

TO SUSPEND TARIFFS ON SCRAP METALS; TO AMEND
INTERNAL REVENUE CODE RELATING TO PRODUCTION OF
ALCOHOL; TO AMEND INTERNAL REVENUE CODE
RELATING TO THE LEAKAGE AND EVAPORA-
TION OF DISTILLED SPIRITS

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
SEVENTY-SEVENTH CONGRESS

SECOND SESSION

ON

H. R. 6531

AN ACT TO SUSPEND THE EFFECTIVENESS DURING THE NA-
TIONAL EMERGENCY OF TARIFF DUTIES ON SCRAP
IRON, SCRAP STEEL, AND NONFERROUS
METAL SCRAP

H. R. 6543

AN ACT TO AMEND CERTAIN PROVISIONS OF THE INTERNAL
REVENUE CODE RELATING TO THE PRODUCTION
OF ALCOHOL

AND

H. R. 6273

AN ACT TO AMEND THE PROVISIONS OF THE INTERNAL
REVENUE CODE BY SETTING NEW MAXIMUM LIMITS ON
ALLOWANCES FOR LOSSES OF DISTILLED SPIRITS BY LEAK-
AGE OR EVAPORATION WHILE IN INTERNAL REVENUE
BONDED WAREHOUSES, AND FOR OTHER PURPOSES

MARCH 5, 1942

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CONTENTS

Statement of--	Page
Adams, Warren, War Production Board.....	18
Forrest, Norman, Alcohol Tax Unit, Treasury Department.....	7
Gurney, Hon. Chan, United States Senator from South Dakota.....	6
Jones, Howard T., Distilled Spirits Institute, Washington, D. C.....	15
Spingarn, Stephen, special assistant to the General Counsel, Treasury Department.....	11
Vigor, Frank, Iron and Steel Branch, War Production Board.....	1

TO AMEND CERTAIN PROVISIONS OF THE INTERNAL REVENUE CODE

THURSDAY, MARCH 5, 1942

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

The committee met at 10:30 a. m., pursuant to call, in room 312, Senate Office Building, Senator Walter F. George (chairman) presiding.

H. R. 6531

The CHAIRMAN. We have two or three bills here this morning that it is necessary to take up, before getting through, and the first will be H. R. 6531. There are a number of witnesses here to testify on that bill, which is a bill to suspend the effectiveness during the existing emergency of tariff duties on scrap iron, scrap steel, and nonferrous metal scrap.

(H. R. 6531 is as follows:)

[H. R. 6531, 77th Cong., 2d Sess.]

AN ACT To suspend the effectiveness during the existing national emergency of tariff duties on scrap iron, scrap steel, and nonferrous-metal scrap.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no duties or import taxes shall be levied, collected, or payable under the Tariff Act of 1930, as amended, or under section 3425 of the Internal Revenue Code, with respect to scrap iron, scrap steel, as defined in paragraph 301 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1001, par. 301), relaying and rerolling rails, or nonferrous-metal scrap entered for consumption or withdrawn from warehouse for consumption during the period beginning with the day following the date of enactment of this Act and ending with the termination of the unlimited national emergency proclaimed by the President on May 27, 1941.

The first of the witnesses we have today, I understand, is Mr. William Husted.

Mr. Husted, is there a spokesman for the whole group here this morning?

Mr. HUSTED. I think that Mr. Vigor, of the Iron and Steel Section, War Production Board, would be qualified to act as spokesman.

Senator VANDENBERG. Is there any opposition to this measure?

The CHAIRMAN. None that I know of, but I thought we would have a word of explanation by Mr. Vigor as to the purpose of the House bill, H. R. 6531.

STATEMENT OF FRANK VIGOR, IRON AND STEEL BRANCH, WAR PRODUCTION BOARD

Mr. VIGOR. I am here on behalf of the War Production Board, and we are urging the passage of this bill, in order to remove, as far as possible any impediments to the importation of scrap. Accurate

figures, of course, with respect to the amount of scrap that will be available during, for example, the remainder of this year, are impossible to obtain; but according to our best estimate, if we succeed in getting as much scrap as we got last year, which is doubtful, we will still be short approximately $6\frac{1}{2}$ million tons of metallics necessary to operate our open hearth and electric furnaces to their full capacity.

Senator LA FOLLETTE. What is the present duty?

Mr. VIGOR. Seventy-five cents, Senator La Follette.

Senator VANDENBERG. That is, on iron and steel?

Mr. VIGOR. Iron and steel scrap, and I am speaking only on those materials because I represent the raw materials section of the iron and steel branch.

Senator VANDENBERG. This bill applies to other metals also?

Mr. VIGOR. It applies to nonferrous scrap also, on which the duty, I understand, is substantially higher; somewhere in the neighborhood of 4 cents a pound.

Senator VANDENBERG. Four cents on aluminum, $2\frac{1}{2}$ cents on lead, per pound; and $1\frac{1}{2}$ cents on zinc.

Mr. VIGOR. I think it is 4 cents on copper; is that not on the list, Senator?

Senator LA FOLLETTE. Where is the list?

The CHAIRMAN. It is in the House report on page 3.

Mr. VIGOR. We are facing this situation: In the year 1940 we melted in the open hearth and electric furnaces of the country approximately 46,000,000 net tons of scrap iron. Up to that time, that was the largest year in the history of the industry. Now, on top of that, in 1941, we melted 60,000,000 tons, and of that about 33,000,000 tons were what we now term "home" scrap, that is, scrap produced within the steel industry itself, in the process of finishing steel; and approximately 27,000,000 tons were purchased scrap.

Now, during that period of events, the inventories of scrap in the hands of dealers and in the hands of the steel companies were reduced about 4,000,000 tons, indicating that the amount of new scrap brought in was 23,000,000 tons.

Now, if we are successful in keeping up receipts of scrap at that rate, we are still going to be short $6\frac{1}{2}$ million tons of metallics. I say that because the shortage can be made up either of scrap or pig iron, however, it is quite obvious that it means scrap iron, because we, definitely, with a degree of certainty, know what our production of pig iron is going to be.

Now, the Bureau of Industrial Conservation, under Mr. Rosenwald, is carrying on a number of campaigns for the removal of dormant scrap such as in the homes and on the farms, discarded objects, obsolete equipment, and so forth, and then, the notorious automobile graveyards—they are, of course, on the credit side of the picture, and those campaigns will produce a very substantial amount of scrap. However, on the debit side of the picture comes the fact of the conversion of the automobile industry to full-time war basis which is definitely going to reduce their supply of scrap. Instead of economizing, a lot of material was sacrificed to symmetry of form in the automobile industry which was a tremendous producer of scrap; but today, instead of making pleasure cars, they are making jeeps and Army cars and tanks, and if you look at those vehicles, the most casual observation will show you that the amount of scrap that you will

get from these vehicles you can stick in your eye, because they are square-cut, and there is no waste.

Now, the railroads, with their scrapping campaign, have always constituted a large store of scrap, but today everybody knows that a car and a locomotive, as long as it can be put in service, will be rolling and serving in this emergency long past the period when it would have been scraped under ordinary times. So, between the red side and the side of the new campaigns, and considering the low production of scrap in certain industries, we still think that 23,000,000 tons is a good estimate, and, as I say, that will leave us short possibly some 6 or 6½ million tons of metal for use in open-hearth furnaces and electric furnaces.

Therefore, we feel that it is extremely important that we begin now to remove every possible impediment toward the importation of scrap, and, of course, if we get all we think is available in South and Central America and the Caribbean Islands, we still will not make up the shortage.

Senator VANDENBERG. Do they not need their scrap?

Mr. VIGOR. No, sir; they do not, because they have no steel industry, practically speaking; they have some foundries, but they are very small consumers of scrap.

