holiday business. That always stimulates it. I shall be very glad to supply those figures to the best of our ability to do so. We have them all.

Nine of the most prominent manufacturers of platinum and diamond jewelry show sales for the first three months of 1932 from 70 per cent to 97.1 per cent less than those for the first three months of 1929. The average decline is 86.08 per cent.

A survey made last week of over 200 manufacturing jewelers in New York and Newark, N. J., the recognized centers for the manufacture of fine jewelry in this country, shows that compared with 1928, the volume of business in 1931 declined over 60 per cent, and current volume in 1932 is more than 77 per cent below 1928. For the corresponding period, in spite of shorter working hours, the number of men employed is less than one-third of those similarly employed in 1928.

Business being done in the jewelry filed to-day consists largely of medium and cheap priced merchandise, which is sold on a very close profit margin basis. Our friends from New England will cover this matter thoroughly in a statement to be presented to you later by Hr. Wallace Kenyon, chairman of their committee. We have, however, in New York a group of manufacturers and importers of novelty and costume jewelry, and I repeat a statement received from the Novelty Jewelers' Association, which reads as follows:

The Novelty Jewelers' Association believes that it embraces about one-half of the industry in New York City. In normal times the members of our association employ approximately 5,500 people. At the present time the members of our association are employing about 3,000. The association estimates that its members do about one-half of the volume of trade coming to New York City. On this basis, it will be seen that even under the present depressed condition of the industry there will be approximately 6,000 in New York City whose livelihood will be affected by this proposed tax. Of this number, our association believes that it is understanding rather than overstating when it says that there is no question that at least 4,000 out of these 6,000 will be thrown out of employment if this 10 per cent jewelry tax is enacted into law. When to the 4,000 who will be thrown out of employment in New York City is added the large number doing a similar business who will be thrown out of employment in all parts of the country, there would

seem no reason to doubt that this discriminatory tax will not only yield the Government little revenue and thereby defeat its own purpose, but that in addition, it will increase the ranks of the unemployed by many thousands.

The manufacturer of sterling silverware because of the very low price of silver bullion and the much lower prices quoted on the finished product has shown less decrease in volume than other branches of the jewelry industry.

Senator GORE. There is a much less price on the finished products?

Mr. NIEMEYER. Yes, sir; there is. I shall try to show that in the brief as well, sir.

In fact, there has been an increase in the ounce consumption of silver, stimulated to a considerable extent by the cooperative efforts of the Silver Producers' Association of the United States with the members of the Sterling Silversmiths Guild of America. The demand for sterling silver is the largest single factor in the domestic market affecting the price of silver.

From 1921 to 1929 sterling silverware sales, by weight of silver, increased 83 per cent as a result of the general trend in business and the efforts of the silver miners and manufacturers already mentioned. Nearly 60 per cent of this gain was lost in 1930, and while sterling dollar sales and profits continued unfavorable during 1931, an upturn in sales by weight of silver was accomplished by sharp reductions in prices.

To raise manufacturers' prices now to cover the amount of the proposed tax, would cause an approximate increase of 10 per cent in retail prices. This would have a decidedly unfavorable effect on the sales of sterling silver and the amount of silver consumed in this industry. In addition, the imposition of this tax would make it difficult, if not impossible, for manufacturers to maintain the low prices made in anticipation of growing volume. Present business is being done on a very small gross profit margin—in fact, many manufacturers are not making any profit, hoping that a continued increase in volume will eventually prove profitable. The proposed tax would offset the efforts of manufacturers and miners to broaden the consumption of silver.

We believe that if this tax is levied only against the items commonly known and recognized as jewelry, you will not raise the $15,000,000 anticipated, or much more than $5,000,000. If, however, this tax is to be applied as broadly as the paragraph indicates; if you tax spectacle frames, pens and pencils, clocks, silver-plated ware, every safety razor that looks like gold or silver, or every buckle on a woman's shoe or ornament on her hat or her dress or her pocketbook; which is an imitation of gold or silver, or set with imitation stones, and countless other items of a similar nature, a larger sum would be collected. But the imposition of the tax on such items will discriminate against them and result in their elimination or their presentation in such form as will not subject them to tax; thereby reducing the revenue anticipated.

If it was the purpose of the proponents of this bill to penalize those well able to pay, they missed their objective, because this tax, if imposed, will not be paid by Fifth Avenue, Newport, or Palm Beach, it will fall upon the folks on Main Street. Indisputable records show that 80 per cent or more of what little business is being done by jewelers to-day is in the small, inexpensive items, such as the things

the girl wants who yearns for an ornament; the class ring or pin my daughter or yours just has to have; the watch the proud youth gets from his dad; or the pin we buy for mother; the engineer's watch; the silverware on your table; your collar buttons; a clock; the chain on your watch; the engagement and the wedding ring and many other items. Luxuries? Perhaps—to some Bolshevik without sentiment or any appreciation of art or culture. We are not in Russia yet, I hope.

The statements contained in our argument against this tax do not begin to disclose the pitiful conditions in our industry; and I wish I could reflect adequately the hopelessness and despair expressed in thousands of letters received by our committee and by Members of Congress from jewelers, large and small, from every part of this country pleading that this tax be not imposed upon them.

The psychological effect contained in even the threat of such a tax is devastating to our industry. In common with most men in business, especially those in smaller concerns with limited capital, the only thing that is keeping up the courage of the jewelers to fight their way out of the present situation is the hope that conditions will improve, because the industry's very existence is dependent upon improvement.

There are thousands of firms in the jewelry business just hanging on—unable to liquidate their frozen assets, unable to pay their debts, and if you question that statement, ask the bankers who have withdrawn their credit and, in the words of a jeweler from Mississippi, "won't even lend their ears to a jeweler." More extensions are being asked and have been granted than ever before in the history of our business. One thousand and sixty-six failures were listed during 1931, with total liabilities of over $28,000,000. This may seem like a small sum to big business, or to you men who are used to thinking in big figures, but in a small industry like ours it is startling.

Other larger jewelers, who have made money in the past and for that reason are better intrenched, are keeping their businesses going as best they can, because of their pride in the institutions which have stood for several generations, or their faith in the future. They are carrying their old employees and the skilled workmen who can not be easily replaced, despite the fact that, almost without exception, retailers, manufacturers, wholesalers, and importers in this industry suffered appalling losses in 1931. As a matter of fact, very few concerns have been able to make reasonable profits even during the years when business was considered good, because the average retail turnover is only nine-tenths of 1 per cent and because of changes in styles and buying habits of the people, as shown by statistics prepared by the Harvard research bureau and various agencies of the United States Government. These men say:

> If we have to fight the effects of this tax in addition to what we have been trying to do to keep our heads above water, we might just as well give up now, because we'll sink in the end.

In view of all these conditions and the fact that the revenue derived from this tax will be far below the amount estimated, we ask you to investigate and confirm the statements made by us. Do not, I pray you, embitter and discourage those in this industry by inflicting this additional burden upon them when it is so necessary

and important for the welfare of our country that confidence be restored and that they, in common with millions of others, be encouraged and helped rather than kicked while they are down.

Senator CONNALLY. Just one question, Mr. Chairman, I would like to ask. Suppose we put this on the purchaser and take it entirely off of the manufacturer. How would that do?

Mr. NIEMEYER. We are willing to pay any tax that is imposed against any other industry equitably.

Senator CONNALLY. I did not ask you that; I asked you how about taking it off the manufacturer and making these sales taxes payable by the purchaser; let the retailer charge it in when he sells a watch or clock?

Mr. NIEMEYER. That is the way the tax was originally written.

Senator CONNALLY. Is that the way you want it now?

Mr. NIEMEYER. No, sir. We can not stand it now at all.

Senator CONNALLY. So you do not favor putting it on, then?

Mr. NIEMEYER. I certainly would not, and our industry could not stand it.

May I submit a short brief a little later, Mr. Chairman?

The CHAIRMAN. Yes; you may.

Senator SHORTRIDGE. Do you favor a general manufacturers' sales tax?

Mr. NIEMEYER. We are in favor of any tax that is equitably imposed upon every other industry; yes, sir.

(The brief of G. H. Niemeyer is printed in full here:)

BRIEF OF G. H. NIEMEYER

The Finance Committee, United States Senate, Washington, D. C.

GENTLEMEN: The special committee on taxation of the jewelry industry, representing more than 30,000 jewelers and over 100 trade organizations, presents for your serious consideration the following objections to section 604, H. R. bill 10236, revenue act 1932:

EFFECT ON INDUSTRY

The present chaotic condition of the jewelry industry is evidenced by the fact that the failures during the past year were the largest on record; 1,000 firms went into bankruptcy, with liabilities of over $28,000,000.

Distressed merchandise has been thrown on the market as a result of the commercial failures, sold at a fraction of the former value.

The market value of commodities has receded in many instances as much as 50 per cent and more.

All branches of the industry have been compelled to liquidate their stocks, regardless of profits, to meet their financial obligations.

Without the imposition of this tax, with very few exceptions, the jewelry industry is now prostrate, and the immediate effect of this tax will be to restrict all purchases by retailers. This will force hundreds of manufacturers and importers to close their doors.

MAKESHIFT PROPOSAL

Section 604 of the present act was section 605 of the revenue act of 1918, which was written as a tax on retail sales by jewelers' committee at the request of the Ways and Means Committee.

The use of this paragraph in its exact form is evidence that no consideration was given as to the practicability of its application as a tax on the manufacturer, importer, and producer.

CONDITION OF INDUSTRY—ABILITY TO PAY

Ability to pay is a fundamental economic factor. Inventories are almost stationary, assets are frozen. Millions of dollars worth of fine diamond jewelry are being held by banks and other creditors. The trade finds itself helpless to finance its operations, due to its inability to borrow from banks and discount its paper.

DISCRIMINATORY

Jewelry industry has the right to expect equal opportunity with other industries with which it competes, and not so taxed. Tax creates distinction which does not exist in fact. The proposed levy is higher than it was in time of war and double or more what it is on other excises in this bill.

DUPLICATION OF TAXATION

Unless corrective administrative procedure is provided to prevent it, there will be duplication of the tax in almost every branch of the industry.

Example: Importer of rough diamonds sells to cutter, adds 10 per cent. Cutter sells to manufacturer, adds 10 per cent. Manufacturer sets stone and sells to retailer, adds 10 per cent (three taxes of 10 per cent).

In addition, retailer is forced by competition to eliminate as much of tax as possible, so he becomes an importer and pays only 10 per cent tax, thereby putting American cutters and diamond dealers out of business.

FURTHER UNEMPLOYMENT

Thousands of skilled workers are already unemployed, and manufacturers, importers, and retailers are making great sacrifices to maintain their organizations in expectation of improved conditions. The imposition of this tax will materially reduce the number of skilled workmen and office employees because of the inevitable falling off in business.

UNFAIR TRADE PRACTICE

Section 617 places the legitimate retail distributor in a position where he can not sell in competition with a so-called wholesaler who is permitted to sell at retail, paying a tax on the wholesale price. There are literally hundreds of concerns now operating under these false pretenses.

SMUGGLING

Commercial smuggling of diamonds and unset gems will again be profitable because the imposition of a tax of 10 per cent on the sale made by honest importers will be equivalent (for smugglers) to a return to a 20 per cent tariff on cut diamonds and gems.

Tourist smuggling will be encouraged, and those who declare purchases will have an advantage in purchasing abroad, as this tax of 10 per cent will not apply to such purchases.

CONSUMPTION OF SILVER

More than 50 per cent of the silver used in the arts in the United States goes into the manufacture of silverware. Low prices of silver has resulted in prices on sterling silverware being reduced as much as 60 per cent. This and efforts of silver producers and silverware manufacturers increased sales.

If 10 per cent tax is added there will be a considerable decline in business and subsequent reduction in silver ounce consumption.

NO SALES OF EXPENSIVE GOODS

The sale of diamonds, pearls, and costly wares has fallen to almost nothing, as evidenced by import figures. Official figures show diamond imports as follows: 1928, $56,000,000; 1929, $51,000,000; 1930, $28,000,000; 1931, $15,000,000.

Sales by nine largest cutters and importers of diamonds the first three months of 1929 compared with same period 1932 shows decline of 91 per cent.

Sales of eight largest makers of fine patinum jewelry for same period shows decline of 86 per cent.

Sales of over 200 makers of medium and fine platinum and gold jewelry show a decline for same period of 77 per cent.

Sales of 10 typical makers of very low-priced jewelry show a decline of 69 per cent.

REVENUE

The Treasury revenue estimate of $15,000,000 is without question far too high.

Section 605 in 1918 tax law produced but $25,000,000 at one-half the proposed rate and on sales to consumers, at a time of great prosperity.

With a decrease of about 75 per cent in present volume this tax can not produce more than one-half the anticipated return of $15,000,000 on manufactures, which would not justify the damage it would do the industry or the cost of collecting the taxes.

CONFISCATORY

A tax rate of 10 per cent exceeds present most optimistic expectations of profit by manufacturers. Earnings have decreased to a point where this tax would be a levy on capital assets.

CASH FOR PAYMENT OF TAX

The proposed tax is payable immediately by manufacturers, importers, and producers.

Long trade terms (30 days to 6 months) put burden upon those taxed, as great majority have no funds and can not borrow on their stock as collateral or even discount their customers' paper.

GOODS ON HAND AT EXPIRATION OF TAX

A tax with definite date of expiration will retard or stop all purchases from manufacturers, importers, and producers of taxable goods long in advance, due to competition with tax-free goods available after June 30, 1934.

WHAT IS A MANUFACTURER, IMPORTER, PRODUCER?

A manufacturer is one who fabricates raw materials into a finished product or for further manufacture.

An importer is one who brings raw material or finished product into the country.

A producer is one who assembles the parts into a completed article.

Nearly every retailer assembles many of the articles he sells, hence he is a producer and in many cases is also a manufacturer and importer.

ADMINISTRATION DIFFICULTIES

This tax presents the problem of checking all retail concerns, because such a large number are actually producers and many are both manufacturers and importers.

To prevent duplication would require regulations or a licensing system as used in Canada.

The men in our industry are patriotic citizens and always have been and are willing to bear our share of any tax that is equitably imposed on every other industry, excepting only commodities of first necessity.

Respectfully submitted.

G. H. NIEMEYER, *Chairman.*

NEW YORK, N. Y., *April 20, 1932.*

STATEMENT OF WALLACE D. KENYON, PRESIDENT WEBSTER CO., MANUFACTURING SILVERSMITHS, NORTH ATTLEBORO, MASS.

Mr. KENYON. Mr. Chairman, I appear as president of Webster Co., manufacturing silversmiths, of North Attleboro, Mass., and I appear in behalf of the New England Manufacturing Jewelers' and Silversmiths' Association of Providence, R. I.

The jewelry industry around Providence and through the Attleboros in Massachusetts does not manufacture high-grade platinum or diamond jewelry. We manufacture the medium and low priced jewelry and commercial silverware.

Mr. Niemeyer has given the case for the industry as a whole, and in the interest of brevity I ask permission to file a brief which gives concisely our objections to this tax from the New England standpoint, and incidentally we are backing it up with statistics.

(The brief presented by Mr. Kenyon is as follows:)

BRIEF OF THE TAX COMMITTEE, NEW ENGLAND MANUFACTURING JEWELERS' AND SILVERSMITHS' ASSOCIATION

PROVIDENCE, R. I., *April 15, 1932.*

The FINANCE COMMITTEE,
United States Senate, Washington, D. C.

RE SECTION 604 H. R. 10236, REVENUE ACT OF 1932

GENTLEMEN: The jewelry industry, as represented by the New England Manufacturing Jewelers' and Silversmiths' Association, had its origin in New England over a century ago, developing in Providence, R. I., and the Attleboros in Massachusetts until this region became one of the greatest jewelry manufacturing centers and the greatest center in America for the production of medium and low-priced jewelry.

In this industry competition is keen, due not only to the large number of shops, but to the many small establishments with small overhead, resulting in the marketing of merchandise at very reasonable prices, and in keeping down to a narrow margin of profit the prices of all members of the industry. Probably in no other industry does the "survival of the fittest" more prevail.

The association referred to above, now over 50 years old, is chartered under the laws of the State of Rhode Island and functions for the general welfare of the industry. It has appointed a tax committee made up of manufacturing jewelers in Providence and the Attleboro representing the different grades of goods manufactured, thus forming a committee which thoroughly represents the manufacturing jewelry industry of New England.

This association, through its committee, opposes the 10 per cent excise tax on jewelry for the following reasons:

1. It is economically unsound.
2. It will result in increased unemployment.
3. It is discriminatory.
4. It is confiscatory.
5. It defeats its very purpose in that it will not return the amount estimated by the House of Representatives.
6. Jewelry manufacturers will have great difficulty in financing the payment of an excise tax.
7. The indefiniteness of section 601 would result in pyramiding.
8. It will still further restrict the consumption of silver.

SUPPORTING EVIDENCE

It is economically unsound.—1. The principle involved in selective excise taxes disregards the complete change in economic conditions resulting from mass production; formerly, due to excess of demand for the articles of first necessity over the supply, selective taxes were imposed to stifle the production of articles which were not classified as being of the first necessity; to-day, over-production, both actual and potential, exists in industries engaged in the production of the barest necessities, so that the only hope of the employment of even 75 per cent of our citizens, able and willing to work, is the maintenance not only of our present standards of living but the creation of new articles which will satisfy desires far beyond those for the barest necessities of life.

The solution of this depression is the encouragement of all industries and not the ruinous discouragement of businesses which furnish employment to many.

It will result in increased unemployment.—2. There is some business to be had even in the present state of depression—but at a price. Throughout most lines of industry and merchandising, the supreme effort is to bring prices down to a level at which the merchandise will move into consumption.

Price of necessities of life is important but is not an absolute deterrent from purchasing; price on articles not of first necessity is the most important consideration, and an increase in price of 10 per cent (which under our system of distribution may amount to 30 per cent when it reaches the consumer) would actually prevent purchase.

It would increase unemployment in a district which is essentially a one-industry locality, and because the workers of this industry are highly trained and highly skilled in particular jobs, they would have difficulty in securing employment elsewhere. The city of Providence, R. I., is now spending $44,611 per month for outside relief against a normal monthly expenditure of $4,121. Likewise the city of Attleboro, Mass., is now spending $23,000 monthly against a monthly normal of $3,000. North Attleboro is now spending $6,000 per month against a normal monthly expenditure of $2,000.

The Biennial Census of Manufactures for 1927, published by the United States Department of Commerce, indicates that in 1927, in Massachusetts and Rhode Island there were employed 13,042 wage earners in the jewelry industry (exclusive of silverware), out of a total of 24,000 in the United States or 54.3 per cent. In 1927, these wage earners in Massachusetts and Rhode Island received in wages, $15,270,045 out of a total in the United States of $36,765,805 or 41.5 per cent.

The following table indicates the trend in the number of wage earners and wages paid since 1927 in the States of Massachusetts and Rhode Island:

	Jewelry wage earners, Massachusetts and Rhode Island	Percentage change from 1927	Jewelry wages paid Massachusetts and Rhode Island	Percentage change from 1927
1927 [1]	13,042		$15,270,045	
1928 [2]	14,608	+12.7	16,664,435	+9.1
1929 [2]	14,737	+12.9	16,980,200	+11.2
1930 [2]	12,520	−4.6	13,376,559	−12.4
1931 [2]	10,329	−20.8	10,414,171	−31.8
1932 (estimate) [2]	8,816	−32.4	8,329,600	−45.4

[1] Figures taken from Biennial Census of Manufactures for 1927, published by the U. S. Department of Commerce.

[2] From index figures compiled monthly by the Brown University Bureau of Business Research, Providence, R. I.; 1932 estimate computed from average number of wage earners and wages paid for months of January and February, 1932.

It has been estimated that more than 50,000 United States citizens, located within a 15-mile radius of the city of Providence, are dependent upon the jewelry industry for their livelihood. It will be noted that wages paid have decreased considerably more than the decrease in the number of wage earners from 1927, which might be considered a normal year. This is due to a marked reduction in hours worked during the past two years.

Jewelry for years, under a false concept, has been considered a luxury item, but for those who have capital invested in this industry and for those workers who gain their livelihood from it, jewelry is an absolute necessity. A discriminating excise tax on jewelry, because of the very nature of its use, will decrease sales volume with the resultant increase of unemployment. This result is contradictory to the principles which have been responsible to a large extent for our national growth during the past years. To-day, due to the facilities for superproduction, no industry that gives employment to our residents can be considered a luxury business.

It is discriminatory.—3. Jewelry, with a few other specified industries, is singled out from thousands of industries and is asked to bear a burden of taxation which is heavy for all but which is overpowering when placed on the shoulders of a relatively few industries of our Nation.

Secretary Mills remarked, in addressing the Senate Finance Committee, April 6, 1932: "A question also arising with reference to the special group of manufacturers' taxes is as to whether a tax is imposed in any case with reference

to an industry perhaps less well situated to bear the tax burden than other industries which are not taxed."

Competition to-day is largely competition between industries. No other industry feels this condition more keenly than jewelry because of the portion of the consumer dollar it seeks. The imposition of a 10 per cent excise tax on jewelry imposes an unjust, discriminatory handicap on the industry in its efforts to meet competitive industries not taxed under the present proposals.

It is confiscatory.—4. A tax which will result in loss of capital is a confiscatory tax. The imposition of a 10 per cent tax on jewelry would necessitate further curtailment of operations and possibly the elimination of some manufacturers. The rate of tax, 10 per cent, exceeds the most optimistic expectations of profit and would result in the Government obtaining, without the efforts or labors of management, a return which exceeds that of the owners; certainly, this is confiscation not only of the use of the invested capital but also of the efforts of management. Furthermore, the tax is on gross sales, whereas the owners of capital must rely for their reward on what is left after everything has been taken out of the gross. The imposition of a 10 per cent tax will surely motivate the economic law of diminishing returns, and jewelry manufacturers will find that the field of their operations is not worth cultivating, due to a combination of natural and artificial factors which have made it sterile. Such a tax would be a deciding factor and result in confiscation of their money invested in manufacturing property.

It defeats its very purpose in that it will not return the amount estimated by the House of Representatives.—5. Tax receipts from this 10 per cent excise tax will fall far short of estimates. The following 10 concerns, selected as representative of the jewelry manufacturing industry, present their figures on sales volume for 1929, 1930, 1931, and the first quarters of these years plus the year 1932. These figures give clear indication of the course of sales over the past several years to date. Certainly, if the industry has not been able to stem the downward course of sales due to natural economic barriers, it can not hope to hurdle additional artificial ones.

Sales for 1929, 1930, 1931, with per cent changes from 1929 of 10 typical and representative jewelry manufacturing concerns

Concern	Sales, 1929	Sales, 1930	Per cent change from 1929	Sales, 1931	Per cent change from 1929
1	$1,909,674.00	$1,310,851.00	−31.35	$1,131,660.60	−40.74
2	507,073.14	492,406.20	−2.67	384,915.92	−24.10
3	314,208.94	270,884.41	−13.79	174,238.05	−44.55
4	967,851.02	708,012.89	−26.84	560,433.04	−42.10
5	1,584,087.17	992,351.37	−37.35	432,578.08	−72.70
6	411,043.50	310,785.23	−14.00	306,153.14	−25.52
7	1,599,157.00	801,113.00	−49.00	644,110.00	−59.70
8	903,076.00	786,368.00	−12.92	459,120.00	−49.16
9	977,105.54	621,624.25	−36.38	479,033.94	−50.89
10	112,422.63	75,546.85	−32.80	33,287.13	−70.40
Total	9,285,788.93	6,409,033.29	−30.98	4,605,468.66	−50.40

Sales for first quarters 1929, 1930, 1931, 1932, with per cent changes from 1929 of 10 typical and representative jewelry manufacturing concerns

Concern	Sales, first quarter, 1929	Sales, first quarter, 1930	Per cent change from 1929	Sales, first quarter, 1931	Per cent change from 1929	Sales, first quarter, 1932	Per cent change from 1929
1	$450,221.00	$277,601.00	−38.16	$230,270.00	−48.82	$153,865.00	−61.46
2	89,965.14	101,625.37	+13.00	91,254.17	+1.50	51,280.51	−42.96
3	78,100.31	53,232.74	−31.85	32,869.96	−57.92	17,314.07	−77.84
4	148,609.11	118,725.55	−20.11	77,021.53	−47.77	53,750.95	−63.84
5	319,136.04	216,856.13	−32.00	106,428.74	−66.66	44,738.70	−85.98
6	51,124.08	39,430.84	−23.07	33,709.61	−34.07	31,590.46	−38.21
7	352,183.00	238,986.00	−32.20	108,686.00	−69.17	160,358.00	−54.51
8	187,867.00	174,010.00	−7.38	143,884.00	−23.42	62,569.00	−66.70
9	289,184.55	221,101.61	−23.64	161,253.75	−44.26	110,785.59	−61.74
10	11,452.86	8,784.32	−24.31	5,611.86	−50.98	3,468.12	−69.72
Total	1,927,390.12	1,450,259.00	−24.75	994,888.62	−48.38	689,725.43	−64.21

The Survey of Jewelry Distribution by Manufacturers of Medium and Low-Priced Jewelry, published by the United States Department of Commerce in 1931, indicates on page 47-A that 68 per cent of the jewelry produced in Massachusetts and Rhode Island is distributed through the wholesaler and retailer. The laws of economics are inexorable and are bound to operate with such a rise in retail price and a marked restriction of volume is sure to follow which, in turn, will result in largely defeating the purpose of this legislation, namely, revenue, by the reduction of the base upon which the tax is levied.

The following table indicates Federal taxes paid for a period of years by a typical jewelry manufacturer.

Federal taxes paid

Income tax for year ending—	
Mar. 31, 1928	$28,118.55
Mar. 31, 1929	21,158.11
Mar. 31, 1930	12,063.09
Mar. 31, 1931	None.
Mar. 31, 1932	None.

A 10 per cent excise tax certainly would not help this manufacturer and many others like him in bringing his business to the point where it would bring regular taxes to the Federal Government.

Jewelry manufacturers will have great difficulty in financing the payment of an excise tax.—6. Credit periods in the jewelry industry extend from 30 days to 12 months or more. Large amounts of money are outstanding for long periods of time, six months being the general rule. The present financial position of many jewelry manufacturers precludes the possibility of any great assistance from banks in doing such financing.

In 1931 there were 1,041 failures of jewelry manufacturing and distributing concerns with debts totaling $28,000,000, according to figures compiled by the Manufacturing Jewelers' Board of Trade, Providence, R. I. While it is not possible to estimate accurately the volume of failures in advance, it can be definitely assumed that there will be a larger than average credit loss in the coming months, particularly, should the 10 per cent tax be sustained because of the added credit strain which such a tax would impose.

The indefiniteness of section 604 would result in pyramiding.—7. Section 604 of the House of Representatives bill 10236 would result in pyramiding, in that it assesses a 10 per cent levy on producers, manufacturers, and importers of material of which jewelry is comprised.

In the jewelry industry in Massachusetts and Rhode Island great quantities of imported semiprecious and imitation precious stones are used in the manufacture of jewelry. These stones are produced almost 100 per cent in Central Europe due to secret processes long developed there. These stones are subjected to an import tariff of 20 to 60 per cent ad valorem, on which the jewelry section in the revenue bill of 1932 adds an additional 10 per cent when sold by the importer, and on top of these two imposts there will be an additional 10 per cent on the finished product, and on top of all this a 300 per cent pyramiding of the tax in the passing of the finished merchandise from the manufacturer to the consumer. The tax is also placed on articles made of precious or imitation precious metals, which it is assumed would include a tax on findings used by a great many manufacturing jewelers and purchased separately from findings manufacturers. These findings may be composed of gold, silver, rolled gold plate, or gold filled, and gold electroplate, all either being precious metal or simulating precious metal and all taxable at 10 per cent.

It is perfectly conceivable, therefore, that an article of jewelry purchased by the consumer will contain within its retail selling price the following specific levies: 20 to 60 per cent import tax on stones used; 10 per cent tax on stones, semiprecious or imitation (new); 10 per cent tax on precious metal findings or imitation precious metal findings (new); 10 per cent tax on finished products (new); all of which are absorbed in the manufacturer's selling price and all of which are pyramided approximately 300 per cent by the wholesaler and retailer.

It will still further restrict the consumption of silver.—8. Vast quantities of silver are used in the arts. The world reduction in silver consumption has attracted the attention and study of statesmen and others in all countries. International agitation has been aroused for conferences on the question and

to devise ways and means of increasing its use. The arts and industry in the United States and Canada in 1931 used, according to the reports of Handy and Harman, a total of 30.5 millions of fine ounces out of a total world production of 156.1 millions of fine ounces, of which the United States produced 31.4 millions. In other words, as the consumption of silver in Canadian Arts and Industry is relatively small, the manufacturing jewelry, silversmithing and photographic industries of the United States consumed almost the entire production of United States mines. This is a most significant fact reflecting the dependence of our great silver-producing States to find a home market for so large a part of its product even in a period of depression.

A tax of 10 per cent on the products of the jewelry and silversmithing industries will absolutely restrict the use of silver in the arts to a very much smaller amount than is even the case to-day.

CONCLUSION

We appreciate fully the responsibility placed upon the Congress to balance the Budget and we are sure that all members of our particular industry are disposed to meet their just share of the necessary tax but it does seem to us, who know the conditions, that an excise tax of 10 per cent on an industry already tottering would not only defeat your efforts to balance the Budget but would also tend to eliminate an industry with the resultant loss of capital and increased unemployment.

Respectfully submitted.

TAX COMMITTEE OF THE NEW ENGLAND MANUFACTURING JEWELERS' AND SILVERSMITHS' ASSOCIATION (INC.),
EDGAR M. DOCHERTY,
WALLACE D. KENYON, *Chairman*,
ARCHIBALD SILVERMAN,
HAROLD E. SWEET,
JAMES V. TONER,
STEPHEN H. GARNER,
EDWARD O. OTIS, JR., *Secretary*.

Mr. KENYON. I would just like for a moment to stress one or two of the most important points as we see them. We feel that this tax is economically unsound. To-day overproduction, both actual and potential, exists in industries engaged in the production of the barest necessities, so that the only hope of employment of even 75 per cent of our citizens is the creation of articles which will satisfy desires far beyond those for the barest necessities of life. Our industry in creating such articles furnishes employment to many.

It will result in increased unemployment. Price of necessities of life is important, but is not an absolute deterrent from purchasing; prices on articles not of first necessity are the most important consideration. An increase in price of 10 per cent, which under the methods of distribution in our industry will amount to 20 per cent to 30 per cent when it reaches the consumer, would actually prevent purchases.

The first quarter of 1932 shows a decrease in employment of jewelry workers in Massachusetts and Rhode Island of 45 per cent from 1927, and a decrease of 51 per cent from 1929. It is estimated that more than 50,000 people located within a 15-mile radius of Providence, R. I., are dependent upon the jewelry industry for their livelihood. An overpowering excise tax of 10 per cent will decrease sales volume with resultant increase of unemployment. To-day, due to the facilities for superproduction, no industry which gives employment to any considerable number of our citizens can be considered a luxury to business.

It defeats its very purpose, namely, revenue. It is our sincere conviction that the amount of receipts from this 10 per cent excise

tax will fall far short of estimates. In the brief filed with your committee we show in detail the sales of 10 representative and leading firms in our association. These concerns showed sales in 1929 of $9,285,000 plus. You see, the value of the materials used in our industry in New England is very small. It is primarily labor. In 1930 sales had fallen 30.98 per cent for the average and in 1931 the falling off amounted to 50.4 per cent.

The decrease in sales volume for the first quarter of 1932 shows a still greater decrease in the taxable base of sales volume to 64.21 per cent. The smallest falling off of business of these 10 concerns was 42.9 per cent and the highest 85.99 per cent.

A 10 per cent excise tax will certainly not stem the steadily decreasing tax base.

Jewelry manufacturers will have great difficulty in financing the payment of an excise tax of this size. Credit periods in our industry extend from 30 days to 12 months or longer. Large amounts are outstanding for long periods of time, six months being the general rule. The present financial position of most manufacturers precludes the possibility of any great assistance from the banks in doing much financing and yet the manufacturers must pay 10 per cent monthly in the form of an excise tax, his financing must be increased by this amount for a general rule period of at least six months.

It will still further restrict the consumption of silver. Vast quantities are used in our industry. The serious plight of silver has attracted the attention of statesmen in all countries. Let me point out that while in 1931 the United States produced 30.4 millions of fine ounces, the arts and industries consumed 30.5 millions of fine ounces. The silver-producing States were most fortunate in finding a home market for the consumption of practically their entire output. A tax of 10 per cent on the products of the silversmithing industry, when pyramided to the consumer, will so increase the price of their product that a very material decrease in silver used will result.

We do not appear before you protesting the imposition of any tax whatsoever, nor do we suggest that this and that article be exempted, nor that a tax might be better levied against some other industry. We are ready and willing to pay any tax that is equally imposed upon every other industry, exempting only those of prime necessity, which reaches out for that last small portion of the consumer's dollar. Levy a tax upon a broad base. This will, by a relatively small rate, raise far greater revenue, not prostrate any industry nor increase unemployment.

Just one more thought. For years we have encouraged the purchase of homes by our employees. Now they find the very possession of these homes is a liability, not an asset. The argument was that in hard times they would at least have shelter and, if worse came to worse, they could raise funds on such property. To-day with little or no income, because of the ownership of real estate, they can not secure aid from the towns, taxes are crushing, and there is absolutely no market for their homes, nor can they place mortgages upon them at the bank. Impose this tax—you destroy hope of employment and hope in the future. Chaos will surely result in our 1-industry communities.

Thank you, Mr. Chairman.

STATEMENT OF HON. JOSEPH W. MARTIN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Representative MARTIN. Mr. Chairman and members of the committee, I shall not weary you with a recital of these facts which have been so ably presented by the two previous speakers. I am not in any way connected with the jewelry industry, but having been born and having lived all my life in a community which is noted for the manufacture of jewelry, I am fully acquainted with the distressful conditions that now exist, and I know full well what will happen if this 10 per cent tax on jewelry becomes a law. I want to protest against the tax because I believe it is wrong in principle to single out a few industries for a tax of this size. I think it is unjust to take six industries and single them out for a sales tax and to apply the large percentage of 10 per cent. I think it is unwise for the Government to tax a prostrate industry, an industry where factories are closed or operating upon short schedules, where hundreds and thousands of workmen are on the streets.

The committee estimates that this will bring into the Treasury the sum of $15,000,000. Anyone at all acquainted with the jewelry industry knows that those figures will not materialize. If we wait to balance the Budget through the $15,000,000 that are coming from the jewelry industry, we will never balance it, because as the previous speakers have said, the volume in the jewelry business has fallen off 50 per cent this year over two years ago, and it is steadily falling and will continue to steadily fall, unfortunately, even after the tide has turned and the business of the United States has begun to come back.

No, you will not get any revenue, but you will add to a problem that is just as acute in this country, the problem of unemployment, a problem which is in itself responsible to the fact that we are not able to balance the Budget. When I view the conditions that are in the jewelry industry, and I mean the conditions in the manufacturing field as well as in the retail-jewelry trade, I am inclined to believe that going to that industry for a tax is almost like going to the poorhouse and taking a collection up for the unemployed.

The CHAIRMAN. Was this discussed in the House?

Representative MARTIN. No; it was not, Senator.

The CHAIRMAN. Did you object to it?

Representative MARTIN. I did not have the opportunity to object, Senator.

The CHAIRMAN. In the committee?

Representative MARTIN. No. I might say this for your information: The committee has never held a hearing on this item. No man interested in the jewelry industry has ever had an opportunity to present his case. This was agreed to by a subcommittee on one morning and reported into the House at 1 o'clock. It was called out of turn before anyone knew that it was coming, and it was passed at a quarter of 2 that afternoon. So this is the only tribunal, Senator, that we can come to, and we do ask you to take that fact into consideration and to give some consideration to this industry.

The question has been presented as to the matter of financing this tax. It will be utterly impossible for the manufacturer to carry it

for a year's tax collections, and you gentlemen who have retail jewelry stores in your different cities and towns in your different States know how utterly impossible it will be for them to pay the tax. They can not do it, and it will mean that you will not get the revenue, but you will add the disturbance to business.

The CHAIRMAN. You prefer a general sales tax?

Representative MARTIN. I voted for a sales tax, Senator, in the House. I believe that the sales tax, while it is obnoxious, of course, to everybody, would be more uniformly distributed and in the end would be the better way out of our dilemma in trying to raise the money to balance the budget.

If you permit, Senator, I would like to file a brief in a more extended form.

The CHAIRMAN. You may do so, Mr. Congressman.

(The brief presented by Hon. J. W. Martin is as follows:)

BRIEF OF HON. JOSEPH W. MARTIN, JR.

Mr. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I wish to record my opposition to the proposed 10 per cent tax on jewelry, optical goods, and allied articles. I believe it is manifestly unfair to single out a few industries for the imposition of a sales tax. I believe it is an injustice to make six of the smaller industries to be taxed the confiscatory rate of 10 per cent while others who have been singled out for the same discriminatory tax to pay a much smaller rate. I believe it very unwise to place a heavy burden on a prostrate industry; an industry which because of the very nature of its business must feel severely the effects of the depression; an industry whose employees for the most part are walking the streets—idle, discontented, and almost hopeless. Particularly is it unwise to make the levy when the revenue to be obtained is small, hardly of any consequence in the task of balancing the budget, but devastating in that it adds to the major problem of the country, that of unemployment.

The House Ways and Means Committee estimates a revenue of $15,000,000. The Government would be fortunate if it secured one-third of this sum. The figures from the industry show the sales are off more than one-half in the last two years and are still declining. More than 1,400 failures have been reported in the industry. These speak more eloquently than words the demoralized condition of the industry. Put on this tax and you will drive more factories and more retail stores out of business; you will send thousands of workmen out to join the army of the unemployed, and you will dry up permanently a good source of income in better times.

When I review the present conditions of the jewelry industry I am led to the conclusion that trying to secure money from this source is like going to the poor house to take a collection for the unemployed. It will be just as satisfactory in results.

People have not been buying jewelry in any quantity in recent years. They have been obliged to reduce their expenditures and quite naturally buy less of these things which they can get along without. Large factories which have successfully operated over 50 years have been forced to liquidate. Only this past month two of the best known Providence concerns closed; one for all time and the other until the dawn of more favorable conditions.

The question of finance and credit enters into this tax as well. The Government would require the tax to be paid monthly while the manufacturer is lucky if he gets his money in a year. How to finance this tax would be a problem. Certainly the banks won't put up the money and most of the manufacturers after the past three years are in no condition to do so. The attitude of the banks may well be illustrated in a personal experience. I happened across a Providence manufacturer during the Christmas recess. He told me he had broken even in the first five months of 1931, had sustained heavy losses in the summer months, and the fall months were unable to make up the losses. As a result the year showed a loss. He thought he could easily make it back if business conditions improved as his concern had in the past been a

good money maker and enjoyed a fine standing in the jewelry world. The bankers, however, took the position they could get their loan by demanding payment then and they believed this might not be possible in another year. The loans were called; the business closed and the workers were thrown out.

Let me give one more illustration of the financial conditions of the industry. One concern recently suspended which had been prosperous and given employment to many people for more than 50 years. Its name was nationally known for the high standard of its goods. Its dies, machinery and equipment were in good shape and inventoried for more than $50,000. It was not necessary to consummate a forced sale. The concern paid all its debts and tried for nearly a year to dispose of the business as a going concern. This was impossible and it was finally sold for $2,500 to be junked.

These examples show the lack of confidence in the present outlook and indicate how utterly impossible it would be to secure banking facilities to finance the tax. No, the manufacturer can not pay this tax and you Senators with many retail jewelers in your own States know they can not do it either. The retailer is just as bad if not worse off than the manufacturer.

I wish the committee would bear in mind this is one of the few industries conducted by individuals. There are few large corporations and few chain-store enterprises. Practically all are what may properly be classified as the "little fellow" in business.

The only excuse advanced for this particular tax is that it is on an industry classified as luxury. That is true in part and because of that fact, the industry is in such a precarious condition it can not stand this proposed burden. The luxury part of the industry, if there was a division, would come on articles sold over $10 where the value of the metal is a vital factor. In articles under that sum the chief cost is labor. The only articles with any demand are in the cheaper field and so this sales tax would fall chiefly on the stenographer, the office clerk, the factory worker, the school girl or the housewife of moderate means who wishes to buy some little article of adornment. And the tax they will be obliged to pay under the arrangement in the House bill will be much larger than the 10 per cent as it passes through the necessary stages on the way to the consumer.

There is also one other thought in connection with the tax. The minute you put this tax into effect you automatically increase the price of all jewelry now in the store. It can not be otherwise. The store keeper can not very well segregate articles in stock bought after the tax law went into effect from earlier purchases. Consequently he will mark up all.

This tax will bring the bootlegger into the jewelry business. The honest manufacturer will pay and some of his competitors will not. The tax will be difficult to honestly enforce. We have had one experience in the matter of diamonds. So much smuggling was reported it was decided in the last tariff law to reduce the tariff from 20 per cent to 10 in the hope it would result in more declarations of diamonds.

The jewelers and silversmiths have no desire to shirk their part in maintaining the credit of the Government in this difficult financial period. They are willing to pay their full share but they do believe in this period when they are suffering more than other industries, they should not be singled out to pay a confiscatory tax of 10 per cent while others more fortunately situated escape altogether.

May I in conclusion remind you there is an issue involved which is just as keen, just as important as securing revenue and that is the problem of unemployment. From the unemployment situation came the problem of seeking funds for balancing the Budget. So I ask this committee, which is the only one which has given these jewelers an opportunity to be heard, to give consideration to the industrial situation as it exists in the jewelry trade. Do not lose sight of the fact the appeal of humanity transcends the appeal for revenue. The thousands of men engaged in the jewelry business have a right to expect their government, in an effort to balance a budget, will not act in a hysterical manner and throw them out of work without even achieving the object sought, to gain revenue. Do not put these workmen further in the mire of distress. Do not make them dissatisfied members of society by placing an obstacle in the way of their getting a chance to earn their livlihood. In the spirit of "live and let live," I ask the elimination of this proposed excessive tax.

STATEMENT OF SENATOR TASKER L. ODDIE, OF NEVADA, IN OPPOSITION TO THE TAX OF 10 PER CENT ON STERLING SILVERWARE

Senator ODDIE. The silver production of the United States declined from fifty and seven-tenths million ounces in 1930 to thirty-one million ounces in 1931, and in value from nineteen and five-tenths million in 1930 to nine million in 1931.

Over 80 per cent of the silver produced in the United States is derived from copper, lead, and zinc ores, and with the lowest prices of silver, copper, lead, and zinc in history now prevailing the production of silver is due further to decline in 1932.

In a campaign carried on jointly by the American Silver Producers' Association and the Sterling Silversmiths Guild to popularize sterling silverware, sales increased in 1931, and over 15,000,000 ounces of silver was consumed in the manufacture of sterling ware, notwithstanding that dollar sales and profits were unfavorable. This favorable result was accomplished largely by greatly reducing sterling silver prices.

In its present position the principal factor in the silver market is the industrial demand. Since the total silver produced in the United States in 1931 was 31,000,000 ounces and the amount consumed in the manufacture of sterling ware was 15,000,000 ounces, it is evident how important a factor the manufacturing of sterling silverware is in determining the price of silver.

The tax bill, H. R. 10236 as passed by the House in section 604 provides for a tax of 10 per cent on the sale price of sterling silverware. The imposition of this tax would result in substantially reducing the sale of silverware and in correspondigly lessening the amount of silver consumed in its manufacture. Such a decrease in the industrial demand would have a marked influence in further reducing the price of silver. Mines in the United States producing silver would be forced still further to curtail operations or to shut down, contributing to the present unemployment.

As serious as the effect of this tax on the metal mining industry of the country would be, it will be still more damaging to the foreign trade of the United States with China and India. The people of China and India are now compelled to exchange a little over 3 ounces of silver for a dollar's worth of goods in the United States. If the price of silver by virtue of imposing this tax declined to 25 cents per ounce, the people in the Orient, comprising over half of the world's population, would be compelled to exchange 4 ounces of silver for every dollar's worth of goods. While the foreign trade of the United States and the Orient has been and is now subnormal because of the low exchange value of silver, the imposition of this tax would further accentuate the situation, resulting in the further reduction of this trade.

Therefore, in the interest of the American silver producers and manufacturers, and in behalf of the foreign trade of the United States with the Orient, I urge upon the committee the importance of relieving sterling silverware from the imposition of this tax.

The CHAIRMAN. Mr. R. H. Whitehead. I understand you want not to exceed 10 minutes.

Mr. WHITEHEAD. That is right.

The CHAIRMAN. All right.

STATEMENT OF R. H. WHITEHEAD, NEW HAVEN, CONN., PRESIDENT CLOCK MANUFACTURERS' ASSOCIATION

Mr. WHITEHEAD. Gentlemen, I appear before you in regard to section 604, "tax on jewelry, and so forth," as follows:

There is hereby imposed upon the following articles sold by the manufacturer, producer, or importer a tax equivalent to 10 per centum of the price for which sold: Watches, clocks.

I represent the clock manufacturers' association of America, manufacturers of all types of clocks, including alarms, watches, and the popular watches retailing for a dollar. A comparatively small part of our product is distributed through jewelry channels and can not to-day be properly classified as jewelry items, inasmuch as our product is also sold through hardware, chain, drug, stationery, department, and furniture stores, electrical dealers, and as accessories for automobiles, radios, boats, refrigerators, and so forth.

Our industry is American. It recognizes the importance of raising additional revenues and recommends a moderate tax imposed on a broad group of commodities, excepting essential foods and clothing. We do not ask exemption from any fair and well-distributed tax.

We must respectfully protest that the tax of 10 per cent as proposed on clocks and watches in section 604 is unfair for the following reasons:

1. That it is highly discriminatory. While clocks and watches are taxed 10 per cent, house furnishings and a large variety of articles of like general utility take no tax whatsoever. Many articles that are really in the luxury class are not subject to tax. For instance, period furniture, oriental rugs, statuary, tiles, paintings, and many other luxurious household furnishings.

2. Clocks and watches are necessities. The use of time is obviously an important factor in the daily life of the [illegible]. This applies not only to the business man, but to the [illegible] and housewife—in fact, to all regardless of age [illegible] task is based on time. In addition to clocks [illegible] for instance in the operation of railro[illegible] required [illegible]

3. The tax, because [illegible] and the [illegible] features proposed, will be pyra[illegible]le th[illegible]ernment, [illegible] per cent from the manufactur[illegible] to the [illegible] met[illegible]dle[illegible] the tax will be passed on to [illegible]mer with [illegible] and re[illegible]erhead and profit added (u[illegible] per cent [illegible] thei[illegible]e), so that the 10 per cent [illegible] become[illegible]t on the retail price to t[illegible] margi[illegible]ased amount paid by [illegible] tax co[illegible] the Government.

4. That a moder[illegible]eral co[illegible] upon the consume[illegible]s the 10 [illegible] rden on a business whic[illegible]n affecte[illegible] depres[illegible] high tax will further red[illegible]olume, [illegible]oint.

I wish to point [illegible]umb[illegible] he prop[illegible]t that will make it diffic[illegible] our [illegible]ss, pl[illegible]t unintentional competiti[illegible]ge, and [illegible] for the Government to admi[illegible] act. I will [illegible] atures up section by section of the [illegible]

Section 604 states:

The tax is imposed upon the articles [illegible] manufacturer, producer, or importer equivalent to 10 per centum of the price for which sold.

Watches and clocks are largely used as premiums; if a user of a give-away premium imports clocks and watches direct, he will escape

payment of the tax and the domestic manufacturer will lose this business in many instances because of the large differential.

If a manufacturer of automobiles or radios or time switches, and so forth, imports clocks and watches direct and incorporates some into his product which is not sold as watches or clocks, there will be no tax levied, and the domestic manufacturer will again be placed at a large competitive disadvantage.

TAX LEVIED ON COMPLETE ARTICLE

(Sec. 604)

The manufacturer or importer by not selling the completed article; in other words, by selling uncased movements, will entirely escape the proposed taxes. The companies purchasing watchcases and selling complete watches will avoid the tax by selling their movements and cases on separate invoices. Parts can be taken out of the complete article, such as the winding stem or winding crown on a watch, which can be put in at no cost in a very short time by the consumer and the tax avoided. As without the stem or crown the article is not a functioning mechanism and therefore not a taxable completely manufactured article. It is difficult to define what a completely manufactured article is.

Obviously, responsible American companies have no desire to avoid taxes by technicalities, but we have a lot of competition that will not hesitate to take advantage of every loophole. There are numerous evasions to a tax levied on a complete article which will allow everyone, from manufacturer, importer, to consumer, to avoid this tax and which will defeat the revenue-raising purpose of the act and disrupt the present methods of doing business. It will educate the general public on how to evade taxes.

Section 604 levies the tax on the price sold by the manufacturer.

In the case of large manufacturers particularly there will be a great temptation to avoid taxes by setting up distributing agencies, thus eliminating the cost of distribution from the manufacturers' cost, thus lowering the amount of tax. The manufacturer can set up a distributing agency through which it will make all its product; it can sell the completely manufactured article to the distributing agency at a nominal price, thus evading the major part of the tax, resulting in unfair competition to the smaller manufacturer who is in no position to do likewise.

Section 605, tax on automobiles, and so forth, reads:

There is hereby imposed upon the following articles sold to the manufacturer, producer, or importer a tax equivalent to the following percentages of the price for which so sold:

(a) Automobile truck chassis and automobile truck bodies (including in both cases parts or accessories therefor sold on or in connection therewith or with the sale thereof), 2 per centum * * *.

Clocks are common automobile truck accessories. Under this provision they will pay a double tax.

(b) Other automobile chassis and bodies and motor cycles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof), excepting tractors, 3 per centum * * *.

Note that this section exempts the farmer's tractor, but heavily taxes the watch he uses to tell time.

Clocks are common automobile accessories. Under this paragraph they will pay a double tax.

(c) Parts or accessories for any of the articles enumerated in section (a) or (b), 1 per centum * * *.

Clocks are commonly sold as accessories in the automobile trade. They should be treated in like manner to other automobile accessories as such clocks are made specifically for automotive purposes and should be so taxed.

Section 607, tax on radio receiving set, and so forth:

There is hereby imposed upon the following articles sold by the manufacturer, producer, or importer a tax equivalent to 5 per cent of the price for which so sold: Chassis, cabinets, and so forth (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof). * * *

Note, please, the discrimination between radios and clocks, clocks being taxed at twice the rate of radios, yet the clock being more of a necessity to the home, and the radio comparatively a luxury, and that the tax on clocks is several times the tax on automobiles. Radios are now commonly equipped with clocks, and clocks are common radio accessories. The above paragraph will result in double taxation.

If a tax is levied on any article in section 605, 606, 607, or 608 involving a clock or clock movement, the manufacturer of such clocks should be exempt from payment of tax on clocks or clock movement furnished for incorporation in such articles. Otherwise, a double tax will be levied which will seriously affect the market of the clock manufacturer and in many cases lose that market to him, because it will invite such manufacturers to make their own clock mechanisms and thus avoid the tax of 10 per cent.

Section 617, retail sales:

If any manufacturer, producer, or importer liable under this title for tax based on the price for which any articles are sold by him, customarily sells such articles both as wholesale and retail, the tax in the case of any article sold by him at retail shall be computed on the price for which like articles are sold by him at wholesale.

From this standpoint of business, no manufacture cares to divulge his wholesale price to a retailer or to the consumer. The above virtually makes it compulsory for him to do so; besides, a retailer selling a consumer under the act is not required to state amount of tax, where a manufacturer is forced to. The fundamental difficulty here is the desire of the House seemingly to cover up the tax after the wholesaler or vendee pays it to the vendor. It would seem wise to eliminate section 617 altogether if Congress persists in levying the tax as covered in the proposed act. In addition, it offers a loophole to lessen taxes by setting up a few restricted favored wholesalers to whom sales are made at arbitrarily low prices by manufacturers who make the large bulk of their sales direct to the retail trade and in many cases who at present do not wholesale at all. It makes the act difficult to administer.

Section 618:

If any person sells an article to any person at less than the fair market price, the tax under this title on the sale of such article shall be computed on the fair market price of such article.

It has caused much litigation under the antidumping act and has not yet been defined by the courts.

The term "fair market price" is filled with possibilities of controversy. No manufacturer sells his goods at below cost or the market unless he does so from economic necessity. Whether or not special bargain sales set new market prices is subject to controversy. A manufacturer should have the privilege of closing out inventories below the market to liquidate stocks to raise cash to stay in business without penalty. Many clock and watch manufacturers have recently made sales at 50 cents or less on the dollar to liquidate inventory. Under this section they might be forced to pay 20 per cent of the 50 cents they receive in taxes. Other industries not subject to tax are not so penalized. Could any legislation be more discriminatory and unfair?

Section 604 states:

> The tax is imposed upon and paid by the manufacturer, producer, or importer * * *.

In any case the manufacturer, producer, or importer should pay the tax if levied, only when he actually receives them in settlement. The tax should be plainly stated on invoices so as to facilitate proper accounting. Attempt to absorb as a cost item and cover it up will intensify present cutthroat competition, which is the basic trouble to-day in our industries. The average manufacturer to-day has four or five months' accounts receivable on his books; he is short of working capital, and he should not be expected regardless of the amount of the tax to finance it, and any sales or excise tax legislation should plainly relieve him of that burden and hold him accountable only as he receives cash payment of taxes from vendees. He should not be compelled to assume double losses on bad accounts and provision should be made to refer such uncollectable taxable items to the Bureau of Internal Revenue for tax collection. The manufacturer of clocks and watches to-day is short of working capital because of heavy losses—his channels of distribution are even in worse shape—a drain on this capital by the heavy tax proposed is a serious matter to an already distressed industry.

Administration provisions should eliminate double taxation as called for in this act, preferably by providing no tax on sales to manufacturers or where sold as added accessories in connection with section 605, automobiles and trucks and accessories; section 606, boats and yachts; section 607, radio and accessories.

A large number of clocks and watches are sold to manufacturers of cases who sell them as complete boudoir and novelty clocks.

Many wholesalers and retailers make a practice of assembling of clocks and watches, buying movements from one source and cases from another. Administrative provisions must be made to consider such persons as manufacturers and to require them to conform to the act to insure that other manufacturers are not put at a serious competitive disadvantage. Practically every jeweler is a manufacturer under the terms of this act. To avoid double taxation, definite provision should be made that the tax applies only when the article is sold to the wholesale and retail trade and not to manufacturers incorporating into a new article or assemblers of movements and cases.

Provision should be made to exempt from provisions of the tax clocks used in connection with all forms of electrical devices, such as time switches for gas and electric ranges, recording meters, watchmen's clocks, and time switches of all kinds.

Any sales or excise tax contemplated should not be applied to articles exported, the obvious reason being that we are having already great difficulty in meeting foreign competition in foreign markets and any additional tax proposed will prove too serious a disadvantage to be overcome.

Section 703, refunds and credits:

This section provides for refunds and credits.

It is customary in the clock and watch business to credit merchandise from wholesalers and replace with other merchandise and to credit, repair, and charge back merchandise. The law should clearly provide for the manufacturer either to replace such merchandise without tax, if a tax is levied, or to credit such merchandise in exactly the same manner as if it had paid a tax in the first place. Otherwise, exchange of merchandise, and where merchandise is credited, repaired, and returned will be most difficult. Provisions should also be made that when merchandise credits stand on the books previous to the passage of the act, that these can be filled without tax on replacement merchandise.

GENERAL

The proposed tax is ill-conceived, discriminatory, and unjust, and extremely difficult to interpret and administer. It is levied at one of our most technical essentials, and widespread industries already in great distress.

If this tax is passed, it will intensify the present depression in this industry to a point that can not be contemplated thinkingly without despair. The tax is so large an item that it can not help but derange and disorganize the clock and watch business and it will require a considerable time for the adjustment of tax between manufacturers, wholesalers, retailers, and consumers to work itself out. When it does, the industry must operate on less than its normal share of available business because of the discrimination against it.

We appeal to your sense of justice and fair play, to your trusteeship of American industry, to give our industry fair treatment. We appeal, further, that you enact tax legislation that will be spread over all American industry fairly, that will not discriminate, and that you take every possible step to restore confidence and assist distressed industry by careful consideration of such legislation. We stand ready to do our part.

If a general moderate tax is adopted on practically all industries, the burden will be relatively light and if provision is made to pass it along to the ultimate consumer who must pay it finally in any event the Government will receive every dollar in taxes instead of receiving only a part of the increased cost, the customer will pay if the tax is covered up. In addition no derangement of a given business will result in the meantime either when the tax is levied or when it is finally dropped. Seemingly no consideration or thought has been given to what will happen to our business when this tax is discontinued on June 30, 1934. For months prior to that date customers

will stop buying, because this 10 per cent tax is an item large enough to be a real factor, and we will have another depression in the industry if meanwhile we succeed in coming out of the present one.

Senator REED. May I ask you one question? Would you complain of a general manufacturers' excise tax applicable to all industries except those producing food or clothing?

Mr. WHITEHEAD. It is obvious, Senator, that we must broaden our tax base, and the only possible source of revenue that you have is a general tax. But I would levy it not only on the actual manufacturer but I would levy it on the increase of value due to manufacture or gross profits in distributing that article to the consumer. I have prepared another brief on that whole subject. I have laid out a tax plan along that line that I would love to submit to this committee.

Senator REED. If we subtracted the purchases from the gross on which the tax was calculated then such a manufacturers' excise would amount merely to a tax on the value added by the manufacture of that individual?

Mr. WHITEHEAD. That is correct.

Senator REED. And you favor that, do you?

Mr. WHITEHEAD. I favor that. But I favor going further than that, and I would appreciate it if this committee would let me a little later submit a brief on that subject, which I have been very carefully working out on an industrial subject for a long time.

Senator HARRISON. Why do you not file that brief?

Mr. WHITEHEAD. I would like to have the committee ask me questions. I am an industrialist and an engineer, and I have worked out something which I think would be of great interest. I call it "An economic reconstruction tax."

Senator SHORTRIDGE. Have you reduced it to type?

Mr. WHITEHEAD. Not quite.

Senator CONNALLY. You pointed out a good many ways in which these taxes can be evaded.

Mr. WHITEHEAD. Yes.

Senator CONNALLY. That is a very serious objection, is it not?

Mr. WHITEHEAD. That certainly is, and that is the reason I prepared this additional brief, so as to make that impossible and impractical.

Senator CONNALLY. If we levy taxes like these, do you think your industry will evade them?

Mr. WHITEHEAD. My industry will evade them only through force of necessity.

Senator CONNALLY. They will evade them?

Mr. WHITEHEAD. They will have to, because——

Senator CONNALLY. Could you also file a brief showing us how you could fill up those cracks so you could not evade them?

Mr. WHITEHEAD. Yes; I will be happy to do so.

Senator GORE. Your name is what?

Mr. WHITEHEAD. Whitehead.

Senator GORE. Send me one of those briefs when it is ready.

Mr. WHITEHEAD. Yes; I will be glad to do that.

Senator GORE. Are you an engineer?

Mr. WHITEHEAD. Yes. I helped on the Panama Canal and I put the first boat through to the Pacific coast.

The CHAIRMAN. Thank you, Mr. Whitehead.

(Mr. Whitehead's brief is printed at the conclusion of his general statement.)

The CHAIRMAN. We will now hear Mr. Williamson.

STATEMENT OF H. H. WILLIAMSON, LEGAL ASSISTANT TO EXECUTIVE STAFF OF BAUSCH & LOMB OPTICAL CO., ROCHESTER, N. Y.

Mr. WILLIAMSON. I wish to state that a tax upon eye glasses and spectacles is a tax upon the means of learning and livelihood of millions of unfortunate members of society with defective or impaired eyesight.

We request the favorable consideration of excepting eyeglasses and spectables from the provisions of section 604, Title IV of the above bill. Section 604 now reads:

> There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per cent of the price for which so sold: All articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments); watches; clocks; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars.

1. Title IV. Manufacturers' excise tax imposes taxes upon numerous articles largely upon a basis of classifying them as luxuries or semiluxury articles. Almost without exception the taxes are upon articles which can be dispensed with by any individual without impairing his earning power. However, when the bill attempts a tax upon such articles as spectacle frames and lenses, used for the correction of visual errors of individuals, it strikes at a vast number of unfortunate members of society who must of necessity in gaining a livelihood wear glasses. Not by any stretch of the imagination can these articles be deemed luxuries. No one wears them except from necessity. To many they are the very means of livelihood and enjoyment of living. Such a tax is a tax upon eyesight, and discriminates against this class by taxing their infirmities. It is a tax analogous to a tax upon the crutches of a cripple.

Those individuals handicapped by defective or impaired vision should not be required to pay an excise tax on these artificial aids that they require to compete with their more fortunate fellows. The school child, the clerical worker, the industrial worker—all with poor eyesight—should not be further handicapped by such a tax.

The use of precious metals in the constructions of spectacles is purely a matter of necessity as other metals would be injurious to the human face. They can in no way be construed as jewelry or articles of adornment. They are articles of prime necessity to millions.

Section 604 follows rather closely the language of section 905 of the revenue act of 1918. The administrative regulations under the revenue act of 1918 interpreted section 905 to include "eyeglasses and spectacles." Consequently, when the Congress enacted the revenue act of 1921 it specifically provided for the exception of

"eyeglasses and spectacles" from such tax. Section 905, revenue act of 1921, reads:

(a) That on and after January 1, 1922, there shall be levied, assessed, collected, and paid (in lieu of the tax imposed by section 905 of the revenue act of 1918) upon all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof, or ivory (not including surgical instruments, eyeglasses, and spectacles); watches, clocks, opera glasses, lorgnettes, marine glasses, field glasses; and binoculars, upon any of the above when sold by or for a dealer or his estate for consumption or use, a tax equivalent to 5 per cent of the price for which so sold.

We urge the committee to accept the precedent of the revenue act of 1921 in excepting eyeglasses and spectacles from tax.

Lorgnettes and lorgnons may be properly classified as jewelry, but the lenses with which they are provided should not be so classified or taxed.

STATEMENT OF M. J. JULIAN, BETTER VISION INSTITUTE, NEW YORK CITY

The CHAIRMAN. Mr. Julian, you can not have more than 15 minutes.

Mr. JULIAN. I will be through in five.

Section 604 of the House revenue bill reads as follows:

There is hereby imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per cent of the price for which so sold; all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof or ivory (not including surgical instruments); watches; clocks; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars.

Obviously this entire section refers to jewelry. There is one reference, however, to a particular style of eyeglass. I refer to the word "lorgnettes." It is, therefore, assumed that in so specifying this one kind of eyeglass it was the thought of the House Ways and Means Committee to exempt from the proposed revenue law the general family of eyeglasses and spectacles. This was undoubtedly the intent, as eyeglasses and spectacles as a family were exempted in the most recent of our revenue acts, namely, the act of 1921, which specifically said, "* * * not including surgical instruments, eyeglasses, and spectacles."

My purpose in appearing before you is simply to point out that section 604 of the proposed revenue act should now be made clear in regard to spectacles and eyeglasses. The exempt clause as it appeared in the 1921 act, and, as I have just read it to you, should be included in the present act.

Please understand me correctly. I am not declaring that eyewear should not be taxed. The question is entirely up to you. I am merely pointing out that if in your good judgment eyewear should be taxed, then it should be taxed only for what it is. In other words, spectacles and eyeglasses are absolute necessities of life, and not by the greatest stretch of the imagination can they be classed as so-called luxuries or as jewelry accessories.

Senator HARRISON. May I ask you there a question? There was so much confusion I could not hear what you said. You say in the act of 1924 an exception was made?

Mr. JULIAN. In 1921.

Senator HARRISON. In 1924 was this provision eliminated?

Mr. JULIAN. I do not know anything about the 1924.

Senator HARRISON. I am just trying to get some information on that as to whether or not it was carried along or changed in 1924.

Mr. JULIAN. I do not know. This act as it is written in the present revenue act is copied word for word from the 1918 revenue act.

Senator HARRISON. 1918?

Mr. JULIAN. 1918; yes.

Senator HARRISON. Then in 1921 they made an exception as to spectacles and eyeglasses?

Mr. JULIAN. Yes.

Senator HARRISON. But you are not aware as to what was done in 1924?

Mr. JULIAN. No; I have not any idea.

The CHAIRMAN. But in the act of 1922 they had a tariff on glasses.

Mr. JULIAN. This is an exact copy of that act, which excluded eyeglasses and spectacles.

The CHAIRMAN. That was not the act of 1922.

Senator REED. He is speaking about the internal revenue act and you are talking about the tariff.

Senator HARRISON. I understand the 1924 act carried forward the 1921 act, so in the 1924 act eyeglasses and spectacles were excluded, and the only time they were put in was in the act of 1918.

Mr. JULIAN. That is right, 1918.

The last thing any person wants to wear is a pair of glasses. This truth is so well known that its elaboration here seems unnecessary. Let me point out merely, therefore, that only one-third of the people who now need glasses for greater comfort, greater efficiency, and a better measure of health actually wear them. There is one major reason for this. Glasses are looked upon by most people as "crutches" and as such disfiguring to one's appearance. They are certainly not worn for adornment or for any reason other than sheer necessity. The wearing of glasses is put off to the very limit of time.

Senator SHORTRIDGE. You mean to say they are necessities rather than luxuries.

Mr. JULIAN. That is it exactly. When needed and worn they are absolutely indispensable, just as food and clothing. Please, therefore, gentlemen, dissociate eyeglasses and spectacles entirely from any such classification as jewelry or other so-called luxury merchandise.

Many people quickly jump at the false conclusion that glasses are luxuries purely because gold or gold-filled metal is used in their construction. The fact of the matter is that gold is the only safe and practical metal to use for the wearer's protection. It is the only metal not subject to the influence of the acids in the human system. All inferior metals will corrode and tarnish, due to exposure to the air or moisture, or contact with the skin. Worse yet, they may prove injurious by infecting the skin. Not even silver is considered a good metal to use, because it tarnishes very easily and

quickly. Perhaps you have had the personal experience of having worn a silver ring and had it turn black on your finger. Certainly you would not wear a silver eyeglass mounting that turned black on your face and discolored your skin at the various contact points. What is true of silver is equally true of baser metals. So that, please let me repeat, gold is used only because after years of exhaustive experimentation it has been found to be the only safe and satisfactory metal from the wear's point of view.

Moreover, metal is the best material to use in order to maintain the proper and essential alignment of the lenses before the eyes and thereby efficiently interpret the prescription of the eyesight specialist to make the lenses useful and helpful rather than actually harmful and troublesome. Tortoise shell and imitations of shell have been used in the past, but they were found to be unsatisfactory because they broke easily or warped and thereby threw the lenses out of the correct position before the eyes. It is a natural characteristic of all imitations of shell to assume their original position, irrespective of all the seasoning or shaping that is applied to them.

For your information, gentlemen, let me mention at this point that in case section 604 was to be interpreted as including spectacles and eye glasses, the total revenue which would accrue would actually amount to less than $1,000,000 a year. The cost of collecting this tax would be tremendous and would necessarily have to be passed on from the manufacturer to the wholesaler and through him to the retailer, who, in turn, would of necessity pass it on to the ultimate wearer of the spectacles. The reason for this is simple. It is a matter of record that there is no profit in the optical business at the manufacturing points. This statement may be readily verified by an analysis of manufacturers' business statements over the past 8 or 10 years. Because of this fact, any tax at the manufacturing source would necessarily have to be passed on. The cost of passing it on would be enormous, owing to the character of the business. There are approximately 35,000 practitioners at the retail point. The cost of passing on the tax through the jobber to this great number of outlets would be stupendous. The inevitable result would be a material marking up of the retail price and an undue burden on the wearer who just simply must have the spectacles. This added burden on the retail price is inescapable, owing to the fact that there are literally thousands and thousands of retail accounts which are to-day on a strictly C. O. D. basis. Along this point it may interest you to know that 80 per cent of all the retail practitioners in the optical business have an annual purchase power of less than $2,400. This fact alone will illustrate the point that the industry is built on thousands of small individual businesses.

Incidentally, for your information, please let me point out simply, because of its great importance during this period of stress, that the optical manufacturers have steadfastly maintained employment and wages at an exceptionally high level. Salaries have been slashed, but wages have remained intact. I believe you should know this, as the optical manufacturers are making a sincere and costly effort to maintain purchase power and community prosperity. As you are probably aware, the various optical manufacturers maintain research and experimental laboratories at great cost, in order to

further the development of optical science and thereby greatly increase human comfort and efficiency.

The CHAIRMAN. What amendment do you want?

Mr. JULIAN. I just sum it up in this one thought:

I respectfully urge you, therefore, gentlemen, to make the present proposed act clear by including the same exempt clause which was contained in the 1921 Revenue Act and which read, "not including surgical instruments, eyeglasses, and spectacles."

Please understand me, gentlemen, I am not pleading for exemption. I am merely pointing out the necessity for making the present proposed act clear and of placing eyewear in its proper classification as necessity merchandise. Should it be the opinion of your committee that necessities should be taxed, then by all means include eyewear.

In conclusion, please permit me to thank you sincerely for your graciousness and courtesy in permitting me to present this appeal to you. I shall be glad to try to answer any questions which may be in your minds.

Senator REED. Mr. Julian, would you consider an Ingersoll watch a luxury that ought to be subject to a luxury tax?

Mr. JULIAN. Personally, I would not, not an Ingersoll watch; no.

Senator REED. That is in this same section.

Mr. JULIAN. I think an Ingersoll watch, in my personal judgment, would come under the provisions of a staple, of a necessity.

Senator REED. The House bill puts luxury taxes on Ingersoll watches and Ivory soap.

Mr. JULIAN. That is beyond me.

Senator SHORTRIDGE. Soap is a luxury, is it not?

Mr. JULIAN. I think that personal efficiency and personal comfort and personal earning power is decidedly hurt when people do not wear glasses when they need them. Glasses are indispensable.

Senator SHORTRIDGE. That is not even debatable.

The CHAIRMAN. Thank you, Mr. Julian.

BRIEF OF ERNEST G. H. SCHENCK

SCHENCK & VAN HAELEN,
New York, April 13, 1932.

The Hon. REED SMOOT,
Chairman the Senate Finance Committee,
United States Senate, Washington, D. C.

DEAR SIR: I respectfully lay before you the inclosed brief which will speak for itself and hope that it may be of value in its appeal to determine the judgment of your committee regarding the matter of taxation as it would affect the jewelry trade.

Assuring you of my sincere esteem, I remain

Yours very truly,

ERNEST G. H. SCHENCK, *senior partner.*

The undersigned Ernest G. H. Schenck is a member of the partnership of Schenck & Van Haelen in New York City, N. Y. Their business of diamond cutting is of American promotion. It was started in this country in 1894.

Our American diamond-cutting industry derived its world importance through its painfully conquered leadership in the art. On that account it has exerted great influence upon another important American art: That of the jeweler. Both aim at recognition through their excellence of workmanship.

Prospects for the future are naturally dependant upon a wisely inspired attitude of your Government; for it lies in your discretion to prevent disastrous

barriers from being once more erected in our path. The proposed "10 per cent tax" would violently set back an American achievement and reopen a gate, barely closed, against illicit foreign competition.

A few years ago when a 10 per cent correction of the tariff was brought about by your Government's enlightened judgment it revived the jewelry trade with a new ray of hope in its future. The disappearance of a valuable American industry from our shores was then prevented at the 11th hour by the timely removal of duties.

Notwithstanding this latter unquestioned measure of relief no one, with authority to express himself on the subject, can fail to deplore the unbelievable hardships that have befallen the American jeweler and diamond cutter. Any obstacle now placed in the way of their trade's recuperation would inflict additional torture and prove a fruitless and inglorious act unworthy of high stewardship.

As a taxpayer of some importance and who has seen this importance dwindle from year to year, I abjure your committee to ascertain and heed the well-founded protest that is now going up in the face of the 10 per cent projected tax to affect our trade.

Compared with the Federal income tax as paid by me for the years 1919, 1920, and 1921, the next three years, 1922, 1923, and 1924, showed a decrease of 22 per cent. The following three years 1925, 1926, and 1927, showed a decrease of 73 per cent, and the following three years, 1928, 1929, and 1930, a further decrease of 95 per cent as per actual figures taken from the books. I can only refer with a sense of profound humiliation to my income-tax report of 1931.

Voicing the feelings of my coworkers, I desire to place this brief in your hands with all the appeal at my command. I feel a solemn duty to write you in defense and preservation of a world-esteemed American art in which I have been active for nearly 50 years and which I believe is now seriously threatened. It is my conviction that a tax on real precious jewelry will not be productive of results and will only promote the extinction of a legitimate trade built up with talent, perseverance, and hope.

Many of our fellow Americans whose voices would be raised in protest together with mine can no longer do so; they have been crushed out of existence by the unsurmountable hardships in their way. This is borne out by the records of the National Jewelers Board of Trade which give the failures for the year 1929 as 657 and for the year 1930 as 767 and for the year 1931 as 1,088.

Respectfully submitted.

ERNEST G. H. SCHENCK,
New York City, N. Y.

TAX ON AUTOMOBILES

The CHAIRMAN. Mr. George M. Graham is the next witness. Mr. Graham, you may either stand or sit there, which ever you prefer.

Mr. GRAHAM. Mr. Chairman, I would rather prefer to stand.

The CHAIRMAN. We will give you 30 minutes, Mr. Graham.

Senator HARRISON. Mr. Chairman, before Mr. Graham proceeds, have you made any allocation of time with reference to this automobile matter?

The CHAIRMAN. One hour, Senator.

Senator HARRISON. One hour?

The CHAIRMAN. Yes. You may proceed, Mr. Graham.

STATEMENT OF GEORGE M. GRAHAM, VICE PRESIDENT OF ROCKNE MOTORS CORPORATION, SOUTH BEND, IND., FOR THE AUTOMOBILE INDUSTRY

Mr. GRAHAM. Mr. Chairman and gentlemen of the committee, we consider that the chief issue here to-day is a matter of pay roll; every other consideration seems to us relatively unimportant. What the country needs is employment and wages, and there can not be economic recovery until we have once more adequate pay rolls.

We agree, of course, that it is imperative that the Budget be balanced, but we do not believe there will be any dissent to the proposition that this must not be done at the cost of putting out of a job the man who has a job or denying employment to a man who seeks it.

It is for this reason that we oppose the imposition of a motor excise tax upon our product.

I may say that our appearance here to-day is entirely representative. Your spokesman carries the proxies of every manufacturer in the automobile industry without exception. In addition he speaks for the National Automobile Dealers' Association; for the National Association of Motor Bus Operators; for the National Association of Finance Companies; for the Motor and Equipment Wholesalers' Association; for the National Standard Parts Association; for the Rubber Manufacturers' Association; and for the Society of Automotive Engineers. And while he does not directly speak for the American Paint and Varnish Manufacturers' Association and the National Publishers' Association, these organizations have already expressed themselves as in sympathy with our position.

In order that the committee may have a knowledge of the interest which our industry has in this hearing, I should like to be permitted to present the various leaders of our industry whose attendance here to-day represents a practical knowledge of the issues involved. And I shall ask each gentleman to stand as he is called upon.

Roy D. Chapin, chairman of the board, Hudson Motor Car Co.; Walter P. Chrysler, president, Chrysler Corporation; Edsel Ford, president, Ford Motor Co.; Alfred P. Sloan, jr., president, General Motors Corporation.

Senator CONNALLY. It looks like an automobile dealers' convention.

Mr. GRAHAM. Mr. Charles D. Hastings, chairman of the board, Hupp Motor Car Co.

A. B. Qualy, secretary, Willys-Overland Co.

Alfred H. Swayne, vice president, General Motors Corporation.

C. B. Warren, Nash Motors.

Alfred Reeves, vice president and general manager, National Automobile Chamber of Commerce.

J. D. Tew, president, Rubber Manufacturers Association, and president of B. F. Goodrich Co.

H. S. Firestone, chairman of the board, Firestone Tire & Rubber Co.

H. S. Firestone, jr., vice president, Firestone Tire & Rubber Co.

F. W. Harpham, vice president, Goodyear Tire & Rubber Co.

A. F. Townsend, president, Manhattan Rubber Manufacturing Co.

Paul H. Arthur, general counsel, United States Rubber Co.

A. L. Viles, general manager, Rubber Manufacturers Association (Inc.).

Joseph Haas, president, Brooklyn Automobile Dealers Association.

John Meighan, secretary manager, National Association of Motor Bus Operators.

Nathan Williams, National Association of Finance Companies.

David Beecroft, Motor and Equipment Wholesalers Association.

Orville Gault, secretary.

T. L. Ford, member of legislative committee, National Standard Parts Association.

Gentlemen, this represents the practical experience in the problems involved.

We believe that we may be entitled to testify on the subject of pay rolls. In the year 1928 the manufacturers of cars and trucks, accessories, parts and tires, disbursed in wages $1,028,000,000. This money went to 590,000 employees in every State of the United States.

In addition, indirectly three and one-half million persons made their living from our industry. These include employees of dealers and service stations; proprietors of garages; those employed in the plants making basic materials; and drivers of cars and of trucks. The total of direct and indirect employees is in excess of 4,000,000 persons, one-eleventh of the total number of persons in the United States engaged in gainful occupations. If all those men and women were employed, and with the additional benefit of the inspirational effect on other industries dependent upon our industry, the slump would be over.

Senator COUZENS. Would you mind an interruption, Mr. Graham?

Mr. GRAHAM. Not at all.

Senator COUZENS. Have you reduced the wages of those engaged in the industry?

Mr. GRAHAM. Yes, sir.

Senator COUZENS. To what extent?

Mr. GRAHAM. I would say some 5 per cent in the lower salaried grades and in the higher brackets, as high as 20 per cent.

In our own company, for instance—and here is something concrete—we have just made a reduction involving 5 per cent up to $1,000; 7½ per cent up to $3,000; 10 per cent up to $5,000; and 20 per cent above $5,000.

Senator COUZENS. Has that been brought about generally throughout the industry?

Mr. GRAHAM. Oh, yes, Senator; because we have no way to get money except through earnings and loans, and our ability to borrow is naturally curtailed by our lack of prosperity. We can *not*, for instance, impose taxes.

Senator COUZENS. I assume that this general reduction has greatly curtailed the market for your automobiles, has it not?

Mr. GRAHAM. Yes, it has, Senator; because our employees and those employed in the industry and allied industries, are large buyers of our automobiles.

Senator COUZENS. Well, if that continues, is it not true that there will be a further curtailment of your product?

Mr. GRAHAM. Inevitably.

Senator COUZENS. I am rather astonished that a member of your industry would propose a salary reduction of Government employees because they buy too many automobiles.

Mr. GRAHAM. I have no knowledge of any such position, Senator.

Senator COUZENS. I have a letter here from the Chrysler Corporation, and I would like to read it, because it seems to be inconsistent with your statement on the matter of sales. The Chrysler Corporation, under date of April 1, 1932, and speaking of cutting salaries of Government employees, this writer says:

> I spoke of cutting the salaries of Government employees, and speak of it again, because I know from the records of our own business that registrations of new automobiles in the District of Columbia increased last year as compared with the year before, and the District of Columbia is the only political subdivision of the United States of which this is true.

In other words, the Chrysler Corporation is finding fault with the fact that the sales of automobiles increased in the District of Columbia. Is that the position of the motor-car manufacturers?

Mr. GRAHAM. Senator, might that not indicate a very broad-minded view on the part of the Chrysler Co., that they put the necessities of the country and the balancing of the Budget ahead of their own personal interest and the interest of the industry?

Senator COUZENS. That may be true, but I was just wondering how you were ever going to bring back the purchasing power of your product if you are going to indorse the cutting off of revenue.

Mr. GRAHAM. The purchasing power of our industry can not come back unless we balance the Budget. It seems that economy is a necessary thing, and a good thing, and that must be understood to apply to the Government as well as individuals.

Senator COUZENS. You believe that economy should be taken out of the consumer?

Mr. GRAHAM. I have not said that, Senator.

Senator COUZENS. No. I am asking you.

Mr. GRAHAM. I would like to answer that in this way: It seems to me that necessarily the Government must effect economies, just

as business does. As I said before, we have no way to raise money, except through our product, and our ability to borrow. We can not create money, as this committee can, we can only spend what we have. And, necessarily, in that process we do not stop at sacrificing the nonessential; we have to sacrifice the essential. We do without a lot of things we should have. We curtail our newspaper advertising. We curtail our forces, and we cut off our experimenting, because we can not spend the money that we should spend on it. Fundamentally, we think that the Government is only in the position that business is, and can only spend that which it can get, and nothing can be spared.

Senator COUZENS. I was just anxious to know how you are going to aid recovery if that goes on.

Mr. GRAHAM. If you come to the point of economy?

Senator COUZENS. No; if you reduce the incomes of people all along the line. It seems to be rather a vicious circle, and I was wondering whether you had the same views as to how to get back.

Mr. GRAHAM. I would feel this: You must first effect economies, and just the minute economy is effected and we have a balanced Budget, then we can go ahead. But the essential thing is effecting economy. Now, if in the interim we have to suffer, we have no choice except to do that thing.

Senator COUZENS. Are you going to furnish any substitute for the motor-car taxes?

Mr. GRAHAM. Senator, we are hardly in a position to do that. I would like to discuss that with you just a bit. We do not pretend to know anything about taxing except in relation to our own business. We can furnish information to the committee with respect to the effect of this excise tax on our own key industry. We do not think it would be fitting, in fact we think it would be selfish for us to decide what industry should bear the burden. In addition, we do not have your information and your knowledge on the subject. And we do not sit in your judicial position. You hear all the witnesses, Senator. You balance all the propositions. You consider where a tax will carry, and what will have a baneful effect, or otherwise, and then out of your search, and by the aid of your experts, you decide. I do not feel that this industry, or any industry, is in position to make a suggestion to you.

Senator REED. Would you object to a uniform manufacturers' excise tax?

Mr. GRAHAM. Do we object to it?

Senator REED. Would you object to it?

Mr. GRAHAM. Senator, we have not objected to it. It seems that is a better answer than any opinion of mine. We know that even the 2½ per cent would have an effect on our business. But as long as we are treated equally with all other industries, we do not think we have a right to object. We do not expect anything better than any other industry gets, but we certainly do not want anything worse.

Our position has been over the years that we resent a tax on the necessities of life. And we think we can show you that transportation is one of the six necessities of life.

Now, from the standpoint of our business, if you up all taxes equally, we continue to stand on a plane with other industries. But

if you single us out for a special tax, we are not in a position to compete for the customer's dollar.

Senator REED. Suppose we single you out, as is done in the House bill, tell us what, in your judgment, that would do to your industry?

Mr. GRAHAM. Yes. We feel that you gentlemen are not conversant with the continued effort that has been made to bring down prices. It may seem to you gentlemen that $15 to $25 on a low-priced car is a small amount. But we feel that an increase in cost of 10 cents in a carburetor is the subject of a serious conference. We consider all of those matters, and that is the way we bring down prices.

And I would like to give you an example of what has occurred in even a very small increase in price in one of the materials that goes to make up an automobile. We believe in safety glass. And when we brought safety glass down to the point so that it could be put on a car for as low as $25 additional we thought it would be adopted 100 per cent. We feel that safety glass is insurance for a man and his family. But no manufacturer reports more than 20 per cent of the purchasers taking adavntage of the safety glass, for the reason that the $25 prohibits his buying.

Now, if the increase of $25 for this insurance to a man and his family is to prevent a man from buying an automobile, certainly a tax in the same sum would have a deterring effect on buyers as a logical conclusion.

Senator GEORGE. Do you compare the three-fourths per cent with the rates in this bill, as a flat rate?

Mr. GRAHAM. The three-fourths per cent?

Senator GEORGE. Yes.

Mr. GRAHAM. This is the way we feel about that: The three-fourths per cent is not material if it were uniform. What we object to, and always have objected to, is discrimination. We would still resent the excise tax. If it were the same rate as the sales tax, we would still resent it, because it singles out a great key industry, one of the necessities of life, for the imposition of a tax. That is our position on those things.

Senator BARKLEY. From a financial standpoint, will the 2½ per cent excise tax on automobile products, singled out, be any more injurious on the trade than to have that on the level with other products?

Mr. GRAHAM. It is much more harmful to be singled out.

Senator BARKLEY. Financially, it is harmful; but would it be any more injurious on your trade to be singled out than to have a level tax on all other products?

Mr. GRAHAM. It is much more injurious to be singled out, because if we are taxed equally we are in just as good a position as other industries to compete for the consumer dollar.

Senator BARKLEY. What other products do you compete with?

Mr. GRAHAM. We compete with all types of industrial adventure. The public has so much money to spend. Here is a market in which the public is rather unwilling to buy. They have been through a period of great financial stress, and even where they have the money to buy, where there is a special tax on a product, it would seem to be a sort of a stigma on the automobile, and that does not put us in a position to compete for the consumer dollar.

Senator CONNALLY. Will they not have more money to buy other things if they have not the money to buy automobiles?

Mr. GRAHAM. That is a fair question. I do not know how to answer that, Senator. You have got to figure they have a certain amount of money, and you have to be competitive to get that money.

Senator BARKLEY. If there is 2½ per cent tax on everything he buys, why would he not spend just as much with you, in proportion, as formerly?

Mr. GRAHAM. He would not have as much money to spend. If you make us prosperous and leave us to bring back business, we will help business all along the line.

Senator BARKLEY. I am wondering where we are going to get the money.

Mr. GRAHAM. I think I answered that to Senator COUZENS.

Senator BARKLEY. I am not for any tax that can be avoided.

The CHAIRMAN. Mr. Graham, 20 minutes of your time has gone.

Mr. GRAHAM. Yes, Senator; I had reached the point of saying that our pay rolls and our disbursements were naturally very much curtailed.

Now, if I do not say any more than this, Senator—if time does not permit any more than this one additional point—I would like to question very strongly and very much if you gentlemen understand the financial position of this industry. We have been a very successful industry, and have produced largely. But maybe that does not concern you. You are not interested commercially in the automobile business. That is a financial and commercial industry. But you are very deeply interested in the getting of revenue for Government purposes. We do not like to bare our troubles to the world, but this is a matter we feel we should disclose to your committee. Our business is sicker than it has ever been.

Just let me give you one or two figures to show what I mean by that. Our volume of production has dropped from 5,358,000 vehicles in 1929 to 2,389,000 in 1931, which is a decrease of approximately 55 per cent. And that reduction is steadily continuing.

And 1932 is even worse than 1931. We dropped, for instance, in making a comparison between March of 1932, and the 5-year average for that month; in the month of March, 1932, excluding Ford, who has been out of production, from 328,000 vehicles delivered to 115,000, a decrease of 64 per cent. The mean average for five years, for the first quarter, from 1927 to 1931, inclusive, was 780,581 vehicles, cars and trucks, and in the first quarter of this year, 1932, it was 335,359, or a decrease of 57 per cent.

Now, the serious part of that is that it carries with it all of our employees. In place of having 590,000 employees in our plants now we have about 340,000 on part time. In place of disbursing $1,028,791,000 we are paying out $453,000,000. Now, if the industry is vital to lead the Nation back to prosperity, that is a very dangerous condition. And it seems to us that in many plants where the tax conflicts with wages, it seems to us sound economics to put wages first.

Senator COUZENS. Would you favor a general income tax instead of a sales tax?

Mr. GRAHAM. Once more, Senator, you would make us tax experts. That is not our function here.

Senator COUZENS. The income tax is not a sales tax, of course, and it applies to everybody, and to industry as well.

Mr. GRAHAM. There is a point there, Senator, that it would apply to everybody. That has been our point from the first. We do not know whether the present income of the country would make that proper or not. And that is where we do not care to express an opinion, on that question, or others, on which we have not had preparation.

Senator REED. Mr. Graham, if we balance this Budget with a decent tax bill, adjourn Congress, and go home, what would be the effect on your business?

Mr. GRAHAM. And pass this tax?

Senator REED. A proper tax all around.

Mr. GRAHAM. Senator, we seriously believe that business would pick up.

Senator BARKLEY. That does not depend on Congress going home, does it? [Laughter.]

The CHAIRMAN. It would help.

Mr. GRAHAM. I can not say.

Senator REED. You are not anxious that we stay in session all summer?

Mr. GRAHAM. That is a matter of your own convenience.

Senator REED. It is more than that.

Mr. GRAHAM. We have never been unappreciative of our contact with either one of these committees, this committee or the Ways and Means Committee of the House. We have testified many times and have always had courteous consideration, and we feel we will have it at this time, and have such consideration and recognition as you can give us.

The CHAIRMAN. You recognize, of course, the fact that we must have a balanced budget?

Mr. GRAHAM. I started my talk with that statement, Senator.

The CHAIRMAN. And you want to be treated the same as other businesses are treated?

Mr. GRAHAM. Yes; we want to be treated equally with other businesses.

The CHAIRMAN. And no matter what tax is imposed, you accept that?

Mr. GRAHAM. Yes; equally with other business. We do not want the best of it, and we do not think that we should have the worst of it.

Senator COUZENS. You mean, including food and clothing?

Mr. GRAHAM. Would the Congress pass such a tax? They excluded food and clothing from the sales tax in the first Ways and Means bill.

Senator COUZENS. You would accept that, would you?

Mr. GRAHAM. We would accept it with such imperative exemptions as food, if the Congress would qualify it.

Senator CONNALLY. Mr. Graham, have you considered the effect of a tax on second-hand automobiles in connection with this matter?

Mr. GRAHAM. No, sir; we have not.

Senator CONNALLY. Would that affect you?

Mr. GRAHAM. It would not affect us. That automobile has gone from us. We have nothing to do with it.

Senator BARKLEY. Except that you take it in on a new one.

Mr. GRAHAM. The dealer does.

Senator CONNALLY. I think it should be made a crime to sell one, myself.

Mr. GRAHAM. Senator, for reasons of safety on the highway, you mean to say that the second-hand car should not continue to operate because of its danger?

Senator CONNALLY. That was just a pleasantry; but, as a matter of fact, they put them off on a man that ought not to have one at all; they sell the old broken-down cars to some negro or a white man, and it is a prolific source of fraud.

Mr. GRAHAM. Fraud and danger.

Senator CONNALLY. They are all dangerous.

Mr. GRAHAM. But a good automobile is not as dangerous as a secondhand one.

Senator CONNALLY. It is more dangerous to the pedestrian.

Mr. GRAHAM. I do not think so. I am a pedestrian myself a good deal of the time.

Senator CONNALLY. It runs faster.

Mr. GRAHAM. I know, but the tires are better and the steering gear is better. The danger you fear applies to the parts, the tires, and the purchase of the necessary parts to make the car runable.

Senator CONNALLY. By the way, do you not think the tax on accessories is out of line with the tax on cars?

Mr. GRAHAM. It is a nuisance tax; a tax on necessities.

Senator CONNALLY. It is 1 per cent.

Mr. GRAHAM. Yes, sir.

Senator CONNALLY. Three per cent on passenger cars.

Mr. GRAHAM. Yes, sir.

Senator CONNALLY. Is there not more money in the accessories than in the automobiles?

Mr. GRAHAM. No, sir. The danger is, it is a nuisance tax.

Senator CONNALLY. Any tax is a nuisance tax.

Mr. GRAHAM. Not if it provides revenue.

Senator BARKLEY. It is a nuisance to the man who pays it.

Mr. GRAHAM. Yes; it is a nuisance for the Government to collect it. And to the man who has a blowout or has trouble on the road it is a tax of 1 per cent on his necessities.

The CHAIRMAN. Is that all, Mr. Graham?

Mr. GRAHAM. Unless you want to see our charts.

The CHAIRMAN. Is it a printed chart?

Mr. GRAHAM. They emphasize these points and will take two or three minutes.

Senator HARRISON. I do not want to take up the time questioning you, but I would like this information: You have put into your testimony how the manufacture of automobiles has decreased during five years.

Mr. GRAHAM. Yes, sir.

Senator HARRISON. Will you show how that decrease has taken place with respect to our foreign exports with reference to the domestic use?

Mr. GRAHAM. Yes; I will be glad to do that.

(This table is inserted in answer to the preceding question.)

1931 production 53 per cent; exports 67 per cent under 1929

Year	United States production	Exports	Production for United States market
1925	4,265,890	428,607	3,837,163
1926	4,900,934	392,893	3,908,041
1927	3,401,326	466,384	2,934,942
1928	4,358,750	582,731	3,776,028
1929	5,358,420	733,816	4,624,604
1930	3,355,986	405,715	2,950,271
1931	2,389,738	241,557	2,148,181
2 months, 1931	391,788	46,480	345,309
2 months, 1932	236,757	25,030	211,727

Mr. Chairman, I suppose you want to let me file my brief?

The CHAIRMAN. Yes; your brief may be filed. Do you have it with you to-day?

Mr. GRAHAM. Yes it is completed.

The CHAIRMAN. You may have it follow what you have stated now.

Mr. GRAHAM. Yes; it is in detail.

The CHAIRMAN. All right. Have it follow here.

(The brief presented by Mr. Graham is here printed in full in the record, as follows:

BRIEF OF GEORGE M. GRAHAM, VICE PRESIDENT ROCKNE MOTORS CORPORATION ON BEHALF OF THE AUTOMOBILE INDUSTRY

Our chief concern here to-day is the American pay roll. Every other consideration is unimportant. What the country needs is employment, wages. These are the only factors that can bring permanent economic recovery.

Balancing the Budget is, of course, imperative; but there can hardly be any dissent to the principle that this must not be done at the cost of taking a job from the man who has one, or of keeping idle the man who seeks employment.

It is the duty of the automobile industry, and of all industry, to make every effort to expand employment.

We oppose motor-vehicle excise taxes because we believe they are a direct blow at the Nation's wages. We are certain that a presentation of the facts will establish our contention.

Our appearance here to-day is 100 per cent representative. Your spokesman represents a united industry, including every car and truck manufacturer without exception; and he also speaks for the National Automobile Dealers' Association, National Association of Motor-Bus Operators, National Association of Finance Companies, Motor and Equipment Wholesalers' Association, National Standard-Parts Association, and the Rubber Manufacturers' Association.

Over the years we have been big contributors to the American pay roll. Manufacturers of cars, trucks, parts, and tires have paid out in wages yearly a sum which increased from $7,150,000 in 1904 to $1,023,701,000 in 1929.

This huge sum went to 590,709 men and women actually employed in our plants. Probably another 3,500,000 persons found employment in plants making raw material, accessories, in dealer organizations, as drivers of cars and trucks and connected with garages and filling stations. These 4,000,000 employees represented one-eleventh of all those engaged in gainful occupation in the United States, and were located in every State of the United States.

If our plants were operating at anything like normal, the slump would be over.

Other industries would be infinitely aided by our expanding volume, and with a mighty surge business would go rushing forward.

EARNINGS SHARPLY REDUCED

Unfortunately, our industry is not prosperous. It has shared the reverses of all business. Only the courage and optimism of our manufacturers has kept the business going.

There are invested in the plants of manufacturers of cars and trucks, $1,880,000,000. It is not possible on present volume for our industry to pay dividends on this huge sum. Our earnings in 1931 fell to $66,000,000, as compared with $155,000,000 in 1930, and $330,000,000 in 1929. These figures do not include the Ford Co., which makes no statement.

Our disbursements are now being made in wages, not in dividends.

On the present volume, few automobile manufacturers will be paying dividends by the end of 1932. The automobile industry, famed for its marvelous conceptions and constructions, is lower than it has been since the start of its great upward climb.

During a large portion of the last two years sound business would have dictated the closing of many plants. We have continued to operate largely out of the belief that we owe it to the country to keep labor employed so as to avoid the necessity of governmental gratuities to the destitute.

Our volume fell from 5,358,000 vehicles in 1929 to 2,380,000 in 1931, a reduction of approximately 55 per cent.

Even worse has been the start for 1932. In making the comparison between March of 1932 and March of preceding years and between the first quarter of 1932 and the similar periods of preceding years, we shall use only the figures of members of the National Automobile Chamber of Commerce, since Ford has been out of the market this year because of the development of new models.

The 5-year average, 1927–1931, for the first quarter shows that our members delivered 780,581 cars and trucks as against 335,350 for 1932, a decrease of 57 per cent.

In the first quarter of 1931 we delivered 470,154 cars and trucks, which is 29 per cent better than we have done this year.

The 5-year average for March is 323,004 cars, as against 115,070 cars this year, a decrease of 64 per cent. We have fallen off 40 per cent against March of last year, when we shipped 192,118 cars.

Naturally, the pay roll has undergone a proportionate decrease. In place of a force of employees which has reached as high as 590,709, we are down to 340,000 on part time. Instead of paying these men and women $1,028,791,000, as in 1929, their wages have fallen to $453,000,000. All this has happened in spite of a consistent and courageous fight to win back volume not only in our own interest, but because of the great influence that our success would have on general prosperity.

It has not been our habit to lay bare our troubles to the world, but if the gentlemen of this committee believe that our contribution to the American pay roll is important and that our success would stimulate general business, it seems to us highly important that you avoid any procedure that would retard our opportunity to come back.

OUR CHANCE TO LEAD RETURN TO PROSPERITY

That we have the best chance to lead business improvement is the reasoned opinion of foremost business men in no way related to our industry.

We could quote many statements to establish this contention, but in order to save time we shall limit ourselves to two, these having been picked because they are the representatives of a great transportation business, with which to some extent we compete.

These two men who have risen above business rivalry to plead our case in the common interest are Fred W. Sargent, president of the Chicago & North Western Railway, and Alba B. Johnson, president of the Railway Business Association. These men do not deal in generalities, or unsupported opinion, but are specific in stating their reasons why the motor industry should be protected from special burdens at this time.

Mr. Sargent says:

"I believe the steel industry is yet the basic and key industry of the country. It depends in turn upon three major industries for its principal support—first, the automobile industry; second, the railroad industry, and third, the building industry.

"I am very sure from present prospects that there will be no large tonnage available to the steel industry from the railroads this year. Likewise, all indications point to little revival in the building industry during the current year. There is however, good reason to believe that the automobile industry will start the country back on an era of industrial activity.

"Anything that can be done at the present moment to encourage the automobile industry will be exceedingly helpful to the entire country and to all other industry." Mr. Johnson's statement is equally powerful. We quote:

"In relation to assisting business recovery, we further ask you to scrutinize the incidence of proposed tax increases with a view to avoiding special burdens upon key industries which the country has reason to hope will lead us out of the depression. From that standpoint we oppose any luxury tax at this time on sales of automobiles.

"We take this position the more vigorously because we advocate that motor carriers shall not enjoy special privileges on highways at the expense of the railways and of the public. We equally insist that the motor-car industry shall not suffer any special hardship. The motor car is no longer a nonessential to be discouraged or a luxury to be penalized. It is a necessity performing an indispensable social service. In balancing the Federal Budget the same taxes and the same only should fall on the motor-car industry as on any other.

"As a statesmanlike measure for business recovery, however, the automobile is in a key position. If the heart is not cut out of it by some such affliction as a luxury tax, the automotive group is about to perform a major function in lifting us out of the depression.

"The prosperity generated in motor-car factories and sales agencies, with production active, spreads rapidly in a hundred directions and in the aggregate, including the steel communities, is a prodigious recuperative force in the country.

"Motors are ready for the green light to exert what the country needs most—powerful leadership in applied confidence."

Coming from such sources, these arguments are hard to controvert.

RETURNS DO NOT JUSTIFY HAZARDS

There might even be some slight justification for handicapping our great key industry if big revenue would result. Actually, the total predicted is relatively small.

Only $50,000,000 is claimed by sponsors of the House bill on the basis of 3 per cent on cars, 2 per cent on trucks, and 1 per cent on parts, tires and accessories.

TEXTUAL STATEMENT

If production equals 1931 we estimate the return would be about $42,210,625, derived as follows:

Passenger cars:		
Production for United States market	1,839,042	
Wholesale value	$1,057,449,150.00	
Average wholesale value per unit	575.00	
Excise tax at 3 per cent per unit tax	17.25	
Passenger-car tax		$31,723,475
Motor trucks:		
Production for United States market	300,139	
Wholesale value	$191,358,041.00	
Average wholesale value per unit	619.00	
Excise tax at 2 per cent per unit tax	12.38	
Truck tax		3,827,160
Parts, tires, accessories: Wholesale value for replacements, excise tax at 1 per cent	666,000,000.00	
Total on parts		6,660,000
Tax on cars, trucks, parts		42,210,635

Estimated return from motor vehicles under a general manufacturers' excise tax at 2¼ per cent if production equals 1931:

Passenger cars ($1,057,440,000 wholesale value)	$23,793,000
Motor trucks ($191,358,000 wholesale value)	4,305,000
Tires, parts, and accessories for replacement ($660,000,000 wholesale value)	14,985,000
Total tax at 2¼ per cent	43,083,000

(Estimated return from the rates in the House bill included in Mr. Graham's brief.)

ALWAYS READY TO PAY OUR JUST SHARE

We have always been ready to bear our just share of the tax burden. We did not oppose the sales tax. We had no right to do so. It bore equally on all industry. Our burden could have been about the same as under the special excise levy as the following table shows. But the point of our present objection to a special excise tax is that it involves discrimination.

We object if it be 3 per cent, or if it be only 2¼ per cent, the same as the defeated manufacturers' sales tax.

Here is involved a point of principle. We do not think it is right to tax a necessity of life, and the automobile, as individual transportation, is one of the six necessities of life, the other five being food, fuel, shelter, clothing, and communication. Transportation is not the least of these, since it serves the other five.

The effect of raising the general level of prices, including the automobile, is entirely different from singling out one industry for a special tax and so upsetting the balance of competition for the consumer's dollar.

Possibly the question may be in your minds as to why we are so sure that the imposition of the tax would retard our volume.

We freely admit that this was not the result following the excise tax of 1917. Actually our business expanded in the ensuing 10 years until the repeal.

It is not, however, to be forgotten that the period referred to was one of extraordinary prosperity.

There were high wages, high prices, and nation-wide distribution of wealth. The tax was wrong in principle, then as now, but it did not curtail volume for our people were rich enough to buy what they wanted.

Also our efficiency enabled us to so reduce prices that we could offset the tax increase.

Now conditions are different. We are in the midst of a great depression. Fewer people have money with which to buy cars.

I doubt if you gentlemen understand what it means to us to have to add even a $15 tax to our delivered price.

We fight to save as much as 10 cents a unit on a carburetor.

We are able to give you a graphic example to show the influence of even a moderate increase.

The importance of shatter-proof glass as a safety factor is admitted. When a year and a half ago, the price of safety glass was brought down to a point where for an additional charge of $25 it could be installed on a $600 automobile, we felt that no man would hesitate to make this investment to assure the safety of himself, his wife, and his children. Yet not more than 20 per cent of buyers felt able to afford the small additional cost. This is not theory. It is actual experience. It proves that our volume would be appreciably reduced by the addition of the excise tax.

We have been striving to increase the quality of our product, constantly adding safety, performance, and beauty. We did this out of a belief that it was the only way to attract customers back to the market. We felt it was an obligation we owed to our 44,000 hard-pressed dealers.

The addition of the tax would largely offset the result of our economies. We are finding it difficult to avoid price increases and we are certain that these would have to come if the tax reduced our volume. Higher prices would constitute a serious handicap at this time and under these conditions.

We have the impression that even the threat of the tax has been hurtful. It has certainly been damaging to our credit, both as manufacturers and dealers. Our preceding testimony has already established that great selling months like March and April have not produced the regular seasonal increase.

Any development which is hurtful to the automobile industry is damaging to every section of the United States. Forty-one of the States have automotive

plants, and every State in the United States, without a single exception, is a producer of materials which enter into the manufacture of automobiles.

We ask the members of this committee to believe in our sincerity and in the soundness of our knowledge when we contend that the imposition of an excise tax of 3 per cent would decrease our volume, would increase unemployment, and exert its adverse influence on all industry. We have small immediate chance to make any money for ourselves, but if you spare us this tax you improve our chance to help hard-pressed workers.

THE MAN WHO PAYS THE TAX

Thus far, we have dealt only with the derangement of business.

We think you will also wish to consider the rights of the man who pays this tax. Undoubtedly you not only wish to safeguard the American pay roll, but you also wish to protect the income of those who are fortunate enough to have jobs.

The average man, whether rich or poor, needs the individual transportation represented in the automobile. The American family has built its life around the automobile. It should hardly be necessary to attempt to establish this fact at a time when there are more automobiles in use than telephones.

A special excise tax on automobiles is a direct levy against the American home of modest means, for let it not be forgotten that two-thirds of all motor-car buyers have incomes of $3,000 or less, and that 85 per cent of all the automobiles sold are priced at less than $750 wholesale.

Farmers use 5,000,000 of the 26,000,000 cars and trucks now running in the United States. Nine hundred thousand are trucks, 26 per cent of the total truck registration. Small wonder that their representatives have appeared before you to oppose this tax.

If the excise tax restricts our volume, as we believe it must, we shall have to further increase our prices. This will mean a still further lowering of volume and employment.

If this tax is imposed, we have no recourse from adding the net amount to our delivered prices. Our profit margin does not permit us to absorb it. In many cases the tax equals or exceeds our manufacturer's profit.

The proposed tax of 2 per cent on trucks achieves a triumph of iniquitous discrimination. Eighty-five per cent of the 3,490,000 commercial vehicles in use are owner operated. The tax, therefore, imposes on a motor-truck operator what is virtually an occupational tax, something which the United States does not impose on any other business or profession.

The tax of 1 per cent on repair parts, accessories, and tires, as proposed in the House bill, is particularly objectionable for it is a tax on the misfortune of the user. It punishes the farmer or workman because he had the misfortune to blow out a tire, break an axle, or smash a fender.

The motorist is already heavily overtaxed. In 1931 he paid in gasoline taxes, license fees, personal-property tax, and other State and municipal levies, a total of $1,022,000,000, which is 10 per cent of all taxes of all kinds collected in the United States by all governmental divisions.

Taxation is a complicated science. Its effects are far-reaching and replete with surprises. The power to tax is not alone the power to destroy. It is also the power to injure.

Conceding the need of revenue, it is imperative to know where the effects fall.

When wages and taxes conflict, wages must be protected, for nothing influences to a greater degree the lives of our people.

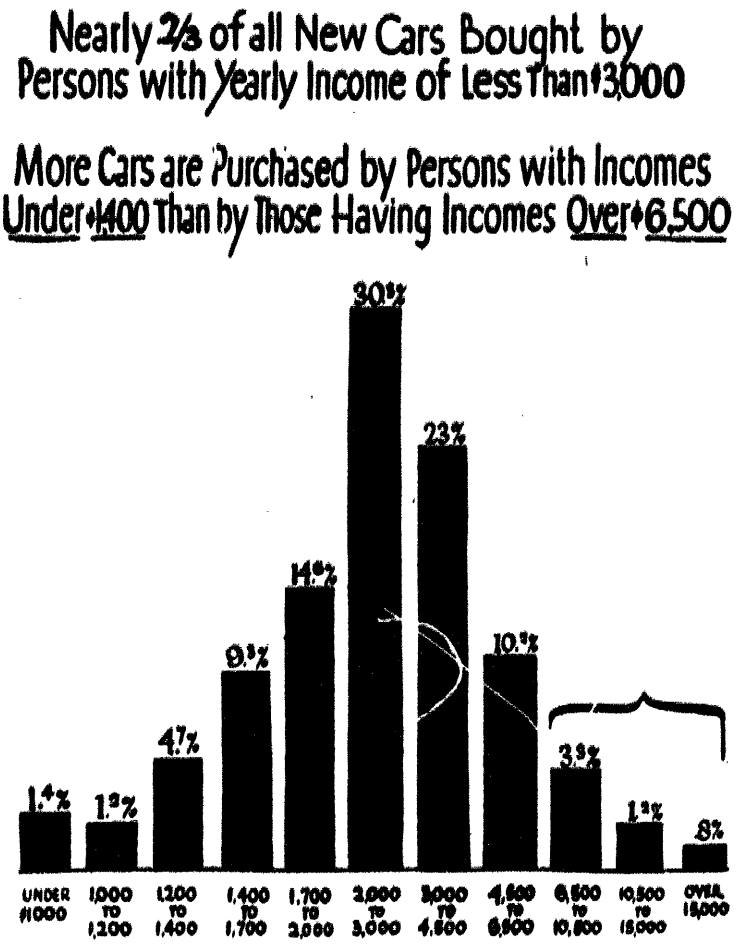
The CHAIRMAN. You may take a little time on those charts.

Senator REED. I think we should see them, Mr. Chairman.

Mr. GRAHAM. We had thought, gentlemen, you might be interested in seeing the man who pays the tax. He is not a buyer of luxuries. Here he is [exhibiting chart]. He is not a man of wealth. Two-thirds of all the cars sold go to persons with less than $3,000 a year income. Eighty-five per cent of all the cars sell at $750, wholesale. Here is the man who pays this tax. That is averaged in a way that is unquestionable, gentlemen. This man is 40 years old. He has two children. He is buying a $3,000 home. He owns a $765 car.

He spends $800 for food; he spends $275 for clothing; he spends $110 for fuel and light. And in this sum is education, insurance, and one hundred and one incidentals that we could not get any figures that carried sufficient authority to justify itemizing them separately. This is the man who pays the tax.

Here [exhibiting another chart] we have a breakdown of the personality of the purchasers. Two-thirds of all new cars bought go to persons with a yearly income of less than $3,000. It is graded all the way along. The biggest classification is between $2,000 and $3,000. That is typical of the average number.



Here [exhibiting another chart] we have a table which shows that 85 per cent of all the cars sell for $750 wholesale. Here is a table which shows—a relatively small table—showing that you can only get revenue from a tax on the low-priced car. Above $3,000 it would not be profitable at all.

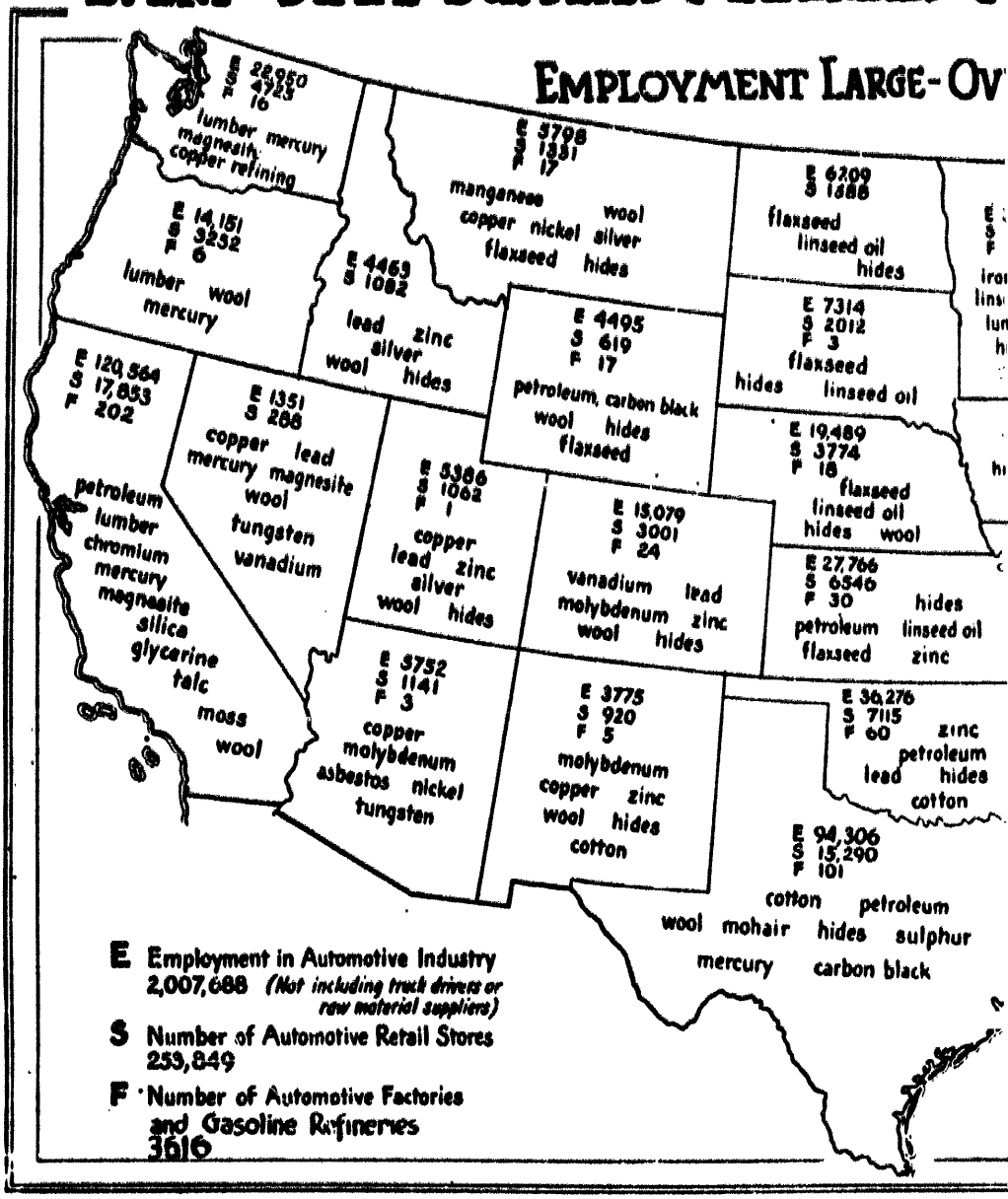
Senator CONNALLY. You say they sell at that price at wholesale. How about the retail price?

Mr. GRAHAM. We know that the retail price——

Senator CONNALLY (interposing). How much more?

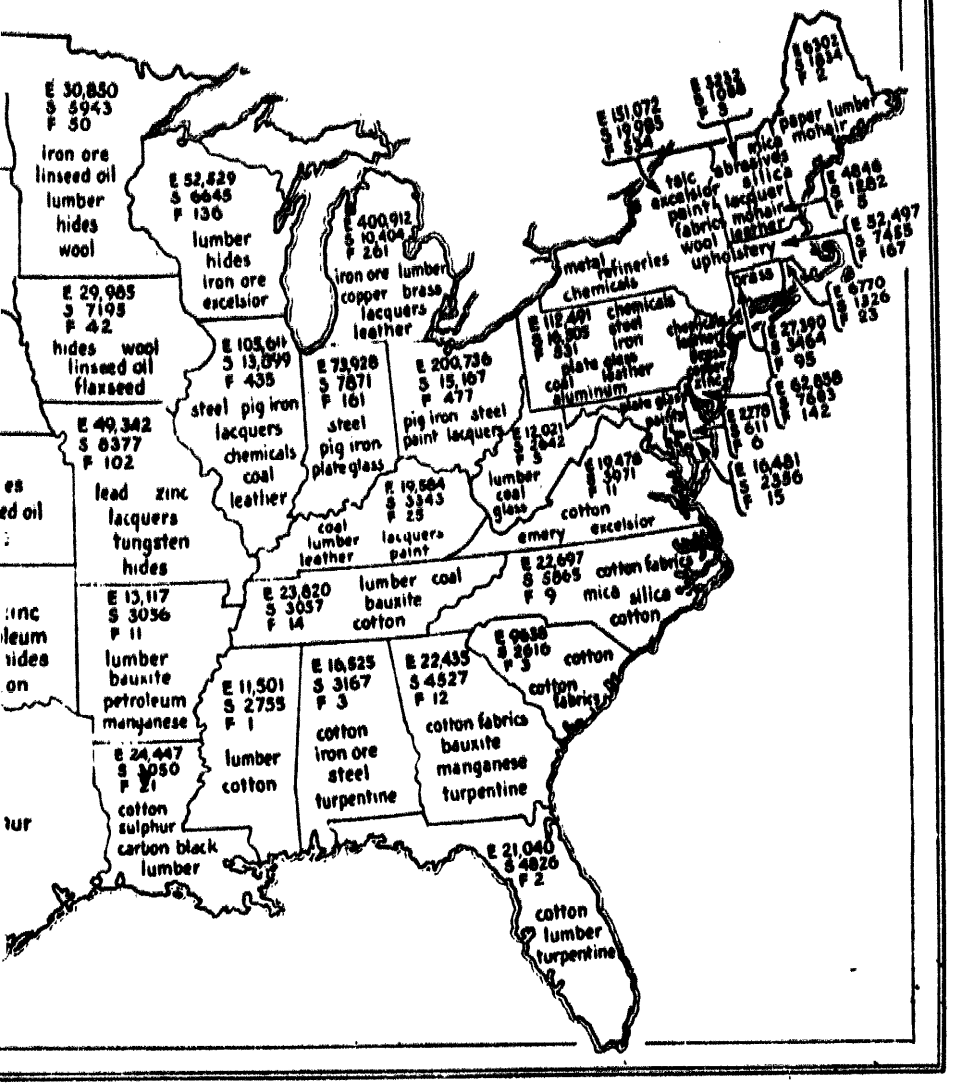
Mr. GRAHAM. About one-third more.

EVERY STATE SUPPLIES MATERIALS U



USED IN AUTOMOTIVE INDUSTRY

OVER 4,000,000 PERSONS DIRECTLY & INDIRECTLY



Senator CONNALLY. Then a car costing $1,000 wholesale would be how much?

Mr. GRAHAM. We have calculated it retail. We add one-third to any of these figures. And that, of course, would make this car [indicating] about $1,330. The average retail price of all cars sold last year, however, was only $765.

Twenty-six million motor vehicles in use, 1931—farmers own 26 per cent of trucks, 18 per cent of cars, 57 per cent of cars on farms and towns under 10,000 population

Population group	Passenger cars		Trucks	
	Number	Per cent	Number	Per cent
Farmers	4,134,675	18.4	900,385	25.8
Towns under 10,000	8,690,225	38.7	813,915	23.3
10,000 to 100,000	4,440,000	19.8	777,600	22.3
100,000 to 500,000	2,625,000	11.7	492,700	14.1
Over 500,000	2,560,000	11.4	505,400	14.5
United States, total	22,450,000	100.0	3,490,000	100.0

Here [exhibiting another chart] is a very interesting table. This shows 26,000,000 motor vehicles in use in the United States. The farmers own one-fourth of all the trucks and 18 per cent of all the cars, which makes it not surprising that they have testified here showing their opposition to this tax. And we have, plus the farmers, about 8,000,000, in round numbers, in towns of under 10,000 population. There you account for 12,000,000 people with cars.

Another very interesting table [producing another chart] showing the people who are engaged in activities in connection with this industry. The red shows the percentage engaged in the basic materials that enter into the manufacture of automobiles. Here we have, for instance, of steel we absorb 15 per cent. We take 85 per cent of all the gasoline. We take 82 per cent of all the rubber. We take 68 per cent of all the plate glass. We take 18 per cent of the lumber. And down here we show that we take over 9 per cent of the cotton. And so on throughout the chart.

Now, the interesting part of that chart, we think, is that it shows the effect of automobile activity or automobile adversity and how it reflects all over the country.

This chart [exhibiting another chart] is rather too detailed for you to see, but I will be glad to explain it. Take, for instance, the State of Texas. The first figure, the letter "E" means that that number of employees in the State of Texas make their living directly or indirectly from automobiles. The figures after the letter "S" mean there are that many retail stores. Fifteen thousand of them. The final figure preceding the letter "F" means factories of various kinds—automobile plants, oil refineries, and so on. All this material we purpose to give you in our brief. The last chart records the companies affected that will be forced to increase the price of the vehicle by the amount of any tax imposed.

That is all, Mr. Chairman. I thank you.

The CHAIRMAN. Thank you, Mr. Graham.

WE MUST INCREASE THE PRICE BY THE AMOUNT OF THE EXCISE TAX IMPOSED

Passenger cars: Auburn, Buick, Cadillac, Chevrolet, Chrysler, Cord, Cunningham, De Soto, Dodge Brothers, Duesenberg, Du Pont, Durant, Essex, Ford, Franklin, Graham, Hudson, Hupmobile, Jordan, La Salle, Lincoln, Marmon, Nash, Oldsmobile, Packard, Peerless, Pierce-Arrow, Plymouth, Pontiac, Reo, Reckne, Studebaker, Stutz, Willys, Willys-Knight.

Commercial vehicles: Acme, Autocar, Checker, Chevrolet, Commerce, Corbitt, Cunningham, Diamond T, Dodge Brothers, Dover, Duplex, Fageol, Fargo, Federal, Ford, G. M. C., Garford, Graham Brothers, International, Kleiber, Maccar, Mack, Moreland, Overland, Paige, Pierce-Arrow, Relay, Reo, Republic, Rugby, Shacht, Service, Sterling, Stewart, Studebaker, United, Walter, Walker, Ward, White, Yellow.

STATEMENT OF HARVEY L. COBB, REPRESENTING AMERICAN MOTORISTS' ASSOCIATION, WASHINGTON, D. C.

Mr. COBB. Mr. chairman and members of the committee, I am here in lieu of Mr. J. Borton Weeks, who is the president of the American Motorists Association. I received a telegram from him late yesterday afternoon saying that he was unable to obtain a continuance in a case in which he is tied up in court in Philadelphia, otherwise he would be here.

Mr. Weeks has prepared and asked me to present to you a brief in behalf of the American Motorists Association. This brief is filed with your committee in opposition to House revenue measure H. R. 10236, which provides, as you know, for a 3 per cent excise tax on new passenger cars, 2 per cent on trucks, and 1 per cent on automobile parts and accessories, and is filed in behalf of the American Motorists Association, which is composed of automobile clubs representing individual automobile owners aggregating several hundred thousand.

I emphasize that to you gentlemen, because the speaker who has just preceded me spoke——

Senator SHORTRIDGE (interposing). You are an attorney at law?

Mr. COBB. Yes, sir.

Senator SHORTRIDGE. I inferred so. Proceed.

Mr. COBB. He spoke from the angle of the manufacturer. I am speaking from the standpoint of the user. We pay the tax. I do not think you gentlemen will deny that it is the user who pays the tax, and we are very much interested in this matter.

The American Motorists' Association is more distinctly representative of the automobile user than any other national association, as it represents the private automobile user and no other interest, and is supported entirely by the dues of its individual members.

The primary objection that this association voices against the imposition of an excise tax on new automobiles is that the motorist today is already overburdened with Federal, State, county, and municipal taxes.

The average motorist is now paying 44 different levies, many of them hidden, but nevertheless are included in the tax burden that the motorist must pay.

Now, I have not included this list of 44 items in the brief, but, with the consent of the committee, I will be glad to file a supplemental brief showing all of the 44 different types of taxes.

Taxes on America's 20,000,000 motor vehicles begin in the cotton fields of Georgia, sweep north to the Pennsylvania coal fields and extend to the Mesaba iron range in Minnesota. They multiply in Ohio's iron foundries, the steel mills of Illinois and other States, the forests of the Far West and in the Southern pine belt, and may be heard in every click of the rails over which raw materials flow to the factories and the finished product goes out to the consumer.

Cotton, wood, coal, iron, steel, glass, and other raw materials used in making automobiles already are heavily taxed. The motorist pays this heavy accumulation. Users of no other commodities under the sun bear a tax burden already so great as that of the motorist. In direct taxes on these raw and semifinished materials, and in license and registration fees, in gasoline and other taxes, the sum total of all tax levies entering into the use of automobiles is 44.

The motorist carries with him these 44 separate kind of taxes. True he can not see most of them but they are under the hood, on the wheels, constituting, component parts of his tires, his upholstering, and every part of his motor vehicle.

Adoption of the House measure means an added burden of approximately $100,000,000.

A Federal excise tax, or sales tax, upon automobiles represents discriminatory legislation against an article which to-day forms an essential part of the Nation's transportation facilities.

The need for adequate transportation facilities, has been well expressed by President Hoover, when Secretary of Commerce, in urging before Congress the value of farm-to-market highways when he made the following statement:

> Fifty per cent of the Nation's perishable foodstuffs never reach the consumer because the farms on which they are raised are too remote from the market at which they are sold. Forty to sixty per cent of our potato crop is lost annually by rotting in the ground due to poor transportation to market. By the use of motor trucks the farmer will be able to produce and sell at less cost.

The proposed excise taxation is in principle a transportation tax. Transportation is a vital necessity to the Nation. Unless all forms of transportation are taxed, the singling out of the automobile as a media of taxation means that it is discriminatory legislation.

Fundamentally, transportation should be free from taxation because it is only an agency in the transmission of goods and persons. We respectfully submit that if there is to be taxation on one form of transportation, then there should be taxation on every form of transportation.

Approximately two-thirds of all new cars are purchased by people having a yearly income of less than $3,000. Another 23 per cent are purchased by people with incomes between $3,000 and $4,500 per year.

Last year the figures of the Government show that 93 per cent of all cars sold at wholesale for $1,000 or less, while 85 per cent sold at wholesale for $750 or less. The average retail price of all cars last year was $765. Sixty-three per cent retailed below $700.

These figures were supplied to us by the chamber. These figures, I repeat, show that 93 per cent of all cars sold at wholesale for $1,000, or less, while 85 per cent sold at wholesale for $750 or less.

A 3 per cent tax on an automobile selling for $700, amounting to $21, represents a material increase in the price of that car to the

purchaser. With his State and local taxes, it would mean a tax payment of from $50 to $75 before the motorist could put his car on the road.

An excise tax on automobiles, trucks, and accessories means double taxation to the motorist for the reason that each automobile is also subject to local taxation by States either in the form of license fees or property taxes and the use of them is further burdened in all States through gasoline taxes. A Federal tax on automobiles, coupled with the fact that motorists already pay State, county, and municipal taxes, would be comparable to a situation where the State, county, and local municipality were to levy a tax on tobacco heretofore regarded as a Federal Government prerogative.

This association feels, that in approaching the question of an excise tax on automobiles, that Congress should view it in an equitable light, rather than in the light of the Treasury Department's attitude that as it is needed and as it can be easily collected from the motorist, that it should be levied. Is it a just tax? Is it right? Does it have an equal bearing upon all?

In urging for the imposition of the tax it will be noted that the Secretary does not discuss principles, but rather emphasizes the necessity for additional revenue.

An individual, like a nation, may be sorely pressed financially, but that fact does not justify either the individual or a nation in deviating from what is right or wrong as a matter of principle. We submit that the question involved is highly ethical—or should be deemed so—in view of the fact that it bears upon the rights of the individual.

Excise taxes on automobiles, as this committee of course knows, were originally levied as a war measure.

Senator SHORTRIDGE. State that again. I did not hear.

Mr. COBB. Excise taxes on automobiles, as this committee, of course, knows, were originally levied as a war measure. Prior to the war we had never had a tax on the automobile.

As a war measure such levy was not opposed. Following the war, however, there was a constant and insistent demand on the part of the motoring public for their repeal. This repeal was vigorously opposed by the Treasury Department.

We desire to call your respective attention to a statement made on October 31, 1927, by the Secretary of the Treasury Mellon (p. 15, report Ways and Means hearing, October 31, 1927), as follows:

> Once the automobile tax is repealed, it can not be reimposed in peace times. * * * Injustices in the field of taxation are inevitably committed under pressure of necessity, and the time to preserve the integrity of a well-rounded, well-balanced system is in days of prosperity when rates can be kept at a minimum and no particular hardship is inflicted on any one class. Under such circumstances to yield to the temptation to dispense with the tax which some day may prove to be an essential part of the tax system, is to be guilty of the most shortsighted economic error.

We do not presume to interpret the words of the Secretary, or to read into them any false meaning. However, we respectfully submit that in voicing his fear in clear language as he did at that time, he must have felt that excise taxes on automobiles were not a possibility when he stated that "once the automobile tax is repealed, it can not be reimposed in times of peace."

The plain inference of the Secretary's language is that an excise tax on automobiles, during times of war and attendant reconstruction days was proper, but that in time of peace, was not proper and would not be countenanced by the taxpayer if it were repealed.

The motor-vehicle owner has no immediate interest in the automobile industry, but in common with all he has a direct interest in keeping things moving. An excise tax on automobiles, trucks, and accessories, we respectfully submit, would at least in some measure curtail the automobile industry. Employment, already greatly reduced in the automobile industry, would be further curtailed. A discriminatory tax on motor vehicles would not kill all automobile sales, but it will, we believe, have a decidedly injurious effect upon the industry and the millions of direct and indirect employees who make their livelihood out of the motor vehicle and its uses.

There are approximately 26,000,000 motor vehicles in the United States. As long as those vehicles are in operation, there will be replacements. As long as there are replacements, men will have work.

What Congress does that slows down this industry will be felt in every home throughout the Nation.

This is not the time, we believe, to single out any one group or individual to meet the Nation's tax burden.

Assuming for the sake of argument that you should deem it right, fair, and proper to discriminate and levy a 3 per cent tax on automobiles and a 2 per cent tax on trucks, we respectfully submit that a tax of 1 per cent on accessories and parts, by no stretch of the imagination, could be deemed fair, just, or proper. It is a tax on misfortune.

A tax on accessories and parts, as Mr. Graham has stated, 1 per cent on parts, is certainly a tax on misfortune.

Usually, it is bad enough news for the motorist when a blowout makes a new tire necessary, or an accident compels him to buy a new axle or other replacements; yet the Treasury Department proposes to tax repair parts, tires, and accessories. What justice can there be in a tax levied by the Federal Government which collects a premium for accidents? A tax on automotive parts, tires, and accessories is truly a tax on misfortune, and also a tax on transportation.

The American Motorists' Association, along with other national associations, having the interest of the motorists at heart, has consistently taken the position that the motorists are ready and willing to accept their just share of any necessary tax increases; but an excise tax, we respectfully submit, is not a fair method of taxation from the motorists' standpoint, being obnoxious in character because of the fact it is a discriminatory tax against the automobile user and singles the automobile owner out as being the target for special taxation. The revenue derived from an excise tax becomes a part of the general revenue of the United States, and as such the motorist secures no direct benefit. The theory of automobile taxation, from the outset, has been that moneys paid by the motorists should be expended in the construction and maintenance of the Federal, State, county, and municipal highway systems, out of which the general public derive the direct benefit.

The American Motorists' Association respectfully submits that whatever your committee does toward crippling or discrimination of the automobile industry, directly or indirectly, means a crippling and discrimination against a number of other industries, this discrimination being apparent tin the light of consideration, as Mr. Graham pointed out to you in his chart, of the fact that motorists consume 85 per cent of the gasoline in the country, 83 per cent of the rubber, 69 per cent of the plate glass, 53 per cent of the iron, 51 per cent of the leather upholstering industry, 30 per cent of the nickel, 26 per cent of the lead, 18 per cent of the lumber, 17 per cent of the aluminum, and 15 per cent of the copper produced, manufactured, and sold in the United States.

In conclusion, we respectfully urge your recommendation to the Senate that the unfair and discriminatory provisions in the House bill imposing an excise tax on the motorist be eliminated.

And this paragraph, in conclusion, gentlemen, is the thought that I hope with you. We respectfully urge your recommendation to the Senate that the unfair and discriminatory provisions in the House bill imposing an excise tax on the motorist be eliminated because, in our humble judgment, speaking for and on behalf of the motorists of our organization, it is discriminatory tax.

Senator SHORTRIDGE. Let me ask you a question.

Mr. COBB. Yes; Senator.

Senator SHORTRIDGE. During the war there was a great urgent necessity for additional revenue.

Mr. COBB. Right, Senator.

Senator SHORTRIDGE. And during the war period, as I recall, there was a tax upon the automobile industry, speaking generally.

Mr. COBB. Yes, sir.

Senator SHORTRIDGE. There is now a pressing demand for increased revenue, is there not?

Mr. COBB. There is; yes, sir.

Senator SHORTRIDGE. During the war period, and when a tax was levied upon the automobile industry, how did that industry get along?

Mr. COBB. Well, of course, as you know, Senator, during the war there was a boom practically throughout the entire country, and it did not cripple the industry as it will to-day. Of course, I can not speak for the industry, but from the motorists' standpoint, it was not materially felt, because the income of the individual motorist was materially greater than it is to-day.

Senator SHORTRIDGE. So that you differentiate as between the two periods in the levying of a tax upon the industry, including the association which you represent?

Mr. COBB. Yes, sir.

Senator SHORTRIDGE. And the condition of affairs at present in our country?

Mr. COBB. Yes; and I think rightly so. We are not at war. We are going along fairly well.

Senator SHORTRIDGE. Well, there is a pressing necessity, you realize, for additional revenue?

Mr. COBB. Yes; we admit that, Senator, frankly. And we say to you, in reply to that, treat the motorist as you do everybody else, and we have no objection.

Senator SHORTRIDGE. Many other industries have been singled out by the House and a tax imposed.

Mr. COBB. A few, but the imposition of the excise tax on automobiles means that the consumer of the motor manufacturer's product is practically the only one that has been singled out and discriminated against. Give us a general sales tax, and the motorist has no objection.

Senator SHORTRIDGE. I was about to ask you for your views in regard to that proposition. You favor the general sales tax?

Mr. COBB. If I must favor one or the other. Of course, the taxpayor does not prefer either.

Senator SHORTRIDGE. No.

Mr. COBB. But we admit that you are faced with the necessity of balancing the Budget. Speaking from the motorist's standpoint, if you will give us a tax that is fair to all, we will not be objecting; we will not be complaining.

Senator CONNALLY. Mr. Chairman, may I ask the witness a question?

The CHAIRMAN. Certainly.

Mr. COBB. Yes, Senator.

Senator CONNALLY. You said in your statement that motorists were paying a tax to keep up the roads; is that correct?

Mr. COBB. Yes, sir.

Senator CONNALLY. What about the hundreds of millions of dollars that the Government appropriates every year and gets nothing out of the automobile industry in that regard; would not that justify a tax on automobiles?

Mr. COBB. Senator, I want to differ with you, respectfully, of course——

Senator CONNALLY. Certainly.

Mr. COBB. On the statement that the Government gets nothing out of it.

Senator CONNALLY. I mean, nothing directly by taxing the automobiles.

Mr. COBB. You get the direct benefit. Of course, you appropriate $75,000,000 for Federal aid. Your question is how you get anything out of it?

Senator CONNALLY. No; I am saying, does not that justify a tax on automobiles?

Mr. COBB. I do not think so, Senator.

Senator CONNALLY. All right. You do not favor a Federal tax on gasoline, do you?

Mr. COBB. No, sir.

Senator CONNALLY. I do not, either.

Mr. COBB. If I could be permitted, I would like to file a supplemental brief stating the American motorist's view on that.

The CHAIRMAN. This is not in connection with that subject, but you may file the brief.

(The brief filed by Mr. Cobb on the subject of a gasoline tax, is here printed in the record in full, as follows:)

BRIEF FILED BY HARVEY L. COBB

WASHINGTON, D. C., *April 18, 1932.*

SENATE FINANCE COMMITTEE,
United States Senate, Washington, D. C.

GENTLEMEN: This brief, respectfully submitted to your committee, is filed by the American Motorists' Association as an anticipatory brief in opposition to recommendations made heretofore by the Treasury Department to the House Ways and Means Committee proposing a 1-cent per gallon Federal gasoline tax.

This brief if filed with your committee by this association which is composed of automobile clubs representing the individual owners, aggregating several hundred thousand members.

The American Motorists' Association is more distinctly representative of the automobile user than any other national association, as it represents the private automobile user and no other interest, and is supported entirely by the dues of its individual members.

The motorists' opposition to a Federal 1-cent per gallon gasoline tax is based primarily and fundamentally on the belief that taxation of gasoline is a prerogative of the State and a further belief, herein predicated, that a 1-cent Federal tax will be but the forerunner of increased taxation by the Federal Government from this source.

A Federal gasoline tax of 1 cent per gallon represents an increase in the average motorist gasoline tax rate of 25 per cent. The average gasoline tax for the 48 States and the District of Columbia is 4 cents per gallon. An imposition of a 1-cent Federal tax would increase this average to 5 cents per gallon, which would be a 25 per cent increase.

The average gasoline tax per motor vehicle in 1931 was $24. The total gasoline consumption by the 26,000,000 motorists of the country in 1931 aggregates approximately 10,000,000,000 gallons of gasoline. The total gasoline tax was approximately $525,000,000. The average gasoline consumption per motor vehicle last year was approximately 600 gallons. A 1-cent Federal gasoline tax, on the same ratio of consumption, would mean an added tax of $6 per year, which would bring the total average gasoline tax per motor vehicle up to approximately $30.

The gasoline tax is but 1 to 11 forms of taxation directly imposed against the motorist. The other 10 forms of taxation cost the average motorist in 1931 approximately $13. The total tax therefore, if the 1-cent Federal gasoline tax is imposed, would bring the average total taxation for each motorist up to approximately $43.

The grand total tax paid by the owners of the 26,000,000 registered motor vehicles in 1931 was $1,046,000,000. The estimated value of the 26,000,000 registered automobiles last year was $5,235,000,000 The aggregate tax paid by the motorist in 1931 represents approximately 19 per cent of the total value of the registered motor vehicles. Imposition of a 1-cent Federal gasoline tax will substantially increase this ratio.

Motorists would have no assurance that the Federal Government would stop with a 1-cent tax. Once the Federal gasoline tax is imposed it would be as difficult to get removed as it would be to have the present 4-cent average gasoline tax reduced. It is a safe prediction that the next move would be to increase the Federal tax to 2 or 3 cents.

The ratio of gasoline taxes, as compared to retail prices, has already grown out of all fair proportion. Using the 1931 figures, the average assessment of gasoline taxes was 30.77 per cent, or nearly one-third of the retail price. Imposition of a 1-cent Federal gasoline tax will mean an average gasoline tax of 5 cents per gallon. The average retail price of gasoline in 50 representative cities on January 1, 1932, was 13 cents per gallon. This would mean a ratio of 37 per cent tax compared with gasoline cost.

Should there be a proposal that the same ratio of taxation applied to railroad bonds, corporations, real estate, or other media, Congress in and of its own initiative would promptly veto such a confiscatory proposal.

We respectfully submit that any tax which represents annually 19 per cent of the total valuation of the thing taxed is out of all fair proportion and can not be justified even under the guise of necessity. Imposition of the proposed 1-cent Federal gasoline tax is nothing more than a sales tax. This 1-cent tax, coupled with the 4-cent average State gasoline tax, as shown above, will mean

a 37 per cent sales tax based on the average retail price of gasoline. This we further submit is not a fair proportionate sales tax.

Both State and Federal Governments have long since lost sight of the fact that the gasoline tax was levied to finance good roads. Motorists, in the main, have never protested a fair gasoline tax, when the revenue derived from such taxes was used on the roads. Motorists, in the main, have never protested a fair gasoline tax, when the revenue derived from such taxes was used on the roads. To-day gasoline-tax revenue is being diverted to schools, textbooks, charities, pensions, unemployment relief, oyster farms, fish hatcheries, State buildings and projects, retirement of railroad bonds, and other governmental expenses.

As an example, we respectfully call your attention to the action just taken by Governor Murray, of Oklahoma, with reference to the 1931 gasoline tax. The total tax in Oklahoma last year was approximately $10,000,000. Of this sum, $6,000,000 has been used on the highway system of the State, $4,000,000 being allocated to unemployment relief.

We respectfully submit that the basic justification for the gasoline tax was that the revenue would be used in the construction and maintenance of the highway systems of the country. Proceeds from a Federal gasoline tax would go into the general revenue funds of the United States Treasury, being used for general administrative purposes.

The one and only argument that can be advanced for imposition of a Federal gasoline tax is that the Federal Government has heretofore, since the enactment of the Federal act in 1916, contributed varying amounts from $50,000,000 to $125,000,000 annually in furtherance of Federal aid for highway construction purposes.

It is just and fair that the Federal Government should contribute for the construction of the national arteries of traffic. For it must be remembered that more than a million miles of these highways daily are used for the transportation of the mails, while the potential value of the finest system of national highways in the world is manifest when national emergencies and the future developments of interstate commerce are given consideration.

The value of maintaining highways across country for military purposes in time of war is manifest. It is the duty of the Federal Government, however, not only to provide for the common defense and therefor to provide for transportational needs during normal times which will serve well in times of stress, but also to supervise and superintend the development of interstate commerce.

The mere fact that the Federal Government thus far has failed to take over regulation of the agencies at present using the roadways of the Nation in transporting millions of dollars worth of perishable foodstuffs, manufactured articles, and raw materials, to say nothing of passengers, in interstate commerce, does not mean that the Federal Government is not impressed with the duty of seeing to such regulation when it deems it necessary.

After national defense, interstate commerce is probably the outstanding responsibility of the Federal Government. It was the trials and difficulties encountered by the thirteen colonies in attempting to provide a smooth running interstate commerce that brought the Constitution into being and put the Articles of Confederation into the discard. Transportation in interstate commerce is a vital element of national welfare. Our national highways are rapidly reaching the point where they are a vital necessity to the transportational system of the country and, just as it is the duty of the Government to see to it that interstate commerce along the rails of the Nation moves in a smooth-running stream, so is it the duty of the Government to foster the development of any collateral streams of interstate traffic by contribution to the highway system.

Thus it can easily be seen that by contributing $125,000,000 a year, as Congress has in the past two years, to the development of the national highway systems, the Federal Government is doing nothing more than it is its duty to do; first, because of the daily use made of these systems in the transportation of mails; secondly, because of the prime importance of these highways in any plan of national defense; and thirdly, because of the aid that is thus extended in the development of highly necessary arteries of interstate commerce.

Aside from the question of fairness to the motorist in imposing a Federal gasoline tax, the imposition of a 5, 6, 7, or 8 cent gasoline tax opens up a lucrative field of tax evasion for the racketeer and bootlegger of gasoline.

Estimates prepared by the producers of gasoline show that States are annually being defrauded of sums aggregating many millions of dollars by gasoline bootleggers and racketeers.

An illustration of the ease with which gasoline bootleggers ply their racketeering tactics was shown in the recent tax fight before the Pennsylvania State Legislature.

Gasoline shipped into Pennsylvania from New Jersey paid no tax in New Jersey. Transportation by truck of gasoline produced in New Jersey and sold in Pennsylvania is no violation of the law. The racketeer violates no law when he unloads his cargo at any one of the 28,000 filling stations in Pennsylvania. The filling station breaks no law when it receives this gasoline. It is only when the gasoline is resold or used that the tax becomes payable. Up to this point the production, transportation, and sale to the retailer is legal, and the racketeer engaged in the practice runs no risk.

If the racketeer, in the transportation of the gasoline, should be discovered he merely had but to pay the tax to avoid prosecution. Data submitted to the legislature showed that millions of gallons of gasoline annually were being transported from New Jersey to Pennsylvania and sold to motorists who paid the tax but from which the States of Pennsylvania and New Jersey received no revenue, the proceeds being split between the racketeer transporting the gasoline and the gyp filling stations selling it to the motorists. The situation in Pennsylvania exists practically in every other State where gasoline taxes are sufficiently high to make profitable evasion of the tax.

Data prepared by the Oklahoma Chamber of Commerce estimates that during 1931 gasoline bootleggers stole $40,000,000 of money paid by motorists in gasoline taxes.

In conclusion, we respectfully submit that a gasoline tax is primarily a prerogative of the State; that all funds derived from gasoline taxes should be used in the construction and maintenance of the highway system and we conscientiously voice the fear that imposition of a 1-cent Federal gasoline tax will prove but the entering wedge for subsequent increased gasoline taxation by the Federal Government.

Respectfully,

AMERICAN MOTORISTS' ASSOCIATION,
By J. BORTON WEEKS, *President.*

STATEMENT OF ERNEST N. SMITH, EXECUTIVE VICE PRESIDENT AMERICAN AUTOMOBILE ASSOCIATION, WASHINGTON, D. C.

M. . SMITH. Mr. Chairman and gentlemen of the committee, my name is Ernest N. Smith, executive vice president of the American Automobile Association.

Mr. Chairman and gentlemen of the committee, in addition to the heads of practically every automobile industry, and most of the tire industries being present to-day, in this roomful of motorists, we have also, in addition to President Henry, I see here Mr. Hayes, president of the Chicago Motor Club; Mr. Bryant, the head of the Detroit Motor Club; Mr. Augsburg, the president of the New York Motor Club; and I was looking around for Mr. Mittendorf, and Mr. Britton of the Missouri association. I merely mention this to show the interest that we have in this entire matter.

The reasons why the American Automobile Association and its 1,000 affiliated organizations have opposed the Federal tax on automobiles, pleasure cars, and trucks, and on accessories and on gasoline; and we come to you in our representative capacity, as we appeared before the House Ways and Means Committee at a recent hearing—and I shall not in any way duplicate the information which we gave at that time. We realize that you gentlemen are limited in time, and that you have a great task before you, and we do not want to take up the time except to present to you the new evidence that we

have uncovered recently as to the facts and figures dealing with registration and taxation during the year 1931.

Now in determining our own position on a tax matter, we presume that we follow the same method that you gentlemen do. We determine, first, the need of the tax; second, how much revenue will it produce; and, third, what burden is already carried by those people who are already carrying the burden.

What is the present ability of those people to pay at the present time? What is the fairness of the incidence of that tax, and what effect will it have on business as a whole? Now, inasmuch as most of the conditions with which we have been confronted have been created within the last two years, we were particularly anxious to examine in great detail the statistics for 1931, and we were amazed to find, as no doubt you will be surprised to find, that there was a decrease in registrations in the United States for 1931 of 731,000 automobiles. That is the first time in the history of motor-vehicle registration in the United States that there has ever been a decrease in the number of automobiles registered in the United States.

At the same time, however, the motorists of the United States—731,000 less in 1931—paid an increase of $25,000,000 in taxes. And the total amount of taxes which were paid by the motorists during 1931 amounted to $1,025,000,000.

And one figure that was borne in upon me with particular significance, and which was only evidenced this morning, and that was in the presentation made by Mr. Graham representing the manufacturers, was the statement that he made, I think, in which he said that the automobile manufacturers of this country, plus the tire manufacturers of the United States, paid in wages $1,028,000,000. It seems to us a very significant fact that the motorists of this country are paying in taxes within $3,000,000 of the amount that the automobile manufacturers and the tire manufacturers are paying in wages. We are more closely allied to the manufacturers than I ever thought we would be in the question of expenditures.

Now, the average motor-vehicle tax for this country, we have ascertained, was $39.74 per car for 1931. And we have also ascertained, and I can present to you in charts which we have available here, that the motorist pays annually a tax of 20 per cent of the average value of motor-vehicle property. Twenty per cent annually of the average value of motor-vehicle property.

We have also ascertained that the life of the average automobile is seven years; and we know, therefore, that the average motorist, during the life of his car, pays in taxes from 120 to 140 per cent of the average value of the automobile during the time that he has it. And, unlike most other types of property upon which taxation is levied, he has nothing left at the end of seven years. I differentiate that from real estate. Our tax in proportion is much higher than upon either urban or country real estate. But at the end we have nothing, after having paid from 120 to 140 per cent in taxes.

Now, when I gave you the figure of $39.74, which was ascertained by our own statisticians as being the average tax per motor vehicle for this country, I must say that that is just double the tax which obtained 10 years ago. And that is partly in answer to your question, Senator Shortridge, as to the amount of the taxes that were paid

some time ago. The motorists 10 years ago, a decade ago, were not paying more than one-half of what they are paying now.

Senator SHORTRIDGE. You include Federal, State, county, and municipal taxes?

Mr. SMITH. Yes, sir; in my figure of $1,025,000,000 I have included all the taxes which the motorists are paying as a class to-day.

Senator CONNALLY. Including the gasoline tax?

Mr. SMITH. Including the gasoline tax, Senator.

Now, during the last decade—10 years—the registrations of automobiles in the United States only increased 110 per cent. But the taxes upon the motorists during that same time increased 388 per cent.

Now, the ability of the motorists, of the car owners to-day, to pay taxes we think has reached just about low ebb. In Arkansas, for instance, they pretty nearly had to declare a moratorium in order to enable the people to pay for their license plates. It was perfectly evident in Arkansas, from all the reports we got, that unless the State of Arkansas made it possible to pay for the license tax fees over a period of one year that thousands of automobiles would be taken off the highways. We know that there was a motor users' protest of considerable proportions in Tennessee. I could give you, if time permitted, instance after instance in which we know of people having to lay up their automobiles.

Senator CONNALLY. That was because they raised the gasoline tax to 7 cents in Tennessee, was it not?

Mr. SMITH. Yes. And I shall show to you later what a pronounced effect in the decrease of registration results from the increase in gasoline tax.

In upper New York State recently, when I was in one of our clubs there, one of the leading citizens of the town came to the club and said, "I regret that I am having to give up my membership in the club; not only am I having to do that, but I am putting up my car and discharging my chauffeur."

I was in Winston-Salem a few weeks ago at the time of the holding of the Easter services of the Moravian Church there, and I spoke to the bishop who was conducting the services and said that I thought there would be probably 15,000 to 20,000 people at the services; but the bishop said, "Mr. Smith, we will not have as large a congregation here, unfortunately." I said, "Why?" And the first statement he made was that "so many of our parishioners can not afford to pay for license tags for their automobiles, and thus they are unable to be present."

One of the Senators asked the question with reference to the gas tax. We have analyzed the application, and the influence of the gas tax in various parts of the United States. And I shall present to you in chart form the records of 10 States, very representative States, in which the gas tax amounted to 5 cents or over, and in those States the decrease in registrations of automobiles amounted to nearly 10 per cent. It was 9.7 per cent.

Senator CONNALLY. You do not claim that was the only factor, though, do you?

Mr. SMITH. No, sir; but it was a very important factor, I think, as you shall see when we present the chart to you.

Senator CONNALLY. They would have gone down if they had not had any tax at all on account of the depression?

Mr. SMITH. There would have been, of course, some decrease. But on the other hand, Senator, when I present you with the list of 10 other States with low gasoline taxes you will see what the result was there.

Senator CONNALLY. I am glad you have those figures, but I thought it was not fair to charge it all up to that one thing.

Mr. SMITH. But I have not finished my statement. When I present to you the 10 other States in which the gas tax has been 3 cents or less, and show you that in those States the registration has been 1 per cent—to be exact, eight-tenths of 1 per cent—less, I think it is a fair statement to say that the increase in the taxes on the motorists of the country at this time has had a most pronounced effect upon the people of this country at this time who own and operate automobiles.

The taxs on motor cars have become a political issue in many States. And we are very happy to say that a great number of men who expect to run for office are including in their platform the statement that they are against an increase in the gasoline tax levied upon people, and against the diversion of taxes at the present time.

Senator CONNALLY. Some of them are against all taxes.

Mr. SMITH. Sir?

Senator CONNALLY. Some of the candidates are against all taxes, are they not?

Mr. SMITH. I have not heard those candidates speak, but they are generally against all taxes on their own constituents and plenty of taxes on others' constituents. Maybe that is the answer.

One of the problems of deepest concern to us is the number of agencies that are endeavoring to lay taxes upon the motorists of the country. I have a chart here which will indicate to you that there are five groups levying taxes in one city upon the motorist. And the tax is an extremely high tax, and it is one worth noting.

I mentioned that there were 10 States in which a high tax showed a decrease in registration. And it is interesting, perhaps, to know that in those States the agricultural element predominates.

Senator GEORGE. I was going to ask you if you were going to put those in?

Mr. SMITH. Yes, sir; I shall put them in right now. You will notice on chart No. 1——

The CHAIRMAN. I see you have a large chart as well as a small chart in each instance. Put the small chart into the record. Put the whole information into the record.

Mr. SMITH. Yes, sir. We have them prepared to put into the record. And if you wish to ask any questions about them, I will be very glad to answer.

The value of all motor vehicles in 1931 was $5,000,000,000.

The total taxation amounted to $1,025,000,000.

The average tax per motor vehicle in 1931 is $39.74.

The total tax of $1,000,000,000 on a total valuation of $5,000,000,000 represents 20.1 per cent.

And the per cent of average value of tax, average value paid throughout average life of vehicle, namely, seven years, amounts to 140.7 per cent.

I will put this chart in the record.

(Chart No. 1, "Valuation and Taxation of Motor Vehicle Property in 1931," is here printed in the record in full, as follows:)

CHART 1.—*Valuation and taxation of motor-vehicle property in 1931*

VALUATION

Cars and trucks produced in 1931	2,405,000
Wholesale value of this production	$1,435,000,000
Average wholesale value per unit	$582.12
Average retail value per unit	$770.18
Average value of average unit through average life of seven years	$107.77
Value of all motor vehicles in 1931	$5,105,257,524

TAXATION

In 1931 all motor vehicles registered in United States, namely, 25,814,115, paid taxes as follows:

Registration fees	$344,337,654
Gasoline taxes	536,578,086
Personal property	144,864,136
Total	1,025,779,876
Average tax per motor vehicle in 1931 is total taxes divided by total registration	$39.74
Total tax of $1,022,000,000 on a total valuation of $5,105,257,524 (per cent)	20.1
Per cent of average value paid throughout average life of vehicle, namely, seven years	140.7

Mr. SMITH. Now, we will show you, gentlemen of the committee, Chart No. 2. It is the growth of State motor taxes by years, in which we show that the taxes in 10 years have increased from $233,000,000 to $1,025,000,000, or a percentage increase of 338 per cent, while motor-vehicle registration shows an increase of 110 per cent.

Senator SHORTRIDGE. That includes all taxes in the 48 States?

Mr. SMITH. Yes, sir. I will put Chart No. 2 in the record.

Mr. SMITH. Chart No. 3 will give you the average tax per motor vehicle by years, starting in 1922 with $19.11 and rising in 1931 to $39.74, an increase in dollars of $20.63, or an average increase in percentage of 108 per cent.

Senator GEORGE. That includes the gasoline tax?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Let those charts go into the record.

Mr. SMITH. Yes. I will see that those all go in the record.

Mr. SMITH. The average increase in dollars was $20.63, and the average increase in percentage was 108 per cent.

Senator SHORTRIDGE. What was it in the year 1922? I can not see it from here.

Mr. SMITH. $19.11, Senator Shortridge.

Senator SHORTRIDGE. And in 1931?

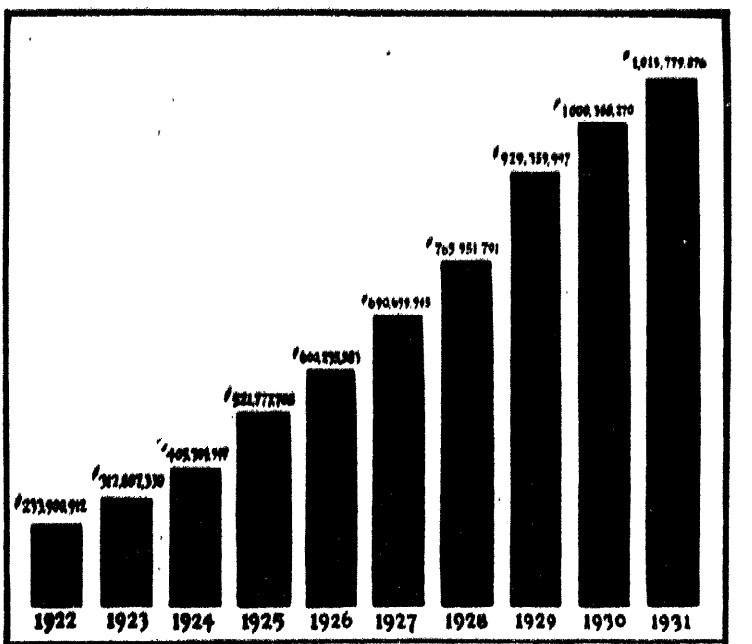
Mr. SMITH. $39.74. The difference between the two points being $20.63, and the percentage increase being 108 per cent.

I referred you a moment ago to the fact that I can quote you one city where they were at the present time levying five different taxes on the motorist at the same time, and that is shown in Chart No. 4.

Senator SHORTRIDGE. What city?

Chart 2

GROWTH OF STATE MOTOR TAXES BY YEARS 1922 TO 1931



	.1922.	.1931.	Percent increase
State motor taxes	$233,900,912	$1,025,779,876	338.6%
Motor vehicle registration	12,239,653	25,814,115	110.9%

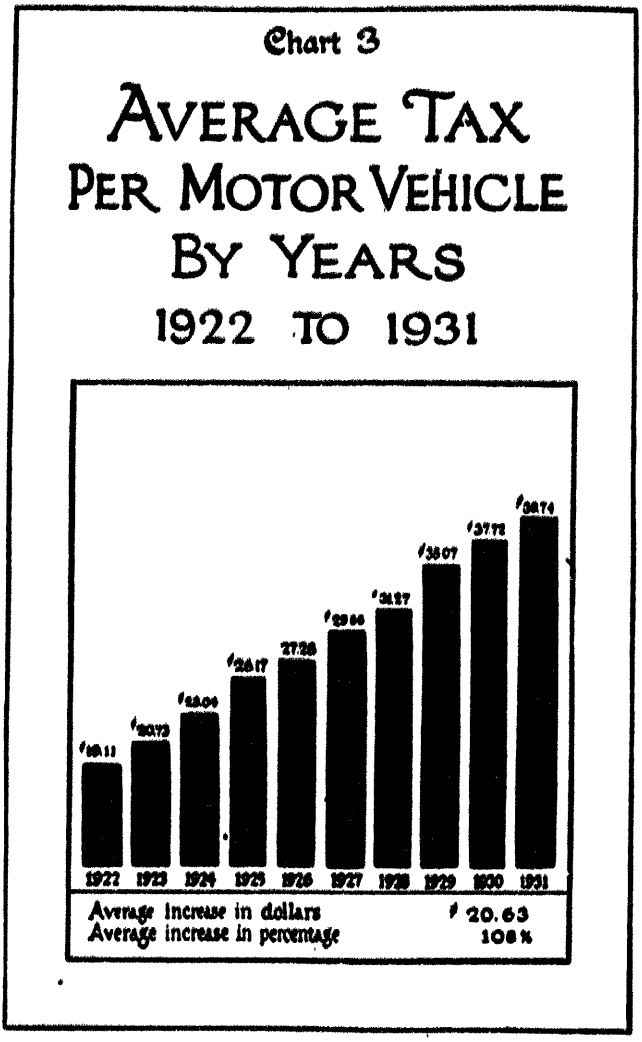
Mr. SMITH. Mobile, Ala. Through the South, especially, there seems to be a desire to increase the amount of levies upon the motorist. The registration fee, Senator Shortridge, for a car under 25 horsepower is $11.25. The personal-property tax is $7.80.

Senator SHORTRIDGE. That is on the machine?

Mr. SMITH. That is on the machine. We have taken one unit.

Senator SHORTRIDGE. Yes.

Mr. SMITH. If you owned an automobile in Mobile, Ala., and it was a car under 25 taxable horsepower, you pay a registration fee of



$11.25, you pay a personal property tax of $7.80, you pay a State gasoline tax—and we have taken 623 gallons average for Alabama at 5 cents—$31.15. That is what the State gasoline tax would be on the average. Then there is a city gasoline tax (623 gallons at 1 cent), amounting to $6.23. And there is a Mobile County gas tax amounting to $9.35.

Senator REED. You have got three gasoline taxes then?

Mr. SMITH. Yes, sir.

Senator REED. City, county, and State?

Mr. SMITH. Yes, sir.

Senator HARRISON. What automobile is it that uses 623 gallons a year?

Mr. SMITH. The average car.

Senator HARRISON. The average?

Mr. SMITH. Yes. We have tried averages all the way through here.

(Chart No. 4, Multiplicity of Motor Levies, is here printed in the record in full, as follows:)

CHART 4.—*Multiplicity of motor levies (Mobile, Ala., offers an example)*

Registration fee (car under 25 taxable horsepower)	$11.25
Personal property tax	7.80
State gasoline tax (623 gallons average for Alabama at 5 cents)	31.15
City gasoline tax (623 gallons at 1 cent)	6.23
Mobile County gas tax (623 gallons at 1½ cents)	9.35
Total city, county, and State taxes	65.78

Mr. SMITH. Now, I want to confirm the remark that I made a few moments ago about the effect of the gasoline tax on registrations. This is Chart No. 5. The upper ten States, Mississippi, Arkansas, Oklahoma, Alabama, Georgia, South Carolina, Idaho, Montana, Washington, and North Carolina, all have a tax of 5 cents and above, and the average decrease in these 10 States is 9.7 per cent, as against a national decrease of 2.8 per cent. The highest decline in registrations being in Mississippi, of 22.5 per cent.

Now, below are the States with low gasoline taxes, Missouri, Connecticut, Rhode Island, Illinois, Iowa, Massachusetts, Minnesota, New Jersey, New York, and Pennsylvania, having 3 cents or less, and there the average decrease in registrations only amounts to 0.8 per cent as against a national decrease of 2.8 per cent.

Senator CONNALLY. Right there—all those States though are agricultural States, are they not, that is, the first States that you gave, and the others are industrial States?

Mr. SMITH. Yes.

Senator GEORGE. Some of them are industrial, but in the main they are agricultural.

Senator CONNALLY. Well, one or two are. But would not the domination of agriculture perhaps be reflected there somewhat?

Mr. SMITH. Likewise in the industrial.

Senator CONNALLY. What?

Mr. SMITH. Likewise in the industrial States.

Senator CONNALLY. Do you think they are on the same level?

Mr. SMITH. Yes; I should think so. If a man is broke, it does not make very much difference whether he is broke as a farmer or as a mechanic.

Senator CONNALLY. That is true; but you are assuming that they are all broke there in the same degree, but that does not follow.

Mr. SMITH. We have shown many things, Senator. We do not try to pick out 10 States that would prove to us something. We have picked them out on the basis of the tax.

Senator CONNALLY. I understand that. But those States are all agricultural States?

Mr. SMITH. Yes.

Senator CONNALLY. With one or two exceptions. And the others are all industrial States.

Mr. SMITH. Well, Missouri in some respects you would say was industrial. Illinois, of course, is very largely farming population. So is Iowa.

(Chart 5, "Effect of gasoline tax on registration," is here printed in the record in full, as follows:)

CHART 5.—*Effect of gasoline tax on registrations*

STATES WITH HIGH GASOLINE TAXES

State	Gasoline tax rate	Decrease in registration 1931 compared to 1930
	Cents	*Per cent*
Mississippi	5½	22.5
Arkansas	6	17.9
Oklahoma	5	12.8
Alabama	5	11.1
Georgia	6	6.1
South Carolina	6	6.7
Idaho	5	6.2
Montana	5	5.9
Washington	5	5.6
North Carolina	6	5.4
Average decrease in 10 States		9.7
Average national decrease		2.8

STATES WITH LOW GASOLINE TAXES

State	Gasoline tax rate	Increase or decrease in registrations, 1931 compared to 1930
	Cents	*Per cent*
Missouri	2	−1.2
Connecticut	2	1.8
Rhode Island	2	1.1
Illinois	3	−1.6
Iowa	3	−3.8
Massachusetts	3	−0.8
Minnesota	3	−1.7
New Jersey	3	2.0
New York	3	−0.5
Pennsylvania	3	−0.7
Average decrease in 10 States		0.6
Average national decrease		2.8

Senator GEORGE. Let me call your attention to the fact that if there were no gasoline tax in Georgia you would have the same thing.

Mr. SMITH. That may be.

Senator GEORGE. Beyond all doubt it would be true.

Mr. SMITH. I do not know.

Senator SHORTRIDGE. You have taken 20 States.

Mr. SMITH. Yes.

Senator SHORTRIDGE. What are the other 28?

Mr. SMITH. This seems to be fairly representative of the general situation.

Senator HARRISON. What happened to California?

Mr. SMITH. As I recall, in California the registration was somewhat on the decrease.

Senator SHORTRIDGE. That was due to the fact, I take it, that many Mississippians did not go out there.

Mr. SMITH. It is a gorgeous State, we admit that, Senator, without argument.

Senator SHORTRIDGE. You have knowledge of that, as you are a graduate of Stanford University.

Mr. SMITH. Yes.

Senator HARRISON. They did not have enough money to go out there.

Mr. SMITH. It was an interesting thing also to note that the registration increased in Nevada.

Senator CONNALLY. The divorce business did that, though.

Mr. SMITH. What is that, sir?

Senator CONNALLY. The divorce business accounted for the increase in Nevada.

Mr. SMITH. Well, that was the first thing that a great many of us thought of, but then we discovered that they were building a large dam out there, and there is a new city there, and we found that there was an influx of people in there who are on the Government pay roll building the dam down there, and that is the reason for it.

Senator CONNALLY. We cut $2,000,000 off of them the other day.

Mr. SMITH. I did not know that, Senator.

Senator CONNALLY. Yes; we cut $2,000,000 off the dam the other day.

Mr. SMITH. Well, as long as the dam won't break I suppose the $2,000,000 are worth saving.

Senator CONNALLY. That is the only thing that is not broke.

Mr. SMITH. As an interesting sidelight on the situation that the people face as individuals, I recently completed a tour through the South, and stopped in at some gas stations, a number of them. In one place I counted something like 14 gas stations in the town, and at the corner that I stopped at, this particular time, there were 4 individual gas stations, and there was not a soul at the gas station excepting ourselves, and we were there for about 20 minutes, because I was having the car drained, and so forth. I finally said to the man, "How in the world can you people live with the small number of cars that are coming through at the present time?"

Senator SHORTRIDGE. Pardon me—where was that?

Mr. SMITH. Let me finish the story and then maybe you won't ask.

Senator SHORTRIDGE. Pardon me.

Mr. SMITH. The point that I was going to make was: I said finally, "How in the world can you exist under such conditions?" And the man said, "Did you ever drink liquor?" And I said, "In certain countries and under certain conditions I have been known to." "Well," he said, "in every one of these gasoline stations in this here town we live by selling moonshine on the side, and that is why we have a lucrative business." I asked in a number of other places as I went through the country. In some instances I found that was true, but in a great many instances they looked on me with great suspicion because I carried a District of Columbia license on my car and they may have thought that I was a revenue officer.

The CHAIRMAN. Well, let us not get onto prohibition.

Senator SHORTRIDGE. Just a moment. Seriously, and not to provoke levity. I understood you to say that there was a falling off of registration in California?

Mr. SMITH. No; there was a slight increase of 2 per cent, Senator.

Senator SHORTRIDGE. I understood you to say it was a decrease.

Mr. SMITH. I did, first. I should have said an increase of about 2 per cent in California.

The question of the tax on tire parts and accessories has already been covered by previous speakers, and I do not think I need to say more about that, except that we regard that that tax, although it only amounts to $7,000,000, is going to be levied upon the motorists, because particularly from the safety standpoint, we are aware of the fact that there are thousands of automobiles that are in sad need of repair. We know that there are thousands of automobiles that ought to have new tires on them to-day, but the owners of those automobiles can not afford to put new tires on them, and we regret to see the imposition of any tax, no matter how slight, upon the instinctive effort that a man would make to put his car in a safe condition.

The CHAIRMAN. There is not a tax imposed that would not be a burden on the one who pays it.

Mr. SMITH. When a man is staggering under all of the tax that he can possibly handle it is a very serious burden to place on him when you put one more brick on top of the load, instead of taking the first brick and putting it upon the load.

Senator GEORGE. May I ask the witness to put into the record the gross tax that would be paid under a 2¼ per cent sales tax, and the tax computed on your output on 3, 2, and 1 per cent basis as actually passed by the House. I want those two figures in the record.

Senator REED. I should like a third figure showing the tax that would be paid under the suggestion of Secretary Mills that the manufacturer's excise of 1½ per cent be put on.

Senator SHORTRIDGE. I think that would be very important.

Mr. SMITH. Yes, sir.

The CHAIRMAN. If you will furnish that as quickly as you can it will go in with your testimony.

Mr. SMITH. Some of those will be furnished by the National Automobile Chamber of Commerce, which represents the industry.

Senator GEORGE. Either way; we do not care who furnishes it, so long as it is furnished.

The CHAIRMAN. Yes. When that is furnished it will be placed in the record.

(The information requested by Senators George and Reed is as follows:)

Estimated return from a tax of 1½ per cent on the manufacturers' value of motor vehicles, parts, and tires, exclusive of materials used, 1931

	Values	Tax at 1½ per cent (no allowance made for export)
Gross sales minus materials, fuel, and energy (based on the assumption that the ratio of cost of materials, wages, etc., to the gross sales was the same in 1931 as in 1929, the latest year for which there are figures available from the Census Bureau. The probabilities are, however, that the ratios of these items to the gross sales were higher in 1931 than in 1929)	$971,600,000	$14,574,000

(Statement furnished by Ernest N. Smith is here printed in the record in full, as follows:)

STATEMENT BY ERNEST N. SMITH

Mr. Chairman and members of the committee: The reasons why the American Automobile Association and its affiliated motor clubs throughout the United States have opposed special Federal excise taxes on motor vehicles, parts, tires, accessories, and fuel, were presented at some length to the House Ways and Means Committee.

You have this testimony before you and I shall confine my remarks to developments since our appearance before the House committee and thus attempt to avoid duplication.

We realize that your committee is working under great pressure and difficulty. We want it distinctly understood that we are in entire sympathy with the effort to balance the national Budget. Moreover, we feel that the car owners are willing to pay their share of any increase in general taxation made necessary by the national emergency.

There are some standards whereby we are accustomed to weigh the merit of this or that tax proposal—the need for the tax, its value as a revenue producer, the burden already borne by those on whom it is to fall, their ability to pay, the impartiality of its incidence, and the effect it will have on business.

There is no question as to the need for new taxes. There is no question that the motor taxes carried in the House bill before you would be productive of revenue, though probably not in anything like the amount expected. Nor should there be any misunderstanding of the fact that every cent of these taxes will be paid by the users on whose behalf we appear here.

With this in mind, we seriously question the wisdom of these taxes from the standpoint of the burden already borne by the motorists of the country, from the standpoint of their ability to pay, from the standpoint of the fairness of the method of imposition, and from the standpoint of the effect they will have on business.

Since the appearance of our representatives before the House committee, figures and facts relative to motor-vehicle registration and taxation in 1931 have become available. We feel that these figures present a rather dark picture of the situation, and believe that it would be well for this great committee to have them available before making its recommendations to the Senate.

During 1931 registrations in the United States decreased by 731,548 vehicles. This was the first time in automobile history that there was a decrease in registration. The decrease was almost altogether confined to passenger cars in 38 States of the Union. During the same year, and in the face of declining registrations, the motor-vehicle tax reached a new high level of $1,025,000,000, an increase of $25,000,000 over the previous year.

The average tax per motor vehicle for the country as a whole last year was $39.74, the highest on record, and more than double the tax in 1922. It represented a tax of 20 per cent of the average value of motor-vehicle property. At the current rate the motor vehicle is paying 140 per cent of its average value during its life period of seven years. There is no nonluxury form of property that is carrying anything like this load. I might add that in the 10-year period—1922–1931, inclusive—motor-vehicle taxation increased 338 per cent, as compared with an increase of 110 per cent in motor-vehicle registration. These figures just mean one thing, namely, that whatever your committee sees fit to do you will do it with the full knowledge that the car owners to-day are carrying an excessively high burden in State, county, and municipal taxes. The Federal Government is proposing to enter a field of taxation that we believe is already overexploited.

The ability of the car owners to pay has reached a low ebb. We hear much of moratoriums in these days. At the moment the reports reaching us indicate that some States may have to declare a moratorium on the payment of motor-vehicle taxes. In fact, some have already done so. Arkansas, for example, has adopted the installment plan of selling license plates on a 3-month basis, since it became apparent that otherwise thousands of usable cars would be kept off the highways. Several States have extended the period for securing plates. Some of you must have seen recent articles reporting virtually an owner's strike against the motor-tax burden in some States—Tennessee being a case in point.

We have ample evidence of the plight of the car owners in developments within our own organization. Our affiliated clubs report to us that thousands of their members every month are putting their cars in storage, simply because the ultimate in retrenchment has been forced on the members. From the experience of our clubs, it is our belief that through cars going out of use from obsolescence or being put in storage, or locked in the garage, registrations are declining at the rate of probably more than 100,000 a month. And this, gentlemen, applies to men and women who formerly rode in limousines with liveried chauffeurs, just as it applies to the average car owner to be encountered at any crossroad in America.

There is accumulating evidence that high taxes are already affecting registration. I might cite as an example the fact that 10 States, with a gasoline tax of 5 cents or over, showed a decrease of 9.7 per cent in registrations in 1931, as compared with a national decrease of 2.8 per cent. To give you the other side of the picture, 10 States with a gasoline tax of 3 cents or less, showed a decrease of only eight-tenths of 1 per cent in automobile registrations. There is also accumulating evidence that the increase in taxes has ceased to bring corresponding increases in revenue to the States. The old economic truth of diminishing returns is again being demonstrated.

It will interest you to know that the motor-tax question has become a political issue in many States, with candidates for office making commitments not to increase or divert motor taxes a plank in their platforms. The entry of the Federal Government into the field with special levies would, in our judgment, vitiate the effort that is now being made to stop the pyramiding of this burden.

One of the problems of deepest concern pertains to the number of agencies already levying tribute on the motorists. There is one city I know of where the car owners are now paying five different taxes on their cars. For the Federal Government to enter the field with additional special levies such as are provided in theh House bill would, in our judgment, endanger the entire motor tax structure of the country.

I mention 10 States where the decrease in registration was heaviest. At this time when so much concern is felt on account of the plight of the farmers, it is perhaps worth citing that all of these States have a heavy rural population. It is hardly necessary to point out that replacements in these States will not be encouraged by superimposing Federal taxes on a burden that is evidently now becoming harder and harder to carry. These people who have been forced to give up the use of highway transportation are hardly in a position to respond to the recent call of President Hoover, in which he asked the people to buy new cars as a means of helping to promote business revival.

In this connection, it seems to us that you gentlemen should give special consideration to the House proposal to levy a 1 per cent tax on tires, parts and accessories. The tax would yield the Federal Government only $7,000,000 but it would mean that the owners of millions of worn-out vehicles would be penalized at every turn for every replacement and repair necessary to keep the old car in a running and safe condition. The people who would pay this particular tax are just those people who are about to be compelled to give up their cars. It would be a tax on misfortune, on poverty, and also on safety.

