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# The United States Senate

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## Report of Proceedings

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### Hearing held before

Subcommittee of the Committee on Finance

H. R. 10181 - H. R. 6328

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October 4, 1940

Washington, D. C.

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H.R. 10181 - H.R. 6328

Friday, October 4, 1940

United States Senate,  
Subcommittee of the Committee on Finance,  
Washington, D. C.

The subcommittee met pursuant to call, at 10:30 a.m.,  
in Room 212, Senate Office Building, Senator David I. Walsh  
(presiding).

Senator Walsh: This meeting will come to order.

We are here to conduct a hearing on H.R. 10181 which is a  
bill entitled "To effectuate the original intent of Congress  
with respect to the duty to be imposed on imported pile mats  
and floor covering wholly or in chief value of cocoa fiber."

This bill was formerly H.R. 6328 and a hearing was had  
by the subcommittee of the committee on ways and means of  
the House of Representatives on July 29, 1939. Reference is  
made to that hearing, <sup>and</sup> to the evidence taken at that hearing.

(H.R. 10181 - H.R. 6328, and a copy of the transcript  
of the proceedings at the hearings on H.R. 6328 had before  
a subcommittee of the Committee on Ways and Means House of  
Representatives, and House Report No. 2816 on H.R. 10181  
follow:)

Senator Walsh: The Finance Committee, ~~General Finance~~  
~~Committee~~, appointed me, ~~Walsh~~, Senator Brown and Senator  
 Townsend to hear this evidence, ~~and~~ Senator Brown was called  
 out of town and could not be here today but requested the  
 evidence be taken by shorthand so that he could review it;  
 and ~~also~~ Senator Townsend who is in town but attending a  
 conference committee of the Committee on Appropriations will  
 also be submitted a copy of the report.

Now, who wants to be heard?

Mr. Radcliffe: I would like to be heard first.

Senator Walsh: Let us have your full name, please.

STATEMENT OF HARRY S. RADCLIFFE  
 Executive Secretary, National Council of American Importers

Senator Walsh: I received your letter, Mr. Radcliffe.

Mr. Radcliffe: Yes. The National Council is an organiza-  
 tion comprising ~~importers~~, American importing merchants of all  
 types of commodities, and as an organization we have a policy  
 of never taking a position on rates of duty as such. We have  
 as an organization, <sup>however,</sup> always objected to exorbitant and excessive  
 rates of duty that involve a prohibitive measure of any kind,  
 as being detrimental to our foreign trade <sup>as a</sup> ~~on the~~ whole, and we  
 have supported the present <sup>Trade Agreements program</sup> ~~Act~~ and the reciprocal tariff policy  
 since the beginning.

This bill we have given careful study, to and consider that  
 it is a prohibitive measure for it <sup>proposes</sup> ~~amends and~~ increases the

present rate of duty on cocoa fiber pile mats in part of braid from 90 per cent ad valorem, as provided for under paragraph 1529(a) of the Tariff Act of 1930, to a rate of 12 cents per square foot under paragraph 1022 of the same Act.

The rate of 12 cents a square foot (on the average) has been equivalent in recent years to between 141 per cent and 169 per cent, but that of course was an average figure.

Senator Walsh: Ad valorem?

Mr. Radcliffe: Ad valorem. Equivalent to 141 per cent.

The <sup>average</sup> rate is made up of some items which are of a ~~much~~ lower rate than that and some that run as high as 250 to 300 per cent.

The second objection that we have to the bill ---

Senator Walsh: To what extent did the decision of the Customs Court change that ad valorem rate?

Mr. Radcliffe: Well, in the Penn Case --- You mean on the ---

Senator Walsh: The decision was to place this commodity in another bracket and thereby lower the rate.

Mr. Radcliffe: The rate 90 per cent ad valorem. It didn't actually lower it because the Tariff Act of 1930 as it was originally <sup>enacted,</sup> ~~put in~~ in paragraph 1529(a), <sup>had</sup> that all-embracing provision taking in articles in part of braid by whatever name known and to whatever use applied, and whether or not named, described or provided for elsewhere in the Act; and in the long line of decisions --- that was <sup>true</sup> also <sup>of</sup> ~~the~~ lace and embroidery.