Senator VANDENBERG. As a matter of curiosity, could you tell me how much scrap was sent to Japan within the last 5 years?

Mr. VIGOR. The figures are available, Senator. Unfortunately I do not have them with me, but I expect there has been in the neighborhood of six or seven million tons. As I say, however, the figures are available.

The CHAIRMAN. We will get that back without passing any bills.

Mr. VIGOR. Yes, sir; and I am afraid in most unwelcome form.

The CHAIRMAN. Are there any further questions?

(No response.)

The CHAIRMAN. Thank you very much, Mr. Vigor.

Are there any other spokesmen here?

Mr. VIGOR. Mr. Husted from the War Production Board has details of the scrap distribution in this hemisphere; and Mr. Allen is here from O. P. A., the Office of Price Administration, and Major Butler is here from the Army and Navy Munitions Board.

Senator VANDENBERG. Let me ask one other question:

How much loss of revenue is involved to the Treasury in this suspension, just an estimate?

Mr. VIGOR. Well, if we assume that there is a million and a half tons that can be brought in, the loss of revenue is a little more than \$1,000,000.

Senator LA FOLLETTE. That does not even appear in any of the sheets we have—any more.

Mr. VIGOR. The figure of \$1,000,000?

Senator LA FOLLETTE. No.

Mr. VIGOR. No, sir; we do not state that figure.

Senator LA FOLLETTE. Mr. Chairman, I do not want to deny any other of the esteemed gentlemen here today an opportunity to appear before us and make a statement if they deem it advisable, but as far as I am concerned, I am satisfied with Mr. Vigor's statement.

The CHAIRMAN. Are there any other members of the committee who desire to hear any other witnesses?

Senator JOHNSON. May I ask a question?

The CHAIRMAN. Yes.

Senator JOHNSON. This pertains only to scrap, and not to any raw metal production whatever?

Mr. VIGOR. That is right sir; it does not pertain to ore. I do not know whether the bill has reached you, although I think in the form it has reached you, it includes relaying and rerolling rails.

The CHAIRMAN. Yes; it does carry that.

Mr. VIGOR. And that is extremely important, because the Army, for various purposes, is desperately in need of relaying rail, and the so-called rerolling mills, which are engaged on, I would say, 90 to 95 percent in high rated defense business, need rerolling rails. Now, scrap rails, of course, are covered by the term "scrap iron."

The CHAIRMAN. Will you please explain that phrase, rerolling rails?

Mr. VIGOR. They are rails not suitable for further use as rails, that is, they are not suitable for re-laying. The rerolling mills have a process by which they split the rails and use the so-called ball of the rail, that is, the top of the rail, as a material in rerolling and making small angles and things of that type, and it is a very important segment of the iron and steel industry, which is not often heard of outside but within the industry it is very important.

The CHAIRMAN. In view of the expression indicated by the committee, I think the other gentlemen who are here today and hardly think it is necessary to hear anyone else, unless someone here desires to make a statement.

Senator VANDENBERG. I would like to ask for the record, Mr. Chairman, about the termination of this emergency, as it is carried in the act, because it says "and ending with the termination of the unlimited national emergency proclaimed by the President on May 27, 1941."

How is that date fixed, by subsequent Presidential proclamation?

The CHAIRMAN. By subsequent Presidential proclamation terminating the national emergency. That is my understanding, and I think that is correct.

Did you care to make a statement, Mr. Husted?

Mr. HUSTED. I would like to ask for this bill to be expedited so far as possible, and I have a telegram here which is one of several we have received. May I read it?

The CHAIRMAN. Yes.

Mr. HUSTED. It is from the Bethlehem Steel Company, from their Seattle Office, and says:

Seattle office advises introduction of bill H. R. 6531 to suspend scrap import duties has frozen shipments from British Columbia. Advise present status of bill and when this question is likely to be disposed of one way or the other as it is interfering seriously with scrap movement in the meantime.

BETHLEHEM STEEL CO.

L. D. GREENE, Assistant Purchasing Agent.

The CHAIRMAN. You may put that in the record if you wish to.

Mr. HUSTED. We would like to stress again the fact of a terrible shortage and the fact that this bill has frozen the movement of scrap from Canada and ask you to expedite the bill as far as it is humanly possible.

(Whereupon the committee proceeded with the consideration of other matters.)

H. R. 6543 AND H. R. 6273

The CHAIRMAN. There is another bill here, H. R. 6543, a House bill to amend certain provisions of the Internal Revenue Code relating to the production of alcohol.

Senator Gurney is present, on that bill.

Senator Gurney, will you please make such a statement to the committee as you desire to make? I believe you have an amendment that you wish to offer.

(H. R. 6543 is as follows:)

[H. R. 6543, 72d Cong., 2d sess.]

AN ACT To amend certain provisions of the Internal Revenue Code relating to the production of alcohol.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2883 of the Internal Revenue Code (relating to transfer of spirits at registered distilleries) is amended by adding at the end thereof the following:

"(d) Under regulations to be prescribed by the Commissioner and approved by the Secretary, distilled spirits of any proof may be removed in approved containers, including pipe lines, from any registered distillery (including registered fruit distilleries) or internal revenue bonded warehouse to any other registered distillery (including registered fruit distilleries) or internal revenue bonded warehouse for redistillation and removal as provided in (c): *Provided*, That in case of removals of distilled spirits to any registered distillery (including registered fruit distilleries) for redistillation, the receiving distiller shall undertake to assume liability for the payment of the tax on the spirits from the time they leave the warehouse or distillery, as the case may be: *Provided further*, That any such spirits of one hundred and sixty degrees of proof or greater may be removed without redistillation from any internal revenue bonded warehouse as provided in (c): *Provided further*, That such spirits may be stored in tanks in any internal revenue bonded warehouse: *And provided further*, That sections 2836 and 2870 shall not apply to the production and removal, and such sections and sections 2800 (a) (5) and 3250 (f) (1) shall not apply to the redistillation and removal, of such spirits.

"(e) TRANSFER OF SPIRITS FOR REDISTILLATION.—Under regulations to be prescribed by the Commissioner and approved by the Secretary, and subject to the provisions of part II of subchapter C of this chapter, spirits of any proof may, without payment of tax and in bond, be removed in approved containers, including pipe lines, from registered distilleries (including registered fruit distilleries) and internal revenue bonded warehouses to industrial alcohol bonded warehouses and industrial alcohol plants for redistillation and removal for any tax-free purpose, or upon payment of tax for any purpose, authorized by said part II of subchapter C of this chapter: *Provided*, That when the spirits are so withdrawn, the tax liability of the producing distiller and the internal revenue bonded warehouseman, and the liens on the premises of the producing distiller shall cease, and the tax shall be the liability of, and the liens shall be transferred to the warehouse or plant of, the industrial alcohol bonded warehouseman or proprietor of the industrial alcohol plant to whom the spirits are transferred: *And provided further*, That any such spirits of one hundred and sixty degrees of proof or greater, so removed and stored in any alcohol bonded warehouse, may be removed from such warehouse without redistillation for any tax-free purpose, or upon payment of tax for any purpose, so authorized: *And provided further*, That sections 2836 and 2870 shall not apply to the production or removal of spirits of any proof for such redistillation. This subsection and subsection (d) shall cease to be in effect upon the termination of the unlimited national emergency proclaimed by the President on May 27, 1941."

Passed the House of Representatives March 2, 1942.

Attest:

SOUTH TRIMBLE,
Clerk.

By H. NEWLIN MEGILL.

**STATEMENT OF HON. CHAN GURNEY, UNITED STATES SENATOR
FROM SOUTH DAKOTA**

Senator GURNEY. Thank you very much, Mr. Chairman, for allowing me to appear before the committee and briefly present the bill.

