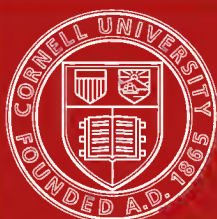


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PUERTO RICO.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.
ALBERT J. HOPKINS.
CHARLES H. GROSVENOR.
CHARLES A. RUSSELL.
JONATHAN P. DOLLIVER.
GEORGE W. STEELE.
JAMES A. TAWNEY.
SAMUEL W. McCALL.

CHESTER I. LONG.
JAMES D. RICHARDSON.
SAMUEL M. ROBERTSON.
CLAUDE A. SWANSON.
GEORGE B. McCLELLAN.
FRANCIS G. NEWLANDS.
SAMUEL B. COOPER.

HULL GREENFIELD, *Clerk.*

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1900.

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PUERTO RICO.

MORNING SESSION.

COMMITTEE ON WAYS AND MEANS,
Wednesday, January 31, 1900.

The Committee on Ways and Means this morning met, Hon. Sereno E. Payne in the chair.

The CHAIRMAN. If there be no objection, we will go on with the hearing and the clerk will note the appearance of the members of the committee. We have a delegation here from Puerto Rico.

STATEMENT OF MR. J. R. LATIMER.

The CHAIRMAN. What is your residence?

Mr. LATIMER. San Juan, Puerto Rico, sir.

The CHAIRMAN. Do you live there now?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. Will you go on and state in your own way what you think is desirable in the way of revenue legislation for the island of Puerto Rico and your reasons for it?

Mr. LATIMER. I think the main needs of the island of Puerto Rico are first of all free trade with the United States, especially on account of the conditions in which the island to-day is placed after the annexation or taking possession of by the United States and of the condition of the island after the hurricane. The reason of this is that we have our natural markets closed to us, which were Spain and Cuba, for the particular products of our island, while to-day we have no redress for the loss of those markets that we had up to that time. Secondly, the constitution of the navigation laws to-day as it stands without the privileges of free trade with the United States is also a drawback to the island on account of the fact we are bound to utilize only the American bottoms which to-day are scarce and makes us pay high freight for the export of our products. The change of the currency to-day to the American currency would be a great loss to the island if it was carried on without giving us free trade, because by so doing our products lose the 60 per cent exchange which we have.

The CHAIRMAN. What do you mean by 60 per cent; your currency, the unit of it, is—

Mr. LATIMER. Sixty cents on the dollar.

The CHAIRMAN. By order of the executive it is 60 cents on the dollar?

Mr. LATIMER. Yes.

The CHAIRMAN. Is that about the market value of it or was it at the time the order was made?

Mr. LATIMER. At the time of the order it was a little higher, exchange would run about 70; to-day it stands about 67 or 66 $\frac{1}{2}$.

The CHAIRMAN. Your peso contains about 96.5 of the amount of the silver in the American dollar, I believe?

Mr. LATIMER. I do not understand your question precisely.

The CHAIRMAN. Your peso contains about 96.5 of the part of a silver dollar, a little less silver than the American dollar?

Mr. LATIMER. You speak of the fineness? I believe it is about that ratio.

The CHAIRMAN. Now the navigation laws have also been extended by executive order?

Mr. LATIMER. Since the 1st of January. It was first implanted last year and an order was issued and—

The CHAIRMAN. What are the principal products which you export from Puerto Rico?

Mr. LATIMER. Coffee, sugar, and tobacco.

Mr. McCLELLAN. Are you an importer?

Mr. LATIMER. Yes, sir.

Mr. McCLELLAN. And exporter and importer?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. The exports of coffee have been principally where?

Mr. LATIMER. For our lower grades of coffee it has been Cuba and Spain, and the higher grades it has been France, Spain, and England.

The CHAIRMAN. How much of the coffee crop do you export; how many bags or pounds?

Mr. LATIMER. Of pounds I could not give the exact figures, but if you will allow me to look into it I think I could.

The CHAIRMAN. Certainly. Have you figures covering all your exports or covering coffee, sugar, and tobacco?

Mr. LATIMER. I have it itemized, sir, and I can give them to you. Coffee, 23,504,000 kilograms, which is equal to about 23,000 tons.

The CHAIRMAN. What percentage of the value of the exports was coffee?

Mr. LATIMER. Coffee was about 12,000,000 pesos.

The CHAIRMAN. And of the total exports about how much?

Mr. LATIMER. Twelve million pesos in coffee.

The CHAIRMAN. How much of the total exports?

Mr. LATIMER. Of coffee?

The CHAIRMAN. No; of all the exports from the island, somewhere about \$16,000,000?

Mr. LATIMER. About those figures.

Mr. FINLAY. About \$17,000,000.

Mr. LATIMER. Yes; it is about \$17,000,000 or \$18,000,000.

The CHAIRMAN. Has there been any change in the duty on your coffee exported to Spain since the war?

Mr. LATIMER. None, sir.

The CHAIRMAN. No change?

Mr. LATIMER. Not to Spain?

The CHAIRMAN. Was there no duty?

Mr. LATIMER. Afterwards it was augmented. Oh, yes, sir.

The CHAIRMAN. Has there been any change in the duty on coffee exported to Spain?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. What is the change?

Mr. LATIMER. The exact figures I could not give you, but I know that the duty is so high that it is just a prohibitive duty.

The CHAIRMAN. So none is exported there?

Mr. LATIMER. Yes.

Mr. DALZELL. Have you always paid duty on coffee to Spain?

Mr. LATIMER. No, sir.

Mr. DALZELL. Was it free?

Mr. LATIMER. It was free.

Mr. RUSSELL. Is that Spanish duty directed to Puerto Rico alone or is it a general duty on coffee imported?

Mr. LATIMER. I could not say it is general. I believe it was established more toward Puerto Rico after the cession of the island.

Mr. RUSSELL. And pertains simply to articles from Puerto Rico?

Mr. LATIMER. Yes.

The CHAIRMAN. Will you describe the conditions of the coffee plantations since the hurricane down there last summer?

Mr. LATIMER. The condition of the coffee plantations in relation to the hurricane are such that the crop we have just taken off I do not believe will reach 15 or outside of 20 per cent of its natural production.

The CHAIRMAN. You do not think there will be 20 per cent of the crop this year?

Mr. LATIMER. Then the crop which will be taken for two or three years to come I do not believe will reach the production of more than 25 to 30 per cent of former years.

Mr. RICHARDSON. Of what it was before?

Mr. LATIMER. Yes.

The CHAIRMAN. The coffee plantations are on the high lands?

Mr. LATIMER. Yes.

The CHAIRMAN. The coffee bushes are shaded by other trees?

Mr. LATIMER. It is absolutely necessary for the growing plant.

The CHAIRMAN. The storm, I understand, broke down those shade trees?

Mr. LATIMER. Nearly all the shade trees have been blown down.

The CHAIRMAN. What effect did that have upon the bushes?

Mr. LATIMER. The lack of shade would not allow the coffee to bear again, and the falling of all these limbs and débris on the plants broke the plants to an extent it will take at least two or three years to make a new growing and establish them for a further production.

The CHAIRMAN. Has there been other vegetation started up there over these coffee plantations?

Mr. LATIMER. In some; yes, sir; but it has been very difficult on account of the lack of means to do so.

The CHAIRMAN. What I mean is, whether a foreign growth came up, such as weeds and vines?

Mr. LATIMER. Oh, yes, sir; that is natural.

The CHAIRMAN. To what extent?

Mr. LATIMER. I could not tell you, sir.

The CHAIRMAN. You do not know about that?

Mr. LATIMER. No, sir.

The CHAIRMAN. State whether any coffee crop—one year's crop of berries—was on hand, or nearly so, at the time the hurricane came.

Mr. LATIMER. We had one in the bud, sir—we call it the bud—nearly ready to start to bear the berry.

The CHAIRMAN. What effect did it have on that?

Mr. LATIMER. It just blew down the new buds, and they were all destroyed; they were thrown on the ground and destroyed.

The CHAIRMAN. Did you have a previous year's crop, or a portion of it on hand?

Mr. LATIMER. Yes, sir; there were some on hand.

The CHAIRMAN. Stored in what?

Mr. LATIMER. In warehouses and merchants' stores throughout the island.

The CHAIRMAN. What happened to the warehouses?

Mr. LATIMER. In some districts, such as Ponce, the floods came in the storehouses and damaged a good deal of the stored crop of coffee.

The CHAIRMAN. To what extent did it damage the old crop?

Mr. LATIMER. I could not give that item.

The CHAIRMAN. What is the next important item of export to coffee?

Mr. LATIMER. Sugar.

The CHAIRMAN. Do you know what has been your average export of sugar?

Mr. LATIMER. Centrifugals, about 16,000 tons; muscovados, about 40,000; molasses sugar, about 1,000 tons.

The CHAIRMAN. That would be about 57,000 or 58,000 tons?

Mr. LATIMER. About 58,000 tons.

Mr. RICHARDSON. Representing how much money?

Mr. LATIMER. One million three hundred thousand about on centrifugal, 2,600,000 on Muscovados, 82,000 on molasses sugars, and on molasses about 400,000.

Mr. McCLELLAN. That is pesos?

Mr. LATIMER. Pesos.

The CHAIRMAN. That was an average of what years?

Mr. LATIMER. That is the last one made up, 1897.

The CHAIRMAN. How many years previous?

Mr. LATIMER. Only for that year.

The CHAIRMAN. Since then what has been the condition of the sugar crop—how is the quantity of sugar compared with 1897?

Mr. LATIMER. I think you can calculate it on the same basis, more or less, of this product for that year.

The CHAIRMAN. On 57,000 tons?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. I have heard it estimated not over 45,000 tons?

Mr. LATIMER. I do not think so; I think it will run about the other.

The CHAIRMAN. Do you think you will have a full crop this year?

Mr. LATIMER. Pretty near; there may be some districts which will fall off.

Mr. RICHARDSON. The hurricane then did not hurt the sugar as it did the coffee?

Mr. LATIMER. No; because, as a general rule, the sugar plant was of small growth.

The CHAIRMAN. Where has this sugar been sold heretofore?

Mr. LATIMER. Principally in the United States and Spain.

The CHAIRMAN. Will you state what portion went to Spain?

Mr. LATIMER. Of centrifugal, about 6,000 tons; Muscovados, about 11,800.

Mr. DALZELL. Was there a duty on it or did it go to Spain free?

Mr. LATIMER. Free.

The CHAIRMAN. That is about 19,000 tons?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. Is there any duty on it now exported to Spain?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. Do you know how much?

Mr. LATIMER. No, sir.

Mr. RICHARDSON. Is that prohibitive also?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. Are you sending any to Spain now?

Mr. LATIMER. Not lately.

The CHAIRMAN. Since how long?

Mr. LATIMER. We have not now any on hand.

The CHAIRMAN. A little goes to Great Britain?

Mr. LATIMER. Yes, sir. Great Britain in centrifugals took about 72,000 kilograms and of the Muscovados about 1,105,000 kilograms.

The CHAIRMAN. What is the next most important crop?

Mr. ROBERTSON. Allow me to ask a few questions right on this point. How does this crop compare with the crops you have made in the past, so far as the quantity goes?

Mr. LATIMER. That is about the average.

Mr. ROBERTSON. What is the possibility of the sugar industry in your island; did it reach its utmost development or is their opportunity for greater development?

Mr. LATIMER. I think there is opportunity for greater development.

Mr. ROBERTSON. To what extent?

Mr. LATIMER. Safe figures would give about double the amount.

Mr. ROBERTSON. You think you could never exceed that?

Mr. LATIMER. Not much over that. I do not think the proportion of land adapted to sugar culture will exceed that.

Mr. ROBERTSON. That is about all the possibility of its development—about 100 per cent more than you produced of the last crop?

Mr. LATIMER. Yes, sir.

Mr. DOLLIVER. What is the sugar land not now used for sugar purposes used for?

Mr. LATIMER. For grazing, principally, and some for tobacco; but as a general rule sugar lands which are not used are turned into pastures for cattle grazing.

Mr. DALZELL. That land needs irrigation to make it successful sugar land?

Mr. LATIMER. In some of the districts, especially in the southern district of the island.

Mr. RICHARDSON. What about the possibility of the increase in the producing capacity of the coffee, compared with 1897?

Mr. LATIMER. I think coffee could perhaps be increased not 100 per cent but 75 per cent.

The CHAIRMAN. You mean from the old normal condition before the war?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. What is the quality of that coffee as compared with Mocha and Java?

Mr. LATIMER. That is according to how you appreciate it. I think it is as good or better than Java coffee, but it is a question of taste.

The CHAIRMAN. What price has it brought in comparison with the Rio coffee?

Mr. LATIMER. The coffee before the war, when we had the Cuban

and Spanish market, reached 30 pesos a hundred pounds. To-day the outside price, although it has gone up some since the Cuban market has been opened up again to Puerto Rico——

The CHAIRMAN. The Cuban market has been opened up?

Mr. LATIMER. By a small reduction which has been made in the duties imposed upon Puerto Rican coffees, and I think the price you could calculate on would be 17 to 18 pesos a hundred pounds for the better qualities.

Mr. DOLLIVER. What effect on the tobacco crop would the extension of the coffee area have there?

Mr. LATIMER. I do not quite understand the question.

Mr. DOLLIVER. Whether, if additional lands were put in coffee, what effect would that have on the tobacco area?

Mr. LATIMER. I do not think it would make any difference; I do not think it would have any whatever on the area, because these qualities of land which are used generally for coffee could not be utilized for tobacco.

The CHAIRMAN. Will you not give the extent of tobacco exports?

Mr. LATIMER. The tobacco exported, total about 2,500,000 kilograms, which would be about 2,500 tons.

The CHAIRMAN. What year is that?

Mr. LATIMER. In 1897.

The CHAIRMAN. What do you say will be the probable crop this year?

Mr. LATIMER. The probable crop this year, I think, will fall off at least 50 or 60 per cent of this production.

The CHAIRMAN. Five million pounds you exported, or does that include your home consumption?

Mr. LATIMER. That is about the full output, including the home production.

The CHAIRMAN. Is it not a fact that the export is about 4,000,000 pounds?

Mr. LATIMER. No, sir.

The CHAIRMAN. How much was it?

Mr. LATIMER. The total export, as I have stated, was about 2,500 tons.

The CHAIRMAN. Where was that tobacco exported previous to the war?

Mr. LATIMER. Of that 2,500 tons, about 2,200 tons were exported to Cuba.

The CHAIRMAN. Do you know what became of it there?

Mr. LATIMER. It was just manipulated and worked up and sold as Cuban tobacco.

The CHAIRMAN. Mostly in the United States?

Mr. LATIMER. I could not tell you that, sir. A good deal of it went to Europe.

The CHAIRMAN. So it was exported from Cuba?

Mr. LATIMER. As the Cuban product.

Mr. RICHARDSON. Was it as good?

Mr. LATIMER. Well, it shows it did take as Cuban tobacco when it was accepted and sold for such, sir.

Mr. RICHARDSON. Was there any duty on it imported into Cuba?

Mr. LATIMER. To-day; yes, sir.

Mr. RICHARDSON. Was there then prior to the war?

Mr. LATIMER. No, sir; none.

Mr. RICHARDSON. What is it to-day?

Mr. LATIMER. To-day I believe it is about \$5 a pound.

Mr. RICHARDSON. What has been the effect on the market by the imposing of that duty?

Mr. LATIMER. We have not had any outlet.

Mr. COOPER. That is, that there is none exported?

Mr. LATIMER. No, sir; nothing.

The CHAIRMAN. Have you got a market for it at all now?

Mr. LATIMER. No, sir; except the lower grades which go to Germany and Spain, and even to Spain this year we have not had any market for it.

The CHAIRMAN. Is there an increased duty on that imported into Spain now?

Mr. LATIMER. Yes, sir; but I could not give you the figures.

Mr. DOLLIVER. Who assesses this duty on tobacco imported to Cuba at \$5 a pound?

Mr. LATIMER. It is imposed by the United States in the new tariff established for Cuba.

Mr. DALZELL. Was there a tariff or free trade between Puerto Rico and Spain on every article?

Mr. LATIMER. Yes, sir; there was only a nominal duty of 10 per cent ad valorem on the existing tariff duties which were in force then, but that was only a provisional 10 per cent transitory duty and would have expired this year.

Mr. DALZELL. That is, you paid 10 per cent of the duties that others paid?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. What is the agricultural condition now and what is the commercial condition of Puerto Rico?

Mr. LATIMER. It could not be worse, sir. We have no money, no one to lend it, and no one to get it from.

Mr. RICHARDSON. And no use for it?

Mr. LATIMER. Rather more than we can get.

The CHAIRMAN. Are there any mortgages on the plantations there?

Mr. LATIMER. We think all the properties are mortgaged more or less.

The CHAIRMAN. About how much is the amount of mortgages on the tobacco, sugar, and coffee lands?

Mr. LATIMER. I could get that for you; I could get you this data.

Mr. TAWNEY. These mortgages were principally all executed before the Spanish war?

Mr. LATIMER. Yes, sir.

Mr. COOPER. Who holds those mortgages?

Mr. LATIMER. To-day generally they are held on the island itself; some are held by foreign holders.

Mr. McCALL. Are the rates of interest high?

Mr. LATIMER. The rate of interest there has been as high as 1½ per cent a month, but to-day it is about 9 per cent; that is the bank discount.

Mr. TAWNEY. A year?

Mr. LATIMER. Yes, sir.

Mr. DALZELL. Are those mortgages held by individuals or the banks?

Mr. LATIMER. Some by banks; but mostly by individuals, I think.

Mr. RICHARDSON. What put down the rate of interest; why has it declined?

Mr. LATIMER. The rate of interest declined especially after the constitution of the two banks which existed in Puerto Rico, one named the Spanish Bank and the other the Agricultural Bank.

Mr. RICHARDSON. Do these banks loan to agriculturists on mortgages?

Mr. LATIMER. The Spanish Bank, no, sir; but the other bank did; yes, sir. The Agricultural Bank—that is its principal business—giving money on long terms, payable interest and capital by yearly installments.

Mr. COOPER. How do they secure themselves in payment?

Mr. LATIMER. By giving mortgages.

Mr. COOPER. On the crop or on the land?

Mr. LATIMER. On the land, sir. They will not take loans on the crop but as collateral for outside loans, special loans, but not as a general security.

Mr. RUSSELL. If I understood you correctly, 90 per cent of the tobacco you have raised on the island of Puerto Rico in the past has been sent to Cuba; how about that?

Mr. LATIMER. About 2,200 tons.

Mr. RUSSELL. Out of 2,500 tons?

Mr. LATIMER. Yes, sir.

Mr. RUSSELL. And it has been admitted into Cuba free?

Mr. LATIMER. Yes, sir.

Mr. RUSSELL. And the Executive order put a tariff of \$5 a pound upon that tobacco. That did not help Puerto Rico particularly?

Mr. LATIMER. No, sir.

Mr. RUSSELL. It helped Cuba immensely?

Mr. LATIMER. It did.

Mr. RUSSELL. It would be the greatest and quickest benefit that can be gotten for Puerto Rico at present to take off that duty?

Mr. LATIMER. It will be a relief, certainly, but I think it will be more relief if we can get that done not toward Cuba but in the United States itself.

Mr. RICHARDSON. You agree with the President then?

Mr. LATIMER. Most decidedly.

Mr. COOPER. Do your people want free trade with the United States?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. On everything?

Mr. LATIMER. Yes.

The CHAIRMAN. Exports and imports?

Mr. LATIMER. Yes, sir.

Mr. RICHARDSON. The banks you spoke of, the two banks, they have no currency in circulation of their own—they are banks of deposits and loans?

Mr. LATIMER. The Spanish bank, according to its charter granted by Spain, has the privilege of issuing notes, sir.

Mr. NEWLANDS. Are their notes in circulation now?

Mr. LATIMER. Yes, sir; I think to the extent of about \$1,000,000.

Mr. NEWLANDS. Is it kept at a par with silver or gold?

Mr. LATIMER. We have no gold.

The CHAIRMAN. What were your imports into Puerto Rico in 1897; how much did they amount to?

Mr. LATIMER. About 17,858,000.

Mr. McCLELLAN. That is in silver?

Mr. LATIMER. That is in pesos.

The CHAIRMAN. What was imported principally?

Mr. LATIMER. The full line of importations, sir?

The CHAIRMAN. What was the number of importations, mentioning the articles?

Mr. LATIMER. Provisions, as a general rule, from the United States.

The CHAIRMAN. What articles were imported?

Mr. LATIMER. Flour, meats of all kinds, breadstuffs, dry goods from Europe principally, and hardware from Europe principally.

The CHAIRMAN. How about rice?

Mr. LATIMER. Rice from India or England, Spain, Italy, and a little from the United States, but not much.

The CHAIRMAN. How about beans?

Mr. LATIMER. Beans from the United States, and pease, too, as a general rule.

The CHAIRMAN. How many beans from Spain?

Mr. LATIMER. Some, sir, but not to any great extent.

The CHAIRMAN. Does the importation of beans constitute quite a large item?

Mr. LATIMER. I could give those figures. I could get them for the committee if they are wanted.

Mr. ROBERTSON. Do you know what grade of rice was imported?

Mr. LATIMER. The grade of rice as a general rule is the common India rice.

Mr. ROBERTSON. Was there any tariff or anything on it?

Mr. LATIMER. Yes, sir.

Mr. ROBERTSON. What was the rate?

Mr. LATIMER. I could give those, but they are not in my memory. I could give that data.

Mr. TAWNEY. Was there any tariff duty on flour and vegetables coming into Puerto Rico from other countries?

Mr. LATIMER. Yes, sir; flour used to pay about a dollar and something a bag, \$1.05 or \$1.06, I believe.

The CHAIRMAN. Do you import vegetables?

Mr. LATIMER. No, sir; not many.

The CHAIRMAN. Onions?

Mr. LATIMER. Onions, potatoes, and all those we imported, although the island does raise them, but they have not been cultivated.

The CHAIRMAN. You have always imported those?

Mr. LATIMER. Yes.

The CHAIRMAN. Where do you get onions and potatoes?

Mr. LATIMER. Potatoes principally from the United States and onions from Spain.

The CHAIRMAN. Do you import any fish?

Mr. LATIMER. Yes, sir; generally from Halifax, Nova Scotia.

The CHAIRMAN. Any from the United States?

Mr. LATIMER. Not as much as from Halifax.

The CHAIRMAN. Out of the \$17,900,000 of imports in 1897, how much in value was imported from the United States?

Mr. LATIMER. I could give those figures.

The CHAIRMAN. Just give each import from the United States Spain, Great Britain, etc.

Mr. LATIMER. I could supply all this information of different imports by different classes to the committee if they want them. It will delay the committee now.

The CHAIRMAN. You make a statement of that and give it to the stenographer.

Mr. TAWNEY. There were 73,000,000 pounds of rice imported in 1897. Was not that principally broken rice?

Mr. LATIMER. Yes, sir.

Mr. TAWNEY. That included No. 12 sieve?

Mr. LATIMER. Yes.

Mr. RUSSELL. Is there any duty levied on flour imported into the island?

Mr. LATIMER. Not to-day.

Mr. TAWNEY. Is there any duty levied on vegetables?

Mr. LATIMER. On certain, but it is a low tariff. It has been changed after the occupation; the tariff has been lowered a good deal.

Mr. TAWNEY. Where do the people of the island get their cotton goods?

Mr. LATIMER. Generally from England. The prices they can get in England to-day is the same, duties being levied on the United States as the English production; the United States can not come down to the prices the English markets can afford to give us those articles.

Mr. TAWNEY. Has the duty, since the occupation by the United States, on cotton goods been reduced?

Mr. LATIMER. No, sir; I do not think it has. I think it stands the same as it was. I believe in some instances they may have come down.

Mr. TAWNEY. Do you know whether the importations of American-made cotton goods have increased since the occupation?

Mr. LATIMER. Not as to general business. It has increased in the form of trials, but they can not compete with the same duties being paid from the United States as from England.

Mr. TAWNEY. Do you know what the duty on cotton goods coming to Puerto Rico from England is?

Mr. LATIMER. I know there are a great variety of goods sold by threads; that is, the number of threads to the square inch of the goods. It is all classified under that head.

Mr. RUSSELL. You pay the same duty on cotton goods that come from the United States that you do on cotton goods that come from England, for the like goods?

Mr. LATIMER. Yes, sir.

Mr. RUSSELL. And you pay the same duty on the cotton goods from the United States as you did before the war?

Mr. LATIMER. Yes, sir.

Mr. TAWNEY. I am inquiring what that duty was.

Mr. LATIMER. That is different on different articles.

Mr. RUSSELL. It can all be wiped out by Executive order, the same as the \$5-pound tax on tobacco was imposed by Executive order.

The CHAIRMAN. You can run this whole business by Executive order.

Mr. RUSSELL. That can be done in a minute, the other requires legislation, and I am looking for relief for these distressed people.

Mr. McCLELLAN. And incidentally protection for Connecticut.

Mr. LATIMER. I do not think Connecticut tobacco need have any fear of our tobacco at all.

Mr. NEWLANDS. Regarding the mortgage debts of Puerto Rico, is the foreclosure and sale of those lands imminent now?

Mr. LATIMER. In some cases; yes, sir. In others I do not think quite so imminent, but still the extension of the mortgages fit goes with free trade, so that the island may be put in a position in which it can advance the means to come to the succor of the distressed mortgagees. I think that something can be done toward the sugar cane, but if—

Mr. TAWNEY. An extension has recently been made of six months?

Mr. LATIMER. Yes, sir.

Mr. NEWLANDS. Would the foreclosure of these mortgages lead to concentration and ownership in the hands of large corporations?

Mr. LATIMER. I do not think any corporation, but they are small proprietors—individuals. I do not think it would be as a general measure or a general happening.

Mr. NEWLANDS. You think not?

Mr. LATIMER. No.

Mr. NEWLANDS. Are there any public lands in Puerto Rico?

Mr. LATIMER. Very few.

Mr. NEWLANDS. Unoccupied lands belonging to the Government?

Mr. LATIMER. To the Government—I do not believe over 10,000 acres.

Mr. NEWLANDS. Where are they located?

Mr. LATIMER. Generally in the hills and of the poor qualities of land.

Mr. NEWLANDS. Most of the land there is occupied and cultivated?

Mr. LATIMER. Not cultivated, but it is occupied.

Mr. NEWLANDS. Is the land held in very large tracts?

Mr. NEWLANDS. I think the largest tract would be about 5,000 or 6,000 acres.

Mr. TAWNEY. And there are only four or five of those?

Mr. LATIMER. Yes.

Mr. NEWLANDS. What is the average size of the tracts of farming lands there?

Mr. LATIMER. Well, between 500 and 600 and as low as two or three hundred. Some smaller ones run as low as 50 or 100, but you might say 50 or 60 acres would be a good average.

Mr. NEWLANDS. Your sugar industry requires, does it not, a concentration of large tracts of land under one ownership and control?

Mr. LATIMER. I do not think it necessarily does.

Mr. TAWNEY. Is it not a fact the sugar men there generally only own a small tract of land and then rely upon individual farmers to furnish them with their cane?

Mr. LATIMER. It has not been so up to the present. The holder of the works has got to make his own crop.

Mr. TAWNEY. The owner of the plantation?

Mr. LATIMER. Yes.

Mr. NEWLANDS. He does not rely upon the sugar obtained from the small farmers?

Mr. LATIMER. Not as a general rule. There will be about five or ten instances on the island to that effect, but it is not the generale rule.

Mr. NEWLANDS. Now, is that holding of small tracts promoted there? If the construction of a mill and possibly a railroad to bring in cane is essential to sugar manufacturers, will not that system tend to the concentration and monopoly of land?

Mr. LATIMER. It might lead to that, but I do not think so. I think it would help the small property owners to develop their lands in cultivation and sell their cane in a raw state to these factories.

Mr. NEWLANDS. I understood you to say it was not done?

Mr. LATIMER. It is not done, but if it comes to that it will be a great help to these small producers.

Mr. COOPER. Which is the greater profit, sugar or tobacco, per acre? Which yields the most?

Mr. LATIMER. In money?

Mr. COOPER. Yes.

Mr. LATIMER. I think the coffee, up to the war, when we had these ruling prices of 25 and 30 pesos a hundred pounds.

Mr. COOPER. How about the yield per acre of tobacco and sugar?

Mr. LATIMER. I could not give those figures on tobacco. The yield on sugar per acre depends entirely upon the conditions of your land. I think you could not well calculate on the gross product being more than 10 or 12 per cent.

Mr. NEWLANDS. Have you any statistics classifying these tracts of land according to area, on a hundred, two hundred, or thousand-acre farms, etc.?

Mr. LATIMER. I do not think there are any statistics on that.

Mr. NEWLANDS. What proportion of your land is devoted to sugar, what to tobacco, and what to coffee?

Mr. LATIMER. I could give the items, but not by memory.

Mr. NEWLANDS. You will give that information to the stenographer?

Mr. LATIMER. 61,498 acres in cane land; in coffee, 122,399 acres, and in tobacco, 4,264 acres, for the year 1897.

Mr. RICHARDSON. How many acres are there on the island?

Mr. LATIMER. A total of 2,089,761.

Mr. RICHARDSON. Why is it with all that great quantity of land not in cultivation you can not increase the capacity of your different products; is it the fact that it is not cultivatable?

Mr. LATIMER. No, sir; not that; I think it is a more lack of means to do so.

Mr. RICHARDSON. How?

Mr. LATIMER. In money.

Mr. RICHARDSON. I understood you to say just now there was not capacity on the island for raising these crops. Do you mean to say now if there was sufficient money there you could increase that far beyond what you have stated?

Mr. LATIMER. Yes, sir. I stated in the beginning that the sugar crop could be cultivated and be increased to double the amount of today.

Mr. RICHARDSON. That is a hundred per cent. With this great quantity of land not in cultivation why could you not increase it way beyond 100 per cent?

Mr. TAWNEY. Is it not a fact you can not raise the sugar only on a certain kind of land?

Mr. LATIMER. You can raise sugar on any land except the rocky land, but not to any profit.

Mr. TAWNEY. Can you, without irrigation?

Mr. LATIMER. On the north coast, yes, sir; on the south coast, no.

Mr. TAWNEY. Do you mean to say the coffee land and the sugar land could be used for the raising of either crop?

Mr. LATIMER. No, sir. The coffee land can not be used for sugar.

Mr. TAWNEY. And sugar land will not produce coffee?

Mr. LATIMER. Sugar land will produce coffee, but you would have to start by planting your shade—

Mr. TAWNEY. How is it about tobacco land—will coffee land produce tobacco?

Mr. LATIMER. Not as a general rule; no, sir. You have some little tracts where in the slopes or in the valleys you might get tobacco and coffee, but it is not as a general rule.

Mr. RUSSELL. The tobacco and sugar lands are interchangeable in product; that is, sugar land can be used for tobacco and tobacco land for sugar, and you could put your whole product now divided between sugar and tobacco into tobacco, as a general rule?

Mr. LATIMER. Yes; you can utilize lands one for the other.

Mr. TAWNEY. And whether you use one for the other depends upon the relative value of the crop?

Mr. LATIMER. I do not think tobacco would ever come to that point.

Mr. ROBERTSON. Then all lands now in tobacco will be or could be put into sugar?

Mr. LATIMER. It could be if it is more profitable.

Mr. ROBERTSON. But you stated there was only a possibility of increasing the production on the island of sugar to the extent of 100 per cent?

Mr. LATIMER. Yes; 100 per cent.

Mr. NEWLANDS. What has been the highest production?

Mr. LATIMER. Sixty to sixty-five thousand tons—say it would come to about one hundred and twenty to a hundred and forty thousand tons.

Mr. NEWLANDS. Do you think that is the limit of production in Puerto Rico of sugar?

Mr. LATIMER. I think that would be a fair limit.

Mr. NEWLANDS. Under the most favorable circumstances?

Mr. LATIMER. Yes.

Mr. STEELE. Have you fertilized this land very highly now?

Mr. LATIMER. Some, but very little. Perhaps some on the west coast; I do not know. On two or three properties they may have used some fertilizers, but as a rule it is not used on the whole island.

Mr. STEELE. Do you not have to rotate the crops on the land to keep it up? Do you keep on raising sugar or tobacco one year after another?

Mr. LATIMER. Yes; one year after another.

Mr. NEWLANDS. What has been your system of landholding in Puerto Rico? Is it what they call peasant proprietorship in Europe, an ownership by a large number of people of small tracts, or has the tendency been toward concentration of ownership?

Mr. LATIMER. Not really concentration, and you would not call it peasant proprietorship even. It would be a medium between the two, a number of proprietors. The number of proprietors is 50,733.

Mr. NEWLANDS. That means the number of farms?

Mr. LATIMER. Yes.

Mr. NEWLANDS. Is that outside of the landholdings in the cities?

Mr. LATIMER. Yes, sir.

Mr. NEWLANDS. You have 1,000,000 people?

Mr. LATIMER. A million.

Mr. TAWNEY. What is the population of your cities?

Mr. LATIMER. San Juan, or the whole island?

Mr. TAWNEY. The cities of the island.

Mr. LATIMER. I could not give you the details, but I could give you the data. San Juan, I think, the census would show about 30,000 to 32,000.

Mr. ROBERTSON. What is the condition of labor? Will you explain the meaning of the peon system of labor?

Mr. LATIMER. Well, the hand farmer is just the common laborer who get to-day from 42 to 44 cents wages.

Mr. SWANSON. In what money?

Mr. LATIMER. In Puerto Rican money.

Mr. SWANSON. That is on the silver basis?

Mr. LATIMER. That is the currency of the island.

Mr. SWANSON. What is it worth?

Mr. LATIMER. Sixty cents in gold is equal to one of our dollars.

Mr. ROBERTSON. Will you explain the system under which they work?

Mr. LATIMER. Well, it is by day wages; they hire the men by the day at so much a day's work.

Mr. ROBERTSON. Are there any contracts at all?

Mr. LATIMER. No, sir.

Mr. ROBERTSON. None, whatever?

Mr. LATIMER. No, sir.

Mr. COOPER. That is the price paid for the common farm laborer?

Mr. LATIMER. Yes, sir.

Mr. ROBERTSON. Do they hire the day labor on the sugar, coffee, and tobacco plantations by the day altogether?

Mr. LATIMER. Yes, sir; and they are generally paid at the end of the week, but they get so much a day, and they are paid up according to the amount at the end of the week.

Mr. ROBERTSON. What effect would the establishment of our system of currency in the island produce upon wages?

Mr. LATIMER. They would have to be paid the same amount in gold that they are getting to-day in silver.

Mr. ROBERTSON. If we were to-morrow to extend our system of currency to the island they would still demand this amount of money?

Mr. LATIMER. About 37 to 62½ cents.

Mr. McCLELLAN. It would almost double the rate of wages?

Mr. LATIMER. Yes; and as I stated in the beginning, if we get the downfall of the currency to gold and not free trade it will be the downfall of the whole island, which we can not stand.

Mr. ROBERTSON. I want to ask you another question. What effect would that have upon the present farming condition in Puerto Rico, with sugar, tobacco, and coffee; would it increase wages of labor and render it unprofitable to carry on those operations in the islands?

Mr. LATIMER. Most decidedly.

Mr. RICHARDSON. What would be the effect if a tariff of 25 per cent was levied?

Mr. LATIMER. It would help, but still 25 per cent on sugar, sugar would come in and pay 40 cents a hundred pounds. That would be a loss always to the planter of 40 or 50 cents a hundred pounds in the value of his sugar.

Mr. SWANSON. What would be the effect of 25 per cent export duty collected in Puerto Rico on tobacco and sugar goods exported from the

island and retained there as a local revenue upon the business, and also upon the sentiment of those people?

Mr. LATIMER. I would not care to give a definite statement. That would be a question that would have to be thought of before anyone should give a statement. I would not like to commit myself one way or another.

Mr. NEWLANDS. At present Puerto Rico derives the greater portion of its revenue from duties?

Mr. LATIMER. During the Spanish domination, yes, sir. The revenues yielded about \$2,500,000.

Mr. NEWLANDS. If you had free trade with this country—that is to say, if our customs laws were applied to the island—all the moneys derived in duties would then go to the Federal Treasury and not to the insular treasury?

Mr. LATIMER. Yes, sir.

Mr. NEWLANDS. And in that case, what would Puerto Rico do for revenue for the support of its own government and its own local improvements?

Mr. LATIMER. I should say if you give us free trade I do not believe that the revenues would yield over \$500,000.

Mr. NEWLANDS. Five hundred thousand dollars a year?

Mr. LATIMER. Yes, sir.

Mr. NEWLANDS. What revenues do you refer to?

Mr. LATIMER. The revenues you may derive from the duties on goods coming in from foreign countries.

Mr. NEWLANDS. But you would lose that \$500,000 would you not?

Mr. LATIMER. Yes, sir.

Mr. NEWLANDS. Now what would you substitute for that sort of revenue in your insular government?

Mr. LATIMER. I think that could be derived by some internal taxes on the form you use in the United States, by paying on the capital.

Mr. NEWLANDS. Would you have a land tax?

Mr. LATIMER. Yes, but not on the land. I would have a system of taxes on the capital.

Mr. NEWLANDS. On the improvements?

Mr. LATIMER. No, sir; on the value of the capital.

Mr. COOPER. An ad valorem tax, he means, I think.

Mr. NEWLANDS. You would assess every man upon his wealth?

Mr. LATIMER. Upon his wealth; yes, sir.

Mr. NEWLANDS. Real and personal property?

Mr. LATIMER. Yes, sir.

Mr. McCLELLAN. What local taxes are in force now in Puerto Rico?

Mr. LATIMER. Municipal taxes?

Mr. McCLELLAN. I mean in the island, there is a land tax now.

Mr. LATIMER. There is a land tax to-day which is 8 per cent on the valuation of the land in three grades—first, second and third class lands. The first, the valuation of \$1; the second, 50 cents, and the third, 25 cents, and on that valuation they levy 8 per cent, four of which goes to the—

Mr. FINLAY. The 8 per cent is on municipal tax. The \$1, 50 and 25 cents are paid per acre.

Mr. LATIMER. You are right.

Mr. McCLELLAN. It is an arbitrary tax on three things?

Mr. LATIMER. You are right.

Mr. DOLLIVER. Have you examined as to what effect it would have on your people if we applied to Puerto Rico our internal-revenue laws?

Mr. LATIMER. I think if they were to be given everything else they ask for I do not think they would really have any objection to paying what is due.

Mr. DOLLIVER. If they get free trade would they be willing to take also our internal-revenue system?

Mr. LATIMER. Most decidedly.

Mr. DOLLIVER. Would it not cost more than it would come to?

Mr. LATIMER. It does not make any difference; I think they would be satisfied to accept things as a general rule that the Constitution of the United States calls for.

Mr. ROBERTSON. Then you think the Constitution of the United States applies to Puerto Rico?

Mr. LATIMER. Yes, sir.

Mr. DOLLIVER. I have not been able to figure it out, but it looks to me as if the internal-revenue system established in your island would ruin you?

Mr. LATIMER. I do not think it would.

Mr. STEELE. Have you made any calculation upon the amount of internal revenue you would have to pay down there?

Mr. LATIMER. We pay in cash.

Mr. STEELE. But not under the internal-revenue law?

Mr. LATIMER. Those who drink can afford to pay for it.

Mr. STEELE. But you make drinking prohibitive?

Mr. LATIMER. That would be all right; they are only luxuries.

Mr. DOLLIVER. Everybody uses tobacco?

Mr. LATIMER. But it is a luxury.

Mr. DOLLIVER. It is a necessity if everybody uses it?

Mr. HOPKINS. It may be a necessity with you.

Mr. SWANSON. I understand that your people are willing to bear the hardship of our tax laws if we give them the benefit of them?

Mr. LATIMER. Most decidedly.

Mr. SWANSON. You are willing to come in with us under our laws?

Mr. LATIMER. Yes, sir.

Mr. DOLLIVER. How would it strike you to knock off a little free trade and give you a partial free trade, such as you had with Spain?

Mr. LATIMER. No, sir; we would never be satisfied. Of course we would accept it if it was inevitable.

Mr. SWANSON. There would be an impression among the people that if they had different laws that we were simply using Puerto Rico for our own benefit, and the people would be perfectly satisfied if they were treated on an equality, as we treat our own citizens, and if they are legislated for in the same way?

Mr. LATIMER. That is what we say.

Mr. SWANSON. If the law bore harshly on you, it bears harshly on us!

Mr. LATIMER. That is the feeling; if there is anything done to the contrary it would create ill feeling and would not come up to the expectation of the Puerto Ricans, when they received the Americans there thinking they were to be a part of the United States.

Mr. SWANSON. And if there is any complaint coming hereafter you can very properly tell them that we have an equality of laws in both countries, and that they are treated exactly under the same laws as the United States—as we do our own citizens here in the United States?

Mr. LATIMER. Yes, sir.

The CHAIRMAN. I suppose you include statehood and representation in Congress?

Mr. SWANSON. When proper, I think it should be admitted.

Mr. RUSSELL. You look forward to an equality of representation?

Mr. LATIMER. Most decidedly; that is now in the future.

Mr. RUSSELL. You would be satisfied with nothing short of that when that time comes?

Mr. LATIMER. Not willingly.

Mr. RUSSELL. Then you want a delegate before that time comes?

Mr. LATIMER. If it is decided, certainly.

Mr. SWANSON. You say you are entitled to that, and you come here and say that is the wish of the people down there?

Mr. LATIMER. Most decidedly.

The CHAIRMAN. You are not hunting for that so much as better trade conditions?

Mr. LATIMER. If you can unite one with the other, and I do not see why not. We will take all we can get.

Mr. RICHARDSON. Taxes without representation?

Mr. RUSSELL. You believe what relations you want are directed also toward statehood?

Mr. LATIMER. Yes, sir.

Mr. SWANSON. You think you are entitled to have a delegate for the people and the business interests of Puerto Rico, so that he can come here and attend to their business and business interests?

Mr. LATIMER. Yes, sir.

Mr. STEELE. Are you in favor of having it?

Mr. SWANSON. I am in favor of having a delegate; yes, sir.

Mr. NEWLANDS. If you have free trade between Puerto Rico and this country with the product of sugar you expect the production of sugar will become quite profitable?

Mr. LATIMER. I think so; yes, sir.

Mr. NEWLANDS. Suppose it does become profitable, do you not think that the nature of the business itself will lead to the concentration of the land there into large tracts?

Mr. LATIMER. In some instances it may, sir, but not as a general rule.

Mr. NEWLANDS. We find those conditions in the Hawaiian Islands arising from the nature of the business.

Mr. LATIMER. As I said before, it may be possible for these landholders to unite and get their lands to work in unison with these large factories, which may help them in money.

Mr. NEWLANDS. Do you not think the tendency will be ultimately to absorb the lands?

Mr. LATIMER. No, sir.

Mr. NEWLANDS. Will not that control the business?

Mr. LATIMER. Capital always controls somewhat business, to that you cannot say no.

Mr. STEELE. What is the price of first class sugar lands to-day?

Mr. LATIMER. To-day land is all the way from 100 to 500 pesos perhaps.

Mr. SWANSON. You discussed tobacco and the product of the Island before I came in?

Mr. LATIMER. Yes, sir.

STATEMENT OF MR. GEORGE I. FINLAY.

MR. FINLAY. Mr. Chairman and gentlemen, I just want to call the attention of the gentlemen to a few figures. I saw Mr. Oxnard's statement and he put down the island as 3,000,000 acres. We have only got 2,000,000 acres, and he said at the same time it is all arable land, but we have a great amount which can not be cultivated at all upon the hills, on these limestone hills, where you grow only wood and brush and all that.

The CHAIRMAN. To what amount?

MR. FINLAY. There are 66,000 acres anyway that are no good. There are 112,000 acres in pastures. Then he states that 300,000 to 400,000 acres could be put into cane, and that is absolutely impossible. We only plant cane on the lowlands around the coast. Nobody thinks of putting the cane on the hills, because the dry weather would kill it all. Now, I heard it stated here about the concentration of land into one hand. I think it will do just the contrary. I am a part owner of a factory in the district called Carolina and we have about 150 small proprietors and I think that would be the system adopted, factories would be started and give a chance to the small fellows to plant cane. I think that will be the method and the land will not be concentrated in a few hands. Mr. Oxnard also makes a statement that 170,000 tons of sugar has been produced there. I think the hundred might be stricken out. We have had only 70,000 as a maximum. It must be a misprint or a mistake. I would like to call attention to it, you will see it in the report as 170,000 tons we have made, but the most has been about 70,000. I will not take up any more of your time, gentlemen.

The CHAIRMAN. How much sugar on the average will your land produce per acre?

MR. FINLAY. I think you can calculate on about 2 tons as the average. You cannot get over that. Exceptional land will give a little more, but there are poor lands which give a little less. I can speak for myself last year on not over a thousand acres about 35 quintals per acre all around. I have some years made a little bit more, but last year I made that.

MR. GROSVENOR. What do you estimate the cost of your sugar you produce?

MR. FINLAY. About \$3.50 per pound—that is, with 60 cents to the dollar.

MR. GROSVENOR. You do not mean \$3.50 a pound?

MR. SWANSON. You mean 3½ cents a pound?

MR. FINLAY. I mean 3½ cents a pound, \$3.50 for 100 pounds.

MR. GROSVENOR. That is what I asked.

MR. SWANSON. That is calculated in the currency of Puerto Rico?

MR. FINLAY. Yes, sir.

MR. NEWLANDS. Are you engaged in the cultivation of sugar?

MR. FINLAY. Yes, sir.

MR. NEWLANDS. You say the small farmers can not make much?

MR. FINLAY. Those who have got mills of their own, but those who plant cane they can not make much at those prices; but if we have free trade we shall certainly pay them better prices and then they can plant cane, and that is where prosperity is going to come in—all these little fellows who have a few acres of land planting cane and

selling it to the mill. They are going to get the profit, not the mill owner.

Mr. ROBERTSON. Will not that very materially increase the output of sugar from that island?

Mr. FINLAY. I do not think you can more than double it, because the greater part of the land to-day is in cultivation, all the lands around the coast.

Mr. ROBERTSON. But you say the central factory system developed properly would put everybody into sugar?

Mr. FINLAY. The little fellows right about the factories. You have got to know the structure of that island. You can not go up the hills and look for cane. You have got to build on the best lands around the coast and there plant sugar.

Mr. RICHARDSON. How far does this belt run from the shore?

Mr. FINLAY. I suppose it varies from 2 miles—2 or 3 miles to nothing.

Mr. RICHARDSON. It varies to nothing where the hills come close to the sea?

Mr. FINLAY. Yes.

Mr. NEWLANDS. I understand the hill land is not fitted for sugar cultivation?

Mr. FINLAY. No, on account of the drought. They want a good deal of water, but on the south coast they irrigate.

Mr. ROBERTSON. What is the extent of the cattle grazing there now, the area of the land used for that purpose?

Mr. FINLAY. I should say 50,000, 60,000, to 80,000 acres, and there is a very considerable income they get from cattle.

Mr. ROBERTSON. If sugar were made as profitable as you seem to imagine it will, will not that land now used for cattle grazing be used for the purpose of the production of sugar?

Mr. FINLAY. Not the greatest part, for the great part of these pasture lands are up in the hills.

Mr. ROBERTSON. But could not a great part of them be used?

Mr. FINLAY. As I say, you might double the production of sugar.

Mr. ROBERTSON. You admit that; but could not the greater part of this land—

Mr. FINLAY. A part of it, certainly; but not a great part.

Mr. ROBERTSON. What part of it?

Mr. RUSSELL. Could you double the production of sugar without trenching upon the tobacco lands?

Mr. FINLAY. Yes; the tobacco lands are in the hills.

Mr. RUSSELL. They could be made sugar lands?

Mr. FINLAY. You could not think of putting them there?

Mr. RUSSELL. Mr. Latimer has stated they could be used for that purpose?

Mr. FINLAY. Only to a very small extent.

Mr. RUSSELL. The tobacco lands?

Mr. FINLAY. You could grow sugar, but nobody is going to put a factory in those hills for grinding the cane.

Mr. ROBERTSON. Could they not put in a railroad there and haul it anywhere they wanted to?

Mr. RUSSELL. Your estimate of the doubling of the production of sugar is without infringing upon any of the present tobacco lands?

Mr. FINLAY. In regard to tobacco lands, we would not think of putting sugar into that as it stands to-day.

Mr. SWANSON. You would stop raising cattle and buy them in the United States if you had free trade. If you put that into sugar then you could get all your cattle and beef in the United States?

Mr. FINLAY. I do not know why; our beef cattle are very good.

Mr. SWANSON. I mean if your cattle farms were put into sugar, if you did not raise any cattle—

Mr. FINLAY. You could not put them into sugar farms.

Mr. SWANSON. But if you did do it?

Mr. FINLAY. And get our cattle here? We could, and we could buy dry goods from here that we do not get to-day. We would get everything we can from here.

The CHAIRMAN. You have had an experience in raising sugar for a number of years?

Mr. FINLAY. Yes, sir; I have had for probably fifteen years.

Mr. NEWLANDS. How large is your tract there?

Mr. FINLAY. I make about 2,000 tons.

Mr. NEWLANDS. How many acres of land?

Mr. FINLAY. Of my own land, about 1,500 acres.

Mr. NEWLANDS. Do you buy cane there?

Mr. FINLAY. Not where I am. I can not extend, and that is the misfortune where I am. I am in the hills, but we have got another factory in a place called Carolina, where we have bought from all the little fellows. That is a factory in itself. That has got no land whatever, but is simply a factory on 15 acres of land.

Mr. NEWLANDS. I presume a system which permits the small holdings of lands would be the best system?

Mr. FINLAY. Yes; that would be the best way.

Mr. NEWLANDS. Would it be possible to control a system of that kind there?

Mr. FINLAY. I do not see why. If you put up a factory in a place you can induce the fellows to plant—you would advance them money that nobody has got now. Now they have not got any money.

Mr. NEWLANDS. Could you control a system which would prevent the factory owners from gradually absorbing the land?

Mr. FINLAY. I do not think you can do that, but there would be no number of factory people absorbing lands if they can get the cane planted. They would rather buy the cane in and simply have a factory.

Mr. NEWLANDS. What does a sugar factory cost there?

Mr. FINLAY. Anywhere between \$200,000 and \$300,000 for a good factory put up. I will not take up any more of your time.

Thereupon the committee went into executive session.

AFTERNOON SESSION.

Committee met at 2 o'clock p. m.

STATEMENT OF MR. AZEL AMES.

The CHAIRMAN. Please proceed in your own way, Mr. Ames.

Mr. AMES. The principal matter that I desire to present to the committee, Mr. Chairman, is the extreme desire the commission, representing one part of the interests of Puerto Rico, has for the extension

of free trade as a whole or the American tariff to us as a whole, primarily because we think it is entirely equitable that we should be placed upon exactly the same footing as the Territories that have come into the United States and are situated very similarly to ourselves.

While we recognize the contentions that exist as to what our real political relation toward the United States may be, and do not undertake, of course, to discuss them here, we do feel that we have been taken from conditions that were prosperous—exceedingly so during our relation to Spain—along financial lines, and by the invitation of the United States we have been brought into relations with this country which entitle us at least to similarly good conditions; instead of which, as you know, we have experienced a most unfavorable and disastrous condition of affairs since our coming under the control of the United States. Our markets have been lost to us and tariffs have been put in operation against us which have been even worse in some respects than those which were against us under United States schedules when Spain had control. All the interests of the island have been prostrated, largely as the result of these things.

There is another reason why we feel that we are entitled to, and should have, the full benefits of the American tariff, of free commerce, which is that we need a quiescent condition, a stable condition both for law and for commercial relations before and beyond anything else. We have been so full of change and modification, and kaleidoscopic conditions for two years or thereabouts that the prerequisite to everything with us is something in the nature of stability. I understand the suggestion has been made from this committee of a tariff for us of 25 per cent of existing United States schedules.

Mr. McCLELLAN. Not by the committee, by a section of the committee.

Mr. AMES. Yes, sir; you are quite right, not by the committee. It would establish a condition which, while in comparison with what exists would be helpful, still would be subject to frequent change and prevent what we need most—that confidence which will induce capital to come in and locate and invest with us and develop these resources which formerly made us prosperous, and which under American rule, rightly applied, will make us even more prosperous than ever before.

Two features attach to the tariff question; those that involve the matter of honor, of principle, and those which involve the commercial considerations distinctively. We plead for both. We claim that the United States is under obligation to us to give us every consideration that is given to any other Territory in this matter, because we had been, by implied contract and a score of other considerations not necessary to mention, led to believe that our privileges would be the equivalent of any privileges given to any Territory of the United States.

The island of Puerto Rico abandoned various advantages which she had just come into from Spain when she came into the United States. She had just come into conditions the most prosperous she had ever had under the rule of Spain; but she laid down her arms, and, on the invitation of General Miles, turned over the island to the American people under at least the implied contract that we were to be part and parcel of the United States, with the advantages to accrue therefrom, abandoning for that expectation a great number of advantages we already had.

Now, it seems to us that, as “it is always safe to do right,” there can

be no hope of any material gain to anybody to come from a neglect of that agreement, whether from fear of precedent, from any considerations of the approaching election, or from doubt as to what may be the exact status of the newly acquired territory under the law, or anything of that kind.

There can be nothing, we hold, in any of these considerations which can furnish warrant for overriding the implied contracts, the promises, the ostensible good faith of this nation toward us, as to the advantages we were assured were to accrue to us from joining our interests with those of the United States. At the same time we do need, more than all other things for our immediate safety—for our immediate salvation, I may say—that confidence on the part of capital everywhere which will enable that return to conditions which alone can prevent us from becoming a wild waste. The condition we primarily desire is a stable condition of commerce. A shifting tariff—a tariff that is one thing this year and is liable to be changed next year and the next year after that—does not bring with it the relief we need.

The tariff, of course, is a very important factor, but closely interlocked and interwoven with that are the considerations of stable law and stable government and the advantages to accrue from them, no one of which can be separated from the other. But they are not distinctly political; they are commercial considerations, which, it seems to us, have a very unfavorable outlook in the treatment you propose in the matter of tariff, which the majority of your committee have suggested.

I will be glad to answer any questions that you gentlemen may have to ask.

Mr. SWANSON. You are very anxious that this matter be settled as soon as possible so as to have business arranged according to the tariff adopted?

Mr. AMES. It is essential for us.

Mr. SWANSON. All business down there is at a standstill now, is it not?

Mr. AMES. Yes, sir.

Mr. COOPER, of Texas. Where were your chief markets prior to the late war?

Mr. AMES. Cuba and Spain, for most things.

Mr. COOPER. What are the prohibitions now against the entry of your goods?

Mr. AMES. They were correctly stated here this morning by Mr. Latimer, and I think he stated them better than I could. The market for tobacco, of course, was in Cuba.

Against that trade we have now an Executive order—a tariff of \$5 a pound. Of course the markets of Spain are closed to us and all our commodities by reason of the tariff that has been imposed since the transfer of that island to the United States. The treaty conditions were very materially different against us from what they have been in any previous treaty of the United States. There is a marked difference; because Spain, angry at the people to whom they had just given unusual advantages and autonomy going out from them, they cared nothing for what their status might be with the United States; while the United States, on the other hand, has seemed to be ready through its peace commissioners and others to admit us to a kind of vassalage only. That is something we do not believe the people of the United States will stand by.

Mr. COOPER. You want Territorial rights, do you not?

Mr. AMES. Yes, sir. We know of no reasons, historical or legal, which should rightfully keep us from them, and if this were the time and place to argue the matter, I believe the equity of our claim to be susceptible of absolute proof.

Mr. ROBERTSON. Are you a native Puerto Rican?

Mr. AMES. No, sir.

Mr. ROBERTSON. Where are you from?

Mr. AMES. I am from Massachusetts.

Mr. ROBERTSON. How long have you been in Puerto Rico?

Mr. AMES. I went there with the Army in 1898.

The CHAIRMAN. It has been stated that the crop of sugar and tobacco in Puerto Rico for the coming year would likely be larger than last year, by reason of the stimulus that has been given on account of the better trade relations with the United States. What do you say to that?

Mr. AMES. That is absolutely incorrect. I can speak of my own knowledge on that. I do not say that it is not a fair statement that there may be localities in the island where the crops will be larger this year, where an effort may have been made to cultivate larger areas for either one or the other of those crops; but if you ask me whether the area in crop for either of these staples in Puerto Rico is larger than ever before, I answer most certainly not.

The CHAIRMAN. Not larger than ever before, but larger than the last year?

Mr. AMES. Certainly not.

The CHAIRMAN. I think the statement was—

Mr. AMES. I heard that statement.

The CHAIRMAN (continuing). That there were 40,000 tons of sugar last year and the crop this year would be 45,000 or upward.

Mr. AMES. There is no doubt that there has been more stimulus to the sugar culture than any other, for it is about the only crop, except cattle, that is paying. I can speak intelligently of cattle because I am a cattleman myself. I know more about that industry than sugar raising, but of sugar I know this fact, that there are only two ways of increasing the quantity of sugar. One is to cultivate more land, and the other is to get a better return by better machinery from the land which is occupied for cane.

Now, about 6 per cent is what they get, and by the introduction of better machinery they can carry that up to 12 per cent. That will mean a larger involvement of labor and capital. But that land can only come from one source, and that is from the area now utilized as cattle pasturage. I know whereof I affirm when I say definitely that the land that can be withdrawn from such use is insignificant.

The CHAIRMAN. What do you say as to the outside limits of the production of sugar?

Mr. AMES. Do you mean the possibilities?

The CHAIRMAN. In case you had a satisfactory market in the United States.

Mr. AMES. The possibilities?

The CHAIRMAN. Yes.

Mr. AMES. I think the sugar product can just about double. It certainly can not exceed that but a mere trifle, even if you take all the available land. I do not think it was as emphatically stated this morn-

ing as it might have been that the land available for sugar is absolutely limited. Someone suggested we have tobacco land that might be taken for sugar land. That certainly can not be done. The tobacco land is to a great extent on the mountain sides, often where it is so steep one will marvel how a man can cultivate the crop and hold his footing, and even how the soil itself can hold on, it is so steep. The mountain tobacco land is somewhat like the land of North Carolina, only a little richer; but all additional land taken for sugar must necessarily be taken from the pasturage land for cattle.

Not all that is available, but a certain percentage of it is old, abandoned sugar land. But when you have taken every acre that is adaptable out of present pasturage for sugar culture you could not then—even with the best machinery, thus increasing your percentage of saccharine products by putting in your centrifugals and all improved machinery, and even dividing up, as has been suggested, the large areas into the smaller farmers' hands—even then you can not more than double your production.

Mr. ROBERTSON. What is the area now used for grazing purposes?

Mr. AMES. It is impossible to say exactly, but probably, including everything, mountain pasturage, old, abandoned sugar lands, mesa, etc., not to exceed 25 to 35 per cent of the area; but it must be understood, of course, that a great deal of the pasturage is rough and rocky land that could never be adaptable for anything but grazing.

Mr. ROBERTSON. What is the area in acres, about?

Mr. AMES. That I can not say. There has been no survey made and nobody knows definitely; it would have to be an approximate estimate.

Mr. ROBERTSON. What do you approximate it at?

Mr. AMES. Not probably over 25 to 35 per cent, including all the rocky lands, the mesa unusable for other purposes, and abandoned sugar lands, and whatever may be in rotation from crop fields into pasturage.

Mr. McCLELLAN. That is 25 per cent of the total area of the island?

Mr. AMES. Not to exceed that of arable land. Of course, for sugar land it must be borne in mind that either you have to rotate part of that land and give it a rest or else fertilize it; and to fertilize it is impossible at present prices, just as it is impossible to raise the wages of the people employed in sugar growing to above about the figures given this morning. I have had charge there recently of an inquiry into labor questions for the Department of Labor of the Government and an endeavor to get at certain labor statistics. In a conversation with General Davis recently on this subject, he made substantially this remark: "I do not see how you are going to very much improve the general conditions of the wage-workers and their families as long as the principal crops of the island—sugar, coffee, and tobacco, the profitable crops at present—are only able to pay about a 30-cent per diem gold wage."

It is a difficult problem, but fortunately there is an answer, and it is this: That you are not obliged to confine yourselves to what would be called in the South "gold crops"; you are not obliged to confine yourselves to sugar, coffee, or tobacco. There is no day in the year that you can not grow there some crop, and almost any crop that will grow anywhere in the world will grow there. We need from this Congress, from this country, primarily, the opportunity to help ourselves. We are perfectly able and willing to do it. We were doing it under Spain and

getting rich, and conditions were favorable then. We left the dominion of Spain gladly to secure the blessings of liberty and freedom and a larger opportunity of civilization, all of which were practically pledged to us by this Government, without expectation of material help, and now we find ourselves relegated by the treaty of Paris, not only to a much worse position in material things than the one we occupied when we were under Spain, but a far worse position than that you freely gave to the inhabitants of Arizona and New Mexico when you took them in as citizens under a Territorial form of government in 1850.

Wherein have we failed and what do we lack that we should be put beneath the nomadic Indians and ignorant and superstitious fire worshippers of New Mexico and Arizona, that we should be relegated to a place inferior to that given to the inhabitants of those Territories when you took them in? What do we lack that we should be placed in this position? We are told that the reason resides in the fear that in some future day the Philippine Islands or Cuba may present so many demands which it would be impossible or unwise to grant that it would be dangerous to concede our claims and thus make us a precedent. I know of nothing that has hampered progress more than that word "precedent," nothing that has tied down aspirations and progress in all fields more than that word; and it does seem to me that in this year, the last year of the century, with the advance the United States are trying to make along other lines, that it is quite time that word be relegated to its proper place in the rear. It is right and safe to do right to-day because it is right. What is right is what your own consciences tell you is just to us.

MR. SWANSON. How much is the tobacco crop in pounds a year in Puerto Rico?

MR. AMES. It varies.

MR. SWANSON. What is the average?

MR. AMES. Mr. Findlay can tell better than I can.

THE CHAIRMAN. About 4,000,000 pounds, is it not?

MR. AMES. Somewhere in that neighborhood.

THE CHAIRMAN. What do you say as to the possibilities of increasing that crop?

MR. AMES. It may be increased somewhat, but not greatly. The coffee crop is the crop that can be largely increased, and also the fruit crop. We have been importing vegetables into the island. I think all the vegetables we need could be produced on the island, and many to ship North. There would be no trouble about it if we get the right seed and exercise the right intelligence in their cultivation.

There are no grapes grown on the island now, but that is because of an interdict of Spain. Spain wanted to promote the prosperity of her own vineyards, but there is no better field for viticulture. It is the same in regard to olives. There are no olives produced on the island of Puerto Rico, but they would do well there. There are no oranges cultivated there, although they grow wild, and even the wild orange is a very superior fruit; in fact, it is superior to any other orange unless it be the Indian River orange of Florida. We have no frost, our labor costs less, and everything is favorable for the production of oranges, limes, pineapples, bananas, guavas, etc.

MR. DOLLIVER. Would you say that the production of tropical fruits would seriously interfere with the fruit business of California and Florida?

MR. AMES. In the first place, I do not recognize that there is much left of the orange industry in Florida. I have been down in Florida and I have also been in California. I have special interest in a plantation at Riverside in California, and this for years has been only a burden. I have abandoned all hope of ever seeing any money made out of it on account of frosts and having to fight the "scale." Altogether it has cost considerably over \$25,000, and the owners would be glad to sell it to-day for \$13,000, or perhaps even less. My experience in Florida has been even more unfavorable, and I have friends who have not had a dollar out of the orange land owned there for several years.

MR. DOLLIVER. Those people in California do not expect to abandon the orange business, do they?

MR. AMES. Well, I find that we have had over 100 of them in Puerto Rico this last year looking to see where they shall invest and what they will do. I came up on the steamship with 4 of them the other day. One of them told me that it was hopeless to try it again in Florida.

MR. RUSSELL. Have not the labor conditions something to do with it?

MR. AMES. Yes, sir.

MR. RUSSELL. Does that not have as much or more than anything else to do with those men looking toward Puerto Rico?

MR. AMES. I do not think I would put the cheapness of the labor ahead of the character of the climate. The climate is the safeguard against what has wiped out investments in California and Florida. It is small encouragement to a man to plant and replant as it has been necessary to do in Florida. Frost comes along there just as a man is well fixed and wipes out his investment. It is true that a few men have succeeded by a judicious use of fire in preventing their crops from freezing, and I do not say it is not possible to employ their methods to some extent successfully, but upon what I know and the experience I have had and witnessed in Florida, I do not believe that they are going to indulge much more in experiments of so doubtful efficiency.

MR. ROBERTSON. Do you know what use rice is made of in Puerto Rico? Do they use it as food or do they have any brewing establishments there that use rice?

MR. AMES. There is practically no brewing from rice there. It is used for food by the natives. It is the poorer quality of Rangoon rice that they use most largely. There is a little upland rice, not as much as there might be, but still it could not be increased very much; certainly not in competition with rice from this country if there were free commerce conditions.

We have neglected one consideration of great importance. I do not think I have heard any statement before any committee that reaches at all the facts or figures as to what is possible and natural and is our just expectation in regard to the trade Puerto Rico will have with the United States for machinery, agricultural implements, breadstuffs, and so forth, if we are put in the proper relation to them.

There has never been much effort made in that direction. There has not been the encouragement for it aside from the matter of the tariff; but with the proper commercial interest and effort, and with the tariff removed, a very large commercial trade is absolutely certain to be immediately established with the United States. All carriages, all machinery, all hardware, all cotton goods, all breadstuffs, all beef and pork supplies, all fish are to come from the United States if the conditions are made right and if something is lost in customs-revenue—

and it could be but little comparatively speaking—it would be many, many times more than equalized through profitable commerce.

Mr. RUSSELL. I wanted to ask Mr. Finlay something about the production of sugar. In a statement this morning I think it was admitted by Mr. Finlay or others that the average production was about 56,000 or 58,000 tons.

Mr. FINLAY. Somewhere about 60,000; yes, sir.

Mr. RUSSELL. Is that on large plantations?

Mr. FINLAY. No; large plantations are few. It is generally divided into small holdings of three or four or five hundred acres.

Mr. RUSSELL. Small holdings by different parties, you mean?

Mr. FINLAY. Yes.

Mr. RUSSELL. There are no large sugar producers in Puerto Rico, are there?

Mr. FINLAY. The very largest I should say produces about 3,000 tons. I am myself one of the largest down there. I make about 2,000 tons of sugar a year.

Mr. RUSSELL. And you have interest in other sugar plantations?

Mr. FINLAY. I have an interest in a factory that simply purchases cane. That is a small company incorporated in England, and we are going to incorporate it now in New York. There are some American capitalists, Messrs. Armstrong & Co., of New York, for instance, who hold 25 per cent of the stock of that company, and my brother and myself have three-eighths, and we manage it down there.

Mr. ROBERTSON. Are you a native Puerto Rican?

Mr. FINLAY. No, sir.

Mr. ROBERTSON. How long have you been there?

Mr. FINLAY. Thirty-five years.

Mr. ROBERTSON. Were you an American citizen?

Mr. FINLAY. No, sir; I am an Englishman.

Mr. SWANSON. Have you anyone here to-day that is acquainted with the tobacco interest of Puerto Rico?

Mr. FINLAY. No; none of our friends here; but the tobacco industry is not a large industry there.

Mr. SWANSON. What is the grade of the tobacco?

Mr. FINLAY. Fillers; mostly used for fillers.

Mr. SWANSON. What do they make—cigars?

Mr. FINLAY. Yes.

Mr. SWANSON. Do they produce any chewing tobacco?

Mr. FINLAY. No; all the chewing tobacco is imported from the United States.

Mr. SWANSON. You say they used to sell their tobacco in Cuba?

Mr. FINLAY. A great deal of it.

Mr. SWANSON. And then it would be made up into cigars and sold as Cuban tobacco?

Mr. FINLAY. Yes.

Mr. SWANSON. Because the Cuban cigars have such a good reputation?

Mr. FINLAY. Yes. That was really our best market. We can not come into competition with your tobacco.

Mr. SWANSON. The Puerto Rican tobacco will simply be used instead of the Cuban tobacco, and now instead of sending it to Habana to be made up into Habana cigars you would send it here?

Mr. FINLAY. Yes. I was speaking to Senator Platt, of Connecticut, yesterday about this matter. We have no leaf at all like your Connecticut leaf.

Mr. COOPER. The Puerto Rican tobacco will not interfere with the Virginia product?

Mr. FINLAY. No, sir. What we think is a great injustice now is that we can not ship in any other vessel but American vessels. That has been so since the 1st of January and that has raised freight very much indeed. Before we used to import—

The CHAIRMAN. In that you are like all the rest of the United States.

Mr. FINLAY. We used to ship in English vessels and in Norwegian vessels and other vessels to the United States, but now we can not do that. But you do not give us the tariff rates of the United States.

The CHAIRMAN. That is one of the difficulties you have.

Mr. SWANSON. Now they make you ship in American vessels and pay a high tariff besides?

Mr. FINLAY. Yes. I know in the last few days we have paid \$10 freight on 1,000 feet of lumber. I think that is an injustice. If you will give us free trade with the United States we are willing to take your American vessels. We do not want one thing and leave off the other thing. We will take it all if you will give it to us.

Mr. RUSSELL. How many sugar factories of the size you name are there on the island?

Mr. FINLAY. Of the largest factories I think there are eight. Those are called centrifugal factories. The others are all common process sugars.

Mr. RUSSELL. They are larger than 1,500 tons capacity?

Mr. FINLAY. No, sir; there are three a little larger than mine, and then comes mine and then the others of about 1,500. They are not large factories. There are no large extensions there to make any big factories.

Mr. RUSSELL. Your interest is in a 1,500-ton factory and a 2,000-acre plantation?

Mr. FINLAY. Yes, sir.

Mr. RUSSELL. Your sugar interests?

Mr. FINLAY. Yes, sir.

STATEMENT OF MR. HENRY T. OXNARD.

Mr. OXNARD. Mr. Chairman, I should like to submit first my argument (see appendix), an argument which I made before the Insular Committee of the Senate about two weeks ago, with a few additions which I will submit to the clerk.

Apart from that I will only say a few words.

In the first place, I want to correct a statement made by Mr. Finlay, in which he attributed to me the tonnage of the island at 170,000 tons. I find on looking over my testimony that that figure was given by Senator Nelson, of Minnesota, and not by me.

In regard to the area of arable land on the island, I stated that it was 3,000,000. My reason for doing so was that in a conversation with General Davis, he spoke of 3,000,000. He evidently meant 3,000,000 in all, but I took it to mean 3,000,000 of arable land. From the best information I can get, and I believe it is true, they will have 300,000 acres that they can put into sugar lands.