— ~~In a long line of decisions~~ it was held that articles with a minor amount of braid were properly ~~due to go~~ <sup>dutiable</sup> under ~~that Act.~~ <sup>paragraph.</sup> And the Customs authorities classified these braids <sup>as mats</sup> at the 12-cent rate <sup>but</sup> ~~and on~~ the importers' protest ~~it~~ was sustained after about seven years of litigation on January 4, 1940 in the decision C.A.D. 93, ~~and the courts held~~ <sup>the</sup> main contention of the Government in that particular case was that these <sup>t</sup> mats were not in part of braid, that their binding around the edge was not braid; and after the importers had established to the satisfaction of the court that these were ~~in part~~ <sup>actually</sup> articles in part of braid, then they were <sup>held to have been dutiable</sup> ~~ruled to be properly~~ <sup>as such</sup> classified right from the beginning. They had been mis-classified all the way through.

So actually these were not taken out of <sup>paragraph</sup> 1022 and put into this lower 90 per cent classification. They should have been in that 90 per cent <sup>class</sup> all the way through.

Senator Walsh: But they have been administered ---

Mr. Radcliffe: They have been administered in higher brackets. <sup>also</sup> And, in that case the Government urged long continued administrative practice, <sup>but</sup> ~~and~~ the court said that that doctrine of long continued administrative practice of classifying merchandise is not here applicable.

The court ~~also~~ said in that case "it is a familiar rule that long-established administrative practice is determinative only when the meaning of the statute is doubtful. We find

nothing doubtful in the construction of paragraph 1529(a).

"The provision for fabrics and articles composed in any part of braid, 'by whatever name known, and to whatever use applied, and whether or not named, described, or provided for elsewhere in this Act \* \* \*' first appeared in the Tariff Act of 1922, being paragraph 1430 thereof, the prototype of paragraph 1529(a) of the Tariff Act of 1930."

So we object ~~to it~~ because this bill is specifically intended to reverse this particular court decision by making an exception to the braid paragraph.

We feel that the title of the report No. 2816 from the Committee on Ways and Means to the House on this bill which was entitled "to effectuate the original intent of Congress," is a misnomer because it would change the original intent of Congress.

While <sup>on</sup> ~~in~~ that report there are a few other statements that I would like to refer to, ~~it~~ states here that the President in his veto message on the previous bill, ~~the~~ H.R. 6328, did not object to the bill as it passed the House.

~~While~~ We don't believe that ~~that~~ is a significant point because the President would naturally leave to the Congress the making <sup>of</sup> duty rates and unless there were some other reasons it would be unlikely the President would veto a tariff bill by Congress. But this bill has been put forth not as a tariff bill but, <sup>merely</sup> ~~as defined~~, to correct some mistake that happened.

*there has been any mistake*  
 We do not think ~~so~~ at all.

It is also stated that the bill has been referred to the Treasury Department, the Department of State and the Tariff Commission, none of whom ~~see~~ <sup>have</sup> any objections to the enactment of this legislation.

It is <sup>well</sup> known that the Tariff Commission never recommends or opposes tariff rates. It is also true that the Treasury Department confines its recommendations to the administrative <sup>provisions</sup> offices of the Tariff Act and, ~~has~~ as a policy, never commenting <sup>s</sup> on a proposed change in tariff rates unless the proposed change contains administrative difficulties.

I think the Treasury's attitude in reference to ~~it~~ <sup>a bill of this kind</sup> is to find out whether the <sup>language</sup> ~~range~~ of the bill is designed to accomplish what it is intended to accomplish and to ~~anticipate~~ <sup>see</sup> whether it will present administrative difficulties.

So we don't believe that the report of the Treasury Department and of the Tariff Commission in offering no objections to the enactment of the legislation is important.

Another reason for our organization's objection to the bill, (not going into the merits of the protective duty because we have always accepted the protective tariff principle), <sup>is that</sup> the effective date of the bill is the day following the date of the enactment, ~~and~~ We feel if this bill <sup>must</sup> ~~has to~~ go through that would be an unfair provision to the importers.

The imported mats come from British India and the normal



time is from about five to eight weeks in transportation from British India because they originate on the Malabar Coast, ~~on the coasts of Malabar~~, and there is no direct steamer service to the United States from those points.

