TO INCREASE THE REVENUE

HEARINGS

BEFORE THE

SUBCOMMITTEE OF THE COMMITTEE ON FINANCE UNITED STATES SENATE

SIXTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 16763

AN ACT TO INCREASE THE REVENUE, AND FOR OTHER PURPOSES

Printed for the use of the Committee on Finance

Sections relating to Wines and Liqueurs, Dyestuffs, Drugs and Coal-Tar Products, and Munition Manufacturers' Tax

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SUBCOMMITTEES ON THE EMERGENCY REVENUE BILL.

SUBCOMMITTEE No. 1.

SUBJECTS ASSIGNED: MUNITIONS, WINE TAX, DYESTUFFS, AND UNFAIR COMPETITION.

Mr. STONE, *Chairman.*
Mr. THOMAS. Mr. HUGHES.

SUBCOMMITTEE No. 2.

SUBJECTS ASSIGNED: INHERITANCE AND INCOME TAXES.

Mr. WILLIAMS, *Chairman.*
Mr. JAMES. Mr. GORE.

SUBCOMMITTEE No. 3.

SUBJECTS ASSIGNED: TARIFF COMMISSION, DUMPING, AND MODIFICATION OF THE PRESENT EMERGENCY ACT, EXCEPT AS TO WINES.

Mr. JOHNSON, Maine, *Chairman.*
Mr. SMITH of Georgia. Mr. KERN.

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TO INCREASE THE REVENUE.

(WINES AND LIQUEURS.)

MONDAY, JULY 17, 1916.

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

The subcommittee met, pursuant to call, at 3 o'clock p. m. in the room of the Committee on Foreign Relations, Senator William J. Stone presiding.

Present: Senators Stone (chairman), Thomas, and Hughes.

Also present: Senator Phelan; Hon. William Kent, a Member of Congress from California; also Messrs. W. E. Hildreth, representing the Urbana Wine Co., Urbana, N. Y.; E. S. Underhill, attorney, representing the same company; F. L. Albertz, Dry Wine Growers of California; and H. E. Welch, representing the Viticultural Commission of California.

The subcommittee proceeded to consider the bill (H. R. 16763) an act to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has under consideration section 301, page 68. Gentlemen, you may proceed with your statements. Mr. Kent, are you ready to proceed.

STATEMENT OF HON. WILLIAM KENT, A MEMBER OF THE HOUSE OF REPRESENTATIVES FROM CALIFORNIA.

Mr. KENT. I am. Gentlemen, I represent probably the most important dry-wine district in the United States, and I have felt it to be my duty to follow this matter through. I am not a candidate for reelection, and I hope my position will not be misunderstood. I have tried my best to do these two things—to preserve the legitimate wine industry of this country, and at the same time to provide all the revenue to the Government that that industry would stand. I am perfectly frank and free to say, irrespective of what the people in my district and other people in California say, that I believe that wine is a natural subject of taxation. It ought to be taxed, and I do not care whether the Republicans or Democrats are in power, there will never a time come in my belief when wine ought not to be considered a legitimate object of taxation.

In the emergency act which went into effect in October, 1914, there was a tax on all wines of 8 cents a gallon and a tax on the brandy used to fortify wine of 55 cents a gallon. This tax, for one reason or another, fell squarely on the producer. It resulted in a reduction of the price of grapes of about $8 a ton in a district where they raise

the best dry-wine grapes in California. It resulted in a cut-off in the wholesale price of wine from the small wineman to the wholesaler of about 8 cents a gallon. It was intolerable, and simply tended to wreck the wine business, which is a very large business in California. California produces about 90 per cent of the wine produced in the United States. The reason why the California production of wine is so proportionately large is simply due to the fact that the conditions there favor the growth of standard European varieties of grapes which are high in sugar content and produce an adequate amount of alcohol without treatment, and produce a wine recognized throughout the world as standard.

Now, when I had placed before me the responsibility of introducing the wine bill, I went to the Treasury Department and secured their help, as far as I could, in gathering statistics and looking into the matter. I went to the Agricultural Department and consulted them on their pure-food measures, and I finally introduced a bill, and that bill was received with great hostility by the illicit wine growers of California—the grafters and trust crowds—and the State Viticultural Commission of California, represented here by Mr. Welch, stood by me in my contention. They practically, under this bill, eliminated and annihilated the illicit use of brandy used for fortification to such an extent that it would produce practically free alcohol to be used, not in wine, but to be used for the manufacture of patent medicines. We cut that out, and you can realize that there was a howl from home on that proposition. We stood out and provided that the tax should be levied on all wine now in store, and the main distributing agency of California—the California Wine Association—has immense stocks of wine in store that were fortified under the old tax of 3 cents a gallon on the brandy content.

So I had that to fight. We fought this matter through until we got California in the good shape where California now stands, uphill and down, for what I believe, what the Agricultural Department believes, and what the Treasury Department believes, to be just and right. I introduced a bill in the House based upon my ideas of the equities of the situation and provided that wine containing 10 per cent alcohol should be taxed 2 cents a gallon; and from that up to fourteen per cent should be taxed 3 cents a gallon; and then there should be another sliding scale running up to 18 per cent at 7 cents a gallon; and then from 18 to 21 per cent 10 cents a gallon, and from 21 per cent upward, which took in the patent medicine class and dope class—that that should be taxed 25 cents, and should be practically barred after one year, leaving the people who had that high-proof wine, which is not legitimate wine, taxed out of existence.

Senator PHELAN. Is this bill of yours approved by the Treasury, did you say?

Mr. KENT. It is absolutely backed up by the Treasury Department. When that bill, with the thorough recommendation of Secretary McAdoo, was placed before the Ways and Means Committee, they thought first of all that they had better reduce the number of classifications. So at first, with the assent of Secretary McAdoo and the Treasury Department, they made one classification up to 14 per cent at 3 cents per gallon and cut out the lower rate or lower alcohol content. From that up, as I understand it, the Treasury De-

partment made one rate—up to 21 per cent—namely, 10 cents a gallon.

The next thing that occurred was this: The Treasury felt that in order to watch the brandy used for fortification, they ought to have an adequate tax. So they recommended a tax of 10 cents a gallon on brandy used for fortification.

Now, this is a very technical question and one that I dislike to bore you with; it has taken me a very long time to learn anything about it, but I put my time and attention to it and know something about it now. The difference between a dry wine and a sweet wine is this: A dry wine is a product of fermentation of natural grape juice. This fermentation, if allowed to proceed, goes on until practically all the sugar in the grape turns into alcohol. There is a small residue left, possibly 1 per cent, and when you figure out the sugar content—I hate to bore you with this, but it is probably necessary to say it—if you figure the sugar content in grape juice and then figure that in terms of the alcohol it will produce, you get one-half as much alcohol as you have sugar. That is the practical effect of it. Well, the California grapes run so high in sugar that they will produce a wine running up to 14 or 15 per cent of alcohol when thoroughly fermented out.

Now, to make a sweet wine, the problem is to have considerable sugar in the wine. Therefore, under the traditional classic theories of making wine, fermentation is allowed to proceed until they got down close to the minimum amount of sugar required for a standard wine. I say close to and not exactly to, for the reason that some of that sugar would afterwards turn to alcohol in spite of anything that happened—when it got down close to the amount of sugar that was needed to make a typical sweet wine, like port and Madeira and plenty of others, then they turned in the brandy, which stopped the ferment and prevented the remainder of sugar in the wine from going into alcohol, pickled it right there and stopped the fermentation right there, and by that means they produce the typical wine.

Now, under the old bill, the emergency act, with an 8-cent tax on the wine, we had resultant ruin to the dry-wine industry. When we come to consider the sweet-wine industry of California—the wine industry of California is 90 per cent of that of the whole country—we found that it took three-elevenths of a gallon of brandy to act as a fortification for a gallon of wine. At 55 cents per gallon, three-elevenths of that amounted to 15 cents, which, added to the 8-cent tax, amounted to a tax of 23 cents on sweet wines, which they had been accustomed to sell for anywhere between 20 to 30 cents a gallon, and that resulted in almost annihilation of the sweet-wine industry. The facts are shown by a statement which can be easily verified, by statistics carefully compiled, that the amount of brandy used in fortification after the enactment of this legislation was very small and that thousands of acres of grapes were practically allowed to go to waste. In the meantime the grape growers in the sweet-wine district—and the sweet-wine districts comprise the parts of the State where there is rich soil and hot sun and little hardship, whereas the dry-wine districts, where the dry wine is made, is on rocky hillsides, and is good for little else—the facts go to show that the sweet-grape growers lose their grapes entirely or try to make a wine high enough in alcohol to be classed as sweet wine without fortification, and the

Government loses a tremendous amount of revenue by this foolish and ill-considered legislation.

Now, to get down again to the question in this bill, I figured it out most carefully, with the benefit of the best expert service I could get, both volunteer and hired, through the instrumentality of the department, and introduced a bill that would produce a maximum amount of revenue to the Government with the least disturbance of the wine business, not only in California but throughout the country, and here I want to take up the situation of the legitimate wine maker. The grapes grown east of the Rocky Mountains are of the American varieties that are inured to hard winters. They are entirely different from the classical wine-producing grape of Europe which we recognize in commerce. They make a good wine, a thoroughly honest legitimate wine, but in order to be sure of being able to make a wine from any given vineyard in the country, no matter how carefully the grapes are selected, there comes a time when there must be used a process known as amelioration. In other words, the Eastern States are high in acids, high in flavor body, and low in sugar content, and the facts go to show that it is exceedingly difficult to handle the wine of less than 12 per cent alcohol, which requires of the eastern grape an amount of sugar up to 24 per cent, which is extremely hard to produce with any variety of eastern grape and can not be produced except under unusually favorable circumstances.

Feeling my responsibility as a man intrusted in a way with the legitimate wine industry of this country, and having studied this matter carefully, I went before the Department of Agriculture, and took my eastern friends with me, and had a hearing with the Secretary of Agriculture and discussed this matter with experts in the department, my friend, Mr. Welch, of the California Viticultural Commission; Mr. Albertz, an expert wine grower, who has absolutely no interest in the eastern industry except as a mere matter of justice, and who is engaged in raising grapes and trying to make wine—we went before the Secretary of Agriculture and showed, with the eastern people, the necessity of more latitude than was being afforded to the eastern wine industry, and I am on record in a letter to the Secretary of Agriculture stating that it was up to him to determine whether or not the eastern wine industry should be entirely eliminated, and that I did not believe it should be.

Now, I am going to be perfectly frank with this committee, and I desire to be frank with everybody——

The CHAIRMAN. What do you mean by the expression "entirely eliminated"?

Mr. KENT. I mean if they carry out the present pure-food laws and do not allow the use of sugar and the use of water together they can hardly make wine east of the Rocky Mountains. I will leave that to anyone who is familiar with the subject. We wanted to study up the subject of permitting, when necessary, 25 per cent of stretching the wine. We use the sugar and water when necessary, which is the German wine law.

Now, come down to what the Missouri people have been asking for, which will be discussed by Mr. Stark and Mr. Lannen later on.

If decision 156, Senator, is insisted upon, it is very difficult to see how a large part of the eastern people can make a wine that will

comply with their requirements. The belief of the department is that they are unreasonable; Mr. Welch has said they were unreasonable; the wine people of California say they are unreasonable; Mr. Albertz has said that they were unreasonable; and I say they are unreasonable. They have leaned over backward; I have not leaned over backward, because it is my duty to be square with everybody in trying to assist those people to be allowed to make an honest wine from eastern grapes.

Now, in the matter of taxation. After the most careful compilation of figures and looking into everything I could find, I believed that 3 cents a gallon up to 14 per cent was adequate and proper and would produce the greatest amount of revenue in the matter of dry-wine production. I believed that 7 cents tax on sweet wine above 14 per cent alcohol and up to 21 was what that business could stand; it could not stand much more, and we all agreed that we would be perfectly willing to stand for the tax of 10 cents a gallon on the brandy used for fortification. which means that the sweet wines would pay a tax of 10 cents a gallon in the fortification tax and the tax on the alcohol content above 14 per cent. The Ways and Means Committee of the House raised those figures to 4 cents for dry wines, to 10 cents for the sweet wines, and left on the 10 cents for the brandy tax, making a tax of 13 cents on the sweet wines. What I am afraid of is that the sweet-wine growers, who can make an inferior quality of dry wine, will by that heavier tax be driven into making an inferior quality of dry wine, and thereby drown out the people who in Mr. Albertz's country have great difficulty in raising the highest possible type of dry-wine grape on rocky hillsides that are not fit for anything else. If I had my way I would go back to the proposition of 3 cents on dry wines and 7 cents on sweet wines, plus a 10-cent brandy tax. At the same time, we can live under the House bill; but there is in the Record of July 10 an immense amount of stuff put forth by Hon. Jacob E. Meeker, of Missouri——

The CHAIRMAN. That is the Congressional Record that you refer to, is it?

Mr. KENT. Yes, sir; the Cogressional Record at page 12367 et seq. In the first place, he wants grain spirits placed on an equality with grape brandy in the fortification of wine. Now, there is no reason in the world why the eastern people can not get all the grape brandy they want in California and other places, and they can make grape brandy under the same terms and conditions as the people of California make it. Grape brandy is a traditional thing to make wine with, and, to be perfectly frank with the committee—as I have been perfectly honest with everybody all through this matter—I do not see that crude grape brandy is any better for fortification than any other means of crude spirits. I do not claim that. I do claim that there is a horrible economic waste in using good grain for brandy when you can use culled grapes that would otherwise be wasted. The best wine that can be made—that is, sweet wine—is made by fortification of good sound wine with a properly aged brandy. But the still there is no particular sanctity in grape brandy as against crude spirits. It is a purely economic proposition whether this country will so legislate that the culled grapes will be wasted and thrown away when they could make the brandy suitable by fortification, or

whether you are going to use grain that could well be used for other purposes.

There is the whole brandy proposition, fairly and frankly, in a nutshell. If you are going to make the best possible sweet wine, you ought to fortify it with aged grape brandy. If you are going to make the crude product, I do not think it makes any difference.

The next proposition is the question of the right to water and sweeten wine. Here you have an amendment introduced which is absolute murder to the grape grower and pie to the mixer——

Senator THOMAS. To the what?

Mr. KENT. To the mixer—the man who mixes wine. Under the German law a man must pick his grapes ripe, and then if he can not make a typically proper wine of those grapes he is allowed a maximum under supervision of 25 per cent leeway in the use of sugar and water.

Mr. Chairman, I am not speaking in this matter for California, but for the entire wine industry. These other gentlemen present can speak for California and the East and other places, but as I see it there is a contention always made that wine has a food value; but when you begin diluting wine with water and put in sugar for the purpose of creating alcohol you immediately begin to dilute any possible food value the wine may have. The amendment proposed by Mr. Meeker bases the standard of wine not upon the solid content, not upon the nutritive content, not upon the alcoholic content, but upon the acid content, and everybody knows that the eastern grape, as I said before, is high in acid, high in flavor, and low in sugar. This bill provides that the grapes shall be sound, ripe grapes and all that. How is it to be ascertained whether they are ripe or not? If they pick them a little greener, they get a greater acid content. Then this amendment provides that the standard of wine prior to indefinite dilution of water and sugar shall be the acid content. Grapes have 15 per cent acid—and I think I can show that very easily—probably more if they are picked a little bit more green. Then they dilute down to 5 per cent acid content and have the nerve to say that wine has a food value. That is what that amendment amounts to.

This proposition comes from Missouri. It does not come from New York or the majority of the sections of the country where wine is produced. It is simply one little section that asks for this sort of legislation, and then they ask continuously to produce grain spirits. It is a matter for your determination. If you want to break down the $1.10 and put grain spirits on the same platform as brandy, all I have to say is that it is an economic waste. I can not say more. I know perfectly well that you can make a wine by the use of grain spirits; I know you can do it. I know good sherries that are made in that way, with potato spirits or grain spirits, but it is an economic waste; and if these people are allowed to buy brandy, which is grape spirits, cheaply, I think that ought to satisfy them.

Senator HUGHES. Did I understand you to say that it was suggested that a tax be levied in accordance with the amount of acid content of the grapes?

Mr. KENT. That is what the amendment proposes—that 5 parts per thousand, 5 mills be the standard of the grape juice; and you

can reduce it with sugar and water and water and sugar and more sugar and more water until you get down to 5 per cent acid content.

Senator HUGHES. That is, a tax on what, on the original amount, you mean?

Mr. KENT. No; you pay on what you make. I want to respectfully submit that if a bill passes on this basis we in California can dilute wine to such an extent that we will not need more than about one-quarter of the grapes we raise now to make all the wine anybody asks for. It is murder to the grape grower and perfect pie for the mixer. This whole contention is not in favor of the grape grower but is in favor of the man who mixes the wine.

The CHAIRMAN. I do not think I quite catch your views. I do not know what you mean when you say if you use grain brandy it is an economic waste, and that that economic waste should be avoided, in view of the parallel which obtains in the manufacture of wine from the point of view of the revenue derived by the use of the grape brandy.

Mr. KENT. I am not speaking from the point of view of the revenue. I am speaking from the point of view of the economic waste. If you continue your $1.10 charge, and you people in Missouri fortify the grain spirits with a $1.10 charge, you will doubtless increase the revenue of a very miniature part, because the whole production does not amount to anything.

The CHAIRMAN. How are they going to get the grape brandy?

Mr. KENT. They can get it from California. The market is wide open. There is no monopoly in the market for it. They can get it on the same terms.

The CHAIRMAN. I do not want to interrupt you and get into a discussion with you on the subject.

Mr. KENT. I am here, Mr. Chairman, for the purpose of giving information if I can.

The CHAIRMAN. Of course, this same question has been gone over before, and I do not desire to interrupt the line of your argument, but is there any change in the condition as to the situation of the manufacturer or the maker of the grape brandy in California and the opportunity of the eastern manufacturer to get that brandy on the same terms of equality with the maker of wine in California?

Mr. KENT. This has happened, that the tax of 55 cents a gallon on grape brandy has discouraged the manufacturer of grape brandy in the use of it as fortification for wine. There was an immense slump in the manufacture of grape brandy because we did not use it for fortification. They tried to make the highest-proof wines without the use of fortification, and they found it was a mistake, and if you will look back through the figures you will find the revenues in California from the time the emergency law went into effect went down immensely. They did not produce what they expected to produce at all. But there is no reason to believe for a moment that the eastern people can not get the use of this grape brandy on exactly the same terms and the same conditions as the California people can get it.

The CHAIRMAN. They maintain that they can get it, perhaps—there is always a "perhaps" about it—that they could get it, but at a price to them which would make the grape brandy cost the manufacturer in the East very much more—I do not recall the per cent

that they figured it at—than it would cost the manufacturer of the same class of wine in California.

Mr. KENT. Mr. Welch can speak for California.

The CHAIRMAN. I am not saying whether it is one way or the other. I am simply repeating what they said at the hearing, and I am trying to ascertain whether any conditions have been since created that would change that argument.

Mr. KENT. I do not think there is any question in the world but what anyone who wants to contract or go into the market for grape brandy in California can get it at the minimum price for the simple reason that grape brandy is a by-product of the wine industry. It is a by-product of the dry-wine industry, and they are all anxious to sell good brandy.

The CHAIRMAN. Do not let me interrupt you further. You want your statement to appear in consecutive form, I am sure.

Mr. KENT. I am very glad to be interrupted. I believe that the present bill is one that we can live under—that is my personal opinion.

Senator THOMAS. You mean the present law?

Mr. KENT. I mean the present bill as it passed the House. We can not stand the present law. It is wrecking the industry in California and everybody knows it. The people in Mr. Albertz' district are going out of the business because of it as well as the people from Mr. Welch's district—he comes from the sweet-wine district, and Mr. Albertz from the dry-wine district. They are quitting the business. We all look forward to the time when prohibition will knock us out of the business, but we think that the wine business, as long as it is recognized at all, ought to be legitimately treated.

Senator PHELAN. It is a question of revenue for the Government, is it not?

Mr. KENT. Yes, sir; it is a question of revenue for the Government, and we have carefully figured it out. The Treasury Department has devoted a great deal of study to it, and I have put a lot of study on it; and I believe absolutely that this bill will produce $2,000,000 more in revenue.

Senator HUGHES. Are you appearing in support of the House bill as it passed?

Mr. KENT. I would like to have it amended, and yet we can live under it.

Senator THOMAS. Is not the real conflict one of the regulated dependable character of the grape?

Mr. KENT. There can not be a legitimate regular conflict.

Senator THOMAS. There may not be, but is that not the difficulty?

Mr. KENT. Possibly. It is possible you may find I am biased, but I do not believe I am.

Senator THOMAS. I do not believe you are.

Mr. KENT. I have known people to come here from California who are absolutely opposed to everybody and want to kill off the eastern business entirely. I do not want to do that. I want to give them a chance to live legitimately. I am willing to go out of my way to help them. On the other hand, we find the largest part of the eastern wine industry in favor of and willing to support this bill. We find Mr. Lannen, whose job it is to break down the pure-

food laws, whether in corn, flour, or pomace, or anything else—we find him filling the record with stuff that is irrelevant and useless.

Senator PHELAN. I think Senator Hughes is in doubt as to what you want. Have you conferred with the department, especially the revenue department, and with the wine growers and come to the conclusion that 3 cents a gallon would be a fair tax?

Mr. KENT. On dry wine, and 7 cents a gallon on sweet wine.

Senator PHELAN. And the House has put it at 4 cents, and you want the Senate committee to put it back to 3 cents. That is one amendment?

Mr. KENT. Yes, sir; and I want the Senate committee to put the sweet wine back to 7 cents and leave the tax on brandy, because I feel that is the one that will require supervision in the use of brandy.

Senator PHELAN. The House bill provides for a 10-cent tax on brandy used in fortification.

Mr. KENT. The 10 cents is the sweet-wine tax.

Senator PHELAN. Now, your other amendment is to do away entirely with the grape brandy, because they can go to California and get the genuine grape brandy and prevent the waste.

Mr. KENT. Yes; by the use of the grape cullings.

Senator PHELAN. By the use of the grape cullings?

Mr. KENT. Yes, sir.

Senator HUGHES. Do I understand that grain brandy is now permitted to be used for fortification purposes?

Mr. KENT. Yes, sir.

Senator HUGHES. Is that permitted simply by the tax?

Senator PHELAN. It is permitted by the tax.

Senator HUGHES. Grain spirits is not permitted because all grain spirits have to pay $1.10 a gallon.

Senator THOMAS. That is the reason they say it is not used.

Mr. KENT. It is not used. It is a prohibitive tax.

Senator HUGHES. It is a prohibitive tax, and the object of this suggested amendment in the House bill was to put grape brandy on the same basis as grain brandy to bring the grain brandy used for fortification purposes down to the level——

Mr. KENT. Down to 10 cents with grape brandy.

Senator PHELAN. You mean to say that grape brandy can be brought from California to the Missouri producer at substantially the same price that is paid by the wine maker in California?

Mr. KENT. Absolutely, plus the freight.

Senator PHELAN. And that is a small item, is it not?

Mr. KENT. Yes. There is no question about that.

Mr. HILDRETH. We have always used the California brandy in our section and have used it for years because the wines that we make in that section conform with the general pure-food laws, and there is no restriction in regard to it, and we could buy the California brandy and use it. The department allowed us to use the California brandy on paying a 3 per cent tax before this law passed.

Senator THOMAS. What is your locality?

Mr. HILDRETH. It is Urbana Wine Co. Our locality is western New York.

Senator HUGHES. Tell me again, I have been over this matter three or four times but it slips me for the moment. How do you get the grape brandy? You say it is a by-product.

Mr. KENT. The grape brandy is made out of the culled grapes, or out of the pomace or any other grape product.

Senator HUGHES. They make it because they have to use it?

Mr. KENT. Yes.

Senator HUGHES. And let the process of fermentation go on until the sugar in the grape is turned out?

Mr. KENT. No, sir; in California we let the grape ferment. For instance, if 6 per cent sugar is required——

Senator HUGHES. I am speaking of the manufacture of brandy.

Mr. KENT. They ferment it out as far as it will go and then distill it. You must realize that from the revenue standpoint, California produces 90 per cent of the wine of this country and any legislation that will kill the wine industry of California will be a very serious blow at the revenues that might accrue. I have always tried to carry this in my head and I feel an equal sympathy with the legitimate eastern grower who is trying under comparatively adverse circumstances to make a palatable, honest wine, containing the qualities that wine ought to contain, but if you are going to take hold of the thing in the way the people want, to produce the wine that is nothing but sugar and water, for heaven's sake, do not call it wine. The pure food department will take care of that if they are let alone, and I want you to make up your mind about this if you are in any doubt about it, and consult the experts from the Agricultural Department and the Treasury Department.

Senator THOMAS. But you must remember that we have only a very short time.

Mr. KENT. I say, if you are in any doubt about it. If you are unwilling to take the House bill the way it is. We want it better than it is—we would like to have this reduction, but if we can not get it we will accept it as it is. If you think about changing it in the interests of these people who want to use water and sugar and sugar and water and to hold the proper contents of wine and to hold the grape grower, then before you take such a stand go to the Agricultural Department and go to the Treasury Department.

Senator THOMAS. I do not think any member of this committee entertains any such idea as that.

Mr. KENT. I do not think so. I have been engaged on this matter for five months and it is a horribly disagreeable wearing proposition, and I made up my mind I would have to quit Congress on account of this mess. It is a very complicated matter. I am perfectly clear in my own mind that we can stand the House bill as it is. It does not do what we want done, but we can stand it.

The CHAIRMAN. When you say "we," you mean the California people?

Mr. KENT. Well, I might add, too, the Treasury people and the Agricultural people. Those are the officials. I am speaking of the other people—Mr. McAdoo, Mr. Hubbard, Mr. Osborne, and Mr. Cooksey, the secretary of Mr. McAdoo, who knows more about the details than anybody, and Mr. Houston, the Secretary of Agriculture, and of his wine expert.

Senator HUGHES. You also referred to two other groups of wine growers.

Mr. KENT. I referred to Mr. Underhill and Mr. Alberts, of New York, who are making wine. I referred to the California Viticultural Commission, represented here by Mr. Welch and Mr. Albertz, and every other dry wine grower from every dry wine district in California when I say "we." I am not urging this from a Californian standpoint. I am simply endeavoring to see that perfect justice is done.

The CHAIRMAN. I want to understand the issues here. The California grape growers are satisfied with the bill as it passed the House—that is, they accept it?

Mr. KENT. They accept it.

The CHAIRMAN. What about the wine producer—I mean the buyers of grapes—the men who make the wine?

Mr. KENT. The California Wine Association, which we fought to a finish, are the greediest—well, I do not want to indulge in epithets. They are big distributors and big manufacturers and they are willing to accept it.

The CHAIRMAN. They accept it?

Mr. KENT. They have come "to their milk," as the expression is.

The CHAIRMAN. Then all the wine interests of California will accept this bill?

Mr. KENT. They will accept this bill, and the Republican people out there will go out and howl and will say that when the sanctified Republican Party gets into power they will annihilate this whole Democratic administration.

Senator THOMAS. They will do it, no matter what we do.

Mr. KENT. I will not stand for it for a minute, because I have said all along—and Mr. Hildreth and Mr. Albertz, who have considered the matter, agree, and they represent the legitimate wine business—that wine is a normal subject of taxation. I have always held that position.

The CHAIRMAN. Let me find out what the issue is. The California grape growers and wine makers represent, as you say, 90 per cent of the entire business?

Mr. KENT. Yes.

The CHAIRMAN. They are willing to take this bill as it comes from the House?

Mr. KENT. We do not like it, but we can stand it.

The CHAIRMAN. I understand that. But you will take it?

Senator THOMAS. You will take it if you can not do better?

The CHAIRMAN. You can live under it?

Mr. KENT. Yes, sir.

The CHAIRMAN. Who is it that is opposed to the bill?

Mr. KENT. Mr. Stark and Mr. Lannen and some other people who pretend to represent some people who want a 7 per cent tax on brandy used for fortification. They want the equal use of grain spirits and the unlimited right to adulterate with water and sugar up to a point where the acid content of the wine is reduced to 5 per cent per thousand.

Senator THOMAS. What section of the country do they represent?

Mr. KENT. They represent 250,000 gallons of wine a year.

Senator THOMAS. But what section of the country?

Mr. KENT. Missouri and some in Ohio.

Mr. WELCH. Do the New York people want that for amelioration?

Mr. KENT. One of the New York men stated that the reason he came here was with regard to the wine tax. I want to bring that up.

Mr. WELCH. And with respect to vermuth also.

Mr. KENT. Yes. I will make a statement regarding that and then I will quit. I will give it from the standpoint of the Government, not having any possible bearing on the interests pro or con of the wine industry.

A very stupid thing was done by Mr. Allen, of Ohio. Mr. Allen had an idea that somebody told him that vermuth was a wine. Vermuth is clearly defined later on in the bill as a compound. Vermuth is only used for cocktails and mixed drinks. There is hardly any vermuth used straight; there is a little bit, but it is a wine of from 12 to 14 per cent.

Senator THOMAS. It is what you call a cordial, is it not?

Mr. KENT. No, sir; it is only a compound. Practically it comes under the head of compound. It is mixed with bitters, and they put vermuth in the bill under the wine classification, and that puts vermuth down to a 4-cent tax. If it is below 14 per cent to a 10-cent tax; if it is above 14 per cent it belongs in the wine-compound class, and the loss to the Government, according to the best figures I can get by this heedless proposition, will amount to about $70,000 a year.

Senator PHELAN. What do you recommend?

Mr. KENT. I recommend that vermuth be put back in the wine-compound class.

Senator PHELAN. At what rate is that?

Mr. KENT. Twenty-four cents.

Senator PHELAN. It is made in California as well as other States?

Mr. HILDRETH. A lot is made in the East, too. It has grown up very fast in the East, because the original wine is a light, dry, acid wine, and is produced more in the East than in California. There is none of that vermuth made out of that eastern market.

Mr. KENT. Just as a matter of justice to the wine industry, and not as an advocate of any special interest, I want to indorse to the fullest extent the proposition that Mr. Hildreth has made. Mr. Hildreth makes a perfectly honest good champagne by natural fermentation and aeration or charge. He has to pay 3 cents on each half pint or fraction of a half pint, and it is multiplied up as it approaches the larger bottles. Mr. Conry, of New York, for some reason that I can not understand, and he can not understand, secured an amendment before the Ways and Means Committee providing that each bottle or container of artificially carbonated wine shall pay 1 cent on each half pint or fraction thereof. In other words, under the foolish terms of this bill as it passed the House, the man who makes imitation champagne with the labels on the bottles and everything else, makes that imitation champagne with illegitimate carbonation, which is not unwholesome but is illegitimate, and upon which there will be paid one-third as much in tax as Mr. Hildreth has to pay on a thoroughly honest carbonated wine of standard manufacture.

Senator HUGHES. How does he get that result?

Mr. KENT. The bill says:

On each bottle or other container of champagne or sparkling wine, 3 cents on each one-half pint or fraction thereof.

On each bottle or other container of artificially carbonated wine, 1 cent on each one-half pint or fraction thereof.

On each bottle or other container of liqueurs, cordials, compounds, or preparations containing distilled spirits of wine, 1½ cents on each one-half pint or fraction thereof.

In other words, the man who makes a fake champagne pays three times as much tax as Mr. Hildreth and other people who make a thoroughly honest champagne.

Senator THOMAS. You mean one-third as much.

Mr. KENT. I say pays one-third as much.

The CHAIRMAN. What is the price at which the two articles are sold?

Mr. HILDRETH. The artificially carbonated wine is sold at wholesale at about $6 to $8 a case. The natural champagne, the American champagne is sold at wholesale from $13 to $15 a case. The imported champagnes are sold at from $36 to $38 a case at the present price, and are never sold for less than $34 to $36. Of course the imported champagne pays $9.60 a case import duty and freight, which brings it to about $10 a case more, which would make their price $23 to $25, and make our price which we pay import duty $23 to $25; in other words, they get $10 a case more than we do. We pay an emergency tax, as they do under the present bill, of $3.40 a case. It is 20 cents a quart, and 10 cents a pint, and 5 cents a half pint. Under the present tax it is 3 cents a half pint and so on up. The point is just this: We come practically in competition more with this artificially carbonated wine than anything else. We claim that the tax of $1.20 a case on the artificially carbonated wine is prohibitive to them now, as their selling price was only $6 to $8 a case originally, but under the maximum we figured it out that at $1.20 a case they are in competition with this wine. They sell their wine in the public market wholesale at $6 to $8 a case; it goes to the retailer. It is principally sold to the small jobber. He sells it from $10 to $12 a case.

The CHAIRMAN. How much of this liquid is in a case?

Mr. HILDRETH. There are 12 quarts—24 pints.

Mr. KENT. Not full pints.

Mr. HILDRETH. Not full pints. They are 5 to a gallon. The quarts are 5 to a gallon and the pints 10 to a gallon.

The CHAIRMAN. The champagne that you make comes under the 3-cent tax, does it?

Mr. HILDRETH. Three cents, the same as the imported champagne, and the artificially carbonated wine, the wine that they make in 15 minutes by taking an ordinary dry wine and treating it in some way—and they make soda water and sell it—they propose 1 cent a pint or franction thereof.

Mr. KENT. The point is that it is nearly all sold as champagne.

The CHAIRMAN. Is it sold as champagne?

Mr. KENT. It is sold as champagne.

Senator PHELAN. It is called champagne?

Mr. HILDRETH. It is called champagne and sold as champagne. The man who buys that wine is the poor man. You do not find it in any of the high-priced restaurants or saloons or hotels. It is the small man who goes to the grocer in the outlying section of the city who wants to blow himself for a wedding or something of that sort. A great deal of it is sold in New York amongst the Jews for the purpose of Jewish weddings.

Senator HUGHES. What is the brand?

Mr. HILDRETH. There are thousands of brands.

Senator HUGHES. How about the Great Western?

Mr. HILDRETH. That is a good wine, a legitimate wine. That is a wine that is fermented and bottled the same as our wine is, and is made only about 4 miles from our place.

Senator PHELAN. Is there any mark on the bottle to show the difference between carbonated wine and the natural fermented wine?

Mr. HILDRETH. According to the law now they are obliged to put "Carbonated" on the bottle, but they put it in very small letters so that you do not notice it. The regular drinker of champagne rarely, if ever, buys that champagne at all; but the man who does not understand it, the man who occasionally wants to take a glass of wine at his home, goes out and buys it. The small grocer makes four or five dollars a case on that carbonated wine. He says, "Take this. This is champagne. It is carbonated wine, but it is just as good as the other." And it costs maybe a dollar or two dollars a case less than the other wine. When he sells that he makes $4 or $5 a case on it. On the Great Western, the Gold Seal, or any other legitimate champagnes they make barely $2 a case on it.

The CHAIRMAN. Let me ask you a question. How could we differentiate? You make a certain kind of champagne, and some one else—you mentioned his name—wanted 1 per cent——

Mr. KENT. Mr. Conry, of New York, a member of the Ways and Means Committee.

The CHAIRMAN. He had inserted an amendment providing for 1 cent on this carbonated wine?

Mr. KENT. Yes, sir.

The CHAIRMAN. The law differentiates between the two kinds of wine by having one branded "Carbonated"?

Mr. KENT. Yes, sir.

The CHAIRMAN. And one is cheaper than the other. The carbonated wine is the cheaper of the two?

Mr. KENT. Yes, sir.

The CHAIRMAN. How would we differentiate in the statute when we come to lay a tax, or would you differentiate at all?

Senator HUGHES. We would not differentiate at all.

Mr. HILDRETH. We do not want to differentiate at all. We think everything in the shape of sparkling wines should be taxed the same.

The CHAIRMAN. Without regard to the cost of production or the cost of consumption?

Mr. HILDRETH. I do not see any reason for it. If that argument holds good there is no reason why we should pay a tax amounting to as much as the French champagne, which sells for nearly twice as much as ours. Our wine sells from $13 to $15 a case. The French wine sells for $36 to $38 a case.

Mr. KENT. If they take the word "carbonated" off, you would not make any regular champagnes, would you? You would carbonate your wines as a matter of business, would you not?

Mr. HILDRETH. We would either do that or go out of the business. We are making a product that we are trying to be proud of and have been working for years to do that, and never did any carbonating and never tried to do it.

The CHAIRMAN. What would be the effect on the carbonated-wine industry if we increased the tax from 1 cent to 3 cents?

Senator HUGHES. Is that not the present law?

Mr. HILDRETH. They are paying at the present time the same tax that we are paying. We are paying $2.40 a case of 12 bottles. They are paying $2.40 a case of 12 bottles at the present time. I understand that in making this argument before the House they claimed that they formerly made 50,000 cases a year, and when this tax of $2.40 a case was put on the output was reduced to 10,000 cases instead of 50,000 cases, and that was due entirely to the tax of $2.40 a case. As a matter of fact I believe that while that had a certain effect on it the condition of business had as much effect as anything else, because we thought in our business that the tax had a great deal of effect on us, at the same time we paid $2.40 a case, and last year, up to the 1st of November, our business fell off 60 per cent over the year previous.

We laid it naturally to the tax altogether, but since the 1st of November the business has increased, and I know and feel that their business has increased in the same way, because I have a certain sort of information; I know why they buy certain of their wines. For a year, up to the 1st of October, they practically bought no wine for those purposes whatever, but since the 1st of October they have been buying wine again, consequently they have been putting out wine at the present time even with the tax of $2.40.

We can live under the same taxes as anybody else can. We are perfectly willing to pay the 3 cents a half pint tax for the champagne, the same tax the foreign wines pay, but we feel it would be a serious discrimination to take an artificial product and tax it at one-third of what we are taxed, because such products actually come in competition with us; they are in competition all the time, anyway, and they sell their wine at a less price, just enough less in order to get the business.

Mr. KENT. Your wine is much more expensive to make than theirs for many reasons, one being the vast amount of breakage in your business?

Mr. HILDRETH. Not only that in the making of our wine, but each bottle is handled 250 to 350 times. Fifty per cent of the cost of manufacturing legitimate champagne is in the labor.

The CHAIRMAN. Would this tax, provided in the pending bill as it came from the House, leave the aggregate tax per case as it is in the present law?

Mr. HILDRETH. No, sir; it reduces it yet about one-half.

The CHAIRMAN. It reduces it about one-half?

Mr. HILDRETH. Yes, sir.

The CHAIRMAN. Now, you want to have the carbonated wine put at the same tax per case?

Mr. HILDRETH. As it is in this bill now, the same as legitimate wine is taxed.

Senator THOMAS. It equalizes the present rate. You simply want that equalization to be adhered to?

Mr. HILDRETH. That is all.

Senator THOMAS. I think you are right about it.

Mr. KENT. We hear a lot about this brandy proposition, and I should like very much if Mr. Hildreth would make a statement about the brandy proposition, because he is right in the business and uses the brandy and knows all about it.

The CHAIRMAN. May I make a suggestion here? Senator Phelan came to see me to-day and said there was a couple of gentlemen from New York who desired to be heard this afternoon, because they were obliged to leave; that this would be the only opportunity that they would have to present their views. I did not suppose we were going into the whole wine case at this time. If we are going to have statements—I do not know how far this subcommittee is going into it. As I have explained to Senator Phelan and to others, the subcommittee was to meet to-night to plan the work it has to do, and this was a meeting to oblige you, Mr. Kent, and the Senator. It occurs to me that if we are going to have hearings at all that those representing the adverse interests ought to be present when it is going on, so if we hear from one side and then from the other side their respective statements can be made somewhat with a view to the statements made in their presence.

Senator THOMAS. I have been averse to the present hearings on account of lack of time and on account of the fact that if we hear one side common fairness requires us to hear everybody. We have munitions taxes, we have dyestuffs taxes, and a number of other matters, and if we get into these hearings the snow is going to fly before we report to the main committee.

Mr. KENT. We will not bother you any more.

Senator THOMAS. Of course, my remarks were not intended to be personal at all.

Mr. KENT. We people from California——

Senator THOMAS. A man interested in any one of these matters can very properly and justly complain if we tell him we can not hear him.

Mr. KENT. I think you were to hear Mr. Lannen and Mr. Ansberry.

Senator THOMAS. The chairman has arranged it. I am speaking simply generally about the matters.

The CHAIRMAN. I should like to ask one question. We had this matter up at the time we were considering the emergency law. I was on a subcommittee that had it in charge at that time. People were here from California; people were here from different parts of the country this side of the Rocky Mountains, Mr. Stark, Mr. Lannen, and others, and they got together, after long hearings, experts from the Treasury and the Agricultural Departments being present—representatives of these interests got together and made up a bill, which was passed. Now, I want to ask, Who is it in California who can not live under the operation of that law?

Mr. KENT. Anybody.

The CHAIRMAN. The grape growers and the wine makers?

Mr. KENT. Yes, sir.

The CHAIRMAN. All of them?

Mr. KENT. The situation was this, Mr. Chairman: The California Wine Association, which is the main distributing agency out there, shut down on their grape contracts, and they filled themselves up plumb full to 40,000,000 gallons with fortified wines under the old law before the new law took effect, and thereafter they, as the main distributing agency, refused to buy wines, and until they could get rid of the stuff they had accumulated in that way they did not want any change in the law. They found out the whole grape industry was going to pot, and they got rid of most of the fortified wines and then turned around and are now playing good. In the meantime the people were pretty nearly driven out of my district; they are actually hungry, it is a miserable condition; nobody would buy their wine, they could not borrow money to pay taxes, and they had no other resources. In Mr. Welch's country, which is a very fertile and rich country, if they have to dig up the grape vines they can grow something else. I say that is due to the emergency law, and is recognized to be due to that by everybody in California to-day.

The CHAIRMAN. I know, we have gone over that. But I am simply trying to get at one or two pivotal facts here. If the wine makers were satisfied with the present emergency law—the so-called emergency law—until they got rid of their wine, or of their accumulations?

Mr. KENT. Yes, sir; probably.

The CHAIRMAN. That is what I am asking you about.

Mr. KENT. I understand that position now is very different from what it was a little while ago. That is due to their getting religion and awakening to the realization that there would not be any wine industry for them if this law was not changed.

The CHAIRMAN. So they want this law changed, too?

Mr. KENT. Yes, sir.

The CHAIRMAN. Who is opposed to the change?

Mr. KENT. Nobody but Mr. Lannen and Mr. Stark that I know of.

The CHAIRMAN. They want the law as it is?

Mr. KENT. They want the present law, because they think the present law—I hate to make a statement like that—but Mr. Lannen said, before a subcommittee, that we want taxation so that it will equalize conditions. What does that mean? It means simply that you have got to shut the sun off California or put more sun on Missouri or else have the protection retained in these States. We can not equalize a product full of sugar with a product lacking in sugar, except by interchanging the sunshine or putting on the tax.

Senator THOMAS. Or supplying sugar?

Mr. KENT. Well, the Government might supply the sugar.

The CHAIRMAN. So many of the so-called eastern manufacturers as represented by Lannen and Stark are opposed to the bill as it passed the House?

Mr. KENT. Yes, sir.

The CHAIRMAN. Is that the extent of the opposition?

Mr. KENT. That is the extent of the opposition. There is some in Ohio. I will give you the product for 1914. The Southern States are not complaining. They represent 500,000 gallons; they are satisfied. New Jersey, 250,000 gallons. There is no protest from

New Jersey. New York, 2,500,000 gallons. I have never heard anything but favorable comment from New York. Ohio, 2,000,000 gallons. Part of the Ohio product is hostile to the bill and part not. I imagine it is about half and half. Missouri is not reported here, but all other Western States, including Missouri, 750,000 gallons. California is in favor of this with 39,000,000 gallons; all other States, which have not said a word, 500,000 gallons. So that we are here and now confronted with a possible protest of something like a million to a million and a quarter gallons out of a total product, in 1914, of 45,500,000 gallons.

Senator STONE. We should like to make this matter as agreeable to you gentlemen as possible, but who are the two gentlemen from New York?

Mr. KENT. Mr. Hildreth and Mr. Hunter.

Mr. HILDRETH. I got Mr. Underhill, our former representative, to speak about this tax on carbonated wines. That is all we came about. We felt that it would put us in a very serious condition if the carbonated wines were taxed so very lightly in comparison with our wines, where we have paid the same tax, and, even at that, we were working at a disadvantage against those things, because for a long while all American champagnes were classed as carbonated wines. We had to advertise and educate the people into the fact that we were making a legitimate champagne, the same as the French wines were made exactly, and consequently we had to charge a little bit more than the carbonated wine people were charging for their wine, and we felt that for an artificial product to be taxed so much lighter than a natural product it would work very seriously against them.

Senator HUGHES. It put a premium on the carbonated product?

Mr. HILDRETH. It put the premium on the carbonated product. We use the natural process, fermenting in the bottom. I know that certain of their wines were bought right up in that district there, and I know they have been buying wines since the 1st of October, but for a year previous to that they bought no wine at all; they shut down entirely; everybody shut down.

Senator HUGHES. What do you think now is the cause of the falling off of wine consumption?

Mr. HILDRETH. There is no falling off.

Senator HUGHES. You said it had increased since November, but said it had fallen off, decreased about 60 per cent, and you thought that was due to the tax.

Mr. HILDRETH. Probably due partly to the tax, the tax immediately being put on, and partly to the general condition of business. People did not have the money to spend. It is just like you put a heavy tax on an object all of a sudden, within 24 hours, you might say; and a man will say, "I can do without that; I will not use it," but gradually he gets back to it and gradually finds that he can stand the tax and get away with it to a certain extent. As a matter of fact, they have gotten away with that to a certain extent up to the present time, but I believe they would use still more at the proposed tax here now. We did not come here to fight this either one way or the other. When this proposed tax was made, we never came before the committee to speak about it either one way or the other; we took it just as it was; but we do believe that it would seriously hurt us if we were

discriminated against in favor of the manufacturers of an artificial product.

Senator PHELAN. What is the tax now on champagne?

Mr. HILDRETH. $2.40 a case.

Senator PHELAN. What is it in the proposed House bill?

Mr. HILDRETH. About $1.20 a case. It is approximately that.

Senator STONE. I understand there were hearings before the House committee, and the secretary of that committee has sent me a number of pamphlets containing those hearings. I have just talked to Mr. Kent, and I find the same matter was gone over, except with reference to this champagne.

Mr. KENT. And vermuth.

Mr. HILDRETH. Vermuth is a new matter entirely.

Mr. KENT. Also, all this other matter that has been introduced by Mr. Meeker and Mr. Stark in the House in the Congressional Record subsequent to those hearings.

Senator HUGHES. That was on the floor of the House?

The CHAIRMAN. Of what value is that?

Mr. KENT. I do not think it is of any value.

The CHAIRMAN. I mean of what importance?

Mr. KENT. It is just the problem you will have to consider when you consider the statements of Mr. Stark and Mr. Ansberry.

The CHAIRMAN. Were they not heard before the Ways and Means Committee?

Mr. KENT. Yes, sir.

The CHAIRMAN. I want to discuss with the members of this subcommittee just how far we are going to conduct these hearings. If we have it all, and it has all been heard before the House committee, what is the use of hearing it again? We have those hearings here. Now, these matters that you gentlemen are here to tell us about were not embraced in the House hearings?

Senator HUGHES. Yes; that is the champagne. As I understand it, Mr. Kent is not asking for a hearing. He appears in support of the bill. He would like to have one or two modifications.

Mr. KENT. I am not hostile to the bill. Mr. Albertz is here on a very important matter, if you will listen to him for a moment.

The CHAIRMAN. We will hear Mr. Albertz.

STATEMENT OF MR. F. L. ALBERTZ, REPRESENTING THE DRY AND SWEET WINE MAKERS OF CALIFORNIA.

The CHAIRMAN. Does this concern the champagne situation?

Mr. ALBERTZ. No, sir.

The CHAIRMAN. Had we not better finish that up?

Senator HUGHES. We have finished that, Senator.

Mr. KENT. Mr. Albertz is a wine maker in my district in California, and makes both dry and sweet wines.

The CHAIRMAN. You make wines both East and West, do you not?

Mr. ALBERTZ. No, sir; I live in California, Sonoma County. We make about 12,000,000 gallons.

In this bill only one transfer is provided for. The Revenue Department promised us they would allow us two transfers, but now claim that the second transfer should be included in the bill. All cellars, as soon as this bill passed, would be bonded and then the wine

maker, if he wants to sell his wine, may transfer it to a station, like the California Wine Co., or any other small dealer, and such transfer probably takes a couple of days, or perhaps a month, and if they then sell or transfer their wine, or ship it to a station at San Francisco or New York, they will have to pay the tax immediately, and that would be a hardship on the grower, because they would actually take the amount of the tax out of the wine maker in gold, whereas if they could store their wine for one or two years and give them about a year to mature their wines it would not be so hard for the wine maker. But this bill only provides one transfer. Commissioner Osborn promised us two, but now claims the second transfer should be included in the bill.

The CHAIRMAN. That is the amendment you want?

Mr. ALBERTZ. Yes, sir; if you please. That is the only one we ask.

Mr. WELCH. Commissioner Osborn told us the second transfer could be handled by regulation, but he has since informed us that it will have to be in the statute.

Mr. KENT. Of course, one of the objects of this bill, as I saw it, was to shift the burden of the taxation further from the producer, especially in the dry-wine district, where we were laboring under tremendous disadvantage, and get it nearer to the consumer, and this amendment which Mr. Albertz wants is right along that line, to give the people a chance to mature their wines. The best wines can be made in California, including inherent quality of grapes and everything else, and it is fully as good, if not better, than European wines, but owing to quick handling they only bring anywhere from 18 to 20 cents a gallon, which is an absurdity. If these people were allowed to store those wines and let them mature, the growers would get an immense benefit out of that maturing.

Senator HUGHES. Have you got the language prepared that will bring that result about?

Mr. KENT. We can get it.

Mr. ALBERTZ. There are two transfers between bonded warehouses at the present time.

The CHAIRMAN. What has the commissioner got to say about it?

Mr. KENT. The commissioner is in favor of it, is he not?

Mr. ALBERTZ. Yes, sir.

The CHAIRMAN. How would that affect the collection of the revenue?

Mr. KENT. It will not make any difference, except it postpones the collection until the stuff gets into the retail trade.

The CHAIRMAN. It affects it by postponing it?

Senator HUGHES. This gentleman says that the exigencies of the business sometimes call for two transfers; they provide for one transfer where he thinks it should provide for two.

The CHAIRMAN. If you provide for two, then it postpones the collection that much longer?

Mr. KENT. It makes a difference, perhaps, the first year. After that it does not make any difference.

Senator HUGHES. A man may want to make two transfers of it, and he might make his second transfer a month after he made his first. He would not have to pay the wine tax in a year, but if he

makes two transfers he has got to pay it immediately on the second transfer.

Mr. ALBERTZ. That is right.

Senator HUGHES. You do not necessarily postpone the tax, but the exigencies of the business may call upon him to make two transfers within the same time, in order to——

The CHAIRMAN. With the second transfer, then, it would be coming right along. But what is the present rule about it?

Mr. ALBERTZ. There are no transfers. The consumers pay the 8-cent tax now, and they do not get the one-half of it. As a wine maker I can ship, as a dealer, to a wholesaler, and I can ship to a retailer, too, without paying the tax. Anybody who has got his license can do so, and when he sells to the consumer the consumer has got to put an 8-cent stamp tax on the wine, or $4 on the cask.

Senator PHELAN. And he forgets to do it sometimes?

Senator HUGHES. As a matter of fact, he does not do it.

Senator PHELAN. He does not do it.

Mr. KENT. He will take it out of the grower first, and then the public does not get it.

Mr. ALBERTZ. Mr. Kent's bill provides that all cellars or wine makers or wholesalers must be put under bond immediately, and after the wine is made the wine is to be assessed to them in the cellar, and we will get credit for any transfer we make; we can pay it if we want to, but if we send the wine out we get credit on the tax.

The CHAIRMAN. I shall have to go all over this and refresh my memory on it.

Mr. KENT. It is a regular pestilence, you know, full of details.

Mr. UNDERHILL. There is just one thing I want to say on that reduction carbonated wine tax. There is just about so much champagne drunk in the country, and if you use more of the carbonated wine, why, you use less of the natural wine. And where you gain in the consumption of the carbonated wine you lose in the consumption of the natural wine, at three times the amount of tax. I think that will prove itself without any exception.

The CHAIRMAN. I think if we have any further hearings on this matter at all, gentlemen, we had better let the other people be present.

The clerk will include in the record at this point pages 12367 et seq. of the Congressional Record, July 10, extension of remarks of Hon. Jacob E. Meeker.

(The pages referred to are here printed in full, as follows:)

MISSISSIPPI VALLEY AND EASTERN WINE GROWERS DEFENDING THEMSELVES AGAINST ANNIHILATION BY CALIFORNIA WINE TRUST.

Extension of remarks of Hon. Jacob E. Meeker, of Missouri, in the House of Representatives, Monday, July 10, 1916.

Mr. MEEKER. Mr. Speaker, I wish to present at this time the amendments which I would have offered to the revenue bill had it been possible for me to get in, but because of the lack of time on the part of the committee I insert here the amendments which I would have offered, in the earnest hope that each and every one would have been adopted.

I wish to further extend my remarks by incorporating a very carefully prepared brief of the whole situation as exists between the vineyard men and wine makers of Missouri, Illinois, Ohio, and, in fact, all of the Eastern States, and the great Wine Growers' Association of California. I sincerely trust that

this brief will be considered by every Member of Congress for the sake of seeing that justice is done to the grape growers and wine manufacturers of the Middle and Eastern States, and to the further end that while the vineyard men of California will not be crippled by the legislation proposed, the life of the vineyard men of the Middle and Eastern States will be preserved.

Mr. Meeker offers the following amendments:

Page 70, line 13, strike out the word "fruit."

Page 70, line 14, strike out the word "special."

Page 70, line 23, after the word "wines," strike out the words, "cordials, liqueurs, or similar compounds."

Page 70, line 14, after the word "spirits," insert the words "or grain spirits."

Page 70, line 17, strike out the figures "10" and insert in lieu thereof the figures "70."

Page 70, line 18, after the word "spirits," insert the words "or grain spirits."

Page 71, line 13, after the letters "its," insert the word "or grain spirits."

Page 71, line 15, after the word "spirits," insert the words "or grain spirits."

Page 71, line 18, after the word "spirits," insert the words "or grain spirits."

Page 72, strike out all of line 4 and the rest of the page, and on page 73 strike out all of lines 1 to 9, inclusive, and insert in lieu thereof the following:

"That wine within the meaning of this act shall be deemed to be the product made from normal alcoholic fermentation of the juice of sound, ripe grapes, without addition or abstraction except such as may occur in the usual cellar treatment for clarifying and aging: *Provided, however*, That the product made from the juice of sound, ripe grapes by complete fermentation of the must, under proper cellar treatment and corrected by the addition (under the supervision of a gauger or storekeeper gauger in the capacity of gauger), of a solution of water and commercially pure cane, beet, or dextrose sugar to the must or to the wine, so that the resultant product does not contain less than five parts per thousand acid before fermentation and not more than 13 per cent of alcohol after complete fermentation, shall also be deemed to be wine within the meaning of this act: *And provided further*, That wine as defined in this section may, after complete fermentation, be sweetened with cane sugar or beet sugar or pure condensed grape must and fortified under the provisions of this act, and the same shall be considered sweet wine within the meaning of this act: *Provided*, That such sweetening agents shall not increase the volume of such wine more than 10 per cent."

Page 73, line 16, after the word "spirits," insert the words "or grain spirits."

Page 74, line 6, after the word "spirits," insert the words "or grain spirits."

Page 74, line 16, after the word "spirits," insert the words "or grain spirits."

Page 75, line 1, after the word "spirits," insert the words "or grain spirits."

Page 75, line 2, after the word "spirits," insert the words "or grain spirits."

Page 75, line 4, after the word "spirits," insert the words "or grain spirits."

Page 75, line 20, after the word "spirits," insert the words "or grain spirits."

Page 76, strike out all of lines 10, 11, and 12.

Page 76, line 14, strike out the words "liqueurs, or cordials."

Page 76, strike out all of line 24, and on page 77 strike out all of lines 1 and 2.

Page 77, line 14, after the word "wine," strike out the remainder of the line and all of lines 15 and 16, and on line 17 strike out the words "under the provisions of this section."

BRIEF ON VITICULTURE IN CALIFORNIA AS COMPARED WITH OTHER STATES.

[By Ottmar George Stark, president of Mississippi Valley Wine Growers' and Grape Growers' Association.]

ST. LOUIS, MO., *July 7, 1916.*

Hon. CLAUDE KITCHIN,

Chairman Ways and Means Committee, Washington, D. C.

DEAR SIR: I respectfully submit data on the wine and grape industry in California as compared with that in the other States.

I am furnishing you figures which I, while in Washington, D. C., copied from the United States census books of 1910 and from the records of the United States Internal Revenue Department at Washington, D. C., to wit:

The number of farmers growing grapes in 1910, the number of grapevines existing in 1910, and the number of pounds of grapes produced in the years of 1899 and 1909 in the various States, respectively, were as follows:

[−means decrease, +means increase.]

State.	Number of farmers growing grapes in 1910.	Number of grapevines in 1910.	Number of pounds of grapes produced in 1899.	Number of pounds of grapes produced in 1909.
Arkansas	11,247	805,921	3,621,100	− 2,593,727
Connecticut	4,170	107,054	1,822,900	− 1,317,682
Delaware	1,309	260,963	1,375,300	+ 1,938,267
District of Columbia	14	5,196	34,300	− 25,530
Florida	2,970	20,962	1,684,700	− 1,086,344
Georgia	15,831	277,658	8,330,485	− 2,767,366
Illinois	75,818	2,170,340	20,009,400	− 16.582,785
Indiana	73,892	1,049,232	18,651,380	− 12,817,353
Iowa	51,917	1,983,465	7,403,900	+ 11,708,336
Kansas	44,311	2,889,845	15,786,019	− 6,317,684
Kentucky	26,956	605,002	5,134,215	− 3,680,182
Maryland	11,718	138,801	1,685,900	+ 2,152,382
Massachusetts	6,003	58,277	1,308,300	− 1,132,838
Michigan	41,485	11,013,576	41,530,369	+ 120,695.997
Minnesota	2,138	61,916	573,272	− 293,805
Mississippi	8,271	77,012	1,070,625	− 760,563
Missouri	75,888	3,026,526	13,783,656	+ 17,871,816
Nebraska	29,403	1,221,736	3,171,034	+ 4,752,217
New Jersey	5,368	1,603,280	4,235,000	+ 6,501,221
New Mexico	820	250,076	1,515,900	+ 425,415
New York	34,256	31,802,097	247,698,056	− 253,006,361
North Carolina	43,121	411,278	12,344,001	+ 15,116,920
Ohio	82,576	8,326,800	79,173,873	− 43,933,207
Oklahoma	26,039	2,388,213	6,344,031	− 3,762,727
Pennsylvania	84,929	5,271,264	47,125,437	− 34,020,198
Rhode Island	534	7,662	189,700	− 152,937
South Carolina	12,239	79,708	3,323,835	− 2,016,506
Tennessee	23,675	338,758	4,355,122	− 1,979,480
Texas	13.495	712.201	4,086,220	− 1,802,618
Virginia	27,078	424,701	3,608,903	+ 4,108,694
West Virginia	25,733	284,074	2,192,147	+ 3,224,751
Total	863,204	77,673,594	563,169,080	578,545,909
California	17,793	144,097,670	721,433,400	+1,979,686,525
Grand total	880,997	221,771,264	1,284,602,480	2,558,232,434

You will notice that the increase of production of grapes in California during the period of 10 years from 1890 to 1900 has been enormous, principally due to the California wine industry.

The increase of grape production for the same period in New York and Michigan is also marked, which in Michigan is almost entirely due to its unfermented grape juice industry, and in New York State principally due to its unfermented grape juice industry and secondarily to its native wine industry. New York, Pennsylvania, and Michigan also ship vast quantities of choice "table" grapes all over the States.

Take notice that with the exception of the "wine" producing States of Missouri, New Jersey, New York, North Carolina, Virginia, and West Virginia, in which there is a perceptible increase in the production of grapes, the remaining States show a decrease or standstill, excepting Michigan and California.

If you will eliminate the State of Michigan from the above-quoted list of States, and it should be eliminated from a wine-grower's point of view and to bring out the point I am trying to make, for the increase of Michigan grape production is due almost exclusively to the establishment of unfermented grape juice factories in Michigan, then after such elimination from above list you will find the following:

[+ means increase; − means decrease.]

	Number of pounds of grapes produced in 1899.	Number of pounds of grapes produced in 1909.
Total for the States listed above other than California	563,169,080	578,545,909
Deduct Michigan	41,530,369	+120,695,997
Net for other States excluding California	521,638,711	−457,849,912

Or a decrease of 63,788,799 pounds of grapes produced less in 1909 than were produced in 1899 in the United States exclusive of Michigan and California.

On the other hand, behold the tremendous and rapid increase in California during the same period of time.

CALIFORNIA.

[+ means increase.]

	Pounds.
Grapes produced in 1899	721,433,400
Grapes produced in 1909	+1,979,686,525

Or an increase of 1,258,252,125 pounds of grapes produced in 1910 than were produced in 1899.

The principal eastern wine manufacturing States are Ohio, Missouri, Virginia, New York, and New Jersey. The wineries buy up the bulk of the grapes grown at home, and in addition purchase grapes grown in North Carolina, West Virginia, Pennsylvania, Delaware, and Maryland; that accounts for a slight increase in the production in the last-named five States.

As aforesaid, the States east of California, in which wines were produced from their grapes, show a small increase in grape production (excepting Ohio). In these States "quality" wines were made in a limited capacity and to the full extent of the demand of the market, and more these wineries could not expand. Only with "quality" wines, i. e., wines of high grade and fine vintages, could these eastern wine makers compete with California wine makers (for reasons hereinafter stated), as the California wines are not considered to be of the same high grade as are the better classes of Missouri and other eastern wines, including "sparkling" wines. As aforesaid, however, the market for "quality" wines is limited; on the other hand, there is a large field for cheap, ordinary wines (Vins Ordinaire).

This field was completely in the hands of the Californians. For some time most of the Ohioans tried to compete with the Californians in cheap wines, but could not meet their low prices, and the result was a loss of trade, respectively, and a decrease in the Ohio grape production, as the Ohio farmers could not sell all their wine grapes to the Ohio wineries, and consequently many pulled out the vines.

You will ask, Why could not the eastern wine makers compete with the California wine makers?

Here is the reason: The native sons of California were favored by a congressional act discriminating against the eastern wine makers and in favor of the California wine makers. True enough, the Federal laws apply equally in all sections of the country, but the law for which I understand the Californians were responsible was so cleverly worded as to affect us eastern wine makers unfavorably and the Californians favorably, because it described the "condition" of the wines to which would accrue the benefits of that act, and the description of said wines fitted exactly the California "type" of wines and left out in the cold altogether the eastern "type" of wines. This act of Congress became law on October 1, 1890, and immediately thereafter the California wine business began to boom; also the grape business. All attempts on the part of us eastern wine makers to get relief were in vain. Under that act the Federal Government permitted wine makers to add wine spirits (brandy) to their wines to preserve same without paying the $1.10 per gallon internal-revenue tax on the brandy, but as the eastern style of wines did not come under that class, only the Californians benefited by that law and rapidly grew immensely wealthy.

We eastern wine makers were denied such "tax free" brandy, and therefore had to fortify our wines with spirits on which an internal-revenue tax of $1.10 on each gallon of 100-proof strength was collected. That put the eastern wine makers at a tremendous disadvantage and they could only market their wines at a high price and talk "quality."

Why did eastern wine men not make the same type of wine which the Californians make? That will be your question.

The reason is that in the section east of the Rocky Mountains grape growers have up to this date been unable to raise other grapes than those of American origin—such as Concord, Catawba, Elvira, Norton's Virginia Seedling, Scuppernong, and hundreds of other hybrids originating from the native wild grape. Many efforts by ourselves and others to grow European, Asiatic, and northern

African grapes here resulted in failures, although the California vineyards are composed of those very varieties. However, they can not stand our climate, hot summers, or cold winters. Only our "native" grapes will stand such extreme climates of extremely cold blizzards in winter, and heat and drouth in summer; the foreign southern varieties die before the winter is over and the northern European varieties die during the hot, dry summers.

The horticultural departments of the various States will verify this claim.

The report of the United States Commissioner of Internal Revenue for the fiscal year ending June 30, 1912, states that during that fiscal year 6,322,303.9 gallons of full 100-proof strength of brandy spirits were used by mixing same with wines for the purpose of fortifying same and preserving same, and the greater portion of the wines were overfortified by making same excessively high in alcoholic strength, 48 proof or over half as strong as whisky as a rule is sold and consumed, being highly intoxicating, and such overfortified wines were sold to patent medicine manufacturers and other manufacturers, who bought the wines only because they need alcohol to make their medicines and their temperance drinks, and the alcohol in the wine was cheap as the Government did not collect the customary tax of $1.10 per gallon of 100-proof strength. Thus the Government which meant to help develop the legitimate wine industry was shamefully defrauded out of millions of dollars of tax annually—6,322,303.9 proof gallons of brandy at $1.10 tax per proof gallon would amount to $6,954,534.29. The greater portion of this tax remitted by the Government for the benefit of the American wine industry in fact became a "bonus" to the patent medicine industry, and a good many patent medicines are alcoholic beverages sold under disguise in prohibition States and in local option counties.

On October 1, 1890, as aforesaid, the Federal act gave wine makers brandy for fortifying wines and no tax was collected on the brandy.

On June 7, 1906, this act was amended and a nominal charge of 3 cents was assessed against such brandy and was thereafter collected in order to reimburse the Government for the official supervision of the proper use of such brandy at the wineries.

This law continued in force until October 22, 1914, when at our instance Congress amended the previous acts and assessed and thereafter collected a tax of 55 cents on each proof gallon of brandy used for fortifying wines. There were, however, no full concessions made in that act so as to enable us eastern wine men to produce palatable and marketable wines on a profitable basis, by applying the only method of wine making under which the eastern wine industry will prosper, and by which "method" native wines have been made by us Missourians since the year of 1847, and by Ohioans and other easterners even prior to that, and by those in Germany long before that.

Wines which we made thus without interference heretofore we could make by using spirits on which a tax of $1.10 per proof gallon was collected, but since the year 1913 the United States Department of Agriculture and the United States Treasury Department have issued rulings and decisions which even interfere with our handicapped practice of the past; all we believe to be due to Californian activity.

In the meantime the Californians are working in classified groups, and have been doing so in the past. When the big California Wine Trust has put in its licks, then the next Congress is confronted by the small wine growers' league of California; when they have gained their point, then the next Congress is beseiged by the grape growers' union, then comes along the California "associated" raisin growers, a trust who claim to control 95 per cent of the raisin output. It is a great system they work under, but they usually get what they go after.

I hear that the raisin crowd is, under cover, right now working on the departments and on Congress to again repeal the tax on fortifying brandy or at least reduce it materially, and at the same time to tighten the screws on the eastern method of making wines.

Eastern grapes are high in fruit acid, just like in northern European countries with cold climates such as Germany and Switzerland, and so forth, and it is necessary to add water to reduce the acid and to add sugar to bring the sweetness up to a standard.

The California grapes are very sweet and deficient in acid; hence they need not add sugar, nor must the acid be reduced with water; on the contrary, their wines are flat and insipid, and they are permitted by the Federal food department to add tartaric acid and tannic acid, which is called permissible "cellar treatment." Some New York State and New Jersey wine makers have even

called the adding of sugar and water to be "cellar treatment," and they got by with it, as they were not interfered with, but the Federal food department has prosecuted our Ohio wine makers for adding water and sugar. The Californians are trying to put a stop to the eastern method of ameliorating wines with an aqueous sugar solution so as to monopolize the entire American wine trade themselves. The reason why the Raisin Trust is very interested this year in this wine situation is this:

When the wine makers in California in September and October of 1914 anticipated a tax on brandy to be used for fortifying, and it was very plain that Congress was determined to raise revenue, and subsequently did on October 22, 1914, enact the emergency-tax act, which includes a tax of 55 cents a gallon on fortifying brandy, they in California worked day and night and turned all kinds of grapes into sweet wines—sweet-wine grapes, sour-wine grapes, table grapes, and raisin grapes—in order to get away with as much tax-free brandy as possible before the emergency-tax bill could be enacted. Exactly the same tactics were practiced by the "whisky ring" of old repute. It is admitted by the Californians that many have made enough fortified wines to last them several years, and by that time they expect another Congress to repeal the brandy tax, so that they would never have been touched.

The 55-cent brandy tax became effective at midnight October 22, 1914. The California wineries were well stocked up. Very little fortifying has been done since then, as only a few unprepared ones had to do it, and only on a minimum scale—from hand to mouth. Therefore, when the 1915 crop of sweet-wine grapes were ripe, no wineries would buy them; they had their cellars full. There was nothing else to do but to use these sweet-wine grapes—Tokay, Muscat, and so forth—and make raisins out of same, and they made good raisins. Now, here is the act where the raisin kings appear on the stage. There was a howl that rang all over the grape-growing belt of California. It seriously interfered with the program of the raisin people. The California associated raisin growers claim to control 95 per cent of the entire output. The grape growers who made raisins out of their sweet-wine grapes sold their raisins—dried grapes—directly into the open market, and that interfered decidedly with the schedule of the California Raisin Trust. For that reason solely do they believe they have license to take a hand in the framing of "wine" and "brandy" tax laws and thus clear the field for themselves.

Why the Californians are letting out such a yell I can not understand, unless it is because now they can not sell their fortified wines to patent-medicine manufacturers in competition with the "grain distillers," who sell grain alcohol in its pure form to the patent-medicine men at a lower price delivered, being located closer.

The oppressive taxation about which the Californians are making all this noise is 2.2 cents for each gallon of sweet wine.

In California wines can be and are fermented as high as to attain an alcoholic strength of 16 to 16½ per cent and still retain sufficient sweetness as to contain 4 per cent saccharine strength, all due to the tropical varieties of very sweet grapes grown there. Seventeen per cent alcoholic strength suffices to preserve wine. Eighteen per cent is an absolute guaranty that it will remain in undisturbed condition, and that is the standard alcoholic strength of sweet wines intended for use as a "beverage." If the California fermented wine has an alcoholic strength of 16 to 16½ per cent and it is to be fortified with distilled spirits so as to bring it up to 18 per cent alcoholic strength, it requires only 2 per cent of absolute alcohol, or 4 proof, which equals four one-hundredths part of a gallon of distilled spirits having 100-proof strength. (One gallon of 100 per cent alcoholic strength equals 200-proof strength, in accordance with the measuring standard used by the United States Internal Revenue Department.) As they need only four one one-hundredths part of a proof gallon of brandy spirits for each gallon of wine, and as the tax collected on the brandy is now at the rate of 55 cents for each proof gallon of 100-proof strength, therefore the tax now amounts to four one-hundredths part of 55 cents, or exactly 2.2 cents for each gallon of wine. (One per cent of sugar produces one-half per cent alcohol and one-half per cent carbonic gas, and the gas escapes.)

We in the East can not do as well. If our wines are thoroughly fermented, so as to not leave a particle of sugar or sweetness in the wine, same will not exceed 12½ to 13 per cent alcoholic strength. Note how much alcohol we must add to bring the strength up to 18 per cent, and, what is worse, we are restricted to use distilled alcohol, on which the regular tax of $1.10 per proof gallon has been collected, for reasons hereinbefore explained.

As sweet wines should be of a sweetness of at least 6 per cent saccharine strength to suit the public taste, the California wines need an addition of only 2 per cent sugar, as same have left in same after fermentation is complete a sugar strength of 4 per cent.

In our case in the East the wines have all the sugar fermented out of same, and we must sweeten same to the full expense of 6 per cent sugar by volume.

Furthermore grapes in California sell from $5 to $10 per ton—have done so for years—whereas we pay never less than $30 to $60 per ton, and for some varieties $100 per ton, same having a beautiful bouquet. The Californians have a decided advantage over us, but still they are not satisfied.

It is to be regretted that the Hon. David Houston, Secretary of the United States Department of Agriculture, himself a resident of Missouri, has given us eastern wine men very unfair treatment, repeatedly so, while he has granted audiences to the California crowd by the hour and invariably ruled in their favor, even going so far as to have his department officials antagonize us before the Finance Committee of the United States Senate.

The much advertised State of California has powerful influence.

Secretary Houston even annulled Food Inspection Decision 120, rendered in May, 1910, by the three Secretaries—Wilson, of the Agricultural Department; MacVeagh, of the Treasury Department; and Nagel, of the Commerce and Labor Department—and which was satisfactory to us; and he issued a decision instead which, if enforced, would wipe us all out of business at one lick. According to the printed reports of the United States Commissioner of Internal Revenue, there were produced during the six years from July 1, 1909, to June 30, 1915, the following:

Fiscal year ending June 30—	Total production of distilled spirits from all kinds of material.	Brandy produced.	Brandy used free of tax in fortification of sweet wines.	Sweet wines produced.
	Gallons.	*Gallons.*	*Gallons.*	*Gallons.*
1910	163,893,960.0	7,656,433.6	4,888,445.0	19,012,397.02
1911	183,355,527.4	7,953,131.9	5,101,517.5	19,498,767.24
1912	187,571,808.5	9,321,823.5	6,322,303.9	24,198,626.19
1913	193,606,257.9	8,252,874.8	4,939,464.7	19,281,758.12
1914	181,919,542.2	7,307,897.2	4,852,848.7	18,580,373.72
1915	140,656,103.2	8,521,951.0	4,505,218.7	17,218,661.90

Of the 4,505,218.7 proof gallons of brandy used during the fiscal year ending June 30, 1915, only 373,199.3 proof gallons were used after the act of October 22, 1914, took effect and a tax of 55 cents per gallon, amounting to $205,259.62, was assessed. The other 4,132,019.4 proof gallons were used up free of tax before the act of October 22, 1914, took effect. The Californians anticipated that a tax would be imposed by Congress, and they worked day and night to pack away as much free brandy as they were able to do after the grapes ripened and before Congress would act.

It is a fact that for quite a number of years the increased use of free brandy was at the rate of about a million gallons more each year than the preceding year, and the climax was reached in 1912. After that there was an uncertainty as to what would be done by Congress, as we easterners in 1913 had started our campaign, and therefore there was not so much brandy stuck into sweet wine during the years of 1913, 1914, and 1915.

From the above statement you will find that of the total brandy produced a great portion was disposed of by putting it into sweet wine without paying a revenue tax thereon, excepting lately 3 cents a gallon to cover the cost of supervision by Government gaugers and storekeepers. During the fiscal year ending June 30, 1912, for instance, 9,321,823.5 proof gallons of brandy were produced, of which 6,322,303.9 proof gallons, or more than two-thirds of the entire production, were stuck into sweet wines "free" of tax.

In order that you may conceive the magnitude of the amount of free brandy used each year for fortifying sweet wines, which has been going on for over 25 years, I will illustrate the one single fiscal year ending June 30, 1912, during which 6,322,303.9 proof gallons of free brandy were used to fortify sweet wines.

A barrel holds 50 gallons; that makes 126,446 barrels.

A barrel weighs 500 pounds; that makes 63,223,000 pounds, or 31,611½ tons.
A carload holds 48 barrels, or 12 tons each; that makes 2,634½ carloads.
Thirty cars constitute a long train; that makes 88 trains of free brandy.
A train of 30 cars, engine, and caboose is about 1,500 feet long; that makes 132,000 feet, or exactly 25 miles of free brandy for that one year.

Figured in drinks of 1½ ounces each, the usual quantity of a good-sized drink, it amounts to 539,503,266, or over one-half billion drinks of straight 100-proof brandy, without any tax having been paid thereon, and if the same were reduced to 90 proof, as same is in fact and as a rule consumed, then it amounts to still more, to wit, 593,453,582 drinks at 1½ ounces each of 90-proof strength free brandy for the fiscal year beginning July 1, 1911, and ending June 30, 1912, about six drinks of "free" brandy for every man, woman, and child in the United States. This free brandy traffic has been going on over 25 years and the United States Government holds the bag; in fact, was, up to June 7, 1906, even put to an "expense" of supervising the work and did not get one cent in return therefor.

It is far different with the housewife. Every time she bakes a cake or makes ice cream and uses lemon extracts or vanilla extracts she pays a heavy revenue tax to the Government, but these California wine men got away with millions and millions of dollars of revenue taxes.

The flavor extract manufacturers must use double-strength spirits to make extracts, hence they pay a revenue tax of $2.20 on each gallon of alcohol; therefore every child who buys candy or ice cream, and every housewife who bakes cakes, in all of which are used flavoring extracts, pay an internal-revenue tax on the flavoring extract contained therein and at the rate of $2.20 for each gallon of alcohol, whereas the California wine men get their alcohol free of tax and the Government up to June 7, 1906, threw in the gaugers' and storekeepers' services free to boot. It is hard for anyone outside of the wine business to believe, but it is the naked truth. Write to the Commissioner of Internal Revenue yourself and he will verify my statement; in fact, I herewith quote from his printed report for the fiscal year ending June 30, 1915. See page 13, which reads as follows:

"By an act approved October 1, 1890, grape brandy or wine spirits used in fortifying pure sweet wine was, under certain conditions imposed, exempt from tax. By an act approved June 7, 1906, a charge of 3 cents per proof gallon on the brandy or spirits so used was imposed to cover the expense of the Government attending the making of fortification of such sweet wines. These laws were reenacted, with various amendments, in the revenue act of October 22, 1914; and in lieu of the provisions above referred to, a tax of 55 cents per proof gallon was imposed on the brandy or spirits thereafter so used. This tax, however, under the provision of section 24 of the act, will expire by limitation January 1, 1916; and owing to the absence of any saving clause the question has arisen whether brandy or spirits used in fortifying such wines on and after that date will be subject to the same rate of tax as that imposed on other distilled spirits, or will be wholly exempt from tax."

"As construed by this office the exempting provision of the act of 1890 was, in effect, repealed by the amendatory act of 1914, and will not be restored by the repeal, or expiration by limitation, of the tax imposed by the last-named act.

"While so holding I am not unmindful of the fact that the exaction of the full tax of $1.10 per gallon on the brandy so used may be very burdensome to the sweet-wine producer who stores his wine for any considerable length of time before sale; and that, under present conditions, it may also seriously affect the grape-growing industry in certain sections of the country. I am, however, firmly of the opinion that these highly fortified wines, marketed in direct competition with other taxable spirits, and as a beverage consumed by the well-to-do classes, should not escape taxation.

"Since the passage of the wine act of 1890 there have been used, free of tax, 73,653,970.7 proof gallons of brandy and wine spirits in fortifying wines of this class; and from information received it appears that a very considerable quantity of these wines, known as 'sherry material,' has been used in the manufacture of medical preparations and other compounds. In other words, these so-called wines have been largely used as a vehicle for placing on the market untax-paid spirits.

"The purpose of the law in making this special tax exemption was, presumably, to encourage the production of 'pure sweet wine,' and to enable the producer and dealer to place the same on the market at a greatly reduced

price. But it may, I think, be fairly questioned whether the law has accomplished this purpose.

"As shown by the records these wines have been fortified, mainly with raw high-proof spirits, averaging in proof about 172°, or nearly the proof strength of ordinary grain alcohol. Of the total quantity of spirits thus added, less than 10 per cent has been stored in warehouse, the balance, or something over 90 per cent, having been removed to the wineries directly from the distilleries, and usually during the month of production.

"From information obtained it also appears that certain types of these wines, produced at a cost not exceeding 20 or 25 cents per gallon, and often marketed soon after fortification, have retailed at from $2 to $4 per gallon.

"I see no good reason, from a revenue or other standpoint, why the spirits used in fortifying these wines should be exempt from taxation, especially in view of the large falling off in receipts from other distilled spirits and the fact that, under the limitations fixed by the act of 1914, no tax whatever will be imposed on the wines, as such, after December 31 next.

"I therefore recommend that a fair and equitable tax be imposed on all such spirits; and in order to relieve the wine producer from any unnecessary burden, that provision similar to that now contained in the act of 1914 be made for the deferred payment of the tax so imposed.

"A careful examination of this subject, both as to the rate of tax and the restrictions which should be imposed upon the use of brandy in fortifying wines, is now being made by this office, and a further report thereon will be prepared at an early date."

On page 39 the commissioner says the following:

"FORTIFIED WINES.

"By the act of October 22, 1914, a tax of 55 cents per proof gallon is now imposed on brandy and wine spirits used in fortifying domestic wine. This tax, however, will, under the provisions of the act, expire by limitation January 1, 1916. It is therefore recommended that a like tax be imposed on all brandy or spirits used in fortifying such wine on and after that date."

Now, if this honorable Congress would secure for us the rights to which we are entitled in order to save the wine industry east of the Rocky Mountains, and also secure at least one Federal experimental horticultural field station for Missouri, then you certainly will add greatly to the wealth and resources of this great Commonwealth of Missouri and the other States of the Mississippi Valley, in which our 1,000 members reside. The Ozark Mountains and the bluffs along the Missouri and the Mississippi Rivers are ideal for growing wine grapes, just like along the River Rhine.

The Californians got to quit a kickin' my houn' dawg around.

Respectfully,

O. G. STARK,
President of Mississippi Valley Wine Growers and Grape Growers' Association.

BRIEF ON THE QUESTION OF THE PROPER DEFINITION OF MISSOURI, OHIO, AND OTHER WINES GROWN EAST OF THE ROCKY MOUNTAINS.

To the honorable Senators and Congressmen of the United States in Congress assembled:

We beg to submit the following brief on the question of the proper definition of Ohio and Missouri wines and wines grown in other States east of the Rocky Mountains.

In order to determine what is a proper definition of Missouri, Ohio, and eastern wines, we believe it best to divide the consideration of our subject into three general parts, as follows:

First. A consideration of the natural conditions existing in Missouri, Ohio, and other States east of the Rocky Mountains necessarily affecting the character of the wines produced and, in connection therewith, the methods and processes necessary to employ, on account of those natural conditions, to produce merchantable wine.

Second. A consideration of the extent and value of the wine industry of Missouri, Ohio, and other States east of the Rocky Mountains.

Third. The extent to which those natural conditions, methods, and processes should be taken into consideration in determining a proper definition for those wines.

I. NATURAL CONDITIONS.

The wines of commerce are divided into two general classes: (1) Dry wines and (2) sweet or fortified wines; and the dry wines are again divided into two general classes: (1) Still wines and (2) sparkling wines.

The peculiar class of wines with which we are primarily concerned is that class known as dry still wines; and as sweet wines or fortified wines produced in Missouri, Ohio, and other States east of the Rocky Mountains can be made only from dry still wines, a determination of the proper defining of dry still wines should also determine the proper defining of Missouri, Ohio, or other eastern sweet or fortified wines.

The grapes from which wines are produced in Missouri, Ohio, and, in fact, all States east of the Rocky Mountains, are native American varieties, differing in this respect from the grapes from which California wines are produced, which are as a rule foreign varieties. The American varieties can not be successfully produced in California, and the foreign varieties can not be successfully produced in Missouri, Ohio, and the other States east of the Rocky Mountains.

A merchantable Missouri, Ohio, and other eastern dry still wine should not contain more than about 5 per mill acid and sometimes as high as about 13 per cent of alcohol. Some wine makers claim that the acid should not run more than 4½ per mill. But, owing to the nature of the soil and the nature of the climate in Missouri, Ohio, and the other States east of the Rocky Mountains, the grapes produced in these States are always low in sugar content and always high in acidity, the acidity never being less than about 8½ per mill, and being this low only in very favorable years. The sugar content is also always too low to produce the required amount of alcohol—that is, the amount of alcohol necessary to keep the wine from fermenting when produced, and which we have stated should be about 13 per cent.

(The above statement that the grapes are always low in sugar content should be modified. What we mean is that the grapes never contain enough sugar to make the alcohol high enough after water has been added to ameliorate the excessive acid that is always in the grapes. Often the grapes have sufficient sugar to produce 12 to 12½ per cent of alcohol, but at the same time have an excessive amount of acid, which must be ameliorated, after which amelioration the alcohol will not be high enough unless sugar has been added with the water.)

It will be seen from the foregoing that at no time is it possible to produce merchantable wine in these States without correcting its acidity and its alcohol content.

In support of our statement that a merchantable wine should not contain more than about 5 per mill acid and that it should contain sometimes as high as 13 per cent of alcohol, we beg to submit the following:

First. The assurance of each member of this association, who are practical wine makers and who have been engaged in manufacturing wines in the different States in the Mississippi Valley, from native grapes, for a great number of years, and selling those wines, and whose assurances are based on practical experience in the Mississippi Valley, particularly in Missouri and Ohio, covering a period of time in at least one instance, that of the Stone Hill Wine Co., at Hermann, Mo., from 1847 down to the present date.

Second. Mr. George Husmann, in his book entitled "American Grape Growing and Wine Making," 1907 edition, published by the Orange-Judd Co. (see Congressional Library), says:

"A normal 'must,' to suit the prevailing taste here, should contain about four-thousandths parts of acid, while in Europe it varies from four and a half to seven-hundredths, as the taste there is generally in favor of more acid wines."

The Universal Encyclopedia of 1900, in an article by E. W. Hilgard on "Wine and wine making," says:

"The following table gives the volume-percentage of alcohol contained in some of the best-known wines, varying, of course, from year to year:

Rheinish and Moselle wines	9. 1–12. 0
Grumberger, Naumberger (northeast Germany)	6. 5
Burgundy, red	7. 5–13. 5
Bordeaux, first class	7. 0–11. 5
Catawba, Concord, etc	8. 5–12. 7
California wines	10. 5–15. 7
Port	18. 0–23. 0
Sherry	17. 0–21. 0
Madeira	17. 0–19. 0
Tokay	12. 0–20. 0
Greek and Syrian wines	14. 0–18. 0

Third. The actual facts, which may be ascertained upon investigation, we might refer to other authorities, but we deem the foregoing sufficient for the purposes of this brief.

Therefore we start with the proposition that a merchantable Missouri, Ohio, and other eastern wines should contain not more than about 5 per mill acid and sometimes as high as about 13 per cent of alcohol.

Now let us consider the natural conditions in the Mississippi Valley and Eastern States in connection with the above proposition, and what do we find:

First. We find that owing to natural conditions in these States a merchantable wine can not be produced from the natural juice of the grape, because the acid in the grape will be too high and the amount of sugar too low to produce the required amount of alcohol (after the acid has been ameliorated with water).

Second. We find that it is necessary to correct the natural juice of the grape before fermentation in such a manner that the acid will be reduced to the proper amount and the alcohol increased to its proper amount. This being accomplished by the addition of a solution of sugar in water, mixed in such proportion that the water will reduce the acid by dilution to the proper degree and the sugar by conversion into alcohol in the process of fermentation will bring up the amount of alcohol to the per cent required.

In support of the first of these propositions we again offer the assurance of each member of this association, who are all practical wine makers and who have been engaged in manufacturing wines along the Missouri, Mississippi, and Ohio Rivers and the Great Lakes, and elsewhere in the great Mississippi Valley from native grapes for a great number of years, and selling those wines, and whose assurances are based on practical experience in the great Mississippi Valley covering a period of time, in at least one instance, from 1847 down to date. Mr. A. Textor, of A. Textor & Co., of Sandusky, Ohio, who is one of the oldest wine makers in the association, says that the first wine was made in Sandusky, Ohio, in 1856; that he has been in the business of making and selling wine at Sandusky since 1862 and is still in business there; and that during all that time there has never been a year in which he could make merchantable wine without the use of an aqueous sugar solution. He has always made wine by the same standard, which conforms in amount of acid and alcohol to that herein stated. He says Ohio wines have always been corrected with a solution of sugar. He says he imported grape sugar to be used in making his wines in 1865; that he has generally used "anhydrous" sugar; and that he has used anhydrous sugar [dextrose] since 1884.

We also wish to cite The Universal Encyclopedia of 1900, under "Wine and wine making," by E. W. Hilgard:

"The wines of the States east of the Rocky Mountains made from American grapes only differ from those of Europe and all other countries in mostly possessing more or less of the [foxy] aroma of the berries. As in Europe, the must often fails to acquire, north of the Potomac, the desirable amount of sugar."

In passing this subject we might add further that the natural conditions may be divided into two parts: First, the nature of the soil which permits of only certain classes of grapes being grown to advantage in the Mississippi Valley and Eastern States; and, second, the climate of those States, which has an effect on the maturing and ripening of the grapes.

METHODS AND PROCESSES.

We have now arrived at a point where we are confronted with the following facts:

First. That owing to natural conditions a merchantable wine can not be produced east of the Rocky Mountains from the natural juice of the grape.

Second. That in order to produce merchantable wines east of the Rocky Mountains it is necessary to add to the juice before fermentation an aqueous solution of sugar to ameliorate the acid and bring up the alcohol.

Let us now pass to a consideration of the methods and processes employed to make merchantable wine east of the Rocky Mountains, and especially in the Mississippi Valley and along the Great Lakes, with a particular view to consider the justification of the use of such methods.

In the first place, we beg to submit that wine is seldom, if ever, a natural product—that is, it is seldom that wine is made directly from the juice of one grape and without any blending or additions of any kind. On the contrary, the making of wine is an art, and the wine is the product of that art rather than a natural product. That the nature of the wine and the value of the wine is controlled by and depends upon the skill employed in its production admits of no argument. What the wine maker aims to produce is a product that the consumer will like. The more pleasing that product is to the consumer the greater its value. Therefore the wine maker strives to please, and the product which he finds will please is usually a product that is the result of his ingenuity and art. That product may be obtained by a process of blending, or, as in the Mississippi Valley wines and in the eastern wines, it may be the result of both correcting and blending.

On this point the Universal Encyclopedia—Wine and wine making, by E. W. Hilgard—has this to say:

"Few wines reach the consumer as they would result from the process above detailed, as applied to one kind of grape. It is the general practice to adopt the various kinds and qualities of wines to the taste of the consumers by the intermixture of such as will improve each other. To this practice no reasonable objection can be made since from beginning to end intelligent management influences the nature of wine nearly as much as its origin, and it would be difficult to determine just what should be understood by 'natural wine.'"

Since, then, wine is the product of an art and is frequently, without objection, the product of blending, can it be said it is objectionable or unjustifiable to take an unpalatable and unmerchantable wine in a state where all so-called natural wine would be unpalatable, and by the art of correcting that wine with an aqueous sugar solution make it palatable and merchantable? On this subject we again beg to quote the Universal Encyclopedia—1900, Wine and wine making, by E. W. Hilgard:

"Of all articles of human consumption wine is probably the one most commonly modified by additions and adulterations. So long as these additions merely make up for deficiencies in what might be considered the normal composition of must, as is done in adding sugar to the must of vintages that have suffered from unfavorable weather, it is questionable whether the consumer has reason to complain; and hence the practice ('capitalizing') is very general in the colder wine countries and is hardly made a secret of. The simultaneous addition of water ('gallizing') might claim equal immunity when made on similar grounds and not for the fraudulent increase of quantity."

We also desire to quote at length on this subject from Mr. George Husmann in his book entitled "American Grape Growing and Wine Making," published by the Orange Judd Co., of New York, 1907 edition, which book you will find in the Congressional Library. He says (p. 157, Ch. XXXII):

"So far I have only spoken of the handling of the raw product of nature, taking for granted that we had a fair must in good condition to work with. But this, unfortunately, is rarely the case, and the natural juice of the grape seldom contains all the elementary constituents of a good wine in the proper proportions. In fact, very many of our American varieties are very imperfect, even in the best seasons, and contain generally a superabundance of acid and flavoring matter or aroma. What, then, is the intelligent operator to do? Shall he use them as they are, although he is aware they are imperfect and produce a poor, undrinkable, unsalable, and even unhealthful article? Or shall he, with the reason and knowledge God has given him, seek to remedy nature's imperfections, dilute the acid and aroma, add sugar, if necessary, and thus make a salable, pleasant, and healthful beverage? I think the intelligent wine makers—and it is only for them I am writing—can not hesitate which course to take.

"I am aware that I am treading on dangerous ground, that I have been severely censured for my advocacy of Dr. Gall in my former little book; but

truth remains truth, whether assailed or not, and the laws of chemistry will not change to please any of the 'Simon-pure naturalists,' who rail against gallizing, because they do not know anything about its true principles. But let me put myself right before my readers before entering upon the details of the operation. I advocate gallizing only so far as it is the best means of improving otherwise imperfect must, not as an indiscriminate means of increasing the quantity at the expense of quality. Only so far as by the addition of water and sugar an imperfect must can be made the most perfect is gallizing not only justifiable but a necessity. As soon as it aims only at increasing the quantity without regard to quality it is reprehensible and should be frowned upon. This may be called gallonizing, not gallizing; and that these gallonizers have done a great deal of mischief by bringing their trash before the public and calling it wine can not be denied. But those who, from a mistaken idea that a wine to be good and healthful must be natural, as they call it, have made it as nature gave it, and have, therefore, disgusted the palates of refined wine connoisseurs by their pure but weak, foxy, and acid Concords and Ives, etc., thus doing even more to bring American wines into discredit than the gallonizers. Both of these, the natural wine makers and the gallonizers, have been the curse and bane of our wine markets; those who, in the innocent belief that they were tasting fair samples of American wines swallowed their compounds and were disgusted, and when they met with good productions were deterred from tasting again. The true course lies in the middle, as usual. The wine maker has certain unerring guides which teach him, with a little practice and experimenting, 'thus far shalt thou go, but no farther.'

"Having thus defined what we intend to do, which is simply to improve our must, if deficient, let us, to see our way clearly before us, examine as to the constituent parts of must or grape juice. A chemical analysis of must shows the following result:

"Grape juice contains water, sugar, free acids, tannin, gummy and mucous substances or gluten, coloring matter, fragrant or flavoring substances (aroma, bouquet). A good normal must should contain all these ingredients in due proportion. If there is an excess of one and a lack of another, it can not make a perfect wine. This would seem apparent to every reasoning wine maker. Must which contains all of these in exactly the right proportion we call a perfect or normal must, and only by determining the amount of each of the ingredients in this so-called normal must can we gain the knowledge that will enable us to improve must which has not the necessary proportion of each. The frequency of unfavorable seasons in Europe set intelligent men to thinking; their grapes were sadly deficient in sugar, did not ripen fully, and also lacked in flavor. How, then, could this defect be remedied and a grape crop which was almost worthless from its want of sugar and excess of acids be made to yield at least a fair article, instead of the sour and unsalable wine generally produced in such seasons? Among the foremost who experimented with this object in view I will here mention Chaptal, Petiol, but especially Dr. Ludwig Gall, who has at least reduced the whole science of wine making to such a mathematical certainty that we are amazed that so simple a process should not have been discovered long ago. It is the old story of the egg of Columbus, but the poor wine makers of Germany and France, and we in this country also, are none the less indebted to those intelligent and persevering men for the incalculable benefits they have conferred upon us.