One of the witnesses made the statement today that there are 100,000 acres that could be put into sugar cane, and my judgment is

that when they get free trade, if they ever get it, it will make that crop so immensely profitable that they will find the other 200,000 acres. My reason for that is that we heard the same story about Hawaii some years ago. They started in with about 35,000 tons and this last year they have gotten up to 325,000 tons. Every foot of the island of Puerto Rico, as soon as that industry is shown to be profitable, will be put into sugar instead of being used for pasturage, and I will tell you why that will be profitable for sugar.

They have gone on producing sugar for the past four hundred years, I believe, and the statistics of the last twenty years show that they have gone on with all kinds of tariff, and even free trade, and produced their sugar, at least two-thirds of it being shipped to this country, and I do not believe they would have gone on and made this sugar unless there had been money in it. If you give them, in addition to that profitable industry, a remission of a cent and a half in round numbers, really 1.68, you will give them \$30 a ton on every ton of sugar, and supposing—we will take, for instance, the 100,000 acres that Mr. Stone gave as being adapted to sugar culture along the line of his railroad—supposing that they fertilized that land, as of course they will as soon as it is profitable, I claim that their crop of sugar will increase from $1\frac{1}{2}$ to 3 tons per acre. Three tons per acre on 100,000 acres would be 300,000, and \$30 on 300,000 would be \$9,000,000.

The CHAIRMAN. You will have to revise your written statement a little on that, will you not?

Mr. OXNARD. Why?

The CHAIRMAN. You put it at 100,000 tons there, did you not?

Mr. OXNARD. I said 100,000 acres there and 3 tons to the acre.

The CHAIRMAN. In your original statement in writing to the Senate committee I think you put it at 100,000.

Mr. OXNARD. Taking their figures, but I am now giving you my figures. Their figures, I claim, are not correct.

The CHAIRMAN. Let me ask you right there, what was the effect of free sugar in the tariff law of 1890 upon the sugar crop of Puerto Rico?

Mr. OXNARD. They went on and produced about as much as they ever did before.

The CHAIRMAN. Notwithstanding they had free sugar in the United States?

Mr. OXNARD. Yes, sir. There was no reason why they should increase their output.

The CHAIRMAN. Everybody had free sugar then?

Mr. OXNARD. Yes; everybody had it. We had a bounty. What I say is that they produced it right along under free trade, and I do not suppose they produced it at a loss, either.

The CHAIRMAN. Under the free sugar from the Hawaiian Islands, and with a tariff on sugar from other countries, please state briefly how the sugar-beet industry has grown in the United States, if you are familiar with that.

Mr. OXNARD. I will state this, Mr. Chairman, that it has grown from nothing to about 60,000 or 70,000 tons this year.

The CHAIRMAN. And what are the prospects for next year?

Mr. OXNARD. Next year perhaps 100,000 tons. But I claim that the Hawaiian sugar is hurting us to-day in California; that since the

annexation of Hawaii, so-called, we have not built a factory on the Pacific coast and, the increased production of sugar from Hawaii is retarding the development of the sugar industry to-day on the Pacific coast.

The CHAIRMAN. And still the beet-sugar industry has grown enormously in California, with free sugar from Hawaii for twenty years, has it not?

Mr. OXNARD. Yes, it has. I have not made the claim and do not claim that the 60,000 tons would hurt us, but what we fear is that that 60,000 tons will be increased—I said 300,000 tons, but I am afraid 500,000 tons.

Mr. TAWNEY. From Puerto Rico?

Mr. OXNARD. Yes. There is just as much reason to believe it as there was to believe the production of Hawaii would be increased the way it has been—if we are to take the precedent of the past.

Mr. SWANSON. Where is the land from which you expect this great increased production of sugar?

Mr. OXNARD. The pasture lands. When they find that in addition to the profit they are making to-day, in the sugar industry they can make \$30 a ton, I think that a large amount of money will go into that; that the factories will be improved, the land fertilized, and the result will be a large increase in the acreage; I can not say exactly how much.

Mr. SWANSON. You do not think much more land can be opened up outside of the pasture land; that is, hill lands can not be utilized, can they?

Mr. OXNARD. I have never been in Puerto Rico and so I have to take my facts from others. But I know this; that the same thing was said in reference to Hawaii, and, as I have already stated, one of the witnesses has said they could put in 100,000 acres on the line of the railroad he is projecting in Puerto Rico.

The CHAIRMAN. Who was that?

Mr. OXNARD. Mr. Stone. So, if that could be done in one direction when they have developed these inland valleys, is it not fair to presume that when the profit increases immensely that they will develop other lands?

The CHAIRMAN. Did you not say to me the other day that it was not free sugar for Puerto Rico that you feared, but the fear was that that would be followed by free sugar from the Philippine Islands and Cuba?

Mr. OXNARD. Yes, and I stand on that; that is one of the things we fear. We can not say to what extent; we do not know. I do not think anybody in this room can say to what extent the Puerto Rican sugar industry can be developed and to what extent the Hawaiian industry may yet be developed, but it is my opinion that both are going to be developed so as to produce, possibly, half the sugar this country requires.

Mr. SWANSON. If they were to make \$9,000,000 there, as you are afraid, do you not think that \$9,000,000 would be spent in the purchase of goods in this country?

Mr. OXNARD. No; not the nine millions.

Mr. SWANSON. We having every advantage of machinery and manufactured articles, and so on?

Mr. OXNARD. No; I think they will import a larger amount of machinery and other things, but not to that extent.

Mr. SWANSON. With the present Dingley tariff, which is a high protective tariff to American enterprises and industries, could any nation in the world compete with us in Puerto Rico in anything that America raises or produces, and if they were to make a great deal of money on sugar—and I for one would be very glad to see them make a great deal of money—would not they buy from us here in proportion to the amount of money they made?

Mr. ROBERTSON. What would become of the sugar industry in this country?

Mr. OXNARD. I am looking out for the American beet-sugar industry particularly, and I want to see capital invested in that industry. We have the soil, the climate, and the skill. Why should we not go ahead and develop it in twenty States of the Union instead of a dozen States where it has already found a home? What I fear is that if you take the position that the products of those islands can come in duty free that not a penny will be invested in the beet-sugar industry, and that only the existing factories will go on, and when it is shown that the industry gets along and thrives—it must thrive—and I heard a witness say when he was asked what the price of sugar land was, that it was from \$100 to \$500 an acre. I have never heard of any sugar land here bringing such a price as that; that is, with a tariff against them of a cent and a half. What are we to expect from an industry that will be protected by a tariff of \$30 more a ton?

Mr. GROSVENOR. What is your explanation as to whether or not there is any such land as that?

Mr. OXNARD. The first witness, Mr. Latimer, stated the other day that the price of the best sugar land was from \$100 to \$500 an acre.

Mr. SWANSON. Do you think it ought to be higher than that?

Mr. OXNARD. No; I think the industry must be in a very satisfactory condition if the land is worth that much per acre.

Mr. SWANSON. What is cane land worth in Louisiana?

Mr. ROBERTSON. Twenty, twenty-five, or thirty dollars an acre.

A MEMBER. Not over \$35 an acre.

Mr. NEWLAND. What is beet sugar land worth?

Mr. OXNARD. About from \$30 to \$50, according to location.

Mr. NEWLAND. In what States do you now refer to?

Mr. OXNARD. Nebraska and Iowa.

Mr. NEWLAND. How is it in California?

Mr. OXNARD. And in California it is worth from \$50 to \$100 an acre. Land is higher there.

Mr. GROSVENOR. That is, land that will produce beets?

Mr. OXNARD. Yes, sir.

Mr. SWANSON. You do not expect the competition from Porto Rico to be what the competition is from Hawaii, do you?

Mr. OXNARD. Here is what I am afraid of: That with that stimulus every foot of land will be put to sugar.

Mr. SWANSON. The tobacco people say that every acre of available land will be put in tobacco and the rice people say that every available acre will be put in rice.

Mr. OXNARD (continuing). And that with fertilizers and so on they will be able to bring their crop up to from 100,000 to 300,000 tons.

The CHAIRMAN. How much sugar was consumed here last year?

Mr. OXNARD. Two million tons.

The CHAIRMAN. And how much of that paid duty—1,400 tons?

Mr. OXNARD. Just about that.

There is another thing. The price of labor down there is an important factor. They pay from 10 to 30 cents for their labor. The lowest we pay is 15 cents an hour and from that up to 30 cents an hour. That does not mean for superintendents or our higher class men—those men get salaries of five or six thousand dollars a year—but it is for the labor in the factories.

Mr. NEWLAND. Do I understand that common labor in the factories there gets 30 cents a day? I understood that they got 60 cents a day.

Mr. OXNARD. It was stated 60 cents a day in their money. That would be 30 cents or thereabouts in our money. The testimony is that they get from 40 to 60 cents a day in their money.

Mr. COOPER. That was agricultural labor. What do you pay agricultural labor?

Mr. OXNARD. We pay them \$1.50 and \$2 a day in California.

Mr. SWANSON. Do you mean to say the average farm laborer in California gets \$60 a month?

Mr. OXNARD. Yes.

Mr. SWANSON. Ordinarily?

Mr. OXNARD. Yes; then we feel that American capital will stop. As soon as you establish free trade it means, the way we take it, free trade with the Philippines and subsequently free trade with Cuba if Cuba is annexed; and if that is done our industry is ruined.

Mr. NEWLANDS. Do you find the beet-sugar and cane-sugar industries has led to the concentration of landholding; is land held in large tracts?

Mr. OXNARD. The beet sugar industry is scattered among small farmers. The cane-sugar industry is confined to large holdings to a considerable extent, and that is carried on more or less with slave or contract labor.

Mr. ROBERTSON. Where is that?

Mr. OXNARD. I am talking of Hawaii and Puerto Rico.

The CHAIRMAN. The beet-sugar establishments in the United States, after they have become established and after they have succeeded in getting the farmers to raise beets in sufficient quantities, have been successful financially, have they not?

Mr. OXNARD. Some have, and others have not.

The CHAIRMAN. I mean as a rule.

Mr. OXNARD. I will mention a case. Senator Clark, of Montana, has an investment of about \$1,000,000 in southern California in a beet-sugar factory. He ran the year before last about two weeks and he ran last year, I think, only about one week. That was the total run on that investment in two years. His failure to run longer was due to the drought.

The CHAIRMAN. In my question I said where they have beets in sufficient quantities to run through the season and the farmers had land of good quality on which they could raise beets.

Mr. OXNARD. Yes; then it has been sufficient.

The CHAIRMAN. Of course Senator Clark has a good many irons in the fire and could not attend to the beet-sugar industry personally.

Mr. RICHARDSON. After Hawaii and Puerto Rico and Cuba have been annexed, as you suggest, and the production largely multiplied, how much cheaper would the people of the United States get sugar?

Mr. OXNARD. Well, that depends. I think that the sugar trust would get some of it.

Mr. RICHARDSON. But do you not think the masses of the people would get the benefit?

Mr. OXNARD. They would rake off a quarter of a cent in Hawaii. If you take this tariff of a cent and a half, it will not go entirely to the gentlemen in Puerto Rico.

Mr. RICHARDSON. But if the sugar stayed at as high a price as it is now it would not hurt your manufactures?

Mr. OXNARD. It is bound to fall.

Mr. RICHARDSON. Then would it not benefit the masses of the people if it fell?

Mr. OXNARD. I think not. I think it is far better to produce at home that \$100,000 of agricultural products that we buy than to send the money outside.

Mr. SWANSON. We are not sending it from home when we send it to Puerto Rico; we are sending it home, to our own people, I think.

Mr. OXNARD. That remains to be seen. If they are our own people, that is different.

The CHAIRMAN. The per capita consumption of sugar has increased very largely within the last few years, has it not?

Mr. OXNARD. It did when we had free sugar. It increased about 10 pounds. When we went back to a tariff it cost us more and it then decreased.

The CHAIRMAN. And the times were very much depressed for several years?

Mr. OXNARD. Yes.

The CHAIRMAN. And people did not have the money to buy sugar?

Mr. OXNARD. That is true.

The CHAIRMAN. And since then the per capita consumption has increased rapidly, has it not?

Mr. OXNARD. Not very rapidly.

Mr. COOPER. Is not the per capita consumption to-day less than it was five years ago?

Mr. OXNARD. Yes. We had free sugar then; sugar was cheaper. The per capita consumption was 8 or 10 pounds more.

The CHAIRMAN. You mean six or seven years ago?

Mr. OXNARD. Six years ago.

The CHAIRMAN. That was the close of the free sugar period?

Mr. OXNARD. Yes.

The CHAIRMAN. And now, since better times, the per capita consumption has increased for the last year or two.

Mr. OXNARD. No, it has not.

The CHAIRMAN. It has not in the last two years?

Mr. OXNARD. Perhaps in the last two years it has, but the per capita six years ago was higher than it was last year, for instance.

The CHAIRMAN. But it ran down very rapidly from 1894?

Mr. OXNARD. Yes.

The CHAIRMAN. It ran down 8 or 10 pounds, and now a large part of that loss has been recovered, it has jumped ahead again, has it not?

Mr. OXNARD. No, it has not; not entirely. I think you will find it has not.

The CHAIRMAN. We do not seem to have the figures definitely. Has not the gross consumption in the United States increased much more rapidly than the increased product in the Hawaiian Islands of free sugar?

Mr. OXNARD. I have not the figures at hand to state that accurately.

Mr. SWANSON. Do you think the annexation of the Philippines and Cuba with free sugar will paralyze the beet-sugar industry of the whole country?

Mr. OXNARD. Without a doubt. Capital will not invest; absolutely not. I have spoken of the difference in labor. You see what labor is paid in this country. The labor in the one case is paid as high as 30 cents an hour, whereas it is only paid 5 cents a day in the Philippines.

Mr. ROBERTSON. What effect has the annexation of Puerto Rico had upon the beet-sugar industry in this country?

Mr. OXNARD. It is going to check it.

Mr. ROBERTSON. Has it checked it?

Mr. OXNARD. Yes. I do not know of a single factory that is going up now, and nine went up in Michigan last year.

Mr. COOPER. Did not you state a while ago that you thought that there would be 100,000 tons more produced next year?

Mr. OXNARD. Because the factories have been increased in capacity and because many factories—like the factories of Senator Clark that I spoke of—will produce much more. This year probably the output there will not be more than 10,000 tons.

Mr. COOPER. But should the conditions be favorable on his plantation it would largely increase the product of sugar, would it not?

Mr. OXNARD. I say I should think it would be increased to sixty, seventy, eighty, ninety, or one hundred thousand tons.

The CHAIRMAN. It is a fact, is it not, that two-thirds of all the sugar consumed in the world is now made from beets?

Mr. OXNARD. About that. The reason is this—

The CHAIRMAN. And several years ago—

Mr. OXNARD. The opposite was true; two-thirds of the sugar was made from cane and one-third from beets. Now I want to go further and state the reason for it. Germany and France do not allow a pound of cane sugar to come into their countries; neither does Austria. They give liberal bounties because it is of such importance to their agriculture that they have found it pays them to adopt this system. They have very largely increased their output of beet sugar on that account. Then, again, the war in Cuba has brought the production from a little over 1,000,000 tons in its zenith down to about 200,000 and some odd tons, and while that condition is existing it has changed the increase just as you have stated it.

Mr. ROBERTSON. What are the main sugar-producing countries of the world?

Mr. OXNARD. Cuba is at the head. She stood far and away above all other countries. There is Java and Hawaii, the Philippines, Puerto Rico, and Brazil. Those are the chief ones that I remember.

Mr. NEWLANDS. Does the beet sugar industry permit small holdings more than any other industry?

Mr. OXNARD. It does; very much more. It is an intensive culture. It is a crop in which the farmers find after they have grown beets on their ground that their next crop, say wheat, will be increased, perhaps 50 per cent, owing to the fertilizing of the soil, which they can afford to pay for sugar, but can not afford to pay for the wheat crop.

STATEMENT OF MR. JAMES D. HILL, OF LOUISIANA.

Mr. HILL. Mr. Chairman and gentlemen of the committee, I am interested in the cultivation of sugar in Louisiana, about 13 miles below New Orleans, and, of course, the special interest that we have in that part of the country is purely agricultural.

We have looked with the greatest anxiety on the course that is likely to be pursued here toward these new lands acquired by the late war;

and our chief fear, so far as Puerto Rico is concerned, is that a policy there would probably be the entering wedge to open up the Philippines; and it would be an object lesson to those who desired to annex Cuba. The Cubans themselves might make an application for annexation which, with our noted generosity and past habit of opening our arms to the world, would likely be accepted.

If they should knock, the door would likely be opened to them, and coming in as part of our territory they would have the advantages arising from free trade. Now, gentlemen, we consider we are an older child of the United States, having been acquired by the Louisiana purchase. Not that we desire to be particularly a favored child, unless there are reasons for it much stronger than the reasons those who have recently come in can advance for their being favored.

We have had, I suppose, not less than \$100,000,000 invested in sugar alone in Louisiana. The industry has extended also into Texas and somewhat into Florida, and recently we were visited by representatives from Georgia who visited Louisiana for the purpose of seeing how cane was cultivated and to compare the condition of their land with ours and see if it were possible to institute cane culture in the State of Georgia; and I believe those who have made the investigation have stated that there is a large tract of land running along the Gulf coast that could be utilized for that purpose.

Now, the sugar industry in our country supports fully one-third of the entire population of the State of Louisiana, giving employment to the men, and in many cases to the colored women, and of course necessarily supporting their families, and it has been really one of the main supports to the commercial interests of the city of New Orleans, because there is a larger amount left by transacting the sugar business which remains as a profit—much more than is the case in the cotton business—left in the hands of the merchants and citizens of New Orleans.

Mr. STEELE. What do you pay labor there, on an average?

Mr. HILL. We pay from about 75 cents for women, who do hoeing and to plant the cane, to 80 and 90 cents to the plowmen; and in the grinding season, when the crop is taken off, those rates are raised to \$1 a day for both men and women, because the woman is almost as useful as the man in cutting cane. In the sugarhouses the ordinary wage is \$1, and for skilled labor we pay from \$2 to \$5 a day.

Mr. STEELE. What are the best sugar lands worth?

Mr. HILL. A plantation having four or five thousand acres, of which from 1,200 to 1,500 acres will be improved and cultivated, will be worth, probably, \$50,000. Such a plantation will also have a sugarhouse on it. Some sugarhouses cost more than can be obtained for the land and the improvements together; and in many instances where there have not been central factories, sugar land has been sold as low as \$10 a cultivable acre; and if a person can procure from \$15 to \$25 an acre he is doing pretty well.

Mr. STEELE. How much sugar can you raise off that land?

Mr. HILL. Good land in our State, with good machinery, will produce anywhere from three to four thousand pounds per acre. We have a large number of persons who were formerly engaged in truck farming in the neighborhood of New Orleans who have gone into cane planting since we established this system. They sell their cane to the factories, and the cane is either delivered at the mill by their own teams or else the stuff is put on cars and delivered by carloads at the factories. So in that way the industry has been advancing, although it has never yet

attained the proportions to supply the demand in the United States. This amounts to over 2,000,000 tons. Our greatest amount made at any time since the war, I think; has been about 350,000 tons. Both last year and the year prior to that the crops were bad, owing to a rainy season in 1898 lowering the crop to 250,000 tons; and owing to the very severe frosts that occurred in February of 1899 bringing the crop down to 150,000 tons.

The desire we have is, of course, to protect those agriculturists in our country. The prosperity of the sugar industry not only does that, but also protects the commercial interests we have in the city of New Orleans, and I have considered that under the policy that is pursued in this country, of protection being given to manufacturers, that we should at least have our present agricultural protection maintained.

Mr. GROSVENOR. Your State is not favorable to protection, is it?

Mr. HILL. Yes. We have had a Senator here who has fought for protection.

Mr. GROSVENOR. Most of your Senators and Representatives here voted for the lowest free-trade rates. You always elect them and reelect them.

Mr. HILL. They have been reelected.

Mr. GROSVENOR. Have you heard of anybody being defeated because of advocating free sugar?

Mr. HILL. I have not.

Mr. GROSVENOR. And yet you single this case out, to put the burden on the Federal Administration, while you approve the action of your Representatives in voting against your local interests.

Mr. HILL. I beg your pardon, but I do not propose to make that sort of an argument. The contention I make is this: That in the present condition of the tariff we have a means of living in Louisiana; that there is absolutely no necessity, for the purpose of creating a happy and prosperous people in the island of Puerto Rico, that there should be extended to them this policy of free trade, as they have demanded it.

Mr. GROSVENOR. What I wanted to point out was that this happy condition that you have now is a happy condition that we were compelled to force upon you, to hold you down and force it upon you, and now you want to hold on to it and are unwilling we should take it away from you.

Mr. HILL. On the contrary I claim our representative in the Senate was as active as any man to obtain the condition of affairs that exists to-day.

Mr. GROSVENOR. You would pick him out as the true representative?

Mr. HILL. Yes, he is a true representative, and three Louisiana members of the House voted for the Dingley bill. The Representative from the First district and the Representative from the district I live in voted for the bill—Mr. Meyer, Mr. Davy, and Mr. Broussard.

Mr. GROSVENOR. You do not seem to draw any lines of punishment against the men who voted against you.

Mr. RICHARDSON. The division in your State is just about the same as the division in the State of the gentleman who is interrogating you?

Mr. HILL. Just about the same.

The only point is that, so far as the revenues are concerned, there is no necessity of insisting on free trade for the island of Puerto Rico. For years that island has been prospering. Even under Spain they have been prospering. They have been making sugar at 3 centavos a pound, or 2.10 cents, as at present testified, although in the volume of Progress of the Beet Sugar Industry in the United States, 1898, it is

shown that the price was, for centrifugal sugar, as low as 1.82 cents instead of 3. If it costs the higher price and pay duty to bring it into this country, they would be producing it and laying it down here at about the same price that it costs us to produce that article. Therefore they are put on a parity with us American producers, I say, even if this tariff is maintained. But the appeal has been made that they desire now that free trade shall be extended to them because they have been visited by a great calamity, which has come from the hand of Providence, and it is on account of this that they appeal to us.

The hurricane will not recur, probably, for twenty-five or fifty or even a hundred years. It is followed by an extraordinary condition there to-day. In our country we suffer from frosts. In the last year frost threatened the destruction of the cane-sugar industry in our country. If it had been known that the temperature would fall to near zero last winter every man who had an interest in a sugar plantation would have sold out in advance at half price, if he could have done it. Yet, notwithstanding that, the crop of this season has come up to half a crop, by reason of saving seed and the fact that the extreme cold weather did not entirely destroy the stubble caue. That was especially so on the lower part of the Mississippi, below New Orleans. So we down there have made more than half an average crop, but the crop throughout the State has been largely injured by that weather, yet we have no valid claim therefor upon the United States Treasury.

If, in view of the hurricane they had down there, it is absolutely necessary for them to have some assistance to start them on their feet again, let it be borne by every person that pays taxes. Do not single out the industries with which these gentlemen come into competition when they come into our ports, and say "You must help these persons to bear this burden, not only for this year but for all time to come."

I trust the burden on them to-day is not as heavy as portrayed, for they tell us that even on plantations labor is independent enough to ask double price, which scarcely comports with their reported destitution and starvation.

I would now like to call attention to the benefits Puerto Rico had in the past by reason of its trade with Spain and Cuba. The statement was made that before the war they sold a large quantity of tobacco to Cuba and that they are deprived of that market, and therefore we ought to furnish a market equally as good. Granted that they did sell almost all of their tobacco to Cuba. How did they sell it? They sold it to a country which was obliged to use it in making up its cigars, and then it would be exported to this or some other country for consumption, where it would be sold necessarily under the burden of a tariff.

So a tax would be finally levied upon it wherever it was sent for consumption. Therefore that market has not been taken away. In disposing of their tobacco in that way they made a profit on it. It had to pay a tariff when it went into the country in which it was consumed. You are not injuring them when you make them pay the tariff directly, for it was always bearing upon them indirectly, and fixed the price at which they sold.

The conditions to-day are not changed. They never sold tobacco in ports of consumption on a free-trade basis, and you are not in equity called upon to produce other ports to which they can send their tobacco tariff free.

Mr. NEWLANDS. But there is a duty on it now that did not exist before?

Mr. HILL. Yes.

Mr. NEWLANDS. And so that is an additional burden?

Mr. HILL. No. They are precisely in the same attitude they were before. Before the war that tobacco went through Cuba and then was consumed here or in another country where there was a tariff on it, and now it comes directly here; but the tariff on the tobacco is precisely the same whether it passed through Cuba or whether it comes direct.

Mr. NEWLANDS. But now the tax upon Puerto Rico is a tariff tax of this country plus the war tariff in Cuba.

Mr. HILL. But what I am speaking about is the condition in which Puerto Rico finds itself, and for which you say they have to blame the United States. They had free dealings with Cuba under Spanish dominion and were successful planters. The tobacco planter at that time sold to Cuba, but the Cuban had to pay a tariff on it when he sent it out for consumption, and considered that tariff tax in the price he paid to the Puerto Rican planter.

So far as the amount of sugar that can be raised is concerned, we have been told by those who have had some knowledge of tobacco—at least so I understood from those who have been testifying—that they were able and believed that they would make more money out of sugar and that their tobacco lands would be changed into sugar lands. Now, there would be excluded necessarily, from the statements made, the land where the tobacco is raised on the hillside. But as a matter of fact tobacco is also raised in the valleys, on lands which can be used for sugar. The statement was made that those lands where there is now tobacco would go into sugar. But even exclude that. I see somebody shake his head. I may be in error. Still there can be no doubt of the fact that the land used as pasture land can be used as sugar lands.

In those plains that are subject to overflow it would not do; but there are vast plains that are not subject to overflow in the island which can be put into sugar culture at a profit, and if you reduce the tariff you will induce the reclamation of these lands. The amount of pasture land in Puerto Rico, according to the census, is 1,127,000 acres. A statement was made here that at least from 25 to 35 per cent of this land could be changed into sugar land. If you make a calculation you will see at a glance that the proposition made by Mr. Oxnard is far below the fact rather than an overestimate of it. The fact will be that they can have more than 300,000 acres of land to put into sugar. With 300,000 acres of land in sugar, by fertilizing, they will be able to almost quadruple the amount they get now from the cane lands, and that will bring the product of Puerto Rico up somewhere in the neighborhood of nearly 700,000 tons of sugar.

Mr. RICHARDSON. And you think that would reduce the price of Louisiana sugar?

Mr. HILL. Yes.

Mr. RICHARDSON. What would our people in Tennessee do who do not raise sugar; would we get it that much cheaper?

Mr. HILL. If the price be reduced, of course.

Mr. RICHARDSON. We are consumers there. You make a good argument for me to vote against your proposition.

Mr. HILL. No; for my argument is that the policy "live and let live" is what should be upheld by the Congress of this country, and that is why I protest against accepting this policy of insular free trade, because the result will be that it will condemn us to that pauperism that we do not want to see in our part of the country, and that we do not want to see forced upon any other portion of the country.

I am confident that the soil of Tennessee could be used for raising beets, and it might make that State richer, and it would not make you any poorer certainly to be paying to your own citizens in your own territory the price you have to pay now for sugar raised elsewhere.

Mr. ROBERTSON. Suppose we were to let the Philippine Islands in, and let them establish their own government and treat them as we do others, would this condition that you dread so much come about?

Mr. HILL. It necessarily would not, because by making them a separate government, or even if you keep them as a part of the United States, under a provisional government, under the control of the Commander in Chief, the President, you keep them so that they will have this tariff barrier between them and us. Then we will still be protected.

Mr. RICHARDSON. Suppose we pass a law in the line you suggest, inaugurating a tariff against the Puerto Ricans. It seems to me that all these representatives from Puerto Rico are anxious to have the tariff laws of the United States extended over those islands. They want to organize a territory and come within the United States as soon as possible. American capital is going to be invested over there with rapidity and American citizens are going over there; do you not think that any form of government we establish in the line you indicate will be transitory and short?

Mr. HILL. That may be, but that is exactly the policy that was pursued here in 1890. At that time they changed the tariff law and allowed sugar to come in free, giving a certain time within which bounty was to be paid. While it was accepted by the people of Louisiana they expected to have a condition of free trade entirely at the end of the time fixed, so we set to work and expended millions of dollars to get ourselves prepared for a basis of free trade. That is precisely what we want now. The Republican party, as you know, did not put sugar on the free list because they were believers in free trade but because there was a surplus in the Treasury. Of course circumstances alter cases widely. They have concluded since that time that the policy of protection is the proper one and I think they are right.

Mr. SWANSON. But you propose to permit our goods to go in there free and not permit their goods to come here and seek a market?

Mr. HILL. I did not say that.

Mr. SWANSON. As I understand, you propose to fix the tariff so that the Puerto Ricans products or goods will not enter into competition with yours, and then let our goods go in there free?

Mr. HILL. I take it for granted you are fair minded, and that a scheme of tariff will be allowed which will furnish them enough to support the island government.

Mr. SWANSON. They would then be in a state of vassalage so far as we are concerned. We would take advantage of them both going and coming. Every industry will claim protection, and that will keep out anything that they might otherwise be able to sell here at an advantage, and then we are to be the judge of what their tariff shall be against us.

Mr. HILL. Of course, the Government has to decide on the tariff.

Mr. SWANSON. I can see some justice in proposing this if you had a legislature in Puerto Rico, as Canada has, for instance. Canada fixes the tariff upon which British goods come in and Great Britain fixes the tariff upon which goods come into Great Britain; but the proposition here is for Congress to decide our tariff and the tariff to be placed on goods coming into Puerto Rico.

Mr. HILL. Perhaps I have not understood the reason why I am here. I understood the chairman to say that we were to discuss the question of revenue. If you want me to go into a discussion of government, that is another thing.

Mr. SWANSON. You would place a tariff on sugar coming from Puerto Rico?

Mr. HILL. Yes.

Mr. SWANSON. What would you suggest to do to prevent our goods going down there and competing with them; what would you suggest to equalize that?

Mr. HILL. I would be willing and anxious to have the people of Puerto Rico satisfied as far as it is possible to satisfy them, but not to the extent of changing the internal economy of the United States. What they desire should be taken into consideration. But let the Government established be one in which they run on their own wheels under the President—for what I contend is that heretofore they have been a prospering community, have been able to make money and cultivate their lands successfully; let them have that amount of autonomy which will satisfy them, and let them go along as they have done heretofore; but don't put them into our body politic, a sort of vaccine virus, until you can foresee the probable results. Take time.

Mr. RICHARDSON. They raise cattle in Puerto Rico, do they not?

Mr. HILL. Yes.

Mr. RICHARDSON. And in my country they raise cattle. Suppose the people in my country want to ship cattle to Puerto Rico to compete in that market with the cattle raised there, would you suggest to Congress that they let the legislature in Puerto Rico fix that rate of duty?

Mr. HILL. Yes, sir; I would do that.

Mr. SWANSON. You would be willing to let the legislature of Puerto Rico fix the duty on cattle going in there?

Mr. HILL. I think that we shall be able to handle properly the relations with Puerto Rico just as we are able to handle any question with any State of the United States. Even if the way is different, I believe that the President of the United States can organize such a government down there as will give them all the advantages that they need to be successful as a people, and that is all I think we ought to be concerned with.

Mr. HOPKINS. Colonel Hill is correct that this is wandering from the subject.

The CHAIRMAN. I think it is useless to pursue this line, as to what sort of a government is going to be organized there and as to this question of making a tariff there. That is not within the jurisdiction of this committee.

Mr. SWANSON. We have authority—

Mr. HOPKINS. This committee has not.

Mr. SWANSON. This committee has authority to do nothing except to report to Congress bills that we approve.

Mr. HILL. I claim that having free trade is going to be an injury to us at home, and that it is not absolutely necessary so far as Puerto Rico is concerned. It has been a prosperous community before and it can still remain so.

I would like to call attention to a fact about which I have not heard any testimony. My impression has always been—although I may have been in error about it—that prior to the time when the Henry tariff was established by the United States, and when they were absolutely under the control of Spain, that there were certain export duties. If

that is true, the export duties will fall off the instant they begin to trade with the United States, and that may be a large profit in itself.

The CHAIRMAN. Those export duties of Spain were small.

Mr. HILL. But, nevertheless, there were municipal export dues, and they accrue to the benefit of these gentlemen the instant they begin to bring their goods to the United States.

STATEMENT OF MR. GEO. I. FINLAY.

Mr. Chairman, I have heard Colonel Hill state several times that we are so very prosperous down there. I do not believe that there are fifty properties down there that are not encumbered. Our mortgages there amount to thirty odd million dollars on the properties. If that is prosperity, I would like you to go down and see it.

As regards those 100,000 acres that General Stone says lie along the line of his railway and that he is going to put into sugar cane, I should like somebody to go down there and see where he intends putting his railways. It is on the top of the hill much of the distance, and I do not believe anyone would be foolish enough to try to plant sugar cane there.

Mr. HILL. As far as the question of mortgages is concerned, I would call attention to the fact that almost all the sugar land of Louisiana is mortgaged, under the commercial system of advancing to planters. The merchants take mortgages upon the plantations to secure their loans, and perhaps nearly 90 per cent of the sugar producers are burdened with mortgages on their property.

STATEMENT OF MR. H. S. FRY.

Mr. Chairman and gentlemen, I do not propose to occupy the time of the committee to any extent. (See Appendix.)

I appear here mainly for the purpose of filing some papers. I had a letter this morning from Mr. Meyer, who wished me to file some papers on behalf of the League of American Producers; and I will also file some papers of my own. I would like, if the committee has access to the argument I presented before the Senate committee the other day—the 20th of this month—to have that placed on file.

The CHAIRMAN. You made a statement that was taken down in shorthand, did you?

Mr. FRY. Yes, and it will appear.

The CHAIRMAN. This committee will have access to that.

Mr. FRY. I would like very briefly to refer to a fact that has been mentioned here casually several times relative to the imposition by the United States of a duty of \$5 per pound on the Puerto Rican tobacco going to Cuba. It appears that the Cuban planter represented when this Government assumed the control of affairs in Cuba—those people in Cuba represented that if Puerto Rican tobacco was allowed to come into Cuba free it would ruin the tobacco industry of Cuba. Our Government supported that to the extent of granting those people a prohibitive duty of \$5 a pound on Puerto Rican tobacco, and this contention was made, Mr. Chairman, in face of the fact that for three hundred years previous all Puerto Rican tobacco that entered the island of Cuba had entered just as free as Connecticut tobacco passes into New York to-day. Now, then, if that contention were true, and it seems to have been recognized as such by the United States Government, then, Mr. Chairman,

what becomes of the contention that free importation of Puerto Rican tobacco in this country will not injure the tobacco industries of this country?

Mr. HOPKINS. What do you say about the contention of the Cubans; is it true or not?

Mr. FRY. Of course I know it is perfectly absurd; but nevertheless it was recognized by this Government.

Mr. HOPKINS. And to you, a man familiar with the trade, it was an absurd thing to put the duty on?

Mr. FRY. Yes.

The CHAIRMAN. I do not know that you need to apply the lesson to us.

Mr. FRY. But if that contention were true, I say, what becomes of the contention—

Mr. SWANSON. Don't you think the Government was overreached by those Cubans when they did that?

Mr. FRY. Is it not possible that the Puerto Ricans may be able to overreach the Government in this instance? You can not tell.

Mr. SWANSON. Are you familiar with the tobacco business in the United States—in Connecticut and elsewhere—and to what extent the Puerto Rican tobacco will interfere with the tobacco interests of the United States?

Mr. FRY. I have been in the business for twenty-five years.

Mr. SWANSON. What is the character of Puerto Rican tobacco?

Mr. FRY. It is used largely for filling purposes.

Mr. SWANSON. And what class of cigars does it go into mostly; is it anywhere near as good as the Cuban cigar?

Mr. FRY. The cigars are advertised largely as being of good quality.

Mr. SWANSON. What do they sell at—three for a quarter or 5 cents apiece?

Mr. FRY. One advertisement that I saw Senator Platt reading this morning advertised them for sale at 10 for 25 cents.

Mr. SWANSON. Did you ever smoke one of those to see how it compares—

Mr. FRY. Yes, a good many of them.

Mr. SWANSON. Is it better than the average 5-cent American cigar?

Mr. FRY. I should say that the average might be better, but the American 5 cent cigar you understand has no foreign tobacco in it and very few of the 10-cent ones have now, as a matter of fact.

Mr. SWANSON. They are made of clippings mostly?

Mr. FRY. Made mostly from Pennsylvania and Ohio fillings. That is the great bulk of the filler in this country.

The CHAIRMAN. You do not think the free importation of tobacco from Puerto Rico would injure the Connecticut tobacco growers?

Mr. FRY. I will say that Connecticut will stand it as long as any other State. If you will read my letter to Senator Foraker, I think you will be satisfied that Ohio will suffer quicker from the importation of Puerto Rican tobacco than Connecticut will.

Mr. HOPKINS. The people in Ohio are not complaining at all on the tobacco question?

Mr. FRY. No. I notice that the people of Ohio did not come down here and ask for any higher duty on tobacco in the Dingley tariff bill.

The CHAIRMAN. What you are afraid of, then, is the Sumatra wrapper?

Mr. FRY. Yes.

The CHAIRMAN. You are not afraid of the Cuban tobacco?

Mr. FRY. Yes; we have suffered for twenty years by reason of foreign competition.

The CHAIRMAN. You said then it was the Sumatra wrapper?

Mr. FRY. That was our contention, yes.

The CHAIRMAN. This Puerto Rican tobacco is somewhat similar to the Cuban tobacco, so much so that they are making it up into Habana cigars?

Mr. FRY. Yes. Most of it went to Cuba and was exported in the form of cigars or leaf.

The CHAIRMAN. So you still do not fear the Puerto Rican tobacco?

Mr. FRY. It is only the Sumatra wrapper, but we do fear the moral effect and the political effect. I suppose the political side of the question would be tabooed here.

Mr. HOPKINS. Yes. We are only interested in the moral part of it.

Mr. FRY. The tobacco packer, the man who buys of the farmer and packs Connecticut tobacco and Wisconsin and Ohio and all other tobaccos, those people are very fertile in excuses for beating down the price. They are always bears when they buy and bulls when they are selling, and judging from past experience in the arguments used along in the eighties when we were suffering the most from the competition of Sumatra tobacco, it is my belief that the fact that Puerto Rican tobacco is coming to this country free will be used by them as an argument and will have a moral effect in depressing prices even in Connecticut.

The CHAIRMAN. How much tobacco do you produce annually in Connecticut; how many pounds?

Mr. FRY. I could not give you the pounds in Connecticut. I represent the entire New England industry.

The CHAIRMAN. Well, in New England?

Mr. FRY. In New England about 6,000,000 pounds approximately estimated this year. That is the largest yield.

Mr. NEWLANDS. Worth what?

Mr. FRY. Between three and a half and four million dollars.

Mr. GROSVENOR. Do you know what the Ohio product is?

Mr. FRY. No; I can not tell you now. It is very large, though. The Ohio leaf product is very large. My impression is it is about as large as all of New England—maybe larger.

Mr. GROSVENOR. I have not thought so; I thought it was decreasing. Formerly my part of the State was a great tobacco producing part of the State and now it is not.

Mr. FRY. The crop, I understand, is fairly profitable there for filler purposes, because Ohio fillers have established their reputation.

Mr. GROSVENOR. The Ohio men came here and fought very hard for the Sumatra wrapper in the Dingley bill, and that is why we had such a time in our committee conference. They wanted a dollar, or a dollar and a quarter, or a dollar and a half.

Mr. FRY. I understand, and now I will reciprocate the kind action of our Ohio brethren in those days, our friends who were here contending against us and insisting that we should not have any protection against the tobacco that was ruining us, I will reciprocate that by saying that I am here representing not only the New England but indirectly the Ohio interests, and asking that we shall have no free trade with Puerto Rico, one of the large reasons of which is that it will seriously injure the Ohio filler.

Mr. SWANSON. The Ohio people raise the fillers and you raise the wrappers.

Mr. FRY. Yes; it might be classed in that way.

Mr. SWANSON. What do they wrap these Puerto Rican cigars in?

Mr. FRY. I presume they are wrapped in the same tobacco.

Mr. SWANSON. That is not as good as the Sumatra or Connecticut wrapper, is it?

Mr. FRY. Not in a large percentage.

Mr. SWANSON. Do you think there would be a market there for us to sell Connecticut wrappers to wrap the Puerto Rican fillers in?

Mr. FRY. Would there be a market there?

Mr. SWANSON. Yes.

Mr. FRY. I do not know. Those things can not be told until you have actual trade experience. Theories do not go far in a matter of trade.

Mr. SWANSON. If they were to make fillers here and had to get wrappers here they would have to get the Connecticut wrapper, would they not, under the present tariff, and to that extent that would increase the demand—

Mr. FRY. No; not necessarily.

Mr. SWANSON. The duty is so high on Sumatra, though, it would give the preference to the Connecticut?

Mr. FRY. That would depend on whether they consulted the taste of the smokers.

Mr. GROSVENOR. I do not think it is so much the taste as the lightness of it.

Mr. FRY. Yes; the nice appearance of it. Two pounds of it will wrap 1,000 cigars.

Mr. GROSVENOR. And how much does it take of the other?

Mr. FRY. Of the broad leaf, 10 to 12 pounds.

Mr. RUSSELL. Have you thought of the possible consequence of free trade in reference to the manufacture of cigars and cigarettes.

Mr. FRY. I understand that the American Tobacco Company is going down there with the purpose of exploiting the tobacco industry in the island of Puerto Rico.

Mr. RUSSELL. What do you know about the difference in wages of cigar makers in Puerto Rico and cigar makers in the United States?

Mr. FRY. I could not tell. The rate of wages of the Cuban cigar maker as compared with the American cigar maker is fully as high. That is an exceptional case; but it is a fact that the Cuban cigar maker, that is, the man who works in this country, in Tampa and Key West, gets more per thousand for clear Habana cigars than the American.

Mr. HOPKINS. There is no perceptible difference in the wages paid in Cuba and those paid in Puerto Rico, is there?

Mr. FRY. I think not. The wages of agricultural laborers, I presume, are about the same in those places.

Mr. HOPKINS. Are they not about the same in the manufacture of cigars and cigarettes?

Mr. FRY. It is difficult for a man who does not understand the cigar business to understand why it is that the Cuban cigar maker gets higher prices than most any other cigar maker in the world; but it is a fact. They have a way of making cigars that our American workmen can not imitate. For instance, take an American workman who has learned his trade, and is engaged in making fine Habana-filled cigars. Put that man in a clear Habana factory in Tampa or Key West, or even in Habana, and he could not turn out cigars satisfactorily.

Mr. GROSVENOR. I do not smoke or use tobacco in any form, but gentlemen who have got these Puerto Rican cigars say they are not fit for anything; that they are strong and bitter; that they are bad cigars. Now, what is your opinion?

Mr. FRY. I suspect they vary, the same as cigars from Cuba.

Mr. GROSVENOR. They can make a fine quality?

Mr. FRY. I understand so; yes. I have never smoked a Puerto Rican cigar that I could call really good.

Mr. GROSVENOR. I gave one of those cigars to a gentleman the other night and he notified me that if I ever offered him another one he would consider it a case of assault and battery.

Mr. FRY. Nevertheless, the Puerto Rican tobacco is being imported here to-day and sold at a profit. Now, that tobacco, with the present duty, can not be sold at a profit for less than 50 cents a pound.

Mr. GROSVENOR. How do you account for that?

Mr. FRY. I do not know. If that tobacco is so poor that it is a criminal offense, almost, to offer a man a cigar to smoke made of that tobacco, I do not understand why the other fact exists, but it does exist.

Mr. SWANSON. They have an idea that Habana and Puerto Rican tobacco is better than American tobacco, better than cigars made of American tobacco. American cigars could be shipped to Cuba and then shipped back again and sold at a profit.

Mr. FRY. Yes; the fact it comes from Habana or Puerto Rico helps to sell it.

STATEMENT OF MR. TULIO LARRINAGA.

The CHAIRMAN. Are you a native Puerto Rican?

Mr. LARRINAGA. Yes, sir.

The CHAIRMAN. Go on and make your statement in your own way.

Mr. LARRINAGA. Gentlemen, I am not a sugar planter or a tobacco grower. My profession is that of a civil engineer. I have been appointed a delegate to come here, along with my colleagues, and I only intended to touch one single point which did not seem very clear to me when I heard it treated, but I have heard here just now some statements that are not very accurately correct in my opinion.

I will take in the first place the tobacco, because the ideas of the gentleman who preceded me are fresh in my memory. I will take up the question that was raised by him as to the amount of land that could be devoted to the planting of tobacco; whether that area could be largely increased, etc. Let me tell you first of all that the land suitable for cultivating the tobacco must be special land.

In general, that land is high up on the mountain side, although there is some low land on the coast that is used for tobacco raising. In general, the land has to be special land. Heavy soils like those fit for cane culture are not fit for tobacco, and, therefore, the culture of tobacco in Puerto Rico can not at all be extended beyond a very limited area, and I believe four-fifths of that land is already in use for tobacco. Some might be added by cutting down part of our woods on the mountains. Very often as you pass along you see patches of tobacco stuck on the side of the hills; but that land is always very rocky, and you have to cultivate three acres to get one acre's yield. Therefore I do not believe that there need be any apprehension of a very great increase of tobacco culture in Puerto Rico.

Something was also said in regard to the quality of our tobacco. Indeed, the tobacco from Puerto Rico is rather strong in quality and aroma, as it is called by the connoisseurs. It is next to the Cuban tobacco in quality, and we firmly believe better than most of the Cuban tobacco.

It is really inferior to the western Cuban tobacco or Vuelta Abajo, but we consider it better than some of the grades of Cuban tobacco. Our tobacco is defective in wrappers and above all light wrappers. Whatever wrappers we get are dark and they do not take in the European markets. I believe there is a very large field of business for the Connecticut wrapper producers. I do not think there could be found a better business than for the Connecticut people to sell their light fine wrappers to Puerto Rico for us to make cigars for England and other European markets.

There was a Spaniard there who used to go out in the fields and buy from planters certain patches of tobacco field, and by buying here and there, choosing around light for wrappers, he succeeded in starting a very thriving business in manufacturing tobacco. The market of London was becoming full of Puerto Rican tobacco. He could not make certain classes—we call them “vetolas” there—fast enough for the demand. You could not buy those cigars from him there, because he had to ship them to London just as fast as he could manufacture them. That man died and the business broke up, and nobody has come after him to do that business, but I believe there is a large field for American manufacturers in the island.

Another error I believe that has been made here, that calls for a little rectification, is in the sugar-producing capacity of the island. I have heard it stated several times that the surveys of the island of Puerto Rico show that it contains 3,000,000 acres. My profession is that of a civil engineer. I have built roads, railroads, canals, and different other works in my country, and I have been over the whole island, and I can tell you, not only from my own experience but from a very technical work, that you will find that Puerto Rico contains no more than 10,000 square kilometers; that is the exact area of Puerto Rico. Ten thousand kilometers are 2,500,000 square acres and nothing more. Of that, only a small quantity is formed by the lowlands around the island.

The island is about 100 miles long by 45 miles wide. The center is formed by a long ridge of mountains going east and west and then it slopes down to the coast, so that the coast forms the flat lands that are suitable for cane planting. Most of those lands are planted already. It is supposed by some people that every acre of land good for cane culture on a plantation can be cultivated. It is not so. Land must be left idle for some time and some of it must be left for some time for pasture. Therefore planters can not cultivate all they possess, but only a part of it. It is true that some of the lands that were formerly devoted to cane culture are now used for raising cattle, and those might be cultivated for producing sugars, but at any rate it is my firm belief that four-fifths of the good sugar-producing lands of Puerto Rico are cultivated already. It is true that the production might be increased somewhat by using manures and so on, but it is my firm belief that the sugar-producing power of Puerto Rico will never be doubled.

I have spoken of coffee. That is the only agricultural product of the island that admits of a very large increase. A large zone of our woods might be cut down and that land used for coffee. This is the best land that can be used for coffee.

I have made these statements because I had heard some erroneous assertions on the matter.

The argument against giving free trade to Puerto Rico was, I believe, that before the United States took possession of Puerto Rico we were

getting rich; that our planters were getting rich every day. That is not so. Mr. Finlay answered that argument very well. Before this, our planters sent their best sugars to Spain. We can not do that any more. We were then getting along better than we are now, but we were not getting rich.

A few planters, as Mr. Finlay remarked, have made money by it; but those gentlemen had friends in Europe from whom they could get cheap money and plenty of it to put in good machinery, and some of them got possibly 9 or 10 per cent of sugar out of the cane. I do not believe any of them made as high as 12 per cent, as it has been stated. At the same time other planters were not making any money at all; planters who had not the advantage of cheap money to put up good machinery were not making more than $5\frac{1}{2}$ or 6 per cent of sugar from their cane. For these reasons nine-tenths of our planters are ruined and have been all the time so. They were commencing to get out of that situation when the treaty of reciprocity with the United States came about, but it only lasted three years, and sugar producing became again a poor business. Planters had no time to pay their debts, and their mortgages were left in the same condition.

Mr. GROSVENOR. Please tell me more about the coffee lands. What is the production of the coffee there now? Something has been said about the injury to it by storms.

Mr. LARRINAGA. In the first place, gentlemen, I am not an agriculturist; but I will give the gentleman my ideas. Coffee has suffered largely; more than the sugar. The sugar has suffered in some places, especially on the eastern part of the island, where the buildings have been blown down and the machinery injured by the hurricane, but in some places on the northern coast some planters have rather gained by it. Still, the great injury of the hurricane was done to the coffee plantations. Hundreds of acres of land have been washed down; trees, rocks, and everything from the mountain sides was carried away by the sweeping waters. As the gentlemen of the committee know, coffee is a very small tree and grows under a larger tree that shades it; and those larger trees have been thrown on top of the coffee and demolished the plantations.

Our vegetation is luxuriant and grows so rapidly that weeds have already covered much of that coffee, and there is no way of getting those coffee plantations to their first condition any more except by great expense. Some of those plantations will require a large amount of capital to restore them.

Mr. GROSVENOR. It takes a long time, I suppose, to do that?

Mr. LARRINAGA. If money were quick coming to the island it would not take more than two or three years.

Now, I wish to come to the statement I was going to make. I will try to be brief in stating it. I fail to see, gentlemen, how, in discussing the question of giving Puerto Rico free trade, the Philippine question can be brought in and considered as an argument for not doing justice to Puerto Rico.

If Puerto Rico were allowed to have free trade some people say that it would be considered practically as a part of the Union. I know some prominent lawyers who do not think so. But even if that were so, the conditions are so different between the two countries that I do not believe, if the matter is studied a moment, that the argument will stand. Puerto Rico is a solid small piece of land, a good deal nearer to Washington than Alaska, Nebraska, or the State of California. The sea that

separates Puerto Rico from the United States means nothing unless it means a cheaper transportation. You can not get a ton of goods from some of your Western States for the price you can get it from Puerto Rico. From the coast of Florida you can go to Puerto Rico in two and one-quarter days. There are some States of the Union to which you can not get in that space of time.

On the other hand, the Philippine Islands are thousands of miles away. That is a scattered country, consisting of 1,000 or more islands. Our population is a homogeneous population. Some slight error has been made in speaking of the population. The colored people do not amount to more than 20 or 30 per cent. In San Juan and some of the principal cities the largest proportion of colored people is to be found.

Mr. RICHARDSON. Do you mean full-blooded negroes or mixed colored people?

Mr. LARRINAGA. I mean mixed blood, sir.

Mr. RICHARDSON. I thought the per centum when you take into consideration the mixed population and when you got into the interior of the island was considerably larger than that.

Mr. LARRINAGA. No, I beg your pardon.

Mr. RICHARDSON. Is not the proportion much larger than that?

Mr. LARRINAGA. No; when you get into the country the proportion is very small. Our native population is white. If you go into the country and see the poor people, some places you will not find a colored person.

The CHAIRMAN. What percentage of the whole population is white?

Mr. LARRINAGA. I believe two-thirds of the population is pure white blood.

The CHAIRMAN. Does not the census show about 70 per cent white?

Mr. LARRINAGA. I believe so, sir.

The CHAIRMAN. And about 7 per cent colored?

Mr. LARRINAGA. About 30, or nearly one-third—

The CHAIRMAN. No; but the full-blooded colored persons, I mean?

Mr. LARRINAGA. No more than 7 to 9 per cent.

The CHAIRMAN. And then about 24 per cent are mixed?

Mr. LARRINAGA. Yes, sir; and, as I said, our interior population is almost entirely white.

What I was going to say in regard to the population of Puerto Rico is that it is a homogeneous population, more or less, while if you take the Philippines you find that the people there are of different races; you have the Malayan and the black Mohammedan race, the Chinese, and many different shades. There are any number of different tribes and races in some of those mountains. There are people living in the mountains there who do not live as well as the Indians here. They are entirely savage. That population is scattered over that large surface.

Why should, then, the Filipinos have the same rights that we have to come here before the United States and ask to be taken as a part of the Union? The conditions of both countries is entirely different, and above all we have always desired to become a part of the United States. Do not forget, gentlemen, how the American Army was received when it went into Puerto Rico. On the other hand, look at the course pursued by the Filipinos. They took up their arms against the United States and are fighting the American people.

I do not see, gentlemen, how anybody can hold the contention that the Filipinos should and must be treated like the Puerto Ricans. When a people is vanquished by another the law is made by the conquering one.

I wish to impress upon you, gentlemen, that the Puerto Ricans are entitled to have justice done to them, and that the argument which is being used, that to give Puerto Rico free trade may lead eventually to the Filipinos demanding the same, can not stand. In other words, it is said that we should not be given what is right because the Filipinos, who are in war now, may put as a condition after they are beaten that they should be treated or accorded the same privileges that we are asking for now. This, gentlemen, is something that can not be rightfully maintained.

(Adjourned.)

APPENDIX.

SUPPLEMENTARY REMARKS OF MR. OXNARD.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: There came inquiry from members of the committee in regard to the lands available for sugar production, and the very evident effort on the part of the Puerto Rican delegation was to keep the area at the minimum; precisely the tactics resorted to by the foreign planter in Hawaii, with the result that Congress was overreached. With the results from fertilization, and irrigation of the highlands in Hawaii before us, domestic sugar producers now insist that these matters be taken up and more fully developed. Let us have the facts. Permit us to state what happened in Hawaii—even at the risk of repetition in part. When the so-called Hawaiian “reciprocity” or free-trade treaty went through, the statements now made against any possible chance for increase of sugar in Puerto Rico were equally positive with those then advanced, and the debates will show that it was largely upon the theory that such statements were true that the Hawaiian treaty (1875) secured enough votes. What resulted?

Exports of sugar from Hawaii, 1864 to 1875, average only 18,844,535 pounds; 1885, 171,350,314 pounds. To-day that product amounts to over 633,000,000 pounds and is increasing rapidly. A Honolulu dispatch under date of November 23 says:

Complete returns from all island sugar plantations, as made to the Hawaiian Planters' Association, show that the crop for the year ending with September 30 amounted to 282,807 tons, valued at over \$22,500,000. This is an increase of 53,393 tons over the previous year. Estimates for the coming crop indicate that there will be a like increase in this year's crop.

That would be 633,487,680 pounds, and the increase (53,393 long tons) is equal to 119,600,000 pounds. A like increase foreshadowed in the dispatch would place the crop at over 753,000,000 pounds, or 336,260 long tons. If Congress repeats this, it will be done at its own risk, and it will put a pretty heavy weight upon its professions in favor of “protection for home industry.” It certainly will not do it with its eyes shut. Nor will it be able to escape from a sound policy and principle by resort to a low duty—equally pernicious with “free trade.” There is no “protection” in that, as is well known.

What burdens did sugar in Puerto Rico bear? Is the committee fully advised? And is domestic sugar to be ground between the millstones of the gold and silver policy? For instance Mr. Salazar, of New York, to whom Mr. Porter, our special agent to Puerto Rico, applied for information, says, among other things—

The only dark spot in the whole matter is the sugar planter; owing to the low price at which he would be compelled to sell his product if the gold standard is finally established, as on account of the inadequate machinery, the lack of proper means to irrigate the most fertile zone of the island, and, above all, due to the enormous and unequal taxes that this industry has had to bear in relation to other industries, the result is that the actual owners of sugar plantations have not been able to carry on the works regularly because of the depreciated currency that gives them the benefit of the exchange.

That there has been a suppression of the facts in this Puerto Rican matter hardly admits of doubt. There may not have been an "export" tax by Spain on Puerto Rican sugar, but it is equally true that in very many of the municipalities of the island there has been levied a "municipal" tax on sugar, and on fruits, and as high as from \$2.50 to \$3 a kilogram (220 pounds) on tobacco. These taxes will go off under our rule and will be credited to the past conditions of the Puerto Rican planter. It was also denied that there was any "contract" or peon labor in the island. On the contrary, I am advised that the final report of the insular commission (the printing of which seems to be withheld or delayed) indicates that the commission found among the papers of some municipalities evidence of the fact that persons were indentured to labor.

A very sharp and important matter in dispute relates to the quantity of land available for sugar in Puerto Rico. The tobacco lands can be put to sugar; that is conceded. Then, General Davis tells us in general terms of the sugar lands abandoned for reasons given. Then we have what may be called the pasturage uplands, available, the delegation wants the committee to assume, for coffee only. But look at those uplands in Hawaii. See what fertilizers and irrigation have done there to such lands.

Dr. Carroll's report (Treasury special agent) says the total area of Puerto Rico is 2,460,400 acres, divided as follows:

	Acres.
Pasture lands	1, 116, 262
Forests and the like.	657, 631
Devoted to sugar, coffee, tobacco, etc.	294, 973
Town sites, lakes, city, roads, etc	391, 534

As he well says, this shows only one-eighth in actual cultivation. How much of this tobacco and pasture would be quickly brought into sugar under the stimulus or bounty offered of 1.5 to 1.68 cents per pound? Dr. Ames stated that 25—certainly not more than 35—per cent could be reclaimed for sugar. It is stated that 60,000 acres are now in sugar, and 25 to 35 per cent of pasture lands would give to sugar 300,000 acres more—360,000 acres. Or if, all told, 300,000 acres are put to sugar, and the bonns of "free trade," which amounts to \$30 a ton, is given, the gift of the United States to Puerto Rican sugar planters would amount to \$9,000,000 a year, while the Puerto Rican delegation has claimed that \$16,000,000 for all industries, of which coffee is the chief one, would completely restore them to a good footing. Better give them the \$16,000,000 cash. No one can predict save practical sugar planters, who know to-day what 1 cent—yea, what one-fourth cent, means. Ask the "Sugar trust," that has Hawaii's sugar under its thumb, and perhaps that also of Puerto Rico, that is at the wharves, they say, awaiting "free" entry. There is immediately from \$1,500,000 to \$2,000,000 "in it." There is a feverish anxiety about the matter, and the American farmers, cane growers, and beet raisers are not in ignorance of the situation.

All other conditions aside, the present situation is this, under the most favorable presentation of the case for Puerto Rico, to show relative positions:

Production of sugar per acre:	Tons.
Puerto Rico	2
Hawaii	4 to 11
United States (beet)	1 to 1½
United States (cane)	1 to 1½
Germany (beet)	1½ to 2

Extend this and we reach this result—from a basis the most favorable to Puerto Rico:

Sugar, there per acre, 2 (long) tons, 4,480 pounds.	
Average worth in Puerto Rico 2½ cents per pound.....	\$112.00
Beet sugar, in the United States, 1½ (short) tons, or 2,500 pounds per acre, worth, say, 4½ cents per pound, or.....	112.00

[Mr. Finlay conceded to a member of the insular commission that the net profit on sugar per acre in Puerto Rico was \$51.]

This is the most favorable for the Puerto Rican and the most unfavorable for the United States planter. This waives difference in cost of production, in which labor cuts a heavy figure, as stated by our special agent of the Department of Agriculture, who says:

I investigated the wage scale of the sugar, tobacco, and coffee industries, and these are the chief ones of the island. A great many boys from 10 to 15 years of age are employed. They get from 15 to 35 cents a day only, Spanish money, or from 9 to 18 cents, American money. The unskilled adult laborer receives from 35 to 63 cents, or an average over the island of 50 cents, Spanish money. This equals 30 cents, American money.

The scale of wages in the United States is from 75 cents to \$1.50 for like labor.

Take it this way: Cost of production of sugar in Puerto Rico, according to Mr. Finlay, 2.1 cents per pound; to which add average duty (2 grades), say 1.6 cents, and we have the Puerto Rican product laid down in New York at 3.7 cents per pound, as against cost—according to Dr. Wiley of our Department of Agriculture—of American sugar, 3.5 per pound. The Puerto Rican cane planter now has the advantage of our countervailing duty on European bounty-fed sugars, which amounts to from one-fourth to over one-third cent per pound.

We must certainly insist that on any fair and full showing the British, German, and Spanish sugar planters in Puerto Rico be not given a bounty on sugar production—the limit of which product no one can now see—as against our own farmers and manufacturers of sugar. The idea of giving foreigners an advantage of at least a cent a pound over our own people will surely meet with condemnation. It will raise an unpleasant issue. The “sugar trust” may want it and the foreign planters want it, but we do not.

There is no escape from the proposition for “free trade” through the avenue or narrower passage of low duty. That would be a mere subterfuge. Apply it to wool, say, and ratify your Argentine treaty calling for a 20 per cent reduction. Don’t halt at sugar.

What deduction must be drawn from the statement made as to the relative or comparative prices of sugar lands in Puerto Rico and of those in the United States? In Puerto Rico the price, according to Puerto Rican delegates, is from \$100 to \$500 per acre, i. e., from \$60 to \$300 in gold; in the United States from \$25 to \$100. Why is that? Land values are generally based on what product the land will produce and what that product is worth. That alone tells the story—hurricane or no hurricane.

We are asked to explain why our domestic sugar industry has quite recently “expanded” if it was not prosperous. Who denies that it has not developed? We had supposed that one object of the present duty on sugar was to develop and protect it against competition. Is the industry or the capital invested in it to be punished for energy and confidence in political professions? Blot “protection” from the flag if it is to be used to lure men on to disaster and hoist the symbol of “protection for foreigners and manufacturers only.”

Why not reduce the duty 75 per cent on the hop, beans, butter, cheese, flour, wheat, and other products of the farmers of New Hampshire, New York, Ohio, Illinois, and of Minnesota that would come in from Manitoba or Canada? Protection either extends its strong arm over all domestic products or it is a football for those in power to play with.

It would be suicidal, if not dishonest, at this juncture in the domestic sugar production to open our ports to either "free" sugar or to radical reduction of duty thereon, or on tobacco, hemp, rice, iron ore, or fruits. And if on one of these competing products, why not on all? If philanthropy is to be extended to foreign planters, why not let the measure run full? Why not frankly say, "We have turned our backs on 'protection' and now seek only to strengthen the 'trusts' and combinations for the export 'trade' there is in it?"

Senator Allison is sagacious when he says, "We ought to go slow in these matters."

The fourth or "reciprocity" clause in the Dingley Act shows that Congress, in 1897, did not intend to reduce the duty on any article more than 20 per cent, and it provided that even that should have the assent of both branches of Congress.

Better lift some of the mortgages and other burdens from our own people before extending favors to the tobacco, sugar, and coffee of foreign planters. That is what our taxpayers will expect and demand.

It may be said that the volume of products from Puerto Rico competing with our own is too small to injure the latter or investments that produce the same. Now, I submit to this committee whether that has ever before been applied by any man professing to be a protectionist? Where and when before now was any such theory advanced by either the Whig or the Republican party? If it is sound, apply it all along the line. The New York Tribune says of the visit of the Puerto Rican delegation:

They have come to plead for the establishment of absolute free trade between Puerto Rico and the United States. That is a practical and legitimate matter of desire. Whether it is to be granted to them is another thing. There is much to be said in favor of it from their point of view. But there is much, also, to be said against it from another point of view, and it may be that other points of view will in the end be deemed paramount to theirs.

With almost tearful eyes the Puerto Ricans come here to plead first, but they end with a demand. This wily delegation tell us of the devastation wrought by a hurricane in the island—a visitation which Dr. Carroll's report tells us comes only once in twenty-five years. How about our own Providential visitations in the form of floods, droughts, and cyclones; visitations that occur nearly every year in large sections reducing the crops by from one-third to one-half, and in some cases totally? Are the foreign planters of a recently acquired and conquered island to have the American taxpayer—staggering under a war-revenue tax imposed to liberate those very planters from Spanish oppression, tyranny, and onerous taxation—to pay his debts, lift his mortgages, and otherwise help him, by breaking the dike of "protection." Have we no farm mortgages? Aid the foreign planters in Puerto Rico if you will, but not at the expense of our competing agricultural industries.

Let the whole nation contribute to the foreign planter in Puerto Rico, but don't lay the burden on a few, nor run the risk of sacrificing a great principle. That is not the true medium through which to dispense charity in this case. Give Puerto Rico free trade, or what prac-

tically amounts to it, and Cuba will surely ask the same. In fact the alleged organ of the "Sugar Trust" in New York stated only a few months ago that "free sugar" with Puerto Rico meant the same favor, not only on sugar from Cuba but on sugar from Java and other countries? Robert P. Porter, in the Evening Post of Philadelphia, shows what the relative condition of Cuba will be, if we give Puerto Rico and the Philippines "free" sugar—and ratify the British West Indies so-called "reciprocity" treaties:

Industrial progress is also retarded by the fear or knowledge that with Cuba independent the Cuban sugars would be met with our maximum tariff on sugar, while those coming from Puerto Rico, Hawaii, and the Philippines, aggregating nearly 400,000 tons (exceeding the entire crop of Cuba last year), will be admitted free. Under these conditions the sugar planters of Cuba realize that the crops in these islands will, of course, rapidly increase and make it more difficult for the Cuban planter to regain even his old position; and this fact makes it difficult for the Cuban planter to borrow money to replace his machinery. Sugar is the most important crop of Cuba, and, with tobacco, lies at the basis of the prosperity of the island. The existing rates of duty on sugar valued at 2½ cents, free on board, amounts to a discrimination of about 68 per cent ad valorem against Cuban sugar when compared with these free-sugar countries. After the ratification of the treaties between the British colonies and the United States, sugar of equal grades may be imported under four classifications:

1. A countervailing duty against the sugars of Continental Europe where bounties are paid.
2. Existing rates of the Dingley tariff law against all countries excepting such countries with which reciprocity treaties were made prior to July, 1899, under the reciprocity clause of the Dingley Act.
3. The reduced rates of duty established for sugar from the British West Indian Colonies, with which treaties have already been negotiated and are pending confirmation of the Senate.
4. Free sugar, as aforesaid, from Puerto Rico, Hawaiian Islands, and the Philippine Islands.

Under these conditions the three last-named islands offer vastly better fields for investments of capital in the sugar industry than does Cuba. The disadvantage from which Cuba will suffer when these treaties go into effect may be forcibly illustrated by taking the duty-paid price of centrifugal sugar in New York, which amounted in July to 4½ cents the pound, for basis of standard grade on 96-test centrifugal sugar, coming from six sources, viz: Germany, Cuba, Java, English colonies, Puerto Rico, and Hawaii. At this moment the price of sugar has declined to 4½, or under, in the New York market, which leaves hardly any profit on equal duties for all sources of supply. Deducting from the 4½ cents all accruing charges, including duties (where payable), it will be found that the German producer will get for his sugar as free-on-board value 2.71 cents, the Java producer 2.46 cents, the English colonist 3.02 cents, the Puerto Rican 4.28 cents, the Hawaiian 4.14 cents, and the Cuban only 2.69 cents. Under equal duties in the United States against all countries one-half a cent the pound would be considered a fair profit to the producer of sugar, while under the figures above given there would be a discrimination against Cuban sugars; as against Puerto Rico, of 1.59 cents the pound, as compared with Hawaii of 1.45 cents, and as compared with the English colonies of 0.033 cent.

"Free" sugar with Cuba and the fate of our domestic sugar industry depend upon what you here and now do. Aid the foreign planter if you are determined so to do, but what will become of your past promises and your protective professions? Whatever is done, we ask that our domestic sugar investors be frankly told what policy is to govern.

And we are told that precedent will be of no account. It might possibly be so if those now in Congress were always to remain there. But men in Congress, as we all know, flit in and out. There were compensating benefits that accompanied the late hurricane in Puerto Rico. While the coffee plants were damaged, it will produce a crop next year, and the flood of waters that covered the sugar lands operated as a rich fertilizer as will be attested by all who fairly state the case. It is also a fact that money can be had in Puerto Rico at 8 per cent. Many of the mortgages given under Spanish rule was purchase money for lands, machinery, etc., and not raised because of the inability of the foreign planter in Puerto Rico to make a good profit.

Here is an island, the people in which had neither the courage of the Cuban nor the Filipino, who suffered customs and other exactions of Spain for many, many years, suddenly demanding "free" sugar from the conqueror. The demand would be insolent if it were not impudent. Before even the power of our Army and Navy is withdrawn; before Congress had entered upon the work of giving these foreign and non-resident English and Spanish sugar and tobacco planters a civil government; even while there was military occupation, representatives of these two great competing agricultural interests in Puerto Rico made demands for "free" sugar before the New York Board of Appraisers and besieged the President and Attorney-General for "free" trade in sugar, lodging a long argument with Attorney General Griggs to show that they were, in a legal or constitutional sense, entitled to that measure—in return for what, pray!

Mr. Curtis, of the Insular Commission, sent to Puerto Rico by the President, says:

The people of the island are not wedded to their systems; they do not, in their proper devotion to their country, include love either for Spain or for the laws by which they have been oppressed, held in ignorance and semibondage, and burdened with excessive taxation. Former conditions have been to the Puerto Rican exceedingly onerous. The school system in Puerto Rico has been worthless.

Taxation under Spanish rule was simply outrageous, while the expenditures were almost beyond belief. In the city of San Juan, with a population of about twenty thousand, the consumption tax on sales of meat last year was \$33,000; on bread, \$30,000. * * * The Insular Commission reports 2,000 men confined in the jails and penitentiaries of Puerto Rico. Many of these unfortunates had been incarcerated for months and years without trial; and one man had languished for six years and nine months in a dreary cell, the helpless victim of cruel force. In one jail 149 prisoners were anxiously awaiting trial, their righteous demands for a hearing having been ignored. Almost all of these were charged with petty offenses.

If the United States, for a starter, reforms all this it will satisfy our obligation as it ought to satisfy the people of the island, albeit special interests here and in Puerto Rico may want more.

Of course, we do not apprehend for a moment that Congress will take suggestions from the "sugar trust" as a basis for legislation; an octopus that would throttle, if it could, the domestic sugar industry in twenty-four hours. The argument of that peculiar institution is and has been from time to time, that the small amount of raw sugar entering "free" (to its benefit, sic) from any given place could not injure the domestic producer; that increase of consumption would absorb it. If that argument is sound it will also apply to the wool of Ohio, the tinplate industry, the iron and steel product, the cotton and woolen people, the wheat producer, and the flour manufacturer.

