

# **PROCESS OR RENOVATED BUTTER**

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## **HEARING**

BEFORE A

**SUBCOMMITTEE OF THE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE**

**SEVENTY-SEVENTH CONGRESS**

**SECOND SESSION**

ON

### **S. 2079**

**A BILL TO AUTHORIZE THE CONDEMNATION OF MATERIALS  
WHICH ARE INTENDED FOR USE IN PROCESS OR  
RENOVATED BUTTER AND WHICH ARE UNFIT  
FOR HUMAN CONSUMPTION, AND  
FOR OTHER PURPOSES**

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**JULY 2, 1942**

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**Printed for the use of the Committee on Finance**



**UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1942**

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# PROCESS OR RENOVATED BUTTER

THURSDAY, JULY 2, 1942

UNITED STATES SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON FINANCE,  
Washington, D. C.

The subcommittee met, pursuant to call, at 11 a. m., in room 310, Senate Office Building, Senator Josiah W. Bailey (chairman) presiding.

Senator BAILEY. The committee will be in order.

We have under consideration this morning S. 2079, a bill to authorize the condemnation of materials which are intended for use in process or renovated butter and which are unfit for human consumption, and for other purposes.

(S. 2079 is as follows:)

[S. 2079, 77th Cong., 1st sess.]

A BILL To authorize the condemnation of materials which are intended for use in process or renovated butter and which are unfit for human consumption, 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 2325 of the Internal Revenue Code, approved February 10, 1939 (53 Stat. 254), is amended to read as follows:*

"SEC. 2325. INSPECTION OF PROCESS OR RENOVATED BUTTER.—For the purpose of protecting interstate and foreign commerce from process or renovated butter which is unclean, unwholesome, unhealthful, or otherwise unfit for human food:

"(a) The Secretary of Agriculture shall, through inspectors appointed by him, cause inspections to be made of all milk, butter, butter oil, and other ingredients intended for use in the manufacture of process or renovated butter. Such ingredients shall be marked 'Inspected and Passed' if found to be clean, wholesome, healthful, and otherwise fit for use in the manufacture of process or renovated butter. All ingredients found to be unclean, unwholesome, unhealthful, or otherwise unfit for use in the manufacture of process or renovated butter shall be marked 'Inspected and Condemned' and shall be destroyed or denatured for food purposes in the presence of an inspector.

"(b) The Secretary of Agriculture shall cause inspections to be made of all process or renovated butter. If such butter is found to be clean, wholesome, healthful, and otherwise fit for human food, it shall be marked 'U. S. Inspected and Passed'. Process or renovated butter that is found to be unclean, unwholesome, unhealthful, or otherwise unfit for human food shall be destroyed or denatured for food purposes in the presence of an inspector.

"(c) The Secretary of Agriculture shall cause inspections to be made of all factories wherein process or renovated butter is manufactured to determine the sanitary conditions thereof, and if it is found that the conditions existing at any such factory do not meet the standards prescribed by the Secretary in his regulations, he shall cause inspection to be withdrawn therefrom.

"(d) The Secretary of Agriculture is authorized to withdraw inspection from any factory wherein process or renovated butter is made, if the manu-

facturer shall fail to comply with any of the provisions of this section or with any of the rules and regulations prescribed hereunder.

"(e) The Secretary of Agriculture is authorized to make such rules and regulations as he deems necessary for the efficient administration of the provisions of this section, and all inspections hereunder shall be made in such manner as may be prescribed in such regulations.

"(f) The Secretary of Agriculture shall cause to be ascertained, and he shall report, from time to time, the quantity and quality of all process or renovated butter manufactured and the character and condition of the materials from which it is made.

"(g) No person, firm, or corporation shall forge, counterfeit, simulate, falsely represent, detach, or knowingly alter, deface, or destroy, or use without proper authority, any of the marks, stamps, labels, or tabs provided for in this section or in any regulations prescribed hereunder by the Secretary of Agriculture for use on process or renovated butter or on wrappers, packages, containers, or cases in which the product is contained, or any certificate in relation thereto.

"(h) All process or renovated butter and the packages or containers thereof shall be marked with the words 'Process Butter', or 'Renovated Butter' and by such other marks, labels, or brands, and in such manner, as may be prescribed by the Secretary of Agriculture.

"(i) No statement that is false or misleading in any particular shall be placed on or affixed to any wrapper, label, carton, or container of process or renovated butter.

"(j) No person, firm, or corporation shall transport, or offer for transportation, or sell or offer for sale, in interstate or foreign commerce, any process or renovated butter that has not been inspected and passed and marked, labeled, and branded in accordance with this section and the regulations issued hereunder."

SEC. 2. Subsection (c) of section 2326 of the Internal Revenue Code (53 Stat. 255) is amended by striking out "shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than one month nor more than six months, or by both said punishments," and by inserting in lieu thereof the following: "shall be punished by a fine of not more than \$1,000 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment."

SEC. 3. Section 2327 of the Internal Revenue Code (53 Stat. 255) is amended by striking out subsection (b) of said section.

Senator BAILEY. I will ask the Department to just explain the bill and the reasons for it, to start with.

**STATEMENT OF ARCHIBALD McNAUGHT, OFFICE OF THE SOLICITOR, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY JOHN M. KEMPER, ASSISTANT TO CHIEF, BUREAU OF DAIRY INDUSTRY, DEPARTMENT OF AGRICULTURE; CHARLES S. TRIMBLE, IN CHARGE, DAIRY PRODUCTS DIVISION, BUREAU OF DAIRY INDUSTRY, DEPARTMENT OF AGRICULTURE; AND HENRY A. LEPPER, SENIOR CHEMIST, FOOD AND DRUG ADMINISTRATION, FEDERAL SECURITY AGENCY**

Mr. McNAUGHT. The principal reason for needing a new bill is that the present legislation has no teeth. Before I came up, the Solicitor of our Department asked me to make a statement to him of the necessity for the new bill. So possibly the shortest way I could explain would be to read what I have written to the Solicitor.

Senator BAILEY. Let me ask you a question here to start with. The bill reads this way:

For the purpose of protecting interstate and foreign commerce from process or renovated butter which is unclean—

And so forth. Does that mean that all of it is unclean?

Mr. McNAUGHT. Not the finished product. I think Mr. Trimble can answer you from that angle.