"The production of good wine is thus reduced to a science, though we can not, perhaps, in a bad season, produce as high flavored and delicate wines as in the best years, we can now always make a fair article by following the simple rules laid down by Dr. Gall. Nay, as most of our grapes in a good season contain flavor in excess we can often make fully as palatable wine in a poor season, when that flavor is not so fully developed, by merely adding water and sugar to dilute the acid. In this respect we can make a more uniform product from our strongly flavored varieties than the Europeans can from their delicately flavored varieties of vini-fera, which are deficient in flavor in bad seasons.

"When this method was first introduced it was calumniated and despised, called adulteration of wine, and even prohibited by the Governments of Europe, but Dr. Gall fearlessly challenged his opponents to have his wines analyzed by the most eminent chemists. This was repeatedly done, and the results showed that they could find nothing but such ingredients as pure wine should contain; and since men like Von Babo, Dobereiner, and others have openly indorsed and recommended Gallizing, prejudice is giving away before the light of scientific knowledge. The same will be the case here. Intelligent men will see that there

is nothing reprehensible in the practice, and the public will in time prefer the properly Gallized and therefore more palatable and more healthful wines to the foxy and acid productions of the sticklers for natural wines.

* * * * * * *

"A normal must, to suit the prevailing taste here, should contain about four-thousandths parts of acid, while in Europe it varies from four and a half to seven-thousandths, as the taste there is generally in favor of more acid wines. I can not do better here than to quote from Dr. Gall, who gives the following directions as a guide to distinguish and determine the proportion of acids which a must should contain to be still agreeable to the palate and good:

"'Chemists distinguish the acids contained in the grape as the vinous, malic, grape, citric, tannic, gelatinous, and para-citric acids. Whether all of these are contained in the must, or which of them, is of small moment for us to know. For the practical wine maker it is sufficient to know, with full certainty, that, as the grape ripens, while the proportion of sugar increases, the quantity of acids continually diminishes, and hence, by leaving the grapes on the vines as long as possible, we have a double means of improving their products—the must or wine.

"'All wines, without exception, to be of good and agreeable taste, must contain from four and a half to seven thousandths part of free acids, and each must containing more than seven-thousandths part of free acids may be considered as having too little water and sugar in proportion to its acids.

"'In all the wine-growing countries of Europe for a number of years past experience has proved that a corresponding addition of sugar and water is the means of converting the sourest must not only into a good drinkable wine, but also into as good a wine as can be produced in favorable years except in that peculiar and delicate aroma found only in the must of well-ripened grapes, and which must and will always distinguish the wines made in the best seasons from those made in poor seasons.

"'The saccharometer and acidimeter, properly used, will give us the exact knowledge of what the must contains and what it lacks, and we have the means at hand, by adding water, to reduce the acids to their proper proportions, and by adding sugar to increase the amount of sugar the must should contain; in other words, we can change the poor must of indifferent seasons into the normal must of the best seasons in everything except its boquet or aroma, thereby converting an unwholesome and disagreeable drink into an agreeable and healthful one.'

"Experiments continued for a number of years have proved that in favorable seasons grape juice contains on an average in 1,000 pounds:

	Pounds.
Sugar	240
Acids	6
Water	754
Total	1,000

"This proportion would constitute what I call a normal must. But suppose that in an inferior season the must contains, instead of the above, as follows:

	Pounds.
Sugar	150
Acids	9
Water	841
Total	1,000

"What should we do to bring such a must to the condition of a normal must? We calculate thus: If with 6 pounds of acids in a normal must there is 240 pounds of sugar, how much is wanted for 9 pounds of acids? Answer, 360 pounds. Our next problem is: If with 6 pounds of acids in a normal must 754 pounds of water appear, how much water is required for 9 pounds of acids? Answer, 1,131 pounds. As, therefore, the must which we intend to improve by neutralizing its acids should contain 360 pounds of sugar, 9 pounds of acids, and 1,131 pounds of water, but contains already 150 pounds of sugar, 9 pounds of acids, and 841 pounds of water, there remain to be added 210 pounds of sugar, no acids, and 290 pounds of water.

"By ameliorating a quantity of 1,000 pounds of must by 210 pounds of sugar and 290 pounds of water, we obtain 1,500 pounds of must consisting of the same properties as the normal must, which makes a first-class wine."

CONCLUSION.

We believe that in asking this honorable Congress to hold as suggested we are not asking anything unreasonable or unjust.

We have purposely refrained from going into European or foreign laws or conditions to any extent, because we are dealing here with American products, perhaps more distinctly American than any other wines produced in America, because they are produced from native American grapes, and because they are produced under American conditions. We believe those conditions can not be ignored, and that laws or regulations applying to these products should be based on a full consideration of those conditions and not on a consideration of conditions existing elsewhere. We do not believe in the establishing of an ideal standard by which to control a commercial product when that standard has the effect of embarrassing an industry whose standard must of necessity be a practical one. But we believe the standard should be a practical one, the conditions being considered.

On this line of reasoning we ask this Congress to recognize as a standard wine in the States in the Mississippi Valley that product which is merchantable wine when produced in those States. And if that product is the result of adding sugar and water to the juice of the grape before fermentation, still it is none the less the wine of those States. If it is not wine, then wine can not be produced in those States; or, in other words, to deny that it is wine is to deny that wine can be produced in the Mississippi Valley. Such a contention would seem to be absurd. If the contention is made that the fermented juice of the grape alone is wine as applied to Ohio or Missouri, it would be an "ideal" only and not a "practical" standard. The wine made by such a standard would be far from ideal; it would be unpalatable, unmerchantable, and worthless as a drink. And will anyone contend for a moment that such a worthless product should be held to be a wine to the exclusion of all others?

We are not dealing here with an isolated territory, with the product of one vineyard or one place; but we are dealing here with one of the commercial products of many of the sovereign States of the Union, and dealing with the total output of that product in those States, and a product that has been known as wine in Ohio and Missouri since about 1840.

It is not reasonable or just to say that wine becomes wine in Ohio or Missouri short of that product which is merchantable as wine. Neither is it reasonble or just to say that an unpalatable, unmerchantable, and worthless drink is wine, and that any additions thereto or correcting thereof to make that product palatable, merchantable, and valuable is an adulteration. And the only resonable or just stand that any man can take is that the merchantable product, and that product alone, is wine. The name "wine" should cover that product and all that is in it and be held to be its complete and proper name.

The pure uncorrected juice of the grape will not make a merchantable wine in Ohio or Missouri, and it certainly is not reasonable to say that such a product is wine, and that when sugar and water is added it should be sold as "wine" and something else, or as "modified wine" or as "corrected wine," because such a contention assumes that the unmerchantable product is wine.

We must be mindful, however, of the fact that elsewhere in this country they may produce a product to which nothing has been added that is a merchantable wine. In such a place such a product might well be known as wine, because it is the wine of that place. But such a product is not the wine of Ohio or Missouri. It does not follow, however, that such a product is always superior to the wine of Ohio or Missouri, or that the wine of Ohio or Missouri is always inferior to the wine of other places. On the other hand, while the wines of Ohio and Missouri are always made by the addition of a sugar solution, the must from which they are made is always higher in flavor than the must of other grapes, and a dilution of that must and that flavor does not necessarily produce a wine with a weaker flavor or aroma than the undiluted wine from grapes of deficient flavor. And right here we wish it to be understood that the wines of Ohio and Missouri are not inferior wines, but that they are wines that will average well with the highest quality of wines from anywhere on earth.

We are willing to sell these wines on their own merits and that other wines be sold on theirs.

These wines are the wines of Ohio and the wines of Missouri, and we suggest that they be labeled and known as "Ohio wine" and "Missouri wine," as distinguished from all other wines.

The same conditions that exist in Ohio and Missouri with respect to dry still wines exist also in New York and elsewhere. But the great bulk of the wine produced in New York is sparkling wine of the champagne type and the acidity of the wine is not so much of an important factor, as the treatment of sparkling wine overcomes any acid conditions.

In closing we do not think it amiss to call attention to the fact that the interest of the wine producers and the grape growers is identical in this respect. And in order to encourage and perpetuate the grape-growing industry the wine producers must have a practical standard that will permit the continuance of the wine industry in these two States.

Respectfully submitted.

THE MISSISSIPPI VALLEY WINE GROWERS AND GRAPE GROWERS' ASSOCIATION,
By OTTMAR G. STARK, *President.*

JULY 10, 1916.

FACTS AND A BILL OF COMPLAINT REGARDING THE SWEET-WINE LAW OF OCTOBER 1, 1890.

[By Thomas E. Lannen, attorney for the National Wine Growers' Association, and by Ottmar G. Stark, president of the Mississippi Valley Wine Growers' and Grape Growers' Association.]

A BILL OF COMPLAINT.

To the honorable Senators and Congressmen of the United States of America in Congress assembled:

Your orators, the National Wine Growers Association of America, consisting of wine makers located in the Eastern States, and the Mississippi Valley Wine Growers' and Grape Growers' Association, consisting of the grape growers and wine makers located in the States of Arkansas, Illinois, Indiana, Iowa, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, respectfully submit this, their bill of complaint, and for grounds of complaint allege and say:

That in existing internal-revenue laws, as well as in the enforcement of the same, there is and has been a gross discrimination against your orators and other eastern wine makers and grape growers and in favor of the wine makers of the State of California, in this, to wit: That the act of October 1, 1890, as amended, granting to sweet-wine makers the right to distill and use distilled spirits free of tax, for fortifying sweet wines, was and is so drawn and worded as to fit conditions in California only, and does not give your orators or other eastern wine makers the right to legally participate in the use of such distilled spirits free of tax which inequality gives to the State of California an immense commercial advantage over your orators, amounting to, approximately, $7,000,000 a year; and, further, in this, to wit, that we believe said law has been erroneously interpreted and enforced by the Internal-Revenue Department, and that such interpretation has permitted traffic in said free brandy by California distillers, to the great commercial advantage of said distillers and the great disadvantage of your orators and other eastern grape growers, wine makers, and distillers, and to the great loss of the revenues of the United States, and that by reason of said erroneous interpretation of said law there is now due the Government of the United States back taxes amounting to a sum which your orators roughly estimate at $30,000,000, but beg leave to refer to the records of the Internal-Revenue Department for greater particularity in this behalf.

Your orators further allege that by reason of said inequality in the laws of our country, and said unjust discrimination against your orators the grape-growing and wine-making industry east of the Rocky Mountains is gradually being crushed out of existence.

Wherefore your orators pray that you consider the facts that are hereinafter set forth and grant them relief in the premises.

THE NATIONAL WINE GROWERS' ASSOCIATION OF AMERICA,
By THOMAS E. LANNEN, *Attorney.*
THE MISSISSIPPI VALLEY WINE GROWERS' AND GRAPE GROWERS' ASSOCIATION.
By OTTMAR G. STARK, *President.*

WASHINGTON, D. C., *September 29, 1914.*

AN EXPLANATION.

There are two general classes of wines, to wit, dry wines and sweet wines.

Dry wines: A dry wine is a wine that is made by letting the grape juice ferment in fermenting vats and storage casks until all the sugar contained therein has been converted into alcohol. Therefore a dry wine may be said to be for a general definition, a wine that contains no sugar; in other words, a sour wine.

Sweet wines: A sweet wine is a wine that contains a certain amount of sugar which makes it sweet, and which contains a sufficient amount of added alcohol to preserve it; that is, to prevent the sugar which makes said wine sweet from fermenting.

In addition to the above there are different divisions of dry wines and sweet wines. For instance, a champagne wine is a dry wine that is effervescent, which effervescence is caused by retaining the carbonic acid gas, which is created when grape juice ferments in a sealed bottle, which is the natural way to make champagne, or by charging a dry wine with artificial carbonic acid gas, much the same as soda water and other aerated waters are charged with said gas, and such a wine is called a carbonated wine. Sweet wines vary from the extremely sweet Angelica wine to the Sherry wine, which latter is sometimes made so dry that its sweetness can scarcely be detected by the sense of taste.

EXAMPLES OF DRY WINES.

White wines: Rhine wines, Moselle wines, Riesling wine, dry catawba wine, Goethe wine, Elyria wine, sauterne wine, and champagne wines.

Red wines: Bordeaux wines, Chianti wine, claret wines, Concord wine, Bergundy wine, Ives seedling wine, and Virginia seedling wine.

EXAMPLES OF SWEET WINES.

White wines: Angelica wine, sweet muscatel wine, sweet catawba wine, tokay wine, marsala wine, and sweet scuppernong wine.

Also classed as white wines: Sherry wine, malaga wine, madeira wine.

(Red wine) port wine.

NOTE.—All of the dry wines above named, as well as all other dry wines, do not contain more than 14 per cent of alcohol, while all of the sweet wines above named, as well as all other sweet wines, do contain more than 14 per cent of alcohol.

METHODS OF MANUFACTURING SWEET WINES.

There are two methods of making sweet wines in this country. One is the method employed by all wine makers east of the Rocky Mountains, and the other is the one employed by California wine makers.

Eastern sweet wines: The method of making sweet wines in the East is—and always has been—to first make a dry wine in the manner hereinbefore indicated. This wine goes through all the treatment of any dry wine. Ordinarily it takes about a year to produce such a wine; sometimes such wines are not used for sweet wine purposes until they are two years old. At the time they are used for sweet wine purposes, they have been thoroughly finished and completed as dry wines, and contain between 12 and 13 per cent of alcohol. To make a sweet wine out of them, add a sufficient amount of pure granulated sugar to give them the desired sweetness. Then we add a sufficient aomunt of tax-paid distilled spirits to bring the alcoholic content up to about 16 or 17 per cent. This alcoholic content is sufficient to preserve the sugar we have added and to preserve the wines as sweet wines. The adding of the distilled spirits is called fortification. This constitutes a sweet wine in the East. On all distilled spirits used by us for fortifying sweet wnes, the Government is paid a tax of $1.10 per proof gallon, which increases the cost of producing our sweet wines accordingly.

California sweet wines: In California a sweet wine is made as follows: The juice of the grape, containing naturally, for example, 26 per cent of sugar, is put into a vat and permitted to ferment until its sugar content has been reduced by fermentation to, for example, 8 per cent. Eighteen per cent of the natural sugar has been converted into alcohol. As two parts of sugar produce one part of alcohol, the 18 per cent of sugar that is fermented produces ap-

proximately 9 per cent of alcohol. At this stage the product is a partly fermented grape juice, containing about 9 per cent of alcohol and 8 per cent of unfermented sugar. This amount of unfermented natural sugar is sufficient to give this partly fermented grape juice the desired amount of sweetness (and incidentally, saves the Californians the expense of buying sugar to sweeten with, which expense the eastern wine makers have to contend with, in addition to the expense of buying tax-paid distilled spirits for fortifying). At this stage about 11 to 14 per cent of distilled spirits is added to this partly fermented grape juice to arrest fermentation. This brings the alcoholic content of the product up to about 20 to 23 per cent. This constitutes a California sweet wine. This product can be produced up to this stage in about a week or 10 days. The California sweet wine makers get the distilled spirits they use for fortifying their sweet wines free of tax (by operation of the so-called "free brandy" act of Oct. 1, 1890), and the Government loses $1.10 per gallon tax on all such distilled spirits so used, which amounts to a loss of revenue of approximately $7,000,000 per year.

WHY DRY WINES DO NOT CONTAIN MORE THAN 14 PER CENT OF ALCOHOL.

The alcohol in wine is produced by the fermentation of the sugar contained in the grape juice. Roughly speaking, two parts of sugar will produce one part of alcohol. Thus, if the grape juice contains 20 per cent of sugar, it will produce, upon being completely fermented, approximately 10 per cent of alcohol. The conversion of the sugar into alcohol is brought about by certain living organisms, spoken of as "yeasts," which cause fermentation, and during the processes of fermentation change the sugar into alcohol. These organisms abound on the skins of grapes in vineyards, and are widely scattered through the air everywhere. But a peculiarity of these organisms is that they are only able to produce a certain amount of alcohol in any fermentable substance in which they are present. The amount of alcohol they are able to produce is about 15 per cent, but it is not practicable to produce this amount of alcohol by fermentation under ordinary circumstances.

The greatest amount of alcohol that can be produced by fermentation under ordinary circumstances is somewhere between 13 and 14 per cent. For example: If you have a fermentable liquid which contains 34 per cent sugar, such a liquid upon complete fermentation should produce approximately 17 per cent of alcohol. But if you set up fermentation in such a liquid the fermentation will proceed until the organisms referred to above have produced about 11 or 12 per cent of alcohol, then the fermentation will become noticeably slower. It will proceed, however, slowly, and still more slowly until between 13 and 14 per cent of alcohol is produced. Then ordinarily it will cease entirely. The reason is that the organisms which produce fermentation are rendered inactive in the presence of between 13 and 14 per cent of alcohol, and when they produce that much alcohol they simply lie dormant in its presence and will not do any more work. This is speaking generally of practical fermentations. It is possible under certain favorable conditions, such as in laboratory tests, to produce as much as 15 per cent of alcohol by forced fermentation, and some claim to have produced even 16 per cent of alcohol by fermentation under certain favorable conditions. But such instances are rare and not to be met with in everyday practical wine making.

It will thus be seen that in the manufacture of dry wine, where the grape juice is simply permitted to ferment as much as it will, the amount of alcohol that will be produced will not exceed 14 per cent. Hence the standard dry wines found upon the market do not contain more than 14 per cent of alcohol. Even were it possible to always produce more than 14 per cent of alcohol by ordinary fermentation, the grapes from which dry wines are made as a rule do not contain a sufficient amount of sugar to produce more than 14 per cent of alcohol.

WHY IT IS NECESSARY TO FORTIFY SWEET WINES WITH ALCOHOL.

Sweet wines the world over, no matter how they are made or where they are made, contain added alcohol. The reason is as follows: Sweet wines are sweet because they contain sugar that has not been converted into alcohol. This sugar has a tendency to ferment and create alcohol. The wine in which it is present is filled with organisms that produce fermentation. In order to prevent these organisms from attacking the sugar and causing it to ferment

it is necessary to have present in the wine a sufficient amount of alcohol to render these organisms positively inactive. We have seen from the foregoing paragraph, under the heading of "Why dry wines do not contain more than 14 per cent of alcohol," that it is not possible in practical operations to produce more than 14 per cent of alcohol by fermentation.

Now, while it is true that in the presence of the 14 per cent alcohol that can be produced by fermentation the organisms of fermentation become incapable of producing more alcohol, still they are not dead. Were you to put sugar into a wine containing 14 per cent alcohol that had been produced by fermentation, or did such a wine contain some natural sugar still unfermented, these organisms of fermentation would keep agitating and disturbing the wine so as to render it cloudy, unsettled, and unmarketable. Since it is not possible, as we have seen, to produce any more alcohol by fermentation than the 14 per cent, and this amount is not sufficient to render the organisms possitively inactive, the only way to render them inactive is to add alcohol and bring the alcoholic content of the wine up to such a point that the organisms are rendered positively inactive. Then the sugar in the wine, which makes it a sweet wine, will remain as sugar and the wine will remain clear and perfectly clarified. The minimum amount of alcohol that will positively render the organisms of fermentation inactive is about 17 per cent. Hence all sweet wines must contain not less than 17 per cent of alcohol. As between 13 and 14 per cent is the greatest amount that can be produced by fermentation under ordinary circumstances in practical wine making, it will be seen that in order to have sweet wine contain 17 per cent of alcohol it is necessary to add between 3 and 4 per cent of distilled alcohol, or what is commonly called "distilled spirits." This is what is called "fortification."

NOTE.—All alcohol is actually produced by fermentation, but it may be removed from the fermented mass by distillation and condensed; it is then frequently called "distilled spirits."

Wine makers east of the Rocky Mountains do not, as a rule, add more than 3 to 4 per cent of distilled alcohol to fortify their sweet wines, because they have to pay a tax on such alcohol of $1.10 per gallon. Hence the eastern sweet wines do not contain more than the amount of alcohol absolutely necessary to preserve them; but California sweet wine makers add from 8 to 14 per cent of alcohol, because they get it free and no tax is paid on it, and hence their sweet wines contain from 20 to 23 per cent of alcohol, which is greatly in excess of the amount necessary to preserve them, but which makes them very valuable products to certain industries, such as compounders and patent-medicine firms, who can secure in these wines from 20 to 23 per cent of alcohol at a very cheap price, because no tax has been paid on the same, and who could not secure that amount of alcohol free of tax in any other medium. What the Government loses by such operations can only be conjectured.

HISTORY OF THE "FREE BRANDY" LAW.

Prior to October 1, 1890, the existing internal-revenue laws of the United States levied a tax of 90 cents per gallon on all distilled spirits, and there was no provision that such distilled spirits might be used, free of tax, for the fortification of sweet wines. But when the tariff act of October 1 was pending before Congress a bill providing for the use of wine spirits free of tax was introduced by a Representative from the State of California. The history of that legislation may be noted from the remarks made by Senator Pomerene, of Ohio, in reference thereto, in a speech made on the floor of the Senate on September 18, 1913, as follows:

"A Representative from the State of California in 1890 introduced a bill providing for the use of these wine spirits free of tax. It was referred to the Ways and Means Committee of the House, was incorporated into the bill as reported back to the House, and was later passed by the House. It then came to the Senate and was referred to the Finance Committee. The Finance Committee reported the bill to the Senate and eliminated from it all of its free-tax provisions. On the floor of the Senate Mr. Aldrich, then a Senator from Rhode Island, asked the adoption of the amendment of the Finance Committee. At that moment a Senator from California—Mr. Hearst—arose and suggested that he desired to offer certain amendments. He was assured by the Senator from Rhode Island that those amendments would be taken care of in conference. The bill passed the Senate with these provisions eliminated. The conference committee reported the bill back with the House provisions reinserted into the

measure. There was no discussion of the merits of the provisions of that bill, as I have been informed by those who have thoroughly examined the Record, either in the House or in the Senate. So, as a result of that legislation, the California sweet-wine producers were given grape brandy or wine spirits free of tax."

Sections Nos. 42 and 43 of the act with which we are concerned, as passed October 1, 1890, were as follows:

"SEC. 42. That any producer of pure sweet wines who is also a distiller authorized to separate from fermented grape juice, under internal-revenue laws, wine spirits, may use, free of tax, in the preparation of such sweet wines, under such regulations and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, so much of such wine spirits so separated by him as may be necessary to fortify the wine for the preservation of the saccharine matter contained therein: *Provided*, That the wine spirits so used free of tax shall not be in excess of the amount required to introduce into such wine in (an) alcoholic strength equal to 14 per cent of the volume of such wines after such use: *Provided further*, That such wine containing after such fortification more than 24 per cent of alcohol, as defined by section 3249 of the Revised Statutes, shall be forfeited to the United States: *Provided further*, That such use of wine spirits free from tax shall be confined to the months of August, September, October, November, December, January, February, March, and April of each year. The Commissioner of Internal Revenue, in determining the liability of any distiller of fermented grape juice to assessment under section 3309 of the Revised States, is authorized to allow such distiller credit in his computation for the wine spirits used by him in preparing sweet wine under the provisions of this section.

"SEC. 43. That the wine spirits mentioned in section 42 of this act is the product resulting from the distillation of fermented grape juice, and shall be held to include the product commonly known as grape brandy; and the pure sweet wine which may be fortified free of tax, as provided in said section, is fermented grape juice only, and shall contain no other substance whatever, introduced before, at the time of, or after fermentation; and such sweet wine shall contain not less than 4 per cent of saccharine matter, which saccharine strength may be determined by testing with Balling's saccharometer or must scale such sweet wine after the evaporation of the spirits contained therein and restoring the sample tested to original volume by addition of water."

It will be seen from the foregoing that the California wine maker may produce his wine spirits free of tax and use the same to fortify his wine. The foregoing sections 42 and 43 remained unchanged until 1894, when, by section 68 of the act of August 28, 1894, there was added to said section 43 the following:

"*Provided*, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar to the pure grape juice aforesaid, or the fermented product of such grape juice prior to the fortification provided by this act for the sole purpose of perfecting sweet wines according to commercial standard, shall not be excluded by the definition of pure sweet wine aforesaid: *Provided, however*, That the cane or beet sugar so used shall not be in excess of 10 per cent of the weight of the wine to be fortified under this act."

It will be seen from this last-quoted law that in addition to the 14 per cent of tax-free wine spirits permitted by the act of October 1, 1890, 10 per cent of sugar might be added by permission of the act of August 28, 1894, thus making a total of 24 per cent of foreign materials that might be added to the pure fermented grape juice, and within the meaning of the internal-revenue law the product would still remain "pure sweet wine."

But it appears that the California wine makers were still not satisfied, and it appears that Congress was willing to do even more for them. Congress had already given them the right to use tax-free spirits to the extent of 14 per cent and the right to use sugar to the exent of 10 per cent, but it seems this was not enough. They were again benefited by more liberal legislation. Congress gave them the right to use tax-free spirits, but compelled them to manufacture it by the distillation of fermented grape juice. Now, if they could get permission to make this tax-free spirits from what would be left of the grapes after they had pressed most of the juice out of them—or, in other words, the residue or the grape pomace—it would be a very material gain. So it appears that they again sought the help of Congress and got it in section

1 of the act of June 7, 1906, which not only gave them the right to manufacture the tax-free spirits from the residue of the grapes, but also gave them a right to add 10 per cent of water to their wine in addition to the 10 per cent of sugar and the 14 per cent of spirits already authorized, making a total of 34 per cent of substances, other than grape juice, that might be added to their wines and these California wines still be designated "pure sweet wines."

As a matter of fact, the Californians may actually add 24 per cent of water on account of the way the law is worded. For instance, the law expressly permits the addition of 10 per cent of water, because section 43 provides—

"That the cane or beet sugar or pure anhydrous sugar or water so used shall not in either case be in excess of 10 per cent of the weight of the wine to be fortified under this act."

But section 42 provides—

"That wine spirits so used free of tax shall not be in excess of the amount required to introduce into such wines an alcoholic strength equal to 14 per cent of the volume of such wines after such use."

It will be observed from this language that the limitation of 14 per cent is placed on an absolute alcohol basis. That is, wine spirits may be added to such an extent as "to introduce into such wines an alcoholic strength equal to 14 per cent of the volume of such wines after such use." Now, wine spirits are not absolute alcohol. They always contain a certain amount of water. Absolute alcohol is 200 proof, which means that it is pure alcohol, free from water. But wine spirits may be only 100 proof, which means that they contain 50 per cent water and 50 per cent absolute alcohol. For instance, ordinary whisky is 100 proof—that is, it contains 50 per cent water and 50 per cent alcohol. Now, it can be seen that if the wine spirits added contain only 50 per cent alcohol, then in order to increase "the alcoholic strength equal to 14 per cent of the volume of such wine after such use," it is necessary to actually add approximately 28 per cent of wine spirits. Therefore, by this operation 14 per cent of water is added. In order to prove that we are not merely imagining such a situation, we refer to regulations No. 28, revised, dated May 14, 1913, of the United States Internal-Revenue Office, which contains a table on page 100 showing how much wine spirits it is necessary to add to sweet wines to increase the alcoholic strength not to exceed 14 per cent, and the table contains calculations on wine spirits of various proof or alcoholic strength. The calculations are made on wine spirits containing from 95 per cent alcohol down to only 50 per cent alcohol. The table shows that in order to introduce into 100 gallons of sweet wine a sufficient amount of wine spirits containing only 50 per cent alcohol to increase the alcoholic strength of said sweet wine not to exceed 14 per cent of the volume of such wine after such introduction, it is necessary to add to every 100 gallons of sweet wine 38.46 gallons of 100 proof wine spirits; that is, wine spirits containing only 50 per cent alcohol and 50 per cent water.

So that, as a matter of fact, the total amount of foreign substances that the law permits to be added to California sweet wines may be shown to be as follows:

	Per cent.
10 per cent of water for mechanical purposes, and approximately 14 per cent of water contained in wine spirits of only 100 proof	24
14 per cent absolute alcohol contained in wine spirits added	14
Cane, beet, or anhydrous sugar	10
Total foreign substances	48

NOTE.—The above calculations are based on the percentages of these foreign substances in the wine after being introduced. That is, they are percentages of the finished product; in other words, the finished product consists of 48 parts added foreign substances and 52 parts of natural substances.

We now set out section 43 of the law showing all the amendments. The parts in italics show the amendment by the act of August 28, 1894. The parts capitalized show the amendment of the act of June 7, 1906.

"SEC. 43. That the wine spirits mentioned in section 42 of this act is the product resulting from the distillation of fermented grape juice (act of 1906) TO WHICH WATER MAY HAVE BEEN ADDED PRIOR TO, DURING, OF AFTER FERMENTATION, FOR THE SOLE PURPOSE OF FACILITATING THE FERMENTATION AND ECONOMICAL DISTILLATION THEREOF, and shall be held to include the product (act of 1906) FROM GRAPES OR THEIR RESIDUES, commonly known as grape brandy; and the pure sweet wine, which may be fortified free of tax, as provided in said section, is fermented

grape juice only, and shall contain no other substance whatever introduced before, at the time of, or after fermentation (act of 1906) EXCEPT AS HEREIN EXPRESSLY PROVIDED; and such sweet wine shall contain not less than 4 per cent of saccharine matter, which saccharine strength may be determined by testing with Balling's saccharometer or must scale, such sweet wine, after the evaporation of the spirits contained therein, and restoring the sample tested to the original volume by addition of water: (act of 1894) *Provided, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar* (act of 1906) OR PURE ANHYDROUS SUGAR (act of 1894) *to the pure grape juice aforesaid, or the fermented product of such grape juice prior to the fortification provided by this act for the sole purpose of perfecting sweet wines according to commercial standards* (act of 1906), OR THE ADDITION OF WATER IN SUCH QUANTITIES ONLY AS MAY BE NECESSARY IN THE MECHANICAL OPERATION OF GRAPE CONVEYORS, CRUSHERS, AND PIPES LEADING TO FERMENTING TANKS (act of 1894) *shall not be excluded by the definition of pure sweet wine aforesaid: Provided, however, That the cane or beet sugar* (act of 1906) OR PURE ANHYDROUS SUGAR OR WATER (act of 1894) *so used shall* (act of 1906) NOT IN EITHER (act of 1894) *case be in excess of 10 per cent of the weight of the wine to be fortified under this act:* (act of 1906) AND PROVIDED FURTHER THAT THE ADDITION OF WATER HEREIN AUTHORIZED SHALL BE UNDER SUCH REGULATIONS AND LIMITATIONS AS THE COMMISSIONER OF INTERNAL REVENUE, WITH THE APPROVAL OF THE SECRETARY OF THE TREASURY, MAY FROM TIME TO TIME PRESCRIBE; BUT IN NO CASE SHALL SUCH WINES TO WHICH WATER HAS BEEN ADDED BE ELIGIBLE FOR FORTIFICATION, UNDER THE PROVISION OF THIS ACT WHERE THE SAME, AFTER FERMENTATION AND BEFORE FORTIFICATION, HAVE AN ALCOHOLIC STRENGTH OF LESS THAN 5 PER CENT OF THEIR VOLUME."

To sum up these acts give the California wine makers the following privileges:

By the act of October 1, 1890, the right to make wine spirits free of tax from grape juice fermented and use the spirits to the extent of 14 per cent in wines.

By the act of August 28, 1894, the right to add 10 per cent of sugar to wine so fortified.

By the act of June 7, 1906, the right to add 10 per cent of water and to recover the spirits from the residue of grapes instead of entirely from fermented grape juice, and the right to use pure anhydrous sugar as well as cane or beet sugar.

We are aware of the fact that our interpretation of the foregoing law as to the total amount of foreign ingredients that may be added to a sweet wine under said law is disputed by the Californians, and there seems to be some question as to whether said law permits the addition of a total of 48 per cent of foreign substances, viz., 24 per cent water, 10 per cent sugar, and 14 per cent distilled spirits, or whether it simply permits the addition of 10 per cent of a mixture of sugar and water and 14 per cent distilled spirits, making a total of 24 per cent of added substances. Nevertheless, the principal thing we are concerned with is the fact that said law does not permit us the use of 14 per cent wine spirit free of tax, and about that there can be no dispute.

By adding wine spirits to an extent of 14 per cent alcoholic strength, which equals 28 proof spirits, the Government rebates at $1.10 per proof gallon an amount of exactly 30.8 cents per gallon of sweet wine.

THE FOREGOING LAW DISCRIMINATES AGAINST EASTERN WINE MAKERS.

From a careful reading of the foregoing law it will be seen that it throws certain restrictions around the use of free distilled spirits, and upon a more careful analysis of same it will be seen that these restrictions are of such a nature as to prohibit the use of said free spirits by eastern wine makers while permitting their use by the Californians. Here are the reasons why the eastern wine makers can not take advantage of the provisions of said law:

Reason No. 1: The law provides that any wine maker to be entitled to use the distilled spirits free of tax must be a producer of pure sweet wine, a distiller, and must have his winery located at his vineyard. In California the wineries are at the vineyards, as the vineyards are extensive in area, but in the States east of the Rocky Mountains the grapes are grown in farmers' vineyards scattered throughout the country, while the wineries are located in the cities and towns. The farmers in the East haul their grapes to the wineries and sell them to the wine makers, the same as they haul their grain to the grain elevators. Sometimes they enter into yearly contracts with certain wine makers to cultivate and produce a certain acreage of grapes for the benefit of such wineries.

Thus it will be seen that in the Eastern States the grape-growing industry is separate and distinct from the wine-making industry. The wine maker of the East, as a rule, does not have his winery located at his vineyard, or at any vineyard, and consequently he can not take advantage of that provision of section 45 of said law, which provides that—

"The use of wine spirits, free of tax, for the fortification of sweet wines under this act shall be begun and completed at the vineyard of the wine grower where the grapes are crushed and the grape juice is expressed and fermented."

Reason No. 2: Section 43 of said law provides that the pure sweet wine which may be fortified free of tax is fermented grape juice only, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as provided for in the amendments to said section, which will be noted from the section as hereinbefore printed. On account of natural conditions of climate and soil, eastern wine makers are compelled to correct natural deficiencies in practically all wines made east of the Rocky Mountains. The moment they make such corrections their wines are no longer "pure sweet wine which may be fortified free of tax" within the meaning of the said section 43. The United States Department of Agriculture has been investigating the subject of the manufacture of eastern wines for several years. That department has recognized the fact that wines made in the eastern part of the United States, as well as wines made in Germany and other parts of Europe, can not be produced from the uncorrected juice of the grape, but that natural deficiencies must be corrected. In food-inspection decision No. 120 of the United States Department of Agriculture, issued May 13, 1910, the use of a certain amount of water and a certain amount of sugar to correct deficiencies in eastern grapes was duly authorized. Among other things, that decision says:

"However, it has been found that it is impracticable on account of natural conditions of soil and climate, to produce a merchantable wine in the States of Ohio and Missouri without the addition of a sugar solution to the grape must before fermentation. This condition has recognition in the laws of the State of Ohio, by which wine is defined to mean the fermented juice of undried grapes, and it is provided that the addition, within certain limits, of pure white or crystallized sugar to perfect the wine or the use of the necessary things to clarify and refine the wine, which are not injurious to health, shall not be construed as adulterations and that the resultant product may be sold under the name 'wine.' Furthermore, it is permitted in some of the leading wine-producing countries of Europe to add sugar to the grape juice and wine, under restrictions, to remedy the natural deficiency in sugar or alcohol, or an excess of acidity, to such an extent as to make the quality correspond to that of wine produced without any admixture from grapes of the same kind and vintage in good years. It is conceived that there is no difference in principle in the adding of sugar to must in poor years to improve the quality of the wine than in the adding of sugar to the must every year for the same purpose in localities where the grapes are always deficient."

However, the United States Department of Agriculture has now abrogated said food-inspection decision No. 120, and changed the same in so far as the use of water is concerned; that is, the department now permits the use of sugar, but will not permit the use of a sugar solution in eastern wines. However, in lieu of the water for reducing acidity, the department now prescribes the use of neutralizing agents. The new regulation is known as food-inspection decision No. 156, and is as follows:

As a result of investigation carried on by this department and of the evidence submitted at a public hearing given on November 5, 1913, the Department of Agriculture has concluded that gross deceptions have been practiced under food-inspection decision 120. The department has also concluded that the definition of wine in food-inspection decision 109 should be modified so as to permit correction of the natural defects in grape musts and wines due to climatic or seasonal conditions.

Food-inspection decisions 109 and 120 are therefore hereby abrogated, and as a guide for the officials of this department in enforcing the food and drugs act wine is defined to be the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment.

To correct the natural defects above mentioned the following additions to musts or wines are permitted:

In the case of excessive acidity, neutralizing agents which do not render wine injurious to health, such as neutral potassium tartrate or calcium carbonate.

In the case of deficient acidity, tartaric acid.

In the case of deficiency in saccharine matter, condensed grape must or a pure dry sugar.

The foregoing definition does not apply to sweet wines made in accordance with the sweet-wine fortification act of June 7, 1906 (34 Stat., 215).

A product made from pomace by the addition of water, with or without sugar or any other material whatsoever, is not entitled to be called wine. It is not permissible to designate such a product as "pomace wine" nor otherwise than as "imitation wine."

D. F. HOUSTON,
Secretary of Agriculture.

WASHINGTON, D. C., *June 12, 1914.*

But even wines produced under this new decision of the United States Department of Agriculture can not be fortified under the free brandy law aforesaid. It can not be noted that said food-inspection decision No. 156, set out above, expressly provides that it shall not apply to sweet wines made under said free brandy law, no doubt for the reason that said law permits the addition of water to such California sweet wines, while said decision classes wines containing added water as adulterated.

In California in 1899 (see census of 1910) the amount of grapes grown was 721,433,400 pounds.

In 1899 in the States of Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and West Virginia the number of pounds of grapses produced was 273,940,655 pounds.

In California in 1909 (see census of 1910) the amount of grapes grown was 1,979,686,525 pounds.

In 1909 in the Eastern States above named the amount of grapes grown was 204,843,551 pounds.

The foregoing figures, taken from the census of 1910, show that during the period from 1899 to 1909, 10 years, there was an increase in production in California of 1,258,253,125 pounds of grapes.

During the same period of time in the Eastern States above named there was a decrease in the production of grapes of 69,097,104 pounds of grapes.

According to the census of 1910 the total number of pounds of grapes grown in the States above named during the year 1909 was 204,843,551 pounds. These were grown on 787,463 farms.

During the same year (1909) California grew 1,979,686,525 pounds of grapes. These were grown on only 17,793 farms.

These figures show the great concentration in California.

WHERE IS THE FREE ALCOHOL USED?

The total amount of free brandy used by all wine makers for the fiscal year ending June 30, 1912, is as follows:

	Proof gallons.
Hawaii	16,598.9
New Jersey	1,329.6
North Carolina	7,820.1
New York	143,422.8
Total	169,171.4
California	6,153,132.5
Grand total	6,322,303.9

See annual report of Commissioner of Internal Revenue for the fiscal year ending June 30, 1912, page 67.

It will be seen that the amount of free brandy used in the State of California during the fiscal year ending June 30, 1912, was 6,153,132.5 proof gallons. The following calculation will help to form some idea of this enormous amount:

A barrel of brandy, including cooperage, weighs 500 pounds. The usual weight of a carload is 24,000 pounds. This makes 48 barrels to a car. A barrel holds 50 gallons. This makes 2,400 gallons to a carload. Two thousand four hundred gallons divided into 6,153,132.5 gallons makes 2,563.8 carloads of free brandy

used within California for the year mentioned. Thirty carloads make an ordinary train. Thirty divided into 2,563.8 makes 85.5 trains of 30 cars each of free brandy used in California alone for the fiscal year ending June 30, 1912.

Loss of revenue at $1.10 per proof gallon equals $6,768,445.75, and this only for one year.

WHO GETS THE BENEFIT OF THIS ENORMOUS LOSS OF REVENUE?

The amount of brandy used in California alone for the fiscal year ending June 30, 1912, free of tax, was 6,153,132.5 proof gallons. At $1.10 per gallon, this amounts to $6,768,445.75.

The records of the Internal-Revenue Department show only 86 wine makers in California using free brandy, although there were 17,793 growing grapes according to the last census.

This makes an average bonus of $78,702.85 to each of the 86 wine makers using free wine spirits in California for the year mentioned. But it should be borne in mind that only a very few used the great bulk of this. The following report taken from pages 5874–5875 of the Congressional Record of October 2, 1913, shows who used all this brandy:

APPENDIX.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, October 2, 1913.

Hon. ATLEE POMERENE,
United States Senate, Washington.

SIR: In compliance with the resolution of the Senate adopted on the 1st instant, calling upon the Secretary of the Treasury for a statement containing the names and addresses of manufacturers of sweet wines who use wine spirits or grape brandy in the fortification of sweet wine, together with the number of gallons of wine spirits or grape brandy so used during each of the five preceding fiscal years, also a statement showing the amount of revenue received during each of said years from the wine spirits or grape brandy so used, I have the honor to transmit herewith statements containing the information called for.

Respectfully,

W. G. MCADOO, *Secretary.*

Statement showing quantity of grape brandy or wine spirits used in the fortification of sweet wines by the various wine makers in the United States during each of the fiscal years 1909, 1910, 1911, 1912, and 1913.

District.	Year ending June 30—				
	1909	1910	1911	1912	1913
DISTRICT OF ALABAMA.	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*
Fruithurst Wine Co	179.4				
FIRST DISTRICT OF CALIFORNIA.					
Cordilia Winery					326.4
Da Roza, J. L					35,572.6
Nagasawa, K					829.9
Sacramento Valley Winery					6,604.4
Frasinitti, J					726.3
Elk Grove Vineyard Association					49,461.9
Pelkovich, J					1,791.8
Rogers, E. B	29,914.1	41,715.1	37,654.8	25,327.0	20,637.3
Armbrust, H	889.7	790.0	1,321.2	1,441.1	1,871.3
Roessler, F. M	36,950.4	31,107.4	42,055.7	40,549.5	33,457.7
Pereria, J. M	1,378.0	1,801.6	2,455.5	2,540.8	2,363.4
Woodbridge Vineyard	48,404.9	82,264.7	212,999.7	177,330.5	171,277.1
Joyce, Lawrence	814.9	1,258.2	1,848.6	1,729.6	1,796.0
Giovinni, F		14,257.3	21,969.2	13,959.0	12,284.3
La Paloma Wineries and Distilleries			96,338.4	127,910.7	165,681.6

Statement showing quantity of grape brandy or wine spirits used in the fortification of sweet wines by the various wine makers in the United States during each of the fiscal years 1909, 1910, 1911, 1912, and 1913—Continued.

District.	Year ending June 30—				
	1909	1910	1911	1912	1913
FIRST DISTRICT OF CALIFORNIA—contd.	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*
Vieth, Wm. A	35,045.0	49,718.9	51,405.8	89,651.4	36,061.9
Bradford Sons					90,326.4
California Winery					15,247.3
California Wine Co	281,327.6	399,695.2	241,451.8	502,886.4	574,141.8
Geo. West & Son	759,180.4	493,061.8	885,800.6	1,125,279.4	765,621.3
Fresno Vineyard Co	81,700.0	112,730.2	73,289.5	106,243.4	121,168.8
Eisen Vineyard Co			98,041.9	8,842.1	97,145.9
Granz, Herman	26,974.3	24,982.9	38,439.7	33,124.7	14,205.5
Granz, Emil H	22,849.8	58,185.6	38,273.6	11,070.2	
Schell, H. R		2,441.9	1,987.1		1,745.5
Barton Vineyard Co	187,116.2	260,644.5	144,305.2	207,632.5	138,138.3
Mattie, A	111,188.9	192,342.6	161,724.8	187,553.2	177,595.2
Italian Swiss Colony	505,385.9	494,605.5	383,923.4	554,737.1	505,805.7
Ruschupt, H. T. W	13,206.8	25,927.4	15,637.6	11,727.9	15,073.4
Great Western Vineyard Co	171,712.6	327,190.8	329,613.4	373,127.0	259,404.4
Las Palmas Wineries & Distilleries	33,376.7	157,505.5	187,800.1	96,074.3	76,375.7
Lodi Cooperative Winery Co		256,626.6	289,814.1	307,100.1	63,910.9
San Gabriel Vineyard Co	7,165.4				
Vache, E., & Co	18,622.7				
Placer County Wine Co					35,244.3
Kuchel, Geo. C	1,491.7				
Mesnagel, L. C	2,171.2				
Ritter, J. G	234.8				
Etienne Bros	21,196.9				
Baker, J. S	3,102.7				
Golden Gate Fruit Co	5,700.3				
Daneri, E	1,029.7				
Sandoz & Guichan	1,370.8				
Cucamonga Winery	87,445.8				
Espian, Pierre	990.2				
Stern, Alfred	120,284.1				
Southern California Wine Co	16,384.9				
Lafourcade, Jack	3,045.8				
Rust, Chas. Otto	4,710.5				
Baldwin Distillery	2,847.3				
Giovanni, Piuma	4,087.9				
Downey Vintage Co	2,977.5				
Sierra Madre Vintage Co	59,579.8				
Boege, Z. F	1,452.6				
Delply, Jules J	1,485.0				
Randi:l & Sons	1,378.6				
Demaitin, P., and Laughlin, A	556.9				
Engler, German	203.4				
Kans, John	3,370.3				
Giovanni, Gai	4,806.6				
West Glendale Wine Co	13,853.4				
Celeno, Peter	443.9				
Artesia Vineyard Co	24,496.1				
Yung, Lanie	429.8				
Ardans, John	214.9				
Samuel, Paul	130,553.6		77,007.0		1,622.3
Mazal, J. C					481.6
Azevedo, M. J., & Co					2,553.6
Welsch, A	354.6	347.1	244.4	273.1	390.6
Kaufman, Marcus		92,263.2			
Fresno National Wine Co	115,179.2	29,907.4		21,263.9	
Fresno Mutual Wine Co		20,653.1	23,200.5		
Luid Vineyard Co	2,681.9	3,474.5	3,714.2		
Anderson, C. G	1,723.8	4,047.6	3,553.1	4,424.1	
Buhach Producing and Manufacturing Co	16,964.4	22,236.2	14,690.1	25,391.6	
Padista, E. P		707.8			
St. George Vineyard	13,462.1	7,739.2		6,695.4	
Lint, Franklin Peter			1,363.9		
Olson Winery Co			15,622.7	14,310.7	
Farmers' Mutual Winery Co	11,350.8		15,865.5		
Sumida, Hookchi			2,740.4	3,076.0	
Armonia Winery & Distillery Co	31,804.8			55,141.5	
Italian Vineyard Co	119,430.6			25,700.3	
Hughes, Jules	1,687.8				
Seinturier, Jean	5,434.1				
Krebs, Richard	2,361.0				
McClure, John	21,964.8				
Jannegui, Pierre	1,438.5				

Statement showing quantity of grape brandy or wine spirits used in the fortification of sweet wines by the various wine makers in the United States during each of the fiscal years 1909, 1910, 1911, 1912, and 1913—Continued.

District.	Year ending June 30—				
	1909	1910	1911	1912	1913
FIRST DISTRICT OF CALIFORNIA—contd.	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*
Brechtel, Henry	346.5				
Used and not included in the above	75,371.4	140,913.4	1,940.0	98,016.2	0.5
FOURTH DISTRICT OF CALIFORNIA.					
Azevedo, M. J., & Co	10,589.9	10,733.6	8,806.7	8,821.1	
Bradford & Sons, J. B	43,012.8	68,565.7	85,899.3	89,829.4	
California Winery	103,709.3	122,181.3	141,255.3	75,209.4	
Cordelia Winery	36,120.8	31,722.2	51,509.7	28,170.4	
California Wine Association	52,042.9	95,431.1	45,384.1	62,768.4	
Da Roza, J. L	36,907.3	57,352.1	46,051.4	53,637.2	
Fasinetti, James	973.0	768.7	265.9	1,795.4	
Gundlach, Charles	3,179.6				
Italian Swiss Colony					
Korbal & Bros., F	2,206.6				
Mangels, Louis	508.4		569.9	581.1	
Mazel, John C	1,125.0		2,056.6		
Moulton Hill Vineyard Co	2,703.5				
Nagasawa, K	4,022.6	3,236.3	4,822.9	5,581.8	
Pioneer Winery	8,887.9				
Placer County Winery Co	24,587.8	74,650.2	70,627.3	74,126.9	
Red Bank Wine Co	635.0				
Sink, W. D	713.4	650.1	2,677.7		
Silver, Joseph	573.6	1,548.9	630.6	734.7	
Board of Trustees, Leland Stanford University	129,620.2	160,488.6	112,302.9	223,963.2	
Elk Grove Vineyard Association		60,043.8	70,743.4	82,680.8	
de Latour, G			1,757.4	1,781.9	
Kostuna, Louis			371.0		
Pethovich, John			277.3		
Sacramento Valley Winery			30,775.4	37,580.4	
Zinini Bros			147.4		
Silva Bros				3,734.2	
Used and not included in the above				18,000.0	
SIXTH DISTRICT OF CALIFORNIA.					
Cucamonga Vintage Co		55,669.9	95,983.0	181,349.7	132,673.3
Italian Vineyard Co		145,800.3	160,473.6	229,283.6	156,139.6
Baldwin Distilling Co		4,329.9	5,081.8	3,288.8	
Giovanni, Pieuma		3,652.5		2,943.9	3,506.2
Sierra Madre Vintage Co		57,791.7	64,364.4	65,513.0	45,289.8
Timm, J. F. Boege		2,483.4			
Delpy, J. J		1,817.4	2,366.9		
San Gabriel Vineyard		11,292.0	16,627.4	13,304.3	4,084.1
Vacheo, E		17,812.9	19,674.3	24,207.0	17,028.7
Kuchel, Geo		2,115.9	2,097.5	2,120.9	3,288.1
Eteinne Bros		23,120.8	21,061.8	29,016.9	5,692.6
Baker, J. S		3,165.7	2,640.8	2,632.1	
Saren, E		1,379.2			
Sandoz & Ginchon		1,485.4	2,113.6		
Cucamonga Winery		81,383.8	48,732.8	114,715.6	61,380.9
Espian, P		567.6	906.9	506.6	
Stern & Son, Chas		160,708.3	91,499.5	201,885.5	257,227.4
Southern California Wine Co		13,859.5	11,540.0	8,444.3	9,313.6
Lafourcode, J. B		1,680.5		1,717.6	1,513.6
Rust, C. O		3,261.3	5,740.9	1,404.8	1,447.7
Gai, G		6,383.1	6,604.1	10,571.3	5,360.2
Hart, J		444.4	352.6	405.3	607.9
West Glendale Wine Co		7,903.2	21,950.3	23,231.3	6,642.5
Caleno, P		422.4			
Artesia Vineyard Co		18,526.1	31,042.8	16,749.3	1,266.2
Young, Louie		1,266.2			
Hughes, J. J		1,229.1			
Pellisier, A		4,456.3	2,976.2	7,641.0	6,371.8
McClure, John		23,781.5	27,603.2	21,009.6	17,753.6
Brechtel, H		413.3	430.8	2,506.9	1,082.9
Bandisi & Sons		930.1		1,423.8	386.8
Nebbia, G		1,933.5			
Davin, E			1,111.7	5,553.4	
Downey Vintage Co			5,902.1		1,872.9
Mission Vineyard			69,289.9	123,849.7	
Mesnager, L. C			3,820.4		
Golden Gate Fruit Co			1,737.6		
Doueri, E			1,368.8	1,422.5	685.2

Statement showing quantity of grape brandy or wine spirits used in the fortification of sweet wines by the various wine makers in the United States during each of the fiscal years 1909, 1910, 1911, 1912, and 1913—Continued.

District.	Year ending June 30—				
	1909	1910	1911	1912	1913
SIXTH DISTRICT OF CALIFORNIA—contd.	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*	*Gallons.*
Ardaus, J.			560.6		
Krebs, R.			1,599.6		
Jamazay, P.			1,628.7		
Garret & Co.					75,780.8
Meyer, H. E.				717.1	541.8
Smith, O.					4,854.0
Bidart, J.					267.9
Bitter, J. G.				737.6	
HAWAII.					
Haupakalua Wine & Liquor Co. (Ltd.)	4,764.5	7,569.6	8,746.1	9,512.6	
Jose Gomes Serrao		644.4	1,444.1	7,086.3	7,776.3
TWENTY-EIGHTH DISTRICT OF NEW YORK.					
Irondequoit Wine Co.	9,701.5	10,019.2	12,592.1	8,675.8	8,030.4
Taylor Wine Co.	713.9	920.6	975.0	1,527.6	2,665.2
Hammondsport Wine Co.	9,219.2	19,434.2	704.2	4,904.3	11,737.6
Le Roy McCorn	1,392.0	1,232.9	1,627.2	1,954.8	2,751.9
Germania Wine Cellars	10,696.8	11,820.8	14,340.6	13,575.9	10,823.4
Pultney Wine Cellars					549.8
Pultney Vintage Co.	182.8	180.6	181.2	276.9	276.9
Hammondsport Vintage Co.	6,210.5	6,435.2	4,991.2	6,609.9	7,611.4
Fee Bros.	5,949.8	6,161.9	5,262.2	4,592.4	4,125.4
J. S. Hubbs	10,726.9	10,063.4	5,880.1		20,630.0
E. J. Mulvaney					1,781.8
Lake View Wine Co.	2,757.3	4,547.4	6,221.1	7,155.4	10,626.8
D. H. Maxfield	9,098.4	9,145.1	14,638.2	6,806.1	14,295.5
Vine City Wine Cellars					2,923.3
Empire State Wine Co.	8,966.5	11,318.1	8,779.8	6,160.9	8,648.0
Frudell Wine Co.	2,237.6	2,230.6		1,880.5	555.6
Pleasant Valley Wine Co.	16,029.8	9,034.3	17,766.6	36,141.7	13,345.3
Urbana Wine Co.	14,403.3	14,909.9	15,343.3	19,149.4	19,428.7
J. J. Widner	3,656.6	9,293.6	12,626.8	9,443.2	9,429.1
Henry Card & Co.	889.4	917.1	912.3	2,654.7	3,721.1
John Cushing	2,718.9	2,637.5	3,407.1	3,211.1	
E. G. Ryckman Wine Co.	4,640.2	1,899.7		6,394.8	
Lake Ontario Wine Co.	1,643.0	713.4			
Lake Keuka Vintage Co.	3,635.3	3,721.1			
J. S. Foster		271.9			
Francis M. Acker		364.2			
M. L. Taylor & Son	203.6	428.0	137.5	230.1	
Antonio April	383.8	378.5			
Rutonio D'Angelo		252.0			
Wm. N. Wise		909.0	6,167.4		
Dubelbeiss Wine Co.	1,570.1		561.2		
Geo. Graff	1,370.6			1,341.4	
Rheims Wine & Vineyard Co.	455.4				
Raymond Raymond			226.3	735.9	
FIRST DISTRICT OF NEW JERSEY.					
Dewey & Sons		1,632.0	459.0	1,329.6	977.9
FOURTH DISTRICT OF NORTH CAROLINA.					
Sol Bear & Son	1,354.9	4,570.1	5,834.4		17,115.8
SECOND DISTRICT OF VIRGINIA.					
Garrett & Co.		31,924.9			88,206.4

The amount of revenue (3 cents per gallon) so far derived from the spirits so used is as follows:

During the fiscal year—	
1909	$115,876.37
1910	145,697.25
1911	152,389.37
1912	189,292.11
1913	148,056.36
Total	751,311.46

It will be observed from the foregoing figures that in California 16 wine makers alone used in the fiscal year ending June 30, 1912, approximately 4,744,841 gallons of free wine spirits, and that 1 firm alone during that fiscal year used the enormous amount of 1,125,279.4 gallons.

NOTE.—The amount of revenue received by the Government at 3 cents per gallon, referred to at the end of the tabulation, was received for supervising the use of the free brandy in the sweet-wine making establishments in which said brandy was used and can not be said to be a revenue, because it simply covered the cost to the Government of supervising such use of free brandy.

It will be noted from the foregoing tabulation that a number of eastern wine makers have used free brandy in the fortification of sweet wines. Without knowing all the facts and circumstances as to how these wine makers secure the free brandy and how they made the wines into which they put it, we are unable to explain how they could legally use this free brandy while other eastern wine makers can not do so. We can only say that we have found no way in which it is possible for eastern wine makers to use brandy free of tax in manufacturing eastern sweet wines without violating the law.

BENEFIT TO THE GRAPE GROWERS.

It is our contention that the so-called "free brandy" law, instead of working to the benefit of the grape growers of California, actually works against the interests of those grape growers, and that the grape growers of the Eastern States are better treated by the wine makers of the East and fare better all around than do the grape growers of California, notwithstanding the fact that the wine makers of California enjoy the benefits of that law, while the eastern wine makers have to struggle against such tremendous odds.

The eastern wine makers protect their grape growers by charging for eastern wines such prices as will enable them to pay the grape growers an equitable price for grapes. We quote the following statement in our behalf from the printed report of the hearings before the subcommittee of the Committee on Finance of the United States Senate in 1913, page 75:

"Mr. Bell made a plea for California grape growers. We have grape growers to protect as well as the Californians. We do protect our grape growers by charging for our wines a price that will enable us to pay our grape growers a fair compensation for their grapes. We pay for our grapes from $30 to $80 and sometimes $100 per ton. The average price of grapes in California is about $8 per ton. Our grape growers are not complaining, while their grape growers are. In California the wine makers pay the grape growers such a small price for the grapes that they practically crush the grape growers as hard as they crush their grapes in order that they may sell wines at a price which they voluntarily make so low that no one can compete with them. As a matter of fact, they have no competition on such wines, so far as price goes, and no reason why they should have such prices if their wines are of the quality they claim for them. They can not complain that our wines compete with theirs so far as price is concerned, because the cost price of our wines is higher than the selling price of the California wines. Furthermore, our answer to Mr. Bell's plea for sympathy for his thrifty immigrants is that our German grape growers of the Eastern States are just as thrifty as any class of people on earth, and from the oldest to the youngest of the family are able to work, and all do work. They are entitled to at least the same consideration at the hands of Congress as the immigrant families referred to by Mr. Bell."

Now, note the following statement from a representative of the California wine makers, published on page 63 of the printed report of the hearings above referred to:

"The cost of raising the grapes, as shown, is $10.50 per ton. This varies with different varieties, and in the sweet-wine districts contracts for grapes are made from $10 to $12 per ton, averaging approximately $10.50."

Also note the following excerpt from a letter dated April 28, 1913, from A. Sbarboro, one of the largest grape growers in California, to the editor of American Wine Press. (See American Wine Press for May, 1913, p. 25.)

"Only last year sweet-wine grape growers were paid as low as $5 per ton for their grapes, who in many instances, rather than pay $2 or $3 a ton for picking and hauling, turned the hogs into their vineyards."

QUALITY DISREGARDED.

One of the effects of the so-called "free-brandy" law is to cause a disregard of quality of the wine made under that law, and a consideration only of the alcoholic strength of such wines, and one of the strongest talking points in regard to sales of such wines to dealers is that they have such high alcoholic content. Salesmen of such wines can point out that they contain from 20 to 23½ per cent of alcohol (because they get the brandy free); while salesmen of eastern wines have to sell wines containing only 17 to 18 per cent of alcohol (because eastern wine makers do not get brandy free).

THE ERRONEOUS CONSTRUCTION PLACED ON THE LAW BY THE INTERNAL-REVENUE DEPARTMENT HAS PERMITTED TRAFFIC IN FREE BRANDY.

Section 45 of the law in question provides, in part, as follows:

"That under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wines as defined by this act may withdraw wine spirits from any special bonded warehouse free of tax, in original packages, in any quantity not less than 80 wine gallons, and may use so much of the same as may be required by him under such regulations, and after the filing of such notices and bonds and the keeping of such records and the rendition of such reports as to materials and products and the disposition of same, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the pure, sweet wines made by him, and for no other purpose, in accordance with the limitations and provisions as to uses, amount to be used, and period for using the same set forth in section 53 (42) of this act * * *."

The object of the foregoing law was just this: The internal-revenue laws existing at the time this free-brandy law was passed provided that distilled spirits, including brandy, should be placed in bonded warehouses within a certain number of days after being produced in the distillery, unless the tax was paid. The tax was not required to be paid on them at the time of production, unless the distiller wished to pay it, but unless the tax was paid they were required to be put in bonded warehouses, from which they could not be removed until the tax was paid. But the framers of this free-brandy law saw that the following situation might arise: Grapes might be plentiful in a given year and a wine maker might have such a large production of grapes that he would early in the season fill up all his tanks and casks with wine and still have a surplus of grapes on his hands. If the law would only permit him to do so, he might ferment this surplus of grapes and distill brandy from the same and store it for use for fortifying purposes at some future time. As the law stood at that time, he must either pay the tax or store the brandy in a special bonded warehouse, and once stored there it could not be withdrawn until the United States Government was paid the tax per proof gallon on such brandy. Therefore section 45 was put into the law as an enabling act to permit such a wine maker to distill and store his brandy in bountiful years until such time as he could use it to advantage.

Another reason for this enabling act was this: Sweet wine must be fortified, according to the California method of making it, within a few days after the grapes are crushed; that is, within two or three days after fermentation starts. In other words, according to the California method of making sweet wine, as hereinbefore explained, the fermentation of the grape juice must be arrested by the addition of wine spirits when the fermentation has reached a certain point, otherwise the wine will not turn out as a sweet wine. Therefore, the California sweet-wine maker must take the precaution to have on hand a

sufficient amount of brandy to fortify his wine at the right moment. If it happens that his distillery is not of a sufficiently large capacity to produce brandy fast enough to fortify his sweet wines as fast as he ferments these sweet wines, then it is necessary for him to have a reserve stock of brandy on hand to take care of such an emergency. He could not keep this emergency stock of brandy stored at his distillery without paying the tax under the laws that existed then or under the laws that exist now, and, as explained above, once he put it in the bonded warehouse, he could not get it out without the payment of the tax; hence the enabling provision contained in section 45 of the law permitting sweet-wine makers, who are also distillers, to withdraw wine spirits from any special bonded warehouse free of tax.

Our contention in regard to the meaning of section 45, above quoted, is that according to the plain wording of the law, as well as according to the plain meaning of the law, to be gathered from all its sections taken together, the only person who is authorized to withdraw brandy from a special bonded warehouse free of tax is a sweet-wine maker who is also a distiller and who has himself placed that brandy in that warehouse. In other words, he is permitted to withdraw his own brandy that he himself has stored there. We contend that a sweet-wine maker can not take brandy out of a bonded warehouse unless he distilled it himself and put it in the warehouse. The very word "withdraw" presupposes the prior placing of the thing to be withdrawn. But the Internal-Revenue Department has so construed this law as to permit distillers of brandy to place the brandy in a bonded warehouse and then go out and sell the brandy to wine makers anywhere in the country, such distillers not necessarily being sweet-wine makers themselves. Thus California distillers ship the brandy in bond to the special bonded warehouse nearest their customer, the sweet-wine maker, and then the distiller withdraws it out of bond without paying the tax on it and lets the sweet-wine maker to whom he sold it use it free of tax for fortifying sweet wines. The distiller, as pointed out above, may or may not be a sweet-wine maker, and the sweet-wine maker who buys this brandy under this operation is not the man who placed it in the warehouse. By this practice it has been possible for distillers to traffic in free brandy at a large profit to such distillers, while the Government supervises the various operations of producing the brandy at the distillery and taking care of it at different warehouses at a great expense, for which it receives no returns. The Government, no doubt, has a record of such transactions, and we contend that there is a tax due the Government from such distillers of $1.10 per proof gallon on every gallon that has been sold and used as above indicated, and that these back taxes amount to several millions of dollars. This traffic in free brandy not only works a further injustice against the eastern wine makers who have to buy tax-paid spirits, and can not legally use such free brandy for fortifying sweet wines, but also works an injustice against the eastern distillers of tax-paid spirits, who can not sell their tax-paid spirits in competition with free spirits.

Surely it was never intended that the Government should stand the great expense of supervising the production of such brandy in distilleries and then keeping track of it in the warehouses where first stored, and again keeping track of it in the warehouses to which it is subsequently transferred in furtherance of a sale to the wine maker who buys it without any compensation whatever to the Government.

THE LAW DISCRIMINATES AGAINST INDUSTRIES WHICH MAKE NECESSARIES FOR EVERY HOME.

The sweet-wine makers of California alone have the privilege of using (undenatured) alcohol free of tax. It may be used free only in the production of sweet wine, and it is necessary to use alcohol for that purpose.

But it is absolutely necessary also to use alcohol in the manufacture of flavoring extracts. Lemon extract contains 85 per cent of alcohol, which is almost twice as much alcohol as is contained in whisky, as bottled-in-bond whisky contains only 50 per cent of alcohol. Vanilla extract also contains from 30 to 60 per cent of alcohol. This is also true of many other flavoring extracts. These are common household articles. These flavoring extracts can not be made without the use of alcohol. Any extract made from an oil (such as lemon oil) must contain alcohol to dissolve the oil. This is commonly called "cutting" the oil. It is a matter of common knowledge that oil and water will not mix. A flavoring extract that is made from a resinous substance, such as vanilla beans, which contain resins, must contain alcohol to dissolve or "cut" the

resins. It is also a matter of common knowledge that resins will not dissolve in water. The fact that these common household articles contain alcohol in greater quantities than does whisky is not, however, generally understood. Yet it is a fact that they do, and of necessity must contain alcohol. Practically all soda-water flavors, such as vanilla, lemon, orange, rose, and practically all flavors also contain alcohol, and must contain alcohol for the reasons above stated. On all this alcohol a tax of $1.10 a proof gallon is paid into the Treasury of the United States, and this revenue is paid by the consumer. Every housewife helps to pay it. Every farmer helps to pay it. Every laborer helps to pay it. Every schoolboy and every schoolgirl who tenders a penny or a nickel for a glass of soda water or a dish of lemon or vanilla ice cream or a piece of candy helps to pay it. Because all these things are flavored with extracts containing alcohol. But the gentleman or lady of leisure who drink their after-dinner California sherry, tokay, or muscatel do not help to pay it—the alcohol that is used to produce the drink that contributes to their pleasure is given to the wine maker free of tax. Manufacturers of flavoring extracts can not use free brandy or free alcohol.

THE MEANING OF THE WORD "PROOF."

The word "proof" is a word that is peculiar to the internal-revenue law and to the distilling industry. What it means is to denote the amount of alcohol that may be present in a liquid. Pure alcohol, 100 per cent pure, is designated as "200 proof." This is the highest proof possible. The moment any water is added to pure alcohol it lowers the proof. Thus, if 50 per cent water is added to pure alcohol, the mixture is designated as "100 proof," which means that it contains 50 per cent water and 50 per cent alcohol. Whisky is ordinarily 100 proof—that is, it contains 50 per cent water and 50 per cent alcohol. If we say a liquid is "50 proof," we mean it contains 25 per cent alcohol and 75 per cent water or other liquid. California wines containing 23½ per cent alcohol are 47 proof. The words "taxable gallon" mean the same as "proof gallon." The internal-revenue tax of $1.10 a gallon on alcohol is on proof gallons.

EFFORTS TO HAVE FREE-BRANDY LAW REPEALED IN 1913.

When the tariff act of 1913 was pending before Congress, Senator Pomerene, of Ohio, submitted to the Senate Finance Committee an amendment to the bill as it came from the House, which amendment sought to repeal the free-brandy law. This repeal would have raised a revenue of approximately $7,000,000 annually, and, we understand, this $7,000,000 was figured in the estimates of the Senate. But no sooner had the amendment been submitted to the Finance Committee than the Californians succeeded in having the wording of the amendment changed in such a way that, while it would repeal the free-brandy law and cause them to pay a full tax on all spirits used, the same as eastern wine makers have been doing, still it would put an additional tax of about 25 cents a gallon on all eastern wines, which tax they would not have to pay in California. This was accomplished by getting into the matter the question of standards for wines and thus involving the pure-food issue. The Californians succeeded in getting the repealing clause so worded that it would destroy the entire eastern wine-making industry. This dragging in the question of standards for wines involved a consideration and careful study of the entire art of making wine. The Senate Finance Committee started out by giving a hearing of an hour to both sides—30 minutes to each—but at once saw that the subject was so complicated, from the standpoint of standards, that they could not get head nor tail of it in such a short space of time. They then gave further hearings, amounting in all to about three days, and some of the members at the end of that time stated that they were more bewildered on the subject of wine making than they were before the hearings were had, and that they did not feel like legislating on such an important subject without a better understanding of what they were doing, especially when two great sections of the country were making contentions diametrically opposed to each other. In addition the Department of Agriculture sent a letter to the Senate Finance Committee stating in effect that it was a very inopportune time to legislate on the subject of wines, as it might interfere with work that department was doing. The Secretary of Agriculture, however, finally admitted that the question of whether the Californians paid $1.10 a proof gallon for the brandy they used in wines or got the brandy free would not have any bearing on the subject of proper standards for

wines. Nevertheless by that time the question of standards for wines had hopelessly befogged the real issue. The amendment passed the Senate in such form as to give the eastern wine makers some little recognition and relief, but the whole amendment, including the repeal of the free-brandy law, and which would have raised $7,000,000 for the Government from brandy, was thrown out by the conference committee, and this amount was either never made up or proportioned by tax on other products so as to make it up. This action of the conference committee had been predicted in positive terms by certain of the Californians several weeks before the conference committee even convened, and on the strength of this prediction they refused to even consider the question of compromise on the question of the repeal of the free-brandy special privileges.

THE AFTER EFFECT OF OUR EFFORT TO HAVE FREE-BRANDY LAW REPEALED IN 1913.

During the time the said amendment was under consideration every recommendation that came from the Internal-Revenue Department or Treasury Department on the subject of the amendment was unfavorable to the cause of the eastern wine makers and decidedly in favor of the California wine makers, notwithstanding the enormous loss of revenue to the Government that has been pointed out in the foregoing pages of this pamphlet, and which was repeatedly brought to the attention of the said Treasury Department. Since that time the Internal-Revenue Department has been particularly antagonistic to the eastern wine makers and has published a special Treasury decision prohibiting the manufacture of pomace wine, which is a product that has been made in the East ever since wine has been made in America, and which is a cheap and wholesome beverage, consumed by laboring classes, who could not afford to buy a more expensive wine.

Immediately after Congress adjourned in October, 1913, the United States Department of Agriculture also took up the subject of the manufacture and labeling of wines and repealed a decision that had been adopted by the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor under the former administration relating to the manufacture of eastern wines, which decision had been promulgated after a full hearing and consideration of the subject. The decision was known as food-inspection decision No. 120 of the United States Department of Agriculture. That decision permitted eastern wine makers to correct natural deficiencies in grapes grown east of the Rocky Mountains by means of the addition of a solution of sugar and water, the same as permitted under the wine laws of Germany, where wines similar to our eastern wines are produced. The decision of the Department of Agriculture issued in 1914, known as food-inspection decision No. 156, and printed in the foregoing part of this pamphlet, not only takes away from the eastern wine makers the right to manufacture wine in the manner in which it has been made in the East ever since wine has been made in America, but it is positively favorable to California, and expressly provides that it shall not apply to wine made under the so-called free-brandy law. It positively prohibits eastern wine makers from using any water, while expressly providing that it shall not apply to wine made under the free-brandy law, which, as we have pointed out, permits the addition of 24 per cent water and 24 per cent other ingredients to California wines, making a total of 48 per cent added to those wines, and still permitting them to be classed as pure wines. This food-inspection decision No. 156 of the Department of Agriculture is still in full force and effect. The eastern wine-making season is now at hand, and the eastern wine makers are confronted with the proposition of either ignoring that decision and taking their chances in the courts of the land to secure justice for their industry or produce wines under that decision that they and all other practical wine makers know full well will be unmerchantable, unwholesome, and of inferior quality when produced. This is the reward that the eastern wine makers have received for their attempt in 1913 to have the free-brandy law repealed and raise $7,000,000 annually in revenue and to secure equality under the laws of the land.

ONE EASTERN WINE THAT IS BEING DISCRIMINATED AGAINST.

[Song for Catawba wine, by Henry W. Longfellow.]

This song of mine
Is the song of the vine,
To be sung by the glowing embers
Of wayside inns,
When the rain begins
To darken the drear Novembers.

It is not a song
Of the Scuppernong,
From warm Carolinian valleys,
Nor the Isabel
And the Muscatel
That bask in our garden alleys.

Nor the red mustang,
Whose clusters hang
O'er the waves of the Colorado,
And the fiery flood
Of whose purple blood
Has a dash of Spanish bravado.

For the richest and best
Is the wine of the West,
That grows by the Beautiful River [the Ohio River];
Whose sweet perfume
Fills all the room
With a benison on the giver.

And as hollow trees
Are the haunts of bees,
Forever going and coming;
So this crystal hive
Is all alive
With a swarming and buzzing and humming.

Very good in its way
Is the Verzenay,
Or the Sillery soft and creamy;
But Catawba wine
Has a taste divine,
More dulcet, delicious and dreamy.

There grows no vine
By the haunted Rhine,
By Danube or Guadalquiver,
Nor on island or cape,
That bears such a grape
As grows by the Beautiful River.

Drugged is their juice
For foreign use
When shipped 'er the reeling Atlantic,
To rack our brains
With the fever pains
That have driven the Old World frantic.

To the sewers and sinks
With all such drinks,
And after them tumble the mixer;
For a poison malign
Is such Borgia wine,
Or at best but a devil's elixir.

While pure as a spring
Is the wine I sing,
And to praise it, one needs but name it;
For Catawba wine
Has need of no sign,
No tavern bush to proclaim it.

And this song of the vine,
This greeting of mine,
The winds and the birds shall deliver
To the queen of the West
In her garlands dressed,
On the banks of the Beautiful River.

[The foregoing poem by Henry Wadsworth Longfellow is said to have been written upon the occasion of his visit to Nicholas Longworth, the pioneer Ohio grape grower and wine maker, who first planted the grapes along the bluffs of the Ohio River, and furnished the young plants to the settlers in the valleys of the Ohio and Missouri Rivers.]

References: Hearings before and briefs filed with the subcommittee of the Committee on Finance, United States Senate, Sixty-third Congress, first session, on paragraph 254½, "Pure sweet wines," etc., H. R. 3321, an act to reduce

tariff duties and to provide revenue for the Government, and for other purposes. (See printed report.)

Speech of Hon. Atlee Pomerene, of Ohio, in the United States Senate, September 18, 1913. (See Congressional Record.)

Speech of Hon. Atlee Pomerene, of Ohio, in the United States Senate, October 2, 1913. (See Congressional Record.)

WINES AND WINE MAKING.

[By A. Haraszthy, commissioner on the improvement and growth of the grapevine in California to the honorable Senate and Assembly of the State of California, 1862.]

Page 262, he quotes an authority:

"We find that wine consumers estimate as good wines only those whose contents of acids do not exceed 6 parts in 1,000. He shows a table by Dr. Hlubeck on vintages of 1841, showing that wines of too high acid brought the lowest market prices:

	Acids.	Alcohol.	15 gallons, price in United States money.
Brandner	5.0	9.8	$5.52
Murberger	5.9	8.3	4.65
Radkersburger	6.2	8.4	4.42
Kerschbacher	7.1	9.5	3.86
Wiseller Johannisberger	8.3	8.9	3.31
Sauritscher	9.1	10.2	3.03
Marburger Koschacker	12.0	6.7	2.25

"It illustrates that even though the alcohol was higher in some, they brought a lower price, owing to their higher acids."

Haraszthy further states:

"That all wines, in order to be estimated as good and palatable, must contain at least 4½ pro mille of free acids (counted as vinegar acid) and not more than 6½.

"That all containing more than six-thousandths of free acids must be considered as having not enough water in proportion to its acids.

"That experience has taught us, for more than 10 years, in all the different German grape districts, that a proportionable addition of water and sugar forms the means to produce, even from the most sour must, as drinkable and as good a wine as is otherwise produced in good medium seasons."

On page 269, A. Haraszthy quotes Dr. L. Gall, as follows:

"The price of wines is, in general, more regulated by a medium degree of acids of no more than 6 and not less than 4 pro milles, than by a higher degree of alcohol than 8 per cent."

On page 269, Progress of Wine Fabrication since 1850:

"In France we see a lady, Mrs. Cora Millet, a landed proprietress, taking the lead in adapting a rational manner to increase the quantity of the wine by more than 5 per cent, without harming the quality; soon others convinced by the good results followed in the wake. In the year 1856 a district class was founded at the Royal College at Dijou, the capital city of the rich Burgundy district, for the instruction of students in the application of chemistry to the culture of the grape.

"In this the different newly invented methods of making and increasing the wine are clearly discussed and taught, inasmuch as they are based upon proportionate additions of sugar and water. A similar class was founded at Rheims, the capital of the Champagne district."

On page 282 A. Haraszthy states:

"The eminent technician, Mr. Dubrunfant, promulgated for the first time, in the year 1854, in France, his opinion based upon many trials:

"'That an addition of sugar-water to the must, regulated according to the quantity of its acids, will be the unfailing means to produce from every vintage, no matter what locality, always wines of like quality as those of the best seasons, and to quintuple their quantity if necessary.'

"The proposition of Dubrunfant was carried out in the largest measure the year following by a Mr. Abel Petiot de Chanirey, a large vineyard proprietor in Burgundy, and an essay on the manner employed and its results was handed by him to the Imperial Society of Agriculture."

[From the Literary Digest.]

ANOTHER FOOD SUBSTANCE IN WINE?

Those who affirm and those who deny that alcohol has true food value agree that certain nutritive substances may be found in alcoholic drinks. That glycerin and cream of tartar, which are found in wines, are foods no one would deny, though probably no one ever drank wine solely for the purpose of profiting by their nutritive properties. To these, however, has now been added a food of great value, namely, a lecithin, one of a class of substances recently found to be especially promotive of rapid growth. We quote the following from a note contributed to La Nature, Paris, August 6, by Dr. E. Varenne, formerly preparator in therapeutics to the Paris Faculty of Medicine. Says Dr. Varenne:

"This valuable vital principle was discovered in the yolk of egg, which contains it in large proportions. * * * Yolk of egg is, as everyone knows, a food of the first order, and Gobley, the celebrated chemist professor at the school of pharmacy (who discovered lecithin in 1846), has published numerous interesting papers about it.

"But there are vegetable as well as animal lecithins, for lecithins seem indispensable to life. The lecithin that seems to be most widespread is 'stearic lecithin,' whose chemical name is 'distearo-glycero-phosphate of trimethylhydroxyl-amine-ammonium.' This lecithin is also met with in milk, corn, peas, oats, etc.

"Messrs. Weirich and Orthieb have also discovered it in grape stones. These chemists, in an investigation of pure natural wines, remarked the superiority of a Greek wine of Thyra (Cyclades) when used for the purpose of rehabilitating 'sick' wines. The analysis of this wine indicated that it contained 0.095 per cent of phosphoric acid. A white Malaga contained 0.049 per cent, a Tokay 0.068 per cent, and another sweet wine 0.054 per cent.

"Now, from their researches Messrs. Weirich and Orthieb have concluded that the phosphoric acid thus found came from organic combinations formed in the grape stones and dissolved in the wine during the fermentation of the must and proportionally to the quantity of alcohol produced. * * *

"We must then accept the fact that lecithin exists in very appreciable quantities in natural wines, and the more as these are richer in alcohol. Here, however, we must make a distinction and remark that only wines rich in alcohol by fermentation contain lecithin.

"Weak wines artificially strengthened by the addition of alcohol after fermentation do not contain it. Again, as lecithin alters at about 50°–60° C. (122°–140° F.), the so-called 'pasteurized' wines lose this precious principle during heating. Also, pink and white wines, which have fermented without the pulp and the stones, contain no lecithin.

"Hence we draw an important conclusion—that wine is a real food, not only from the alcohol, the glycerin, and the cream of tartar that it contains, but especially from its lecithin.

"But in order to fulfil this condition the wine must be pure, made not chemically but by old and honest methods. Such wines may easily be found at modest prices. And still another point must be noted. * * * Use, do not abuse." (Translation made for the Literary Digest.)

[K. A. Hellenthal's Manual for Wine Growers and Wine Dealers, or The Perfect Wine Cellar Master. Eighth improved and enlarged edition. After long years and practical experience of the author, and by using the most renowned authorities on oenology and chemistry. J. Beyse, author.]

[Page 368.]

As early as the period of the first settlement in America it appears that the then existing wild grapevine attracted the attention of the colonists, and it is asserted that in the year of 1564 they already made wines out of grapes grown in Florida. The earliest attempt to plant vineyards was made in Virginia, in 1620, and after 10 years the vineyards were so promising that they had French

vineyardists come, who through unsuitable treatment are said to have caused the grapevines to perish.

In 1647 we again find wine production in Virginia, and in 1651 prizes were issued to encourage the wine growers.

In the year of 1648 grapevines were raised in the State of Delaware, then called Uvedale, which grapevines were supported by mulberry trees and sassafras trees. Four varieties were cultivated: Toulous Muscat, Sweet Scented, Great Fox, and Thick Grape—all varieties imported from Europe. The first two produced a strong, red sherry, the third a light claret, and the fourth a golden-colored wine. In 1633 William Penn tried to plant vineyards near Philadelphia; however, without success. From that time on the viticulture in Pennsylvania was entirely in the hands of the Germans.

In 1796 French colonists made wine in Illinois from wild grapes; at the same time Frederick Rapp and others planted a vineyard of 10 acres near Pittsburgh, Pa.

In 1790 a Swiss colony also formed to pursue viticulture. Their first experiment by planting foreign vines was an utter failure; then they tried it with native vines and better results followed; yet after 40 years no trace of the vineyards was to be found, as the colony scattered.

Viticulture on a large scale first began at the time when the Germans settled in the Ohio and Missouri Valleys.

They experimented with vines from foreign countries; however, they gained better results with the Catawba grapevine, which originated in the State of Virginia.

This variety, which is subject to mildew and rot, in many localities is replaced by other varieties of native vines, regarding whose larger productiveness and endurance they were convinced. In the vicinity of Cincinnati there are now 3,000 acres of vineyards along the Ohio River, and these were planted within a period of 30 years. These vineyards produce annually about 4,000,000 gallons—i. e., 250,000 buckets of wine.

Still later the wine growing began in the Missouri Valley. At Hermann, a German locality, the first vineyard was planted in the year 1845. The first vines were the Catawba grapevines, which flourished particularly well in this valley. Now, Norton's Virginia Seedling is cultivated there, from which a red wine is made, which boldly can match itself with every fine red wine of the old world, and which has a similarity to Burgundy and port wine.

A third native variety of wines which is extensively cultivated is the Concord. Besides the grapes mentioned, one now also finds the Herbemont, Delaware, Hartford-prolific, the Maxatawney—all cultivated from the native wild grapes, by cross breeding and refining.

Toward the north, for Minnesota, the Clinton is splendidly adapted.

There are now already 50 American varieties of grapevines which are preferably adapted for the Middle West. The first three varieties named comprise the largest in number. The wine in those localities is still called Catawba wine.

At Hermann, Mo., there are 1,000 acres of vineyards, which in the year 1865 left an income of $200,000; this year was a particularly bad year.

Furthermore, wine growing is done on a large scale at Boonville, in Cooper County; at Augusta, in St. Charles County, Mo.; at Hannibal, Mo., on the Mississippi River; and at St. Joseph, on the Missouri River.

In the State of Illinois we find vineyards at Alton, Belleville, Mascoutah, Warsaw, Nauvoo, and Makanda.

In the State of Iowa wine growing has just begun at Burlington and Davenport.

In the State of Kansas wine growing is going on since two years.

With the large German immigration the wine culture there will in a few years increase enormously.

The gallizing of wines is done extensively, especially in unfavorable years; the gallizing proves good in America, just as in Europe.

In the Union there, furthermore, is wine growing in the vicinity of New Orleans, in Massachusetts, in Texas, in Virginia, and in Florida.

In California viticulture has taken on large dimensions. It started there in the year 1852, and California now furnishes the Union with 600,000 buckets of good wines, of a character reminding one of Sherry, Maderia, Tokay, and port wines.

After they finally stopped experimenting with the acclimating of Europe grapevines and took to the native wild-growing varieties, and cultivated and

improved them, then the wine growing in the Union had a great future before it.

The latest vineyards cultivated are those of the Mormons, in Utah, said to bear excellent grapes which, however, are used for the table only. Brigham Young does not want to hear anything about wine—no wine, but, on the other hand, many wives.

In America the early as well as later attempts of the Frenchmen, Englishmen, Spaniards, and Portuguese to cultivate grapevines were failures only the Germans were victorious. They threw overboard the prejudiced idea that American soil is not adapted to grape culture, and they scouted around for varieties which would thrive, and after they found same, then viticulture made fast and vigorous headway.

GALLIZING.

[Page 60.]

In the last edition of my works I dwelt upon the method of improving the must, which, as named after the discoverer, Dr. Gall, is called gallizing. This method has since then completely opened its way into general use. All wine, Moselle and Neckar wines—in fact, all German wines shipped to America—are gallized, and exactly this circumstance has created a very important market in America for these wines.

These gallized wines offer important advantages:

First. Always are uniform wines, even in poor seasons.

Second. Stand transporting without undergoing changes.

Third. Never get cloudy, don't form mold (mycoderm), and only careless cellar treatment can cause them to turn into vinegar.

Fourth. After the first year they hardly require any cellar treatment.

Fifth. They are stronger without any alcohol being added, and this strength makes same adapted for far-off markets.

Sixth. The wines became cheaper, because considerable more than was the case formerly was called for by the trade.

The erecting of numerous grape-sugar factories (dextrose factories) in the Confederated German States, in Austria, in France, proves the extent to which gallizing of wines has made headway. Only for this purpose and no other is grape sugar (dextrose) used.

The many screechers who condemn gallizing have become mute; those who protested the most now gallize their wines. No person now can do without it. The practice has created a revolution in wine making and it is one of the greatest progresses to be recognized in the making of wines.

It has this advantage, that it is exceedingly simple, and that the smallest producer can avail himself of the method, because it does not require the buying of new cellar apparatus.

After this short introduction, I now take up the practical procedure. In order to make good wine out of must, it must contain 24 per cent of sugar and not over 6½ per cent acids. Accordingly, 100 pounds of such must would consist of sugar, 10×24 per cent=240 pounds; free acids, 1×6½ per cent=6.5 pounds; water (inclusive of other wine-producing ingredients), 753.5 pounds. Total, 1,000 pounds.

This compilation forms the so-called normal must for good wine and serves as the foundation for all calculations.

The must containing less sugar and more acids (and such is always the case in medium and in poor years) is therefore fit to be improved in order to be equal to normal must of good years with regard to sugar and acids.

If a mild summer has formed a deficiency of grape sugar in the grapes, but, on the other hand, an excess of acids, then it is the human aid which restores the deficient grape sugar and diminishes the excessive acids. This is done through the principle of improving the must. On the part of the producer it requires a little more knowledge, more labor, and a further expense for grape sugar (dextrose). In return the producer in poor years secures a good wine, and, besides, more wine than he presses from the grapes.

THE SUGAR.

The natural varieties of sugar we divide into grape sugar and cane sugar. The sugar mingled with acids in fruit juices is grape sugar; the sugar dissolved in neutral fluid is cane sugar.

The former prevails in all ripe fruits, sometimes as grape sugar alone, sometimes mixed with cane sugar. The second is found in sugar cane, in the palm, etc.

Ripe grapes invariably contain only grape sugar, yet before the ripening of the grape the grape sugar is mixed with cane sugar.

The cane sugar crystallizes very easily and in large crystals; the grape sugar, however, crystallizes only incomplete.

Cane sugar, through the actions of acids, is transformed into grape sugar.

Cane sugar is composed of the following elements:

Carbon	72
Hydrogen	11
Oxygen	88
Total	171

That means in 171 grains sugar there are contained 72 grains carbon and the elements of 99 grains water, since hydrogen and oxygen are found in sugar in the same proportions as in water.

Grape sugar, in comparison, is composed as follows:

Carbon	72
Hydrogen	12
Oxygen	96
Total	180

That illustrates: To the same amount of carbon, 72 grains, there are contained in the grape sugar the elements of 108 grains water; therefore a little more than in cane sugar.

The grape sugar to be had in commerce is prepared from potato starch (and from corn starch).

When sulphuric acid takes effect on potato starch, then this is first converted into dextrin; the dextrin is then further converted into grape sugar.

The composition of grape sugar derived from potato starch is precisely the same as that of the grape sugar contained in grape juice.

All sugars, however, when dissolved and mixed with lees—yeast—will undergo a wine-spirituous fermentation.

This is very important. It follows that when you add to a must which is poor in sugar contents, either cane sugar or sugar prepared from potato starch, these will ferment exactly as though there were in the must only grape sugar contained in the grape.

Page 106: In Rhine wines the sugar represents six-sevenths of the extracts.

In the residue, therefore, there are six parts sugar and only one part of all salts and nonvolatile substances together.

In the red Bordeaux wines we find only very little sugar.

In Muscat Rivesaltes, however, there is 24½ per cent extract against 22 per cent sugar. Much sugar is also contained in Muscat Lunel. True enough, the must in this wine is condensed, and in Cette, France, a large amount of rock candy is added besides.

Rich in natural sugar are Ruster, Meneser, and Tokayer.

The red wines contain only one-half per cent sugar; without that same would not taste agreeable, and the astringent taste of the tannic acid would be too domineering.

Among the sweet wines some contain one-fourth of their weight in sugar.

UTILIZING THE PRESENT POMACE.

The richest utilizing of pomace is gained through the Petiot method. Where, however, wines are treated according to ordinary methods, the pomace taken out of the press is mixed with water and grape sugar added, and subjected to another fermentation. A medium-grade wine is derived, which is given to laborers. Often same is distilled to produce brandy. The thus obtained pomace brandy is not exactly as palatable, but is more intoxicating than cognac, which is obtained through the distillation of the wine. (Translated by Ottmar G. Stark, St. Louis, Mo.)

THE CONSERVING OF WINE AND MUST AND THE ADMINISTERING OF SALICYLIC ACID IN THE CELLAR TREATMENT—CRITIC'S PERUSAL OF THE WAYS AND MEANS EMPLOYED UP TO NOW IN THE CONSERVING OF WINE AND MUST FOR WINE PRODUCERS AND WINE DEALERS.

[By Antonio dal Piaz, author of Utilizing Wine Residues, of Wine Making and Cellar Treatment, etc. Published by A. Hartleben's Verlag, of Vienna, Pest, and Leipzig, 1878. Written by Antonio dal Piaz in April, 1878, at Kloster Neuburg (Cloister Newburgh), Austria. Translated from German by O. G. Stark, St. Louis, Mo.]

[Pages 20 and 21.]

Alcohol or wine spirits as a conservative in wine deserves the fullest consideration because the clean spirits of alcohol is added to the wine for the purpose of keeping it in sound condition. Then no foreign or deleterious substances get into the wine, and there is only a moderate increase in the volume of wine. Alcohol in the pure concentrated condition, as well as diluted within certain bounds, is a substance which suppresses the vegetable life and can be administered in all directions as a ferment germ destroyer and conservative.

The natural alcoholic conditions of wines always act conservingly, and the stronger the wines are the better they will be in regard to keeping. This has been recognized in early times, and it was therefore sought to increase the keeping qualities of wines through corresponding alcoholic additions. Apparently in such countries where, through favorable conditions, large wine exports were built up the necessity at the same time arose to make wines fit for transport; that is, to put same in such condition that same in transport, even when exposed to unfavorable circumstances, would not take on a change nor undergo a second fermentation. It was therefore the addition of alcohol, or the so-called alcoholizing, especially customary in Spain, Portugal, Italy, and France, where all wines intended for export receive a stipulated addition of alcohol, which is not only governed to suit the country to which the wine goes, but their prevailing taste, and also is governed with special regard for the quality of the wine itself. In France even the addition of alcohol to the wine is legally regulated and permits of wines destined for export an addition of wine spirits up to 5 per cent.

[Page 22.]

Ordinarily, wines with low alcoholic strength are always more subject to the various sicknesses and have keeping qualities only to a smaller extent. With the increase of alcoholic contents the keeping qualities of the wine also increases. Wines having an alcoholic strength of 12 per cent by volume and over will not form moldy scum (mycoderm), and also have good keeping qualities. Wines, however, with alcoholic strength of 14 to 15 per cent by volume are secure against any afterfermentation or cloudiness, even though there will be some unfermented sugar contained therein and it be exposed to a high temperature; likewise it is impossible for such wine to become sick, owing to the influence of ferment germs (yeast cells), because in the fluid containing about 12 to 15 per cent alcohol the development of germ propagation can not take place. If, therefore, enough alcohol is added to the wine so as to raise the alcoholic strength thereof up to 12 to 15 per cent by volume such wine will no longer become sick, even if it is stored or transported under the most unfavorable conditions. In the case of must of high saccharine percentage, when same contains more than 30 per cent sugar, the fermentation will produce about 15 per cent of alcohol, and a further fermentation will then be interrupted even if a larger quantity of unfermented sugar is still on hand in the wine, because the fermenting germs or yeast cells are killed under such alcoholic strength, and thereby the further fermenting is made impossible. With a corresponding addition of alcohol therefore wines of low alcoholic strength can be made of good keeping qualities and be protected against becoming sick, which same otherwise are easily subjected to. If the corresponding quantity of alcohol is added to such light wines, this will enable same to be transported to great distances. The increase of the alcoholic strength can be accomplished in such manner that either the necessary alcohol is added immediately and directly to the wine, or else the alcoholic conditions of wines can be increased at a time when the wine is produced by adding to the must before fermentation double as many per cents of sugar as the desired increase of alcoholic strength, just as is the case in the method of wine improvement known as chaptalising. The

high alcoholic strength not only makes the wine of better keeping qualities, but through the addition of alcohol, sicknesses of wines can be suppressed at the time the sickness is developed. Mold germs which form on the surface of the wine can be removed and destroyed entirely if one carefully pours and distributes rectified alcohol over the surface of the wine. The (specific) lighter alcohol will spread over the surface and completely destroy the developing mold germs (Mycoderma vini). * * *

When fortifying with alcohol it is advisable to pay strict attention that only clean alcohol fully free of fusel oil is used.