From a special report by our Bureau of Statistics on the commerce of Cuba and Puerto Rico, page 2040, it is said that the latest statistics of the trade of the island of Puerto Rico are those for 1895:

1895. The total imports and exports of the island were—

Imports.....	\$16, 155, 056
Exports	14, 629, 494

Our trade with Puerto Rico is shown as follows:

Year.	Imports from.	Exports to.
1896.....	\$2, 296, 653	\$2, 080, 400
1897.....	2, 181, 024	1, 964, 850
1898.....	2, 414, 356	1, 481, 629

Of our total imports from Puerto Rico in 1898, the sum of \$1,912,965 was sugar.

Puerto Rico imports from principal countries:

1895.

United States	\$1, 820, 203
Spain	8, 572, 549
Cuba	808, 283
England	1, 765, 574
Germany	1, 368, 595
British West Indies	1, 709, 117
Holland	325, 301

These imports appear to have consisted principally of—

Rice	\$2, 180, 004
Fish	1, 591, 418
Meat and lard	1, 223, 104
Manufactured tobacco	663, 464
Flour	982, 222
Olive oil	327, 801
Cheese	324, 137
Wine	305, 656
Iron	224, 206
Soap	238, 525

and coal, jerked beef, and vegetables. These were 50 per cent of her total imports.

1895.—Puerto Rico sent her exports principally to—

Spain	\$5, 824, 694
Cuba	3, 610, 936
United States	1, 506, 512
England	1, 144, 555
Germany	1, 181, 396
Italy	589, 045
British West Indies	521, 649
Denmark	236, 418

Her principal exports were—

Coffee	\$8, 789, 788
Tobacco	646, 556
Sugar	3, 747, 891
Honey	517, 746

Our exports of products to the island have been quite insignificant. We sent the island:

	Quantity.	Value.
Bacon:	<i>Pounds</i>	
1885	590, 500	\$69, 129
1898	602, 415	50, 941
Pickled pork:		
1891	3, 546, 000	226, 311
1898	3, 566, 700	176, 219
Lard:		
1890	3, 531, 225	270, 988
1898	3, 609, 130	190, 630

Our largest export of flour to Puerto Rico was in 1894, 200,813 barrels; in 1898 it was 90,578 barrels, value \$450,493. The average, 1887 to 1897 (both years inclusive), was 141,600 barrels, about as much as would be eaten in a year in a little town of 140,000 people. In 1894 Spain sent Puerto Rico wheat flour only \$96,702. The natives eat rice and sugar cane. There is no market for much flour; it is beyond the reach of peons

who work for 15 to 30 cents a day. She took of beans and pease in 1898 only \$27,283.

Within 10 years her largest import of our cotton goods was in 1892, \$34,048, and Mr. Latimer's statement concedes that she takes from Great Britain and gives the reasons. Her largest imports of our lumber in 10 years was in 1894, \$172,802.

Puerto Rico's exports of sugar have been—

	To Spain.	To United States.
1888.....	\$1,016,010	\$2,997,713
1889.....	1,561,458	2,766,232
1890.....	2,331,310	2,750,774
1891.....	618,019	2,416,403
1892.....	1,973,332	2,308,657
1893.....	1,025,113	3,228,933
1894.....	1,264,063	2,394,851
1895.....	1,061,552	994,073
1896.....	1,610,826	1,708,318
1897.....		1,577,911
1898.....		1,912,965

Puerto Rico sent the United States in 1872, 167,582,316 pounds, or 83,000 tons of sugar. We do not have the figures to show what proportion that was of her total production. According to the stenographic report furnished us of the remarks made by General Davis before the Senate Committee on Puerto Rico, he is reported to have said that "in 1879 the output (of sugar in Puerto Rico) was 170,000 tons." He is reported to have further said, speaking of Puerto Rico sugar lands, that—

They have been cultivated for three hundred years, off and on, without fertilizing or help of any kind, until many of them have ceased to be profitable with any appliances they then possessed. They have never fertilized, or never been able to, or thought they could afford to, and the country has been worked out. You will find all over the lowlands of Puerto Rico these abandoned sugar mills, with the chimneys standing and the wreck of a building.

The foreign planter seems to have "trekked" to better lands. The General further said that "the usual basis of estimation (of sugar yield) is 2 tons to the acre."

The General's attention was called by Senator Fairbanks to his remark that Puerto Rico in 1879 had produced 170,000 tons of sugar and he made no correction or amendment. That is all the evidence we have on that point. The Puerto Rican delegation should be ready and able to state to the committee what the annual production of sugar in the island has been for, say, the past twenty or twenty-five years. They should not content themselves with denials coming from such sources. They should also be able and prepared to state to the committee what taxation the sugar and other planters were subjected to by Spain, in detail. From our point of view the delegation, able men and rapid talkers, have not treated the committee nor Congress fairly.

STATISTICS.

Consumption of domestic and foreign sugars in the United States, 1899.....	pounds..	4,691,926,400
Production, domestic sugar: 1898-99, Louisiana, 224,000 long tons; beet sugar, 32,471 long tons; total, 256,471 long tons.....	pounds..	574,495,040
Hawaiian product (Willett & Gray).....	do....	565,513,440
Jamaico, Barbados, Trinidad, and British Guiana, about.....	do....	455,200,000
Argentina.....	do....	179,200,000
The Philippines, normal conditions.....	do....	987,840,000

The world's cane-sugar product	tons ..	2, 946, 800
The world's beet-sugar product	do ..	4, 932, 101
Germany's production:		
1877-78	pounds ..	846, 720, 000
1898-99	do ..	3, 832, 640, 000
Export bounties paid, 1898-99		\$8, 724, 842

Consumption per capita and prices in the United States.

Year.	Quantity.	Prices, granulated, per pound.
	<i>Pounds.</i>	<i>Cents.</i>
1885.....	49.95	
1890.....	52.64	6.1
1892 (free).....	67.46	4.3
1896.....	64.26	4.5
1899.....	61.7	4.9

Showing a difference of only six-tenths cent per pound between "free" sugar in 1892 and dutiable sugar. Has the duty fallen on the consumer? Hardly.

STATEMENT FILED BY DELEGATES REPRESENTING THE AGRICULTURISTS OF PUERTO RICO.

The commissioners for the agriculturists of Puerto Rico now appear to lay before this committee the general necessities of the country, and more particularly the resources which they represent.

Little will they have to add to what has already been said by those who have preceded them to carry to the mind of this committee the conviction of the unfortunate situation through which the island is passing.

Their character as agriculturists, however, permits them to speak with more accuracy, perhaps, respecting the conditions now besetting their principal resource, which is agriculture.

Your memorialists do not wish to turn back to a far-off past to prove the difficult situation through which the agricultural wealth of Puerto Rico has ever passed. They go back to the four years preceding the American invasion, during which the country, owing to the active expansion of labor, brought about therein in the culture of coffee, and to the meager crops of this product which were yielded, entered upon a most acute period of crisis, in which they were surprised by the war.

From that time to the present the exaggerated contraction of credit aggravated this situation. The state of transition through which the island has passed contributed to increasing the evil, and the hurricane of August 8 gave the last stroke to the picture of desolation in which we now find ourselves.

Your memorialists do not exaggerate in the least when they affirm that the abandonment in which the island has remained since the 8th of August down to the present time has caused as much damage to the coffee interests as was inflicted by the hurricane, so that at this time the situation is the most unhappy through which any people can have passed, since their resources daily suffer greater diminution; work is restricted to certain regions; the great mass of the population is becoming pauperized, and a large part thereof falls wounded unto death by the diseases which are always the necessary result of all states of misery.

The Government of Washington is now endeavoring to relieve the situation of that unhappy island, and this is the opportune time in which to study what that assistance should be, and what the procedure to be followed in order that the aid shall bring about the desired result.

In the economic order, gentlemen, it is indubitable that free trade will contribute in the future to invigorating the life and the wealth of Puerto Rico; and consequently the Government should not waver in decreeing, without any fear of the dangers which it may bring to the wealth of the former American territory, the free admission of the products of Puerto Rico, for no matter how much labor may exert itself there, these products would never reach such a volume as to injure the similar products of the continent. Rather, on the contrary, your memorialists believe that in the trade interchanges which would be developed between the two countries, the wealth of the American Union would be largely benefited.

Admitting, as they do from the outset, the efficacy of free trade to encourage and promote the development of the island your memorialists believe that its present state demands other immediate measures which shall impede the ruin of its resources, more particularly its coffee interests.

Ninety per cent of the coffee properties in the island, gentlemen, are in a complete state of abandonment. The small amount of labor that has been carried on in the plantations has been, in greater part, due to the beneficence of the board of charity of Puerto Rico.

The labors which the coffee plantations now require, owing to the abandonment in which they have been left, are very expensive, so that the aid of the board has not succeeded in developing great activity therein. This aid is to cease on the 28th of February, as the owners have been informed, and the plantations will then not only become completely paralyzed, but the population working therein will be bereft of the means of subsistence.

If the plantations continue for two or three months more in the complete state of abandonment which now prevails in them, there will be no crop next year, and the plantations will nearly all be destroyed by the vines and underbrush.

Should this occur, clear it is that the value of the resources of the island will be reduced by at least forty or fifty millions of dollars, since the production of coffee, which had justified the hope that in a few years it would reach one million quintals, would be reduced perhaps to one hundred and fifty or two hundred thousand quintals. In order to prevent this tremendous loss of wealth, which would render difficult the survival of Puerto Rico, it is necessary, gentlemen, to choose some rapid medium of coming to her assistance.

It can not be hoped that the effects of free trade will produce this result, because economic phenomena are not brought about so rapidly even under normal conditions in the life of peoples. In the present case some direct action of the Government is needed to revive this branch of our wealth. And what shall this action be? Your memorialists do not waver in asserting that it is indispensable for the Government of Washington to immediately come to the rescue of the coffee industry of Puerto Rico with a million and a half or two millions of dollars in order to encourage work on the coffee plantations and permit their restoration.

Your memorialists do not intend that these millions of dollars shall be a gift, but rather that they be loaned the agriculturists upon the

security of their crops. And in order that this may be carried out under the conditions of the request made, it is indispensable, gentlemen, in the opinion of the memorialists, that the owners of properties shall be placed in legal conditions to become the beneficiaries of this loan.

For there are many plantations which, through the very fact we noted at the beginning hereof—the expansion of work which took place in them of late years—are encumbered with mortgages, and as the mortgage law does not permit any contract for furnishing money to work plantations, the agriculturists who find themselves in this condition can not secure means to work them.

In the present depressed state of the country it is impossible for the plantation owners whose property is encumbered to find fair sales to improve their situation. So that, by continuing the present state, either the property is absorbed by the mortgage debt, which represents a small amount compared to the whole value of the property, or it is destroyed by the abandonment in which it must continue.

The intervention of the Government extending beyond the six months already granted by the Secretary of War the law dictated by General Henry suspending the execution of contract is therefore obviously necessary, because this intervention will permit the restoration of the plantations, and this restoration would not only help to pay off the mortgage obligation, but would permit the guaranteeing of the written and common debt, which also has importance in Puerto Rico.

Your memorialists are not disregarding of the fact that the suspension of contracts produces perturbation in the lives of countries, for which reason governments only dictate such measures in extreme cases. But in the case of Puerto Rico the evils which would grow out of non-intervention would be infinitely worse, since it is not to be expected that the substitution of the debtor for the creditor could always be affected under conditions favorable for the general wealth, as it is logical to suppose that he who purchased real estate for the fourth, fifth, or sixth part of its value will be content to obtain one-half interest on his capital, and he will not have the incentive to make it produce as much as he who invested therein all his fortune and spent long years of work.

Moreover, it would be tyrannical to demand a liquidation in these moments of depression on the island, as the result of this would be the ruin of a large number of families who would have the right to be benefited by the improvements which to the general wealth will be brought by the new order of things the aid of the American nation will give to Puerto Rico, and which must redound to the increase of its wealth.

Another important consideration should influence the mind of the representatives of the American nation to intervene in the matter of contracts in Puerto Rico, and we pray this committee to give the subject its best attention.

Owing to the depressed political and financial conditions which obtained always in Puerto Rico, the greater part of its trade is in the hands of foreigners to-day, and the sons of Puerto Rico, in major part, always limited themselves to agricultural pursuits, doubly painful by reason of the difficulties of all kinds against which they had to struggle in their undertakings.

Absenteeism, or the emigration of the capital of the country, was always the cause of depression in the economic and financial life of Puerto Rico. This practice has become exaggerated in the last four

years, and the same causes which have brought about the increase of absenteeism exist to-day in greater proportion, so that the evil is continuous.

Under these conditions a partial accommodation between the creditor and the debtor which shall permit the unembarrassed advance of labor is difficult.

It must also be observed, gentlemen, that the rate of interest that has prevailed in Puerto Rico exceeds, in the majority of cases, the interest-producing capacity of the capital invested in undertakings, to the extent that in Puerto Rico there are numerous cases of mortgages paying $1\frac{1}{2}$ and even 2 per cent interest per month; and there are also cases where they to day represent in gold the same amount they formerly represented in provincial money, without the reduction, which it was proper to make.

These facts, scandalous in business, occur in Puerto Rico, owing to the scarcity of money and, consequently, the absence of the freedom of the debtor to escape the exigencies of the creditor.

With the immediate aid we ask for agriculture, and the intervention of the Government to extend the contracts, the coffee interests of the island, which represent sixty or seventy millions of dollars, could be restored in a brief period; and as the mortgage debt encumbering the same does not exceed ten millions, it would be easy within a year or two for the owners to make contracts to extinguish their present liabilities. Thus would all interests be harmonized and the wealth of the island recover in a short time its losses.

A minimum loan of \$16,000,000, which the government that may be constituted in Puerto Rico ought to be authorized to contract, would be the complement of the principal measures which it needs for its labor mechanism. This loan should be devoted to the realization in the shortest possible time of the means of communication the island needs, to assisting the general treasury of the same and the municipal treasuries, now retarded in their advancement by the general situation through which the country is passing, and the remainder, seven or eight millions of dollars, should be devoted to assisting agriculture.

But, in order that this aid shall be efficacious and permanent for the labor of the country, your memorialists would wish that these seven or eight millions of dollars shall be deposited by the government of the island in the Territorial and Agricultural Bank there operating, as capital, receiving in exchange stock of the said bank, and participating in whatever proportion may result in the benefits of its operations.

The Territorial and Agricultural Bank of Puerto Rico, constituted with eight or nine millions of dollars, which could be done with the aid of the government and private efforts, could make loans from one to forty years to agriculturists, upon the basis of 50 per cent of the value of their properties, and the issues of certificates it might make as representing its business would be surely quoted in the market of the American Union, since the available capital of the bank would make these certificates gilt-edge paper.

Thus would Puerto Rico count in its onward march upon a constantly active instrument, which would keep in movement for long terms the value of its property—a movement which is to-day the trend of the most advanced countries, for they live intent upon the economic truth that fixed wealth obtains greater value wherever the greatest amount of circulating capital obtains.

Clear it is that in case the Government at Washington shall accept the suggestions of this commission, the government of the island of Puerto Rico would at once intervene in the management of the bank by appointing the governor, which would give greater guarantees to the institution. The procedure which the commissioners for the agriculturists of Puerto Rico suggests has been put into practice under similar conditions by other civilized countries, such as England in the island of Mauritius and Holland in Java.

The establishment of practical schools of agriculture or model granges, and the exchange of money realizable after the country shall be organized definitely in its government and making active advances in the way of labor, are the most peremptory measures the commission for the agriculturists takes the liberty of suggesting in the economic order. The commission hopes that these suggestions will be duly considered by this committee.

LUCAS AMADEO,
ENRIQUE GONZALEZ,
Delegates from the agriculturists of Puerto Rico.

Hon. F. C. Wachter, of Maryland, filed the following:

Resolutions adopted by the Club Borinquen, the Puerto Rican Society of Maryland, January 4, 1900.

Whereas this Club Borinquen, of Baltimore, represents the Puerto Ricans of the State of Maryland, who have for the purpose of securing an American education and becoming Americanized, taken up their residence in this cultured city and State, expecting to remain for years to come and to form the nucleus of a proposed large Puerto Rican colony in Maryland, and they thus feel they may properly call upon the Maryland Representatives in Congress for assistance in the urgent need of themselves, their friends, and families.

Whereas this need consists in that the unfortunate island of Puerto Rico is facing the worst economic situation in its history, which has brought about an acute financial, commercial, and industrial crisis, all caused by the sad fact that since the cession to the United States Puerto Rico has been denied the principal markets she had long enjoyed, while no new ones have been opened to her;

Whereas as a result the planters, unable to meet their accruing obligations, have been reduced to sore straits, and many are on the verge of ruin; business of every kind has suffered immense losses and is in a state of paralyzation, while fluctuations of the rate of exchange between American and insular money and the uncertainties of a military government have served to increase the disaster;

Whereas the distress of the planters and the stagnation of business have superinduced general misfortune and have meant misery to tens of thousands of laborers who are now out of employment;

Whereas the Puerto Ricans have begged and pleaded for relief, and the President of the United States has become so impressed with the justice of their cause as to state emphatically to Congress: "Our plain duty is to abolish all customs tariffs between the United States and Puerto Rico and give her products free access to our markets;" but

Whereas daily and hourly this distressing situation is becoming worse, the misery and despair greater and more general, and the prospect of an early restoration of prosperity more difficult,

Resolved, That the Club Borinquen, of Baltimore, entreat the Maryland delegation in Congress to use their efforts for a prompt and if possible immediate abolition of customs tariffs between the United States and Puerto Rico, the only method of alleviating the misfortune and suffering of their and our countrymen and of rescuing Puerto Rico; and

Resolved, That they be also asked to try to effect a settlement of the Puerto Rican money question, and the establishment in the island of a civil government participated in by Puerto Ricans.

OTTO SCHOENRICH, *President*.
AUGUSTO ORTIZ, *Secretary*.

52 LAFAYETTE PLACE,
New York, January 30, 1900.

Mr. H. S. FRYE,
1224 F street NW., Washington, D. C.

DEAR SIR: The House Ways and Means Committee will give a hearing Wednesday morning at 10 o'clock. I wish you would appear before the committee in behalf of the League of Domestic Producers. I presume also that you will wish to appear before them in your own capacity as president and representing the New England Tobacco Growers' Association.

I inclose herewith copies of my letters to the President¹ and Senator Nelson; also digest of my remarks to the Senate Committee on Puerto Rico,¹ and would like to have them submitted officially to the House Ways and Means Committee by you, to be incorporated in its testimony as coming from the League of Domestic Producers.

Thanking you for this kindness, yours, very truly,

HERBERT MYRICK, *Chairman*.

OFFICE OF ORANGE JUDD FARMER,
MARQUETTE BUILDING,
Chicago, Ill., January 29, 1900.

Hon. KNUTE NELSON,
Senator from Minnesota, Washington, D. C.

MY DEAR SIR: As a member of the Senate Committee on Puerto Rico you have faithfully attended the hearings given by that committee. You have shown an eagerness to grant free trade between Puerto Rico and the United States in the expectation that thereby the market for the wheat and flour of the Northwest would be greatly increased on that island. When I appeared before your honorable committee January 20, in behalf of the farmers in general and the League of Domestic Producers in particular, you intimated that because I disagreed with your views on this point I was "working some scheme that ought to be exposed in the Northwest." I admitted the soft impeachment by assuring you that my scheme was to advance the interests of our farmers here in the Northwest as well as throughout the country, and I agreed to write you a letter showing why my view was correct and your view of the case erroneous. The following is written in accordance with that promise:

¹Not filed by Mr. Frye.

The policy of free trade with Puerto Rico and Cuba had a practical trial during the three years 1892, 1893, and 1894, under the reciprocity treaties then in force. For three years before reciprocity the United States shipped agricultural products to Puerto Rico to an average amount of \$1,385,000, which were increased only \$400,000 worth as the average for three years under reciprocity. Nonagricultural exports from the United States to Puerto Rico before reciprocity averaged \$793,000, and increased during reciprocity by only \$94,000 annually. There was an increase in the Puerto Rican consumption of the United States under practical free trade of less than \$500,000 per year, of which four-fifths was farm products. The gain in produce exported to that island was made up of an increase of \$5,000 in exports of dairy products, \$200,000 increase in meat products, \$155 increase in breadstuffs of all kinds, while the other products showed a gain of only \$40,000. The average increase in wheat flour exported to Puerto Rico was only 40,000 barrels a year. Under the most favorable free-trade conditions, therefore, the three years' experience demonstrates that Puerto Rico's import trade from the United States increased only about 50 per cent per capita for its million population, of which increase 40 per cent was American farm products, including only 15 per cent for breadstuffs of all kinds.

This shows conclusively the error of your belief that the Puerto Rican market would absorb immense quantities of Northwestern farm products under free trade. The manifest absurdity of that idea is further emphasized by the notorious fertility of that island and its genial climate, as well as by the simple habits of its people, the great mass of whom live at a food cost of about 5 cents per day. Nor does experience there or elsewhere justify the opinion that the Tropics' consuming power of meat products or breadstuffs would be materially increased by a gain in the general prosperity of the population there. You should remember, too, that the principal product of Puerto Rico—coffee—which constitutes about three-fourths of its exports, is admitted free of duty to the United States. Two-thirds of its sugar and four-fifths of its molasses comes to the United States, because even after paying full duties to get into this market, the United States yields a better market to the Puerto Rican planter than either protected Spain or free-trade England, not to say other countries.

Experience with Cuba is very similar. Under reciprocity exports from the United States to Cuba and Puerto Rico together increased only \$10,000,000 annually, while our imports from those islands during the same period increased $2\frac{1}{2}$ times as much. At best we were able to furnish Cuba and Puerto Rico only \$24,000,000 worth of merchandise, while that region sold us \$81,000,000 worth yearly under reciprocity. Of our increased exports to Cuba and Puerto Rico, which cost \$2.50 for each dollar's worth of new business we sent them, only about half the increase was in breadstuffs, meat and dairy products, vegetables, and beans.

Now, turn to the Northwest. Minnesota, with its population of 1,800,000; Wisconsin, 2,138,000; North Dakota, 235,000, and South Dakota, 380,000. The per capita consumption of sugar in the United States is nearly 70 pounds annually, but at only 60 pounds each these people in the Northwest consume nearly 137,000 tons of refined granulated sugar per annum. At a wholesale price of 4 cents per pound, your people of the Northwest consume practically \$11,000,000 worth of sugar. This is more than 25 times Puerto Rico's increased consumption of all American farm products under free trade and almost 100

times as much as her increased consumption of wheat flour. Now, I contend that it is a far better proposition for Northwestern agriculture to produce this \$10,000,000 or \$12,000,000 worth of sugar within its own borders instead of killing the beet-sugar industry by chasing after the pitifully small breadstuffs trade of Puerto Rico. Or, if we include Cuba with Puerto Rico, you will see that the Northwest consumes more than twice as much sugar in value as the two islands increased their total consumption of American farm products.

To produce the sugar your Northwest consumes would require the production of nearly 1,500,000 tons of sugar beets, estimating each ton of beets to yield 200 pounds of refined granulated sugar. At \$4 per ton your farmers in the Northwest would receive nearly \$6,000,000 annually for this new and profitable crop, and as much more would be paid for labor supplies and profits on capital invested. You would thus keep at home among your own people the \$11,000,000 or \$12,000,000 now sent away from your section each year to pay for the sugar your people consume. Not only that, but the beet pulp, or by-product from the sugar factories, being a most valuable feed for all animals, and especially for cows, would greatly promote the dairy interests in the Northwest. To work up these beets and produce the sugar that your Northwestern people now import would require at least 45 factories of an average capacity of 300 tons of beets per twenty-four hours for one hundred days. Each factory would represent an investment of from \$25,000 to \$350,000, or, at an average of \$300,000 would require a total investment of \$13,500,000. In other words, the money your people of the Northwest pay each year for their sugar would in a single year pay for all the factories needed to work up enough beets to furnish this sugar.

Now, as a man intimately familiar with the West and Northwest and whose early life was spent in the Centennial State, I am profoundly convinced that it is far wiser to thus foster the production right here at home of this great staple of consumption than to foster its production in Puerto Rico, Cuba, or the Philippines. Even after paying the existing duties, cane sugar sold on the New York market yields to the Puerto Rican planter \$30 to \$42 net profits per acre over and above all possible expenses. This is as much or even larger profit than our Northwestern farmers could make on sugar beets, because they pay good wages and board, while the Puerto Rican peon is glad to work for from 10 to 30 cents per day and lives on 5 cents per day. Remove the present tariff and \$100 to \$135 per acre are added to the Puerto Rican's profits, while at the same time nipping in the bud this promising beet industry of the Northwest. You know as well as the writer that it is this fear of tropical free trade, of which you would make Puerto Rico the precedent, that causes capital to hesitate to embark in the beet-sugar industry; but if you and your party that dominate the present Congress will emphatically declare that the American farmer is to continue to be protected against free-trade competition then capital will flow into the beet-sugar industry, to the great development and prosperity of the Northwest and of the whole country. Again, it is claimed that Puerto Rico is so small that even with free trade and the stimulus of a bounty of \$35 a ton upon its sugar that would thus be offered by the remission of duties, she could only double her present production of 60,000 tons of sugar. This is doubtless a grave underestimate, yet on that basis the island would produce almost as much sugar as the Northwest consumes. Again, the query, Why give this great bonus to Puerto Rico instead of developing the beet-sugar industry of the Northwest,

especially since the Puerto Rican planter can pay the present tariff and still make as large profits per acre as the Northwestern farmer and yet not work half as hard?

I have said nothing of the enormous benefit that would accrue to the Northwest by paying to its farmers, laborers, and investors the constantly increasing sums now sent away to pay for the sugar it consumes. It would add \$2 to \$2.50 per capita annually to the wealth or consuming power of your nearly 5,000,000 people in the Northwest compared to the increase of only 50 cents per head on the 1,000,000 Puerto Ricans.

The testimony before your Senate committee shows that the greatest need of the island is law; that under a favorable administration of affairs, which should be at once granted, there is money and agricultural improvements in order to recoup damages caused by last year's unprecedented hurricane. General life will be easier on that island, the work lighter, and the profits of agriculture greater than on the average American farm, even if Puerto Rican products continue to pay the existing duties to get into this market. In other words, reduction of duties on products shipped from that island to the United States is not essential to its generous prosperity. Neither is it true that our conquest deprived Puerto Rico of its markets, and therefor morally entitled these products to free admission into the United States, for two thirds of Puerto Rico's total products may already enter this market without payment of duties.

Heretofore tariffs have been designed mainly to protect the American workingman and manufacturer against the cheap labor of Europe—a region that was forced to buy heavily of American farm products.

In the Tropics the case is exactly the opposite. The Philippines, Cuba, and Puerto Rico have or will have an unlimited agricultural surplus for export, while affording a comparatively small market for the products of our farms and factories. All history proves this, and our own experience under reciprocity in 1892-1893-1894 substantiates it. This is why the American farmer stands more firmly than ever in the position that he has often reiterated through his organizations—that so long as there is a tariff the farmer should have his share of it, and particularly where duties would protect him against the competition of cheap labor and unlimited fertility of the Tropics. If, now, you favor admitting duty free sugar, tobacco, wool, hides, fruits, vegetables, or other of the farmers' most profitable specialties, he is dead right upon having admitted free of duty all the manufactures he consumes. Please remember, too, that free trade with the Tropics would not only inhere to the great detriment of domestic agriculture, but it would prodigiously foster the sugar refiners' trust, tobacco trust, tropical-fruit trust, etc., which are working so earnestly in behalf of such tropical free trade.

Trusting that you will cooperate with the farmers of your own great State of Minnesota and of the Northwest and the whole country in protecting domestic agriculture against tropical competition, and in fostering the development here in the Northwest of new and profitable agricultural and manufacturing industries, and assuring you that all statements of facts herein made are based on official data, for which the authority will gladly be supplied, if questioned, I have the honor to remain,

Yours, for agriculture,

HERBERT MYRICK,
Editor Orange Judd Farmer,
Chairman League of Domestic Producers.

WASHINGTON, D. C., *January 27, 1900.*

HON. J. B. FORAKER,

United States Senator.

MY DEAR SENATOR: Apropos to some inquires by you, at hearing January 20, relative to the leaf-tobacco product of Ohio, and probable effect on the same by the free importation of tobacco from Puerto Rico, I will endeavor, in a general way, to state the principal facts in relation thereto. Ohio is the only State I know of that to any considerable extent produces both "seed leaf" (i. e., tobacco used exclusively for cigars), and "hogshead" or manufacturing tobacco, the latter being used in the manufacture of plug tobacco mostly, and not at all in the manufacture of cigars. The hogshead tobacco of Ohio's product is mostly, if not all, now of one variety, viz, White Burley, and confined mostly to the southern part of the State—an extension, it might be called, of the tobacco fields of Kentucky across the river into Ohio. As Puerto Rican tobacco is all cigar leaf, we will assume that the latter would not compete with the hogshead tobacco of Ohio. Much the largest part of Ohio's tobacco product, however, is of the cigar or seed-leaf varieties, and is grown in the more northern section of the State. Prior to the advent of Sumatra tobacco, Ohio seed leaf was largely used for wrapper purposes; indeed, the industry was a direct importation from the State of Connecticut, "Connecticut seed leaf" being the exclusive variety grown there.

As a general rule, in those early days, however, the percentage of fine wrapper leaf in Ohio crops was not (owing to soil and climatic conditions) quite as large as that of Connecticut, and consequently the average price per pound for the whole crop not as high, but as the cost of production was much less on those fertile lands the crop was usually a very profitable one. Yet during those years, say in the sixties and seventies, I have known years when Ohio wrappers brought as much or more per pound than Connecticut wrappers of the same year's product. This would occur when Ohio had a very good season and Connecticut a very poor one. With the advent of Sumatra wrapper leaf an entire change took place at once. Ohio wrappers being of a coarser texture, soon had no place in the market as wrappers, and had to be used as binders and fillers, selling at binder and filler prices (about the cost of production). As the importation and use of Sumatra wrappers became more general, the product of other seed-leaf States, first Wisconsin and then Pennsylvania, ceased to be known in the trade as wrapper crops, this extending in the latter eighties to New York, and even New England to a large extent, so that a large percentage of the product of those States was sold at binder and filler prices and used only for that purpose, as Sumatra had become the almost universal wrapper. The 1890 tariff, however, practically stopped its further inroads on the seed-leaf industry, though it did not to any extent diminish its use. The natural growth of the cigar industry gradually widened the market and saved some portion for those sections only that could produce the finest wrapper leaf. Sumatra tobacco brought about another great change.

A new variety of tobacco, called "Havana seed," being a finer grained, smaller leaf, and more glossy, silky appearance, resembling more nearly Sumatra than the coarser "Connecticut seed leaf" or "Ohio broad leaf," was introduced, and soon almost supplanted the "seed" varieties, so that now they are only grown to any extent in about four Connecticut Valley townships, Glastonbury, East Hartford, South Windsor, and

East Windsor. Wisconsin adopted the Havana seed variety, and now is known as the great binder State. Ohio leaf, however, could not stand the competition even in binder grades, and as time passed on the product became almost exclusively a filler leaf, until now the Ohio "Zimmer's Spanish," "Gebhard," and "Little Dutch" command a national reputation as being the best domestic fillers produced, with the possible exception of Florida fillers and the best grades of Pennsylvania B's. Now, as the Puerto Rican product at present is almost wholly a filler grade, it comes more directly in competition with Ohio tobacco than any other single State. I think the average price of Ohio fillers of the three above-named varieties will run from 8 to 12 cents per pound. The price seems low, but taking into account the cheapness of production of filler leaf (one-half or two-thirds the labor cost being eliminated) the crop at even those prices is now fairly profitable there, but now comes the alarming fact that Puerto Rican tobacco is now being imported into this country—in one instance I know of last summer of 1,000 bales in a single importation; that tobacco was sold here to manufacturers at a profit, in competition with Ohio fillers. As the first cost on the island could not have been less than 5 cents per pound, adding the duty of 35 cents, and only 10 cents per pound to cover all cost of transportation, dockage, insurance, commissions, selling, etc., that tobacco must have brought over 50 cents per pound to leave any profit at all to the importer.

Now, the problem for the Ohio tobacco farmer to solve is, If Puerto Rican filler tobacco can be sold in competition with his tobacco at more than 50 cents per pound what becomes of the Ohio farmer's home market when the duty of 35 cents per pound is abolished? The only possible result can be that the cigar manufacturer will have no further use for Ohio filler leaf. Indeed, I am told that manufacturers have so stated already. No possible reduction in present price of Ohio leaf can compensate for the reduction in price of Puerto Rican tobacco by the elimination of the duty of 35 cents. It is a significant fact that Ohio was the first State to suffer from the competition of Sumatra wrapper, and to the extent of losing entirely its market for its most valuable grade of leaf; and it is sure to follow as a sequence that it will be the first and most serious sufferer from the policy of free trade with Puerto Rico, in that the competition of the tobacco product of that island must surely injure, if not destroy, Ohio's home market for the only grade of leaf tobacco that it now produces. I am ready to guarantee that the Connecticut tobacco interests will not be utterly *ruined* by the competition of Puerto Rican tobacco *alone*, but I would not underwrite a like insurance for the Ohio tobacco interests.

CLASSIFICATION BY STATES OF GRADES OF CIGAR LEAF.

Ohio, all filler leaf; Wisconsin, binder and filler; Pennsylvania, mostly binder and filler; New York, wrapper, binder, and filler; New England, wrapper and binder (its filler leaf having no established value or market in this country is mostly exported); Florida, mostly filler and wrapper. Puerto Rican leaf being now largely of filler grade it will be seen that the unrestricted importation of that tobacco, free of duty, will first affect those States or sections producing the largest percentage of filler leaf, and, therefore, Ohio is the most vulnerable spot in the entire list of cigar-leaf States.

In conclusion, I reiterate my contention that my earnest protest against free trade with Puerto Rico is not entered so much on the

ground of anticipated serious injury to Connecticut or New England tobacco interests from direct competition of Puerto Rican tobacco, but that I feel, and the people I represent fully believe, it will be the entering wedge that will split wide open the protection policy of the Republican party, they looking upon it much as the Louisiana planter would the digging of a ditch across the levee at flood time of the mighty Mississippi.

I have the honor to be, yours, sincerely,

H. S. FRYE,

President New England Tobacco Growers' Association.



REDEMPTION OF INTERNAL-REVENUE STAMPS.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.
ALBERT J. HOPKINS.
CHARLES H. GROSVENOR.
CHARLES A. RUSSELL.
JONATHAN P. DOLLIVER.
GEORGE W. STEELE.
JAMES A. TAWNEY.
SAMUEL W. McCALL.

CHESTER I. LONG.
JAMES D. RICHARDSON.
SAMUEL M. ROBERTSON.
CLAUDE A. SWANSON.
GEORGE B. McCLELLAN.
FRANCIS G. NEWLANDS.
SAMUEL B. COOPER.

HULL GREENFIELD, *Clerk.*

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1900.

REDEMPTION OF INTERNAL-REVENUE STAMPS.

COMMITTEE ON WAYS AND MEANS,
Friday, March 2, 1900.

The Committee on Ways and Means this day met, Hon. Sereno E. Payne in the chair.

Following is the bill under consideration:

A BILL Authorizing the Commissioner of Internal Revenue to redeem or make allowance for internal-revenue stamps.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Internal Revenue may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps issued under authority of law to denote the payment of any internal-revenue tax as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected. Such allowance or redemption may be made either by giving other stamps in lieu of the stamps so allowed for or redeemed or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner of Internal Revenue or until satisfactory proof has been made showing the reason why the same can not be so returned, or, if so required by the said Commissioner, when the person presenting the same can not satisfactorily trace the history of said stamps from their issuance to the presentation of the claim as aforesaid: *Provided,* That documentary and proprietary stamps issued under the provisions of "An Act to provide ways and means for war expenditures, and for other purposes," approved June thirteenth, eighteen hundred and ninety-eight, may be redeemed only when presented in quantities of two dollars or more, face value: *Provided further,* That no claim for the redemption of or allowance for stamps shall be allowed unless presented within two years after the purchase of said stamps from the Government.

SEC. 2. That the finding of facts in, and the decision of the Commissioner of Internal Revenue upon, the merits of any claim presented under or authorized by this Act shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

SEC. 3. That all laws and parts of laws in conflict with any of the provisions of this Act are hereby repealed.

STATEMENT OF MR. GEORGE W. WILSON, COMMISSIONER OF INTERNAL REVENUE.

The CHAIRMAN. This hearing is in reference to House bill 8776, being a bill authorizing the Commissioner of Internal Revenue to redeem or make allowance for internal-revenue stamps. You are the Commissioner of Internal Revenue?

Mr. WILSON. Yes, sir. Mr. Chairman and gentlemen, this legislation is asked for to cure an inadvertence in the war-revenue act repealing the power of the Commissioner of Internal Revenue to redeem—either by stamps or by refunding the money—stamps that

had been improperly used, or for which the taxpayer had no use, which had been spoiled or used for taxes that had been in any manner wrongfully collected. Following that act of 1864 there were two amendments. The purpose of those two amendments was to gradually relieve the Internal Revenue Bureau of redeeming the old stamps that were the outgrowth of the civil war. They kept dwindling out into small amounts, and Congress thought wise to step in and stop it, and the final amendment of section 3426 prohibited the Commissioner of Internal Revenue from redeeming any of those stamps after a certain date, except the 2-cent stamps.

That is where the law stood when you passed the act of June 13. Section 31 of that act provides that all existing internal-revenue acts with reference to the assessment and collection of taxes shall be applicable. That revived the repeal provision against section 3426, and seems to take away the power of the internal-revenue collector to act under it. I thought the power was sufficient under that delegated to the Commissioner by Congress to make regulations approved by the Secretary, to carry into effect, in a general way, the internal-revenue legislation, and I asked the Attorney-General for his opinion, and he answered it was. I started in to redeem these stamps under that power, and the Comptroller stopped—

Mr. RICHARDSON. Stamps issued when?

Mr. WILSON. Those were stamps issued under the war-revenue act. The banks of the country were appealed to to step in and take those stamps on the 1 per cent commission provided and help distribute them over the country, as the time was short; and the banks, be it said to their credit, responded very generously about the matter, but they did not know what sort of a stock of stamps would be demanded by the people in their respective communities, and they bought, say, a thousand dollars' worth that they did not need and never have been able to sell, and now they come and want these stamps redeemed.

Mr. LONG. That is to the amount of the stamps?

Mr. WILSON. Yes, sir.

Mr. RICHARDSON. Either in new stamps or in money.

Mr. WILSON. The most of them want the money. The Comptroller, as I said, did not agree with the Attorney-General, and declined to allow it to be done. That is the status of things to-day, and hence this bill. The first section of this bill is a reenactment of section 3426 of the Revised Statutes.

The CHAIRMAN. Are there any changes from the Revised Statutes in that?

Mr. WILSON. No, sir; there is nothing material at all in section 3426. The change here proposed is in the second section:

That the findings of fact in and the decision of, etc.

That is brought about by the accounting officers of the Treasury undertaking to step in and stop the Commissioner of Internal Revenue from doing what the law clearly says he shall do, with the approval of the Secretary of the Treasury. The courts have said so, and, in order to be clear upon the subject and not take up your time, I have prepared a brief here—I do not think the number is sufficient to go around, but I will turn these over to the clerk—which sets forth clearly the position of the Commissioner of Internal Revenue about the matter and gives the decisions of the courts.

The CHAIRMAN. Give one to each of the members present.

Mr. RICHARDSON. Is there any instance in which the acts of the Commissioner or the head of a bureau are not subject to revision by the accounting officers or auditing officers of the Government?

Mr. WILSON. Except in this matter.

Mr. RICHARDSON. There is no other case like this?

Mr. WILSON. No, sir. This is an act in which there can be no divided responsibility.

Mr. RICHARDSON. Is this a safe power to give to the head of a bureau?

Mr. WILSON. Yes, sir. Under these circumstances it is the only way to administer it.

Mr. RICHARDSON. Does your brief on that subject cover that?

Mr. WILSON. Yes, sir; it covers the whole question—gives the decisions of the Court of Claims and the decisions of the courts through the country and the decision of the Supreme Court.

Mr. DALZELL. Is the second section the only one which is new?

Mr. WILSON. Yes, sir.

Mr. DALZELL. And the other is merely a reenactment of the original law?

Mr. WILSON. Yes, sir.

Mr. DALZELL. What is the necessity for putting in the first section?

Mr. WILSON. Because section 31 of the war-revenue act practically repeals it; that is, it is so held by the Comptroller. There is correspondence here in connection with the clerk from the office which I dare say will elucidate the whole thing.

The CHAIRMAN. You gave me a memorandum the other day of some decisions. Are those contained in the brief?

Mr. WILSON. Yes, sir; they are all there.

The CHAIRMAN. The decisions of the courts seem to be very clear.

Mr. WILSON. The Senate committee went over the matter and made a report yesterday and passed it. The powers conferred upon the Secretary of the Treasury and the Commissioner of Internal Revenue under section 3220 are exactly similar; there is no divided responsibility about it.

Mr. RICHARDSON. Will you repeat that? I did not hear it, as I was reading.

Mr. WILSON. The powers provided for the Secretary of the Treasury and the Commissioner under section 3220 of the Revised Statutes, with reference to paying back taxes, are like the powers under section 2436 for the redemption of stamps. The court says it is a power which must have rested somewhere, and Congress has seen fit to place that in the hands of the Commissioner of Internal Revenue. It goes on to comment that there may have been greater safety to be found in placing it in the hands of some one else, but they did not do it, and the truth is you can not have a divided responsibility about the matter. You place the duty upon the Commissioner of Internal Revenue of sending out these stamps and the handing over to these taxpayers these stamps under certain rules and regulations, and it goes on to say how they may be returned under certain circumstances. The taxpayer goes into that, a contract is made, and then you can not have an outside party, with no power to investigate, and who can not tell anything about it, to step in and say: "No; you can not do this."

The CHAIRMAN. I notice this decision in the case of Dugan against

the United States, decided by the Court of Claims June 5, 1899, the court, after reviewing decisions upon the question, concluded as follows:

The substance or effect of the decisions, as we understand, is this: Given a claim of which the Commissioner had jurisdiction, i. e., to make an allowance for or redeem stamps spoiled, destroyed, or rendered useless, etc., his decision on the merits thereof in the absence of fraud or mistakes in the mathematical calculation is final, and therefore not subject to revision by the accounting officers.

Under that decision do these people go to the Court of Claims and recover from the United States, notwithstanding the decision of the Comptroller?

Mr. WILSON. They always do, and the Court of Claims have said time and time again that the opinion of the Auditor of the Treasury about the matter was of no consequence whatever. They used that plain language.

The CHAIRMAN. And they grant judgment against the United States for these very claims?

Mr. WILSON. Why, certainly.

Mr. LONG. But it delays them to go to the Court of Claims in order to get relief.

Mr. WILSON. Yes, sir; and I am getting twenty-five letters from the Auditor every day. Mr. Richardson, read the last paragraph, the last four lines, of that letter there. Thousands of these claims are being hung up and the people are clamoring to be relieved. Here is a letter the Auditor sends saying these claims can not be paid.

Mr. McCLELLAN (reading):

Under the decision of the Comptroller of the Treasury, dated January 4, 1900, the documentary stamps other than the denomination of 2 cents can not be redeemed. There is suspended the sum of \$25.50.

Mr. WILSON. We have said to the purchaser in our regulations that the stamps will be redeemed and that he ought to have his money back.

Mr. RICHARDSON. The only question on my mind, and that is why I addressed the question to the Commissioner, was whether it was a wise thing to do to deny to the auditing officer or the accounting officer of the Treasury the right to pass upon the ruling of the Commissioner. It looks to me that if we do it in all the other bureaus there ought to be some good reason for not doing it in this bureau.

Mr. WILSON. That is just the point exactly, the reason I gave—that you can not have a dual responsibility about this matter.

Mr. RICHARDSON. But we do it with the other bureaus.

Mr. WILSON. But it is a different sort of proposition.

Mr. RICHARDSON. I want to see the difference.

Mr. WILSON. These taxes you have gathered from the man and you have placed the responsibility upon the Commissioner to put that burden upon him, and you have also laid the burden upon him of telling him that in certain cases he may have these back, that his stamps may be redeemed, and the law is there, in all cases where the taxes are wrongfully collected, and I am the judge of that and the Commissioner must be the judge of that matter.

Mr. COOPER. The Auditors are the court of last resort. You can not get away from their opinion. If they decide you are not entitled to anything there is no appeal, there is no place to go to?

Mr. WILSON. Except the Court of Claims. They can only decline to issue warrants; there is where their power lies. The Court of

Claims has every time said it is of no consequence, judgment must be had; they never fail on it. But the Internal Revenue Bureau under this law has been bothered for the last six months more than it has been bothered for twenty years.

The CHAIRMAN. This authority was given the Comptroller under the Dockery law?

Mr. WILSON. No, sir; the Dockery law gave the Auditor possibly a little wider scope than he had before, but he has no power whatever to pass upon the legality of these claims; but they work it in this way: The Auditor raises the question, and then under that law you provided in the Dockery bill he goes and asks the Comptroller for an advance opinion, and that virtually makes the Auditor a court to sit in judgment upon the Commissioner.

Mr. RICHARDSON. He does that in all the other bureaus. That is what I wanted to get at there, the reason why it is recommended in your case.

Mr. WILSON. Because this is an executive act that I am charged with, and there can not be a divided responsibility in it—and do business. You can have it that way. Either give it to the Comptroller and Auditor and let the Commissioner of Internal Revenue out. Let him investigate the facts and let it end there; say that is the end of it with him, and say so to the taxpayer, or else do what we have done heretofore. This proposed amendment here simply says that these accounting officers shall determine themselves whatever the balance may be in a mathematical sense, determine as to its accuracy, and then in case of fraud they shall stop it, and that is as far as they shall go. Now their powers are wide enough—

Mr. RICHARDSON. Does the Secretary of the Treasury recommend this?

Mr. WILSON. Just what I have asked you to do.

The CHAIRMAN. I do not see any other way out of it except make all these people go to the Court of Claims, and, of course, we do not want to do that as there are thousands of them.

Mr. WILSON. I refer you, gentlemen, to that brief, and if it does not convince you that I am three-thirds right about this matter, don't you do it.

BRIEF OF THE COMMISSIONER OF INTERNAL REVENUE.

In re the authority of the accounting officers of the Treasury Department to review the decisions of the Commissioner of Internal Revenue in refunding taxes or redeeming stamps.

The provision of law authorizing the Commissioner of Internal Revenue to refund internal-revenue taxes erroneously or in any manner wrongfully collected is found in section 3220, Revised Statutes, as follows:

The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized on appeal to him made to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

In pursuance of this provision, regulations (series 7, No. 14, and supplements) have been prescribed by the Secretary of the Treasury

designating certain forms to be used and certain facts to be included and properly authenticated by claimants in the presentation of claims.

No appellate tribunal was created or attempted to be created by such regulations, and no provision was made for the review of the Commissioner's decisions by accounting officers, or even by the Secretary of the Treasury.

And, as was said by the Court of Claims in the case of *Sybrandt & Co.* (30 Int. Rev. Record, 136), wherein the court allowed recovery of a claim passed by the Commissioner and disapproved by the Secretary:

If the regulations had plainly provided that no tax should be refunded without the Secretary's approval, it would have been not only in conflict with the statute, but would have, if effective, completely reversed its purpose.

The provision of the Revised Statutes which authorizes the Commissioner to redeem stamps, is as follows:

SEC. 3426. The Commissioner of Internal Revenue may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps issued under the provisions of this title or of any internal-revenue act, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which, through mistake, may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

This provision is self-executing, and requires no departmental regulations to carry it into effect.

The powers conferred in the foregoing sections are incidental and necessary to the proper exercise of the general powers conferred on the Commissioner by section 321, Revised Statutes, as follows:

The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall have general superintendence of the assessment and collection of all duties and taxes now or hereafter imposed by any law providing internal revenue, and shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue, and shall provide hydrometers and proper and sufficient adhesive stamps, and stamps or dies for expressing or denoting the several stamp duties, or in the case of percentage duties the amount thereof, and alter or renew or replace such stamps from time to time as occasion may require.

Thus it will be seen that the duties and powers of the Commissioner are broad and comprehensive. He is made the head of the Bureau for the collection of all internal-revenue taxes throughout the United States, charged with the duty of administering justice between the Government and the payers of such taxes, and expressly and necessarily clothed with the power to exercise both executive and judicial functions. He is provided with a corps of revenue agents and their assistants, with collectors and their deputies, and other officers to properly collect the revenues and to ascertain all facts relating to the liability or nonliability of persons to the payment of taxes, and he is furnished with an officer of the Department of Justice, as a legal adviser, to assist him in properly construing the law and in justly applying the same to the facts.

In the enforcement of the internal-revenue laws with the extensive machinery supplied and required errors may occur, and taxes may be erroneously assessed or collected, and stamps may be purchased by taxpayers under a misapprehension of the law, or when purchased may be lost or destroyed, and it was for the correction of such errors and to enable the Government to deal justly with the taxpayers that the powers prescribed in sections 3220 and 3426 were vested in the Commissioner.

As was said by the court in the case of Sybrandt & Co., supra:

This law (sec. 3220) very plainly imposes upon the Commissioner, and upon no other officer, the duty of deciding whether a tax has been erroneously or illegally assessed or collected, and whether it should be refunded. The power had to be lodged somewhere, and Congress undoubtedly imposed it upon him, because he was considered best qualified to administer it. The taxes were to be assessed and collected by him and his subordinates. All records, reports, or other evidence affecting cases were in his possession. He necessarily became very familiar with the manner of proceeding and with the mistakes occurring or evasions attempted. The only restraint put upon his action is that he should proceed in such cases subject to the regulations prescribed by the Secretary of the Treasury. While his decisions may undoubtedly be impeached for fraud or mistake, apparent on record, no other officer of the Government is authorized to review matters that fall within his discretion.

If the law has plainly imposed certain duties upon the Commissioner it is apparent that his decision, when made affecting a matter within his jurisdiction, is conclusive, unless a power to review such decision is vested by law in some other officer. It is an elementary principle of law that when authority to do a certain act involving the exercise of discretion is vested in an officer, such authority can not be delegated to others, nor acts done thereunder reviewed, except in a manner provided by law. No provision of law exists giving power to any officer to review the decisions of the Commissioner made under the sections referred to.

It might possibly have been safer [said the court in Sybrandt & Co.'s case] to have authorized the Secretary or the accounting officers to review the Commissioner's decision and allow claims which he had rejected and reject claims which he had allowed, but that was a matter for Congress, and they have provided otherwise. The law as it is, however, has been in operation many years, and yet no report of maladministration has reached the ears of the public.

That the courts have uniformly recognized the finality of the decisions of the Commissioner, so far, at least, as the accounting officers are concerned, is shown by an unbroken line of decisions for the past twenty-five years. In Kaufman's case (96 U. S., 567), affirming a judgment of the Court of Claims for the value of a certain special tax stamp, claim for which had been allowed by the Commissioner and rejected by the Comptroller, the court said:

It is now insisted that the finding of an allowance by the Commissioner is not enough, and that the court should have gone behind the allowance and found the facts in respect to the original claim. Such, we think, is not the law. To say the least, the allowance of a claim under this statute is equivalent to an account stated between private parties, which is good until impeached for fraud or mistake. It is not the allowance of an ordinary claim against the Government by an ordinary accounting officer but the adjudication by the first tribunal to which the matter must by law be submitted. Until so submitted and until so adjudicated there is not even a prima facie liability of the Government, but when submitted and allowed upon the adjudication the liability is complete until in some proper form it is impeached.

Here the court recognizes the action of the Commissioner as the adjudication of a tribunal whose decisions are final until impeached in some proper form. That it did not deem an accounting officer authorized to impeach it in any form is shown by the fact that no attention whatever was paid to the Comptroller's rejection of the claim on which the judgment was based.

In Woolner's case (13 Ct. Cls. R., 366), where a judgment was rendered for a claim for the refund of taxes twice paid, on a claim allowed by the Commissioner and rejected by the Comptroller, the court said:

The tax was, in fact, twice paid. It was, in the language of that section, a tax paid

excessive in amount, and so might be refunded, unless the Commissioner for reasons satisfactory to himself should decide otherwise, and in this latter case his decision would be final and conclusive.

In the case of Corning & Co. (34 Ct. Cls. R.), being an action to recover certain internal-revenue taxes on liquors paid under protest, where the Commissioner denied the application for a refund of tax, the court said:

The Commissioner's functions with respect to the matters referred to under the statute are judicial in their nature, and his action precludes the claimant from taking to the courts for examination the things designed to be finally settled by him.

and that—

Whatever rights the claimant had vested upon the statute which requires the action of a revenue officer to determine.

For the reasons given the courts refused to take jurisdiction.

If the courts refuse to exercise jurisdiction and to review matters placed exclusively within the power and discretion of the Commissioner, the exercise of appellate jurisdiction in such cases by an accounting officer can be justified only on the ground that the inherent judicial functions of such officer are more searching and comprehensive than the judicial powers vested in the courts.

Passing directly upon the question of the authority of an accounting officer to review the decisions of the Commissioner, the Court of Claims, in *Ridgeway against the United States*, reported in *Internal Revenue Record*, volume 29, page 197, said:

The action of the Fifth Auditor in passing the allowance in this case is immaterial, since it is no part of the duties of Auditors, except the Sixth Auditor, to make decisions in any way binding upon anybody, and their opinions and decisions upon controverted questions, if they choose to give them, have no official determining force. They have only to examine accounts, certify balances, and transmit them to the proper Comptroller for his decision thereon. It is true that an allowance authorized by the Commissioner of Internal Revenue can not be reversed, annulled, or reviewed by any other accounting officer, and a suit can be maintained upon it in this court if the accounting officers refuse or delay to pass it for payment.

In the recent case of *Dugan against the United States*, decided by the Court of Claims June 5, 1899, the court, after reviewing decisions on the question, concluded as follows:

The substance or effect of the decisions, as we understand, is this: Given a claim of which the Commissioner has jurisdiction, i. e., "to make allowance for or redeem stamps spoiled, destroyed, or rendered useless, etc.," his decision on the merits thereof, in the absence of fraud or mistakes in mathematical calculation, is final, and therefore not subject to revision by the accounting officers.

It is now contended that the decisions of the Commissioner in such cases are conclusive only as to the findings of fact; that in all other respects his decisions allowing claims for refund or redemption may be reviewed, modified, or rejected by the accounting officers; that claims may be considered de novo and the rights of the claimant may be adjudicated by such officers, and where they deem it proper in the dispensation of justice they may refund other taxes or redeem other stamps than those claimed or presented by the claimant. This contention is not founded upon any provision of the statutes, either express or implied, but appears to be based upon the language of the court in the case of *the United States v. Savings Bank* (104 U. S., 733), where the court, referring to its opinion in the *Kaufman* case, said:

Whether his allowance is conclusive on the other officers through whose hands it must necessarily pass before it can be paid by the Treasurer, we did not then and

need not now decide. All we said then, and all we say now, is that if payment is not made by reason of the refusal of any of the officers of the Department to pass or pay the claim after it has once been allowed by the Commissioner the allowance may be used as the basis of an action against the United States in the Court of Claims, where it will be *prima facie* evidence of the amount that is due and put on the Government the burden of showing fraud or mistake.

It is difficult to perceive how the language of the court in this case affords reasons for the conclusion that the allowance of the Commissioner is not conclusive on the accounting officers. The court did not intimate that such allowance was *not* conclusive, but as that question was not before the court in either case it was therefore not passed upon.

The court in the latter case, however, reaffirmed the principles laid down by it in the Kaufman case, where a judgment was awarded on an allowance by the Commissioner which had been rejected by the Comptroller, and reiterated the statement that, if payment is not made by reason of the refusal of any of the officers of the Department to pass or pay the claim after it has been allowed by the Commissioner, the allowance may be used as the *basis of an action* against the United States and will be *prima facie* evidence of the amount due. If an allowance by the Commissioner may be made the basis of an action against the United States and is *prima facie* evidence of the amount found by the Commissioner to be due, and, as said in the Kaufman case, the court will not go behind the allowance to find the facts in respect to the original claim even when the claim is modified or rejected by the Comptroller, it must be conceded that the courts do not look with awe or reverence upon the appellate or supervisory powers of the accounting officers in such cases.

The Supreme Court of the United States in the case of *Belcher et al. v. Lynn*, (24 Howard, 508), passing directly upon the question of the force and finality of the decisions of special tribunals, said:

When power or jurisdiction is delegated to any public officer or tribunal over a subject-matter, and its exercise is confided to his or their discretion, the acts so done are in general binding and valid as to the subject-matter. The only questions which can arise between an individual and the public or any person denying their validity are power in the officer and fraud in the party. All other questions are settled by the decision made or the act done by the tribunal or officer, whether legislative, executive, judicial, or special, unless an appeal or other revision is provided for by some appellate or supervisory tribunal prescribed by law.

Here are no distinctions between "findings of fact" and "conclusions of law." The tribunal acts within its jurisdictions without fraud of the party, and "*all other questions are settled by the decision.*" It is the same principle clearly laid down in *Dugan's* case by the court in summing up the authorities, and the "*construction of law under which he acts,*" referred to in said case, can mean only the construction of the law conferring jurisdiction and not the construction of law applicable to the subject-matter after jurisdiction has been rightfully acquired.

If the Commissioner of Internal Revenue should attempt to redeem postage stamps or refund customs duties his acts would be in excess of the "*authority conferred by the law under which he acts.*" He would be acting without jurisdiction and his findings and decisions would be null and void and without binding force upon anyone. But, given a claim within his jurisdiction to redeem stamps issued under any internal-revenue law or to refund internal-revenue taxes in any manner wrong-

fully collected, his conclusions and construction of the law applicable to the subject-matter and the rights of the claimants are as conclusive and final as his findings of fact. The doctrine laid down by the courts as to the finality of the decisions of special tribunals in cases within their jurisdiction is founded on law, reason, and necessity; and no greater necessity has ever arisen in the history of the Government for its application in order to properly execute the laws, expedite public business, and do justice to thousands of people than the present time and under the circumstances which call forth this discussion.

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ASSESSMENT OF DUTY ON TOBACCO AT WITHDRAWAL.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

WEDNESDAY, MARCH 7, 1900.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.	CHESTER I. LONG.
ALBERT J. HOPKINS.	JAMES D. RICHARDSON.
CHARLES H. GROSVENOR.	SAMUEL M. ROBERTSON.
CHARLES A. RUSSELL.	CLAUDE A. SWANSON.
JONATHAN P. DOLLIVER.	GEORGE B. McCLELLAN.
GEORGE W. STEELE.	FRANCIS G. NEWLANDS.
JAMES A. TAWNEY.	SAMUEL B. COOPER.
SAMUEL W. MCCALL.	OSCAR W. UNDERWOOD.

HULL GREENFIELD, *Clerk.*

WASHINGTON:
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1900. .

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ASSESSMENT OF DUTY ON TOBACCO AT WITHDRAWAL.

COMMITTEE ON WAYS AND MEANS,
Wednesday, March 7, 1900.

The Committee on Ways and Means this day met, Hon. Sereno E. Payne in the chair.

The CHAIRMAN. Gentlemen, the meeting is called this morning to hear some gentlemen in reference to the bill (H. R. 7935) which has been introduced providing for the assessment of duties upon the weight of tobacco at the time of withdrawal from the warehouse, instead of at the time of entry into the warehouse.

Hon. J. S. SHERMAN (a Representative from the State of New York). Mr. Chairman and gentlemen, as the introducer of this bill I would like to say the National Association of Leaf Tobacco Importers is represented here by a large number of gentlemen and by the president of the association, Mr. John R. Young, of Philadelphia, who would like to address the committee for a brief period if you will grant him that privilege.

STATEMENT OF MR. JOHN R. YOUNG, OF PHILADELPHIA, PRESIDENT OF THE CIGAR LEAF TOBACCO BOARD OF TRADE OF THE UNITED STATES.

MR. CHAIRMAN AND GENTLEMEN OF THE WAYS AND MEANS COMMITTEE: It sometimes happens that in the preparation of a revenue or tariff bill that the omission of a word, or the substitution of one word for another, seriously affects the interests of certain industries should such revenue or tariff bill become law, and it is for the express purpose of calling your honorable committee's attention to such an instance that we are by your consent here to-day.

The bill now before your honorable committee is House bill 7935, "Providing for the payment of duties on imported tobacco on its weights at the date of withdrawal from bonded warehouses." The necessity for its introduction is to correct an injustice done the tobacco and cigar industry of the United States by the substitution of one word for another in the act of July 24, 1897, which reads as follows:

That when duties are based upon the weight of merchandise deposited in any public or private bonded warehouse, said duties shall be levied and collected upon the weight of such merchandise at the time of its entry.

Previous to the passage of this act, duties had been levied in accordance with section 50 of the act of October 1, 1890, which was as follows:

That when duties are based upon the weight of merchandise deposited in any public or private bonded warehouse, said duties shall be levied and collected upon the weight of such merchandise at the time of its withdrawal.

You will note that the only difference in the wording of the two sections is in the substitution of the word "entry" in the act of 1897 for the word "withdrawal," which was in the act of 1890, and this substitution of one word for another has seriously affected the tobacco and cigar, warehouse and insurance interests of the country. How serious the effect of this has been we will now endeavor to show as briefly as is consistent with a clear understanding of the matter.

I have the honor to represent the cigar leaf tobacco board of trade of the United States, an organization whose membership comprises all the importers and dealers in cigar leaf in the United States. The report of the Commissioner of Internal Revenue shows that there are 5,472 separate firms registered as dealers in leaf tobacco; of this number 80 per cent deal only in leaf tobacco for cigar manufacturing purposes, and some conception of their annual business can be seen when you consider that they furnish the leaf tobacco consumed by the manufacturers of cigars, who number, as shown by the report of the Commissioner of Internal Revenue, 30,856, who in turn make and sell annually 5,000,000,000 cigars, and who require for this 100,000,000 pounds of raw material. I simply use these figures to show the magnitude of this industry, but this can be more clearly shown by the fact that the internal-revenue tax paid the Government on this number of cigars is \$18,000,000, which, together with the duties paid through the customs department of \$11,807,712.90, and special taxes paid by cigar manufacturers and leaf-tobacco dealers of \$397,747.47, make a total annual revenue to the Government of \$30,205,460.37.

I submit that an industry which pays to the Government this amount of money annually deserves some little consideration, especially when what they ask for is simply a just and equitable system of assessing the duties on imported leaf tobacco.

Of the 100,000,000 pounds of leaf tobacco used this year in the manufacture of cigars, over 15,000,000 pounds are imported, and it is this tobacco which is affected by the word substitution already mentioned.

Previous to the passage of the act of July 24, 1897, duties were collected on the weight of leaf tobacco at the time of its withdrawal for consumption.

Under the present law duties are paid on weight ascertained at time of entry, all goods being weighed by United States weighers on the dock when the goods are discharged from the vessel.

Importers of leaf tobacco are compelled to make their purchases in the foreign market for a long period in advance of their needs, by reason of competition of other nations for the product, and at a time when the tobacco contains the maximum amount of moisture.

Previous to the passage of the act of July 24, 1897, it was the custom of the trade to ship their purchases immediately to the United States, and deposit same upon arrival in the bonded warehouses of this country; but owing to the present law the goods must now be allowed to remain in foreign warehouses until most of the natural moisture has been eliminated, or until the goods are actually needed for consumption. The reason for this is apparent when the susceptibility to shrinkage in weight of this commodity is considered, and it must be plain to you that the extra revenue derived by the Government from the enforcement of the present law is very small and should not be considered when it is shown to what inconvenience and expense the importers are compelled to submit by reason of having

their merchandise, which has been bought and paid for, remain for a long time in the hands of foreigners, which is undoubtedly a great financial risk, as the custodians of the merchandise are not amenable to the laws of the United States.

Another reason, and one which must be obvious to you, is the serious damage to the importer in not having his goods at hand for examination by prospective purchasers, and to the small cigar manufacturers by reason of the smaller quantity in warehouse from which to make his selection.

The large manufacturer who imports direct is also hampered in his business, for tobacco is constantly changing in character; and by reason of his goods being away from his care and attention they may become almost useless to him, which would not be the case were they near at hand for use at the proper time.

The damage to the importer and to the manufacturer is not by any means the only loss suffered through this ill-advised provision, for the indirect effect is a loss to the bankers, the insurance companies, and to the warehousemen of the country, and to an extent which is surprising. Before the act of July 24, 1897, was passed there was constantly in this country a reserve stock of at least one year's supply on hand. This was warehoused, insured, and used as collateral on which to borrow money, but nearly all this is to-day done abroad.

Leaf tobacco imported into the United States is in the hold of the vessel from three to twenty days, and during the voyage it will take up moisture enough to increase the weight considerably when it is landed on the docks here, at which place the weight for the assessment of duty is ascertained. From the dock the goods are transferred to bonded warehouses, and in a very short time there will be a loss in weight of at least the amount gained en route. If these same goods remain in bonded warehouses any length of time, in addition to this loss, there will occur a further loss of weight from natural causes. This is the fact as regards goods landed at New York and immediately transferred to bonded warehouses there.

The great bulk of leaf tobacco imported into the United States is landed at New York City, but a large proportion of it is either immediately or shortly afterwards shipped in bond to other points of the United States, yet these goods are weighed in New York, and duties assessed on the weight ascertained there; therefore, you can readily see how unjust this is to the dealers located at a distance from the seaboard, for in every case the goods will weigh less when received at the bonded warehouses in the inland cities than the weight assessed at the time of the arrival of the goods at New York.

The tariff is imposed on a dual basis, viz, as a revenue producer and as a protector of domestic products or industries. As to the revenue it is surely only just that the collection should not be made until the goods are about to be withdrawn for consumption, and only upon the weight of such goods at that time. This also covers the protective features, for imported goods only enter into competition with domestic products when they appear in the market duty paid, or, in other words, when ready to go into consumption.

The actual weight at the time of going into consumption is the only weight which should be recognized, for if 1,000 pounds of tobacco were imported and if at the time of withdrawal natural shrinkage had reduced this weight to 950 pounds only the latter quantity would go into con-

sumption and not the 1,000 pounds as imported. Why, then, should duty be imposed upon that which does not exist?

We desire also to call your attention to the customs laws of other countries, especially those of England, where duties on leaf tobacco are assessed after a certain percentage of moisture has been deducted from actual weight when imported.

It may be asked why these facts were not presented before the act of 1897 became a law. My answer to that is that the word "entry" was substituted for the word "withdrawal" when the bill was before the conference committee of the Senate and House of Representatives, and it becoming law almost immediately after being reported to Congress, we had no opportunity for protesting, which surely would have been done had the knowledge of the chance become publicly known.

Mr. RICHARDSON. The conferees changed it?

Mr. YOUNG. Yes, sir.

Mr. RUSSELL. They changed the tariff rate also?

Mr. YOUNG. Yes, sir.

Mr. DALZELL. What difference would the passage of this bill make in the revenues?

Mr. YOUNG. Not any material difference.

Mr. McCLELLAN. What is the percentage of the shrinkage?

Mr. YOUNG. For tobacco it depends entirely upon the condition of the tobacco when it is imported and where it is stored.

Mr. McCLELLAN. This shrinkage of the moisture you describe as having been taken up on the sea voyage, what would that be?

Mr. YOUNG. Say a pound or 2 pounds to the bale. With the duty at \$1.85 you can figure that out.

Mr. RUSSELL. How much will a bale weigh?

Mr. YOUNG. One hundred and sixty to one hundred and seventy Sumatra, and Habana 120 to 140. That will be lost almost immediately after being placed in the bonded warehouse.

Mr. RUSSELL. About three-fourths of 1 per cent?

Mr. YOUNG. Yes, sir; and if the tobacco remains in for a long time it continues to shrink.

Mr. YOUNG (continuing). In view of the grave hardships which the enforcement of the present law works upon the importer and upon the manufacturer, as well as the heavy losses experienced by warehousemen, bankers, and insurance companies, we respectfully submit that the slight advantage gained by the Government is but a trifling offset to the injustice and loss entailed by the present system.

The above facts were all recognized by the framers of the act of 1890, and it was for the purpose of correcting what was then acknowledged to be an injustice and a hindrance to the trade in many ways that the law was then changed and duties assessed on the withdrawal weight instead of the weight when received, and we simply ask that these facts be considered now.

In conclusion, I desire to say that, having been in correspondence with the majority of the dealers and manufacturers of the country, I know and have positive evidence that there is not one of the thousands interested in this industry who in any way object to the proposed change, but, on the contrary, it is the unanimous voice of all that this bill should pass, and that there can be no reasonable objection to it from any source. Therefore we ask that your honorable committee

make favorable report to the House of Representatives and urge upon the members of that body immediate action.

The CHAIRMAN. The provision that was put in by the conference committee was not simply a change of the word, but this proviso also:

Provided: That when duties are based upon the weight of merchandise deposited in any public or private bonded warehouse such duties shall be levied and collected on the weight of such merchandise at the time of its entry.

That was the provision that was put in the bill.

Mr. YOUNG. That provision was also in the administrative portion of the McKinley bill with the exception of one word.

Mr. RICHARDSON. And the Wilson bill—

Mr. YOUNG. Made no change whatever.

The CHAIRMAN. I understand the change was made in regard to the words "entry" and "withdrawal" in the McKinley act of 1890?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. I remember very distinctly when this change was made in the conference committee it was represented by the United States officials that the duty had been provocative of very great frauds on the revenue; that tobacco not only shrank in weighing in drying out, but it shrank from some other reasons and it was charged that tobacco, sugar, and some other commodities disappeared from the bonded warehouse, and when they came to weigh out there was a great shrinkage. That was the charge made by the United States officials and the reason the change was made back to the old law prior to 1890.

Mr. RICHARDSON. I understood him to say it does not make a material difference with the Government in receipt of revenues?

Mr. YOUNG. No, sir; very little.

Mr. RICHARDSON. If you gentlemen do not think you pay any additional amount, what is the complaint?

Mr. YOUNG. We do have to pay if we bring our tobacco here as we have in the past, but now we have got to leave it on the other side.

Mr. McCLELLAN. You have to warehouse abroad?

Mr. YOUNG. We have got to warehouse abroad. We can not bring it until after that moisture has shrunk.

Mr. RICHARDSON. I was trying to get where the result falls. If the Government would not lose revenues, how do you account for the fact that you pay additional revenues?

Mr. YOUNG. I tried to make that clear.

Mr. RICHARDSON. I did not catch it.