It has been contended that there is little difference between the amount of motor tax embodied in the House bill and the bill first brought out by the Ways and Means Committee. There is, however, a very vital difference from the standpoint of the users of highway transport. In the original committee bill the man who bought a new car would pay a tax just as would the purchaser of a host of other commodities. In the bill before you there is a discrimination against highway transport.

It is not our contention that to be consistent you should place a tax on railroad, steamship, and airplane tickets. These agencies are in all conscience having a hard enough time as it is. We do, however, object to the purchaser of highway transport being catalogued with the purchaser of furs, cosmetics, and chewing gum. The proposal establishes a taxing precedent which, in our opinion, is of the greatest importance to the future of highway transportation in this country.

There is another consideration that renders this tax discriminatory from our standpoint. One of our basic policies has been that it is discriminatory for States to levy special taxes on the motorists unless all of the revenues derived therefrom are applied to purposes of road building and maintenance. The reason for this is, of course, apparent. Motorists are paying their share of

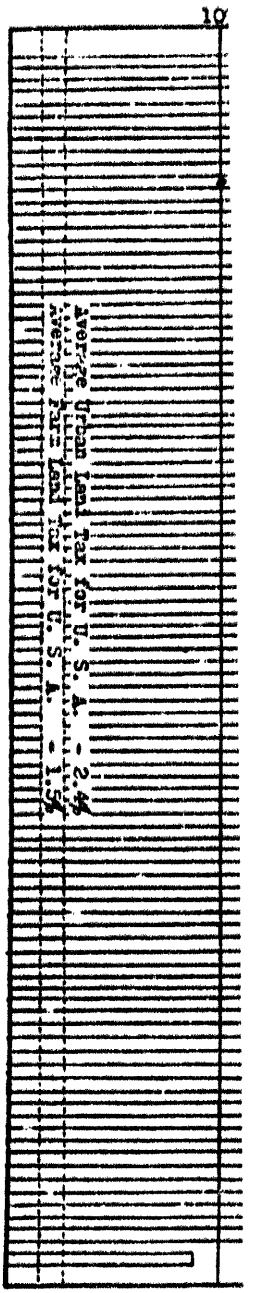
State	Total Motor Vehicles	Valu
Alabama	246,465	$ 48,74
Arizona	105,572	20,87
Arkansas	180,731	35,74
California	2,043,281	404,09
Colorado	308,458	61,00
Connecticut	336,040	66,45
Delaware	55,202	10,91
Florida	323,260	63,9
Georgia	320,840	63,4
Idaho	111,663	22,0
Illinois	1,612,770	318,9
Indiana	862,672	170,61
Iowa	748,438	148,01
Kansas	559,176	110,5
Kentucky	327,326	64,7
Louisiana	263,050	52,02
Maine	188,238	37,22
Maryland	325,372	64,3
Massachusetts	840,190	166,1
Michigan	1,230,980	243,4
Minnesota	720,401	142,47
Mississippi	183,650	36,32
Missouri	752,805	148,88
Montana	127,166	25,1
Nebraska	416,131	82,29
Nevada	32,168	6,36
New Hampshire	111,510	22,05
New Jersey	869,867	172,03
New Mexico	81,325	16,08
New York	2,297,249	454,32
North Carolina	428,737	84,7
North Dakota	171,293	33,87
Ohio	1,710,625	338,31
Oklahoma	482,725	95,46
Oregon	278,225	55,02
Pennsylvania	1,741,942	344,50
Rhode Island	137,878	27,26
South Carolina	203,719	40,28
South Dakota	193,025	38,17
Tennessee	350,520	69,32
Texas	1,297,301	256,5
Utah	108,958	21,5
Vermont	83,877	16,58
Virginia	379,227	74,9
Washington	420,878	83,2
West Virginia	253,308	50,09
Wisconsin	754,249	149,1
Wyoming	62,101	12,28
Dist. of Columbia	173,519	34,31
NATIONAL AVERAGE		

*(The estimate of personal property taxes used in these compilati
actual property tax but not enough to materially affect the total

VALUATION AND TAXATION OF MOTOR VEI
BY STATES FOR 1931

Valuation	Total Tax*	Tax Per Vehicle	Tax Per Cent of Valuation
48,743,383	$ 12,499,203	$ 50.71	25.6%
20,878,974	4,900,830	46.42	23.5%
35,743,170	10,666,617	59.02	29.0%
404,099,683	80,276,126	39.29	19.9%
61,003,739	11,052,246	35.83	18.1%
66,458,631	16,158,106	48.08	24.3%
10,917,300	2,115,333	38.32	19.4%
63,931,130	23,102,787	71.47	36.1%
63,452,527	19,783,849	61.66	31.2%
22,083,592	4,518,790	40.47	20.5%
18,957,523	62,603,837	38.82	19.6%
170,612,641	28,896,027	33.50	16.9%
48,018,583	23,467,202	31.35	15.9%
110,588,238	17,016,143	30.43	15.4%
64,735,203	16,404,640	50.12	25.3%
52,023,399	15,693,679	59.66	30.2%
37,227,829	9,539,729	50.68	25.6%
64,348,820	12,962,384	39.84	20.1%
166,164,376	31,826,035	37.88	19.2%
243,450,915	43,693,930	35.50	17.9%
42,473,706	21,855,004	30.34	15.3%
36,320,461	10,709,820	58.32	29.5%
48,882,245	25,821,116	34.30	17.3%
25,149,620	4,899,144	38.53	19.5%
82,298,228	14,494,850	34.83	17.6%
6,361,865	2,847,988	88.53	44.8%
22,053,333	4,914,602	44.07	22.3%
172,033,597	33,064,051	38.01	19.2%
16,083,645	4,624,937	56.87	28.8%
454,326,935	72,466,767	31.55	16.0%
84,791,316	21,637,983	50.47	25.5%
33,876,617	3,831,575	22.37	11.3%
338,310,306	69,932,257	40.88	20.7%
95,468,523	17,522,539	36.30	18.4%
55,024,558	13,127,422	47.18	23.9%
344,503,869	63,704,145	36.57	18.5%
27,268,132	6,926,714	50.24	25.4%
40,289,507	11,054,593	54.26	27.4%
38,174,554	6,202,847	32.13	16.2%
69,322,712	19,301,544	55.07	27.8%
256,567,219	48,764,352	37.59	19.0%
21,548,624	3,927,927	36.05	18.2%
16,588,354	4,322,457	51.53	26.1%
174,999,724	19,500,007	51.42	26.0%
83,237,042	23,230,976	55.20	27.9%
50,096,723	11,901,237	46.98	23.8%
149,167,825	32,143,807	42.62	21.5%
12,281,715	2,870,800	46.23	23.4%
134,316,853	3,000,432	17.29	8.7%
		$39.74	20.1%

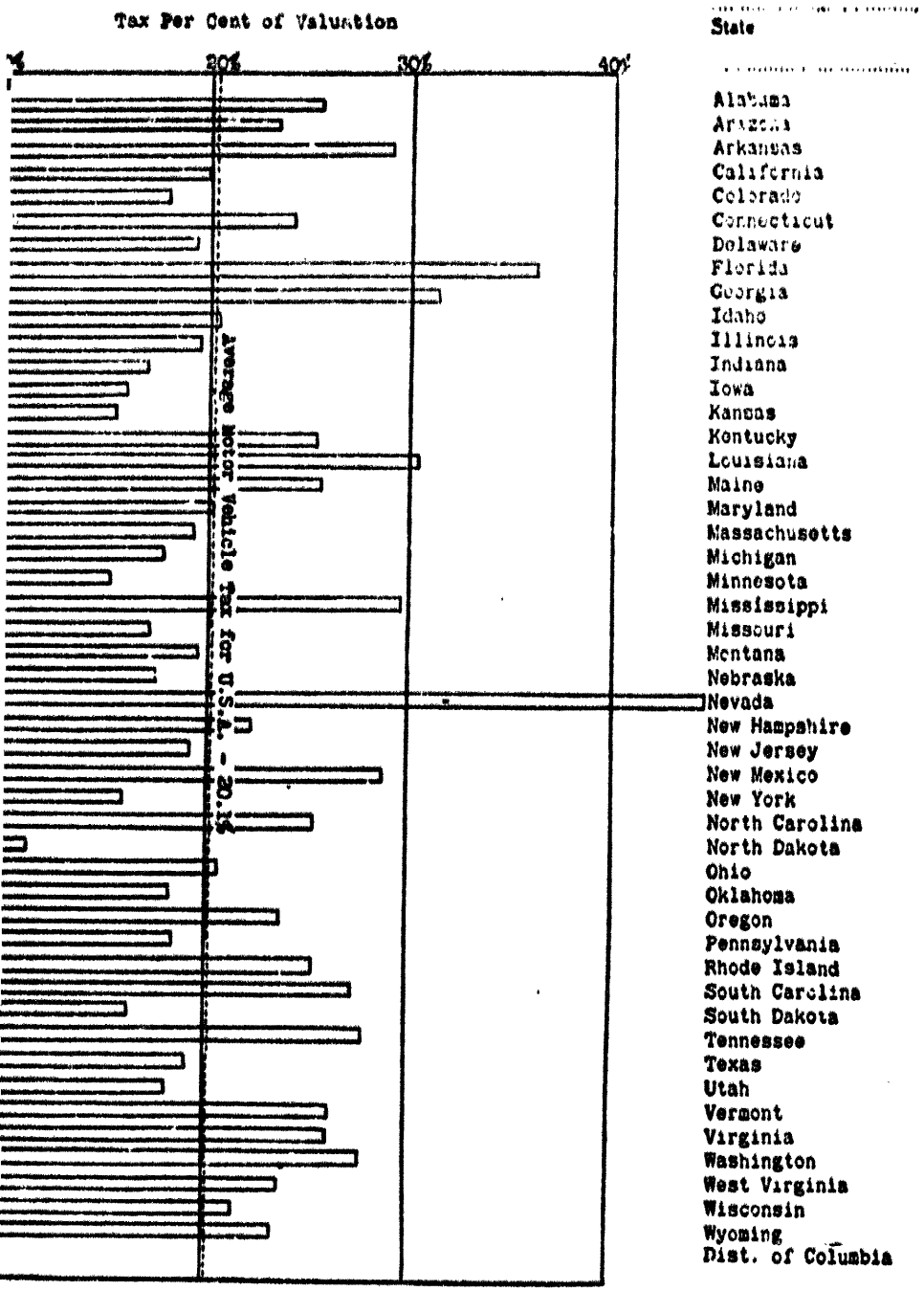
compilations is based on the state average and may therefore vary slightly from the
e total tax or the tax per cent of valuation for the state.)



Motor vehic
land and at

AMERICAN AUTOMOBILE ASSOCIATION
Penna. Ave. at 17th St., N.W.
Washington, D. C.

:HICLES



.cles are taxed over eight times the rate on urban
t over thirteen times the rate on farm land.

April, 1932.

general taxes as citizens, irrespective of car ownership. It was the diversion of special motor taxes by the States to general purposes that led to so much pyramiding of motor taxes in recent years. We feel that the enactment of special motor excise taxes by the Federal Government for general purposes will place the seal of national approval on an unsound practice and encourage the States to divert motor-tax funds to all sorts of administrative ventures.

In so far as the House bill before you is concerned, a Federal gasoline tax is not an issue. However, Secretary of the Treasury Mills included a Federal gasoline tax of 1 cent a gallon in his recommendation. The Ways and Means Committee made a very full inquiry into the merits and feasibility of this recommendation and wisely, in our judgment, refused to adopt it.

As we see it, such a tax would work an even greater hardship on the car owners than the proposed excise taxes. It is the tax most exploited by the States. Returns from it at the pyramided rates are already causing disappointment in the yield of revenue. These high rates have led to large-scale bootlegging. The road-building program of the States depend in the main on gas-tax revenues. Hundreds of millions of bonds issued by the States are predicated on future returns from it. It can be readily seen what invasion of this field by the Federal Government would mean.

After all excise taxes on motor vehicles would be paid by those who have some money with which to buy a car, although apparently there are few enough of these. But a Federal gasoline tax would hit the average man who is trying to carry on with the vehicle he has and hoping for better times. He is very generally the man whom Congress would not consider as the object of a Federal income tax.

From our contacts with the users, from our knowledge of the prevalent hesitations at making commitments for new cars at this time, we fully agree with the position taken by the manufacturers that additional taxes on motor vehicles will unquestionably have an adverse effect on sales. Such buyers as there are shop around as never before. The price schedules for the year have been published and it is going to be very hard indeed to convince the average car buyer that the tax is something which should not be included with other "extras" and absorbed by the manufacturers. This they won't do.

We have every confidence that before reaching its conclusions on the motor taxes, this great committee will consider the tax burdens already carried by the car owners, the accumulating evidence of their inability to pay, the discriminatory nature of the proposed Federal taxes and their effect on business.

We know you will make every effort to be fair to every class and every interest, mindful of the Nation's needs. All people and all classes will support the final decisions of Congress. In the meantime, the whole country is buoyed up by the splendid effort that the Congress, with the cooperation of our Chief Executive, is making to balance the Budget in so far as is humanly possible by curtailing governmental expenditures.

(Mr. Smith also presented Chart 6, Valuation and Taxation of Motor Vehicles by States for 1931, which is here printed in the record in full, as follows:)

TAX ON BOATS

STATEMENT OF HENRY R. SUTPHEN, NEW YORK CITY PRESIDENT OF THE NATIONAL ASSOCIATION OF ENGINE & BOAT MANUFACTURERS (INC.), AND VICE PRESIDENT OF THE ELCO WORKS, BAYONNE, N. J.

The CHAIRMAN. You will have seven minutes.

Mr. SUTPHEN. Mr. Chairman and members of the Finance Committee, I represent 172 members of the National Association of Engine & Boat Manufacturers (Inc.), engaged in the manufacture of boats, engines, and marine equipment throughout the United States.

It is in their behalf that I respectfully urge the drastic reduction or entire elimination of the 10 per cent sales tax imposed by section 606 of the revenue act of 1932 upon yachts and motor boats.

No smaller revenue is listed among the excise taxes that you have been considering. This tax, if imposed, will, in my opinion, bring to a complete standstill the manufacturing and building of boats. Further, in my opinion, this tax can not be collected from the thousands of boats that are built on beaches and in back yards scattered throughout the country, where individuals on their own account build such boats.

From the Department of Commerce we have obtained the following information:

That the "numbered" boats in the United States increased as follows:

In 1929, 10,458; in 1930, 7,408; and in 1931, 10,083, showing the average increase in "numbered" boats for three years was 9,313 boats a year.

During this same period the recognized manufacturers built only about one-third of this number. If the 10 per cent tax were imposed, the recognized builders and manufacturers would be handicapped, since they would be the only ones subjected to such a tax. The Government would thus be able to collect this tax on only about one-third of the total boats built, while two-thirds built in the aforesaid back yards would escape the impost. It is my opinion that the percentage of boats to be built on beaches or in back yards would greatly increase, if this tax were imposed, and the recognized builders and manufacturers would have less and less business, as was the experience in the past when such excise taxes were placed upon boats in 1918. In some instances it could be carried to the extent of a prospective owner subsidizing a small boat yard, paying for labor and material, and thereby actually becoming the producer of the boat and under the act not liable for the tax until the boat has been sold. Therefore, the tax as proposed, can not, in my opinion, be imposed on all boats that are built.

This act, as proposed, called for a tax of 10 per cent on yachts and motor boats not designed for trade, fishing, or national defense,

and pleasure boats and pleasure canoes if sold for more than $15. When this amendment was presented in the House, Acting Chairman Crisp, of Georgia, stated:

> Mr. Chairman, the estimate of revenue from this amendment is negligible, only $500,000, but the committee felt as it was levying an excise tax on other methods of transportation in equity there should be a levy on boats.

It is clear from the explanation of Mr. Crisp in the presentation of this provision to the House that he and his associates regard it as a tax on transportation. However, the rates used in the House bill on the different forms of transportation are not uniform. The tax imposed in the House bill on automobiles amounts to 3 per cent, the tax imposed on airplanes amounts to 5 per cent, while the tax on boats is placed at 10 per cent. From an examination of these rates it is obvious that the motor boat as a means of transportation is discriminated against by the use of a rate twice that imposed on airplanes and over three times the rate imposed on automobiles.

It is a fact that the great majority of boat-building establishments are located in small towns, where they are the principal industry of the locality. A recent survey has shown that our boat-building plants at the present time are employing an average of less than 20 per cent of their total labor capacity, operating at an average of 20 per cent of their normal productive capacity. One boat plant in Michigan is the only industry located in a town of 1,400 people and in normal times has a pay roll of $150,000, while another boat-building plant in Ohio, with a yearly pay roll of $260,000, is the principal industry in a town of 4,000 population. These are typical examples of localities where boat-building plants are situated, and a recent survey indicates that in addition to those plants that have already shut down many others will be forced to close their doors if the excise tax of 10 per cent is imposed.

Figures from the Department of Commerce show that there are at present 3,582 documented yachts owned by citizens of this country, representing yachts over 16 gross tons, which cover pleasure boats of 40 feet or over, and compared with the large number of "numbered" boats, show that documented yachts represent less than 1½ per cent of the total "numbered" boats in service, which further illustrates that if this tax were imposed on the sale of motor boats it would bear heaviest upon the class of people with limited financial resources, who are the purchasers of the small boats.

A boat is often referred to as a luxury, but during the past 15 years, through efforts of established manufacturers, standardized boats have been developed, particularly of the cruising type, which offer unusual value for the money expended, and have attracted thousands of purchasers who recognize in this type of boat the greater economy of living afloat than living ashore, and in place of the boat being a luxury to them it is an absolute necessity.

In connection with this tax it is important to bear in mind that unlike luxuries, wherein the rate of tax is the same as imposed upon pleasure craft, the boat gives direct employment to labor after its sale and as long as it lasts. The boat after its sale thus continues to be an active agent in the circulation of money by the payment of either wages to crew or charges for repairs, upkeep, supplies, additional equipment, gasoline, oil, food, hauling out and winter storage, and overhauling in the spring.

While our business is at the lowest ebb at this time, there are certain conditions in our industry that encourage us to continue even at a loss, which everyone suffers. We are loyal to the many workmen who have been with us for years and who know no other trade by which to earn a living. I have here a poster I want you to see. It is entitled "Buy a Boat."

Senator CONNALLY. I could not buy a boat.

Mr. SUTPHEN. It reads: "Buy a boat. Find health and happiness on a boat. Outfit your boat now. Both you and labor will benefit. Don't hoard your boat."

Senator CONNALLY. Or rock it either.

Mr. SUTPHEN. Or rock it, either. That is what we ask you not to do, Senator.

I have here a poster, prepared by us in our humble way, which we have distributed throughout the country in connection with the employment drive of the war against the depression campaign, which our association sponsored in cooperation with the American Legion and the American Federation of Labor, and I am pleased to report that a favorable reaction has been obtained from this effort.

As has been stated before, the boat-building industry is practically at a standstill, and due to the depression there is no immediate prospect of any improvement in our business. The estimate of the Ways and Means Committee shows that the expected revenue from the 10 per cent tax on motor boats would be negligible, and it is our opinion the revenue to be derived from this tax would be considerably less than is estimated. A sales tax of 10 per cent on boats will defeat its own revenue-raising purpose.

In reference to pleasure boats or yachts, others will or have spoken representing naval architects, brokers, and builders, and the suggestion of imposing an import tax on foreign-built yachts we believe will be the means of collecting additional revenue which the Government is not now enjoying and through which further protection would be afforded to the American shipbuilder. Just as has been and will be shown to you in regard to the costs of building boats abroad and in this country in connection with the larger vessels, the same applies to the small boats. Very few foreign-built boats or yachts were brought into the United States before 1918, but with the enactment, during that year, of an excise tax of 10 per cent on boats and yachts, American purchasers began looking abroad, and in my opinion, the old excise tax was the cause of many orders being placed in foreign countries. While a duty of 30 per cent was imposed in 1928 on foreign-built boats brought into the United States, due to certain exemptions being allowed, the actual duty represents about 22 per cent.

Senator HARRISON. Have you heard of any American buying foreign-built yachts who did not bring them into this country but kept them in Bermuda or some place else in order to avoid the tax?

Mr. SUTPHEN. I have, sir.

Senator HARRISON. Those fellows ought to be caught, if possible.

Mr. SUTPHEN. I think it is unjust.

An excise tax of 10 per cent at this time would reduce the duty protection to 12 per cent which would encourage again many to place orders abroad, where the differential of labor and currency

valuations represent possibly as high as 50 per cent. In other words, a purchaser desiring a boat priced in America at $5,000 could probably obtain the same boat from foreign builders at less than $3,000, to which would be added freight and duty of approximately $1,000, thereby saving $1,000 by purchasing abroad. In the case of larger vessels, the same proportion of saving would apply. This is an additional illustration of the hardship that would be imposed upon the boat-building industry if a 10 per cent excise were imposed on account of foreign competition, which the trade is constantly threatened with.

In conclusion, we recognize the necessity of balancing the Budget and we do not ask that our members be exempted from the payment of excise taxes if your committee decides that they are a necessary part of the bill. We respectfully recommend, however, that any rate that might be imposed on motor boats and yachts should not exceed the rate that might be imposed on other forms of transportation and that consideration be given to imposing an excise tax on foreign-built boats and yachts, affording thereby the added protection which our industry is entitled to.

Senator HARRISON. You spoke of pleasure boats that could be bought for $15 or less. Are there many of those boats used?

Mr. SUTPHEN. Very few. Hardly any boat can be obtained for less than $15.

Senator HARRISON. How many of them cost more than $15?

Mr. SUTPHEN. Practically all.

Senator HARRISON. What is the average price of a small motor boat?

Mr. SUTPHEN. There is a back-yard builder (exhibiting a picture). You can see he builds in the back yard. Here is a very interesting picture of an old lady calking the boat. That is the class of people that you could not get the parts from.

Senator CONNALLY. What is the average price of all the boats you sell?

Mr. SUTPHEN. The average price of my boats that are built in Bayonne may be $5,000.

Senator CONNALLY. $5,000?

Mr. SUTPHEN. We build mostly the larger boats. You see, Senator, it is not possible to get a tax from those fellows who build boats along the beach. Two-thirds of all the boats are boats built on the beach.

Senator CONNALLY. They are not large boats, are they?

Mr. SUTPHEN. They are pretty good boats.

Senator CONNALLY. They can not compete with you?

Mr. SUTPHEN. They do; and they would rather have those boats than what we have if they had to pay the 10 per cent tax, in my opinion.

STATEMENT OF ADMIRAL WYLIE

Admiral WYLIE. I represent the Naval Architects & Yacht Brokers Association of New York. I want to ask permission to put in evidence a brief which has been prepared by our special committee, because much of what is contained in the brief has been covered by Mr. Sutphin. At the same time I would very much like to emphasize one or two points in connection with the boat industry.

There are something over 400 plants devoted entirely to the building of motor boats. Over 98 per cent of these plants are engaged in the building of small motor boats, sailing boats, and outboard craft. The other 2 per cent are engaged in the construction of the so-called yacht of larger dimensions. I know there are some located in Mississippi, but this was prepared hurriedly. Mississippi is not in this list. These plants are located in the following States:

Alabama	2	Missouri	8
California	20	New Hampshire	2
Connecticut	19	New Jersey	35
Delaware	4	New York	82
Florida	35	North Carolina	8
Georgia	8	Ohio	13
Illinois	8	Oregon	4
Indiana	8	Pennsylvania	6
Iowa	5	Rhode Island	9
Kentucky	8	South Carolina	8
Louisiana	8	Texas	5
Maine	34	Vermont	2
Maryland	12	Virginia	14
Massachusetts	36	Washington	17
Michigan	33	Wisconsin	20
Minnesota	14		

These plants in normal times engages the services of skilled and unskilled men numbering approximately 40,000 to 50,000 persons, and the major portion are located in small communities where the sole livelihood of the community is dependent entirely upon these small boat-building plants. When operating at full capacity they engage approximately 67,000 men, and engaged in the manufacture of articles closely associated and allied with the motor-boat building trade are some 2,100 plants of various sizes and types scattered throughout the entire United States. So that every State in the Union is really interested in this boat industry.

The imposition of this 10 per cent tax on the boat-building industry to-day will not only preclude the possibility of employing additional men in these yards for the purpose of bringing them up to normal working capacity, but will be the means of shutting down entirely at least 60 per cent of these plants and throwing out of work the men employed to-day.

Our records have definitely discovered that 85 cents of every dollar spent by the boat-buying public in the purchase of the new motor boats goes directly into labor benefiting 178 different trades engaged in the manufacturing and fabricating and construction of motor boats and their equipment and furnishings.

It is not the desire of the motor-boat building industry to ask to be relieved of the payment of any fair and equitable tax, but the imposition of a 10 per cent tax on this industry will stifle an industry

now struggling for existence, due to the general economic conditions of the country at large.

I would like to call your attention to the fact that the United Action for Employment Group of the American Federation of Labor, the American Legion, the Legion Auxiliary, and the Association of National Advertisers have, over the signature of Carl Byoir, director of organization, pleaded with all boat owners to bring their boats out and use them this summer. I quote from their plea:

We are appealing directly to all yacht owners to place their craft in commission this spring. Approximately 90 per cent of the cost of overhauling a boat is paid out for labor.

There is much more of this.

In conclusion I beg to state, Mr. Chairman, that as yacht brokers we see a great deal of distress of the men that are out of employment, that are suffering at the present time, their condition growing worse daily, and many of these men that are engaged upon boats for six to eight months at the most of a year are usually able to weather the winter by what they can save during that time. If this tax is imposed upon them, those men next winter will be on the street, I may say, if their boats are not properly conditioned this year.

The CHAIRMAN. Is there anything else?

Admiral WYLIE. I thank you.

Senator CONNALLY. Are you manufacturing boats or merely a broker?

Admiral WYLIE. We design boats, sir, as well as running a broker's department.

Senator SHORTRIDGE. Mr. Chairman, I am handed a telegram addressed to Mr. Ira Hand, coming from New York, which I ask may be incorporated in the record. It touches upon the subject matter being discussed.

NEW YORK, N. Y., *April 18, 1932.*

IRA HAND,
Hotel Washington:

Letter from H. B. Warren, editor Pacific Coast Yachting, reports cancellation of $165,000 worth new yachts in Los Angeles harbor because of proposed tax which threatens ruin to coast industry. Warren says tax is so high western yachtsmen will go without boats rather than pay it, and its revenue from coast will be negligible.

GEORGE P. SUTTON, Jr.

STATEMENT OF H. G. SMITH, PRESIDENT OF THE NATIONAL COUNCIL OF AMERICAN SHIPBUILDERS, NEW YORK CITY

Mr. SMITH. Mr. Chairman, I am representing the largest shipbuilders that are engaged in the building of vessels of large size including large-size yachts. I am president of the National Council of American Shipbuilders, which covers a large percentage of the shipbuilding industry of the United States, with a great many allied industries, and I am speaking on their behalf.

I have a brief statement which I would like to file if I may be permitted to do so.

The CHAIRMAN. We shall be glad to have it.

(Mr. Smith submitted the following for the record:)

STATEMENT OF NATIONAL COUNCIL OF AMERICAN SHIPBUILDERS

Hon REED SMOOT,
Chairman Senate Committee on Finance,
Senate Office Building, Washington, D. C.

DEAR SIR: The National Council of American Shipbuilders contains in its membership the principal shipbuilding and ship-repairing companies and 48 allied industries engaged in the production of materials and equipment used in the construction and operation of vessels. The council directs the attention of the Senate Committee on Finance to section 606 of the bill H. R. 10236, known as the revenue bill, wherein it is proposed that a tax of 10 per cent be imposed on the price for which yachts, motor boats, pleasure boats, and pleasure canoes are sold in the United States.

The shipbuilding industry is willing and expects to bear its fair share of the taxation necessary to balance the Budget, but the council protests against the enactment of section 606 for the reasons hereinafter set forth. As a preface, however, to its protest the council reminds the committee that the cost of construction of the pleasure crafts specified in section 606 is 50 per cent greater in the United States than in any foreign country by reason of the higher wages paid in domestic shipyards and in domestic plants manufacturing marine equipment. Because of this differential in cost, American yacht owners, since the World War have had built in foreign shipyards yachts of the value of approximately $30,000,000.

To protect domestic builders of yachts against the competition of foreign builders, paragraph 370 of the tariff act of 1930 imposes an ad valorem duty of 30 per cent on motor boats, including therein yachts or pleasure boats, regardless of length or tonnage and whether sail, steam, or motor propelled.

The protection accorded by paragraph 370 of the tariff act of 1930 has been reduced by reason of section 446 of the act and the interpretation of its provision by the Treasury Department. This section provides that "vessels arriving in the United States from foreign ports may retain on board without payment of duty * * * the legitimate equipment of such vessels," provided such equipment is not landed. Provisions to the same effect have been on he statute books for many years and were enacted primarily to apply to commercial vessels. The Treasury Department by its interpretation of section 446 has exempted many articles of equipment of yachts and has thereby reduced the actual ad valorem duty on the full cost of a yacht to about 22 per cent.

This tariff protection is further reduced by the abandonment of the gold standard by certain European nations extensively engaged in shipbuilding.

The imposition of a 10 per cent tax on domestic-built yachts would be equivalent to lowering the tariff by 10 per cent on foreign-built yachts for an American owner and would make the resultant duty, therefore, about 12 per cent, irrespective of the effect of the abandonment of the gold standard by foreign nations.

Keeping in mind the fact that the differential in cost between a yacht built abroad and one built in the United States is about 50 per cent, it is quite evident that with a tax on domestic-built yachts the American owner would find it more economical to build his yacht abroad than in the United States. Such a tax would, therefore, contravene the purpose for which it is intended.

The council is of the opinion that a tax should be imposed on foreign-built yachts for American owners, in order to more nearly overcome the differential between cost of construction in the United States and abroad as explained above and, therefore, recommends a provision in the revenue bill to the effect that a tax equivalent to 10 per cent of the price, including therein the import duty, for which the following articles including their equipment, are purchased in a foreign country: Yachts and motor boats, not designed for trade, fishing or national defense; and pleasure boats and pleasure canoes, if purchased for more than $15, such tax to be levied, assessed, collected and paid contemporaneously with the levy, assessment, collection and payment of the duty imposed thereon by the tariff act of 1930.

If the committee decides that a tax be imposed upon domestic-built yachts the council recommends that it should not be in excess of that imposed upon automobiles.

Very truly yours,

H. G. SMITH, *President.*

Mr. SMITH. I would like to make a few remarks regarding it, covering the high spots.

The shipbuilding industry is quite willing to bear its fair share of responsibility in balancing the budget. It is opposed, however, to the 10 per cent tax on yachts because of the fact that we believe it will send the construction of those yachts to foreign countries and not, therefore, produce a tax.

Senator SHORTRIDGE. It will not produce any revenues?

Mr. SMITH. It will not produce any revenues.

Under the tariff act of 1930 there is an ad valorem duty of 30 per cent, under paragraph 370, imposed upon a yacht built abroad for an American owner. Under section 446, however, of the act, is an old provision repeated from previous laws which exempt from the imposition of the duty equipment. The result is that the 30 per cent tax is really only about 22 per cent, and an imposition of 10 per cent tax on domestic-built yachts will be the equivalent of reducing that duty to 12 per cent.

Senator CONNALLY. Is this tax imposed both on the manufacturer and the importer?

Mr. SMITH. Only if the importer sells here. I think you will find that would be interpreted to mean naught if he brings it in for his own use.

The CHAIRMAN. This reads:

Yachts and motor boats not designed for trade, shipping, or national defense, and pleasure boats and pleasure canoes.

Senator HARRISON. That means sold by an importer.

Mr. SMITH. That means sold by an importer as I understand, sir.

Senator SHORTRIDGE. If it is sold in Cleveland the tax does not apply?

Mr. SMITH. If it is sold here, our understanding is the tax does not apply; and I believe that was the interpretation that was put upon a similar provision in the law of 1918, or whatever it was.

Senator HARRISON. Of course, there would be a motive for the importers to bring over foreign-built yachts for their own use.

Mr. SMITH. That is a point that ought to be cleared up. There has been about $30,000,000 worth of yachts built in foreign countries for American owners since the war.

Senator HARRISON. I mean the importer, himself.

Mr. SMITH. Oh, no; there might be a few small ones, but not in the case of the big ones.

Senator SHORTRIDGE. A man who causes a yacht to be built abroad and brings it in, is an importer, is he not?

Mr. SMITH. He is not so classed.

Senator CONNALLY. Not under this act.

Mr. SMITH. The cost of construction in the United States is about 50 per cent more than it is abroad. Therefore, if you take the tariff law as it now stands and put 10 per cent duty on domestic yachts, you are reducing the duty on equipment to 12 per cent if the yacht is built abroad, and I think the inevitable result would be for buyers of yachts, for their own yachts, to go abroad and build them, and we would not only lose the cash, but we would lose the business.

Senator CONNALLY. That would not affect the little boats. They would hardly bring those across the ocean.

Mr. SMITH. Yes, sir; there are a great many of them brought in. I have the figures. I have not them here, but the large majority of the boats brought in last year were little ones. I think there were only two large-sized boats out of 47. There have been in the past great numbers of them brought in on the decks of steamers to Halifax or to Habana, and they have come in under their own power.

Senator SHORTRIDGE. What would you describe a little boat to be, a little yacht? You used the words "a little one."

Mr. SMITH. One up to 50 or 60 feet, I suppose; one that could be readily handled on to the deck of an ocean steamer.

Senator SHORTRIDGE. Not one which would navigate across the ocean?

Mr. SMITH. No; not one that could navigate across. They are brought into some near-by port or they might go all the way in. Then it would be, of course, imported.

Senator HARRISON. What would one of these little boats 50 or 60 feet long sell for?

Mr. SMITH. Well, sir, it depends entirely on the amount of power in them and how they are fitted up. They would range from $10,000 up to $15,000 or $20,000, and they might go up to $75,000. It depends entirely on what you put into them.

I am suggesting in my brief that a tax should be imposed on these foreign-built yachts. There are quite a number of them. They are very expensive yachts. There are at least four or five million dollars' worth still to come into the United States that are built abroad. I am suggesting to you you put the 10 per cent tax on those boats and you apply it in the same manner that you would on an imported article. Put an ad valorem duty on a boat, including its equipment.

Senator HARRISON. Do you think we could tax one that is built in a foreign country just because it is used in this country?

Mr. SMITH. I do not see why not. If the duty is put on it now, I do not see why it would be any different, really, than imposing a tax on imported articles.

In the end, of course, if the committee decides that a tax should be imposed upon domestic-built yachts, I would think that the 10 per cent is out of range with the tax imposed on other vehicles of transportation, and it should not be any higher. As a general proposition, I think we would all favor a manufacturers' tax at the lower rate that was more broadly distributed than one that would apply only to a few articles.

The CHAIRMAN. I have been requested to include in the record the following letter addressed to Senator Hale, of Maine, by the Old Town Canoe Co.:

OLD TOWN CANOE CO.,
Old Town, Me., April 9, 1932.

Hon. FREDERICK HALE,
Washington, D. C.

MY DEAR SENATOR HALE: We can not refrain, in view of the present situation in our business, from registering the strongest possible objection to the proposed 10 per cent tax on boats and canoes. This industry is in no position to bear any such tax at the present time.

We are now endeavoring to keep our factory force intact by operating on three to four days per week and having about one-third of our normal crew at work. This means that we are running at about 20 per cent of capacity.

From sales of approximately 5,000 canoes and boats during 1929 and 1930 we dropped last year to a little more than 3,000, and present indications show that our sales this year will be in the vicinity of about 1,500. No larger sale is anticipated, even though prices have been reduced and are now lower than they have been for a great many years.

Last December 3 an increase in freight rates went into effect covering territory from New England to the Mississippi River and the increases range from 21 to 76 per cent with an average of approximately 40 per cent. This results in an increased cost to the buyer of approximately 5 per cent.

We realize that taxes must come from somewhere, but certainly an industry like this which is hardly more than holding its own at the present time is in no position to take on additional burdens.

Yours very truly,

S. B. GRAY, *Treasurer.*

STATEMENT OF W. B. HAYS

THE MARINE INSTITUTE,
Philadelphia, April 20, 1932.

COMMITTEE ON FINANCE,
United States Senate, Washington, D. C.

GENTLEMEN: Yesterday we waived the time allotted to us for hearing in order to conserve the time of your committee.

In the interest of the manufacturers, distributors, dealers, repair and boat yards of the country, we concur most heartily in the statement made by Mr. Sutphen, Admiral Wiley, and Mr. Smith yesterday.

Our manufacturers recognize the importance of the task before your committee and Congress in providing new revenue to meet the economic condition and loss of regular revenue to the Government. They feel certain that you and your associates will see to it that every possible economy and reduction in Government expenditures will be made in order to call for the least possible amount of new revenue.

Also, sensible thinking Americans wish that it would be possible, and feel that it would have a tremendous psychological effect if Congress could declare, at least during the period of this emergency for raising new revenues, that a palatable cereal beverage and a light wine were permissible, because it would raise new revenue and still further reduce governmental expenditures, and lessen the general crime condition in the country; but most of all it might just be that psychological something that is needed to restore confidence. The last alibi of the pessimist would be eliminated.

Whatever additional revenue must be raised should be borne, as we all feel, by all industry equitably, and not as any special excise or discriminatory tax upon any one, or a very few industries, as proposed in the bill sent over from the House to the Senate, and which you are now considering.

From the evidence yesterday, it was pointed out carefully how the boats that are built abroad for individual owners and operators in this country would not be taxed at all under the bill. We do not want to see boats given a discrimnatory tax higher than any other vehicle of transportation, and hope for such favorable consideration from your committee, and any official action taken by Congress in the revenue act of 1932.

Yours very truly,

W. B. HAYS, *President and Secretary.*

TAX ON RADIOS

STATEMENT OF FRANK SCOTT, WASHINGTON, D. C., REPRESENTING THE RADIO INDUSTRY

The CHAIRMAN. Mr. Scott, are you going to speak for all of the parties, or just for yourself?

Mr. SCOTT. I am endeavoring to speak for all the parties, Mr. Chairman, but we have six people on the list, and we will cut that down to two. We are anxious to have one practical manufacturer address you.

The CHAIRMAN. One besides yourself?

Mr. SCOTT. One besides myself.

The CHAIRMAN. You may proceed, Mr. Scott.

Mr. SCOTT. Mr. Chairman and gentlemen of the committee, my name is Frank D. Scott, and I am counsel for the Radio Manufacturers Association. This is the industry association for the manufacturing portion of the radio industry. This association represents in excess of 95 per cent of all the concerns engaged in the manufacture of the articles enumerated in section 607 of this bill.

As we are following the automobile industry, I trust that I may have the indulgence of the committee in eliminating the various items of grief which have been suffered by the radio industry, but which have been called to your attention by the automobile industry, and I will endeavor only to identify those which are peculiar to the radio industry.

In 1928 there were approximately 800 concerns engaged in the manufacture of radio-receiving sets and accessories. That number of companies had plants and equipment valued in excess of $500,000,000. We were employing in connection with the industry approximately a half a million people. Up to and including 1931 the mortality in this industry was in excess of 50 per cent. So that to-day we have throughout the entire United States less than 150 concerns manufacturing the items enumerated in section 607.

In addition to that mortality we were obliged to decrease our employed personnel by 80 per cent.

Senator REED. How much did the sales fall off?

Mr. SCOTT. May I cover that in this way, Senator? Our sales area consisted of two fields—first, domestic; second, foreign. Up to this year we have had a substantial domestic and a substantial foreign market. In 1931, although our sales diminished considerably, the diminishment of actual number of sales was not as great as might be expected, for the reason that in the boom years in order to diminish the price of the commodity, knowing as we did that we very soon would reach a situation where our market would be confined to the low-priced article rather than to the high-priced, we sought, as a matter of good business judgment, to reach a situation

where we would have mass production and by mass production we might reduct the cost to the consumer. That actually occurred. But when the depression came we found that with only a few glaring exceptions there was a tremendous overproduction. Therefore in 1931, in addition to the depression, we found ourselves faced with the sheer necessity of selling distressed merchandise, and that intensified our situation and contributed very largely to the mortality which occurred.

Senator CONNALLY. That does not quite answer Senator Reed. What was the actual fall value of your sales? Have you got that?

Mr. SCOTT. Yes. It was around 25 per cent. I would not undertake to give the exact percentage, because the industry is only 10 years old, Senator. We are the baby industry of the United States. And during the 10 years we have not perfected our statistical information.

Senator CONNALLY (interposing). I do not want to press you, but I did not think that that quite answered the question asked by Senator Reed.

Senator SHORTRIDGE. You said there was a falling off in sales?

Mr. SCOTT. Yes; there was a falling off in sales, but there was not as large a percentage of falling off in sales as might be expected, due to the fact that we dumped them on the market and sold them for whatever we could get.

Senator REED. Would you rather not give the figures?

Mr. SCOTT. No; I will be very glad to insert the actual decrease in sales in 1931 in comparison with previous years. I will be glad to put that in. But that figure alone will convey a very erroneous picture.

Senator CONNALLY. Could you do that as to value and also as to volume?

Mr. SCOTT. Yes.

Senator CONNALLY. Because if you reduced them and sold them as distressed you might still sell a big volume and maybe not get such a high percentage of price.

Mr. SCOTT. That is right.

I think this should be said in order that the committee may grasp our situation. Very naturally the industry has divided itself into two parts—part 1, the transmitting end, which is the broadcasting station; part 2, the manufacturing end, which manufactures the equipment making it possible for the listening public to receive the messages sent out by the broadcasting station.

We have less than 150 people manufacturing receiving sets and equipment. There are 612 broadcasting stations in operation in the United States to-day. Yet only 3 of those 150 concerns engaged in manufacturing the commodities identified in section 607 have any financial interest at all in any broadcasting stations which transmit the information.

Now, in order to reach a situation where we might maintain the benefits of our mass production, in addition to manufacturing radio receiving sets, some set manufacturers have gone into the business of manufacturing refrigerators. But unfortunately along comes Congress and proposes to tax both the commodities that we are manufacturing.

Senator REED. Who do you mean by "we"?

Mr. SCOTT. I mean the radio set manufacturers. The radio receiving set manufacturers who are now, in conjunction with manufacturing sets also manufacturing refrigerators.

The CHAIRMAN. What is the name of the refrigerator?

Mr. SCOTT. I beg your pardon; I did not understand the question.

The CHAIRMAN. What is the name of your refrigerator?

Senator REED. A good many different names.

Mr. SCOTT. Yes; several different names.

The CHAIRMAN. You have more than one, do you?

Mr. SCOTT. Yes, sir. Mr. Crosley manufactures a refrigerator. The Majestic people make a refrigerator. And there are a number of other set concerns that manufacture refrigerators.

Senator CONNALLY. And freeze your business.

The CHAIRMAN. That is, you mean the radio people are manufacturing them?

Mr. SCOTT. Yes. What was your question, Senator [addressing Senator Connally]?

Senator CONNALLY. You manufactured refrigerators and froze your business.

Mr. SCOTT. We have not quite reached that condition.

Senator GEORGE. Do you all own your patents or do you pay a royalty to the owner of patents in your industry?

Mr. SCOTT. Part of our members, Senator, own their own patents, and some 26 or 27 of our membership pay royalties to other members.

Senator GEORGE. Would it be possible for you to furnish this committee with a list of the number of your patents, and what royalties were paid on those not owned outright by the industry?

Mr. SCOTT. Well, I doubt if that could be done, Senator, because the information to-day would not be accurate next week, because we are getting patents all the while. I will say this, though, that the outstanding manufacturing concerns own many thousand patents.

Senator GEORGE. Well, I imagine so.

Mr. SCOTT. What of those are of value, and what their value is, is a matter of determination for each individual. Their estimate might be different than yours or mine. But I would be very glad to try and get that information for you.

Senator GEORGE. That is aside from the question here, but I am curious to know what is paid by way of royalties on patent rights and copyrights in the United States. It seems to me that those two particular properties are particularly contributed to by the Federal Government itself.

Mr. SCOTT. I will endeavor to furnish the committee information as to the amount of royalties that are paid by the licensees in the industry.

Senator GEORGE. Yes; I would be very glad to have it.

LETTER FROM FRANK D. SCOTT

RADIO MANUFACTURERS ASSOCIATION (INC.),
Washington, D. C., April 21, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR SMOOT: While before your committee on April 18, Senator George asked me to place in the record figures representing the amount of roy-

alties paid within the radio industry during the year 1931. The industry association has no figures on this subject, but I have been endeavoring to secure such information. Am advised that the testimony is to be sent to the printer not later than Saturday of this week I regret that it will be impossible for me to obtain such information prior to that date.

I trust the foregoing will complete the record.

May I express to you my appreciation for the courtesies extended to me by Mr. Stewart and Mr. Billings.

Yours very truly,

FRANK D. SCOTT.

Senator SHORTRIDGE. Yes; that is what the Senator asked for.

Senator GEORGE. I would like to see it.

(When the information asked above by Senator George is furnished by Mr. Scott, it will be printed in the record at this point.)

Mr. SCOTT. Now, if I may get back to the point where I left off. We desire to call the attention of the committee to the fact that we are not trying to evade a tax. We are entirely willing to bear our share of the burden which seems necessary in order that the country's Budget may be balanced. We do not feel that we in any degree have contributed to the overdraft situation in the United States Treasury, but whether we have contributed or not we are willing to step to the front and bear our fair share of the responsibility of putting our financial machinery in proper condition.

Senator REED. In other words, you would not protest a general manufacturers' excise tax?

Mr. SCOTT. We did not protest it in our presentations to the House committee. In fact, we joined with the automotive industry in saying that no 1, 2, 3, 4, 5, or 10 industries in the United States were capable at the present time of carrying the burden which would be essential to balance the Federal Budget.

Senator SHORTRIDGE. And that is your position now?

Mr. SCOTT. That is our position. We have not changed our position at all, Senator. We have gone through the era of prosperity and our sales possibilities now are confined solely to the poor man. This high-priced radio set is a matter of history. We can look back at it with a happy recollection, but as to the future, we can only expect the so-called poor man to buy our commodity. Consequently, a high tax imposed now will represent the difference between whether a purchaser will buy or whether he won't buy. If he does not buy, then the United States Government as well as the radio industry must suffer.

Senator SHORTRIDGE. You would pass the tax on to the purchaser?

Mr. SCOTT. We must, Senator. We can not avoid it, because we are now operating at a point where our differential between profit and loss is so small that we must pass it on. And may I say this, Senator? There can be no question about our being able to establish this to your entire satisfaction. The radio receiving sets sold throughout the United States in 1931 represented a price in the aggregate less than the cost of production. In other words, we sold all during the year 1931, with 1 or 2 out of the 150 companies being the exceptions, at a price that was less than the actual cost of production.

Now, again may I refer to our new addition that we have taken on, to wit, the refrigerator? You impose a tax of 5 per cent on the refrigerator and 5 per cent on the radio receiving set.

Senator REED. We did not. The House did.

Mr. SCOTT. The House did. I accept the amendment. At least you have that proposition in your lap at the moment. We feel that such a rate is unfair and unjust. We feel that the radio industry is quite as much a necessity—and Mr. Klugh will discuss that feature—we feel it is quite as much a necessity as a passenger car. In other words, you impose a maximum tax of 8 per cent on the automobile industry and you imposed a flat rate of 5 per cent on the radio industry.

Now may we with the necessary emphasis direct the attention of the committee to the fact that a refrigerator used by the housewife to preserve the food, to protect the food, to extend its life, to protect the health of the family, is quite as essential to the housewife as a motor car is to her husband.

Senator CONNALLY. Are these the old-style refrigerators or the new kind?

Mr. SCOTT. No; they are the new-type refrigerators.

Senator CONNALLY. Are they electric refrigerators?

Mr. SCOTT. Yes, sir; they are all electric refrigerators.

Senator CONNALLY. That is all I wanted to know.

Mr. SCOTT. In addition to that, may we call your attention to one additional thing: From the very inception of this Government it has been the policy, and we think wisely so, to do everything it could, so far as the Federal Government was concerned, in encouraging dissemination of information. And now for the first time you penalize one of the two methods of communication, to wit, radio. The only other method of communicating information is through the press. The radio and the press represent the two methods of communication. And yet you pick out our particular industry, which is the infant industry, and attempt to assess it 5 per cent. We do not resent being taxed, but in the imposition of the tax we solicit your serious consideration. We beg of you to temper your imposition to the point where the amount of revenue will be comparable to the amount of damage that is done.

Senator REED. Has any reason been stated why mechanical refrigerators should be taxed and electric fans and vacuum cleaners and things of that sort not be taxed?

Mr. SCOTT. I haven't heard any reason stated.

Senator REED. Was there any reason stated in the House?

Mr. SCOTT. I do not think the question was brought up in the House except in a general way. We insist that radios ought not to be singled out for taxation. We are in the market, as was aptly stated by the gentleman representing the automotive industry who preceded me—we are in the market trying to get a portion of the American citizen's dollars that he is willing to spend. And yet we go into competition with the washing machine, the electric fan, and so forth. The result is whether it is psychology or whether it is economy, or however you may wish to catalogue it, it is a fact that ninety-nine people out of a hundred will buy a commodity that is not taxed as a luxury rather than to buy the one that is taxed as a luxury.

There is one other thought I wish to leave with you, gentlemen, and I do not consider it indelicate to mention it. Radio is the only method of communication to the public and between the public that is controlled by the public itself, and by the public I mean you gentle-

men who are representing the public. As statesmen and representatives doing a public service too little is known of your activities. And now for the first time, you may, under existing law, use the radio to acquaint your constituency with the service that you have rendered. In other words, you have an opportunity to make a return of your stewardship direct to your people. We feel that you should be extremely cautious not to injure such a communication service.

Senator REED. Mr. Scott, you spoke about the decline in your business. And I am not saying this facetiously. I am wondering how much your business has fallen off because of the character of the programs that have been put out. I, myself, try to listen over the radio occasionally, and every time I do somebody is trying to make me buy toothpaste or sausage or something, and the result is I do not try any more. Has that not had something to do with the falling off in radio sales?

Mr. SCOTT. No. I do not think so, Senator. If radio had followed the natural trend of diminishment in business, our business would have decreased 50 per cent, but it did not do that. I am inclined to think that our diminishment in business in 1931 in actual sales was about 25 per cent.

Senator CONNALLY. Then you can stand this tax better than anybody else.

Mr. SCOTT. No, we can not, Senator. If we could we would be glad to admit it.

To answer your question, Senator Reed——

Senator SHORTRIDGE. I want to ask you a question later. Go on.

Mr. SCOTT. Our end of the industry has nothing to do with the transmitting end of it. We have nothing to do with the form or character of the program.

Senator REED. No; but the programs make your article desirable or otherwise.

Mr. SCOTT. That is only partly true. Although we complain bitterly about many of the programs that are on the air, the peculiar thing about it is that the entertainment which precedes and follows seemingly undesirable advertising is so attractive to the public that the broadcast station can not take it off the air. The program that I do not like or you may not like, Senator, gets a public response that is perfectly tremendous.

Therefore the broadcasting industry is attempting to regulate its programs solely on the basis of public appeal, that is all. And the minute the program ceases to have public appeal they take it off.

Senator SHORTRIDGE. Are you familiar with the KFI station?

Mr. SCOTT. I am. The Earle Anthony station.

Senator SHORTRIDGE. You took note that they celebrated a few days ago their tenth anniversary?

Mr. SCOTT. Yes, sir.

Senator SHORTRIDGE. On that occasion Mr. William Randolph Hearst, a constituent of mine, delivered an address on the radio, its uses and benefits, and so forth. If I represented your case I would offer for the record that address of his. It appeared in yesterday's Washington Herald. It is a magnificent address in thought and word. Descriptive of the radio; what it has brought to the world.

Mr. SCOTT. I accept your suggestion, Senator.

Senator SHORTRIDGE. It impressed me as a splendid, clear, accurate statement of the importance from all points of view of this wonderful thing which for brevity I call the radio industry.

Senator HARRISON. Raddio.

Mr. SCOTT. Raddio, Senator, accepts any pronunciation, but we sometimes feel that the broadcasting industry is much in the position of the black sheep. As you hear all these programs, the one which is undesirable and repulsive to you is the one that attracts your attention.

Senator SHORTRIDGE. Well, now, it may be of great importance whether that is radio or raddio. What is it? What is the proper pronunciation?

Mr. SCOTT. We have no choice.

Senator HARRISON. Raddio predominates.

Mr. SCOTT. I will be followed, with your permission, Mr. Chairman, by Mr. Klugh, who is a set manufacturer.

Senator SHORTRIDGE. I am going to ask that the address of Mr. Hearst be put in the record.

Senator REED. Is there any reference to California climate in it?

Senator SHORTRIDGE. No; no. It needs no tribute.

(The address of William Randolph Hearst on the occasion of the celebration of the tenth birthday of radio station KFI is here printed in the record in full, as follows:)

TEXT OF HEARST SPEECH

[From the Washington Herald, of Sunday, April 17, 1932]

Following is the text of Mr. Hearst's radio speech:

"My friends, this is the tenth anniversary of Mr. Anthony's broadcasting station, KFI.

"Think of it.

"Only the tenth anniversary of the marvelous KFI radio broadcasting system.

"Mr. Anthony, always among the first to begin anything of importance and value, was a pioneer in broadcasting only 10 years ago.

"Think of what the radio has attained to in these 10 short years.

"The radio was then a strange, uncanny intruder into our lives, a disturber of our habits and customs.

"It has now become the friend and familiar of almost every household in the land.

"It has taken its place with the automobile, the moving picture, and the press as one of the four cornerstones of our modern civilization.

"It entertains us.

"It enlivens dull hours.

"It brightens our lives, and it does more.

"It performs fundamentally useful functions.

"It spreads education, widens our experience, increases our knowledge, refines our tastes, enlarges our vision, gives us that competence and culture which come from contact with the best and most informative things which the world has to offer.

"We often wonder how we could ever get along without the four supports of our modern civilization.

"What would we do if we did not have the automobile to take us along the highways and into byways of all the countries of the earth; to transport us to our work in the morning and to hurry us home at night, almost as quickly and delightfully as the magic carpet of the Arabian Nights?

"What would we do if we did not have a fussy little newspaper knocking at our doors every day, and coming in to sit with us at our breakfast or our supper and to gossip with us about what has been happening to everybody we know and a lot of people we do not know, and some we do not even want to

know; or to give us all the bad news about the murder or the stock market, I don't know which is the worse, or to tell us in alarm or awe of mighty wars and revolutions, of fearful floods and famines; and also to tell us of the great acts and inventions and achievements which are occurring throughout the world; and to advise us what to do and what not to do in profound editorials, which nobody pays any attention to?

"What would you do without the moving picture to bring within our actual range of vision scenes in Washington or in far-off China, or at the North Pole, or even in the skies or under the seas; or to show us the evil of those racketeers or gangsters which our Government has not the courage or competence to free us from; or else, in softer mood, to tell us stories of love and romance, of heroism and adventure, and so stimulate our imagination and arouse our ambition?

"What would we do without the radio to bring us voices from everywhere—laughing voices, learned voices, soft voices sweetly singing, or thundering voices to warn us and wake us and to inspire us to our duties and opportunities?

"We hear the voices from the air even as Joan of Arc heard them; and often, if we listen thoughtfully, they may lead us as they led her, to deeds and decisions which may mold our whole careers, and even influence the history of the world.

"The music over the radio is inspiring and delightful, too, and even those casual little references to sunkist oranges and palm-olive soap have a very actual and practical value.

"The answer to the question, How could we get along without the radio, is that we could not get along without it.

"But if I do not stop talking you will begin to think that you could get along without some part of it, and very conveniently, too.

"So good-by, and God bless you.

"And let us thank Mr. Anthony for the useful and important part that he, with his great KFI broadcasting station, has taken in the marvelous development of our modern world."

STATEMENT OF PAUL B. KLUGH, CHICAGO, ILL., REPRESENTING THE ZENITH RADIO CORPORATION; CHAIRMAN OF THE RADIO SET MANUFACTURERS PRIVISIONAL COMMITTEE

Mr. KLUGH. My name is Paul Klugh, of the Zenith Radio Corporation, of Chicago; and I am chairman of the radio-set manufacturers' provisional committee, and I appear here in that capacity.

Mr. Chairman and gentlemen of the committee, we radio manufacturers first want to thank this committee for this opportunity to present our viewpoint, because it is one that we have long sought. We have some definite ideas upon this proposed tax; and if we present our viewpoint here briefly to show you where we have been and where we are and where we are going, it may be informative to you, and I think the industry hopes that you will accept our viewpoint that radio is a necessity, and I shall undertake very briefly to point out some reasons why we consider it certainly not a luxury but a prime and basic necessity.

If there are any questions that you want to ask me, if they can be asked at the conclusion, I feel that perhaps I will have covered many of the questions that are in your minds. And if there are any questions that I can not answer, there are brother manufacturers here in the room, the leaders of the industry, represented by their presidents, who certainly are competent to give you any information that you may desire, such as Crosley, Philco, R. C. A.-Victor, Stromberg-Carlson, Bosch, Sparks-Withington, Stewart-Warner, Gulbranson, Wells-Gardner, Silver-Marshall, De Forest, and others.

As Mr. Scott has said, it is not our purpose, gentlemen, to come here in an endeavor to escape our just share of taxation, because we

are keenly aware of the fact that the Budget must be balanced soon. We have been from the start in favor of a general sales tax as originally proposed in the House, and it was keenly disappointing to us that that tax failed, fair as it seemed, to all, and falling like the rain on the just and unjust, and it would have furnished the revenue that it required. But we are here as an industry, gentlemen, to register a vigorous protest against being selected from a large list of manufactured products, many of which are luxuries, many of which are not necessary, and certainly we feel by no stretch of the imagination nor by any process of logical reasoning can radio be selected to bear the brunt of this tax.

There is no reason for my giving a lengthy history of our industry, as has been done by some of the other industries coming before you, because you know a great deal about it. Let me remind you just briefly, however, that radio had its start at the beginning of this century. But that 40 years prior to the beginning of this century a message was sent across the Thames in England without wires—sent and received. From 1900 to 1921 radio was what is known as commercial code. That is, the dash and dot system used for the transmission of commercial messages. Largely in the marine service.

Starting in 1921 we had radio broadcasting, and radio receivers were sold. They were then called radio-phone receivers, to distinguish them from the commercial code receivers. They are now called radio sets, and quite generally "radios."

Since that time our industry has been subject to a drastic shrinkage, almost unbelievable. And I propose here to give you some of the figures, Senator, that you inquired of Mr. Scott as to how much of a shrinkage we have endured.

Senator SHORTRIDGE. Pardon me just a moment. You mentioned the beginning of this wonderful thing, this wonderful invention. Who is principally entitled to the discovery, if it be so? Marconi?

Mr. KLUGH. Well, I suppose Senator Marconi.

Senator SHORTRIDGE. Pardon me. Go on. I was just discussing it yesterday with some friends.

Senator CONNALLY. De Forest is entitled to a good deal of credit, is he not?

Mr. KLUGH. A great deal, yes sir; in this country.

Senator CONNALLY. I did not want to give it all to Italy.

Mr. KLUGH. These figures are my estimate. The number of radio sets, gentlemen, manufactured and sold in 1929 were 4,000,000. This year the best minds in our industry forcast two and one-half million.

Senator HARRISON. Was 1929 the peak for the manufacture of radios?

Mr. KLUGH. That was our peak. From 1921, Senator, to 1929 the business steadily increased until it reached its peak in 1929. Since that time it has declined.

The average retail list price of radio sets in 1929 was $122. This year it is $55.

Senator HARRISON. Can you not give us the average wholesale price?

Mr. KLUGH. Yes, sir. I am coming to that later. The retail value of radio sets sold in 1929 was $488,000,000. In 1932 it is forecast as $137,000,000.

The retail value of the tubes used in new sets, that is the original installation of tubes, in 1929 was $50,000,000. In this year none, because new sets are all sold including tubes.

The retail value of replacement tubes and parts in 1929 was $70,000,000. In 1931, $51,000,000. Because although the replacement market is larger the price is very, very much lower.

Total sales, retail value, in 1929, $608,000,000, and retail sales forecast this year, $188,000,000. Thus showing you the shrinkage in the business.

Mr. KLUGH. As another evidence of the decline in our business, may I say that in 1929 we had 40,000 radio dealers in the United States. To-day it is estimated that there are less than 10,000. And at the rate they are dying and going out of business, gentlemen, it is almost beyond belief. A very serious problem to us.

The radio industry has been losing money. The manufacturers have lost money. I know of no radio manufacturer making money at the present time. It has been estimated that approximately $50,000,000 have been lost by the radio industry in the last two years.

Senator CONNALLY. How much?

Mr. KLUGH. $50,000,000. And this has come out of reserves, of which there are all too few now. Consequently, the burden falls upon a depletion of capital. Therefore we feel that in selecting us to carry a 5 per cent tax it is adding to our burden in such a measure that we are giving serious thought as to whether the industry could survive a tax of that size.

Senator SHORTRIDGE. You would pass the tax on to the purchaser, and you think that would cause a falling off of purchases?

Mr. KLUGH. I was just coming to that, Senator, with your permission.

Senator SHORTRIDGE. Pardon me for interrupting you.

Mr. KLUGH. It is estimated by the radio manufacturers here that a 5 per cent tax would cause an additional decrease of 20 per cent of sales. And the sad part of that is that that decrease still has to bear the overhead of our factories and the machinery and the equipment and the properties, and as a result the price of the set would have to go up. Add to that the tax, with our other burdens, and it makes a very gloomy picture for the radio industry. Certainly one that we hesitate to contemplate.

Now we claim, gentlemen, that there is inequity in this 5 per cent tax. And the reason that we claim that is that we hold radio is a necessity.

Perhaps you have never contemplated radio in the light that I am about to give you very briefly. I notice in the House bill that the question of necessity has a direct bearing upon the amount of proposed taxation. And while it is sufficient to say we must have this money, we must collect this revenue, somebody must pay it; yet the radio industry can not overlook the fact that the House did take into consideration how essential the thing is to the people that are being taxed. And as proof of that I submit that the House places a tax of 10 per cent on furs and jewelry, thereby declaring them as a lux-

ury. It places a tax of 5 per cent on radio. It places a tax of 3 per cent on passenger automobiles, 2 per cent on trucks, and 1 per cent on tires and accessories.

Senator REED. Ten per cent on soap.

Mr. KLUGH. Yes; 10 per cent on soap.

Senator GEORGE. Toilet soap.

Mr. KLUGH. Yes, sir. Thereby cataloguing automobiles as of less of a necessity, if I may express it so, than radio. And it is to that point that I would like to address myself.

I assume that the popular opinion of radio, as revealed by the questions here, Mr. Chairman, is that it is largely a jazz affair, with crooners, and advertising of a tiresome, boring, and objectionable character. Of course, there are those objections to it. But may I call your attention to the fact that the broadcasting that you are getting is paid for by the advertisers. And if it were not for those advertisers it could only be supported by a direct tax upon the listener, a tax, I am sure, which would be very difficult to collect in this country, and very unpopular.

It happens that I have just been about three months in England setting up a plant of ours there for manufacturing radio because they have raised a tariff barrier which precludes our shipping into England. And during this time I had the pleasure of listening to English broadcasting evening after evening. Now, theirs is a type of broadcasting which is paid for by the consumer through direct taxation.

The CHAIRMAN. Have you got your plant established over there now?

Mr. KLUGH. Yes, sir. It is operating and running and shipping.

The CHAIRMAN. That is, you went over there before you ever thought anything about this tax on radio?

Mr. KLUGH. Oh, yes sir. This was last fall.

The CHAIRMAN. I understood you to say that the reason was because of the tax.

Senator REED. The British protective tariff caused the establishment of another industry.

Mr. KLUGH. The reason was we were advised that this tariff would go on in England. I went over and investigated, and through our own Government channels became convinced that it was an actuality. Therefore I did not delay any longer to put up the plant.

Senator SHORTRIDGE. You say the consumer there, as you used the phrase, pays the tax?

Mr. KLUGH. The listener, the owner of the radio set.

Senator SHORTRIDGE. The owner of the set pays?

Mr. KLUGH. The owner of the set, of the receiving set, pays.

Senator SHORTRIDGE. I see.

Mr. KLUGH. And may I just comment that it seems to me that the Englishman's idea, his consciousness of his civic duties, prevents him from hiding radio sets under the bed and drawing them out, so that the inspector can not find them and assess a tax. They all seem to voluntarily declare them, and they seem to be happy to pay the tax there. There is some doubt about whether that would be the case in this country.

Senator SHORTRIDGE. Well, I do not like to have that go into the record.

Mr. KLUGH. I move that that go out.

Senator SHORTRIDGE. I do not like to have that go into the record without dissenting. I think we are just as honest a people as the Englishmen.

Mr. KLUGH. I agree with you, Senator.

Senator CONNALLY. Do they seem to bear the tax pretty well?

Mr. KLUGH. I was just coming to that, Senator. Now, the result of this process of paying for this broadcasting through this taxation is that they have the Government collect the money and pay for the programs. This produces a noncompetitive type of program, which is decidedly uninteresting to an American. It is true they give special broadcasts of grand opera and symphony orchestras, which are highly creditable. But outside of that the programs are very uninteresting.

In fact I said to my wife one night when we were sitting there and they had one of these unannounced intervals when they simply ceased broadcasting and you wait anywhere from five minutes to a half hour with nothing until they get ready to resume—I said to her, "My dear, this is deadly. I wish to God somebody would sell me some tooth paste."

Senator CONNALLY. Well, if the thing would bear a tax in England, why couldn't the thing bear a tax over here?

Mr. KLUGH. Well, they started the new tax there at the beginning of radio. It is born and bred right into them, and they seem to be accustomed to it. Here the American people are receiving entertainment and instruction and education and religion at a cost of $100,000,000 a year absolutely free of charge. And to try to tax them for what they have received free of charge would, in my opinion, Senator, be a very unpopular tax.

If it is the idea to tax radio because of advertising, then I submit the very obvious and simple thing that you have newspapers and magazines to contemplate. But I know that that is not the purpose. Mr. Scott referred to that in his statement.

My real intention, gentlemen, is to endeavor, very briefly, to convince you of the necessity of radio. How essential it is. And my first example is going to be the farmer. An incident happened in the State of Iowa within the last two years where a hog buyer went around and offered the farmer a certain price for his hogs. This farmer did not own a radio set. He argued a little and then took the hog-buyer's price. The buyer went to the next farmer and said, "I want to buy your hogs." That farmer said, "All right; what do you offer?" The hog buyer said so and so much. The farmer said to the hog buyer, "Your price is too low." "Oh, no; it is not," said the hog buyer. He had been doing this for a good many years. "Oh, no; it is not." "Oh, yes; it is," said the farmer. "When did you get your price?" said the farmer to the hog buyer. "I had it this morning." "Well, I have had mine within five minutes from Kansas City, and the price is so and so." It was a new condition that the hog buyer had not been confronted with previously, and he was very much embarrassed, and the only way he had out was to say that he would consult the home office and come back; and he did, and he ad-

mitted that the farmer's price was right, and the farmer received that price. And if the first farmer had sold his hogs at the price that the second farmer received he would have made enough extra money out of that sale to have purchased a radio set—and I do not doubt that he has by this time.

The farmer certainly is entitled to forecasts. He is entitled to as much business advice and information as a business man gets through commercial forecasts of conditions. It is essential that the farmer shall know when to plant and when to sow, and he should know the price of products, of produce. He should know what the market reports are. It is a business, this business of farming, I know. We come from Lancaster County, Pa., where our family seat is, and we are farmers. It is in our blood. We know how necessary it is to know what is going to happen tomorrow, if you can find that out, and the farmer can with radio. That certainly indicates a necessity.

Now, I want to call the attention of this committee to radio in police work. Practically every large city uses radio for the detecting of crime and the apprehending of criminals. You had an instance right here in your own city very recently where a lady looking out of her front window observed two men holding a gun on a gas-station attendant across the street, and she rushed to her telephone and gave the alarm, and it happened that a police-patrol car here in Washington was around the corner but could not see the hold-up. They had a radio set, they received the alarm, and whirled around the corner and actually caught the men before the attendant had given over his money, and while the guns were leveled at the attendant. Now, certainly it is a necessity to have radio in police work. Nobody can deny that.

And, Mr. Chairman, what about airplanes? It may be said that the lives of the passengers in airplanes very largely depend upon the radio and the reports that come to the airplanes by radiophone of weather conditions and fogs and what they will encounter. That certainly is an essential. That is necessary.

And what about the political conventions that the country is looking forward to? The Nation is looking forward to the broadcasts of the two conventions in Chicago. They want to hear the keynote speeches. They want to hear from the lips of the candidates themselves what they think or what they believe. Is there any better means of getting this information so as to make up your mind as to who you want to vote for—in your own party, of course? I would say that is a necessity. And the men who framed the law, if you please, had that in mind, because they wrote into the radio law specific provisions providing for the use of the facilities of broadcasting for political purposes so that the facilities could not be denied to the man who wants to talk to his constituency.

We have just been through a very hot primary in Chicago, and it was found there by the candidates in that primary a great advantage to go direct to the people through radio without the necessity of going through the newspapers.

We observe that there are various articles that have not been subjected to tax that are certainly more of a luxury character than we believe radio to be. It is not our purpose here to say that we

believe those things ought to be the subject of tax, but to point out to the committee, as one of the Senators has done this morning, very shortly, for instance, that there can be no reasonable claim that a waffle iron, or a toaster, or an oil burner, or a vacuum cleaner, or an ironer, or a dishwasher, and a long list of household utensils, is more necessary than a radio is. In fact, I have no doubt but that the average housewife would rather part with any one of those conveniences than she would with her radio set. I think she considers it more important.

The CHAIRMAN. You would prefer a general sales tax, instead of this tax proposed in this bill?

Mr. KLUGH. Yes; and that is the conclusion of my observations here, which I am reaching very rapidly, Mr. Chairman.

Our industry asks the committee to look ahead, in considering taxation on the radio, and in order to determine its classification, to a preparation for war, and in case of an invasion, the quickness and the rapidity with which the citizens of this country could be apprised of the problems that might confront this country at that time. I heard one of the speakers at one time state that while a modern Paul Revere is informing one citizen of the danger from an invader on horseback, he could inform 25,000,000 by radio. So we make the statement that it is essential to look ahead to that fact.

We had an example here just within six days, where William Hard and Frederick William Wile broadcast from the peace conference at Geneva their observations of what actually happened at that conference that day. And in one particular instance he was, fortunately, able to broadcast part of the proceedings, and it was very informative to the people. I know it was to me.

Can there be any question of the utility of the radio when the President of the United States wants to talk to the people of the country? Can there be any question that when public questions are to be discussed that the radio is a matter of public necessity? When the matter of hoarding is attacked and the people are asked to desist, the radio is used to reach the people. When bonds are to be sold, the radio is used. When there is a great disaster and a great need of money and food, the radio is used to notify the people. And you must consider that a necessity when it carries information—that certainly is not a luxury.

Now we come to this fair analysis, Mr. Chairman, of the question of the necessity of the radio. Of course, I would not attempt to stand up here and say that every radio set in the United States is a necessity, because we know that there is no comparison between the young lady who listens to jazz music and the farmer who gets crop and weather reports, so far as essentiality is concerned. But the same observation might be made with respect to passenger automobiles. I suppose the only reason the tax on passenger cars was made 3 per cent instead of 2 per cent, was that the House realized that a part of the cars were used for pleasure purposes. But on account of the necessities I think they developed a tax rate of 3 per cent.

Our conclusion is this, gentlemen, that we hold that the radio occupies the same class of necessity as passenger automobiles. We claim that a great number of radios are used for essential purposes, as great a number a are passenger automobiles. Probably the same

holds true of those that are used purely for entertainment and as a luxury. Therefore, we want to leave this concluding thought with the committee, that the radio should not be taxed more than pleasure automobiles. That they fall into the same classification. And that if it is the judgment and decision of Congress to place this special excise tax upon selected industries, then we hold that we should be classified the same as passenger automobiles, and that it would be unfair to tax us more. But if the general sales tax applies, as was first discussed in the House, that tax we are certainly strictly in favor of, and we want to record ourselves in no unmistakable terms as being in favor of it.

I thank you.

Senator REED. Mr. Klugh, this morning we asked the automobile manufacturers to submit to us the aggregate tax they would have to pay under the terms of the House bill, and the aggregate tax they would have to pay under the manufacturers' excise tax of, say, 1½ per cent. Would it be possible for you to do that for us?

Mr. KLUGH. Very easily. I would be very happy to do it.

Senator REED. No; of course, any such manufacturers' excise tax must be so drawn as to prevent duplication and pyramiding, so I suggest that in preparing it you subtract your gross sales of supplies and materials in order to prevent pyramiding. Will you prepare such a statement for us?

Mr. KLUGH. Yes; I will be happy to do it, Senator.

Senator REED. And will you do it as quickly as possible, in order to put it in your printed testimony?

Mr. KLUGH. I think it could be done in 24 hours.

The CHAIRMAN. Do not let it be more than 24 hours, because we want to get this printed as soon as we can.

(The figures requested by Senator Reed are here printed in full.)

RADIO MANUFACTURERS ASSOCIATION (Inc.),
Washington, D. C., April 18, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee, Washington, D. C.

DEAR SENATOR SMOOT: At the request of Mr. Paul B. Klugh, testifying, in behalf of the radio industry to day, I am herewith inclosing figures requested by Senator Reed.

Respectfully,

FRANK D. SCOTT.

Probable amount that would be collected during year ending June 30, 1933, under following rates:

1½ per cent general sales tax on $94,000,000, manufacturers' volume	$1,410,000
2¼ per cent sales tax on $94,000,000, manufacturers' volume	2,115,000
3 per cent excise tax on $90,000,000, manufacturers' volume	2,700,000
5 per cent tax on $75,200,000, manufacturers' volume	3,760,000

STATEMENT OF JAMES M. SKINNER, PRESIDENT OF THE PHILADELPHIA STORAGE BATTERY CO., PHILADELPHIA, PA.

The CHAIRMAN. Proceed, Mr. Skinner.

Mr. SKINNER. Mr. Chairman and gentlemen, I am president of the Philadelphia Storage Battery Co. We make the Philco radios.

Mr. Chairman and gentlemen, I can not make a speech; I never have made one, and I can not do it now. To tell you the truth, I

am scared to death, and I would not be on my feet if I thought you know how sick the radio business is, and I think you ought to know.

In 1930, the big year, we sold 4,000,000 radios. They were sold at an average price of $150 or $600,000,000. In 1931 the sales fell off to 3,000,000 sets. That does not sound so bad, but the price also fell from $150 down to $55. So that the business was down to $165,000,000, a decrease of a little over 70 per cent.

The CHAIRMAN. I should have thought you would have made enough under the $150 period to last you all your lives. [Laughter.]

Mr. SKINNER. Now, as a result of that decrease in the business, one-half of all the manufacturers of tubes and parts have gone out of business. It is down from 300 to 150, and the 150 are losing money, and business this year is worse than it was last year.

Now, then, it is a natural assumption that this tax, if imposed, would be passed on to the consumer, and goodness knows I would like to pass it on, because I and the other radio manufacturers have not got it; but competitive conditions are such that I doubt if, in the last analysis, it will be passed on. I think these manufacturers will have to absorb it, because if they come to pass it on, why, and naturally raise their prices 5 or 10 per cent, they want to make some money.

I believe this tax—I do not know whether this is a good thing politically to say, and I do not care—I think this tax is going to be absorbed by the industry that can not afford to absorb it, because they are already losing money.

Now, I am not here to say we should not pay any tax. Goodness knows the country has got to raise money somewhere. And we are in favor of balancing the Budget. If there has got to be a tax, and I think there has, we favor a general sales tax. We will take our share with all other industries. If you want to exclude food and clothing and such essentials, we can see a reason for that. But we do not think there is any reason why radio should be classed any more of a luxury than an automobile. The business is a parallel one in many ways. I can not enlarge on that, but there is evidence that there is. Certainly, in many ways the automobile and the radio are in the same class. And if we can not have a general sales tax, we think we should not be treated worse than the passenger automobile.

Now, one thing that may have escaped the committee; I do not know. We do not think there should be any tax on exports. Even under very adverse conditions, with the prices so low, and bad exchange conditions, we were able to do some business there.

Senator REED. The French have helped you out some?

Mr. SKINNER. Yes; we have done some business with them.

Senator REED. They did relax, and there was quite an allowance they gave you?

Mr. SKINNER. I will tell you what we did. They did not have any restriction on phonographs, and we put a phonograph attachment on the radios and sold them for phonographs.

Senator SHORTRIDGE. What is that?

Mr. SKINNER. They did not have restrictions on phonographs, and we put what we call a jack on it and we sent it in as a phonograph, and they admitted it as a phonograph for that reason. They knew what we were doing and that was their own way of evading their own regulations.

The CHAIRMAN. The tax does not apply anyway, now.

Mr. SKINNER. I do not think I have any more to say than this.

When we say we are not a luxury some people will smile. But when we say a pleasure at this time is a necessity, I think we are telling you the facts.

I would like to leave this thought with the committee, that the cheapest form of entertainment to-day is the radio. It is the one thing people can get free and that they can afford. We are giving them better sets to-day for $55 than they got for $150. We would like to stay in business, and think we are doing our share, and we want to be treated like any other business.

Senator SHORTRIDGE. You do not regard it as a luxury?

Mr. SKINNER. No, sir.

Senator SHORTRIDGE. But a necessity under our modern civilization.

Mr. SKINNER. That is what I think.

Senator REED. Mr. Skinner, that may be your first speech, but it was a very good one.

Mr. SKINNER. Thank you.

TAX ON MECHANICAL REFRIGERATORS

STATEMENT OF LOUIS RUTHENBURG, DETROIT, MICH., REPRESENTING THE REFRIGERATION DIVISION OF THE NATIONAL ELECTRIC MANUFACTURERS' ASSOCIATION

Mr. RUTHERFORD. Mr. Chairman and members of the committee, I represent the refrigeration division of the National Electric Manufacturers' Association, which was responsible last year for approximately 90 per cent of the electrical house refrigerators manufactured in this country A brief has been prepared to be filed and I will ask per mission to make a few comments.

The CHAIRMAN. You may file that brief.

Mr. RUTHENBURG. Very briefly I should like to place before you the point of view of the industry here represented, certain facts about the industry, and the possible effects of the tax upon the industry.

The attitude of the industry is here represented as one entirely in sympathy with that of balancing the Budget. No protest here would have been made in connection with the general sales tax. It is apparent from an examination of the tax schedule that the electrical refrigerator has been classified as a luxury. That is hardly the case. As one examines the schedule he finds the mechanical household refrigerator to be the one utilitarian household appliance on that list. Certainly it could not have been the intent to tax necessities in the way of household furnishings and home appliances; otherwise we would have a long list of such appliances.

The business of manufacturing and selling household mechanical refrigerators is a comparatively young, pioneering business. The industry is still under the great expense and cost of pioneering a new industry.

I have here the trade statistics as to the number produced during the past several years. You will note from an examination of these figures, which are in the brief, that while the industry has grown, contrary to many industries, during the past two years in its unit value, it has declined in its dollar volume. That is an indication, gentlemen, of the fact that this industry has produced its increased growth by means of reduced retail prices.

The CHAIRMAN. Are they not smaller than those sold originally? Of course, they were at first sold in the large size.

Mr. RUTHENBURG. The tendency is toward the smaller sizes, Senator, because we are now selling very largely to people of smaller means.

The CHAIRMAN. That is what I thought.

Senator HARRISON. You have in your brief the decline of the price. That is shown here. This line here indicates a decline of price over the last several years.

Senator CONNALLY. Who are the principal concerns that manufacture refrigerators? Whom do you represent?

Mr. RUTHENBURG. There are 11 concerns represented in this association, whose names I shall be glad to read if you would like.

Senator CONNALLY. Do you represent them all?

Mr. RUTHENBURG. I represent that group; yes, sir. The concerns are the Copeland Products (Inc.), Mount Clemens, Mich.; Frigidaire Corporation, Dayton, Ohio; General Electric Co., Cleveland, Ohio; Grigsby-Grunow Co., Chicago, Ill.; Kelvinator Corporation, Detroit, Mich.; Norge Corporation, Detroit, Mich; Servel (Inc.), Evansville, Ind.; Tennessee Furniture Corporation, Chattanooga, Tenn; Trupar Manufacturing Co., Dayton, Ohio; Universal Cooler Corporation, Detroit, Mich.; Westinghouse Electric & Manufacturing Co., Mansfield, Ohio.

According to the figures shown here, the industry has been able to sell up to date only 17½ per cent of the wired homes in the country, of which there are some 20,000,000. It happens that the incomes in this country in excess of $2,000 a year are 13½ per cent of all incomes, according to a known authority. It seems obvious that our growth must depend upon selling these refrigerators to people of small means. A survey very recently made by Doctor Starch, the well-known merchandising investigator, showed that out of something over a thousand families interviewed as to what they were going to buy next in the way of household appliances, 28 per cent of the families indicated that they wanted to buy electric refrigerators. The average income was about $2,509 for the thousand families, taking in small towns, or a representative cross section of the country.

It is quite likely that a tax of this kind will reduce the volume of this business, because it is true that our volume has been increased by virtue of price reduction, drastic price reduction, which is cutting the profits, the reversal of the prices will retard growth. It is not only an economical factor, but we believe there is a psychological factor of having this thing stigmatized as a luxury that will also tend to reduce sales. It is a happy circumstance that this industry has during the past two years given employment to a great many people, both directly and indirectly. It is estimated that in our own industry we employ approximately 180,000 people in our factories and in our selling forces.

Senator WATSON. What proportion of the refrigerators are manufactured by these 11 companies?

Mr. RUTHENBURG. Approximately 90 per cent; between 85 and 90 per cent of the electrical machines.

We feel very certain that this tax, if imposed, will bring about a reduction of volume and in all likelihood will bring about increased unemployment. It is also a fact that this industry contributes very greatly to a number of basic industries. For example, the amount of iron and steel products used in this industry is very large and amounts to a considerable sum. It has been estimated that approximately $200,000,000 might be set in motion by the sale of refrigerators this year.

Senator WATSON. How many did you sell last year?

Mr. RUTHENBURG. A little less than a million.

Senator WATSON. How did that compare with the year before that?

Mr. RUTHENBURG. It showed an increase, I believe, from 750,000 to 950,000 last year.

Senator WATSON. Your sales have not been falling off, then, in recent years?

Mr. RUTHENBURG. Our sales, because it is a new commodity and very much in demand, have increased during the past two years.

Senator WATSON. That is how you account for it—it is a new commodity?

Mr. RUTHENBURG. It is a new commodity, and people seem to regard it as a very desirable one. We believe that we contribute to other industries something approximating these figures.

Senator WATSON. You think the increase in the manufacture of home-brew had anything to do with that?

Mr. RUTHENBURG. That was a contributing factor, Senator. [Laughter.]

Senator CONNALLY. Do you advertise that as one of the inducements for people to buy it?

Mr. RUTHENBURG. No, sir; not publicly. [Laughter.]

We use 150,000 tons of iron and steel, 25,000 tons of copper and brass, and other metals in less amounts. About $15,000,000 is contributed to the electrical business for electric motors and electric controls. And so that money that is set in motion by the business is giving employment and is buoying up other industries that have been sadly hit by the depression.

Senator CONNALLY. How much of this tax will your companies absorb?

Mr. RUTHENBURG. That is a question I can not answer, Senator. Our inclination would be to pass it on to the customer.

Senator CONNALLY. You would pass it on if you could, but if you had been selling more in the last year than you did the year before, you must have been making a profit. I was just wondering if you could not absorb part of this tax.

Mr. RUTHENBURG. It is very doubtful because of the price reduction that has gone on. I should like to say, if you will permit me to extend my answer to your question, that this industry has not as a whole been profitable over a period of years to the manufacturers.

Senator CONNALLY. It is a new industry, and it has to learn how to make them good.

Mr. RUTHENBURG. We are still learning.

Senator CONNALLY. Is it not true in any industry when it is new their products are very expensive, and as they go along they reduce the price and become still more efficient, and that is just what your industry is doing?

Mr. RUTHENBURG. That is quite right.

Senator CONNALLY. And if you sold them more cheaply it is not because of a lack of prosperity but because you are able to sell more of them; you have a bigger volume and you make the machine more cheaply and you cut down your costs, and you have new improvements and patents and all that sort of business?

Mr. RUTHENBURG. That is a normal tendency, Senator, to reduce the price as the market reaches people of smaller incomes.

Senator CONNALLY. That is the history of all these inventions, radio and everything else. That is the natural development, and you are right in the peak of your prosperity now, are you not?

Mr. RUTHENBURG. No, sir. We are in a development stage, in which it is necessary to reduce prices, and the business has not been profitable to these manufacturers as a whole. The mortality among manufacturers in this business has been extremely high.

Senator HARRISON. There is pretty strong competition?

Mr. RUTHENBURG. Terrific competition.

Senator HARRISON. How many manufacturers are there?

Mr. RUTHENBURG. I think approximately 250 are listed.

Senator CONNALLY. You say 11 of them do 90 per cent of the business.

Mr. RUTHENBURG. That is right.

Senator CONNALLY. I am sorry for those other 200.

Mr. RUTHENBURG. The mortality, according to some figures that were given to me just before I came here, has been about 37 per cent among the manufacturers who have been listed. So it has not been a particularly healthy industry to go into unless you are interested in pioneering.

Senator SHORTRIDGE. Do you mean it is the little plants that have gone out of business?

Mr. RUTHENBURG. Yes, sir; and some rather large companies have not been successful.

Senator WATSON. What has happened to the price of refrigerators in the last 45 years? Has there been a gradual decrease in certain kinds of refrigerators?

Mr. RUTHENBURG. Yes, sir. The business has declined to a very marked degree. I will give you that more specifically. I have tried to be brief and perhaps I have overlooked some things that are of interest to you.

This chart, Senator, shows the decline in price over a period of years. This shows a $600 price as of 1920 and a price of $245 average as of last year.

Senator SHORTRIDGE. For the same kind of refrigerator?

Mr. RUTHENBURG. Probably not. There has been a decline in size at the same time.

Senator HARRISON. And a great improvement?

Mr. RUTHENBURG. A great improvement in the mechanism.

Senator CONNALLY. You started out supplying hotels and big concerns and now you have got down to the smaller sizes for the family, and, of course, your rates have declined with that.

Mr. RUTHENBURG. I think that is more or less related to the income pyramid. If we have sold to 17½ per cent of the wired homes in the country, it follows that we have already sold and we are going to sell to people of large incomes. It is a fact that many of the members of this group are owners and receivers for apartment houses. Refrigerators are insisted upon by people who pay very small rentals, indicating that it has become a very essential household article.

Senator SHORTRIDGE. Barring accident, what is the life of a refrigerator of the lower price?

Mr. RUTHENBURG. Senator, I think it is safe to say that every manufacturer in this business has his first refrigerator still running. The life, as far as I can tell, is probably 8 or 10 years. We do not know that yet.

Now, it is a fact that our people in this country and in every other country have suffered terribly in years past from diseases brought about by bacterial growth in food that has not been properly preserved. We, as a forward-looking Nation, have spent millions and millions of dollars to bring about health, education, and facilities for the proper care of foods. I present in evidence the United States Department of Agriculture Farmers' Bulletin No. 602, in which is shown the enormous rate at which bacteria increase with a very small difference in temperature. Fifty degrees is approximately the high limit of temperature at which milk can be retained without dangerous growth of bacteria.

According to this bulletin if we start with a bacteria count of 10 per cubic centimeter at a temperature of 50°, after 42 hours, it will only have increased six times. If we increase that temperature only 18°, to 68°, that bacteria count will increase from 10 to 3,574,990 per cubic centimeter. We have been successful in this country in reducing mortality rates, brought about by improper foods. That process, of course, we all want to see continued. This industry has spent tens of millions of dollars to confer that great benefit on the people of this country, because after all, that is the prime importance of a refrigerator, to preserve food better over longer periods of time.

I should like to quote in the same connection a statement made by Dr. Royal S. Copeland, Senator from the State of New York, well known as an authority on public health. He has said on this subject:

> Milk must be kept at a low temperature, 50° F., or below, from the time it is produced until it is consumed, if its quality is to be maintained. The only safe way is to have at your disposal some method of artificial refrigeration.

He adds:

> Hundreds of thousands of persons in this country suffer the evil consequences of improper refrigeration.

I have in the brief a number of charts indicating the growth of bacteria under different conditions. I want to present this matter as briefly as possible because I know your time is limited. I may sum it up briefly by saying we are willing to pay our just share of the burden, but we believe that the tax which would be imposed upon us should be a general tax and not a discriminatory one. We are discriminated against not only as the one household appliance of a utilitarian nature that it is proposed to tax, but the only industry that is taxed competitively. It is not proposed to tax the makers of ice boxes or the ice industry. We are in competition with them. We are both trying to do the same job. It is proposed to tax us and not to tax them.

In conclusion, gentlemen, we respectfully suggest that if it be possible to consider a manufacturers' sales tax on a broad base, a manufacturers' excise tax, that should be included. Failing that, we believe that the tax on refrigerators should not in any case exceed

that proposed for the automobile, the only other device in the list which is not regarded as a luxury.

(Mr. Ruthenburg submitted the following brief:)

BRIEF OF MR. LOUIS RUTHENBURG, OF DETROIT, MICH.

To the Committee of Finance of the Senate of the United States.

GENTLEMEN: 1. The mechanical household refrigeration industry is here represented by a committee of the refrigeration division of the National Electrical Manufacturers Association. The members of this division are as follows: Copeland Products (Inc.), Mount Clemens, Mich.; Frigidaire Corporation, Dayton, Ohio; General Electric Co., Cleveland, Ohio; Grigsby-Grunow Co., Chicago, Ill.; Kelvinator Corporation, Detroit, Mich.; Norge Corporation, Detroit, Mich.; Servel (Inc.), Evansville, Ind.; Tennessee Furniture Corporation, Chattanooga, Tenn.; Trupar Manufacturing Co., Dayton, Ohio; Universal Cooler Corporation, Detroit, Mich.; Westinghouse Electric & Manufacturing Co., Mansfield, Ohio.

2. It is estimated that in 1931 this group manufactured and sold approximately 90 per cent of the mechanical household refrigerators.

3. The industry as here represented is in full accord with the Congress as to the advisability of balancing the National Budget and has made no protest against the manufacturers' sales tax of which it is quite willing to bear its just share in the present emergency. It is believed by this group that such a tax is greatly to be preferred to discriminatory taxes levied against certain industries of parts of industries.

4. The case of this industry with reference to the proposed tax is laid before your committee, not in a spirit of combativeness, but with a desire to place certain facts before you in a spirit of cooperation toward a fair and equitable decision.

5. The attitude of the industry toward the tax, certain facts in respect to the status of the industry, and comments upon the probable effect of the proposed tax are respectfully submitted. It is proposed to show that—

(A) The items designated in the tax schedule of the proposed revenue bill evidently are selected luxuries, whereas the mechanical household refrigerator is the only utilitarian household appliance designated for taxation.

(B) The manufacture and sale of mechanical household refrigerators is a young industry involved in costly experimentation and development.

(C) The industry has not been generally profitable to investors.

(D) The present and future market for mechanical household refrigerators lies largely among families of moderate incomes.

(E) The proposed tax probably will curtail sales volume by increasing consumer cost.

(F) Mechanical refrigeration, far from being a luxury, is an instrument of health preservation and of thrift.

(G) Reduced volume in the industry will increase unemployment.

(H) The proposed tax will adversely affect allied industries.

(I) Refrigerator cabinets should not be taxed.

(J) The tax, if imposed, should not exceed that proposed for automobiles.

(*a*) The items designated in the tax schedule of the proposed revenue bill evidently are selected luxuries, whereas mechanical household refrigerators are the only utilitarian household appliances designated for taxation.

6. Examination of the proposed tax schedule indicates that, as a general proposition, it was intended to designate certain luxuries. The mechanical household refrigerator, peculiarly enough, is the only strictly utilitarian household appliance included in the entire list. Evidently there was no intent to levy a tax against utilitarian household appliances generally, otherwise the list would necessarily include many items far less necessary for the preservation of health and comfort than mechanical refrigerators.

7. Inasmuch as there is designated for tax only one of many household appliances, the proposal is highly discriminatory.

(Exhibit A is a reproduction of title 4, manufacturers' excise tax, in which the discriminatory nature of the tax schedule is indicated.)

(*b*) The manufacture and sale of mechanical household refrigerators is a young industry involved in costly experimentation and development.

8. The number, retail value and averge unit value of mechanical household refrigerators manufactured and sold during the past two decades is indicated by the following tabulation:

Year	Number	Retail value	Unit value
1910-1920	10,000	$6,000,000	$600
1921	5,000	2,750,000	550
1922	12,000	6,300,000	525
1923	16,000	8,550,000	475
1924	30,000	13,500,000	450
1925	75,000	31,875,000	425
1926	210,000	81,900,000	390
1927	390,000	136,500,000	350
1928	560,000	190,400,000	340
1929	840,000	273,000,000	325
1930	850,000	243,100,000	286
1931	965,000	236,425,000	245

9. These figures are quoted from Electric Refrigeration News of February 17, 1932. According to the same authority there are now in use 3,500,000 electric refrigerators which, as compared with the number of wired homes in the country (20,441,249) indicates a market saturation of only 17.12 per cent. From the average unit prices above cited, it is apparent that the industry has struggled to increase volume by constant reduction of retail prices, a process which is more apparent in the current year than at any other time.

10. It is also apparent that annual volume did not start to increase at a rapid rate until 1925. It will be noted further than while unit volume has increased during 1930 and 1931, total dollar volume reached a peak in 1929 and has diminished in both succeeding years.

11. Enormous sums of money have been spent in the industry for technical development, sales promotion, and advertising. Many manufacturers, unable to survive the initial struggles that characterize the early years of any new industry, have failed. Others have not yet replaced with profits the losses and initial expenses in which they have been involved.

12. We believe that the industry can grow and prosper only if it is not burdened by discriminatory taxes.

(Exhibit B is a photostatic reproduction of the statistics above given as shown in Electric Refrigeration News of February 17, 1932, and there is added a chart showing the average unit price from year to year.)

(c) The industry has not been generally profitable to investors.

13. While considerable sums of money have been set in motion by the activities of the industry, the courageous investors who have seen fit to finance the industry have profited in far less degree than the army of employees whose wages have been paid by the industry.

14. Examination of the financial history of the companies here represented would disclose an average record of extremely heavy initial expense and losses with very meager earnings available for dividends. It is believed that if one were to take into account the money lost in unsuccessful companies, and if one could develop a combined profit and loss statement for all the companies that have engaged in this industry from the beginning of its activities until the present, a very substantial loss would be indicated.

15. Examination of the profit and loss positions of the several companies engaged in manufacturing and selling mechanical refrigerators during the year 1931 indicates that despite the volume attained in that year, many companies suffered heavy losses. Several of the companies which showed a profit have not yet replaced by profits the losses of earlier years, and dividends have been conspicious by their absence.

(d) The present and future market for mechanical household refrigerators lies largely among families of moderate incomes.

16. The statistics first cited indicate that the market is 17.12 per cent saturated. It seems reasonable to assume that the first buyers of a new device, particularly during the period when average unit prices are high, will be the wealthy families. According to investigations made by the National Bureau of Economic Research only 13.5 per cent of the personal incomes in the United States exceed $2,000 annually. It would therefore appear that future buyers of mechanical refrigerators must be people of moderate incomes.

17. The experience of companies here represented in selling refrigerators to owners of and receivers for apartment houses indicates conclusively that apartments commanding very low rental figures remain vacant if they are not equipped with mechanical refrigeration.

18. The Starch report, based upon an analysis of 1,057 families in cities of various sizes ranging from Greenville, Tex. to Philadelphia, Boston, San Francisco, was made to determine what a representative cross section of the American public "intends to buy next" in connection with types of goods used by the entire family. Twenty eight per cent of the families interviewed indicated that they next intended to buy electric refrigerators. Incomes among these people fall into the following classifications:

	Per cent
Under $1,000	3.9
$1,000 to $2,000	26.9
$2,000 to $3,000	37.0
$3,000 to $5,000	26.2
$5,000 to $10,000	5.2
Over $10,000	.8

the average income being $2,519.

19. It is believed that any study that might be made to indicate the incomes of families who will buy mechanical refrigerators during the next several years would indicate conclusively that they will be families of moderate incomes. It is apparent, therefore, that the burden of the tax must fall not upon the wealthy few but upon the multitude of American families whose incomes are small.

(Exhibit C is a reproduction of excerpts from the starch report referred to.)

(*e*) The proposed tax probably will curtail sales volume by increasing consumer cost.

20. In order that the market might be expanded, manufacturers have struggled to reduce these retail prices of refrigerators even though unit profits have been greatly reduced. Inasmuch as the increase in volume of the refrigeration industry has been attained largely by means of constant reductions in retail prices, it follows that any tax which increases the cost to the consumer will curtail volume.

21. This is not wholly a matter of economics. It is believed that the psychological effect of stigmatizing refrigerators in the minds of the public as luxuries will have a serious and far-reaching effect upon sales.

(*f*) Mechanical refrigeration, far from being a luxury, is an instrumen of health preservation and of thrift.

22. It is estimated that 70 per cent of the foodstuffs sold in the United States are perishable. Perishable foods become dangerous with the growth of bacteria. The national loss caused by the shrinkage of perishable foods amounts to hundreds of millions of dollars annually. Any mechanism that tends to reduce this tremendous loss must contribute greatly to national welfare.

23. The most practical means for preventing or minimizing the growth of bacteria in the home is the storage of these foods under constant low temperatures. The growth of bacteria at temperatures above 50° F. is extremely rapid. The consumption of food of dangerously high bacterial count frequently results in illness and sometimes in death. Faulty preservation of milk is known to be conducive to high infant mortality.

24. Dr. Royal S. Copeland, Senator from the State of New York, well known as an authority on public health, has said on this subject, "Milk must be kept at a low temperature (50° F. or below) from the time it is produced until it is consumed, if its quality is to be maintained. The only safe way is to have at your disposal some method of artificial refrigeration." He adds, "Hundreds of thousands of persons in this country suffer the evil consequences of improper refrigeration."

25. Food preservation has been man's greatest problem from the very first pages of history. In ancient Rome, the legionnaires received part of their pay in salt, because it had been found that salt helped to preserve meats. The ancient Egyptians worshipped their sun-god Ra because his rays dried their foods and helped to preserve them.

26. Christopher Columbus discovered this continent accidentally while searching for a new route to the East Indies—the source of spices, which were needed to disguise the bad flavor in foods of the medieval world. Lord Francis Bacon died of pneumonia contracted while stuffing a fowl with snow to see if cold would preserve it.

27. Francois Appert discovered canning after Napoleon had offered 12,000 francs to anyone who could find some way of preserving the French Army's

rations. During the Civil War in this country an ice-making machine was run through the blockade to help save the starving population of New Orleans.

28. Throughout history there has been this universal, never-ending struggle to protect the foodstuffs of mankind. Without pure foods, human resistance runs low; with unhealthy, poorly fed people, the progress of the state is threatened.

29. During the last 20 years this Nation has far out-distanced the rest of the world in the care taken with its foodstuffs. Two decades ago, before milk was properly handled and refrigerated, cholera infantum caused a very high death rate among babies. Thousands of them were poisoned during a single summer by the only food their delicate bodies could assimilate.

30. Among the poor, this disease was particularly prevalent. Even the middle-class families and the rich were powerless to combat this dread sickness.

31. Many an old-time physician still tells, with tears in his eyes, how he watched life slowly depart from helpless infants. Throughout long nights he has sat beside the tiny crib as the feverish baby cried faintly in the grasp of this weakening disease. He could do nothing; polluted milk, carelessly handled in the home was too great a handicap.

32. Not alone are children attacked by food poisoning. Adults, too, give away to the ravages of that invisible army which populates the foods we eat. These molds and bacteria derive their sustenance from the same types of food we consume. And they cast off a waste, which if swallowed in sufficient quantities, will poison our systems.

33. As many as 950 per hundred thousand of population have died from food poisoning in one year, according to the United States Bureau of the Census reports. Epidemics, arising from the same source have struck entire countries from time to time.

34. Ten thousand cases of sore throat caused by impure milk swept over Chicago. Fifteen hundred cases of typhoid caused by oysters were reported during one season in various parts of the United States. Milk caused 4,755 cases of typhoid in Montreal.

35. Improperly protected foods have caused, and are still causing, infantile paralysis, undulant fever, summer diarrhea, paratyphoid fever, tapeworm, trichinosis, foot-and-mouth disease, typhoid fever, dysentery, tuberculosis, septic sore throat, scarlet fever, and diphtheria.

36. Since 1923, the death rate from food poisoning has been decreasing. The last report shows it reduced to 750 deaths per hundred thousand.

37. Federal and State inspection of foods, coupled with enforcement of the pure food and drugs act have helped mightily in this work. Unscrupulous food dealers no longer feel free to endanger the health of their customers by purveying poisonous foods.

38. The Government has spent millions to protect the health of its people. This investment has been wisely made because the strength of the Nation depends upon the physical well-being of its people.

39. Enforced protection of foods, though, stops when these edibles leave the merchant's store. No laws can assure the proper preservation of foods after they reach the home.

40. If left at room temperature, or in a refrigerator which can not maintain a temperature continually below 50 degrees, these foods become an incubator for harmful microorganisms.

41. The United States Department of Agriculture, Bureau of Home Economics, has warned:

"42. Milk, fresh meat, poultry and fish, and many fresh fruits and vegetables, should be kept at a temperature of 50° F., or preferably lower, to check the growth of microbes that cause souring and decay."

43. The mechanical refrigeration industry has spent tens of millions of dollars in repeating this vital fact over and over again. In effect, this industry has extended the work of the Federal, State, and municipal Governments by impressing the vital importance of food protection on the minds of the public.

44. This industry, with millions spent in education through advertising and other mediums, has helped to increase the effectiveness of the government's insistance upon pure foods.

45. Fundamentally, the mechanical refrigeration industry, and the Government health bureaus are contributing to the achievement of the same results.

46. In view of this, can mechanical refrigeration fairly be considered a luxury?

47. Foods are canned to protect them from putrefaction. Canning achieves the same results as mechanical refrigeration. It is merely another means for protecting the health of the public.

48. Canners use heat to destroy the dangerous microbes in foods. Mechanical refrigerators use cold to halt the growth of these parasites.

49. "Not alone does a low temperature such as that obtained in a mechanical refrigerator reduce or at least curb the growth of putrefactive bacteria," wrote Dr. W. L. Mallmann, famed bacteriologist of Michigan State College. "It also has a marked effect on disease-producing bacteria. The longer foods are kept in a mechanical refrigerator, the fewer disease bacteria do they contain."

50. So far as known, no luxury tax is contemplated on canned foods. Since canning and mechanical refrigeration both protect the public's health, can one method fairly be called a luxury and taxed, while the other escapes this handicap?

51. The present plans, we understand, are also to exclude ice cabinets from taxation. Instead of a cooling unit automatically kept cold by a condensing unit, they use ice as a source of refrigeration. But the purpose is just the same. They also are intended for the protection of foods.

52. If the ice refrigerator is not in the luxury class, is it fair to tax a mechanical refrigerator, which really fulfills the purpose for which it is designed?

53. The mechanical household refrigerator affords the best means so far discovered of maintaining suitable temperature conditions for the proper preservation of perishable foods. Older means for household refrigeration are relatively faulty because they allow temperatures to rise dangerously high and they are not automatic in their operation.

54. The mechanical refirgerator is an instrument of thrift because, compared with less modern food preservation mechanisms, the mechanical refrigerator accomplishes the following results:

(1) Economy in cost of operation.

(2) Prevention of food losses.

(3) The householder, having adequate and efficient means for food storage and preservation, need purchase perishable foods only when the lowest prices are offered.

Exhibit E is United States Department of Agriculture, Farm Bulletin No. 602, dealing with the preservation of milk. Exhibit F is an excerpt from Farm Bulletin No. 602 indicating the rapid growth of bacteria at temperatures above 50 degrees. Exhibits G and H are graphic presentations showing bacteria growth at various temperatures.

(g) Reduced volume in the industry will increase unemployment.

55. A canvass of the companies here represented indicated that they give employment to approximately 180,000 people. Any factor which tends to reduce activity in this industry will aggravate the already serious problem of unemployment.

(h) The proposed tax will adversely affect allied industries.

56. The mechanical refrigeration industry has, during this period of general depression, contributed a considerable volume of business to other industries which are suffering most seriously from curtailed volume, heavy losses, and unemployment.

57. According to estimates recently made by the publishers of Electric Refrigeration News, the volume contributed by the mechanical household refrigeration industry to a few of these industries is as follows:

Iron and steel (tons)	150,000
Copper and brass (tons)	25,000
Electric motors and electric controls	$15,000,000

58. To these figures might be added purchases of important volume from the lumber industry, from the insulation industry, from the paint industry, and from many others. In the aggregate, this volume purchased by the refrigeration industry from allied industries, represents the annual employment of many thousands of people and the motivation of large sums of money which must tend, in some measure, to alleviate the distress brought about by unsettled economic conditions. Any curtailment of the refrigeration industry naturally will be reflected in those industries which act as suppliers to refrigerator manufacturers.

59. Electric current is a commodity purchased by 20,441,249 families in the United States. It is reliably estimated that this represents 68 per cent of the homes in this country. Any development that tends to reduce the cost of electric current used in the homes of this country must therefore be regarded as a well distributed blessing. Mechanical household refrigerators are making it possible for the public utilities to generate and distribute electric current to domestic users at reduced cost. The electric refrigerator adds greatly to the connected household load, and the load characteristics are such as greatly to reduce the cost

of generating and distributing household current. It is said that in many wired homes an electric refrigerator virtually doubles the current demand, and in a given community the demand created by electric refrigerators is a constant one throughout the 24-hour period and does not fluctuate seriously throughout the 12 months of the year. A connected load of this type permits public utilities to generate and distribute electric current at lower cost than that which obtains in connection with the lighting load alone.

60. Any curtailment in the volume of the mechanical refrigeration industry will delay a process which ultimately must result in reduced cost for electric current bought by the home owners of America.

(Exhibit I is a reproduction of an editorial which appeared in Electric Refrigeration News of April 13 analyzing the distribution of money brought about by the refrigeration industry.)

(i) Refrigeration cabinets should not be taxed.

61. No tax is proposed upon ice or ice boxes. This again emphasizes the discriminatory nature of the proposed tax.

62. There is no essential difference in construction between an ice box and a mechanical refrigerator cabinet—in fact, thousands of ice boxes have been converted into mechanical refrigerators. Under the proposed revenue bill a home owner could purchase an ice box not subject to tax and convert it into a mechanical refrigerator by purchasing the necessary mechanical elements. In this way the tax can be partly evaded. Such evasion will reduce the volume of the mechanical refrigeration industry and bring about a serious element of confusion.

(j) The tax, if imposed, should not exceed that proposed for automobiles.

63. In the entire tax schedule the only other item listed that is not generally regarded as a luxury is the automobile. It is proposed to tax automobiles 3 per cent. If a tax must be borne by the mechanical refrigeration industry, there is no apparent reason why it should be higher than the tax proposed for automobiles.

SUMMARY

64. In the proposed revenue bill, mechanical refrigeration is classed as a luxury. It has been shown that the industry can not reasonably be so classified.

65. Under the proposed revenue bill, mechanical refrigeration industry is assumed to be a money-making industry. It has been shown that this is not generally true.

66. The process of developing this new industry must depend upon constantly reduced prices. This process should not be retarded by a discriminatory tax.

67. It has been shown that this tax is discriminatory in that it is placed upon only one of many utilitarian household devices. It is also discriminatory in that it is levied against one division of the refrigeration industry whereas no tax is levied against competitive divisions of the same industry.

68. There is no apparent justification for taxing the mechanical refrigeration industry at a higher rate than that which applies to the automobile industry.

69. The people engaged in the mechanical refrigeration industry are fighting to create and develop a new and useful industry. The other industries selected to bear the tax are comparatively old and well-established.

70. This committee is prepared to submit any additional substantiating evidence that may be required. We shall welcome the opportunity of supplying any additional information concerning our industry that may be helpful to the Senate Finance Committee.

CONCLUSION

71. In view of the foregoing facts, we respectfully suggest that:

72. A general manufacturers' sales tax, in which this industry would gladly bear its fair share, be reconsidered.

73. If the first suggestion can not be adopted, that mechanical household refrigerators be eliminated from the selective tax schedule.

74. If neither of the foregoing suggestions can be adopted, that the tax levied against mechanical household refrigerators shall not exceed 2¼ per cent.

75. If a selective tax is levied against mechanical household refrigerators, it shall apply only to the mechanism and not in any case to the cabinet in which the mechanism may be assembled.

Respectfully submitted.

LOUIS RUTHENBURG,
Chairman Refrigeration Division,
National Electrical Manufacturers Association.

APRIL 18, 1932.

EXHIBIT A

TITLE IV.—MANUFACTURERS' EXCISE TAX

Sec. 601. Excise taxes on certain articles.
Sec. 602. Tax on toilet preparations, etc.
Sec. 603. Tax on furs.
Sec. 604. Tax on jewelry, etc.
Sec. 605. Tax on automobiles, etc.
Sec. 606. Tax on boats.
Sec. 607. Tax on radio receiving sets, etc.
Sec. 608. Tax on mechanical refrigerators (the only strictly utilitarian household appliance included in this list).
Sec. 609. Tax on sporting goods.
Sec. 610. Tax on firearms, shells, and cartridges.
Sec. 611. Tax on cameras.
Sec. 612. Tax on matches.
Sec. 613. Tax on candy.
Sec. 614. Tax on chewing gum.
Sec. 615. Tax on soft drinks.
Sec. 616. Definition of sale.
Sec. 617. Retail sales.
Sec. 618. Sales for less than fair market price.
Sec. 619. Contracts prior to March 1, 1932.
Sec. 620. Return and payment of manufacturers' taxes.
Sec. 621. Applicability of administrative provisions.
Sec. 622. Rules and regulations.
Sec. 623. Effective date.

EXHIBIT B

REVISED ESTIMATES

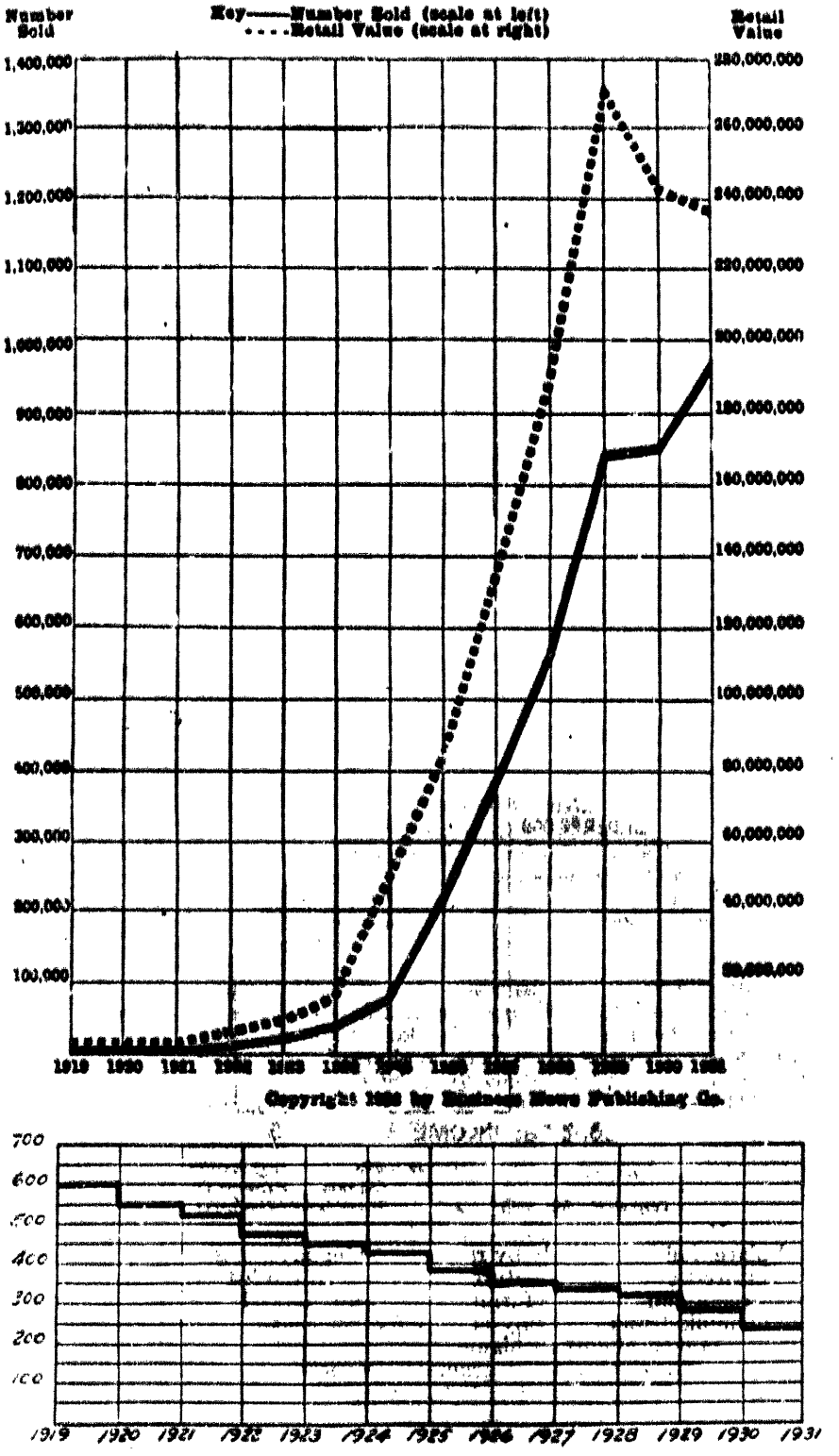
DETROIT.—Due to the fact that the refrigeration division of the National Electrical Manufacturers Association has adopted the "low side," or cooling unit, as the basis of its sales statistical work, rather than the "high side," or compressor, which has been used by the industry since 1914, it has become necessary to revise all figures for the sale of household electric refrigerators from that year up to 1931. The revised figures are shown below, as a single figure for the years 1910 to 1920, inclusive, and as separate figures for each year beginning with 1921. As one high side may handle several low sides, it is believed by the Nema manufacturers that the sales of low sides more accurately indicate the actual number of homes acquiring electrical refrigeration.

Estimates based on "low sides" or cabinets refrigerated

Year	Number sold	Retail value	Year	Number sold	Retail value
1910 to 1920	10,000	$6,000,000	1927	390,000	136,500,000
1921	5,000	2,750,000	1928	560,000	190,400,000
1922	12,000	6,300,000	1929	840,000	273,000,000
1923	18,000	8,550,000	1930	850,000	243,100,000
1924	30,000	13,500,000	1931	965,000	236,425,000
1925	75,000	31,875,000			
1926	210,000	81,000,000	Total	3,965,000	1,230,300,000

Total sales to date	3,965,000
Deduct stock in dealers' hands	65,000
	3,900,000
Deduct exports to date	250,000
	3,650,000
Deduct for obsolescence and replacement	150,000
Total now in use	3,500,000
Divide by number of wired homes	20,441,249
Market saturation.....per cent	17.12

Household Electric Refrigerator Sales



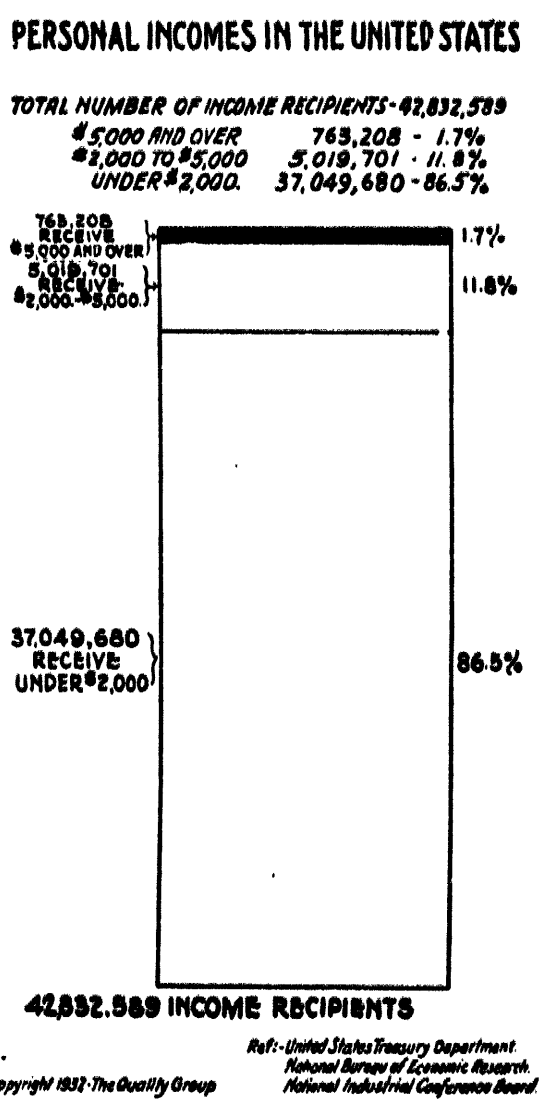
AVERAGE UNIT PRICE

Exhibit C

THESE ARE THE THINGS THEY INTEND TO BUY NEXT

But in an effort to find out what a representative cross-section of the American public, "intends to buy next," in connection with types of goods used by the entire family, the Tower Magazines recently commissioned Dr. Daniel Starch, one of the foremost consultants in commercial research, to make an investigation of this subject, tabulating the replies in the order in which they were given.

Electrical refrigerators were named as the "next purchase" in 28 per cent of the families included in the Tower Magazine survey, with floor coverings in



second place, followed closely by radios, washing machines, and vacuum cleaners.

"Furniture" of a general nature came sixth on the list, with specialized types of living-room and bedroom furniture next in order. It will also be noted that "an automobile" was the reply of only 5.5 per cent of those interviewed while "curtains" ranked almost as high.

Ranges, electric clocks, lamps, general "electrical appliances," sewing machines, electric irons, electric fans, and oil burners were the other types of electrical home ware mentioned by those interviewed, while, in the entire list the only items which can not be classified as "home ware" are automobiles and telephones—certainly

striking proof of the interest which the public is taking in home ware in general and electrical appliances in particular at the present time.

The income groups fell into the following classifications: Over $10,000—0.8 per cent; $5,000 to $10,000—5.2 per cent; $3,000 to $5,000—26.2 per cent; $2,000 to $3,000—37 per cent; $1,000 to $2,000—26.9 per cent; under $1,000—3.9 per cent, the average income being $2,519, a figure which parallels very closely the average income for the country as a whole—approximately $2,500 a year. It will therefore be seen that the heavy preponderance of replies naming various types of electrical home ware were not weighted by any large proportion of families of the wealthy type, thus bearing out conclusions reached from other sources that those of moderate means are the best possible prospects for appliances of the labor-saving type.

(Excerpts from Electrical Home Ware, April, 1932.)

EXHIBIT E

PRODUCTION OF CLEAN MILK

By ERNEST KELLY, *Chief, Division of Market-Milk Investigations*, and C. J. BABCOCK, *Market-Milk Specialist, Division of Market-Milk Investigations, Bureau of Dairy Industry* [1]

WHAT IS CLEAN MILK?

Strictly speaking, the term "clean" would exclude milk which contains any foreign matter or bacteria whatever. However, for practical purposes, "clean milk" is defined here as milk that comes from healthy cows, is of good flavor and free from dirt, and contains only a small number of bacteria, none of which are harmful.

IMPORTANCE OF PRODUCING CLEAN AND WHOLESOME MILK

THE PRODUCER'S INTEREST

Every year the dairy farmers of the United States suffer heavy financial losses because too large a proportion of the products which they market is lower in quality than it should be. It is conservatively estimated that they could add many millions of dollars annually to their income, simply by giving attention to those factors which make for high quality of product. Sour and off-flavored milk and cream are not readily marketable [illegible] the dairyman does find a market the price he gets is usually low[er] [illegible] he might get for a product of high quality. Further[more] [illegible] om low-quality milk and cream are usually low[er] [illegible] ade milk and cream extend all along the [illegible], [illegible] products of high quality not only bring [illegible] but t[end] to increase [illegible]tion and thereby extend the dairy [illegible]ket.

In the flush season of [illegible]uction deal[ers] have the opp[ortunity] select their supplies upon a q[uality] basis. When th[is] occurs [illegible] who offer low-quality milk [illegible] Low-quality milk is what th[ey] [illegible]ket.

On the farm the mi[lk] [illegible] all [illegible] who [illegible] real[ize] they have in their charge [illegible] which [illegible] Safe[guarding] the wholesomeness of th[e] [illegible]upply on [illegible]e health [illegible]arm family, who use a p[art] [illegible]e milk, [illegible] health [illegible]ves, which live largely on [illegible]

Healthy cows to b[e] [illegible]n, and [illegible] to feed [illegible] tors in rearing thrifty ca[lves] [illegible] lthy and profitable herd.

Until recently, milk [was] [illegible]ally consider[ed] [illegible] food for [illegible]nts and invalids. Milk is necessa[ry] [illegible] growing ch[ild] [illegible]d the ad[ult] [illegible]ned that milk is one of the most val[uable] [illegible] of foods, becau[se] [illegible] is now [illegible]omical, and easily digested. The consum[er] [illegible]d only when he has confidence in its wholes[omeness] [illegible] [illegible]hoid fever, septic sore throat, and other diseases [illegible] milk which was not

[1] The original edition of this bulletin was written by Ernest Kelly.

carefully produced or properly pasteurized. Evidence indicates that tuberculosis may be transmitted from animals to human beings, chiefly young children, by the consumption of raw milk containing tubercle bacilli. (Raw milk is milk that has not been pasteurized.) Health is endangered not only by milk that contains specific disease-producing bacteria, but also by milk that contains large numbers of certain other kinds of bacteria which may cause serious digestive troubles, especially in infants and invalids. Another consideration is the loss to the consumer from milk souring or otherwise spoiling before it can be used. The cleaner the milk the longer it can be kept in sweet, wholesome condition.

Bacteria in Milk

Bacteria are single-celled plants which are so small they can not be seen with the naked eye.

All milk, unless produced under very exceptional circumstances, contains some bacteria.

Milk furnishes ideal conditions and food material for bacterial growth. Some bacteria, at maturity, divide to form two bacteria, and under favorable conditions the two new individuals may become full-grown and repeat the process of division in from 20 to 30 minutes. The bacteria commonly found in milk multiply most rapidly at temperatures between 80° and 100° F. At 70° F. the rate at which the bacteria multiply is slower. At 50° F. the rate is still slower. At 40° F. and below the rate is very slow. However, a few kinds of bacteria continue to multiply even at the freezing point.

Many of the kinds of bacteria ordinarily found in milk cause no apparent change in the milk. Other kinds may change the flavor without changing the appearance. Some of the most common types of bacteria cause marked changes in both appearance and flavor. In the latter class are the bacteria which sour milk by converting the milk sugar into lactic acid, and those which cause the formation of a sweet curd. Another type of bacteria decomposes the casein and albumin in the milk and causes putrefaction and undesirable odors.

The number of bacteria in milk depends upon the number of bacteria in the udder of the cow, upon the amount of contamination from outside sources, and upon the rapidity or the rate at which the bacteria increase in number.

It is very important to bear in mind that the rate at which bacteria grow and increase in number depends very largely upon the temperature at which the milk is kept.

Keep Disease-Producing Bacteria Out of the Milk

HEALTHY COWS

Tuberculosis probably is the most dangerous and widespread disease of cattle that can endanger the safety of milk. Tuberculosis is infectious. It spreads in a herd from cow to cow. As the disease develops slowly a cow may be affected with it for several months or even years before any marked physical changes in the animal are noted.

The total economic loss from tuberculosis is enormous. It amounts to millions of dollars a year. But far more important than this is human health.

Tuberculosis in dairy cows, especially in the udder, may be the source of tuberculosis in human beings. Most of the tuberculosis in children is in the bones, joints, and digestive tract, a fact which leads to the theory that milk may be one of the chief causes.

Have a capable veterinarian test the cows for tuberculosis at least once a year; and if disease is found, test twice a year. Remove from the heard all cows which react to the test, and disinfect the stable and premises thoroughly. See that all animals purchased for the herd are tuberculin-tested and free from the disease before they are brought to the farm. Keep them separate from the other animals for at least 60 days, and retest before placing them with the herd.

Infectious abortion of cattle is the cause of great losses to the cattle industries, and has a significance, of as yet undetermined importance, in respect to human health. This disease in cattle, and also in swine, is caused by a germ commonly known as *Bacterium abortus* or *Brucella abortus*. This germ has been found to sometimes cause undulant fever in man, the disease being acquired either through the consumption of the raw milk from abortion-infected cows or through contact with infected cattle or swine, or the carcasses of the latter. To avoid danger from this disease, milk should come from herds that are free from infectious abortion, or it should be pasteurized. The presence of infectious abortion in

cattle may be detected by the use of the agglutination test for this disease. Infected herds may be freed from infectious abortion through the segregation and elimination of all reacting animals.

Milk that is slimy, ropy, or watery, or abnormal in any respect, or which comes from an animal that appears to be sick or out of condition, should not be consumed by human beings. As a rule, for 15 days before a cow calves and for 5 days after she calves, her milk should not be used as human food. It is well not to use milk from cows that have been given powerful drugs which may pass into the milk.

HEALTHY MILK HANDLERS

Some communicable diseases which do not originate with the cow may be carried by milk. The bacteria causing these diseases drop into the milk, are introduced unknowingly by the milker, are carried by flies, or come from the contaminated utensils.[3] Many of these bacteria grow in milk, and milk-borne epidemics have been caused by them. Some of the diseases which may be carried by milk are tuberculosis, typhoid fever, diphtheria, scarlet fever, and septic sore throat. The bacteria which cause these and some other diseases can be carried by people who are apparently well or well enough to work. Great care must be taken to have only healthy people handle the milk or anything with which the milk may come in contact. No one should go from a sick room where an infectious disease exists to take part in any of the operations where the milk is produced, handled, or kept.

PURE WATER

All the water on the farm should be pure, even that to which only the cattle have access. The farmer owes this protection to his family, to his business interests, and to the people who use the milk from his dairy. If cows wade in polluted water, disease bacteria, especially those causing typhoid fever, may adhere to them and later fall into the milk pail. Be sure that the water that is used for washing milk pails and other utensils is pure.[3]

DISPOSAL OF MANURE AND OUTHOUSE DEPOSITS

Disease may be spread from farm to farm and milk may become infected if care is not taken in the disposal of wastes from human beings and domestic animals. Disease-producing bacteria may be carried from exposed excreta by flies, rats, birds, etc., or they may be washed into the water supply. Stable manure and outhouse deposits should be disposed of in such a way that there is no possibility of their being a source of contamination of the milk.

Whenever possible, haul stable manure directly to the field and spread at once. When this is not feasible, put it in a covered storage pit or bin at a safe distance from the stable and milk house. Such treatment of manure not only protects health but saves valuable fertilizing materials.

The disposal of human excreta is highly important and can be easily accomplished in a number of ways. Indoor toilets, either chemical or connected with a sewer, are practical for farm homes. If outdoor privies are used they should be of sanitary type,[4] and the accumulations of material should be removed frequently and be either burned, treated with powerful chemicals, or buried.

CONTROL OF FLIES

Flies may carry millions of bacteria on their feet and bodies. They contaminate milk if they get on the utensils. They also mar the appearance of equipment, walls, ceilings, and windows, and annoy the animals and caretakers. They are attracted by the cattle, piles of manure, spilled milk, and other feeding or breeding grounds. Flies breed in moist, decaying vegetable matter, especially manure.

Keep corners of stalls clean, and clear away any feed there may be under the mangers. Early in the spring remove straw that has been banked around the watering troughs and buildings. In warm weather haul away the droppings from the lanes and yards every week. Where manure is piled in the open, haul it away

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[3] The term "utensil" as used in this bulletin refers to any appliance which comes into contact with milk or cream during production or handling, such as milk pails, strainers, cans, separator parts, milk bottles, etc.

[3] Write your State board of health for information concerning farm water supplies.

[4] Write your State board of health for information concerning the construction and maintenance of sanitary privies.

at least once a week, from early spring until winter. Flies breed very freely in calf manure, particularly if the calves are fed milk in any form. It is advisable to remove calf manure twice a week. Take away all the fine loose material under manure piles. This material is likely to be heavily infested ,as the fly larvæ work toward the outer edge and bottom of the piles.

Immediately after the manure is removed, treat the ground that was under the pile with a 28–32 gravity fuel distillate (fuel oil), at the rate of 5 gallons to 100 square feet. This will kill the larvie that have gone into the ground and may prevent others from going into the ground for some time. This distillate need be used but once every two or three weeks. Do not apply it directly on the manure because it contains substances that are injurious to plant growth.

Flies will find some place to breed even though conditions are not the most favorable. They may be killed by trapping and spraying. The house fly is easily trapped. Put the traps in places where the flies gather, preferably on the floor, where air currents are not strong and where the light is good. The kind of bait is important. Either sugarcane blackstrap molasses or corn sirup mixed with water in the proportion of 1 part to 4 parts of water is effective. Watermelon rinds, crushed fruit, skim milk, and some of the grain feeds may be used, but they must be renewed oftener. Renew the bait, and thoroughly clean the pans every two or three weeks, or more often if mold starts to form on the bait. When adding bait, examine the cone of the trap for spiders.

Empty the traps regularly, as flies do not enter them readily when they become too full. The flies may be killed by steaming the traps in the steam box for three to five minutes. This will kill the live flies and loosen any dirt there may be in the trap. If steam is not available, either put the traps in water for a few minutes or pour hot water over them. Then wash the traps and allow them to dry in the sun before replacing them over the bait pans.

Spray the places where the flies gather. Do this early in the morning when the flies are somewhat sluggish, and late in the afternoon after they have fed and gathered for the night. Also spray their feeding places after large numbers have gathered on them. When flies are unusually annoying to the cows it may be well to spray the animals. Do not force the spray directly into the hair. Direct the spray parallel to the animals so as to the flies as they rise. Do not brush the cows for some time afterwards. Horn flies must be sprayed while on the cattle, as they stay in no other place long enough to be hit with the spray.

Use a sprayer of good size, capable of standing a pressure of 35 to 40 pounds, with a nozzle that will throw a heavy, fully atomized spray over a considerable area. An 8-foot bamboo extension will allow the operator to reach the ceilings and out-of-the-way places. If the manure is hauled away promptly, thorough spraying need be done only three times a week.

A good killing spray can be made as follows: Put 5 pounds of unground, half-closed pyrethrum flowers in a double-thickness cheesecloth container. Suspend this for 24 hours in a mixture of 9 gallons of kerosene and 4 quarts of fuel oil of 28–32 gravity. Some of the insecticide manufacturers sell a concentrated pyrethrum extract which needs only the addition of the kerosene and fuel oil.

Prevent High Bacterial Counts in the Milk [6]

Most of the bacteria in milk come from the body of the cow and from unclean milk utensils. Under certain conditions the bacteria may multiply until the number becomes very large. To keep the bacterial count low, keep the body of the cow clean, have all utensils thoroughly clean and sanitary, use small-top milk pails, keep flies and all sources of bacterial contamination away from the milk, and cool the milk promptly after milking and keep it cool.

CLEAN COWS

The body of the cow, especially those parts of the belly, flanks, and udder that are immediately above the milk pail, may be the source of bacterial contamination, because manure, loose hairs, bedding, and other foreign matter may fall into the milk pail. Samples of fresh manure have been found to contain nearly 50,000,000 bacteria per gram. (There are 453.6 grams in a pound.)

Have the cows clean at milking time. Cows usually keep cleaner when they are on pasture than when kept in the barn, but although they appear to be clean

[6] The bacterial count is the number of bacteria found in a cubic centimeter, and is determined by allowing the bacteria from a definite quantity of milk to grow on a culture medium and counting the number of colonies, each of which represents the growth from one bacterium.

they may be very dusty and therefore need to be brushed. When the cows are in stables clean them thoroughly at least once a day. Clip the long hairs from their udders, flanks, and tails in order that dirt may not cling to them. Before milking, carefully wipe the udders, flanks, and bellies with a clean, damp cloth to remove dust and loose hairs. If these parts are very dirty, wash them. Plenty of bedding, good stables, and frequent removal of manure will help to keep the cows clean.

In an experiment made by the Bureau of Dairy Industry, fresh milk from dirty cows had an average bacterial count of 55,208 per cubic centimeter, whereas fresh milk from clean cows with udders and teats washed averaged only 4,947 per cubic centimeter. (A cubic centimeter is about 16 drops.) Open-top milk pails, thoroughly washed and treated with steam, were used.

SMALL-TOP MILK PAILS

Most of the dirt that gets into milk falls from the cow into the pail at milking time. There are fewer bacteria and there is less sediment in the milk when the small-top pail is used, than when an open-top pail is used. An experiment showed that the average number of bacteria per cubic centimeter in 30 samples drawn into a small-top pail was 29,263, whereas with the same number of samples drawn into an open pail the average was 87,380.

The small-top pail should be durable, have smooth, seams be easy to molk into, be easy to clean, and have only a small opening. A number of types of small-top pails are on the market. Any tinner can convert an ordinary open-top pail into a small-top pail at little cost.

WASHING AND THEN TREATING UTENSILS WITH HEAT OR A CHLORINE SOLUTION

Utensils which have not been properly washed and treated to kill bacteria contain large numbers of bacteria. Indeed, dirty utensils are usually the source of most bacteria found in market milk at the time of production and before bacterial growth has begun. Experiments have furnished convincing proof of the fact that milk is contaminated by utensils that have not been subjected to heat or to treatment with a chlorine solution. In an experiment milk drawn into pails which had been thoroughly steamed had an average of only 6,306 bacteria per cubic centimeter, whereas samples from pails which had not been steamed averaged 73,308.

Many of the bacteria which get into milk from utensils are of undesirable types. Some of them cause milk to putrefy and undergo changes that may make it dangerous to health. If utensils have been washed in contaminated water and are not treated to destroy bacteria, disease bacteria may get into the milk.

Tightly covered milk or cream cans which have not been effectively treated with heat or a chlorine solution and dried give off foul odors after having stood for awhile. This is due to the action of the decay-causing bacteria on particles of milk solids left in the cans. If these cans are washed and thoroughly treated with heat or chlorine the foul odor will disappear. Utensils should be washed and subjected to heat, or a chlorine solution immediately after use to prevent the multiplication of great numbers of bacteria on their inner surfaces. In one experiment made by the bureau, milk contained 666,520 bacteria per cubic centimeter after coming in contact with utensils which had not been treated with heat or a chlorine solution, even though they had been washed immediately after milking. In similar experiments, in which utensils were washed eight hours after they were used, the average bacterial count of the milk was 1,667,000, or more than a million greater than when the utensils were washed immediately after using.

Utensils should first be washed thoroughly, and then be further treated with heat or a chlorine solution to kill bacteria.

Rinse the utensils in cold or lukewarm water, then wash them with hot water, an alkali washing powder, and a stiff brush, until they are thoroughly clean. Next rinse them with clean water. Do not use rags, greasy soaps, or soap powders.

To kill the bacteria on the utensils, treat the utensils with steam or a chlorine solution, or immerse them in water and boil for 5 to 10 minutes. The last method, however, is cumbersome.

STEAMING UTENSILS

Where steam is used, equipment for this purpose should be installed. A metal tank mounted on a brick or masonry foundation is satisfactory for small dairies. The tank has a false bottom. Enough water for washing utensils is

put into the tank and then the fire is built. When the water is hot most of it is drawn off to use for washing, the amount remaining being only about an inch deep, and the water level is below the false bottom. After the utensils are washed they are placed in the tank on the false bottom. Then the tank is tightly covered. Steaming for 30 minutes is sufficient.

A steam boiler furnishes the best source of heat for the heat treatment of utensils. The boiler may be connected with a cabinet[6] built of concrete, brick, stone, tile, metal, or wood. Steam the utensils in the cabinet for at least five minutes at a temperature of at least 200° F. They may be left in the cabinet until they are used.

Thorough drying of utensils after washing and steaming is extremely important. The steam coil in the bottom of the cabinet should give off enough heat to dry the utensils quickly.

To keep the temperature up to at least 200° F. the constant use of a thermometer is advised. As some types of apparatus generate steam slowly, the length of exposure at 200° F. should be noted rather than the time the cabinet is in operation.

CHEMICAL TREATMENT OF UTENSILS

The chemicals that are commonly used for treating utensils to kill bacteria are sodium hypochlorite, calcium hypochlorite (also known as chloride of lime) and chloramine preparations. These can be bought in packages of convenient size.

In making a solution of calcium hypochlorite, first make a smooth, watery paste of 12 ounces of chloride of lime, and then add water, first in small quantities and then in larger quantities until the solution amounts to 2 gallons. Strain this into a glass bottle or jar, and keep tightly covered in a cool, dark place. This is called the stock solution. To dilute this stock solution to the proper strength for using, add water to it at the rate of 8 gallons of water per pint of stock solution. This is the final rinse solution. Never keep this solution from one day to the next, but make it fresh every day, and use it only once.

Commercial powders, tablets, and solutions for treating utensils are now on the market. These may cost more than the homemade solution, but in using them it is not necessary to make the stock solution, as they are in a form ready to add to the rinse water.

It is very essential to wash and rinse utensils thoroughly before putting them in the chlorine solution. Chlorine, the active agent in these solutions, is affected by organic matter, and if milk, cream, or dirt is present the strength of the solution is weakened before the chlorine has a chance to attack the bacteria.

The effectiveness of the solution depends upon its strength and the length of time the utensils are left in it.

A strength of 1 part of chlorine to 5,000 parts water is recommended. Be sure that the utensils are entirely covered with the solution, and that they are immersed in the solution for at least two minutes. Eliminate all air pockets. Never rinse the utensils after using the chlorine solution. Turn the utensils upside down in a clean, dry place, free from dust and flies (preferably in the milk house), and do not touch them until they are needed.

THE MILKING MACHINE MUST BE SANITARY

The parts of the milking machine which need the most attention are the rubber tubing, teat cups and inflations, claw, pail, head, valves, and moisture trap.

The heat method is simple and effective. This method is as follows:

Immediately after milking, rinse the machine with cold or lukewarm water drawn through it by vacuum. The flow of water may be broken occasionally by pulling the teat cups out of the water. Do this 10 or 12 times. Repeat this operation, using hot water containing washing powder, and wash the teat cups and tubing with a brush. Then rinse the machine by drawing clean hot water through it by vacuum.

Remove the long milk tube, with claw and teat cups, from the head of the pail. With a machine of the inflation type, plug the air tubes and put these parts in a tank or can. If steam is available, entirely cover all parts with clean water, and heat with steam to a temperature of 160° to 165° F. If steam is not available,

[6] Plans for the construction of a steam cabinet can be obtained free from the Bureau of Dairy Industry, U. S. Department of Agriculture, Washington, D. C.

heat the water on a stove, but do not put the rubber parts in the water while it is heating. Leave the parts in the water until the next milking, allowing them to cool slowly.

In treating the parts with chemicals, wash them as indicated above. Instead of putting the parts in hot water, however, put them in a chlorine solution, of the same strength as used for other utensils, and allow them to remain there until the next milking.

With either method the machine should be taken entirely apart at least twice a week and washed thoroughly with brushes and hot water containing washing powder.

The moisture trap, or check valve, on the head of the machine should be cleaned every day.

Milking-machine pails and covers should be thoroughly washed after every milking and then be further treated with heat or a chlorine solution to kill bacteria. If there are pulsators and electric motors on the head of the pail they should be removed before cleaning the machine.

The vacuum line should be cleaned at least twice a year, by drawing hot water containing washing powder through it with vacuum. The vacuum line should be cleaned immediately after milking if milk has been drawn into it.

COOL THE MILK PROMPTLY AND KEEP IT COOL

A large number of bacteria found in milk when it reaches the consumer are due to improper cooling and keeping the milk at too high a temperature during storage, transportation, and delivery. The rapidity with which bacteria multiply in milk at different temperatures is shown in Table 1.

TABLE 1.—*Growth of bacteria in milk when the milk is held at 50° and at 68° F.*

Temperature of milk	Number of bacteria per cubic centimeter—				
	At beginning	At end of 6 hours	At end of 12 hours	At end of 24 hours	At end of 40 hours
50° F.	10	12	15	41	62
68° F.	10	17	24	61,280	3,574,990

At the above rate, if the milk, when produced, contained 1,000 bacteria per cubic centimeter, the part held at 50° F. would have contained only 4,100 bacteria at the end of 24 hours, whereas that held at 68° F. would have contained 6,128,000.

At a certain creamery, milk received in the morning consisted of the previous night's milk and the fresh morning's milk, which were kept separate. During the six warm months (April to September, inclusive) 478 samples of the morning's milk averaged 800,026 bacteria per cubic centimeter, whereas 366 samples of milk which had been held overnight on the farms averaged 2,406,357 bacteria.

A survey of the temperatures at which milk is received at railroad stations for shipment to market in summer, showed that the temperature of morning's milk averaged about 60° F. and in some cases it was as high as 80° F. These temperatures are much too high to permit milk to be shipped a considerable distance without souring. Frequently it was found that morning's milk was rushed from the farm to the station before it had been sufficiently cooled. A large part of the loss caused by the souring of milk is due to the shipping of the milk at too high a temperature.

Milk or cream must be cooled promptly to a temperature of 50° F. or below if rapid bacterial growth is to be prevented.

The use of a surface cooler is especially necessary when the time between milking and shipping is short. If warm milk is run over a surface cooler supplied with the coldest available water and then set in a tank cooled with ice to 40° F. or below, it should not be difficult to cool the milk to 50° within an hour after it leaves the cow. A 10-gallon can of warm milk precooled with water at 55° F. and set in a tank of ice water at 37° F. can usually be cooled to 50° F. in about 20 minutes. The fact that precooling with a surface cooler is not practiced and that ice is not put into the cooling tank until after the milk is put there, is the reason why much milk reaches the shipping station in summer at so high a temperature that it sours on the way to the city.

Do not mix warm, fresh milk with cold milk of the previous milking, because the addition of warm milk to cold hastens bacterial growth by warming up the whole mass. Keep cans of milk covered to prevent the entrance of dust, dirt, insects, and other sources of contamination.

Cream sours more slowly than milk. Heavy, or rich cream does not sour as quickly as thin cream; therefore, ordinarily, the cream should test from 30 to 35 per cent butterfat. Such cream makes less bulk to handle, and leaves more skim milk on the farm than does thin cream.

Immediately after cream is separated, cool by the same methods advised for milk. If only a small quantity is handled, put it into tall cylindrical cans, called "shotgun" cans, and place these in ice water. Do not mix fresh cream with previous skimmings until it has been thoroughly cooled.

STABLE SHOULD BE CLEAN, WELL LIGHTED, AND WELL VENTILATED

Whenever possible the cow stable should be located on high ground with good natural drainage, and poultry houses, privies, hog sheds, manure piles, or other conditions which pollute the stable air and furnish breeding places for flies should not be close to it. A good location for a barnyard is on a south slope which drains away from the stable. If the barnyard tends to be muddy this may be remedied by drainage, and by the use of cinders and gravel. A clean yard is a great help in keeping the cows clean.

The stable should have a hard, waterproof floor which can be easily cleaned. A dirt floor is very undesirable. A concrete floor is easy to clean and prevents waste of the liquid manure; however, such a floor tends to be cold but extra bedding will remedy this trouble. See that the gutter back of the cows is large enough to hold the droppings; a width of from 16 to 18 inches and a depth of 7 inches usually is sufficient. The gutter should slope so as to drain readily, unless the liquid manure is taken up by absorbents.

Types of stalls and mangers which have the least possible surface for collecting dust and dirt and offer the least obstruction to the circulation of air, are the most satisfactory. Wooden stalls have many surfaces and cracks which are hard to keep clean, and in case of disease they can not be disinfected as thoroughly as can stalls made of metal pipes. A swing stanchion is usually preferred, as it allows the cow plenty of freedom. A low, smooth manger without sharp angles is easy to keep clean. If the cows face the middle of the barn, the walk behind them should be 5 feet or more in width so that the walls will not be soiled by the spattering from the gutter or the manure carrier.

Tight, smooth ceilings and smooth walls without ledges are easily kept free from cobwebs, dust, and dirt. Cobwebs on the ceilings and manure on the walls are found in too many dairy stables. Unless walls and ceilings are painted, whitewash should be freely applied at least twice a year, as it helps to purify the stable and to keep it light.

A cow stable should be well lighted; 4 square feet of glass per cow is sufficient if the windows are well distributed and not obstructed in any way. If the stable is built with its length north and south, it gets the benefit of both the morning and afternoon sun.

The stable air should always be fresh and pure but should be free from drafts. If the odor in the stable is disagreeable at any time, it shows that the ventilation is poor. At least 500 cubic feet of air space should be provided in the stable for each cow.

MILK HOUSE SHOULD BE CLEAN AND CONVENIENT

The building in which the milk is handled should be convenient to the barn, but so located as to be free from dust and stable odors. The ideal place for it is in a well-drained location somewhat higher than the barn. It should not be close to the barnyard, pigpen, privy, or other source of contamination. The milk house may be connected with the stable by a covered, well-ventilated passageway with self-closing doors at each end to prevent stable odors from entering. It may be in the same building as the stable, but if so it should have a separate outside entrance and the walls should be tight and without a direct communicating door or window.

It is advisable to divide the milk house into two rooms, one for handling the milk and the other for washing the utensils. Plan the milk house and all its equipment so as to save as much labor as possible, not only in handling the product but in keeping the building clean.

There should be no unnecessary ledges or rough surfaces inside the building. The floors should be of concrete and pitched to drain through bell traps. Rounded edges at the walls prevent the collection of dust and dirt. The walls and ceilings may be made of matched boards, but smooth cement plaster on metal lath is better. Ventilators are necessary to keep the air in the milk room fresh and free from musty and undesirable odors and to carry off steam from the wash room. Windows are very important, as they let in fresh air and sunlight and make work easier. In summer the doors and windows should be screened to keep out flies and other insects.

A plentiful supply of cold, running water in the milk house is necessary. The supply may be piped from an elevated tank fed by a windmill, engine, hand pump, or hydraulic ram. The dairyman can not afford to spend his time in carrying water in a pail to cool the milk and wash the utensils. Provision must also be made for supplying an abundance of hot water for washing and treating the utensils.

Use Utensils that are Easily Cleaned

All milk utensils should be durable, smooth, and nonabsorbent. Wooden utensils are hard to keep free from bacteria and should never be used. Badly battered or rusty utensils are hard to clean, and the rusty iron may injure the flavor of the milk and milk products. Do not use utensils having complicated parts, crevices, or places that are hard to clean.

Milkers Should Be Clean

Just before milking, each milker should wash his hands with soap and water and put on a pair of clean overalls and a jumper, or a suit which is used for no other purpose. Enough suits should be provided so that a clear one is always available. They should be washed regularly, and occasionally they should be steamed or boiled. Even the milking stool should be kept clean to avoid soiling the milker's hands.

Milk only with clean, dry hands, or with a milking machine which has been properly cleaned and treated to kill bacteria. The practice of wetting the hands with milk is a filthy one; it adds bacteria and sediment to the milk, and in the winter it may cause the cows' teats to chap. Milk quickly and thoroughly, without jerking the teats.

Immediately after each cow is milked, take the pail of milk to the milk house. Never let it stand in the barn. The milker should always bear in mind that he is handling a human food which is very easily contaminated. Therefore, it is well for the milker to have soap, clean water, and towels accessible so he can wash his hands after milking each cow.

Strain Milk Properly

After the milk is taken to the milk house, strain and cool it at once. The straining is best done through a layer of sterile absorbent cotton placed between two clean strainer cloths which have been steamed or boiled, or through special straining cloth. Straining milk improves its appearance but does not remove the bacteria carried into it by dirt; therefore, dirt should be kept out of milk by clean methods. Keep a supply of clean strainer cloths on hand at all times, so that when one becomes soiled it can be replaced immediately with a clean one. Use a strainer cloth for only one milking. Special strainer cloths may be bought at low cost from most dealers in dairy supplies.

Keep Feed and Weed Flavors Out of the Milk

Milk is often made unsalable by feed and weed flavors. Feed flavors in milk are most frequently caused by succulent feeds. When fed to dairy cows one hour before milking, silage made from corn, alfalfa, sweetclover, or soybeans, and green alfalfa, cabbage, turnips, rape, and kale seriously affect the flavor and odor of milk. Green rye, green cowpeas, potatoes, dried beet pulp, and carrots affect the flavor and odor of milk only slightly, and green corn, green oats and peas, green soybeans, pumpkins, and sugar beets have practically no effect on the flavor and odor.

Feeds affect the flavor of milk only a few hours after they are eaten. For this reason, feed dairy cows highly flavored feeds immediately after milking and not just before. Aeration of milk by running it over a surface cooler immediately after milking reduces strong feed flavors and sometimes eliminates slight ones.

Eradicate from pastures all weeds which cause objectionable flavors in milk. Until this is done take the cows off infested pastures as long as possible before milking. The longer the interval between the removal of the cows from pasture and the time of milking, the less intense will be the undesirable flavors in the milk. In the case of garlic-infested pastures the cows should be taken off the pasture four to seven hours before milking to entirely avoid the garlic flavor and odor in milk. Some weeds, such as bitterweed, impart objectionable flavors to the milk several hours after they are eaten. If such weeds are present it may be necessary to keep the cows off the pasture until the weeds are eradicated.

Additional Information

The following United States Department of Agriculture publications have a direct bearing on the general subject of sanitation in milk production. A copy of any of these publications may be obtained, free of charge as long as the free supply lasts, by writing to one of your Senators or your Representative in Congress, or to the Office of Information, United States Department of Agriculture, Washington, D. C. Give both the title and the number of the publication. If more than one is wanted, list them numerically as is done below.

PUBLICATIONS

734-F, Flytraps and Their Operation.
954-F, Disinfection of Stables.
976-F, Cooling Milk and Cream on the Farm.
1069-F, Tuberculosis in Livestock: Detection, Eradication, and Control.
1097-F, The Stable Fly: How to Prevent Its Annoyance and Its Losses to Livestock.
1214-F, Farm Dairy Houses.
1227-F, Sewage and Sewerage of Farm Homes.
1315-F, Cleaning Milking Machines.
1393-F, Principles of Dairy-Barn Ventilation.
1408-F, The House Fly and How to Suppress It.
1422-F, Minor Diseases of Dairy Cows.
1426-F, Farm Plumbing.
1448-F, Farmstead Water Supply.
3-L, Improved Sanitation in Milk Production.
25-L, Preventing Feed Flavors and Odors in Milk.

(The above list was compiled as of March 1, 1931)

Exhibit F

COOL THE MILK PROMPTLY AND KEEP IT COOL

A large number of bacteria found in milk when it reaches the consumer are due to improper cooling and keeping the milk at too high a temperature during storage, transportation, and delivery. The rapidity with which bacteria multiply in milk at different temperatures is shown in Table 1.

Table 1.—*Growth of bacteria in milk when the milk is held at 50° and at 68° F.*

Temperature of milk	Number of bacteria per cubic centimeter—				
	At beginning	At end of 6 hours	At end of 12 hours	At end of 24 hours	At end of 40 hours
50° F.	10	12	15	41	62
68° F.	10	17	242	61,280	3,574,990

At the above rate, if the milk, when produced, contained 1,000 bacteria per cubic centimeter, the part held at 50° F., would have contained only 4,100 bacteria at the end of 24 hours, whereas that held at 68° F. would have contained 6,128,000. The effect of temperature on the growth of bacteria is graphically shown in Figure 5. (Reprinted from U. S. Department of Agriculture Farmers' Bulletin No. 602.)

EXHIBIT "1"

HOW ELECTRIC REFRIGERATION SALES AID EMPLOYMENT AND PROSPERITY

(By F. M. Cockrell)

The sale of 1,000,000 household electric refrigerators in 1932 means a total retail volume of business amounting to about $200,000,000.

When we analyze the distribution of this money it is evident that a high percentage of the total goes into salaries and wages paid to employees of manufacturers, distributors, and dealers.

About 10 per cent, or $20,000,000, will be the share of local salesmen who carry the message of health, economy, and better living to American homes.

Millions of dollars will be paid for insulation, lumber, porcelain, lacquer, chemicals and other materials, parts, and supplies, all of which require labor for their production.

At least $20,000,000 will go to the metal industries for 150,000 tons of iron and steel products, 25,000 tons of copper and brass products, and other metals. Even though this amount is used for the purchase of materials, practically all of it will be paid for labor—mining, refining, fabricating, etc. These industries are badly in need of business to relieve unemployment.

Another $15,000,000 of the total will go for motors, controls, wiring, and other electrical parts also largely made of metal, and requiring a high "content" of skilled labor.

In fact, the entire $200,000,000 eventually goes into the pockets of people—several hundred thousands of them—who receive this money for service of one kind or another. The public thereby has $200,000,000 more to spend for other products and services. It is this turnover of capital, this exchange of money for service, which makes jobs, raises the standard of living, and promotes prosperity.

STATEMENT OF POWELL EVANS, REPRESENTING THE MERCHANT & EVANS CO., PHILADELPHIA

The CHAIRMAN. You have a brief, Mr. Evans?

Mr. EVANS. I have a brief that will not take more than five minutes, possibly, Senator. I represent here the Merchant & Evans Co., one of the smaller manufacturers of refrigerators in Philadelphia, Lancaster, Pa., and Wheeling, W. Va.

We have been in business about seven years and have expended something over half a million dollars in cash to find out how to design, produce, and service our product; and we have invested in the plants about a million dollars in cash since the war. In Lancaster we manufacture also automotive parts, automatic sprinkler machinery, and electrical refrigerators.

The question in issue in this hearing is the inclusion of an excise tax in the current revenue bill as passed by the House of Representatives on April 1, of

> Five per cent of the manufacturers' wholesale price on household type refrigerators (for single or multiple cabinet installations) operated with electricity, gas, kerosene, or other means (including parts therefor sold on or in connection therewith or with the sale thereof

—this tax to be a single imposition on each final sale for each item.

While the above language is not entirely clear to us, it appears to include not only the aforesaid domestic refrigerating machinery but as well the box and/or cabinet (single or multiple) with which aforesaid machinery operates to produce mechanical refrigeration—whether energized with electricity, gas, kerosene, or other means.

The obvious purpose of the above provision is not to tax refrigeration per se for all its needs and uses, but merely to tax exclusively domestic refrigeration of the generally defined "mechanical" type

while leaving free of tax all other domestic refrigeration accomplished by the use of ice or otherwise.

It is, however, very obviously a peculiarly selected and burdensome tax primarily on refrigeration—long developed and employed not only in this country but all over the world for fundamental reasons of health, necessity, convenience, and economy.

It seems further to be an especially pointed burden on the domestic mechanical branch alone of the refrigeration industry.

We feel that the inclusion of the refrigeration industry in any form in this excise tax is an apparently very special selection out of many current domestic and commercial appliances which should all equally bear the burden (and are more able to do so) but have all been passed by free, for reasons obscure and unknown to us or from lack of information on the whole subject.

Merchant & Evans Co. during the years 1928, 1929, and 1930, actively pressed before the Federal Trade Commission at Washington in a continuous series of complaints, exhibits, proofs, and legal briefs, various unfair and destructive activities employed in the distribution and installation of automatic electrical mechanical refrigerators throughout the whole range of their many sizes and uses in both domestic and commercial fields up to 1-ton maximum ice-making capacity per day (all refrigeration above this capacity being effected by either ice or mechanical refrigeration operated non-automatically and under constant control of experienced engineering personnel).

Filed herewith are copies of these complaints in two pamphlets: P–1 (including protests and data from May 31, 1928, to March 22, 1929, inclusive), and P–2 (continuation of the aforesaid complaints and data from April 24, 1929, to April 21, 1930, inclusive).

Unfortunately for us and, as we believe, for the industry, this great, highly organized and very expensive branch of the Federal Government showed virtually no interest or action about this matter throughout the above period and up to the present time to which we were fully entitled under the facts and laws concerned.

On pages 3 to 6, inclusive, of P–1 are lists and reproductions of then current newspaper advertisements of various public utilities offering (as a regular practice, continued up to the present time) about 30 appliances (energized by electricity, gas, and explosive engines) used largely in homes. The consumer sales of these appliances for the year-season 1927–28 totaled (according to McGraw-Hill Publishing Co.'s lists) over $800,000,000 (including 468,000 domestic refrigerators, priced on the same basis as $128,700,000).

Out of this vast sum of necessities, or conveniences, or economic devices, or luxuries (the name in each case dependent upon who defines it), domestic mechanical refrigeration alone has been culled for this excise tax.

Who can show the justice and wisdom of this selection out of this mass of public purchases; or, in fact, why refrigeration—and particularly domestic refrigeration—should be taxed at all instead of, for example, plumbing, or heating or cooking, or washing or ventilating or sewing or mechanical machines of all other sorts that are habitually employed in most homes of this country at this time? We had no notice or hearing before the House impost.

It is possible that the rather spectacular position that domestic refrigeration now occupies, due to long continued and expensive propaganda and sales pressure of every sort; and further, the success that it has achieved due to its public need and benefit; and finally, the fact that it has attained large sales, which can easily be taxed, have combined to make this branch of this industry an easy mark in this tax emergency.

Our view is that this excise tax should be apread over all refrigeration and all these other devices as a general excise tax, each industry and part thereof to bear its justly needed share.

It is further possible that this particular area of this particular refrigeration industry has been selected on the assumption that it has been a highly successful activity financially. The reverse is true.

The electric refrigeration business particularly in the domestic field, was practically initiated about 25 years ago when some of the modern refrigerant gases were discovered which turned out practical and economical and susceptible of safe operation without constant expert attention. The industry then slowly grew and became a practical industrial affair prior to the World War.

Since the war it slowly increased until about 1925 or 1926 when it suddenly became a great industry with the growth during recent years up to 1928 shown on page 5 of P–1, followed by a continued increase, resulting in sales of about 900,000 units during 1931 for $216,000,000.

Throughout our complaint to the Federal Trade Commission we stressed the mortality and lack of profit in the industry especially on pages 67 and 74 of P–1.

The various failures, shrinkages of operation, and reorganizations in the industry to date all speak for themselves.

Among the various attempts to launch effectively and permanently into this highly specialized industry, a single effort is known costing more than $5,000,000 cash—with total loss to the investors concerned.

Examination of these records by any auditor will disclose a very heavy mortality and a very small return on the investment, effort and expenditure spent in this field as compared with the records of many other devices in the same general domestic category (such as washers, cleaners, etc.) aggregating larger sales wider diffusion and a greater amount of profit.

Why, therefore make an exclusive target of this last item—domestic mechanical refrigeration, now already heavily taxed in all its constituent costs.

Again, why make this excise tax 5 per cent, when the no more essential items of automotive cars and trucks are respectively assessed at only 3 per cent and 2 per cent?

If the medical profession of the United States and the hospitals, and the charitable and welfare workers, and the women of the Nation; and all the food growers of meats, fruits, and vegetables; and all the transportation agencies for foods; and all the storage and distribution agencies for foods; and all the hotel and restaurant facilities of the country—were examined on this subject they would give unanimous evidence of the weightiest and most conclusive sort as to the necessity and economy of this modern refrigeration; the great service it has provided towards making possible and now

almost universal (and at greatly reduced cost) the growing, distribution and use of fresh meats, fish, poultry, dairy products, fruits, and vegetables, regardless of season, climate and latitude; and the benefit all this new and effective method of "modern refrigeration" distribution and storage of food in detail has afforded to increase the health and comfort of the whole Nation from the cradle to the grave. An increasing body of laws requires refrigeration.

What possible industry can be found that is so fundamentally essential throughout the year to the purse, the health and the comfort of every single living soul in the nation—and why should it first and alone of all the domestic appliances be exclusively included in this excise tax, and further, at the highest rate?

Without this modern refrigeration the nation would now return (as a general home proposition) to the days of rare and nonfresh fruits and vegetables for most of its area and most of the year and sour milk and stale meat and fish—and in general to more expensive, less effective and less well regulated foods with the resultant harm to the health and life of our whole population which the old conditions automatically entailed.

The above views of myself and the company I represent are based on seven years' active experience in the automatic electric mechanical refrigerator field, both here and abroad, throughout the range of its use as summarized on pages 87 to 94, inclusive, of our "complaint before the Federal Trade Commission"—P-1, and attached literature.

The data coming before you on this subject from the refrigeration industry is presented in detail by the National Electric Manufacturers Association (refrigeration division) and the Electric Refrigeration News, the organ of the industry, as well as from the various individual sources like my own.

It all illustrates very clearly the current fast march of human knowledge and experience, whereby the luxury of one day becomes the necessity of the next—in our constant present active and highly informed advance in the understanding and improvement of living.

In general, it is axiomatic that every human activity, which sustains itself and really pays its way as it goes in competition, must include in its essential costs every essential expense; and hence, any tax imposed on this industry must be passed on to the ultimate consumer, who in the end must pay all costs for everything produced and distributed for his or her use.

The evidence put before you shows that this industry can not absorb into its profits the proposed exclusive and excessive 5 per cent excise tax, as it has not made, and can not now make, such profits, and must therefore of necessity, if it is to survive, pass any such tax on to the individual user, which may jeopardize the progress of the industry to such extent as to accelerate its difficulties and even result in its failure.

The "ultimate buyer" in this domestic refrigerator industry is a very fair cross section of all current American life.

Automatic electrical mechanical refrigerators to-day can be bought dependent upon size and in a wide range of good quality, anywhere from $100 up; and dependent on the place and character of use, including the local rates for electricity and gas, can be operated for anywhere from 6 cents a day up. It is in no sense a luxury.

It must be quite clear that the present domestic owners of three and one-half millions of these machines now in operation (or 17 per cent of the 20,000,000 wired homes in this country, belonging to every class of society that constitutes the cross section of average American life) do not use them for display or amusement, like a piano or radio or in part motor car, but to the contrary in the obscure domestic portion of their homes for essential and economic service for health, comfort, and economy of the family.

The very fact that this domestic electric refrigeration business is relatively so new and potent has inspired the personnel in its whole manufacture and distribution throughout the country with a remarkable enthusiasm and desire to achieve, for which reason it has submitted of late everywhere to the maximum diminution of personal return and increase of personal effort to bring the price of the units down to their present exceedingly low cost for such extremely intricate and expert devices—because only by such action, particularly at the present time, could it effect production costs low enough to inspire the 17,000,000 unequipped homes of this Nation to purchase these needed devices.

Speaking for myself and the company and personnel and our distributive agencies which I here represent—we welcome our proper share in this excise tax, believing it to have universal application as a fair and important basis of paying current essential Government expenses; but I may also say in conclusion that we all definitely feel that our willingness to assume this burden—and in sound American dollars without delusive and destructive inflation—is contingent upon the speedy and drastic curtailment of all Government expenditures for services and personnel to a degree reasonably equal to that which has already been necessarily accepted by all private individuals and enterprises throughout the country during the recent period of stress, in order to again stabilize conditions of business and life in the nation, and bring about an early return of wholesome prosperity for all our people.

The CHAIRMAN. Thank you.

Mr. EVANS. I would be glad to answer any questions.

Senator WATSON. Have these other gentlemen representing refrigerators anything now to say?

The CHAIRMAN. They are all through now.

Senator WATSON. There were two more here on refrigerators.

Mr. EVANS. Mr. Chairman, may I leave these exhibits?

The CHAIRMAN. Yes; you may.

Mr. EVANS. They give you an idea of the technical part of the industry and show its difficulties.

The CHAIRMAN. That will all be filed for future reference.

The CHAIRMAN. I have been asked to place the following telegrams in the record:

NEW YORK, *April 18, 1932.*

HOWARD BLOOD,
Mayflower Hotel, Washington:

Answering your inquiry our records indicate that in discounting over past year more than $10,000,000 of electric refrigerator installment papers through approximately 150 of our branch offices in United States that the repossession

ratio on refrigerator paper is far better than our repossession ratio on installment paper covering other electrical merchandise such as washing machines, vacuum sweepers, and radios.

HENRY ITTLESON, JR.,
Vice President Commercial Investment Trust (Inc.).

BALTIMORE, MD., *April 18, 1932.*

T. B. ZIMMERMAN,
Care Mayflower Hotel, Washington:

Answering inquiry domestic refrigerator paper liquidates with less delinquency and fewer repossessions than any other type consumer maker receivables.

Our company handles many millions electric refrigerator paper past two years with nominal loss despite generally difficult conditions.

H. B. MATTHEWS,
Vice President Commercial Credit Co.

TAX ON SPORTING GOODS

STATEMENT OF JOHN R. ELLIOTT, PRESIDENT OF THE NATIONAL SPORTING GOODS DISTRIBUTORS' ASSOCIATION

Mr. ELLIOTT. As president of the National Sporting Goods Distributors' Association, I desire to enter the protest of our association against a tax of 10 per cent on sporting goods as outlined in section 609 of H. R. 10236.

We feel that a tax on the majority of items mentioned in this section are a tax on the development of the physical welfare and happiness of young America. Many of the items so taxed, including baseball equipment, football, basketball, volley ball, soccer ball, playground and indoor baseballs are a part of the curriculum of our schools and colleges. The majority of such equipment is purchased by schools and boards of education for the use of the students and is given to the boys and girls so that they may develop their bodies, as well as their minds.

We are thoroughly aware of the fact that our Government needs to raise revenue and, of course, we are heartily in accord with the original manufacturer's sales proposal tax of 2¼ per cent on all manufactured products.

However, the bill for that tax for some reason did not pass and, therefore, the sporting-goods industry has been saddled with this tremendous burden. The sporting-goods industry, as a whole, operated at a loss in 1931, and in spite of cuts in salaries and overhead, are facing another and greater loss for 1932.

Gentlemen, we make the request in all sincerity that the tax on sporting goods, particularly baseball, football, basket ball, volley ball, indoor and playground ball be eliminated entirely. Surely this great country does not have to place a tax on the games that develop the physical well-being of its children.

However, it we must stand this 10 per cent tax on sporting goods, I think I can say for the sporting-goods distributors that we are good enough sports to face the music and take our medicine like sportsmen.

Let us, however, analyze this section 609 and see if the makers thereof have not done many injustices. They have overlooked some items in sporting goods that should be taxed (if such taxation is imperative) and they have included other items that should not be taxed. Take the first item mentioned, namely, tennis rackets.

Hundreds of sporting-goods dealers and tennis professionals buy the racket frame and string the racket themselves. Therefore the tennis racket does not become a finished product until it is strung. Who is going to pay this tax? The manufacturer of the frame or the manufacturer of the strings or the sporting-goods dealer who puts them together? If the last mentioned pays the tax, then will

the expense of collection from hundreds of sources preclude the possibility of the Government getting any net income from such a tax?

If you gentlemen still decide that you want to tax tennis rackets I would make the suggestion that that read: Tennis-racket frames, tennis rackets, and tennis-racket strings.

Let us pass on to canoe paddles and cushions. Let us take the paddles, but who in the name of Noah is going to define what is a canoe cushion?

Senator SHORTRIDGE. Well, you know what it is, don't you?

Mr. ELLIOTT. Yes, sir; I know what a canoe cushion is, but I wouldn't know whether it was going to become a canoe cushion until it was sold for use in connection with a canoe.

The same type of Kapok-filled cushion is sold for use in automobiles, for the office, for the home, for use anywhere where mankind desires to make sitting down more comfortable. These Kapok-filled cushions when used in canoes (and possibly less than 5 per cent of them are so used) are, because of the buoyant nature of Kapok, capable of sustaining a person afloat for some time in the water. In this way such cushions have saved many lives. Are we to place a tax on an article that may save a life?

Let us now pass on down the line to the baseball shoes. What constitutes a pair of baseball shoes? All baseball shoes are equipped with steel spikes or toe plates. Suppose that the makers of the shoes eliminate the spikes. They then become just shoes. The dealer sells the boy a pair of shoes, then the boy buys a set of spikes and he attaches them himself. How are you going to collect the tax from a quarter of a million boys who themselves completed the operation of making a pair of baseball shoes?

Senator COUZENS. Oh, I think you are carrying that to absurdity.

The CHAIRMAN. I think so, too.

Senator SHORTRIDGE. You don't think that would be done, do you?

Mr. ELLIOTT. I do not want to be considered as saying this in any spirit of levity at all. My idea is that if we are going to pay taxes, and we are perfectly willing, we do think that this bill should read in a way that a sporting-goods factory could understand it. I think footwear should be eliminated for tax purposes for the reasons I have cited.

Senator SHORTRIDGE. Well——

Mr. ELLIOTT (interposing). Do you mind my going on with this statement?

The CHAIRMAN. Proceed.

Mr. ELLIOTT. Now let us run down the line to football goals. Football goals are made of three pieces of timber, two uprights and a crossbar. Any lumber yard in the country will furnish this lumber, cut to proper size specifications, and any carpenter will erect it. Who is going to pay the tax? The lumber dealer or the carpenter? If the lumber dealer, how in the heck is he going to know the lumber is for football goals?

Please note the item of basketball uniforms. What constitutes a basketball uniform? In the first place the shirt is a knitted shirt, either of cotton or worsted; much the same kind of a shirt as you use for underwear. In fact, thousands of such shirts are sold for

underwear. Gentlemen, if you are going to place a 10 per cent tax on these shirts you should tax all sleeveless shirts made by the knitted-goods industry.

The pants are "shorts" and made of materials that are often used for underwear. Also for general gym wear. If you are going to tax these pants, then place the same tax on all clothing made of similar textiles.

In other words, we feel that as to clothing you can not say it is an item that is directly connected with sports goods.

If you include shoes as a part of the uniform, then you will have to tax every youngster who wears a pair of rubber-sole "sneakers," because that is what basketball shoes are.

You gentlemen can see that if this stuff were billed to a sporting-goods dealer he is buying for sports, but if it were billed to a dry-goods store he would buy it for underwear and sell it at 10 per cent less and where would the sporting-goods dealer come in?

We have no comments to make on the balance of the items included in this bill, other than we note you tax fishing rods and reels, but you do not tax fishing nets. The commercial fisherman, the chap who makes his living out of fishing, usually makes his own nets and as he does not sell nets he could not, of course, be taxed. However, the fish hog who usually unlawfully uses nets for fishing, buys them from the factories. He denudes our ponds and lakes of fish, so why not tax him on fishing nets?

Senator SHORTRIDGE. Do you think they should be included?

Mr. ELLIOTT. All, if you are going to cover them.

The CHAIRMAN. There is general language in the bill to cover.

Mr. ELLIOTT. I was just criticizing the wording of the bill because it might come up later.

The CHAIRMAN. You may proceed.

Mr. ELLIOTT. In your list of sporting goods you had not mentioned boxing gloves, punching bags, rowing machines, pitching horseshoes, croquet, badminton, bowling, shuttlecock.

Again we say that if we must be taxed on sporting goods, please eliminate baseball, football, basketball, volley ball, playground and indoor ball.

Ninety per cent of the above items are used by children of school ages.

I thank you.

The CHAIRMAN. We thank you.

Mr. ELLIOTT. I thank you for giving me this much time.

STATEMENT OF JULIAN W. CURTISS, NEW YORK, N. Y., REPRESENTING A. G. SPALDING & BROS.

Mr. CURTISS. Mr. Chairman and gentlemen, my name is Julian W. Curtiss, representing the sporting goods industry, including the golf ball and golf club manufacturers. I mention all those industries particularly because in the bracket there are a number of industries included which have no bearing whatever in our manufacture. I refer particularly to billiard and pool tables, games, dice, and articles of that nature. And the reason I wish to have those divorced from our industry is because when the Senate took this tax off in 1921,

Senator Reed, of Missouri, objected to it being taken off, when I saw him, on the ground that he did not approve of billiard and pool tables.

Another thing that seemed to be in the minds of the committee is that professional baseball players use a large proportion of the goods. Less than 2 per cent of the athletic goods bought in the United States goes to professional players, and they do not pay for their own equipment. They go to the clubs, and the clubs have to pay a tax on their admission.

The fact of the matter is that the goods that we manufacture go largely to the youth of this country. There are over 1,000 schools higher than high-school grade, in this country, and over those one thousand colleges, there are only about 25 whose gate receipts are sufficient to pay in any way for the goods that they use.

Now, bear in mind that physical exercise is really a part of the curriculum of every college and every high school.

And, furthermore, remember that these institutions that represent so great a proportion of our trade, are in the nature of eleemosynary institutions; they are dependent on the small tuitions they receive; on the gifts of their alumni; on the gifts of States, and on the gifts of municipalities.

Now, no one would think of taxing school books which those children use, and I claim it is just as unjust to tax the athletic goods that form a part of the physical program. There are over 10,000 high schools in the United States, and in every high school, without exception, the children are examined for physical defects. Exercises are recommended, and the industry that I represent furnishes the goods to carry out those exercises.

To be sure, there are some 25 colleges in the country that have large football receipts; but in no case do those receipts do more than supply the athletic needs of the university. Yale, whose receipts are, perhaps, as large as any—I can speak accurately in regard to what she has done—her whole athletic equipment has been built up out of those gate receipts. And yet this bill proposes to tax the very gate receipts, and then those gate receipts being passed on to the goods, and then the goods being taxed in addition, it seems to me, it is a real case of double taxation.

But the worst of it is that the goods themselves go to build up the youth of our land; to give them health and strength and enjoyment—enjoyment in its fullest and best sense.

Senator BINGHAM. Now, Mr. Curtiss, how large a proportion of the sporting goods are sold to young people?

Mr. CURTISS. With everything, except golf, at least 95 per cent goes to young people.

Senator HARRISON. Has the price of sporting goods gone down or increased or remained normal in the last five years?