TABLE FOR CALCULATIONS FOR PERFECTING MUST OR WINE ACCORDING TO DR. GALL'S SYSTEM OR MANUAL FOR EVERY WINE PRODUCER.

[By Henry Schlippe.]

Following many requests made of me, I give with this third edition a compact but fully sufficient illustration and interpretation of the entire Gall system to whenever necessary improve or perfect Rhine wines and similar wines.

ELUCIDATION AND UTILITY OF THE GALL SYSTEM.

Dr. Gall's real fundamental system to improve and perfect inferior must or wine, which system continues more and more to prove itself practical, substantiated, and world-wide known, rests solely and alone on the rule how to scientifically establish the quantity of acid and of sugar or alcohol present in the must or wine; then, to see if one or the other, compared with good wine as nature furnishes, does not show an excess or deficiency, and finally how to regulate the excessive acid and deficient sugar by the addition of water and sugar so that the total acid and sugar contents are brought into such proportions with each other and the remaining characteristics of the wine as we expect same from nature, if same shall be agreeable to our taste and to our well-being or, better, our health.

Water and sugar, or alcohol created from sugar through fermentation and closely united with the wine, are both substances which are contained in every must or wine in more or less quantities. Sugar and water are, therefore, no foreign substances which are added, but only augmentations based on art and science, and as well known are two principal ingredients of wines; therefore, additions entirely fitting nature, and the Gall process is, therefore, entirely in conformity with nature a truly perfecting, against which in the interest of agricultural economy on the whole as well as the single producer and consumer, no objection can in a sensible way be offered, but, on the contrary, deserves protection and support, inasmuch as the process transforms a more or less inferior unsalable and unhealthful nature's product into a merchantable article sought and well paid for everywhere, even in foreign countries, and therefore circulates money and brings welfare in general and to the individual, and what really is the main point renders a fine tasting, full-bodied, and strong drink, which not only refreshes and invigorates our body, but also beneficially enlivens and cheers our mind and disposition. * * *

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When adding water, use clear well water. When distilled water is available, I recommend it, because well water contains other substances. However, I do not believe that the difference is sufficient as to make it worth the trouble to secure distilled water under difficulties and at an expense.

When adding sugar, use either loaf sugar, rock candy, or grape sugar (dextrose). As to which sort is most serviceable, opinions are not quite well established. Some claim to know that cane or beet sugar produces more alcohol, against which others claim grape sugar gives the wine a peculiar mellowness, only it must not be yellow, but almost white, at least hard, about like wax; better, however, entirely dry and minus the bitter taste. From my own observations I can, nevertheless, assure that with grape sugar (dextrose) the wine is fermented through and completed sooner; but one may use only good quality, without undesirable taste, otherwise the wine easily also will have an undesirable aftertaste.

I must here call attention that in all directions and calculations as to the additions of sugar, cane or beet sugar—that is, loaf sugar or dry, clear rock candy—and that when using grape sugar (dextrose), when it is not dry, more must be used than the general calculation indicates. For instance No. 1: If not entirely dry, then use 10 parts more; i. e., instead of, for instance, 60 pounds cane or beet sugar, use 66 pounds grape sugar. No. 2: When using solid grape sugar, like wax, then one-seventh times as much; i. e., instead of 60 pounds use 69 pounds, which, according to Balling, will equalize the differences.

Balling quotes the saccharine strength of dry (anhydrous) grape sugar (dextrose) at 89 to 90 per cent, and the solid grape sugar, like wax, at 80 to 84 per cent.

[Concluding remarks, p. 15.]

Here I must remark that gallized wines, after the chief fermentation, often have a disagreeable, insipid, or bitter taste. This, however, must not cause us to become uneasy, as that will pass away and delights us usually with a so much more surprising result.

Many persons now probably ask, Would it not be, in many respects, easier and more simple, instead of sugar, to immediately add the finished alcohol?

I reply thereto that such a procedure is always promptly recognized by its odor and taste as an obnoxious bothing and is contrary to nature, because it is something entirely different to mix the finished alcohol with the wine than it is to let the sugar, by way of fermenting the wine, turn into alcohol, peculiarly develop, and then in the closest manner chemically combine with the wine, to which fact I promptly pointed in the very beginning of my editions.

The supposition that alcohol may be used instead of sugar is therefore entirely erroneous, without taking into account that sugar will, besides, always impart aromatic and antheric particles. (Translated by O. G. Stark, St. Louis, Mo.)

THE WINE CULTURE—A GUIDE TO THE PLANTING AND TREATMENT OF THE GRAPEVINE AND THE WINE IN THE MIDDLE STATES OF NORTH AMERICA.

[By John Becker, member of the Viticultural Society of Evansville, Ind., formerly for many years member of the Baden (Germany) Agricultural Society, Evansville, Ind., 1860.]

[Page 101.]

The peculiarity, however, must not be overlooked, that from freshly crushed grapes it is not as easy to press out the juice as from such crushed grapes which were allowed to remain some time in the fermenting vats.

In Europe, therefore, the crushed grapes often are permitted to remain in the fermenting vats from two to three weeks and ferment, the wine underneath separating fairly clear, and the pomace floating on top. The wine is then drawn off into casks. * * *

The sooner the crushed grapes are crushed, the more so will the color of the wine be pale. If, however, red wine is wanted the crushed grapes must be allowed to ferment several days, so that the color in the grape skins will dissolve, because only in the skins is located the color.

In the regions of France which produce red wines the pomace is repeatedly stamped down, so as to have the color dissolve faster and the wine be more colored.

The pressed-out pomace can be packed into vats and casks and used for distillation and will produce a good brandy. The packing away of the pressed pomace, however, must be done at once into air-tight containers, otherwise the developing alcohol (spirits) will evaporate and the pomace get moldy. After the pomace have gone through the distilling process, same will prove to be a valuable fertilizer for vineyards, which contains especially much potash and is very beneficial for the grapevine. (Translated by O. G. Stark, St. Louis, Mo.)

THE TREATMENT OF AMERICAN WINES—THEIR SICKNESS AND THE CURE.

[Dr. Charles H. Frings, editor of Grape Culturist; founder of Deutschen Wein Zeitung (German Wine Newspaper) in Mayence, Germany; superintendent of Bluffton Wine Co., St. Louis, Mo. Conrad Witter's Book Store, St. Louis, Mo., 1869.]

[Page 6.]

While the sugar under its process of separating from the lees is transformed into alcohol and carbonic gas, other ingredients of the must also become changed, inasmuch as they either undergo new combinations with one another (for instance, fragrant ethers are formed from alcohol and acid) or that they precipitate part of them (for instance, hydrogen potassium tartrate, commonly known as argols). The transformation takes place more rapidly in warm temperature than in low temperature.

Cold temperature interrupts the fermentation, since it makes impossible the propagating of the yeast cells (fermenting germs); the germ then sinks to the bottom and the wine becomes clear without being fully developed. As soon, however, as it again is exposed to warmth, fermentation again sets in and keeps up so long until cold temperature again interrupts the fermentation or until all the sugar or all ferment stuff is consumed.

This refermenting sometimes repeats several years in succession before the wine is fully developed and can be called bottle ripe; wherefore the German wines, which almost without exception are stored in very cool cellars, seldom can be drawn off into bottles before the third year.

Very many German wines of 1865 vintage which showed a high percentage of sugar were not even bottle ripe in 1869. Under such circumstances it is easily comprehensive why German wines are valued higher the older they get. * * *

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A room in which during the winter the temperature can be kept at 15° R. or 65° F. will suffice fully to make the wines bottle ripe by the fourth or fifth month following the vintage, and it requires, therefore, even during the hottest summer, no other room to store the wine and keep it from spoiling. On the contrary, through the warmth to which they are subjected they will become more perfect, acquiring the character of older wines.

To warrant this claim, which may appear to most as incredible, probably even paradoxical, I refer to following historical facts. Already in ancient times the Greeks and Romans, as Plinius and Dioskorides proved, kept their wines in the uppermost parts of the houses and in parts exposed to the south. These places are called "horreum vinarium."

In the seventeenth century in Bacharach, Steeg, Diebach, and Manubach on the Rhine, wines were made from must by rapid fermentation and then hurriedly taken to Holland, where they were appreciated extraordinarily owing to their agreeable taste. This rapid fermentation was accomplished by heating in so-called "fire chambers," and called the resultant wine "fired wine." Since the custom was abandoned to offer a reward for the first cask produced in the manner for Holland, no one thereafter was in a hurry, and the "fire chambers" are now no longer to be found either in Bacharach nor in the surroundings.

Madeira wines formerly were allowed to pass the Equator several times to improve them, and the Englishmen shipped same to East India and back for this purpose, whereupon such Madeira commanding enormous prices was called East India Madeira.

In the meantime, the practical Englishmen discovered that a quiet rest in a warm place will improve the wine just as well as an expensive trip past the Equator, and since 70 years they avail themselves of large rooms heated by stoves or pipes.

If, however, they desire to produce a very fine Madeira wine, which they call "Vino de rota"—meaning traveled wine—then they bury the well-corked bottle of wine in deep ditches filled with horse manure, which manure undergoes fermentation, thereby developing such a warmth that the young wine kept a few months in the manure will acquire the character of old wines five or six years old. * * *

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The riper the grape is, the more sugar it contains. However, the distance of the grapes from the ground has an influence from one and the same grapevine. The must of the grapes close to the ground showed 1,089, the higher ones 1,072, and the still higher ones 1,069 specific weight.

Burned sugar—caramel—often is found in grapes which were exposed to intense and extended heat or were dried in the sun. It imparts to the wine a deep color, heavy body, and a Madeira taste.

In general, the sugar content of must from cultivated American grapes is between 15 and 20 per cent. The lowest percentage—15 per cent—I found in Concord, and the highest—20 per cent—in a Norton's Virginia Seedling, which was pressed from overripe grapes.

One part sugar yields in fermentation one-half part alcohol. A sugar content of 20 per cent accordingly yields a wine of 10 per cent alcoholic strength, while more than 25 per cent sugar could not all ferment. As soon as the 25 per cent of sugar has fermented, then the alcohol produced therefrom will stop any further fermentation, and the wine will remain sweet.

The volume of free acids, just like the sugar, depends upon the degree of ripeness of the grapes. With increasing ripening the malic acid diminishes and the tartaric acid increases.

Inasmuch, however, as tartaric acid in the same proportion, bound by potash, is turned into hydrogen potassium tartrate (argols), therefore the effect on the whole of the increasing ripening is that the free acids diminish. The acids are to be found not only in the expressed juice but also in the skins of the grape as well as in the stems (combs). A wine containing 5 per mill—that means in 1,000 pounds wine 5 pounds acids—is a palatable wine. If it contains less acid, then it tastes insipid; if it contains more, then it tastes too sour.

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The longer must ferments on the pomace the more powerful will be the color, because the coloring matter can only be extracted by the alcohol which forms through fermentation.

In the American grapes is to be found—as a result of the immense fertility of the soil—by far greater quantities of those nitrogenous, albuminous substances which we call gluten.

As necessary as these components are to bring about fermentation, it can be positively accepted that the juice of the fully ripened American grape contains such a surplus of gluten that there is sufficient of it to ferment the double quantity of must, while the pomace still contains great quantities of it besides.

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One more chief component of the must and of the wine I especially have remembered. That is, the water, which forms 70 to 80 per cent of the must and 80 to 90 per cent of the wine.

It is present in the grape in larger quantities if the seasons of the year were more wet, and if the respective soil was damper, and also if the same received richer fertilizing; furthermore, if it rains before or during the grape picking (a rain lasting a few hours can increase the volume of water from 1 to 1½ per cent), or, if the grapes were picked before the morning sun has dried the dew. (Translated by Ottmar G. Stark, St. Louis, Mo.)

The CHAIRMAN. If there is nothing further, the subcommittee will now adjourn.

(Thereupon, at 4.45 p. m., the subcommittee adjourned, to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(WINES AND LIQUEURS.)

FRIDAY, JULY 21, 1916.

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

The subcommittee met, pursuant to call, at 8 o'clock p. m., in room 205, Senate Office Building, Senator William J. Stone presiding.

Present: Senators Stone (chairman) and Thomas.

Also present: Mr. Levi Cooke, Dr. L. H. Baekeland, Mr. Sidney F. Mihalovitch, and Mr. D. C. Klipstein.

The subcommittee resumed the consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has under consideration section 301, pages 68 to 79. Mr. Levi Cooke is present and desires to give some views. We will now hear him.

STATEMENT OF MR. LEVI COOKE, WASHINGTON, D. C.

Mr. COOKE. I wish to be heard relative to the cordial tax, which is part of the wine schedule under H. R. 16763, as it came to the Senate from the House, and the cordial tax is found at page 77, line 6, and reads as follows (reading):

> On each bottle or other container of liqueurs, cordials, compounds, or preparations containing distilled spirits of wine, 1½ cents on each one-half pint or fraction thereof.

Senator THOMAS. What is the tax under the present law?

Mr. COOKE. Twenty-four cents per gallon under the emergency revenue act, which is the same tax as this figures.

It is well to state that the entire wine schedule designs a tax on still wines of 4 cents a gallon on such wines as have not more than 14 per cent alcohol by volume; 10 cents per gallon upon wines that contain more than 14 per cent and not more than 21 per cent of alcohol by volume, and 25 cents per gallon on wines that contain from 21 to 24 per cent of alcohol by volume.

Senator THOMAS. I wish you would explain just what you mean by that term "by volume."

Mr. COOKE. That there is 1 part of alcohol to 9 parts of wine. In other words that a gallon of wine is one-tenth pure alcohol and nine-tenths of other ingredients.

Senator THOMAS. You mean percentage when you say "by volume."

Mr. COOKE. Ten per cent by volume means 10 per cent of alcohol, 1 part of alcohol to 9 parts of other ingredients, including water and solids.

Senator THOMAS. It is virtually, in other terms, expressing percentages?

Mr. COOKE. It is a statement of percentage.

Now this wine schedule proposes to permit the use of fortifying brandy, that is, brandy that is distilled just as whisky is distilled, so as to bring the percentage of alcohol in the fortified wine up to 18 or 20 per cent, whatever the percentage of total alcohol both fermented in the wine and added in the finished wine may be desired to be.

The fortifying brandy to bring up the alcoholic strength of these wines that are to be taxed by this schedule is to be withdrawn from the distillery at a tax of 10 cents per gallon. Of course the regular distilled-spirit tax on all distilled spirits manufactured in the country is $1.10 per proof gallon. Now, 1 proof gallon of distilled spirits that pays $1.10 per proof gallon is a gallon of alcoholic liquid that is composed of one-half alcohol and one-half water. In other words, 100 per cent proof under the internal-revenue laws means a distilled spirit that is one-half alcohol and one-half water.

Senator THOMAS. It means 50 per cent?

Mr. COOKE. It means 50 per cent alcohol, and if you distill a spirit higher than 100 per cent proof, say, with only 5 per cent of water beside the alcohol present, you pay in proportion to the strength, and a measured gallon of high-proof distilled spirits will pay approximately $2 per measured gallon. It is necessary to make that explanation in order to show the evil that cordial manufacturers find in this cordial tax of 24 cents per gallon on finished cordial.

Before the hearing commenced Senator Stone asked what a cordial is. A cordial, according to the definitions in the books and according to the trade parlance, is a sweetened and flavored alcoholic liquor.

Senator THOMAS. Is vermuth a cordial?

Mr. COOKE. Vermuth is not a cordial in the sense that other true cordials are cordials. Vermuth is nothing but a still wine of low alcoholic content to which herbs have been added, and usually no addition of sugar whatever, and in the past it has universally been treated in the Federal legislation as not a cordial, not a liqueur, but as a distinct production in the still-wine catagory. The result of that has been that all our tariff bills have taxed vermuths as still wines.

Senator THOMAS. We have had a criticism of that in a previous hearing. That is the reason for my question.

Mr. COOKE. It was an unfortunate thing, Senator Thomas, that the cordial tax, which was put in the emergency revenue act, was of confused terminology and resulted in an assessment of 24 cents a gallon on vermuths, which had a most depressing effect upon vermuths in their relation to all other liquors in the country. I can explain that later, if the committee is interested in it.

Senator THOMAS. Speaking for myself, I am interested just to this extent: Insistence was made two or three days ago by a gentleman who appeared before us that vermuth should be classified as a cordial, not as a still wine.

Mr. COOKE. That is wrong, in my judgment. I do not know who made that statement.

Senator THOMAS. Congressman Kent, of California.

Mr. COOKE. I can not believe that he could have been well informed upon the history of that article under the laws.

Senator THOMAS. He described it just as you have, as to its component parts.

Mr. COOKE. I have never found an American definition of vermuth that called it anything else but a distinct article. There was one book, published in England, that assumed to be a dictionary of trade terms in the liquor and many other businesses, a sort of chemical dictionary, which called vermuth a mild form of cordial, and that terminology, under the emergency revenue act, led the Bureau of Internal Revenue to insist on the revenue of 24 cents per gallon on vermuth.

The CHAIRMAN. What is crème de menthe?

Mr. COOKE. Crème de menthe is a true cordial.

The CHAIRMAN. What is absinthe?

Mr. COOKE. Absinthe might be treated as a cordial, but it is more or less of a distinct article, because it is a combination of alcohol used for the extraction and preservation of the herbs and other ingredients that are present. I do not know whether that is an exact definition of absinthe, but absinthe contains wormwood, which is the principle in absinthe which makes it "absinthe." Absinthe is something besides a liquor. It is, as we all know, a very habit-forming liquor, and its habit-forming property is due to the presence of the herb or drug ingredient.

The CHAIRMAN. Have you a list of articles denominated as cordials?

Mr. Cooke. It is possible to present a very lengthy list to the committee of different cordials, because the different kinds of cordials that could be manufactured are almost illimitable. You can take any flavor that is palatable and pleasant to the taste and put it in alcohol and add sugar to the alcohol and you will have a cordial of a particular kind. They use violet flavor to make crème of violet. The French call it crème y'vette. Crème de menthe is a true cordial, because it is nothing but alcohol of about 40 per cent internal-revenue proof up to 60 per cent internal-revenue proof, plus mint flavor, plus sugar. The closer you keep to those ingredients, the better will be the crème de menthe. We have banana cordial, coffee cordial, orange cordial, peach cordial, apricot cordial, every kind of cordial that there is fruit and flavor that is acceptable to the human palate. The vanilla bean is used to flavor cordials. Cordials are low in alcoholic content.

The CHAIRMAN. Is apricot brandy a cordial?

Mr. COOKE. Apricot brandy, I have been told, when distilled from apricots, is a very rough spirit, with the result there is very little true apricot brandy drunk—that is, without anything being added to it—and the apricot brandy cordial in the market, which is made from apricot brandy, is that rather rough brandy, rough to the palate, to which has been added sugar and the concentrated juice of apricots, which cover the rough flavor of the true apricot brandy as made in the still. The alcohol in the apricot cordial is down to 20 per cent in volume, or 40 per cent proof.

If the committee please, I will state a little history in order to bring this subject down to this language in this act. The fortifying of wines in this country with tax-free brandy commenced in 1890 under an act passed in that year, which permitted the addition of brandy to sweet wines to increase the alcoholic content of those wines, and also to hold the remaining sugar that made them sweet

in a state of preservation and prevent fermentation continuing into the acetic stage.

The result of the fortifying brandy act was that where those fortified wines were made, large withdrawals of brandy spirits, distilled spirits, tax free, were made for addition direct to the wine. The object of that legislation was to increase the manufacture and sale of beverage wines, table wines.

Those wines, obviously, went into the market containing the tax-free distilled spirits, and the law of 1890 was very careful to safeguard the use of those wines in rectification, in the sense that the act proposed to prevent the dumping of those wines in rectifying houses where distilled spirits, taxed at $1.10, were dumped, because, if permitted, by mingling the tax-free brandy and wine, a rectifier could get tax-free alcohol which he could market together with his tax-paid distilled spirits. In other words, the act was designed to prevent the substitution of tax-free spirits in fortified wines in competition with distilled spirits in the fields where distilled spirits were used.

All cordials are manufactured in this country in rectifying houses. To manufacture a cordial you must mix distilled spirits with other materials, and that is a process of rectification under section 3244, Revised Statutes. A rectifier must qualify with the collector of internal revenue, he must pay $200 a year special tax, and must keep an absolute record of all distilled spirits he receives and dumps, and all distilled spirits he takes out of his dump.

Senator THOMAS. What do you mean by his "dump?"

Mr. COOKE. I mean by his "dump" his rectifying vat, and the trade terminology, and the internal-revenue terminology, denominate that a dump. He may have 50 receptacles in his house, but all are regarded as one dump. You see, the distilled spirits come from the internal-revenue bonded warehouse with double stamps. They bear one stamp showing deposit in the bonded warehouse, and they have to show the tax paid by another stamp when they leave the warehouse, and with these two stamps the Government has a record of the barrel. When the rectifier dumps that barrel the Government loses a record of it unless the rectifier keeps a record of his dumping of it, and unless, when taken from the dump, he puts a new stamp on the spirits, shows where they have gone, and keeps a record of the barrel so stamped so that the Government can identify the tax-paid distilled spirits in the market at all times.

The act in that form prohibited the use of fortified wine, fortified with tax-free brandy, in rectification. The act of 1906, which amended the fortified wine act, still prohibited the use of fortified wine for mixing or compounding with other materials. The mingling of this tax-free brandy in beverage wine with distilled spirits in rectification was carefully safeguarded. Other liqueurs, such as cordials, could not be manufactured from fortified wine, cordials being the principal liquors to be safeguarded from having fortified wine put in them.

Now, we come to the emergency revenue act. In the emergency revenue act a change occurred in the wine field. There never had been a tax in this country on wine, as such, until the emergency revenue act of 1914. Under that act they put a tax of 8 cents a gallon on all still wines. They put a tax of 55 cents a gallon on the

brandy that was to be used in fortifying wines, that is, one-half the regular tax.

Now, with all deference to the wine schedule of the emergency revenue act, it was rather hastily drafted in the sense that there were no complete hearings in which all those in interest could participate, with the result that there was a tax of 24 cents per gallon put on cordials.

There is a sound principle which justified the taxing of cordials under that act, although in practice it was very objectionable. These wines that were taxed under the emergency act were not taxed at the vintners, were not taxed at the vineyard or the manufactory, but the act provided that the tax should be paid by a stamp put on the bottle by the last seller for consumption, with the result that these wines moved in commerce without let or hindrance up to the time some retailer sold the bottle to a man to carry home; then he was to stamp it. It is perfectly obvious, if any wine was used in the manufacture of cordial, that only by taxing the cordial could you tax a wine in it, because the cordial manufacturer received his wine tax free and could market it, and unless there were a tax on his cordial there would be no tax paid on wine that might be in his cordial, and it was urged, as I undertand, that the cordial business obtained the most of its alcohol from wine. That was absolutely contrary to the fact, for 95 per cent of all cordials are manufactured from tax-paid distilled grain spirits of the highest quality which can be obtained, in order that they will take the flavor readily.

They still had the prohibition in the general revenue law against the use of fortified wines in rectification, so in the emergency revenue act they put this language:

> *Provided*, That pure sweet wines, fortified under the provisions of this act [i. e., with 55 cents paid on the fortified brandy] may be used in the manufacture of cordials, liqueurs, and similar compounds on which an internal revenue tax of 24 cents a gallon is imposed.

In other words, they said, "Now we will let them use these wines fortified with brandy that has paid 55 cents a gallon, provided the cordial that is made therefrom shall pay 24 cents a gallon."

That tax of 24 cents a gallon was too high to cover the ordinary wine of 8 cents a gallon that might be in it, but at 24 cents a gallon cordial tax it would tend to equalize the distilled spirit tax on the brandy in the fortified wine that was used, if that brandy that had fortified the wine had already paid 55 cents. So, theoretically but not in practice, the cordial tax in the emergency revenue act was a reasonable tax. It was faulty in practice because it pursued the false assumption that all cordials were made from wine, or that most of them were made from wine. The effect of it in practice was to put a supertax of 24 cents a gallon on the cordial that contained $1.10 per gallon tax-paid distilled spirits. The ultimate effect of that kind of a provision was substantially to compel the cordial manufacturer to use the cheapest taxed alcohol he could get to make his cordial, to wit, a fortified wine in place of tax-paid distilled spirits, and the effect of that during almost two years is that the tax, a stamp tax, has tended to injure the cordial business; people do not want to handle the cordials; the trade does not like to handle cordials; and

it has also had the effect of replacing distilled spirits in the manufacture of cordial because they have to pay a higher tax. That is the historical statement of the cordial tax.

Senator THOMAS. Has it tended to depreciate the quality of the goods?

Mr. COOKE. It does, absolutely; and that is one of the chief objections the cordial manufacturers have to-day. As I will demonstrate immediately, the present form of this new schedule is even more pointed in compelling that substitution of fortified wines for distilled spirits, and the cordial trade look forward to a compulsory revolutionizing of their formulæ for the manufacture of these cordials, and they can not make the cordials so well out of these fortified wines, even though they be neutral fortified wines. They wish to make them out of high-proof distilled spirits, tax paid of $1.10, reduced to the proof desired for the cordial and add the flavor and the sugar. The pure distilled spirit of the finest quality will take these flavors up perfectly.

This new act, the new wine schedule, contemplates this: As I stated in the beginning there is provided a sliding scale of tax from 4 cents to 10 cents on wines up to 21 per cent alcohol by volume, and the 10-cent tax will cover the fortified wines, because the fortifying commences about 10 per cent, or thereabouts, and goes on up to, varying according to the wines, about 20 per cent by volume. It proposes that the fortifying brandy, which is to be employed in these wines, shall not pay 55 cents, as was proposed in the emergency-revenue act, but that these fortifying brandies should pay only 10 cents per gallon. That is one-eleventh of the regular distilled-spirit tax. It is 10 cents per gallon of brandy, as againt $1.10 paid for grain spirits distilled all across the country.

This says:

On each bottle or other container of liqueurs, cordials, compounds, or preparations containing distilled spirits of wine, 1½ cents on each one-half pint or fraction thereof.

There is a comma after each of the words, "liqueurs," "cordials," and "compounds."

The CHAIRMAN. Are you speaking of the bill?

Mr. COOKE. I am speaking of the present bill, line 6, page 77.

Now we would not have so much complaint to make on behalf of the cordial manufacturers if there was a comma after the word "preparations," but the language as it stands now is susceptible of this construction: that each gallon of liqueurs shall pay 24 cents a gallon, each gallon of cordials shall pay 24 cents a gallon, each compound shall pay 24 cents a gallon, under the general terminology. That means any liqueur, any cordial, any compound that can be described in the dictionary shall pay that, and that is the construction the Treasury Department undoubtedly would attempt to give the language, inasmuch as it follows, in substance there, the language of the emergency revenue act.

Then there follows:

Or preparations containing distilled spirits of wine, 1½ cents on each one-half pint or fraction thereof.

I do not know what that language means. I know the language in the Kent bill introduced in the House read not "distilled spirits of wine," but "distilled spirits or wine," so that there you had the broadest kind of language. Every liqueur, every cordial, every com-

pound, every preparation, whether containing distilled spirits or containing wine, should pay 24 cents a gallon, and that nailed every cordial, liqueur, or compound in the country, even though made from $1.10 taxed distilled spirits.

Now I am going to discuss the present language as if that was the intention of the present language. The language is drawn without a comma after the word "preparations." If the phrase "containing distilled spirits of wine" does not qualify liqueurs, cordials, and compounds, we are driven to the dictionary to find out what is taxed under those words. If that be the construction of that language then we are confronted with a serious proposition, and if the committee will follow these figures closely they will grasp the effect upon the revenue forthwith.

All cordials average 20 per cent alcohol by volume, or 40 per cent proof. That is about one-half the alcoholic strength of whisky. Whisky is sold at from 80 per cent to 100 per cent proof. The tax on a gallon of cordial made from distilled spirits is 44 cents, or two-fifths of the tax on a proof gallon, because 40 per cent proof is just two-fifths of 100 per cent proof. The tax on a proof gallon is $1.10; the tax on a 40 per cent proof gallon is two-fifths of that, or 44 cents.

You can make the same gallon of cordial, 40 per cent proof, out of a 20 per cent wine, which is 40 per cent proof liquor. The tax on that gallon of wine, under this act, will be 10 cents for the gallon of wine and it will be 2 cents for one-fifth of the gallon of fortifying brandy that is present, and you will get a total tax on 40 per cent proof wine of 12 cents. Therefore, your gallon of cordial made from distilled spirits represents 44 cents distilled-spirit tax. Your gallon of cordial made from wine represents 12 cents wine tax.

Under this language the manufacturer of the cordial, manufacturing 2 gallons of cordial, one from distilled spirits and one from wine, would have to add to each gallon of cordial 24 cents. That would make his gallon of distilled spirit cordial cost him in tax money to the United States 44 cents spirit tax, plus 24 cents cordial tax, equalling 68 cents. It would make his wine cordial cost him in tax to the United States Government 12 cents wine tax, plus 24 cents cordial tax, or 36 cents. Therefore there is a clear margin of the difference between 68 cents and 36 cents, 32 cents clear tax advantage, if he uses his wine base instead of his distilled spirit base. They will be compelled to do that. Thirty-two cents on a gallon of cordial is a prohibitive margin, if anyone else in the market is selling wine base cordial with 32 cents less tax on it, because in cordials, as in all distilled spirit liquors, the tax item is the chief item of cost to the manufacturer.

The cordial trade looks forward to a compulsory substitution of fortified wine bases for cordials in place of distilled spirits bases for cordials, because if one person in the trade commences the manufacture of creme de menthe, from a wine base, and it is possible to buy these fortified wines substantially as neutral as distilled spirits, with no ordinary wine flavor or wine taste to them at all, the whole trade will have to follow. These wines are an alcoholic solution, 40 per cent proof, or 20 per cent alcohol by volume, and if you add to that the mint flavor and sugar, you will have a cordial which the ordinary palate would not distinguish, at least at first, from the spirit base cordial and which certainly would be sold in the market to such an

extent as to compel all houses to do their best to make their cordials from these wine bases rather than from the distilled spirits bases.

It is possible to construe this section so as not to bring about that anomalous and disastrous result both to the cordial trade and to the revenue. It would have a most disastrous effect upon the United States revenues from distilled spirits. We figure that there are about 10,000,000 gallons of cordials manufactured in the United States in a year. It is difficult to ascertain the exact amount of cordials, because our returns from the rectifying houses do not show the proportion of cordials to all other rectified goods, but, figuring on the basis of about 10,000,000, it is readily discernible what effect that would have upon the distilled spirits that go into the cordials. We figure that on an average proof of 40 per cent for 10,000,000 gallons of cordials some 3,000,000 or 4,000,000 proof gallons of distilled spirits are used annually in the manufacture of these distilled spirits cordials. The substitution of fortified wines for those millions of gallons of distilled spirits would, of course, result in a reduction of revenue. I think that in a memorandum which Mr. Mihalovitch, the secretary for the cordial manufacturers' association, will present that will be more clearly stated on a computation.

It is possible to construe this language so as not to bring about that result. If there were a comma after the word "preparations" so that the language would read that "only a liqueur, only a cordial, only a compound, and only a preparation, containing distilled spirits of wine, should pay the cordial tax," then you would find that your wine base cordial only would pay this cordial tax, with the result that the tax on the wine-base cordial would be 12 cents plus 24 cents, or 36 cents per gallon, as against 44 cents for the distilled spirit-base cordial, and that would leave a margin of only 8 cents per gallon between a cordial manufactured from fortified wine and a cordial manufactured from distilled spirits, and that would not be sufficient to revolutionize the cordial trade.

Senator THOMAS. I do not catch the line of argument by which you reach that conclusion by the addition of a comma.

Mr. COOKE. The reason, if the Senator please, is this. I can explain it by showing the language to you and reading it. The language, as it is contained in the bill, is as follows:

> On each bottle or other container of liqueurs, cordials, compounds, or preparations containing distilled spirits of wine, 1½ cents on each one-half pint or fraction thereof.

That, you see, is without a comma after "preparations." If this phrase containing "distilled spirits of wine" qualifies only "preparations" then liqueurs, cordials, and compounds are taxed whether they contain distilled spirits of wine or any other distilled spirits. Is that clear?

Senator THOMAS. The idea is clear, but I do not see why that follows.

Mr. COOKE. I am perfectly willing to agree that the use of a comma there is only an inapt way of making the correction that I think, and the cordial manufacturers think, should be made. If there were a comma there, it could well be concluded, as matter of statutory construction, that the phrase qualifies "liqueurs," "cordials," "compounds," and "preparations."

Senator THOMAS. I see your argument.

Mr. COOKE. As it stands now it can be argued that it qualifies only "preparations," therefore all cordials made with distilled spirits or anything else, must pay 24 cents a gallon, and that brings about an anomalous situation.

In my opinion there is one proper way to correct this thing, and it is vital not only to the cordial industry but it is vital to the revenues, and that is to make this language substantially accord with the original theory and principle of the fortified wine acts; that is, either to prohibit the use of fortified wines in the manufacture of cordials in toto, as was the old rule, or to put a tax upon cordials made with fortified wines which will equalize the Government alcohol tax on the cordials made from wine bases with the distilled spirit cordials made from the $1.10 taxed distilled spirits. As I have said, if that is done, the tax will be substantially equalized on a 20 per cent cordial.

Senator THOMAS. Have you formulated that idea in a suggested amendment to the statute?

Mr. COOKE. Mr. Mihalovitch, on behalf of the cordial manufacturers, will leave a brief for printing in the record, which states this proposition. I also will leave a copy of a brief which a single cordial manufacturer presented to Senator Simmons yesterday, I believe, and I think there will be no impropriety in incorporating that in this record, so the two briefs to be presented will be together in the record.

The CHAIRMAN. Both of the briefs will be printed.

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

MEMORANDUM OF AMENDMENT REGARDING CORDIALS.

[Submitted to Senator Simmons in behalf of Mr. Fred Meyer, of Meyer, Pitts & Co., Baltimore, Md.]

H. R. 16763, page 77, line 6, should be amended to read as follows:

"On each bottle or other container of liqueurs, cordials, compounds, or preparations, *containing wine fortified under this act*, 1½ cents on each one half pint or fraction thereof."

The language italicized is substituted for the language "containing distilled spirits of wine" present in the bill as it reached the Senate.

The object of this amendment is to avoid any ambiguity by way of suggestion that all cordials, all liqueurs, and all compounds, including those containing only distilled spirits tax-paid at $1.10 per proof gallon, are subject to the supertax of 24 cents per gallon.

With this amendment the cordial tax will be limited to cordials made with cheaply taxed fortified wines; and the 24 cents per gallon cordial tax will then operate to equalize the total tax between cordials made with tax-paid distilled spirits and those made with cheaply taxed fortified wines of equal alcoholic content.

To illustrate: The average alcoholic strength of cordials is 40 per cent internal revenue proof, which means 20 per cent alcohol by volume of alcohol content. A 20 per cent alcoholic wine equals 40 per cent internal revenue proof and can be used as a base for a 40 per cent proof cordial. Likewise 40 per cent proof distilled spirits may be used and are almost exclusively used as the base for such cordials.

Under the wine schedule of H. R. 16763 the tax on the alcohol for the base in either case is as follows:

Wine base 40 per cent proof, 10 cents per gallon plus 2 cents for fortifying brandy present (one-fifth gallon fortifying brandy at 10 cents per gallon) equals 12 cents.

Distilled spirit base 40 per cent proof (two-fifths proof gallon 100 per cent proof at $1.10 per proof gallon), 44 cents.

Therefore it is plain that the wine base costs in alcohol tax only 12 cents per gallon as against a cost for the distilled spirit base in alcohol tax of 44 cents.

If the cordial tax of 24 cents per gallon is added to the finished cordial containing fortified wine, then the tax on the cordial with the wine base is 12 cents (the wine tax) plus 24 cents (the cordial tax) or a total tax of 36 cents.

This tax is still 8 cents less than the 44 cents of tax present in the distilled spirit base cordial, but the tax is substantially equalized, and the cordial trade will not be forced to use wine bases for their cordials, which would displace distilled spirit tax.

If the 24 cents per gallon for cordials were added to the 44 cents of spirit tax, all distilled spirit cordials would pay 68 cents per gallon of 40 per cent proof, which would be prohibitive and force the substitution of fortified wine bases paying only 36 cents per finished gallon of cordial.

The original act as amended, providing for fortifying wine with substantially tax-free brandy, expressly prohibited the rectifying, mixing, or compounding of fortified wines, the object being to prevent the manufacture of cordials, liqueurs, or other compounds with fortified wines, which would thus displace tax-paid distilled spirits.

Such use of fortified wines now, without equalization of the tax as certainly provided in this amendment, would be to open the doors to cheaply taxed fortifying brandy in competition with full-taxed distilled spirits.

(The brief of the American Association of Cordial Manufacturers, filed by Mr. Mihalovitch, is here printed in full, as follows:)

BRIEF PRESENTED BY THE AMERICAN ASSOCIATION OF CORDIAL MANUFACTURERS

THE CORDIAL TAX SHOULD BE ELIMINATED FROM THE REVENUE BILL H. R. 16763.

This association, representing substantially all the cordial manufacturers in the United States, present this brief to the Finance Committee of the Senate, urging the elimination of the proposed cordial tax in the wine schedule of H. R. 16763, on the following grounds:

POINTS AGAINST CORDIAL TAX.

1. There is no reason on the facts, either as matter of justice in taxation, or as a sheer proposition of revenue raising, in the double taxation of cordials proposed in the wine schedule of H. R. 16763.

2. All theoretical basis for taxing cordials in the emergency revenue act, which grew out of the fact that wines were taxed at the time of consumption, and only by taxing cordials could any wine present in the cordial be taxed, is eliminated in H. R. 16763 by the fact that wines are taxed at the source, and consequently are tax paid when received by the cordial manufacturer if used by him in making cordials.

3. The effect of putting a 24-cent per gallon supertax on cordials would not only ruin the cordial business as it now exists, but would tend to injure the revenue, by reducing withdrawals of distilled spirits tax paid at $1.10 per proof gallon for cordial manufacture.

4. The present wine schedule, which taxes wine of 20 per cent alcohol by volume at only 10 cents per gallon and makes a grant of tax-free brandy for fortification thereof at 10 cents per gallon charge for withdrawal, is so designed as to force the use of this 20 per cent alcoholic wine, which actually is a 40 per cent proof liquor, as the alcoholic base for cordials, thus displacing distilled spirits tax paid at $1.10 per proof gallon in cordial manufacture.

5. Not more than 5 per cent of the cordials made in the United States are under normal conditions made with a wine base or with wine ingredients, yet H. R. 16763 would by force of taxation and to avoid excessive finished cost compel cordial manufacturers to buy cheaply taxed fortified wines for cordial bases in order to reduce the tax cost of their finished cordials by reducing the cost of the tax on the alcoholic base.

6. It must be realized that the cordial manufacturer buys tax-paid alcohol to make his cordial. He also buys taxed sugar as the sweetening agent. To add 24 cents per gallon tax to the finished cordial is subjecting the product to ruinous double taxation. Under the tax cordials would be the most highly taxed liquors in the country.

The foregoing propositions are stated as points against taxing all cordials.

The following argument will be merely a general discussion of the several propositions stated in the points without attempting to follow them in order:

ARGUMENT.

For the first time in the history of the internal-revenue system in the United States, wines were taxed in the emergency revenue act of October 22, 1914. The wine schedule was finally arranged in the conference upon the bill. Still wines were taxed at 8 cents per wine gallon. Brandy for fortifying sweet wines which had hitherto been free except for a 3-cent charge for withdrawal was taxed to the wine manufacturer at 55 cents per proof gallon. The tax on the wines was to be paid by stamp affixed to the container at time of sale to the consumer.

Those who drafted the wine schedule in the emergency revenue act inserted a tax of 24 cents per gallon upon cordials, liqueurs, and similar compounds.

A cordial or liqueur is a sweetened alcoholic liquor with or without aromatic or other ingredients. The stated object of this tax was to cover the tax on any wine that might be present in cordials, which otherwise would escape tax on account of the fact that wines were not to be taxed except at the time of sale to the consumer.

Not more than 5 per cent of the cordials manufactured in the United States are actually made with a wine base or with wine ingredients. The use of wine fortified with tax-free brandy had under the original wine fortification act been forbidden in the manufacture of cordials in order to prevent such tax-free brandy being used to displace distilled spirits tax paid at $1.10 per proof gallon in the manufacture of cordials.

H. R. 16763, page 77, line 6, proposes a continuation of the cordial tax in the following language:

"On each bottle or other container of liqueurs, cordials, compounds, or preparations containing distilled spirits of wine, 1½ cents on each one-half pint or fraction thereof."

(NOTE.—It will later be argued in this brief that the form of this language limits the tax to any cordial containing distilled spirits of wine and does not apply to grain spirits. Prior to this argument, however, the whole subject will be treated as if all cordials were intended to be taxed and the argument will be aimed at the elimination of this kind of a general cordial tax.)

The wine schedule, page 68, line 15, et seq., proposes a tax on wines containing not more than 14 per cent of absolute alcohol of 4 cents per gallon; on wines containing more than 14 per cent and not exceeding 21 per cent of absolute alcohol, 10 cents per gallon; on wines containing more than 21 per cent and not more than 24 per cent of absolute alcohol, 25 cents per gallon.

It is also provided in the bill, at page 71, line 12, that manufacturers of sweet wines may withdraw brandy for fortification of wine at a tax of 10 cents per proof gallon. That is, the manufacturer of wine would secure brandy at 10 cents per proof gallon instead of the ordinary tax of $1.10 per proof gallon.

It is provided, page 78, line 5, et seq., that wines thus tax paid containing substantially tax-free brandy can be used in the manufacture of cordials, such cordials to pay 24 cents per gallon when finished.

A 40-proof cordial, i. e., a cordial containg 20 per cent of absolute alcohol by volume, is an average strength of cordial in the United States.

Such a cordial is ordinarily made from a distilled spirit base and the ordinary gallon of such a cordial consequently contains 40 per cent of 1 proof gallon of distilled spirits; that is, two-fifths of 1 gallon. The tax on the alcohol in such a gallon of cordial amounts to 44 cents distilled-spirit tax. Such a gallon of cordial made with a wine base, the wine being 21 per cent absolute alcohol, or 42 per cent proof, will bear a tax of 10 cents for the gallon of wine and 2 cents for the fortifying brandy withdrawn at 10 cents per gallon. Therefore the total tax on the cordial manufactured from this cheaply taxed wine will be 12 cents per gallon of cordial. Therefore the distilled-spirit tax in the first cordial will be 44 cents as against the wine tax of 12 cents in the second cordial.

The inevitable effect of the present bill which permits the use of fortified wine in the manufacture of cordial is to force the use of wine bases for cordials rather than distilled spirit bases.

The proposal to tax all finished cordials 24 cents per gallon only emphasizes the necessity of using the cheaper alcohol base. Add 24 cents per gallon to the two gallons of finished cordial, one from distilled spirits and one from wine, we find the finished tax cost to be in the one case 68 cents and in the second case 36 cents. Since the cost of the cordial is advanced by 24 cents, it becomes all the more necessary for the cordial manufacturer to use the most cheaply taxed ingredient which he can find.

Assuming that this result will inveitably follow, the Government will still lose tax. While the Government would theoretically receive 24 cents per gallon as cordial tax on all cordials, it would none the less lose the 32 cents per gallon on each gallon of cordial manufactured from wine. In other words, the Government would be giving away 34 cents of distilled spirit tax on each gallon of cordial and receiving only 24 cents per gallon; i. e., the cordial tax on each gallon of cordial.

It is manifest that while the Government would be losing this tax, the cordial manufacturers would be suffering from the necessity of transforming their business by the substitution of wine bases for distilled spirit bases in the manufacture of their goods, the quality of their cordials would deteriorate and they would be driven by tax discrimination to purchase their wine bases for cordials in a limited field.

The cordial manufacturers feel that they would be subjected to commercial coercion by virtue of the method of taxing their product adopted by the Government.

The cordial manufacturers protest against double taxation. They protest against taxpaying on alcoholic materials from which they manufacture the cordials and then taxpaying the finished cordial. They point out that the only substantial distinction between cordial liqueurs and other liqueurs is the presence of the cordial ingredients introduced to sweeten the product. They also point out that the cost of their product is increased by the presence of the sugar, and in this connection point out that the sugar which they are using is subjected to a special tax by the United States Government.

The cordial manufacturers are willing and anxious to pay tax on the alcohol which they employ as all other producers and handlers of distilled spirits pay the tax. They do protest against supertaxation of their individual product and assure the committee that the effect of this supertaxation of the cordial business of the country will have the inevitable effect of greatly reducing the amount of these goods handled in proportion to all other alcoholic liquors. They assert that the internal-revenue taxes should not be used without any reason whatever to burden one line of the liquor business with a discriminatory tax.

No single reason can be advanced by anyone which will justify the imposition of a supertax upon cordials. The only possible reason for putting the cordial tax into the wine schedule is to show a paper revenue from the whole schedule by virtue of a substantial part thereof imposed not upon wines but upon cordials. If wines are to be taxed, let them be taxed at a fair and equitable rate, but it is manifestly unfair to pretend that a tax is being derived from wines when it is actually being derived from a distinct class of liquors, to wit cordials, which already pay a substantial tax upon their alcoholic ingredients in fair proportion to the tax paid by other alcoholic liquors.

REGARDING THE CONSTRUCTION OF THE PRESENT BILL.

As we stated above, the foregoing argument has been aimed at the proposition of eliminating the cordial tax as a whole and on the idea that the bill proposed a tax of 24 cents per gallon upon all liqueurs, cordials, compounds, and preparations of that character.

The original Kent bill in the House of Representatives which has been largely incorporated in H. R. 16763, proposed a tax on "liqueurs, cordials, compounds, or preparations containing distilled spirits or wine." As H. R. 16763 was introduced in the House, as it was reported and as it passed the House the language now at page 77, line 6, is as follows: "Liqueurs, cordials, compounds, or preparations containing distilled spirits of wine."

If this language stands in the finished act, it should be made clear that it is the desire of Congress to tax only a liqueur, cordial, compound, or other preparation at 24 cents a gallon which contains distilled spirits of wine, i. e. the distillate derived from wine itself. This is a distillate which is used substantially tax free in fortifying wines under this bill.

The effect of this clear statement should be to limit the cordial tax to cordials made with a cheap wine base in which fortifying brandy is present.

This will be an equitable solution of the whole problem, and will continue to safeguard the revenue substantially as in the past when the use of tax-free fortified wine was forbidden in rectification where it would displace distilled spirits.

Under this construction the tax on a gallon of cordial made from fortified wine, 40 proof, would be 36 cents. The tax on a gallon of cordial manufactured from distilled spirits would amount only to the distilled spirit tax of 44 cents.

While there would still be a tax advantage of some 8 cents in favor of the wine-base cordial, this difference would not be sufficient to revolutionize the cordial business by way of a complete change in all formulæ and the Government would be assured of continuing to receive all of the distilled-spirits tax properly payable upon cordials manufactured with tax-paid distilled spirits and at the same time would collect almost an equal amount upon wine-base cordials by virtue of the wine tax plus the cordial tax imposed exclusively upon such cordials.

This construction is borne out by the language on page 78, line 5, et seq., which prohibits under penalty the compounding of distilled spirits with any domestic wines, "other than in the manufacture of liqueurs, cordials, preparations, or compounds taxable under the provisions of this section."

It is plain by this section that the proposal is to forbid the mingling of tax-paid distilled spirits with wines in the manufacture of compound articles unless such compound articles are intended to be tax paid at 24 cents a gallon. Otherwise, by the mere use of some tax-paid distilled spirits the cheaply taxed wine could be put out

on the market in competition with tax-paid distilled spirits without having been subjected to the equalizing cordial rate.

With the cordial tax being construed as limited to products containing cheaply taxed wines, we find the cordial tax performing a sound function of equalizing the rates of the tax and preventing cheaply taxed wines containing fortifying brandy from displacing distilled spirits tax paid at $1.10 per proof gallon.

It is possible that clearer language could be used in the cordial-tax section to make this plain, as for instance by making the language read: "Liqueurs, cordials, compounds, or preparations, containing wines fortified under this act."

This would make the law substantially what it was prior to the emergency revenue act, when the use of fortified wines was forbidden in rectification, the only present change being to permit their use provided a tax is paid on the finished product to equalize the difference between the wine tax and the distilled-spirit tax, which otherwise would be displaced.

CONCLUSION.

On the whole proposition the cordial manufacturers of the United States protest against the cordial tax of 24 cents per gallon wherever and whenever the effect of such tax is to make an addition of such tax to the distilled-spirit tax upon the alcohol base for the manufacture of cordials. On some cordials it is substantially impossible to use any distilled spirits except the finest grain spirits obtainable, tax paid at $1.10 per proof gallon. There is no justification whatever in imposing 24 cents per gallon upon these cordials in addition to the distilled-spirit tax which has already been paid. Such a supertax amounts only to an extra tax upon the cordial manufacturer, because he uses sugar in conjunction with his alcohol. As above stated, the cordial manufacturer is already paying tax on his sugar as well as his alcohol. So far as other cordials are concerned in which a wine base can be used, the Government stands to lose tax by substitution of cheaply taxed wines for distilled spirits and the manufacturer is driven to a limited field for the purchase of his cheaply taxed alcohol base.

The wine schedule should be a wine schedule alone and should not contain a supertaxation of other products not remotely related to the wine industry.

Respectfully submitted.

NATIONAL ASSOCIATION OF CORDIAL MANUFACTURERS.
By EDWIN LEHMAN, *President*,
Arrow Distilleries Co., Peoria, Ill.
SIDNEY F. MIHALOVITCH, *Secretary*,
The Mihalovitch Co., Cincinnati, Ohio.

Mr. COOKE. The proper correction to make in order to square this wine schedule with all preceding wine legislation and do fairness to all parties in the wine industry whose wines can be used in cordials, and in order to do justice to the revenues of the United States in order that that may be collected fully and at the same time equitably, the amendment that will accomplish this is simply to make the section read:

On each bottle or other container of liqueurs, cordials, compounds, or preparations containing wine fortified under this act, 1½ cents on each one-half pint or fraction thereof.

Senator THOMAS. Making no mention of wine fortified by spirits?

Mr. COOKE. That language, "wine fortified" under this act will cover all wines that are fortified, because the preceding sections of the act provide for the fortification of the wine, and there will be no fortified wine upon the market except wine that has been fortified under the terms of this act. That will bring this law in absolute parity with all previous principles of fortifying wine in relationship of that business to the internal-revenue laws of the country.

I can not emphasize too strongly the evil effect of any other provision of law, both upon the cordial industry and upon the revenues. We will be confronted immediately under this language as it at present is construed, as I have suggested it can be construed—we

will be confronted immediately with a complete change in the processes of the cordial industry to meet the necessities of taxation and competition under taxation, and the revenues will inevitably lose a million, a million and a half, or two million dollars. You will be substituting a 24-cent gallon cordial tax for a 44-cent spirit tax, on nearly every gallon of cordial that goes into consumption, less the wine tax, which will make a clear loss to the Government of something in the neighborhood of $1,000,000 to $1,500,000. It is altogether owing to the volume of the cordial business, which we are not able to ascertain.

The cordial manufacturers of the country are a unit in opposition to this. They are a unit in opposition to it because they do not want to revolutionize their business, they do not want to be confronted by a coercive change of methods which would be brought about by this tax inequality.

The CHAIRMAN. Is there much cordial imported?

Mr. COOKE. There is a substantial importation of cordials from abroad. The French cordials are very important.

Senator THOMAS. Does that importation continue during the war, or does the war affect that importation?

Mr. COOKE. There has been some difficulty in the importation of all liquors from abroad, due not so much to any stoppage of the trade as to an inability on the part of cordial manufacturers, and other liquor manufacturers abroad, to get alcohol. This is not germane to this subject, but it will be of information for the committee. As we all know, alcohol is vital in the waging of war. It takes a barrel of alcohol, high proof, to shoot a big gun. It takes as many pounds of alcohol as it does pounds of powder. Every time you fire a 13-inch gun or a 12-inch gun, you shoot away about 50 gallons of alcohol. Now, the result of that has been that in France and in England all of the alcohol factories, which formerly turned their product into the channels of the beverage trade and the industrial trade, have been devoted exclusively to manufacturing alcohol for munitions. There has been exportation of alcohol from the United States to France for manufacture into liquors. There has been exportation of whiskies for the first time in the history of this country to England.

Senator THOMAS. Is that alcohol used in the manufacture of explosives?

Mr. COOKE. No; beverage consumption alcohol.

Senator THOMAS. I mean that which is used in the war, is that used in the manufacture of the explosives?

Mr. COOKE. Yes, sir; in the manufacture of powder. It is absolutely essential in connection with the picric acid.

Mr. MIHALOVITCH. There is about a gallon of alcohol to a pound of guncotton.

Senator THOMAS. That is what is called the cellulose powder?

Mr. MIHALOVITCH. Yes, sir.

Mr. COOKE. In England, I understand they made a provision that no alcohol should be sold for beverage consumption until three years of age. That is not on account of an attempt to change the character of alcohol drunk as whisky in Scotland, Ireland, and England, but to compel the present production and for three years hence of new alcohol to go into munition manufacture. In other words, the manufacturer is forbidden to sell new spirits for beverage, and as a conse-

quence he sells his patent spirits as they call neutral spirits there, direct to the powder manufacturers. It increases the availability of alcohol for those uses.

The CHAIRMAN. How is it used in powder?

Mr. COOKE. You are a chemist, Mr. Mihalovitch, and can state that better than I.

Mr. MIHALOVITCH. They take the guncotton and dissolve it in alcohol, and they recover some of it. They use about a pound of guncotton to a gallon of alcohol, three-quarters of a pound to a pound of alcohol. The reason for this is that alcohol does not emit any smoke when it burns. That is why they use it in smokeless powder. They are unable to see the smoke.

Mr. COOKE. I understand it is necessary more in the chemical reactions that they secure in the manufacture of the powder, and it is an absolute essential. Undoubtedly Germany has been as successful in the manufacture of munitions as much on account of her enormous alcohol production as on any other account. They manufacture alcohol from sugar-beet refuse and from potatoes.

Senator THOMAS. If we get universal prohibition in this country, we may be short of powder?

Mr. COOKE. Senator Thomas, if this country were to go to war to-morrow and all the country were like Colorado we would be in a very, very serious situation.

Senator THOMAS. We have gone prohibition, but we have not gone dry.

Mr. COOKE. I hope that will be a measure of preparedness at all times in the future.

The CHAIRMAN. Mr. Sidney Mihalovitch will be heard now. Mr. Mihalovitch can you tell us about the imports of these various cordials in normal times?

STATEMENT OF MR. SIDNEY MIHALOVITCH, OF CINCINNATI, OHIO, REPRESENTING THE AMERICAN ASSOCIATION OF CORDIAL MANUFACTURERS.

Mr. MIHALOVITCH. Imports of cordials in normal times are about 20 per cent of the manufacture of domestic cordials; but I will say this, some of the largest importing firms have now in New York their branches and are now making these cordials in New York.

The CHAIRMAN. Do you export cordials?

Mr. MIHALOVITCH. We do not.

Mr. COOKE. There is a very good reason for that, Mr. Chairman. It is substantially impossible in this country to export any rectified liqueur on account of the state of our internal-revenue laws. We have to tax pay distilled spirits before we can use them for rectification, and then we lose the indicia by virtue of which it is possible to export them, we lose the benefit of the drawback of the internal revenue. You can not export an article from the United States such as whisky, and get your drawback unless you export it in bond from a distillery bonded warehouse, or export it under double stamps—i. e., with the tax-paid stamp intact—and receive the taxes back. Once you dump your spirits for rectification you lose that opportunity to get the drawback of internal revenue.

The CHAIRMAN. The form in which these cordials are put up for retail consumption, for sale, is what?

Mr. MIHALOVITCH. They are put in bottles, put in different-sized containers from one-half pint up to a gallon or to a barrel. It is according to the way a man buys it. We take these cordials, and I want to state that I concur in all Mr. Cooke states—we make these cordials first from the distilled spirits that bear the tax of $1.10 a gallon and add sweetness, add sugar, and then add flavoring matter to suit the taste. The supertax on this is really only on the sugar content. Under this law we will be paying $12 a barrel, 24 cents a gallon, on a 50-gallon package, because we put 10 to 15 pounds of sugar in a barrel of cordial.

Mr. COOKE. More than that.

Mr. MIHALOVITCH. That is the least amount. Now, if a man makes a barrel of gin he can sell it without paying the tax, but if he wants to sweeten it a little, what is known in the trade as Tom gin, and puts in some sugar he has to pay 24 cents a gallon for that.

The CHAIRMAN. Let me find out about these ingredients. I speak of crème de menthe. What constitutes crème de menthe?

Mr. MIHALOVITCH. Crème de menthe is an alcoholic solution of about 40 per cent proof, containing sirup, sugar, and permanent flavor.

Senator THOMAS. How do you color it?

Mr. MIHALOVITCH. With a vegetable color, chlorophyl. The Department of Agriculture allows its use.

The CHAIRMAN. How much alcohol do you put in a gallon of crème de menthe?

Mr. MIHALOVITCH. There is about 40 to 50 per cent proof, just according to the price and taste.

The CHAIRMAN. About 40 per cent of the gallon?

Mr. MIHALOVITCH. Forty per cent proof spirits.

Senator THOMAS. That would be 20 per cent?

Mr. MIHALOVITCH. Twenty per cent alcohol.

The CHAIRMAN. What does it cost you?

Mr. MIHALOVITCH. What do we sell that for?

The CHAIRMAN. No; what does it cost you, 40 cents a gallon?

Mr. MIHALOVITCH. The tax on the spirits costs us 44 cents.

The CHAIRMAN. Now, how much sugar do you put in it, or how much sirup to the gallon?

Mr. MIHALOVITCH. It all depends on the locality in which it is sold. Persons out West like goods sweeter than they do in the East. Some of the foreign elements do not like their crème de menthe so sweet.

Mr. COOKE. What is the average?

Mr. MIHALOVITCH. The average is all the way from 10 to 20 pounds sugar to the barrel.

The CHAIRMAN. I said to the gallon.

Mr. MIHALOVITCH. It would be about one-half to one pound.

The CHAIRMAN. Of sweetening?

Mr. MIHALOVITCH. Of sugar.

The CHAIRMAN. What other ingredient goes in?

Mr. MIHALOVITCH. Oil of peppermint.

The CHAIRMAN. About how much to the gallon?

Mr. MIHALOVITCH. To the gallon? It ought to be about 6 ounces to the barrel, 48 drachms—say a drachm to a gallon.

The CHAIRMAN. What would be the cost to the manufacturer?

Mr. MIHALOVITCH. Peppermint oil costs to-day $4.80 a pound.

The CHAIRMAN. What would be the cost per drachm?

Mr. MIHALOVITCH. One ounce would cost 30 cents and a drachm would cost about 3¾ cents.

The CHAIRMAN. And coloring?

Mr. MIHALOVITCH. And coloring.

The CHAIRMAN. What would be the cost of the coloring per gallon?

Mr. MIHALOVITCH. About one-fourth to one-half cent a gallon.

The CHAIRMAN. What is the average price at which crème de menthe is sold?

Mr. COOKE. You have only got the tax cost of the alcohol and have not got the alcohol cost. They have got to buy the alcohol from the manufacturer of the alcohol.

Mr. MIHALOVITCH. That in the market to-day is $1.40 per proof gallon, so that 40 per cent proof would be 56 cents; that is, the tax plus alcohol cost would be 56 cents.

The CHAIRMAN. Do you pay a tax on the alcohol?

Mr. MIHALOVITCH. We use double stamp alcohol. We pay a tax on the alcohol.

Mr. COOKE. They have to pay $1.10 to free it from the bonded warehouse.

The CHAIRMAN. Yes; somebody has to pay it.

Mr. MIHALOVITCH. We pay it, sight draft attached to bill of lading. There is time given on spirits.

Senator THOMAS. You pay it and pass it on to the consumer?

Mr. MIHALOVITCH. Yes, sir.

The CHAIRMAN. Then how much do you pay for the alcohol besides the tax?

Mr. MIHALOVITCH. That is the tax and everything, the 40 per cent proof solution costs us 56 cents, the market being $1.40 for proof spirits per gallon.

The CHAIRMAN. I understood you to say in addition to the tax of $1.10 you had to pay something for the alcohol?

Mr. COOKE. He has to. If the chairman please, he has to pay on the gallon of alcohol he puts into his cordial the $1.10 tax per proof gallon; then he has got to pay 36 to 40 cents per gallon for the alcohol. He has got to pay the manufacturer of the alcohol for the cost of the alcohol to him.

Senator THOMAS. According to your statement the tax is very much more than the value of the alcohol.

Mr. COOKE. The alcohol tax in the United States is 500 per cent ad valorem.

The CHAIRMAN. At what price is this creme de menthe sold?

Mr. MIHALOVITCH. About $1 we get for it.

The CHAIRMAN. You make these cordials out of various fruits?

Mr. MIHALOVITCH. Out of fruit juices. We add, say, apricot or blackberry or peach and make apricot, blackberry, or peach cordial.

The CHAIRMAN. Is the cost of the various fruit flavorings relatively the same?

Mr. MIHALOVITCH. No; they cost more on account of the addition of the fruit; it just makes it that much more expensive, in the same proportion, whatever the market price is, to flavor them.

The CHAIRMAN. About what is the sale price per gallon of fruit juice?

Mr. MIHALOVITCH. A 40 per cent proof apricot cordial, flavored with pure fruit juice, would cost about $1.15 a gallon. That is due to the increased cost by the addition of the fruit juice.

The CHAIRMAN. Then you figure up the cost of manufacture as follows:

You pay so much tax on alcohol, so much to the manufacturer of alcohol, so much for sugar, and so much for coloring?

Mr. MIHALOVITCH. So much for flavor and so much for your container.

The CHAIRMAN. For flavoring and coloring?

Mr. MIHALOVITCH. Yes, sir.

Mr. COOKE. You have got to count in the cost the cooperage on barreled goods; you have got to count the cost of glass on goods packed in glass; you have got to count the cost of the overhead on your plant; you have got to count the cost of labor and machinery; you have got to count the cost of salesmanship, which is expensive as in all other lines; you have got to count the cost of handling your accounts. All of this business, from time immemorial, has been on a credit basis, so that the manufacturer, such as Mr. Mihalovitch, must count in his price on a 40 per cent proof cordial 44 cents tax to start, the alcohol material charge, the cost of other materials besides alcohol, the cost of manufacture, and so on up, until his margin of profit is at times at the disappearing point on that basis. I think Mr. Mihalovitch will bear me out in the statement that the cordial business in the past year or two has been in a very depressed condition on account of this depressing tax which has scared off the customers, and the profits have been at the disappearing point. The prices are very much below what they should be to make any real profit in the manufacture, according to all the statements I have heard.

Mr. MIHALOVITCH. I wish the committee would see that the tax on cordials only amounts to a sugar tax and no more.

Senator THOMAS. You made that statement a few minutes ago. I wish you would make it a little clearer.

Mr. MIHALOVITCH. A man can make a barrel of rye whisky at 80 per cent; he does not have to pay the tax of 24 cents per gallon on that product, but the moment he puts in two or three gallons of sirup it becomes a rock and rye cordial and he must pay 24 cents a gallon tax, which is $12 a barrel for the permission to use sirup or sugar. It amounts to a supertax on sugar.

Senator THOMAS. In other words, the double tax applies when you put in the sugar?

Mr. MIHALOVITCH. When you put the sugar in, then you pay a supertax of 24 cents a gallon. That is all there is to it.

Senator THOMAS. That is under the emergency law of 1914?

Mr. MIHALOVITCH. Yes, sir.

Mr. COOKE. And under this act which proposes to continue the 24 cents cordial tax?

Mr. MIHALOVITCH. Then, if we are forced to come to these fortified wines, we must buy from a very limited field and there is not anything to prevent these people making this output from raising their price until there will be just a small difference, which will certainly happen.

Senator THOMAS. I wish to compliment Mr. Cooke. He made a very clear statement. It is always a pleasure to hear a discussion of a subject by a man who is thoroughly informed.

Mr. COOKE. I thank you very much, Senator.

The CHAIRMAN. Senator Thomas, I have a note here from Secretary Daniels, with a suggestion that we hear Dr. Baekeland.

The committee will now adjourn.

(Thereupon the committee adjourned to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(WINES AND LIQUEURS.)

MONDAY, JULY 24, 1916.

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

The subcommittee met, pursuant to call, at 3 o'clock p. m., in the room of the Committee on Foreign Relations, Capitol Building, Senator William J. Stone presiding.

Present: Senators Stone (chairman) and Thomas.

Also present: Messrs. Alfons Wile, Charles H. Simonds, and Joseph G. Ringwalt, representing the Wine and Spirit Importers' Society of the United States, New York, N. Y.; Timothy T. Ansberry, attorney at law, Washington, D. C., and Mr. Thomas E. Lannen, attorney at law, Chicago, Ill., representing the National Wine Growers' Association of America; Ottmar G. Stark, of St. Louis, Mo., representing the Mississippi Valley Wine Growers and Grape Growers' Association; and Mr. F. Alberts, representing the Dry Wine Growers of California.

The subcommittee resumed consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has under consideration section 301, pages 68 to 99. The committee will hear Mr. Alfons Wile.

STATEMENT OF MR. ALFONS WILE, REPRESENTING THE WINE AND SPIRIT IMPORTERS' SOCIETY OF THE UNITED STATES, NEW YORK, WHITE PLAINS, N. Y.

Mr. WILE. Mr. Chairman, I shall not consume very much time of the committee, and what I shall have to say will be said very briefly.

The first proposition is that while we approve of the principle of taxation at the source we are opposed to taxation by stamping. The stamping of wines and liqueurs imposes a great deal of hardship upon the importer as well as the dealer. It necessitates the opening of the cases and destroying the seals and thereby the originality of the case, removing the straw cover and bottle wrappers, affixing stamps, and repacking the wine in order to restore it to its original condition, which can not, however, be done. The moment the case is opened and the seal is broken it is not like the original imported package. We have always been very careful to show the original packages in the sale of our merchandise, because there is a great deal of the blended in this country, partly domestic and partly imported wine, and when a dealer gets a case from us we want to be sure that it is the original case, and it is never tampered with from the time it has been imported.

Now, that guaranty of genuineness is lost the moment the case is opened. Besides that it imposes a heavy burden of expense upon us because it means that such cases can not be stamped in bonded warehouses. There being no facilities for the purpose they will have to be removed to some other warehouse or some other place where it can be done. It means, therefore, double cartage, and we figure that the expense of opening cases and affixing stamps and reclosing cases amounts to at least 40 cents, and in many cases as much as 75 cents a case. When it is borne in mind that there are perhaps a million cases of wines, still and sparkling and vermuth, and of cordials in compounds that are taxable under this act that are in the hands of importers and of dealers throughout the country, it means that somewhere between $400,000 and $750,000 have to be expended in order to affix a stamp without any additional benefit to the Government.

We propose, therefore, or beg respectfully to suggest that the tax, whatever may be decided upon, on wines, sparkling wines, vermuths, cordials, and liqueurs be imposed without stamps and be collected at the source, but without the affixing of stamps, and we have taken the liberty to draw up a little provision which we think would cover the situation, as an amendment to the House bill entitled "An act to increase the revenue and for other purposes," by inserting in section 45, at subsection (e), line 4, page 78, the following:

Provided, That the collection of the tax herein prescribed on still wines, including vermuth and sparkling wines, including champagne, and on liqueurs, cordials, and compounds, may be made, within the discretion of the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, by assessment instead of by stamps.

That would work out in this way with respect to imported goods: The tax would be collected at the same time as the duty is paid, but instead of having to have an internal-revenue agent present at the warehouse when the goods are withdrawn to see that they are properly stamped, the Government would save the expense of this internal-revenue agent and all other trouble, and you would be actually sure of collecting every cent of revenue under the act without expense, while this proposed method of stamps would greatly increase the expense and annoyance of the importers and retailers.

Senator THOMAS. Just precisely what do you mean by assessment instead of stamps?

Mr. WILE. Instead of selling stamps which are to be affixed by us, the Government at the time the duty is fixed, or at the time we pay our duty on an entry, would at the same time assess the tax prescribed by the law for internal-revenue purposes.

Senator THOMAS. Could you not fix the stamp upon the container? Suppose you have a box containing a dozen bottles, could you not put it on the box?

Mr. WILE. That would entail a certain amount of labor, too, and would necessitate the presence of the internal-revenue agent to see that that stamp was properly affixed. It is just that that we desire to save the Government.

Senator THOMAS. How do you do it at the present time?

Mr. WILE. At the present time there is no stamp affixed at all by the importer or dealer. It is simply affixed under the present law

the man who sells to the consumer. So, as a result of that, there are a great many bottles——

Senator THOMAS. That is to say, if I were a dealer in Washington and purchased my goods from you, the tax would be adjusted when I sold to my customers?

Mr. WILE. Yes, sir; under the present law.

Senator THOMAS. Suppose I do not do it?

Mr. WILE. You make yourself amenable to the law.

Senator THOMAS. Is that the only disadvantage you see?

Mr. WILE. Well, you would have the advantages in having saved the amount of your tax, which is done now, the result being that the Government collects only one-half of the tax it is entitled to, because many bottles are sold without tax. In order to do that, we approve of paying whatever tax there may be at the source, by the method such as is proposed now, where it shall be collected.

Senator THOMAS. In other words, under the present system the Government loses a great deal of revenue?

Mr. WILE. Exactly.

Senator THOMAS. And under the one you propose it would lose none?

Mr. WILE. It would not lose anything because the machinery of collection is all there and the Government would collect the internal-revenue tax at the same time it collects its duty.

Senator THOMAS. How many copies of that paper have you?

Mr. WILE. I have four with me. Incidentally I may observe that we took the opportunity to see the chief clerk of the Customs Division of the Treasury Department to-day in order to get his views on the feasibility of the proposition and he considered that unquestionably the collection of the internal-revenue tax by the customs department is feasible. He sees absolutely no objection to it, and he thought it was a very simple matter, but in order to make sure, we had an informal conference with the Commissioner of Internal Revenue, or rather with the deputy in order to get their views, and they also stated that so far as they could judge the matter was entirely feasible.

The CHAIRMAN. Would you apply this plan of yours to domestic wines as well as imported wines?

Mr. WILE. Frankly, Senator, we are not interested in domestic wines, and we therefore do not specify imported wines particularly in drawing up this request, but it is always entirely within the discretion of the Commissioner of Internal Revenue as to whether to collect the tax on domestic wines in the same manner, that is, at the source without stamps or whether because of the greater sum which can be collected on domestic goods to leave such goods stamped. The Government now has practical control of every domestic winery and place of production, and it is an easy matter. I would collect the tax there by affixing stamps to the barrel or whatever the container may be.

The CHAIRMAN. That would impose a certain amount of labor.

Mr. WILE. I beg your pardon?

The CHAIRMAN. I say it would impose substantially the same labor, would it not?

Mr. WILE. It may, but it is much easier for them to do it because their goods are ready for consumption just as ours are. Ours are ready for consumption when they are packed on the other side, and

it would mean the breaking of the seal and the breaking of the originality; therefore, in order to comply with this requirement that tax should be fixed; whereas on domestic goods which are practically in a like condition and in the hands of the American producer, they can easily be stamped at the time of manufacture, and before they are put on the market, and at a minimum expense. As far as we are concerned, we have no objection if the Commissioner of Internal Revenue rules that the tax on domestic goods may be assessed also instead of collecting by stamps. But we are not concerned with regard to that.

In order to determine whether our plan was feasible and practicable from the Government point of view, we had an interview with Mr. Malone, the collector of the port at New York, and secured from him a letter addressed to our society, which reads as follows:

TREASURY DEPARTMENT,
UNITED STATES CUSTOMS SERVICE,
New York City, July 22, 1916.

THE WINE AND SPIRIT IMPORTERS SOCIETY OF THE UNITED STATES,
78 Broad Street, New York City.

GENTLEMEN: I have given careful study to your letter of July 17, 1916, and I beg to say that I agree with you that the methods of collecting the new direct tax on imported wines under revenue bill H. R. 16763 will bring no revenue to the Government in addition to that named in the bill, and in my opinion will work a great needless expense and hardship on you as importers doing a vast business through the port of New York.

Your proposed plan for the collection of this tax seems adequate and feasible and I am certain it will so impress the members of the Senate Finance Committee.

Yours, faithfully,

DUDLEY FIELD MALONE,
Collector of the Port of New York.

Senator THOMAS. You will leave your suggested amendment with the committee?

Mr. WILE. I shall be glad to do so.

The CHAIRMAN. Is that all you desire to say, gentlemen, on that one subject?

Mr. WILE. That is all on that subject, unless Mr. Ringwalt desires to address the committee.

Mr. RINGWALT. I think that is all unless there are some questions that some Senator would like to ask us. We would like to cover the situation fully if there is any point that is not clear. The other matter that we had to bring up was with regard to the proposed tax on champagnes and other sparkling wines.

Senator THOMAS. That is, carbonated wines? You mean with regard to the 3 cents on one and 1 cent on the other?

Mr. WILE. No; we were not going to raise that question particularly. It is with respect to the whole subject of tax and the revenue on wines.

The revenue of the Government on sparkling wines has decreased since 1909 $300,000.

The CHAIRMAN. You cover that in your brief, do you?

Mr. WILE. Partly. The present rate of tax is $12 a case, with an import duty of $9.60, and $2.40 represents the internal-revenue tax, making a total of $12. In 1909 the total tax or duty was $6 a case, notwithstanding the fact that the Government derived only one-half of the revenue at that time. As it is to-day, the net returns to the

Government on champagnes and sparkling wines is $320,000 less than it was in 1909.

The CHAIRMAN. What is the comparative volume of imports?

Mr. WILE. It has fallen off. In 1894 it was 237,000 cases. It reached the maximum in 1909 of 436,000 cases, but since that time, when the duty was advanced, there has been a falling off steadily, until in 1915 it had fallen to 191,000 cases.

The CHAIRMAN. To what do you attribute that?

Mr. WILE. We attribute that entirely to the high duty, coupled with the internal-revenue tax.

The CHAIRMAN. Where do most of these wines that you import originate?

Mr. WILE. Almost all of them in France.

The CHAIRMAN. Is the manufacture of wines in France as large now as it was before the war?

Mr. WILE. Perhaps not at this particular time, but the wines that are being imported now are wines that were made four or five or six years ago. Sparkling wines produced there are not fit for consumption within a year or two from the time they are made.

The CHAIRMAN. Has the falling off been in any respect due to the effect of the war?

Mr. WILE. Not at all. Almost all champagnes—the larger part of them—are shipped from Epanay, which is some distance from the seat of war. There was a short period during which Rheims was invested by the Germans, but they have been pushed beyond the border again and the champagne houses are prosecuting their business. Their stock is all below the surface of the ground in cellars and have remained intact and are all available.

The CHAIRMAN. Did the Germans leave all the wines there?

Mr. WILE. They left all the wine there. They did not do any appreciable damage to the stocks of wines. All they did damage to were the buildings above the ground.

The CHAIRMAN. Well, that is about all they did leave, and I would have supposed it would have been about the last thing.

Mr. WILE. There was more than they could handle, I imagine. In any event the stocks are practically intact. There are very large stocks there and there has been no difficulty in importing all that was required. The falling off of importation of wine is not due to the inability of the shippers to execute orders. It has been due to the lack of demand in this country and that lack of demand results from the extremely high price which is necessary to be charged.

The CHAIRMAN. How is the price now as compared with the ante-war times— I mean the price to the retailer or consumer?

Mr. WILE. The prices to-day, with one or two exceptions, are practically the same as they were before the war.

Senator THOMAS. The facilities for shipment have been contracted a good deal, have they not?

Mr. WILE. There is no difficulty about getting it. It takes a little longer to get goods and our freight is a little bit higher. We have war-risk insurance to pay in addition; but those are small matters.

Mr. RINGWALT. The Senator asks about the price to the consumer.

Mr. WILE. Oh, the price to the consumer is considerably greater than it was before the war. I thought the Senator meant the wholesale price, or cost price. Every restaurant and hotel has raised its

price on one product or another. In addition to that, as a rule there is exacted payment of 20 cents war-tax stamp on a quart and 10 cents on a pint to every retail purchaser on every bottle sold.

Mr. RINGWALT. May I add that the opportunity to increase the prices are in many cases availed of by the restaurants by the additional cost which they claim it would bring them to affix stamps which, according to the present bill, as you already know, are required to be affixed by the person who sells to the final consumer.

The CHAIRMAN. What are the causes of the increase in the price to the consumer? I would like to know whether a very much larger price is charged to the consumer. I know personally that the prices have very greatly advanced on all kinds of wines that I have had occasion to use, and I would like to know how that affects the volume of the sales. Consumption is bound, more or less, to control the amount of wine put on the market, I should think.

Mr. RINGWALT. Mr. Chairman, may I say that in our case the price to us of the commodity bought from the cellars in Rheims is less to-day than it was before the war. The increased cost of freight and insurance was more than covered by the difference in exchange. Our price to-day is no different from what it was before the war. The same situation prevails in nearly every case.

Senator THOMAS. I know that Rocky Ford melons in my State are less than they were before the war, and they are 40 per cent higher when they are purchased at restaurants or hotels anywhere in the East.

The CHAIRMAN. I think we understand the position on that. Have you any amendment applying to the particular matter that you have just discussed?

Mr. WILE. Yes, sir.

Mr. RINGWALT. Not with regard to the tax on sparkling wines, however.

Senator THOMAS. I understood that you wanted that omitted.

Mr. RINGWALT. Yes, sir.

Mr. WILE. We feel that if the tax were remitted entirely—that is, if sparkling imported wines are subject only to the import duty which may be imposed, that the consumption would be greater than it is with the tax, whether it be $1.44 or anything else, and that the net revenue to the Government would therefore be greater than if it continues to impose a tax, whether it is $2.40 or $1.44.

The CHAIRMAN. Do you think there would be more imported with the internal-revenue tax off?

Mr. WILE. I do. We feel convinced that the constantly increasing cost——

Senator THOMAS. Did I understand you to say that notwithstanding the war the volume of your imports, with the internal-revenue tax added, is about on a level with the volume of that imported before the war?

Mr. WILE. No; you must have misunderstood me. I said the houses were able to ship as readily as they were before the war, but our total imports are greatly reduced because of the reduced demand and the reduced consumption. The falling off, however, I endeavored to explain was not due to the war, but was due to the increased cost of the merchandise to the consumer, and the consequent falling off of

the demand and the inability of the consumer to pay the price demanded.

Mr. RINGWALT. In other words, the champagne has already reached beyond the point, if I may offer this suggestion, whereby it is profitable for the Government to increase it. You can get the figures by a glance at this brief. It shows the income to the Government——

Senator THOMAS. You have that in your brief?

Mr. WILE. Yes, sir; it is contained in that little brief form.

Mr. RINGWALT. That is merely a memorandum.

Mr. WILE. Mr. Chairman, we are interested in knowing the purpose of paragraph 602, under the head of "Unfair competition," which reads:

> That if any article produced in a foreign country is imported into the United States under any agreement, understanding, or condition that the importer thereof or any other person in the United States shall not use, purchase, or deal in, or shall be restricted in his using, purchasing, or dealing in, the articles of any other person, there shall be levied, collected, and paid thereon, in addition to the duty otherwise imposed by law, a special duty equal to double the amount of such duty.

We do not understand exactly how that is to be construed, or what its purpose is. Unquestionably, there are a large number of houses not in our line alone by any means, but in many lines, in which shippers on the other side, producers of a certain article, have given the exclusive agency for that product to some individual or some firm in this country, and by virtue of a reciprocal agreement the agent or representative of such producer on the other side agrees not to handle a similar product of any other producer or manufacturer abroad.

Now, if it is designed by this provision of the new act to cover such a case, it will work a great deal of hardship and interfere very much with the business relations that have up to the present time been considerable.

Senator THOMAS. That is the relation of agency, if I understand it correctly?

Mr. WILE. Yes, sir; that is the question of an agency.

Senator THOMAS. It is not designed to cover that situation.

Mr. WILE. It could not be construed to cover an agency?

Senator THOMAS. I do not see how it could be, but if that agent should come to me and say, "If you will agree to handle no other goods on this line except mine, I will let you have the goods you purchase from me at 50 per cent of what I would sell to anybody else," my purpose being to put Jones out of business, then it would apply to the agent unquestionably.

Mr. WILE. It would not cover, then, the relationship between a shipper and producer and his agent in this country?

Senator THOMAS. If it does, it ought to go out of the bill.

Mr. WILE. I think that relieves our minds, then, as far as it affects our interests.

The CHAIRMAN. Is that all you wish to say?

Mr. WILE. I think that is all, Mr. Chairman, and we thank you for your courtesy.

In closing, I desire to submit the following brief.

The CHAIRMAN. Without objection, it will be inserted in the record.

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

BRIEF OF THE WINE AND SPIRIT TRADERS' SOCIETY OF THE UNITED STATES.

78 BROAD STREET,
New York, February 3, 1916.

Honorable WAYS AND MEANS COMMITTEE,
Washington, D. C.

GENTLEMEN: The Wine and Spirit Traders' Society of the United States, comprising the principal importers of still and sparkling wines, cordials, liqueurs, etc., whose members import probably 90 per cent of the total volume of such beverages brought into the United States, begs leave to submit briefly the following facts with respect to these goods.

Under the emergency revenue act of October 22, 1914, champagnes and other sparkling wines are subject to a tax of 20 cents per bottle containing more than 1 pint and not more than 1 quart, and to a tax of 10 cents on each bottle containing more than 1 half-pint and not more than 1 pint. This amounts, therefore, to a tax of $2.40 on a case of 12 quarts, or 24 pints. The effect of this increased taxation has been to greatly diminish the importation and consumption of sparkling wines, as is proven by the fact that while in the fiscal year ending June 30, 1914, the importation of such wines amounted to 270,002 dozen bottles, the importations in the fiscal year ending June 30, 1915, amounted to only 191,604 dozen bottles, with a tendency to be still further reduced in the present fiscal year.

Contrary to general opinion there has not been a shortage of champagne in the United States due to the war. One brand or another of champagne may have been off the market for a time, but the total supply here has been considerably in excess of the demand.

The present import duty on champagnes and other sparkling wines is $9.60 per case of 12 quarts or 24 pints. The falling off in the importations of 1915 as against 1914, due in large part to the imposition of the emergency revenue tax of $2.40 per case, amounts to 78,398 cases. On this reduced quantity imported the Government therefore loses the import duty of $9.60 per case, amounting to $752,620.80, making a net loss in revenue to the Government of this amount, less only the amount of the stamp tax at $2.40 per case collected on imported sparkling wines, subject to such stamp tax and the cost of collection thereof.

Briefly stated the Government secures an emergency revenue tax of $2.40 per case when collected, but loses the import duty of $9.60 per case on the large quantity represented by the reduction in importations.

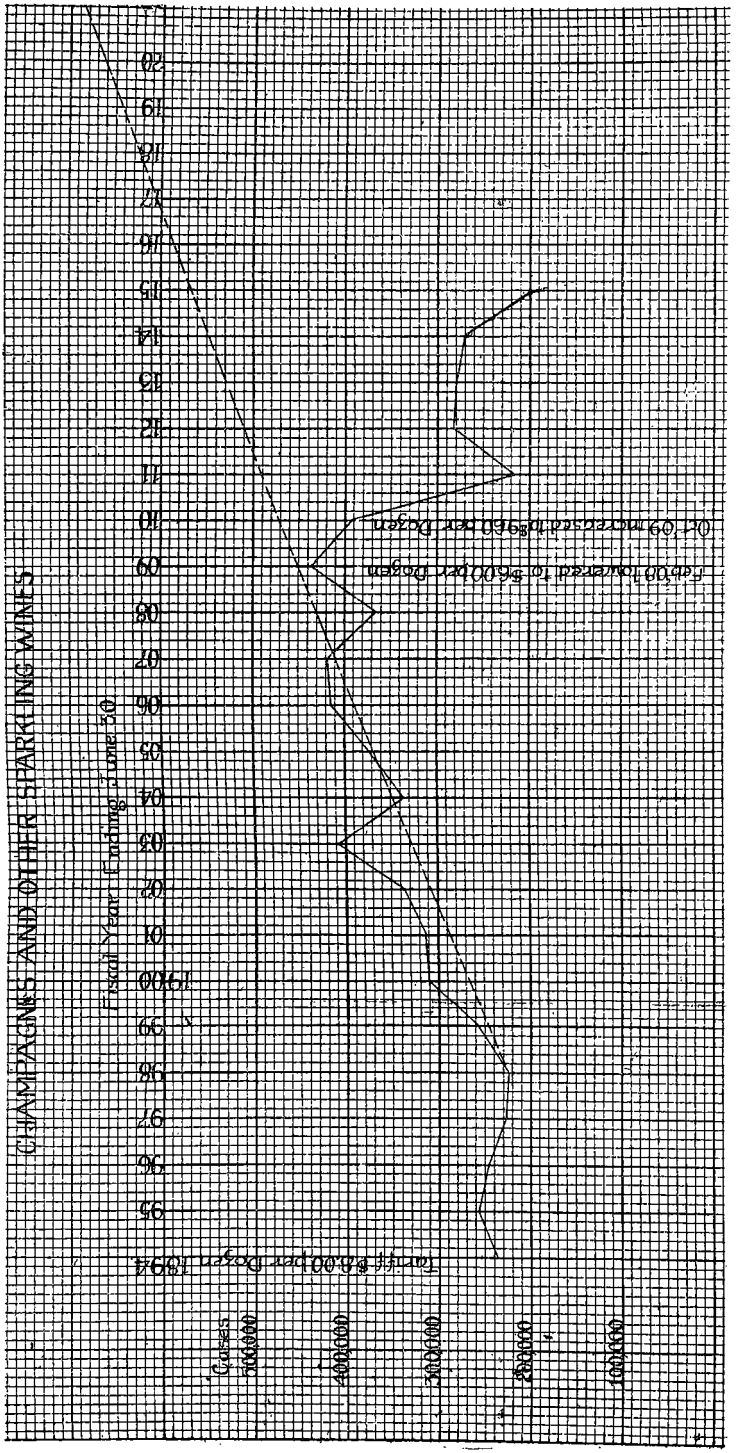
We submit herewith a chart showing the rise and fall of importations of sparkling wines for the fiscal years from 1894 to 1914, inclusive.

We beg to point out that while in 1894 the total importations amounted to 237,360 dozen quarts, they rose in 1903 to 407,944, and in 1909, at which time the duty under the reciprocal agreements in effect with France, Germany, and other countries amounted to $6 per dozen quarts, the importations reached their highest figures, 436,628 dozen. The fiscal year 1910 included four months during which this reciprocal rate of $6 per dozen quarts was still in effect, during which time large importations were made in anticipation of the abrogation of the reciprocal agreements and the enactment of the new tariff law increasing the duty to $9.60 per dozen quarts.

The fiscal year 1911, during the entire term of which the new and higher duty of $9.60 was effective, shows as a result thereof a heavy falling off in the importations, amounting to only 218,495 dozen—only one-half of the quantity imported in the fiscal year 1909; 1912 shows only a moderate increase over 1911, and in 1913 there began a downward tendency which in 1914 resulted in the importation of 270,002 dozen, and in the fiscal year ending June, 1915, the importations amounted to only 191,604 dozen quarts, by far the smallest importations of sparkling wines that have been made in the last 20 years or more.

It will be noted that up to 1909 the tendency had been for importations to increase almost from year to year and if there had been no change in the tariff it is fair and reasonable to conclude that the importations in the fiscal year ending June 30, 1915, would have easily exceeded 500,000 dozen quarts.

These figures show conclusively the mistaken idea, which seems to have prevailed in Congress, that the consumer who uses imported champagne will continue to enjoy this luxury irrespective of the price he has to pay. Sparkling wines are a luxury and as such should pay a high rate of duty for revenue purposes. Statistics show, however, that a duty of over $8 per dozen decreases the sale and the revenue.


CHAMPAGNES AND OTHER SPARKLING WINES
Fiscal Years Ending June 30
Cases
100,000
200,000
300,000
400,000
1894 Taxed $3.00 per Dozen
1895
96
97
98
1900
01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
16
17
18
19
20
Oct. '09 increased to $6.00 per Dozen
Feb. '00 lowered to $5.00 per Dozen

As we understand it is not the purpose of Congress to revise the tariff at this session, we can not expect relief from the import duty on sparkling wines of $9.60 per dozen, but we respectfully request that imported sparkling wines be exempt from taxation under the emergency revenue act.

This society also desires to call attention to the tax imposed under the emergency revenue act on liqueurs, cordials, or similar compounds, domestic and imported, amounting to 24 cents per gallon, 6 cents per quart, and proportionately for smaller quantities. This section of the emergency revenue act has been construed by the Commissioner of Internal Revenue as applying to vermuth. We beg leave to point out, however, that vermuth is not a liqueur, cordial, or similar compound. It is a wine to which an infusion of certain herbs has been added to give it a distinctive flavor, and it has been held in various Federal court decisions as being neither a wine nor a cordial, liqueur, or similar compound. Judge Hough, in a decree rendered in the case of Taylor *v.* Treat, found as follows:

"By the commercial usage of the United States vermuth is not treated or considered by dealers or consumers as a wine, a cordial, or a liqueur, but is advertised, dealt with, spoken of, and used as vermuth, and considered as an article of its own kind."

Furthermore, in the tariff legislation of the United States from 1842 to the present time, vermuth, when mentioned at all, has been mentioned separately, and Congress has never omitted vermuth by name when enumerating wines, liquors, cordials, and spirits. It is subject, under the present tariff act of October 3, 1913, while specifically mentioned, nevertheless to the same rate of duty as applies to still wines, and in all previous tariffs has been likewise subject to the same rate of duty as applies to still wines, though in each case it was specifically mentioned. It is apparent, therefore, that Congress, in formulating the emergency revenue act, could not have intended vermuth to be subject to a rate of taxation different from that applying to still wines, with which it has always been classified, and that it was never intended that it should come under the head of liqueurs, cordials, or similar compounds.

There are also two other important points to be considered in distinguishing vermuth from liqueurs, cordials, or similar compounds. The first is that its alocholic strength varies from 16 per cent to 22 per cent, resembling in this respect wines, and is far below the alcoholic strength of cordials and liqueurs. Furthermore, the commercial value of vermuth is very small as compared with liqueurs, cordials, and similar compounds, and it would be obviously disproportionate to impose on vermuth, with its low value, the same high emergency revenue tax as applies to liqueurs, cordials, and similar compounds, of which the commercial value is much higher.

Dubonnet, a product of France, is made in the same manner as vermuth, to which it bears a strong resemblance in all respects. The Board of United States General Appraisers at New York, on April 9, 1896, in deciding upon the rate of duty chargeable on dubonnet, stated as follows:

"The merchandise is a beverage labeled 'Quinquina Dubonnet.' It has the constituents of the vermuth ordinarily dealt in in this country, and we find upon evidence that it is one variety of a class of wines known in trade as vermuth."

Upon the assumption that the proposed new revenue bill will correct errors in the present emergency revenue act, it is respectfully requested by this society that vermuth and dubonnet be specifically mentioned and subjected to the same rate of tax as still wines, so that there will be no erroneous classification and taxation of vermuth and dubonnet.

Under the provision of the emergency revenue act, wines sold abroad direct to consumers in the United States are not subjected to the stamp tax provided under said act. This omission is a great hardship upon the licensed trade of the United States. The provision of the Canadian special war-revenue act covers this case perfectly:

"Every importer of the wine of the grape, nonsparkling, or champagne or sparkling wine, who is a consumer shall, while such articles after importation into Canada are in the custody of the proper custom officers, affix an adhesive stamp to the bottle or package containing such articles."

We request that some such provision will be incorporated in the new revenue bill.

We trust that your honorable committee may give favorable consideration to our request, and are,

Respectfully,

THE WINE AND SPIRIT TRADERS' SOCIETY OF THE UNITED STATES.

By its executive committee:

Horace I. Bowne, president; Henry E. Gourd, of H. E. Gourd, first vice president; H. P. Eschwege, of Francis Draz & Co., second vice president; Grosvenor Nicholas, of G. S. Nicholas & Co., secretary; Maurice La Montagne, of E. La Montagne's Sons, treasurer; Lucien Antoine, of Williams & Humbert; Henry Bätjer, of Bätjer & Co.; Julius F. Geertz, of W. A. Taylor & Co.; Wm. W. Gleason, of Luyties Bros.; Waldemar H. Grassi, of L. Gandolfi & Co.; Geo. C. Howell, of Saml. Streit Co.; Geo. D. F. Leith, of Wm. G. Moehring & Co.; H. D. McCann, of Nicholas Rath & Co.; Andre G. Prost, of Cusenier & Co.; Fredk. Renken, of The Mumm Champagne & Importation Co.; Joseph Garneau Ringwalt, of Chas. F. Schmidt & Peters; Munson G. Shaw, of Alex D. Shaw & Co.; Chas. H. Simonds, of F. O. De Luze & Co.; Alfons Wile, of Julius Wile, Sons & Co.

The CHAIRMAN. Mr. E. L. Travis, who is present, will be heard. Mr. Travis, you have some official position in North Carolina?

STATEMENT OF MR. E. L. TRAVIS, REPRESENTING GARRETT & CO., AND CHAIRMAN OF THE CORPORATION COMMISSION OF NORTH CAROLINA.

Mr. TRAVIS. Yes, sir; I am here as an attorney.

The CHAIRMAN. I know, but does that official position have anything to do with wines?

Mr. TRAVIS. No, sir; nothing whatever. I am chairman of the Corporation Commission of North Carolina, which has charge of the public service corporations and has nothing whatever to do with this.

The first matter that I wish to call the attention of the committee to is one in which all wine growers are equally interested. There was in the original bill as presented to the House, at the end of subsection "f," page 78, this clause:

But the provision of this section and the provision of section 3244 of the Revised Statutes of the United States, as amended, relating to rectification, or other internal revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of this act with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards.