Mr. TRIMBLE. By no means, Senator. It is primarily the ingredients that enter into the product; but the finished product, much of it, is very clean after processing.

Senator BAILEY. The language "which is unclean, unwholesome, unhealthful, or otherwise unfit for human food" is restrictive of the description of "process or renovated butter," but it doesn't mean to say that all renovated butter is in that category?

Mr. TRIMBLE. No, indeed, sir.

Senator BAILEY. Go ahead.

Mr. McNAUGHT. There are only four sentences in section 2325 of the Internal Revenue Code, which is called the Renovated Butter Act. The first sentence provides as follows:

The Secretary of Agriculture is authorized and required to cause a rigid sanitary inspection to be made, at such times as he may deem proper or necessary, of all factories and storehouses where process or renovated butter is manufactured, packed, or prepared for market, and of the products thereof and materials going into the manufacture of the same.

Well, now, neither that sentence nor any succeeding sentence states what consequences shall follow the discovery of any untoward condition in the factory or storehouse or in the materials used in the manufacture of the process or renovated butter. It doesn't lay down any rule of conduct, violations of which are punishable, and therefore as a separate provision it is unenforceable.

Senator BAILEY. On that point, is the public suffering in any degree from the inadequacy of this legislation?

Mr. McNAUGHT. I would say that Mr. Trimble should answer that question, too, if you don't mind, Senator.

Senator BAILEY. All right.

Mr. TRIMBLE. I would answer that by saying that from the very nature of the product it is a salvaged product; it has been made from farm butter since time immemorial, ever since they started to work over rancid or deteriorated butter. Some of that butter has reached such a stage that it is absolutely unfit to be renovated. While it is true that present manufacturing methods are such that the visible and insoluble evidence of contamination is largely removed, at this time of year they have quite a problem with maggot infestation of the small skipper fly. Conceivably—this is not very aesthetic—but they would be squeezed through the strainers and would not appear, by any known test that we have, in the finished product.

Senator BAILEY. The consequence is that if that butter were sold, they would be getting butter that has maggots in it?

Mr. TRIMBLE. That is right, sir; they would be getting the fat of those maggots, or whatever a maggot is composed of.

Mr. LEPPER. Over 20 percent of a maggot is fat, and when these are mashed in with the butter in the process of renovation, all the fat is melted and the maggot fat melts along with the butterfat, and goes along with it.

Senator BAILEY. Aside from the fact that no one would like to eat maggots, are they really injurious?

Mr. LEPPER. There is no evidence that I know of that has demonstrated that they are actually injurious.

Senator BAILEY. Of course I don't think anybody wishes to eat them.

Mr. LEPPER. That is right.

Senator BAILEY. Proceed.

Mr. McNAUGHT. The second sentence reads:

All process or renovated butter and the packages containing the same shall be marked with the words "Renovated Butter" or "Process Butter," and by such other marks, labels, or brands, and in such manner as may be prescribed by the Secretary of Agriculture, and no process or renovated butter shall be shipped or transported from its place of manufacture into any other State or Territory, or the District of Columbia, or to any foreign country, until it has been marked as provided in this section.

Now that is a definite requirement, and the next section 2326 (c) provides substantial punishment for violations of the requirements of section 2325. So that if anybody shipped process or renovated butter in interstate commerce without marking it as such, then he would violate that section and be punishable. But there hasn't been any disposition, in recent years at any rate, for anybody to ship process or renovated butter without marking it. So really, while it is a definite requirement, there is no field for it to act on.

Senator BAILEY. Do you mark it as "process butter" when it is shipped in interstate commerce?

Mr. McNAUGHT. Yes, sir.

Senator BAILEY. And you propose to add to that, "U. S. inspected and passed"?

Mr. McNAUGHT. Yes, sir. We think the product should be inspected and marked "Inspected and passed."

Now I would say that our new bill is modeled pretty closely after the Meat Inspection Act, and while the meat packers were very much against the Meat Inspection Act at the outset, as soon as they got the scheme into operation they found that their product had a much wider market with the words, "U. S. inspected and passed" on it, and you couldn't take the Meat Inspection Act away from them now.

Senator BAILEY. All right, proceed.

Mr. McNAUGHT. The third sentence provides:

The Secretary of Agriculture shall make all needful regulations for carrying this section and sections 2326 (c) and 2327 (b) into effect, and shall cause to be ascertained and reported from time to time the quantity and quality of process or renovated butter manufactured, and the character and the condition of the material from which it is made.

Now the second clause of that sentence is definite, but again it lays down no rule of conduct and its purpose seems to be to inform Congress in order that it may determine, from time to time, whether any additional legislation might be necessary.

The first part of it authorizes the Secretary to make regulations. Of course the Secretary can't make a regulation that would add fundamentally to the provisions of the act, and therefore supply its deficiencies.

Now section 2326 (c), which is the first section mentioned in the sentence, is the one that makes violations of the act punishable. Now it is a little hard to see how the Secretary is going to make that apply to section 2325. There is no necessity for his making it apply—

Senator BAILEY (interposing). All you are doing is strengthening the existing law by making the provisions more definite and specific?

Mr. McNAUGHT. That is right.



Senator BAILEY. Now let me ask a question. You relate the act to butter transported or offered for transportation in interstate or foreign commerce. I just raise this question, since we have this new conception of the commerce clause, why not state, "in interstate or foreign commerce or in commerce affecting commerce among the States"?

Mr. McNAUGHT. I think that would be very good.

Senator BAILEY. So as to get the whole business.

Mr. TRIMBLE. That would broaden it considerably.

Senator BAILEY. It would not only broaden it but it would prevent the local abuse that you try to prevent here as a general thing. I can conceive of those who wished to use bad butter, uninspected butter, just selling it locally. Now I am not making any conclusion about this, but as I read the new interpretation of the power of the Congress to regulate commerce, we have the power to regulate commerce between the States, and also commerce affecting commerce between the States. At any rate, I just suggest here for consideration that addition, and if there is any feeling that that might cause the bill to be held unconstitutional, we will just say that if this new section should be held unconstitutional, it won't affect the other features of the bill. That is just a suggestion.

Mr. TRIMBLE. I might add, as a matter of fact, that when such local conditions arise, then, if they have actually gone through the process of making renovated butter, not confined to interstate lines, that the Internal Revenue Department would be the only recourse to prosecution.

