

EXTENSION OF BONDING PERIOD ON LIQUOR

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
EIGHTY-THIRD CONGRESS
SECOND SESSION
ON
H. R. 5407
AN ACT TO AMEND SECTION 2879 (B) OF THE
INTERNAL REVENUE CODE

FEBRUARY 24, 1954

Printed for the use of the Committee on Finance



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1954

COMMITTEE ON FINANCE

EUGENE D. MILLIKIN, Colorado, *Chairman*

HUGH BUTLER, Nebraska

EDWARD MARTIN, Pennsylvania

JOHN J. WILLIAMS, Delaware

RALPH E. FLANDERS, Vermont

GEORGE W. MALONE, Nevada

FRANK CARLSON, Kansas

WALLACE F. BENNETT, Utah

WALTER F. GEORGE, Georgia

HARRY FLOOD BYRD, Virginia

EDWIN C. JOHNSON, Colorado

CLYDE R. HOEY, North Carolina

ROBERT S. KERR, Oklahoma

J. ALLEN FREAR, Jr., Delaware

RUSSELL B. LONG, Louisiana

ELIZABETH B. SPRINGER, *Chief Clerk*

CONTENTS

	Page
Text of H. R. 5407.....	1
Report of Department of—	
Commerce.....	2
Treasury.....	2
Statement of—	
Avis, Dwight E., Director, Alcohol and Tobacco Tax Division, Internal Revenue Service; accompanied by Harold A. Serr, Chief, Permissive Branch, Alcohol and Tobacco Tax Division, Internal Revenue Service, and Wallace A. Russell, attorney, Alcohol and Tobacco Tax Legal Division of Chief Counsel's Office.....	5
Billik, Joseph, partner, Popper Morsen Co., New York, N. Y.....	61
Flashman, Sidney B., president, Double Springs Distillers, Inc., Bardstown, Ky.....	66
Freedman, Stewart S., president, The Old Joe Distillery Co., Laurenceburg, Ky.....	62
Gould, Alvin A., president, Anderson County Distilling Co., Cincinnati, Ohio.....	68
Gunson, L. J., president, Continental Distillery Corp.....	64
Kinnaird, William H., Louisville Public Warehouse Co.....	67
McClure, C. K., secretary and treasurer, Stitzell Weller Distillery, Shively, Ky.....	42
Marks, Milton, president, Esbeco Distilling Corp., Stamford, Conn.....	58
Morrison, W. M., president, J. T. S. Brown's Son Co., Bardstown, Ky.....	59
Singal, Laurence M., Federal Liquors, Ltd., Boston, Mass.....	61
Thomson, W. A., Jr., president, Kentucky River Distillery, Nicholasville, Ky.....	65
United Distillers Products Corp., Amston, Conn.....	59
Wiener, Herman E., vice president, New England Distillers, Inc., Clinton, Mass.....	57
Additional information—	
Letter from—	
Avis, Dwight E., Director, Alcohol and Tobacco Tax Division, Treasury Department, to chairman, with enclosures, March 3, 1954.....	31
Doane, Martin R., president, Old Rock Distillery Co., Joplin, Mo., to W. H. Mains, Distilled Spirits Institute, Washington, D. C., February 22, 1954.....	60
Gillette, Hon. Guy M., to chairman, February 18, 1954.....	3
Gould, Robert; Robert Gould Co., Cincinnati, Ohio, to chairman, July 23, 1953.....	69
Grosscurth, C. A., president, Grosscurth Distillers, Inc., Anchorage, Ky., to chairman, July 16, 1953.....	71
Manly, Samuel, III, Louisville, Ky., to chairman, March 6, 1954.....	72
Ravotti, Dominic, secretary-treasurer, Distillery Workers, Local No. 266, Leechburg, Pa., to chairman, July 22, 1953.....	72
Wrape, Robert L., the Wrape Heading Co., to Hon. John L. McClellan, July 18, 1953.....	70
List of distillers, their location, and authorizing officials, of 54 wholesale companies who authorize C. K. McClure, secretary and treasurer, Stitzell Weller Distillery, Shively, Ky., to represent them at hearing.....	49
Section 1656 of the Internal Revenue Code, submitted by Harold A. Serr, Chief, Alcohol and Tobacco Tax Division, Internal Revenue Service.....	12
Section 2800 (a), Internal Revenue Code, submitted by Harold A. Serr, Chief, Tobacco Permissive, Branch, Alcohol and Tobacco Tax Division, Internal Revenue Service.....	14

	Page
Additional information—Continued	
Section 4047 of Internal Revenue Code, submitted by Dwight E. Avis, Director, Alcohol and Tobacco Tax Division, Internal Revenue Service.....	7
Telegram from—	
Crepps, William, chairman, Distillers Workers Union, Local No. 23, affiliated with Distillery Rectifying and Wine Workers In- ternational Union, AFL, to chairman, July 20, 1953.....	70
Feller, Karl F., general president, International Union of the United Brewery, Flour Cereal, Soft Drink, and Distillery Workers of America, to chairman, July 8, 1953.....	71
Flashman, Sidney B., president, Double Springs Distillers, Inc., Boston, Mass., to chairman, July 17, 1953.....	71
Hibbs, A. V., T. W. Samuels Distillery, Bardstown, Ky., to chair- man, July 20, 1953.....	70
Layitch, E. D., president, The Globe Distributing Co., to chair- man, July 23, 1953.....	70
McClure, C. K., secretary-treasurer, Stitzel Weller Distillery, to chairman, March, 5 1954.....	74
Ripy, Ezra F., president, Hoffman Distillery Co., Laurenceburg, Ky., to committee, March 5, 1952.....	74
Schenley Industries, Inc., to chairman, March 2, 1954.....	72
Thompson, W. A., Jr., Kentucky River Distillery, to chairman, March 7, 1954.....	73
Willett, Thompson, president, Willett Distillery Co., Bardstown, Ky., to chairman, July 20, 1953.....	70
Williams, A. W., secretary, The Whisky Brokers of America, to chairman, March 4, 1954.....	74

EXTENSION OF BONDING PERIOD ON LIQUOR

WEDNESDAY, FEBRUARY 24, 1954

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

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

Present: Senators Millikin, chairman, Martin, Flanders, Malone, Bennett, George, Johnson, Kerr, Frear, and Long.

Also present: Senators Earle C. Clements and John Sherman Cooper, Representative John P. Saylor.

Also present: Mrs. Elizabeth B. Springer, chief clerk of the committee.

The CHAIRMAN. The committee will come to order. The hearing today is on the House bill 5407, which provides for the extension of the bonding period from 8 to 12 years on certain distilled spirits. The report will insert in the record at this point the text of H. R. 5407, together with favorable reports from the Departments of Treasury and Commerce.