It is of a technical nature, and also a lawyer is needed to explain the reasons that make the amendment necessary.

For the committee's information, I have prepared copies here, and if someone could pass them around——

The CHAIRMAN. Mr. Clerk, will you please pass them around.

Senator GURNEY. I will present the amendment. I might say that this bill, H. R. 6543, was introduced in the House at the same time an identical bill was introduced in the Senate by Senator McNary. He would be presenting the amendment this morning except that he was called downtown, and he asked me to present it for him.

My particular interest in the bill is the fact that the War Department has found it necessary to secure huge additional amounts of alcohol for manufacture of powder, and they are having the beverage industry take over from 60 to 100 percent, in the making of industrial alcohol out of some 200,000,000 bushels of corn and wheat. The beverage industry now finds itself in 'e position, because of the tax on beverage alcohol, where it makes it almost impossible to operate and make this industrial alcohol under the existing law. They have to, in some cases, in some of the distilleries, make alcohol of 160 proof and then transfer that to some other more modern refinery wherein they bring it up to 190 proof, and the purpose of this amendment and the bill, the original bill, is to relieve the first refinery from the liability of the tax as it passes the spirits from the first refinery, say, to the bonded warehouse, and from there to a more modern refinery—and it may go through two or three such steps. I understand that Mr. Forest was notified that the hearing would be held this morning on this bill. He is with the Alcohol Tax Unit of the Treasury Department, and I expect he is present. Also, our legislative counsel, Mr. Murphy and Mr. McMillan, spent a half a day on this bill, and they are much better prepared than I to explain the actual reasons behind the passage of the bill.

The CHAIRMAN. We passed a similar bill to this some time back, a few weeks ago, did we not?

Senator GURNEY. That did not cover the situation, I am informed.

The CHAIRMAN. That did not? This is, then, in aid of the previous legislation?

Senator GURNEY. That is right.

The CHAIRMAN. I see. Proceed.

Senator GURNEY. And the legislative counsel and Mr. Forrest, I am sure, could give you a better picture than I can.

Senator GUFFEY. Senator Gurney, has this the approval of the Department of Internal Revenue, or are they opposed to your amendment?

Senator GURNEY. Mr. Forrest, I suppose, could speak for them and explain the reasons they have, and, further, the fact that they want to expedite action and get everything ready to start.

The CHAIRMAN. Mr. Forrest, will you come forward, please?

**STATEMENT OF NORMAN FORREST, ALCOHOL TAX UNIT,
TREASURY DEPARTMENT**

The CHAIRMAN. Does this bill and the proposed amendment—you are familiar with the proposed amendment?

Mr. FORREST. Yes, sir.

The CHAIRMAN. Does it have the approval of your agency?

Mr. FORREST. The bill, as amended in the House, has, sir. Incidentally, I understood there was an amendment over on page 3, which does not appear in this copy I have, that has the approval of the Department, but the two amendments do not have, and the reason for that—by the way, these two amendments have been discussed heretofore in the office of the Alcohol Tax Unit.

Senator LA FOLLETTE. Which amendments are you talking about now?

Mr. FORREST. Both.

Senator LA FOLLETTE. What is the other one?

Mr. FORREST. Well, the first amendment is as to the transfers of the lien and liability from the one distillery to another distillery where there is a transfer from one distillery to another distillery under subsection (d); and the other one is as to the allowances of the losses, whenever there is a transfer under the subsection.

The CHAIRMAN. Well, are the amendments you speak of now included in the bill?

Mr. FORREST. No, sir; they are the ones the Senator——

Senator LA FOLLETTE. They are all on this one sheet; are they not? [Handing document to witness.]

Mr. FORREST. They have been rewritten, since I saw them. Now, the first paragraph is the one about the transfer of liens, while the second paragraph covers allowances of losses, and the third and fourth paragraphs are for the correction of clerical errors as to the proper use of the words "such spirits," and that is to prevent limiting of the spirits covered, and to apply to all spirits moved under the bill. To properly explain it, you have to go to section 2883 of the Internal Revenue Code which is the old section 308, the Liquor Tax Administration Act, in which Congress recognized the distinction between alcohol and other distilled spirits. It first recognized that in title III of the Prohibition Act, passed in 1919. That title covers distillates of 160° of proof, and up, recognizing such distillates to be alcohol, and in 1936 Congress passed 2883, that is, 308, which recognized that distinction and provided that when distillers distilled spirits were produced in beverage distilleries at 160° of proof and reduced to proofs ranging from 159° down to 100°, those spirits might be removed for beverage purposes only. The act of January 24, 1942, added a new subsection (c) to 2883. Subsection (c) provided that distilled spirits of 160° of proof or greater, might be removed from distilleries, and so forth, for beverage purposes, as contemplated by subsection (a) which was the old act, or might be withdrawn tax free for any tax-free purposes for which alcohol might be withdrawn and that when so withdrawn they should be subject to all applicable provisions of the alcohol laws, including of course the laws relating to the allowance of losses.

And, by the way, that was in the interest of production of alcohol for national defense purposes.

Now, this bill would add subsection (d) to 2883, to authorize movements of distilled spirits of any proof, from one registered beverage distillery to another, either directly or by way of first depositing the spirits in an internal revenue bonded warehouse, for redistillation, that redistillation, of course, to be above 160° of proof.

However, subsection (d) provides that when the same is redistilled such beverage may be removed as provides in subsection (c) you have to go and find out that (c) authorizes the removal for beverage purposes, or alcohol purposes.

Now, our point is this, and we so stated in the report on this bill sent to the Committee on Ways and Means, and incorporated in report 1805: The bill does not seem to contemplate any break-down in the internal revenue system, as between beverage spirits, below 160° of proof, on the one hand, and alcohol, of 160° of proof or higher on the other hand; and seems to be in the interest only of facilitating the transfer for national defense purposes. When I say that, I mean that since these spirits, if transferred for redistillation, and if redistilled, may be removed, either for beverage or alcohol purposes, it does not seem to be proper to break down another system to the extent to transfer the lien from the one distillery to the other. We think that the beverage distiller should be in the same position when the spirits are removed for redistillation and possible use for beverage purposes as if he did not remove for redistillation.

Congress might say that when the spirits are removed and redistilled, and further removed for alcohol purposes, they should be subject to the alcohol laws. Then, it would require a system of bookkeeping, a system of records, a system of earmarking, and a system of setting aside of the spirits in substantial tubs, vats, and cisterns, to the end that it would result in great difficulty for the Department and probably slow up the work of the distilleries.

Now, when you come down to the matter of allowances, loss allowances, you have the same general proposition, and I shall not elaborate upon that point. When spirits are distilled and removed from one distillery to another, and until finally removed from the place of redistillation or storage—no one knows for what purpose they will be removed—and it is the Department's position, as I said before, that we feel that when they are removable for beverage purposes, they should remain under the old beverage spirits laws, and receive the loss allowances which the beverage spirits receive.

Now, in connection with that, under section 2900 (1) (c) of the Internal Revenue Code or the old section 16 of the Liquor Law Repeal and Enforcement Act, distilled spirits which are removed in bond from one distillery to another, and from a registered distillery to an internal revenue bonded warehouse, will receive their losses if they are transported by a common carrier and if there is no collusion, fraud, dishonesty, or what have you, on the part of the distillers or anyone else connected with them.

This is the Department's position: We feel that we are operating under a system which is in two parts—under 160° of proof on the one side and 160° of proof and above on the other, that is, alcohol; and under the act they are going to utilize to the fullest extent the distillation processes and apparatus of the beverage distillery, but we feel that those beverage spirits should not be freed from the limitations of the beverage laws until they, the spirits, are taken over and used

under the alcohol laws; and, then, following that, that any effort to catalog them, earmark them, separate them, or set them aside, in order to accord them the benefits of the alcohol laws when withdrawn for alcohol use is going to present great administrative difficulties for the Department and slow down the production processes of the distilleries.