Mr. KEMPER. The question Senator Bailey raised is one that I have raised with you on many occasions, Mr. Trimble, When you go in to inspect packing stock in a renovated butter factory, you can't tell their whether it is going into interstate commerce or not, and you are stymied right there; isn't that correct?

Mr. TRIMBLE. Very much so, if it has lost its identity as an interstate shipment.

Mr. KEMPER. And Senator Bailey's suggestion would overcome that, and I think it is a very good suggestion.

Senator BAILEY. All right, sir, proceed.

Mr. McNAUGHT. Section 2327 (b) provides:

All parts of an Act providing for an inspection of meats for exportation, approved August 30, 1890, and an Act to provide for the inspection of live cattle, hogs, and the carcasses and products thereof which are the subjects of interstate commerce, approved March 3, 1891, and of amendments thereto approved March 2, 1895, which are applicable to the subjects and purposes described in section 2325, shall apply to process or renovated butter.

Well, now, it is very difficult to determine in any case whether a particular feature of those laws is applicable to renovated butter, and, therefore, to make it apply. As a matter of fact, though, the provisions of those three acts have been superseded almost entirely by the Meat Inspection Act, and probably because of that fact another act of August 10, 1912 (26 U. S. C. 1940, ed. 2327 (c)), extended the sanitary provisions for slaughtering, meat canning, or similar establishments, as set forth in the Meat Inspection Act, to cover renovated butter factories under such regulations as the Secretary of Agriculture might prescribe.

Well, that carved out of the Meat Inspection Act the sanitary provisions.

Under the extension of the Meat Inspection Act to the Renovated Butter Act, the Secretary has adopted regulations regarding the sanitary conditions in renovated butter factories, and of the materials from which renovated butter is made, but the Renovated Butter Act prescribes no punishment for violations of those regulations, and the only punishment provided by the Meat Inspection Act for violations of its sanitary requirements is withdrawal of inspection from the offending establishment. That is quite effective under the Meat Inspection Act, because you can't ship meat in interstate commerce unless it is marked "U. S. inspected and passed." That, however, would not apply to the Renovated Butter Act, because there is no requirement that renovated butter shall be inspected and marked "Inspected and passed."

So that even assuming that the extension of the sanitary provisions of the Meat Inspection Act to renovated-butter factories, carried with it that same punishment, it would not be effectual because the passing of inspection is not made a condition of interstate shipment, and the withdrawal of inspection might be the very thing that the factory would most desire.

Senator BAILEY. Your whole proposition is to put this renovated butter on the same basis as the meat under the Meat Inspection Act?

Mr. McNAUGHT. Yes, sir.

Mr. TRIMBLE. Exactly.

Senator BAILEY. The Meat Inspection Act has worked very successfully?

Mr. McNAUGHT. Yes, sir.

Senator BAILEY. From every standpoint.

Mr. McNAUGHT. Yes, sir.

Senator BAILEY. All right, proceed.

Mr. McNAUGHT. Now the last sentence of that section 2325 is this:

And he shall also have power to ascertain whether or not materials used in the manufacture of said process or renovated butter are deleterious to health or unwholesome in the finished product, and in case such deleterious or unwholesome materials are found to be used in products intended for exportation or shipment into other States or in course of exportation or shipment, he shall have power to confiscate the same.

Well, our solicitor's office has consistently held that this power to confiscate extends only to the finished product and applies to that only when it is discovered to contain deleterious or unwholesome materials. It does not apply to packing stock butter, that is, the material from which the finished product is made, regardless of the amount of filth that is present in the packing stock butter. Moreover, it is impossible to discover some kinds of deleterious or unwholesome materials in the finished product without intricate and rather impracticable laboratory tests.

Now this lack of authority to seize the packing stock butter probably was the principal reason for recommending the enactment of this new bill, now identified as S. 2079. For a long time it was possible partially to overcome that deficiency through cooperation with the States in which the factories were located. One of these, Alabama, was particularly vigorous in the enforcement of its laws regarding the packing stock product. On February 2, 1942, though, the Supreme Court, in the case entitled "*Cloverleaf Butter Company v. Patterson*" No. 28, October term, 1941), held in effect that the

Federal law and the regulations of the Department of Agriculture issued thereunder, occupied the field with respect to the preparation of, and interstate commerce in, process or renovated butter, and that the States were without authority to condemn any filthy material in the factory prior to its conversion into the finished product. And of course after it was converted into the finished product, then the Federal Act would come into play if deleterious or unwholesome ingredients could be found in the finished product.

That leaves a situation in which neither this Department nor a State may proceed against unwholesome ingredients in the factory before they are processed or renovated.

Senator BAILEY. And after they are processed or renovated you have difficulty in ascertaining whether they are injurious or not?

Mr. McNAUGHT. Yes, sir.

Mr. KEMPER. And the practical effect of that, Senator, is that even if we found this injurious or deleterious matter in the finished product, the finished product has all been consumed and there is nothing we can then do about it.

Senator BAILEY. Well, this act seems to me to predicate quite an extensive inspection?

Mr. KEMPER. There are only six factories in the country manufacturing this product—two in Alabama, two in Georgia, and two in Baltimore—so the inspection work will not involve any great amount of additional expense.

Senator BAILEY. Whatever it is, it won't be very extensive?

Mr. KEMPER. No, sir; and of course we will utilize the meat inspectors of the Bureau of Animal Industry in this inspection work. We do it now and we contemplate utilizing their services to a larger extent if this bill is enacted into law.

Senator BAILEY. Do you anticipate any extra costs?

Mr. KEMPER. The cost will be somewhat more; yes; but we don't anticipate asking Congress for any additional appropriations.

Senator BAILEY. You will get it out of the general agricultural fund?

Mr. KEMPER. Yes, sir; and we think we can operate under this new law very economically by utilizing the services of meat inspectors of the Bureau of Animal Industry on a reimbursable basis.

Senator BAILEY. Now another question occurs to me, and I am not raising it by way of complaint. Why was not this matter presented under the Food and Drug Act?

Mr. LEPPER. It is rather difficult to answer that question, Senator.

Senator BAILEY. It is not a revenue act?

Mr. LEPPER. No.

Mr. KEMPER. This is a taxable product.

Senator BAILEY. It is a taxable product but there is no—

Mr. LEPPER (interposing). The original Process Butter Act is a revenue act. The original Process Butter Act was in effect before the passage of the Food and Drug Act, the original Food and Drug Act of 1906.