(The information referred to follows:)

[H. R. 5407, 83d Cong., 1st sess.]

AN ACT To amend section 2879 (b) of the Internal Revenue Code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2879 (b) of the Internal Revenue Code is hereby amended by adding at the end thereof the following new paragraphs:

"(2) In the case of distilled spirits which, at the beginning of the day on which this paragraph is enacted, are either in internal revenue bonded warehouses or are in transit to such warehouses, the time within which such distilled spirits are required by existing law to be withdrawn therefrom and the tax paid thereon is hereby extended so that such time will end twelve years from the date of the original entry of such spirits for deposit in an internal revenue bonded warehouse.

"(3) Paragraph (2) shall apply at any time to distilled spirits which are either in an internal revenue bonded warehouse or in transit to such warehouse only if—

"(A) the proprietor of such warehouse has filed with the Secretary (i) a notice of his desire to retain distilled spirits in bond beyond the eight-year period specified in paragraph (1), and (ii) his consent to this paragraph and paragraph (4) and to subsections (e) (6) and (f) (6) of section 5 of the Federal Alcohol Administration Act, and

"(B) the warehousing bond covering such spirits has been suitably endorsed, under such regulations as the Secretary shall prescribe, to extend the liability of principal and surety for the period for which the extension made by paragraph (2) is granted.

"(4) Notwithstanding the provisions of any other law or regulation, no advertisement of, or label or stamp affixed or applied to, any distilled spirits retained pursuant to paragraph (2) in internal revenue bonded warehouse

after the eight-year period specified in paragraph (1) shall bear any statement which shall represent or imply that the age, or period of storage, of such distilled spirits exceeds eight years. The retention pursuant to paragraph (2) of any distilled spirits in internal revenue bonded warehouse after the eight-year period specified in paragraph (1) by any person who has any right, title, or interest in or to such spirits, the acquisition by any person of any right, title, or interest in or to distilled spirits which have been so retained, and the withdrawal by any person from warehouse of distilled spirits which have been so retained, shall each constitute consent by such person to this paragraph and to subsections (e) (6) and (f) (6) of section 5 of the Federal Alcohol Administration Act.

"(5) No distilled spirits retained in bond pursuant to paragraph (2) shall be bottled in bond after the expiration of the season in which the period of retention thereof in bond reaches eight years; but nothing in this paragraph shall prevent the retention in bond for the period authorized by paragraph (2) of such spirits after bottling in bond."

SEC. 2. (a) Subsection (b) of section 2879 of the Internal Revenue Code is hereby amended by striking out

"(b) TIME FOR PAYMENT OF THE TAX.—The" and inserting in lieu thereof the following:

"(b) TIME FOR PAYMENT OF THE TAX.—

"(1) Except as provided in the succeeding paragraphs of this subsection, the"

(b) The first paragraph of section 5 (e), and the first sentence of section 5 (f), of the Federal Alcohol Administration Act (27 U. S. C., sec. 205) are each hereby amended by inserting before the period at the end thereof a semicolon and the following: "and (6) in the case of distilled spirits which have been retained in bond pursuant to paragraph (2) of section 2879 (b) of the Internal Revenue Code after the eight-year period specified in paragraph (1) of such section, as will prohibit any statement which would represent or imply that the age, or period of storage, of such distilled spirits exceeds eight years .

Passed the House of Representatives July 7, 1953.

Attest:

LYLE O. SNADER, *Clerk.*

TREASURY DEPARTMENT,
Washington, February 23, 1954.

MY DEAR MR. CHAIRMAN: In reply to your request of January 14, 1954, for the views of the Treasury Department on H. R. 5407, a bill to amend section 2879 (b) of the Internal Revenue Code, now pending before your committee, we recommend that this proposed legislation for a temporary extension of the bonding period for distilled spirits from 8 to 12 years be adopted.

On March 31, 1953, the Treasury Department, in a report to the chairman of the Committee on Ways and Means on a prior version of the proposed legislation, took a neutral position because of apparent conflict within the industry and the possible unfair competitive advantages which might arise from a change in the bonding period. The revised bill apparently resolves these problems.

There will not be any significant revenue loss involved. The bill appears reasonable to relieve a distress situation in the industry.

The Budget Bureau has advised the Treasury Department that there is no objection to the presentation of this report.

Very truly yours,

G. M. HUMPHREY,
Secretary of the Treasury.

THE SECRETARY OF COMMERCE,
Washington 25, February 24, 1954.

DEAR MR. CHAIRMAN: This letter is in reply to your request of January 14, 1954, for the views of this Department with respect to H. R. 5407, an act to amend section 2879 (b) of the Internal Revenue Code.

The act would extend from 8 to 12 years the time that distilled spirits may be held in Government-bonded warehouses. The measure applies only to whiskies in bond at the time the legislation is enacted and involves, therefore, no permanent change in law. Whiskies so retained in bond would not be permitted to be described as more than 8 years of age.

Under existing law, distilled spirits must be withdrawn from bonded warehouses within 8 years of the date of deposit. In earlier times the distilled-spirits industry has been able to plan its production and marketing in a manner which has made it possible for it to live with this requirement. In recent years, however, repeated national emergencies and threats of emergencies, with stated or implied warnings that distilling for beverage purposes might have to be shut down again as it was during World War II, have dictated high rates of production and large inventories. When these new shutdowns did not materialize, these inventories became excess to requirements of the industry. Additionally, the present high excise rate was not foreseen when present stocks were laid down.

As a result, some distillers, both large and small, find themselves presently or imminently confronted with large stocks of whiskies which, under the law, must be brought out of bond, but for which there is no market. The result would be prepayments of excise tax larger than industry can be expected to finance.

From the tax-revenue standpoint, past experience indicates that the consuming public's requirements will not be altered significantly by enactment of or failure to enact this act. The quantities required by the market are dictated by other factors. Enactment of this legislation, however, would permit distillers to bring the older whiskies out in an orderly fashion rather than in large consignments as the several stocks reach 8 years of age.

Distillers confronted with the bonded-period limitation on stocks approaching 8 years of age, for which there is no market, would be faced with three undesirable and destructive alternatives if this act does not become law. These are:

1. Dump their products at "forceout" prices which spell ruin for them, and which reduce or eliminate revenues upon which corporate-income tax would otherwise be paid.

2. Redistill at an almost total loss of the value of the 8-year-old whiskies so redistilled, again with obvious adverse effect both on the company and on the tax-revenue situation.

3. Avoid taxpayments by sending their bonded whiskies into export channels of dubious value in which the excise revenue is forever lost to the United States.

Use of any of these procedures would materially affect the stability of the distilled-spirits industry, with resulting repercussions upon other industries.

For these reasons we recommend enactment of H. R. 5407.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this letter to your committee.