Now, as to subsection (c), that is without—there is no objection to that, there is no trouble about that; that authorizes the forthright and direct transfer of distilled spirits from a registered distillery to an industrial alcohol plant, and to an industrial alcohol bonded warehouse, for the purpose of redistillation, and it follows of course that the redistillation is to be above 160° of proof. And you will notice that in subsection (c) that distilled spirits which are taken from a registered distillery at above 160° of proof, and deposited in an industrial alcohol bonded warehouse, may be removed, either tax-free for alcohol purposes or for any purpose upon payment of tax without redistillation. That simply carries forward the general idea that it is alcohol we are working on, that we are preserving the old-time distinction set up in the law, and we are not going to disturb it at all.

If I may mention the amendment which is not in this copy I have here—I thought it was, but I know I saw it in the Congressional Record and it ought to be here some place—

Senator TAFT. Does anybody know whether that bill passed the House just as it is, without further amendment?

Mr. SPINGARN. Yes, sir; it was. The amendment that Mr. Forrest refers to was incorporated in that bill; the bill was passed out, and the print we have before us is the bill as it was reported, but that amendment was added on the floor of the House.

Mr. FORREST. Now, that provides as to transfers to industrial alcohol plants and warehouses. It provides that when the spirits are so withdrawn from the distillery to the industrial alcohol plant or industrial alcohol bonded warehouse the tax liability of the producing distiller and internal revenue bonded warehouseman, and the liens on the premises of producing distillers shall cease and the taxes shall be the liability of the proprietor of the alcohol plant or warehouse and the lien shall be transferred to the warehouse or plant of the alcohol bonded warehouseman or proprietor of the industrial alcohol plant to whom the spirits are transferred.

Now, that is quite clear because there is a forthright transfer from any beverage plant to an industrial alcohol plant, from which plant it may be taken under the existing alcohol laws. We offer no objection to that.

On the other hand—I do not want to be repeating myself, but we do feel in this Department that the two amendments to subsection (d); one about the liens and the other about the losses, ought not to be added.

The CHAIRMAN. Are there any questions?

Senator TAFT. I do not understand it at all.

Senator GURNEY. Mr. Chairman—

The CHAIRMAN (interposing). You say you do not understand it?

Senator TAFT. I really do not. Just what provision—as I see the situation, there is an amendment in the bill; the first one is taken out and it is proposed to substitute the one typewritten here.

Mr. FORREST. Well, they are adding——

Senator TAFT. It is the same; you object to both.

Mr. FORREST. I do not object, I simply——

Senator TAFT. That is the identical language proposed now to be taken out by Senator Gurney, and another proviso inserted in lieu thereof.

Mr. FORREST. No, Senator; you are simply adding 2 and 3 to the present.

Senator TAFT. There is a proviso here beginning with the word "Provided" on line 3, and the first amendment of Senator Gurney's says: "viz: on page 2, beginning with the word 'Provided' in line 3 strike out down to the colon in line 8, and in lieu thereof, insert the following:" and it gives a proviso.

The CHAIRMAN. Do you object to both?

Mr. FORREST. May I straighten that out by saying that while it talks of striking out from line 3 to line 8, that part that is stricken out there is then restored in the proviso you have on the typewritten sheet before you.

Senator TAFT. You object to both?

Mr. FORREST. No, sir; just to 2 and 3.

Senator LA FOLLETTE. What is the shooting all about here?

Senator GURNEY. Mr. Chairman, I believe it would clarify the situation—we have heard the side of the alcohol tax unit; and the industry has some representatives here this morning that, I believe, could state their cause. Mr. Jones of the industry is here, and Mr. Jones could probably give his reasons for the need of this extra amendment.

Senator TAFT. I would like to ask one other question.

The CHAIRMAN. Very well.

Senator TAFT. In the amendment it says, under (2):

the distillery, equipment, and premises of the receiving distiller shall be subject to the lien for the payment of the tax on such spirits in the same manner and to the same extent as is provided in section 2800 (e) with respect to the producing distillery.

Now, why do you object to that provision?

Mr. FORREST. It is all part of the same objection, to wit: If, in the course of an ordinary commercial transaction for the production of higher bodied whisky or higher-proofed alcohol for the purpose of rectification, one distiller sent his taxable liquor to another distiller to bring its proof up, we feel that there should not be any transfer of liability, because it is part of a commercial transaction, and the law has, for a great many years, imposed upon the distiller the liability for taxes on spirits produced by him; and the law says——

The CHAIRMAN. Why is there not the same objection to a bill providing that the receiving distiller undertakes or assumes liability for payment of the taxes prior to the time it leaves his warehouse? Or maybe you want to leave the liability on both?

Mr. FORREST. Yes, sir; that is right; but we do feel that when one distiller sends his material out to another one, and the second one shall safeguard them and put up a bond to be responsible for his spirits and not to dissipate them or divert them or steal the taxes on them.

Senator TAFT. And you object to releasing them, because that has not been done before?

Mr. FORREST. That is right, because that situation has been covered for many years.

Now, referring to 2 and 3, may I continue?

The CHAIRMAN. Yes.

Mr. SPINGARN. Just a minute, please I do not know nearly as much about this matter, technically, as Mr. Forrest, though perhaps I can explain it literally in a manner that all of us can understand.

STATEMENT OF STEPHEN SPINGARN, SPECIAL ASSISTANT TO THE GENERAL COUNSEL, TREASURY DEPARTMENT

Mr. SPINGARN. This bill is not intended to break down the distinction between beverage liquor and industrial alcohol which has existed since 1908, but is intended to expedite and increase the production of industrial alcohol by extending in certain respects the right recently granted the beverage distillers with the right to go into the production of industrial alcohol.

Now, my understanding of the amendments that Senator Gurney suggested is that they would go further than that and to a considerable extent break down the distinction that Congress has kept in the law for 30 odd years so that beverage alcohol and industrial alcohol could be, to some extent, merged. It is our opinion that beverage alcohol should be treated as beverage alcohol until it becomes clear that it is being further processed into industrial alcohol and used as such.

I think that is the case, is it not, Mr. Forrest?

Mr. FORREST. That is correct.

Senator TAFT. It is beverage alcohol when it is transferred from one distillery to another and the tax is not actually collected until it reaches the second distillery, finally?

Mr. FORREST. No, sir; the tax is only collected when it is removed from bond.

Senator TAFT. It would be removed from the second warehouse presumably and would not go back to the first warehouse?

Mr. FORREST. No, sir.

Senator TAFT. As a matter of fact, it would not go back from the second to the first.

Mr. FORREST. Only if the warehouse from which it was finally removed was the one at which the tax was paid.

Senator TAFT. But you want to hold that lien on the first fellow, kind of as a safety measure, and also because you have always had it?

Mr. FORREST. Yes, sir.

Senator TAFT. Has it been successful?

Mr. FORREST. It has been a useful deterrent against loss; and the producers and distillers have been pretty good, but it does hold them up to the regulations strictly.

The CHAIRMAN. I wondered if the money—That is paid at the second distillery and the bond holds good there?

Mr. FORREST. Yes, sir.

Senator LA FOLLETTE. May I ask a question?

The CHAIRMAN. Yes.

Senator LA FOLLETTE. In your opinion, as the result of your long experience, and in view of the contemplated further increase in the taxes on the beverage spirits as proposed to the House committee, the

Ways and Means Committee, does that in any way affect this situation? I mean, in that it provides a greater inducement for the illicit use?