Senator BAILEY. That is the Wiley Act; and we passed one in 1938?

Mr. LEPPER. Yes, sir. The Food and Drug Administration as the predecessor of the Bureau of Chemistry, Dr. Wiley's Bureau, always took the attitude that process butter was a product subject to special legislation. We were confronted under the old act with the difficulty

that confronts the Department of Agriculture in the present Process Butter Act, of demonstrating the filthy condition of the process butter. There was no authority in the Food and Drug Act of 1906 for inspection, or no authority in that law to prohibit the use of impure raw materials. The jurisdiction was simply over the finished product as it entered interstate commerce.

We have, in the course of our work in recent years, made seizures of packing-stock butter going from the State of Georgia, for example, into the State of Alabama, because it was filthy food, it was going to a food plant and it was filthy, and those cases are now pending in the courts of Alabama. They have been held up awaiting this controversy regarding the State's authority over packing-stock butter in the State of Alabama, which has just been settled.

The Federal attorneys in Alabama held up the adjudication of those seizures which were to test out our authority over packing-stock butter that was filthy; and pending the decision of the court in that case we have rather refrained from seizing all packing-stock butter under the Food and Drugs Act because of its filthy condition, because there is the argument that—

Senator BAILEY (interposing). The point in my mind was that this is properly within the purview of the Food and Drugs Act. The purpose of the Food and Drugs Act was to insure that the American people should get pure food and that the drugs that they got were not injurious—that was the general purpose of the act.

Mr. LEPPER. That is true.

Senator BAILEY. Now here you have butter, and I take it that renovated butter is a food product. It doesn't matter to me either way, but I believe it would come more properly as an amendment to the Food and Drugs Act.

Mr. LEPPER. Well, the difficulty has been in our inability to demonstrate the condition of the process butter as having been derived from filthy raw material, by any objective examination of the process butter itself, and, furthermore, it has never been determined by the court just how much the presence of special legislation would exempt process butter or the use of unwholesome raw material. In other words, the question arises, and is debatable, whether Congress has permitted by the Process Butter Act the use of questionable material for being renovated, and there is a conflict, probably, of legislation that the courts would have to settle, and they haven't done it yet.

Senator BAILEY. Well, when I take time to look up the law I like to get to a chapter and find everything within that chapter. If it is on the Food and Drugs Act, I would like to get all the regulations on foods and drugs in that chapter. Now, this will be put in a separate section and I will have to look for that section. I won't find it under the Food and Drugs Act. I will have to look in the index and trust to finding the words "renovated butter," and run it down that way. You gentlemen are not lawyers, are you?

Mr. McNAUGHT. I am.

Senator BAILEY. You know what I am talking about?

Mr. McNAUGHT. Yes, sir.

Senator BAILEY. The difficulty of finding anything in the United States Statutes.

Mr. McNAUGHT. Yes, sir; that is true. We have felt, though, Senator, that this is a product which should be under inspection all the

time, from the time it gets into the factory until it goes out to the consumer.

Senator BAILEY. Well, I think all the inspection acts relating to foods and drugs should be within the one act. It is academic at present, but that would be good practice. You as a lawyer would like to see it that way, wouldn't you?

Mr. KEMPER. You mean meat inspection, too?

Senator BAILEY. Everything.

Mr. KEMPER. Of course, if you were to combine the whole thing, it would naturally fall within that category.

Mr. McNAUGHT. The Food and Drugs Act is administered by the Food and Drug Administration, which is under the Federal Security Agency; and the Meat Inspection Act, and these other acts, are administered by the Department of Agriculture. That conflicting jurisdiction there might—

Senator BAILEY (interposing). Well, that is with the President; he can consolidate and reorganize. Now, have you finished your statement?

Mr. McNAUGHT. There is just one little thing I would like to add here, and that is that section 3 on page 4 provides that section 2327 of the Internal Revenue Code is amended by striking out subsection (b) of said section.

Senator BAILEY. What does that do?

Mr. McNAUGHT. That is the one that applied the provisions of those three other laws to renovated butter, and if this law is passed, of course, it wouldn't be necessary to do that.

Senator BAILEY. You say that it applies to three provisions?

Mr. McNAUGHT. It applies to the provisions of the old Meat Inspection Act.

Senator BAILEY. That is to come out?

Mr. McNAUGHT. Yes; that is stricken out.

Senator BAILEY. Because you will substitute this language for that?

Mr. McNAUGHT. That is right. Now we should like to add to that provision striking out subsection (b), a provision striking out subsection (c) of section 2327. That is the one that applies the sanitary provisions of the Meat Inspection Act to renovated butter. That should be stricken out, too.

Senator BAILEY. You suggest that as an amendment?

Mr. McNAUGHT. Yes, sir.

Senator BAILEY. Well, I am satisfied with the bill; is there anyone to be heard in opposition?

Senator HERRING. You make a distinction between the Food and Drugs Act and this measure on the basis that under the Food and Drugs Act you would inspect the finished product, and here you want to go along with the Meat Inspection Act and watch it all the way through the plant; is that it?

Mr. TRIMBLE. That is correct.

Senator HERRING. That is the reason for putting it in this way, rather than in the Food and Drugs Act?

Mr. TRIMBLE. Exactly. As a matter of fact, the Food and Drugs Act, under the existing regulations signed by the Secretary of Agriculture and the Secretary of the Treasury, invoke the misbranding regulations under the Food and Drugs Act—

Senator BAILEY (interposing). I should think that would come under the misbranding section.

Will we have a Department letter on this subject?

Mr. McNAUGHT. You do have one, recommending it. There are two letters, as a matter of fact.

Senator BAILEY. They will be incorporated in the record.

(The letters referred to are as follows:)

NOVEMBER 12, 1941.

The honorable the PRESIDENT OF THE SENATE.

DEAR MR. PRESIDENT: Transmitted herewith is draft of a bill to amend section 2325 of the Internal Revenue Code relating to inspection, manufacture, storage, and marking of process or renovated butter.