If we can be of further assistance in this matter, please call on us.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce

The CHAIRMAN. I also submit for the record a letter from the Honorable Guy M. Gillette, expressing his keen interest in the passage of this legislation.

(The letter referred to follows:)

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
February 18, 1954.

HON. EUGENE D. MILLIKIN,
*Chairman, Senate Finance Committee,
United States Senate, Washington, D. C.*

MY DEAR CHAIRMAN: You may recall that early in 1942, I was appointed chairman of a subcommittee of the Senate Committee on Agriculture and Forestry to make an investigation in the field of broadened utilization of farm crops. The resolution, under which we operated, called for an investigation of the production, means of production, and plans for production, of industrial alcohol and synthetic rubber. The war had been under way only a few months and the need for synthetic rubber was a vital one. We made every effort to bring into being a supply of synthetic rubber and, as a source for this product, the production of industrial alcohol.

To accomplish the gigantic need for industrial alcohol for the synthetic-rubber plants, it became necessary to convert all the liquor distillers to the making of industrial alcohol. This required adjustments within the legitimate liquor-producing industry. Normally the distillers produced their spirits, 4 to 8 years, in advance of anticipated sales, but for most of the war period no whisky was manufactured.

When the synthetic-rubber program was well advanced and the food and feed situation permitted the Government to allow limited production of spirits, this action was taken in the month of August 1944, in the month of January 1945 and, if my recollection serves me, one later month in 1945.

Beginning in May of 1946, and for sometime thereafter, all the distillers were permitted to produce spirits as they wished, and most of them did so within the grain-quota limits granted them, and thus filled their warehouses.

Although I am not a user of intoxicating liquors, I am informed that, whereas, prior to the war, the big consumer demand was for straight whiskies but the consumer taste changed, by wartime conditions, to blends and this left the distillers with a larger stock than they had anticipated. In other words, they need more time to dispose of their inventories.

Under existing law, distiller spirits are required to be removed from the warehouses, and the taxes paid at the end of 8 years. I am told that some distillers, rather than pay the tax of \$10.50 per gallon in advance of any prospective sale, will distill this product for commercial channels rather than the beverage market.

On July 7, 1953, the House of Representatives, upon recommendations of the Ways and Means Committee (after committee hearings) enacted H. R. 5407 which would extend, from 8 to 12 years, the time during which existing distilled spirits may be in Government bonded warehouses. This bill was received in the Senate on July 8 last, and was referred to your committee.

The House Report No. 515 on H. R. 5407 stated:

"Your committee believes that H. R. 5407 should be promptly enacted in order to ease a serious situation, within the distilled-spirits industry, resulting from an excessive accumulation of distilled spirits in bonded storage. Unless provision is made, for an extension of the bonding period (as provided in H. R. 5407) orderly marketing of the distilled spirits forced out of bond will be impossible and serious financial hardship may result to many members of the industry."

I am calling this to your attention at the request of some constituents of mine. I have no interest in the alcoholic beverage industry either financially or personally. Because some of my constituents have urged me to call this to your attention, and also because many of the distillers cooperated readily with the subcommittee when we were investigating the rubber and alcohol programs, I feel that since their situation was aggravated by wartime restrictive policies that it is reasonable they should have early and fair consideration of the legislation dealing with their difficulty.

It has been alleged to me that, if the remedial legislation, passed by the House of Representatives, is to be effective in giving the relief intended, action should be taken shortly. May I suggest that before the Senate Finance Committee becomes involved in the general tax-revision situation, and considering the fact that H. R. 5407 has been before your committee nearly 8 months, that the committee schedule might permit early hearings on H. R. 5407 with a view to favorable action if the facts elicited justify such action.

Sincerely,

GUY M. GILLETTE.

The CHAIRMAN. The first witness is Dwight E. Avis, Director of the Alcohol and Tobacco Tax Division of the Internal Revenue Service. Please be seated and make yourself comfortable, Mr. Avis.

This hearing is on H. R. 5407. We will be glad to hear from you, Mr. Avis.

STATEMENT OF DWIGHT E. AVIS, DIRECTOR, ALCOHOL AND TOBACCO TAX DIVISION, INTERNAL REVENUE SERVICE, ACCOMPANIED BY HAROLD A. SERR, CHIEF, PERMISSIVE BRANCH, ALCOHOL AND TOBACCO TAX DIVISION, INTERNAL REVENUE SERVICE, AND WALLACE A. RUSSELL, ATTORNEY, ALCOHOL AND TOBACCO TAX LEGAL DIVISION OF CHIEF COUNSEL'S OFFICE

Mr. Avis. Thank you, Mr. Chairman.

I have with me two of my associates, Mr. Serr and Mr. Russell, who may be in a better position to answer some of the committee's questions.

Mr. Chairman, my name is Dwight E. Avis. I am the Director of the Alcohol and Tobacco Tax Division of the Internal Revenue Service. I appear in support of the Treasury's recommendation that H. R. 5407 be enacted.

Under the present law, distilled spirits may be stored in bond for 8 years. Payment of tax is deferred until withdrawal from bond. However, the spirits must be withdrawn from bond and tax-paid within 8 years. H. R. 5407 would extend the 8-year limitation to 12 years, but would apply only to distilled spirits in bonded warehouses or in transit thereto on the date the bill is enacted.

Senator KERR. May I interrupt for a question, Mr. Chairman?

The CHAIRMAN. Yes.

Senator KERR. Do you mean that this bill would cover any distilled spirits now in bonded warehouses or that which is in transit thereto on the date the bill was enacted, but would not make any distilled spirits manufactured hereafter eligible to come under the provisions of this act?

Mr. AVIS. That is correct, yes, Senator.

Senator KERR. Thank you.

Mr. AVIS. The bill also attempts, Mr. Chairman, to minimize the consequences of an extension of the bonded period upon the competitive position of the several industry members in relation to their holdings of aged whisky by prohibiting age claims on labels and in advertising exceeding 8 years on whisky retained in bond under the act.

H. R. 5407 is a compromise version of the original Eberharter and Saylor bills, H. R. 7651 in the last Congress, and H. R. 1215 in the 1st session of this Congress, and has at least the passive support of all members of the distilled-spirits industry.

Senator KERR. What do you mean by that?

Mr. AVIS. Passive support?

Senator KERR. Yes.

Mr. AVIS. I would mean that they are all supporting the bill, regardless of what the effect might be on their competitive positions. Some of them may not be actively urging its support.

Senator KERR. Who is urging it the most actively?

Mr. AVIS. Naturally, the companies that are most immediately affected by the situation, Senator.

Senator KERR. Does the statement at a further point disclose that?

Mr. AVIS. No, sir; it does not.

Senator KERR. Do you have that information?