Mr. FORREST. Yes, sir; every time the tax goes up, the desire, and opportunity, to trifle with it and steal increases.

Senator LA FOLLETTE. Does it have any such effect on this immediate proposal before the committee now, in your opinion?

Mr. FORREST. No, sir; I would not want to say so.

Senator LA FOLLETTE. In other words, this provision which you have always had in the law, of holding the first distiller liable, has nothing to do with the prevention of spirits getting into the illicit beverage channels?

Mr. FORREST. No, sir.

Senator TAFT. How would you determine, when it was shipped to a second distillery, whether it was going there for beverage purposes or not? Would there be a declaration by the shipper?

Mr. FORREST. No, sir.

Senator TAFT. If it were finally used for beverage purposes and there were loss, he would be liable and fined; and for industrial alcohol he would not be liable?

Mr. FORREST. The only practical way for that to be done would be to declare it when there was a shipment; and even a declaration under the law as it exists today would not be enforceable because the distiller has a right to take it out of any warehouse either for beverage or alcohol purposes.

Senator TAFT. You maintain that you should retain the lien on the first distiller whether it is ultimately used for industrial alcohol or not?

Senator JOHNSON. When does the first distiller get his release?

Mr. FORREST. When the tax on the particular spirits is finally paid, and every bit-----

Senator JOHNSON (interposing). It is never paid on industrial alcohol, is it?

Mr. FORREST. Yes, sir; it is paid on a lot of alcohol.

The CHAIRMAN. It is?

Senator JOHNSON. Is it paid on alcohol used in the manufacture of powder?

Mr. FORREST. No, sir; that will be tax-free.

Senator JOHNSON. When it gets to the second distillery it is still tax-unpaid, but as soon as it is withdrawn he must either pay the tax or declare the particular purpose for which it is to be used if it is a tax-free purpose?

Mr. FORREST. Yes, sir.

Senator JOHNSON. Then he does not have to carry an investment of tax in the alcohol that will finally be rebated to him, or get a rebate later?

Mr. FORREST. No, sir; he pays no tax until the spirits leave the warehouse or distillery and then only if it is not for a tax-free purpose.

Senator JOHNSON. The only thing the bill does, as to the bonds, is to substitute liability?

Mr. FORREST. That is right.

The CHAIRMAN. You do not collect the tax and then rebate it?

Mr. FORREST. No, sir; subsection (c), which is the subsection I think you are referring to, simply transfers from the beverage distiller to the

alcohol follow the tax liability and the lien, or to the alcohol plant or warehouse.

Senator TAFT. What I do not quite understand is this: You say it requires a large amount or a lot of keeping of records. I would think it would be more complicated to keep separate records on alcohol shipped to a second distillery when you did not know how it was going to be finally used than it would be to just transfer the whole thing and release the first distiller. You are going to release the first distiller when it goes to industrial alcohol; is that not right?

Mr. FORREST. That is right.

Senator TAFT. But if it goes to another distillery, then you are going to keep the liability on both even though it might ultimately be used for industrial alcohol with the idea that it could also be used ultimately for beverages.

Mr. FORREST. That is right.

Senator TAFT. But I do not quite see the complications you mention; I do not see how it would be any more complicated to do it the way Senator Gurney suggests.

Mr. FORREST. The basic reason is, of course, that we are operating on a system composed of the two parts: One, the spirits which are not alcohol, and the other, spirits which are alcohol. Subsection (c), when you transfer spirits over to alcohol, industrial alcohol, there is no difficulty because they are entirely out of the beverage field, and that is covered entirely by the laws relating to the alcohol field; but in the beverage field where there is a transfer between distilleries the spirits may or may not go into alcohol, into the alcohol field, and that is true in any distillery.

Senator TAFT. And what you want to do is to keep that liability there while the spirits are there.

Mr. FORREST. That is right.

Senator TAFT. I mean, all whisky is not paid for—it either goes to beverage purposes, in which case tax is paid; or to industrial alcohol, which is the broadest field today.

Mr. FORREST. But it is the word "either" that bothers us.

Senator TAFT. What was the word?

Mr. FORREST. Either.

Senator TAFT. Well, it should not bother you so much because a lot of it is going to be used for industrial alcohol.

Mr. FORREST. We feel that where it goes from one distiller to another and it comes out beverage the old rule should not be changed.

Senator TAFT. I wonder why it is more complicated to take it—I can see why you want to keep that law, but why is it more complicated?

Mr. FORREST. Well, in the first place—do not let me mislead you—it releases the lien and transfers the lien to the second distillery, and the allowance of losses if adopted as proposed by Senator Gurney breaks down the old system; and it was our idea that the bill does not propose to break down the old bill by putting all spirits under one system. Now, assuming or presuming that the two systems are to be maintained, then we go back to the point that we do not want to be in the position of having to catalog and separate these spirits, because that would be the only way you could work it out.

Senator TAFT. I do not quite see that. Why is there any complication? It seems that it would be simpler; in fact, there is less complication if you transfer the lien and liability, when there is a shipment to an alcohol distiller. Where is that any different from a shipment to another distiller which happens to have formerly used his plant for whisky and which plant is now to be used for industrial alcohol?

Mr. FORREST. The answer, of course, lies in the fact that our system is composed of two parts, one being the alcohol field and one being what we call the beverage field.

Mr. TAFT. Now, I think there will be a lot of beverage distilleries in the industrial alcohol field?

Mr. FORREST. Well, perhaps—I will come back to that.

As to these two sections, what the act of January 24 did was to provide for further utilization of the distilling apparatus of the beverage distilleries, as feeders for the production of alcohol. By having done that, it is not mandatory, it is not required that a producer finally turn his product out as alcohol, because subsection (d) refers back to subsection (c), and (c) says that you may take spirits out of a bonded warehouse, either as beverage, or as alcohol. That is, under the existing law or new law it is optional, and it is also exceedingly complicated, gentlemen.

The CHAIRMAN. May I ask you, for the information of the committee: Is the Treasury objecting to the bill as it was passed by the House?

Mr. FORREST. No, sir.

The CHAIRMAN. Or merely to the proposed amendment offered today by Senator Gurney?

Mr. FORREST. Merely to the proposed amendment offered by the Senator.

The CHAIRMAN. Is there any loss of revenue, any considerable loss of revenue under the bill as it passed the House?

Mr. FORREST. There will be some additional cost of administration for the reason that the bill provides that the beverage plant may operate on Sundays, whereas under the existing law those plants may not operate on Sundays. And it also provides that the distilleries and bonded warehouses may make deliveries in the nighttime which is not permitted now; and, of course, there would be the administrative expense of additional storekeeper-gaugers employed at the distilleries or warehouses in the Sunday work and night work; they will cost money, but we have no way of figuring that out.

Mr. SPINGARN. The whole thing presupposes the loss of revenue through the conversion of beverage to industrial alcohol plants because by the conversion, as an emergency measure, it does not anticipate an economy.

The CHAIRMAN. That is, where it is used by the Government.

Mr. SPINGARN. Yes, sir.

The CHAIRMAN. We understand that.

Senator CAPPER. May I ask, to clear my own mind, if the Treasury Department is opposing Senator Gurney's amendment?

Mr. SPINGARN. Yes, sir; we were in favor of the bill as it passed the House; and it was presented as a war measure.

Senator CAPPER. Tell me, again, why you oppose it?

Mr. SPINGARN. Briefly, it was this: The bill presented was presented as a war measure, and we are in favor of it as such. We did not think that Congress intended that in the course of conducting the war and expediting the production of alcohol, it also intended to break down entirely the distinction between beverage alcohol and industrial alcohol. If it intended to do that, I think that ought to be covered separately in another bill and, perhaps, gone into more thoroughly in order to hear all sides of the argument. I do not think it ought to be done as an incident to a bill that is primarily a war measure.