As indicated by the bill title, the purpose of this legislation is to give the Department of Agriculture authority to condemn butter and other materials intended for use in the manufacture of renovated butter if found upon inspection to be unfit for the purpose. At present the Department's authority is limited to the condemnation of renovated butter when the finished product is found to contain foreign, decomposed, or other matter which would render it unfit for human consumption. As a result little, if any, renovated butter is condemned, because any insoluble foreign matter that may have been present in the stock from which the butter is manufactured is removed in the course of manufacture, although it is a known fact that packing stock butter received at renovated-butter factories oftentimes is infested with maggots and other foreign matter which may be in part soluble and which may render the resulting product unfit for consumption. After the renovating process is completed it is difficult, if not impossible, insofar as certain foreign materials are concerned, to detect them in the finished product except by careful chemical and microscopical analyses. Even if possible of detection in the finished product, the detection would not be made until after the product had entered into commerce and had perhaps been entirely consumed.

It is essential in order to safeguard the health of the consumers of this product that the Department have authority to condemn butter, milk, butter oil, and other ingredients containing filth and decomposed and other animal or vegetable matter which cannot be removed in manufacture and consequently render the finished product unfit for human consumption. The Department has no desire to legislate renovated butter out of existence. On the contrary, it feels there is a definite place for the product in the Nation's food supply in order to provide an outlet for farm butter, particularly in the South, but it does insist that the product be clean, healthful and fit for human consumption. In other words, it wants the materials entering into the manufacture of renovated butter to be free of those extraneous materials that cannot be removed in the course of manufacture and cannot readily be detected in the finished product, but which render the product unwholesome and unfit for human consumption.

We shall appreciate it if you will have this proposed legislation referred to the proper committee for consideration. An identical letter and draft of bill are being sent to the Speaker of the House.

This proposed legislation has been submitted to the Bureau of the Budget and we are advised that there is no objection to its submission to the Congress.

Sincerely yours,

CLAUDE R. WICKARD, *Secretary.*

FEBRUARY 28, 1942.

HON. WALTER F. GEORGE,

*Chairman, Committee on Finance, United States Senate.*

DEAR SENATOR GEORGE: On November 25, 1941, at the request of this Department there was introduced in the Senate and referred to the Committee on Finance a bill (S. 2079, 77th Cong., 1st sess.) to amend section 2325 of the Internal Revenue Code (26 U. S. C. 1940, ed. 2325) by authorizing, among other things, the condemnation of materials which are intended for use in process or renovated butter and which are unfit for human consumption.

Our reasons for recommending this amendment were set out in our letter of November 12, 1941, to the President of the Senate, in which it was stated that the effective authority of this Department to carry out the purposes of section 2325 was limited to the confiscation of the finished product, when it was found to contain materials which were deleterious to health or unwholesome. Attention was

also called to the fact that it was impossible to detect the presence of certain deleterious materials in the finished product without careful chemical and microscopical analyses. The making of such analyses, except in a very limited way, is impracticable.

While the hands of this Department were virtually tied by this lack of authority to proceed against the ingredients intended to be used in the manufacture of the finished product, when they were found to contain unwholesome or deleterious foreign matter, considerable assistance was given by officials of the States in which the factories were located in seizing the contaminated ingredients under State laws.

On February 2, 1942, however, the Supreme Court of the United States, in the case entitled "*Cloverleaf Butter Co. v. Patterson* (No. 28, October term, 1941," held, in effect, that the Federal law and the regulations of this Department issued thereunder occupied the field with respect to the preparation of, and interstate commerce in, process or renovated butter, and that the States were without authority to condemn any filthy material in the factory prior to its conversion into the finished product. A copy of the decision is enclosed.

This leaves a situation in which neither this Department nor a State may proceed against unwholesome ingredients in the factory before they are processed or renovated. This Department is unable to proceed effectively against the finished product, because it is usually difficult, if not impossible, to discover such materials by practical tests and the health of the consumer is without adequate protection.

The bill herein referred to will, if enacted into law, correct this situation, and we therefore urge its early consideration.

Sincerely yours,

CLAUDE WICKARD, *Secretary*.

Senator BAILEY. Is there anything further?

Mr. TRIMBLE. I have prepared a statement, and without reading it, I would be glad to submit it.

Senator BAILEY. Do you throw any light on the matter in addition to what we already have?

Mr. TRIMBLE. I took it up in a little different light, and that is more from the inspection angle and the history of the law, briefly. It is not long, Senator.

Mr. KEMPER. There is no use in encumbering the record if it is not absolutely essential to the record.

Senator BAILEY. You may file a copy of it for the record.

(The document referred to is as follows:)

#### PROCESS OR RENOVATED BUTTER LEGISLATION

The history of Federal process or renovated butter legislation dates back to 1902 when, as an amendment to the original Oleomargarine Act of 1886, the existing law was enacted May 9, 1902. Under this act the product was made taxable at a rate of one-fourth cent per pound, the same tax as borne by uncolored oleomargarine, and the manufacturer required to qualify under internal revenue law by posting a bond and by paying a special stamp tax of \$50 per year. Unlike oleomargarine, however, all such qualified process or renovated butter factories were made subject to inspection by the Secretary of Agriculture and the approval of all brands, labels, etc., assigned to the Secretary of Agriculture. The administration of that part of the act (sec. 5) assigned to the Secretary of Agriculture was delegated first to the Dairy Division of the Bureau of Animal Industry and in 1924 to the Bureau of Dairy Industry. Previous to the enactment of the Federal law, some 12 States had passed laws regulating the branding and sale of this product which was made then, as now, largely of farm-made or country butter. It was known to the butter trade under a variety of names such as "boiled" butter, "sterilized" butter, "process" butter, and "renovated" butter, but due to the fact that its sale to the consumer was often as "dairy" butter or "creamery" butter without qualification, State legislation, and in 1902 Federal legislation, was deemed necessary and was therefore enacted.

Early in the enforcement history of this Federal legislation the inherent weakness of the law was recognized and repeated suggestions and recommenda-

tions for strengthening the law were made by the Department of Agriculture as early annual reports of the Bureau of Animal Industry and of the Secretary of Agriculture will show. On August 10, 1912, as part of appropriation act for the Department of Agriculture for the fiscal year 1912-13 an amendment to extend the sanitary provisions of the Meat Inspection Act to apply to process or renovated-butter factories was enacted. This amendment, however, proved ineffective in correcting the enforcement weakness of the original act pertaining to adequate control of the packing-stock butter entering into the manufacture of the process or renovated butter for two reasons. First, because of the fact that the sanitary provisions of the Meat Inspection Act pertained to the branding of all meat- and meat-food products that had been inspected and branded as "U. S. Inspected and passed" and since such branding was not provided for under the Process or Renovated Butter Act of May 9, 1902, it was ruled that these provisions could not be extended to apply to process or renovated butter factories. Secondly, the Solicitor's office of the United States Department of Agriculture had ruled in effect that section 5 of the original act giving the Secretary of Agriculture power to confiscate applied only to the finished product and not to the materials entering into the manufacture of process or renovated butter. Such a ruling was made before 1912 as brought out in congressional hearings and debates on the act of August 10, 1912, and reaffirmed August 14, 1914, by the Solicitor of the Department.