Mr. AVIS. I naturally know from the general situation those that are in greatest distress, and I assume that those in greatest distress are those who are more immediately affected, and therefore, are more actively urging the bills enactment.

Senator KERR. What are the elements that determine how acutely distressed an interested party is?

Mr. AVIS. Well, the fact that he has whisky that he cannot sell at a profit.

Senator KERR. Does it mean that the distress is in proportion to the quantity?

Mr. AVIS. Well, I would say not necessarily so, because that is sort of a yes-and-no situation. The small fellow may not have very much whisky, but he may be more vitally affected than the larger industry member because he doesn't have the financial resources to acquire the funds for tax payments. He is not in a position to borrow the money and consequently, he may be more vitally affected than the larger member who is in a position to finance himself.

He has more resources.

Senator KERR. Do you have the information as to the amount owned by each individual distiller?

Mr. AVIS. In the older age categories?

Senator KERR. In the categories affected by this bill.

Mr. AVIS. Yes, sir.

Senator KERR. Will you give that to the committee?

Mr. AVIS. We will be glad to furnish it in executive session. I think, perhaps, the statute would preclude its disclosure in public session, Mr. Chairman.

The CHAIRMAN. What statute?

Mr. AVIS. 4047 is the code number.

The CHAIRMAN. What is the substance?

Mr. AVIS. It has to do with trade information.

The CHAIRMAN. And in your opinion, it precludes public disclosure of that information?

Mr. AVIS. That is my opinion, and the opinion of my counsel. But it would not preclude its being furnished to the committee in executive session.

Senator KERR. Do you mean that the Congress is asked to pass a bill for beneficiaries unknown and whose identity must be cloaked under mandate of law?

Mr. AVIS. Do you want to address yourself to that question, Mr. Russell?

The CHAIRMAN. Let us have the provision of the law.

Senator KERR. What you say indicates to me that the Treasury has information upon which they recommend the passage of the bill, but which information has not yet been disclosed to those who are asked to pass the bill, and further, you indicate that the people for whom we act here are forbidden to have the information.

Mr. AVIS. Now, Senator, I certainly have said that we will furnish this information to the committee in executive session.

The CHAIRMAN. We will have that law right now, Senator, and see what it says.

Senator MALONE. Mr. Chairman, if I might comment on that, I imagine it is a good deal in the same category as information that is often furnished to the Bureau of Mines about the activities of the

firms upon which they base their estimates and the information that that they give the public, but they do not make public the information of the reserves and the very confidential information that they get.

Senator KERR. What does that apply to, strategic materials?

Senator MALONE. No; it applies to all minerals. Then the Department of Commerce gets certain confidential information.

Mr. AVIS. I have this now, Mr. Chairman.

Senator MALONE. They do not disclose fully the detailed operations of the firms that are furnished in the information, but do make available the results of their study.

The CHAIRMAN. Give us the citation, Mr. Avis, and read the provision of law which you believe prohibits you from disclosing the information.

Mr. AVIS. Section 4047 of the code:

Disclosure of information by officers and employees of the United States. Operations of manufacturers or producers. It shall be unlawful for any collector, deputy collector, agent, collector, other officer or employee of the United States to divulge or make known in any manner whatsoever not provided by law to any person the operations, style of work or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, and any offense against the foregoing provisions shall be a misdemeanor and shall be punishable by a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both, at the discretion of the court, and the offender shall be dismissed from office. The provisions of this act shall apply to internal agents as fully as to internal revenue officers.

The CHAIRMAN. You are talking about apparatus and what else?

Mr. AVIS. Operations, style of work, or apparatus of any manufacturer or producer.

The CHAIRMAN. Do you construe operations to mean the amount of whisky produced and stored?

Mr. AVIS. That is right; yes, sir.

The CHAIRMAN. We will hear the information in executive session and the committee will decide on it.

Senator KERR. Mr. Chairman, I must say that I could not be in more complete disagreement about what the language means. May I see the law? I am not asking about the operations of any distillery.

This does not say that they shall not make known. It says that they shall not make known in any manner whatever not provided by law the operation, style of work, or apparatus of a manufacturer or producer visited by him in the discharge of his official duties.

Have you visited any of these operations?

Mr. AVIS. Well, I have visited distilleries, of course, by my knowledge does not flow from the visits, Senator.

Senator KERR. Which one of the distilleries that are asking for this relief have you visited?

Mr. AVIS. I have been in the Seagram plant.

I am not sure I have visited any of those who are asking relief.

Senator KERR. Which ones have you visited in discharge of your official duties?

Mr. AVIS. The Seagram distillery.

Senator KERR. What were your official duties?

Mr. AVIS. I just wanted to look over the installation, Senator.

Senator KERR. What part of your official duties was that?

Mr. AVIS. I am in charge of liquor tax administration.

Senator KERR. And you went to look at the physical properties as a tax collector?

Mr. AVIS. I just wanted to see that plant, because it is one of the largest plants.

Senator KERR. Suppose you tell me the provision of the law that directs you, as a tax collector, to go and inspect the physical properties of the taxpayer.

Mr. AVIS. There are several provisions. I couldn't give you the exact ones, Senator, but I am very positive—

Senator KERR. Would you agree to furnish that to the committee?

Mr. AVIS. Oh, yes.

(See letter and enclosures, p. 31.)

Senator KERR. You are very positive of what?

Mr. AVIS. I am very positive that the provisions of law do authorize the employees of the Alcohol and Tobacco Tax Division to visit distilleries in connection with their official duties.

The CHAIRMAN. If you didn't visit distilleries, you would be greatly criticized for not doing it. I think that is perfectly evident.

Senator KERR. Is the information that you are withholding from the committee—

Mr. AVIS. Senator, I am not withholding any information from this committee.

The CHAIRMAN. The Chair has ruled, Senator, that we will receive the disclosure of this information in executive session and then we, in executive session, will decide whether it should be put in the record. I think that is a fair ruling, and we will interpret the law at the same time.

Senator KERR. Is it inappropriate that I examine this witness?

The CHAIRMAN. No; I don't think it is inappropriate, except that the Chair has ruled, and the Chair maintains his ruling, that we will consider the matter in executive session and then decide whether the information will be put in the record.

(See letter and enclosure, p. 31.)

Senator KERR. I am not questioning the chairman's ruling.

The CHAIRMAN. What is the Senator doing?

Senator KERR. Nor do I decline to abide it.

The CHAIRMAN. May I ask what the Senator's question is? What is the Senator's question?

Senator KERR. I was asking this witness to tell me the provision of law which put upon him the duty, in the discharge of his official duties; whereby he learned something which in his judgment prohibits him from giving this information to anybody?

The CHAIRMAN. I understand that the gentleman bases himself on that statute.