Mr. CURTISS. Oh, it has increased.

Senator HARRISON. Baseballs, for instance.

Mr. CURTISS. Yes, sir.

Senator HARRISON. What do they sell for now?

Mr. CURTISS. Well, I have been in the business over 50 years. When I first came in those baseballs sold for $1.50 each, or $15 a dozen. The clubs now buy them for $14 a dozen.

Senator BINGHAM. In other words, the price has diminished?

Mr. CURTISS. The price has diminished. Of course, other things have gone up. Tennis balls never have been so cheap as they are to-day.

And, speaking of tennis, I went to the park yesterday afternoon and every tennis court was crowded, and I venture to say, if my judgment is worth anything, there was not a single person playing on those courts that was over 18 years of age. Those are the people that handle our goods, with the single exception of golf. Golf is a game for old and young.

Senator HARRISON. Mostly for old fellows, like the chairman of this committee.

Mr. CURTISS. I submit it is a most enjoyable game, and we are all paying taxes on our club dues.

But the great majority of the people to-day are flocking to those municipal courts, because the game is of such value to the old and young.

I thank you.

NEW YORK, *April 15, 1932.*

To the Members of the Senate Finance Committee.

GENTLEMEN: I appreciate much the opportunity of appearing before you in behalf of the sporting goods industry. That association of manufacturers has selected me for their chairman and asked me to present their case to you.

The present bill was rushed through the House of Representatives so rapidly that no opportunity was there given. We realize fully the necessity of balancing the Budget of the country and the difficult task that it presents to your honorable body, but I certainly can not help but feel that an injustice has been done to our small and struggling industry.

I wish to register a strong protest right at the start against the inclusion of billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games, and parts of games, in section 609. They have nothing whatever to do with our industry and should have a separate section. The Golf Manufacturers and the Athletic Goods Manufacturers are not interested in the slightest degree in them, nor have they any part whatever in our industry, and I certainly wish to make the strongest possible plea that they should be separated. The reason for this inclusion is because they have evidently copied this from the list that was made up after the war. And I know that some of the Senators with whom I talked at that time were against removing the tax from our industry because of this inclusion of billiard and pool tables.

When this tax was finally removed by action of the Senate the vote was extremely close and Senator Reed of Missouri reserved the right to call the matter up again. I then had a personal interview with him and his sole objection to removing the tax was simply on account of the association of billiard and pool tables. After explaining the whole matter he withdrew all his objections and never asked for any consideration. I mention this incident to show how unfair this association is to the real sporting goods industry.

If this classification is made as it properly should be then the revenue to be derived from this tax would be less than four millions and at the present rate of decline over last year it will, I am afraid, be closer to three millions.

Our sales at present are about 35 per cent less than last year and that was a most unprofitable one. A 10 per cent tax would increase much the sales resistance and would make a most unfortunate position still worse, throwing many more people out of employment.

When a similar tax was imposed on sporting goods after the war, as a war measure, I found that in the minds of the members of the Ways and Means Committee of the House and of the Finance Committee of the Senate, there was a distinct feeling that sporting goods were largely used by professional ball players. The professional ball players represent but an exceedingly small percentage and all their equipment is supplied to them by their clubs who are to be taxed 10 per cent on their admission fees. It was apparently not realized that the great users of sporting goods to-day in this country, are the boys and girls in the schools and the youth in the colleges.

There are about 1,000 institutions above high school rank in this country. In approximately 975 of these colleges, the receipts from admissions are insufficient to maintain inter-collegiate athletic program without additional help. In perhaps 25 colleges and universities where practically all of the physical education activities with the exception of football, are conducted at a loss, football supports the minor sports and intramural program. In the majority of these 25 universities the athletic departments are heavily in debt for their athletic plants. College athletics as a legitimate part of education should no more be subject to a tax than should the law colleges, schools of journalism or other courses and departments. Athletics are partly supported, it is true, by the voluntary contributions of the ticket purchaser, while the other departments are maintained by gifts from the wealthy and from taxes and tuitions. It has not generally been the custom to tax eleemosynary institutions or enterprises that are philanthropic in character. The educational institutions that are maintaining athletic departments are eleemosynary. Football, the only paying sport of the colleges, is philanthropic in that the profits are used in maintaining the other activities and in building the athletic plants.

Let us emphasize this statement that with the exception of golf implements alone, 95 per cent of all the sporting goods of the country go to help build up the strength and manhood of our youth. Schools generally have a physical program which is part of their curriculum. Is it fair to tax the receipts of the games that are held and then also tax them for the very goods which enable them to play those games? Let me reiterate, every college devotes the money received from athletic contests to paying, as far as possible, for the athletic equipment and facilities that their students enjoy, and a 10 per cent tax on admission decreases, of course, by just that much their receipts and gives them just so much less money to expend in their sporting goods equipment. Is not this hard enough on our industry without coupling with it another 10 per cent tax on the goods themselves? There are some few college games that draw large amounts of money, but at the outside there are not over 25 colleges where the gate receipts are sufficient to take care of the recreation requirements. I can speak particularly for Yale, because I am an alumnus of that college. Her gate receipts have enabled her to equip her playgrounds, to build her stadium and to provide for her thousands of students a complete athletic equipment. The university benefits by gifts from her alumni. Athletics have to pay their own way.

There has apparently been no thought of taxing toys, which is well, but why overlook the dolls and jumping jacks and take it out of the boy on his baseball, basketball, and football?

Golfers of the country are an older class. It is the one sport which the old as well as the young can enjoy. I brought the first golf implements that were ever sold to this country in the year 1892 and commenced to play the game at that time myself, and yet after 40 years I get the same thrill when I step out on the first tee. It is also the only sport where the tax would not fall directly on the youth of our country. Most golfers are paying taxes on their club dues. Those who frequent the public courses are building up their health and sustaining their spirits. This is certainly not an unimportant feature in these worrisome times. Does it seem quite fair that their one great health-giving recreation should be severely taxed?

Not much headway can be made in this busy world of ours by those who lack health and strength. The training of the body surely goes hand in hand with the training of the mind and this is universally recognized in all of our educational institutions. Even in the elementary schools, physical education is provided for. The high schools of the country, and there are many, many thousands, as you know, encourage the love of games. Basketball which started first in the Y. M. C. A.'s has spread to every high school throughout this country. It is the great winter game for them, just as tennis and baseball fill their summer needs. The most wholesome joy that comes into the life of a school boy or girl of the United States is from their sports.

Is it fair that the implements of this recreation that mean so much to them, should be heavily taxed? It is hard work for these high schools now to meet their budgets. To impose a further tax on it means the curtailment of their play, which is certainly their right and privilege.

During the past winter we have devised every means that we know to keep our people employed. We have staggered our factory help. We have tried to take care particularly of those who have families dependent upon them. With the approach of spring we began to take a long breath and feel that our work so far had been pretty well accomplished, when this heavy excise tax cast a gloom over our whole industry.

As I said before, we are small in size. There are many industrial corporations whose yearly sales would far exceed the totals of our whole industry. I figure that the lifting of this tax would probably not decrease the budget by much over three million—certainly not over four—and the bulk of it is being taken right out of the boy and girl of the United States.

Respectfully submitted on behalf of the Sporting Goods Industry.

JULIAN W. CURTISS, *Chairman.*

APRIL 18, 1932.

To the members of the Senate Finance Committee:

GENTLEMEN: May I not suggest that in the administration of this tax the following plan should be followed, namely, that although you decide to keep the 10 per cent tax, which should be a fixed sum, on the regular lowest manufacturers' selling price, it would be far more equitable and easier for the industry if in figuring this a 5 per cent tax on the retail-list price were made the basis of tax to be paid. This would amount to exactly the same in dollars as far as the return to the Government was concerned, but it would be much fairer to the consumer. If a 10 per cent tax is put on the manufacturers' lowest selling price, this would be increased again by the jobber when he sells the retail dealer and the retail dealer would increase it when he sells to the consumer; in other words, the tax would be pyramided. In our industry there is a regular fixed list price. Most of the manufacturers sell goods on a basis of discount from that price whether it is one-third, 40, 50, or even better. Fifty per cent is the general lowest price ot jobbers.

The following is an illustration of how this would work out. I have taken an imaginary article that costs the factory $12 per dozen. The factory would sell these goods to jobbers at $15 and that would be the price on which the 10 per cent tax would be figured. This is in accordance with the sales tax system as administered in our industry in Canada. The jobber would advance his cost one-third to sell to the retailer. The retailer would advance hit cost 50 per cent to sell to the consumer, thus giving a retail profit of 33⅓ per cent to the retail dealer, 25 per cent to the jobber, and 20 per cent to the factory. I have put down in these figures just exactly what the result would be in following out my 5 per cent tax on retail-price plan and in following out the 10 per cent tax, and also figuring out the Canadian system of adding the 10 per cent to the cost and starting from there.

	Factory cost	Price to jobbers	Price to retailers	Retail list
	$12.00	$15.00	$20.00	$30.00
5 per cent on list	13.50	16.50	21.50	31.50
10 per cent	13.50	16.50	22.00	33.00
10 per cent added to cost, Canadian plan	13.50	16.50	21.80	32.70

Under my plan same tax is handed on. The consumer pays exactly the same tax that Government receives; under other plans it is much increased and unfair to the consumer.

Furthermore, our catalogues have been distributed for this year all over the United States and it would cost the industry a great amount of money to print new lists and change the prices, which they would have to do unless the plan that I have outlined is followed, namely of adding a definite tax to each article.

Respectfully submitted on behalf of the sporting-goods industry.

JULIAN W. CURTISS, *Chairman.*

TAX ON FIREARMS

LETTERS FROM THE AMERICAN MINING CONGRESS AND THE SAFETY MINING CO.

THE AMERICAN MINING CONGRESS,
Washington, D. C., April 14, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States, Senate, Washington, D. C.

MY DEAR SENATOR SMOOT: May I ask your special attention to the appeal of the Safety Mining Co. with reference to the wording of section 610, on page 238, of H. R. 10236?

The reading of the bill clearly shows that its intent is to tax firearms, and shells and cartridges used therewith, but the punctuation and wording of the first two lines of the section create a doubt as to whether this would not also apply to the mining cartridge used in coal mining.

I will greatly appreciate it if you will give this matter consideration and I am sure you will see the desirability of changing the wording to read "There is hereby imposed upon firearms, and shell and cartridges therefor, sold by the manufacturer, etc."

Thanking you for your attention, I am,

Very sincerely yours,

THE AMERICAN MINING CONGRESS,
By J. F. CALLBRATH, *Secretary.*

[H. R. 10236, Sec. 610, tax on firearms, shells, and cartridges]

The Safety Mining Co., of Chicago, Ill., manufacturers a permissible blasting device known as Cardox and commonly called a shell or cartridge.

This shell or cartridge is charged with CO_2 gas and is sold or leased to mines for the purpose of dislodging coal. Safety is one of its many features.

We do not believe it was the intent to tax the manufacturer of a commercial shell or cartridge of this nature, the intent being to tax firearms only.

To provide for the correct statement and interpretation of the section we suggest the phraseology of the caption and the clause be amended as follows:

"Tax on firearms and shell and cartridges therefor."

There is hereby imposed upon firearms and shells and cartridges therefor, * * *

SAFETY MINING CO.
By ——— ———, *Vice President.*

LETTER FROM THE FAIRCHILD AERIAL CAMERA CORPORATION

NEW YORK, *April 13, 1932.*

CHAIRMAN OF THE FINANCE COMMITTEE,
United States Senate, Washington, D. C.

DEAR SIR: The proposed tax act as passed by Congress contemplates a 10 per cent tax on sales price of all cameras weighing under 100 pounds.

The purpose of this brief is to show the damage that will be done to the aerial camera industry should the above-mentioned tax become effective.

Should a tax of 10 per cent on the sales price be placed on cameras of the aerial type as manufactured by the Fairchild Aerial Camera Corporation, New York, N. Y., it can definitely be said that it will mean a gradual decline to where we will have but 40 per cent of our present employees gainfully employed and, with the present threat of a rising competitive foreign market in this industry, it will eventually result in the Fairchild Aerial Camera Corporation (at present manufacturing 85 per cent of the aerial cameras in the United States) closing down entirely.

The branch of photography known as aerial photography, in which aerial cameras are used, is confined chiefly to photographs for the use of mapping agencies and map engineering companies. This important industry has indeed been

struggling for recognition of its product for the past 12 years. Despite many handicaps and necessarily high cost of sales missionary work, it is gradually becoming a necessity in many branches of engineering. Aerial photographs play an important part in many industrial uses, such as the construction of roads, waterways, tax planning, etc. Very few of the concerns employed in the art of aerial photography have been profitable. Any additional burden placed on these companies, such as the contemplated 10 per cent tax on the cost of equipment supplied them, would be a serious handicap and work a great deal of hardship. Inasmuch as the average price of aerial cameras is around $1,500, the tax will have its influence on discouraging small operators from entering the field and curtail the operations of those already operating.

Aerial cameras range in price from $450 to $8,500, averaging, as mentioned, around $1,500 in price. At this price the merchandising of a product such as aerial cameras is most difficult, and the inclusion of an additional 10 per cent is bound to add an insurmountable sales barrier.

The foreign field for aerial cameras, in the event of a 10 per cent sales tax, will be practically obliterated. We, as American manufacturers of aerial photographic equipment, necessarily have a much higher labor rate than our foreign competitors. However, we have been able to compete favorably with foreign competitors due largely to ingenious construction, excellent sales tact, and good production facilities. Despite these advantages, we have had enormous difficulty in marketing against the slightly higher sales price of our equipment as compared with cameras of foreign manufacture. For example, the aerial camera known as the Eagle camera, manufactured by the Williamson Co. in England, sells at $1,372 against an aerial camera of similar design, manufactured by us and selling at $1,440. The small difference of $54 in base price many times represents the difference between we getting the order and our foreign competitor getting it. Should we be forced to add a 10 per cent sales tax, we are sure, from 12 years of foreign merchandising, that it will be a physical impossibility to sell our equipment in foreign markets. It should be borne in mind that this additional $54 is not the only factor we have to contend with. Tariff barriers have been raised in all foreign countries with which we have dealt in the past—as an example, in Canada we are faced with 30 per cent duty, 6 per cent sales tax, and 10 per cent differential on exchange—whereas our competitors, such as Williamson, of England, pay but 10 per cent preferential duty, 6 per cent sales tax, and practically no differential on exchange. Through unusual efforts on our part, we have until this year been able to hold the Canadian market. However, the differences in exchange are proving an enormous burden and an additional 10 per cent tax imposed certainly will put us entirely out of the Canadian aerial photographic market, one of our largest fields.

It is worthy of note that few, if any, aerial cameras are used for personal use. In the entire 12 years of selling we have but once sold an aerial camera that might be deemed for personal use and that to the class known as a sportsman pilot, the sale amounting to $500.

While the intention of this brief is to bring particular attention to the aerial-camera field, it is worth noting that practically all cameras weighing over 20 pounds fall in the industrial class, being used strictly for industrial purposes, giving employment to a considerable number of individuals through their use. This class of camera should not be confused with the amateur camera used by the layman strictly for personal use. There are very few cameras in the amateur class weighing over 20 pounds.

We contemplate our sales volume for this year at $350,000 gross business on which, under the most favorable conditions, we should net approximately 10 per cent. However, due to present conditions and the necessity for lowering our price to the absolute minimum, and, further, feeling it a duty to hold as much of our personnel as possible, we doubt if we will make any profit, and we know that should we be burdened with the additional 10 per cent sales tax, it will be necessary, because of the large amount of sales we will lose, to hold only the absolute nucleus of our organization and see what the future holds forth.

We appeal, therefore, to you, interested in the employment of labor and the welfare of American corporations endeavoring at this time to employ as much man power as possible and to compete favorably in foreign markets, to carefully judge the advisability of this additional 10 per cent sales tax on cameras falling within the industrial class, with special attention given to aerial photographic camera equipment. We recommend that no tax be placed on aerial cameras weighing over 20 pounds.

Respectfully submitted.

FAIRCHILD AERIAL CAMERA CORPORATION,
F. W. LUTZ, *Vice President.*

TAXES ON MATCHES

The CHAIRMAN. Is Representative Seiberling present?

Representative SEIBERLING. Mr. Chairman, may I present Mr. Ned G. Begle, of the Berst-Forster-Dixfield Co.?

The CHAIRMAN. We will hear Mr. Begle.

STATEMENT OF NED G. BEGLE, NEW YORK, N. Y., REPRESENTING BERST-FORSTER-DIXFIELD CO.

Mr. BEGLE. Mr. Chairman and gentlemen of the committee, my name is Ned G. Begle, president of the Berst-Forster-Dixfield Co., manufacturers of matches, and representing about 98 per cent of the match industry, all of the match boxes, except several of the paper-box matches.

I may say, Mr. Chairman, that there are here to-day every match factory in the United States represented by an executive.

The House bill of 4 cents a thousand would be such a decided burden, confiscatory on the match industry, that every match manufacturer has felt it necessary to protest. We have studied it carefully, and if we must be taxed—and it seems inevitable that our industry and other industries must pay some increased taxes—then we propose a tax that will be scientific, and a tax on our competitors, like lighters, and will not be out of line with other taxes, that are not luxuries but necessities.

We are not proposing a tariff. It we have to be taxed with a sales tax or an excise tax, we wish to be taxed in a way that will simply equalize our taxes with the tax on imported matches.

I have a brief, Senator Smoot, that will take about 10 minutes. If anyone wishes to ask any questions during the reading, I shall try to answer them.

Senator HARRISON. Let me ask you this now: Are you connected with the Diamond Match Co.?

Mr. BEGLE. No, sir; not in any way. I am president of the Berst-Forester-Dixfield Co.

Senator HARRISON. Are you connected with them?

Mr. BEGLE. No, sir; our only connection is that we sell them woodenware.

Senator HARRISON. Are you connected at all with this foreign concern, the Kreuger interests?

Mr. BEGLE. In no way whatever.

Senator HARRISON. Do you sell anything for them?

Mr. BEGLE. No, sir; we sell only what we manufacture ourselves.

Senator HARRISON. Is the Diamond Match Co. connected with them at all?

Mr. BEGLE. I do not know.

Match manufacturing is an old and typical American industry. The oldest company in the United States has been manufacturing

matches steadily for over 50 years. The quality of the American match is not equalled in any other country. In no foreign match factory are wages as high as in the American factories. In no foreign country does the consumer get as many matches for his money as in the United States.

The raw materials for making American matches and match boxes and packing supplies are found in nearly every State of the Union. Pine, poplar, cottonwood, gumwood are ideal for the match sticks; birch, maple, beech, poplar, gumwood, cottonwood make the best quality wood boxes, and the paper industry in this country furnishes the best of paper for wrappers, cardboard containers, and fiberboard cases.

All of the chemicals are produced in this country except chlorate of potash, and with necessary protection this chemical would—as during the war—be produced here in quantity and quality as required.

Much of the raw material required for the manufacture of matches is furnished by the farmer, a large amount of the wood for the sticks and boxes and the spruce for paper and containers also comes largely from the farmer's woodlot and is a cash crop and a valuable crop.

Because of this plentiful supply of good-quality raw material, scattered quite generally all over the country, and the steady and universal demand for matches from every section of the country, factories have been operating making matches, match blocks, match sticks, and match machinery during recent years in 21 different States, as follows:

Maine: One wood match factory and one match block factory.
New Hampshire: One wood match factory and one match block factory.
Massachusetts: One paper book match factory.
New York: One wood match factory and three paper book match factories.
New Jersey: One book match factory.
Pennsylvania: One wood match factory and two not operating.
West Virginia: One wood match factory.
Georgia: One wood match factory not operating at present.
Alabama: One wood match factory.
Mississippi: One wood match factory.
California: One wood match factory.
Washington: One wood match factory and three wood match block factories.
Idaho: One wood match block factory.
Minnesota: Three wood match factories.
Wisconsin: Two wood match factories and one factory building match machinery.
Ohio: Four large match factories in which every type of match is made and two factories making match machinery.
Missouri: One paper book match factory.
Illinois: One wood match factory, closed at present.
Michigan: One wood match factory, closed at present.
Florida: One book match factory, not operating at present.
Indiana: One wood match factory, closed at present.

When operating normally there are fully 25,000 employees in this American Match Industry and many more dependent upon it for work, and the investment is fully $85,000,000. The capacity of all the factories is from two to two and one-half times the present consumption of American-made matches.

Senator GORE. What is that last?

Mr. BEGLE. The capacity of all the factories is from two to two and one-half times the present consumption of American-made matches.

Senator SHORTRIDGE. Pardon an inquiry. Could you not orally give us the high points, the outstanding points of your brief?

Senator WALSH of Massachusetts. His objections to this excise tax we would like to have.

Senator SHORTRIDGE. Yes, we would like to have your objections to this excise tax. I would like to read your brief, and of course it will be printed.

The CHAIRMAN. When his time is up we will ask him to put the balance of his brief in the record.

Mr. BEGLE. I think I am the only representative, and it will only take ten minutes. It is not long. A good deal of this I am passing by without reading.

Senator SHORTRIDGE. It is difficult to carry the details of figures in our minds. Proceed, however. Pardon the interruption.

Mr. BEGLE. The match industry of the United States has been seriously harassed since the World War. During the latter part of the war, imports of matches stopped because of the scarcity of ships and Government embargo, so the American manufacturers were required to supply the entire demand in this country as well as the requirements for our armed forces abroad. This was accomplished by building new factories, such as the large plant in Savannah, Ga., now closed, and by increasing the capacity of the existing factories.

After the war came serious difficulties for the industry. While the increase in smoking created more demand for matches, this was fully balanced by the lessened demand due to the increased use of mechanical lighters, pilot lights on gas stoves, electric lighting in homes, and so forth. American factories were overbuilt, the capacity was fully double the possible consumption, and with a low duty of 6 cents per gross foreign matches were imported in large quantities.

Senator REED. Where did you get your chlorate of potash during the war?

Mr. BEGLE. It was made in three places. It was made out of seaweed on the west coast, and in Salt Lake City it was made from chemicals from Salt Lake.

Senator REED. Are there potash deposits near Salt Lake City?

Mr. BEGLE. Yes. As soon as the war was over we could not compete with the German potash, and it has been coming in since from Germany. Yes; there are deposits near Salt Lake City.

The CHAIRMAN. On the Lake shore.

Mr. BEGLE. These foreign matches came almost entirely from countries where the industry, through government monopolies, was controlled by the Swedish Match Trust, and while these matches came into the United States at an extremely low rate of duty, the terms of these various monopolies absolutely shut out American matches. The largest match company in the United States found it necessary to make a contract to sell the matches of the Swedish Match Co., in the United States; otherwise the imports would have been much larger and the conditions in the American industry much more severe.

In the summer of 1928 there appeared the most serious menace the American match industry has had to face. The Russian Soviet Government began to import matches into this country. All these Russian matches were sold to the trade at a low-cut price; their imports increased rapidly in volume and soon were at the rate of over 1,000,000 gross per year.

The Swedish Trust, in order to hold their American customers, had to compete with the Russian's cut prices and the Russians, to make easy and quick sales, put their prices lower and lower. A former representative of the Amtorg Company in charge of Russian match sales in this country recently testified before the United States Customs Court that he was instructed to sell these matches regardless of price. The Swedes followed the Russian price down to hold their trade and customers, and the price in 1929 went as low as 32 cents per gross, delivered duty paid. This compared with a cost of manufacture in the United States of 57 cents per gross.

These low prices naturally affected the price on the American type of match and that price has a corresponding drop. The effect on the American Industry was so serious that from 1928 to 1931 not an American match manufacturer operated on matches at a profit.

In 1929 the American match manufacturers complained to the Treasruy Department against the dumping of Russian matches. The department made a most careful investigation of all imported matches and, as a result, found dumping of matches from Russia and other European countries exporting to this country—nine countries in all. An appeal was taken by the importers to the customs court and the finding of the Treasury Department was overruled, partly because our antidumping act is not sufficiently clear and definite and does not define fair value, but principally because it was impossible to gather satisfactory evidence in Russia of the selling price there—the United States not having any trade commissioners or diplomatic representatives in that country. Therefore, as it now stands, there is nothing in the way of Russian matches again flooding this country at prices far below the cost of manufacture in this country—and this is violation also of the spirit of our tariff law.

Senator REED. Do they make all three types of matches, or only the box safety matches?

Mr. BEGLE. The Russians make the strike-anywhere as well as the strike-on-box, but the imports into this country have been all strike-on-box. We are informed, however, that the Russians as getting ready to export—and I have seen samples which have been sent over here of the strike-anywhere matches, which are exactly duplicates of our strike-anywhere matches. They can make them, that is the point, and they are going to export them. Articles in Russian publications have stated that the Russians are getting ready, and our Department of Commerce in the month of February stated that the Russian plan was to export largely the white pine American type strike-anywhere matches.

Senator REED. Do they make paper matches too?

Mr. BEGLE. No, sir. There are no paper matches coming from Russia.

The United States tariff law of 1930, unfortunately, has not operated as was intended by the framers of the law. Prior to 1913 some fancy matches with different colored sticks and heads were imported into this country. They cost more to make and pack than natural-color stick matches and were sold at higher prices. To equalize the duty with the cost and selling price the tariff act of 1913 placed matches with natural-color sticks under a specific duty of 6 cents per gross and matches with colored sticks under an ad valorem duty of 25 per cent, the amount of the ad valorem duty as was intended.

being much higher than the amount of specific duty. The exact wording of the act was:

wax matches, wind matches, and all matches in books or folders or having a stained, dyed, or colored stick or stem, tapers consisting of a wick coated with an inflammable substance, night lights, fuses, and time-burning chemical signals, by whatever name known, 25 per centum ad valorem.

This wording has been followed in all succeeding tariff acts including the Smoot-Hawley Act. In that act the specific duty was made 20 cents per gross on the natural-color stick matches and 40 per cent ad valorem on the colored-stick matches. This specific duty was low as the actual difference in cost of production between foreign and domestic matches, after careful investigation, was found to be 32 cents per gross.

Shortly after the Smoot-Hawley Act became operative the Russians (later followed by other importers) began coloring, with a cheap dye, all of their match sticks made for export and a small per cent of their match sticks intended for domestic use. They sold these colored stick matches in small quantities in their own countries at extremely low prices—as low as 30 cents per gross compared with prices from 70 to 90 cents per gross on their natural-colored stick matches. They then exported them to this country, declared the wholesale value as approximately 30 cents per gross, entered them under the ad valorem duty of 40 per cent, equivalent to 12 cents per gross, compared with the specific duty of 20 cents per gross on the standard natural color match—a less expensive match to make, because no dye is used. A very large per cent of matches now coming into this country are colored stick matches, coming in at a 12-cent duty and so evading the intended duty (and the revenue to our Government) by at least 8 cents per gross.

Since the Treasury Department rule that Russian matches coming into this country were violating our antidumping act, importers of these Russian matches have attempted to evade the necessary dumping fine (and this, apparently, with success) by shipping these matches to various other European countries such as Germany and Holland and then reshipping them to this country as German or Dutch matches.

Some patriotic American jobbers and consumers have shown a preference for American-made matches and a prejudice against imported Russian matches. To prevent this patriotism or prejudice from acting as a sales resistance to Russion matches, the manufacturers of these Russian matches are using distinctive American labels and often mark their boxes so indistinctly "Made in Russia" that American buyers are deceived and buy Russian matches not realizing where they came from. I shall have samples of all of those if the committee is interested.

As a result of these many evasions of our tariff laws and our antidumping laws, foreign matches have been imported in large quantities and sold at low prices; they have displaced many American matches and put many American match workers out of employment; they have also deprived our Government of a large part of the duty that it was intended should be collected.

In Mississippi, for instance, Senator Harrison, that mill that was built there was built to manufacture the matches here because of the 20 cent tariff, but as soon as the foreign exporter found that they could

color their sticks and come in under a 12 cent duty I understand work was stopped on that mill. They have evaded that tariff. Therefore there are no match workers operating in Mississippi to-day.

For these many reasons American match manufacturers have found it impossible for the past several years to realize even cost for their matches. During the last 10 years 14 box match plants and many other book match factories have been closed. Any sales tax or excise tax must, therefore, of necessity, be passed on to the trade and consumer. The American consumer, however, is paying a very low price for domestic matches, much lower than a consumer pays in European countries or in Canada. Boxes holding 325 American-made and American-type matches are often retailed as low as two boxes for a nickel, which is 130 matches for a penny. The standard price to the consumer on the foreign-type match is a penny for a box of 50 matches. Nearly 100 per cent of the American match industry is represented at this hearing. We feel we are patriotic American business men. We realize that the Budget must be balanced, that the match industry must and should bear its proportional share of increased taxes, but we emphatically protest against the exorbitant, unscientific, and confiscatory tax on matches as passed by the House of Representatives, which discriminates against matches, in favor of competitive lighters—would kill the advertising and give-away book-match business—and which taxes matches—a prime necessity—at a rate from 4 to 45 times as great as the rate placed on luxuries in the same bill.

Compare with other sales or excise taxes in this bill the proposed match tax is:

Four and one-half times the proposed tax on cosmetics, furs, jewelry, sporting goods and cameras, yachts, motor boats, and safety deposit boxes.

Nine times the proposed tax on chewing gum, radios, phonographs, candy, and mechanical refrigerators.

Fifteen times the proposed tax on automobiles.

Twenty-two and one-half times the proposed tax on trucks.

Forty-five and one-half times the proposed tax on automobile accessories.

Under this proposed tax the consumer will pay on the average 45 per cent more for his matches, as the selling price of matches in this country for many years has been cost, or less, to the American manufacturer. Any tax on matches, therefore, must of necessity be added by the manufacturer to his selling price.

If special sales or excise taxes must be levied to balance the Budget we propose in place of this House bill tax of 4 cents a thousand matches, a tax that would burden the match industry only in a proportion somewhat in line with the burden placed on other industries.

We propose a sales tax of 1 cent per thousand on domestic matches and ¼ cent per thousand on imported matches with natural color sticks and 2.3 cents per thousand on imported matches with colored or dyed sticks, and 12½ per cent on all kinds of mechanical lighters.

These rates are 12½ per cent of the selling price on both imported and domestic matches with natural color sticks. These rates of taxation do not discriminate in favor of the domestic match, but simply equalize the tax, making it 12½ per cent of the selling price of each kind.

A tax of 2.3 cents per thousand on matches with colored sticks puts a somewhat greater burden, relatively, on these cheap matches, but the burden is merely corrective and is only equal to the amount that matches of this kind have evaded the duty as named in the Smoot-Hawley Act. This suggested tax would raise the price very little, if any, to the consumer. Large household boxes of American strike-anywhere matches would still sell to the consumer at 5 cents per box—the pre-war price—and small boxes of matches, such as the foreigner makes, would continue to sell at the same price as to-day, namely, 1 cent per box or 10 cents per dozen boxes.

This tax could be collected at small expense and would yield a revenue of about $4,000,000. Under this suggested tax the match industry would be not only fully standing its fair share, but a substantially higher percentage of tax than any other stated in the House bill, where the highest tax proposed is 10 per cent.

Attached to this brief are tables showing the effect of this proposed tax on the consumer's price, and tables showing how this graduated tax equalizes the tax burden on imported and domestic matches.

The CHAIRMAN. Your time, Mr. Begle, is up, and you can put the balance of that on the record if you desire.

(The brief is signed by the following:)

The Diamond Match Co., T. J. Reynolds, vice president.
The Ohio Match Co., L. H. Meade, vice president.
Federal Match Co. H. D. Williams, managing director.
North American Match Corporation, John G. Daniel, vice president.
Wisconsin Match Corporation, B. C. Snead, secretary.
Sun Match Co. (Inc.), Titus H. Irons, vice president.
Union Match Co., C. S. Beasley.
America's Own Match Co., Ned G. Begle, president.
The Palmer Match Co., John L. Walker, president.
West Virginia Match Corporation, William Fette, jr., secretary.
The General Match Co., J. C. Peurring, president.
Columbia Match Co., J. H. Weaver, president.
Pacific Match Co., O. V. Snyder, president.
Empire Match Co., K. Friedman, secretary.
Atlas Match Co., N. M. Fruchtman, president.

Mr. BEGLE. Any questions?

The CHAIRMAN. I say you can put the balance of whatever you want to say in the record at this point. Your time is up.

Mr. BEGLE. Very well.

(The following data attached to Mr. Begle's brief is here printed in the record in full, as follows:)

MATCH INDUSTRY'S PROPOSED TAX ON MATCHES

There is hereby imposed a tax on matches:

Sold by the manufacturer or producer 1 cent per 1,000 matches.

Sold by the importer 1.4 cents per 1,000 marches with natural color sticks or stems.

Sold by the importer 2.3 cents per 1,000 matches with dyed or colored sticks or stems.

There is hereby imposed a tax on mechanical lighters of 12½ per cent.

The equivalent of a tax of 1 cent per 1,000 on both imported and domestic matches would be:

Domestic book matches, 20 matches to a book, 1 cent per 1,000 is 50 cents per case, or 12½ per cent of selling price.

Domestic Strike-Anywhere, 16 cubic inches, 325 matches to the box, 1 cent per 1,000 is 46.8 cents per case, or 13½ per cent of selling price.

Domestic Strike-Anywhere, 20 cubic inches, 360 matches to the box, 1 cent per 1,000 is 51.8 cents per case, or 12½ per cent of selling price.

Imported Strike-On-Box, 50 matches to the box, 1 cent per 1,000 is 7.2 cents per gross, or 9 per cent of selling price.

Proposed tax of 1 cent per 1,000 on matches is equivalent to the following per cent sales tax on present prices:

Domestic book matches, 12½ per cent.

Domestic 16 cubic inches. Strike-Anywhere, 13½ per cent.

Domestic 20 cubic inches. Strike-Anywhere, 12½ per cent.

Imported Strike-On-Box, 9 per cent.

American type matches, average, 12.8 per cent.

Foreign type matches, average 9 per cent.

A sales tax of 1 cent per 1,000 on domestic matches and 1.4 cents on imported natural color matches and 2.3 cents per 1,000 on fancy and colored stick matches would equalize the tax and yield approximately $3,500,000 annually. Sales tax of 12½ per cent on lighters would also be necessary to equalize the tax.

Principal packings of domestic matches:

Book matches, tax 1 cent per 1,000, 50 cents per case, equals 12½ per cent on selling price.

Sixteen-cubic-inch matches, tax 1 cent per 1,000, 46.8 cents per case, equals 13½ per cent on selling price.

Twenty cubic inches, tax 1 cent per 1,000, 51.8 cents per case equals 12½ per cent on selling price.

Principal packings of imported matches:

Natural color, Strike-on-Box, tax 1.4 cents per 1,000, 50.4 cents per case, equals 12.6 per cent on selling price.

Colored stick, Strike-on-Box, tax 2.3 cents per 1,000, 82.8 cents per case, equals—No fixed selling price.

Selling price on book matches:

Twenty matches to book, 2,500 books to case, $4 per case, tax 1 cent per 1,000, equals 12½ per cent.

Sixteen-cubic-inch matches, 325 matches to box, 144 boxes to case, $3.46 per case, tax 1 cent per 1,000, equals 13½ per cent.

Twenty-cubic-inch matches, 360 matches to box, 144 boxes to case, $4.16 per case, tax 1 cent per 1,000 equals 12½ per cent.

Imported matches, natural color sticks, 50 matches to box, 720 boxes to case, $4 per case, tax 1.4 cents per 1,000, equals 12½ per cent.

Imported matches, colored or fancy sticks, 50 matches to box, 720 boxes to case, no fixed selling price, tax 2.3 cents per 1,000.

If tax of 1 cent per 1,000 were placed on both domestic and imported matches it would be unfair to domestic matches in the ratio of 1.4 to 1.

One cent per 1,000 on book matches equal 12½ per cent on selling price.

One cent per 1,000 on 16-cubic-inch matches equals 12½ per cent on selling price.

One cent per 1,000 on 20-cubic-inch matches equals 12½ per cent on selling price.

One cent per 1,000 on imported matches equals 9 per cent on selling price.

TAX PROPOSED BY THE MATCH INDUSTRY

Proposed tax of 1 cent per 1,000 on O size, 45 matches to a box.

Adding the proposed tax to the present selling prices which are approximately cost, selling prices would be as follows:

Present net selling price per case, $3.46 to jobber.

Proposed tax to be added $.324 per case, $3.784 to jobber.

Jobbers sale price allowing jobber 15 per cent on sales per case, $4.44 to retailer.

Retailers sales price allowing retailer 30 per cent on sales per case, $6.34 to consumer.

Consumer would pay approximately 0.9 cent per box.

TAX PROPOSED BY THE MATCH INDUSTRY

Proposed tax of 1 cent per 1,000 on 16 cubic inch size, 325 matches to box, 144 boxes to case.

Adding the proposed tax to the present selling prices which are approximately ost, selling prices would be as follows:

Present net selling price per case, $3.46 to jobber.

Proposed tax to be added, $0.468 per case, $3.928 to jobber.

Jobber's sales price allowing jobber 15 per cent on sales per case, $4.62 to retailer.

Retailer's sales price allowing retailer 30 per cent on sales price per case, $6.60 to consumer.
Consumer would pay 4.6 cents per box—less than a nickel.

TAX PROPOSED BY THE MATCH INDUSTRY

Proposed tax of 1 cent per 1,000 on 20 cubic-inch size, 360 matches to a box, 144 boxes to a case.
Adding the proposed tax to the present selling prices which are approximately cost, selling prices would be as follows:
Present net selling price per case, $4.1225 to jobber.
Proposed tax to be added $0.504 per case, $4.6265 to jobber.
Proposed sales price, allowing jobber 15 per cent on sales price per case, $5.45 to retailer.
Retailers' sales price, allowing retailer 25 per cent on price paid jobber per case, $7.25 to consumer.
Consumer would pay 5 cents per box.

TAX PROPOSED BY THE MATCH INDUSTRY

Proposed tax of 1.4 cents per 1,000 on imported S. O. B. matches, 50 matches to a box.
Adding the proposed tax to the present selling prices would make selling prices as follows:
Present net selling price per case, $3.92 to jobber.
Proposed tax to be added $0.504 per case, $4.424 to jobber.
Jobber's sales price, allowing jobber 15 per cent on sales price per case, $5.20 to retailer.
Retailer's sales price, allowing retailer 30 per cent on sales price per case, $7.43 to consumer.
Consumer would pay 1 cent per box.
In the revenue act of 1918, section 901, is a provision whereby the fair market price of a commodity is to be taken as the value on which the tax percentage is to be applied. If a tax of 12½ per cent was placed on the fair market wholesale price of matches, this would be equivalent to 1 cent per 1,000 on domestic and 1.4 cents per 1,000 on imported matches.
The applicability of excise taxes has been defined by the court as follows:
"Impost duties take every conceivable form, as may, by the legislative authority, be deemed best for the general welfare. They have been at all times often specific. They have sometimes been discriminatory, particularly when deemed necessary by the tariff legislation of other countries." Knowlton *v.* Moore (178 U. S. 41, 88, 20 S. Ct. 747, 44 L. ed. 969).
The act of March 3, 1791, an excise tax on distilled spirits taxed imported rum more heavily than it taxed domestic spirits.
In the revenue act approved June 30, 1864, a business tax of $10 was assessed on insurance agents, and where the agents were foreign the tax on section 79 was fixed at $50.
Customs surtaxes are levied in many foreign countries—assessed only on articles imported, as levies on foreign goods sales or consumption—and in addition to the tax on the domestic article.
A few examples are as follows:
Austria: A sales tax in addition to the usual duty and in excess of the regular inland excises on sugar, tobacco, alcohol, playing cards, and matches.
Belgium: An additional tax on luxury goods imported and applying on imports only.
Canada: An extra 1 per cent extra excise tax on foreign goods including matches.
Chile: An extra excise tax on imported playing cards, cigars, cigarettes, tobacco, spirits, and pharmaceutical and toilet preparations.
France: A surtax of 2 per cent is collected on imported goods when imported or when sold to the consumer.
Germany: A sales tax of 2 per cent is levied on import transactions only.
Greece: On imported goods only a customs surtax is assessed, payable at the same ratio as the basic duty.
Mexico: A customs surtax applying to foreign goods only is assessed.
Netherlands: All articles imported are assessed an additional consumption or statistical tax.

Similar sales or excise taxes on imported goods or transactions only are assessed in many more countries, such as Columbia, Estonia, Poland, Rumania, Uruguay, Venezuela.

[The New York Times, Saturday, March 19, 1932]

GOVERNMENT LOSES ANTIDUMPING SUIT

Court finds there is no basis for $1,000,000 duty on matches imported from Russia.

An appeal is expected.

Prosecutor declares provision in tariff law would be rendered ineffective if ruling is upheld.

Judge Charles P. McClelland handed down yesterday a decision in the United States Customs Court sustaining the protest of the Amtorg Trading Corporation, the trade representative of the Soviet Government, against the levy of more than $1,000,000 in duties under antidumping provisions of the tariff law on importations of matches manufactured in the Soviet Union.

"There is no evidence to sustain the appraiser's return of the involved merchandise as being subject to dumping duty," Judge McClelland held. Another fact he found in sustaining the "entered values" of the merchandise, the decision said, was "that on the dates of exportation of the involved merchandise from Soviet Russia there existed therefor neither a foreign market value nor an export value."

Judge McClelland declared that "there is absolutely nothing before me which might be used as a guide in determining what Congress meant by 'fair value,' whatever the term means" (in the tariff law).

UPSETS GOVERNMENT'S VIEW

This was interpreted by Charles D. Lawrence, Assistant Attorney General in charge of the case, as a ruling against the Government's contention that it was the duty of the court to define the terms of the tariff law. Such a ruling, Mr. Lawrence pointed out, was a question of law which, if upheld in subsequent litigation, would render the antidumping provisions of the tariff act ineffective.

Because of that far-reaching result, the Government doubtlessly will carry the case to a review by three judges of the court, whose decision again could be appealed to the United States Court of Customs and Patent Appeals at Washington. Mr. Lawrence based his interpretation on a summary of the decision given him by telephone at his home, to which he was confined by a cold.

Commenting on the Government's conduct of the case, Judge McClelland said "had the policy of the Government in the trial of the issues involved been more liberal and less technical, the record might have disclosed facts which formed the basis of the appraisers' findings that would have enabled the court to determine more satisfactorily whether" the additional duties were justified under the statute.

Its legal representative's apparent policy in these cases, as in all reappraisement cases involving antidumping ("seems deliberately to be to shut the door of inquiry against ascertainment * * * as to what led to the promulgation of the antidumping findings by the Secretary of the Treasury and the bases upon which the appraiser made his findings," he continued.

"Such an attitude is as truly Russian as the involved matches," Judge McClelland declared.

CONDITIONS IN RUSSIA CITED

The evidence on which the judge held there existed neither a foreign market value nor an export value for the involved merchandise were the conditions of manufacture and sale within the Soviet Union, according to George J. Puckhafer, of Puckhafer, Rode & Tompkins, attorneys, who appeared for the plaintiff.

As the matches were produced by industries controlled by the government and sold not in a free market, as in the United States, but in a market of controlled prices, such values did not exist, the plaintiff contended, as the "fair value" was undefined and foreign market and export values were nonexistent, the injury to the match industry, asserted by the government and which the judge held was not supported by evidence, was not measureable, it was argued further.

Judge McClelland pointed out that the Government based its case on the contention that there was a foreign market value at the time of exportation within the meaning of section 205 of the emergency tariff act of 1921. This, he said, the Government failed to prove, and it also failed to prove that at the

time of importation such or similar matches were being sold in the United States for less than their "fair value."

Other points at issue that the court found as facts in sustaining the "entered values" were that "there is no evidence which shows the cost of production of the involved merchandise," and that "the evidence sustains the exporters' sale prices as set forth in each of the exhibits."

The suit was the outgrowth of a Treasury Department ruling May 23, 1930, denying the right of importation of match consignments unless the antidumping duty were paid. This duty, it is provided, represents the difference between the "fair value" and the sale price. In a decision last January 7 Judge McClelland held, in sustaining the protest of Kleberg & Co. (Inc.), importers of Austrian safety matches, "it is not the function of the court to define the term 'fair value'," and said that in attempting to do so the Secretary of the Treasury exceeded his legal powers.

Senator GORE. Are you asking for an increase in the existing rates?

Mr. BEGLE. No, sir. May I state, Senator SMOOT, just what I am asking for? It will take but a moment to state what we propose.

Senator GORE. I do not want to run him over his time, but I wanted to ask him if he wanted an increase of rates. There is a duty on them now, is there not?

Mr. BEGLE. There is a duty of 20 cents per gross.

Senator GORE. Have you appealed to the tariff board for relief?

Mr. BEGLE. I am not asking for a tariff to-day on this. The House has passed a bill with a sales tax of 4 cents per thousand on domestic matches and imported matches.

Senator GORE. You want that struck out?

Mr. BEGLE. No, sir; we are perfectly willing to pay a tax in proportion to the other industries taxed, and pay a tax of 1 cent per thousand on domestic matches, and 1.4 cents per thousand on the sale of foreign matches. Each of those are equivalent to 12½ per per cent of the selling price. American matches are sold in this country as cheap as 130 for a penny. Foreign matches are sold about 50 for a penny, principally because the American buying public does not count the number of matches they are buying.

The CHAIRMAN. Mr. Cooke suggested one-fourth of a cent to one-half cent.

Mr. BEGLE. One-quarter of 1 cent is one-fiftieth of a cent on each box.

Senator REED. How would you feel about a general manufacturers' excise tax of say 1½ per cent?

Mr. BEGLE. Decidedly in favor of it. Our plea to-day is because the House has placed a confiscatory tax on matches.

Senator REED. We were told that this tax of the House bill is a sales tax of about 55 per cent on your product.

Mr. BEGLE. Yes, sir; it averages between 50 and 55 per cent. And less on the imported matches. A tax of 1 cent a thousand on matches is 12½ per cent on domestic matches and only 9 per cent on imported matches, because we sell more American matches in this country to the consumer for a cent than the foreign manufacturers do. And it would not be fair to put a tax of 1 cent on American matches and not have a tax of 1.4 cents on imported matches.

Senator SHORTRIDGE. Where is that box from? [Handing a match box to the witness.]

Mr. BEGLE. That is an imported match. "The Philadelphia Club." That is a Russian match. I know the name. The country it comes from is very indistinct on the box, but I know "The Philadelphia Club" is a Russian brand.

Senator SHORTRIDGE. Where is that box of matches from? [Handing the witness another box.]

Mr. BEGLE. That box of matches is made in Sweden and sold in this country. "Protecto." The Diamond Match Co. has a contract to sell Swedish matches in this country. I understand not because they want to, but if they did not have a contract that limited the amount of Swedish matches sold in this country we would be flooded with low-priced foreign matches.

Senator GORE. You say the Russians color them now?

Mr. BEGLE. The Russians color them now; yes, and thereby evade the duty by 8 cents a gross.

Senator GORE. Most of them red?

Mr. BEGLE. Most of them red, with a yellow head.

Senator SHORTRIDGE. And where does this box of matches come from? [Handing another box to the witness.]

Mr. BEGLE. This is the "Vulcan," the most popular match made in Sweden. It is the oldest and best known brand made in a foregin country.

Senator SHORTRIDGE. We can make just as good a match here, can we not?

Mr. BEGLE. Yes. The best wood in the world used for making these matches is aspen. And poplar, or popple, as it is called in the northern countries. My company has two factories, one in Minnesota and one in Maine, making a match to-day that is better than that quality.

Senator HARRISON. What percentage of matches used in this country are paper matches and what percentage wood?

Mr. BEGLE. I do not mauufacture the paper matches and I would have to estimate that, Senator. I would say about 20 per cent would be paper matches.

Senator HARRISON. Twenty per cent would be paper matches?

Mr. BEGLE. Yes, sir. Mr. Reynolds of the Diamond Match Co., the vice president, might be able to give you that figure.

Mr. T. J. REYNOLDS. Twenty per cent is a very high estimate. I should say 15 per cent would be the outside of paper matches.

Senator REED. Does it take as much wood in the form of pulp to make a paper match as it does to make an ordinary wooden match?

Mr. REYNOLDS. I could not answer, Senator, because I am not in the manufacturing department, but I should say no. I should say it would take more wood for a wooden match than it does for a paper match. A paper match is thin.

Mr. BEGLE. It would take nearly twice as much wood for the wooden match as it would for the paper match, because in making the paper you grind all of the wood into pulp, but in making the wood match it is a veneering proposition where you lose all the heart. So a wooden match of this type would take about twice the amount of raw material that a paper match would.

Senator SHORTRIDGE. What company makes this match?

Mr. BEGLE. That is made by Kreuger & Toll. That is a Swedish match, and made by that concern, Kreuger & Toll.

Senator SHORTRIDGE. Do they own that organization?

Mt. BEGLE. They control all of the industry in Europe, with the exception of Russia, and if that organization is going to collapse, as it seems that it is going to do, we are going to be flooded with every kind

of match that every one of them can make. You do not see an American match in Europe. Their monopoly has shut us off. In Sweden you see nothing but Swedish matches. In Norway they use nothing but Norwegian matches. In Finland they use nothing but Finnish matches. We can not export matches to those countries.

Senator REED. How about South America?

Mr. BEGLE. Almost all of the match business in South America is controlled by the Swedish concern.

Senator WALSH of Massachusetts. Have the governments made contracts with the Swedish Trust?

Mr. BEGLE. Yes.

Senator WALSH of Massachusetts. And limited the importation of matches to these contract matches.

Mr. BEGLE. Yes; limited it to the shipments from Sweden, to those countries. There are no other matches that come in to those countries.

Senator WALSH of Massachusetts. For instance, in Cuba there are no American matches?

Mr. BEGLE. In Cuba there are no American matches.

Senator GORE. And there are no American matches where they have a State monopoly.

Mr. BEGLE. No; there are none in France, Poland, Germany. They have placed an embargo on them.

Senator GORE. Our countervailing tariff does not apply in the case of Germany?

Mr. BEGLE. It does not on matches. We can not ship a match into Germany whatever.

Senator WALSH of Massachusetts. Is the aspen wood supply limited in our country?

Mr. BEGLE. No, sir; it is one of the fastest growing woods. It comes up in New England after a fire, and grows very thickly. You will see new growth of aspen and white birch in New England, and they grow very quickly. The best white birch in the world grows in Maine and Wisconsin, and the quickest growing tree that we have is the ordinary poplar, or in the South your cottonwood, the same type of tree.

STATEMENT OF LEVI COOKE, WASHINGTON, D. C., REPRESENTING MATCH MANUFACTURERS

The CHAIRMAN. Mr. Cooke, you have a statement you wish to make?

Mr. COOKE. Yes. It will only take a few minutes.

Senator REED. Is this on nose powder or matches?

Mr. COOKE. Matches, sir. I discussed the other day the position of the paper-match industry. The two clients I represent, first, the Lion Match Co. of New York City, and now the Universal Match Corporation of St. Louis, Mo., produce about 35 to 40 per cent of the paper matches. The Diamond Match Co. produces a major portion of the balance, if not 99 per cent of the balance.

You recall that the tax at 4 cents a thousand is 50 to 55 per cent ad valorem. I suggested the other day a maximum of one-half a cent to make an ad valorem of 6 per cent or 7 per cent. Within the range of these speical taxes. Preferably a quarter of a cent on a necessity, admittedly such, which would produce about 3 per cent ad valorem.

It is very generous of the gentleman who last testified to offer to the Government 1 cent a thousand, which is 12½ per cent, or a little more. Higher than any range in the measure so far except on special articles, which have been already discussed, running much higher.

The wooden-match industry would benefit thereby as against the paper-match industry, because the wooden matches are sold and not given away to ultimate consumers' use.

We, as I stated the other day, can not stand any substantial tax above one-half cent on a thousand and continue to give these matches away, which matches amount to, according to my information, 20 to 25 per cent—probably 25 per cent—of the total consumption of matches in the United States. It is a domestic industry and uncomplicated by Mr. Kreuger's former operations abroad, or the result thereof.

The paper-match industry uses 15,000 tons of wood pulp, mostly domestic. Uses quite as much wood as the wooden match uses.

The CHAIRMAN. That is what you said the other day.

Mr. COOKE. Yes, sir. Now we submit that those who sell wooden matches for distribution for sale to consumers and also paper matches to go into that trade where the matches are given away, are not so concerned with the rate of this tax as those who are exclusively engaged in making paper matches.

Senator SHORTRIDGE. Do you suggest any different rate?

Mr. COOKE. We say one-half a cent.

Senator SHORTRIDGE. On paper matches?

Mr. COOKE. A half a cent on all matches. But if they insist on being generous and giving this tax into the Treasury at the expense of the consumers of the country, and paying 12½ per cent ad valorem, or one cent a thousand specific, we urge that paper matches, a purely domestic industry, be relieved from that burden which would mean inevitable destruction to the majority of the business, if not all of it. We are willing to have a maximum of one-half a cent, which would be burdensome, because of the nature of the paper match business as distinguished from the wooden match. But just because the wooden match people are so generous in their offer to pay tax into the United States Treasury do not, therefore, carry us to the point of destruction.

(Mr. Cooke presented a brief, which is here printed in the record in full, as follows:)

THE AMERICAN BOOK MATCH INDUSTRY PLEADS FOR ITS EXISTENCE

Re: THE PROPOSED HOUSE TAX ON MATCHES

The Universal Match Corporation, of St. Louis, Mo., which is engaged exclusively in the manufacture of advertising book matches, registers its protest against section 612 of the House bill providing for a tax on matches of 4 cents per thousand, which, in the case of book matches, would be a tax in excess of 45 per cent of the selling price.

SUCH A TAX WOULD BE PROHIBITIVE, DISCRIMINATORY AND CONFISCATORY

It is inconceivable that it was the purpose of the framers of this tax to legislate this industry out of existence.

A case of advertising book matches contains, 2,500 books; each book has 20 matches; a case, therefore, contains 50,000 matches. The average selling price of a case at the present time is about $4.50. The proposed House tax of 4 cents per 1,000 matches means a tax of $2 on a $4.50 sale.

In actual figures, a book-match manufacturer with annual sales of a million dollars would have to pay an excise tax of about $450,000 per year. On the basis of the proposed sales tax of 2¼ per cent the same manufacturer would pay a tax of $22,500. This is equivalent to 20 times the proposed sales tax rate.

The House tax of 45 per cent of the selling price of book matches is four and a half times the tax of 10 per cent on jewelry, furs, toilet preparations, cameras, sporting goods and firearms; it is nine times the tax of 5 per cent on candy, chewing gum, radios and refrigerators; it is fifteen times the tax of 3 per cent on automobiles.

THE BOOK-MATCH INDUSTRY IS AN AMERICAN INDUSTRY

It employs American labor and consumes American raw materials. This infant industry has been built up in the past 15 years by a large investment of American capital. Millions of dollars have been invested in the development and construction of special book match machinery and equipment which would be worthless for any other purpose.

THE BOOK MATCH IS SOLD PRIMARILY AS AN ADVERTISING MEDIUM; BOOK MATCHES ARE GIVEN FREE TO THE PUBLIC

The advertiser buys advertising on a "give-away" book-match cover as he would buy space in newspapers, magazines, on billboards, etc. The book match is becoming more popular in the United States because it fills a long-felt need of the small business man who requires neighborhood advertising. It affords him an opportunity to keep his name before his clientele, where the nature of his business would not permit him to purchase the more expensive forms of advertising.

HUNDREDS OF THOUSANDS OF SMALL BUSINESS MEN USE THE ADVERTISING BOOK MATCH

It is estimated that more than 500,000 small business men in every class of trade, from the remotest hamlet to the largest city, use the book match as a practical and economical form of advertising. Therein lies the inherent value of the book match in the stimulation of the Nation's business.

TAX ON BOOK MATCHES IS A TAX ON ADVERTISING

Advertising is the blood-flow of the business organism of our country. The advertiser should be encouraged to increase rather than curtail his advertising budget as a stimulus to the revival of trade. Any excessive increase in the cost of book matches to the advertiser will only tend to deprive hundreds of thousands of small business men of an established and inexpensive means of advertising.

THE BOOK MATCH LOADED WITH AN EXORBITANT TAX CAN NOT COMPETE WITH OTHER FORMS OF TAX-FREE ADVERTISING

Under present economic conditions any excessive increase in the cost of book matches to the advertiser would drive the advertising book match from the market. Without a large consuming market the book-match manufacturer can not continue in business. This industry necessarily depends upon a large and steady daily volume of production and consumption. This makes possible the comparatively low selling price of book matches and permits their free distribution to the public.

THE PROPOSED TAX WOULD, UNQUESTIONABLY, RUIN THE BOOK MATCH INDUSTRY

The advertising book-match manufacturer would be forced to shut down book-match plants, which would further aggravate the unemployment situation. In its wake would follow the destruction of millions of dollars of American capital invested in this industry and allied industries furnishing raw materials for the book match.

THE BOOK-MATCH INDUSTRY TO-DAY IS IN THE THROES OF INDUSTRIAL UPHEAVAL COMMON TO ALL BUSINESS

In an effort to stimulate a market for its product and keep its plants in operation and avoid unemployment the advertising book match is being sold to-day at about cost. At best this young industry is fighting for its very existence. The imposition of the additional burden of an excessive tax would sound its death knell.

THE BOOK-MATCH INDUSTRY SHOULD NOT BE DISCRIMINATED AGAINST

We ask for the same treatment accorded other manufacturing industries and a reasonable tax which can be borne by the industry.

Book-match manufacturers, business men everywhere, large and small, and the public generally are vitally concerned in the revision of this tax to a fair proportion.

They appeal to the Senate Finance Committee to avoid the calamity that will follow the adoption of the proposed House tax on advertising book matches. They confidently believe that proper measures will be taken to protect them against this glaring injustice to an American industry.

Respectfully submitted.

THE UNIVERSAL MATCH CORPORATION,
St. Louis, Mo.

The revenue act as passed by the House, H. R. 10236, section 612, imposes the following tax on matches:

"There is hereby imposed upon matches sold by the manufacturer, producer, or importer a tax of 4 cents per 1,000 matches."

HOW THIS TAX AFFECTS ADVERTISING BOOK MATCHES

There are 20 matches per book, and 2,500 books per case, making a total of 50,000 matches in a case. At 4 cents per thousand, this is equivalent to $2 per case. The average selling price of a case of matches is $4.50. Therefore the proposed tax is equal to about 45 per cent of the selling price.

The proposed tax on book matches is equivalent to twenty times the rate of 2¼ per cent on sales tax, fifteen times the rate of 3 per cent on automobiles, nine times the rate of 5 per cent on candy, nine times the rate of 5 per cent on chewing gum, nine times the rate of 5 per cent on radios, nine times the rate of 5 per cent on refrigerators, four and one-half times the rate of 10 per cent on jewelry, four and one-half times the rate of 10 per cent on furs, four and one-half times the rate of 10 per cent on cameras, four and one-half times the rate of 10 per cent on sporting goods, four and one-half times the rate of 10 per cent on toilet preparations, four and one-half times the rate of 10 per cent on firearms, four and one-half times the rate of 10 per cent on boats.

STATEMENT OF LEVI COOKE, WASHINGTON, D. C., APPEARING ON THE SUBJECT OF MATCHES AND CEREAL BEVERAGES

Mr. COOKE. If the committee please, I wish to discuss two items—matches and cereal beverages. The match tax is found in section 612, and is very simple:

There is hereby imposed upon matches, sold by the manufacturer, producer, or importer, a tax of 4 cents per 1,000 matches.

Matches are, of course, essential in American life. The invention of the match was one of the great inventions of all times, and matches have become universal in use.

There are three kinds of matches that are used in this country. There is the strike any place, anywhere, parlor match. I have a box here that I bought in a grocery store on the way up here. There are the safety matches, so called, of this character, in a package [exhibiting same], and we are all familiar with them. And finally there are the give-away matches, the so-called safety paper or book matches. And I secured these from the restaurant in the Senate free of charge.

The total consumption of matches in the United States approximates $20,000,000 in turnover by the manufacturers and importing sellers. How many billion matches are used I have no idea.

The three classes of matches—parlor matches, safety matches, and give-away matches—range approximately the same in price per 100,000. They are sold in different containers and by different

methods, but actually for 100,000 matches the price ranges from $7.50 to $8 up to $9.50. So there is no contrast in the price of the three kinds of matches.

The difficulty with this tax is that it amounts to an ad valorem tax of 50 per cent, and that is the highest tax you have laid in the bill.

Senator REED. Industry will not stand a 2 per cent sales tax, Mr. Cooke.

Mr. COOKE. I quite so understand. But it is all the more impossible to stand a 50 per cent sales tax in a domestic necessity.

For instance, your tax on fermentable grape juice and concentrate is 40 per cent; toilet preparations, 10 per cent; furs, 10 per cent; jewelry, 10 per cent; automobiles, trucks, and accessories, 1 to 3 per cent; boats, 10 per cent; radios, 5 per cent; refrigerators, 5 per cent; sporting goods, 10 per cent; cameras, 10 per cent; candy, 5 per cent; firearms, 10 per cent; chewing gum, 5 per cent.

And converted into an ad valorem, 40 to 55 per cent on matches. Of course that is a very severe tax.

I am addressing the committee in behalf of the paper-book match manufactures, the give-away matchmakers. That is possible only by virtue of the advertising that the match carries. Unless the advertisers of the country ranging all the way from the smallest boot repairer or cafeteria owner up to the greatest advertisers in the country, are willing to pay for these matches and have their advertisements printed thereon, this business could not survive. These matches are sold on the average at $3.50 to $4 and $4.25 per 50,000. At 100,000 that brings them to $7.50 to $8 to $9, within the range of all matches. Of course no advertiser could increase his advertising appropriation 50 per cent.

About 25 per cent of all the matches used in the United States are these give-away matches. The effect of destroying or greatly impairing that part of the match production of the United States is to add enormously to the cost of matches to the final consumer. Many men secure a box of matches every time they make a purchase wherever matches are given away. This industry provides 25 per cent of all the matches used. It is a part of the match industry. The trade can not stand 50 per cent.

The suggestion of the paper match, book-match manufacturers is that the tax should not be beyond the range of the existing percentage tax placed on other articles, many of which are, of course, luxuries, such as furs and candies and other articles that are treated as partial luxuries, at least. Candy, of course, is a food, but after all it is a luxurious form of food.

The suggestion that we make to the committee is that you at least treat matches within the range of the general average of other articles to be taxed by manufacturers' excise.

Senator REED. Do you favor a manufacturers' excise?

Mr. COOKE. If you wish my opinion, sir, I favor a general sales tax. That is my general view. I urged that in the Ways and Means Committee as being the reasonable method. Short of that, a very careful use of manufacturers' excise tax, sales taxes on particular articles, so as not to pile on one article a destructive and burdensome tax.

Senator REED. These are sales taxes, are they not?

Mr. COOKE. These are sales taxes. But this is a 50 per cent sales tax on what is an absolute necessity. You can not get along without matches. My suggestion, and the suggestion that the clients that I represent offer is this: Bring the tax within the range.

Senator SHORTRIDGE. At about what would you suggest?

Mr. COOKE. I would suggest, myself, a quarter of a cent a thousand instead of 4 cents. And the maximum possible is one-half a cent. Which would bring the ad valorem rate around 5, 6, 7 per cent, within the upper range of your present tax on other articles.

Senator SHORTRIDGE. Some near approach of relation to the other taxes.

Mr. COOKE. Quite so. And I think that this being a real necessity that the tax should be put at a quarter of a cent if possible. This being a necessity that you are dealing with. Not above one-half a cent. At one-half a cent it would range around 6 per cent. And beyond that, this particular business goes out, we believe, or is it so substantially damaged that the people suffer greatly. The give-away matches cease to be give-away because the advertisers will not buy them. As I said, it is a method of advertising used by the smallest to the largest advertisers, and many of the advertisers can not use other mediums of advertising. For instance, the little cafeteria man can not buy space in the newspaper because he deals only in a local community.

There are substitutes for these give-away matches, like blotters, calendars, baseball schedules, and business cards. But here is the universal form of local advertisement and national advertisement. Therefore we urge that the committee go thoroughly into the whole subject, as they naturally and certainly will, but remember that the destructive tax in part or whole upon these paper matches means the great impairment of 25 per cent of the total present production of matches and will add greatly to the cost of the matches to the people; because while the ultimate user does not pay for these matches he may in some remote way ultimately pay back to the advertiser and manufacturer.

Senator GEORGE. What is this tax estimated to yield?

Mr. COOKE. This tax is estimated to yield $11,000,000 on a $20,000,000 turnover in the whole industry. Wooden parlor matches, safety matches, and these. So of course the expected yield shows the immense ad valorem rate.

There is some difficulty on account of imported matches to-day. I understand under the last tariff act the Russians particularly have managed to bring in colored dyed matches. And they pay about 12 cents a gross, whatever that quantity is, as against a first specific of 20 cents a gross on uncolored matches.

The CHAIRMAN. Is there any witness here that will get through in five minutes?

Senator REED. Well, Mr. Chairman, Mr. Cooke has not finished.

Mr. COOKE. I have got one other item. I can add greatly to the discussion already had regarding matches and can tell you of winding paper squibs to save matches when they are expensive, and I do not wish to see them made expensive by taxation to the public at large.

MEMORANDUM BY LEVI COOKE

The revenue act of 1932, H. R. 10236, as it passed the House, imposes by section 612 a tax on matches, as follows:

"There is hereby imposed upon matches, sold by the manufacturer, producer, or importer, a tax of 4 cents per 1,000 matches."

The section should be amended so as to impose by the same language a tax of not more than one-fourth of 1 cent per 1,000 matches.

There are three classes of matches sold in the United States, to-wit, so-called parlor or strike anywhere matches, the safety match made with wooden sticks, and the safety paper or book match, i. e., the matches with a paper stick in a paper folder or book. These matches of all classes are sold by the manufacturer, producer, or importer at a current price range of $7.50 to $10 per 100,000.

(1) The tax of 4 cents per 1,000 matches as proposed by the House is equivalent to an ad valorem tax of from 40 to 55 per cent of the manufacturers' or importers' price.

This is the highest excise tax proposed in the pending measure. Matches are a necessary household commodity in every home in the United States, corresponding to food, which was exempted even from the proposed general manufacturer's sales tax in the original House bill. The highest tax on a luxury proposed by the House bill is 10 per cent ad valorem. The House bill provides ad valorem taxes as follows:

(a) Fermentable grape juices and concentrates, 40 per cent; (b) toilet preparations, 10 per cent; (c) furs, 10 per cent; (d) jewelry, 10 per cent; (e) automobiles, trucks, and accessories, 1 to 3 per cent; (f) boats, 10 per cent; (g) radios, 5 per cent; (h) refrigerators, 5 per cent; (i) sporting goods, 10 per cent; (j) cameras, 10 per cent; (k) matches, 40 per cent; (l) candy, 5 per cent; (m) firearms, 10 per cent; (n) chewing gum, 5 per cent.

Household necessities, such as matches, should not carry from four to ten times the tax of the other products on which tax is proposed. The tax herein suggested is approximately 3 per cent ad valorem, which is the rate proposed by the bill on automobiles.

(2) The tax on the paper or book match is a tax on advertising. It is not a tax on a commodity offered for sale to the public.

The paper or book match constitutes about 25 per cent of the total match consumption of the United States. Save for trifling exceptions, the paper or book match is not sold to the ultimate consumer. These matches are contracted for by merchants and others to carry advertising and are given away. The paper-match industry is primarily an advertising industry. No other advertising medium is taxed by the present bill. The proposed tax means an increase in the advertising costs of the merchants and others using such advertising of approximately 50 per cent. A 50 per cent tax on an advertising medium with other media free of tax is a burden which would be disrupting, with consequent disorganization of the manufacturing operation during a time of acute depression.

No industry can carry a 50 per cent burden against its competitors. There are many substitutes for paper matches as a means of advertising, as for instance, blotters, lead pencils, calendars, baseball schedules, business cards, and so forth; and it is only the price at which the producer can sell to the distributor that enables that producer to compete with other means of advertising. A 50 per cent increase in such advertising cost will reduce the use of paper matches to the point of demoralization, with closing of factories, further unemployment of workmen, and plant idleness.

As an example of the inability of the advertiser to assume the additional cost of $4 per 100,000 on paper matches, the Lion Match Co. has been advised by one company operating a chain of tobacco stores that the distribution of free paper matches at their stores would be discontinued if the price were raised as much as $1 per 100,000. Cigarettes now cost these stores 12 cents plus per package and are sold two packages for 25 cents. Any material increase in the cost of a book of matches given away with such sale obviously makes each transaction show the advertiser a net loss. This particular concern gives away approximately 200,000,000 books of 20 matches each, or 4,000,000,000 matches per year. If a few such customers are eliminated the entire paper-match industry will be obviously depressed to the point of suspension of many of the factories.

(3) To destroy the paper match as a means of advertising by excessive increase in the cost thereof greatly increases the cost of matches to the public. A tax of from 40 to 50 per cent ad valorem on matches will add more than that amount to the cost of matches to the consumers. On the parlor or strike-anywhere match which retails for 5 cents a box of approximately 400 matches, the increased retail price might not exceed the tax. On the wooden safety match, which retails for 1 cent a box of from 50 to 60 matches, the tax can not possibly be absorbed by the dealer, and the retail price would of necessity go to 2 cents a box. The tax on the paper match, which impairs it as a medium of advertising will proportionately reduce the 25 per cent of the total match consumption of the country now supplied by give-away book matches. The tax, therefore, works a real hardship on the match-consuming public, increasing the cost to final consumers from 55 to 135 per cent.

(4) The paper-match industry can not immediately adjust itself to the tax. Paper matches are sold on long-term contracts.

To illustrate: An advertiser buying 50,000 books of matches, each book usually containing 20 matches, will draw these matches from the producer at a fixed rate per week or per month over a 2-year period. As the orders are given, the match manufacturer prints the binder or book, although frequently he does not assemble the matches in the book until delivery is called for. An investment in the paper and the printing of the book is, however, made immediately. In many instances, the commissions are paid to the salesmen by the manufacturer at the time the order is taken so that the manufacturers of paper matches now have comparatively large investments on account of orders taken and not yet filled. While section 619 of the bill provides that on such orders taken prior to March 1, 1932, the tax shall be collected by the vendor from the vendee, the average vendee will refuse to accept delivery with the tax added, and the imposition is bound to result in breach of contract and controversy. The manufacturer can not possibly absorb the tax; his net profit is way below the proposed tax.

(5) The proposed tax is injurious to the paper and paper pulp industry. The paper-match industry uses some 15,000 tons of paper per year. If advertisers are compelled to use substitutes for the paper match, the paper industry suffers to that extent. This would necessitate a readjustment of the distribution of the paper now used by the match industry, as well as the parent products entering such paper.

CONCLUSION

The rate of one-fourth cent per 1,000 matches herein suggested is equivalent to approximately 3 per cent ad valorem. If it is necessary to tax matches at all, the book-match industry could stand that tax, and in the great emergency which now exists the paper-match industry is more than willing to exert itself to the utmost to provide its fair share of the revenues needed by the Government. It asks only that nothing be done which will result in its demoralization or destruction.

Respectfully submitted.

LEVI COOKE.

TAX ON CANDY

STATEMENT OF WILLIAM F. HEIDE, NEW YORK CITY, REPRESENTING THE NATIONAL CONFECTIONERS' ASSOCIATION OF THE UNITED STATES

Mr. HEIDE. Mr. Chairman and gentlemen, I represent the National Confectioners' Association of the United States, a trade organization which has been in existence since 1884 and embraces in its membership the majority of the larger manufacturing confectionery establishments in the country. Personally I have been actively identified with the confectionery industry for 35 years, being at present president of the firm of Henry Heide (Inc.), of New York City, established since 1869.

When the bill H. R. 10236 was under consideration the House, after having first eliminated candy from the general sales tax along with other articles of food, without any notice to the industry and without any reason being assigned for its action imposed a 5 per cent tax on manufacturers' sales of candy but did not impose any tax on any other articles of food competing with candy.

All other sweet foods, such as chocolate-covered crackers or biscuits, ice cream covered with chocolate in the shape of bars, ice-cream cones, plain or salted nuts, glacé and dried fruits, such as dates, figs, raisins, and so forth, in packages, all of which are highly competitive with candy, are not subject to the tax. Several days ago we sent to each one of you gentlemen an exhibit of about 30 products all highly competitive with candy but which would not be subject to the 5 per cent tax. Due to highly competitive conditions which exist within our industry and with other competitive industries not taxed in this bill, it would be impossible for candy manufacturers to absorb this tax without sustaining a tremendous loss.

Since the bill passed by the House recommending the 5 per cent tax on confectionery, a questionnaire was sent out to 405 manufactuers requesting their gross sales, net profits or losses, and capital invested, for the years 1929, 1930, and 1931. Two hundred and sixty firms have responded up to date to our request. These returns present a true picture of the candy industry to-day as I know it.

Statistics compiled from the reports of 260 manufacturing confectioners with an aggregate invested capital of $109,437,282.03 in 1929 and of $104,506,633.17 in 1931 show that a 5 per cent sales tax would be an intolerable burden upon this industry.

With gross sales diminishing from $188,181,614.78 in 1929 to $139,262,352.37 in 1931; profits for the group of $6,209,183.37 in 1929 were converted into a net loss of $1,373,346.92 in 1931. The number of manufacturers making a profit was reduced from 183 in 1929 to 93 in 1931, while the number of those suffering losses increased from 77 in 1929 to 167 in 1931.

Complete figures showing the invested capital, gross sales, profits and losses for the years 1929, 1930, and 1931 of the 260 manufacturers are as follows:

I will pass this up because I will hand my statement in.

(The tabulated statement is as follows:)

Report of 260 candy manufacturers for the years 1929, 1930, 1931:

	1929	1930	1931
Gross sales	188, 181, 014. 78	159, 797, 305. 75	139, 202, 352. 37
Capital invested	109, 437, 282. 03	109, 497, 150. 59	104, 500, 633. 17
Manufacturers showing net profit	183	145	93
Manufacturers showing net loss	77	115	167
Net profit	7, 743, 848. 98	4, 156, 571. 35	2, 328, 676. 29
Net loss	1, 534, 665. 11	2, 459, 766. 66	3, 702, 053. 61
Profit or loss of entire 260 manufacturers reporting	[1] 6, 209, 183. 87	[1] 1, 696, 804. 69	[2] 1, 373, 340. 32

[1] Profit. [2] Loss.

Of 260 manufacturers reporting:

183 during 1929 showed a profit of	$7, 743, 848. 98
77 during 1929 showed a loss of	1, 534, 665. 11
Net profit of 260 manufacturers	6, 209, 183. 87
145 during 1930 showed a profit of	4, 156, 571. 35
115 during 1930 showed a loss of	2, 459, 766. 66
Net profit of 260 manufacturers	1, 696, 804. 69
93 during 1931 showed a profit of	2, 328, 676. 29
167 during 1931 showed a loss of	3, 702, 053. 61
Net loss of 260 manufacturers	1, 373, 340. 32

Mr. HEIDE. In order to prove the fallacy of the erroneous impression created in the minds of some people that there is a large amount of candy sold at $1 and upward per pound, we ask your consideration of the following statistics published by the United States Department of Commerce in Confectionery Distribution in the United States, for the years 1929-30. The report covers 517 identical firms representing about 86.4 per cent of the national production.

It shows that in 1929 the sale of fancy package goods selling at $1 or more per pound retail represented 3.2 per cent of the total production—plain package goods selling at less than $1 per pound retail represented 5.5 per cent of the total output.

In 1930 fancy package goods selling at $1 or more per pound retail represented 2.7 per cent of the output of the industry and plain package goods selling at less than $1 per pound retail, 5.6 per cent of the output; 91.7 per cent consisted of bulk chocolates, and all other types of bulk candy, molded chocolate bars, chocolate-covered bars, 5-cent and 10-cent packages, and bars other than chocolate covered or chocolate, and penny goods.

Senator WALSH of Massachusetts. Ninety-one per cent of the output of the country is represented as bulk goods of less than 10 cents in value?

Mr. HEIDE. No, I would say the average value of the complete output of the industry was about 20 cents. But that included $1.50 and

$1 per pound, or all classes of candy. I would say that that would be about 12 cents per pound of the ninety-odd per cent.

Senator WALSH. Averaged 12 cents per pound?

Mr. HEIDE. Averaged 12 cents per pound to the manufacturer. Now, this is a package [exhibiting a package of candy] that sells for $1.50 per pound. And here is a package that sells for $1 per pound.

Senator SHORTRIDGE. Is it smaller, or inferior in quality?

Mr. HEIDE. It is simply the packing, Senator. The fancy display of packing, and the interior of the box. The weight is the same.

Senator SHORTRIDGE. It is the same kind of candy?

Mr. HEIDE. No, the $1.50 is a higher grade. And a finer finished product.

Senator SHORTRIDGE. All right.

Mr. HEIDE. The dollar goods are high grade goods, but have not got the same high-grade assortment that the $1.50 has.

Senator HARRISON. [Examining the box of candy.] Is this any good?

Mr. HEIDE. I think it is, Senator Harrison. It is very good candy. At least that is what we think.

Senator SHORTRIDGE. Well, pass it around. There are others that might like that.

Mr. HEIDE. Now, gentlemen, this tray represents a typical tray of candy as is bought by the great masses, by the people in units of pennies, nickels, and dimes. This tray here is a tray that we got from one of the local jobbers, and it is a typical representation of what our product to-day is purchased by the consumer. These [indicating] are penny goods here. These are 5-cent bars. Some 10-cent bars. There are lots of goods put up in units of this type [exhibiting] which are 80 cents and $1 box goods, but put up in 5 and 10-cent units for the consumers.

Senator REED. Let me ask you, how would you feel about a general manufacturers' excise tax applying to every industry?

Mr. HEIDE. Well, I certainly think, Senator, it would be decidedly more equitable than selecting just a few industries and throwing the burden on those industries. But my own personal view is that the most equitable tax is to tax profits. That is my personal view.

You can readily see from these figures compiled by the Department of Commerce the fallacy of the impression that the great amount of confectionery is sold at a dollar and more per pound retail.

With the exception of package goods mentioned above, fully 85 per cent of the manufactured product of our industry is purchased by the consumer in units of pennies, nickels, and dimes, by the child, by the great masses of the laboring classes, and by the people of moderate incomes.

Senator WALSH of Massachusetts. What is the manufacturer's profit on a 10-cent piece of candy?

Mr. HEIDE. Well, Senator Walsh, a 10-cent piece of goods is generally packed 12 in a carton, and we may figure in that carton of goods sold at the normal price of 60 cents there is an average profit of about 4 to 5 cents. The average.

Senator WALSH of Massachusetts. In the carton?

Mr. HEIDE. In the carton. But to-day, with the demoralized prices of those same goods selling to-day anywhere from 45 to 50 or 55 cents, there is no profit in the goods any more.

Senator WALSH of Massachusetts. Then you say that the tax of 5 per cent on a 10-cent bar would be equivalent to one-half of a cent tax and would wipe out the manufacturer's profit completely, and would result either in increasing the price of the 10-cent bar or the manufacturer putting in an inferior material?

Mr. HEIDE. He would either put an inferior material in the article or he would have to take it out of the goods either as to quality or shape. And to-day, gentlemen, with our own industry in competition with other industries not subject to a tax, where we show from the figures compiled that we are losing money, our losses will be that much additional, that much greater.

Senator REED. I got the impression that the pastry manufacturers make a lot of things that are practically the same as your people make. Have you got any samples that would show that?

Mr. HEIDE. Senator, I did not bring any of those goods, but I sent all of the members of the committee an exhibit, and those goods were goods we chose at random, picked up as illustrations.

Senator WALSH of Massachusetts. How many were there?

Mr. HEIDE. There were, I think, 30, Senator Walsh. I think there were 30 exhibits. And those goods would not be subject to the 5 per cent tax. According to the ruling of the Treasury Department predicated on the Federal decision which I could quote and give you the exact number of the decision, those goods are exempt. They are not considered confectionery. Although I do believe and I do think that most of you gentlemen will agree that there is little or no difference between those goods, the samples we sent you, and the average type of confectionery with which you are familiar.

Senator SHORTRIDGE. It is in competition at any rate, with the so-called confectionery?

Mr. HEIDE. Yes, sir, it is, Senator.

Statistics of the Census of Manufacturers 1929 show the following:

Confectionery:	
Number of establishments	2,021
Wage earners	63,509
Wages	$56,442,674
Cost of materials	$215,192,474
Value of products	$393,269,849
Value added by manufacture	$178,077,375

Now, gentlemen, we are feeling the depression just the same in our industry as in any other industry, and in many respects more, because the depression hit our industry not in the fall of 1930 or 1931; it told in our industry some years back when the confectionery industry was more or less injured by the propaganda of keep thin. The women folks, as you will recall, with the boyish forms, keep slender, were told to cut out sweets, which they did. And candy in their opinion being the most concentrated form of sweets, we felt the effects of that in our industry already at that time.

Subsequently one of our largest tobacco interests capitalized "Reach for a cigarette instead of a sweet." That added to our burdens.

With the general depression, the collapse of industry, we have got another jolt. And that is why our position to-day is not any better or any worse than a good many other industries.

Senator WALSH of Massachusetts. Mr. Heide, what is your proposition to the committee? What do you want us to do?

Mr. HEIDE. Senator Walsh, I feel personally that no food ought to be taxed.

Senator WALSH of Massachusetts. And that candy is a food?

Mr. HEIDE. That candy is a food. And that it should not be taxed any more than any other sweet foods. We are now paying $2.12 a hundred pounds for sugar. And that none of these food articles should be made a special form of taxation. An equitable, fair tax equally and universally distributed over all, in my opinion, is the tax we ought to have.

The CHAIRMAN. Sugar is selling cheaper than it has since you have been in the industry, is it not?

Mr. HEIDE. It is. Senator, in answer to that we have added the increased weight to our goods. Goods that weighed 4 to 4½ pounds to-day weigh 5 and 5½ pounds.

Senator HARRISON. And making better goods than you did?

Mr. HEIDE. Making a better product.

Senator GORE. The tariff is as much as the sugar is worth, is it not?

Mr. HEIDE. The tariff on sugar, Senator Gore, is very much more than what the grower gets for it. The tariff is $2.12 a hundred pounds for refined sugar. That is the preferential tariff with Cuba. The grower in Cuba to-day, gentlemen, is realizing about 25 cents to 30 cents a hundred pounds for his product at the Central.

Senator HARRISON. You had better stay off the sugar tariff.

The CHAIRMAN. Yes.

Senator HARRISON. You had better stay off the sugar tariff and stick to your candy or you will get the chairman against you.

Senator GORE. I just wanted to get that in the record for the benefit of the chairman.

Mr. HEIDE. I would like to say this, gentlemen. In our industry during the calendar year 1931, according to R. G. Dun & Co., there were 494 failures in the candy industry which actually were liquidated by bankruptcy proceedings with total liabilities of $4,431,000. There were a good many more failures, but they were adjusted on a basis which is not in this picture. During 1930, similar failures amounted to 384, making a total of 878 failures in the candy industry in the last two years.

I show in my report from the Census of Manufactures of 1929 the different materials used in our industry, but I am not going to take up your time with that. If there are any other questions, gentlemen, I will be pleased to answer them.

The CHAIRMAN. We have that statement that you have got. If you are through, we will be glad to have you put it in the record.

Mr. HEIDE. Yes.

(The balance of Mr. Heide's statement is here printed in the record in full, as follows:)

There has been a decline in manufacturers' sales prices of candy since 1921 estimated at from 33⅓ to 50 per cent. The following table from the Department of Commerce, series 41 and 50, shows the production and average wholesale prices of candy during the years 1929 and 1930.

Summary all types of candy—concerns reporting, 517

	1929	1930
Value	$298,152,000	$275,317,000
Pounds	1,360,564,000	1,335,618,000
Average price	$0.219	$0.206

The monthly reports of the Department of Commerce show decreases in the sales volume of manufacturers of candy in all months of 1930 and 1931 except April, 1930. The increase or decrease is expressed in percentages against the corresponding month of the preceding year:

1930	Per cent	1931	Per cent
January	−0.3	January	−7.1
February	−5.6	February	−12.1
March	−6.7	March	−11.1
April	[1] 1.4	April	−12.8
May	−12.4	May	−6.4
June	−3.0	June	−18.5
July	−13.2	July	−21.8
August	−24.1	August	−14.7
September	−14.2	September	−17.5
October	−14.6	October	−20.8
November	−19.3	November	−22.7
December	−8.0	December	−21.2

Boyds Register published a list of 3,008 manufacturing confectioners in the United States under the following classifications according to net worth:

$5,000 to $35,000	1,536
$35,000 to $100,000	909
$100,000 and over	563

The difficulty in collecting taxes from an industry in which over 50 per cent of the members are rated under $35,000 is obvious.

During the calendar year 1931, according to R. G. Dun & Co., there were 494 failures in the candy industry which actually were liquidated by bankruptcy proceedings with total liabilities of $4,431,137. During 1930 similar failures amounted to 384, making a total of 878 failures in the candy industry in the last two years.

The Census of Manufactures, 1929, shows the quantity and cost of the principal materials consumed by the candy industry:

Kind	Pounds	Cost
Sugar	713,001,664	$38,802,484
Milk and milk products	82,775,533	8,016,405
Chocolate coatings	179,756,752	36,020,586
Coconut (shred and thread)	27,500,490	2,909,249
Cocoa butter	8,074,818	2,089,464
Cocoa powder	3,820,874	718,107
Corn sirup	428,799,715	15,328,742
Nuts	197,639,916	23,900,725
Fruits	20,083,236	3,582,224
Chicle	29,382,770	408,691
Essential oils	(a)	1,124,166
Flavoring extracts	(a)	1,443,793
Total cost principal materials		134,314,636

[a] Quantities not taken.

[1] It will be noted that all months except April, 1930, show decrease.

I have with me here to-day, Hon. William E. Brock of Chattanooga, Tenn., president of the Brock Candy Co.; Mr. Arno E. Sander, of York, Pa., president of the National Confectioners Association; and Mr. A. M. Kelly, of New York, president of Wallace & Co., and a former president of the National Confectioners Association. We constitute a committee appointed to represent the industry here. Any questions you may wish to ask, I will be pleased to answer.

WILLIAM F. HEIDE.

STATEMENT OF E. B. GRIFFENBERG, TRADING AS REYNOLDS CANDY CO., WILMINGTON, DEL.

Mr. GRIFFENBERG. Mr. Chairman and gentlemen, my name is E. B. Griffenberg, otherwise called the Reynolds Candy Co., of Wilmington, Del. I am a member of the Associated Retail Confectioners of the United States, and also a member of the Philadelphia Retail Confectioners Association.

Mr. Chairman, I have some schedules of the earnings of my concern, and a proposed amendment, supporting my statement.

The CHAIRMAN. You may proceed.

Mr. GRIFFENBERG. Calling your attention to the wording of the candy schedule, section 618, I wish to state that the manufacturing retailer is discriminated against in this bill, as the tax is laid on the manufacturing sales, therefore the producer who sells to a retailer pays the tax only on his production cost plus his profit. He may absorb this tax or pass it on to the retailer who himself may absorb it or pass it on to the consumer; but in the case of a manufacturing retailer, such as I, who sells direct to the consumer, whose producing costs may be no greater than the wholesale producer, will pay nearly twice the amount of tax on the pound, or the unit of value, because he will be compelled to pay the tax on the retail price. In one case it is a wholesale tax, and in the other a retail tax on the identical grade of merchandise.

Senator BINGHAM. Can you tell us how many small candy manufacturers there are to whom that applies?

Mr. GRIFFENBERG. I make the statement here that there are several thousand, big and little.

The CHAIRMAN. That is, you mean to say that there are producers and importers?

Mr. GRIFFENBERG. Manufacturers and retailers of their own product. There are numerous small candy merchants who make their own products and who come under this bill to be taxed.

If the tax is to be levied, the bill should be clarified to meet this discrepancy, and the manufacturing retailer be taxed only on his cost of production plus a producing profit, and not on his retailing costs and profits, as the bill now demands. As an example, a pound of 80-cent chocolate candy which consists mostly of nut and fruit centers, with a coating of high-grade chocolate, the material and labor costs, together with expenses and overhead, would be about 40 cents, and with the manufacturing profit added would be about 44 cents, allowing 10 per cent. The other 36 cents would represent the selling costs of the retailer and his profit, and would not be taxed in the case of a wholesale manufacturer; but under the bill as now proposed, the retail manufacturer would be taxed on the entire 80 cents. I have a proposed amendment correcting that, and this amendment reads this way:

At the end of the section add the following:

But in cases where the manufacturer sells direct to the consumer the tax shall be based on only fifty-five (55) per cent of the retail price so sold.

The CHAIRMAN. In other words, that takes it for granted that you make 45 per cent profit?

Mr. GRIFFENBERG. Yes. I think that is a fair division of the retail cost, when you include selling cost and selling profit, which would include a portion of profit in retail stores.

I feel sure that Congress does not intend to be unfair as between two classes of manufacturers who produce the same article, but if the bill as drawn becomes a law the only recourse for the one class would be to operate as two concerns, one to produce and sell to the other, who would, in turn, sell to the consumer; but this method would place a hardship on the small manufacturing retailer.

I have a schedule to submit here, and this I would like to have your serious consideration.

The CHAIRMAN. You may put it in the record.

(The schedule presented by the witness is here printed in the record in full, as follows:)

Merchandise sales 14 weeks including Easter season	Per cent decrease of 1929	Merchandise sales [1]	Per cent of increase or decrease	Merchandise cost	Per cent of sales	Pay roll	Expense	Total cost, merchandise pay roll expense	Net profit	Per cent
$56, 149. 26	1928	$193, 692. 00								
	1929	202, 840. 47	+0.047 of 1928	$97, 380. 81	0. 48	$50, 962. 75	$29, 488. 72	$177, 834. 28	$25, 016. 19	
53, 661. 84	−0.044 of 1930	185, 783. 79	−0.084 of 1929	85, 929. 53	. 46	51, 102. 80	30, 213. 29	167, 245. 62	18, 538. 17	−26
46, 687. 67	−0.169 of 1931	167, 475. 89	−0.174 of 1929	71, 472. 81	. 427	48, 665. 70	30, 080. 56	150, 219. 07	17, 256. 82	−31
38, 638. 77	−0.312 of 1932	139, 554. 24	−0.312 of 1929	59, 589. 60	. 427	[3] 43, 799. 13	[3] 28, 576. 56	131, 965. 29	7, 588. 95	−70

[1] Estimated on basis of 14 weeks sales, 1932.
[2] −10 per cent of 1931.
[3] −5 per cent of 1931.

Investment: Land, building, machinery, furniture, and fixtures, $248,457.57; no salary charged for personal service.

Senator BINGHAM. Did the candy manufacturers have any opportunity to appear before the Ways and Means Committee?

Mr. GRIFFENBERG. Senator, I do not know.

Senator BINGHAM. I can find nothing in the hearings on that subject.

Senator HARRISON. I think they did not appear.

Mr. GRIFFENBERG. I think the national association, which embraces the wholesale manufacturers, is to appear before this committee in the next few days.

Senator REED. Mr. Griffenberg, what do you think of the justice of a tax which allows a rich man to buy a painting and pay $100,000 for it tax free, and puts a tax on a 1-cent lollypop that a child will buy.

Mr. GRIFFENBERG. I do not think it is fair.

Senator GEORGE. Are there any other manufacturers who also retail their products who are also taxed in this bill, other than candy manufacturers, that you know of? In other words, are there any other manufacturers of commodities that stand in exactly your shoes?

Mr. GRIFFENBERG. I do not know that I am familiar enough to make a statement on that, Senator. Casually I would say no.

Senator COUZENS. I may say to the Senator that the motor-car manufacturers stand exactly in that position; that they retail their cars.

Senator GEORGE. Do they retail them?

Senator COUZENS. Oh, yes.

The CHAIRMAN. There is a class that retail and wholesale as well; many, many of them.

Mr. GRIFFENBERG. In a further section you have attempted to provide for that, when you allow him to pay on the retail and wholesale basis; but in my business my own product is sold to the consumer directly, and not through any wholesaler; it is all sold at retail.

The CHAIRMAN. All the candy that you make you sell?

Mr. GRIFFENBERG. I sell.

Senator BINGHAM. At retail?

Mr. GRIFFENBERG. At retail; yes. May I proceed?

The CHAIRMAN. What is the total production of your concern? I thought you had it in round numbers.

Mr. GRIFFENBERG. I would like to refer to this schedule. My sales in 1929 were $202,840.47. In 1930 they were $185,783.79. In 1931 they were $167,475.89. And based on the first 14 weeks of 1932, they will be only $139,554.24, more than $60,000 decrease in sales, with a corresponding decrease in profits. This is shown in my earning statement, which I submit.

I am going to say a few words about that later on, if I may.

The CHAIRMAN. You may proceed.

Mr. GRIFFENBERG. I have a schedule to submit, which details the operation of my establishment for the years 1929, 1930, 1931, and 14 weeks of 1932. You will note the tremendous decrease in volume of sales since 1929. See "Merchandise sales" column. In 1931 more than 17 per cent, and in the first 14 weeks of this present year over 31 per cent. See column "Merchandise sales 14 weeks."

I might call your attention also to the "merchandise cost" column, which shows a declining percentage, due mostly to lower prices for raw materials, however, this reduction though it has been sharp, does not nearly compensate for decline in sales. The columns "pay roll" and "expense" you will note are fairly regular, and do not admit of much adjustment, but I have just reluctantly effected a 10 per cent cut in wages of the 75 employed, many of whom are women, and in many cases are the sole support of their families. Our force can not be reduced greatly in the store because of certain shopping periods in the day.

The column "profits," you will see shows a decrease of 31 per cent in 1931, and for 1932 based on the first 14 weeks will be over 70 per cent behind 1929. These figures are startling, and to me appalling. The business situation has almost in itself delivered a knock-out blow. If I am taxed 5 per cent on the estimated $139,554.24 sales this year, there will be nothing remaining for my labor and investment. This schedule may be verified from my income reports.

The 1932 estimate for the year, as you will note, is based on 14 weeks comparative actual sales over a 4-year period—see column "merchandise sales 14 weeks"—Easter season being included in each year. In 1930, Easter came late in April, this was adjusted by eliminating two weeks in March and adding the two weeks in April preceding Easter so as to make the comparison fair.

There is no charge in these figures for personal services. I own the business, devote my time to it, as also does my son. If my services were compensated for, the figures submitted would show a very small percentage of profit on the sales dollar.

The investment for land, building, machinery, furniture, and fixtures is nearly a quarter of a million dollars. This investment is surely entitled to some interest return.

About 8 years ago I invested much of my profits over a preceding period of 20 years in a building to house my business, including an indebtedness of 50 per cent of the cost. Like real-estate values generally, this has depreciated greatly and is now probably one of the frozen assets of the mortgage, a banking institution, and an adjustment is probable. This is one of the hazards many small concerns are confronted with to-day. Though this real estate has depreciated in value, the local city and county taxes and assessments have not been reduced.

The decrease in volume of sales in my business, without a corresponding decrease in costs of producing, selling, and overhead, which is almost impossible, has practically eliminated any profits. No doubt, this is true of all manufacturing retailers of confectionery, for my business is representative of this class throughout the whole country.

The raw materials used in the candy business are taxed now, and have been.

I don't know whether my statement here will be taken in the manner in which I offer it.

Sugar, 2 cents a pound, which is 50 per cent of its present wholesale price. Shelled nut meats, of which we use considerable, at from 14 to 17½ cents per pound duty, which adds much to their cost, because mostly imported nuts are used. The domestic nuts are not good enough.

Senator REED. Do you use Georgia nuts?

Mr. GRIFFENBERG. I beg pardon?

Senator REED. Do you refer to Georgia nuts?

Mr. GRIFFENBERG. Yes; we use some pecans, and our own domestic black walnuts. A great many almonds, for instance, the domestic almond is not good enough for high-grade confectionery.

Senator BINGHAM. You are almost through, and I will ask you if you are in favor of a general 2 per cent sales tax?

Mr. GRIFFENBERG. Yes; I come to it further in my statement.

The decrease in volume of sales in my business, without a corresponding decrease in costs of producing, selling, and overhead (which is almost impossible), has practically eliminated any profits. No doubt this is true of all manufacturing retailers of confectionary, for my business is representative of this class throughout the whole country.

The raw materials used in the candy business are taxed now, and have been. Sugar, 2 cents a pound duty, which is 50 per cent of its present whole sale price. Shelled nut meats, of which we use considerable, at from 14 to 17½ cents per pound duty, which adds that much to their cost, because mostly imported nuts are used. Many other materials which go into the production of candy are likewise subject to duty. You are familiar with these facts, so I will not attempt to dwell on them, except to state that the retail prices are based on these heavily dutied materials, and this manufacturing tax should not be added to a business already sufficiently taxed.

There are several thousand manufacturing retailers in the confectionery business in this country who have built up a small business such as mine, and who, by their own work and that of members of their families, manage to make a living. I consider it unfair to impose taxes on them (which they can not pay) and exclude the many other kinds of businesses which are just as much entitled to be taxed. In fact, there are kindred lines, and some competing lines, that are not mentioned in this bill. Fancy cake and pastry baking, or ice cream, for instance, this business was even exempted in the proposed sales tax. If ice cream or cake is a necessary food, surely candy should be so classed.

These manufacturing retailers are dependent strictly on the community where located. Their business is influenced not only by general conditions but also by local conditions, and is one of the first retail lines to feel unemployment and lower wages in a community.

Being closed on Sundays, my Saturday business has heretofore been the best day of the week, but Saturday sales decreased 25 per cent when a large local concern put into effect a 5-day week.

The candy industry should not be classed as a luxury business. The customers of my store are not largely the wealthy people but rather the employed class (the masses of the people, when they are employed). Therefore they are the very first to curtail expenditures to actual needs when wages are reduced or they are laid off.

Much has been said about the passing on to a consumer of this tax. I take it you do not so intend, in view of the discussion that has been had in Congress in reference to the proposed sales tax on general business. Whether this be called a manufacturing tax or

a sales tax, it means the same, and as far as my business is concerned, I do not see how it can be absorbed under the present conditions, for it will wipe out all profits, and if any attempt is made to pass it on to the public, sales will be still further decreased, for the consumer will resent it and consider it a raise in price; and, too, in the face of declining costs. Therefore, my business which is hard hit now, will possibly go by the board, and I shall be compelled late in life to find other employment, if possible. My situation is similar to most other of the manufacturing retailers, and this burden of tax will be a terrific load on the industry; will add to the unemployment situation; will add stress to the depression; and in the end will not contribute toward balancing the Federal Budget.

In my opinion, a tax should be equal as to its burden upon those taxed, and without ill effects on business. The defeated sales tax I thought was equitable, if necessary foods and clothing were eliminated. Based as it was on my business, I would have tried to have absorbed it, rather than to have passed it on, which would doubtless have been the practice of most business concerns, because in this day of declining sales a merchant can not increase prices to the consumer. He must take less profit if possible, and keep selling price at the minimum to do business.

Mr. Chairman, I realize somewhat the problem of this committee and the whole Congress in framing this tax measure. My appeal against this proposed candy tax has been from the personal angle, because I am vitally concerned, for if the Government insists that to balance its Budget and take care of its financial needs, this particular tax is essential, then my business and that of similar concerns will be dangerously affected if not completely destroyed.

I appeal for myself and the other manufacturing retailers, that you eliminate this 5 per cent tax on candy, or reduce it substantially, but in any event clarify it so as not to discriminate against concerns in the industry similar to my own—the manufacturing retailer.

I thank you for the permission to be heard and will try to answer or explain anything further you may require.

Senator REED (presiding). Mr. Griffenberg, I want to compliment you on the clearness with which you have stated your case.

Mr. GRIFFENBERG. Well, Seantor Reed, I should probably class myself as one of a number of small businesses, so to speak, but I am one of the large retail candy manufacturers of the country. I dare say there are not very many candy manufacturers even in cities larger than Wilmington that have a much greater volume of business. I know their problems. I am appalled, as I have stated, at the decrease in business and the decrease in profit facing us this year, and it has come within the last six months. We feel it from day to day. We notice it, as I say, from day to day, and it has almost got us down.

Senator REED. And all that we can do to help is to cut down expenses as far as possible.

Mr. GRIFFENBERG. I guess so.

Senator REED. And make a decently balanced Budget.

Mr. GRIFFENBERG. As I have already said, Senator Reed, I realize your problem. I expect I am like other men in that I am particularly interested in my own line, and perhaps I am a little prejudiced

toward my own business, but it does seem unfair to me that my business should be taxed to the extent proposed when kindred lines and competing lines and so many other businesses throughout the country are not taxed.

Of course, the wholesale manufacturer has his ideas, but I am talking from the retail manufacturer's viewpoint, and this candy business has got to the point to-day where it is a tremendous business in this country. In order to administer the proposed tax I would suggest that there are so many small concerns manufacturing and selling candy, in numerous cases with just their own labor or that of their family, it is going to be quite difficult to administer this tax and collect it from them. And I would add that there is a considerable foreign element in the candy business from whom it is going to be hard to collect the tax, because of their inefficient methods of accounting, and so forth. So all in all I think the cost of administering such a tax will be almost as much as the result obtained.

Senator REED (presiding). Thank you very much.

Mr. GRIFFENBERG. And I wish to thank you.

LETTER OF REYNOLDS CANDY CO., WILMINGTON, DEL.

WILMINGTON, DEL., *April 18, 1932.*

Hon. REED SMOOT,
Chairman Committee on Finance,
United States Senate, Washington, D. C.:

The following is suggested as further argument in support of the amendment to section 613 tax on candy, submitted at my hearing on Wednesday April 13.

The wholesale manufacturer of candy customarily sells his product to the jobber at a figure which is 66⅔ per cent of the retail selling price less 20 per cent commission to the jobber, who in turn sells to the retailer at the price as above 66⅔ per cent.

Example—A dollar package of candy:

$12 per dozen equals retail price, cost to consumer.
$8 per dozen equals 66⅔ price, cost to retailer.
$6.40 per dozen equals 20 per cent discount, cost to jobber.

Which is 53⅓ per cent of retail price, and represents wholesale manufacturers cost plus profit, therefore the 55 per cent of sale price as a base is conservative and would be a satisfactory basis for levying the tax on a manufacturing retailer, who sells his product only at retail direct to the consumer.

If in your deliberations you find a tax on candy is essential, without regard to the amount fixed, whether it be 5 per cent or only one per cent on manufacturing sales, provision should be made to avoid discrimination between wholesale manufacturers and manufacturing retailers.

COPY OF PROPOSED AMENDMENT SECTION 613, TAX ON CANDY

At the end of the section add the following: But in cases where the manufacturer sells direct to the consumer the tax shall be based upon 55 per cent of the retail price so sold.

Submitted by E. B. Griffenberg, trading as Reynolds Candy Co., Wilmington, Del.

Yours respectfully,

E. B. GRIFFENBERG.

LETTER FROM LEON SWEET

SWEET CANDY CO.,
Salt Lake, April 11, 1932.

Hon. United States Senator REED SMOOT,
Washington, D. C.

MY DEAR FRIEND: Supplementing my wire to you with reference to the proposed excise tax on candy, wish to say that I sense the importance of Congress making every effort that it possibly can to balance the Budget. This is absolutely necessary. I was very favorable to a general sales tax without any exemptions. But why pick out a few selected industries and exempt them from the sales tax and then soak the balance of the industries of America? The Ways and Means Committee of the House have levied a 5 per cent excise tax on candy. It is absolutely impossible for the industry to survive under this burden. The few outstanding firms in America in the confectionery industry that did make a profit last year did not average 2 per cent net on their sales. The entire confectionery industry of the United States is in a chaotic condition. Very few firms are making any profit, and those that do realise most of it from outside investments. I believe if you will check up the records of the Department of the Treasury on the income-tax returns you will find that 75 per cent of the firms engaged in the manufacture of confectionery were in the red last year.

During the war period, when candy paid an excise tax of 5 per cent and later of 3 per cent, the biscuit manufacturers were exempt. They manufacture hundreds of items which are in competition with candy which are packed to retail for 5 and 10 cents, which under the proposed tax of the House will be exempt.

I think the Treasury Department, in compiling their statistics, consolidate confectionery and beverages. This is rather misleading, as most of the so-called beverage manufacturers are making tremendous profits, as well as the biscuit manufacturers. Take the following companies for example:

Coca-Cola Co., net earnings, 1930	$13,515,535
Canada Dry Ginger Ale, net earnings, 1930	3,847,463
White Rock Mineral Springs, net earnings, 1930	1,315,894
National Biscuit Co., net earnings, 1930	22,879,898
Loose-Wiles Biscuit Co	2,465,597
United Biscuit Co	2,570,606

All of the above are net after taxes, depreciation, and sales expense have been deducted. The three representative biscuit manufacturers listed above, viz, the National Biscuit Co., Loose-Wiles Biscuit Co., and United Biscuit Co. have made a net profit in one year more than that of all the candy manufacturers in America combined.

I wish to give you a few figures showing the earnings of some of the representative candy manufacturers of America.

E. J. Brach & Sons, Chicago, net earnings, 1931	$150,000
Bunte Bros., Chicago, net earnings, 1931	154,000
National Candy Co. (operating 9 factories), net earnings, 1931	150,000

And so I contend it is very unfair to burden an industry like the candy business, that is making no profits to-day, with an excise tax and exempt such industries which are also in the so-called semiluxury class, such as the biscuit manufacturers, from paying any tax.

The candy industry can not survive if burdened with this 5 per cent excise tax and the result would be that 50 per cent of the firms engaged in the industry will pass out of the picture, either through liquidation or otherwise and and will result in thousands and thousands of people being thrown out of employment.

Take the case here in Utah. We have very little in the way of manufacturing and the principal course of employment for the young people—that is, young women and young men—is work in the candy factories. We have to-day in Salt Lake City over 10,000 heads of families out of employment and the imposing of this excise tax on candy will simply contribute more and more to the unemployment situation. We are large users of beet sugar and I believe the candy factories of Utah use over 100,000 bags of beet sugar a year. It is the practice of the local beet-sugar factories to add the freight from Pacific coast

points to Utah to the price of their sugar and they realize a profit on their sugar that they market in this local territory. When they ship their sugar to the Missouri River the price is based on New York plus the freight and they have to absorb the railroad freight from Salt Lake City to Missouri River points. The result is, that all beet sugar sold on the Missouri River and points east is sold at a loss. If you want the local beet-sugar factories to survive, and they surely are a very important industry in our intermountain country, by imposing this 5 per cent tax on candy, it will deprive them of an outlet for beet sugar, which gives them a fair, reasonable price.

I have burdened you with a long letter, but I consider this question of an excise tax so vital to our industry that, if enacted on the present basis of 5 per cent, the industry can not survive. Would appreciate anything you an do to relieve the confectionery industry of this additional burden, coming at a time when 75 per cent of the candy factories in America are operating at a loss.

Yours very truly,

SWEET CANDY CO.,
LEON SWEET, *President.*

TAX ON CHEWING GUM

BRIEF OF NATIONAL ASSOCIATION OF CHEWING GUM MANUFACTURERS AND ALLIED TRADES

APRIL 14, 1932.

COMMITTEE ON FINANCE,
United States Senate, Washington, D. C.

GENTLEMEN: The National Association of Chewing Gum Manufacturers and Allied Trades hereby enters protest against the proposed 5 per cent luxury tax on chewing gum, basing its objections on the following:

1. Chewing gum is not a luxury. In 000,000 retail stores it is purchased by the school child at a penny a piece; by others at 5 cents a package.

2. Retail sales prices of 1 cent per piece and 5 cents per package have been fixed in the chewing-gum industry for 61 years. The proposed tax is unfair to this industry for the reason that it can not be passed along to the consumer. Most other industries taxed by the proposed bill may readily pass the tax along, inasmuch as their retail sales prices have been subject to continual fluctuations.

3. Ninety per cent of all chewing-gum manufacturers have been so badly affected by the current depression that the proposed 5 per cent tax will constitute confiscation of their entire profit.

4. The proposed 5 per cent tax on chewing-gum manufacturers is 150 per cent more than the tax imposed during the war and 66⅔ per cent more than the tax levied in the reconstruction period.

The chewing-gum industry therefore earnestly urges the Senate not to impose a tax more severe than the 2 per cent levy of war years.

Respectfully submitted.

NATIONAL ASSOCIATION OF CHEWING GUM MANUFACTURERS AND ALLIED TRADES,
By L. W. HOSKINS, *President.*

Care Walla Walla Gum Co., Knoxville, Tenn.

STATEMENT OF LEVI COOKE, APPEARING ON TAX ON SOFT DRINKS

Senator REED. You told me that matches were a great invention of value to the human race. Haven't you some other great invention?

Mr. COOKE. There was another great invention, if the Senator please, in 1920, which consisted of cereal beverage, so-called near beer. That great invention was brought to the attention of the American people, like all other great inventions, supposedly, as a matter of necessity, necessity being the mother of invention.

Senator SHORTRIDGE. The very word is a misnomer, is it not?

Mr. COOKE. Sir?

Senator SHORTRIDGE. The very word is a misnomer. It does not very definitely define what the article is.

Senator REED. The man that named it was a poor judge of distance.

Mr. COOKE. It is only an approximate definition, if that is what you mean, Senator.

Senator SHORTRIDGE. I was attempting to throw out that idea.

Mr. COOKE. My clients, who are amongst the principal brewers of the country, determined to comply with national prohibition act at all hazards, went largely into the manufacture of cereal beverages. They engaged in that business, and they did their best in the development of the art to make a sound cereal beverage. They did make a sound cereal beverage, as sound as could be, but the beverage was not so good because by the boiling of the original beer to reduce the alcoholic content or dissipate it they destroyed other elements in the beer which gave it flavor and palatability and character.

Senator GEORGE. You ruin the quality of the product more or less in trying to conform with the prohibition act.

Mr. COOKE. There are certain volatiles, enzymes, esters, and other elements besides alcohol, that go out of the beer.

Now, the taxes that were in the past imposed were at 1 cent per gallon in the revenue act of 1917, that provision being made anticipating the making of the cereal beverages, some of which had been made before prohibition, experimentally. The act of 1918 put a tax of 15 per cent upon cereal beverages. The act of 1921 imposed a tax of 2 cents per gallon, which is the present tax proposed here.

In the act of 1924, Congress repealed the tax on cereal beverages. It was brought to their intention that the business was falling off, the product was costly, and Congress in its wisdom disposed of the tax.

In 1926 General Andrews, then being in charge of enforcement of prohibition in the Treasury Department, thought that he could possibly suppress illicit brewing by putting a one-tenth of 1 per cent internal revenue tax on these cereal beverages again in order

to give additional power in the Internal Revenue Department. That carried on for a year. Under the act of 1928, there having been a complete failure to accomplish anything by virtue of the tax, and the tax not having yielded any net revenue, that was abandoned.

Now, we come to the present with a proposal of 2 per cent on the cereal beverages, in section 615, in the first paragraph thereof. The business has fallen off more than two-thirds in the past 10 years. There were less than 100,000,000 gallons of cereal beverages manufactured last year. Our present expectation is that this will be reduced this year. The tax yield will be less than $2,000,000.

Senator REED. Something must have taken its place.

Mr. COOKE. I will address you later on that, sir, if I may. The difficulty with the cereal beverage is not the palatability of the product, but the fact that it can not be sold in competition with spurious—or not spurious but illicit, real beer, even though the latter be of the roughest quality. The existence on the market in any given neighborhood or in a large metropolitan area of real beer illicitly manufactured absolutely stops the sale of cereal beverage.

The CHAIRMAN. Mr. Cooke, there is not very much of that, is there in this country? It is more of liquor, is it not, than beer?

Mr. COOKE. I will give you certain figures.

Senator SHORTRIDGE. Of illicit beer?

Mr. COOKE. We believe that the illicit beer runs up into the millions of barrels. Into the millions of barrels.

Senator REED. How many billions of bottle stoppers were sold last year, do you know?

Mr. COOKE. I heard those figures, and they are illuminating—if all of them go on beer bottles—but the figures are very large.

There is a great production, if the Chairman please, of illicit beer in this country commercially. We can stand a 2 cents a gallon tax on cereal beverage if there is no illicit competition by real beer. But in this very act, if the committee please, is a proposed tax upon wort, brewer's wort, and that tax, which is trifling, tends to authorize and sanction the manufacture of brewer's wort for transfer to a man who will brew it out and make real beer out of it. And if this act is passed, what little of the cereal beverage production is left will be reduced, and the likelihood is that commercial brewing will spread across the country and take the place of any possible distribution of cereal beverage.

Now, if the committee please, that tax is found in section (2) of part (c) of section 601, and reads as follows:

Brewer's wort, liquid malt—

And so forth

if containing less than 15 per cent of solids by weight, 5 cents a gallon.

Now, I will trespass upon the committee's attention by telling the committee what wort is. Wort is that article which is manufactured by the infusion of malted material in water, usually a bushel to 60 gallons of water or 50 gallons of water. That infusion of malted grain in water is then boiled for three or four hours. It is then allowed to cool, the remaining solids to settle, and the materials, which then contain the fermentable material which was in the malted grain, is drawn off, and that is brewer's wort. It is a liquid with a

certain amount of solids in it drawn from the fermentable element in the malted grain. The only thing then necessary to do to make beer is to add yeast. The wort then ferments and is made into beer. It is then filtered, strained, carbonated, and is bottled or barreled, and it is beer.

There has grown up in the country, particularly along the Great Lakes, Chicago, Detroit, Buffalo, and elsewhere—some in Missouri, some in Pennsylvania, some in eastern New York, some on the coast, in California, the practice of making this brewer's wort, which, of course, is inert—it has no alcohol in it as yet—selling that wort to the alley brewers and the wildcat brewers who in barns, stables, garages, empty store buildings, anywhere they can place a tank—those alley brewers or wildcat brewers then add the yeast. Then they either bottle the product or barrel the product and sell it, selling it to speak-easies or anyone else who wishes to set up a place to sell this strong beer. I will add this, that this beer that is thus made is a heavy ale type of beer. Because you can not make a light beer of the lager-beer type without refrigeration and control of temperature during fermentation. But with a heavy wort you get a heavy ale type of beer which will maintain its stability without refrigeration. There is alcohol enough in it to do that.

Senator SHORTRIDGE. Oh, it is not intoxicating, is it?

Mr. COOKE. It is, sir.

Senator SHORTRIDGE. Is it so?

Mr. COOKE. Unless other gentlemen have stouter sensibilities than I have. I do not state that on my own knowledge, if the Senator please, but a lawyer is entitled to take counsel and state facts under instructions.

Senator SHORTRIDGE. Certainly.

Mr. COOKE. Now it is therefore a rough beer. It is a green beer. Because the object of these men who make such beer is to make as rapid sale as they can and keep their money moving and not have stocks on hand.

There are some 60 indictments pending in Detroit on that subject. But doubt has been expressed as to whether or not the maker of brewer's wort can be prosecuted, and without a conspiracy being established between him and the alley brewer or the wildcat brewer it is difficult to make a case.

However, there is a provision in the national prohibition act which undoubtedly covers the operation and makes it illegal. Section 18 of the law provides:

> It shall be unlawful to advertise, manufacture, sell or possess for sale any utensil, contrivance, machine, preparation, compound, tablet, substance, formula, direction or recipe advertised, designed or intended for use in the unlawful manufacture of intoxicating liquor.

That is a sweeping provision which covers brewer's wort made for the making of intoxicating liquor.

Now, this last year—and I speak now on general knowledge, but I am confident of the facts—75,000,000 gallons, approximately, of brewer's wort were manufactured and sold. If any suggestion were made that the operation is legal it would probably treble in no time. No responsible brewery handles wort. In fact the permits under which they operate forbid them to sell wort.

That wort sells for about $7 a barrel. A barrel of wort makes a barrel of ale—of beer. The barrel of beer is sold by the alley brewer for $30 to $35. And there is the spread of his profit in between. Something like $25 to $28.

If he bottles this green ale type of beer and sells it in bottles the yield of one barrel will give him about $90, because they sell these beers at about 50 cents a bottle of 10 ounces. Therefore, you discover that the profits on the manufacture of alley beer and wildcat beer out of brewer's wort will carry an infinitely larger tax than 5 cents a gallon, because 5 cents a gallon on a gallon of wort is equal to $1.55 only on the 31-gallon barrel. Now, in the past you taxed, over many years of peace and prosperity, beer at a dollar a barrel of 31 gallons. Three dollars during the war. And it finally attained $6 a barrel. At this rate you are taxing the material out of which the barrel of beer is made only $1.55. If that product is to be taxed it ought to be taxed at least the equivalent of what the old high beer tax was, $6 a barrel, or higher.

The CHAIRMAN. Mr. Cooke, your time is 5 minutes over.

Senator SHORTRIDGE. To what use is wort put other than as stated?

Mr. COOKE. I can state positively that there is no known human use to which brewer's wort can be put except to make beer out of. Brewer's beer out of brewer's wort.

If the Chairman please, I wish to add only this. Cereal beverages can not stand 2 cents a gallon tax, and we ask that that tax be taken off, and a legal, honest industry conducted under the national prohibition act be permitted to survive so long as it can without being taxed out of existence as well as competed out of existence. And if the brewers are allowed to make cheap beer out of cheap wort at a cheap tax, we might as well close our doors and quit.

Thank you.

STATEMENT OF GEORGE P. McCABE, WASHINGTON, D. C., ATTORNEY FOR THE ASSOCIATED PRODUCERS OF CEREAL BEVERAGES

Mr. MCCABE. My name is George P. McCabe. Representing the associated producers of cereal beverages.

Senator, I represent some 25 manufacturers of cereal beverages. By paragraph 1 of section 615 of the bill a tax of 2 cents per gallon is levied on the beverage. And our case is of such a small compass that I will take just as little time as I can on it.

Senator REED. Cereal beverage only?

Mr. MCCABE. Cereal beverage only. I may say that these 25 manufacturers all operate under United States permit under the Volstead Act, and of the 25 whom I represent it happens that none of them have ever been charged with any violation of the Volstead Act. They are all making a cereal beverage and making nothing else.

Senator REED. Did any of them heretofore make any money out of it?

Mr. MCCABE. Some of them.

Senator REED. In recent years?

Mr. MCCABE. Not so much of recent years. Not so much.

Now we are asking you, for two reasons, to reduce this tax. Specifically we are asking that you reduce the tax from 2 cents a gallon to 1¼ cents a gallon, for two reasons. The first reason is because of the present condition of the beverage industry. In 1921 when you passed your last 2 cent tax on cereal beverage, the same rate as this tax, there were 238,000,000 gallons per year produced. Last year there were 97,000,000 gallons. And this is due not at all to the depression. That is shown by the fact that there has been a progressive decline each and every year for the past 11 years in the production and consumption of this beverage.

Senator HARRISON. Was that tax included in the 1924 act?

Mr. MCCABE. My recollection is that it was reduced to one-eighth of a cent either in 1924 or 1925.

The second reason that we ask a tax reduction is because we are subject to a nasty discrimination in the tax. There is no gallonage tax levied on carbonated beverages made from finished or fountain sirups. There are two taxes levied on that product. The first tax is a tax at 5 cents a gallon on the sirup that is used in those beverages provided the beverage is sold in bottles, and the second tax is a tax of 4 cents a pound on the carbonated carbonic acid gas which is used in carbonated beverages.

The net result is that we have in the case of cereal beverage 24 bottles of 12 ounces, 288 ounces, and the tax on that cereal beverage is 4½ cents per case. That is what it figures.

Whereas in the case of the soft drink which is sold in 6-ounce bottles you have a tax—counting the two taxes—you have a tax of less than 1½ cents, so that we are subjected to a discrimination of 3 cents a case, without considering the fact that we are selling twice the quantity that they are selling.

Now like everybody that has appeared here, I have a very short brief, and I am not going to attempt to read it, but only to touch the high spots in it. I have heard these high spots touched on for several days.

The CHAIRMAN. You can put it all in the record.

Mr. MCCABE. I know I can, but if you will bear with me I would like to touch on the high spots.

The CHAIRMAN. You can take the high spots, and then put it all in the record.

Mr. MCCABE. Yes. The tax of 4½ cents, in the present depressed condition of the beverage industry, is too large to be passed on to the distributors, and its attempted absorption by the manufacturers would complete the wreck of an industry which has been having an uphill fight for existence and which has faced declining demand each year for the past 11 years.

Senator REED. What does a case sell for?

Mr. MCCABE. The net to the manufacturers—I have all that detailed here—but the net average is 85 cents to the manufacturer.

Senator REED. So this 4½ cents is something over 5 per cent.

Mr. MCCABE. Oh, yes. Yes.

The reports of the Treasury Department show that for the fiscal year 1921 the total production of cereal beverage was approximately 286,000,000 gallons and in the fiscal year 1931 this production had shrunk to approximately 97,000,000 gallons, or only a trifle more than one-third of the production of 11 years ago. That this decline

in production is not chargeable in major part to the industrial depression is disclosed by the fact that the decline is constant and progressive for each of the 11 years mentioned. Mr. Bruckmann, a cereal beverage manufacturer, who will follow me, will present some instructive figures showing the decline in production, and in the statement which I shall file with the committee there is shown actual production by States of cereal beverage for 11 successive years, the figures being taken from the reports of the Commissioner of Internal Revenue and the Commissioner of Industrial Alcohol.

The causes for the decline in production and consumption of cereal beverages are believed by those in the industry to be due principally to high comparative production costs, and to competition of other drinks both lawful and unlawful. Because cereal beverage is a brewed cereal drink, and is a substitute for beer, the production, distribution, and sale of unlawful strong beer, and the tremendous increase in the manufacture, use, and sale of "home brew" beer more heavily upon cereal beverage than upon other soft drinks and are in part responsible for the poor showing made by our industry. The heavy tax laid by the House bill will encourage home brew and further cripple cereal beverage.

We appreciate that the country must have increased revenue and that it is the duty of our industry to pay a fair tax, but we respectfully submit that the tax of 2 cents per gallon or 4½ cents per case on a product which wholesales for 85 cents per case net, is entirely too high and will result in a drastic curtailment of volume and consequent failure of the tax collected to approximate the amount estimated.

The production of cereal beverage is an expensive process. Its cost of production is greater than the cost of production of beer with 4 per cent alcoholic strength.

Senator REED. What per cent of the production is sold in kegs and what per cent in bottles?

Mr. MCCABE. I think Mr. Bruckmann can answer that question when he comes on. He is a practical man, Senator, and I will see that he does answer.

To produce cereal beverage requires a heavy plant investment and the industry employs more labor per unit of production, at higher wages, than is required for the manufacture of any other of the soft drinks with which it competes. The cost of distribution is higher, involving railroad freight shipments of a greater volume than is required where concentrated sirups only are shipped. The materials used are the expensive materials and the cost of barley malt is high, increasingly so at the present time. Another factor which increases the cost is production under United States Government permit, and the necessary expensive compliance with Government rules and regulations.

Inasmuch as the manufacturer can not pass on the proposed tax under present competitive conditions, he will be compelled to absorb 4½ cents on a case of beverage which nets him without tax, at the present time, approximately 85 cents.

We respectfully ask that your committee recommend a reduction of this tax on cereal beverages from 2 cents to 1¼ cents per gallon. This reduction would reduce the tax per case to 2.81 cents which the manufacturer could perhaps absorb, and would equalize with other soft drinks, carrying a lower rate of tax, and selling for approximately

the same price per case of one-half the volume of a case of cereal beverage.

Now I come to the point in the discussion upon which I would like to have your particular attention. On page 240 of the Senate print that I have——

The CHAIRMAN. Two hundred and fifty-four.

Mr. MCCABE. Is it 254 in your print?

The CHAIRMAN. Yes, 254 and 255.

Mr. MCCABE. Then I have the wrong print. The Senator says pages 254 to 255 in the committee print.

Turning now to our assertion that the House bill fixes a lesser rate of tax on bottled carbonated beverages sold in bottles and made from a finished or fountain sirup than the tax fixed on cereal beverage, I call your attention to the following provisions of the House bill.

Paragraph 2 of section 615 levies a tax of 2 cents per gallon only upon carbonated beverages manufactured, compounded, or mixed by the use of concentrate, essence, or extract—our principal competitors do not manufacture any that way, and consequently do not pay to 2 cents tax—and it expressly exempts from the operation of the paragraph those carbonated beverages manufactured, compounded, or mixed by the use of a finished or a fountain sirup. That is what our competitors use.

Paragraph 5 of section 615 provides a tax of 9 cents per gallon upon all finished or fountain sirups except in the case of any such finished or fountain sirups intended to be used in the manufacture of carbonated beverages sold in bottles or other closed containers, the rate of tax is 5 cents per gallon.

Paragraph 6 of section 615 levies a tax of 4 cents per pound on the carbonic acid gas used by the bottler.

It thus appears that the taxes levied by the House bill upon a carbonated beverage made from a finished or fountain sirup and sold in bottles or closed containers are the 5 cents per gallon on the syrup used plus the tax of 4 cents per pound on the carbonic acid gas used. No gallonage tax as such on this class of soft drinks is levied by the House bill.

Now let us see how this tax works out in practice on a per case basis of carbonated beverage as compared with cereal beverage. Computation shows it means a tax of 1.38 cents per case of 24 bottles of 6 ounces each for the carbonated beverage as compared with a tax of 4½ cents per case of 24 bottles, each of 12 ounces, of cereal beverage.

The method of arriving at these figures is as follows—and this is important:

First. The formula for the manufacture of the carbonated beverages from finished or fountain syrup usually provides 1 ounce of syrup for each 6-ounce bottle. Thus a gallon, which is equal to 128 ounces, will produce 128 6-ounce bottles of finished carbonated beverage. This means 5⅓ cases of soft drinks per gallon of syrup and represents an actual tax per case of 0.94 cent.

Then when we figure the 50-pound drum of carbonic acid gas as being sufficient to carbonate 450 cases of the beverage, we get a tax reflection of 0.44 cent. And when we add those together we get the 1.38 cents per case.

Now of course in this comparison it may be said that it is faulty because but one-half of the quantity of carbonated beverage is sold

as compared with the quantity of cereal beverage, but the fact remains that approximately the same sum of money is received by the manufacturer for each case of the two products. I have stated that these competing products usually sell at 80 cents per case, and our product sells at 85 cents.

Senator HARRISON. Were these classifications about the same in the 1921 act?

Mr. MCCABE. Yes. I am coming to that and will show you how they were arrived at. This committee equalized the whole thing on the 1921 act, but as sometimes happens in the Senate, it was all thrown out of kelter by the floor amendment which reduced the tax on one and left the high tax on the other.

But the fact remains that approximately the same sum of money is received by the manufacturer for each case of the two products, and the cereal beverage manufacturer pays a tax of 4½ cents per case, while his competitors on the other article pay a tax less than 1½ cents, a discrimination of over 3 cents per case. Even if the tax be figured on an equal gallonage basis on the rates now fixed by the House bill, there is still a wide discrimination against cereal beverage, for if the quantity of the carbonated beverage were doubled with the consequent doubling of the tax, still the amount of tax on the carbonated beverage would be but 2.76 cents per case as compared with 4.5 cents on each case of cereal beverage of equal volume.

There can be no justification for a difference in tax rate which will produce a discrimination between these articles. They are all competing articles in the same class, and all should be on the same tax basis. If the rate of tax on cereal beverage were reduced to 1¼ cents per gallon, the tax on one case of 288 ounces of cereal beverage would amount to 2.81 cents, and under the present rate of tax as fixed by the House bill on carbonated beverages made from finished or fountain sirups, the tax on 288 ounces of such carbonated beverage would amount to 2.76 cents, a substantial equality, and the manufacturers I represent would consider such adjustment as equitable and fair.

Senator HARRISON. As I understand that was the way it was largely fixed in the 1921 act.

Mr. MCCABE. That was the way it was intended to be fixed in the 1921 act.

Senator HARRISON. This amendment was offered on the floor of the House?

Mr. MCCABE. This amendment was offered on the floor and knocked it out. Now here is the legislative history about it. There was a committee amendment. When the bill came over from the House it provided for a tax of 10 cents and a tax of 4 cents. And the first committee amendment was:

> Upon all beverages derived wholly or in part from cereals or substitutes therefor, containing less than one-half of 1 per cent of alcohol by volume, sold by manufacturer, producer, or importer, a tax of two cents per gallon.

Then Senator Smoot offered his amendment, and Senator King remarked that he did not think that "innocent cereal beverages" should be taxed as high as "synthetic beverages." Mr. Watson said that they were all competitive products and should be on a par.

On October 12, 1921, page 6262 of the Congressional Record, Senator Smith asked if there was any discrimination in this tax. Now this was after the Senate committee—this committee—had reduced the tax on the sirup that was used in making these carbonated beverages that were sold in bottles, from 10 cents to 7½ cents. And Senator Smoot said to Senator Smith:

I will say to the Senator that whoever makes that statement is mistaken; it is not a double tax under existing law. There is objection from some sources to paragraph (e) where there is proposed 10 cents per gallon.

The committee reduced that 10 cents a gallon to 7½ cents a gallon to equalize it with other fountain beverages of this type in the section. It is true that when the complaints were first urged against the 10-cent tax on these sirups it was a discriminatory tax but the committee reduced it to 7½ cents—

now get this—

which equalizes the other rate imposed under the section upon beverages wholly or partly from cereals or substitutes therefor or bottled beverages and other beverages named in the section.

Now that statement was absolutely correct as it stood then. And you reported the bill in on the floor of the Senate with a tax of 7½ cents on these sirups, 7½ cents a gallon on the sirups, and 2 cents a gallon on the cereal beverages.

And what happened? Senator Smoot went on and explained that the old law provided a 15 per cent tax. He said:

We had a specific change at the request of the bottlers themselves. They thought that 4 cents on near beer and soft drinks was equal to the 15 per cent under the old law, but in figuring it out very closely after the testimony was given, it was found that the 4 cents was too high and the committee reduced it to 2 cents. In the items under paragraph (e) the fountain sirups we figured that 10 cents was equal to the old tax imposed, but 7½ cents makes it equal with the 2 cents that is imposed on the beverages.

And the bill was reported on a perfectly equal basis.

Now on November 2, 1921, at page 7,178 of the record, Senator McCumber offered an amendment to the committee amendment making a tax of 5 cents, which then stood at 7½ cents as reported by the committee on finished sirups used in the manufacture of bottled carbonated beverages. Mr. McCumber said that his amendment provided that if the finished sirups are used for the purpose of making bottled goods, the tax should be only 5 cents instead of 7½ cents. This amendment was agreed to.

The only other change that was made in this was in the conference report where you changed the rate back from 7½ cents per gallon on the finished fountain sirup that was dispensed in the soda fountain—you changed that back to 9 cents, which is exactly the same as it was here.

So that this was the condition. When this committee reported the bill without making any statement as to any rates of tax, you reported a perfectly equitable, fair tax as between the two competing products. Then this floor amendment came along and changed the rate of tax, reducing it from 7½ cents a gallon to 5 cents a gallon on the sirup, 50 per cent—from 7½ cents a gallon to 5 cents a gallon on the sirup, but did not change the 2 cents on the cereal beverage. And we are asking that a rate of tax be fixed now in line with that. We stood that inequality in the 1921 bill because there was nothing else to do. We had to stand the rate at that time. But we now ask you to change the rate.

I will now ask that you hear Mr. Bruckmann, a cereal-beverage manufacturer with three generations of experience back of him in making cereal beverages and other things.

The CHAIRMAN. Do I understand you, Mr. McCabe, that this 2 cents a gallon provided for now in the House bill should be 1½ cents in order to equalize it with the tax on these others?

Mr. MCCABE. Yes.

Senator HARRISON. At least you want the whole thing equalized, that is what you want.

Mr. MCCABE. Well, there are two ways of equalizing, Senator. We do not want to pay any more tax than we have to.

The CHAIRMAN. In other words, you do not want any increase?

Mr. MCCABE. We are not asking anything for the other fellows. We are not here for that purpose.

Senator GORE. What are the cereal beverages anyway? Near beer and things like that?

Mr. MCCABE. Yes; just that one thing.

Senator GORE. Near beer?

Mr. MCCABE. They do not allow us to call it near beer. They allow us to call it cereal beverage.

(Mr. McCabe filed a tabulation of cereal beverage produced by States for fiscal years ended June 30, 1921, to June 30, 1931, which is here printed in the record in full, as follows:)

Cereal beverage produced by States for fiscal years ended June 30, 1921, to June 30, 1931

States	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931
California	7,627,939	7,038,700	7,918,128	8,484,793	7,961,825	8,970,713	6,266,595	7,528,381	6,743,895	7,027,142	5,662,114
Colorado	1,153,744	865,984	743,877	631,859	842,992	1,133,389	896,290	1,032,920	1,017,203	900,581	678,924
Connecticut	7,059,181	4,409,860	2,991,566	1,799,627	1,496,519	1,444,243	1,074,956	322,710	111,602	74,121	33,015
Delaware	359,390	326,120	316,696	840,317	792,887	440,012	95,751				
District of Columbia									528,385	574,120	495,762
Florida				40,270	115,100	144,050	120,494	66,061	57,133	42,377	34,966
Georgia	460,640	340,205	261,240	370,020	363,720	377,730	289,641	233,720	188,606	158,379	128,161
Idaho	15,500	28,430	19,059								
Illinois	29,903,134	20,384,749	13,686,437	9,849,547	18,649,745	19,048,660	15,018,308	13,041,328	12,349,790	11,758,951	12,271,970
Indiana	4,565,115	2,843,597	2,783,211	2,588,596	3,208,021	2,982,845	2,743,276	1,735,163	1,110,017	900,137	713,827
Kentucky	4,048,178	2,435,918	1,394,909	1,123,192	1,732,280	942,112	1,067,113	1,191,082	1,278,688	1,000,551	1,574,882
Louisiana	4,658,014	1,481,786	1,028,138	1,475,321	1,575,381	1,205,410	811,134	1,503,159	1,546,494	1,728,157	1,462,622
Maryland	5,128,052	3,590,779	2,359,233	2,752,833	2,890,824	3,001,687	2,950,495	1,902,494	2,022,564	2,110,697	1,588,871
Massachusetts	6,250,539	3,645,475	3,199,170	3,786,874	4,265,535	4,346,692	4,197,415	3,946,525	3,247,652	3,433,694	2,330,230
Michigan	5,997,540	3,704,377	3,222,786	2,641,219	1,850,617	1,078,761	615,646	729,864	920,389	697,538	454,365
Minnesota	6,476,336	6,994,727	2,766,510	2,413,070	5,036,367	2,469,498	2,101,043	4,048,611	5,252,911	5,028,107	5,994,222
Missouri	26,073,067	13,674,614	10,753,810	10,654,095	10,947,998	13,234,352	11,732,796	13,151,596	8,495,878	7,636,880	6,653,728
Montana		422,662	171,936	123,015	115,963	102,538	104,437	54,095	48,910	29,047	1,240
Nebraska	991,729	783,864	713,453	654,225	739,775	691,083	563,497	453,197	394,072	300,980	300,680
Nevada	175,905	109,430	77,865	89,860	109,275	124,022	120,115	95,720	95,720	110,295	66,980
New Jersey	16,995,348	12,472,694	11,910,577	10,491,670	8,486,411	7,773,430	8,504,411	6,944,800	6,863,121	5,796,132	4,288,118
New York	70,009,922	52,009,385	43,228,263	44,923,485	48,505,829	43,206,957	35,890,813	37,305,277	34,613,391	32,636,683	28,062,630
Ohio	22,494,120	15,140,600	13,011,868	9,370,457	8,509,938	7,057,498	5,698,895	5,121,014	4,697,658	4,004,735	3,302,494
Oregon		365,193	435,020	705,860	669,151	751,662	1,656,385	478,113	469,388	377,983	289,420
Pennsylvania	39,873,045	27,533,702	30,149,988	26,660,699	18,074,604	18,243,375	18,551,058	18,284,048	15,859,988	15,141,764	12,574,778
Rhode Island	2,559,882	924,812	438,278	118,885	200,050	322,493	399,807	157,615			
South Dakota			6,998	14,957	15,282	13,236	15,360	33,325	21,300	10,664	8,630
Tennessee	1,171,614	765,700	986,017	633,950	809,999	714,643	423,460	348,695	329,933	199,109	195,586
Texas	1,877,515	1,793,090	1,062,492	1,032,579	1,303,550	993,139	723,905	596,502	493,817	518,312	445,498
Utah	52,917	321,036	318,102	397,079	358,892	302,871	310,186	224,480	228,989	321,098	253,492
Washington	252,495	368,757	476,255	649,690	867,082	769,104	563,704	758,492	891,112	624,300	494,249
Wisconsin	19,500,526	11,713,846	6,812,912	5,204,945	8,293,819	9,468,352	9,252,205	7,598,846	9,950,989	10,265,557	9,583,619
Wyoming	94,333	116,041	57,412	64,171	49,384	40,192	39,016	17,515	20,640	18,911	5,456
Total	285,825,830	196,666,217	163,212,206	151,497,169	158,629,655	150,465,749	135,798,977	128,915,950	119,792,726	114,676,931	97,219,751

Senator SHORTRIDGE. How near is it to beer?

Mr. MCCABE. It contains less than one-half of 1 per cent of alcohol by the volume, and beer would contain probably 4 per cent.

Senator REED. How do you get rid of the alcohol in the product when it is first made? Is that by boiling it off?

Senator GORE. Are you going to insist on that, Senator Reed?

Senator REED. Well, it might be an important point.

Mr. MCCABE. I probably should not attempt to answer the question to tell you exactly, but as I understand it roughly, there are two ways of making this product. One is to produce a strong beer of 8 or 10 per cent and then dealcoholize it, sell the alcohol as alcohol and then sell what is left as near beer.

However, these 25 manufacturers do not do anything of that kind. They produce no alcohol and sell no alcohol as such. They produce these low-gravity brews in which they try to keep everything in the product that was in the beer and reduce it by taking the alcohol out, as you suggest, Senator Reed, wasting it out into the sewer, and selling the completed beverage as such and containing less than one-half of 1 per cent of alcohol by volume.

Does that answer your question, Senator?

Senator REED. Yes.

STATEMENT OF JOHN C. BRUCKMANN, MEMBER OF THE ASSOCIATED PRODUCERS OF CEREAL BEVERAGES, WASHINGTON, D. C.

Mr. BRUCKMANN. Mr. Chairman and gentlemen of the committee, I am with Bruckmann & Co., Cincinnati, and also a member of the Associated Producers of Cereal Beverages, of which there are 25 members in the country. Mr. McCabe has covered the question of cereal beverage and the equalization of the tax on it very thoroughly.

In the matter of production of cereal beverage our industry has had a steady decline since 1921 up until 1931. In fact, the figures this year will about be equal to what they were for the year 1931.

The CHAIRMAN. Do you want those figures put in the record?

Mr. BRUCKMANN. I think they are already in the brief.

Then the next year they will probably be more on account of this depression. In our industry we have had depression for the last 14 or 15 years. We have not had good years like a lot of other industries have. We wish we had. It is now to a point where we do not know how long we are going to be in business. We are trying to get on with the hopes that probably something will develop some day. We have a large investment. In order to produce our product it takes about five times the capital that it does to produce other products. The class of men that we employ are higher class men, they are higher paid men, and they are in the soft-drink stands.

Senator REED. What is the decline due to, Mr. Bruckmann?

Mr. BRUCKMANN. What is the decline due to?

Senator REED. Yes.

Mr. BRUCKMANN. Various reasons, Senator—home brew, which we can not compete with; private regulation; all these other things.

Senator REED. Bootleggers?

Mr. BRUCKMAN. Yes, plenty of them.

Senator HARRISON. The breweries do not come in contact with the real beer, do they?

Mr. BRUCKMANNN. Yes, sir.

Senator HARRISON. They do?

Mr. BRUCKMANN. Yes, sir, absolutely. That is the only thing we have. If we could produce real beer, why, we would not produce this, but we have no alternative. We can only produce this one product.

Senator REED. I am asking you in all sincerity, is the production of real beer in this country increasing?

Mr. BRUCKMANN. You mean from a home-brew standpoint?

Senator REED. Either home brew or alley breweries or any other source.

Mr. BRUCKMANN. Yes; from what we can see.

Senator REED. Is there more of it being made now than there was 10 years ago?

Mr. BRUCKMANN. Oh, absolutely. We hear more of it every day.

Senator REED. Can you measure its quantity by the number of bottles or caps that is sold?

Mr. BRUCKMANN. No, sir; there is no means of measuring that whatsoever. It is only a guesswork. My guess is as good as anybody else's.

Senator SHORTRIDGE. Do you refer to what might be termed genuine real beer of 4 per cent, would you say?

Mr. BRUCKMANN. We do not know what the product is that is out on the market. There is no way. It is made in the alley; it is made in a back room somewhere; it is made in the cellar. Nobody knows what it is apt to be. What the production is going to be, seriously, I think it is going to be greatly reduced.

Senator REED. Is anybody making money out of this near beer?

Mr. BRUCKMANN. No, sir.

Senator REED. Just continue the business in the hope that the law will be changed; is that it?

Mr. BRUCKMANN. Absolutely.

In the last year there were only 112 plants in operation, and in 1920 there were about 1,400, and I think there were about 25 or 26 went out of business last year, and I imagine this coming year there will be that many more.

Senator SHORTRIDGE. Regular breweries?

Mr. BRUCKMANN. Regular breweries; yes, sir—what were breweries; yes, sir, that are now cereal-beverage plants.

In our industry this production of 97,000,000 gallons, that means about 3,000,000 bushels of barley malt. That is grown in Wisconsin and places of that kind.

Senator REED. What proportion of your near beer do you sell in kegs and what proportion in bottles?

Mr. BRUCKMANN. That all depends upon the locality where it is sold. In New York City the percentage is higher than it is out in our section.

Senator REED. They needle it there, do they not?

Mr. BRUCKMANN. No, sir; I do not believe they do. On some of it they may, but most of it not. In our section it is probably 5 per cent of the production. The balance of it is sold in bottles. A lot of it goes to the home. A lot of it goes to the roadside barbecue stands, and a few restaurants.

Our cost of doing business is greater to-day than it was in 1921. We are faced with a lot of taxes. States are applying a tax upon the sale of cereal beverage. Every little town you get into it is either a $25 or $50 or $100 tax to solicit business and try and do business in cereal beverage. So it is very, very discouraging.

The CHAIRMAN. Is there anything else you want to say?

Mr. BRUCKMANN. I think that is all.

STATEMENT OF OTTO H. HENTZ, REPRESENTING THE DISTRIBUTORS OF MOUNTAIN VALLEY WATER, PHILADELPHIA

Mr. HENTZ. Mr. Chairman and gentlemen, I would like to file a brief and make a few remarks. I represent the Mountain Valley Water Distributors. That is a natural still water, not treated artificially. It comes from Hot Springs, Ark., and for over 50 years it has been sold as a medicinal product. Since medicines are not to be taxed, we think it would be unfair to include natural still water not treated artificially; and I am speaking in behalf of the bottlers of natural waters as being in the same category. Mr. Ricker, who is going to follow me, can give you more pertinent information.

(Mr. Hentz submitted the following brief, which is copied into the record, as follows:)

BRIEF OF OTTO H. HENTZ, PHILADELPHIA, PA.

FINANCE COMMITTEE,
United States Senate,
Washington, D. C.
(Attention Hon. Reed Smoot.)

HONORABLE SIRS: It is easy to suppose that over 100 years ago a committee similar to this, composed of your predecessors, considered very gravely numerous reports and testimony which convinced them beyond a doubt that the waters of Hot Springs, Ark., contained unusual therapeutic properties.

After due deliberation the first national park was established by this Government in 1832 and called Hot Springs National Park, located in Hot Springs, Ark.

I say that the therapeutic properties of the waters found there were established beyond all question of doubt, for in addition to setting aside the first national park, a combined Army and Navy hospital was established on this newly created reservation to adequately care for ailing and disabled veterans of both branches of service. The Department of the Interior maintains a resident superintendent in Hot Springs.

To-day more than 300,000 visitors annually avail themselves of the health-giving qualities of the waters at Hot Springs, Ark. Since this spot attracted the country's most famous medical specialists in hydology (the use of waters in the treatment of diseases and bodily ailments) it is reasonable to suppose that those doctors should be well qualified to determine which are and which are not medicinal waters.

And now I want to present to you gentlemen, for your earnest consideration, our reasons why Mountain Valley water should be excluded from the revenue act of 1932.

In 1923 20 of the outstanding medical doctors practicing in Hot Springs, Ark., affixed their signatures to a sworn affidavit, reading as follows:

"I voluntarily affix my signature in support of the claims made for the medicinal value of Mountain Valley water and its therapeutic action in such conditions as diabetes, nephritis, arteriosclerosis, high blood pressure, excessive uric acid and kindred diseases of the kidney and bladder. I have prescribed Mountain Valley water where indicated, and its therapeutic value has no equal in the above conditions where a natural diuretic and eliminant is required. By affixing my signature this becomes a sworn statement." (See Exhibit A attached.)

Now Mountain Valley water does not come from the Government reservation; I do not wish to mislead you. It is a cold spring, and its water is the outstand-

ing, and beyond any comparison, the most popular in Hot Springs, Ark., as a medicinal water to be taken internally whereas the waters from the Hot Springs are largely used for bathing, although they too are taken internally.

The proven merit of Mountain Valley water has caused thousands of doctors throughout the country to prescribe it.

Mountain Valley water with a reputation of 60 years has always been advertised and sold as a medicinal product. It is our understanding that the originators of the proposed tax had no intention of levying on medicines; nowhere in the proposed tax can we find a levy on medicines, except where the 2 cents levy is proposed on Mountain Valley water.

Mountain Valley water has been sold exclusively as a medicinal product, and there is no intent, so far as we can determine, in the proposed tax bill, to levy on medicines.

For reasons I have recited, we hold that it is unjust and discriminatory to impose a tax on Mountain Valley water, such as is proposed in this revenue act of 1932. Therefore we, the distributors of Mountain Valley water, suggest respectfully that section 615 A, paragraph 4, be so amended as to exclude from this proposed tax natural mineral waters sold solely for medicinal purposes.

OTTO H. HENTZ,
(Representing distributors of Mountain Valley water),
Philadelphia, Pa.

EXHIBIT A

HOT SPRINGS, ARK.,
June 23, 1923.

I voluntarily affix my signature in support of the claims made for the medicinal value of Mountain Valley Water and its therapeutic action in such conditions as diabetes, nephritis, arteriosclerosis, high blood pressure, excessive uric acid and kindred diseases of the kidney and bladder. I have prescribed Mountain Valley Water where indicated, and its therapeutic value has no equal in the above conditions where a natural diuretic and elimenant is required.

By affixing my signature this becomes a sworn statement:

J. S. STELL, P. D.
G. C. BRUCE, M. D.
HOWELL BREWER, M. D.
J. F. MERRIT, M. D.
G. C. COFFEY, M. D.
P. W. JOHNS, M. D.
S. B. STEELE, M. D.
J. C. MINOR, M. D.
W. E. PARKER, M. D.
H. KING WADE, M. D.
FLOYD CLARDY, M. D.
L. R. ELLIS, M. D.
GEO. B. FLETCHER, M. D.
JAS. T. JELKS, M. D.
O. E. BRIGGS, M. D.
J. B. STRACHAN, M. D.
E. A. PURDUM, M. D.
E. L. ELLSWORTH, M. D.
W. P. SIMPSON, M. D.
P. T. VAUGHAN, M. D.
Hot Springs, Ark.

STATE OF ARKANSAS,
COUNTY OF GARLAND: ss:

I, the undersigned, do solemnly swear that the above signatures were hereto affixed in my presence.

H. R. EZERNACK.

Subscribed and sworn to before me this 23d day of June, 1923.

D. C. HARMON, *Notary Public.*

STATEMENT OF EDWARD P. RICKER, POLAND SPRINGS, ME.

Mr. RICKER. I have just a few remarks, Mr. Chairman.

Poland water is one of the purest natural spring waters sold in the United States, the mineral content being only 3.6 grains per gallon. Its merit consists of its absolute purity, which has warranted its recommendation by leading medical writers in cases of kidney and bladder ailments, all forms of fever, and other illnesses where a pure water is indicated. As a table water it is used—

(*a*) In homes among those who desire a pure water, almost wholly free from mineral content as an aid to continued good health; and

(*b*) Particularly by those who are deleteriously affected by the chlorinated waters furnished by the usual city water supply; and

(*c*) On trains and steamships by those whose systems can not endure, without ill effects, a change of water in passing from one part of the country to another.

First, I submit that there is no article of consumption by the people less appropriate for taxation than pure water. Said Congressman Nelson W. Dingley to the Ways and Means Committee in 1897: "I would as soon tax the pure air we breathe as the pure water we drink." Hence, I object to the tax on the sound principle that water is not a proper subject of taxation.

Second, the mineral water industry in this country is so small as to be insignificant as a revenue producer. We had a tax of 1 cent per gallon on waters sold at 10 cents or more per gallon during 1918, and part of 1919, 2 cents per gallon, part of 1919, and all of 1920 and 1921, and 2 cents per gallon on waters sold at 12½ cents or more per gallon throughout 1922. Attached Appendix A shows total annual revenues from this source, covering both charged and uncharged waters, to have varied between a minimum of $85,000 and a maximum of $385,000. The amount derived as revenue by the Government is negligible when compared to the damage done the industry and the decrease in the consumption of pure water.

Third, imposition of this tax in the past resulted in a great increase of water imported to the detriment of the domestic industry. United States Geological Survey Bulletin II: 24 "Mineral Waters in 1922," page 120, shows an increase in imported waters between 1918, the first year of the internal revenue tax, and 1922, the last full year thereof, of a fraction more than 51 per cent. During the same period (bulletin above, p. 209) production of domestic waters declined approximately 5½ per cent. While the decline in total domestic production was comparatively small, during the same period (bulletin above, p. 209) the number of the commercial springs in this country declined from 569 to 452. It is our opinion that the "little fellow" was crowded out, being unable to show a profit on a small volume. A similar result may fairly be expected to follow the imposition of the tax this year. Without possessing definite figures I point out that a loss of 117 operating springs means a large loss in the national pay roll, out of all proportion to the revenue derived.

It may be suggested that the proposed tax applies to foreign as well as domestic waters. The facts are, nevertheless, that due to foreign exchange rates, the importer can absorb the internal revenue tax and still undersell the domestic producer. Note in Appendix B an advertisement of Perrier Water from Charles & Co.'s catalogue that this water "costs no more in America than artificially 'charged' domestic waters." On price list in the same catalogue 50 half bottles Perrier are quoted at $6.75, 50 half bottles White Rock, a domestic water, $8, 50 half bottles Poland, a still water, $7.50. On January 9, 1929, L. C. Armfield, of the Pullman Co., at Chicago, wrote our company, among other things, as follows:

> In fact, I can import from abroad the best mineral waters, carbonated, etc., much cheaper than I can buy your Poland.

One more illustration: Evian water, from France, is a still water, wholly comparable with Poland. A case of it may be shipped to New York for the following prices:

Freight from interior France to New York	$1. 50
Duty costs, water, case, and bottles	1. 59
Insurance	.02
Customhouse brokerage	.09
	3. 20

Compare Poland water from spring to Paris:

Freight from Poland to Havre (Freight difference results from subsidy to French springs on French Line steamers.)	2. 62
Charges, including duties, petty taxes, and freight, Havre to Paris	3. 52
	6 14

Senator SHORTRIDGE. You are quoting from some advertisement?

Mr. RICKER. No, sir. Those are some figures. The advertisements I quoted said they could undersell our water.

The CHAIRMAN. Do you believe that they can?

Mr. RICKER. Yes, sir; we do. Those are the figures that I got from our last shipment, sir.

I might add here, sir, we run into the same thing in Canada. Wherever we try to ship our water, our agents write back to us and say:

> Unless you cut your price you can not compete with Perrier because it can be obtained with a freight charge so much less than yours that we can not do anything with your product.

It becomes apparent that France gives much better protection to her mineral-water industry than does our own country to our domestic producers.

I give the above illustration as supporting a suggestion which I offer in closing, viz, the Government can realize more revenue from mineral waters by doubling the present modest duty of 10 cents per gallon (and incidental duty on bottles and so forth) on imported waters, than by the proposed excise tax on domestic waters. At the same time it will obviate any increased cost of collection which would necessarily follow the imposition of the new tax, and finally will give an additional small measure of protection to a domestic industry which sorely needs it.

In speaking of Poland water I am just talking about natural still water, not carbonated water. We are perfectly willing to pay a tax on the carbonated water for the simple reason that we feel in a way that is a luxury. Poland water is still water; it does not get into any of this business of mixing with drinks and so forth. I do not believe you would find Poland water in any place such as a speakeasy.

Senator HARRISON. Do you call all your natural still water Poland water?

Mr. RICKER. We have what we call Poland carbonated water, which we artificially carbonate.

Senator HARRISON. You say you do not mind paying a tax on Poland water that is carbonated?

Mr. RICKER. I am just asking a tax exemption on a still water that is not in any way treated, just as it comes right out of the ground.

Senator HARRISON. I understand; but there are many springs all over the country that have just natural water. You do not think that natural water that is not carbonated should be taxed?

Mr. RICKER. No, sir.

Senator HARRISON. But if it is carbonated it should be taxed?

Mr. RICKER. Yes, sir. In this bill waters that sell for 12½ cents are taxable; those that sell under 12½ cents are not taxable. I do not believe, in still waters, there are more than four or five springs that are selling for more than 12½ cents.

Senator HARRISON. What do they sell?

Mr. RICKER. For instance, there are two waters of New York that are selling five gallons at 60 cents.

Senator HARRISON. Per gallon?

Mr. RICKER. Sixty cents for the five gallons. As I understand, it is in a 5-gallon demijohn that is delivered to your office with a cooler, and you pay a deposit on the bottle. You do not own that. They own the bottle and you just buy the water. They are selling five gallons at 60 cents. They do not pay the tax. They are under the tax by just one-half a cent. In 1921 and 1922 it was 10 cents a gallon, and when the tax was raised to 12½ cents a gallon there was $177,000 less tax collected, according to some figures that Commissioner Blair sent to the Senate for me in 1923 when this tax on waters and beverages was taken off.

Senator SHORTRIDGE. How was the tax defeated? It was defeated, was it not? by lowering or raising the price?

Mr. RICKARD. I believe, sir, when the tax exemption was raised, it let in some manufacturers who were selling locally water in large quantities and bringing it in in tank cars; and then with water such as ours, with a wide distribution, where we have high freight rates to pay, we were really paying a tax on freight rates in order to keep an equal price. For instance, it cost us about 20 cents a gallon to send to Indiana and 30 cents a gallon to Arizona—just the freight rate.

Mr. HENTZ. We also have a carbonated water and a ginger ale, and we think it is right and fair that they should be taxed.

APPENDIX A

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, December 18, 1923.

Hon. BERT M. FERNALD,
United States Senate.

MY DEAR SENATOR: Reference is made to your telephonic request of yesterday relative to the amount of internal revenue derived from natural or artificial mineral water.

In reply you are informed that under the revenue act of 1917 artificial mineral water (not carbonated) was grouped with other soft drinks and the tax collected thereon can not be shown separately. The inclosed memorandum gives the amount of tax collected from mineral or table waters under the provisions of the several revenue acts.

I am also mailing you under a separate cover a copy of the latest annual report of the bureau. On pages 68 and 87 of the report are shown the receipts from this tax by collection districts and States for the fiscal year 1923.

Sincerely yours,

D. H. BLAIR, *Commissioner.*

MEMORANDUM

Fiscal year	Revenue act of 1917 natural mineral or table waters, per gallons, 1 cent	Revenue act of 1918 natural mineral or table waters,[1] per gallon, 2 cents
1918	$85,377.59	
1919	127,929.07	$41,603.62
1920		319,500.31
1921		385,711.18
1922		268,118.40

Fiscal year	Revenue act of 1921—natural or artificial mineral or table waters,[2] per gallon, 2 cents
1922	$68,254.12
1923	204,037.20

[1] In bottles or closed containers at over 10 cents per gallon.
[2] In bottles or closed containers at over 12½ cents per gallon.

Revenue act of 1917, effective Oct. 4, 1917.
Revenue act of 1918, effective Feb. 25, 1919.
Revenue act of 1921, effective Jan. 1, 1922.

APPENDIX B

Perrier table water, bottled at the springs in France as it bubbles with nature's own pure, sparkling gas, costs no more in America than artificially "charged" domestic waters. "The world's supreme admixer." At your dealer's. Perrier—The champagne of table waters. Twenty-three ounce, 11 ounce and split sizes. E. & J. Burke (Ltd.), sole agents, U. S. A. Long Island City, N. Y.

MISCELLANEOUS TAXES

TAX ON TELEGRAPH, TELEPHONE, RADIO, AND CABLE FACILITIES

STATEMENT OF GEORGE S. GIBBS, PRESIDENT POSTAL TELEGRAPH CO., NEW YORK, N. Y.

The CHAIRMAN. Please state your name and whom you represent.

Mr. GIBBS. George S. Gibbs, president of the Postal Telegraph Co., New York.

The CHAIRMAN. Do you desire to have this statement, which you have furnished to the members of the committee, printed, and do you simply desire to speak to this, or do you want to cover the whole subject?

Mr. GIBBS. I have a brief statement that will take about 10 or 11 minutes to present. There are things in regard to it that I want to bring out, and I will follow pretty closely the statement.

The CHAIRMAN. I thought if you had a statement it might be put into the record now and save your time and that of the committee.

Mr. GIBBS. I have some interpolations that I wish to make.

The CHAIRMAN. Just speak to those, then, because we have your statement, which may be made a part of the record now.

Mr. GIBBS. You do not want me to take up the 10 minutes that are required to present this?

The CHAIRMAN. What I mean is that you may say whatever you want to with regard to the statement, and then the statement will go into the record.

Senator REED. Maybe we might want to ask him something about it.

The CHAIRMAN. Read the statement, then.

Senator REED. No; not the whole statement; just what is the point?

The CHAIRMAN. That is what I asked him.

Mr. GIBBS. The points that are brought up in this statement are, in the first place, that the tax against the telegraph utility is discriminatory, in view of the fact that it is the only utility of a nation-wide character serving the people generally that is singled out for a tax. There is no tax on supplying the people with gas; there is no tax on electric power; there is no tax on transportation——

The CHAIRMAN. The States impose such taxes.

Senator REED. I do not know that they do. There is no tax on the fare that is charged on an automobile bus, for instance.

The CHAIRMAN. They pay taxes on their gas.

Mr. GIBBS. The second point I want to make in regard to this tax is that it is exceedingly high, if imposed. It is an average of 15.4

per cent on telegrams, and telegrams are an integral part of every kind of business. In fact, a great many businesses depend entirely on telegraphy to conduct their business, and practically every business uses it to a considerable extent. So that this tax is a tax on business, just at a time when we are trying to resuscitate business and build up business and bring back prosperity in some degree. This tax is a direct tax on business.

Senator CONNALLY. What are we going to tax if we do not tax business?

Mr. GIBBS. Broaden the excise taxes. There are a great many things that can be taxed.

Senator CONNALLY. Is not that business? That involves people who buy and sell. Where are you going to get any money if you do not tax business in some form?

Mr. GIBBS. I have not given that a great deal of study, Senator Connally; but I smoke cigarettes, and I would just as soon pay 20 cents a package as 15 cents. Cigarettes are a luxury. I might smoke a few less if I were pinched. Such things as that should be taxed a great deal.

The CHAIRMAN. They are taxed now very high.

Mr. GIBBS. Still they are not very expensive. There are a great many things that will stand taxes that are in the nature of luxuries.

The CHAIRMAN. We have not found a single, solitary tax so far in this bill but what there are objections to it.

Senator REED. That is because they are all discriminatory.

Mr. GIBBS. This particular tax is exceedingly discriminatory, because it is a tax on the only utility that is taxed at all.

Senator HARRISON. The tax imposed on you is high as compared with the tax imposed on other propositions?

Mr. GIBBS. Yes, sir.

Senator HARRISON. For instance, you are taxed 10 cents on a 35-cent message?

Mr. GIBBS. The tax between 30 cents and 50 cents runs from 10 per cent to 16⅔ per cent. On messages from 50 cents up to a dollar the tax is from 10 per cent to 20 per cent. That is a high tax on an an essential part of a transaction of business.

Senator HARRISON. Do you recall what it was in 1921? Was it the same as this in 1921?

Mr. GIBBS. We had a stamp tax up until 1922, and then we had a tax as it is here for a short time.

I have one or two interpolations. A large part of the telegraph business of large associations, such as stock and bond houses, grain-trading houses, and large merchandising houses, is sent over leased lines. A vast majority of these leased lines are owned and maintained by telegraph companies. The present bill imposes a tax of 10 per cent on these leased lines, as you have heard from the presentation by the telephone companies; yet this bill taxes an average of over 15 per cent of those small firms which can not afford leased lines, thus discriminating against the users of the facilities of the telegraph companies in favor of the users of the facilities of the telephone companies.

The two telegraph companies have suffered a shrinkage of revenue in the general depression which, despite drastic economies in operation, has seriously impaired their earning power. During the first

quarter of this year their gross revenues are off about 20 per cent more than they were last year.

Senator REED. Compared with 1931?

Mr. GIBBS. Yes, sir; the last of 1931.

Senator WATSON. How much will this tax, if imposed, curtail your receipts?

Mr. GIBBS. Well, the two telegraph companies have studied that matter and figure that it will curtail them by something like 5 per cent. One per cent is something a little over a million dollars. It would curtail their business by something over $5,000,000, we are quite certain.

Senator WATSON. Would that put any of them in the red?

Mr. GIBBS. The Postal Telegraph Co. is in the red right now.

Senator HARRISON. Are you in a somewhat different situation from the telephone company in that you carry Government messages for 40 per cent of the rate to the public?

Mr. GIBBS. Yes.

Senator HARRISON. The telephone companies have no such understanding with the Government, have they?

Mr. GIBBS. I do not know what their rates are to the Government. I think the Government pays the regular rate. By law the Government pays the telegraph companies 40 per cent, and then, in addition to that, the Government itself is in competition with the telegraph companies. The Navy has an extensive telegraph system; the Army has an extensive telegraph system, handling business for all departments of the Government. That takes so much as is handled by those agencies away from the receipts of the telegraph companies.

Senator WATSON. Do you know how many Government messages are carried over telegraph wires in the course of a year?

Mr. GIBBS. I could not tell you now, but I can get that information for you, sir. We have those figures at hand readily, and I shall be glad to present them to you.

Senator BARKLEY. Except in and out of Washington they would be infinitesimal as compared with other messages, would they not?

Mr. GIBBS. The Government business?

Senator BARKLEY. Yes.

Mr. GIBBS. The Government business is about 8 per cent.

Senator HARRISON. Will you furnish, for the benefit of the record, the percentage of messages that go by telegraph for Government agencies and those that go for the general public?

Mr. GIBBS. The total telegraph business of the Government is something like 8 per cent.

Senator HARRISON. That is more than I thought.

Mr. GIBBS. It is very considerable. There is one other point——

The CHAIRMAN. You have one minute left.

Mr. GIBBS. This proposed tax will tax 90 per cent of the telegraph business, whereas it taxes but 10 per cent of the telephone business, and it taxes 100 per cent of the cable business. I make that statement by way of showing its extreme discrimination.

(The statement of the Western Union Telegraph Co. and Postal Telegraph-Cable Co., referred to and submitted by the witness, is here printed in full as follows:)

STATEMENT OF THE WESTERN UNION TELEGRAPH CO. AND POSTAL TELEGRAPH-CABLE CO.

This statement is submitted on behalf of the Western Union Telegraph Co. and the Postal Telegraph-Cable Co.

These corporations are not appearing before the Congress for the purpose of seeking to avoid their fair portion of the burden incident to the raising of revenue sufficient to balance the National Budget. That is a transcendant necessity at this time if a national calamity is to be averted. And, while the estimate of the Treasury of the total revenue from communications taxes is somewhat high, the proposed tax on telegraph and cable messages would undoubtedly produce several millions of dollars annually. But the Congress should consider, before imposing the proposed tax, both its inequity in its present form and its discriminatory effect upon the telegraph companies.

A tax upon telegrams is distinctly a tax upon business; less than 10 per cent of telegraph communications relate to anything but business. A tax on telegrams therefore is a direct tax upon an ordinary and necessary instrumentality of interstate commerce just as would be a tax upon transportation.

COMMUNICATIONS ONLY PUBLIC UTILITY TAXED

Moreover, of the various taxes possible on public utilities the tax on telegraph, cable, and telephone messages is the only tax of such character which appears in the pending revenue bill as passed by the House of Representatives. There is no tax upon the freight or passenger receipts of the railroads; there is no tax upon the receipts of the multitudinous freight and passenger bus transport lines; there is no tax upon the receipts of the power and light companies. In other words, the only tax on public-utility services is that on communications, unless transportation of oil by pipe line be considered such a tax.

TELEGRAPH TAX EQUALS A 15 PER CENT RATE INCREASE

The House bill taxes the users of the telegraph service of the country 5 cents on every message where the charge is more than 30 cents and less than 50 cents, and on every message where the charge is 50 cents or more the tax is 10 cents. The 5-cent tax amounts to a variable percentage from 10 per cent to 16⅔ per cent. The 10-cent tax amounts to a variable percentage from 10 per cent to 20 per cent on messages between 50 cents and a dollar. The average charge for a telegraph message is approximately 65 cents and the average tax on the user of the telegraph would be, therefore, approximately 15.4 per cent. In other words, from the standpoint of the user of the telegraph, the proposed tax is equivalent to a rate increase of 15 per cent on telegraph service.

THREE TIMES AS HIGH AS THE EXCISE TAXES

The highly discriminatory character of the proposed tax on telegraph messages is illustrated by such proposed excise taxes as 5 per cent on chewing gum, 5 per cent on candy, 5 per cent on radios, 5 per cent on refrigerators, 2 per cent on auto trucks, 3 per cent on automobiles (including pleasure automobiles), 10 per cent on yachts, etc. Indeed, there seems to be no excise or miscellaneous tax, whatever the nature of the article taxed, which equals the 15 per cent average tax on that important necessity to business, the telegram.

JEOPARDIZING AN ESSENTIAL BUSINESS

When the telegraph and cable business of the country dropped in 1931 approximately 24 per cent below 1929, the two telegraph companies independently considered for a time the possibility of offsetting the drop by an increase in rates, but each of them reached the conclusion that a rate increase was not advisable in that it would not in fact make up any substantial portion of the decrease because of the inevitable loss of business due to higher rates.

Through the application of methods of economy in business houses using a large volume of messages the addition of the proposed tax on all messages above 30 cents would involve at a conservative estimate a reduction of at least 5 per cent in the gross revenue of the telegraph companies.

DISCRIMINATION IN FAVOR OF OTHER MEANS OF COMMUNICATION

There are three actively competing forms of communications—the air mail, the telegraph, and telephone. The bill as passed by the House puts no additional burden on the user of the air mail. The air mail has a direct subsidy from the Government of the United States, as there is no pretension that the 5-cent stamp on air mail pays for the service. The bill taxes over 90 per cent of the commercial telegraph messages and 100 per cent of the cable messages originating in the United States. The bill taxes less than 10 per cent of the telephone messages sent throughout the country. Without question the present tax bill discriminates against the telegraph companies.

The House decided to exempt newspaper news messages from the telegraph tax. Already by law Government messages are carried at fixed rates of 40 per cent of the regular rates, and in addition to this the Government has established a number of telegraph services—Army, Navy, and Shipping Board—thus securing free telegraph services from these Government institutions. While the Government is giving the air mail a subsidy it not only does not give a subsidy to the telegraph companies, but is actually taking away business from them through direct competition.

5-CENT UNIT NOT NECESSARY FOR A TELEGRAPH TAX

In addition, in its adherence to 5 and 10 cent units of taxation, the form of the tax itself, as passed by the House, is based on the physical conditions under which the telephone business is conducted. These conditions do not apply to the telegraph business. There is no such reason as the coin box of the telephone pay station which makes the tax in a 5-cent unit the logical form for a telegraph tax. The telegraph companies' services are paid for in units of cents and a percentage tax would be much less inequitable and much less expensive to collect.

DISCRIMINATION BETWEEN TELEGRAPH COMPANIES

There is another discrimination in this tax. The Postal Telegraph Co. has in effect in intrastate business a lower rate than the Western Union. If this tax goes into effect all telegrams where the Postal charges less than 31 cents and the Western Union rate is over 30 cents will carry an added differential of at least 15 per cent in favor of Postal. And where the Postal intrastate rate is under 51 cents and the Western Union is over 50 cents there will be an additional differential against the Western Union of nearly 20 per cent. The amount of business involved is over $700,000 a year. There is no way in which this discrimination can be avoided if there is to be a message tax at all, except by broadening the base of the tax to include all telegrams. In that event a tax at the rate prescribed in the bill, applied to 25-cent messages, would amount to 20 per cent, and in comparison with other excises would be still more unfair and inequitable.

DEFECTS IN ADMINISTRATIVE FEATURES

Section 702 prescribes that the telegraph companies shall on or before the last day of each month make a return for the preceding month and pay the taxes so collected. The revenue act of 1918 read similarly except that provision was made that the collector was authorized to grant an extention of time not to exceed 60 days.

The present bill does not include the same exception. Without it, and if the returns of the telephone companies are made as heretofore, they will be in a position of paying "this month" for the taxes they will not have collected from the senders of the messages in many cases until one or two months thence, because most telegraph patrons taken from 30 to 60 or 90 days before paying their bills. It is obviously unjust to add to the telegraph companies' burden of collecting this tax the burden of financing the Government during the time between the sending of the messages and the payment of the telegraph charges and Federal tax therefor.

The above is predicated on the assumption that the telegraph companies will be permitted to continue the accounting practices under which they are now operating and which are prescribed by the Interstate Commerce Commission. This means that our returns and tax payments will be based upon the tax accruals which do not necessarily reflect the actual collections. Any authority

to change their accounting practices should come through the Interstate Commerce Commission. On the other hand, if they are required to render a return strictly in accordance with the present letter of the bill as passed by the House, without such changes in accounting practices, this would necessitate setting up another and separate set of accounting practices to accommodate the tax collections which would add thousands of dollars to operating expenses of the telegraph companies.

CONCLUSION

To sum up, the proposed tax as passed by the House not only singles out the communications services as the only genuine public service to be subjected to a tax, but it imposes on the telegraph services a tax more than 50 per cent higher than the highest tax imposed on the most obvious luxury. In addition, the tax discriminates among the various types of communications services against the telegraph.

NEWCOMB CARLTON,
President Western Union Telegraph Co.
SOSTHENES BEHN,
Chairman Executive Committee Postal Telegraph and Cable Corporation.

STATEMENT OF F. B. MacKINNON, PRESIDENT UNITED STATES INDEPENDENT TELEPHONE ASSOCIATION

Mr. MACKINNON. Mr. Chairman and gentlemen of the committee, my name is F. B. MacKinnon, president of the United States Independent Telephone Association, Chicago and Washington.

I am here to speak in behalf of the Independent telephone companies of the country.

So that you may have a picture before you of the telephone situation I want to explain briefly that there are two groups in the industry: the Bell group; for which Mr. Gherardi of the American Telephone & Telegraph Co. has just spoken, and the Independent group which consists of seven thousand separate companies operating in 15 thousand communities in the United States and doing the entire local telephone business in those 15 thousand communities, and connecting with the toll lines of the Bell System.

I agree with Mr. Gherardi in what he has said in his general discussion of the effect of the tax on telephone business. I want, however, to emphasize the situation which exists with the Independent companies.

Of the seven thousand Independent companies of which I speak, five thousand operate exchanges where there are 150 or less subscribers.

The House Ways and Means Committee saw fit, after a discussion of the problem, to eliminate the tax from all telephone messages the charge for which is less than 35 cents. This was a great relief to this group of 5,000 companies operating in the small communities.

Senator HARRISON. Was that in the bill as reported out of the Ways and Means Committee?

Mr. MACKINNON. No, sir; it was originally in the Treasury recommendations. The Ways and Means Committee rejected that recommendation in their bill, so that as they reported it out the tax began with 35-cent telephone messages.

That, to a very great extent, relieved the pressure and avoided what we considered a great danger to this group of 5,000 companies operating in rural territory who would be affected by a tax on the lower price messages; but it does not relieve the pressure and the danger to the 2,000 companies which operate in the small county seat

towns and in the larger cities of the various States not served by the Bell system. For instance, in Pennsylvania, York, Columbia, Butler, Kittanning, and Forty Fort are such cities.

And in Indiana, Senator Watson, we have Fort Wayne, Terre Haute, Richmond, and cities of that class; and such exchanges as the one operated by our friend Barnhart up at Rochester.

Senator HARRISON. You have none in Utah?

Mr. MACKINNON. I think we have some small ones in Utah. We formerly had quite a group there.

Senator HARRISON. I did not want to have any prejudice shown against Utah.

The CHAIRMAN. He is always looking out for that State.

Mr. MACKINNON. In behalf of these 2,000 companies we have been making a study of the tendency of their revenue, and we find that during the last three months, January, February, and March, they have had as large a decrease in the number of subscribers as they had the whole of last year. They have had a much larger decrease in toll revenue than they had during the same period last year. Last year the toll receipts of these companies were off 6 per cent from 1930. The first quarter of this year the toll receipts were off 15 per cent from the same quarter of last year. So that these companies are facing a very difficult situation, and they feel that they should be relieved of the deterrent effect of the proposed toll tax.

The CHAIRMAN. Would you prefer to have this tax eliminated and a small tax of half a cent put on each call?

Mr. MACKINNON. On each call? You mean on toll calls?

The CHAIRMAN. Yes.

Mr. MACKINNON. If there were any way of collecting the half cent, we would. Perhaps you will remember, Senator, the first tax we had on toll messages was back in 1914, when we had a tax of 1 cent. Our difficulty there was in collecting the 1 cent in slot machines in pay stations. But otherwise it was a very satisfactory tax.