Following the development of a new method of determining extraneous material and contamination of butter in 1933 and 1934, both the Food and Drug Administration and several States began to seize and condemn packing stock butter containing gross contamination of animal and insect materials which, while the test was first suggested by the Bureau of Dairy Industry, that Bureau could not use to confiscate similar butter under the existing limitations of the process or renovated butter law but was confined to the objective examination of the finished product for condemnation proceedings. By the use of extensive mechanical and gravity filters on the part of the qualified manufacturers of process or renovated butter, such insoluble and visible evidence of contamination as might originally have been present in the packing stock butter used by such manufacturers were largely removed in the manufacturing process so that the finished product did not reveal evidence of any original contamination.

In December 1941, following a series of litigations and appeals which extended over a period of approximately 2 years the question of the relationship between State and Federal control of raw materials used in making process or renovated butter, wherein the relationship between State and Federal laws was concerned, reached the United States Supreme Court in the case of *Cloverleaf Butter Company v. Haygood Patterson as Commissioner of Agriculture and Industries of the State of Alabama*. February 2, 1942, the United States Supreme Court rendered its opinion (No. 28, October term, 1941). Meanwhile the Solicitor's office had reaffirmed its ruling of August 14, 1914, under date of October 18, 1940. In the Supreme Court opinion of February 2, 1942, the previously rendered rulings of the Solicitor's office of the United States Department of Agriculture were upheld, while at the same time the authority of a State to condemn unfit butter on the bonded premises of a qualified process or renovated butter factory, previous to being subjected to the renovating process, was denied.

As a practical inspection problem, therefore, in its recognition of existing weakness in the original law, this opinion continued to restrict this Bureau from condemning unfit butter previous to renovation and denied a State this power. Such a situation is, of course, conducive to indiscriminate buying and use of farm-made or packing stock butter without due regard to its fitness for renovation even though present processing methods are such that all visible or detectable evidence of contamination may be removed from the finished product before it enters consumptive channels of trade.

In recognition of this fact and long before this opinion was rendered, Mr. O. E. Reed, Chief of the Bureau of Dairy Industry, had directed that an exhaustive study and survey of all legislation pertaining to process or renovated butter be made. As a result of this study a proposed amendment to existing law was drafted and with full departmental approval submitted to Congress for consideration. The bill, S. 2079, is that bill which is today being considered. An identical bill, H. R. 6098, was also submitted to the House of Representatives for consideration.

This bill, prepared in cooperation with the Solicitor's office, is based upon the principles of the Meat Inspection Act, whereby inspectors would be stationed at all qualified process or renovated butter factories in the United States—there are



now 6 such factories—and would examine and inspect all butter intended for use in the manufacture of this product with authority to pass and so mark all butter deemed fit, by standards issued by authority of the Secretary of Agriculture, and to condemn all butter and so mark all butter deemed unfit to use as a food product. In addition, the finished product would bear an official label, "U. S. inspected and passed." Such a label would not only insure a much safer food product to that class of the consuming public which for economic reasons still buys this grade of butter, but would also be of value to the manufacturers of this product in their sale of a food product which is primarily and basically a salvage product. Such control as is aimed at in this bill is only to remedy a long-existent weakness in the law and to bring the manufacturer of process or renovated butter into conformity with similar laws as applied to many other food products. Particularly would it be comparable with section 402 (a) (4) of the Federal Food, Drug, and Cosmetic Act of 1938, which needs no explanation to the chairman.

A study of the Supreme Court opinion, both majority and dissenting opinions will attest, by inference at least, the need of such amended legislation as the Bureau of Dairy Industry proposes, and all furnish supporting evidence of this need, since all three opinions, either by direct statement or by inference, state the position of the Bureau of Dairy Industry in administering existing law, namely, that the United States Department of Agriculture is without authority to condemn or confiscate the raw materials or packing stock butter, but can confiscate the finished product, provided it can be objectively determined to be deleterious to health or unwholesome. Under present manufacturing methods such determination is difficult if not impossible. The Bureau of Dairy Industry has cooperated with State, local, and other Federal regulatory agencies to control the manufacture of process or renovated butter. However, from the standpoint of more effectively correcting existing conditions, it would seem most desirable for the United States Department of Agriculture, through the Bureau of Dairy Industry, to inaugurate continuous and uniform inspection of all qualified process or renovated butter factories under this proposed law rather than to rely on the aid and assistance of State and local regulatory agencies with divergent and possibly less stringent standards than that desired or as contained in this law. With the enactment of this law it would then not be necessary upon occasion to invoke the provisions of the Federal Food, Drug, and Cosmetic Act.

The enactment of this law would indeed relieve the Food and Drug Administration of being called upon to invoke that law so far as process or renovated butter factories are concerned; it would provide uniform inspection and jurisdiction over qualified factories in all States; it would enhance the value of the finished product; it would protect the consumer of this product; and it would strengthen the enforcement work of the United States Department of Agriculture.

To date the desirability of strengthening the control of raw materials entering into the manufacture of process or renovated butter has been endorsed by a resolution of the Association of Food and Drug Officials of the United States, and to our knowledge no justifiable opposition has been expressed to the principles involved in proposed bill. It is true that through the combined efforts of the qualified process or renovated butter manufacturers and State and Federal regulatory agencies, much of the gross contamination of packing stock butter has been eliminated. A proportion of such butter is still, however, of such a nature that continuous inspection and examination would prohibit its use in the manufacture of a food product.

C. S. TRIMBLE,  
*In Charge Dairy Products Inspection,*  
*Bureau of Dairy Industry,*  
*United States Department of Agriculture.*

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JUNE 5, 1942.