Senator KERR. But this statute clearly says, Mr. Chairman, that it shall be unlawful for anyone within this category set out in this language to divulge or make known in any manner whatever not provided by law, to any person, the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties.

The CHAIRMAN. Do you know of any law that requires you to give this information?

Mr. AVIS. I do not, sir, and I interpret these provisions as having to do with official reports.

Mr. CHAIRMAN. Just a minute.

Mr. AVIS. Excuse me.

The CHAIRMAN. Do you know of any law that prohibits you from visiting any of these installations?

Mr. AVIS. No, sir.

The CHAIRMAN. Do you figure it is a part of your duty to visit these installations?

Mr. AVIS. Yes, sir; I do. I feel that I am authorized. But I want to say this, in absolute fairness, that my knowledge of this information is not secured from visiting distilleries. It is secured from studying official reports that are required to be rendered by law by these distilleries.

Senator KERR. Then, Mr. Chairman, I submit that this law is not applicable, because this law refers to what he learns with reference to certain things from his official visits.

The CHAIRMAN. I suggest that we consider that in executive session.

Senator KERR. That will be fine, but if I can learn from this witness the basis of his conclusion, it would help me in my considerations when we come to that.

The CHAIRMAN. All right. Let me suggest that you be prepared, Mr. AVIS, to give us the list of materials stored so that if, in executive session, we should decide that it should be put in the public record, it can be put in the public record.

Mr. AVIS. Yes, sir.

The CHAIRMAN. Senator Kerr wishes some information so that he can judge better in executive session the problems that will come up there. Proceed, Senator Kerr.

Senator KERR. Thank you, sir. You have told me, I believe, that you have visited only one distillery in connection with your official duties and that is Seagram.

Mr. AVIS. No; I don't think that is correct, Senator.

Senator KERR. I am asking you. If it is not, tell me which other ones you have visited in the discharge of your official duties.

Mr. AVIS. I have been in the Calvert plant.

Senator KERR. When?

Mr. AVIS. Several years ago.

Senator KERR. In the discharge of what official duty did you go to Calvert's?

Mr. AVIS. I just looked over the installation.

Senator KERR. And the Seagram plant?

Mr. AVIS. In Louisville, yes.

Senator KERR. When was that?

Mr. AVIS. About 4 years ago.

Senator KERR. And what official duty took you there?

Mr. AVIS. I just wanted to see the installation, the operation.

Senator KERR. I can hear you all right. I am just asking for information.

What other distillery have you visited in the discharge of your official duties?

Mr. AVIS. I have been in several distilleries. I have been in the Waterloo Distilling Co. at Waterloo, N. Y. That plant is closed, now.

Senator KERR. When were you there?

Mr. AVIS. Many years ago.

Senator KERR. Was your visit there connected in any way with the closing or vice versa?

Mr. AVIS. It was in connection with the seizure of it, Senator.

Senator KERR. Any information that you got there is connected with your recommendation on this bill?

Mr. AVIS. No, sir, and I have made that quite clear.

Senator KERR. I am addressing myself to the justification for the bill.

Mr. AVIS. I understand that thoroughly, and I have tried to help you by saying that my knowledge does not come from any official visits whatsoever. It comes from official reports that are required to be made under the law by the distillers.

I would like to say further to you that I do not know who owns this whisky. I don't think any other Government official knows. I don't think the distillers themselves know who owns the whisky, because a lot of it is transferred on warehouse receipts and the warehouseman does not know who owns the whisky.

I am able to tell you from our official records what whisky is stored, the amount, and by ages in the various warehouses of the distillers and independent warehousemen, but to tell you—

Senator KERR. Mr. Witness, you don't need to bark at me. I am not barking at you.

Mr. AVIS. I apologize, Senator.

Senator KERR. Didn't you tell me a little while ago in answer to a question from me that you knew who owned this whisky and how much they owned?

Mr. AVIS. If I did, I made an incorrect statement.

Senator KERR. Wait a minute, until I get through. And that you had that information, but it was prohibited by law for you to make it public, but you would gladly furnish it to the committee on a confidential basis?

Isn't that the gist of what you said?

Mr. AVIS. If I did say that, I spoke incorrectly. What I meant to say was that we could tell you from our official records the amount of whisky in the various warehouses of the distillers and the independent warehousemen, but we do not know in all instances who owns the whisky.

The CHAIRMAN. You are prepared to tell us, if we should decide that we want it, the age of the whiskies that are stored in the various warehouses?

Mr. AVIS. That is right, owned by the various distillers.

Senator KERR. Then your statement to me about the acuteness of the need for relief was a surmise of yours, not based on knowledge that you have?

Mr. AVIS. Senator, I believe if you will permit me to finish my statement that I will clarify that.

Senator KERR. I think it would be very wholesome if you did.

The CHAIRMAN. Go ahead with your statement.

Mr. AVIS. Thank you.

The proposed extension of the bonded period would not substantially affect the aggregate revenue over a period of years. This is true because, even though the tax were reduced under existing law, the holders of any taxpaid distilled spirits would be entitled to a refund equivalent to the amount of the tax reduction.

Senator KERR. May I ask you a question, there? Under the proposed law, they are required to pay the tax at the end of 8 years, aren't they?

Mr. AVIS. Yes, sir.

Senator KERR. Are you telling the committee that in the event they sold that particular stock of whisky at a subsequent date after the tax has been reduced that the Government would owe them a rebate?

Mr. AVIS. Under the provisions of the law, under the refund provisions, all whisky that has been taxpaid would be subject to refund.

Senator KERR. Would you give me the citation of the statute?

Mr. AVIS. Section 1656 of the Internal Revenue Code. I would like to clarify that, Senator. Let's assume, for the sake of argument, that at a later date this tax should be reduced in a greater amount than now provided by existing law, and that the Congress should make no provision for refund on stocks that have been taxpaid, then it might be argued that the passage of this bill would affect the revenue.

Senator KERR. I want to get this point clear. I am not aware of any law that automatically entitles the owner of bonded whisky upon which the tax has been paid to a refund in the event of a subsequent reduction in the tax.

Mr. AVIS. The law that increased the tax from \$9 to \$10.50 does provide, when that increase expires, for a refund.

Senator KERR. Is that the only refund that you know of that is provided for?

Mr. AVIS. Yes, sir.

Senator KERR. Then the statement that you have just made would have to be interpreted with at least that limitation.

Mr. AVIS. Exactly, and that is what I said to you, that if, at a later date, the Congress did decrease the tax—we will say for the sake of argument from \$10.50 to \$6—and made no provision for refund, then this whisky that came under the provision of this bill, that would have been forced out if the bill had not been passed, would involve some possible loss in revenue.

Of course, I have this theory of this situation, Senator, if you care to hear me on it: That the consumer market is going to absorb just so much whisky—

Senator KERR. I am not questioning the accuracy of your statement.