By an amendment that was stricken out in the House, the wine makers are of the opinion that that practically interferes with the proper making of wine by all manufacturers. In other words, wines can not be made and perfected to the commercial standard without blending—putting one wine with another wine—and unless that is restored, and I understand it to be the view of the California wine people as well as the eastern wine people and the Ohio wine people—unless that can be restored in the act the entire wine business will be seriously handicapped if not entirely broken up. So they must have the privilege of blending.

The CHAIRMAN. Why broken up?

Mr. TRAVIS. I do not know. I have just had this matter up with Mr. Kitchin and Mr. McCoy, the expert of the department, to determine what the effect of striking this out would be. Mr. Kitchin says that the idea of striking it out in the House was simply to put the

wine makers back with the same privilege that they had under the emergency act, and we have been into the acts considerably within the last half hour to determine whether or not it would do what the House intended it to do, and I think Mr. Kitchin—who just came in a few moments ago—told me he had arrived at the conclusion that it did little more than the House intended it to do, but the intention of the House was simply to put the wine makers back with respect to the right of rectifying and blending—in the same position that they occupied under the emergency act, and I think he will suggest an amendment to this act which will do exactly what they intended.

I would suggest that this matter be held in abeyance for further conference with respect to that, and I will file a memorandum with the committee after further conference with the department expert as to what the effect of it is. His idea was that the only effect of this would be to make those who rectify or blend wines subject to the rectifier's tax, which on a retailer is about $200 a year, and would not be of substantial moment, and the wine growers are of the opinion that it entirely interferes with their right and privilege of blending altogether, and that it would very materially interfere with their business.

Mr. Albertz, I believe, is a California man, and he knows to what extent it would interfere with the wine maker. He is a practical wine maker.

The CHAIRMAN. Who did you say?

Mr. TRAVIS. Mr. Albertz.

The CHAIRMAN. I know him. In that connection, Mr. Albertz, what do you think about that?

Mr. ALBERTZ. It would ruin the wine business of California, because every wine maker would have to blend his wines. Sometimes he buys wine from one section that contains more sugar, and then he buys wine from another section that contains less sugar, or more acid, and to get a standard wine the wine makers or dealers have to blend the wines every year so that they can sell about the same quantity as they delivered year after year.

Now, if it is stricken out it will impose a hardship, and every wine maker will have to take out a rectifying license, and besides he will have to change all of his buildings, as the laws requires us to keep our wines 600 feet away from a distillery where you do any blending. We would have to pay more taxes, and we would not be able to do that.

Senator THOMAS. You agree with the argument that this provision should be inserted in the bill?

Mr. ALBERTZ. I do.

Mr. TRAVIS. Mr. Dewey is a wine man from New York, and can state his opinion with respect to that.

Senator THOMAS. If there is any objection to your views they may be stated; otherwise we will assume that they are all agreed.

Mr. TRAVIS. They do agree with me. That is all I care to say, Mr. Chairman, except that I desire to file with you a brief of Garrett & Co. in regard to the tax on wines, and to thank you for your courtesy.

The CHAIRMAN. The brief will be printed in the record.

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

IN RE TAX ON WINES—BRIEF OF GARRETT & CO.

BLENDING AND MIXING.

The original bill as introduced in the House contained the following provision, at the end of subsection f of section 45, page 78:

"But the provision of this section and the provision of section 3244 of the Revised Statutes of the United States, as amended, relating to rectification, or other internal-revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of this act with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards.

This was stricken out by amendment in the House. It ought to be restored.

It is necessary for all wine makers, in all parts of the country, to blend and mix their wines. The art of wine making is blending. Neither sweet or dry wines can be successfully produced without it, except possibly in rare occurrences. No champagne can be made without it.

A similar provision was contained in the emergency act of 1914, section —, and in the act of June 7, 1906, end of section 6.

Such a provision in the bill is necessary in order that the wine producer may not become a rectifier, under the general definition of the law.

The rectifier's tax would be comparatively inconsequential both to the Government and the wine maker, being only $200 on a large producer.

But the regulations applicable to rectifiers would impose a serious hardship on wine makers, entirely disproportionate to any benefit to the Government, for the following reasons:

At present the spirits used to fortify the wines by most wine makers is made as a by-product; that is, it is distilled from the grape hulls and pulps, after the juice has been pressed out for wine, and from washings of the wine casks. Therefore, the distilling is placed in the winery, where the material is economically passed from one process to the other, largely by the same labor and machinery. The same power and steam plants are available, etc. But if they become rectifiers, the law requires the distillery to be at least 600 feet from the winery, thus requiring separate buildings, steam, and power plants, labor and expense of transferring the material, etc., and also requires separate books to be kept as rectifiers.

There is no resulting benefit to the Government justifying the imposition of this hardship on the wine maker. The taxes under this act are greatly enlarged. The privileges ought not to be lessened.

REBATE.

The act as it passed the House contained this provision, page 69, lines 1 to 18, inclusive:

"All such wines containing more than 24 per cent of absolute alcohol shall be classed as distilled spirits and shall pay tax accordingly: *Provided*, That on all unsold still wines in the actual possession of the producer at the time this title takes effect, upon which the tax imposed by the act approved October 22, 1914, entitled 'An act to increase the internal revenue, and for other purposes,' and the joint resolution approved December 17, 1915, entitled 'Joint resolution extending the provisions of the act entitled "An act to increase the internal revenue, and for other purposes," approved October 22, 1914, to December 31, 1916,' has been assessed, the tax so assessed shall be abated, or, if paid, refunded under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe."

This provision should remain without modification.

The emergency act of 1914 imposed a tax of 55 cents per gallon on all spirits used in fortifying wines. Garrett & Co. and such other producers as complied with that law have paid this tax on the spirits which went into the wines they now have on hand. The present act now imposes a flat tax on all wines they now have on hand according to the spirit strength. This results in again taxing the identical spirits on which they have already paid taxes. The new flat tax imposed by this act, as to Garrett & Co., will be greatly in excess of the former fortifying tax, practically four times as great. We do not think the enlarged second tax ought to be imposed on the same article without a refund of the first one.

The 55-cent fortifying tax was not generally paid by the producers, many escaping its payment by different means, so that it resulted in inequality and hardship on those producers who did in good faith pay it, among whom were Garrett & Co.

A germo process was developed under which, by the introduction of a germ into the wine, spirits were developed in the wine. No fortifying spirits being added, the tax technically did not apply. Much wine was made this way.

It was the unjust inequality resulting from evasions of this tax that suggested the flat tax on all wines according to spirits strength when ready for the market.

This will put all producers on an equality, provided the 55-cent fortifying tax, which was paid by some and avoided by many, as to the wine now on hand, is refunded.

The wine now on hand of Garrett & Co. and other dealers who paid the 55-cent tax, will be marketed in competition with wine now on hand of other dealers who paid no fortifying tax, and with old wines which paid 3 cents fortifying tax.

New wine to be made by Garrett & Co. after this act goes into effect, on which he must pay 10 cents fortifying tax will be marketed in competition with other new wines which must also pay 10 cents fortifying tax, thus putting all on an equality.

AMELIORATION.

Garrett & Co. have labored earnestly and long to bring about an agreement among all wine makers on this vexed question, and has succeeded in getting all except the Ohio and Missouri interest to agree on a 25-per cent amelioration. Garrett & Co., as wine makers, believe that there should in fairness be a reasonable amelioration. The limit should be fixed upon a percentage basis. A limit fixed on any per-mill basis will be subject to abuse and such stretching as will render the law of no effect.

Respectfully submitted.

E. L. TRAVIS,
Attorney for Garrett & Co.

The CHAIRMAN. The committee will next hear the views of Mr. Hiram S. Dewey.

STATEMENT OF MR. HIRAM S. DEWEY, PRESIDENT OF THE AMERICAN WINE GROWERS' ASSOCIATION, 138 FULTON STREET, NEW YORK, N. Y.

The CHAIRMAN. Do you agree with what has been stated about this matter?

Mr. DEWEY. I agree with what Mr. Travis has said; yes, sir.

The CHAIRMAN. Is that sufficient?

Mr. DEWEY. I desire to correct you, Senator Stone, if you will allow me. In your opening remarks you stated that this was a subject that was brought up between California and the East. In that respect I beg to differ with you. It is not the question. We are not arguing this bill from the standpoint of sections at all.

In December last there was a committee of five sent from California with reference to drafting what is known as the Kent bill. When we learned of that we sent to Ohio, where we have two members, and to our New York State and New Jersey and Virginia delegates, and we had a meeting in New York City at the Waldorf which occupied a whole day, and this matter was thrashed out with the idea of coming to a mutual agreement. Mr. Stark was present at that meeting, although he is not a member of the American Wine Growers' Association. It was all agreed upon as to what was required in our business as American wine makers, and finally, at the latter part of the meeting, Mr. Stark made his objection with regard to the amount of amelioration. Then there was an argument, but that was the only opposition, and Mr. Rhinehart and the members of the Ohio delegation did not go into any argument to speak of. Mr. Stark took up the argument on the opposite side, and on that report this bill was passed by the House and we were all per-

fectly agreeable to it. You say Ohio and the East. The East is not opposed to this bill at all. Mr. Stark and Mr. Rhinehart spoke of that——

Mr. ANSBERRY. You are mistaken about Mr. Rhinehart's attitude. He is opposed to the bill.

Mr. DEWEY. He is not opposed to it.

Mr. ANSBERRY. He was every time I heard him.

Mr. DEWEY. I have repeatedly talked with him upon the subject.

Mr. ANSBERRY. So have I.

Mr. DEWEY. I would say this in regard to amelioration: We are perfectly satisfied in New York, New Jersey, Virginia, and California with the 25 per cent amelioration. That is enough for any reasonable man or any honest wine maker. There would be no time, according to our experience, where more than 25 per cent would be required.

Then there is another point that I want to bring up and that is that the whole American Wine Growers' Association, which represents over 80 per cent, if not 90 per cent of all the American wines that are made, are very much opposed to the use of grain spirits in the fortification of sweet wines.

Senator THOMAS. Let me suggest that you have taken the floor from our friend from North Carolina. I asked you in advance if you wanted to discuss the matter on its merits and you said no.

Mr. DEWEY. I did not understand you, Senator. I beg your pardon.

Mr. TRAVIS. I did not want to interrupt Mr. Dewey. I only have a few other matters to cover.

The CHAIRMAN. You had better let him finish now.

Mr. DEWEY. We feel that in the manufacture of wines it is necessary to be added to hold the sugar in solution, and that is all it should be used for, and in our cellars we have not fortified wine over 18 per cent, and over 18 per cent that grape spirit or pure grape brandy is the only element that should be used to fortify wine, because that is part of the grape, and why should it not be used? Why should we use a foreign element that in my opinion is injurious to the wine? It will not make as good wine as grain spirits.

Now, with regard to what some of these gentlemen have said with respect to blending, I only learned of that this morning, and it was a great surprise, because in our business—we are in New Jersey—we use New York State grapes and use California grapes for some of our sweet wines, and if we could not blend our sweet wines—not fortifying, because we do all this after they are fortified—we only make our own wines that we fortify right there. But they can not blend and fortify Tokay or Sherry wines. We take our grapes from New Jersey and blend those with a variety of grapes from California or grapes from New York State.

We have been in business over 59 years. I have nothing against Ohio, because my father in 1857 planted the first vineyard that was ever planted on the Lake shore; I was born there and I went out there a few years ago and had a reunion with those gentlemen from Ohio and there was the most kindly feeling expressed there, and I believe that I in my modest way had something to do with bringing the California and Ohio and eastern wine makers nearer together than they

have ever been and they paid us the compliment when we went to California last July at the first international congress that was ever held, of saying that they had more friendly feeling and more good feeling for the different sections of our country than they had ever had in the American wine business.

Now I feel, gentlemen, that if this bill is referred to the Agricultural Department, or the Internal-Revenue Department, both of which have full and complete records of the requirements of the different sections of our country, from Ohio, Missouri, New Jersey, New York, and California—they have all the records, and have been for years accumulating them; they know what grapes are required to go into wines, and what kind of wine the different varieties of grapes will make, and I believe if you gentlemen will refer this bill as it was passed by the House back to the Internal-Revenue Department and the Agricultural Department that we will get an honest bill, and one which will be fair to any man who intends or wants to make a pure wine.

I hope you will take that into consideration and remember at the same time that I represent between 80 and 90 per cent of the American wine makers, and I come before you with their authority, from California, New York, New Jersey, and Virginia.

Mr. LANNEN. May I ask a question.?

Senator THOMAS. I think we had better let Mr. Dewey proceed. It will only lead to an unseemly controversy.

The CHAIRMAN. You make your statement a little later on.

Mr. LANNEN. Very well.

Mr. TRAVIS. Mr. Chairman, I want to call attention to one other provision in the bill. Section 301 as it passed the House contained this provision:

> That on all unsold still wines in the actual possession of the producer at the time this title takes effect, upon which the tax imposed by the act approved October twenty-second, nineteen hundred and fourteen, entitled "An act to increase the internal revenue, and for other purposes," and the joint resolution approved December seventeenth, nineteen hundred and fifteen, entitled "Joint resolution extending the provisions of the act entitled 'An act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," has been assessed, the tax so assessed shall be abated, or if paid, refunded under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

I understand there is a proposition before this committee to amend that section. That was intended to refund the 55-cent tax imposed on spirits, under the emergency act, which went into wines. Now, I understand there is a proposition to make that the refund of the difference between the 55 cents and the 10 cents imposed by this act. We think that ought to remain as it came from the House, for the reason that my client in particular paid the entire 55-cent tax on all spirits which he used and which went into his stock of wine. Now, this act imposes upon that same stock of wine containing those spirits, upon which taxes have already been paid, a flat tax on his entire stock on hand in proportion to the alcoholic strength of the different grapes.

In other words, having paid the full 55-cent tax, with a tax based on the amount of spirit content in the wine, it amounts to paying the tax twice. We think the tax that is imposed by this act, being largely in excess of that which he already heretofore paid on the in-

gredients in this same article, that upon paying this second tax he ought to be relieved from the entire 55 cents and put him on an equality with the others.

I think it is plain that the wine on which he paid the 55 cents on the spirits would come in competition with this to be manufactured under this act on which the parties would pay 10 cents on spirits, and therefore, it is fair to him to have a refund of the difference. He will come in competition first with a large amount of wine on which no tax was paid on spirits, the spirits being developed by some process in the wine itself, by some germ process, the tax not being paid at all, the department itself having asserted that this tax of 55 cents is being paid by few of the men, among whom are Garret & Co.

Then, again, he comes in competition with the old wines which paid but 3 cents on the spirits which entered into them. In any event it seems to us that he ought to have a refund of that 55 cents to 3 cents, because he comes in competition with a large quantity which has paid no tax on the spirits, and a still larger quantity which has paid 3 cents, and in order to put him on a parity and pay this flat tax on this entire stock now he should have a refund of all taxes to the 3 cents at least.

There are the two subjects in which we are interested.

Senator THOMAS. You say there are wines now in stock which have paid no tax at all?

Mr. TRAVIS. Yes, sir; there are wines in stock which have paid no tax—alcohol produced by what they call a germ process; no added spirits at all. They did not pay any tax.

The CHAIRMAN. Is that a particular kind of wine or can that be done in native wines, generally?

Mr. TRAVIS. It can not be done, I think, in the East. That is probably in California, is it not, Mr. Alberts?

Mr. ALBERTZ. Yes; in California.

Mr. TRAVIS. They discovered some process of inserting the germ. I do not know what he calls it; I am not familiar with the technical wine making, but they introduce the alcohol in the wine, so they do not have to pay this tax at all. They do not add the spirits.

Then there is already manufactured and ready for the market a large quantity of wine on which they paid 3 cents on the spirits going into the wine under the old act, though the Garret wine on which he has paid the 55 cents——

Senator THOMAS. You mean the emergency act?

Mr. TRAVIS. No, sir; the act prior to that. One part of that wine has paid 3 cents and another part has paid none at all, and Mr. Garret paid his in full.

Senator THOMAS. Where does Garret operate?

Mr. TRAVIS. Our principal place of business was down at Norfolk, Va., but Virginia has enacted prohibition and they are now moving to New York.

The CHAIRMAN. Does he operate in California?

Mr. TRAVIS. He gets a good deal of his supply of wines from California, which he uses in blending his own output.

The CHAIRMAN. Does he make wines in California?

Mr. TRAVIS. I do not think he makes wines in California. He takes the output of some of the wineries by contract and purchases wine in quite large quantities from California.

The CHAIRMAN. I gathered that he was interested in some of those wineries out there, in a talk I had with him.

Mr. TRAVIS. I think only by lease for a term of years, either by lease for a term of years or by contract for a term of years to take the output of the winery.

Senator THOMAS. You said there had been a proposition or suggestion to change that last provision which you read. I had not heard of it.

Mr. TRAVIS. I was informed that there was such a proposition pending before this committee.

The CHAIRMAN. Is that all you wish to say?

Mr. TRAVIS. Yes, sir; except briefly in respect to the question of amelioration. I think the difference between California and Ohio wine makers now is merely one of extent of amelioration. My client, who is about the largest of the eastern wine manufacturers, feels there ought to be a reasonable amount of amelioration, and must be in the interest of the eastern wine people. On the other hand, he feels there ought to be a limit to it; it ought not to be an unlimited amelioration. So far as his personal interest is concerned, 25 per cent would be satisfactory to him.

Senator THOMAS. As a maximum?

Mr. TRAVIS. Yes, sir; but so far as affects himself, his business, he would not care whether it was 25 or whether it went further to, say, 35 per cent, but he thinks there ought to be a limit.

The CHAIRMAN. Mr. Thomas E. Lannen desires to be heard now. We will be glad to hear him.

STATEMENT OF MR. THOMAS E. LANNEN, REPRESENTING THE NATIONAL WINE GROWERS' ASSOCIATION OF AMERICA.

Mr. LANNEN. Mr. Chairman and gentlemen, I want to say in that connection that I do represent that association—the National Wine Growers' Association of America. If there is any doubt about it, I will get a wire down here and file it with your committee. I understood that Mr. Dewey said I was simply down here and that Mr. Stark was down here for ourselves only.

Mr. DEWEY. What was that?

Mr. LANNEN. I understood you to say we were down here only as representing ourselves.

Mr. DEWEY. I did not say anything of the kind. I said Mr. Stark was not a member of our association. I did not mention your name at all.

Mr. LANNEN. I represent the wine industry of Ohio and Missouri. Mr. Stark also represents both industries; in addition to that he represents other grape-growing and wine-making industries of the Middle West.

Mr. Chairman, there is a very serious dispute in this wine matter between the East and the West, and there has been for a number of years—not so much as to the question of amelioration as about other things—and I want to say to you Senators right now that the root of all this trouble lies in the attempt on the part of the California wine industry to burglarize the Treasury of the United States and monopolize the use of alcohol to the detriment of other industries of this country. That is the root of it.

Draw your bill so as to require the wine makers to pay the same tax on alcohol—on distilled spirits, I mean, not fermented alcohol—draw your bill so as to require wine makers to pay the same tax on that alcohol as other industries have to pay, and there will be nobody down here asking you to pass a wine bill.

Senator THOMAS. Is there any reason why Missouri or Ohio wine makers can not use wine spirits at 10 cents just as well as California?

Mr. LANNEN. Yes, sir; a very serious reason, and always has been.

Senator THOMAS. I should like to hear you on that.

Mr. LANNEN. The reason for that, Senator, is that all these bills that are introduced here before your Congress are so worded that the California wine makers and the California wine makers alone can use the brandy, unless the eastern wine makers couple themselves up with the California wine makers, as these gentlemen from New York do and as Mr. Garrett from North Carolina does.

Mr. VANCE. What do you mean by coupling up?

Mr. LANNEN. To buy their wines and blend them down east and surrender our identity as eastern wine makers, and blend California wines with our good New Jersey wines and good Ohio wines.

Mr. VANCE. I am speaking of those who use California brandy.

Mr. LANNEN. That is what I am talking about, too.

Mr. VANCE. How is it they can use it and Ohio can not?

Mr. LANNEN. Now, Mr. Chairman, in the East we have to ameliorate our wines. We have to correct the natural deficiency in the grape. It is never possible to make a wine in the East that will be a merchantable wine unless you correct the acid and sugar content. That point is conceded, at least. It has been fought before Congress for a number of years by the California wine makers and by others who said it was not necessary to do that. Now they have come across and admitted it. They say 25 per cent is right, but I want to call your attention to the fact that this bill pending before you now contains no provision for amelioration of any kind, not even 1 per cent or one-half of 1 per cent, except with regard to sweet wines.

This is a bill to regulate the whole wine industry, both dry and sweet wines. Our people in the East manufacture sweet wines differently from what they do in the West. We make sweet wines by what we consider to be the proper method. California would make sweet wines the same way were it not for the pernicious use of this free brandy they have out there.

Our method of making wines in the East is to take the juice of the grape, when the fall of the year comes, and test it for acid, and test it for sugar. If the acid is too high, we add enough water to cut down that acid to where it should be, and we add enough sugar to make up the deficiency in the sugar content. Then we ferment that wine, and that makes our dry wine of the East. It will contain from about 10 to 12½ per cent of alcohol. That is fermented alcohol, that is not distilled alcohol. It is fermented naturally. It is possible to produce only about 15 per cent of alcohol by fermentation under ideal conditions, and in the ordinary factory the experience of our wine makers is that you can not produce more than 13 or 14 per cent of alcohol by fermentation.

We take our dry wine then and when we want to make a sweet wine out of it we sweeten it with pure cane sugar and we fortify it with tax-paid alcohol on which we pay $1.10 a proof gallon.

Under the old law of 1890 you could not fortify any wine that contained a drop of water if it was added for ameliorating acid; you could not add any sugar for sweetening purposes, as I remember the law offhand now, and besides that you had to use the alcohol at a winery that was located at your vineyard, and there were some other provisions in that law which made it absolutely impossible for eastern wine makers to use brandy. It is true that these gentlemen, Mr. Dewey and Mr. Garrett, resided in the East at that time, and they did use California brandy in the fortified——

Mr. DEWEY. I did for 25 years straight.

Mr. LANNEN. I claim, under my construction of that law, as it was drawn at that time, that that was an illegal use of California brandy, clearly contrary to the intention of Congress when it granted the use of brandy, and I claim right now that there is about $30,000,000 back taxes due the United States Government for use of brandy in that way.

The CHAIRMAN. You mean illegal because it was not used at the vineyards?

Mr. LANNEN. No; that is not my reason. My reason for that is this: The old law provided that anybody who put brandy in a bonded warehouse might withdraw that brandy for use for fortifying purposes, the theory being that a man might make his own brandy in the fall of the year to make his wines and if he had a surplus of brandy or a surplus of grapes to distill he might put his surplus brandy in a bonded warehouse and withdraw it the following year. Under the clear wording of the law, as I construe it, it meant that only the man who put it in there could withdraw it. That is the way the law reads. But these gentlemen down East got their brandy by having a man in California, a distiller of brandy, possibly not in the wine business at all, simply in the distilling business, put his brandy in a bonded warehouse in California, then come down East and sell that brandy to these eastern wine makers. Of course, the eastern wine maker could not withdraw it, because he did not put it in there. And so the California distiller would have that brandy shipped from the bonded warehouse in California to the bonded warehouse nearest to the wine maker in the East and then send a power of attorney down East to the wine maker in the East who bought that brandy, authorizing the eastern wine maker to sign the California distiller's name to the withdrawal papers and withdraw the brandy.

Mr. DEWEY. Senators, I deny that absolutely as false. We have done it repeatedly and directly right from the distillery in California.

Mr. LANNEN. The records are down in the Treasury Department. I looked them up once. I know they are there. I claim that was an illegal use of brandy.

Another point was they had to have their wineries located at their vineyards. I understand that Mr. Garrett had a few vines around his winery down at Norfolk, Va. His winery is located in Norfolk, near the docks, as the record shows here before the Senate, and a proposition was put up to this honorable committee a couple of years ago that if a man had a dozen grape vines growing along his winery walls his winery was located at his vineyard and he could use free brandy. So as I say, if you go back into this proposition you will find that this free brandy, this trafficking in alcohol at a cheap

rate, is the root of all this trouble down here and the cause of these wine bills.

We claim the use of brandy at anything less than $1.10 tax is wrong. It is wrong because it demoralizes the wine industry of the country. That is the first reason it is wrong, and, secondly, it is wrong because it demoralizes those who drink it.

When Christ was on earth the Bible tells us he turned water into wine. He did not turn it into distilled spirits. It is not the light fermented beverages of the country that cause drunkenness. Nobody that I ever knew of became a drunkard from drinking light fermented wines. Wines are drunk in many homes over this country. I mean table wines. I am not speaking about the California highly fortified sweet wines at all.

Wine, as the people understand it, is the light wine of the country, the claret, the Rhine wine and the dry wines. That is the wine the people think about when they think about wine at all. That is the wine that is consumed by the foreigners who come here, the Italians and the wine-drinking people of Europe that come over here; they drink the light wines, the clarets. That is the industry that Congress had in contemplation in passing the law of 1890 to foster the wine industry of the country.

Now, what happened when they passed that law? Wine ordinarily contains, by fermentation, from 9 to 13 per cent alcohol, the ordinary light wines of the country. They can be drunk safely by families, as I said before, by women and children; can be safely drunk at their tables. Lots of families think nothing about it; other people object to it; do not think it is well to drink wine at the table at all.

But in connection with California sweet wines the records of the Internal-Revenue Department show the following figures (I have not figured out all of them; I have figured out some of them here): In 1912 there were 24,198,626.19 gallons of sweet wines produced that the Internal-Revenue Department had a record of. During that year there were 6,322,303.9 gallons of brandy used in those wines. That figures out that those wines contained 26 per cent plus of brandy, of distilled spirits, and they probably contained about 23 per cent of alcohol—possibly of that alcohol there might have been 8 per cent of it ordinary fermented alcohol, the balance distilled spirits.

We claim that is wrong. Whisky contains 45 per cent of alcohol and is 90 proof. That wine just mentioned contained about 23 per cent of alcohol and, as this shows here, contained 26 per cent of added brandy.

I know that these figures are going to be questioned, because the law only allowed the adding of brandy to the extent of 14 per cent, so as to increase the alcoholic content of the wine to a total not to exceed 24 per cent. But we find here, according to the figures for that year, the per cent of brandy in that wine was 26 per cent plus. What is the answer to that? The answer is that they either used more brandy than the law allowed or that the brandy contained water or that they collectively used 13 per cent plus of exceedingly high-proof brandy. The Internal-Revenue Department allowed them to use as low as 100-proof brandy, and so what they probably did that year was to add 13 per cent of 100-proof brandy, which would mean 13 per cent alcohol and 13 per cent water that they added.

There is no other explanation of those figures that I know of. But even so, even though they added only 13 per cent of high-proof distilled spirits, we claim that is adulteration of wine. To put a wine on the market which contains 23 per cent of alcohol is, in our opinion, a pernicious practice.

What were those wines? As I said before, they were not the dry wines. Congress is not fostering the dry-wine industry. When you are passing a law which allows wine makers to use free alcohol or cheap alcohol, bear in mind you are not helping the claret industry nor the Rhine wine industry nor any of those industries. What you are doing is to enable the Californians to produce a sherry or a port or some other sweet wine which, as I say, is not consumed by the population, at least as an ordinary beverage.

When this bill was up here the last time, when the revenue bill was up——

Senator THOMAS. Just a moment before you leave that subject, if I do not interrupt the continuity of your thought. Do not your clients use spirits in fortification also?

Mr. LANNEN. We do.

Senator THOMAS. And are you not therefore subject to the same criticism?

Mr. LANNEN. We are, to the extent that we add only enough distilled spirits to bring the alcohol in our sweet wines up to 17 or 17½ per cent. That is absolutely necessary to preserve our sweet wines, and that is all that is necessary, and if all alcohol was taxed $1.10 a proof gallon, California wines would not contain any more than that amount. But they put in more than that in order that they may produce a highly alcoholic beverage that will command a high price because it is high in alcohol.

They are trying in this bill, as they tried before and succeeded to a certain extent, to monopolize the alcohol market, and I want to show you how they are doing it. When they came down here when the emergency act was up—but going back first to the tariff bill; Senator Pomerene introduced a bill, an amendment to the tariff bill providing that sweet-wine makers should pay $1.10 tax on all brandy used. As I remember that bill passed the Senate and went to the conference committee and was thrown out by the conference committee. However, the subject was agitated at that time considerably, and the next time the California people came down here they were not so adverse to a wine bill, but they wanted to get the alcohol, the brandy, as cheaply as they could get it, and so instead of getting into a controversy their representatives came and talked to Mr. Stark and myself, and we went over the bill and agreed on a bill, which while we knew it would not help us in the East at all would place a tax of at least 55 cents a gallon on the brandy used in California and would cut down the unfair use of brandy to that extent.

They insisted, however, in the drafting of the emergency bill on excluding the use of distilled grain spirits. That was for the purpose of compelling the wine makers of the East to use only California brandy, and while we are talking about that brandy I want to say you must not confuse that with the ordinary brandy that we are familiar with. California brandy used for fortifying purposes is nothing more than neutral spirits, with a very slight flavor, and sometimes very raw neutral spirits at that. It is made from the residue

of their white grapes, and possibly from the red ones, too; but at any rate they are full of sugar. The grapes are insipid. They have no flavor to impart to the brandy, and, besides that, the brandy is highly distilled, and for all intents and purposes it is neutral spirits. That is all it is. It is not entitled to the name of brandy. They call it brandy because it is made of grapes, but it is, in fact, neutral spirits. They insisted on only neutral grape spirits being permitted to be used, and, as we were foot-loose and were not compelled to use their neutral grape spirits, but could still use tax-paid grain spirits by paying the Government $1.10, we did not object. We let the bill go through the way it was, because it was putting 55 cents tax on their neutral grape spirits, and we thought the Government should get that much out of their part of the wine industry anyhow.

So they grabbed off that; took that away from our distilling industry in the East here and from our corn industry, because grain spirits are made from the corn of the Middle West.

Then they invaded the cordial field. They conceived the idea that it would be a good thing to force cordial manufacturers to use nothing but highly fortified California wines for making cordials, and at that point I drew the line, because I am interested in the corn industry. I was raised on a farm in Illinois, and I told them that while I was not interested in the distilling business, that when they sought to invade the cornfields of the Middle West to such an extent I drew the line on that. We compromised that issue by having the bill recognize the use of corn sugar (dextrose) as one of the sugars that may be used in the manufacture of wine. We got our corn recognized that far; but they invaded the cordial field to the extent of putting a tax on cordials of 24 cents a gallon, which they considered would be high enough to eliminate any objection on the part of the Internal Revenue Department to the proposition of having the law permit fortified California sweet wines to be used in the manufacture of cordials, and they figured such use would make the cost of production of cordials just a little bit cheaper than if tax-paid distilled grain spirits were used, in order that the cordial manufacturers of the country would have to go to California and buy their highly fortified sweet wines for manufacturing cordials, to the detriment of the distilling industry of the country and, incidentally, of the corn industry, from which grain spirits are produced.

Now, they come down here and want to again grab off both propositions for California and give us nothing in the East, and we of the East do not think that is a square deal. Senators, we do not believe Congress should legislate in the interest of California to the detriment of the rest of the United States, and we are here to protest against it. We do not think it is right.

I want to say that this wine schedule in the proposed revenue bill is solely a measure to help California, and I will tell you why.

The California people secretly thought, in 1914, that when the emergency tax would expire they would go back to the use of free brandy again, and so they thought they would take the 55-cent tax (it was only a temporary proposition with them)—they would take the 55-cent tax—not make any wines last year, and then when the law expired by limitation they would get back free brandy again; but they missed the point of putting in a saving clause in that bill which would revive the old law, and so, along in the summer time last year,

the Commissioner of Internal Revenue ruled that when the emergency revenue act expired he would have no authority to give free alcohol to the California wine makers or to anybody else, and that the tax on brandy used for fortifying, instead of being 55 cents a proof gallon, as it is under the existing law, would automatically go to $1.10, the same as the regular tax on all alcohol. So they are down here now to put this present bill through Congress; and to get relief they have to put this bill through Congress. It is a relief measure; it is pending here solely in the interest of the California wine industry. And they want to put a flat tax on the dry-wine industry, the clarets, and the table wines and also on cordials, etc., in order to make up the deficit that the Treasury will lose by giving them brandy at 10 cents a proof gallon. That is their proposition.

If you want to tax wines as an industry, I want to say, on behalf of my clients, that we will pay the same tax on our wines as a flat tax that California will have to pay. We do not care what you make it. We can stand it. We will pay any flat tax, whether it is 4 cents a gallon or 10 cents a gallon, whatever in the wisdom of Congress the tax on wine should be, we will pay it, but we do not want to be placed in the position of being taxed on our wines in order to enable the California wine industry to use alcohol at 10 cents a proof gallon for the purpose of making a highly intoxicating wine with which they may invade the cordial field and the patent medicine field and other fields to the great loss of the revenues of the United States, and that is just exactly what this proposition amounts to. If Congress is going to legislate that way for California, we have problems in the East that Congress should also settle, and that is the pure food proposition. We have to use sugar and water in the East, and Congress, while it defines California wines, should also define Eastern wines, if you are going to define wines at all; and you should draw such a bill as will give us relief at the same time that you are giving California relief.

They concede now that we have to have 25 per cent amelioration, but that will not do us any good if we have to use 35 per cent. Sometimes we do not have to use 35 per cent; sometimes we have to use more. One year our grapes will be of better quality than another year—contain more acid or less acid and more sugar or less sugar than other years; and so you should recognize this fact and not fix a percentage limit, but recognize the principle of permitting us to take an imperfect grape juice and make a perfect grape juice out of it.

Senator THOMAS. You think there should be no limitation—no maximum?

Mr. LANNEN. The limitation should be according to the composition of the grape itself, and that is all we are asking for. Would you think, Senator, if you were making lemonade out of a lemon that you would fix the amount of water or sugar you would be allowed to use—would you limit the lemonade manufacturers of the country and say they should use just so much water or so much sugar, or would you fix the limit according to the nature of the lemon? One lemon may not be as sour as another; one lemon may require more water and more sugar than another one.

Senator THOMAS. I think I could fix a maximum for them all

Mr. LANNEN. Yes; we are willing to fix a maximum, but we claim 25 per cent is too low.

Senator THOMAS. What would be your suggestion as to a maximum?

Mr. LANNEN. My suggestion as to the maximum would be 35 per cent of the resultant product, to be recognized as an eastern wine, but in order to take care of bad seasons we should have at least 50 per cent, but above 35 per cent we would be willing to label to show that the wine has been ameliorated with sugar and water. But we can not possibly get along in the East with less than 35 per cent amelioration.

Mr. DEWEY. I object to that term "the East." Mr. Lannen does not represent the East, gentlemen, and I want you to understand it. He represents Ohio and Missouri.

Senator THOMAS. That is merely a difference in the expression of geographical lines.

Mr. LANNEN. I want to say that Mr. Dewey does not represent the commercial wine industry of the country because he has a little winery over at Egg Harbor.

Senator THOMAS. We are not concerned at all about your differences. We wish you would understand that. We are here to legislate, and while we know there is more or less of personal feeling in regard to this matter, we think you ought to suppress that as much as possible. We are not going to be influenced by your personal feelings in the slightest, I hope.

Mr. LANNEN. I have stated, Senator, whom I represented before. I represent the wine industry of Ohio and Missouri.

Senator THOMAS. I think you have stated that.

Mr. LANNEN. Now, in regard to our wines. The question has come up with regard to blending. That supposes that we are going to take a neutral California wine and blend it with our wines to cut down the acid. We do not propose to adulterate our wines in that way. Furthermore, we would consider under the food law, that if we mixed a California wine with an eastern wine that the food law would require us to label it to show that it was a blend and to show the exact nature of it, and we are not selling California wine. Some of our people blend them, I understand, but not all the time.

Senator THOMAS. Let me ask you right there if you agree with Mr. Garret's suggestion regarding that section concerning the blending of the wines? Are you in accord with him and Mr. Dewey on that proposition, if it does not interfere with your argument?

Mr. LANNEN. I want to tell you what that section was put in there for, and perhaps that will throw a little more light on the subject.

That section was put in there for the purpose of enabling a wine that was fortified under the provisions of the emergency act to be blended with a wine that was not fortified under the provisions of that act. That was the purpose of it. That is what it was put in there for. There is not anything in the internal-revenue laws or in section 3244, I think it is, of the rectifying law, that prohibits a wine maker from blending his dry wines together, but that was put in there to enable a highly fortified California sweet wine to be blended with another wine. I want to read the language.

Mr. TRAVIS. I do not think it is in there.

Mr. LANNEN. If we had the original draft I could find it.

Mr. TRAVIS. I think the draft is this: That it permits the blending of wines fortified under this act; is just what it does—permits.

Mr. LANNEN. What is the object of blending wines fortified under the act? Is there occasion to do so?

Mr. TRAVIS. You could not blend wine; you could not put two different wines, even of the same vintage in the same tank.

Mr. LANNEN. I will tell you what the object of it was. The object of it was to take a highly fortified California wine and bring it down here and blend it in the East with an unfortified wine to increase the alcoholic content of the Eastern wine. Have you that provision there?

Mr. TRAVIS. I have a copy of it. I gave it to the reporter a while ago.

Mr. LANNEN. I read from page 77 of the original House bill, H. R. 16763.

The CHAIRMAN. It was in the bill as introduced in the House.

Mr. LANNEN. It says:

But the provision of this subdivision of this section and the provision of section 3244 of the Revised Statutes of the United States, as amended, relating to rectification or other internal revenue laws of the United States shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of this section with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards.

We have no objection to that provision, so far as the East is concerned.

Senator THOMAS. That was my question.

The CHAIRMAN. Are you opposed to blending?

Mr. LANNEN. We are not opposed to blending of wines.

Senator THOMAS. Let me ask you another question. Suppose this bill be so amended as that all producers of wine, without regard to locality can secure wine spirits at the same price, without the necessity of coupling up, as you express it, with the California wine growers. Would that be an injury to the business of Missouri and Ohio wine growers?

Mr. LANNEN. It certainly would.

Senator THOMAS. In other words, to put you on an exact parity with California with regard to the use of wine spirits would it injure you, and if so, how?

Mr. LANNEN. If you limited it to wine spirits, it would force us to go to California to get our wine spirits, because the wine spirits that are produced in the East are not suitable for adding to wines.

Mr. THOMAS. Then your argument is you do not want to go to California to get your wines at any price?

Mr. LANNEN. We do not want to be put at the mercy of California under any circumstances at all. We have always used in Ohio and Missouri grain spirits for fortifying our wines, and we do not believe that the law should be changed so as to compel us to use wine spirits, the result of which would be that we would have to go to California and be at the mercy of California for our wine spirits. We made wine in the East long before they made it in California, and why should Congress all of a sudden turn around and change conditions now? Why should you say to those wine makers who have been in business since 1847 in Ohio and Missouri and have been using grain

spirits and paying $1.10 tax to the Government, why should you say to them now at this day, "You have to change your methods of making wines, as you can no longer use distilled grain spirits, but you have to use California brandy in your wines." What is the occasion for that? Why such a change at this late time?

There is only one reason, and that is to give California a monopoly of the spirits that enter into wines. That is the only reason for it, and that is all they want.

Senator THOMAS. Let me ask you another question. Why can you not distill brandy or spirits from grapes in your section of the country?

Mr. LANNEN. Because our grapes are very high in flavor, Senator. You know the Concord grape—you can smell its bouquet a block away. If you had a basket of Concord grapes there in the other room, every man in this room would know it right now. When you make brandy out of that kind of grape, you get brandy; you get what the doctor prescribes to a sick man, something that is good for him—a brandy. You do not get neutral spirits, you get something that has a genuine brandy flavor.

When you take Catawbas and other eastern grapes and make brandy out of them you get brandy, brandy that commands very high prices in the market, and for which there is a demand everywhere. They can not produce enough of it in Ohio. It is strong in flavor. If you put a glass of that brandy in wine the wine will have a brandy flavor. On the other hand, you take the California grape, and, as I said before, it is insipid; it has not got the grape juice in it. You can take some of those grapes and roll them on the floor and play marbles with them. They are full of sugar. They are sacks of sugar; they are suitable for making alcohol, raisins, and things of that kind; but with regard to our grapes here in the East, if you drop one on the floor, you get a splash of grape juice; they are full of grape juice and flavor. We make real brandy out of them. It might be possible that by distilling our brandy over and over again we could possibly get a neutral spirit out of it, but it would be a very expensive proposition and absolutely impracticable. In the first place, our grapes down here are too costly. That is one reason aside from the flavor. We have to pay from $30 a ton to $100 a ton for our grapes here in the East. Against that the average price of grapes in California for a number of years was about $8 a ton, and some places, I understand, they get two crops a year. I do not think there is any wine maker in the East that will tell you it is practicable to distill our brandy here in the East from our grapes for fortifying our wines. I do not know. Mr. Dewey, what do you say about that?

Mr. DEWEY. Almost all of them distill their own brandy.

Mr. LANNEN. For fortifying wines?

Mr. DEWEY. For fortifying wines; yes, sir.

Mr. LANNEN. In the East?

Mr. DEWEY. Yes, sir; all through New York State.

Mr. LANNEN. From their own grapes?

Mr. DEWEY. From their own grapes—from their own wine.

Mr. LANNEN. I never heard of it.

Mr. VANCE. Mr. Stark used to have a distillery.

Mr. STARK. The fact that a man has a revolver in his pocket is not proof that he has committed a crime.

Mr. VANCE. But you are distilling for something?

Mr. STARK. But we do not make any neutral brandy.

Mr. VANCE. I do not know what you made out of it.

Mr. LANNEN. You say you distilled your own brandy for fortifying wines?

Mr. DEWEY. We never have distilled brandy. Are you asking me personally or for my company? We always bought our brandy except in Ohio; my father distilled his own wine and made his own brandy when we were in Sandusky.

Mr. LANNEN. I simply say what my people tell me.

Senator THOMAS. I should like some information on that subject.

Mr. TRAVIS. I want to state that Garrett & Co. distilled their brandy, or a large proportion of it. They do distill their brandy from their own grapes.

Mr. STARK. Where?

Mr. TRAVIS. Down in North Carolina and also Norfolk.

Mr. STARK. And use it for fortifying purposes?

Mr. TRAVIS. Yes, sir.

Mr. STARK. Or do they not sell their brandy as brandy and use California brandy for fortifying?

Mr. TRAVIS. No, sir; I do not say he does not use any California brandy. He may supplement his supply with some California brandy, but he does make his own spirits out of his own grapes.

The CHAIRMAN. Here is a strange divergence between statements as to facts. Do you say you can not make brandy out of grapes in Ohio?

Mr. LANNEN. I say it is not practicable to do it.

Senator THOMAS. That is, a neutral spirits for fortifying?

Mr. LANNEN. A neutral spirit. It might be done, according to information I got, it might be done; you could make a neutral spirit out of it if you distilled it long enough, but I say when you take into consideration the expense you would have to go to to distill that——

The CHAIRMAN. Do you say that is impracticable?

Mr. LANNEN. I say it is impracticable from a commercial standpoint.

The CHAIRMAN. Here is a gentleman that says that in Ohio his father made the fortifying material out of Ohio grapes, the fortifying spirits.

Mr. DEWEY. He did, from grape brandy.

The CHAIRMAN. Here is another gentleman who says that his client makes the neutral spirit out of North Carolina and Virginia grapes and uses it for fortifying his wines.

Mr. DEWEY. They make thousands of gallons out of New York grapes.

The CHAIRMAN. I should like to know the absolute truth about it.

Mr. LANNEN. You will notice that neither one of these gentlemen who have spoken here have done it themselves. It is hearsay evidence so far as they are concerned.

Mr. TRAVIS. It is not hearsay evidence on my part. I have not done it myself, but I know of my personal knowledge that it was done.

Mr. DEWEY. It was formerly, in Ohio.

Mr. STARK. Fifty or 60 years ago?

Mr. DEWEY. Yes, sir.

Mr. STARK. The sweet-wine industry is not 60 years old.

Mr. DEWEY. I am telling you the fact, Mr. Stark. That is all.

The CHAIRMAN. You may proceed.

Mr. LANNEN. The fact remains, Mr. Chairman, that our people in Ohio and Missouri have used grain spirits all these years, and we are objecting to the change at this time because we are Ohio wine makers and Missouri wine makers, and we are not coupled up with California.

The CHAIRMAN. Let me ask you this question: Referring to a matter I had up a moment ago, if brandies were made or neutral spirits were made out of grapes in New York or New Jersey or North Carolina or Virginia, ought not the records at the department show that?

Mr. LANNEN. Well, the records in the department will show that they made brandy, and the records in the department will also show that brandy was used for fortifying, but I do not think they will show where the brandy that was used for fortifying was made. I am not sure about that.

The CHAIRMAN. You may proceed in your own way.

Mr. TRAVIS. I think the records must show it, because there was some supervision of the distilling, I think.

The CHAIRMAN. Of course, I suppose that to be true.

Mr. LANNEN. Of course, if a man is distilling brandy it is supervised by the Government, but does the Government know to what use he is going to put that brandy?

Mr. TRAVIS. Probably what the Senator wanted to get was whether or not it could be distilled from those grapes.

Mr. LANNEN. I have never known of it, never heard of it, being done on a commercial scale since I have been connected with this wine industry, and that has been a good many years. This is the first time I have heard anybody say they made brandy in the East and used it for fortification of wines, and, so far as I am concerned, with my knowledge of the business, I would want strictest proof of that before I would accept it.

The CHAIRMAN. Let me ask you, Mr. Lannen, whether the matter that you are going over now was covered in your statement to the Ways and Means Committee?

Mr. LANNEN. In my statement to the Ways and Means Committee I did not bring out the points that were brought out here this afternoon with regards to the efforts of the California wine industry to get a monopoly of the use of alcohol in this country. As a matter of fact, I did not make any statement before the Ways and Means Committee myself. I appeared before a subcommittee there.

Senator THOMAS. Just as you do here?

Mr. LANNEN. No; it was just a little informal meeting.

Senator THOMAS. This is a subcommittee also.

Mr. LANNEN. I was going to say there was no record made of it at all. I assume you are making a record here. It was simply a little informal talk one day; but at the main hearing of the Ways and Means Committee Mr. Ansberry represented our association and made the statement.

The CHAIRMAN. It is all right, except, as I said in the beginning, we should like for you to avoid mere piling up of one statement on

another. As we have to examine these statements you can very readily see we are more apt to do it in the first instance, and to do it with greater intelligence and satisfaction, if it does not consist of mere repetition, one statement on top of another. In the hurry of things we are apt to overlook a good many things. I would suggest that what we want is just the facts as you understand them, and if we have the facts as you understand them there is no need of multiplying them. I said that to Mr. Kent, and he told me, after he was through, that his statement was almost identical with the statement he had made before the Ways and Means Committee; and I did not see what in the world he wanted to make it again for. And I do not see why any statement you or Mr. Stark have made heretofore should be repeated here. As to any new matter or any new thought of your own, it would be very valuable. The other is a mere burden.

Mr. LANNEN. Well, Mr. Chairman, I do not think that the ordinary Congressman down here legislating on this subject understands the points I brought out here this afternoon; and I think they are new points, and that is that this is a bill solely in the interest of California and to give California a certain monopoly. I do not think they understand that.

Senator THOMAS. We legislate about a good many matters we do not understand, you know.

Mr. LANNEN. Furthermore, I do not think the people of the country understand that Congress is giving the wine makers cheap alcohol for the purpose of manufacturing wine and refusing to give alcohol to other industries at the same rate. There are other industries that have to use alcohol. It is absolutely necessary to use alcohol in some industries which do not use it for beverage purposes at all.

Originally, as I understand the matter, the idea of putting a tax on alcohol was because it was in a sense a luxury. It was used for beverage purposes, and had alcohol been used in those days for running engines or for industrial purposes entirely I do not think Congress would have taxed it any more than they would have taxed gasoline, or anything else that we have to use.

As I said before, there are other industries that use enormous amounts of alcohol. Take the flavoring-extract industry of the country. They have to use alcohol.

Senator THOMAS. The manufacturers of explosives, I presume, more than any other industry?

Mr. LANNEN. There is an enormous amount used in the flavoring-extract industry. That industry deals largely with essential oils, and it is necessary to use the alcohol to cut the oils and hold the flavoring principles in solution, such as the resins and flavor of the vanilla bean or the oil of the lemon. Lemon extract takes the strongest alcohol you can get to cut the lemon. It takes about 85 per cent alcohol; that means 170 proof alcohol. That much alcohol has got to be used. The food law requires it. The food law requires lemon extract to contain 5 per cent of oil of lemon, and you have to use 85 per cent of alcohol to hold that much oil of lemon in solution.

I doubt very much if the housewives of the country, who are paying the Government of the United States at the rate of $1.10 a proof gallon on that alcohol in each bottle of vanilla extract—I doubt very much if they understand that Congress is handing out free alcohol to the California wine industry. That is why I am discussing this here.

I want to bring these points out and want, as far as possible, to show here exactly what this bill is for. As I said before, if you are going to legislate that way for California and open up the Treasury of the United States for California, then look after the interests of the other States also. We are part of the United States also and we are entitled to consideration. We ought to have our wines recognized the same as California.

Senator THOMAS. Boiled down, Mr. Lannen, your argument leads me to this conclusion: That your clients want the right to ameliorate wines which they produce up to a maximum of 35 per cent, and you want grain spirits placed on the same par with wine spirits with regard to duty?

Mr. LANNEN. That is it. And we want beyond the 35 per cent the right to ameliorate up to 50 per cent by labeling it to show the amelioration. In other words, if we have to use more than 35 per cent we do not want to have to throw away some grape juice because we are stopped by the 35 per cent limit. I am glad you mentioned that, because it bears on this question of blending. You can not, under the food law, take a catawba wine—in the East here our catawba wine is a famous wine. It is known all over the country. In the days before the California wine industry got to using free alcohol and demoralized the wine industry in the East—practically drove us out of business here—I mean Ohio and Missouri, there used to be "*Weinstuben*" throughout the East, as I understand. That was before my days. There used to be *weinstuben* where Ohio wine was known and people would go in and ask for Ohio catawba wine. It was famous then. Now those places have vanished. Our people have had a hard time to exist at all without trying to go out and market their wine in that way. But to get back, take a catawba wine. Say it has to have 40 per cent amelioration, and the law only allowed us 35 per cent. What would we do with it? The California people say, take a California wine and blend it with it; our wine does not have much acid in it; take it and blend it with it—with your catawba. But we could not sell that blend as a catawba wine. It would not any longer be catawba wine. The food law would require us to label that as catawba wine and something else.

And the same thing is true of the Delaware grape. If we want to make a pure Delaware wine, we are prohibited from blending that Delaware wine with some other wine. We might one year find a Delaware wine that was high in acid and have some other wine that was low in acid.

Senator THOMAS. In each instance you would have to use grain spirits.

Mr. LANNEN. I am speaking about the blending of dry wines now. I am talking about the pure-food question. I am talking about the dry wines.

Senator THOMAS. I beg your pardon.

Mr. LANNEN. They say we should be limited to 35 per cent, and then if our wines are high in acid we should blend them with some other wine and cut them down, but I am pointing out that if we do that we would destroy the character of our wines, both physically and under the pure-food law.

Senator THOMAS. Could it not be blended with Catawba or Delaware wine of an older brand and still make it Delaware or Catawba wine?

Mr. LANNEN. I doubt if we would accomplish very much by that, because our wines are always cut down to the standard. If we have an old wine that is just marketable, say it contains 6 parts in 1,000 acid and the alcohol in there is just about 12 per cent, we will say, now I do not see that we would be accomplishing very much in blending that wine with another wine high in acid, because the blend would tend to increase the acid in the wine which was just right and bring it down in the other wine that was entirely too high, so in the end we would never get the right kind of blend unless we had a wine, for instance, that was very mild, away down below the standard in acid, if we blended that with one above the standard then we would get one that would be about right. But such a condition would not exist in the East. Our wines are always high in acid and low in sugar. I am not asking you to take my word for it, because we have ample authority for it, which we can file with you. As I said before, it is admitted here by these people. It is not necessary to prove it. We say 25 per cent is not enough amelioration. But we do not believe that way of fixing the amelioration of wine is right.

Senator THOMAS. I do not know anything about it. I am asking you for information.

Mr. LANNEN. We do not believe that fixing the total limit and saying "you can add 35 per cent" is the right way to go at it. We believe you should deal with the nature of the grape and that the law should provide that we may add only the amount of water that that grape requires. Require wine makers to use ripe grapes in the first place; don't let them use green grapes; require them to use ripe grapes that are ripe according to the standard of ripeness for the season. We take that grape. Suppose it has 8 per mill acid in it. The trade requires not more than 6 per mill in this country. People will not drink wines that contain more than 6 per mill of acid, as a rule. Now, we have to cut that acid down from 8 to 6 per mill with water. We should be permitted to do that. It would not do us any good to cut it down to 7 per mill, because it would still be too high in acid. On the other hand, if the acid content was only 7 per mill we would only have to cut it down from 7 to 6 per mill.

If the sugar test of the grape showed that the grape contained 20 parts of sugar—we will say it contained 18 per cent of sugar, and it should be 24 per cent, because our finished wine must contain 12 per cent of alcohol, and it takes two parts of sugar to make one part of alcohol, therefore that grape would be deficient in sugar—we should be permitted to add the difference between 18 per cent of sugar and 24 per cent, and when we did that, we would have a normal grape juice.

Therefore, I say you should take the fruit itself into consideration, and permit us to make a perfect grape juice out of an imperfect grape juice, and let it be done under the supervision of the Government. Do not leave it to the wine maker. Do not let him do it, but simply have the gauger go in there and test the grape juice, and if he finds that grape juice requires a certain amount of water, then let him permit the wine maker to add that water. If he finds that the grape juice requires a certain amount of sugar, let the gauger permit the wine maker to add that sugar, may it be much or little. Then you are dealing with nature herself, and I do not see why that is not a fair proposition. Why throw away grapes simply because they happen

to be a little more sour than others, when you can make good wine out of them by amelioration, and all the authorities are agreed on that, because our grapes in the East are high in flavor, high in aroma, and have ample flavor, and you can put 50 per cent of water with them, and make a better wine than you can make anywhere else in the United States. It must be so, because our wines in the East here are sold—we sell our wines in the East in competition with California wines on their merits; we have to get high prices for them, much higher than they get out there, yet we can sell them on account of their quality. Our grape juice can stand 50 per cent amelioration, and still make mighty good wine.

Before I close, Mr. Chairman, I want to make an appeal to you again on behalf of the East. This is a serious proposition with us. Our people, on account of this agitation, our wine makers of Ohio and Missouri are practically on their last legs. They have not added anything to their wineries the last 5 or 10 years—the last 5 years anyhow. They have not encouraged the growing of grapes in Ohio or Missouri. They have not been able to make contracts; they have not been able to look ahead to the future like an ordinary business man ought to be able to look. They never know what time this agitation is going to break out down here in Congress and they be wiped out of existence. There is in existence right now a ruling of the Agricultural Department, which has been in effect for the last couple of years, which absolutely prohibits us from using one drop of water in our wine. We can not use any water at all in our wine. It is an absolutely arbitrary ruling, and these people here from the East and the West who have come in here before you to-day, and who were before the House, all of them say it is wrong. Every wine maker says it is wrong.

Senator THOMAS. How long has that ruling been in effect?

Mr. LANNEN. For two years.

Senator THOMAS. So during that time you have not ameliorated wines at all?

Mr. LANNEN. We have ameliorated wines, but we can not ship those wines unless we take the chance of having them seized under the food law and then we have to go in and fight it out in the courts and see whether the law is right or not.

Senator THOMAS. How do you dispose of them?

Mr. LANNEN. We have not shipped any of them yet.

Senator THOMAS. In the last two years?

Mr. LANNEN. It takes us two years to make wine in the East. We do not make wine overnight like they do in California. We make wine in the East. We do not make a partially fermented grape juice. Our wines are wines.

That is another feature of it that ought to be brought out here. The way they make a sweet wine in California is this: They take grape juice when it comes in, and say it contains 28 per cent of sugar; they then set up fermentation, and in about, I think, two or three days time (as I said, I am not a wine maker, and wine makers here can correct me if they want to, but I am giving you the substance of it as I get it) that sugar will be fermented; we will say 18 per cent of that sugar will be fermented into alcohol. Now, 2 parts of sugar make 1 part of alcohol, so that out of that 18 per cent of sugar you will have 9 per cent of alcohol, and you will have 10 per cent of sugar

left in the liquid. That is only a partially fermented grape juice. It is not wine. Wine is defined to be completely fermented juice of the grape.

The California sweet wine is not the fermented juice of the grape; it is the partially fermented juice of the grape. Within about three or four days' time it is in that condition. Then they take this free alcohol they have been getting and dump that into this partially fermented grape juice and arrest fermentation, and that is why it is necessary to put in so much alcohol, because the partially fermented grape juice is a seething mass of fermentation at that time and requires a very high percentage of alcohol to keep that fermentation from going on further. They have to arrest it right then and there. They have to stop it, and they have to have enough alcohol not only to stop the fermentation but to clarify the beverage, and they put an extremely large amount of alcohol in there and arrest that fermentation, as I say, and then the beverage is ready for the market. Inside of a couple of weeks' time after the grape juice comes in they have a wine they can sell on the market, containing, as I said, about 14 per cent distilled spirits added to it, the rest of it about 9 per cent fermented alcohol, and the rest of it partly fermented grape juice. Now, against that, as I say, it takes about a year or two years in the East to make our wines. We make our wines by complete fermentation and rack them; let them ferment thoroughly first and settle in a cask until all the lees precipitate and the wines are partly clarified; then they rack them in another cask and let them settle still further, and I believe before they get through with it they even filter some of their wines.

The CHAIRMAN. They do what?

Mr. LANNEN. They filter or clarify them in some way.

Mr. Stark is a practical wine maker and can tell you about that.

When that department rule referred to went into effect two years ago, we were making wines that fall. Therefore, we have those wines now ready for the market. We made them just as we always made wine. We made them by adding sugar and water in absolute disregard of the ruling. We did not consider the ruling was law. We did not consider that the Secretary of Agriculture had the right to make law; we believed that laws were passed in Congress, and that if any attempt was made to enforce the rule we proposed to have the courts decide whether the Secretary of Agriculture can make laws, or whether they must be passed by Congress.

The CHAIRMAN. What law was he construing?

Mr. LANNEN. The pure-food law. He made a ruling to the effect that wine must be the straight juice of the grape, nothing else. It allowed us to add some sugar, but no water.

Mr. STARK. I want to insert right here that he also made a ruling that this wine decision should not affect wine made under the sweet-wine law, and that sweet-wine law provides that a sweet wine shall be the fermented or partially fermented juice of the grape, and right there is where I object, that a sweet wine should be partially fermented grape juice. I claim that a sweet wine should be a fully fermented grape juice and not a partially fermented grape juice. In other words, they are fortifying with spirits a partially fermented grape juice in order to save the expense of buying sugar. They utilize the sugar contained in the grape and fortify the grape juice

when it is halfway fermented and call that a wine; they sell it as a sweet wine. Whereas we, in the East, are making a completely fermented wine, and buy expensive sugar and sweeten the wine and add grain spirits on which $1.10 tax is paid, and that is a real sweet wine, not partially fermented grape juice.

Mr. LANNEN. I want to say that prior to this ruling I am talking about here, there was a ruling made by the three Secretaries. The eastern wine industries had a hearing before the Secretary of Agriculture, the Secretary of Commerce and Labor, and the Secretary of the Treasury. And after they considered the subject fully they made a rule to the effect that we might use sugar and water and that ruling was in effect for a number of years; we operated under it successfully. It was food inspection decision No. 120.

Senator THOMAS. Did they fix a maximum?

Mr. LANNEN. They fixed it on the grape itself. The rule allowed us to use sugar and water to correct the deficiency in the grape, taking the imperfection grape itself as the basis of the calculation, as I pointed out before, and in that decision they pointed out that it was absolutely necessary to use sugar and water in the East.

The moment this wine fight broke out, the moment Congress undertook—or Senator Pomerene, of Ohio, undertook—to put $1.10 tax on brandy used in California for fortifying wines, the Californians went down to the Agricultural Department and stirred up this subject and we believe prevailed upon the Agricultural Department to rescind that former decision No. 120 and issue the present one No. 156, under which we in the East can not operate at all. And, as I say, that decision is in existence still.

The CHAIRMAN. You can find the decision you are looking for and let it be incorporated in your remarks. Is that all you wish to say?

(The decisions referred to are here printed in full, as follows:)

[Food inspection decision 120.]

LABELING OF OHIO AND MISSOURI WINES.

The question has arisen whether fermented beverages made in the States of Ohio and Missouri by the addition of a solution of sugar and water to the natural juice of grapes before fermentation may be labeled, under the food-and drugs act, as "Ohio Wine," or "Missouri Wine," respectively, without further qualification. In Food Inspection Decision 109 it was announced that the term "wine" without qualification is properly applied only to the product made from the normal alcoholic fermentation of the juice of sound, ripe grapes without addition or abstraction, except such as may occur in the usual cellar treatment for clarifying and aging.

It has been decided after a careful review that the previous announcement is correct and that the term "wine" without further characterization must be restricted to products made from untreated must without other addition or abstraction than that which may occur in the usual cellar treatment for clarifying and aging. However, it has been found that it is impracticable, on account of natural conditions of soil and climate, to produce a merchantable wine in the States of Ohio and Missouri without the addition of a sugar solution to the grape must before fermentation. This condition has recognition in the laws of the State of Ohio, by which wine is defined to mean the fermented juice of undried grapes, and it is provided that the addition, within certain limits, of pure white or crystalized sugar to perfect the wine or the use of the necessary things to clarify and refine the wine, which are not injurious to health, shall not be construed as adulterations and that the resultant product may be sold under the name "wine." Furthermore, it is permitted in some of the leading wine-producing countries of Europe to add sugar to the grape juice and wine, under restrictions, to remedy the natural deficiency in sugar or alcohol, or an excess of acidity, to such an extent as to make the quality correspond to that of wine produced, without any admixture, from grapes of the same kind and vintage in good years. It is conceived that there is no difference in principle in the adding of sugar to must in poor

years to improve the quality of the wine than in the adding of sugar to the must every year for the same purpose in localities where the grapes are always deficient.

In view of this practice, and having regard to the fact that fermented beverages have been produced in the States of Ohio and Missouri by the addition of a sugar solution to grape must before fermentation and sold and labeled as "Ohio Wine" and "Missouri Wine," respectively, for a period of over 60 years, it is held a compliance with the terms of Food Inspection Decision 109 if the product made from Ohio and Missouri grapes by complete fermentation of the must under proper cellar treatment and corrected by the addition of a sugar solution to the must before fermentation, so that the resultant product does not contain less than five parts per thousand acid and not more than 13 per cent of alcohol after complete fermentation, are labeled as "Ohio Wine" or "Missouri Wine," as the case may be, qualified by the name of the particular kind or type to which it belongs.

An Ohio or Missouri dry still wine made as above stated and sweetened with a sugar solution which does not increase the volume of the wine more than 10 per cent, and fortified with tax-paid spirits, may be labeled as "Ohio Sweet Wine" or "Missouri Sweet Wine," as the case may be, qualified by the name of the particular kind or type to which it belongs.

The product made in Ohio and Missouri by the addition of water and sugar to the pomace of grapes from which the juice has been partially expressed, and by fermenting the mixture until a fermented beverage is produced, may be labeled as "Ohio Pomace Wine" or "Missouri Pomace Wine," as the case may be. If a sugar solution be added to such products for the purpose of sweetening after fermentation they should be characterized as "Sweet Pomace Wines." The addition to such products of any artificial coloring matter or sweetening or preservative other than sugar must be declared plainly on the label to render such products free from exception under the food and drugs act.

FRANKLIN MACVEAGH,
Secretary of the Treasury.
JAMES WILSON,
Secretary of Agriculture.
CHARLES NAGEL,
Secretary of Commerce and Labor.

WASHINGTON, D. C., *May 13, 1910.*

[Food inspection decision 156.]

WINE.

As a result of investigations carried on by this department and of the evidence submitted at a public hearing given on November 5, 1913, the Department of Agriculture has concluded that gross deceptions have been practiced under Food Inspection Decision 120. The department has also concluded that the definition of wine in Food Inspection Decision 109 should be modified so as to permit correction of the natural defects in grape musts and wines due to climatic or seasonal conditions.

Food Inspection Decisions 109 and 120 are, therefore, hereby abrogated and, as a guide for the officials of this department in enforcing the food and drugs act, wine is defined to be the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment.

To correct the natural defects above mentioned the following additions to musts or wines are permitted:

In the case of excessive acidity, neutralizing agents which do not render wine injurious to health, such as neutral potassium tartrate or calcium carbonate.

In the case of deficient acidity, tartaric acid.

In the case of deficiency in saccharine matter, condensed grape must or a pure dry sugar.

The foregoing definition does not apply to sweet wines made in accordance with the sweet wine fortification act of June 7, 1906 (34 Stat., 215).

A product made from pomace, by the addition of water, with or without sugar or any other material whatsoever, is not entitled to be called wine. It is not permissible to designate such a product as "pomace wine," nor otherwise than as "imitation wine."

D. F. HOUSTON,
Secretary of Agriculture.

WASHINGTON, D. C., *June 12, 1914.*

Mr. LANNEN. That is all. I thank you. There was an amendment offered to this bill in the House by Congressman Meeker, of Missouri, which covers what we want in this bill. It is on page 12367 of the Congressional Record, July 10, 1916.

Senator THOMAS. What is the number of the bill?

Mr. LANNEN. It is this bill.

The CHAIRMAN. Mr. Kent brought that here and it was turned over to the reporter.

Mr. LANNEN. There is just one thing more I should like to say before I close. I want to say, in regard to this question of amelioration, that the California people have, as I said before, very kindly conceded that we need 25 per cent. They have taken it upon their shoulders to endeavor to get us 25 per cent amelioration, and they have gone to these departments down here and have drafted these bills and have assumed to father the wine industry of Ohio and Missouri. We are very grateful to them for conceding that we have to have 25 per cent of sugar and water, but we feel that Congress should pass upon our matter, and that we should not be left to have to take what the Californians want to get for us from this Congress or from the departments.

Mr. E. L. TRAVIS. Mr. Chairman and gentlemen of the committee, the gentleman has said that Garrett & Co. had to hitch themselves up with the California interests in order to get the spirits. He is entirely incorrect in that. Garrett has no sharper competition in the country than as between his company and the California Wine Association, but Mr. Garrett does procure wines from certain wineries in California, which he controls by lease or contract, not for the purpose of securing spirits in his wine, but because he has ascertained that the blending of certain of the California wines with certain of the native wines of North Carolina and Virginia produces a wine of excellent flavor and he can supply and has for years, supplied the spirits from his own grapes, so far as that goes, and the blending and the correcting is not for the purpose of getting the spirits.

The gentleman's other observation was, and I do not know it had to do with this, that Mr. Garrett had little or no vineyards. I know personally that he has three very large and extensive vineyards in North Carolina and also one in Virginia, and also, in addition to that, he purchases all the grapes that can be purchased in North Carolina raised by the various farmers, and a great many of them are pressed and the wine made at his factory in Norfolk.

The CHAIRMAN. I understand Mr. Ottmar G. Stark desires to be heard. Mr. Stark you may proceed.

STATEMENT OF MR. OTTMAR G. STARK, PRESIDENT OF THE MISSISSIPPI VALLEY WINE GROWERS' AND GRAPE GROWERS' ASSOCIATION.

Mr. STARK. I want to state right here that I know something about Mr. Garrett's wine busness. We had very many conversations together on the subject.

Mr. Garrett does not have to link up with any California wineries, because he himself is a California wine grower and he uses his own California wines and his own California grape spirits, and he ships

it over here in tank cars by trainloads. I know that because I have bought some of Garrett's sweet wines myself for my wholesale house.

Senator THOMAS. How much time do you want, Mr. Stark? We are not giving extensive and unlimited hearings.

Mr. STARK. It will not take me very long. I have been waiting for my opportunity. I came here from Missouri in order to be heard.

Senator THOMAS. Your side of the subject has already consumed more time than the other side.

Mr. STARK. I represent the entire Mississippi Valley.

The CHAIRMAN. Did you make a statment before the Ways and Means Committee?

Mr. STARK. It was an informal hearing of about 50 minutes.

The CHAIRMAN. There were some hearings?

Mr. STARK. I did not have time to get there. The hearing was held very suddenly.

I represent The Mississippi Valley Wine Growers' and Grape Growers' Association, taking in the entire valley from Wisconsin and Minnesota down to Arkansas and from Nebraska to Indiana, and I am also to-day representing the Ohioans at their special request.

I attended a meeting of the Ohio wine growers about a month ago, and they are very dissatisfied with the Kent bill, and I have heard from them since that they are dissatisfied with the bill as it left the House. For that reason I had Congressman Meeker, on July 10, introduce an amendment in the House which was referred to before.

As to the New York representatives here: Mr. Vance is a newspaper man from New York and Mr. Dewey is a restaurant man with a little vineyard in New Jersey.

Senator THOMAS. There is no need of criticizing what these gentlemen here have said. We have not time to listen to that have. If you anything yourself to say it is all right.

Mr. STARK. I want to show you about the wine treatment in New York. We had a meeting at Put-In-Bay, Ohio, where all these New York gentlemen made admissions about the necessity of using water and sugar in their own wines, and they claim to-day that they have fortified their native wines with spirits, with brandy spirits under the law. Some told me, though, at Put in Bay that while they did so fortify the pure grape juice with brandy spirits, they watered and sugared it afterwards, and that was in violation of law, but they got by with it. Now, we do not want to take those chances in Missouri. If we can not use brandy spirits lawfully, we will not use it at all. However, we are entitled to protection against piracy from other sections of the country.

We do not want to reduce the acid in our wines with California wines which are weak in acid, because that would destroy the character of our Missouri wines. We have built up a trade on Missouri wines from Seattle, Wash., and Portland, Oreg., to Boston, Mass.; in fact, we have sold our Missouri wines in every State in the Union excepting the State of California, and we have never tried to sell any there. We have received first prizes at all the world's fairs on our wines and we are getting prices for our wines which enable us to send salesmen all over the United States. We are not selling our wines on account of their cheapness, because we can not compete with the cheap California prices. We are selling our wines strictly on quality.

Mr. Dewey claimed that the National Wine Growers' Association, of which he is president, represents 80 per cent of the wine growers in the United States.

Mr. DEWEY. You claim to be president of the National Wine Growers. I am president of the American Wine Growers' Association.

Mr. STARK. I will change that. I meant the American Wine Growers' Association. That may be true, but it practically represents only the State of California. That is where all those wine growers are located, and the California wine industry grew under this subsidy that the Government has given them. There are only a few New York State wine makers, the balance are champagne makers in New York.

The CHAIRMAN. I think it was Mr. Kent's statement that California alone produces about 90 per cent of the domestic wine.

Mr. STARK. I do not want to dispute him. I do not think it is that much, though. Nevertheless, the New York State wine makers are only a few, and they are small ones. They are mostly champagne makers in New York. The California wine growers joined the American Wine Association, which originally was composed of nothing but eastern wine makers, and I belonged to it, and when the Californians packed the association so they had control of it I stepped out. Now, they are using the American Wine Growers' Association as their mouthpiece, so they can get a few easterners in there to represent them—small wine growers in the East with whom we never meet in competition. The question of using cheap spirits in wines demoralizes the entire wine industry. I am a distiller of whiskies. I am also a distiller of brandy and a grower of wines, but I know that every distiller in the country would be up in arms if Congress would remove the tax on whisky. It would demoralize the whisky business, and exactly the same obtains in the wine business.

Those cheap spirits which go into wine cheapen the sweet wine, and they ruin the entire wine market, and particularly the dry or sour wine market. And not only that, but the wine business is continually in an uproar. No stability to it. If we get 10-cent brandy or 10-cent grain spirits to-day from Congress for sweet wines, there will be other industries bombarding Congress for the same rights, and they would be entitled to it, particularly as wine is a luxury, and for that reason I think the spirits that go into wine ought to have an equitable tax assessed against it so we shall have protection from attack in the future. I am getting tired of coming to Congress each session and spending all my profits every year that I make.

Senator THOMAS. That is a somewhat ambiguous statement.

Mr. STARK. I mean in expenses.

Mr. ANSBERRY. That is ambiguous also.

Mr. STARK. In 1914, the Californians sent a delegation here and we compromised with them on the existing law, as it is to-day, and that petition to pass the law as it is to-day was, under date of October 14, 1914, addressed to Hon. F. M. Simmons, and it appears in the Congressional Record of October 15, 1914, on page 18331, and it is signed by all the wine growing sections of the United States, barring none. The first one to sign that petition was the American Wine Growers' Association, by Hiram Dewey, president; the next one to sign it was the National Wine Growers' Association, by Thomas E. Lannen, attorney; the next one to sign it was the California Grape Protective Association, by Theodore A. Bell, vice chairman; the next one to

sign it was the Mississippi Valley Wine Growers and Grape Growers' Association, by O. G. Stark president; and the next one to sign it was Walter E. Hildreth, a champagne maker in New York state, and he signed himself as a director of the American Wine Growers' Association.

Mr. LANNEN. In that they all said they were thoroughly satisfied with that law?

Mr. STARK. Absolutely. It speaks for itself.

Mr. LANNEN. And hoped it would be the permanent law.

Mr. STARK. This petition printed in the Congressional Record speaks for itself.

The CHAIRMAN. You may put it in the record.

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

WASHINGTON, *October 14, 1914.*

Hon. F. M. SIMMONS,
Chairman Finance Committee, United States Senate.

DEAR SIR: For many years there has been a universal desire among the grape growers and wine makers of America to standardize the quality of our domestic wines along lines that will permit all sections to make legitimate wines upon terms of equality. We are pleased to state that after several weeks of earnest effort a plan has been worked out covering the making of sweet wines which is satisfactory to every wine-making State in the Union. This plan is found in the proposed bill which was sent to your subcommittee on the 12th instant with the approval of the Secretary of the Treasury. Not only will this measure raise more than the amount of revenue anticipated by your committee from wine sources, but it will permanently settle all sectional differences and contribute materially to the upbuilding of the American wine industry upon a sound basis.

In view of the fact that the American champagne makers are very earnestly representing that their industry will be seriously affected by a tax of 25 cents per quart on champagne wines, we beg to suggest that perhaps this particular rate may be revised without materially affecting the amount of revenue desired or affecting the remainder of the proposed bill. Aside from this item, the undersigned, representing all of the grape-growing States, earnestly ask that the proposed bill be enacted into law, and that, if consistent, an opportunity be afforded them to further present their views to the committee.

Respectfully submitted.

AMERICAN WINE GROWERS' ASSOCIATION,
By HIRAM DEWEY, *President.*
NATIONAL WINE GROWERS' ASSOCIATION,
By THOS. E. LANNEN, *Attorney.*
CALIFORNIA GRAPE PROTECTIVE ASSOCIATION,
By THEO. A. BELL, *Vice Chairman.*
THE MISSISSIPPI WINE GROWERS' &
GRAPE GROWERS' ASSOCIATION,
By OTTMAR G. STARK, *President.*
WALTER E. HILDRETH,
Director American Wine Growers' Association.

Mr. STARK. Now, we were not satisfied at all with the bill as it went through. We had to give in and compromise, and give and take, in order to come to a settlement and have these continual squabbles over with, as we were noticing that the Senators and Congressmen were getting tired of seeing our faces, so we came to some kind of a compromise, and that agreement between gentlemen was that this 55 cents per gallon tax should stand permanently, and you will remember, Senator Thomas, that I spoke to you about it at the time, and Senator Pomerene even introduced an amendment to make it permanent, but Senator Williams from Mississippi stated that there was not to be anything permanent in that emergency bill, that it could be made permanent afterwards, and the general understanding of all the Senators was that this 55 cents should be permanent.

Now, the Californians come and double-cross us and try to back up and even repudiate their representatives and claim they were then representing without authority.

I think we ought to have $1.10 a gallon tax. That is what we were originally fighting for, and I now make that request, that the Californians and everybody ought to pay the full tax on spirits that they use. We have been paying it for 25 years and more. We are always using grain spirits and paying $1.10 tax. Why can they not do it out there? If they would stop cutting prices they could afford to pay $1.10 tax per gallon of spirits.

By using cheap spirits in wines it opens the gate to all kinds of fraud. The Californians deliberately raided the cordial industry of America. They caused a tax of 24 cents a gallon to be placed on cordials in the emergency tax bill of 1914 in order to make the cordial manufacturers pay the deficit caused in revenues by the reduced tax on brandy spirits used for fortifying sweet wines, and that has since then practically ruined the American cordial industry. There is a record in the Treasury Department, and according to my calculation, there are about 20,000,000 gallons of cordials made in the United States annually. I think I testified to that once before.

Mr. VANCE. Where do you get your figures?

Mr. STARK. I compiled them. I have them just as handy as Mr. Vance has them when he published figures in his wine magazine.

Mr. VANCE. I do not publish things out of my head.

Mr. STARK. Neither do I. When you interrupted me I was saying that I quoted those figures, at the time I compiled them, when Mr. Underwood got up his tariff bill in 1913. I object to being continually interrupted. I think that the entire wine schedule ought to be eliminated from this present bill. Just leave the law alone as it stands and let it take its course, the way we all agreed to in 1914.

Senator THOMAS. It would be an easy job for us if you could eliminate the whole thing.

Mr. STARK. I want to point out to you what this means; this free brandy. In 1912 the California sweet-wine industry was in its most flourishing condition. That was before we in the East started something. They used 6,322,303 gallons of brandy and stuck it into unfermented grape juice and called it sweet wine. That amounted to about $7,000,000 that the United States Government was losing in revenue; and who got these $7,000,000? A little over one hundred men in the United States divided up this $7,000,000. There were about in the neighborhood of 150 wine makers who used the brandy. One wine maker alone, as it appears in the Congressional Record, the George West & Co., of Stockton, Cal.—the Congressional Record of October 2, 1913, page 5874, shows that the George West & Co., of Stockton, Cal., alone used 1,125,279 gallons of brandy. That one house alone in one year got away with over one and a quarter million dollars of money out of the United States Treasury which they should have paid in, and we Mississippi Valley wine growers are paying the tax of $1.10 right along, and competing with them. It is not right. The reason we want the right to use grain spirits instead of being compelled to buy brandy spirits from our competitors in California, is because we have always used grain spirits during the last 25 years

or more, and it is a cleaner spirits; it is absolutely pure and neutral. It has not got any grape flavor to it at all.

Grape flavor may be all right in some wines, but we do not want it in all the wines. Particularly high-class wines like ours have to retain their own flavor and not be changed by the flavor of the brandy. In 1914 my house in St. Louis, a wholesale liquor house and rectifying house, wanted to buy California grape spirits for compounding purposes, and we could not get any. We were up against it. They said, "We need it ourselves." That is the exact situation I now want to guard against. We do not want to be put in such a tight place where we can not get any grape spirits because the Californians need it themselves, or because they are raising the price on us beyond reason. We want the right to use grain spirits, which we can always get and which is made right in our own neighborhood and which we have used for 25 years and longer.

I refer to the Agricultural Department bulletin No. 335, issued April 11, 1916, entitled "Development of Sugar and Acid in Grapes During Ripening." Now, the Government experts themselves state here that the native American species of grapes have high acidity, and it depends on climatic and soil conditions, as well as on the species.

Senator THOMAS. Nobody disputes that, I imagine.

Mr. STARK. There are also a number of tables in here to show the acidity running up as high as 12 per mill, and even in a few instances up to 15 per mill; but, as a rule, about the time they become ripe certain varieties run up to 12 per mill.

We are not dealing here with seasons alone but also with varieties. Some varieties which we grow have more acidity than others.

Mr. LANNEN. You mean 12 parts in the 1,000 parts?

Mr. STARK. I mean 12 per mill, not per cent. We should have a right to reduce that acid down to 5 per mill, like they do in Europe, and like in the brief we filed through Congressman Meeker on July 10. All the authorities quoted in those briefs say it ought to be not over 5 or 6 per mill, and that is what we fight for. A wine that has 12 per mill acid should be reduced to at least 5 or 6 per mill to make it marketable, and you can not do that with 25 per cent sugar solution, because mathematics will prove that. Therefore, we should not be permitted one thing and then be estopped from doing it by a counter ruling.

I am perfectly willing to grant that any wine ameliorated with a sugar solution in excess of, say, 50 per cent should be labeled "Ameliorated wine" or "Sugared wine."

Mr. LANNEN. You mean in excess of 35 per cent?

Mr. STARK. It takes 50 per cent, Mr. Lannen, to make a palatable wine. If it is right to use 25 per cent, then it is right to use 35 per cent, and right to use 50 per cent where the fruit requires it. We are not asking for anything but what is a physical necessity to correct the imperfection of the grapes.

The CHAIRMAN. What do you say to Mr. Lannen's proposition—if it goes above 35 per cent it should bear a special label?

Mr. STARK. I say if it goes above 50 per cent it should bear a special label.

Mr. ANSBERRY. That is 15 per cent difference only.

Mr. STARK. Certainly; only a mere bagatelle. There has been more used in the past.

Senator THOMAS. You would not put a limit on it at all?

Mr. STARK. Oh, yes, sir; absolutely.

Senator THOMAS. But what would be your limit?

Mr. STARK. Down to 5 per mill.

Senator THOMAS. I am not talking about the percentage of water and sugar.

Mr. STARK. It is hard to tell how far that will come.

Senator THOMAS. I am correct, then, when I say you would not put any limit.

Mr. STARK. Yes; certainly, Senator.

Senator THOMAS. I should like to know what it is.

Mr. STARK. Here you are. If the acidity is 15 per mill—take an extreme case——

Senator THOMAS. Suppose you require an equal part of sugar and water.

Mr. STARK. That is what I am talking about.

Senator THOMAS. That is 100 per cent?

Mr. STARK. No; 50 per cent of the resultant product. I am talking about wine.

Senator THOMAS. That is part for part. If you have a gallon of grape juice and a gallon of sugar and water, that is 100 per cent.

Mr. STARK. That is 100 per cent as compared with the grape juice, but I am talking about making wine. The water and sugar should constitute 50 per cent of the finished wine. That is what we are all talking about.

Mr. LANNEN. I was talking about 35 per cent of the resultant product.

Mr. STARK. That is the way they have it in Europe, too; of the resultant product, not of the grape juice.

When it comes to how we in the East should label our wines, I take the position and request that the same stringency be exercised with regard to the California wine makers, and that every time they add tartaric acid and tannic acid which they need because their grapes have not enough acidity—they are just in the opposite situation from what we are, we have too much acidity and they not enough—every time they add acid, no matter whether they call it cellar treatment or for other purposes, the label should state the fact that acid was added and state the kinds of acids. And if they fortify a grape juice which is only one-third or one-half fermented, they should state on the label that it is an "alcoholized unfermented grape juice," and not label it "sweet wine," which is misbranding it. We in the East first make a complete bottle ripe wine which is sold as a Concord wine or a Catawba wine, then we sweeten it up and fortify it with tax-paid grain spirits. That is sweet wine.

In conclusion, I beg the Congress to not demoralize the wine industry by giving it free spirits, whether it be grain spirits or brandy spirits. It will only ruin the wine business. It has done so in the past. It has brought us up here fighting all these years. There never was any trouble in the wine business until the free-brandy act went into effect, giving the Californians the advantage over us, and gradually they crowded us out everywhere until finally we had to come here to fight for our rights. And we now have our backs up

against the wall, because it means we are going out of business if they get a paltry tax of 10 cents a gallon on spirits.

I thank you, gentlemen.

The CHAIRMAN. We will next hear from Mr. L. J. Vance.

STATEMENT OF MR. L. J. VANCE, PUBLISHER AMERICAN WINE PRESS, AND SECRETARY AMERICAN WINE GROWERS' ASSOCIATION.

Mr. VANCE. Mr. Chairman and gentlemen, I should like to have five minutes to say a few words. I want to start out by saying, perhaps as a comment on your remark, Senator Thomas, that legislators do not sometimes know what they are doing when they pass legislation, and that perhaps is true of the wine legislation. There have been so many conflicting interests and so many conflicting statements that I do not wonder you are not only confused, but you are liable to legislate to the detriment of some interests that are appearing here.

Senator THOMAS. We are bound to do that according to the statements that have been made here.

Mr. VANCE. If you follow all. To get back to the matter. This is largely a trade fight. I, as publisher of the American Wine Press, think I am quite intimate with what is back of these arguments by Ohio and Missouri representatives. They have come here, to my surprise, making two peculiar charges: First, they have sort of reflected on the intelligence of the eastern wine makers. I am speaking of the majority of the eastern wine makers, because Nebraska and the State of California and the State of New York produce more wine and have more vineyards than any other States in the Union. There are 60,000 acres of vineyards in the State of New York. There is no State anywhere near that outside of California.

Mr. STARK. Do they not use the grapes in grape juice factories almost altogether, and are there not only four wineries in New York making dry wines, and the balance champagne?

Mr. VANCE. No.

Mr. STARK. Are there not only six?

Mr. VANCE. No; there are 16. There are a dozen wineries making more wine in a season than you make in two.

What I am talking about is this. Secondly, Mr. Lannen has also charged the wine makers with being dishonest, or the Department of Internal Revenue of overlooking dishonesty; in other words, of violating the law.

Now, we all know that the Internal-Revenue Department would not allow things to go on which he has stated here. If they had gone on the internal-revenue officials have been derelict in their duty and should be discharged. Charges should be brought against them. Any man or any winery that has fortified sweet wine with 26 per cent of brandy spirits, as Mr. Lannen has charged here, has plainly violated the law. They have not only not violated the law, but the department would not be very long in prosecuting them. I do not think the agents in California, in New York, in Ohio, or even in Missouri, are crooked to that extent. But what I do say, and I want to say it briefly, I want to go back to the principle of legislation. I was just reading a book the last few weeks by Jethro Brown on the principles of legislation, and he states we have not gone very far beyond the

old maxim of the greatest good to the greatest number. Now, the greatest number of people in the American wine industry to-day are members of the American Wine Growers' Association; they are wine makers doing business in California, New York, New Jersey, and Virginia. We have in the American Wine Growers' Association one or two members, or three, in Ohio. They are the principal wine-growing States. There are no other commercial wine-growing States, except those States I have mentioned. The organization represented by Mr. Stark is a joke. It is a paper organization.

Mr. STARK. Have you ever seen it?

Mr. VANCE. I have never seen it.

Mr. STARK. What do you know about it?

Mr. VANCE. It is a paper organization.

Senator THOMAS. You objected to being interrupted, Mr. Stark.

Mr. VANCE. By the census of 1910, which was confirmed to me by Mr. Houston to-day, the total output of the whole Missouri Valley is around 500,000 gallons.

Senator THOMAS. Suppose it was one-sixth or one-sixteenth of that, we should not pass legislation that would destroy it.

Mr. VANCE. I say the small wine makers should be on a par with the large. The man who makes only 1,000 gallons has as much right to the protection of the law, as much right to be favored, if there is any favoring, as the largest. That is my principle; but I do say that to come here and make statements which reflect, first on the intelligence of men doing business in the large wine-growing States, and say that they are not doing a legitimate business, or that if they are, they are big fools; and, secondly, that the Department of Agriculture, or the Department of Internal Revenue, is overlooking the violation of the law—I say that when such statements are made, they should be challenged and refuted.

In addition, coming to the question of amelioration. I helped draft this bill—this dates back, by the way, Senator Thomas, to the year 1904 or 1905, when we drafted a pure-wine bill. The conditions in the American wine industry were so bad in the way of adulteration, and it had become such a parasitic business, whereby that adulteration was cutting into the legitimate wine maker, that we got together and formed the association. That was one of the causes, one of the great incentives, to the forming of that association.

I, as a publisher, saw we were getting into a bad state of affairs. I helped form the association. What was the result? One of the first results and one of the first acts done by that association was to formulate and introduce in Congress by Senator Fassett a bill known as the Fassett pure wine bill. What followed? Ohio and Missouri came down there and fought it tooth and nail. They immediately started all sorts of tactics to defeat it. They did not want such a wine bill. We allowed the amelioration 20 per cent. They were glad to have us bound under the very terms of that bill. It went along to 1906 until the food and drugs act passed, and after the passage of that act we did not care to push our bill; we thought the food and drugs act would do what we thought the bill would do. It did do it, and if you will look at what is known as Food Inspection Decision and Judgments you will find that the people who violated the pure-food law are Mr. Lannen's clients; but you will not find in the Pure Food Inspection Decisions and Judgments our members. You will find they are living up to the law.

Mr. ANSBERRY. Your people are virtuous.

Mr. VANCE. We are living up to the law. We are not claiming that we are holier than thou.

Mr. STARK. You do not include me in that list, do you?

The CHAIRMAN. I am frank to say that I do not see just what the value this sort of discussion is.

Mr. VANCE. What I am driving at is this: When it comes up to the emergency act, which was practically a reprisal just like the allies and Germans are doing now, it was a reprisal against the California growers who were in with us and were trying to make a standard of a standard industry. It is an open secret, I suppose you know it better than I do, that Senator Pomerene introduced it at the instigation of these people; therefore they started another fight.

Coming back also to the question of wine making, that, of course, is not simple, but I will explain it briefly. In Ohio and Missouri they are trying to make every kind of wine under the sun. It can not be done in certain climates. It is impossible. In other words, if they try in the champagne district of France to make Tokay, Port, Sherry, Malaga, and all the different types of wine, they would be hauled up with the French pure food law, which is the same there as here. It can not be done very well. Climatic conditions and other things do not allow it to be done.

Now, if you are going to allow as they have done in Europe a certain amelioration which is legitimate, and bring the wine up to a fair standard, you do not undertake to perform the miracle of Cana, and do as these men do here, and produce a near wine, which would be half and half, 50 per cent, as they claim here. That is not wine, it is one-half wine. Under the law of the State of New York it is expressly on the statute book, passed over 30 years ago, that wine with an amelioration of something like 30 per cent, I think, should be called one-half wine. That is what it is.

In conclusion, it seems to me that getting at all this folderol or rather clouding the issue about getting away with millions of brandy tax that should have been paid, also giving hysterical figures as to how many million dollars the Government has lost, also how much good it would do for temperance for the people to drink wine which they favor, why I assume that that is possibly obiter dictum, as the courts would say, it has nothing to do with the issue here. It certainly can not influence legislation. It certainly is not a matter to be considered when you are trying to get at the right. It is an irrepressible conflict. It is a conflict between the right and the wrong. It is a conflict making right by a wrong method or wrong by a right method. There is no compromise in that respect, therefore the pure food department has been to their view by compromising——

Mr. ANSBERRY. Since when?

Mr. VANCE. Ever since the law went into effect 10 years ago.

Mr. STARK. In 1910 they passed a rule, 120, which is exactly what we want.

Mr. VANCE. I know it is.

Mr. STARK. And we lived under and up to it.

Senator THOMAS. You can not all talk together. We can only do that in the Senate.

Mr. VANCE. I know you are all tired. I would urge the suggestion that Mr. Dewey has made, that in respect to the question of amel-

ioration, the question of allowing a wine to be modified in any way, that that question should be referred to the two departments directly interested and who will protect the interests both of the consumer, the manufacturer, and also of the revenue. If you will refer that to the Agricultural Department and to the Revenue Department and get their opinions which you can get by request, I believe that their opinion is the one which will be fair and satisfactory.

Mr. LANNEN. I know what it will be.

Mr. ANSBERRY. It shifts.

Mr. VANCE. I am not talking about shifting.

Mr. ANSBERRY. It gives no stability if you are talking about a law from the Agricultural Department or some other department.

Mr. VANCE. I am talking about this: If those two departments can agree and will recommend some formula or phraseology of the law which you will accept and put it on the statute book, this business will be adjusted to that law. As it is now, administrative ruling, you get yourself adjusted to it and your business will be dislocated when the ruling is turned.

Mr. ANSBERRY. Therefore Congress ought to legislate.

Mr. VANCE. It is not for you though to tell Congress to legislate in favor of wine 50 per cent water and 50 per cent grape.

Mr. ANSBERRY. You are asking a special privilege. We are opposing it.

Mr. VANCE. I am not asking a special privilege. You are trying to change the methods of wine making of the world. You are trying to make sweet wine according to a method which does not prevail.

Mr. ANSBERRY. And you want free alcohol.

Mr. VANCE. In Spain and Portugal and other places where I have been, and with which I am familar—I have been on two wine juries, and I know their wines—I know this, that your proposition to make sweet wines would be laughed out of court. Sitting over there is Mr. Wile, from New York, one of our large importers. I am sure he is pretty well——

Mr. ANSBERRY. How about Mr. Albertz, of California—take his testimony.

Mr. VANCE. I will take his testimony.

Senator THOMAS. Do you think the Agricultural Department and the Bureau of Internal Revenue, supplemented by the Finance Committee and the Congress of the United States, can formulate a law that will be satisfactory to these various interests?

Mr. VANCE. I think so.

The CHAIRMAN. When we had up the emergency bill, a year and a half or two years ago——

Mr. VANCE. That would take it out of the conflicting interests.

The CHAIRMAN. There has been talk about sending it to a consulting committee composed of the Internal-Revenue Bureau and the Agricultural Department. When we had this wine matter up at the time the emergency bill was under consideration (I was on the subcommittee then) we stayed here about two weeks working with these people from California and Missouri and Ohio, New York, Virginia, and elsewhere, and we had such a wrangle as we are having now, and we had before us then the experts of the Internal-Revenue Bureau and of the Agricultural Department, and finally the representatives of all of these interests. These experts went apart and came back to us with a bill, and that bill was signed and they signed an agreement

which has been read here, the names of the signers have been read, and we passed it through the Congress, and yet that is the very thing you said ought to be satisfactory, yet it was not satisfactory, and that is the thing a number of you are complaining about now.

Mr. STARK. We want to stand by the law as it is to-day and leave things as they are.

Mr. VANCE. That brings back the very point. That was a reprisal. They had Senator Pomerene introduce an amendment whereby they taxed spirits $1.10.

Mr. ANSBERRY. He was not a majority of the Senate.

Senator THOMAS. Your people agreed to it.

Mr. VANCE. It was forced; we could not do any better.

Mr. STARK. Oh, no.

Mr. VANCE. We were between the devil and the deep blue sea.