Mr. YOUNG. In consequence of this law we allow our goods to remain abroad until after the moisture has been almost all eliminated, or until we are compelled to bring it in for consumption. In answer to Mr. Payne's remarks regarding the frauds upon the Government, I need only say in regard to that that these goods are in the custody of the United States Government. Their officers are responsible for any frauds. All of the United States bonded warehouses have United States storekeepers.

The CHAIRMAN. We are responsible for tying them up so they can not commit any fraud, if we can.

Mr. YOUNG. There may have been such cases; I do not deny there have been; but it is not right that an honorable body of merchants like we think we are should be compelled to suffer for the guilt of one

or two people. Now, it can not be stated that that is the rule; that is the exception, and, sir, I submit that that is the same in regard to everything. In every walk of life there are men everywhere, even in Congress there are some whose characters have been smirched, but is that any reason why—

The CHAIRMAN. Everywhere excepting Congress.

Mr. YOUNG. Thank you; I will amend that by saying everywhere excepting Congress you will find such men, and it is not right that this industry should suffer by reason of that.

The CHAIRMAN. Right there, the honest importers are just as much entitled to protection from the dishonest ones as the Government is.

Mr. YOUNG. Precisely.

The CHAIRMAN. If there is any way by which Congress could protect them because it is proper, just, and right that the customs duties should be collected from everybody who imports, and give the honest man a chance.

Mr. YOUNG. There is such a way, Mr. Chairman. We simply ask that this matter be referred to the Secretary of the Treasury and whatever regulations he makes we will submit to them; we are perfectly satisfied to accept any regulations which the Secretary may make to prevent frauds upon the Government.

The CHAIRMAN. They seemed to have failed between 1890 and 1897, according to the reports of the officers.

Mr. YOUNG. I think that has been exaggerated.

The CHAIRMAN. Well, I do not know anything about the facts; I am only stating what —

Mr. YOUNG. There have been such cases just the same as any other industry; it is exactly the same thing.

The CHAIRMAN. This is applied to all products that come in here under the pound rate?

Mr. YOUNG. Yes, sir.

Mr. RICHARDSON. I would like, if you are familiar, to have you state the difference in principle in what you ask here and the loss in the evaporation of spirits. Where is the difference?

Mr. YOUNG. There is no difference in the principle; the principle is exactly the same. The liquor men, you know what they are allowed under the internal-revenue laws.

Mr. RICHARDSON. I would like for you to state what that is.

Mr. YOUNG. It is the whisky outage bill which allows for a certain shrinkage in the gauging. They allow a certain amount of shrinkage on that.

Mr. NEWLANDS. Would it not be better, then, to fix the percentage of shrinkage?

Mr. YOUNG. We would be perfectly satisfied with that.

Mr. NEWLANDS. What percentage would you suggest?

Mr. YOUNG. I should say that from 3 to 5 per cent from the dock weight will be perfectly satisfactory to us.

The CHAIRMAN. Is not 3 per cent pretty nearly the outside limit for six months in a bonded warehouse?

Mr. YOUNG. In some bonded warehouses; yes, sir; in others, no.

The CHAIRMAN. Is not the general shrinkage for the time it generally remains or did remain prior to 1897 in bonded warehouses as low as from 1 to 3 per cent?

Mr. YOUNG. It varies; yes, sir; but the shrinkage is controlled by

the conditions of the bonded warehouse and the time it is there. Mr. Schroeder suggests this on tobaccos—that if you bring tobacco here in November or December from Habana there will be a shrinkage of at least 10 per cent in six months; but if there is any set percentage, of course that could be adjusted.

Mr. NEWLANDS. A shrinkage of 10 per cent would be a total reduction of the revenues of \$1,800,000?

Mr. YOUNG. Yes, sir.

Mr. NEWLANDS. And a shrinkage of 5 per cent would be \$900,000?

Mr. YOUNG. Yes, sir.

Mr. NEWLANDS. And 3 per cent would be about \$500,000?

Mr. YOUNG. Yes, sir.

Mr. NEWLANDS. Now, as I understand it, this duty which is imposed on the weighing of tobacco at the date of the entry is the general rule that applies to all merchandise?

Mr. YOUNG. Yes, sir.

Mr. NEWLANDS. You ask for an exception only in the case of tobacco?

Mr. YOUNG. Yes, sir; for this reason.

Mr. NEWLANDS. Will not that present an embarrassing question with reference to other merchandise, then?

Mr. YOUNG. Of course, that we can not answer, except to say this: The rate of duty upon tobacco is so much higher proportionately than it is on any other merchandise imported—

Mr. RUSSELL. Under the law of 1890 on wrapper tobacco you paid \$2 a pound, assessed on the weight when it was withdrawn for consumption?

Mr. YOUNG. Yes, sir.

Mr. RUSSELL. Under the present law you pay on wrapper tobacco \$1.85, assessed on the weight when it is entered?

Mr. YOUNG. Yes, sir.

Mr. RUSSELL. Now, for a moment looking at the protective features, what do you say as to the difference to the importer between these two rates? In other words, would you rather pay to-day \$2 a pound on the wrapper tobacco assessed on the weight at the withdrawal, or would you rather pay \$1.85 on wrapper tobacco assessed on the weight at the date of entry?

Mr. YOUNG. We prefer to pay \$2 a pound on the withdrawal. We do not want to pay duty on water, and that is what we object to; and I wish to emphasize the other objection which I have tried to present here, as well as I can, and that is the fact that we can not bring our goods here under the present law without submitting to this tremendous shrinkage which will occur on new tobaccos and which we can not prevent.

Mr. RUSSELL. Would you join with the tobacco farmer in favoring a \$2 rate assessed on wrapper tobacco at the time of its withdrawal—I will ask Mr. Schroeder when he comes to testify—had you rather pay \$2 a pound on wrapper tobacco assessed at the date of the withdrawal? Would you join with the tobacco farmer in that?

Mr. YOUNG. I submit that is hardly a fair question to ask me.

Mr. RUSSELL. You told me you preferred it.

Mr. YOUNG. But you apply it in connection with the farmer. I repeat what I said before, that we would prefer to pay the \$2 rate and have the duty collected on the withdrawal weighing.

The CHAIRMAN. Of course, you have no idea that tobacco raisers will join in this request?

Mr. YOUNG. I know they do not object to it, so far as I know; I have not heard any objection whatever. Their representative in Washington, I know, favors it.

The CHAIRMAN. Did you state that the importations of tobacco were 15,000,000 pounds a year?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. I think you have got that rather high. Last year it was 11,000,000 pounds, including manufactured tobacco, and the year before 9,500,000 pounds.

Mr. YOUNG. I have the statistics, if my statistics are correct. My figures are that there were withdrawn for consumption during the year 1899—this is not the fiscal year, but the calendar year, from January 1 to December 31, 1899—4,354,814 pounds of wrapper tobacco.

The CHAIRMAN. These statistics relate to the fiscal year ending June 30.

Mr. YOUNG. This is the calendar year. The importations have been larger since the trouble has been settled in Cuba, and the filler was 10,718,020, so the total number of pounds withdrawn for consumption was 15,172,834.

The CHAIRMAN. These figures are for withdrawals for consumption up to June 30, 1898, 9,484,000, and June 30, 1899, 10,974,000 pounds. That included manufactured tobacco, cigars, and cigarettes.

Mr. YOUNG. I simply took the withdrawal of leaf tobacco—leaf and filler. It is about 15 per cent of the total right straight through under the present conditions.

Mr. COOPER. Do you know the difference in the weight on that tobacco at the point of shipment and what it was at the point of delivery?

Mr. YOUNG. Yes, sir; every time; the consular invoices show that.

Mr. COOPER. Out of that 15,000,000 pounds do you know what was the weight at the point of shipment?

Mr. YOUNG. I can not tell you now; I have not the statistics.

Mr. COOPER. What is the average difference between the weight of the tobacco at the point of shipment and of delivery?

Mr. YOUNG. From 1 to 2 pounds per bale.

Mr. SHERMAN. I would like, Mr. Chairman, a short period for a hearing by Mr. Gunby, who is the counsel of the association.

The CHAIRMAN. We will hear anyone who desires to be heard.

Mr. YOUNG. I hold in my hand a petition signed by manufacturers all over the United States, each package representing a State.

STATEMENT OF MR. E. R. GUNBY.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: It would seem to be unnecessary that I should make any extended statement after the very full one made by the president of the Importers' Association of Cigar Leaf. I have the honor to represent, however, and have for a good many years had the pleasure of appearing before this committee on various questions, the manufacturers of the United States—that is, the United States Cigar Manufacturers' Association—and at their request, as well as of the gentleman who has preceded me, I am

here to make a short statement, and to make it as brief as possible, in reference to this matter. In the first place, I desire to say that the question at issue is purely administrative in character. It does not affect, and we are not here objecting to, the rate of duty on tobacco. Congress has passed upon the rate of duty and put it at \$1.85 per pound, which we are willing to pay and do pay on wrapper, and 35 cents, which we are do pay and willing to pay for filler.

The question we desire to call attention to especially is that every man who imports tobacco, whether he imports it to sell to the manufacturer or whether he manufactures, which in many instances is the fact, he imports purely depending upon the size of the business; and he is compelled to buy tobacco in the markets of the world, in Habana or Amsterdam, whether Sumatra or Habana tobacco, at such terms and at such price as will justify him in purchasing it. It is essential that he buy it at the best price and at the best time he can buy to best advantage, and it is desirable that he be permitted to bring that tobacco here and store it in our own warehouses. The bonded-warehouse system is not a privilege only; it is a business necessity.

The business of the United States has grown to such a proportion that every man who deals in raw materials goes into the markets of the world and buys the raw material at the best price and at such times as he can buy at the best price, and not only for his own benefit, but for the benefit of the Government because the revenues derived from that is very large and is increasing by the bonded-warehouse system. He is permitted to bring into the United States and store it here, paying the duties on it when he withdraws it, thus not only having the benefit of the markets abroad, where he buys it when he pleases to the best advantage, but having a further advantage of bringing the material, whether tobacco or anything else, and storing it under the custody of his own people and subject to be examined in a business way and used when it can be used and sold to the best advantage.

We can not call anything a privilege which results in largely increasing the revenues, which is essential to the proper carrying on of a great many pursuits. Prior to this provision of the so-called Dingley bill we were permitted to go into the markets of Habana or Amsterdam and buy tobacco at such price as we deemed it was proper to buy it, whether it was new or old, whether it was green or ripe, whether it was dry or wet, because if we saw a crop of tobacco which we deemed in our business judgment to be of a proper price we bought, and even if it had been packed four days, we brought it in the United States and put it under the custody of the American officials. We paid our storage here and we paid our insurance here and we borrowed our money on it here. It was a commercial commodity, purely under American control and used here.

We did it, and could afford to do it, because no matter whether the tobacco was in a condition when we bought to shrink 10 per cent or 10 pounds or 3 per cent or 3 pounds, taking 100 pounds to the bale, we were sure when we withdrew it from the warehouse and paid duty and it went in consumption, we only paid duty upon that which actually existed. That was the law prior to the change which has been denoted and called attention to the Dingley bill. Now, when the Dingley bill was passed, it resulted in this way, and I speak from actual knowledge.

I am not making a statement of a thing, if I know it, which is not

accurate and correct. The very first thing the larger importers and the larger manufacturers (who, by the way, are the larger importers because the larger manufacturers to-day do not buy from dealers; it is only the small people who buy from the dealers—people who have not foreign connections, people who have not foreign bankers and have not foreign relations—they are the people who are hurt), but my clients, the manufacturers, find themselves in this position. They could not go into Cuba and Sumatra, they could not go to Amsterdam and buy 1,000 bales of tobacco in its green state and bring it to the United States. What was the result? Not to increase the revenues of the Government, because we simply said that this tobacco has got to be cured before it is used; it has got to be dried out; it is in the green state, and we will not import it until it is ready to use, and instead of having our own bonded warehouses here chock full of tobacco up to the top, waiting until we desired to use it, we find the warehouses correspondingly empty. I do not mean entirely empty, because we have got to bring tobacco in, but we find they were to a large extent empty, and this tobacco stored away until the natural conditions of the tobacco are such it is absolutely ready for use. Now, why should this tobacco be stored abroad when, under liberal provisions, which are merely just, it might be stored in this country?

There is another reason against it, which is even greater than the interest of revenue; and just here I desire to say that the question of revenue is not so material to the Government, for this reason: A large proportion of this tobacco, always in the green state, is stored abroad until this evaporation has taken place, and the Government gets no benefit from it and the importer and owner is simply in his business compelled to take a sample here and there and bring it in as it is used; and if the Government gets no benefit and the merchant is interfered with in the transaction of his daily business why should this committee insist upon a provision which does not result in increasing the revenue to any great extent?

I admit that the smaller people, the people who have no foreign connections, bring their tobacco and pay their duty on it, but that is no reason why you should compel us to do it. We should be enabled to store it, and store it here, and have it cured properly and take it when the conditions warrant it. In addition to that I say I do know something about the reasons for the passage of this act. Your chairman has stated them, and also Mr. Young. As a matter of fact, it is true that the only reason why this clause was inserted in the act which put these duties upon the entry weight was that two or three special agents of the Treasury Department made an inspection, and tobacco, being a large revenue-producing article, has always been the subject of special care of special agents, who have been busy on it since I have known anything about it, and they found—I will be perfectly frank, because it is a fact—they found that under the old system on the reweighing of the tobacco (I think they exaggerated it) it occurred that the people would go into the bonded warehouse and take out samples—a pound of tobacco, for instance.

The warehouse keepers—these are Government officials—were careless about making a notation of it, and when they reweighed upon the withdrawal of the tobacco they not only lost the natural shrinkage of the tobacco, but lost, in addition to that, that weight on tobacco which had been withdrawn for samples and had not been noted upon the bond,

and that was the only reason; I assure you gentlemen that is the only report that was ever made to the Secretary of the Treasury with reference to this matter. It was not considered, except that this method of treatment of reweighing of tobacco not only resulted in actual, but you might call it an artificial, loss where the employees and the owners of tobacco were permitted to take out samples and no notation was made, no account kept, of its withdrawal; consequently when it was reweighed that tobacco never paid any duty.

You can readily see that must have been very much exaggerated, and even if it was not I would say simply this: That if this committee will refer this matter, that if there is any doubt of the justice of our contention—there is nobody opposed to it unless it comes as a Treasury regulation opposition—if you gentlemen think that we are wrong now we simply ask you to take this bill just as it stands and refer it again to the Secretary of the Treasury. Now, it has been tried, and I merely say to you that if the Secretary of the Treasury is opposed to this matter and says it will result in fraud upon the revenues we have not the slightest hope of passing the bill.

It is no use to say to you that you will not pass a bill purely administrative in its character if the Secretary of the Treasury and the inspection officials say it is not in the interests of the Government service to do it, so it is certainly not too much to ask, after three years' trial, you ask the Secretary of the Treasury (we have not asked him) whether or not the benefits of this bill in the change are in his opinion commensurate to the Government with the very great hardship upon the importer and manufacturer. If the Secretary of the Treasury says to you or your chairman that our contention is wrong and that the experience of three years shows him that the bill ought to be continued as it is now, why we have not got a single hope of passing it, and it is certainly not asking too much of you to do this.

Now, in conclusion, I want to say that the bonded-warehouse system is not an expense to the Government. There are many people who, no doubt—gentlemen of the Ways and Means Committee understand it—there are many people who think the Government owns the warehouses. The additional reweighing, the additional work, the additional handling of this tobacco when it is withdrawn by reweighing, every dollar of the expense falls on us, and we are willing to pay it. It does not cost the Government anything, because for every bit of tobacco which goes into the warehouse the owner pays every expense; it does not cost the Government a cent. In addition to that, we want to say that the reasons why we come before your committee to-day are these—and they are very pertinent, and ought to be stated to you—that we have a condition existing on the island of Cuba that has never existed on the island before.

We pay the government \$12,000,000, and want to pay it, on imported tobacco. The island of Cuba has been stripped of tobacco; absolutely there is none there. We are going to have a new crop of three or four hundred thousand bales, and we have got to go there and bid with the markets of the world in the purchase of that tobacco. Heretofore we have been able to buy tobacco of from two, three, or four years old; they are designated as crops. Now we have got to buy in this year's crop or not have the Habana tobacco. We have got to buy it when it is green and new. The question is, shall we have to pay duty on it, upon the weight of it when we buy there, or will we be permitted to

store it here and have the simple advantage of paying only for what goes into consumption. Remember we have to compete with the markets of the world in buying that.

Mr. GROSVENOR. Why not buy it in Cuba and store it yourself before importing it?

Mr. GUNBY. That is exactly what we are contending; that we want to prevent that.

Mr. GROSVENOR. In a bonded warehouse?

Mr. GUNBY. Then we have to pay duty when it comes in, and it is the policy of the Government to aid the importer in every possible way to buy his raw material, whether tobacco or other material, in the markets of the world to the best advantage, and store it here and pay the duty on it when it is withdrawn. Why should we not have the same privilege that everybody else has to buy our raw materials—

Mr. GROSVENOR. I am not answering; I am only asking you the question.

Mr. GUNBY. My answer is, that is precisely what we want to do. We want to bring it and put it in the bonded warehouses, and to pay the duty on its weight when it is withdrawn, not to pay duty on the green crop, not to pay duty on the water, but simply to account for the tobacco that goes into actual consumption. This was the law for eight years—

Mr. NEWLANDS. Your claim is by storing it here our American warehouses get the benefit of the storage and the insurance companies, etc., also get the benefit?

Mr. GUNBY. Undoubtedly. In other words, we, by the means of this little amendment on this bill, are permitted to have the custody and control of the goods, and can handle them here, examine them here, show them here, sell them here, and deliver them as people want them; otherwise we are compelled—there is nothing to conceal from you, gentlemen—if you take a bale of tobacco that weighs 120 pounds, and it is two years old when you buy it in Cuba, and bring it to this country, you will not lose over 2 per cent, merely the moisture that accumulates in coming here, but if you buy a bale of tobacco to-day, packed last week, it may lose 10 per cent.

The CHAIRMAN. That is, if you cure it in a bonded warehouse in this country?

Mr. GUNBY. If it is stored here and finishes its curing process. It has to be cured to a certain extent, because—

The CHAIRMAN. It is generally cured there?

Mr. GUNBY. It is cured there. When I speak of the loss of weight from natural causes I do not mean to say we want to bring tobacco in in an uncured state, but it is practically in a green state.

Mr. NEWLANDS. When this rule for weighing was adopted—in 1897, I believe—was the duty reduced?

Mr. GUNBY. The duty on tobacco?

Mr. NEWLANDS. Yes.

Mr. GUNBY. Not materially, I think.

Mr. NEWLANDS. How much?

Mr. GUNBY. It is utterly impossible to state that, sir, for this reason—

The CHAIRMAN. It was reduced in conference 15 cents a pound.

Mr. GUNBY. The duty on tobacco; it was increased from \$1.50 to

\$1.85. It was \$1.50 under the Wilson bill and \$2 under the McKinley bill, and it was reduced to \$1.85 under the Dingley bill.

The CHAIRMAN. As the Dingley bill passed the House it fixed it at \$2.

Mr. GUNBY. And the conference committee put it at \$1.85.

Now, with reference to the duty, we are not complaining of the duty. We did not complain of the duty at \$2 a pound. Lots of people wanted a uniform duty, and others wanted a higher rate on wrapper—

The CHAIRMAN. You did not all complain of the duty?

Mr. GUNBY. I say we are not now complaining of the duty.

The CHAIRMAN. But at the time it was fixed?

Mr. GUNBY. There was nobody but who wanted a duty to their best interests. I have never seen anybody who did not want that.

Mr. NEWLANDS. Would you complain if the duty was increased to \$2 and your rule of weighing adopted?

Mr. GUNBY. Not at all. The duty at first was \$2. I want to impress upon you, gentlemen, that this is a practical question, as a matter of fact, and the only reason for the imposition of this phrase, or rather this word, in the bill, "withdrawal" instead of "entry," was the complaint of some special agents that the bonded warehouse accounts were not properly kept, and that there was some stealing from the bonded warehouses.

The CHAIRMAN. Right there, the Dingley bill, with this clause in it, restored the law as it was prior to 1890, did it not?

Mr. GUNBY. Yes, sir.

The CHAIRMAN. And the change was made from 1890 to 1897, for seven years?

Mr. GUNBY. Yes, sir.

The CHAIRMAN. Now, is it not a fact, the change was made in 1890 largely on the complaint of the warehousemen on account of the tobacco frauds?

Mr. GUNBY. I do not think so. There is a committee here representing them to-day.

The CHAIRMAN. My recollection is that the burden of complaint came from the warehousemen.

Mr. GUNBY. They are complaining to-day, naturally, because they do not like it to be stored abroad, but would like to see it come here.

The CHAIRMAN. Their complaints have not reached this committee to a very large extent so far.

Mr. GUNBY. They are here to-day. The National Warehousemen's Association are here being represented to-day, and, Mr. Chairman, I want to say—

The CHAIRMAN. I have simply received a good many letters from—

Mr. GUNBY (continuing). That prior to 1890 tobacco only paid at the outside 75 cents a pound duty; and very little of it, not 5 per cent, paid but 35 per cent. Prior to 1890 the Sumatra tobacco imported was practically unknown and your New England tobacco association and growers of tobacco in Wisconsin, Connecticut, New York, and Pennsylvania had made no complaints here. The result of the so-called McKinley bill was to increase the duty on wrapper tobacco from 75 cents a pound up to \$2 a pound, but a statement was contained in that bill that any bale containing a portion of wrapper should pay wrapper duty, and it resulted in that every pound of Sumatra tobacco that came into this country from then until now, every pound of it, has paid the high rate of \$1.85 and \$2—

The CHAIRMAN. It ought to. It is only put in for wrappers.

Mr. GUNBY. We do not deny that, but I say it is a very small concession then and it is a very small concession now, where a commodity is increased in its duty from 35 cents to \$2 or \$1.85, that we should only be compelled to pay on the material which actually goes into consumption. It is purely a question of right; there is nobody opposed unless it is the Treasury officials, and if you gentlemen think the Treasury is opposed to it refer it to them and see if they are, and if they are we can not pass it. It certainly can do no harm to try it.

Mr. GROSVENOR. Is there anything connected with the tobacco trade which takes it out of the ordinary operation of the same laws which affect sugar and a hundred other items?

Mr. GUNBY. Yes, sir; and I will say the reason this bill has been framed referring only to tobacco, if you will look into the reports for the past seven years and investigate the matter of the Treasury Department, if you please, get your information, you will find that this law affects tobacco 90 per cent more than it has affected any other commodity, and it was put there for that purpose.

Mr. RUSSELL. How did it affect it?

Mr. GUNBY. In this. That there are few commodities, if any, in the seven years when you had your returns that were reweighed at all because they did not lose anything.

Mr. GROSVENOR. Do you know what the shrinkage on raw sugar is?

Mr. GUNBY. I do not; but I am informed that it is very slight; not 10 per cent of it was reweighed; that it was usually taken out at the entry weight.

The CHAIRMAN. My recollection is that there was as much complaint about sugar as there was about tobacco three years ago; that is my recollection of it.

Mr. GROSVENOR. Would you not naturally think that sugar would shrink a larger per cent than the dry leaf of the tobacco?

Mr. GUNBY. On the contrary, there is nothing that shows the same shrinkage from natural causes as a bale of tobacco packed out of the field.

Mr. RUSSELL. That is, before it is cured?

Mr. GUNBY. No; I beg your pardon. The tobacco is packed in the fields in Cuba as soon as it is cured, but packed very green and very moist, but if you bring it here and leave it in the warehouse three months' time it reduces in weight from 5 to 10 pounds per bale.

Mr. GROSVENOR. Tobacco and all commodities of that character, it occurs to me, takes moisture rapidly when it is exposed to moisture?

Mr. GUNBY. Yes, sir.

Mr. GROSVENOR. I worked a good many years right in the district from the planting of the plant clear up, and I know we could not handle the tobacco, could not take the tobacco out of the house, and handle it until we exposed it to some damp weather.

Mr. GUNBY. And it is so yet; before it is manufactured it has to be wet again and made flexible.

Mr. GROSVENOR. That shows to me the original green moisture of the tobacco goes rapidly and absolutely out of the plant.

Mr. GUNBY. That is exactly what we claim. We claim when packed green and put in the warehouse it cures there very rapidly. If you will permit me I will say this—

Mr. GROSVENOR. I am not taking sides with this at all—

Mr. GUNBY. I will say this, that if we had not lost by this process, if we were not interfered with by these things, we would not be here asking for a change. The simple fact that we are here asking for the passage of this bill is evidence that it shrinks after it gets here, and we are here to try and remedy the thing in question.

Mr. DALZELL. Can you tell us, approximately, the difference in revenues which will be occasioned by the passage of this bill?

Mr. GUNBY. I will give my views; that is all I can possibly give you, my individual views. A large proportion of this tobacco which would otherwise come into the United States is now stored abroad and kept there until fully cured, and only brought in to meet the consumption of the country; but if the bill is passed as we ask it, I do not believe, personally—and I am speaking for these gentlemen who are experts in the tobacco business, I only represent them and get my information from them—I do not believe it will make a difference to the Government of \$100,000 a year. We pay \$12,000,000, and in addition we have to offset that \$100,000, two propositions: First, it is not right, it is not fair to us, it does not give us control of our tobacco; and, secondly, the injury done to the trade all over this country, it has an enormous sentiment in its favor, is far in excess of five times that in the handling of our tobacco. I may be understating it, but I do not believe it will make a difference in the revenues of \$100,000 a year. The condition now is that it is stored abroad and we want to store it here.

Mr. DALZELL. Do you think it would increase the importations of tobacco and, consequently, the revenues?

Mr. GUNBY. No, sir; we do not claim that it would increase it.

Mr. DALZELL. I did not ask whether you claimed it, I simply asked you do you know whether it is a fact?

Mr. GUNBY. We do not claim that it would increase the revenues, because we have to buy and store it abroad; but if it does not increase the revenues there is this other side of the question, that we are deprived in order to evade this shrinkage and obliged to store our tobacco abroad and bring it in at different times.

Mr. HOPKINS. It resolves itself into the question simply of convenience to gentlemen engaged in the trade?

Mr. GUNBY. Without corresponding benefit to the Government, that is the most important thing and you have got right down to it.

Mr. RUSSELL. If you had the privilege of bringing in tobacco under the proposition of this bill and keeping it in bond here as long as you desired, paying duty on the weight when you withdrew it for consumption, have you any idea that that might some time be kept there so long as to affect the price of the American-grown tobacco?

Mr. GUNBY. I do not think so, sir.

Mr. RUSSELL. You know that thing has happened?

Mr. GUNBY. I do not think so. Congress has extended the limit for the storage from one year to three years, but this matter which we speak of is not a question of revenue with us at all. We pay the revenues anyhow—we pay the duty on it. It is the question of handling our tobacco in such a way as to get the best results out of it.

Mr. RUSSELL. I am asking you if you thought it possible by keeping the tobacco in bond so long it would have an effect upon the price of the American product?

Mr. GUNBY. I will answer in a moment, and that is this: Leaving

tobacco out of the question, every kind of raw material is bought and put into a bonded warehouse and sold when the man who owns it can do so at best advantage, without regard to anybody else's interest. If he can buy it at 60 cents a pound, and the tobacco goes to 85 cents, he is in great luck; but if he buys it at 60 cents, and it goes to 45 cents, he is in hard luck. He is simply taking the market at its best. But I do not consider the question of the warehouse cuts any figure; he has got to store it abroad now. We do not go and buy it as we need it; we buy 3,000 bales of tobacco and store it in foreign warehouses, and cable for 20 bales at a time instead of 1,000; that is the difference. We have to store it over there, and we claim it ought to be stored here.

Mr. SHERMAN. The Warehousemen's Association would be glad to be heard now, and I take pleasure in introducing Mr. Godley, of Philadelphia.

STATEMENT OF MR. PHILIP T. GODLEY, OF PHILADELPHIA, REPRESENTING THE AMERICAN WAREHOUSEMEN'S ASSOCIATION.

Mr. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: I shall be very brief in my remarks. Mr. Payne has referred to the absence of a request from this committee for an amendment to the law. I do not know the warehousemen generally to any very great extent have brought such a request, perhaps they have been a little too modest. As far as this effect of the law on tobacco is concerned, I can say this, that in Philadelphia my warehouses carry and have for very many years nine-tenths of the tobacco that has come to Philadelphia and by a recent examination of my records for the last two years I find the fact to be that there has been a reduction of the receipts in my warehouses of from 50 to 60 per cent.

Mr. BUTLER. Within what time?

Mr. GODLEY. Within the last two years from 50 to 60 per cent per annum. That means, of course, a corresponding reduction in the amount of insurance carried here, and it means a corresponding reduction in the amount of money advanced to carry these tobaccos.

Mr. RUSSELL. What character of tobacco does that cover, both wrapper and filler?

Mr. GODLEY. Yes, sir; but I am applying that now more particularly to the wrapper tobacco because of the fact, of course, during the last two years, the conditions in the island of Cuba have been such that the Habana business has been largely eliminated, so now I am only applying that to the wrapper tobacco.

Mr. RUSSELL. Of course, there was a large stock of wrapper tobacco on hand before the passage of the act of 1897, on account of the importers anticipating a considerable increase in the duty. Did that have any effect upon the reduced importations during the last two years you cover?

Mr. GODLEY. I did not notice it particularly during the first six and twelve months. I presume for that reason a certain amount of tobacco wrapper had been purchased and possibly—

Mr. RUSSELL. A very large amount.

Mr. GODLEY. And possibly from the old crop, but at the time of that enactment the tobaccos had been rushed in prior to the enactment of the law and were duty paid.

Mr. RUSSELL. Yes; but what I mean is immediately prior to the enactment of the law of 1897 there was a large quantity, an unusual, an abnormal quantity of Sumatra tobacco in this country, anticipating the increase in the rate of duty. Now, it is hardly fair to compare the period following that with that period.

Mr. GODLEY. I am comparing this with a series of years. That large quantity of tobacco which was rushed in anticipating there would be an advancement in the duties was very little carried in the bonded warehouses.

Mr. YOUNG. I would like to say in answer to the gentleman's question that anyway last year, the calendar year, the records of wrapper tobacco show that there was withdrawn and duty paid on 4,354,814 pounds. There was only imported during the twelve months 4,157,520, so there was more withdrawn than imported during the last calendar year.

Mr. GROSVENOR. Where does this tobacco largely come from?

Mr. YOUNG. The wrapper leaf tobacco?

Mr. GROSVENOR. Yes.

Mr. YOUNG. From the island of Sumatra.

Mr. GROSVENOR. You do not deal in Puerto Rican or Cuban?

Mr. GREEN. There is none coming to any extent from Puerto Rico.

Mr. GODLEY. That statement of fact is all I have to say.

Mr. SHERMAN. Mr. Chairman, the New York Merchants' Association would like to be heard.

STATEMENT OF MR. S. C. MEAD, REPRESENTING THE NEW YORK MERCHANTS' ASSOCIATION.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: I have the honor to represent the New York Merchants' Association, which, as some of you may know, comprises some 1,400 firms of New York in all lines of trade. It also has a membership throughout the United States of some 30,000 merchants, likewise in all lines of trade. About a year ago, after consultation with the President of the United States and at his suggestion, the Merchants' Association appointed a representative committee of 46 members, a committee which was composed of representatives of importers, and domestic manufacturers as well, for the specific purpose of examining into the workings of the present administrative act and to suggest to the President such changes as in their judgment would produce better results than those produced under the present act.

All the questions involved under that act were thoroughly studied by this committee, and the report has within the past week been submitted to the President. In that investigation the committee looked into that particular question, as well as others, and by unanimous action these men, who represented not only the importers but likewise the domestic manufacturers in all lines, unanimously approved this bill which is now before you for your consideration. And of that committee, Mr. Thomas H. Downing, not only a member of the general committee, but of the executive committee, is here this morning and can speak to you for the association and for the committee in regard to the details of this particular matter, and, with your kind permission, I will ask Mr. Downing to speak.

REBATE OF TAX ON ALCOHOL USED IN THE ARTS, ETC.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

TUESDAY, MARCH 20, 1900.

COMMITTEE ON WAYS AND MEANS.

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REBATE OF TAX ON ALCOHOL USED IN THE ARTS, ETC.

COMMITTEE ON WAYS AND MEANS,
Tuesday, March 20, 1900.

The committee met at 10.30 o'clock a. m., Hon. Sereno E. Payne in the chair.

The CHAIRMAN. This meeting was called especially for a hearing in reference to the rebate on alcohol used in the arts (H. R. 5765), as follows:

A BILL Relating to section sixty-one of the revenue act of August twenty-eighth, eighteen hundred and ninety-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the failure of the Secretary of the Treasury to prescribe regulations for the use of alcohol in the arts and in medicinal and other like compounds, as required by section sixty-one of the revenue act of August twenty-eighth, eighteen hundred and ninety-four, shall not operate as a defense on the part of the United States to any suit of a manufacturer under said act brought in any court of the United States.

STATEMENT OF HON. DON M. DICKINSON.

Mr. DICKINSON. Mr. Chairman and gentlemen of the committee, it is not my purpose to go into an exhaustive and exhausting discussion of this subject, or to discuss matters which are perfectly familiar to the committee. In presenting our views as to House bill 5765 we shall refer but briefly to the history of the legislation and call your attention to some of the constitutional questions involved, and then refer at some length to statements of manufacturers as to its effect on their business, and then to the question whether the legislation will lead to impositions upon the Government through fraudulent claims.

It is of course the policy of the law, and has been for a great many years in all commercial countries except the United States, to tax alcohol in its various forms as a beverage only, and to tax it heavily. At the same time it has been the policy of ever other commercial country to make alcohol used in the arts free. That is the policy of England, Germany, France, Switzerland, Norway, and the Netherlands. Alcohol, as has been said, is the great solvent of raw material. It goes into countless articles manufactured in the United States. There is no article the use of which is so universal in manufactures as alcohol. It may be said that hardly anything can be made in which alcohol is not used to some extent. It is used for leading purposes in the manu-

facture, outside of medicines and altogether outside of pharmaceutical preparations, of bicycles, blacking, brass work, bronze work, cabinetmaking, carriages, cars, wagons, cartridges, in all metallic wares, ammunition, celluloid, chairs, chemicals, cigars, colors, dental goods, desks, furniture, fulminating powder, gas and electric fixtures, gilding, granite ware, guns and pistols, hats, Japan ware, machinery, photographic materials, moldings, organs, paints, paper, pianos, picture frames, and so on almost indefinitely.

The Government of the United States has never followed the policy of making alcohol in the arts free, although the policy of our revenue and tariff laws has been to promote manufactures in the United States especially for exports. Yet because of the failure to make alcohol in the arts free and by the repeal of the act which attempted it—the act of 1894—great manufacturers like Parke, Davis & Co. in my own State, and others, are compelled to go to Canada, where the policy of Europe obtains, and where there is a rebate or drawback upon alcohol used in the arts that is exported. The American manufacturer manufactures for domestic consumption in the United States, and the condition by law is building up the manufacturing trade in Canada for the export trade, whereas America should manufacture for the export trade. This is one of the results of our laws.

In these conditions of the law and of the history of legislation of other countries, 1894 found a tax of 90 cents per proof gallon on alcohol; whether used as a beverage or in the arts—a very high tax. The Wilson Act, cutting revenue on some other articles, as many gentlemen remember, proceeded to increase the tax on certain articles, on what might be called luxuries like alcohol and tobacco. Aiming at alcohol as a beverage, in accordance with the policy of all laws on the subject abroad and here, the Wilson Act increased the tax on alcohol 20 cents per proof gallon, or 37 cents on a gallon of the alcohol of 188 degrees proof used in the manufactures. But to avoid the impositions of such a tax upon American manufactures, in view of the universal application of the use of alcohol in the arts, section 61 of the same act was passed. It is as follows:

SEC. 61. Any manufacturer finding it necessary to use alcohol in the arts, or in any medicinal or other like compound, may use the same under regulations to be prescribed by the Secretary of the Treasury, and on satisfying the collector of internal revenue for the district wherein he resides or carries on business that he has complied with such regulations and has used such alcohol therein, and exhibiting and delivering up the stamps which show that a tax has been paid thereon, shall be entitled to receive from the Treasury of the United States a rebate or repayment of the tax so paid.

In view of the history of the legislation on the subject there can be no doubt that Congress aimed to relieve the manufacturer of this great burden, a long-continued burden, which was driving manufacturers for export out of the country.

Now, notwithstanding this act, and notwithstanding the provisions of our Constitution that all power as to legislation in the nature especially of tax laws is vested in the Congress of the United States, and that the Executive has no function connected with legislation except the veto power or the approval of an act, the Secretary of the Treasury at that time practically vetoed the act of Congress in so far as provision was made for the payment to the manufacturer of this rebate. At that time the reason assigned—there never yet has been a reason assigned, Mr. Chairman and gentlemen of the committee, by

any executive officer that it was impracticable to provide the rules and regulations under the law.

The CHAIRMAN. The correspondence between Secretary Carlisle and Internal Revenue Commissioner Miller in 1894—

Mr. DICKINSON. I have it before me.

The CHAIRMAN. Shows the fact that they could provide no regulation unless it was by having under the supervision of the Government a sort of bonded warehouse for each factory, and Mr. Carlisle so reported to Congress in the ensuing December.

Mr. DICKINSON. No, Mr. Chairman; I have the correspondence before me. The correspondence rests the inability to provide regulations upon the want of an appropriation.

The CHAIRMAN. I say that it shows that he could devise no other method than that, and that that would require an appropriation.

Mr. DICKINSON. Yes. He did not specify a bonded warehouse, but said that he was unable to devise rules and regulations that could be executed. He states generally—

The CHAIRMAN. Perhaps he did not say bonded warehouse in those terms, but under the supervision of an agent of the Government.

Mr. DICKINSON. That is right.

The CHAIRMAN. A similar provision to that employed in the manufacture of alcohol now?

Mr. DICKINSON. Yes.

Mr. STEELE. And the court sustained him?

Mr. DICKINSON. I am coming to that in a moment.

The CHAIRMAN. I was only asking you in reference to the statement you made.

Mr. DICKINSON. I quite apprehend the point the chairman makes, but the whole thing—I have the correspondence before me—was based upon the report of the Commissioner to the Secretary of October 3, 1894, that he had given the preparation of regulations very serious consideration under the act of August 28, 1894, and is still giving it serious consideration, and stating that it is found to be impossible to prepare these regulations in a way that will prove satisfactory without official supervision; he concludes by asking whether there is any appropriation authorizing the expenditure of money, etc., for that purpose. The Secretary replies that there is none. It turns upon the question of an appropriation.

That reason was not good at all, Mr. Chairman. It was not worth the paper on which it was written for this reason:

There was an appropriation of a million and a half or a million and a quarter for salaries in the Internal-Revenue Bureau, and there was also an appropriation of \$1,900,000 for miscellaneous expenses, and it was subject to the use of the Internal-Revenue Department, just as much for providing these regulations and enforcing them as it was for paying for the enforcement of the regulations theretofore adopted in reference to distilled spirits.

The CHAIRMAN. Were not those appropriations made upon the estimates submitted to Congress by the Secretary of the Treasury for certain specific expenses which did not include the act of 1894?

Mr. DICKINSON. It provided for miscellaneous expenses in the Internal-Revenue Department.

The CHAIRMAN. Yes; but based upon the estimates of the Secretary of the Treasury.

Mr. DICKINSON. Undoubtedly.

The CHAIRMAN. Made before the act of 1894 was passed.

Mr. DICKINSON. But with the appropriation of \$1,900,000 available for internal-revenue expenses, he could not discriminate against that act of Congress and the expenditure of the fund and elect that he would apply it all to some other purpose; so that the reason assigned by the Secretary of the Treasury I submit was not a good one.

Now, if the committee please, at that time, under the Wilson Act, the revenues did not promise to pay the expenses of the Government. A condition, and not a theory, confronted the Secretary of the Treasury, and no doubt he resolved any doubt about any further appropriation or use of money against the release of anything from taxation that would bring revenue. Manufacturers in the arts were paying this enormous tax in money amounting to about \$2.06 a gallon, and using enormous quantities of alcohol in the arts. The revenue was very great, but it distinctly tended to the restriction of manufactures, which it is the policy of the law to promote and protect.

While frequently in executive officers are reposed judicial functions—quasi-judicial functions—never yet has there been reposed in an executive officer, with the exception of the President in reference to the veto power and the signing of a bill—that mere and single function—the power to render of no effect an act of Congress.

Mr. GROSVENOR. Do you not think that is too broad a statement?

Mr. DICKINSON. I think not, Colonel Grosvenor.

Mr. GROSVENOR. Take appropriations. It has been held for a great many years that the War Department, and the President acting through the War Department, might refuse to use the money appropriated for all public works if he saw fit; if in his judgment it was unwise to use it.

Mr. DICKINSON. That is done under a direct act of Congress.

Mr. GROSVENOR. No, sir. It is done under the general power given to him.

Mr. DICKINSON. The general power of the Executive?

Mr. GROSVENOR. Of the Executive.

Mr. DICKINSON. He need not use the appropriation?

Mr. GROSVENOR. Yes; he need not use the appropriation. Quite often it is done. It is done a great many times.

Mr. DICKINSON. But that is as to an appropriation of money, and the question whether the Executive shall execute the power—

Mr. GROSVENOR. I do not think that precedent applies to the point you are making.

Mr. DICKINSON. I do not think it does.

Mr. GROSVENOR. But I thought your statement was pretty broad.

Mr. DICKINSON. My statement perhaps is too broad, so far as that is concerned. An executive officer spends the money, and whether he shall spend the money under the appropriation may rest with the executive officer. There are powers conferred upon an executive officer by the Congress of the United States, but they are not legislative powers in any case. The judicial power is vested by the Constitution in the Supreme Court of the United States and in such inferior courts as Congress may establish, and the Congress has been held to have reposed quasi-judicial powers in an executive officer. Take, for instance, the powers of the Secretary of the Interior. It is a quasi-judicial power when he passes upon what is swamp land, and there is

no appeal from it. That is said to be a quasi-judicial power reposed in the Secretary of the Interior by Congress.

Mr. GROSVENOR. That is true. That is more completely illustrated in the case of the Comptroller of the Treasury, who may give his opinion that any act of Congress is unconstitutional.

Mr. DICKINSON. To be sure.

Mr. GROSVENOR. You can not even proceed by mandamus or in any other way to review his judgment.

Mr. DICKINSON. That is because Congress reposed that quasi-judicial power in him. So, as to the Postmaster-General, Congress has reposed in him the decision of the question whether a postmaster who has lost money by burglary is guilty of negligence. There is no appeal from the decision of the Postmaster-General when he decides whether he has been or has not been guilty. He can have that money returned under the decision of the Postmaster-General under the quasi-judicial power reposed in the Postmaster-General.

Under the Constitution there would be no judicial power except the Supreme Court of the United States, except by act of Congress, but the legislative power is vested in the Congress of the United States alone, and there can be no delegation of it.

There can be no stronger statement of that proposition than that made in the case of *Field v. Clark* (143 U. S. Reports), where the somewhat famous reciprocity provision of the act of 1890, section 3, came before the Supreme Court of the United States. The act provided that in case any country should impose any protective tariff upon our sugar, molasses, and other similar articles, the President might impose a like tariff, a reciprocal tariff, upon imports of the same or other enumerated articles from those countries. This reciprocal tariff was to be imposed if he should find as a matter of fact that they were imposing such tariff. The proposition was broadly laid down by the majority of the Supreme Court. The language is better than mine.

That Congress can not delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution.

The majority of the court held, however, that that act reposed in the President no discretion as to whether the law should be executed or not, that it reposed no legislative power in the President, but merely required the President, under the direction of Congress by the terms of the act itself, to determine as a matter of fact whether those duties were imposed by foreign countries. Moreover, that had relation to our foreign affairs and probably was more properly within the cognizance of the President of the United States. But the chief reason, and that upon which the court has repeatedly planted itself, is that legislative power can not be delegated by Congress under the Constitution to any executive officer. A minority thought it was going too far in the *Field* case (143 U. S.), in approaching the line so nearly, and held that the power bestowed upon the President of the United States to impose a tariff when no tariff was imposed did partake of the character of legislation.

The CHAIRMAN. The majority of the court held that the President's duty was to find the fact.

Mr. DICKINSON. That was all.

The CHAIRMAN. And when he found that fact and proclaimed it—

Mr. DICKINSON. Then the law attached.

The CHAIRMAN. Then the law imposed additional duties.

Mr. DICKINSON. Upon that reasoning they sustained the constitutionality of the law.

The CHAIRMAN. There will be no dispute in the committee as to the law of that case?

Mr. DICKINSON. No.

Now, the Supreme Court of the United States by a bare majority, without touching that constitutional question at all, did hold that the law of Congress now under consideration, section 61 of the act of August 28, 1894, could not be executed, because the Secretary of the Treasury did not make regulations. I appeal to you, Mr. Chairman and gentlemen of the committee, upon the proposition that Congress intended by that act, especially because of the increase of the tax upon alcohol, in section 48 of the same act, to make alcohol in the arts free and to return the tax when it had been paid. Can the failure of the Secretary of the Treasury to make the regulations practically nullify or repeal that act of Congress? If that is so, let me call your attention to the provisions of section 42 of the revenue act of 1890, quite familiar, undoubtedly, to the members of the committee:

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.

Can it be contended for one moment that if the Commissioner of Internal Revenue did not prepare any rules and regulations approved by the Secretary of the Treasury, the producer of pure sweet wines could not use, free of tax, alcohol under that provision? Now, compare the two provisions:

Under such regulations and after the filing of such notice 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.

Compare that with the provisions of section 61 of the act in question:

Any manufacturer finding it necessary to use alcohol in the arts or in any medicinal or other like compound may use the same under regulations to be prescribed by the Secretary of the Treasury, and on satisfying the collector of internal revenue for the district wherein he resides or carried on business that he has complied with such regulations and has used such alcohol therein, and exhibiting and delivering up the stamps which show that a tax has been paid thereon, shall be entitled to receive from the Treasury of the United States a rebate or repayment of the tax so paid.

THE RIGHT CONFIRMED BY ANALOGOUS PROVISIONS OF THE ACT.

Section 61 is not anomalous in requiring administrative regulations for its due enforcement. If the Secretary of the Treasury used his own judgment, as he did in this case, as to the enforcement of every law under which regulations are required to be made by him, and no judicial redress was permitted, the will of Congress expressed in legislation would be abundantly thwarted.

This would be most liberally exhibited by a comprehensive scrutiny of the entire body of existing statutes governing his duties; but it is

sufficient to confine the examination simply to this statute. In thirty-nine other places it authorizes regulations by the Secretary of the Treasury for various purposes connected with the customs and internal-revenue laws. These are as follows:

Sugar, paragraph 182½, 2 Supplement Revised Statutes, page 279, the importer may be relieved from additional duty "under such regulations as the Secretary of the Treasury may prescribe."

Tobacco, paragraph 185, page 280, entry not to be made, except under regulations to be prescribed by Secretary.

Wines, paragraph 244, page 285, percentage of alcohol to be determined in such manner as the Secretary of the Treasury shall by regulation prescribe.

Animals for breeding purposes, free list, paragraph 373, page 297, Secretary may prescribe regulations for enforcing limitations to registered stock.

Cattle, etc., paragraph 373, page 297, may be brought from pasture free of duty under regulations to be prescribed by Secretary.

Animals for exhibition, paragraph 374, page 297, admitted free, but a bond shall be given in accordance with regulations prescribed by the Secretary.

Emigrants' teams, paragraph 374, page 297, free under such regulations as the Secretary may prescribe.

Casks and other articles returned from export, paragraph 387, page 297, proof of identity to be made under general regulations to be prescribed by Secretary.

Books, etc., for use of schools, libraries, etc., paragraph 413, page 299, subject to such regulations as the Secretary shall prescribe.

Indian goods, paragraph 582, page 303, free under such regulations as the Secretary may prescribe.

Theatrical scenery, etc., paragraph 596, page 304, admitted free of duty under such regulations as the Secretary may prescribe.

Works of art, paragraph 686, page 307, exemption subject to such regulations as the Secretary may prescribe.

Works of art, etc., paragraph 687, page 307, imported for encouragement of science, art, or industry, free under such regulations as the Secretary shall prescribe.

Works of art, paragraph 688, page 308, bond for payment of duties under such regulations as the Secretary may prescribe.

Trade-marks, section 6, page 308, to be recorded in books under such regulations as the Secretary shall prescribe.

Materials for ship building, section 7, page 309, may be imported in bond under such regulations as the Secretary may prescribe.

Articles for repair of American vessels, section 8, page 309, to be withdrawn from bonded warehouses free under such regulations as the Secretary may prescribe.

Articles manufactured of imported materials, section 9, page 309, shall be manufactured in bonded warehouses under such regulations as the Secretary may prescribe.

Manufacturer to give bond for observance of such regulations as shall be prescribed by the Secretary.

Materials used may, under the regulations of the Secretary, be conveyed into bonded warehouse.

Articles may be withdrawn under such regulations as the Secretary may prescribe.

Machinery for repair, section 13, page 311, Secretary directed to prescribe rules and regulations to protect against fraud.

Importation of neat cattle, section 17, page 312, made duty of the Secretary to make all necessary orders and regulations to carry into effect.

Smelting works, section 21, page 312, may be designated as bonded warehouses under such regulations as Secretary may prescribe. Ores may be removed under such regulations as the Secretary may prescribe. Refined metal may be removed under such regulations as the Secretary may prescribe.

Drawback on imported material, section 22, page 313, facts to be ascertained and drawback paid under such regulations as the Secretary shall prescribe.

Articles made by convict labor, section 24, page 314, Secretary authorized to prescribe necessary regulations.

Imported cigars, section 26, page 314, Secretary authorized to make all necessary regulations.

Income tax, section 34, page 320, annual tax returned, according to regulations to be prescribed by Commissioner and Secretary.

Playing cards, section 38, page 323, regulations as to dies and adhesive stamps by Commissioner and Secretary. Section 43, page 324, may be exported free of tax under such regulations as Commissioner and Secretary may prescribe.

Distilled spirits, section 49, page 326, distiller may execute an annual bond under such regulations as Commissioner and Secretary shall prescribe.

Bonded warehouses, section 51, page 328, to be under such regulations as the Commissioner and Secretary may prescribe.

Spirits removed to general bonded warehouse, section 54, page 328, may be deposited under such regulations as shall be prescribed by Commissioner and Secretary.

Transporting from one bonded warehouse to another, section 55, page 328, to be under such regulations as Commissioner and Secretary may prescribe. Bonds to be renewed at such times as Commissioner may by regulations require.

Alcohol in the arts, section 61, page 330, manufacturer may use under regulations to be prescribed by Secretary.

Packages of rectified spirits, section 66, page 331, gauged, marked, etc., as the Commissioner and Secretary may by regulations prescribe.

Manufactured tobacco, section 69, page 332, to be put up in such packages as the Commissioner and Secretary shall prescribe.

The terms of the statute vary in these different provisions; but in general, the law either expressly declares, as in section 61, or implies a positive duty on the part of the Secretary to make regulations. When these are examined, it will be seen that there is no substantial difference between the duty of the Secretary to make regulations under the other provisions and under that in section 61, except that in some of the others the word "may" is used instead of the more mandatory form in section 61.

The means of enforcement of the revenue laws are thus seen to be largely under executive regulation, and the inference must be drawn that Congress does not intend, in giving direction to the Secretary to make regulations, that he shall first determine whether adequate regulations can be made or that the rights granted by the law shall be dependent upon his will. Otherwise he might make void the remaining thirty-nine provisions of the statute, as well as this fortieth provision as to which he declined to take action. He had no condition of fact to ascertain. He was directed to perform a duty, and this he refused.

It is safe to say that in not a single other instance cited from the statute has the officer charged with making regulations failed to prescribe complete regulations for the enforcement of the law, except in this case. The surmise can not be avoided that the true reason for not enforcing section 61 lay not in the difficulty, much less the impossibility, of framing regulations—not in the absence of appropriations for their enforcement—but in the desire of the Secretary of the Treasury to secure for a depleted treasury every possible dollar of revenue. However creditable such a desire might under some circumstances be, or with how much force he might properly have urged such considerations upon Congress, it was surely in no legal sense justified when placed in opposition to the plain requirements of the statute.

There is no provision in this act conferring any discretion upon the Secretary of the Treasury as to whether, in his judgment, he can prepare suitable regulations. The Congress did not commit to the Secretary of the Treasury any quasi judicial function to pass on the construction of the statute or upon the condition of the facts or the condition of the manufacture of distilled spirits, but it provided that the regulations should be prescribed. It is mandatory, unlike the provisions of the sweet-wine act, the regulations to be prescribed by the Secretary of the Treasury; not if he can, not in his discretion if he sees fit, not if he has an appropriation to do it—that discretion is not conferred upon him—but that he shall.

Take the imported animals case, in 106 United States.

Animals alive, specially imported for breeding purposes from beyond the seas, shall be admitted free upon proof thereof satisfactory to the Secretary of the Treasury, and under such regulations as he may prescribe.

In *Morrill v. Jones* (106 U. S.) the Secretary would not prescribe any rule and refused to, but the court, by unanimous judgment, sustained the right to import whether he made rules and regulations or whether he did not.

Mr. DALZELL. You think that case and the case recently decided, the alcohol case, are inconsistent?

Mr. DICKINSON. Entirely inconsistent.

Mr. DALZELL. This case is overruled.

Mr. DICKINSON. The dissenting judges, although writing no opinion, undoubtedly concluded that the doctrine for which we contend here was *stare decisis* in the Supreme Court of the United States, not only under the decision in *Morrill v. Jones*, but also in the *Campbell* case in 107 United States—the drawback case.

Mr. DALZELL. All those cases are overruled by this later case, then?

Mr. DICKINSON. By a majority of one judge they distinguish the cases. But does that stand in the way of legislation? I am reminded that up to a decision of the court of appeals of the State of New York it was generally supposed that the State board of charities had a right to inspect all societies like the Gerry Society for the Prevention of Cruelty to Children. The court of appeals held that the general belief was not well founded and that the law did not confer that power, whereupon a bill was introduced immediately after the decision of the court of appeals conferring that power expressly upon the State board of charities. The argument was made that the bill would be a practical reversal of the court of appeals, whereas the strength of the argument was this: That it was a defect in the law and the law should be what the people believed it was before the court of appeals passed upon it.

Now we come back to the question whether the Congress of the United States intended, in accordance with the practice of the civilized world, in accordance with the policy of the Government of the United States in the matter of taxation, that alcohol used in the arts should be practically free and that the tax should be returned if paid. If that is true, and that was the intention, then we submit that the people who entered upon their business and have lost by reason of the non-enforcement of the law should have relief by this bill. The value of the precedents is that Congress is supposed to legislate, in view of the laws of the United States and with the construction of the statutes of the United States by the Supreme Court of the United States—by the court of last resort in the Federal system. The Congress of the United States, having provided that regulations should be made by the Secretary of the Treasury, believed, undoubtedly, following the decisions of the Supreme Court of the United States, that if he did not make them the power did not rest in him to nullify the act of Congress. We desire to have the intention of Congress fulfilled.

Mr. RICHARDSON. Has the subsequent Secretary followed the course of Mr. Carlisle in declining to make regulations?

Mr. DICKINSON. The act was repealed in 1896.

Mr. RICHARDSON. Yes; that is right.

Mr. DICKINSON. Congress undertook then to take up this whole subject and appointed a joint committee. A joint resolution was passed for the appointment of a commission to examine the whole subject.

Mr. RICHARDSON. I remember now.

Mr. DICKINSON. In the meantime they repealed the act, but the Secretary of the Treasury had in effect repealed the act before Congress did. Is there any doubt about it? Did he not intend to? Had he the power to?

Mr. NEWLANDS. The purpose of the legislation you seek is simply with reference to existing legislation, is it?

Mr. DICKINSON. It is in reference to section 61 of the act of August 28, 1894, which was repealed on June 3, 1896.

Mr. GROSVENOR. I should like to make a suggestion. I have no opinion about it, but it is a matter on which I think you ought to give us your opinion.

Mr. DICKINSON. Yes, sir.

Mr. GROSVENOR. Up to to-day, under the decision of the Supreme Court, the defense of the United States to an action to recover the tax is a complete defense—the defense that there has been no preparation of regulations, no arrangement for the carrying into effect of the law.

Mr. DICKINSON. That is a complete defense.

Mr. GROSVENOR. Under that decision, assuming that the court would stand by its former action.

Mr. DICKINSON. Yes.

Mr. GROSVENOR. Is it competent for the legislative department to attempt to make invalid the valid defense up to this time? To illustrate, A brings a suit to recover a thousand dollars overpaid duty. The Supreme Court has held that he has no claim; that is the legal effect of it, that the fact that the scheme of law was not carried into effect by the Treasury Department is a complete defense. Is it competent for legislation now to go back and say that that, the practical effect of which was to extinguish the claim, is to be taken out of the way and his right opened up as against a valid defense heretofore existing? To illustrate, take the statute of limitations. Nobody doubts that Congress may remove the bar of the statute of limitations. It has been done a great many times. Does that stand on all fours as a legal proposition with the defense of this character? That is all. I want to hear from you on that point.

Mr. DICKINSON. Over and over again the legislative body, when it has found by the decision of courts that its attempted legislation has proved ineffective, has remedied that legislation, and the Congress of the United States has the power to give effect as of the date of the previous legislation to that which it was intended by the Congress which passed the act.

Let us see on broader grounds. There are three coordinate departments of this Government, each equal—the legislative, executive, and judicial. Suppose that Congress differs from the Supreme Court of the United States in the construction of that act. Bear in mind that this is not a question of constitutionality. If the Supreme Court of the United States under the written Constitution finds that the Congress has transgressed on its construction of the Constitution, it may hold an act of Congress void. That is a safeguard, and one of the unique features of our system of government, of course. But here there is no attempt to hold this provision of the act unconstitutional

or beyond the powers of Congress, but the court says that the act whereby you intended to make alcohol in the arts free has been rendered ineffective by the act of an executive officer.

I call the attention of the committee to this point. Each branch of the Government is, and should be as it is, equal and independent, jealous of any invasion of its functions by the other. Yet no constitutional question being involved, an executive officer has nullified the act of Congress by failing to make regulations, and on ground that can not be sustained—that he needed an appropriation.

Mr. GROSVENOR. That you are assuming against the opinion of the Supreme Court.

Mr. DICKINSON. They do not say in the Supreme Court decision that there was an appropriation. They avoid the constitutional question entirely, but they do cite the letters of the Commissioner and the Secretary of the Treasury wherein the only reason given for not making the law efficient by making regulations is the want of money. Now, is Congress prepared to say that the Executive can usurp legislative functions even if sustained by the Supreme Court of the United States, the other coordinate branch of the Government? We submit not.

Now, Mr. Chairman and gentlemen of the committee, it can be demonstrated before this committee that, acting in good faith on section 61, the largest manufacturers and the small manufacturers of the United States, using alcohol in their business in making their products, depending upon the promise of the Congress of the United States enacted in this law, reduced their prices and entered into contracts for future years at reduced prices and gave their customers reduced prices, so that it resulted, unless they get the rebate of the tax, not only in a distinct loss in the matter of dollars and cents for the period, but also in such a reduction of the prices of their goods on what had been charged before the enactment of this law as to establish a condition from which it is quite impossible that they should retrieve themselves except by the passage of the pending bill.

Mr. COOPER. What was the total loss by reason of the failure to return this money?

Mr. DICKINSON. The Attorney-General in his annual report for 1899 states that about \$6,000,000 at the outside is involved.

Mr. COOPER. Were applications filed with the Secretary of the Treasury for that amount?

Mr. DICKINSON. I think not for so much.

Mr. KING. For about \$4,000,000, in the Court of Claims.

Mr. DICKINSON. Applications for about \$4,000,000 have been filed. They have followed out the practice outlined in section 61 by tendering the stamps and demanding their money. As the claim arises under the act of Congress, they have filed their claims in the Court of Claims.

Mr. GROSVENOR. Did any part of these claims arise after the decision of the Supreme Court?

Mr. DICKINSON. No. Let me call your attention to the fact that the decision of the Supreme Court was made in 1898, and the act was repealed in 1896.

Mr. GROSVENOR. I see.

Mr. DICKINSON. It was a decision of the Supreme Court by one majority.

Mr. GROSVENOR. The only point that occurred to me in that connection was that the manufacturers might have one right on claiming the refund with their eyes wide open to the fact that the law had been held to be invalid.

Mr. DICKINSON. Not at all.

The CHAIRMAN. A part of your complaint, as I understand, is that they have kept their goods at these reduced prices since the repeal of the law in 1896.

Mr. RICHARDSON. That they have not been able to put the prices back.

Mr. DICKINSON. You can see why if the manufacturers of goods of this class once get the prices down it is difficult to get them back.

The CHAIRMAN. I understand, as a matter of fact, they have not got them back.

Mr. DICKINSON. Have not reduced them?

The CHAIRMAN. Have not advanced prices since 1896, the date of the repeal of this law.

Mr. DICKINSON. I think not, to any considerable extent.

The CHAIRMAN. Not unless it was done recently.

Mr. DALZELL. If I understand you, your contention is that the consumers of this country got an advantage of about \$6,000,000 by virtue of the passage of this act, which you and these people now want to get, and which they properly ought to get back if they did.

Mr. DICKINSON. But they got it out of us.

Mr. DALZELL. But your contention is that the consumers got the advantage of that reduction in price to the extent of \$6,000,000?

Mr. DICKINSON. Yes, sir; the consumers and the retailers.

Mr. DALZELL. That assumes that every manufacturer who used alcohol in the arts reduced the price of his commodity, which in point of fact is not true.

Mr. DICKINSON. There is an abundance of evidence—

The CHAIRMAN. Some of these people say to me, you advanced the tax on alcohol by the act of 1894 and we made no advance on our goods because of this advance in tax because we expected to get the whole thing rebated from the Government. Others tell me that they manufactured and sold to their customers on an agreement with their customers that if they got the rebate they would make it good to their customers. Those representations are made. Some of them do not claim that they made any reduction whatever or made any difference.

Mr. DICKINSON. We desire to present, from houses of whose reputation, I think, you know as men of reputation, say, twelve letters off the top—from Parke, Davis & Co., of Michigan, for instance, who are the largest manufacturers of medicine and of pharmaceutical preparations probably in the world. Druggists do very little manufacturing of medicines now.

The CHAIRMAN. I have had it told to me as an exceptional case that Parke, Davis & Co. did reduce the price of their proprietary medicines.

Mr. DICKINSON. They do not make proprietary medicines.

The CHAIRMAN. Well, they manufacture medicines.

Mr. DICKINSON. They are pharmacists.

The CHAIRMAN. I did not mean to be technical about it. They are all the same to me.

Mr. DALZELL. You assent to this proposition as true, that to grant a rebate to any manufacturer who made no difference in the price by reason of this legislation would be to grant to him a gratuity out of the Federal Treasury?

Mr. DICKINSON. A bonus. I think that is self-evident.

Mr. DALZELL. Yes.

Mr. RUSSELL. On the other hand, to grant a rebate to someone who did reduce his price would be the granting of an equity.

Mr. DICKINSON. Precisely; that is our position. We are out this money, and not only that, but our business has been seriously impaired by acting in good faith on the promise in an act of Congress that was supposed to have been passed in good faith. There is no doubt about that.

Mr. GROSVENOR. I will be very glad to learn if someone in this country ever did adjust his prices in accordance with the action of Congress.

Mr. DICKINSON. We have a lot of material to that effect. Mr. King, suppose you take off not to exceed a dozen letters.

Mr. GROSVENOR. I mean when prices ought to go down. I know of cases where they went up.

Mr. DICKINSON. Yes.

Mr. NEWLANDS. Have suits been brought for all these rebates?

Mr. DICKINSON. Suits for about \$4,000,000 have been brought.

Mr. NEWLANDS. Are there any other claims outstanding upon which suits have not been brought?

Mr. DICKINSON. The Attorney-General estimates in his report that there are about \$6,000,000, all told.

Mr. GROSVENOR. They have been filed in some way so that the amount is ascertainable?

Mr. DICKINSON. Yes, sir; before the Court of Claims.

Mr. NEWLANDS. The purpose of this bill is to take away the technical defense which the Government has by reason of the failure of the Secretary to establish rules and regulations under the act of Congress.

Mr. DICKINSON. That is it.

Mr. NEWLANDS. Is there any difficulty at all in ascertaining the fact without Government supervision as to whether or not this amount of alcohol was consumed in the arts?

Mr. DICKINSON. I can not see how there can be any difficulty about that.

Mr. NEWLANDS. Because if that can be ascertained I can not see what difference it makes as to whether reductions in prices were made by the manufacturers of these goods or not. Their right was to a rebate of this tax.

Mr. DICKINSON. Yes.

Mr. NEWLANDS. And there was no obligation imposed upon them by the law to reduce the price of their commodities. So, clearly, it would seem to me that they have a legal right against the Government for that rebate.

Mr. DICKINSON. It seems so to us.

Mr. NEWLANDS. Aside from any technical legal defense.

Mr. GROSVENOR. Not quite a legal right.

Mr. NEWLANDS. I would call it such.

Mr. DICKINSON. Because while Congress is not bound by private

contracts, yet all free and enlightened governments carry out their laws precisely as if they were so bound.

Mr. GROSVENOR. We have been overruling Mr. Jefferson a great many years, you know.

Mr. DICKINSON. Yes.

The CHAIRMAN. The case which was decided in the Supreme Court was brought by Dunlap & Co.

Mr. DICKINSON. Yes; Dunlap.

The CHAIRMAN. Do you remember how large their claim was?

Mr. KING. About \$26,000 or \$27,000 was involved.

Mr. GROSVENOR. On their \$8 hat how much did they reduce?

Mr. KING. Their \$8 hats do not come into this matter. It is their \$5 hats. I will explain the extremely important equity that Dunlap & Co. have in this.

Mr. GROSVENOR. We all have an equity against Dunlap.

Mr. DICKINSON. Prior to the passage of the act they used wood alcohol, and when you give them grain alcohol, which was better to use, they used that expecting a rebate back. That is the truth about that.

STATEMENT OF WILLIAM B. KING, ESQ.

Mr. KING. Mr. Chairman and gentlemen, these letters which we are going to read have this bearing on this controversy. Our claim is that there was a contract—

Mr. DALZELL. Whom do you represent?

Mr. KING. I am, with Mr. Dickinson, representing the manufacturers in general. Our contention in this matter is that the act of 1894, section 61, was a contract by which if manufacturers did certain things the United States agreed on their part to do certain things. The Secretary of the Treasury, the agent of the United States, did not do those things which the law said that he should do, and the Supreme Court, by a majority of one, says that the failure of the agent of the United States to perform his part of the contract defeats the right of the claimants, although they have done their part of the contract with the law placed upon them.

The objection is now made—it has been suggested this morning—that this is a gratuity; that these things which the claimants were obliged to do under the law were things which they were going to do anyhow; that they made no changes in their methods of manufacture and no changes in their selling prices on account of this provision of law, and consequently that the rebate is a pure gift to them. I propose by these letters to show that throughout the country in different branches of the trade, in consequence of this law, many of the manufacturers reduced their prices, sold their goods for less, in reliance upon the rebate promised by Congress, and that other manufacturers changed their methods of manufacture in consequence of this law, and used grain alcohol instead of using wood alcohol, or used domestic grain alcohol instead of using foreign grain alcohol.

The first letter¹ is from the largest of the Western pharmaceutical manufacturers, and the second letter is from the largest of the Eastern

¹For the other letters see Appendix, page 28.

houses in the same branch of the trade. This letter is from Parke, Davis & Co., of Detroit, and is addressed to Mr. Dickinson :

Noting that the argument before the honorable Committee on Ways and Means at Washington, Tuesday, the 29th instant, on behalf of the claimants for the alcohol rebate will be presented by you, I take the liberty of advising you that certain Senators and Congressmen are apparently laboring under the erroneous impression that the manufacturers did not reduce the price of goods in which alcohol entered as an ingredient in the expectation of obtaining the rebate from the Government.

I beg leave to assure you that, so far as Parke, Davis & Co. are concerned, this idea is wholly false. Since it was certainly the intention of Congress in enacting the revenue law of August 28, 1894, to allow the manufacturers of medicinal preparations a rebate of the internal-revenue tax on alcohol, we did not deem it possible at that time that an act of Congress would be defeated and nullified by any course which the Secretary of the Treasury might pursue. Accordingly, we adjusted many of the operations of our extensive manufacturing business, and reduced the prices of many of our preparations in which alcohol forms an important ingredient, in anticipation of the refund which we confidently expected under the provisions of the law of August 28, 1894. I have in mind at the moment some very extensive contracts, involving large sums of money. In order to capture the business we reduced our prices in the belief that our interests were safe, and that the contracts would net us a satisfactory margin of profit as soon as the rebates should be refunded to us on the alcohol used in these manufacturing operations.

MR. GROSVENOR. Is that the statement the house makes? Is that the only statement it makes? Is that all of it?

MR. KING. There is simply a closing paragraph in the letter.

THE CHAIRMAN. That is all of the statement on that point.

MR. GROSVENOR. You are a lawyer, I discover. It would have been rather easy for a lawyer to have appended a schedule of the commodities giving the prices at a certain date and the prices at a certain other date. On cross-examination you would not last long with that letter, would you?

MR. KING. If I were the writer of that document I would last long, because being the head of one of the largest pharmaceutical houses in the country I would have full knowledge of all the details of the business and could explain all desired details, if subjected to cross-examination.

MR. GROSVENOR. I assume that, and I assume that the letter lets us know all that the writer wants us to know.

MR. KING. I think in a direct examination upon a statement of general facts the head of such a house as Parke, Davis & Co. may be accepted, in the absence of impeachment, as making a perfectly correct and truthful statement.

THE CHAIRMAN. Suppose what he says is true.

MR. KING. What he says is that he reduced the prices on articles in which alcohol is an important ingredient.

THE CHAIRMAN. He says on many of them.

MR. KING. On many of them; they make several thousand such articles, and he would hardly be able to say that a reduction was made on every article.

MR. DALZELL. And he took the chances of getting a contract?

MR. DICKINSON. He did take contracts.

MR. GROSVENOR. He does not say he ever delivered anything under the contracts.

MR. KING. The plain inference is he did so. When a manufacturer of this importance makes these statements I submit that we must accept that they are made in fair good faith, or the committee may appoint some way in which they can be subject to rigid cross-exami-

nation. Now the house of Wyeth & Bro. makes a similar statement, only they go into more detailed particulars.

Mr. DICKINSON. That is of Philadelphia?

Mr. KING. Yes; the house of John Wyeth & Bro., of Philadelphia, as follows:

PHILADELPHIA, *March 19, 1900.*

Mr. STUART WYETH,

(Care Arlington Hotel, Washington, D. C.).