10. Whereas it has been pointed out that the present Federal laws, and the recent United States Supreme Court decision in the case of the *Cloverleaf Butter Co. v. Haygood Patterson, Alabama Commissioner of Agriculture*, have created a situation whereby the present control over manufacture and distribution of renovated butter, which may have been made from filthy or unfit ingredients, is extremely weak: Therefore be it

*Resolved*, That the Association of Food and Drug Officials of the United States heartily endorses the efforts to strengthen this control, as is aimed in the Senate

bill No. 2079 and the House of Representatives bill No. 6098, which provides for a more effective inspection of process or renovated butter; and be it further

*Resolved*, That the Secretary send a copy of this resolution to the various governmental agencies concerned.

Senator BAILEY. Now is there any further statement? If not, we will take up this matter of the amendments. In connection with the amendment to section 3 you wish to add subsection (c) of section 2327, as another section to be stricken?

Mr. McNAUGHT. Yes.

Senator BAILEY. Is there any objection to that amendment, striking out subsection 2327 (c), the ground for striking it out being that this bill covers subsection (c)? If there is no objection that amendment will be inserted and approved.

Now the other matter is whether we shall broaden the act by adding, wherever we find the words "in interstate or foreign commerce," the following words, "or in commerce affecting commerce between the States," or "commerce among the States."

The whole idea of that is to adapt the law to the modern interpretation of the commerce clause.

Mr. McNAUGHT. I think that is a splendid addition.

(Discussion off the record.)

Senator BAILEY. And if it should be held that such language as "or in commerce affecting commerce among the States" should be unconstitutional, that should not impair the force and effect of the remainder of the bill—and a section so stating will be added to the bill. What do you say to that?

Mr. McNAUGHT. First rate.

Senator BAILEY. What do you say, Senator?

Senator HERRING. I should think that inasmuch as we have accepted it along the other lines, we might accept it as to butter.

Senator BAILEY. Yes.

Mr. TRIMBLE. As a matter of fact, under the existing law it is jointly administered by Revenue and Agriculture. The tax angle, of course, pays no attention to State lines, and the question of labeling which is assigned to the Secretary of Agriculture, has always come up, and—

Senator BAILEY (interposing). Will you draw up the amendments and let me have them right away?

Mr. McNAUGHT. Yes, sir.

Senator BAILEY. Senator Capper, do you approve this bill and the amendments?

Senator CAPPER. Yes. Have we had any statement here, Mr. Chairman, from the business groups or the agricultural groups, in favor of this?

Senator BAILEY. Well, the groups have always been opposed to deleterious matter in renovated butter. This is a mere matter of procedure with a view to making the inspection more complete. There are only six processors of renovated butter in the country and I take it that they have been notified and they are not here objecting, is that right?

Mr. McNAUGHT. I think that is so. As a matter of fact, when this *Cloverleaf Butter Company case* was in the Supreme Court, the president of the Cloverleaf Packing Co. was here in Washington and he said that he would support the measure wholeheartedly, and he is the only one that I have heard anything from.

Mr. TRIMBLE. And the second largest plant has told me that they would also be in favor of such a bill.

Senator BAILEY. Senator Capper, we do have a letter here addressed to Senator George from the Cherokee Creamery, Inc., Cedartown, Ga., expressing opposition to the enactment of the bill. That is all we have. They were notified—I told the clerk to notify them in case they wished to be heard—and they are not here. I take it they are depending on their letter. Do you wish me to read this letter from the Cedartown people?

Senator CAPPER. That isn't necessary. What I was interested in was how the national farm groups, for instance, felt, if they were for this.

Senator BAILEY. I would think they are.

Senator CAPPER. I would think so, but I think there should be some evidence of it here; they ought to be for it, I should say.

Senator HERRING. We are for it, as the largest butter producing State, our people are all for it.

Senator BAILEY. The dairy people would all want this, and the consumers would want it. What is renovated butter?

Mr. McNAUGHT. Process or renovated butter is defined by section 2320 of the Internal Revenue Code in this way, to mean "butter which has been subjected to any process by which it is melted, clarified, or refined, and made to resemble genuine butter always excepting 'adulterated butter' as defined by subsection (b)."

That is quite a comprehensive definition of adulterated butter, in subsection (b).

Mr. KEMPER. Mr. Trimble, will you tell the committee just what renovated butter is, what the process is, and all about it?

Mr. TRIMBLE. That is the definition.

It has always been made from farm butter almost exclusively. In the early days in this country, of course, most of the butter, and at the turn of the century 70 percent of all butter made, was country butter. The trade in this grew to such an extent that even previous to Federal legislation 12 States had legislated against it, primarily from the labeling standpoint, and as an amendment to the original Oleomargarine Act in 1902 it was made part of the Federal legislation.

Well, they took this butter, and they still do, it is primarily a salvage product. Now, a lot of country butter—

Senator BAILEY (interposing). What do you mean by "salvage product"; where do they salvage it?

Mr. TRIMBLE. By taking country butter, or any other butter as a matter of fact, that might get strong or slightly rancid, by melting and just taking the oil from this butter, aerating it, or, as at the present time where it is treated under vacuum in some of the plants, most of the volatile break-down materials in butter have been removed. This treated oil is then mixed back with good skim milk or good whole milk and made into a reconstituted cream or emulsion, and that mixture is then treated identically as you would normal cream; that is, it is pasteurized, cooled, and churned.

Senator HERRING. To be absolutely frank, these renovating plants are performing a service. We have to admit that a large part of our country butter that comes from the farm needs to have something done to it.

Mr. TRIMBLE. That is correct.

Mr. **KEMPER**. It is not all suitable for consumption in that form.

Senator **BAILEY**. I think we ought to read the letter from the Cherokee Creamery; they seem to have a good plant.

(The letter referred to is as follows:)

CHEROKEE CREAMERY, INC.,  
Cedartown, Ga., December 30, 1941.

En Re Senate bill S. 2079.

Senator **WALTER F. GEORGE**,  
Senator from Georgia,  
Washington, D. C.

**DEAR SENATOR GEORGE:** With reference to the above bill, which has to do with process butter, we would like to tell you that this is a southern industry, principally, and incidentally new methods of procuring raw material and methods of manufacture make it both a source of revenue for the southern people, also a good wholesome product which has the same ingredients as creamery butter, namely, 80 percent butterfat, 16 percent moisture, and 4 percent salt, etc. The process butter business is one that precedes the creamery industry in that it tends to increase and foster the keeping of more cows.