Mr. STARK. Gentlemen, we gave in on every point they wanted with the exception that they recognized the principle of using water and sugar. That is all we got out of that shipwreck, and we had to agree to that 55-cent brandy. We were gentlemen enough to abide by that gentleman's agreement. And they went and invaded the cordial field also.

Mr. VANCE. I believe in an ounce of fact rather than a pound of theory, and the ounce of fact has been stated time and again, not only in the Congress but on the floor of the House and Senate, that if you put a tax of 55 per cent you would cripple and destroy the wine industry and produce very little revenue.

Senator THOMAS. That is a very familiar argument. We do not do a thing but we are told we are going to destroy some industry.

Mr. VANCE. That has turned out to be a fact.

Senator THOMAS. Is you industry destroyed in California?

Mr. VANCE. Practically destroyed.

Mr. LANNEN. You are from New Jersey. Has that business been injured by this bill?

Mr. VANCE. Very much. I do not see the strength of your own argument. You say Mr. Stark for five years has not made any money; that the returns, when he gets any——

Mr. ANSBERRY. What do you say as to its having destroyed your industry?

Mr. VANCE. It has crippled it.

The CHAIRMAN. This is all we will hear on this matter.

Mr. STARK. I wish to refer to the statement issued by the Internal-Revenue Commissioner for the fiscal year ending June 30, 1915 (see p. 13), in referring to this sweet wine controversy. He states the following [reading]:

> I am, however, firmly of the opinion that these highly fortified wines, marketed in direct competition with other taxable spirits, and as a beverage consumed by the well to do classes, should not escape taxation. Since the passage of the wine act of 1890 there have been used, free of tax, 73,653,970 proof gallons of brandy and wine spirits in fortifying wines of this class, and from information received it appears that a very considerable quantity of these wines, known as "sherry material," has been used in the manufacture of medical preparations and other compounds. In other words, these so-called wines have been largely used as a vehicle for placing on the market untax paid spirits.

The CHAIRMAN. The committee will now adjourn until 8 o'clock p. m.

(Thereupon, at 6 o'clock p. m., the subcommittee adjourned to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(COAL-TAR MEDICINALS.)

WEDNESDAY, JULY 19, 1916.

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

The subcommittee met, pursuant to call, at 3 o'clock p. m., in the room of the Committee on Foreign Relations, Senator William J. Stone presiding.

Present: Senators Stone (chairman) and Thomas.

Also present: Mr. John F. Queeney, Mr. Levi Cooke.

The subcommittee resumed the consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has under consideration section 400, pages 87 to 91, inclusive. I understand the gentlemen present desire to submit some briefs and make some observations on this bill. We will hear Mr. Queeney. What do you wish to say, and on what subject?

STATEMENT OF MR. JOHN F. QUEENEY, MONSANTO CHEMICAL WORKS, ST. LOUIS, MO.

Mr. QUEENEY. We are asking that medicinals and flavors made from coal tar be given the same rate of duty given to finished dyestuffs.

Our reason for asking this is that in the bill as drawn up in the House the basic materials for the manufacture of these medicinals are made dutiable, and in some instances the duty on the basic materials is higher than the duty now provided for in the present tariff act for the finished products.

I have called attention in my brief, which I ask may be printed, to one particular coal-tar medical product, salicylate of soda, which is prescribed very largely for rheumatism, which carries a rate of 15 per cent in paragraph 5 of the present tariff act, whereas in the House bill (No. 16763) which has just come over the basic product, salicylic acid, is dutiable at 15 per cent and 2½ cents per pound. In other words, the basic material is at 2½ cents higher rate of duty than the finished product.

The CHAIRMAN. The brief will be printed.

(The briefs referred to are here printed in full, as follows:)

BRIEF OF THE NATIONAL ASSOCIATION OF MANUFACTURERS OF MEDICINAL PRODUCTS BEFORE THE SENATE FINANCE COMMITTEE ADVOCATING THE INCLUSION OF MEDICINAL COAL-TAR PRODUCTS IN THE RATES PROVIDED IN H. R. 16763 FOR COAL-TAR DYESTUFFS, PHOTOCHEMICALS, AND EXPLOSIVES.

This association is composed of American manufacturers of medicinal chemicals, pharmaceutical and biological products, and surgical dressings and plasters. It represents an invested capital in excess of $75,000,000 and an annual business of more than double that amount. The association is inter-

ested in the development and perpetuation of an independent domestic production of essential medicinal products so that there may be domestic competition with foreign producers.

The association calls attention to the present situation due to the war in Europe, by virtue of which there are a number of coal-tar medicinals which are either unobtainable or available in only such restricted quantities as to be at almost prohibitive prices. For example, acetphenetidin (phenacetin) was normally available at $1 per pound. The present market price is approximately $22 per pound, and little forthcoming at that price. Phenolphthalein normally may be had at $1.15 per pound but now rules at $24 per pound. Guaiacol has a normal price of less than $1 per pound, but now can be had only at $22 per pound. These prices are practically prohibitive for medicinal consumption. A few American manufacturers have already undertaken the manufacture of some of these coal-tar medicinals and wish to extend the line still further, but are confronted by destruction of this business under existing rates, so soon as European importations are resumed. This is because the rates for the finished medicinals make it certain that these finished products will come in at such rates as to make domestic manufacture out of the question; and thereafter the foreign control of the market will establish prices which are in excess of those that will prevail if there is home competition in production.

The situation which exists in the medicinal coal-tar field is identical with that which exists in the dyestuff field; and it is urged by this association, which is composed of American buyers of these articles, that medicinal coal-tar products be accorded the same treatment as is proposed for coal-tar dyestuffs.

Without this treatment there will be no substantial difference in rates on the finished products and the intermediate raw materials, and consequently the development of the industry will be impossible.

If Congress will give to coal-tar medicinal manufacturers the same basis provided for dyestuff manufacturers, i. e., a rate of 15 per cent and 2½ cents per pound on intermediates, and follow this, as in dyestuffs, with 30 per cent and 5 cents per pound on the finished medicinals, then American manufacturers will be given a sufficient margin between the rates on raw materials and finished produts to justify the continuation and extension of American manufacturing ventures. Without this treatment, raw materials will stand at an increased duty under the new bill as it has left the House, while the finished goods will still carry the old rates and manufacturers of medicinal products will be at even gerater disadvantage than they now are. Given the dyestuff rates, there would be manufacture in America of intermediates, for further manufacture of finished medicinals here. Without this treatment, there would be no domestic manufacture of intermediates for these products because there would be no use here for such goods in the absence of a domestic production of finished medicinals.

The foregoing statements apply equally to flavors derived from coal tar.

This association points out that what have been called herein "finished medicinals" and "flavors" are the raw materials for the manufacture of medicines, being purchased by the pharmaceutical manufacturers for further preparation and compounding before they are distributed in the trade. In this way coal-tar medicinals are in the same position as dyestuffs, which are the finished products of the dyestuff manufacturers but are the raw materials of the textile manufacturers.

This association, being the largest consumers of these articles, urge that medicinals and flavors be included in the bill in the same way that dyestuffs are treated. The association urges in this connection that such rates for medicinals and flavors will not increase the cost of products containing these articles to ultimate consumers, but, on the contrary, by insuring Amercican production, the domestic market will be safeguarded from arbitrarily high prices established abroad. The members of the association are fearful of abnormally high prices for these articles, in view of the certain effort of foreign manufacturers to recoup after the war in the absence of American competition.

Respectfully submitted.

NATIONAL ASSOCIATION OF MANUFACTURERS OF MEDICINAL PRODUCTS,
By CHARLES J. LYNN, *President.*
CHARLES M. WOODRUFF, *Secretary.*

Mr. QUEENEY. I want to say, Mr. Chairman, that we started in St. Louis some 15 years ago to manufacture these coal-tar medicinals.

We built up a business; we kept on working against all kinds of competition, but we finally built up a business now capitalized at $700,000 and with 300 men employed. With the breaking out of the war, we were confronted with the proposition that we must either shut down our manufacture or make the raw material. The materials which composed our products formerly came in from Europe, so we either had to shut down these various departments or go into the manufacture of these raw materials. We have tried to build up our business, but when the facts were made known we undertook to establish a manufacture which would supply the shortage of medicinal products during the war and which may be continued after the war has ended.

There was not one of the products that we make on which we were not right up against a shortage; everything that we made we were dependent upon Germany before for their raw materials, which are what are known as the intermediates and which are now provided for in the paragraph.

For example, in the manufacture of phenolphthalein, used as a great laxative. We had to manufacture phthalic acid, which had never been made in this country before. We had to manufacture phenol, which was not manufactured in this country before. We also had to undertake to manufacture phenol, or carbolic acid used in conjunction with phalic acid, for the manufacture of phenolphthalein. The chemicals used in the manufacture of phenacetin and other articles, intermediate or raw materials, we imported from Germany before, but we have now just about completed the installation and are ready to turn that product out—finished phenacetin—but we can not continue at the rates provided for in this bill.

The CHAIRMAN. In this bill?

Mr. QUEENEY. In the House bill.

The CHAIRMAN. You mean the one we have here?

Mr. QUEENEY. Yes; the one that has come over from the House, because, as I say, the rates on most of the intermediates are higher than the rates on finished products.

The CHAIRMAN. You spoke of phenol. That is on the free list now, is it not?

Mr. QUEENEY. That is on the free list now, but is made dutiable at 15 per cent and 2½ cents a pound.

The CHAIRMAN. What is the equivalent?

Mr. QUEENEY. Of phenol?

The CHAIRMAN. Yes.

Mr. QUEENEY. It is hard to say, because at normal times the price is 8 cents per pound, and it has gone to 75 cents during the war, but now, with the American manufacture, we have got it down to 60 cents a pound, and it is going down still further.

The CHAIRMAN. You said it was how much in this bill?

Mr. QUEENEY. Fifteen per cent and 2½ cents.

The CHAIRMAN. At former normal times what would the 2½ cents be equal to?

Mr. QUEENEY. It would be equal to about 25 per cent.

The CHAIRMAN. That would be about 40 per cent?

Mr. QUEENEY. It would be about 40 per cent; yes, sir. But I am not asking for the rate on any of the intermediates or for phenol or for aniline that has been provided for in the House bill, but I am asking for the rate on the finished products—the finished medicinal

products. For instance, we also had to manufacture our aniline oil; we had to start right from the ground up. We expended last year about $300,000 for these new buildings and materials. We have probably gone further than any other chemical house in the United States for the manufacture of medicinal products.

The CHAIRMAN. On the intermediates are you satisfied with the rates that are fixed in this bill?

Mr. QUEENEY. We are perfectly satisfied if in that group 2 you will incorporate—or exclude from the classification in the paragraph—that it does not apply to medicinals and flavors. In group 2 it provides here, Mr. Chairman, for "all other products not otherwise provided for," which would take in medicinals, up to the time I called Mr. Kitchin's attention to that and pointed out to him the condition, and then they tried to provide for that in an amendment on the floor, which only confused matters still more.

If you will incorporate in group 2, which is on page 88, line 22, after the word "chemicals," "medicinals, flavors," that will take them out of group 2, and then incorporate in group 3, on page 89, line 5, after the word "chemicals," "medicinals, flavors," that will give the finished medicinals and flavors made from coal tar the same rates of duty given in that group to dyestuffs, photographic chemicals and explosives.

Now, we have had more real trouble with the shortage of medicinal coal-tar products in this country than we have had with the dyestuffs, and there has not been so much said about it. The prices have increased from 3 to 20-fold by reason of the trade not being able to get it, and I have brought here the market reports, which I can leave, if necessary, to show what the rates were on these medicinals in December, 1914. Then in the middle of that period, November 5, 1915; then up to June 29, 1916.

The CHAIRMAN. The rates on what?

Mr. QUEENEY. The rates on medicinals, the advance in prices on medicinals. For instance, acetanelid was 28 cents on December 11, 1914, and November, 1915, it was $1.25, and now that we are making a little bit in this country, it is 75 cents a pound. That shows what the effect of American manufacture has been since the war. Phenacetin was quoted on December 11, 1914, at $1.25—that was shortly after the war began—and on November 5, 1915, the price was $15, and on June 29, 1916, the price was $25 a pound, absolutely prohibitive, you might say.

The CHAIRMAN. There are no manufacturers here?

Mr. QUEENEY. We have started the manufacture of phenacetin, and we believe that we shall be all right, but we can not continue with that rate under group 2.

I have told you what we have done; that we have made this investment of over $300,000 a year for the manufacture of these goods, and we are getting there; but we will be put out entirely if those goods are not put on the same rate as dyestuffs.

The CHAIRMAN. What relation do these medicinal intermediates have to the dyestuffs?

Mr. QUEENEY. It is almost impossible to separate one from another, and I have here a tree of the coal tar products which will give you some idea of what the coal tar industry is. At the present time

there is some 9,000 different articles made from coal tar, ranging from explosives to dyestuffs, perfumes, medicinals, and flavors. There is not anything known that is not made from coal tar practically to-day within those fields.

We have the opportunity now to develop that industry in this country, and I think we should encourage it. We have done our part; others are doing their part, and it is hardly right that in the same field of industry a discrimination should be made against medicinals in favor of dyestuffs.

The CHAIRMAN. They tell me that substantially the same things that go into dyestuffs go into explosives?

Mr. QUEENEY. Absolutely. They are taken from different branches. There are the three big branches, the benzol, the toluol, and the carbolic acids, and from those three basic products all the other various products branch.

In the manufacture of medicinals, by-products are produced that are used in the manufacture of dyestuffs, and vice versa; in the manufacture of dyestuffs by-products are produced for the manufacture of medicinals.

The CHAIRMAN. What is coal tar?

Mr. QUEENEY. Coal tar is the residue of the burning of coal.

The CHAIRMAN. Just what is it? How is it made?

Mr. QUEENEY. I have never seen it made exactly. I simply know it is simply that residue that comes out of the coal when the coke is burned and it is recovered, either going out of the chimney or some other way. In past years it has been going out of the chimney entirely. Then, from the coal tar comes these various distillates by the process of destructive distillation.

There is another thing to consider right there, Mr. Chairman; and that is this spirit of preparedness. We received a four-page pamphlet from the Government about a month ago asking what the position of our factory would be in the event they called on us for the manufacture of munitions of war. We laid out the whole program for them. That is what has kept Germany alive to-day, their chemical factories, by reason of their being prepared to turn their chemical factories to the manufacture of explosives, and the more of these chemical factories we have in this country the more it will help the country in preparedness.

One of the things we must not lose sight of, if you allow me to mention it, aside from German competition, Japan has made tremendous strides in this coal-tar field since the war started. I handed you a Government statement of that from the Bureau of Commerce, showing what Japan has done in the coal-tar industry. She never did produce a gallon of benzol before the war, and now she is making all kinds of explosives and producing chemicals, the Japanese Government itself guaranteeing a subsidy to every concern that will undertake the manufacture of a new product that had not been manufactured in Japan prior to the war. It gives them a tremendous impetus and advantage over us. I think it presents a very forcible argument why we should encourage such manufacture in this country.

I think that is a very important thing to consider in connection with this matter, Mr. Chairman, aside from the fact that this bill discriminates against medicinals, by failing to include them in this

bill. The maximum Japanese wage for their expert men is 22 cents a day for 10 hours, and from that down to 15 cents a day. How can we expect to compete with them when conditions return to normal times? They pay 22 cents a day for their experts for 10 hours; we are paying all the way up to 60 cents an hour.

The CHAIRMAN. You pay as much for one hour as they pay for three days?

Mr. QUEENEY. Yes, sir. There is another point, if you will allow me to mention it, Mr. Chairman, and that is that we do not sell our goods to consumers. Our products go to the manufacturers and to the pharmacists who then compound them into medicinals, which go to the consumer. The other day the representatives of the National Association of Manufacturers of medicinal products were here. They represented over $75,000,000 invested capital, and with an out-turn of over $150,000,000 annually in medicinal products. They came here to appeal for the same rates that you are giving dye stuffs, because they want home production of coal-tar medicinal manufactures. They are the buyers, not the manufacturers, but the buyers and consumers of these products who appeal for this, just the same as the fabric manufacturers are appealing for a duty under which they can safely develop the dye stuff manufacture in this country.

The CHAIRMAN. The textile manufacturers have had more to do than anybody else in a protective legislation——

Mr. QUEENEY. In the past.

The CHAIRMAN. For dye stuffs, strange to say. That is not so strange either, when you think about it. Only the other day, on Monday of this week, a manufacturer of overalls came here, representing a North Carolina concern, claiming to manufacture about 50 per cent of all the overall cloth, protesting against any duty.

Is that all you wish to say?

Mr. QUEENEY. I think so, unless there are some points you wish to bring out.

The CHAIRMAN. No; we have the briefs here.

Mr. QUEENEY. I would request that the telegram, of date July 18, 1916, from Mallinckrodt Chemical Works, of St. Louis, Mo., to the chairman of this committee be included in the record.

The CHAIRMAN. That may be inserted at this point.

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

ST. LOUIS, MO., *July 18, 1916.*

Senator WILLIAM J. STONE,
Washington, D. C.

We regret to observe that there is no provision made to advance the rate duty on coal-tar medicinal preparations in H. R. 16763 with advance in the rates intermediary products as provided under group 2, maintenance of the old schedules on medicinal preparations under act October 4, 1913, will not only prevent American manufacturers from further development in this branch of the industry but destroy the progress so far made with the very material difference in cost of production due to higher wages of labor and higher prices of plant equipment and general operating expense in this country. We respectfully insist the increased cost of the intermediary products demand that in this new legislation the rates on medicinal coal-tar preparations should receive equally favorable consideration as the coal-tar dye industry, and that rates on a parity with the latter, as provided under group 3, be provided and adopted. We respectfully request and urge your favorable consideration.

MALLINCKRODT CHEMICAL WORKS.

The CHAIRMAN. We will be glad to hear from Mr. Levi Cooke.

STATEMENT OF MR. LEVI COOKE, WASHINGTON, D. C.

Mr. COOKE. I should like to present a memorandum for the Heyden Chemical Works, of Garfield, N. J.

The CHAIRMAN. You may submit a brief or submit your remarks in the form of a statement to be included in the record.

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

BRIEF OF THE HEYDEN CHEMICAL WORKS BEFORE THE SENATE FINANCE COMMITTEE URGING THE INCLUSION OF MEDICINAL AND FLAVORING COAL-TAR CHEMICALS IN H. R. 16763.

The Heyden Chemical Works, of Garfield, N. J., respectfully present that they have, since the year 1900, been engaged in building up the manufacture of medicinal and flavoring coal-tar chemicals at their works in Garfield, N. J., and have been successful in supplying this market with a number of American-made coal-tar products not before made in this country.

The present European war has shown, however, that the production of coal-tar medicines and flavors in this country is still entirely insufficient to supply the demand. The scarcity in these articles is as great as that of coal-tar dyes, and the prices for articles not manufactured here have increased many fold.

Intermediate materials for those already manufactured here have been shut off by the war and manufacture hindered or substantially stopped in the absence of American production of these intermediates.

The effect of not including medicinals and flavors in H. R. 16763, in the same way that dyestuffs and other coal-tar products are included, is actually to put the American manufacture of these products in worse plight than before, because intermediates are given rates in the dyestuff schedule approximately equal to or greater than present duties on the finished medicines and flavors.

To illustrate: The Heyden Chemical Works manufacture salicylate of soda, a medicine very extensively used in rheumatism treatment. It now bears 15 per cent under paragraph 5 of the tariff act. Salicylic acid, its intermediate, is to be given a duty under this bill of 15 per cent and 2½ cents per pound, or more than the rate on the finished product. The sulphocarbolates are in identically the same position.

Guaiacol is now at 15 per cent under paragraph 5 of the tariff act. Phenol, its raw material, is to take 15 per cent and 2½ cents per pound under group 2 of H. R. 16763. Guaiacol is widely used in treating throat troubles and tuberculosis conditions.

Methyl salicylate is a wintergreen flavor largely used in flavoring medicinal and other products. It now takes 20 per cent under paragraph 49 of the tariff act, while salicylic acid, its raw material, is given 15 per cent and 2½ cents per pound, a rate substantially equal to the rate on the finished product.

Salol, a very widely used intestinal antiseptic, especially employed in combination with other coal-tar medicinals in treating influenza and grippe, now bears 25 per cent, but salicylic acid, its raw material, is to take 15 per cent and 2½ cents per pound under H. R. 16763.

The foregoing examples of coal-tar medicinals and flavors manufactured by this company make patent the drastic changes which H. R. 16763 would create, unless corrected to include medicinals and flavors under the same arrangements and rates proposed for other coal-tar groups, namely dyestuffs, photochemicals, and explosives. We do not believe that its was intended to make a radical change for the worse with respect to coal-tar medicines and flavors, while safeguarding the manufacture of other coal-tar products, and that Congress will readily correct the finished measure to the end that the manufacture of coal-tar medicinals and flavors may be encouraged and developed as well as the other lines of coal-tar manufacture.

This company calls attention to the brief of the National Association of Manufacturers of Medicinal Products, which has been widely published in the trade journals, in which that association, composed of buyers of these products, urge equal treatment of coal-tar medicines and flavors with dyestuffs in order that American manufacture may be developed to avoid repetition of the present shortage of supply of needed medicinal articles.

The amendments urged are as follows (H. R. 16763):

Page 88, line 22, after the word "chemicals," insert the words "medicinals, flavors."

Page 89, line 5, after the word "chemicals," insert the words "medicinals, flavors."

The effect of the first amendment will be to exclude coal-tar medicinals and flavors from the classification of group 2, and of the second amendment to include these products with finished dyestuffs, photochemicals, and explosives in group 3.

Respectfully submitted.

THE HEYDEN CHEMICAL WORKS.

The CHAIRMAN. The subcommittee will now stand adjourned.

(Thereupon, at 3.15 o'clock p. m., the committee adjourned to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(DYESTUFFS, DRUGS, COAL-TAR PRODUCTS, ETC.)

TUESDAY, JULY 18, 1916.

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

The subcommittee met, pursuant to call, at 2 o'clock p. m. in the room of the Committee on Foreign Relations, Senator William J. Stone presiding.

Present: Senators Stone (chairman), Thomas, and Hughes.

Also present: Mr. Thomas S. Beall, representing the Proximity Manufacturing Co. and White Oak Mills, of Greensboro, N. C.

The subcommittee resumed the consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has under consideration section 400, which is on page 87 of the bill. Mr. Beall, the committee understands that you desire to present some views. You will please proceed.

STATEMENT OF MR. THOMAS S. BEALL, REPRESENTING THE PROXIMITY MANUFACTURING CO. AND WHITE OAK COTTON MILLS OF GREENSBORO, N. C.

Mr. BEALL. Mr. Chairman and Senators, as I pointed out in the brief which I filed here, the parties whom I represent consume between one-fourth and one-fifth of the total importation of indigo in this country, and therefore necessarily they are vitally interested in the subject.

Senator THOMAS. Is your consumption confined wholly to synthentic indigo?

Mr. BEALL. Yes, sir; our consumption is confined wholly to synthetic indigo. As a matter of fact, my information is that practically no natural indigo is brought to this country. I think within the last several years 100 casks would cover the importation of natural indigo. Indigo is the only color that we have ever been able to find which is capable of being used successfully in the making of these goods for the reason pointed out, that they must of necessity be subjected to very, very hard wear, frequent washings, and very hard conditions.

This bill which has been introduced, I am advised, with the schedule which is proposed, was put on entirely with an idea of lending encouragement to the establishment of an industry for the production of indigo in this country.

Senator THOMAS. The production of dyestuffs, not indigo.

Mr. BEALL. This particular schedule was for the production of dyestuffs. I understand moreover that the schedule was framed, to a large extent. by reason of the fact that the consumers of certain dyestuffs had petitioned Congress, or its members, to place such a tariff on dyestuffs in order to lend this encouragement. Such condition does not exist with regard to indigo, as to which I am now speaking. The consumers of indigo, as distinguished from other dyestuffs, have not asked for any duty to be placed upon it. It has always been on the free list. The only time that I remember it was undertaken to be taken off the free list and a tariff of 10 per cent put on it was in 1912, at which time the minority report was filed, being part of report 636, part 2, by Senator Stone and others, in which this language was used:

By this amendment the dyes which are used in coloring cheaper cotton goods was left on the free list, where they have been in previous tariff bills, and where we think they should remain, in the interest of the consumer.

Now, the only person, as far as I am advised, who has indicated a willingness to establish a dyestuff plant for the manufacture of indigo—which is the cheapest blue dyestuff made, selling for 15 cents a pound in 1913, the last normal year—is a Mr. Dow, of the Dow Chemical Co., Saginaw, Mich. The bill as it came from the House and as it was introduced in the Senate carries a tariff of 30 per cent ad valorem on indigo, or, to be specific, 4½ cents per pound. There was a specific duty of 5 cents per pound placed upon the other colors; that is, other than alizarin and indigo. That 5 cents per pound specific——

Senator THOMAS. What bill are you speaking of?

Mr. BEALL. Of the Kitchin bill, the bill that you now have under consideration. That 5 cents per pound specific was not made applicable to either indigo or alizarin, for the reason that they are very cheap dyestuffs, the 5 cents per pound on indigo being 33⅓ per cent, whereas the other dyestuffs mentioned in the schedule, and which are largely used, vary in price from $1 to $5 a pound, so the 5 cents specific is insignificant as to these dyestuffs, but it is very material as to indigo; and for that reason the Ways and Means Committee did not deem it fair to place a tax of 63⅓ per cent upon indigo to encourge the production of indigo and a charge of 30 per cent and a mere insignificant one-twentieth of 1 per cent upon these others. For that reason an exception was made as to alizarin and indigo as to the specific tariff. When that exception was made Mr. Dow, who is the only gentleman who has proposed to create an establishment for the manufacture of indigo, notified Congress, through Mr. Hill, that he would not establish an indigo industry; and I call attention to the Congressional Record of July 12, 1916, at page 12613, in the speech of Mr. Kitchin, as follows [reading]:

The gentleman from Connecticut produces another witness, a Mr. Dow, president of the Dow Chemical Co., Saginaw, Mich., and says that Mr. Dow had written or wired him that he is not going to put any capital into the manufacturing of indigo if the present bill passes; that the 30 per cent ad valorem is not enough, and that unless indigo is given, in addition to this 30 per cent, 5 cents per pound his company will withdraw from making indigo. He invested that $102,000, to which he refers in that telegram, with indigo on the free list, and yet, while this bill takes indigo from the free list and puts a tariff of 30 per cent ad valorem on it, he now sends to Mr. Hill this bluffing wire that he will stop the manufacture of indigo unless we give him 5 cents per pound

additional. Let him stop. We will not give it to him. He put his money into the indigo business, like all the manufacturers of dyestuffs, to get the benefit of the big profits of the high-war prices and not upon any expectation of a change or increase of the tariff. This same gentleman testified before our committee, in the hearings on the Hill bill, practically the substitute now before the House, that he was not so much interested in tariff protection—and was not asking for it—as he was in something to prevent unfair methods of competition on the part of foreign manufacturers. In this bill we give not only 30 per cent ad valorem on indigo, which is now and has been on the free list, but a full, ample, and drastic remedy against such unfair methods of competition as he mentioned. Mr. Dow's telegram to Mr. Hill, of July 7, is absolutely refuted by his testimony before the committee.

The gentleman from Connecticut said that the efficacy of the bill is destroyed because we do not give alizarin and indigo the 5 cents per pound in addition to the 30 per cent ad valorem, as we do the other dyes and colors. Indigo and alizarin have been on the free list under the Dingley Act, the Payne Act, and the Underwood Act—all the time on the free list—and, gentlemen of the committee, Mr. Hill's bill, which he introduced and upon which we had hearings in January, put indigo on the free list. [Applause on the Democratic side.]

Mr. BEALL. I want particularly to call attention to that fact, because I was not advised of it at the time I filed my brief. So we are confronted with this condition——

Senator THOMAS. I read that speech, but it had escaped my memory for the time being.

Mr. BEALL. So we are confronted with this condition: That the only person who contemplated manufacturing indigo, and for whom this particular provision was framed, has now advised Congress that if the bill passes he will not create the industry. So that we respectfully urge this committee that it should not longer consider the taking of indigo from the free list and putting this duty upon it.

Now, to be more exact with regard to the effect of this tariff, if the 30 per cent ad valorem duty is put upon it it will necessitate a rise in the price of this garment [indicating]—these overalls—from 10 to 15 cents per pair.

Senator THOMAS. Right at that point give us the wholesale market price of the goods that you now refer to.

Mr. BEALL. I have here a suit of overalls made from 28-inch 2.85 indigo drills. That goes to the wholesaler——

The CHAIRMAN. Is that for a man?

Mr. BEALL. Yes, sir; that is a man's garment—at $8 per dozen. I have taken, in this connection, the trouble to place upon each of the samples that I file the wholesale price of the garment.

Senator THOMAS. Then, you would have to add to the wholesale price per dozen the sum of 96 cents.

Mr. BEALL. Yes, sir; the price that we would have to raise it would have to be approximately 10 per cent, and as the matter progresses that would be 4 cents, as far as we are concerned, per garment. It takes about 4 yards, including the waste and clippings, to manufacture a pair of overalls.

Now, this increase of 30 per cent, or 4½ cents per pound, would require us to increase the price to the cutter, and the price of the cutter of course would correspondingly be increased, so that we are convinced that there can not possibly be before the ultimate consumer got it, a price of less than 10, and more probably 15 cents per pair advance.

Senator THOMAS. In normal times what does that indigo cost you per pound?

Mr. BEALL. Fifteen cents per pound.

Senator THOMAS. With a duty of 30 per cent it would be increased 4½ cents?

Mr. BEALL. Yes, sir.

Senator THOMAS. It would then cost you 19½ cents per pound?

Mr. BEALL. Yes, sir.

Senator THOMAS. How many yards of cloth would a pound of indigo dye?

Mr. BEALL. I think I can answer that in this way, that under normal conditions the cost of the indigo was about 7½ per cent of the total cost of the production of the goods.

Senator THOMAS. Now, what is the cost of the production of the goods?

Mr. BEALL. The cost of producing these goods now—take an 8-ounce piece, for example, with cotton at 13 cents per pound and dyestuffs on the free list at 15 cents per pound—would be about 24 or 25 cents per pound to make those goods.

Senator THOMAS. Including labor?

Mr. BEALL. Including labor; yes, sir.

Senator THOMAS. How many yards are there in a pound?

Mr. BEALL. There would be 2 yards to the pound; 8 ounces to the yard.

Senator THOMAS. That is 12 cents a yard?

Mr. BEALL. That would be 12 or a little more than 12 cents per yard that it would cost us to make them. Now it takes 4 yards of that particular weight, or any weight really, including the waste and clippings, to make a suit of overalls.

The CHAIRMAN. I do not understand you. You say that it takes, according to the figures that you have just given Senator Thomas as to the cloth made up, including every item of expense going into it, labor, indigo, and cotton and everything, 12 cents a yard?

Mr. BEALL. Yes, sir.

The CHAIRMAN. Now, how much of 12 cents is covered by the indigo cost?

Mr. BEALL. Under normal conditions, with indigo at 15 cents per pound and on the free list, the cost of production would be about 7½ per cent of the total cost of the fabric.

Senator THOMAS. That would be 7½ per cent of 12½ cents?

Mr. BEALL. Yes, sir; per yard, 12½ cents. In other words, if it cost 24 cents——

The CHAIRMAN. Just wait one moment. Let Senator Thomas figure that. I want to see what 7½ per cent of 12 cents amounts to.

Senator THOMAS. It would be ninety-three one-hundredths of a cent.

Mr. BEALL. Per yard?

Senator THOMAS. Yes.

The CHAIRMAN. It takes how many yards to make this pair of overalls?

Senator THOMAS. In round numbers, a cent a yard.

Mr. BEALL. Yes, sir. It takes about 4 yards of cloth. There is considerable waste by the cutter in making it.

The CHAIRMAN. That brings the total cost to you of the cloth to 12 cents?

Mr. BEALL. From 12 to 12½ cents to me on that particular weight—8 ounces.

The CHAIRMAN. Do you make a good part of your products of the 8-ounce goods?

Mr. BEALL. Yes, sir; we make a very considerable part of it of 8 ounces. That is a fair illustration of the character of it.

The CHAIRMAN. That is on the average?

Mr. BEALL. Yes, sir; that is a fair average.

The CHAIRMAN. Four times 12½ is 50.

Mr. BEALL. Some of it is quite wide.

Senator THOMAS. This would add about three-tenths of 1 cent to your cost per yard?

Mr. BEALL. Yes, sir. Our production is about 240,000 yards a day.

The CHAIRMAN. It takes the amount of indigo indicated in the figuring done by Senator Thomas to dye this 8-ounce sample of goods?

Mr. BEALL. Yes, sir.

The CHAIRMAN. Does it require as much or less for the other weights?

Mr. BEALL. Yes, sir; the amounts of indigo used relatively would increase or decrease with the weight of the goods.

The CHAIRMAN. The amount of indigo increases or decreases according to the weight of the goods?

Mr. BEALL. Yes, sir; relatively. The heavier goods take more indigo.

The CHAIRMAN. What is the heaviest?

Mr. BEALL. The heaviest that I think I have here is 2.20s.

The CHAIRMAN. What does that mean? Does that indicate the weight?

Mr. BEALL. I do not know about that; I could not answer that question, although I can later. I can get that information, but I have not got it with me. The current price on that 2.20 is now 18 cents per yard.

The CHAIRMAN. Is that heavier than the 8-ounce?

Mr. BEALL. Yes, sir.

Senator THOMAS. What are you paying for indigo now?

Mr. BEALL. When we can get it we are paying practically what is demanded. I think it is costing us about 75 to 80 cents per pound.

Senator THOMAS. Where do you get your supply from?

Mr. BEALL. We are getting it wherever we can find it. We were under contract with the Badische Co., of New York—128 Duane Street.

Senator THOMAS. They represent the Germans?

Mr. BEALL. Yes, sir; they represent a German firm. We have bought it from them for a number of years under contract. The provisions of the contract, to which I call your attention in my brief, require the purchaser to pay any increase of price occasioned by any tariff that might be put upon the merchandise.

Senator THOMAS. You protect yourself, in other words, against the rise of indigo?

Mr. BEALL. Yes, sir; exactly; and they protect us against any decline. We have gone into the matter very carefully to ascertain whether or not indigo could not be successfully manufactured in this

country. Mr. Cone went into it and discussed it with Mr. Dow here in January. He got the advantage of his views; I think Mr. Dow's statement to Mr. Hill is a very frank and candid one.

Senator THOMAS. Is he the only manufacturer in the United States?

Mr. BEALL. There is not a pound of indigo manufactured for sale in the United States to-day, and never has been—not a single, solitary pound.

Senator THOMAS. That hardly answers the question.

Mr. BEALL. Perhaps I did not quite understand the question.

Senator THOMAS. There might not be any for sale and still there might be some manufactured here.

Mr. BEALL. As far as we are advised, no indigo has ever been manufactured commercially in this country.

Senator THOMAS. That answers the question.

Mr. BEALL. Mr. Dow has manufactured certain laboratory samples, coming out in little jars with an ounce or two in them, but none has ever been manufactured commercially. Not a pound of American manufacture of indigo has ever been offered for sale, notwithstanding the fact that it is now commanding a price of between 75 and 80 cents per pound and people are clamoring for it.

Now, as I have pointed out, in putting in these samples, 95 per cent of all the indigo which is brought into this country is used in the manufacture of cotton goods, and practically the full 95 per cent is used in manufacturing workingmen's garments and cotton fabrics which are used for cheap women's garments like the piece I now hold in my hand, commonly known as chambray or stripes. These overalls are manufactured in practically every town in the United States of any consequence. I have filed here, I think, overalls manufactured in several different towns—I know in Paterson, N. J.

Senator THOMAS. You furnishing the raw materials?

Mr. BEALL. We furnish only the raw materials—manufacturing approximately between a third and a half of the raw materials—the denims that are used in this country that are used in the manufacture of overalls.

The CHAIRMAN. Do you make overalls?

Mr. BEALL. No, sir.

Senator HUGHES. You say you make about one-half of the materials for the overalls that are used in this country in your mill?

Mr. BEALL. Yes, sir; between one-third and one-half in our two mills. We use between one-fifth and one-fourth of all the indigo that comes into this country. Now, another fact——

Senator HUGHES. Do you use organic indigo as well as the other?

Mr. BEALL. No, sir; we have not used any natural indigo, as you call it—vegetable indigo. We have not used that for a number of years.

Senator HUGHES. What you want to do is to leave the synthetic indigo on the free list as it was before?

Mr. BEALL. Just exactly. As to where you put natural indigo, whether or not you put that back on the free list, we are not concerned, because there is no natural indigo brought into this country, except we think they should be treated alike. Less than 100 casks, my information is, have been brought in in the last few years. It

used to be brought in in great quantities before the synthetic indigo came into use.

Senator THOMAS. Where is the indigo manufactured from which you get your supply?

Mr. BEALL. In Germany.

Senator THOMAS. By the Badische Co.?

Mr. BEALL. Yes, sir; by the Badische Co.

Senator HUGHES. Where do you get the indigo for this material; have you got it on hand?

Mr. BEALL. No, sir; we had some indigo on hand at the beginning of the war. We got as rapidly as we could at the beginning of the war as much more as we could get, and have been getting some indigo from our man in New York, who had some on hand.

The CHAIRMAN. Where does he get it?

Mr. BEALL. He had it on hand at a warehouse, and has been buying it up here and there. My information is further that a considerable amount of indigo has been brought to this country from China. As a matter of fact, the United States only consumes 15 per cent of the world's production of indigo, while, as I pointed out in my brief, Japan and China consume 60 per cent of it. Relatively we use only a small amount of indigo and that is one of the reasons, and a very important reason, why we became convinced that indigo could not be successfully manufactured in this country when the American consumption is only 15 per cent, it being a very, very cheap dyestuff, 15 cents per pound. There is no other color that we can use. It is the only fast color that we have been able to find that is satisfactory in the manufacture of this class of goods.

Senator HUGHES. Are you buying this indigo now?

Mr. BEALL. Yes, sir; at anywhere from 75 to 80 cents per pound.

Senator HUGHES. What were you paying before the war?

Mr. BEALL. Fifteen cents per pound.

The CHAIRMAN. What proportion of the indigo imported into the United States is used in the manufacture of overall cloth?

Mr. BEALL. Overalls exclusively, about 55 to 60 per cent.

The CHAIRMAN. How is it with the remaining product?

Mr. BEALL. In making shirts and the cloths known as chambrays, making cheap skirts for women out of drills and stripes, and making rompers for little children.

The CHAIRMAN. I mean the cloths that you make. You make all of the cloths that you have named?

Mr. BEALL. No, sir; we only make denim; we only make the cloth know as denim, which is used in making overalls.

The CHAIRMAN. You make women's skirts, do you not?

Mr. BEALL. No, sir; we do not. I simply brought the samples here to show you as nearly as I could all the classes of cotton goods into which indigo goes.

The CHAIRMAN. And you say from 55 to 65 per cent of all the indigo coming into the country is used in the manufacture of overalls?

Mr. BEALL. Yes, sir.

The CHAIRMAN. And the remainder is used or the greater part of the remainder is used in the manufacture of such other cloths as you have exhibited here?

Mr. BEALL. Yes, sir; there is less than 5 per cent of the indigo that is brought into this country that is used in dyeing anything other than cotton.

The CHAIRMAN. What percentage did you say you manufactured of the overall cloth?

Mr. BEALL. Between one-third and one-half.

The CHAIRMAN. There is no indigo being imported from Germany now, is there?

Mr. BEALL. No, sir; none that I know of.

The CHAIRMAN. How long since it stopped?

Mr. BEALL. I think they probably got over two cargoes in 1915.

The CHAIRMAN. Two cargoes?

Mr. BEALL. Yes, sir; probably not more. I think some indigo has been brought here from China that had been carried from Germany to China prior to the war and then recarried to this country.

The CHAIRMAN. I was just going to ask you about the other countries. No European country is sending indigo to the United States, is it?

Mr. BEALL. None that I know of.

The CHAIRMAN. I mean among the allies?

Mr. BEALL. No, sir; none that I know of.

The CHAIRMAN. How about Japan?

Mr. BEALL. I do not know about Japan. China is a much larger user. In fact, China is much the largest consumer of indigo in the world and my information is that that market has afforded some indigo.

The CHAIRMAN. Do they make it?

Mr. BEALL. No, sir; they had bought, though. They had a stock of indigo on hand, which if they had purchased as we did around 15 cents and were enabled to sell it in the neighborhood of 75 or 80, afforded more profit to them than the manufacturer of the finished product.

The CHAIRMAN. Have you any data showing the amount of indigo imported into the United States, say, within the last two years?

Mr. BEALL. I can obtain that information for the committee and shall be glad to do so.

The CHAIRMAN. You can obtain it from the Treasury Department.

Senator THOMAS. The Department of Commerce can give it.

Senator HUGHES. It is on the free list. I do not see where they would get it.

Mr. BEALL. I can obtain it from the Badische Co. or from Mr. Metz. I think they have the information.

The CHAIRMAN. Do we not keep statistics of the free goods?

Senator HUGHES. I do not think they classify them.

The CHAIRMAN. Where would you get the information?

Mr. BEALL. I would get it from the importers of indigo under normal conditions—the Badische Co., and Mr. Metz, of New York. I am quite sure they would have the information if anybody has it for they have watched it. Probably Mr. Klipstein would have it. The only three people I know of having any indigo are those three concerns.

The CHAIRMAN. Now, in a word, what is your objection to this tax?

Mr. BEALL. That being a measure which was introduced for the purpose of creating an industry it imposes a burden upon the people least able to bear it—the consumers of workingmen's garments. That is the first objection. Secondly, the only person who proposed to manufacture indigo has abandoned the idea of manufacturing it if the bill as it came from the House to the Senate is passed.

The CHAIRMAN. He wants a higher tax?

Mr. BEALL. He wants a higher tax. He wanted 63⅓ per cent against indigo. That would be the highest tax on any dyestuff coming into this country; I think practically the highest.

Senator THOMAS. It would not be higher than any that is to be imposed by this bill if it becomes a law. It runs up in some cases to 125 per cent.

Mr. BEALL. Some of the colors; but this group, group 3, carries 30 per cent ad valorem. Now, section 401, I believe, of the bill places a specific tax of 5 cents per pound upon all colors except alizarin, which is commonly known as Turkish red, or indigo, which is a fast blue color. Those two are excepted for the very strong reason that they are dyestuffs of such small value—indigo selling normally for 15 cents per pound—that to put a specific of 5 cents per pound on that would mean a tariff of 33⅓ per cent, and the result would be disastrous.

The CHAIRMAN. If the war should close to-morrow or this year, do you think—or does that firm in New York with which you hold a contract think—that the Germans would be able to supply the dyestuffs necessary immediately or pretty soon?

Mr. BEALL. Yes, sir; my information is they actually have the dyestuffs on hand in Germany. I get that first-hand from a member of the Badische firm who had been there and had seen the dyestuff.

Senator THOMAS. You disagree in that particular with some of the witnesses who appeared before the House committee.

Mr. BEALL. With regard to this particular color?

Senator THOMAS. No; with regard to dyes in general. I can not recall who they were, but I recall a number of them were in advocacy of this bill and asserted that the dyes on hand in Germany were doubtless very small; perhaps they were using the material for explosives.

Mr. BEALL. That is true.

Senator THOMAS. And that immediately after the war they would use what they had for their own industries and consequently dyestuffs would continue to be as high as ever.

Mr. BEALL. My information with regard to that comes directly.

Senator THOMAS. I am not disputing your information. I am simply mentioning the facts. I am not confirming them.

Mr. BEALL. I understand. My information from people who have been there since the war started in an effort to secure dyestuffs, this particular dyestuff, is that the dyestuff is on hand, and they are assured and have every reason to believe the assurance, that it would be brought over. Now this dyestuff—this synthetic indigo—when it came in first in 1894, sold for 76½ cents per pound, and by gradual reductions has come down until, in 1913, it was only selling for 15 cents a pound. It began to be generally used in 1896, when it was then selling for 37½ cents a pound, in competition with the natural

indigo, and from that time on the natural indigo ceased to be extensively used and synthetic indigo became more and more popular with the manufacturers. If we believed that it were possible for this country to manufacture indigo upon a basis where we could obtain anywhere around what we are now paying for it we would not enter our protest against the passage of this bill.

The CHAIRMAN. At this time the German people have a monopoly of these dyes, have they not?

Mr. BEALL. They export about 95 per cent of the dyes brought to this country.

The CHAIRMAN. Well, they ship, then, pretty much all that is sent to any country, do they not?

Mr. BEALL. Yes, sir.

The CHAIRMAN. So they have a practical monopoly?

Mr. BEALL. Yes, sir.

The CHAIRMAN. As a purely economic question, what do you think about the policy that would subject this country to a monopoly which under any circumstances—or which might in some contingency like the war or a trade war which is threatened against Germany at least at the conclusion of hostilities—leave this country in practically a helpless state, as compared with the policy that would place us in some measure on a ground of independence?

Mr. BEALL. Answering your question with regard to the only color with which I have any knowledge and the one of which I am speaking, I do not think we would suffer. I base that upon the fact that beginning in 1894 we have been able to obtain this indigo every year for a less price until it is now very extensively used, and the only dye that is used in manufacturing articles of this kind. Moreover, we have contracts with people from whom we buy to furnish us our necessities.

The CHAIRMAN. You have?

Mr. BEALL. Everybody who buys indigo—that is, practically everybody who buys any quantity of a dyestuff—has.

Senator THOMAS. They have what?

Mr. BEALL. People who buy any particular quantities of dyestuff make long-term contracts. They do not make short-term contracts.

The CHAIRMAN. If your contract should expire to-day, would this firm in New York renew the contract?

Mr. BEALL. Under present existing conditions?

The CHAIRMAN. Yes.

Mr. BEALL. I do not think they would.

The CHAIRMAN. If they renewed it, they would expect a very much higher price, would they not?

Mr. BEALL. I should imagine so.

The CHAIRMAN. How would your contract be affected by the price changes in the future, would it contain the provision——

Mr. BEALL. It would contain the identical provision which it now contains. That has reference to the tariff proposition. As a matter of fact, our contract, and the contract of other indigo users with Badische gives us the benefit of any decline in the market.

The CHAIRMAN. So that if you contracted at 60 cents a pound, and it went down to 15 cents, you would get the benefit of that fall?

Mr. BEALL. Yes, sir.

Senator HUGHES. How is the market made in indigo?

Mr. BEALL. There are three people in this country who bring over indigo in very large quantities, and they compete with each other——

The CHAIRMAN. Who are they?

Mr. BEALL. Klipstein, Badische, and Metz.

The CHAIRMAN. All German?

Mr. BEALL. All German. Klipstein, I believe, brings some of his dyes from Switzerland.

Senator HUGHES. Who do those people buy from?

Mr. BEALL. From Germany and Switzerland. In fact, the Badische Co. is a German company.

Senator HUGHES. Do they not practically control that? Have they not enough indigo to practically control it and avoid competition?

Mr. BEALL. My information is that those companies manufacture most of the indigo that is used. I think they are the biggest manufacturers of indigo in the world.

Senator HUGHES. Are those three men representing three different concerns in Germany and Switzerland?

Mr. BEALL. Yes, sir; they represent different concerns there and here, and are very keen competitors.

Senator HUGHES. Is there any particular reason why you should use indigo?

Mr. BEALL. Yes, sir; for this reason this cloth has to be dyed with fast color instead of what is known as fugitive color, for the reason that it is subjected to extremely hard wear.

Senator HUGHES. Is that the only fast color you can find?

Mr. BEALL. It is the only color we can find. It is the only color we can use.

Senator HUGHES. What is the objection to the white or boiled fabric?

Mr. BEALL. We can not sell it. We have made brown denim and can not sell it, and we have made red-back denim and can not sell it.

Senator HUGHES. Have you tried the white?

Mr. BEALL. Yes, sir.

Senator HUGHES. The street cleaners use that.

Mr. BEALL. Yes, sir; but there is such a small proportion of that used that it would not justify us in making any quantity of it.

Senator HUGHES. It looks so much more attractive.

Mr. BEALL. Yes, sir; but the engineers on trains and farmers behind the plow and such people as that—people working in factories—want the blue.

Senator THOMAS. I can understand why they would not use the white, because it shows dirt so much more readily.

Mr. BEALL. This is a better looking color. We can not sell anything but blue denim, nor can anybody else who manufactures it. We have manufactured other colors, but they will not take it. I believe blue denim overalls are as staple as a black cravat.

Senator HUGHES. What relation does the total consumption of synthetic indigo bear to the dye consumption in the United States, if you know?

Mr. BEALL. I think the total importation of dyes in 1913 was around $12,000,000.

Senator THOMAS. About 29,000 tons were consumed at that time?

Mr. BEALL. I do not know the tonnage, but about $12,000,000, of which approximately $1,000,000 was represented by indigo.

Senator HUGHES. Probably, then, there is more of this particular dye imported than any other particular color?

Mr. BEALL. I do not think so. Not in value, certainly.

Senator HUGHES. In bulk, in use. Do you not dye more cloth of that particular color than you do with any other?

Mr. BEALL. Probably as much as any other. When it comes to dye cloths, yes, sir. But you understand this synthetic indigo could be brought, when it comes to tonnage, in either one of two forms. It could be brought in in paste form, which is 20 per cent indigotene and 80 per cent paste.

Senator HUGHES. Highly concentrated?

Mr. BEALL. Yes, sir.

Senator HUGHES. I mean the amount of fabric that is dyed with that color.

Mr. BEALL. I should think the workmen's garments and women's cotton goods and those fabrics that I have shown you are manufactured more extensively than any other one class of goods.

Senator HUGHES. That dye is one of the most commonly used of dyes, is it not?

Mr. BEALL. Yes, sir; and one of the cheapest.

Senator HUGHES. Naturally it is the cheapest, being on the free list. The others are all taxed.

Mr. BEALL. They incidentally use some of this indigo in dyeing fine fabrics, but a very small percentage of it.

Senator HUGHES. What is alizarin?

Mr. BEALL. Alizarin comes from anthracene. That is what is called a Turkish red.

Senator THOMAS. No representative of your company seems to have appeared before the House committee. Why was that?

Mr. BEALL. On the contrary, Senator, Mr. Ceasar Cone, the president of the company I represent, appeared before the committee at the time the Hill bill was considered.

Senator THOMAS. His testimony is not in the record.

Mr. BEALL. I was going a little further—and it was then understood that indigo should remain on the free list. I think you will find a reference to Mr. Cone's presence in the testimony of Mr. Calloway.

Senator HUGHES. He was there, and Mr. Callaway referred to him.

Mr. BEALL. And we filed a written statement with the chairman of the Ways and Means Committee in which we set forth briefly the reasons that we insisted indigo should be set on the free list, where it had always been.

Senator THOMAS. Do I understand you to say that it was tacitly understood that indigo should be exempted from the provisions of the dutiable articles of the bill?

Mr. BEALL. Not by any member of the committee; no member of the committee ever intimated any such thing, but the general understanding among the people who are interested in the bill was that indigo would be treated in such a way that it would probably remain on the free list, as is indicated by the testimony of Mr. Callaway. He himself suggested that that indigo should be treated differ-

ently. My information is that the Hill bill left indigo on the free list, as stated by Mr. Kitchin on the floor of the House, to which speech I have previously made reference. I want to direct the attention of the committee to the Underwood bill, where indigo is treated in section 514.

Senator HUGHES. How did the Badische people feel about this?

Mr. BEALL. About this dyestuff situation?

Senator HUGHES. Yes.

Mr. BEALL. I have not had an opportunity to talk to them in order to get their full views about it. My information from others who have talked with them is that they feel hopeful that they will be able to get some dyestuffs over. I know that they have had some very sensible schemes in their minds.

Senator THOMAS. Did they not bring some over on the U boat the other day?

Mr. BEALL. They may have gotten some on the *Deutschland*, but I do not know.

Senator HUGHES. What effect would the tariff have on them?

Mr. BEALL. Our contracts specifically provide that we must pay them any addition to the price we have contracted to buy from them occasioned by a change in the tariff.

Senator HUGHES. They are indifferent, then?

Mr. BEALL. I imagine so, except that when a product is high it is more difficult to sell than when it is low.

Senator HUGHES. It would not be so in your case, because you can not use anything but that?

Mr. BEALL. No, sir; we can not use anything but indigo successfully. We can use unsuccessfully some other colors, but indigo is the only color we can use at all successfully. We have no fear with regard to the fairness of these people in giving us this dyestuff at a fair price after the war, and I also call attention to that unfair-competition clause in the present bill which, I think, would in a degree regulate any discrimination.

That is all I care to say, and I thank you gentlemen very much.

The CHAIRMAN. If you have any papers which you wish to leave with the committee, you may file them.

Mr. BEALL. I have already filed my brief. The only paper that I referred to was this print containing the views of the minority, which I do not suppose it is necessary to file.

Senator THOMAS. I will say that your brief is admirably prepared, in my judgment.

Mr. BEALL. I thank you, Senator.

Senator THOMAS. And I want to thank you for its brevity, for, generally speaking, they are unnecessarily long. You have embraced the whole matter in a nutshell in your statement.

Mr. BEALL. The principal thing I wanted to call the attention of the subcommittee to was the fact that Mr. Dow was not going to proceed with the manufacture of indigo, and I could not see the necessity of requiring us to pay 30 per cent when nobody now comes forward with the statement that they are going to manufacture any indigo. If Mr. Dow had manufactured it, he would not have manufactured but 10 per cent of the consumption of this country, and he would

have had to pay 30 per cent on 90 per cent in order to protect himself on this 10 per cent, and it comes right out of the men who have to wear these garments ultimately, although we have not been able to devise any scheme by which we can see how we could protect ourselves.

The CHAIRMAN. The subcommittee will now adjourn.

(Thereupon the subcommittee adjourned to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(DYESTUFFS, DRUGS, COAL-TAR PRODUCTS, ETC.)

FRIDAY, JULY 21, 1916.

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

The subcommittee met, pursuant to call, at 8 o'clock p. m., in room 205, Senate Office Building, Senator William J. Stone presiding.

Present: Senators Stone (chairman) and Thomas.

Also present: Mr. Levi Cooke, Dr. L. H. Baekeland, Mr. Sidney F. Mihalovitch, and Mr. D. C. Klipstein.

The subcommittee resumed the consideration of the bill (H. R. 16763,) to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has now under consideration section 45, on page 74, and will now hear Dr. Baekeland with reference to it. Dr. Baekeland is a member of this advisory board.

STATEMENT OF DR. L. H. BAEKELAND, MEMBER UNITED STATES NAVAL CONSULTING BOARD, PRESIDENT GENERAL BAKELITE CO. OF NEW YORK, YONKERS, N. Y.

Dr. BAEKELAND. Mr. Chairman and gentlemen, Senator Stone mentions that I am a member of the United States Naval Consulting Board, but I do not want to sail under false colors. I am coming here on a matter in which I happen to be personally interested. I am coming here as the president of the General Bakelite Co. "Bakelite" is a nickname which some of my friends have given to a synthetic product manufactured from coal tar, which has the chemical name of oxybenzylmethylenclycolanhydride. You can not blame my friends for giving it a nickname.

Senator THOMAS. It reminds me of an Irishman who saw a German's name on a sign in New York. He said, "If I had my flute here, I could play it."

Dr. BAEKELAND. In the present bill, gentlemen, you have made provisions for protecting a new industry in this country, the coal-tar industry, and I am very glad to see that you are taking measures for protecting the men who have taken the initiative in starting this important branch against the strenuous competition which is bound to happen as soon as war conditions will be passed. But, unfortunately, in trying to nourish this new industry you have hit what I would call the only American industry in that line born and conceived on American soil, invented by Americans, developed by Americans and copied in foreign countries, and that is the little industry I represent.

The product of which I want to talk, and which is commonly called "Bakelite," also known by other names, is manufactured substantially from phenol. Phenol is the raw material.

Senator THOMAS. Is that one of the primary products, or intermediates?

Dr. BAEKELAND. I would call it a finished product.

Senator THOMAS. You know the schedule applies, this proposed dye schedule applies to three groups of materials, first known as the crude, which are the primary distillation products of coal tar; second, the intermediates, from which the dyes are produced; and, third, the finished products. I will put my question in this way, In which of these groups does phenol fall? My recollection is it is in the second group.

Dr. BAEKELAND. I am not speaking about my material. I am speaking about the raw material of which this is manufactured.

Senator THOMAS. I understand you perfectly.

Dr. BAEKELAND. The raw material for manufacturing this product is phenol. Phenol used to be on the free list.

Senator THOMAS. It is now, is it not?

Dr. BAEKELAND. It is now on the free list, under the Underwood tariff.

Senator THOMAS. Under the Underwood Act?

Dr. BAEKELAND. Yes, sir. This phenol, in combination with formaldehyde, which is a product manufactured in the United States, produces the most varied substances. It gives a liquid which freezes by heat; you heat the liquid, and it suddenly freezes, and you can not melt it any more. Here are fountain pens made of that material, and here are other articles, and the little catalogue which I have given you illustrates a good many other applications and uses of this product.

Senator THOMAS. It looks like amber.

Dr. BAEKELAND. It is much stronger than amber and has very different properties from amber, because you can not melt it and you can not dissolve it.

Senator THOMAS. The hotter it gets the more it freezes?

Dr. BAEKELAND. Yes, sir; that is a reason why this product, which is an excellent insulator of electricity, has found its main use for electrical purposes.

Senator THOMAS. What is the hardness of it?

Dr. BAEKELAND. The hardness is intermediate between celluloid and glass. It is used in the manufacture of dynamos, motors; for wireless telegraphy, for telephones, 80 per cent of the different makes of automobiles in the United States have their self-starters and their insulation made of these synthetic products. It is used for grindstones, for billiard balls, for gears; for pipestems and cigar holders; it is used for transformers for electric lighting, and it is used for any number of purposes in about 20 or 30 different industries; so it is not a small industry. Phonographic records are made with that product.

Senator THOMAS. What did you say was combined with the phenol?

Dr. BAEKELAND. Formaldehyde. Formaldehyde is made from wood alcohol. Here is a new industry which has been developed on American soil, by American inventors, a new industry which has

made quite a sensation in the chemical world; it is an entirely new product of coal tar.

The CHAIRMAN. Where is it located?

Dr. BAEKELAND. There are two factories which manufacture it. The General Bakelite plant is situated in Perth Amboy, N. J., and the plant of the Condensite Co. is situated at Bloomfield, N. J. Since that time factories have been started in Germany. I sold my patents in Germany, in England, in France, in Russia, and in Austria. What has become of them I do not know.

Senator THOMAS. Did you patent that long name?

Dr. BAEKELAND. No, sir.

The CHAIRMAN. How long since this industry was started?

Dr. BAEKELAND. This industry was started in 1910 and has been developing and increasing in importance every year.

The CHAIRMAN. How many people are employed?

Dr. BAEKELAND. Chemical industries, Senator Stone, are characterized by the fact that they employ few workmen, and employ mainly engineers and chemists. We have about a dozen chemists and engineers and only about 80 workmen. That is one of the characteristics of chemical industries, you need brains; you need your raw materials first of all as cheap as you can get them, and then you have to mix them with brains, and for those brains you have to pay, and you have to be very particular about the class of people you employ.

It so happens that this new industry is considerably hit by your new schedule. Heretofore we have had no special protection. We were willing to run on our own merits, we felt we could compete with the chemists abroad, and we were in the particular condition that we had our raw materials on the free list, and now suddenly you put the most important raw material, phenol, on the protected list with a duty of 15 per cent ad valorem, plus 2½ cents a pound specific, so that a pound of phenol, which formerly cost 7 cents, will probably cost nearer 10 cents or even 11 cents.

We feel that we are put at a disadvantage. We feel that really this is an injustice toward probably the only organic chemical industry in the land which originated on American soil. We know that after the war is over we are going to have to compete with imported products. Before the war, attempts have been made to dump such products here at considerably reduced cost. We feel that we could hold our own, but if you are going to take away from us raw materials at the same price that our competitors have abroad we are certainly going to be at a disadvantage.

The CHAIRMAN. Where do you get this phenol, your raw material?

Dr. BAEKELAND. Phenol is manufactured partially in the United States and heretofore has been mostly imported; but phenol has been used to a tremendous extent of late for the manufacture of picric acid, an explosive. If you treat phenol with nitric acid you get picric acid.

Senator THOMAS. Is it used as a medicine?

Dr. BAEKELAND. Phenol is used as an antiseptic. At present there is a shortage in all countries. They could not make enough by distillation from coal tar, so they have made it synthetically by the use of benzol, and the price of phenol, which we bought before the

war at 7 cents, suddenly rose to $1.75; then, by and by it went down to $1.50, and is now below $1.

Senator THOMAS. If you can stand that, I do not see why you can not stand 10 per cent.

Dr. BAEKELAND. We certainly can stand that under present conditions when there is absolutely no competition from abroad, but in future our competitors are going to get phenol at 6 or 7 cents a pound and we are going to have to pay 10 cents, and we feel that is not right.

Senator THOMAS. Have you a compensating duty in this matter?

Dr. BAEKELAND. There is a compensating duty the same as we had before. We are put at a disadvantage in having exactly the same condition as heretofore with much more expensive raw material.

Senator THOMAS. Is this product of yours on the dutiable list now?

Dr. BAEKELAND. It is just like phenol; it bears the same duty as the raw material.

What I want to bring to your consideration is that phenol should be restored to the free list. There is no reason why our coal-tar product should not be treated in the same way as photographic chemicals or dyestuffs or explosives; there is absolutely no logical reason for making an unfair discrimination.

Senator THOMAS. Suppose this schedule should go through and there should then be a duty upon your product equivalent to the duty upon finished dyes, how would that affect you?

Dr. BAEKELAND. If you put our product alongside of photographic chemicals, dyes, and explosives, that would be all right, but we are modest; we only ask that the raw material should be restored to the free list.

Mr. KLIPSTEIN. Would you not rather we should put it in with the other colors and retain the duty?

Dr. BAEKELAND. We will let you decide that.

Senator THOMAS. Of course I have not any heart in establishing a protected industry. It is contrary to all my theories of tariff; but if we do it it seems to me that your position is similar to that of those who manufacture medical goods or articles from these intermediates and who manufacture flavors from them. They want to be protected along with the manufacturer of photographic films, and I should think you would come in there.

Dr. BAEKELAND. Yes, but as I say, we are modest; we only claim you should leave us where we were; that you should not make our raw materials more expensive.

Senator THOMAS. That would suit me all right.

Mr. KLIPSTEIN. You would be just as well off if you got your stuff put in the class of coal-tar dyes as if you took off the duty.

Senator THOMAS. As I understand what you want is to have your business safeguarded against any change?

Dr. BAEKELAND. I am pleading for an American industry, born on American soil, manufacturing a product which has more varied uses than any synthetic coal-tar product ever invented outside of this country.

Senator THOMAS. Let us see if you can be satisfied with one of three things. First, put phenol on the free list; second, leave it where it is; third, place it among the protected articles and then give you the 30 per cent duty ad valorem, plus the 5 cents?

Dr. BAEKELAND. Yes, sir.

Senator THOMAS. Either one of those three will safeguard you in your opinion, will it not?

Dr. BAEKELAND. If you leave it where it is, it is necessary to give it the same protection as dyes or photographic chemicals or explosives.

Senator THOMAS. That is what I say; I included that. First you would like to see it on the free list?

Dr. BAEKELAND. I would like to see the phenol on the free list.

Senator THOMAS. Second, you would like to see it where it is now on the Underwood bill; that is, a 15 per cent ad valorem duty?

Dr. BAEKELAND. No; not if we have to pay more for phenol. There are but two alternatives, Senator Thomas.

Senator THOMAS. I understood you to say, Doctor, at the outset, that phenol, under the Underwood bill; was protected by a 15 per cent revenue to-day?

Dr. BAEKELAND. It is not.

Senator THOMAS. I was surprised to hear you say so.

Dr. BAEKELAND. No; it was on the free list.

Senator THOMAS. You probably misunderstood my question.

Dr. BAEKELAND. I certainly misunderstood you. You said the Underwood tariff and I understood the present tariff.

Senator THOMAS. I understood the Underwood tariff put phenol on the free list.

Dr. BAEKELAND. It did.

Senator THOMAS. But I accepted your statement because I thought you had given it recent attention.

The CHAIRMAN. Is there any reference to it in the bill?

Dr. BAEKELAND. Yes, sir; in the present bill.

Senator THOMAS. Now I think we understand each other perfectly. You would like to have it left where it is, if possible, but if not you want to be protected along with these other materials by the compensatory duty?

Dr. BAEKELAND. Yes, sir. I shall not take up more of your time. I have embodied my ideas in a short statement; I shall not call it a brief.

The CHAIRMAN. You may include it in the record.

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

Senator WILLIAM J. STONE,
Chairman Subcommittee on the Bill for Providing
Additional Revenue to the United States,
United States Senate, Washington, D. C.

SIR: The revenue bill now under discussion in the United States Senate, with all its excellent features, contains a serious mistake, in taking phenol from the free list and putting it on the dutiable list under Group II, charging it with a duty of 15 per cent ad valorem plus a specific duty of 2½ cents per pound. Before the war, the price of phenol oscillated between 7 cents and 15 cents per pound. The new tariff will probably have as a result that the price of this raw material will be considerably increased; this will be a serious setback to an important and growing industry, invented by Americans, developed on American soil, and which is one of the very few instances in organic chemistry where Americans were leaders over Germany and other countries. This industry is the manufacture of synthetic phenolic condensation products, which have found an extraordinarily wide range of applications in an astonishingly large number of industries.

The raw materials for manufacturing this product are substantially phenol and formaldehyde. The result is a substance which looks very much like amber, or other resinous materials, but which is far superior to these natural products on account of its extraordinary strength and the fact that it does not melt if heated. This makes

it so valuable for electrical purposes in the manufacture of molded electrical insulators, motors, dynamos, and transformers. But these are not by any means the only applications of these remarkable products. For instance, they are used in wireless telegraph and telephone apparatus, ignition devices for motor cars, motor boats, and flying machines; molded telephone-receiver shells, switchboards, self-starters for automobiles, motor trucks, and motor boats; impregnation of coils of dynamos; commutators of electric motors and dynamos; electrical measuring instruments; signaling devices for railroad trains; billiard balls; buttons; pipestems; cigar holders; printing plates; grindstones; phonograph disks; umbrella handles; lacquers; varnishes, etc.

The first factories for the manufacture of these products were started in the United States. Afterwards similar factories were started in Germany, in England, in France, and in Austria. Two American inventors, Dr. L. H. Baekeland, of Yonkers, N. Y., a member of the Naval Consulting Board of the United States, and Mr. Jonas W. Aylsworth, chemist of Mr. Edison, are specially known for the work they have accomplished in developing these new industries.

In order to show how these inventions have been appreciated by chemists and engineers here and abroad for his work on synthetic resins, Dr. Baekeland has received many honors and distinctions, of which the following is a partial list:

Nichols medal, by the American Chemical Society, New York section; Johns Scott medal, by the Franklin Institute of Philadelphia; Willard Gibbs medal, by the American Chemical Society, Chicago section; Chandler medal, by Columbia University, on the fiftieth anniversary of the Columbia School of Mines; the Perkin medal, for eminence in research in applied chemistry, by all the chemical societies of the United States and the Society of Chemical Industry of England, etc.

There are two factories which produce the raw phenolic synthetic resins, one in Perth Amboy, N. J., of the General Bakelite Co., and one in Bloomfield, N. J., of the Condensite Co. of America. These raw products are then distributed to hundreds of licensees throughout the country who use them for the most varied purposes. The value of the manufactured articles made by means of synthetic phenolic resins run already into several million dollars, although the industry is scarcely a few years old.

Shortly before the war repeated attempts have been made from European sources to dump imitation materials on the American market, and it is to be expected that after the war is over more vigorous attempts of the kind will follow, not to speak of the fact that European manufacturers will have to be met in export competition. With the present increased duty in one of the raw materials, American manufacturers will be at a considerable disadvantage, as the raw material, phenol, will cost them considerably more.

The obvious intention of the new tariff on dystuffs and similar materials is to give an opportunity of developing our newly created chemical industries, and yet, in this particular instance, one of the most essentially characteristic American chemical industries, which was willing to stand on its own merits, is threatened with serious harm.

The new by-product coke ovens will probably increase five times the production of phenol by the distillation of tar, as compared to what it was before the war. It is true that there will probably be a considerably increased consumption of phenol, which either will have to be imported in addition or which will have to be manufactured by synthetic processes from benzol. These synthetic processes are now in operation in the United States for the manufacture of picric acid, which is made from phenol. Our American manufacturers have acquired great skill in this art; they have proved that in time of war, such additional plants can be quickly equipped and put in operation. But in time of peace the manufacture of phenol by these synthetic methods is hopelessly more expensive than what phenol can be obtained for by the distillation from coal tar. In Europe, under the very best conditions, it cost in 1909 10 cents to manufacture 1 pound of phenol by the synthetic process at the time when phenol was sold at a profit from the distillation of coal tar at 7 cents.

The tariff on phenol has evidently been introduced in order to make it possible to continue to manufacture phenol synthetically in this country, but even then it is very doubtful that the synthetic processes will be able to make phenol at a sufficiently low price to face the competition of imported phenol from Europe, obtained from the distillation of coal tar, and where phenol, in times of peace, has been frequently a drug on the market.

The net practical result will mean a needless increase of the market price of phenol in the United States, to the exclusive benefit of a few tar distillers of the United States, who will be able to raise the price of phenol obtained from tar distillation to an amount just high enough to compete with European importation. Nevertheless, this price will be too low to make it profitable to make synthetic phenol here.

Under the circumstances, your petitioner feels justified in recommending that your committee should either put phenol on the free list, where it used to be, or to amend the dutiable list in such a way that phenolic synthetic resins should have the same protection as photographic chemicals, explosives, colors, and dyes. There is not the slightest justification for favoring the synthetic phenolic resins less than the other synthetic chemicals derived from coal-tar products.

As further information on the subject, we beg to refer to pages 4 and following of the presentation address of Prof. C. F. Chandler on the occasion of the award of the Perkin Medal, the highest distinction for industrial chemical research in the United States, to L. H. Baekeland, in which the history of Bakelite and its industrial development has been given; also a copy of an abbreviated catalogue of the products of the General Bakelite Co.

Respectfully, yours,

GENERAL BAKELITE CO.,
Per L. H. BAEKELAND,
President.

NEW YORK, *July 21, 1916.*

Senator THOMAS. If we should find it necessary to insert this finished article among the other finished articles in group 3, would you advise us to use this name "Oxybenzylmethylenclycolanhydride" or "Bakelite"?

Dr. BAEKELAND. No, sir; I should call them synthetic phenolic resins.

Senator THOMAS. If this was patented as "Bakelite" I think that is the name you ought to use.

Dr. BAEKELAND. It was also patented as condensite.

Senator THOMAS. Whatever name you think we ought to use.

Dr. BAEKELAND. Synthetic phenolic resins. It is written that way in my statement.

(Thereupon, at 9.15 o'clock p. m., the subcommittee adjourned to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(DYESTUFFS, DRUGS, COAL-TAR PRODUCTS, ETC.)

MONDAY, JULY 24, 1916.

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

The subcommittee met, pursuant to call, at 2.30 o'clock p. m., in the room of the Committee on Foreign Relations, Senator William J. Stone presiding.

Present: Senators Stone (chairman) and Thomas.

Also present: Mr. E. C. Brokmeyer, counsel for the National Association of Retail Druggists, of Washington, D. C., and Mr. Samuel C. Henry, chairman of the legislative committee of that association, of Philadelphia, Pa.

The subcommittee resumed the consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The subcommittee has under consideration subsection "e" of section 301. Mr. Brokmeyer, whom do you wish the committee to hear first.

Mr. BROKMEYER. Mr. Chairman, I have pleasure in presenting to the subcommittee Mr. Samuel C. Henry, chairman of the legislative committee of the National Association of Retail Druggists.

STATEMENT OF MR. SAMUEL C. HENRY, CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS.

Mr. HENRY. Mr. Chairman, I desire to say that the object for which we are here is to take up the matter of the tax imposed upon preparations containing distilled spirits of wine. It does seem to me that whether this is done inadvertently or purposely—and as to that, of course, we have no way of knowing—we have come right back to the position in which we were placed a couple of years ago when the emergency revenue bill was before you. When the proposition was made to tax proprietary medicines at that time, and it was stricken out, a very able argument was presented as to the inadvisability of taxing what is popularly known as the poor man's medicine, and this comes back unquestionably with greater force than that which was proposed at that time, because as I see this, as a retail druggist, if this should become a law it would be necessary for every pharmacist to pay a tax upon every preparation which he makes that contains alcohol, with a stamp in sufficient amount to cover this provision.

The CHAIRMAN. What is the provision?

Mr. HENRY. The provision that applies in this case.

Senator THOMAS. This is the cordial provision, is it not?

Mr. HENRY. Yes, sir; it is to be found on page 76, and is as follows:

That upon all domestic and imported sparkling wines, liqueurs, and compounds remaining in the hands of dealers when this title takes effect, or thereafter removed from the place of manufacture or storage for sale or consumption, there shall be levied and paid, by stamp, taxes as follows—

Now, the provision that we take exception to is this:

On each bottle or other container of liqueurs, cordials, compounds, or preparations containing distilled spirits of wine, 1½ cents on each one-half pint or fraction thereof.

Senator THOMAS. Do you not use grain spirits mostly?

Mr. HENRY. We do; yes, sir.

Senator THOMAS. And you pay a heavier duty on grain spirits than you would be required to pay there?

Mr. HENRY. Well, that is just the point we want to raise right there. As to distilled spirits of wine, is it understood by that that does not include the grain spirits?

Senator THOMAS. Grain spirits, in the bill, are required to pay, I think, $1.10.

Mr. HENRY. Well, $1.10 on the proof gallon; that would apply. That is $2.20. That is the distilled spirit itself—rectified spirits of wine.

Senator THOMAS. That is what you use at the present time, I suppose, for what is known as proprietary medicines?

Mr. HENRY. Very little. But, in a preparation containing that—for instance, if we took some of that distilled spirits and manufactured a preparation, would it not be——

Senator THOMAS. If you did that and paid 10 cents a gallon instead of $1.10, that you are paying now, I do not see that you would be hurt.

Mr. HENRY. We would have to pay twice, in my judgment.

Senator THOMAS. I do not see how, unless you use both the grain spirits and wine spirits in your preparation, whatever it may be.

Mr. HENRY. The thought I had in mind was this——

Senator THOMAS. I understand the thought precisely, but if it is good, I think it would already apply to the use of the grain spirits for your preparation—I do not know that the section is in there but that is the present law.

Mr. HENRY. One dollar and ten cents on the proof gallon is practically $2.20 on each gallon of alcohol that we buy.

Senator THOMAS. You get your wine spirits for 10 cents a gallon. If you are going to use that I do not see how you are hurt.

Mr. BROKMEYER. It is this way, if I may be pardoned. The emergency act of 1914 contained a tax upon cordials, liqueurs, and similar compounds, and the Treasury decision (T. D. 2078) defines liqueurs, cordials, and similar compounds within the purview of that act, expressly exempting medicines from the compounds taxed, on the ground that the act applied solely to beverages.

Senator THOMAS. That did not exempt the maker of the medicines from the payment of the tax required when made with spirits of wine?

Mr. BROKMEYER. It did according to the language of this Treasury Decision.

Senator THOMAS. It applied to grain spirits?

Mr. BROKMEYER. It made no reference whatever to grain spirits. I am referring now to the wine tax in the pending revenue bill; that is all we are here about. Here is the wine tax, and in it you have this

exemption of medicinal preparations containing distilled spirits of wine if compounded by a druggist on a physician's prescription.

Senator THOMAS. Let us assume that I am a maker of proprietary medicines. I use grains spirits. I pay $1.10 duty on the proof gallon for the grain spirits I use. This bill enables me to get wine spirits, or the same thing, for 10 cents a gallon as against $1.10 that is now in existence. Naturally, I would use the cheaper article that was just as good. Now, how does that hurt you?

Mr. BROKMEYER. Only to the extent that it is a new tax.

Senator THOMAS. I should think it would be $1 a gallon in your favor.

Mr. BROKMEYER. This tax is on medicinal preparations containing distilled spirits of wine.

Senator THOMAS. It imposes a new tax, but relieves you of the tax to the extent of $1 a gallon, does it not?

Mr. BROKMEYER. No, sir.

Senator THOMAS. I may be mistaken about it.

Mr. BROKMEYER. For the reason that if we used distilled spirits—pure alcohol—we have to buy these spirits, and of course the tax is included there. When we buy it, we pay the tax; it is passed on to us. Now, if we chance to use distilled spirits of wine in such preparations—and I understand a good many medicinal compounds prepared by druggists on their own formulæ, as well as a good many proprietary medicines in stock, as they call it, on druggists' shelves contain distilled spirits of wine—what would be the result?

Senator THOMAS. If this bill passes, and the interpretation of the law is what you think it would be, you would have to pay 24 cents a gallon plus 10 cents for your wine spirits. That makes 34 cents. As the matter now stands, they use grain spirits and you pay $1.10. Now, there is a difference in your favor practically of the difference between $1.10 and 35 cents.

Mr. BROKMEYER. That is if they confine themselves to the manufacture of medicinal preparations containing distilled spirits of wine alone.

Senator THOMAS. If you do not use the other then you are no worse off than you are now.

Mr. BROKMEYER. As I view it, as the matter stands under the present law, they pay a tax imposed on distilled spirits which they use in medicinal compounds. But if this bill becomes a law and a man uses distilled spirits in some cases and distilled spirits of wine in others, they will be taxed the new tax imposed in addition. That is the proposition in this bill.

Senator THOMAS. This will tax you 35 cents when you use wine spirits and you are already taxed $1.10 when you use grain spirits.

Mr. BROKMEYER. That is true, the only difference being this additional tax when distilled spirits of wine are used, and they are not now taxed.

Senator THOMAS. It seems to me we are giving you a big margin of 75 cents, which is always an advantage as the matter stands, or, on the other hand, you could use the other, and you would not be a bit worse off.

The CHAIRMAN. Suppose that the provision was not in the bill, how would you be affected?

Mr. BROKMEYER. If that were not in the bill the retail druggists would be relieved of the proposed additional burden.

The CHAIRMAN. Relieved of what burden?

Mr. BROKMEYER. The burden of affixing this annoying stamp tax to every one of these preparations that they have to compound from time to time, as well as upon all the stock remedies containing distilled spirits of wine in their possession. The stamp tax has been very vexing to the retail druggists and small merchants, and they are very thankful to your committee for having repealed much of it in this bill. In addition to the monetary consideration, there is the consideration of time expended in the retail drug business, which is one of infinite detail.

Senator THOMAS. Under the present law you can use the proprietary medicines at 55 cents, can you not?

Mr. BROKMEYER. Yes, sir.

Senator THOMAS. Now have you been doing that?

Mr. BROKMEYER. I assume so. I am not a proprietary medicine man.

Senator THOMAS. How about that, Mr. Henry?

Mr. HENRY. I do not represent the proprietary interests. I represent the retail druggists.

Senator THOMAS. If you come to us for some relief of that kind, you ought to bring us more information than we have already.

Mr. BROKMEYER. We have thought that this bill was apparently a discrimination against the retail druggists.

Senator THOMAS. You see a very possible tax of 24 cents that you might have to pay?

Mr. BROKMEYER. In addition to that, one of the objectionable features is the fact that the exemption relieves from the proposed tax a medicinal preparation containing distilled spirits of wine, compounded by a druggist on a physician's prescription in quantities of half pint——

Senator THOMAS. Does the present law affect the physician's prescription?

Mr. BROKMEYER. It makes no distinction as to whether or not they are compounded on a physician's prescription or on the druggist's own formula, or whether they are prepared by proprietary manufacturers, but the physician is favored in this instance to that extent, that he may prescribe a medicinal compound in the quantity stated which would be free from tax, but the druggist can not dispense any medicinal preparation that he makes himself on his own formula, or of a proprietary medicine containing distilled spirits of wine without affixing the tax stamp imposed.

Senator THOMAS. It seems to me that you gentlemen are merely apprehensive of that possible construction of this act. It might affect it to the extent of 24 cents a gallon on any medicinal preparation containing wine spirits. As a matter of fact, you pay 55 cents a gallon for what you use now.

Mr. BROKMEYER. That is, assuming they can use distilled spirits of wine.

Senator THOMAS. You have to assume that in your question or in your statement.

Mr. BROKMEYER. Mr. Henry could perhaps say.

Senator THOMAS. If you do not assume it there is nothing to your argument, because it is only wine spirits that is involved.

Mr. BROKMEYER. I understand, but my contention was that the bill suggests a tax that the retail drug trade is not bearing at the present time.

Senator THOMAS. No, your suggestion is that there may be such a possible construction placed upon it.

The CHAIRMAN. Do you not really get a benefit from this provision over the present law?

Mr. HENRY. As I view this provision here, I frankly admit that I did not have the time to go into the matter in detail, because it was only called to my attention on Saturday; but, as I view this, what aroused my suspicion in the matter was the provision that it shall not apply to the medicinal compounds prepared by retail druggists on physicians' prescriptions where the formula does not exceed, or such compound does not exceed, one-half a pint. It did seem to me in all fairness and justice that if a compound or preparation made upon a physician's prescription in quantities not exceeding one-half a pint——

Senator THOMAS. Pardon me. Do you know Congressman Kent, of California?

Mr. HENRY. I do not believe I know him personally.

Senator THOMAS. I think he is the author of that particular paragraph or, rather, he was the author of the wine schedule including that paragraph, and if I am correct in my assumption he can tell you what is meant by it very quickly. I think you had better see him and give us a little more information upon the subject.

Mr. HENRY. Suppose we do that and come back here again. We do not want to burden the committee with anything unless it is absolutely necessary.

Senator THOMAS. I understand that. Of course you are looking after your own interests, and if you do not do so nobody else will. When you come before us again we would like to know more about this than we do now, and I think you can get that information by taking it up with some of your proprietary medicine men or with Mr. Kent.

(Subsequently Mr. Henry submitted a brief which is here printed in full, as follows:)

A BRIEF, IN RE PROPOSED STAMP TAX ON MEDICINAL PREPARATIONS, SUPPLEMENTING THE TESTIMONY OF MR. SAMUEL C. HENRY, CHAIRMAN OF THE LEGISLATIVE COMMITTEE OF THE NATIONAL ASSOCIATION OF RETAIL DRUGGISTS, AND OF EUGENE C BROOKMEYER, COUNSEL.

To the honorable members of the subcommittee of the Finance Committee of the United States Senate:

In view of the kind suggestion of Senator Thomas, that we consult Congressman Kent, who was said to have drafted the wine section of the general revenue bill, we got in touch with Mr. Kent, who informed us that while he had participated in the shaping of the section relating to sweet wines, he had not had anything to do with any other provisions of the wine section.

Mr. Kent referred us to the Treasury Department as having drafted the other provisions of the wine section. We thereupon called on Messrs. Samuel L. Stephenson, chief, and Dr. O. V. Emery, of the spirits division of the Internal Revenue Department, who referred us to Mr. Wales Hubbard, chief of the assessment division.

We asked the officials mentioned as to their understanding of the phrase "distilled spirits of wine." Mr. Hubbard and Dr. Emery replied that the phrase was quite new to them; in fact, they did not recall having encountered it in their many years'

experience in the department. Dr. Emery said he knew officially of spirit of wine, and he construed "distilled spirits of wine" to mean fruit brandy. Both Dr. Emery and Mr. Hubbard were quite certain that "distilled spirits of wine" did not include what is commonly known as distilled spirits, or alcohol distilled from grain or molasses.

Mr. Hubbard said there had been some talk of changing the phraseology of the bill from "preparations containing distilled spirits of wine" to "preparations containing distilled spirits or wine," which confirmed our information that the revenue bill as originally reported by the House committee read "preparations containing distilled spirits or wine."

When the attention of Mr. Hubbard and Dr. Emery was called to the fact that if the bill were amended so as to make the phraseology "preparations containing distilled spirits or wine," it would subject to the stamp tax proposed all medicinal preparations containing alcohol or wine, except those compounded by a druggist on a physician's prescription, not exceeding one-half pint, they readily agreed that there should be a further amendment limiting the proposed stamp tax to beverages containing alcohol or wine and exempting bona fide medicinal preparations.

Mr. Hubbard suggested that it might be well for us to call on Hon. William P. Malburn, Assistant Secretary of the Treasury. After detailing to Mr. Malburn the interviews we had with Mr. Hubbard and Dr. Emery, and impressing upon him the fact that they agreed with us as to the advisability of limiting the proposed stamp tax to beverages and exempting bona fide medicinal preparations containing alcohol or wine, Mr. Malburn promised to take the subject up with Mr. Hubbard.

Reference was made in the testimony of counsel before your honorable subcommittee this afternoon to the fact that the Treasury Department exempted compounds, or preparations classified as medicines by the department, from the stamp tax imposed on liqueurs, cordials, and similar compounds in the emergency revenue act of October 22, 1914. This exemption will be noted in T. D. 2050, incorporated in T. D. 2078, as follows;

"Liqueurs, cordials, and similar compounds as used in the act of Congress approved October 22, 1914, are not held to include alcohol, whiskies, rums, brandies, and gins, except when so compounded as to be known to the trade as cordials and liqueurs. Compounds classed by this office as medicines are also excepted. The word 'liqueur,' as defined by Webster, is an alcoholic aromatic cordial, and obviously a cordial is practically the same. It would appear, therefore, that the words 'liqueurs, cordials, or similar compounds,' under whatever name sold or offered for sale, would include those beverages commonly known to the trade as liqueurs and cordials. Further, the term 'similar compounds' would appear to include vermuths and like wine compounds, bitters used as beverages, cocktails, maraschino, cordialized liquors, fortified fruit juices, and all other compounds the formulas of which, methods of preparation, or use, make them sufficiently like liqueurs and cordials to place them in the class with liqueurs and cordials."

The 45,000 druggists of the United States felt much relieved when advised of the purpose of the present Congress to repeal the stamp taxes imposed by the present emergency revenue act, because of their vexatious and otherwise burdensome character, and were greatly surprised to learn that H. R. 16763 in its wine section proposed a stamp tax on certain bona fide medicinal preparations not heretofore taxed in the manner proposed. After learning the views of the internal-revenue officials this afternoon, however, the representatives of the National Association of Retail Druggists feel encouraged to believe that the subcommittee will carefully consider both the wisdom and justice of confining the proposed stamp tax on wines to beverages containing alcohol or wine, and not apply it to bona fide medicinal preparations. As already stated, the Finance Committee of the Senate promptly rejected the proposed stamp tax on drugs and medicines, or the "poor man's medicine," in the emergency revenue act two years ago, and there is no good reason for imposing such a tax now, especially after the majority leaders announced the intention of Congress to repeal all unnecessary and onerous stamp taxes.

Very respectfully,

NATIONAL ASSOCIATION OF RETAIL DRUGGISTS,
By SAMUEL C. HENRY,
Chairman Legislative Committee.
EUGENE C. BROKMEYER, *Counsel.*

The CHAIRMAN. If that is all the committee will now adjourn.

(Thereupon the subcommittee adjourned to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(COPPER AND BRASS.)

TUESDAY, JULY 18, 1916.

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

The subcommittee met, pursuant to call, at 4 o'clock p. m., in the room of the Committee on Foreign Relations, Senator William J. Stone presiding.

Present: Senators Stone (chairman), Thomas, and Hughes.

Also present: Messrs. H. H. Boyesen, representing the American Brass Co., New York; Prof. Alfred B. Reeves, New York, representing the United States Metal Refining Co.; Julien B. Beaty, representing the American Metal Co., of New York, and also the Balbach Smelting & Refining Co.

The subcommittee resumed the consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The subcommittee has under consideration section 201, page 62, as follows:

> Every person smelting copper ore or copper concentrates, refining metallic copper, or alloying copper, shall pay for each taxable year an excise tax equivalent to the following percentages of the gross receipts during such year from the sale or disposition of refined copper or copper alloys and from the sale or disposition of crude or unrefined copper if sold or disposed of for any purpose except for refining or alloying:
>
> One per centum of the amount by which such receipts exceed $25,000 and do not exceed $1,000,000;
>
> Two per centum of the amount by which such receipts exceed $1,000,000 and do not exceed $10,000,000; and
>
> Three per centum of the amount by which such receipts exceed $10,000,000.

Gentlemen, the subcommittee is ready to hear any statement that you desire to make. Mr. Boyesen, will you proceed?

STATEMENT OF MR. H. H. BOYESEN, NEW YORK, REPRESENTING THE AMERICAN BRASS CO.

Mr. BOYESEN. Mr. Chairman and Senators, the American Brass Co. does a shade less than one-half—or perhaps a shade is not a correct term—but less than half the brass business of the country. Its business is the alloying of copper. It makes brass, roughly speaking, out of two-thirds copper and one-third zinc. It does not produce a pound of metal. It buys all its copper and all its zinc in the open market. It also makes German silver in the shape of sheets that go to the International Silver Co. and other concerns of that kind and is made up into what is known as hollow ware, German silver uten-

sils of all kinds, and ornaments, also German silver ware for use in electrical work where the great degree of conductivity that copper affords is not desired.

Mr. Chairman, the language of the bill, without question, taxes every brass and German silver product of the country, because they all consist of copper alloys, and the test which Mr. Hull gave, briefly, was whether copper was the article of chief value. It is the article of chief value in every brass product and of every silver product. Before the war the company produced just what it is producing now in the way of brass which is capable of use for ammunition purposes. It sells to the cartridge companies sheet brass which can be used for rolling cartridges and for making a variety of other products. Before the war its business of that kind was inconsiderable. Since the war there is about 15 per cent, in pounds, of its output which it knows or has reason to believe goes to the munition manufacturers. While we do not hold any brief for the munition manufacturers, and while we would expect if this tax went into effect to add it to the price of our brass, as we naturally would do, we want to point out this inequality.

There is one cartridge concern, the Winchester Arms Co., which alloys its own metal. This tax is on the gross receipts of the Winchester Arms Co., which earns its gross receipts from the sale of cartridges, and will not be a tax on alloying any metal whatsoever. Since they do it for their own use exclusively it does not get any gross receipts therefor. Every other cartridge concern in the country, except the Winchester Arms Co., that does its own alloying, will pay us the increased price for the brass that they use—that is to say, a tax on our gross profits, and will turn around again and when they sell it they pay a second tax that is still more drastic and still heavier. They will get the cream of the business and have a limitless opportunity to underbid any one single concern. The brass business is a highly competitive one. We have heard from a number of our customers, for instance, the Simmons Bed Co., of Kenosha, Wis., and they are very much exercised about it, because it will add immediately a very large amount to the cost of that company's raw material; and to say the least it is improper to class brass that goes into bedsteads and brass that goes into all peaceable uses, where 85 per cent of our production goes, as munition manufacturers. We say that some of the members of the House committee were doubtless under the impression that in order to tax copper they had to include alloying copper. It is a fact, I believe, that the producers of copper metal do not do any alloying themselves. They do quite the reverse. They refine and separate their metal matte into commercially pure metals, so that if it was designed to tax the production of copper on the ground that it has gone up in value perhaps twice since the war—a principle that we do not by any means advocate or subscribe to or sympathize with—then we submit that it is not proper to use the term "alloying copper" or "copper alloys" as it is used in title 3 of the bill.

Again, we do not hestitate to say that we believe that a tax on the most prosperous concerns in the country is the proper criterion for taxation, or the proper principle, but if it was the design of the lower House to tax prosperity, then we claim that a study ought to be made of the concerns that have profited so greatly because of the war, ex-

clusive of munitions now, if you please, and that instead of singling out copper as metal and brass with alloy, 85 per cent of which goes into fairly peaceable uses, and which business has not profited as much as thousands of other businesses, then we submit that a study of the situation should be made and these other businesses should be included and the tax made very much lower, to the end that it would not be put in so burdensome a fashion upon those two industries that are taken out of all the others of the country.

I confess that I am in the dark as to exactly what was in the mind of the author of this bill, and of the committee, and considerable doubt developed in discussing it with members of the committee, but we claim there is no element in the business of the American Brass Co., nor in the business of other brass companies, which justifies singling them out for taxation. If it was accidental we ask that the terms "alloying copper" and "copper alloys" be stricken out of the bill. If it is intended, on the other hand, to include a tax only on producers and refiners of metal, then the words should be stricken out also, and if it is intended to impose a tax on the concerns which have benefited due to—I will not say war conditions but due to domestic conditions, and in part due to the war in Europe—then it ought to be made broadcast, and a study should be made which should include a great number of concerns that I shall not take the time of the committee in mentioning. But we know there are concerns that have doubled and trebeled and quadrupled their capital stock and initiated dividends on grossly watered stock, and have really felt a tremendous prosperity. But we submit we are not in that class.

Mr. Chairman and gentlemen, I think that is all I have got to say, except that I would like, with the permission of the committee, to have a very short memorandum in support of our contention made part of this record.

The CHAIRMAN. That is, your brief?

Mr. BOYESEN. Yes, sir; I do not like to dignify it by the name of brief. It is a very short memorandum.

The CHAIRMAN. That will be included in the record.

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

In the matter of H. R. 16763, a bill to increase the revenue, and for other purposes.

The American Brass Co., a Connecticut corporation, with its principal offices at Waterbury, Conn., and operating mills at Waterbury, Torrington, and Ansonia, Conn., and Kenosha, Wis., desires to protest against the extremely unjust and discriminatory provisions of that portion of Title III of the bill (p. 62, lines 11–24), which provides that every person "alloying copper" shall pay each year an excise tax upon his gross receipts "from the sale or disposition of copper alloys" amounting to 1 per cent on gross receipts of $25,000 to $1,000,000, 2 per cent on gross receipts of $1,000,000 to $10,000,000, and 3 per cent on gross receipts in excess of $10,000,000.

The American Brass Co. manufactures no munitions whatsoever. It is inappropriate, to say the least, to classify its product under the head of "Munitions manufacturers' tax." To be sure, the company has for a number of years sold condenser tubes for men-of-war and brass sheets and tubes capable of being fashioned by others into cartridges and bands and cases for projectiles, but even since the war this class of business has not exceeded 15 per cent of the company's entire business; nor has the company ever, either before or since the war, produced any product capable, without further manufacture, of being used for warlike purposes.

The great body of the company's business is the manufacture of the brass which is ultimately remanufactured by others into brass bedsteads, brass eye-

lets for shoes, locks, electric fixtures, and the many other brass articles found in the home and in the factory.