The CHAIRMAN. I think that the tax that was imposed brought less objection than almost any tax we had in the bill; and if I am correctly informed by the Treasury Department, it brought in considerable money.

Mr. MACKINNON. It brought in so little money that Congress in 1917 increased the tax to 5 cents a message and later to 10 cents on the higher messages. The largest amount collected by the telephone companies was twenty million in 1923. We have to remember, too, that was a war tax put on in a period of great prosperity and ascending prices, and the difficulty of collecting the tax was not so great; although statistics will show that the rebound after that tax came off was considerable, proving that it was having a deterrent effect upon the toll business. But we feel now, under present conditions, with decreasing revenues and the constant pressure on the companies from discontinuance of service, that the tax on the lower-priced messages will be very difficult for us to handle.

Senator WATSON. Do you think the tax on toll messages could be so distributed as to produce the same amount of money as is estimated here, without doing injury?

Mr. MacKinnon. We thought two months ago, before knowing the results of the first quarter's business, that if the tax of 5 cents a message on 35, 40, and 45 cent messages were taken off those messages and transferred to messages above $1, the same amount of money could be collected for the Government and with but little more deterrent effect on the business. We are now convinced, however, that the decline in business is so serious that not only no tax should be put on messages below 50 cents, but the tax on messages between 50 cents and 95 cents, inclusive, should be only 5 cents and the tax on messages from $1 up should not be over 10 cents. This may not produce as much revenue as the other plan but it will protect the communication service of the country. Certainly Congress realizes that telephone service must be maintained. It is approaching the danger point and can stand but little additional pressure.

I would like also to say that we think the tax on leased wires should not be over 2 per cent, if any is to be imposed. A 10 per cent tax on these special wire services would be prohibitory. Our companies are not as much interested in leased wire services as are the Bell and the telegraph companies, but we are sufficiently interested to desire to protest against the high tax proposed.

Senator Reed. Suppose the tax were made uniform at 2 per cent; would not that be better than these very high percentages in the bill?

Mr. MacKinnon. It would except for the difficulty that I speak of—the difficulty of collecting it.

The Chairman. Each company keeps a record of what is collected and pays on the amount collected.

Mr. MacKinnon. But when we collect through pay stations we have no way of getting a percentage collection. That was one of our difficulties with the 1-cent tax, because, unless we reequipped all our pay stations with a 1-cent slot, which would be a very expensive matter, we could not collect a 1-cent tax.

I do not want to take any further time except to make one suggestion. I received this morning a telegram from one of our companies which operates a telephone and telegraph company and also operates an electric-power company with long transmission lines. They have asked that we suggest to the committee—and I would like permission to present it to the committee later—an amendment which will enable their power company to be exempt from the tax on lines leased from their telegraph company. These leased lines are used by their power affiliate solely in patrolling the power lines. Their suggestion is that where a power company and wire company are both owned by the same corporation there shall be no tax imposed on wires leased to the one by the other.

Senator Reed. If it does not charge over 30 cents it would not be taxed at all.

Mr. MacKinnon. I am speaking of leased lines, where a circuit is leased for that particular power company purpose.

Just one further word on the general proposition, the telephone is regarded by the public as a necessity, and this toll tax is a taxation of a necessity.

I thank you.

STATEMENT OF BANCROFT GHERARDI, VICE PRESIDENT, AMERICAN TELEPHONE & TELEGRAPH CO., NEW YORK CITY

Mr. GHERARDI. Mr. Chairman and gentlemen, I am vice president and chief engineer of the American Telephone & Telegraph Co.

The CHAIRMAN. What section are you going to speak on?

Mr. GHERARDI. I am going to speak on section 701, I believe it is.

Senator HARRISON. Page 260.

The CHAIRMAN. Proceed.

Mr. GHERARDI. I am vice president and chief engineer of the American Telephone & Telegraph Co., the parent company of the Bell System. My responsibilities and the work of my department have to do with the operation and engineering of the Bell System. We advise the associated companies constituting the system in regard to operation and engineering questions, including those involving the handling of all toll messages and the operation of private lines and leased wires. The Bell System consists of 24 associated companies covering different parts of the United States, and each rendering service to the area within which it operates, and these companies together with the long lines department of the American Telephone & Telegraph Co., which owns and operates the lines connecting together the various companies, render service to over 15,000,000 telephones throughout the United States. In addition, through its toll lines, the system handles considerable amounts of toll business originating in the connecting companies of the Bell System, of which there are 6,000 companies and 28,000 associations and others operating four and one-half million telephones.

It is proposed in the tax bill now before this committee to impose taxes upon the users of telephone toll messages as follows:

On each message for the transmission of which the charge is more than 30 cents and less than 50 cents, a tax of 5 cents, and if the charge is 50 cents or more, a tax of 10 cents. In addition, it is proposed that there be a tax equivalent to 10 per cent of the amount paid to any telegraph or telephone company for any leased wire or talking circuit special service, excepting common carriers, telephone and telegraph companies, and radio broadcasting stations. On both of these proposed taxes there are certain exemptions for governmental and State agencies and for the services in collecting and disseminating news.

I have not come here to oppose these taxes merely because they are taxes imposed upon the customers of our business, but to point out to this committee some of the consequences of these taxes and some of the apparent inconsistencies between these and other proposed taxes, but, before doing this, I wish to state briefly what taxes the users of telephone service are already paying through the various taxes assessed upon the Bell system and paid by it.

In the year 1931 the taxes of Bell system telephone companies were $90,600,000. This was 8½ per cent of the total operating revenues of the system. In other words, the gross receipts of one month in the year went for taxation.

Bell system taxes will be increased not only by the probable increase in local taxation, but by certain general provisions of the bill

now before you. The proposed increase of the corporation income tax rate from 12 to 13½ per cent will increase the Bell system taxes, on a 1931 basis, by about $2,500,000. If we were to continue to make consolidated returns, the proposed tax of 15 per cent of such returns would make this figure about $5,000,000.

The proposed increase in first-class postal rates will add one and one-half million dollars to our postage expenses.

A suggestion that checks be taxed 2 cents each would further increase our taxes by $420,000.

It is clear from the foregoing that the public, through the telephone industry, are already paying large taxes and taxes which are likely to be increased by the general provisions of the proposed bill.

We come now to a consideration of the proposed special taxes on telephone users. In general, the taxes imposed upon telephone toll messages are a very heavy percentage of the charge for the message. On a 35-cent message the proposed tax of 5 cents is 14.3 per cent; on a 50-cent message it is 20 per cent; and it does not get down to 10 per cent until we arrive at a $1 message. The total number of Bell system messages to which this tax will apply, based on 1931 figures, is 195,000,000 messages. Of these, 147,000,000 will be taxed 10 per cent or over. These taxes on what to-day has become a business and household necessity are, in our judgment, unjustifiably higher than certain other proposed taxes, such as the proposed tax on automobiles of from 2 to 3 per cent; on automobile accessories and parts, 1 per cent; and the proposed taxes of 5 per cent on such things as radio receiving sets, mechanical refrigerators, candy, and chewing gum. It should be further noted that the amusement tax starts at 50 cents while the tax on toll messages starts at 35 cents.

The effect of these proposed taxes upon the use of telephone service can not be ignored. It is estimated, based upon past experience, that the proposed tax on telephone toll messages will produce (from the Bell system) a total of about $13,500,000 in 1932, and will destroy more than half as much business as this.

In the case of the proposed private-line tax of 10 per cent, this effect will be even more serious. It is estimated that the private-line tax will produce about $2,300,000 of revenue from the Bell system. However, the businesses which employ these private lines are at the present time generally far from prosperous. Many of the users of private lines are now just holding on to such lines from month to month, and the effect of a 10 per cent tax added to the present charge for the lines will, without question, be to destroy more revenue to the telephone company than the amount which the tax will produce.

One of the most serious reactions that will come from this suppression of business by these taxes is that both the telephone toll-message business and the leased-wire business are to-day essential aids to the conduct of general business. The proposed taxes will place a restriction upon and will diminish the use of such business at just the time when their use is most desirable to aid in the maintenance and restoration of general business which all are trying to bring about.

During and just after the war we had experience with taxes generally similar to those now proposed. Business conditions at that time were, however, quite different from present conditions. We had more business than we could take care of, and, therefore, the restrictive effects of these taxes, while evident at that time, did not result in the unfavorable effects that they will have under present conditions.

The CHAIRMAN. You have two more minutes.

Mr. GHERARDI. I will be through in two more minutes, sir.

Not only are the proposed taxes on toll messages and on private lines destructive of the business in question, but they will destroy the employment of many people. It is estimated that these taxes will eliminate the work which now keeps over 1,400 telephone employees busy.

Summing up the points which I desire to bring to your consideration, they are:

1. The proposed bill singles out one kind of utility and one class of utility users for special taxes.

2. The proposed bill taxes telephone messages, a necessity, along with chewing gum, candy, and cosmetics. Thus, a 50-cent toll call is taxed 20 per cent, while candy and chewing gum are taxed 5 per cent.

The CHAIRMAN. Have you any suggestions to make as to where we can get any money? Everything in the bill is objected to. Maybe you can tell us where we can get some money.

Mr. GHERARDI. That requires a broader knowledge of the general tax situation than I possess, Mr. Chairman.

Mr. CHAIRMAN. Oh. I did not know but what you had given it some thought. Is that all?

Mr. GHERARDI. May I have one minute?

The CHAIRMAN. I thought you had finished.

Senator HARRISON. There was not any tax on telephone messages in 1924, was there?

Mr. GHERARDI. I think the tax was taken off in 1924.

Senator HARRISON. It was in the 1921 act?

Mr. GHERARDI. Yes.

Senator HARRISON. And the minimum was between 15 and 50 cents, and 10 cents above 50 cents?

Mr. GHERARDI. Yes.

Senator HARRISON. This does not go quite as low as the 1921 act?

Mr. GHERARDI. No, sir. Otherwise it is the same.

3. The proposed taxes will destroy some of the telephone company's business and unfavorably affect the interests of the 667,000 stockholders of the company.

4. The proposed taxes will eliminate the work which keeps over 1,400 telephone employees busy.

5. The proposed tax will adversely affect one of the most important instrumentalities of business revival.

I trust that I have made clear the unfairness of these taxes against telephone users and their objectionableness from the general view of business, and that your committee can find some way to eliminate these taxes.

STATEMENT OF JOHN A. HICKEY, SECRETARY-TREASURER EASTERN BROKER DIVISION, COMMERCIAL TELEGRAPHERS' UNION, NEW YORK, N. Y.

The CHAIRMAN. Please state your name and whom you represent.

Mr. HICKEY. My name is John A. Hickey. I am secretary-treasurer of the Eastern Broker Division, Commercial Telegraphers' Union, New York.

Mr. Chairman and gentlemen, speaking for the thousands of leased-wire telegraphers, members of the Commercial Telegraphers' Union, employed as leased-wire telegraphers for brokerage houses throughout the country, we feel that the proposed 10 per cent tax on leased wires would tend to throw our members out of work and into the army of the unemployed.

These leased wires are maintained at great expense by brokerage firms for transmitting to distant points instantaneous service on quotations on stock and commodity sales, market news, and orders to buy and sell securities and commodities. They furnish employment for thousands of our members as well as additional thousands of other classification employees in the brokerage field.

If the proposed 10 per cent tax is imposed on these leased wires, it will make the cost of them prohibitive and force their elimination by the brokerage firms, which will act to the detriment of the trading public who are dependent upon this leased-wire service for close contact with an active, well-regulated market for authentic market quotations and other market news.

If the investor in the securities of American industries who is located distant from the market exchanges is to continue to enjoy equal trading opportunities with the investor located in close proximity to the market exchanges, the maintenance of this leased-wire service is essential, but this service can not be maintained at the prohibitive cost imposed by the 10 per cent tax thereon.

If this tax is imposed, it will not alone fail in its purpose to produce the expected revenue therefrom because of the forced elimination of the leased-wire service by the brokerage firms but in addition it will throw thousands of our members, as well as thousands of other classification employees, out of work and thus increase the vast army of unemployed. It will also give encouragement to the return of the bucket-shop broker, whose method of doing business is on manufactured stock quotations to suit his needs, which can not be done while the vast network of stock exchange firms' leased wires are furnishing fast, authentic quotations to the investors in every city, town, and hamlet throughout the country.

In consideration for the protection of the investing public against the possibilities of the return of the bucket shop, and as a means of continuing our members employed in brokerage houses in their jobs, we appeal to you to strike out from section 701, part 1, H. R. 10236, this unfair and unjust proposed tax levy on leased wires.

We are also concerned with the proposed tax on telegrams. We contend that it is unfair to the commercial telegraph companies and the public to place telegrams in the luxury class with perfumery, jewelry, and so forth, for taxation purposes.

Prior to the establishment of the post-office air mail service by the Government a few years back the commercial telegraph com-

panies, through the institution of the day letter and night letter telegram service, were able to keep the telegraph lines in continuous operation on a 24-hour basis, which gave employment to a maximum number of telegraphers. But since the post-office air mail service has been in operation the public has taken advantage of the cheaper rate for that service, and as a consequence the day letter and night letter telegram service has suffered heavily, reducing the number of available telegrapher jobs and the revenue derived from this class of telegram service.

The commercial telegraph companies and their telegraphers have suffered heavily, the former in revenue and the latter in jobs, since the telegrams were placed by the Government in unfair competition with post-office air mail service.

To add a 20 per cent tax on telegrams to the already heavy burden placed by unfair competition on the telegraphs by the Government would result in the closing of many telegraph offices and would throw a large number of telegraphers now employed out of jobs and into the great army of the unemployed.

We are also concerned with the proposed tax on stock transfers.

The proposed tax of one-quarter of 1 per cent on stock transfers is unfair to thousands of telegraphers, members of the Commercial Telegraphers' Union, as well as an additional thousands of other classification employees who are dependent upon the continuity of leased wires in the brokerage field for their livelihood.

It is unfair to, and adds an additional burden upon, the millions of investors in securities of American industries who have already suffered tremendous losses since the stock market crash in 1929.

Senator REED. You think that the transfer tax will certainly encourage bucket shops?

Mr. MICKEY. Absolutely.

If this tax is imposed, the added cost to trading in securities will make it prohibitive for the average investor to trade, and cause a drying up of the present orderly, well-regulated and lawful free and open market, which in turn would force many stock exchange member firms to go out of business. It would encourage the return of the bucket-shop broker, who is nonexistent in business to-day, but who, with eager eye and itching palm, is watching closely your deliberations and final disposition of this proposed tax on stock transfers, and hoping for the opportunity for enormous illegal profits to come from bootlegging transactions in securities trading, and the foisting of fraudulent securities upon the trading public.

If the proposed tax on stock transfers is imposed, we will witness a situation similar to that brought about by the adoption of the Volstead Act. When the Volstead Act was adopted, the saloon was closed, but for every saloon closed, an unlawful speakeasy opened up, and the revenue derived by the Government through taxation on alcoholic beverages, prior to the adoption of this act, has since been directed into the coffers of the bootlegger and the racketeer.

Similarly, if the tax on stock transfers is imposed, many stock exchange member firms will be forced to go out of business, and for every lawful, orderly and responsible stock exchange house closed, an unlawful bucket shop will open, and the revenue which the Government expects to derive from this tax will not be forthcoming from the bucket-shop broker.

Mr. Chairman and gentlemen, we did not expect to come before you until the 20th, and in view of that fact we did not have time to prepare a more comprehensive brief.

Senator WATSON. How many miles of leased wire in the United States?

Mr. HICKEY. I am not familiar with that, Senator. I do not know. The telegraph companies or the A. T. & T. representatives would be able to tell you that.

Mr. Chairman, I would like to have your permission and the permission of your committee to file for the record a more comprehensive brief than I have here.

The CHAIRMAN. If you have it here within two days it will go into the record. If not, it will not.

(The brief above mentioned is as follows:)

BRIEF OF THE COMMERCIAL TELEGRAPHERS' UNION OF NORTH AMERICA

Honorable Members of the Committee:

Supplementing the appearance on April 14, 1932, of Mr. J. A. Hickey, deputy international president of the Commercial Telegraphers' Union of North America, as spokesman for the telegraphers employed in various brokerage houses and telegraph offices throughout the country, we beg to submit for your further consideration our reasons for opposing the imposition of the following taxes, as provided in H. R. 10236, known as revenue act of 1932—(1) the proposed tax on stock transfers, (2) the proposed 10 per cent tax on leased wires, (3) the proposed 10-cent tax on telegrams costing over 50 cents.

We are fully cognizant of the fact that revenue must be raised and that taxes must be levied for that purpose. We desire to point out, however, that taxes which are bound to cripple or kill an industry will not produce the revenue which is expected from the tax to be levied.

It is our sincere belief that these taxes are so heavy that the purpose of raising revenue thereby will be defeated, for the reason that the cost of doing business will become prohibitive, and brokerage firms, leased wires, and telegraph offices will be eliminated.

Thousands of our members have already suffered from unemployment because of the constant decline in the volume of business transacted over brokerage wires and telegraph company wires. We wish to go on record most vigorously against a tax which we feel sure is going to add to the unemployment problem of telegraph workers.

TITLE V—MISCELLANEOUS TAXES

Part 1, tax on telegraph, telephone, radio and cable facilities, section 101, imposition (a–1).

As spokesman for thousands of organized telegraph workers employed by the telegraph and radio companies throughout the country, and for those unorganized who have no other spokesman, the Commercial Telegraphers' Union of North America urges, in justice and fairness to these telegraph workers, that the proposed tax of 10 cents on each telegram transmitted for which the charge is 50 cents or more be stricken from the proposed Revenue Act of 1932.

The average income received by commercial telegraph and cable companies in 1927 for each telegram or cable handled was 79 cents (Census of Electrical Industries, Telegraphs, 1927), hence the tax of 10 cents on each message transmitted for which the charge is 50 cents or more would be between 12.65 per cent and 20 per cent, depending upon the number of messages handled which were transmitted for a charge of less than 50 cents.

We contend that it is unfair to all those actively connected with the telegraph industry, as well as the public, to place telegraphy in the superluxury class. Such a tax as is proposed in this bill would be more severe than that which is proposed for furs, jewelry, toilet articles, and other luxuries—10 per cent of the price for which so sold.

The public finds the telegraphs to be a vital necessity—a public utility—in times of emergency in the affairs of business and of private life.

Already thousands of telegraph employees have been thrown out of employment because of the decreasing volume of business. The general depression is only partly responsible for this condition. The competition of the air mail has been a very decided factor in this trend away from the telegraphs. Prior to the establishment of the air mail service by the Post Office Department, the commercial telegraph companies, through the institution of the day-letter and night-letter service, were able to keep the telegraph lines in continuous operation on a 24-hour basis. This gave employment to a considerable number of telegraphers and other employees. But since the Post Office Department has inaugurated the air mail service the public has taken advantage of the cheaper rate for that service and as a consequence the day-letter and night-letter telegram service has suffered heavily, reducing the number of telegraphers as well as the revenue derived from this class of telegraph service.

With the addition of this proposed tax we believe the declining volume and revenue will be accelerated to an alarming extent, for the public will not pay such a prohibitive tax for a telegram unless the need is urgent.

The commercial telegraph companies and their telegraphers have suffered heavily, the former in revenue, the latter in unemployment and loss of wages, since the Post Office Department placed the air mail in unfair competition with the telegraphs.

Placing of a 20 per cent tax on a 50-cent telegram would result in the closing of many telegraph offices and throw an additional large number of telegraphers out of jobs and into the great army of the unemployed, as well as inconveniencing the public when telegraph service becomes vitally essential in case of sickness and death.

We contend that it is unfair to the public, to the telegraph workers, and to the telegraph companies to place telegraphy in a superluxury class above that of nonessential luxuries such as furs, jewelry, toilet articles, etc.

The purpose of the tax—to raise revenue—would be defeated if the tax has the effect which we believe it will have, i. e., drive the public from the use of telegraphic facilities.

Section 701, imposition (a-2):

We speak for telegraphers employed in the various brokerage houses from coast to coast when we strongly oppose the imposition of a 10 per cent tax on private telegraph leased wires.

These leased wires are maintained at great expense by brokerage firms for transmitting to distant points instantaneous service on quotations on stock, bond, and commodity sales; market news and orders to buy and sell securities and commodities. They furnish employment for thousands of our members as well as additional thousands of employees in other classifications.

If the proposed 10 per cent tax is imposed on these leased wires it will make the cost of their maintenance prohibitive and force their elimination by the brokerage firms, which will inconvenience the trading public which is dependent upon this service for close contact with an active, well-regulated market for authentic market quotations and other market news.

If the investor in the securities and bonds of American industries who is located at a distance from the market exchanges is to continue to enjoy equal trading opportunities with the investor located in close proximity to the market exchanges, the maintenance of this leased wire service is essential. But this service can not be maintained at the prohibitive cost which will be imposed by the 10 per cent tax thereon.

If this tax is imposed it will not alone fail in its purpose to produce the expected revenue therefrom, because of the forced elimination of leased-wire services by brokerage firms, but in addition it will throw thousands of our members, as well as thousands of other employees, out of work and thus increase the vast army of unemployed. It will also give encouragement to the return of the bucket-shop operator, whose method of doing business is on manufactured stock quotations to suit his needs, which can not be done while the vast network of brokerage leased wires are furnishing authentic quotations to the investors in every city, town, and hamlet throughout the country.

The brokerage leased wires furnish an essential service to the public which is of even greater benefit since the public has become accustomed to trading in the securities and bonds of the Nation's industries. Quotations and facilities for the speedy handling of orders to sell or to purchase are of great importance during a period of liquidation such as now exists.

It is quite likely that a crippling tax of this kind might lead to a panicky state of mind, making the public trader an easy prey for unscrupulous brokers.

Section 723, stamp tax on transfer of stocks, etc.:

The proposed tax of one-fourth of 1 per cent of the selling price of stock sales or transfers is unfair to thousands of telegraphers, members of the Commercial Telegraphers' Union of North America, as well as additional thousands of other classification employees who are dependent upon the continuity of leased wires in the brokerage field for their livelihood.

It would add an additional burden upon the millions of investors in securities of American industries, who have already suffered tremendous losses since the collapse of values in 1929.

The stock-transfer tax would place a double tax on investors and speculators who desire to make use of the facilities of the various exchanges for the purchase and sale of shares in American industries and businesses. The State of New York now collects a tax on stock transfers. The Federal and the New York tax would both be passed on to the investor and speculator.

If this tax is imposed, the added cost to trading in securities will make it prohibitive for the average investor to trade. During and following the war the public has participated more and more in the industrial life of the Nation, through the purchase and sale of securities and bonds. This public participation has been beneficial, contributing to the growth and prosperity of the country. A prohibitive tax on this very essential business will cause a drying up of the present orderly, well-regulated, responsible, free, and open market, isolating the public from that close contact with the markets which is so necessary at a time like this.

This tax would encourage the return of the bucket-shop broker, nonexistent to-day, but who, with eager eye and itching palm, is watching closely your deliberations and final disposition of this proposed tax on stock transfers. The bucketeer hopes for the return of opportunities for enormous illegal profits, when legitimate brokers are taxed out of existence. The bootlegging of quotations and transactions in securities and the dumping of fraudulent securities upon the trading public will follow as a natural result.

If the proposed tax on stock transfers is imposed, we predict a situation similar to that brought about by the adoption of the Volstead Act. The Volstead Act closed the saloon, but for every saloon closed an unlawful and unregulated speak-easy opened up, and the revenue formerly derived by the Government through taxation of alcoholic beverages, prior to the adoption of this act, has since been directed into the coffers of the bootlegger and the racketeer.

Similarly, if the tax on stock transfers is imposed, many stock exchange firms will be forced to go out of business, and for every lawful, responsible stock-exchange house closed an unlawful bucket shop will open and the revenue the Government expects to derive from this tax will not be forthcoming from the bucket-shop broker.

Respectfully submitted.

FRANK B. POWERS,
International President the Commercial Telegraphers' Union of North America.

ADMISSIONS TAX

STATEMENT OF ABRAM F. MYERS, GENERAL COUNSEL AND CHAIRMAN OF THE BOARD, ALLIED STATES ASSOCIATION OF MOTION-PICTURE EXHIBITORS, IN BEHALF OF INDEPENDENT MOTION-PICTURE THEATERS

Mr. MYERS. Mr. Chairman and gentlemen of the committee, I desire to present this statement in the form of a brief.

I. The Allied States Association of Motion-Picture Exhibitors is a national organization with 21 affiliated regional associations reaching into 34 States.

These regional associations are composed of independent, home-owned, motion-picture theaters; that is to say, theaters that are not owned or controlled by, or affiliated with, any producer or distributor of motion pictures.

In the beginning all theaters were independent. The independent exhibitors popularized motion pictures. The producers, finding that the exhibition of pictures yielded attractive returns, entered that branch of the business.

During the boom times the producers greatly enlarged their interests in the field of exhibition both by acquiring independent theaters and building new ones. In competing with independent exhibitors they have employed every advantage inherent in the control of the films to favor their own theaters and to prejudice the independents.

Our only purpose in pointing out this distinction between the "affiliated" and "independent" theaters is to insure separate and special consideration of our situation. We do not want our situation to be confused with that of the great producer-owned houses which offer such a target for taxation and regulation.

II. Admissions to independent theaters range from 10 to 50 cents. In the beginning the price of admission to many small "store" shows was 5 cents. As the business developed and it was necessary to provide special theaters with expensive equipment, admissions gradually increased. The theater overhead was greatly increased by the i[illegible] motion pictures. An important item has been the ste[illegible] to the producers for films. The latter cost approx[illegible]take of all independent theaters.

We feel that th[illegible]d from 45 to 50 cents. First, be[illegible]t admissions will suffer greatly u[illegible]rden. Seco[illegible]cause th[illegible]e exemption at 45 cents places [illegible]weapon i[illegible]nds of th[illegible]ters which may be used to dri[illegible]at th[illegible]ive the Government of r[illegible]

A 55-cent [illegible]he fact that there is no s[illegible]lay. Chain houses woul[illegible]at 50 [illegible]absorb the tax, or to r[illegible]er than the Governmen[illegible]either case. Independen[illegible]but would have to add[illegible]bjected to a competitive [illegible]

On the figu[illegible]C. Pettijohn, the loss of rev[illegible]admissions of 50 cents would[illegible]dmissions from 50 to 45 cents [illegible]the exemption where it now sta[illegible]ging 60 cents and over (there are non[illegible]e down to 50 cents to avoid the tax and [illegible]overnment.

Admissions of 60 cents and over are the ones that should carry the tax, if any is to be imposed, because such admissions verge on the luxury class and are charged by theaters having large seating capacity and which, usually, have a greater number of performances per day than theaters charging 50 cents and under. So far as we are aware, there is no demand in the motion picture industry for an exemption on admissions above 50 cents.

III. Should the committee revert to a consideration of the manufacturers' sales tax, we respectfully ask that special consideration be given to the effect of such tax on the theater owners.

The bill first reported out by the Ways and Means Committee of the House of Representatives exempted admissions of 24 cents and under, and in addition imposed a sales tax of 2½ per cent on film.

The admission tax thus provided probably would have been fatal to a great majority of the independent houses; if not, the sales tax on film would certainly have wiped them out.

Bear in mind that film rentals equal, on an average, 35 per cent of the gross receipts of all independent theaters; not 25 per cent as stated by Mr. Pettijohn in responding to a question by Senator Connally. (See hearings before House committee, p. 482.)

Independent theater owners firmly believe that they are required to pay proportionately more for film, seating capacity, and gross intake considered than the affiliated chains; hence a sales tax on film would work greatly to their disadvantage.

Even assuming that they are wrong in their view, it still resides in the discretion of the five great theater-owning producers to sell film to their own houses at prices so low as virtually to deprive the Government of the tax, while recouping the loss out of the increased earnings of their theaters.

There would be no escape from such a tax by the independent houses, and the Government would be playing into the hands of the trust theaters in their warfare of extermination against the independents.

While the producers under the standard exhibition contract could and would pass this on to the independent houses, there is absolutely no way in which the latter could add this to the admission prices charged the public.

In order to stimulate the attendance during the past two years the independents have had to reduce prices, to give away premiums, and resort to every possible device. Clearly, in view of this experience, they can not hope to pass on the tax to the public as other businesses are prepared to do. (Hearings before House committee, pp. 465–467; 472, 475–476, 478.)

We respectfully submit that increasing the exemption on admissions to and including 50 cents will result in the most equitable solution of the tax problem as it affects all interests—the independents, the trust theaters, and the Government.

IV. In order that the record may disclose some of the industry practices which entitle the independent theater owners to special consideration, we quote briefly from a letter sent by this association to Hon. J. W. Collier, chairman of the Ways and Means Committee, under date of January 11, 1932:

"Independent theaters are compelled to buy their pictures from producers who, by reason of their large chains of theaters are both sellers to and competitors of the independents, and therefore sell their pictures on terms highly favorable to their own houses and prejudicial to the independents. Moreover, the independents have had no connection with or responsibility for the excesses and extravagances of the motion-picture industry that have been so thoroughly publicized and make the industry such a mark for taxation and regulation.

"While the independent theaters do not advocate a tax on other branches of the industry, they feel justified in placing before your committee the facts which distinguish their situation from that of the producer-owned chain houses, and insist that whatever may be the attitude of Congress toward other and more powerful branches of the business there should be no attempt to further burden the already overburdened independent theater owners. The effect of any such tax will surely be to further increase unemployment by forcing thousands of independent operators out of business.

"A moderate amount of wholesome entertainment is necessary to the morale of the people, particularly of those out of employment and in reduced circumstances, and the independent motion-picture theaters of the United States are the only agencies furnishing such entertainment at prices within the reach of such persons. These houses, however, are operating on such a narrow margin that any additional burden at this time will close a majority of them and deprive millions of the only available means of entertainment and complete the conquest of the industry by the motion-picture trust.

"It would be inappropriate in this letter to dwell at length on the many industry practices imposed on the independent exhibitors by the motion-picture producers and their affiliated chains, but a brief outline of a few of such practices will tend to illustrate why the independent houses are now in such a precarious condition and why it is that they are in no condition to stand the added burden of a Federal admission tax.

"Protection: This is the term applied to the practice of withholding pictures after a given theater has played the same before making them available to another theater. The practice was first resorted to to protect the large first-run houses with high overheads and high admissions against the unfair competition of smaller and cheaper houses playing the same pictures at the same time in a competitive area. The producers, through control of the product, have so extended protection both as to time and distance that it has become the means of drawing away the normal patronage of the smaller neighborhood and small-town houses by putting them so far back in playing time that the pictures have lost their drawing power by the time they reach the independent houses.

"This practice, moreover, is designed and is having the effect to maintain and even to raise admission prices in the independent houses, often against the wishes of the owners thereof, thus handicapping the independent houses in their efforts to furnish entertainment to persons in reduced circumstances at prices within their means. One of the officers of this association recently was required to advance his admission prices, and thereby deprive many worthy persons of the privilege of attending his theater, or go back so far in playing time that the pictures played by him would have lost popular appeal and he would have been compelled to close his house.

"Allocation of product: This is the practice by which the five largest producers (Paramount, Metro, Fox, Warner, and R-K-O) first make their product available to their own theaters in a particular locality. Lacking houses of their own in a given place, they first give the product to one of their chain competitors. Thus these five producing and exhibiting organizations have set up a mutual back-scratching arrangement, evidenced by franchises or other long-term selective agreements, which makes it impossible for an independent theater (even assuming that it is financially able to do so) to compete for first-run product.

"This practice leaves the independent theaters at the mercy of their chain competitors in the matter of product, and has resulted and is resulting in driving many independent exhibitors out of business for lack of pictures to show in their theaters. Complaints have been filed with the Department of Justice against the withholding by chains of product from their independent competitors in cases where it appeared that the chains had contracted for many more pictures than they could possibly play.

"Percentage playing: Formerly an independent exhibitor could figure what he could reasonably afford to pay for pictures in order to operate his theater at a profit and usually could make his deal with the producers on that basis. The producers now demand that at least a certain number of pictures in every block (the exhibitor usually has to purchase the entire output of the producer under the block-booking system), to be designated by themselves, shall be played on percentage. This means that the theater owner, who bears all the expense of operating the house, must, at the will of the producer, pay the latter a heavy percentage of the gross receipts, which leaves the exhibitor so small a margin, after payment of expenses, that he rarely makes a profit on the transaction and often suffers serious loss. Some producers even go so far as to reserve the right to designate the dates on which percentage pictures shall be played.

"The committee will observe, therefore, that there is a vast difference between these independent theater owners and the great motion-picture companies whose wild extravagances have occupied so much space in the public prints. The independent theaters are not responsible for and have not participated in the orgies that have made the industry such a shining mark for regulation and taxation. They are performing a useful, and, we believe, necessary service to the public but are making no money under industry practices and economic conditions. They can not possibly absorb the proposed tax and their patronage is such that they can not pass it on to their patrons.

The independent theater owners ask that the committee give consideration to the special circumstances of their case. They ask that their situation be not confused with that of other branches of the industry which may be represented by such organizations as the Motion Picture Producers and Distributors of America (Hays organization), the Motion Picture Theater Owners of America (representing primarily the producer-owned theaters), or like organizations.

SUPPLEMENTAL STATEMENT OF CHARLES C. PETTIJOHN

APRIL 22, 1932.

SENATE FINANCE COMMITTEE,
Washington, D. C.

GENTLEMEN: Supplementing, reiterating, and emphasizing a statement I made before your committee in response to a question asked by Senator Connally. Also in reply to a brief filed with your committee by a Mr. Abram F. Myers, claiming to represent more theaters than his paid membership rolls would disclose, I made the statement in substance that as a general thing a motion-picture theater paid to the producers and distributors of the film produced and shown in their theaters an average of about 25 per cent of their intake.

Mr. Myers, who never operated a theater nor sold any motion-picture film, states in his brief that I made a misstatement of fact and that 35 per cent of their intake was what theater owners paid.

I have rechecked my figures and have again consulted the heads of the sales departments of several of the larger distributing companies and desire now to state emphatically that my reply to Senator Connally's question is as near accurate as it is humanly possible to state it and based upon facts and not on guesswork.

As an example, one of the companies, whose product has been recognized throughout the trade for the last few years as "a leader" and by reason of its quality merits not only the large volume of sale which it enjoys but better prices than are paid or should be paid for product of inferior quality, gives me the following concrete information. Six or seven of their approximately 50 feature productions released during the last year have been sold to some theater owners on a percentage basis calling for 35 per cent. These pictures have been their best, both from the standpoint of quality production and box-office value to the theater owner. Approximately, with some theaters a like number have been contracted for between 20 and 30 per cent of the gross receipts. Such contracts are known as percentage contracts. Most of those contracts carry a further provision that if and when a picture grosses a sum sufficient to insure its success to both the distributor and the exhibitor that both distributor and exhibitor share in such excess over and above that amount. Very often these theaters do take in over and above such anticipated returns and of course in such instances, neither the distributor nor the exhibitor are hurt. They are both helped and happy.

The balance of this company's product, and in fact the great majority of the contracts of all companies entered into between distributors and exhibitors throughout the country are contracts on which pictures are sold for flat specific amounts. In this great bulk of the sales, exhibitors pay all the way from 10 per cent to possibly as high as 35 per cent of their average gross intake for their pictures. An average of this majority of the contracts would probably run between 15 and 20 per cent.

Instead of answering Senator Connally's question that the great bulk of the contracts would show that distributors receive from 15 to 20 per cent I took into consideration the few highly successful pictures—generally expensive to make—pictures which were successful for the theater men themselves and pleasing to the public; pictures which proved to be what are commonly called "outstanding successes"; pictures which everybody in the industry and the public want and that everybody in the business prays there may be more of—I refer to those pictures sold on percentage contracts and described above and contracted for at 25 per cent, 30 per cent, and 35 per cent of the gross intake—whatever it may be—rain or shine.

All of these facts were taken into consideration in my reply and I desire now to repeat, reiterate and emphasize my reply and say that as a general average pictures do not bring the distributor in excess of 25 per cent of the theater gross intake and I may also add that those that do bring more on percentage contracts are "life savers" to exhibitors and distributors alike, and we are all striving to get more of those kinds of pictures.

I do not reply to any of the controversial trade matters mentioned in Mr. Myers' brief solely because they are not germane to the subject of Admission Taxes.

Respectfully submitted.

C. C. PETTIJOHN,
General Counsel for Motion Picture Producers and Distributors of America (Inc.).

MEMORANDUM BY THEATER TICKET BROKERS' ASSOCIATION OF NEW YORK

Tyson Operating Co., with which is affiliated the Sullivan Ticket Service (Inc.), and other members of the Ticket Brokers Association, and association of licensed ticket brokers in the city of New York

The language reported unanimously by the Ways and Means Committee and adopted by the House which your petitioners desire to have retained in the bill begins at line 7, page 250 of H. R. 10236, and is as follows:

(b) Paragraph (2) of section 500 (2) of the revenue act of 1926, as amended, is amended to read as follows:

"(2) Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at a price in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1), a tax equivalent to 10 per centum of the amount of such excess; such tax to be returned and paid, in the manner and subject to the interest provided in section 502, by the person selling such tickets."

MATHEWS & TRIMBLE,
Attorneys, Washington, D. C.

This memorandum is in support of the language as it appears in the bill as it came from the House and in support of a petition to have the House language retained in the bill when it is reported from the committee. The language as the House committee reported it unanimously and the House passed it repeals the 50 per cent penalty clause at section 500 of the 1926 act, as amended by section 412 of the 1928 act, which imposes a 50 per cent penalty tax on amusement tickets sold by brokers at a price exceeding $0.75 over and above the box office price. The existing law imposes a tax of 5 per cent on the resale of amusement tickets for any price above the "box office price." The box office price for the purposes of the imposition of the tax represents the basic price plus the 10 per cent Federal tax which is collected at the box office.

For example: A ticket which, free of any tax, would ordinarily sell for $5, takes a box-office price of $5 plus a 10 per cent Federal tax on admissions generally, which makes the price at the box office $5.50. When the broker in amusement tickets purchases this ticket at the box office for resale he is required to pay 5 per cent tax on any profit he may make from the resale over and above the box office price of $5.50 up to $0.75 but if he receives more than $0.75 profit above box office price he is required to pay a penalty tax of 50 per cent over and above the box office price.

In practice this plan of preventing speculation in theater tickets by irresponsible brokers (and manifestly that was the prime object of the penalty tax) has not worked out. The Treasury Department admits that it has been next to impossible to collect the 50 per cent penalty tax. The regular registered ticket brokers have declined to enter into the speculative field because they can not afford to compete with the so-called "gyp" brokers who have no offices, keep no books and do their business usually from the curbstone. These predatory brokers derive their profits mostly from visitors to New York and the other large cities. It has been estimated that 60 per cent of all of the theater tickets handled in New York City are sold to visitors to the city. When a show or an amusement takes rank as a "hit" the irresponsible gyp brokers who number about 150 to 200 in New York City, buy up the desirable reserved seating capacity of the theater in advance and resell these tickets to visitors at prices often double the box office price. They have no offices, keep no books and pay no taxes. Manifestly, the registered ticket brokers who do a legitimate business—and these numbered 31 in the year 1931 and between 20 and 30 thus far this year—can not compete with the so-called "gyp" brokers who pay no taxes whatsoever. These legitimate and licensed brokers in the State of New York have in the main abandoned the field to the curbstone brokers. The registered brokers who keep books and can not escape the payment of their taxes, if they would, are content to deal with their regular patrons exacting $0.75 as a service charge above the box office price caring for a clientele that represents about 40 per cent of the total of the patrons of amusements.

The representative of the McBride Agency, one of the best known in New York, testified before the Ways and Means Committee that he paid 14 per cent of all of the taxes paid on the resale of admission tickets in the year 1931 and that practically none of the tax which he paid was the 50 per cent penalty tax.

Mr. Sullivan, representing the Tyson Operating Co. and the Sullivan Ticket Agency (Inc.), with 22 offices in New York City and Brooklyn, testified he paid approximately 16 per cent of all of the Federal taxes collected from ticket brokers in New York and that of the total taxes which he paid, less than 3 per cent was the penalty tax. So that these two taxpayers, the largest individual taxpayers under the theater ticket brokers tax, who paid more than 30 per cent of all of the taxes collected from the resale of amusement tickets paid by the most liberal allowance less than 5 per cent as a penalty tax.

It is admitted in official sources that little or no revenue is derived from the 50 per cent penalty tax because the people who are liable therefor do not pay and the legitimate licensed ticket brokers remain out of that field of operation.

The Ways and Means Committee in 1928 in a report to the House of Representatives said:

"The department has difficulty in collecting the admissions tax from irresponsible promoters."

The representative of the licensed and legitimate amusement ticket brokers who appeared before the Ways and Means Committee of the House on the present bill expressed a willingness and desire to have the 5 per cent tax doubled and make it applicable to all profits from the resale of theater tickets over and above the box office price. They estimated that if this were done and the penalty tax repealed the revenue from admissions from the resale of amusements tickets would be doubled or even quadrupled. The legitimate brokers are willing to assume the burden of the doubled tax and accept the 10 per cent rate on all profits above the box office price because they believe it would afford them an opportunity to recapture the 60 per cent of the trade that now goes to the "gyp" brokers on which no tax is derived for the Government. Assuming that as much as 5 per cent of all revenues derived from the tax on the resale of amusement tickets is derived from the 50 per cent penalty tax (and the testimony of the two leading brokers before the House Ways and Means Committee would indicate that that is really a high estimate) it is easy to compute the gain that would result to the revenues from repealing the source of this 5 per cent of the revenue and doubling the tax on the other 95 per cent.

The Treasury Department has not maintained accurate statistics as to the allocation of the revenues received from the two sources but the total tax from the two sources in all of the States for 1929 was a little over half a million dollars of which New York contributed more than four-fifths; in 1930 the total shrunk to about $371,000, of which New York contributed nearly $275,000; in 1931, the last fiscal year for which statistics are available, the Government collected not quite $150,000, of which more than two-thirds was paid by ticket brokers in New York City. The most liberal estimate of the revenue derived from the 50 per cent penalty would credit only about $10,000 or $12,000 to the 50 per cent penalty last year.

It was the opinion of the House Ways and Means Committee that the repeal of the 50 per cent penalty tax would not seriously impair the revenue—certainly not to an extent of more than $15,000 and that this would be more than compensated for and the revenue probably quadrupled by increasing the 5 per cent tax on all profits above the box-office price regardless of any price limit to 10 per cent. At the same time, it would operate to restore to the legitimate licensed brokers the business which is now monopolized by the so-called "gyp" brokers who pay no taxes and the effect, as was testified to before the committee, would be to stabilize the prices of amusement tickets, especially to the visitors to New York City and other large cities and probably keep the price within the box-office prices plus a service charge of from $0.50 to $0.75 on each ticket.

Therefore, in the interest of additional revenue and lower prices for theater patrons and to eliminate extortion and protect 60 per cent of the buyers of admission tickets, the Ways and Means Committee reported and the House approved the elimination of the 50 per cent penalty tax and the substitution therefor as a revenue measure of an increase of the flat rate of 5 per cent to 10 per cent on all profits upon the resale of tickets above the box-office price.

For further and more detailed information on the subject we respectfully refer you to the hearings before the Ways and Means Committee on the pending bill, pages 546 to 555, inclusive.

STATEMENT OF W. G. BRAMHAM, CHAIRMAN OF THE EXECUTIVE COMMITTEE OF THE NATIONAL ASSOCIATION OF PROFESSIONAL BASEBALL CLUBS

Mr. BRAMHAM. Mr. Chairman and gentlemen, I want to say at the outset of my remarks that we fully realize the gravity of this situation and the depression has also struck us, but we also realize the duty that devolves upon you gentlemen in relation thereto. And we have no disposition to side-step the duty of contributing our porportion to meet the emergency.

My remarks shall be entirely directed to our desire to have you place this tax on those units of our organization which can stand it, and I am speaking for and in behalf of those units when I make that statement.

When I appeared before the House committee on this question, I had just been made chairman of the executive committee, and we depended upon Mr. Farrell, who has been secretary ever since organized baseball was started, to have the statistics here that would enlighten the committee on that subject, but he was unable to be present.

I want to call the committee's attention to the fact that 75 per cent of the total admissions are paid into parts of the two majors and the two AA clubs. The average per capita admission in our AA leagues and the majors is in excess of 86 cents. The average per capita in all leagues below AA are a little less than 75 per cent. Setting the exemption at 76 cents, the small leagues will be permitted to exist, and the revenue that the Government will get will not be reduced materially, only the clubs which can afford to stand the tax being affected.

An imposition of the tax below 76 cents would cause either reduction in the number of admissions, because of the tax, or, if the tax is assumed by all little clubs, they are small and their already inadequate income would be further reduced by 10 per cent. In either case the small A, B, and C leagues could not operate. There is by no means a certainty that even without the tax all of these leagues which are now ready to start can finish the season.

I represent the committee which was created last fall to try and save the 16 minor leagues of this country. There are five members of that committee, none of which receive any compensation for their services, and we have been all over the country in the various communities begging and pleading for funds to maintain these organizations. We turned to the major leagues and to the higher classifications of the minors, and only by their contributing, some of them going in and saying, "Why, we will operate the clubs entirely," or "We will give you 2,500 to 7,500," have we been able to maintain these circuits this year; that is, to the starting point.

In 1910 we had 50 leagues throughout the United States; in 1911, 49; and from 1912 to 1914 between 40 and 45. We finished last year with 16, and many of those were heavily burdened.

Now, gentlemen, we of baseball want to pay our proportionate part, as I say, of this tax. Our higher classifications and our major leagues are willing to bear the burden.

Senator HARRISON. Generally speaking, what is the admission to those leagues?

Mr. BRAMHAM. Fifty cents general admission, 75 cents grandstand.

Senator HARRISON. That would catch all of them?

Mr. BRAMHAM. Yes. And I will say furthermore, Senator Harrison, that we open our gates on an average of two days a week by which we admit all ladies free of charge.

Senator HARRISON. And this would get them?

Mr. BRAMHAM. Yes; this would get that.

Senator REED. Which league is that?

Mr. BRAMHAM. All of our small minor leagues are doing that. And we have a grandstand for the boys and admit them free and put a man in charge of them and take care of them.

The CHAIRMAN. That is done, is it not, to create an interest in baseball?

Mr. BRAMHAM. Yes; sir: that is one of the reasons that we do that.

But, Senator, in answer to that question, I want to call your attention to this, that baseball is filling a wonderful place in our life now. Everybody is depressed. Why, you would sit here and listen to what has been going on in the last few days and you feel like rushing home to see whether your own family is starving to death. Labor is out of employment. Everybody is spending his time with his imaginary and his real wrongs. If you will allow our labor to have no place for amusement, no place to go, all they have got to think about is that. Baseball furnishes an open place where they may go. It is the one amusement that you see the millionaire, the bootblack, the newspaper vendor, and what not, sitting arm and arm cheering their home people. It takes their mind off of it.

The CHAIRMAN. That has been going on for about 60 years.

Mr. BRAMHAM. Yes, sir; it has been going on, and we hope to continue to keep it going. We believe it is a good thing for this country.

If you go around our parks, gentlemen, at the time we had the tax on years ago, why, the trees around our parks and on the house tops would have made a good exhibit for the theory of evolution. Everybody was up in the trees and everybody on the house tops. And we want them inside of the parks.

We have 18 leagues to start this year and 128 clubs in 125 cities in the United States, operating in 32 of our States. There is hardly a State in our Union that is not represented. Two of our clubs are over in Canada and one in Mexico. The plea that we make is not to avoid the taxation. If the major leagues are able to stand it the AA's will stand it. Anybody whose admission is above 75 cents will stand it, and you will lose but a very little by placing that tax at that point.

The CHAIRMAN. You mean you want the minimum at 75 cents?

Mr. BRAMHAM. We would like to have it 76 so that it will include the 75 cents admission.

Senator REED. That is for athletic contests only, is that it?

Mr. BRAMHAM. Yes, sir; that is just for our baseball athletics.

Senator REED. You do not suggest that we exempt movie tickets, say 50 cents?

Mr. BRAMHAM. No, sir. Some of our people make money, but very few of them. We all go around with a hat and take up collections to keep our ball clubs going.

I thank you gentlemen and hope that you will be able to grant it.

STATEMENT OF HENRY MOSKOWITZ, NATIONAL ALLIANCE OF THE THEATER, NEW YORK CITY

Mr. MOSKOWITZ. Only three minutes; yes, sir. And I will take less. I will ask you gentlemen please to take this statement which we have prepared for the members of the committee, and I shall ask leave of the chairman to submit this statement in the record.

The CHAIRMAN. It may go in at this point.

(The statement submitted by Mr. Moskowitz is as follows:)

STATEMENT IN OPPOSITION TO AN ADMISSIONS TAX FOR THE LEGITIMATE THEATER

Reasons why an additional admissions tax on the legitimate theater should not be imposed.

1. The legitimate theater is a conspicuous victim of the depression.

The legitimate theater has for years been suffering from unusual competition until it finds itself at the present time economically prostrate. In proof of this we present the following facts:

A. Increase in the number of closed theaters from 1929 to 1931.

From the two largest booking agencies covering theaters scattered throughout the country, the A. L. Erlanger Amusement Enterprises (Inc.), and the Shubert Theater Corporation, we are able to present the following figures indicating the number of dark weeks or closed theaters among the 170 theaters controlled by these corporations. During the year 1929 there were 1,665 dark weeks or periods when the theaters were closed; in 1930 the number increased to 1,913, a difference of 248, or 15 per cent over 1929, but in 1931, the number amounts to the astounding figure of 2,374, a difference of 709 or an increase of 42 per cent over the number of closed theaters in 1929.

B. Statistics of unemployment among actors, musicians, and stage hands.

By the president of Actors' Equity Association, Mr. Frank Gillmore, we are informed that the number of actors employed in 1929 were 7,466; the number in 1930 was 5,132, a difference of 2,334, or 31 per cent, and in 1931, 3,730, a difference of 3,736, or 50 per cent as compared with 1929. As Mr. Gillmore himself states, "The figures indicate that nine times out of ten this number of members have had some employment during the last six months, but employment may have only been for two weeks and on rare occasions it may have been for three or four months."

It is well known that the musicians of America have suffered irreparably, not only because of the development of so-called canned music which has eliminated many musicians heretofore employed, but also because the business of the theatrical industry has been so poor as to minimize the number of theaters now open for theatrical performances and to compel managers to reduce the personnel of working orchestras. The result is clearly shown by the figures submitted by Mr. Joseph N. Weber, president of American Federation of Musicians, who states that "In 1928 the number of musicians employed in theaters in the United States was approximately 20,000. This number has been reduced to the extent of at least 12,000—that is, the number has been reduced to less than one-half, and in addition to this the time during which musicians are employed during a season has been greatly curtailed." And in the center of the theatrical industry, located in Greater New York, the statistics of employed musicians are even more striking. Mr. M. S. Rausch, secretary of Local 802 of American Federation of Musicians, states: "During 1928 there were 3,300 members of our local employed in New York theaters. To-day there are but 1,300 so employed, showing a loss of 2,000 theater musicians who are out of work, and owing to the present conditions there is no opportunity for procuring employment in the other branches of our profession."

And from the secretary of the Theatrical Protective Union No. 1, the local stagehands' organization of the metropolitan district, we have received the following comparison of unemployed workers during the current season of 1931 with that of 1927–1928. Mr. J. C. McDowell, secretary of the union, writes: "On the Monday following Christmas 1928, I was called upon to furnish additional men (about 300) over and above the 1,900 members of our organization, due to the fact that some 14 or 16 shows opened here on that date. But now, in the season of 1931 there are but one-half of the 1,900 membership employed. The half unemployed must depend upon the relief extended them by those members who

are employed. The results of this relief nets them about $20.25 each second or third week. If the current depression continues, it will ruin what still remains of the theatrical industry. There is no questioning of the fact that the depression has been slowly and surely ruining the theater. Never in the history of our organization have we suffered from unemployment as at present."

According to Walter S. Percival, president of the United Scenic Artists of America, the employment records of the union show that in 1928, 58 per cent of the members were regularly employed and 42 per cent on part time, with not a single member employed less than one-third of the year. In 1931 only 11 per cent of the members were regularly employed, 32 per cent on part time, and 62 per cent had practically no employment.

C. Bankruptcies and receiverships of prominent producers and managers in the theatrical industry.

The drain on the financial resources of important theatrical producers and managers due to the duration of the depression culminated in 1931 in bankruptcies and receiverships of theatrical organizations, the financial solidity of which was never questioned. The Shubert Theater Corporation which for over 30 years controlled a network of theaters throughout the country and constituted the largest producers in the legitimate theater was compelled to go into a receivership. Nothing can more clearly indicate the low economic state to which the theater has fallen than the recital of this fact. Other important producers well known throughout the country have been forced into bankruptcy, men whose names were known and respected from coast to coast, like A. H. Woods and Arthur Hammerstein, as well as others.

II. The proposed 10 per cent tax will constitute a burden on those least able to bear it.

The theater has never been completely free of federal taxation. Since these taxes were first imposed in 1917, the theater has always borne its share of the burdens of government. When taxes were levied upon it for war purposes, it met them cheerfully, but when the taxes were removed from other industries in 1928, a tax of 10 per cent on tickets costing above $3 remained on the statute books and the theater still pays this tax. Now it is the intention of the Government to impose a 10 per cent tax on tickets costing less than $3. Such a tax would directly affect the poorer playgoers who buy balcony and gallery seats, and they are least able to pay it.

III. The spoken drama is the source of dramatic interest for the talkie industry.

If legislation is enacted which injures the spoken drama, it will greatly affect the talking-picture industry because the most important plays produced on the screen are drawn from the legitimate theater. A system of taxation which discourages production in the legitimate theater will necessarily also injure the production of talking pictures.

IV. The proposed tax is a tax on culture.

The spoken drama is a cultural institution, and the contemplated tax is tantamount to taxing culture in the United States. For centuries European governments have recognized the cultural value of the theater by actually supporting it. We need only refer to the Comedie Francaise, Opera Comique, Grand Opera, and other theaters of France which receive a direct subsidy from the Government. Throughout Germany one finds municipal and state theaters supported by the Government. Government subsidy of theaters throughout Germany has been a policy hoary with age, and only recently have some of the cities decreased their subsidy to the theaters on account of the catastrophic economic conditions prevailing there. And the fact that some cities have decreased their subsidy has been presented as moving proof that economic conditions in that country have reached a very low ebb, since the German people would not resort to such unusual retrenchment were they not forced to do so. The Russian theaters, as well as the theaters of the other continental countries, are supported by the state.

While there have been advocates of governmental subsidy of American theaters, we have followed the traditions of Anglo-Saxon peoples and have left the support of the theater to individuals. The American theater is a voluntary enterprise in which managers and producers have invested their fortunes at their own risk. They do not come to Congress begging subsidy, but surely they have a right to ask of the national government that they be not unduly handicapped by a burdensome tax.

V. A tax which injures the source of taxation is unsound.

The proposed tax on theater tickets belongs in this category. That the spoken drama, known as the legitimate theater, is seriously weakened throughout the

country, has been attested to by every expert connected with the theater. The statistics given above are sufficient proof of this statement; and yet, despite this condition, it is contemplated to handicap the theater still further by imposing such a tax.

Heroic efforts are being made by the groups in the theater to revive the spoken drama throughout the country. The contemplated 10 per cent tax would have the effect of paralyzing these efforts. A tax which contributes to the destruction of an industry defeats its own ends since it dries up the source of taxation.

VI. Finally, the amount of production in the legitimate theater has so markedly decreased, as the statistics of closed theaters given above distinctly show, that, even if the tax is imposed, the additional revenue therefrom will be so slight as to be relatively negligible.

In 1929 the tax on theater, cabaret and concert tickets amounted to $4,862,000; in 1931, $2,110,000. These figures show a decrease in revenue in two years amounting to over 50 per cent. They are also indicative of a critical drop in business during the past two years, and clearly demonstrate that, even if an additional admission tax of 10 per cent on tickets costing less than $3 were imposed, the amount of revenue to be derived from such additional tax would be so little as to be relatively negligible.

NATIONAL ALLIANCE OF THE THEATRE.
THE LEAGUE OF NEW YORK THEATERS (INC.).
ACTORS' EQUITY ASSOCIATION.
THE DRAMATISTS' GUILD OF THE AUTHORS' LEAGUE OF AMERICA (INC.).
INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES.
THEATRICAL PROTECTIVE UNION NO. 1.
AMERICAN FEDERATIONS OF MUSICIANS OF THE UNITED STATES AND CANADA.
AMERICAN FEDERATION OF MUSICIANS, LOCAL 802.
UNITED SCENIC ARTISTS OF AMERICA.

Mr. MOSKOWITZ. Now, gentlemen, on the admissions tax, the original recommendation of the Treasury Department was an admissions tax on 10 cents, no exemptions over 10 cents. The Committee on Ways and Means recommended an exemption of 25 cents. Later there was a compromise suggestion exempting admissions to 46 cents.

Now, I represent the spoken drama, the legitimate drama. The legitimate drama is the sickest branch of the amusement industry. Those who will follow me will tell you gentlemen about the unemployment, about the bankruptcies, the many phases of the legitimate drama which I will not concern myself with at this point. I merely wish to make one point:

As the House of Representatives bill is at present formulated, the legitimate drama is suffering a gross discrimination. We are at present paying a tax on tickets costing over $3. We have never ceased paying a tax. Now you are going to ask us to pay a tax on tickets costing less than $3—that is, for those occupants of the gallery and balcony seats, who are the poorer population—and that is a discrimination against those least able to bear it.

If you are going to make any concession, gentlemen, make it to the entire industry. We do not come here and say we do not want to do our duty. We have been paying. We are paying taxes at the present time. But we resent this discriminatory tax against the legitimate drama, which you know, Mr. Chairman and others, is the one drama that kept up the tradition of our English literature, is the drama which has been the culture carrier, which has been the cultural institution throughout this country.

Now, in Europe where they can not afford it they subsidize the theaters. We do not ask for any subsidy.

The CHAIRMAN. You want to be eliminated?

Mr. MOSKOWITZ. We want to be exempted if we can. If we can not be exempted, Mr. Chairman, then we want a concession to be made to the entire industry in which we will share the benefit.

Thank you very much.

Senator GORE. What is the point of discrimination? I did not quite get it.

Senator CONNALLY. How can we protect that? That is what I want to know.

Mr. MOSKOWITZ. What did you say?

Senator CONNALLY. How can we protect the legitimate drama?

Mr. MOSKOWITZ. Mr. Brady will explain that. He follows me. He is the dean of the drama.

Senator CONNALLY. I want to help you.

The CHAIRMAN. We will hear from Mr. Brady now.

Senator HARRISON. Mr. Bill Brady, the leading man.

STATEMENT OF WILLIAM A. BRADY, THEATRICAL MANAGER AND MEMBER OF ACTORS EQUITY ASSOCIATION, NEW YORK CITY

Mr. BRADY. Mr. Chairman and gentlemen of the Senate Finance Committee, this committee has always been kind and considerate to the American theater. Therefore, we appear before you with respect and confidence. I represent no association and appear before you representing all the men and women in the American theater, being the oldest and most active old man in the theater, and perhaps, having served as everything from a property man, as an actor, as an author, as a producer, and a manager, I might be looked upon as a personification of the American theater.

Now, I am not going to bore you by repeating any argument that you have heard made heretofore on the condition of the theater at the present time or in the past few years and its inability to stand any more taxation.

You would not tax a corpse, would you?

Senator REED. We do.

The CHAIRMAN. We do it.

Senator REED. And we want to do it 65 per cent.

Senator GORE. Got to go to the graveyard now.

The CHAIRMAN. A fellow has no business to die now.

Mr. BRADY. But in this case the corpse is all ready for the undertaker to take it to a potter's field. The spoken theater is upon its last legs. There can be no denying this statement. Those of the managers and producers who have not been declared bankrupt are in the receiver's hands. I am not going to bore you by introducing Mr. Schubert's receivership proceedings. I am not going to tell you about Arthur Hammerstein. I am not going to tell you about the 101 producers who are on the verge of bankruptcy.

At least 70 per cent of our theaters throughout the United States are being foreclosed upon or are closed for the need of an attraction to fill them.

Senator GORE. What per cent?

Mr. BRADY. Seventy per cent. Why, you have no spoken theater in Oklahoma, and you have not had any for six or seven years.

Shakespeare is a lost art in Oklahoma. We are allowed once in a while by the courtesy of the motion picture to play in Oklahoma at Tulsa or Enid or some of your other fine towns which are hungry for Shakespeare and the better class of drama, and they never get it.

Senator GORE. I am with you.

Mr. BRADY. Thank you.

I am not going to try to enthuse you over the idea of preserving an art that educates, amuses, and cultivates. I am not going to advocate a subsidy to help decent drama and music. Other countries weaker than ours have found it politic to do it. They seem to have discovered by experience that to encourage good drama and music in a time of stress is helpful for the preservation of the peoples' morals.

France has always taxed its theater out of existence, and the theaters went on a strike about a fortnight ago and "Gay Paree" was as dark as a graveyard, and the Government just stood it one night and the Premier surrendered and the tax was cut down to something that the theaters could pay.

Now, as a tolerably well-informed citizen who for a half century has rubbed shoulders with the big men and the "forgotten men," I want to say that I am not here to sidestep the obligations that confront us. I realize the size of the job you gentlemen have on your hands.

Senator REED. It is not a pretty job, is it?

Mr. BRADY. I heard you during the course of the afternoon's proceedings turn to the Senator there and say, "What a funny world this is."

Senator REED. I said "What a selfish world this is."

Mr. BRADY. I am with you a hundred per cent.

The CHAIRMAN. Mr. Brady, will you tell us what your recommendations are?

Mr. BRADY. Won't you let me go, Senator?

The CHAIRMAN. Oh, yes, sir; I just wanted to have your suggestions.

Mr. BRADY. I thought I was going to get 15 minutes, and I am going to come down to it, and I am going to be the only man that has come into any committee room since this bill has been discussed in the House or the Senate that is going to make six or eight constructive suggestions about raising money that you gentlemen have not thought of.

The CHAIRMAN. Thank you.

Senator REED. I move we give Mr. Brady an hour.

Mr. BRADY. The Budget must be balanced. Expenses must be cut. Knowing this, I had an instructive experience while I sat for two days listening to the hearings on the tax bill before the Ways and Means Committee, and I heard the representatives of great industries with big bank rolls, according to their yearly statements, plead poverty. One and all had one slogan—"Don't tax us. Tax somebody else."

The CHAIRMAN. That is it.

Mr. BRADY. One and all were asked by the chairman for a constructive suggestion as to how the needed money was to be raised, and not one of those big guns had a suggestion to make.

It seems to me that one with a "wee bit of sense" knows how the present mess our country is in was brought about—innocent deposi-

tors, money loaned for reckless speculation, floating of native foreign bonds, not worth the paper they were written on, sold to a moronic public by high-pressure salesmanship based on misleading information. Who can deny it? I have only to mention the name of Ivar Kreuger and rest my case, adding only that that poor devil was caught while thousands of others guilty as he have gone scot free.

You ask me what this is all apropos of. Well, I will tell you—amongst all that you have heard on this bill, amongst all that were heard by the Ways and Means Committee, there was not one representing "Old John Public," the man who is innocently suffering for it all, the man on the street, the man that I have had many heart-to-heart talks with—because I have rubbed shoulders with every kind of a man or woman that exists, from Maine to California, and you know it.

Senator GORE. He is not organized.

Mr. BRADY. I don't know. He is all right. He is doing a heap of thinking, this man on the street, and presently he may be doing a lot of doing, as some of your western, Seattle boys, and Puget Sound fellows told you.

He thinks that you, his representatives here in Washington, ought to tax the people who are guilty of creating this mess.

George M. Graham, speaking for the automobile trade, told you on Monday that their earnings had dropped from $350,000,000 in 1928 to $155,000,000 in 1929, to $66,000,000 in 1931, and it is proposed to tax his people 3, 2, and 1 per cent. Please mark that, gentlemen. The automobile people are still going. Their yearly statements—I read them all—read pretty healthy. They are doing a grand advertising campaign and one they should be congratulated upon for the magnificent attempt for a comeback, while we of the theatre can not pay our rents. Most of our actors are working on the cooperative basis. Do you know what that means? It means you get part of it if it comes in, and in a lot of cases that means coffee and cakes.

Full salaries for actors now in the theater, the legitimate theater, the spoken theater, are almost unknown. I venture to say the president of the Actors Equity Association, who will speak to you for a few minutes this afternoon, will tell you that full salaries are almost unknown in the theater at this moment, and have been for some time. And it is proposed in the House bill to tax the theater about five times as much as the automobile.

You say perhaps we pass it on to the public. I answer, so do they. An admission tax is a sales tax. And so do all manufacturers say that they would have passed it on to the public if the sales tax had passed the House. The plan for the sales tax proposed that manufacturers should pay 2¼ per cent, and the theater, under the same tax, should pay five times as much.

Now, Senator Harrison, Senator Reed, all of you worthy Senators, you read the reports. You know where the big bank rolls are. Read our report. You will find it before the Ways and Means Committee.

Senator CONNALLY. I know where they are not.

Mr. BRADY. There are many of them that are well fixed and will stand a good tax.

Senator REED. Now, we are going to light on you, the people who could have stood the sales tax, and going to impose the high tax.

Mr. BRADY. There is only one thing, Senator Reed, the sales tax, and I am going to speak of that in another line later on.

Senator REED. You talk about "John Public." We have educated "John Public" to think of sales tax as a tax on the poor man.

Mr. BRADY. Why, John Public, Senator Reed, 97 per cent of them do not know anything about these proceedings going on here in Washington. He does not take any interest in it. He is more interested in whether Babe Ruth made a home run this afternoon or what Jack Dempsey will have for his breakfast to-morrow morning.

Mr. Graham told you that his people received the discrimination. So do we. If the Senate, this committee, returns to the sales tax as a last resort, and I believe you will have to, we pray that we shall be taxed according to our part of the burden, and that we shall not be picked out for a discriminatory tax, or, as more stylishly put, a selective tax.

The CHAIRMAN. Your theory is that the sale of a ticket is a sale, just the same as clothing or anything else?

Mr. BRADY. Certainly. We manufacture entertainment. Somebody else manufactures shoes. Somebody else manufactures clothing. Why, for God's sake, tax something that Woodrow Wilson declared in the midst of the darkest hours of the war to be an "essential industry?"

Now, on Monday I took note of the fact that Frank D. Scott, counsel for the Radio Manufacturers' Association, pleaded that his business should not be taxed more than the automobile makers. That is 2 per cent more. "Old John People" inquires of Mr. Scott, "What tax does radio pay for the use of the peoples' air?"

Mr. Mills presents in his Tuesday morning papers that he is going to tax accessories and home sets. He taxes the poor people.

What about the broadcasting association that are getting $15,000 an hour for broadcasting and advertising?

Senator REED. Yes; but we are afraid to tax them. That is not politics.

Mr. BRADY. I am coming to that. I assert that the radio and all concerning it, barring the educational and news periods, are as much a luxury and more so than the theater. In fact, it is theater. Its popularity is based upon pilfering from the theater and using the theater's people, the actors that I have taught, the songs that we boys write. Radio trades upon that. It creates nothing. And you discriminate against us when you attempt to tax us twice as much as you do radio, and you tax them—and, gentlemen of the committee, please remember this—they pay nothing for the use of the air.

Of course, I know radios are valuable to the average politician. Do you want us to pay for political exploitation?

At the beginning of these hearings Hon. Ogden Mills, a dear friend of mine, and I respect him greatly, Secretary of the Treasury, appeared before you with his original proposal. He urged the theatre tax. I am quoting him now. He urges the theatre tax because, as he put it, "It is easy to collect."

Before the Ways and Means Committee in his original suggestions he referred to taxes upon cosmetics, beauty powders, jewelry, furs, expensive things, so and so and so and so, as difficult to collect, and because they were difficult to collect he proposed that they should not be taxed.

Here on Tuesday in the Tribune he reconsiders and he finds that he can raise $50,000,000 by these taxes that he first said were difficult to collect.

Now, I ask Mr. Mills if he contends that if one industry pays taxes easy to collect and another evades taxes and makes them hard to collect, shall the first-named business be overtaxed because it is easy to collect from them, while the second-named industries are relieved of taxation because they are difficult to trade with?

In 1926, Mr. Mills, who was then a Member of the House, thought that good music and drama should be entirely exempted from taxation, and so he and Henry T. Rainey wrote the following amendment in the 1926 bill, which was considered on the floor of the House. Shall I read it? No.

The CHAIRMAN. We know what it is.

Mr. BRADY. The substance of it was that good music and drama should be exempted entirely from taxation. It was passed in the House and discarded in this room.

My distinguished friend, Congressman Emanuel Celler, offered the same amendment to the present bill during the discussion of it in the House recently, and again it was voted down.

I most humbly and respectfully request that this committee shall consider the exemption of taxation upon decent educational drama and music in the United States. Every great country does it. There is no reason why the greatest country of all should not.

The CHAIRMAN. Mr. Brady, is there any way of differentiating between the legitimate drama and what may be termed——

Mr. BRADY (interposing). Bawdy drama?

The CHAIRMAN. Yes; bawdy drama.

Mr. BRADY. Why, yes.

The CHAIRMAN. I mean by language that you can put in a law.

Mr. BRADY. Why, yes. Mr. Gillmore down there, of the Actors' Equity Association, will have a committee of the finest minds in the American theater who will pass upon what is decent drama and what is decent music. That is right, isn't it, Frank?

Mr. FRANK GILLMORE. Yes, sir; Mr. Brady.

Senator HARRISON. Have you an amendment there in accordance with your suggestion?

Mr. BRADY. Yes; I have. The original Budget proposed by Mr. Mills suggested that all admissions over 10 cents pay 10 per cent tax. They estimated an amount to be raised at $110,000,000. The Ways and Means Committee raised the exemption to 25 cents and estimated the amount to be raised at $90,000,000. When the Committee of the Whole sent the bill back to the Ways and Means Committee it reappeared on the floor with the exemption raised to 46 cents, with an estimated gross of forty million. Now, fifty or seventy million were lost in the shuffle. Why? Is there a colored man in the wood pile?

Now, I was the head of the movies throughout the war. Mr. William S. Hays succeeded me. I worked for nothing. He is plentifully paid. No one knows the political value of the screen better than I do, and I am looking right at the most intelligent man in the screen. I can tell many interesting stories about the value of talking pictures in a presidential campaign.

But, after all, they are our competitors, our principal ones. Is it fair to give them an advantage over us? No, say I. If you tax one, tax all, and tax all alike. Play no favorites.

The spoken drama is as much the poor man's amusement as the movies, and perhaps we do more good and less harm. If we have to go into politics in order to gain justice, our way is clear.

We furnished rostrums for thousands of 4-minute men during the war, and our people did valuable service both here and abroad. Herbert Hoover, and Woodrow Wilson, if he were alive, could testify to the fact.

Now, I am going to make some concrete suggestions. Gentlemen, do you know that there are millions of dollars being taken out of our country with what is known as the sweepstakes in foreign racing, particularly the Derby, and they are increasing all the time? Do you know that the hospitals in Ireland received $9,000,000 for the last jumping race at Liverpool and 80 per cent of those tickets are sold here in America? Because you might take notice that most of the prizes are won here.

Senator REED. How are we going to reach it?

Mr. BRADY. I am coming to that. What is the matter with taxing the boats? There are going to be thousands of them this summer, the boats that sail nowhere, that give you a chance to go and get paralyzed drunk and do anything you please, sometimes within the 12-mile limit and then to a limit more than the 12-mile limit.

Senator REED. I think we are going to stop them entirely, Mr. Brady.

Mr. BRADY. Well, it does a lot of people good. It gives them some air. It is not all done for the purpose you have in mind.

Senator REED. They are glorified debauches.

Mr. BRADY. Well, I am not going to speak about beer. I am going to speak about this—what about horse racing? You get 10 per cent of the tax of the admission to a race track, but do you get any part of the millions that is bet on the Kentucky Derby? Do you get anything of the millions that are bet in a month or a week at Saratoga?

Senator REED. No; but the States do.

Mr. BRADY. Yes; but you trespass on the States in a lot of places. You are going to trespass upon the States in the stock exchange tax. Why not a double taxation? Why not? If you are going to tax us and going to tax our shows, tax the guys that can go and bet ten or fifteen or twenty or a hundred thousand dollars on a horse race. He can afford it. He gets his money easily.

The CHAIRMAN. And he loses it, too.

Mr. BRADY. Now, gentlemen, I am putting myself on the spot, but as I am nearly 69 years old, it does not make much difference, and after all somebody must have nerve enough to say something. The other day somebody before your committee mentioned the taxation of newspapers, and my friend in front of me said, "Well, no paper will publish that." But some of the papers did; three or four very important papers admitted that it was quite right.

Now, the newspapers have paid a lot of attention to what has been going on here in Washington. They fought the sales tax to a finish. They are now all sticking together against that quarter of 1 per cent of Wall Street transactions. I can not see what is the matter

with putting a cent upon every daily newspaper in America. The papers have raised them from 1 to 2 and from 2 to 3 and from 3 to 4 and from 4 to 5; 1 cent—that is not going to break anybody. If 10 cents is not going to hurt our poor old bankrupts, 1 cent would not hurt them.

What is the matter with putting a 5-cent tax upon a magazine that weighs a pound? I was in this room and I heard the testimony of the American News Co., head to the fact that it cost the Government $65,000 a week to deliver a certain great magazine that carried from $300,000 to $500,000 worth of advertising each week.

What is the matter, are you scared?

Senator REED. Yes, of course. They are the sacred cow of politics. We do not dare tax them.

Mr. BRADY. But they made a solemn vow to the American people, Crisp, Rainey, Garner, Tilson, and my friend from New York, the Republican leader, Snell, they made a sacred pledge to the American people and circulated it from one end of the country to the other that there should be no politics; that it should be a coalition agreement; that it should be a Government comparable with the Government that now exists in England that has balanced its Budget in 12 months.

Gentlemen, I say that you are our representatives. And I know you are, and I know every one of you, and I know you are fine people. Why should you allow anybody, newspaper, church, anybody to bluff you out of raising every dollar—not a billion, not just balance the Budget—double the Budget.

I believe it was Mr. Wiggin, of the Chase National Bank, who testified down here that the American people will gamble. Playing the stock market on a margin is gambling, just the same as faro, roulette, or craps, only in those games you see the card come out of the box, you see the ball go round, or you see the dice shaken.

Playing Wall Street is like a blind man in a poker game. I know—I was a ticker hound for 30 years.

Why not, gentlemen? If people want to gamble—and you are going to—I am glad that none of the Representatives of the western States are here, for some of them might faint—and I do not refer to Oklahoma as a Western State. Perhaps I might refer to my friend Mr. Jones from Washington.

Senator GORE. Go ahead.

Mr. BRADY. Why not a grand national lottery? The English Parliament is considering one right now in order to reach the money that is going into the pockets of the gentlemen who run these sweepstakes. If our people want to gamble, and everybody agrees that they do, and everybody agrees that they are gambling and that that same gambling instinct brought this thing on, or it was partially responsible for it, then what is the matter with allowing the Government to profit by taking the kitty?

Senator GORE. You know they waged the Revolutionary War with a lottery.

Mr. BRADY. Senator Gore, do you listen in on the radio?

Senator GORE. Yes, sir.

Mr. BRADY. There are 20 lotteries going on on the radio already every night. It is not quite a lottery, but it could be easily construed as an evasion.

Senator GORE. Not Amos and Andy.

Mr. BRADY. An old man pleads for a stricken art. Our people have always stood by in times of national adversity. Even now, though we can ill afford it, we stand ready to pay our just share in our country's need, if it takes the shoes off our feet and the shirt off our back.

But we ask you not to discriminate against us. The theater is just as much of a necessity as bread and butter and other sustaining food under the present stress, and perhaps a bit more so. These are dark days for us, and as dark days for you. We see little light ahead. We need your help, and we know you are going to give it to us if it is possible. Tax all alike, everyone. Lend us a helping hand. We need it. Thank you, sir.

STATEMENT OF FRANK GILLMORE, PRESIDENT ACTORS' EQUITY ASSOCIATION, NEW YORK CITY

Mr. GILLMORE. Mr. Chairman and gentlemen of the committee: I represent the actors of America. I happen to have the honor to be president of the Actors' Equity Association, which includes all the legitimate actors and actresses of the United States and Canada. I happen to represent also all the chorus members in the theater. I am their president, too.

I want to say that the current depression has hit the actor more than others. The records of the Actors' Equity Association show that employment among its members has fallen off 60 per cent in the last two years. That does not mean that the remaining 40 per cent have been receiving continuous employment at full salaries. If that were so, the position of the actor to-day would be no worse than that of many other workers, but the actor's average employment in normal times, his average playing year, not counting rehearsals, is under 20 weeks; whereas, in subnormal times like the present, it is reduced so that our small percentage of employed members is only working on part time and at much lower wages.

I don't suppose you gentlemen know that the Actors' Dinner Club in New York City is now serving an average of 1,600 free dinners a week.

Senator REED. That is to members of the profession?

Mr. GILLMORE. Members of the profession, those who can not afford to buy meals themselves, those who can go into the Actors' Dinner Club and pay for their meal and nobody knows when they sit down there whether the man opposite him is paying for his meal or whether he is not. It is our idea of not making him feel badly. Nobody knows except the officials in charge.

The counsel of the Actors' Equity Association, Mr. Paul N. Turner, who has the largest theatrical practice in New York, tells me that for years his office made out approximately 100 Federal income-tax returns for actors, and that this year only 10 were made out and the amounts subject to taxation were markedly reduced.

Senator GORE. The actors were having pretty hard sledding before this depression came in 1929?

Mr. GILLMORE. Yes, indeed, Senator. If I could go back for years and years and years I could show you that for 10 years, or perhaps 6 years, but of course the last 3 years, it has been really terrible.

Senator GORE. I remember the newspapers said, I think in the fall of 1928, a number of theaters, 40 or 50 or 60, closed in New York for the lack of patronage.

Mr. GILLMORE. Well, it has increased in the last five years, Senator. We have 25 theaters open in New York City, and four years ago we had 50 at this time of year open.

Senator REED. How many members of the Actors' Equity Association are working in the movies in Hollywood?

Mr. GILLMORE. Well, a large number of our more famous members in legitimate are being now employed in Hollywood. There is no doubt about that. Mr. George Arliss is on our council. He has been on our council for 20 years.

Senator REED. I was not thinking so much of the stars as I was the run-of-the-mine actors.

Mr. GILLMORE. Yes, a large number of our regular actors are in the movies, and they have been in the movies for the last 10 years. They find in the movies that the actor of the stage is the one who understands the technique better, and since sound pictures came into effect of course the actor of the stage is in demand even more than he was before, though even in the silent picture the actor of the stage was frequently found. Directors found that he could understand what he was expected to do and do it in about five minutes, whereas the man who was not adept in that would take perhaps two hours.

Senator REED. In estimating this 40 per cent who are still employed do you include those who are working for the movies?

Mr. GILLMORE. No, that is a separate branch of our association. We have what is termed "jurisdiction" over the movies but I am not including them in any statement that I am making to-day.

From ancient times actors have done much for civilization. They have carried its standard far and wide and into remote places. They still bear this standard aloft, but their hands are getting weak and their legs are getting shaky. Oh, they won't drop it altogether, be sure of that. It must be borne along, no matter what happens. But they may have to trail it if you allow this increased taxation to go through.

Perhaps a little story might convey what I mean. When I was a young man I played in Cripple Creek before the railroad was there. I played in Lady Windermere's Fan by Oscar Wilde, recognized as a poet, and his plays are printed in all books on literature. Think of playing in Cripple Creek before the railroad was there and finding your audience of miners, and having these fine fellows coming to you afterwards—illiterate perhaps, but with intelligence enough to understand that the play was unusual and was fine and was worth listening to. That is what I mean by saying "carrying the standard of civilization."

Ever since Thespis waved to the Greeks from his cart the actors have been doing that.

Supposing that parliament of Queen Elizabeth of England or King James the First had started to tax the legitimate theater out of existence. We might have lost the immortal writings of Christopher Marlowe, Beaumont and Fletcher, Ben Johnson, and that beloved of beloveds in literature, Shakespeare. The English-speaking world owes much

to this group. It owes a large part of its vocabulary and a rich treasury of clear thought, from which we ourselves, whether we know it or not, borrow every day, indeed every hour.

The great Frenchman Talma once said, "actors should be educated on the laps of princes." That is a figure of speech and could not be taken literally, but at least actors should not be educated at free dinner clubs or in the anterooms of help and aid societies.

Bear in mind that we are not asking you to free us from taxation altogether. We are already paying a 10 per cent tax on all seats over $3. But we do ask you to prevent this additional tax which, when all is said and done, is an infinitesimal amount, that is, compared with the vast sum you gentlemen have to raise.

Congressman Cellar, on the floor of the House, computed the additional revenue to the Government under this proposed tax as about $500,000 a year. That is a mere drop in the bucket. It surely is not worth the additional burden it would place on an old and honorable profession.

Please cut out this tax. And we actors want to assure you that we will bear you in our heart's core—aye, in our heart of hearts.

Senator GORE. Marlowe said, "The only sin is ignorance."

STATEMENT OF GEN. SAMUEL T. ANSELL, REPRESENTING AMERICAN FEDERATION OF MUSICIANS, WASHINGTON, D. C.

General ANSELL. Mr. Chairman and gentlemen of the committee, we wish to speak for a very few minutes in behalf of the American Federation of Musicians. We wish to point out to this committee their peculiarly distressing conditions. Between 98,000 and 104,000 of our 140,000 members are now out of employment. We wish to voice here the very reasonable fear—or we think it reasonable—that the proposed tax upon theater admissions may prove the death knell to those who still survive.

We can not undertake to tell this committee what to do. We do not know what they ought to do. We know that they have got a vast amount of taxes to collect.

But we did wish the committee to understand as best we could have them understand the terrible condition in which all American musicians are finding themselves at this day, and to infer, as we must infer, that if this admission tax, the proposed admission tax, is imposed upon theaters, the injury to American musicians will be irreparable.

We do not undertake to make a case for the theaters. We are here only because the theaters are large, very large, employers of musicians. And whatever may decrease, or necessarily tend to decrease, those employment opportunities, becomes necessarily of vital significance to us.

We know, of course, what probably is generally known, that the motion-picture industry, the legitimate drama, the legitimate theater, the great symphonies, the Metropolitan Opera, are in serious financial difficulties. We know ourselves that the world's greatest musical organizations have never been self-supporting. In Europe, as here, they are subsidized. In Europe they are subsidized both by the State and by individuals, and here by individuals alone. Now these great musical organizations appear to be on the verge of dissolution. It is true that our theater and legitimate drama are disappearing,

and it is said that our motion-picture industry even is in a very precarious state.

Now, we do not profess to know the reasons for this unhappy situation, but we do know that our musicians employed in the highest as well as in the lower musical organizations are becoming objects of charity. There are to-day and have been for some time at a conservative estimate between 75 and 85 per cent of all American musicians out of employment, and that is not due entirely or even in greater degree to the depression.

Few if any of our musicians are employed in the theaters, movies, and so forth, that charge less than 50 cents, and we think that any tax upon the theater is bound to make our condition most difficult. In no other art—we think we are safe in saying this—in no other art or craft or industry in this country can anything be found comparable with the distress that is stalking this day through the ranks of American musicians. Our situation was positively appalling before this depression struck us. We had been dealt blow after blow before the depression came to climax our tragedy. We have always had a struggle for bare existence.

Now, gentlemen of the committee, for your information, in order that we may have your sympathies and your considerate judgment, the Government itself has in some degree directly contributed to this situation. Until this very Congress, this very session, passed an effective remedial measure, we had to meet the competition of hordes of alien musicians of the cheapest and most ordinary kind, far inferior to the corresponding class of our own musicians, brought here despite the contract-labor law, because they would accept terms and conditions of employment that no American ought to be subjected to.

Senator REED. We have fixed that, have we not?

General ANSELL. We have just fixed it, sir.

Then, too, there are several thousand men composing the 89 Army bands and the 56 Navy bands, supported out of the public Treasury, who were also habitually ordered or permitted to play at purely private civilian functions of every kind and description sponsored by anybody who had sufficient influence to get a band.

The Army, Senator Reed, to its great credit, abandoned that practice several years ago and avoids it now, and we have no trouble with the Army. But the Navy persists in it.

But of far more serious consequence to the American musician has been the foisting upon the public, in this age of mechanical device and substitute, of the many mechanical substitutes for living music. As a result, the American musician did not share in the general prosperity, almost a riotous prosperity, of a few years ago. While others were prospering tens of thousands of musicians were being displaced by the phonograph, the music machine of every kind and description, and then finally by the general introduction of sound in the motion pictures. Sound pictures alone displaced at one swoop 23,000 American musicians, and the number being displaced has been increasing since. Even the radio, of which we expected so much, with its hook-up chain broadcasting, mechanical musical programs, has also worked to our disadvantage.

On top of all this came the depression. It has probably borne more hardly upon the musician than those of any other art or craft. When individual income is being depleted one of the first means of econo-

mizing is to dispense with music. In spite of all the handicaps mentioned, only a few years ago America was becoming one of the great musical countries of the world.

To-day, as we have said, between 70 and 80 per cent of our musicians have no musical employment; they have endeavored, of course, to find other work in fields already overcrowded and for which they were little suited, and, failing, many have become objects of charity. No class has suffered more, while none has been quicker to contribute its service to the charitable relief of others. But we are struggling now to survive. We fear that a tax on theater admissions may serve as the final fatal blow.

We simply ask the thoughtful consideration of the committee. The revenue from this source after all will probably not be large, and we fear that the direct effect upon musicians as a class and the harmful consequences to our people as a whole may outweigh by far all the advantages which the tax might bring.

Music is not only an art that brings culture to some, it has far-reaching social consequences. We are all entitled to reasonable opportunities for diversions and pleasures, to reasonable opportunities to enjoy aud be exalted by music, the art which is most generally appreciated and which has the greatest influence upon human conduct. We should be reluctant to do aught that deprives the mass of our people of the great personal and social advantages that result from music, that deprives the rather drab existence of this day of the helpful diversion and exaltation which music alone can bring. Wealth, business, commerce, property, and the material things of life in excess of the bare necessities of life, must doubtless be taxed. Music is, in a very real sense, as necessary to proper human development as food and raiment. We ask that you act thoughtfully before imposing a tax that may crush our musicians as a class, that may further deprive our people of the helpful and elevating influence of this greatest of arts, further require them to accept more and more the unsatisfying and unedifying mechanical substitute and aggravate the existing unhappy condition of American musicians, and throw out of employment many of those who are still earning some kind of livelihood.

I thank you.

STATEMENT OF JAMES BRENNAN, REPRESENTING LABOR IN THE THEATERS, NEW YORK CITY

Mr. BRENNAN. Mr. Chairman, all that I could say in one minute is that I represent labor in the theaters.

The CHAIRMAN. Well, if you represent that element you will have three minutes.

Mr. BRENNAN. I can say of my own organization, my local, as of all the 697 locals, we have 50 per cent of our people out of work at the present time, between 900 and 1,000. And the few who are working are taking care of those who are out of work. We do not get any help from any outside source. We have our own unemployment relief problem. We handle it ourselves. We share our work with the fellow who is not working.

If our bosses, the producing managers, have any extra burdens put upon them, and if a few hundred more are added to our list, we will be unable to take care of those who are out of work.

I want to say to you gentlemen of the committee that we feel the theater is a necessity, not only because we get our work from them, but because of the needs of the public.

Senator REED. How many members are there in your association?

Mr. BRENNAN. My own local had ——

Senator REED (interposing). I mean not only your own local but the whole of them.

Mr. BRENNAN. In our international association there are 30,000, and 60 per cent of them are out of work. And 90 per cent of the legitimate theaters throughout the United States are dark. And 39 out of 45 in New York City are dark.

The CHAIRMAN. Is that number being increased?

Mr. BRENNAN. Yes, sir.

Senator REED. Do you mean now?

Mr. BRENNAN. Yes, sir; 39 of the legitimate theaters. And I am here to-day, gentlemen of the committee, pleading for the legitimate theater. We get the bulk of our work from the legitimate theaters.

The CHAIRMAN. What was the number a year ago that were dark?

Mr. BRENNAN. It was about the same. It has been going on for over two years now, between 900 and 1,000 of our people are out of work.

Senator REED. Do you mean to say that only 6 of the legitimate theaters of New York City are open now?

Mr. BRENNAN. Thirty-nine out of forty-five are dark.

Senator REED. How was that?

Mr. BRENNAN. But about 26 are open.

Senator CONNALLY. You do not mean that only that number are open?

Mr. BRENNAN. They are dark to-day.

Senator REED. Let us get that straight. You say that 39 out of 45 of the theaters in New York City are dark. That would leave only 6 open.

Mr. BRENNAN. Oh, I made a mistake. I meant that 39 out of 65 are dark.

Senator REED. Well, that is bad enough.

Mr. BRENNAN. Yes; 60 per cent of our international members; that is, the labor back-stage are unemployed.

STATEMENT OF WALTER S. PERCIVAL, PRESIDENT, UNITED SCENIC ARTISTS OF AMERICA, NEW YORK CITY

Mr. PERCIVAL. Mr. Chairman and members of the Senate Finance Committee, speaking briefly for the scenic artists, the people who design the stage settings for theaters, whose work is largely in the legitimate theater or the spoken drama, I will say that between 60 and 65 per cent of the legitimate theaters have closed, thereby closing employment to our members and to an equal extent, considering the number that were employed previously, I mean during the period from 1920 to 1928, affecting the taxes received by the Government.

At the present time we have about 30 per cent of our men employed, and the rest are unemployed. We try to take care of them as much as possible through emergency measures, taxing the members who are employed one per cent of their earnings in order to raise a fund to help the unemployed. And we are considering raising that to 2 per cent.

And I want to call to your attention the condition of the Metropolitan Opera House in New York City, which since the Ways and Means Committee hearings has been wavering as to whether they would try another season or not; and they finally decided to try it for another season with a reduction from 28 weeks to 16 weeks, which means increased unemployment.

Now, take another group, the Chicago Opera Co., and that together with the Metropolitan Opera Co., are the two representative companies producing the finest things in music, the finest people in the way of musicians and artists and stage settings; the Chicago Opera Co. had decided to suspend operations for the coming season. The Civic Repertorial Co. of Chicago lost a great amount of money, which caused unemployment in our ranks, and we feel that if a tax to the extent of 10 per cent is imposed it will cause legitimate productions now under way to stop, thus adding to the unemployment, and possibly that 1 or 2 per cent as it may be, from our members for a fund to take care of the unemployed, will have no source from which to draw.

I should like to call attention to another angle. You have heard from those angles of somebody who has something to sell, but nobody talks from the angle of the person who has something to buy. I am a working man but I like to go to the theater. I like to ride around in a "Lizzie" or a "Chevy," and I buy gasoline along with other things. My wife buys cosmetics. If I pay a tax of 1 per cent on gasoline I could buy 5 gallons of gasoline and it will take me over 100 miles for a tax of 5 cents. And if my wife buys cosmetics, or lipstick, or something of that kind, with a tax of 5 or 10 cents she could get a supply that would carry her for a week or a period of weeks.

But if I want to go to the legitimate theater to see a play and forget the worries of the world, something that will inspire one to better things, and nobody can deny that the theater is a great force and factor in molding the thought of the day; as I say, if I want to sit in the gallery or the balcony and see a decent play for 2½ hours of entertainment, you tax me 50 cents for a pair of seats.

But I can go 100 miles for a 5-cent tax on gasoline, or a woman could go for weeks on her supply of cosmetics with a tax of five cents. So it does not appear to be just. There are great numbers of people who are hungry for the theater, who want to sit in the balcony or the gallery seats, that a tax of 10 per cent would prohibit their doing so. And yet a cent tax on gasoline I, along with thousands of others, feel, paying a penny here and a penny there, would take us a long ways as measured in paying 50 cents tax for theater tickets.

And coming back to the point of employment: 30 per cent of our men are working now. A part of them are only working part time. We have only 9 per cent working full time. We want to pay a tax, and we feel that the theater should pay a tax, but at the same time we feel it should be an equal tax, and should not be such a tax as would prohibit us from going to the theater.

So I say that any adjustment of the tax that you gentlemen may see fit to make that will relieve us, that will make the prospects of employment more rosy, I can assure you our group will be most grateful to you, and we will be glad to show our appreciation after you have done your work.

STATEMENT OF A. JULIAN BRYLAWSKI, VICE PRESIDENT OF THE MOTION PICTURE THEATERS OF AMERICA, AND CHAIRMAN OF THEIR LEGISLATIVE COMMITTEE, WASHINGTON, D. C.

Mr. BRYLAWSKI. I wish to correct the committee calendar inasmuch as it has me representing the motion picture theater owners of Washington. I represent the Motion Picture Theaters of America, being vice president of that organization and chairman of their legislative committee.

Gentlemen of the committee, I have listened most attentively to the previous witnesses, and a great many things that I had written in the brief I prepared but which I do not intend to read, or even to file, I will not take up your time at this moment to present. But I will try to confine myself to just one angle, which I believe is new in these hearings.

Mr. Brady has spoken most eloquently about the value of the theater. He mentioned an incident in Paris. He might just as well have mentioned what occurred in Chicago in 1927 when there was a movie-theater strike.

The municipality of Chicago ordered the theaters opened after the third day because of the restlessness of the people and the great increase of petty crime and misdemeanors among the youngsters of that city. I think the theater proved its value as a moral influence at that time irrefutably.

The angle I want to approach this problem from is one that possibly appeals to a man of my race. There are a great many things that are said about a man in the course of his life, especially some men, that he may be a drunkard, or that he may be a philanderer, and this, that, and the other; but I think as to a man of my race the worst thing you could say is, he is a bad business man. And so it is that I say, I think we can show you that the passage of an amusement tax on theaters would be just bad business.

When we appeared before the Ways and Means Committee of the House of Representatives we did not have an abstract bill before us. All that we had was a rumor of an admission tax, the Treasury program, and certain things that had appeared in the newspapers as to what we might expect from that committee. But we did not have anything concrete. We did not know just what figure they were aiming at or what they expected to obtain.

I think the whole idea of a tax on amusements is based on the belief that it is possible to pass that tax on to the consumer. Our experience is all to the contrary. When we spoke before the Ways and Means Committee we had very few facts and practically no figures. For our experience we had of necessity to go back to the early days immediately following the World War, when the war taxes were first invoked and placed on the American theater owner. In those days it is true that certain drops in the way of attendance were felt upon the imposition of the tax, but in the prosperity that followed it was normally lost sight of and no figures were definite. However, we have figures to-day which will give you some idea of what we have to expect.

Let me first explain to you gentlemen that the expenses of a theater are a fixed charge. It costs a theater just as much to give a show for an audience of one person as for an audience of thousands. Whether

we play to a capacity audience or to only one or two persons there is no difference in the matter of our expense. And that is true I think of only the amusement business. If a department store, a factory, or any other business suffers a diminution, whether it be 5, 10, or 50 per cent, the chief cost of conducting that business is the merchandise that they sell. They can retrench here and there but their principal retrenchment would be the cost of the merchandise they sell, which I am quite sure will average between 65 and 70 per cent, taken all the way through.

In the case of the theater no such retrenchment is possible. The only item of our expense, and I speak for the motion picture theater, that we can save by reason of a diminution in receipts would be the cost of the film service, which is largely to-day supplied on a percentage of our gross business. That percentage will average between 20 and 22 per cent for the theaters of the country. So that a 10 per cent drop in our receipts would affect our expenses only 2 per cent, a negligible figure.

Over in England we have had a very great example of exactly what it means to tax motion picture theaters and other theaters of the country. Let me state first that there has been a tax on English theater tickets since the World War. It has never been taken off.

The Government promised to take it off but never did, and the tax has grown to be a part of the English system so far as their Government is concerned, and the English theater-going public accept that tax along with the price of the ticket, not as two things but as one.

Senator HARRISON. What is the amount of the English theater tax?

Mr. BRYLAWSKI. Up to September of 1931 it was an average of 10 per cent. But in the stress of balancing the English budget the Chancellor, in September of 1931, raised the tax to 16¼ per cent. I am speaking now of the average tax, because their tax is on a sliding scale. In the quarter following the imposition of the increased tax, to-wit, the months of October, November, and December, the last quarter of last year, there was a drop in attendance figures of English theaters of approximately 150,000,000 admissions. That is based on the year.

Senator GORE. Did that cut down the receipts of the Government very much?

Mr. BRYLAWSKI. That cut down receipts 15¾ per cent.

Senator GORE. That is what I wanted to know, whether the receipts were less than they would have been under the old tax.

Mr. BRYLAWSKI. I will try to give you the figures. We have finally got them and I am now prepared to present them.

Senator GORE. All right.

Mr. BRYLAWSKI. The English theaters suffered a diminution of 15¾ per cent in their gross receipts, and the Government got 6¼ per cent additional revenue.

Senator GORE. More than they would have gotten?

Mr. BRYLAWSKI. Yes, in the matter of percentages only. The actual figures show that the loss by reason of decrease in admissions under the present tax is in excess of £4,000,000, of which the Government got less and will get less than £2,000,000, and on present figures

they will suffer a loss in their income-tax schedules of £3,250,000. It is just bad business.

There is no question——

Senator GORE (interposing). Could you state in just a sentence, I mean summarizing that matter, what the loss will be?

Mr. BRYLAWSKI. The loss to the Government of England by reason of increasing the theater-admission tax, it evidently having reached the point where the public resented it, will amount to £1,250,000 in the three months of the last quarter of last year.

There is no question, gentlemen of the committee, that an additional tax on theaters in this country is going to result in a fewer number of theaters being operated. A fewer number of theaters being operated means a loss of revenue to producers of plays, and a loss of revenues means fewer or poorer pictures because you can not make the same good picture and lose money; and that means a decrease in admissions, and a decrease in admissions means poorer or fewer productions.

I venture to say that a safe and conservative estimate of the amount of revenue that this Government will get by changing the present admission tax will result in an actual loss to the United States Treasury in the way of income taxes it receives from the theaters, from their employees, from the producers, and from all that goes into the production and presentation of moving pictures, that would be far in excess of the amount which the United States Government hopes to get from the tax as it is now being considered.

Senator GORE. Then you mean that this loss by England is represented in the way of diminished revenue from the sale of tickets and also from income taxes?

Mr. BRYLAWSKI. Yes, sir; and from income taxes from others who depend upon the theaters.

LETTER SUBMITTED BY JOHN M. KELLEY, GENERAL COUNSEL RINGLING BROS. AND BARNUM & BAILEY

NEW YORK CITY, *April 20, 1932.*

Hon. REED SMOOT,
Chairman Senate Finance Committee,
Washington, D. C.

The tax on admissions in relation to the circus.

GENTLEMEN: Instead of appearing before the committee for oral argument, we ask the privilege of filing, for your consideration, this brief memorandum.

I represent the following: Ringling Bros. and Barnum & Bailey Combined Shows, Sells-Floto Circus, Hagenbeck-Wallace Circus, Al G. Barnes Circus, Sparks Circus, John Robinson Circus, Adam Forepaugh & Sells Bros. Circus.

Every industry has stressed the point of its financial embarrassment. Just a word about the circus. The Ringling show last year was stopped in its tracks on September 14—the earliest in history.

For the year 1930, the other shows in consolidated return showed $400,000, in red. In 1931, over $150,000 in the red. This season the three last above-named shows are in retirement, unable to carry on.

We assume that the committee will recommend a tax on admissions only as an emergency measure in raising revenue. This being so, it should be just and fair to all amusement enterprises.

In the bill considered by the House, there is the following provision: "Except that in case the amount paid for admission is less than 46 cents no tax shall be imposed."

This is not "exemption," it is discrimination, unfair and harmful in results.

Whatever the scale of admission tax imposed, the amount excepted should be in the form of exemption, and apply to all alike. All should be granted the

exemption up to 46 cents or 51 cents or 76 cents or whatever the amount, or none.

As an illustration of how this works out: A small theater, or movie, or traveling show, with small overhead, can take a flying chance at business, and advertise a tax-free show at 45 cents. The theater or show across the street, with a heavy investment and overhead, and a costly program, can not possibly reduce prices below the tax point; and, therefore, he is discriminated against in the proposed bill by being compelled to pay a tax all the way from the first cent to the last. The effect of this bill would be to unjustly deprive invested capital and responsible established business men in the industry, of any exemption in the payment of the admission tax, while the less responsible and the speculative will get by, if this language is not changed, because of a harmful, discriminating provision.

The principle of exemption in the admission tax should parallel the provision adopted for exemption in the income tax. That is, up to a certain figure all are exempt; and above that, all pay.

We do not believe such a provision as that proposed constitutional; it is discriminating, unfair, and unequal. It is most unfair to those carrying heavy investments in long-established business, and who are called upon in the administration of the tax law to supply the revenue.

The circus is the least able to bear the tax, or pass it on. First, its show season is limited to a few summer months. Second, definite prices with the circus have prevailed for generations, and are established with the public. The public expects to see the same standard prices on the ticket wagon, just as surely as they expect to see the unchanging spots on the leopard, or the hump on the camel. The circus can not pass this tax on to the public without a reaction in patronage, in greater detriment than if they absorbed the tax. The very fact that only a few of the circuses are able now, without a tax, to carry on, reveals a situation that requires no argument.

The circus now, as in the past, is willing to bear its share. If there must be an admission tax, it should be fair and equal. To that end, we recommend for your consideration a bill providing an admission tax of 12½ per cent with an exemption that will apply to all up to and including 75 cents.

Respectfully submitted.

JOHN M. KELLEY.

STATEMENT BY HON. SAMUEL M. SHORTRIDGE, UNITED STATES SENATOR FROM CALIFORNIA

Senator SHORTRIDGE. Mr. Chairman, I have a matter which I have been waiting to present to the committee.

The CHAIRMAN. Senator Shortridge.

Senator SHORTRIDGE. Mr. Chairman, to H. R. 10236, the bill now under consideration by our committee, to provide revenue, equalize taxation, and for other purposes, I offer the following amendment:

On page 251, after line 14, insert the following new section:

SEC. 712. *Admission to Olympic Games.*—The tax imposed by section 500(a) (1) of the revenue act of 1926, as amended, shall not apply in respect of admissions to the games of the Xth Olympiad, to be held at Los Angeles, Calif., from July 30, 1932, to August 14, 1932, inclusive."

The great honor of celebrating the Xth Olympiad has come to our country, and it will be celebrated in the city of Los Angeles, Calif., from July 30, 1932 to August 14, 1932, inclusive.

When we speak of the Xth Olympiad our minds are carried back many centuries before Christ when the Olympic Games and others were celebrated in ancient and classic Greece. There were indeed four kinds of Grecian games:

(1) The Olympian; (2) the Pythian; (3) the Nemean; and (4) the Isthmian. All were of a religious character, and all were treated with the greatest solemnity and observed with the most devout rites.

It was considered to be a mark of exceptional fitness, morally, mentally, and bodily, to be allowed to compete in these games at all; while for the winner the very highest honors his nation and parent city could lavish upon him were in store. It has been said that as a proof of this one has only to instance that the ordinary entrance to the city was not considered good enough for the hero, but a breach was made in the city wall for his triumphal entry to his native home. Although the official reward of the victor was only a simple wreath upon the brow and palm branches placed in the hands, yet the greatest distinction awaited him among his countrymen.

The principal and by far the best known of the four great festivals of the Greeks were the Olympic games. Many centuries have passed since they flourished at Olympia in Elis. Kings have come and gone, dynasties risen and waned, but the memory of these glorious gatherings of all that was best and purest among the ancient peoples is as fresh in the mind of the world to-day as it was before the coming of Christ. Indeed, they were alleged to have been under the direct supervision of the Olympian diety Zeus, before whose statue, made by Phidias and erected in the Temple at Olympia, the athletes made their prayers for victory. The festive rites were made up of processions, invocations and public banquets, together with the singing and recitation of odes in honor of the conquerers.

We now have what may be termed the modern Olympiads. The first honors for the revival of the Olympic Games, it has been suggested, should be awarded to Germany, whose archeologists first excavated the remains of the ancient Stadium, Hippodrome, and Altis at Olympia. But prehaps the greatest honor is due to Baron Pierre de Coubertin, the founder of the modern Olympic Games.

In a word, the first Olympiad, participated in by competitors from many nations, was celebrated in Athens, Greece, in 1896, and since then at intervals of four years these games have been celebrated in different countries so that, as I remarked, the Tenth Olympiad is to be held and celebrated in Los Angeles.

In recognition of the great honor and distinction coming to our country and in aid of the successful carrying out of the program the Congress passed House Joint Resolution 72, which reads as follows:

To permit the temporary entry into the United States under certain conditions of alien participants and officials of the Third Olympic Winter Games and of the games of the Tenth Olympiad to be held in the United States in 1932.

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That alien participants, officials, and other accredited members of delegations to the Third Olympic Winter Games and to the games of the Tenth Olympiad to be held in the United States in 1932, and members of the immediate families and servants of the foregoing, all the foregoing who are nonimmigrants, if otherwise admissible into the United States under the immigration laws, shall be exempted from the payment of the tax of $8 prescribed by section 2 of the immigration act of 1917, and exempted from the fees prescribed under the law to be collected in connection with executing an application for a visa and visaing the passport or other travel document of an alien for the purpose of entering the United States as a nonimmigrant, and such aliens shall not be required to present official passports issued by the governments to which they owe allegiance: *Provided,* That such aliens shall be in possession of official Olympic Games identity cards duly visaed without charge by American consular officers abroad: *And provided further,* That such aliens shall comply with regulations not inconsistent with the foregoing provisions which

shall be prescribed by the Secretary of Labor and the Secretary of State: *Provided, however*, That nothing herein shall relieve an alien from being required to obtain a gratis nonimmigrant visa if coming to the United States as a nonimmigrant, or an immigration visa if coming to the United States as an immigrant: Be it further

Resolved, That such aliens shall be permitted the free entry of their personal effects and their equipment to be used in connection with the games, under such regulations as may be prescribed by the Secretary of the Treasury.

Approved, December 19, 1931.

In further aid of those charged with the responsibility of financing the Tenth Olympiad I have introduced and there is pending before our committee Senate Joint Resolution 143, which reads as follows:

[JOINT RESOLUTION For the admission, free of duty, of equipment for the games of the Tenth Olympiad]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to admit free of duty, any article of equipment which it may be necessary for the "Xth Olympiade Committee of the Games of Los Angeles, United States of America, 1932 (Ltd.)," a corporation organized under the laws of the State of California, in charge of the games of the Tenth Olympiad, to be held at Los Angeles, California, from July 30, 1932, to August 14, 1932, inclusive, to import for the proper staging and performance of such games.

As will be seen by the amendment, I propose that the tax imposed by section 500 (a) (1) of the revenue act of 1926, as amended, shall not apply in respect of admissions to the games of the Tenth Olympiad.

In support of this amendment I offer and request the sympathetic consideration of a statement of reasons why it is hoped that the games of the Tenth Olympiad will be exempted from the proposed amusement tax on tickets of admission. This statement furnished by the Xth Olympiade Committee of the Games of Los Angeles, United States of America, 1932 (Ltd.), by Mr. William May Garland, president, and Mr. Zack J. Farmer, secretary-manager, reads as follows:

STATEMENT OF REASONS WHY IT IS HOPED THAT THE GAMES OF THE TENTH OLYMPIAD, TO BE CELEBRATED IN LOS ANGELES, CALIF., JULY 30 TO AUGUST 14, 1932, INCLUSIVE, WILL BE EXEMPTED FROM THE PROPOSED AMUSEMENT TAX ON TICKETS OF ADMISSION

It seems obvious that the proposed tax is intended to apply to established or regular amusement or entertainment business, which business can readily adjust itself to meet the tax obligation.

The Olympic Games, however, have necessarily been budgeted and in course of preparation for the past two years, tickets have all been printed and many are in circulation, and we therefore find ourselves in the unhappy position of not having been able to anticipate this possible burden on our budget and it is impossible to protect ourselves on our tickets by adding the tax.

As our budget has always presented the possibility of a deficit, it being our sole aim at all times merely to achieve a balanced budget at the conclusion of the games, it is evident that if the games of the Tenth Olympiad are not exempted from the proposed tax a very serious, and it seems to us, a very unfair, financial result will ensue.

By "we" is meant the Tenth Olympiade Committee of the Games of Los Angeles, United States of America 1932 (Ltd.), a California corporation, organized as a nonprofit, cooperative corporation, without capital stock.

This corporation is known, under the Olympic Protocol—rules and regulations—as the Organizing Committee of the Games of the Tenth Olympiad, carrying the sole responsibility for the creation of all necessary stadia and other extensive facilities, assisting in many ways the participation of the athletes from the many nations, making all other preparations for the games and of administering same.

The corporation is provided for under an act of the Legislature of the State of California known as the California Tenth Olympiad bond act of 1927, which act was made fully effective by the adoption by the voters of a constitutional amendment and the act referred to fully established the responsibility of the corporation to make the necessary preparations for, and to hold the celebration of the Games of the Tenth Olympiad.

It must be remembered that the International Olympic Committee first awarded the Games of the Tenth Olympiad to the United States of America, thereafter designating the city of Los Angeles as the precise location for the games.

In all respects the corporation has, from the inception of its activities four years ago, felt its responsibility to perform its task in a manner creditable to the United States of America as well as to city and State.

The National Government has heretofore evidenced its interest in, and recognition of, this great international event through passage by the Congress, in December, 1931, of a joint resolution providing important measures of assistance to the nations participating in the games, in the entry of their teams and equipment into the United States of America and enunciating a message of welcome.

The Internal Revenue Department has heretofore exempted the corporation from payment of income tax, and more than a year ago informed the corporation that there would be no tax upon its individual tickets of admission to the games if same were sold at a price not exceeding $3. The corporation has acted accordingly in respect to its ticket prices, and in fact, due to the nonprofit and civic character of the games, the prices for admission have been made the lowest in the history of the games.

All expenditures of the corporation are being defrayed at the present time by public moneys of the State of California, and the city and county of Los Angeles, and the balance of its expenditures, it is contemplated by the budget, will have to be met from receipts of sales of admission, and a desperate effort is being made to have the sum of these funds equal the expenditures in the hope of preventing this nonprofit enterprise from suffering a deficit in addition to the obligation already existing in the form of the referred to advancement of funds by the State of California and the city and county of Los Angeles.

The officers, members, and directors of the corporation are as follows:

William May Garland, president; Maynard McFie, vice president; LeRoy Sanders, vice president; William F. Humphrey, vice president; Harry J. Bauer, treasurer; Zack J. Farmer, secretary-manager; A. M. Chaffey, Dr. Frank F. Barham, G. G. Young, Edward A. Dickson, E. Manchester Boddy, H. B. R. Briggs, Henry S. McKee, Henry M. Robinson, Walter K. Tuller, D. A. Hamburger, Russell H. Ballard, Arthur S. Bent, Dr. Robert A. Millikan, R. B. Hale, Herbert Fleischacker, Paul Shoup, Fred W. Kiesel, C. C. Teague, Frank J. Belcher, jr., William A. Bowen, Henry S. MacKay, jr.

In conclusion, we again respectfully petition special consideration of the thought that the proposed tax legislation could hardly have been conceived with a view to being retroactive against a national and international nonprofit event such as the Olympic games for which the herein referred to corporation is liable, which event has been in course of preparation for several years and which event, likewise, could not be expected to have contemplated in its civic financing plan the exigencies of such a situation as is presented by the proposed legislation and, in fact, has been helpless at all times to protect itself from such unexpected burden.

We therefore most earnestly and respectfully ask that the games of the Tenth Olympiad and/or the undersigned corporation be exempted from paying any tax on tickets of admission, or otherwise, under the referred-to legislation now pending in/he Congress.

TENTH OLYMPIADE COMMITTEE OF THE GAMES OF LOS ANGELES, U. S. A., 1932 (LTD.),
By WILLIAM MAY GARLAND, *President.*
By ZACK J. FARMER, *Secretary-Manager.*

Senator SHORTRIDGE. Supplementing this statement, I am in receipt of the following telegram from President Garland:

LOS ANGELES, CALIF., *March 31, 1932.*

Hon. SAMUEL M. SHORTRIDGE,
Senate Office Building:

Please emphasize in Senate committee on tax bill that Olympic Games and managing corporation are entirely nonprofit and that entire underwriting financ-

ing is funds from State of California and city and county of Los Angeles, and that tax on tickets to games will be a direct tax on Los Angeles city and county and State of California. Also emphasize that Olympic rules governing limit of ticket prices make it certain that tax will not fall on rich, as stated in House, but will fall on the games, organization, and the municipal and State financing which have been helpless to protect themselves because our preparations have necessarily been under way for several years before present bill anticipated, and it is impossible for any protective measures to be taken before bill is effective. We plead that Olympic Games already recognized by joint resolution of both Houses last December be not made helpless victim of tax law which can hardly be considered as having been fundamentally designed to tax such unusual and unprecedented event like the Olympic Games. Please stress these points in addition to the full statement we have previously sent. We will greatly appreciate your utmost effort, because this tax threatens financial success of most important event in California since the exposition and in which taxpayers through State bond issue already have invested $1,000,000.

Sincerely,

WILLIAM MAY GARLAND, *President.*

Senator SHORTRIDGE. Further supplementing the statement quoted and in earnest support of the amendment I have proposed, I am in receipt of the following telegram from Mr. Frederick J. Koster, president of the California State Chamber of Commerce:

LOS ANGELES, CALIF., *April 16, 1932.*

Hon. SAMUEL M. SHORTRIDGE,
Senator from California, Washington:

California State Chamber of Commerce in session Los Angeles to-day unanimously urges adoption of amendment to general tax bill exempting Olympic Games tickets of admission from tax. Proposed tax would be levy on State, city, and county which are financing Olympic Games with public funds. California resents references by opposition quoted in press comparing Olympic Games to prize fights and similar affairs. Games are great international noncommercialized, nonprofit event, and United States is host nation. Games tickets of necessity already printed and audited, many sold and in distribution. Impossible for games management to have anticipated this tax burden on budget or to collect save from public without serious injury and confusion. Preparations for games have been under way for several years. This and many other sound reasons differentiate games from amusement business in general for which tax is obviously intended. Tax application to games would be retroactive and confiscatory. We strongly urge Senate to amend in favor of exempting Olympic Games and urge adoption of such amendment in the House.

Respectfully,

CALIFORNIA STATE CHAMBER OF COMMERCE,
By FREDERICK J. KOSTER, *President.*

Senator SHORTRIDGE. Contestants in the game will come from many foreign nations. And it is hoped and believed that the President of the United States will be able to be in Los Angeles during this great festival occasion.

I repeat that I sincerely hope the committee will approve the amendment I have offered. Los Angeles and California have gladly assumed the financial responsibility of making a success of the Tenth Olympiad; no profit is anticipated or expected; my amendment seeks to prevent any deficit.

Perhaps I have said enough to impress members of the committee and others with the honor and distinction coming to our country, and the merit of the amendment I have offered to the bill under consideration.

STATEMENT OF CHARLES C. PETTIJOHN, GENERAL COUNSEL, MOTION PICTURE PRODUCERS AND DISTRIBUTORS ASSOCIATION, AND CIRCUITS OF THEATERS, NEW YORK CITY

Senator WATSON (presiding). Tell the committee your name and where you live and whom you represent, Mr. Pettijohn.

Mr. PETTIJOHN. Charles C. Pettijohn, New York City. I represent the motion-picture folks, producers and distributors association, and the various so-called circuits of theaters.

Senator WATSON. What is your position with them, Mr. Pettijohn?

Mr. PETTIJOHN. I am their general counsel.

Senator CONNALLY. Do you represent all the motion-picture people?

Mr. PETTIJOHN. No, sir; not all of them.

Senator CONNALLY. I mean the association, or something of that kind?

Mr. PETTIJOHN. The association of producers, distributors, and so-called circuits of theaters.

Senator COUZENS. Is that what you call the Hays Association?

Mr. PETTIJOHN. Yes, sir; plus the circuits, and the news reels have asked me to appear for them also.

Senator WATSON. You may make any statement you desire to make to the committee, Mr. Pettijohn.

Mr. PETTIJOHN. I will make a very brief statement, gentlemen. It is simply this: We had a hearing, quite an extensive hearing, before the House Ways and Means Committee. As a result of that hearing the House has sent over here a revenue bill which provides for an exemption on theater admissions up to and including 45 cents, or, as they express it, up to 46 cents. We come here—or I come here, rather—to make one suggestion and, second, to give a reason for that suggestion, and if possible show you where the anticipated revenue can be gotten in case you comply with that suggestion.

Senator CONNALLY. What section is that, do you know?

Mr. PETTIJOHN. Seven hundred and eleven, page 264.

Senator CONNALLY. That is a lucky section, 711.

Mr. PETTIJOHN. I am familiar with those numbers, sir.

There are in the United States 1,214 theaters who have what we call top admission price of 50 cents. In other words, if, in the judgment of your committee, you should see fit to change that exemption to read "up to and including 50 cents," instead of "up to and including 45 cents," you will want to know just how much revenue the Government will lose and the number of theaters that will be affected.

There are 1,214 such theaters. In addition to those now exempt they would be exempt if the exemption was made to read 50 cents and under. It is estimated, I understand, by the Treasury Department, and I think the figures are very accurate, that the Government would lose in revenue approximately $7,000,000 by such raise of 5 cents in the exemption. The Treasury Department has estimated that above 45 cents the Government would receive from admission taxes to all places of amusement a total of $40,000,000 annually.

Senator WATSON. What do you mean by "all places of amusement?"

Mr. PETTIJOHN. I mean by "all places of amusement," football, baseball, race tracks, boxing, wrestling, movies, so-called legitimate

theaters, chautauquas, lectures, basketball games, and everything, everything to which an admission price is charged that is an amusement or entertainment.

Taking those figures, that above 45 cents the Government would receive $40,000,000. That is as the bill now reads, and then take from forty millions seven millions per year, would leave a balance of $33,000,000, which the Government would receive, and I think those figures of the Treasury Department are not too accurate.

So that I address myself to a request to this committee and this is what it amounts to: Suggesting the exemption be raised to read "50 cents and under" and the Government on the face of that request losing $7,000,000.

Baseball—and I talked with the baseball folks last night. I do not think that they are going to ask you for an additional hearing. I understand that they are going to send a wire to the committee. They had hoped, as we had hoped, that it would not be necessary to have any admission taxes at all. Perhaps in the beginning we were optimists. We all know, every industry should know at this time, that the longer this matter drags on at the rate of $7,000,000 a day increase in the debt, if the Congress of the United States does not act pretty soon there will not be much to tax.

So for our part we are going to face the music and give everything we can give and frankly lay our cards on the table, and if this exemption is changed to read "50 cents and under," I believe, and I believe I can show this committee, that the Government will get more money than the Treasury Department has estimated above 50 cents.

I want to give you the reasons for that statement. There is absolutely nothing for the Treasury Department to base their figures on since 1926, at which time the tax on all amusements up to and including 75 cents was abolished. Since 1926—and I address myself first to the motion pictures and vaudeville theaters—since 1926 sound has come into existence. When sound came into existence the admission prices raised. Since 1926 a great many large theaters have been built all over the country with large seating capacities, larger than had been in existence before, and I believe, and I say frankly to this committee, that $40,000,000 can be secured, at least $40,000,000 can be secured, on a tax on admissions above 50 cents.

We have had large football stadiums built. We all know that wrestling and boxing is taking in more money now than it did in 1926. Basketball is very, very popular all over the country. But the theaters—and I address myself to the theaters, motion picture and vaudeville theaters, that charge in excess of 50 cents—give from three to seven performances daily, with these large seating capacities. Generally the figure of six performances a week or seven performances a week in a certain class of theaters is figured. But taking the figure of two performances a day, that is either 12 or 14 per week, depending on whether or not they run on Sunday. When you figure these theaters that charge above 50 cents you figure four and a half times; that is, at the rate of four and a half performances daily, or at the rate of seven times four and a half or six times four and a half, depending for the same reason as to whether or not they run on Sunday.

I have a brief which will be completed within the next 30 minutes—I shall file it with the committee—covering these points, and in that list of theaters will be shown theaters that have been closed in the United States, first as of January 1, 1932, over 5,000 theaters that were closed up to January, and an additional list of 452 that have been closed since January 1. This year's report as of the first of January shows there were 5,200 and odd theaters that had been closed, and since that time, as shown by our February and March reports, I think 452 more, over 400 more, have been closed.

Senator WATSON. What effect will this tax, in your judgment, have on the number of paid admissions to your theaters?

Mr. PETTIJOHN. It will slow up attendance, probably in the higher brackets as much as it will, Senator, in the lower brackets. During the war when everybody had work that wanted to work there was a reasonable amount of money and it was in time when theater going was popular. The tax on admissions was felt in the higher brackets then worse than it was in the lower brackets. I think to-day the converse will be true. Lack of money and lack of opportunity to enjoy the amusements in the lower brackets. I contend that anything that 50 cents will buy is, of course, not a luxury. So far as baseball is concerned, I promised them to bring this subject here to you and call to your attention the fact that the so-called bleacher seats at baseball games are 95 per cent occupied by the unemployed, because it is a daytime show and if they were employed they probably would not be out to the ball parks. They say those cheap seats at baseball games in summer time are probably 90 per cent occupied by the unemployed, and you certainly would not want to place a tax, I would not think, on those people.

I am also going to file a list of these 1,214 theaters that would be affected by this exemption of 50 cents. They are not in the large cities. The majority of them are in what we call county seats and small cities and towns, most of these theaters, and I contend that they are the class of theaters that need this exemption worse than any other class. They have been built in these cities and towns with local capital. They are not paid for. Most of them have been built since 1925 and 1926. The mortgages are owned by local banks. They have to charge a 50-cent top, because they do not have large communities to draw from. Civic pride and town pride has been coupled with the investment of the citizens, and, as I say, the majority of them are not in the metropolitan districts. I am filing with you a list of these theaters giving the cities and towns and various territories in various States of the Union, showing the wide distribution and nature of the cities and towns in which they are located.

Senator HARRISON. Can't you file there in the record the number of moving-picture houses there are in the country and the number that charge above 50 cents and the number that charge between 40 and 50 cents and the number that charge between 30 and 40 cents and below 30 cents?

Mr. PETTIJOHN. Yes, sir. That is in this brief that will be filed, Senator.

Senator CONNALLY. Have you any data there that will show that a man running a picture show that charges 45 cents, say, will have to

pay a certain amount to use that picture? How much does he have to pay for that? Have you any estimate as to how much of that 45 cents is going to go to the producers?

Mr. PETTIJOHN. That varies, sir, depending on whether he pays first, second, third, fourth, eighth, tenth, or twelfth run.

Senator CONNALLY. Well, take the average, what does he pay?

Mr. PETTIJOHN. What are you addressing, the 45-cent admissions?

Senator CONNALLY. Yes, sir. How much does he give to Hollywood?

Mr. PETTIJOHN. He does not give anything to Hollywood. He gives it to whoever sells him the picture.

Senator CONNALLY. Well, who then?

Mr. PETTIJOHN. He pays all the way from $20 or $25 up to $300.

Senator CONNALLY. A day you mean for the production?

Mr. PETTIJOHN. Well, for his run. It might be a 2, 3, 4 day run or a 7-day run.

Senator CONNALLY. On the 45 cents, have you any figures to show what percentage of that take-in he has to pay royalty?

Mr. PETTIJOHN. I think as a general average, people try to buy and not pay not more for their program than 25 per cent of their intake. That is about the general average throughout the country.

Senator CONNALLY. On an average then he has to pay 25 per cent of what he takes in as gross to the companies that furnish him his film?

Mr. PETTIJOHN. Yes. The distributor tries to get what he thinks is 25 per cent of what is taken in, but we do not know that they get it.

Senator CONNALLY. The distributor?

Mr. PETTIJOHN. Yes; whoever has a picture for sale.

Senator CONNALLY. Of course, he tries to get all he can, but he can stand only so much, the theater man.

Mr. PETTIJOHN. He tries to get all he can, and the exhibitor tries to get as much as he can as cheaply as possible.

In the old days of vaudeville and road shows, it used to cost around from 50 to 75 per cent for their show. The theaters in those days were glad to have a troupe come to town and only go out with 75 per cent of it.

Senator CONNALLY. Well, I know, but that has a number of individuals, but you have just got a film that you send out.

Mr. PETTIJOHN. Well, those films cost money to make.

Senator CONNALLY. Surely they do. Surely they cost money, but you get a pretty good rake-off, 25 per cent of a man's receipts. Isn't that what is killing some of these theaters?

Mr. PETTIJOHN. I don't know what is killing them or the picture companies with their stock selling at 1½ and 2 and 3 and 4, but I think it is the general business depression. Many people haven't got money to buy anything, and those that have it are holding on to it.

Senator WATSON (presiding). Is that all, Mr. Pettijohn?

Mr. PETTIJOHN. That is all, Senator, except that I desire to file this brief. It will be very long. This contains the data that I mentioned.

Tax on admissions to motion-picture theaters:

A movie admission tax strikes at the essential recreation of the millions of workers and farmers of the Nation. In treating the

necessities of the poor as if they were the luxuries of the rich, it discriminates against the families of limited income. The amount of revenue accruing, in view of the burden of expense involved in administration and collection of such a nuisance tax, including the expense placed upon the small theater owner for necessary checking and accounting services, is questionable.

In the present state of unemployment and business depression, the legitimate objections to such a tax are multiplied.

The admission tax is aimed at a popular entertainment which must serve the millions most seriously affected by a protracted period of unemployment and depressed business conditions.

It affects thousands of exhibitors in every city and town in the United States whose problem of survival is aggravated by every unfavorable business development in their communities.

It is aimed at the vast American consuming public whose wages have been lowered and whose earning power has been reduced.

At the present time the motion-picture industry of the United States is going through a process of financial and industrial readjustment, imperatively demanding the following measures:

Reduction of producing costs. Executives, directors, artists, and other studio personnel are cooperating through sacrifice of salary, in order that the financial structure of the industry may be able to survive and meet the demand for the best possible entertainment at the lowest possible cost.

Readjustment of theater operating expense, to check as far as possible the future closing of theaters, and the resulting added unemployment.

Readjustment of theater admission prices on a lower level wherever possible, in order to meet the imperative demands of low-cost popular entertainment.

In this situation, the proposal for a Federal 10 per cent tax on motion picture theater admissions above 45 cents is most untimely. In percentage such a tax would be greater than the net operating profits of 99 per cent of the motion picture theaters affected, and must therefore be passed on to the public. Inevitably it would involve the following results:

1. An unfair exaction, in the form of a continuous nuisance tax, upon those most seriously affected by unemployment and depression—the mass of people dependent upon the motion picture for essential, low-priced recreation entertainment.

2. A future move towards depression and unemployment by the shutting down of many more motion picture theaters throughout the country, and throwing of more men and women out of work and loss to exhibitors.

3. The darkening of thousands of motion-picture theaters, the closing of which would seriously injure the immediate local shopping areas dependent upon them.

4. The public irritation that would follow, when the worker or farmer, attending the movie once a week, is slapped in the face fifty-two times a year with penny-nickel taxes, for the low-priced and essential entertainment service at his command.

5. Cutting down in the production and quality of motion-picture entertainment, for no producer can succeed if exhibitors suffer and if attendance is further reduced by higher cost to the public.

The question of just how much the attendance at the movies and other places of amusement will be affected by an amusement tax is of course a matter of speculation. During the war when there was plenty of money and people were employed, the attendance at the cheaper amusements did not seem to greatly deter the public from attending, but it was felt by theaters, baseball, and others charging in excess of 50 cents. The intake at the box offices in Great Britain dropped 15½ per cent in 12 weeks, according to recent returns from 1,204 theater operators there. The Motion Picture Herald of April 9, 1932, published the following article which may have a bearing on the possible effects of the admission tax in the United States [reading]:

BRITISH TAX REDUCES ATTENDANCE AT RATE OF 150,000,000 A YEAR

NARROW MARGINS OF PROFIT HAVE BEEN CONVERTED INTO HEAVY LOSSES IN SCORES OF INSTANCES, PROTEST MEETING IS INFORMED—BOX-OFFICE INTAKE HAS DROPPED 15½ PER CENT IN 12 WEEKS, RECENT RETURNS FROM 1,204 THEATER MEN INDICATE

(By William H. Mooring, London)

Mass meetings of British exhibitors have been held all over the country in protest against the new scale of entertainment tax instituted under the emergency budget of last year and operative from November 1.

At a crowded initial protest meeting held in London, Tom Ormiston, M. P., who is treasurer of the Cinematograph Exhibitor's Association, presented the case prepared by his organization and laid before the Chancellor of the Exchequer.

This case was based on returns from 1,204 exhibitor members of the Cinematograph Exhibitor's Association, showing the exact effect of the increase in tax. In scores of instances it proved clearly that narrow margins of profit had been converted by the new scale of taxation into heavy losses.

It is unfortunate, though not as inconclusive as may at first appear, that of the 4,000 theater owners operating in Britain, only 1,204 took the trouble to supply the Cinematograph Exhibitor's Association with returns showing their takings, and payments in tax, for the period from November 1 to January, with comparable figures covering the corresponding period of the previous year.

DECREASE AT 150,000,000 A YEAR

Based on the 1,204 returns which eventually did come to hand, the CEA case reveals that during the 12 weeks from November 9, 1931, to January 25, 1932, there was a decrease in attendances which would run to 150,000,000 a year, or 11.5 per cent of total annual attendance. Box-office takings had dropped by 15½ per cent, and the total loss per annum was computed at £4,000,000.

During the period the increased amount the Treasury drew from the entertainments tax amounted to 30.8 per cent, which equals £2,000,000 a year. Seats selling at from 8d to 1/3d showed a decrease of 18 per cent in values; those from ¼d showed a decrease of 22.8 per cent, demonstrating that not only have total cinema attendances declined, but there has been a marked tendency for the public to favor the lower-priced seats in preference to the medium and higher priced ones, with resultantly higher effect on takings than on admissions.

Hundreds of country exhibitors made the journey to London especially to state their own cases, and some terrible stores of hardship in the industrial areas where unemployment is shockingly bad at present, were accompanied by figures proving that unless the chancellor is prepared immediately to concede the tax which was placed by the new scale upon seats up to 6d (previously untaxed), many of the theaters in country areas will have to close down.

Typical of many cases mentioned was that in which four theaters operating in an industrial district, where 8d represented the highest-priced seat, had dropped no fewer than 30,000 admissions in three months. Takings had dropped by £1,050 and contributions in tax had gone up by £846.

The meeting unanimously indorsed a resolution calling upon the chancellor of the exchequer to remove the tax on the seats up to and including 6d.

If American exhibitors now faced with a possible tax on the same principle as that operated in Britain will take the tip, they will be united in their fight against the imposition. For it has to be remembered that the entertainment tax in Britain was started during the war when the minister responsible gave promise that it would be taken off immediately on the cessation of hostilities.

A slight reduction was effected in 1924—six years after the war ended—and further reductions were promised at the earliest opportunity. Then when the financial crisis arose, the first thought of the chancellor was to increase the tax, making every seat liable to a tax at an over-all rate of 16⅓ per cent of turnover. This coincided with drastic cuts in unemployment benefits and general wage standards, with the result that a first-rate crisis is precipitated in the cinema industry and losses inflicted which will pass on to the same chancellor a reduced claim to income taxation of no less than three and one-fourth million pounds for the year.

The effect in the United States might not be as severe as it was and is in Great Britain. However, on January 1, 1932, there were more than 5,000 theaters closed in the United States and it is reasonable to assume that a decrease of from 2 to 10 per cent in attendance, by reason of the admission tax or for any other reason, "will cause that many more to close," with a resulting increase of unemployment in the theater business and reduction of gross revenue to producers, and so forth. A list of theaters now closed, marked "Exhibit A," is as follows:

Closed theaters, by States, Jauary 1, 1932

Alabama	106	Massachusetts	101	Pennsylvania	94
Arizona	55	Michigan	91	Rhode Island	14
Arkansas	94	Minnesota	55	South Carolina	28
California	235	Mississippi	98	South Dakota	79
Colorado	95	Missouri	242	Tennessee	83
Connecticut	24	Montana	67	Texas	332
Delaware	4	Nebraska	144	Utah	114
Florida	89	Nevada	24	Vermont	40
Georgia	47	New Hampshire	20	Virginia	58
Idaho	72	New Jersey	81	Washington	81
Illinois	355	New Mexico	27	West Virginia	181
Indiana	234	New York	446	Wisconsin	43
Iowa	291	New York City	54	Wyoming	19
Kansas	115	North Carolina	46	Washington, D. C.	1
Kentucky	210	North Dakota	20		
Louisiana	59	Ohio	313	Total	5,268
Maine	93	Oklahoma	40		
Maryland	28	Oregon	26		

In a single decade the motion-picture industry has become one of the country's largest purchasers of steel and stone and cement and lumber. It has become the biggest single customer of furniture, the printing and lithographic trades, and one of the heaviest taxpayers in the Nation.

It provides steady employment to a population greater than the inhabitants of some States. Its pay roll is one of the backlogs of prosperity, and it buys large quantities of newspaper, magazine, and billboard advertising annually.

It employs 325,000 employees in production, distribution, and exhibition.

Government is using motion-picture films to teach conservation; to improve industrial processes, public health, and agriculture methods.

Industry through the use of the film has discovered new ways of demonstrating production problems, analyzing markets, and training personnel.

Science has found the motion picture a useful adjunct in research and in the teaching of surgery and medicine.

Education has discovered that the film is an animated blackboard for the classroom and definite progress is being made in developing educational projects for the school.

The screen is a moving billboard which brings the Nation's shop windows to the potential shopper in the remotest village in the land.

The tax would fall on essential recreation—not luxury entertainment.

To lump a movie admission with a $20 ringside seat at a prize fight or a $200 opera box, is to make no discrimination whatever between essential entertainment and luxury entertainment.

No competent tax authority has heretofore failed to make this vital distinction. During the World War motion-picture entertainment was studiously classified as a necessity of vital importance to public morale. Thus theaters were permitted to consume coal and use electric light power denied to other industries.

To tax motion-picture admissions, therefore, is to tax an essential not a luxury service.

It is the broad maxim of sound taxation, that it is better to tax what men have than to tax what men need.

In a recent public statement, Mr. William Green, president of the American Federation of Labor, says [reading]:

The United States is to-day one of the greatest industrial leaders of the world. Approximately 20,000,000 wage earners constitute the industrial army of our country.

The motion-picture industry is not only a great American industry, but it is an outstanding factor in stimulating trade everywhere through the medium of motion pictures.

There are approximately 300,000 men and women to-day employed in the American motion-picture industry. Thousands of these persons are union men and women and any differences of opinion they have had at times with their employers always has been settled amicably with the assistance of the American Federation of Labor.

The motion-picture industry consumes material furnished by 276 other lines of business. It is estimated that $2,000,000,000 is invested in the industry.

The motion picture is not merely an institution for recreation and amusement, it is in fact also a powerful educational agent. It brings to him who goes to even the most unpretentious motion-picture theater an insight into the manners and customs of the peoples of all the world. It shows swiftly but more impressively the varying forms of civilization at home and abroad.

One may receive from a good motion picture a conception of the lives of the various strata of our own civilization, from the poorest to the richest. Very important, however, is the picture that the modern film brings to us of the life of our neighbors around the earth.

It follows inevitably that the motion picture is the wage earner's outstanding educational opportunity. The motion picture stimulates in the heart and the imagination of the wage earner the desire to improve his own condition. It furnishes earners the desire to improve their own conditions. It furnishes him the information as to how to improve his own condition. It furnishes him the information as to how to improve the architecture of his cottage, it cultivates his tastes in furnishing his modest home, and puts greater refinement into the manner in which he conducts himself in his social relations with his fellow man.

But if it is true that the men and women who are the backbone of this great Nation, derive strength, courage, and inspiration from the screen, it

is also true that the screen finds its greatest strength in its widespread, democratic audience.

Our knowledge of foreign peoples, too, is multiplying. The heart of the world is laid bare before our eyes. We see on the screen how the people of other nations and races enjoy themselves, and how they labor, and we see them in their sorrows as well as their triumphs. This is probably the greatest single contribution that has been made toward the solution of the serious problems of international relationships with which the working man is so deeply concerned.

Nor must we overlook the democratic price which the motion pictures place upon their universally appealing entertainment. The working man can not as a rule belong to a country club; impressions to the contrary, he is not customarily the owner of the latest model motor car. He can afford, however, for himself and his family the wholesome entertainment of the screen.

It must be the sincere hope, too, of every lover of the motion pictures and every friend of the workingman that nothing will happen to destroy the democratic price appeal of the movies.

Motion-picture theater owners generally already pay the following taxes:

1. Real-estate property tax on theaters and grounds.
2. Personal-property tax on all personal property and on projection machines, organs, and other equipment used in the theater.
3. A special city or town license fee for theaters.
4. A special community tax per theater.
5. A special industrial-board license fee.
6. A special music tax collected under the Federal copyright law.
7. State and Federal income taxes.

Moreover, the theater owner pays rental for films, and this rental must be sufficient to take into consideration the various and manifold taxes, corporation and otherwise, paid by the producing companies.

These are the legal taxes on the theater owner.

In addition, there is the voluntary taxation imposed by charity and relief work, which hits the theater owner first in every community. He is the first man affected by any civic, social, or charitable enterprise that needs support. He is asked for free shows, free advertisement, and the free use of his premises and equipment.

There is grave danger that this source of neighborly aid in cities and towns in the United States would necessarily be retarded as the result of excessive Federal taxation, levied at a time when the national policy urges a program of self-help in every community.

Although the film is primarily a medium of popular entertainment, no greater trade stimulant exists in the United States than the motion picture screen. The film is an animated catalogue. The housewife sees a new labor-saving device and she purchases it. The husband sees something that will help him in his business or give him greater comfort at home. Buying suggestions, through the portrayal of conveniences and comforts. This is the great unpaid advertising service of the motion picture.

What of the theater itself as an ally of business?

In many small towns the business men themselves operate the picture theater on a nonprofit basis because it brings in customers and keeps their stores alive.

In a small town in Missouri, fire destroyed the only theater. The merchants soon noticed that people who lived 5, 10, and 20 miles away were no longer coming into town to shop as they had been in

the habit of doing. The merchants investigated the reason. The result—a rebuilt theater.

The motion-picture theater is the community's principal center of entertainment. It draws crowds to the shopping centers every day in the week.

There is hardly a town or city in the United States where the average local exhibitor can not say:

> Take my theater and pay me 1 cent on every 10 cents that comes in at the door—you pay for the picture, meet the rent, pay the wages, meet the interest on indebtedness, and cover all other overhead, allowing me, the owner, a modest salary, plus 10 per cent, or even 5 per cent of the admissions for my total investment and years of labor, and you can have my theater gladly.

Take the great State of Texas. The following table, compiled by the Texas Theater Almanac as of January 1, 1932, is a graphic instance of the burdens upon motion-picture theaters generally. The survey discloses—

1. That between 75 and 85 per cent of the paid admissions at the average theater are sold to patrons who attend the theater at between 7.30 and 8.30 p. m. In other words, the bulk of such business as theaters can do must be done in one single hour.

2. The 946 motion-picture theaters in the State of Texas have a seating capacity of 438,035. Of this, 110,161 seat, or 25 per cent of the total, are in theaters which remain dark seven days in the week. Those figures refer to seating capacity. Of the theaters that remain closed, the number is 352, or 37¼ per cent of all the motion-picture theaters in the State of Texas.

3. Approximately 150 motion-picture theaters are operating in the State on a part-time basis of one to three days a week, leaving only 443 theaters operating full time out of a total of 946 theaters in the State.

It is important and desirable during such times as these that the electric signs of the theaters throughout the country remain lighted, not so much because of the amount of current consumed or the value to the theaters but because of the heartening influence of life and activity they suggest in the minds of the people, whether they pass through the doors of the theater or pass them by.

An admission tax strikes, at a critical time, at the very existence of an institution which the Nation requires to-day more than ever before—a focal center in every city and town where people may go in orderly fashion and find relief through recreation and entertainment from the strains imposed by depression and unemployment.

Every darkened motion-picture theater is a victory for the forces of discontent and disorder. Every time you destroy a place of decent, cheap amusement for the masses, you cut off the supply of a vital necessity—entertainment—and you leave taut nerves, strained loyalties, and no escape except the contemplation of destructive processes that bitterness breeds.

In 1927 Chicago movie theaters closed their doors because of a strike. For two nights restless masses of people roamed through the streets vainly seeking entertainment. The situation threatened civic peace and order. The authorities became alarmed. They called in the parties to the dispute and said: "The theaters must open!"

A Federal admission tax would be far more than a nuisance tax. It would be a threat against the maintenance of public morale in the United States at a time when depression and unemployment are fertile sources of discontent and disorder. The infliction of penny and nickel taxes on the essential recreation of the masses will not speed the return of confidence of our citizens in the stability of our Government or our business institutions, and our American ingenuity and infallible ability to meet any unusual or trying situation.

Then in regard to amusement tax on 50-cent admissions: It is estimated that a 10 per cent admission tax on all admissions about 45 cents, as provided in H. R. 10236, will provide the Government with an annual revenue of $40,000,000. It has been estimated that if the exemption should be changed to read "50 cents and under" that $7,000,000 in revenue annually would be lost by the Government. This would indicate that a 10 per cent tax on admissions in excess of 50 cents would procure an annual revenue of $33,000,000 from admissions to all places of amusement. That estimate of $33,000,000 is probably a little low, even under present conditions, for the following reasons: In the buildings, stadiums, and enclosures wherein amusements are conducted, the admission price to which is in excess of 50 cents, they play to from 2,000 to as high as 100,000 per performance or event. In so far as motion-picture theaters and vaudeville theaters are concerned, those charging in excess of 50 cents are the theaters of large seating capacity, and these theaters give from three to seven performances daily. In a few instances they give as high as eight performances per day. When we consider the large seating capacity of these theaters, stadiums, race tracks, baseball parks, and so forth, together with the fact that in so far as the motion-picture and vaudeville theaters are concerned, they play from three to seven performanes daily, together with the fact that the tax per admission above 50 cents ranges from 6 cents to as high as $2 and $3 for admission, it will be seen that the gross revenue derived can not be estimated in terms of places of amusement, but rather in terms of gross seating capacity, number of performances daily, and price per admission for each individual attending.

Above 50 cents the gross revenue to the Government would mount rapidly.

As of January 1, 1932, the consolidated reports from the 32 distributing centers in the United States showed a total of 20,049 motion-picture theaters in existence. Of these, 5,268 were closed as of January 1. We receive monthly reports from the secretaries of the 31 film boards of trade located in these districts, as follows: Albany, Atlanta, Boston, Buffalo, Charlotte, Chicago, Cincinnati, Cleveland, Dallas, Denver, Des Moines, Detroit, Indianapolis, Kansas City, Los Angeles, Memphis, Milwaukee, Minneapolis, New Haven, New Orleans, New York, Oklahoma City, Omaha, Pittsburgh, Portland, St. Louis, Salt Lake, San Francisco, Seattle, and Washington. These monthly reports for February and March show 425 additional theaters closed, reducing the number of theaters in operation on March 1 to 14,329.

This number varies during each month.

Of these 14,329 theaters actually in operation (March 1), only 1,214 theaters charged a top admission price of 50 cents, with smaller admission prices charged for all seats during matinées and for part

of their seats during the same performances in which they charge 50 cents for the better seats. These 1,214 theaters have a seating capacity of about 850,000 seats. Some of these theaters charge 35 cents and 50 cents and some charge 50 cents and 60 cents and others charge 50 cents to 75 cents.

We are concerned only in this memorandum with 50-cent admissions, because if the exemption is made to read "50 cents and less," instead of "45 cents and less," we only have these 1,214 theaters upon which to base an estimate of the revenue which the Government would lose if the exemption reads "50 cents and under," instead of "45 cents and under." These theaters are not all located in large cities. The majority of them are what are commonly known as small-town theaters. They are scattered over the entire United States and are reported from the respective distributing centers as follows:

North and South Carolina territory	12
Milwaukee territory	9
Oklahoma territory	17
Kansas City territory	12
Memphis territory	4
Detroit territory	52
Denver (theaters scattered in Colorado, New Mexico, Wyoming, Nebraska, and part of South Dakota) territory	42
Cincinnati territory	40
St. Louis territory	5
Dallas territory	48
New Orleans territory	17
Atlanta territory	30
New Haven territory	16
Indianapolis territory	20
Minneapolis territory	52
Seattle territory	18
Philadelphia territory	86
Chicago territory	81
New York territory	222
Cleveland territory	8
Boston territory	72
Salt Lake City (including State of Montana since the closing of exchanges in Butte) territory	75
Los Angeles territory	51
San Francisco territory	78
Buffalo territory	18
Portland, Oreg., territory	18
Pittsburgh territory	60
Omaha territory	23
Des Moines territory	29
Washington, D. C., territory	60
Albany territory	4
Total	1,214

These 50-cent theaters are well scattered throughout the United States, and a majority of them are to be found in smaller cities and county seats, where the citizens of these communities have built a theater to be used as a theater, with good sound equipment, attractive, comfortable, and wholesome appurtenances that are a credit to the city or town wherein the theater is located. Most of these theaters are charging top prices of 50 cents because they do not have a large territory to draw their audience from. These theaters buy first-class, up-to-date motion pictures and "shorts," because their people demand and want the best and freshest product. They, of

course, pay more for new product than for old pictures, and a 50-cent admission charge is necessary if they are to meet their expenses, operation costs, and amortization. This class of theater needs the exemption worse than any other class from 10 cents to $1. These 1,214 theaters are good theaters, wholesome theaters, well-equipped theaters, built as theaters, using the best product, catering to the people of their respective communities, and most of them are not paid for. The mortgages on these buildings are very largely owned by local banks, and the real-estate investments have been made in nearly every instance by local citizens who have coupled town pride with their investments.

The following facts must be taken into consideration when estimating attendance or grosses:

1. That some of these theaters average more than one show per day.
2. That only part of their seats are sold at the admission price of 50 cents.
3. Some of them run only six or seven performances per week.
4. Others will average as high as 12 or 14 performances per week.
5. Some of these theaters are filling one-quarter of their seats; some are averaging one-half capacity; all of which varies on certain days and also rises and falls with the popularity of the product shown.

Admissions in excess of 50 cents: It is possible that some facts have either been overlooked or not taken into consideration by those who have heretofore estimated how much a tax on admissions to all places of amusement would produce on admissions in excess of 50 cents.

We have approximately 500 motion picture and vaudeville houses in the United States charging in excess of 50 cents top price for admission. (There are none charging 55 cents.) Those 500 theaters charge for admissions from 60 cents to $1. This is where the Government will get a larger amount of revenue from admissions taxes than has been estimated. All of these theaters have larger seating capacities and they give three to seven performances per day. On each admission the Government would get from 6 cents to 10 cents. When we figure the large seating capacity of these theaters, use the figures from 6 cents to 10 cents per an admission, and then multiply this again by an average of 4½ performances per day, it should be apparent that a larger amount of revenue is going to be derived by the United States Government from theaters charging from 60 cents to $1 than anticipated. Previous estimates have probably been based on the theory that these theaters operate two performances per day instead of an average of 4½ performances per day.

The estimate of a loss of $7,000,000, of course, includes that which will be lost from 50-cent admissions to baseball, college and high-school basketball, and football games and track events, but most of those 50-cent seats at the baseball parks and some other places will be occupied this summer by the unemployed and surely that is not a source of revenue the Government will want to collect or feel the necessity to exact.

Unless the exemption is to be at least 50 cents and less, the unemployed, the underprivileged, and the poor can not see movies or spend some time in the open air at the baseball parks and beaches

and other public gathering places during the time they are unemployed. The baseball parks and the motion-picture theaters are much healthier places for them to be than attending gatherings to discuss their troubles, their Government, and their secret organizations.

That is all, Senators. Thank you very much.

STATEMENT OF FIELDING H. YOST, ANN ARBOR, MICH., CONNECTED WITH THE UNIVERSITY OF MICHIGAN

Senator REED. In what capacity are you connected with the University of Michigan?

Mr. YOST. Professor of physical education and director of intercollegiate athletics. I have been at the University of Michigan for 32 years.

Senator REED. You may proceed with your statement.

Mr. YOST. I am interested in the tax on admissions for athletic contests in the colleges and schools of the United States.

Senator HARRISON. What section of the bill is that?

Mr. YOST. I do not remember.

Senator GEORGE. You do not remember just what section that is?

Mr. YOST. No.

Senator GEORGE. All right. You may go ahead.

Mr. YOST. There are over 1,000 institutions above high-school rank in the country and some 15,000 high schools and preparatory schools. In most of these universities, colleges, and preparatory schools there is some form of athletics and physical education and these are administered as part of the educational program of the institution. Those in charge of the administration of such programs are responsible to the same administrative authorities.

In other words, there is the general opinion that athletics are just a wart on the institution, one of the side lines, whereas there is no place in America that I know of where they have not been definitely and positively tied in with the work of the university, as a part of the general plan of education.

Unfortunately those in charge of these activities must depend largely on what is known as "gate receipts" from athletic contests. Those responsible for the financing of the athletic programs in our schools and colleges would welcome the day when all gate receipts could be abolished and some other source of assured income established. The moneys received through the gate receipts become a part of the receipts of the schools and colleges, the same as moneys received from taxes, gifts, and tuition. To put a tax on gate receipts would be similar to putting a tax on any other sources of income the school or college may have.

There is much wild thinking in regard to football incomes generally. There are not over 25 institutions in America that receive enough money from football incomes to maintain even a fairly satisfactory program of physical education and athletics. There are only a very few large "gates" in America. The incomes at Michigan are among the highest in the country—they decreased 40 per cent last year. Even our income will not provide the plant, the maintenance, program, and supervision necessary to take care of the physical welfare of the 15,000 students that attend our university annually.

Much is heard about the high salaries paid to coaches of our university football teams. The average coach's salary in America is less than $3,000 per year. Almost every coach is a college graduate and does much teaching outside of coaching the football team. There are no part-time coaches, or practically none, in football in America to-day, after being resident a full year, and very few coaches have football jobs only. To my knowledge there are not 5 coaches in America receiving $10,000 or more in salary, not 20 receiving a salary of $7,000 or more, and not many more receiving $5,000 or over. This is a low salary. The coach's job is perhaps the most uncertain one in the world upon which to depend for an income to raise a family. You are liable to have hungry children in the morning, you know, and they do not keep you very long in those high-priced jobs unless you make good, and making good depends entirely upon being a winner and there can be only one winner in the group.

Senator REED. Same as politicians?

Mr. YOST. I guess the same way.

Senator HARRISON. It has kept you a good long while, Mr. Yost.

Mr. YOST. Yes. I only had a $4,000 salary for 21 years as a coach. If I had attempted to have gotten what some of the rest of them had I might not have had it very long. I do not know.

Much pressure has been brought to bear on the schools and colleges of America to play football games and other intercollegiate contests for charity. Michigan has already given the gate receipts from 2 of her last 17 games for this purpose. The fact must be remembered, also, that football has only a very short season and that it is probably the only sport in college which shows a profit, and we have some 20 intercollegiate sports.

Senator HARRISON. You make nothing on the other sports—baseball, for instance?

Mr. YOST. No; they will not break even.

The programs of intercollegiate and interschool athletics in the 16,000 institutions doing university and college and high-school work is of necessity a very large one, when one realizes that there are several millions of our youth to-day in our schools and colleges of America, and the physical welfare of most of the students, of youth, to-day is being passed over to the schools. Whether they want it or not, it is a part of their program, and it has to be financed, and it is a tough job to get it.

Senator REED. Under the war-time tax laws, Mr. Yost, there was a 10 per cent tax on these admissions, was there not?

Mr. YOST. No; that did not apply to educational institutions.

Senator REED. This would be the first tax law that did apply to it?

Mr. YOST. Yes; this would be the first.

Senator REED. You have no way of estimating how much your admissions would be reduced by the addition of this tax?

Mr. YOST. I would not know and, of course, as I stated, there are colleges perhaps the least involved in the question of finances in the country.

Senator REED. I presume every college fixes the admission that all the traffic will bear and it is estimated that any increase, whether tax or otherwise, would reduce the number; is that right?

Mr. YOST. The income of the University of Michigan is 40 per cent reduced last year without any tax.

Senator REED. Yes; but that had nothing to do with the increase in prices.

Mr. YOST. No; perhaps nothing. And I think our income will, perhaps, be nearly that much reduced this year without a tax, and as I said, there are some 16,000 schools that did not have sufficient funds in prosperous times.

Senator REED. It is the same in the eastern colleges.

Mr. YOST. It is unfortunate that the schools have to depend so much on gate receipts, and it causes many a man who is administering the finances of a program to lay awake all night trying to figure out whether it is going to be a good day to-morrow. You can not make a budget and you can not plan at all because you have to wait till after every game to know what you are going to have to spend largely.

Senator HARRISON. Have you some statistics there of the games, of the number that went to the big games, and so forth, say, last year?

Mr. YOST. No. I can easily get it for you. Of course, our conference has the full report of the big 10 universities and exact income of every one of them.

Senator HARRISON. Are any of the conferences taking action with reference to this matter of opposing this tax?

Mr. YOST. Well, I do not know that they have as a group, because there have been no conference meetings since this tax question came out.

Senator HARRISON. Have you conferred with the directors of athletics and university authorities generally?

Mr. YOST. Yes, sir; mostly in the Big Ten.

Senator HARRISON. Do any of them favor it?

Mr. YOST. No; I do not think they favor it.

Senator REED. Can you tell us how much admissions fell off in professional baseball due to the imposition of the tax?

Mr. YOST. I do not know a thing about professional baseball incomes.

Senator REED (presiding). Thank you, Mr. Yost.

STAMP TAX ON STOCK

STATEMENT OF RICHARD WHITNEY, PRESIDENT OF THE NEW YORK STOCK EXCHANGE

Mr. WHITNEY. Mr. Chairman and gentlemen of the committee: I, like so many other citizens, have examined the revenue act of 1932 recently passed by the House of Representatives and now under consideration by your committee. While there are many provisions of the act which indirectly affect securities and security holders, I will confine my remarks to those provisions which affect directly the security business.

TAX ON SALE OR TRANSFER OF STOCK

Let me deal first with the stamp tax on the sale or transfer of stock. This is a sales tax and its history is interesting. The first tax on security sales in this country was imposed in 1794 to assist in defraying the cost of the Revolutionary War. It was repealed within a short period of time and its effect upon financial transactions, which were then negligible in amount, seems to have been unimportant. Subsequently, this form of taxation was used on every occasion when foreign or domestic wars necessitated the raising of emergency revenue. At the time of the Civil War, Congress imposed a tax upon the money value of all security and financial transactions. The rate was only one-twentieth of 1 per cent and yet it caused such a rapid decline in taxable transactions that within two years the yield of the tax had decreased by 35 per cent. As soon as this became apparent, Congress appointed a special commission, headed by the Hon. David A. Wells, to study the question.

In January, 1866, this commission submitted a report to Congress which has ever since been considered a classic document on the subject of internal-revenue taxation. In referring to the proper rate to be applied to stock sales the report, after comparing the low rate of commission charged by stock brokers with the commissions charged by merchants generally, pointed out that a large volume of transactions was necessary in order to make the business profitable. It recommended, therefore, that the rate of taxation on security transactions be made extremely low and said, in part:

> In adopting, therefore, the principle of subjecting large and frequent business transactions, turning on small profits, to the minimum specific tax, the Government will but follow a long-recognized and sound commercial policy.

The conclusions of the Wells report were promptly adopted by Congress, and in July, 1866, the rate of taxation on security transactions was reduced to one one-hundredth of 1 per cent.

These early sales taxes, which were all computed on a percentage of the selling price, proved very difficult to collect, and therefore

at the time of the Spanish-American War, when it was again proposed that security transactions be taxed, the method of computing the tax was changed and was based upon the par value of the shares.

Both the Civil War tax and the Spanish-American War tax were sales taxes enacted to meet the demands of the Government for revenue during war emergencies. In each case they were promptly repealed. In 1914, when our Government faced the necessity of increasing revenue, a tax on security transactions was adopted. This tax was repealed in 1916 and again enacted in 1917.

Senator HARRISON. What was the tax during the Spanish-American War?

Mr. WHITNEY. Two cents. I think that is correct, Senator Harrison. Although it originated as a war emergency measure, it has been continued in force ever since. Practically all other emergency revenue laws have been modified or repealed, but the tax on securities has been maintained at the same rate at which it was enacted. I mention this fact because few people seem to realize that the security business is the only major activity of our country which has been subjected to a sales tax and is still paying a sales tax at the highest rate ever imposed.

I approve a general manufacturers' sales tax, but it seems to me obviously unfair, when sales taxes in general are denounced as an unsound method of taxation, that the one existing sales tax of the Federal Government should not only be continued but the rate of taxation increased to a prohibitive figure. The existing tax is 2 cents for each $100 of face value or 2 cents a share in cases of shares of no par value. The House bill proposed to increase this tax to 4 cents a share, with a proviso that the minimum amount of tax shall be at least one-quarter of 1 per cent of the selling price. This means at least a 100 per cent increase in the tax and many times 100 per cent if the sales price exceeds $16 per share. On stock selling at $100 a share the tax is increased twelve and one-half times, or from 2 cents to 25 cents a share. On stocks selling above $100 the tax increases proportionately. I know of no case in history of an existing tax which has been in force for many years at a rate which was deemed fair being suddenly increased in such a drastic manner.

Presumably the purpose in changing the rate of this tax must have been to secure a larger revenue from this source. We have all seen estimates as to its probable yield. Congressman LaGuardia estimated that it would yield $150,000,000 per annum. The Ways and Means Committee of the House revised this estimate and stated that a yield of $75,000,000 might be anticipated. I do not know what evidence the committee had which led it to conclude that any such huge sum of money could be collected from security transactions. Complete statistics are not available because, so far as I know, no record has ever been kept of the total sales price of all securities. Certainly the New York Stock Exchange has no such record. It is impossible to determine what tax would be payable under the new law unless both the par value of the security and its selling price are known. We have, however, a method of approximating the total of such sales, and we are confident that our figures are accurate within 10 per cent of the total. I refer to the data in the possession of the Stock Clearing Corporation, the subsidiary of the stock ex-

change, which clears and settles active stock transactions. From this data we estimate the transactions on the exchange for the year 1931 totaled, in round figures, $32,110,000,000. It is obvious that one-fourth of 1 per cent of this amount would equal $80,000,000. It may well be that the Committee on Ways and Means arrived at an estimate of $75,000,000 by assuming that the activity of the securities market in the current year would be only slightly less than in 1931. If this is so, they disregarded entirely the present trend of business. In January of this year the Stock Clearing Corporation figures were approximately $1,566,000,000. In February they were $1,649,000,000 and in March $1,322,000,000. The results for the month of March show an alarming decline from the February figure, which amounts to almost exactly 20 per cent. As a method of estimating the amount of probable tax yield I have taken the New York Times record of all transactions on the exchange for the month of March and had a computation made showing what the total tax would be. It amounts to $2,367,000. Assuming that this volume of transactions will continue for the rest of the year—and, gentlemen, that is an assumption which is obviously false, because the imposition of this new tax will necessarily reduce the volume of transactions—the yield of the tax on the business transacted on the New York Stock Exchange will be only $28,404,000.

Senator GORE. That is, the tax?

Mr. WHITNEY. That is the tax computed at one-quarter of 1 per cent under the proposed bill.

Senator HARRISON. Mr. Whitney, what per cent of the total transactions are carried on the New York Stock Exchange?

Mr. WHITNEY. We have no exact figures, Senator Harrison. We believe that it is approximately 80 per cent of the total; 80 to 75 at least.

Senator HARRISON. Then, according to those figures, we would get somewhere around $35,000,000 revenue?

Mr. WHITNEY. Yes, sir; provided the transactions of March, 1932, on which we have based these figures, maintain. We have no expectation that they would, in view of such a tax.

Let me refer again to the money value of the March transactions on the New York Stock Exchange as shown by the Stock Clearing Corporation's figures. I have already said that they show a decline of nearly 20 per cent from the volume of business in the month of February, but in order to make a fair comparison we must adjust the figures because the month of March had three more business days in it than February.

I find that the first 28 days of March contained exactly the same number of business days as the whole month of February. The total value of transactions in this period was only $1,158,000,000, or approximately 30 per cent less than the February total. I can not help feeling that this surprising drop was directly due to the increase in the New York State transfer tax from 2 cents to 4 cents a share, which became effective on March 1.

Senator HARRISON. This year?

Mr. WHITNEY. This year.

If the change in the New York tax has such a substantial effect, it is clear that the very much larger tax burden which will be imposed

by the new bill is certain to reduce security transactions almost to the vanishing point.

I have just said that the State of New York doubled its tax a little more than a month ago. When this change in rate was first suggested, there were optimistic estimates as to the increased revenue which the State would derive. I stated at that time that I thought these estimates were fantastically high and completely overlooked the effect of the law of diminishing returns. I am now advised that the tax receipts for the State of New York from the 4-cent tax were actually $178,000 less than the amount which the State received from a 2-cent tax in March, 1931. It seems, therefore, that far from deriving additional revenue by doubling its tax, the State will probably lose money on the operation.

The CHAIRMAN. Do you know what date that increased tax took effect?

Mr. WHITNEY. In New York State?

The CHAIRMAN. Yes.

Mr. WHITNEY. March 1, 1932.

The CHAIRMAN. 1932; this year?

Mr. WHITNEY. Yes; and its effect is in the month that I have referred to. March 1, 1932.

Shall I go on, sir?

The CHAIRMAN. Yes.

Mr. WHITNEY. It is fundamental that the yield from any sales tax depends upon the volume of transactions to which it applies. Therefore a sales tax which tends to diminish the volume of transactions defeats itself. This fact has long been recognized by economists as an instance of the effect of the law of diminishing returns. If you double a sales tax and by so doing only reduce the number of sales by 50 per cent the net yield of the tax will be the same. Any such change would, of course, be unsound, because the new tax would not increase the revenue of the Government, but it would devastatingly diminish the business done in the country. This is particularly true in a period of depression when every burden on business has an exaggerated effect. Our present problems will be solved only by the return of a normal condition of trade, and any action which tends to stifle business should be avoided.

To determine the correct rate for a sales tax one must necessarily consider the nature of the transactions subject to the tax and whether the property sold is apt to be turned over rapidly or only occasionally. Valuable property, which by its nature is sold infrequently, can bear a much heavier sales tax than property of low value which is sold infrequently. Furthermore, property which can be moved easily out of the taxing jurisdiction will not bear as heavy a tax as property which must remain in it. For example, a tax on the sale of real estate can be made very heavy because it can not be avoided. A burdensome tax, however, on property which can be shipped easily to another jurisdiction will be ineffective because it is certain that rather than pay the tax the owners of the property will transport it to some other country where the sale does not create a tax liability. Finally, property which is normally sold only once or twice in its useful life can bear a heavier rate of taxation than property of lesser value which is sold over and over again within a brief space of time.

All of these factors must be considered in determining the correct rate for a sales tax upon securities. As stocks and bonds turn over with the utmost rapidity and are so easily transported from one country to another that they at times assume almost an international character, it is clear that the rate of tax must be low. If it is high, it will be avoided.

Let us consider for a minute the effect of the proposed bill, as applied to actual cases. As I have said the existing tax is 2 cents per $100 of par value or 2 cents a share without par value. Therefore, on a transaction in stock of $100 par value, like American Telephone & Telegraph Co., the tax on the sale of 100 shares is $2, irrespective of the selling price. Under the proposed bill the amount of tax will be determined by the selling price, as soon as stock sells above $16 a share. In the case of American Telephone & Telegraph Co., which is currently selling at 104, the tax would be 26 cents per share of $26 per 100 shares. This means that the present tax would be multiplied 13 times over. Certainly, nobody can expect that such a drastic increase will not seriously reduce the volume of security transactions. Many people who would disregard a tax of 2 cents a share, will unquestionably hesitate when they realize that it has been increased to 26 cents a share. If they do not buy or sell, the Government will not collect a transfer tax. Therefore, if the Government is seeking increased revenue, it should limit the tax on security transactions to a low rate.

I realize that in the great emergency which faces the Government, the security business, like all other forms of activity, should bear its fair share of the tax burden and that the immediate problem is to find the maximum rate which can properly be imposed on security transactions. I do not pretend to be an authority on any such complex question, but I do know, as a practical man, that the rates proposed by the bill now under consideration are grossly excessive. I question whether the security business in this country can compete successfully with foreign nations if the existing tax of 2 cents a share is doubled and made 4 cents a share. I know that it can not compete if, in addition to this, the one-fourth of 1 per cent proviso is added to the tax. I am confident, therefore, that if this bill is passed, the volume of security transactions subject to taxation will be so reduced that the net return to the Government from this source of revenue will be less than if the existing tax were left in force. It is possible that some slight increase might be made over the present rate of 2 cents a share without seriously disturbing the volume of security transactions. Any increase beyond 4 cents a share will be unsound as a permanent tax. It may, however, be endured for a brief period of time as an emergency measure.

So far I have considered this question primarily from the point of view of the revenue which the Government can hope to obtain from the new tax. I have pointed out that if it is increased to the point where it becomes burdensome, the volume of security ransactions will decline, and the revenue derived by the Government from this source will be reduced. A decline in the volume of security transactions will not only affect the amount of revenue which the Government can secure, but it will also have many other serious consequences.

The tax will discourage people who normally buy and sell for small price changes. There are many people who are content to buy when they anticipate even a slight advance in price and to sell as soon as their securities have advanced by a quarter or one-half of 1 per cent. These people perform a most useful function because their transactions help to maintain a broad and active market wherein securities may be bought and sold freely and in great volume. Without the purchases and sales made by these traders, security prices would move by leaps and bounds instead of by gradual fractional changes. Instead of a broad and active market we would have a weak, nervous, and fluctuating market. To-day hundreds of thousands of shares may be bought or sold without causing great changes in price, but if the market becomes inactive each buying or selling order will tend to bring about price fluctuations which will seriously disturb the confidence of investors. Such traders can not continue to do business in the face of heavier taxation. For the purpose of testing the truth of this contention I have had certain statistics collected. A number of firms, consisting in the aggregate of 51 partners, actively bought and sold some of the most prominent stocks on the stock exchange in the year 1931 and made a gross profit of about $612,000. Before arriving at this profit $138,500 was paid out in Federal stamp taxes, and an equal amount in State taxes.

Senator GORE. State that again, Mr. Whitney.

Mr. WHITNEY. Before arriving at this profit $138,500 was paid out in Federal stamp taxes and the same in State taxes.

Having secured these actual figures, I had a calculation made as to what Federal taxes these individuals would have had to pay if the proposed tax had been in effect. I find that the total Federal taxes would have been approximately $1,612,000, or more than eleven and a half times the tax actually paid. Instead of realizing a profit on their year's work, these individuals, after paying the increased State tax, would have lost over $1,000,000. Clearly, these transactions could not have taken place if the pending bill had been law. Without them the Government would have lost revenue, and the exchange would have been deprived of a volume of purchases and sales which was essential to the full performance of its duty as the principal market place for American securities.

The establishment of a broad and active market is the function of the exchange. For many years the transactions on the New York Stock Exchange have made American securities liquid. Every security holder could at a minute's notice turn his securities into cash. On the faith of this ability to sell securities and realize money, investors have bought billions of dollars of stock listed on the exchange, and our banks have loaned huge sums of money with securities as collateral. I am not referring now to brokers' loans, because, in large measure, they have been liquidated already. From the peak figure of about $8,500,000,000 there now remains only about $500,000,000 in brokers' loans. The liquidation of this huge amount of credit was possible because of the existence of a market for securities. Without it the liquidation of brokers' loans would have been impossible; and if they had become frozen, the consequences to our banking system would have been most serious. But the loans I have in mind are those made by banks to their individual customers

against security collateral for all sorts of purposes, inclusive and exclusive of speculation. These loans at one time equaled or exceeded the amount of the brokers' loans. Their liquidation has progressed more slowly and the loans against security collateral still held by members of the Federal reserve system exceed $6,000,000,000. The collateral for these huge loans become illiquid if our security markets cease to function.

Senator GORE. When was the peak of those private loans, if you have that?

Mr. WHITNEY. I think it was around the peak of the brokers' loans.

Senator GORE. About the same time?

Mr. WHITNEY. Approximately, yes.

I have had occasion in the last few months to describe in detail the steps taken by the New York Stock Exchange to stay open during the critical days of last fall. These steps were taken primarily for the purpose of maintaining the liquidity of securities. If we had failed and if the exchange had closed, all collateral security loans would have become frozen, and I do not hesitate to say that such an event would have imperiled the safety of our entire banking structure. The problem of maintaining the liquidity of these loans still remains. If by taxation the volume of security transactions be reduced so that the market can not withstand even the selling necessary to keep collateral loans liquid, then the danger of closing as a means of preventing a panic will again confront us. These are not idle fears or vain imaginings. They are practical facts which our security markets have had to face from time immemorial.

In addition to maintaining the liquidity of securities, it is also the function of a security market to provide the means by which industry may attract new capital. Investors and speculators are willing to buy new securities only when they have reason to know that through activity on the stock market they can at any minute sell their securities and get their money. Therefore, unless the security markets of this country remain open and supply a sufficient degree of activity to fulfill this function, neither investors nor speculators will be tempted to purchase securities and the customary means of attracting new capital to American industry will cease to exist.

I know of nothing more important for the recovery of American business than the ability of American industry to acquire capital. In recent months the Government has recognized that our great transportation systems have been unable to raise necessary funds by the issue of securities; and one of the major functions of the Reconstruction Finance Corporation is to supply American industry with capital which it has been unable to acquire by the issue of securities in the open market. It is obvious that the Government can not undertake to finance all American industry for an indefinite period. In fact, the very name of the institution indicates its temporary character. Therefore, when the hoped-for turn in business arrives, American industry must be able to avail itself of private financing and, by issues of securities, repay the Government the amounts which it has advanced during the present emergency.

Few people seem to realize that an increase in the tax on security transactions will necessarily affect an enormous number of people.

It has been conservatively estimated that there are between fifteen and twenty million people in this country who have invested in stocks.

Senator GORE. How many?

Mr. WHITNEY. Between fifteen and twenty million people. This estimate was made some years ago and recently the steady and enormous increase in the number of small shareholders in our leading corporations would seem to make it certain that the estimate was, if anything, low rather than high. Some of our largest corporations give detailed statistics in regard to their shareholders and the number of shares held. The most outstanding and probably the most important example is the American Telephone & Telegraph Co., which has approximately 640,000 shareholders. Over 94 per cent of these stockholders hold less than 100 shares, and nearly 59 per cent hold less than 10 shares. This vast army of stockholders will not lightly disregard a tax measure which will mean that every share of stock they sell will have to pay twelve or thirteen times the tax now imposed by the Federal Government.

Furthermore, the tax falls with particular severity upon the small investor. The unit of trading on exchanges is necessarily fixed at a designated number of shares. On the New York Stock Exchange this unit is 100 shares and buyers and sellers of less than 100 shares deal with odd-lot houses. A person selling to an odd-lot dealer must pay a sales tax upon the securities sold, and the odd-lot dealer, in turn, must pay a second tax when he resells these securities in odd lots to odd-lot buyers or in 100-share lots on the exchange. The odd-lot dealer has heretofore paid the tax imposed upon his own sales out of the small differential which he charges his customers. This differential was not sufficient to absorb the additional tax recently enacted by New York State. It is obvious that the vastly increased tax suggested by the new bill can not be absorbed. The odd-lot dealer must, therefore, adopt one of two alternatives. He must either increase the differential paid by odd-lot investors or pass his sales tax on to them. The result in either case will be the same and will place upon small investors the burden of the two taxes involved in odd-lot transactions.

Senator WALSH of Massachusetts. How expensive are the odd-lot transactions?

Mr. WHITNEY. Approximately 30 per cent of all transactions on the New York Stock Exchange.

This is another instance to prove my contention that the investing public, and not the brokers, will pay this new tax.

Since 1929 there has been a vast increase in the number of shareholders of our major corporations and great distribution of the certificates of fixed investment trusts. Years ago it was a common belief that in periods of depression, when security prices reached abnormally low levels, men of wealth purchased stocks and reaped a vast profit when securities subsequently advanced in value. Even to-day some people refer to the way in which securities are passing from weak to strong hands. In the last two years this theory has been completely shattered. It is the so-called weak hands who have bought as the allegedly strong sold. If you wish proof of this fact, examine the stock books of our great corporations and you will find

that the number of small shareholders has been steadily increasing ever since the market crashed in 1929. Recent figures compiled by the New York Times show that for the 69 leading corporations listed on the New York Stock Exchanges the total shareholders have increased from 4,417,000 in 1929 to 6,453,000 in 1931.

Senator GORE. That is what class?

Mr. WHITNEY. All stockholders, sir, in the 69 leading corporations listed on the New York Stock Exchange.

The CHAIRMAN. Mr. Whitney, you have four minutes more.

Senator REED. I move he be allowed to finish, Mr. Chairman.

The CHAIRMAN. You may proceed, without objection.

Mr. WHITNEY. Thank you.

Senator BARKLEY. Let me ask you there: Would there have been an increase under normal conditions, or do you attribute this increase to the decrease in the prices of shares?

Mr. WHITNEY. That is almost an impossible question, Senator. The only thing I can say there is that we have seen, during these falling prices, a tendency on the part of the small investors to buy stocks and put them in their strong boxes.

Senator REED. Which indicates that the little fellow is wiser than we thought he was.

Mr. WHITNEY. Yes.

Senator GORE. Those purchases are not so much on margin, then?