DEAR SIR: Wishing you to be as fully advised as possible that you may have the facts to place before the Ways and Means Committee at the hearing on Tuesday, beg to advise that owing to reduction we made in prices upon preparations containing alcohol, our books show that for the year following the enactment of the Wilson bill our receipts on the same volume of goods handled were \$42,000 less than for the preceding year, showing a net loss to us of this amount of money, for which, under section 61 of the Wilson tariff, we should be reimbursed as well as for the balance of the term, making a claim of \$98,800.84 in all for the one year nine months and six days, during which the act was in force.

Yours, truly,

JOHN WYETH & BROTHER.

WM. A. SCULLY,

General Manager.

Mr. GROSVENOR. That would apply just as well to horses and cattle and grain as to drugs.

Mr. KING. But this reduction of \$42,000 is not on their entire drug business. The difference on their entire drug business between a bad year and a good year would be immensely larger than that. It is on their drugs containing alcohol.

Mr. GROSVENOR. I hope you will not ask us to pass bills here to refund losses on business in the United States between 1894 and 1897, because, if you do, we may as well go into bankruptcy one time as another.

Mr. KING. Not at all; but we do ask you to do this. When in those years or any other years, Congress passed a law making it the duty of the Secretary of the Treasury to prescribe regulations to carry out a contract with certain manufacturers, contained in the law, and the manufacturers do everything required under the law as their part of the contract, we ask you to say that the failure of the Secretary of the Treasury to do his part shall not defeat the manufacturers' rights, and especially shall you say this when we show that, acting in good faith under that law, the manufacturers reduced prices lower than they had been before that law was passed.

I have also a letter from the Norwich Pharmacal Company, of Norwich, N. Y., addressed to me, saying:

NORWICH, N. Y.

WM. B. KING, Esq.,

918 F street, Washington, D. C.

DEAR SIR: You are hereby authorized to make the announcement to the Committee on Ways and Means that, in expectation that the rebate promised by section 61 of the tariff act of August 28, 1894, would be paid, we made large reductions in the selling prices of pharmaceutical preparations.

This action was forced on us by leading houses in the trade, who quoted prices to our customers which were practically based on tax-free alcohol.

Very truly, yours,

THE NORWICH PHARMACAL COMPANY,

Per O. G. BELL.

That is the third of the drug houses. I will not read these others from pharmaceutical manufacturers. I will ask to put them into the record. (See Appendix, p. 28.)

Frank H. Fleeer & Co., of Philadelphia, a well-known house, makes a similar statement. (See p. 28.) Of course, it necessarily follows that wherever two large houses like Parke, Davis & Co. and Wyeth & Bro. reduced the prices all the little houses must follow.

Talcott, Frisbie & Co., Hartford, make the same statement (see p. 28); the Freytag & Peeler Co., of Philadelphia, make the same statement (see p. 29); Robert A. Hance, of Philadelphia, in the same trade, makes the same statement (see p. 29).

Here is a different trade, the chemical trade. The Erkenbrach Chemical Company, of Hoboken, in a letter addressed to myself, dated the 16th, say:

HOBOKEN, N. J., *March 16, 1900.*

WILLIAM B. KING, Esq.,
728 Seventeenth street, Washington, D. C.

DEAR SIR: You are hereby authorized to make the statement at the hearing before the Ways and Means Committee, on the 20th instant, that we made a large quantity of ether during the time section 61 of the general revenue act remained in effect, and that, in expectation that the courts would refund the tax on the alcohol so used, we made a large reduction in the selling price of said ether.

We also authorize you to make the statement that our competitors made offers to our customers at the same rates, and we could not have maintained our prices even had we desired to.

Very truly, yours,

THE ERKENBRACH CHEMICAL COMPANY,
G. PERRY ERKENBRACH, *Treasurer.*

There is a statement as to a most important article made entirely of alcohol, because ether is simply a chemical transformation of alcohol.

It was four years ago that in one of the hearings before this committee an affidavit was presented by Porter Sheldon, the president of the American Aristotype Company, a company engaged in the manufacture of sensitive photographic paper. This affidavit is as follows:

STATE OF NEW YORK, *Chautauqua County, ss:*

Porter Sheldon, of the city of Jamestown, in said county, being duly sworn, says that he is and for the last five years has been the president of the American Aristotype Company, a corporation organized under the laws of said State, and whose principal business is the manufacture and sale of ready-sensitized collodion photographic paper; that this company uses in the manufacture of its product about \$9,000 worth of alcohol and sulphuric ether per month, including tax on the same; that shortly after the adjournment of the last Congress, without repealing the rebate on alcohol, this company reduced the price on the principal item of its output very largely, but the action of one of the executive branches of the Government in neglecting and refusing to put into operation the rebate provision of the act of 1894, thus virtually nullifying the act of Congress, has caused great embarrassment to this company to know what steps to take for its protection and yet protect its customers, the consumers. If the Treasury Department still persists in attempting to nullify this act of Congress I see no relief from the embarrassments surrounding the business of this company except through the prompt action of the courts.

PORTER SHELDON, *President.*

Sworn and subscribed before me, a notary public within and for said city, January 17, 1896.

H. S. SHELDON, *Notary Public.*

So we have three of the large trades in which alcohol is used—pharmaceuticals, chemicals, and photographic papers—and the largest manufacturers in those trades, showing that their prices were reduced on account of this law.

Here is a large soap manufacturer, Fels & Co., with whose name we may be familiar through the advertising mediums. They manufacture not only the naphtha soap, but other forms of soap, among

them a transparent soap requiring the use of alcohol. They write from Philadelphia, under date of yesterday, as follows:

1710 MARKET STREET,
Philadelphia, March 19, 1900.

WILLIAM B. KING, Esq.,
728 Seventeenth Street, Washington, D. C.

DEAR SIR: In respect of any questions that may come up at the hearing on the 20th instant regarding equity on which claims under section 61 of the act of August 28, 1894, are based, we beg to say that a large number of manufacturers, we among them, relying on the reduction of taxes on alcohol that was practically promised by the act of August 28, 1894, did not increase the prices on goods, such as transparent soaps, in which alcohol formed a part, and as for ourselves, we in many cases actually reduced our prices in anticipation that the rebate would be paid us. We accepted contracts, based on this reduction, which we could not otherwise have done. Relying on the good faith of the Government, as plainly expressed in section 61, we did not make any increase in the price of our goods, though the revenue act of August 28, 1894, increased the taxes on commercial alcohol about 150 per cent.

We beg further to say that where prices were reduced on our product, in which alcohol formed a considerable part, these reductions were largely made with the anticipation that there would be no trouble in our being paid rebates.

Very truly, yours,

FELS & Co.

The Soap Manufacturers Association, at their regular monthly meeting, 15th instant, passed resolutions praying for the passage of the Russell bill and ordered copies of the resolution to be sent to Senator Penrose and all Congressmen from this State.

F. & Co.

This shows that the soap business was affected just as were the other trades. We have now had four branches of business, with important houses in each branch. Here is the varnish business. I suppose there is no one here who does not know the name of Berry Brothers, of Detroit. We see their name in every magazine. They are probably the largest makers of varnish in this country. The letter is dated Detroit, March 16, and is addressed to me.

DETROIT, March 16, 1900.

Mr. W. B. KING, Washington, D. C.

DEAR SIR: As you have been requested to appear before the Ways and Means Committee on the 20th instant in support of House bill 5765, introduced by Hon. Charles A. Russell, of Connecticut, we authorize you to make the statement that in expectation of receiving the rebate promised by section 61 of the general revenue act, August 28, 1894, we made considerable reductions in the selling price of all shellac varnishes in which grain alcohol was used while section 61 was in force.

Yours truly,

BERRY BROTHERS, LIMITED.

If the biggest varnish house made those reductions, can there be any question that all the little ones had to reduce in consequence? Small houses can not keep up their rate when the big ones have made reductions, or the trade all goes to the big ones.

The CHAIRMAN. Is there any line of manufactures wherein the price was not reduced very largely in 1894 and 1895 in this country?

Mr. KING. It is true that about that time there were reductions, but here the reductions were made as a direct consequence, and they were special reductions made in these lines, and because other people reduced their articles in less proportion on account of other causes, when those people reduced their prices on account of this act—

The CHAIRMAN. That does not appear from these letters. The language is they largely reduced. None of them say what reduction there was.

Mr. DALZELL. You have not read a letter in which there is a distinct statement of a reduction in price that could not have been made by any merchant in the United States in any line of business in those years.

Mr. KING. There are the specific statements here by—

Mr. DALZELL. Except that they say they did it because of this act of Congress.

Mr. KING. There are specific statements in these letters that they reduced the prices on goods containing alcohol, and it follows as a fair inference—unless all these great manufacturers are trying to deceive—it follows as a reasonable inference that they are making that statement because they reduced on the alcoholic goods, for the reason given by them, and did not reduce on the other goods or did not reduce to the same extent.

Mr. GROSVENOR. They do not say they did not reduce on the other goods, and we take judicial knowledge of the fact that other people did. There was not an article in the United States that did not go down pell mell from 1894 to 1897.

Mr. KING. Let me ask attention to this fact. It has been said that taxes were reduced on some things at that time. Prices went down, but on every one of the articles of which alcohol was a constituent part the price was raised 37 cents a wine gallon on the commercial alcohol used. Consequently, if these men had held their goods at the same price, as some of them did, they were losers, and they would have a right to say that they held their goods at that price because they anticipated, as many of them do say, the rebate promised by the law.

Mr. RUSSELL. I do not know what information you may have as to the substitution of grain alcohol for wood alcohol in very many lines of manufacture after the passage of section 61 of the act of 1894. I think that is a very important point to bring out. I think that it is true in all hatting industries.

Mr. KING. I was just coming to that. I thank you for calling attention to it now. In all uses of alcohol in manufactures where the alcohol appears in a product that goes into the human stomach wood alcohol can not be substituted. In other articles, such as shellac varnish, the gum that is used to put into derby hats, and a number of other purposes, wood alcohol and grain alcohol are, on the whole, equal as solvents—one has one advantage and the other another advantage. In 1894 the price of wood alcohol was from 70 cents to \$1 a gallon. The price of grain alcohol, without the tax, was from 20 to 30 cents a gallon. With the tax it was from \$2.27 to \$2.37 a gallon, the tax being \$2.07 on commercial spirits. Many manufacturers used wood alcohol up to 1894. Then they gave up the use of wood alcohol and, relying on getting their rebate from the Government under this law, they began the use of grain alcohol. After this law was repealed and they saw that they had no further chance of getting a rebate, they resumed the use of wood alcohol. As a specimen of that I will read what I have referred to already—the statement of the manager of the Dunlap hat factory—because in that factory that particular thing was done. A change in the method of manufacture, in reliance upon the law being carried out, was made.

Mr. RUSSELL. You do not cite that by any means as a single fact?

Mr. KING. Oh, no.

Mr. RUSSELL. It was generally done in the hatting factories all over the country?

Mr. KING. It was done in the hatting business and in other businesses as well. The Dunlap factory is cited, because that case is most talked about and is one of the very best known.

Mr. STEELE. They could better afford to make a reduction in their hats.

Mr. KING. It is a factory where we may say they produce fine hats and get good prices. Charles E. Keator, vice-president of Dunlap & Co., makes the following statement under oath.

I, Charles E. Keator, vice-president of Dunlap & Co., having knowledge of the facts, respectfully submit the following statement in reference to the claim of said Dunlap & Co. for rebates on alcohol used under section 61 of the revenue act of August 28, 1894.

(1) That Dunlap & Co. is a corporation engaged in the manufacture of fine hats, having its principal place of business at Park and Nostrand avenues, in the borough of Brooklyn, county of Kings, State of New York.

(2) That previous to the enactment of the revenue act of August 28, 1894, said company had used wood alcohol as a solvent for shellac to stiffen "derby" hats.

(3) That this wood alcohol was highly injurious to the health of the workmen employed by said company, so that complaints were constantly made by such workmen that the fumes from the wood alcohol were injuring their eyes.

(4) That on the enactment of the revenue act of August 28, 1894, of which section 61 was an integral part, said company stopped using wood alcohol and used instead grain alcohol, on which was paid the internal-revenue tax assessed by law.

(5) That the substitution of taxed grain alcohol for untaxed wood alcohol was made because of the explicit promise on the part of the Government that the internal-revenue tax on such grain alcohol would be refunded to said company.

(6) That notwithstanding the failure of Secretary of the Treasury Carlisle to execute the law, said company continued to use tax-paid grain alcohol during the period that section 61 was in force, up to the time of its repeal by Congress on June 3, 1896.

(7) That on the repeal of section 61 said company ceased using tax-paid grain alcohol and substituted a high grade of untaxed wood alcohol, known as "Columbian spirits."

(8) That the facts as to the use of the tax-paid alcohol on which the claim of said company for rebates is based were all clearly established to the satisfaction of the Court of Claims in the suit brought by us to recover the rebates due us.

(9) That the money paid into the Treasury of the United States as internal-revenue taxes on alcohol used by said company in the manufacture of dissolved shellac between August 28, 1894, and June 3, 1896, would not have been paid if said company had not fully expected that this tax would be refunded by the Government, as provided by section 61.

(10) That the decisions by the Court of Claims and the Supreme Court of the United States, in the suit brought by said company to recover the rebates due under the law, that the failure of the Secretary of the Treasury to prescribe regulations as required by section 61 destroyed the rights to rebates given by the law, have inflicted a direct financial loss on said company.

CHAS. E. KEATOR,
Vice-President, Dunlap & Co.

STATE OF NEW YORK, County of Kings, city of New York, ss:

Personally appeared before me Charles E. Keator, known to me to be the vice-president of Dunlap & Co., who, being by me duly sworn, deposed and said that the annexed statement in regard to the claim of said Dunlap & Co. is true to the best of his knowledge and belief.

CHAS. E. KEATOR.

Sworn to before me this 16th day of March, 1900.

WILLIAM BOYD,
Commissioner of Deeds, Kings County, N. Y.

Mr. RUSSELL. That made a difference in cost to them of a dollar and how much?

Mr. KING. About \$1.60; between 70 cents for wood alcohol, which

they had used before the act was passed, and \$2.30, the price of the taxed grain alcohol, which they used while the act was in force.

The CHAIRMAN. Of course spirit alcohol was better for their business.

Mr. RUSSELL. It is no better for their business, but it is better for their workmen.

The CHAIRMAN. I am asking the witness.

Mr. GROSVENOR. I suppose they would have gone on and taken the eyes out of their workmen by the use of wood alcohol if we had not passed that law.

Mr. KING. What they would have done is this: You can, by the use of fans, ventilators, and so on, reduce to a minimum the bad effects of wood alcohol. Then in the meantime, between 1894 and 1896, wood alcohol was produced in better form—a more refined article. The result was that after 1896 they could pay probably \$1.20 to \$1.30 a gallon for refined wood alcohol, which would not so seriously hurt the eyes of the workingmen, although bad for them then.

Mr. GROSVENOR. This decision of the Supreme Court had a good effect on the wood alcohol industry?

Mr. KING. Oh, undoubtedly.

The CHAIRMAN. I would suggest that it is now nearly 12 o'clock.

Mr. KING. I will ask permission to put in the record some other letters on this same subject illustrating other fields of manufacturing.

The CHAIRMAN. You may hand them to the stenographer, and they will be inserted. (See Appendix, p. 28.)

Mr. KING. We may wish to add some additional suggestion and facts.

ADDITIONAL STATEMENT OF HON. DON M. DICKINSON.

Mr. DICKINSON. I should like ten minutes in conclusion upon the question of chances of fraud in the Court of Claims.

Mr. GROSVENOR. We have a right to amend the bill by throwing around it any safeguard we may think necessary or judicious.

Mr. DICKINSON. All of the safeguards you can imagine. Upon that point, in conclusion, I desire to be heard not longer than ten minutes.

I will say in passing, inasmuch as there was a criticism upon the letter of Parke, Davis & Co., that it was written to me the day before I started. They have five branch houses, besides the chief house in Detroit, and they manufacture 6,000 articles. They state, generally, that they made reductions on the articles in the manufacture of which they used alcohol. To prepare a statement of that kind, involving 6,000 articles in their various branch houses, would take some time, but we can furnish it to the committee.

In conclusion, I desire to call the committee's attention to an argument, or the suggestion of an argument, that the passage of this bill will open the door to fraud. Of course, the bill carries no appropriation. We must pass through the Court of Claims on every claim for this rebate. I submit the general proposition to the committee that juridical methods in the history of jurisprudence are the best methods of detecting fraud known. They are superior to the methods adopted in departmental systems. There you have the examination of the witnesses. We have a court which is set up here directly by the Congress under its immediate oversight. In the recent Mexican claims cases a reference was made by Congress to the Court of Claims

upon suspicion of fraud for the very object of determining the fraud, and the fraud was found and judicially declared. Before that court came the claims of letter carriers for extra hours, where chances for the multiplication of claims or the increase of claims or the manufacture of claims were very great. They examined claims amounting to between \$4,000,000 and \$5,000,000 and allowed about \$3,250,000.

In this case the distiller and the wholesale dealer of alcohol are surrounded by a code of laws to prevent fraud upon the revenue. Among them is this provision, both as to the distiller and the wholesale dealer, that every item of goods received in packages (which they must be) of not less than 5 gallons, must be entered in a book kept for that purpose. Furthermore, that every delivery from the wholesale dealer or the distiller must be entered in the book with the name of the party buying or receiving it. Nay, more; not only must those books be kept by the wholesale dealer, from whom the manufacturers must buy, or by the distiller, but a duplicate of these books must be filed for safe-keeping until the end of time, so far as the law provides, with the collector of internal revenue of the district. So that the manufacturer approaching the Court of Claims must first demonstrate that he has procured the alcohol under the safeguards provided by the internal-revenue law. There is the evidence that he bought it, preserved. He then comes into the Court of Claims and says here is the alcohol I bought. Did it go into my manufactured goods? Here is the product in which we used alcohol. Here is the percentage of alcohol used in that product and here is the alcohol that we bought, and you may ascertain by oral examination of the witnesses the amount obtained and the amount used. We must prove it. The burden is entirely upon us. There is no shifting of the burden to the Government at all. The burden is upon us, especially in dealing with distilled spirits under this code of laws for the protection of the revenues. The burden is invariably upon the distiller and the wholesaler or the user to establish that he has been guilty of no fraud.

Mr. GROSVENOR. They have the burden of the evidence, too.

Mr. DICKINSON. They have the burden under this code of laws. The presumption of fraud is the other way, and this is exceptional as to the revenue laws. On the Court of Claims five judges sit, and there are your safeguards. It is impossible, gentlemen of the committee, to commit frauds under this code of laws as provided here.

The CHAIRMAN. This matter was before the committee in 1890. We spent a good deal of time trying to find some way to have alcohol free in the arts. The committee were not able to find any man who could devise a scheme to protect the revenues, either in the judgment of the officials who had the collecting of it or in the judgment of the committee, and they left out the general provision in the bill. Then the committee over which Mr. Wilson presided in 1894, as I understood the majority of the committee then, although I was one of the minority and was not let into the secrets of what they were doing, had the same matter under consideration and they tried to devise some way.

A great many different schemes, bond schemes that were in use abroad, were before the committee. They left it out of their bill. The bill went over to the Senate and this amendment was put on there. Section 61 was put on in the Senate, as I recollect, and in debate the same question was raised. The amendment provided that it must be done under regulations prescribed by the Secretary of the

Treasury, and it was stated that he could not devise any regulations to prevent fraud. Then it was stated in argument that if that was true then there could not be any liability for any money to be collected under that act; that if he did not provide the regulations they could not collect any money. Now the time has passed. The alcohol has been consumed. It was consumed in 1894, 1895, and 1896, and if we could not devise any scheme in 1890, before the using, except putting it in a bonded warehouse, or where the Government could have supervision similar to distillery warehouses, it seems to us pretty difficult to prevent fraud now. We have not so much faith in some of our courts detecting fraud as you have, owing to experience perhaps in the matter of claims. I do not say anything against the integrity or the ability of the court, and I am giving my own individual opinion.

MR. DICKINSON. Can there be any question that the amount of alcohol received by the manufacturer can be tested under the law?

MR. GROSVENOR. Let me ask you a question.

MR. DICKINSON. Certainly.

MR. GROSVENOR. It is all clear up to that point. What is there in the records of one of these wholesale manufacturing establishments that shows what part of the purchased alcohol went into the arts, and what went into something else?

MR. DICKINSON. That is just as well settled as a mathematical problem—the percentage that goes in. It is susceptible of expert testimony and of oral testimony of the manufacturer.

MR. GROSVENOR. I am not denying it.

MR. DICKINSON. No, sir. That being so, there can be no escape from the proposition that fraud is impossible in recovering before the Court of Claims. It may have been a dangerous law to permit to remain on the statute books, fraud might have been perpetrated upon the collector of internal revenue under these regulations, but it is impossible under this proposed act, if the Congress pass it, to perpetrate fraud before the Court of Claims—practically impossible.

THE CHAIRMAN. They now have the same safeguard you speak of about keeping a record of the amount used.

MR. DICKINSON. I desire to make the further point that every package must be stamped and we must tender to the Internal-Revenue Department as we have tendered the stamps that were on the package we used. There is the evidence of the quantity.

MR. DALZELL. Let me ask you, Mr. Dickinson, how soon after the approval of this act was it that the Secretary of the Treasury made known practically to the world that there would be no regulations?

THE CHAIRMAN. The act was never approved. It became a law on the 28th of August.

MR. DICKINSON. The act was never approved. It was held ten days.

MR. DALZELL. I stand corrected.

MR. DICKINSON. The last letter of the Secretary of the Treasury is dated December 3, 1894. It is a communication to the Congress.

THE CHAIRMAN. But in October the correspondence between the Secretary and Mr. Miller was published?

MR. DICKINSON. Yes; the first letter from the Commissioner was dated October 3. The last letter of the Commissioner, saying that he need not give the matter any further attention because it needed an appropriation, was October 6.

MR. GROSVENOR. Only a month.

MR. DALZELL. Within two months after the passage of the act it was stated that there would be no regulations. Surely nobody can contend that he was misled after that period.

MR. DICKINSON. Misled! Every lawyer in this country advised the manufacturers that there was no question of recovery on this proceeding.

MR. DALZELL. Of course, if a man took the advice of his lawyer that is another thing. He ought to go back on his lawyer.

MR. DICKINSON. No one ever dreamed, if you will examine the decisions of the Supreme Court, that they could come to this decision. The manufacturers have acted in good faith, as this correspondence shows. We submit that the good faith of it is shown in that the men who have proceeded upon this act of Congress have not increased their prices at least, although their tax is increased, and have reduced their prices in most cases, and they should have relief.

I thank you very much for this hearing, Mr. Chairman and gentlemen.

At 12 o'clock and 10 minutes p. m. the committee adjourned.

APPENDIX

PHILADELPHIA, *March 17, 1900.*

MR. WILLIAM B. KING,
No. 728 Seventeenth Street Washington, D. C.

DEAR SIR: We are in receipt of your favor of March the 16th, and we have no hesitancy in placing ourselves most emphatically on record as having taken into account, in pricing our goods, the expectation that the United States Treasury would actually be ruled by United States laws, passed by Congress and signed by the President. It was simply common business reasoning with us, that our competitors would take advantage of the alcohol tax rebate law in making their prices, and naturally we did the same; hence, when Mr. Carlisle nullified the Congress of the United States and its actions, and when he went over the signature of the President of the United States, in repudiating this clear obligation of the Congress, we were out and are to-day out just as much money as the amount of our alcohol claim in your hands. We have this to say, however, in light of our past experience with the Ways and Means Committee when it was constituted almost exactly as it is constituted to-day, we found that there were but few theorists in its make up. We have found that business reasoning is given its proper consideration, and hence, we feel that the justice, which has been so long delayed through Treasury mismanagement or worse, will be quickly set right when this matter comes before this capable committee. With this hope before us, and selfishly wishing you success, we remain,

Yours, truly,

FRANK H. FLEER & COMPANY.

MR. W. B. KING,
728 Seventeenth Street, Washington, D. C.

HARTFORD, CONN., *March 17, 1900.*

DEAR SIR: You are authorized to state to the Committee on Ways and Means that our firm, in view of the expected rebate on alcohol, reduced our price on tinctures and many preparations of which alcohol was a component part. The Department probably has these letters on file, and you have a copy of them to which you can refer.

Yours, truly,

TALCOTT, FRISBIE & Co.

332 NORTH THIRD STREET,
Philadelphia, March 19, 1900.

Mr. Wm. B. KING, *Washington, D. C.*

DEAR SIR: At the request of Mr. Henry Dalley, jr., chairman of committee of manufactures, we write to set forth briefly the facts concerning the effect upon our business of the act of August, 1894, relative to taxation of alcohol. Immediately upon passage of said act we examined same carefully, and finding the provision of a rebate therein which clearly applied to "the use of alcohol in arts, manufactures, medicines, and like compounds," we counted upon the rebate, and did *not* raise prices of our products, but in many instances where large quantities of alcohol were used in preparations the prices were reduced by us by reason of our faith in the provision for a rebate contained in the act.

Very truly, yours,

THE FREYTAG AND PEELER Co.

243 NORTH THIRD STREET,
Philadelphia, March 17, 1900.

Mr. Wm. B. KING, *Washington, D. C.*

DEAR SIR: Pursuant to the request of Mr. Henry Dalley, jr., we will say regarding the alcohol question that we were getting less money for our goods after section 61 of the tariff act went into effect than previously, as the discount off of our list was increased, thus making the net prices cheaper to the consumer. The said prices were at a less rate than a few years previously, even when alcohol was at lower figures.

Hoping that this fully answers your purpose, I remain,

Yours, respectfully,

ROBERT A. HANCE.
R. A. H., Jr.

P. S.—We wish to incidentally remark that we, as well as the others in our line, are particularly burdened with the war-revenue tax, we having to stand a large tax in our business from which *we get no return, and is a direct expense to us as well* as to others in the drug trade who are seeking a relief from the Government for taxes on alcohol under the Wilson tariff act. Our line, and the whole drug trade, was particularly taxed by the Government, exclusive of all other businesses, to stand a proportion of the war taxes. We thought it would be well for you to incidentally make use of this in your argument.

R. A. H., Jr.

NOS. 73-75 WELLS STREET, CORNER OF ILLINOIS,
Chicago, March 16, 1900.

Mr. W. B. KING,
728 Seventeenth Street, *Washington, D. C.*

DEAR SIR: As requested by Mr. Dalley, we beg to advise that during the effectiveness of section 61 of the Wilson bill we sold a great many goods at prices very much lower than we would have done if we had not based our expectations on securing the rebates to which we feel that we are entitled. In fact we had been selling bulk goods at prices which caused an actual loss to us when we figure out the cost of the goods, without taking into consideration the tax paid on the alcohol, which, in our business, constitutes so large a proportion of the first cost of the majority of our products.

Yours, truly,

THE SEARLE & HERETH Co.,
O. T. EASTMAN,
Secretary and Treasurer.

I, William T. Mayer, treasurer of the Albany Chemical Company, having personal knowledge of the facts, respectfully submit the following statement in regard to the claim of said company for rebates on alcohol used under section 61 of the revenue act of August 28, 1894:

(1) That the Albany Chemical Company is a corporation engaged in the manufacture of standard chemicals, having its principal place of business at No. 224 Broadway, city of Albany, State of New York.

(2) That in the manufacture of many of such chemicals alcohol is an important and necessary raw material.

(3) That the revenue act of August 28, 1894, increased the internal-revenue tax on alcohol from 90 cents to \$1.10 per proof gallon of commercial alcohol.

(4) That the same act provided that—

“Any manufacturer finding it necessary to use alcohol in the arts, or in any medicinal or other like compound, may use the same under regulations to be prescribed by the Secretary of the Treasury, and on satisfying the collector of internal revenue for the district wherein he resides or carries on business that he has complied with such regulations and has used such alcohol therein, and exhibiting and delivering up the stamps which show that a tax has been paid thereon, shall be entitled to receive from the Treasury of the United States a rebate or repayment of said tax so paid.”

(5) That as a result of this explicit promise on the part of the Government to refund the tax on alcohol used in the arts, the prices of all the products manufactured by said Albany Chemical Company of which alcohol was a component part were materially reduced, because of the expectation of many manufacturers that section 61 would be carried into effect in the same manner as all other sections of the revenue act of 1894 were executed.

(6) That even if the Albany Chemical Company had wished to maintain the prices of its products it could not have done so, because of the reduction in prices of the same articles by competing manufacturers, who acted on the inducements held out by the Government.

(7) That the promise of the Government to pay rebates of the tax on alcohol used in the arts prevented the Albany Chemical Company from raising the prices of their products to correspond with the increase of 37 cents per gallon in the cost of each gallon of commercial alcohol.

(8) That the decision by the Supreme Court of the United States in the test case of R. Dunlap & Co., that the failure of the Secretary of the Treasury to issue regulations for the use of alcohol in the arts, as required by section 61, destroyed the rights of the manufacturers to the rebates of the tax on alcohol used in the arts during the period of twenty-one months that the law was on the statute book has inflicted a heavy financial loss on said Albany Chemical Company.

WM. T. MAYER,

Treasurer Albany Chemical Company.

STATE OF NEW YORK, *City and County of Albany, ss:*

Personally appeared before me, William T. Mayer, known to me to be the treasurer of the Albany Chemical Company, who, being by me duly sworn, deposed and said that the annexed statement in regard to the claim of said Albany Chemical Company is true, to the best of his knowledge and belief.

WILLIAM T. MAYER.

Sworn to before me this 16th day of March, 1900.

DAVID A. THOMPSON,
Notary Public.

NEW YORK, *March 19, 1900.*

WILLIAM B. KING, Esq.,
728 Seventeenth Street, Washington, D. C.

DEAR SIR: As manufacturers having a claim against the United States for rebates of the internal-revenue tax on alcohol used by us under section 61 of the revenue act of 1894, we hereby authorize you to inform the honorable Committee on Ways and Means at the hearing on House bill 5765 on March 20, that owing to our expectation of receiving the rebates promised by section 61 we in no case increased the prices of our products of which alcohol is a component part while that law was in force, notwithstanding the large increase in the cost of alcohol owing to the increased internal-revenue tax imposed by the revenue act of 1894.

We would also state that during the period that section 61 was in force, in manufacturing goods for export, we used domestic tax-paid alcohol instead of imported alcohol, on which we would have received a rebate of the custom duties, thus giving us practically free alcohol if we had used the foreign article. By using domestic tax-paid alcohol for our export trade in the expectation of receiving the rebates promised by section 61, we lost the entire amount of taxes on such alcohol,

Yours, very truly,

HICKOK & JOHNSON.

YONKERS, N. Y., March 19, 1900.

WILLIAM B. KING, Esq.,
 918 F street, Washington, D. C.

DEAR SIR: We beg to submit the following statement of facts in relation to our claim for rebate of the tax on alcohol used by us in the arts while section 61 of the revenue act of August 28, 1894, was on the statute book.

As manufacturers of standard pharmaceuticals we used a large quantity of alcohol in our industry, expecting to receive the rebates which the section 61 of the revenue act of 1894 provided should be paid to us. We were so confident that the law would be faithfully carried out by the Secretary of the Treasury that we reduced the prices of our products, for the sole reason that we relied on the Government's plainly expressed contract to refund the internal-revenue tax on the alcohol used.

In this connection we would direct attention to the fact that the revenue act of 1894 increased the tax on alcohol from 90 cents to \$1.10 per proof gallon, equal to 37 cents per gallon of commercial alcohol. This increased tax was paid by us, thus adding largely to the cost of our products, but, as above stated, we not only did not advance the prices of our goods, but materially reduced them. This was done generally by other manufacturers of the same kinds of articles in which alcohol is an important raw material.

Even when Secretary Carlisle assumed the power to nullify a tax law of Congress, and refused to issue regulations, as required by the law, we did not advance our prices to correspond with the increased cost of alcohol, as eminent attorneys advised that, under all previous rulings of the Supreme Court, the Government would ultimately be required by the courts to refund the rebates to which we became entitled while the law was on the statute book.

We would therefore submit that unless Congress now legislates so as to set aside the technical defense sustained by the Supreme Court in the Dunlap test case, a heavy financial loss will be inflicted on us through failure to recover the rebates to which we are justly entitled, and which were given us by a law of Congress.

There is not the slightest doubt that by section 61 Congress provided that we should receive rebates of the internal-revenue tax on alcohol used in the arts. That law was in force twenty-one months, but we have not received one cent of the rebates which the law said should be paid us, because an executive officer arrogated to himself the power to set aside a law duly enacted by Congress. We trust that such action by a public officer should not meet with the approval of any member of Congress, but that House bill No. 5765 will be promptly enacted, both as a matter of simple justice to all the manufacturers interested, and as a declaration that the laws of Congress are meant to be strictly enforced.

In requesting the support of our Representatives for this bill we do not appeal for legislative favor, but simply and solely for that exact justice and equity to which every citizen is entitled under the Constitution and laws. We contend that the Government should treat us in good faith, and that Congress should enable us to press our claims before the highest legal tribunal without being met by the technical and doubtful defense and negligence on the part of an officer of the Government to enforce the laws passed by Congress.

The essential question involved is not complicated, and resolves itself into the simple query, Shall or shall not the great Government of the United States pay to certain of its citizens sums solemnly acknowledged by Congress to be due and payable, or, on the other hand, shall the nation repudiate its just and legal obligations?

One point to which your attention is especially called as an example of the loss which will be sustained by us unless we are eventually paid amounts due us as rebates is as follows:

Previous to the enactment of section 61 of the Wilson tariff act we used imported alcohol in the manufacture of our goods for export to foreign countries, in order that the import tax paid on same might be refunded to us as drawback. When, however, section 61 became legally operative we used domestic alcohol, relying on the law and the good faith of the Government to refund to us the amounts paid as tax on same. The amount represented by this tax is consequently a complete loss to us unless the Government eventually makes good its promises to refund as rebates the amounts paid into the Treasury under the distinct understanding that same should ultimately be returned.

Trusting that these arguments may be of some weight in behalf of the passage of the Russell bill, we remain,

Very truly, yours,

THE ARLINGTON CHEMICAL COMPANY,
 F. W. R. ISCHINSUR, *President.*

[Telegram.]

LOWELL, MASS., *March 19, 1900.*

WM. B. KING,
728 Seventeenth Street, Washington, D. C.:

You are authorized to announce to the Committee on Ways and Means that we made very large shipments to Great Britain during the time section 61 remained in effect, in which domestic tax-paid alcohol was used; that we commenced the use of foreign alcohol in export goods after repeal of section 61, on which drawback has been paid us under custom-drawback law; that had we not depended on receiving the rebate promised by section 61 foreign alcohol would have been used for export goods during the lifetime of that law; that we made no increase in prices after enactment of section 61, notwithstanding the increased tax on alcohol was from 140 to 250 per cent of its cost. In using domestic instead of foreign alcohol, we acted on the opinion of our attorneys that the Secretary of the Treasury could not annul an act of Congress by refusing to issue regulations.

C. I. HOOD & Co.

 NEW YORK, *March 19, 1900.*

WILLIAM B. KING, Esq.,
728 Seventeenth Street, Washington, D. C.

DEAR SIR: You are hereby authorized to state in our behalf to the honorable Ways and Means Committee that:

First. We made a large quantity of ether between August 28, 1894, and June 3, 1896, from tax-paid grain alcohol.

Second. This ether was used in the manufacture of photographic paper by the firms to whom it was sold, we agreeing to credit the rebate to their account when received from the Government.

Third. That it is a fact well known to the trade, that in expectation that the rebate promised by section 61 would be paid, said manufacturers of photographic paper made very large reductions in the price of said paper, which reduction, after due allowance was made for cost of collection and interest on the capital locked up as a result of Mr. Carlisle's refusal to issue regulations, placed the selling price of said paper on about an untaxed alcohol basis.

Yours, very truly,

CHAS. COOPER & Co.

 EARLVILLE, N. Y., *March 17, 1900.*

WILLIAM B. KING, Esq.

MY DEAR SIR: For your information, we would state that our equity in the rebate under section 61 is \$8,673.11. Upon the advance made in spirit by the increase of the tax under the revenue act of August 28, 1894, we had no doubt of the good faith of the Government, and expected as much of the Government as we would of an individual, and so made no change in our price. The consequence was we were losers. We at the same time counted our claim as a good asset. As time passed, and the claim was not paid, the effect was nearly ruin. Prices of our commodities were generally reduced, and reasonably, too, expecting the rebate. This has made an unsettled condition from which the trade has never recovered. I trust you will be able to convince the committee of the justice of our claim.

Very respectfully,

THE C. L. COTTON PERFUME AND EXTRACT CO.,
Per C. L. COTTON, *President.*

 SARATOGA SPRINGS, N. Y., *March 17, 1900.*

WILLIAM B. KING, Attorney,
Washington, D. C.

DEAR SIR: Learning of the proposed hearing of the Russell bill before the Ways and Means Committee, to be held on the 20th instant, leads us to write you briefly relative particularly to our position in the matter. You will, of course, understand that we are a corporation under the laws of the State of New York, incorporated

1890, and doing a large business as manufacturing chemists, having at the present time 65 salesmen on the road, including Canada. These men cover every State in the Union from Maine to Texas, and east of the Mississippi River, also a few States on the west side of the same, and we have a local agency in California, who also send out representatives. Our goods are regular pharmaceutical products which we sell direct to physicians through our salesmen calling upon them at regular intervals of time. We are therefore large users of alcohol (grain) in our business, and were at the time of the passage of the bill in August, 1894, embodying section 61.

At that time, notwithstanding the greatly increased taxes upon alcohol, having faith that the Government would rebate to us in accordance with the provision of the said section 61, we made no advance whatever in the price of our goods into which alcohol entered as a part, nor have we done so since. Of course, our position in this matter is the same as many others, and we certainly feel that a great injustice has been done by the decision of the Supreme Court in their decision of the Dunlap case, which, if permitted to stand, causes us a very heavy loss which we might have saved the necessity of except for our confidence in the intentions of the Government according to the terms in the said section 61. A very great injustice has been done the houses in our line of business, or other users of alcohol of the same nature, and we feel there can be no doubt whatever but what Congress will see the unfairness of the position under the present status.

Yours, truly,

THE G. F. HARVEY Co.,
Per L. H. CRAMER, *Treasurer.*

THE UNION METALLIC CARTRIDGE COMPANY, BRIDGEPORT, CONN.

NEW YORK, *January 31, 1896.*

ANDREW B. ROGERS, Esq.,

Chairman Committee on Legislation, etc.

DEAR SIR: Referring to section 61 of the existing tariff act, which provides for rebate on the internal-revenue tax on alcohol used in the arts, we respectfully invite your attention to the following facts regarding the manufactures in which we are interested, viz, metallic ammunition.

The tariff act of August 28, 1894, increases the rate on commercial alcohol 37 cents per wine gallon. It was understood by us and many other manufacturers that this increase of tax was designed solely to apply to alcohol used in the manufacture of beverages and intoxicants, to effect which purpose section 61 was made a part of the tariff act solely to afford relief to manufacturers using alcohol in the industrial arts from the payment of the enormous tax of \$1.10 per proof gallon, this tax being more than ten times the actual cost to manufacture alcohol.

If section 61 had not been made a part of the amended Wilson bill, we and many other manufacturers would have entered our vigorous protest against its passage in any other form.

In the manufacture of metallic ammunition, percussion caps, etc., we necessarily use large quantities of fulminate of mercury, which, prior to the last tariff act, we were compelled to purchase in Canada, the duty under the McKinley act being 30 per cent ad valorem, which made the cost to us of the finished product materially less than the cost to manufacture in the United States. The Canadian laws are very liberal relative to the tax imposed on alcohol used in the industrial arts, and therefore they could practically monopolize the manufacture of fulminate of mercury for ammunition manufacture in the United States. It is a well-known fact that alcohol has been withdrawn from distillery warehouses in the United States, shipped in bond to Canada to be used in the manufacture of fulminate of mercury, and said fulminate of mercury subsequently returned to the United States, thus enabling Canada, prior to the Wilson bill, to build up a prosperous industry at the expense of this country.

Regarding section 61 as a form of contract offered by the United States, we accepted its provisions, and since its enactment we have used domestic tax-paid alcohol in the manufacture of fulminate of mercury, relying upon the Government to rebate tax paid on alcohol used by us. Secretary Carlisle having refused to issue regulations under which the rebate could be made, we must necessarily seek relief in the Court of Claims for the rights granted us by the law; furthermore, if the Government does not take action at an early date, indicating that alcohol used in the arts will be subject to rebate of tax, we shall be forced to discontinue the manufacture of fulminate of mercury, and shall purchase same in Canada, as formerly.

Section 61 is, in our opinion, clearly a proviso of section 48, the latter imposing a tax of \$1.10 per proof gallon on distilled spirits, and we therefore consider it would

be a great hardship upon us and other manufacturers if Congress should enact the Vest bill or repeal the law.

The failure of Secretary Carlisle to perform the duties required of him by law has left this branch of our business in a chaotic state, and we earnestly hope that some immediate relief can be obtained, which, in our opinion, should be the prompt passage of the Hoar bill. We therefore respectfully urge you to exercise every legitimate means in your power to attain this end.

Yours, truly,

UNION METALLIC CARTRIDGE COMPANY,
M. HARTLEY, *President.*

Safeguards against fraud which would be adopted in the adjudication of claims for refund of the tax on alcohol used in the arts upon the passage of the bill relating to this subject introduced by Senator O. H. Platt, S. 2283, and Representative Russell, H. R. 5765.

The chief objection that has been raised against the enactment by Congress of the bill relating to section 61 of the revenue act of 1894, introduced by Senator O. H. Platt, of Connecticut, and in the House by Representative Charles A. Russell, is that to allow the Court of Claims to adjudicate claims arising under section 61, in spite of the failure of Secretary Carlisle to execute the law, would open the way to fraud upon the Government. An examination of the following statement as to the method of procedure before the United States Court of Claims will show that there is not the slightest possibility of the Government being called upon to pay any unfounded claims if the bill in question becomes law:

It is estimated by the Attorney-General that the total amount involved in the claims for rebate of tax on alcohol used in the arts under section 61 of the act of August 28, 1894, until its repeal on June 3, 1896 (see Attorney-General's Report, 1899, page 16), is about \$6,000,000. It is not proposed that these claims shall be paid as the result of an ex parte investigation, or of settlement by any executive officer. The bill leaves the jurisdiction over them with the Court of Claims, in which the suits have already been filed. Consequently every safeguard which the experience of forty-five years before that court can advise in protecting the Government from fraudulent claims will be at the disposal of the United States in these cases.

The act of 1894 grants a rebate of the tax paid on alcohol used in the arts on proof of the following facts:

1. That the tax was first paid on the alcohol.
2. That the identical tax-paid alcohol was used by the manufacturer.
3. That this use was in the arts or in medicinal or other like compounds.

On proof of these facts the claimant would be entitled to recover. The payment of tax on alcohol is shown by the records of the internal-revenue offices in every case. The issuance of every stamp is shown, the name of the person paying the tax, the amount of the tax, and the distillery where the alcohol was produced. It is also necessary for every wholesale dealer in alcohol to keep a record of the person from whom he bought it and the person to whom he sold it. These records are kept on forms prescribed by the Internal-Revenue Bureau and are open to supervision and examination of internal-revenue officials at all times. The alcohol can, by these official books, be traced in every case from the distillery where it was made and where the tax was paid to the manufacturer who used it and claims a rebate upon it. This system has been in operation for many years, and it has been found to effectually prevent irregularities in connection with the distilled spirits taxed. Thus there can be no contention that any fraud could be practiced successfully against the Government in regard to the payment of the tax on alcohol produced and sold to the manufacturer who now makes claim. The manufacturer, having shown that alcohol came into his establishment, would be obliged to prove the articles manufactured by him from it, and show that the alcohol on account of which claim is made entered into the manufacture of these articles. In order to do this it would be incumbent on him to furnish such degree of proof as would satisfy the Court of Claims. The advantage here is necessarily with the Government. The court will not render a judgment in any case unless the proof presented positively establishes the claim. No claimant, in any event, can get more than the amount officially traced into his factory, and clearly proven by sworn testimony to have been used for the purposes specified in the law. If the claimant and his employees are still living their testimony will be taken in accordance with the rules of the Court of Claims, not by ex parte affidavit, but by depositions subject to cross-examination by an attorney for the United States acting under the direction of the Attorney-General.

This attorney will go into the factory of the claimant and the witnesses can be summoned to testify there. Upon the slightest suspicion of irregularity in their testimony they will be subject to searching cross-examination and to such investigation as may be brought to bear through the Department of Justice and the Bureau of Internal Revenue. Agents of this Bureau are scattered throughout the entire country. They are familiar with the uses of alcohol, and they will have an opportunity to report to the officers of the Department of Justice whether any user has fallen under suspicion of irregularity, making an examination in his case of the utmost stringency. When these depositions are transcribed by a proper commissioner of the Court of Claims the Government is then at liberty to call other witnesses, who may be found among United States officers or employees of the claimant, discharged or still employed.

The claimant's statement as to the quantity of alcohol actually consumed will be subject to check by showing from his books and other records the total amount of the product produced by him during the period covered by the claim.

When thus tested any discrepancy between the original statements of the claimant and the actual result of comparison of his output will be at once made clear, and the Court of Claims may, in a proper case, disregard the testimony wholly when such contradictions appear.

After all testimony has been taken by both claimants and the United States the case is submitted to the Court of Claims for its decision upon elaborate oral argument before the bench of five judges whenever this is desired by either party. The whole record of the case is then taken up by the court and given very careful and considerate attention, and judgment is not entered unless the facts are clearly established as alleged by the claimant in his petition.

It was this mode of proof which was followed in the test case of Dunlap & Co., brought under section 61 of the revenue act of 1894, in which a decision adverse to the claimants on the law was reached by a vote of 5 to 4 in the Supreme Court of the United States. The Court of Claims scrutinized the evidence in that case with great care and all possible points were taken up by the astute counsel for the Government upon the facts. But the court found all the facts as alleged by the claimant, because the evidence produced was of a convincing character.

The Court of Claims has but recently finished the adjudication of a class of claims fully as difficult and susceptible of fraud as these cases, namely, the claims of the letter carriers for overtime, and no complaint has been made that the \$3,500,000 paid out under the judgments of the court was not honestly due.

The act of March 3, 1899, contains an appropriation to pay over \$1,000,000 upon findings of the Court of Claims in the cases under the Bowman Act, for property taken by the Army during the civil war, and a larger amount for spoiliations committed by the French at the close of the last century. No suspicion of fraud has touched these claims, but the safeguards, as applied by the Court of Claims, have been sufficient to inspire general justice in the cases of complicated facts relative to events in the one instance of more than thirty years ago and in the other of a hundred. A single judgment has just been entered by the Court of Claims in favor of the New York Indians of \$2,000,000, and an appropriation was made by Congress immediately without the least question. Judging by these large responsibilities successfully assumed by the court, it seems utterly absurd to suppose that in the adjudication of another class of claims there can be any possibility of a successful attempt at fraud.

TAX ON INSURANCE COMPANIES—WAR REVENUE ACT.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

WEDNESDAY, MARCH 21, 1900.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.	CHESTER I. LONG.
ALBERT J. HOPKINS.	JAMES D. RICHARDSON.
CHARLES H. GROSVENOR.	SAMUEL M. ROBERTSON.
CHARLES A. RUSSELL.	CLAUDE A. SWANSON.
JONATHAN P. DOLLIVER.	GEO. B. McCLELLAN.
GEORGE W. STEELE.	FRANCIS G. NEWLANDS.
JAMES A. TAWNEY.	SAM. BRONSON COOPER.
SAMUEL W. McCALL.	OSCAR W. UNDERWOOD.

HULL GREENFIELD, *Clerk.*

WASHINGTON:

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TAX ON INSURANCE COMPANIES—WAR REVENUE ACT.

WEDNESDAY, *March 21, 1900.*

The Committee on Ways and Means this day met at 10:30 a. m., Hon. Sereno E. Payne in the chair.

(Copy of bill (H. R. 6258) under consideration and the amendments as proposed to the bill by the insurance companies appear on page 11.)

STATEMENT OF MR. WILLIAM BROSMITH, OF HARTFORD, CONN.

Mr. BROSMITH. Mr. Chairman and gentlemen of the committee, we appear here on behalf of various insurance companies of the country, representing fire, marine, and other casualty insurance companies, to ask at your hands a favorable report on House bill 6247. We ask that for the reason after a year's—

Mr. RUSSELL. H. R. 6247 at the beginning states:

That from and after July 1, 1900, in lieu of the stamp taxes now imposed by the act to which this is an amendment—

And it makes no description whatever of that act. Evidently it was a clerical error or omission of some kind.

Mr. BROSMITH. The description is in the title of the bill.

Mr. RUSSELL. Bill 6258 says:

Now imposed by the act entitled "An act to provide ways and means to meet war expenditures and for other purposes," approved June 13, 1898, to which this is an amendment.

Otherwise—

Mr. BROSMITH. Otherwise it is the same bill.

Mr. DALZELL. Who introduced H. R. 6247?

Mr. BROSMITH. Mr. Henry. We ask a favorable report on this bill, gentlemen, for the reason that after a year's practical operation we have found, while the insurance companies are entirely willing to bear the burdens which are imposed on them in common with all other corporations and citizens of the country in the way of attaching stamps to various documents, that the bearing of this law upon our insurance business especially is very burdensome and very trying, and we are justly entitled to ask relief. We have, throughout the country, something like 500,000 men who are directly or indirectly connected with the business in the different branches of insurance.

There are 38,000 life-insurance agents, and the others are scattered around through the different branches. With the exception of life policies and liability policies, all the accident and casualty policies and

fire and marine policies are written in at the home offices of the companies and at the various writing agencies throughout the United States. The stamps can not be attached at the home office, but must be furnished to the agents throughout the country in varying sums and denominations from one-half of a cent up, so that they may be attached to the policies when they are delivered and go into effect. We have in the accident business tickets on sale in every ticket office, practically, in the United States, where policies are sold from one day, 25 cents, up to a month, at \$4.50, and writing agents' policies from \$500 and industrial policies up to \$30,000 and \$40,000, and stamps for all those policies must be supplied to the agents in varying amounts.

We have no way of keeping tab on them; we have no way of seeing the proper stamps are put on upon the proper policies for the proper amounts, and we are subject to great inconvenience and loss; and we ask that you substitute for a method that, while it produces money to the Government, is so burdensome and annoying, a method which will furnish to the Government all the revenues that the present method furnishes and at the same time save the companies from the necessity of putting these stamps upon the policies, and save them from loss and annoyance, which some of these gentlemen here will explain to you. The method which is proposed in this bill is not a new one. It is the same method that is applied in some twenty or more States of the United States in collecting taxes upon incomes of the various companies transacting business throughout those States.

It is the same method applied by this very bill to the industrial branch of life insurance, with this exception—that this bill proposes that the reports of the company shall be made annually, while the section which requires a statement from the industrial companies requires them to be made quarterly. It has been stated to us that that might be objectionable, in making reports at such long intervals. But the one-year period for a report was put in this bill simply because the companies are accustomed to make reports of that kind to the various States for the purpose of taxation annually. If, however, in the judgment of any of the members of the committee, more frequent reports should be made, and more frequent returns of taxation be made to the Government, it will be entirely acceptable to the insurance companies.

Now, some idea of the extent of the annoyance to which we are subjected will be given by the consideration of the amount of insurance written last year in the companies reporting to the department of state of Connecticut. The life companies, not considering the industrial insurance, wrote \$1,155,147,000 of new life insurance. These policies are away below \$5,000 on the average; so you can get an idea, probably, of the number of persons who had to be employed in connection with the issuance of those policies. The casualty companies collected in premiums in the United States last year \$21,004,000. Those premiums were collected on policies, as I have said, varying in amounts from one day in duration, at 25 cents premium, to policies of \$25,000 or \$30,000, with a premium of \$100. In writing a policy for each day, the revenue stamps had to be inserted at the rate of one-half of 1 per cent.

The fire and marine insurance companies during the year 1899 collected throughout the United States \$163,000,000 of premiums on business written in the United States during that time and upon all the policies and the transfers and assignments and renewals of those

policies stamps at the rate of one-half of 1 per cent had to be attached. Now, in the method proposed in this bill, whether the reports be made annually, semiannually, or quarterly upon the volume of insurance written, the life companies will pay 8 cents on each \$100, and the casualty, fire, marine, and other companies one-half of 1 per cent. The present collector of internal revenue with his present force, with the use of one clerk and an expense not to exceed \$50 a year can collect \$2,000,000 of taxes which this business would produce under the present rates to the Government with hardly any bother, any annoyance, and certainly without any annoyance or bother to the companies, and in doing that save the present expense of inspection and printing internal revenue stamps and all other departmental expenses which go with the present methods of collecting revenue from these companies.

Since the bill was introduced the various officers of the various companies have met and considered at different times the language of the bill, and at the meeting here last night several suggestions were made, none of which affect the principle of the bill, but rather calculated to remove any danger of adverse construction; in fact, to take away any room for construction in two of the sections. In line 2 of page 2 it is proposed to insert the words "or the person whose life is insured or for whose benefit such policy is issued." And the purpose of that amendment is to place this section exactly as the existing law is in that regard; that is, the war-revenue bill of June 13, 1898.

The CHAIRMAN. What bill are you reading?

Mr. BROSMITH. 6247.

Mr. GROSVENOR. That is the difficulty, you are reading from a bill we have not got and we can not locate it.

The CHAIRMAN. After what words does that come?

Mr. BROSMITH. If you will give me bill 6258 I will insert the amendments in the proper places. (See page 11 for the bill as finally amended by Mr. Brosmith.) In bill 6258 the first amendment is after the word "corporations," in line 5 on page 2.

The CHAIRMAN. What would you insert?

Mr. BROSMITH. Insert, "or the person whose life is insured, or for whose benefit such policy is issued." The bill will still compel the company to pay this tax to the Government.

The CHAIRMAN. Does not the present law provide the insurance company shall pay this?

Mr. BROSMITH. That is exactly the term of the present law. The present law provides the party who issues, or for whose benefit these policies are issued, shall pay the tax.

The CHAIRMAN. Who does pay it, practically?

Mr. BROSMITH. With the exception of one or two companies the insurance companies pay them. The fire, marine, and casualty companies all pay them. Some one or more life insurance companies collect the amount of the tax from the applicant for insurance. Of course you can understand the tax upon a life insurance company is only upon the first year under the existing law, and under the proposed law upon new insurance written; some one or more life companies collect those taxes from the applicant at the time the policy is delivered. All the rest of the companies pay the tax and all the fire, marine, and other companies pay.

The CHAIRMAN. Is not this amendment rather out of harmony with

this bill. Is not the whole theory of this bill that the insurance companies shall pay annually on the amount of business instead of paying a tax of this kind?

Mr. BROSMITH. The theory is the insurance companies shall pay to the Government at certain fixed periods in lieu of stamping the policies an amount of special tax equal in amount to the adhesive-stamp tax required in the present law, and even with this amendment in, if the succeeding sections of the law remain as proposed, you require the company to pay to the Government, by a report to the Government, on the amount of insurance written during any year a tax of 8 cents on each \$100. That is simply giving the privilege to such companies as desire to follow out the practice of the present law to require from applicants for insurance 8 cents on each \$100 at the time the application is made. If the company does not care to do it it is not compelled to do it, as most of the companies do now.

Mr. RICHARDSON. If you made that change would it not be an incentive to all the companies to charge to the insured rather than to pay it?

Mr. BROSMITH. They could take advantage of it.

Mr. RICHARDSON. Why should you give that opportunity—why not make it obligatory on all companies to pay rather than the insured?

Mr. BROSMITH. Because some companies have requested that for the reason that it is a privilege that they have under the present law, and they think it is a matter which should properly be paid by the policy holder coming in the first year and not be a charge upon the existing policies.

Mr. COOPER. They charge that to the policy holder anyway? The policy would have to pay it?

Mr. BROSMITH. Eventually. It is a question which policy holder pays it, and this does make some slight difference in that regard.

The CHAIRMAN. Do you suggest any other amendments in that paragraph?

Mr. BROSMITH. Yes, sir. In line 10, after the word "written," insert, "and delivered to the insured." That is simply for the purpose of preventing the construction that the application might be charged to the company as insurance written, although when the policy is presented to the insured he declines to take it. That does not make any substantial change.

The CHAIRMAN. That meets an objection which is stated in a letter received by me from the Prudential Insurance Company of America.

Mr. BROSMITH. These amendments which I am reading to you are amendments suggested by various companies to whom copies of this bill have been sent. Some, of course, were suggested last evening at the meeting. The third amendment is in line 13, after the word "industrial," to insert the words "or other;" and after the word "weekly," in the same line, to insert the words "or monthly," so that the line will read: "Issued on the industrial or other weekly or monthly payment plan of insurance." That is because of the number of companies who write their industrial business on the monthly as well as the weekly plan. Then, in line 15, after the word "premium," insert "or 10 per centum of the first monthly premium." That is to provide the same rate of tax on the monthly premium that is provided on the weekly premium. That question has been presented to the Commissioner of Internal Revenue, and, on the existing law, he has ruled

that the companies which write the industrial business on the monthly premium plan would pay 10 per cent instead of 40 per cent.

Mr. RUSSELL. That changes the proviso as it is in the act of 1898.

Mr. BROSMITH. I do not know that it really does change it, but it makes it more definite, because what is known as industrial insurance takes in both the weekly and monthly payments.

The CHAIRMAN. There is a criticism here of the proposed law, that it does not provide for any return of the first weekly premium—

Mr. BROSMITH. I have one covering that.

The CHAIRMAN. And the first monthly premium.

Mr. BROSMITH. A criticism to that effect was submitted, I think, by the Metropolitan Life Insurance Company, one of the largest writers of industrial insurance, and to meet their suggestions the amendment which I will next read, or the second one from now, was inserted.

The next one is in line 18, page 3, after the word "written," insert "and delivered." That is simply to correspond with a similar amendment, which I have already explained. Then in line 19, after the word "return," insert "except that on business upon the industrial or other weekly or monthly payment plan, only the first weekly or monthly premium shall be reported." I think that amendment meets the criticism which was submitted by the Metropolitan, and which I think is very likely similar to the criticism submitted by the chairman, as it does not compel the companies writing industrial insurance to report any oftener or in any other way upon the industrial business other than required under the existing law.

The CHAIRMAN. What would there be in the law to prevent companies issuing policies where the first monthly or weekly payment was small and increased afterwards if they wanted to escape the tax that way?

Mr. BROSMITH. They would have to practically revolutionize the method of doing business. Every policy, and all rates, and everything else are based upon a certain annual premium, a fixed amount at different ages, a certain amount for straight life, certain other rates in the endowment, etc., and the amount of money that could be saved by any such subterfuge would not make up for the loss and damage that the companies would sustain by such a radical change.

The CHAIRMAN. I have more in my mind the starting of a new company on that theory. I do not mean to start one myself.

Mr. BROSMITH. I doubt, if any new company would start with very bright prospects if its main object was to escape anything like a just share of its taxation.

Now, if you will permit Mr. Pattison, he will address the committee briefly—

The CHAIRMAN. Just one moment. I have another letter here from a representative of the Security Mutual Life Insurance Company, of Binghamton, New York, in which he says:

The proposed amendment, among other things, would undoubtedly compel the paying of the tax on a good deal of insurance which is never actually taken. It is impossible in thirty days to get in from all parts of the United States a report of policies sent out during the latter part of previous months; but this is only one of the objections to it.

This was written to Mr. Ray, a member of Congress, and referred to me. What do you say as to that?

Mr. BROSMITH. I can say this: For many years, I can not recall just

how many, certainly for twenty years past in the State of Ohio, in the State of Missouri, in at least twenty, I can not call the States by names, a tax similar to this upon premiums written have been collected and they are being collected now in sums at rates varying from 1 to $1\frac{1}{2}$ and 2 to $2\frac{1}{2}$, in some States upon the gross premiums and in some on the net premiums, and they are collected without difficulty, without friction, and without any such trouble as is suggested.

The CHAIRMAN. They are returned within twenty days after the close of the month, are they?

Mr. BROSMITH. The premiums, they are supposed to be collected in thirty days, or sixty days at the outside, but if it is reported annually it is not called for, except as reports of the insurance departments are called for, on or before the first day of February, and that gives to those companies fully thirty days after the last business day of the year. If the other change was made, to quarterly reports, they would not be obliged to report to the revenue department for at least thirty days after the end of the quarter. Now any company can readily ascertain how much business has been written and delivered in that period. It can certainly tell very closely just how many premiums have been collected during that term, and I do not think there would be any practical difficulty in the operation of the law in that respect, and I am justified in saying that from the experience of the various States in collecting taxes on a plan precisely like this.

Mr. BROSMITH. Even then the companies would sustain a considerable loss, I believe, for the reason that it would be impossible to get back anything like the amount of stamps that would be improperly canceled. On policies for large amounts the companies could readily get the rebate, because those policies must be returned by the agents in order to secure credits for their own accounts from the office. But when you consider the smaller policies—take railroads and workmen policies, 75,000 or more written in a year, written by special agents who carry their pad applications, paymasters' orders, and policies in their pockets; they go in the workshop and write them at the desk or on the benches, write them in the cab of the engine in the roundhouse, they write them on the train or wherever they may find their men, and the policies are delivered to the insured immediately, the insurance begins at once upon the execution of the contract; well, on all these policies and others to workingmen, I do not know how they would ever get back.

The CHAIRMAN. How would a law operate that allowed the Commissioner of Internal Revenue to refund the stamps on policies not used?

Mr. BROSMITH. It would be considerable under the present law; it would be a considerable saving to the company.

The CHAIRMAN. Under the present law the Commissioner of Internal Revenue can not refund taxes because the Comptroller of the Treasury says he must not, although the law provides for it. But suppose there was a law which would enable them to control the Comptroller of the Treasury?

The CHAIRMAN. Those are actual deliveries.

Mr. BROSMITH. But the policy may be spoiled and it may not be delivered. It may not be taken. As soon as you deliver the policy the man for some reason or other may say, "I do not care for that; I want another kind; I will take another policy," and the stamps have been put on and canceled as they should be, why there are some

stamps upon which the company should have a refund, but the premiums are small and on those policies possibly the amount of revenue stamps might not be more than 4 or 5 cents, but in the aggregate 75,000 or more in a year is very large. The refund arrangement would be very convenient and would be valuable in so far as it went, but I do not think it would enable the companies to get back what they would lose.

If you will now hear Mr. Pattison, gentlemen of the committee, I will be obliged.

The following is the bill (H. R. 6258), with the amendments suggested by Mr. Brosmith:

[The amendments are in italics.]

A BILL To amend the act entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June thirteenth, eighteen hundred and ninety-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after July first, nineteen hundred, in lieu of the stamp taxes now imposed by the act entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June thirteenth, eighteen hundred and ninety-eight, to which this is an amendment, and required to be paid by adhesive stamps upon policies, renewals, and other instruments whereby insurances are effected, continued, or renewed, each insurance company incorporated by or under the authority of any of the United States of America, and each insurance company incorporated by or under the authority of any foreign state or government, and which is transacting the business of insurance in any State or Territory in the United States shall pay a special tax at the times and in the manner following, to wit:

Life insurance companies: Each such life insurance company or corporation, *or the person whose life is insured or for whose benefit such policy is issued,* shall pay annually the sum of eight cents, on the amount insured, for each one hundred dollars or fractional part thereof, of every policy of insurance or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives, written *and delivered to the insured* by such company in the United States during the period for which the return hereinafter mentioned shall be made: *Provided, That in all policies for life insurance only, issued on the industrial or other weekly or monthly payment plan of insurance, the tax to be paid shall be forty per centum of the amount of the first weekly premium, or ten per centum of the first monthly premium: And provided further, That the provisions of this section shall not apply to any fraternal beneficial society or order, or farmers' purely local cooperative company or association, or employees' relief association, operated on a lodge system or local cooperative plan, organized and conducted solely by the members thereof, for the exclusive benefit of its members and not for profit.*

Marine, inland, fire, casualty, fidelity, and guaranty, and other insurance companies: Each such company or corporation, transacting the business of marine, inland, fire, casualty, fidelity, employers' liability, plate glass, steam boiler, burglary, elevator, automatic sprinkler, or other branch of insurance, except life insurance, shall pay annually one-half of one per centum on the gross premium receipts on risks written in the United States: *Provided, That purely cooperative or mutual fire insurance companies, carried on by the members thereof, solely for the protection of their own property, and not for profit, shall be exempted from the tax herein provided.*

SEC. 2. That each such company or corporation shall, on or before the first day of February, nineteen hundred and one, make a return, verified by the affidavit of its president and secretary or other chief officers, to the Commissioner of Internal Revenue for the six months ending December thirty-first, nineteen hundred, and thereafter on or before the first day of February in each year shall make a like return for the fiscal year ending December thirty-first, which return, in case of life insurance companies, shall state the gross amount of all insurances upon any life or lives written *and delivered in the United States during the period covered by the return, except that on business upon the industrial or other weekly or monthly payment plan, only the first weekly or monthly premium shall be reported,* and in the case of all other companies shall state the amount of the gross premiums received during such period in cash or notes, or otherwise, on account of policies or other contracts of insurance by whatever name known, issued, or renewed in the United States by the said company.

Upon the receipt of such return, the Commissioner of Internal Revenue shall verify the same and assess the tax upon the various companies upon the basis and at the rate provided in the next preceding section, and shall collect the taxes found to be due, as other taxes not paid by stamps under the act to which this is an amendment are collected. If at any time the said Commissioner of Internal Revenue has reason to suspect the correctness of the return so made by any such company or corporation, he may make an examination of the books and accounts of such company or corporation for the purpose of verifying the statement.

SEC. 3. That each such company or corporation which carries on any business of insurance for which special taxes are imposed by this act, without having paid the special tax herein provided, shall, besides being liable for the payment of such special tax, be deemed guilty of misdemeanor, and upon prosecution thereof shall pay a fine of not more than five hundred dollars.

SEC. 4. That the part or parts of the act to which this is an amendment, in so far as they conflict with the provisions of this act, are hereby repealed.

STATEMENT OF MR. JOHN M. PATTISON, OF CINCINNATI.

MR. PATTISON. Mr. Chairman and gentlemen of the committee, I shall detain the committee but a very few moments. I represent the Union Central Life Company of Cincinnati. We have no objection to this bill if the amendment as proposed is adopted by your committee. We are one of the companies that have been collecting the stamps off the new policy holders, and we did it in accordance with the present law, and, therefore, if this law is to remain as it is, simply changed in reference to the section submitted here, why, that is all right, and we are in favor of it. If it is changed in any other respect, we, of course, would be opposed to it, but I do not think there will be any difficulty about that. I do not know that there is any desire of the committee to change the present law except by the collection of a tax instead of stamps.

Now, if you will pardon me just a moment, we have collected this off the new policy holders for the reason, as we understand the law, that this is a tax on the paper, on the policy, if you please, that is issued. The law said, "by the company who issue it or the person for whose benefit it is issued." Now, the theory of our trustees, and our attorney, also, after examining the law, was that this is a tax upon this particular piece of paper which should be paid by these new policy holders, and that we had no right, if you please, to take the money which belonged to the old policy holders to pay the taxes on these policies; and therefore we said to the new policy holder, "You will either pay it yourself or we will charge it against the new policy, because we think that is what the Government meant in this particular law." Therefore, we commenced and have proceeded in that way and did our business in that way, by collecting the stamp off the person who took the policy, and did not charge it against him.

That is our theory, and we think we are correct in it, and therefore we did not want to change our manner of doing business; and, permit me to say, other companies did the same thing; the Northwestern, of Milwaukee, did the same thing and several other companies did the same thing, and some are still doing it. Some ceased it because the agents objected to it; and, if you will pardon me, if you please, they found it perhaps not very difficult to take somebody's else money to pay this tax, instead of collecting it from the new policy holder, and therefore it was done. We have taken the other ground, as the other companies did at that time, that the new policy holder should pay that

tax or else have it charged against him, and not to take the old policy holders' money in order to pay that tax. That is the theory upon which we have carried it out.

Mr. STEELE. It is the difference in the agents holding up the company or the company holding up the newly insured?

Mr. PATTISON. In our case it would be the holding up of the policy holders; our policy holders get the profits, the money, as a matter of fact, belongs to our policy holders, and we treat them all exactly alike, and if we believed by this law that this was the sum that should be paid out of the surplus, or out of other policy holders' money, we would do so, but we do not think that is the intention of the law, and certainly it is not the spirit of the law, and, therefore, we have done it in the way I state. It has been a matter of embarrassment to us in comparison with some other companies. We did what we thought was the right thing to do by all the policy holders, and we only ask in this bill, if it is passed, and we hope it will be passed, because these gentlemen representing other companies are very much more affected than we are, that the present law shall remain intact, just as it is, giving us the same rights we have now. That is all we ask.

Mr. RUSSELL. Do other mutual companies follow the same course as yours?

Mr. PATTISON. No; they do not. The New York Life commenced it, and the Northwestern, Milwaukee, and the New York Life is doing it still. The other companies found it very difficult, and they simply gave way and said, "We will pay," and they paid it, and they have been doing so ever since.

Mr. RUSSELL. Have the old policy holders found any fault with them?

Mr. PATTISON. You know how that is. There are thousands and hundreds of thousands of policy holders and they say, "We do not know anything about it," and as far as they are concerned they do not.

The question is, therefore, what we should do with other people's money, and we think we are doing the right thing, although it is embarrassing to us, but we are doing it successfully, and all we ask now is to let the law in that respect remain where it is. We all know the tax on life-insurance companies. Of course, the tax on life-insurance companies was placed much larger in the Senate than you gentlemen had placed it in the House. If you had left it where the House placed it, it would have been much better for our life-insurance companies. Nevertheless, the law is as it is, and we do not come here at this time to ask any change in it, and we ask, therefore, that this section of the law shall remain just exactly as the present law is. I thank you, gentlemen.

STATEMENT OF MR. C. H. WOODWARD, OF BUFFALO, N. Y., PRESIDENT OF THE NATIONAL ASSOCIATION OF LOCAL FIRE INSURANCE AGENTS.

Mr. WOODWARD. Mr. Chairman and gentlemen of the committee, I crave about five minutes of your time in behalf of about 500,000 citizens of this country who are now licking stamps and canceling them and trying to obey the present law. What we would ask for relief is plainly expressed in this bill, as we understand it. Of course our minds

are not as legally educated perhaps as yours, and you will understand the details of it, but under the present system it is practically impossible for an agent to comply with the law, and in many cases it is an extremely difficult thing, and in all cases a very expensive and very annoying thing, and the suggestion made by your honorable chairman that there should be a rebate made to the companies upon these policies not executed would not relieve us from the annoyance of having to return those policies with a statement to the home office in order to have a reduction made and come back to our credit.