There is a line originating at Calcutta, India, that makes a stop every month or six weeks at that place, but for the most part the goods must be trans-shipped from the Malabar Coast up to Bombay or over to Calcutta; and <sup>before</sup> ~~when~~ they get to the Pacific Coast sometimes they must be trans-shipped the second time. These gentlemen here with me are more familiar with that transportation problem. But under present conditions it takes from three or four months to get delivery, and it would be a great hardship to pass any legislation effective the day following the enactment. We would request that the bill in any event be amended to provide a small grace period. <sup>Sixty</sup> ~~90~~ days <sup>perhaps</sup> would be sufficient <sup>for</sup> ~~on~~ the east coast, ~~I believe~~; <sup>not for</sup> ~~but~~ the people on the west coast; although <sup>the Pacific Coast</sup> ~~it~~ is nearer geographically, it is further on sailings. They have to work on a catch-as-catch-can basis. So we would ask for 90 days for the period after enactment, as the effective date.

~~And~~ <sup>also</sup> The gentlemen that are here from the cocoa nut group have told me, and they will tell the committee itself, that the period of 90 days at this particular time of the year wouldn't mean very much because ~~of~~ the importing season <sup>now</sup> ~~is~~ on the wane. In another couple of months it will be all over for this season.

Mr. McBride: That's right.

Senator Walsh: Have you any records of the imports since 1937?

Mr. Radcliffe: Yes, sir. The total imports for the year 1938, and I might say I got these figures from the United States Tariff Commission this morning, were 452,900 square ~~yards~~ <sup>feet</sup> valued ~~square feet, pardon me,~~ valued at \$39,717, about \$40,000, for the year 1938. For the year 1939, 592,003 square feet valued at \$49,588, about \$50,000. 1937 was about \$72,000. It dropped in <sup>19</sup>38 to about \$40,000 and up in 1939 to about \$50,000.

Since the first of January, 1940, there are no separate figures available because they are recorded as <sup>articles in</sup> part of braid, together with all other articles in part of braid. So they would come under <sup>paragraph</sup> 1529, the lace and braid paragraph, <sup>as</sup> articles wholly or in part of braid. So we couldn't get separate figures for 1940, but they run about the same.

Senator Walsh: They run about the same?

Mr. Radcliffe: There has been no significant increase. I did see some figures for the first four months of 1940. I don't know just where they originated, but they only amounted to about \$4,000. But that, again, was out of season.

Senator Walsh: Anybody else desire to be heard?

STATEMENT OF WILLIAM G. CHATER  
of the Biddle Purchasing Company, New York City

Mr. Chater: We represent as purchasing agents the smaller independent home-owned wholesale distributing houseware and house furnishing trade.

In other words, we help the smaller dealers get their goods in competition with the large chain and national merchandising companies.

The imports of cocoa door mats -- or in fact the distribution of cocoa door mats, whether domestic or imported purchased, has declined because of the very high retail cost to a very small proportion of the possible trade that can be done in the country. It is almost negligible.

And in going back to these figures, I first go to the Tariff Act of 1929, at the hearings before Senator Sackett at which time this duty was first proposed.

Senator Walsh: What year?

Mr. Chater: 1929.

Mr. Radcliffe: The hearing before the Finance Committee.

Mr. Chater: Yes, hearings before the Finance Committee.

~~Mr. Radcliffe: Or subcommittee.~~

~~Mr. Chater:~~ At which <sup>request was made</sup> the ~~duty~~ <sup>1</sup> was subject to the advance <sup>the rate</sup> from <sup>8</sup> ~~10~~ to <sup>14</sup> ~~12~~ cents. ~~And~~ Senator Sackett asked, "How many people are employed in it?" Mr. Stout answered, "We have about 34 left today."

"Senator Sackett: 34 people?"

"Mr. Stout: Yes, sir."

"Senator Sackett: You are asking for an increase of 150 per cent for 34 people?

"Mr. Stout: If we could get 150 per cent that would increase employment, I would say, to 90.

"Senator Sackett: To 90 people?

"Mr. Stout: We have only three looms operating today as against 14 looms formerly.

"Senator Sackett: That is the whole story, is it not?

"Mr. Stout: Yes, sir."

Senator Walsh: How many firms manufacture these mats in this country?

Mr. Chater: Possibly three. There is one that is <sup>fairly</sup> ~~fairly~~ large. That is the one that <sup>could use</sup> ~~operates~~ as many 90 people <sup>had</sup> ~~if~~ the tariff <sup>been</sup> ~~were~~ increased.

Senator Walsh: It is a large concern?

Mr. Chater: It is a large concern in other business. The mat business is a small part of it.

Senator Walsh: It is one of many other products?

Mr. Chater: One of many other products.

Senator Walsh: Are there any others?