Mr. WHITNEY. In the last two years there has been a tremendous increase in cash payments, rather than on margin.

Senator GORE. And that would indicate that it was an outright purchase?

Mr. WHITNEY. Yes.

During the same period fixed investment trusts, which offer to investors an apportunity of participating in diversified stock holdings through the investment of every small sums of money have had an enormous sale. There are several trusts of this character which have each actually distributed to the public more than $100,000,000 worth of participating certificates. These latter small investors will be vitally affected by the new tax because they will have to pay the increased tax not once or twice but three and four times over. This seemingly impossible result arises out of the number of transfers necessary for the issuance of fixed investment-trust certificates and also by reason of the fact that the tax is measured not only by money value but also by the par value of the underlying stocks which make up the portfolio of a fixed investment trust.

Furthermore, very heavy taxes will be payable upon the issuance of fixed investment-trust certificates because the new bill provides that the certificates of an investment trust shall pay an issuance tax of 10 cents on each $100 of par or face value, or 10 cents a share in the case of no par value certificates. Practically all certificates of fixed investment trusts are without par value, and therefore all these certificates will pay a 10-cent tax upon issuance. At the present time very few of these certificates are selling for more than $5 apiece, and therefore a 10-cent tax will amount to at least 2 per cent of the investor's money. Finally the transfer from the dealer to the investor will require the payment of an additional 4 cents because the new revenue bill again refers to investment-trust certificates, and pre-

sumably each certificate without par value will have to pay the minimum tax of 4 cents. In the aggregate, therefore, these taxes will amount to nearly 8 per cent of the money value which investors will pay for fixed investment-trust certificates.

Senator GORE. Mr. Whitney, has not the enforced liquidation of a number of those investment trusts that bought those stocks at a high figure been one of the factors that hammered the market down; they have been unloading?

Mr. WHITNEY. That I have no specific facts in regard to, Senator Gore, but from the information given me by the officers of these larger investment trusts, they have been constant buyers of securities throughout this period, and sellers of their own certificates to investors.

Senator GORE. That has been when the price was low; when the price was high, in the progress of the year, the latter part of 1929, a lot of those concerns were forced to liquidate. The newspapers said so.

Mr. WHITNEY. Senator Gore, I have referred here to fixed investment trusts. I do not think they were liquidators at any time; they were buyers. I believe some of the concerns to which I have not referred, and of which I have no knowledge, may have been liquidators during that time.

I have cited this example simply to point out the absurd results of this bill. More than a year ago, when it was brought to the attention of the exchange that evils existed in the fixed investment trust field, we took the initiative by pointing out the dangers inherent in this type of security and the ease with which investors might be misled. As a result of our efforts the vast majority of fixed investment trusts have voluntarily met the standards established by the exchange and, irrespective of whether you may think this form of investment desirable or not, the fact remains that vast numbers of people in the United States have availed themselves of this means of investing moneys in our industries. In any event, the buying power developed by this medium of investment has been a source of great strength in the critical period through which we have been passing. It seems to me to be grossly unfair to impose a sales tax on these people at a rate which is absolutely prohibitive.

In connection with the tax on the sale or transfer of stock, let me point out that the collection of this tax will present an almost insuperable difficulty in administration. I have already referred to the fact that the tax of one-twentieth of 1 per cent imposed during the Civil War proved so difficult of collection that when a tax on security transactions was again imposed at the time of the Spanish-American War it was based upon the par value rather than upon the sales value of stock. The existing tax is based upon the same theory as the Spanish-American War tax with the simple addition that a share of no par value was, for the purpose of the tax, to be treated as if it has $100 of par or face value. This tax has proved easy of collection. Upon the transfer of a certificate every corporation is required to see that the stamps evidencing the payment of the tax are affixed either to the certificate itself or to the bill of sale evidencing the transfer of the shares. Each corporation can readily determine the amount of tax from the number and par value of the shares transferred. If

however, the amount of tax is to be determined by the sales value there is no way in which corporations can make sure that the correct amount of tax has been paid.

For example, a certificate issued in 1925 may be presented to a corporation for transfer. How is the transfer agent to know whether the stock was sold before the passage of the new law or at some time thereafter when the stock was selling for more than $16 per share? Unless it knows the price paid for the stock, which, as a practical matter, is impossible, the transfer agent can not determine whether the stamps affixed to the certificate represent the correct amount of tax or not.

I mention these matters to point out that the collection of the proposed tax will present difficulties which its framers can hardly have considered.

Let me ask a question which will indicate the vagueness and uncertainty of the present tax bill. It provides that the tax imposed shall not be less than one-quarter of 1 per cent "of the selling price, if any, of such shares, certificates, or rights." Does this mean that a transfer for a consideration other than money is to be deemed a selling price within the meaning of the statute? If so, I urge another objection, and one which I think is vitally important. At the present time, when some of our major railroads are in the hands of receivers from which they can hardly emerge without reorganization and at a period when the consolidation and merger of large enterprises is generally recognized as a necessary step toward our economic reconstruction, we must anticipate vast exchanges of existing securities for securities of new or larger concerns. If these reorganizations are treated as sales or transfers taxable under the provisions of the new bill, and one-quarter of 1 per cent provision is effective in cases of this kind, then many reorganizations which must necessarily occur in the near future will be taxed in an amount which will be absolutely prohibitive.

TAX UPON THE SALE OR TRANSFER OF BONDS

So far I have referred entirely to the effect of the proposed increase in the tax on the sale or transfer of stock. The bill, however, proposes a new and revolutionary tax upon the sale or transfer of bonds. The amount of this tax is 2 cents per hundred dollars of face value, with a proviso that the amount of the tax shall not be less than one-eighth of 1 per cent of the selling price. By definition the term "bond" means all obligations issued by corporations, and therefore necessarily includes the bonds of many of our railroad companies which are already in hands of receivers. If a bond is selling for less than $160 per bond, it will have to pay the minimum tax of 20 cents even if this tax is more than one-eighth of 1 per cent. There are many bonds which are to-day selling for less than this minimum sum and some are even quoted at $50 and less. The tax on these bonds would amount to nearly one-half of 1 per cent. All of the arguments which I have urged in opposition to the similar tax proposed upon stock apply with equal or greater force to a tax on bonds. I know of nothing which would be more destructive to the recovery of our country than this tax because bonds have normally been the medium of investment of banks, insurance companies, and

the most conservative type of investor. To penalize by a tax the sale or transfer of securities held by these institutions and individuals is, to my mind, indefensible, particularly in this period when bond markets are so disrupted.

Senator WALSH. Has there been any effect on the market since the action of the House in this matter?

Mr. WHITNEY. The market has fallen almost continually, both in stocks and bonds.

Senator WALSH. And you think it attributable to this tax, the prospect of it being incorporated in the final tax bill?

Mr. WHITNEY. Yes, sir.

Senator BARKLEY. To what do you attribute the almost continuous decline prior to that?

Mr. WHITNEY. There had been a steadily declining stock market just prior to that.

Senator BARKLEY. Yes, I know; but I mean over the period of a year.

Mr. WHITNEY. There are hundreds of reasons.

Senator BARKLEY. You do not attribute altogether the decline in the last month to the bill, do you?

Mr. WHITNEY. No; not altogether.

Senator BARKLEY. I just wanted to get your view on that.

Mr. WHITNEY. Yes.

Senator GORE. Do you attribute part of this effect in the decline of the value of stocks to the tax on dividends, placing a normal tax on dividends?

Mr. WHITNEY. I do not think I understand your question, Senator Gore.

Senator GORE. The House bill places a normal tax on the distribution of dividends. Heretofore the tax has been levied on corporations.

Mr. WHITNEY. Yes.

Senator GORE. Now the House places a 7 per cent tax, I believe, on dividend distributed in the hands of the individual or recipient.

Senator CONNALLY. Income tax.

Senator GORE. Income tax. I was wondering to what extent that had reacted on the value of stocks.

Mr. WHITNEY. Truly, Senator Gore, I never considered that point.

Senator GORE. Yes.

Mr. WHITNEY. I have been very busy considering this point.

Senator GORE. It possibly has not had much weight, but I just wanted your statement with relation thereto.

Senator BARKLEY. Then, in addition to the regular corporation tax carried in the bill, there is also a tax on the dividend from the same corporation after it has been distributed to the shareholders?

Mr. WHITNEY. Yes. That has been true, always, I think, under the income tax.

Senator GORE. On the surtaxes?

Mr. WHITNEY. On surtaxes, yes; not on the normal.

Senator GEORGE. Not on the normal.

Senator WALSH. The objection that Senator Gore makes has not permeated the financial interests and the country to the extent this stock tax has?

Mr. WHITNEY. I do not think so; no, sir.

Senator REED. Mr. Whitney, don't you think that every owner of a stock realizes that the effect of the House bill is to reduce his net dividend one-fourteenth?

Mr. WHITNEY. I think they do realize that it will be reduced.

Senator REED. And it will mean that a 7 per cent preferred stock will only net 6½ per cent?

Mr. WHITNEY. I do not mean to say that I do not believe that the provisions of the income tax part of this bill have been subject to careful study and consideration and perhaps fear by our investors, those holding dividend returning stocks, but, as I said, Senator Reed, I have not personally paid as much attention to that part of the bill as I perhaps should in my position as president of the exchange.

Senator HARRISON. Mr. Whitney, have you finished?

Mr. WHITNEY. I have not, Senator Harrison.

Senator HARRISON. I wanted to ask you just two questions.

The CHAIRMAN. Why not let him get through first?

Senator HARRISON. I thought you had finished your statement.

Mr. WHITNEY. This is still part of my statement. It is very broad. I can hurry along, or shall I answer your questions?

Senator HARRISON. I wanted to ask you a question with reference to the rate of 4 cents as now imposed by the State of New York, effective March 1 of this year, and of 2 cents imposed by the Federal Government upon these stock sales and transfers. How does that compare with the tax that is imposed by Canada and by Great Britain on stock sales and transfers?

Mr. WHITNEY. To explain that answer, I have been looking this up in the last two days, Senator, and I have here, for my own information, certain facts. Of course, that depends upon the price of the shares in relation to the tax in Canada and in England. It does not in America. So taking the average price of our cleared stocks on the stock exchange, to which I have already referred in my brief, which constitute between 90 and 95 per cent of all stocks traded in on the exchange, the average price to-day is approximately $18 per share. So to follow that out, around $18 a share, the tax, present Federal, would be 2 cents, or is 2 cents, the New York State is 4, making a total of 6; whereas the tax in that bracket or in those figures in Canada, in Quebec, would be 1 cent, Dominion, and 2 cents, Quebec, or making a total of 3 cents, as against our total of 6, and in Ontario, 1 cent, Dominion, and 3 cents to Ontario, making a total of 4, as compared with our total of 6.

Is that the answer you want?

Senator HARRISON. Then under the present law the tax is somewhere around 50 per cent more than the highest tax in Canada or either of those Provinces of Canada; is that my understanding?

Mr. WHITNEY. Yes, sir.

The CHAIRMAN. Will you put that compilation in the record at this time, Mr. Whitney?

Senator HARRISON. I wanted to ask you further this question. Take a fellow in my town of Gulfport, for example, who wanted to dispose of some stock, 20 shares of General Motors, or what not. What would be the operation, and would there be more than one tax on that sale?

Mr. WHITNEY. Answering the second part of your question first, there would be two taxes on the sale, and in this way: He would give his broker an order to sell the 20 shares of General Motors. That would be sold on the exchange, for which he would pay a tax under this law. His broker would have to borrow, he, the customer, being in Gulfport, Miss., those 20 shares, in order to make good the delivery which has to be consummated by the delivery of the stock the next day before 2.15 p. m., and under this tax, under this law, pending law, there would be the same tax imposed upon the borrowing of that stock, which the customer would have to assume, making two taxes. If, Senator, he sold but 20 shares of General Motors and not a round lot of 100 shares, as I have just pointed out, he would have to assume an additional third tax in dealing with the odd-lot house.

Senator HARRISON. Would that apply to a fellow who had his stock ready in New York and delivered it immediately when he wanted to sell it to a broker? How much tax would he pay?

Mr. WHITNEY. He would pay the one tax if he were selling 100 shares, or he would have to pay the two taxes, as I have pointed out, if dealing with an odd-lot broker.

Senator HARRISON. So the fellow, under this proposition, living in New York would have some advantage over the fellow living outside of New York in the matter of tax payment?

Mr. WHITNEY. Yes.

Senator GEORGE. Would it be too hazardous, Mr. Whitney, to extend the delivery date beyond 2.15 of the day following the sale?

Mr. WHITNEY. We have always felt so, sir. That involves the question of fortnightly settlement or future settlement, and I might point out, without going into detail, the very grave situation that might arise in that the transactions on the London Stock Exchange in the latter part of June, 1914, were never settled under their system until 1922. What can take place in the methods of speculation, and so forth, during that time is something dreadful to contemplate, we feel.

Senator BARKLEY. Mr. Whitney, in making your comparison between the tax in this country and Canada you used an average price of $13 a share.

Mr. WHITNEY. In the United States.

Senator BARKLEY. Which is really not material, because the tax is not levied at present on the value of the shares.

Mr. WHITNEY. That is the basis, though, of the Canada tax. It rises slightly when it goes up.

Senator BARKLEY. Your comparison, then, was based on an average of $13 a share in Canada. When the value of stocks in Canada rise above $13, going to, say, $50 or $60 or $100, what would the tax be?

Mr. WHITNEY. May I take both in Quebec and in Ontario?

Senator BARKLEY. Yes.

Mr. WHITNEY. Up to a limit of $25 per share, 3 cents and 4 cents.

Senator BARKLEY. That is seven, a total of seven?

Mr. WHITNEY. No, sir. A total of three in Quebec or a total of four in Ontario.

Senator BARKLEY. Yes.

Mr. WHITNEY. Up to a total of $50 a share; 4 cents in Quebec and 5 cents in Ontario. Up to a total of $75 per share, the tax would be 5 cents in Quebec and 6 cents in Ontario. From there, $75, up to a total of $100 per share; the total tax would be 6 cents, equal to ours, in Quebec, or 7 cents in Ontario.

Senator BARKLEY. Did you intend to make a comparison between ours and England's, or have you those figures?

Mr. WHITNEY. That is an involved situation, because they have entirely different ways of bearer's certificates.

Senator BARKLEY. I realize that.

Mr. WHITNEY. And it is only in the actual transfers of record where you find that the tax is a heavy tax. The actual trading is certificates is a very light tax.

Senator BARKLEY. The present tax of 2 cents a share, almost, without regard to the value of the share, is not a burdensome tax, is it?

Mr. WHITNEY. To-day?

Senator BARKLEY. Yes.

Mr. WHITNEY. No, sir.

Senator REED. You say it is not any burden? I beg your pardon, Senator, I did not mean to interrupt.

Senator BARKLEY. In your illustration earlier in your testimony of the American Telegraph and Telephone Company, on the basis of $100 a share, using 100 shares as the basis of your illustration, involving a $10,000 transaction, of course the tax in that case would be $2.

Mr. WHITNEY. Federal tax?

Senator BARKLEY. Under the present law.

Mr. WHITNEY. Yes.

Senator BARKLEY. And under this proposed bill I think you said it would be $26.

Mr. WHITNEY. Using the figure of 104.

Senator BARKLEY. Yes, 104.

Mr. WHITNEY. It would be $25 per 100 shares at par.

Senator BARKLEY. If it is to be put upon the basis of a sales tax—and I am simply trying to arrive at your viewpoint without any intimation as to what my own is—would a $25 tax on a $10,000 transaction be regarded as burdensome?

Mr. WHITNEY. On a stock transaction, absolutely. I have tried to point that out. If it is something that is continually turning over as against something that is but slowly turning over, I consider it burdensome, in relation to the tax.

Senator BARKLEY. If a man bought a hundred shares for speculative purposes, anticipating a rise, and he sold at one point above the purchase price, the cost of brokerage and the tax would probably consume the entire profit of one point; but above that, assuming that he held it for a rise of 5 point or 10 points or even 20, the higher the stock went and the larger his point profits, of course the smaller in proportion the tax would be.

Mr. WHITNEY. Yes, sir.

Senator BARKLEY. If you anticipate, as you say, that there will be a turn some day, which we all hope, and if it transpires that the turn is not as far off as some of our pessimists intimate, in that case,

as a temporary tax to bridge over this deficit in the Treasury, would that be still regarded by you as a burden?

Mr. WHITNEY. The one-fourth of 1 per cent?

Senator BARKLEY. Yes.

Mr. WHITNEY. Yes, sir.

Senator REED. Mr. Whitney, I have heard it stated that within the last few weeks, since the House passed this bill, a charter has been taken out in Montreal for an international stock exchange. Have you heard that story?

Mr. WHITNEY. No; not verified, Senator Reed. I have heard—and this is one of these rumors—that in another part of Canada, where an amalgamation was thought of, the inquiry came to us in the exchange here that if this tax matter goes through we want to get busy immediately and amalgamate, so that our facilities may be very much broadened—this is, in Canada—to take American business.

Senator CONNALLY. Mr. Chairman, may I ask Mr. Whitney a question?

Mr. Whitney, you said a while ago that all this tax would fall on the investor?

Mr. WHITNEY. Yes, sir.

Senator CONNALLY. And would not come out of the broker. That is correct, is it not?

Mr. WHITNEY. Unless the broker be the owner of shares.

Senator CONNALLY. The brokers have increased, in recent years, their commissions, have they not?

Mr. WHITNEY. The broker's commission is based on the selling price of the stock.

Senator CONNALLY. Just as the tax would be.

Mr. WHITNEY. Just as this tax; yes.

Senator CONNALLY. That has been increased, though; the percentage has been increased in recent years, hasn't it, considerably?

Mr. WHITNEY. It has been changed in recent years. There has been a change, and perhaps an increase or a change in the rates based on the price; yes.

Senator CONNALLY. And that is higher than it was formerly?

Mr. WHITNEY. I believe in some instances: but it is a trifle——

Senator CONNALLY. If you do not know, who does know? You say you believe. Don't you know about that?

Mr. WHITNEY. I can easily find out.

Senator CONNALLY. You are president of the exchange, are you not?

Mr. WHITNEY. You are asking me to recall something three or four years back, as to what the commission was then as against what it is to-day. It is available, but I have not got it in my head always.

Senator CONNALLY. Have the commissions changed any since 1929?

Mr. WHITNEY. Not that I know of.

Senator CONNALLY. Not since 1929?

Mr. WHITNEY. No; I think it was some time before that.

Senator CONNALLY. You say that this is not paid by the broker. Can you tell us how we can provide so it will be?

Mr. WHITNEY. No tax on the sales of securities can be paid by the brokers, sir, unless they own them.

Senator CONNALLY. We could tax their commissions, couldn't we?

Mr. WHITNEY. I suppose so.

Senator CONNALLY. Do you favor shifting this from the investor to the broker?

Mr. WHITNEY. I do not; because I do not think revenue would be forthcoming from that source.

Senator BARKLEY. As a matter of fact, have not commissions decreased in the last year?

Mr. WHITNEY. Tremendously.

Senator BARKLEY. I mean in proportion, not in aggregate amount or percentage; but has not the rate decreased?

Mr. WHITNEY. Yes; because the schedules, being various rungs of the ladder, with stocks falling, the commission lessened.

Senator CONNALLY. The commission lessened because of the value of the stocks going down?

Mr. WHITNEY. Yes.

Senator CONNALLY. The commission has not lessened at all, though, has it?

Mr. WHITNEY. The rate has been lessened because of the value of the stocks.

Senator CONNALLY. If a man charges 1 per cent commission, that has not been changed, has it? The value of the stock having gone down, he gets less money out of the transaction, but his percentage is the same, is it not?

Mr. WHITNEY. His percentage is less.

Senator CONNALLY. How?

Mr. WHITNEY. You mean, taking in the price of the stock and the full figures?

Senator WALSH. He is distinguishing between the rate and the amount.

Mr. WHITNEY. Yes.

Senator WALSH. He says the rate remained the same, but the amount has lessened because of the depreciation in the value of the stocks.

Mr. WHITNEY. The amount to the broker, without question, is lessened, with the value of the stocks falling.

Senator CONNALLY. Certainly, he gets less money, but his rate has not changed; his commission has not changed.

Mr. WHITNEY. I do not think I understand the question.

Senator REED. May I interrupt, simply to clear this up? If your stock is selling at $100, your commission is what?

Mr. WHITNEY. Twenty-five.

Senator REED. If your stock is selling at $10, your commission is what?

Mr. WHITNEY. One-eighth; 12½.

Senator REED. So that the percentage of the commission changes according to the sales price of the stock?

Mr. WHITNEY. That is right.

Senator HARRISON. Mr. Whitney, can not you furnish for the record, for the last 20 years, the commissions that brokers charge, so that we can have it in here?

Mr. WHITNEY. Yes, sir; easily, Senator.

Senator REED. Why don't we let Mr. Whitney finish his statement?

Senator CONNALLY. I am not quite through with this question. The explanation that Senator Reed put in the record with reference to this changing, that has been true all the time, hasn't it? The value of the stock, you say, was not based on the commission?

Mr. WHITNEY. No; that was not true 3 or 4 or 5 years ago. There was a set rate for all.

Senator CONNALLY. You changed it 3 or 4 or 5 years ago?

Mr. WHITNEY. Yes.

Senator CONNALLY. You raised some of the rates?

Mr. WHITNEY. We did. We felt some of the risks justified it.

Senator CONNALLY. Then in answer to my question awhile ago you should have answered that the commissions were increased three or four years ago.

Mr. WHITNEY. Some of them; yes, sir.

Senator CONNALLY. And others were not?

Mr. WHITNEY. And others were not.

Senator CONNALLY. Then on the whole they were increased. If part of them were increased and part left as they were, then they have been increased.

Mr. WHITNEY. Some of them.

The CHAIRMAN. Have any of the commissions been decreased?

Mr. WHITNEY. It is difficult for me to answer that questions, because I have not got the comparison of the two figures. I could easily get them but I did not know that had any bearing on this hearing; and it happening three or four years ago, or perhaps more, I have not got them in my mind.

Senator GORE. Wouldn't it be better for Mr. Whitney to put the schedule in the record, in answer to Senator Harrison?

Mr. WHITNEY. I could easily do that, Senator Gore.

The CHAIRMAN. The only reason I ask it is that the Senator from Texas took the position that they were all increases on certain values of stock.

Senator CONNALLY. No; I did not say that.

The CHAIRMAN. But I say that the question simply led——

Senator CONNALLY. The question simply led to the answer. I did not put the words in his mouth.

The CHAIRMAN. I have no objection to the question. He said certain increases. I just wanted to know if there were any decreases.

Mr. WHITNEY. If there were certain increases?

The CHAIRMAN. The value of the stock when it was lower had an increased rate or decreased rate, and if there were decreases as well as increases, then I thought you could possibly give about an average of what it was, whether it was an increase on the flat rate of to-day; or do you know?

Mr. WHITNEY. There were some increases. Some of the commissions remained the same. And I am of the opinion that there were some decreases in the low-priced stocks. But I do not want, Mr. Chairman, to make a statement here that I may be wrong in. I am not prepared on that thing. I had no expectation that I would be asked on this question.

The CHAIRMAN. Proceed.

Senator GORE. Mr. Whitney, did you state the proportion between stocks and bonds in regard to the total transactions on the exchange? If you did, I did not understand it, but I rather thought you did.

Mr. WHITNEY. In 1931 the total transactions in bonds were about $8,000,000,000, of which corporate bonds, exclusive of Liberty and Government bonds, were about two billions, or two-thirds. Stocks, the rough value, sir—I do not want to be held down on this—in 1931, were thirty-two billions.

Senator GORE. You do not remember what the stocks amounted to in 1929, do you?

Mr. WHITNEY. I am informed one hundred and eight billions.

Senator BARKLEY. Mr. Whitney, may I ask you one question right there, in connection with your statement that this will retard transactions. Let us assume that somebody has $5,000—that is a rank assumption, I realize, but let us assume it [laughter]—and that they want to invest in some stock that is selling at $50 a share. That involved 100 shares. Fifty dollars a share would absorb the $5,000.

Mr. WHITNEY. Yes.

Senator BARKLEY. Let us assume it is for the purpose of investment, to lay that stock away and keep it as an investment. Do you think a tax of $12.50 would deter that person from buying that 100 shares of stock?

Mr. WHITNEY. I think so, absolutely, indirectly. I think the effect of that tax would be to place the security market of this United States back 50 to 75 years.

Senator BARKLEY. Why do you say that?

Mr. WHITNEY. I am trying to tell you, sir.

Senator BARKLEY. I would like to know your reason.

Mr. WHITNEY. My reason is this: In those days the investor bought shares or owned stock in a corporation located in his district, on which he could keep his own eye, whose officers and directors he knew. He could go and see the wheels turning there. Since the development of our security markets, it is the conglomerate judgment of millions of people, reflected in the price of shares, so that an investor may indulge in investing in those shares, because, he feels safe on two scores—one, that the market being the judgment of millions of people is a fair one, and, secondly, the activities of the market gives him the ability, if he desires, to sell; and I, as an investor, certainly can not imagine putting my money into something where it was to be frozen; and I think this tax will freeze our markets.

Senator BARKLEY. I appreciate the force of that, but still I do not quite see how a man with $5,000, investigating the character of any stock in which he wants to invest, who is presumed to know enough about it to have confidence in it to the extent that he is willing to invest that much money, would back away from it if he had to pay $5,012.50 instead of $5,000 for it, as an investment.

Mr. WHITNEY. I told you that I thought the effect upon that man was one of indirection.

Senator BARKLEY. You think he would figure it would be more difficult to sell it because of the tax in the future, if he wanted to dispose of it?

Mr. WHITNEY. I claim, sir, that the effect of this tax will be to freeze our markets and make them unliquid and inactive. It is possible, sir, that occasionally a gentleman who invests may desire his money, and I think that is one of the thoughts the investor always has, that certainly he must keep a part, if not all, of his investments in a liquid condition. I apply that the same as I spoke about collateral loans of banks.

Senator BARKLEY. You arrive at this general conclusion, then: That this tax will freeze the market for securities, on the basis of the reaction that the tax will have on all the individuals who either want to buy or sell in the market.

Mr. WHITNEY. Yes, sir. I have tried to point out to you by those figures instances of just what would happen to a small group who were engaged in trading.

Senator REED. Mr. Whitney, is not the effect of it illustrated every day by the gyrations of these so-called inactive stocks where traders do not participate in making a market?

Mr. WHITNEY. Yes, sir; and on bonds, where we can cite to you not tens but hundreds of instances where the sale or purchase of one or two bonds has decreased or increased, but particularly lately decreased the price of those bonds 4 or 5 points, thereby affecting an issue of bonds of $150,000,000—one sale of one or two bonds.

Senator GORE. Mr. Whitney, how many different corporate stocks are listed on the exchange? Have you the figures in your mind?

Mr. WHITNEY. Yes, sir. Just under 1,300.

Senator GORE. And you do not remember how many of those are domestic?

Mr. WHITNEY. I beg your pardon?

Senator GORE. How many of those are domestic?

Mr. WHITNEY. I would believe probably over 1,200, Senator Gore.

Senator GORE. How many corporate bonds are listed and dealt in?

Mr. WHITNEY. Listed?

Senator GORE. Yes.

Mr. WHITNEY. Something like 2,500 bond issues.

Senator GORE. I will not ask you to answer now, but could you file a supplementary statement—you have stated the number of corporate stocks—showing the different issues of corporate stocks and the different issues of corporate bonds, and also a list showing these foreign government bonds and state and municipal bonds also?

Mr. WHITNEY. Very easily; yes, sir.

Senator GORE. I wish you would do that. One other question, Mr. Chairman: You stated in 1929 the aggregate stock transactions were one hundred and eight billions?

Mr. WHITNEY. Yes, sir.

Senator GORE. Do you remember the bonds for that year?

Mr. WHITNEY. They were also large, Senator Gore, but particularly—no; I do not remember the figures.

Senator GORE. You can put that in?

Mr. WHITNEY. Yes.

The CHAIRMAN. Proceed, Mr. Whitney.

Senator BARKLEY. Mr. Chairman, just one more question there: Did you put in your statement the amount of tax raised at the present time through the present rate, the tax, the amount of revenue?

Mr. WHITNEY. No. I can.

Senator BARKLEY. Do you know what that is? If you do not know, I will not take the time.

Mr. WHITNEY. I can tell you right here.

Senator BARKLEY. Well, if you have it right there.

Mr. WHITNEY. Taking for these figures one week in March, the present 2 cents brings in at the rate of fifty-two times the one week a little over about six millions three hundred eighty-nine thousand.

Senator BARKLEY. Your suggestion, I believe, as a substitute for the House bill, is a 4-cent tax instead of the 2, as it is now?

Mr. WHITNEY. I said I thought that in this time of emergency the security business probably could get by with that, but I feel, as I pointed out in regard to the New York State tax, that it might be very detrimental even then.

Senator BARKLEY. Assuming that it was not detrimental, and that it would raise twice the amount of revenue that the present 2-cent tax rate raises, it would amount to something like thirteen millions?

Mr. WHITNEY. That is the New York Stock Exchange, with 25 per cent added to that, or approximately seventeen million, seventeen and a half.

Senator BARKLEY. And your estimate of the amount of revenue raised by this House bill is about twenty-eight millions?

Mr. WHITNEY. From the New York Stock Exchange transactions; yes, sir.

Senator BARKLEY. So that according to your testimony, there would be a difference between seventeen and twenty-eight?

Senator REED. Oh, I do not so understand it. He has prophesied that the volume would fall off.

Mr. WHITNEY. That is not my conclusion. That is taking into no effect what may happen to security transactions, which I have just said to you, sir, I think would be frozen and pretty nearly nonexistent.

Senator BARKLEY. I thought in scaling down the estimates of the House committee from one hundred and fifty million to seventy-five million, and then using your own figure as a basis, it would scale it down to twenty-eight million.

Mr. WHITNEY. I want to correct that, if I may. We have not used our own figures. We have purposely used the figures of the New York Times and the figures of the new bill, and we have been the medium of figuring that.

Senator BARKLEY. Regardless of whose figures you use, if I misunderstood you in assuming that you estimated this House bill to raise only twenty-eight million instead of seventy-five, I want to have that corrected.

Mr. WHITNEY. Twenty-eight millions from fifty-eight.

Senator HARRISON. Mr. Chairman, I think it would be well to put in the record at this time that the receipts last year, 1931, on the cap-

ital stock sales and transfers, was twenty-six million five hundred nineteen thousand, and in 1930 it was forty-six million six hundred eight thousand.

Mr. WHITNEY. That is for the fiscal year ending June 30, 1931.

Senator GEORGE. I understand your figuring is that 4 cents a share is the maximum to which we should go and that the one-quarter of 1 per cent on selling price should be abandoned?

Mr. WHITNEY. Yes, sir.

Senator GEORGE. I wanted to get it clearly in mind.

Senator HARRISON. Let me ask you in that connection: It would be 8 cents covering the New York and Federal Government if we fixed it at 4 cents?

Mr. WHITNEY. Yes, sir.

Senator HARRISON. It may be higher in either case than the Canadian law?

Mr. WHITNEY. Yes, sir.

Senator HARRISON. The highest that you read of the Canadian law was 7 cents, as I understood.

Mr. WHITNEY. That is correct, in Ontario. The answer is yes, Senator Harrison, to that question. I understand it is estimated that this tax will yield approximately $13,000,000 per annum.

Gentlemen, referring to the bond tax—the tax on bonds—I have no way of verifying the accuracy of this estimate. In recent years, however, the par value on bonds sold on the exchange—that is, corporate bonds—has approximated $2,100,000,000. This would indicate a yield at one-eighth of 1 per cent—and I use this figure because the average price of listed bonds has generally far exceeded $160 per bond—would be about $2,625,000.

We all recognize that the transactions in bonds on the exchange do not represent anything like the total purchases and sales of securities of this character, but it is certain that the major transactions which take place off the exchange represent the sales by banks, savings banks, and insurance companies. Certainly these institutions should not have their bonds, which are already greatly depreciated, further reduced by an imposition of a tax of this character.

The collection of this tax would likewise offer tremendous difficulty because most bonds are bearer instruments, transferable without making a record which can be used to enforce the tax.

This imposition would affect indirectly millions of persons who are depositors in our banks and savings banks, or who are holders of mutual life insurance or owners of insurance companies, either through holding policies of insurance or shares of their capital stock.

The bill under consideration also proposes increasing the existing tax on the issuance of bonds from 5 cents to 10 cents per $100 of face value. This increase is certainly undesirable at the present time and is likely to yield a negligible amount of revenue to the Government. New enterprises are not apt to be launched in the face of present conditions. Whatever financing corporations may do will be of a necessitous character to meet maturing obligations or compulsory expenditures. This tax will impose an additional burden upon those corporations which must necessarily acquire new capital or refinance

existing obligations, and therefore will serve to retard our economic recovery.

Another section of the bill proposes a tax on the issuance of stock equal to 10 cents for each $100 par or actual value of stock issued by a corporation. There is a proviso that if the actual value is less than $100 per share the tax shall be 2 cents on each $20 of actual value.

This tax will tend to discourage the formation of new corporations and the development of new business enterprises. It is to my mind the least serious of the several taxes proposed as far as the security business is concerned, but I beg to remind you that our present business difficulties will necessarily require the formation of new corporations for the purpose of carrying out reorganizations. To penalize those businesses which have been overwhelmed by the present depression is, I think, unfair. To penalize the formation of new corporations whose activities can assist us in recovering from the present disaster is obviously unwise.

May I now turn to the section of the bill which imposes a tax of 10 per cent on the amount paid to any telegraph or telephone company for leased wires? This tax imposed another burden on the security business. It has largely been through the telegraph and telephone facilities leased by persons engaged in the brokerage or financial business that the United States has become the financial leader of the world. We to a far greater extent than any other country have made use of the facilities for rapid communication afforded by our telephone and telegraph companies. By means of leased wires almost instantaneous news of financial events has been communicated to all parts of the country, and a person in a remote section is placed on a parity with a man in New York when he decides to buy or sell securities in that market. To tax these securities as if they were a luxury may force their abandonment.

I am advised that the total amount of revenue which the Government can expect from this source will be negligible. If this is true, as I am assured it is, it would be most unwise to impose this tax, which will destroy facilities that have been a constructive force in the development of American business.

Senator WALSH of Massachusetts. How many of these leased wires are there in the country?

Mr. WHITNEY. I can not tell you as to the wires, sir; but as to the figure, I think it is in the neighborhood of $18,000,000 a year.

Senator WALSH of Massachusetts. What would that represent in tax?

Mr. WHITNEY. A million three hundred thousand.

Senator REED. Just another burden on the people who live at a distance from New York?

Mr. WHITNEY. Exactly.

In the existing revenue act there is a provision which exempts from the tax on the sale or transfer of stock certificates which are delivered as mere loans of stock. The pending bill eliminates this exemption. The report of the Committee on Ways and Means of the House of Representatives stated that this change was made because stocks were loaned primarily to facilitate short selling. This is not so. Stocks are loaned, or rather borrowed, for many

purposes; and I can not help feeling, in making this change, the House of Representatives thought it was imposing a penalty upon short sellers, whereas in fact it imposed a penalty not only on short sellers but also upon all persons who for any reason are unable to deliver their stock certificates as soon as they have made a contract of sale. That is in line with Senator Harrison's question.

If a person who is not a resident of New York City desires to sell stock which he owns and gives an order to his broker, the sale may be executed the same day and the stock will have to be delivered in New York the next day before 2.15 in the afternoon. This, of course, is impossible if a person resides at any distance from the New York market.

In the past the New York broker, being assured that the stock was in transit to him, was willing to borrow from other brokers an equivalent amount of the same stock and deliver it on the contract of sale, so that his client could secure the benefits of the New York market.

Under the pending bill this borrowing will be a taxable transaction, and naturally the amount of the tax bill will have to be borne by any seller who resides away from New York City. I can not believe that this was the intention of the framers of the bill.

Furthermore, stock is borrowed for many other reasons. Under the rules of the exchange stock registered in the name of married women, corporations, and trustees does not constitute a good delivery, because there is no way of immediately making certain that the owners of the stock have a complete legal right to transfer it.

In all of these cases it is necessary for the broker to transfer the certificate into a street name before he delivers it on a contract of sale. The process of transfer takes from one to two days.

It often happens, therefore, that it is impossible for the broker to make the delivery before the contract matures. He, therefore, borrows stock to carry out his customer's order. All of these different types of investors will be forced to pay two taxes instead of one by the new bill.

Senator WALSH of Massachusetts. It is a fact that the New Yorker who can deliver his stock before 2.30 o'clock the following day would not have to pay but one tax?

Mr. WHITNEY. So that he had it in his brokers hands so that the broker might deliver it against the contract before 2.15, the answer is "yes."

Gentlemen, before concluding I wish to stress one or two points which, to my mind, are fundamental. I know it is popular to imagine that taxes on security transactions are aimed at brokers. As a matter of fact, these taxes are never paid by brokers. They are paid by the investors. And by that I mean the millions of owners of securities. Far from being legislation which will bear directly upon a small and special class, these taxes will burden the twenty or more million citizens of the United States who own securities of some kind or other. These are the people who will be most conscious of how unfair the proposed tax really is.

Furthermore, I am firmly convinced that the imposition of the drastic taxes contained in the pending bill will seriously curtail,

if not destroy, our security markets. Without a broad and active market securities will become illiquid. This in turn will not only prevent investors from selling the securities which they own, but will also seriously affect our banking system, which to a very large degree has made loans upon security collateral, and will prevent American industry from acquiring new and very necessary capital by security issues. The result inevitably will be the liquidation of securities and declines in prices. This very process has actually been taking place ever since the public became aware of the provisions of the pending bill.

I can not help feeling, therefore, that destructive taxes on securities are a long step toward further continued deflation.

Senator HARRISON. May I ask you one question: Suppose the House bill in its present form should pass. Is it your opinion that it would influence in the slightest bootlegging in stocks or give rise to bucketshops?

Mr. WHITNEY. I certainly do, sir, because bucketshops do not purchase and sell stocks; they trade in differences with their customers.

Senator HARRISON. They do not actually transfer the stocks?

Mr. WHITNEY. Not at all. They do not even buy them. So that there would be no possibility of arriving at a tax there, and I think it would grow up.

Senator GEORGE. It is purely margin transactions?

Mr. WHITNEY. Yes; and the smaller the margin the better for the bucketshop, so that the customer may be wiped out.

Senator GORE. You said a while ago, Mr. Whitney, that certain bonds just live from hand to hand, not registered bonds. Have you any way of estimating or guessing the proportion between the registered bonds and the nonregistered bonds?

Mr. WHITNEY. No, Senator Gore; but I would not think that of the issues I referred to 5 per cent are registered.

Senator GORE. This, however, would bring about a reaction against the registered bonds where there was evidence of transaction?

Mr. WHITNEY. It might well.

Senator REED. There is a prejudice against them now that is expressed in the market prices, is there not?

Mr. WHITNEY. There is a prejudice; yes, sir.

The CHAIRMAN. We thank you.

Mr. WHITNEY. Thank you, Senator.

Senator WALSH of Massachusetts. Mr. Whitney, before you conclude, there are a large number of banks in liquidation now, are there not?

Mr. WHITNEY. I believe so.

Senator WALSH of Massachusetts. And will they not be obliged to put their stocks and bonds on the market immediately?

Mr. WHITNEY. Yes, sir.

Senator WALSH of Massachusetts. In order to convert their assets into cash?

Mr. WHITNEY. They will, I presume, be obliged to put them on the market. When, I do not know, naturally. Yes, sir.

Senator WALSH of Massachusetts. What effect will this tax have upon the cost to the depositors in diminishing their dividends?

Mr. WHITNEY. The result would be costly to the depositors because of the various reasons I have cited. I think it would make the bond market even worse than it is to-day.

Senator REED. And the tax would ultimately fall on them?

Mr. WHITNEY. Exactly, and upon no one else. Thank you, Senator.

LETTER OF RICHARD WHITNEY, NEW YORK, N. Y.

NEW YORK STOCK EXCHANGE, *April 18, 1932.*

Hon. REED SMOOT,
Chairman Committee on Finance,
United States Senate, Washington, D. C.

DEAR SENATOR SMOOT: At the hearing last Friday I was asked to secure certain information. I have had this prepared and now submit the following in duplicate:

(*a*) A table showing the number of stocks listed on the New York Stock Exchange and also the aggregate number of shares of these issues. I have also had these subdivided so as to give the same information with regard to the stocks of United States enterprises as opposed to stocks of foreign corporations. The same tabulation also shows the number of bond issues and the par value of bonds, subdivided into various categories.

(*b*) A tabulation showing the relative rates of taxation in terms of cents per share in the United States, under the proposed House tax bill, in Quebec, Canada, Ontario, Canada, and London, England.

(*c*) A tabulation showing the rate of commissions on the New York Stock Exchange from 1912 to date.

(*d*) A tabulation showing the rate of commissions on the so-called inactive stocks since trading in such issues was permitted in 1926.

I also inclose a copy of the constitution and rules of the New York Stock Exchange.

Faithfully yours,

RICHARD WHITNEY, *President.*

Stocks listed on the New York Stock Exchange as of April 1, 1932

	Number of issues	Number of shares
United States stocks	1,243	1,268,008,222
Foreign	26	46,150,540
All stocks	1,269	1,314,158,762

Bonds listed on the New York Stock Exchange as of April 1, 1932

	Number of issues	Par value of bonds
United States, National, State, and municipal government bonds	63	$15,158,787,132
United States corporate bonds	1,160	18,183,915,148
Total United States bonds	1,223	33,342,702,280
Foreign national, State, and municipal government bonds	212	16,410,253,074
Foreign corporate bonds	156	2,523,643,667
All foreign bonds	368	18,933,896,741
All bonds	1,591	52,276,599,021

Comparison of United States and foreign tax rates on stock sales

[Tax in United States cents per share; $100 par and no-par shares]

Tax classification	Price of stock	Market value of 1 share	Existing taxes in United States: Federal	Existing taxes in United States: New York State	Existing taxes in United States: Total	Proposed United States taxes (one-fourth of 1 per cent tax yield)	Combined proposed United States and existing New York State taxes based on one-fourth of 1 per cent
			Cents	*Cents*	*Cents*	*Cents*	*Cents*
Over $75 but not more than $150	$150.00	$150.00	2	4	6	37.5000	41.50
	100.00	100.00	2	4	6	25.0000	29.00
Over $50 but not more than $75	75.00	75.00	2	4	6	19.5000	23.50
	60.00	60.00	2	4	6	15.0000	19.00
Over $25 but not more than $50	50.00	50.00	2	4	6	12.5000	16.50
	30.00	30.00	2	4	6	7.5000	11.50
Over $5 but not more than $25	25.00	25.00	2	4	6	6.2500	10.25
	10.00	10.00	2	4	6	2.5000	6.50
$1 to $5	5.00	5.00	2	4	6	1.2500	5.25
	2.50	2.50	2	4	6	.0063	4.63
	1.00	1.00	2	4	6	.0025	4.25

Tax classification	Price of stock	Market value of 1 share	Canada Dominion tax	Quebec tax (Montreal exchange)	Canada Dominion plus Quebec	Ontario tax (Toronto exchange)	Canada Dominion plus Ontario	London contract tax (pound sterling =$3.50)
			Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*
Over $75 but not more than $150	$150.00	$150.00	4.0000	2	6.00	3	7.00	1.0500
	100.00	100.00	4.0000	2	6.00	3	7.00	.00700
Over $50 but not more than $75	75.00	75.00	3.0000	2	5.00	3	6.00	.00700
	60.00	60.00	3.0000	2	5.00	3	6.00	.00700
Over $25 but not more than $50	50.00	50.00	2.0000	2	4.00	3	5.00	.00520
	30.00	30.00	2.0000	2	4.00	3	5.00	.00350
Over $5 but not more than $25	25.00	25.00	1.0000	2	3.00	3	4.00	.00350
	10.00	10.00	1.0000	2	3.00	3	4.00	.00075
$1 to $5	5.00	5.00	.0025	2	2.25	3	3.25	.00075
	2.50	2.50	.0025	2	2.25	3	3.25	.00090
	1.00	1.00	.0025	2	2.25	3	3.25	.00090

NEW YORK STOCK EXCHANGE COMMISSION RATES, 1912 TO DATE

In 1912, and until October 13, 1915, the commission rate was one-eight of 1 per cent of par value, irrespective of price. Thus the commission rate per share was 12½ cents a share of $100 par stock, 6¼ cents a share of $50 par stock, 1¼ cents a share of $10 par stock, etc. As an exception to the above, the commission rate on mining stocks selling below $10 per share was 6¼ cents per share, and on those selling at or above $10 per share was 12½ cents per share.

On October 13, 1915, the basis for computing commission rates was changed from the par value (as above) to the market price. The rates adopted at that time, together with rates subsequently adopted are given below:

Sale price per share	Commission rate (cents per share): Oct. 13, 1915, to May 8, 1919	May 9, 1919, to Oct. 29, 1924	Oct. 30, 1924, to date
Below $10	6¼	7½	7½
At $10 or above, but below $25	12½	15	12½
At $25 or above, but below $50	12½	15	15
At $50 or above, but below $75	12½	15	17½
At $75 or above, but below $100	12½	15	20
At $100 or above, but below $125	12½	15	25
At $125 or above, but below $200	12½	20	25
At $200 or above	12½	20	[1] 25

[1] Plus 5 cents per share for each additional $50 or fraction thereof.

On December 27, 1922, the following rates were also adopted for stocks selling below $1 per share. On stocks selling at 50 cents but below $1 per share, 3 cents per share; and on stocks selling below 50 cents per share, as mutually agreed.

NEW YORK STOCK EXCHANGE COMMISSION RATES ON "INACTIVE STOCKS"

On June 10, 1926, certain stocks were designated as "inactive" stocks, and the unit of dealing was fixed at 10 shares instead of 100 shares. The original and subsequent commission rates on such "inactive" stocks are shown below:

Sale price per share	Commission rate (cents per share)	
	June 10, 1926, to Jan. 6, 1931	Jan. 7, 1931, to date
On stocks selling below $1	20	(1)
On stocks selling at $1 or over, but below $5	20	5
On stocks selling at $5 or over, but below $10	20	10
On stocks selling at $10 or over, but below $100	20	20
On stocks selling at $100 or over, but below $200	(2)	25
On stocks selling at $200 or above	(2)	(2)

[1] As mutually agreed.
[2] Same as for active stocks.

STATEMENT OF THEODORE PRINCE, NEW YORK CITY

Mr. PRINCE. Mr. Chairman and gentlemen of the Senate Finance Committee. I listened very carefully yesterday afternoon and heard a great deal of the claims that were made here by people who felt that unemployment would ensue through the imposition of these taxes. Coming from Wall Street of course I appreciate that the sun does not shine as favorably there as it may elsewhere, but still I felt, listening yesterday afternoon, that you gentlemen were here to pass upon and give due consideration to those claims which were sound.

Now we have as much trouble down in Wall Street as anybody. As much unemployment as anybody. I am not here to make any point on that question. Because, after all, it will only be through the fact of sound economics that we will be able to get out of this morass. Everybody is suffering from too much debt, and of course, the Government of the United States is not alone. And you gentlemen are here to try to make the overhead meet, which is the problem of business, and I, of course, appreciate it is a difficult one.

The question of this tax, therefore, seems to me is based primarily on the question of whether or not it is going to hurt industry and our financial structure. I am not so much concerned as to the question of profits. I am not urging that. I am simply asking the question, now that we have pursued the long, tedious, cruel past path of deflation—and I think we have reached the end of it—would it or would it not be wise to put a tax which I think is close to 50, 100, and perhaps 200 per cent, upon an industry—because, after all, Wall Street is an industry, say what you will, just as any other industry is. A large number of people down there work simply for a commission. And if you put a tax on that commission that, as I say, amounting to from 50 to 100 per cent—and of course since the overhead is fixed and the tax is there it may, as income diminishes, amount to 300 per cent or 400 per cent—what will be the effect of it? I am coming to that in a minute.

Senator HARRISON. Are you going to give us a substitute plan for this?

Mr. PRINCE. I have a thought, Senator Harrison.

Senator HARRISON. I wish you would give it to the committee.

Mr. PRINCE. At once?

Senator HARRISON. No, not necessarily, so long as you give it to us.

Mr. PRINCE. In other words, I want to lay stress on the fact that the liquidity of transactions in a free, open market is as important to the financial structure of this country as anything else.

For example, stocks and bonds represent one-third of the entire wealth of this country, which represents, I think, now at the vanishing rate to which it is going, something like three hundred and twenty-five or three hundred and thirty billions of dollars.

Now we did not inaugurate this system, and, modestly I may say I had nothing to do with it. Whether our forefathers did it or the people who built the Union Pacific and first offered stocks and bonds to the public I can not say, but nevertheless it is a fact that the financial system of this country is founded upon this liquidity and the free, open market which the United States of America now enjoys. And if you have any doubt about it you need only look at the figures to see that there are over six billion of stocks and bonds in the life insurance companies—I may be a few hundred thousand dollars out of the way—four billion dollars or three and a half billion dollars in the savings banks and around five billion dollars in collateral loans in the banks. And mark you, gentlemen, that on a certain day in October there were 16,000,000 shares traded in on the New York Stock Exchange, which was 32,000,000, because they were bought and sold, which in those halcyon days represented about $3,000,000,000. Now if that had been liquidated, half of it, a third of it, a quarter of it, in any other commodity you would have had a panic. As it was there was a stable salable market.

Now therefore I simply wish to impress the fact upon you that the method by which you make markets in the Stock Exchange is an absolutely fundamental basis on which we are now doing business. If you gentlemen wish to change it why of course that is another matter. I simply feel that from that point of view—and of course it is not my purpose here to give any suggestion to you honorable gentlemen—that I would have a more direct and careful inquiry as to whether the methods should be change, and not this indirect way of taxing something which does seem to be somewhat under the stigma of the United States.

Of course everybody is sore. Well, who would not be? It can not be helped. The tide is out, and when the tide is out everything sticks out—whether it is an old broken bottle or a tin can or an old ship that sticks out like a big jib boom on a small schooner—and even the sound ships are lying there with the tide out; they can not do anything.

Senator HULL. Mr. Prince, if it will not interrupt you, in that connection I want to ask you: What has been the amount of deflation of stocks listed on the New York market since the break occurred in October, 1929?

Mr. PRINCE. Well, Senator, as roughly as we can figure it, it was close to $83,000,000,000. It is now about $22,000,000,000.

Senator HULL. That makes around $60,000,000,000, not including the curb and not including the bonds?

Mr. PRINCE. Not including any other exchange.

Senator HULL. Nor any other exchange in other parts of the country?

Mr. PRINCE. That is correct, sir.

Senator WALSH of Massachusetts. What has been the deflation of bonds?

Mr. PRINCE. Well, I will tell you, Senator, it is going so darn fast I can not tell you.

Senator HULL. It is around $10,000,000,000, is it not?

Mr. PRINCE. I made a table of the depreciation that took place in American bonds against foreign bonds. I have not got it here, but it was printed in the papers. It was 80 per cent in American bonds as against 50 per cent in foreign bonds. In doing that, of course, I did not include the high grade bonds. I took the second grade railroad bonds, which to my humble point of view have been not guaranteed, but the Congress has said that they should earn 5% per cent, and they are not earning anything. And bonds that were floated at 92 a year ago are selling at 14. And, for heaven's sake, who bought them? The finest bankers and financiers in the country. It is not my business to tell you the names. But I know that the finest and most learned and experienced people in the country bought those bonds at 92 and still have them.

Senator REED. You are speaking of Wabash 5s?

Mr. PRINCE. I happen to be speaking of Frisco 4½s. The Wabash 5s, unfortunately, are even worse. I rang up one of the big institutions and said "What is the matter with this road? Is it going to fail?" He said, "Nonsense. The Government won't let the Wabash fail."

Now another thing. Wall Street seems to be charged with gambling. Now will I be considered out of place—because after all if you are sore at a thing you want to tax it, and if you think it is wrong you want to tax it. Now naturally if you think speculating is gambling you are going to tax it. But surely if I bet on a horse race nothing has happened. If I take 5 cents and buy 5 cents worth of peanuts, and another fellow takes 5 cents and buys 5 cents worth of peanuts, and another fellow buys a dollar's worth and speculates on it, in the ordinary course of business something is going to happen. If every man in India bought a cupful of wheat and speculated on it the problem of wheat would have been solved. As a matter of fact what happened in India was that the East Indians started to speculating in old silver rupees, they gave gold for them and they released their hoarded gold. If that had happened a year ago I doubt if England would have been forced off her gold standard. So that speculating and gambling are two different things.

Whether I buy 1 share of stock or 10,000 shares of stock I am setting in motion economic forces. If I buy $2,000,000 of Liberties at 2 points margin, am I speculating or investing? If I buy 5,000 shares of mining stock and put it away, am I speculating or investing?

The CHAIRMAN. Your 10 minutes' time is up, Mr. Prince.

Senator WALSH of Massachusetts. The Chairman is getting nervous. You had better give us your proposal.

Mr. PRINCE. I have here a table showing that according to this tax you would raise the tax on these transactions from 200 to 400

per cent, and in another way you would raise them from 50 to 1,250 per cent.

Now it was merely my suggestion that you put a tax, for example that in place of the proposed tax, you impose a tax of 1 cent a share on all stocks up to a selling price of $25 per share, 2 cents a share on all stocks up to $50 a share, 3 cents a share on all stocks up to $75 per share, 4 cents a share on all stocks up to $100 a share, 5 cents a share on all stocks up to $125 a share and so on. This will equitably distribute the burden and not as under the proposed bill before you, impose a tax as the table shows, that would be a 50 per cent to 100 per cent tax on present commissions. I propose the same tax on convertible bonds only, which contain an element of speculation and could therefore more readily stand the burden than bonds representing a fixed obligation only, bought by investors only, and should therefore not be taxed. Convertible bonds are convertible into stocks at a fixed or scale rate and have therefore a speculative element.

May I file a supplemental brief?

The CHAIRMAN. We would be glad to have you file a brief, and it will be printed at this point.

Senator HARRISON. Can you elaborate a little bit on your suggestion in the brief that you are going to file?

Mr. PRINCE. I will do so.

Senator HARRISON. So that we can read it in the record. Give your substitute plan.

Mr. PRINCE. I will do that.

SUPPLEMENTAL BRIEF OF THEODORE PRINCE

Nobody can question the fact that this tax will seriously retard and diminish the velocity and number of operations on the stock exchange. If the framers of the act look with disfavor upon such operations it is only natural they should seek to lay as heavy a tax as possible upon these transactions.

As much has been said on this subject, I am not going to go into a long argument on the necessity of liquidity of stocks and bonds nor its importance as a foundation of our financial structure. I would like to say, however, that the estimated wealth of this country at the end of 1930 was $400,000,000,000 and in 1931, $360,000,000,000. The estimated amount of money to-day invested in bonds, including municipals and Governments, was $81,000,000,000, and the amount invested in stocks around these prices is approximately $50,000,000,000, which makes $131,000,000,000. In 1929 probably this estimate was some $70,000,000,000 higher but it is fair to say that making due allowance for the difficulty in estimating securities not listed on the exchange that the amount of stocks and bonds represent fully one-third of all the wealth of this country. Whether for better or worse, we have made more rapid strides in our industrial progress than any other nation on the face of the globe. That this is due to the modern method by which our pivotal industries secure money by the issuance of stocks and bonds, ownership of which is now held in this country by some 20,000,000 people, seems to me to be so clear that further arguments are unnecessary.

The successful flotation of such issues ultimately depends on the ease with which such issues can be liquidated without delay and without any sacrifices in price. It follows, therefore, that the collateral loan feature has become more prominent in this country than in any other, as can be judged by the fact that at present there is about $5,000,000,000 of collateral loans in banks, and in 1929 with brokers' loans there must have been over $14,000,000,000. It is estimated that savings banks held, as of June 30, 1930, $3,719,566,000 in stocks and bonds; life-insurance companies as of December 31, 1931, $6,658,000,000 in stocks and bonds; and national banks as of December 31, 1931, held in stocks and bonds $5,837,461,000. The ability to liquidate these securities held in collateral loans or otherwise without delay or sacrifices of price is of primary importance to our well being. The rapidity of transactions on the floor is a vital part of that process, and I will not take up your time to go further into that question, as I think it

must have already been made clear to you. In a measure, the facts speak for themselves in that this country has drastically liquidated during the past two and one-half years all stocks and bonds for sale, so that the situation has become liquid and the factors toward improvement can now make themselves felt without hindrance. Unfortunately, this can not be said of wealth that has been represented by other forms, which has not had the benefit of the free, open, and liquid market that the stock exchange enjoys. The best example of liquidity was represented on the floor of the stock exchange in October, 1929, when 16,000,000 shares were sold in one day in a continuously liquid and salable market; such an amount represents the transfer of twice that amount and involved a sum close to $3,000,000,000. The entire world poured its stocks and bonds on the New York Stock Exchange and got good American dollars therefor, the next day, whether London, Calcutta, or Shanghai. They tried it again in September, 1931, when England went off the gold standard and they still got their good American dollars. They seem now to be trying to break our American dollar and if this tax passes, you will help them, rest assured. For they will not keep their $2,000,000,000 estimated of American securities with the market for such securities endangered and impaired. Every dollar sold here represents a dollar of gold that can be withdrawn.

If one-sixth of this amount of $3,000,000,000 were sold in grains, metals, or bonds in any place other than on the floor of the stock exchange in one day, there would have been, in my opinion, a panic, and it would have been absolutely impossible to find buyers. Forms of wealth that have no such favored form of buying and selling have suffered much worse than our securities. Real-estate values have dropped in such sheer descent that no opportunity for liquidation was possible. Accordingly, this form of wealth, including first mortgages, is now absolutely frozen and will seriously retard our recovery. Therefore, what I would like to emphasize is that any tax in the form of a brake on the amount of transactions that take place on the floor of the exchange is a direct blow to the rapidity with which we may recover our industrial well-being and must also retard our national development.

Again, I point to this tax as indicating the disfavor with which the transactions on the floor of the stock exchange are viewed. Much has been said about gambling in stocks. Unfortunately, in my humble opinion, this is a very unfair and misleading use of terms. To gamble is to risk the change of ownership of property upon the mere happening of a fortuitous event. If I bet on a horse, I have in no sense aided the industrial development of any business industry or productive process. If, on the contrary, I should speculate on buying up fertilizers, I am engaged in an economic process that is bound to have its effect somewhere in our industrial activity, no matter how infinitesimal. If people think wheat is cheap and that money can be made by buying it, the entire world-wide grain situation is profoundly affected. If, as a result, the price of wheat ascends the fortunes of farmers will be immediately and intimately affected.

If the natives of India speculated in wheat, even to the extent that each would purchase but a cupful, our entire wheat problem would be solved in a twinkling. As a matter of fact, the native speculation in the silver rupee has caused them to bring out hoarded gold and has vastly improved the situation of Great Britain. Had this happened six months ago, Great Britain may not have been compelled to abdicate her financial supremacy. If we had not speculated in stocks and bonds the Union Pacific would never have been built, welding the east and west. If King Ferdinand and Queen Isabel had not speculated, Columbus would not have found a new world, and we do not know when America would have been discovered. The fact that speculation is abused is a mere characterization of the human urge that is likely to be carried to excess. Further, if a person should buy $1,000,000,000 worth of Liberty bonds on a 2-point margin, one could not say he was gambling. One might say he is not investing but speculating. If speculation thus started in Government bonds, the entire financial situation would be affected. Again, would a person buying 10,000 shares of mining stock at $2 per share, and paying for it outright, with the intention of putting it away, be investing or speculating? The present tax is bound to have a very important influence on the attractiveness of American securities abroad. In my opinion it is very likely to break down that form of operations called arbitrage, which accounts for the purchase of the 25,000,000 shares in 1931 and the $25,000,000 worth of bonds, which turnover consists of buying securities here and selling them, mainly, abroad, after the market closes here. Naturally, with this tax the spread will have to be larger. The larger it is the less operations will take place and the less operations take place the less reliable the market will be. In

other words by this tax we are likely to relinquish our advantage in the international markets which we now possess by the liquidity and the closeness of our markets.

For example, if steel closed here at 34¼ the other side trades in their day in a market at 33¾-4¼ and with this tax, the spread will possibly multiply four or five times so that the market is likely to be 34½. Now, as the spread widens, the risk increases. Accordingly, the operator on the other side is likely to make his market 33¼-35¼. Foreigners, therefore, are likely to liquidate their holdings of all American securities, owing to the difference that will now take place owing to this tax in the character, stability and closeness of the market here. For example, Holland has no tax on trading or buying and selling securities by their nationals. As a consequence, Amsterdam has become the most prominent market for securities in that continent, despite its limited financial resources, incident to so small a country.

The point I wish to emphasize is that transactions on the floor of the exchange are all part of a vital and important economic function, whether they be for speculative or investment purposes and can not in any sense be called gambling. From this point of view, therefore, and in defense and justification of the transactions that represent the purchase and sales of securities, whether it be on margin or otherwise, I would like to take up the question of the transfer tax.

At present there is a 4-cent State tax on stock, or $4 per 100 shares of stock, and an additional 2-cent tax or $2 per 100 shares, imposed by the Federal Government, making $6 in addition to the regular commission. I have drawn up a table showing certain relations as indicated on the annexed tabulation. It will thus appear that the proposed Federal tax as per columns 2 and 3 increases the percentage of the proposed Federal tax to that now existing in relation to the commission charged from 26⅔ to 53⅓ per cent and from 8 to 100 per cent. Under column 4 it shows that the proposed Federal tax runs from 200 per cent of the present Federal tax to over 1,200 per cent. Under columns 5 and 6 it shows how the proportion of the present total Federal and State taxes to commission will be increased by the proposed Federal tax from 80 to 106⅔ per cent and from 24 to 116 per cent. In column 6 it also shows the percentage of increase of the total of the proposed Federal tax and present State tax to the total of the present Federal and State taxes, runs from 133⅓ to 483 per cent.

Price	1 Commission on sale 100 shares	2 Per cent of present Federal tax to ($2) to commission on sale	3 Per cent of proposed Federal tax (¼ per cent to $4 minimum) to commission on sale	4 Per cent of proposed Federal tax (¼ per cent to $4 minimum) to present Federal tax ($2)	5 Per cent of present Federal and State tax ($6) to commission on sale	6 Per cent of total proposed Federal tax (¼ per cent to $4 minimum) and present State tax ($4) to commission on sale	7 Per cent of total proposed Federal tax (¼ per cent to $4 minimum) and present State tax ($4) to total present Federal and State tax ($6)
$1 and above but under $10	$7.50	26⅔	53⅓	200	80	106⅔	133⅓
$10 and above up to $16	12.50	16	32	200	48	64	133⅓
$20	12.50	16	40	250	48	72	150
$25	15.00	13⅓	41⅔	312½	40	68⅓	170
$30	15.00	13⅓	50	375	40	76⅔	192
$40	15.00	13⅓	66⅔	500	40	93⅓	233⅓
$50	17.50	11	71	646	34	94	276
$74	17.50	11	105	954	34	128	376
$75	20.00	10	98⅔	937½	30	113⅓	379
$99	20.00	10	123⅓	1,237½	30	143⅓	479
$100	25.00	8	100	1,250	24	116	483

NOTE.—All Federal and State taxes figured on basis of 100 shares, namely, 2 cents a share or 4 cents a share, means $2 a hundred shares and $4 a hundred shares, respectively.

If a person buys 1 share of stock, 1 bushel of wheat, 1 pound of copper, he is setting in motion forces that can have an important bearing on the industrial and economic situation. It is certainly far different than betting on the happening of some event which can have no influence whatsoever on our industrial

life. Not only does this onerous tax indicate that Congress looks with disfavor on the transactions that take place on the exchange, but also indicates they wish to prevent short selling. The tax would be double in the case of a short sale, first by a tax on the sale and then by a tax on the borrowing. There is much that can be said on this subject that might influence you gentlemen, but I believe that question is not before you now. I feel this tax is passing judgment in advance on the question of short selling that is subsequently to come before you and on which you will give a great deal more time and consideration than you can now give to it in view of the now pressing tax emergency. It is my opinion the subject deserves mature and careful consideration.

Surely if these transactions are to be encouraged and are to be considered as necessary and beneficial to our industrial structure, the reasons for such onerous and heavy increases do not seem to be clear. Such taxation can only be supported on the theory that it is the purpose of Congress to lay a heavy hand on the transactions that take place on the floor of the exchange by the investor and speculator, who is outside of the exchange and desires to acquire an interest in the stock of the pivotal interests of this country. Is there any reason why the investment trusts of this country should be so penalized?

The tax on bonds does not seem to me to be justified in any sense as from what I have said above, the markets for the new issues that are to be floated should be encouraged, and any tax can only seek to retard and impair the efficiency and success with which these important issues can be distributed to investors. Exhibit A annexed gives such flotation for the past 12 years. It indicates how 1929 served the country in at least raising money by issuing stocks without increasing the bonded indebtedness. The table also shows that we have issued less securities in 1931 than in any year since 1921. Even in 1920 we issued over $100,000,000 more than in 1931. In conclusion the worst phase of this tax seems to be in the inability to gage the revenue to be derived from it. No one can tell to what extent transactions on the exchanges will shrivel up. So you are destroying important processes in our financial life with no commensurate gain. That hardly seems good finance.

	Bonds	Stocks	Total
1927			
Industrial	$1,614,400,000	$903,900,000	$2,518,300,000
Railroads	676,700,000	233,800,000	910,500,000
Public utilities	2,114,200,000	889,900,000	3,004,100,000
Foreign	1,357,000,000	75,800,000	1,432,800,000
Miscellaneous	1,050,900,000	544,800,000	1,595,700,000
	6,813,200,000	2,648,200,000	9,461,400,000
1926			
Industrial	1,206,600,000	875,900,000	2,082,500,000
Railroads	356,300,000	10,900,000	367,200,000
Public utilities	1,403,500,000	513,800,000	1,917,300,000
Foreign	1,014,000,000	66,000,000	1,080,000,000
Miscellaneous	876,200,000	256,500,000	1,132,700,000
	4,856,600,000	1,723,100,000	6,579,700,000
1925			
Industrial	980,600,000	805,900,000	1,786,500,000
Railroads	467,600,000	12,100,000	479,700,000
Public utilities	1,046,100,000	538,400,000	1,584,800,000
Foreign	1,221,000,000	25,400,000	1,246,400,000
Miscellaneous	889,900,000	322,400,000	1,212,300,000
	4,605,500,000	1,704,200,000	6,309,700,000
1924			
Industrial	721,700,000	266,300,000	988,000,000
Railroads	842,800,000	52,200,000	895,000,000
Public utilities	979,700,000	435,300,000	1,415,000,000
Foreign	1,099,000,000	2,100,000	1,101,100,000
Miscellaneous	543,300,000	84,100,000	627,400,000
	4,186,500,000	840,000,000	5,026,500,000

Total new capital issues:		Total new capital issues—Contd.	
1923	$3,600,700,000	1921	$2,024,700,000
1922	3,423,900,000	1920	3,106,000,000

NOTE.—From 1920 to 1923 source of data was different from that used in compiling new capital issues from 1924 to 1930.

STATEMENT OF FRANKLIN LEONARD, 25 BROAD STREET, NEW YORK CITY, OF LEONARD, CUSHMAN & SUYDAM

Mr. LEONARD. Mr. Chairman and Senators, my name is Franklin Leonard, 25 Broad Street, New York.

I wish to say a few words, not by way of argument, but just to state a few facts on behalf of the San Francisco Mining Exchange. The shares upon that exchange are all selling at an average of less than one-tenth of their par values. They are, of course, in that respect, like most of the stocks on the stock exchange and on the curb exchange. If the tax is made upon the par values, then on the same size trade the little fellow whose shares are selling at a very low price is compelled to pay ten times, sometimes twenty times, the normal tax.

I wish to make it clear that I am not speaking in any sense in connection with the remarks of the leading broker who has just addressed you and spoke for the Stock Exchange. But I want to remind you that when the first 2-cent tax was placed upon transfers of shares I did represent at that time the second largest market in the United States and five other stock exchanges. I represented the curb exchange then. And I pointed out to the distinguished Senator who was chairman of the Finance Committee, Senator Simmons, that if the committee made the tax upon the par values at that time instead of upon the market values, there were many shares—a great number of millions of shares of thousands of companies—that would be taxed entirely out of proportion. And I furnished schedules at that time. The Senator—if you will pardon me for referring to his remarks—said to me the night before that bill was reported out, "Mr. Leonard, I know you are right, but we have decided we must follow the policy of the State of New York."

Now, the State of New York made a test tax of 2 cents upon each share of $100. I happen to be the individual who tested that in the court of appeals through the courts of New York, and it was declared unconstitutional. And then it was provided that the tax should be levied upon each $100 of par value or fraction thereof. That helped some. That enabled many of our companies to recapitalize, to reduce their par values, and then be able to pay the tax.

But now, gentlemen, we have reached a situation where the question must come to your committee. Take a $10,000 trade in American Telephone & Telegraph. That means 100 shares of $100. The tax on that $10,000 trade in the State of New York was $2. Now it has been doubled and made $4. The tax for the Federal Government is $2. That makes $6 on that stock.

But if you take a stock like Consolidated Gas selling at $50 it takes 200 shares, Mr. Chairman, to make up a $10,000 trade, and therefore that tax at the present time on that stock is $4. If you double it, it is $8. And then the State of New York adds $8 to that.

Take North American selling at $25. A $10,000 trade requires 400 shares. Therefore the tax on North American at 2 cents is $8. Double it and it is $16.

If you take American Car & Foundry—I have selected the normal, natural stocks on the stock exchange to illustrate my point—it takes 2,000 shares of American Car & Foundry to make up a $10,000

trade, because it is selling at $5. The tax now is $40. Double it and it is $80.

And then, if you take Wabash Railroad, it takes 10,000 shares of Wabash at $1 a share to make up a $10,000 trade. And the tax on that now is $200 to the man that can not stand it. And if you double it, it makes a tax of $400.

Now, under those circumstances, gentlemen, I am not going to make any further argument, but I would like to submit that in my opinion, after a long experience representing, as I do and have for 20 years, more brokers in New York and San Francisco than any other attorney in New York—I want to say in that connection that my experience has been that if the Government must raise the money the thing to do is to make a tax that will result in its payment. You do not want to put a tax on the par values that will force everybody to go and change their par value from a dollar to 10 cents on the low-priced stocks. They can avoid the tax.

Now, just one word about the stock exchange. I believe that a tax of one-fourth of 1 per cent is a pretty high tax. But I do not believe the stock exchange will go to Canada or close if that tax is put on. At the same time, if you put on a tax of one-fourth of 1 per cent, you are putting such a tremendous burden that it will be impossible for men to trade, especially the floor traders will be unable to trade, and a large part of the business will disappear. You will throttle it by so high a tax. But if you make that tax one-eighth of 1 per cent, Mr. Chairman, and place that tax of one-eighth of 1 per cent upon every share without regard to the par value, but with regard to the market price, you will not only collect a fair tax from every share of stock but you will get more for the United States Government than you will under a much higher tax. And my brief suggests the tax at one-eighth of 1 per cent.

The CHAIRMAN. You can file that brief.

Senator SHORTRIDGE. Based on the market value?

Mr. LEONARD. Based upon the market value and not upon the par value. That is the only point that I wish to make.

Of course, the New York Times reported this bill, and I copied it from that, and I read it very carefully. It seemed to make a tax of 4 cents per share. That is not in the bill as I read it down here. If it were in the bill I am prepared to argue that that tax would be unconstitutional under 187 New York, page 8, and could not go as a tax on shares.

I appeared during the war for the capital issues committee and these matters came up at that time. We prevented the issuance of any securities except for an essential enterprise.

I think my time is up, gentlemen. I thank you.

Senator REED. I want to ask you a question. How can the transfer agent know what the sale price of the stock was at the time that it changed hands?

Mr. LEONARD. Because there is a bill attached to every share of stock when it is presented for transfer unless the individual presents a share of stock or a series of shares himself. That can be covered by an affidavit showing the price.

Senator SHORTRIDGE. What was the citation you gave us?

Mr. LEONARD. One hundred and eighty-seven New York, page 8. That was a court of appeals decision holding that you can not tax a black horse $10 and a white horse $2.

Senator HARRISON. You are elaborating your suggestions, and so forth, in your brief?

Mr. LEONARD. Yes, Senator.

Senator BINGHAM. Mr. Leonard, you just stated something about the fact that there was no 4-cent tax.

Mr. LEONARD. Minimum.

Senator BINGHAM. I find in section 723 the change from 2 cents to 4 cents, and the statement that the tax shall be 4 cents on the transfer or sale or agreement to sell on each share.

Mr. LEONARD. What page is that?

Senator BINGHAM. In this print it is page 270. It is section 723.

Senator REED. It is on each $100 of par value.

Mr. LEONARD. But that is upon each $100 of par value or fraction thereof. My brief has referred to the minimum tax of 4 cents simply because we were under a misapprehension on that.

Senator BINGHAM. It says also where such certificates are without par value.

Senator HARRISON. Four cents a share where the stock has no par value.

Senator SHORTRIDGE. You make that all clear in your brief, Mr. Leonard?

Mr. LEONARD. I made a very short brief because I did not want to take much time. It is quite clear. But the other day there was a trade made on the stock exchange at one-eighth. The total proceeds of 1,000 shares was $125. The tax on that, including the 4 cents of the State and 2 cents of the Federal, was $60. The commission was $50. And the proceeds after the payment of the tax and commission was only $15 out of the trade. It is almost confiscation.

I will put this memorandum in the record.

The CHAIRMAN. You may do so.

(Memorandum submitted by the San Francisco Mining Exchange is here printed in the record in full, as follows:)

MEMORANDUM SUBMITTED BY SAN FRANCISCO MINING EXCHANGE IN OPPOSITION TO THE TAX UPON TRANSFER OF STOCKS AS PROVIDED IN SECTION 732 OF H. R. 10236

SAN FRANCISCO, CALIF., *April 11, 1932.*

COMMITTEE ON FINANCE OF THE SENATE OF THE UNITED STATES,
Senate Office Building, Washington, D. C.

GENTLEMEN: We respectfully submit that the minimum tax rate of 4 cents per share on all shares, which has been attached to the tax schedule on sales of stock as passed by the House of Representatives, is unconstitutional. It is improper classification for taxing purposes. A tax upon shares which are well known to have widely different values becomes unequal because the same levy is made against property whether the same be worth $1,000, $100, $10, or 10 cents.

Furthermore, such a tax becomes confiscatory, particularly, when applied to the shares dealt in at the San Francisco Mining Exchange, and such confiscation, in whole or in part, results in the case of at least 90 per cent of the shares dealt in at this exchange.

The Court of Appeals of the State of New York has held such a tax unconstitutional. See People ex rel. Farrington, 187 New York, page 8, wherein are cited numerous decisions of the United States Supreme Court.

The tax schedule which establishes a rate of one-quarter of 1 per cent upon the sales price is so high as to result, in our opinion, in such a handicap to dealing that it will result in greatly decreased transactions in all stocks selling in

the higher brackets, while the minimum tax rate of 4 cents per share would absolutely preclude trading in any event.

We respectfully submit that if Congress finds it necessary to continue any tax rate upon the transfer of shares, such proposed rate should be reduced to at least one-eighth of 1 per cent upon the sales price and this percentage should be made to apply to all shares in accordance with the proceeds of the sale thereof.

The same general objection applies to a tax rate fixed upon the par value rather than the market value, as this becomes exceedingly burdensome to all shares selling at less than the par value. There are many stocks having a par value of $100, selling at $5 or less per share. There are many others selling as low as $1 per share. When taxes are levied upon the par value, the man who owns stock which has declined to $5 pays twenty times the tax levied upon the money involved in an equal trade in shares where the selling price is equal to the par value of $100 per share.

We believe that the proposal of the House to establish the tax upon a percentage of the selling price, rather than upon the par value, will bring greatly needed relief to a large number of holders of stocks which are selling at a mere fraction of the par value, and it is our belief that from the standpoint of raising funds from the transfer of shares, a large amount may be expected if trading and dealing is not throttled, and if a reasonable percentage basis, such as one-eighth of 1 per cent, is established upon the sales price rather than upon the par value.

It will be recognized that all shares selling under $10 per share are affected by the proposed minimum rate of 4 cents per share, which inflicts an additional tax over and above the normal proposed rate of one-quarter of 1 per cent, which doubles, trebles, and increases continuously as lower prices are met until the point of confiscation is reached upon the low-priced shares, such as those listed upon this exchange. To be more specific, in the case of stocks selling at $5 per share, the proposed minimum rate more than trebles the tax; on stocks selling at $1 per share the increase amounts to sixteen times the normal tax; on stocks selling at 50 cents per share, the increase amounts to thirty-two times the normal rate, and on lower priced stocks partial and total confiscation results.

We submit the following schedule to indicate the percentage of increased tax upon the sale price demanded on low-priced shares under the minimum clause of 4 cents per share over and above the high normal rate of one-quarter of 1 per cent as proposed.

100-share lot transactions

Price	One fourth of 1 per cent rate	4 cents minimum rate	Increase over one-fourth of 1 per cent	Per cent of sale price demanded
$10.00	$4.00	$4.00	$0.00	
10.00	2.50	4.00	1.50	Two-fifths of 1 per cent.
5.00	1.25	4.00	2.75	Four-fifths of 1 per cent.
1.00	.25	4.00	3.75	4 per cent.
.50	.12½	4.00	3.87½	8 per cent.
.25	.06¼	4.00	3.93¾	16 per cent.
.10	.02½	4.00	3.97½	25 per cent.
.05	.01¼	4.00	3.98¾	80 per cent.
.04	.01	4.00	3.99	100 per cent.

We respectfully submit that while the tax rate upon transfers of stock should, of course, be fixed upon the sales price instead of upon the par value, as at present, nevertheless, the percentage rate of the tax should be the same on all shares.

Respectfully submitted.

CHARLES E. HUDSON,
President.

Mr. LEONARD. And this was fully discussed, Mr. Chairman, in the New York Times, on the financial page, and also on the financial page of the New York Herald-Tribune. May I put these in the record?

The CHAIRMAN. Yes; you may put both of them in the record.

(The two articles appearing in the New York Times and the New York Herald-Tribune are here printed in the record in full, as follows:)

[The New York Times, Sunday, April 17, 1932]

A CONSTITUTIONAL POINT

All the furore over the proposed increase in the Federal tax on stock sales may turn out to be just so much wasted effort, in the opinion of Franklin Leonard of the law firm of Leonard, Cushman & Saydam. In a letter to Members of Congress he asserts that the proposed minimum tax of 4 cents a share is unconstitutional. It is understood that the attorneys for the New York Stock Exchange hold the same opinion. Mr. Leonard believes the unconstitutionality will be recognized by the Senate, a committee of which now has the matter under consideration.

BASIS OF HIS CONTENTION

Mr. Leonard raises the following points in his attack on the stock-tax feature of the House revenue bill:

The tax schedule establishing a rate of one-quarter of 1 per cent upon the sales price is permissible if applied to all shares. Probably that percentage rate is much too high and should be reduced to one-eighth of 1 per cent of the sales price; nevertheless, such a tax as one-quarter of 1 per cent made to apply to all shares should be recognized as the only proper method of taxing stock sales, namely, upon the market value and not upon the par value of the shares. The Court of Appeals of the State of New York has held a per-share tax to be an improper classification and therefore unconstitutional, and this decision follows the decisions of the United States Supreme Court upon the same point.

I forego argument, but submit the following schedule to indicate the per cent of increased tax upon the sale price demanded on low-priced shares under the minimum clause over and above the high normal rate of one-quarter of 1 per cent as stated.

Price	One-fourth of 1 per cent rate	4-cent minimum rate	Increase over one-fourth of 1 per cent	Per cent of sale price demanded
$16	$4.00	$4.00	.....	
$10	2.50	4.00	$1.50	Two-fifths of 1 per cent.
$5	1.25	4.00	2.75	Four-fifths of 1 per cent.
$1	.25	4.00	3.75	4 per cent.
50 cents	.12½	4.00	3.87½	8 per cent.
25 cents	.06¼	4.00	3.93¾	16 per cent.
10 cents	.02½	4.00	3.97½	25 per cent.
5 cents	.01¼	4.00	3.98¾	80 per cent.
4 cents	.01	4.00	3.99	100 per cent.

It must be recognized that there are millions of shares held by millions of citizens, namely, all shares selling under $16 per share and particularly those selling as low as $1 or less, upon which this minimum provision inflicts an additional tax which, in the case of stocks selling at $5, more than trebles the tax; on stocks selling at $1 per share, the increase is sixteen times the normal tax; on stocks selling at 50 cents per share, the increased tax amounts to thirty-two time such rate, and confiscation is seen.

Secretary Mills suggests a change to the par value, but why should a $10,000 trade in Anaconda selling at $5 pay twenty times the tax levied on $10,000 worth of American T. & T. if selling at $100. The tax should, of course, be fixed on the sales price but the percentage of tax should be the same on all shares.

[Herald Tribune, April 10, 1932]

FOUR CENTS STOCK SALES TAX

QUESTIONING THE CONSTITUTIONALITY OF PROPOSED LEVY ON LOW-PRICED SHARES

To the NEW YORK HERALD TRIBUNE:

The tax schedule on sales of stock, as passed by the House of Representatives, provides a high rate on sales or transfers, amounting to one-quarter of 1 per cent of the sale price, but the schedule further provides a minimum tax rate of 4 cents

per share on all shares. This latter provision is, in my opinion, unconstitutional, first, because it is unequal taxation, by levying a much higher percentage upon the low-priced shares, namely, those selling under $16 a share, and second, because it is absolute confiscation in whole or in part upon all shares selling at $1 or under.

I have this morning reviewed the total weekly sales, as reported upon the New York Stock Exchange and t' New York Curb Exchange in the Herald Tribune. I find that upon the curb exchange 358 issues, being 72 per cent of all transactions sold below $16 a share and are therefore subject to the increased rate provided by the minimum clauses. Upon the stock exchange 605 issues, being 60 per cent, sold at prices under $16 and were also subject to the minimum rate.

Kindly notice that during the last week a considerable majority of shares would be subject to the minimum tax rate of 4 cents a share, which results in an enormous increase over and above the high normal rate of one-quarter of 1 per cent approved in the proposed law.

This per cent of increased tax upon the sale price demanded under the minimum clause over and above the high normal rate of one-quarter of 1 per cent as stated, figures on 100-share lots as the unit of trading, as follows: On stocks selling at the price of $10 a share, two-fifths of 1 per cent, nearly doubling the tax; on stocks selling at the price of $5 a share, four-fifths of 1 per cent, more than trebling the tax; on stocks selling at the price of $1 the increase is 4 per cent, making the tax sixteen times normal; on stocks selling at 50 cents a share, 8 per cent, making the tax above the normal rate of one-quarter of 1 per cent thirty-two times such rate; on stocks selling at one-quarter or 25 cents a share the increase amounts to sixty-four times the normal tax, and, of course, upon any stock sold as low as 4 cents a share, there is complete confiscation of the proceeds, the tax being 100 per cent of the sale price.

It is my opinion that if the Senate fails to eliminate this so-called minimum tax of 4 cents a share from this schedule of the tax bill, such provision, which is palpably unequal taxation and plainly confiscation, will be declared unconstitutional when passed upon by the court. There is no doubt that this point will be drawn to the attention of every Senator, who should also be informed that the Court of Appeals of the State of New York has already passed upon and eliminated a similar unfortunate schedule originally included in the transfer tax law as adopted by the State of New York a number of years ago. Therefore this arbitrary so-called minimum 4 cents a share tax, which increases the tax levy on low priced shares (the lower the price the higher the percentage of tax on the proceeds of sale) until 100 per cent or absolute confiscation is reached, must be eliminated. If and when tested, this so-called minimum provision will be proved to be unconstitutional.

Suppose a man's capital is invested in shares selling at one-half, or 50 cents a share. Is there any justification for muleting him to the extent of 8 per cent of his principal in the event of sale when the normal tax as provided for all other shares selling at or above $16 per share is only one-fourth of 1 per cent? Carried further, if the price of the shares sold be unfortunately so low as 10 cents a share, the seller would be muleted to the extent of 25 per cent of his total capital before paying the New York State tax and the commissions in addition.

Therefore, I submit that such tax legislation must and will fail of its purpose, namely, to collect additional funds from the low-priced shares which are the least able to bear the burden. It is my opinion that a majority of the Senators, if given the facts, would eliminate the 4 cents minimum clause, but if they should accept and pass it, I am absolutely certain that the clause would be stricken out by the court as unequal and confiscatory taxation and unconstitutional.

There are millions of shareholders owning low-priced shares, listed and unlisted, who will be vitally affected by this unwarranted tax proposal.

FRANKLIN LEONARD.

NEW YORK, *April 4, 1932.*

STATEMENT OF W. D. GRADISON, REPRESENTING ASSOCIATED STOCK EXCHANGES, CINCINNATI, OHIO

The CHAIRMAN. Mr. Whitney has covered the subject pretty well. You may proceed.

Mr. GRADISON. My name is W. D. Gradison, Cincinnati, Ohio. I represent the stock exchanges in Hartford, Washington, Los Angeles, Cincinnati, Columbus, Cleveland, New Orleans, Baltimore, St. Louis,

Minneapolis, St. Paul, Detroit, Buffalo, and Pittsburgh. In addition I have been requested to speak for the Seattle, San Francisco, Richmond, Louisville, and Salt Lake City Stock Exchanges, the Colorado Springs Mining Exchange, and the New York Mining Exchange.

Last year, as a member of the taxation committee of the House of Representatives of Ohio, it was my duty to sit on the other side of the table and listen to witnesses for about three months. I realize, therefore, the tremendous task before you, and I will endeavor to make my remarks very short.

Coming from the Middle West I was surprised to learn that the impression in Washington seems to be that the one-quarter of 1 per cent tax on the sale of stocks and one-eighth of 1 per cent tax on the sale of bonds will affect only New York City. We find that this is not a fact, as there are over 30 stock exchanges located in all sections of the United States. The exchanges which I represent and their member firms are an important part in the economic life of their communities. It is their function to raise capital for the industries in their localities through the sale of securities. Thousands of companies are dependent solely on local markets to raise capital, as they are unable to compete in the large financial centers, and unless there is a market providing a fair degree of liquidity it will be almost impossible for the local security dealers to function. People have been educated to purchase only marketable securities, and if markets are destroyed it will be impossible for the smaller corporations throughout the country to finance themselves.

Many of our smaller mid-Western cities are dependent on one or two local corporations for their support, and the closing of these plants would remove the only means of livelihood of the people in those communities.

We are all interested in preserving the financial stability of our banks. Most of the banks in all sections of the country hold loans secured by stocks and bonds, which are used as secondary reserves. These loans provide excellent investments because of their liquidity, and in case of necessity they can be readily liquidated to provide cash. This tax will freeze these loans because of thinning markets that may result in further embarrassment to our financial institutions.

Throughout the depression security loans have provided one of the few bank investments giving safety and liquidity. Savings banks and insurance companies have invested billions of dollars in securities, and the freezing of these investments may have dire results on the depositors of savings banks and holders of life insurance. Such a result would be so far reaching that it would affect almost our entire population.

This tax will increase the present unemployment in the country. Further stagnation of security markets will force may brokers to close their offices. One authority estimates that 200,000 additional people will become idle. This will not only affect brokers in New York City but throughout the country. According to the last compilation of security dealers in the United States we find there are approximately 2,450 offices in New York City, and 7,510 outside of New York City, about a ratio of 3 to 1. Members of the

New York Stock Exchange have 1,057 branch offices located outside of New York City, which reach from coast to coast. In addition there are 2,428 nonmember correspondents connected by private wires. The business originating outside of New York City is estimated to be 50 per cent of the total volume of transactions on the New York Stock Exchange.

In addition let us add the volume of business done on the other exchanges, most of which originates in the locality of the exchange.

This tax, therefore, is one of national concern, and will result in the closing of thousands of security dealers' offices and additional widespread unemployment.

The closing of brokers' offices will be a severe blow to other businesses, such as telephone and telegraph companies, banks, and office buildings.

There are over 20,000,000 stockholders in the United States, and these people are vitally interested in this tax. Since this bill was passed by the House they have suffered a severe shrinkage in the value of their holdings, and if it becomes the law it is quite possible that they will suffer still further.

At the present time a stockholder has to pay his proportion of the corporation tax paid to the Government by the corporation of which he is a stockholder. Second, he is taxed on the dividends received from the corporation, and, third, he pays a transfer tax when he sells his stock. In addition to the taxes paid to the Government, he also pays either a tax on the income from his stock or on the property value to the State in which he resides.

A stockholder has for many years borne his fair share of taxes. Thank you, Senator.

The CHAIRMAN. Mr. Philip B. Weld, of New York City.

Mr. WELD. Yes, sir.

The CHAIRMAN. You want a couple of minutes, do you?

Mr. WELD. That is all.

The CHAIRMAN. Very well.

The CHAIRMAN. Mr. John Sherman Myers.

STATEMENT OF JOHN SHERMAN MYERS, VICE PRESIDENT AND GENERAL COUNSEL OF THE DISTRIBUTORS GROUP (INC.), NEW YORK CITY

Mr. MYERS. Mr. Chairman and gentlemen of the committee, I am the vice president and general counsel of the Distributors Group (Inc.), representing the largest fixed trusts in the country. I have also been asked to represent 15 additional organizations, the combined outstanding shares of which aggregate 85,000,000 shares—aggregate about 74,000,000 shares out of an estimated total of about 85,000,000 shares issued by all organizations.

I appear before the committee in opposition to the one-quarter of 1 per cent sales tax upon the sale of securities to protect these investors. These are people who are not traders or speculators, but people who have bought stocks in American industries because they feel that there are fundamental values there.

Mr. Whitney has presented the point of view not only of the security dealer but the investor. Consequently I am not going to

take the time of the committee to repeat all that he has said, but I have this short statement I desire to make.

These investors in fixed-trust shares, numbering approximately 1,000,000, will not themselves pay the tax, but they will most certainly be affected by it. They are not large investors, despite the fact that there are very large individual holdings of fixed-trust shares. The average investor probably holds about 85 shares.

Since the so-called fixed or unit type trust is a relatively new investment medium, I should like to explain at the outset that the investor in these shares is not a speculator nor a margin trader. He is one who believes in the future prosperity of America and believes that in order to share in the prosperity of his country he should buy for long-term investment an interest in a carefully chosen, predetermined group of common stocks which will provide him with such a full cross section of American industry that his investment must reflect the long-term growth of this country.

The investor in fixed-trust shares purchases this broadly diversified selection of common stocks for the clear purpose of holding them over a period of years. The stocks in which he obtains a direct interest are deposited in trust under a trust agreement with a large bank or trust company acting as trustee. The stocks are retained in the vaults of the trustee, untouchable except for their rightful owners, the investors.

By no stretch of the imagination can these stocks influence the short account. They can not be used to influence the day-to-day market action, since by the terms of the trust agreements discretionary substitution of stocks is not permitted, and eliminations of stocks from the portfolios are allowed only from the standpoint of long-term investment policy and for the purpose of safeguarding the investment quality of the group. Where such eliminations take place the proceeds from the sale of the securities are returned to the investors.

The proposed tax of one-quarter of 1 per cent on the sale price of stocks is injurious because of the effects it must have upon the markets of the country. These investors are men and women in the cities and in the small towns of every State of the United States, the people who have never seen Wall Street and to whom the New York Stock Exchange is little more than a name. These are the people who are the most desirable type of stockholder which any American corporation can have.

In order that you may have a clearer picture of who they are let me give you some facts concerning the distribution of the fixed-trust shares sponsored by the organization with which I am directly affiliated. There are, for example, 212,925 shares outstanding in the small city of Sharon, Pa.; 376,605 in Fort Wayne, Ind.; 52,605 in Terre Haute, Ind.; 317,230 in Grand Rapids, Mich.; 1,205,635 in Akron, Ohio; 385,915 in Little Rock, Ark.; 204,795 in Parkersburg, W. Va. In the State of Pennsylvania there are 4,733,299 shares; in Massachusetts, 1,020,860 shares; in California, 1,875,221 shares; in Indiana, 867,655 shares; and in Michigan, 653,005.

In order that the committee may better appreciate the significance of fixed-trust shareholders as a group, I am going to present certain pertinent figures which have never before been made public.

Distributors Group (Inc.), of which I am vice president and general counsel, is the sponsor of the largest of these trusts and has outstanding to-day 24,000,000 trust certificates representing a list of securities now deposited with and held by prominent banks under trust agreements creating these various trusts. I wish to call the attention of the committee to the investment caliber of the securities that are named. The market value of the total outstanding stocks of these corporations represents well over one-half of the market value of all common stocks listed on the New York Stock Exchange.

The stocks are as follows:

	Shares		Shares
Allied Chemical & Dye	2,000	Louisville & Nashville	18,000
American Can	15,000	National Biscuit	47,000
American Gas & Electric	2,000	New York Central	34,000
American Power & Light	5,000	North American Co	27,000
American Radiator & Standard Sanitary	63,000	Otis Elevator	47,000
American Smelting & Refining	2,000	Pacific Gas & Electric	32,000
American Telephone & Telegraph	34,000	Pennsylvania Railroad	36,000
American Tobacco (B)	34,000	Procter & Gamble	15,000
Atchison	34,000	Public Service of New Jersey	13,000
Borden Co	29,000	R. J. Reynolds (B)	29,000
Canadian Pacific	18,000	Sears, Roebuck & Co	27,000
Columbia Gas & Electric	64,000	Standard Brands	27,000
Consolidated Gas of New York	47,000	Standard Oil of California	23,000
Corn Products	13,000	Standard Oil of Indiana	4,000
Drug (Inc.)	13,000	Standard Oil of New Jersey	63,000
E. I. du Pont	50,000	Standard Oil of New York	18,000
Eastman Kodak	34,000	Texas Corporation	20,000
Electric Bond & Share	4,000	Union Carbide & Carbon	45,000
General Electric	79,000	Union Pacific	34,000
General Foods	13,000	United Fruit	18,000
General Motors	27,000	United Gas Improvement	47,000
Ingersoll-Rand	18,000	United States Steel	34,000
International Harvester	15,000	Western Union	20,000
		Westinghouse	34,000
		F. W. Woolworth & Co	45,000

The proposed tax will affect investors in the following three ways, I believe:

1. The volume of transactions which create liquidity on the New York Stock Exchange and on other exchanges throughout the country will be so seriously reduced that the free and open markets which have meant so much to investors in the past will be threatened with drastic curtailment, if not complete extinction. There will be wide spreads between the bid and asked quotations. There will be wide fluctuations between the various transactions as they occur, depending upon whether a seller who must sell has disposed of his holdings on the bid side or whether a buyer who wants to buy has bought at the asked side. The investor in fixed trusts, though these shares are not listed on the New York Exchange, will find that the value of his shares, because it directly reflects the minute to minute quotations of the underlying stocks, has lost its orderliness and is problematical at best.

2. The last of liquidity in the markets of the country will make all such holdings less desirable for loan purposes. Inability of lenders, secure by collateral, readily and surely to liquidate that collateral, will hamper the credit facilities of the country. Loans already in existence will freeze to an even greater extent than heretofore.

Many holders of fixed trust shares have been loaned money on their investments. Their shares heretofore acceptable collateral would suffer with all other securities. A further freezing of credit is not a cure for present conditions.

3. New financing or refinancing by corporations will become much more difficult, if not impossible, due to this same contraction of the country's markets. The great corporations, the common stocks of which are held by the trustees for the investors in fixed trusts will suffer with all other corporations of the country. Their efforts toward future development will be hampered, and they will be unable in many instances properly to care for pressing financial needs. Naturally their business will suffer. And apart from the interest of every American in the promotion of business and the return of prosperity, the fixed trust investor will see his interest in these corporations made less attractive.

The proposed tax upon the sale of securities is supported by some on the ground that it is a tax on Wall Street, perhaps feeling somehow that Wall Street is responsible for the depression and to tax it would be justified revenge. I hold no brief for Wall Street. But even though it were a tax against Wall Street, it could not help but militate against the millions of investors and producers of commodities, the people on whose shoulders the return of better conditions must rest.

I am not here to object to this tax on the ground that it will injure the business of every sponsor, dealer, and salesman who take part in the distribution of shares, though I am certain that it will.

Six thousand or more investment houses throughout the United States are to-day distributing fixed-trust shares to investors. These shares are often the only security that dealers are able to sell in sufficient volume to show them a profit for their activities. If this tax is imposed, it is safe to say that the results obtained by these dealers will be substantially reduced. More than 20,000 salesmen in every State in the United States will find it more difficult to earn the modest living they have found possible in this period of great depression. These dealers, in hundreds of towns and cities throughout the country, will gradually close up. Many of these 20,000 employees will join the ranks of the unemployed. Real estate now serving as offices for these dealers and salesmen will be vacated. Thousands of dollars of revenue by telephone and telegraph companies will be lost. The chain of cause and effect could be expanded and then expanded.

I can not believe but that all of these things have been or will be pointed out to the committee by those who will be directly affected.

The investor in fixed-trust shares has no false expectations. He does not expect some one to sell out his stocks for him before each break in the market. He does not expect that his investment will be shifted from one stock to another from time to time in order to reap the maximum stock-market profits. He merely expects profits resulting from long-term investment in American industry. That is not a far-fetched expectancy. I hope you will see to it, as his representatives, that nothing is done to deprive him of that expectancy.

Thank you, Senator.

STATEMENT OF CHANDLER HOVEY, 115 DEVONSHIRE STREET, BOSTON, MASS.

Senator SHORTRIDGE. State your name to the committee, and you may proceed.

Mr. HOVEY. My name is Chandler Hovey. I come from Boston. I am a member of a firm of bankers who are members of the New York Stock Exchange and have been for 10 years. Senator Smoot asked me to appear to-day, but, apparently, my name did not get on the list.

Senator SHORTRIDGE. We have it here, and you may proceed.

Mr. HOVEY. I am interested particularly, not from a selfish standpoint, but generally, in the one-fourth of 1 per cent stock sales tax.

Senator BINGHAM. You are speaking on what part of the bill?

Mr. HOVEY. The one-fourth of 1 per cent stock sales tax.

Senator CONNALLY. What section of the bill?

Mr. HOVEY. I do not know, Senator.

Senator CONNALLY. I will find it.

Senator SHORTRIDGE. Proceed.

Mr. HOVEY. I understand that this tax is expected to raise $75,000,000.

As an indication of what may be expected in the way of shrinkage in contemplated receipts, the State of New York received from stock transfer taxes in March, 1932, $173,000 less than in March, 1931, in spite of the fact that the tax had been doubled from 2 cents per share to 4 cents per share. This is, of course, without any of the shrinkage in transactions which would inevitably follow the imposition of the proposed one-fourth of 1 per cent stock sales tax. This proposed tax would greatly curtail the operations of the traders on the floor of the stock exchange. The feeling among many people in Washington seems to be that these traders are in the nature of leeches and are not necessary and that it would be, perhaps, even a good thing if they were eliminated. The fact of the matter is that they are indispensable where a good close market is desirable.

Senator REED. You are speaking of specialists, are you?

Mr. HOVEY. No, sir; I am speaking of a trader. The trader is a free lance that goes around and equalizes the acts of the Government, you might say.

The proposed sales tax on automobiles, trucks, stocks, bonds, and commodities are expected to yield $149,000,000. I have been told this. It is all very well to come to Washington to tell Senators and various people that we do not want a certain tax levied on us, because it is a hardship: that it pinches our toes, and we do not like it.

As a substitute for these taxes, all of which will have a restricting influence on industry, I would suggest the following:

There are 23,000,000 registered automobiles in the country. A tax of $5 on each owner would yield $115,000,000 and would impose no real hardship on anyone. There are 35,000,000 people with licenses to drive automobiles. One dollar from each of these would yield $35,000,000 and would certainly not be noticed by anyone.

In the Spanish War we had a 2-cent stamp tax on checks. I happen to be in a business which would be particularly hard hit by this tax as we draw many hundreds of checks a day, but I think it is an

excellent tax, and would advocate it very strongly. It is estimated that this would yield $95,000,000, or a total from these three sources of $245,000,000.

Canada has a graduated stamp tax, 2 cents on checks up to $50, 3 cents from $50 to $100, and 6 cents for all checks over $100. I am very sure that is right. I am told that and I am quite sure that is right. I know 6 cents for all checks over $100 is right, and I think the allocation of the others is correct. I think this is a little severe, but the fact remains that in Canada it is working very satisfactorily.

In 1929, out of 120,000,000 people in this country, 14,800 paid 65 per cent of the income tax. One million people paid 99½ per cent, leaving the other one-half of 1 per cent distributed over 119,000,000 people.

Out of the 48 States, five, namely, New York, Pennsylvania, Massachusetts, New Jersey, and Connecticut, paid 61 per cent of the income tax. The remaining 39 per cent was divided among 43 States.

The financial community realized at once that the tax bill as it came from the House would have a paralyzing effect on security markets and consequently on industry and business in general. The tired and discouraged security holders and institutions began to liquidate. As it became more and more evident that Washington was not going to make a heavy cut in expenditures and as the bonus question began to be discussed, the feeling of hopelessness gained momentum which naturally caused further liquidation.

European exchanges are high, which means they are selling dollars because of their lack of confidence in the dollar. I saw this morning that $20,000,000 in gold is being shipped to France, beginning last Friday, which is the start of a movement which stopped several weeks ago and is just resuming.

The New York Stock Exchange has become since the war the financial center of the world. Those running the exchange are men of the very highest integrity. They take the greatest pride in the institution as do the rest of the members, and it is their principal aim and ambition to run the exchange in the way which will reflect the greatest possible credit on the country.

In 1929 everyone was making money in their business and many of them invested part of their profits in securities, and the demand being greater than the supply, the prices naturally went up. The reverse is now true. People are making little or no money in their business and they are forced to sell securities to raise money for living expenses and to meet their obligations.

The average holding per stockholder in 28 of the leading securities listed on the New York Stock Exchange is 124 shares, worth at present market about $2,550. It is really substantially smaller than this as many investment trusts appear as a single stockholder while their stock in turn is owned by many hundreds of thousands of people.

It is customary and natural for American business men when they are prosperous to invest their surplus in whatever particular securities appeal to them. If a man happens to own a Buick he might very likely buy 100 shares of General Motors stock. Let us assume he did that for instance when the stock was selling as it did for a long time, between $80 and $90 a share. The earnings and prospects were

then bright. The stock is now $11. It is this type of person who has had confidence in the country and its institutions and who has had the courage to back up his confidence with real money who suffers most during the present period. If it were not for this type of individual the financing of our industries would have been impossible. Anything which is done to injure the market for his securities is indeed an injustice. He is entitld to far more consideration for his courage and confidence than the conservative whose lack of these qualities prompted him to invest his money in Government and other nontaxable securities.

I picked General Motors. I could have picked Anaconda, which at that time was selling at 150 and is now 5; or Radio, which was 110, a leader in the industry, and which is now 5; or New York Central, which was 270 or around that figure, and which now is 20.

If, instead of being content with this investment of $8,000, in General Motors stock, he had felt that he would like to buy, say, 20 shares of General Electric, and he didn't have the ready cash, he would quite likely borrow sufficient money on his General Motors to enable him to buy the 20 General Electric, which certainly seems like a perfectly praiseworthy thing to do. He now, however, becomes listed under the so-called margin traders. I suppose he also comes under the head of speculator and even stock market gambler. Many of these people have been greatly influenced by repeated assurances during the last two years from Washington that everything was all right and that prosperity was just around the corner, and that it was everyone's duty to buy. Needless to say they were practically all wiped out many months ago.

Some of them, by borrowing money on their life-insurance policies, drawing money out of the savings banks, and borrowing money from friends have been able to hold on. A period such as we are going through now, of course, is just the last straw for this type of individual. It is not clear to me why a person who borrows money on his securities is any worse than a person who mortgages his house. Of the two I should think the former was the more conservative and less open to criticism. The individual who mortgages his house, however, does not come into the above category of margin trader, speculator, etc.

It is all very well for a man to come to Washington and find fault with this and that tax because they happen to be a particular hardship on him. I hold no brief for the trade, but I do know that by largely eliminating him a great hardship is inflicted upon the whole financial community.

I might say that about two weeks ago the bankers in New York and Boston and Philadelphia were beginning to sell bonds, had sold several issues of bonds like Brooklyn Edison, $25,000,000 of them, or $25,000,000 of New York Edison bonds, and there were numerous other issues pending, which we were working on, which was to get money out of the banks and distribute it among the investors, which is certainly a very important and necessary thing to do.

The day that this tax measure came out of the House, that whole thing was cut off, just like that, absolutely, and there isn't a chance now of doing anything of the kind. I do not know what will happen in the future, but I am talking about the present. The only bonds

you can sell now are municipal bonds and Government bonds. The people are scared to death. They are buying those bonds and selling all other bonds, and the fact that municipal and Government bonds are selling is a bad sign.

Senator CONNALLY. If they are selling, somebody is buying.

Mr. HOVEY. Yes; somebody has got to buy when they sell, but at lower prices all the time. This proposed tax of a quarter of 1 per cent is a particular hardship on the small investor. That is rather complicated, but it is. He really has to pay a double tax, if he sells, because when he sells he has to sell to somebody who buys odd lots, as they say; then he in turn turns around and sells a round lot. He has to pay a tax on the round lot, and he has to make enough so as to let him out, and then the other man, the small fellow, has to pay a tax on the odd lot too, so he really pays a double tax. It is a particular hardship on the small investor, who is the person all over the country that we should and want to, I know, protect and help, because he is the backbone of the whole investment picture.

Financial houses and institutions have been pretty generally forced during this period to heavy wage cuts through the whole organization and substantial reduction of personnel. Most of them are losing money but have been making the greatest efforts to get through without further hardships on employees. I speak with feeling, because that applies very much to my particular case. The imposition of this tax would open up the whole wage problem again throughout the country with this type of institution. It would mean that many houses will be forced completely out of business, thereby automatically throwing all of their clerks out of employment as well as increasing the amount of idle real estate. In cases where the business continues, the only answer to this tax would be a substantial further reduction in wages and personnel. This is indeed a terrible thing to contemplate at this time, but it would be the inevitable result of the enforcement of this tax.

The short interest problem enters into this, and I have a short memorandum in here about it, and if you gentlemen are interested, I will read it.

Senator SHORTRIDGE. Have you it there?

Mr. HOVEY. I have it here. It will take me just about three minutes to read it.

Senator SHORTRIDGE. You might read it, if it does not take too long, otherwise you might have it incorporated in the record.

Mr. HOVEY. There seems to be in Washington quite a bitter feeling against the short interest. I never sold a share of stock short in my life, and I don't understand the make-up of a person who does sell short. However, the bear fills a certain important niche in the financial structure. He will sell when everyone else is so wild with optimism that they would not sell at any price. In the same way he will buy when everyone else is so panicky and short of money that they are much more interested in trying to hold on to what they have than in taking on any further commitments. At such times the short is perfectly calm and it requires no courage for him to buy as he doesn't have to worry about making a sale. It is lucky we aren't all doctors, or lawyers, or artists, or musicians, or bankers, or manufacturers, or politicians. We all have our particular place in

the picture, and this is as true of the bear as it is of any of the groups mentioned above.

From the 11th of September until the 7th of October last year, the stock market had a very severe, continuous, and unexpected break. It broke from what we thought were low prices. We had hoped that the fall would bring us better times, and right out of a clear sky this collapse came, for no apparent reason.

During this period the short interest shrank from 4,500,000 shares to 2,200,000 shares. In other words, the shorts bought during this period some 2,300,000 shares of stock or net purchases averaging about 100,000 shares a day. This buying naturally had a tremendously stabilizing effect on the market, and without it I hardly dare think what might have happened.

The short interest is really a tremendous reserve buying power which operates when it is most needed. The feeling among many people has been that conditions were terrible and let's do something to make them better. Fortunately the feeling among many people has been that while conditions were terrible, that the real danger was that they might become worse and this is why so many people, while they hold no brief for bears, do feel that that tremendous reserve buying power is an absolutely essential safeguard in case conditions do get worse, which I might say they are doing at the moment.

Personally, I should feel much more comfortable about the future if the short interest were twice as large as it is. Anything which would prevent the existence of a short interest would be dangerous beyond words. That cushion has already pulled us through many tight places and is prepared to do so again if not interfered with.

It is absolutely essential that corporations be able to raise money for expansion, maturing obligations, purchases of supplies, taxes, pay rolls, rents, etc. This contemplated tax would seriously interfere with their ability to accomplish this and thereby increase unemployment through all lines of

Senator SHORTRIDGE. the forest. What is a bear in the stock

Mr. HOVEY. Wh n the stock

Senator SHORT hat do yo ou say that, so that the com rstan

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Mr. HOVEY. is hi -up. optimist and you are an nd people a e bear is a pessimist. That appens to d of having light hair he may r it. So when people art optimistic and everyone is cheerful and happy and p, he always sees the

other side of the picture and says, "Well, they are not so good; they are not worth so much."

Senator SHORTRIDGE. He is a bull, is he?

Mr. HOVEY. No, the bull is the other side. We are all bulls, fortunately. We are bulls because we are optimists; because, I guess, we are normal. I don't know. It is expensive, anyway. There is one thing I want to say right there. We keep hearing about the raiding of the stock market. We read it in the papers every day. This is a little bit technical but it is exceedingly important. If a man comes into a broker's office and says, "I want to sell a hundred shares of American Telephone," he is asked, "Is this a short sale or is it not?" Presumably it is not a short sale.

Senator SHORTRIDGE. What do you mean by that? I want that for the record.

Mr. HOVEY. What is that?

Senator SHORTRIDGE. I want you to explain right there what you mean by that phrase.

Mr. HOVEY. A short sale?

Senator SHORTRIDGE. Yes.

Mr. HOVEY. A short sale is a sale a man makes, where he sells something he does not own. A bear will say, "Telephone is too high; I guess I will sell a hundred American Telephone." Then it is borrowed and delivered, and then he either buys it higher or lower, as the case may be.

Senator SHORTRIDGE. All right, proceed.

Mr. HOVEY. He gives an order to sell a hundred American Telephone, say. We assume this is a short sale, that a bear is making this transaction. That order is labeled "S. S." That is, short sale. No question about it. It goes on to the floor of the exchange. It is labeled short sale. The broker who sells it knows that it is a short sale. There are certain restrictions or certain rules that he has to abide by. It being a short sale, he can not treat that as an ordinary transaction. He has got to treat that as a short sale.

Now, let us assume that American Telephone is selling at 106 when he goes up there to sell it. He looks up at the board and he sees the last sale is 106. He offers American Telephone at 106. If somebody buys, that is all right; he is allowed to do that. If somebody does not buy it, he can not offer it below 106, as you must understand. If somebody comes along and sells a hundred American Telephone at 105¾, then he can offer his back at 105¾. But there has got to be a legitimate, actual sale at 105¾ before he can offer it. He may offer it at 105¾ and there may be no bidders at the time, but he can not sell it at 105½.

I have told that to Secretary Adams of the Navy—I know him intimately—but he does not understand it. I can find hardly anybody who understands that that absolutely kills raiding.

Senator REED. How long has that been the rule?

Mr. HOVEY. That has been the rule a great many months, Senator. I would not dare to say how many months.

Senator REED. Less than a year?

Mr. HOVEY. Yes; I guess less than a year, but it was made the rule as soon as this thing began to get troublesome.

Senator REED. The trouble with the stock exchange is that it is always performing that which is just about to be performed by somebody else.

Mr. HOVEY. No, sir.

Senator REED. The condition has been there for a good many years.

Mr. HOVEY. But it does not, Senator, enter into the question at the moment, and when we see in the papers in the morning repeatedly that the bears are raiding the market, that is an absolute impossibility and an absolute misstatement of the fact. We read it every day, but it is a misstatement. I wanted to bring that point out.

Senator CONNALLY. Have you been before the Banking and Currency Committee? They are investigating the short selling raiding now.

Mr. HOVEY. Have I?

Senator CONNALLY. Have you been before them?

Mr. HOVEY. No, sir.

Senator CONNALLY. You probably ought to go, because I think you can give them some information.

Senator REED. Mr. Hovey, it is very easy to see that the imposition of this additional tax is going to make the life of the trader and the specialist much more difficult. Have you heard of a new International Stock Exchange being incorporated in Canada?

Mr. HOVEY. No, sir.

Senator REED. Since this suggestion first came out in the House?

Mr. HOVEY. No, sir. I take no stock in it.

Senator REED. You take no stock in the rumor?

Mr. HOVEY. No, sir; any more than this billion-dollar raid which was going to take place on Saturday; absolutely no stock in it.

Senator REED. It occurs to me that if such an institution has been incorporated, it would show an expectation that America was going to lose a lot of business and that Canada was going to get a lot. Might not this tax have that effect?

Mr. HOVEY. Well, sir, I should doubt it. I do not know. I do not pretend to be able to answer that. I do say the trouble with the quarter of 1 per cent tax is that it hits right at the nerve center of the whole financing picture. It means that if the Telephone Co., as they will, want to sell stock, they won't be able to sell it as readily or at as high a price, which means that if they sell it at a lower price they have got to pay higher for their money, and it is going to cost the subscriber more.

Senator REED. If an odd lot is sold, it is further away from the market.

Mr. HOVEY. Yes, sir.

Senator REED. Would not the effect of such a tax be to encourage bucket shops to a great extent, where there is no real transfer and, consequently, no tax to pay?

Mr. HOVEY. Yes, sir; but bucket shops are illegal, and after a time I don't think they would get very far.

Senator REED. You think then that the effect of the tax would merely be to dry up trading?

Mr. HOVEY. Yes, sir. And I am sure, when I tell you that already New York by doubling the tax will lose money in March, that

is as good an indication as you have that the Government will never in the world get $75,000,000 a year out of this.

Senator REED. Between what periods would you make that New York comparison?

Mr. HOVEY. The month of March.

Senator REED. Last year and this year?

Mr. HOVEY. Yes. They just put it in.

Senator REED. It showed a reduction in the month of March as against what period?

Mr. HOVEY. A reduction in March, 1932, below March, 1931, in spite of the fact that the tax was doubled. You would assume that you would get twice as much money, but instead of that you get less.

Senator SHORTRIDGE. It reduced the revenue?

Mr. HOVEY. Yes, sir; by doubling the tax. Something like doubling the car fare; you might get less money, because fewer people will ride.

Senator REED. Other factors might have entered into it, however, such as a reduction in the volume of sales.

Mr. HOVEY. Yes, sir. But another very important factor which they do not take into consideration, which affects it, is that all of these stocks are going on a so much lower basis, so that the tax is not so much, because the tax is in proportion to the price the stock sells at.

Senator CONNALLY. This tax will only amount to 25 cents on $100 worth of stock.

Mr. HOVEY. Yes, sir.

Senator CONNALLY. Do you regard that as extremely burdensome?

Mr. HOVEY. On 100 shares of stock it is $25.

Senator CONNALLY. If they are worth par?

Mr. HOVEY. Yes.

Senator CONNALLY. But the stock that you cited was $11.

Mr. HOVEY. Yes, sir. But I am talking about a stock like Telephone, for instance, that sells around $100. The tax would be $25; and then the State of New York tax is $4. That makes $29.

Senator REED. The Federal stamp tax is $2, and then the broker's commisson is how much?

Mr. HOVEY. The broker's commission on that Telephone would be $20.

Senator REED. There is $51 in commission and tax.

Mr. HOVEY. Yes. But, of course, the trader is not interested in the commission.

Senator REED. But the general public is.

Mr. HOVEY. Yes, sir.

Senator CONNALLY. They are going to lose that, whether they pay this tax bill or not. But this tax itself would only be 25 cents on $100 worth of property. Do you think that would disrupt the stock exchange, whereas these other charges that you just mentioned are going on anyway?

Mr. HOVEY. It would for the trader. The trader acts as a middleman.

Senator CONNALLY. He gets it coming and going, doesn't he?

Mr. HOVEY. They don't get rich. They die very young.

Senator CONNALLY. He is going to make something out of it.

Mr. HOVEY. If he guesses right. If he buys and the stock goes up. Supposing we had 2,000 shares of New Haven to sell for a bank, or any other stock. If it were not for the trader we would not get anything like as good an execution as we do with the trader. The trader, if I may say, holds the bag, and then when that order is executed and somebody else comes in and wants to buy, he feeds it out to them and he closes up that gap. He makes the market.

I might mention an extreme case of how the market would be without the trader. In Boston the other day there was a sale of Boston & Maine preferred stock. There had not been a sale for some time. The previous sale was at 50. These 20 shares sold at 24, off 26 points. There were no sales between. Banks were carrying the stock as worth 50. Overnight everybody, all insurance companies, and everybody that owned that stock found out that because somebody sold 20 shares their stock, instead of being worth $50, was worth $24. There is a Simon-pure market without a trader and without short interest and without any kind of interest. That is the ultimate of what this thing is aiming to, and, of course, it won't get as bad as that, but that is the tendency of such a market.

Senator SHORTRIDGE. Thank you very much, Mr. Hovey.

MEMORANDUM SUBMITTED BY SAN FRANCISCO MINING EXCHANGE IN OPPOSITION TO THE TAX UPON TRANSFERS OF STOCKS

COMMITTEE ON FINANCE,
Senate of the United States, Senate Office Building,
Washington, D. C.

GENTLEMEN: We respectfully submit that the minimum tax rate of 4 cents per share on all shares which has been attached to the tax schedule on sales of stock as passed by the House of Representatives is unconstitutional. It is improper classification for taxing purposes. A tax upon shares which are well known to have widely different values becomes unequal, because the same levy is made against property whether the same be worth $1,000, $100, $10, or 10 cents.

Furthermore, such a tax becomes confiscatory, particularly when applied to the shares dealt in at the San Francisco Mining Exchange, and such confiscation, in whole or in part, results in the case of at least 90 per cent of the shares dealt in at this exchange.

The Court of Appeals of the State of New York has held such a tax unconstitutional. See People ex rel. Farrington (187 N. Y. 8), wherein are cited numerous decisions of the United States Supreme Court.

The tax schedule which establishes a rate of one-quarter of 1 per cent upon the sales prices is so high as to result, in our opinion, in such a handicap to dealing that it will result in greatly decreased transactions in all stocks selling in the higher brackets, while the minimum tax rate of 4 cents per share would absolutely preclude trading, in any event.

We respectfully submit that if Congress finds it necessary to continue any tax rate upon the transfer of shares, such proposed rate should be reduced to at least one-eighth of 1 per cent upon the sales price and this percentage should be made to apply to all shares in accordance with the proceeds of the sale thereof.

The same general objection applies to a tax rate fixed upon the par value rather than the market value, as this becomes exceedingly burdensome to all shares selling at less than the par value. There are many stocks having a par value of $100, selling at $5 or less per share. There many others selling as low as $1 per share. When taxes are levied upon the par value, the man who owns stock which has declined to $5 pays 20 times the tax levied upon the money involved in an equal trade in shares where the selling price is equal to the par value of $100 per share.

We believe that the proposal of the House to establish the tax upon a percentage of the selling price, rather than upon the par value, will bring greatly needed relief to a large number of holders of stocks which are selling at a mere

fraction of the par value, and it is our belief that from the standpoint of raising funds from the transfer of shares, a larger amount may be expected if trading and dealing is not throttled, and if a reasonable percentage basis, such as one-eighth of 1 per cent, is established upon the sales price rather than upon the par value.

It will be recognized that all shares selling under $16 per share are affected by the proposed minimum rate of 4 cents per share, which inflicts an additional tax over and above the normal proposed rate of one-quarter of 1 per cent, which doubles, trebles, and increases continuously as lower prices are met until the point of confiscation is reached upon the low priced shares such as those listed upon this exchange. To be more specific, in the case of stocks selling at $5 per share, the proposed minimum rate more than trebles the tax; on stocks selling at $1 per share, the increase amounts to 16 times the normal tax; on stocks selling at 50 cents per share, the increase amounts to 32 times the normal rate; and on lower-priced stocks, partial and total confiscation results.

We submit the following schedule to indicate the percentage of increased tax upon the sale price demanded on low-priced shares under the minimum clause of 4 cents per share over and above the high normal rate of one-quarter of 1 per cent as proposed.

100-share lot transactions

Price	One-fourth of 1 per cent rate	4-cent minimum rate	Increase over one-fourth of 1 per cent	Per cent of sale price demanded
$16	$4.00	$4.00	$0.00	.....
$10	2.50	4.00	1.50	(1)
$5	1.25	4.00	2.75	(2)
$1	.25	4.00	3.75	4
50 cents	.12½	4.00	3.87½	8
25 cents	.06¼	4.00	3.93¾	16
10 cents	.02½	4.00	3.97½	25
5 cents	.01¼	4.00	3.98¾	80
4 cents	.01	4.00	3.99	100

[1] Two-fifths of 1 per cent.
[2] Four-fifths of 1 per cent.

We respectfully submit that while the tax rate upon transfers of stock should, of course, be fixed upon the sales price instead of upon the par value, as at present, nevertheless the percentage rate of the tax should be the same on all shares.

San Francisco, Calif., April 11, 1932.

Respectfully submitted.

CHARLES E. HUDSON, *President.*
LEONARD, CUSHMAN & SUYDAM,
FRANKLIN LEONARD, *of Counsel.*

LETTER FROM A. C. BEANE

FENNER, BEAN & UNGERLEIDER,
New York, April 7, 1932.

MR. AMON CARTER,
Hotel Plaza, New York City.

MY DEAR MR. CARTER: It is the general impression that the transfer tax of one-fourth of 1 per cent on stocks, one-eighth of 1 per cent on bonds, and one-twentieth of 1 per cent on commodities affect Wall Street adversely, and that they are taxes which concern only Wall Street. Nothing could be further from the truth, for while their effect on Wall Street—whether it be in the banking or the brokerage fraternities—will be quite disastrous, the effect will be negligible as compared to that upon some 17,000,000 investors, to say nothing of countless millions of farmers, both of whom in the end must pay these taxes.

I imagine there are only two points which interest Congress and the public in so far as brokers are concerned. The first is that the great majority of the

150,000 to 200,000 employees of brokerage houses will join the ranks of the unemployed and their families be deprived of means of support. The second is the effect on the real estate situation in each local community that will be felt by the closing of space which is now occupied by hundreds of branch offices of brokerage firms.

Here are some of the situations which will be created should these proposed taxes be passed:

1. The volume of transactions which create liquidity on the New York Stock Exchange will be so seriously reduced that the freedom of that market will be threatened.

2. The investors of this country have suffered losses through the shrinkage of their securities that are staggering. Listed stocks on March 1 had a value of $27,585,989,257 and listed bonds had a value of $39,347,050,100. The transfer tax of one-fourth of 1 per cent on stocks and one-eighth of 1 per cent on bonds amounts to $118,148,785 on a single change of ownership. In other words, investors, whose losses have already been gigantic, must now face further substantial losses by the imposition of such a tax, and as I stated above, it is conservatively estimated that there are 17,000,000 individuals in this country who own securities.

3. The volume of the commodity exchanges has shrunk in the past several years to such negligible proportions that futures business in cotton and grain has almost ceased to exist. This is quite largely the result of the operations of the Farm Board. An additional tax on futures trading will greatly narrow even the present small volume in these markets to the detriment of prices, for it is almost axiomatic to say that as the volume of trading grows smaller, prices decline.

4. The tax would tend to freeze loans by reducing the liquidity of attached collateral.

5. It would make new financing or refinancing much more difficult if not impossible and thereby provide a brake on the efforts of corporations to develop their business in the future or to take care of such pressing financial needs as might develop.

6. It would invite a rejuvenation of the bucket-shop evil and methods of distribution of securities which have not the supervision of an organized exchange.

7. It would probably fall far short of producing the predicted $75,000,000 of revenue, for the law of diminishing returns would unquestionably be invoked.

There is no precedent for such a tax in any country in the world. The tax is highly deflationary in character and is a serious threat against the immediate revival of business for which the entire country is praying. In the brief time since the House passed this tax, securities have shrunk in value between four and five billions of dollars, and confidence on the part of millions of people in the recovery of this country from its economic ills has been struck a staggering blow. I reiterate that this is not a tax against Wall Street; it is a tax against millions of investors and commodity producers, and already a shrinkage in the value of their property has occurred which is 60 times, or thereabouts, as great as the amount which Congress seeks to raise by the tax imposed.

I hope you will find what I have said herein to be of interest and if you agree with my thoughts in the matter that you will convey them to your Senators, and particularly to Senator Connally, who is a member of the Finance Committee, in as forceful a manner as possible.

I hope very much to have the pleasure of seeing you on this visit and if possible would be happy to have you lunch with me.

Meantime, with very kind regards, I am,

Sincerely yours,

T. C. BEANE.

115102—32——80

TAX ON TRANSFER OF BONDS

BRIEF OF EARL F. KNOOB, ON BEHALF OF CERTAIN SECONDARY-MARKET BOND HOUSES

There are a limited number of so-called secondary-market bond houses in the United States. It is their sole function to purchase blocks of bonds which can not readily be absorbed by the market, and to dispose of the blocks in smaller quantities as rapidly as possible. Bond houses of this character were created solely by reason of the necessity for their existence. Banks, insurance companies, trust companies, and estates frequently find it necessary to liquidate their bond holdings promptly. In many instances the normal stock exchange facilities are inadequate, and the sale of a large block of bonds would seriously depress and disrupt the market. If the sale can be spread over a reasonably short period of time, so that the bonds are offered in quantities which the market can readily absorb, they will bring their true value. This is the function performed by secondary-market bond houses. Their existence is peculiarly necessary in the west where market facilities are limited.

Bond houses of this character act only as a secondary or intermediate market. They do not purchase for ownership or investment. They purchase solely for the purpose of resale. They do not underwrite the issue of bonds. They do not act as brokers. They do not deal in common stocks.

In the case of Weeden & Co. the average net profit over a 7-year period has been but $2.39 per $1,000 bond. In 1931, this company operated at a net loss of $70,740.41 on a volume of sales of $122,332,000.

In 1930 with a sales volume of $97,839,000 and a net income of $203,000 the tax would have been $120,000.

In 1929 the tax would have been $86,000 against profits of $170,000 on sales of $69,337,000.

If section 724 is applicable to houses of this character, it merely means that they will be forced to go out of business. The tax will be approximately one-half of their profits. In 1931, it would have added $150,000 to its loss. In 1930 and 1929, it would have taken over 50 per cent of its net income. There is no opportunity for them to pass the tax on.

Bond houses of this character should enjoy the same privilege of exemption from payment of the tax as brokers. Although they actually take title to the bonds, they are in fact only a sales agency.

We have purposely refrained from discussing the general policy of imposing a tax upon the transfer of bonds. This matter has been adequately covered by witnesses before the committee. If the tax is to be imposed, however, we respectfully request that an amendment be adopted substantially as follows:

On page 258 of the bill now before the Committee on Finance, after the comma in line 6, insert the following:

"Nor upon deliveries or transfers of securities acquired for resale (but not in connection with the issue of renewal thereof) by a dealer in securities in the ordinary course of his business,".

Respectfully submitted,

EARL F. KNOOB.

LETTER OF DAVID SPIEGEL

MAX SPIEGEL & SONS CO. (INC.),
New York, April 19, 1932.

Memorandum to the Senate Finance Committee, Washington, D. C.

THE PRESENT LAW TAXING "ROLL-YOUR-OWN" CIGARETTE PAPER BOOKS

Section 402, revenue act of 1926 provides that cigarette paper books containing 25 leaves or less may be sold or distributed without the payment of a tax; those containing 26 leaves or more require the payment of a tax.

OBVIOUS INTENTION OF THE LAW

The tax-free provision for cigarette paper books of 25 leaves or less was arranged to permit the continuance of an old custom in the tobacco industry of furnishing one free cigarette paper book of inappreciable size with each package of smoking tobacco.

When Congress levied the tax on cigarette paper books of 26 leaves or more and at the same time provided for the sale and distribution of cigarette paper books of 25 leaves or less without the payment of tax, it did not intent that the distribution of these tax-free cigarette paper books be unbridled and uncontroled.

The taxable and nontaxable features of the law were to operate side by side and not as a means of interfering one with the other.

Obviously, Congress did not intend that the tax-free feature of the law furnish a loophole for the evasion of the payment of the tax therein provided for. Yet, this is precisely what is taking place to-day.

OBJECTIONABLE PRACTICES UNDER THE PRESENT LAW

Within the last year or so it has developed that a certain loophole in the law is being taken advantage of. Certain manufacturers of smoking tobacco are distributing cigarette papers in a quantity of 26 leaves or more and are not paying the tax thereon. This is being accomplished by the method of supplying these cigarette papers in nontaxable book units of 25 leaves or less. For example, manufacturers of smoking tobacco desiring to distribute 40 or 50 leaves of cigarette papers, which quantity under the law requires the payment of a tax of one-half cent, do so by the method of dividing the 40 or 50 leaves into two book units of 20 or 25 leaves each, thus evading the payment of the tax to the Government.

Similarly, one may issue in place of a taxable cigarette paper book of 60, 80, 100, 150, or 200 leaf size the equivalent in nontaxable book units of 25 leaves or less.

This subterfuge or evasion is made possible by the wording of the present law, which fails to limit the manner and quantity in which cigarette paper books of 25 leaves or less may be distributed without the payment of tax.

RESULTING INJURIES

1. To manufacturers of brands of taxable cigarette paper books. The uncontrolled and abusive distribution of tax-free cigarette books in the manner above indicated is adversely affecting the sales of brands of cigarette paper books in standard sizes of 100 leaves or more on which taxes have been paid and must continue to be paid. This, we claim, is unfair competition. It puts the seller of taxable brands at a competitive disadvantage against those distributing taxable quantities of cigarette paper leaves in nontaxable book units of 25 leaves or less.

2. To the Government. By the subterfuge above described the Government is being deprived of considerable sums in taxes to which it is justly entitled.

That part of the law allowing for the sale and distribution of cigarette paper books of 25 leaves or less without the payment of tax is defeating to a considerable extent the main purpose of the law, which was the collection of a tax on cigarette paper books containing 26 leaves or more.

CONCLUSIONS AND REMEDY

To eliminate the unfair competition against the manufacturers of brands of taxable cigarette paper books, and in the interests of increased Government tax receipts, we importers and manufacturers of cigarette paper books who pay the tax respectfully request that remedial legislation be now enacted along either of the two following lines:

1. That the wording of the present law be amended so as to limit and control the sale and distribution of tax-free cigarette paper books of 25 leaves or less, as follows:

(a) That such books are to be tax free only when delivered to a licensed manufacturer of smoking tobacco and used by him for distribution as complimentary cigarette papers with his smoking tobaccos.

(b) That this distribution by such licensed manufacturer be limited to one cigarette paper book of 25 leaves or less to a package of smoking tobacco weighing no less than 1 ounce; packages of smoking tobacco weighing less than 1 ounce

should not bear tax free cigarette papers because a book of 25 leaves for such size would be an appreciable quantity and not an inappreciable quantity of cigarette papers, as intended under the law.

(c) That such tax free cigarette paper book be appended to the smoking tobacco package.

(d) That, if cigarette paper books of 25 leaves or less are made by the manufacturer of smoking tobacco for his own needs, their distribution is to be limited, as here described.

2. That unless the sale and distribution of tax-free cigarette paper books of 25 leaves or less are limited and controlled, as here requested, we advocate the abolition of tax-free cigarette paper books altogether.

Respectfully submitted.

DAVID SPIEGEL.

STATEMENT OF EDWARD P. DOYLE, DIRECTOR OF THE BUREAU OF PUBLIC AFFAIRS OF THE REAL ESTATE BOARD OF NEW YORK, NEW YORK CITY

The CHAIRMAN. Very well, Mr. Doyle. You may proceed.

Mr. DOYLE. Edward P. Doyle, director of the bureau of public affairs of the Real Estate Board of New York, and with me Mr. Clarke G. Dailey, president of the Alliance Realty Co., owning a large number of buildings in the financial district of the city.

In the district known as the financial district of New York the assessed valuation is $1,250,000,000. We pay the city of New York $33,750,000 a year in taxes.

This district has been more badly hit by the depression than any other district in New York City. All the businesses there are moribund or are in very bad shape, importing, exporting, mining, shipping, the cotton exchange, the products exchange, the mining exchange, and all the allied businesses, promotion houses, bond houses, the accountants, law firms specializing in corporate matters. They are all doing nothing.

It is almost impossible to secure new tenants and extremely difficult to hold old tenants at profitable rents. There are scores of vacancies in every large building. In one of Mr. Dailey's buildings stock-exchange brokers pay over a million dollars rent each year. Two thousand of our tenants will be put out of business by this tax. We have had a very trying situation with them; they say that if this tax goes through they will be unable to do business and they will leave our buildings. That means a loss to us of $8,000,000 in rents and a capital loss of $100,000,000.

Our tenants also tell us—and they are honorable men and men that we have had business with for years—that it will not bring you in any revenue, because it will stop the business that makes their living profitable; I mean the floor trading and the office trading, the small trading.

I can not understand the policy of Congress in attempting to remedy a business depression by imposing higher taxes on business. I do not see why you should have any of these nuisance taxes, so far as that is concerned, because you could easily get all the revenue you want by having a half of a per cent turnover tax and a broader tax on incomes. The only reaction against that is that the poor would pay. Why shouldn't the poor pay? England is balancing its budget and is getting ahead, and they are getting one-quarter of their income from the poor. The rich pay half their income to the Government. The other taxes that they get are from the middle class. The poor get more from the Government than any other class, more than the middle class anyway.

I happen to belong to the unfortunate middle class. I have to pay burglary insurance, fire insurance, for a watchman to guard my

house, have to pay for a doctor, a dentist, and a nurse. If I have to go to a hospital and get a room I have to pay for it. I do not get an old-age pension. I am 70 years old, but my widow will not get a pension if I die. The poor get all that free, and yet you say the poor should pay no part of the expense of the Government.

Senator HARRISON. Would you rather have this tax or a tax on rents?

Mr. DOYLE. A tax on rents?

Senator HARRISON. But you do not advocate a tax on rents?

Mr. DOYLE. Well, the 16 buildings I own are vacant.

Senator HARRISON. So you would not get any of that?

Mr. DOYLE. I have a Scotch wife and she won't sign mortgages, but I have $3,960 tax to pay on the 1st of May and with no tenants in my houses.

Senator BARKLEY. If the Government would guarantee you some tenants you would be willing to pay the tax?

Mr. DOYLE. I was induced by the chamber of commerce to build a great many houses during the boom in the shipbuilding industry, and I sold those houses to the tenants, and now that the tenants are out of work they have turned the houses back to me, but there are no mortgages on them, fortunately.

But what we are asking for is not to do——

Senator GORE (interposing). Let me ask you—is there a general decline in rents? You say there are a great many vacancies. Has there been a general decline in rents?

Mr. DOYLE. Oh, it is immense. I sent my information to the National—what is that concern that gives out information?

Senator HARRISON. Mr. Hoover's council.

Mr. DOYLE. Oh, no; they give out the cost of living.

The CHAIRMAN. National Industrial Co.

Mr. DOYLE. Yes; and I just reported to them that 27 per cent of all the tenements in New York City are vacant and there is really no fixed rental at all. They take whatever they can get.

One of my people that I represent was telling about two of his biggest and best tenants. One was Mr. Krueger, who committed suicide over in Sweden. The other was a president of a bank that failed here last week. Each had signed a lease for 15 years at $10,000 a year. And that is happening all over New York City. [Laughter.]

There is just one other word I want to say. I took Senator Smoot's advice yesterday and bought a lot of stock in 10-share lots, and I found that they were dividend-paying stocks, but the reason they were not bringing any price was that there is no market. And the same with real estate; the prices have gone down 40 or 50 per cent, not because it is not worth the price but because there is no market.

Senator GORE. Is that due to short selling?

Mr. DOYLE. No; that is only due because everybody is scared to death of what Congress is going to do.

Senator GORE. I thought maybe it was due to bear raids on real estate.

Mr. DOYLE. No, Senator Gore. I was under the impression that Congress was composed of all the aggregated wisdom of the United

States. It ought to be. But when I see what you are trying to do, when you could easily raise the money by a turnover tax or by broadening the base of the income tax, it seems silly that men like you would consider all these ridiculous nuisance taxes to stop business.

Senator GORE. If you ever had the idea that Congress employed wisdom, I think you ought to have an old-age pension.

Mr. DOYLE. How it can get us out of this depression by taxing business is something I do not understand.

I heard Mr. Josiah Stamp the other night. I belong to all the civic organizations in New York City. He talked the other night and he told us that one-quarter of the whole income now of the poor is turned over to the Government in Great Britain, and half the income of the rich. And he said that they did that by getting men like Senator Smoot and Senator Harrison, of both political parties, together and saying, "Here, this labor crowd is ruining the country, let us form a coalition government, and throw aside politics but do what we can for the Empire of Great Britain." And that is what you gentlemen ought to do here. [Laughter.] Well, you know what I mean.

STATEMENT OF HARRY J. GERRITY, WASHINGTON REPRESENTATIVE OF THE NATIONAL ASSOCIATION OF BUILDING OWNERS AND MANAGERS

Mr. GERRITY. Mr. Chairman, Joseph F. Mann, of New York City, is counsel for the National Association of Building Owners and Managers, but he is unable to be present this morning, and has requested me to appear in his stead. The headquarters of the National Association of Building Owners and Managers is located in Chicago.

The CHAIRMAN. What is your name?

Mr. GERRITY. My name is Harry J. Gerrity, and I am the association's Washington representative.

The National Association of Building Owners and Managers is a trade association which is 25 years old, and is composed of federated local associations in 43 cities throughout the country and associate members in 94 additional cities. There are also two State associations, one in Michigan and one in North Carolina. We are particularly interested in all problems of taxation affecting real estate.

The office building industry in the United States represents an investment of $7,000,000,000, and as the spokesman for that industry I desire to submit for the consideration of the Senate Finance Committee certain proposals which we feel are deserving of earnest considerations by your committee at this time. Our full tax program contains nine points, as follows:

1. We favor a balanced Budget.
2. We oppose unnecessary increases in Federal taxes.
3. We advocate reduction of Government expenditures and strict economy.
4. We urge that taxes affecting real estate be reduced.
5. We support a modification of the tax on capital gains and losses.
6. We are against the stamp tax on real estate conveyances.
7. We suggest the deduction of taxes generally for income tax purposes.

8. Deductions for depreciation as between the lessor and lessee should be allowed in all cases.

9. We are against the amendment to section 115 (b) as adopted on the floor of the House in regard to dividend distributions by corporations.

I shall first consider the five points involving suggested amendments to the pending bill, and then I would like to convey our views as to how to balance the Budget and how to raise the necessary revenue to balance the Budget.

We support a modification of the tax on capital gains and losses.

President Hoover in his Budget message recommended that Congress inquire into the economic effect of the provisions of the present law relating to capital gains and losses. Our suggestion relates only to the profit on the sale of land or buildings. Beginning with the Revenue Act of 1921 Congress inserted special provisions as to capital gains and losses whereby the tax rate, at the option of the taxpayer, should not exceed 12½ per cent of the capital gain. In 1928, after the present law was adopted, Mr. L. H. Parker, the chief of the division of investigation of the Joint Congressional Committee on Internal Revenue Taxation, prepared a very complete and very able report on the subject of capital gains and losses.

The CHAIRMAN. Would you like to have that put in the record at this point?

Mr. GERRITY. The report is undoubtedly available to the members of the committee, and I only want to emphasize the conclusion reached in that report. Mr. Parker stated that:

> The present system of taxing capital gains and crediting capital losses is neither sound nor equitable. It appears that the method is not based on any economic principle and can only be defended on the ground of expediency.

It has been demonstrated, therefore, that our present method of taxing capital gains and losses is not satisfactory, and the report referred to said that it "should be continued only up to such time as a better and more equitable method could be found."

In 1923 the tax simplifictaion board made a report to the Speaker of the House recommending the entire elimination of profits on sales of capital assets as income, and losses on such sales as deductions. The report of the joint committee, in 1928, points out that the present capital gain and loss provisions are inequitable and are based upon no sound theory or principle; that they can be defended only on the ground of expediency; that the present provisions are of no benefits to 98¾ per cent of the taxpayers, and are of substantial benefit to less than one-fourth of 1 per cent of them; that they are of substantial benefit only to about 9,560 persons with net incomes in excess of $100,000, out of a total number of 41,171,051 individuals making returns; that the percentage of relief from taxation provided by the provisions becomes greater as the net income becomes greater; and that these provisions give the same relief in the case of the sale of an asset held for two years as they do in the case of an asset held for 20 years. Moreover, it was pointed out that a large part of the tax on capital gains is derived from the taxation of appreciation in money value as distinct from actual value; in other words, a large tax is derived merely because of the reduced purchasing power of the dollar.

Our proposed modification of the tax on capital gains and losses would apply the 12½ per cent rate to both individuals and corporations

but would have application exclusively to sales of land or buildings. We think that Congress is convinced that from the economic point of view it is wrong to tax the sale of capital assets. That wrong has been so long perpetrated that we do not ask or expect the total abolition of taxation of capital gains, but we recommend as a starting point that Congress modify the present scheme of taxation, so that in the case of land or buildings exclusively, all sales by corporations or individuals would be treated in a special manner, thereby eliminating any necessity of a March 1, 1913, value, or a resort to a cost basis in order to determine the taxable capital gain if the property was held for more than 15 years.

Mr. Parkers' report, adopted by the joint congressional committee, shows that 85 per cent of the capital gains of persons with net incomes in excess of $30,000 usually arises from the sale of securities. By limiting our recommendations exclusively to the sale of land or buildings, and not including securities, or other capital assets, it becomes evident that the Federal revenues will not be greatly affected. This recommendation of our national association is not for immediate relief from taxation, or for the purpose of shifting the burden of supporting the Federal Government to the shoulders of others; but it is a proposal, both logical and necessary in effect, to decrease a small portion of the enormously large burden of taxation which real estate in this country is carrying and will doubtless continue to carry for some years to come.

We propose an amendment to the pending bill (H. R. 10236) by adding to section 101, at line 7, page 57, a new subsection (e), reading as follows:

(e) Sales of land or buildings: In the case of sales of land or buildings by any taxpayer, whether made by an individual or a corporation, there shall be included in or deducted from net income subject to normal and surtax—

100 per cent of the gain or loss resulting from the sale of an asset which has been held less than 2 years.

90 per cent of the gain or loss resulting from the sale of an asset which has been held 2 years but less than 3 years.

80 per cent of the gain or loss resulting from the sale of an asset which has been held 3 years but less than 4 years.

70 per cent of the gain or loss resulting from the sale of an asset which has been held 4 years but less than 5 years.

60 per cent of the gain or loss resulting from the sale of an asset which has been held 5 years but less than 7 years.

50 per cent of the gain or loss resulting from the sale of an asset which has been held 7 years but less than 10 years.

40 per cent of the gain or loss resulting from the sale of an asset which has been held 10 years but less than 15 years.

0 per cent of the gain or loss resulting from the sale of an asset which has been held 15 years or more.

This amendment would not cover land or buildings held for less than two years. The full amount of gain or loss in the case of land or buildings held less than two years would be included in or deducted from net income subject to normal and surtaxes at the ordinary rates.

The CHAIRMAN. Well, that is the same proposition that was made in 1922, is it not?

Mr. GERRITY. Mr. Parker pointed out in his report in 1928 that the amount of revenue to be lost at that time would be only $7,500,000.

I believe the Government would gain at this time if this amendment was adopted.

As to the stamp tax on conveyances, we think that it is in the nature of a nuisance tax and is quite unnecessary. When it was in force from 1918 to 1926 the Treasury collected it together with stamp taxes on stocks and bonds and powers of attorney. They have no breakdown of the amount of revenue which was collected from this stamp tax. The Treasury estimates are altogether unreasonable, in my opinion. They state that $10,000,000 will be derived from this tax on deeds or conveyances. The tax only applies to the equity sold; that is, the amount of the mortgage is deducted. That would mean a tax of 50 cents for each $500 of the equity, or $1 for each $1,000. There would have to be the sale of $10,000,000,000 worth of equities in each calendar year in order to produce $10,000,000 in revenue. We think that that is a highly exaggerated estimate of the amount that would be produced at this time. There is very little of equities being sold in real estate to-day. And the revenue from this stamp tax on conveyances would, in our opinion, be a very insignificant amount. Senator Hayden, of Arizona, is opposed to this tax.

The CHAIRMAN. If there is anything that you want to put in you may put it in the record at this point. If you can put in the balance of your statement you may do so.

Senator REED. I would like to hear his suggestion for raising the revenue. He has told us he has a number of ways of producing it.

Mr. GERRITY. Senator, I would be very glad to state that. The chairman of our taxation committee is Mr. Graham Aldis, of Chicago, and we have given this matter very careful consideration.

A balanced Budget is essential. The decline of 65 per cent in income-tax receipts since 1930 makes some increase in taxes absolutely necessary. The Budget law contemplated that the Government would not spend in any single year any amount in excess of its income for that year. When income decreases, the Budget should be decreased. The real solution is not to unduly increase Federal taxes.

We oppose unnecessary increases in Federal taxes.

Senator REED. Well, everybody feels that way. The additional revenue has to be raised, and I would like your suggestion as to where we would get it.

Mr. GERRITY. Our suggestions are these: We grant that interest on the public debt must be paid. That is essential to maintain the national credit. But aside from a billion dollars for interest and sinking fund charges, the 1933 Budget calls for $2,431,303,350 in expenditures for the various departments of the Government. President Hoover, in his Budget message, stated that there was an area of about $1,700,000,000 which is available for consideration in seeking means to curtail expenditures. Strict economy urges the abolition of useless boards and establishments.

Senator CONNALLY. Do you know any of them? I would like you to tell us some of them.

Mr. GERRITY. The Farm Board activities should be curtailed. Agriculture and the farmer has never obtained substantial relief from the Federal Government. The Secretary of Agriculture recently condemned agricultural loans and stated that as a loan agent his department was the "Prize boob in the history of finance." There should be a moratorium declared on appropriations for which Congress has committed itself in respect of many Federal projects. The public-building program could well be delayed in times like these.

Senator JONES. Do you urge the abandonment of the public-building program? Or the delaying of it?

Mr. GERRITY. The suspension of it until better times come. The newspapers reported the other day that there was a $2,000,000,000 deficit in the Treasury.

Senator JONES. Oh, you need not repeat all that. Let me ask you this: Do you favor the suspension of the soldiers' bonus or the billion dollars a year that we have already obligated ourselves to pay?

Mr. GERRITY. We say that without creating undue hardship a moratorium might be declared as to a portion of the billion dollar annual expenditures for veterans' administration.

Senator JONES. What size portion?

Mr. GERRITY. On the whole we feel that the tax bill ought not to raise more than one half billion dollars, and that you can still reduce expenditures to the extent of about $750,000,000.

Senator JONES. How about the soldiers' bonus that we have obligated ourselves to pay; how much of it would you ask us to suspend?

Senator CONNALLY. It is not a bonus, it is compensation, Senator.

Mr. GERRITY. Sound business principles would suggest that when you haven't the money to carry on an enterprise that you stop operating it until you do get the money. If you start a building program and can not borrow the money at the bank in order to finance the construction of the building you usually cease operations until you can get the money.

Senator JONES. I guess we know your position.

Senator BINGHAM. You have not yet told us how much can be cut out of the billion dollars that is obligated for the compensation to veterans.

Mr. GERRITY. We are not experts as to that, and our only suggestion is that the matter might be studied. That without creating undue hardship and without denying the obligation entirely, just postpone those payments until better times return and the money is in the Treasury with which to pay those obligations.

Senator CONNALLY. For instance, with respect to the soldiers in the hospitals, just postpone treating them for two or three years?

Mr. GERRITY. That might create a hardship, Senator. Of course we would not favor that at all.

Mr. Chairman, I would like to file a brief by Mr. Mann.

The CHAIRMAN. That may be printed in the record at this point.

(The brief of Joseph F. Mann, counsel National Association of Building Owners and Managers, is here printed in the record in full as follows:)

BRIEF OF JOSEPH F. MANN, COUNSEL NATIONAL ASSOCIATION OF BUILDING OWNERS AND MANAGERS

FOREWORD

The National Association of Building Owners and Managers is a national association, representing through its membership many thousands of office buildings, loft buildings, and apartment houses, having a value of over $7,000,000,000. The owners of these buildings are represented by local associations located in the following States and cities:

Alabama: Birmingham Building Owners and Managers Association.

California: Building Owners and Managers Association, of Fresno; Building Owners and Managers Association, of Los Angeles; Building Owners and Managers Association, of Oakland; Building Owners and Managers Association, of San Francisco.
Colorado: Denver Building Owners and Managers Association.
Florida: Building Owners and Managers Association, of Jacksonville; Tampa Association of Building Owners and Managers.
Georgia: Atlanta Association of Building Owners and Managers.
Illinois: Building Managers Association, of Chicago; Peoria Association of Building Owners and Managers.
Indiana: Building Owners and Managers Association, of Indianapolis.
Kansas: Building Owners and Managers Association, of Kansas City.
Kentucky: Louisville Association of Building Owners and Managers.
Louisiana: New Orleans Association of Building Owners and Managers.
Maryland: Building Owners and Managers Association, of Baltimore City.
Massachusetts: Boston Building Owners and Managers Association.
Michigan: Building Managers Association, of Detroit.
Minnesota: Building Owners and Managers Association, of Duluth; Building Owners and Managers Association, of St. Paul; Minneapolis Association of Build-Owners and Managers.
Missouri: Building Owners and Managers Association, of St. Louis.
Nebraska: Building Owners and Managers Association of Omaha.
New York: Building Managers Association of Buffalo; management division, Real Estate Board of New York (Inc.).
Ohio: Building Owners and Managers Association, of Cincinnati; Cleveland Association of Building Owners and Managers; Dayton Building Owners and Managers Association.
Oklahoma: Oklahoma City Association of Building Owners and Managers; Tulsa Association of Building Owners and Managers.
Oregon: Portland Association of Building Owners and Managers.
Pennsylvania: Building Owners and Managers Association, of Philadelphia; Building Owners and Managers Association, of Pittsburgh.
Tennessee: Building Owners and Managers Association, of Memphis.
Texas: Fort Worth Association of Building Owners and Managers; Building Owners and Managers Association, of San Antonio.
Utah: Building Owners and Managers Association, of Salt Lake City.
Virginia: Norfolk Association of Building Owners and Managers.
Washington: Building Owners and Managers Association, of Seattle; Spokane Building Owners and Managers Association.
Also, Michigan State Association of Building Owners and Managers; North Carolina State Association of Building Owners and Managers.

The National Association of Building Owners and Managers, representing through its membership approximately $7,000,000,000 worth of office buildings, loft buildings, and apartment houses in various cities of the United States, make the following suggestions as to the revenue act of 1932, now before the Finance Committee of the United States Senate:

The National Association is comprised of federated associations in 43 cities and associated members in 94 additional cities, and in addition two State associations. It is one of the oldest trade associations in the United States, having been organized 25 years ago. Through its ownership of office buildings, loft buildings, and apartment houses, which are the working quarters and homes of almost every kind of business, it is in close contact with, and entirely dependent upon, industry and the general business of the United States. Our properties represent the highest type development of real estate. We pay the greatest part of the local taxation.

Peculiarly sensitive as we are to business conditions, and large taxpayers as we are, we believe that we have a right and duty to present our views on the 1932 tax bill while this bill is in process of consideration. Our program is as follows:

I. We favor a balanced budget,
II. We oppose unnecessary increases in Federal taxes.
III. We advocate reduction of Government expenditures and strict economy.
IV. We urge that taxes affecting real estate be reduced.
V. We support a modification of the tax on capital gains and losses.
VI. We are against the stamp tax on real estate conveyances.
VII. Deduction of taxes generally.
VIII. Deductions for depreciation as between the lessor and lessee.

IX. Dividend Distributions by Corporations

I. WE FAVOR A BALANCED BUDGET

A balanced Budget is essential. The decline of 65 per cent in income tax receipts since 1930 makes some increase in taxes absolutely necessary. The Budget law contemplated that the Government would not spend in any single year any amount in excess of its income for that year. When income decreases the Budget should be decreased. The real solution is not to unduly increase Federal taxes.

II. WE OPPOSE UNNECESSARY INCREASE IN FEDERAL TAXES

There must be a stop to tax increases. The further expenditure of public money will not bring prosperity. Increased taxation will not restore business. The tax burden now existing must be decreased—not increased. Our industry, with all other owners of real estate, is greatly overburdened with taxation—State, local, and Federal. The pending tax bill should provide only for a very minimum of additional taxes. A dollar saved is a dollar earned. The United States should first try to save in the cost of Government, and after all possible savings have been effected, then Congress can enact whatever additional taxes are necessary to cover the deficiency in order to maintain a balanced Budget.

III. WE ADVOCATE REDUCTION OF GOVERNMENT EXPENDITURES AND STRICT ECONOMY

Some people say that reduction of Government expenses is impossible beyond a certain point. We grant that interest on the public debt must be paid. That is essential to maintain the national credit. But aside from a billion dollars for interest and sinking fund charges, the 1933 Budget calls for $2,431,303,350 in expenditures for the various departments of the Government. President Hoover, in his Budget message, stated that there was an area of about $1,700,000,000 which is available for consideration in seeking means to curtail expenditures. Strict economy urges the abolition of useless boards and establishments. The Farm Board activities should be curtailed. Agriculture and the farmer has never obtained substantial relief from the Federal Government. The Secretary of Agriculture recently condemned agricultural loans and stated that as a loan agent his department was the "Prize boob in the history of finance." There should be a moratorium declared on appropriations for which Congress has committed itself in respect of many Federal projects. The public-building program could well be delayed in times like these. Suspension of further expenditures for this purpose should be immediately effected. The Appropriations Committee has taken such action in respect to the Arlington Bridge project. Similar action can be taken in respect to all Federal building projects throughout the country which are not now nearly completed and are not economically justified. Strict economy requires a reduction in salaries, elimination of waste and duplication. Without creating undue hardship, a moratorium might be declared as to a portion of the billion dollar annual expenditures for veterans' administration. The Boulder Dam project involving $15,000,000 for 1933 can be postponed. It is up to Congress to take such action; the spending departments of the Government will continue to spend so long as Congress provides the funds and authorizes or ratifies proposed expenditures. If Government receipts are insufficient, appropriations must necessarily be cut, the Budget reduced, or taxes increased. The latter alternative should be sparingly availed of.

IV. WE URGE THAT TAXES AFFECTING REAL ESTATE BE REDUCED

With all the demands for a balanced Budget the Treasury estimates of revenue which the pending bill will produce, overlook the fact that the Budget will not be balanced unless principal and interest on foreign Government obligations is paid during the next fiscal year. Nothing was paid in 1932 on the foreign debt because of the Hoover moratorium. The Treasury estimates include $169,000,000 as estimated receipts from foreign Governments on account of both principal and interest. If a balanced Budget depends upon these foreign debt payments, we venture the prediction that there will be a further deficit on June 30, 1933. In other words, with all the proposed increase in taxes as contained in the pending bill, the Budget will not be balanced next year without the utmost economy. We think Congress should strive to cut appropriations at least $750,000,000.

This could be accomplished through liquidation of the Farm Board; postponement of the Federal building program, which after all has been of no great help to the millions of unemployed; a partial suspension or postponement of expenditures for veterans' administration, and a moratorium on Federal-aid highway relief. The latter item involves $100,000,000 already appropriated in the agricultural appropriation bill passed last month.

We look to the Senate to enforce the needed economy in Government expenditures. If results are speedily accomplished then the pending tax bill need not impose the enormous increased burden of taxation. Real estate is particularly interested at this time. Representing approximately 52 per cent of our national wealth, real estate carries by far the greater burden of taxation in this country. Prof. S. E. Leland, of the University of Chicago, recently stated: "I believe the real estate owners are unduly burdened, but * * * no tax reforms would take the place of careful administration in governmental offices for relieving the tax burdens. Unnecessary units of Government should be eliminated; economies of expenditure should be perfected." In the States 85 per cent of all local taxes is borne by real estate. Land pays the heaviest tax of any source in this country. According to a recent survey by the National Association of Building Owners and Managers covering 173,667,000 feet of rentable office space, there is an average vacancy of 19.85 per cent, or the largest in the history of industry. No business in the United States is more depressed at the present time than real estate. Urban real estate or farm lands are not selling in the declining real estate market of to-day. The counsel for the National Association of Real Estate Boards has stated that practically all real estate to-day is being sold for less than the amount for which it was purchased. In appropriating $100,000,000 for the Federal-aid highway system Congress is directly contributing and adding to the burden of local taxation which real estate throughout the country is now carrying. The Federal Government should suspend all appropriations which in their nature encourage State and local Governments to make expenditures of money which comes, in most part, from taxation of real estate. Dr. T. S. Adams, of Yale, and Doctor Ely, of Northwestern University, have recently said that the rising tide of real estate taxation in this country has reached the point where it is a capital levy, and is gradually destroying values. Governmental costs must be reduced, and the sooner this can be accomplished the quicker will business and industry revive.

V. WE SUPPORT A MODIFICATION OF THE TAX ON CAPITAL GAINS AND LOSSES

In his Budget message, President Hoover recommended that Congress inquire into the economic effect of the provisions of the present law relating to capital gains and losses. Our suggestion relates only to the profit on the sale of land or buildings. Beginning with the revenue act of 1921 Congress inserted special provisions as to capital gains and losses whereby the tax rate, at the option of the taxpayer, should not exceed 12½ per cent of the capital gain. In 1928, after the passage of the present revenue law, the division of investigation of the Joint Congressional Committee on Internal Revenue Taxation made a report, in which it was stated "that the present system of taxing capital gains and crediting capital losses is neither sound nor equitable. It appears that the method is not based on any economic principle and can only be defended on the ground of expediency."

It has been demonstrated, therefore, that our present method of taxing capital gains and losses is not satisfactory, and the report, referred to, said that it "should be continued only up to such time as a better and more equitable method could be found."

In 1923 the tax simplification board made a report to the Speaker of the House, recommending the entire elimination of profits on sales of capital assets as income, and losses on such sales as deductions. The report of the joint committee, in 1928, points out that the present capital gain and loss provisions are inequitable and are based upon no sound theory or principle; that they can be defended only on the ground of expediency; that the present provisions are of no benefit to 98½ per cent of the tax payers, and are of substantial benefit to less than one-fourth of 1 per cent of them; that they are of substantial benefit only to about 9,560 persons with net income in excess of $100,000, out of a total number of 4,171,051 individuals making returns; that the percentage of relief from taxation provided by the provisions becomes greater as the net income becomes greater; and that these provisions give the same relief in the case of the sale of an asset held for two years as they do in the case of an asset held for 20 years. Moreover, it was pointed out, that a large part of the tax on capital

gains is derived from the taxation of appreciation in money value as distinct from actual value; in other words, a large tax is derived merely because of the reduced purchasing power of the dollar.

Our proposed modification of the tax on capital gains and losses would apply the 12½ per cent rate to both individuals and corporations, but would have application exclusively to sales of land or buildings. We think that Congress is convinced that from the economic point of view it is wrong to tax the sale of capital assets. That wrong has been so long perpetuated that we do not ask or expect the total abolition of taxation of capital gains, but we recommend as a starting point that Congress modify the present scheme of taxation so that in the case of land or buildings, exclusively, all sales, by corporations or individuals, would be treated in a special manner, thereby eliminating any necessity of a March 1, 1913, value, or a resort to a cost basis in order to determine the taxable capital gain if the property was held for more than 15 years. Moreover, if Congress would set an example in this regard all of the States which now have income tax laws would undoubtedly follow this example in a short time, and hence real estate such as land and/or buildings would in part be relieved from the burden of income taxation incident to the sale or disposition thereof. Such a modification of the present law would have practically no effect on revenue at the present time because it is doubted whether there is any appreciable taxable profit arising from current sales of real estate, but when prosperity returns this modified scheme would have a highly beneficial effect on practically all real estate transactions where the land or buildings were owned for two years or more and hence the economic recovery of the country would be facilitated.

The joint congressional committee report, made in 1928, showed that 85 per cent of the capital gains of persons with net incomes in excess of $30,000 usually arises from the sale of securities. By limiting our recommendations exclusively to the sale of land or buildings, and not including securities or other capital assets, it becomes evident that the Federal revenues will not be greatly affected. This recommendation of our national association is not for immediate relief from taxation, or for the purpose of shifting the burden of supporting the Federal Government to the shoulders of others; but it is a proposal, both logical and necessary in effect, to decrease a small portion of the enormously large burden of taxation which real estate in this country is carrying and will doubtless continue to carry for some years to come.

We propose an amendment to the pending bill, H. R. 10236, by adding to section 101, at line 7, page 57, a new subsection (e) reading as follows:

"(e) *Sales of land or buildings.*—In the case of sales of land or buildings by any taxpayer, whether made by an individual or a corporation, there shall be included in or deducted from net income subject to normal and surtax—

"One hundred per cent of the gain or loss resulting from the sale of an asset which has been held less than two years.

"Ninety per cent of the gian or loss resulting from the sale of an asset which has been held two years but less than three years.

"Eighty per cent of the gain or loss resulting from the sale of an asset which has been held three years but less than four years.

"Seventy per cent of the gain or loss resulting from the sale of anasset which has been held four years but less than five years.

"Sixty per cent of the gain or loss resulting from the sale of an asset which has been held five years but less than seven years.

"Fifty per cent of the gain or loss resulting from the sale of an asset which has been held 7 years but less than 10 years.

"Forty per cent of the gain or loss resulting from the sale of an asset which has been held 10 years but less than 15 years.

"No per cent of the gain or loss resulting from the sale of an asset which has been held 15 years or more."

This amendment would not cover land or buildings held for less than two years. The full amount of gain or loss in the case of land or buildings held less than two years would be included in or deducted from net income subject to normal and surtaxes at the ordinary rates. The amendment would apply only to "capital assets" within the definition contained in section 101. The application of the amendment would be at the election of the taxpayer, under subsection (a) of section 101, in the case of taxable gain, or without such election in the case of a loss, as under subsection (b) of section 101, but in no case would the tax be less than, in the case of a capital net loss, the tax computed without regard to the provisions of section 101. In other words, the taxability of the gain or loss under the proposed amendment would be subject to all of the other provisions

of section 101 of the pending bill, and as in the case of all other capital assets the computation of gain or loss would not be affected except to the extent that no gain or loss would be recognized from the sale of an asset which had been held for 15 years or more. The sale of land or buildings held 10 years but less than 15 years would result in gain or loss, computed in the ordinary manner, but of the amount of such gain or loss only 40 per cent would be recognized for the purpose of the capital net gain and loss provisions, subject to the 12½ per cent tax rate.

The theory underlying the purposed amendment is that the tax on capital gains should approximate the tax which would have been paid if the gain had been realized in uniform annual amounts over the period during which the asset is held. It is well known that where a tax rate is so high as to prevent ordinary transactions for profit, the taxpayer loses the profit and the Government loses the tax; hence, the capital gain and loss provisions should be modified so that transactions will not be prevented on account of an excessive tax rate. The joint congressional committee stated that the loss or gain in revenue from the proposed method could not be accurately estimated because of the absence of reliable statistics on capital gains and losses classified according to the time for which the asset was held, but a rough approximation was made and it was estimated that under conditions existing in 1928 the loss in revenue would not exceed $7,500,000; that in any event the proposed revision would tend to stabilize revenue and that the Government would get more revenue in years of depression, when it is needed, and less in the good years when the tax on ordinary income would be sufficient. The committee's report stated that from the standpoint of the Government, the period of high prices, in 1928, was an advantageous time to make the change. Without question, the Treasury Department would have gotten more taxes last year than this year if the capital gain and loss provision had been so modified.

It is respectfully submitted that our amendment proposing a modification of the tax on capital gains and losses as applied to the profit derived or loss sustained in connection with the sale of land or buildings, whether owned by an individual or a corporation, is a forward looking step which will give but a small measure of relief to owners of real estate in general but will at least give some hope that with the return of better and more prosperous times Congress will see fit to eliminate entirely all taxation of capital gains, which in our judgment is economically unsound.

VI. We are against the stamp tax on real estate conveyances.

We suggest the elimination of section 725, on page 259, of the pending bill, relative to stamp taxes on conveyances. This is a temporary tax proposal which automatically expires on July 1, 1934. The tax does not apply to the value of any lien or encumbrance or to any instrument in writing to secure a debt. It is simply a stamp tax on deeds, at the rate of one-tenth of 1 per cent on the amount of the equity in the property sold. It is insignificant as a revenue producer, and naturally is a burden on real estate and is as undesirable a tax on the part of the Federal Government as would be a stamp tax upon checks. Although stamp taxes are easy of administration, and although a stamp tax on conveyances was imposed between 1918 and 1926, the Treasury Department never kept any reliable record of the amount of revenue produced from this source alone. The documentary stamps were sold indiscriminately for use on transfers of stocks and bonds, deeds, and powers of attorney. It is estimated that $10,000,000 would be produced by this stamp tax; hence for the two years of its existence it is hoped that $20,000,000 in revenue will be obtained. At the rate of $1 per thousand there would have to be sales of $10,000,000,000 worth of equities in real estate for each of the next two years in order to produce revenue of $10,000,000 from this tax. We think that the estimate is highly exaggerated and that in the final analysis a very small and insignificant amount of revenue will result from the reimposition of this stamp tax on conveyances. If the Government were to suspend work on the Boulder Dam project for the fiscal year 1933, approximately $15,000,000 could be saved thereby, and we believe that this $15,000,000 is far in excess of any amount which can be taken in revenue from the proposed stamp tax on real estate conveyance. We respectfully suggest, therefore, that section 725 of the pending bill be eliminated in its entirety.

VII. DEDUCTION OF TAXES GENERALLY

Section 23 of the pending bill provides for deductions from gross income, and subsection (c), page 21, covers taxes generally, with the exception of "(3) taxes assessed against local benefits of a kind tending to increase the value of

the property assessed; but this paragraph shall not exclude the allowance as a deduction of so much of such taxes as is properly allocable to maintenance of interest charges."

According to the financial statistics of cities having a population of over 30,000 for the year 1929, special assessments and special charges constitute the largest single item of revenue for the majority of cities. These taxes as reported by 242 cities, totaled $222,140,951. They were collected by the majority of the cities for the construction of sewers, paving, curbing, and sidewalks; but in some cities for the grading and widening of streets, the building of retaining walls, bridges and viaducts, and for park improvements.

It is respectfully submitted that in the scheme of Federal taxation the limitation upon the deduction of taxes from gross income, as provided in section 23 (c) (3), is a distinct inequality and hardship. In the past deduction for special benefit taxes has been denied on the theory, as stated in the several income tax laws, because "tending to increase the value of the property assessed." As a matter of fact, this is not strictly accurate. When it comes to the sale of real estate, and the determination of gain or loss arising therefrom, it is very difficult to measure what portion, if any, of the amount received represents the increased value due to the improvements which had been made in past years for sidewalks, curbing, or paving. In some States owners of office buildings have been assessed special benefit taxes for lighting fixtures installed by special taxing districts created under city charters.

The inference is that such improvements tend to increase the value of the property assessed, whereas it is wholly problematical and quite unlikely that the owner of the property will ever recover the amount of such special benefit taxes in connection with any sale or disposition, and to add to the cost of the land and buildings or capitalize such special benefit taxes is wholly unwarranted. In fairness to owners of real estate throughout the country we recommend that Congress strike out the provisions of section 23 (c) (3) as above quoted, in order that local taxes of all kinds may, at the option of the taxpayer, be deducted from gross income. The result would be that special assessments and other like taxes will be chargeable against income for the year in which paid or accrued, and thereafter in the event of the sale or disposition of the property the gain or loss resulting will not be decreased or affected by local taxes already paid. In the majority of cases this will result in increased taxable income in the year of sale.

VIII. DEDUCTIONS FOR DEPRECIATION AS BETWEEN THE LESSOR AND LESSEE

Section 23 (k) of the pending bill provides for the deduction of a reasonable allowance for exhaustion, wear and tear of property used in the trade or business, "including a reasonable allowance for obsolescence." Recent revenue acts and the pending bill, cover the special cases of property held by one person for life with remainder to another, and property held in trust. Since 1918 the provision in respect to depletion, in the case of mines, oil and gas wells, and other natural deposits, has specifically provided that in the case of leases and deductions shall be equitably apportioned between the lessor and the lessee. In regard to depreciation many cases have arisen in the administration of the income tax laws where a deduction for depreciation has been denied to the lessee, because he does not have title to the property, and also to the lessor, because the provisions of the lease provide that the property shall be returned at the expiration of the lease in the same good order and condition as when taken possession of by the lessee.

We suggest a further amendment to section 23 (k) by adding a new sentence on page 24, line 18, as follows:

"In the case of leaseholds, the deduction shall be allowed either to the lessor or lessee."

It is contemplated that the deduction for depreciation, so-called, must in all cases include "a reasonable allowance for obsolescence." Where leases contain a covenant that the lessee shall keep the property in good order and condition, make all necessary repairs and improvements thereto, and return the same to the lessor at the expiration of the lease in a like condition as when taken over, it is impossible under the interpretation applied by the Bureau of Internal Revenue for the lessee to obtain a deduction for depreciation and/or obsolescence, and the lessor is likewise denied any such deduction because of the specific terms of the contract. The lessee is permitted to deduct all charges for repairs, replacements, or betterments, or amortize the cost thereof over the remaining life of the lease. The lessor must await the termination of the lease in order to ascertain whether any loss has been sustained by reason of the failure of the lessee to return the

property in the same good order and condition as when the premises were first leased. In both cases no consideration is given to the factor of obsolescence, which in the case of practically all depreciable assets is an ever-present condition. For example, the lessee may covenant to return the property at the end of the lease in the same good order and condition as when taken over, but after making all repairs, improvements, and betterments, the lessor, at the end of the lease (and this is especially true in the case of long term leases) may find that the property has greatly deteriorated in value, not because of physical depreciation, but because of functional depreciation, or obsolescence. We respectfully submit that in the interest of better administration of this provision of the income tax law, Congress should insert a provision to the effect that the amount of depreciation sustained annually shall be allowed to the lessor or lessee. This would conform to better accounting and would eliminate many of the anomalous instances where under the present interpretation the Bureau of Internal Revenue is not allowing depreciation, in the case of leased property, either to the lessor who holds the legal title and receives the rent as income therefrom, or to the lessee who is in possession thereof and who is using the property in his trade or business.

IX. Dividend distributions by corporations.

We protest an amendment to the pending bill, and a drastic change in the present income tax law, which was adopted on the floor of the House without objection on March 29, 1932. This amendment was doubtless hastily considered after the House had defeated the general manufacturers' sales tax provisions. Section 115 of the present income tax law covers "Distributions by corporations," and subsection (b) reads as follows:

"(b) Source of distribution: For the purposes of this act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the basis of the stock provided in section 113."

The foregoing provisions were contained in the bill H. R. 10326, as reported to the House, but on March 29 a committee amendment was introduced by Mr. Vinson, of Kentucky, and adopted, which had the effect of striking out the second sentence in the above paragraph, reading as follows:

"Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the basis of the stock provided in section 113."

We respectfully ask that the foregoing provision be restored on page 85, line 11, of the bill as now pending before the Senate Finance Committee. The statement was made on the floor of the House that the amendment will cause to be taxed the dividends that are now being paid out of surpluses acquired prior to March 1, 1913, and that it was thought that dividends paid from that source should be subject to the same rate of taxation applicable to all other dividends. From the very beginning of our income tax laws Congress has expressly recognized that it lacked power to tax income earned or accrued prior to the adoption of the sixteenth amendment. Hence, the value of all property as of March 1, 1913, has been considered as capital, and the Supreme Court has on many occasions recognized this fact. The second sentence of section 115 (b), stricken out by the House, as above quoted, has been a part of the revenue acts of 1921, 1924, 1926 and 1928. We believe that unless the language of the present law is restored to the pending bill there will ensue much litigation with the result that the courts will have to hold that the taxation of earnings or profits which accrued prior to March 1, 1913, is unconstitutional. It seems utterly unwise, as a matter of policy, for Congress at this late date to so drastically change the fundamental theory and basis of our income taxation. Without the qualifying provisions in the second sentence of Section 115 (b) a wide field of speculation is left open by the provision that "every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits." In respect to real estate, such as land or buildings, the amendment omits the words of the second sentence which exempt from taxation the "increase in value of property accrued" before March 1, 1913. Such increase in the value of property prior to the time when Congress possessed the power to levy income tax, under the sixteenth amendment, is and has always been held to be capital, and we believe it is not only unconstitutional but highly improper for the pending bill to reach back and

attempt to tax as income any increase in the value of property which accrued to March 1, 1913. The last four income tax laws clearly exempted from taxation the increase in value of property which accrued prior to March 1, 1913. It is respectfully requested, therefore, that the second sentence of subsection (b) of section 113 be restored in its original form.

Respectfully submitted.

April 21, 1932.

JOSEPH F. MANN,
Counsel National Association of Building Owners and Managers.
GRAHAM ALDIS,
Chairman Taxation Committee.
HARRY J. GERRITY,
Washington Representative.

STATEMENT OF L. T. STEVENSON, PRESIDENT NATIONAL ASSOCIATION OF REAL ESTATE BOARDS, NEW YORK, N. Y.

The CHAIRMAN. Please state your name and whom you represent.

Mr. STEVENSON. L. T. Stevenson, president National Association of Real Estate Boards.

Mr. Chairman and gentlemen, I am president of the National Association of Real Estate Boards, appearing before you in protest against the stamp tax on conveyances.

The National Association of Real Estate Boards is a federation of 555 local real-estate boards having 14,000 active or broker members, 12,000 real-estate-owner members, and 9,000 members of other classes.