The company produces no copper or other metals, nor does it refine or smelt any metals. It buys copper and zinc in the open market, mixes them in various proportions to produce the different kinds of brass, and turns the brass out in such texture, dimensions, and design as the customer wants.

This is a highly competitive business. It is purely a domestic business. It has nothing whatever to do with war or munitions.

If it be the legislative intent to tax munition manufactures, that object would be accomplished if all of page 62, from line 11 on, were omitted. If, on the other hand, it is the legislative intent also to tax producers and refiners and smelters of copper metal on the ground that the price has approximately doubled since the war broke out, that object could be accomplished by eliminating from line 12, on page 62, the words "or alloying copper," and from line 15, on the same page, the words "or copper alloys," and from lines 17 and 18, on the same page, the words "or alloying."

But if persons "alloying copper" are taxed, then the manufacturer of every brass product for ordinary domestic use will be taxed on his gross sales, while at the same time every other manufacturer of other domestic products, however great his profits, will go absolutely free of any tax whatever. That is unfair, unjustly discriminatory, and un-American. It has been suggested that the use of the terms "alloying copper" and "copper alloys" was thought by some members of the House Ways and Means Committee to be necessary in order to embrace every operation of the smelter and refiner of metals, and was, in fact, not designed to embrace products of the brass companies at all. If this be so it is enough to say that a diametrically opposite result has been reached, for the smelters and refiners produce pure metals and not alloys, and the term "copper alloys" unquestionably embraces every brass and German silver product known to man.

We proceed as briefly as possible to point out the injustice of singling out the brass industry for this onerous and drastic kind of taxation.

The brass company's business is conducted in three ways (*a*) ordinary sales resulting from inquiry by a prospective customer, the quotation of prices and the consummation of a sale, the bulk of the company's product is sold in this way; (*b*) contracts for a period of months or years whereby the brass company receives consignments of copper and zinc belonging to the customer and produces the product required by the customer, charging him a so-called "differential" for what is known as base sizes of sheet brass, amounting in the usual case to from 3 cents to 8 cents per pound, depending upon the character of product wanted and business conditions at the time, which differential is calculated to cover the cost of labor, overhead charges, depreciation, shrinkage of zinc in process of alloying, and the usual factory costs plus a fair profit, this forms a substantial part of the company's business; and (*c*) contracts for a period of months or usually years to fill a customer's orders, the brass company purchasing copper and zinc and charging the same to the customer at cost plus the differential whose elements have already been explained. It will readily be understood that not in a single case is the brass company placed in a position whereby it can in any manner take advantage or derive profit from the doubling of the price of copper since the war broke out, nor from the increase in the price of zinc from 5 cents a pound before the war to 25 cents a pound for common grade during the war, nor from the advance in the price of refined zinc from 8 cents per pound before the war to as high as 40 cents per pound during the war.

The very contrary is the fact, for the brass company had a large amount of contracts in force at the outbreak of the war which called for delivery of goods at specified prices and in such cases contracts had to be fulfilled even though they showed the company a loss, and such losses could in no case be recouped through the large increase in the price of metals, inasmuch as the brass company produces no metals whatever but has to depend for all of its raw materials on purchases from the smelters and refiners.

Exports of nearly all the metals have increased tremendously since the outbreak of the war, prior to which there were no considerable exports of metal except structural iron and steel, rails, and ingot copper. We wish to be understood as objecting decidedly, and we think with justice, to the singling out of any one American industry, 85 per cent of whose product goes into peaceful uses, for such taxation as this, and not as advocating the extension of what we regard as a vicious principle to other products. However, for

the purpose of illustrating the unfairness of the tax proposed in this bill, we quote briefly from the report for the week ended June 3, 1916, compiled by the foreign-trade department of the National City Bank, of New York, showing exports for that week as compared with exports of the same products for the corresponding week in the year 1914, just before the war broke out; the first figure given being that for the year 1916:

	1916	1914
Commercial automobiles	$1,119,688	None.
Passenger automobiles	434,121	None.
Parts	121,187	$23,187
Cars and parts	609,387	315
Cotton cloth	504,934	51,102
Cotton duck	210,912	3,945
Cotton manufactures	229,058	None.
Cotton military goods	129,086	None.
Copper ingots	3,773,720	12,847
Drugs, chemicals, etc	895,024	67,791
Explosives, cartridges, etc	2,767,690	3,679
Fuses	1,562,203	None.
Gun cotton	543,725	None.
Loaded projectiles	3,019,821	None.
Smokeless powder	2,189,903	None.
Leather	856,760	96,768
Shoes	1,356,197	31,080
Leather manufactures	105,191	724
Metal-working machinery	1,514,445	3,602
Brass manufactures	2,273,726	685
Iron and steel	2,871,926	118,291
Rails	173,825	None.
Barbed wire	590,743	None.
Zinc plates and ingots	322,499	None.

In order that the nature of the American Brass Co.'s business may be better understood, we present herewith a list of its products, with a few trifling exceptions, together with an approximation of the percentages in pounds of the total output for the year 1915:

	Per cent.
Sheet brass and German silver	38
Brass rods	15
Copper wire	13
Seamless brass and copper tubes	8
Sheet copper	7
Brass and German silver wire	5
Copper rods	3
Hot forged brass	2
Commutator copper	2
Extruded brass and turbine blades	1
Brazed brass and copper tubes	1
Insulated wire	1
Rivets and burrs, blanks for clock cases, soap boxes, thermos bottles, buttes, and hinges, eyelets, rule brass for printers, fasteners for paper and iron-lined tubing	4

One of the company's products is German silver which is an alloy of the following metals in approximately the following percentages: Copper, 60 per cent; zinc, 25 per cent; nickel, 15 per cent.

The brass company knows of no instance in which German silver has been used for any warlike purpose. In the form of wire it is used in electric installation where greater resistance to the current than that afforded by copper is desired, and in the form of sheets it goes to the International Silver Co., and others, and is made up into knives and forks and ornaments for domestic use, where it is known as "hollow ware." The business is highly competitive, and it is impossible to advance prices to an extent fully to compensate for the increased price of the metals which the brass company has to purchase in the open market, so that, far from affording a reason for special taxation, the advanced price of the brass company's raw material (without taking into

consideration the great advance in wages of labor, and the more than doubled capital necessary to take care of the same volume of business) is an added argument against singling out this business for such taxation. It is submitted that the bill as it now stands would impose a tax upon every brass and German silver product of the company.

Another illustration of the inequalities and injustice of the tax on that part of the company's product which enters into the making of munitions—about 15 per cent—is shown by the following admission of Mr. Hull, of Tennessee, the author of the measure, at page 12341 of the Congressional Record of July 10, 1916:

"In working this out we tried to make this as equitable as possible to the entire industry, and to that end, wherever the smelter sells to the refiner or alloyer, he would pay no tax. Again, any concern smelting or refining or alloying copper would pay the tax on the gross receipts of whatever product he sells whether sold in the form of alloy or refined or smelted copper."

Thus if a cartridge company smelts or refines or alloys copper and produces cartridges therefrom it will receive gross receipts from one kind of product only, viz, cartridges, and, that we may not be thought to be stating a hypothetical case, we may mention that this very thing is done by the Winchester Arms Co., which alloys its own metal and makes cartridges therefrom. The other large cartridge concerns purchase their brass from the American Brass Co. and other producers of brass, and in the case of their business the brass companies would have to pay a separate tax on their gross receipts and the cartridge companies would have to pay an additional tax on their gross receipts, thus placing at a great disadvantage all of the cartridge companies and other manufacturers of munitions of which brass is a component part in their competition with the one company which conducts both operations, and thus is taxed once only on its gross receipts.

While we hold no brief for the munitions manufacture, we think it well to point out this inequality inasmuch as to the extent that those cartridge companies which do not produce their own brass are placed at a disadvantage and have their productivity curtailed, the brass producers suffer through loss of their custom.

One of the most objectionable elements of the bill needs but a bare statement for illustration. The taxable year begins on January 1, 1916, more than seven months prior to the probable date of enactment of the bill and exactly six months before anyone heard of the proposition to tax the gross receipts derived frm the manufacture of brass. The American Brass Co.'s mills were working in January, 1916, on orders taken during July and August, 1915, and will be working throughout the year 1916 on orders taken before even the faintest rumor of the proposition to tax the gross receipts derived from the manufacture of brass was heard. It goes without saying that if this bill shall be enacted brass prices and the differentials above referred to must immediately mount, for all such taxes are paid by the ultimate consumer. This bill, in so far as it is retroactive—and it operates retroactively upon all of the company's business for seven months, and on the bulk of it for the balance of the year 1916—completely reverses this normal process and takes from the pocket of the manufacturer a substantial part of his earnings made in the past and based on the prices of the past for raw materials.

In conclusion we submit that in so far as it affects brass and German silver manufacturers this bill is highly discriminatory, unfair, and un-American, and that there is no justification whatsoever for singling out brass and German silver industries for such taxation. If we are wrong in our belief, if reasons of public policy seem to this Congress to demand such a tax, then we respectfully submit that no one peaceful, domestic industry should be singled out to bear the burden. If extraordinary prosperity is to be the criterion, there are a great many industries which have experienced a much greater increase in net profits than have the brass companies of the United States. Doubtless numerous instances of resumption or inauguration of dividends on watered common stock of industrial companies, of doubling, trebbling, and quadrupling capitalization and the declaration of large stock dividends due to war conditions will occur to the mind without any special investigation, while an examination of any of the financial manuals will show hundreds of companies whose net earnings and surplus have increased at a very considerably greater rate than have those of the manufacturers of brass. It would serve no useful purpose for us to undertake to name or classify these companies. If this kind of taxation upon a domestic industry, 85 per cent of whose product is solely adapted for

purely peaceable uses, is to be adopted as a principle, we respectfully submit that a searching study of the situation should be made and that the burden of taxation should be made to fall upon all the other industries referred to alike, to the end that the rate of taxation may be so reduced as to make itself but slightly felt.

Respectfully submitted.

AMERICAN BRASS CO.,
MORTON JOURDAN,
HJALMAR H. BOYESEN,
Of Counsel.

JULY 17, 1916.

The CHAIRMAN. We will now hear Mr. Reeves.

STATEMENT OF MR. ALFRED B. REEVES, LAWYER, NEW YORK, REPRESENTING THE UNITED STATES METAL REFINING CO.

The CHAIRMAN. What is your residence?

Mr. REEVES. New York City.

The CHAIRMAN. What is your business?

Mr. REEVES. Lawyer; and I represent the United States Metal Refining Co.

The CHAIRMAN. You are also a professor?

Mr. REEVES. I am a professor in the New York Law School.

The CHAIRMAN. You may proceed with your statement.

Mr. REEVES. Mr. Chairman, the fundamental objection that we wish to emphasize is the singling out of copper and the putting of this tax upon it, and we think that that runs through all the difficulties that we are going to represent very briefly as representing the smelters and refiners.

We naturally come with the question of all the metals and all the industries that have been boomed and pushed through war conditions in dealing with these munition manufacturers, Why should this product be singled out and be specially taxed, and so severely taxed?

Copper has had its struggle in years that have passed, and in the little brief that I am going to ask permission to submit, we shall show prices ranging from 12 cents up to 18 or 19 cents between 1904 and 1914, and we shall show that at the beginning of 1914 there was a great reduction in the output of copper. The copper industry was struggling along, and then there came this temporary boom which will be over by the time the war is ended—it is now beginning to wane—and it seems unfair and illogical to put the tax on this temporary advantage that copper is getting.

I want to suggest that as the fundamental thought. So that being illogical and unfair it explains the difficulties that are on the surface of this section 201, so far as it deals with smelters and refiners. If you are going to put a tax on copper, this provision puts it in the wrong place. In order to demonstrate that just let me outline how the smelters and refiners deal with copper. They buy it from the producers at the market price—at the market price of the copper that is to come out of the crude material, and they sell it at the market price. They make that profit from gain, not by the rise and fall of the market in copper, but by a toll or treatment charge that they take out of the price paid, and the outcome is that the rise in the price of copper does not really benefit to any material extent the refiners or the smelters. The figures from chrome, where it is estimated that

144,000,000 pounds were being produced this year, will show that conclusively.

Senator THOMAS. That argument would not apply to those smelters who own their smelters and smelt their own ore?

Mr. REEVES. No; I am coming to that. To companies of that kind it does not apply fully. On the other hand, when the price goes up it makes labor and material go up and really costs more. The net return to those smelters will be in reality less. Then, further, the smelters and refiners may be divided into two classes, and the United States Metal Refining Co., using that large corporation as including its subsidiaries, illustrates the two kinds of smelters and refiners that present themselves to you. The New York company simply buys its material from the producer and sells it in the market after it is refined or smelted. It is not making 10 per cent on its capital, and will not make 10 per cent on its capital invested. It also owns the Mammoth Copper Mine of California, and in that branch of its business it is producing the copper and smelting and refining it and selling it.

Now, if you think for a moment you will see that it simply resolves itself into a matter of bookkeeping as to what is to be the outcome. How much of the net results of the sale are we to charge as to a refinery? How are we to figure exactly the refiner's capital there as distinguished from its ownership of that mine? And when we come to figure the net gain, are we not justified in taking the fair market value of its copper, the crude copper as it comes from the mine, and deducting that before the gain is figured? How is that bookkeeping to be done? Does it not become after all a question of bookkeeping, and who is going to settle that question of bookkeeping, as to whether or not the Mammoth copper mine is going to have to pay this tax? I put that question to you as one that grows out of the fundamental difficulty, that this one substance—copper—ought not to be singled out in this way.

The method of doing business by the refiners and smelters, both those who buy their crude material from others and those that produce it themselves, make the tax very difficult to collect, and presents endless questions, and in the ultimate outcome may become merely a question of bookkeeping.

Then, in the next place, the putting of this tax on copper at the point where it leaves the smelter or refiner is going to help stifle that industry in some respects; it is going to confiscate some of the contracts that they already hold and are working under. The tax is on the gross receipts from sales. It is not to be levied until after 10 per cent is allowed on the capital stock. Now, let me illustrate by assuming that the United States Metal Refining Co. began to make more than 10 per cent. You will see that every iota above 10 per cent, no matter how high up they go, practically is going to be taken by this tax. Let us assume, for the purpose of figuring, that the output of the company that I represent is 200,000,000 pounds a year. At 25 cents a pound that is $50,000,000. Most of that would be taxed at 3 per cent. Putting it in round numbers, the tax on it would be $1,500,000. The capital stock of that refinery is $3,000,000. So the tax would be 50 per cent of its capital stock. The refinery begins to make money at the rate of 60 per cent a year on its capital stock, and because of the vast amount of business that it must do on

its narrow margins, in order to make the great sales that produce results, it would pay 50 per cent of that to the Government and have 10 per cent left. So long as it is making 60 per cent or less on its capital stock the Government is paid all over 10 per cent.

Now, gentlemen, think of what that means. That would be the outcome. Mr. Robertson, the general manager of this company, sent me these figures yesterday. He said, "We figure as a matter of fact 144,000,000 pounds will be produced of chrome during the year 1916." At 25 cents a pound that would make the tax on that production over a million dollars. That would be one-third of the capital stock—33⅓ per cent. The United States Metal Refining Co. might jump up and make 43⅓ per cent on its capital and it would only have the 10 per cent left. Is it now right to put it in that position? It would have no incentive, the moment it got over 10 per cent, to go on with any further business.

Further than that, the refining and smelting business is done on long contracts—two, three, and five years is the length of these contracts. A good many of them are made with foreign countries, Canada for instance, Mexico, New Mexico, and with South America. On most foreign contracts there is no way. They have now five years, or three or four years yet to run, and the margin is so close on them, that to put a tax on them means these contracts must be carried out at a loss, and you will find these refineries with these long-time contracts on their hands just because of the sudden rise in copper; that is temporary. You are going to find them with these contracts necessary to be carried out at a loss for perhaps two or three, or perhaps up to four or five years yet to come, and the instant the refineries or smelters make new contracts with those foreign countries and at the amount of the tax, then the incentive is for the foreign countries to establish their own smelters and their own refineries, and they are already beginning to do it. The Commonwealth of Australia is already offering a bonus for the production of smelters and refineries in that country to take care of its own crude products. Further than that, so far as some of the contracts are concerned, this tax will be a confiscation of them.

The United States Smelting Co. has got a contract with the United Verde Mine Co. It takes its product and pays for it at the market price, refines it, and sells it to-day at the market price and simply charges a small percentage for refining. Every iota of that gain on that large mine will be taken away by this tax if by and peradventure the net gain of that company should go up to or exceed 10 per cent.

Suppose the United States Smelting Co. should keep that contract and get four or five others that paid largely, so that its net gains went above 10 per cent. It would have to keep that large contract with the United Verde at a loss and run it with those other contracts.

That is the situation that the smelters and refiners who, during the last 20 years, by the most stringent, careful methods have built up a business in this country that in 1915 went up to a total of 1,500,000,000 pounds and will exceed it in the year 1916.

We feel that it is not a question of shifting this tax. We have simply tried to show that when you single out in that way one specific article and begin to tax it at its point of exit, as this tax is endeavoring to do, and let the others go scot free, you are doing an illogical

thing; you are doing an unfair thing, and illogical and burdensome results are bound to flow out of it.

So, Mr. Chairman and Senators, we respectfully submit that in consideration of the facts that I have stated and the fact that only after all a slight proportion of the production goes to the munition manufacturers, and in consideration of the fact that if the war ends to-morrow the price of copper will drop very materially—it is beginning to drop now; it has not risen anything like the proportion of the rise of other metals such as zinc, steel, and aluminum—in consideration of all these facts this provision with regard to the tax on copper should be entirely stricken out of this proposed revenue law.

Senator THOMAS. Let me ask you if this article, copper, is any more of a munition of war than is cotton?

Mr. REEVES. I do not think it as much; certainly no more.

I want to ask, Senator, if I may have two or three days to perfect a little brief I am preparing and have it printed in this record?

The CHAIRMAN. The committee will be very glad to have you do so, if you do it in a short space of time.

Mr. REEVES. I will submit it by Friday.

The CHAIRMAN. Very well.

(Mr. Reeves subsequently submitted the following:)

BRIEF ON BEHALF OF UNITED STATES METALS REFINING CO. AGAINST THE PROPOSED TAX ON COPPER.

In connection with the taxation of munition manufacturers, and as a portion of section 201 of the bill, it is proposed to tax persons smelting copper ore, refining metallic copper, or alloying copper, on their gross receipts from the sale or disposition of refined copper or copper alloyed and from the sale or disposition of crude copper for any purpose except for refining or alloying, 1 per cent on receipts exceeding $25,000, and not exceeding $1,000,000; 2 per cent on receipts exceeding $1,000,000 and not exceeding $10,000,000; 3 per cent on receipts exceeding $10,000,000.

It is provided, however, by sections 203 and 204 of the bill that, if the net profit derived from such sale or disposition is less than 10 per cent of the smelter's, refiner's, or alloyer's capital, no tax shall be levied; and if the payment of the tax would reduce such net profit below 10 per cent the tax to be levied shall be equal to the net profit in excess of 10 per cent.

The following reasons why this tax should not be imposed are respectfully submitted:

I.

THIS SPECIAL TAX ON COPPER WOULD BE UNFAIR AND UN-AMERICAN AND PERHAPS UNCONSTITUTIONAL.

The fundamental objection to such a tax is that copper should not be thus specially singled out and burdened. While a portion of that metal produced and treated in this country does enter into the manufacture of munitions, yet a much larger portion does not do so, but is used for purposes of peace. Steel, zinc, nickel, lead, and aluminum are in the same class in this respect with copper; and most, if not all, of those other metals have advanced in prices and output because of the European war even more than has copper. While some of them are not produced or used in as large quantities as is copper, yet the amounts of iron and steel which are used even by munition manufacturers far transcend all the others.

It would be unfair and un-American, certainly, if not tyrannical, to impose a large tax on copper alone of all these metals. It is not meant to be suggested here that any of them should be taxed, especially on the ground that they are employed by munition manufacturers. Their present high prices are shortly temporary, or due to other causes than the war, and they should not be subjected to any additional tax at this time; but especially copper should

not be singled out from among them to be thus burdened. This appears particularly for the following reasons, among others:

(*a*) The copper industries in this country made only very small profits before the outbreak of the war; and they should not now be taxed on any temporary gain.

That those industries have had to struggle for many years, with only slight percentages of gain, is shown by the following figures, exhibiting the average prices of copper per pound in New York from 1904 to 1914, inclusive (The Mineral Industry during 1914, vol. 23, edited by G. A. Roush, pp. 150, 159).

	Cents.		*Cents.*
1904	12.823	1910	12.738
1905	15.590	1911	12.376
1906	19.278	1912	16.341
1907	20.004	1913	15.269
1908	13.208	1914	13.533
1909	12.982		

(*b*) The price of copper has not advanced as much as that of many other metals, nor as much as that of many articles which do not enter at all into munitions of war.

The statistics presented to the Senate subcommittee at its hearing on the 18th of July, 1916, show this conclusively. A rise in copper substantially from 15 cents to 25 cents per pound is comparatively very moderate, and should not induce any special form of taxation.

(*c*) The temporary character of the advance in the prices of copper is shown by the fact that the quotations are beginning to go the other way. The prices in New York during 1916, by months, have been thus far as follows:

	Cents.		*Cents.*
January	24.008	May	28.625
February	26.440	June	26.601
March	26.310	July (1–19, incl.)	23.400
April	27.895		

The last quotation in the Engineering and Mining Journal (that for July 19) is 22⅞ cents, as against the high price of 29 cents quoted on May 17. The high tide has been reached. It is very probable, at least, if not reasonably certain, that by the time this proposed tax could be put in operation, copper prices will have fallen back about to their average in the decade between 1904 and 1914.

(*d*) It is possible, if not probable, that such an arbitrary imposition of taxes would be held to be unconstitutional by the courts, on the ground that it would be denying to some of the copper dealers the equal protection of the laws. It is fully recognized, of course, that Congress has a wide range of discretion and latitude in classifying for purposes of taxation. But there must be some support for its act—some reason for it, even if it is a poor one. (Tellis *v.* Lake Erie & Western R. R. Co., 175 U. S., 348, 353; Clark *v.* Kansas City, 176 U. S., 14; American Sugar Refining Co. *v.* Louisiana, 179 U. S., 89; Corgill *v.* Minnesota R. Co., 180 U. S., 452, 468; Cooley on Taxation (3d Ed.), 77.)

There is no reason—not even a poor one—no logic, no proper policy in singling out copper from all the other things that have been benefited in price by the European war and taxing it alone.

Moreover, some companies that would become subject to this tax do not own the mines from which come the ores dealt with by their smelters and refiners, while other companies do own such mines. The former, as a rule, are not making 10 per cent net profit on their investment. The latter are generally making more than 10 per cent, when the whole business, including the mine, is taken into account. The latter might have to pay this tax while the former went scot free.

Where a general act was passed the effect of which was so to classify stockyards in the State of Kansas as to discriminate against the largest stockyard in that State without mentioning it by name the law was held to be unconstitutional because it denied to that company the equal protection of the laws. (Cotting *v.* Kansas City Stockyard Co., 183 U. S., 79. See also Barbier *v.* Connolly, 113 U. S., 27; Matter of Jacobs, 98 N. Y., 98; People *v.* Marx, 99 N. Y., 377; State ex rel. Trustees *v.* Township, 36 N. J. L., 66.)

This proposition is stated tentatively and with diffidence. But, in so stating it, the question is naturally asked, Should Congress in effect discriminate against copper by such a tax and in such a manner as to raise a doubtful constitutional question?

The fundamental difficulty—the special, illogical burdening of one thing which has simply shared in a general temporary rise of values—helps to explain the other difficulties inherent in this proposed taxation. This Government can not adopt a system which is unfair, un-American, and illogical, if not unconstitutional, without encountering numerous and unexpected reasons against its course of procedure. These appear in the present instance very prominently when the position of smelters and refiners of copper is considered. Some of their special grievances against such a tax come to the front as follows:

II.

SMELTERS AND REFINERS OF COPPER, UPON WHOM THIS TAX IS PROPOSED TO BE DIRECTLY PLACED, ARE NOT BENEFITED MATERIALLY BY AN ADVANCE IN THE PRICE OF THAT METAL.

The business of smelters and refineries is usually conducted on a treatment or service basis and not as a mercantile venture. Take, for example, the business of a smelter, of which that of the United States Metals Refining Co., at Chrome, N. J., is an ordinary illustration. It purchases the ore on a schedule, paying for the copper contents at the market price, less certain deductions for smelting and treatment. Out of these deductions are paid the operating costs, etc., and the balance left after those deductions represents the profits. The refineries do business on the same basis, paying for the copper contents of the crude copper at the market price, less a toll for refining, out of which come the operating costs, leaving a balance of profits. Doubtless the refineries and smelters would, as a rule, prefer to do business on a straight toll basis. But a good many of the producers of copper are not in a position to market the refined product, and in order to carry on their business the smelters and refiners purchase the copper and become in turn sellers of the refined product. But in so purchasing and selling they are controlled by the market prices of the copper contents and make their gains entirely out of tolls or treatment charges. For instance, the United States Metals Refining Co. buys its copper mainly at the average price of copper, as quoted in the Engineering and Mining Journal, and sells it at the same average price.

If the refineries and smelters were in business for the purpose of making a profit on the copper alone they might just as well dispense with their refineries and smelters and purchase the refined copper and in turn resell it to the consumer. This would not call for any large investment of capital, and they would then simply be conducting a mercantile business of buying and selling goods. But they are not doing business in that manner. They are making their gains out of tolls or treatment charges alone.

Now, the crucial fact is that the treatment charge, which the refinery or smelter thus receives for its work, does not increase with a rise in the price of copper; and a further essential fact is that the operating costs are increased as the price of copper advances. In other words, the proposed tax would be against the dealers in copper who are not advantaged by a rising market—the tax would certainly be collected at the wrong place.

Moreover, in cases in which the producers of copper do their own smelting and refining, the imposition and collection of such a tax would depend on a mere matter of bookkeeping. If the smelting or refining part of the business were credited with a large toll or treatment charge, it might readily show a large percentage of gian—more than 10 per cent of net profit—and so might have to pay the tax (sec. 203 of the proposed act); but a credit to it on the books of the company of a small toll or treatment charge would reduce its net profits below 10 per cent. Therefore, assuming that the copper product was finally sold by the smelting or refining branch of the general business, the payment or nonpayment of the taxes would depend on how the books of that general business were kept. There would never be any difficulty in so keeping them as to show a net profit of less than 10 per cent by the refinery or smelter; for those independent smelters and refineries, which purchase and sell the copper at the market price as above explained, rarely make that amount of profit. And further, the 10 per cent provided for in the bill fails to take into consideration the fact that, while in one year the net profit might be 3 per cent, in the next year it might be 13 per cent; so that the refinery, in having to pay a tax if over 10 per cent profit is earned, could not be sure of an average 10 per cent profit for the two years.

The business of the United States Metals Refining Co. itself involves one of the two ways of dealing with copper by smelters and refineries, as above outlined. For its refinery at Chrome, N. J., it purchases the ore or crude copper from the producer at the market price, less the refining charge, and ultimately sells the product at the same market price, obtains its profits solely through its treatment charges or tolls, and does not in this department make 10 per cent on its capital. On the other hand, its associated company owns its own mine—the Mammoth Mine in California—does its own smelting, has its refining done on a toll basis, and sells the resulting product at the market price. Whether or not it would be required to pay a tax under this proposed law would depend on how much it credited to the refining and smelting process, or at what value or price it credited itself with the ore taken out of the mine or the crude smelted copper as "the cost of raw materials entering into the manufacture," under subdivision (*a*) of section 204 of the proposed revenue law.

III.

THE PROPOSED TAX WOULD CONFISCATE ALL OF THE VALUE OF SOME CONTRACTS AND WOULD STIFLE THE INDUSTRY OF THE SMELTERS AND REFINERIES.

Because of the small margin of profits, such a tax would confiscate all of the property value of many existing long-time contracts. Refining contracts are taken, as a rule, on a long-time basis, viz, two, three, or five years. A tax on the gross sales of copper at 1 per cent on a 15-cent (per pound) copper market would mean a tax of $3 per ton, and on a 25-cent copper market, a tax of $5 per ton. Either of these taxes would make many of the contracts losing ventures.

A refinery might have three or four very remunerative contracts, which would bring its entire business under this law, because it was making over 10 per cent net profits on its capital. At the same time it might have one contract taken on a very close margin of profit, which would cause a loss if the resulting output were taxed $5, or even $3 per ton. A concrete illustration of such a contract is that existing between the United States Metals Refining Co. and the United Verde Mine, which has five years yet to run. Such a contract may fairly be considered separately as a distinct piece of property; and this tax would take that property entirely away from the refinery. This would be confiscation—a matter in which this Congress manifestly does not desire to participate.

Moreover, because of the small margin of profit for refineries and smelters and the necessarily great extent of their business in order to produce real profits, the proposed tax would always exhaust the gains over 10 per cent on the capital, and so would remove all inducement to do business beyond that which would net 10 per cent. To illustrate, with the United States Metals Refining Co.:

Its capital is $3,100,000.

It is estimated that its Chrome refinery will sell during the year 1916, 144,000,000 pounds of copper. At 25 cents per pound this will sell for $36,000,000.

If the refiner was earning more than 10 per cent on its capital this would mean a possible tax of over $1,000,000.

Thus the tax would be 33⅓ per cent of the company's capital; and until the company made over 43⅓ per cent on its capital that tax would exhaust all its net profit over 10 per cent.

Under such conditions there would be no further practical incentive for the United States Metals Refining Co. to do anything further with its refinery at Chrome, N. J., after it had succeeded in gaining enough to make 10 per cent of net profits. Is it conceivable that a tax will be imposed which can work such a result?

IV.

THE TAX WOULD CRIPPLE THE COPPER BUSINESS AND DIVERT MUCH OF THE SMELTING AND REFINING TO FOREIGN COUNTRIES.

Contracts of refineries and smelters here are based on the prevailing prices of copper in New York. As stated above, many of those contracts have long periods yet to run. Many of them are made with producers in Canada, Mexico, South America, Spain, South Africa, and Australia. In case of the foreign contracts, and in case also of most of the domestic ones, the smelters and refineries, during the lives of these long contracts, would have to pay out as tax (if they became taxable at all by virtue of over 10 per cent net profits), all of their margin of

profits over 10 per cent, which would always be very small and in many instances would not exist to be paid at all.

Nearly one-fourth of all the copper smelted and refined in this country comes from abroad (see Report of Department of Commerce, Monthly Summary of Foreign Commerce of the United States, Apr., 1916, pp. 6, 7); and in times of peace about 50 per cent of the copper refined in this country is exported (same pamphlet, pp. 28, 29; Department of the Interior Advanced Statement of the Production of Copper in the United States for 1915).

As to the large amount of copper thus coming into this country to be treated, specially such as comes by virtue of long-time contracts made before the war, the tax would mean an absolute loss for the refineries and smelters. As to new contracts, higher treatment charges would have to be imposed by the smelters and refineries on the foreign shippers. This would have a tendency to drive the foreign business from our refineries, and would undoubtedly do so. It would be very easy for the foreign countries to divert their crude copper to their own refineries. They are showing a decided tendency at the present time to do this, by offering bonuses or subsidies for copper refined in the country of its production. Thus, recently, the Australian Commonwealth, in order to increase the copper refining capacity of that country, has passed laws and ordinances, the result of which has been that crude copper heretofore coming to the United States for refining is now being refined in Australia.

Let it be noted that the refiners of this country are not in a position to place this tax back upon the producers, except by increasing the tolls or charges for treatment. Such increase would drive practically all the foreign-produced copper back to the country of its production for smelting and refining, would confiscate many of the contracts already in existence with foreign shippers and some of those existing with domestic producers, and would discourage the smelters and refiners from doing any more business than would bring them 10 per cent net profit, even in cases where they are able to make more than that profit at the present time. Surely no such law should go on the statute books.

It may well be added here that the placing of such a tax on copper will ultimately, and in some instances very quickly, put out of business those mines which produce that metal at a high cost.

V.

THE PRESENT PROSPERITY OF COPPER DEALERS IS TEMPORARY. IT WILL END WITH THE WAR, WHICH MAY TERMINATE AT ANY TIME.

This proposition is simply restated, in closing, by way of emphasis. The United States Government may levy this tax to-day, and the cause or argument which brought it into being may disappear to-morrow. Should it be dealing in such a matter?

Respectfully submitted.

UNITED STATES METALS REFINING CO.,
55 Congress Street, Boston, Mass.
120 Broadway, Manhattan, New York City.

By REEVES & TODD,
Its Attorneys, 165 Broadway, Manhattan, New York City.
ALFRED G. REEVES, *of Counsel.*

NEW YORK, *July 20, 1916.*

We concur in the foregoing arguments, and respectfully urge the elimination of that portion of the bill affecting so unfairly the copper industries.

THE AMERICAN METAL CO. (LTD.),
By JULIAN B. BEATY,
Assistant General Counsel, 60 Broadway, New York City.

We have carefully read the foregoing brief and the same has our unqualified indorsement.

NICHOLS COPPER CO.,
WILLIAM H. NICHOLS,
President.

NEW YORK, *July 20, 1916.*

SENATE FINANCE COMMITTEE,
Washington, D. C.

GENTLEMEN: The undersigned, a member of the firm of L. Vogelstein & Co., and at the same time vice president and director of the United States Metals Refining Co., has read the brief submitted by counsel for said company to the Finance Committe, and, without being desirous of repeating arguments in which he fully concurs, begs to be allowed to emphasize a few points strictly from the standpoint of international metal dealers.

We are trading all over the world; buying as well as selling. We are holding contracts for crude copper material in various stages for many years to come. In former years—prior to the war—such material coming from foreign markets was placed in preference in America, and to only a very small extent in European countries, for smelting and refining. The American preference was due partly to the fact that we are an American firm, but principally to the economic advantages which American refineries and smelters offer. If the tax proposed should be imposed, a large amount of this material would have to be sold and placed for smelting and refining in Europe—particularly so after the war is over.

We furthermore beg to mention the fact that, owing to the peculiar conditions created by the war and the cutting off of the copper supply from Germany, German copper refineries, as we are authoritatively informed, have increased their capacity considerably and will be serious competitors to our American refineries as soon as they can trade again with their foreign markets.

The predominant position of the United States in the copper market has been established gradually, but steadily, during the last 25 years. With the development of copper mining outside of the United States this predominance will be lost quickly and readily if the United States smelters and refineries are subjected to a heavy special tax.

In the interest of international business, therefore, and with a view of maintaining the trade channels which have been worked up at a heavy expense and with a great deal of patience, we strongly advise against the imposition of this tax on the copper industry.

Respectfully submitted.

LUDWIG VOGELSTEIN
(For L. Vogelstein & Co.),
42 Broadway, Manhattan, New York City.
REEVES & TODD,
Attorneys, 165 Broadway, Manhattan, New York City.
ALFRED G. REEVES,
Of Counsel.

Mr. REEVES. I thank the committee for its courtesy.

The CHAIRMAN. Mr. Julien B. Beaty, who is here present, will be heard next.

STATEMENT OF MR. JULIEN B. BEATY, OF NEW YORK, REPRESENTING THE AMERICAN METAL CO. OF NEW YORK, AND ALSO THE BALBACH SMELTING & REFINING CO.

The CHAIRMAN. What is your business?

Mr. BEATY. Our business is quite similar to the business represented by Mr. Reeves.

The CHAIRMAN. Has he not covered rather fully your case?

Mr. BEATY. Yes, sir; he has practically covered our case. There is but one thought that I desire to add, and that is that we have been trying—that is, speaking for the refiners in America—we have been trying for several years to establish business relations with foreign countries where copper is produced, principally Chile and Japan, and recently we have been able to compete with English smelters and Belgian smelters—to compete for that raw copper which you know the refiners buy, the crude copper, in those foreign

countries, and they are allowed a refining charge, and then they pay the foreign country for the refined copper contained in the ore at the price of the contents of the ore, or the matte, as it is called.

Now, if the refiners have to pay this tax specified in the bill as now drawn and have to add that to the amount they charge the producer in Chile, let us say, they can not compete any longer, and every bit of that crude copper would move away from America. To-day I think America produces about 70 per cent of the refined copper, and in that way the American copper industry has been able to protect itself against the foreign markets. But the moment the balance of the copper trade is against us we can not protect ourselves at all, and a very serious situation would arise the moment all the Chilean copper and Australian copper and the Japanese copper and Chinese copper began to move to other refineries than those in America. For that reason the refineries are particularly anxious not to be burdened with a tax which they can not pass on to the producer because of the competition of other countries.

Senator THOMAS. Or the consumer?

Mr. BEATY. Or the consumer; yes, sir. The Balbach Co., for which I speak, has two kinds of business, one where they buy crude copper and refine it and sell it, of which they had about 3,000,000 pounds last year. The president of the company told me yesterday that he figured this tax would amount to $53,000,000 on that, which was more than 50 per cent of the profit the refiner would make. So far as the other side of that business is concerned they merely act as refiners of the mine, sending the crude copper to the refinery and bringing back the refined product, which they market themselves. The refiner would not come within the purview of the bill because the refiner does not sell the refined product.

All of that ground has been very fully covered by Mr. Boyesen and Mr. Reeves, and I merely desired to express, in behalf of the company which I represent, the thought which those gentlemen have expressed.

Now, take our other metals, such as zinc, which has risen from 5½ cents to 25 cents owing to war conditions and has now sagged back to 8 cents. Aluminum had risen from 20 cents to 45 cents, and has now almost gotten back to normal, and so with a number of other metals which have been subjected to a far wider fluctuation.

Senator THOMAS. Zinc is at a high level, is it not?

Mr. BEATY. No, sir; zinc went up to 28 cents and has come back to about 8½ cents. The normal price, or average price, of zinc for the last 15 years has been 5½ cents. Even silver felt the effect of it. Silver rose from 49 cents to 74 cents, but it is back now just a little above the normal; I have forgotten what the quotation is to-day but I know it has felt the recession.

Senator HUGHES. I understand you to say that strictly speaking the refiners could not pay the tax under this bill?

Mr. BEATY. The bill as I read it says that the refiner who sells the refined product must pay a percentage of the gross receipts.

Senator HUGHES. Do you mean to say that they would escape the tax if they did not own it?

Mr. BEATY. No, sir; the tax is levied upon the gross sales. They merely refine it on a toll basis and deliver back the refined product to the owner and he sells it. The refiner would not pay this tax but

a great many refiners do own the metal, that is to say they are associated with the mine, and as Prof. Reeves explained, it is simply a matter of bookkeeping whether the profit ought to be credited to the refiner or the mine.

Mr. REEVES. Our company buys at the market price and sells at that price, and after refining, they sell it. In that form we would pay the tax.

Senator HUGHES. Some refineries buy the ore and refine it and sell the matte—is that it? They sell it on the toll basis?

Mr. REEVES. Yes, sir; and those who buy and sell get their returns on the toll basis because they both buy and sell at the market price.

The CHAIRMAN. Senator Walsh, we will hear you now.

STATEMENT OF HON. THOMAS J. WALSH, A SENATOR FROM THE STATE OF MONTANA.

Senator WALSH. Mr. Chairman, you have heard from Mr. Boyesen on behalf of the manufacturers of brass, and from the other gentlemen from the standpoint of the refiners. I desire to speak to you briefly about this provision from the standpoint of the producers of copper.

Senator Hughes and Senator Stone may not know perhaps as well as Senator Thomas, that the great bulk of the copper produced in this country—I have not the figures at hand but I should say it was at least 80 per cent—is smelted by the mining companies themselves and in most instances it is refined by the mining companies themselves. The four great producers of copper in this country are the Anaconda Copper Mining Co., the Kennicott (the Guggenheims), and Phelps, Dodge & Co., and W. A. Clark, and all four of them smelt their own ores from their own smelters.

Senator THOMAS. And there is also the Utah Copper Co.

Senator WALSH. Yes; that is one of the Guggenheim companies.

Senator HUGHES. How are they affected by this legislation?

Senator WALSH. The objectionable paragraphs occur in section 201, following section 200, which is headed, "Title 3, Munition manufacturers' tax." The tax imposed upon copper is under the designation of "Munition manufacturers' tax." It reads as follows:

> Every person smelting copper ore or copper cencentrates, refining metallic copper, or alloying copper, shall pay for each taxable year an excise tax equivalent to the following percentages of the gross receipts during such year from the sale or disposition of refined copper or copper alloys and from the sale or disposition of crude or unrefined copper if sold or disposed of for any purpose except for refining or alloying.

So you will observe that all of these great copper companies, being themselves engaged in smelting copper ore and selling that product either in the refined form or selling it in the crude form or unrefined form, become liable to the tax.

We protest, gentlemen of the committee, against this tax as obviously and grossly unjust. The fundamental principle of every system of taxation is uniformity. A system of taxation that does not observe that principle is plain tyranny. It can not be denominated by any less approbrious term. This is so very generally recognized that there are probably not half a dozen State constitutions in the United States which do not contain a provision to the effect that taxes must be uniform.

Now, this act takes copper and copper alone out of all the products of human industry and declares it a subject of taxation. Of course, we may classify for the purpose of taxation; that is to say, a certain class of property or a certain class of products may be selected from the remainder of the property, and the tax may be imposed upon that, as, for instance, under the provision of this bill a tax is imposed upon the business of banking. All persons then engaged in the business of banking become liable to that tax. That is a license tax. It is justified because the business of banking is conducted under special privileges by Government grant. But here a single individual commodity is selected out of all classes of commodities and made the subject of a tax. Of course, it is true that it comes here under the classification of munitions or manufactures of munitions, but it has no proper place here. Copper is not a munition of war any more than as was suggested cotton is. It is true that in combination with zinc in the form of brass it is used in the manufacture of munitions of war.

Senator HUGHES. Always in the brass form.

Senator WALSH. An infinitesimal amount of pure copper is used in munitions, I think, for priming and perhaps for fuses and for trifling things of that kind, but generally speaking it is all used in the form of brass. It is not any more a munition of war than are iron and steel. Of course, iron and steel are used in the manufacture of cannons and for guns and for bayonets and for innumerable articles of war, such as shrapnel and shells.

Senator SMITH of Arizona. And lead particularly.

Senator WALSH. Lead is used for the manufacture of bullets, and antimony is a most essential ingredient of many articles properly classed as munitions. Zinc is used, as I have indicated to you, in combination with copper in the form of brass, so that wherever copper is used zinc is also used, with, as I have said, slight exception.

So that if copper is to be classified as munition of war, the rule of uniformity is violated unless you also include at least those other metals, not to speak about fabrics of one kind or another.

The dictionary defines munitions as articles used for the conduct of war, and I have no doubt that the term is intended to indicate those articles which are ordinarily classed as absolute contraband. The declaration of London contains a list of articles declared to be absolute contraband. I shall not detain you by reading it all, but shall put article 22 in the record and will read portions to illustrate the character of articles referred to:

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

(3) Powder and explosives specially prepared for use in war.

Mr. Chairman, I would like to have article 22 inserted in the record in its entirety.

The CHAIRMAN. That will be inserted.

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

The following articles may, without notice, be treated as contraband of war, under the name of absolute contraband:

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
(3) Powders and explosives specially prepared for use in war.
(4) Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
(5) Clothing and equipment of a distinctly military character.
(6) All kinds of harness of a distinctively military character.
(7) Saddle, draft, and pack animals suitable for use in war.
(8) Articles of camp equipment and their distinctive component parts.
(9) Armor plates.
(10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.
(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war materil for use on land or sea.

Senator WALSH. And so the bill under consideration, gentlemen, goes on to provide exactly the things that are to be regarded as munitions of war. It prescribes a tax to be paid by—

every person manufacturing (*a*) cartridges, loaded or unloaded, caps or primers; or (*b*) projectiles, shells, or torpedoes of any kind, including shrapnel, loaded or unloaded, or fuses; or (*c*) firearms of any kind, including small arms, cannons, machine guns, rifles, and bayonets.

Then after specifying these various classes of articles it provides for the tax upon copper.

Now, Mr. Chairman and gentlemen, a very grave misapprehension exists—and indeed it is quite popularly believed—that the exports of copper have increased enormously in consequence of the war, and that the increased price of copper is due to these increased exports occasioned by the war, the increase being used in the manufacture of munitions. The fact of the matter is, gentlemen, that the exports of raw copper are not as great as they were before the war.

Senator THOMAS. Will you kindly repeat that statement.

Senator WALSH. I say the exports of raw copper are not as great as they were before the war. Latterly, however, the manufacturers of copper in this country have increased in value very considerably and no doubt no small amount of that increase represents munitions of war. But I call your attention to the fact that the aggregate exports of copper and manufactures of copper are still no greater in value than before the war. Then I shall show you that not only has the price of other articles increased much greater in proportion since the war than has the price of copper, but I shall demonstrate to you also that the exports of many other articles have increased very largely, while, as I state, the exports of copper and the manufactures of copper have remained practically stationary. They fell very rapidly after the war began and have since been rising until last year the level of the exportation prior to the war was practically reached.

For the 10 months ending April, 1914, the total exports of copper amounted in value to $122,928,698, and for the 10 months preceding April, 1916, amounted to $128,473,588. It got back, you will observe, practically to the same level as during the 10 months preceding 1914. Now, let me institute a comparison for you with respect to some other things.

The exports of iron and steel and manufactures of the same for the 10 months prior to April, 1914——

The CHAIRMAN. In your quotation of copper exports, did you embrace the manufactures of copper?

Senator WALSH. Yes, sir; I have just indicated it. We do not export so much raw copper now as we did before the war. We were exporting an enormous quantity of copper to the central powers before the war broke out. That was immediately shut off. They took in the nighborhood of 170,000 tons of copper annually, and they get none now. The other countries took an increased quantity of our copper, but not enough to make up anywhere near the deficit caused by the shutting off of the market of those two great countries. But they began to manufacture articles in this country into which copper enters, not only munitions of war, but other fabrications of copper so that our exports of manufactures of copper have increased to the extent that the gap has been taken up and our total exports of both raw copper and manufactured copper now are a little greater in value than our total exports of copper and manufactures of copper prior to the war.

Now let me pass to steel. Iron, steel, and manufactures of steel for 10 months prior to the war, amounted to $212,818,674, and for the last 10 months, to $472,133,773, the exportations having more than doubled.

Take lead and the manufactures of lead. For the 10 months prior to April, 1914, the exports of lead were only $844,020, and for the last 10 months prior to 1916 they amounted to $11,100,489.

Take zinc and manufactures of zinc. For the first 10 months referred to, $6,260,747; for the last 10 months referred to, $19,050,336, three times as great.

Take automobiles. For the first 10 months mentioned, $27,148,281, and for the last 10 months, $101,390,939.

Breadstuffs—of course flour and wheat constitute the chief items there—for the first 10 months of 1914, $138,891,712, and for the last 10 months, $366,122,040.

Horses, for the first 10 months, $2,918,166; for the last 10 months, $64,958,841.

Cattle, for the first 10 months, $546,766; for the last 10 months, $2,231,076.

Meat and dairy products, for the first 10 months, $124,552,236; for the last 10 months, $231,309,422.

So you will observe that the exports of copper have nowhere near kept pace with the chief items among our exports, the breadstuffs, for instance, nor with automobiles or other things of that character, and the same thing may be said with reference to the prices of those things. The price of copper has nearly doubled. I should think that the normal price of copper for seven years prior to the commencement of the war would be from 13 to 15 cents a pound, and for the last eight months or so it has run from 25 to 30 cents, so the price has about doubled. I will show you a little later that the best informed experts upon the subject insist that if there were no war copper would now be bringing at least 20 to 25 cents a pound and the increase is by no means due wholly to the war, but we will assume that it is all due to the war and that it has doubled in price. On the other hand, the price of zinc has increased anywhere from three to seven or eight times what it was before the war. Zinc is a great product of your State, Mr. Chairman, and also of the State of Senator Hughes, and

is becoming an important product of the State of the Senator from Colorado, as it is of my own State.

I have here a very interesting clipping from a paper which I received a few days ago, which I will read, as I desire it to appear in the record:

BUTTE-SUPERIOR SHOWS BIG GAIN.

For purposes of taxation, the Butte & Superior Copper Co. reports its net earnings for the year ended June 30, 1916, at $10,497,079, as compared with earnings of $2,648,450 in the preceding year, or nearly four times as much. The year's output of ore was 591,562 tons, having a gross value of $20,271,949, an average of $34.269 per ton. The cost of extraction is stated at $5,488 per ton, or a total of $3,346,276. Transportation cost $2.15 per ton, a total of $1,272,117. Reduction cost $7,149 per ton a total of $4,229,117.

The company referred to is a zinc producer.

The latter part of the article is not particularly pertinent to this matter here. There is a zinc company which has increased its net revenue almost four times during the past year.

I received from the Bureau of Mines some interesting figures, which I will leave with the reporter for incorporation in the record, but I desire to call your attention to a few items from the table in which they are found. During the first four months of the year 1914 the exports of bars or rods of steel amounted to $2,000,000. During the first four months of 1916 they amounted to $14,418,601, seven times as much. Here I have the exports of copper, lead, zinc, and pig iron from domestic ores. The total exports of copper during 1914 from domestic ores was 840,000,000 pounds, and in 1915 682,000,000.

Now, for 1916, the first four months, it amounted to 224,000,000 pounds. If that ratio is continued the total exports for this year will be 675,000,000, as against 840,000,000 pounds the year before the war.

The CHAIRMAN. Is that copper?

Senator WALSH. That is copper. Now, take lead. For 1914 the exports of lead were 58,000 tons. For 1915 they jumped to 87,000, and for the first four months of the present year they are 31,000.

Zinc, 1914, the exports were 64,000 tons. In 1915 they jumped to 117,000 tons, and for the first four months of 1916, 23,000 tons. That would be at the rate of 94,000 for the year.

Pig iron, 114,000 tons in 1914 and 224,000 tons in 1915, and for the first four months of the present year, 71,000.

Now, here is an interesting set of figures in the matter of prices. The average price of copper in New York during 1914 was 13.4 cents a pound; for 1915, it was 17.5 cents a pound; and on June 28, of this year, it was quoted at 25.75. Comparing it with 1914 and 1913, my recollection is it was about the same. Copper has practically doubled in price.

Now, with respect to lead, the average price in 1914 was 3.9 cents; in 1915 it was 4.7; and June 28, 1916, 7 cents, almost double in price.

Zinc (St. Louis), for 1914 it was 5.1 cents a pound; in 1915 it was 12.4 cents; and on June 28, 1916, 11.25 cents a pound.

Iron ore (at the mine), long tons, in 1914 it was $1.81; in 1915 it was $1.83; and the memorandum states that on June 28, 1916, it was about 75 cents higher at lower lake ports.

Pig iron (at furnace), long tons, 1914, was $13.42; in 1915 it was $13.21, an advance of about 33 to 40 per cent over 1915 thus far in 1916.

But here is a still more impressive lesson:

Prices of steel at Pittsburgh. I will take the month of January, 1914, it was $20.13; February, $21; March, $21; April, $20.80; May, $20; June, $19.50.

In 1915 it dropped—January, $19.26; February, $19.50; March, $19.70.

Now, take 1916. January 5, $32; February 23, $35; March 29, $45; April 26, $45; May 31, $45; June 28, $42, as against $19.50 in 1914—two and a half times the price it was at that time.

Now, take soft-steel bars. January, 1914, $1.20; $2 in January, 1916; February, 1914, $1.20; February, 1916, $2.50; March, 1914, $1.20; March, 1916, $2.75.

Mr. Chairman, I ask that these tables be incorporated in the record at this point in full.

The CHAIRMAN. Without objection, they will go into the record.

(The tables referred to are here printed in full, as follows:)

Statistics of metals.

PRODUCTION.

	1914		1915	
	Quantity.	Value.	Quantity.	Value.
Copper (smelter production)....pounds..	1,150,000,000	$152,900,000	1,388,000,000	$242,900,000
Lead....short tons..	542,122	42,286,000	550,055	51,705,000
Zinc....do....	343,049	36,011,000	489,519	121,401,000
Iron ore....long tons..	39,671,603	71,790,094	55,493,100	101,288,984
Pig iron....do....	23,332,244	299,559,400	29,916,213	401,409,604

AVAILABLE FOR CONSUMPTION.

Copper....pounds..	620,445,373	.....	1,043,461,982	.....
Lead....short tons..	449,052	.....	426,751	.....
Zinc....do....	299,125	.....	364,382	.....
Iron ore....long tons..	40,613,448	.....	56,286,058	.....

United States exports of certain iron products, excluding pig iron.

	Scrap and old iron fit only for remanufacture.		Bar iron.		Bars or rods of steel.	
	Tons.	Value.	Pounds.	Value.	Pounds.	Value.
1914.						
January	6,160	$69,436	830,746	$17,685	23,249,947	$359,842
February	5,221	61,304	420,777	9,089	26,678,627	460,458
March	2,578	32,149	1,415,593	28,144	41,824,154	652,557
April	3,883	42,127	725,637	13,527	37,346,889	569,357
Total, 4 months	17,842	205,016	3,392,753	68,445	129,099,617	2,042,214
May	3,411	44,113	804,473	13,249	37,896,860	567,162
June	2,598	29,046	746,905	13,086	51,660,851	798,077
Total, 6 months	23,851	278,175	4,944,131	94,780	218,657,328	3,407,453
1916.						
January	16,681	259,842	13,433,180	241,708	148,974,969	3,165,213
February	9,371	128,751	11,590,373	255,124	151,552,589	3,363,691
March	13,112	225,708	23,099,433	441,144	153,524,113	3,872,824
April	15,975	371,716	11,651,057	262,426	163,005,759	4,016,873
Total, 4 months	55,139	986,017	59,774,043	1,200,402	617,057,430	14,418,601

Exports of copper, lead, zinc, and pig iron, from domestic ores.

	Copper (pounds).	Lead (short tons).	Zinc (short tons).	Pig iron (long tons).
1914.				
January	82,045,048	.....	230	12,852
February	87,475,466	.....	18	9,456
March	96,519,947	5,838	146	11,043
April	82,336,855	5,931	60	13,039
May	82,671,523	2,045	107	11,726
June	81,015,381	6,348	269	12,894
July	72,823,160	10,894	157	9,371
August	38,293,558	5,486	3,448	3,418
September	44,460,941	2,793	19,045	8,215
October	65,660,490	7,829	10,259	5,524
November	51,300,104	8,417	12,747	10,139
December	55,478,449	3,141	18,321	6,746
Total, 1914	840,080,922	58,722	64,807	114,423
1915.				
January	58,142,822	6,460	15,299	8,862
February	55,737,012	3,820	15,002	14,178
March	66,583,350	7,023	8,120	7,267
April	67,964,009	19,936	8,842	16,182
May	51,202,941	15,312	7,635	18,581
June	50,091,986	5,401	9,470	22,111
July	46,867,802	1,452	5,981	21,859
August	37,238,284	979	6,938	18,567
September	49,453,987	2,458	8,653	29,222
October	46,624,677	5,787	12,133	21,212
November	66,877,529	9,886	10,019	24,551
December	85,753,902	8,578	9,704	21,807
Total, 1915	682,538,301	87,092	117,796	224,399
1916.				
January	56,611,532	7,192	7,307	18,719
February	56,139,159	10,250	6,309	15,061
March	64,991,611	8,585	5,236	19,110
April	46,820,969	5,870	4,687	18,518
Total, 4 months	224,563,271	31,897	23,539	71,408

Prices.

	Average metal prices.		Quotation, June 28, 1916.
	1914	1915	
Copper (New York) ..... pounds	$0.134	$0.175	$0.2575
Lead (New York) ..... do	.039	.047	.07
Zinc (St. Louis) ..... do	.051	.124	.1125
Iron ore (at mine) ..... long tons	1.81	1.83	(1)
Pig iron (at furnace) ..... do	13.42	13.21	(2)

[1] About 75 cents higher at lower Lake ports.

[2] Advance about 33 to 40 per cent over 1915.

Prices of steel at Pittsburgh.

[From Iron Age.]

	Average price, 1914.	Average price, 1915.	1916	
			Price.	Date.
Bessemer steel billets (per ton of 2,240 pounds):				
January	$20.13	$19.25	$32.00	Jan. 5
February	21.00	19.50	35.00	Feb. 23
March	21.00	19.70	45.00	Mar. 29
April	20.80	20.00	45.00	Apr. 26
May	20.00	20.00	45.00	May 31
June	19.50	20.50	42.00	June 28
Soft steel bars (per pound):				
January	.012	.011	.020	Jan. 5
February	.012	.011	.025	Feb. 23
March	.012	.0115	.0275	Mar. 29
April	.0115	.012	.030	Apr. 26
May	.0114	.012	.030	May 31
June	.0111	.0121	.0275	June 28

The total production of steel of all grades and classes in 1914 was 23,513,030 long tons as compared with 32,151,036 tons in 1915.

[From United States Geological Survey, July 3, 1916.]

THE IRON INDUSTRY, 1916.

The first six months of 1916 in the iron industry showed a continuation of the highly prosperous conditions that prevailed during the last four or five months of 1915. In fact, activity was even greater in 1916 than in the first half of 1915. Large increases are shown in the output of both iron ore and pig iron. The shipments of ore from the Lake Superior region during the first five months of 1916 were more than 10,000,000 gross tons, or 83 per cent greater than those of the corresponding period of 1915.

Ore prices at lower lake ports for 1916 were increased 75 cents a ton over those for the season of 1915, but lack of boats is reported to have forced concessions in the price of ore from some mines that do not control their lake-transportation facilities.

The production of pig iron in the first five months of 1916 showed an increase of 66 per cent over that of the corresponding period in 1915, and prices are from $5 to $7.25 per ton higher, or 33 to 40 per cent above those in June, 1915.

Prices for steel bars and beams have increased 100 to 130 per cent over those of a year ago. If present conditions continue, the total ore output from the Lake Superior region in 1916 may possibly reach 60,000,000 gross tons.

Birmingham and other iron districts are not capable of such rapid increases in output as the lake districts, and if 10,000,000 tons be estimated for the production of all other districts it indicates a possible total domestic production of iron ore of 70,000,000 gross tons for 1916. At any rate, there are good indications that a new high record of iron-ore production will be made this year.

[From United States Geological Survey, July 5, 1916.]

LEAD AND ZINC INDUSTRY, 1916.

Reports received by the United States Geological Survey show that the mine production of lead and zinc ores during the first six months of 1916 was much larger than that of any preceding six months. The lead and zinc mines have been able to produce all the ore needed to supply the increased capacity of the smelters. There has been an increased cost of production due to working of large quantities of low-grade ore which could not be mined at a profit under normal conditions.

The shipments of sphalerite concentrates from the Joplin region during the first six months of 1916 amounted to about 180,000 tons, valued at more than $17,000,000, as against 296,000 tons, valued at $23,419,000, for the calendar year

1915. The demand was not as active during the last month of the year, when the base price for concentrates decreased nearly $20 a ton. Unless the base price declines to a point which will prevent the mining of lean "sheet ground," the production of zinc concentrates from the Joplin region in 1916 will probably be 60,000 to 70,000 tons more than in 1915.

The stock of zinc concentrates unsold in June was larger than usual, but probably was not much more than two weeks' production. The production of zinc carbonate and silicate showed no great increase, and the galena concentrates sold indicate a production of about 56,000 tons in 1916, or 11,000 tons more than in 1915. The selling price of the lead concentrates was nearly double the average price in 1915.

The large mines in the disseminated lead district of southeastern Missouri were operated steadily, and although no figures are available for 1916, the output was larger than it was during the first or the last half of 1915.

[From United States Geological Survey, July 1, 1916.]

COPPER INDUSTRY, 1916.

Under the influence of large demands and resultant high prices, the production of copper during the last six months has exceeded that of any equal period in the history of the industry.

The United States Geological Survey states that there has been a steady rate of increase in the output of copper since early in 1915. The production during the last half of 1915 considerably exceeded that of the first half, and during the year the refineries produced, from both domestic and foreign ores, a total of 1,634,000,000 pounds of blister copper, of which 1,388,009,527 pounds was produced from ores mined in the United States.

The price for the period has averaged above the highest price received for copper at any time in recent years, the average for the first six montss of 1916 being more than 26 cents a pound. The cost has doubtless increased slightly, as the important copper companies have increased the wages of their employees, but this increase has been largely offset by decrease in cost due to working plants at the maximum capacity. Many small mines are operating that could not be profitably worked under normal conditions, and this, of course, tends to increase the average cost per pound.

Senator WALSH. So that when you come to consider whether copper shall be taxed because the price has increased, you are confronted by this situation, that the price of zinc and the price of lead and the price of steel has increased as much or very much more in proportion. Of course, the aggregate amount that we get from zinc or lead is not anything near what we get from copper, but the aggregate amount that we get from steel and the products of steel is infinitely greater, and with respect to steel the increase is not only in the price but in the aggregate, taking into consideration the quantity as well.

Now, not only that, but I call your attention to the fact that our exports of breadstuffs have increased in a very much greater proportion than our exports of copper.

Senator HUGHES. How did you say the exports of copper for the early months of this year compared with the early months of 1914; did you make that comparison?

Senator WALSH. I have the comparison by 10 months here—the 10 months preceding April, 1914, and 10 months preceding April, 1916, and I have put copper and the manufactures of copper together in both instances. They are practically the same—that is, our exports.

Senator HUGHES. In value?

Senator WALSH. I am speaking of value. Our exports of raw copper have not yet reached what they were prior to the time the war

began. But our exports of manufactured copper have increased in value and probably no small part of the increase is represented by munitions of war, but they are now on practically the level to which they had reached before the war.

The CHAIRMAN. Can you tell us the character of these copper manufactures?

Senator WALSH. There seems to be no way, Mr. Chairman, of tracing the matter so that one could tell what proportion of our domestic manufactures of copper might properly be classed as munitions of war. Perhaps the best way to do it would be to take the amount of copper that was consumed in this country before the war commenced and the amount that has been consumed since the war commenced and assign to munitions the increase in the consumption of copper in this country for manufactures. If that is taken as a proper basis of computation, it would seem to be in proportion of about 1 to 3—that is to say, about one-third of all the copper now being consumed in this country is, upon that basis of calculation, used in the manufacture of munitions of war. But of course that is not quite right, because you will understand that every industry in this country is thriving now, and whenever business activity is intense, as a matter of course, you get an increased consumption of copper for use in the arts.

I here have a very interesting contribution to this discussion, and I desire to have it put into the record. It is a letter known as the Walker letter. Senator Thomas is familiar with it. A man by the name of George L. Walker gets out a weekly letter concerning the copper market and the conditions of the copper market. This letter of June 30, 1916, contains some very valuable information touching the general subject, and I will ask leave to introduce it. Only the first two pages are material to this inquiry before you. I will ask that it be inserted. There are, however, two features of the letter to which I desire to invite your attention. He says:

As suggested by the discussion of production, consumption, and exports of this country and the world, which appeared under this heading in last week's letter, a careful study of all available statistical data unavoidably leads me to the conclusion that had there been no European war copper would have been selling by now at 20 or 25 cents a pound—

And he states why he thinks so. I want to read that to you—

There are other factors which indicate that the world-wide demand for copper for industrial uses will increase very much more rapidly in future years than it did prior to the outbreak of the European war. For instance, the annual convention of the American Railway Master Mechanics' Association and affiliated bodies at Atlantic City devoted an entire day recently to the subject of the electrification of the entire railroad systems of the United States. Although the steam locomotive had its strong defenders, all of the speakers are declared to have admitted the growing favor of electric power. It seems to be the consensus of opinion that the change, not alone for the passenger service but for freight as well, would prove ultimately an economic measure.

If the railroad systems of the United States are on the way to electrification, it may be put down as certain that those of the whole world are also. Of course such a change could not be accomplished in a decade or hardly in a score of years, and once the undertaking is under way it will be retarded seriously by inability of the mines to supply the required amount of copper for this in addition to the world's other industrial needs.

The CHAIRMAN. Without objection, the letter referred to by Senator Walsh will be printed in the record.

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

[Walker's Weekly Copper Letter, No. 714. Copyright 1916, by Dukelow & Walker Co.]

BOSTON, *June 30, 1916.*

Copper is a trifle more active and the tone of the market is firmer. Lake and electrolytic are 26¾ to 27¼ cents for small lots in the outside market. So far as is known the larger purchasers have not reduced their asking prices, and as they have practically no copper to sell for delivery earlier than October or November there is no occasion for them to do so. The brokers who have been offering secondhand lots are now finding buyers, and there is a slight tendency for prices to advance. The London market also is firmer.

The export movement is very heavy, and it is now certain that more copper will leave our ports in June than in any previous month but one since the outbreak of the European war. During the first 28 days of June 31,879 long tons of copper (71,408,960 pounds) was exported, according to customhouse returns, which compares with 16,062 tons (35,978,880 pounds) in May and a previous high record for this year of 26,321 tons in March. Last December 42,426 tons was exported, but in no other month has as much as 31,000 tons gone out since July, 1914. There is every prospect that another buying movement will develop soon, and at this writing it seems probable that consumers will be obliged to pay somewhere between 26½ and 29 cents a pound when they reenter the market.

As suggested by the discussion of production, consumption, and exports of this country and the world, which appeared under this heading in last week's letter, a careful study of all the available statistical data unavoidably leads me to the conclusion that had there been no European war copper would have been selling by now at 20 or 25 cents a pound. This conclusion is forced upon one who is analyzing the statistics when he finds staring him in the face the fact that the copper producers of the world apparently have lost a greater market through being denied the privilege of sending shipments of the metal to Germany and Austria-Hungary than they have gained through the munition demands of the allied nations of Europe.

In the year 1912 Germany and Austria-Hungary imported 576,448,320 pounds of copper, and in 1913 587,623,680 pounds. Presumably, therefore, these countries would have imported approximately 600,000,000 pounds in 1914 and 615,000,000 pounds in 1915 had there been no war. An examination of the statistics shows that the United States exported 251,117,440 pounds less copper in 1915, and consumed only about 225,000,000 pounds more than in 1913. In order to make it appear that the war demand equalized the loss of Germany and Austria's markets, therefore, it would be necessary to show that nearly three-quarters of all the copper taken by the manufacturers of the United States last year was converted into war munitions. Consumers declare that the proportion was much smaller than this.

The consumption, production, and imports of the various countries of Europe for the years 1912 and 1913 are given in the following tabulation in pounds of copper:

Country.	1912			1913		
	Consumed.	Produced.	Imported.	Consumed.	Produced.	Imported.
England	330,514,240	672,000	329,842,240	330,252,160	940,800	329,311,360
France	239,126,720	.....	239,126,720	240,313,920	.....	240,313,920
Russia	86,952,320	73,942,400	13,009,920	88,424,000	74,457,600	13,966,400
Italy	77,006,720	5,162,000	71,854,720	69,195,840	3,584,000	65,611,840
Total	733,600,000	79,766,400	653,833,600	728,185,920	78,982,400	649,203,520
Belgium and Holland	29,120,000	.....	29,120,000	29,120,000	.....	29,120,000
Scandinavia	16,800,000	27,948,480	[1] 11,148,480	19,040,000	28,246,400	[1] 9,206,400
All others [2]	5,600,000	132,003,200	[1] 126,403,200	6,720,000	120,590,400	[1] 113,870,400
Total	51,520,000	159,951,680	[1] 108,431,680	54,880,000	148,836,800	[1] 93,956,800
Germany	544,707,520	56,492,800	488,214,720	574,707,840	55,798,400	518,909,440
Austria-Hungary	113,321,600	25,088,000	88,233,600	91,887,040	23,172,800	68,714,240
Total	658,029,120	81,580,800	576,448,320	666,594,880	78,971,200	587,623,680
Grand total	1,443,149,120	321,298,880	1,121,850,240	1,449,660,800	306,790,400	1,142,870,400

[1] Excess exports.

[2] Figures include Spain and Portugal, where the Rio Tinto, Tharsis, and other leading producing mines of Europe are located.

The detailed figures of 1915 are not yet available and those for 1914 are of little or no value, covering, as they do, seven months of peace and five months of war. Contrast the total imports of these countries in 1913, namely, 1,142,870,400 pounds, with United States exports for the same year of 857,494,400 pounds and it will be seen that nearly 80 per cent of their surplus requirements were supplied by this country. It will be noted also that about 56 per cent of Europe's total imports were taken by Germany and Austria-Hungary.

The statistics show that about 820,000,000 pounds of copper was consumed in the United States in the year 1912 and about 767,500,000 pounds in 1913, and that 1,044,400,000 pounds was taken by our manufacturers in 1915, the increased home consumption being less than the decrease in exports. Unless there was a very much greater reduction in the industrial demand for copper than anyone so far has estimated, the munitions consumption for 1915 could not have equaled the 615,000,000 pounds that Germany and Austria would have taken last year had their peaceful industrial progress continued.

The statistics collected from various sources by the American Metal Market, of New York, when reduced to pounds and summarized, show the following:

	1913	1915	Increase (+) or decrease (−).
United States production	1,224,484,098	1,365,500,000	+141,015,902
United States imports	405,440,000	304,640,000	−100,800,000
United States supplies	1,629,924,098	1,660,140,000	+ 30,215,902
United States exports	857,494,400	606,376,960	−251,117,440
Left for home consumption	772,429,698	1,053,763,040	+281,333,342

Of the 281,333,342 pounds increase in the amount left for home consumption it is probable that at least 150,000,000 pounds was added to the quantity in process of electrolytic refining, the refineries having been running at about 60 per cent of capacity at the beginning of the year and full at the end. Consideration of this point makes it appear that the estimate of 1,044,400,000 pounds as the consumption of the United States in 1915 was too high rather than too low.

When one analyzes the production, consumption, imports, and exports statistics of the various countries of the world during the several years preceding the outbreak of the European war he is forced to the conclusion that in the event of a world-wide industrial revival following the reestablishment of peace the annual consumptive demand will approximate 3,000,000,000 pounds of copper, or 700,000,000 pounds more than ever has come from the mines in a single year. Germany and Austria apparently will have reclaimed from wires, roofs, hardware, cooking utensils, etc., approximately 1,000,000,000 pounds during the two years of warfare, the armies and navies of those countries having fired as many shells as have allies. This copper should, and naturally will be replaced. That half the amounts so used will be picked up and recovered from the battlefields would be a generous estimate. If those countries are 500,000,000 pounds short on copper in use, 1,200,000,000 behind on imports, and have no supplies in their manufacturing plants when the war ends, it must be assumed that they will import 85,000,000 pounds or more for each of the first three years following the restoration of peace, and 750,000,000 or 800,000,000 pounds annually thereafter.

There are other factors which indicate that the world-wide demand for copper for industrial uses will increase very much more rapidly in future years than it did prior to the outbreak of the European war. For instance, the annual convention of the American Railway Master Mechanics' Association and affiliated bodies at Atlantic City devoted an entire day recently to the discussion of the electrification of the entire railroad systems of the United States. Although the steam locomotive had its strong defenders, all of the speakers are declared to have admitted the growing favor of electric power. It seemed to be the consensus of opinion that the change, not alone for the passenger service, but for freight as well, would prove ultimately an economic measure.

If the railroad systems of the United States are on the way to electrification, it may be put down as certain that those of the whole world are also. Of course, such a change could not be accomplished in a decade or hardly in a

score of years, and once the undertaking is under way it will be retarded seriously by inability of the mines to supply the required amount of copper for this in addition to the world's other industrial needs.

The outlook for the copper producing and manufacturing industries is very much more promising, therefore, than ever heretofore. In view of all the facts it is most surprising that either consumers or producers should entertain hopes or fears that the price of the metal will decline again to 15 cents or less per pound.

Senator WALSH. I need not remind you perhaps that 120 miles of the Chicago, Milwaukee & St. Paul Railroad in the State of Montana is now being operated by electricity, and the work is practically completed of installing the equipment for the electrification of 450 miles altogether.

So, Senator Stone, I can not answer your question.

There seems to be no reliable statistics which would enable you to judge how much of this extra consumption of copper in this country which is represented by manufactures of copper goes into munitions of war. But I was proceeding to show you that it is not only the price of copper that has increased. I gave the figures telling how much the farmers have profited by the existing conditions in the matter of foodstuffs——

Senator HUGHES. You do not expect us to tax the farmers, do you?

Senator WALSH. How much the meat and dairy products are going abroad now over what went before; and not only is the quantity increased, but the price has materially advanced.

I give you these figures from the Statistical Abstract for 1915, at page 521. It is headed "Annual average export prices of leading articles of domestic production exported from the United States, 1891–1915." The price of wheat per bushel for the year ended June 30, 1911, was 93 cents, for 1912 it was 94 cents, for 1913 it was 97 cents, for 1914 it was 95 cents, and for 1915 it was $1.28, an increase of almost 30 per cent in the price of wheat.

I have here a very interesting document which has just been published by the Department of Commerce, and I will ask leave, because of the valuable information it contains, to put the entire matter in the record. I invite your attention to these interesting figures, giving comparisons between the values of our leading articles of export, or our exports for the years 1916, 1915, and 1914. For 1916 iron and steel—I will read them in the reverse order—for 1914 the total value of exports of iron and steel, $251,000,000; 1915, $226,000,000; 1916, $618,000,000. Explosives, 1914, $6,000,000; 1915, $41,000,000; 1916, $473,000,000. Raw cotton—there is a serious falling off—1914, $610,000,000; 1915, $376,000,000; 1916, $370,000,000. Wheat and flour, 1914, $142,000,000; 1915, $428,000,000; 1916, $314,000,000. Meats, 1914, $143,000,000; 1915, $206,000,000; 1916, $270,000,000. Copper manufactures, 1914, $146,000,000; 1915, $109,000,000; 1916, $170,000,000. Mineral oils, 1914, $152,000,000; 1915, $134,000,000; 1916, $165,000,000. Brass and manufactures, 1914, $7,000,000; 1915, $21,000,000; 1916, $126,000,000. Autos and parts, 1914, $33,000,000; 1915, $68,000,000; 1916, $123,000,000. Chemicals, etc., 1914, $27,000,000; 1915, $46,000,000; 1916, $123,000,000. Cotton manufactures, 1914, $51,000,000; 1915, $72,000,000; 1916, $112,000,000. Refined sugar, 1914, $2,000,000; 1915, $26,000,000; 1916, $80,000,000. Leather, 1914, $37,000,000; 1915, $65,000,000; 1916, $80,000,000.

Mr. Chairman, I will ask that that paper be printed in full.

The CHAIRMAN. Without objection, that will be done.
(The paper referred to is here printed in full, as follows:)

[Department of Commerce, Bureau of Foreign and Domestic Commerce, Washington.]

YEAR'S FOREIGN TRADE EXCEEDS SIX AND A HALF BILLIONS.

JULY 12, 1916.

Exports for the fiscal year just ended with June amounted to $4,345,000,000 and the imports were valued at $2,180,000,000, making a total foreign trade for the year of over six and a half billion dollars, which is much larger than any previous total in the history of American commerce. These figures were announced to-day by the Bureau of Foreign and Domestic Commerce, of the Department of Commerce, with the explanation that the figures included for June are an estimate based on the final May statistics.

It was in 1872 that our foreign trade first exceeded $1,000,000,000. By 1900 it had crossed the $2,000,000,000 mark, by 1907 had exceeded three billions, and by 1913 had risen above four billions, remaining around that level until the year just ended, when the six-billion mark was exceeded. Imports first exceeded $1,000,000,000 value in 1903, and are now a little more than twice as much as at that time. Exports first rose above $1,000,000,000 value in 1892, and are now four times as much as in that year.

Thirteen great classes of exported articles yield a total estimated at $3,024,000,000 for 1916, as against $1,321,000,000 for all other articles. The following table shows the remarkable increases which have occurred in exports of this group during the last two years:

Leading articles of export.

Classes.	1916 [1]	1915	1914
Iron and steel	618,000,000	226,000,000	251,000,000
Explosives	473,000,000	41,000,000	6,000,000
Raw cotton	370,000,000	376,000,000	610,000,000
Wheat and flour	314,000,000	428,000,000	142,000,000
Meats	270,000,000	206,000,000	143,000,000
Copper manufactures	170,000,000	109,000,000	146,000,000
Mineral oils	165,000,000	134,000,000	152,000,000
Brass and manufactures	126,000,000	21,000,000	7,000,000
Autos and parts	123,000,000	68,000,000	33,000,000
Chemicals, etc	123,000,000	46,000,000	27,000,000
Cotton manufactures	112,000,000	72,000,000	51,000,000
Refined sugar	80,000,000	26,000,000	2,000,000
Leather	80,000,000	65,000,000	37,000,000

[1] Estimated upon basis of 11 months.

Horses exported show an indicated total for 1916 of 73 million dollars, against 64 million in 1915 and 3 million in 1914. Like comparisons for other important classes, stated in millions, give leather manufactures, 66, 55, and 21; coal, 65, 56, 60; wood and manufactures, 61, 50, 103; oats and oatmeal, 53, 60, 1; wool manufactures, 54, 27, 5; tobacco, unmanufactured, 48, 44, 54; zinc manufactures, 44, 21, 1; rubber manufactures, 36, 15, 12; fruits, 36, 34, 31; corn and corn meal, 32, 41, 8; electrical goods, 30, 20, 25; railway cars, 27, 3, 11; paper and manufactures, 29, 20, 21; vegetable oils, 28, 26, 16; dairy products, 25, 14, 3; mules, 23, 13, 1; fiber manufactures, 22, 12, 13; agricultural implements, 18, 10, 32; photographic goods, 17, 8, 9; rye and rye flour, 16, 15, 13; cottonseed, oil cake and meal, 16, 20, 11; vegetables, 16, 11, 7; spirits, wines, and liquors, 14, 3, 4; lead manufactures, 14, 9, 3; naval stores, 13, 11, 20; paraffin, 13, 11, 7; glass and glassware, 12, 6, 4; flaxseed, oil cake and meal, 12, 9, 10; paints and colors, 11, 7, 7; and nickel oxide, matte, etc., 10, 11, and 9 million dollars, respectively. Articles exported in values ranging downward from 9 million to 5 million dollars each last year included furs and fur skins, 9; barley, 8; aeroplanes and tobacco manufactures, each 7; coffee, eggs, starch, soap, aluminum goods, and scientific instruments, each 6; and fertilizers, silk manufactures, seeds, hides and skins, and glucose, each 5 million dollars.

Seven groups of articles represent about one-half the entire value of our import trade, each of them exceeding 100 million dollars in the fiscal year 1916. Stated in order of magnitude, they are: Sugar, estimated at 206 million in 1916, against 174 and 101 million one and two years earlier; rubber and substitutes therefor, 159 million, against 87 and 76 million, respectively; hides and skins, 157 million, against 104 and 120; raw wool, 145, against 68 and 53; raw silk, 122, against 81 and 98; coffee, 117, against 107 and 111; and chemicals, drugs, etc., 108 million, against 84 and 95 million, respectively. Our leading imports are thus factory materials and foodstuffs.

Imports of manufactured fibers are estimated at 69 million dollars for 1916, against 62 and 82 million one and two years earlier; raw fibers, at 62 million, compared with 40 and 54 million; copper in ingots, bars, etc., 52 million, as against 20 and 41 million; wood manufactures, 51 million, as against 47 and 44 million; tin in bars, blocks, etc., 48 million, compared with 31 and 39 million; cotton manufactures, 47 million, compared with 46 and 71 million; and raw cotton, 42 million, compared with 23 and 19 million in 1915 and 1914, respectively. Taking up the articles of lesser value and stating the 1916, 1915, and 1914 imports in millions of dollars, the figures run: Unmanufactured cocoa, 34, 23, 21; vegetable oils, 34, 36, 47; diamonds, 31, 12, 25; silk manufactures, 31, 25, 35; paper manufactures, 26, 26, 28; meat and dairy products, 24, 43, 39; breadstuffs, 24, 20, 37; iron and steel, 23, 23, 32; unmanufactured tobacco, 23, 27, 35; copper ore, 22, 11, 14; fruits, 22, 27, 34; nuts, 21, 17, 20; art works, 21, 18, 35; tea, 20, 18, 17; flaxseed, 20 13, 11; undressed furs 17, 8, 9; fish, 17, 18, 19; cattle, 15, 18, 19; wood manufactures, 15, 30, 34; spirits, wines, etc., 16, 13, 20; wood, 13, 14, 18; precious stones other than diamonds, 13, 3, 8; leather and tanned skins, 13, 11, 14; mineral oils, 13, 10, 14; and seeds other than flax, 12, 10, 9. The estimated import trade in the minor groups would include: Vegetables, zinc ore, and hats and hat materials, each 11 million dollars; nickel, 10; spices, 9; antimony matte, sulphur ore, and fertilizers, each 7; earthen and china ware, manganese, brass for remanufacture, bituminous coal, iron ore, tobacco manufactures, leather manufactures, each between 5 and 6 million; and lead, dyewoods, clocks and watches, asbestos, dressed furs, toys, plants, and platinum, each from 3 to 4 million dollars.

Final results respecting the year's foreign trade with certain details as to countries of origin of imports and destination of exports will appear in the June issue of the Monthly Summary of Foreign Commerce, for sale at 15 cents by the Superintendent of Documents, Washington, D. C., while complete details for 11 months are now available in the May issue of the Summary.

Now, under these circumstances, gentlemen, I think it is useless to say it is wholly defenseless to pick out copper from among these articles, to which reference has been made, and make it subject to a tax. The slightest reading of the bill will show that the provision making it so subject is utterly incongruous where it is in the measure. Let me read to you, if you will kindly turn to section 203, page 63:

That if the net profits derived during such year from the sale or disposition of such articles manufactured in the United States--

You will observe the heading "Munition manufacturer's tax." Now, you do not manufacture copper at all. This relates to manufactured articles.

Senator THOMAS. I observed that a few days ago. It also occurs later on.

Senator WALSH. Yes; right on down.

Senator THOMAS. My conclusion was that the copper clause had been inserted later under the munitions paragraph.

Senator WALSH. It was apparently thrown in after the whole thing was done. Of course, the ore is dug out of the ground and the copper is simply taken out of the ore. There are various processes by which it is extracted or separated from the other mineral matter with which it is in combination.

Senator THOMAS. You might as well speak of the manufacture of gold.

Senator HUGHES. They do say that they make cotton.

Senator WALSH. Well, of course. That is in the nature of an idiom or colloquialism. I continue reading:

no tax shall be levied, collected, and paid; and if the payment of the tax would reduce such net profit below 10 per centum—

Now—

such net profit shall be computed on the amount actually invested in the United States in the manufacture of such articles.

Now, of course, by some kind of stretch of the meaning of the ordinary language you could apply that language to the case represented by the two gentlemen who preceded me, Prof. Reeves and Mr. Beaty, where the sole business of a man is smelting; he does not own any mine; he does not own any ore at all. He is just the same as the man who runs a gristmill. You bring your grist there and he grinds the grain for you and charges you so much for it. Of course, the smelter man would have a certain amount of money invested in his plant and in the manufacture, if you can speak of it in that way, of copper out of the ore; but I am speaking of the man who owns the mine and who owns the smelter and who owns the refinery and puts his product on the market in the form of refined copper.

Senator HUGHES. That is one stage beyond the matte stage, is it?

Senator WALSH. Yes. The copper is refined by electrolysis.

Senator HUGHES. From the matte?

Senator WALSH. Yes; after it is converted.

Senator HUGHES. And it takes what form then—ingots or bars?

Senator WALSH. Yes; it is in bars or sheets.

Senator THOMAS. Of course that suggestion of Senator Walsh is emphasized by the fact that when copper is exported as metal it is not classified as a manufactured product.

Senator HUGHES. It certainly can not be called a manufactured article in the sense that the word is ordinarily used.

Senator WALSH. No. The reports of the Department of Commerce that I have before me give copper and manufactures of copper as two separate things. It does not regard copper as a manufactured article at all. How would you compute under those circumstances the net profit actually invested in the United States in the manufacture of such an article? What is the amount that these people have invested in the manufacture of copper? But continuing on, the next page, in the same paragraph (reading):

In cases where such person has undivided capital invested in the manufacture of the articles specified in section 201 and of other articles, the amount invested in the manufacture of the articles specified in section 201 shall be considered as in the same ratio to the total amount invested as the gross receipts from the sale and disposition of such articles bear to the total gross receipts from the sale and disposition of all articles manufactured.

Of course, that would have no particular bearing; but here is the most important thing: Under the provision of section 204—and I wish now to invite your attention to that—the manufacturer is entitled to certain deductions from his gross receipts in order that there may be determined just exactly what his profits are upon which the calculation of the taxes may be made. It reads as follows:

SEC. 204. That when used in this title the term "net profit" means the aggregate gross receipts during the taxable year from the sale and disposition of

such articles manufactured in the United States less the following items, or the proportionate part thereof chargeable to the manufacture of such articles, any deductions not kept separate from similar items arising in connection with the joint manufacture of other articles not specified in section 201 being ascertained according to the ratio above prescribed for the determination of the amount invested:

(a) The cost of raw materials entering into the manufacture;

That clearly contemplates a condition where a man has a factory, like a woodenware factory, and he has to buy his logs and similar material and has to work them up, or if he is engaged in the making of brass bedsteads he must buy his raw brass, or if like the client of this gentleman he is engaged in the manufacture of brass he goes out and buys his copper and his zinc. You can easily make the deduction in such a case for the cost of the raw material. But how are you going to make the deduction in the case of a man who owns a mine, or a company that owns a mine and digs the ore out and puts it through the smelter and reduces it until it eventually takes the form of refined copper?

Senator HUGHES. Just what is the smelting process; is it just the burning out of the gangue of ore?

Senator WALSH. Yes; all of our ores, and the same is true of Arizona and Nevada ores, are sulphides. The sulphur is partially driven off by roasting; the ore after concentration is roasted in a reverberatory furnace and in other furnaces of that character, and being so treated is put into another furnace and smelted, the dross being of less specific gravity than the copper and the other metals in association with it—gold and silver—they drop to the bottom of the kettle, and the dross is then poured off, the same as you pour the cream off of the top of a pan of milk. The metallic remainder still carrying sulphur, known as matte, goes through another furnace into which a blast is forced generating a heat so high that the remaining impurities, chiefly sulphur, go off in the fumes. The residue is then poured out in sheets, and is ready for shipment to the refinery. In the refinery the gold and silver are separated from the copper; and then by another process the gold and silver are separated.

Senator THOMAS. Might it be within the bounds of reason to say that it is ore as long as it is extracted?

Senator WALSH. But I want to invite your attention to subdivision f of that same section. Another credit to which the manufacturer is entitled is "f." It is as follows:

A reasonable allowance, according to the conditions peculiar to each concern, for amortization of the values of buildings and machinery, account being taken of the exceptional depreciation of special plants.

Now, that is a very sensible provision to be applied to such a case as I speak of, but there is no provision at all for the amortization of the mine. There is for the buildings, the smelter, and the other buildings, but of course every pound of ore that you take out of the mine you are exhausting your mine by just exactly that much, and there is no provision at all for the amortization of the mine.

Senator HUGHES. Any man reading it would be bound to allow for that as raw material. Under the language of the bill they would be bound, as you say, to classify the ore as raw material.

Senator THOMAS. That is the only possible thing that could be classified.

Senator HUGHES. How would that affect it?

Senator WALSH. Of course I scarcely think it was contemplated that the value of the ore was to be deducted as the cost of raw material.

Senator THOMAS. I do not think so, either, but it might be susceptible to that construction in the administration of the law.

Senator WALSH. Suppose you were a small operator and you should go to one of these custom smelters, the smelters represented by one of these gentlemen here. They assay your ore and determine to a nice degree of exactness just how much copper there is in each ton of your ore; that is, they test it by sample and then they make a charge for smelting that ore. They give you credit for the copper that is in that ore at the market price less transportation after making certain deductions, and then they deduct from that the smelter charge and they pay you the remainder, whatever it is. So that the only way you can get at the value of the raw material—if you speak of it in that way—is to take the market price of the copper content of the ore and make the proper deductions, including a smelting charge, and the remainder would be the value of the ore. But if you do that you would not get any tax at all, because then you will have nothing left to tax. Is that not correct, Senator, except the charge which might be made for smelting—that is, the tax would be on the smelting of copper, not on its production?

Senator THOMAS. Yes.

Senator WALSH. Because when copper is 30 cents a pound the man who takes his ore to a smelter gets just so much more for it. By that system or device all you would have to tax would be the business of smelting. You would not need to do anything but ascertain what the earnings of the smelter are.

Mr. REEVES. And you would find that it would be a very peculiar smelter, or a very extraordinary one, that would ever be making 10 per cent on its capital.

Senator WALSH. Yes.

Senator HUGHES. That is the way it strikes me if they want to get any tax out of it anyway.

Senator WALSH. Prof. Reeves referred to a circumstance that has a most practical bearing upon the matter, and one which probably would not have been thought of by anyone not familiar with the business, and that is that most of the smelter contracts are long-time contracts. The smelter ordinarily makes a contract with the mine to do its smelting for periods of from three to five years. Those contracts are now out, and the smelter figured when it took the contract on being able to realize just so much per ton on the ore smelted and can not charge a penny more, and this tax imposed upon them would be really taking just so much out of the contract price that was made, not in war times but in antewar times.

I thank you, Mr. Chairman, most cordially for your attention.

The CHAIRMAN. The committee will now hear Senator Smith of Arizona.

STATEMENT OF HON. MARCUS A. SMITH, A SENATOR FROM THE STATE OF ARIZONA.

Senator SMITH of Arizona. Mr. Chairman and gentlemen of the committee, the very illuminating argument of the Senator from Montana leaves little for me or anyone to say in favor of striking this whole copper schedule from this bill. How it ever got into the bill is beyond my comprehension, unless the author of the strange proposition felt that inasmuch as the copper miners and refiners were enjoying for once great prosperity, and therefore should contribute large sums through taxation to the general welfare, and particularly because the very limited area in which that metal is produced furnished so small a number of Senators and Congressmen that no difficulty would be encountered in imposing the exaction. Be that as it may, the tax attempted in this schedule is monstrous and utterly indefensible. It outrages every sense of justice and every principle of equity in any mind acquainted with the facts about the case. There is no more reason to tax copper as munitions of war than there is to tax zinc, lead, steel, pig iron, or cotton, which is to some extent used in explosives and declared conditional contraband of war. Nay, there is less reason to tax copper than there is to tax pig iron as war munitions.

Senator THOMAS. Do you not think that as a fundamental objection we might concede the fallacy of every other one urged, still that would remain an insuperable objection to the imposition of a tax on copper?

Senator SMITH, of Arizona. Unquestionably. That consideration alone should defeat this proposed tax. It resolves itself at last to a question of fairness and legislative decency. The people producing copper justly feel that it is a barefaced imposition on them and because perhaps they could not—as I have stated—by reason of their limited representation in Congress, successfully defend themselves. On this phase let me say that we will make up in zeal and earnestness what we lack in numbers, in resistance of this tax. It is violative of that provision of the Constitution requiring uniformity in taxation. If war munitions are to be taxed and the spirit of uniformity preserved, why is iron and lead and zinc absent from this schedule?

Senator THOMAS. Suppose we should enact the law as it came over from the House, with that discrimination so apparent, do you think it would be enforced in the courts?

Senator SMITH of Arizona. Considering certain recent decisions of the courts, I am not willing that this matter should ever get that far.

Senator THOMAS. Well, as an abstract proposition of law?

Senator SMITH of Arizona. As an abstract proposition I have no doubt of the illegality of this tax on copper. Out of abundant caution I am led to fear that the court might hold that Congress had power to impose the tax on this product and omit the other articles, by holding that the tax was imposed on all within a certain class and was as to that class uniform in its operation, and therefore not obnoxious to that provision of the Constitution requiring uniformity.

Senator THOMAS. On the face of this law it is an obvious fact that occurs to every man—and your attention is directed to the face of

the bill—that there are certain metals singled out with no reason that rests itself in the mind at once for the purpose of levying upon them an enormous tax, and every reason to be assigned for it is equally applicable to a dozen other elements all around it. Now, the fundamental principle of taxation, as Senator Walsh has stated to the committee, is uniformity, and for the very reason that they are empowered to levy a tax on commerce, I believe the courts in their capacity would, by means of the power of Congress, use it. It would be in a way like levying a tax upon you and exempting every other man in this room.

Senator SMITH of Arizona. I am sure most lawyers will feel that such obvious discrimination against one metal, used to a relatively small extent in the manufacture of war munitions, violates the law of uniformity. The only case directly in point that I can recall arose in the cotton-tax case just before the war. In the lower court an injunction was sought restraining the collector from taking the tax from the owner of a large amount of cotton. The point was made that this was a direct tax which could not be legally collected, and that as cotton could be raised in only one locality, that the imposition of the tax was in contravention of the uniformity clause of the Federal Constitution. The lower court refused to issue the injunction and an appeal was taken to the Supreme Court, but no decision was had for the court, even in that day of intense prejudice, evenly divided on the questions submitted.

But, Mr. Chairman, whatever the court may or may not hereafter hold, the fact remains that the tax is discriminatory, laid without reason on one particular product, and laid with such a heavy hand as to bankrupt many struggling mines in my State, and falls on labor as heavily as on the capital invested in the production of copper. Much of our labor is paid a scale depending on the net price of the copper produced by it. This tax is a direct imposition on the men working in the mines. They at last must pay at the point of production. Copper is high to-day, it may be low to-morrow. The price is already declining, and must expect further decline when Europe shall have regained its senses and turned to paths of peace, just as zinc, lead, and steel will decline, but probably in a smaller ratio; for, as Senator Walsh has shown, the export of copper has been about the same through the war period as it was before the war started, while bar steel increased its exports from $2,000,000 worth in the first four months of 1914 to $14,418,000 for the same months in 1916. Even a greater increase in exports is shown in zinc, pig iron, and lead, and the prices of all of these untaxed metals rose equally with copper, and some of them commanded and still hold prices much in excess of any rise in the copper market.

In view of these facts, can it enter into the mind of man to conceive the reason for specializing copper for enormous taxation by the Federal Government? It bears a great part of the burden of taxation for the support of my State, and the other few States in which it is found. Enormous sums of money have been expended in developing paying mines of copper, and in the aggregate still larger sums have been spent on mines that never paid.

Mr. Chairman, I will conclude as I began, by commending the argument of Senator Walsh to your thoughtful consideration. He

had left little if anything to be said by me or anyone in defense of our position, and I have detained you this long more for the purpose of recording my determined and unflinching opposition to the imposition of this unjust tax rather than to throw any further light on the question at issue.