The CHAIRMAN. Let us have all the help we can get from him. Go ahead and explain.

Mr. AVIS. This is just my conception, that the tax is such a great part of the price of the whisky that the consumer market is just going to absorb so much whisky and, therefore, this bill is not going to have any material effect on the revenue.

Senator KERR. I appreciate that opinion, and I must say that I will regard it in my deliberations, as I am sure every other committee member will, but it is not binding on the committee.

Mr. AVIS. Of course not.

Senator KERR. But if your statement here is accurate, itself, and I don't believe it is accurate, I don't believe you want an inaccurate statement on the record.

Mr. AVIS. I certainly do not, sir.

Senator KERR. And if it is inaccurate, I want to know it and I am sure that the others will, and therefore, if you will permit me, I will address myself to the statement again.

Mr. AVIS. All right, Senator.

Senator KERR. You say even though the tax were reduced under existing law, the holders of any taxpaid distilled spirits would be entitled to a refund equivalent to the amount of the tax reduction.

What you have just told me is that the only provision in the law that you know of that provides for any reduction has to do with the last increase from \$9 to \$10.50 a gallon, and therefore, I take it that if a subsequent act of Congress reduced the tax to \$6—

Mr. AVIS. And made no provision for—

Senator KERR. And made no provisions, then there would be no refund beyond the \$1.50 a gallon.

Mr. AVIS. That is right.

Senator KERR. And there would be no refund on anything other than those gallons which had had the \$1.50 increase, and therefore, that statement is incorrect if it indicates—

Mr. AVIS. That is right.

Senator KERR. That the holders of any of this whisky would be entitled to a refund equivalent to the amount of the reduction.

Mr. AVIS. Which is substantially what I said before; yes, sir.

Senator KERR. Therefore, the statement is inaccurate and needs that correction.

Mr. AVIS. It does, sir.

Senator KERR. All right.

Senator BENNETT. Mr. Chairman, may I ask a question? Do I understand from this testimony that liquor which has been taken out of bond and on which the \$10.50 tax has been paid and is now in private hands will be given a refund when and if the tax should drop back to \$9? All liquor unconsumed in private hands?

Mr. AVIS. Not in consumers' hands. In the possession of retailers, wholesalers, and distillers that has been tax paid.

Senator BENNETT. I am glad to get that straightened up. That sounds like a funny tax bill to me.

Senator KERR. It sounds like a funny one to me, and I want them to give me the particular statute which has that provision. I want to see in the law. This is better than a correspondence course.

The CHAIRMAN. Please read the law and give us the citation.

Mr. SERR. Section 1656 of the Internal Revenue Code:

With respect to any article upon which tax is imposed, under section 2800 (a), 3030 (a), and 3150 (a), upon which internal revenue tax, including floor stocks tax, at the applicable rate prescribed by such section has been paid, and which, on April 1, 1954, is held by any person and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be credited or refunded to such person (without interest) subject to such regulations as may be prescribed by the Secretary, an amount equal to the difference between the tax so paid and the rate made applicable to such articles on and after April 1, 1954, by such section, if claim for such credit or refund is filed with the Secretary prior to May 1, 1954.

The CHAIRMAN. So that if, after April 1, 1954, we should reduce—

Senator KERR. May I interrupt, Mr. Chairman? The witness addressed himself to the reduction that is in the law.

The CHAIRMAN. Do you mind my bringing a question?

Senator KERR. No, not at all.

The CHAIRMAN. I will start over again.

Assuming that we reduced the tax \$1 a gallon, after April 1, 1954, would we owe a rebate, and if so, to whom?

Mr. AVIS. Under that law, Mr. Chairman, the tax is automatically reduced from \$10.50 to \$9, without the Congress extending it.

The CHAIRMAN. I am going beyond that. I am figuring on another reduction, imaginative as it may seem.

Mr. AVIS. This applies only to this \$1.50, and I would like to say that when the Congress increased the tax from \$6 to \$9, that they later made a similar provision for refund.

The CHAIRMAN. So after April 1, 1954, what happens?

Mr. AVIS. I would say that if the Congress decreased the tax after April 1—in other words, if it went back to \$9, due to failure to extend and then they made a further reduction without providing for a refund—the passage of this bill would result in a lesser amount of revenue.

Senator MALONE. Mr. Chairman.

The CHAIRMAN. Senator Malone.

Senator MALONE. This is true, if I understand the law correctly, that it automatically goes back on April 1 to \$9.

Mr. AVIS. That is right.

Senator MALONE. And this is true even though the tax were reduced under existing law.

Mr. AVIS. That is right.

Senator MALONE. Now, if there was a new law there would be no refund?

Mr. AVIS. Exactly.

Senator MALONE. But under existing law, Senator, is what he is talking about, and I think that makes his statement correct.

Mr. AVIS. I have made the concession that the way Senator Kerr worded it, he is correct. I think my statement is correct insofar as it goes, but does need some elaboration.

Senator MALONE. That means that if Congress passed another law that had nothing to do with this automatic reduction, then as the chairman has stated, there would be no tax refund?

Mr. AVIS. That is right, without their making provision for it.

Senator MALONE. But in the existing law, then, the tax refund would be made from that amount held by wholesalers or held for sale by someone?

Mr. AVIS. That is right.

The CHAIRMAN. Senator Kerr.

Senator KERR. I thought that question was settled, but since it seems to be reopened, as I read your statement, and I want you to correct me if I am inaccurate—

Mr. AVIS. I have agreed, Senator, with your analysis of this.

Senator KERR. I think the Senator has made a play on words. You say taxes reduced under existing law. In my own judgment, I interpreted that, and I think you did, to mean a figure under that prescribed by existing law.

Mr. AVIS. No.

Senator KERR. I want to go back to the statute to which you referred. Do you have a copy of it?

Mr. AVIS. No, sir; I do not.

Senator KERR. It says that an amount equal to the difference between the tax so paid and the rate made applicable to such articles on and after April 1, 1954. What I want you to do is to identify that for me in the committee, because I don't understand it the way you

do. It says with respect to any article upon which tax is imposed under section 2800 (a), and which one of these subsections applies to the excise tax on liquors?

Mr. SERR. That is 2800 (a).

Senator KERR (reading):

Upon which internal revenue tax, including floor stocks tax, at the applicable rate prescribed by such section has been paid, and which on April 1, 1954, is held by any person and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be credited or refunded to such person, subject to such regulations as may be prescribed by the Secretary, an amount equal to the difference between the tax so paid and the rate made applicable to such articles on and after April 1, 1954.

Is there a tax rate actually applicable to that article if it is in the hands of a wholesaler or in the hands of a retailer?

Mr. AVIS. The tax has been passed on by the distiller.