The law now requires every agent to have a separate stamp account with each company. A man comes in and he will say, "I want policy so and so." It is written and the policy is executed, and then he says, "I want it changed," and the stamp is destroyed; and now the temptation is very strong on the agent to say, "Here the Government has not lost on this transaction, and I will use that stamp again." And they are used to a considerable extent. Again, in small places the agent can not get stamps. The revenue officer has neglected to get sufficient stamps. Well, the policy must be issued, and he issues it, and he sends it 5, 10, or 15 miles without the stamp, and the chances are the stamp never gets upon it.

In fact, what we ask would increase the revenues of the Government; at any rate it will give the Government every cent they intend to collect and want to collect and relieve the agent of an endless amount of annoyance—annoyance which impairs our digestion, sours our temper, and strains our consciences; and if you will favor us, the 500,000 pretty active, hard-working, hustling fellows, we do not ask any reduction of tax; we ask you to make it just as it is. Now, there is a rule of the department here, the Internal Revenue Department, that says that every stamp of 10 cents or larger must be cut through. Now, the spectacle of a man having to get the policy out, and put it down and take up a jackknife or a penknife and cut it in this way, it seems to me would be as ridiculous as a man in a Western grain field trying to reap a thousand acres of wheat with a sickle. There are stamp perforating machines, but it costs \$2.50 to get one of those machines, and these small agents can not afford it.

Now it seems to me the object of the Government is to get money with the least trouble from the citizens as possible, and we believe this law will do it; that the Government will get every cent that it asks for and you would relieve the agent of temptation, of annoyance and trouble, and of requirements that are practically at times impossible to fulfill, and also do away with the temptation for leaving off stamps, or putting on too few stamps, or reusing stamps, and also the temptation of washing stamps and having them used in that way.

Thanking you, gentlemen, for your attention, if you will give this matter your kind consideration we will be obliged.

STATEMENT OF MR. L. O. DELASHMUTT, REPRESENTING THE SURETY COMPANIES.

MR. DELASHMUTT. Mr. Chairman and gentlemen of the committee, there is very little for us to say except that all the surety companies are united in favor of this bill. We do not want to reduce the income of the Government at all, but we simply want it to be so arranged that

we can pay a tax to the Government with the least possible trouble. I represent quite a number of them, and all of them ask me to say that to this committee. I know your time is limited and I will not say anything more, but they are all in favor of it.

The CHAIRMAN. Do you happen to know, or does any other gentleman, how much this tax on insurance yields; how much revenue it yields?

Mr. BROSMITH. I should judge on the business of this year it would be about \$2,000,000. The business written in 1899 gave over a million and a half, not taking into consideration the amount the companies pay for their stamps upon checks and bonds and transfer of mortgages, etc. Just the insurance feature alone. So, on the basis of 1899, it must aggregate this year nearly \$2,000,000.

STATEMENT OF MR. J. M. LAWFORD, REPRESENTING THE CASUALTY COMPANIES.

Mr. LAWFORD. Mr. Chairman and gentlemen, at the risk of wearying you by repeating what has already been said, I shall simply emphasize the fact that we are not seeking to reduce our tax in the slightest, it is simply the method of collecting it. And it seems to me it is very similar to what it would be if the Government were collecting a tax on beer and would compel a man to put a stamp on every glass of beer, instead of collecting it on the barrel. As the gentleman stated just now, there are over 500,000 local agents, that would probably represent a million and a half together of gentlemen engaged in the business, and we simply implore that you will stop collecting from a thousand spigots, but collect a tax at one bung-hole.

STATEMENT OF MR. RALPH BUTLER, OF PITTSBURG, REPRESENTING THE ACCIDENT COMPANIES.

Mr. BUTLER. Mr. Chairman and gentlemen of the committee, there is very little to be said, after what has been said, excepting we object to paying taxes upon a process. The revenue tax collected upon a completed article is probably the simplest way in which the Government can collect its taxes, but the issuing of a policy is simply a mere process to get business. In our business particularly, we do our business under high pressure. The agent and the special agent goes out and checks off business, as we might say. Suppose he gets an application and he has got the policy there for delivery. The man wants a little time. If he does not put on the stamp then, the man says, "Well, they distrust my credit." If he does put on the stamp, many a time that policy never applies for an hour; never is paid for; never is in force.

Now, if this bill was passed, the Government would collect its revenues from some 20 cities in the United States instead of collecting it from every little hamlet. It would be possible for the Government to have a complete check off on its business, which it has not to-day. Now, in the usual premium business, take the liability business, where the premium was several thousand dollars to the companies, representing a hundred or two hundred dollars in stamps, it is possible and

there is a temptation to the agent to defeat that tax and never pay revenue on the policy at all and the Government be defrauded of its revenue, and what check off has the Government? Once a year we make a sworn statement of our premium returns. A comparison of our tax returns with that sworn statement would show to a penny almost whether we had paid our taxes or not.

It would not only simplify the Government process of getting hold of their money, but please, as the gentleman has said, 500,000 active working men throughout the country, and there is nothing that displeases a man so much as to feel that the Government imposes upon him unnecessary work. We may be the best of loyal citizens and be willing to give our money just as freely as any other class, but we do not want a check off for every halfpenny of expenditure all over the country, simply to please the Government, when it is not necessary, and we sincerely trust that you will pass or let this bill go to the House for passage. I thank you, gentlemen.

Thereupon the committee adjourned.

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MEDICINAL PROPRIETARY ARTICLES AND PREPARA-
TIONS—WAR REVENUE LAW.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 17, 1900.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.	CHESTER I. LONG.
ALBERT J. HOPKINS.	JAMES D. RICHARDSON.
CHARLES H. GROSVENOR.	SAMUEL M. ROBERTSON.
CHARLES A. RUSSELL.	CLAUDE A. SWANSON.
JONATHAN P. DOLLIVER.	GEO. B. McCLELLAN.
GEORGE W. STEELE.	FRANCIS G. NEWLANDS.
JAMES A. TAWNEY.	SAM. BRONSON COOPER.
SAMUEL W. McCALL.	OSCAR W. UNDERWOOD.

HULL GREENFIELD, *Clerk.*

WASHINGTON:

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1900.

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MEDICINAL PROPRIETARY ARTICLES AND PREPARATIONS—WAR REVENUE LAW.

COMMITTEE ON WAYS AND MEANS,
Tuesday, April 17, 1900.

The committee met at 10 o'clock a. m., Hon. Sereno E. Payne in the chair.

The CHAIRMAN. This meeting was called this morning for the purpose of a hearing in respect to certain articles under Schedule B, of the war revenue law, particularly proprietary medicines.

Bill (H. R. 7093) under consideration as follows:

A BILL to remove the tax on proprietary medicines, and so forth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tax upon medicinal proprietary articles and preparations, and upon perfumery and cosmetics and other similar articles, as imposed by Schedule B, following section twenty-five of "An act to provide ways and means to meet war expenditures, and for other purposes," approved June thirteenth, eighteen hundred and ninety-eight, be, and the same is hereby, repealed on and after the first day of July, nineteen hundred.

STATEMENT OF MR. THOMAS WOOTEN, SECRETARY OF NATIONAL ASSOCIATION OF RETAIL DRUGGISTS.

MR. WOOTEN. Mr. Chairman and gentlemen of the committee, the organization which I represent as its secretary, the National Association of Retail Druggists, has now a membership of somewhat less than 20,000.

Inasmuch as the trade conditions under which the druggists of the entire country are doing business are exactly the same as those that afflict the members of our organization, and knowing as the result of correspondence that has reached every part of the country the sentiment that exists universally, I feel that I and the gentlemen who appear with me here to represent our branch of the drug trade have the very best of reasons for claiming to speak for the entire 38,300 retail druggists of the United States.

These people are watching with the keenest interest the decision of this committee as to the repeal of the tax on medicinal preparations levied by the war-revenue measure of June, 1898, an interest born of the wholly reasonable expectation that, when the committee fully realizes the extent of the burden placed upon them by the operation of this law, a burden unjust and discriminating, and as it is now unnecessary, the relief for which they plead will be forthcoming.

The classes affected by the law are the manufacturers of proprietary

medicines, the manufacturers of surgical dressings, and the wholesale and retail distributors of these goods. To the latter class belongs the retail druggists, the final distributors of the proprietary remedies known to the public, and, for the most part, manufacturers themselves in a limited way of proprietary medicines as well as the distributors of remedies not proprietary, upon which, on account of the rulings of the Internal Revenue Department, they are required to place stamps.

The classes I have mentioned are all represented here, and in order to place before you the entire subject of repealing this tax in the way most conducive to a clear understanding of it, and with as little loss of time as possible, I shall introduce a representative of the Chicago Retail Druggists' Association, a man thoroughly conversant with all phases of the question. Mr. Englehard, who will follow me, will give you a succinct statement of the position with reference to this tax of the respective branches of the drug trade, after which the representatives of these several interests will verify the statements made as to the operation of the law in their respective branches of the drug business.

Now, Mr. Chairman and gentlemen of the committee, I will introduce Mr. George P. Englehard, of Chicago, who will discuss this bill for you.

STATEMENT OF MR. GEORGE P. ENGLEHARD, OF CHICAGO.

Mr. ENGLEHARD. Mr. Chairman and gentlemen of the committee, I have the honor to speak for the various branches of the drug trade in behalf of the repeal of the taxes on the products embraced in Schedule B of the war revenue act—taxes so unjust and burdensome that, though tolerated without protest during the exigencies of war, when the spirit of patriotism rose high above even considerations of wrongful discrimination and personal injustice, are now deemed wholly indefensible, in view of the cessation of active war expenditures and the growing Treasury surplus.

That we may have clearly before our minds the purport and effect of the revenue clause under consideration, I beg to quote its essence as follows:

The stamp taxes provided for in Schedule B (embracing medicinal preparations, perfumery, and cosmetics, chewing gums, sparkling or other wines) shall apply to all articles, compounded by any formula, published or unpublished, which are put up in "style or manner similar to that of patent trade-mark, or proprietary medicine in general, or which are advertised on the package or otherwise as remedies or specifics for any ailment, or as having any special claim to merit or to any peculiar advantage in mode of preparation, quality, use or effect." A special proviso exempts from tax any "uncompounded medicinal drug or chemical" and any medicine compounded for a person by a druggist on the written prescription of a practicing physician or surgeon.

The clause quoted marks an essential difference between the present act and that of 1862 on this subject. Its language is made to embrace not only the proprietary articles specifically enumerated in Schedule B, but all medicinal articles of whatsoever nature "put up in style or manner of a proprietary medicine." This phrase, as interpreted by the Commissioner of Internal Revenue, has been made to include not only

all medicinal articles protected by trade-mark or patent or secret process, but practically all articles having any suggestion of medicinal use when prepared by the druggist and kept in stock ready for sale including even the simplest remedies like tincture of arnica, hamamelis, etc.—remedies sold under their popular titles and devoid of all pretense of secret composition or proprietary right.

The tax, therefore, is vastly broader in scope than that under the former revenue law on this subject, which was limited to proprietary medicines or those of secret composition. It strikes practically all drugs and medicines save those dispensed on a physician's prescription. It is consequently not a patent-medicine tax, but a tax without discrimination upon all prepared remedies just as would be a special tax upon the entire package stock of the grocer or of the dry goods or hardware merchant.

It is said that the intent of the act was primarily to tax patented medicines, when, as a matter of fact, there are practically no American patented medicines in the market, the only remedies of the patented class sold in this country being the vast and increasing host of foreign synthetics, which, by a strange anomaly, are specifically exempt from taxation as being "uncompounded chemicals." "Schedule B," therefore, violently reverses the principle of protection to domestic industry and trade by chaining American manufacturers and merchants to a ruinous system of taxation while graciously according full freedom to the manufacturers of a nation perhaps least entitled to the distinction on the principle of reciprocity.

Mr. GROSVENOR. My friend, if that statement is to be printed I think it ought to be modified. Every one of these foreign affairs you speak of have been taxed. They pay a duty when they come in, and a pretty high duty, too.

Mr. ENGLEHARD. That is, you mean the tariff duty?

Mr. GROSVENOR. Certainly.

Mr. ENGLEHARD. This is internal revenue.

Mr. GROSVENOR. It is just the same thing. You say that they are not taxed and you are taxed, but they are taxed five or six times as high as you are; eight times.

Mr. ENGLEHARD. That is simply a tariff tax.

Mr. GROSVENOR. But you are paying no tariff tax and they do pay it. You fail to recognize that there is a duty, and a very high duty, on every one of these articles.

Mr. ENGLEHARD. But the gentleman will remember on other preparations which do pay tariff there is in addition an internal-revenue tax, excepting noncompounded chemicals. There is an addition to that on all other articles which pay a tariff and also the internal-revenue tax.

Mr. GROSVENOR. You mean to say if you import articles from abroad you pay duty on them—

Mr. ENGLEHARD. Yes, sir; and in addition there is the internal-revenue tax, except on uncompounded chemicals.

Mr. GROSVENOR. Do you import patent medicines from abroad and then sell them?

Mr. ENGLEHARD. They would be subject to internal-revenue in this country; yes, sir.

Mr. GROSVENOR. Then we tax the foreign producer?

Mr. ENGLEHARD. Excepting only in the case of uncompounded chemicals. The statement is literally correct that the only patent med-

icines in the American market are the medicines specifically exempt from internal-revenue duty.

Mr. GROSVENOR. Yes; but they pay a very high tariff duty, too.

Mr. ENGLEHARD. It was no doubt assumed that the Schedule B taxes would chiefly fall either upon wealthy manufacturers of medicines in the enjoyment of proprietary rights assuring permanent protection in large profits, or that the taxes would be passed along to jobber and retailer and finally fall upon the mass of the people. Special taxation of an honorable class of manufacturers or of a most worthy class of business men engaged in a calling combining business and professional responsibilities of the gravest moment to the public was evidently not contemplated. The purpose of the act has clearly miscarried.

The tax falls with crushing force upon scores of manufacturers who, seeing that the tax could not under existing trade conditions be passed to the consumer, but that it would, if added to their prices, fall with cumulative effect upon the retail druggist, generously assumed the entire burden themselves by paying the tax and making no compensating advance in their prices.

The prescribed rate of $2\frac{1}{2}$ per cent on the retail value of their products is equivalent, assuming that the manufacturer's selling price averages 40 per cent below the nominal retail price, to fully 4 per cent on the manufacturer's gross sales.

Mr. GROSVENOR. If you will allow me, I would like to get at the facts. Here is a statement, and I want to see if you all agree about it in the light of what you have just now stated.

When Congress enacted the war-revenue act of June 13, 1898, it was the general impression, or in fact was assumed, that it was the intention of its members, by voting for said act, that the burden of taxation should fall upon the consumer and thus be distributed extensively, and not fall to any appreciable extent upon any one person.

Placing this construction upon the measure, we advanced the price of our products to a figure equal to the cost of the revenue stamps, shifting the tax upon the jobbers or wholesalers, expecting them, in turn, to advance their prices to retailers correspondingly, and the latter to advance their retail prices, thereby making the consumer pay the tax in the end.

After four months' experience, we found this plan impracticable. The retailers were unable to obtain the advance. Consequently we, as manufacturers, were continually in receipt of protests from not only individual retailers but from organizations of retail druggists throughout the country, requesting the restoration of old prices, as they could not afford to stand the advance, as it would cut down their profits on the goods of our manufacture to such an extent that they would not be justified in handling same. As a consequence, we appreciated their position and concluded to stand the tax ourselves, knowing full well the sharp competition that exists in their line.

Is that a true statement?

Mr. ENGLEHARD. Yes, sir; in the case of very many manufacturers.

Mr. GROSVENOR. This goes back on the manufacturer and does not affect the retailer or consumer?

Mr. ENGLEHARD. In cases of that kind, yes, sir; but I shall show a little further along just about the percentage of manufacturers who fail to maintain the advance.

This is a fixed, remorseless tax, to be paid regardless of business profits or losses. It is infinitely worse in principle than an income tax, because its exactions must be met, even though there be no income, but, on the contrary, a positive loss.

Assuming, however, that a business is paying what would be esteemed a most prosperous net profit—15 per cent—it will be seen that this tax of 4 per cent is equivalent to over 25 per cent of the net earnings.

Propose such a tax in plain, open terms, upon any industry and how universal would be popular condemnation of its iniquity. It is, however, none the less open to condemnation that the true nature of the tax is concealed in indirect verbiage which, under existing trade conditions, is given the most direct force and effect.

We have thus far referred to those manufacturers who have elected to pay the tax themselves, representing perhaps 20 per cent of the total number in the country computed by the volume of their sales. The remaining 80 per cent have, like the telegraph and express companies, simply added the tax to their former prices with an additional advance in many cases to cover the expense of affixing the stamps. The jobber has passed it to the retailer, who can pass it no further, and to whom it has become a burden so heavy and intolerable that his petitions for relief must be heard.

Of the total revenue derived from Schedule B, \$5,200,000 for the fiscal year ending June 30 last, probably not less than \$3,200,000 was paid by the 38,000 retail druggists in the country, an average of about \$85 per capita. Why does not the druggist transfer all, or at least a part, of this huge burden to the people? He can not. Proprietary articles usually have their retail prices on their labels, and to collect an extra $1\frac{1}{4}$ or $2\frac{1}{2}$ cents from the purchaser is manifestly impracticable. Druggists are, moreover, obliged, as before stated, to stamp every package of prepared medicines manufactured or compounded by themselves. Why this special discriminating tax on medicines? Why tax medicine, proprietary or otherwise, and not foods and clothing and jewelry?

We ask you, gentlemen of the committee, if this is not class legislation so palpable and so destructive of individual equality before the law as to find an excuse only in the haste with which the war measure was necessarily enacted, an excuse which at this time lends additional emphasis to the justice of immediate repeal as a measure of simple equity to manufacturers of proprietary medicines, of surgical dressings, and other articles, and to the retail druggists of the country who now as resolutely petition for relief as they formerly submitted with patriotic patience to the injustice inflicted upon them and their business.

MR. UNDERWOOD. Is not the entire bill class legislation, the other items in the bill affecting—

MR. GROSVENOR. Take the tax on beer, for instance.

MR. ENGLEHARD. I shall touch on that point, gentlemen of the committee, I believe, in a manner which will answer the question.

How grievous is the burden a brief, though necessarily approximate, calculation will indicate. The sales of the average druggist in the average country town aggregate about \$15 per day, or about \$5,000 a year. About 60 per cent of this total consists of taxable articles, or \$3,000; 20 per cent of this is borne by the manufacturers, who failed to add the tax to their prices, leaving \$2,400 on which the druggist pays the tax. By reason of prevailing cut rates, averaging 20 per cent, the taxable value of this \$2,400 would be represented by \$3,000 on which the tax at $2\frac{1}{2}$ per cent would be nearly \$75. His net profit on a business of \$5,000 would probably not exceed \$1,000, out of which he would pay \$75, or $7\frac{1}{2}$ per cent of his net income. And this despite the fact that he is paying his full pro rata of all the other special taxes—on his alcohol, so largely used in his business; on everything for which other citizens are taxed. Why this special and indefensible $7\frac{1}{2}$ per cent income tax on men who have special claims to

exemption from the burden, since if they transferred it to their patrons it would fall upon those who merited still less the infliction—the needy, sick, and the suffering?

It may be asked what guaranty has the retail druggist that the manufacturers, who have advanced their prices to cover the cost and expense of the stamps, will restore their former prices on the repeal of the tax. To this we reply that an alert sense of good business policy would unquestionably cause a prompt restoration of prices; but in the highly improbable event that it should not, the druggist would still secure freedom in the preparation and sale of domestic remedies of his own manufacture, and thus be relieved of an important part of his present burden.

Did the National Treasury require the retention of the revenues from Schedule B, some justification might be found for failure to sanction its repeal; but with Government receipts averaging for the past eight months \$7,829,396.66 per month in excess of all expenses, and with a net cash balance on hand available for any emergency of about \$150,792,995, what justification can be found for perpetuating so oppressive a tax on druggists and manufacturers when its repeal would cause a reduction of less than one-third the surplus for the single month of March?

Did the repeal of the taxes in Schedule B mean the logical extension of similar relief to other industries and professions the case might be different; but we call especial attention to the fact that substantially all classes of taxes specified in Schedule A—those on bonds, agreements, checks, drafts, express or freight bills, telephones or telegraph messages, deeds, insurance policies, leases, and the like—are directly or indirectly borne by the general public and by druggists and manufacturers of medicines equally with other merchants and manufacturers. The taxes of Schedule B are an extra and discriminating tax on a class, and therefore merit consideration independently of other taxes and without reference to the repeal or modification of any other tax.

Against the imposition of the taxes of which we now speak the 37,000 retail drug stores of the country, each in most instances a sort of local forum, might perhaps have gained a hearing; but a patriotic impulse commanded silence in the belief that, with the restoration of peace and satisfactory Treasury balances, Congress would quickly remedy the injustice. In this belief we appear before your honorable committee to-day; we ask for the repeal or modification of no taxes which apply to us in common with other citizens; we stand ready to bear our full share of the burdens of taxation in times of war or of peace; we ask no discriminating favors at the hands of the Government, but we respectfully assert our right to exemption from the ruinously discriminating taxation enacted in Schedule B, and we earnestly appeal to this committee for such action as shall promote earliest possible repeal.

The CHAIRMAN. Did I understand you to say that no similar tax was imposed by that law on these goods imported?

Mr. ENGLEHARD. The only exemption is that which obtains through the clause of this internal-revenue act excepting uncompounded chemicals. These German sympathetics are admitted by the Internal-Revenue Department—uncompounded chemicals like phenacetin, sulphenol, etc.—and therefore are specifically exempted from tax, and they are the only class of medicines which are.

The CHAIRMAN. Uncompounded mixtures of the same kind are exempt in this country?

Mr. ENGLEHARD. We have no remedies of analogous character in this country, but they would be exempt if we had remedies of that character.

The CHAIRMAN. A large portion of this class of articles imported do pay internal-revenue taxes?

Mr. ENGLEHARD. Yes, sir; all medicines except uncompounded chemicals.

The CHAIRMAN. The language of the law is the same in regard to these articles as with regard to tobacco manufactured, or beer, or any other commodity which is imported?

Mr. ENGLEHARD. Yes, sir.

The CHAIRMAN. So that your statement was rather sweeping in the outset, was it not?

Mr. ENGLEHARD. With regard to what?

The CHAIRMAN. Stating that we had exempted from taxation similar articles which were imported, making a discrimination against our citizens.

Mr. ENGLEHARD. I did not desire to convey that impression.

The CHAIRMAN. That is the impression I got.

Mr. ENGLEHARD. The impression I desired to convey was that we have no patent medicines in this country of American manufacture. The only patent medicines in this country are of foreign origin—in fact, German—and therefore it so happens by a strange condition that the only patent medicines on the American market are exempt from duty and are of foreign manufacture.

The CHAIRMAN. Our proprietary medicines in this country are usually simply following out patent medicines on which patents had expired?

Mr. ENGLEHARD. No, sir; there are very few of them I recall now which rest upon a patent for their protection.

The CHAIRMAN. It rests upon the trade-mark?

Mr. ENGLEHARD. Yes, sir.

Mr. GROSVENOR. You stated that the telegraph companies had advanced their rates so as to make good the amount of the tax?

Mr. ENGLEHARD. Yes, sir.

Mr. GROSVENOR. The telegraph companies do not pay any tax.

Mr. ENGLEHARD. Unfortunately they are required to pay tax on messages, but the transmitter of the message is required to pay the tax.

Mr. GROSVENOR. The same is true of express companies.

Mr. ENGLEHARD. Yes, sir.

Mr. GROSVENOR. Both telegraph companies and express companies.

Mr. ENGLEHARD. Yes, sir.

Mr. GROSVENOR. They have not increased their rates.

Mr. ENGLEHARD. But you are required, when you send an express package, to attach a stamp to the express receipt. They have transferred the tax to the transmitter.

Mr. GROSVENOR. The law transferred it; that is the law.

Mr. ENGLEHARD. My statement was that these companies had transferred the tax—did not stamp it themselves, but had transferred the tax.

Mr. GROSVENOR. The law transferred it. The law made it the duty of the shipper to pay the tax; that is the law.

Mr. RICHARDSON. Is that right, General Grosvenor?

Mr. GROSVENOR. The Supreme Court so decided yesterday. I happened to be ahead of you on that.

Mr. RICHARDSON. I had not heard of it.

Mr. GROSVENOR. The Supreme Court decided the shipper must pay the tax.

Mr. ENGLEHARD. The point I made in that case was that the consumer pays the tax and—

Mr. GROSVENOR. The point you made was the express and telegraph companies had advanced their rates to the extent of the stamp tax.

Mr. ENGLEHARD. Indirectly, by requiring a stamp on every message.

Mr. GROSVENOR. Indirectly; that is not directly.

Mr. TAWNEY. Do the wholesale druggists or these proprietary medicine establishments uniformly extend the tax to the retailers, or do some of them pay it themselves?

Mr. ENGLEHARD. About 20 per cent, according to the volume of sales, have failed to advance—of course the statement will be approximate on this point—and about 80 per cent have added the cost of the stamp, and in many instances the cost of fixing the stamp, to their price to the jobber, and the jobber puts it on the retailer.

Mr. TAWNEY. Some have advanced in price away beyond the amount of the stamps, have they not?

Mr. ENGLEHARD. Yes, sir.

Mr. TAWNEY. And use the fact of their being required to stamp the medicines as an excuse for doing so?

Mr. ENGLEHARD. Yes, sir.

Mr. TAWNEY. Do you think the retailers will get the benefit of reduced prices, then, if we repeal this law now?

Mr. ENGLEHARD. As I have stated, trade conditions would compel the manufacturers to lower the prices.

Mr. GROSVENOR. Why did not trade conditions compel these men to pay the tax? Here is a great Baltimore house, which says they at once put the stamps on and did not advance their prices.

Mr. ENGLEHARD. Because these proprietary articles are not, as a rule, directly competitive. You go to a store and you ask for Hood's Sarsaparilla. You ask for Hood's, not Ayer's, and you can not substitute one for the other without imposing—

Mr. GROSVENOR. This house says they have branches in Chicago, New York, San Francisco, Atlanta, London, and Paris. It is, apparently, a very large establishment, and they say they pay their taxes.

Mr. ENGLEHARD. Many houses have done that. I presume a majority of the houses represented here to-day have not added the Government stamp to the price of their goods. I am in receipt, and I could, if time would permit, give the testimony of a great many firms who will state, and will state under affidavit if required, that from 50 to 75 per cent of their net profits are consumed by the payment of this tax. I believe there are gentlemen here to-day—

Mr. GROSVENOR. You say there are about 38,000 retailers, retailing how much each per annum?

Mr. ENGLEHARD. I should say, for the average country druggist, about \$5,000.

Mr. GROSVENOR. Have you ever figured to see how it would figure on $7\frac{1}{2}$ per cent, to find out what it would amount to? Now, take these 38,000 men selling \$5,000 worth on an average, and figure that up and take $7\frac{1}{2}$ per cent and see where you would be.

Mr. ENGLEHARD. Well, I have not computed it.

Mr. GROSVENOR. There is not a single article that is taxed anywhere like $7\frac{1}{2}$ per cent, is there?

Mr. ENGLEHARD. On a single item. I say the taxes on the net profits will amount, as I have stated in the case of retail druggists, all the way from 25 to 75 per cent on the net profits. The gross on sales is $2\frac{1}{2}$ per cent. The druggist buys a preparation which he sells at a dollar retail, and the tax is two cents and a half.

Mr. GROSVENOR. What does he pay for it—what does he pay for the proprietary article which he sells for a dollar?

Mr. ENGLEHARD. About 68 cents. Now, in the larger cities he will sell that at 70 or 75 cents. The stamp tax on that will be $2\frac{1}{2}$ cents on the dollar. Now, say he actually sells that at 80 cents, but the retail price being a dollar, he must pay the tax at the dollar rate. Now, he will make on the bottle of patent medicine costing 66 cents, which he sells for 75, 9 cents, and on that profit of 9 cents he must take out not less than 3 cents, which is a tax of one-third of the profit on that single transaction.

Mr. STEELE. There is an advance aside from the revenue tax of 20 to 25 per cent in these goods?

Mr. ENGLEHARD. On many drugs and chemicals; yes, sir.

Mr. STEELE. Did it ever occur to you to unite against paying more than 19 per cent instead of 20 per cent—trying to see if you can not get a reduction?

Mr. ENGLEHARD. From the manufacturers?

Mr. STEELE. As I understand, you propose that the Government shall reduce this tax or repeal it so far as it refers to your goods; that then you propose to unite in making them reduce the price equal to the amount of the tax. Why not try before this reduction comes to see if you can not get a reduction on the 20 per cent rather than on the $7\frac{1}{2}$ per cent?

Mr. ENGLEHARD. The retailers of the country have the assurances that the leading proprietors will restore the old prices, and even though they should not do so the retail druggists would still secure a relief on their own remedies.

Mr. STEELE. I have gotten an entirely different notion from your statement, and I presume it is correct, from what I have ever had before on the subject of retail druggists. I would have supposed, from the information I have, that the gross profit was nearer 50 per cent than 25.

Mr. ENGLEHARD. Not if you are a credit man in a wholesale drug house.

Mr. WOOTEN. Mr. Chairman, we have representatives of quite a number of State pharmaceutical associations, and we would like to have you know that they also voice the same sentiment. Now, I would like to introduce to you Mr. John C. Gallagher, of Jersey City.

STATEMENT OF MR. JOHN C. GALLAGHER, OF JERSEY CITY.

Mr. GALLAGHER. Mr. Chairman and gentlemen of the Ways and Means Committee: I do not know that I can add anything to the last speaker's remarks. I represent the New Jersey Pharmaceutical Retailers' Association, composed of 400 retailers of the State of New Jersey, and there are probably in the neighborhood of about 800 pharmacists,

and I feel that each individual pharmacist would ask the repeal of this tax. I also represent the Jersey City Druggist Association, which is composed of 80 members. I do not know that I can add anything to the remarks of the speaker who just preceded me.

The CHAIRMAN. Is it not a fact that a great many retail druggists have proprietary medicines of their own?

Mr. GALLAGHER. Yes, sir.

The CHAIRMAN. Most all of them?

Mr. GALLAGHER. What we call household remedies—cough mixtures, salves, and various other preparations of that character.

The CHAIRMAN. And they pay that part of the tax; that is borne by them?

Mr. GALLAGHER. Yes, sir.

Mr. TAWNEY. Do they add that tax to the price of the article?

Mr. GALLAGHER. No, sir; the public will not stand it.

The CHAIRMAN. In my own town for the past month the druggists are advertising cut rates on proprietary medicines, and I understand they are selling at a much lower price than they used to get for them. Now, how can they do that business with that tax?

Mr. GALLAGHER. With reference to the statement made a few moments ago with regard to the net profits of the retail druggists being 50 per cent, I have been in the drug business for the last twenty years, and I want to say that if I can get a net profit of 15 per cent on all my different articles I sell I would be well satisfied. It is utterly impossible to-day in the large cities to get anywhere near a fair margin of profit out of proprietary goods, and I think every retail druggist here will say the same as I do, that it is impossible.

The CHAIRMAN. You mean to say 15 per cent on proprietary medicines?

Mr. GALLAGHER. On all lines.

Mr. TAWNEY. You do not mean a net profit of 15 per cent?

Mr. GALLAGHER. Yes, sir; a net profit of 15 per cent.

Mr. HOPKINS. Is it not a fact that many drug stores do not make a net profit of more than 2 or 3 per cent?

Mr. GALLAGHER. It is very true.

Mr. HOPKINS. I mean drug stores over the country generally. Some store may be favorably located, where they make 15 or 20 per cent; but, on the average, is it not a fact that the margin of profit is exceedingly small?

Mr. GALLAGHER. The majority of the druggists are making a very small profit.

Mr. GROSVENOR. I am very glad to see there are so many representatives of the drug trade here. I speak only for myself, but when this law was passed I certainly had no conception of the construction that has been put upon it, and I do not think any other gentleman connected with either House when they put the language—

are held out or recommended to the public by the makers, vendors, or proprietors thereof, of proprietary medicines or medicinal proprietary articles or preparations, or remedies or specifics for any disease, diseases, or affections whatever affecting the human or animal body, as follows, etc.,

that it was intended that that was to be construed as it has been as to the meaning of proprietary medicines which should receive the tax. When I first heard—and a gentleman here told me the first time I heard of it, a druggist in my district—that tincture of arnica was taxed

because they put on it that it was good for cuts, wounds, or bruises, I could not believe it; but I found out that they did it, and I believe if the druggists had stood out against it in the courts the Commissioner's instructions would have been held to be invalid; and I am sure nobody thought paragoric, simply because it was stated that it was good for the bellyache, would be called a proprietary medicine, and that never was intended.

A BYSTANDER. How would you hold out against the Commissioner's ruling?

Mr. GROSVENOR. Appeal from it, pay the tax, and bring a suit.

Mr. GALLAGHER. The Treasury Department has ruled that the extract of witch-hazel and directions for use in diseases is taxable, or where a person says it is a certain make of witch-hazel that is taxable; that there is a proprietary right in regard to that witch-hazel, but if I put on a plain label stating that it is extract of witch-hazel, and bottle it so, it is exempt from tax.

Mr. GROSVENOR. That makes the whole thing ridiculous.

Mr. GALLAGHER. It seems ridiculous. Now, on petrolatum we pay three taxes. The manufacturer pays taxes on the gross receipts, the barrel has a stamp, and then when it is placed in small bottles to be sold a stamp has to be put on again. That is three times taxed. The internal-revenue officer of Jersey City stated we were compelled, since the package lost its identity, to place a new stamp on it after it was removed from the original package.

Mr. HOPKINS. The chairman asked you if each druggist over the country did not manufacture certain preparations and sell them, and I think you stated that that was so. Now, that is a small part of your proprietary medicines as compared with what you get from the manufacturers?

Mr. GALLAGHER. In some stores it is and in some it is not. Some stores have a very large sale for their own remedies—manufacture their own proprietary articles.

Mr. HOPKINS. That is limited to a few. The average country druggist buys and does not manufacture, and he is compelled to pay the tax that ought to be paid by the manufacturer.

Mr. NEWLANDS. Do you know what the total amount of the tax from drugs was under this schedule?

Mr. GALLAGHER. Mr. Englehard, who preceded me, can answer that question.

Mr. ENGLEHARD. Including wines, about \$5,200,000 for the fiscal year ending June 30 last.

Mr. HOPKINS. Paid by the retail druggists?

Mr. ENGLEHARD. Not all, but about \$3,200,000 was paid by the retail druggists.

Mr. TAWNEY. Including mineral waters, too?

Mr. ENGLEHARD. Yes, sir; it includes medicinal wines.

STATEMENT OF MR. FELIX HIRSMAN.

Mr. HIRSMAN. Mr. Chairman and gentlemen of the committee, I have the honor to represent the great State of New York as far as druggists are concerned, and on behalf, gentlemen, of that State, I can only say that we each and everyone indorse the argument so ably

presented by Mr. Englehard, and it would be folly for me to attempt to add anything else. I think he has stated it so completely, and gone into it in every detail, that I will refrain from saying another word. If the chairman would like to have any information I can give, I am very willing to answer to the best of my ability.

Mr. HOPKINS. What is the condition of the retail druggists in the State of New York generally?

Mr. HIRSMAN. As far as New York is concerned I think the condition of the drug trade is a very deplorable one. The great obstacle we find is the department store, which has especially picked out the manufactured drugs and the proprietary articles for sale to use as a lever for the sale of their other goods, and as those articles have prices printed on them they make an object of selling them at such a low figure that it is lower than the price the ordinary retailer of drugs can purchase them for, so that it would be, in fact, an advantage to purchase them directly from the department store rather than from the jobber.

Mr. McCLELLAN. And it has almost ruined their trade in patented medicines?

Mr. HIRSMAN. Exactly so. Many of the department stores are beginning to push in a prescription department, employing registered clerks to conduct that department, in the same way that they sell on cheap lines, which makes it a very difficult task for the retail druggists to-day to make a living or to make a profit out of it. In some small places in the smaller towns they are better protected that way. But that is at present the condition of the drug trade in the State.

Mr. McCLELLAN. Have you the statistics to show to the committee how many retail drug houses there are in the State of New York?

Mr. HIRSMAN. I think that there would be about 3,800. I remember of having heard that at the last State convention we held in the State of New York. I thank you, gentlemen.

STATEMENT OF MR. R. I. EADS, REPRESENTING THE INDIANA PHARMACEUTICAL ASSOCIATION.

Mr. EADS. Mr. Chairman and gentlemen of the committee: It is scarcely worth while to say very much more except for Major Steele's benefit. I think that all the retail druggists in Indiana are expecting Major Steele's very hearty support in this matter and also the rest of the committee. Indiana is a great medicine manufacturing center, and the retail druggists and manufacturers and wholesale druggists have all expressed themselves very enthusiastically at a few meetings that they have had in the past year, and they are all feeling the burden of this tax to a very great extent.

We have in Indiana something over 3,000 retail druggists, a number of wholesale druggists, and a number of quite large manufacturers, some of whom are represented here to-day. And we feel, as I say, the tax particularly in Indiana, because it is not only quite a large center for manufacturers but quite a large market for the patented medicines, and our local conditions are such that the profit is reduced to the minimum, and therefore when I say we feel it to an unusual degree I believe the statement can not be contradicted successfully. Our proportion of this tax has been so great that it has been absolutely destructive to the business, directly attributable to that I believe, of a

great many retail druggists, and we feel there is no particular section of the country that needs redress and relief from it to a greater extent than we do; and I have recently attended several meetings of the retail druggists of the State, who are universally in favor of this, and not only the retail druggists, but I have never yet heard anyone connected with the drug trade who did not express himself as believing that it was an unreasonable and unjust tax at the present time. I thank you, gentlemen.

Mr. TAWNEY. Allow me to ask just one question. If I understand the retail druggists, they state that this is a war tax, and the war being over, the Government having a surplus revenue, independent of this tax, which it derives from other sources, that you could be relieved from this burden without any detriment whatever?

Mr. EADS. Without any detriment to the Government, it having already accumulated a large surplus, and the outlook being for a continued large surplus, according to the recent statement of the Secretary of the Treasury.

Mr. STEELE. You are also aware that every other interest would come in here and make the same claim?

Mr. EADS. That might be so. The liquor interests have made many exhortations for relief on their lines, but the Government has never seen fit to relieve them from the payment of taxes for the sale of alcohol; but on medicines the presumption is that they tax sick people, people already afflicted, and increase their burdens.

Mr. STEELE. Proprietary medicines manufactured by the druggists in Indiana are of superior qualities?

Mr. EADS. They are.

Mr. STEELE. Which accounts for the fact that so much is made there, but it is sent to other States for consumption?

Mr. EADS. We must supply the necessary demand for those to other people who are unable to manufacture them.

Mr. STEELE. I thought possibly it might be gathered that Indiana was unhealthy, and I wanted to show that the medicines were sent out of the State.

Mr. WOOTEN. Mr. Thomas Stoddart, of New York, chairman of the legislative committee, will close the statement of the retailers, and then we will have some statements from the manufacturers and wholesale druggists.

STATEMENT OF MR. THOMAS STODDART.

Mr. STODDART. Mr. Chairman and gentlemen, we have here to-day representatives from nearly 20 States. We do not desire to take up any more of your valuable time, as we think the matter has been gone into very thoroughly by the first speaker, and it is unnecessary for us to call upon those gentlemen who have come thousands of miles, sent here by their State organizations to represent them in this cause, which is now creating such a burden upon the retail druggists of the country. The fact is that this burden, as it exists at the present time, will cripple the entire retail drug trade of the entire country. They were loyal, and they have stood by this tax and they have paid it nobly, and they ask now that you relieve us of this burden. I will not take up any more of your time by going into details, as there are other

representatives here who desire to be heard, and I would ask that Mr. Clark, of the manufacturers, address you. I thank you, gentlemen, on behalf of the National Association of Retail Druggists, for your kind attention.

STATEMENT OF MR. CHARLES HEBER CLARK.

MR. CLARK. Mr. Chairman and gentlemen of the committee, there are a few manufacturers here, and they have asked me to speak for them. There is one gentleman here who pays \$20,000 a year of these taxes, another man who pays \$10,000, and I believe they are representatives of the very large firms. Some manufacturers pay the whole tax and some pay part of the tax, and some do what I think they are entirely warranted in doing—what we do. We push down on the lower fellows all we can.

The particular industry that I represent manufactures a peculiar line of material, and there are but four concerns in this country—one in Chicago, one in New York, one in New Brunswick, and one in Conshohocken, Pa., my firm. We make what are called hospital and surgeons' supplies, absorbent cotton, we prepare medicated cotton and gauze for use of surgeons in hospitals and private practice. We make catheters, and divers other things needed for the sick and wounded. I think that in the entire line of articles made by us, which probably comprises several hundred, there is not a single thing which is not intended for a suffering human being, and, at the same time, I do not pretend we are running on the basis of philanthropy; we are running with the intention of getting what money out of it we can.

Now, Mr. Chairman, you and the gentlemen here know a great deal more than I do about the revenues of the Government under the present condition of the Treasury, but if you will permit me I will state what seems to be the naked fact in regard to my own particular industry. It is this: You have probably eighty million dollars surplus of revenue in the Treasury. During this current fiscal year you will collect about \$72,000,000 more than you want, and the next year, according to what the Secretary says, you will collect about eighty-two or eighty-three million dollars which you will have no use for. It means, simply stated, if I may be permitted to use the expression in its naked deformity, you come up among the everlasting hills of where we have our factory in Pennsylvania and take \$7,000 out of my pocket, which I want, and which you have no use for whatever, and you send it up to the Treasury Department and then the Treasury Department sends it over to a bank in New York and that bank loans it out at interest and puts the money in the pockets of its stockholders. (Applause by bystanders.)

Now, that strikes the gentlemen here as being amusing, but it is about as amusing as the boy throwing stones at the frog in the pond. I want that money; I want it to put bread in the mouths of my children and to put clothes on their backs, and you do not want it, and I think you ought to give it back to us, at least I do not think you ought to collect it any more. Now, I have a very strong impression (I am going to cut short what I am going to say) you never intended to levy that tax on things of that kind, and I do believe that a strict interpretation of

Schedule B would be to let us out, but one gentleman here alluded to the Commissioner of Internal Revenue as if we had the power to turn him down when we wanted to. Now, the fact is, the Commissioner decided, if my memory serves me right, in the first place that our goods were taxable.

Mr. DALZELL. Under what head did your goods come?

Mr. CLARK. They classed them under the head of medicinal preparations, whereas we claim, and we think we can prove it in the court of justice without any difficulty, they are not medicinal preparations at all, they are mechanical appliances. Now, the commissioner having ruled that our goods were taxable, at a later date ruled that they were not taxable, and then it went on a little further along—I do not want to speak about him with disrespect, because I believe he executed what he thought was the law—and he reversed himself and declared that they were taxable. Now, I do not know but what in three or four weeks he might reverse himself again. If he does not I do not know what we are to do about it, except to take this money you do not want and pay it over to you or go to a court of justice and try to find out what interpretation the court puts upon that law.

The whole point I want to make for myself is this. When there is war we are willing to do just as much for our country as anybody else, and we have always done it. We furnished about 600,000 pieces of material for use of the soldiers in Cuba, and we have evidence which we can produce to you showing that those articles preserved the lives of our soldiers; and on a great many of the articles we sold at about half price to the Government, on account of the competition, we were compelled to place revenue stamps, and we did not care anything about it; it was something that we did with pleasure. But when the time of peace comes and there is no exigency of war and there is no other exigency, when you do not want that money, I say that, while you have the legal and constitutional right to do it, you have no moral right—allow me to say with all courtesy—you have no moral right to take that money out of my pocket.

That money is taken not under process of taxation, but of confiscation. It belongs to me; it does not belong to the Government of the United States; and, representing the gentlemen who are subjected to that wrong—for that is what it is, a most grievous wrong—with all the respect I can show, I beg to enter my solemn protest against that proceeding and to ask that you shall not modify or in any way tamper with Schedule B, but we ask that you shall repeal it by some process or other. I perceive what the difficulties are in the way of repealing, and I think that no ordinary conditions or considerations of any kind should prevent you gentlemen from attempting to give us the relief which we ask.

Mr. GROSVENOR. Could the gentlemen give us assurances that we can rely upon that we do not need this money and shall not need it at the end of the year?

Mr. CLARK. Mr. Chairman and Mr. Grosvenor, I suppose it is true of Congress as it is of an individual, that we can always find some way to get rid of the surplus. I have never had one, but I know if I had I could get rid of it.

Mr. GROSVENOR. This whole argument proceeds upon the theory that we are raising too much money by taxation?

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MR. DRABELLE. I believe, if the chairman pleases, that every portion of that war tax which was an emergency tax ought to be removed.

The CHAIRMAN. You are in favor of a deficiency every year, instead of a surplus?

MR. DRABELLE. Not according to the statement, if the gentleman pleases, or I have misread the statement.

MR. UNDERWOOD. If it would leave a deficiency, would the business interests prefer these special taxes or a general income tax?

MR. DRABELLE. You are treading upon probably some individual beliefs. My own belief is, a fair income tax on every individual, partnership, and corporation should be placed. That is my own belief, and that is the only just tax, in my own opinion. Of course, there we tread upon opinions; but I would like to levy a tax upon every man's salary and wages and on every corporation's gross earnings. I think that is simply a just and fair way to get revenue. That is my own belief.

MR. UNDERWOOD. Distributed equally?

MR. DRABELLE. Distributed equally without any discrimination or any exemption whatever. But, as I stated, it seems to me we all agree that it is an emergency tax, and if the emergency has passed, then it is time to take it off. But there is another suggestion, as was pointed out by Mr. Englehard, that this is an additional tax upon a particular class of people. We all pay the other taxes. We pay the stamp tax on checks, we pay our stamp tax on express receipts and things of that kind, and if we sell any property we pay our tax on deeds and all other documentary statements that everybody else has to pay, and we have been singled out as a separate class, and in addition to that we have all that burden, so that if the time is not yet ripe for striking off all the law—as I believe it has come—strike off this part, which is clearly a discriminating tax against us as a special class.

I think there can not be any answer that we pay the same as all the people of the United States do under the documentary schedule, and in addition to that we have to pay this additional tax, which, as I say, amounts to 25 per cent, and in some cases, as the manufacturers will show, more than that, upon the net profits.

MR. RUSSELL. You pay a pretty stiff tax upon alcohol, too, do you not?

MR. DRABELLE. I was going to point to that. I will give the committee the benefit of that. We consumed of alcohol last year the taxes on which amounted to \$59,351, and in addition to that, gentlemen, almost every article which enters into the manufacture of listerine has been raised in price; but still, as I say, we retained the same price, the selling price, so as a matter of fact it is more than that.

The CHAIRMAN. The increase in the internal-revenue taxes for the year ending June 30, 1899, was \$102,000,000, a large portion of which was war revenue. Do you think it would be safe and advisable to take off, say, \$100,000,000 in taxes and make a deficiency?

MR. DRABELLE. If it would result in a deficiency I would say, unhesitatingly, no. But if the chairman pleases, I stated if the time has arrived, if there is no danger now, I would strike it off, for I think it was a moral pledge to the people that it was only a temporary expedient.

The CHAIRMAN. The tax on alcohol is something over 700 per cent?

Mr. DRABELLE. We want Schedule B taken off, because, as I say, we pay taxes under Schedule A, and then in addition we pay the special taxes under Schedule B.

The CHAIRMAN. The tax on alcohol is something over 1,100 per cent and the removal of a small portion of that would relieve you much more than the removal of a $\frac{1}{4}$ per cent tax.

Mr. DRABELLE. I do not know about that. Our business has been created under that excessive tax, that is true.

Mr. TAWNEY. How many concerns in the United States manufacture listerine?

Mr. DRABELLE. Only one; that is, legitimately. [Laughter.]

STATEMENT OF MR. H. B. HARDING.

Mr. HARDING. Mr. Chairman and gentlemen of the committee, I am here to represent the drug trade section of the New York Board of Trade and Transportation, and I will state that its membership is composed practically of all the wholesale dealers in drugs and chemicals and importers. I am only going to present this petition to Congress which I have and to which I hope you will give due consideration, coming from such an important body as the New York Board of Trade.

I would like to say, in addition, if the war tax could be repealed after two years what a picture it would be to the entire world of the prosperity and the recuperative powers of the United States of America. If these taxes were repealed within two years of the war, and the Government then would keep its promises and faith to the taxpayers that those taxes were really temporary only, what confidence it would inspire; and should the country at some future time go to war how quickly every business would respond to taxation if they were sure the taxes would be abolished soon after the war, or as soon as there was a fair surplus.

The petition follows:

NEW YORK BOARD OF TRADE AND TRANSPORTATION,
New York, December 21, 1899.

To the Congress of the United States:

The drug-trade section of the New York Board of Trade and Transportation respectfully represents that its membership comprises practically all of the wholesale dealers in drugs and chemicals, and the manufacturing drug, chemical, and pharmaceutical houses in this (New York) city, and that it is representative of these trades throughout the country.

It respectfully petitions for the repeal or modification and extension of the internal-revenue tax imposed under Schedule B, Section 20, and its dependent sections of the war-revenue act now in force. The manufacturers and merchants represented by the drug-trade section expect and are entirely willing to bear their fair proportion of the taxation necessary to meet the needs of the Government, but the tax imposed under Schedule B discriminates so manifestly against a limited class of proprietary articles as to be onerous and oppressive upon a comparatively few citizens of the United States.

This tax of $2\frac{1}{2}$ per cent upon the retail value of the few proprietary

articles taxed under the law imposes an average tax of 4 per cent upon the sales of the manufacturers discriminated against.

It is respectfully submitted that Schedule B, section 20, and its dependent sections, of the act of 1898, imposes double taxation, in that the manufacturers of liquid medicines and perfumery are heavily taxed by the duty on distilled spirits in addition to the tax imposed under Schedule B of the act of 1898. It is inconceivable that Congress intended to single out a limited number of citizens for such excessive taxation, while a much more extended class, enjoying equal protection under the laws affecting trade-marks and proprietary rights in other forms, is exempted from the special tax imposed by the section referred to.

At the present time thousands of proprietary and patented articles sold under trade-marks are absolutely free of tax by the Government, while medicinal preparations used in the homes of the masses of our people are the subject of heavy taxation.

We earnestly submit that such a system is essentially unfair and should be remedied by Congress at the earliest practicable moment.

The purpose of the tax imposed under Schedule B of the act of 1898 was to meet the necessary requirements of the Government in the exigency confronting it at that time. Now, however, a different condition prevails. The unparalleled prosperity that attends the nation, the overflowing Treasury that enables the Government to discharge so large a part of its obligations each month, and the healthful conditions of the affairs of our people, would seem to justify the immediate repeal of that law, which was imposed at a time when the Government was in need.

We therefore petition for a repeal of Schedule B if, in the wisdom of your body, such a repeal is deemed practicable at this time; if not, we petition for a reduction of the rate of taxation to 1 per centum of the retail price of goods required to be stamped under the law and the extension of the stamp tax to all proprietary and trade-marked articles not now covered by the provisions of the law.

This broadening of the field of taxation, in the judgment of your petitioners, would, at the rate of 1 per centum upon the retail price, yield a much larger revenue than is collected under the existing law, and would at the same time remove the law from the odium of class legislation that now undoubtedly surrounds it.

Respectfully submitted.

THOS. F. MAIN,
ALBERT PLANT,
JNO. M. PETERS,
W. D. FARIS,

*Committee on Legislation, Drug Trade Section,
New York Board of Trade and Transportation.*

Attest:

WM. JAY SCHIEFFELIN,
Chairman Drug Trade Section.

**STATEMENT OF HON. HENRY S. BOUTELL, A REPRESENTATIVE
FROM THE STATE OF ILLINOIS.**

MR. BOUTELL. Mr. chairman and gentlemen of the committee, two years ago on the 27th of April this war-revenue bill was brought into the House of Representatives. On that day Mr. Dingley, in his masterful opening argument in support of the bill, said:

Now, all these increased taxes proposed by the bill will give an additional revenue of from \$90,000,000 to \$100,000,000, not less than \$90,000,000 in any probable event and not more than \$100,000,000 in any probable event.

This bill has surprised both its friends and its enemies in the results that have been achieved under it. The total internal-revenue tax in 1898, the largest amount collected in the last decade, was \$170,866,819.36. For the first fiscal year in which this bill was in operation—

MR. TAWNEY. You mean collected under this bill?

MR. BOUTELL. No; for the year previous to this bill it was \$170,000,000—the largest of the preceding decade. For the fiscal year during which this bill was in operation the receipts jumped to \$273,484,573.44, just in the first year, exceeding the highest estimate made by Mr. Dingley in his argument upon this bill.

THE CHAIRMAN. I think it is due to Mr. Dingley to say that the Senate added a number of items in the bill, so his estimate would be pretty nearly correct.

MR. BOUTELL. Yes; and it shows the distinguished wisdom of the author of the bill, that he came as near to it as he did in making his estimate. The estimate given by the Secretary of the Treasury for the present fiscal year for internal-revenue receipts is \$292,000,000, and the estimate for internal-revenue receipts for the fiscal year 1901 is placed at \$300,000,000. The estimated surplus for the year 1900 is \$70,000,000 and the estimated surplus for the year 1901 is \$82,000,000, so that it seems to me, we, as representatives of the people, have brought before us these three questions: First, whether it is wise to modify or repeal any part of this war-revenue law; second, if we determine there should be some modification in the law, where should those modifications or repeals be? And the third question which is left—and the third question which has received little if any discussion—is, if we determine to repeal any portion of this law, whether it is advisable to add certain interests or certain articles to the present articles taxed under this law.

In reference to the first point, whether we should make any modification, it seems to me that the constantly increasing surplus imposes a burden upon us to at least give this at this session of Congress a most wise and careful consideration. [Applause.] In my opinion the time has come when the people we represent demand some modification of this law. As to the second question, I would say that when we come to consider the modification of the law we should bear in mind, first, that the law, prepared with as great care as it could be, was more or less hastily prepared, and the character and effect of the law is best shown by the uncertainties of the interpretations of the law by the Internal-Revenue Department, and if any modifications are to be made those modifications are to be made where the two years' experience has shown that the friction is the greatest.

Now, it seems to me, from all that I learn in reference to the workings of this law, the greatest friction has been under Schedule B, as applied to drugs. Certainly a law in which paregoric with one label is taxed as a proprietary medicine, and arnica with another label is taxed as a proprietary medicine, and perfectly clean antiseptic cotton is considered as a medicinal article, that section ought to be considered as one that works great annoyance and is exceedingly harassing to those whom it affects, and so it seems to me in considering a modification of this law that part of it that affects drugs and a tax on proprietary medicines is the one that should receive our first and most careful consideration. [Applause.]

Thereupon (at 12 o'clock) the committee adjourned.

APPENDIX.

RESOLUTION OF THE PHILADELPHIA OIL TRADE ASSOCIATION FOR REPEAL OF TAX.

Whereas petrolatum, or petroleum jelly, being simply reduced Pennsylvania petroleum, deodorized and filtered through bone black, has become so cheap that it is now used very extensively in the arts for softening leather, and for anticorrosive and lubricating purposes, and is sold at from two to three and a half cents per pound in barrels; and

Whereas in 1880 it was adopted into the United States Pharmacopœia as an official article, as a base for ointments, pomades, etc., it is in no sense a patent medicine or proprietary article, and therefore should never have been subject to a tax as such; and

Whereas, under the schedule of taxes levied for war-revenue purposes, the tax amounts to nearly 50 per cent of the market price of the material, which is no more justly subject to taxation than paraffin wax or axle grease when put up in boxes: Therefore, be it

Resolved, That the Philadelphia Oil Trade Association petition Congress that this tax, so far as it relates to petrolatum, sold as such, and not under a proprietary name, be removed.

Resolved, That a copy of these resolutions be sent to our Senator and Representatives in Congress.

Resolved, That W. H. Brill be appointed to represent the interests of this association at any official public hearing or hearings which may be held looking to the repeal or the revision of the Federal revenue schedule known as the "war taxes."

F. S. WALTON, *President*.

G. B. HECKEL, *Secretary*.

A. J. LOOS, *Treasurer*.

AGAINST REPEAL OF TAX.

[Jos. R. Perry, Ph. D., Indianapolis, Ind.]

INDIANAPOLIS, IND., April 7, 1900.

HON. C. W. FAIRBANKS, *Washington, D. C.*

DEAR SIR: If I knew the name of the chairman of the Committee on Ways and Means I would not trouble you with this communication. But as I am ignorant, I must kindly ask you to hand this to him, or acquaint him with the contents.

A very determined effort is being made by the manufacturers of patent medicines, so called, to have the tax taken off their nostrums. This tax is now only 2½ per cent, which is very much less than the same class of goods are taxed in England, France, or Germany.

These goods—patent and proprietary medicines—should, as a matter of right, not as a war measure, be taxed not less than 5 per cent at all times, and in case of needing a war revenue the tax should be increased to 20 or 25 per cent.

There is no business in the country better able to bear a good, wholesome tax than

the proprietary-medicine business. There is not a dollar preparation put on the market that costs the maker to exceed \$2 a dozen, and most of them do not cost as much as that. They are—most of them—arrant humbugs, that, like the fakir's razors, are made to sell. They cheat and defraud the people, and should be made to pay well for the privilege.

The American people are a nation of medicine takers—self-medicators, as it were. They like to be humbugged, and the patent-medicine men fool them “to the top of their bent.” I say it advisedly, from forty years of experience, that more people are killed by patent nostrums every year than are killed by war, famine, or pestilence.

Let the tax remain, or increase it. It is right, just, and proper.

Very truly, your friend,

JOS. R. PERRY.

UNITED STATES SENATE,
Washington, April 11, 1900.

Respectfully referred to Hon. Sereno E. Payne, House of Representatives. Mr. Perry is a thoroughly reliable and trustworthy gentleman.

Respectfully,

CHARLES W. FAIRBANKS,
United States Senate.

CARTER MEDICINE COMPANY, BRENT GOOD, PRESIDENT.

[Telegram.]

NEW YORK, April 17, 1900.

THE CHAIRMAN OF THE COMMITTEE ON WAYS AND MEANS,
House of Representatives, Washington, D. C.:

The preference of my company is to continue the internal-revenue stamp on proprietary articles. It is the only protection the proprietors have against pirates and counterfeiters of this class of goods. We can not prosecute criminally in the United States courts, and our experience is that counterfeiters care nothing for injunctions in the above courts. Counterfeiting the private stamp would be a felony, and therefore we oppose the removal of the stamp.

BRENT GOOD,
President of the Carter Medicine Company, New York, N. Y.



BEER TAX—WAR-REVENUE ACT.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

WEDNESDAY, APRIL 23, 1900.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.	CHESTER I. LONG.
ALBERT J. HOPKINS.	JAMES D. RICHARDSON.
CHARLES H. GROSVENOR.	SAMUEL M. ROBERTSON.
CHARLES A. RUSSELL.	CLAUDE A. SWANSON.
JONATHAN P. DOLLIVER.	GEO. B. McCLELLAN.
GEORGE W. STEELE.	FRANCIS G. NEWLANDS.
JAMES A. TAWNEY.	SAM. BRONSON COOPER.
SAMUEL W. McCALL.	OSCAR W. UNDERWOOD.

HULL GREENFIELD, *Clerk.*

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1900.

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BEER TAX—WAR-REVENUE ACT.

WEDNESDAY, *April 25, 1900.*

The Committee on Ways and Means this day met at 10.30 a. m. Hon. Sereno E. Payne in the chair.

The CHAIRMAN. Without objection, the committee will go on without a quorum. The meeting was called this morning for the purpose of hearing the members of the brewers' association.

Hon. RICHARD BARTHOLDT (a Representative from the State of Missouri). Mr. Chairman and gentlemen of the committee, a delegation is here representing the United States Brewers' Association, and they have requested me to introduce the several speakers as they appear before you. I believe a majority of them need no introduction, as they have been here before you on former occasions; and I do not propose to make any argument here, because it is not for members of Congress to talk at this time because we can be heard at any time. At my suggestion, these gentlemen have reduced their arguments to writing in order to save as much time as possible and to make their statements as concise and intelligible as possible. The first gentleman who desires to be heard is Mr. Rudolph Brand, of Chicago, president of the United States Brewers' Association.

STATEMENT OF MR. RUDOLPH BRAND, PRESIDENT OF THE UNITED STATES BREWERS' ASSOCIATION.

Mr. Brand addressed the committee as follows:

Mr. Chairman and Gentlemen of the Committee on Ways and Means: We are grateful to you for granting us the privilege to appear before you again to state our cause. In this very month of April, two years ago, we had the honor to appear as petitioners before your honorable body. We then appeared before you under circumstances differing essentially from those surrounding us at this time of peace and prosperity, a few days before President McKinley's message on the "intolerable situation" which followed the destruction of the Maine and our Government's almost superhuman but fruitless efforts to bring Spain to terms had been sent to the Senate and the House of Representatives. Intense anxiety prevailed throughout the country; the American people were waiting in terrible suspense for your reply to that message. Whatever differences of opinion may have existed among the people before the publication of that message, there was but one opinion as to what your answer would and must be. The people were determined to maintain the dignity and honor of the nation at any cost, at any hazard; and they knew that the Congress of the United States could not and would not fail to respond to the call of patriotism.

Before that event there were practically but two classes of citizens— on the one hand, those who clamored for war, right or wrong, just or unjust; and on the other, those who deprecated war and all its indescribable horrors, but insisted that if war be unavoidable no sacrifice of blood or money should be deemed too great.

The brewers of the country belonged to the latter class, and we came here then as their representatives to say to Congress that—

if the honor of the nation and the welfare of our country required extraordinary efforts and sacrifices on the part of all her people, the brewers would be the last to shirk a patriotic duty; and that if the revenues to be derived from those industries which were not then and have not been taxed since the termination of the civil war should prove insufficient to cover the needs of the Government, the brewing industry, though unable to bear additional burdens, would not shrink from necessary sacrifices.

I have here quoted literally the words uttered two years ago in this very room by a delegation of American brewers, representing the United States Brewers' Association, and practically the entire American brewing industry. We could not do more; we would not do less. We had before us the example of the founders of our association who, during the civil war—at a time when, unfortunately, so many other manufacturers sought, by hook or crook, to evade just tax burdens—of their own accord proposed to the Government a method by which every dollar due from the industry would find its way into the Federal Treasury.

We took it for granted that a new war tax would not be superimposed upon the old war tax unless all other wealth-producing sources, not then taxed, failed to yield the revenues required for a successful conduct of the war. We took this for granted, because we relied no less upon the justice of our own attitude in this matter than upon the willingness of other manufacturers to heed the dictates of patriotism. The latter assumption proved to be woefully erroneous. Many manufacturers evidently belonged to the class that stood for war at any price, provided the brewers defrayed the cost of their ardent patriotism. If the brewers could be made to foot the bill, those patriotic citizens would readily consent to any sacrifice. Theirs was a sort of altruism that is but too common nowadays; and their patriotism was doubtless of that peculiar brand that sanctions the noble sentiment, "It is sweet and glorious to die for one's country," provided the other man attends to the dying.

We were unwilling to believe that the tax upon an article of consumption which is regarded as one of the necessities of life by great masses of our people would be doubled, while many articles both of general consumption and of luxury were but lightly taxed or not taxed at all, and while the tax upon ardent spirits, which is much lower, proportionately, than in any other country, remained unchanged. We believed that not only economic and fiscal considerations, but also moral and ethical reasons and some regard to the past history of the ruling party would forbid a reversal of that policy, recognized and adhered to throughout the world, which up to 1898 maintained in our country some discrimination in favor of malt liquors and thus promoted temperance in no uncommon measure.

In our memorial, a copy of which we beg leave to submit to you to-day, we have dwelt at some length upon this and other aspects of this question; and as we desire by the brevity of our statements to show our appreciation of the privilege you have granted us we abstain from repeating many essential points.

Congress imposed this additional war tax upon our product in spite of the fact that fully two-thirds of the legitimate revenue sources of the country, resorted to in 1862 and 1863, remained wholly untaxed. We paid this exorbitant and unjust extra tax—a tax representing 40 per cent of the price of our product—during two years. We paid it, candidly speaking, under silent protest; we paid it under industrial and commercial difficulties which brought to many of us utter ruin, to some of us a serious impairment of business prosperity, and to all of us such a measure of financial embarrassments as no industry in the world has ever been exposed to by the lawmakers of its own country. The effect upon the whole trade is clearly demonstrated by the fact that during the past year—a year of unprecedented affluence in all branches of American commerce and industry—the production of beer (which is liquid bread to thousands upon thousands of our people) has decreased by 1,000,000 barrels; and this disastrous effect, the economic result of the double war tax, is felt not only by the brewers, by the growers of barley, of corn, and of hops, but also by very many important industries which depend almost exclusively upon brewing, and particularly by the great mass of consumers.

While we still hold that justice, economic utility, and many moral and ethical considerations should have prevented Congress from superimposing this new war tax upon the old war tax, we feel compensated in some measure at least for the unwarranted sacrifice exacted from us by the consciousness that the brewing industry by paying over 40 per cent of the entire war tax contributed financially in a larger measure than any other twenty American industries to the glorious achievements of our people during the past two years.

We now appear before you with an appeal for justice, which is supported by the explicit pledge and promise of the ruling political party. In our petition submitted in April, 1898, we stated the following:

If, in spite of every objection that can be justly urged against an increase of the beer tax, you should nevertheless see fit to determine upon it, we would respectfully request that the duration of the additional tax be limited to the emergency which requires it; in other words, that the day on which the present tax rate shall be restored be fixed by law.

As a reply to this the honorable Committee on Ways and Means stated in its report accompanying the war-revenue bill, as ultimately enacted, the following:

While all of these additional taxes are war taxes, which would be naturally repealed or modified when the necessities of war and the payment of war expenses have ceased, yet it is impossible now to place a limit on them, not only for the reason that no one can intelligently forecast the length of the war, but also for the reason that war always brings a train of extraordinary expenditures which do not terminate with the close of actual hostilities.

We now ask you to make good this pledge, to fulfill this promise. The treaty of peace was signed on the 12th day of August, 1898; one year and eight months have elapsed since the war ended under this treaty; actual hostilities had ceased some time previous to this event. Extraordinary expenditures following in the wake of this war ceased to such an extent that there is now in the Treasury a surplus which within a few months will exceed by 200 per cent the most destructive tax ever imposed by a legislative body, namely, the double tax upon American malt liquors. This increasing surplus, rendered possible only by the continuance of this destructive double war tax upon a very important and morally and economically useful industry, has already

caused serious disturbances in the country's money market and compelled the Treasury to anticipate its obligations to the nation's creditors. Its pernicious effects in this respect will naturally be augmented in proportion to its increasing volume, and this deplorable condition (which presents not a single compensating feature) will necessarily go on simultaneously with the gradual destruction of our trade.

Justice, public utility, political expediency, and a due regard for the moral and physical welfare of the people and the comfort and happiness of the beer-drinking masses alike demand of you the reduction of the beer tax to the former rate.

Mr. McCLELLAN. What is the total amount of taxes paid on beer?

Mr. BRAND. About \$70,000,000.

Mr. McCLELLAN. What percentage of the total internal-revenue tax is that; that is by far the largest item?

Mr. BRAND. That is by far the largest item; yes, sir.

Mr. UNDERWOOD. How much taxes do the brewers pay in proportion to the capital they have invested in this country?

Mr. BRAND. I could not answer that. We have no idea what capital is invested in the brewing business, but it is 40 per cent of the selling price of our product at the present—

Mr. McCLELLAN. That is the wholesale price?

Mr. BRAND. Yes, sir.

Mr. RICHARDSON. What was the aggregate tax before the war?

Mr. BRAND. Just half; the tax has been doubled.

Mr. SWANSON. Do you expect a further decrease in the use of the commodity?

Mr. BRAND. Yes, sir; we do. So far the brewers have had to pay the larger part of this war tax. We have not been able to collect it from the consumer or dealer.

Mr. NEWLANDS. Do the brewers add this tax to the cost of the beer as delivered to the retail dealers?

Mr. BRAND. We have not done that; we could not do it, because it would have resulted in greatly diminished sales.

Mr. NEWLANDS. What proportion is—

Mr. BRAND. The brewers were naturally anxious to extend their trade and always believed this war tax was only a temporary measure and would be taken off again as soon as the war was over.

Mr. NEWLANDS. How was it before the war tax was imposed. Was the tax which was imposed prior to that time imposed on the retail dealers?

Mr. BRAND. Yes.

Mr. NEWLANDS. An additional charge on the beer?

Mr. BRAND. Yes, sir.

Mr. NEWLANDS. But the war tax was not imposed?

Mr. BRAND. No.

Mr. NEWLANDS. Was any portion of the war tax imposed?

Mr. BRAND. It was tried at a good many centers but—

The CHAIRMAN. Why did the tax decrease the consumption of beer?

Mr. BRAND. I say we have borne a part of that extra war tax; but if we had attempted to collect the whole of the war tax from the dealer the decrease instead of being only 1,000,000 barrels would probably be 3,000,000 or 4,000,000 barrels.

The CHAIRMAN. What was the price of the beer to the wholesalers as a rule?

Mr. BRAND. The average price all over the country probably was about \$5 per barrel.

Mr. NEWLANDS. Before the war tax was imposed?

Mr. BRAND. Yes, sir; that is about the average now, about a few cents more. It differs in different cities.

The CHAIRMAN. Why did you not increase the price of the beer a dollar a barrel after the war tax was imposed?

Mr. BRAND. A few cities have tried it, but they have come back to the old price. I do not know of a single city in the United States where the whole dollar was added.

The CHAIRMAN. I do not see why there should be any decrease in the consumption of beer on account of the tax.

Mr. BRAND. Because, as I stated, there was a part of that tax we have been able to shift to the dealer or consumer.

Mr. NEWLANDS. What proportion of it?

Mr. BRAND. Probably a third.

Mr. NEWLANDS. One-third of the war tax or one-third of the whole?

Mr. BRAND. One-third of the war tax, of the additional \$1.

Mr. NEWLANDS. And that one-third has caused the diminished consumption of beer?

Mr. BRAND. Yes, sir.

The CHAIRMAN. The addition was really 85 cents with the rebate?

Mr. BRAND. Yes, sir.

Mr. DOLLIVER. Has the retail price of beer changed anywhere in the United States?

Mr. BRAND. Not the price per glass; but this question may be more fully understood when I say that in the city of Chicago we have made a very careful investigation, and we find that two-thirds of the beer sold there is purchased by measure at the saloon or grocery and taken to the shop, or foundry, or factory, or home by the working people and consumed there.