Senator TAFT. I do not quite understand this breaking down that we are hearing so much about today. You take the whisky—or I should say—take the alcohol out of a registered distillery for either whisky or industrial alcohol purposes.

Mr. SPINGARN. Yes, sir.

Senator TAFT. The only thing it does is, if the whisky is transferred to a second distillery where the same thing may be done and perhaps is being done today, to transfer the lien. That is all it does, and it does seem to break down any distinction between beverages and industrial alcohol. That distinction was broken down when we passed section (c) that provides that you can determine at any time after you have made it whether it is going to be beverage or not.

Mr. SPINGARN. Let us put it this way: To the extent it is necessary for the expeditious production of alcohol, that the bill may cause a break-down, but we do not want, unless it is absolutely necessary for that purpose, in the destruction, that is unobjectionable to go beyond the things that the bill provided for as it passed the House.

Senator JOHNSON. In other words, the industry is taking advantage of defense necessities to streamline some of their regulations?

Mr. SPINGARN. I hesitate to say that.

Senator CLARK. I do not see, in simply a transfer of a lien from one to another when the beverage is transferred or when the alcohol is transferred, that there is any advantage to the industry except perhaps as a matter of convenience.

Senator GURNEY. I would like to have the committee hear Mr. Jones of the industry.

The CHAIRMAN. Will you come around, Mr. Jones; and maybe we can understand you a little better.

STATEMENT OF HOWARD T. JONES, REPRESENTING THE DISTILLED SPIRITS INDUSTRY

Mr. JONES. I will be very brief. The industry has no objection whatever to the purpose of this bill. We had no part in drawing it and did not suggest any of its terms, because what it does is to put the beverage business into the alcohol business, as to which we have no objection and are perfectly agreeable to it. All we are asking in this amendment here, and I am speaking of the amendment that Senator Gurney has presented, is that while we are in the alcohol business, which business we are in, we get the same treatment, the same allowances and same rights and same taxes, and have the same records as would follow were we originally in the alcohol business instead of being in the beverage business and devoting our plants to industrial alcohol production.

That, in very few words, is what the purpose of this bill is—to protect the beverage business. That business, as you probably know, has a \$4 tax now and may have a \$6 tax shortly, and that means a tremendous burden and danger to the distiller, because he has a lien on his premises, a bond for it, and the Government may take it at any time.

We do not object to that, when that distiller has the right to control for what purpose and where his goods are to be shipped, because in such event he assumes the responsibility. Under this bill, he would have no right to say where it goes. He is in war work and that is quite all right, but that state of facts is not sufficient to give equal relief to both sides of the picture.

Even though a beverage distiller may have been such at one time, if he devotes his facilities to the production of industrial alcohol, I think it is only proper that he should receive the same consideration that any producer of industrial alcohol receives.

That, in a few words, covers our side, and I think Mr. Forest has already covered the technical side.

The CHAIRMAN. Are there any questions?

Senator TAFT. What is the loss question?

Mr. JONES. That is quite a question with us, because we ordinarily ship in barrels; and, of course, it is easy to control that way of shipping. Under this bill, it will be shipped in tank cars or tank trucks, and if a pipe happened to pull loose, or a truck happened to pull out, or a car happened to move, or anything of that sort happened, while it is being filled with alcohol, that would be a considerable loss of the alcohol, and originally the distiller who is shipping alcohol as industrial alcohol gets an allowance for that loss, which is one thing that is desired by the beverage distiller in cases where he is shipping industrial alcohol.

Senator TAFT. If there is a loss, and then it goes on to the second distillery, then does the tax finally have to be paid on what there was originally, in the first distillery?

Mr. JONES. Yes, sir; the beverage distiller would have to pay that.

Senator TAFT. Is it not checked again when it comes into the second distillery, as to the amount that comes in?

Mr. JONES. Of course, there may be some way of checking at both sources, to guard against loss, but that does present great administrative difficulties; and, really, the objection to that is administrative.

Senator TAFT. What is the loss, in shipping from one distillery to another, beverage distilleries, spirits that will be ultimately used for beverage purposes as against alcohol or industrial alcohol?

Mr. JONES. Our feeling is that there will not be any loss.

Senator TAFT. Not a drop?

Mr. JONES. Possibly something like that; but, as I say, our present method of shipping takes care of that; whereas, it is proposed to ship in the quickest and easiest way possible. And the type of alcohol that will be shipped, not a drop will be worthwhile using for whisky even if it could be used for such.

Senator TAFT. But doesn't that apply to beverage or industrial alcohol, can you not make liquor out of either one?

Mr. JONES. No, sir; the type we are dealing with here is not beverage alcohol but is going to a second distillery for the purpose of being redistilled, making it into alcohol; and that would not be a type used for whisky.

Senator TAFT. Then, under the coverage of (c), this question does not arise.

Mr. JONES. No, sir; the way it is proposed here, with the provision for shipping from one beverage distiller to another distiller who has high proof equipment or capacity, who can redistill it, we have no quarrel with (c); and if (e) were applied to (d), it would be agreeable to us.

What we have in mind is operating the beverage distilleries that now exist as alcohol plants, and we are not trying to streamline or change our rules but are merely putting in them coverage for what we are now doing.

Senator CLARK. Under your proposition, it takes the alcohol from one plant to another, and it is treated exactly as any other alcohol plant might be treated?

Mr. JONES. Exactly, sir.

Senator JOHNSON. If you are held with a heavy liability to see that there are no losses between the first distillery and the second, then there are not apt to be any losses, are there?

Mr. JONES. There is almost a certainty that there will be losses in this sort of movement of alcohol, but in beverage transportation, there are practically no losses; and I must remind you that beverage spirits are handled in barrels and are very carefully cared for.

Senator JOHNSON. This will be controlled, too, if you have a liability and it has to be watched?

Mr. JONES. Well, in case of movement by tank car and such, that car might be moved on the tracks while they are pumping the alcohol in and they might lose a thousand gallons of alcohol, and if that thousand gallons were charged against a beverage distiller, they would probably hold him liable for \$4,000.

Senator JOHNSON. If he has that kind of a liability, the loss is not going to occur.

Mr. JONES. I do not know whether it would occur or not; of course, that railroad tank car might move, something might happen to the truck if it were a tank truck—it might turn over—a lot of things might happen.

Now, an alcohol plant today would get a refund for a loss such as that, but a beverage plant would not.

Now, what we are asking is that we be on a par with the alcohol plant.

Senator TAFT. Is not that amendment now covering not only that kind of a shipment but also the old type of shipments from one beverage distillery to another, for beverage purposes?

Mr. JONES. Senator, possibly this amendment might cover that, because you cannot draw an amendment to cut that out, though we are not asking for it. We will be glad to cut it out by excluding any shipment which might be for beverage purposes. We are not asking for that at all. What we are asking for, in the case of shipments to other distilleries, is that we be treated the same as an alcohol plant. Now, this is a little broader even than that, perhaps, but we know of no way to limit it.

Senator GURNEY. Mr. Jones, is it not a fact that in the Kentucky flood there was an immense amount of alcohol fed to the fishes and they are still trying to get that tax back?

Mr. JONES. There was a bill introduced in Congress later authorizing the refunding of that tax; but there is no other way to get a refund in a case like that, except through an act of Congress.

Senator GURNEY. How about that train wreck, where they had the same difficulty?

Mr. JONES. If it is an alcohol plant, or operating as an alcohol plant, they would get their losses; but a beverage distiller—wait a minute. In a train wreck, he would be covered in a train wreck, as the shipment would be by common carrier.

Senator GURNEY. Is it not a fact that the possible objection to it by the Treasury is based on the fact that they have got to probably set up two sets of books?