On behalf of the real-estate owners and brokers who constitute our membership we wish to protest against the imposition of a stamp tax on real-estate conveyances for the following reasons:

1. Local taxes on real estate are everywhere proving a greater burden than it can bear.

Tax delinquencies in cities and agricultural regions are attaining unprecedented volume. Approximately one-fourth of the entire area of Michigan has reverted to the State because of unpaid taxes. An Associated Press story of April 5 states that the tax sales recently in Mississippi have brought practically one-fourth of the entire area of that State under the sheriff's hammer. In Chicago tax bills totaling $289,000,000 were sent to the taxpayers on March 1. By April 9 only $36,000,000 had been collected, and April 15 is the penalty date.

Real estate is bearing what you might term a sort of "cover-up" tax at the present time which is for unemployment relief. I can cite you one instance in the city of Pittsburgh of one estate that owns approximately 250 housing units, of which there are only one-third paying rent to-day. The other two-thirds, while occupied, are not paying rent.

Senator Reed probably would know of that. That indicates that there is a tax being paid in an indirect way, which is naturally an involuntary tax.

There are also coming up all over the country the bond issues that are being passed by the different municipal divisions for relief of the unemployed. We just had a bond issue up in our city at the present time which will practically deplete our bonding power.

In the city of Detroit their bonds for the past year for unemployment relief amount to some $22,000,000, thereby using up practically

all the bonding power of that city, and real estate will have to bear all of the burden.

Following are some typical percentages on tax delinquencies chosen at random from different cities, and I will simply offer that statement for the record. There are quite a few showing the tremendous gain in tax delinquencies all over the country. In one place it shows 100 per cent delinquencies, and in all cases it shows tremendous gains in tax delinquencies throughout the country.

Senator HARRISON. I do not suppose anybody on the committee controverts any of those statements?

Senator WATSON. No.

Senator REED. I think we know all that, to our regret.

(The statement of tax delinquencies referred to and submitted by the witness is here printed in full, as follows:)

Per cent of tax delinquencies of various cities

[Prepared by Prof. Simeon E. Leland, University of Chicago]

City	1928	1929	1930	1931
New York City	14.2	17.2	17.9	18.85
St. Louis, Mo.	11.05	13.02	16.63	.....
Milwaukee, Wis.	8.52	7.26	12.34	.....
San Antonio, Tex.	8.06	9.60	11.42	.....
Springfield, Mass.	.....	33.44	33.55	.....
Tacoma, Wash.	.....	26.0	31.0	.....
Knoxville, Tenn.	.....	35.67	33.20	.....
El Paso, Tex.	5.86	7.02	17.32	.....
Saginaw, Mich.	8.45	11.99	20.25	.....
Lansing, Mich.	8.88	9.89	15.50	.....
Pontiac, Mich.	5.2	13.6	26.6	.....
Charleston, S. C.	4.47	6.99	12.86	.....
Highland Park, Mich.	3.7	8.0	19.4	.....
Woonsocket, R. I.	14.0	15.0	20.0	.....
Newcastle, Pa.	31.0	35.0	38.0	.....
Wichita Falls, Tex.	15.0	20.0	20.0	.....
St. Petersburg, Fla.	31.07	27.0	33.0	.....
Bangor, Me.	7.46	10.5	4.8	22.4
Berwyn, Ill.	23.1	23.7	100.0	100.0
Bridgeport, Conn.	5.2	3.7	4.03	8.0
Jacksonville, Fla.	16.0	19.0	23.0	31.0
New Brunswick, N. J.	25.5	27.2	30.2	.....
Newport, R. I.	10.13	10.60	8.4	11.96
Seattle, Wash.	7.32	7.4	8.4	14.04
Wauwatosa, Wis.	9.6	11.8	15.6	18.34
West Hartford, Conn.	8.99	9.71	9.27	19.2
White Plains, N. Y.	4.9	6.8	8.6	14.2

Mr. STEVENSON. Since 1927 real-estate values have been declining. During that same period taxes have consistently increased.

Everywhere throughout the country city and State governments are beginning to recognize the facts and seek ways of relieving real estate.

We urge upon you that the imposition of a new tax by the Federal Government at this time on real estate would be tremendously discouraging to real-estate owners.

(2) Real estate has always been recognized as the main dependence of local government for revenue and should remain so.

A number of States have during recent years decreased and in some cases eliminated taxes on real property for State purposes.

A new tax on real-estate transactions, which would be in effect a tax on real property, would run counter to the current policy of State governments.

(3) The stamp tax on real-estate conveyances in effect during 1922 to 1925 proved to be a prolific source of misrepresentation.

In a great many real-estate transactions the true consideration is not made public. It became common practice to affix revenue stamps indicating a consideration in excess of the true one for the purpose of inflating values. A committee from this association, headed by Mr. Henry G. Zander, of Chicago, appeared before a committee of Congress in 1924 to present the facts concerning this matter. Congress was apparently impressed, and the tax was repealed.

(4) We believe that the estimate of the Treasury Department that the stamp tax on real-estate conveyances will yield $10,000,000 is excessive; in our opinion the tax will not yield more than $3,000,000 and will not be sufficiently productive, therefore, to justify the damage it will do, if enacted, to the real-estate owners and the real-estate business.

We are unable to learn what the yield on stamp taxes on real-estate conveyances in previous years has been. Mr. R. M. Estes, deputy commissioner of the Bureau of Internal Revenue, states that the taxes on bonds, capital stock issues, and conveyances are lumped and can not be broken down. The Statistical Abstract of the United States, 1925, page 170, shows that the receipts from stamp taxes on bonds, capital stock issues, conveyances, and so forth, were as follows for the following years: 1922, $26,730,794; 1923, $32,759,763; 1924, $30,613,428; and 1925, $20,124,727.

The Treasury Department estimate that a stamp tax of 50 cents per $500 of value on conveyances will yield $10,000,000 is evidently based on an assumed turnover of some $10,000,000,000 in real-estate sales.

We do not know of any way of estimating accurately either the number or the amount of real-estate sales made annually. We submit, however, some figures and inferences which we believe to be reasonable. Let us take Cook County, Ill., as an example. The total number of real-estate parcels subject to taxation in Cook County is 1,115,237. In 1930 there were 59,028 trust deeds recorded, indicating a probable turnover of about 5.29 per cent. In 1931 there were 41,807 trust deeds recorded, indicating a turnover of 3.75 per cent. The first three months of 1932 show a total of 6,117 trust deeds recorded. This indicates a probable total for the year 1932 not in excess of 30,000, which would give us a total turnover percentage of 2.7 per cent.

The percentage of turnover in a city like Chicago which is growing and active is undoubtedly higher than in cities of slow growth and certainly higher than in the agricultural regions. We believe that a proper turnover figure of 2 per cent for the country as a whole during 1932 and 1933 will probably come close to the facts.

We do not know of any reliable current estimate of the value of all real estate in the country at present. The Census Department's estimate as of 1922 was $176,000,000,000, including urban and rural property. Considering declines in value of agricultural property during the last decade and declines in urban values since 1927, we doubt if the total would be materially different now. From this amount $20,000,000,000 should be deducted consisting of public property and tax-exempt property, leaving $156,000,000,000. If 2 per

cent be accepted as a fair turnover figure it would indicate that the total value of property changing hands might approximate $8,000,000,000. On this amount the tax of 50 cents per $500 of value would yield approximately $8,000,000.

We contend, therefore, that the tax will be disappointing in its productiveness and will cause difficulties, frauds, and discouragement in the real-estate business, which will far outweigh in results any revenue produced.

For these reasons, we respectfully ask that your committee recommend that the stamp tax on real-estate transfers be not included in the new revenue act.

I desire to offer a resolution from the convention of our association held in St. Louis, Mo., on January 22, 1932; also resolutions from a number of our real-estate boards.

(The resolutions referred to and submitted by the witness are here printed in full as follows:)

[Excerpt from minutes of delegate meeting, National Association of Real Estate Boards, St. Louis, Mo., January 20–22, 1932]

The secretary advised that the Ways and Means Committee of the House of Representatives was considering the inclusion of a stamp tax on real-estate deeds in the Federal revenue act, similar to the provisions in force from 1921 to 1926, inclusive. He stated that the association was opposed to this tax since it was the source of fraud, and that the board of directors recommended that the delegates approve the following telegram to members of the Ways and Means Committee:

"Delegates representing 554 real-estate boards throughout the United States, having a membership of 40,000 realtors and property owners, respectfully wish to enter their unanimous protest against the imposition of a stamp tax on deeds. When previously in effect this tax proved a prolific source of fraud as the stamps were used to indicate inflated values. Moreover, real property is always so heavily taxed for local purposes that millions of people are losing their equities and hundreds of thousands of parcels are reverting to city, county and State governments, due to the inability of their owners to carry the tax load. Real-estate owners are in revolt and in many communities are refusing to pay their taxes until they are made more equitable. We feel that real estate is doing much more than its fair share in carrying the cost of government. Moreover, since real estate has already been the main dependence of local governments, there has, since the founding of our Government, been an understanding that the Federal Government should not attempt to enter this field of taxation. If we are to have sales taxes let all commodities be taxed equally and do not single out real estate. We are doing our best at this time to encourage home ownership and home rebuilding. Help us by eliminating this proposed additional tax on real estate transfers."

On motion of Mr. Schlessinger of Newark, N. J., the telegram was approved and the Secretary was instructed to send it to the members of the Ways and Means Committee of the House of Representatives.

RESOLUTION BY MILWAUKEE REAL ESTATE BOARD

Whereas real property pays approximately 80 per cent of all property taxes and in most States of the Union the relief of unemployed will fall on real estate; and

Whereas the Federal income tax and the States having an income tax bear heavily on income derived from real estate to an extent that in the recent past it has been suggested that income from real property be taxed at a lower rate: Now, therefore, be it

Resolved, That the Milwaukee Real Estate Board appeal to Congress not to reenact a stamp tax on real estate conveyances. Real estate since the beginning of our country has been the main dependence of local government, notwithstanding the tremendous personal wealth developed in the past and which now largely goes untaxed; the most recent evidence of this being the

court's decision in the case of the city of Chicago assessment being declared illegal on account of the failure to assess approximately $15,000,000,000 of personal property. In consideration of the above, the Federal Government should not extend its taxing powe either directly or indirectly to real estate.

Resolved further, That a copy of this resolution be mailed to the members of the Ways and Means Committee and Wisconsin Members of the House of Representatives.

MILWAUKEE REAL ESTATE BOARD.

Adopted January 19, 1932.

RESOLUTION BY SPOKANE (WASH.) REALTY BOARD

At a meeting of the Spokane Realty Board held December 11, 1931, the following resolution was unanimously adopted:

"Whereas the Secretary of the Treasury has recommended a tax on real-estate transfers as part of a comprehensive plan to raise additional revenue for governmental purposes; and

"Whereas real estate in the State of Washington now bears nearly 85 per cent of the total tax burden; and

"Whereas all authorities agree that real estate is already heavily overtaxed: Now, therefore, be it

"*Resolved*, That the Spokane Realty Board emphatically opposes any further tax levies upon real estate or real-estate transfers as an unjust and unreasonable tax; and be it further

"*Resolved*, That copies of these resolutions be forwarded to Secretary Mellon, to our Representatives in Congress, and to realty organizations in the Northwest."

RESOLUTION BY BELLINGHAM (WASH.) REAL ESTATE BOARD

At a meeting of the Bellingham Real Estate Board held December 16, 1931, the following resolution was unanimously adopted:

"Whereas the Secretary of the Treasury has recommended a tax on real-estate transfers as part of a comprehensive plan to raise additional revenue for governmental purposes; and

"Whereas real estate in the State of Washington now bears nearly 85 per cent of the total tax burden; and

"Whereas all authorities agree that real estate is already heavily overtaxed: Now, therefore, be it

"*Resolved*, That the Bellingham Real Estate Board emphatically opposes any further tax levies upon real estate or real-estate transfers as an unjust and unreasonable tax; and be it further

"*Resolved*, That copies of this resolution be forwarded to Secretary Mellon, to our Representatives in Congress, and to realty organizations in the Northwest."

RESOLUTION BY UTAH STATE REALTY ASSOCIATION

Whereas in the tax program which is to be considered by Congress it is proposed to restore the stamp tax of 50 cents per $500 on real-estate transfers; and

Whereas in the opinion of this convention such a tax hinders the free exchange of real estate and imposes an additional tax upon real estate which it should not bear: Now therefore be it

Resolved, That this convention go on record as being opposed to such taxation and that the members of the Ways and Means Committee be requested to oppose any such measure.

Unanimously adopted at the twelfth annual convention of the Utah State Realty Association, held in Salt Lake City, Utah, Saturday, January 16, 1932.

WERNER KIEPE, *Secretary-Treasurer*.

RESOLUTION BY PORTLAND (OREG.) REALTY BOARD

Whereas the Secretary of the Treasury has recommended a tax on real-estate transfers as part of a comprehensive plan to raise additional revenue for governmental purposes; and

Whereas real estate in the State of Oregon now bears 75 per cent of the total tax burden; and

Whereas all authorities agree that real state is heavily discriminated against in the matter of overtaxation: Now therefore be it

Resolved, That the Portland Realty Board oppose any further tax levies upon real estate, and more especially on real-estate transfers, as an unjust and unreasonable burden; and be it further

Resolved, That copies of this resolution be forwarded to Secretary Mellon, to our Representatives in Congress, and to the National Association of Real Estate Boards.

PORTLAND REALTY BOARD,
By A. G. TEEPE, *President*,
F. C. MCGOWAN, *Secretary*.

RESOLUTION BY DULUTH BOARD OF REALTORS

The Duluth Board of Relators desires to vigorously protest against the restoration of the stamp tax on real estate transfers which was abolished in 1924, as per the following resolution:

Whereas it is proposed to restore the stamp tax on real estate transfers; and

Whereas the former experience of this tax showed that it was a prolific source of fraud in which frequently more stamps were affixed to a deed than the actual consideration warranted in order to indicate a sales price in excess of that actually paid; and

Whereas real estate, upon which local governments chiefly depend for their revenues, is already taxed excessively, and in some instances beyond its ability to pay, should not be further assessed by any Government body, Federal, State, or municipal: Therefore be it

Resolved, That the Duluth Board of Realtors is opposed to this proposed tax on the grounds that it is neither warranted nor justified, and that its general effect will be detrimental to real estate throughout the whole country.

RESOLUTION BY BOARD OF DIRECTORS MICHIGAN REAL ESTATE ASSOCIATION

Whereas real estate is now staggering under a load of taxes which has reached the point of confiscation of property; and

Whereas the tremendous delinquency in general property levies all over the United States is seriously handicapping the proper functioning of Government; and

Whereas taxpayers of the country are looking to organized leadership and demanding of public officials relief from the unjust burden of real-estate taxes; and

Whereas the addition of any further tax burdens on real estate will act as a deterrent to home building and home ownership, thereby adding another handicap to the early relief of unemployment: Therefore be it.

Resolved, That the directors of the Michigan Real Estate Association vigorously protest the proposed enactment by the Federal Congress of the United States of a stamp tax of 50 cents for each $500 value in excess of $100 on realty conveyances; it is further

Resolved, That a copy of these resolutions be sent to the President of the United States and to each member of the Michigan delegation in Congress.

ALBERT L. EHINGER, *President*.
LOUIS WEBBER, *Executive Secretary*.

LANSING, MICH., *January 15, 1932*.

RESOLUTION BY PASADENA (CALIF.) REALTY BOARD

Whereas there is now pending in Congress a revenue bill designed to place a stamp tax of 50 cents per $500 on real-estate transfers, and inasmuch as the local, State, and national real-estate boards were instrumental in having a similar measure abolished in 1924: Therefore be it

Resolved, That the Pasadena Realty Board go on record against such legislation and urge its representatives in Congress to use their influence in that direction, for the reason that real estate is the main dependence of the local government, and the Federal Government should not in any way, directly or indirectly, attempt to impose a tax upon it; and, therefore, be it further

Resolved, That copies of these resolutions be forwarded to its Senators and Representatives in Congress; that other copies be sent the National Association of Real Estate Boards, the California Real Estate Association, and the local press.

In witness whereof, we have this 18th day of January, 1932, affixed our hands and the seal of the Pasadena Realty Board.

PASADENA REALTY BOARD,
By LORENE W. DIEHL, *President*.
M. G. POTTS, *Secretary*.

ST. LOUIS, MO., *January 20, 1932*.

WAYS AND MEANS COMMITTEE,
House of Representatives, Washington, D. C.:

Delegates representing 554 real-estate boards throughout the United States, having a membership of 40,000 realtors and property owners, respectfully wish to enter their unanimous protest against the imposition of a stamp tax on deeds. When previously in effect this tax proved a prolific source of fraud as the stamps were used to indicate inflated values. Moreover real property is already so heavily taxed for local purposes that millions of people are losing their equities and hundreds of thousands of parcels are reverting to city, county, and State governments, due to the inability of their owners to carry the tax load. Real-estate owners are in revolt, and in many communities are refusing to pay their taxes until more than its fair share in carrying the cost of government. Moreover, since real estate has always been the main dependence of local governments, there has since the founding of our Government been an understanding that the Federal Government should not attempt to enter this field of taxation. If we are to have sales taxes let all commodities be taxed equally and do not single out real estate. We are doing our best at this time to encourage home ownership and home rebuilding. Help us by eliminating this proposed additional tax on real-estate transfers.

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS,
By HERBERT U. NELSON, *Secretary*.

RESOLUTION OF THE DENVER REAL ESTATE EXCHANGE

Whereas it has come to the attention of the Denver Real Estate Exchange (a nonprofit organization, incorporated under the laws of the State of Colorado, October 2, 1888, for the purpose of correcting abuses that now exist or that hereafter may arise between owners and agents in the buying, selling, and management of real estate and to promote the general welfare of our city and State) that the Seventy-second Congress of the United States is considering the reenactment of a stamp tax on real-estate transfers; and

Whereas real estate is now bearing a disproportionate share of the tax burden for maintenance of local and State governments and should not be taxed directly or indirectly by the Federal Government; and

Whereas the previous operation of a similar law resulted in the perpetration of many frauds in affixing sufficient stamps to indicate a false fictitious value: Therefore be it

Resolved, That the Denver Real Estate Exchange petitions the honorable Ways and Means Committee of the House of Representatives of the Seventy-second Congress of the United States to use its influence to prevent the passage of such legislation which will permit the perpetration of frauds and act adversely to the efforts of such organizations as ours in the support of fair and equitable dealings in real estate transactions, and also to further burden property owners.

THE DENVER REAL ESTATE EXCHANGE,
By CLARENCE J. MORROW, *President*,
WESLEY J. TOWNE, *Secretary*.

RESOLUTION BY THE RICHMOND REAL ESTATE EXCHANGE

Whereas information has been received that the Federal Government has requested that the stamp tax on the transfer of real estate be included in the proposed revenue bill; and

Whereas real estate throughout the Nation is now carrying the major portion of taxes for both our municipal and State governments; and

Whereas the stamp tax lends itself to fraudulent practice in the transfer of real estate by allowing unscrupulous purchasers to place on the deed of conveyance revenue stamps in excess of the amount required, thereby establishing a false valuation: Therefore be it

Resolved, That the board of directors of the Richmond Real Estate Exchange go on record as opposing the proposed levy of the additional tax of 50 cents per $500 in value by the Federal Government, and use its efforts to have this section of the revenue bill omitted, and that a copy of these resolutions be sent to our representatives in Congress, to the National Association of Real Estate Boards, and to members of the Ways and Means Committee of our present Congress.

JANUARY 12, 1932.

RESOLUTION BY THE DENVER REAL ESTATE EXCHANGE

Whereas it has come to the attention of the Denver Real Estate Exchange (a nonprofit organization incorporated under the laws of the State of Colorado, October 2, 1888, for the purpose of correcting abuses that now exist or that hereafter may arise between owners and agents in the buying, selling, and management of real estate, and to promote the general welfare of our city and State) that the Seventy-second Congress of the United States is considering the reenactment of a stamp tax on real-estate transfers; and

Whereas the previous operation of a similar law resulted in the perpetration of many frauds in affixing sufficient stamps to indicate a false fictitious value; and

Whereas real estate is now bearing a disproportionate share of the tax burden for maintenance of local and State governments and should not be taxed directly or indirectly by the Federal Government: Therefore be it

Resolved, That the Denver Real Estate Exchange petitions the honorable Ways and Means Committee of the House of Representatives of the Seventy-second Congress of the United States to use its influence to prevent the passage of such legislation which will permit the perpetration of frauds and act adversely to the efforts of such organizations as ours in the support of fair and equitable dealings in real-estate transactions, and also to further burden property owners.

JANUARY 16, 1932.

RESOLUTION BY THE PORTLAND REALTY BOARD

Whereas the Federal Government proposed to amend the Federal revenue act to the extent of reenacting the stamp tax of 50 cents per $500 on real-estate conveyances; and

Whereas the National Association of Real Estate Boards spent a great deal of time in having this obnoxious tax eliminated some years ago; and

Whereas the former act proved a very fertile source of fraud in real-estate transactions, enabling unscrupulous persons to grossly indicate a false consideration through the use of additional stamps; and

Whereas real estate has for generations borne a grossly inequitable portion of the tax burden: Therefore be it

Resolved, That while the Portland Realty Board recognizes that the Federal Government must raise more taxes, it is unanimous in petitioning the Members of Congress to seek sources of revenue for taxation that are not already burdened to the limit.

RESOLUTION BY THE AKRON REAL ESTATE BOARD

Whereas there is in Congress at the present time a revenue bill proposing to restore the stamp tax of 50 cents per $500 on real-estate transfers, and

Whereas former experience showed that the tax was a prolific source of fraud (frequently more stamps would be affixed to a deed than the actual consideration warranted in order to indicate a fictitiously high sales price), and

Whereas it is the belief of the Akron Real Estate Board that real Estate is the main dependence of local government and that the Federal Government

should not in any way, directly or indirectly, attempt to impose a tax upon it: Now, therefore, be it

Resolved, That the Akron Real Estate Board, representing some 400 active, associate, and property-owner members, urge the strongest opposition possible against the portion of the revenue bill having to do with the real estate stamp tax.

JANUARY 18, 1932.

Mr. STEVENSON. I would like at this time to ask if it is possible for the committee to hear Mr. Edward A. MacDougal, of New York, who is with me and who would like to stress another point with reference to taxes, and also to submit a resolution prepared by our attorney. It would be very helpful if he could get away to-night.

STATEMENT OF EDWARD A. MacDOUGALL, PRESIDENT OF THE QUEENSBORO CORPORATION, NEW YORK, N. Y.

The CHAIRMAN. State your name for the record.

Mr. MACDOUGALL. Edward A. MacDougall.

The CHAIRMAN. How long are you going to take?

Mr. MACDOUGALL. It will not take more than three minutes. I am president of the Queensboro Corporation, constructing moderate priced housing in the city of New York. I speak in the interest of the real estate board of New York as its chairman of the committee on taxation, and as chairman of the housing committee of the national board.

With regard to the tax bill of 1924 there was a protest that covered a point which I want to bring particularly to your attention, Mr. Chairman. This amendment is to clarify a provision in the revenue bill before your committee with respect to the basis for taxing capital gains arising from the sale of unimproved and unproductive real estate, to the end that carrying charges, such as taxes and interest paid, should be considered part of the cost, as in fact they clearly are.

The House committee, in fact, amended the law of 1924, and the Treasury has considered the amendment to permit this to be done; but a recent court decision has suggested that Congress be more specific.

In the case of the Central Real Estate Co. of Texas one of the courts ruled against the deduction, although under a ruling of the Treasury Department real estate has benefited up to August 1 of this year.

Our general counsel, Gen. Nathan MacChesney, has recommended that you add to section 113 (b) (1) (A) the following:

including carrying charges such as interest and taxes on unproductive property.

The Treasury Department, I believe, are in sympathy, because they have given us a ruling on that point; and we want to emphasize the importance to you, gentlemen, because unless it is included in this bill, a serious effect will be had on the progress and development of housing projects in the United States.

Senator REED. Would you couple that with the proviso that it should be done only where no deduction was made from income-tax returns for those same taxes and carrying charges?

Mr. MACDOUGALL. The language of the act, I believe, provides that it be charged up if the company had any earnings, but where it had no earnings it should be charged to capital account.

LETTER OF EDWARD A. MACDOUGALL

APRIL 15, 1932.

Hon. REED SMOOT,
Chairman Finance Committee,
United States Senate, Washington, D. C.

MY DEAR SENATOR SMOOT: Referring to the hearing had yesterday before your committee on the pending revenue bill, at which President Stevenson and I were privileged to speak briefly on behalf of the National Association of Real Estate Boards, I take advantage of your kind permission to file this letter as a supplement to our statements before you at the hearing yesterday.

I desire particularly to call your attention to page 81 of the Senate bill where section 113 (v) (1) (A), which we desire to have amended, will be found (lines 3, 4, and 5). You may recall that, in discussing the revision advocated by the national board, we referred to the pages and sections of the House bill.

I take this opportunity, on behalf of the real estate boards which are members of the national association to thank you and your committee for your patience and the interest shown in hearing us yesterday on this point of vital importance to our membership at a time when you were deeply concerned with financial matters of such great moment to the country as a whole.

The adoption of this slight modification is a matter of great importance to all of us, as it carries out the intention of the House Ways and Means Committee and of your Senate and of the Congress when the original amendment was made in 1924. As pointed out to your committee yesterday at the hearing, the 1924 amendment has been effective and in force until August, 1931, when, by reason of the decision in the Central Real Estate Co. case, the appropriate Treasury ruling was changed until such time as the Congress, by unequivocal statement, should make clear its intention with respect to the capitalization of carrying charges, such as taxes and interest, on unimproved and unproductive real property.

With renewed thanks to you and your committee, I beg to remain,

Yours faithfully,

EDWARD A. MACDOUGALL,
Chairman Committee on Housing.

The CHAIRMAN. The committee will stand adjourned until 10 o'clock to-morrow.

Senator CONNALLY. Before you adjourn, Mr. Chairman: The oil people are here, and I told them we would be glad to hear from one speaker representing them, but they claim that there are 18 on the list to speak in opposition. I do not think that is quite fair. I suggested that if one speaker would speak for oil we could probably give 30 minutes to that one speaker, and give the other side an equal amount of time.

Senator HARRISON. Some one saw me on the other side and said that if they could have two men summoned from the department it would do away with a good many who had asked to be heard. I think it is good policy for us to do that.

The CHAIRMAN. We are not going to have 36 witnesses.

Senator CONNALLY. No. We are not asking for a lot of time.

The CHAIRMAN. Perhaps it would be well to have them select two men, as you say, to speak for it, and we will have two men here on the other side to speak against it.

Senator CONNALLY. If one man wanted to speak for the whole industry, he could have 30 minutes?

Senator REED. I should think so, if they were all satisfied to have him represent them.

TAX ON SALE OF PRODUCE FOR FUTURE DELIVERY

STATEMENT OF SIEBEL HARRIS, REPRESENTING THE GRAIN COMMITTEE ON NATIONAL AFFAIRS, MINNEAPOLIS, MINN.

Mr. HARRIS. Mr. Chairman, I am speaking as chairman of the Grain Committee on National Affairs in opposition to the proposed increase of tax on sales of produce for future delivery, under section 726.

This committee, representing 11 of the leading grain exchanges of the United States and the Grain and Feed Dealers' National Association, desires to protest vigorously against the proposed increase in the tax on sales of produce for future delivery which would increase the tax from 1 cent for each hundred dollar value to 5 cents for each hundred dollars. We firmly believe that such an increase would constitute heavy and entirely unwarranted burden on the producer at a time when his condition is already one of extreme distress. It seems inconceivable that Congress should add such a burden to the farmer's woes in view of the fact that Congress has appropriated many millions of dollars for the relief of agriculture and the betterment of the farmer's situation. It is true that the farmer would directly pay a tax only on the amount of grain which is hedged, but under the present machinery of futures markets he would also be subjected to an indirect burden because of the increased difficulty in hedging. The proposed tax would be so heavy that it would greatly hamper the course of trade which makes for a liquid market. This would inevitably increase the cost of hedging which, in turn, would be reflected back to producers and consumers alike.

Without a liquid market the miller, exporter and other cash handlers would necessarily find it more expensive to insure their trade risks and this expense, like all others, would have to be absorbed by producer or consumer. To the extent that it affected the former, it would represent an additional burden on farmers and to the extent that it affected the latter it would add to the cost of food for the humblest citizen. We respectfully submit that anything which increases the burden on those who are already suffering abnormally is not a logical method of raising revenue at this time.

It should also be pointed out that the intent of the act is to raise additional revenue. It is quite probable that an increase of the proportions proposed would have the effect of reducing trade to a point where the actual tax would be little more, if any, than that produced by the present rate. This statement is based upon the fact that the active in and out trade which makes a liquid market possible could not effectively function under such a burden. It is, therefore, quite probable that the increase would have the two-fold effect of hurting producer and consumer by narrowing the market and destroying its

liquid character and at the same time would fail to produce the desired result of increasing tax receipts.

At the present time the grain market is giving an exhibition of strength which is lending encouragement to many lines of discouraged enterprise. Investors have been buying grain futures and helping prices at a time when increased confidence is one of the crying needs in the business situation. Any action which would increase the burden on investors would be likely to nullify many of the beneficial effects now being realized from advancing grain prices. The highest tax of this kind that ever was imposed upon the trade, even as an emergency war measure, was 2 cents per hundred dollars. We submit to you that in all fairness the proposed increase to five times the present rate would constitute a crushing and destructive burden and would be opposed to the best interests of producers and consumers alike.

Senator HARRISON. What was it during the war?

Mr. HARRIS. Two cents, sir.

Senator HARRISON. That is the highest it has been?

Mr. HARRIS. Yes, sir.

I should like to add just a few words, if I may, about the competitive selling market, like wheat and cotton, and refer to Canada and the Argentine, where they do not have a tax, that it is inevitable that this would work back to the raiser of cotton and grain, that it does not reach back only to the dealer, but to the raiser.

Senator SHORTRIDGE. The present rate is two?

Mr. HARRIS. The present rate is one.

Senator CONNALLY. Do you think two is too high?

Mr. HARRIS. I think anything that adds to the farmer's burden is oppressive at the present time, Senator. The Senator from Texas understands that anything that adds to the burden of the cotton farmers is oppressive at the present time.

Senator CONNALLY. Yes; but two would be better than five.

Mr. HARRIS. Senator, I think it must stand on the judgment of the committee what can be borne, but I think the farmer is bearing about all the burden, and more, than he can bear.

Senator COUZENS. What is the contemplated revenue by this bill from this item?

Mr. HARRIS. The contemplated revenue is $1,500,000. As I endeavored to point out, that is a theoretical rather than a fixed increase. That is $6,000,000 a year.

Senator SHORTRIDGE. That is to be brought about by multiplying by four?

Mr. HARRIS. Yes, multiplying by four, in my judgment, it will be destructive of trading in grain on the markets.

If I may, I will present this statement of cost of trading to the trader under the proposed tax.

The CHAIRMAN. It may be made a part of the record.

(The statement is here printed in the record in full, as follows:)

Cost of trading to trader under proposed tax

[Basis 50-cent wheat]

Gross profit, one-eighth cent per bushel on 5,000 bushels		$6.25
Cost of clearing per 5,000	$1.25	
Proposed tax 5 cents per $100 (50-cent wheat)	1.25	
		2.50
Net profit		3.75
Loss of one-eighth cent per bushel on 5,000		6.25
Cost of clearing per 5,000		1.25
Proposed tax 5 cents per $100 (50-cent wheat)		1.25
Gross loss		8.75

If the trader makes one-eighth cent per bushel on a trade, his net profit is $3.75. If he loses one-eighth cent his loss is $8.75.

Cost of trading

[Basis $1 wheat]

Gross profit—1.8 cent per bushel on 5,000 bushels		$6.25
Cost of clearing per 5,000	$1.25	
Proposed tax 5 cents per $100	2.50	
		3.75
Net profit		2.50
Loss of one-eighth cent per bushel on 5,000 bushels		6.25
Cost of clearing per 5,000 bushels	1.25	
Proposed tax 5 cents per $100	2.50	
		3.75
Gross loss		10.00

If a trader makes one-eighth cent per bushel on a trade, his net profit is $2.50. If he loses one-eighth cent, his loss is $10.

STATEMENT OF T. R. CAIN, REPRESENTING THE GRAIN COMMITTEE ON NATIONAL AFFAIRS, JACKSONVILLE, ILL.

Mr. CAIN. Mr. Chairman and gentlemen of the committee, I wish to say to you that I was born on a farm——

Senator SHORTRIDGE (interposing). Between two rows of corn.

Mr. CAIN. Yes. I live on a farm, and if the sheriff does not sell me out, I expect to die on the farm.

I appear before you gentlemen as President of the Illinois Grain Dealers' Association; and as President of the National Grain Dealers' Association, with 450,000 members. We handle grain for about 450,000 more farmers that do not belong to the association.

I have appeared before you men to protest against this proposed tax on the future sales of grain. It is going to revert right back to the farmer. If a man comes into one of our cooperative elevators and wants to sell us 5,000 bushels of grain we see the cash grain is worth so much. We look at the board and see what December is selling at, and sometimes we can give that man a cent more than we could give on the cash market, by selling December against it. Now as we go into November we will see that the spread is wider in May. We would buy in the December and sell May. Now you see the tax we have to take into consideration. And every grain dealer will figure, when he has to pay so much for inspection, so much fee, and the interest on the money, and all those things are going to be figured in, and this will be figured in, and it is going to come out of the farmer.

Now, gentlemen, I have come here to-day from my farm in Illinois. I could ill afford to be away, and I want to get back, and I thank you for hearing me.

Senator CONNALLY. You appear for the farmers?

Mr. CAIN. I appear for the farmers and no one else.

The CHAIRMAN. Thank you, Mr. Cain.

STATEMENT OF E. J. GRIMES, VICE PRESIDENT, CARGILL GRAIN CO., MINNEAPOLIS, MINN.

Mr. GRIMES. I am appearing on behalf of the Grain Committee on National Affairs. To save your time I will file a brief.

The CHAIRMAN. It will be received.

(The brief presented by Mr. Grimes is printed in the record in full, as follows:)

BRIEF OF E. J. GRIMES

I appear before you on behalf of the Grain Committee on National Affairs Through facilities of the Minneapolis Chamber of Commerce, of which I am a member, and the Duluth Board of Trade is marketed a very high percentage of the grain and flax crops of the Northwest. It is my considered opinion that the proposed increase in tax on sales of grain and flax for future delivery will do injury to the producer. Not only will the increase be an additional tax burden on the producer but indirectly it may cost him a good many times the amount of the tax in its effect on the established marketing machinery for handling farm products.

It is the general practice of all grain dealers in the Northwest to hedge their purchases of grain in the futures markets. Elevators located at country points, whether they be cooperatively farmer owned or privately owned, sell futures as they purchase grain from the farmers. Unquestionably, in this first transaction between the country elevator and the farmer, the increase in tax will fall directly on the farmer.

Approximately 70 per cent of each new grain crop in the Northwest moves out of farmers' hands within three months after it is harvested. This movement obviously is very much in excess of current consumptive requirements during that period. The surplus over current requirements is carried by the trade, and there may be several transfers of ownership in its natural movement from producer to consumer. With each transfer of ownership there will be a trade in the futures markets, as all of the agencies handling grain make a practice of hedging.

Under the new proposal, every one of these transfers or sales will bear a 400 per cent tax increase. It becomes in effect a multiple or cumulative-sales tax on the grain. United States grain sold for export must meet the competition of grain from other countries, so that the price paid the producer becomes the competitive selling price less the handling cost. This additional tax will, under the circumstances, be assessed cumulatively against the grain and be an increase in handling charges. It is an additional burden that will come out of the farmer.

The same is also true of grain sold in the United States. With consumer buying much less than producer selling during the first few months after harvest, when 70 per cent of the farmer's crop is sold, any additional item added to the cost of marketing will fall on the producer and not on the consumer.

The producer will feel the ill effects of the tax, however, to a substantial degree from another source. With a heavy tax placed on sales, buyers are going to be less numerous. Obviously the greater the number of buyers in a market the better opportunity is afforded for good prices. A better basis of stability and greater safety for operations are also provided. This increased tax will work as as an inhibition on buying and marketing operations in general and it will be only natural for it to record itself in the form of a wider spread between buyer and seller. The cost of marketing will be increased; the farmer will receive less for his produce.

Free buying will be discouraged at a time when it is urgently needed in the grain markets.

Mr. GRIMES. I also want to file petitions signed by 3,300 farmers of Minnesota, North Dakota, South Dakota and Illinois protesting this tax.

The CHAIRMAN. They will be received for committee use, but not to be included in the record.

Senator CONNALLY. You represent the grain exchange, or the grain company?

Mr. GRIMES. I appear for the Grain Committee on National Affairs; and also am a member of the Minneapolis Chamber of Commerce.

Senator CONNALLY. So you represent, in a way, the dealers and the exchange people both?

Mr. GRIMES. Yes, sir.

Senator CONNALLY. Do you think that this will all be passed on to the producer?

Mr. GRIMES. Yes; I do.

Senator CONNALLY. Have you raised your commissions, recently, as a broker?

Mr. GRIMES. The commissions have not been raised in several years.

Senator CONNALLY. What are they now?

Mr. GRIMES. You mean on future transactions?

Senator CONNALLY. On the futures board.

Mr. GRIMES. This particular tax is on futures.

Senator CONNALLY. Alone?

Mr. GRIMES. Yes; and the commission is one-fourth cent per bushel.

Senator CONNALLY. One-fourth cent per bushel?

Mr. GRIMES. Yes.

Senator CONNALLY. Very well.

Mr. GRIMES. It is very much lower than in other countries. It runs as high as three-fourths of a cent a bushel in Rotterdam, five-eighths cent per bushel in Liverpool and 1 cent per bushel in the Argentine.

STATEMENT OF PHILIP B. WELD, PRESIDENT NEW YORK COTTON EXCHANGE, NEW YORK CITY

Mr. WELD. Mr. Chairman and Senators, as president of the New York Cotton Exchange I am coming before you to discuss section 726, which places a tax of 5 cents per hundred dollars of value on contracts for future delivery made on commodity exchanges. We have been taxed for many years. In 1918 the tax was 2 cents, and the present tax is 1 cent. We believe it is a just form of taxation. We do think a 500 per cent increase in the tax is too much.

Furthermore, it is not really taxing the members of the New York Exchange; it is a tax on the cost of distribution, which is borne all the way from the farmer to the consumer.

In closing I wish to emphasize the fact that we are not trying to dodge our fair share of tax, but we do think a 500 per cent increase is too much.

Senator GORE. This would be a 400 per cent increase. Do you think it would kick back at all on the producers of the products—cotton, for instance?

Mr. WELD. I think it is a cost on distribution, which can not be endured.

LETTER FROM H. H. PIKE, JR., PRESIDENT, NEW YORK COFFEE AND SUGAR EXCHANGE (INC.)

NEW YORK, *April 19, 1932.*

Hon. REED SMOOT,
Chairman Finance Committee United States Senate,
Washington, D. C.

SIR: On behalf of the New York Coffee and Sugar Exchange I beg your consideration of certain important factors in connection with the proposed revenue stamp tax on sales of produce for future delivery on organized exchanges.

Your committee is of course aware that the volume of trading upon the organized commodity exchanges of this country has already diminished to a point where the usefulness of these exchanges for hedging operations has been seriously impaired. I believe we may accept the premise that these exchanges are essential elements in our economic structure, both for the service they render to the hedger, and in the marketing of basic commodities. This premise has been accepted by leading economists, by Government agencies in their dealings with the exchanges, and by Congress in its legislation in respect thereto.

We are fully aware of the primary importance at the present time of balancing our Government Budget and raising sufficient revenue for that purpose; and that this can only be done through taxation. The members of the New York Coffee and Sugar Exchange, as citizens of this country and as merchants, hesitate to add to your burden by protesting against any portion of the proposed bill. But we are strongly of the opinion that the tax on commodity exchange trading will not only defeat its own purpose, but will have grave economic consequences much more far-reaching than your committee has ta' en into consideration.

To-day the Coffee and Sugar Exchange in New York City is the leading futures exchange in the world for these commodities. Producers, dealers, manufacturers, and traders from every country in the world use this exchange for hedging and trading purposes. There are competing foreign exchanges dealing in coffee in Havre, Hamburg, Rio de Janeiro, and Santos; and for sugar in London, Liverpool, Hamburg, and Paris. All of the foregoing exchanges are, however, of secondary importance to the New York Coffee and Sugar Exchange, and the combined trading on all these exchanges probably does not equal the trading on the New York City exchange.

This business has been brought to this country solely because of the freedom of trading from all restrictions and the broad market which has been maintained in our exchange.

If trading on this market is subjected to the handicap of such a tax as is proposed, the world business which now comes here will inevitably be driven to these foreign markets, and as a corollary, the position of the New York Coffee and Sugar Exchange as the leading futures exchange in the world for these two commodities will be impaired, if not destroyed. This result will not only deprive the Government of the anticipated revenue, but will drive out of business a great many of our 350 members.

These conditions will, of course, be duplicated upon the other commodity exchanges which are similarly affected.

Such a result, at a time when liquid markets are so essential to our credit structure, would be most unfortunate. Commodity values throughout the country would be further frozen, and the ranks of the bankrupts and the unemployed would be increased. These consequences, without the addition of substantial revenue to the Treasury, would be catastrophic.

May we call to your attention the fact that the contemplated tax is five times the present rate, and two and one-half times the burdensome level that maintained during the war. The proposed tax does not penalize the financial element of Wall Street, but lays a most serious burden upon the rest of the country. Every man who in any way deals in any of the commodities which are traded in upon our various exchanges would be directly affected by the imposition of the tax. Employees, tradesmen, landlords, and consumers are bound to be injured, not to mention the employers themselves, and their families.

The undersigned is ready to appear at any time before your committee and testify further and in detail regarding the matters above referred to.

Very truly yours,

H. H. PIKE, Jr., *President.*

TAX ON SAFE-DEPOSIT BOXES

BRIEF AND LETTERS OF WALTER J. BARROWS

THE SAVINGS BANKS ASSOCIATION,
New York City, April 18, 1932.

SENATE FINANCE COMMITTEE,
Washington, D. C.

GENTLEMEN: On behalf of the 57 mutual savings banks of our State who have safe deposit boxes, I wish to file a protest against a proposed Federal tax of 10 per cent which is now being considered by your committee.

Our savings banks did not have the right to render safe-deposit service to their depositors until after the World War, when many of their customers, the majority of whom are medium-salaried workers, purchased Liberty bonds, and having no other bank connection requested our savings banks to keep their bonds for them. Accordingly, our legislature gave us the right to install safe deposit facilities. I do not believe that any of our banks show any material profit from this service.

Already many of the users of these safe-deposit boxes are inquiring as to whether the Government in effecting the payment of this tax will be furnished the name and address of all renters. Will you not agree that in the collection of this tax it would yield a comparatively small revenue and the work involved and the lengthy reports that would be necessary would be all out of proportion.

Lastly, may we say that it is quite likely that this tax would be absorbed by the bank in all cases rather than passed along to the renters of safe-deposit boxes and with the bankers of the country struggling through present emergency, it would add another burden to the many they are already shouldering.

Hoping that you may accord this plea your favorable consideration, I remain,

Your very truly,

PAUL W. ALLBRIGHT.

MEMORANDUM IN OPPOSITION TO SECTION 741, PART 5, OF THE REVENUE ACT

To the COMMITTEE ON FINANCE,
United States Senate:

Mr. Chairman and gentlemen, as president of the National Safe Deposit Advisory Council I am appearing on behalf of the various safe-deposit associations throughout the country in opposition to section 741 of part 5 of the revenue act now before this committee which imposes a tax of 10 per cent on gross safe-deposit box rentals.

It is the general opinion of safe-deposit vault managers that this tax would impose an unreasonable burden on safe-deposit companies and banks and savings banks throughout the country which furnish and provide a safe-deposit vault service. The bill in theory purports to impose the tax on safe-deposit-box users, but we are convinced that as a practical matter the tax can not be successfully passed on to box users, and that safe-deposit vaults will in the final analysis be compelled to absorb and bear the tax through forced reduction of rentals. In other words, the imposition of the tax will force and bring about a general reduction of safe-deposit-box rentals from their present levels sufficient to cover the tax and we believe a great deal more.

Our investigation shows that most of the safe-deposit vaults throughout the country have been unable to obtain sufficient revenue from box rentals to cover the costs of maintaining and operating these vaults, and for the past several years all safe-deposit vaults have been fighting a losing battle against a general demand for a reduction of rentals. We believe that an analysis of the financial statements of safe-deposit vaults will demonstrate these facts conclusively. If, therefore, you impose this tax, it will have the effect of building up losses in the safe-deposit vaults service departments and safe deposit subsidiary companies of banks and savings banks in every State of the Union. We submit that all banks need and require all the assistance and support possible during this period of depression, but this tax will have the effect of adding to their burdens by increasing losses in the operation of their safe-deposit vaults.

The National Safe Deposit Advisory Council has during the past several weeks made a very careful investigation of the effects which this tax, if enacted, will have on safe deposit vault operation. The reports which we have obtained from the various safe deposit associations throughout the country show that this tax will bring about and precipitate a general reduction in box rentals. In contemplation of the enactment of this bill, many box renters have already indicated that they will exchange their present boxes for cheaper ones of smaller size in order to offset the amount of the tax and at the same time reduce their safe deposit box rental. As an example of this fact, the manager of one of the oldest deposit vaults in the country reports that one of his customers, who now occupies a $45 box, has informed him that if the tax bill is enacted he will exchange his present $45 box for a $30 box. Another box renter in the same vault, who is trustee of an estate, and is now using a $15 box for the storage of the securities of the estate he represents, has informed the vault manager that if the tax is imposed he will exchange his present $15 box to one at $10 per year. Thus this safe deposit vault will show on these two particular cases alone a rental loss of $20. The experience of this particular vault manager, we believe, would be the experience of all vaults throughout the country and you can well understand what the effects of such a general reduction of rentals would have on safe deposit vault operation.

We believe, gentlemen, that the imposition of this tax would certainly bring about and force such a general reduction of safe deposit box rentals as we have here indicated.

Respectfully submitted.

WALTER J. BARROWS,
President of National Safe Deposit Advisory Council.

APRIL 20, 1932.

THE NATIONAL SAFE DEPOSIT ADVISORY COUNCIL,
New York, N. Y., April 21, 1932.

Hon. REED SMOOT,
Senate Building, Washington, D. C.

DEAR MR. SECRETARY: On behalf of the National Safe Deposit Advisory Council, I filed a brief with you yesterday afternoon opposing the 10 per cent tax on gross rentals of safe-deposit boxes.

May I ask you to be so kind as to attach the inclosed letters and resolution to that brief? We have been asked whether safe-deposit boxes are being used to any extent for the hoarding of money, and after making inquiry all over the country, the consensus seems to be that very little is being done; that less than 1 per cent of the boxes are being used for that purpose; that the largest holders of ready money are the bootleggers who do not dare deposit in banks since Al Capone got a sentence of 11 years for doing it.

Thanking you for your many courtesies, I am,

Sincerely yours,

WALTER J. BARROWS,

LEE, HIGGINSON SAFE DEPOSIT CO.,
Boston, April 18, 1932.

WALTER J. BARROWS, Esq.,
New York, N. Y.

DEAR MR. BARROWS: For the Massachusetts Safe Deposit Association I have written to our Senators protesting the tax on safe rentals for the following reasons: This tax will surely diminish the use of our boxes. For the small amount collected it is a galling tax inflicted upon an already sorely taxed class.

It will upset equilibrium of prices in our business.

Answering your question: In New England the boxes used for hoarding are relatively small, a fraction of 1 per cent.

The tax should raise a million, as the proponents of the bill estimate, or possibly $1,300,000.

My rentals are about constant for 1931.

Yours very truly,

STEPHEN F. WADSWORTH, *Manager.*

At a meeting of the executive committee of the New York State Safe Deposit Association, held on the 13th day of April, 1932, the following resolutions were unanimously adopted:

Whereas section 741, part 5, of the revenue act introduced in the United States Senate on April 4, 1932, imposes a 10 per cent tax on the gross amount of rentals collected by banks, savings banks, and other institutions for the use of such safe deposit boxes during the period the act is in force; and

Whereas it is the unanimous opinion of all of the members of this committee that even though the said revenue act in theory purports to assess the tax against the persons to whom such safe deposit boxes are rented the tax will nevertheless, in the last analysis, have to be absorbed by the banks, savings banks, and other institutions from whom such boxes are rented because of the fact that the imposition of such tax will bring about a general reduction in the rate of rentals now in force to the extent of the tax called for by the said act; and

Whereas, banks, savings banks, and other institutions now furnishing such safe deposit box service do so on practically a cost basis, and if such banks and savings banks are forced to pay or absorb this tax it will impair the capital of such institutions in most instances; and

Whereas, most of the banks, savings banks and other institutions furnishing a safe deposit box service throughout the country have registered their protest to the imposition of this tax:

Now, therefore, be it unanimously

Resolved, That this association is unalterably opposed to the imposition of the proposed tax of 10 per cent on gross safe deposit box rentals as is provided for in section 741, part 5, of the revenue act introduced in the United States Senate on April 4, 1932, and be it further

Resolved, That the officers and members of this executive committee be and they hereby are authorized and requested to furnish the committee on Finance of the United States Senate, various Senators and Congressmen, a copy of this resolution, and to cooperate to the fullest extent and in every way possible with the members of the national safe deposit advisory council, and the executives and representatives of other safe deposit associations throughout the United States in opposing the enactment of section 741, part 5, of the above-named revenue act.

I hereby certify that the above is a true and correct copy of the resolutions of the executive committee of the New York State Safe Deposit Association adopted at a meeting held on the 13th day of April, 1932.

F. J. MOONEY,
President New York State Safe Deposit Association.

ILLINOIS SAFE DEPOSIT ASSOCIATION

Whereas this association has been informed that the revenue act of 1932, passed by the House of Representatives and now pending before the United States Senate, provides for a 10 per cent tax on all safety deposit box rentals; and

Whereas it is the sense of the members of this association that such tax will be detrimental to the best interests of the members of this association and will deter numerous persons, firms, and corporations who otherwise might rent safety deposit boxes from renting the same, and thereby such persons, firms, and corporations will be deprived of the protection of their property which they might otherwise enjoy: Now, therefore, be it

Resolved, That this association protest against the levying of a tax upon the rentals of safety deposit boxes and that the president or vice president of this association be, and he is hereby, authorized and directed, for and on behalf and in the name of this association, to notify the Secretary of the Treasury of the United States and the Senators from the State of Illinois, and such other United States Senators as he may deem proper, of such protest, and further to request such Senators to vote against the levying of any such tax.

KANSAS CITY SAFE DEPOSIT ASSOCIATION,
Kansas City, Mo., April 11, 1932.

Mr. WALTER J. BARROWS,
President National Safe Deposit Advisory Council,
New York City, N. Y.

DEAR MR. BARROWS: The Kansas City Safe Deposit Association in entering their protest against the 10 per cent tax levy on safe deposit box rentals contem-

plated in the bill now before the Senate, wish to present the following arguments in support of the protest:

First. The average safe-deposit vault does not pay on present rental schedules.

Second. Conditions do not warrant an increase in rates at this time, hence the burden of the tax would be passed on to box renters and would cause the surrender of a large number of boxes. On account of reasons stated above, the operators of the vaults can not absorb the tax.

Third. Eighty-five per cent of the number of boxes now under contract belong to people of very moderate means and contain in a great majority of cases, only documents of value to the owners alone, such as deeds, abstracts, insurance policies, and kindred papers.

Fourth. Corporations renting the larger boxes, at what they consider high rates, would refuse to pay the tax and remove their property from safe-deposit vaults and place in safes in their own book vaults.

Fifth. We firmly believe the imposition of this tax would cause a great loss to vault operators who are already absorbing losses every year.

Sixth. The comparatively small amount to be raised by this tax ($1,000,000) does not justify the cost in loss of revenue which vault operators would be required to stand.

Seventh. Safe-deposit business all over the country is losing ground on account of the large number of surrenders. There will be a much greater loss if this tax is imposed. The collection of this tax will entail a big expenditure in the adjustment and settlement of it.

We offer a vigorous protest against the enactment of this clause and believe we speak for the safe-deposit business throughout the Middle West.

Respectfully,

KANSAS CITY SAFE DEPOSIT ASSOCIATION,
By R. D. SLAYMAKER, *President*.

PROPOSED TAX ON CHECKS

STATEMENT OF HON. MALCOLM BALDRIGE, REPRESENTATIVE IN CONGRESS FROM NEBRASKA

Representative BALDRIGE. All I desire, Mr. Chairman, is five minutes. Please check me at the end of that time.

The 2-cent tax on checks is not in the present House bill, but Secretary Mills is urging it, and I just would like to have your attention for five minutes to show one example of what would happen if there were a 2-cent tax on checks.

I live out in Nebraska, which is the typical farm community. At the present time the only cash which is being received by the farmers comes from cream, eggs, and poultry. The cash which otherwise came from crops is gone, because usually that is fed to the stock, and whatever cash is realized goes to pay taxes and interest on the mortgage.

Now every farmer and every farm wife brings in to market every day the cream, eggs, and poultry. That is a daily marketing proposition because of the perishability of the merchandise. The average check is $1.50 for eggs, $2 for cream, and $5 for poultry. They get three checks because they do not sell these to the same place. They sell their eggs at one place, the poultry at another and the cream at another. A 2-cent tax on these little checks out there in the farm community would be disastrous.

We have the little town of Superior, Nebr., which has the Farmers Union Creamery. Last year they put out 750,000 checks. That would be $15,000 which would come out of that little farm community, right around there.

The Fairmont Creamery Co. in Omaha last year put out 6,500,000 checks. They averaged $2 apiece. That would be about $130,000 for that one little community out there.

Senator BINGHAM. Congressman, are those delivered by hand?

Representative BALDRIGE. Those are delivered by hand.

Senator BINGHAM. Why could they not use currency?

Representative BALDRIGE. Well, take the Fairmont Creamery, for instance. At six and one-half million checks that would mean just a little over $12,000,000 that they would have to have during the year. Their average bank deposit is between $100,000 and $200,000. They could not possibly increase that bank deposit enough to handle $12,000,000 worth of currency during the year. It is just impossible to handle cash.

Senator CONNALLY. It would bust all the banks if they took that much out right now.

Representative BALDRIGE. Yes.

Senator BINGHAM. How much do they spend in checks a day?

Representative BALDRIGE. I do not know about to-day, but last year, 1931, that one creamery in my home town put out six and one-half million checks at $2.

Senator BINGHAM. No; how much is it a day? What do the checks aggregate that they hand out to the farmers in one day?

Representative BALDRIGE. Per day? Well, it would be one three-hundred-and-sixty-fifth of $12,000,000. I do not know how much that is. But there are six and one half million checks that were put out last year.

Senator HARRISON. I recall that in my section the lumber people at one time used to pay in tokens. Could some plan be evolved in these smaller payments to pay in tokens and avoid this tax if the committee should put it on?

Representative BALDRIGE. I do not know, Senator. That is something I am not qualified on. But I do know that it would be disastrous for this farm community if this 2-cent tax on checks were put on. If the average check is $2, and the tax is 2 cents a check, that is 1 per cent gross on the business of the farmer and the farm wife.

Now gentlemen, that is just one illustration of what would happen in this tax on checks.

Senator HARRISON. They would have to evolve some plan in the case of the use of these smaller checks.

Representative BALDRIGE. Yes.

Senator REED. Suppose we put on a $5 limit?

Representative BALDRIGE. I think of course a $5 limit would be better, Senator, but a $5 limit would be entirely too small. My suggestion would be $50 or $100. That is just a thought on the subject. Of course if this has to pass there certainly should be a limit to handle those small checks, because that is a means of currency out there where I live. That is all they use. Every time the farmer or the farm wife goes and sells cream or poultry or eggs they are paid by check.

Senator BINGHAM. What does the farmer or the farm wife do with the check?

Representative BALDRIGE. Takes it to the bank.

Senator BINGHAM. Why could not the company go to the bank in the morning and get $20,000 in cash, if that is the amount that they are ordinarily going to use in checks in view of the fact that the checks are going to be cashed later anyway?

Representative BALDRIGE. The answer is that in New Haven or New York maybe that would be a reasonable plan. But we have a very large number of small banks in each community, and it would be practically impossible to cover the large number of little banks with this $20,000.

Senator CONNALLY. They would be robbed before they got to the office.

Senator BINGHAM. I forgot that this was Nebraska.

Representative BALDRIGE. Now Senator, there is one solution to all of this. Senator Harrison asked it. And that is a general manufacturers' sales tax. I have received from my district 500 letters urging this manufacturers' sales tax and I only got two letters against it. That is the way we feel out in our part of the country.

Senator CONNALLY. Is that the way you decide questions—on the number of letters you get for or against?

Representative BALDRIGE. That is one of the ways to find out whether the people are for or against.

The CHAIRMAN. Did you have anything else you wish to say, Representative Baldrige?

Representative BALDRIGE. That is all. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Whiton.

Senator BINGHAM. Mr. Chairman, I should like to say that Mr. Whiton is a very distinguished banker of New London, Conn., and, like many of the men we have heard, he believes that it is necessary to balance the Budget, and he has given consideration to the matter and he comes with a new scheme to which he has devoted a very large amount of time to working out; and he had prepared a suggested amendment to the bill which he has in printed form, and I suggest that he be given 10 minutes. There are those who are very much interested in the scheme, and we may want to ask him some questions.

The CHAIRMAN. He may proceed.

STATEMENT OF LUCIUS E. WHITON, NEW LONDON, CONN.

Mr. WHITON. Mr. Chairman and gentlemen of the committee, I am a manufacturer, having been in business a great many years in the city of New London, Conn.

I have naturally, also, been interested in civic affairs and in the affairs of the community, and I have served my term, when it was my turn, in the State legislature; I was State senator for several terms and, as the Senator has said, I have been vice president and director of one of the banks for a long time.

Now as to the proposition, from the viewpoint of the manufacturer, the proposition of a sales tax which was reported by the House interested me, and there were features about it which I did not like. That is the first reaction.

Just about that time I noticed that the Secretary of the Treasury suggested to one of the Congressmen who was objecting, that it would be a proper thing to submit an alternative proposition, if he had one; and that, I thought, was an entirely reasonable suggestion. And the plan occurred to me which has interested me very much, but it is quite new, and I really have had no time whatever to try to interest anybody in the idea or to bring here any support whatever. I appear myself. I brought with me a little pamphlet which I got from my local printer at 5 o'clock last night, and I came down from New London on the sleeper and arrived here this morning, and Senator Bingham very kindly said that he thought the committee would hear me for a few minutes.

Now from reading the reports of the hearings before the Finance Committee, it seemed to me apparent that there are a great many people objecting. The suggestion of a tax on a selected group aroused a protest and their representatives suggest that somebody else should be found who would be willing to pay it, or upon whom it could be placed.

Now with respect to the sales tax, let me say this: I remember when I was a very young man in my father's machine shop there were the beginnings of the old income tax, first imposed a great many years ago on certain returns—I think I ran across an old file of that some time ago, and that tax was afterwards, as I remember, abrogated or

canceled on some basis of constitutional defect, or something of that nature. I have not had time to check that up. But it really went into the discard and later the present income tax scheme became effective.

Now the sales tax as proposed is a difficult one to administer, and it is passed on by being added to the price, and the inequity about it which appealed to me was this: With a machine shop, and factory and foundry, with a product that is sold to other machine shops and owners of repair shops and garage shops and all around, my product was made taxable at the rate of 2¼ per cent proposed, I think; and I was obligated, as between my customers, as between those who were licensed to buy and sell again, and the man who was buying for his own use to select—I was obliged to make my detailed return and service as to the payment, and so on. And there was a lot of troublesome detail about it. And my neighbor down the street, or across the street, or in the next town, operating a machine shop and producing a mecahnical product which if, by any chance, it happened to be a field cultivator, or a pumping system to be utilized on the farm or something of that kind, he did not have any of that difficulty imposed upon him. The farm proposition appeared to have been, as I remember it, exempted in the suggested bill.

Now there is an inequity which I do not like. I am a machinist here [illustrating], and I have got 100 men in this shop, in those parts; and down here [illustrating] is my neighbor, who has also 100 men in his shop. Now this law imposes upon me the duty of segregating my accounting and my sales as between a licensed customer down the line, and it requires me to make my oath and return to the collector, and it requires me to make that oath whether I collect my bill at the time, or not. The proposition was that the tax should be levied upon the sale. And after the sale there might be, as I have discovered, a certain percentage that did not seem to be collectible very promptly, whereas the other man would not have that difficulty.

Senator BINGHAM. Now, Mr. Whiton, will you give us the proposal you want to make to the committee?

Mr. WHITON. I am afraid I am making too much of a speech.

The CHAIRMAN. Six minutes of your time has gone already.

Mr. WHITON. My thought was: How can a scheme be devised which will fairly distribute the burden of this revenue requirement upon everybody?

Now, as a banker I am familiar with the requirement to compile bank debits. Bank debits represent the total charges to the customers of banks for their canceled checks. Bank debits are the measure of the flow of transactions in a community. They are totaled for the cities, for the counties, and for the States, and for the Nation. They are reported, and there is on file here in Washington a sequence series of comparative bank debits in 141 centers since 1919.

Now every week the banks report their debits to the 12 reserve districts, and I find for the week ending March 30, under present depreciated conditions, the weekly bank debits amounted to $6,000,000,000 for the week in the 12 Federal reserve districts. For 50 weeks, multiply that by 50, and there would be a total of $300,000,000,000 of transactions in the year.

But that does not include all the bank debits, for there are State banks, trust companies, and private bankers that have debits. And

it does not include purchases for actual equipment that might be used, such as a new safe, or new machine, or anything of that kind. So that I estimate, and I think it is a very conservative one, that the total of the net bank deibts representing the actual purchases of real and personal property and commodities and services, except certain exemptions which I propose, would certainly be $300,000,000,000 in a year; and I think it would largely exceed it this year.

Now one-tenth of 1 per cent tax on that is $300,000,000. Two-tenths of 1 per cent is $600,000,000 in a year, $50,000,000 a month. Two and a half per cent would be $900,000,000, perhaps—well, it is just a matter of arithmetic.

Now it appears to me that is just equity.

Senator BINGHAM. One-fourth of 1 per cent would yield $750,000,000.

Mr. WHITON. Yes, $750,000,000.

Now who bears that burden? Everybody who buys something. Not at the par value of their shares; not at the price of the real estate transaction. They pay that proposed rate upon the face amount of the check that has gone into the bank. It may not be the par value, you see.

Now how can that be administered? It can be administered very simply, it seems to me. If the law—and I have studied it in the proposed act here—imposes the duty of withholding of an agent's tax upon every company and bank receiving deposits subject to check, and requires that withholding agent to apply the rate to the sum of the taxable checks which it returns to its customers every month, and that agent would provide a credit balance to the collector and debit the group of charges to the same, a balance to the bank, without any relation to the great mass of taxpayers at all. The bank would hand over in the monthly return statement a tax chargeoff and balance accordingly. And the bank, in turn, would send the aggregate of those deductions to the collector of the district. And the bank is entitled to a fee for the clerical work involved.

Senator BINGHAM. Now, Mr. Whiton, let me see if I have the thing clearly in my own mind. You propose that a small percentage be placed on all checks, except those used for pay rolls and certain other things, as shown in your brief?

Mr. WHITON. Yes, sir.

Senator BINGHAM. And you propose that this be collected and turned over by the bank at the end of the month and deduct it from the customer's account.

Mr. WHITON. Yes, sir.

Senator BINGHAM. And that that be deducted from the customer's account just as the club deducts and collects amounts which the club now has to pay, such as the dues and club bills?

Mr. WHITON. Yes, sir.

Senator BINGHAM. You propose that the bank be allowed to charge the customer a small percentage for the cost of collecting this for the Government?

Mr. WHITON. No, Senator.

Senator CONNALLY. It comes out of the tax.

Senator BINGHAM. It would come out of the tax, and the bank would be paid for the work which it involves, whatever the amount is, with reference to that work?

Mr. WHITON. Yes. There is a great cost in the running of the Internal Revenue Bureau, and the revenue collected. That staff of Government workers would be deducted, and there would be a reasonable percentage of deduction which comes out of the customers' account, the cost of collecting and accounting, and which would go into the operating expense.

I propose this: The suggestion of withholding the tax upon these debits is written into the law; it is not a rule of the department, but a law. It authorizes the bank to prorate that tax upon its customers in number relating to the sum of their taxable checks.

Senator BINGHAM. In other words, the rich man or the rich corporation that uses a large amount of checks, or checks in a large amount, would pay a large amount; and the poor man who has no bank account, would pay none, because he would get his money in currency and pay his bills in currency.

Mr. WHITON. Yes; but if he were a small business man he would pay a proportionate rate.

Now the sum total of that rate upon his volume would be in just proportion.

Senator SHORTRIDGE. You have expressed these thoughts in printed form?

Mr. WHITON. Yes, sir. Now, gentlemen, without any presumption on my part, I thought it well to embody this suggestion in a precise concrete form and, of course, not being an expert law draftsman of bills, but I put it in a concrete statement what my thought is, and here it is, and I lay it before you.

If there are any questions, I will try to answer.

Senator BINGHAM. I want to ask one more question. Take the automobile tax, which interests so many people and was protested by those who appeared on these hearings. A 3 per cent tax on a $600 automobile would be $18. The proposal which you make is that if he paid for that automobile by check there would be deducted from his account, in addition to the $600, $1.50?

Mr. WHITON. There would be deducted in addition to the $600, the tax of $1.50.

Senator BINGHAM. At one-fourth of 1 per cent.

Mr. WHITON. Yes, sir. And the manufacturer who made the automobile and bought, in making it, iron, steel, and forgings which may have cost $400—a large estimate—would have paid $1. Therefore, the advance, if the tax is passed on, the advance on a $600 automobile, the sale price would be $601, instead of $600, and the buyer, if he paid by check, would have been subjected to an additional tax of $1.50; and if he paid it in three installments, he would have paid it at three different times.

Senator BINGHAM. Now, Mr. Whiton, you have made a great many exceptions on page 10 of your brief. Do you think, with all those exceptions, one-fourth of 1 per cent would yield $300,000,000 in revenue?

Mr. WHITON. I think it would largely exceed it, Senator. Of course I have not had the time nor the facilities to make a complete and specific calculation as to the amount of return of revenue.

Mr. Coolidge says that the tax bills are about ten and one-fourth billions a year. I know that the pay rolls in nine large cities, as

against the bank debits, for the month of March, was about 5 per cent.

Now, I could spend a lot of time on this, but that is about an outline of the plan.

Senator CONNALLY. Let me ask you one question: In the case of large transactions, would not this be an inducement to pay in cash, instead of by check?

Mr. WHITON. If the, are going to pay by cash, where are they going to get the currency?

Senator CONNALLY. They have to a bank, I suppose.

Mr. WHITON. Well, they would have to go to the bank to get it.

Senator BINGHAM. That is a complete answer.

Senator CONNALLY. There would be a tendency to do that.

Senator BINGHAM. In order to get the cash they would have to draw a check, and that would be subject to the tax.

Senator CONNALLY. There would be a tendency for them to take the currency and keep it on hand.

Mr. WHITON. If they wanted to take the risk of robbery, and so forth. A man can carry a bag of money, but they will not do it.

Senator CONNALLY. If I wanted to get New York exchange and gave my check, they would pay there, and the other bank would not pay when it came through.

Mr. WHITON. No. My thought naturally is that this tax should be applied to purchases for real and personal property, and commodities and services. It does not make a bit of difference who purchases them, this is a flat, uniform rate on everybody, and it would produce revenue and not be burdensome.

Senator BINGHAM. Thank you very much, Mr. Whiton.

The CHAIRMAN. You have a brief that you want to present?

Mr. WHITON. Yes, sir.

The CHAIRMAN. It will be printed in the record at this point, following your remarks.

(The brief presented by Mr. Whiton is here printed in the record in full, as follows:)

BALANCING BUDGETS—A NEW TAX PLAN

Every tax, district, town, city, county, State or national, increases the cost of living. In articles discussing taxation, such as the recent one by Calvin Coolidge, this total is referred to as the "per capita" cost of government. It is unavoidable. Unfortunately for the public interest, too large a part of it is now indirect and obscured, both as to time and amount of payment.

Any new tax will inevitably increase this cost. Or its purpose may be to equalize it. It should be as broadly and fairly distributed as possible and rest upon capacity to pay. It should include, for a small individual but a total considerable amount, as many as possible of that large number of loyal citizens who are not now required to file income-tax returns; and with respect to whom the expense of collection, if the present income-tax system were extended to include them, would be relatively so great that no Government net income would be secured by such an extension.

It should frankly be called a cost tax and not a sales tax. It should rest at a known low rate upon what has actually been bought and paid for and be imposed directly by the Government, instead of being an inequitable discriminating sales tax at a high rate to be obscured and "pyramided" or "passed on" to the ultimate consumer, upon a selected list of manufactured articles, with consequent unfair handicaps upon some products and industries.

In form it should avoid requiring expensive administrative detail. The taxpayer should also be relieved of frequent troublesome details and bookkeeping

connected with filing returns upon specified dates and penalties for failure to comply with vexatious regulations.

The payments should be distributed into numerous small sums throughout the year rather than concentrated in annual or quarterly amounts. The Government should receive a steady monthly revenue and operate with respect to its income as efficiently as our public utility companies have learned to operate with respect to their income.

I venture to suggest an emergency plan by which these results can all be achieved.

First. As an emergency tax for revenue, every bank check should be required to bear an excise stamp, just as Canadian checks do now. An estimated revenue of $95,000,000.

Second. The new law should impose and levy upon every check drawn to pay for real or personal property or for commodities or service a tax, say of one-tenth of 1 per cent (or, if necessary, at a higher rate) upon the amount for which any check is drawn in payment for real or personal property or commodities or service other than wages and specified exemptions.

Third. Every person, partnership, or corporation doing business as a bank, banker, or trust company and receiving deposits subject to check, should be made a governmental withholding agent and be required to deduct from the listed total of its customers' taxable checks, at every period when it returns a group of canceled checks with its monthly or periodic statements, an amount determined by applying the rate, for which it should send its customer a tax-charge slip, reducing by that amount its customers' balance at the beginning of the next period.

Fourth. Every such bank, banker, and trust company should be permitted to retain a collecting commission say of 2½ per cent for its clerical service and be required to send the total amount of these tax-charge slips (less its commission) to the collector of the local district, monthly, or at every period when its customers' canceled checks are returned.

These withholding-agents' charge slips would be direct monthly or periodic tax bills from the Government which could be filed by the taxpayer with his other monthly charges for power, light, gas, telephones, telegrams, etc. These bills would be constant reminders of the direct cost of government.

The taxpayer could then concentrate his energy upon the problem of keeping up his bank balance, without also worrying about his bookkeeping and return dates, penalties, and his objection to the demand that sworn details of private business must be filed with the collector.

Such a tax should not be duplicated. It should not be a tax upon a tax. It should not increase interest rates nor the total of loan payments. Hence the law must clearly exempt certain checks from the application of the rate and permit the one who issues the check to notify the bank that the particular item is tax exempt by some provision of the law. This can readily be done by a written notice near the signature or by a stamped impression or rider upon which the reason for the exemption claimed is noted when the check is drawn. Checks bearing such an exempt notice would not then be listed by the bank in the total upon which the rate is applied and the charge slip tax bill computed.

Routine interbank transfers and settlement checks should be exempt. The rule should be that all checks by persons, corporations, banks, etc., which are payments for real or personal property or commodities or services other than wages and the specified exemptions, and all direct charge slips of this character by banks to their own expenditure and to correspondents' or customers' accounts, should be taxable. Charges not of this class should be exempt.

How broad is the base of such a proposed tax?

Comparative weekly aggregate bank debits of the Federal reserve banks in 141 centers are available since January, 1919. These debits for 141 centers amounted to $5,670,000,000 for the week ending March 30—compared with $6,428,000,000 for the preceding week and $11,335,000,000 for the week ending April 1, 1931.

Total bank debits of the 12 reserve districts were $6,112,248,000 for the week ending March 30th, compared with $12,071,716,000 for the week ending April 1, 1931.

A weekly estimated average of $6,000,000,000 for 50 weeks reaches the total of $300,000,000,000 for 1932, compared, say, with $600,000,000,000 for 1931. If to this total there is added an estimate of $50,000,000,000 for the debits of nonmember State banks, trust companies, and private bankers; and if the properly

tax-exempt checks which appear in these totals are also estimated to be $50,000,000,000, the tax base (in the current depression) is left at $300,000,000,000 on which a rate of one-tenth of 1 per cent would produce gross revenue of $25,000,000 per month, two-tenths of 1 per cent equals $50,000,000 monthly or $600,000,000 for the year, one-fourth of 1 per cent equals $750,000,000, one-half of 1 per cent equals $1,500,000,000.

Under such a system there would be no necessity for numerous classified excise taxes at varying much higher rates, nor for other stamp taxes or confiscatory capital levies. The whole emergency revenue requirement could be consolidated into one simple, broadly distributed cost tax, based fairly and equitably upon capacity to pay. For instance, a 3 per cent sales tax (as proposed) on a $500 automobile equals $18 additional cost to the buyer. A manufacturer's cost tax of one-fourth of 1 per cent on the material used to make it (if estimated at $400) equals $1. A consumer's cost tax of one-fourth of 1 per cent on $601 equals $1.5025 additional cost to the buyer.

Under such a system big business, the very rich, and economically nonproductive but credit-consuming speculators who buy more would pay more. Small business and persons of smaller means but with equal interest in and loyalty to our Government would pay less, in direct proportion to the amounts purchased; everybody carrying a checking account would pay the same fixed rate. The plan is roughly comparable with graduated money order fees at the post office or postage rates per ounce. Existing taxes like the tobacco stamp tax, amusement admissions, etc., and others proposed, reach the users of currency.

This plan seems to possess the quality of elementary fairness in its broadly distributed base. It would directly and frequently connect everybody with the cost of government and promote public opinion in favor of economy and low budgets. Incidentally, perhaps it would increase public interest in some change in the eighteenth amendment and the proposed revenue obtainable from 4 per cent beer.

As an emergency excise it should be deductible as a business expense from the regular income-tax return and would to that extent reduce taxable net profits. But the income tax with reasonable surtax brackets should be retained.

This plan would lay a stable and balanced credit foundation, upon which prosperity could return, with the definite assurance to individuals and small business that concentrated big business and speculation was carrying its direct prorated share of the public cost.

If, with returning prosperity, the taxable bank-debit base should increase rapidly, the law might delegate authority to the President or to the Secretary of the Treasury to reduce the rate accordingly.

I think it is feasible to incorporate this plan in an amended section of the pending bill.

A new proposal like this, which directly authorizes a Government withholding agent to deduct a tax from your bank account, without notice or the usual practice of sending you a tax bill with demand for payment on a due date, seems, at first thought to be quite a radical suggestion.

But, upon second thought is it actually objectionable?

This tax, or any other tax, is imposed by law at a fixed rate and must be paid; why not accept this fact at once; and, next, find the least troublesome way to pay it?

Frequent smaller payments are usually easier than larger infrequent or yearly ones.

By this plan the Government collector is your own bank, whom you know and who knows both you and your account.

The law and the rate being clearly expressed, why not upon third thought, see that this new plan is very fair, being applied by all banks, to all their accounts; and that the collecting method does not impose any new returns or bookkeeping methods upon the taxpayer, not any new mass of clerical detail upon the Government. The taxpayer has only to decide, when drawing a check, whether it is taxable or not; and, if exempt, to mark it accordingly, as a notice to the bank that it is tax exempt and not to be listed by them in the total which is subject to the tax charge slip.

Your income tax on certain bond coupons is now being "withheld at the source."

Some of your Federal taxes, like that on your club dues, theater admissions, etc., are at present being paid for you by some one else. Perhaps you are already in the habit of requesting your bank or trust company to issue a group of checks for your account to pay a monthly list of bills. Many banks and trust companies solicit the opportunity to serve you in this manner. Very likely you already do

this if you travel frequently. Very likely your company's quarterly dividend checks are distributed by its bank or trust company agent.

Why not also allow it to compute and pay your monthly tax bill? Especially as the Government, at a reasonable cost to itself, reimburses them for the clerical services by paying a collecting commission.

I suggest the following amendments to the pending revenue act of 1932 and some blank forms which would enable this plan to be made promptly and practically effective.

Respectfully submitted.

LUCIUS E. WHITON.

NEW LONDON, CONN., *April 20, 1932.*

STAMP TAXES ON VOUCHER ITEMS IN BANK DEBITS

SECTION 1. There is hereby imposed, beginning 15 days after the enactment of this act, but not before ——— and until ———, the requirement to apply one 2-cent excise stamp upon all bank checks, drafts or other orders for payment and on charge-slips which become voucher-items in any bank debit total. The stamp shall be applied or paid for by the maker of the check, draft or order, or by the account to which the charge-slip is debited: *Provided, however,* That the excise stamp need not be applied to any withholding agents tax charge-slip.

AN ACT TO PROVIDE REVENUE AND EQUALIZE TAXATION, (OR, AN AMENDMENT TO H. R. 10236)

SECTION 1. Be it enacted, etc.

SEC. 2. Beginning 15 days after the enactment of this act, but not before ——— and until ———, there is hereby imposed upon payments which have been made for real or personal property, commodities, and services other than the specific exemptions listed in section 6, which payments appear as voucher items in any total of bank debits to depositors' accounts or in the expenditure accounts of banks, a tax of ——— per cent of the face value of such payments. Bank checks, drafts, orders for payment and charge-slips evidencing such payments, are hereinafter inclusively called taxable checks.

SEC. 3. Beginning 15 days after the enactment of this act, but not before ——— and until ———, there is hereby imposed upon every person, partnership and corporation receiving deposits subject to check (hereinafter inclusively called a bank and its depositors hereinafter being called customers) a withholding agents tax of ——— per cent upon that portion of its depositor accounts debits for which it holds an equal amount of canceled taxable checks. The tax upon its own taxable checks and upon the sum of such checks when returned shall, without assessment or notice and demand, be due and payable by the withholding bank to the revenue collector of its district whenever groups of such cancelled checks are returned by the bank to its customers.

SEC. 4. Every bank, as withholding agent, is hereby authorized to prorate this tax among its customers by applying the rate to the sum of the taxable checks so returned and to include with such returned canceled taxable checks an additional nontaxable charge slip for this prorated amount.

SEC. 5. Every bank, as withholding agent, is hereby authorized to deduct and retain from the tax imposed in section 3 a fee equaling ——— per cent of each sum which it is required in section 3 to pay to the district collector.

SEC. 6. Customers' checks and charge slips, when issued for any of the following purposes, are to be tax exempt:

1. Transfers between banks.
2. Transfers from principal to agent or from parent to subsidiary.
3. Interest and loans, made and repaid.
4. Education.
5. Contributions for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.
6. Taxes.
7. Insurance policy claims.
8. Salary and wage pay rolls.
9. Currency withdrawals not exceeding $——— in amount during any one week, analagous to wage payment withdrawal by customer.
10. Bid bonds as guaranty on proposals submitted.
11. Dividends.

Bankers' checks and charge slips when issued for any of the following purposes are to be tax exempt:

1. Interbank routine, not in contravention of section 2.

2. Checks and drafts for customers' account whose check or charge-slip for which is taxable or exempt as the case may be.
3. Interest payments for the banks' own account and loans made and repaid.
4. Taxes.
5. Contributions for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.
6. Salary and wage pay rolls.
7. Dividends.

SEC. 7. During the continuance in effect of this act the maker of every tax-exempt check shall indicate by a written statement near the signature, or by means of an impression stamp or an attached rider, that exemption is claimed and denote the legal reason specified in section 6. Failure to claim exemption when the check is issued shall forfeit the exemption and cause the check to be taxable. Every willfully erroneous claim for exemption shall be subject to a penalty of not less than $5 nor more than ten times the tax, for which both the maker and the payee shall each be liable. Whenever any bank shall notice apparent willful error in the claimed exemption for any customer's check it shall first warn the maker and the payee of such check by calling the attention of each of them to the specific check and the penalty provision of this section. Thereafter, upon continued erroneous claims for exemption by any customer who has been warned, the bank shall report the practice to the district collector, who shall thereupon proceed as in other cases of tax evasion.

SEC. 8. During the continuance in effect of this act any check drawn to the order of "bearer" shall be uncollectible and void. The circulation of checks by indorsement to more than one payee other than as named on the face by the maker, before presentation for collection through banks, is hereby prohibited and any check so indorsed shall thereby become uncollectible and void.

SEC. 9. When the total taxable bank-debit base shall have provided from this source a net revenue of ——— per month for three successive months, the President shall, upon the recommendation of the Secretary of the Treasury, have authority to proclaim (and afterward to revoke) a reduction of the tax rate imposed by this act.

SUGGESTED FORMS

These suggestions are for forms of "riders" which can be attached to exempt checks or be incorporated directly into the check forms to be used by customers and banks.

CUSTOMERS' CHECKS

Classified tax exemptions:
1. Transfer.
2. To agent or subsidiary.
3. Interest—loans made and repaid.
4. Education.
5. Contribution.
6. Taxes.
7. Insurance-policy claim.
8. Pay roll.
9. Currency.
10. Bid bond.
11. Dividend.

BANKERS' CHECKS

Classified tax exemptions:
1. Interbank routine.
2. For customer account.
3. Interest—loans made and repaid.
4. Taxes.
5. Contribution.
6. Pay roll.
7. Dividend.

EXEMPT CLASS

A simple impression stamp like the sample would clearly indicate to the bank-sorting clerks and machine operators that the item was exempt and the legal reason.

The back of the check at the top should carry a condensed statement of the new legal requirements to guide makers and indorsers.

"Checks to order of 'bearer' are uncollectible and void.

"Circulation of checks by more than one indorsement is illegal. Bank stamp indorsements are permitted.

"Failure to claim exemption when check is issued causes check to be taxable.

"Both maker and indorser are penalized for illegal exemption claim."

This cut is a half-size reproduction of a sample periodic bank statement by a withholding agent bank. It shows a simple classification of taxable and exempt items; also the tax-charge deduction at one-fourth of 1 per cent on the taxable items and the new balance forward.

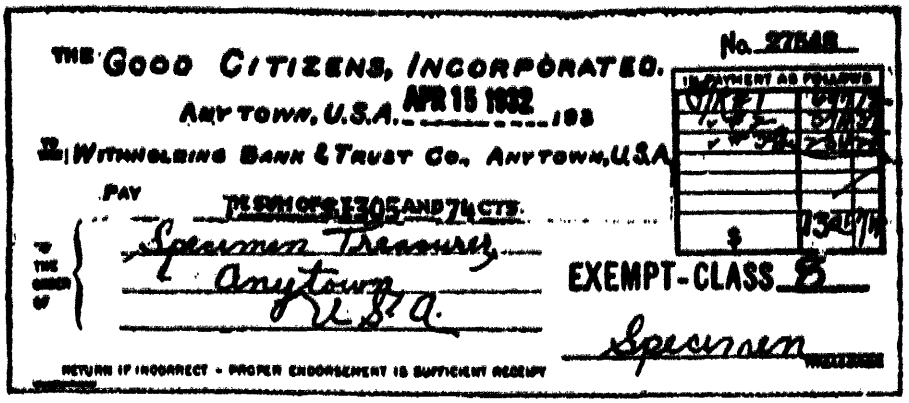
Statement of, Withholding, Bank & Trust Co., "Anytown," United States of America.—In account with Good Citizens (Inc.), "Anytown," United States of America

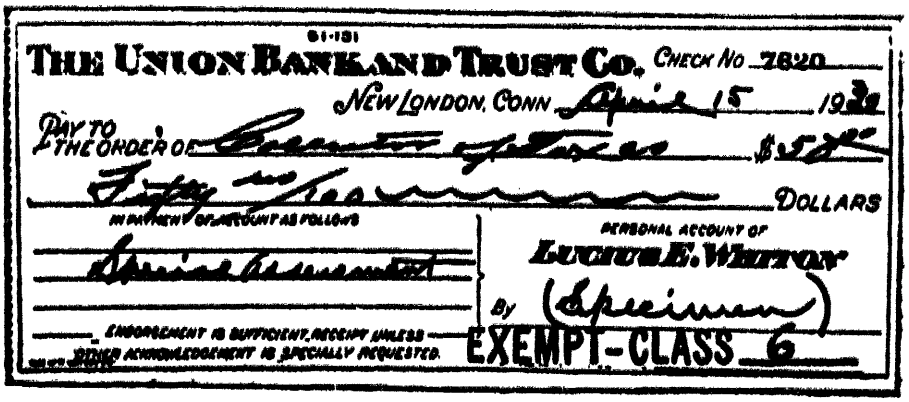
Old balance	Date	Checks and charges debited			Date	Deposits	Date	New balance
		Taxable		Exempt, balance forward				
$3,880.19					Feb. 29, 1932	$5,588.19	Feb. 29, 1932	$3,880.19
3,845.39	Mar. 1, 1932	$3.25	$3.75	$863.00	Mar. 1, 1932	335.11	Mar. 1, 1932	3,845.39
3,814.37	Mar. 2, 1932	5.61	25.92				Mar. 2, 1932	3,814.37
4,329.99				62.00	Mar. 2, 1932	577.62	Mar. 2, 1932	4,329.99
5,329.99					Mar. 3, 1932	1,000.00	Mar. 3, 1932	5,329.99
	Mar. 4, 1932	4.00	2.00					
	Mar. 4, 1932	53.92	211.19					
	Mar. 4, 1932	94.56	7.65				Mar. 4, 1932	4,967.37
4,967.37	Mar. 5, 1932	9.30	3.90	1,607.32			Mar. 5, 1932	3,340.76
3,340.76	Mar. 6, 1932	11.51	91.06					
	Mar. 6, 1932	7.27	4.41		Mar. 6, 1932	7.33	Mar. 6, 1932	3,230.84
3,230.84	Mar. 7, 1932	5.41	8.69					
	Mar. 7, 1932	1.61			Mar. 7, 1932	66.34	Mar. 7, 1932	3,293.16
3,293.16	Mar. 8, 1932	98.31	45.00	48.00			Mar. 8, 1932	3,100.85
3,100.85	Mar. 9, 1932	9.60	2.60					
	Mar. 9, 1932	12.45	108.05					
	Mar. 9, 1932	261.94	18.73	90.00	Mar. 9, 1932	58.69	Mar. 9, 1932	2,667.66
2,667.66	Mar. 10, 1932	32.35	3.56					
	Mar. 10, 1932	51.25	24.61		Mar. 10, 1932	534.42	Mar. 10, 1932	3,080.93
3,080.93	Mar. 11, 1932	4.75		61.00			Mar. 11, 1932	3,025.18
3,025.18								
	Mar. 12, 1932	2.91	4.25		Mar. 12, 1932	57.10	Mar. 12, 1932	3,075.12
3,075.12	Mar. 13, 1932	3.00					Mar. 13, 1932	3,072.12
3,072.12	Mar. 14, 1932	30.00	16.06		Mar. 14, 1932	822.03	Mar. 14, 1932	3,848.09
3,848.09				36.42			Mar. 14, 1932	3,811.67
3,811.67	Mar. 17, 1932	20.00			Mar. 16, 1932	47.41	Mar. 16, 1932	3,859.08
3,859.08							Mar. 17, 1932	3,839.08
3,839.08	Mar. 18, 1932	8.65	10.97				Mar. 18, 1932	3,818.56
	Taxable total		1,309.94		Balance, Mar. 18, 1932	3,818.56	Mar. 18, 1932	3,818.56
3,818.56	Federal revenue tax withheld		3.28		Balance after tax, Mar. 18, 1932	3,815.28	Mar. 18, 1932	3,815.28

CL=Collection. LST=List. CC=Certified Check. IN=Interest. DM=Debit Memo.
RT=Returned Item. ND=Discount. EC=Error Corrected. CM=Credit Memo. EX=Exchange.
Please examine. If not correct report at once.

By means of the character "XM" classification of items into "taxable" and "exempt" columns would not be necessary.

These are "specimen" corporation and personal checks which claim exemption by means of a rubber-stamp impression, as mentioned on page 12.





Just as a matter of printing, it would be in accord with custom to run a little "tailpiece" in the available space which is left on this page. I have no suitable cut, but I suggest that readers recall their own mental picture of the famous 1918 Victory liberty loan poster by Gerrit A. Beneker, showing a workman with his hand in his pocket, saying, "Sure. We'll finish the job."

STATEMENT OF HON. WILBUR M. WHITE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. WHITE. Mr. Chairman and gentlemen of the committee, I apologize to the committee for not being here when I was called before, but, as a matter of fact, I was over at the Library to find some statistics I had previously had, but I could not find them, so I came over with what I had.

I want to discuss the proposal of a flat tax of two cents on each check. In my opinion, the thing that probably would do more for business at this time than anything else, it seems to me, by the prevailing opinion in the House of Representatives, is something that would inflate prices a little. And it is generally conceded that currency has some relation to prices.

The proposal of a tax on checks, in my opinion, would tend to contract what use is made of checks as a substitute for currency.

Now the gentleman who preceded me, I understood to say there was something like $300,000,000,000 of circulation of checks through the clearing houses but, according to the statistical records of the clearing house associations, reported regularly, in 1930 there were $610,000,000,000 in the circulation of checks; in 1929 they reported $691,000,000,000; in 1928 they reported $595,000,000,000; and in 1927 they reported $526,000,000,000.

The Treasury Department, through Mr. Mills, when he appeared before the Ways and Means Committee of the House, estimated that this tax would return $95,000,000 in revenue, and that the average check was $125, which meant that there would be a tax through this check levy on a circulation in checks of $593,000,000,000. I do not know whether he anticipated a shrinkage in circulation as a result of the tax or not. Apparently, he did, because the clearing house circulation of checks is representative of the total circulation in the Nation. There are cities that virtually have no clearing house and make no reports. I know of one city that had $18,000,000,000 one year, which is not included in these reports.

It would undoubtedly be a heavy burden upon dairy companies and produce growers near cities to tax the checks, and it would tend to force them to pay in cash. I suppose if they were paying in proportion to the amount of the check, as suggested by the gentleman who preceded me, that payment would not have the same tendency, because they would have to withdraw the money at the bank and simply pay the flat rate upon one check.

However, it seem to me to tax checks in proportion to the amount of them would unquestionably tend toward the retention of cash outside of the banks in the private vaults of the corporations. To tax them in this respect would probably mean that they would cash the one check and get the entire amount for the pay rolls, and so on, or for the payment of people who sold produce to them, or made other sales of whatever kind they might be.

And from those figures I am inclined to believe that the total turnover of business of the United States approximates or passes a trillion dollars a year.

In other words, the check is, at least in normal times, the standard currency, or the practical currency of this country, and to tax currency itself with the means available, to avoid that tax would seem to me to be an inadvisable thing at a time when we are trying to expand our currency and produce more business.

According to the last available reports as to money in circulation, the last report shows that there is practically $1,000,000,000 more in circulation than there was a year ago. It is one of the highest figures we have had. And it seems to me the tendency to take money out of the banks, which we have all deplored, in recent months, especially, would only be heightened by this device for gathering revenue.

I appreciate the fact that the Nation needs revenue. Nobody appreciates it any more. But, at the same time, I do not think that any tax on the tendencies or inclinations toward the expansion of currency is inadvisable, because that is what we must have if we are going to survive at all.

Senator REED. How would you suggest that we get the money if we do not resort to such means as this?

Representative WHITE. Well, I would tax almost anything before I would tax the expansion of currency. I would tax evening clothes, or higher priced clothing. I would vote for a sales tax, with the exclusion of the necessities of life, before I would vote for this.

Senator SHORTRIDGE. You favor that, do you, a sales tax?

Representative WHITE. No, sir; I do not favor it in every instance. A sales tax is a penalty upon a man's sacrifices. If the size of his family increases, it is a penalty upon that.

Senator SHORTRIDGE. Do you favor it with the exception of the tax on food and clothing?

Representative WHITE. Yes; I certainly would vote for it before I would vote for this, and as much as I deplore a general sales tax, I think a sales tax is a penalty upon sacrifices, I would vote for it before I would vote for this.

Senator CONNALLY. How about a tax on suits of clothes that cost over $50?

Representative WHITE. I would vote for that before I would for this.

Senator CONNALLY. And shoes that cost over $10.

Representative WHITE. I would vote for that much before I would vote for this.

Senator REED. And then they would sell one shoe at a time. That is very easily evaded.

Representative WHITE. You mean they would sell half pairs?

Senator REED. Yes; and trousers separate from coats.

Representative WHITE. Well, they are all evaded.

Senator SHORTRIDGE. I hesitate to think that the country would—

Representative WHITE (interposing). I hesitate to think that the country would resort to that practice, or that the revenue collector would be so easily deceived.

Senator CONNALLY. Whom do you represent?

Representative WHITE. I am a Member of Congress, representing a district in Ohio.

Senator CONNALLY. Oh, I beg your pardon.

Representative WHITE. I understand that there is a suggestion before this committee that a tax be placed on fountain pens, under the jewelry section of the law as it came from the House of Representatives. I would like to say about that, that the gold in the fountain pens is not a luxury use; it is a necessity, because the acids in the inks do not attack the gold——

The CHAIRMAN (interposing). No suggestions for an increase have come from the fountain pen men, or otherwise.

Representative WHITE. I have understood that some one has suggested that that be included.

I thank you, Mr. Chairman.

STATEMENT OF GUY H. BLOOM, ROCHESTER, N. Y., REPRESENTING AMERICAN INSTITUTE OF BANK AND COMMERCIAL STATIONERS

Mr. BLOOM. Mr. Chairman and gentlemen of the committee. May I introduce myself as Guy H. Bloom, a director of the Todd Co., Rochester, N. Y., manufacturers of bank and commercial checks.

I appear in opposition to the tax of 2 cents on commercial checks.

I represent the American Institute of Bank and Commercial Stationers, whose members are located in every State of the Union and produce more than 80 per cent of the checks used in this country. We respectfully submit that the stamp tax on checks and drafts as proposed by the Secretary of the Treasury would be unwise, impracticable, and dangerous.

Checks are as necessary to the conduct of business to-day as are letterheads, invoices, order blanks, and other forms of business stationery, which rightfully are not taxed.

Economists look with disfavor on any measure which tends toward the decreased use of checks for the following reasons:

1. Currency circulation would be increased.

2. At present there is hoarded the largest volume of currency that has ever been outstanding.

3. Money in circulation March 28, 1931, $4,577,000,000; money in circulation March 26, 1932, $5,498,000,000; increase, $921,000,000. (As taken from the report of the Department of Commerce, April 7, 1932.)

4. Would accelerate the present crime wave.

This tax would cause a partial return by the general public to the method of cash payment of obligations, thus reducing the estimated revenue from the check tax; effecting also a reduction of postal receipts and bank deposits.

This tax would be unfair and discriminatory, because it proposes to tax a small household check of $1, the same amount as a large industrial check of $1,000 or more. It would further be discriminatory on our industry because, in effect, it would levy a sales tax on our check products of more than 1,000 per cent. It is not comparable to a tax of 2, 3, or 5 per cent as suggested, for instance, on automobiles.

The average cost of 100,000 checks as used by industrial concerns is approximately $2 per thousand. The cost of these same checks, imprinted with the 2-cent stamp tax, would be $24 per thousand.

I believe that in the knowledge of this committee, a great number of checks are issued for from $1 to $25; take the checks issued to the farmers for produce, eggs, butter, cream, pay-roll checks, family household checks, gas-bill checks and telephone checks. A large percentage of checks are now sent by mail, giving the Government an income of 2 cents in postal revenue. The new rate suggests an increase of 1 cent. This means for the average person, there will be a cost of 5 cents for each check mailed. Small bills will be paid in cash instead of by check. Such a tax will result in a great decrease in the use of checks of this type and the first class postal revenue will suffer.

In reference to the estimated income from this tax of $95,000,000, Mr. Mills wrote me on January 13, 1932, as follows:

> In many ways you are in a more advantageous position than we are to make such an estimate and I should greatly appreciate it if you would give us your own best estimate.

Mr. Mills's estimate is incorrect.

Based on his assumption and statement that the average check drawn amounts to $175 and using figures published by the Federal Reserve Board showing debits to individual accounts by banks in the 141 principal cities in this country, an estimated amount of tax

which could be raised is shown in the following: 1928 check transactions, at 2 cents each, $92,160,000; 1929 check transactions, at 2 cents each, $106,900,000.

Senator SHORTRIDGE. Was that his estimate?

Mr. BLOOM. Sir?

Senator SHORTRIDGE. Was that the Secretary's estimate?

Mr. BLOOM. No, sir; that is my estimate.

Senator SHORTRIDGE. Excuse me. Proceed.

Mr. BLOOM. In 1930 check transactions, at 2 cents each, $75,640,000; 1931 check transactions, at 2 cents each, $55,020,000; 1932 check transactions, at 2 cents each, $41,356,000 (1932 is based on the debits as estimated for the first three months).

These figures, based on Federal Reserve Board reports, check accurately with the estimate that I furnished Mr. Mills on February 11, 1932.

Based on sales to customers for the first 12 weeks of 1932, the estimate would be approximately $25,000,000. This does not anticipate the loss which will accrue by the certain and large restrictions in check use which we estimate will amount to at least 25 per cent.

In Mr. Mills's letter to the chairman of this committee on April 18, 1932, he says: "Instead of embarking on new untried ventures in taxation, it is wiser to utilize a known general plan with such changes as may be proposed in the light of altered conditions."

Gentlemen, altered conditions in banking and in the feeling of the depositors toward banks certainly must warn you against the imposition of such a tax. Banks placing service charges on depositors have experienced a decline in deposits and a lessening use of checks varying from 25 to 40 per cent. The feeling of the public towards banks is reflected in the following figures of postal-savings deposits: December 1, 1930, $200,668,178; December 1, 1931, $555,560,280; March 31, 1932, $697,279,745. (These accounts are not checking accounts.)

Figures obtained from director of postal savings.

These deposits represent shrinkages in commercial and savings bank deposits.

There were bank failures throughout the country during 1931, totaling 2,302, involving net deposits of $1,680,000,000.

This tax would nullify such benefits as may accrue to banks through the recently organized Reconstruction Finance Corporation.

The bank-check industry has suffered enormously through these bank failures.

The manufacturers of bank and commercial checks are to-day facing their most critical period. In the last seven years price levels have fallen approximately 35.8 per cent. In the last two years the volume of this business has decreased approximately 40 per cent from the average production level of the years 1924–1931.

If this tax becomes effective, a large number of the smaller check manufacturers will have to go out of business due to reduced volume and the production of the larger manufacturers will be seriously curtailed throwing a large number of skilled workers out of employment.

There is no desire on the industry's part to shirk its share of governmental responsibilities and taxes but we do vigorously protest against the imposition of a tax which, because of its severity, can not help but cripple our industry.

The application of an adhesive stamp as originally in effect was found to be impracticable and inefficient when applied to the larger users of checks. Such users would request that the stamp be printed or lithographed on their checks. To comply with this demand, the manufacturer would have to advance to the Government the amount of the tax. There is no company in the industry able to finance such an advanced tax payment. One manufacturer who sells industrial check users approximately $108,000 monthly would be required to make an investment of $490,000 each month in advance tax payments to the Government. He would be unable to do so. Further, these customers would pay $598,000 per month instead of $108,000. This manufacturer will be forced to ask his customers when placing orders to give him a check in prepayment of the Government tax on such orders. It must be obvious to the members of this committee, that such an increased cost to the business world must result in a decreased use and decreased volume of purchases.

A railroad using 500,000 checks per month on a contract now pays approximately $1,000 per month. Under the check tax, this cost would amount to $12,000. Good business sense would dictate a reduction in purchasing and use.

The depressed condition of the industry has been made further unstable by the suggestion of the proposed tax:

1. Many contemplated pay roll by check installations, i. e., checks, accounting devices, forgery insurance, etc., are bing held up on account of suggested tax and its costs.

2. Certain large users have already requested a partial manufacture on orders recently placed, indicating that if the check tax is passed the balance of the orders will be canceled, or that there will be a change in the check form.

Pay roll by check has increased tremendously in the past 10 years. It is estimated that 50 per cent of industrial workers are now paid by check. If this tax goes into effect, we believe it will cause many industries to return to the use of cash for pay roll.

A return to the cash payment of wages would mean:

1. Immediate and frequent large cash withdrawals from banks for pay roll purposes.

2. A reduction of the estimate revenue, as railroads and large industrials, to escape a tax of between $100,000 to $500,000 each, probably would elect to pay by cash.

3. Increase in pay-roll holdups with resultant loss of human life and property.

I would suggest that the committee refer to the letter from Gerard Swope, president of the General Electric Co., which concisely and clearly states the problem of large users of pay-roll checks. [Copy attached hereto.]

Senator REED. Mr. Bloom, do you suggest anything else to raise money in case we abandon this?

Mr. BLOOM. Mr. Senator, the only thing I can suggest would be a general manufacturers' sales tax.

Senator SHORTRIDGE. How much does the Secretary suggest will be raised by the suggested sales tax?

Mr. BLOOM. $95,000,000.

Senator SHORTRIDGE. Do you agree to that?

Mr. BLOOM. No, sir; I have just stated that we do not agree. We believe it would be nearer $25,000,000.

Senator SHORTRIDGE. All right. You may go on.

Mr. BLOOM. A statement released for publication on August 11, 1931, by the National Crime Commission says:

From January 1 to June 1, 1930, 19 persons were reported by newspapers as having been murdered during pay-roll holdups, 32 injured, and the loss of funds exceeded $1,000,000.

During the World War and again, I believe, in 1921 a suggestion was advanced to tax checks, but for perfectly good reasons was abandoned. To-day there is no better reason.

Senator HARRISON. May I ask, how much did the Government receive in this tax after the Spanish-American War?

Mr. BLOOM. Senator, that is entirely impossible to tell, because the taxes were grouped together under Schedule A, and it was impossible to tell what part came from the stamps on checks.

Senator HARRISON. I had an idea it was $38,000,000.

Mr. BLOOM. $38,000,000 was the tax that was included in that schedule. I will not try to go over what was included there. But there were at least 38 or 40 different items.

Senator SHORTRIDGE. Aggregating $38,000,000?

Mr. BLOOM. Yes, sir.

To conserve the item of this committee, I have been asked to present a statement on behalf of the manufacturers of writing paper and safety paper, a large volume of which is manufactured in Washington, Wisconsin, Michigan, Massachusetts, New Hampshire, and Pennsylvania.

The writing paper manufacturers produce both rag and wood pulp paper in flat form, from which safety paper is made and checks are lithographed. They have suffered like all other industries from a diminished volume of production during the past two and a half years. A further reduction in the use of checks would mean an additional loss of millions of dollars of business which the mills and their employees can ill afford at this time.

In behalf of manufacturers of safety paper; the Hammermill Paper Co., of Erie, Pa.; the Todd Co., of Rochester, N. Y.; the Perfect Safety Paper Co., of Holyoke, Mass.; the Lloyd Paper Co., of New York; and George LaMonte & Sons, of Nutley, N. J. Because of the character of these safety papers and the additional processes required, they must be sold at a considerably higher price than ordinary papers. This has a tendency to restrict its use to the manufacture of checks. Due to business conditions, the consumption of safety paper for check use has fallen off approximately 40 per cent since October, 1929.

The imposition of a tax on checks will further reduce the tonnage of safety paper used from 25 to 35 per cent. The tonnage reduction already suffered has seriously affected the volume, production costs, and earnings of the manufacturers of all paper used in the manufacture of checks. A tax on checks will seriously affect the manufacturer of binding board, shipping containers, wrapping paper, cloth, glue, wire, and ink, all of which are required in the manufacture of checks as well as to further decrease railroad revenue resulting from the movement of paper and other products from the mills to check manufacturers thence to the ultimate consumers or banks.

To summarize, we are opposed to this tax because—

1. It is discriminatory as it places the burden on the maker of small checks.

2. It is unjust to our industry because it places a virtual sales tax of over 1,000 per cent on our products.

3. It will absolutely put some check manufacturers out of business and seriously cripple the others.

4. It will curtail the production of paper and be injurious to the manufacturers of check paper.

5. It will throw out of employment a large number of skilled workers.

6. It curtails a medium of exchange which has become a vital factor in the transaction of business.

7. It will encourage the return to the antiquated system of pay by cash.

8. It will encourage the withdrawal of funds from banks, increase currency circulation, and reduce bank deposits.

9. It will promote an increase of holdups, robbery, and attendant crime.

10. It is a cumbersome tax to collect and will not produce the expected revenue—we estimate it at less than $25,000,000.

Gentlemen, I thank you for your courtesy and am now prepared to answer any question.

Senator HARRISON. Have you elaborated on the reasons for those payments in various years in your brief?

Mr. BLOOM. Yes, sir.

Senator HARRISON. I do not want you to stop now, but I wondered if you have made it show the reason for the shift for various years?

Mr. BLOOM. Yes; I have taken Mr. Mills's average of $175 of the checks written; and then I have taken the debits of the banks, and have taken the resulting number of checks showing the 2-cent stamp, and then here in front of me is what you might expect if you do not have a tremendous increase in the use of checks. I have told you further——

Senator HARRISON (interposing). That is all. I did not want you to take up time with it. I wondered whether you had it in your brief.

Mr. BLOOM. Yes, sir. Now, Mr. Chairman, I have this letter from Mr. Swope, to which I referred; and also a statement from the Greene County Bankers' Association; and a statement or letter written by the American Institute of Bank and Commercial Stationers to this committee; and I have a brief from the Associated Industries of Massachusetts, all of which I ask may be made a part of my brief and remarks.

The CHAIRMAN. They may go into the record at this point.

(The matter referred to is here made a part of the record in full, as follows:)

GENERAL ELECTRIC CO.,
New York, January 12, 1932.

Hon. JAMES W. COLLIER,
Chairman of Ways and Means Committee,
House of Representatives, Washington, D. C.

MY DEAR SIR: I have noticed in the public press that for the purpose of increasing the revenues of the Government there is under consideration a proposal to place a stamp tax on all checks. This information may not be correct, but if such a tax is contemplated I hope you will pardon me if I trespass upon

your time and ask you to consider this matter from the viewpoint of industrial organizations such as our own.

Several years ago it was our practice to pay all our employees in cash. This required us to arrange for the delivery to, and the handling at, our factories of a total of between $2,000,000 to $3,000,000 in currency each week for distribution to our employees. This currency would be sent by the nearest Federal reserve banks to our local banks; it would be transported from the banks to our factories, where it would be distributed to the workmen. Then gradually, this currency would find its way back to the banks, which in turn would send it to the Federal reserve banks from which it was originally drawn, and each week the process was repeated. This meant that we had to provide in each case a force of our own employees, in conjunction with the local police, to transport this enormous pay roll from the local banks to our factories; and it also required a constant guard until the money was actually distributed to the employees.

This not only presented a great hazard to those handling the pay roll, but it also entailed waste effort in bringing such currency to the place of use and returning it again, increasing circulation for the time being and withdrawing currency temporarily from the banks, thus depleting their reserves to this extent. The temptation to bandits and gunmen may well be imagined when it is borne in mind that at times a single shipment of pay-roll money would run as high as $600,000, and that further, most of our factories are situated in cities whose police forces would not be large enough to cope with the highly organized banditry of to-day. It will be recalled that about three years ago there was a virtual wave of pay-roll robberies, many of which involved fatalities on the part of employees, policemen, guards, and custodians. The matter was so serious that the National Crime Commission (Newton D. Baker, chairman) in January, 1929, appointed a special committee to study and report on the problem of pay-roll robberies (New York Times, January 27, 1929); this special committee in its report which was published 19 months later (see New York Times, August 11, 1930) stated, after checking accounts of more than 200 pay-roll robberies in the year ended September 30, 1929, that payment by check is the only adequate way to circumvent pay-roll bandits. The committee held that ordinary processes of law enforcement are unable to cope with pay-roll bandits and said "The prizes are too tempting and the daring of professional criminals too great. It is obvious that pay-roll robberies are directly invited by the practice of carrying cash."

It was to eliminate this hazard—a hazard which extended, to a much lesser degree of course, to every employee receiving his wages in cash—that we adopted the method of paying the wages of all our employees by check. The investigation which we made at the time disclosed that a number of other large employers of labor had already adopted the payment of wages by check method—undoubtedly for the same reasons. At the present time the number of checks issued by our company is approximately 4,900,000 a year, of which approximately 2,700,000 are pay-roll checks. If the stamp tax as proposed is imposed upon pay-roll checks, it would make the expense of handling our pay roll in this way so great that we might be compelled to go back to the old way of paying the wages of our employees in cash, with its consequent risk to life and property. We would of course regret the necessity of such action, representing as it would, a step backward, for I think it will be conceded that the payment of wages by check is safer and more efficient, and constitutes a great advance over the old payment in cash method.

May I, therefore, respectfully suggest for your consideration that all pay-roll checks be made exempt from such stamp tax.

If you desire further information, we shall be glad to endeavor to supply it.

Yours very truly,

GERARD SWOPE.

To Our Depositors:

The present depression and loss of economic balance has brought confidence in financial institutions generally to such a low ebb that many solvent, well-managed banks are threatened with disaster on account of the absolute inability of debtors to pay under existing conditions fast enough to satisfy the demands made upon banks by the depositor who withdraws currency for the purpose of hoarding, thereby curtailing credit just at the time it is needed most. This puts in motion a train of circumstances the result of which are deplorable.

Due to a continuation of these conditions for the past two years, and the action of many other banks in restricting withdrawals, we find it advisable to take similar steps for the preservation of the solvency of the community as well as our banks.

Conditions generally are unprecedented, and may well be regarded as an emergency; therefore, emergency measures are necessary to meet the situation.

Our banks are thoroughly solvent, and we are determined to keep them so. We will not permit the deposits of our customers and friends to be jeopardized by continuing to allow withdrawals by those who lack confidence.

The board of directors of each bank in Green County have therefore passed the following resolution:

1. There will be no unusual restrictions on deposits of any kind made on and after January 20, 1932.

2. Withdrawals of certificates of deposit, savings deposits, and dormant checking account deposits made before January 20, 1932, will not be permitted.

3. Not more than 5 per cent of the balance in any active checking or bank account as of the close of business, January 19, 1932, may be checked out in any one month.

4. There are no restrictions whatever on Christmas savings accounts, trust funds, or balance of $10 or less in any type of account.

5. Interest on all interest-bearing accounts will continue to be paid in cash.

6. These restrictions shall continue in force until, in the opinion of the several boards of directors, the present emergency is past.

We believe it to be justified under present conditions. The alternative might be liquidation, with its attendant train of financial panic and ruin for banks and communities, particularly severe and disastrous under present conditions when nothing can be sold for its real value; liquidation of the bank's assets by a stranger who has no interest in the community resulting in judgments, foreclosures, and public sale of your property at a time when there are no bidders. On the other hand, our plan will, with the copperation of the public, save the situation; debtors can be given time to work out of their difficulties and pay in full; you will have solvent and going institutions with which to transact your banking business, and your deposits will be 100 per cent safe. There is no question as to which condition is preferable. In an emergency, the convenience of the individual may properly be sacrificed temporarily for the common good.

All of the years these banks have been in business it has been their endeavor to serve the best interests of Greene County and their communities, and now appeal for your cooperation in continuing this service. This plan can not succeed without your help. By helping the bank you are helping yourselves.

Your calm and considerate judgment of our action is requested in the light of the facts presented. The Banking Department of the Government or the Banking Department of Indiana or the State will not close a solvent bank, and these banks will not become insolvent unless compelled to make unnecessary and useless sacrifices of sound assets. This we refuse to do. We do not propose to pay the few at the expense of our loyal friends and depositors. This step is taken to secure and safeguard your deposits.

We are hopeful that conditions may soon be such that these restrictions may be removed. This depression will not last forever, and remember that every depression in the past was followed by an even greater era of prosperity. It will happen again. Remember that we continue to offer adequate and safe banking facilities and that these restrictions are not to apply to deposits of any kind made on and after January 20, 1932.

GREENE COUNTY BANKERS ASSOCIATION.

Member banks: Worthington Trust Co., Worthington, Ind.; First National Bank, Jasonville, Ind.; Switz City Bank, Switz City, Ind.; Bloomfield Trust Co., Bloomfield, Ind.; Lyons Bank & Trust Co., Lyons, Ind.; First National Bank, Linton, Ind.; Worthington Exchange State Bank, Worthington, Ind.; Farmers Bank, Marco, Ind.; Bloomfield State Bank, Bloomfield, Ind.; Citizens State Bank, Bloomfield, Ind.; Corn Exchange Bank, Lyons, Ind.; Linton Trust Co., Linton, Ind.; Peoples Trust Co., Linton, Ind.

REFERENCE—CHECK TAX AS SUGGESTED BY SECRETARY OF THE TREASURY

APRIL 19, 1932.

The SENATE FINANCE COMMITTEE,
Washington, D. C.

The American Institute of Bank and Commercial Stationers, whose members are located in every State of the Union, produce more than 80 per cent of the

checks used in this country. We respectfully submit our reasons for believing that the stamp tax on checks and drafts as proposed by the Secretary of the Treasury would be unwise, impracticable, and dangerous.

The application of an adhesive stamp as originally in effect under the act of 1898 was found to be impracticable and inefficient when applied to the larger users of checks.

A costly and complicated substitute for the adhesive stamp for large users was then evolved and operated as follows:

Certain imprinting plants were designated to operate under Government regulations and inspection. In those plants was concentrated the work of printing tax stamps on checks. Under present conditions, such a plan would necessitate a plant to be designated in each city of 25,000 population or over, and such designation would result in discrimination in the industry.

It is the practice of banks to leave a large portion of their checks in the hands of their lithographers for imprinting of customer's name and numbering as required.

The designation of certain plants as stamp imprinters entails the following operations, the cost of which by its nature has to be absorbed by the banks:

1. Transporation of checks from imprinting plants to the stamp imprinting plant.
2. Imprinting of the stamp by such plant.
3. Transportation back to the point of origin for imprinting, binding, and shipment to bank.

When checks were sent to the stamp imprinting plant it was necessary to hand count these checks, to secure a permit from the revenue officer to imprint the tax stamps, to make payment by certified check covering the cost of such stamps, to set up machinery to report these additional costs to the banks, to make a report both by the stamp imprinter and the lithographer to the Bureau of Internal Revenue, containing the name of the customer, the name of the bank on which checks were drawn, the number of sheets delivered and the number of sheets to be stamped.

The imprinting of the stamp meant the tying up of a considerable amount of money by the banks, as these checks had to be imprinted in quantities from 25,000 to one-half million, according to the requirements of the bank.

The moment checks are placed in stock, stamped (payment having been made to the Government for the stamps) it raises the insurance on a thousand checks from $2 per thousand to $24 per thousand, and the cost of this additional insurance would have to be borne by the bank. The average cost to banks for checks to be imprinted to-day is $2 per thouand, the increase in cost (exclusive of the stamp value) will raise the price to $4 per thousand, a 100 per cent increase in the cost of bank stationery.

When the check tax was discontinued all imprinted checks had to be returned to a Government supervised plant to have the stamps canceled, so that a refund could be claimed for the amount of the unused stamps. The official report of the Commissioner of Internal Revenue, Treasury Annual Report of 1902, said that under the law authorizing the commissioner to redeem or make allowance for internal revenue stamps, a large number of claims aggregating 13,533 had been allowed, this included imprinted checks, drafts and other instruments, and the weight of these instruments presented for redemption amounted to fully 500,000 pounds. All that the owners of the checks could get back from the Government was the value of the stamps. They lost the total amount invested in the checks.

The adoption of the proposed tax on checks would result in a decreased revenue to the Government:

1. Many of the members of the lithographic industry, affected by this act, did show an operating deficit in 1931, further restriction in the quantity of checks to be manufactured would mean a larger deficit in 1932 in the entire industry and a consequent larger loss to the Government in corporate income taxes from the lithographic industry.
2. This would also affect and reduce Government corporate income taxes from all industries supplying materials to bank stationers.
3. Reductions in check purchases by banks and industrial corporations would have the effect of immediately increasing unemployment as bank lithographers would again be required to further curtail their labor requirements.

Restrictions in the use of checks and consequent withdrawal of deposits will decrease the float earnings of banks, which institutions are in need of all possible revenue.

Many banks during the past two years have derived a considerable revenue through the imposing of service charges on small banking accounts, revenue which they can ill afford to lose. The great majority of these smaller accounts will be withdrawn, if a check tax is enacted and the direct consequence will be a loss of considerable revenue to banking institutions. The depositor now grudgingly paying the service charge would not be content to continue to maintain a bank account if forced to pay a check tax equivalent to 50 to 100 per cent of such service charges.

Respectfully submitted.

EXECUTIVE COMMITTEE,
AMERICAN INSTITUTE OF BANK AND COMMERCIAL STATIONERS.

To the Members of the Senate Finance Committee, Washington, D. C.

GENTLEMEN: The Associated Industries of Massachusetts, an organization representing approximately 1,200 manufacturers in that State, desires to direct your attention to a situation which it trusts may appeal to your good judgment and one which its officers feel is of such economic importance as to warrant the presentation of facts which perchance may be overlooked in framing a revenue-producing measure at the present session.

This association has learned through the press and from other sources that your committee may find it necessary to recommend to the Congress of the United States at this session a stamp tax on checks. Our primary apprehension is with reference to the application of such a stamp tax to industrial and commercial pay roll checks.

May we point out that during the past 10 or 15 years the policy of paying employees of manufacturing, mercantile, public utility, transportation, and other enterprises, as well as the employees of State and municipal institutions by check, in lieu of cash, has grown by leaps and bounds in the United States, and perhaps nowhere more phenomenally than in Massachusetts where, as many of the members of your committee are aware, there have occurred within recent years many pay roll robberies accompanied by the unfortunate murders of faithful paymasters who have attempted to resist the assaults made upon them by criminals, when they were conveying large sums of money in legal currency and coin from banking institutions to their respective places of business.

To avoid these pay-roll holdups both large and small corporations, partnerships, and voluntary associations have adopted the policy of paying their respective employees weekly in the form of checks and the executives of many of these concerns inform us that their workers would dislike to have the old plan of payment in cash restored.

In addition to the inherent danger involved in transporting a large amount of money in cash from a bank to the headquarters of an enterprise which act may be said to be primarily one in which only the employer is concerned, there are other factors which should be considered strictly from the standpoint of the employee. For example, all of the paper-manufacturing plants in Massachusetts which collectively produce 11 per cent of all the types of paper manufactured in the United States, operate on a 3-shift basis of eight hours each, a condition made imperatively necessary irrespective of the volume of business, since paper making is a continuous process. Each weekly pay day a considerable number of paper-mill employees leave their work during the hours between 6 p. m. and 6 a. m., and this means that where payments are made in cash there constantly exists danger from the holdups during the hours of darkness. Then again, when concerns formerly paid in cash they received weekly complaints from employees that they lost their pay envelopes before reaching home, and in many instances the amounts constituted a total loss to such unfortunates. Since these same companies adopted payment by check, employees have occasionally lost, mislaid, or unintentionally destroyed their checks but in every instance where they had not been indorsed the drafts before sustaining such loss, they have been able to entirely recover the amount by the issuance of a new check, and the stopping of payment on the former draft.

This association has no knowledge of any enterprise in Massachusetts that once having adopted the policy of paying by check has returned to the cash plan, which fact seems to indicate that it has been found advantageous to employer and employee alike. The records show it has tended to encourage thrift as since the general adoption of the policy the number of deposits in national banks and trust companies has materially increased in localities in Massachusetts where the plan

is in more or less general operation, and in many instances a portion of the amount of each weekly check is regularly deposited in the savings departments of these institutions.

It seems to many members of this association that a stamp tax on pay-roll checks will place a burden on a necessity, rather than on a luxury, since checks have become a tool for dispensing money safely and economically, and that a tax of two cents per check would mean a burden of approximately 1,000 per cent on the purchase price of checks, as compared with the proposed 5 per cent tax on radios, 5 per cent on automobiles, etc.

It is obvious that it would mean an increase in unemployment by lessening the volume of business in the printing and lithographing industries and in allied trades, such as paper, ink, binding cloth, wire and glue manufacturing, as well as in transportation volume.

It might conceivably add to the financial distress now felt by hundred of lithographers whose main product is the manufacture of bank checks, as it is generally admitted that the volume of this class of business has decreased at least 30 per cent within the past two years, and there is little doubt it would be further adversely affected by the proposed tax.

It is regarded by many of our members as another discouraging factor in business at a time when every possible encouragement should be given, and it is quite obvious that by discouraging the use of checks, the tax would partially defeat its own purpose and thus would fall far short of producing the anticipated revenue.

There is a phase which members of this association regard as all important and one which we trust your committee will carefully weigh and consider and that is the very apparent fact that more currency will mean more gold reserves. Surely any tax legislation which will materially reduce the percentage of business now transacted by means of checks, which is stated to be 95 per cent at the present time, ought to be given the closest scrutiny before forcing upon the business of the country a law which will accentuate an increased use of currency.

Is it not significant to you gentlemen that the English Government, despite its urgent and dire need for revenue, is now taking legislative steps to rid itself of the existing tax on checks which has been in force in Great Britain for several years?

It appears to be a somewhat anomalous situation where the two great English-speaking governments of the world are simultaneously occupying positions with respect to their respective fiscal policies which are diametrically opposed to each other, and members of this association can not but wonder what principle or policy motivates the officers of one nation and what governs the action of the officers of the other.

A concrete example of what a return to the old system of payment in cash will mean is presented to you for consideration in the following facts: For many years it was the practice of the General Electric Co. at all of its plants in the United States to pay its employees in cash, which method required the corporation executives to arrange for the delivery to, and the handling at, all its factories of a total of between $2,000,000 and $3,000,000 in currency each week for distribution to employees. This currency came from the nearest Federal reserve bank to the local bank, was transported from this institution to the factory, where it would be distributed to the employee, and gradually it would find its way back to the bank, which in turn would send it to the Federal reserve bank, from which it was originally drawn, and each week of the year this process was repeated.

At each factory the General Electric Co. was forced to provide a force of its own employees, in conjunction with the local police, to transport the enormous pay rolls from the local bank to each plant, as well as a constant guard until the cash was actually distributed, a condition which not only presented a great hazard to those handling the pay roll, but also entailed waste effort in bringing such currency to the place of payment and returning it again, thus increasing the circulation of currency for the time being and withdrawing large amounts of it from the banks, depleting their reserves to this extent.

The temptation to bandits and gunmen may well be pictured when it is borne in mind that in many weeks a single shipment of cash for a pay roll ran as high as $600,000 and that most of the plants of the General Electric Co. are located in cities whose police forces are not large enough to cope with the highly organized banditry of this era.

It was to eliminate this hazard—one which extended to a much lesser degree to every employee receiving his wages in cash—that the General Electric Co. adopted the check payment policy. At the present time out of approximately

4,900,000 checks issued by the General Electric Co. annually, 2,700,000 are pay-roll checks.

This association feels that your committee should give heed to the findings of the National Crime Commission, of which Hon. Newton D. Baker was chairman, which were to the effect that after checking accounts of more than 200 pay-roll robberies ended September 30, 1929, the only adequate way to circumvent pay-roll bandits was to make payment by check. The committee held that the ordinary processes of law enforcement are unable to cope with pay-roll bandits and added: "The prizes are too tempting and the daring of professional criminals too great. It is obvious that pay-roll robberies are directly invited by the practice of carrying cash."

Our position and that of the executives of business enterprises in Massachusetts now paying employees by check is that of urging upon your committee a provision which will exempt industrial and other weekly pay-roll checks from a tax, on the theory that the enactment by Congress of a general stamp tax on all checks will result in a return to the former system of payment in cash, which course it seems to this association will give added impetus to the criminal element of the population to stage pay-roll robberies. A return to the former policy will not be made because of a desire on the part of companies now paying by check to lessen the revenues of the Government but first because of the expense that will be added to overhead costs in the purchase of the stamps, and, second, to the expense and inconvenience occasioned by attaching a stamp to each weekly pay-roll check.

These reasons may appear to be fanciful, but when your committee considers that in the city of Brockton alone, with a population of but 60,000 persons, and with not less than 53 enterprises now paying employees by check, it will be necessary to attach at least 35,000 stamps to that number of checks each month, its members can readily grasp the amount of physical work required to comply with the law.

It appears that it ought to be possible to so frame tax legislation as to exempt industrial pay-roll checks, and none others, by requiring that all such drafts shall bear upon their face the printed words "Industrial pay-roll check," and that provisions be incorporated in the tax measure clearly defining what constitutes an "Industrial pay-roll check," i. e., that it applies only to the weekly payment made by check to the employees of a State, municipality, or other political division of government, and of manufacturing, mercantile, public utility, and other enterprises engaged in private business.

We use the phrase, "Industrial pay-roll check," merely as suggestive of such nomenclature as may be determined upon by your committee, and not as an arbitrary definition. As to methods to prevent imposition on the Government by the use of such checks in other than legitimate channels, could it not be provided that the United States Treasury Department shall be clothed with the authority of auditing all check books of enterprises paying employees by check precisely as that department now has the power to examine all books of account of all enterprises paying income taxes to the United States Government?

Would it not also be possible to so frame the new revenue-producing measure as to make it compulsory for all enterprises to secure in advance the written consent of the collector of internal revenue in each district to use the phrase, "Industrial pay-roll check," or such other distinctive phrase as may be determined upon by your committee, before they can legally issue checks to their employees that do not bear tax stamps? The phrase, "Industrial pay-roll check," or such other distinguishing phrase as may be determined upon, would be prima facie evidence to the agency cashing the draft that it was exempt from the stamp tax.

We respectfully ask your committee to carefully weigh the arguments in favor of some such exemption as we suggest, which may be listed as follows:

(1) Its advantages to employees where pay rolls must of necessity be cared for at night in concerns engaged in continuous operations, such as paper mills, etc.

(2) Its advantage in encouraging thrift on the part of the employees so paid.

(3) Its certainty in amount, a factor which does not always prevail where payment is made to an employee in currency and coin because of the danger of error in inserting cash into a pay envelope.

(4) Its advantage in reducing the danger of the loss of a pay envelope containing cash, in which instances the employee has no recourse other than to accept a total loss.

(5) Its advantage over the payment-in-cash system which comprehends the possibility of the issuance to the employee of a new check for the full amount in all cases where a draft is lost or mislaid prior to indorsement of it by the payee.

(6) Its advantage in increasing the number of depositors in the financial institutions resorted to by the employees paid by check.

(7) Its advantage in reducing the temptation of fellow employees to commit larceny of the pay envelopes of other workers where cash is used in lieu of checks. Currency, unless provided with a distinguishing mark, can not easily be traced to the person unlawfully appropriating it, while checks drawn to a specific person can not be cashed save by forgery of the payee's name, or if previously indorsed by him before they are lost can not be cashed unless again indorsed by the finder who attempts to convert the amount they represent into cash, thus making certain his apprehension later.

(8) Its advantage in lessening at all times holdups of recently paid employees and robbery from the person.

To the employer some of the major advantages of an exemption such as is suggested may be emphasized as follows:

(1) Material lessening of the dangers of holdups of pay rolls in cash which so frequently occur in transmitting large sums of money from banks to offices.

(2) The economic saving of premiums paid on pay-roll insurance policies which ordinarily are carried by all concerns using cash in preparing their weekly pay rolls.

(3) The economic saving effected as the result of not being obliged to sort and count large quantities of currency and coin weekly and the insertion of the same into pay envelopes, with all the attendant risks of human errors.

(4) Its advantage in lessening disputes on the part of employees as to the amount of cash placed in his pay envelope.

(5) Its advantage in giving the employer a receipt in the form of an indorsed check for a specific amount paid each employee.

(6) Its advantage to the United States Treasury Department in accurately and speedily checking the expenditures of an employer for pay rolls.

In the interest of economy in time and money and of the safety and convenience of the employee and the employer, the undersigned representing only a part of the enterprises in Massachusetts now engaged in paying their respective employees by check respectfully ask your committee to determine upon some feasible and workable plan which will not render it necessary for those who are now operating this policy to return to the plan of paying in cash with all its attendant risks:

Town of Adams:
- Adams Gas Light Co.
- New England Lime Co., 230 employees.
- United States Gypsum Co., 125 employees.

Town of Amesbury:
- Merrimac Hat Corporation, 1,200 employees.
- Walker Body Co., 1,500 employees.

Town of Ashland:
- Warren Telechron Co., 500 employees (pays 25,000 pay-roll checks per annum).
- Cook Chair Co., 50 employees.
- General Chemical & Solvents Corporation.

Town of Athol:
- Athol Gas & Electric Co.
- Taft Oil Burner Co.

City of Attleboro:
- H. E. S. Thompson Co., 10 employees.
- City of Attleboro.
- Larson Tool & Stamping Co., 32 employees.
- Attleboro Steam & Electric Co., 27 employees.
- Bristol County Tuberculosis Hospital.
- Interstate Street Railway Co.
- Phil's Department Store.
- Dodgeville Finishing Co., 100 employees.
- American Reenforced Paper Co., 25 employees.
- W. & R. Jewelry Co., 20 employees.

Town of Barre:
- Barre Wool Combing Co., 450 employees.
- Nornay Worsted Co., 160 employees.
- Francis Willey Co., 25 employees.

City of Boston:
Boston & Maine Railroad Co., 15,500 employees.
Boston & Albany Railroad Co.
New York, New Haven & Hartford Railroad Co.
Boston & Maine Transportation Co., 155 employees.
Mystic Terminal Co., 340 employees.
Standard Oil Co. of New York. All Massachusetts employees.
Boston Herald-Traveler.
John Donnelly & Sons.
Maine Central Railroad Co.
Eastern Massachusetts Street Railway Co.
Portland Terminal Co.
National Casket Co., 200 employees.
Vacuum Oil Co.
United States Rubber Co.
New England Coal & Coke Co.
W. F. Schrafft & Sons Corporation, 1,600 employees.
New England Telephone & Telegraph Co. (Require approximately 1,000,000 checks per year for pay rolls to employees.
Boston Elevated Railway Co.
Charles H. Tenney & Co. (At all plants.)
Union Freight Railroad Co.
New England Transportation Co.
City of Brockton:
Barbour Welting Co., 200 employees.
Geo. E. Keith Co., 5,100 employees.
W. L. Douglas Shoe Co., 2,500 employees, and 50 other companies in Brockton.
Town of Bridgewater:
George O. Jenkins Co., 85 employees.
L. Q. White Shoe Co., 2,000 employees.
Bridgewater Workers Cooperative Association, 200 employees.
William H. Basset Co., 35 employees.
State Normal Schools.
Massachusetts State Farm.
Town of Brookfield: Gavitt Manufacturing Co., 20 employees.
City of Cambridge:
American Rubber Co.
Andrews & Goodrich.
Ashton Valve Co., 200 employees.
Austin-Hastings (Inc.).
Banker & Tradesman Press (Inc.), 55 employees.
The Barta Press (Inc.), 70 employees.
Boston Blacking Co., 195 employees.
Boston Bookbinding Co., 150 employees.
Boston Woven Hose & Rubber Co., 1,200 employees.
City of Cambridge.
Cambridge Gas Light Co., 350 employees.
Cambridge Rubber Co., 1,200 employees.
Central Scientific Co.
Dewey & Almy Chemical Co., 200 employees.
D. J. Daley Co.
William J. Day Co.
Dix Lumber Co., 85 employees.
E. & R. Cleansing Co.
Fanny Farmer Candy Shops (Inc.), 1,000 employees.
Ginn & Co., 850 employees.
J. L. Hammett Co., 125 employees.
Harvard College.
Hayes-Bickford Lunch System.
A. H. Hews & Co. (Inc.), 125 employees.
Lysander Kemp & Sons, 25 employees.
Kendall Square Garage.
Lever Bros. Co., 1,300 employees.
Arthur D. Little (Inc.), 100 employees.
Livezey Linoleum Floors (Inc.).
Mama Cookie Bakeries (Inc.).

City of Cambridge—Continued.
Massachusetts Institute of Technology.
Massachusetts Wharf Coal Co.
Remington Rand (Inc.), 600 employees.
Riverside Boiler Works (Inc.), 150 employees.
Roberts Iron Works, 40 employees.
Rome Co. (Inc.), 105 employees.
Rust-Proofing & Metal Finishing Corporation, 20 employees
Joseph T. Ryerson Sons.
Springfield Commercial Body Co.
Standard Oil Co. of New York.
U-Dryvit Auto Rental Co.
Viking Manufacturing Co.
Warren Bros. Co., 1,000 employees.
F. S. Webster Co., 300 employees.
Town of Canton:
Sweetland Waste Co.
Norfolk Japanneries, 170 employees.
Reynolds Bros.
Town of Charlton:
Charlton Woolen Co., 175 employees.
Aldrich Manufacturing Co., 60 employees.
Town of Chelmsford: H. E. Fletcher Co., 600 employees.
Town of Dover: E. F. Hodgson Co., 125 employees.
Town of Easthampton:
Hampton Co.
United Elastic Corporation, 1,200 employees.
City of Everett:
Boston Varnish Co., 150 employees.
Carpenter-Morton Co., 155 employees.
E. I. du Pont de Nemours & Co. (Inc.), 150 employees.
New England Structural Co., 275 employees.
City of Fall River:
City of Fall River.
Kerr Mills.
Shell Union Oil Co.
City of Fitchburg:
Louis DeJonge Co., 200 employees.
Union Screen Plate Co., 40 employees.
Union Machine Co., 50 employees.
L. H. Goodnow Foundry Co., 60 employees.
Jennison Co., 160 employees.
Swanson Baking Co.
Parks-Cramer Co., 305 employees.
Diadem Manufacturing Co., 150 employees.
Sentinel Printing Co., 60 employees.
W. J. Handley Co.
Town of Foxboro:
The Foxboro Co., 275 employees.
Foxboro State Hospital.
Town of Framingham:
Boston & Worcester Street Railway.
The Wallace Nutting Co.
Framingham Union Hospital.
National Radiator Co.
Barbour Coleman Co.
B. Perini & Sons Co.
Carlo Bianchi & Co. (Inc.).
Little Tree Farms.
Wayside Inn.
Town of Franklin:
Clover Worsted nills, 125 employees.
Franklin Yarn Co., 130 employees.
Whitney Worsted Co., 90 employees.
F. S. Payne Co., 235 employees.
Thomson National Press Co., 125 employees.
Union Light & Power Co.

City of Gardner:
Heywood-Wakefield Co., 4,000 employees.
S. Bent & Bros., 111 employees.
Collier-Keyworth Co., 150 employees.
Gardner Upholstered Furniture Co., 25 employees.
Chair City Upholstered Furniture Co.
Gardner Muslin Underwear Co., 40 employees.
Hedstrom-Union Co., 250 employees.
Gardner State Colony.
Gardner Electric Light Co.
O. W. Siebert Co., 200 employees.
Gardner Reed & Rattan Co., 75 employees.
Town of Grafton: Grafton State Hospital.
Town of Great Barrington:
Stanley Insulating Co., 150 employees.
Great Barrington Manufacturing Co., 100 employees.
Town of Greenfield: Greenfield Electric Light & Power Co., 112 employees.
Town of Groton: A. H. Thompson & Sons. Co., West Groton.
Town of Hanover: National Fireworks Co., 350 employees.
City of Haverhill: Robert Gair Co.
City of Holyoke:
B. F. Perkins & Sons (Inc.), 120 employees.
American Thread Co., 500 employees.
American Writing Paper Co. (Inc.), 2,000 employees.
Chemical Paper Manufacturing Co., 350 employees.
Crocker-McElwain Co., 265 employees.
Eureka Blank Book Co., 135 employees.
Hampden Glazed Paper & Card Co., 200 employees.
National Bank Book Co., 800 employees.
The Reynolds Manufacturing Co., 40 employees.
White & Wyckoff Manufacturing Co., 650 employees.
Town of Hudson:
Hill Bros. Co., 150 employees.
The Universal Boring Co., 60 employees.
Firestone Footwear Co., 2,000 employees.
Town of Ipswich: Hayward Hosiery Co., 75 employees.
Town of Lee:
Hurlbut Paper Co., 100 employees.
Lee Lime Corporation, 92 employees.
City of Leominster:
City of Leominster.
Du Pont Viscoloid Co., 2,000 employees.
E. F. Dodge Paper Box Co., 50 employees.
Monoosanock Quarries.
P. J. Keating Co.
G. Bonagcoll.
R. E. Bull.
D. & C. Construction Co.
Leominster Electric Light Co.
City of Lowell:
Courier-Citizen Co., 500 employees.
Laganas Shoe Co., 400 employees.
City of Lowell.
Majestic Shoe Co., 125 employees.
Walter L. Parker Co., 200 employees.
Lowell Electric Light Corporation, 285 employees.
Style Heel Co.
Waterhead Mills (Inc.), 300 employees.
American Hide & Leather Co., 300 employees.
Daniel Gage (Inc.), 185 employees.
Lowell Rendering Co.
Boot Mills, 1,000 employees.
Lowell Gas Light Co., 300 employees.
D. L. Page Co., 140 employees.
City of Lynn:
Boston, Revere Beach & Lynn Railroad Co.
City of Lynn, municipal employees.

City of Lynn—Continued.
Hoague-Sprague Corporation, 450 employees.
Benn Kid Co., 550 employees.
Geo. E. Marsh Co., 125 employees.
Town of Mansfield:
Town of Mansfield.
Shields Foundry Co., 25 employees.
Town of Methuen: Selden Worsted Mills, 200 employees.
Town of Middleboro:
Geo. E. Keith Co., 300 employees.
Town of Middleboro, 300 employees.
Lakeville State Sanitarium, 150 employees.
Town of Millbury: Millbury Spinning Co., 35 employees.
Town of Monson: Monson State Hospital.
Town of Natick:
Natick Box & Board Co., 150 employees.
Griess Pfleger Tanning Co. of Massachusetts.
Town of Natick.
Whipple Co., 40 employees.
Town of Needham:
Q-P Signal Co., 25 employees.
William Gorse Co., 20 employees.
Central Railway Signal Co., 150 employees.
City of New Bedford:
New Bedford Rayon Co., 500 employees.
New Bedford Gas & Edison Light Co., 550 employees.
City of Newburyport:
Lowell Thomas Shoe Co.
Newburyport Gas & Electric Co.
Fern Shoe Co., 175 employees.
City of Newton:
Stowe & Woodward Co., 125 employees.
Bachrach (Inc.), 50 employees.
The Raytheon Manufacturing Co., 500 employees.
City of North Adams: North Adams Gas Light Co., 90 employees.
Town of North Attleboro: Mason Box Co., 200 employees.
Town of Northbridge: White Machine Works, 4,000 employees.
Town of North Brookfield:
H. H. Brown Shoe Co., 290 employees.
Asbestos Textile Co., 240 employees.
Town of Norton: Town of Norton, municipal employees.
Town of Palmer: Central Massachusetts Electric Co., 40 employees.
City of Peabody:
Hunt-Rankin Leather Co., 450 employees.
Eastman Gelatine Co.
Massachusetts Hair & Felt Co., 40 employees.
Griess-Pfleger Tanning Co.
Nathan H. Poor Co., 100 employees.
City of Pittsfield:
General Electric Co., 7,000 employees.
Eaton Paper Co., 1,200 employees.
Elmvale Worsted Co., 125 employees.
Berkshire Life Insurance Co.
City of Quincy: Bethlehem Shipbuilding Corporation, 3,500 employees.
Town of Reading: Town of Reading, municipal employees.
Town of Rockland: E. T. Wright Co., 700 employees.
City of Salem:
Hygrade Lamp Co., 700 employees.
Salem Terminal Corporation.
Eastern Massachusetts Electric Co.
Salem Electrical Light Co., 150 employees.
Salem Gas Light Co., 125 employees.
Kern Leather Co., 100 employees.
Kirstein Leather Co., 75 employees.
Park Leather Co., 100 employees.
Helburn Thompson (Inc.), 175 employees.
Flynn Leather Co.

City of Salem—Continued.
Henry K. Barnes Co., 50 employees.
J. F. Cabeen Co.
Pitman & Brown Co.
Holyoke Insurance Co.
The Shell Eastern Petroleum Co.
Salem Oil & Grease Co.
Salem Briquette Co.
The city of Salem
Salem post office.
Salem State Normal School.
Town of Sherborn: Women's Reformatory, Commonwealth of Massachusetts.
City of Somerville: First National Stores.
Town of Southbridge: Nomar Optical Co., 25 employees.
City of Springfield:
Smith & Wesson (Inc.), 600 employees.
Package Machinery Co., 250 employees.
United States Envelope Co., 3,000 employees.
National Equipment Co. 300 employees.
Springfield Gas Light Co., 440 employees.
H. L. Handy Co., 400 employees.
United American Bosch Magneto Corporation, 3,000 employees.
Moore Drop Forging Co., 200 employees.
Cheney Bigelow Wire Co., 115 employees.
City of Springfield, municipal employees.
Town of Stockbridge:
Grangers Manufacturing Co., 59 employees
Miller Lime Products Corporation.
Lee Lime Corporation, 92 employees.
Town of Stoughton:
Neil A. Crimmins.
Shawmut Woolen Mills, 250 employees.
J. W. Wood Elastic Web Co., 235 employees.
Town of Sturbridge: Sturbridge Finishing Co., 150 employees.
Town of Taunton:
M. M. Rhodes & Son, 30 employees.
Taunton Rubber Co., 115 employees.
City of Taunton, municipal departments.
Town of Templeton:
Otter River Board Co., 55 employees.
B. H. & F. Manufacturing Co.
Temple-Stuart Co., 65 employees.
Waite Chair Co., 60 employees.
A. L. Adams Paper Co., 20 employees.
C. V. C. Corporation.
E. L. Thompson Chain Corporation, 50 employees.
Town of Townsend: Ressenden Companies (Inc.), 320 employees.
Town of Uxbridge: Uxbridge Worsted Co., 825 employees.
Town of Walpole:
Bird & Son (Inc.), 1,500 employees.
Hollingsworth & Vose Co., 500 employees.
The Kendall Co., 2,800 employees.
Bird Machine Co., 135 employees.
Multibestos Co., 400 employees.
L. F. Fales, 200 employees.
M. W. Allen.
City of Waltham:
B. C. Ames Co., 135 employees.
Mobeco Sign Advertising.
Riverside Paint & Varnish Co., 15 employees.
Waltham Bag & Paper Co., 50 employees.
Waltham Chemical Co., 10 employees.
Waltham Machine Works, 35 employees.
Waltham Woodenware & Paper Co.
Town of Watertown: Lewandos French Dyeing & Cleansing Co., 150 employees
Town of Wellesley:
Babson's Statistical Organization (Inc.).
Boston Park Co. and Affiliated Companies.

Town of Westboro: Bay State Abrasive Products Co., 60 employees.
Town of West Springfield:
Wico Electric Co., 200 employees.
Gilbert & Barker Manufacturing Co., 1,500 employees.
Town of Weymouth: Stetson Shoe Co., 600 employees.
Town of Winchester:
J. O. Whitten Co.
Town of Winchester.
City of Worcester:
Morgan Construction Co., 700 employees.
American Steel & Wire Co., 6,000 employees.
Osgood-Bradley Car Corporation, 1,200 employees.
Burns Bros.
Eastern Bridge & Structural Co., 175 employees.
General Ice Cream Corporation, 400 employees.
General Motors Truck Co.
Great American Tea Co.
L. O. Irish.
Thomas MacDuff.
Massachusetts Protective Association.
Memorial Hospital.
New England Power Co., 400 employees.
Norton Co., 3,000 employees.
Winslow H. Robinson, 15 employees.
Rockwood Sprinkler Co., 200 employees.
Bancroft Hotel.
Worcester Baking Co., 95 employees.
Worcester Electric Light Co.
Worcester Gas Light Co., 230 employees.
Worcester Post Co., 175 employees.
Wright Machine Co., 125 employees.
Yellow Cab Co.
Young Men's Christian Association.
Fox-Poli Theater.
Town of Wrentham: Winter Bros. Co., 175 employees.

STATEMENT OF ANDREW J. KENNEDY, NEW YORK, N. Y., REPRESENTING AMALGAMATED LITHOGRAPHERS OF AMERICA

Mr. KENNEDY. Mr. Chairman and gentlemen of the committee, I represent the Amalgamated Lithographers of America, an organization affiliated with the American Federation of Labor.

The members of our organization are the skilled workers who produce the checks upon which this stamp tax is proposed.

Now, we have been, as most other industries are, seriously affected by unemployment during the past two years, and it has been getting progressively worse month after month. This has thrown a great strain not only on those who are actually unemployed, but on those who are partially employed—and most of them are—in their efforts to help the members who are totally unemployed, and this is done by assisting them and paying money.

Now this tax, as proposed by previous speakers, would curtail the use of checks, particularly for household uses, dairy companies, pay rolls, and agricultural communities. This, in our estimation, would seriously increase unemployment in our industry and make our problem that much greater.

I appear before the committee to ask the committee when it is considering this tax to give thought to the matter of how much unemployment will be created to skilled workers and other workers who will be affected if this tax should be laid.

I thank you.

STATEMENT OF CHARLES W. HOLMAN, WASHINGTON, D. C., REPRESENTING THE NATIONAL COOPERATIVE MILK PRODUCERS

Mr. HOLMAN. Mr. Chairman, and gentlemen of the committee, my name is Charles W. Holman. I am secretary of the National Cooperative Milk Producers' Federation, with offices at 1731 I Street in this city. I will file, for inclusion in the record, a list of the associations that are affiliated with the National Cooperative Milk Producers' Federation.

(The list furnished is as follows:)

COOPERATIVES AFFILIATED WITH THE NATIONAL COOPERATIVE MILK PRODUCERS' FEDERATION

Berrien County Milk Producers' Association, Benton Harbor, Mich.
California Milk Producers' Association, Los Angeles, Calif.
Cedar Rapids Cooperative Dairy Co., Cedar Rapids, Iowa.
Challenge Cream and Butter Association, Los Angeles, Calif.
Champaign County Milk Producers, Champaign, Ill.
Chicago Equity-Union Exchange, Chicago, Ill.
Connecticut Milk Producers' Association, Hartford, Conn.
Cooperative Milk Producers' Association for San Francisco (Inc.), San Francisco, Calif.
Cooperative Pure Milk Association of Cincinnati, Cincinnati, Ohio.
Coos Bay Mutual Creamery Co., Marshfield, Oreg.
Dairymen's Cooperative Sales Co., Pittsburgh, Pa.
Dairymen's League Cooperative Association (Inc.), New York, N. Y.
Des Moines Cooperative Dairy Marketing Association, Des Moines, Iowa.
Dubuque Cooperative Dairy Marketing Association (Inc.), Dubuque, Iowa.
Falls Cities Cooperative Milk Producers Association, Louisville, Ky.
Illinois Milk Producers' Association, Peoria, Ill.
Indiana Dairy Marketing Association, Muncie, Ind.
Inland Empire Dairy Producers' Association, Spokane, Wash.
Inter-State Associated Creameries, Portland, Oreg.
Inter-State Milk Producers' Association (Inc.), Philadelphia, Pa.
Iowa Creameries' Association, Waterloo, Iowa.
Land O'Lakes Creameries (Inc.), Minneapolis, Minn.
Lower Columbia Cooperative Dairy Association, Astoria, Oreg.
McLean County Milk Producers' Association, Bloomington, Ill.
Maryland and Virginia Milk Producers' Association, Washington, D. C.
Maryland State Dairymen's Association, Baltimore, Md.
Miami Valley Cooperative Milk Producers' Association, Dayton, Ohio.
Michigan Milk Producers' Association, Detroit, Mich.
Milk Producers' Association of San Diego County, San Diego, Calif.
Milk Producers' Association of Summit County and Vicinity, Akron, Ohio.
Milwaukee Cooperative Milk Producers, Milwaukee, Wis.
National Cheese Producers' Federation, Plymouth, Wis.
New England Milk Producers' Association, Boston, Mass.
Northwestern Cooperative Sales Co., Wauseon, Ohio.
Ohio Farmers' Cooperative Milk Association, Cleveland, Ohio.
O. K. Cooperative Milk Association, Oklahoma City, Okla.
Producers' Creamery, Marion, Ind.
Pure Milk Producers' Association, Kansas City, Mo.
Pure Milk Association, Chicago, Ill.
Richmond Cooperative Milk Producers' Association, Richmond, Va.
Sanitary Milk Producers, St. Louis, Mo.
Scioto Valley Cooperative Milk Producers' Association, Columbus, Ohio
Shelby County Milk Producers' Association, Memphis, Tenn.
Stark County Milk Producers' Association, Canton, Ohio.
Tillamook County Creamery Association, Tillamook, Oreg.
Tulsa Milk Producers' Cooperative Association, Tulsa, Okla.
Twin City Milk Producers' Association, St. Paul, Minn.
Twin Ports Cooperative Dairy Association, Superior, Wis.
United Dairymen's Association, Seattle, Wash.
Valley of Virginia Cooperative Milk Producers' Association, Harrisonburg, Va.
Yakima Dairymen's Association, Yakima, Wash.

Mr. HOLMAN. This list represents the cooperatives affiliated with the National Milk Producers' Federation, and represents the dairy people throughout the United States. These organizations ship dairy products from 360,000 dairy farms.

Mr. Chairman, the directors of our organization have instructed me to appear here in opposition to the principle of a tax upon bank checks, as well as upon the proposed rate of taxation.

There are about 1,500,000 dairy farmers who ship cream off of their farms almost every day in the year and, in addition to that, there are approximately 893,000 who ship milk either to the cities, or to the condensers or to the cheese factories as whole milk. Consequently, a tax of this character would fall rather heavily upon our people, inasmuch as the average cream checks run, I think, according to the best statistics, $2.15 per check. That is about 1 per cent gross tax upon the farmers' income, as those creameries, in many instances, operating under periods of depression are not able to bear the extra expense or overhead, and it would be reflected in the lowered price of the cream or product that the farmer has to sell.

Likewise, some of our dairy cooperatives who themselves process and handle milk, sell many millions of dollars' worth of product to the large distributors. Take, for example, the Dairyman's League, which gathers milk all up and down Pennsylvania, and from the other States bordering New York, near to New York City. That organization sells about $8,000,000 worth of cream in a month. Any return for that which comes to them comes in checks. Some of those checks are over $1,000,000 apiece. That is, it is a pool of the proceeds, and they, in turn, distribute to some 3,500 farmers throughout the district. Now an organization like that can not send a messenger with that pay roll out among the farmers. Consequently, it would be a very heavy burden on their operating expenses.

Senator SHORTRIDGE. That is, you have to send checks?

Mr. HOLMAN. We are obliged to send checks.

Senator REED. What alternative do you present, Mr. Holman?

Mr. HOLMAN. I have been instructed to oppose this measure, and I have no instructions to present an alternative, so far as the organization is concerned.

The CHAIRMAN. Have you any, so far as you are personally concerned?

Mr. HOLMAN. So far as I am personally concerned, Senator, I would suggest that we go deeper into a taxation against raw products.

Now, gentlemen, that is about the substance of our opposition, except that we coincide with the views that have been expressed here by the two Congressmen, that this would really curtail the circulation of money, in the rural districts, and it occurs at a time when we are almost getting to the bottom basis anyway, and it would be a serious handicap to the rural banks that are attempting to carry the paper in these communities and in these times that we are going through. And we do hope that this bank check proposition will be thrown out by this committee as the Ways and Means Committee properly did.

STATEMENT OF W. F. JENSEN, REPRESENTING AMERICAN ASSOCIATION CREAMERY BUTTER MANUFACTURERS; NATIONAL POULTRY, BUTTER, AND EGG ASSOCIATION; PACIFIC STATES BUTTER, EGG, CHEESE, AND POULTRY ASSOCIATION

Mr. JENSEN. Mr. Chairman and Senators: I represent the American Association Creamery Butter Manufacturers; the National Poultry, Butter and Egg Association, and the Pacific States Butter, Egg, Cheese, and Poultry Association.

I have been an operator in the dairy and poultry industries for 40 years, and remember well the time during the Spanish-American War when we had a tax on checks. In those days, however, we did not settle with the farmers as often as we do now. In those days we settled once a month, while at the present time we settle from one to three times a week.

According to the figures published by the United States Department of Agriculture, the sale of dairy and poultry products accounts for 34.3 per cent of the annual farm income. The Secretary of Agriculture calls it our largest national industry—bigger than the automobile or steel. In the 40 years I have engaged in it, I have seen it grow and expand more than one thousand per cent.

At the present time the market value of dairy products is down to the basis that existed in 1896–97, much less than half the market values that prevailed in 1928–29. But at that the American farmer is producing them at an increasing rate. No doubt because they are necessary to his economic existence.

Unless a miracle occurs, there is no reason to expect a change or rapid increase in values. It is more likely that, as past experience teaches us, there will be a gradual improvement from year to year during the next 10 or 20 years.

It is important to look at this situation as it is, in order to make other adjustments, the principal item of which is operating cost—and in that the main item is taxes.

Unfortunately, at this time we are still faced with high operating cost, much of it beyond our control, the principal item of which is Federal, State, and municipal taxes, which have increased 500 per cent in 20 years. And in comparison with present farm commodity values, the increase is more than that.

Taxes are the main reason why transportation rates, still 50 per cent above the 1913 basis, are not coming down. High taxes run through all industries—they affect the wage earner in the ownership of his home, in the rent that he pays, in the clothing, food, amusement, and professional services that he buys, and they affect our operators in the cost of their fuel, public-utility rates, rents, supplies, and all items entering into operating cost, including wages.

Our people are all conscious of this situation, and hope for lower taxes, more in harmony with commodity values; and when that time comes we may look for improvement in general conditions. And we sincerely hope that our Government will set the pace.

The Secretary of the Treasury has proposed that a 2-cent stamp tax be placed on each bank check and draft, and I appeared at the hearing held before the Ways and Means Committee of the House of Representatives on January 22, and afterwards the committee and the House did not approve of that method of taxation.

During the hearings the Secretary of the Treasury testified that the size of the average check written in the United States was $185.

Through actual figures from the members of our industry for the the year 1931, we find that the average check written in payment for a cream delivery is $2.15. Checks written in payment for eggs are about the same, and checks written in payment for poultry deliveries somewhat higher, or nearly $5.

Since then, butterfat and eggs have gone down in price, and checks will now average 30 per cent smaller than the amounts stated as averaging in the year 1931.

It can thus be seen that the average check for cream and egg purchases is very small, and only a hundredth part in size of the average national check.

The proposal is to place a tax of 2 cents on each check, regardless of size, whether the check be for one dollar or for a million dollars, and this in itself constitutes positive reason for defeat, due to its unfairness.

The creamery industry as a whole is happy if, on the staple commodities, they can net 2 per cent on the sales turnover.

For some time they have had no profit, and in view of the fact that a 2-cent tax on each of these small produce checks would figure more than 1 per cent on the sales turnover—more than one-half of the normal earnings—it is but reasonable to say that the tax, if imposed, would have to be deducted from the farmer's net proceeds.

There are also the many small checks that the farmer writes in settlement of his transactions.

The Secretary of the Treasury estimates that a tax on checks and drafts will produce $95,000,000 in annual revenue. This is perhaps overestimated, but, whatever it is, I believe half the load—due to the multitude of small checks—would fall upon the farmers, and they are not in position to stand it.

We estimate that this tax would come to $3,000,000 per annum on cream sold for butter making, and at least $10,000,000 per annum on the sale of dairy and poultry products by the farmer.

A 2-cent stamp tax on checks will greatly reduce the use of checks, which is proven by statistics from official records during the Spanish-American War, when this kind of tax was in effect.

With fewer checks used, more actual currency will be used, because a check is a substitute for actual currency. Currency would be withdrawn from the banks and used in settlement. Instead of writing checks, people would carry more currency in their pockets, and use it in every-day transactions.

The natural consequence would be a shrinkage in bank deposits. Actual currency would be outside of the banks, instead of in the banks, and at least the smaller banks in the country or in the city fear and dislike such a situation, which would result in a shrinkage of deposits and available currency in the vaults of the banks.

We believe that it is in the farm communities, in the rural towns, that the small checks are circulating. They are used in the same manner as currency. I speak of this from personal experience, because I have spent a good deal of my time in the country.

The farmer gets his check, and he pays his blacksmith; he pays his doctor; he pays for his groceries; he buys gasoline with it. And

these checks are used in turn by the grocer and others to pay the wholesaler. They are the circulating medium in the small towns.

One can only estimate, but I believe that these small checks in daily circulation come to hundreds of millions of dollars in our country to-day, and if they were curtailed, which would take place if a 2-cent stamp tax were placed on each of them, it would require more currency from the banks—how much, I do not know. It might make a serious condition for many of the smaller country banks.

This particular tax would be an expensive one to collect, whether actual stamps were carried on hand, or money paid into the United States Treasury in advance, so that the printer would be authorized to print the stamp on each check. In any case, it is estimated that the cost of collecting this tax would be 25 per cent, or in other words, our industries would expend one-half cent in order to collect 2 cents.

If you should seriously consider this form of raising revenue, there should at least be a limit somewhere, so that checks written in sums under a hundred dollars, or something like that, would be tax exempt. That would merely be a measure of fairness, and center the tax on transactions large enough so that the tax would not be felt.

Senator GORE. Do you have the statistics in regard to the number of checks just before the Spanish-American War tax, and just after it was repealed, and during the period of the tax?

Mr. JENSEN. I did not hear you, Senator Gore.

Senator GORE. Do you have the statistics showing the effect of the Spanish-War tax?

Mr. JENSEN. I do not have them, Senator. They appear in the minutes of the hearings before the Ways and Means Committee of the House.

Senator GORE. In Secretary Mills's statement?

Mr. JENSEN. That also appears in the minutes of the House. The Spanish-American War situation was presented by an organization of printers and lithographers, and I think they will appear here before you close your sessions.

LETTER OF H. C. SYKES, PRESIDENT NEW YORK CURB EXCHANGE

NEW YORK CURB EXCHANGE,
New York, April 7, 1932.

ISAAC M. STEWART, Esq.,
Clerk Committee on Finance of the Senate,
Senate Office Building, Washington, D. C.

DEAR SIR: As president of the New York Curb Exchange, I am sending to you herewith a memorandum in opposition to that portion of H. R. 10236 entitled "revenue act of 1932" which imposes a tax on the proceeds of the sale of securities.

If you or the committee desire further information, will you not kindly let me know.

Yours respectfully,

HOWARD C. SYKES, *President.*

NEW YORK CURB EXCHANGE,
New York, April 11, 1932.

Senator REED SMOOT,
Chairman Committee on Finance of the Senate,
Senate Office Building, Room 315, Washington, D. C.

DEAR SIR: This will acknowledge receipt of your letter of April 9.

I take pleasure in inclosing herewith an extra copy of the memorandum which I submitted to the Committee on Finance in opposition to the tax on the proceeds of the sale of securities.

I shall be pleased if you will kindly have this incorporated in the record.

Very truly yours,

HOWARD C. SYKES, *President.*

MEMORANDUM SUBMITTED BY HOWARD C. SYKES, PRESIDENT OF THE NEW YORK CURB EXCHANGE, IN OPPOSITION TO SECTION 723 OF H. R. 10236 IN SO FAR AS THIS IMPOSES A STAMP TAX ON TRANSFER OF STOCK

THE COMMITTEE ON FINANCE
OF THE SENATE OF THE UNITED STATES,
Washington, D. C.

GENTLEMEN: The proposed tax on security sales is a tax upon an important factor in our economic structure.

The tax is not one on profits. It is not taken from any income received.

While not a tax upon unrealized capital, and hence not strictly a tax upon capital, it becomes a tax on the proceeds of the capital investment converted into cash. It is a tax upon what people buy with. It reduces buying power. If the proposed tax becomes a law, the practical result will be that each owner of a share of stock of a par value of $100 or of no par value will know that the share is worth to him, sold or unsold, one-quarter of 1 per cent, or a minimum of 4 cents per share, less than immediately preceding the passage and effective date of the act.

It may be claimed that a quarter of 1 per cent, or a 4 cent per share minimum, is not material to any owner of securities; that fluctuations in prices frequently exceed this amount; but when the aggregate of security investment in the United States is considered, the quarter of 1 per cent, or 4 cents per share, constitutes a vast sum.

And is this one-quarter, or 4 cents per share, so insignificant to any holder of securities? Its immediate result will be a decrease in his capital, sold or unsold, and to-day, when the bottom, as we hope, is being scraped, but when confidence in our institutions barely exists, any factor which tends to add to the general discouragement should be avoided.

A tax must be viewed from the standpoint of revenue return. The proposed tax depends upon the turnover of securities; no sale, no tax. Sales will hardly take place at present prices unless holders are in extreme necessity or become panic-stricken and prefer hoarding cash to a stake in the future of our country's business. On the other hand, purchases will not be made by a public distrustful not only of the business and industrial world but of the Government as well. Better a hidden dollar than a share of stock or a bond which may be a Government target!

The public was hardly aware in the wild frenzy of mounting prices prior to 1929 of the stamp tax of 2 cents; but conditions now are different; before a purchase or sale is made, the pennies are counted. New York State has established a transfer tax of 4 cents per share. Congress proposes to increase the Federal tax to a minimum of 4 cents per share on each $100 par or face value or fraction thereof and on each share of no par value. The prices of securities are low. What was a trifling fraction of the sales price in 1928 is a substantial percentage to-day. On a value of $4 per share the Federal tax will be 1 per cent; the New York tax 1 per cent additional. If 100 shares of stock be sold at $4 per share the gross proceeds of $400 would be reduced as follows:

Sales price		$400.00
Federal tax	$4.00	
New York State tax	4.00	
Commission	7.50	
		15.50
Total		384.50

This cost of selling is $15.50, or approximately 4 per cent of the price received. If we add to this the commission of the broker on the purchase, the total deduction would be $23, or nearly 6 per cent. On top of this comes the income tax if the transaction result in a profit.

Many common stocks par $100 or of no-par value are to-day selling at $1 per share and under. The proposed minimum tax on sales of such shares may, in connection with the New York State tax, be confiscatory. Certainly such is true of stocks selling below 10 cents per share.

On stocks selling at $1 per share the Federal tax amounts to 4 per cent and the New York tax 4 per cent. At 50 cents per share these taxes are 16 per cent.

The fairness of such a method of taxation may be questioned. From the man whose capital is represented by stocks selling below $16 per share the Government takes a larger percentage than if the stock sold above $16 per share. At $16 one-quarter of 1 per cent and 4 cents per share are equal. But if stocks be sold at $1 per share, the tax is 4 per cent. In other words, from $16 per share down, 4 cents per share increases the percentage of the tax until absolute confiscation is reached.

There are many who buy for quick returns, for profits of a quarter to a half. This group furnishes a very substantial portion of the volume of an exchange. With the Federal tax at one quarter of 1 per cent, or 4 cents per share, with the New York tax 4 cents per share, and with the commission on the sale and purchase to be absorbed, practically all of this kind of trading will cease. As a result, not only will the Government lose a substantial amount of tax, but also, at the same time, the market will be deprived of one of its most stabilizing influences, that is, those who are always ready to buy and sell for quick returns.

Let us take an example: A buys 100 shares of stock at $4 per share; this costs him $407.50. He sells at 4¼. This brings him $412.50. From this sum must be deducted commission of $7.50 and tax of $8 (including the New York State tax), or a net of $397, showing a loss on the transaction of $10.50. If he sells at 4¼, he would make a profit of $2 only. In considering a purchase, accordingly, an investor must figure on a three-eighth or $37.50 differential, to achieve a profit. Such a differential can not fail to deter many purchases.

The effect of the proposed tax has so far been considered generally only. Its application to the holders of securities dealt in on the New York Curb Exchange is particularly burdensome.

During the week from March 28 to April 2, 1932, the number of common stocks dealt in on this exchange was 366 issues. The total turnover in common stocks amounted to 944,300 shares. The purchase price thereof was $6,520,572.80. The average price at which these stocks were sold was $6.91 per share.

But of these transactions, 69 issues, representing 151,800 shares, were sold for $3,840,100, or $25.29 per share. Accordingly the total number of issues of stocks selling under $16 a share was 297. The turnover was 792,500; the money value was $2,680,472.80, and the average price was $3.30.

The tax generally is burdensome, but as applied to the majority of stocks dealt in on the New York Curb Exchange, the average price of which is under $4, the tax is not only burdensome, but is also out of all proportion to the tax on higher priced securities. As previously stated, the minimum tax of 4 cents per share is not one-quarter of 1 per cent on stocks selling under $16 per share, but increases as the stocks decrease in value until it becomes confiscatory.

A tax of 4 cents per share on a value of $3.30, the average value of a majority of the common stocks sold upon the New York Curb Exchange, would be over 1 per cent, whereas a tax of one-quarter of 1 per cent would be less than 1 cent per share.

It must be evident that a tax of 4 cents per share on stocks selling at such low prices is grossly out of line with the same tax when the same securities are selling at normal values. The present rate of 2 cents per share, especially when the New York tax is considered, is excessive; and to double this tax when conditions call rather for a reduction of the present rate will be adding to the evil of the situation with no increase of taxes to the Government.

There are listed on the curb exchange to-day stocks of a par value of $100 or of no par value of many well-known companies selling at a dollar or less. The 4-cent tax applied to these, even with the New York tax excluded, would practically cause a complete cessation of trading. It is of the greatest importance to the renewed and continued prosperity of this country that its industries should be forwarded and its natural resources should be developed, so as to keep abreast of conditions in other lands. The mining and oil indus-

tries in past years have played a vital part in the creation of our business supremacy. These are largely financed through sales of stocks to the purchasing public at a small price per share. If taxes are so heavy as to make the purchase of these and other low-priced stocks financially unattractive, not only again will the Government get no tax on sales, but at the same time a serious blow will be dealt to the production of minerals and oils at present in the ground.

No exact statistics are available as to the number of shareholders or bondholders of the securities dealt in upon our exchange, but it is evident that they must number hundreds of thousands; that the average value of their holdings of common stocks, at least to-day, is under $5, and that if the minimum tax of 4 cents becomes a law the value of these securities in the hands of their owners will be decreased by a substantial amount.

Stock exchanges are interested in taxes on the sales and transfer of securities only as they affect markets on the exchange; brokers are affected incidentally by reason of the fact that commissions will be greatly decreased by reduction in transactions. The vitally concerned, however, is that part of the public which owns securities. The tax is not in respect to transactions which take place upon stock exchanges but affects every sale of securities. Stock exchanges furnish the principal markets in securities, and on the New York Stock Exchange and on the New York Curb Exchange an overwhelming majority of the sales of securities in this country take place. Quotations upon these exchanges may not represent real values, but these prices are indicative of the confidence or of the despair of the public. These prices are said ordinarily to reflect business conditions; even to anticipate recoveries in business. In a very important sense, however, they affect business itself, for a nation discouraged in its capital savings is slow to spend even that which it has, and it is upon spending that revival in business very largely depends. Industry is sick. Industry needs a reviving optimism in our people. Any act the result of which may even to a slight degree tend to influence our people to hoard their funds or to throw over securities held will not only deprive the Government of taxes on the sales of securities, but may also place a very grave obstruction to the recovery so urgently hoped for.

The action of the public since this sales-tax feature was approved by the House is eloquent. Security prices have fallen to new low levels, and the recuperative power and hope of the country have been given another blow.

A taxing measure may be tested in two ways: First, will it produce the revenue needed or expected and, second, is it wise to collect the tax from the particular source? It is believed that neither of these tests is satisfied in the proposed tax on the sale of securities.

Dated: New York City, N. Y., April 7, 1932.

Respectfully submitted.

NEW YORK CURB EXCHANGE,
By H. C. SYKES, *President.*

TOBACCO TAX

STATEMENT OF EMERSON ELA, MADISON, WIS.

Mr. ELA. Mr. Chairman and gentlemen of the committee: My name is Emerson Ela. I want to take up a very brief portion of your committee's time on the matter of the tobacco tax. I am appearing in behalf of 8,000 producers of tobacco in Wisconsin who are members of the Northern Wisconsin Tobacco Cooperative.

Mr. Chairman, may I interrupt just one second and ask that when the manganese question comes before the committee, that Mr. J. Carson Adkerson, the president of the American Manganese Association, be given an opportunity to be heard?

The CHAIRMAN. He is on the list of witnesses and, of course, we will hear him.

Mr. ELA. I attempted to say in the beginning that I am here speaking for 8,000 growers of tobacco who belong to the Northern Wisconsin Cooperative pool, which is the only contract cooperative handling tobacco which is still in existence. It was organized back in 1922 and is still effectively handling tobacco. The growers, in turn, represent about 40,000 members of their farms. We are here frankly favoring an increase in the tax on tobacco, which is, perhaps, an anomalous situation. We want to take just a moment or two to state why we are. It will take me five minutes, Mr. Chairman.

Senator GORE. We might take it for granted that you want an increase in your tax.

Senator BARKLEY. I do not take it for granted you represent the tobacco growers of the United States.

Mr. ELA. I am not claiming that I do, sir.

The CHAIRMAN. Go on with your statement.

Mr. ELA. I am speaking of manufactured tobacco only, which means the chewing tobacco and snuff and pipe-smoking tobacco. It is now taxed 18 cents per pounds. The Secretary of the Treasury in his suggestions to the Ways and Means Committee of the House recommended that that be increased to 21 cents per pound. While I appeared before the Ways and Means Committee and discussed certain phases of it, I have come to certain conclusions since that time which have changed my views very materially. That increased tax on manufactured tobacco, according to the statement of the Secretary of the Treasury, would produce a revenue in the 1932 fiscal year of about $4,000,000 and in 1933 of $7,000,000, as shown in the House report. The tobacco pool which I represent has carried in the past eight crops that have gone through pool about $25,000,000 of taxes, and the actual return to our growers has been less than that. In other words, the tobacco which we produce carried a tax in favor of the Government of something over 100 per cent of its value at the farm—very much over 100 per cent. While this tax appears to be excessive, we say in

our opinion it can still be increased for the simple reason that we take the position that no increase in the tax can possibly hurt our growers. I do not know how it would act in other respects. The vast tobacco corporations have already nearly wrecked them. They made vast profits during the most disastrous business year of 1931. The Reynolds Tobacco Co. was reported to have made $36,000,000 on $100,000,000 of capital. Another large concern with whom we do business made a profit of $23,000,000 on about $60,000,000 or $70,000,000 of capital.

Senator GORE. What concern was that?

Mr. ELA. The latter one was the Liggett & Myers Tobacco Co.

In regard to this increase of not to exceed $7,000,000, I just want to call your attention to the fact that the Reynolds Tobacco Co. could do it alone out of their 1931 net profits and still pay a net return of 29 per cent on their capital in the year of 1931, when most business was suffering disaster. The other concern I refer to could pay the entire tax out of their net profits and still have a 22 per cent net return on their invested capital during the year 1931. And while they have been taking this extravagant pool of increased taxes, they have come into Wisconsin in 1932, since the 1st of January of this year, and capitalized the distress of our farmers to the extent of taking from them their 1931 crop of tobacco at about 50 per cent of what they paid for it in prior years. That is the gist of my argument.

Senator BARKLEY. Are you advocating this increase of a penalty against the companies?

Mr. ELA. No; I am not. I am suggesteng that you will tie to it just one element which I will come to. I am saying that the increased tax can not hurt the grower. That is what I am trying to say, because he is already hurt as much as he can be hurt by the manufacturer, in my judgment.

Senator BARKLEY. Is it not your judgment that the manufacturer always uses the particular increase in the tax on the manufactured product as a further argument for beating down the price to the grower?

Mr. ELA. I do not think he can beat our price down in Wisconsin any more than he has.

Senator BARKLEY. If he could do it?

Mr. ELA. I do not think he could, and I do not think he would.

Senator BARKLEY. If he could, then would it not be an additional argument in his behalf?

Mr. ELA. We are specifically suggesting that out of that increased tax you incorporate a provision for refund to the manufacturer of 4 cents upon every pound of tobacco that he buys from the cooperative marketing organization and by that bring direct relief, direct help back to the producer if he wants to join his cooperative; and that is the only thing he can do in self-defense. The Government will still have a net gain of millions of dollars even with that refund to the manufacturer for tobacco purchased through or from a cooperative; and, as I stated, this is of course immediate relief, direct relief, without any stabilization program injected into it.

Senator CONNALLY. You discriminate between the man who produces and who does not belong to the cooperative and the one who does?

Mr. ELA. Not at all.

Senator CONNALLY. You want to force the fellow to join?

Mr. ELA. No; I do not want to do that at all. But I do say that there is no other method that I can devise by which the increase in that price can get back to the producer. It must go back through an organized group. You can not possibly conceive of handing that back to the individual; but if you pay it back to the manufacturer, who pays it to the Government, then the cooperative with its increased marketing power will be able to recapture a large part of it.

Senator CONNALLY. What percentage of the crop is involved?

Mr. ELA. The Northern Wisconsin Cooperative Tobacco Pool handles about 70 per cent of the Wisconsin tobacco.

Senator CONNALLY. You figure, then, that this will be an inducement to join the cooperative?

Mr. ELA. I do not care to do that. We have enough of them now. That is not the point. But we do want to be in a position where we can go to these large manufacturers and require them to buy from the recognized, legitimate, cooperative, organizations without using this outsider who rides free.

Senator BARKLEY. You desire to see all of the tobacco growers in all the States that can not organize and have not organized penalized in order that this tax may help your organization in Wisconsin?

Mr. ELA. I do not see how you can penalize them. What State do you come from?

Senator BARKLEY. I am from Kentucky.

Mr. ELA. I do not see how you can penalize your Kentucky grower any more than he is now penalized.

Senator BARKLEY. Except by passing your tax.

Mr. ELA. No; that is not going to change it at all. The manufacturer would absorb that, and he still absorbs that. It will cost him on chewing tobacco, for instance, three-eighths of a cent on an average.