Mr. DOLLIVER. What proportion?

Mr. BRAND. Two-thirds of the beer sold in Chicago is not consumed on the saloon premises, but is purchased by measure and taken to the homes of the people or to the factories, and it is this class of trade where the reduction in consumption will come, because while the price remains the same the saloon keeper or dealer will give for 5 cents a less amount than if beer is \$1 cheaper.

The CHAIRMAN. What do you mean by \$1 cheaper?

Mr. BRAND. That if the war tax would be \$1 instead of \$2 we could sell our goods for so much less.

The CHAIRMAN. I thought you said if the price was increased the amount would lessen from what it was before, when it was \$1 less; I so understood you.

Mr. BRAND. I say we have been able to collect a part of the war tax, but not the whole.

Mr. NEWLANDS. As I understand it you imposed the tax that existed prior to the war upon the retail dealers, and since the war there has been an additional tax of 85 cents, and you have been unable to impose about one-third of that—

Mr. BRAND. Probably.

Mr. NEWLANDS (continuing). Upon the retail dealers, which would make the additional cost per barrel wholesale less than 30 cents?

Mr. BRAND. Yes, sir.

Mr. NEWLANDS. Do I understand you to say that the retail dealers have sought to impose that extra tax of 30 cents a barrel upon the people who buy of them?

Mr. BRAND. Certainly.

Mr. NEWLANDS. And in doing that a diminished consumption of beer has been caused?

Mr. BRAND. Yes, sir.

Mr. NEWLANDS. Well, now, the increased cost per barrel to the consumers from the retail dealers of 30 cents, distributed over a number of glasses or number of quarts, would amount to very little, would it not?

Mr. BRAND. Yes, sir; to very little, but the margin of the dealer is very small.

Mr. NEWLANDS. How many quarts to the barrel?

Mr. BRAND. A barrel holds 31 gallons, and 4 times 31 would be 124 quarts.

Mr. NEWLANDS. Taking the gallons, it would mean an addition to the purchaser of 1 cent a gallon?

Mr. BRAND. Yes.

Mr. NEWLANDS. What would be the cost of the gallon delivered by the retail dealer to the consumer; what price would he charge?

Mr. BRAND. About 14 cents.

Mr. NEWLANDS. An additional charge of, say, 1 cent has created a diminished consumption of beer?

Mr. BRAND. Yes.

Mr. UNDERWOOD. How many barrels of beer do you say has been the decrease since the war tax has been put on?

Mr. BRAND. For the year past it has been 1,000,000 barrels.

Mr. UNDERWOOD. Is there any other cause which has arisen in the trade which would account for that decrease except the war tax?

Mr. BRAND. On the contrary, we had great prosperity during that year that we did not have before.

Mr. McCLELLAN. And ordinarily there should have been an increased consumption?

Mr. BRAND. Ordinarily there should have been a large increase.

Mr. UNDERWOOD. There is no other cause which has tended to cause the decrease?

Mr. BRAND. Not that I know of.

Mr. TAWNEY. What is there in the statement that the business has become adjusted to the present tax and that the brewers, rather than have the tax reduced, would like to have the percentage of the rebate increased?

Mr. BRAND. I have not heard of that. I have not heard from any single brewer such a statement.

Mr. TAWNEY. Is it a fact that this change would cause any trouble or any readjustment of your business on account of trade conditions—

Mr. BRAND. The fact is the business is not adjusted to the new tax, in my opinion; no, sir.

Mr. TAWNEY. Is that the general opinion of the brewers?

Mr. BRAND. Yes, sir.

Mr. TAWNEY. Is there any considerable litigation growing out of his war tax?

Mr. BRAND. You mean in regard to the failures?

Mr. TAWNEY. I mean has there been any considerable litigation between the Government and the brewers?

Mr. BRAND. None at all; we have never had any litigation with the Government. I believe that is the history of the brewing industry.

Mr. THOMANN. In what respect?

Mr. BRAND. In the collection of taxes, as I understand.

Mr. TAWNEY. I understood the Commissioner of Internal Revenue said a few days ago that there was considerable litigation growing out of the change in the tax.

Mr. THOMANN. I suppose the gentleman refers not to litigation growing out of an attempt to evade the tax?

Mr. TAWNEY. I did not say that. I did not so intend it.

Mr. THOMANN. Our president understood it so, and therefore I wished to reply to the gentleman's question. There is now litigation pending, but that grows out of the refusal of the Commissioner of Internal Revenue to allow a rebate for stamps placed upon kegs of beer sold since the enactment of the war-revenue act. His refusal is based upon the fact that the brewers in some districts who could not get stamps of the new denominations were compelled to use two stamps of the old denomination in payment of the taxes.

The Revenue Commissioner claims that where the brewer has done that he is not entitled to the rebate which is explicitly provided in the law, and the brewers hold that is unjust. They paid the tax of \$2, buying two one-dollar stamps, because the Internal Revenue Commissioner could not give us stamps of the new denomination, and the Revenue Commissioner says if you pay the tax with one two-dollar stamp you would be entitled to the $7\frac{1}{2}$ per cent, but as you have paid it with stamps of the old denomination you are not entitled to it, and this is so clearly unjust that we have induced the Secretary of the Treasury to refer the decision of the Commissioner of the Internal Revenue to the Attorney-General, where the cause is still pending, but there is no litigation pending in court growing out of the war-revenue act.

Mr. BARTHOLDT. Mr. Chairman, I now desire to introduce Mr. Kendall, of New Haven, Conn., vice-president of United States Brewers' Association.

STATEMENT OF MR. N. W. KENDALL, OF NEW HAVEN, CONN., VICE-PRESIDENT OF BREWERS' ASSOCIATION.

Mr. KENDALL. Mr. Chairman and gentlemen of the committee: In our memorial we have endeavored to answer the question, "Who pays the tax?" So far as the final result is concerned it matters little who pays the tax. Whoever pays it, whether it be the brewer, or the dealer, or the consumer, or whether all contribute in varying measures to the payment of it (which is actually the case), the fact remains that the exaction of the extra tax had the effect of reducing the production of malt liquors by 1,000,000 barrels within the past year. In the same period insolvencies, bankruptcies, and consolidation of breweries have become daily occurrences, and the number of newly formed brewing companies in the hands of receivers and of companies who are unable

to pay interest upon their liabilities are increasing at an astounding rate. And all these deplorable conditions prevail at a time of general prosperity in all other lines of business.

Does this state of affairs sustain the claim of the advocates of the extra tax to the effect that it would cause a minimum of industrial disturbance? Is not the contrary clearly demonstrated by the revenue returns? What possible good can it do to compute the proportion of the tax borne by the brewer, the dealer, and the consumer, respectively? The single statistical fact, reported by the revenue office, that the production of beer decreased by 1,000,000 barrels when it should have increased by a much larger amount than this, proves conclusively the correctness of the economic axiom that an excessive tax, unless fraudulently evaded, must necessarily reduce the consumption of the overtaxed article. It seems to us that this is all that the lawmakers need to know in order to induce them to grant the relief so imperatively demanded by existing conditions.

Now, who does pay the tax? As it is a tax on consumption, the consumer ought ultimately to pay it; the brewer collecting it from the dealer, and the dealer exacting it from the consumer in one way or another. Theoretically this sounds very plausible and appears entirely feasible. But is it a fact? Not at all. The fact is that the tax affects the manufacturer, the dealer, and the consumer; the two former sustain actual losses of money, the latter shares the burden in some measure by loss in the quantity of the goods he receives at the old price. The exact extent to the dealers' and the consumers' losses can not be estimated; but as to the general effect of the tax as a trade destroyer, we have a most reliable gauge in the depressed condition of the brewing industry at this time of general progress and prosperity.

We know the actual losses sustained by the brewing industry in the shape of decreased production; we know of hundreds of bankruptcies and are aware of the financial straits of hundreds of brewing establishments; but at the present time it is impossible to estimate the whole extent of the injury inflicted upon brewing and the allied trades, upon agriculture, and upon the dealers. This much is certain, however, that far from causing a minimum of industrial disturbance, as had been claimed, the additional tax has completely unsettled and demoralized our industry and every trade that depends upon it. Everything is still in a state of transition; neither the producers nor the retailers, nor, in fact, the consumers have succeeded in accommodating themselves to the new condition of things; everything is held in abeyance; sporadic and desultory efforts to regulate matters are quickly abandoned on account of the uncertainty of surrounding circumstances and the vague possibility that concerted action—such as the formation of trusts—may bring relief.

In the meantime the brewer, unwilling as yet to reduce the wages of his workmen, and equally loath to produce an inferior quality of beer, can find no way by which to recoup losses arising from diminished sales and an expense account based upon the former more favorable conditions. Sooner or later the exigencies of a desperate situation will compel him to resort to either or both of these expedients, and even then it is questionable whether the relief sought will be obtained. Doubtless the consumer already pays part of the tax, for while the price of beer by the glass or measure has not been raised, the quantity given for the old price is smaller. The brewer can not, however, give

smaller measure, as the law, etc. Nevertheless the burden of the tax rests most heavily upon the manufacturer, who needs immense sums of ready money for the purchase of stamps, thus investing capital which for many weeks and even months remains practically dead, yielding no return and swelling his loss account, caused by delinquent debtors, to prodigious figures. The brewers also lose enormous sums because their operating expenses remain the same, while on account of steadily decreasing sales their profits grow less from day to day.

Now, as to the dealer. Does he pay the tax? He pays a part of it, no doubt, but the brewers do not succeed in collecting the whole amount of the tax in any case; in many instances attempts to do so only result in augmented book accounts; in others compromises must be effected in order to hold trade. The dealer might pay a larger proportion of the tax, if he were not overburdened by State and local taxes, for the payment of which he must in a considerable measure depend upon the brewer. The pressure arising from competition naturally operates along the lines of least resistance, and hence in both cases the smaller establishments are the greatest sufferers. All strive in some way or other to make ends meet and to avoid utter ruin. All look forward hopefully to the redemption of your promise to reduce the war tax, and in the meantime all—brewers, dealers, and consumers—are heavy losers by reason of this tax.

Mr. TAWNEY. You speak of a large number of failures. Have you any statistics showing what failures there have been in the past year?

Mr. KENDALL. No, sir; we have not prepared any statistics, but we know from our conversations with each other of the straits we are in, and we have seen publications frequently of the failures.

Mr. TAWNEY. Do commercial agencies give any information as to the number of failures in the brewing industry?

Mr. KENDALL. Not in a statistical form.

Mr. UNDERWOOD. As I take it, the equity of the brewers' case is that you are paying more taxes in proportion of the amount of capital invested in the business than the great majority of our people. Can you tell me how much capital is invested in the brewing business—how much the tax you pay is in proportion to the capital?

Mr. KENDALL. No, sir; I can not; but I would say this, however, that the brewing business requires an enormous capital to be invested in order to prosecute our business, and with the changed condition the capital is out of all proportion to the profit we are able to make, and the money which we have invested in brewery plants and in all the accessories of brewing would be better at the legal rate of interest than it is as now invested.

Mr. NEWLANDS. The total tax, I believe, secured from beer is about \$70,000,000 per annum?

Mr. KENDALL. Yes, sir.

Mr. NEWLANDS. That tax, you say, is distributed between the brewers on the one hand and the retailers and the consumers on the other?

Mr. KENDALL. Yes, sir.

Mr. NEWLANDS. About what proportion of this tax would you think falls on each?

Mr. KENDALL. Well, sir, that varies according to sections.

Mr. NEWLANDS. I mean in the entirety?

Mr. KENDALL. In the entirety it is my opinion that about 40 per cent of this tax now falls upon the brewer and the rest is divided

between the dealer and the consumer. In your question put to our president, who preceded me, you asked him how it was that the consumption has decreased. I should answer that perhaps a little more thoroughly than he did by telling you that the brewers of the country, in trying to distribute this tax in the first place, issued little circulars showing the retailer how he could throw a portion of this tax upon the consumer—that is, by giving a certain size of glass, and showing him what size of glass to use in retailing, and also by the measure when selling beer by the pitcher or by the pail, and while the retailer said to us openly almost everywhere that he would not do that, yet, as a matter of fact, he did do it, and that has resulted very largely in the decreased consumption of the beer.

Mr. TAWNEY. In other words, a small glass of beer satisfied the man just as well as a large glass?

Mr. KENDALL. Perhaps not satisfied him, but he put up with it everywhere on account of the war.

Mr. NEWLANDS. Let me ask you another question. You stated theoretically that this tax should fall upon the consumer, and not upon the retailer or brewer. Is it your understanding that the purpose of the tax was that it should fall on the consumer?

Mr. KENDALL. When that tax was levied, it was a popular notion among the lawmakers and most all other people that those who were engaged in the brewing business were making enormous profits. That was true a few years ago, but competition became so sharp at that time, when this extra tax was imposed, that the brewers, as a matter of fact, were making very small profits, not anything like what was the general opinion of those gentlemen, who were not familiar with the business.

Mr. NEWLANDS. I asked you whether you thought it was the purpose of Congress to fasten that tax upon consumption or to fasten it upon the manufacturers of beer?

Mr. KENDALL. Well, it is pretty difficult for us to say what Congressmen had in their minds.

Mr. NEWLANDS. Now, with reference to the brewers themselves, is there any method of ascertaining exactly what the amount of stock and bonds is that have been issued in the various breweries of the country?

Mr. KENDALL. Oh, yes, sir; that is a matter of record, but those stocks and those bonds are largely watered, and they have never—none of them, I believe, at the present time are paying anything except the interest upon the bonds, or if they are, but very little upon the preferred stock which has been issued.

Mr. NEWLANDS. Now, how many large breweries are there in the country?

Mr. KENDALL. I think perhaps Mr. Thomann could answer that question better than I can.

Mr. THOMANN. It depends upon what the gentleman considers to be a large brewery.

Mr. NEWLANDS. Well, with capital and bonds issued of a million dollars, we will say?

Mr. THOMANN. We would rather have the question put in a way which to us would seem more tangible. If you put your question in regard to what breweries sell more than 50,000, or 60,000, or 100,000 barrels we could probably answer, but the other question we can not

answer because we have no cognizance of how many bonds they have issued, but we know how many barrels they sell.

Mr. NEWLANDS. How many are there producing more than 100,000 barrels of beer?

Mr. THOMANN. I should not think more than about a hundred out of a total of 1,800, but permit me to reply to the previous question which he propounded—

The CHAIRMAN. Perhaps we had better wait on these other questions until this gentleman is through.

Mr. TAWNEY. Mr. Kendall, you understand, of course, the practical question that this committee must deal with is whether or not we can get along with the decrease in the revenue which would be occasioned by the repeal of the war-revenue tax. Do you think we can afford to take the tax off of beer and not take it off anything else? Would it be practical in your judgment for us to do it?

Mr. KENDALL. It is generally thought by the brewers that the tax on a good many articles could be pretty generally removed and relief also given to the brewers. That is, to say, if the tax was left upon tea and tobacco, and the tobacco men have not very much objection to the taxes as they are now, and all other taxes wiped out and the brewers given relief, there would still be a surplus.

Mr. TAWNEY. Suppose that was not the fact; suppose the tobacco industry demands the same reduction, the removal of the tax upon their industry, and all the others would come to us and make the same demand, would it, in your judgment, be advisable for Congress to remove this tax and thereby create a deficiency in the Treasury?

Mr. KENDALL. My answer to that would be that there is no industry bearing the amount of taxation that the brewers are—that is, the tax as increased by the war-revenue act. The tax upon the brewers is an enormous burden. All the other taxes are slight in comparison to the tax you have imposed upon them.

Mr. DALZELL. We have not had before this committee a single industry calling for relief from taxation that does not make that same statement.

Mr. KENDALL. I presume that is so, but the figures are before you, Mr. Dalzell.

Mr. HOPKINS. Is your tax relatively higher than the tax on whisky?

Mr. KENDALL. No, sir; and it ought not to be. The policy of all governments has been to encourage the sale of malt liquors by not overtaxing them, while it has been directly the opposite in regard to spirituous liquors, and that is the true reasoning in regard to temperance.

Mr. HOPKINS. That is, that beer leads to temperance and whisky to drunkenness?

Mr. KENDALL. There is no question about that; the statistics show that wherever encouragement has been given to the consumption of beer order in society has increased, and wherever you see a large consumption of spirituous liquors there you will see crime increased.

Mr. UNDERWOOD. Does the tax on whisky fall upon the manufacturer or upon the consumer?

Mr. HOPKINS (interrupting). Do I understand you, then, that you advocate the reduction of this tax upon temperance principles?

Mr. KENDALL. If you can give me one day's time to prepare myself

on this line I could talk to you for ten hours in that direction and convince you every moment of my talk.

Mr. NEWLANDS. Where can the statistics be obtained as to the capitalization in stock and bonds of the breweries of the country?

Mr. KENDALL. The ones you particularly refer to, I think, sir, can be obtained in the official brewers' publications—the American Brewers' Journal and the Western Brewers' Journal. I think they publish every month a page showing the capitalization of these concerns you refer to.

Mr. RICHARDSON. Would a reduction serve your purpose—I mean a partial reduction—or do you ask for the total reduction of what it was before the war tax?

Mr. KENDALL. It is the sense of the brewers of the entire association that they certainly ought to be placed back to the position they were before the war. I do not presume any of them would find very much fault if some of it was taken off, but we think we are entitled to the entire amount.

The CHAIRMAN. Do I understand they do not care for any reduction unless they get it back to the old tax of a dollar?

Mr. KENDALL. They would not like to have the reduction in the form suggested by one gentleman of the committee, in the way of raising the rebate allowed to us.

Mr. TAWNEY. You would not want the percentage of rebate increased?

Mr. KENDALL. Most certainly not.

Mr. TAWNEY. That would be the easiest way to accomplish it.

Mr. KENDALL. That rebate was established for the purpose of reimbursing us for our losses, and it just about does that, and we would not like to have that confused with any other motive.

Mr. NEWLANDS. As I understand it the reduction you speak of would result in the reduction of the total revenues of the country about \$35,000,000. Well, now, assuming that it is necessary we should maintain the revenues, what would you suggest as a substitute for this tax, in order to maintain the revenues of the Government. Your claim is that your industry is heavily taxed, as compared with other industries?

Mr. KENDALL. It is overtaxed.

Mr. NEWLANDS. Now, have you got any other method of taxation—

Mr. KENDALL. You mean any other article which could be taxed?

Mr. NEWLANDS. Yes; any other article.

Mr. KENDALL. There is one article, and that is the wines of this country, which go untaxed. They could be taxed just the same as beer. They contain more alcohol than beer by far—double the quantity of alcohol that beer has—and still they are not taxed, and they are rapidly coming into general use in this country, coming in direct competition with our beers.

Mr. NEWLANDS. Do you not think the increased use may have resulted in the decreased use of the beers, and not because of the cost to the consumer, to which you have referred?

Mr. KENDALL. Your first question was in regard to it as a revenue producer?

Mr. NEWLANDS. Yes.

The CHAIRMAN. Gentlemen, I had a letter the other day from a

manufacturer of these wines complaining loudly and bitterly about the tax on them.

MR. KENDALL. That is 1 cent a bottle, is it not? I should not think he would complain very much when it is only 1 cent per quart.

The CHAIRMAN. He is complaining loudly and bitterly, saying that it was ruining his business.

MR. NEWLANDS. That would not equal the \$35,000,000 that would be taken off from your industry. Have you got anything else to suggest besides that for taxation?

MR. KENDALL. I was engaged for many years in selling goods, and I never ran down other people's goods to sell my own.

MR. TAWNEY. There is a tax of 1 cent a quart upon native wine?

MR. KENDALL. I believe there is.

MR. TAWNEY. Is not that a larger tax than on beer; you said a moment ago that the tax was about 1 cent a gallon?

MR. KENDALL. Oh, my; no.

MR. TAWNEY. I understood him to say that.

MR. KENDALL. Oh, no.

MR. McCLELLAN. The proportion borne by the consumer.

STATEMENT OF MR. J. W. BROWN, OF BROOKLYN, N. Y., CHAIRMAN FINANCE COMMITTEE, UNITED STATES BREWERS' ASSOCIATION.

MR. BROWN. Mr. Chairman and gentlemen of the committee, the effects of excessive taxation are so well known throughout the civilized world that, outside of academic discussions, an argument upon the subject would almost appear puerile. The sum of human experience is crystallized in the economic axiom that taxation beyond a legitimate revenue standard can have but one of two effects, namely, it either defeats its own object by inciting to tax evasions on a grand scale, or, by enhancing the price, it decreases the consumption of the overtaxed commodity.

You know, gentlemen, and if you do not know the Revenue Commissioner will tell you, that evasions of the beer tax do not occur. Even if they were not almost impossible, the American brewer, as history amply testifies, would not perpetrate them. From the same official source we learn, however, that the other effect of excessive taxation is painfully manifest. A decrease of 1,000,000 barrels within one year—and that year one of uncommon prosperity—can not be accounted for in any other way.

Now, what will be the ultimate result, so far as the drinking habits of the people and the cause of temperance are concerned, if, with the present exceedingly low tax upon ardent spirits, this exorbitant beer tax should be continued for any length of time? The history of our own country—not to speak of that of many European countries—furnishes an irrefutable answer.

Wise tax laws favoring a broad discrimination in favor of fermented beverages have, within forty-seven years, succeeded in completely changing the drinking habits of our people. Whereas forty-seven years ago we were unenviably conspicuous among civilized peoples as a nation of hard drinkers, we hold to-day the foremost rank among

temperate nations. Reverse the conditions which brought about this marvelous change and you inevitably reverse the results.

There is not to-day a single European country where an attempt to impose a comparatively higher tax upon beer and light wines than upon ardent spirits would not be considered an unpardonable mistake. In Belgium, in the Netherlands, in all the Scandinavian countries, in France, and in Russia the lawmakers earnestly strive to minimize the evils of intemperance by reducing the taxes upon malt liquors to a minimum. Switzerland has its governmental alcohol monopoly, supplemented by a very high spirit tax, but malt liquors are scarcely taxed at all. The Scandinavian countries have their Gothenburg system, with its restrictions as to the sale of spirits, but this system does not apply to malt liquors. In France and Belgium and in the Netherlands the tax lever is freely used to increase the consumption of malt liquors and to decrease the use of spirits.

In 1885 Gladstone was driven out of office on account of his proposition to increase the beer tax, and his opponents, supported by the British people, dwelt with particular force and emphasis upon the effect the proposed tax increase would have had upon the cause of temperance and the comfort and well-being of the workmen. It was argued that beer and ale were the drinks of the common people, and that the ministerial bill proposed to put on them the expenses of the Egyptian war. That was quite sufficient to give Gladstone's office to the Marquis of Salisbury, and to change the political complexion of the Government. Great Britain is at present engaged in a war requiring a much greater amount of money than we expended in the Spanish-American war, yet the tax upon malt liquors, infinitely lower than our beer tax, was increased by a few pennies only, while on the other hand the British spirit tax exceeds the American spirit tax by \$1.40. The objects of this policy require neither explanation nor comment; they are quite as much of a moral as of a fiscal character, and they are universally understood and appreciated.

If any evidence of the efficacy of light wines and beers as promoters of temperance were required, I might quote copiously from recent official reports upon our canteen system, all showing with convincing force that wherever our soldiers can easily obtain these mild beverages drunkenness occurs but rarely, discipline and good order are improved, and the guardhouses and the hospitals stand unoccupied. Under this system the mild stimulants take the place of ardent spirits, and the result is such an amelioration of the physical and moral well-being of the troops as no other single agency could possibly produce.

The tax rates which were in force up to 1898 produced the same results throughout our country. The war-revenue act reversed these conditions, and the final result, if the tax be continued, can not but be a reversal of our achievements in the direction of true temperance.

We do not believe that any statesmen, having at heart the welfare of his people, can afford to experiment any longer with this serious and most important question, now that the effects of the tax, predicted by us two years ago, are beginning to make themselves felt in so palpable a manner.

It is for this and other reasons already stated that we confidently rely upon your sense of justice for a speedy redemption of the promise made by your honorable committee in the report accompanying the war-revenue bill.

Mr. McCLELLAN. I would like to add right in line with that, and of which you are probably aware, that in five years the effect of the increase of the wine tax in Italy was to increase by 40 per cent the consumption of rice brandy, directly in line with what you say there.

Mr. BROWN. There is no question of that. The statistics will prove that where mild beverages are overtaxed drunkenness increases and the British Government particularly have examined into that subject, to bear as lightly as possible on malt liquors and as heavily as possible on ardent spirits.

Mr. HOPKINS. Have these arguments ever been presented to the temperance societies of the country, so as to get them enlisted in the cause?

Mr. BROWN. I do not know whether they have or not, but they should be. I think the brewers claim to be the true temperance advocates of this country.

Mr. McCLELLAN. You are, too.

Mr. BROWN. There is no doubt about that, sir.

Mr. NEWLANDS. May I ask you a question? I believe the use of beer is more prevalent in Germany than any other country?

Mr. BROWN. I believe so.

Mr. NEWLANDS. How does the price of beer to the consumer there compare with the price in this country?

Mr. BROWN. I am not prepared to answer that. Perhaps some of the gentlemen who were born in Germany and know more of the customs can answer it.

Mr. McCLELLAN. The prevailing rate in Munich per liter is 18 pffenigs, equal to about $4\frac{1}{2}$ cents.

Mr. NEWLANDS. How much is a liter?

Mr. McCLELLAN. A little more than a quart.

Mr. NEWLANDS. What is the amount given in an ordinary beer saloon in this country to a consumer for 5 cents?

Mr. BROWN. If you buy by the measure or by the growler, as it is called, you pay, nominally, 10 cents a pint, but actually you get a quart for the pint.

Mr. NEWLANDS. Is the price you refer to the price in the beer garden?

Mr. McCLELLAN. Yes; in the beer garden.

Mr. NEWLANDS. They buy by the quart?

Mr. McCLELLAN. The liter is the usual measure—a stone liter mug.

Mr. BROWN. I admit that the price by the glass, 5 cents a glass, is perhaps a high price, but there does not seem to be any other coin that fits into it, but still the price of the retailer is large at 5 cents a glass, but as a matter of fact, as one of the gentlemen stated here not long ago, some 60 per cent of the beer is sold by the measure. In the city from which I come, New York, more than 60 per cent of the beer is sold by the measure at about 10 cents a quart.

Mr. NEWLANDS. In selling beer by the glass how many glasses are there in a quart?

Mr. BROWN. There are about 400 glasses in the barrel; that is, the ordinary beer glass that you gentlemen would get over a bar.

Mr. NEWLANDS. And how many quarts to the barrel?

Mr. BROWN. There are 120 quarts, I think.

Mr. SWANSON. The increased exportation of beer to the Philippines has not made up for the decreased consumption here?

Mr. BROWN. Well, the increase in consumption in the Philippine Islands is very large, speaking of the percentage, but of the whole it is not a drop in the bucket.

Mr. SWANSON. It has not made up for the decreased consumption at home?

Mr. BROWN. No, sir; not a drop in the bucket. After all the Filipinos become accustomed to beer and all will want beer four or five times a day possibly it will be something. The total export is about 150,000 barrels, as against a total product of about 35,000,000, so that bears out my statement that it is a mere drop in the bucket.

STATEMENT OF MR. EDWARD RUHL, OF BOSTON.

Mr. RUHL. Mr. Chairman and gentlemen of the committee, the principal reasons upon which the United States Brewers' Association base their expectation that the beer tax will be reduced to the former rate are the following:

1. Because it was unjust to impose additional burdens upon an industry that has uninterruptedly and uncomplainingly borne the old war tax ever since its first imposition (aiding the Government in devising and maintaining means for its prompt collection), while many legitimate sources of internal revenue remained untaxed, and while the tax upon ardent spirits was not increased.

2. Because when the old war tax of \$1 was imposed beer sold at \$12 per barrel, while to-day, with a double tax upon beer, less than one-half of that amount is the average price, wages and the ordinary operating expenses of breweries, cost of raw material, and the capital required in the business having vastly increased in the meantime.

3. Because the tax was imposed as, and officially declared to be, a war measure, designed to raise sufficient revenue for the conduct of the Spanish-American war, and to be revoked as soon as the exigencies growing out of such war ceased to exist.

4. Because there is at present in the Federal Treasury not only a sufficiency, but a constantly increasing surplus of revenues, which is actually causing an "embarrassment of riches," and justifying the Government in anticipating its obligations to the nation's creditors.

5. Because, while agriculture, commerce, and all branches of industry are enjoying an unprecedented degree of prosperity, expanding and increasing their operations both in extent and volume, and reaping enormous profits, the brewing industry, overtaxed in a measure unparalleled in the fiscal history of the world, is in a most deplorable condition—the decrease in its production amounting, during the past year, to 1,000,000 barrels, and the number of bankruptcies increasing at a most alarming rate, and in a proportion clearly indicating the utter annihilation of the smaller establishments.

6. Because the continuance of this unjust tax, affecting, as it does, an article of consumption that has justly earned the title of the most powerful promoter of temperance, and which to the great mass of the working people of this nation is both food and drink, would be a most unwise course, not only on account of its injury to one of the most beneficial and important industries, its injustice to the consumer, and its evil consequences to the cause of temperance, but also by reason of its destructive effects upon the only source of revenue which

from the days of the civil war up to 1895 could be relied and counted upon with almost mathematical accuracy for a predeterminable amount of revenue and an equally certain and steady increase.

The CHAIRMAN. Gentlemen, this will close the hearing.

Mr. BARTHOLDT. I should like to file this letter, Mr. Chairman.

The CHAIRMAN. Very well, Mr. Bartholdt, just hand it to the reporter.

Thereupon the committee adjourned.

APPENDIX.

ANHEUSER-BUSCH BREWING ASSOCIATION,
St. Louis, Mo., April 18, 1900.

MY DEAR MR. BARTHOLDT: It is evident that conditions, financial and economical, call for a modification of war taxes, and that public sentiment is looking to Representatives in Congress to take the initiatory steps.

It is clear that the war-tax measure has resulted in at least two surprises of undeniable significance, the effects of neither of which should be unnecessarily prolonged. One is an overflowing Treasury; the other a decided discouragement to the brewing interest.

The first is necessarily bad. Such a condition of the Treasury is a standing invitation to raids and schemes of questionable propriety. Our new possessions, even under the most careful and conservative guidance, must, in the very nature of things, make more or less of such work inevitable. It would therefore be unwise in the extreme, at this time, to maintain the additional inducement or temptation of an overflowing Treasury.

Again, such a state of the Treasury results in a withdrawal of funds from circulation, when they are as much needed as ever in the history of our country, and when the new revenue law does not present a method by which the Treasury can with advantage release these funds when they are collected. In fact, there is no consideration, bearing upon the Treasury alone, that does not work in favor of a reduction of the revenue.

But the effect upon the brewing interests is not to be overlooked. Statistics (and their correctness can not be questioned) show how production has been reduced since the enactment of this law, during a period, too, when every other industry has flourished and when universal prosperity has been made the boast of our people.

It may be urged that this complaint is not for me to make. Perhaps not. It is probably true that the establishment over which I preside has suffered less than others. Without discussing causes in detail, it is undoubtedly true that the small concerns have been relatively the greatest sufferers. But I am not prepared to believe that a new and severe measure, avowedly enacted for a temporary and urgent public purpose only, shall find an argument for its indefinite retention in the circumstance that the small dealer is most injuriously affected or unfairly oppressed by it. Such a contention would be giving substance to a political complaint which, I submit, has been made uncomfortable enough as it is.

If there be those who are willing to retain this law for the very reason that it works discouragement to our business, we suggest that they be permitted to operate under their true colors, and that they be denied the use of the cry that more funds are needed. Revenue is one thing; prohibition is another. And there is danger in a political combine of the two. We are entitled to meet each of these arguments on its merits, and if they do not stand apart they may expect to be dealt with as one. It would be easy to demonstrate that the cause of temperance can only be injured by taxing breweries to the point of discouragement. If the experience of our country does not suffice, the history of England must prove convincing.

When the war measure was suggested our interests promptly responded; none more cheerfully or reliably. On the day when the measure was signed it was safe to base appropriations upon the share to be contributed by the brewery interests, and so it has continued since then. But when a war is over, and its financial consequences have been provided for, a war tax has no place on the statute books. That was promised when the law was enacted. So much would be true if no express promise had been made. The fact that the tax of the civil war was retained all

these years should not be taken as a precedent for the infliction of this further burden, but ought to serve as a distinct reason for prompt relief at the earliest possible moment. If there be a disposition to enter upon broader expenditures, based upon a permanent income of larger proportions than existed before the late war, then we protest that there should be some measure in the burdens assigned to us. If the sense of the American people upon this question is to be tested, the only safe course will be to so distribute the needed taxes as to enable the people to judge of the question by their common experience. In other words, this disproportionate taxation of one industry for the support—possibly for the subsidizing—of others can not expect our support, and ultimately will have the disapproval of the entire people.

We are told that the war is virtually over. There is one, and only one, persuasive proof of that declaration; one that will carry conviction throughout the land. Reduce the income that war alone justifies, and the people will believe that, in the mind of the Government, the war is over.

I make no complaint. I have consistently supported the Government from start to finish, and do so now. As promises have been kept in the past, so I think they will be kept in the future. As I have cheerfully paid double taxes when there was reason for the burden, so do I now protest against a tax which the Government does not need, and for which I therefore can see no legitimate excuse.

Very truly, yours,

ADOLPHUS BUSCH.

Hon. RICHARD BARTHOLDT,
Washington, D. C.

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APPENDIX TO BEER TAX—WAR-REVENUE ACT.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS.

FIFTY-SIXTH CONGRESS, FIRST SESSION.

NATIONAL RETAIL LIQUOR DEALERS' ASSOCIATION OF THE UNITED
STATES—REPEAL OF WAR-REVENUE TAX ON FERMENTED
LIQUORS, AND FAVORING THE ESTABLISHMENT OF
THE AMERICAN SALOON IN HAWAII.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1900.

MEMORIAL OF THE NATIONAL RETAIL LIQUOR DEALERS' ASSOCIATION OF THE UNITED STATES.

WASHINGTON, D. C., *May 16, 1900.*

HON. SERENO E. PAYNE,

*Chairman Committee on Ways and Means,
House of Representatives.*

SIR: On behalf of the Retail Liquor Dealers' Association of the United States we most respectfully unite our memorial to that of the Associated Brewers of the nation and petition your honorable committee and Congress for the repeal of the extra war revenue on fermented and malt liquors.

This tax was levied to meet the exigencies of the Spanish-American war, and its unparalleled severity must be conceded when it is considered that the civil-war revenue, which still remains unrepealed, though thirty-five years have elapsed since its imposition, equaled but one-twelfth, while the war revenue of 1898, superadded thereto, absorbs two-fifths of the selling value of the manufactured product.

This manifest hardship is emphasized by the additional fact that the decrease in the profits of beer during the same period has kept pace with the decline in its selling price, which amounts to 60 per cent.

This reduction in price and profit is caused by competition, continual improvement in quality, and an increase of 40 per cent in the wages of those employed in its manufacture. The revenue on fermented liquors aggregated, for the revenue year ending June 30, 1899, \$68,644,558, and this unprecedented strain upon their financial resources affects not only the brewer, but also the retailer, who, to a greater or less extent, divides in many localities, directly or indirectly, some portion of its responsibility with the brewer.

In addition the retailer has to assume and bear almost singly and alone a burdensome revenue tax of \$1.10 per gallon on distilled spirits, which totalized for the year of 1899 \$99,283,534, and which, combined with the larger and more proscriptive sums involved in "high license" municipal, county taxes, and restrictive sumptuary legislation, has reduced the retailer to a condition that is almost insupportable. Beer is not inaptly termed "the poor man's liquid food," "the drink that cheers, but not inebriates."

It supplies not only the supreme requisitions of a palatable, refreshing, and nutritious beverage, but has become an absolute necessity in stimulating and restoring the exhausted physical energies of men and

women, laboriously occupied in close and stifling apartments, whose atmospheres reek with defective ventilation, and whose temperatures fluctuate from 98° to 100° during the warm and oppressive months of summer.

It contains but 4 per cent of alcohol, while cider, wines, whiskies, gins, and brandies range from 8.6 to 54.3 per cent.

It affords the only practical solution of genuine temperance, as it substitutes a mild and healthful stimulant for the more highly concentrated products of the distilleries. For this reason its consumption by the natives of our newly-acquired provinces should be encouraged and fostered, rather than prohibited.

And we most earnestly hope, in the interest of true temperance and with all deference, that the House of Representatives, through your honorable committee, will reconsider its recent action in appending a clause to the Hawaiian constitution prohibiting the establishment of the saloon in that territory. The American saloon is the creation of law and order. It is the Government's greatest revenue producer, and wherever it has been introduced sobriety and decency have followed in its wake.

As the representative distributor of a beverage which harmonizes with the more cultivated and better disciplined convivial habits of a higher civilization, the establishment of the American saloon should not be prohibited in the interests (however unwittingly) of the native or local "speak easy," which will dispense and distribute, if said clause is retained, those various samples of liquid madness which are generated from the refuse of the caneries and sugar mills of the island.

The Hon. Frank E. Wilson, of New York, in a speech delivered in the House of Representatives April 30, said:

The cash balance in the Treasury on the 1st of February was \$292,490,973.30; the cash balance on the 1st of March had increased \$5,871,850.28. The surplus outside of the gold reserve, which was formerly counted as a surplus, is a little over \$198,000,000.

This statement indicates that the receipts of the Government are in excess of its expenditures, and that a large surplus is consequently accumulating, which means a corresponding deficit in the financial resources of the taxpayers. Such a condition pleads most eloquently for the immediate reduction of that imperial system of taxation which was only rendered possible by the absolute necessities arising from the supreme crisis of war.

The brewers and retailers have ever been the largest contributors to the revenue necessities of the nation.

The total receipts of the Government for the year 1899 aggregated \$515,652,666. Of this vast sum, the brewers and retail dealers in distilled and fermented liquors paid \$167,927.92, or almost one-third of the entire amount collected from all departments of national industry, capital, and enterprise combined.

Under these circumstances, and especially as the brewers patriotically and unselfishly contributed at least 40 per cent of the moneys collected under the new act for the successful prosecution of the Spanish-American war, it does not seem unreasonable that they should appeal to the earliest and most serious consideration of their national representatives for relief from the extra war revenue on malt liquors,

which has become especially oppressive and intolerable by reason of its being no longer necessary.

Respectfully,

E. L. JORDAN, *Chairman*,
W. T. WHELAN, *Secretary*,
WM. MCGUIRE,
JOHN F. GAINY,
HON. C. SCHWEICKHARDT,
MORRIS TEKULSKY,
J. G. HARTMANN,
AUG. KOEHLER,
R. J. HALLE,
P. H. NOLAN,

*Members of the Legislative Committee of the Retail
Liquor Dealers' Association of the United States.*

O

TAX ON RECEIPTS (EXPRESS, FREIGHT, AND STEAM SHIPMENTS)
AND TELEGRAMS—WAR-REVENUE ACT.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

WEDNESDAY, MAY 2, 1900.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.	CHESTER I. LONG.
ALBERT J. HOPKINS.	JAMES D. RICHARDSON.
CHARLES H. GROSVENOR.	SAMUEL M. ROBERTSON.
CHARLES A. RUSSELL.	CLAUDE A. SWANSON.
JONATHAN P. DOLLIVER.	GEO. B. McCLELLAN.
GEORGE W. STEELE.	FRANCIS G. NEWLANDS.
JAMES A. TAWNEY.	SAM. BRONSON COOPER.
SAMUEL W. McCALL.	OSCAR W. UNDERWOOD.

HULL GREENFIELD, *Clerk.*

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1900.

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TAX ON RECEIPTS (EXPRESS, FREIGHT, AND STEAM SHIPMENTS) AND TELEGRAMS—WAR-REVENUE ACT.

(COMPANIES TO PAY THE TAX.)

COMMITTEE ON WAYS AND MEANS,
Wednesday, May 2, 1900.

The committee met at 10.30 a. m., Hon. Sereno E. Payne in the chair.

The CHAIRMAN. We will now proceed with this hearing.

STATEMENT OF MR. ARTHUR J. BALDWIN, OF COUNSEL FOR MERCHANTS' ASSOCIATION, OF NEW YORK.

Mr. BALDWIN. Mr. Chairman and gentlemen of the committee, this delegation represents the Merchants' Association, of New York, and we think we voice the sentiment of the merchants of our land when we ask for a reduction in the stamp tax upon the interchange of commodities, including, of course, the express companies, freight, steam shipments, and telegrams.

The Merchants' Association of New York City is composed of about 1,400 firms and corporations, who are associated together representing every line of industry and also of over 30,000 firms who are non-residents of the city of New York who are members of the association and who trade with New York City. It is idle for me to call your attention to reasons why these taxes should be reduced in case the income of the Government exceeds its expenditures.

It is idle for us to point out to you that an accumulation of surplus in the national treasury is prejudicial to the commercial interests of the country and how a stamp tax levied as this upon the trade when there is no need of it for revenue is unjust, and I shall confine myself entirely to the other branch of the argument, and in case this committee and Congress shall determine that the conditions of the national finances are such that it is not wise at this time to reduce the income, we think there should be a change or modification of the law to shift a portion of the burden which we now feel is unjustly imposed upon the shipper. I refer to the tax levied upon express companies, which by them has been shifted upon the merchants—upon the shippers.

At the time this law went into effect, in 1898, I think, there was no one but what united in the belief that this was intended as a tax upon the express companies as well as upon the other lines which had been called upon to contribute to the fund which was necessary at that time. The language of the statute seems to point directly to the intention of Congress to levy a tax upon the transportation companies,

upon the express companies. As you know, the case was taken to the court, or I may say before that that the language itself is in this form: "It shall be the duty of every railroad and express company, etc."

Mr. GROSVENOR. Is it worth while to discuss that question?

Mr. BALDWIN. Perhaps not, except as far as the intention—

Mr. GROSVENOR. The Supreme Court of the United States has decided that this tax is a tax against the individual shipper.

Mr. BALDWIN. Yes, sir; and I will pass that point.

Mr. GROSVENOR. We are bound by their construction of it.

Mr. BALDWIN. Exactly.

Mr. GROSVENOR. We did not anticipate that it would be so, I agree.

Mr. BALDWIN. Then that takes away a large portion of my argument, because that is the intention, we think, must have been placed upon it, because I have here the records of your proceedings and the debates in Congress, all of which—

The CHAIRMAN. The records of debates in conference?

Mr. BALDWIN. No; in Congress.

The CHAIRMAN. That language was fixed in conference between the two Houses.

Mr. GROSVENOR. That language was finally fixed by the committee of conference.

Mr. BALDWIN. I see. Well, I simply want to call your attention to the fact, because the former revenue law, the one passed in the days of the rebellion, imposed upon the express companies a tax, first in the form of a stamp tax, and then after one year, on the application of the express companies, the law was changed and the stamp tax was abolished and a gross-income tax was levied by the law of 1863.

Under former legislation there was a tax upon express companies. The question only is this, Is it right that the express companies should escape the taxation? In the first place, that tax as it is seems small, but I want to call your attention to some arguments which were used by the express companies in the case of Simpson against the Adams Express Company which was decided by the Supreme Court. In that argument Mr. Steele, counsel for Adams Express Company, introduced an affidavit by which it was shown that this tax amounted to \$1,600,000 for the five principal express companies of the land, so that the item is not small; it is large.

Mr. GROSVENOR. When was that?

Mr. BALDWIN. In the case of Simpson against the Adams Express Company of last year, showing that the estimated income of this tax would amount for the five principal express companies to \$1,600,000 per annum. Situated as our trade is to-day, the element of transportation is everything. The small merchant is obliged to compete with the city merchant. The country merchant must to-day carry lines of samples and furnish his customers with articles which fifty years ago would not be thought of, and the only way in which he, with his limited capital, can do this is by samples and rapidly replenishing his stock and by the facilities of shipments which are his. Very oftentimes the country merchant is obliged to supply his customers with articles which he has to furnish by express, and in many instances that express charge upon those commodities equals the value of the article.

The Merchants' Association collected a record of some 3,000 packages, in which it showed that the transportation charges on the average of the 3,000 packages amounted to from between 6 and 8 per cent of the entire value of the commodities. So the element of transporta-

tion is a large one, and every item that is placed upon that, every additional burden that is placed upon that in the question of transportation, is an element in determining the value—the amount of profit to the merchant.

The CHAIRMAN. Have they gone a little further and estimated what percentage the tax amounted to on those articles—what the percentage of the stamp tax amounted to on the value of those 3,000 articles? Did they go far enough to find out what that was?

Mr. BALDWIN. No; I do not think that estimate was carried out on their value.

The CHAIRMAN. That would be more to the point.

Mr. BALDWIN. The tax that is now laid is a tax upon sales. If I go to a store here in Washington and purchase an article and take it away with me there is no tax. If that merchant takes that hat which I buy and sends it by his messenger to me at my hotel there is no tax upon it, but if that merchant delivers that package to an express company to be sent to me then there is a tax levied upon the sale; that is the way it results. There is only one new element in the transaction and that is the element of transportation, and that tax is levied upon the transportation, although it amounts to a tax upon the sale.

The CHAIRMAN. You are not complaining because this tax does not reach every article you sell—

Mr. BALDWIN. Not at all; I am only showing as it is now that it is unjust to impose this upon the shipper and let the express company escape the tax. It is simply a question of shifting the burden, providing the committee does not deem it advisable at this time to abolish the tax on these articles altogether.

Mr. UNDERWOOD. As I understand you, you mean that by law we can reenact the statute so it will apply to the express companies, and put the burden upon them instead of leaving it upon the shipper?

Mr. BALDWIN. Yes, sir; instead of leaving the burden upon the shipper, as it is now.

The CHAIRMAN. If they raise their rates to the amount of the tax, how much better off will you be?

Mr. BALDWIN. Then the question of contract comes in; the express companies alone of all transportation companies are the only ones which have escaped the regulations by the Government of their charges. They are perfectly free to charge what they wish. It is a monopoly, and I mean a monopoly in the odious sense of that term. They hold exclusive contracts with railroad companies. They agree among themselves for a division of the territory. The price of transportation is fixed, not by contract, because the express companies fix that; not by competition, but arbitrarily. Now, this tax, as it is, if it is reenacted as a tax upon each package, to be paid by them, then, it seems to me, there should be some provision made that the burden should fall upon the express companies and not upon the shipper, and then the question would be upon Congress of whether or not it would be a reasonable charge; and if the intent of Congress was manifest that this was designed as a tax upon the express companies, then it would be in the power of Congress to compel them to leave the scale as it is and say they should not raise their rates because they are common-law carriers.

Mr. NEWLANDS. Are the express charges regulated as to public use in any of the States of the country?

Mr. BALDWIN. In some of the States, I believe, the legislatures have

regulated the price of the charges, and in those States they could not double up the rates. I understand some of the Western States have regulated it in that way, but I think in most of the States there are no laws regulating the price which can be charged by the express company.

Mr. UNDERWOOD. As I understand your argument it is not a question so much of the express rate involved, but that the merchants pay other taxes, and to equalize this burden of taxation you think it ought not to be put upon the shipper?

Mr. BALDWIN. Yes, sir.

Mr. STROSVENOR. Is the express business profitable in the United States?

Mr. BALDWIN. As far as that goes I wish to say the Adams Express Company is capitalized at \$12,000,000 and has never—

Mr. STROSVENOR. How is it composed?

Mr. BALDWIN. It is a joint-stock association.

Mr. STROSVENOR. It is not a corporation?

Mr. BALDWIN. No, sir; it is what is termed a joint-stock association.

Mr. STROSVENOR. It is a partnership with each partner owning his own share of the concern?

Mr. BALDWIN. Yes.

The CHAIRMAN. It is what is called in New York State—

Mr. BALDWIN. We have such a partnership in New York State, termed a joint-stock association.

The CHAIRMAN. A sort of quasi-partnership?

Mr. BALDWIN. They have certain rights as a corporation, a limited liability corporation or partnership. They have an actual investment, I believe, of less than \$1,200,000, and they are capitalized at \$12,000,000. Since their inception they have divided among the stockholders of that company over \$40,000,000 of profits.

Mr. NEWLANDS. During what time?

Mr. BALDWIN. I forget the date of the organization. Can you give me that, Mr. Mead?

Mr. STROSVENOR. It has been a great many years?

Mr. BALDWIN. They are one of the oldest companies in the country.

Mr. STROSVENOR. What is that—the Adams or the United States?

Mr. BALDWIN. The Adams.

Mr. STROSVENOR. The president of the Adams Express Company made a statement before this committee in which he stated that the express company would be delighted to receive 5 per cent of their gross receipts as net profits on their business. What do you say as to that?

Mr. BALDWIN. I do not know what they do receive; I do not know the volume of the business.

Mr. STROSVENOR. The facts about it is that the railroads absorb a large share of the whole of that business.

Mr. BALDWIN. This statement, I believe, is true: The average dividend declared by the express company prior to 1897 was 8 per cent per annum, and in the year 1897 they had an accumulated surplus of \$15,000,000; and in certain localities where taxes are levied upon dividends, in order to escape that they gave each stockholder a bond equal to the amount of stock which he held—a collateral bond (you may say it was fictitious) secured by the surplus which it had, paying 4 per cent, thereby reducing the dividends down to 4 per cent. In

other words, it was a division of \$12,000,000, an amount equal to their capital stock in 1897. Now, it can not be said that this is not a handsome return for the capital invested in the express business. Now, they occupy, of course, a quasi-public franchise; they have these exclusive rights with the railroads; competition can not enter into it; and it is a question on all the business whether or not their charges are reasonable and just, and whether they should be made to bear a portion of these expenses.

Now, it seems to us there can be no doubt but what it was the intention of Congress, in fact you say it was, that they should bear this expense. By means of the phraseology of the law they have escaped it, and they have saddled upon the shipping public this tax which was designed for them. Now, if this tax is unjust, if it is a charge against the express companies, the shipper should be relieved, and they should be charged either taxes upon their dividends or upon their gross receipts—upon the amount of business which they do—an equitable tax simply that they may share the burdens together with the shipper.

Mr. NEWLANDS. Under the income-tax decision can the tax be imposed upon their gross or net receipts?

Mr. BALDWIN. That, sir, is a grave question which at this time—

The CHAIRMAN. That is a question before the court now in a suit brought by the American Sugar Refining Company.

Mr. BALDWIN. Whether that is constitutional.

Mr. STEELE. Is there a tax imposed upon the American Sugar Refining Company?

The CHAIRMAN. Yes, sir; and on all sugar refining companies and oil companies where the income, I think, is over \$250,000 a year.

Mr. UNDERWOOD. You think by a change of phraseology the tax could be placed upon these express companies?

Mr. BALDWIN. Yes; it could.

Mr. GROSVENOR. We have a tax in Ohio on the gross receipts of a number of corporations.

Mr. NEWLANDS. There was no question about the power of the United States, I imagine, until the income-tax decision.

Mr. BALDWIN. I will call your attention to the fact that under the former tax law of 1863 there was a provision—and I may say this comes to me from recollection, although this phase of the argument had not come to my mind at the time—whereby it was provided that the shipper or person impelled to pay the tax was not allowed to shift the burden of that tax over to another party, and I believe such a law would be constitutional even if put into a statute, or if it was not placed in the statute—if it was affirmative proof that at the time they should pay this tax—that in that event it would then be for the courts to determine whether an increase in the prices and rates charged was reasonable or not, but Congress could determine it and determine it in that manner.

Mr. GROSVENOR. Would it not, then, be for the court to determine whether that was not an attempt to interfere with the right to contract? Would you not there run up against another obstacle?

Mr. BALDWIN. But there can be a limitation placed upon contracts to regulate contracts, because this is a public corporation.

Mr. GROSVENOR. Congress might be able to fix the price which railroads should charge for interstate commerce, but if I want to pay more I suppose I would be allowed to make that contract.

Mr. NEWLANDS. But could not enforce it.

Mr. GROSVENOR. No; could not enforce it.

Mr. BALDWIN. Now, gentlemen, the position of the merchants, I think, is understood, and it is not necessary for us to go on with the argument, and I may say all trade organizations are in favor of this, because the merchant is taxed on nearly everything he does.

The CHAIRMAN. Is this the only tax you are complaining of?

Mr. BALDWIN. It is the only tax; yes, sir. We are not complaining of the tax, gentlemen; it is not that; it is simply the added burden to commerce, and we believe—

The CHAIRMAN. This is the only tax you want to see removed?

Mr. BALDWIN. And upon telegrams and interchange of commodities; those are the only ones we would take off at this time, because we believe—

The CHAIRMAN. Do you want to be heard upon the question of telegrams and interchange of commodities?

Mr. BALDWIN. I do not, further than to say that is a question I believe for Congress to determine, whether it has revenues such as it can be done. I think that the merchants of New York and of the United States are loyal, and they are perfectly ready to stand their portion of the burden, whatever their representatives deem is just, but they do wish that the burden may be distributed equally among all parties, and we believe that if it is not reduced that the law should be changed so that the intent of Congress in levying a tax on express companies should be borne by them, because, gentlemen, as it is to-day it is one of these little annoying things which makes the merchant mad, because as he reads the act the intention of Congress is perfectly plain; there is no doubt of it; and then to have the express companies levy the tax upon him, it simply makes him mad.

Mr. GROSVENOR. The Commissioner of Internal Revenue decided, and had the order ready to issue, that all money-order offices of the express companies should pay a brokerage tax of \$50, which amounted to some \$600,000—I do not know how much; that same order affected, if it had been done, telegraph money orders, and they would be compelled to pay \$50 a year, and that order was ready to issue. What would have been the effect upon the business of the country if that had been done, if it had been carried out, and that seems to be rather the language of our statute? What would have been the general effect of that sort of ruling? Would it have broken up all this business entirely?

Mr. BALDWIN. By that sort of rule the merchants in established lines of trade are not affected, because they have their—

Mr. GROSVENOR. Do you not send money by order?

Mr. BALDWIN. No doubt in certain rural communities that is done, but the average merchant—and I think I am safe in saying that at least 99 per cent of all the exchange of money is not made by telegraph or express offices.

Mr. GROSVENOR. How is it done?

Mr. BALDWIN. Through the banks.

Mr. GROSVENOR. And the banks in New York charge for collecting on checks?

Mr. BALDWIN. Yes, sir; in New York.

Mr. GROSVENOR. That is done on the New York plan exclusively?

Mr. BALDWIN. I suppose that refers to our clearing-house rules, that do not meet with the approval, I will say, of many of the merchants.

Mr. UNDERWOOD. A great deal of this business is done through the Post-Office Department?

Mr. BALDWIN. Yes, sir; by country banks and through the Post-Office.

Mr. NEWLANDS. I understood you to say that as to the express companies, it is estimated if the tax were imposed upon the express companies it would amount to \$1,600,000.

Mr. BALDWIN. Yes, sir; for the five companies; that is their statement.

Mr. NEWLANDS. Are there any other companies than the five?

Mr. BALDWIN. Yes, sir; I believe there are a large number of others which I did not estimate, and the amount would be much larger if they all paid the tax.

Mr. NEWLANDS. Has there any estimate been made as to what the Western Union Telegraph Company would have to pay in case the tax was imposed upon them instead of upon the senders of the messages?

Mr. BALDWIN. I think not. I have never heard that estimated, because the purpose of the law was, and the merchants have taken that ground, the sender must affix the stamp. That was the ruling adopted. I may say the railroads from the start have paid this tax upon the bills of lading and are paying it yet, but the express companies alone, of all the transportation companies, have refused to pay, and have shifted the burden.

Now, gentlemen, that is my main line of argument and I think it was the intention of Congress—you have admitted it—and I think there was no doubt about that, and it seems—

The CHAIRMAN. Some of these express companies are not paying dividends?

Mr. BALDWIN. Well, I think every one of those express companies are enormously overcapitalized.

The CHAIRMAN. I say some of them have not paid dividends for some years, have they?

Mr. BALDWIN. I am not conversant with that fact, I confess.

The CHAIRMAN. That is my information.

Mr. NEWLANDS. You say it is clear the intention of Congress was that the sender should pay the tax upon the telegrams, but it was also clearly the intention of Congress that the express companies should pay the tax upon parcels. How do you ascertain—

Mr. BALDWIN. I say that is the interpretation placed upon the law by the merchants at the time, and they have accepted the rule in regard to telegraph companies because the case seemed so much stronger against the express companies.

The CHAIRMAN. And your express companies have charged this tax ever since the law was commenced to be put in force?

Mr. BALDWIN. Yes, sir; from the very start they have levied this amount upon the merchants.

Mr. GROSVENOR. I think our general idea was to put the tax upon someone who issued or sent out something, and the effect of it would be to make the sender of the telegram to put the stamp upon that, that the express company who issued a receipt should put a stamp upon that, and so all the way through, the same as it is on everything; if I go to the bank and give a check I issue it and have to put the 2-cent stamp on it, but if the bank gives me a certificate of deposit it issues

it and it should put the stamp on it, and the sleeping-car ticket the same way. This is the single exception of the rule.

Mr. BALDWIN. Section 7 expressly provides the penalty for anyone who shall issue a paper upon which a stamp has not been affixed, and under the law it says the express companies shall issue a bill of lading with a stamp affixed to it; it is not a bill of lading until the stamp is affixed, so, accordingly, it is a little difficult to see how the sender of the package could affix the stamp.

Mr. RUSSELL. From New York outside to the suburban districts there are local express companies, so to speak, that the merchants employ in the delivery of their goods?

Mr. BALDWIN. Yes, sir; a great many of them.

Mr. RUSSELL. They pay for the transportation to these local express companies and you still have that tax to pay?

Mr. BALDWIN. Yes, sir.

Mr. RUSSELL. If you were relieved of that would you not in fact be relieved of a large portion of the express transportation which the merchants of New York employ?

Mr. BALDWIN. Well, I think not.

Mr. RUSSELL. In other words, for the long distances you do not, except in rare cases or in a minority of cases, use the great express companies, but you use freight?

Mr. BALDWIN. Of course, that is the heavy shipments; but the business of the express companies has very enormously increased, because the country merchants send in small orders for quick delivery, and the merchants are compelled to use the express companies constantly; and the plaintiff in this case, a merchant in New York City, in the case of Simpson against the Adams Express Company, it appeared that he shipped by this one company 250 packages per month—that is, by the Adams Express Company alone.

Mr. RUSSELL. Can you tell the number of what I call local or suburban express companies going out from New York to the suburbs?

Mr. BALDWIN. I can not, except that every suburb like Orange, Montclair, etc., has an express company which does not deal with the railroads and that is open to competition.

Mr. RUSSELL. The merchants in Montclair and other places mail orders to the merchants in New York, and the New York merchants in shipping to these country merchants employ these local or suburban express companies rather than the great express companies, which use the railroads, do they not?

Mr. BALDWIN. They do in a sense, but I may say that the residents of Orange, for instance, trade with New York City; everyone deals with New York City; they do not deal with the local merchants anywhere, say within a hundred miles of New York, and the merchants of New York deliver free of charge, and they are compelled to pay these express companies for the delivery of the goods. Anyone living within a very large radius of New York has his goods delivered free to him by the retailer.

Mr. RUSSELL. That is to the individual purchaser and not to the country merchant?

Mr. BALDWIN. To the country merchant the local express carries the goods.

Mr. RUSSELL. And to the country merchant outside of New York these local express companies carry perhaps a majority of these goods which go by transportation?

Mr. BALDWIN. Within a radius of 25 miles; anywhere that a team can make in the course of a night and a day.

Mr. RUSSELL. That same rule applies throughout all large cities?

Mr. BALDWIN. Practically; yes, sir. The trade organizations who took up this matter, a great many of them of course have taken the same view of this question; and this is not a question of the amount, although the aggregate of it amounts to a very heavy burden.

Mr. RUSSELL. One other thing: These local or suburban express companies are not great corporations which are overcapitalized and pay enormous dividends?

Mr. BALDWIN. They are not.

Mr. RUSSELL. So the burden of this tax to the local or suburban express companies is really severe—

Mr. BALDWIN. It is because they deliver packages for 8 cents where the express companies would charge 25.

The CHAIRMAN. Do you say the Adams Company stated the amount of taxes paid by the express companies would be \$1,600,000?

Mr. BALDWIN. No; that the amount of the five principal express companies would be \$1,600,000. That was the affidavit of Mr. Steele in that suit.

The CHAIRMAN. They would be the only parties who could tell?

Mr. BALDWIN. Yes, sir; there is no one who can estimate that fact. The investigation of the merchants' association carried on as to the cost of transportation of the express companies shows there is a variation in the rate from—the argument of the express company, I may say, is that the terminal charges are the heavy ones—that is, the deliveries from the station to the consignee are the heavy charges—and it is shown that the variation of the expense differs on the same package from 100 to 6,000 per cent, according to the city. For instance, they charge \$8 for the delivery in—

Mr. NEWLANDS. Eight dollars per what?

Mr. BALDWIN. That portion of the charge is the proportion to the freight rates, comparing the express charges with the freight rate, the amount they charge if they deliver the package of 100 pounds in San Francisco—the amount they allow for the terminal charges—and on that one it will be something over 2,000 per cent more than it would be for the same package, say, delivered in Montclair. That is, that argument only demonstrated this, that their charges are arbitrary. They fix them, not according to the actual expenditure, but what they can get, and a reasonable profit on it, I suppose. But our position, I may say—I do not wish to occupy the committee's attention longer, as you fully understand our position, which voices the sentiment of the merchants of the United States—is that it is unjust that the express companies should shift this burden upon the shipper.

STATEMENT OF MR. F. C. MEAD, SECRETARY OF THE MERCHANTS' ASSOCIATION.

Mr. MEAD. Mr. Chairman and gentlemen of the committee, may I add one word, and that is in regard to the question of this express business. The question seems to have been raised of whether or not, after all, the volume of express business of the city of New York carried is not carried by the local express companies. That is the case. The large cities of this country are the trade centers, and to those cities

come merchants from all over the United States to purchase their supply of goods for the coming season.

For instance, in New York City during the last two months we have had of the members of our association over 2,500 members, all of whom are merchants in good standing—that is, merchants of a creditable rating—from all parts of the United States coming there to buy their goods. Those goods bought at that time are shipped by freight, but in these days of competition the merchants throughout the country have to carry a large line of styles and assortments where twenty or twenty-five years ago they would carry a few styles of staple articles and carry large quantities. To-day they are carrying a large line of different styles, and but comparatively a small quantity in each particular line, which is owing to the condition of trade competition, and it can not be helped; and when those lines begin to run down they have to order by mail the goods to replenish their stock, and those things must be shipped by express. Hence the express business from New York City is much larger to points distant from New York not reached by the local companies than the local points.

The local points are a comparatively small item of the total. The number of packages shipped by these five express companies, all of which are shipped by rail, during the day averages over 40,000 express packages. That statement has been made by representatives of the express companies themselves. That shows the enormous volume of this business which goes from New York alone; and the same is true from every other trade center in the United States.

Mr. RUSSELL. Does that include the purchases of individuals sent out by the great department stores?

Mr. MEAD. If they are sent by these express companies and not by the local companies; that is the average total of the packages shipped per day by these express companies.

Mr. NEWLANDS. What is the tax on those?

Mr. MEAD. It is 1 cent on each receipt, and there must be a receipt for each shipment.

Mr. NEWLANDS. And there are 40,000 of those, at 1 cent each?

Mr. MEAD. It would be \$400 a day, or rather it would be in the neighborhood of 45,000 a day.

Mr. NEWLANDS. That is the tax imposed on all the merchants of New York?

Mr. MEAD. Yes, sir; on all the merchants of New York in this particular way. The merchants of New York have other taxes imposed upon them which they also bear, comparatively without a murmur. Then there are also a number of lines of trade in which all the shipments would be made by express. For instance there is the jewelry trade. Almost all the shipments of that trade must be made by express in order to insure the safety of the transportation.

Then there is one other point that I want to call attention to. At the time the act went into effect the express companies took the attitude they have assumed in respect to the payment of the stamp tax, and they immediately started up throughout this country an agitation against the express companies, an agitation looking toward the restriction of the express business by the State legislation. There were bills prepared in a number of States, and in a few of them they were actually introduced in the legislature as looking toward that thing similar to

the agitation carried on very extensively against the railroad transportation companies some years ago.

This agitation was suspended upon the termination of the suit which was recently decided by the Supreme Court of the United States, but from the reports which we received from a great many of the travelers throughout the whole country we believe, just as sure as the sun shines to-day, that unless the merchants are relieved of this in some way, which to them is more than a burden—it is an annoyance—unless they are relieved, that agitation will start up again this coming summer and be more widespread than practically it was at the time the law went into effect even, and the party in power will, I am afraid, be the one that will be blamed by the merchant trade and the country for not seeing that some just relief be granted them in reference to this particular tax.

**STATEMENT OF MR. AUGUSTUS K. SLOAN, PRESIDENT OF THE
JEWELERS' ASSOCIATION AND BOARD OF TRADE OF NEW
YORK.**

Mr. SLOAN. Mr. Chairman and gentlemen of the committee, Mr. Bliss, one of the managers of the Gorham Manufacturing Company, and myself represent the Jewelers' Association and Board of Trade of New York, which is composed of the largest manufacturing jewelers and silversmiths and kindred trades of New York, Providence, and Chicago. We are probably the largest shippers by express of any other class of merchants in the country.

Mr. Baldwin has covered this whole ground as far as I can see, and I have nothing to say except we feel that this tax is very unjust on us and should be shifted to the express companies. That is all I have to say, gentlemen, and I thank you.

Thereupon the committee went into executive session.



HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

FRIDAY, MAY 4, 1900.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.	CHESTER I. LONG.
ALBERT J. HOPKINS.	JAMES D. RICHARDSON.
CHARLES H. GROSVENOR.	SAMUEL M. ROBERTSON.
CHARLES A. RUSSELL.	CLAUDE A. SWANSON.
JONATHAN F. DOLLIVER.	GEO. B. McCLELLAN.
GEORGE W. STEELE.	FRANCIS G. NEWLANDS.
JAMES A. TAWNEY.	SAM. BRONSON COOPER.
SAMUEL W. McCALL.	OSCAR W. UNDERWOOD.

HULL GREENFIELD, *Clerk.*

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1900.

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Your petitioners here are not economic specialists. They do not intend to make an elaborate analysis of the war-revenue act to show its inadequacies from the standpoint of economic theory. They desire only briefly and respectfully to point out to your committee certain inequalities and hardships in its operation upon the section of the community to which they belong, which have been forced upon their notice by their practical experience; and they desire, too, to insist upon the bearing on the question of granting them the relief they ask of certain facts concerning the condition of the National Treasury, which are so notorious as to be familiar to your petitioners, in common with the people at large, and so momentous as day by day to be engrossing a larger share of public attention.

The immediate constituency, by whose direction and in whose behalf we appear before you, is the Consolidated Stock and Petroleum Exchange of New York. This is in itself an organization of importance in the business world. It was founded in 1876, and now has a membership of over 1,500. The volume of its business appears from its clearances in 1899: Stocks, 77,762,220 shares; mining stocks, 1,917,400 shares; bond transactions, \$19,678,000; grain clearances, 809,312,000 bushels. The burdens of which, in behalf of this organization, we complain are, however, not peculiar to it or its members. They bear equally upon the whole section of the community whose business involves the purchase and sale, public or private, of corporate stock and the public sale of agricultural products.

Those burdens, categorically stated, are these:

I. The act imposes upon this class of the community a burden wholly disproportionate to those resting on persons engaged in other lines of business. This burden is twofold.

There is a license tax on the business of brokerage which, perfectly proper if similar taxes were placed upon other occupations, is, it is submitted, standing alone, an unjust discrimination against those engaged in a legitimate and necessary business.

There is an unjust and oppressive tax upon the transactions of the business itself. A tax of 2 cents upon the transfer of a hundred-dollar share certificate seems at first sight little and a light burden on one who occasionally buys or sells a stock certificate. Yet on the business of buying and selling shares it is a grievous impost. In 1899, as already stated, the clearances of the Consolidated Stock and Petroleum Exchange amounted to 77,762,220 shares. During the same year the sales of the New York Stock Exchange were 176,421,135 shares. The tax upon the business done by the members of these and other exchanges thus amounted in a single year to over \$5,000,000 on stock transactions alone.

The inequality of the burden thus imposed upon the business of your petitioners appears clearly when we compare the provisions of this act with those of the act of June 30, 1864. That act contained a comprehensive scheme of internal revenue taxation, which, taken in all its parts, rested equally upon the people. The framers of the new act, while they closely copied the old act in the provisions which they enacted, were very far from taking over all its provisions. They adopted and adapted certain sections of the law of 1864, among them those of which we here complain, but by leaving out the great mass of its provisions they wholly destroyed the balance and equity of its scheme.

Thus, as to the license or occupation tax, the present act applies only to bankers, brokers, and people in the amusement business. The act of 1864, after providing specifically for license fees for bankers, wholesale dealers, retail dealers, horse dealers, brokers, hotels, confectioners, real estate agents, insurance agents, manufacturers, auctioneers, apothecaries, photographers, tobacconists, butchers, theaters, lawyers, physicians, architects, builders, plumbers, etc., by a sweeping clause at the end required a license from persons engaged in any business not specifically mentioned. Under the old act the whole community paid occupation taxes. Under the present law bankers and brokers do, and substantially no one else.

The taxes on business transactions in the new act are represented only by the requirement of stamps on written instruments and on medicinal preparations. The stamp tax on memoranda of sales of stock is, since the execution of such memoranda is made compulsory by the act, a tax upon the business. That it was so intended is not doubtful, and it is so in fact. This tax on the brokerage business and the stamp tax on the patent medicine business are in the present law practically the only examples of the taxation of business transactions. Under the law of 1864, in addition to these taxes there were duties or excises on the products, and so on the transactions of over 70 different occupations.

II. In the second place your petitioners complain that, not only is the taxation of their business disproportionate to that of other classes of the community, but that the distribution of the tax on different parts of the business itself is unjust and unreasonable.

Thus there is discrimination in the imposition of \$20 tax on produce brokers and a \$50 tax on stockbrokers.

Again, both the rate and the basis of valuation in the case of the tax on stock transactions are different from those imposed on produce brokerage transactions. Stock sales are taxed at the rate of 2 cents on each \$100 of the face value of the securities involved; produce sales are taxed at the rate of 1 cent a \$100 on the actual value of the merchandise sold. In effect, stock transactions are subject to a tax of double the rate on a much higher valuation than produce transactions. On the average, as the experience of our exchanges shows, the actual value of stocks is less than their face value. Thus in 1899, while the face value of the certificates transferred on the Consolidated Exchange was over \$7,500,000,000, their actual value was about \$5,250,000,000.

This system of valuation applied to stock transactions, not only discriminates against the stock brokerage business, as compared with that of grain brokerage, but leads to discriminations really grotesque between transactions in different stocks.