Mr. JONES. Yes, sir.

Senator GURNEY. And that is about all it is, an administrative objection?

Mr. JONES. Yes, sir; and our feeling is that they are going to have to set up another set anyway and operate under the other procedure because these goods will have to be taken care of in tanks, stored in tanks or vats—which may not be so bad as it sounds, but you are going to have a different system in any event.

The CHAIRMAN. Are there any other questions by any members of the committee?

(No response.)

The CHAIRMAN. Senator Gurney, have you any other witnesses?

Senator GURNEY. None that I know of, Senator George.

The CHAIRMAN. I believe there is a representative here from the War Production Board, Mr. Adams.

Mr. ADAMS. Yes, sir.

The CHAIRMAN. Would you come forward, Mr. Adams, and give us the position of the War Production Board?

STATEMENT OF WARREN ADAMS, WAR PRODUCTION BOARD

Mr. ADAMS. The position of the War Production Board on this bill is this: We would like, of course, the bill passed as quickly as possible, because it will add to the amount of alcohol that we can make available for military purposes.

With respect to the special amendments that are proposed by the distilled spirits industry, we frankly do not care one way or the other whether they are in the bill or not.

Senator CLARK. What you are primarily interested in is making available a larger amount of industrial alcohol?

Mr. ADAMS. Absolutely, sir, but I would like to call these two matters to the attention of the committee, and that is that I think there is an awful lot of shouting about nothing, because, in the first place, I do not think there are going to be any shipments for this redistillation purpose from one beverage distillery to another beverage distillery. There is not the additional redistillation capacity in the second beverage distillery. In the second place, all of this can be obviated if the second beverage distillery takes out an industrial alcohol license, and that can be done very simply. The switch can be made, as I understand from a Treasury Department representative, in a matter of some 20 minutes. Then, the first distillery would be put in the position of shipping for redistillation, from a registered

distillery to an industrial alcohol plant; and, thus, the tax liability would cease, and the lien would be transferred, in accordance with the latest amendment that the House adopted. So that, as a practical matter, I do not think we have anything to fuss about here; but the position of the War Production Board, of course, is that we want to keep the distilled spirits industry happy so they won't drag their feet when we want them to ship their spirits for redistillation; and, on the other hand, we do not want to make the Treasury Department upset about the matter.

Senator LA FOLLETTE. You occupy a difficult position, I would say.

Mr. ADAMS. Not only in that regard, I fear, Senator.

Senator TAFT. May I ask: How do you get the additional alcohol? If the alcohol happens to be in an industrial plant, does it go through this redistillation process in a shorter time?

Mr. ADAMS. You see, the industrial plants have additional redistillation capacity.

Senator TAFT. You may have more capacity for redistillation, but do you have enough to take care of the others?

Mr. ADAMS. I believe the manufacture of alcohol requires fermenting capacity and distillation capacity, and an industrial alcohol plant which makes alcohol from molasses, has large distillation capacity, as against the large fermenting capacity of the beverage distiller. And, then, I might also say that, as you all know, we are trying to cut back in the use of molasses for the fermentation for alcohol in order to relieve the shortage of sugar.

Senator TAFT. Molasses is your requirement there now?

Mr. ADAMS. Yes, sir; in the present-day industrial alcohol plant. So that, too, will make for an excess of redistillation capacity in industrial alcohol plants. The transfer of spirits, will, I think—and I mean 99⁴/₁₀₀ percent—be from registered plants to industrial alcohol plants and not from registered plants to registered plants.

The CHAIRMAN. Are there any additional questions, gentlemen?

Mr. SPINGARN. Mr. Chairman, on the question raised by Senator Taft—let us take a hypothetical case of liquor, of beverages or whiskies, being shipped from one distillery to another ostensibly for industrial alcohol purposes; actually, the spirits could be removed from the second distillery for the purpose of making beverages, under the bill. Suppose that the first distillery is a large, solvent plant and the second distillery is in a precarious financial situation. You can see where there is the possibility that the Government might suffer by virtue of the fact that the proposed amendment would release the solvent plant or the first plant from liability.

Senator TAFT. May I ask the gentlemen representing the industry as to why this last suggestion does not meet any difficulty that anybody can suggest where there is going to be redistillation and shipment from one plant to another?

Mr. JONES. It is quite possible that it would meet the situation, sir.

Senator TAFT. Can they do it?

Mr. JONES. You mean switch?

Senator TAFT. Would it work both ways?

Mr. JONES. Yes, sir. There is one thing to be brought out about some distilleries that are operating as distilleries, registered distilleries, for beverages. They can make this product which can be used for alcohol, and, then, they may not want to take it out for alcohol and

I see no reason why they should be forced to do it; but in cases such as he mentioned, it seems to me that it would be right for the Government to take the assurance that it was going to be used in some certain way and then pass it on to the second man, the second distiller—

Senator GERRY (interposing). Was it not the purpose of our bill, which was passed about a month ago, to allow plants making beverage alcohol to make industrial alcohol? Was not that the whole theory of the bill we passed?

Mr. JONES. Yes, sir; Senator, that was for the purpose of redistillation; that was to permit a beverage distillery to take out its product and use it as alcohol and turn it over to the Government for alcohol, which it did not do ordinarily. That was redistillation.

Senator GERRY. And if you adopt the amendment suggested, that would prevent that?

Mr. JONES. No, sir; it covers another subject entirely, a different phase. One is to take the spirits out of the beverage distilleries that are alcohol at that stage of the game and ship to another beverage distillery for redistilling to a higher proof, whereas, on the other hand, it is proposed to take the spirits from the beverage distillery and ship to an industrial alcohol plant.

Senator GERRY. I understand that, but how about the amendment that was suggested so that a plant could get a license—and you say they get a license—to make industrial alcohol, they cannot keep on making the other?

Mr. JONES. That is right, sir; they cannot make beverage alcohol then.

Senator GERRY. What has that to do with this other? Is it not just a question of whether you ship to a place for redistillation? Is it more fundamental than that?

Mr. JONES. No, sir; there is a problem here which is presented under (d) and not (e), how we are going to handle the transfer of spirits and when they are to be used for beverage or for industrial alcohol purposes.

Senator GERRY. I think your position is clear, but if you follow that line of thought, then you do away with the legislation we have just passed and you simply say "That man is making beverage alcohol, and he can continue to do that, but if he takes a license to make industrial alcohol, then he can become an industrial plant, but not both"; is that your point?

Mr. JONES. I see what you mean. It would be inoperative because there is no way in which it could operate.

Senator GERRY. In other words, by going ahead with this man making beverage and not turning his plant into an industrial alcohol plant might defeat the bill which was passed?

Mr. JONES. It might operate that way.

The CHAIRMAN. Have you anything further, Senator Gurney?

Senator GURNEY. I believe you have the information, and I thank the committee very much for considering my amendment.

The CHAIRMAN. Before we pass on, let us have the witness from the Treasury Department, Mr. Forest, give us his opinion on another matter.

Mr. Forest, would you state the position of the Treasury Department in regard to H. R. 6273? That is a bill to amend the provisions of the Internal Revenue Code by setting new maximum limits of

allowances for losses of distilled spirits by leakage or evaporation while in internal revenue bonded warehouses, and for other purposes. (H. R. 6273 is as follows:)

[H. R. 6273, 77th Cong., 2d sess.]

AN ACT To amend the provisions of the Internal Revenue Code by setting new maximum limits on allowances for losses of distilled spirits by leakage or evaporation while in internal revenue bonded warehouses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2901 of the Internal Revenue Code, as amended, is amended to read as follows:

"SEC. 2901. LOSS ALLOWANCES.