I have before me a large number of telegrams from representatives of almost every line of business in Arizona, protesting against this proposed legislation. I will not consume space by inserting them here, but will submit them to the committee, and will use them in connection with what I will have to say in the Senate if this tax provision is not eliminated by the Finance Committee. I will, with your permission, ask that the letters I hand to the reporter be printed with my remarks.

(The letters referred to are printed in full, as follows:)

PHELPS, DODGE & CO. (INC.),
New York, July 12, 1916.

Hon. MARCUS A. SMITH, United States Senator,
Senate Office Building, Washington, D. C.

MY DEAR MARK: While I feel that it is absolutely unnecessary for me to write you in connection with House bill 16763, which amounts to singling out the copper industry and the State of Arizona for a special attack, I do hope that you will succeed in convincing your colleagues of the obvious unfairness and discrimination directed at the copper industry.

Why the framer of this bill should have ignored the iron and steel and the lead and zinc industries, all of which form the great bulk of the munition business, is beyond my intelligence.

Yours, very truly,

WALTER DOUGLAS, *Vice President.*

NEW YORK, *July 11, 1916.*

Hon. MARCUS A. SMITH,
United States Senate, Washington, D. C.

MY DEAR SENATOR SMITH: I am in receipt of your telegram of July 7, which, on account of some stupidity of the Western Union, failed to reach me until to-day.

I believe the special tax on copper would be a severe blow to the industry and a vicious measure. I can see no more reason for the taxing of copper than for the taxing of iron, steel, lead, or zinc, and it looks to me as if it was simply passed on the principle of "here are some people that for the present are making a lot of money; let's take some of it." This, of course, is all right and is exactly the same principle that a highwayman works on.

The fact is that this tax, which, under the normal price of copper, will amount to an additional tax of 10 per cent on the profits, or more, will go into the cost of copper, and everybody interested will be affected, including the shareholders and the miner, mucker, and laboring man getting out the ore and treating it.

Our State will have to pay about one-third of the total tax.

I note in the bill two points that are vicious and wrong, I think. It allows the small producer, producing up to $25,000 worth of copper a year, complete exemption. The companies that I advise probably have 30,000 small shareholders, whose holdings each represent less than $25,000 worth of copper, gross value. Why should they be taxed if the other fellow is not?

The other is the alleged one that the copper mines should be valued solely according to the actual investment. When my people went into Inspiration, for instance, and when I as their consulting engineer recommended and advised them to spend some $12,500,000 at Globe, they made this investment on an opinion and took heavy risks in making it. Under these conditions they are entitled to a heavy profit, for the mining industry as a whole must be profitable and a return must be made on the money invested in failures as well as the money invested in successes, because the failures are largely a matter

of mistaken judgment and have to occur with the successes, for mining is a hazardous business.

As I look at my investments in mining, which are not very large, I find, in spite of the fact that I am an engineer heavily engaged, as you know, in mining development, that in the initial stages I have made heavy losses in many cases, i. e., heavy losses for me. Old Jim Kirk and I each dropped $20,000 in Santa Cruz. I dropped $10,000 in Rainbow, another $8,000 in the Washington Syndicate, probably more in La Ventura, and so on through the list. If, therefore, I have lost much that I have made in mining, why should I be taxed heavily on that which I have and no allowance made for the losses I have sustained?

I note from your telegram that you are of much the same opinion as I, and that you consider the bill unfair, and I merely mention these points to familiarize you with my viewpoint for whatever that viewpoint is worth. With very kind regards, I am.

Yours, very truly,

L. D. RICKETTS.

NEW YORK, *July 10, 1916.*

Senator MARK SMITH,
Washington, D. C.

DEAR SENATOR: I note that Kitchin bill, H. R. 16763, "Title III ammunition manufacturers' tax," that copper has been included and that a tax is proposed of from 1 to 3 per cent on the gross receipts from the refined copper.

It is unfair and unjust that copper, a western product, should be classed with war munitions and subjected to the heavy tax proposed by the Kitchin bill. It would be just as consistent to place a tax on spelter, lead, pig iron, steel, aluminum, tungsten, and many other metals which enter into the composition of articles used in war; or, it would be almost as consistent to extend the tax to foodstuffs, clothing, etc., quite as necessary to the success of armies as ammunition.

In view of these facts I hope that you will find it in order to oppose this measure, which, in its present form, will prove a heavy burden during low prices of copper to producers whose costs of producing copper are 12 or 13 cents per pound. If it is necessary to tax metals at all, such tax should be based upon the net profits accruing from the production of such metals.

Yours, very truly,

W. H. ALDRIDGE,
President Magma Copper Co.

ARIZONA STATE BUREAU OF MINES,
Tucson, July 10, 1916.

Hon. MARK A. SMITH,
Washington, D. C.

DEAR SIR: I have had my attention called to the proposal to tax the copper smelting and refining in the revenue bill recently reported by the Ways and Means Committee of the House, and I feel assured that you will look after the Arizona interests to make the most strenuous objections to the classing of copper as a war industry.

While it is temporarily quite prosperous, the prosperity is but temporary, and taxation would mean that many of our budding enterprises, which promise to make more mines and more prosperity, will be seriously handicapped. I sincerely hope that you will use every effort to prevent the passage of this bill.

Yours, very truly,

CHARLES F. WILLIS, *Director.*

PHOENIX, ARIZ., *July 8, 1916.*

Hon. M. A. SMITH,
Senate Chamber, Washington, D. C.

MY DEAR SENATOR: There is some talk here of an attempt on the part of Congress to put a heavy special war assessment on copper property and copper revenue. We do not know the exact nature of the proposed law, but think it would be bad policy to put an unnecessary heavy burden on copper at the

present time. Of course, we know copper is prosperous right now, but we can not tell how prosperous it will be when the war is over.

Everything between employer and employee is going along nicely at the present time, and the employees are receiving very high wages on account of the high price of copper, and any law passed that will disturb this condition would seem to me to be bad for the State and also for the employees. As I understand it, the miners and laborers' wages are regulated by the price of copper. We hope and trust that you will give the matter of taxation of copper serious consideration before voting on same. Outside of the above statement, Arizona's mines should become so great with proper encouragement that it will soom become the greatest and richest State in the Union. Such taxation as has been talked of by the Government would, it seems to me, discourage the development of our mines.

With best wishes for your personal welfare and success, and trusting we all may have the pleasure of seeing you soon, I beg to remain,

Sincerely, yours,

C. H. AKERS.

DOUGLAS, ARIZ., *July 11, 1916.*

Hon. MARCUS A. SMITH,
Senator, Washington, D. C.

MY DEAR SIR AND FRIEND: I consider it very important that every effort possible be made to defeat the proposed taxes on copper smelting and refining proposed by Ways and Means Committee of the House of Representatives. I think it very unfair, and object to classifying copper business as war industry. The measure attempts, in my opinion, a vicious object in singling out this particular industry because it happens to be temporarily quite prosperous. This bill will probably be enacted in law unless active opposition is presented from States where the copper business is an important industry. You know our conditions here in Arizona better than I can tell you. I hope you will see it like I do, and wish you would do everything possible to arouse interest, vigorously and quickly. By doing this you will confer a lasting favor to all the people of this State. With kindest regards, I am,

Truly, yours,

D. A. RICHARDSON.

The CHAIRMAN. The committee will be glad to hear Senator Walsh, who has some additional matter to submit.

STATEMENT OF HON. THOMAS J. WALSH, A SENATOR FROM THE STATE OF MONTANA—Resumed.

Senator WALSH. If the committee will pardon me, the matter we have been talking about, and the incongruity between the language of the section to which we have been addressing ourselves and the other section, I looked through the debate in the House for the purpose of trying to ascertain upon what basis of justice or equity this tax is to be imposed. I gather that after it had been determined to impose the tax upon munitions the idea occurred to some one that if you put a tax upon munitions, into which copper enters, that the tax would be avoided by the simple process of shipping the raw copper out of the country and having the munitions manufactured abroad, and, of course, in ordinary times it is just exactly what would happen; that is to say, the munitions being subjected to a very heavy tax here it would be found economical to export the raw copper and manufacture the munitions abroad.

Senator THOMAS. That would be equally true of lead, zinc, and steel, would it not?

Senator WALSH. Of course, it would be equally true of all of those. If you will pardon me, let me show you why there is no foundation to that. Of course, if these warring nations could employ their own people and supply their own wants through their own manufactur-

ers in Europe they would import the copper in its raw state, tax or no tax. It is because they can not do it. They have not the men to do it. They have not the manufacturers to do it. It is for that reason that they are made here, and so they will continue drawing upon our supplies so long as their present necessities exist. During these strenuous times of war it is not material how much these munitions cost; it is whether they can get them or not, and they ask us to make them for that reason. Therefore the imposition of a tax upon munitions will not, in my estimation, bother them at all.

I presume probably the fact is that, much like the smelters, they have got their contracts, but whether or no, if they have, the tax would fall upon the domestic producer; if they have not, the domestic producer would itself add it to the amount and make them pay it.

The CHAIRMAN. On that line I want to ask you: The argument has been made, very forcibly, that you could not levy a tax upon copper used in the manufacturing of munitions of war, leaving out steel, iron, zinc, etc., used for some other purpose. Now, to extend the argument to manufacturers of all kinds, by this bill we separate from all other kinds of manufacturers the manufacture of munitions of war?

Senator WALSH. Yes, sir.

The CHAIRMAN. Now, could we subdivide that and say that we will levy a tax upon the manufacturer of powder and stop that, leaving the man who manufactures guns untaxed? Could we tax a manufacturer of clothing or foodstuffs used for Army or military purposes to support armies? Does not the argument affect the right to levy a tax upon a particular class of manufacturers?

Senator WALSH. That is right.

The CHAIRMAN. In a larger aspect, and does not your argument overthrow, or tend to overthrow, the whole law?

Senator WALSH. No; I do not think so.

The CHAIRMAN. I mean the whole law as affects the tax on the manufacturer of munitions of war?

Senator WALSH. No; I think, Senator, that reasons could be assigned that would appeal to most people why you could properly classify munitions of war as a proper subject of taxation at this time.

Now, as to how far down again you could attempt to reclassify, as to whether you could impose a tax upon powder and other explosives without violating the rule of uniformity and not tax guns and pistols in which the gunpowder is used, I would not undertake to say. But the powder, as a commodity, is clearly and wholly without the class and stands as a separate item away from the other field.

Have I answered the question of the chairman?

The CHAIRMAN. Oh, yes. You have given your view of it.

Senator WALSH. I should have said that I had with me papers here, a brief that was left with me by Mr. Kelley, who is the vice president of the Anaconda Co. It may be of some service, and I ask that that be incorporated in the record.

The CHAIRMAN. It may be included in the record at this point.

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

MEMORANDUM REGARDING THE PROPOSED TAX ON COPPER AND ITS ALLOYS IN HOUSE BILL NO. 16763.

Title III, page 60, contains a classification of subjects for taxation under the caption "Munition manufacturers' tax."

While this caption is not conclusive of the subjects that might properly be embraced, it doubtless discloses an intention on the part of the committee to confine the application of the tax under this heading to munition manufactures.

It is submitted that copper is improperly so classified for the following reasons:

(*a*) Copper is in no sense an "article" of munition manufacture. Undoubtedly copper itself to a large extent enters into the manufacture of munitions precisely as does steel, iron, lead, zinc, antimony, tungsten, and cotton. It is to be noted in the beginning that copper as it comes from the smelter or refinery does not enter at all into the manufacture of munitions until it goes through a succeeding stage of manufacture. The only pure copper which is used in munition manufactures at all is the inconsequential amount required for primers or exploders, and in the case of large shells, the ring which fits to the bore of the rifle known as the compression ring. In addition to this, it should perhaps be stated that such extensive uses as telephone wires, etc., may have an indirect relation to military operations but in no sense should such uses be regarded as a munition manufacture any more than should the woolen cloth or shoes or the articles of clothing that are necessary for the equipment of an army.

Copper in a manufactured state, or as an alloy does enter to a considerable extent into the manufacture of munitions precisely as does steel, iron, lead, zinc, antimony, tungsten, cotton, nickel, aluminum, and numerous other raw materials, and it is probable that of the total production of some of the foregoing articles a greater proportionate amount is used indirectly in the manufacture of munitions than is the proportionate quantity of copper.

(*b*) It is unquestionably a discrimination to select out of the very large number of raw materials that ultimately form the completed manufactured munition a single article and impose upon it the burden of carrying such a tax as is manifestly designed only for such completely manufactured articles as are in intensive demand at the present time in connection with the actual conduct of warfare.

(*c*) The only possible justification for the inclusion of copper as a material which should, under existing circumstances, bear a heavy tax, is the fact that the market price has been considerably enhanced since the initiation of hostilities. It is submitted that the advance in the price of copper is proportionately less than the advance which has prevailed in steel, lead, zinc, antimony, tungsten, aluminum, nickel, and other metals, all of the production of which is being used for munition purposes.

(*d*) It is submitted that the mere enhancement of market price furnishes no justification for the imposition of the tax, as practically every commodity of commerce, including all manufactured articles, as well as agricultural products, have experienced a similar advance. Wool, wheat, beef, leather, rubber, and innumerable other articles have likewise advanced in market price.

(*e*) The common belief that there has been a tremendous increase in the demand for copper occasioned by reason of the manufacture of munitions is not well founded. Reference is made to the figures given in Walker's Copper Letter of June 30, 1916, which are undoubtedly correct for the verification of this statement. As a matter of fact, Germany and Austria comprised the largest importers of copper from the United States prior to the war. The amount which these countries imported exceeded 500,000,000 pounds, or from 25 to 33⅓ per cent of the entire copper output of the world. While it is a matter of great difficulty to follow the copper which goes into munitions, so as to obtain an accurate statement of this requirement, it is absolutely certain that the exclusion of these markets from participation in current production more than completely offsets the demand which has been made for copper for munitions in those countries to which exports of the raw material or manufactured munitions have been made.

Recent figures given out by the Geologicl Survey show that the exports of copper for 1915 have been considerably less than at any time in recent years.

The figures given in the statement extend back to 1912 and show the following exports:

	Pounds.
1912	775,000,658
1913	817,911,424
1914	840,080,922
1915	681,953,301

As a matter of fact, less copper was exported in the year 1915 than in any year since 1910, when 708,316,543 pounds were exported.

(*f*) It may be suggested that while the export of refined copper was less than in preceding years the amount exported in manufactured shape, as munitions, was greater. This undoubtedly is true, but it is a mistake to believe that the great domestic demand for copper has been due entirely to the demand for munitions. As a matter of fact, during the past year all lines of business in the United States have been going at top speed. There has been a tremendous era of building and industrial enterprise in this country, and it can safely be asserted that a very much larger percentage of the increased demand has been in connection with the domestic expansion than in munition manufacture.

While no accurate figures are obtainable as to the amount of copper which has actually gone into munition manufacture, it is safe to say that of the total consumption not more than 40 per cent has been consumed in munition manufacture. As indicative of the infinite variety of uses and the tremendous quantities required for purely industrial purposes, reference is made to the publication of a paper presented at a meeting of the International Engineering Congress in 1915, in San Francisco, Cal., by H. D. Hawks, associate member of the American Institute of Electrical Engineers, and Thomas T. Read, member of the American Institute of Mining Engineers. This paper, it is believed, will prove helpful in giving briefly a very comprehensive idea of the varety and requirements in the various lines of purely industrial trade.

(*g*) Considering the proposed measure as a tax, aside from the impropriety of its classification, it is submitted that the same is discriminatory for the reasons above suggested.

(*h*) That it is discriminatory even as compared with the articles of munition manufacture contained in the bill, for the following reasons:

The principal subjects covered by the bill under the heading referred to are: (1) Gunpowder; (2) cartridges, loaded or unloaded, caps, or primers; (3) projectiles, shells, or torpedoes, including shrapnel loaded or unloaded, or fuses; (4) firearms of any kind, including small arms, cannons, machine guns, rifles, and bayonets; or (5) any parts of any of the articles mentioned in the last three subdivisions; (6) and copper.

A glance is sufficient to demonstrate the proposition that copper is the only raw material selected for taxation, notwithstanding the infinite number of commodities used in manufacturing the articles elsewhere enumerated.

From the manufacture of powder or other explosives there is excluded blasting powder and dynamite, indicating an intention even in the explosive business to exclude everything except the particular output devoted to actual warfare. So far as all other articles except copper are concerned section 203 provides that in case such person has undivided capital invested in the manufacture of the articles specified in section 201 and of other articles the amount invested in the manufacture of the articles specified in section 201 shall be considered as in the same ratio to the total amount invested as the gross receipts from the sale and disposition of such articles bear to the total gross receipts from the sale and disposition of all articles manufatcured.

Under this provision the tax would only apply to that portion of the output of the manufacturing plant which might strictly be defined as munitions, and the balance of the output of such plant devoted to industrial uses would be excluded from the tax, but in the case of copper, every pound of copper, notwithstanding the fact that by far the greater proportion of the total production is used in peaceful industries, would have to bear the excessive tax imposed upon a manufacturer of munitions of war. It is unfair and discriminatory as compared to the other articles enumerated, for the reason that under the provisions of section 203 the manufacturer is allowed to make 10 per cent upon his investment, which in the case of the manufacturing plant can be readily ascertained, but which it would be a matter impossible to ascertain in the case of a mine. Moreover, in fixing the net return as provided in section 204, sub-

divisions a to f, inclusive, it is apparent that even this exemption could not be utilized by copper producers, for the reason that the provision is manifestly applicable only to a manufacturing plant engaged in the production of completed manufactured articles of warfare. This is particularly notable in the case of subdivision f, where a reasonable allowance is accorded for the amortization of the values of buildings and machinery, account being taken of the exceptional depreciation of special plants, but no provision is made for the depreciation of a copper mine which, by the very nature of the business, is wasted and depreciated through the mere fact of its operation.

The proposed tax is manifestly unfair so far as applied to copper, for the reason that it is manifestly a double tax. As a matter of fact, a triple tax is imposed by the bill.

(*a*) The output of the smelter or refinery is first taxed, but, as stated heretofore, its product does not enter into the manufacture of munitions at all until it is alloyed with something else, except in the case of primers and shrapnel, which are taxed separately under the provisions of section 201.

(*b*) The output of the refinery being sold to the manufacturer is made up in the shape of brass or bronze and other alloys of many different varieties, the usual ingredients being copper, tin, and zinc in the ratio of 66 to 70 per cent, or even higher of copper. Under the provisions of the bill these alloys are again subjeced to a tax upon the gross receipts obtained from the sale thereof as indicated by the following language:

"Every person smelting copper ore or copper concentrates, refining metallic copper, or alloying copper, shall pay, etc."

The only combination where the copper is untaxed is in the case of crude or unrefined copper for the sole purpose of refining.

(*c*) After the alloyer has manufactured the copper into a munition of war it is subject to a third tax under the provisions of the bill.

For these reasons and many others which may be enumerated, it is submitted that the tax is unjust, discriminatory, and burdensome upon an industry that is improperly included with the manufacture of munitions of war.

The CHAIRMAN. The subcommittee will now adjourn.

(Thereupon, at 4.55 o'clock p. m., the subcommittee adjourned, to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(COPPER AND BRASS.)

WEDNESDAY, JULY 19, 1916.

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

The subcommittee met, pursuant to call, at 2 o'clock p. m., in the room of the Committee on Foreign Relations, Senator William J. Stone presiding.

Present: Senators Stone (chairman), Thomas, and Hughes.

Also present: Senators Myers and Ashurst.

The subcommittee resumed the consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has under consideration section 201, page 60. We will hear first Senator Myers.

Senator MYERS. I shall only take a short time.

STATEMENT OF HON. HENRY L. MYERS, A SENATOR FROM THE STATE OF MONTANA.

Senator MYERS. Mr. Chairman, I thank you for this opportunity of being heard. I am deeply interested in this proposed copper tax. It very vitally affects my State. I have not had time to prepare any statistics or any systematic argument on the subject, but I want to appear before this subcommittee to add my views to what my colleague, Senator Walsh, said yesterday, and to voice the sentiment of the people of my State.

I have received several hundred telegrams in protest against this proposed tax from all classes of citizens in Montana—copper producers, business men, commercial clubs, chambers of commerce, boards of trade, labor organizations, bankers, merchants, professional men, and farmers. The opposition to it in Montana is widespread and appears to be universal.

This is the situation in regard to Montana. Nearly everything that we produce in Montana is on the free list as far as the tariff is concerned. Copper is on the free list, wool is on the free list, lumber is on the free list, sugar has had its tariff duty cut in two, cut down by one-half. There is an inconsequential tariff duty, I believe, on wheat and some other grains. We are not complaining of that. I voted for all those things, argued for them, and fought for them in the Democratic caucus and in the Senate. I was the first Democratic Senator in the far Western States, I believe, to come out in favor of free wool, and I was the only western Democratic Senator who made a fight for free wool in the Democratic senatorial caucus when the Underwood-Simmons tariff bill was in the making.

I am satisfied that the people of Montana approved of my course on those things. I received a thousand telegrams and letters from

Montana about that time in favor of free wool, and I believe I was only voicing the sentiments of the people of my State in standing for it. I believe I know the sentiments of the people of my State. I felt confident at the time that they would approve of free wool; that they would approve of the reduced duty on sugar. Time, since then, has vindicated my opinion that the people of Montana would approve of those things. So we are not complaining of those things.

I will go one step farther. I am not speaking for the entire West, but speaking for Montana only. All the people of Montana, people of all classes and political parties, are very earnestly desirous of having some land-leasing and water-power legislation at this session of Congress, but they are not going to get it. Those measures are going to go over. They are not particularly complaining of that, although they would like to have such legislation, and hope to have it next session. But everything is going along prosperously in Montana. The State is prosperous, and the people are satisfied. Notwithstanding that nearly everything we produce is on the free list, notwithstanding the fact that we shall not get our land-leasing or water-power legislation, so much desired, at this session, nevertheless the people feel satisfied. Business is good, and they have no complaint to make up to this point. But if this copper tax is put on us the people of Montana will regard it as extremely oppressive and unjust.

I understand that out of about $200,000,000 to be raised by this revenue bill this proposed copper tax would raise about $15,000,000, which I think is an unjust proportion. One copper-producing company in my State would have to pay $3,000,000, and I think that all of the copper companies of my State would have to pay three and a half or four millions of dollars. That is a tax of about $6 per capita for every man, woman, and child in the State of Montana, and why that should be loaded on them when already nearly everything they produce is on the free list is more than I can understand. They are willing to take their chances in producing in competition with the world, but why, in addition to that, a tax of $6 per capita for every man, woman, and child in the State should be put on the people of that State is to me inscrutable. I can not understand it.

In the making of this revenue bill copper is the only raw material that goes into the manufacture of munitions of war that is singled out to bear a tax by this bill, and only a very small proportion of the copper produced in this country goes into munitions of war; by far the larger part of it goes into peaceful uses, and a large part of it is consumed in this country in copper utensils, electrical apparatus, and things of that kind. If this copper tax is enacted, the people of this country who use this copper will have to pay the larger part of it.

But why should copper be singled out of all the things that go partially into munitions of war to be penalized in this way? There is lead, zinc, iron, steel, tin, aluminum, bismuth, many chemicals, and cotton that go into munitions of war. Cotton is used very largely in the manufacture of powder. No attempt is made to put a tax on cotton. This discrimination, to my mind, is odious, unjust, unfair, and indefensible in every way, and is going to be strongly resented by the people of Montana. They do not understand why they should be singled out and discriminated against in this manner.

My idea is that when you are going to tax munitions of war you should tax the finished product, not the raw material which goes into the munitions, unless you are going to tax all raw products. If you are going to do that and divide it around and only tax copper its share, we will have no complaint to make, but we do object to singling out for taxation only one raw material.

I think the tax should go on the finished product. If you are going to put it on other things which are used incidentally in the war, you might as well tax automobiles and many other things which are used in the waging of warfare. Suppose the only thing taxed besides finished munitions products were wool, on the theory that soldiers must have woolen clothes and blankets. What a howl of opposition would arise from wool growers, and they would be right, too.

This proposed copper tax would vitally and disastrously affect all interests in Montana. Particularly labor is opposed to it, and it would disastrously affect labor more than any other interest in Montana. The copper-producing companies and their employees are on excellent and amicable terms now in Montana. The employees are well paid and are satisfied. They have an arrangement with the copper-producing companies, whereby the employees are paid in proportion to the price of copper. Copper miners are now being paid, I believe, $4.50 per day of eight hours, and there is work for all. All the copper-mining companies of Montana are running full blast, day and night, and putting on all the men they can get. They are running at full capacity. Any man who has had experience at mining can get employment from them. The employees are happy and prosperous. They are satisfied but they want to let well enough alone.

Were this proposed tax to be put on copper it would undoubtedly curtail the production in Montana, and many employees, doubtless several thousand, would be thrown out of employment, and want, poverty, and suffering would ensue, and those employees not dispensed with would feel uneasy and resentful. Possibly and doubtless the copper mining companies under such a very heavy and burdensome tax would feel compelled to reduce the wages of their miners; undoubtedly the miners would anticipate it and would be restless and dissatisfied. In that event, I would not be surprised to see wages reduced from $4.50 to $3 per day. Undoubtedly the copper companies would have to and would make some readjustment of their arrangements with the miners. At least, it would be a dreaded possibility. Everything in Montana now is thriving and prosperous. Why disturb so satisfactory a condition of affairs? Why upset everything and make everybody uneasy, restless, dissatisfied, discontented, resentful? I appeal to you, gentlemen of this subcommittee, with all of my force and power on grounds of justice and reason. As I have said, Montana is enjoying practically no protection to its industries, or very little. We are not complaining about it. We are satisfied. We are prosperous. We are willing to take our chances in competitive production of our products with the world. We are willing to have free production and free markets. We are willing to take our chances under the natural laws of supply and demand. We are doing well enough, but we do resist and resent most intensely this effort, on top of practically free trade, to put a heavy tax on one of our products, an article which is on the free list, which enjoys no protec-

tion—copper. We object to this attempt to levy tribute on us and to load us down with a heavy burden, filching from us so large a part of our gains of honest toil. Copper is on the free list. It enjoys no protection. It asks none. Now it is proposed to burden it down with a heavy toll, to levy tribute on it, to grab a big part of its earnings. I insist it is outrageously unfair and unjust.

Montana has asked but little of this Congress or of this administration. It asked but little protective duty on any of its products, practically none. It feels able to compete with the world. As I have indicated, it has asked, in the name of its entire populace, people of all political parties, people of all elements, for land-leasing legislation and public domain water-power legislation. These things are of tremendous importance to Montana. Our people are solidly, as one person, in favor of them and asking for them. They mean a great deal to Montana. We have vast mineral deposits on our public domain—oil, gas, phosphate, coal, and other things—which are tied up and will never be developed until we have land-leasing legislation. We have enormous water-power possibilities on our streams on the public domain. They will never be developed until we get suitable legislation, such as we have asked. The development of these things mean hundreds of millions of dollars to Montana. We had hoped to get them at this session of Congress. It has now been determined positively that there will be no such legislation, neither in land-leasing nor water-power development, at this session of Congress. Both will go over to the next session, and maybe longer. We are denied our requests in these things. Well, we are not seriously complaining; we have not lost heart; we have picked up our courage, rolled up our sleeves, and are going ahead, notwithstanding. Now, however, in addition to all of this, you come and propose to levy enormous tribute on us to make us divide up our earnings from honest toil, made in open competition with the world. It is going too far, gentlemen. It is unreasonable. Montana will not stand it and be satisfied with it. Do this and Montana will have a very serious complaint of this administration, something it has not had so far.

If you want to tax things that go into munitions of war, tax steel, which has long enjoyed an enormously high protective tariff, a monopoly, and which still enjoys a substantial protective duty under the present law; an industry which has made enormous profits, out of which millions and billions of dollars have been piled up in private fortunes. Steel, lead, zinc, iron, tin, aluminum, bismuth, cotton—all go into the manufacture of munitions of war. Why single out copper to make it the goat of this proceeding? Nobody hears of any movement to put a tax on the production of cotton. We do not hear anything about that, but cotton enters largely into the manufacture of gunpowder. If you are going to tax things that are used in warfare, you might tax automobiles and motor trucks. Millions of dollars worth of them are being shipped to Europe for use in the European war. Suppose automobiles and motor trucks alone were singled out for an occupation or production tax in this bill: what an outcry there would be from the big interests of the big Eastern States where the factories are located. Copper, however, is found mostly in a few sparsely settled States of the West, minor States, you may say, without many electoral votes, and copper is to bear the tax alone. I ask you to think better of this. We are here to administer justice as much as a court of law or equity. Then let us do it.

Only a small proportion of the amount of copper produced in this country goes into munitions of war. The larger part of it is used in pursuits of peace. It is wrong to class it as munitions of war, and it is the only raw material which goes into munitions of war at all which has been singled out for a tax. It is wrong, gentlemen. If you want to put a little tax on everything that goes more or less into the manufacture of munitions of war, that would be a different thing, and I would have no serious complaint to make.

I am told that this tax would take $3,000,000 per year from one company in my State, and that it would take a very large percentage of its net earnings. It would be confiscatory. This company has pursued the policy of putting a large part of its earnings back into Montana in improvements and investments, and has been spending between six and seven million dollars a year in Montana. Our State is a young State and needs development, and you would by this bill take from the State of Montana $3,000,000 a year of the six or seven million dollars a year being reinvested in our State. This is staggering. We can not stand it, and will not stand it if there is any way of helping ourselves. I do not know who conceived this idea. I have never heard. Apparently it was sprung over night in the House of Representatives. Nobody knew anything about it until the bill had been reported in the House and was up for debate. No hearings were held. Senators and Representatives from copper-producing States were not consulted. It is manifestly unjust and is wholly indefensible. Gentlemen, I protest with all the power of which I am capable against this unjust discrimination against my State. If you want to spread these taxes around over all of the States, and over all forms of industry, well enough; we would be willing to pay our share without complaining, but we do object with all our power and earnestness to being singled out for such odious discrimination and oppression. I earnestly hope that this subcommittee will report to the full committee in favor of striking out this onerous provision, this discriminatory tax on the production of copper.

Copper has not been making the great profits that steel, lead, zinc, and other products have been yielding. A year and a half ago the copper mining companies of my State were running at a loss or barely paying expenses, and kept running merely to keep their employees supplied with the necessities of life; to give them employment, and to prevent suffering. Now, that they have been in the last year enjoying a little temporary prosperity and making fairly good profits, there is no reason why they should be robbed, and this provision would be downright robbery. I protest against it and sincerely hope and believe you will report against it.

STATEMENT OF HON. HENRY F. ASHURST, A SENATOR FROM THE STATE OF ARIZONA.

Senator ASHURST. I shall be very brief. I know the haste to which this committee has been put.

I believe that this singling out of copper and laying upon it a special tax has come about through a widespread misapprehension as to the use of copper.

My colleague, Senator Mark Smith, of Arizona, was here yesterday. Senator Walsh, of Montana, was heard, and Senator Myers, of Montana, is here to-day.

I wish merely to supplement what they have said by remarking that until the European war commenced I myself shared that general widespread misapprehension that copper was very widely used in the making of ammunition and arms, or munitions of war. Upon investigation I learned, to my astonishment, that copper was least used among the metals, and that steel, iron, zinc, tin, lead, bismuth, and aluminum were the materials that entered most largely into the manufacture of arms and ammunition.

It is true that copper may, indirectly, be used in large quantities in the manufacture of wire, electrical contrivances, and mechanical apparatus, but if a munition tax be the tax that is sought, surely you can not tax copper at all.

I verified this by communicating with manufacturers of various shells, and I took a certain battleship as a sample and asked how much steel, iron, copper, lead, bismuth, tin, zinc, brass, and aluminum went into that ship, and the percentage of copper was remarkable in regard to its scarcity.

The power to tax, we know, is the power to destroy. If a similar tax should be levied upon lead, zinc, aluminum, tin, iron, bismuth, cotton, and all the other materials the tax might be harsh but would be equal upon all. But, Mr. Chairman, to single out copper and lay a tax on it, when it is not the major element of munitions, is unjust. It is, as the Senator who preceded me said, an odious tax. It can not be sustained in the forum of conscience. It might be sustained in the courts, but surely this committee and surely this chairman do not wish to be in the attitude of having singled out a particular material and laid a tax upon it.

If a tax should be laid upon copper, a portion of it should be laid upon cotton, because the prime constituent element of explosives, so far as some explosives, such as guncotton, are concerned, is cotton.

This constitutes all I have to say except that with reference to the State I have the honor in part to represent, everything it produces is on the free list. Our lumber, our hides, our wool, our copper are on the free list. I said, in answer to a question propounded to me by Mr. Cummins in 1913, our people do not want protection. We are free men; we are American citizens; we do not ask any bounty from the Government; we do not ask any gift or largess; we throw our cotton, our copper, our lumber, our fruit, our cattle, and our sheep into the market; and we can compete like men throughout the world, but do object and have the right to object, after having gone on the free list with everything we have, to being penalized; we object to being singled out and penalized.

I thank you, Mr. Chairman, for your patience in hearing us.

The CHAIRMAN. We have been very happy to hear you. If there is nothing further, the committee will adjourn.

(Thereupon, at 3 o'clock p. m., the committee adjourned, to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(MUNITION MANUFACTURERS' TAX.)

WEDNESDAY, JULY 19, 1916.

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

The subcommittee met, pursuant to call, at 8 o'clock p. m., in room 205, Senate Office Building, Senator William J. Stone presiding.

Present: Senators Stone (chairman), Thomas, and Hughes.

Also present: Messrs. R. P. Lamont, president, and G. E. Scott, vice president, of the American Steel Foundries, of Chicago and New York; Messrs. James W. Kinnear, vice president, and H. F. Clark, treasurer, of the Washington Steel & Ordnance Co., Washington, D. C., and Mr. F. E. Chapin, counsel for the said company; Mr. J. D. Gallagher, vice president of the American Brake Shoe & Foundry Co.; Mr. E. H. Stedman, representing Curtis & Co., of St. Louis, and associated with the Wagner Electric Manufacturing Co. and the Bucyrus Co., of South Milwaukee; Mr. John Quinn, 31 Nassau Street, New York City, counsel.

The subcommittee resumed the consideration of the bill (H. R. 16763) to increase the revenue, and for other purposes.

The CHAIRMAN. The committee has under consideration section 205, page 65, of the bill. We will hear Mr. Quinn.

Mr. QUINN. Mr. Chairman and gentlemen of the committee, before I take up my argument on the sections of the House bill regarding munition taxes, I think it would be well to have the officers of the companies represented here state to the committee, from their own practical experience and based upon their own contracts, their views as to how the proposed tax would affect their companies. I therefore suggest that Mr. Kinnear, of the Washington Steel & Ordnance Co., make his statement.

STATEMENT OF MR. JAMES W. KINNEAR, VICE PRESIDENT OF THE WASHINGTON STEEL & ORDNANCE CO., WASHINGTON, D. C.

Mr. KINNEAR. Mr. Chairman and gentlemen, I represent the Washington Steel & Ordnance Co., an organization having its plant in the District of Columbia. It is an organization which makes exclusively munitions of war and has been working in the line of projectiles. It has been doing work for the United States for some years. At the time the European war broke out we were somewhat slack of work, and being one of the few companies in this country which understood the business we were immediately filled up by orders from Great

Britain. Our plant is a small one—we have not a large plant—and at that time we had probably only 700 men, maybe not so many.

Senator THOMAS. How many have you now?

Mr. KINNEAR. Twenty-seven hundred.

Senator THOMAS. Right here in Washington?

Mr. KINNEAR. Right down here on the Potomac, about 15 minutes' ride.

When the orders were more than we could handle in our own plant we went to Pittsburgh and found that a lot of large companies in that city wanted to undertake this work, but hesitated because they did not understand how to do the work, and the result was that we agreed to furnish the technique, while they agreed to do the work. We therefore became the main contractors, and all the contracts from Great Britain were taken in the name of the Washington Steel & Ordnance Co., while the great bulk of the work was performed by those large companies, who became our subcontractors—such companies as the Carnegie Steel, the National Tube, the Pressed Steel Car Co., the Westinghouse Electric & Manufacturing Co., the General Electric Co., the Oil Well Supply Co., the Minneapolis Co., out in Minneapolis, and quite a number of other companies that I could mention.

We saw the notices of the proposed taxation of munitions, but supposing that it would be along the line of tax on net profits we did not think it was anything but what we should and would be very glad to pay, and therefore we made no provision covering the proposed tax in our contract. It was because we felt this way that we did not come down here to bother you about it, but were ready to take our share of it. But when we opened this bill and turned to section 205 and found that the subcontractors, who will get the great bulk of the money through us—millions of it—were relieved from taxation and our little company was to stand the entire tax we decided to call to the attention of the committee the manifest unfairness of the proposed legislation.

Now, just to show you what we have done within the last six months: We have paid the Carnegie Steel Co. over a million and a quarter dollars as subcontractors; we have paid the National Tube Co. over three millions and a quarter; we have paid the General Electric Co. almost three millions; and we have paid the Westinghouse Electric & Manufacturing Co. almost six millions and a half—$6,498,000. All of that on subcontracts.

Senator THOMAS. And all within the last six months?

Mr. KINNEAR. All within the last six months, from January 1 to July 1. It is contained in my brief that I gave you, Senator.

Senator THOMAS. I know it. I simply wanted to emphasize it.

Mr. KINNEAR. I thank you. So we said at once that the people who drafted that provision did not understand the situation or they would not have undertaken to have required us to pay a tax when these people who have virtually become munition makers and have developed as munition makers are exempt. We taught them how, and they are now expert in that line and are able to do that technical work—and I may say, by the way, that this experience will prove of great benefit to the United States. That is one thing the United States has gained out of this war without cost to our Government. Our people have learned how to make munitions of war.

Mr. QUINN. If you will allow me to interrupt you, are you the principal in all your contracts?

Mr. KINNEAR. We are the principal contractors. We take our contracts through J. P. Morgan & Co.

Mr. QUINN. And the others are the subcontractors?

Mr. KINNEAR. Yes, sir; I stated that, did I not? It is in my brief.

Senator HUGHES. This tax is laid on your gross receipts, is it?

Mr. KINNEAR. Yes; the gross receipts. In my brief—I sent a copy to each of you gentlemen—there are some things that are absolutely private, but we have laid the facts frankly before you.

The CHAIRMAN. Let me ask you this: You are a contractor with Great Britain?

Mr. KINNEAR. Yes, sir.

The CHAIRMAN. And all they pay for munitions they pay to you?

Mr. KINNEAR. On these contracts; yes, sir.

The CHAIRMAN. I am speaking of your contracts.

Mr. KINNEAR. Yes, sir.

The CHAIRMAN. You had subcontractors to make the munitions?

Mr. KINNEAR. Yes, sir.

The CHAIRMAN. You paid them?

Mr. KINNEAR. We paid them the amounts that I have read you.

The CHAIRMAN. The amounts as you have outlined in your brief?

Mr. KINNEAR. Yes, sir; I have given you the whole line of our subcontractors.

The CHAIRMAN. I wanted to be sure that I understood you at the time.

Mr. KINNEAR. Yes, sir; those are the facts.

Senator HUGHES. In some cases the money was divided before it came into your hands, was it?

Mr. KINNEAR. No, sir; this is the principal contract, and the money comes directly to us and goes out on our check to those people as subcontractors. They came to us, and in the last six months we have paid out to subcontractors $17,607,000.

The CHAIRMAN. That is charged up to your gross receipts?

Mr. KINNEAR. Yes, sir; that is charged up to our gross receipts. Now, I have prepared an amendment to section 205, just as a mere suggestion to you, and you will find it in the copy that I gave you. It reads as follows—I think it is Exhibit B:

> Any person manufacturing any of the articles specified in section 201 through the agency of one or more subcontractors shall furnish as part of his return the names and addresses of such subcontractors, together with a statement of the work performed and the sums paid them for such work, which sums shall be deducted from the gross receipts from the sale of such articles. Failure to make a proper return on said contracts as above provided will render any person manufacturing such articles liable for tax on his entire gross receipts.

Senator HUGHES. Have you a provision there for taxing the subcontractors? Perhaps you have not come to that.

Mr. KINNEAR. No; I think that is covered where you say any person manufacturing these, or any parts of them.

Senator THOMAS. This amendment presupposes the elimination of section 205?

Mr. KINNEAR. Yes, sir.

Senator HUGHES. Which makes the principal contractor solely liable?

Senator THOMAS. Yes.

Mr. KINNEAR. Now, gentlemen, in many of our cases, as you will see by the figures I gave you in the brief that you have, our subcontractors are making more money than we are. In these cases that I speak of, all of them, we have sublet every particle of the work.

Our little plant down here in the six months I have spoken of has taken in three million and some hundred thousand dollars, and we are justly liable to pay a tax on that. That is a tax that we should pay; but these great corporations—many of them the greatest corporations in existence—have virtually become the munition manufacturers, and it is a question of the tail wagging the dog. We have but a small capital. They could swallow us up half a dozen times.

The CHAIRMAN. You would account under this bill now, according to your theory, for about $3,000,000?

Mr. KINNEAR. Yes, sir.

The CHAIRMAN. And your subcontractors, according to your theory, should account for about $17,000,000?

Mr. KINNEAR. We would account for more than $3,000,000. We would account for that $3,000,000 which we have actually made, and we would account for the difference between what we have received and what we have paid to our subcontractors.

Senator HUGHES. You would account, in other words, for your profits in addition to that?

Mr. KINNEAR. Yes, sir; our profits—whatever we have made of our own.

The CHAIRMAN. The $3,000,000 of which you speak are the proceeds of your own manufacture?

Mr. KINNEAR. Yes, sir; our own work, the gross receipts, and it has kept us busy.

Senator THOMAS. If this bill should be passed as the House passed it you would be required to pay a tax upon $17,000,000, which you have mentioned, plus $3,000,000?

Mr. KINNEAR. Yes; plus the $3,000,000.

Senator THOMAS. Making approximately $20,000,000?

Mr. KINNEAR. Yes sir.

Senator THOMAS. Plus the addition of which you speak?

Mr. KINNEAR. Yes, sir.

Senator THOMAS. While the amendment distributes this tax between yourselves and the subcontractors to whom you paid this money and who did all the work?

Mr. KINNEAR. Just so. But I have given you only one-half as yet. I am illustrating it from that.

Senator THOMAS. I understand that; the tax began at the time when you began?

Mr. KINNEAR. Yes, sir; on January 1.

Senator HUGHES. Have you made a calculation as to what amount you would have to pay under that?

Mr. KINNEAR. Five per cent on $20,000,000 would be $1,000,000.

Mr. QUINN. That would be about one-third of your net profits?

Mr. KINNEAR. Yes, sir. We figure on the profits outside of our own work. We pay between 50 and 60 per cent, but I will not vouch for those figures; that is a mental calculation.

Senator HUGHES. You pay 50 or 60 per cent under this provision?

Mr. KINNEAR. Yes, sir. I can not understand why it is necessary

to place all of this on the main contractors when this condition of things exists.

Senator HUGHES. You would have no difficulty in any case in determining the amount that was paid to any subcontractors?

Mr. KINNEAR. No, sir; we would furnish it, and if we did not furnish it we would be liable, under my idea, to pay the whole tax.

Senator HUGHES. Anything you did not account for, as far as the subcontractors are concerned, you become liable for?

Mr. KINNEAR. Yes, sir; I should say that everyone should account for his entire gross receipts and then claim credit for what he has paid to the subcontractors for part of that work.

The CHAIRMAN. I think that is perfectly clear.

Mr. KINNEAR. I think it is perfectly fair, too, Senator.

Senator THOMAS. You get your contracts from J. P. Morgan & Co.?

Mr. KINNEAR. Yes, sir. There are some of them that have not yet been signed.

Senator THOMAS. Do they make a commission out of those contracts?

Mr. KINNEAR. I suppose they do, but I do not know.

Mr. SCOTT. I understand the British Government pays them 1 per cent for all their purchases, plus their expenses.

Senator THOMAS. There is no reason in the world why they should not be required to contribute their proportion of their profits.

Mr. KINNEAR. By the way, we did not know of this proposed legislation so as to make provision for it in recent contracts. We have closed a number of these contracts by correspondence without providing for any distribution of this tax.

The CHAIRMAN. You had better file a form of that contract.

Mr. KINNEAR. I will do so, Mr. Chairman.

The CHAIRMAN. When you send that form for our inspection, do you wish it to be made public?

Mr. KINNEAR. No, sir; I would rather not have it made public. We will omit the names on it and the size of the shells.

Senator THOMAS. I understand also the exhibits to this brief that you have filed you do not want made public?

Mr. KINNEAR. No; we do not want those made public.

Mr. QUINN. I suggest now that Mr. Lamont, the president of the American Steel Foundries, explain to the committee how the proposed taxation will adversely affect his company, and Mr. Lamont will give his views as to what he thinks would be a fair and equitable tax upon net profits.

STATEMENT OF MR. R. P. LAMONT, PRESIDENT OF THE AMERICAN STEEL FOUNDRIES, CHICAGO AND NEW YORK.

Mr. LAMONT. Mr. Chairman, I simply desire to emphasize one matter that has been referred to here. When the European war broke out, outside of the Washington Steel & Ordnance Co., the Midvale, the Bethlehem, and the Remington Arms, there was practically nobody in this country who knew how to make shells, and it is safe to say that 90 per cent of all the work that is being done to-day is being done by people who never saw a shell before—certainly never saw one made.

When these original munition makers were filled up—and that was very soon after the opening of the war—there were still large numbers of contracts that were available. There was very little business in our own particular line—what we did was mostly for the railroads. The business was slack. We had two or three of our establishments shut down. We had a great many men idle. Ordinarily we employed about seven or eight thousand. We accordingly decided to take some ammunition contracts. I have here a copy of a contract which we made with his Britannic Majesty's Government, through J. P. Morgan & Co., agents, for 400,000 8-inch howitzer high-explosion shells involving about $18,000,000. Of said total contract price about one-half thereof, namely, $9,000,000 goes for machining the entire 400,000 of shells. We were not equipped to do any of this machining. At about the same time we made this contract with Messrs. Morgan & Co. we made a contract with the Westinghouse Electric & Manufacturing Co. to do the machining, as we were not in position to do the machining. We had no machine shops or machine-shop organization. We had an understanding with the Westinghouse people before we took the contract, that they would do the machining. So we made a contract with them for machining the entire lot which involved about $9,000,000, about one-half of the original contract of $18,000,000. We were not even in shape to do all the forging, so that on the same day we made a contract with the Pollock Steel Co., of Cincinnati, for one-half of the forging. That involved about $4,500,000. We were left, therefore, with just one-half of the forging work to be done on this original contract. In other words, the total amount of our contract for the work that we are actually doing is only about $4,500,000 out of the total of about $18,000,000.

I would like to say that out of that $9,000,000 approximately that the Westinghouse Co. is doing and the $4,500,000 approximately that the Pollock people are doing, we get not 1 cent of profit. The Pollock Co., technically our subcontractor, receives, not from us, but from Messrs. J. P. Morgan & Co. as the agents of the British Government, exactly the same price for their forgings that we receive from Messrs. J. P. Morgan & Co. for the part of the forgings that we furnish. As I have said, we do not make 1 penny of profit upon the $9,000,000 approximately of machining that the Westinghouse Co. does under its contract. While nominally it is our subcontractor, actually we get none of the receipts of said contract. The payments are made by J. P. Morgan & Co. as agents of the British Government direct to the Westinghouse Co. Said payments do not appear upon our books. They do not go through our bank account. While nominally therefore the Westinghouse Co. and the Pollock Co. are our subcontractors, actually, so far as delivery and payment are concerned, they are independent contractors, although it is possible that they would not be so considered under the act as it has passed the House.

The Westinghouse people had to equip themselves with machinery that was necessary and they get full profit for their work. We get nothing out of that. In this one respect our condition is different from that of Mr. Kinnear's company, the Washington Steel and Ordnance Co. We not only do not do the entire $18,000,000 worth of work, but we do not even handle the money that is paid to the sub-

contractors who handle the other three-quarters of it. We do not bill out the goods. We do not receive and pay out that three-fourths of the contract price in money. The money is divided at the bankers. We get only the money for the work which we actually do.

Senator THOMAS. I should not think then that this matter would affect you as seriously as it does him.

Mr. LAMONT. But the others are subcontractors. We are the principal contractors.

Senator HUGHES. You carry the subcontractors in your contract, do you not?

Mr. LAMONT. They appear in the contract as subcontractors; yes, sir.

Mr. QUINN. The American Steel Foundries is, as its president, Mr. Lamont, has just explained, between the devil and the deep sea. When they come to make their return to the revenue officers they may be met by the claim on the part of those officials that technically under their contract the American Steel Foundries is the principal contractor and that the Westinghouse and Pollock Cos., respectively, are mere subcontractors. On the other hand, the American Steel Foundries will be compelled in self-defense to claim, and endeavor to maintain the position, that it does not handle any of the receipts of three-fourths of the gross amount of the contract, and that under the House bill as it is drawn it is taxable only upon its actual receipts, which would be only one-quarter of the total. There you have the germ of a great uncertainty and almost a certainty of litigation.

Senator THOMAS. Let me ask if any of you gentlemen appeared before the House committee?

Mr. LAMONT. We did not know anything about the details of the law or of its proposed provisions. We read something in the paper about a proposed tax on munitions, but we never dreamed that it would be upon gross receipts. We thought that it would be only upon net profits. The provision taxing gross receipts and not net profits, and the provision exempting subcontractors, were so startling, so revolutionary, so hard upon our company, that we at once asked for the courtesy of this hearing, determined to present these thoughts to your committee. Now, coming back to the exact details of our particular contract, gentlemen of the committee: If you figure the 5 per cent on $18,000,000 it is $900,000. If we have had no bad luck that is about what we hope to make out of our part of the work. In other words, the proposed 5 per cent tax on the total gross receipts as provided by the House bill will wipe our profit out entirely. We not only can not afford to pay it, but it would be almost confiscation to have the proposed House provision be enacted into law. If the House measure should be enacted into law, and the revenue officers should hold us strictly to the letter of the contract in which we are principal contractors and the Westinghouse Co. and the Pollock Co. are subcontractors, and if, therefore, they would make us liable for the 5 per cent tax upon the total amount of the contract, it would wipe out practically our entire profits with the exception of perhaps 10 per cent on the investment. I can not believe that Congress will ever enact such a grossly unfair and unequal revenue measure as that.

On the other hand, if you take the other interpretation of the proposed House measure, and if it should ultimately be held that we were taxable only upon our actual receipts, irrespective of whether we are the principal contractors or not; that is, if we be allowed to disregard the three-fourths of the total contract price which we have turned over to the Westinghouse and Pollock Cos., respectively, if it be held that we are taxable only upon our receipts under the total contract, what we actually get paid for, then 5 per cent upon our approximate gross of $4,500,000 would be approximately $225,000. But then there would always be the danger under the House bill as it is drawn that the Government would not get any return on the other $13,500,000, which is being done by our subcontractors, according to the bill as it now reads. I hope I have made this point clear to the committee. I call the attention of the committee to the fact that the proposed 5 per cent tax is upon gross receipts. It expressly attempts to exclude subcontractors. Now, of the total gross receipts of our contract of about $18,000,000, we actually receive only about one-fourth, or $4,500,000. And yet the Westinghouse Co. and the Pollock Co., respectively, who are subcontractors to the extent of about three-fourths of the total of $18,000,000, might claim to be exempt as subcontractors, even though they actually did receive three-fourths of the gross receipts payable by the purchasers of the shells under the entire contract.

The CHAIRMAN. The Westinghouse participation in this manufacture was in the making of machinery that you used?

Mr. LAMONT. No, sir; this work consists in the first place of getting a big plug of steel about 8 inches in diameter and about 24 to 30 inches in length. That is a rough chunk of steel. We heat that in the furnace and run a plunger through it and it is formed into the shape of a shell. They leave about a quarter of an inch of metal on the inside and outside which has to be lathed off, and it has to be rounded and a copper band put on it and a nose piece, and everything of that kind. In other words, we furnish what are called in the trade the rough forgings to the Westinghouse Co., and the Pollock Co. does the same, and the Westinghouse Co. practically makes that into a shell. The final finishing of our work, the putting on of the band, the machining, and putting in the base plugs, is all done by the Westinghouse people, who practically make the shell.

Senator HUGHES. That is lathed work?

Mr. LAMONT. Yes, sir. You see nobody in this country was equipped to do that kind of work, except a comparatively few concerns who were in the business of and were equipped for the making of munitions.

Senator HUGHES. You did not do any of that work; you simply did part of the forging?

Mr. LAMONT. Yes, sir; just a part of the forging, and the Pollock Co. did the other half of the total forging. We think the proposition to tax, in the first place, the gross receipts, is not fair, and we do not think that is what you intend to do, really, and we believe that if instead of attempting to tax the gross receipts 5 per cent, you, for instance, were to tax the net profits 10 per cent, if you choose, you will get as much revenue in the second case as you will in the first case, provided, of course, you adopt one of the suggestions that we

are submitting to your committee, and tax subcontractors upon their net profits as well as principal contractors upon their net profits.

Senator THOMAS. Do you make that a progressive tax on net profits or flat?

Mr. LAMONT. I would make it flat, because it is true that the comparatively small fellows make proportionately a larger profit than the big fellows. I think that is a fair statement.

Senator THOMAS. How is that?

Mr. LAMONT. I say the small contractors make proportionately larger profits than the larger ones. I think that is a fair statement generally.

The CHAIRMAN. What would be the difference, as a general proposition, between the net profits and the gross receipts?

Mr. LAMONT. Now, let us take our own particular case. Suppose we started with approximately an $18,000,000 contract. The House bill contemplates a tax of 5 per cent upon gross receipts, which would be $900,000. We feel that in our particular case that gross receipt provision would not apply to the entire $18,000,000, because, as I have explained, we actually receive money for only that part of the work which we perform, namely, about $4,500,000. We contend therefore that we would take that $4,500,000 as our gross. That is the only money that will be received by us, and those are the figures that will come out of our books. If the Government sent inspectors or auditors to our company who went through our books they would find that our books showed that we had received as gross receipts but about $4,500,000 and that we had never received, either as gross receipts or as net profits, anything above the other three-fourths of the total contract. As I have explained, the Westinghouse Co. gets its share and the Pollock Co. gets its share and we get our share. The checks are sent out in that way from the office of Messrs. J. P. Morgan & Co. as the agents of the British Government.

Now, 5 per cent on $4,500,000 is $225,000. Assume that the Government under the provisions of the House bill could not collect a tax from the Westinghouse Co. and the Pollock Co., because under the House bill they are expressely exempt as subcontractors, that $225,000 tax which my company would pay is all that the Government would get out of the total contract. Now assume that we take 10 per cent of the net profits and assume that we make, as I hope we may, $900,000 out of our share of the work, 10 per cent of that would be $90,000.

Now, if the other two contractors for the other three-fourths of the work—that is, the Westinghouse Co. for one-half of the total and the Pollock Co. for one-fourth of the total were to earn net profits at the same rate that we hope to earn—the figures would be as follows:

We would pay 10 per cent of our estimated net profits of $900,000 which would amount to $90,000. The Westinghouse Co. would pay 10 per cent of its estimated profits of $18,000,000, which would amount to $180,000. The Pollock Co. would pay 10 per cent of its estimated profits of $900,000, which would amount to $90,000, or a total tax received by the Government upon the basis of 10 per cent of the net profits amounting to $360,000.

The CHAIRMAN. Then you figure that the Government would get more money with a 10 per cent tax on the net profits than it would

with 5 per cent on the gross receipts, on the theory that you would reach a larger sum of money to be taxed?

Mr. LAMONT. I believe that to be true, provided you do away with the 10 per cent exemption provided by section 203 and do away with the graduated scale and tax on net profits alike, whether large or small, and include subcontractors.

The CHAIRMAN. In other words, by including the subcontractors.

Mr. LAMONT. Exactly. That is the idea.

Senator THOMAS. Suppose we included the subcontractors and retained the gross receipts, the Government then would get $900,000 in your particular case, would it not?

Mr. LAMONT. Yes, sir; it would. But that seems to me not only unreasonable, but unjust.

For example, if on a contract of $10,000,000 the contractor should make a profit of $5,000,000, the tax under the proposed Houes bill of 5 per cent on gross receipts would be $500,000, which would be a 10 per cent tax on the net profits.

If, however, the contractor who made a contract of $10,000,000 was able to make a profit of only 25 per cent, or $2,500,000, the tax proposed in the House bill of 5 per cent on the gross receipts would still be $500,000, which would be one-fifth or 20 per cent of the total net profits. This demonstrates the manifest lack of uniformity and equity in the proposed tax.

But to carry this perfectly plain illustration still further: If the contractor of the $10,000,000 contract referred to were able to make only a profit of $1,000,000 on his contract of $10,000,000, the proposed House tax on his gross receipts of 5 per cent would still be $500,000, which would be one-half of his entire profits of a million dollars.

Finally, if we assume that through errors or misjudgment or misfortune or strikes or fire or delays or penalties or other bad luck a contractor in a $10,000,000 contract should make a profit of only $500,000, then the proposed tax under the House bill of 5 per cent upon the gross receipts would entirely wipe out every penny of the profits, except the possible allowance under the 10 per cent provision of section 203 relating to a 10 per cent profit upon the actual investment. In other words, the smaller the percentage of profit made by the contractor the greater the percentage of his profits he will have to pay in taxes.

The draftsman of the House bill by making the graduated scale of taxes doubtless was of the opinion that he was taking large munition profits at a larger rate than small munition profits. I have shown that the smaller the profits the larger the percentage of the profits that is to be paid out for taxes.

The CHAIRMAN. Of course, that is true. It seems that way, and I am not arguing that at this time, as to whether it is unreasonable. But I want to hear what you have to say about its being unreasonable, if you have anything to say about it. I was concerned simply to know how the Government would get more money by a 10 per cent tax on net receipts than a 5 per cent tax on gross receipts.

Mr. LAMONT. Only on the theory that as the bill now stands the subcontractors are let out, and in our particular case—and there are a great many contractors just like ourselves—we think it is only fair that we should pay only on $4,500,000. That is really all we get.

Senator THOMAS. In addition to that, the tax provided for in this bill on the gross receipts is unjust, you think?

Mr. LAMONT. Yes; I do. We are willing to pay a fair tax. We are not complaining about that; we are willing to pay, but we think it is unfair to pay on the gross. That is all I have to say, Mr. Chairman.

The CHAIRMAN. It seems to me that you gentlemen have just about covered the whole case. I do not mean by that to shut off anybody else who desires to speak, but it seems to me that is about all there is to it.

Mr. KINNEAR. There is on our desk to-night an application by the United States Government for bids for 9,000 14-inch, 2,800 14-inch, 31,500 6-inch, 185,000 5-inch, 139,529 3-inch, and a lot of small ones. That is for the United States Government.

Senator THOMAS. As far as that is concerned, the department has recommended that the ordnance branches of the Government should be exempt from the operation of this bill. I think we will probably incorporate that.

Mr. LAMONT. I desire to say that the figures I have given are round figures. They do not represent the exact figures in the contract. I will furnish with our brief to the committee a copy of our contract, with the sizes and prices per shell left in blank, and I will ask that this contract be regarded as confidential and not made part of the minutes of this hearing.

The CHAIRMAN. Mr. D. J. Gallagher desires to be heard, and the committee will be glad to give him an opportunity to present his views.

STATEMENT OF MR. D. J. GALLAGHER, VICE PRESIDENT AMERICAN BRAKE SHOE FOUNDRY CO., NEW YORK CITY.

Mr. GALLAGHER. Mr. Chairman and gentlemen of the committee, I am going to submit the most of what I want to say in the form of a brief, as my writing is better than my voice.

I have two things I want to say on the policy of the bill. It is purely a tax on labor. We are making a 9.2-inch shell. We employ about 3,500 men in making it. Those men get a minimum wage of $6 a day and a maximum of about $15 to $20. Of the cost of that shell—that is, of the selling price of that shell—$24 is for the material which goes into it, $23 is the labor, and add $16 amortization and profit, equally divided.

The raw material that goes into that shell is not taxed at all, except as it passes through us. The raw material is munition steel and copper in the shape of copper bands, which are placed on the shell.

Senator THOMAS. You know this bill proposes to tax copper?

Mr. GALLAGHER. Yes, but it taxes copper, as a matter of fact, 12½ cents for each copper band on our shells, and the copper manufacturer, at to-day's prices of copper, is making $2.22 a shell profit in excess of the profit that he ordinarily makes in normal times. I am figuring cost at 28 cents a pound, which is about to-day's market, and copper in ordinary times is about 14 cents a pound, and that extra 14 cents gives him $2.22 on each shell that we furnish more than he would make in normal times.

Senator THOMAS. Let me ask you, what is the profit to the steel men?

Mr. GALLAGHER. I will give you that, too. The copper man is, as I have said, taxed 12½ cents. The steel man, at the price to-day, gets $15 for the steel that goes into that shell at 3¾ cents per pound, which we are paying to-day.

Senator THOMAS. His profit is what?

Mr. GALLAGHER. The profit on that is $9 in excess of what they would take in normal times. In normal times they would sell that steel, and fall over themselves to sell it, at 1½ cents per pound. To-day they get 3¾ cents per pound, and if you want it very badly you pay 4 cents. At 3¾ cents they make $9 a shell more than their normal profit, and they are not taxed a sou marqué.

Now, if you would provide in your bill a tax on the net profits of the materials that go into this ordnance, you would get a great deal more money than you can get out of the tax as now proposed.

Senator THOMAS. Including raw material?

Mr. GALLAGHER. Including raw material, the raw steel.

I may say that raw steel is improperly termed raw material. It is a steel specially made for munitions purposes. It is made to a certain specification and in certain shapes, and with certain tensile strength, certain elongation, and must be exactly that or it will not be accepted. So it is special steel; it is not ordinary steel; and it gets off without one cent of tax.

As I say, the copper man makes $2.22 on every shell he makes above his normal profit that he does not pay a single cent on. Yes; he does; he pays 12½ cents under this bill on a shell.

I want to call your attention to two things, and I will make my statement extremely brief. Of this copper in this shell; that is, of the selling price of the shell, which we will say is $60, which is about it, $23 is labor and $8 is profit, and $24 is material, and $8 amortization.

Now, you can not get this tax out of your material, because that was bought before the law went into effect. You can not get it out of your amortization, because that you have got to pay for your buildings, your machinery, and your plant. It has got to come out of profit and labor. These items, $23 and $8, amount to $31, which will practically come out say about one-fourth out of profit and three-fourths out of labor, but the worst thing about this tax is this, you have left the raw material untaxed and you are taxing the finished article.

The European countries to-day are pretty well equipped for doing the finishing themselves, so much so that to-day they are not ordering any shells from 6 inches down. The shells from 6 inches down they are finishing themselves; they are buying the steel here and the copper here and taking it abroad and finishing it, and they are rapidly becoming equipped to finish large shells. The moment they understand that they can buy the raw material tax free and the finished article pays the tax, one of two things is bound to happen. Either we have got to absorb the tax ourselves, not put it on the foreign government, or they will take the raw material and cut all of our shops out of finishing, and it would deprive the best paid labor in the country to-day of a job.

Senator THOMAS. Suppose we should include a steel forged specication in the terms "munitions of war," would that not be virtually a tax on the steel?

Mr. GALLAGHER. Yes, sir.

The CHAIRMAN. That would in the future?

Mr. QUINN. If they made it on the net profit instead of upon the gross receipts on sales price and included what Senator Thomas has just mentioned, in your opinion would that bring more or less revenue?

Mr. GALLAGHER. It would bring more. Why, the steel men are making more out of each shell of abnormal profit than we are making out of the whole thing.

The CHAIRMAN. Did I understand you to say that under this bill, leaving the period of the beginning of its operation to January 1, as it is now, that you could not reach the steel?

Mr. GALLAGHER. No, sir.

The CHAIRMAN. For the reason that you purchased the steel before January?

Mr. GALLAGHER. No, sir; but I said we could not reach the steel.

Senator THOMAS. The Government could reach it, but they can not.

Mr. GALLAGHER. The Government can go where it pleases, but I can not go to the steel corporation and say, "Look here, I bought five or six million dollars' worth of steel from you. Now, I want you to help me to pay this tax."

The CHAIRMAN. But when did you buy that?

Mr. GALLAGHER. I bought most of it last fall.

The CHAIRMAN. That is what I understood you to say.

Mr. GALLAGHER. It is being delivered, you know. You would catch them on nine-tenths of it this year. I did not make any shells last year at all.

The CHAIRMAN. You may proceed.

Mr. GALLAGHER. Those two things are all I have to speak about. I should like permission to file a brief.

The CHAIRMAN. I should like to ask if you have any suggestions to make in the form of amendments to the bill that would cover the ideas you have expressed?

Mr. GALLAGHER. If I were framing the bill I would leave out the 10 per cent profit, which is now guaranteed to manufacturers. I would leave out reference to that, and I would make the tax a flat 10 per cent tax on all these munitions, together with the parts and material therein, making the tax on the profits.

Mr. QUINN. Not on the gross receipts?

Mr. GALLAGHER. Not on the gross receipts. You will get more money this way.

Senator HUGHES. You spoke of the copper man paying 12½ cents on the copper in the shells. Under the provisions of the bill the copper man pays on his gross, whether he sells to you or not?

Mr. GALLAGHER. Precisely; but there is 14 pounds of copper which goes into each shell, and the 14 pounds of copper at the rate taxed in that bill will amount to 12½ cents.

Senator THOMAS. Under the bill now all the copper is taxed whether it goes into munitions, chandeliers, or anything else?

Mr. GALLAGHER. Yes; but all copper can afford to be taxed at the present price of copper.

Senator THOMAS. If you had been on this committee you would not think so.

Mr. GALLAGHER. I know; I have had a lot of experience.

Senator THOMAS. You have stated that the steel which you use is designated for these purposes.

Mr. GALLAGHER. Yes, sir.

Senator THOMAS. And the copper you use is ordinary copper?

Mr. GALLAGHER. No; it is 99.9 per cent pure copper.

Senator THOMAS. But it can be used for other things; it is not specially designed for this work?

Mr. GALLAGHER. Yes, specially.

Senator HUGHES. Is there any way of differentiating it from ordinary copper?

Mr. GALLAGHER. No, sir.

Senator HUGHES. I was trying to call your attention to the fact that the refiner may not necessarily own the copper, but this bill places the tax on him, on all copper he handles.

Senator THOMAS. Yes; the man who owns it and the man who sells it.

Senator HUGHES. The provision of this bill calls for a tax on the copper refiner, either before or after it is refined, calls on him to pay the tax as high as 3 per cent on the gross value of that copper. The fact may be that he did not own it before he refined it or after he refined it.

Mr. GALLAGHER. Yes, sir; I think that is an unjust provision so far as that feature of the bill is concerned.

Senator THOMAS. You do not think it would be just to hold this tax on the copper without imposing it on the steel also?

Mr. GALLAGHER. No, sir.

Senator THOMAS. Or on zinc or lead?

Mr. GALLAGHER. There is not any zinc or lead that gets near one of those shells.

Senator THOMAS. But zinc and lead are used in making munitions of war?

Mr. GALLAGHER. Yes, sir; in shrapnel.

Senator HUGHES. This shell band is composed of pure copper, is it not?

Mr. GALLAGHER. Yes, sir; 99.9 per cent pure.

The CHAIRMAN. About what percentage of copper is there in one of these shells, the value of which you have stated?

Mr. GALLAGHER. About 10 per cent.

Mr. KINNEAR. About what is the size of the shell?

Mr. GALLAGHER. The size of the shell is 9.2 inches. The copper is worth, roughly, $6. The selling price is, roughly, 60 cents a pound.

Senator THOMAS. Do you prime the shells?

Mr. GALLAGHER. No, sir; we simply make the shells and they are loaded on the other side.

Mr. QUINN. What is the ratio in dollars of the cost of the steel in one of your shells?

Mr. GALLAGHER. There is $15 worth of steel which goes into the shell, at 3¾ cents per pound.

Senator HUGHES. And $6 worth of copper to add?

Mr. GALLAGHER. $6 worth of copper.

Mr. KINNEAR. I have $6.86 on a 9.2-inch shell.

Mr. QUINN. Your idea is that if they tax copper they should also tax steel?

Mr. GALLAGHER. Yes, sir.

Senator HUGHES. You do not care who they tax as long as they do not tax you?

Mr. GALLAGHER. I am perfectly willing to pay my share of the tax.

Senator HUGHES. I understand.

The CHAIRMAN. What other material goes into the shell besides steel?

Mr. GALLAGHER. Nothing at all but steel.

Mr. SCOTT. And copper.

Senator THOMAS. Also cotton?

Mr. CHAPIN. There is but a very little cotton goes in.

Senator THOMAS. Whether a small or a large quantity of cotton goes into the manufacture of munitions, if we are going to tax war materials we are going to consider that distinct from this steel, which is especially designed for a certain purpose, if we do not we are going to get into trouble.

Senator HUGHES. If you only taxed the particular cotton that went into munitions, but not if you placed the tax on the whole cotton crop on the theory that some of it went into munitions.

Senator THOMAS. That is what they are proposing to do with copper.

Mr. GALLAGHER. That is pretty tough on copper. At the same time I will say this for copper, before the war I could have bought it for 14 cents. Now they want 28 cents to 29 cents.

Senator HUGHES. Yes, and steel has more than doubled in value?

Mr. GALLAGHER. Steel is up nearly 150 per cent.

Senator THOMAS. And zinc has increased about 600 per cent?

Mr. GALLAGHER. Yes, sir.

The CHAIRMAN. I should like to ask if any of you gentlemen make shrapnel.

Mr. CHAPIN. Yes, we make shrapnel.

The CHAIRMAN. What goes into that?

Mr. CHAPIN. In the shrapnel, besides the steel casing which goes through the same work that the projectile does, the hollow part is filled with lead bullets, and resin and a little antimony.

Senator THOMAS. They are primed across the sea, are they?

Mr. KINNEAR. The primers in ours are all put in across the sea.

Mr. CHAPIN. The powder chamber is loaded with black powder poured through a tube running from the nose down to the explosion or powder chamber. There is a brass tube that connects the nose or head with the powder chamber. After the black powder is loaded there is inserted three or four small shreds of guncotton which carries the flame from the fuse down to the explosion chamber. That is all the guncotton that is used.

Senator HUGHES. Mr. Kinnear, whatever has been said in reference to the loading of the shells is true also of this process you spoke of?

Mr. CHAPIN. We have a small contract for the loading of shrapnel. We do that in our works here. That consists of first putting in a layer of lead bullets, varying in size from one-half to 1 inch, and then melted resin is poured in over that, and so on until the case is filled to weight; then a small quantity of antimony is added, which creates a dense cloud of smoke when the shrapnel is discharged.

The melted resin settles and becomes cold, firmly embedding the bullets. The explosion of the powder in the powder chamber generates gases, which throws the whole load of bullets and resin out of the shrapnel case to the target. We have nothing to do with manufacturing the fuses, however.

The CHAIRMAN. Who do you desire to be heard next?

Mr. QUINN. We should now like to have you hear from Mr. Stedman.

The CHAIRMAN. Will you please state your business, Mr. Stedman?

STATEMENT OF MR. H. E. STEDMAN, VICE PRESIDENT OF CURTIS & CO., ST. LOUIS, MO.

Mr. STEDMAN. I am vice president of Curtis & Co., St. Louis, and associated with the Wagner Electric Manufacturing Co. and with the Bucyrus Co., of South Milwaukee, and we manufacture shells for Mr. Gallagher's concern.

Mr. Gallagher brought out one point in which I have a vital interest as regards the tax on munitions. It is this, that nearly all small shells are being manufactured abroad. If we are taxed as much as 5 per cent on the gross receipts, I think there will be but one outcome; that is, the manufacture of munitions in the United States will absolutely cease and nothing but raw material will be exported, while if the tax is put on the net profits the manufacturers of the United States are perfectly willing to pay a reasonable percentage for the purpose and stay in the business. In other words, it will be killing the goose that lays the golden egg if we put such a very heavy tax on munitions.

Senator THOMAS. From what you gentlemen say, will not the business go over there in a little while because of the small caliber of the shells?

Mr. STEDMAN. No, sir; I do not think so. I have gotten this direct from the inspectors of the British Government. In England alone there are, roughly speaking, 600,000 women manufacturing these small parts here; but these big shells weigh anywhere from 150 to 450 pounds apiece. They are beyond the size that women can handle at all.

Senator THOMAS. What is the weight of the 9.2 shell?

Mr. STEDMAN. The forging weighs 350 pounds. I do not believe that the British Government is making preparations to make large shells in great numbers, on account of the tremendous cost of the lathes and the equipment necessary to do it. They are not buying those tools over here in large numbers, and to take over the business which the United States is doing they would have to buy many millions of dollars worth of very heavy tools, which they could not get quickly. It has taken these manufacturers a long time to accumulate these plants.

Senator THOMAS. Does that not rather contradict the position you took a few minutes ago? If it is going to cost them so much to get this machinery to make these shells, will they not be obliged to come here?

Mr. STEDMAN. But if they have to pay that very heavy tax they can afford to buy that machinery, and we can well afford to sell it to them.

Senator THOMAS. But it would take some time to equip their shops.

Mr. STEDMAN. But if we had to pay that tax it would be so heavy

that we could hardly afford to pay it and compete with them, and we would have to shut down our shops and probably sell our equipment to them. The proposed tax is so heavy that I think it would simply result in the cessation of that kind of business here.

Senator THOMAS. How many men would be deprived of employment on that account in this country approximately?

Mr. STEDMAN. Some of these other gentlemen are more familiar with that than I am.

Senator THOMAS. I want only a rough guess. I do not expect you to be very accurate.

Mr. STEDMAN. I should say 25,000 or 50,000.

Mr. KINNEAR. More than that. The Westinghouse Co. has 23,000 working in their shops.

The CHAIRMAN. Not all of those are engaged in the manufacture of munitions, however?

Mr. STEDMAN. Not all of them, but a large percentage of them.

Mr. GALLAGHER. Probably 100,000 in all. I employ now 3,500, and I am arranging to employ 1,500 more.

Senator THOMAS. Where is your place of business?

Mr. GALLAGHER. Erie, Pa., sir.

The CHAIRMAN. What per cent of the 3,500 men would be engaged in the manufacture of these munitions?

Mr. GALLAGHER. At my plant, all of them; they would make nothing else.

The CHAIRMAN. What percentage of yours, Mr. Stedman?

Mr. STEDMAN. Myself and associates, probably 1,500. That is not our particular line of manufacture.

STATEMENT OF MR. JOHN QUINN, 31 NASSAU STREET, NEW YORK CITY.

Mr. QUINN. Mr. Chairman and gentlemen of the committee, now that these gentlemen who are actually parties to these contracts, whether as principals or subcontractors, have stated their facts so clearly before you, I wish to be heard regarding certain general considerations. Primarily, I consider this tax as wrong, objectionable, vicious in its nature. The two essentials of any just tax are, first, from the Government's point of view, that it should be reasonable, definite, and certain, and secondly, from the taxpayer's point of view, that it should be equitable in its burden and distribution. This tax violates both of these principles. You may get these munition profits wholly or largely or greatly this year, but not next year. I know nothing more vicious or unfair than such a proposed tax upon gross receipts. On principle I am against singling out a particular business of this sort to the exclusion of other business and taxing its gross receipts. I believe that the revenues of the Government should be made up of taxes upon imports, not including raw materials, and upon the incomes and from corporation taxes. Those two taxes—the income and the corporation tax—are equitable and fair. Once the Government begins the business of taxing particular industries merely because those industries are for the time being more profitable than other industries, it embarks in a policy of confusion and possible injustice. While therefore I am fundamentally opposed to a tax upon munitions, and

while I think that the revenues of the Government should be made up from the proper adjustment of the normal income tax and normal corporation tax to the needs of the Government, which will produce revenues required not only for this year but for next year and for the year after that, if it is the sense of this committee that there should be a munition tax then I have three outstanding recommendations to make regarding the House bill:

First. I should emphatically strike out the provision taxing gross receipts, and tax net profits a fair amount.

Secondly. I should strike out the sliding or graduated scale of taxation and make it a flat rate on net profits.

Thirdly. I should strike out the unfair section 205 excluding subcontractors and make the tax apply to the net profits of all manufacturers of munitions, whether principals or subcontractors.

From the study that I have given to this matter I am strongly of the opinion that the bill should be amended by striking out the sliding scale. That makes the bill more complicated. You have heard the gentlemen who have addressed the committee tell that small contracts yield a larger percentage of profits than the large contracts proportionately. There is no logic, there is no sense, and I think, there is no fairness in providing a less rate of tax for the small contractors than for the large contractors. The bill would be very much simplified by striking out not only the provisions about gross receipts and making the tax upon net profits, but by striking out the sliding or graduating scale of taxes and making it a flat tax or rate of tax upon all net profits.

Senator HUGHES. A flat tax?

Mr. QUINN. A flat tax. There is an advantage in that from the standpoint of the Government. These gentlemen who are doing this thing have expressed their opinion that if all contracts are included, subcontractors as well as principals, if a flat rate of, say, 10 per cent on the net profits is provided, and if we strike out the 10 per cent exemption on capital invested, and particularly if the graduated and increased amounts are dropped out, and if the Government imposes a 10 per cent tax upon all net profits upon all munition manufacturers, whether as principals or subcontractors, these gentlemen who have taken and who are fulfilling these contracts have expressed to the committee their opinion that the Government will make about what it is expected will be made in this way proposed in the House bill. That would be the fairer way to do it, and from the Government's point of view I think would be the wiser thing. The business men in this country have been educated to making returns upon their net profits. We have got a line of decisions upon the returns of net profits under the old corporation tax and under the present corporation tax and the income tax law which are part of the present revenue law. If the tax be upon net profits, we will not be required to interpret and to construe and to litigate new laws. The business men are educated on the subject of returns of net profits. When the Government goes into the business of taxing gross receipts and then provides for an exemption in cases where the net profit is less than 10 per cent upon the capital invested, the whole law becomes not only novel but uncertain, and bristles with litigation.

It is provided in section 203 of the House bill as follows:

That if the net profits derived during such year from the sale or disposition of such articles manufactured in the United States is less than ten per centum no tax shall be levied, collected, and paid.

That would, in my opinion, lead to all sorts of litigation. Net profits must be gauged upon investment. When you get to that question of investment you bring in questions like the cost of plant, amount of working capital involved, depreciations amounts charged off, proper amount of amortization, and all sorts of questions. It is very much like the litigation over railroad rates and whether they are confiscatory or not. There you have the railroads claiming that the rate is confiscatory and stating the amount of their bonded indebtedness, their capital stock, and so on. On the other hand you have the Government or State claiming that it is not confiscatory and saying that the amount of the bonded indebtedness and stock are excessive and out of all proportion to the actual worth of the property. The whole question bristles with litigation and the Government will have protests and litigation and uncertainty if it should keep in what I have called the 10 per cent commission. The question is what is to be the denominator, the amount of the original investment? Is it to be the book value of the plant? Should it be based upon the actual value of the plant? That provision will bring in all sorts of questions, such as amounts to be charged off or for depreciation, and so on. There will be litigation lasting over one or two or more years.

If the bill is amended and the tax upon "gross receipts" is stricken out and the tax put upon net profits, then there is no necessity for that 10 per cent exemption clause and it should come out. That will result in a great simplification of the bill in two respects: First, you strike out the sliding or graduated scale in the way of taxation, and, secondly, you strike out the 10 per cent exemption clause.

That 10 per cent exemption clause is the first sentence in section 203. If you amend the House bill by striking out the provision for a tax upon gross receipts and provide for a flat tax upon net profits, you would make this law quite consistant with the corresponding provisions of the income tax law and the corporation tax law, and the other provisions of the present House bill in sections 203 and 204 as to how net profits shall be computed will be admirable and fit the case exactly. I have no complaint whatever to make as to the provisions of section 204 designed to determine how net profits are arrived at. What I suggest is, that the graduated scale be eliminated, that the tax be upon all munition makers, subcontractors, as well as principals, to the actual extent of their manufactures, that the graduating or sliding scale of taxes be omitted, and then out will come the 10 per cent exemption clause and you will have a fair tax bill, a simple tax bill, a just tax bill, a plain tax bill.

The CHAIRMAN. When you come to profits——

Mr. QUINN. Your bill defines the net profits perfectly. It says just how they are arrived at.

The CHAIRMAN. All that confusion you speak of arises when you speak of net profits?

Mr. QUINN. No, sir; it arises from taxing gross receipts and at the same time from attempting to exempt those whose net profits are

less than 10 per cent. You get rid of that if you take out that 10 per cent exemption and simply make it the flat tax on net profits.

Senator THOMAS. The net profits, whether it is 1 per cent or 100 per cent?

Mr. QUINN. Exactly. Mr. Stedman, when coming down here to-night, gave an illustration which I should like to have him give to the committee now. The provision in section 203 giving a 10 per cent exemption looks fair, but the fact is as I am informed that no company will take the risk of embarking in this munition business with a margin so small as 10 per cent of their investment.

Let me illustrate again how the House bill would leave manufacturers up in the air and lead to long litigation. In the case of Mr. Lamont's company—there are two conflicting points of view. One puts emphasis upon the words "gross receipts" and the other puts emphasis upon the words "contractor" and "subcontractor." The only kind of receipts I know of are "receipts," yet Mr. Lamont demonstrated to you that his receipts were only one-fourth of the total gross contract. Therefore he would argue that he should pay only on that one-fourth. On the other hand, the internal revenue man may say: "No, you are the principal contractors. It is a mere subterfuge that the subcontractors, so named in the contract, are being paid direct and not through you. I will tax you upon the whole amount of the $18,000,000 contract because you are the principal contractor, and because Congress intended to exclude all subcontractors."

There you have a conflict of views at once. Mr. Lamont's company will be up in the air and in uncertainty for a couple of years as to whether they are to pay 5 per cent on their actual receipts of $4,500,000 or 5 per cent on the total contract of $18,000,000. That question will be decided one way or the other. Such uncertainty is bad for the Government. But it would be almost ruinous for a company. A law that leaves such vagueness and uncertainty is, I respectfully submit, a badly drawn law. You will get rid of all that if you make the tax upon the flat net profits, as admirably defined in the rest of the law.

But there is another ambiguity or uncertainty in the House bill.

Mr. GALLAGHER. May I interrupt you for just one moment?

Mr. QUINN. Yes, sir.

Mr. GALLAGHER. On this very point, I will take the case of my own company, to show you that you will get as much or more from net profits as you will from gross receipts. Five per cent of our gross receipts, we will say, would be $450,000. We are allowed 10 per cent net profit under that bill, which is on the investment—or roughly the investment would be about $6,000,000. I am allowed net 10 per cent on my investment before any tax is levied. That would be $600,000. Now we shall not make $800,000 on the contract, net profits; we will make about $700,000 net, getting perhaps 5 per cent on the gross receipts. So you will get about $100,000 over and above the 10 per cent we are allowed, and on the net profit say $800,000 you would get 10 per cent, which would be $80,000, therefore you would be within $20,000 one way or the other.

Senator THOMAS. While you are on your feet, Mr. Gallagher, I should like to ask you a question about the copper you use in these

shells. Is that copper prepared by specifications, or do you buy for a long period and then fashion it yourselves?

Mr. GALLAGHER. We buy the raw material and have the bands fashioned for us roughly by a contractor, then we put them on the shell and turn them to the required shape by lathes.

Mr. QUINN. Coming back to this 10 per cent exemption again, in the bill as now drawn, the first sentence of section 203, I think I can demonstrate that that will not accomplish the object that the draftsman had in mind. The first sentence in section 203 reads as follows:

> That if the net profit derived during such year from the sale or disposition of such articles manufactured in the United States is less than ten per centum, no tax shall be levied, collected, and paid; and if the payment of the tax would reduce such net profit below ten per centum, the tax to be levied, collected, and paid shall be equal to the net profit in excess of ten per centum.

Now the draftsman of that provision evidently thought that he was saving the small manufacturer; but, as a matter of fact, I am told that no prudent manufacturer would go into the munition business or undertake a munition contract with a margin of only 10 per cent profit. That is my information from these practical men. I think every practical manufacturer will agree with that.

Senator THOMAS. It is too small?

Mr. QUINN. It is entirely too small. The risk in the business is too great. The munition business is a new business in America. It has risks, and profits are not always certain. Inspection is very severe. Lots or parts may be rejected by the inspectors and cause loss to the manufacturer. Is not that true, Mr. Lamont?

Mr. LAMONT. I suspect that to be true.

Mr. CHAPIN. At least 10 per cent is waste.

Mr. QUINN. There are often three or four separate inspections. The inspectors may throw a large quantity out and a manufacturer would not figure a contract so closely as 10 per cent. I am of the opinion, therefore, that that 10 per cent exemption would not benefit the manufacturer greatly. The draftsman of that section evidently thought he was saving a minimum. The profits will, I should say, generally be more than 10 per cent, and therefore there would be practically no substantial exemption under that provision. In short, that provision is designed to save a 10 per cent profit upon capital invested, but as no prudent munition manufacturer would take a munitions contract with so small a margin of profit that provision in the House bill would practically be of little or no benefit to the manufacturer.

Senator THOMAS. I understand, exactly.

Mr. QUINN. In other words, the 10 per cent margin is so small as to be practically negligible. No wise or discreet manufacturer would take a contract that came within that margin. If the Senate adopts our suggestion and amends the bill so as, first, to tax net profits; secondly, to eliminate the graduated scale of taxation and particularly to include subcontractors as well as principal contractors, the only reason for putting in the 10 per cent exemption clause, guaranteeing a profit of 10 per cent upon capital invested, loses its force, and by striking out that provision many possibilities of confusion, uncertainty, and litigation are avoided.

Senator HUGHES. Let me say this: A gentleman came to me and said that all the profits he had taken thus far had gone back into his plant.

Mr. QUINN. Yes, sir.

Senator HUGHES. Now, that 10 per cent is going to save a man like that, is it not?

Mr. QUINN. I am not so certain about that. I have had some considerable experience with revenue officers and with the way they construe the law. They generally regard themselves as champions of the Government. My experience is that they resolve every doubt or almost every doubt in favor of the Government and against the taxpayer and leave the taxpayer to protest and fight it out in the courts. I have had some experience in the construing of tariff acts, and my experience is that the appraisers and customs officials construe the law most strictly against the importer or owner of the article imported, and oftentimes they seem to treat protests as though they were immoral and the person protesting as though he was doing something wrong. That is why in drawing an act of this sort it is of immense advantage to the taxpayer, and it is also eminently fair that the law should be plain and clear in its provisions.

I fear that if the 10 per cent net profit provision is retained there will be litigation. There will be questions as to what should be charged to the cost of the plant or to amortization or to depreciation. The danger is that however fair a manufacturer may desire to be in charging so much of his gross to plant, so much to depreciation or wear and tear, and so much to amortization, once he enters a certain sum in his books as the gross receipts, that it will be nailed, or if he is badly off that the clause allowing the 10 per cent net profit on his investment is to be invoked, there will be all sorts of questions as to what that net profit is. The question of working capital is always a troublesome one, for it brings in the question of what is permanently employed and what is temporarily invested in the business.

Senator HUGHES. He would save 10 per cent, anyway?

Mr. QUINN. Practically they do not get down to such a narrow margin as 10 per cent.

Now, briefly, if your committee is to recommend a tax upon munitions at all, I think the House bill should be amended in three important particulars:

First. I would strike out the sliding scale or the graduated tax. It is, in my opinion, inequitable. There is no reason for it. The reason or the argument that applies in regard to the taxation of large fortunes and inactive wealth, accumulated wealth, a tax upon men who merely collect dividends upon their stock or coupons upon their bonds and are not taking any risks, does not apply to money actively engaged in business, which is giving employment to labor and keeping money in circulation and building up the resources of the country. In one case there is practically no risk. In the other there is risk. The reasons which apply to the graduated income tax therefore do not apply to an excise tax upon business. So, also, the reasons which apply to a graduated inheritance tax do not apply to an excise tax on active business. The practical men engaged in this manufacture who have been heard here this afternoon have told you that those small contractors, ranging from, say, $50,000 or $100,000 or $150,000 to $200,000, or even more, make a somewhat larger percentage of profits than the larger contractors. Therefore I can see no reason in justice or in sound public policy why the graduated provision should be inserted in the bill at all.

Senator HUGHES. What kind of contracts are those small contracts?

Mr. QUINN. There are a good many of them with small concerns.

Mr. GALLAGHER. They are such contracts as for fuses, detonators, and time magazines.

Mr. QUINN. They should not be excluded, in all fairness. Besides, if you took in all manufacturers of munitions, both as principals and subcontractors and irrespective of amounts, that is, leaving out the sliding scale in the House bill, you would get, I am told, a larger revenue, and it would be a more fair and equitable tax than that proposed in the House bill.

Senator HUGHES. There is no difficulty, I suppose, in locating any of these?

Mr. KINNEAR. No, sir; there are not very many of them. This is not like the general tax. A few hundred would cover the munition makers.

Mr. QUINN. I have a concrete suggestion in regard to that. I would take section 201, beginning with line 18, and after the words "every person manufacturing" I would insert the following: "either directly or as a subagent, subsidiary concern, or a subcontractor," so that it would read as follows: "Every person manufacturing, either directly or as a subagent, subsidiary concern, or a subcontractor," etc. Then I would strike out the tax on "gross receipts" and insert the words "net profit," so that after the subdivisions (a), (b), (c), and (d) it would read as follows:

Shall pay for each taxable year an excise tax equivalent to ten per centum of the net profits during such year from the sale or disposition of any of such articles manufactured in the United States.

Striking out the sliding scale would take out lines 3 to 10, inclusive, on page 62. I would then eliminate the first sentence of section 203 (lines 13 to 19, inclusive, on page 63 , and I would amend section 205 as I shall explain presently.

Senator THOMAS. You would leave the other language as it is?

Mr. QUINN. After striking out the first sentence of section 203, beginning with the words "that if the net profits" and ending with the words "net profits in excess of ten per centum" page 63, lines 13 to 19, inclusive, I would let the rest of that section stand, for the remainder of that section and section 204 contain quite unobjectionable provisions as to how the net profits shall be arrived at.

I should change the last paragraph of section 203 so as to read substantially as follows:

The duty of establishing to the satisfaction of the Commissioner of Internal Revenue the amount of net profits on the articles referred to in said subdivisions (a), (b), (c), and (d) of section two hundred and one shall devolve upon the person subject to the tax.

But perhaps it would be more scientific if the 10 per cent exemption, which constitutes the first sentence of section 203, is to be dropped, to strike out entirely the last paragraph in said section 203.

Now, I have dealt with the elimination of the graduated tax on gross receipts, or what I may call the ascending scale of taxes, which is really a tax on "big business," penalizing large concerns actively engaged in business in proportion to the amount of their contracts, and I have also dealt with my second suggestion that the 10 per cent. exemption clause relating to net profits should be stricken out.

This brings me to the third amendment, and that is the complete elimination of what I can not but term a grossly unfair provision in the House bill exempting the subsidiary concerns and subcontractors. No reason in the world exists why manufacturers of munitions who are subcontractors should be excluded from the operations of the law. But I should amend section 205 in a slightly different way from that suggested by Mr. Kinnear. I should provide substantially as follows:

Any person manufacturing any of the articles specified in section two hundred and one, either as a subsidiary concern or as a subcontractor, shall be liable to the tax herein imposed upon the net profits of munition manufacturers as herein provided. Every such subsidiary concern and subcontractor shall make like returns as are herein provided to be made respecting such principal contractors. In the return herein provided to be made by all persons manufacturing the articles specified in section two hundred and one, every such person shall specify the name of the person with whom he has any subcontract, the date or dates of each contract, the amount of each such contract, and which of the articles embraced in section two hundred and three are the subject of each such contract. Failure, neglect, or refusal by any person who is a principal contractor to make said return respecting any person manufacturing any of the articles specified in section two hundred and one through the agency of a subsidiary concern or a subcontractor shall render the principal contractor liable to pay the tax upon net profits upon the total amount of his principal contract.

In other words, I think the law should provide that all persons acting as principal contractors shall, as Mr. Kinnear has suggested, in the return provided for in the act, give the name of the subcontractor, the date of the contract, the amount of the contract, the subject matter of the contract—that is, the things to be manufactured—and the location of the subcontractor, and should provide that the subcontractor shall make a return of his net profits upon the articles manufactured by him in the United States embraced within section 201.

Senator HUGHES. Make them in both returns?

Mr. QUINN. If the law is thus amended, the Government will get the fact of the manufacture by such subagent or subcontractor in both returns; in the return of the principal contractor the general details will be given, and in the return of the subagent or subcontractor he will have to give his net profits arrived at as provided in sections 203 and 204 of the act.

Now I come to another feature, and that is to the word "parts" in subdivision (d) of section 201 which was dealt with by Mr. Gallagher. The words "parts" may lead to uncertainty. Mr. Gallagher and the other gentlemen here all feel that this tax is really a tax upon labor. If the word "parts" be construed in a technical sense then it becomes more of a tax upon labor. If the word "parts" be given a broad interpretation so as to include anything that is generally fitted but not actually finished, then it might leave out such ingredients as steel and copper.

Senator HUGHES. Will you kindly read the language?

Mr. QUINN. The relevant portions of section 201, lines 18 to 25, inclusive, page 61, read as follows:

Every person manufacturing (a) cartridges, loaded or unloaded, caps, or primers; or (b) projectiles, shells, or torpedoes of any kind, including schrapnel, loaded or unloaded, or fuzes; or (c) firearms of any kind, including small arms, cannons, machine guns, rifles and bayonets; or (d) any parts of any of the articles mentioned in (a), (b), or (c), shall pay for each taxable year an excise tax equivalent to the following percentages of the gross receipts during such year from the sale or disposition of any such articles manufactured in the United States.

I take it that one of the essentials of a just tax is that it should be as certain as anything human can be, that it should be definite, and as clear as possible, both from the Government's point of view and from the point of view of the business man to be taxed. That little word "parts" is likely to lead to litigation and uncertainty. It is a question of policy for the Senate to consider whether they should leave in the word "parts" alone with that uncertainty or whether the phrase should be amended so as to read "parts or material."