Senator KERR. I know. There is no tax applicable, as I understand it, to whisky except that which is in bonded storage owned by the warehouse and removed for sale.

Mr. AVIS. That is right.

Mr. SERR. That is right.

Senator KERR. Therefore, there is no tax applicable to it, is there?

Mr. SERR. Well, it is taxpaid.

Senator KERR. And for that reason, there is no tax applicable to it.

Mr. SERR. No additional tax, you are right.

Senator KERR. No tax of any kind.

Mr. SERR. Not under 2800 (a).

Senator KERR. Then in view of the fact that this is limited to the difference between the tax so paid and the rate made applicable to such articles on and after April 1, and in view of the fact that there is no rate applicable on those articles that have been taken out of that bonded warehouse, then there would be no refund since there is no tax applicable to it after that date.

Mr. SERR. The section is written to provide for the refund, Senator.

Mr. AVIS. The whole purpose of it is to provide for refund in the event of a tax reduction due to a failure to extend the present rates.

The CHAIRMAN. To whom is the refund made?

Mr. AVIS. The wholesaler or the retailer, whoever has the goods in his possession.

Mr. SERR. Anyone who holds those goods for sale.

Mr. AVIS. That is the whole purpose of it.

Senator KERR. But that is the only section which provides for a refund and there would be none other than that, except some which the Congress, itself, hereafter provided?

Mr. AVIS. That is right; yes, sir.

Senator LONG. Mr. Chairman—

The CHAIRMAN. Senator Long.

Senator LONG. I would like to ask the witness this question: If we are going to give some adjustment to those who keep whisky in bond more than 8 years, can you tell me why in the world the public shouldn't have the benefit of knowing that this whisky has been aged longer than 8 years? Are we going to put this provision in the law that they cannot advertise that just for the benefit of a few people who, for one selfish reason or another, don't want the whisky advertised as being aged longer?

Mr. AVIS. Senator, this is a compromise version worked out in the Ways and Means Committee. The industry now supports it and the Treasury did, in the Ways and Means Committee, raise that question, as to the validity of that provision, inasmuch as the disclosures of age were restricted.

The Ways and Means Committee considered that and reported out this bill. They gave it a great deal of consideration. That is the best answer I can give you.

The CHAIRMAN. Just one moment. Wasn't the point that if the law gives this benefit to the distillers, presumably saving them a lot of money, at least immediately, that, therefore, he should not take credit for having longer aged whisky at the same time while getting the benefit provided by law?

Mr. AVIS. That is right.

The CHAIRMAN. Whatever the merits of that may be, was that not the argument?

Mr. AVIS. That is right.

Senator LONG. Here is the point I have in mind, that generally speaking, the same barrel of whisky, if aged longer, is presumed to be a better quality whisky. Is that not correct?

Mr. AVIS. There is a point beyond which it begins to deteriorate.

Senator LONG. Did the Treasury recommend this particular provision?

Mr. AVIS. The Treasury is now supporting this bill as is; yes.

Senator LONG. Did the Treasury recommend that this particular provision be added to the bill when this bill was originally brought down for consideration?

Mr. AVIS. We helped work out the compromise. We lent a great deal of help to the Ways and Means Committee. Certain members of the Ways and Means Committee were endeavoring to find a solution to this problem for the industry, and we assisted in the best way we could.

We did express the opinion that there was some question as to the validity, but Ways and Means Committee thoroughly considered that and I understand they satisfied themselves that there was not and they did report out the bill.

Senator LONG. As the law stands today, is not any processor or producer of whisky entitled to put on the bottle how old his whisky is and how long it was aged in the barrel?

Mr. AVIS. Yes, sir.

Senator LONG. Is he required to put on the bottle how old his whisky is?

Mr. AVIS. He can understate the age, but he cannot overstate.

Mr. RUSSELL. And he doesn't have to put it on if it is over 4 years old.

Senator LONG. Do you see anything in the public interest that would provide that a person who has aged his whisky for 12 years should not be permitted to state it?

Mr. AVIS. I don't think so, as far as the public is concerned.

Senator LONG. Generally speaking, the public would like to know long the whisky has been aged, wouldn't it?

Mr. AVIS. I think generally, yes, sir.

Senator LONG. My objection to this provision is that it appears to me to be just a special-interest provision worked out for the satisfac-

tion of a few of these distillers, which is not in the public interest. It seems to me that when these legislative proposals come down, it is the function of the Congress to think about the public and what is good for all the people and not just what is good for one particular distiller or another. If we are going to pass a bill allowing for some adjustment, it would seem to me that we should not write this bill up to work out a compromise so every distiller in the country might happen to be satisfied with it if some of those provisions are not in the public interest.

This particular provision seems to me to be completely a special interest provision without any consideration of the public interest at all.

Mr. AVIS. Senator, I am not going to argue that proposition with you. The Treasury is supporting this bill in what it considers the interest of the industry and the overall situation.

Senator LONG. The Treasury usually has reasons for supporting these provisions, and usually the reason is that the bill is in the public interest.

With regard to this particular provision, can you show me anything in the general national interest that this type of provision should be inserted in this law, that a person with whisky which has been aged beyond 8 years should not be permitted to state that it has been aged beyond 8 years?

Mr. AVIS. Could I have just a minute?

The CHAIRMAN. Surely.

Mr. AVIS. I don't find anything in the public interest in that respect except that you have a distressed situation here and I doubt whether a distressed situation in the industry is in the public interest.

The CHAIRMAN. Mr. Witness, I don't know what the committee may decide about this, but would the Treasury be disappointed if that provision were left out?

I am trying to find out what the official position on this is. I am not intimating what the committee might do, but if we should decide that that provision should not be in it, would the Treasury feel that its position on the bill had been materially altered?

Mr. AVIS. I don't think so.

The CHAIRMAN. All right.

Senator KERR. May I ask another question, Mr. Chairman?

You are talking about the distressed position of the industry and from what I know about this—and I must say that I have tried very hard to find out who owns this whisky without any degree of success whatever—I have gathered information which leads me to contemplate the probability that there are a number of small distilleries who are in acute distress and a number of very large distillers who are either in greater or less distress in accordance with their financial position. What would the Treasury think about it if this committee decided to approve this bill with an amendment that each distiller would have an exemption under this bill of, we will say, a certain number of barrels, if they were owned by that distiller on January 1, 1954, but would not make any exemption over and beyond such a limited exemption.

Mr. AVIS. Well, I would want to consult with some of my superiors in the Treasury before expressing an opinion. I think there might be some question on that.

Senator KERR. Would you tell me an approximate figure that the average small distiller might have that would be involved under this bill? Would it be 1,000 barrels or 5,000 or 10,000 barrels?

Mr. AVIS. Some of them have got more than that.

Senator KERR. I understand, but the average small distiller. Just give me some general figure which would not be binding, but which would give us some idea.