"(a) LEAKAGE OR EVAPORATION.—(1) Any distilled spirits on deposit in any internal revenue bonded warehouse on the date this amendatory subsection takes effect, or thereafter deposited in any internal revenue bonded warehouse, may, at the time of withdrawal of the spirits from such warehouse, upon the filing of an application for the regauge of such spirits, giving a description of the package containing the spirits, be regauged by a storekeeper-gauger who shall place upon such package such marks and brands as the Commissioner, with the approval of the Secretary, shall by regulations prescribe. If upon such regauging it shall appear there has been a loss by leakage or evaporation of distilled spirits from any cask or package, without the fault or negligence of the distiller or warehouseman, taxes shall be collected only on the quantity of distilled spirits contained in such cask or package at the time of such withdrawal. The allowance which shall be made for such loss of spirits shall not exceed—

- "1½ proof gallons for 2 months or part thereof;
- "2½ gallons for more than 2 months and not more than 4 months;
- "3 gallons for more than 4 months and not more than 6 months;
- "3½ gallons for more than 6 months and not more than 8 months;
- "4 gallons for more than 8 months and not more than 10 months;
- "4½ gallons for more than 10 months and not more than 12 months;
- "5 gallons for more than 12 months and not more than 14 months;
- "5½ gallons for more than 14 months and not more than 16 months;
- "6 gallons for more than 16 months and not more than 18 months;
- "6½ gallons for more than 18 months and not more than 21 months;
- "7 gallons for more than 21 months and not more than 24 months;
- "7½ gallons for more than 24 months and not more than 27 months;
- "8 gallons for more than 27 months and not more than 30 months;
- "8½ gallons for more than 30 months and not more than 33 months;
- "9 gallons for more than 33 months and not more than 36 months;
- "9½ gallons for more than 36 months and not more than 39 months;
- "10 gallons for more than 39 months and not more than 42 months;
- "10½ gallons for more than 42 months and not more than 45 months;
- "11 gallons for more than 45 months and not more than 48 months;
- "11½ gallons for more than 48 months and not more than 51 months;
- "12 gallons for more than 51 months and not more than 54 months;
- "12½ gallons for more than 54 months and not more than 57 months;
- "13 gallons for more than 57 months and not more than 60 months;
- "13½ gallons for more than 60 months and not more than 63 months;
- "14 gallons for more than 63 months and not more than 66 months;
- "14½ gallons for more than 66 months and not more than 69 months;
- "15 gallons for more than 69 months and not more than 72 months;
- "15½ gallons for more than 72 months and not more than 75 months;
- "16 gallons for more than 75 months and not more than 78 months;
- "16½ gallons for more than 78 months and not more than 81 months;
- "17 gallons for more than 81 months and not more than 84 months;
- "17½ gallons for more than 84 months and not more than 90 months;
- "18 gallons for more than 90 months from the date of original gauge as to fruit brandy, or original entry as to all other spirits; and no further allowance shall be made for loss by leakage or evaporation.
- "The foregoing allowance shall not apply to distilled spirits which on July 26, 1936, were eight years of age, or older, and which on that date were in bonded warehouses.
- "The foregoing allowance for loss shall apply only to casks or packages of a capacity of forty or more wine-gallons, and the allowance for loss on casks

or packages of less capacity than forty gallons shall not exceed one-half the amount allowed on said forty-gallon casks or packages; but no allowance shall be made on casks or packages of less capacity than twenty gallons. The proof of such distilled spirits shall not in any case be computed at the time of withdrawal at less than 100 per centum.

"(b) **Loss.**—The Commissioner of Internal Revenue may, under regulations to be prescribed by him and approved by the Secretary of the Treasury, abate any internal-revenue taxes accruing on distilled spirits if he shall find that—

"(1) The distilled spirits were not stolen or intentionally destroyed but were lost, otherwise than by leakage or evaporation, while on the premises of a registered distillery, during or after production and prior to deposit in an internal revenue bonded warehouse.

"(2) The distilled spirits were not stolen or intentionally destroyed but were lost, otherwise than by leakage or evaporation, while being transferred between buildings constituting the same internal revenue bonded warehouse or while being transferred by a common carrier from the premises of a registered distillery to an internal revenue bonded warehouse off such registered distillery premises, or while being transferred by a common carrier between internal revenue bonded warehouses.

"(3) The distilled spirits were not stolen or intentionally destroyed but were lost, otherwise than by leakage or evaporation, while the same remained in an internal revenue bonded warehouse and such loss is not allowable under subsection (a) hereof.

"(4) The distilled spirits were withdrawn for use in the fortification of sweet wines and were not stolen or intentionally destroyed but were lost, otherwise than by leakage or evaporation, prior to such use while being transferred to, or while stored in, the fortifying room on the bonded winery premises.

"(5) The distilled spirits were lost by theft from the premises of a registered distillery, or while being transferred between buildings, constituting the same internal revenue bonded warehouse, or while being transferred by common carrier to an internal revenue bonded warehouse off such registered distillery premises, or while being transferred by a common carrier between internal revenue bonded warehouses, and that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the distiller, owner, consignor, consignee, bailee, or carrier, or the employees of any of them.

"(6) The distilled spirits were lost by theft from an internal revenue bonded warehouse, and that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the distiller, owner, or warehouseman, or the employees of any of them.

"(7) The distilled spirits were withdrawn for use in the fortification of sweet wines and were lost by theft prior to such use while being transferred to, or while stored in, the fortifying room on the bonded winery premises, and that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the distiller, owner, consignor, consignee, bailee, or carrier, or the employees of any of them.

"(8) The distilled spirits were unfit for use for beverage purposes and were voluntarily destroyed by the distiller, the warehouseman, or the proprietor of the bonded winery premises, pursuant to the written permission of the Commissioner in each case and under regulations which the Commissioner, with the approval of the Secretary, is hereby authorized to promulgate.

"(c) **REFUND OF TAX.**—When, in any case to which subsection (a) or (b) applies, the tax is paid subsequent to the loss or destruction, as the case may be, of the spirits, the Commissioner may, under regulations prescribed by him with the approval of the Secretary, refund such tax.

"(d) **INSURANCE COVERAGE.**—The abatement or refund of taxes provided for by subsections (b) and (c) shall only be allowed to the extent that the claimant is not indemnified against or recompensed for such loss.

"(e) **TRANSFER OF DUTIES.**—For transfer of powers and duties of Commissioner and his agents, see section 3170."

SEC. 2. Section 2901 (a), (b), (c), and (d), as amended by this Act, shall apply to any claim for taxes which may accrue after the date of enactment of this Act. Claims for taxes or tax penalties that accrued on or before the date of enactment of this Act shall be subject to section 2901 of the Internal Revenue Code as it existed prior to its amendment by this Act. Nothing in section 2901, as hereby

amended, shall be construed as in any manner limiting or restricting the provisions of part II, subchapter C, chapter 26, of the Internal Revenue Code.

Is there objection on the part of the Treasury Department to that?

Mr. FOREST. No, sir; not if that bill was passed in the House as it exists here.

The first section, the amended section 2901 (a), of the Internal Revenue Code, to increase the allowances, loss allowances for distilled spirits while in storage in internal revenue bonded warehouses—under the old loss allowance table or tables which have been in effect for many, many years—the industry suggested that perhaps the experience of the years would show that there were more and different and greater losses, and the Treasury Department checked on the actual losses and found that was true. And this bill, the tables in the first part represent the actual losses that we think they ought to be granted now; and the second part of the bill, which is (b), beginning at the bottom of page 5, simply is a cataloging of various types of losses of distilled spirits after production in the handling and warehousing and transportation, and what not, and there is no objection on the part of the Treasury Department to the passage of this bill.

(Whereupon the hearing was adjourned.)

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