The sale of 100 shares of stock of the Chemical National Bank is a transaction involving \$450,000. The tax is \$2. The sale of 100 shares of stock by the Pullman Palace Car Company involves \$20,000. The tax is \$2. The sale of 100 shares of stock of a mining company may involve only \$150. The tax is \$2.

On the floor of the Consolidated Exchange sales of stock, of bonds, and of produce proceed simultaneously. On a stock transaction, Broker A may, as our example shows, be required to pay a tax of more than 1 per cent on the amount involved. On the produce transaction, the tax will be one hundredth of 1 per cent; on the bond transaction there will be no tax at all. These transactions on the Consolidated

Exchange are but types of brokerage transactions throughout the country.

The injustice of the operation of the war-revenue act is not confined to the brokerage business. As has been already said, it is not the purpose of your petitioners to attempt a specialized analysis of its provisions or its operations. It is but common knowledge, however, that tax on bills of lading, intended as a burden on the express companies, has become a burden on the shipper of goods. It is but common sense, that if justice demands that the tax on promissory notes and drafts should be proportionate to their amount, it must demand that the tax on checks be similarly graded. It is only practical business sense to insist that the Government tax system be such that it may know the sources from which its revenue is raised, and the amount raised from each source. Under the present act Secretary Gage, in his communication to the Senate of April 24, 1900, declared it an entire impossibility to tell the sources from which the proceeds of the stamp tax were raised. The Government has, and can have, no knowledge of the proportion in which the burden of the stamps required by Section A rests on the persons engaged in the different transactions in which stamps must be used. The Government sells the stamps. It does not know what persons or what classes buy the stamps and pay the taxes.

The grievances thus outlined would not justify the repeal of the war-revenue act if its maintenance were demanded by some overpowering national necessity. They are grievances which were borne by your petitioners, in common with the rest of the American people, cheerfully and without protest in time of national need and deficit. They can not, and they should not, be so borne at a time when a steadily expanding surplus makes the act which imposes them a menace to the people's prosperity.

The extent of the surplus for the current fiscal year has been variously estimated by the Secretary of the Treasury at different times. In his annual report, submitted with the President's message of December 6, 1898, Mr. Gage predicted that for the fiscal year ending June 30, 1900, there would be a deficit of \$30,000,000. In the year that intervened between this report and that of December 7, 1899, the rebellion in the Philippines had broken out, involving the Government in extraordinary outlay. The revenue laws had remained unchanged. Their yield, however, was so far surpassing previous expectations that in the report of December, 1899, Mr. Gage estimated that the surplus for this same fiscal year of 1900 would be \$40,000,000. Two months of that year still remain to be run. Up to April 28, 1900, the United States Treasury has received during the year \$469,000,000 and paid out \$412,000,000. The surplus has thus already reached \$57,000,000 in spite of the unusual disbursements in connection with the refunding scheme during the past month. Of this surplus of \$57,000,000 only \$21,000,000 had accumulated in the six months from July 1, 1899, to January 1, 1900; \$36,000,000 have been added in the four months since January 1. It is small wonder that the Secretary of the Treasury, compelled once more to revise his estimates, is now quoted in the press as expecting the surplus to reach \$80,000,000 by July 1 an estimate of \$40,000,000 higher than that made by him five months ago.

The CHAIRMAN. How much did you estimate the surplus for the present fiscal year?

Mr. WILSON. From \$70,000,000 to \$75,000,000, and Mr. Gage has stated it would be \$80,000,000.

The CHAIRMAN. It is very evident that it can not be that. He figured it at \$70,000,000, but since then it can not reach \$70,000,000.

Mr. WILSON. He is reported as saying a very few days ago it would be about \$80,000,000, but we figure it at from \$70,000,000 to \$75,000,000.

The CHAIRMAN. That is next year?

Mr. TAWNEY. It is \$70,000,000 this year.

Mr. WILSON. We will have \$70,000,000 surplus, and we only ask for \$50,000,000.

The CHAIRMAN. That is a month ago, but it is very evident that those figures are much too large.

Mr. WILSON. In other words, it will be reduced.

Mr. WILSON (continuing). The surplus revenues thus accumulating at the rate of \$80,000,000 per annum are added to a Treasury already filled to overflowing. On April 28, 1900, the free surplus in the United States Treasury, in addition to the \$150,000,000 held in the Bureau of Issue and Redemption, was \$147,843,631.26. The reason for this extraordinarily rapid accumulation of surplus is a simple one. It lies in the equally extraordinary increase of the Government revenues. For the fiscal year 1896 the revenue of the Government was \$327,000,000, and its need (for there was a deficit of \$25,000,000) was for \$352,000,000. In 1897, the fiscal year during which President McKinley came into office, the revenue raised was \$348,000,000, and the amount needed \$365,000,000. In 1899, the first year of the joint operation of the Dingley bill and the war-revenue act, the revenue reached \$516,000,000. In the first ten months of this fiscal year it has amounted to more than \$470,000,000. If, ignoring all tendency to progressive increase, we estimate the yield for the last two months on the basis of the first ten, the total for this year will be over \$565,000,000. Assuming that the increase from 1900 to 1901 will be at the same rate as that between 1899 and 1900, we find that in the last year of this Administration the revenue raised will amount to \$618,000,000. President McKinley's Administration began in a year when the Government needed \$365,000,000. It will end in a year when the Government will raise \$618,000,000. The burden of taxation will thus, if the war-revenue act be permitted to stand, have in the space of four years been increased by 70 per cent.

Nor is this all. Of this increase, by far the greater portion will be in the yield of the internal-revenue taxes. In the fiscal year 1897 the internal-revenue proceeds amounted to \$147,000,000. In 1899 revenue from this source was \$272,000,000. In the first ten months of 1900 it has been \$243,000,000. Computing the yield for May and June on the basis of the last ten months, the total for the fiscal year will be \$292,000,000. Allowing, as before, for the same increase from 1900 to 1901, as from 1899 to 1900, we must expect that the internal-revenue income for the fiscal year 1901 will be over \$313,000,000—that is to say, the taxes which must in their entirety be borne by the people at home, the taxes no part of which the foreigner can pay, have doubled since 1897, and will be 113 per cent greater when President McKinley's term ends than when it began.

The momentous political effect of such a showing as this it can hardly be necessary for your petitioners to press upon your attention. Its significance will need no heightening by contrast with the growth of taxation under other administrations. If it did, the figures of the fiscal years of the preceding Administration stand ready for compari-

son. From 1893 to 1897 the Government expenditures decreased from \$383,000,000 to \$366,000,000. From 1897 to 1901 the revenue will have increased from \$366,000,000 to \$618,000,000. In such figures as these the citizens of the United States will take an interest as long as they are reminded, whenever they have to sign a check or send a telegram or an express parcel, that it is they who pay the taxes. Of such figures they will demand an explanation.

The ready one that we have expanded, that we are no longer the simple United States of America of 1897, will not suffice. The increase in military and naval expenditure in the last four years falls very far short of amounting to \$250,000,000 per annum. It would thus be as statistically false as it would be politically dangerous to seek to identify in the minds of the American people the expansion policy with a quadrennial increase of 70 per cent in general taxation and over 100 per cent in internal-revenue taxes.

Will it tend to reconcile the people to this increase of \$250,000,000 per annum in their taxation to tell them that there has been no corresponding increase in expenditure to make it necessary? Will it appease them to show that the increase in their taxes does not go to pay the bills of extravagance, but serves to swell an overflowing surplus in the National Treasury?

Here, indeed, we have reached what, it is submitted, should be a decisive point in the discussion of the propriety of the repeal of the stamp taxes. The accumulation of a surplus in the treasury of a government is always open to the serious objection that it involves unnecessary taxation. Under some systems of government finance its harm might be limited to this. Under our financial system, with its intimate connection with the national currency, it becomes a menace to the nation's prosperity.

Every dollar of surplus money raised by taxation becomes, when it enters the Treasury, a dollar withdrawn from the national currency. An increasing surplus means a contracting currency. The act which draws a surplus from the people's pockets does not merely tax them unnecessarily; in addition, it takes away from them a part of their circulating medium and disarranges the basis of their business. Currency contraction systematically planned may sometimes be defensible or advisable. It can never be sound statesmanship or good politics to leave an unwise tax law to cause it as one of the incidents of its operation. The evils of such contraction, effected at haphazard and without regard to business conditions, have been felt during the past year in successive periods of stringency and distress in the money market. They are evils which must be felt more and more as the surplus goes on expanding. The people who bear necessary increases of taxation with impatience will find it hard to restrain their resentment against a policy which, whether by accident or design, imposes unnecessary taxes which serve only to disarrange their currency and cripple their business. It is not in such a way that popular demand for an elastic circulating medium is to be met or satisfied.

Your petitioners are well aware that it may be said, in reply to the arguments they have advanced, that the Secretary of the Treasury has in the past diverted the evils of an unwieldy surplus by depositing most of it (at the present time \$105,000,000 out of \$147,000,000) with the national banks, and that this policy may be continued in the future. Whether it can be so continued is, perhaps, doubtful, since the extensive use under the new law of United States bonds as a basis for note

circulation has very seriously reduced the volume of bonds which the banks can offer to the Secretary of the Treasury as security for the deposits of Government moneys with them. Your petitioners are willing to waive this point. They freely concede that it may be possible to devise a system of security or inspection under which Government deposits in the national banks may be indefinitely continued, and may always grow as fast as the national surplus. Under such a system expansion of the surplus would not mean contraction of the currency. It would mean nothing more than that the Government was unnecessarily raising \$80,000,000, or, to be moderate, let us say \$50,000,000, a year from its people in order to lend it without interest to the national banks. It would mean no more than this, but it would mean no less. There would be no business disturbance; the banks would profit only to the extent of the interest on the money, of which the Government would give them the free use. The American people would lose no more than the interest on this same money, and, with all due respect to your honorable committee be it said, their temper.

The organization which your petitioners represent is made up of practical business men. They are familiar with the conditions of modern commercial and industrial life, and they have no prejudice against banks or bankers. They fully realize the indispensable character of the functions which the banks perform, and appreciate the intelligence and public spirit with which in times of stress these functions have been performed. They profoundly deprecate the spirit of unreasoning hostility toward banks and bankers and financial and business interests generally, which now seems to prevail among large masses of the people. They see in this spirit, and in the agitation which seeks to accentuate class differences or foster class prejudices, the gravest menace to the national welfare.

Just in proportion, however, as your petitioners feel this agitation to be causeless and dangerous, are they anxious that it should be allayed. They can not help seeing that the retention of the present tax system, far from allaying the agitation, would strengthen the hands of the agitators.

Persistently to contract the national currency by unnecessary taxation, leaving the evils of monetary stringency to be alleviated as best they may be by the banks, would be, in the eyes of your petitioners, a blunder, and nothing more. So, too, in your petitioners' eyes, the maintenance of superfluous taxes, with the result that the people's money must be loaned free to the banks in order to keep it in circulation, would be a mistaken policy, and nothing worse. But your petitioners gravely fear that among large classes of the people who have been made restless and suspicious by the agitation of recent years these facts would wear a different aspect. The most common assertion of those who have sought to stir up this agitation has been that the Government is in league with the banks, that they have induced it to contract the currency in order to make firmer their control of business conditions, and that, by illegitimate influence, they have induced it to give them the free use of the Treasury surplus.

These assertions your petitioners know to be untrue, and they will continue to believe them untrue, even though the war-revenue law remains unamended and unrepealed. But to the popular mind, what stronger corroboration of these fairy stories could there be than the spectacle of the Government's raising by taxation enormous sums which, after they were raised, it put to no use, except that of with-

drawing them from circulation or loaning them to the banks? The taxes which are levied for no governmental purpose, and the proceeds of which either contract the currency or give profit to the national banks, must inevitably, under the stimulus of agitation conducted from every political platform in the country, come to be regarded as imposed or maintained in order to contract the currency or give profit to the banks. What seems to your petitioners an economic blunder will be looked at by the people and punished by the people as a political crime.

For these reasons, to do away with excessive and unjustly distributed taxation, to prevent the derangement of the country's currency and the unsettling of its business condition, to take away a most plausible pretext for dangerous political agitation, your petitioners ask that the stamp and occupation taxes imposed by the war-revenue law be now repealed. The relief thus asked by your petitioners is, in view of existing conditions, conservative. The surplus for the present fiscal year will be from \$75,000,000 to \$80,000,000. The taxes for whose repeal they ask yield from \$45,000,000 to \$50,000,000 annually. To provide for an annual surplus of only \$30,000,000, when there is a present surplus of \$150,000,000 in the Treasury is not financial rashness.

Your petitioners ask that the taxes of which they complain be repealed now. It is only upon this "now," upon the desirability of immediate reduction of taxation, that before your committee, they feel obliged to lay stress. No committee, no party, no people could favor the indefinite maintenance of a taxation system yielding annual surpluses of \$80,000,000. Sooner or later surplus and taxes must be reduced. When the reduction comes it must, according to the settled policy of the American people in the past, be achieved by the abolition of the stamp taxes, the most vexatious and the most persistently annoying of those which the people bear.

The question before your honorable committee is thus, it is respectfully submitted, not "Shall the stamp taxes be repealed?" but "When shall the stamp taxes be repealed?" Shall this repeal be granted to the American people by the present Congress, in accordance with their expectation and desire, or will it be granted them by the next Congress, in obedience to their command?

Mr. WILSON. Mr. De Agüero, one of the members of the committee, has a short argument here covering the position of a class of brokers on our exchange and all other exchanges. I may say this to you, gentlemen, that there are always two classes of brokers in all exchanges: First, a class of men who do a commission business for others, and, secondly, a class of men who are traders and who really make the market and buy and sell in all the exchanges for themselves. His argument is as follows:

ARGUMENT BY MR. M. E. DE AGÜERO ON COMMISSION BROKERS AND TRADERS IN EXCHANGES.

Mr. Chairman and gentlemen, I wish to call your attention to a few facts, viewed from a room trader's standpoint; and, first, I would like to make clear what a room trader is, and why he is compelled to bear such a great and inequitable burden through the operations of this internal (I have almost said infernal) revenue law.

The room trader is an absolutely essential part of the membership of every exchange; without him there would, at times, be no market; were the commission brokers compelled to rely entirely upon each other for the execution of orders, hours, even days, may at times elapse without purchases or sales, except at great sacrifice. The room trader operates for his own account, and will buy or sell, as the case may be, at a moderate variation from last sale, expecting to find a seller or buyer at a reasonable profit, or take a small loss on the transaction.

It is manifest that the room trader turns over a great deal of stock, and the taxes are all his own, for he has no client to charge them to. For example: If he buys 100 shares of stock and sells it at a profit of one-eighth per cent, he makes \$12.50; there is a \$2 tax, leaving net \$10.50. If he sells at one-eighth per cent loss, he loses \$12.50, plus \$2 tax, equal to \$14.50 net. This is a tax of over 30 per cent. It is only necessary to buy or sell 1,000 shares of stock per day in order to pay a tax of over \$6,000 per annum. A man with small capital, say \$10,000, will do that, and pay a tax of 60 per cent on his capital.

I am reliably informed of the case of one broker who made \$21,000 during the year, and paid \$20,000 of it in the shape of stamp tax. Another has told me that his taxes were 50 per cent of all he made. In my own case my taxes are more than the entire expenses of my family.

Gentlemen, this is not fair; some method of taxation should be devised that will not bear so heavily on a few and allow other men of greater wealth and larger business affairs to go scot-free. We do not come here to beg for any unreasonable concessions from the Government—we ask only for justice. We feel assured that you, gentlemen, did not comprehend the burden laid upon us at the time the act was passed, and now that a large surplus is being accumulated we are convinced that Congress, as a body of right thinking and just men, will take steps now—not at the next session, but now—to relieve us of this burden, which, except in the most prosperous times, which we have had while the law has been in force, would entail ruin and bankruptcy on most of the members of the exchange.

The CHAIRMAN. Do I understand that argument was from a broker?

Mr. WILSON. This is from the standpoint of a room trader.

The CHAIRMAN. That is your own personal transaction, you bought and sold the stock yourself?

Mr. DE AGUERO. Yes, sir; my own personal transaction.

The CHAIRMAN. It was not brokerage business?

Mr. DE AGUERO. The law bears on the room traders equally.

The CHAIRMAN. It is personal speculation of stocks on the exchange?

Mr. DE AGUERO. The room trader is a man who trades on his own account, and who buys and sells at a price. If the last price of St. Paul is 125 $\frac{3}{4}$, and a man comes in with an order to execute—to sell 500 St. Paul, and he finds no corresponding order to buy 500 St. Paul, he has got to offer the stock on the market, and the only man he can find to take it is the room trader. He is prepared to bid 125 $\frac{3}{4}$ or 125 $\frac{1}{2}$ for the 500 St. Paul and gets it. When he sells that stock out he of course intends to make a profit; but if the market declines he sells at a loss. If he takes a loss, he pays a tax of \$2 a hundred; if he takes a profit, he pays a tax of \$2 a hundred; he pays it either on the profit or the loss, as the case may be.

If a man trades in 1,000 shares of stock a day the tax is \$20 a day;

that is small trading, or \$6,000 a year. If a man has \$8,000 or \$10,000 in the bank and he at any time has 1,000 shares of stock on hand and buys and sells so he can very well afford to turn over 1,000 shares of stock a day he pays 60 per cent of the total money in the bank in taxes; some pay 100 per cent. The case of the gentleman whom I quoted, he made \$21,000 and paid \$20,000 to the Government in taxes. I paid over \$6,000 myself last year in taxes, and I contend, and all room traders contend, that this law bears too heavily upon them as individuals. Each room trader pays more taxes than Claffin & Co. Each room trader pays more taxes than Mr. Vanderbilt or Mr. Astor or any of the very wealthy men, and they can not very well afford to do it.

This law was enacted probably to enforce the taxes on transfers of stock, the gentlemen having in mind that a transfer of stock would mean from one party to some other party and forgetting that a hundred shares of stock may be turned over a hundred times a day, so that instead of its being \$2 it would be \$200, and that is where the tax comes in. Now, gentlemen, if there is any point not clear in the argument I would be very happy to make it so if I can, because I feel—

The CHAIRMAN. I do not think the men who proposed this forgot that; it was not proposed in the House, but in the Senate.

Mr. DE AGUERO. Perhaps they did not. We have not forgotten it since, and have not had the chance to forget it. The point I make is also in good times we may be able to live and pay these taxes. If that tax had been in force in 1893, 1894, 1895, and 1896 there would not have been an exchange in the country. Every man would have been compelled to go out of business. We did not make enough money to pay those taxes. There was no time in one of those years when a room trader on the floor of any exchange made enough to pay those taxes alone. Now, those times may return at any moment. We do not know how long this prosperity may continue.

The CHAIRMAN. If those times may return at any moment our revenue will be cut off?

Mr. DE AGUERO. Undoubtedly, and if it should occur it would close all the exchanges of the country.

Mr. GROSVENOR. Do you guarantee that this condition is going to continue? Suppose we should repeal this act, would you give any guaranty that the present condition of prosperity will go on?

Mr. DE AGUERO. No; but does the Government require the money?

Mr. GROSVENOR. Suppose we go down; suppose we sag back to where we were when it was proclaimed all over the country everywhere by everybody almost that the Dingley bill and the revenue law were each inadequate for the purpose, and were on account of the condition of the country. Now, how does that—

Mr. DE AGUERO. The revenue law was not in effect; it has only been in effect a year and a half.

Mr. GROSVENOR. And the great receipts of the Treasury did not come until after the war-revenue tax?

Mr. DE AGUERO. The Government did not have any great loss in 1893, 1894, 1895, and 1896?

Mr. GROSVENOR. Did we not? We had to borrow \$262,000,000 to pay the expenses of the Government.

Mr. DE AGUERO. Under the old act, not under the present act.

Mr. GROSVENOR. In 1893 and along there.

Mr. DE AGUERO. Under the Wilson law; yes, sir.

Mr. GROSVENOR. How do you know the Wilson law will not come again?

Mr. DE AGUERO. I do not think the House will pass such a law again; it does not strike me it will.

Mr. TAWNEY. You are proceeding on the theory that the Republican party will retain the control of the Government?

Mr. DE AGUERO. I hope so. I have been a Republican all my life.

Mr. GROSVENOR. I would like to have you make a brief statement about the value and the necessity of these dealings in stocks; what good does it do the country?

Mr. DE AGUERO. If you have a stock to dispose of and you can not sell it, would you not think it would be a great thing to be able to dispose of any security in a moment instead of hawking it around the street and selling it at a great loss, perhaps?

Mr. NEWLANDS. It maintains steadiness of values?

Mr. DE AGUERO. Yes, sir.

Mr. GROSVENOR. Nine hundred and ninety-nine thousand nine hundred and ninety-nine people out of a million do not have stock to sell.

Mr. DE AGUERO. You have only given 70 people who have stock. I will guarantee there are at least a thousand gentlemen in this city, within a radius, say of 2 miles, who have stock, sir, and buy stock. You have only given 70 people in the United States.

Mr. GROSVENOR. I know in my State the percentage is very small.

Mr. DE AGUERO. They are very fortunate if they have something.

Mr. GROSVENOR. They are very fortunate to keep out of those places.

Mr. DE AGUERO. It is not only for speculation, but it is for investment. Men must invest money in some way; they can not all buy farm land.

Mr. GROSVENOR. You can buy almost anything for investment. Your business is merely altogether speculation.

Mr. DE AGUERO. It is speculation; yes, sir.

Mr. GROSVENOR. A man buys to-day and sells to-morrow?

Mr. DE AGUERO. He may hold it for a year. I have got some stocks I have held for ten years.

Mr. GROSVENOR. He does not go into that business unless he expects to make money?

Mr. DE AGUERO. He does not expect to lose, but sometimes he does; we have had that experience.

Mr. NEWLANDS. Your idea is, this room trading always furnishes a purchaser for stocks that are offered for sale, and that maintains the stability of values?

Mr. DE AGUERO. The stability of the market; yes. Without the room trader I do not think any exchange could be a success simply on the investments. A man coming in to sell a large block of stock would have to force that on the market, and his client would naturally complain on account of the decrease of value.

Mr. GROSVENOR. Of course what I say does not militate against your argument we are accumulating too much money in the Treasury; that stands by itself.

Mr. NEWLANDS. I would like to make an inquiry of the gentleman who spoke first. Did I understand you to say the total amount of tax imposed on those exchanges was \$5,000,000?

Mr. WILSON. No, sir; I simply spoke of the tax on three of those

exchanges. If you will take 72,000,000 shares of stock in one exchange and 176,000,000 in another and 23,000,000 in another and add those together and charge at the rate of 2 cents per hundred of the face value you will find it makes about \$4,700,000.

Mr. NEWLANDS. About \$5,000,000. How does the volume of the business of those three exchanges compare with the volume of the business in all the other exchanges of the country? Have you any idea of that, approximately?

Mr. WILSON. I have not figures on that, but the Produce Exchange has 708,000,000 bushels; the Chicago Board of Trade probably about 1,300,000,000; the Baltimore Stock Exchange I do not know how many millions. Boston would be very large. Philadelphia would be very large, and the Chicago Stock Exchange quite large, and St. Louis the same.

Mr. NEWLANDS. Would you put the taxes imposed upon all the exchanges of the country at a total of \$5,000,000?

Mr. WILSON. Yes, I would.

The CHAIRMAN. It would be more than that.

Mr. WILSON. Yes, sir; and then comes the occupation tax.

Mr. NEWLANDS. What proportion of the entire war-revenue tax is that?

Mr. WILSON. We are referring only to Schedule A, and Schedule A is estimated to yield in the neighborhood of \$45,000,000, I believe.

STATEMENT OF HON. JEFFERSON M. LEVY, A REPRESENTATIVE FROM THE STATE OF NEW YORK.

Mr. LEVY. Mr. Chairman and gentlemen, I think the last time the repeal of this war tax was agitated here the chairman stated that the revenues this year—I do not know that it was reported correctly in the papers—would only reach \$102,000,000, but, so far this year, the surplus over last year, due largely to the war-revenue collections, is nearly \$22,000,000. I believe that the surplus this year will be over \$70,000,000, and the point I want to call the attention of the committee to—

The CHAIRMAN. You know the increase last month was only \$2,000,000?

Mr. LEVY. I know that.

The CHAIRMAN. And probably will not be any greater two months from now, so it could not be \$70,000,000. I think it is about \$58,000,000 now.

Mr. LEVY. I think you will see a little increase this month; but, Mr. Chairman, one of the important things I want to call your attention to is this: As soon as our refunding plan is completed, with the foreign borrowing demand for the money of this country, which to-day exceeds over \$300,000,000 borrowed in this country, and the balance of trade is in our favor, if we continue to go on in this manner, as soon as we have carried out the refunding of our debt we will have the same trouble we had last fall, and even the depositing of the surplus in national banks would not avoid it. In the middle of the fall we will have another financial panic or money stringency, and the Secretary of the Treasury, when appealed to, would say, "I will take in \$25,000,000 of 2 per cent bonds. What is the use of taking them in—"

Mr. GROSVENOR. That order has already been made.

Mr. LEVY. If it has been made I think it is a mistake, because the people can use the money which they are now contributing to the Government and earn more than 2 per cent; they can make 5 or 10 per cent on it in their business. Why, then, should it be given to the Government and be used to cancel a debt demanding but 2 per cent. It does not benefit the people in any way. I am satisfied the Secretary of the Treasury has the same views I have, that he believes that the revenues ought to be reduced, and has so advised the President, as I believe. I think it is a great mistake to continue to absorb this revenue, and if you gentlemen actually take hold of this question now and repeal these taxes it will be more beneficial to the United States than anything else.

I am not asking or speaking for party advantage, but from patriotic motives entirely, and I see the situation as I saw it last August when I informed the Secretary of the Treasury that if he did not place the money accumulated in the Treasury in the banks of this country a panic would occur. It did occur, and in December he acknowledged that the conditions were just as I had stated then. We will have the same trouble again, and in September a tight money market will threaten business, and the responsibility will rest on members of Congress for not taking proper steps to relieve the country of the possibility of such a crisis.

STATEMENT OF MR. C. C. JACOBUS.

Mr. JACOBUS. Mr. Chairman and gentlemen of the committee, I would like to make a short statement. I think there ought not to be any prejudice against brokers as brokers or bankers as bankers, as seems to have been intimated here on broad grounds. We are here simply from patriotic reasons, for the reason we think we have borne this tax quite patiently—

The CHAIRMAN. I do not think they are regarded as outlaws.

Mr. JACOBUS. I want to remind the gentlemen here that I go back to thirty years or more in Wall street, and the taxes in 1864 were based on the actual value of the money involved in the transaction. That is, if the stock was selling at par there was a tax of 1 per cent on the hundred dollars, making the tax on that stock selling at par \$1 and a stock selling at 50 cents on the dollar was taxed 50 cents. At that time those who were most familiar with the average prices of stock figured our tax amounted to 50 cents on each hundred shares.

Now, that was an act framed to take care of the expenses and a condition of the country which was very different from what it is now and from what it was during the war—it was right after the war of the rebellion when our securities and Government bonds, 5 and 6 per cent, sold at a little over par, and when the 4 per cent bonds sold at 90, but that tax then was only 1 cent on the hundred dollars, as I have said, or 50 cents on each hundred shares in the aggregate. Now we are taxed regardless of the value of the stock \$2 per hundred shares; in other words, we are paying about four times the tax on sales of stocks that we paid in 1868. Now, I submit there are no reasons now why we pay as large a tax as then. On the contrary, we should pay a less tax.

I should like to make a statement from the standpoint of a commission broker. I represent the commission broker, and I want to speak in support of the trader as a commission broker. Having orders to execute constantly on the exchange, I find that the trader is of very great value to the commission broker in furnishing a market. He is in there ready to buy or sell at a small profit or loss, and he makes a good many transactions on which the profit is very small and his tax in the aggregate is very large. I have known brokers there who will trade and make, say, \$25, \$50, or \$100, and they had to pay it all out for taxes. They are the class of brokers which have suffered the most. Now, the commission broker—I had to look somewhat over my books to see how much taxes I paid, and during this time, since the tax has been levied, since July 1, 1898, I have paid to the Government at least \$10,000 in taxes on sales.

We also pay the special tax, the occupation tax of \$50 as a stock broker and also \$20 as a commission broker. Those taxes I have paid. Now, we have not felt these occupation taxes were particularly burdensome to us, we were willing to pay those taxes, but this tax of \$2 on every hundred shares is a very heavy tax.

Mr. UNDERWOOD. Has the commission broker been able to shift it on the customer?

Mr. JACOBUS. It is sometimes done that way and sometimes not. A customer who is a close trader, who does a large business, may insist upon it that the broker must pay, and very often the broker does have to pay. That is not information for anybody here to go and trade with a broker on that account, but there is business being done that way. I must say I suffered some of that myself. Now, I will say that the commission charged by the commission brokers in our exchange is one-sixteenth, so you will note on all sales we have to pay a tax of \$2. That is 30 per cent of our net returns on all commissions on sales. If we put it so that the customer pays it he has to pay the commission to us and 30 per cent to the Government on every sale he makes. Now, it has been a very burdensome tax. At the same time business has been good during these war times and speculative times, and we feel now that the surplus of the Government is such that the tax can be well repealed, and we come to you with that in view and in hopes that it may be granted.

Mr. STEELE. For instance, if I want to buy 5,000 bushels of wheat, and another man wants to sell 5,000 bushels of wheat, the broker would get a commission both ways?

Mr. JACOBUS. I do not quite get your idea; but when we buy or sell it does not matter whether the order comes from one or from another, but if we had an order to buy and sell we are obliged to execute those orders on the exchange. There is a law in our exchange against the crossing of any orders any way by which a transaction shall not be made on the floor or executed absolutely.

Mr. STEELE. Suppose I should come to you to-day and say I wanted to buy 5,000 bushels of wheat, and my friend says he wants to sell 5,000 bushels of wheat, now, would you pass his deal over to me?

Mr. JACOBUS. No, sir; I could not; the rules of the exchange would not permit me to do so. It opens the way for what is known as bucket-shop business. Of course we get a commission both ways if we made such a trade as that, but it would not be permissible.

Mr. STEELE. It gives a very good opportunity for the broker to take advantage of by giving the customer the wrong end of the poker.

STATEMENT OF MR. M. H. WAGAR.

Mr. WAGAR. Mr. Chairman and gentleman, I represent the grain interest of the exchange, and have been a member of the New York Produce Exchange for a great many years and am a member of the Chicago Board of Trade, as well as the Consolidated Exchange of New York. I do in the grain business what is called an arbitrage business between Chicago and New York. In former times I made a good compensation and good living from the business, but since the war tax has been in operation it has entirely paralyzed and ruined the business. There is very little risk in the business, and formerly the profit was made up by the aggregate of the business; but now on every 10,000 bushels that I sell in New York I pay a tax, and when I reverse the trade in Chicago on every 10,000 bushels I close in Chicago I pay the tax, and it makes a double tax. I pay \$7 in New York and \$7 in Chicago.

This was a business formerly of four or five hundred thousand bushels, and now I am reduced practically to little or nothing, and I am simply here to say it is ruining the business. I tried for some time after the tax went into operation, and I found I could not make any money after paying expenses and telegrams, so I practically retired from the business and it has practically driven me out.

Mr. TAWNEY. Has that been the effect generally upon the men in this business?

Mr. WAGAR. It has effected the men engaged in the class of business I am pursuing. I was recently in Chicago, about two months ago, and they claim on the Chicago Board of Trade it has eliminated speculation among the class of room traders who have to pay taxes on every transaction. What little money they make goes to pay the taxes, and it is impossible to go on in that way.

Mr. TAWNEY. Has it eliminated the room trader from the Board of Trade in Chicago?

Mr. WAGAR. Yes, sir. It is a little different in stocks, because if Brooklyn Rapid Transit is dull something else is brisk, and they have something to go on; but if grain is dull, as it has been in the last year, we are obliged to pay the taxes, and it has practically stopped the business, and speculation has been very materially reduced on that very account.

Mr. TAWNEY. If this tax were reduced and you were allowed to go on in business again it would increase the price of grain?

Mr. WAGAR. It would increase the activity of grain and increase the compensation of the merchants who do business, and they would be able to make a living, whereas now they can not.

The CHAIRMAN. That closes our hearing, I believe. The committee will now go into executive session.

Thereupon the committee went into executive session.

CIGAR AND CHEROOT TAX—WAR-REVENUE ACT.

HEARINGS

BEFORE

COMMITTEE ON WAYS AND MEANS,

56TH CONGRESS, 1ST SESSION.

FRIDAY, MAY 11, 1900.

COMMITTEE ON WAYS AND MEANS.

SERENO E. PAYNE, CHAIRMAN.

JOHN DALZELL.

ALBERT J. HOPKINS.

CHARLES H. GROSVENOR.

CHARLES A. RUSSELL.

JONATHAN P. DOLLIVER.

GEORGE W. STEELE.

JAMES A. TAWNEY.

SAMUEL W. McCALL.

CHESTER I. LONG.

JAMES D. RICHARDSON.

SAMUEL M. ROBERTSON.

CLAUDE A. SWANSON.

GEO. B. McCLELLAN.

FRANCIS G. NEWLANDS.

SAM. BRONSON COOPER.

OSCAR W. UNDERWOOD.

HULL GREENFIELD, *Clerk.*

WASHINGTON:

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1900.

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CIGAR TAX—WAR-REVENUE ACT.

(FOR REPEAL OF THE 60-CENT WAR TAX ON CIGARS, ETC.)

COMMITTEE ON WAYS AND MEANS,
Friday, May 11, 1900.

The Committee informally met at 2 p. m., Hon. Sereno E. Payne in the chair.

A delegation of the cigar manufacturers of the United States appeared before the committee.

STATEMENT OF MR. G. J. SMITH.

MR. SMITH. Mr. Chairman and gentlemen of the committee, I desire on behalf of the cigar manufacturers to thank you for your courtesy in giving us a hearing without any warning or without any notice. We met here as manufacturers to-day and perfected an organization, and the gentlemen present represent the largest cigar manufacturers throughout the United States, and their meeting to-day was for the purpose only of perfecting their organization.

MR. GROSVENOR. You have not got a trust, have you?

MR. SMITH. No; we would like to get one, but that is hardly possible in the cigar business. We want to just state briefly the object of our organization and to ask permission later on to submit a brief when we have gotten together the facts we want to submit to this committee. We were under the impression sooner or later some legislation would be passed amending the internal-revenue laws, and we felt that the cigar industry should be considered in that proposition. When the war tariff was placed on cigars and the additional 60 cents was added to the internal-revenue law it acted in this respect with the manufacturers:

The increase was of such a peculiar amount that it was impossible for the cigar manufacturers to obtain that advance from the dealers and jobbers throughout the country, and consequently they, as manufacturers, have been obliged to carry the entire increase of 60 cents per thousand, and it has been a hardship to them and is a hardship to them, and for that reason we have perfected this organization, and we want to present to your committee within a reasonable time a brief stating our reasons why we think we should have relief. There are a number of gentlemen here representing the manufacturers throughout the country. We have representatives here from all the large cities who desire to be heard on this proposition, and we would simply suggest that permission be granted to submit our brief later on. Without consuming your time—

THE CHAIRMAN. You can do that and it will be printed (see p. 15) for the use of the committee.

Mr. SMITH. Thank you, Mr. Payne. I believe Mr. Jenkinson, from Pittsburg, has some remarks to make.

Mr. UNDERWOOD. May I ask a question?

Mr. SMITH. Certainly.

Mr. UNDERWOOD. Is this war-revenue tax borne by the manufacturers, the dealers, or the consumers?

Mr. SMITH. It is borne entirely by the manufacturers. There is not a large single manufacturer—I can speak more advisedly of the large manufacturers than of the small manufacturers—who in consequence of the increase of 60 cents per thousand in the internal-revenue tax has been able to advance his price 1 cent.

Mr. McCLELLAN. You are speaking of the importers as well as the manufacturers?

Mr. SMITH. No, sir; of the manufacturers only.

Mr. McCLELLAN. There is the tax on the importer?

Mr. SMITH. That is a question of tariff, and we are speaking of the internal revenue. It must be borne in mind that the cigar trade is made to bear a very large proportion of the taxes. For instance, a large percentage of cigars which are retailed at 5 cents are sold at \$30 per thousand, and that, with the cost in the way of the tax on Sumatra and Havana that is imported, and the internal-revenue tax of \$3.60, they pay about \$9.70 per thousand out of a total of \$30 which they obtain for their goods, and this 60 cents advance which was placed on the trade by the internal revenue in consequence of the war revenue falls entirely and absolutely upon the manufacturers, and is not divided in any way.

Mr. UNDERWOOD. Do you know how much that tax is?

Mr. SMITH. I think it is \$14,600,000.

Mr. UNDERWOOD. I mean the war-revenue tax.

Mr. SMITH. It would amount to about \$2,700,000 in round numbers; that is within \$50,000 of it. There was made in the fiscal year ending June 30—I can give the exact figures—4,499,000,000, and sixty times that, approximately, would be \$2,700,000. That falls entirely upon the cigar manufacturers, from which they have no relief whatsoever. Now I will explain that thing a little closer: The currency laws of our country are such that the pieces of currency are, for instance, the 5-cent piece and the 10-cent piece, so, cigars retailing at 5 or 10 cents, their retail value is fixed by that currency law. There is no such thing as a 6-cent cigar, or a 7-cent cigar, or an 11-cent cigar. It has been tried and it was an utter failure. Now, we sell the ordinary 5-cent cigar, as manufactured, at \$30, approximately. Now, we can not charge \$30.60 for that cigar. We tried to charge \$30.50—a few of us—and we got very badly left.

The CHAIRMAN. Can you not take it out in making smaller cigars, as has been said to have been done in the beer business?

Mr. SMITH. If you can tell us a way in which we can save 50 cents a thousand on our cigars—if we can find that out through coming to Washington, we are willing to subscribe very liberally toward anything. We have squeezed the thing about as fine as—

The CHAIRMAN. My friends at the other end of the table are looking for some such gentleman.

Mr. SMITH. The peculiarity of our currency law is the 5-cent proposition and the 10-cent proposition, and that is what they are sold at by the retailer, Now, when the 60 cents came we could not advance

the price, say, to \$30.50. We sell the 10-cent goods nominally at \$52, and we could not charge \$52.50 a thousand—the jobber would not stand it—so we have borne those taxes of additional revenue of two and three-quarter million dollars patiently and willingly, because the cigar manufacturers were all patriots, expecting the tax to be only temporary.

Now, we do not ask to be specially favored; we only ask, when the time comes—if it is not at this session but in the next session—when the revenue laws are changed, that tax having fallen entirely upon us, that we get some relief. It simply cuts so much out of the little profit we have. Now, take it in the case of the beer men; I have not the right to discuss anybody else's business, but they were able to advance the price on account of the amount of their tax, which we could not do in the cigar business.

The CHAIRMAN. Some seem to dispute the advance of a dollar.

Mr. SMITH. I suppose they have their troubles as well as we do.

Mr. DALZELL. They all claimed they are bearing the tax.

Mr. SMITH. I have no right to discuss their business, because I know nothing about it.

Mr. CHAIRMAN. I suppose the high-priced tobacco goes in the wrapper, and the next in the binder, and the next in the filler?

Mr. SMITH. There are a few people who use the domestic tobacco in filler, but a larger percentage use the foreign tobacco.

The CHAIRMAN. And that is high priced?

Mr. SMITH. Yes; at least our trade thinks so.

The CHAIRMAN. Why can not you save this out of the filler? Of course, you can not save it out of the wrapper and binder.

Mr. SMITH. The trouble is the amount is so small; if it had been advanced \$2 or \$3 a thousand we might have a chance.

The CHAIRMAN. What suggested that idea was that sometimes the smoke is pretty short on a 10-cent cigar.

Mr. UNDERWOOD. Do you know how much capital is invested in the cigar manufacturing business?

Mr. SMITH. In the United States?

Mr. UNDERWOOD. Yes; what I wish to ascertain is how much the percentage amounts to.

Mr. SMITH. I could not give those figures. We could look those figures up, if required, and could put them in our brief. You must understand we met here by telegraph, and none of us knew just what action was going to be taken. We formed an association this morning, and none of us have had an opportunity to give this matter any thought, and none have had an opportunity to prepare anything to be said here, because we did not expect to be heard.

The CHAIRMAN. You will prepare this brief in writing, and when you submit it it will be printed.

Mr. SMITH. Yes, sir; would it not be a strong argument to show the percentage of the tax in comparison with the value of the output?

Mr. McCLELLAN. That would be strong.

Mr. SMITH. That we intend to show in our brief, and we can show the value of the output. For instance, there is one class of material consumed entirely by the wage-earners—by the poorer class—an industry which has grown up in the last two years called the cheroot and stogy industry, which is very large in the Eastern part of the country. These goods are sold all the way from \$9 to \$11 a thousand,

and the Government receives an internal-revenue tax of \$3.60 on that particular article sold at from \$9 to \$11 per thousand. The percentage is enormous, 33½ per cent, which goes to the Government. Take the higher grade, the nickel cigar, and consider the import duty paid for the Sumatra wrapper, and the Habana filler, and \$3.60 internal revenue; so again we pay 33½ per cent to the Government on the total amount received for our product.

Mr. RICHARDSON. What is the total amount of revenue paid on cigars?

Mr. SMITH. About \$16,000,000 a year.

Mr. RICHARDSON. What was it before the war tax?

Mr. SMITH. It was about \$3,000,000 less. There has been about \$3,000,000 added to it.

Mr. DALZELL. That is by the 60 cents tax?

Mr. SMITH. Yes.

Mr. RUSSELL. I have seen an advertisement in some newspaper that the low tariff on Porto Rican tobacco was going to occasion in certain makes of cigars a much less cost, and a consequently less price to the purchaser. What have you got to say about that?

Mr. SMITH. I will state my own opinion of that.

Mr. RUSSELL. That is the advertisement, is it not?

Mr. SMITH. I think it will be corroborated by most of the manufacturers here. I rather dislike to speak offhand on a subject as important as that, but I think the tariff legislation as regards Porto Rican tobacco, bringing it in here at 15 per cent of the Dingley rate, is going to prove a hardship on the cigar manufacturers in this respect, that it will permit the bringing in of the imported filler at so low a rate of duty and it will permit the bringing in of the imported cigars at so low a rate of duty that that will be another hardship to face, but that is one of the conditions we can not govern.

Mr. RUSSELL. You would have a greater hardship if you did not have any duty on Porto Rican tobacco?

Mr. SMITH. Yes; but still the duty is so small. It is less than 6 cents a pound on tobacco, and the duty on cigars is only 15 per cent and 25—

Mr. RUSSELL. But it would be a so much greater hardship if there was no duty.

Mr. SMITH. That is true. But if Porto Rico was a part of the United States we are ready to accept the proposition. If that causes competition sharper than we can take care of we will go down there.

Mr. RUSSELL. How much Porto Rican tobacco is used in the filler?

Mr. SMITH. Before this bill, none at all, practically.

Mr. RUSSELL. How much is used now?

Mr. SMITH. It is a little too early—

Mr. RUSSELL. It is being used—it is coming in?

Mr. SMITH. Yes.

Mr. RUSSELL. And it is coming in rapidly for that purpose?

Mr. SMITH. Not rapidly; no; I would not say rapidly, for this reason—

Mr. RUSSELL. Were there not some thousand bales came in last week?

Mr. SMITH. I think some four or five thousand bales came in last week.

Mr. RUSSELL. That is pretty rapid progress, is it not?

Mr. SMITH. The situation down there was, they had no market for their tobacco other than the home market and what little went to Spain, and they developed only a small quantity of tobacco of a rather inferior grade, but they will learn more as other people have learned how to develop the better class of tobacco, and the cigar manufacturers will have to face that situation, but we do not propose to cross the bridge until we get to it, and when we get to it we will cross that bridge. What we are after is the question of internal revenue. There are four classes of manufacturers in the United States, comprising the great bulk of the manufacturers.

There are those manufacturing the stogy and cheroot, the so-called cheap goods; then there is a class manufacturing the standard nickel cigar, and then a class manufacturing the seed Havana cigar, and then again the class manufacturing the clear Havana cigar. Now, with the 60 cents there is taken from the stogy manufacturer a profit of at least 4 per cent; there is taken from the \$30 cigar, the manufacturer of standard 5-cent cigars, 2 per cent profit, and from the manufacturer of the higher grades at least 1 per cent, which they have no possible chance of getting back. I do not think there is a large manufacturer in this room or the United States as well but what on his balance sheet would find his gross profits went down on his \$30 goods 2 per cent or his high-grade goods 1 per cent. We have stood that loss. Now, it cost the firm of which I am a member, individually, last year, in the neighborhood of \$42,000, and one manufacturer in this room made nearly 100,000,000 cigars last year and it cost him \$60,000 and he had no way to get it back.

Mr. RUSSELL. The filler of the usual nickel cigar is no better in quality than the Porto Rican tobacco as raised to-day?

Mr. SMITH. We think it is better. We think the tobacco grown in Pennsylvania, Ohio, Wisconsin—filler tobacco—is better than the present Porto Rican tobacco.

Mr. RUSSELL. The tobacco you use in the nickel cigar?

Mr. SMITH. Yes, sir; but we do not know how long that condition will remain. Those people have a soil over there capable of producing something, and you must understand they never have been able to develop all the best possibilities out of that soil for the reason they have had no incentive to do it.

The CHAIRMAN. I can say a portion of that tobacco was so good that it went to Cuba and it was manufactured into Havana cigars and smoked here.

Mr. SMITH. That is true. There has been a small portion of that tobacco that has been good enough to displace Cuban tobacco, owing to the shortage of the Cuban tobacco, because during the war they had a very limited crop.

The CHAIRMAN. Cuba was their principal market—

Mr. SMITH. I think not.

The CHAIRMAN. For the better grades, of course some went to Spain and the old countries, but I think three-fourths of that went to Cuba.

Mr. SMITH. It was a very limited crop at its best, but it will add another difficulty to the manufacturers of cigars in this country unquestionably.

Mr. RUSSELL. I do not want to take you away from the subject-matter, but I wish in a few words you would state to the committee just what that difficulty will be.

Mr. SMITH. The difficulty the cigar manufacturers will have to face is this, which is the principal difficulty in my judgment, though I think they will find a way to face it. I suppose it will be somewhat of a surprise to you for me to say that cigar smoking is greatly a matter of sentiment, and yet there is a large percentage of the smokers of this country who buy cigars from boxes that have two stamps on them or are marked as being from the West Indies, and from the fact of their being so manufactured they consider them much better, and possibly they are. Now the manufacturers of cigars in this country will have to meet the proposition, sooner or later, of the cigars manufactured at Porto Rico and admitted to this country under the small tariff imposed by the recent law.

Mr. RUSSELL. And eventually free?

Mr. SMITH. That we expect, too, and the result will be that those cigars made in Porto Rico will be a pretty strong opposition to the cigars made here, but it will have the strong point of having been made in a West Indian country; but I do not think the cigar manufacturers as a rule are going to complain of that proposition very much.

The CHAIRMAN. It is a pretty small island.

Mr. SMITH. Yes.

Mr. SWANSON. They have no serious objection to free trade with Porto Rico?

Mr. SMITH. I do not think they have.

Mr. SWANSON. Or have any apprehension of any trouble. The tobacco people of Virginia do not have any apprehension?

Mr. SMITH. They do not raise tobacco there of the same kind.

Mr. SWANSON. They raise bright tobacco there.

Mr. SMITH. For smoking purposes. I think it is going to prove a detriment to our business, but that is one of the things we have enough patriotism to stand. What we hope is to have off this additional 60 cents, which comes directly out of our earnings without a possible chance of getting it back. If Porto Rican conditions change values that we are obliged to meet, that we will stand when it comes, and I think the American manufacturer is smart enough and energetic enough to take care of himself under most circumstances. We have stood all sorts of legislation. We have seesawed back and forth on the question of Sumatra wrapper until we have not known where we were at half the time, but we have managed to live.

Mr. SWANSON. Is it not true, although there has been unusual activity in all kinds of business, that the cigar people have not been able to make as much money as usual?

Mr. SMITH. There is scarcely a cigar manufacturer, with a few exceptions—there are a few—who has made a reasonable return for his investment and work in the last two years in consequence of this additional tax.

Mr. SWANSON. It is the same way in regard to plug tobacco. They have not been able to shift entirely the tax on the consumer?

Mr. SMITH. They have raised their prices.

Mr. SWANSON. To some extent.

Mr. SMITH. I do not think they have suffered the same way the cigar manufacturers have. The raise in the tax was so small that we could not possibly put it on our customers.

Mr. SWANSON. You would rather it should have been raised larger or not at all?

Mr. SMITH. If it had been raised larger we would have stood some chance of getting it, but as it is we have had to bear it absolutely ourselves; and it has been a great hardship.

Mr. SWANSON. What do you recommend?

Mr. SMITH. That the tax be put back to \$3, where it was before.

Mr. SWANSON. Cheroots the same?

Mr. SMITH. It has to come under the same tax.

Mr. SWANSON. And the cigarettes and all?

Mr. SMITH. That is a different proposition.

Mr. SWANSON. What is the position of the cigar people about cigarettes?

Mr. SMITH. I do not think the cigar people ought to discuss the cigarette proposition, because they are not interested in it. It is no portion of their business. It is just as foreign to their business as the hat business is from the boot and shoe business. Of course we would like to have it stay up, but it would not be fair for us to ask relief for ourselves and oppose relief for any other industry.

Mr. UNDERWOOD. Is it not a fact that the tobacco interests of this country do not fear the Porto Rican tobacco, and what you really are afraid of is free trade with Cuba?

Mr. SMITH. And the Philippines.

Mr. RUSSELL. And you are more afraid of free trade with the Philippines than with Cuba?

Mr. SMITH. No; Cuba, I think.

Mr. RUSSELL. For tobacco. I do not mean——

Mr. SMITH. Oh, for tobacco; we are not afraid of free trade in tobacco. When you say tobacco, I spoke of the business collectively, and I apprehended you meant cigars as well.

Mr. SWANSON. The Philippine tobacco is mostly common smoking tobacco?

Mr. SMITH. That is a matter we might as well enlighten the Ways and Means Committee on. They talk about the Philippine tobacco being of poor quality and limited in amount. That is true, but the very minute that the opportunity arises to dispose of tobacco in this country free of duty, or a very small duty, that very minute American capital is going to increase the production of that tobacco.

Mr. GROSVENOR. And increase the quality, too?

Mr. SMITH. Yes, sir. They have got the soil there, and what is needed is the brains to develop it, and they will get it.

Mr. SWANSON. A 5-cent cigar there will be better than a 5-cent cigar here?

Mr. SMITH. Yes.

Mr. RUSSELL. And the next step will be to manufacture down there instead of here?

Mr. SMITH. That is what it means.

Mr. RUSSELL. And then we would have to put the internal-revenue law in operation over those islands?

Mr. SMITH. We have got to meet those things when they come; there is no question of that.

Mr. SWANSON. The best way is to get rid of the Philippine Islands?

Mr. SMITH. That is my position.

Mr. LONG. Or place the Constitution over them?

Mr. SWANSON. I think we ought not to put it there.

Mr. SMITH. I shall be very glad to answer questions, but I want to say that I made no preparation whatsoever to discuss this matter this morning, and we are going to prepare this brief and submit it.

Mr. SWANSON. Have you fixed a scale of prices at which you sold cigars after the increase of tax, as compared with what it was before?

Mr. SMITH. There has been no change, sir.

Mr. SWANSON. No change whatever?

Mr. SMITH. No, sir; we are selling our cigars at exactly the same price we did before.

Mr. SWANSON. And they retail at the same price?

Mr. SMITH. Yes, sir.

Mr. SWANSON. And consequently you people have had to pay out of your pockets entirely this increased tax?

Mr. SMITH. Some of them had to pay it out of their capital. We have not only paid it out of the profits but some have paid it out of their capital.

Mr. RICHARDSON. Do you mean to say the entire increase of \$3,000,000 has been paid by the manufacturers of cigars instead of their putting it upon the consumers?

Mr. SMITH. Absolutely and entirely; and I will state further that some of the manufacturers have been obliged to pay a portion of that out of their capital.

Mr. GROSVENOR. Have you made the same kind of cigars, out of the same kind of tobacco?

Mr. SMITH. Yes, sir; and we are doing it to-day. I mean to say that last year the firm of which I am a member paid nearly \$40,000 to the Government which came entirely out of their profits; fortunately we happened to make a little more than \$40,000, so we did not pay it out of our capital. I know from personal knowledge that the manufacturers did pay a portion of the tax out of their capital; that I know from positive knowledge. Now the amount of increase based on cigars is such as to render it impossible for us to get it from the trade and we could not change our values; the amount of 60 cents was so small we could not change our values and adjust our profits and we simply had to stand it.

Mr. GROSVENOR. The retailers did not add anything to the prices?

Mr. SMITH. They retailed just the same. The prices have been just the same.

Mr. SWANSON. And the only way by which you could get it back would be to use a little less tobacco or use an inferior quality, which would, of course, injure your brand?

Mr. SMITH. Yes, sir. You could not save enough in that way to justify the injuring of your business.

STATEMENT OF MR. ALEXANDER M. JENKINSON, OF PITTSBURG, PA., CHEROOT AND STOGY MANUFACTURER.

Mr. JENKINSON. Mr. Chairman and gentlemen of the committee, I do not know that I can add but little to what Mr. Smith has said on the general subject except to accentuate the fact that had your tax at the time of the Spanish war been made \$6 instead of \$3.60, as it was made, we could have made a change in the prices, and perhaps could have made it so as to be borne by the consumer.

The business in which I am interested—which is called by Mr. Smith

the cherooot and stogy business, of western Pennsylvania—made last year 237,000,000 cigars. We did not use an ounce of imported tobacco, grown in Cuba or any other place abroad. That tax of \$3 a thousand was really about 33½ per cent on the average price, as Mr. Smith has stated, and we simply had to swallow that 60 cents which was added. Our price, as has been stated, runs \$9, \$10, \$11, and you can not put up the price to \$9.60 or \$10.60 because the trade would not stand it. As Mr. Smith has said, we simply had to swallow it. Now, it seems to me that when our present income is more than enough to run the Government that we are wise in coming before the Ways and Means Committee to suggest that this extra tax be taken off. Before coming to Washington I was in hopes that it would be done at this session, but since I have been here I am inclined to believe it is impossible at this session, and one of our objects in coming before the Ways and Means Committee is to ask that you give this matter the consideration which in our estimation we deserve. I know of nothing further that I could say unless it would be to answer questions propounded by members of the committee.

Mr. RICHARDSON. Suppose instead of making this \$10.60 you had made it \$10.99—

Mr. JENKINSON. That might have done, perhaps, if you were selling goods entirely to department stores; but when you come to do business with large wholesale grocers they simply laugh at you. For instance, if the price was raised from \$10 to, say, \$10.50 or \$10.60, it is simply a matter of amusement for them.

Mr. SWANSON. Tobacco in none of its shapes and forms has had the advance that iron and steel has?

Mr. JENKINSON. No, sir; it has not. Cigar prices, as Mr. Smith said, are so regulated that they fluctuate but little one year and another. If the raw material is high in price one year then it is the manufacturers' loss, but the next year in all probability the farmers will plant too much and get too greedy and then it goes down, so it balances up the next year and the selling price can not be altered by fluctuation in the market, unless it is the labor market.

Mr. SWANSON. Has labor been steady in the cigar business?

Mr. JENKINSON. There has been no trouble in the cigar market until the present time.

Mr. SWANSON. They are paid so much a thousand?

Mr. JENKINSON. They are paid by piecework.

Mr. SWANSON. So you know what it is going to cost you?

Mr. JENKINSON. It is by piecework entirely.

Mr. SMITH. I want to say one thing about the Porto Rican question; I did not quite catch the point when Mr. Russell spoke of it. Here is one danger which the American manufacturer will meet on the Porto Rican proposition that is a very grave danger. As we understand the law, we may not understand it correctly, but as we understand the law the tobacco imported to Porto Rica from the island of Cuba pays the same rate that tobacco imported into the United States pays.

Mr. RUSSELL. From Cuba?

Mr. SMITH. Yes. Now, there is nothing to prevent the manufacturer, and it will be done, from carrying in to Porto Rico Havana tobacco at 35 cents per pound for the fillers and so much wrapper as you can get in for 35 cents, the same as we do in this country, and the balance at \$1.85—

The CHAIRMAN. You do not mean to say anything of that kind is going to happen?

Mr. SMITH. I do not think I want to change my remarks—and he can have the cigars manufactured in Porto Rico of Cuban tobacco and shipped to this country and land them here at 15 per cent of the rate from the island of Cuba, which is now \$4.50 a pound and 25 per cent ad valorem; in other words, they will produce Cuban cigars in Porto Rico and land them in this country at a little more than 15 per cent of the present duty on cigars.

The CHAIRMAN. He has to pay duty on the tobacco?

Mr. SMITH. Exactly; and I said a little more.

Mr. RUSSELL. You have to pay the same duty on the same tobacco when bringing it into this country?

Mr. SMITH. We will follow it to the conclusion. We will say the average duty for tobacco brought into this country on the raw material is \$10; it may be more, but we will say it is \$10. He takes the tobacco into Porto Rico and pays \$10; that is the duty on the raw material. He makes that up into 1,000 cigars and brings them here. The ordinary cigar will weigh approximately 12 pounds per thousand, on which he pays \$4.50, and say the price is \$30. It would be \$54, and 25 per cent ad valorem on the value of \$30 would be \$7.50 more, which would be \$61.50, that the 1,000 cigars would pay duty if manufactured in the island of Cuba and brought here. Now he pays \$10 on the raw material from Cuba and brings it in here at 15 per cent on the \$61, or a little over \$9; so you have a duty of \$19 as against \$61.

Mr. RUSSELL. But you bring that same tobacco from Cuba here in the United States and you import it wholesale at \$10 and you do not have to pay for the cigars manufactured here?

Mr. SMITH. But this is made in the West Indies.

Mr. RUSSELL. Then the difference is either in the labor conditions or the sentiment of this country in favor of a cigar made outside of the country.

Mr. SMITH. I stated in the start that cigar smoking was somewhat a matter of sentiment; perhaps legislation has nothing to do with the sentiment, but still it is there nevertheless. This, however, is one of the conditions we have to face from the island of Cuba, and we will face it when the time comes, and we will not cross the bridge until we get to it; but that is one of the conditions that is going to arise and they are prepared to do it. They are prepared to ship Havana tobacco to Porto Rico and make it into cigars and ship them at the 15 per cent rate of duty. I only brought that up here because—

The CHAIRMAN. Of course if we did not have that 15 per cent they would have a greater advantage than they have now?

Mr. SMITH. Yes.

Mr. SCHIFFER. It would be better to bring it in without duty for the reason that it would not bear the import stamp, which acts to the detriment of the interests of the American manufacturers.

The CHAIRMAN. They would have the internal-revenue stamp from Porto Rico, would they not?

Mr. SCHIFFER. That is not the point; the import stamp on the cigars which the buyers—

Mr. RUSSELL. The internal-revenue stamp would show the same thing?

Mr. SCHIFFER. But the two stamps are what the public like to see.

STATEMENT OF MR. M. KROHN.

Mr. KROHN. Mr. Chairman and gentlemen of the committee, I have been before this committee before in regard to various questions, and I desire to say that the point made here by Mr. Smith is certainly a very strong one and a most serious one to the cigar producers of this country, and one which has undoubtedly been disregarded by your committee, the fact not probably being brought to your attention. Just as soon as they can do it under the present law there will be an importation of cigars, and not alone an imported cigar, but imported Cuban Havana cigars, the general article and not the counterfeit, not of Porto Rican tobacco, but of Cuban tobacco, and therefore they would obtain the value of the difference between the import duty from Cuba and Porto Rico, and if there is a possibility of remedying that defect I think it should be done.

Mr. UNDERWOOD. You would rather as a manufacturer of cigars have the duty of 15 per cent taken off Porto Rican tobacco, or would you prefer to have it stay there?

Mr. KROHN. That is a question I doubt very much the trade in general has thoroughly considered. In connection with that I want you to take into consideration the domestic leaf raised, which comes in competition with Porto Rican tobacco, and in which one of your committee here, General Grosvenor, ought to be considerably interested, because his State raises the bulk of the finest domestic cigar leaf that is raised in this country; but that is a question by itself which wants to be considered very seriously by the manufacturers as well as the raisers of tobacco. In regard to the 60-cent matter it has been sufficiently argued, I think.

You have heard the reasonings why the trade desires to have it off and I know the Committee on Ways and Means has been very considerate to the tobacco manufacturers at all times. They have never forgotten them and have always taken them into consideration in connection with the matter of raising taxes. I know you have been kind to us and therefore we come here frequently and expect to be here next fall to see that you gentlemen here will not forget us, and hope that when we do come you will treat us with the consideration which I think the trade deserves.

The CHAIRMAN. You gentlemen can confer together and file your brief and it will be printed with the hearings.

Mr. SMITH. We will file our brief within the next week or ten days with the clerk of the committee. We will get it up as early as we can, and now, gentlemen of the committee, we desire to thank you in the name of the cigarmakers for your kind consideration.

Thereupon the committee adjourned.

Brief filed on behalf of the cigar and cherooot manufacturers of the United States.

IN RESPECT TO SECURING THE REPEAL OF THE WAR TAX LEVIED ON CIGARS, CHEROOTS, ETC.

The war-revenue law of 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes," was accepted by the patriotic consensus of opinion of this country as a necessary

measure for the purpose of raising revenues sufficient to meet the unusual expenditures of Government in connection with the late war with Spain.

It is, of course, a matter of supererogation to call the attention of this learned and experienced committee to the fact that the power to levy taxes, vested in Congress under the provisions of section 8 of article 1 of the Constitution, is founded on the expressed provision of said section, that all taxes so levied shall be uniform.

And the uniformity intended by the framers of the Constitution was not merely of a theoretical nature, but it was designed and intended that the burdens of taxation should be so apportioned as to be borne equally by the people of the United States, and not inflicted with inequitable and burdensome effect upon any special class.

It also may be proper to call attention to the fact that the war-revenue law was solely conceived and designed to meet the expenditures of the war and was not intended as a permanent addition to the revenue-bearing scheme of usual and ordinary taxation required to meet the normal expense of the Government.

The cigar and cheroot manufacturers of the United States now appear before your honorable committee and present such absolutely incontrovertible facts as clearly establish their right to immediate relief at the hands of Congress from the burdens of a tax which was designed to be but temporary, and the contingencies which necessitated the creation and imposition of the tax have long since passed away, the revenue of the Government being more than adequate to meet the expenses of the Government, and which burdens of additional taxation were borne silently by the said cigar and cheroot manufacturers because of their peculiar relation to their customers and the purchasing and consuming public, as well as by that patriotism which, in the face of the enemy, dominated all the citizens of our Republic, regardless of section or party; and it is therefore most respectfully and earnestly urged that the facts herein presented should meet with the serious and approving consideration of your honorable committee and of Congress, so that this industry, which already contributes such large sums to the support of the Government under normal conditions, may be relieved from the burdens of this additional taxation, the reasons for which no longer exist, and the burdens of which were only designed to be temporary and not permanent, and the payment of which additional duties are borne by the comparatively few and not by the whole people.

It is perfectly proper and perhaps essentially necessary for a clear presentation of the case of the cigar and cheroot manufacturers before your honorable committee to present the following statistics of manufacture which are derived from official and authentic sources:

For the year ending June 30, 1899, there were manufactured in the United States cigars and cheroots paying the full tax of \$3.60 per thousand the following number: 4,499,701,645. And the tax paid on this quantity of cigars and cheroots at said rate was \$16,307,108.

In this sum so paid the additional tax of 60 cents per thousand above the former \$3 per thousand limit was the large sum of \$2,699,821.

For the nine months beginning July 1, 1899, and ending March 31, 1900, the total number of cigars and cheroots manufactured and paying the tax to the United States was 3,958,219,519, on which there was paid the tax of, at the rate of \$3.60 per thousand, the sum of \$14,249,590.

And the additional amount for said period of nine months above the normal \$3 per thousand rate, and being the amount of the 60 cents per thousand war tax, was \$2,370,131.70. So that the cigar and cheroot manufacturers of the United States have, since July 1, 1898, down to the present time, paid for war-revenue purposes in the shape of this additional war tax of 60 cents per 1,000, the enormous sum of over \$5,000,000.

It is absolutely certain that this tax has been borne and paid by the comparatively few cigar and cheroot manufacturers of the country, because, by reason of our decimal currency, the retail prices current in the sale of cigars and cheroots throughout the United States being usually at the rate of one or more cigars sold for five cents, and then in multiples of 5, such as 10 cents each, or 15 cents each, or three for a quarter, or two for a quarter, has rendered it a matter of practical impossibility, for commercial reasons, to add the tax of six-tenths of a mill to each cigar or cheroot.

It could not be charged to the jobber or retail dealer by the manufacturer because the retail dealer could not practically add that fractional tax to the retail price of the article, so that it may be truthfully asserted that this tax, aggregating in the enormous sum of over \$5,000,000, substantially came out of the pockets of the manufacturers, and was not generally borne by the consuming public, nor uniformly paid by the people of the United States.

And to show how grievous is the burden of this additional taxation, it is pertinent and relevant to this inquiry to consider the proportion in amount and value which the different grades of cigars and cheroots paying the additional war tax of 60 cents per 1,000 bear to the total output.

Taking in round numbers the output of the cigars and cheroots paying the cigar tax of \$3.60 per 1,000 at 4,500,000,000, the same may be classified into the following divisions:

Fifty per cent thereof is the lowest grade, selling at about \$10 per thousand.

Thirty-five per cent thereof forming the class of what are known in the trade as "nickel" cigars, and which sell at the average price of \$25 per thousand.

Ten per cent thereof, consisting of the Sumatra wrapped seed and Havana cigar known in the trade as the "ten-cent" cigar, which sells at an average of \$55 per thousand.

And the remaining 5 per cent thereof, the clear Havana grades, selling at higher rates. So that fully 50 per cent of this entire stupendous output of 4,500,000,000 cigars and cheroots, and the selling price of which is \$10 per thousand and less, pays, at the present time, a tax of over one-third of the amount of the selling price, and the next 35 per cent of said total output, which is in the shape of the nickel cigar, has an equally disproportioned tax, when the cost of material and the small profit by reason of competition and close figuring necessary to enable the jobbers and retailers to make a living profit is considered.

In other words, 85 per cent of the entire output is in a position unable to bear this additional taxation with any possible comfort or justice.

But even the higher grades of cigars are also subject to an enormous amount of taxation, because, in addition to the internal-revenue tax, it must be borne in mind that the higher grades of cigars bearing the Sumatra wrapper and having the clear Havana filler are also burdened

by a tax of \$1.85 per pound on the average 2½ pounds of Sumatra wrapper used, and also to a tax of 35 cents per pound on the 20 pounds of Havana filler used, making on such a cigar an additional tax paid to the Government on the raw material of \$11.16 over and above the \$3.60 internal-revenue duty collected.

These figures speak for themselves more eloquently than can any use of language, or of any pleading or protestation falling from the lips of the most eloquent advocate.

The condition of the cigar and cheroot manufacturers in respect to this matter is completely stated in the summary of figures hereinbefore detailed, and that absolutely speaks for itself.

The cigar and cheroot manufacturers have hitherto refrained from moving before your honorable committee and before Congress, because of the notion which prevailed in the minds of the people and press of this country that the emergent measure of the war tax would be repealed by Congress upon the passing away of the emergency which called it into life.

But now the time has come when these manufacturers, as citizens and taxpayers of the United States, have the right to ask that justice be accorded them, and that they be relieved from the further bearing of these heavy and intolerable burdens, more onerous in their case than in any other, for the most excellent reason that their trade, and the articles they use in the shape of raw material as well as their manufactured product, are at all times the subject of taxation, and which taxation was levied upon but very few manufactured articles produced in the United States before July 1, 1898, and since the close of the civil war.

Being thus taxed, and being thus constantly called upon to support the revenues of Government by taxes, which year in and year out have amounted to so many millions of dollars, this additional burden of the 60-cent war tax should be at once removed from this industry, so that it may not be unduly burdened and crippled.

The cigar and cheroot manufacturers stand for this reason before your honorable committee with much stronger right, with greater equities and a higher claim for relief than any other industry in the United States.

In closing this brief presentation of the case of these manufacturers, it may be well to call attention to the fact that one of the most noted Secretaries of the Treasury, and whose name and ability shed luster upon his administration of the high office of Secretary of the Treasury—we allude to Secretary McCulloch—in one of his later annual reports to Congress, wherein he recommended the removal of the internal-revenue tax from tobacco, that it might be placed upon an equal footing with other agricultural products, said:

An article which is so generally used and which adds so much to the comfort of the large numbers of our population who earn their living by manual labor, can not properly be considered a luxury.

If tobacco, as used by our citizens, was not considered a luxury by this high economic authority, and his views were adopted by Congress, then tobacco must have become, and is, one of the attendant necessities of our present civilization, and is part and parcel of the industrial life of our people, adding to their comfort and happiness, and enabling them the better to pursue their vocations in life.

And while tobacco is properly the subject of taxation in this and all other civilized countries, we assume, and have the right to assume, that the trend of all revenue legislation in obeying the spirit of the Constitution is, and of necessity must be, of that uniform degree and extent which will render its burdens least felt and have the tax contributed by the largest number of the people participating in and using the article which is made the subject of taxation.

It was never intended, calculated, or designed that so large and onerous a tax should be borne by so very few of the people as is the case in this instance; and it is therefore most earnestly and respectfully submitted that the said additional tax hereinbefore referred to, and being in substance the levy of 60 cents per thousand on each and every thousand of rolls of tobacco subject to what is known as the "Cigar tax" should be repealed or amended so as to relieve the manufacturers from paying said addition of 60 cents per thousand.

And the cigar and cherooot manufacturers of the United States here represented by their national association have full confidence in the spirit of fairness, justice, and equity which characterizes your honorable committee, and confidently express the hope that a report favorable to the contention and prayer of the said manufacturers may be made to the honorable House of Representatives in order that the necessary repealing and amendatory legislation may be secured in Congress at the earliest possible moment.

Respectfully submitted.

GEORGE J. SMITH,
Of New York City, Chairman,
ALEXANDER M. JENKINSON,
Of Pittsburg, Pa.,
JACOB WERTHEIM,
Of New York City,
LEOPOLD FEIST,
Of Cincinnati, Ohio,
JOHN BOLTZ,
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GEORGE H. BARLOW,
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HENRY WAITT,
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JOHN H. BROWN,
Of Detroit, Mich.,
M. KROHN,
Of Cincinnati, Ohio,
Committee.

MORRIS S. WISE,
Counsel for Association.