Senator BARKLEY. Is it not true that the higher the tax on tobacco the more the buyer will beat down the price to the grower?

Mr. ELA. I do not think so. I think he passes that on to the consumer if he can. I do not think the amount of the tax, in our experience, has any relation whatever to the price he pays.

Senator BARKLEY. Do you know that already this one product produces about one-eighth of the total revenue of the United States Government?

Mr. ELA. I know is it a good producer.

Senator BARKLEY. About one-eighth of all the expenses of the United States are paid out of that tax, and the Government is getting about four times as much out of it as the grower now.

Mr. ELA. I appreciate that fact.

Senator BARKLEY. You want the Government to get still more?

Mr. ELA. Yes; and hand it back to the producer.

Senator BARKLEY. Provided he belongs to your organization?

Mr. ELA. No; not my organization; your Burley pool or any other pool you can organize anywhere; and the moment you do that you will get an anticooperative movement in tobacco, and you will find that many of the cooperatives vanish because they can not buck the big interests. In the tobacco industry you will find they revive overnight. That is my contention, sir.

Senator BARKLEY. I do not think they will revive because of any compulsory tax placed upon their product by the Congress of the United States.

Mr. ELA. I have discussed this very frankly with Mr. James Stone of Kentucky, who is the chairman of the Federal Farm Board and who is also a former manager of the Burley tobacco people.

Senator BARKLEY. Do you think it would be well for him to come before the committee?

Mr. ELA. I would be glad if he did.

Senator GORE. He organized the Burley pool?

Mr. ELA. Yes.

Senator GORE. It did not pay?

Mr. ELA. It quit because of just the conditions that we are up against in Wisconsin.

Senator GORE. They overproduced, did they not?

Mr. ELA. There was overproduction, perhaps. We are not confronted with that in Wisconsin. But I think if you could ask the man who knows, he would say it was due largely to the fact that they permitted to accumulate within the pool large stocks of tobacco while they purchased from the outsider just for the sole purpose of wrecking the cooperative.

Senator GORE. Do you think Mr. Stone, who organized the Burley pool, which afterwards failed or did not succeed, and who as a result became chairman of the Farm Board, would now be an enlightened leader to extricate your tobacco from its difficulty?

Mr. ELA. I do not hold any brief for Mr. Stone. I have a great deal of respect for him. I have been doing in Wisconsin the same kind of job that he did in Kentucky. And I know just exactly what he was up against in Kentucky. I do not think the fact that the Burley pool failed in Kentucky should be charged to Mr. Stone personally. I would hate to have any such charge made against me in Wisconsin if the farmers refused to go on. I do not think they will refuse to go on.

I think that covers all I had to say, Mr. Chairman. I thank the committee very much for the opportunity, and I would like to file an extended statement.

(Mr. Ela submitted the following brief for the record:)

BRIEF OF EMERSON ELA

I. APPEARANCE IS FOR THE WISCONSIN TOBACCO PRODUCER ONLY

I have been business director of northern Wisconsin cooperative tobacco pool since 1922.

It has more than 8,000 members out of 9,400 growers in State.

There are 40,000 or more people in the families of our members.

Wisconsin tobacco production: Average is about 45,000,000 pounds per year.

Eighty-five per cent or more of this is in pool.

II. NORTHERN WISCONSIN COOPERATIVE TOBACCO POOL

Was organized 1922.

Has operated successfully ever since.

Has handled for its members with 1931 crop more than 200,000,000 pounds of tobacco.

III. UNITED STATES TAX

To the present time our contribution in tax to United States Government is approximately $25,000.

Our growers have received cash to date only $18,250,000.

Excess amount of tax over cash paid growers, $6,750,000.

Or take value sold and unsold at average of cash return to producer, $22,000,000.

United States tax paid on tobacco of our growers exceeds value to producer by $3,000,000.

Tax is more than 110 per cent of value to growers of pooled tobacco.

More than 130 per cent of cash thus far paid to growers on all tobacco.

But proposed increase applies only on cheaper grades known as stemming, used to make scrap chewing.

Pool 10-year average, per pound to grower on stemming tobacco, $0.09.

The present tax of 18 cents on raw product amounts to a tax on raw product at farm, $0.108.

The proposed tax of 21 cents would amount to $0.126.

The proposed increased tax would be 140 per cent of that average price received by producers for 10 years through the tobacco pool. But 1931 crop price of stemming is only 6 cents.

IV. PROPOSED INCREASE

One-sixth on manufactured tobacco will make total tax 21 cents per pound.

A pound of raw material will take 60 per cent of this, or $0.126.

The pool's 1931 crop is estimated at 28,000,000 pounds.

Seventy per cent of this is stemming, which will bear this tax, 10,600,000 pounds.

The proposed tax of 21 cents on only 70 per cent of the 1931 pool crop, in raw form, at the farm amounts to $2,470,000.

There is also a tax on cigar tobacco. The present tax on 8,400,000 pounds of cigar tobacco would be at least $924,000.

Making a total tax on 1931 crop of Wisconsin tobacco pool, $3,394,000.

V. RELIEVE THE PRODUCERS

The independent producer of tobacco is helpless to market, advantageously, his crop.

He has no marketing power.

He has no capital—his property is encumbered and he is helpless.

Five colossal firms, with over $200,000,000 of capital, hold the individual producer at their mercy.

The independent producer is helpless to recover any part of a reduction in tax.

There is no conceivable device to help him receive benefits of a refund on the present or the increased tax.

The organized producers, through their cooperatives, can be relieved of part of the tax burden.

The cooperative has bargaining power. It can get a higher price if part of the tax is refunded on tobacco bought through a cooperative.

VI. PROPOSED PLAN

Increase the tax on manufactured tobacco to 21 cents per pound, as recommended by the Secretary of the Treasury.

Refund a part of the tax on tobacco bought from a cooperative.

This plan should be added to the law whether the tax is increased, or present tax remains.

Our specific suggestion is to credit and refund to manufacturers 4 cents on each pound, bought of cooperatives after the effective date of law.

The definition of cooperative association should be as in the "Act to authorize association of producers of agricultural products" approved February 18, 1922. (Capper-Volstead Act.) Same as in agricultural marketing act, section 15 (a).

VII. BENEFITS AND RESULTS

The cooperative will surely recapture at least three-fourths of this refund by increased price, even if it concedes one-fourth of it to be the manufacturer.

The cooperative can then sell in face of competition of nonpooled product, and still get 3 to 4 cents per pound more to the producer.

The manufacturer.—Would buy first from cooperative instead of outside. Thus help cooperative, instead of destroying it.

Does manufacturer no harm.

Inducement to the manufacturer of 1 cent per pound out of 4 cents is $280,000 annually on pool crop, and still get crop just as cheap as outside.

The cooperative association.—Will gain increased marketing power. Because of the superior position.

At least 3 cents per pound more for tobacco than otherwise.

It would make the first sales to the manufacturer instead of the independent grower.

It would increase the membership.

The producer.—Would get the entire benefit, through his cooperative, of the net increased price.

At 3 cents net per pound on Wisconsin pooled tobacco, on basis of 1931 crop, producers would benefit $850,000 annually.

They are in dire need of this benefit.

The tobacco shareman has no other income. His average yearly income of $300 would be increased by $100.

Landowners.—They are burdened with mortgages and with taxes.

He has little to show for his year's labors.

Would benefit him annually $100.

The consumer.—Not affected at all by the plan.

The Government.—It gives immediate and direct "farm relief" on one big crop.

It will produce millions of dollars in net increase of revenue.

It would be of vast aid to cooperative movement.

Cooperatives must be foundation of agricultural relief.

There is only one strictly contract tobacco cooperative left.

There were five or six but all discontinued except the Wisconsin pool.

Cooperatives have a ceaseless battle to survive.

This plan would result in the revival of tobacco cooperatives in Connecticut, Ohio, Kentucky, Tennessee, Virginia, Carolinas, and in new ones in Pennsylvania and New York. This would eliminate the deadly competition of nonpooled tobacco.

It is imperative that cooperation be given some clear advantage over:

(1) Independent producer.

(2) Dealer and manufacturer.

This plan affords Congress opportunity for immediate constructive relief for one vast crop without risks of stabilization plan.

VIII. SUCH A PLAN WOULD BE VALID

A brief on its constitutionality will be filed.

CIGARETTE PAPERS

(Classification of Sec. 402; Revenue Act of 1926)

STATEMENT OF DAVID SPIEGEL, REPRESENTING MANUFACTURERS OF CIGARETTE PAPERS, NEW YORK CITY

Mr. SPIEGEL. Mr. Chairman and gentlemen of the committee, I represent Max Spiegel & Sons Co. (Inc.), of New York, importers and manufacturers of cigarette-paper books for the past 39 years.

Senator CONNALLY. What section is that?

Mr. SPIEGEL. Section 402 of the revenue act of 1926.

Senator REED. That is not mentioned in this bill at all.

Mr. SPIEGEL. No; not mentioned at all.

Senator CONNALLY. You want us to tax those firms there that are being taxed now?

Mr. SPIEGEL. I beg your pardon?

Senator CONNALLY. You want to get in on the bill? You are not in now, but you want in?

Mr. SPIEGEL. No; I want to have a certain situation corrected. May I proceed?

Senator REED. Yes. Just state whom you represent.

Mr. SPIEGEL. I represent Max Spiegel & Sons Co., importers and manufacturers of cigarette-paper books for the past 39 years. I am here not to ask for an abatement of a proposed tax; rather, to call to your attention a means of increasing tax receipts.

There is a leak in the present law taxing "roll-your-own" cigarette-paper books. My plea with you is to plug this leak not only in the interests of increased Government tax receipts but also in justice to the cigarette paper book industry.

Under the present law, section 402, revenue act of 1926, cigarette paper books of 25 leaves or less may be distributed tax-free. Books of more than 25 leaves require the payment of a tax.

When Congress levied this tax on cigarette paper books and at the same time provided for the distribution of cigarette paper books of 25 leaves or less tax-free, it did not intend that the distribution of these tax-free cigarette paper books be unbridled and uncontrolled in such a way as to furnish a loophole for the evasion of the payment of the cigarette paper book tax it was imposing. Yet this is precisely what is taking place to-day.

Certain manufacturers of smoking tobaccos have begun the practice within the last year or so of distributing 40 or 50 leaves of cigarette papers with each 1 ounce of smoking tobacco without the payment of tax by the method of furnishing these 40 or 50 leaves of cigarette papers in the form of two cigarette paper books of 20 or 25 leaves each. Thus, where a tax of one-half cent is payable to the Government in the sale of cigarette paper book of 40 or 50 leaves, under the law as now worded these tobacco manufacturers

distribute with each package of smoking tobacco two cigarette paper books of 20 or 25 leaves each, and thereby evade the payment of any tax to the Government.

This subterfuge or evasion is made possible by the wording of the present law because it fails to limit the quantity and the manner in which these 20 or 25 leaf cigarette paper books may be distributed tax-free. This is the leak in the payment of taxes to the Government which I have referred to and which it is now sought to have plugged up.

Official internal revenue figures show that hundreds of millions of cigarette paper books of 25 leaves or less have been so distributed. At the present rate of distribution we estimate that fully 1,000,000,000 cigarette paper books of 25 leaves or less will be so disposed of during the current year.

Senator REED. One billion you say?

Mr. SPIEGEL. One billion.

Senator CONNALLY. That is done for the purpose of evading the cigarette tax, though, is it not? That is the primary purpose of it?

Senator REED. No; this is paper tax.

Mr. SPIEGEL. There is a tax on cigarette-paper books.

Senator CONNALLY. I know, but I mean these manufacturers distributing these free papers encourage people to make their own cigarettes so as to avoid in some way the tax on cigarettes.

Mr. SPIEGEL. Not exactly.

Senator CONNALLY. I beg your pardon. Go ahead.

Mr. SPIEGEL. After I finish my statement I will illustrate the points by packages that I have here in the room.

Unless this practice is checked the loss in taxes to the Government for the current year will be, we estimate, $900,000 to $1,000,000. Aside from this tremendous tax loss, a grave injustice is being done to importers and manufacturers of cigarette-paper books of standard size of 100 leaves or more on which taxes have been paid and must continue to be paid. The distribution of the tax-free cigarette-paper books in the manner already indicated is seriously affecting the sales of cigarette-paper books which are taxable.

We importers and manufacturers of cigarette-paper books who pay the tax respectfully request that our business and brands be no further imperiled by the abuse of the free and indiscriminate distribution of 25-leaf tax-free cigarette-paper books on the part of those whose primary interest is the sale of their smoking tobacco, without regard to the interests of the cigarette-paper book importers and manufacturers or the collection of tax by the Government.

Senator REED. All cigarette paper is imported, is it not?

Mr. SPIEGEL. Not all; no sir.

Senator REED. Is any made in this country?

Mr. SPIEGEL. Yes, sir.

In view of the foregoing, it seems very reasonable to request that Congress abolish the tax-free provision now in the statute concerning cigarette-paper books of not more than 25 leaves; or, if it is decided to continue this provision, that at least the law be amended so that the distribution of such tax-free cigarette-paper books be limited and controlled.

Cigarette paper books of 25 leaves or less should be allowed tax-free only when sold and delivered to a licensed manufacturer of

cigarette smoking tobacco and used by him for free distribution with his packages of tobaccos. This distribution by such licensed manufacturer should further be limited to one cigarette paper book of not more than 25 leaves to every package of smoking tobacco of not less than one ounce in weight. This size package is the popular 5-cent seller, such as Duke's Mixture, Bull Durham, and so forth. The brands just named actually do contain one free cigarette paper book of not more than 25 leaves, thus clearly bearing out the original intention of the law.

Senator HARRISON. Do they give those away free?

Mr. SPIEGEL. They do; yes, sir.

Senator HARRISON. With the package of tobacco?

Mr. SPIEGEL. They do; yes, sir.

Senator HARRISON. Let us understand it, because you are the first man that has come here that wants to put a tax on something. Of course, I assume that there is no selfishness on your part. What is your interest in the proposition?

Mr. SPIEGEL. I do not want to appear before the committee as entirely altruistic. My interest is just this, that the more cigarette papers that are given away tax-free, the less possible it is to sell taxable cigarette books, and our business is the sale primarily of our brands of taxable cigarette books.

Senator HARRISON. You are not interested in rolled cigarettes?

Mr. SPIEGEL. Well, because we do sell cigarette paper bobbins which are used on the machine for these tailor-made cigarettes.

Senator HARRISON. As a matter of fact, of course, you look back to see why this 25 paper book was not incorporated in the other law, and was it because these concerns, Bull Durham and Duke's Mixture and those people, said they were giving them away free, those small books; that it would keep them from the people if they put that law on and made all other taxable?

Mr. SPIEGEL. No, sir.

Senator HARRISON. Is that one of the arguments used at that time?

Mr. SPIEGEL. No, sir; referring, Senator, to the original law?

Senator HARRISON. 1926, when the law was passed.

Mr. SPIEGEL. Yes, sir.

Senator HARRISON. They exempted 25-paper books, as I understand.

Mr. SPIEGEL. That is correct.

Senator HARRISON. And was the reason for that because Duke's Mixture and some of these people who made tobacco said they gave that character of books free with their tobacco?

Mr. SPIEGEL. The reason was to conform with an age-old practice in the industry where an inappreciable quantity of cigarette papers was always given as a complimentary extra with the sale of every ounce pack or so of smoking tobacco.

Senator HARRISON. Do they keep to that practice now?

Mr. SPIEGEL. They do. This muslin pack here is the old-fashioned tobacco package, which you must all be acquainted with. It represents exactly the spirit and intention of that provision in the cigarette paper tax law that allowed for the free distribution of small 25-leaf cigarette-paper books when sold with smoking tobacco in this way [exhibiting pack of tobacco].

Senator HARRISON. What does that sell for, that package?

Mr. SPIEGEL. Nickel.

Senator HARRISON. That is a nickel including that book?
Mr. SPIEGEL. That is right.
Senator HARRISON. What do you sell your book for?
Mr. SPIEGEL. This book here?
Senator HARRISON. No; that book is given away free?
Mr. SPIEGEL. That is right.
Senator HARRISON. Your book that you are interested in?
Mr. SPIEGEL. All the books that are sold on the market are a nickel apiece.
Senator HARRISON. A nickel apiece?
Mr. SPIEGEL. Yes, sir; that is right.
Senator HARRISON. Here is one fellow that has to pay a nickel for your book and that is a nickel to the other fellow to get his tobacco and the book.
Mr. SPIEGEL. That is right.
Senator HARRISON. And the only difference is that your book has 40 or 50 and the other has only 25?
Mr. SPIEGEL. No; these books have as high as 150 leaves; yes, sir.
Senator CONNALLY. Is it not a fact that that is not a free book? You say it is free, but is not that just as much a part of a purchase of that package of that size as the tobacco itself?
Mr. SPIEGEL. Well, no doubt; it costs money.
Senator CONNALLY. It costs money, and the idea is to present them with this tobacco and give away, if you want to call it, or to sell as a part of the purchase, enough cigarette papers to get the fellow started?
Mr. SPIEGEL. That is correct.
Senator CONNALLY. And then he will buy the rest of the papers from you?
Mr. SPIEGEL. Exactly. Not only from ourselves but from the very fellow that sells him the tobacco.
Senator CONNALLY. He would not buy much if he did not have the papers. It is so much more convenient to have the papers with the tobacco.
Mr. SPIEGEL. No, sir. The point is that the man who rolls his own has to buy the tobacco and cigarette papers.
Senator CONNALLY. If you added a half a cent to that price it would have to come out of that nickel the same way, would it not?
Mr. SPIEGEL. A half a cent to this price?
Senator CONNALLY. Yes; if you added a half a cent to the price of that free cigarette paper it would come out of the 5 cents that the manufacturer now gets.
Mr. SPIEGEL. Yes, no doubt.
Senator CONNALLY. Or else he would have to charge 10 or 6 or 7 cents?
Mr. SPIEGEL. Undoubtedly he would discontinue the distribution of these tax-free cigarette papers.
Senator CONNALLY. Yes; and I say that is your interest?
Mr. SPIEGEL. That is not my primary interest.
Senator CONNALLY. I am not charging you with any wrong doing in that attitude.
Mr. SPIEGEL. I realize, sir. But my interest here is not to abolish this 25-leaf free cigarette book. I said abolish it only if the distribution of this is not taxed to conform with the intention and the

spirit of the law, but I have no objection to continuing this practice provided this practice is according to the spirit and intention of the law.

Senator CONNALLY. Isn't that according to the spirit and intention of the law?

Mr. SPIEGEL. Exactly.

Senator CONNALLY. Tell us how it is being evaded.

Mr. SPIEGEL. In this way: For instance, the manufacturers of smoking tobacco, one ounce, the manufacturer of this tobacco himself, to further the sale of his package, desires to give 40 leaves of cigarette paper with every pack of tobacco.

Now, from a manufacturing point of view the most economical way to distribute these 40 leaves would be to put them up in a single book cover, but to do it that way would be to subject that book of 40 to 50 leaves to a half cent tax. To evade that tax the distributor of this tobacco is giving this same 40 leaves in the form of two booklets of 20 or 25 leaves each. There it is. [Exhibiting package.]

Senator CONNALLY. Is he giving you twice as much tobacco as he did in the other package?

Mr. SPIEGEL. No, sir. They are both one ounce packages.

Senator REED. Let us see that, will you, please?

Mr. SPIEGEL. Yes, sir [handing package to Senator Reed]. Let me explain, gentlemen, that this package is simply a brand picked at random to illustrate my point. There are dozens of them that are doing it. I am not addressing myself to that particular brand. I presume that they feel they are doing it according to law. But it is the principle that I am objecting to.

Senator CONNALLY. Does not, though, the sale of that tobacco or those free cigarette papers, increase your business because it encourages people to roll their cigarettes rather than to buy the manufactured cigarettes?

Mr. SPIEGEL. It does not, Senator, for the reason that the cigarette papers supplied with that package of tobacco are, by the advertised statement of the supplier, more than necessary to make the cigarettes out of that one ounce pack.

Senator CONNALLY. They pay a tariff tax, do they not?

Mr. SPIEGEL. No, sir; these are all domestic-made cigarette papers. You mean tariff customs?

Senator CONNALLY. Yes.

Mr. SPIEGEL. These particular papers are domestic made.

Senator REED. Where are they made?

Mr. SPIEGEL. Lee, Mass., so I am told. The fact is that originally they were imported; the raw cigarette paper was imported.

Not only that, but here you have a nickel sack the same principle as that, which contains two 25 leaves of cigarette paper [exhibiting another package].

Senator REED. What kind of tobacco is that?

Mr. SPIEGEL. Granulated, the same type tobacco as this other. They are distributing that in a temporary way, but it shows the abuse to which the law is being put.

Senator CONNALLY. Has your business fallen off on account of this?

Mr. SPIEGEL. It has.

Senator CONNALLY. How much?

Mr. SPIEGEL. It has. This has become serious only in the last six months, and it has all come about in connection with the exploitation of a new roll-your-own cigarette machine. You must have undoubtedly seen it around.

Senator CONNALLY. And that was intended to get around this cigarette tax, was it not?

Mr. SPIEGEL. In a large sense; yes, sir.

Senator CONNALLY. That is what I meant originally when I asked that question.

Mr. SPIEGEL. Yes, sir; and you asked me, too, whether our business has fallen off.

Senator WATSON (presiding). I think we will have plenty of time to answer that call to vote. Are you through, Mr. Spiegel?

Mr. SPIEGEL. I just require another moment or two, please.

Packages of smoking tobacco weighing less than one ounce should not bear tax-free cigarette papers, because a book of 25 leaves for such size would be an appreciable quantity and not an inappreciable quantity of cigarette papers, as intended under the law. To prevent abuses in the distribution of tax-free cigarette papers books of 25 leaves or less, it should be required that such books be appended to the outside of the tobacco package.

With the present loophole in the law, it is possible for those desiring to do so, to sell or distribute tax-free cigarette paper books of 25 leaves or less in such a manner as to wipe out the collection of tax to the Government on taxable cigarette paper books altogether.

I want to explain that. For instance, you take this book here: There is the conventional taxable cigarette paper book, which pays a cent and a half on 150 leaves. If the manufacturer or distributor of this book desired to do so, he could under the present law, under the wording of the present law, put this present book up in 25-leaf form, books of 25 leaves, six books, some constituting 150 leaves, and avoid payment of the tax. There is no check in the law on the distribution of these tax-free cigarette books. In fact, it is possible to sell these 25-leaf books two for a penny, and the Government would in that way receive no taxes at all.

Senator CONNALLY. That costs a nickel, does it not?

Mr. SPIEGEL. That does; yes, sir.

Senator CONNALLY. Do you think he would spend a nickel to buy that in order to avoid a 1½-cent tax?

Mr. SPIEGEL. If the manufacturer of this book should put them out that way, it would be a considerable saving for the consumer, and he can do it under the present law.

Senator CONNALLY. How much money would he save then, paying them a nickel and saving a cent and a half? He would be out 3½ cents, would he not?

Mr. SPIEGEL. No. The one and a half cent leaves for that book is an internal-revenue tax.

Senator CONNALLY. That is what he would save?

Mr. SPIEGEL. Yes, sir.

Senator CONNALLY. And he would pay 5 cents in order to save a cent and a half?

Senator REED. In other words, you are paying a manufacturer's excise tax of 30 per cent, is that right; 1½ cents out of every 5?

Mr. SPIEGEL. That is right.

Senator GEORGE. They would give those books away free. They used to do that in a great many States, because of the State laws regulating it.

Mr. SPIEGEL. They did, sir; yes.

Senator HARRISON. Are you interested in the manufacture of these paper books?

Mr. SPIEGEL. Yes; we have our own brands.

Senator HARRISON. You manufacture?

Mr. SPIEGEL. That is right. We manufacture these cigarette paper books, and because of this practice here where manufactures are distributing more than 25 leaves free with their smoking tobaccos, the sale of our cigarette books all taxable, our business has been diminished.

Senator HARRISON. Don't you sell some cigarette books to these tobacco manufacturers?

Mr. SPIEGEL. We do, but that is not our primary reason.

Senator HARRISON. I understand. I am just trying to find out everything.

Mr. SPIEGEL. Oh, I will be glad to answer your question, Senator.

Senator HARRISON. What per cent of the cigarette paper is produced in this country as to what is imported, do you know?

Mr. SPIEGEL. Of the booklet type?

Senator HARRISON. Yes.

Mr. SPIEGEL. I should say fully 90 per cent is imported.

Senator GEORGE. Most of it comes from France?

Mr. SPIEGEL. Yes, sir.

Senator REED. Of the expensive quality of cigarette paper it is a 100 per cent imported, is it not?

Mr. SPIEGEL. Practically all.

Senator HARRISON. You are not doing much good on that, are you?

Mr. SPIEGEL. There are some new attempts being made to produce others.

Senator WATSON. You are not here to ask for a tariff on cigarette paper?

Mr. SPIEGEL. No sir; I was noncommittal on that.

POSTAL RATES

STATEMENT OF RICHARD H. LEE, GENERAL COUNSEL OF THE NATIONAL COUNCIL OF BUSINESS MAIL USERS, NEW YORK CITY

The CHAIRMAN. Mr. Lee, where are you from?

Mr. LEE. New York City.

The CHAIRMAN. And you are here representing whom?

Mr. LEE. General counsel of the National Council of Business Mail Users, in opposition to the increase in the first-class postage rate.

The CHAIRMAN. You may proceed.

Senator KING. Are you going to advocate an increase in the second-class rates?

Mr. LEE. I shall probably suggest that such a thing would not be out of place before I get through, Senator.

Mr. Chairman and gentlemen of the committee, I appear before you to-day as the attorney for the National Council of Business Mail Users, an organization representing approximately 1,500 associations, firms, and individuals whose business is transacted primarily through the United States mails.

The National Council of Business Mail Users was organized to provide a contact between the Post Office Department and the mail-using public. It was created largely at the suggestion of individuals in the department and men connected with such organizations as the Direct Mail Association, United Typothetæ, Bureau of Envelope Manufacturers, and paper groups and others similarly engaged who sensed the need of an [illegible] keep the department informed as to the needs [illegible] users and the mail users informed as to [illegible] uld best coincide with the plans of [illegible] nt to [illegible] ervice at the lowest possible co[illegible]

In 192[illegible] er o[illegible] ible le[illegible] ovide revenues to meet ing[illegible] osts aro[illegible] fr[illegible] t ti[illegible] now the council has bee[illegible] ly engage[illegible] ect.

We [illegible] to the [illegible] to increase the first-c[illegible] 3 cents[illegible] ed in the bill report[illegible]

1. T[illegible] ease [illegible] rate as r[illegible] oduce the revenue y[illegible] e.

2. T[illegible] osal ma[illegible] e source from which [illegible] comes [illegible] business c[illegible]

3. If [illegible] into [illegible] d increa[illegible] make the public postage c[illegible] thou[illegible] e nex[illegible] ess should repeal the increa[illegible] will have [illegible] to other means of distribution [illegible] leave the [illegible] ppled for years to come.

4. The suggested increase in the first-class rate is an unfair discrimination against a classification already producing a profit for the Government where no profit was ever intended.

5. Existing evils in the department entailing an expense in excess of the total amount desired to be raised by the suggested increase, should be corrected if revenue is desired.

6. Postal rates are not a proper source for raising revenue.

Senator KING. Do you not think that the department ought to be self-sustaining?

Mr. LEE. I think that service comes first, and whether the department is self-sustaining or not, it ought to be that it can be made self-sustaining and at the same time maintain the service and provide a vehicle for correspondence that will be sufficient for the needs of the country, yes.

Senator KING. Do you think that we ought to tax the people in order to subsidize the Post Office Department?

Mr. LEE. If that is necessary; yes. You can not do without it. The answer to that is this, Senator: Suppose the Government sustained a loss in every department, could you get along without them, or could you do away with it?

Senator KING. You could put it under private contract and do it for many millions of dollars less. I am not arguing about that, however.

Mr. LEE. I will not argue that; that is probably true.

Senator KING. I will say this—it is not important here—but I refer to the matter of imposing a tax upon the activities of the department so that there will be no deficit; it must be self-sustaining.

Mr. LEE. I will not quarrel with you about that. But the service comes first.

Senator KING. But let those who get the service pay for it.

Mr. LEE. But I think it should not be at the cost of one class of users against the others.

Senator KING. I will not argue that now.

Mr. LEE. As to our first contention that an increase, if carried into effect, will not produce the revenue you desire, may we point out that a very large percentage of the mailings under first-class postage are of business-producing literature or advertising matter. This matter, from the standpoint of the Government, should be carried in a preferred class, for it not only provides the sale of stamps on its outgoing journey, but it encourages the use of the mails in reply.

In that connection, the suggestion has been made, in dealing with parcel post, that a preferred rate be given to catalogues, because they produce revenue on their outgoing journey, and also produce revenue when merchandise is ordered, when that merchandise goes out, the sales that come from the sending out of the catalogues.

In fact, through the years the postal system of the United States Government, with its unchanging rates and with the reliable service rendered, has grown to be a partner in practically every American business enterprise; and if I were asked to-day to put my finger on the one single thing which has helped most in binding the American people together and bringing our country to its present position in world affairs, I would put it on the United States Postal Service. No nation in this day and age can hope to succeed and be prosperous

without a swift, inexpensive, and reliable means of intercourse between its people.

Fifty years ago mail selling was almost unknown in this country. To-day the bulk, I should say conservatively 60 per cent of our sales are by mail. Twenty-five years ago we developed a class of business known as mail-order houses, but so popular has mail selling become that to-day practically every retailer maintains a mail-order division, and great retail establishments like Marshall Field, Wanamaker, Filene, Lord & Taylor, Franklin Simon, and houses of that type maintain mail-order divisions doing a volume of business in excess of that done by the so-called mail-order house of 25 years ago. In fact, the mails have become so much a part of present day American business, that in the mails you find a perfect counterpart of the personal selling methods of yesterday. The newspaper and magazine, going through the mails, carry advertisements that are the equivalent of the sign over the door. First and third class mail are the display windows, the show cases, the clerk behind the counter; and parcel post, as you gentlemen know better than I do, was created in 1913 to supply a needed delivery wagon service to the distant customer developed under this system.

Now, gentlemen, I need not argue to you what it means to disturb an institution of such proportions, so intimately connected with the prosperity or want of prosperity of our country.

The 2-cent stamp has become an institution in this country. Budgets have been built around it for years past; in fact, since 1885, with the exception of a short period during the war, and if you now increase the rate by 50 per cent you should bear in mind that your action is equivalent to an act which would increase the salaries of all retail clerks and salesmen by 50 per cent. The Government has no monopoly in first-class mail. That is a fallacy. That only applies with limited force to personal correspondence, and even there it meets the competition of the telegraph, telephone and commercial codes; while on that portion of first-class matter used to convey business messages, you meet the competition of every other known means of paid publicity—the newspaper, the magazine, the billboard, programs, public and semi-public publications, such as directories, retail sampling and house to house distribution. In fact, I could not enumerate all of the mediums that compete in point with the use of the mails in the distribution of advertising matter and that is the bulk of your volume and revenue in the Post Office Department.

These alternate mediums have maintained a fair volume even at existing rates, and the question as to how much of the remaining volume will go to these alternate mediums must be faced in any discussion of this question.

Now, what has been the experience of the department in this matter of increasing rates? I might go back through the years for the purpose of showing that the primary reason for the phenomenal growth of the United States Postal Service is the policy early adopted of constantly reducing rates as fast as the volume warranted; but I assume that you are all familiar with the book by Congressman Clyde Kelly, The United States Postal Policy, and if you have read Chapter V of this work beginning on page 88, there is nothing I can add to that.

To quote Mr. Kelly's book, we find that in 1860 each individual spent 27 cents in postage; in 1870, 49 cents; in 1880, 66 cents; in 1890, 97 cents; and 1900, $1.34; in 1910, $2.43; in 1920, $4.10; and in 1930, $5.75. The answer to the query as to how we account for the growth of our postal system is contained in those figures. Rates have been so reasonable that they have cultivated and encouraged a use of the mails away over and above the proportionate increase in population. If the individual got along with 27 cents in 1860, he can still get along with that, and he probably does. The difference between the 27-cent figure and the 1930 figure is largely business literature created by an advantageous rate.

Senator KING. Would it interrupt you if I should ask if it is not a fact that in England and Germany and in many of the countries of continental Europe the first-class rate is much higher than it is in the United States, from 25 to 33 per cent, and notwithstanding that higher rate, and notwithstanding the depression which exists there, there has been an increase in the use of mails?

Mr. LEE. You are wrong about the increased use of the mails. The balance is correct.

Senator KING. Total volume during the depression. The first part of my statement is correct, is it not?

Mr. LEE. No. I will take Canada. There has been a decrease in the total volume there.

Senator KING. I did not ask you about Canada. I said continental Europe.

Mr. LEE. I can not give you the figures for continental Europe. But with increased rates there has been a decrease in the use of the mails generally.

Senator KING. I will ask the chairman to extend your time one minute for the time I am consuming. Great Britain's rate is 3 cents, Canada's rate is 3 cents, Australia's rate is 4 cents, Germany's rate is 3½ cents for five-sevenths of an ounce. Our rates are based on the ounce, so that is about 4 cents an ounce. You will recall in Great Britain and France the countries are small, while here we carry the mail across the country.

Mr. LEE. I am glad you raised the question.

Now, gentlemen, this is probably the outstanding point that can be set up in opposition to the point we raise, and I am glad it has been raised, because I want you to bear in mind that there is not the slightest basis on which you can compare any one of those countries to the United States. I have been in this business of transportation law for almost thirty years, and I know what I am speaking about when I say to you that we are the only nation on the face of the globe who know how to advertise; we are the only nation on the globe who do a mass production and mass selling business; and in no other country on the face of the globe will an increase in the first-class letter rate have the effect it will here, because in this country 62 and a fraction per cent of your mail is selling mail. Advertising literature does not use the mails as a monopoly and they can leave your mails if the rate becomes prohibitive and they can go to other mediums of making sales. So you can not point to a rate in Canada, and you can not point to a rate in Germany, or anywhere else. The increase in this country, as I will prove to you, comes from reduction

in rates, and if you raise the rates you will lose the benefit of the increases you have already made.

I am glad you raised that point, because it would naturally come to your mind, and unless I had the opportunity of covering it you would probably all be under the impression that increased rates would work here because they do in those countries, but it does not apply, because you have not the same conditions.

The CHAIRMAN. Your time is almost up, Mr. Lee.

Mr. LEE. My time is not up, but Senator King's time is up.

Senator KING. I used one minute of his time.

The CHAIRMAN. I will add two minutes to your time.

Mr. LEE. The time has been taken in his question and my answer.

If I may be permitted to take a little additional time, I will promise you I will save you much more time during the day, before the day is over. When we were talking this morning, we tried to save as much time as we could. And it was agreed I should cover the subject generally, and then we would hear a number of witnesses and shorten the others.

In 1925 a proposal was made to increase the cost of private mailing cards from 1 cent to 2 cents in the belief that whereas the department had been receiving $10,000,000 annually from this source, it would thereafter receive $20,000,000. It was suggested at the same time that third-class mail, which had been carried at 2 ounces for 1 cent for many, many years be increased from a rate of 1 cent to a rate of 1½ cents for 2 ounces. And at the same time a 2-cent service charge was to be put on each parcel-post package—all of this for the purpose of raising revenue, and with all of it, not nearly as much revenue as you are asking for at this time. We opposed the proposed increases on the ground that they would not provide the revenue but that they would drive the mailing public to the development of other means of conveying their matter than through the mails. It was argued then that the increases were only pennies and half pennies, but what was the result? The increases were adopted——

The CHAIRMAN. Your 15 minutes are up. How much time do you want?

Mr. LEE. I would like to have—if you can give me 10 minutes more, I will take some man off later.

The CHAIRMAN. We will not interrupt you any more.

Mr. LEE. I will work with you and not use any more time.

The CHAIRMAN. We have got 24 witnesses here for the day, and we want to get through.

Mr. LEE. The increases were adopted, and, whereas the Government had previously received $10,000,000 from the private mailing cards at 1 cent, the Government lost approximately $6,000,000 of the $10,000,000 which it had been receiving, and instead of getting $20,000,000, it received something around $4,000,000 at 2 cents. On third-class mail, due to the one-half cent increase, which, after all, was a 50 per cent increase, the same proportion as is now proposed on first-class mail, the Government lost something slightly less than 1,000,000,000 pieces of mail matter. On parcel post I can not give you a very exact figure, due to the fact that there was some intermixing of third and fourth-class matter, but I can say to you that

there was a very definite loss running anywhere from around 49,000,000 pieces to something over 400,000,000 pieces.

Senator REED. What years are you using for comparison?

Mr. LEE. 1925; and the rates were adopted by the Congress in the latter part of 1925, and I am using from the early part of 1925 to June 30, 1926, when the loss occurred.

Senator REED. As compared with what year?

Mr. LEE. As compared with the previous years under the old rate.

As a result, by 1927, after a little more than a year's experience under the increased rates, bills were introduced in Congress, at the request of the Post Office Department and hearings were held all over the country for the purpose of gathering information upon which to base a reduction in the rates and retrieve some of the department's lost mail volume, and following the hearings the rates were reduced. But did the department get back its volume? It did not. Some mail users had been driven out of business, and, of course, that was a total loss; many more had found other means more economical, for their purposes. Much of the parcel post had gone to express and freight, and a tremendous amount had gone to develop in some instances state-wide distribution by truck, with the result that every one of these classifications to-day, notwithstanding the fact that the rates as adopted in 1928 were in some instances actually as low as the rates which were abandoned in 1925, are below the volume of past years, whereas they should show at least an 8 per cent normal increase annually; and in our opinion, the net result of the action of Congress in increasing the rates in 1925 was to develop competitive methods, which are now competing and will continue to compete with the Post Office Department, and if postal rates are not actually decreased to meet this competition, it will not be many years until the Postal Department will have a real problem on its hands; and in that connection, I think I should say to you that all of the investigations of the national council tend to show that through this period of so-called depression, when postal volume and revenues are suffering, truck transportation of mailable matter is increasing, and in our opinion, if you increase this first-class rate as proposed, the net result of your action will be to disturb business, to drive the mailing public to another search for other methods of distribution and communication, and you will deprive the department of more volume, some of which will never come back no matter what you make the rate.

We feel, Mr. Chairman, that the bill now being considered by your committee makes a grievous mistake in taxing business at its source, thus placing a burden on the principal means to which we must look for recovery.

Remember, you are dealing with a medium there. Sixty-two and a fraction per cent of all sales in this country are made through the mails, and you are increasing the cost of getting those results by 50 per cent if you carry this measure into your bill.

The United States mails are not business; rather, they are the means through which business is produced. You would not think of putting a head tax on each customer who went through the front door of a retail store, yet the House has gone further than that in this bill. They have even put a tax on the invitation to the customer

to come through the front door. If you are expecting to obtain taxes from the results of business, it seems to us extremely unwise that you should place a heavy burden on the source from which the business is to be obtained.

We contend that postal rates are not a proper source for the raising of revenue. One needs but to go back to the inception of the service and the reasons therefor to see clearly the fallacy of ever attempting to use the service for revenue-raising purposes. Even before the establishment of our present service, King William, in 1691, tried that very thing. He gave one Thomas Neaile a monopoly for profit and it failed. In rebellion the people bootlegged the mail, so to speak. This system was taken over by the Crown and for a period of 35 years, with constantly increasing rates, it produced nothing but trouble, deficits, a decreasing volume and a system stagnated to such an extent that the Crown refused to pay the losses, and the British Postmaster General was relieved of the responsibility for American deficits. But when the present system was formed a policy was inaugurated by Benjamin Franklin, who had been made postmaster at Philadelphia, in 1737, of constantly reducing the rates as fast as volume would warrant.

The department was established for the purpose of providing a swift, reliable, and inexpensive means of communication between the people of the Nation and for no other purpose; and from that day to this, with the exception of our experience of late years, no attempt was made to use the system for revenue raising purposes, but constantly and consistently the rates were reduced; as rates were reduced, new uses were found for the mails and the volume increased, and with each increase in volume further reductions in rates came, and the lower rates brought further increases in volume. That policy—and that policy alone—accounts for the growth of the parcel post which met from the beginning an active competition of a well-established transportation system in the express companies. There is nothing new about the idea of large volume and low rates to obtain revenue; it is the basis for the success of our present type of American industry. Practically every successful company doing business on a nation-wide scale with a nation-wide set-up, comparable to the Post Office Department, has attained its success by keeping its service up and its rates down. And particularly has that been true during this depression.

You have here the difference between a mass business and a class business. You must make your choice as to whether you will open the mails to the great bulk of the American people by creating low rates, or whether you will limit the use of the mails to the few and attempt to create profits at high rates. That is the problem that is before you in this bill.

The Post Office Department has a fixed overhead, most of which could not be abandoned regardless of the volume of mail matter carried; consequently, when you have sufficient volume at present rates to defray the cost of that overhead, every added parcel is practically clear profit. Let us say that it would cost $20 to send a messenger with a single message from Washington to New York. If he carries two messages, the price can be reduced to $10, and on the same basis of computation, if he carries 2,000 messages, the price can be made one cent. That is exactly the problem of the Post Office

Department; it is a problem, gentlemen, not of revenues, but of volume.

You have a fixed force that must be kept employed. The problem is one of fixing the rates sufficiently low to attract the net volume to keep the force employed, and at the same time to pay the cost thereof. But, incidentally, when the volume increases all of the people benefit by the resulting business. When it decreases, even though your volume produces the revenue to pay the cost, business in the country suffers by reason of that reduced volume. If you establish a policy of increasing rates, you must abandon as a primary idea the thought that the postal system was created to serve the people, and to get a correct viewpoint of that subject, as I told the Senator a while ago, it seems to us one need only to answer the query: Could you abandon the service even if it were sustaining a loss in every department? The answer to that does not mean that we operate it for a profit. First, we must do business. Mass selling was not evolved until after postal rates made it possible to reach customers through the mails, and we can not do business on that mass scale if the rates are now increased. There is no use talking about being a necessity of raising revenue, in this connection. We are living under conditions that have been evolved with the rates as they now stand, and we must be very careful in order that they be not disturbed. Those conditions did not come out of the brain of any individual; they came out of necessity. They must not be disturbed.

Now, Mr. Chairman, you won't get any additional money from an increase in the first-class rate, and certainly there is no justification for increasing the rate simply because we can not find another source from which to obtain the money. However, I think it is entirely proper to point out to the committee the fact that the classification upon which you now propose to place the burden—first-class mail—is now operating at a substantial profit, whereas second-class mail is operating at a loss, according to Post Office figures, approximating $96,000,000 annually; that the matter which you propose to penalize is now paying 32 cents per pound, whereas second-class matter, which is responsible for the deficit in the department, is paying a rate of approximately 1½ cents per pound. It is true that there are some second-class zone rates running up to 8 cents, but rest assured that second-class mail users have found methods through distant reentry point with the permission of the department, of avoiding those higher brackets. If you want some revenue, Mr. Chairman, do away with those reentry point, and you will get some revenue.

Gentlemen, it isn't fair: it isn't right to place this burden upon the users of first-class mail for whom the Post Office Department was created, while you ignore a classification now operating at such a substantial loss. I hesitate to say what would happen if this same situation involved recipients other than publishers.

There are other stuations in the department that should be rectified before an increase in any rate is asked for. We have pointed out to the department, as we have pointed out to Congress on several occasions, that there are from six to ten thousand publications now being carried in the mails at the second-class rate, which do not properly belong in second class; publications which are, in fact,

house organs. From conversations we have had with the department, we are of the impression that if the second-class privilege were limited entirely to legitimate publications carrying informative and educational matter and issued for general circulation only at a bona fide subscription price, thus placing the publications to which we refer in third class where they properly belong, a saving would result to the department in excess of $50,000,000. If your committee, Mr. Chairman, is looking for a source through which to obtain added revenue, we can point to no surer source than this.

What this country wants now is not a higher but a lower cost of doing business—not less business but more business; and in our opinion, the only way to obtain that is to open up the avenues through which business is obtained as widely as possible, making them available on the easiest possible terms to the greatest possible number.

What the American business man needs from Congress is not discouragement but encouragement; not reasons why he can not do things, but reasons why he can do things. You have before you the experience of the department under a policy almost 200 years old, which accounts for a growth so phenomenal as to be almost unbelievable. You have before you the experience of 1925. From that experience we know that higher rates will not bring added revenue. The committee of the House undoubtedly saw the situation from that viewpoint. In fact, I have in my bag letters from House Members who say they saw it from that view point, and that it was their sincere belief that it would not be carried in the bill which came from the Senate.

This proposal to increase postal rates was not carried in the original bill, and it is my sincere belief that it would not have been inserted in the second bill except with the thought that the bill was coming to the Senate, where it would undoubtedly be amended, that it would go to conference with some semblance of the original measure and be returned to the floor of the House with these objectionable and unwise features eliminated, where, in an atmosphere entirely different from that which faced the first measure, it might be passed.

In my opinion, gentlemen, that is what the House expects you to do. In desperation they got rid of it and passed it along, in the hope that in a different atmosphere here it might be rewritten and changed, preserving some semblance of the bill as it came from the House, and then, after it goes to conference, it will go back to the House and will be in an atmosphere entirely different, where it might be passed.

Senator REED. Rather wise action from a Democratic House, it seems to me.

Mr. LEE. I shall try to keep out of political discussion, but from the information I have, I think that is probably true.

The CHAIRMAN. Your time is very limited, Mr. Lee.

Mr. LEE. Mr. Chairman, I will try to get through in a minute.

Let me make one more suggestion, and then I shall close. The only purpose, I take it, for the raising of revenue at this time is for the good of the Government, and the good of the Government means the good of us all.

Gentlemen, in that connection I want to say that my association has striven manfully to help the Post Office Department. We are not asking for lower rates. We are asking for a situation under

which we can do business and support business. We want something that is permanent. If a higher rate were in effect, we would not be asking for a lower rate. We know there would be no end to this thing. We know we are working with and not against the department, as we are working with and not against Congress.

Now, with that broad view in mind, and from my experience with this subject covering my business lifetime, and without any selfish thought whatsoever, I say to you that if you genuinely want to serve the American people in this crisis and do that thing from which they will benefit most—if you want to produce business from which you may obtain revenue and help substantially to bring back normal conditions in the country—nothing which you can do would tend more surely to that end than the actual reduction of existing postage rates. You can let the first-class rate alone. Let it stand at 2 cents. We have become accustomed to it. Put the third-class rate back, so that the full 2 ounces can be sent through the mails for 1 cent, as we did prior to 1924. Take off all service charges from parcel post; reverse the increases recently put on parcel post by the Postmaster General with the consent of the Interstate Commerce Commission, which in granting its consent incidentally told the Postmaster General it would not produce the revenue. Do these things, gentlemen, and you will have taken a real step toward improving the country's finances. You will have said to American business, "You have nothing to fear at the hands of Congress; we are not unmindful of your difficulties; we desire to help." You will have sent encouragement to displace despair. If I may suggest it, we have a serious problem of keeping business in business which transcends the question of what we can exact from business.

I thank you.

STATEMENT OF JAMES S. WILEY, PRESIDENT BERLIN & JONES CO. (INC.), NEW YORK, N. Y.

The CHAIRMAN. You may proceed, Mr. Wiley.

Mr. WILEY. I have a brief statement in opposition to the 3-cent letter postage and, also, if I may be so presumptuous, I want to offer a proposal for raising the equivalent revenue.

I am an envelope maker, and I represent a group of envelope manufacturers who sell envelopes to users of first and third class mail.

We, as manufacturers of envelopes, are probably closer to our customers and in closer contact with the users of first and third class mail than any other group, because we depend for a livelihood on our contact with those users of the mails. The volume of business available to us as envelope manufacturers depends on the extent to which the American public, and especially the American business, large and small, makes us of postal facilities. And, as Mr. Lee has said, 62 per cent of the mail is used for advertising. It means that if we raise this postal rate, if you go to put on 3 cents instead of 2 cents, which is a 50 per cent increase, the mail will not be used to the extent that it is now. And if it is left as it is now you will get more revenue than otherwise.

It is true that a person writing home that occasionally they will pay 3 cents to write and mail a letter, to write to a boy in the city, or

a boy to write home, but business, both large and small, can not stand a 50 per cent increase in the cost of mail and continue to use it. And I have contacted myself since the bill passed the House very large users of the mails, to whom I have talked. And I have permission to use their names. The Boston Edison Co., for instance, have an office in Boston and also one in New York, the New York Edison Co., and the New York Edison Co. alone mails out a couple hundred thousand pieces of mail a day, paying the Government at least $2,000 a day. If this increase went through 65 per cent of that would be delivered by hand, thereby taking away $1,300 a day.

There are the large stores in New York who have absolutely assured me that this will put them almost entirely out of the first-class mail, and they will go to third class, go to newspaper advertising.

Those are the people that I have contacted. Those are two or three in New York. What would happen in the country to first-class mail if 65 per cent, which is now paying your revenue, were to go to some other method of distribution?

The envelope manufacturers, in order to have the Budget balanced, want to serve the country, but we know that this increase will not do it.

It is the considered judgment of representative envelope manufacturers throughout the United States that the proposed increase amounted to 50 per cent in the first-class, letter, postage rate will so largely reduce the volume of first-class mail as to defeat its own purposes. While, as I said, some letters will be mailed regardless of the rate of postage, there is no question that they will not pay $30 a thousand more to mail first class. I am speaking for the manufacturers of envelopes. A large amount of advertising material is mailed under first class now because it is believed that sealed first-class letter mail will receive more attention from the addressee, and it is more likely to secure the attention of the man who receives it. While that is practical economically at 2 cents per piece, there is, as I said, no question that if the first-class rate is increased from 2 to 3 cents a very large volume of business mail, printed advertising, circular letters, announcements, and such as that will be mailed third class instead of first class. They will not pay the $30 a thousand more.

Now, I have a paragraph here on the third-class rate, which Mr. Lee touched upon, so I will not go over that. He spoke about the postcard rate.

But I want to call your attention to the fact that expenditure for postage is not a negligible operating expense to many institutions. There are, for example, many religious, philanthropic, and charitable organizations which depend upon voluntary contributions to carry on their activities. To most institutions of this type postage is a very large item of their overhead expense. And an increase of 50 per cent in this item would unquestionably force a curtailment of mailing. An increase of 50 per cent to organizations of that kind would be a very serious handicap to them, and there are a great many of them, like the Red Cross, and tubercular associations, and things of that kind, that can not afford to pay the increase of $10 a thousand.

Now, as to the unemployment that exists in the envelope manufacturing industry. We are not a tremendously large industry. We have about 25,000 employees, and if the mail-using public is made

to curtail the use of envelopes, unemployment in the industry will be increased, and it will affect all the workers, and during this depression it will affect at least one-third of the employees, and it will absolutely cut it one-third.

For example, such envelopes as are used to transmit letter mail are sold by the manufacturer for prices ranging between 60 cents a thousand and $2 a thousand.

That is all we get for our envelopes when we sell to the large mail users, and if they go up 15 cents they will curtail their expenses. What will they do when there is an increase of $10 a thousand in the cost of using the envelope, when they kick on 25 cents? It means that they will not use them.

Now, we contend that taxation in the form of excessive postal rates is not a proper source of general revenue for the Government. If it is said that the increased postal rates will be necessary to eliminate the deficit that annually appears in the operations of the Post Office Department, then we contend that the higher rates should come from those who get the service, and from those classes of mail which are contributing to the deficit.

The following table, based on the annual reports of the Postmaster General for six years past, strikingly sets forth the actual profits which have accrued to the department from the handling of first-class mail in contrast with the enormous losses which have been incurred in the handling of second-class mail. While all classes of mail, except first class, show losses, the loss on second class is so great that in many fiscal years, it has exceeded the total deficit of the Post Office Department.

Senator KING. Have you any figures showing the loss on parcel post?

Mr. WILEY. No; I have not. I have taken first and second class mail.

Senator SHORTRIDGE. What articles, if your table shows, are carried in the second-class rate? I am asking for the record. What articles are carried on the second-class rate which brings us the loss?

Mr. WILEY. Newspapers and magazines published by private capital. Newspapers and magazines.

Senator SHORTRIDGE. Of course, they would object to any increase in the second-class rate.

Mr. WILEY. I have an alternative proposal to fix them.

We submit that if postal rates of any kind are to be increased, second-class rates should be increased to an extent so as to make publishers' mail newspapers and magazines pay back to the Government the cost of handling those publications.

Of course, it will be contended that they are educational and a means of spreading knowledge, but they are published for private profit by private capital, exactly the same as department stores are operated with private capital for private profit, and they are penalized $10 a thousand pieces for mailing by this bill, while the newspapers published for private profit are mailed at a loss to the Government.

If it is contended that the Government should continue to subsidize newspapers and magazines published by private capital for private profit, solely on the ground that they are educational and a medium for transfusion of knowledge, then we urge that an excise

tax be imposed on the sales of advertising space in all private publications operated for profit, at least sufficient to reimburse the Government for the loss incurred in handling newspapers and magazines at the second-class postage rates now in effect.

Magazines and newspapers are being carried all over the country at a loss to the Government. And yet when a department store wants to advertise they are now asked to pay $10 a thousand pieces more for the privilege of sending out their advertising matter; while the magazines and newspapers, which carry advertising matter, are carried at a loss to the Government.

It does seem to me that the people who can afford enormous space in the newspapers and magazines can afford to pay for having their advertising matter broadcast throughout the country. It does not seem to me that it is right and proper that the users of first-class letter mail should be asked to pay $10 a thousand more to send their matter out through the mail for advertising, when the newspapers and magazines are being carried by the Government at a loss. There should be a tax on them on that space, at least, which carries the advertising.

Senator SHORTRIDGE. Suppose that the second-class rate should be slightly raised?

Mr. WILEY. I am still saying that the Government subsidizes the newspaper rate. They could put a tax on that space that is used for the advertising.

Senator GEORGE. What tax do you suggest on that?

Mr. WILEY. Enough to take it out of the red.

Senator GEORGE. You have not come to any conclusion as to how much that should be?

Mr. WILEY. No. It could be measured. They measure it now because the Government charges a handling charge.

Senator REED. I can assure you that no newspaper will print what you are now saying.

Mr. WILEY. I know they will not.

Senator SHORTRIDGE. Let us hope they will, however, give weight to the educational part of it.

Mr. WILEY. Some of the trade papers will put it in. And some of the papers may get it in by mistake.

It does seem that first-class mail users should not be penalized, the rate-making legitimate business pay to get a message to the buying public that they want to come into their stores.

That is about all I have to say, Mr. Chairman.

(A statement submitted by Mr. Wiley for the record, is here printed in full, as follows:)

A STATEMENT IN OPPOSITION TO 3-CENT LETTER POSTAGE AND ALTERNATIVE PROPOSAL FOR RAISING EQUIVALENT REVENUE

SUBMITTED ON BEHALF OF ENVELOPE MANUFACTURERS OF THE UNITED STATES AND THEIR EMPLOYEES

Envelope manufacturers are peculiarly qualified to forecast the effect of changes in postal rates on first-class and third-class mail. Envelope manufacturers are in direct and constant contact with their customers, both large and small users of first and third class mail. The volume of business available to envelope manufacturers depends directly on the extent to which the American public and especially American business, large and small, makes use of the postal facilities.

It is the considered judgment of representative envelope manufacturers throughout the United States that the proposed increase, amounting to 50 per cent, in the first-class letter postage rate, will so largely reduce the volume of first-class mail as to defeat its own purpose. While it may be contended that letters will be mailed regardless of the rate of postage, it can not be successfully contended that as many pieces of letter mail will be mailed at 3 cents per ounce or fraction thereof as would be mailed at 2 cents per ounce or fraction thereof. A large volume of advertising material is mailed under first class at present rates in the belief that sealed, first-class letter mail carries greater prestige in the eyes of the addressee and is more likely to secure the attention of the recipient. While this is economically practical at 2 cents per piece, there can be no question of the assertion that, if the first-class (letter) rate is increased from 2 cents to 3 cents, a very large volume of business mail, printed advertising, circular letters, announcements, and such, will be mailed third class instead of first class.

When the rate of postage on third-class mail was increased, effective July 1, 1925, from a rate of 1 cent for 2 ounces or fraction thereof to a rate of 1½ cents for 2 ounces or fraction thereof, the result was an immediate decline in the number of pieces of third-class mail handled amounting to approximately 10 per cent of the total number of pieces previously handled. In the light of this result the Congress in 1928 enacted legislation providing relief from the rate of 1½ cents for each 2 ounces or fraction thereof in the form of a pound rate of postage of 12 cents per pound for bulk mailings and a minimum rate thereunder of 1 cent per piece of mail, instead of 1½ cents. Recognition was thereby extended to the restriction in the use of third class mail resulting from the former increase of rate.

Expenditure for postage is not a negligible operating expense to many institutions. For example, there are very many religious, philanthropic, and charitable organizations which depend upon voluntary contributions to carry on their activities. To most institutions of this type postage is a very large item in the overhead expense. An increase of 50 per cent in this item would unquestionably force a curtailment of mailing.

A considerable degree of unemployment exists to-day in th envelope-manufacturing industry. If the American mail-using public is led to curtail the use of envelopes, the unemployment in this industry will be seriously aggravated.

Such envelopes as are used to transmit letter mail are sold by the manufacturer for prices ranging mainly between 60 cents per thousand and $2 per thousand. Differences of from 5 to 25 cents per thousand in the cost of envelopes definitely influence the purchasing policies of large users of envelopes. An increase of $10 per thousand in the cost of using envelopes would be the net effect of the proposed increase of first-class postage from 2 to 3 cents. Envelope manufacturers sincerely believe that such an increase in the cost of using first-class mail would decrease the number of pieces of such mail handled by the postal service by at least one-third. If the decrease in first-class mail resulting from the proposed increase in postal rates were only 20 per cent, the net increased revenue at the higher rate would total about $68,000,000 per year, as against the estimated revenue embodied in the House tax bill of $135,000,000.

We contend that taxation in the form of excessive postal rates is not a proper source of general revenue for the Government. If it be held that increased postal rates are necessary to eliminate the annual deficit in the operations of Post Office Department, then we contend that the increased rates should be applied to those services and to those classes of mail which are contributing to this deficit. The following table, based on the annual reports of the Postmaster General for six years past, strikingly sets forth the actual profits which have accrued to the department from the handling of first-class mail in contrast with the enormous losses which have been incurred in the handling of second-class mail. While all classes of mail except first class show losses, the loss on second class is so great that in many fiscal years it has exceeded the total deficit of the Post Office Department.

First-class mail

Fiscal year	Revenues	Expenditures	Loss	Gain
1926	$321,253,302.25	$247,484,376.37		$73,768,785.88
1927	345,284,235.14	262,109,805.75		83,174,429.39
1928	355,526,402.22	268,350,516.19		87,175,886.03
1929 [1]	365,470,910.08	286,837,500.61		78,633,416.47
1930 [1]	304,720,810.82	293,816,209.33		70,913,541.49
1931 [1]	342,045,580.73	298,139,618.01		46,905,692.72

[1] Includes air mail with losses as follows: 1929, $6,018,468.23; 1930, $9,896,162.13; 1931, $11,383,065.14.

Second-class mail

Fiscal year	Revenues	Expenditures	Loss	Gain
1926	$34,387,278.37	$117,885,507.26	$83,498,228.89	
1927	34,084,709.98	119,007,502.65	84,022,702.67	
1928	34,597,081.76	119,879,047.12	85,281,065.36	
1929	29,873,081.25	123,874,270.13	94,001,197.88	
1930 [1]	30,708,809.08	120,410,647.01	89,701,837.93	
1931 [1]	27,471,217.07	124,145,905.60	96,674,617.93	

[1] Includes transient (not publishers' mail), showing gain of $463,710.83 in 1930 and a gain of $299,099.47 in 1931.

We submit that if postal rates of any kind are to be increased, second-class mail rates should be increased to such an extent as to make publishers' mail newspapers and magazines, pay back to the Government the cost of handling those publications.

If it be contended that the Government should continue to subsidize newspapers and magazines published by private capital for private profit, solely on the grounds that they are educational and a medium for transfusion of knowledge, then we urge that an excise tax be imposed on the sales of advertising space in all private publications operated for profit, at least sufficient to reimburse the Government for the loss incurred in handling newspapers and magazines at the second-class postage rates now in effect.

SUMMARY

1. Three-cent letter postage would reduce by a large percentage the number of pieces of first-class mail carried by the post office.

2. Curtailment of first-class mail means curtailment in the use of envelopes and would cause impoverishment of the envelope-manufacturing industry, accompanied by severe increase in the number of unemployed workers in this industry.

3. Arbitrary increase in postal rates is not a proper source of general revenue for the Government.

4. The deficit in the operation of the Post Office Department should be eliminated by requiring each class of mail and each service rendered by the department to pay its ascertained cost of handling.

5. The chief source of loss in the operation of the Post Office Department is the subsidy extended to newspapers and magazines in the form of inadequate rates for handling second-class mail.

6. Rates on second-class mail, including the advertising content of newspapers and magazines, should be increased sufficiently to reimburse the Post Office Department for the cost of handling.

7. If increase in second-class rates is deemed inexpedient, a specific sales tax on the sales of advertising space in newspapers and magazines may be imposed at such a rate as would yield the amount of revenue now sought through the proposed increase in first-class postage. Such tax might properly be passed on to the purchasers of advertising space, the publisher to act as the collecting agent for the Government. The tax would thereupon be borne by the most prosperous elements of American business, those who can afford to pay the enormous space rates charged by publications of large circulation.

Such a tax would not impose any direct burden on educational, philanthropic, or religious publications not deriving their chief revenue from advertising.

8. The proposed 50 per cent increase in letter postage would be a direct tax on millions of individual letter writers and on all users of letter mail, without regard to their ability to pay and without regard to the relative opportunity of individual mail users to curtail or not to curtail their use of first-class mail and accompanying expenditures for postage.

Submitted by

JAMES S. WILEY, *President*,
BERLIN JONES & CO., (INC.),
New York City.

STATEMENT OF LEONARD J. RAYMOND, BOSTON, MASS., REPRESENTING THE DIRECT MAIL ADVERTISING ASSOCIATION

Mr. RAYMOND. My name is Leonard J. Raymond, Boston, Mass., representing the Direct Mail Advertising Association, an organization of users and producers of direct mail advertising. While some of the larger printers, paper houses, and creators of mail advertising help to support this association, a large part of its membership, totaling nearly a thousand, is made up of organizations who solicit and handle business either entirely or partially through the mails.

While the members of the Direct Mail Advertising Association, both users and producers of direct-mail advertising, are willing and desirous to cooperate with the Post Office Department and with the Government in helping to balance the National Budget, we feel that the suggested increase from 2 cents to 3 cents per ounce on first-class mail is not only unwarranted when the facts are considered but that it would be detrimental to business as a whole, and, what is more, the amount of money derived from such an increase will fall far short of the estimated amount, and in all probability will add to the present deficit.

First-class mail, according to the Postmaster General's own figures, already shows a handsome profit. In 1931 revenue from first-class mail was $255,000,000—profit amounted to $58,000,000. It is claimed that a 50 per cent increase will yield another $135,000,000 income. No allowance has been made for any reduction in volume, although in September, 1930, the Post Office Department admitted that even a half cent increase would drive 5 per cent from the profitable first-class bracket into the unprofitable third, and that an additional percentage would be entirely lost.

This allowance for volume decrease is, in our estimation, entirely inadequate. Figures we obtain from our members indicate that more than 50 per cent of all first-class mail is "advertising or selling" mail, and that at least one-half of this "advertising" mail will be thrown out of first class by a 50 per cent increase.

That means that if the Post Office is at present carrying approximately 12,500,000,000 first-class pieces, they would lose 25 per cent, or more than 3,000,000,000 pieces, and would indeed be fortunate if they ended the year with a first-class volume of 9,570,000,000 pieces on which to impose the 50 per cent increase.

Senator KING. You are assuming that there will be no revival of business in those figures you are submitting?

Mr. RAYMOND. I am assuming that the natural fall off, as indicated by the rate in the post-card situation in 1925, would take place here, but not to the same alarming degree. Private mailing cards fell off 80 per cent when the price was doubled.

Few people seem to realize the extent to which business depends upon direct-mail selling. In 1931 approximately $500,000,000 was invested in mail advertising by business concerns to obtain business—to build sales. Approximately $200,000,000 of this amount was expended on postage alone. This proposed increase affects two groups of mail users—first, that group which depends entirely upon mail selling; and, second, those who use mail advertising to supplement their sales work and thus reduce sales costs. The first group will be driven from the mails altogether should this increase go through, and the second group will either discontinue mail advertising or will find some other means to advertise.

The Direct Mail Advertising Association is not opposing this increase merely because it means retarding business and the consequent loss of millions of dollars from the sale of merchandise, not merely because it will put thousands of printers, paper and envelope workers, mailers, stenographers, and others, out of work.

Senator REED. Let me ask you: If you mail an advertisment in an envelope without sealing it, it goes at a cheaper rate?

Mr. RAYMOND. It goes at third class.

Senator SHORTRIDGE. Why do you not resort to that?

Mr. RAYMOND. The returns or the results are never so effective or as complete.

Senator SHORTRIDGE. You mean the recipient of a letter which is sealed will open it?

Mr. RAYMOND. That is right; yes, Senator. It gives better returns.

Senator SHORTRIDGE. Whereas if it is an unsealed envelope it is tossed in the wastebasket?

Mr. RAYMOND. That is apt to be so; yes.

Senator SHORTRIDGE. Is that the experience of the trade?

Mr. RAYMOND. Yes.

Mr. LEE. I think, if I may interrupt at that point, there is a distinction between the advertiser who would use first class and the advertiser who would use third class. You can not switch them from one to the other. Some messages require first-class postage, while others get as good results in third-class postage.

Senator BARKLEY. I want to find out if the results obtained will be sufficient to justify the increase of 1 cent in postage.

Mr. RAYMOND. Most businesses can not stand that extra 50 per cent increase in postage. The average letter in the mail costs about 5 cents. Adding 1 cent to the postage cost would increase the selling cost 20 per cent. What business to-day can have 20 per cent added to its sales cost and still survive? This business of selling by mail is a matter of split pennies.

Senator SHORTRIDGE. Mr. Chairman, just one question. Assume that I hold in my hand an envelope containing certain advertising matter. The name of the concern is on the envelope.

Mr. RAYMOND. Yes.

Senator SHORTRIDGE. And it is sealed. I take the same envelope and put the advertising matter in and send it unsealed, we will say.

Mr. RAYMOND. Yes.

Senator SHORTRIDGE. Now, you say that as to the one the receiver or recipient of the letter will open it?

Mr. RAYMOND. Yes.

Senator SHORTRIDGE. Whereas in the case of the unsealed envelope, as to it the envelope is tossed aside and the message never gets to the addressee?

Mr. RAYMOND. Not invariably. Sometimes it works and sometimes it does not.

Senator SHORTRIDGE. All right. I just wanted to get your view.

Senator WALSH of Massachusetts. The general impression is that that is an unsatisfactory way of advertising.

Mr. RAYMOND. In dealing with some classes of business you can use third-class mail satisfactorily. Many people do. In other cases first-class is necessary.

The CHAIRMAN. Can you not put the balance of your statement in the record?

Mr. RAYMOND. This will take only a minute and a half, sir. If I may?

The CHAIRMAN. We have to get through as quickly as possible.

Senator SHORTRIDGE. I am to blame for the delay, Mr. Chairman. So I suggest you go ahead.

Mr. RAYMOND. The Direct Mail Advertising Association is not opposing this increase merely because it means retarding business and the consequent loss of millions of dollars from the sale of merchandise, not merely because it will put thousands of printers, paper and envelope workers, mailers, stenographers, and others, out of work. These are arguments against it, but they are also arguments which may be used in combating any levy of taxes on any commodity. We oppose this increase because we sincerely believe that it will not come within 75 per cent of bringing in the promised revenue, and that while the increased rate is in effect it places an unwarranted burden upon business as a whole and upon thousands of firms using mail advertising in particular.

We respectfully ask that your committee look searchingly and carefully into the figures submitted by the Post Office Department—that you bear in mind that in 1925 the Post Office Department increased the rate on private mailing cards from 1 cent to 2 cents, telling Congress that where they were getting $10,000,000 income they would thereafter receive $20,000,000, whereas instead of getting $20,000,000 they received but $4,000,000 total income, a loss of $6,000,000. In this case volume fell off 80 per cent. No one can accurately foretell loss in volume should the 3-cent rate go into effect, but our estimate of 25 per cent is surely conservative—some figure as high as 33⅓ to 40 per cent.

The same fundamental principle applies to this increase as to the post-card increase. With one hand the Postmaster General reduced air mail rates to increase revenue, and with the other hand he increases first-class rates to accomplish the same purpose. Increasing revenue is not merely a matter of raising rates—business is not so simple as all that. It should be a matter of charging a fair price for each service rendered and allowing each service to stand on its own feet.

American business can not afford, and, in fact, will not be obliged to pay this increase except for ordinary routine mail, for there are other channels through which to advertise. Private circular distributing companies will spring up—even now a telegraph company will deliver a personalized telegram for a total cost of 7 cents,

including stock, printing, envelope. The cost of the average first-class letter is now 5 cents; with the increase it would be 6 cents, 1 cent less than the telegram and the telegram price is now based on small volume.

We in the direct mail-advertising business are indeed proud of the tremendous progress made in this country in the use of the mails for selling and advertising purposes. It would be disastrous should business at this time be retarded by what really amounts to a 50 per cent tax on selling, not on sales or on manufactured goods.

That concludes my statement.

The CHAIRMAN. Thank you.

STATEMENT OF JOHN A. SMITH, JR., GLOUCESTER, MASS., REPRESENTING FRANK E. DAVIS FISH CO.

Mr. SMITH. My name is John A. Smith, jr., representing the Frank E. Davis Fish Co., of Gloucester, Mass., and the fishing industry.

Our company, the Frank E. Davis Fish Co., at Gloucester, Mass., contributes about 45 per cent of the total receipts of the Gloucester post office. When you consider that first-class mail, according to the Post Office Department's own figures, is showing the only real profit on the different classes of mail, it seems unreasonable that folks in Washington should expect $135,000,000 more in revenue by raising the rate of that class of mail. In our own particular case, we used in the year 1931, in one campaign, approximately 1,759,426 pieces of first-class mail. Of this number, 1,558,942 were advertising pieces of first-class mail—advertising our fish. You can readily see from that one campaign that our postal bill was $31,178.84. If the new rate of 3 cents an ounce goes into effect, our bill would have been $46,768.26. That would mean that the Government would receive $15,589 in additional revenue. But it will not work out that way. If this new bill passes the Senate, it will mean that it will drive us from first-class mail into either third-class mail or out of the mails altogether, because it will increase our selling cost 20 per cent. And I don't mind saying that our selling cost right at the present time is 20 per cent of our business. When you tack another 20 per cent on there, that means 40 per cent of our entire business, and it is either going to drive us out of the first-class mail into the third-class mail or we are going to find some other alternative way of delivering. Within the past two weeks I have had distributing companies approach me and say that they will carry our advertising literature like the Government is doing at present, though at a much less cost than the 2 cents an ounce rate, which is the rate at the present time. Now, that is going to drive many businesses like mine into some other method of delivering; it is going to drive them into finding a way to deliver their mail different from what they have been doing.

Senator WALSH of Massachusetts. How do you deliver your fish? What is the method you employ in using the mails?

Mr. SMITH. We deliver the fish by parcel post and express. As a matter of fact we used some time ago parcels post entirely, and then they went up in the rates in parcels post, and of course we had

to find some other way, and it drove us into the express companies to a great extent.

If this new bill passes the Senate, it will mean that it will drive us from first-class mail into third-class mail or out of the mails, and thus lower considerably the revenue to our local post office and to the Post Office Department, for instead of paying $46,768 for postage stamps we will be paying $15,589. The Government will be losing $15,589 in revenue from what we are now paying, and thus the Post Office Department will not get the revenue that they expect that they will get in a raise in first-class rates.

I have in mind that a number of folks in Washington visualize first-class mail as being sponsored by the individuals of our country, but I feel very sure that I am safe in saying that at least 60 per cent of the entire revenue derived from first-class mail comes from business houses. Thus it can be very easily seen that if the first-class mail rates are raised, that a number of these business concerns will go into third-class mail or out of the mails. This, of course, will cut the revenue considerably for the Government, and you will not get the anticipated $135,000,000 additional that you expect from this raise in the first-class rate.

A short time ago, as a member of the citizens committee of the Post Office Department, I attended several hearings in Washington before the Interstate Commerce Commission, on the proposed changes in rates and regulations affecting fourth-class matter. I would like to quote a paragraph from Commissioner Eastman's report in this Interstate Commerce Commission hearing.

Commissioner Eastman says:

> For the year ending June 30, 1930, it shows that the deficit on fourth-class mail was $15,000,000, whereas the deficit on second-class mail was $89,000,000. On third-class mail it was $21,000,000, and on foreign mail it was $19,000,000. On first-class mail, on the other hand, revenues exceeded expenditures by $70,000,000. If the deficit, as shown by the cost ascertainment figures of the Post Office Department, justifies an increase in parcel-post rates, it provides even greater justification for an increase in second-class rates. The showing on second-class mail is startling. The revenues were $30,000,000 and the expenditures $120,000,000. If this is correct, the newspapers and publishers of the country are receiving a large subsidy at public expense. We have no jurisdiction over these matters. I mention them merely to show the conclusions to which the logic of the cost ascertainment report leads and how important it is that this ascertainment should be as accurate as possible.

Now you gentlemen can readily see from Commissioner Eastman's report and from the actual post-office figures that second-class mail is the bone of contention in the Post Office Department. When you figure that second-class mail is showing the Government a loss of almost $90,000,000 a year, that second-class mail should be made to stand upon its own feet, or it should not be added in with the other classes of mail and say that the Post Office Department shows such a huge deficit.

It seems from my experience in going to Washington and conferring with Post Office officials that they do not dare to attempt to touch second-class mail. Be that as it may, it is unethical and unreasonable for anybody to suggest a raise in rates in the only class of mail that is showing the Government a huge profit.

The early part of last week I attended a meeting with the Postmaster General and he stated at that time that he believed that each class of mail should stand on its own feet. That is the opinion of

the business mail users of the country—that each class of mail should stand on its own feet and that one class of mail, like second-class mail, which shows a tremendous loss, should not be favored with special rates.

In basing the delivery of a newspaper to distant points the reading matter in that newspaper goes at 1½ cents per pound, no matter how far it travels. The advertising portion of the paper goes at the following rates per pound:

First zone, 1½ cents per pound; second zone, 1½ cents per pound; third zone, 2 cents per pound; fourth zone, 3 cents per pound; fifth zone, 4 cents per pound; sixth zone, 5 cents per pound; seventh zone, 6 cents per pound; eighth zone, 7 cents per pound.

Yet, because I send the advertising of our fish products under a different make-up, I must pay under first-class mail 32 cents per pound to any part of the country. Under third-class mail, the new bulk mailing rate, I must pay 12 cents per pound to any part of the country. Why should newspapers be able to send their advertising literature out at a much less rate than mine? This is a discrimination in every sense of the word.

We find that we can get a greater volume of business and a greater return per dollar spent when we use first-class mail rather than third-class mail, but with an additional $10 per thousand piled on top of the charges that we are at present paying we know that we could not use first-class mail but that we would be driven into third-class mail or out of the mails. The Post Office Department would not get additional revenue on first-class mail, but would get decreased revenue on that class of mail not only from our firm but from hundreds of other companies throughout the length and breadth of the country. If an additional tax is placed on first-class mail, it will mean that the volume of our business will drop tremendously. That means that we will purchase less paper, less envelopes, less printing, and thus that will affect the companies who sell us those things throughout the year and help to cause unemployment in their establishments. It will also mean that we will purchase from the fishermen less fish, for our inventories will be much lower, and thus the fishermen will be affected tremendously.

The CHAIRMAN. Mr. Smith, will you put the balance of it in the record at this time?

Mr. SMITH. I would just like to bring out one more point, Mr. Chairman.

Senator WALSH of Massachusetts. What is your company paying for postage, Mr. Smith?

Mr. SMITH. We are using first-class postage at the present time.

Senator WALSH. How much does it amount to in a year?

Mr. SMITH. It amounts to $110,000.

Senator WALSH of Massachusetts. And this increase——

Mr. SMITH (interposing). This increase will drive us out of the mails—either into third-class mail or out of the mails altogether and find some alternative way of delivering our literature. And I think that is true of many other companies.

Acting Chairman Crisp of the House a few days ago said that his committee selected the postage increase in preference to a 1 cent a gallon gasoline tax, a stamp tax on bank checks, and an additional levy on tobacco. Now you gentlemen know, and I know, that there

is no substitute for gasoline. If people want to run their cars, they must use gasoline. However, there is a substitution for the first-class postal rates, and that substitution is third-class or circular distributing companies who are making a practice of delivering advertising mail.

Senator BARKLEY. Your theory is that we should stick those who can not help themselves and let those escape that may?

Mr. SMITH. No. I am giving the reason why acting Chairman Crisp suggested the postage rates. I am not suggesting that you——

Senator BARKLEY. That is what it results in, is it not, to put a tax on gasoline because the people have to buy it, and do not put it on postage because you can avoid it?

Mr. SMITH. No. I am trying to show the way that we can get out of paying the additional postage. Therefore you will not get your increased revenue that you expect to get. I am not suggesting that you tax gasoline or any other industry.

From the last tabulation prepared by the Secretary of the Treasury, he sets forth the figures of an annual budget of $4,182,200,000 for 1932, against a budget in 1927 of $3,493,600,000. To finance this increased disbursement, Congress is now planning huge additional taxes to be paid for out of the already fallen income of prostrate industry and individuals. Taxes levied upon corporations and other producers increase the cost of their products. Higher costs lessen sales—slow down industry—increase unemployment and want; all of which drive costs still higher, and further increase distress.

Taxes upon individuals have a similar effect by curtailing their capacity to purchase the products of industry. It is lower cost and higher purchasing power which we need to-day, perhaps more than ever in our history. Why are industries and individuals, which must reduce their expenditures to meet the depressed conditions, saddled with ever-mounting taxes to cover the ever-increasing expenditures of the National Government? Why should the confidence in the national security of the Government itself be jeopardized by extravagance? Why does not Congress balance the national Budget by reduction of expenditures through efficient operation and the curtailment of nonessential services and functions?

The future of industry and employment will be affected by the action of you gentlemen. Because of the Post Office Department's own figures showing that first-class mail is the only class of mail that is showing the Government a huge profit, and because the Postmaster General states that such class of mail must stand upon its own feet, and because of the thrust to the heart that you will invoke on business-mail users throughout the country, I beseech you gentlemen to decrease the Budget so that you will not require the revenue that you might expect to get from an increase in first-class postal rates. Give the business men of the country a chance to work themselves out of the difficulties that they are having. Unburden the business man with these additional taxes. Help the business man to get more business so that he may buy more, sell more, and give additional employment to individuals. Put yourself in the place of the business man, who is sincerely fighting to overcome the difficulties that he is having.

We need your help.

The CHAIRMAN. Thank you, Mr. Smith.

STATEMENT OF HORACE NAHM, NEW YORK CITY, REPRESENTING MAIL ADVERTISING SERVICE ASSOCIATION, INTERNATIONAL AND MAIL ADVERTISERS SERVICE ASSOCIATION

Mr. NAHM. My name is Horace Nahm. I represent the Mail Advertising Service Association, International and Mail Advertisers Service Association of New York City. Those are associations of the advertisers by direct mail in the form of letters and other forms. There are about 2,600 such organizations in the United States, and probably have—we do not know exactly—but somewhere around 30,000 to 40,000 employees.

I am abandoning completely my speech, because, of necessity, it contains a great deal which is repetition of what these other gentlemen have had to say, but I merely want to confirm their statements.

There is one point I want to bring out, and that is a point I am not sure that everybody understands, because you gentlemen naturally handle a good many subjects. That is the simplicity of switching matter from first class to third class. An individually written letter which is now sent first class can be sent third class with very few exceptions. There are three ways of doing it. One is putting a cent and a half stamp on it and putting it in the mail in an envelope that has one flap unsealed, like this [illustrating with envelope]. It is sealed at one end, and then there is this flap which is open for postal inspection. Next is putting a 1-cent stamp under section [illegible], P. L. & R., putting that in bulk mail. And also using a perm[illegible] which is 1 cent apiece, with the further regulation that they are sorted in the post office and faced in one direction. It is a very simple procedure for a mailer to go from first class to third class by reducing the quality of his appeal and putting it through under third-class rates.

I thank you.

STATEMENT OF W. S. OBERFELDER, CHICAGO, ILL., REPRESENTING WALTER FIELD CO.

Mr. OBERFELDER. My name is W. S. Oberfelder, representing Walter Field Co.

I will just call your attention to an increase in rates that is proposed, and try to show you that the increase will not bring you the revenue you expect. That refers to a C. O. D. increase of 5 cents on packages of value of over $5. When you increased the rate in 1925, 2 cents, from 10 to 12 cents, the C. O. D. business from that day really fell off. In fact to-day we are the only house left catering entirely to C. O. D. business. Now, if you increase 5 cents on orders from $5 to $25, there will be a 40 per cent increase, and it certainly will drive all C. O. D. mail out of the post office in those amounts.

Senator REED. Is it the increase in postage that drove you out of business, or the installment selling of your competitors?

Mr. OBERFELDER. Neither one. We are not out of business. Our competitors are. We represent about 4 per cent of the C. O. D. business.

Senator REED. Which was it that drove your competitors out of business?

Mr. OBERFELDER. I think conditions to-day drove some of them out of business, that is the last year. Four of them dropped out the last year. But when postage increased in 1925 just 2 cents a package, the C. O. D. business gradually fell from that time on, as you can see from the post-office records, and it is decreasing very rapidly right now.

Senator GEORGE. Second-class mail can avail itself of outside facilities better than any other class, can it not?

Mr. OBERFELDER. Why, I would think so; yes.

Senator GEORGE. Yes; I think so.

Mr. OBERFELDER. They can ship by freight. They are doing it already.

Senator GEORGE. Yes.

The CHAIRMAN. Have you anything further?

Mr. OBERFELDER. No.

The CHAIRMAN. Thank you.

We will next hear Mr. Noffsinger. You have five minutes, Mr. Noffsinger.

Mr. NOFFSINGER. I can present, gentlemen, in about 3 minutes all that we wish to present.

The CHAIRMAN. All right.

STATEMENT OF J. S. NOFFSINGER, DIRECTOR, NATIONAL HOME STUDY COUNCIL, WASHINGTON, D. C.

Mr. NOFFSINGER. The National Home Study Council is a council of correspondence schools. I represent 37 of these institutions, which offer the only available means of formal and adequate vocation or job-improvement courses to more than 75 per cent of our adult population.

We respectfully present the following facts and recommendations for your consideration with reference to the proposal to increase the first-class postage rate from 2 cents to 3 cents per half ounce.

The home study or correspondence school is the only available medium which offers formal and adequate vocational or job-improvement courses to more than 75 per cent of our adult citizens. At the present time there are approximately 750,000 American students, mostly adults, enrolled annually in these schools. Approximately 5,000 industrial and commercial corporations and organizations now have some form of contractual relations with these schools for the training and upgrading of their employees. Approximately 53 per cent of all college graduates entering the commercial and industrial field enroll for home study courses so as to prepare themselves more adequately for specific tasks. The social and economic importance of this educational agency therefore is of great magnitude.

Inasmuch as the enrolling of many of these students, as well as their entire instruction, is conducted through the mail, the proposal to increase the rate of first-class postage 50 per cent is a serious consideration. What this would mean to the entire home-study field will be revealed by the following data, which relate only to the 37 home-study schools which constitute the membership of the National Home Study Council. All data are for the past fiscal year:

Total annual cost of postage, approximately	$1,100,000
Total amount of first-class postage, approximately	550,000
Combined operating deficit for 1931	950,000

The total postage bill, of the 37 schools which I represent, during the past year was $1,100,000. Approximately one-half of this was first-class. During the past year the combined operating deficit of these 37 schools was $950,000. Only five of these 37 schools operated at a nominal profit. In the case of four of these five their surplus would have been changed to a deficit if the postal rate had been increased 50 per cent.

If the proposed 50 per cent increase in the first-class postage rate is adopted it would mean, on the basis of the past year, that these 37 schools would be assessed $275,000 additional—a burden which in light of their current $950,000 loss could not be carried.

Senator REED. Could they not add 37 cents to the tuition of each of those 750,000 students?

Mr. NORFSINGER. That would not cover it. I doubt whether it would cover it.

I raise this as a possible alternative. Such an enactment would compel these schools to adopt one of the four following alternatives:

1. Cease operation. This of course would automatically defeat the proposal to increase the volume of first-class postage revenue.

2. Increase the tuition rates. This alternative during the present economic situation would probably decrease enrollment and thus decrease the postage revenue derived therefrom.

3. Cheapen the personal instruction and/or service rendered to the student. Such an economy would be most unfortunate.

4. Cease using first-class mail as a method of circularizing and soliciting students, and adopt as a substitute either the use of third-class postage, or the use of private distributing agencies.

The latter alternative would probably be the one employed by most schools. This would result in a probable decrease of postal receipts from this source of from $250,000 to $400,000 per year instead of the expected increase of $275,000 and likewise a larger loss from the home-study field as a whole. We represent only 37 institutions.

Conclusion. An increase in the first-class postage rate at this time would definitely decrease postal receipts from this industry. It is furthermore our judgment that similar results will be experienced from the entire mail-order field.

Recommendations. If it is sincerely desired to balance the postal budget, the following suggestions we believe to be worthy of your careful consideration:

First. Discontinue all franking privileges. Require governmental departments, bureaus, and so forth, to include the item of postage in their budgets. This would automatically tend to eliminate from the mails much material now carried at the expense of the Post Office Department. It would make each department and bureau scrutinize more carefully its own just share in postal costs. We understand that this system has long been in successful operation in some of our outlying provinces. Particularly the Philippine Islands.

Second. Eliminate the known losses in the Post Office Department. We recommend that second-class mail be handled to pay more nearly the cost of handling same.

STATEMENT OF R. W. HICKS, SECRETARY-TREASURER THE GREETING CARD ASSOCIATION (INC.), NEW YORK CITY

Mr. HICKS. Mr. Chairman and gentlemen of the committee. So many of the points which I had intended to discuss have been taken up that I need but two or three minutes, perhaps.

I appear on behalf of the Greeting Card Association, which is a trade association comprising the principal manufacturers of the highest type of greeting cards, selling the consumer through over 25,000 retail establishments in the United States, protests vigorously against the proposed increase in first-class postage rates to 3 cents per ounce, as provided in the pending revenue bill passed by the House of Representatives and now in the hands of your committee for action. We believe that the national Budget must be immediately balanced and are willing to do all in our power to help bring about that result, but we thoroughly believe that the proposed increase in first-class postage rates will react materially against increased revenue.

First-class mail, according to Postmaster General Brown's last annual report, is the only class of mail which showed a profit during the fiscal year 1931; I believe of about 17 per cent. Revenue, excepting air mail, was $335,835,235.87; expenditures $277,546,208.11, leaving a surplus and profit of $58,289,027.86, or over 17 per cent. Surely these figures prove that first-class mail is already showing a larger return to the Government than the vast majority of privately owned businesses ever did or ever hope to show. It would appear to be illogical and wholly unnecessary to increase the rates of first-class mail when that class is already earning such a large profit.

The proposed increase, which is equivalent to a 50 per cent tax on the postage charges, payable by the consumer is entirely out of line with other levies provided for in the bill.

Should Congress raise the first-class rate to 3 cents the prediction is made, based on interviews with a number of present large users, that first-class mail will immediately fall into the red-figure column because business which now pays first-class rates will turn to the third and fourth classes, which are already operated at a loss.

It will be remembered that a few years ago, postage on private and picture postal cards, which is one of the elements in our business, was increased from 1 to 2 cents with the result that the use of post cards was reduced to a point which resulted in a very much decreased revenue, and the Government was forced to restore the 1-cent rate. We feel that this is exactly the result which will be obtained by fixing a 3-cent per ounce rate on first-class mail.

The greeting-card industry, which has become a worthwhile national business of large proportions, is one that has been built after extensive sales promotion and advertising campaigns involving large expenditures of money were carried out. The sales at retail throughout the United States now aggregate some $75,000,000 per year.

Our industry has a large amount of invested capital in many large plants, and employs several thousand workers. It markets its products through over 25,000 established retail dealers, who are furnishing employment to many clerks and who are all paying taxes and contributing to the support of their respective communities.

It is thought that this increase in rate, if it prevails, will so throttle the sales of greeting cards that many manufacturers and dealers

will find it difficult to pay the individual and corporation income taxes as well as other additional taxes, which the bill levies.

It will be noted that greeting cards are now sold for use every day in the year. Cards are mailed for the following holidays: New Year's, St. Valentine's, St. Patricks's, Easter, Mother's, Father's, Friendship, Jewish New Year's, Halloween, Thanksgiving, and Christmas. In addition, greeting cards are mailed every day in the year covering every conceivable occasion, beginning with the announcement of the baby's birth and running through the human lifetime to the appropriate time for sending condolence cards.

Senator REED. Do you feel that 2 per cent on that $75,000,000 would be an unwarranted burden on the poor man?

Mr. HICKS. Two per cent?

Senator REED. Yes.

Mr. HICKS. Why, I think it would immediately react on the use of greeting cards; yes. I think perhaps a consumer who used 250 cards—and there are many of them at Christmas time—would object to that $5 tax.

The industry is really contributing a very considerable volume of first-class mail throughout the entire year, all of which adds to the revenue of the Government and a consequent profit.

The enactment of this provision into law would cause serious hardship to the greeting-card industry and all those interests allied to it, such as the manufacturers of greeting cards, the suppliers of many raw materials used in their manufacture, the retail dealers selling them, together with all of their employees and dependent families.

We therefore respectfully urge your committee not to pass favorably on this provision, when reporting the bill out to the Senate for final action.

STATEMENT OF R. P. ANDREWS, WASHINGTON, D. C., REPRESENTING THE NATIONAL PAPER TRADE ASSOCIATION

Mr. ANDREWS. Mr. Chairman, I represent the National Paper Trade Association, which is composed of about 90 per cent of the wholesale paper merchants of the United States, and I can see nothing that I can add to the remarks made by Mr. Lee. We simply indorse everything that he has stated.

The CHAIRMAN. Thank you.

STATEMENT OF BRACE BENNITT, REPRESENTING THE NATIONAL ASSOCIATION OF CREDIT MEN

Mr. BENNITT. My name is Brace Bennitt. I represent the National Association of Credit Men, 22,000 manufacturers, wholesalers, and bankers in the country, who own this organization, and it represents their credit service medium. Credit service is, very essentially so, through confidential communications. They can go only under sealed cover. By way of emphasis, we believe that the first-class 3-cent rate is inequitable. That the matter of raising funds by this increase we believe is not possible. We have the actual example in our local mediums, of which we have 135 offices. It is not that they may make a substitute. They are going to make a substitute,

in the way of messenger service. It will be necessary in order to give business what they must have, credit information these days, to find another medium of transmitting it to them.

I call your attention to the fact that while local mail—and where we can have messengers—represents only 25 per cent of the first-class letter mail business, it also represents 40 per cent of the profit of the letter mail. That will be the medium that will be hit by messenger service. While we will use that, and we will have to because of the increase in the rate, there is a corollary to that in the fact that the people who use this service will have their inquiries, that otherwise would come by mail, picked up by the messenger when he delivers our mail. It will cut further, in our belief, into the monthly statements locally being delivered by mail. And also will cut into mass amounts of mail that goes out once a month.

We believe—and this is all—that in our sincere sponsorship of balancing the Budget as soon as possible, an item of this sort will not only not accomplish its purpose but it is going to be an obstacle to something we hope will be done very quickly.

The CHAIRMAN. There will be placed in the record at this point the statement of the Mail Advertising Service Association.

(The statement is here printed in the record, as follows:)

MAIL ADVERTISING SERVICE ASSOCIATION (INTERNATIONAL),
New York City, April 14, 1932.

To Hon. REED SMOOT,
Chairman Senate Finance Committee:

Believing that your committee, in its deliberations, will wish to give the fullest possible consideration to all pertinent facts and corroborative evidence having a bearing on each specific item in the revenue bill now under debate in your committee hearings, we respectfully offer the following brief on the proposal in that bill to increase the present 2-cent rate of postage on first-class mail to 3 cents per ounce or fraction thereof.

I. IMPORTANCE OF THIS LEGISLATION

This proposed increase in first-class postage probably will affect more people than any other specific tax-raising item in the bill—both individuals and those engaged in business will be taxed 50 per cent on a virtual necessity, in varying degree, by it if enacted into law.

Naturally the individual citizen, using a few stamps a week, will not bear the brunt of it, although in these times, when every cent counts in the family budget, many of the poorer families will have to cut down their use of letters, the only medium of friendly communication many of them can afford.

But all business firms, from the smallest to the largest business corporation, will feel the heavy burden and be handicapped in the proper administration and profitable operation of their businesses. This difference of $10 per thousand, or even $1 per hundred letters mailed, in a day, week or a month, may mean the difference between staying in existence or going into the red and closing up shop.

If they curtail their sales effort—their sales stimulation—their business will suffer, and all business will suffer, and unemployment will be increased thereby.

Therefore, we contend this proposed increase is more far-reaching in effect and more important in portent than may appear at first thought, and warrants the most serious consideration by your honorable committee and by the entire Senate before it comes to a vote.

We contend that the founders of our Government and of our Postal Service never intended that taxes should be raised through postage.

II. THE PROPOSED LEGISLATION IS UNFAIR TO ALL CITIZENS

To exact payment of a higher rate of postage on a class of mail on which the present rate is sufficient to cover all costs of handling and in addition produce a high percentage of profit, is eminently unfair.

In support of this we refer to the Post Office Department's own figures for the fiscal year 1931, showing that first-class mail produced a net profit of $58,289,027.86, to our Government.

Would any of you gentlemen in your own business increase the selling price of one class of merchandise, commodity or service that is showing a 17.35 per cent of profit, 50 per cent and expect your volume of sales to be maintained?

Would the railroads of this country be permitted to raise their passenger or freight rates a flat 50 per cent, if they were in an admittedly prosperous condition and showing such net percentage of earnings? It would be most unfair to the traveling public.

III. THE PROPOSED LEGISLATION IS HIGHLY DISCRIMINATORY

To ask patrons of first-class mail to alone bear the entire cost of this proposed increase in postal rates (50 per cent tax), while patrons of other classes of mail are favored and required to pay not 1 cent of increase (tax) is highly discriminatory, and can have no justification, even in an earnest effort to balance our country's Budget.

In support of this contention we submit the following figures taken from Postmaster General Brown's report for the fiscal year 1931:

Class of mail	Revenues	Expenditures	Loss	Gain	Per cent
First: Except air mail..	$335,835,235.87	$277,546,208.01	.....	$58,289,027.87	17.35
First: Air mail.....	6,210,344.86	17,593,410.00	$11,383,065.14	.....	183.2
Second.....	27,471,247.67	124,,145,865.60	96,674,617.93	.....	351.91
Third.....	58,274,906.73	81,663,891.55	23,388,894.82	.....	40.1
Fourth.....	138,135,806.79	158,107,406.60	20,031,599.81	.....	14.5
Foreign.....	17,980,278.25	44,606,345.87	26,626,067.62	.....	148

NOTE.—Above figures do not include a loss of $9,379,211.84 suffered from "Penalty, Franked, and Free for the Blind" mail.

We leave it to your fair and unbiased judgment, after an analysis of the above figures, to say if we are not justified in saying the proposed increase is discriminatory, with one class of mail showing a loss of 351.91 per cent—the department spending $4.52 for every dollar of such revenue it receives. Is it good business to tax a profitable industry 50 per cent and ignore entirely one which you and every one of the citizens of this country have the pleasure (?) of paying for a loss on annually of almost $100,000,000—an amount equaling about three-fourths of what it is predicted the proposed increase on first-class mail will provide. An amount, also, almost equal to the total deficit of the Post Office Department for 1931.

In the Washington Star on Thursday, April 7, 1932, we read that:

"Postal officials advocate raising the letter mail rates rather than those on newspapers, publications, and parcel post because the Government has a monopoly in the handling of the former and would run no risk of driving this business into the hands of competitors."

We ask you, gentlemen, is such a position by the postal officials tenable? If any one of you gentlemen in business had a department running at such an enormous loss as the one in question, would you continue to suffer the irreparable loss just for the honor, pleasure, or what not of holding on to that department, because you feared that if you raised the price of your product of such department some competitor would steal it away from you?

I don't think so. I think you would say, "Let 'em have it; the sooner I get rid of it the better for me and my business." Who in the name of common sense wants to hold on to a business losing nearly $100,000,000 a year?

If you are desirous of saving money for this Government, gentlemen, right here in the Postal Department is an opportunity, as the above tabulation discloses, to make a big saving—a saving of over $100,000,000—by putting the

several classes of mail matter on a rate that will at least break even, if not make a profit, or, if that is impossible, by eliminating that class of service.

But to attempt to saddle the burden of this terrific loss on the class of mail which is already showing a fine profit every year, we certainly contend is most unfair and highly discriminatory.

IV. THE PROPOSED INCREASE IN THE FIRST-CLASS RATE WE BELIEVE WILL FALL SHORT OF PRODUCING THE ESTIMATED $135,000,000 INCREASE IN REVENUE

First, because it is directly contrary to postal experience. A check-up will show that revenues decreased in 1925, when the rate on private mailing cards was increased from 1 to 2 cents.

Instead of the anticipated increase from $10,000,000 to $20,000,000, they actually lost $6,000,000 of their original $10,000,000.

Also, an increase of one-half cent on third class in 1925, we believe you will find, drove a billion pieces of matter from the mail.

During the war, when first-class mail was increased from 2 to 3 cents for a short time, revenue again decreased, even with all the stimulation of war business.

Second, because advertising letters and matter, as distinguished from correspondence and other matters, constitutes a very large proportion of the total volume of first-class mail. (Estimated, according to figures given by various postmasters and mailers, at from 30 to 45 per cent of the total volume of first-class mail.)

Because advertisers, instead of continuing to mail this type of sales letters and sales stimulating messages at first-class rates, will divert millions of pieces to third class. To-day, when every cost of advertising and selling is carefully scrutinized, critically examined by the executives, when the slogan is "cut expenses," no good executive will spend an additional $10 per thousand on his letters if he can find a way to save it, as is indicated by a plan which some are already preparing to put into effect in case this legislation is enacted, of diverting to third class, and using the regular red 2-cent stamp on penny-saver envelopes in the belief that the recipients will consider it first-class, it being permissible to, under postal regulations, send a number of such letters filled in and with signature with such a first-class appearance.

The public will become postage conscious, business firms will dispense with so-called courtesy mail; will cull out questionable prospects from mailing lists; and will use postal cards when possible; and discover new ways to escape paying this unfair 50 per cent tax.

Because such an increase, if adopted, will place a tremendous handicap and deterrent on mail advertising and will further retard business done by mail, and will be much more likely to decrease postal revenues generally than to increase them.

V. THE POST OFFICE DEPARTMENT BY ITS OWN ACTION AND STATEMENT CONTRADICTS THE REASONING BACK OF THE PROPOSED INCREASE

To get more volume and revenue for the air mail, the department reduced the rate on the first ounce.

"Increasing the second-class rates" according to the Postmaster General, "will not increase revenue, but will simply drive the business to other carriers that will carry more cheaply than we will."

Yet despite this fact and his statement, the Postmaster General reasons that the opposite can be done with first-class mail; that is, raise the rate and the revenue both at the same time.

We ask you, gentlemen of the committee, does such reasoning sound logical? By following out such fallacious reasoning much harm may be done the business of the department and business in general.

The reduction in the number of pieces of first-class advertising matter produced and mailed will also result in loss of business, and consequent loss in employment in this industry, in the mailing departments of large mail-order firms, public-utility firms, and other large industries, in the business of paper manufacturers, printers, lithographers, and others.

VI. THE PROPOSED LEGISLATION IS IN EFFECT AN UNREASONABLE AND UNWARRANTED TAX ON A NECESSITY

Because it imposes a tax of 50 per cent on a class of postage which is largely a necessity to private individuals as well as business in general, while many luxuries are taxed at much lower rates.

The masses of our people can not afford other media of communication with loved ones and friends, when they are separated on vacation, by reason of employment away from the old home, at the holiday season, and at other periods—they can not afford the use of the telephone and telegram. They must of necessity write and mail letters. We believe here is no other tax that can be put on that will affect or irritate the majority of our electorate more than this 50 per cent tax on such a necessity. They will resent it and not use it any more than they can help, just as increased street-car fares have been resented by the masses.

You gentlemen all know how bankruptcy virtually has followed even a 2 or 3 cent increase in fares, while the New York City transit companies have profited by retaining a nickel fare rate. The public will go to any length to evade such an unjust tax, such an unfair increase on daily necessities—they will ride on busses, taxis, and buy second-hand or low-priced automobiles rather than pay a few pennies more. The same will follow, in our judgment, this increase.

This brief is respectfully submitted to your committee, gentlemen, in an earnest effort to help you arrive at an equitable and just solution of the tax problem. It is submitted on behalf of the members, the employees, and clients of an industry having some 2,200 offices and plants throughout the United States, employing approximately 22,000 men and women, handling annually an estimated total of two and one-half billion pieces of first-class mail for our clients, at an approximate annual postage cost of $50,000,000, because this industry and our clients feel that the facts do not justify a 3-cent letter postage rate, because our industry and clients feel that the proposed legislation as regards this 50 per cent increase is unjust, illogical, and highly discriminatory, and that it is opposed to the principles of good business and true Americanism.

We respectfully urge the thoughtful consideration of your body of the foregoing facts and contentions, to the end that you will not enact this proposed legislation, but will, on the contrary, eliminate the item and section of the revenue bill now under your consideration, which covers the proposed increase in first-class postage rates.

Respectfully submitted.

MAIL ADVERTISING SERVICE ASSOCIATION (INTERNATIONAL),
By E. W. HUSEN, *President*.
H. C. BATES, *Director*.

LETTER FROM BRACE BENNITT

WASHINGTON, D. C., *April 14, 1932*.

THE COMMITTEE ON FINANCE,
United States Senate, Washington, D. C.

GENTLEMEN: The National Association of Credit Men is a nonprofit, cooperative association, owned by its membership, which consists of over 22,000 wholesalers, manufacturers, and bankers engaged in commercial and banking credit. While it has continuously emphasized to its 135 local units and to its individual membership the urgent necessity of all possible economy and early balancing of the governmental Budget, it does not believe the increase to 3 cents of first-class mail will facilitate the aforesaid necessary steps.

Business is fair minded, but will in all likelihood not accept an increased price on either goods or service which are already very substantially profitable. The inequity of the 3-cent price on first-class mail as proposed is obvious. Secondly, it is our belief that not only is the expected increase in revenue of $165,000,000 very unlikely, but that it is entirely possible that an increase in the first-class mail rate will also cause a decline in the present first-class mail income to the Government.

Business can not obtain any substitute for the necessary credit services rendered by the National Association of Credit Men, but it can substitute means of transmission, particularly as regards local areas. In contact with several

of our offices, we find that because of the inability to raise prices on their own services, necessary steps must be taken to offset this proposed increase in mail price. Messenger service is planned, which not only will decrease mail usage on outgoing mail, but also incoming mail which the messenger would pick up as he makes his deliveries. Present stamp expense from $500 to $1,500 monthly per local office.

We respectfully call your attention to the fact that while local first-class mail represents only 25 per cent of first-class letter mail, it represents over 40 per cent of the total profit on first-class letter mail. This, we believe, is the item that will be chiefly effected, but there is no question that ways and means will be forced upon business to economize in other than local first-class mail.

May we reaffirm our first statement that the National Association of Credit Men firmly indorse the immediate necessity of all possible economy and the balancing of the Budget, but we very seriously doubt the equity and practicability of an increase in first-class postal rates. We hope, not only as an organization, but as representing member firms, that you will give serious reconsideration to the postal section in the revenue bill of 1932.

Very truly yours,

BRACE BENNITT
(For National Association of Credit Men),
New York City.

STATEMENT OF WALTER H. WHEELER, JR., STAMFORD, CONN., VICE PRESIDENT AND GENERAL MANAGER PITNEY-BOWES POSTAGE METER CO.

Mr. WHEELER. My statement will be very short, sir. Not more than two minutes.

My name is Walter H. Wheeler, jr. I represent the Pitney-Bowes Postage Meter Co., who manufacture the meter machines that print postage on mail very largely in lieu of stamps. I want to say at the outset that this bill would affect us. It would require that we would spend many thousands of dollars in changing the dies on these machines. We are not complaining about that. If the country thinks it is the proper thing to do, we can stand it. But what I want to say is this, that I am certain that the increase in rates is going to drive a great many first-class letters into third-class. I know that because since the bill passed the House we have had a great many users of our machines asking us if they can not get dies of 1½ cents as soon as the postage rate goes into effect.

I want to make a short observation, and that is this. All these things which we are doing here in Washington now, which take money from business and restrict business are simply going to make this depression worse, in my opinion, and in the opinion of many of my friends. If we can go into a war in 1916 and knock up the public debt of this country $23,000,000,000, and wave flags while we do it, and kill a lot of people, but with no cry of national deficiency, it seems to me that after we have written that public debt down $9,000,000,000 since the war we should have the courage to go through a period of business depression like this without doing things which are going to hamper and restrict business. We ought to have courage enough to see that public debt go unbalanced for two or three years. And to my mind the statement that the Budget must be balanced is tantamount to a statement that the business of this country will not recover, because if it does recover the normal income will recover.

Thank you very much.

STATEMENT OF O. M. KILE, GLEN ECHO HEIGHTS, MD., AGRICULTURAL ECONOMIST

Mr. KILE. Mr. Chairman and gentlemen. I represent officially the International Baby Chick Association that ships from 200,000,000 to 300,000,000 baby chicks a year.

Senator BARKLEY. Baby what?

Mr. KILE. Baby chicks. I also represent the American Farm Bureau Federation in this respect. Mr. Gray was before this committee last Monday, but was unable, because of pressure of time, to get down to the postal section. Therefore he asked me to put into the record a resolution adopted by the American Farm Bureau Federation last December putting them on record at that time decidedly against any increase on first class or fourth class.

The resolution is as follows:

Postal rates: In any efforts to balance the budget of the Post Office Department we oppose increased rates on first and fourth class matter. The deficit in the Post Office Department is caused largely by other classes of mail service. It is unfair to the main body of citizens who use the first and fourth class services of the Post Office Department, in which classes no material deficit is found, to impose on them higher rates in an effort to overcome the deficit created by such other services.

That resolution being adopted last December brings up one point which I want to add to the general discussion here. I want to say first that we agree with practically everything—I think everything—that has been said by Mr. Lee and the other gentlemen here. Those matters bear on certain business interests connected with farming just the same as they do on these other interests that have been spoken of here. But the point I want to make right now is this, that while 62 per cent of the first-class postage is unquestionably, or certainly very probably used in a business way, the other 38 per cent used in personal correspondence must be given some consideration from the public-policy standpoint. I do not agree that people will pay the extra 1 cent all out through the homes, on the farms, without bearing some degree of resentment. I believe that that is a thing that gets right down to the local individual in a way which is not good for the public policy. So I think that that point ought to be given some consideration.

Now, since I have only a minute or two I merely want to add to what has already been said one or two suggestions for substitute revenues. I will not repeat the details of what we feel to be the situation in the Post Office Department. I think that has been pretty well brought out here, that it is the first class that is making approximately $50,000,000 according to the cost ascertainment. Second class losing $97,000,000. Fourth class, even with the Post Office Department figures, which we vigorously dispute, has lost only $17,000,000 to $20,000,000. That is the parcels post. We suggest that with proper ascertainment it will be found that the fourth class has lost nothing. Then we have the air mail, which has lost $17,167,000. We have ship subsidies, $18,911,000. Both of these last two items would seem to bear some consideration at this time.

The Farm Bureau Federation suggestion is that the rate on second class be doubled. That would bring in only $25,000,000, however, because they are only getting $25,000,000 now.

The other suggestion I want to leave with the committee is increased taxes on tobacco. The taxes collected on tobacco last year were $444,270,000. That is a very big item. An increase of one-fifth in that item would produce $90,000,000. Tobacco is a product that is heavily taxed now, but it is a product that stands taxation without disrupting any phases of the business apparently.

Senator BARKLEY. Do you know that the Government is already getting twice as much money out of tobacco as the farmers who raise it?

Mr. KILE. I certainly do. That is why I know that an increase in the tax on tobacco would not affect the farmer.

Senator BARKLEY. You are mistaken about that.

Mr. KILE. It makes very little difference what tobacco sells at. The farmer——

Senator BARKLEY. The higher the tax the more excuse there is for the buyer to drive the price down to the farmer.

Mr. KILE. The price of tobacco is 30 per cent lower than last year, and the price of cigarettes higher than last year and two years ago. The American Tobacco Co. was about the only big company that I know anything about that made enormous profits last year. Their profits were $46,189,000, whereas they normally expected profits of about $12,000,000, because the president's salary is based on a small salary plus a bonus on everything above $11,369,000, and he got a combined salary and bonus last year of $1,018,000. There is a feeling that some additional revenue could be raised from tobacco.

In conclusion—unless the committee is disposed to give me more time—in conclusion, then, Mr. Chairman, I want to merely make one more point, and that is that this tax of 50 per cent on sales efforts through the mails at this time appeals to us as the very worst possible thing that Congress could do, because if there is one thing from an economic standpoint and in an economic sense that we need in this country to-day it is a stimulating of sales, and thereby increasing production, and a 50 per cent tax placed on sales efforts at this time would be a backward step.

Thank you.

The CHAIRMAN. The hearings on the mail rates are now closed.

TELEGRAM FROM L. E. MUNTWYLER

CHICAGO, ILL., *April 13, 1932.*

I. M. STEWART,
Clerk Finance Committee, Senate Office Building,
Washington, D. C.:

Your wire 11th advising change of date of hearing makes impossible my appearance before committee hearing objectors to first-class postage increase. Will you please file this objection to proposed increase with committee. We consider first class postage increase unfair tax on business. Postmaster General has increased parcel-post rates, effective October 1. This alone is tremendous drain on our company. Second-class mail creates deficit in excess of $100,000,000. Can not same treatment given parcel-post rates be applied to second-class instead of saddling increase on first-class mail charged with no deficit? If first-class rates are increased we must and will find way to decrease our volume. Such increase in rates can only result in disappointment as to additional revenue expected. Doubt whether allowance for losses in first-class volume and losses due to diverging first class to other classes has been correctly estimated. We beg you do not increase first-class rates.

MONTGOMERY WARD & CO.,
L. E. MUNTWYLER.

ADMINISTRATIVE PROVISIONS

STATEMENT OF HUGH SATTERLEE, NEW YORK, N. Y., REPRESENTING THE TAX COMMITTEE OF THE BAR ASSOCIATION OF NEW YORK CITY

Mr. SATTERLEE. Mr. Chairman and gentlemen of the committee, I appear as the chairman of the committee on taxation of the Association of the Bar of the City of New York. The committee on taxation has authorized me to represent the association in opposing certain features, and to present our recommendations with reference to the pending tax legislation.

I have here a number of copies of our recommendations which, I hope, will receive the attention of the members of the committee, and I ask leave to have a copy printed in the record. We have about a dozen recommendations dealing with the tax bill of which, we think, the House of Representatives may not have comprehended the effect.

The CHAIRMAN. You have a brief on that?

Mr. SATTERLEE. Yes; and so I have no intention of discussing all of them.

The CHAIRMAN. Have the brief put in at this point following your statement.

Mr. SATTERLEE. Yes, sir.

The CHAIRMAN. And then make whatever statement you care to.

Mr. SATTERLEE. The recommendations are in the brief I referred to, and I will mention them very briefly.

I think a matter that should no doubt receive revision is section 3226 of the Revised Statutes, as amended, and as reenacted by section 1113 of the revenue act of 1926. That is the section which provides for a limitation on suits for refund and claim for refund by taxpayers. The section has been a prolific source of litigation, and it seems to be in the interests of everybody concerned that it should be clarified.

The CHAIRMAN. Where is that?

Mr. SATTERLEE. It is on page 18 of the brief. It is section 3226 of the Revised Statutes.

There are several changes which we suggest, but the principal one has to do with the fact that at the present time there is no certain way by which a taxpayer may ascertain whether a claim for refund which he has filed has been rejected. Inasmuch as his time to bring suit is dependent upon the date of rejection of his claim, it is very embarrassing and has entailed enormous loss to taxpayers because there is no such provision. At one time, several years ago, the statute was amended so that the commissioner should within 90 days after disallowance notify the taxpayer by mail of the rejection of his claim in the Bureau of Internal Revenue. But the Supreme Court recently, in the Michel case, has held that this provision was purely directory and not mandatory, and even though the commissioner does not notify the taxpayer, the time runs against the taxpayer just the same.

So the chief amendment we suggest to the section is an amendment to the effect that the statute should run only from the time of notification of disallowance of his claim, instead of the date of rejection of the claim for refund. That, we think, is a perfectly proper and fair amendment.

I may add that Mr. Charles Henry Butler, a lawyer of this city, and director of the American Bar Association, who was to appear this morning but had to leave, asked me to state on his behalf with respect to the section, that this amendment should apply to claims for refund on which suits were actually commenced within two years after written notice of final disposition of the claim was given to the taxpayer.

Senator REED. In other words, reverse the Michel case?

Mr. SATTERLEE. Yes; to avoid the effect of the Michel case.

And he says that cases are pending brought within two years from written notice which did not disclose the schedule date and the commissioner claims that the rejection of the claim took place some time previously and, therefore, the rights of the taxpayer are barred.

Another procedure which we think is vital and fair, and which Mr. Coulson, of the American Bar Association, will undoubtedly comment upon, because it was approved by the American Bar Association for two years in succession, is to extend the jurisdiction of the Board of Tax Appeals to embrace actions for refund of income and estate taxes claimed to have been erroneously collected.

That is rather a large subject, but I will instance one very adequate reason why that jurisdiction should be extended. As you know, there are two ways now by which the taxpayer may bring up the question of additional payment or overpayment of taxes. If the Treasury Department claims there is an additional tax due, he may take the matter to the Board of Tax Appeals; or he may pay and then bring suit to recover in the Court of Claims or the District Court. However, if the Treasury Department does not claim that the taxpayer owes an additional tax for the year in question, he can not go to the Board of Tax Appeals, but must go to the Court of Claims or the District Court. So the same question may have to be litigated in two different places, and that is a waste of everybody's time.

For instance, to take a simple case: Suppose the taxpayer in the year 1929 has paid a salary—the corporation has paid a salary which the Treasury Department asserts is too high, and it cuts it down and claims an additional tax. Suppose in the very next year the taxpayer has paid the same salary, but because of other adjustments in his return there is no additional tax, although the commissioner has disallowed the payment of all of that salary in the first year he may take the case to the Board of Tax Appeals, but in the second year when he is claiming a refund and not an additional tax he must go to the district court or the Court of Claims. Whereas if the Board of Tax Appeals had concurrent jurisdiction with the Court of Claims or the district court the whole question might be disposed of in one proceeding in the Board of Tax Appeals.

I know that some people have suggested that this would unduly burden the Board of Tax Appeals. I doubt it, because I know that some people would still prefer to go to the Court of Claims or the district court, and it would only be in those cases where the question

was convenient to be tried out in the Board of Tax Appeals that they would go there.

There were other points that I wanted to mention, but I do not want to take the committee's time to do so.

These changes which we suggest would to some extent, perhaps, reduce the revenue from taxes. But I do not think any of them are very substantial.

Although Senator Reed has not asked me, as he asked several witnesses, if I have any proposals to offset any losses in revenue, I might add that as an individual, and having practiced tax law almost exclusively for the last 15 years, and also having been in the Treasury Department during the War and having drafted the income tax regulations and the excise tax regulations, the capital stock tax regulations, and the regulations on admissions and dues taxes, I have some more or less definite ideas which I can briefly express.

My own opinion is very firmly to the effect that the only way that you can secure sufficient revenue is not from making the surtaxes practically confiscatory, because I think they defeat their own purpose, but through the sales tax. And my own opinion is very much in favor of the general sales tax or manufacturers' sales tax, excluding, of course, food and clothing.

As I drew the regulations for the excise taxes in force under the revenue act of 1918, I have some conception of the problem of administering individual excise taxes, to say nothing of the policy involved. And I think a good many of the people in the Treasury Department of the present day are unfamiliar with a good many of the difficulties of administering those taxes. And in my opinion, based on what experience I have had, I think that administering the general sales tax would be infinitely easier than the administration of individual so-called selected article sales taxes.

Senator SHORTRIDGE. And would yield ample revenue.

Mr. SATTERLEE. Yes.

Senator REED. I want to ask a question. You have studied the sales tax or manufacturers' excise tax as reported out by the Ways and Means Committee?

Mr. SATTERLEE. I can not say that I have studied the details.

Senator REED. Well, you know the licensing system that they contrived in order to avoid pyramiding?

Mr. SATTERLEE. Yes, Senator.

Senator REED. It seems to me that that is needlessly complicated and perhaps accounts for some of the prejudice against the excise tax as they proposed it. The suggestion has been made to me that the same effect can be attained very much more simply, namely, by subtracting the total of one's purchases from the total of his sales, and calculating the excise tax on the difference.

Mr. SATTERLEE. I think that is an excellent suggestion. I believe that was made some years ago when there was some discussion.

The CHAIRMAN. That was made in 1922.

Mr. SATTERLEE. That was made in 1922.

The CHAIRMAN. When I offered the sales tax in the Senate.

Mr. SATTERLEE. Yes, I remember. I think that is practicable and simple.

Senator REED. And administratively very easy, of course.

Mr. SATTERLEE. Administratively easy.

I might, if I may, add one more sentence. The chief trouble in administering the excise taxes of 1918, the so-called selected nuisance taxes, as they were usually called, was in the difficulty of identifying the article to be taxed. In other words, a canoe cushion would be taxed, but how can you tell whether it is for use in a canoe or somewhere else? That is just by way of illustration. But that, to my mind, was the chief difficulty—the identifying of the articles to be taxed. The difficulty of deciding which were taxable. But if you taxed all articles except clothing and food it seems to me that the task is infinitely easier.

Senator REED. It took them years to decide what "candy" meant.

Mr. SATTERLEE. Yes. It took them years, and it has only recently been decided. That question came before me when I was in the Treasury Department. I remember having a hearing of all the candy manufacturers as to whether sweet chocolate was candy, and I know it has only recently been decided.

The CHAIRMAN. Have you concluded your statement, Mr. Satterlee?

Mr. SATTERLEE. Yes, Mr. Chairman.

(The recommendations on the revenue bill of 1932 by the Association of the Bar of the City of New York, presented in a brief by Mr. Satterlee, are here printed in the record in full, as follows:)

BRIEF OF HUGH SATTERLEE

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK,
COMMITTEE ON TAXATION,
April 22, 1932.

Committee on Finance of the Senate of the United States:

On behalf of the Association of the Bar of the City of New York, its committee on taxation respectfully presents the following recommendations with reference to the revenue bill of 1932, intended to facilitate the orderly and equitable administration of the tax laws:

Section 23. Deductions from gross income: It is recommended that the first part of section 23 (a) be amended to allow the deduction of—

"All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, or in the production of income required to be included in gross income, including a reasonable allowance for salaries," etc.

Section 23 (a), providing for the deduction of expenses, is limited chiefly to "the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business." This has led to litigation, in which taxpayers have been denied the right to deduct expenses which were clearly incurred in earning taxable income, on the ground that such expenses were not incurred in carrying on any trade or business. See, for example, Von Echt *v.* Commissioner (21 B. T. A. 702) and Hutchings *v.* Burnet, decided in the Court of Appeals of the District of Columbia on March 28, 1932. It seems obvious that all expenses of producing taxable income should be allowed as a deduction, whether or not incurred in carrying on any trade or business, since the income taxed is not limited to business income.

A similar amendment was made to section 360 (1) of the New York personal income tax law in 1920.

Section 23. Deductions from gross income: By subdivisions (r), (s), (t), (u), and (v) of section 23 the bill in substance permits the deduction of losses from sales of stocks and bonds, other than Government bonds, only to the extent of gains from such sales. The adoption of this provision was advocated by the Committee on Ways and Means on the ground that taxpayers have been eliminating their other income from tax by the deduction of such losses, with serious effects upon the revenue.

If Congress is of the opinion that some taxpayers are obtaining deductions for fictitious losses through colorable sales and exchanges, the remedy is to eliminate

or penalize these colorable transactions. But only a very small proportion of sales or exchanges of stocks and bonds, whether resulting in gains or in losses, are of this character. The great majority of such transactions are entered into in good faith, as may be illustrated by the necessary sales by banks of their reserve investments to meet deposits in course of withdrawal. There is no reasonable justification for the distinction between losses on such sales of stocks and bonds, and losses on sales of other types of property, and this renders the entire provision, as to bona fide sales, arbitrary and capricious and of doubtful constitutionality (Heiner *v.* Donnan, decided by the United States Supreme Court March 21, 1932), whether or not passed to prevent tax evasion by others. (Hooper *v.* Tax Commission, 284 U. S. 206; Schlesinger *v.* Wisconsin, 270 U. S. 230.)

As a further example, during the current year many taxpayers, such as estates and trusts, are being compelled to sell securities at a loss, because of statutory requirements or because of the terms of the trust deed itself. There is no thought of tax evasion or of speculation. In many cases the trust or estate will in fact have no net income for 1932, since its income from securities has been completely wiped out by losses on sales of securities. There is, at the least, a serious constitutional question whether Congress, with power under the sixteenth amendment only to tax income, can apply an income tax to a nonexistent income, where "the result of the whole transaction was a loss." (Bowers *v.* Kerbaugh-Empire Co., 271 U. S. 170.)

Section 112. Recognition of gain or loss:

TITLE VII.—TAX ON TRANSFERS TO AVOID INCOME TAX

Section 112 (k) and sections 901-904 provide a rather drastic remedy for attempted avoidance of income taxes by transfers to foreign corporations or foreign trusts. It is not our function to express an opinion as to whether the remedy is worse than the evil. We would suggest, however, that if these revolutionary provisions be finally adopted in the law, the language be clarified in the following respects:

While it may be desirable that authority be given to the commissioner to determine prior to the exchange or distribution whether its principal purpose is avoidance of Federal income taxes, it would seem to us highly important that the judgment of the commissioner on this subject should be subject to judicial review, rather than to be made final. The commissioner, being a party in interest, can not be an altogether unbiased judge, and it would be a serious handicap to legitimate business enterprise if a corporation, having a principal purpose other than tax avoidance in forming foreign subsidiaries, should be subjected to taxation under these drastic provisions, as might happen in many cases where the commissioner would resolve all doubts against the taxpayer. It is evidently not the purpose of Congress to restrict the formation of foreign subsidiaries where that is desirable for other than tax reasons, and the law should be so framed as to make the determination of this fact subject to judicial review.

Section 112 (k) also provides that "a foreign corporation shall not be considered as a corporation" unless the commissioner is satisfied that the principal purpose of the exchange or distribution was not tax avoidance. This perhaps raises a question as to how the organization should be regarded if not regarded as a corporation. Should the individual stockholders be taxed as individuals or should the organization be treated as a partnership, joint venture or trust for tax purposes? The tax effect might be widely different.

SEC. 113. Adjusted basis for determining gain or loss: Section 113 (a) (7) provides that the basis of property acquired after December 31, 1917, by a corporation in connection with a reorganization shall in all instances, in which immediately after the transfer an interest or control in such property of 50 per cent or more remained in the same persons or any of them, be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

The revenue acts of 1924, 1926, and 1928 contained a similar provision, except that the percentage of interest or control was fixed at 80.

In respect to the proposed change of percentage the report of the Ways and Means Committee states that the reduction in percentage has been introduced for the purpose of checking tax avoidance, "for the reason that experience indicates it is easy to secure a temporary investment of 21 per cent of friendly capital

in the new corporation and thereby secure a stepped-up basis for the property transferred."

The proposed change in the law is objectionable in its retroactivity for the reasons that—

(1) It seriously alters in a fundamental respect the effect of past and completed transactions, not only in the case of those who may have sought to take advantage of a loophole in the existing law, but also in the case of those who have acted upon the basis of the present law without any view to tax avoidance

(2) It deprives those who were in no manner parties to the original transaction of rights which they were fully justified in believing that they had acquired under the provisions of existing law.

It is objectionable, in general, for the reasons that—

(3) It will tend to prevent reorganization of business enterprises and the organization of new enterprises which, under existing conditions, should no tbe further hampered or restricted.

(4) The existing law in this respect as construed by the general counsel is inequitable in its application to the transfer of assets upon liquidation of a corporation.

(1) Assuming that avoidance of the sort suggested in the committee report has taken place in the past and that it is entirely proper to close this avenue of avoidance for the future, there is nevertheless no justification for the retroactive force which is given to the change by making it applicable to all transactions occurring subsequent to December 31, 1917, especially in view of the fact that many transactions have been effected in reliance upon the provisions of the revenue acts of 1924, 1926, and 1928 without any view to tax avoidance. Those who have acted upon the basis of existing legislation should not be penalized at thi time in order to reach other taxpayers who are assumed to have avoided taxation in a manner which the comment contained in the report indicates to have been entirely legal at the time.

(2) Whenever substantial interests are involved the basis of property under the Federal tax law is invariably one of the factors borne in mind, and it is undoubtedly true that large investments have been made and interests in corporations acquired with a definite and entirely justified understanding as to the basis established under previous statutes. Although to change that basis at this time would probably not be unconstitutional, such a change would deprive investors and others of rights which they had every reason to rely upon as fixed. In this aspect the change is certainly unconscionable and smacks of bad faith on the part of the United States.

(3) In so far as the enactment of this provision would bear upon the interests of the minority concerned in a reorganization, it scarcely seems equitable that their inte sts should be affected by the action of a bare majority of those in interest. .n any event it seems unwise under present conditions to enact a provision which because of uncertainty as to its precise effect and future interpretation would definitely tend to induce hesitation in proceeding with the reorganization of industries and the entrance upon new enterprises.

(4) Finally there is a further objection to the provision which is illustrated by the ruling of the general counsel in G. C. M. 7472 (IX–1 CB 184). In his memorandum the general counsel holds that under this provision the acquisition by any means whatever by one corporation of substantially all the assets of another corporation constitutes a reorganization and that, a reorganization existing, the basis of the assets acquired by a corporation upon dissolution of another corporation is the same as the basis of the assets in the hands of the dissolved company, this being true irrespective of the fact that the stockholding company has realized a gain or loss upon the liquidation. Thus a company which has purchased a 50 per cent interest in another company for $500,000 may upon liquidation receive assets of that company having a cost to that company of $300,000, which at the time of liquidation are worth $1,000,000, with the result that the first company will be taxed upon a gain of $500,000 and nevertheless be required to take over the assets at a cost of $300,000. In these circumstances if the assets were immediately sold for $1,000,000 the first company would again be taxed upon a gain of $700,000, the ultimate result being that income tax would be levied upon $1,200,000 in respect of an investment of $500,000 for which $1,000,000 had been received upon realization.

The objection to the provision which arises upon the basis of the general counsel's memorandum cited is, of course, applicable to the provision as it stands as well as in its modified form. It is now provided that in the case of transfers falling within the provision the basis shall be "increased in the amount of gain

and decreased in the amount of loss recognized to the transferor upon such transfer." The objection which arises under the interpretation of the provision adopted by the general counsel in the memorandum cited might be obviated by providing that the basis shall be increased in the amount of gain or decreased in the amount of loss recognized to/the transferee. This modification of the existing law should be adopted in any event in order to avoid the inequitable result following from the general counsel's interpretation.

Section 113. Adjusted basis for determining gain or loss: It is recommended that section 113 (b) (1) (A) be amended to read as follows:

"(L) General rule: Proper adjustment in respect of property shall in all cases be made—

"(A) for expenditures, receipts, losses, or other items properly chargeable to capital account, including taxes and other carrying charges on unproductive property: *Provided, however*, That no such adjustment shall be allowed for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining taxable income in the same year or in prior years."

The purpose of the amendment is to give statutory authority for the allowance of a similar adjustment which, during a period of seven years, was expressly permitted by article 1561 of regulations 65, article 1561 of Regulations 69, and article 561 of Regulations 74, promulgated by the Commissioner of Internal Revenue under the revenue acts of 1924, 1926, and 1928, until revoked by an amendment of article 561 of regulations 74 by T. D. 4321 on August 6, 1931. This was after decision by the Board of Tax Appeals in the case of Central Real Estate Co. *v.* Commissioner (17 B. T. A. 776), which held that section 202 of the revenue act of 1924 did not allow such adjustment, although there was a dissenting opinion holding that it was permitted.

The provision in the regulations allowing the capitalization of taxes and other carrying charges on unproductive property was undoubtedly based upon the report of the Ways and Means Committee of the House of Representatives submitted with the draft of the revenue act of 1924, in which the following statement appears with respect to section 202 of that act:

"There is no provision in the existing law which corresponds to subdivision (b), but the rule laid down therein is substantially the same as the construction placed upon the existing law by the Treasury Department. It provides that in computing gain or loss from the sale or other disposition of property the cost or other basis of the property (and in the appropriate case the fair market value as of March 1, 1913) shall be increased by the amount of items properly chargeable to capital account and decreased by the depreciation and similar deductions allowed with respect to the property. Under this provision capital charges, such as improvements, and betterments, and carrying charges, such as taxes on unproductive property, are to be added to the cost of the property in determining the gain or loss from its subsequent sale, and items such as depreciation and obsolescence previously allowed with respect to the property are to be subtracted from the cost of the property in determining the gain or loss from its subsequent sale."

The pertinent provisions of the regulations referred to above are as follows:

Article 1561, Regulations 65, under the 1924 act:

"In computing the amount of gain or loss, however, the cost or other basis of the property must be increased by the cost of capital improvements and betterments made to the property since the basic date, and by carrying charges, such as taxes on unproductive property * * *."

Article 1561, Regulations 69, under the 1926 act, contains the same provision as above quoted, with the following additional clause:

"Where the taxpayer has elected to deduct carrying charges in computing net income, or used such charges in determining his liability for filing returns of income for prior years, the cost or other basis may not be increased by such items in computing the gain or loss from the subsequent sale of the property."

In article 561 of Regulations 74, under the 1928 act, the provision is identical with that in Regulations 69 until the amendment made August 6, 1931.

The right to capitalize such taxes and other carrying charges or unproductive property has been uniformly allowed under all the revenue acts in the case of farmers and with respect to timberlands. See articles 131 and 251 of Regulations 74.

The justice of allowing the capitalization of such taxes and carrying charges is obvious. A man who pays $20,000 for an unproductive property and carries it for 10 years and sells it for $30,000 has not made a profit of $10,000. He has at least paid carrying charges consisting of local taxes, so that his true net profit

is the difference between his gross profit of $10,000 and the aggregate of taxes paid during the period of ownership.

Section 113. Adjusted basis for determining gain or loss: It is recommended that section 113 (b) (1) (B) be amended by striking out the parenthetical clause "(but not less than the amount allowable)".

As phrased, subparagraph (B) requires that an adjustment should be made for exhaustion, wear and tear, etc., "to the extent allowed (but not less than the amount allowable)". The coupling of the parenthetical phrase "(but not less than the amount allowable)" with the phrase "to the extent allowed", appears to be somewhat inconsistent and at least confusing. In fact it nullifies the latter phrase. The practical effect will be that in determining gain or loss the bureau will in all cases reduce the cost basis of property by the total amount of exhaustion and wear and tear "allowable," whether or not previously allowed or claimed by the taxpayer in prior years.

With the parenthetical phrase omitted, however, this provision will be substantially the same as section 202 (b) of the revenue act of 1924. That section provided as follows:

"In computing the amount of gain or loss under subdivision (a) proper adjustment shall be made for (1) any expenditure properly chargeable to capital account, and (2) any item of loss, exhaustion, wear and tear, obsolescence, amortization, or depreciation previously allowed with respect to such property."

It is urged that the language of the 1924 act be adopted in the 1932 act by limiting the adjustment to such exhaustion, wear and tear, and so forth, as has been previously allowed.

The requirement that there must be a capital adjustment for depreciation which is "allowable," whether or not claimed as a deduction and allowed with respect to prior years, frequently works a hardship on the property owner and results in an alleged net taxable profit in excess of that actually realized. In the practical application of the rule requiring an adjustment for depreciation which is allowable, the bureau estimates the life of a building according to the material and character of its construction, as for example, a 25-year life for a frame building, a 33-year life for a stucco building, a 50-year life for a brick building, resulting in allowable depreciation at the rate of 4 per cent, 3 per cent, and 2 per cent, respectively. It is the practice of the bureau, upon the sale of improved property, to reduce the cost by deducting depreciation at one of the rates mentioned above, entirely irrespective of whether or not the life of the property has been extended through expenditures for repairs. Consequently if, for example, a frame building is sold after a period of 25 years, the entire proceeds of sale are taxed as a profit, whether or not the taxpayer has claimed the benefit of a deduction for depreciation in prior years. When a taxpayer has kept his property in repair and thereby lengthened its life and has not claimed any deduction for depreciation on his returns, it is unfair arbitrarily to reduce his cost basis by a uniform, fixed percentage for alleged depreciation which has not in fact been sustained.

Regulation 33 under the revenue act of 1917 recognized the fact that depreciation is stayed by repairs. Article 159 of regulation 33, relating to the amount of depreciation which is deductible, provided as follows:

"The deduction for depreciation should be the amount of loss occurring during the year to which the return relates, estimated on the cost of the physical property with respect to which such deduction is claimed, which loss results from wear and tear due to the use to which the property is put and which loss has not been made good through expenditures for renewals, replacements, and repairs, deducted under the heading of expense for maintenance and operation."

Under the revenue acts of 1913, 1916, and 1917 depreciation was allowable as a deduction only to the extent that it exceeded the cost of repairs, although the amount expended for repairs was deductible in full. This was a reasonable provision based upon a recognition of what is unquestionably true, namely, that depreciation is stayed by painting and other ordinary repairs.

There are, however, some practical administrative difficulties in following the above method in the audit of returns. But it would be a simple matter to limit capital adjustments to depreciation in an amount "previously allowed." The burden of proof as on all other points would be on the taxpayer to establish to the satisfaction of the commissioner that he had not been allowed depreciation in every year. This he could do by submission of his books of account or his prior years' returns. In the absence of satisfactory proof the commissioner would, as a matter of course, adjust the cost by deducting depreciation for the entire period of ownership.

The amendment would correct what is now an arbitrary procedure in determining gain or loss on the sale of property and would avoid the imposition of a tax on a fictitious basis.

Section 114. Basis for depreciation and depletion: By section 114 the basis for depreciation and depletion in general is the adjusted basis for determining gain or loss from sales as provided by section 113 (b). But such adjusted basis presupposes an adjustment for previous depreciation and depletion. Therefore, for each taxable year the basis for depreciation and depletion would change, necessitating as well the use of a revised expectancy of life and revised rates in the computation of each year's depreciation allowance.

It is accordingly recommended that the following clause be added to subdivision (a) of section 114 and a similar clause to subdivision (b):

", except that such adjusted basis shall be increased by any adjustment for exhaustion, wear and tear, obsolescence, and depletion in respect of any period after the basic date."

Section 503. Transfer for less than adequate and full consideration. Section 506. Gifts made in property. Section 503, among the gift tax provisions, provides that where property is transferred for less than an adequate and full consideration in money or money's worth, the amount by which the value of the property exceeds the value of the consideration shall be deemed a gift. Section 506 provides that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

The situation in the event of a gift by way of contract or option is not provided for by these sections as they now stand. It is recommended that section 503 be amended by the addition of the following sentence:

"Where such property is transferred in pursuance of a prior contract, the value of the property transferred shall be determined as of the time of the execution of the contract, and the value of the consideration shall include the consideration paid for such contract."

Section 506 should correspondingly be amended to read:

"If the gift is made in property, the value thereof at the date of the gift (except as otherwise provided in section 503) shall be considered the amount of the gift."

Section 504. Net gifts: In many cases during the present period taxpayers who are fortunate enough to retain substantial incomes will find it humanly necessary to make provision in excess of $3,000 per adult individual for the support of indigent relatives. It is unfair that they should be subjected both to income tax and gift tax on these benefactions.

It is accordingly recommended that section 504 be amended by adding a subsection (c) reading about as follows:

"(c) Gifts for support and maintenance: Gifts (other than in trust) made by the donor during the calendar year intended and reasonably adapted for the current support and maintenance of dependent individuals related to the donor by blood or marriage shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year."

Section 811. Revaluation of depreciated estates—retroactive: This section properly recognizes an extraordinary situation never within the fair contemplation of the estate tax provisions. But if a proviso that in no case shall the tax be less than 60 per cent of the tax as ordinarily computed is to be inserted, then to subdivision (c) should be added:

"; but in no case shall such basis be less than 60 per centum of the basis computed without reference to this section."

Otherwise, in cases where the shrinkage in value was more than 40 per cent the basis for estate tax purposes would in effect be 60 per cent of the value at the date of death, but the basis for income tax purposes might be much lower.

TITLE IX. ADMINISTRATIVE AND GENERAL PROVISIONS

It is recommended that section 3226 of the Revised Statutes be amended substantially in accordance with the following proposed new section of the revenue bill of 1932:

"(a) Section 3226 of the Revised Statutes, as amended, as reenacted by section 1113 of the revenue act of 1926, is hereby amended to read as follows:

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the

Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress and whether or not paid before or after June 2, 1924. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum (unless) except that such suit or proceeding (is begun within) may be begun after the expiration of six months from the date of filing such claim and before the expiration of two years after the commissioner shall have sent notice to the taxpayer by registered mail of the disallowance of the part of such claim to which such suit or proceeding relates. The commissioner shall within ninety days after any such disallowance (notify the taxpayer thereof by mail) send notice thereof to the taxpayer by registered mail.

"(b) This section shall take effect upon its enactment; and shall apply to all claims for refund or credit with respect to which the Commissioner of Internal Revenue shall have mailed notice of disallowance within two years preceding the date of its enactment, or with respect to which, although disallowed, the commissioner shall not have mailed notice of disallowance at the date of enactment of this act and in such cases a suit or proceeding may be maintained if begun within one year after the enactment of this act."

Section 3226, which provides for highly important rights and limitations, has not been treated by the courts and by the Treasury Department as free from ambiguity. The taxpayers are entitled to a clear statement of the meaning which Congress intended the statute to have.

The first proposed amendment would obviate the effect of the decision in Warner *v.* Walsh (27 Fed. (2d) 952), in which it was held that the provision in respect of payments under protest, first appearing in the revenue act of 1924, did not apply to payments made prior to June 2, 1924, not under protest. As this date has no significance, the proposed amendment would make the provision apply alike to all payments before or after June 2, 1924.

The proposed amendment with respect to the 2-year period of limitation running from notification of disallowance, instead of from disallowance, is designed to avoid the unfortunate effect of the decision of the Supreme Court in United States *v.* Michel (282 U. S. 656), in which the requirement that the commissioner should within 90 days after disallowance notify the taxpayer by mail was held to be purely directory and to afford the taxpayer no rights. Under the existing statute, therefore, the taxpayer has no certain means of knowing whether his claim for refund has been disallowed, and his right to bring suit may be barred even though the commissioner never notified him of the rejection of his claim. Even if he were to make constant inquiry from the Bureau of Internal Revenue, he would have difficulty in securing reliable information. Certainly a taxpayer is entitled to definite and timely information as to the date from which the statute of limitations begins to run on his rights. This proposed amendment has been approved at the last two annual meetings of the American Bar Association.

While the language of the existing statute would seem to indicate that the taxpayer may bring suit at any time within two years after the disallowance of his claim, whether or not the 5-year period following the date of payment shall have expired at the time suit is brought, officials of the Bureau of Internal Revenue have expressed doubt on this point, so that it seems desirable to remove any possibility of the denial of a right to begin suit within the 2-year period in cases where the 5-year period from the date of payment shall have terminated. Moreover, as the statute stands, the commissioner may, after the termination of the 5-year period, refuse to take any action with respect to a claim for refund, thereby making it impossible for the taxpayer to begin suit within two years after the disallowance of his claim. In all fairness the taxpayer should be entitled to begin suit at any time after the expiration of six months from the date of filing his claim and before two years after the commissioner shall have sent notice of the disallowance of his claim.

Although probably not so important as the amendments suggested above, it would be helpful to both the Treasury Department and the taxpayers, and would void unnecessary litigation, if a sentence were added to section 3226 reading about as follows:

"Whenever the Commissioner of Internal Revenue shall notify the taxpayer in writing that a claim for refund theretofore disallowed by the commissioner

has been reopened for further consideration, the period of two years for bringing suit shall be suspended from the date of such notification to the date that the commissioner shall notify the taxpayer by mail of the action taken by him upon reconsideration of such claim."

TITLE IX. ADMINISTRATIVE AND GENERAL PROVISIONS

It is recommended that the jurisdiction of the United States Board of Tax Appeals be extended to embrace actions for the refund of income and estate taxes claimed to have been erroneously collected.

At present actions may be brought in the Court of Claims and in the district courts of the United States for the refund of Federal taxes claimed to have been erroneously collected. Only in the Court of Claims does this procedure afford, however, a tribunal which may be said to have given any special attention to tax problems, and even that court is largely concerned with claims against the United States which have no relation to questions of taxation. The United States Board of Tax Appeals, on the other hand, is a selected body of men who are giving their entire attention to the determination of income and estate taxes which may be owed by taxpayers to the Federal Government.

Under existing law, while the jurisdiction of the Board of Tax Appeals does extending to finding that a refund of taxes may be due the taxpayer, such a finding may be reached only if the Commissioner of Internal Revenue has first made claim that the taxpayer is further indebted to the United States for the year in question. The taxpayer may then appeal the commissioner's determination to the board and make a counterclaim for a refund. Whether or not an issue involving a possible refund may be tried out in the Board of Tax Appeals depends, therefore, on the accident as to whether or not the commissioner has asserted an additional tax for the same year. Quite often a taxpayer must raise the same question involved in more than one year in different tribunals.

The procedure before the Board of Tax Appeals in the case of proceedings based on the rejection by the commissioner of claims for refund filed by taxpayers can, with minor adjustments, be made quite similar to that in the appeals now taken from deficiencies proposed by the commissioner. Probably no additional machinery or personnel would be called for. The progress which the board has made in disposing of the deficiency cases brought before it warrants creation of the enlarged jurisdiction.

In view of the practice of the board in holding hearings at various points in the country wherever the volume of business warrants the sitting of a board member, it is felt that the grant to the board of jurisdiction over proceedings based on rejected claims for refund will make the prosecution of their rights less expensive and more convenient for taxpayers other than those situated near the Court of Claims. With this advantage, plus the demonstrated technical ability of the present personnel of the board, it is believed that legislation furthering such jurisdiction will be in the interest of taxpayers, the members of the bar, and the general public. Incidentally, it will tend to relieve the present congestion in the district courts.

The proposed grant of jurisdiction to the Board of Tax Appeals was approved by the American Bar Association at its annual meeting held in August, 1930, and such approval was reaffirmed at its annual meeting held in September, 1931.

It should perhaps be added, to avoid any possible misunderstanding, that the jurisdiction recommended is concurrent with that of the existing tribunals and relates only to the trial of proceedings brought after rejection of a claim for refund by the Commissioner of Internal Revenue, and not to the review of claims allowed or under consideration by the commissioner. To the latter anomalous extension of jurisdiction, if seriously proposed, this committee would be definitely opposed.

Respectfully submitted.

HUGH SATTERLEE, *Chairman.*	GEORGE E. HOLMES.
STUART CHEVALIER.	LEWIS M. ISAACS.
GEORGE E. CLEARY.	JOSEPH B. LYNCH.
PERCY W. CRANE.	ROSWELL MAGILL.
CHARLES A. CURTIN.	MARTIN SAXE.
RAYMOND B. GOODELL.	GARRARD B. WINSTON.

STATEMENT OF ROBERT E. COULSON, NEW YORK CITY, CHAIRMAN COMMITTEE ON FEDERAL TAXATION, AMERICAN BAR ASSOCIATION

Mr. COULSON. Mr. Chairman and members of the committee, I am appearing as chairman of the Committee on Federal Taxation of the American Bar Association. That is a committee that is appointed annually to make such suggestions to the legislative and administrative authorities in connection with Federal taxation matters as may seem to make for the just and efficient administration of the law, and the members of the committee have examined H. R. 10236 with that in mind.

We have a full appreciation of the heavy burden you gentlemen face in settling upon the objects of taxation and the appropriate rates so as to accomplish the end of balancing the Budget, which seems to be generally recognized as desirable.

Since the burden of taxation under any bill this committee reports out must necessarily be heavy on the taxpayer it is of course of even greater importance that no provisions of the act can be open to any just or sound criticism as being inequitable or unfair in their application. In other words, the heavier the burden the more care should be taken in adjusting the tax straps so that the carrier shall not be unnecessarily chafed.

We want to make suggestions as to just two or three sections of the act from this point of view, confining ourselves to sections which, because they have not affected some industry or some organized group, I think have not been discussed before your committee.

The first items that we would call to your attention are subdivisions (r) and (s) of section 23. That introduces a new principle into our income tax legislation. The principle that losses on securities shall not be taken by a taxpayer as losses unless there are offsetting gains against which they can be applied.

Now our revenue acts were criticised by academic students in the period of 1924 to 1929 because they taxed capital gains. The contention being that as applied to profits on securities we held securities that would otherwise be sold, off the market, and built up that top-heavy security price structure which when it collapsed in 1929 helped to bring on us this present problem with which we are still struggling.

Senator REED. Have you any doubt but what it did help?

Mr. COULSON. I am confident it did, Senator. There was some justification, however, for it. In the first place the Supreme Court held that capital gains could properly be treated as a part of normal income under the Constitution.

In the second place it gave the Federal Government during the golden days of 1924 to 1929 large elements of income that went to reduce our national debt.

The men that paid those taxes on capital gains were not the so-called rich that we hear so much about in this tax discussion. The average man who was slowly and laboriously building up a competence for his family was persuaded in those post-war days to withdraw his money from his local savings bank or from local mortgages, and invest it in securities, and when those securities appreciated those men sold. They paid their tax. They reinvested.

When you say to a man like that that under the act now under consideration when he sells because of necessity these depreciated securities that he bought from 1924 to 1929, he can not deduct the loss unless he has a corresponding gain in security, his answer is that he would not sell his depreciated securities if he had any that showed him a profit.

More than that, the average man faced with that section feels that it is unfair and unjust; that it is a "heads I win, tails you lose" policy.

The CHAIRMAN. That is about what it is, is it not?

Mr. COULSON. And we think in any tax measure where the burden is necessarily heavy, that if any provision is open to such criticism it is bad law. It seems to me that as a matter of practical working you are doing a very dangerous thing if you carry that provision into the act.

In every depression that this country has had the recovery has been symbolized by new development enterprises being built up. What we need to pull us out of this trough we are in is men with ideas as to new enterprises, new industries. They have to go somewhere to get the money. They go to people that have it. They get it from the sale of securities, stocks, and bonds. If you tell the men who furnish this development money that if in the 1 out of 10 chances they win they are taxed at high surtax rates, but in the 9 out of 10 chances where they lose they can not deduct the loss, I think you are driving them to tax-exempt securities. I think you are going far towards drying up development money at its source. I think the ultimate effect on business in this country is going to be extremely prejudicial.

I understand that the justification for the section, in so far as there has been a justification, is that it prevents men who would pay large surtaxes from taking losses. I think this committee could accomplish that far better by extending the wash sale period of 30 days to a year, if necessary. Because if there are real losses they ought to be taken. The men that would take real losses have paid real taxes on real profits during the past period.

Now I do not want to take any more time on this section. I am trying to economize about 30 per cent on this 10-minute allowance. But we do definitely recommend that subdivisions (r), (s), and (t) of section 23 be eliminated from the act.

I only want to speak by reference, and I will pass on and file the suggestions.

We are also urging on the committee that they make the provision in section 322 of the act reciprocal as between the Treasury Department and the taxpayer where proceedings are brought before the Board of Tax Appeals, that if an under-payment is found the Treasury Department can collect it regardless of limitation. If an overpayment is found the Treasury can refund it regardless of limitation. In other words, it is merely an equalization measure.

I also want to very briefly present our recommendation with regard to the earned, subdivision (g) of section 25. We feel that that reduction of the limitation from $30,000 to $12,000 is unfair. The American Bar Association has considered at many of its annual meetings the suggestion as to equalization between the rate of tax on the earned income of the wage earner, the laboring man, the salaried man, the professional man and the man who is using capital in his

business. The man who is using capital has allowances for the depreciation and exhaustion of his fixed plant. You give none, except in this section, to the laboring man, the wage earner, and the professional man. If it is an equalizing section it is hard to justify the reduction of limit from $30,000 to $20,000 when coincident with the reduction in rate on the smaller income through the method of application.

Senator REED. Mr. Coulson, I have argued that until I am hoarse in the last three tax bills, and you can not get Congress to think of these taxpayers as anything else than capitalists. They do not realize that this bears hardest on the professional men and the business executives.

Mr. COULSON. It bears heavily on a lawyer who has worked, for instance, for several years on a case and has not received anything during those years for his work, and then gets his pay in one year for several years' work.

Senator REED. Cass Gilbert got his whole fee for all the work he had done for years in connection with the Woolworth Building, in one year, and he had to pay 65 per cent to the Government.

Mr. COULSON. Yes.

There is one other section I want to refer to. This is the proposed amendment of section 104 of H. R. 10236. In this case the provision is in the existing tax law. Section 104 of this bill and section 104 of the revenue act of 1928. Used to be 220. It is not an income producer. It never has been. It is an attempt to force personal investment companies to declare dividends. It is common talk that within the Treasury Department they doubt its constitutionality. It applies a rate of 50 per cent on the entire earnings of a corporation if it shall be deemed to be created or used to avoid surtaxes. And it applies that rate even though they have declared in dividends three-fourths of their income. There is still 50 per cent of the additional tax applied to the old income.

Now I think that a provision in the revenue act which is a threat and not a revenue producer is bad. I think that instead of the Treasury Department's contention that it makes these corporations declare dividends they otherwise would not declare—I think the result has been to drive personal investment companies into foreign fields. And I think that if in this provision of section 104 you reduce that rate from 50 per cent to 4 or 5 per cent, if you make it apply to undistributed income, the Government's revenue from those personal investment companies will be greater. I think you will stop in part this transfer of investment companies to foreign countries. It is perfectly true you are trying in this act to get that in other ways, but the effectiveness of those provisions has not been tested. And I think that that modification in section 104 would be a revenue producer.

I wish to file a memorandum for the record, Mr. Chairman.

The CHAIRMAN. The memorandum may be printed in the record at this point.

(The memorandum presented by Mr. Coulson is here printed in the record in full, as follows:)

MEMORANDUM BY ROBERT E. COULSON

For a number of years past the president of the American Bar Association has annually designated a committee on Federal taxation to cooperate with the Federal legislative and administrative authorities with a view to bringing to the attention

of such authorities such suggestions as will make for an orderly, efficient, equitable, and prompt administration of our tax laws. The endeavor on the part of this committee and its predecessors has been to confine its suggestions to such administrative matters and to avoid dealing with the more substantial problems as to what subject-matter shall be selected for taxation by the Federal Government and what rates of taxation shall be applied.

This committee has a full realization of the present problem which confronts the Senate Finance Committee in determining the extent to which the subject matters of taxation dealt with in H. R. 10236 are wisely to be taxed and the rates to be applied with a view to meeting the generally recognized need of balancing our Federal Budget.

Since the burden of Federal taxation, in the existing emergency, must of necessity fall heavily upon the American people, it is of vital importance that so far as possible the measure shall leave the hands of the Senate Finance Committee free from any just ground of complaint on the part of taxpayers as to injustice or inequity in the manner of application or administration of such taxes.

The willingness of the American people to carry any necessary burden of Federal taxation can not be doubted. For that reason a maximum effort should be made to enact a law which, though heavy in its burdens, may fairly be claimed to be just and equitable in its application of necessary taxes.

I. SUBDIVISIONS (R), (S), AND (T) OF SECTION 23 OF H. R. 10236, INTRODUCING INTO OUR INCOME TAX LAW AN UNFAIR AND UNSOUND PRINCIPLE, AND ARE OF DOUBTFUL CONSTITUTIONALITY

During the period from 1924 to 1929 frequent criticism was heard from academic students of tax legislation because our income tax law taxed capital gains. It was urged that the taxation of capital gains, even at the reduced rate of 12½ per cent, which came into our income tax legislation with the act of 1921, was a deterrent to the free sale of securities. It was contended that this obstruction to the free sale of such securities created an artificial price level in the security markets by withholding from the markets supplies of securities which would otherwise have been offered for sale. This, it was contended, in large measure produced the top-heavy security price structure of 1928 and 1929, to the collapse of which a part of our present difficulties may fairly be attributed.

The Supreme Court, however, held that as a matter of law the sixteenth amendment did empower Congress to tax capital gains as a part of general income. There remained, therefore, no doubt as to the constitutionality of the provisions of the act which included in income capital gains.

There was, moreover, a justification for the inclusion within the scope of our income tax law of a tax on capital gains as a part of current income. That is, that it gave to our Federal Government large additional tax collections which were needed and which made it possible for us to cut down our national debt so rapidly during the postwar period.

These taxes on capital gains, largely arising from the sale of securities, were not collected solely from the rich. The investing public in this country had broadened greatly during the war period. The average man who had gradually accumulated a small competence for his family was often persuaded to withdraw this from savings banks and mortgages and to invest it in stocks. When these stocks appreciated in value they were sold and after a tax on the profit was paid the proceeds were reinvested in like securities.

From the individual who paid taxes from profits derived from the sale of securities in the years prior to the collapse of 1929 there comes an immediate and vigorous protest the moment he understands that when he now of necessity sells securities which he holds at a loss to meet his present emergencies, that loss, real though it is, will not be deductible under H. R. 10236 in determining his taxable income. When you tell that man that he can deduct the loss if he has corresponding profits during the same year on the sale of securities, his answer to you is that if he had any securities that he could sell at a profit he would not be selling securities at a loss. I doubt whether many of the Representatives who voted for this bill in the House realized how widespread will be the feeling of the injustice of the principle embodied in subdivisions (r) and (s), how free from geographical limitations that feeling of injustice will be, to how great numbers it will extend, and how far down in the economic strata it will go.

Generally speaking, a provision in a tax law which impresses the great bulk of those affected by it as being unjust and unfair in principle, works badly. We are confident that subdivisions (r) and (s) are going to work badly and that in

the long run they will affect the income of the Federal Government adversely to an amount far in excess of the immediate gain which they are intended to accomplish.

When one looks back at past economic depressions in this country, one realizes that one of the great aids to recovery in the past has been the willingness of the American people to engage in the development of new enterprises which give new employment to labor which has been thrown out of employment during the depression. What this country needs to-day are men with the energy to conceive new business enterprises, new industrial developments, and the ability to carry them through. These men, as a rule, are forced to seek capital. Under our existing capitalistic organization of society the money for development enterprises is ordinarily obtained by the sale of stocks and bonds to persons who are willing to take the great speculative risk of developing new industries. If, by injecting into our income tax law a red flag warning money away from development investment, we tend to keep down investment in development enterprises and to drive money into tax-free investment, we are postponing our national recovery from the present depression and ultimately reducing our Federal tax income to an extent far out of proportion to any immediate gain through cutting off taxes lost during the present period.

There is substantial ground to contend that subdivisions (r) and (s) amount in practical effect to taxing gross income arising from the sale of securities rather than the actual "income" contemplated by the language of the sixteenth amendment. It has from the start been the interpretation of the legislative authorities and of the bar that the word "income" as used in the sixteenth amendment meant net income and not gross income. If this be so, the principle embodied in subdivisions (r) and (s) is of doubtful constitutional soundness.

The justification urged for subdivisions (r) and (s) has been that they will prevent the rich from taking losses on wash sales of stocks and so avoid high surtax rates. If the sales are genuine and the losses are real, and if these same men paid taxes on their profits on similar securities during the prosperous years which ended in 1929, it is fair that they should now deduct their losses. If their losses are not real but fictitious, the Treasury Department has ample machinery and authority in the law to disallow such losses. Certainly this special situation is not one to be cured by introducing into the act a wrong and unjust principle which will create in the minds of millions of our citizens who are not rich the feeling that the Federal Government is dealing with them unfairly and unsoundly, and which gives promise of drying up at its very source money which ought to be used for the development of new enterprises in this country.

The tax leak that is complained of through the sale of securities which are repurchased after the lapse of 30 days can largely be cured by extending the 30-day period fixed by section 118 of H. R. 10236 to a period of one year. If this were done, losses would only be taken upon genuine sales of the stocks in question and the Treasury Department has under the act ample power to deal with pretended sales which are not real sales, especially under a revenue act which embodies gift tax provisions.

We therefore urge upon this committee that subdivisions (r), (s), and (t) of section 23 be eliminated from the act and the reference to these subdivisions in subdivisions (e) and (f) of section 23 be likewise eliminated from the act.

II. SUGGESTED AMENDMENT IN THE LANGUAGE OF SECTION 322, H. R. 10236

When the Commissioner of Internal Revenue determines that a tax is due in excess of that shown by the return, the taxpayer is permitted to file his petition with the United States Board of Tax Appeals. In the proceedings before the board it may develop either that there is a greater additional tax (deficiency) due than the commissioner has asserted, or that, instead of any additional tax, the tax has been overpaid. Under section 272 (e) of H. R. 10236, the commissioner may assert a claim for the greater deficiency shown before the board and collect it apparently without regard to any statute of limitations. This right, however, is not a reciprocal right so far as the taxpayer is concerned. If the proceedings before the board show that the tax was already overpaid, the excess payment can be refunded to the taxpayer only if a claim for refund or the petition was filed within two years after the tax was paid (sec. 322 (d), H. R. 10236). As a matter of common fairness, if the liability for increased taxes remains open, so should the right to refunds.

This committee therefore recommends that section 322 (d) of H. R. 10236 be amended by striking out the last sentence thereof and otherwise modifying it to read as follows:

"(d) *Overpayment found by board.*—If the board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the commissioner determined the deficiency, the board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the board has become final, be credited or refunded to the taxpayer, and a suit or proceeding for such amount in the Court of Claims of district court shall lie on behalf of the taxpayer if brought within a period of two years after such decision becomes final, notwithstanding other statutory limitation."

III. SUBDIVISION (G) OF SECTION 25

As a further matter of comment this committee would like to enter protest against the provision of section 25, subdivision (g) of H. R. 10236, which reduces the deductions allowed for earned income, both by change in the rate of deduction and by reduction of the limitation on the earned income deduction from $30,000 to $12,000. The American Bar Association has on several occasions gone on record as in favor of the principle of allowing to the individual earner a deduction which would correspond to the deductions allowed business enterprises for depreciation and for exhaustion of their productive plants. The wage earner, the salaried employee and the professional man suffer a "plant exhaustion" which is just as real as that of the business enterprise. If it be just that an analogous deduction should be allowed, then it is unfair to reduce the maximum limitation from $30,000 to $12,000, especially in view of the fact that the credit itself has been reduced from 25 per cent of the tax to a deduction of 12½ per cent of the total income.

The American Bar Association has at several of its annual meetings definitely taken the position that there should be a credit on earned income in order to adjust the inequalities which exist under the tax law between those who derive their income from the utilization of capital and those whose income is obtained solely through their personal efforts and services.

IV. PROPOSED AMENDMENT OF SECTION 104 OF H. R. 10236

We desire to call to the attention of this committee another section of the bill before it which is open to objection. In this case, however, the provision is in the existing tax law. We refer to section 104 of this bill, and section 102 of the revenue act of 1928.

This section purports to impose a tax of 50 per cent, in addition to the ordinary tax upon a corporation, upon the income of a corporation which is created or organized or availed of to prevent the imposition of surtaxes on its stockholders by an unreasonable accumulation of surplus. This provision in substantially its present form has been in our revenue legislation since the 1924 act.

The Treasury Department has, upon former revisions of the revenue act, urged the retention of this section on the ground, apparently, that the existence of the provision in the act causes personal investment corporations to make dividend distributions which they would not otherwise make. It is common talk that a serious question has been raised within the Treasury Department itself as to whether this section 104 is constitutional. The 50 per cent rate fixed by the section upon the entire income, without any allowance for amounts already distributed from income by such a corporation, clearly partakes of the character of a penalty rather than a revenue-producing tax.

We suggest to this committee that it is unsound fiscal draftsmanship to include in a revenue measure any provision which, while purporting to be revenue producing, is retained for its threat value. We think section 104 ought to be made revenue producing and we believe that this could be done by cutting down the rate of additional tax fixed from 50 per cent to, say, 4 or 5 per cent, and by having such additional tax apply only to undistributed net earnings of the current year.

Unquestionably a considerable part of the use by the wealthy of foreign companies to hold securities has been due to the presence of section 104 in the act. It is true that H. R. 10236 attempts to deal with the avoidance of income taxes through the use of foreign companies. However, the effectiveness of these clauses is still to be decided. In a tax measure in which is included estate taxes at a high rate, the basic objection to the accumulation of surplus by personal investment corporations is largely reduced. A modification such as is here proposed in section 104 seems to this committee likely in the long run to increase

substantially Federal taxation revenues as compared with the unenforced and possibly unenforceable provisions in section 104 in its present form.

Respectfully submitted.

ROBERT E. COULSON, *Chairman*,
LOUIS A. LECHER,
HARRY C. WEEKS,
RICHARD S. DOYLE,
HARRY KUTSCHER,
PERCY W. PHILLIPS,
HERBERT POPE,
Committee on Federal Taxation, American Bar Association.

LETTER OF J. R. M'CARL, COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, *April 21, 1932.*

HON. REED SMOOT,
Chairman Committee on Finance, United States Senate

DEAR MR. CHAIRMAN: In view of the need for economy in administration it appears the duty of this office to point out that the enactment of section 1103 of H. R. 10236, authorizing the Secretary of the Treasury to designate agents in charge of divisions of internal revenue agents to act as special disbursing agents for payment of salaries and expenses of such divisions, will, to the extent it is employed by the Secretary, cause increased and apparently unnecessary cost of administration.

Section 3144, Revised Statutes, requires collectors of internal revenue to act as disbursing agents of the Treasury for the payment of all expenses of collection of taxes and other expenditures for the internal revenue service within their respective districts.

Notwithstanding that revenue agents in charge are in almost all cases located in the same city and in many instances in the same building with a collector of internal revenue there has developed the unauthorized practice in the Treasury Department of designating revenue agents in charge as disbursing officers for the payment of salaries and expenses of their respective divisions. This condition has given rise to the rendition of approximately 37 accounts involving the payment of salaries and expenses of employees in the same department by two disbursing agents who, in many cases, are located in the same building, and was challenged by this office as unlawful. Section 1103 as proposed in H. R. 10236 is to give legal effect to an unnecessary as well as a more expensive disbursing procedure than the one provided for under section 3144, Revised Statutes.

Since the principal office of an internal revenue agent in charge is within the confines of some collection district in which a collector of internal revenue has an organized disbursing unit, it would give a more economical and efficient disbursing system to have all expenses of the collection of taxes including expenses of divisions of internal revenue agents paid by the collector of each respective district, as required by law, than to maintain two disbursing offices within the same service as would be required under section 1103, as proposed. The consolidation of the disbursing duties of each collection district under the collector therein as now provided for in section 3144, Revised Statutes, would without any additional expense to the Government enable internal revenue agents to devote their entire time to administrative matters relating to investigations and audit of tax returns. It would reduce the number of accounts rendered to the Federal accounting agency and thereby result in a saving of time required for recording, posting and settling monthly accounts of approximately 37 internal revenue agents with a similar saving in the Treasury Department in the preparation of Treasury statements and posting the accounts under separate symbols.

By following the law, section 3144, Revised Statutes, other indirect economies would be effected in that the internal revenue agents would not have a divided responsibility— their administrative responsibilities should not be subordinated to their bonded and personal responsibilities to account for funds advanced for disbursement of vice versa. They should not be permitted to neglect their principal duties to care for accounting matters that may not be less exacting.

For the reasons stated it is recommended that section 1103, proposed in H. R. 10236, page 284, after line 3, be stricken from the bill.

Sincerely,

J. R. MCCARL,
Comptroller General of the United States.

DEPRECIATED CURRENCY

STATEMENT OF M. J. FLYNN, REPRESENTING AMERICAN WAGE EARNERS' PROTECTIVE CONFERENCE

Mr. FLYNN. Mr. Chairman, and members of the committee, on behalf of America's Wage Earners Protective Conference, composed exclusively of international unions, affiliated with the American Federation of Labor, sometimes referred to as the Tariff Group of the American Federation of Labor, we wish to lay before you some facts that are of tremendous importance to the industrial workers of America in so far as they relate to employment opportunities and tax legislation.

I need not dwell at this time on the deplorable conditions existing among American industrial workers. With 8,000,000 or more totally unemployed and with two or three million additional working part time, which means anything from one-half a day to three days per week, it should be conceded that a national emergency exists.

We wish to direct your attention especially to a condition now existing which has a far-reaching effect on the revenues or taxes collected and also a serious effect on the employment opportunities of American workers.

Prior to some six months ago all of the leading nations of the world were on the gold standard. In other words, their currency had a standard world-wide value. To-day, and for some months past, this condition does not prevail. The Treasury of the United States is deliberately losing many millions of dollars due to the depreciated value of the currency of those foreign nations from which we import commodities or goods.

Labor is interested in import values, especially in the quantity of imports. From quantity we can measure employment opportunity in a way understandable by the average industrial worker. When we say, that as a result of our Treasury Department continuing to collect customs duties on the basis of present-day value of depreciated foreign currencies, we are losing millions of dollars each year, we make no idle statement. We have taken the imports from England for the month of December as an illustration upon which to base our statement.

The imports from England for the month of December, 1931, on at least the five commodities I have referred to, entered our customhouses on the payment of some $250,000 less than the same quantity of the same goods were permitted to enter the custom house in December, 1930. This means that in a 12-month period, with conditions as they were in December, and, as they are substantially to-day, the Treasury of the United States would actually collect some $3,000,000 less than was the intent of Congress when the present tariff act was passed.

Senator REED. On those five commodities alone?

Mr. FLYNN. I have taken only five commodities.

England is one of 11 foreign countries, the currencies of which are badly depreciated as a result of those countries' going off the gold standard.

In passing, let me say at this time that we do not seek to have America go off the gold standard and that we are heartily in favor of balancing the Budget.

However, we do not believe that the industrial workers of America should be denied employment opportunity through legislative and executive action on the part of representatives of foreign countries. We are not seeking any embargo. We are not seeking at this time any change in tariff rates. We do believe that this committee should recommend, in the pending revenue measure, that the intent of Congress, as laid down in existing law, should be enforced, and that customs duties imposed on the products of foreign workers should be collected on the basis of the normal value of the currencies of the countries from which these imports come.

As an illustration, we believe that the English pound for dutiable purposes should be valued at $4.86 per pound. That when any commodity is entered at the customhouse the Secretary of the Treasury should be instructed to collect customs duties on the basis of such value. That, temporarily, while this emergency exists, the Secretary of the Treasury should add to the declared import value the percentage of depreciation in foreign currency prevailing and that these duties should be placed in the Treasury of the United States where Congress intended it should be.

We have not had the opportunity of making a similar analysis of other commodities which compete in the American market with the products of American labor, but we do unhesitatingly believe that this figure of $3,000,000 can be multiplied many times.

Mr. Chairman, this is not new taxation. It does not place additional taxes on any American producer or any American consumer. It simply means that the American purchaser of the products of foreign labor shall pay into the Treasury of the United States that tax or duty levied by Congress in existing law.

Mr. Chairman, the industrial workers are vitally interested in this matter because it means the difference between idleness and employment opportunity to them. There are many commodities being distributed throughout the United States to-day, the product of foreign workers, due in great part to the depreciation of foreign currencies.

We have not drafted any language for presentation at this time, preferring to let the experts of your committee draft the language in the manner you deem most advisable. We say to you, without hesitancy, that the correction of this condition will, to our minds, materially help many thousands of American workers find employment opportunity which does not to-day exist.

We know from positive knowledge that there are industrial plants in this country at the present time either sht down or working part time, due to the fact that the employers realize that they can not sell the products of the American workers, in the American markets, in competition with many of the products of foreign workers, which are being landed on the declaration of value and payment of customs duties in depreciated foreign currencies.

Mr. Chairman, I find this, that France, on August 1, 1931; Germany, on January 19, 1932; and Spain, on September 11, 1931, all of them by executive decree, added a customs surtax to the goods coming from countries having depreciated currencies.

Senator REED. Did not Canada do something of the same sort?

Mr. FLYNN. I think it did, but I just use these three as illustrations.

We wish to add to our request that the excise tax now carried in the bill on the imports of foreign-produced oils and coal remain in the bill. In fact, we believe that this committee, in view of the conditions now existing, should substantially increase the excise taxes levied. The Tariff Commission, after a thorough investigation, found that there was a difference in the cost of production of South American, as compared with domestic oils, of $1.03 per 42-gallon barrel. The excise tax carried in this bill levies only 1 cent. We believe that you should at least make it 2½ cents, which will then only equalize the difference in cost of production, as found by the Tariff Commission.

In so far as coal is concerned, I need not dwell on the deplorable conditions existing in the mine fields of America. We have the coal—we have the equipment—we have the miners. Thousands upon thousands of miners are unable to secure work while the consumer, who previously used the product of American labor, is using the product of what is virtually forced or slave labor of Russia and the Orient.

Our attention was recently called to a contract made with a prominent Atlantic seaboard conern wherein they contracted to distribute in New England some 400,000 tons of anthracite coal from far-off Indo China.

Mr. Chairman, such conditions need immediate attention and we believe that an excise tax of not less than $2 a ton should be levied to protect the employment opportunity of the American Mine Workers.

There is one other item we wish to suggest for your consideration. Some years ago a vast number of substantial citizens and legislators were led to believe that food and liquid consumption could be regulated or controlled by legislative enactment.

After some 12 years of bitter experience most of those who are at all tolerant now fully realize that they were wrong. The average present-day speakeasy is admitted to be far more dangerous to the community than ever was the saloon. There is every reason to believe that there is as much, if not more, intoxicating liquor consumed today than there was when the Volstead Act became the law.

American labor believes in and, as a whole, practices temperance and tolerance to a greater degree than most of those who are referred to as prohibitionists.

We ask that your committee favorably consider the raising of some 500 or 600 millions of dollars each year in taxes by legalizing the manufacture and sale of 2.75 per cent beer, which we believe is non-intoxicating in fact.

Such action on the part of Congress would promote real temperance, would provide the revenues we have indicated, would provide almost immediate employment for 500,000 building tradesmen, permanent employment for 100,000 brewery workmen, employment for hundreds of thousands of workers in other trades would provide a profitable American market for the product of thousands of American farmers.

Mr. Chairman, we have been asked by some members of the Senate as to our attitude on an excise tax on imports of copper. We take a position on that subject similar to our position with respect to other commodities. We are interested in employment opportunities.

We do not believe the copper miners of America should be reduced to the living and working standards existing in Africa.

STATEMENT OF WILLIAM D. WELSH, PORT ANGELES, WASH., PAST COMMANDER OF THE AMERICAN LEGION, DEPARTMENT OF WASHINGTON

Mr. WELSH. Mr. Chairman and gentlemen, my name is William D. Welsh, Port Angeles, Wash. I will take up the complete time. Mr. Reno Odlin, of Seattle, also past commander of the American Legion, Department of Washington, will not speak at this time.

Gentlemen, I want to say briefly that the American Legion is here in its own interests and in the interest of the workingmen of the State of Washington, and not appearing for any group or for any industry as an industry.

I want to say at this time we are not here asking any bonus; we are not here asking any dole, we are not here asking any pensions. We are here in the interests of the 125,000 to 150,000 unemployed men in the State of Washington.

The reason for our appearance here should be apparent to you. Through the national organization of the American Legion there was set up in the State of Washington and every other State in the Union an unemployment commission with which we worked with the American Federation of Labor. I was appointed the legislative chairman of the State of Washington. At my own time and my own expense I am back here to acquaint you gentlemen with the serious unemployment situation in the State of Washington.

Now through the authority of our national commander we set up such an organization, and when we went about our "man-a-block" campaign we learned that that was a superficial action, a superficial movement. We could set a man to work this morning fixing a trellis or repairing a sewer or painting a building, and then he is out of work tomorrow.

So the State of Washington American Legion and other legion departments on the Pacific coast went about this thing I think intelligently when they went to the root of the evil and found out that the reason for the unemployment was in the fact that our Pacific coast industries were operating on a basis of about 23 per cent.

Now, we as citizens of the State of Washington, as Mr. Ingram told you before, find it rather difficult to justify the tranquility and the patience of the American workman out there when he sits alongside of the railroad track at Everett and watches two trainloads of Canadian shingles go by. As a matter of fact it is a wonder you do not have a repetition of the Boston tea party out on the Pacific coast.

Senator GORE. Would you favor a prohibitive tariff on those things?

Mr. WELSH. Not necessarily, sir.

Senator GORE. Well, I know. If they come in they are just as irritating to the man that sees them go by.

Mr. WELSH. Yes.

Senator SHORTRIDGE. Would you seek to reduce the amount coming in?

Mr. WELSH. Yes; you bet I would.

Senator GORE. Reduce irritation that way.

Senator SHORTRIDGE. Well, I would.

Mr. WELSH. I am only going to speak briefly and then I am going to file this brief if it is permissible.

The CHAIRMAN. You can file that brief or any other one that you want.