For your guidance, we would like to have you visit our plant, or, if this is not possible, delegate some uninterested party to make a report to you. But, in the meantime, we are describing below our methods of procurement and manufacture.

First, we gather up from the rural communities fresh farm butter, which is handled just like cream, in new 10-gallon milk cans. This raw material is good in its present state. The only reason this much farm butter is made is that each farm family must have butter for their own use and sell the surplus, but they do not keep enough cows to warrant their purchasing a cream separator. The number of cows in this section does not justify the successful operation of a creamery. They keep two or three cows, use the milk and cream, and sell the surplus butter. Further, this raw material is free from mold and especially mold mycella, which is sometimes present in old cream. Thus, we start with a good product, which, in turn, goes right on through to the finished product.

Second, our method of manufacture is modern and better from the standpoint of building and equipment than about three-fourths of all creameries. We purchase new equipment, some of which incidentally was hard to obtain, such as stainless steel pipes, fittings, etc. The farm butter is melted, then flows by gravity into a stainless steel holding tank where the butter oil rises to the top, and the water, curd, salt, etc., is removed by a faucet at the bottom of the tank. This leaves a pure clear-like butter oil which is next filtered by a set of No. 700 twin specialty brass filters (cost \$365), which are designed to use a heavy cloth bag filter. A Waukesha pump is used to force this through the filters into a pasteurizer where it is pasteurized and mixed with fresh skim milk (which is made from a high quality skim milk having a very low acidity test).

After pasteurization in this coil vat the cream, which is just like 40-percent fresh cream, is then clarified by a new 2,600-pound clarifier. This process of clarification removes any casein or curd present.

Next, the cream is carried through a new Jensen superdeodorizer, which was purchased from the Jensen Machinery Corporation, Bloomfield, N. J., at a cost approximating \$3,500 (wholesale cash price). The cream is then run through several in-the-line filters, then over a large tubular cooler into a coil ripening vat, where it is held for proper ageing, until ready to churn. The churn is a new No. 10, 1,000-pound capacity Crano, manufactured by Crane & Co., St. Paul, Minn.

We hope that you will see from the above that we are equipped and are rendering a real service to thousands of farm people who need this source of income. Many of whom get their necessities of life from this surplus product. The price that these people are paid for this product compares very favorably with other farm products. (At present we pay out to the farmers approximately \$2,500 per week.)

If there are any questions you would like to have answered regarding the above, kindly advise us. We further hope that you will see fit to oppose this

bill as it is now written, because if this market is taken away there will absolutely not be any market for this product.

Very truly yours,

CHEROKEE CREAMERY, INC.,  
R. T. CHATHAM,  
*Secretary-Treasurer.*

Senator BAILEY. Well, now, you do not propose to take the market away, do you?

Mr. McNAUGHT. Not in the slightest.

Senator BAILEY. He would pass your inspection.

Mr. TRIMBLE. As a matter of fact I was shown that letter by the Cedartown people. Their thought was that this bill was instituted by the big butter interests, but when I told them that the act originated in the Department, they got a different slant on the proposition.

Senator HERRING. They should be for this bill.

Mr. TRIMBLE. Absolutely. And when I say that I do not feel that the qualified factories at the present time would materially oppose this bill, because as in the case that culminated in the Supreme Court you have different State and local standards of grading this raw material. And they would realize that under this bill if the qualified process butter factory was in Georgia or Minnesota or North Carolina, they would then all be under the same uniform standard.

Senator BAILEY. And if they complied with the process prescribed and submitted to inspection and got the proper branding as renovated or process butter, approved and passed, it would probably improve their sale?

Mr. TRIMBLE. Unquestionably, under continuous and close inspection, there would be a certain amount of packing stock butter which would be condemned as unfit to use. On the other hand, that which did go through, bearing the label, "U. S. inspected and passed," should enhance the value from their selfish standpoint of better marketing of their product.

Senator BAILEY. The thing that interests me about that letter is the fact that he gets his butter from farm homes. Why is that called renovated butter; it isn't second-grade stuff, is it?

Senator HERRING. It has gotten strong and rancid and isn't marketable.

Senator BAILEY. I don't think he gets that type of butter. He gets the surplus. I understand that process. Down South that is the way we used to get butter. It was good butter as I understood it. Now that butter is taken by this man and renovated, is it?

Mr. TRIMBLE. That is right. He has trucks running two and three hundred miles from Cedartown, Ga., to collect butter.

Senator BAILEY. That is what he does, though; he takes the farmers' surplus butter and renovates it?

Mr. TRIMBLE. That is right.

Senator HERRING. It is really the butter that the farmer can't sell to the merchant in the town and he has kept it in his basement say, until it has gotten a little strong.

Mr. TRIMBLE. Either that, or he gets it from the crossroads store which has sold some of it but hasn't been able to sell it all.

Senator BAILEY. What is the difference in price as between the ordinary creamery butter and renovated butter?

**Mr. TRIMBLE.** In the South that runs—and the factories at the present time are all in the South—about 5 cents under the prevailing price, that is the retail price, of creamery butter. For years and years the process or renovated butter was largely sold to the baking trade, but with the advent of the renovated butter factories in the South, it entered into direct consumptive channels.

**Senator BAILEY.** Is there any difference in the content, comparing the renovated butter with the creamery butter?

**Mr. TRIMBLE.** From an analysis standpoint, none whatever; from the chemical analysis standpoint, that is.

**Senator BAILEY.** From the food standpoint?

**Mr. TRIMBLE.** That is right.

**Senator BAILEY.** And is there any difference in the taste of this process butter as compared with the other?

**Mr. TRIMBLE.** Well, the mere fact that it approached 3,000,000 pounds last year shows that it is at least as good as much of the creamery butter sold in the South. The price has been a factor, of course, but I would say it is much better than some of the poor creamery butter, and not nearly as good as the best butter we have on the market. It is an intermediate, middle grade, butter.

**Senator BAILEY.** Then the whole object is to provide this renovated butter in a clean, sanitary way, to those who buy it, and buy it because it is cheaper than the regular creamery butter?

**Mr. TRIMBLE.** Yes, to a certain class who, for economic reasons buy that grade of butter.

**Senator BAILEY.** Thank you Mr. Trimble.

The committee will stand adjourned.

(Whereupon, at 12 noon the committee adjourned without date.)