Mr. McBride: We have the Wisconsin Work Shop for the Blind which is a State institution so <sup>does</sup> ~~do~~ not compete with us. They do not need the protection.

Senator Walsh: Does the law of Wisconsin require them to confine their sales to their institutions and departments?

Mr. McBride: <sup>Sir?</sup> What?

Senator Walsh: Confine their sales of what they produce in this Blind Institution to their own departments of government.

Mr. McBride: No, sir.

Senator Walsh: They sell to the public?

Mr. McBride: Oh, by all means. I travel that territory; I know. They sell as far as the West Coast. They ship to California.

Senator Walsh: In some States where they manufacture things in institutions they are not in competition with the general producer.

Mr. McBride: Well, that is what it should be. After all, that is perfectly legitimate, but there they are going out into trade, competing with importers <sup>and</sup> ~~or~~ other manufacturers.

Mr. Chater: But as to the blind, their production is relatively limited.

Senator Walsh: Relatively what?

Mr. Chater: Limited. There are, talking in round figures, 30,000,000 homes in this country. In all the homes, the housewife likes to have a door mat to keep her house clean.

Now, the present duty is so high that the distribution is relatively limited under any set of figures. Even if you set 10 per cent of them as to replacement every year, it would mean 3,000,000 mats, which is far beyond the productive

capacity of this country.

The price has been so high that it has been off the market. This figure we give of \$<sup>40</sup>50,000 or \$<sup>50</sup>60,000 represents the high class mats for special institutions where they can be afforded.

Senator Walsh: Who is the <sup>other</sup> manufacturer?

Mr. Chater: Makin-McKenna, Lockport, New York. It is a Canadian firm. They moved over into the United States, and as I understand <sup>it,</sup> the employees came from Canada to work in the mill.

Senator Walsh: Has there been any attempt by these domestic producers to do away with the braid and try and make the mat without braiding?

Mr. Chater: Without braid? No, I doubt it. They couldn't make a mat without braid, Senator.

Senator Walsh: They couldn't?

Mr. Chater: No, sir. The only mats that can be made without braid are fancy inserted mats made on a different type loom.

I can quote the United States Tariff Report:

"Domestic production consists chiefly of the better grade of brush mats; that is, 'medium' and 'extra' brush, whereas imports consist chiefly of the lower grades; that is, 'low', 'common', and a still lower grade."

Senator Walsh: I see.

Mr. Chater: Furthermore, they say here ---

Senator Walsh: Well, would there be no inducement for the importer to do away with the braid?

Mr. Chater: No, <sup>of course not.</sup> ~~no, no.~~

Senator Walsh: He is in a higher bracket?

Mr. Chater: That's right.

The Tariff Commission<sup>'s</sup> <sup>report</sup> says: "Lower grade mats, composed chiefly of yarn which, it is claimed by domestic producers, can not be woven on a power loom because of its poor quality; high-grade mats, known as inserted fiber or fancy mats, which are woven with ornamental body designs and colored borders; and mats made of two or more colors of dyed yarn in the pile," and so forth.

The situation is that a 90 per cent duty permits the high quality mat possibly to get in, but it deprives the cheaper population, which is the most of our population, of being able to get a mat at any reasonable price.

The duty which would be about <sup>12</sup> ~~3~~ cents a square foot on an ordinary mat, 2 x 4, ~~the duty is 12 cents a square foot, I should have said,~~ and on a mat of about 2 x 3, or even smaller than that, a small mat just for the front door, the duty is over 50 cents.

Whereas, the retailers used to be able to sell that <sup>mat</sup> for 60 or 75 cents, it has to be doubled, and people would just have to go without mats or use some kind of a rubber mat which doesn't

take the dirt off the feet.

And the figures here would show that ~~if the duty even~~  
~~under the lowest reasonable quantities coming in,~~ whereas the  
 previous imports were \$200,000, they are now \$40,000, <sup>or</sup> a loss  
 of \$160,000, <sup>in import volume.</sup> At 90 per cent <sup>duty that is</sup> being \$144,000 lost in revenue  
 to the Government.

Now that manufacturer stated that there would be an increase  
 in occupation between 34 and 90 people, or 56 people, so the  
 Government could afford to pay those 56 people \$2570 each and  
 still the whole country would benefit, because every housewife  
 is interested in having something to help keep the house clean.

And that benefits also the retail merchant, the wholesaler,  
 the distributor whom we represent, as well as the warehouse  
 and transportation and many other industries, as well as our  
<sup>Trade</sup>  
~~business~~ with India.