Senator SHORTRIDGE. Give the high points.

The CHAIRMAN. I want to say that before this bill is gotten up we will have all of that record here to refer to upon any question that is in the bill.

Mr. WELSH. Thank you, sir.

There is one particular point of unemployment that so ties up the farmer and so ties up the settler and the tax-paying groups of Washington that I would like to take just a minute to describe it.

Now gentlemen, the history of Washington, and western Washington farming in particular, has been linked up with the advance of the logger since the early days of Pacific Northwest history. Blasting powder and the plow have followed the woodman's saw and ax from the very shore line of Puget Sound. Pioneer farmers sowed their grain and forage crops between the great high cedar and fir stumps remaining after the early method of tree cutting and logging. In the wintertime the stumps or second-growth timber were cut into fuel, shingle bolts and shakes, sale of which gave to the "stump rancher" winter money with which to pay his taxes, buy groceries and additional supplies during the time he was "whittling a farm and home" from the forest of stumps, virgin timber, or second growth. The advent of the pulp and paper industry to the Pacific coast added millions to the income of the small farmer. The softer woods, such as hemlock and spruce, heretofore despised by mill and tax assessor alike, became marketable and profitable through sale to pulp and paper mills, and hundreds of small farms prospered through this auxiliary support. Winter months were spent almost entirely in cutting pulpwood, shingle bolts or shingle shakes, as milking and other chores could be cared for in a few hours of each day. In many western Washington districts it was a common sight to see farmers drive into tidewater towns with a load of pulpwood for the pulp and paper mills, cream or milk cans for the cooperative creameries, and a hog for sale to the town butcher. That may seem amusing to a big wheat farmer with a thousand or twelve hundred acres, but it is the way the West has been built, gentlemen.

Besides the farmer being an auxiliary pulpwood cutter, hundreds of families established themselves in the softer wood belts of western Washington and found lucrative employment cutting pulpwood by contract during the winter months.

Now, gentlemen, all of this has been taken away, for lack of adequate protection. And I do not know just how the western Washington farmer, or the one we call a "stump" farmer, is even going to pay his taxes this winter, much less subsist, without this auxiliary support.

Senator SHORTRIDGE. I think I would file the rest of it.

Mr. WELSH. All right, sir.

Senator SHORTRIDGE. Because we must go over to the Senate at 11 o'clock.

Mr. WELSH. I want to say just one word, sir, if you will permit me, in closing. The American Legion knows that the foreign producer with his 70-cent dollar is "selling American labor and American

industry down the river." I want to repeat that we are not here asking for a dole, we are not here asking for a pension. We are asking for work for 110,000 workmen.

Senator GORE. Do you mean by that that you do not favor the bonus, or that you are not expressing an opinion one way or the other?

Mr. WELSH. I say we are not here asking for a bonus or a dole.

Senator GORE. Are you favoring the present bonus bill?

Mr. WELSH. That is not a question here, Senator, is it?

Senator GORE. No. But you were disclaiming it.

Senator SHORTRIDGE. Well he is here immediately for the purpose stated, Senator—protection and an appropriate tariff on these articles coming from British Columbia.

Mr. WELSH. Is my time up?

The CHAIRMAN. Yes.

Mr. WELSH. I will file this statement with the committee.

The CHAIRMAN. It may be placed in the record at this point.

(The statement presented by Mr. Welsh is here printed in the record in full, as follows:)

PACIFIC COAST AMERICAN LEGION BRIEF IN SUPPORT OF LEGISLATION DESIGNED TO PLACE AMERICAN INDUSTRY ON A PARITY WITH INDUSTRY OF OTHER NATIONS AND TO PREVENT A FURTHER DECLINE IN UNEMPLOYMENT IN THE PACIFIC COAST STATES

(Prepared by William D. Welsh, American Legion Employment Commission, from Washington, and past commander of Washington department)

REASON FOR AMERICAN LEGION PARTICIPATION

1. Participation of the Pacific Coast American Legion departments in support of this type of revenue legislation is unique in Legion annals. Brought about through the national employment drive now in progress and after intelligent and searching inquiry into causes for the serious condition of unemployment in Pacific Coast States, it is, therefore, solely patriotic and economic in character and motive—serving no special interest except the unemployed American citizen. It is an action inspired by a desire of American legionnaires of the world's greatest peace-time army to place men back to work through channels of proper legislation, and by the same legislation prevent further unemployment such as threatens this Nation through the dumping on the American markets of foreign-made goods in increased amounts due to the absence of adequate tariff. This condition has been taking thousands of men from the great sources of labor in Pacific Coast States and placing them in the growing ranks of the unemployed

2. American Legion employment groups of the Pacific coast set up and functioning under direct orders from National Commander Stevens met with a fair response to their man-a-block campaign, but early realized that in certain circles where the greater number of men were normally employed that employment had reached its lowest ebb since before the World War and threatened to seek still lower levels. Upon further investigation the American Legion learned that this impending danger threatened because of the fact that a number of producing nations militantly competitive with the Pacific Coast States and other States in supplying necessities of the United States markets under normal conditions which now enjoy further economic benefits over the United States due to an artificial condition brought about by 30 countries going off the gold standard.

3. In the area for which this brief is presented the major industries comprise timber and forest products, fisheries and allied products, dairying with its subdivisions of milk products, butter and cheese, farming in the broadest sense, and pulp and paper products. The American Legion, Department of Washington, presents to the Congress of the United States its request for consideration upon the broad, general ground of employment, or to be more exact, lack of employment as the latter now prevails within the boundaries of our State. To illustrate how severe and widespread is the distress occasioned by unemployment, we cite the following comparative pay roll of statistics of several industries (figures cited are from the Department of Labor and Industries, State of Washington) and show that the logging pay roll of Washington State declined from $51,034,919 for

9,045,432 man-day's work in 1923 to $11,757,677 for 2,572,194 man-days' work for the first 10 months of 1931. Sawmill and shingle pay rolls of Washington State declined from $57,047,997 for 8,480,400 man-days' work for 1920 to $16,259,978 for 4,056,680 man-days' work in the first 10 months in 1931.

It is also vital to show that the consolidated total of Washington farm values for all crops dropped from $143,345,000 in 1929 to $76,000,000 in 1931. The American pulp and paper industry, in which $84,000,000 is invested in Washington alone, employing thousands of men and using hemlock and otherwise commercially valueless wood, is faced with a complete shutdown. Pulp importations from abroad and dumping by foreign manufacturers has increased by such leaps and bounds that the entire paper industry of the Northwest is in imminent danger of being wiped out.

4. We respectfully point out how normally 150,000 men, residents of the Pacific Northwest, are employed in the lumber, shingle, and pulp mills, whereas at the present time but 35,000 are thus employed, which number are working on greatly reduced wages and face the prospect of a general shutdown.

5. The history of western Washington farming has been linked with the advance of the logger since the early days of Pacific Northwest history. Blasting powder and the plow have followed the woodman's saw and ax from the very shore line of Puget Sound. Pioneer farmers sowed their grain and forage crops between the great high cedar and fir stumps remaining after the early methods of tree-cutting and logging. In the wintertime the stumps or second-growth timber were cut into fuel, shingle bolts, and shakes, sale of which gave to the "stump rancher" winter money with which to pay his taxes, buy groceries and additional supplies during the time he was "whittling a farm and home" from the forest of stumps, virgin timber, or second growth. The advent of the pulp and paper industry to the Pacific coast added millions to the income of the small farmer. The softer woods, such as hemlock and spruce, heretofore despised by mill and tax assessor alike, became marketable and profitable through sale to pulp and paper mills, and hundreds of small farms prospered through this auxiliary support. Winter months were spent almost entirely in cutting pulpwood, shingle bolts, or shingle shakes, as milking and other chores could be cared for in a few hours of each day. In many western Washington districts it was a common sight to see farmers drive into tidewater towns with a load of pulpwood for the pulp and paper mills, cream or milk cans for the cooperative creameries and a hog for sale to the town butcher. A more ideal combination of farm pioneering and farm financing could not be devised.

Besides the farmer being an auxiliary pulpwood cutter, hundreds of families established themselves in the softer woods belts of western Washington and found lucrative employment cutting pulpwood by contract.

Within the past several months practically all semblance of these two types of pulpwood producers have disappeared, due in the main to severely curtailed operation of tidewater pulp and paper mills which suffer from tremendous foreign imports. So it may readily be seen that besides pay-roll figures available through association and Government statistics, hundreds of farmers have been thrown out of winter employment and will have serious difficulty this winter in raising sufficient funds for their subsistence and tax payments.

Curtailed timber products manufacturing operations have taken heavy toll on operation and pay rolls of other activities of a dependent nature, not only in Washington State, but up and down the Pacific waterways:

(*a*) Numerous vessels plying in pulp, paper, lumber, shingle, ore, etc., are laid up, with crews paid off.

(*b*) Numerous oil tankers, heretofore active in coastal waters transporting fuel and lubricating oil to manufacturing plants, are anchored in oil ports, crewless, for lack of business.

(*c*) Heretofore profitable Pacific coast pay roll of stevedores, longshoremen, and other dock workers has been reduced to a minimum.

(*d*) Actual 70 per cent curtailment in pay rolls at limerock quarries. (Limerock is used with sulphur from Texas Gulf to produce sulphuric acid necessary as pulp-cooking agency.)

(*e*) Tugboat and scow crews previously engaged in hauling spruce and hemlock logs, chips, cedar bolts, limerock, hog fuel, and raw and manufactured products of timberland, are numbered heavily in ranks of unemployed.

(*f*) Curtailment of rail movements, not only on main lines of transcontinental railroads, but on contributing branch lines and logging railroads.

(*g*) Pacific Coast Indians, whose timberlands have found ready sale to pulp, paper, and saw mills, find themselves under present circumstances, without income enjoyed previously.

6. Justification for the American Legion's stand may be seen in the employment figures already cited in the major employment divisions of Washington State alone. With lumber mills operating at only 23 per cent of capacity, with shingle mills practically extinct due to the great flow of Canadian product, with pulp and paper mills and logging camps sharply reduced in operation due to foreign competition, and with fishery activities curtailed materially for the season, the number of men out of employment of these several groups alone in the State of Washington is conservatively set at 110,000, and while this condition exists and has its effect reflected in reduced use of farm commodities, we have the picture of Swedish butter, Japanese salmon, Canadian shingles, and lumber and pulp from many foreign countries entering the United States practically duty free. Unemployment in the State of Washington has reached such a stage that thousands of families are suffering. Official figures of the county indigent by the superintendent of Grays Harbor County as of April 1, 1932, show that county alone is caring for the bread-and-butter needs of 2,000 families in which there are 10,000 dependents and besides these families being cared for at public expense another 500 families are being cared for by public subscriptions of business, professional and industrial men. The city of Everett has a list of unemployed numbering 5,000, of which 4,750 families are being cared for by the associated charities of the city. Port Angeles, a paper mill and sawmill city of 10,000 population, and 741 unemployed men listed at the city employment office on April 10, 1932. The following towns of an average population of 500 are known as 1-sawmill towns and in them mills have not turned a wheel for more than a year: Selleck, National, Bucoda, McKenna, Lyman, Clear Lake, Dryad, Pe Ell, Wallville, South Bend, Morton, Salkum, and others. These figures and conditions are recent and accurate and may be verified by telegraphic inquiry. Many unemployed have lived up to or are living up to their meager resources. Thousands are being cared for from county indigent funds, State emergency employment associations and continued sacrifices of their neighbors. The American Red Cross recently approved a shipment of 500,000 pounds of free flour for use among the needy of Grays Harbor County alone.

7. Thinking legionnaires, personally acquainted with these conditions, marvel at the tranquillity, patience and patriotism of the unemployed men and their families—and in the interest of their employment, in the interest of Americanism—went about a method of supporting legislation favorable to the interests of the American laborer.

8. The American Legion has learned that the foreign producer with his 70-cent dollar is "selling American labor and American industry down the river," whirling the lash of American living and manufacturing standards and a low-duty border line. Thousands of Pacific Coast State citizens who rushed to America's defense against invasion in 1917 and who are now unemployed or face unemployment through further threats of this foreign commercial invasion pin their hopes on the present Congress—and unless legislation combating the foreign imports condition is adopted these men and their families must continue looking to county tax relief funds or to sacrificing neighbors for their subsistence. These workmen of the Pacific Coast States ask no dole, no pension, no loans, no advances. They ask nothing except revenue legislation which will permit them to labor at the going wage in the manufacture of such commodities as the United States needs in her daily life. They ask, gentlemen of Congress, the opportunity to earn with their hands that for which men have knelt and prayed since time immemorial: "Give us this day our daily bread."

The CHAIRMAN. The committee will stand adjourned until 1 o'clock this afternoon.

(Thereupon, at 10.55 a. m. an adjournment was taken until 1 o'clock p. m. the same day, Wednesday, April 20, 1932.)

STATEMENT OF F. H. RANSOM, PORTLAND, OREG.

Senator CONNALLY. Is this on lumber, Mr. Chairman?

The CHAIRMAN. Yes. He was not here this morning.

Mr. RANSOM. Mr. Chairman, I am interested in the fir lumber manufacture in Portland, Oreg. I am representing a committee of our citizens who are endeavoring to avoid having our city and our county go onto a dole system.

Over 60 per cent of the return in industry in the Northwest is from the lumber business. I have heard a good deal about the desire to protect American interests financially in Canada, but little about the protection to labor in our own country.

At the present time we have scarcely more than 20 per cent of the men employed in the entire industry, and most of those on short hours and short weeks.

It is customary among lumber people to say that it takes one day's labor for every thousand feet of lumber produced, in the mill, and also a day's labor in the woods. So it is obvious that when our own markets are disturbed and lumber is shipped in to our markets that we have enjoyed, why, that much labor is necessarily out of work.

The business with which I have been connected for a great many years has had Australia as one of its customers. We specialized in furnishing material to Australia. That trade has been completely lost to us.

Senator SHORTRIDGE. Why?

Mr. RANSOM. Senator, it is lost to us because Canada, one of the Dominions of Great Britain, has a preferential duty equal to 1 pound sterling on its commodities, as against us. And the ships that carry material to Australia are paid in a depreciated currency.

I have no brief, gentlemen. I merely wish to submit a letter that was written the other day. It is probably such a letter as a lumberman might write. It hasn't any legal phraseology. I would like to read it here.

The CHAIRMAN. It will be printed in connection with your remarks.

(The letter referred to by the witness is here printed in the record in full, as follows:)

WASHINGTON, D. C., *April 14, 1932.*

Hon. W. E. BORAH,
United States Senate, Washington, D. C.

DEAR SENATOR BORAH: In response to your request for some facts upon which we base the necessity of improving conditions in the lumber industry to avert disaster, we are pleased to submit the following:

We are confronted with a loss of trade, not only in the domestic, but in the foreign markets as well, largely on account of Canadian competition. At the present time, Canada is exporting the majority of its lumber into the United States. Adverse tariffs have practically destroyed our business with Great Britain and her dominions. Australia permits Canadian lumber to enter at £1 per thousand board feet less than from the United States. Great Britain, herself, allows Canadian lumber to enter without duty, while American lumber is paying at the present time a duty of approximately 10 per cent of the value at port of delivery.

In addition to the foregoing differentials, the depreciation of exchange gives the Canadian manufacturer a further advantage of about 10 per cent. These advantages to the Canadian mills, in marketing the better part of the log, leaves the residue to be dumped into the United States at prices with which we are unable to compete, therefore compelling us to leave a large percentage of our felled timber on the ground, never to be recovered.

It is customary, among lumbermen, to estimate that one day's labor is required for every thousand feet board measure of logs produced, and another day's labor for every thousand feet board measure of lumber manufactured in the sawmill.

We also figure that for every 10 cars of lumber produced, a car of supplies, such as materials and foodstuffs, has to be purchased.

The normal number of men employed directly in the lumber operations in the Northwest has been estimated at 150,000. At the present time, with aggregate operations at not more than 20 per cent of normal, it must be obvious that the number unemployed constitute very serious and menacing distress. It is generally understood that over 60 per cent of the income of the Northwest is

dependent directly on the lumber business, so that every other line of business is naturally affected.

It is for the foregoing reason that we are urging some immediate relief, not with the expectancy of any profitable return on our investments, but that the very serious unemployment lumber situation may be tided over until a better condition, generally, the world over, enables us to carry on our own affairs with the hope of some future profit.

Hoping that the foregoing may enable you to give us your much needed consideration and support, we are,

Yours respectfully,

F. H. RANSOM.
M. C. WOODWARD.
HOMER BUNKER.

Mr. RANSOM. And I also want to read—in order to show that our friends will not be surprised—I want to read a short extract that appeared in a London paper under a Vancouver date line, Vancouver, British Columbia, It reads:

VANCOUVER, *February 10.*

A more confident undertone is distinctly noticeable in the British Columbia lumber industry since the opening of the year. There is more finality to inquiries and a firmer trend in prices. A survey of the present situation reveals production barely keeping pace with demands and stocks in the mill yards,—both factors indicating the increasing strength manufacturers are assuming in a market the buyer has for many months so mercilessly dominated.

The main factor for trade revival is, of course, the shortage of stocks of British Columbia wood in practically every one of its principal markets at home and abroad.

I only hope that something can be done. Not that we, as lumber manufacturers, expect to get, for years, on a prosperous basis. My company has lost money for the last two years. Our company is somewhat typical of that of the fir industry of the Northwest. We made money for 30 years. I have been through several depressions in the lumber business, but there has been none so bad as this one.

Our thought is—no one knows what might happen in our communities—our thought is to have a condition that might mean that this Government of ours might be called upon to put us on a dole system. If we can get our men at work the dole system would not be necessary.

The CHAIRMAN. Is that all?

Senator SHORTRIDGE. Just one point I want to develop. You have assigned the reasons why the American producer has lost the Australian and New Zealand markets.

Mr. RANSOM. Yes, sir.

Senator SHORTRIDGE. You have assigned two reasons?

Mr. RANSOM. Yes, sir.

Senator SHORTRIDGE. Do you know why the species of wood from which pulp is made, wood grown in British Columbia, north, say, of Washington, is not grown and could not be produced in the United States?

Mr. RANSOM. Senator, I am not in the pulp-manufacturing business. But I do know of no wood that is produced in the lands north of us that has not something in duplicate in the United States, whether it is for pattern lumber, or what not.

Senator SHORTRIDGE. In quality equal to the wood grown in British Columbia, and equal to that grown and produced anywhere?

Mr. RANSOM. Something that could be produced here, in hardwoods.

The CHAIRMAN. Thank you, Mr. Ransom.

Senator HULL. Mr. Ransom, you say Australia ran her tariffs up against your exports?

Mr. RANSOM. Yes, sir.

Senator HULL. And that included automobiles, and almost every export in this country, did it not?

Mr. RANSOM. I do not know, Senator.

Senator HULL. And then Canada had a preferential agreement with Australia that enabled her to come in with lumber at a lower rate than we could come in? x

Mr. RANSOM. We discontinued looking in that direction for business. Our Australian customers who had bought from us for 40 years, said they were sorry, but they must buy from the Canadian mills.

The CHAIRMAN. She has 30 per cent advantage in the decrease in currency.

Mr. RANSOM. Yes, sir.

Senator HULL. And on this point, everybody is fencing out everybody else's surplus. If they took each other's surplus they might make it mutually profitable. Our export trade is gradually going out, just as with lumber.

Mr. RANSOM. Well, I have understood that our whole export trade was only 85 per cent.

Senator HULL. And in the cotton business, and in the lumber business, and in the tobacco business, and so on.

The CHAIRMAN. They are purchasing less in those countries, just as they are in the United States and for the same reason.

Senator HULL. They are all fencing off each other by destructive tariffs.

The CHAIRMAN. That is what the Senator says.

STATEMENT OF J. J. UNDERWOOD, SEATTLE, WASH., REPRESENTING THE SEATTLE CHAMBER OF COMMERCE AND BUSINESS INTERESTS ON THE PACIFIC COAST

Mr. UNDERWOOD. Mr. Chairman and gentlemen, I will say that I am surprised that this hearing was coming up so quickly. We had the representatives of 50 different industries that were coming here to tell you how they were affected by this depreciation in foreign currency.

The CHAIRMAN. They would have testified the same as you will?

Mr. UNDERWOOD. Yes, sir. I appear on behalf of Senator Jones's measure for equalization. And I want to say that the State legislatures in the various States have indorsed this legislation, some of them having passed resolutions on it.

And I want to say that in the northwest country it is a very serious situation, because the people are no longer able to pay the taxes on their homes and their lands, and their timberlands are going back to the counties for taxes, and unless they get some relief will be impossible for the people to pay their taxes and the State will be broke.

Thank you very much.

The CHAIRMAN. Mr. Hugh Satterlee.

Senator HALE. Mr. Chairman, may I say just a word, unless this gentleman is to speak on this same subject?

The CHAIRMAN. No, he is not.

Senator HALE. I wanted to say just a word. The Smoot-Hawley tariff bill was passed for the purpose of equalizing production at home and abroad, and affording protection to our American industries. Due to the depreciation of foreign currencies we have lost a large part of that measure of protection. The Jones amendment, it seems to me, by equalizing the foreign depreciation, makes that up to us and puts us where we would have been under the Smoot-Hawley tariff act before the foreign depreciations. The people of my State are very much interested in this matter. In the memorial which I introduced into the record yesterday, from our legislature, they particularly dwelt upon the importance of taking care of the depreciation in currency. Also, the Jones amendment takes care of articles that are on the free list. Presumably the articles that were put on the free list in the Smoot-Hawley tariff bill were placed on the free list for the reason that they did not need protection, and those articles, now that the foreign currencies have depreciated, clearly do need it.

As I say, my State is very much interested in this matter, not only in regard to the pulp industry, but other industries as well. For instance, take sardines. There is a tariff of 30 per cent on fish packed in oil. The Norwegian currency has depreciated about 30 per cent, so that we get practically no protection on that articles.

I would like to have the privilege for my people of filing a brief on the subject. We were not aware that this meeting was to be held this morning, and I would like to file a brief on behalf of our State. If it is not ready in time to be printed in the record, I would like to have the committee have the benefit of it anyway.

The CHAIRMAN. We will have it before us.

(The brief referred to is printed in full as follows:)

BRIEF OF CLARENCE C. STETSON, CHAIRMAN OF THE MAINE DEVELOPMENT COMMISSION, IN SUPPORT OF PROPOSED LEGISLATION IMPOSING SURTAX ON IMPORTS TO COMPENSATE FOR DEPRECIATION IN EXCHANGE OF COUNTRIES WHICH HAVE ABANDONED THE GOLD STANDARD

Two of Maine's basic industries—forest products and fisheries—already in a critical condition due to the depression, have been still further depressed as the result of competition of imports from countries of depreciated currencies. The importance of these two industries to the State is so great that their prosperity or difficulties affect not only those directly dependent thereon, but many others. Maine, therefore, through its legislature, at a special session held April 1, 1932, memorialized the Congress urging the imposition of a surtax upon all imported products equal to the difference between par of exchange and current quotation of exchange of these countries which, by going off the gold basis, have depreciated their currencies.

FOREST PRODUCTS

Seventy-eight per cent of the area of the State is in productive forest lands. On this area—15,000,000 acres—there is an estimated stand, based on compilation of actual surveys, of 50,000,000 cords of softwood timber. The annual growth which approximates a little less than one-tenth of a cord per acre, or 1,250,000 cords, is sufficient to satisfy present mill requirements.

The State, which for some time has been the ranking pulpwood-producing and consuming State of the Nation, produces about 20 per cent of the national pulpwood cut.

	United States consumption of domestic pulpwood	Maine	
		Consumption	Cut
	Cords	*Cords*	*Cords*
1928	5,750,640	1,309,988	1,175,000
1929	6,580,004	1,311,577	1,175,000
1930	6,059,300	1,203,377	900,000
1931	[1] 5,450,000	[1] 850,000	500,000

NOTE.—Pulpwood consumption in Maine approximately equals production.

[1] Estimated.

The State, which during the last decade has been the greatest pulp-producing State, creates, in normal times, approximately 20 per cent of the national total.

	United States	Maine
	Tons	*Tons*
1928	4,510,800	979,690
1929	4,862,885	981,433
1930	4,610,408	905,088
1931	[1] 4,000,000	650,000

[1] Estimated.

In addition, the State is a large national factor in the newsprint industry, producing between 38 per cent and 45 per cent of the national total.

	United States	Maine
	Tons	*Tons*
1928	1,415,450	537,455
1929	1,400,169	560,620
1930	1,232,611	558,237

The State is also a factor of importance in the paper industry as a whole, making between 9 per cent and 10 per cent of the national production.

	United States	Maine
	Tons	*Tons*
1928	10,403,338	987,201
1929	11,090,579	1,061,384
1930	10,079,650	1,020,263

Maine uses forest products principally for pulpwood, pulp, and paper, although it still manufactures other soft and hard wood products.

In 1927 Maine employed 4,064 wage earners and salaried employees in the pulp mills with an annual pay roll of $5,962,108 and 9,037 wage earners and salaried employees in the paper mills with an annual pay roll of $14,266,503. To-day the pulp and paper mills are operating at about 60 per cent with the opportunities to work proportionately lessened and the wages and salaries materially reduced.

The following figures show reduction in woods income, cut and labor:

	1927	1931-32	Drop
			Per cent
Stumpage prices	$5 to $6 per cord	$1.50 to $2 per cord	66
Cut	1,250,000 cords	500,000 cords	60
Stumpage value of cut	$6,875,000	$875,000	87
Woods wages:			
Peeled wood	$2.50 per cord	$1.50 per cord	40
Day wages	$2 per day and board	$1 per day and board	50
Woods pay roll	1,250,000, at $7.50 per cord, $9,375,000.	500,000 cords, at $3.75 per cord, $1,875,000.	80
Number men employed	20,000	8,000	60

About 20,000 of the 40,000 farms in Maine are dependent upon the farm wood lot for winter labor and cash income to meet living expenses and taxes. About 2,500,000 acres of the 15,000,000 of the State forest area is in farm wood lots. These lots contain about 3,750,000 cords of wood. The wood cut from these areas approximates 25 per cent of the annual pulpwood cut of the State. On this basis the farmer's wood-lot income has fallen from $1,719,500 in 1927 to $218,750 in 1931-32.

The principal sources of foreign competition to Maine in pulpwood comes from the neighboring Canadian Provinces of New Brunswick and Nova Scotia, which over a 4-year period, have sent an average of 200,000 cords annually to Maine; Newfoundland sends a small amount and Russia is also a factor.

National imports of wood pulp and pulpwood, especially from depreciated currency countries, are both of such importance as to be a governing factor in domestic prices of wood and pulp, mill wages, mill employment, woods wages, woods employment, and land values, and to them can be traced the critical condition in which Maine and the other forest-industry States now find themselves. Wood-pulp imports, chiefly from Canada, Sweden, Norway, Finland, and Germany, averaged annually 1,077,003 tons for the 4-year period 1928-1931, inclusive, while pulpwood imports, chiefly from Canada averaged annually 1,318,071 cords for the same period.

Unless the pulp mills of the Nation prosper, woods operations lag. Pulp mills in the United States as a whole show a lower month-by-month rate of operation in 1931 than in 1930. Production has fallen from 4,630,308 tons in 1930 to 4,000,000 tons in 1931, or about 14 per cent.

In the face of this falling off in domestic production, we find some striking figures showing sudden increase in average monthly imports for the six months following September, 1931, when the European exporting countries went off the gold basis. These figures are especially significant when compared with the falling off in imports for the first nine months of 1931 as compared with the first nine months of 1930.

Average monthly imports of woodpulp in tons of 2,000 pounds:

All countries

	Tons
January to September, 1930, inclusive	149,499
January to September, 1931, inclusive	125,775
October, 1930, to March, 1931, inclusive	148,978
October, 1931, to March, 1932, inclusive	159,913

Thus we see a falling off in monthly imports following the general trend of world trade for the first nine months of 1931 as compared with the like period of 1930 of almost 16 per cent, but find an increase in monthly imports of 27 per cent in the six months immediately after the principal exporting countries debased their currencies, i. e., from October, 1931, to March, 1932, as compared with the first nine months of 1931.

This same trend is especially emphasized after the following European countries, whose currencies show depreciation ranging from 30 to 40 per cent, went off the gold basis:

Country	January-September, 1930, inclusive	October, 1930-March, 1931, inclusive	January-September, 1931, inclusive	October, 1931-March, 1932, inclusive
Sweden	50,472	68,054	53,668	81,208
Finland	14,096	13,532	14,806	18,676
Norway	8,722	5,750	3,120	7,066

Another significant factor is the stocks of pulp in warehouses at the principal Atlantic and Gulf ports which show a steady increase in foreign stocks in storage while domestic stocks remain practically constant.

	Foreign	Domestic
1930—Jan. 1	62,900	10,763
July 1	71,409	4,368
1931—Jan. 1	101,623	12,015
July 1	73,695	8,267
1932—Jan. 1	100,604	11,284
Feb. 1	150,138	10,744

In addition to facing increased imports and stocks in storage of foreign pulp, our domestic mills were confronted with constantly falling prices of all classes of imported wood pulp, the large percentage of price drop being in those classes which are most heavily imported, and coming after the exporting countries went off the gold basis.

	January, 1931	September, 1931	Price drop	September, 1931	March, 1932	Price drop
			Per cent			*Per cent*
Unbleached sulphite	$41.61	$38.61	6.2	$38.61	$31.43	18.6
Bleached sulphite	52.52	50.35	4.1	50.35	41.52	17.5
Unbleached sulphate	35.71	30.54	14.5	30.54	29.25	4.2
Unbleached mechanical	23.78	20.05	11.5	20.05	18.57	7.3

SARDINES

The same basic principles apply to the sardine industry. The value of the Maine pack in 1929 was $6,941,618 at the factory. The pack of the Maine industry fell from about 2,000,000 cases of 100 one-fourth-pound cans, or 50,000,000 pounds for each of the years 1928 and 1929, to 1,200,000 cases, or 30,000,000 pounds in 1931, a drop of 40 per cent.

The principal sources of national imports of sardines are Norway, Portugal, Spain, and Latvia. Average total annual national imports for the four years 1928 to 1931, inclusive, were approximately 1,143,000 cases, or 28,600,000 pounds. The monthly imports for seven months period, September to March, inclusive, from September, 1929, to March, 1932, were:

1929	Norway	Portugal	Spain	Latvia
	Pounds	*Pounds*	*Pounds*	*Pounds*
September	2,284,828	584,399	98,641	.....
October	2,014,208	659,347	116,470	.....
November	1,778,258	552,937	39,086	.....
December	1,148,534	190,968	115,360	82,943

	Norway	Portugal	Spain	Latvia
1930	*Pounds*	*Pounds*	*Pounds*	*Pounds*
January	717,068	419,389	64,606	19,765
February	1,559,854	197,064	67,816	13,194
March	1,732,010	161,879	62,023	26,975
September	1,620,031	384,365	114,547	8,333
October	1,475,815	526,682	59,965	29,084
November	1,363,083	305,838	76,935	150,305
December	931,045	271,751	110,077	126,827
1931				
January	857,212	177,469	41,900	47,825
February	1,884,724	415,513	79,925	80,606
March	1,922,545	184,346	88,371	87,452
September	1,363,870	929,394	88,809	53,093
October	1,705,640	1,058,363	161,961	31,246
November	1,874,822	891,427	133,529	65,654
December	1,872,990	926,510	67,857	84,914
1932				
January	3,000,526	753,121	86,814	111,330
February	4,206,774	722,228	114,975	70,563
March	3,120,480	910,024	74,572	11,382
September, 1929, to March, 1930	11,234,760	2,766,583	584,308	142,877
September, 1930, to March, 1931	10,202,255	2,326,204	571,816	450,524
September, 1931, to March, 1932	16,901,102	6,226,067	726,517	376,152

It will be noted that the seven months' period, September, 1929, to March, 1930, and September, 1930, to March 1931, are practically on a par, but that the seven months' period, September, 1931, to March, 1932, shows a 60 per cent increase in the case of Norway and 170 per cent increase in the case of Portugal.

The price per case of 25 pounds for Norwegian sardines fell from $3.48 in the seven months' period September, 1930 to March, 1931, to $2.33 for the like seven months' period 1931–1932, or a drop of 33 per cent.

In the case of Portuguese sardines for like comparative dates, the per case price fell from $4.82 to $2.76, or a drop of 42 per cent.

The foregoing facts prove conclusively the influence of imports from countries of depreciated currencies upon our domestic commerce and the necessity of protecting our nationals against this unfair competition if our basic industries are to survive.

Respectfully submitted.

CLARENCE C. STETSON.

STATEMENT OF DR. E. D. CLARK, SEATTLE, WASH., REPRESENTING THE ASSOCIATION OF PACIFIC FISHERIES, AND THE NORTHWEST SALMON CANNERS ASSOCIATION

Mr. CLARK. Mr. Chairman and gentlemen, I have come a long way to present just in a few words to you our problem, but I have a brief here which I would like to leave with the committee.

The CHAIRMAN. That can be filed for the record.

Mr. CLARK. The idea is that the canning industry of Washington, Oregon, and California needs some help.

Also, we can assure you, I think, that through this depreciated currency of the foreign countries, if Senator Jones's equalization measure does not go through, we are in a bad way. If that measure can be adopted, we can be assured of some revenue. And I have received recently notice of the menace of the cheap salmon that will come in from Japan, and based on the Japanese yen of 31 cents, that is just about going to finish us off.

We had the same situation last winter, when the Canadian dollar was down to 82 cents. The tariff is 22 per cent, and that left a great advantage in favor of the Canadians, and they took the hurdle and

shot into this country about 75,000 cases of salmon. That is equivalent to employing in our plants 2,200 people for a long priod.

I should say that we are speaking here for the relief of unemployment in our industry, and also the employment in the Alaskan canneries has been decreasing in the last couple of years. The employment of the Indians, the natives, is dropping rapidly. And they have no other means of subsistence. And, taken from every possible standpoint, we are feeling it severely in our industry not only on the west coast of the mainland, but in Alaska. And I am speaking on behalf of Alaskan canneries as well. Alaska collects 75 per cent of its revenue from our industry. When our industry goes busted as it is now, the Territory of Alaska has no source of income to build its roads and run its schools.

I am not going to take any more time, except to say that I just came into possession of an issue of the New York Journal of Commerce for April 16, 1932—that was Saturday—in which you will find the prices of salmon quoted, and they are not only below our prices here, but they are below our cost of production. That is attached as an exhibit and a part of my brief which I will file, if I may, Mr. Chairman.

Mr. CHAIRMAN. You may make it a part of your statement at this point.

(The statement and brief presented by Doctor Clark is printed in the record in full, as follows:)

BRIEF OF DOCTOR CLARK

DEPRECIATED CURRENCIES HAVE NULLIFIED PURPOSES OF THE TARIFF ACT OF 1930

The tariff act of 1930, based on an extended study of each commodity, was designed to maintain our standard of living in competition with other nations on the basis of their monetary systems then in use. However, since 1930 the currencies of some 39 important nations have been variously depreciated and to-day American manufacturers are facing a serious domestic situation. By reason of the debased money in these countries many of their products can pay the freight, insurance, and duty and yet be laid down in this country at prices considerably below our cost of production. At the present time more than 40 per cent of our imports of free and dutiable merchandise is coming from countries having depreciated currency, according to the Commissioner of Customs. The tariff act of 1930 does not contain adequate provisions for meeting and correcting this currency situation which has developed since its passage. According to Dr. E. W. Kemmerer, the well known financial authority:

"In the case of imports from countries adopting this policy (currency depreciation), I think it would be perfectly logical for countries remaining on the gold standard to apply the principles of 'antidumping' regulations. It is 'punching below the belt'."

Our manufacturers are accustomed, through research and engineering ingenuity, to meet ordinary competitive hazards, but no business acumen or scientific skill can be expected to mobilize overnight a defense against changes in monetary values which may easily give our foreign competitors a 25 to 40 per cent advantage. This amendment provides the necessary machinery for compensating for the depreciated currencies of countries competing with the United States and tends to put the competition back on the basis contemplated by the tariff act of 1930. It is a very flexible measure, instantly and automatically responsive to currency conditions as they arise and becomes inoperative as soon as the need for it disappears. Also, it will produce a considerable amount of revenue estimated at over $100,000,000 if the merchandise continues to come in; if not, the manufacturers of such merchandise in this country will produce taxable corporation profits and individual income. Its passage would help prevent continual agitation for tariff increases. It should be made a permanent part of the administrative machinery of our tariff laws. Other countries like France, Italy, Germany, and

Canada immediately on the departure of England and other competitive countries from the gold standard made regulations having the compensating effect of this amendment.

UNEMPLOYMENT IS INCREASING IN OUR SALMON CANNERIES

According to the reports of the Bureau of Fisheries entitled "Alaska Fisheries and Fur-Seal Industries" there were in 1931 only 16,158 people employed by the canneries as compared with 24,271 in 1929. The number of natives employed dropped from 4,313 to 3,592 from 1929 to 1931. There has undoubtedly been a proportional decrease in employment in Washington and Oregon canneries. The total number of salmon cannery employees in all American plants in 1931 has been estimated at about 22,000, as compared with about 35,000 in 1929. Also, unemployment in pulp, paper, and lumber mills in the Pacific Northwest has been even worse than in the canneries.

There are large numbers of Alaskan natives employed in the canneries during the canning season and they with their dependents have little, if any, other source of livelihood. Many hundreds of white Alaska residents also derive the bulk of their living from the same source, either working directly for the canneries or in some allied industry catering to the salmon industry. Employment in canneries is shrinking rapidly and the natives are suffering. Unrestricted entry of Japanese salmon will add many more thousands to the ranks of the unemployed.

PEOPLE AND GOVERNMENT OF ALASKA GREATLY DEPENDENT ON CANNERIES

About 75 per cent of the cost of the Territorial government is met by taxes levied on the salmon industry, in some years amounting to $1,000,000. Any considerable curtailment of the pack of canned salmon results in a serious loss to the Territory both through the reduced income of its people and diminished taxes for the support of its roads, schools, etc. Washington and Oregon also have important salmon canneries and employ probably 10,000 additional workers thus contributing largely to the economic importance of the Puget Sound and Columbia River industrial district.

LABOR'S SHARE IS OVER HALF OF THE COST OF PRODUCING CANNED SALMON

Generally speaking, it is figured that 25 per cent of the cost of packing salmon goes directly to labor; another 25 per cent is the cost of the fish and another 25 per cent for cans, cases, and labels, the balance being for transportation, taxes, insurance, fuel, etc. As a matter of fact the fish are swimming free in the ocean and the cost of catching them is largely for labor and the same is true of the 25 per cent of the cost chargeable to cans, cases, and labels. Thus labor's share of the canner's dollar is a very large one. It is natural, therefore, that marked unemployment should result from our present conditions aggravated by importations from abroad. In normal years it is estimated that industry brings something like $30,000,000 of business into Seattle alone. Closing down canneries means not only unemployment of our own workers but disaster to all related industries, transportation companies, banks, etc., all of which are greatly dependent upon the normal operation of our industry as well as lumber, paper, pulp, cement and the other mainstays of the Pacific Northwest.

DOMESTIC PRODUCTION COSTS VERSUS FOREIGN PRODUCTION COSTS

American standards of living demand the payment of wages in the salmon industry comparable with that paid in the United States for similar seasonal employment. This brings our labor costs considerably higher than those of Siberia or Japan where wages are notoriously low.

Practically all of the supplies used by the canneries are produced in Alaska or in the United States by labor enjoying our higher standards of living. Freight rates to and from Alaska on American boats are higher than rates would be on foreign operated boats for similar service. This also applied to export shipments in American bottoms.

It is extremely difficult, owing to the great variation of conditions under which our packers operate in different districts, to determine the average cost of producing canned salmon even for one year. It is even more difficult to determine this average cost in any of the competing countries. Considerable time and effort have been spent in attempting to obtain comparable figures but without satisfactory results. It appears that during the years 1923 to 1928 the average cost of

producing, transporting, insuring, storing, and selling red salmon was about $7.87 a case; medium red $5.74; pink $5.22; chum $4.85. The best information available on the Siberian pack of red salmon placed the similar cost at $4.58, as contrasted with our cost of $7.87 during the same years. The Canadian costs in general were estimated to be from 10 to 15 per cent lower than ours.

DEPRECIATED CURRENCIES AND IMPORTS OF CANNED SALMON

Since canned salmon costs considerably more to produce under American standards and methods than under foreign, there has always existed a strong threat of the dumping of large quantities of this product on the American market. There have been some importations, but fortunately the duty of 25 per cent assessed by the tariff of 1922 and retained by that of 1930 held back the flood that would have occurred had this barrier not existed. However this barrier has now been removed wholly or in part by the depreciation of the currency in Canada, Japan, and Siberia. In fact the Canadians took advantage of this difference in monetary values and have already shipped in 65,000 to 80,000 cases of salmon when their currency was depreciated more than 20 per cent. Since they are contending with a considerable carry-over of unsold stocks in Vancouver, it was altogether likely that other thousands of cases would follow but the rise in Canadian exchange has for the time being retarded this movement.

The situation as regards Japan is even more menacing. Their currency has been recently reported as 33 per cent lower than normal exchange. This advantage enables them to pay our duty of 25 per cent, and the freight rate, and to lay it down in our ports considerably below our cost of production. Already Japanese pink salmon is being offered for sale in New York (also Cleveland), and San Francisco on the duty paid delivered price of 92½ and 80 cents per dozen, respectively, while our quoted price for the same grade is from $1 to $1.09. Since they are believed to have a large carry-over and their costs are much lower than ours, we may expect an increasing influx of Japanese salmon which they pack with efficient machinery like our own and in popular sizes of cans. The people of the United States are accustomed to Japanese crab meat and will doubtless accept good quality Japanese red or pink salmon as readily as American, particularly if the price is lower. The Japanese can drop their delivered prices here still further because of their costs or the low freight rates. Until recently Japan looked to France and the United Kingdom to market her salmon. Now that England has a flexible empire duty to protect Canadian salmon sales in the mother country and that France has placed a quota limit on Japan, the latter is bound to push importation into this country, relying on the low value of the yen to nullify our 25 per cent protective tariff.

Thus far the Russians have been content apparently with European markets, in some of which they enjoy discriminatory advantages. Should they desire to invade our domestic market, however, they would constitute a formidable competitor, since production under state control permits of selling at any desired price, even below their low cost of production, if the advantages to be gained are considered desirable. Privately operated American canneries can not hope to successfully contend with such competition.

OUR PRESENT SITUATION IS CRITICAL

In spite of the current low prices for canned salmon, especially of the pink and chum varieties, there has not been the demand (even at below cost prices) that was anticipated a year ago when the necessary preparations had to be made for the 1931 pack. To meet this menace of unsold stocks, which, according to our Association of Pacific Fisheries statement for March 31, 1932, amount to over 1,000,000 cases (48,000,000 pounds), more than 1,500,000 cases held on the same date a year ago, the production for the 1932 season must be reduced or the industry will be crushed due to the failure of low prices to stimulate demand as expected. Now comes the importation of Canadian and Japanese surplus stocks at even lower prices, just when we hoped to balance our domestic supply and demand during 1932, and at the same time stop as far as possible the rapidly increasing tendency of unemployment in the canneries. It is obvious, therefore, that a delicate industrial situation directly affecting many thousands of people and indirectly affecting all business of the North Pacific coast and Alaska, has been made more menacing by the entry into our domestic market of salmon canned in countries enjoying the competitive advantage of normally low costs plus depreciated currency.

CALIFORNIA TUNA AND SARDINE INDUSTRY ALSO MENACED

We should add in passing that the canners of sardines in Maine and California are suffering from imported sardines from Norway whose currency permits of paying our duty and still showing a profit on shipments into the United States. Also, Japanese canners are offering here canned white-meated tuna at about the same prices as our California tuna canners are selling their standard grade for, which is below cost for American canners of the white-meated article. The California tuna canners have had to range farther and farther in order to secure the white-meated fish or Albacore which now is being imported from Japan. The operations of the tuna canners are very expensive as their fishing expeditions some times carry them as far South as the Equator and now extend as far west as the Hawaiian Islands. The investment in tuna fishing and canning operations is great and the number of people employed runs into the thousands.

The danger to our industry does not lie entirely in the actual number of cases from foreign packers thrown on our markets at low prices but perhaps to a larger extent to the depressing effect such offerings at less than our domestic prices have upon the market. Prices held fairly stable for some time through reasonable merchandising at a fair level above cost of production may become completely demoralized, the whole price structure lowered, and at the same time sales fall off through uncertainty on the part of the buyers With pink salmon now retailing for a price of two one-pound cans for 15 cents, it would seem that further "below cost of production" prices should not be established by importations from countries enjoying the added benefit of depreciatied currency.

THE SALMON CANNING INDUSTRY

The salmon furnishes the raw material for the most important of the world's fisheries industries. Millions of them are caught each year and sold fresh, frozen, smoked, salted, and canned in the markets of the world. Of these methods of preservation canning is by far the most important. On the average some 10,000,000 cases of 48 pounds each are produced annually by the four countries grouped around the north Pacific Ocean, the home of the Pacific salmon. Table No. 1 below shows the pack of these countries for the last few years.

TABLE 1.—*The world's pack of canned salmon*

	1931	1930	1929	1928
	Cases	*Cases*	*Cases*	*Cases*
United States	6,780,492	6,044,093	6,993,556	6,902,447
Canada	680,524	2,221,819	1,399,352	2,055,629
Siberia	1,134,702	1,752,112	1,022,912	1,782,469
Japan	458,270	378,404	635,435	219,369
Total	9,059,988	10,396,428	10,049,631	10,939,914

This table shows that the United States produces between 60 and 70 per cent of the world's pack. The table also shows that the pack in American waters has been remarkably stable for the last few years. Although the various districts varied greatly from year to year the far-flung system of operations resulted in a pack very uniform in size. This indicates that the careful regulation and supervision of the industry by the Bureau of Fisheries has so conserved the supply of fish that a pack of six to seven million cases could probably be packed each year indefinitely. This is particularly true so far as the Alaskan pack is concerned since the Territorial streams are likely to remain unpolluted for many years to come.

This large amount of canned salmon must, of course, either be sold in our domestic market or exported. Table 2 shows the trend of our export market.

TABLE 2.—*Exports of American canned salmon*

Year	Amount exported		Year	Amount exported	
	Pounds	Cases (approximate)		Pounds	Cases (approximate)
1922	65,502,153	1,364,628	1927	38,247,932	796,832
1923	59,704,422	1,241,550	1928	40,032,705	832,139
1924	67,015,360	1,396,112	1929	40,967,376	853,486
1925	54,046,283	1,125,965	1930	27,387,720	568,494
1926	47,623,289	992,152	1931	23,450,208	488,546

This table shows a gradual loss of our export market amounting to over 60 per cent in the period of 10 years covered. Presumably the export business lost by us has been captured by our competitors. The result has been to render our domestic market all important to the salmon industry. Our prices are the result of relation of domestic supply to demand, with little relief through sales abroad. As a consequence prices have been forced to a lower level than for many years and in many cases below the cost of production.

REASONS FOR THE LOSS OF EXPORT MARKETS

The increasing packs of canned salmon in Siberia and Japan in the last 10 years have made them increasingly formidable opponents in the world markets, particularly since there has been no corresponding increase in their domestic use of this product. In fact, little of it is consumed at home, but almost the whole amount must be exported. Likewise the Canadian pack is greatly in excess of their domestic requirements, and a large share must be exported. In 1929 the Canadians packed 67,000,000 pounds of salmon and exported 60,500,000 pounds in the same year. These facts have made the competition for export markets more and more intense.

Furthermore, several nations have erected discriminatory tariffs against American canned salmon. France charges twice as much duty on our product as on the Canadian and three times as much as on the Siberian and Japanese product. Holland likewise discriminates against our canned salmon, while empire preference among the British Commonwealth of Nations give Canada advantages in some of these markets; for instance, the duty on American salmon in Australia is $2.40 a case, while on Canadian it is but $1.20. In other countries the tariff rates are prohibitive, placing canned salmon in the class of luxuries like caviar and giving preference to certain other fishery products.

NATURAL HAZARDS IN THE SALMON INDUSTRY

Although the total packs of canned salmon have remained rather constant for the last several years there have been wide variations in the annual packs of the various districts amounting in many instances to almost complete failures. There is no way to foretell what the pack in any given cannery may be and the outfitting may be out of all proportion to the run of salmon entailing a great loss to the operator. Some companies have millions of dollars expended in preparation, supplies, and labor contracts, etc., before a single fish is caught. While the industry as a whole in prosperous times may make a fair profit, still each year witnesses the failure of several companies engaged in the hazardous enterprise.

The Alaska fisheries act of 1924, giving full control of the fisheries to the Secretary of Commerce, was a conservation measure and seems to be achieving its object on the whole. It has undoubtedly worked a hardship in some instances and has probably raised the cost of production to some extent, increasing the hazards of some of the packers. The remote locations of many of the canneries far from the regular steamship lines, makes their operation very expensive.

CONCLUSION

The present situation without the necessary machinery for equalising the depreciated currencies in Canada, Siberia, and Japan, provided in this statement, constitutes a serious menace to the salmon canning industry and to the many thousands dependent upon it for their livelihood.

France, Germany, Italy, and Canada saw at once the danger to their domestic industries from competing countries whose currency had been depreciated and promptly adopted adequate methods to bring about equalisation. On the other hand American industries and wage earners are being injured more and more.

This bill provides a method of protecting our industries from unfair competition arising through depreciated currencies, a situation that was not foreseen when the tariff act of 1930 was passed. We do not ask for an increased tariff but only that we be protected from the increasing pressure of foreign competition based on their depreciated currency which is equal to or greater than the 25 per cent tariff.

EXHIBIT A

Clipping from the New York Journal of Commerce of April 16, 1932, giving quotations of Japanese canned salmon for delivery in the United States.

MORE ABOUT JAPANESE PINK SALMON

Dominic Cronin, broker, is offering Japanese pink salmon on the following basis: Four dozen of 1-pound talls, $3.46; 4 dozen 1-pound flats, $3.47; and 8 dozen of half-pound tins, $4.32, f. o. b., Seattle, Wash. This figures a fraction over 86 cents per dozen, Seattle, for pound talls. Business is being taken for prompt shipment.

A letter bearing date of March 21 from Yokahama quotes pink salmon on that date at 1.91 yen, Yokohama. At the rate of exchange on that day, this was about 66 cents per dozen in American money. Since that time the yen has slipped off. It was quoted here yesterday at 33¼ cents. The lower the yen goes the bigger margin of profit will be available for American importers. There is a 25 per cent tariff on the pinks when they reach this country.

Not alone in the price of salmon, but also in the matter of labels is Japan offering American packers competition. Their label rates per 100,000, on pound flats are 36 yen; pound talls, 48 yen; flat halves, 24 yen.

The pinks are still over in Japan but the first shipments will be made this month. It is still a little early to say how the trade will react to imported pinks, but it seems reasonable to suppose that if they do sell it will be to a large grocery or restaurant chain.

From another source we learn that Japan has gone over its allotment of imports of salmon into France and will not be able to ship any more to that country until after November 30. It seems Japan exhausted its quota to France in advance through heavy shipments in March. The result now is that there are still large quantities of Japanese salmon which are in France to be sold. With Japan out of the market, Canada is expected to benefit as it has its quota move to that country, and will have the best consuming months.

STATEMENT OF RENO ODLIN, SEATTLE, WASH.

Mr. ODLIN. Mr. Chairman, I understand we have 15 minutes to discuss this equalization feature of the revenue bill.

The CHAIRMAN. Yes.

Mr. ODLIN. I will try not to use any more of it than I absolutely have to. I had a swell speech all written here, with gestures and all, but I am not going to read it to you, but I want the opportunity of presenting, for two minutes each, a representative from the Seattle Chamber of Commerce, Mr. J. J. Underwood, and also two minutes to Dr. E. D. Clark, representing the salmon industry.

The CHAIRMAN. I will tell you when to stop, when you come to the end of your time.

Mr. ODLIN. All right. The reason I am here, Mr. Chairman—and I am here representing not only Washington, but I am here representing eleven Pacific Coast States for the American Legion. The American Legion has taken this matter up because they believe, firmly and honestly, that if this bill is not passed conditions will grow worse, and we think that this bill is the only thing that will go to the fundamentals of the unemployment question in our territory.

We have put back over 500,000 men into employment in this country, on a temporary basis. It has got to be different from that; and what we are trying to do is to bring about conditions so that they will be put on a permanent employment basis.

Now I do not come here to ask you to start the printing presses and start to print more money. We do not come with that kind of a proposition at all. But I will say that we do come asking you to do something for the conditions that prevail in the northwest territory, and we believe that we will show you how it is possible to raise, by the propositions we present, $450,000,000.

I have got dozens of instances here showing you how to make, Senator, of this equalization measure, a means of equalizing a certain industry. That industry is the pulp industry, which is becoming a major factor in the Pacific coast cities and States. The pulp industry is in a period of stagnation. It is practically faced with extinction, to put it baldly, and if it does not have relief in the way of tariff or a tax of some sort it will be utterly ruined and will be extinct.

But I am not arguing the tax question. All I am arguing is the equalization feature of this bill, the bill introduced by Senator Jones of my own home State of Washington. Senator Jones has introduced this measure, which provides a method of reestablishing automatically a differential which will take up the slack between the depreciated currency of the foreign countries that import their pulp and other products into this country and the currency of the United States. In other words, it will reestablish automatically a differential between the various currencies of these foreign countries and that of the United States, at a time when we need very greatly some means of equalization placed upon the imports from those countries.

This equalization measure will reestablish the relationship which has permitted American domestic manufactured products to compete with the products imported from other countries. I mean, specifically pulp, because that is the thing that we are interested in in that northwest territory. And I speak of that because I know it best—although I am not in the pulp business—but I know that this is a measure which will permit the pulp business to compete with the foreign pulp in our own local markets. It does not apply to a number of products, such as rubber, raw silk, and items of that sort, which are not manufactured in the United States, and which are, therefore, a subject of natural importation, and they do not compete with our domestic manufacture.

Now to come down to this, I will tell you about the pulp situation, and I might start right out by saying that only 1 per cent of the pulp production of this country is exported, thereby blasting any argument that by describing this particularly we would do something that would cause a retaliation and that would blast our foreign markets. We have

not got any foreign markets anyway. That applies to a large part of our products, and I tell you that 35 per cent of the imports that come in come from Sweden.

Senator REED. What is the tariff rate?

Mr. ODLIN. There is no tariff; it is on the free list.

Sweden currency has been as much as 50 per cent depreciated. Now the outcome of that situation is easy to recognize. When it has gotten to the point where the differential between their depreciated currency and ours makes a difference of $11 per ton, that $11 per ton is in favor of Sweden. And that situation has been used by Sweden to immediately, by one tremendous effort, bring its product on the American market.

The statement has been made that the American manufactures are unsalable. That is not true. I think our figures prove it. I have here the figures which show that the domestic manufactures, up to the time of the depreciated currency in the foreign countries, was going forward and the sales were satisfactory, and the industry was growing all the time. But now, in our particular district, it is estimated that over 150,000 men are out of work. If this equalization measure could be passed, immediately those 150,000 men will go back to work the day that this equalization measure is passed, if you see fit to put it into this revenue bill.

Senator SHORTRIDGE. Your district is what?

Mr. ODLIN. I represent the 11 Pacific Coast States.

Yesterday you were told that the imports that were coming in were coming in because the domestic supply was not sufficient to fill the demand. You were not only told that, but you were told that the tariff would shut off the supply of any revenue from that source.

Senator SHORTRIDGE. That can not be true, can it?

Mr. ODLIN. It is true that we can get a revenue on what we import if there is a tariff. But it is axiomatic that if you do not produce anything you have to import it.

Senator SHORTRIDGE. But we can produce it, can we not?

Mr. ODLIN. We can produce it, but not right now, as you have this inequality in the currency exchange, and the foreign countries can take advantage and ship in their products, and we can not help ourselves. And let me say this, too, that if every pulp mill were running and producing there would still be need for importing 1,400,000 tons to supply the demand here. That means that if the import of pulp can only be increased 15 per cent with every mill in this country producing, the net revenue form the pulp feature alone of this equalization measure of Senator Jones would provide a minimum return of $10,000,000 to the United States Treasury.

I have here an excerpt from a speech made before the Harvard Business School Club by Captain Eble, United States Commissioner of Customs, and I want to read one line of it, and then place it in my remarks.

The CHAIRMAN. You have two minutes more.

Mr. ODLIN. He says here:

> At this point, I wish to invite your attention to a form of indirect dumping which various industries of our country are facing to-day. I refer to the fact that more than 40 per cent of our total importations of free and dutiable merchandise are coming from countries, excluding China, which have abandoned the gold standard of currency.

There is also an excerpt from a speech by Dr. E. W. Kemmerer, and eminant economist and financial expert of Princeton, in which he bears out the speech made by the commissioner.

I have also—and this will interest you very much—I have a table from the Department of Commerce showing that the revenue, if the same trade level would be maintained as the 1931 figures of the department, that the possible revenue from this equalization is $145,000,000, and I have just shown you in pulp the decrease would be only 15 per cent.

For obvious reasons, therefore, you have here a measure before you which will save a territory which is faced with extinction under the present conditions, but, if this equalization measure is applied, we will have a possible revenue of $145,000,000 in our treasury.

I would like to put these excerpts and these tables into the record.

The CHAIRMAN. They may go in at this point in connection with your remarks.

(The excerpts referred to, and the tables referred to, are printed in full, as follows:)

EXCERPTS FROM ADDRESS OF CAPT. F. X. EBLE, UNITED STATES COMMISSIONER OF CUSTOMS, BEFORE THE HARVARD BUSINESS SCHOOL CLUB, HARVARD UNIVERSITY, BOSTON, MASS., FEBRUARY 9, 1932

At this point, I wish to invite your attention to a form of indirect dumping which various industries of our country are facing to-day. I refer to the fact that more than 40 per cent of our total importations of free and dutiable merchandise are coming from countries (excluding China) which have abandoned the gold standard of currency. England discontinued the gold standard on September 21, 1931, and merchandise is still being imported in many instances at prices which prevailed previous to that date. In some instances, slight advances in prices have occurred, but not in the same ratio as the currency has depreciated.

Let me illustrate by using high-grade china clay as an example. One hundred and thirty-five thousand two hundred and ten tons of this commodity were imported during the calendar year 1931. On September 20, 1931, the price was 20 pounds a ton ($97.20 in United States currency converted at $4.86). This was subject to a duty of $2.50 a ton, making the landed value $99.70 a ton. On January 18, 1932, a shipment arrived at the Port of New York invoiced at the same price in English currency, i. e. 20 pounds a ton; but on conversion into United States currency at $3.47, the prevailing rate of exchange on date of importation, we have a price of $69.40 a ton, as compared with $97.20 a ton for the same merchandise imported the day before England abandoned the gold standard. The decrease in value is 27.9 per cent. While it is true the depreciation of the English currency has no effect on our revenue in this instance, as the rate of duty is specific, nevertheless, there are many other commodities subject to ad valorem rates of duty where the decrease in customs revenue averages approximately 30 per cent.

It is obvious, therefore, with regard to merchandise subject to and ad valorem rate of duty, that the protection heretofore afforded domestic industry has been automatically wiped out in the ratio of the depreciation.

* * * * * * *

In a personal note which I recently received from Dr. E. W. Kemmerer, that eminent economist and financial expert of Princeton, he comments on the situation as follows:

"I believe that the artificial stimulation of export trade by means of currency inflation is a policy that, in the long run, hurts the country adopting it; for it exploits home labor and results in the country's giving an increasing amount of its own home products for a decreasing amount of foreign products. However, I think that, for a short time, it strengthens the country's power to compete with other countries for foreign markets. In this way it acts like a sort of an export bounty and, in its effects, is like 'dumping.' It really is not a fair kind of competition. It is 'punching below the belt.' In the case of imports from countries

adopting this policy, I think it would be perfectly logical for countries remaining on the gold standard to apply the principles of 'antidumping' regulations."

One of the most important cases which came before us recently under this provision involved the importation of some four hundred tractors through the port of Baltimore. A few years ago our customs courts decided that tractors were entitled to duty-free entry into this country on the theory that they are agricultural implements. Subsequent to this decision—I do not say as the result of it—the company in question abandoned entirely the manufacture of tractors in this country and transferred its whole tractor manufacturing organization to Cork, Ireland. The consignment of tractors of which I speak came from Ireland, and were not marked with the country of origin. We decided that they should be marked, and required the attachment of a plate to each machine showing that it was made in Ireland, and assessed the 10 per cent duty specified by the law for failure to mark.

Attached are two tables, one covering the imports from 13 countries, with currency depreciation 5 per cent or greater, with indication of the amount of the depreciation, the amount of the annual imports based on our 1931 figures, in round millions and a figure of maximum possible new revenue. The depreciation figure is as of February 15, compared with October 1 figures proclaimed by the Secretary of the Treasury.

In determining the maximum possible new revenue we have assumed that the figures for annual imports (being based on some nine months of par value imports) were figures representing an approximate par value of our importations and not a figure representing what the value of those imports would be if brought in under the present depreciated currencies. Therefore, in determining the maximum new revenue we have multiplied the percentage of depreciation directly against the amount of the annual imports.

You will note that the estimated new revenue for the 13 countries totals $280,200,000, from which we have to subtract $135,600,000, representing revenue included in the total figures for the 13 countries, but not obtainable because of the fact that the products concerned are products on the free list, not mined, produced or manufactured in the United States, these being exempted from depreciated currency duties under the terms of the Hawley bill.

The detailed statement of these products is given you in the second statistical table attached to this letter.

This leaves a net amount of maximum possible new revenue from the 13 countries of $144,600,000, roughly $145,000,000, which if adjusted for the other countries which may have depreciated currencies and are not included in this list, might bring the amount up to $160,000,000.

As mentioned to you, we are assuming that trade would continue at the 1931 level and that the provisions of the Hawley bill, for duties covering the full amount of the depreciation, would be applied.

In recent years the revenue represented by customs receipts totaled: 1927, 605.6 millions; 1928, 569 millions; 1929, 602.3 millions; 1930, 587 millions; and 1931, 378.4 millions. These years are fiscal years.

Maximum possible customs revenue from depreciated duties under the provisions of the Hawley bill for 13 principal countries

Country	Per cent	Amount of annual imports from	Maximum possible new revenue
Denmark	29.1	$1,900,000	$500,000
United Kingdom	28.9	135,500,000	39,100,000
Norway	30.0	16,800,000	5,000,000
Spain	59.3	16,800,000	9,900,000
Sweden	27.9	34,300,000	9,600,000
Canada	12.8	266,300,000	34,000,000
Mexico	21.9	47,900,000	10,400,000
Argentina	39.7	36,000,000	14,300,000
Brazil	48.5	110,300,000	53,500,000
Uruguay	55.6	3,900,000	2,200,000
British India	28.6	58,500,000	16,700,000
Japan	29.3	205,400,000	60,200,000
British Malaya	29.0	83,000,000	24,800,000
Total		1,016,100,000	280,200,000

Maximum possible revenue without deductions	$280,200,000
Deductions for free list products not mined, produced or manufactured in the United States	135,600,000
Net revenue	144,600,000

Estimate of depreciated currency duties not collectible on products not produced in the United States

Commodity	Imports	Per cent depreciation	Amount
Crude rubber:			
United Kingdom	$83,700,000	28.9	$1,100,000
Brasil	1,000,000	49.5	500,000
British Malaya	52,000,000	29.9	15,500,000
Ceylon	5,500,000	28.6	1,600,000
Coffee:			
Brasil	91,500,000	48.5	44,400,000
Mexico	4,500,000	21.9	1,000,000
Cocoa beans:			
Brasil	5,000,000	48.5	2,400,000
United Kingdom	1,000,000	28.9	300,000
Tin:			
British Malaya	28,000,000	29.9	8,400,000
United Kingdom	4,500,000	28.9	1,300,000
Cork: Spain	1,700,000	59.3	1,000,000
Copra: British Malaya	1,000,000	29.9	300,000
Tea:			
United Kingdom	6,500,000	28.9	1,900,000
India	2,000,000	28.6	600,000
Ceylon	4,400,000	28.6	1,300,000
Japan	3,000,000	29.3	900,000
Shellac: India	2,000,000	28.6	600,000
Chicle: Mexico	3,000,000	21.9	700,000
Raw silk: Japan	165,000,000	29.3	47,800,000
Sisal and ixtle: Mexico	3,000,000	21.9	1,900,000
Jute: India	4,500,000	28.6	1,300,000
Total			136,600,000

FEDERATED INDUSTRIES OF WASHINGTON,
Seattle, Wash., April 18, 1932.

Hon. W. L. JONES,
United States Senator, Washington, D. C.

DEAR SENATOR: Inclosed you will find copy of three letters received from the British Columbia branch office of the Canada Permanent Mortgage Corporation at Vancouver, British Columbia, together with copy of their financial statement which was inclosed in the letter of March 11.

I am sure this will give you a line on just how active these Canadian concerns are in their campaign to encourage Americans to invest in Canadian securities; in other words get American dollars into Canada.

One thing they seem to be endeavoring to get across is the fact that the Canadian banking and investment companies operating under the laws of Canada have not had a single failure during the troublesome years of this depression.

The following is an illustration of what happened recently. Evidently Mr. John Doe had bought $5,000 worth of Canadian bonds which were worth their face value. However, in purchasing these bonds he had made a profit of whatever the difference in exchange rate was in favor of American money on the Canadian side, which may have been anywhere from 11 to 14 per cent at that time. He took these bonds into a banking house in one of our American communities and the banker told him that he would have to discount the bonds 14 per cent. John Doe could not see why he should pay this discount so he took the bonds to Vancouver thereby saving the discount.

At that time he saw the advantage of opening an account in Vancouver and doing business with that open account, taking advantage of the opportunities that arise in his particular line of business and saving the difference in exchange. I understand this account started with something from between $5,000 and $7,000 and is now one of his largest accounts running many times that of the original amount.

I believe this will give you a concrete example of how advantage is being taken by some of our people in sending their money to Canada. This should give you an added reason for fighting to protect us against the abuses arising from differences in exchange rates not only in Canada but in all foreign countries. For your information I made no reply to the Canada Permanent Mortgage Corporation of Vancouver.

We are sending a similar letter to Senator Dill as well as all the Members of the House from this State, as we feel that everything possible should be done to protect our pay rolls which are surely affected by this abuse.

It is my understanding that the principles of the Hawley bill which are also covered in your proposal for the equalization of tariff duties by compensating for depreciation in foreign currencies, is being given consideration in the Senate at this time.

Sincerely hope that both you and Senator Dill will do everything possible to get us relief from this unjust and unfair competition.

Sincerely yours.

D. C. BOTTING, *Manager-Secretary.*

CANADA PERMANENT MORTGAGE CORPORATION,
BRITISH COLUMBIA BRANCH OFFICE,
Vancouver, British Columbia, March 11, 1932.

Mr. DAVID C. BOTTING,
Secretary-Manager Federated Industries of Washington, Seattle, Wash.

DEAR SIR: In these times of stress, we feel you will be glad to learn of a savings institution which is making substantial progress. The inclosed financial statement shows the position of the "Canada Permanent." During 1931, this corporation's assets increased by nearly four millions of dollars, and its readily realizable assets were increased to over nine millions—60 per cent of its total deposits; surely a wonderful protection for its depositors.

Canada's financial institutions are not losing the confidence of the public. In fact, increasing confidence is being shown on both sides of the border, and a very large number of United States citizens are realizing the opportunity that presents itself at the present time, to make a substantial profit with safety, by depositing their funds in Canada.

By opening a deposit account with the "Canada Permanent"—in business 77 years—you accomplish a three-fold object:

First. Your money is absolutely secure.

Second. You obtain 4 per cent per annum on your money.

Third. You get the advantage of the present exchange situation as between the two countries.

United States dollars are to-day at a premium of approximately 11 per cent, and you would immediately obtain this increase in capital, for even Wall Street does not doubt that the Canadian dollar will come back to par at an early date.

The writer would be pleased to hear from you.

Yours faithfully,

GEORGE I. LEGATE, *Manager.*

CANADA PERMANENT MORTGAGE CORPORATION,
BRITISH COLUMBIA BRANCH OFFICE,
Vancouver, British Columbia, March 26, 1932.

Mr. DAVID C. BOTTING,
Secretary-Manager Federated Industries of Washington,
Seattle, Wash.

DEAR SIR: One of the responses to our recent letter, received from a gentleman in Seattle, asks:

"Do I understand from the third item of your fourth paragraph that for every dollar deposited with you, you would credit my account with $1.11, or at the rate of prevailing exchange at the time such deposit is made?"

We can not too strongly emphasize this point for your profit. Your United States dollar is to-day worth $1.11 in Canada. By opening a deposit or savings account with this corporation to-day, your funds immediately become 11 per cent larger, of course in Canadian funds. Those in the best position to judge in both Canada and the States are looking for a very early return to the time when the dollar of the two countries will be on a par again—in fact an increased demand for wheat, as is possible within the next few months, is likely to put the Canadian dollar above par, as has frequently been the case in the past.

In these days, when profits are hard to obtain, you will not want to overlook such an opportunity as was presented in my letter of March 11. We welcome your inquiries, and suggest that you act now, and take advantage of an unusual situation which may commence to rapidly right itself at any time.

Yours very truly,

GEORGE I. LEGATE, *Manager.*

CANADA PERMANENT MORTGAGE CORPORATION,
BRITISH COLUMBIA BRANCH OFFICE,
Vancouver, British Columbia, April 14, 1932.

Mr. DAVID C. BOTTING,
Secretary-Manager, Federated Industries of Washington, Seattle, Wash.

DEAR SIR: As one business man to another, may I ask the international courtesy of your opinion on an important financial matter?

The Canada Permanent Mortgage Co., whose financial statement we have sent you, in business 77 years, with assets of more than $73,000,000, is a sound, progressive banking house, operating under the laws of a country that has not known a single bank failure during the troublesome years of this depression.

It offers depositors absolute safety, paying 4 per cent on deposits. It enjoys the fullest public confidence.

At the present time, due to the current rate of exchange, every American dollar deposited is entered at its Canadian value of $1.11. Wall Street and Lloyd's of London are supremely confident of an early return to par of the Canadian dollar.

Summing it up, we have unquestioned safety of principal, a fair rate of interest, plus an opportunity to quickly realize an 11 per cent profit.

Isn't that an attractive offering, particularly in times like these? Shouldn't it appeal to shrewd, careful investors? Doesn't it appeal to you?

Your frank answers to these questions is the favor that I request. Quite naturally, we would welcome you to our ever-widening circle of American depositors for whom Canada permanent has met all requirements, of which protection and safety is of first importance.

The courtesy of your consideration and reply will be appreciated—mightily.

Faithfully yours,

GEORGE I. LEGATE, *Manager.*

Financial statement Canada Permanent Mortgage Corporation

[Inclosed with their letter of Mar. 11, 1932.]

DECEMBER 31, 1931.

ASSETS

Office premises: Toronto, Winnipeg, Vancouver, St. John, Edmonton, Regina, Halifax, Woodstock (Ont.), and Brantford (Ont.)		$4,492,246.69
Real estate held for sale		633,346.59
Mortgages on real estate:		
Principal	$56,584,472.44	
Interest	1,323,854.14	
		57,908,326.58
Loans on bonds, stocks, etc		110,792.21
Bonds of Dominion of Canada and Provinces of Canada		2,720,545.52
Bonds guaranteed by Dominion of Canada and Provinces of Canada		997,551.27
Bonds of Canadian municipalities		1,218,036.70
Bonds guaranteed by city of Toronto		192,620.72
Others bonds and debentures		1,155,332.02
Stocks, including $980,000 of the Canada Permanent Trust Co. at par		1,974,179.00
Cash in chartered banks and on hand		1,867,916.19
		73,260,893.49

LIABILITIES

Debenture stock and accrued interest (£163,136 16s. 5d.)	$793,932.54
Debentures, sterling, and accrued interest (£2,430,877 4s. 6d.)	11,830,269.12
Debentures, currency, and accrued interest	29,382,593.83
Deposits and accrued interest	15,406,461.97
Reserve for Dominion income tax payable in 1932	90,000.00
Sundry accounts	6,000.00
	57,510,[illegible]7.46

To the shareholders:

Capital stock subscribed and fully paid	$7,000,000.00
Reserve fund	8,000,000.00
Dividend payable Jan. 2, 1932	210,000.00
Balance carried forward at credit of profit and loss	540,686.03
	73,260,893.49

We hereby certify that the foregoing statement is correct, to the best of our knowledge and belief, and shows truly and clearly the financial condition of the corporation's affairs.

W. G. GOODERHAM,
President.

GEO. H. SMITH,
First Vice President and General Manager.

LETTER OF WILLIAM L. WILSON, OF JACKSONVILLE, FLA.

APRIL 21, 1932.

Hon. REED SMOOT,
Chairman Senate Finance Committee,
United States Senate, Washington, D. C.;

There not being sufficient time at the hearing this morning for additional witnesses to appear in favor of the amendment to revenue bill H. R. 10236, which amendment is to be proposed by Senator Jones of Washington, and desiring to present some arguments in favor of said amendment I requested permission to file a brief. You kindly granted me this privilege.

My name is William L. Wilson, residence, Jacksonville, Fla. I am chairman of the industrial committee of the Florida State Chamber of Commerce. My entire committee and the board of directors of the State chamber have sent me to Washington to appeal on their behalf for favorable consideration of legislation designed to correct the disadvantages to American industries brought about by the depreciating of foreign currencies.

The pulp and paper business which is growing rapidly in Florida and the Southeast is suffering seriously from competition originating in countries that have gone off the gold standard, principally Finland and Sweden. This pulp business is growing in the Southeast, but its growth has been stopped by this condition and existing factories can not operate profitably until the situation is corrected. Existing pulp industries in Florida employing over 1,000 men are affected.

Phosphate industries in Florida are seriously affected by competition from northern Africa, which is subject to a depreciated currency. This industry employs in Florida directly and indirectly about 10,000 men and can not compete if conditions remain as they are.

The lumber industry of Florida, which is one of our largest and which employs more than 25,000 men directly and indirectly is also seriously affected by these conditions and prays for relief.

Florida produces kaolin and silica, also sea foods, fruits and vegetables, both fresh and preserved, and producers of all of these commodities are feeling the effect of the depreciated currency situation. Some of them as in the case of kaolin have been affected to an extent which actually compels the shutting down of plants, and subsequent unemployment.

In addition to my work in Florida, I have also been active in conducting investigations in Georgia, where I find conditions especially in the kaolin business to be very bad indeed. A large number of the Georgia kaolin mines have been compelled to shut down and those that are operating are losing money daily.

The situation is so acute that the Chambers of Commerce of Savannah, Augusta, and Atlanta have appealed to their Members of Congress asking for relief. The Macon Telegraph and Atlanta Constitution, two of the strongest papers in Georgia, have published editorials asking for relief from the situation brought about by the depreciated currencies in foreign countries.

May I, as representing the State Chamber of Commerce of Florida and as an emissary from civic bodies in Georgia, add my voice to those who appeared before you, and pray for favorable consideration of the amendment to be submitted by Senator Jones?

WILLIAM L. WILSON.

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Refined							
Blister							
Production of primary:							
Refined copper (United States and Cuba)							
Imports (less Cuba)							
Exports [1]							
Stocks, end of year:							
Refined							
Blister							
Apparent consumption							
RECONCILIATION							
Imports (excluding Cuba)							
Exports [1]							
Plus: exports							
Decrease in stocks							
Increase in stocks							
Surplus							

[1] These figures do not include manufactures for export.

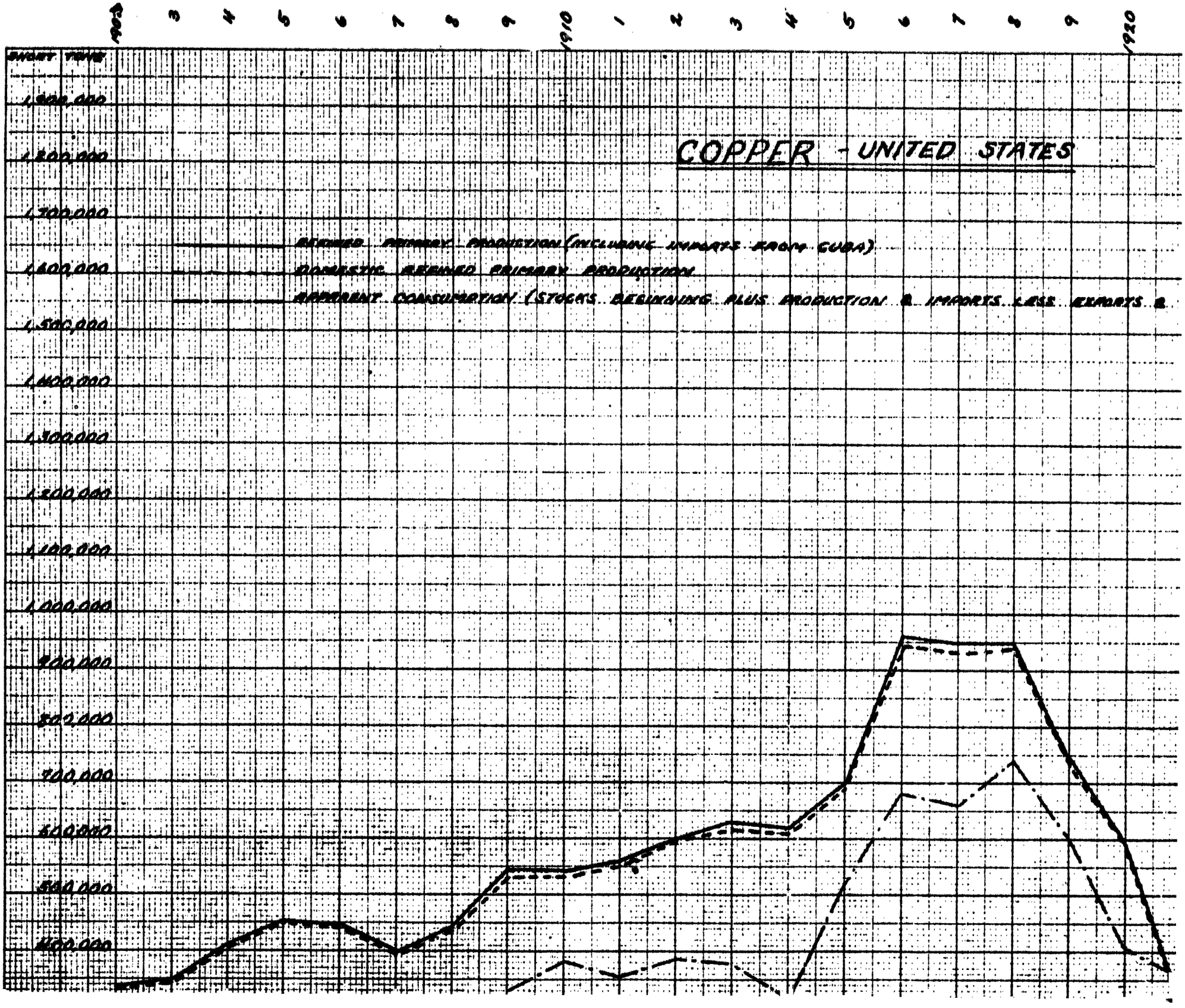
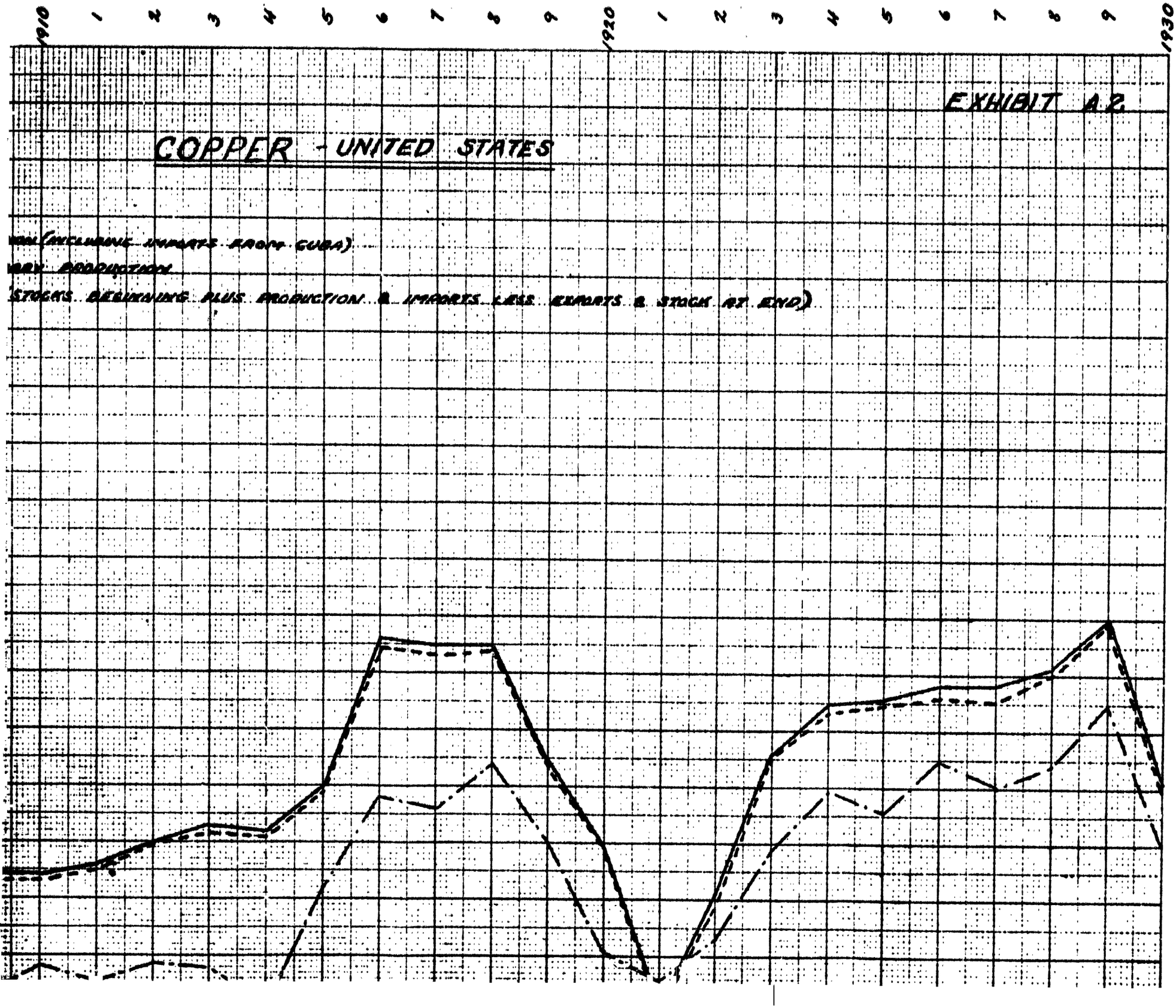
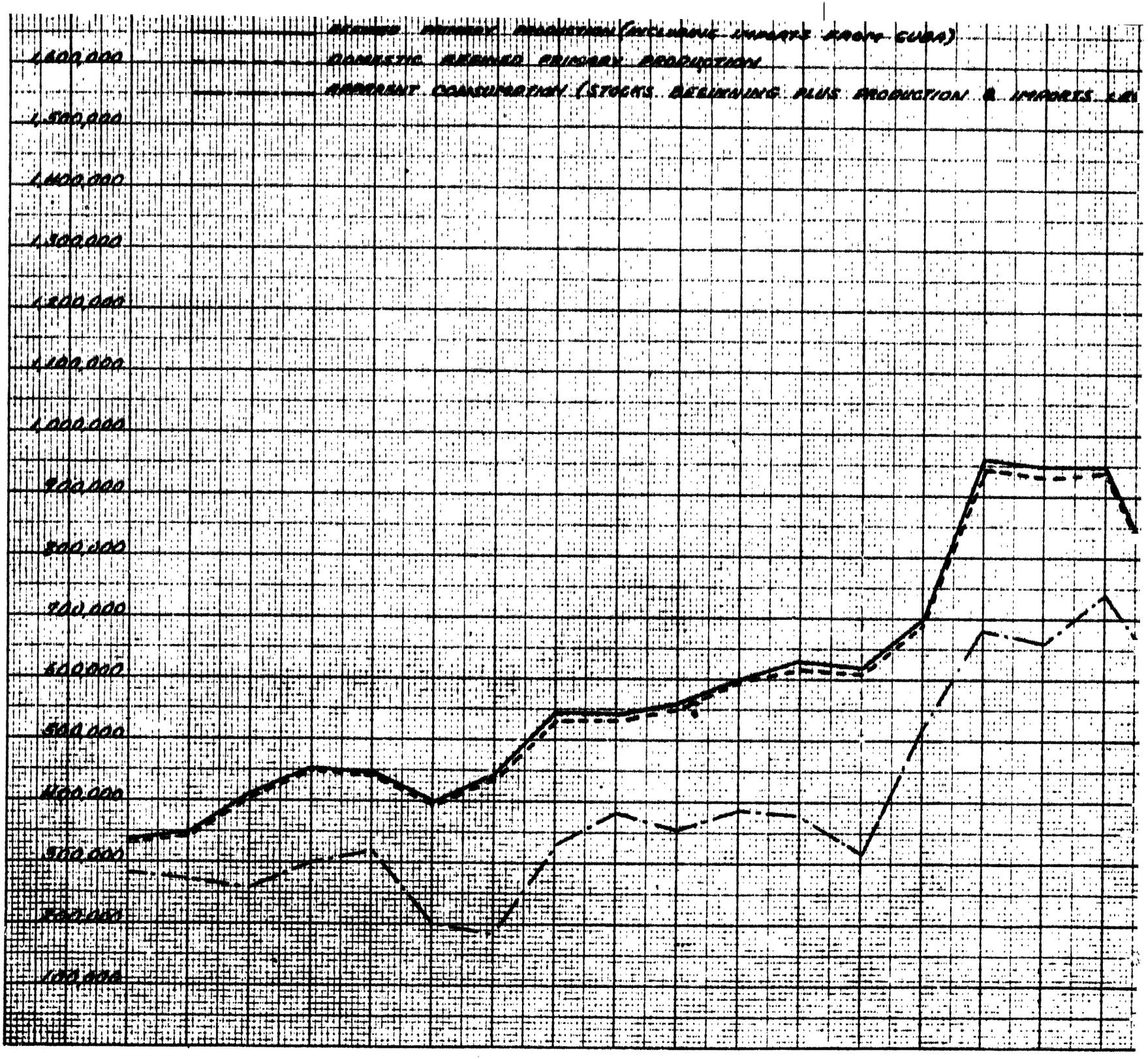
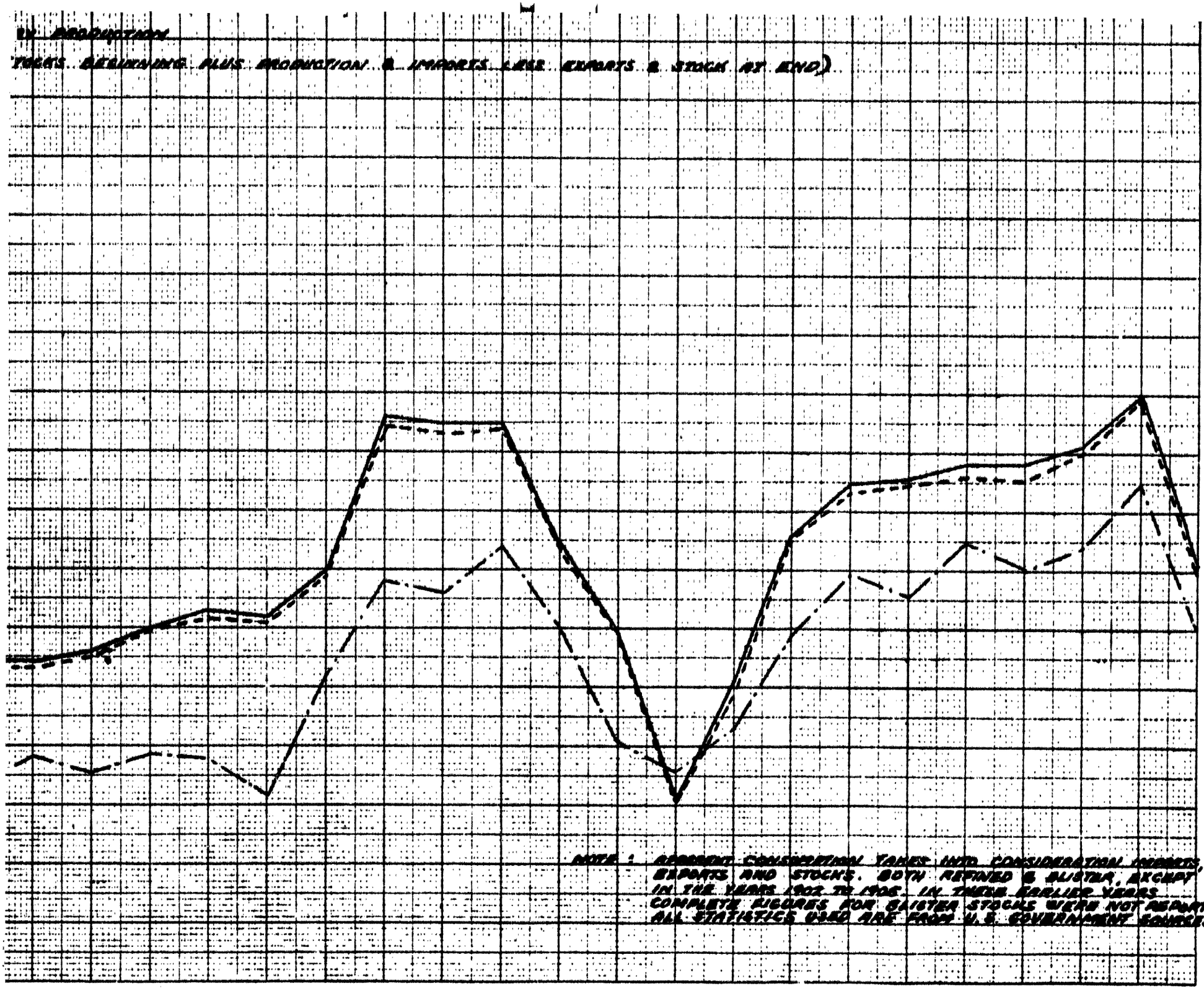

1902
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1910
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1920
SHORT TONS
1,600,000
1,500,000
1,400,000
1,300,000
1,200,000
1,100,000
1,000,000
900,000
800,000
700,000
600,000
500,000
400,000
COPPER - UNITED STATES
REFINED PRIMARY PRODUCTION (INCLUDING IMPORTS FROM CUBA)
DOMESTIC REFINED PRIMARY PRODUCTION
APPARENT CONSUMPTION (STOCKS BEGINNING PLUS PRODUCTION & IMPORTS LESS EXPORTS &

EXHIBIT A 2.

COPPER - UNITED STATES




1,600,000
1,500,000
1,400,000
1,300,000
1,200,000
1,100,000
1,000,000
900,000
800,000
700,000
600,000
500,000
400,000
300,000
200,000
100,000


U.S. PRODUCTION
(YEARS BEGINNING PLUS PRODUCTION & IMPORTS LESS EXPORTS & STOCKS AT END)
NOTE: ADJUSTMENT CONSIDERATIONS TAKEN INTO CONSIDERATION INCLUDE EXPORTS AND STOCKS. BOTH REFINED & BLISTER, EXCEPT IN THE YEARS 1902 TO 1906. IN THESE EARLIER YEARS COMPLETE RECORDS FOR BLISTER STOCKS WERE NOT REPORTED.
ALL STATISTICS USED ARE FROM U.S. GOVERNMENT SOURCES.

Copper prices—Continued

	New York lake	London best select	Difference
FREE OF DUTY—contd.			
1896—January	9.87	9.94	.07
February	10.64	10.79	.15
March	11.05	10.97	.08
April	10.98	10.93	.05
May	11.15	11.34	.19
June	11.67	11.71	.04
July	11.40	11.60	.20
August	10.98	11.12	.14
September	10.66	11.03	.37
October	10.66	11.03	.37
November	11.23	11.63	.40
December	11.28	11.58	.30
Average, 1896	10.88	11.14	.26
1897—January	11.75	11.72	.03
February	11.92	11.86	.06
March	11.80	11.63	.17
April	11.48	11.31	.17
May	11.03	11.27	.24
June	11.11	11.37	.26
July	11.11	11.18	.07
August	11.16	11.28	.12
September	11.30	11.44	.14
October	11.13	11.20	.07
November	10.88	11.04	.16
December	10.78	11.06	.28
Average, 1897	11.29	11.36	.08

	New York lake	London best select	Difference
FREE OF DUTY—contd.			
1898—January	10.99	11.31	.32
February	11.28	11.44	.16
March	11.95	11.80	.15
April	12.14	12.08	.06
May	11.89	11.73	.16
June	11.89	11.73	.17
July	11.63	11.64	.01
August	11.89	11.97	.08
September	12.31	12.01	.30
October	12.41	12.31	.10
November	12.86	12.87	.01
December	12.93	12.95	.02
Average, 1898	12.03	12.01	.02
1899—January	14.75	14.65	.10
February	18.00	17.02	.98
March	17.54	16.01	1.53
April	18.43	16.98	1.45
May	16.25	17.55	.70
June	17.93	17.47	.46
July	18.33	17.63	.70
August	18.50	17.51	.99
September	18.46	17.58	.88
October	17.76	17.49	.27
November	16.93	17.30	.37
December	16.40	16.79	.39
Average, 1899	17.61	17.00	.61

EXHIBIT C

Comparative wheat prices received by the American farmer and in Liverpool

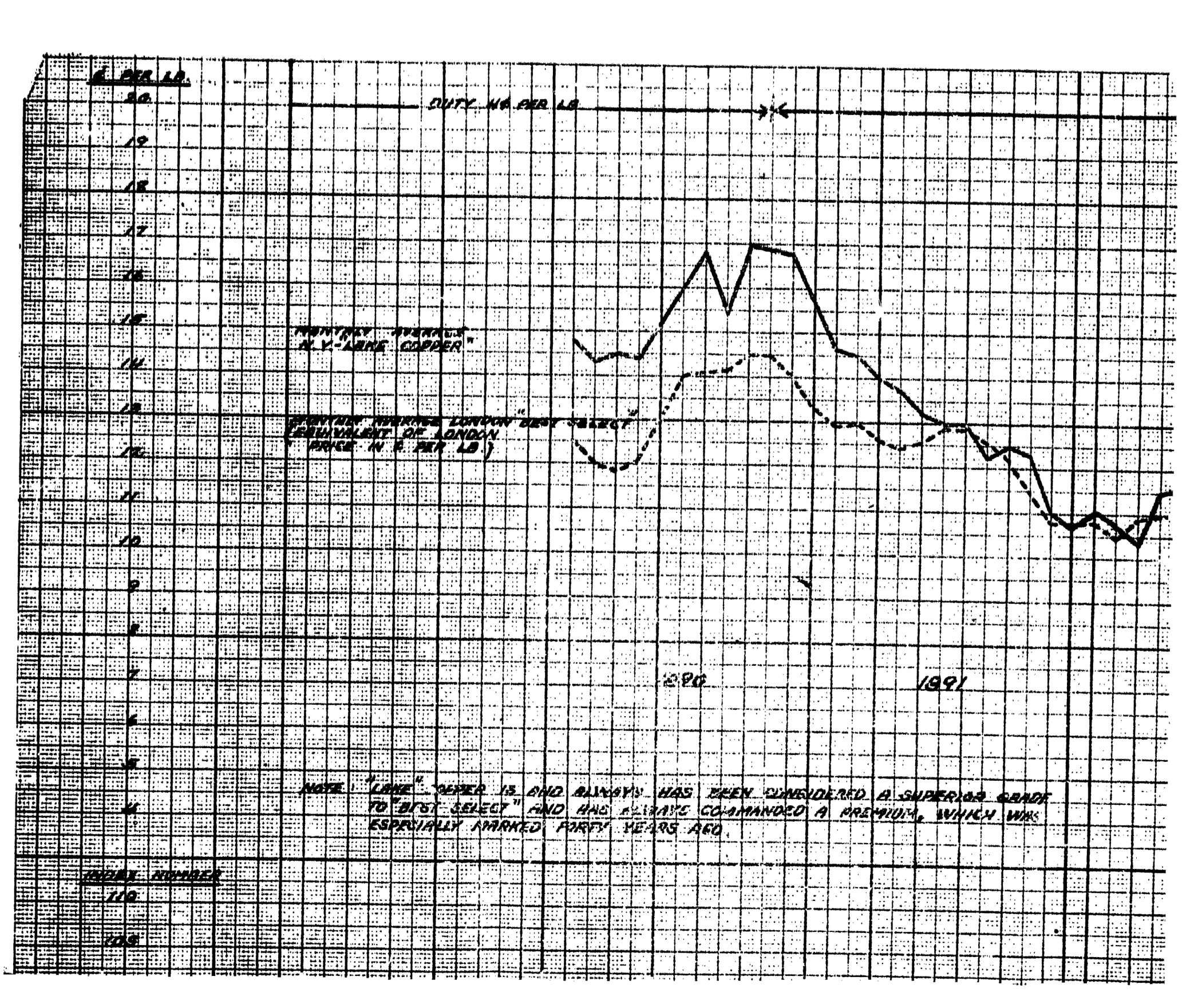
[Yearbook of Agriculture, 1931]

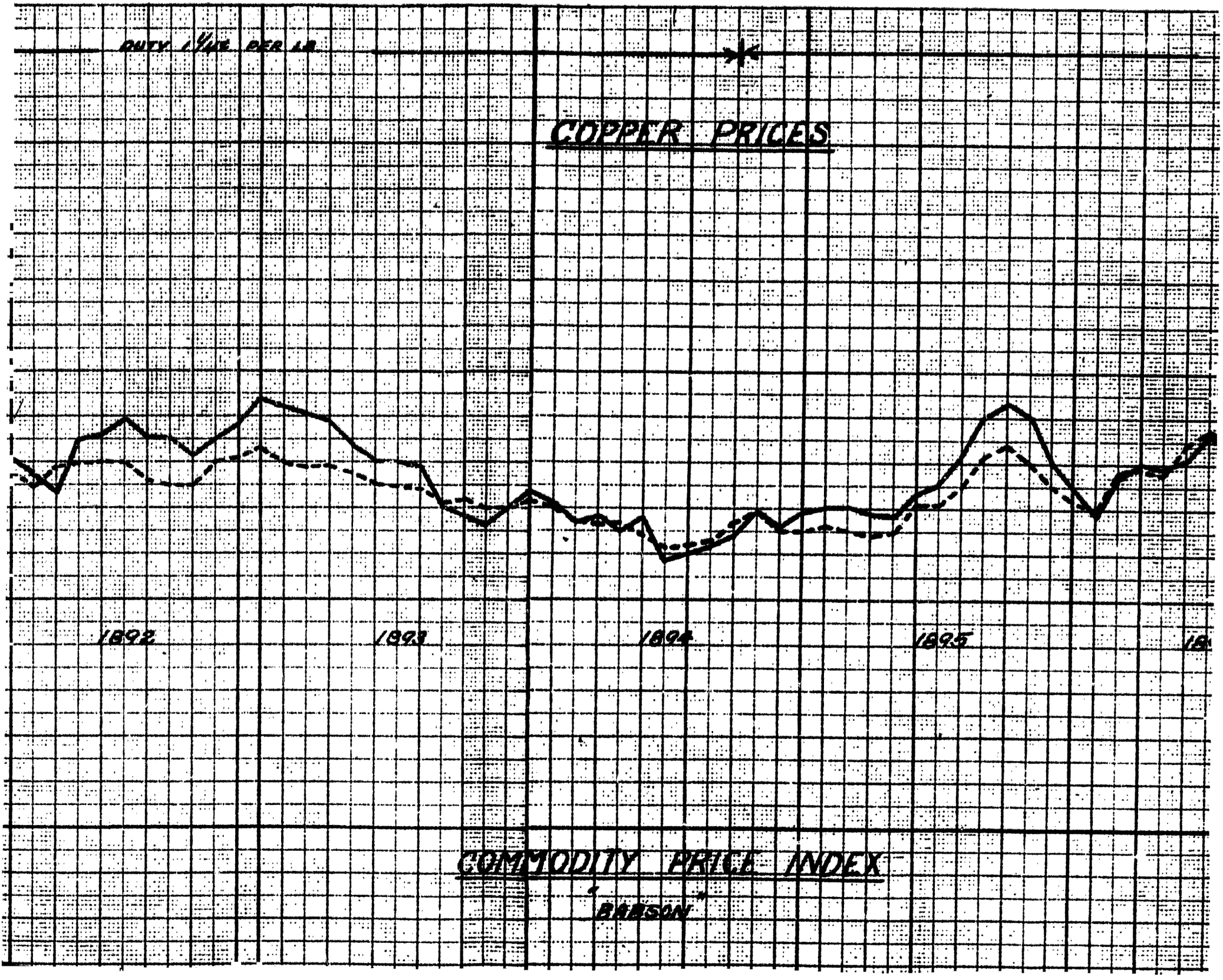
1926	American farmers [1]	Liverpool [2]	Differential: Liverpool less United States	Differential: Both prices referred to Galveston [3]
	Cents	*Cents*	*Cents*	*Cents*
January	158.10	181.00		
February	155.80	175.00		
March	146.00	161.00		
April	142.20	171.00		
May	142.10	173.00		
June	138.90	169.00		
July	127.70	167.00		
August	125.10	162.00		
September	117.70	160.00		
October	121.40	171.00		
November	123.60	171.60		
December	122.80	163.00		
Average	135.00	168.66	33.66	17.16

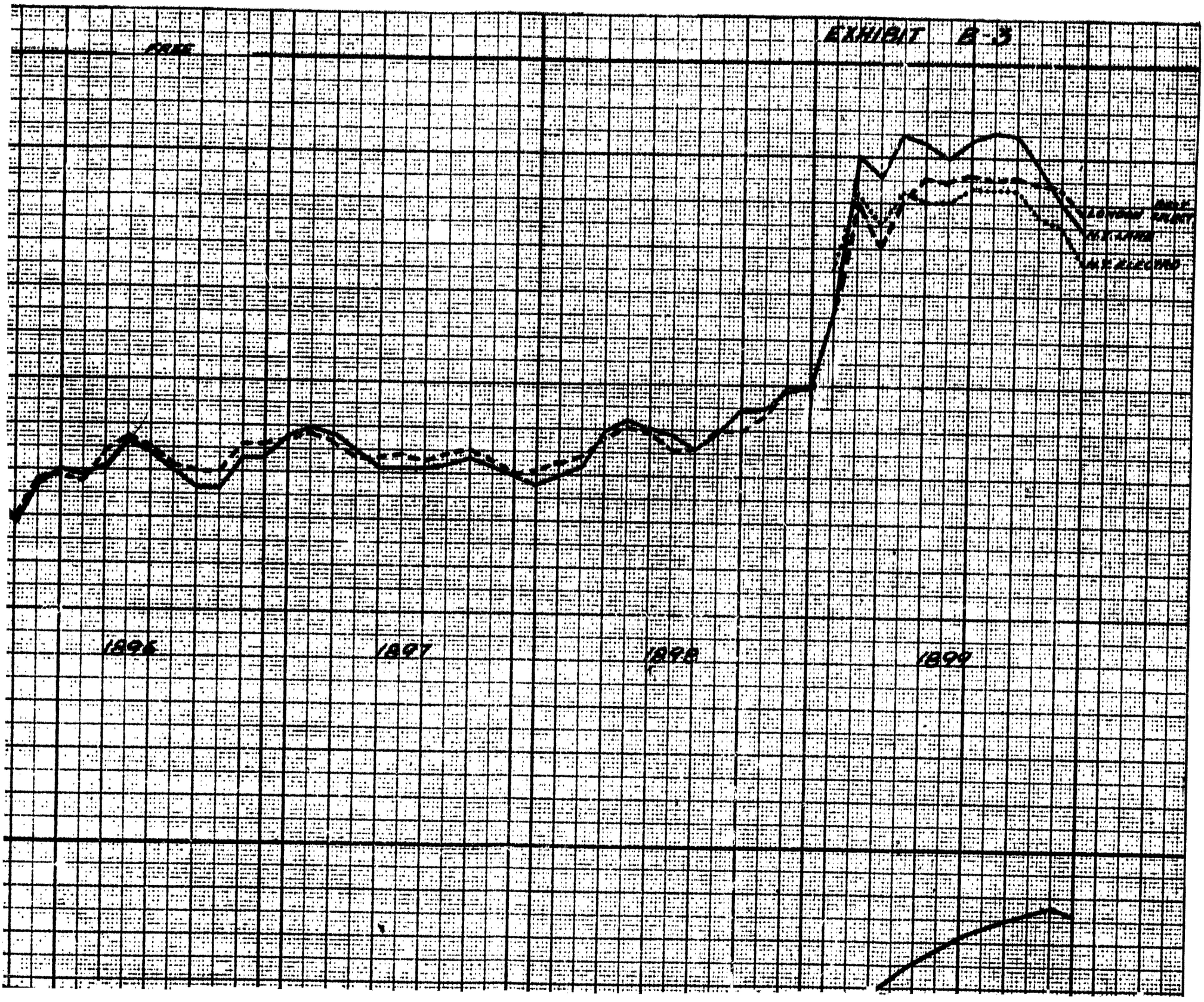
[1] Estimated average price per bushel received by producers of all wheat. Monthly prices weighted by production for each State.

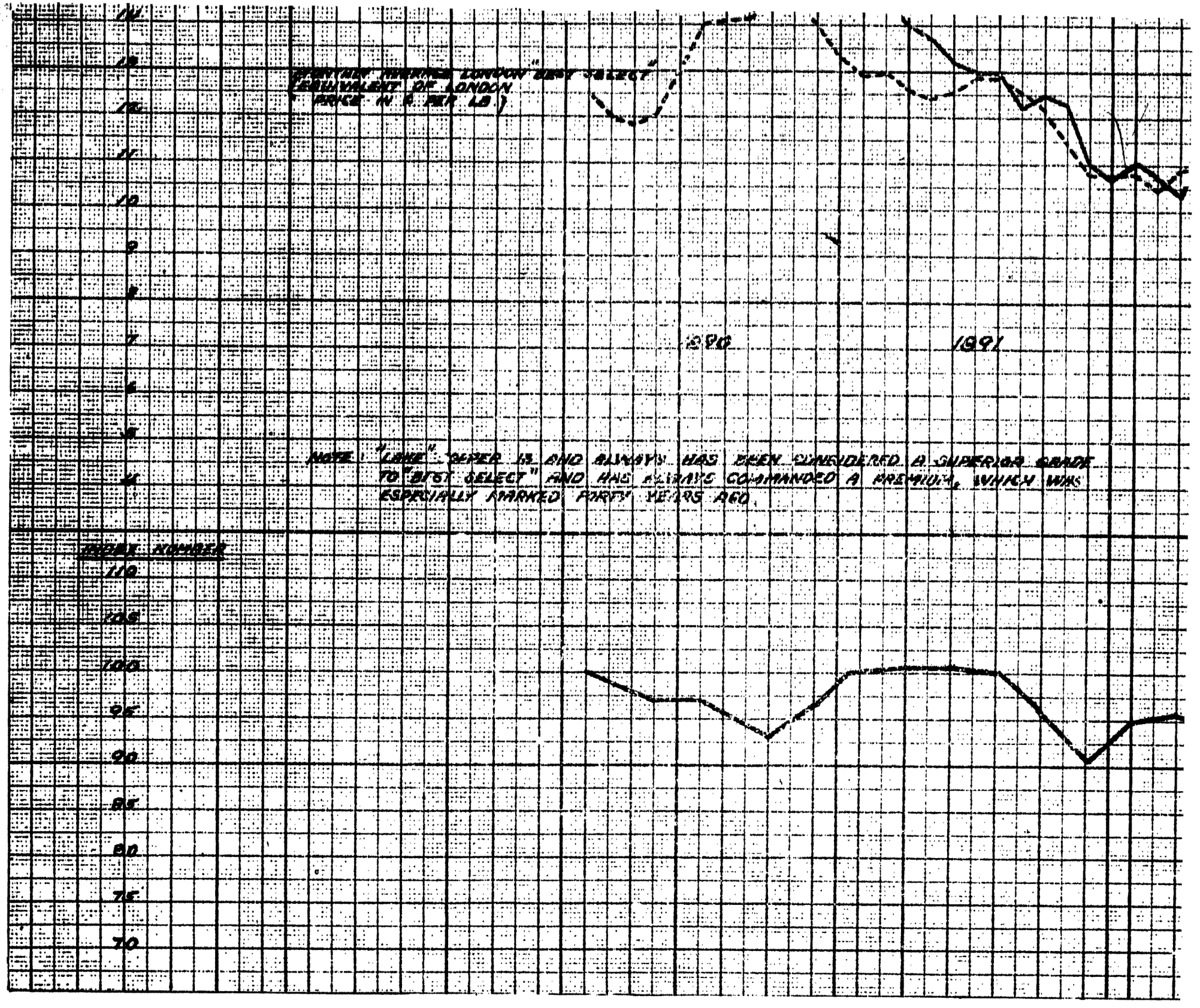
[2] Average price per bushel of all imported wheat.

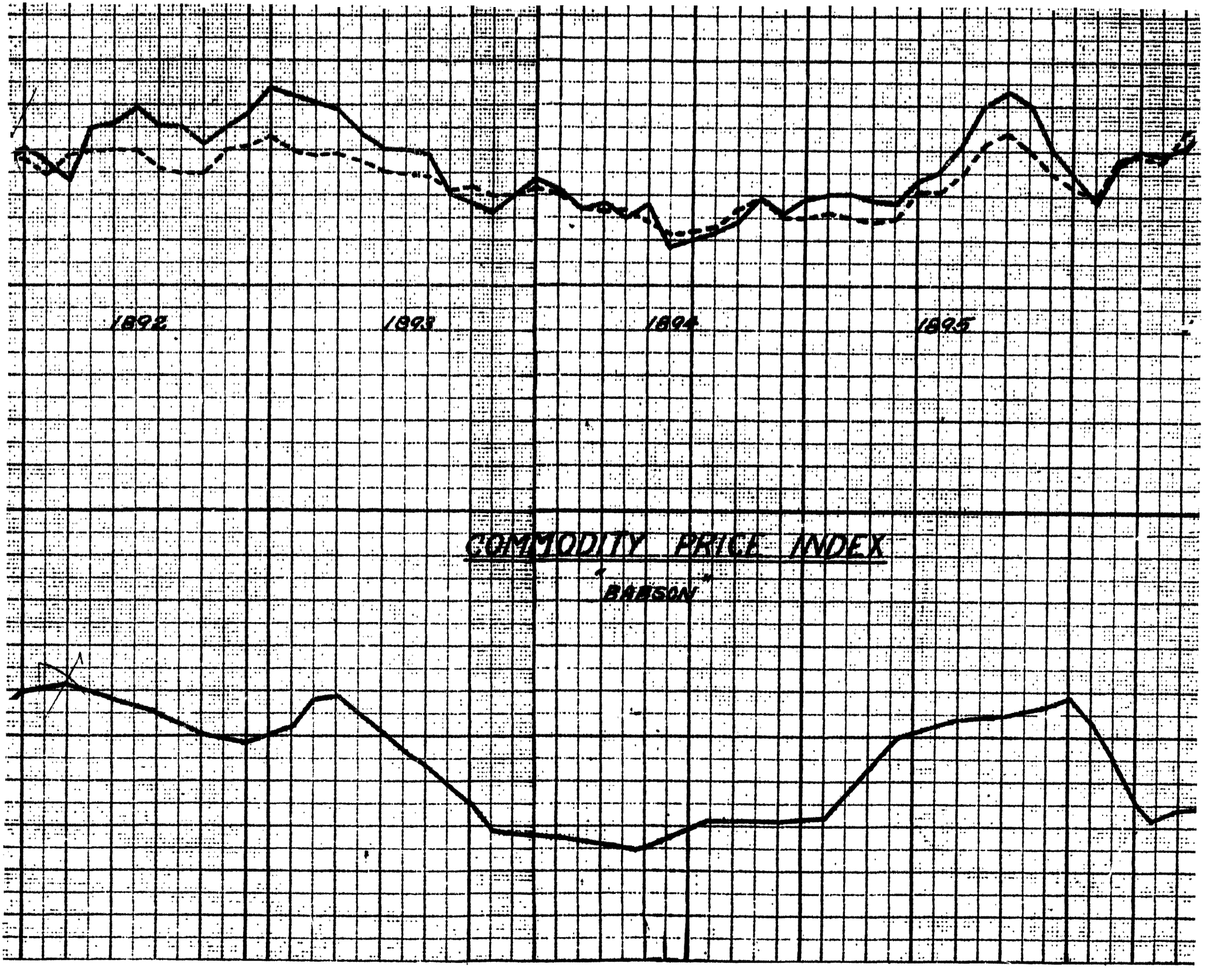
[3] After adding to American farmer price 23 cents per bushel, freight Kansas to Galveston, and deducting from Liverpool price 6½ cents per bushel, freight Liverpool to Galveston, or a net differential of 16½ cents per bushel.


£ PER LB.
20
19
18
17
16
15
14
13
12
11
10
9
8
7
6
5
4
DUTY 1/6 PER LB
MONTHLY AVERAGES "A.V.-LAKE COPPER"
MONTHLY AVERAGES LONDON "BEST SELECT" (EQUIVALENT OF LONDON PRICE IN £ PER LB.)
1890
1891
NOTE. "LAKE" COPPER IS AND ALWAYS HAS BEEN CONSIDERED A SUPERIOR GRADE TO "BEST SELECT" AND HAS ALWAYS COMMANDED A PREMIUM, WHICH WAS ESPECIALLY MARKED FORTY YEARS AGO.
INDEX NUMBER
110
105


DUTY ¢/LB. PER LB.
COPPER PRICES
1892
1893
1894
1895
COMMODITY PRICE INDEX
BARSON


EXHIBIT B-3
1896
1897
1898
1899


CENTRAL TEXTILES LONDON "BEST SELECT"
(EQUIVALENT OF LONDON
PRICE IN ₹ PER LB.)
1890
1891
NOTE: "LANE" SUPER 13 AND ALWAYS HAS BEEN CONSIDERED A SUPERIOR GRADE
TO "BEST SELECT" AND HAS ALWAYS COMMANDED A PREMIUM, WHICH WAS
ESPECIALLY MARKED FORTY YEARS AGO.
INDEX NUMBER
110
105
100
95
90
85
80
75
70


1892
1893
1894
1895
COMMODITY PRICE INDEX
BABSON

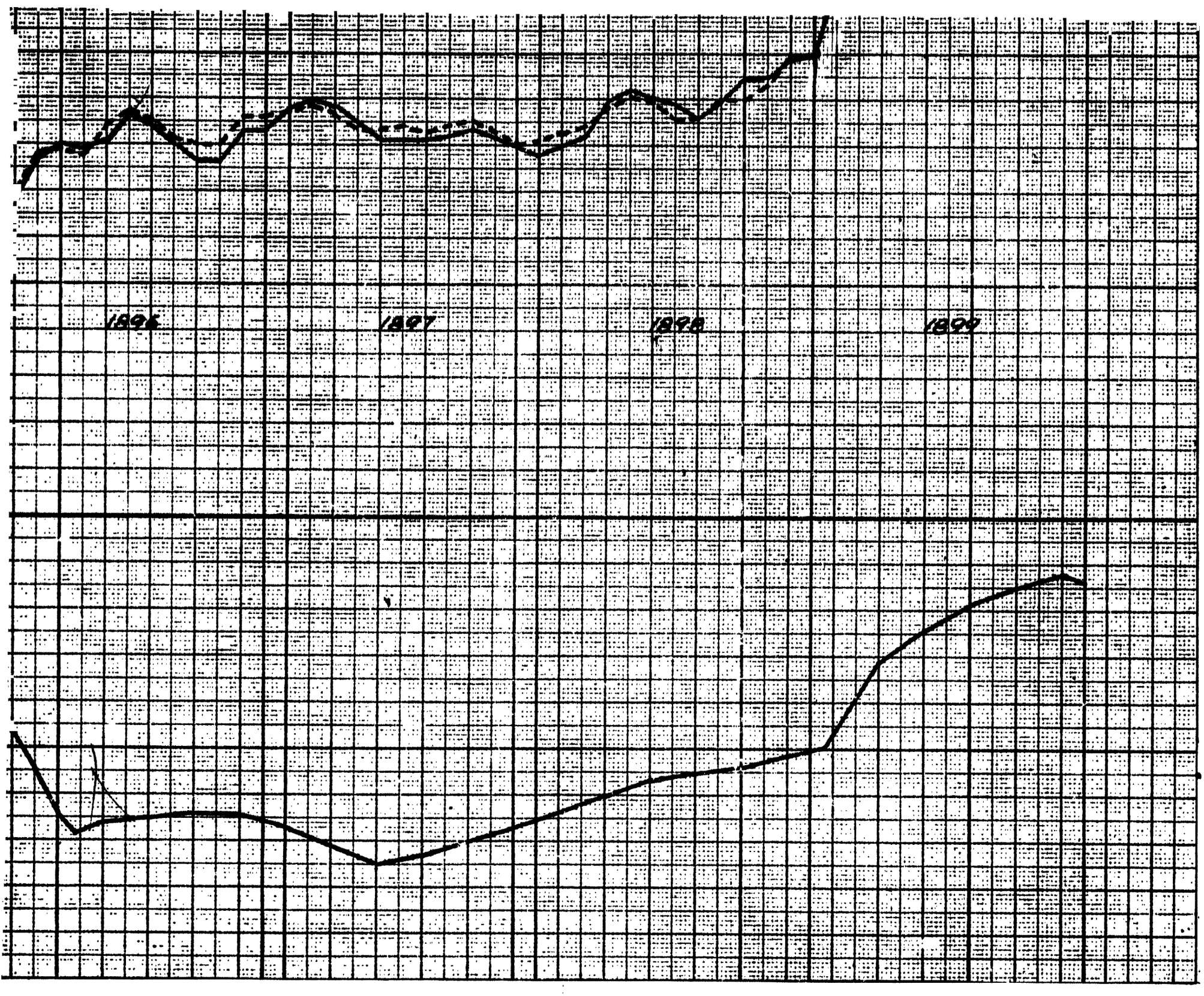

1896
1897
1898
1899

EXHIBIT D-1

Potential copper production—United States of America

	Short tons		Short tons
Anaconda, Butte	181,000	Old Dominion	10,000
Calumet and Hecla	90,000	Phelps Dodge—United States	220,000
Copper Range	20,000	Quincy	12,000
Consolidated Copper Mines	30,000	Seneca	2,000
Ducktown	6,000	Shattuck-Denn	5,000
East Butte	3,500	Tennessee	7,500
Engels	6,000	United Verde	31,000
Inspiration	70,000	United Verde Extension	27,000
Isle Royal	5,400	Utah	200,000
Kennecott-Alaska	14,000	Utah Apex	2,300
Lebanon	2,000	Utah Delaware	2,700
Magma	30,000	Walker	7,500
Matahambre (Cuba)	22,500	Total primary	1,318,900
Miami	55,000	Secondary to primary refineries	150,000
Mohawk	12,000	Total copper	1,468,900
Mother Lode	6,000		
Nevada-Ray-Chino	183,000		
North Butte	4,000		
Ohio	1,500		

EXHIBIT D-2

United States copper consumption

	Short tons		Short tons
1890	95,224	1911	354,555
1891	88,534	1912	383,792
1892	128,165	1913	380,668
1893	75,805	1914	319,081
1894	98,745	1915	520,882
1895	129,351	1916	682,835
1896	97,626	1917	662,095
1897	116,997	1918	746,995
1898	139,703	1919	592,123
1899	205,756	1920	412,020
1900	181,446	1921	356,541
1901	258,881	1922	453,522
1902	275,069	1923	596,163
1903	264,286	1924	698,056
1904	253,102	1925	665,830
1905	291,399	1926	750,027
1906	326,062	1927	694,772
1907	303,952	1928	744,426
1908	188,688	1929	847,574
1909	326,084	1930	597,806
1910	374,117		

NOTE.—United States figures from 1890–1901, inclusive, are the "Available Supplies" as reported by the U. S. Geological Survey; from 1902 to 1930, inclusive, are the result of calculations made, details of which are shown in Exhibit A. All figures used in this connection come from Government sources.

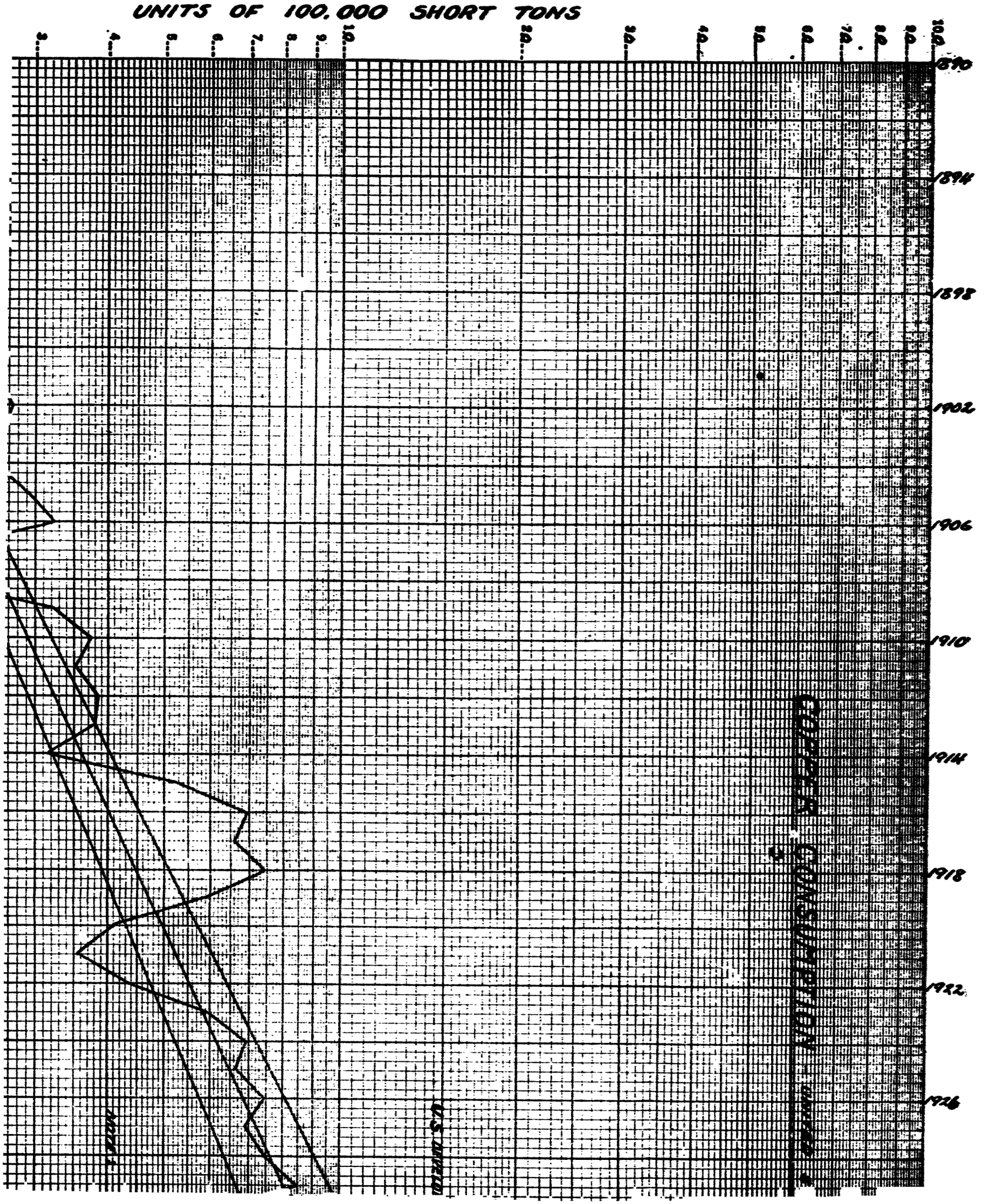
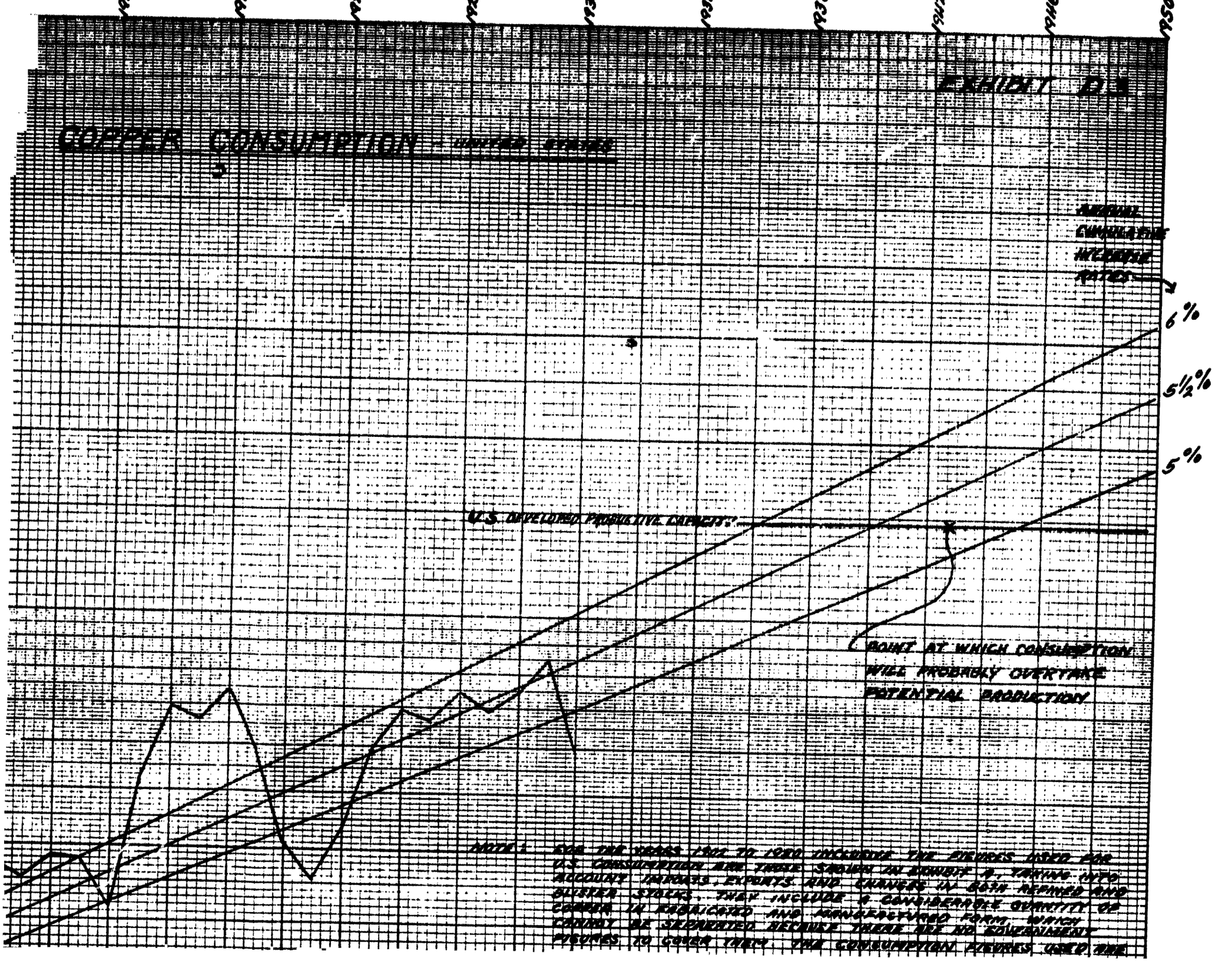
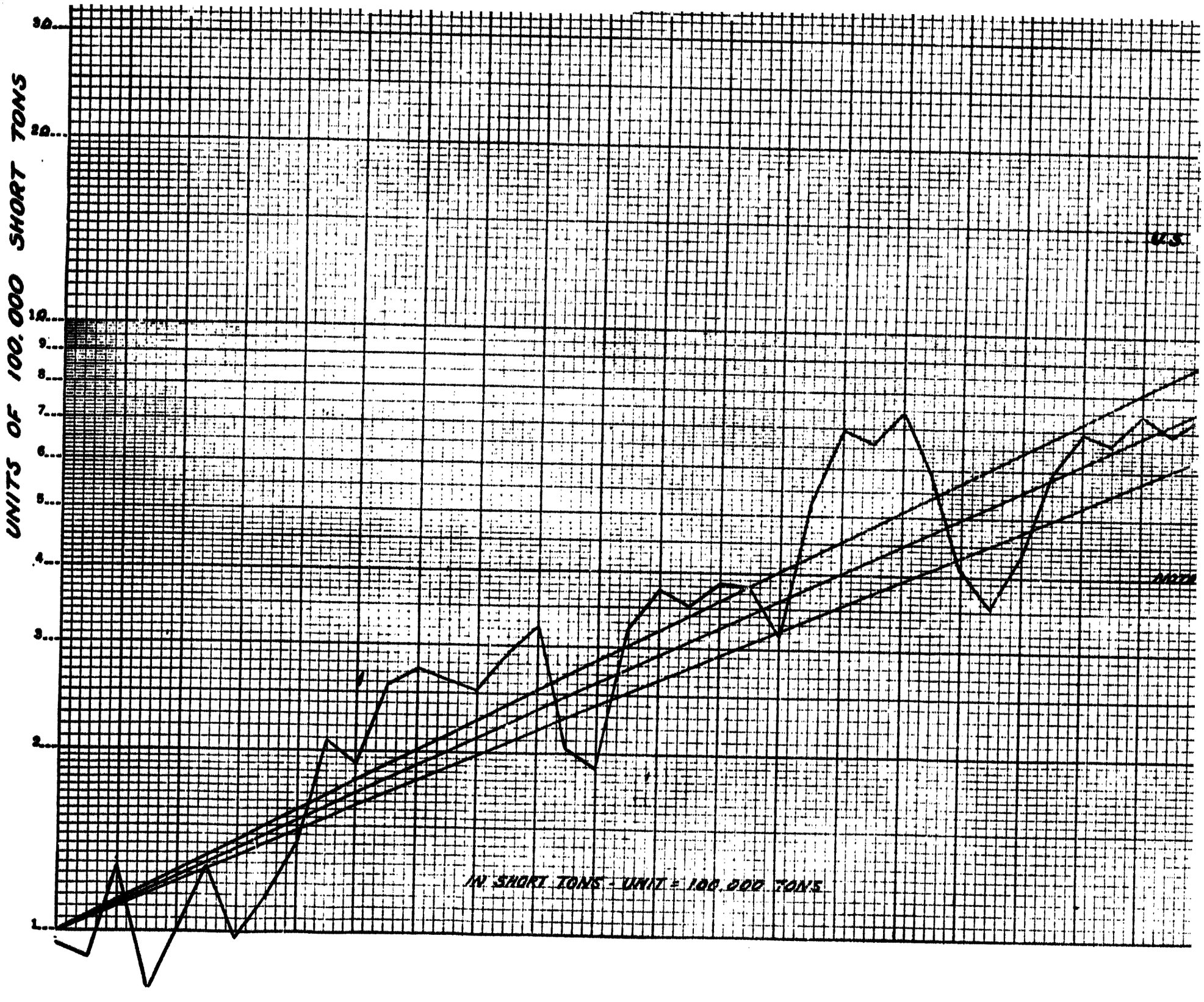

UNITS OF 100,000 SHORT TONS
3
4
5
6
7
8
9
10
20
30
40
50
60
70
80
90
100
1890
1894
1898
1902
1906
1910
1914
1918
1922
1926
COPPER CONSUMPTION
U.S. OUTPUT

EXHIBIT 2-B

COPPER CONSUMPTION - UNITED STATES



NOTE: FOR THE YEARS 1900 TO 1959 INCLUSIVE THE FIGURES USED FOR U.S. CONSUMPTION ARE THOSE SHOWN IN EXHIBIT A, TAKING INTO ACCOUNT IMPORTS, EXPORTS AND CHANGES IN BOTH REFINED AND BLISTER STOCKS. THEY INCLUDE A CONSIDERABLE QUANTITY OF COPPER IN FABRICATED AND MANUFACTURED FORM, WHICH CANNOT BE SEPARATED BECAUSE THERE ARE NO GOVERNMENT FIGURES TO COVER THEM. THE CONSUMPTION FIGURES USED FOR


UNITS OF 100,000 SHORT TONS
30
20
10
9
8
7
6
5
4
3
2
1
U.S.
IN SHORT TONS - UNIT = 100,000 TONS

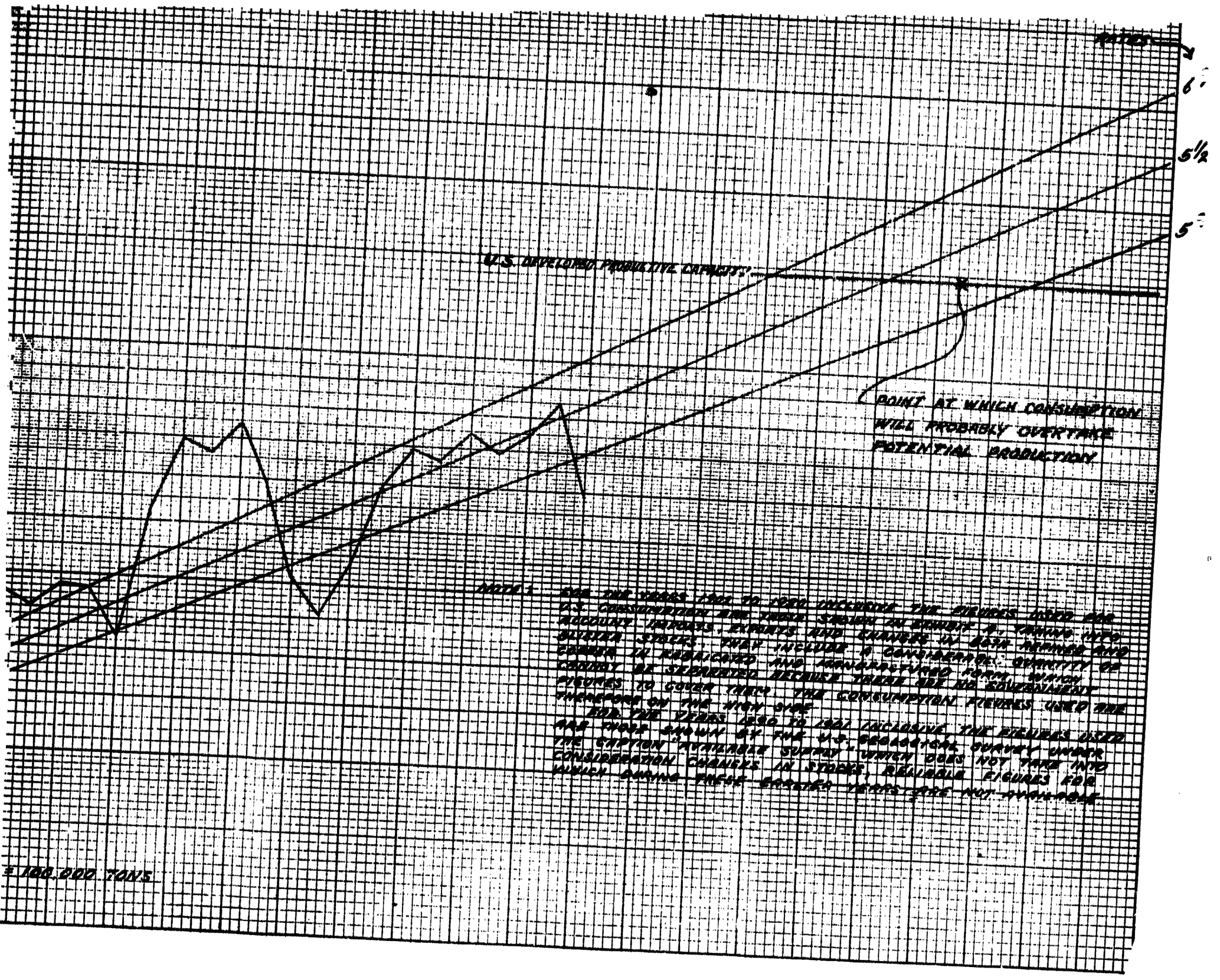

6
5½
5
U.S. DEVELOPED PRODUCTIVE CAPACITY
POINT AT WHICH CONSUMPTION WILL PROBABLY OVERTAKE POTENTIAL PRODUCTION
NOTE: FOR THE YEARS 1951 TO 1959 INCLUSIVE THE FIGURES USED FOR U.S. CONSUMPTION ARE THOSE SHOWN IN STATISTICAL SUMMARY WITH ACCOUNT TAKEN OF IMPORTS, EXPORTS AND CHANGES IN BOTH PRIMARY AND SECONDARY STOCKS. THEY INCLUDE A CONSIDERABLE QUANTITY OF METAL IN FABRICATED AND MANUFACTURED FORM WHICH CANNOT BE SEPARATED BECAUSE TRADE DATA DO NOT DISTINGUISH FIGURES TO COVER THEM. THE CONSUMPTION FIGURES USED ARE THEREFORE ON THE HIGH SIDE.
FOR THE YEARS 1960 TO 1971 INCLUSIVE THE FIGURES USED ARE THOSE SHOWN BY THE U.S. GEOLOGICAL SURVEY UNDER THE CAPTION "AVAILABLE SUPPLY", WHICH DOES NOT TAKE INTO CONSIDERATION CHANGES IN STOCKS. RELIABLE FIGURES FOR WHICH DURING THESE PERIODS THEREFORE NOT AVAILABLE.
= 100,000 TONS

Exhibit E-2

World copper consumption

	Short tons		Short tons
1890	318,019	1911	1,051,704
1891	331,475	1912	1,144,959
1892	342,770	1913	1,203,739
1893	330,962	1914	1,056,044
1894	366,142	1915	1,249,788
1895	391,730	1916	1,480,609
1896	426,311	1917	1,523,268
1897	464,301	1918	1,556,337
1898	477,870	1919	1,010,590
1899	515,546	1920	1,150,651
1900	565,149	1921	778,648
1901	544,757	1922	1,095,811
1902	642,090	1923	1,331,040
1903	646,719	1924	1,491,923
1904	730,164	1925	1,673,843
1905	801,813	1926	1,726,532
1906	706,522	1927	1,758,720
1907	731,486	1928	2,019,965
1908	785,389	1929	2,090,953
1909	871,589	1930	1,731,713
1910	1,010,589		

NOTE.—World figures from 1890-1912, inclusive, as reported by the Metallgesellschaft, Germany; from 1913-1930, inclusive, as reported by the American Bureau of Metal Statistics.

Exhibit E-3

	Short tons
Potential copper production:	
United States	1,469,000
Foreign	1,609,000
World	3,078,000
Possible copper situation in 1941:	
World consumption in 1941 if it should reach potential would be	3,078,000
United States consumption (estimated)	1,350,000
Foreign consumption would be	1,728,000
Plus 50 per cent increase foreign consumption per capita	864,000
Foreign consumption might be	2,592,000
United States consumption (without per capita increase) (estimated)	1,350,000
Possible world consumption (1941)	3,942,000

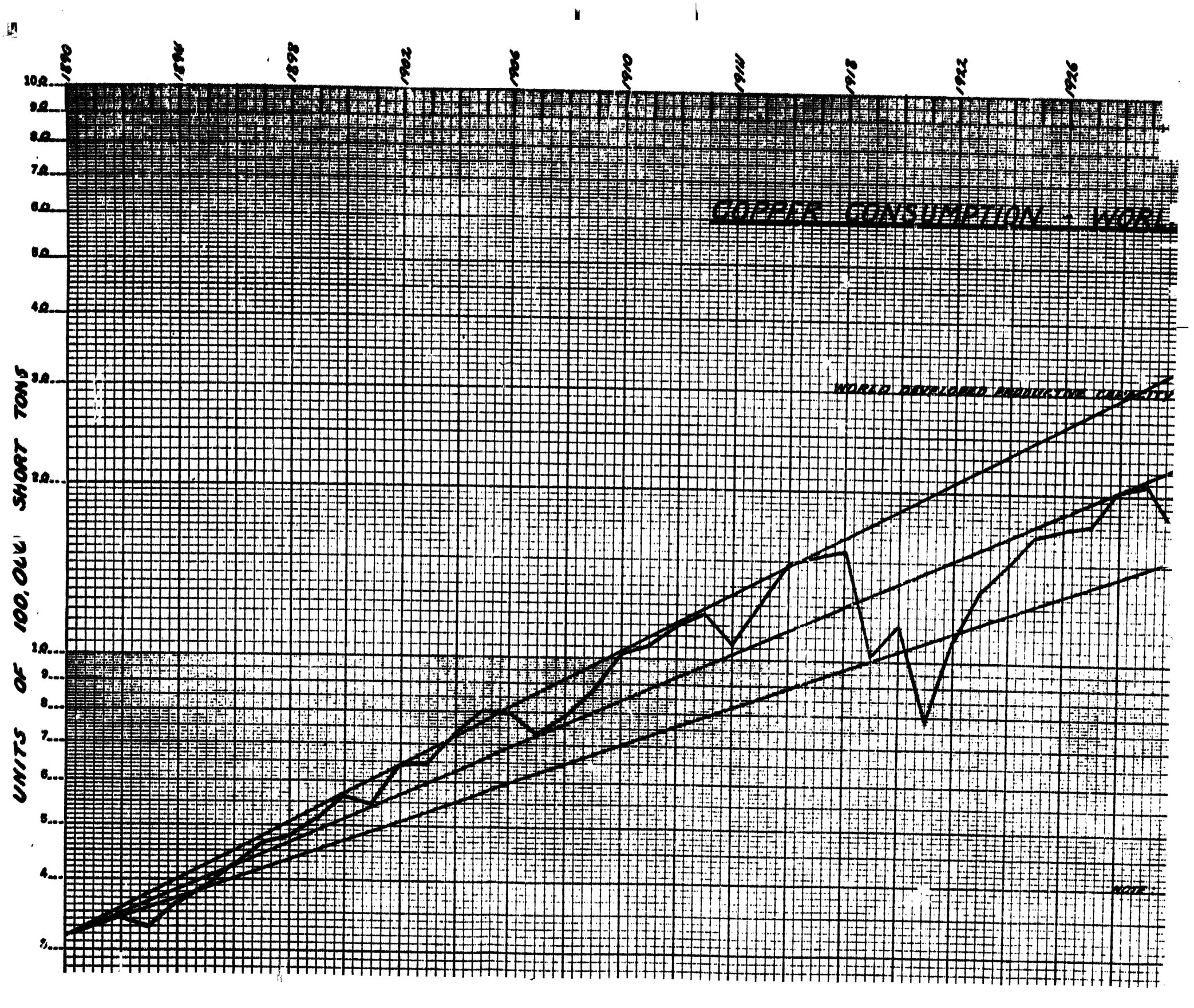
Exhibit F

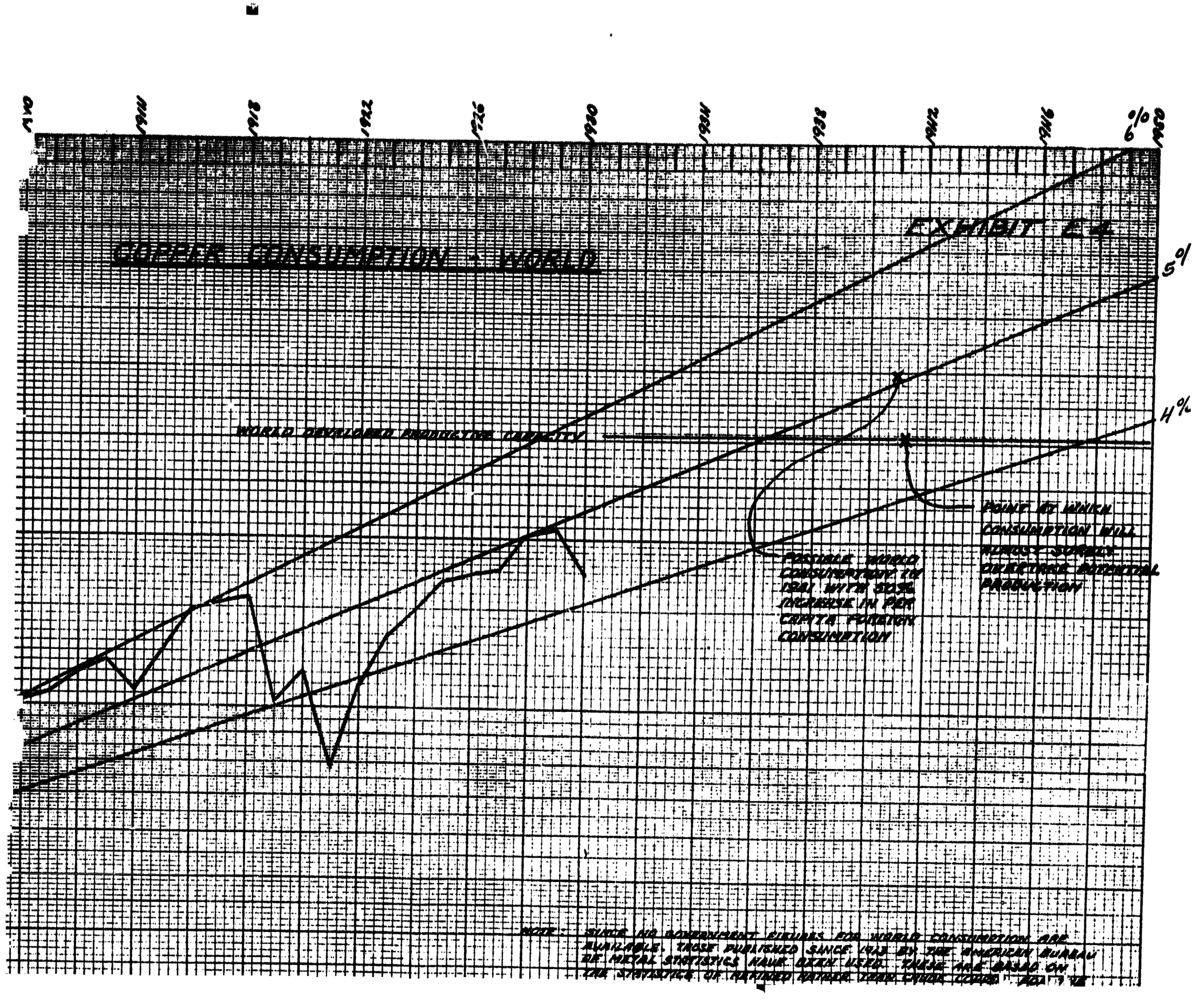
United States Refined Copper production [1]

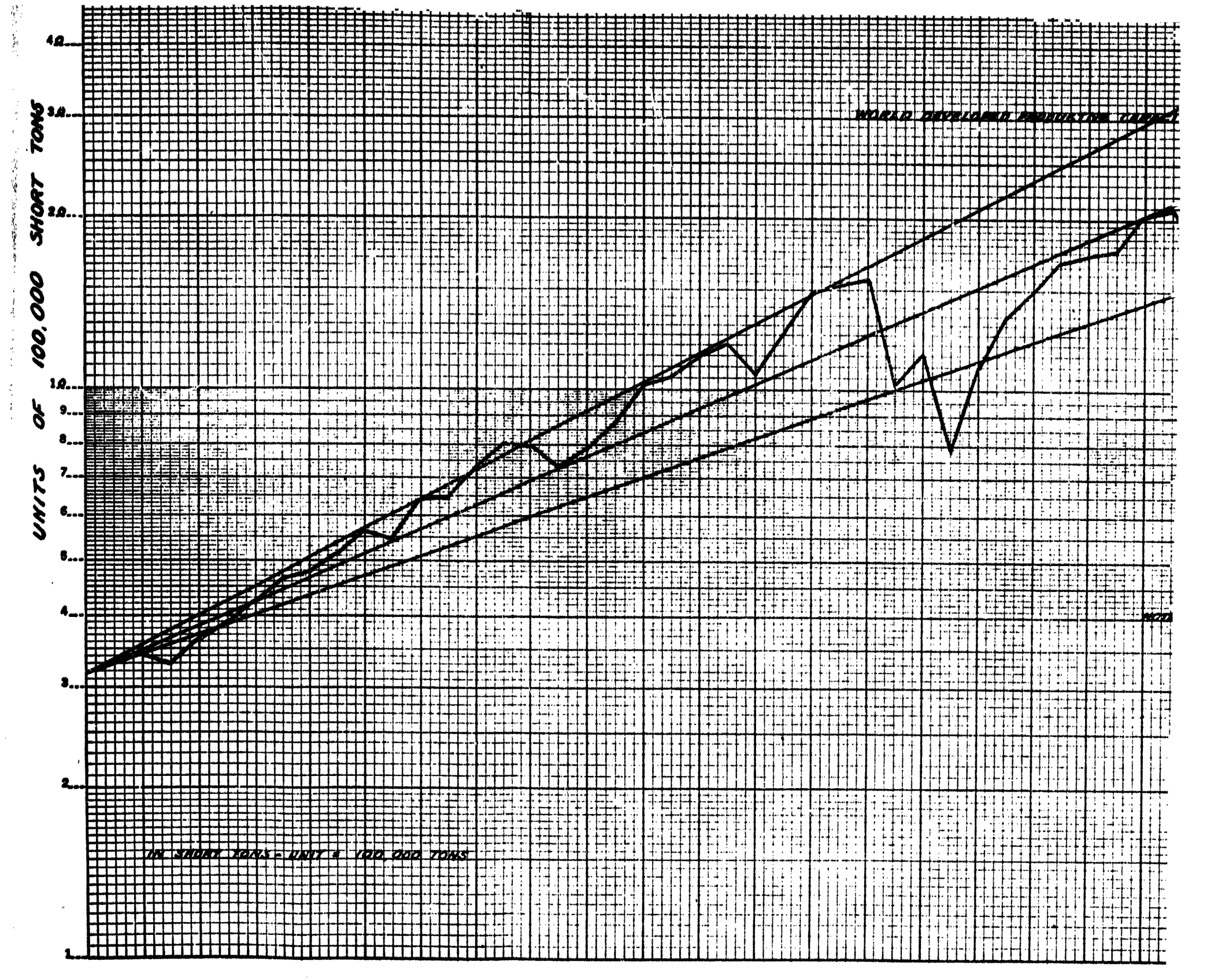
EXCLUDING SECONDARY

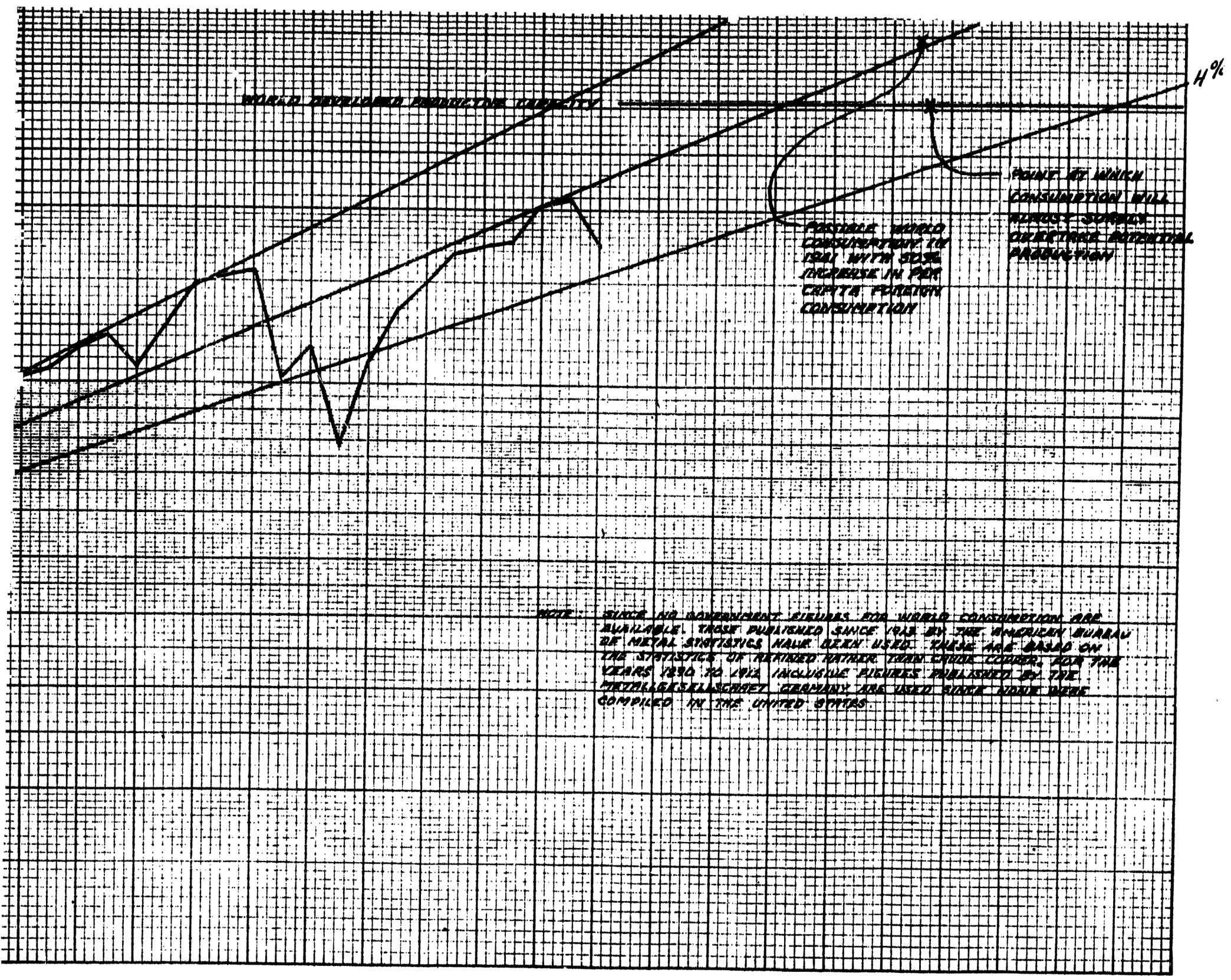
[Pounds]

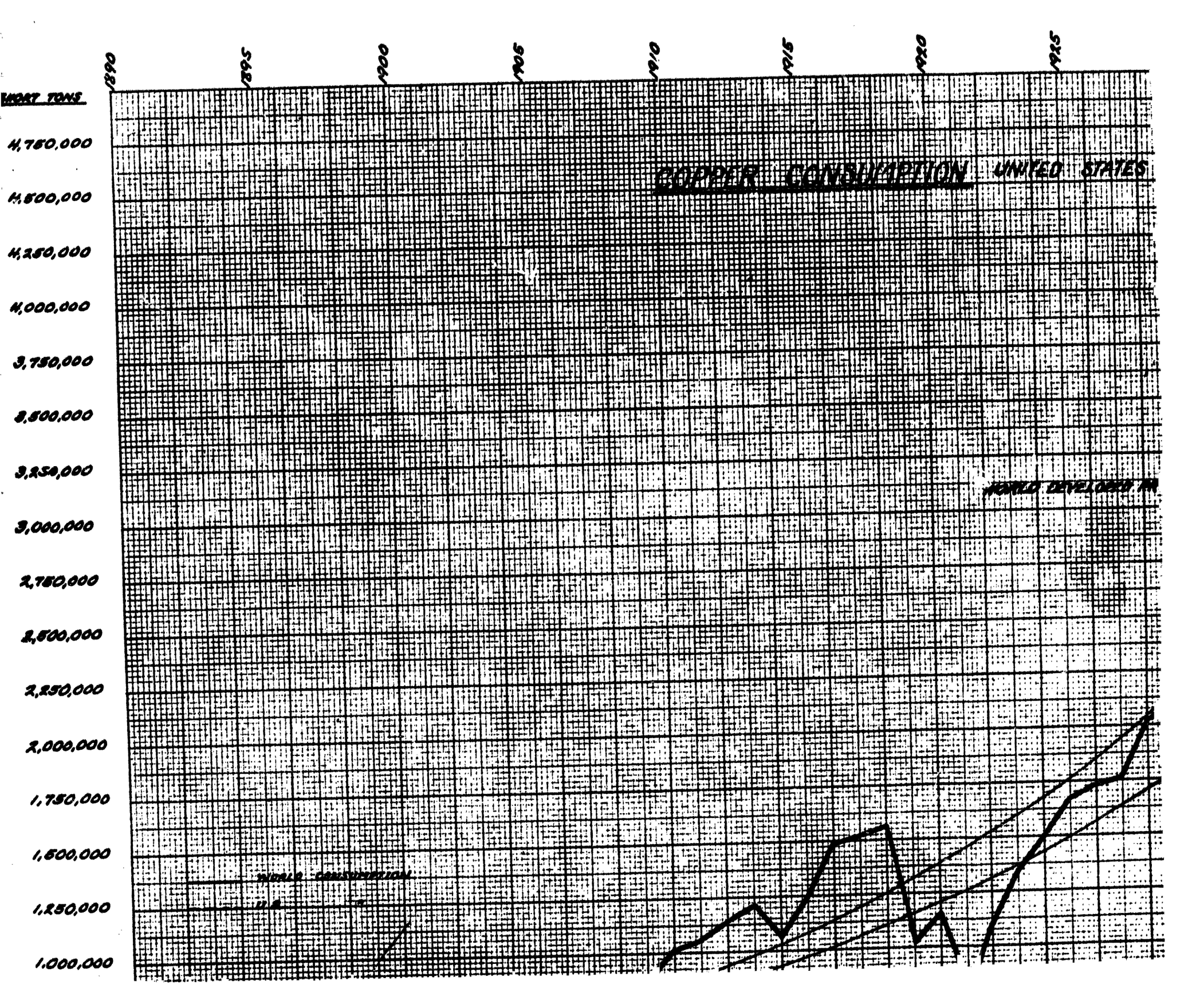
	1928		1929		1930	
	Total	Electrolytic only	Total	Electrolytic only	Total	Electrolytic only
Domestic sources	1,791,797,387	1,607,120,030	1,982,732,280	1,785,754,654	1,391,224,205	1,226,416,733
Foreign sources	695,810,392	693,787,036	757,380,087	756,555,087	765,834,973	765,189,037
Total	2,487,607,779	2,300,907,062	2,740,112,376	2,542,309,741	2,157,059,178	1,991,605,770
Per cent of total from foreign sources	28	30.1	27.6	29.7	35.5	38.4

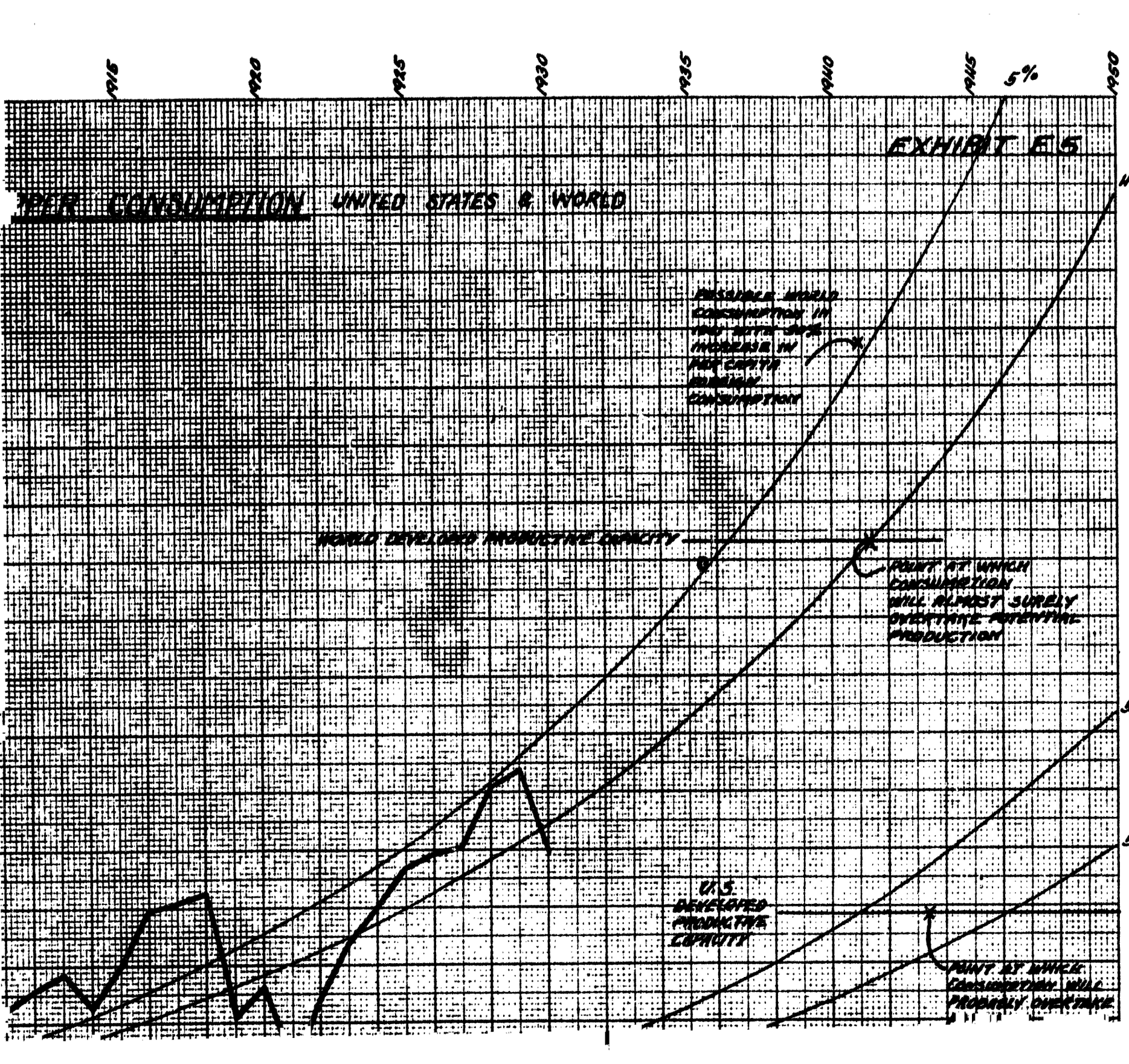

COPPER CONSUMPTION - WORL
WORLD DEVELOPED PRODUCTIVE CAPACITY
UNITS OF 100,000 SHORT TONS
1890
1894
1898
1902
1906
1910
1914
1918
1922
1926
10.0
9.0
8.0
7.0
6.0
5.0
4.0
3.0
2.0
1.0
9
8
7
6
5
4
NOTE

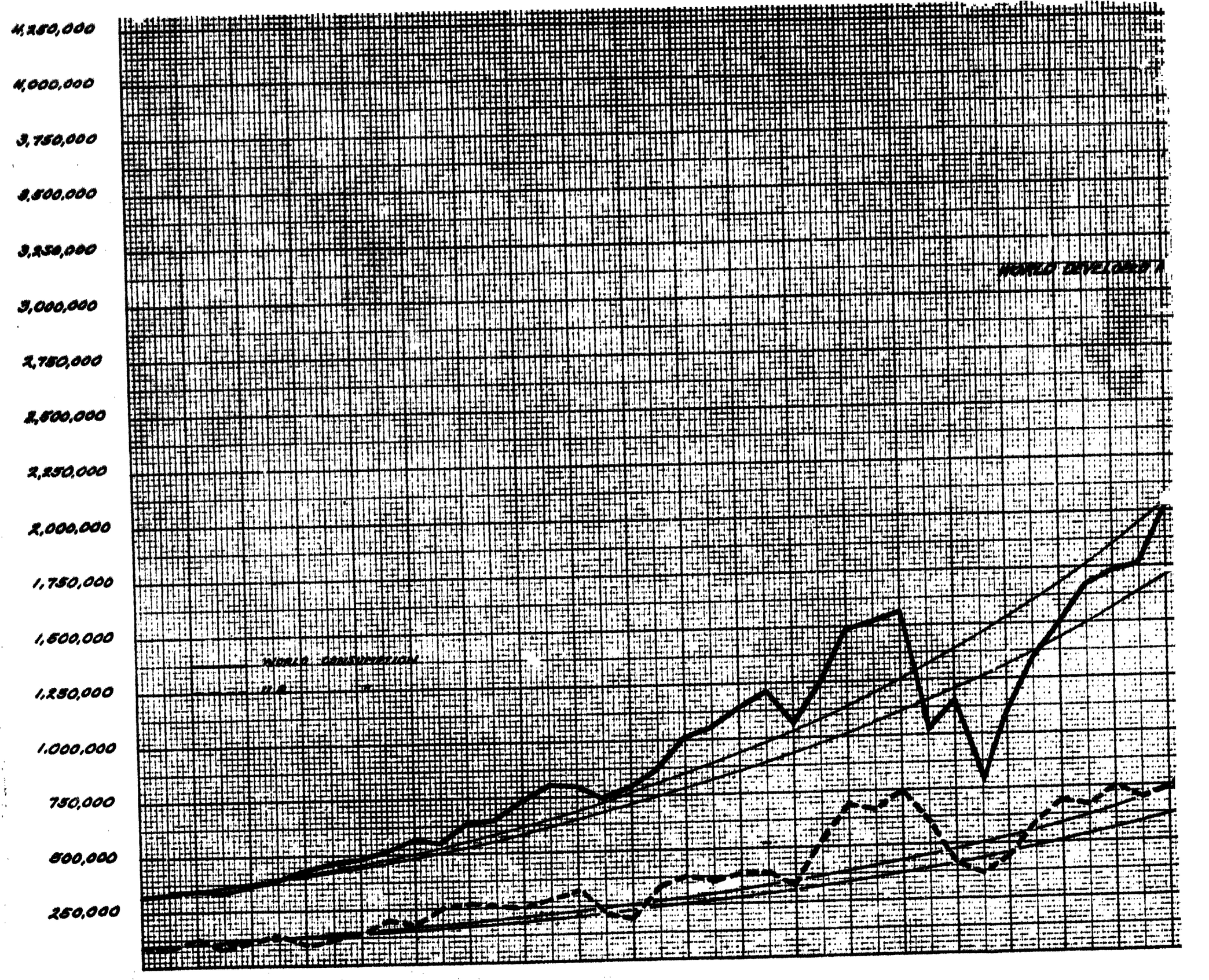

EXHIBIT E-4
COPPER CONSUMPTION - WORLD
1910
1914
1918
1922
1926
1930
1934
1938
1942
1946
1950
6%
5%
4%
WORLD DEVELOPED PRODUCTIVE CAPACITY
POSSIBLE WORLD CONSUMPTION TO DEAL WITH 50% INCREASE IN PER CAPITA POPULATION CONSUMPTION
POINT AT WHICH CONSUMPTION WILL REFLECT SOCIETY'S COLLECTIVE POTENTIAL PRODUCTION
NOTE - SINCE NO GOVERNMENT FIGURES FOR WORLD CONSUMPTION ARE AVAILABLE, THOSE PUBLISHED SINCE 1913 BY THE AMERICAN BUREAU OF METAL STATISTICS HAVE BEEN USED. THESE ARE BASED ON THE STATISTICS OF REFINED METALS FROM CHIEF COPPER

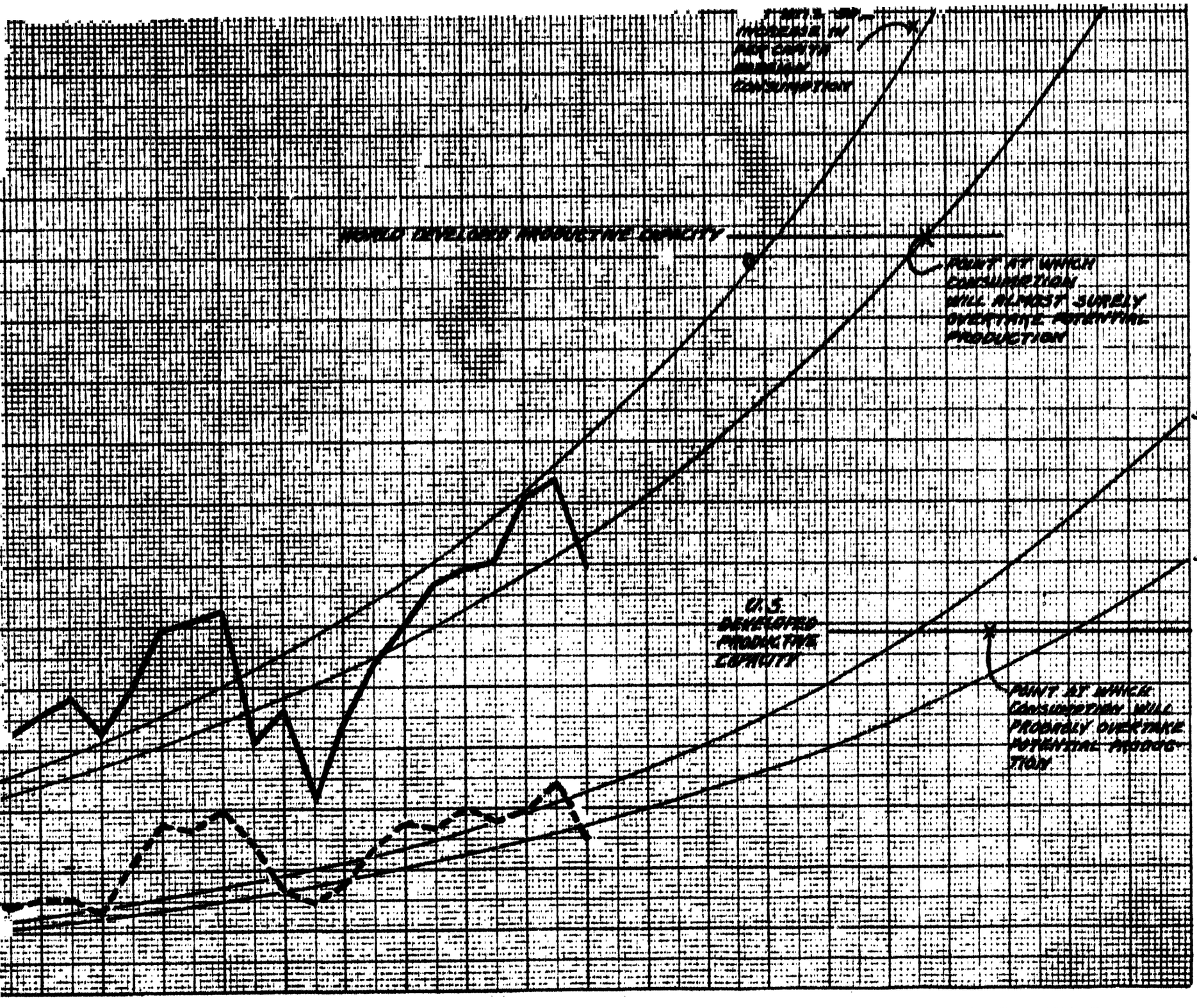

UNITS OF 100,000 SHORT TONS
4.0
3.0
2.0
1.0
9
8
7
6
5
4
3
2
1
WORLD DEVELOPED PRODUCTION CAPACITY
IN SHORT TONS - UNIT = 100,000 TONS


WORLD DEVELOPED PRODUCTION CAPACITY
4%
POINT AT WHICH CONSUMPTION WILL ALMOST SURELY OUTSTRIP POTENTIAL PRODUCTION
POSSIBLE WORLD CONSUMPTION IN 1941 WITH SOME INCREASE IN PER CAPITA FOREIGN CONSUMPTION
NOTE:- SINCE NO GOVERNMENT FIGURES FOR WORLD CONSUMPTION ARE AVAILABLE, THOSE PUBLISHED SINCE 1913 BY THE AMERICAN BUREAU OF METAL STATISTICS HAVE BEEN USED. THESE ARE BASED ON THE STATISTICS OF REFINED RATHER THAN CRUDE COPPER. FOR THE YEARS 1890 TO 1912 INCLUSIVE FIGURES PUBLISHED BY THE METALLGESELLSCHAFT GERMANY ARE USED SINCE MORE WERE COMPILED IN THE UNITED STATES.


COPPER CONSUMPTION UNITED STATES
SHORT TONS
4,750,000
4,500,000
4,250,000
4,000,000
3,750,000
3,500,000
3,250,000
3,000,000
2,750,000
2,500,000
2,250,000
2,000,000
1,750,000
1,500,000
1,250,000
1,000,000
WORLD CONSUMPTION
U.S.
WORLD DEVELOPED IN


1915
1920
1925
1930
1935
1940
1945
1950
5%
EXHIBIT E 5
PER CONSUMPTION UNITED STATES & WORLD
4½%
5½%
5%
WORLD DEVELOPED PRODUCTIVE CAPACITY
U.S. DEVELOPED PRODUCTIVE CAPACITY
POINT AT WHICH CONSUMPTION WILL ALMOST SURELY OVERTAKE POTENTIAL PRODUCTION
POINT AT WHICH CONSUMPTION WILL PROBABLY OVERTAKE


4,250,000
4,000,000
3,750,000
3,500,000
3,250,000
3,000,000
2,750,000
2,500,000
2,250,000
2,000,000
1,750,000
1,500,000
1,250,000
1,000,000
750,000
500,000
250,000
WORLD DEVELOPED
WORLD CONSUMPTION
U.S.


WORLD DEVELOPED PRODUCTIVE CAPACITY
POINT AT WHICH CONSUMPTION WILL ALMOST SURELY OVERTAKE POTENTIAL PRODUCTION
5½%
5%
U.S. DEVELOPED PRODUCTIVE CAPACITY
POINT AT WHICH CONSUMPTION WILL PROBABLY OVERTAKE POTENTIAL PRODUCTION