Senator HUGHES. The difficulty about both of those, Mr. Quinn, is a man may be making an article; possibly he might make an article which would afterwards be made into a munition, but when he leaves it it is not a munition, or may not be manufactured into a munition; and it seems to me that your suggestion would add to the confusion by broadening the number of articles that might fall into that class. If we could eliminate the word "parts" altogether, instead of broadening it, it seems to me we add to the certainty of the legislation. Just recently a man came here to see me who says his finished product is gun cotton, which is the base of collodion and celluloid films for moving pictures, yet as he leaves it it can also be used as a munition.

Mr. GALLAGHER. But if the munition manufacturer, making his return, specifies the makers of the parts or the materials, it would be perfectly easy to levy the tax on those parts.

Mr. KINNEAR. And that would include copper.

Senator HUGHES. You could catch copper that way.

The CHAIRMAN. Right here I should like to ask a question. This bill proposes a tax on all copper. Now, suppose we strike that out and leave copper on a par with steel, zinc, and other materials, how would we trace copper that went into munitions?

Mr. GALLAGHER. You trace it in this way, Senator: I make 9.2-inch shells, and I buy my copper, some part of which I furnish to the Washington Steel & Ordnance Co., and they make it into bands, rough bands. I would make a return to the revenue officer that I bought so many thousand tons of steel from the Steel Corporation, which went into these shells, and I bought copper from this refinery and that refinery, and so on. The revenue officer would have in my return the exact statement of what to tax.

Mr. QUINN. I am merely pointing out the possible ambiguity and uncertainty there may be caused by the word "parts." If, as has been stated here, substantially as much revenue would be produced by levying the flat tax upon net profits upon all munitions manufactured in this country and cutting out the graduated tax and making it apply to all manufacturers, irrespective of the amount or volume of their business, and if all subcontractors and subagents manufacturing munitions be included in the taxable class, I submit the question is a broad one of public policy whether the word "parts" should be included at all or whether the phrase should be "parts and material." Or, again, whether if it would lead, as Senator Hughes has suggested, to details, the phrase should be "any parts consisting of copper or steel."

Senator HUGHES. It would not make a very long list if you named every part?

Senator THOMAS. If you do that you might leave out something. Antimony is used.

Mr. QUINN. I am driving at Senator Hughes's point, whether you will hit a great many small people, but I do not think the small people object to paying a tax on their profits.

Senator HUGHES. I was not talking about small people; I was talking about the people not engaged in munitions manufacture.

Mr. QUINN. They would not come in.

Senator HUGHES. They would under this clause, the man I speak of, the manufacturer of gun cotton not as a munition of war.

Mr. QUINN. If Mr. Gallagher's suggestion should be followed and the munition manufacturer should specify in his return the maker of the "parts or material," then I do not think the manufacturer you have in mind would come in.

Senator HUGHES. Yes; he would.

Mr. QUINN. The language is "or any of the articles mentioned in"——

Senator HUGHES. In another section gun cotton is taxed as an explosive. This gun cotton is an explosive, and so regarded, whether it goes into munitions of war or not; on every pound of that he made for the purpose of having somebody else manufacture the films, or for anything else like that, he would pay that tax, and would pay such a tax on it that it would destroy him, it seems to me.

Mr. QUINN. If you are afraid that the amendment of the law from the provision taxing net profits will not bring sufficient revenue, then I merely suggest the possibility of including parts consisting of steel or copper. Copper is, as you have been told, one of the large ingredients. If the tax upon copper provided elsewhere in this bill should be stricken out of the bill and if it is determined to include copper, it would seem to be wise also to include steel. But that is a large question of public policy for the committee to determine. I am directing their attention only to the possible ambiguity of the word "parts." The bill can be amended so as to read "parts or material." I admit that the word "material" is a very general one. I admit that it might lead to uncertainty. On the other hand, the material could be specified so as to read "parts consisting of copper or steel."

Senator THOMAS. From Mr. Gallagher's statement I can see a reason why steel should be included which would not apply to copper.

Senator HUGHES. But you do not need Mr. Gallagher's differentiated steel proposition to catch copper if you are going to make them both returned. Mr. Gallagher has to make a return of the amount of copper he bought; it does not matter what kind of copper it is, and if the other fellow is going to return the amount of copper he sold to Mr. Gallagher you have got a check on it, so it is easy enough to catch it in that way.

Mr. KINNEAR. On the steel you can catch it by the steel manufacturer.

Senator HUGHES. They can get it from you, too.

Mr. CHAPIN. Primarily from the contractor.

The CHAIRMAN. Does that cover what you wish to say, Mr. Quinn?

Mr. QUINN. That is all, if the chairman and the members of the committee please, I desire to say in my oral argument. Our chief contention is that the tax upon "gross receipts" is unfair, particularly as it is retroactive and dangerously near the line of unconstitutionality. Secondly, the exemption of subagents and subcontractors whose profits may be larger, and in the one case stated here to-night are much

larger, probably three times larger than that of the principal contractor—the exemption of such subagents or subcontractors is unfair, inequitable, grossly unjust, and called for by no possible reason of public policy. Thirdly, I should strike out the graduated or sliding scale tax and fix a tax upon net profits upon all manufacturers of munitions in this country, irrespective of the amount of their manufacture. All manufacturers are included now in the bill. If a concern manufactures only $50,000 of munitions, under the bill as it is now drawn he would have to pay 2 per cent upon his gross receipts. If the bill be amended so as to tax net profits and the sliding scale be abolished it will hit the same number of manufacturers but will bring in a larger revenue.

I will ask leave to file a brief in which I will embody my specific suggestions as to amending the act by sections and lines of the printed bill.

The CHAIRMAN. I understand you are going to file your suggestions as to amendments?

Mr. QUINN. Yes, sir.

Senator THOMAS. Let us have that as soon as you can.

Mr. QUINN. Will Saturday of this week or Monday of next week be all right?

The CHAIRMAN. That will be satisfactory.

Mr. KINNEAR. I have filed mine, with the definitions.

Mr. QUINN. I will give you the exact suggestions. I will have them before you on Saturday, or Monday of next week.

Senator HUGHES. I would pay some attention, too, to the proposition of trying to catch these materials as they are furnished. We like to have other people do our work, you know.

Mr. QUINN. I will look at it as though I were a Senator for the moment. As to cartridges, I think it is simple there.

Senator HUGHES. It is simple, except in the case of steel.

Mr. QUINN. "Caps or primers"—"projectiles, shells, or torpedoes, including shrapnel, loaded or unloaded" (that is pretty simple), or fuses. The main thing would be under (c) firearms of any kind, small arms, etc. The chief difficulty I see is in regard to small arms.

Senator THOMAS. Why?

Mr. QUINN. When you come to a gun, say, there may be a little wood. There might be a small tax on the man who furnishes the stock of the gun.

Mr. SCOTT. The stocks of the guns?

Mr. QUINN. It would be a small thing. It would not be vexatious, it seems to me. People may differ about it. You put in the parts or material, and then your contractor gives the name of the subcontractor who furnishes any material, and all that man pays is on his net profits. That is not vexatious.

Senator HUGHES. That is what I wanted to call attention to.

Mr. KINNEAR. There are a few parts; you add the name and then that is all there is to it as far as that is concerned.

Senator HUGHES. Yes; I thought so; there are so few you might do that.

Mr. KINNEAR. Take the copper; your idea is to trace it how far back? We use copper. If a man buys it from another man and he buys it from the refiner, how far back do you want to trace it?

Senator HUGHES. That opens a new field.

Mr. QUINN. I have said here where the munition man does this through a subcontractor, the subcontractor makes the same return.

Senator THOMAS. Why is not a motor truck, sold to a belligerent, just as much a munition of war as these other items?

Mr. QUINN. It is as much as any of them.

The CHAIRMAN. So is a Missouri mule.

Mr. GALLAGHER. So is barbed wire.

Mr. QUINN. The answer to that is, I should say, that you can not levy an export tax and limit it only to trucks exported. It would be unconstitutional, and to make it on exports you would get Henry Ford and other eminent motor manufacturers, if not peace propagandists.

Senator THOMAS. Your munitions are exported also, as far as that is concerned.

Mr. QUINN. You have a question there.

Senator THOMAS. If the Pierce Co., for example, sells a thousand trucks to the Russian Government, why is it not a munition of war that we can tax in a bill of this kind just as we can tax Mr. Gallagher's product?

Mr. GALLAGHER. You can.

Mr. QUINN. The only answer to that is that you do not limit it to exports. If you make the same thing for trucks, you would make it general, and then you could do it. I do not see myself why automobiles should not come under this classification.

Senator THOMAS. If this bill imposes a duty on exports by an excise tax levied upon the man who sells a truck to the Russian Government for use in the war, it ought to be just as liable to taxation as Mr. Gallagher's shells.

Mr. QUINN. It would produce an enormous revenue, except you would have to make it general; you would have to apply it to trucks sold in this country.

Senator HUGHES. You would have to apply it to all trucks?

Mr. QUINN. Otherwise it would be unconstitutional.

Senator THOMAS. I do not think so. I do not think if you buy a machine it is a munition of war. If the Czar of Russia buys it for his army, it is.

Senator HUGHES. How are you going to determine?

Mr. QUINN. If it is an army contract. I think you get the larger munition manufacturers here under the definitions of subdivisions (a), (b), (c), and (d), "cartridges," "shells," "projectiles," "torpedoes," "machine guns," "rifles," "bayonets," and "cannon." I suppose the profits upon automobiles and motor trucks have been in many cases as much as the profits upon munitions. If a tax is to be levied upon a particular business because it is more profitable than other kinds of business, then I do not see why automobiles and motor trucks should not be singled out and bracketed with munitions, with largeness of profits as the golden link that binds these wealth-producing and tax-valuable businesses together. The answer may be that a general tax upon automobiles and motor trucks would not be popular; but of course the popularity or unpopularity of a tax apart from its equity should not be a controlling feature. I believe that Senator Thomas is logical and right when he says that army trucks should be taxed just as much as munitions of war, for the profits upon them are perhaps just as great if not greater, the same as saddles and bridles

and the same as horseshoes and wire and leather and oil and steel and fifty other articles whose cost has gone up because of the demand occasioned by the war, all of which are used in war by soldiers and are akin to munitions and logically should be made liable to the tax.

I wish, Mr. Chairman and members of the subcommittee, to express to you the sincere appreciation of the openmindedness with which your committee has considered our views. It is regrettable that these concerns interested did not have an opportunity to take this matter up before the Ways and Means Committee of the House acted. I feel sure that had they done so some of the provisions of the proposed tax on munitions would not have been passed by the House. We have faith that the Senate will amend the bill so as to take away the unjust and burdensome provisions of the tax upon gross receipts and will substitute the more just and equitable tax upon net profits, which will be in line with the provisions of the corporation tax which have been interpreted by the courts for some years, which will result in more certainty, greater equity and fairness, and that above all the Senate will eliminate the grossly unfair and uncalled-for provision making the principal contractor pay the tax which justly should be paid by the subagent or subcontractor.

The CHAIRMAN. The next gentleman to present his views is Mr. G. E. Scott.

STATEMENT OF MR. G. E. SCOTT, VICE PRESIDENT OF THE AMERICAN STEEL FOUNDRIES, CHICAGO, ILL.

Mr. SCOTT. Mr. Chairman and gentlemen, I should like to say just one word, and that is that practically every line of business in the United States has benefited directly or indirectly through the war in Europe and in the number of exports that have been sent over there for war supplies, which has made money in this country plentiful, and which has increased the sale of ladies' shirt waists and men's garters and chewing tobacco and everything else consumed in this country. They have all benefited directly or indirectly through the prosperity that partly comes from the large exportation of materials, food products, and supplies that we are furnishing to the warring nations in Europe. Now, as they all have benefited, would not the most equitable way to distribute the tax be to put it on incomes and corporations, and then everybody would stand their share?

Senator THOMAS. We are doing that now.

Mr. SCOTT. Well, you apparently have not done as much of it as you feel the necessity for, because you need more money than that will provide, but that would be a very equitable way to get as much as you do need to put that figure up as high as you have to.

Senator THOMAS. You mean to increase the proposed percentages of the tax on incomes and inheritances as a substitute for this munition tax?

Mr. SCOTT. On corporations and income tax. The corporation tax and the normal income tax has been raised from 1 to 2 per cent. If you raise that to 2½ per cent on both corporations and normal incomes it will yield you a great deal more than these special taxes and be distributed among all the people that have really benefited by the export of munitions.

Take the woolen people. They have been tremendously prosperous on account of the large amount of woolen cloths that have been shipped abroad, and the shoe people and the leather people and all.

Mr. QUINN. Last year the Government got $56,939,930 out of the corporation tax.

Senator THOMAS. Do you mean out of the corporation tax exclusive of the income tax?

Mr. SCOTT. Just the corporation tax.

Mr. QUINN. The corporations this year generally, as Mr. Scott said, are making such vastly increased profits that that figure will probably be twice as much.

Mr. SCOTT. It will be a good deal more than that.

Mr. QUINN. It will probably be three times that much. Now increase that by two. If I were a Senator I would not attempt this sort of thing, but I would see what my figures were and would make it two and one-half times.

Mr. GALLAGHER. Or raise your income tax. Our income tax in this country, and I pay a pretty good one, is not a flea bite to what it is in Europe. I have plenty of friends in Europe who pay 33⅓ per cent income tax.

Mr. KINNEAR. The same conditions do not exist here, Mr. Gallagher.

Mr. GALLAGHER. No.

Mr. KINNEAR. They are paying 50 per cent now, but I hope we shall not have that condition.

Mr. GALLAGHER. I hope not, but I was merely showing that it was very low.

Mr. SCOTT. That will yield a revenue this year, next year, and all the time, while the munitions tax probably will yield a revenue this year but not very much next year. Is that not your judgment?

Senator THOMAS. If I had my way I would cut this tax down 50 per cent and cut this Navy bill down 50 per cent also.

The CHAIRMAN. Gentlemen, we have been very glad to hear you.

(Thereupon, at 9.45 p. m., the committee adjourned to meet at the call of the chairman.)

TO INCREASE THE REVENUE.

(MUNITIONS OF WAR.)

MONDAY, JULY 24, 1916.

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

The subcommittee met, pursuant to call, at 8 o'clock p. m., in the room of the Committee on Foreign Relations, Senator William J. Stone presiding.

Present: Senators Stone (chairman) and Thomas.

Also present: Senator du Pont of Delaware, Senator Smith of Maryland, and the following gentlemen from the State of Delaware: Gov. Charles R. Miller; Hon. Andrew C. Gray, attorney at law; Thomas F. Bayard, Esq., attorney at law; Henry P. Scott, Esq., banker; Hon. Josiah O. Walcott, attorney general; Dr. Harrison W. Howell; Robert H. Richards, Esq., attorney at law; John S. Rossell, Esq., banker; James J. English, Esq., postmaster; J. Chester Gibson, Esq., banker; Irenee du Pont, Esq., of the Du Pont Powder Co.; William B. Megaer, Esq., president of the Chamber of Commerce of Wilmington, Del.; M. D. Murphy, Esq., manufacturer; Joseph Bancroft, Esq., manufacturer; H. T. Graham, Esq., merchant; C. H. Ten Weeges, merchant; Clarence C. Killen, of the chamber of commerce; Charles C. Kurtz, banker; John P. Laffey, Esq., attorney at law; C. B. Landis, Esq., of the Du Pont Powder Co.; and G. G. Rheuby, Esq., representing the Hercules Co.

The committee resumed the consideration of the bill (H. R. 16763), to increase the revenue, and for other purposes.

The CHAIRMAN. Gentlemen, the committee will be glad to hear you and you may arrange the order of your speaking.

Senator SMITH of Maryland. Mr. Chairman, I take pleasure in introducing Mr. H. Bruce, representing the Bartlett Hayward Co., of Baltimore, Md.

STATEMENT OF MR. H. BRUCE, OF THE BARTLETT HAYWARD CO., BALTIMORE, MD.

Mr. BRUCE. Mr. Chairman, we are in accord with the proposition that taxes should be so levied that those who are making profits out of the present abnormal conditions should bear their portion of the burden of meeting the Government's need of new revenue.

We do, however, most earnestly protest against the proposed law, in its inequitable distribution of the burden of the tax, imposing, as it does a charge, possibly destruction of all reasonable profit, upon a

small group who manufacture the finished product, instead of distributing that burden among all who may benefit from the wholly abnormal conditions now existing

Figures from our munitions contracts indicate that of our total cost we will expend 75 per cent or more for the purchase of materials, largely in a raw shape. The remaining 25 per cent is represented by our direct labor and overhead operating expenses. The materials purchased by us, with the exception of copper and brass, are not taxed by the proposed act. While our selling prices are well above the normal for similar articles, yet this increase does not represent our profit, but is completely absorbed in greatly increased labor rates and in the advanced price of raw materials such as steel, lead, zinc, resin, aluminum, and antimony.

We contend that the manufacturers of these products, who are exempt from the proposed tax, have a greater percentage of profit than we, and that the extension of their business has been accomplished at infinitely less risk than has accompanied our undertaking as a munitions manufacturer. The class of manufacturers taxed under the proposed act, with few exceptions, were engaged in other lines of business prior to the European war. To take on contracts for the manufacture of munitions has meant, in most cases, the creation of a new industry, the construction of new manufacturing plants, and the organization of greatly increased forces of workmen. Such undertakings have required tremendous effort and industry and have carried with them a great risk.

As a result of unforeseen difficulties and many delays we believe the average profits have been and will be far below the original estimates and insignificant as compared to the public's estimation of such profits. The very nature of the undertaking entails great publicity, which has given currency to an exaggerated idea of profits.

We contend that the munitions manufacturer has been of great service to the country; first, from the standpoint of supplying employment to hundreds of thousands of highly-paid workmen, and, second, from that of placing this country in a condition of preparedness, so far as the manufacture of such munitions is concerned. We cite the activities of Government departments and public bodies in favor of industrial preparedness as a proof of the value of the industry from this standpoint.

The interests and prosperity of the United States, and especially the prosperity of its wage earners, will be furthered by an encouragement of the export of manufactured products, the cost of which represents the largest percentage of labor, and by the discouragement of the export of partly finished raw materials, to be worked up by foreign labor. There is no shadow of doubt that the effect of the proposed act will be to diminish the volume of this business placed in this country even during the continuation of the present war, and after the termination of the war will place upon the American manufacturers such a handicap as to destroy any export business in this line.

The tax is uneconomical for the further reason that it penalizes the small, active, aggressive, concern that handles a large volume of business and employs much labor in proportion to its capital.

The retroactive feature of the large tax upon gross receipts appears to us to be peculiarly unjust, as the manufacturer has had no oppor-

tunity in the preparation of his estimates to adjust himself to this condition.

We are entirely willing to bear our share of the burden of taxation, but to our mind the burden would be more equitably distributed if the tax were placed upon the net profits and not the gross receipts, and if the scope of the act were broadened to include not only the principal contractors, but the subcontractors, other manufacturers, producers of raw material, and exporters benefitting from the present unprecedented conditions, with the result that individual hardship would be avoided. The tax will not then militate to the same extent against American labor, and the general industry will not be discouraged from continuing in this line of business. This last consideration should control the policy of the law. [Reading:]

OBJECTIONS TO TAX.

1. Inequitable and unjust.
(1) Greatest tax does not fall upon greatest earnings in same general business.
(2) Retroactive feature offers manufacturers no opportunity to adjust prices and distribute his burden.
(3) In many cases tax will exceed net profits to manufacturers.
(4) Tax entirely exempts subcontractors and certain material men whose risks are negligible and whose profits often exceed those of principal contractors.
(5) Class taxed have created a new industry at great risk and with inestimable economic benefit to the country.
2. Uneconomic.
(1) Taxes highly manufactured products and exempts raw material, thereby penalizing American skilled labor.
(2) Places an excessive burden upon manufacturers, who are the greatest single factor for industrial preparedness, and at a time when the entire country is aroused to realization of the necessity of such preparedness.

The CHAIRMAN. The committee will take pleasure in hearing Senator du Pont.

STATEMENT OF HON. HENRY A. DU PONT, A SENATOR FROM THE STATE OF DELAWARE.

Senator DU PONT. Mr. Chairman, I appear before your subcommittee to-day in regard to a matter which is of vital importance to a very large number of my constituents and in which the chamber of commerce of the city of Wilmington is taking a most earnest and serious interest. I refer to the tax on munitions in the proposed revenue bill.

The patriotic and law-abiding people of Delaware are perfectly willing to contribute their full share to the expenses of the Government, and, while there are differences of opinion in regard to the best methods of raising the necessary revenue, so long as the Democratic Party is in control of the Government they recognize the fact that it has the right, acting through its Representatives in Congress, to decide as to the manner in which the revenue shall be raised.

While, as just stated, the people of Delaware, regardless of party, are entirely willing to pay their full proportion of any tax that may be levied, they most emphatically protest against its being levied in such a manner as to unfairly discriminate against the industries of their State as well as against their individual interests.

The doctrine of "equal opportunities for all and special privileges to none" is accepted by everybody, and has been many times reiterated by Democratic statesmen during my service in Congress.

I am here to-day not to criticize this doctrine but to earnestly request you to live up to it. I ask you to give the manufacturers of munitions of Delaware an opportunity to pay the same tax as is paid by the other munitions makers who are taxed under the provisions of this bill, and I further ask you not to give them the special "privilege" of paying 2 per cent on their net receipts and 8 per cent on their gross receipts while other makers of warlike munitions are taxed 2 per cent on their net receipts and only from 3 to 5 per cent on their gross receipts according to the character of their product.

Now, Mr. Chairman, in speaking of other makers of munitions of war, I only refer to those who are taxed under the provisions of this bill, but there are a great many of such manufacturers who escape taxation entirely under its terms, and these probably constitute a majority of all so engaged. Take for example the makers of swords, artillery harness, cavalry saddles, barbed wire for entanglements, and other products of iron and steel, parts of submarines, range finders, stamped metal military equipment, bromine and other military gases, aeroplanes, motorcycles, auto trucks, and passenger antomobiles, and automobile tires, all of which are enormously used in the great conflict now going on in Europe. To this list could be added many articles which are indispensable for military operations, although they do not come so directly under the head of warlike equipment, such as horses, mules, shoes, blankets, canned meats, and army rations of various descriptions.

I trust that the subcommittee may see its way clear to substantially amend the bill so far as it relates to the tax on the manufacturers of high explosives, which is greater than that levied upon any other manufacturers. In this connection it is to be observed that the makers of high explosives are at a disadvantage compared with nearly all other manufacturers, for the reason that they can not insure their plants, as the experience of centuries has demonstrated that it is impossible to avoid the occurrence of accidents, which are too often accompanied by loss of human life and which almost always involve great destruction of property. The tax proposed almost amounts to confiscation and will have the effect of enormously curtailing the making of ammunition or possibly lead to its abandonment, which contingency would seriously affect the prosperity of the city of Wilmington and of the State at large.

I desire to point out that the munition manufacturer's tax as formulated in the bill is indefensible from a revenue standpoint, for the reason that a uniform and reasonable tax levied on all the makers of warlike munitions, and not upon a selected few, would produce greater returns; and I assert that the proposed tax is equally indefensible in morals because it is in conflict with justice and equity, it being evident that any American citizen who manufactures ammunition should not be taxed a greater amount than is paid by other American citizens engaged in the same identical business.

In conclusion, I want it understood that my constituents demand no special favors or immunities of any description whatsoever, and that all they ask is fair play and just treatment.

Now, Mr. Chairman, I want to present to the committee Mr. Henry P. Scott, who represents the Chamber of Commerce of Wilmington, Del.

STATEMENT OF MR. HENRY P. SCOTT, OF THE CHAMBER OF COMMERCE, WILMINGTON, DEL.

Mr. SCOTT. Mr. Chairman and gentlemen, I will detain the committee only a few minutes. Our community is very much aroused upon this subject. I was appointed by the Chamber of Commerce of Wilmington as chairman of a committee and we held a public meeting composed of the business interests and the small stockholders—not the large ones—to consider this matter and to appeal to you.

The CHAIRMAN. Let me understand upon what particular topic you propose to speak.

Mr. SCOTT. I am not intending to enter into an argument with respect to munitions because I know what is going to come——

The CHAIRMAN. Wait a moment. You are going to address yourself especially to explosives?

Mr. SCOTT. Yes, sir; solely so.

The CHAIRMAN. That is with regard to powder in some form?

Mr. SCOTT. Yes, sir; mostly to powder and other explosives. The one great industry, and the only great industry in the State of Delaware is the powder industry. It is Delaware's great contribution to the commerce of the country.

Senator THOMAS. That is a rather surprising statement. I thought you had a variety of very large industries there.

Mr. SCOTT. Nothing of this magnitude, or nothing which is unique. In that Delaware has the largest control. Is that what you mean?

Senator THOMAS. Yes.

Mr. SCOTT. We have, for instance, the Bethlehem steel plant and a shipbuilding plant, and there are other large companies. But the powder industry is a unique industry which is owned and controlled by our people and has been developed by Delawarians for over a hundred years.

Our people feel that it is not fair—and first I will make three points; the first is to lay a tax, a special tax, on munitions solely, on gunpowder and explosives, shells and guns, and on copper. If spread over the other things which have entered into war munitions it would not be a severe tax. That is one point. The second point is that if you feel you must place the tax on copper, on shells, on guns and on gunpowder, then there can be no possible reason why powder should be taxed 8 per cent as a maximum, when shells are taxed but 5 per cent as a maximum and copper but 3 per cent. I can see no possible reason or fairness in it. As it applies generally to our community—there are a little over 200,000 of us—we would pay $15,000,000 to $20,000,000 in this tax. It would be somewhere about $16,000,000 and $17,000,000 on the citizens of Delaware.

There are 3,294 stockholders of the Du Pont Co. who have 50 shares and less. I do not mean that they all live in Delaware, but I suggest it to show you that a great deal of this stock is in small hands, and in our community a great many of them have nothing else. Many of them have earned it by securing bonuses through the operation of the bonus system and in buying, a favorite investment among our people.

The CHAIRMAN. You say bonuses?

Mr. SCOTT. Yes, sir, bonuses. The Du Pont Co., for instance, gives so much salary and also gives so much in stock through a series of years for service. A great many of them have it in that way.

Now, gentlemen, practically all of the contracts of the Du Pont Co.—and I am not an officer; I am a banker and have no connection with it except that I am a stockholder—but practically all of the contracts which would be taxed under this law in 1916 were taken in 1915. There have been practically no large orders for powder this year. France and England have developed to a degree where they are practically able to take care of themselves and Japan is practically taking care of Russia. The situation now confronting the powder interest is that the acme has gone. It is not like some of these other businesses that can continue at a lower level.

The CHAIRMAN. I beg your pardon. I want to be sure that I understand you. Did you say that practically all——

Mr. SCOTT. Practically all.

The CHAIRMAN. Practically all the powder that the Du Ponts own was sold prior to January of this year?

Mr. SCOTT. Yes, sir.

Senator THOMAS. You said contracted for.

Mr. SCOTT. Yes, contracted for to be delivered this year, but it was sold before the 1st of January—practically all of it. I think, to be accurate, that there was one contract which was completed on January 15, but the negotiation was started in October of last year. Now, they have tried hard to get new contracts this spring, and they have always tried continuously until it is a question now with this tax whether any more business of this kind would come to this country.

Senator THOMAS. On the other hand, there have been extraordinary large profits on them?

Mr. SCOTT. There has been but it has been short profit, that is what I mean. There has been a large profit in all the plants, as there has to be because it is for a particular military purpose, but it is a short profit. It is not a profit that will continue. I hold that the people who have made big money out of this war have been the steel people of the country, the oil people and the sugar people. The steel company's earnings for the last quarter ending June 30 are estimated to be—net, not gross—somewhere about $80,000,000. The impetus of that business is entirely due to the war.

Now, that is about all I have to say. I do not want to get into a technical discussion of the matter, as these gentlemen who are to speak after me will go into that, and I do not want to duplicate anything that they might want to say.

The CHAIRMAN. Who owns this plant down in Virginia; is that the Du Pont Co.?

Mr. SCOTT. Yes, sir; it is a Du Pont plant at Hopewell, Va. What they do there is to buy cotton in the South and make it into guncotton, in a liquid state, and it is shipped from there up to New Jersey where there is an enormous plant, covering about 1,500 acres, where it is nitrated, and made into the finished product.

The CHAIRMAN. You have stated that the oil and sugar people have made the most money out of the war?

Senator THOMAS. And steel.

The CHAIRMAN. And steel—steel, oil, and sugar?

Mr. SCOTT. Yes, sir; that is my judgment.

The CHAIRMAN. Those three?

Mr. SCOTT. Yes, sir.

The CHAIRMAN. Now, I pass steel for the present. In what way has oil made money out of the war?

Mr. SCOTT. There have been enormous quantities of oil shipped abroad for use in the machines of war, and that has raised the price of oil in this country—mind you, there has been an increase in automobile trucks—and but for that impetus I do not believe it would be anything like it is. I do not believe we would be paying 25 cents a gallon for gasoline if it were not for this war. I do not believe we would be paying over 15 or 16 cents. I think I am sound in that.

The CHAIRMAN. Do you understand that these shipments have been for war purposes?

Mr. SCOTT. Unquestionably.

The CHAIRMAN. Now about sugar.

Mr. SCOTT. The rise in the price of sugar has not been because of the shipment of sugar to the war territory. I do not mean that, but because of the war Germany's sugar has been penned in. It can not compete, so that the sugar rise in the rest of the world has made it so that there is not enough to go around, and the price of sugar has gone up in price, and the profit on sugar is very enormous.

The CHAIRMAN. It is the result of the war rather than a contribution to the war?

Mr. SCOTT. Yes, sir; you are right. Mr. Chairman, that is all I have to say.

The CHAIRMAN. What kind of explosives are manufactured by the Du Ponts?

Mr. SCOTT. There are 50 varieties, probably.

The CHAIRMAN. Give me an idea of them.

Mr. SCOTT. In the first place, I am not a technical man; I am a banker and I can not give you that information; but if you will ask that question of some of these gentlemen who will be heard in a few minutes, they will be able to tell you. I have a book, for instance, called "Products of the Du Pont Co." It must contain 50 pages. If you desire me to, I shall be glad to send you a copy of it.

Senator THOMAS. How many plants have the Du Ponts?

Mr. SCOTT. I do not know; but I should suppose 20. You understand that most of these plants do not make this powder. They make the blasting powder for mines, or dynamite, in dynamite plants.

Senator THOMAS. I understand.

The CHAIRMAN. What I want to get at, if some one can tell me, is what character and what variety of explosives are made and shipped to Europe for war purposes?

Mr. IRENEE DU PONT. I stated that in my remarks. I gave you a list of them.

Mr. SCOTT. I can give you a list of them. There is gunpowder; there is rifle powder; and there are different kinds of powder in the specifications for all of these new armaments. Then, there are all sorts of things, like tolulol—T. R. T., they call it. There are different acids of an explosive nature, and different things that enter into it. The point that the gentleman who preceded me made applies to the Du Pont people. For everyone of the materials they use they are

paying enormously, so that the profit you would tax under this bill on gross sales ought to be placed also on the people who have gotten higher prices.

The CHAIRMAN. You are now reaching the point I had in view in asking my question, and that is, what kind of explosives are manufactured by the Du Pont Co. for war purposes, and then I desire to qualify it along the line you have started on.

Mr. SCOTT. I am not sufficiently familiar with it.

The CHAIRMAN. I want to see if there were subcontracts.

Mr. SCOTT. I understand. I know this, that I am a manufacturer of caps and things in which we use a good deal of glycerin, and glycerin has gone up from 20 cents. I paid 53 cents for a pound in the purchase of 150,000 pounds of it. The glycerin people must be prosperous.

The CHAIRMAN. Senator Saulsbury, the committee will be glad to hear you now.

STATEMENT OF HON. WILLARD SAULSBURY, A UNITED STATES SENATOR FROM THE STATE OF DELAWARE.

Senator SAULSBURY. I think I shall have to be the ringmaster for my fellow Delawarians on this occasion.

I hope you will appreciate that this is a community coming before this subcommittee to represent the greatest interests in the way of a commercial concern that our people have an interest in.

Senator THOMAS. These gentlemen are for preparedness, are they?

Senator SAULSBURY. I fancy almost everybody on the Atlantic seaboard is for preparedness.

The CHAIRMAN. They come well groomed, anyway.

Senator SAULSBURY. They are well groomed and prepared to pay their fair share of any reasonable preparedness that the Congress of the United States sees fit to make, but they do not want to pay somebody else's share. I want to tell you, in order to fix it in your minds, that the proposed tax on munitions, as set forth in this bill, means between $30 and $40 a share on every share of the Du Pont Powder stock held in Delaware, and we have 1,300 shareholders.

Senator THOMAS. What is its market value?

Senator SAULSBURY. Its market value—I secured that data because I thought that question would be asked—is $225 to $235 or $240 a share.

Senator THOMAS. How many dividends have been paid in the last year?

Senator SAULSBURY. That can be answered practically exactly because it has just been testified about in a case that is now being tried in the Federal court between some fighting stockholders. It was testified that 183 per cent has been paid on shares which represent two shares of the present stock; that is, it will be $91.50 a share that has been paid on the Du Pont Powder stock in the last 18 months.

The CHAIRMAN. What is its par value?

Senator SAULSBURY. $100 a share.

Senator THOMAS. That is, 91 per cent on the par value?

Senator SAULSBURY. In 18 months; it would be about $60 a share.

Now, Mr. Chairman, I want to say that I have never heard of any such tax being proposed as is being proposed in this bill on the gross

receipts of a company. I do not know that such a tax was ever made on any company anywhere in the history of the world. These people are not complaining if they are treated just as all other people are treated who have made money in the last few years. They are perfectly willing to pay it, but when they are selected out they protest. There are people interested in this company who do not own more than two shares, and from that up to a thousand shares, and you can understand that where speculation has gone on as it has in this country, particularly in a community like ours, where there is a great big concern, that stock has been jumping and jumping, and every person who has had money to invest and put into it has bought a share or 2 shares or 10 or 50 shares.

The CHAIRMAN. Maybe you can tell me about this. I read in the newspaper in the last two or three days accounts of the debate in the House of Commons where some gentleman, whose name I can not recall at the moment, but a member of that body and a Government official connected with munitions, stated that the tax on manufactures of munitions was 77 per cent. Now, as to the exact nature of that tax, whether upon gross earnings or net earnings, I do not know. Of course, it is a war tax, and in the sense that it is a war tax, I am calling attention to this newspaper report because you stated that no tax of this kind has ever been levied by any Government in the world. It can be found out, of course, as you know, by a cable to our ambassador in order to ascertain the form of the tax and the amount of the tax.

Senator SAULSBURY. I say that no tax of this kind has ever been levied, and I will venture to repeat that assertion and will obtain all the facts that I can obtain that the committee may desire, to substantiate that statement. It may be that in extremis the European Governments have determined a limit on the profits which its citizens shall make out of their Government. That may be. They may have levied a 70 per cent tax on the profits of the munition companies where they are privately owned in Great Britain; that may be possible. But that is not this tax. Here is a tax which is levied on the enterprise and energy of the people of this country who have made this money out of the war in extremis, not out of the industries of this country in any way, but simply because they were prepared to meet this great demand which came, and which has been far in advance of any expansion that I have ever heard of.

I am going to touch only one or two high places and then turn the matter over to those who are more familiar with the facts than I am. I simply represent the community in this matter. It is a community interest.

About 18 months or 2 years ago this Du Pont Co., which is the biggest company—not the only company, as there are the Hercules Co. and the Atlas Co., and various other companies are all engaged in this production. The Hercules Co., I believe, is represented here, and the Atlas, I believe, is simply engaged in munition work as far as blasting powder is concerned. The Du Pont Co. had 6,000 men in their employ. To-day they have sixty-odd thousand men in their employ, and they have spent $50,000,000 or $60,000,000 or possibly $100,000,000—I will not say accurately, but these gentlemen can state it accurately—in erecting plants which must be thrown out of the business immediately the demand ceases. I want to call your

attention to the fact that the late minister of munitions, Lloyd George, says that their factories are now making more in a week than they used in the great drive that the allies made in September of last year, and that they are only working up to a one-third capacity. This business has seen its apex; it is on the down grade as far as manufacture is concerned.

Senator THOMAS. But our tax has not seen its apex as yet.

Senator SAULSBURY. Apparently, not; but if you kill these people by taxation and drive them out of the business, you will have to proceed down the line, if you intend to put such a tax on this character of product and kill every other live business in this country. But Lloyd George says they are only manufacturing one-third of the amount that the munition factories in that country can produce. So that from this time on these government contracts with European agents are bound to go on the down grade. That is going to mean a tremendous loss to these companies.

This tax, I want you to notice, in its effect is retroactive, which is not fair. Suppose it was a tax on the net earnings of a company, it would not be fair to make that tax retroactive because those contracts were entered into and the money has been distributed by these dividends. You ask me what they did? They have been paying the stockholders.

Now, imagine the condition of a community such as ours, with interests from a bank president—we will put him at the top—down to a clerk in his store, or a dressmaker with two or five shares, buying stock, as one of the officers of this company has testified—buying this stock years ago at as high as $700 a share. That means, if two citizens own that, $350 a share, and the stock went up as high as $900 or $1,000, but we will call it $900; that would be $450; there is a little variation, of course. That would mean the payment of $450 a year ago, and to-day the stock is selling at $225.

Senator THOMAS. That is a speculative profit which can not be reached by the tax.

Senator SAULSBURY. Absolutely; you can not reach it, but I am trying to point out to you the condition of this community which has gone into this matter, as I have stated. It is not exceptional at all—speculating in the shares of a company which is making great profits, expecting to get fortunes out of half a dozen shares—fortunes to them—and then see the United States Government coming along and imposing such a tax on their company. The little fellow thinks he is paying rather more than the big fellow ever does, and taking away from him between $30 and $40 a share on this year's business. It looks like confiscation.

Senator THOMAS. You know if we have an Army as big as Germany's and a fleet as big as England's we will give the country a good deal of business in producing enough to supply it with ammunition.

Senator SAULSBURY. That brings me to the point that I intended to touch upon. Senator Stone referred to the fact of a tax of 70 per cent being laid. Granting that is true—I do not know about it—this company has sold and is selling to the United States Government powder at exactly the same price, 53 cents a pound, that it has been selling to the Government in all times past, notwithstanding the fact that it can get, I think, more than $1 a pound. It has gone on with these European war contracts.

I may say—although it has been referred to so many times that it seems useless to do so—that the relation of this company—and I am speaking of a company as big as this company—has been so far very favorable with this Governement in its governmental relations, furnishing plant and building their own powder factories and doing everything to help the Government make good powder, and there is not an Army or Navy officer who will say one word against the treatment they have had.

I only want to impress this upon you. The governor of the State comes here, and I do not suppose he has a share of powder stock. I do not know whether he has or not. He says he has not; and personally I have not a share of powder stock, although a member of my family has, and I am embarrassed in that way and shall probably not be able to vote upon this bill, and this community is protesting to you against an injustice. I have told them they would not get injustice. I have that much confidence in the chairman and other members of the subcommittee who sit before me, and I am very sorry the other member is not present——

Senator THOMAS. No matter what we do, they will not get injustice.

Senator SAULSBURY. And you will not permit this injustice to be perpetrated upon these people.

Senator THOMAS. Now, Senator, we have all of us pretty nearly similar complaints with regard to practically every feature of this bill. It all seems to be unjust in the opinion of those against whom these proposed taxes are laid. If we accept these various arguments how are we going to get the revenue to build these 10 battleships that the Senate has just provided for, and this bill of Gen. Crozier representing hundreds of millions of dollars? We have got to get it somewhere.

Senator SAULSBURY. And you are going to get it out of one set of people! When I say this injustice is not going to be perpetrated by this committee, I am assuming what I have a right to assume, and what I know is true that it is possible to address one's argument to the intelligence of the gentlemen who sit upon this committee in the confidence that they will see that injustice is not perpetrated.

Senator THOMAS. I sounded the warning last December that if we yielded to the clamor of the people we would have to pay for it.

Senator SAULSBURY. And let me suggest to you that you can pay for it in a fair way and the people of this country—certainly the people in the eastern part of the country, and the people who sit here before you and that I represent in a measure—will not complain of paying their share in a fair way. You can do it as I am told they do it in Canada. In Canada they determine the average amount made by their various companies engaged in business of this character, and what is to be made by munitions contracts—and if I may branch off in the making of automobiles or the guns or the ships or the aeroplanes, or whatever they are. They are not munition contracts—they are not confined to powder and shells.

Senator THOMAS. I think mules are munitions of war.

Senator SAULSBURY. I see no difference between the Missouri mule and a ton of powder. If the mule gets his hind part next to the powder there might be trouble, but at the same time I see no difference in principle between a $100 Missouri mule before the war and $300 for a Missouri mule to-day.

The CHAIRMAN. It would not make any difference to you whether you were struck by 100 pounds of powder or the heels of a mule?

Senator SAULSBURY. Not a bit of difference, but it does make a difference in our community whether the Missouri mule pays his fair share or whether the Missouri mule escapes, and it does make a difference whether the lead and the zinc of Missouri are put in with the copper of the country in which there is a vast interest all around. But we are considering powder.

The CHAIRMAN. Now, about the mule, let me ask you a question.

Senator SAULSBURY. About the mule?

The CHAIRMAN. Yes; you are treading on my toes.

Senator SAULSBURY. I am a farmer myself.

The CHAIRMAN. The English Government, for example, sends an officer over here to buy mules, and he goes to the East St. Louis stockyards where they can bring in the mules and he can look them over and inspect them and buy them. The people there ship them up to New York, or some eastern port, and they are put on board of a vessel. We can not tax the English Government; we can not follow A, B, C, and D, who have sold the mules to some fellow. A man goes around and buys mules and ships them to the market and sells them to anybody. How would you collect that tax?

Senator SAULSBURY. I would collect it on the income tax from any fellow who makes enough income to pay it.

The CHAIRMAN. I am not speaking about the income tax. They pay an income tax in addition to this tax.

Senator SAULSBURY. I am opposed to taxing the mule anyway, because he is the emblem of the Democratic Party, and he ought to be free from tax, or at least our symbol ought to be.

Senator THOMAS. The elephant could justly complain of that.

The CHAIRMAN. And the moose; what would you do about the moose?

Senator SAULSBURY. I would free him. I would try to lead him by kindness just now. I know you gentlemen are all aware of the fact that we do not want any speechmaking just for the sake of speechmaking, but you want to get at the facts.

The CHAIRMAN. May I ask you a question?

Senator SAULSBURY. You may; and I hope I can answer it.

The CHAIRMAN. Do you know the capitalization of the Du Pont Co.?

Senator SAULSBURY. Approximately; I think the common stock is about $60,000,000.

Senator THOMAS. What is the preferred?

Senator SAULSBURY. $60,000,000.

Senator THOMAS. That is $120,000,000—$60,000,000 common and $60,000,000 preferred?

Senator SAULSBURY. That is what I understand.

The CHAIRMAN. Do you know how many manufacturing plants that company owns and operates?

Senator SAULSBURY. I do not know, but Mr. Du Pont can tell you.

Mr. IRENEE DU PONT. About 28.

The CHAIRMAN. When one of these gentlemen here—or passing by them—when a woman, a milliner, or as you have said, a dressmaker, buys a share of the Du Pont Co.'s stock, do they become interested in all of these 28 plants?

Mr. IRENEE DU PONT. They do.

The CHAIRMAN. So it is all in one ownership. Do you know who are the principal stockholders?

Senator SAULSBURY. I can make a rough guess at them. Mr. Irenee du Pont will correct me if I state it wrongly. P. S. du Pont, A. I. du Pont, William du Pont, Irenee du Pont, and a host of others. How many are there in the Du Pont Co., Mr. du Pont, who own stock, probably 50?

Mr. DU PONT. I think it is hardly 50. I should think 20 or 25 would be nearer.

Senator SAULSBURY. And altogether, I fancy from what I have heard, there are about 4,000 shareholders.

The CHAIRMAN. How long have there been 4,000 shareholders?

Senator SAULSBURY. I can not tell you as to that.

The CHAIRMAN. Or any very large number?

Senator SAULSBURY. There are about 4,000, are there not, Mr. du Pont?

Mr. MEGAER. I think for five or six years.

The CHAIRMAN. What proportion of this stock, $60,000,000 of common stock, is owned at large and what proportion of it is owned by the taxable owners?

Senator SAULSBURY. I have not the faintest idea. Can you answer that, Mr. du Pont?

Mr. DU PONT. I could not tell you.

The CHAIRMAN. What proportion of the $60,000,000 preferred stock is owned by the people at large?

Mr. DU PONT. You would have to define what the "people at large" is.

Senator THOMAS. Those who control.

Mr. du PONT. There is no definite number that control. There may be any number who would get together and control.

Senator SAULSBURY. How many directors are there?

Mr. DU PONT. Twenty-one.

Senator SAULSBURY. And how many are present directors. That will give some idea—that is about what you want?

Mr. DU PONT. I should think in the neighborhood of about 25 per cent.

The CHAIRMAN. Of what?

Mr. DU PONT. Of the common stock.

The CHAIRMAN. What proportion of the preferred?

Mr. DU PONT. Very much less. I presume 15 per cent.

The CHAIRMAN. Who owns the preferred?

Mr. DU PONT. It is scattered very wide, I do not know of any group of individuals who own a very large block. There are plenty of stockholders of both preferred and common.

Senator THOMAS. What is the company's dividend on the preferred?

Mr. DU PONT. Six per cent.

Senator SAULSBURY. You were asking these questions of me. I have no information on the subject.

The CHAIRMAN. We had better get somebody who can give us the information.

Senator SAULSBURY. The Chamber of Commerce of Wilmington took this matter up because to us it is a public question, and this delegation comes to this committee as the result of the thought which was given the matter by their chamber of commerce, which appointed

a committee and selected the delegation to come down and visit this committee. That delegation has selected the former attorney general of Delaware to present this matter to you on behalf of the chamber of commerce. You gentlemen of the committee know him very well, I have no doubt. He is the former attorney general, Mr. Andrew C. Gray, who represents the chamber of commerce.

The CHAIRMAN. Among other forms of raising this several hundred millions of extraordinary taxation that we are imposing, what do you think of accomplishing it in whole or in part by bond issues?

Senator SAULSBURY. My own impression is that it would be much better for us to make use of our borrowing power, as almost every individual does, and as we do when we think we need an extraordinary increase in the Navy—and I believe we will need it more within the next three years than probably we will ever need it again—I would use bonds to raise a large part of the money. That would be my preference.

Mr. CHAIRMAN. I would like you to hear Mr. Gray as representing the chamber of commerce now.

STATEMENT OF HON. ANDREW C. GRAY, ATTORNEY AT LAW, REPRESENTING THE CHAMBER OF COMMERCE, WILMINGTON, DEL.

Mr. GRAY. Mr. Chairman, I came down here as representing the Wilmington Chamber of Commerce, and also at the request of a committee of stockholders of the Du Pont Co. Senator Saulsbury officially represents the community, not only of Wilmington, but of the entire State of Delaware; but no man from a community of the State of Delaware can say a word upon this subject without speaking as representing the community, for our whole community is vitally interested in this problem.

Our State may be a small one, and it is as you know; there is only one congressional district, but small as we are we do not feel like enduring in silence what we consider an injustice. To show you how this stock is divided and to show you the interest the community takes in it, I will say that there are 3,700 stockholders of the Du Pont Co. who own 120 shares or less. There are 3,294 stockholders who own 50 shares or less; between 75 and 80 per cent of the entire stock holdings of the Du Pont Co. are held in Delaware. About the same percentage of the principal shareholders are in Delaware; about the same percentage of the small shareholders are in Delaware scattered all through our community.

Now, this Du Pont Co., if the committee will pardon me while I make one or two preliminary observations, has been engaged in the manufacture of munitions for over 100 years, and we in Delaware have been proud of it. It has been patriotic. We claim that we Delawareans are patriotic. We are willing always to do our share for the support of the Government. The Du Pont Co. has in every instance preferred the interests of the United States to their own interests in the past. The very powder plants that the Government owns to-day were built from plans and drawings—machine drawings—which were furnished by the Du Pont Co. The formulæ that the Government uses in the manufacture of powder were all furnished by the Du Pont Co.

When this war in Europe broke out the Du Pont Co. had a capacity of about 10,000,000 pounds a year of military powder. Some little time after the war began, and before any inquiries began to come in—and then they came in from Europe in a rush—the Du Pont Co. had an organization with men at the head of it of ability, and through their ability, or through their knowledge and resourcefulness, they have been able to fill these very large European contracts. It was not a question of doubling or trebling their capacity, but of increasing their capacity some tenfold in a measurably short space of time.

They took the contract at the beginning at a dollar a pound for military powder for foreign Governments and the representatives of foreign Governments. On the faith of these contracts, and the price they were getting—and allow me to say one thing to show you that the price was not excessive or extortionate; the military powder which they sold for a dollar a pound they had been selling prior to the war for 90 cents a pound with 10 per cent off, which would be 81 cents net. They fixed the price of $1 a pound and increased it only 19 cents a pound, in view of the vast expenditure they would have to make for plant and other purposes and getting the organization together. They spent in the construction of new plants out of their gross receipts—and those expenditures have extended almost up to the present day, well up to 1916—I know of my own knowledge, from information brought me, some $60,000,000 in plant development. That was out of the gross receipts, and realizing when they spent it that at the conclusion of this war 90 per cent or more of that expenditure would be a total loss. In the manufacture of this powder in 18 months they have paid in wages to laborers, without counting overhead, upward of $45,000,000, in the equipment of their plant, in obtaining new machinery, etc. They paid war prices. They did not stop to dispute over the price. This terrific amount of powder which they sold abroad, and for which the money was sent to this country, was not kept by the Du Pont Co., but has been distributed all through this country in all ramifications of trade, and at the same time the people of whom they bought machinery or anything else that was necessary in their business did not keep their prices down.

As you gentlemen know the price of nearly every commodity in every line of trade has been rapidly increasing in the last 18 months. The raw material which goes into the manufacture of powder has increased—not doubled or trebled—but increased from twenty times up to as much as one hundred times as much as it was two years ago. They have had to take that into consideration in the making of these contracts. They estimated that their plant would cost about 10 cents a pound—that is, new construction, but they found out that it cost over 14. Fourteen and 8 per cent gross receipts which this bill proposes to put on would be 22, so that the net result would be less than what they were receiving before the war, and that in the face of the fact that everything that goes into the composition and manufacture of powder has been very largely increased. In addition to that, I think at the beginning of the war they employed a total of five or six thousand men. They have rapidly run that up until to-day in Delaware, New Jersey and Virginia—in those three States alone—they employ upwards of 50,000 men—I think nearer 60,000 than 50,000.

Mr. DU PONT. Say 50,000.

Mr. GRAY. About 50,000 to-day. Ever since the beginning of the war they have been paying every man whom they employed higher wages—and I am speaking now of actual laborers in the plant and not the office force or anything of that kind which of course is very huge, to look after its business—they have paid the laborers in that plant higher wages than were ever paid munition workers before. In addition to paying them these higher wages in order to get a better organization and preserve their working force intact, they have been giving monthly bonuses of 20 per cent on top of those wages. So that they have distributed in wages in 14 months $25,000,000 and bonuses of 20 per cent to their employees beside.

As I have said, their stock is owned largely in Delaware.

Senator THOMAS. Has their capital stock been increased during this period?

Mr. GRAY. Yes, sir; their capital stock in what was known as the old company—I do not know what the total capitalization, including bonds, preferred stock, and common stock, was, but I think they had between $29,000,000 and $30,000,000 of capital stock and a considerable bond issue, which has been taken up by stock in the new company. But the ramifications of this company are such that in the life of Delaware it is our chief industry and can not be touched without injuring every inhabitant of Delaware.

I am not speaking now of the Hercules Co., whose representative will speak to you, but take the Du Pont Co. alone. Their contracts, every one of which were made during the year 1915 without any anticipation of this tax and without any chance to prepare for it, taken at a price without any consideration or thought of such a tax, involve a delivery this year of the gross amount of the product on all sales, so that the tax on the gross sales of the Du Pont Co. for this year, 1916, under this retroactive provision of the proposed bill would be $21,000,000.

Now, the prosperity of the whole State of Delaware, including the northern peninsula, depends largely on this Du Pont Co. and on the money that their officers, employees, and laborers and stockholders spend and distribute. The tax for this one year is a per capita tax of $110 apiece on every man, woman, and child in the State of Delaware. It is a tax of $600 a year on every voter of the State of Delaware, black and white. That is what it means to Delaware. That is what it would take out of Delaware and that is what Delaware would suffer.

We realize that there are extraordinary expenditures to be made by our Government. If Congress sees fit to raise that revenue for those extraordinary expenditures by taxation rather than by bond issue, we will endeavor to do our part and do it cheerfully, but we do object to having one large industry of our community picked out and held up and made the subject of a taxation such as no other concern or industry in this country was ever before subjected to.

Senator THOMAS. Are there no other companies and enterprises engaged in making powder besides the Du Pont Co.?

Mr. GRAY. The Hercules to a small extent. The Du Pont Co., I think, is the only one that makes it to any great extent—that is, military powder.

The CHAIRMAN. I have received, I expect, 50 telegrams signed by men and women from my State protesting against the powder tax. I think there are at least three establishments in that State engaged in making powder; just what kind of powder or explosive I do not know.

Senator THOMAS. I think the Du Pont Co. has a branch in my State.

Mr. GRAY. I have no doubt they have in Colorado and Missouri also, but those are for blasting powder and dynamite and are especially exempted in the bill.

Senator THOMAS. I have received similar telegrams myself.

The CHAIRMAN. I really do not know about it. I know up near Hannibal there is a plant making explosives; there is one near Joplin, and another at Kansas City.

Mr. GRAY. They make what is called blasting powder, which is excepted in the bill.

The CHAIRMAN. Well, I really did not know, and I do not now know the kind of powder they are making, but they think they are subject to this tax and they have been flooding me with a lot of telegrams.

Mr. GRAY. I do not know how—if this tax is imposed on military powder, which comprises such a great percentage of the Du Pont Co.'s business—they can pay this tax without raising the price on their blasting powder and dynamite. This company has been engaged in a huge business and has been selling its product abroad. It has been buying its raw material at a greatly increased price in this country. It has been dividing up the money it has received from abroad. It has not raised its price upon commercial powder—that is, blasting powder and dynamite. The American people are getting powder, among the very few things they are getting, at no higher price to-day than they were getting it before the war began. The United States Government is getting powder from the Du Pont Co. at the same price they got it before the war began. Gen. Crozier went to one of the vice presidents of the Du Pont Co. and said he wanted from 780,000 to 800,000 pounds of powder. That was last winter. The vice president said, "Of course we will look after our own country first. We have contracts up to capacity but we will work you in." Gen. Crozier said, "Well, my hands are tied. I am limited to 53 cents a pound." The vice president said, "Very well; the United States Government shall have it at 53 cents a pound." Gen. Crozier said, "But you can sell all your powder at $1 a pound." The vice president said, "I know it; but we will look after the United States Government as we have always done."

Somewhat later, a representative of either the Army or Navy came to the Du Pont Co. and said that they could not get any toluol in the market—that is the explosive charge in a shell—and that it was $1 a pound but they could not get it even at that price. The Du Pont Co. said, "We will set aside what you need, if you will tell us how much you need." They told them, and they said, "Very well, we will set that much aside for you." The representative said, "But we can not pay $1 a pound. Our appropriation is not large enough." They said, "We will let you have it at just what it costs us, 40 cents."

Now, that is the way the Du Pont Co. has treated the Government always. That company has been patriotic, and, as I said before, we Delawareans claim to be patriotic. They made the Government a

present of about $350,000 worth of powder and over $300,000 on that toluol.

Mr. Chairman, you suggested that you had seen in the newspapers that a tax had been placed on munitions by England of 77 per cent. I was talking to a member of the International Marine over in New York the other day and he told me in the first place that that tax is not confined to munitions but that they were raising it also on shipping or freights and on other industries which had been directly or indirectly benefited by the war—what we commonly call "war brides," but even at that, and with England in the throes of this great contest there was no attempt to pass a retroactive law and put such a tax on gross sales, but it was on net profits after the proper deductions had been made.

In this bill you provide in other lines of business for a deduction for expenses of business, including depreciation of plant. Here is $60,000,000 expended for a particular purpose to get this business from abroad and get the money over here by this Du Pont Co. which, when this war is over, will be so much scrap and over 90 per cent gone and of no value whatever.

I will say frankly that we in Delaware will never get it out of our heads that there has been an unjust discrimination against us in this bill, and I believe when you examine it and think about it you will realize it and not take us out and hold us up as the one who is to pay for the entire country so much more than our fair proportion. You divide in this munition tax what you call the munition trade into three classes, the manufacture of powders and other high explosives, the manufacture of guns, shells, and arms of that kind, and then these smelters of copper, and you take the manufacture of powder and high explosives and call this munition always. But you take the manufacturer of powder and other explosives and tax 5 per cent on his gross receipts on the first million and 8 per cent on his gross receipts for every million above the first one. On your arms manufacturers you tax them on a sliding scale, beginning at $250,000 until you have reached $1,000,000, and then you tax him not 8 per cent, but only 5 per cent, while the powder manufacturer has to pay that 5 per cent on the first million, and then when you come to copper—which before the war was selling at about 11 or 12 cents and now selling for 26 or 27 cents, and the cost of production of copper is certainly very little, if any, increased—the profits thereon are inordinately increased, and what are you taxing? The smelters of copper on a sliding scale up to $10,000,000 before you reach their maximum of 3 per cent.

Now, why this distinction, which seems to us invidious? As Senator Saulsbury has said, the apex of the munition business has passed. This company is finding keen competition abroad. As he told you, Lloyd George said the other day that the increased munition plants are making now enough munition in a week to provide for the drive of last September and they are now working at one-half of their capacity.

Allow me to call your attention to something that I know the Du Pont Co. is trying to do. They had not made a contract, they had not signed a contract with any foreign nation since the 1st of January. They have 60,000 workmen in their plants whom they are trying to keep at work, and to whom they are paying high wages on a short day's work, and to whom they are paying a bonus of 20

per cent. They are spending their pay in New Jersey, in Virginia, and in Delaware, and in order to keep them at work and keep their organization going, they have been reducing their offers of powder to foreign nations—from $1 to 90 cents, to 85 cents, and to 80 cents, and they are now offering it at 65 cents, and have not received a suggestion of interest on the part of any foreign power. In the meantime the price of all the materials has gone up to a great extent. Another thing Gen. Crozier stated, and which was quoted recently, was that at the Government powder plant without any overhead charge at all the mere factory cost was before the war 38 cents a pound for the large-grain powder; that owing to the increase in price of raw materials, without the overhead the plant cost of the manufacturer of that large-grain powder had increased from 38 cents to 53 cents, the exact price at which the Du Pont Co. sold it to the Government—and that is in the Government plant without any overhead charge.

Now the Du Pont people have had to meet the increased cost of raw material. They can go no lower. In other words, to secure business, if this tax is put on, they will have to withdraw that offer which they have made in the endeavor to get business and keep this huge assembly of workmen together and at work at good wages.

I must confess that when I first heard of this tax I knew there had been articles in the newspapers and in the magazines about the Du Pont Co., and I have read these newspaper articles where men sat down with pen in hand and scatter ciphers like snowflakes from heaven without regard to whether it is six or ten. Well, I am sorry I never had any Du Pont stock, I am very sorry, but I feel that I have shared in the general prosperity of our community. But here is a company that has been exploited by magazine writers, and when I read this excise tax which only hit the Du Pont Co., and, to a lesser extent, the Hercules Co.—but those are practically the only companies in the United States that this tax hits—I was reminded of a man in Pekin a few years ago on the Chinese New Year. A merchant had a very elaborate display of fireworks. The next day the tax collector came around and said "Where did you get the money for all that?" And the next day there came a commissioner from the Royal Treasury who placed so heavy a tax on the merchant that he cut his own throat.

Now, frankly, at the prices that the Du Pont Co. is offering to-day to get business and to keep the people employed in the neignborhood (the Du Pont and the Hercules companies employ over 30,000 in the State of New Jersey), and to pay these wages, which are bigger than they ever got before, and to pay these bonuses, to keep in their employment about 25,000 in the State of Virginia, they have reduced their price so low that if this tax is put upon them they might as well cut their throats, because they can not make the powder and make any profit on it at all at the price at which they have been offering in order to keep their organization together.

Senator THOMAS. Let me ask you right there, Mr. Gray, what you would propose as fair in the shape of a tax on gunpowder?

Mr. GRAY. Well, sir, we have heard a great deal of discussion in the newspapers of what are called war brides, or war babies—the companies that have been selling their products to foreign nations or agents of foreign nations for military purposes. That does not

include only gunpowder; that includes leather, gasoline and automobiles, etc. I should say that Mr. Ford ought to pay for part of this preparedness. That includes all the supplies that have been sent to the amount of $3,000,000,000 in the last two years directly to the war zone for use for military purposes.

Senator THOMAS. Do you think we should tax them all on gross profits?

Mr. GRAY. No, sir; I do not think gross profit is a fair system of taxation in any event.

Senator THOMAS. What would be your basis, assuming we put a tax on all products, what would be your basis on products classed as products of war?

Mr. GRAY. Do you want me, offhand, to give an opinion on the scientific phases of taxation?

Senator THOMAS. I should like to have you give it. When gentlemen come before us and criticize proposed legislation we think it fair they should suggest some method.

Mr. GRAY. Then, sir, I should say increase the corporation tax, increase the tax on large business.

Senator THOMAS. We are increasing the income tax.

Mr. GRAY. Well, increase your corporation tax.

Senator THOMAS. That is the same thing.

Mr. GRAY. Yes, sir; but make a corporation tax, a Federal corporation tax on net profits.

Senator THOMAS. You can add 2 per cent, if necessary, to the income tax?

Mr. GRAY. If necessary, if that seems more scientific, and issue bonds for these extraordinary expenditures of the Government, but let the burden fall equally on all.

Senator THOMAS. Had you thought about a tax on the foreign exports?

Mr. GRAY. You mean for munitions alone?

Senator THOMAS. Yes; or for anything else.

Mr. GRAY. Yes, sir. Do you mean had I thought of any rate?

Senator THOMAS. Any rate or basis.

Mr. GRAY. Yes, sir; I think that the profits are the proper basis for taxation. You will drive your weaker sisters to the wall if you attempt to levy a tax on gross sales. It will mean the concentration of all business in the country in comparatively few and very strong companies.

I do not see why, if a man has a little business and has not the capital to put in some of the economies of manufacture that his larger rival has, why he should suffer the additional handicap of paying upon his gross sales a tax when maybe he is struggling along as he is and is barely able to keep his head above the water. But if your tax is for the purposes of Government business where there is a net profit, then I think that would be fair and equitable. There the burden would fall where it could be borne.

Just in conclusion, this selection of the industry which is our only large and important industry for this tax, which is higher than anything that has been thought of in this country before, which differentiates it from the other trades or businesses which are put into this munitions tax, we do think is a discrimination which is unfair, and we think at least—I say we want to pay our share, we are willing to pay our share,

the Du Pont Co. has always shown its willingness to pay its share, but at least we ought to be put down with the common people, and we ought all to be put on an equal footing.

Personally, I am frank to say that I think that the language of your tax could be taken to include a great many more businesses than appear there now. This powder tax is but a temporary thing, and if it goes into operation why it is immediately going to cut the throat and kill the goose that is supposed to be laying this golden egg.

The CHAIRMAN. Can you tell me what subcontracts the Du Pont Co. has in the manufacture of powder.

Mr. GRAY. You mean made by outside people?

The CHAIRMAN. Yes.

Mr. GRAY. I do not think they have any. They make every pound themselves. I do not think there is anybody in the country prepared to manufacture military powder to whom they could let subcontracts.

The CHAIRMAN. What contracts have they, if any, for the purchase of material for the manufacture of military powder?

Mr. GRAY. What is that, Senator?

The CHAIRMAN. What material do they buy for the manufacture of military powder?

Mr. GRAY. I really do not know very much about it. Mr. Irenee du Pont knows. I think he could tell you, exactly, what goes into the composition. There is cotton. They have bought upwards of 1,200,000 bales of short-fiber cotton. It was 2 cents a pound when the war began and now is 8 cents a pound.

Senator THOMAS. They use a great deal of alcohol, do they not?

Mr. GRAY. They use a great deal of alcohol, sir. That is one way in which the Du Pont Co. helped this company in the distribution of its product. Do you want to know the other things that go into the manufacture.

The CHAIRMAN. There has been urged here by the manufacturers of arms, shells, shrapnel, and things of that kind, that instead of levying the whole tax on the gross earnings against the original primary contractor, the one with the foreign Government, the tax should be distributed among all who participated in the manufacture of the——

Mr. GRAY. The raw material?

The CHAIRMAN. Yes, down to the raw material.

Mr. GRAY. Take sulphur, and for instance while the price of powder has been decreasing, sulphur has gone up from $18 a ton to $150 a ton. Cotton, which was 2 cents a pound for the short fiber, we are buying it now at 8 cents a pound.

Senator THOMAS. There has been a great advance, too, in the price of nitrates?

Mr. GRAY. Oh, yes, sir; there has been a terrific rise in everything that goes into the Du Pont Co.'s products.

The CHAIRMAN. What I am getting at is, can a tax levied on powder, whether it be on the gross or the net receipts, be passed down, in part, to those who furnish the material or parts of material out of which the powder is made?

Mr. DU PONT. The principal ingredients, which go into smokeless powder, which is a large part of munitions, are sulphuric acid and

alcohol. Besides that there is nitrate of soda, which is all imported from Chile, and I do not think we could follow that back. But the three large and important ones, cotton, alcohol, and sulphuric acid—part of our sulphuric acid we make ourselves, from the sulphur which becomes a further raw material that could be followed back. It comes from Louisiana and Texas.

The CHAIRMAN. Would your books show the names, etc., of the people from whom you have purchased materials?

Mr. DU PONT. They would.

The CHAIRMAN. For the manufacture of powder?

Mr. DU PONT. Yes, sir.

The CHAIRMAN. About what per cent would those three materials you referred to bear to the entire cost of the production?

Mr. DU PONT. Eighteen or twenty per cent. A very large part of our cost is in labor and amortization and cost of the plant, which would be useless after the war ended.

Mr. GRAY. Let me make just one further suggestion, if I may, and that is that I desire to call the attention of the committee to this fact, that owing to these large orders that the Du Pont Co. has secured abroad, notwithstanding the great increase of price of raw material going into all of their products, they have kept the price of blasting powder and black powder, which is commercially used in this country, the same as it was before the war.

Senator THOMAS. You mentioned that.

Mr. GRAY. Yes, sir.

The CHAIRMAN. Mr. du Pont, what per cent of the production of explosives made by your company is for military use?

Mr. DU PONT. In the year 1916, I think it would be in the neighborhood of the ratio of $200,000,000 to $240,000,000, if we run full capacity, and about $40,000,000 of commercial explosives. That is pretty close to 90 per cent.

The CHAIRMAN. Of the entire production?

Mr. DU PONT. Yes, sir.

The CHAIRMAN. On all the explosives?

Mr. DU PONT. On all the explosives we make.

The CHAIRMAN. You make blasting powder, do you?

Mr. DU PONT. Yes, sir.

The CHAIRMAN. You included that?

Mr. DU PONT. Yes, sir.

The CHAIRMAN. What proportion of the 90 per cent of military powder——

Mr. DU PONT. Let me correct that 90 per cent. It is rather under 90 per cent. It is over 80 per cent, between 80 and 90 per cent.

The CHAIRMAN. What per cent of that was made for and sold to belligerent countries?

Mr. DU PONT. Practically all. The amount the Government took is insignificant.

The CHAIRMAN. Do you make powder for sporting purposes?

Mr. DU PONT. Yes, sir. That is very small as compared with military business.

The CHAIRMAN. That is a very small per cent?

Mr. DU PONT. Very small yes, sir. It is a good deal less than 1 per cent.

The CHAIRMAN. Do you see any difference as to the measure and nature of the tax that should be levied on powder for explosives and that which should be levied on projectiles, for instance, such as shells and shrapnel?

Mr. GRAY. I do not look at either one manufacture or the other as being less desirable for the community to engage in, and I take it that is the only legal reason for taxation. If one is desirable and the other is undesirable you ought to tax the undesirable, it seems to me, but both are in the same brood.

The CHAIRMAN. You do not see any reason for differentiating?

Mr. GRAY. I do not know of any.

Senator THOMAS. If one is a munition of war and the other of peace?

Mr. GRAY. I think both are munitions of war.

Senator THOMAS. Did you not say blasting powder?

The CHAIRMAN. I said shells. I want to get his idea when we come to tax powder as one item, then to tax projectiles, such as shells as another item, and to tax guns as another item. Now, in your view, should there be any line of differentiation between the method of levying the tax?

Mr. GRAY. I think they ought all to be treated equally.

The CHAIRMAN. And in the same way.

Mr. GRAY. I do not see why they should not be treated alike. I think if you treat them differently you will be unjust to the one you are harshest to. I do not think our people object to taxation at all; all they want is to be taxed like other people. They do not want to bear a disproportionate part of the tax. If it is necessary that all the country should pay an 8 per cent tax on gross, we will do it gladly, but I do not think you ought to ask us to pay 8 per cent on gross and let most of the others off with nothing at all.

The CHAIRMAN. It has been said here that most of the Du Pont stock is held very largely in Delaware and among a great number of people in Delaware, and that, therefore, this particular tax on powder would fall especially heavily on the State of Delaware, or the people of the State. Suppose that the stock were distributed widely all over the United States so that the people of Delaware did not suffer more than the people of Maryland or Pennsylvania, then that argument of yours would not appeal. In other words, what difference would it make?

Mr. GRAY. It would be equally unfair whether the stock were owned in Delaware or California. The thing that we are complaining of is taxing one particular industry without taxing all other industries, like kinds of trade. To single out an explosive manufacturer for a very excessive tax seems unreasonable and improper. The reason we called attention to the fact that the stock was largely held in Delaware was in explanation of why so many people from Delaware were down here to show their feeling and to show how strongly they feel that this is unfair. If the stock had been scattered we might have had these gentlemen from 15 States instead of all from one. It would have been equally unjust.

The CHAIRMAN. Who is the next gentleman you wish?

Senator SAULSBURY. Assuming the rôle, and before I introduce the next speaker, I want to express one thought somewhat in reply to my friend the Senator from Colorado.

It occurred to me that the Du Pont Co. has done a great public duty on lines along which the Senator from Colorado has been trying to accomplish the same thing. The Senator from Colorado has been trying to save the Government vast expenditures of money for what we call preparedness, and it has been because it has saved the Government. What if this program of preparedness should be carried out by the Government alone, it would have cost the Government $50,000,000 or $60,000,000 already to have its ammunition made for any war it may enter into. And this has been accomplished without one cent of cost to the Government, and preparing and training men for making that ammunition without having the Government make those losses caused by explosives, caused by improper manufacture, caused by inexperience, which all manufacturers suffer from. And it seems to me, and has seemed to me, and I want to express this thought because I overlooked it, that the idea of going ahead with this program of preparedness we have, and then taxing the only preparedness that exists in this country, that has been built up at the expense of the people in Europe and not of this Government or of the people of this country, it seems to me the depth of foolishness and not the height of common sense.

I am going to ask you to hear as the next speaker, Judge Rheuby, who is general counsel for the Hercules Powder Co., who probably knows more about the manufacture of powder or powder affairs than any lawyer in the world.

STATEMENT OF MR. G. G. RHEUBY, GENERAL COUNSEL, HERCULES POWDER CO., WILMINGTON, DEL.

Mr. RHEUBY. Mr. Chairman and gentlemen, I want to express my appreciation and at the same time my disclaimer, because I know that some lawyers know considerable more about the explosive business than I do. I have a little memoranda here we want to submit for the consideration of this committee.

In my judgment the ground has been fairly covered in many of its details this evening by the gentlemen preceding me, and I am relieved, therefore, from adverting to many features which would have been necessary had I come earlier before you. However, I wish to emphasize at the very start that, dollar for dollar and share for share, if the proposed tax here is levied, you will not find the Du Pont Powder Co. the greatest sufferer. As the Hercules Co. finds itself situated, instead of common stockholders being deprived of from $30 to $40 a share if the proposed tax on powder is enacted into law, or the proposed tax law is enacted, it will cost the common stockholders of the Hercules Powder Co. $60 per share, or 60 per cent of the par value of the common shares which they hold. The capitalization of the Hercules Powder Co. is not so large as that of the Du Pont Co., there being $7,000,000 worth of common stock plus and $6,000,000 plus of preferred, or the capital stock being $13,000,000. This, however, does not represent the capital which the company has had invested in the manufacture of explosives covered by this proposed bill, as it has used its income from its manufacture to put it back into the business, so that on the amount which it will deliver, if it meets with no adverse situations through the rest of the year, will approximate $60 per share on each share of the common stock, or a tax approxi-

mately of $4,000,000. This Hercules Powder Co. is a young concern in the business, having been incorporated in 1913, or starting that year, and was engaged previous to this war entirely in the manufacture of commercial powders, making some sporting powders.

The CHAIRMAN. Where is its office?

Mr. RHEUBY. Its principal business office is located at Wilmington, Del., and it has about 1,400 stockholders.

The CHAIRMAN. How many plants has it?

Mr. RHEUBY. In the explosive business, in the manufacture of explosives covered by this bill, it has a cordite and cellulose plant at Camden, N. J.; it controls and operates and owns a powder plant at Gillespie, N. J., east of New Brunswick; it manufactures toluidin in the State of California, which is an explosive covered by this bill. It also manufactures black sporting powder and has contracted to sell and is selling and delivering to one of the foreign powers a quantity of that powder. And some of its blasting-powder mills are being used for the purpose of making this sporting powder. That, however, is not a large item of the company's business in the manufacture and sale of war explosives, the large items of this company being the manufacture of cordite, cyanide of tolune, and finally of toluidin.

You will bear in mind that cordite is used as a military powder by the British Government only of the large powers. You will also bear in mind that upon the cessation of this war our cordite plant will surely fall, and will have to be scrapped.

The demand for cayanide of tolune is not sufficient in this country to justify the continuation of the continuance of that. It is located at Hercules, Cal. It will also have to be scrapped or otherwise disposed of.

In the manufacture of this cordite, asatone is used. Asatone became a scarce article, and it became necessary for us to enter into a contract to erect a plant for the manufacture of asatone, in which the company has invested, or will invest, or donate, rather, half a million dollars, to which we shall have to bid good-by. That is, we shall get no return on it.

The potash supply of the country became limited and we have invested $1,500,000 in a plant in California for the manufacture or procurement of potash and other chemicals from seaweed. With this tax upon the powder it will make this plant as a commercial proposition too expensive to operate.

Senator THOMAS. Could you not use the potash in that event for fertilizer?

Mr. RHEUBY. For something else?

Senator THOMAS. For fertilizer; there is a great demand for it.

Mr. RHEUBY. Yes, but we would hardly invest a million and a half dollars in this enterprise for the purpose of manufacturing potash for fertilizer.

Senator THOMAS. I do not know as to that. Of course, there is a great demand for potash.

Mr. RHEUBY. Yes, sir. In the building of these plants in the qualifying the Hercules Powder Co. for this business, and in the employment of labor and the purchase of raw materials, and in the payment of railroad freight, this company has expended and paid to American corporations, or will have done so before the close of this year, more than $34,000,000.

The Hercules Powder Co. you can see as a practical proposition has not received one cent from an American citizen, but the entire profits of its business have come from abroad and have not cost a single American citizen one cent. We have paid tremendously high prices to corporations furnishing these raw materials. The cotton, the alcohol, the asatone, the toluidin, in the manufacture of T. N. T., and all the materials entering into the manufacture. Why, gentlemen, at the beginning of this war toluidin sold for 30 cents a gallon. We have been compelled to pay as high as $4 per gallon for toluidin.

The CHAIRMAN. Where do you get that?

Mr. RHEUBY. The manufacture of toluidin is made up from the by-products of coke oftentimes, and also from oil. It is abstracted or obtained from oil.

Gentlemen, you ask who should bear this burden. Let me say to you that our little company during the first six months of this year has paid to the railroads of this country for freight only more more than $1,000,000. You can readily see where the money goes which we pay. It goes to corporations furnishing the service, corporations who are engaged in business the same as are these powder companies.

There is another powder company in this country, the Aetna Powder Co. It has been stated here that these are practically the only two companies. The Aetna has been engaged in the manufacture of explosives and has expended a tremendous amount of money, and this tax, although I am not familiar with their financial condition, will affect them in the same manner it will affect us or the Du Pont Powder Co. But bear in mind that in the manufacture and sale of explosives the customers of all these companies have been foreign customers, not American customers, barring the small amount of sporting powder and the small amount of powder purchased by the Federal Government.

The manufacturer or the corporation engaged in any business may have two markets, a foreign and a domestic market. These foreign companies have exclusively for all practical purposes in this war business but one market, a foreign market. Corporations of this country, or several of them at least, covering certain industrial fields, have had two markets, a foreign market and a domestic market. The powder companies of this country alone have not profited from this business occasioned by or on account of war.

Let me call your attention, gentlemen, to the classification of certain articles for the last three years, showing the total sales abroad of these articles. In the year 1914, and on June 30, before the war began, iron and steel was exported from the United States to the extent of only $257,000,000. Closing with June 30 of this year they sold and delivered abroad $618,000,000 worth. At the same time the demand abroad brought up the price of their product and it was likewise increased in this country. They took the profits from the exportation abroad and the profit likewise, or on a false ratio or basis from the American consumer. What, gentlemen, must have been the per cent of profit to the steel industry of this country gained by the advance or the acquirement of steel companies occasioned by this war? The explosive concerns have no way to hide the total amount of their business because it is all export.

Let us take explosives for the year ending June 30. The total amount was only $473,000,000 as against $618,000,000 of iron and steel. Some of this iron and steel is covered by the proposed tax on iron, but the greater proportion of it is not. The only article that has suffered during this war on account of the lessened demand abroad is cotton. In the year ending June 30, 1914, the total sales of cotton abroad was $610,000,000. Ending with June 30 of this year the total sales was only $370,000,000.

Let us take the proposition of flour, $142,000,000 of wheat and flour as aganst $314,000,000 this year.

Let us take meats. Now, I do not mean cattle on the hoof or hogs alive, but I mean dressed, cured, or canned meats. In 1914 the total was $142,000,000. This year it was $270,000,000. This demand abroad gave an opportunity to increase the price to American consumers, and what are the profits to the meat packers of this country, what they have made out of the American consumers by reason of this demand abroad?

Copper manufacture, not copper production, $146,000,000 in 1914, as against $170,000,000 this year.

Mineral oils, $132,000,000 in 1914 as against $165,000,000 ending June 30, 1916.

You will remember that before the beginning of this war gasoline sold in this country at around 12 cents a gallon. In the year 1916 it reached the price at retail of nearly 25 cents a gallon. Where are the millions that have been taken from the consumers of gasoline in the United States? What tax are you going to place upon that as a business accruing and growing out of this war?

Autos and parts, $33,000,000 in the year 1914; $123,000,000 for the year ending June 30, 1916. Chemicals, $27,000,000 in 1914 and $122,000,000 for the year ending June 30, 1916. Cotton manufactures, $51,000,000 in 1914 and $112,000,000 for the year ending June 30, 1916. Refined sugar, the commodity that goes into every home, in the year ending June 30, 1914, $2,000,000 worth was sold abroad; for the year ending June 30, 1916, $80,000,000 worth of refined sugar. Before the war began it retailed at around 4 and 5 cents a pound. To-day to the American consumer it is 100 per cent above that price. How many millions have gone to the manufacturers of refined sugar in this country because of the opportunity afforded by this war? We know how much they shipped abroad. You may be able to ascertain how much they sold to the American consumer. Before the beginning of this war there was no great demand for barbed wire abroad, but for military purposes large quantities of it were purchased and the price went up and the American consumer, if he purchased barbed wire in this year or 1915, contributed to the manufacturers of barbed wire who were selling abroad a profit commensurate with what they were receiving from Europe.

If it is the purpose of Congress to tax the people who have realized profits resulting directly or indirectly by reason of the war, then these 13 items ought to be considered. It is difficult for you to levy an excise tax, or manufacturers' tax on all these things, and these commodities of which I spoke are manufactured and sold by corporations, and they, when the facts are ascertained it will be disclosed have realized as large a net profit as have the explosive concerns.

Why this tax on explosives at the rate it is proposed in this bill? Is it because the men who drafted this bill apprehended that the explosive concerns alone of this country had obtained this great profit, or do they want the money which came from abroad to be used only for preparedness and for the maintenance of the American Army and Navy, or do they stop to think that the people of the United States who have consumed products sold by the manufacturers here consume these articles sold to domestic commerce in the United States? Should not the framers of this bill realize that this extra profit which they have paid out has gone to the Government for preparedness, for the support of the Army and Navy?

The American consumer has paid the price. The profit is in the pocket of the manufacturer of these articles. I am not speaking of the profit that they made abroad; that is easily ascertainable from the report of the Bureau of Domestic and Foreign Affairs. Are you willing to let the profits of these gentlemen, that they have made in these manufactures, remain in their pockets and take from the pockets of the explosive concerns of this country money which came from abroad, and of which none came from a single American citizen?

I may be a little emphatic about this, Mr. Chairman; but this is the one feature I want you to consider when you come to determine whether or not you are going to charge the explosive concerns a dollar for each $100 worth of goods sold, that the oftener these explosive concerns turn their capital in the year the oftener that dollar will be multiplied. Not so with the corporation tax which you say you have raised to 2 per cent on corporations of this country. You tax upon his entire net income for the year 2 per cent, but you ask 8 per cent, or $8 on every $100 worth of business we do; and if we turn our capital three or four times, you take that 8 per cent each time under the provision of this bill.

Now, there is one other feature of this bill that I can not understand. There may be a reason for that, and I may be to blame. What was the theory, or the notion, of the drafter of this bill in fixing the rate at 8 per cent on explosives, 3 per cent on copper, and 5 per cent on other munitions? You, of course, could not get at the books of these various concerns and figure out exactly the profit they made—the comparative profit on the investment of these various concerns—so I take it that a good way to get at that would be the increase of the value of the stock of the various concerns manufacturing these different commodities. The Du Pont Co.'s stock prior to this war, or immediately prior to it, was about $120 a share. The highest point it ever reached was less than $1,000 under the old capitalization—$800, was it?

Mr. DU PONT. $800 or $900.

Mr. RHEUBY. The Bethlehem Steel Co. stock at the beginning of this war—the common and capital stock, as I remember it—was about $30 a share and rose to about $600, or 18 times. The Du Pont rose about eight times. The common stock of the Bethlehem Steel Co. rose about 18 times. You could not get accurately at the value of the increase of the price of copper stock because of so many corporations and the various kinds of mines, some of value and some not of value; but the price of copper increased from 13 to 28 cents a pound before the war—100 per cent—which was vastly in excess of the increase in the price of powder.

So, here we have a concern that is assessed 5 per cent whose common and capital stock has increased in the market 18 times, or 1,800 per cent. You assess all the powder people—I take the largest concern, for illustration, the Du Pont Powder Co.—8 per cent, whose stock has only increased in value because of the war 800 per cent, and copper 3 per cent, the value of which material or commodity has increased 100 per cent.

Now, would this basis of assessment, or the figures fixed in this bill, find a logical response to these facts? It would be difficult for you gentlemen, if required so to do, to justify this increase, would it not, on the basis of the value of the goods sold or the increase of the stock, or what not?

Senator THOMAS. I think that argument should have been presented to the Committee on Ways and Means, where the bill originated.

Mr. RHEUBY. Senator, we had no knowledge, so far as we were concerned, that any provision of this character was being drafted, or that the lower House contemplated the presentation of such a bill, until it was published. We were given no notice; we were not asked to come forward and make any statement of facts, or furnish any figures or make any declaration in the premises. This bill was drafted, so far as we are concerned, and introduced without notice whatever, and it is our apprehension that the man who drafted it was not familiar with the situation. Of course, we may be mistaken with regard to that. He may have had information in his mind that controlled him of which we have no knowledge. We have searched, we have thought, and have studied, and have endeavored to determine what were the facts, or what was the situation which justified such a distinction on the amount of tax to be levied on these various commodities.

Gentlemen, the American people who have contributed to the profits of these manufacturers, who have sold to the domestic consumers, are entitled to have some of these profits which they paid for, paid by these manufactueres into the coffers of this Government to cover the appropriations for preparedness. We can not conceive for one moment, we do not believe for one moment, that this 8 per cent was put upon explosives to penalize the business or to drive out of business the very concerns which would be essential to equip your battleships and supply your ports with ammunition in case of extremities if the Government required it. We are unable to figure out any reasonable hypothesis on which this basis was made.

Inasmuch then, gentlemen, as the corporations of this country—those which the corporation tax covers—have made enormous profits by and on account of this war, and not only in domestic but from foreign business, they should carry their proportion of this burden and that could be readily done by an increase of the corporation tax.

Now, gentlemen, you have spoken about the profits which the Du Pont Powder Co. may have made, or the Aetna Powder Co. has made, or will have made in 1916, but you do not know and nobody else does know with regard to that. We do not know whether the Hercules Powder Co. will make profits for the rest of this year or not. But supposing it has delivered $20,000,000 or $30,000,000 worth of material this year already and you apply a tax of 8 per cent to that,

which is $2,400,000, and we have a blow or an explosion and we were not in a condition to rebuild our factory in time to deliver our contract for the rest of this year. You would allow us under this bill 10 per cent, but you would take your 8 per cent of this $30,000,000 sold. I say, therefore, that to the explosive concerns this bill is unjust and entirely hazardous. The only fair thing to do with the explosive concerns is to assess them upon their net profits, and these explosive concerns are willing to pay their share, whatever that may be, but they are not willing to be singled out when no ground of justification can be urged for it.

That is all I care to say, and I thank you, Mr. Chairman.

Senator SAULSBURY. Gentlemen, I am informed that Mr. Martin, who is the secretary, I believe, of the Petersburg (Va.) Board of Trade, is present and would like to make a few remarks to the committee.

The CHAIRMAN. How many more gentlemen desire to speak?

Senator SAULSBURY. Nobody else, I am informed. I want to emphasize the fact that these gentlemen come here to say that they are willing, as Delawareans, and as the owners of powder stock, to represent that community; and they desire that each dollar of theirs shall bear the same burden that each dollar anybody else makes shall bear. They do not think it is fair that they should bear a greater burden on the dollar that they make than that which is imposed upon the dollar that someone else makes. The condition in Virginia is one which Mr. Martin, of Virginia, will speak about.

The CHAIRMAN. I asked the question for the reason that it occurs to the committee that there is no good purpose to be subserved by merely adding statement after statement to the same general effect.

Senator SAULSBURY. I have no doubt these gentlemen are very grateful for the patience that the committee has exhibited in listening to them.

The CHAIRMAN. Mr. William M. Martin will be heard now.

STATEMENT OF MR. WILLIAM M. MARTIN, SECRETARY PETERSBURG CHAMBER OF COMMERCE, PETERSBURG, VA.

Mr. MARTIN. Gentlemen, I will detain the committee but a very few minutes. I represent Hopewell, Va., and Petersburg, Va.

The Du Pont Co. established themselves there less than two years ago, and I suppose they have expended in the neighborhood of $20,000,000 or $25,000,000 in putting up plants for the manufacture of guncotton and acid plants which are needed in the manufacture of smokeless powder. They have paid, to my own knowledge, an enormous price for labor and have built plants and have paid enormous prices to operatives to operate the plant. I will say in that connection that the labor commissioner of the State of Virginia told me that the Du Pont Powder Co. treated their operatives better than any concern in the South; that many of the manufacturers expected an operative to do the work of two men but that the Du Pont Powder Co. had two men to do the work of every one man. [Laughter.]

They were in a hurry to get this thing started and they worked night and day after they started, and they have spent their money there. They are now beginning to realize considerable efficiency

from the green labor that they took in there about a year and a half ago. They have had to pay for it and they have paid an enormous cost for that.

So far as our community is concerned, the situation that faces us is about this: We believe that the old saying about the railroads is correct, that you should charge all the traffic will bear. I think that is correct when it is properly understood. I think it is a very wise thing. In other words, we believe that the charge for freight should be at such rate that the railroads would get all possible advantage of it and the manufacturers should have the biggest output that they can get. We believe the same thing applies in this case. From information that comes to me from reliable sources it is perfectly plain that the people in Japan are manufacturing smokeless powder in enormous quantities and selling it to Russia. The people of France are making enormous quantities of smokeless powder and the same is true of England, and it is getting to be more and more the case. We have heard here to-night that at one time the Du Pont Powder Co. got $1 a pound for powder. We hear now that they have not signed up any fresh contracts since the first of the year. They are running on the impetus they got the first year. Now that business is tapering down. They have either got to get more contracts or they have got to stop making their smokeless powder. They have in the neighborhood of about 13,500 operatives at Petersburg and in Hopewell. As I have said, they have spent an enormous amount of money to get these people sufficiently efficient to make powder. If this tax of 8 per cent in addition to their other tax of 2 per cent is imposed, that makes 10 per cent, they will not be in a position to compete with the English people and the French people and the Japanese people, and those 13,500 people are going to lose their jobs and the plants will become junk, or put to some other use—probably junk.

Now, we do not feel that these people have committed any crime in coming down there and starting that business. It is a legitimate business. It is certainly as legitimate as selling gasoline or selling steel or selling ashes and things of that sort. It is perfectly proper and suitable business for people to engage in. It is not worth while for me to repeat what has been said before, that every dollar they have expended for their purposes they have gotten from outside of this country; it has not cost the people of this country anything.

Now, to single these people out and tax them 8 per cent will mean, in my opinion, a collapse of that community of 25,000 or 30,000 people, and I think it is a question of but a very short time before that community will be wiped off, because they have got to be in a position to compete for business. The situation with us is that we will lose it all, and there is no case that I have ever known of where the killing of the goose that lays the golden egg applies any more forcibly than it does in this case. That company has contributed to roads and churches and Sunday schools and Young Men's Christian Associations. When anybody in that neighborhood would solicit funds, they would give them $100, or $200, or $50,000, and not a cent of that came from this country; it came from abroad. We feel that those people are being absolutely penalized, and on the other hand, we feel as if the people who make gun powder should be taxed just as we feel that the people who make gasoline should be taxed. We think those people should pay a tax on the profits of their business and

not on their gross sales. If it were raised on a manufacturer's tax, that would be an equitable arrangement.

Senator THOMAS. What do you mean by raising a manufacturer's tax?

Mr. MARTIN. I mean to say a 2 per cent raise, or more.

Senator THOMAS. That is an income tax?

Mr. MARTIN. If you want to do so, make it 2 per cent.

Senator THOMAS. It is not on a manufacturer any more than anybody else. I never heard it called a manufacturer's tax.

Mr. MARTIN. I heard it referred to to-night by several gentlemen as a manufacturer's tax. But at any rate, suppose you have a tax of 2 per cent, or raise it to 3 per cent, or any other per cent necessary to raise the money. I am not here asking for any more consideration for this corporation than any other corporation in the United States but I do not think it ought to be treated with any less consideration. Take the people who are engaged in the manufacture of shrapnel. We would say, here is a gun and there is the shrapnel that goes into the gun, and here is some powder that blows the shrapnel out of the gun. Now, why should the gun and shrapnel be put at one rate and powder that blows it out at another rate? What is there, in common sense, or in ordinary reason to justify that? To me it is most preposterous.

I do not own a dollar's worth of stock in this company, and I do not suppose there is a man in our community who owns a dollar of stock. It is not a matter of personal concern, but we do believe in fair play, and there is no reason why this should be done. This war will soon be over, we all hope, and what will happen to this $60,000,000 worth of stuff?

The CHAIRMAN. Let me ask you a question. Hopewell is a new town, is it not?

Mr. MARTIN. It is 2 years old, hardly 2 years old.

The CHAIRMAN. What is the population?

Mr. MARTIN. I should say approximately 25,000 people.

The CHAIRMAN. It is sustained wholly by this powder plant?

Mr. MARTIN. Very largely—mostly.

The CHAIRMAN. Is there any other large business there?

Mr. MARTIN. No large business; there are some small concerns there.

The CHAIRMAN. In the manufacturing business?

Mr. MARTIN. Yes, sir.

The CHAIRMAN. Wholly outside of the ordinary mercantile business?

Mr. MARTIN. It does not amount to anything besides that.

The CHAIRMAN. Did I understand you to say that the Du Pont Co. Had expended $25,000,000 is establishing this plant there?

Mr. MARTIN. Yes, sir.

The CHAIRMAN. Do you mean that expenditure was incurred in building the plant itself?

Mr. MARTIN. Well, I should say, roughly speaking, they have 25 or 30 miles of railroad tracks there. I should say they had accommodation for 7,000 or 8,000 people for sleeping purposes, and their machinery is the most elaborate and complex. Their powder plant is one of the best equipped in the United States. They have a filter; they filter all their water. They filter as much water as Baltimore

filters in a day, and probably more. All of that is very expensive. They have concrete roads there, and they have built beautiful homes for their operatives.

The CHAIRMAN. I am curious about this. Suppose the war should close by the end of this year—I doubt if you can answer this question, but perhaps Mr. du Pont can—what will become of that plant?

Mr. IRENEE DU PONT. Nobody knows. We have had a corps of men studying the possible uses of this plant after the war, and have had for many months, but have not found any yet who could give us any idea.

The CHAIRMAN. In normal times, would you use it for the manufacture of explosives?

Mr. DU PONT. No, sir; there is no occasion for the use of it for explosives. It produces a great deal of guncotton, probably a good many hundreds of times the total requirements of the country.

The CHAIRMAN. This was an emergency plant, was it not?

Mr. DU PONT. Precisely.

The CHAIRMAN. To meet war demands abroad?

Mr. DU PONT. Yes, sir; and for no other purpose.

Senator THOMAS. Then it would be probably abandoned whether the tax is placed upon you or not?

Mr. DU PONT. After the war is over, I think it looks very much that way.

Senator SAULSBURY. Mr. Chairman, I desire to express on behalf of my constituents our sincere thanks for your patience and kindness in giving us this hearing. I know we all appreciate it very much.

The CHAIRMAN. The committee has been very happy to have had you gentlemen appear before it. You have given a very intelligent presentation of the matter. The committee will now adjourn.

(Accordingly at 11 o'clock and 20 minutes p. m., the committee adjourned to meet at the call of the chairman.)