We are now building new boats to go over to India,  
 launching new boats to go over, and there is business coming  
 in that this figure will apply to; the duty will be from 250  
 to 300 per cent.

Senator Walsh: Anything else? Your name, please, sir.

STATEMENT OF WILLIAM L. MC BRIDE

representing William Goodacre and Sons, New York City

Senator Walsh: You are importers?

Mr. McBride: Yes, sir, we are importers.

The only thing is, Senator, - the gentlemen have covered it



pretty well, but we in importing the cheaper grades do not interfere with the domestic manufacturers to any great extent.

Domestic manufacturers cannot make a cheap mat that will hold together. They have tried and tried, and cannot work it on their looms.

This is actually business for the importers, extra business for the retail stores.

I know I travel on the road, and our sales on mats have just dropped off to nothing.

As a matter of fact, you take for an example the Wisconsin Work Shop of the Blind, they can make mats and keep those blind people employed, and they can sell all they can make. We certainly don't interfere with them.

The fact of the matter is, Mr. Costigan of the Wisconsin Work Shop of the Blind has come to us and said that if we have any extra mats ~~will we~~ <sup>to</sup> let him know <sup>as</sup> and he could use them in <sup>connection with</sup> the sale of their products. They cannot make enough to supply the demand for their goods, which shows that we are not interfering in any way with domestic manufacturers.

~~I think that covers~~ One other point, Senator. ←

→ We feel the bill shouldn't go through, but if it should go through we certainly would <sup>like</sup> ~~love~~ to have that 90 days. We have goods on the water. We are entitled to a little protection on that. We would <sup>have</sup> ~~be at~~ a complete loss on that merchandise.

Senator Walsh: I think you should be protected on that.

Mr. McBride: Thank you. We think we should be.

Senator Walsh: You should be protected on that.

Mr. Chater: There are a number of other people on the Pacific Coast and other points who cannot be here, and I wonder if it would be possible to have formal hearing and have the Tariff Commission and other departments ~~who~~ <sup>that</sup> are familiar with this case, <sup>and</sup> ~~who~~ perhaps have more <sup>information</sup>  ~~ramifications~~ than can be just quoted from documents at the moment, <sup>present.</sup>

Senator Walsh: Who, in the Tariff Commission, is familiar with this?

Mr. Chater: The gentleman who gave us these figures this morning.

Mr. Radcliffe: That was Mr. Alexander of the textile division.

Senator Walsh: It is perfectly proper for you to request a meeting. I am surprised you didn't have one in the House. Our committee will be very glad to give one to you.

Mr. Chater: Well, the people on the Pacific Coast are really entitled to it, they have had no opportunity; and the people in Chicago have had no opportunity to be heard. They have all indicated to Mr. Radcliffe their interest. And also on the Pacific Coast they are entitled to time in transit. The fact the bill was vetoed <sup>last July</sup> ~~was~~ ample justification for them to go ahead and proceed in the normal way of business without expecting it again to be brought up.

Note: Did Senator Walsh say "will be" or "is"?

Mr. McBride: There is one other thing. It doesn't only affect us in our particular business but we import a lot of goods through the Port of Boston and there is a warehouse up there, and I know the merchants and warehouse people are particularly interested. The more goods we bring in, the better it is for them.

Mr. Chater: The whole country is involved, the housewife and the industry. A duty of 200 to 300 per cent is prohibitive.  
*Senator Walsh: What is the total domestic production?*

Mr. Radcliffe: We couldn't get any (figures separate) in the Census report. The figures that are contained in the Tariff Commission's report to the House were estimated or determined by direct investigation in the industry.

Senator Walsh: Where does the raw material come from?

Mr. McBride: British India.

Mr. Radcliffe: It is the <sup>coir</sup> core yarn.

Senator Walsh: These domestic producers have to get their <sup>materials</sup> goods from India?

Mr. McBride: Yes.

Senator Walsh: It comes in duty free?

Mr. McBride: Yes. *It is imported duty free from British India.*

Senator Walsh: In what form does it come in?

Mr. McBride: Just yarn.

~~Mr. Chater: They only expected to increase their employment from 34 to 90. The figures, as a total, are so small we know it cannot be any greater.~~

(Whereupon, at 11:30 o'clock a.m., the hearing is recessed subject to call.)

END  
DARROW  
WLC