Mr. AVIS. Do we have those figures?

Mr. SERR. It would be more than 1,000.

Mr. AVIS. I can't answer that question. I will get that information for you, Senator, but I want to be accurate about this thing and I don't want to speculate.

Senator KERR. I want to say that is very wholesome and I am seeking accurate information, and I appreciate your desire to give it to me.

Mr. AVIS. I will get it for you.

(See letter and enclosures, p. 31.)

Senator KERR. After that has been done, the committee will be in a position to have an opinion as to how much of this particular article would be in the possession of the average small distiller.

I believe you have told me that you are not now prepared to tell me what the Treasury would think if we decided to pass a bill that would give relief to the average small distiller and limit it to that.

Mr. AVIS. As I say, I would rather not attempt to state the Treasury's position in that respect without consultation.

Senator KERR. Will you give us that after consultation?

(See letter and enclosures, p. 31.)

Mr. AVIS. I will, sir.

Senator MALONE. Mr. Chairman.

The CHAIRMAN. Senator Malone.

Senator MALONE. It seems clear from the discussion that any change we would make in the bill here reported to the Senate and not passed by the House would then go to conference and the Treasury would have nothing to do with it, and neither would anyone else, except the conference committee, and then there would be the adoption by both houses.

So it wouldn't make any difference what we intend to do here. Now, I would like to ask you a question as to what is behind the reasoning that limits the storage of whisky in the first place, the age. As I understand it, foreign countries have no such limitation and therefore, whisky made in Canada or Scotland or England has that certain advantage. What was behind the reasoning that probably the Treasury recommended to the committee in the first instance that limited it to 8 years?

Mr. AVIS. Will you answer that question, Mr. Serr?

This law has been in existence for a great many years.

Senator MALONE. Yes. I heard the argument on it.

Mr. SERR. That probably is a historical development of our taxing system. Originally, the distilled spirits tax was supposed to be paid at the time of production. Then later, the Congress allowed the distiller to retain his whisky in warehouses for a year.

Senator MALONE. One year?

Mr. SERR. One year. But he had to pay the tax within that 1 year. Then it was later extended to 3 years. Then in 1894 it was

extended to 8 years. At that time, distillers were under a limitation as to what losses would be permitted in storage, and a table of loss allowances was written into the law which provided that for each 6 months' period that the whisky was in the warehouse, the Government could allow not in excess of a certain quantity due to leakage and evaporation.

That schedule of loss allowances ran up to 7½ years, and 8 years was the time limit.

Senator MALONE. Then all this bill does is give consideration to the extension of the time limit and the cost has already been set by Congress. It is simply a tax collection setup. As long as the Treasury now agrees that there will be no loss of revenue due to the manipulations under this recommendation, they are willing to go along, is that about it?

Mr. SERR. That is right. May I add one thing to what I said before? In 1950 the Congress took out this schedule of loss allowances so that today we do not have any limit as to what the allowance may be during that 8-year period of storage.

Senator MALONE. Then that is in the judgment of the revenue collector, coupled with the estimates made by the owner?

Mr. SERR. That is right. So today we are not tied into a schedule of loss allowances, and whether the Congress puts it at 8 or 10 or 12 years makes no fundamental change in our system of tax collection.

Senator MALONE. Then the Treasury believes that it is advantageous to everyone concerned in this particular instance to extend the period?

Mr. SERR. That is right.

The CHAIRMAN. As to the general aging of whisky, is there not a common opinion that aging is good for whisky?

Mr. SERR. Aging is good for whisky, especially up to a certain point. Beyond that, there is some question as to whether it adds to the quality of the whisky.

The CHAIRMAN. Is it possible that the Congress might have had that in mind when it passed laws respecting the aging of whisky?

Mr. SERR. Oh, yes.

The CHAIRMAN. Go ahead with your statement.

Senator FREAR. Mr. Chairman, he says it makes whisky good. What makes whisky good?

Mr. SERR. Aging in wooden barrels.

Senator FREAR. What is the difference between 1-year-old whisky and 8-year-old whisky?

The CHAIRMAN. Why, you know that.

Senator FREAR. I wasn't sure everyone agreed with me, Mr. Chairman.

Mr. AVIS. May I resume? The bill would impose upon the Government the burden of safeguarding the whisky in the interest of revenue protection for a longer period, but this would not appreciably increase the cost of supervising warehouse operations. The bill presents no serious administrative problems.

Mr. Chairman, the present distressed condition in the distilled-spirits industry results from a combination of factors. I am not going to attempt to justify the industry's present whisky inventory, nor to argue its case for the enactment of this bill.

The industry representatives who will make statements to this committee are much more familiar with their situation than I am. I have read the statement of Mr. C. K. McClure, secretary and treasurer of the Stitzel-Weller Distilling Co., who, as I understand it, is authorized to speak for the entire industry.

In my opinion, his statement constitutes a comprehensive presentation of the industry's problem. I would say just this to the committee: Whisky production was suspended during the war when the facilities of the distilled-spirits industry were converted to the production of alcohol.

Whisky inventories were drastically depleted. After the war, beginning with the fiscal year 1946, and for each succeeding fiscal year up to and including 1952, production greatly exceeded withdrawals and losses due to leakage.

Senator BENNETT. Mr. Chairman, may I ask a question at this point?

Do we infer from that statement that in 1953 the production was less?

Mr. AVIS. It was; yes, sir. The industry began to adjust production in more direct relation to probable future requirements. It was substantially less.

Senator BENNETT. Reference has been made to H. R. 5407 and H. R. 7651 in the last Congress. Do you know when those bills were introduced?

Mr. AVIS. The Eberharter bill was introduced in 1952, and the Saylor bill last year.

This bill is the compromise version of the original Saylor bill.

Senator BENNETT. So the industry actually went on producing in excess of consumption in the face of the introduction of the original bill?

Mr. AVIS. I would have to calculate that situation.

What do you say about that, Mr. Serr? We are talking about fiscal years, now, and we have to adjust ourselves.

Senator BENNETT. I am just curious as to when the industry recognized its mistake and began to correct it in relation to the time it asked for relief from the Congress.

Mr. AVIS. I would say beginning with the fiscal year 1953 it definitely did, yes.

Senator BENNETT. That was after the request for relief had been introduced in the Congress?

Mr. AVIS. Yes, I think that is correct.

Senator BENNETT. Thank you, Mr. Avis.

Senator MALONE. Mr. Chairman.

The CHAIRMAN. Senator Malone.

Senator MALONE. I think a little information on the amount of tax might be helpful for contemplation. Would you give us the amount of tax per gallon prior to 1898? Can someone do that from memory?

Mr. SERR. It was around 80 or 90 cents a gallon.

Senator MALONE. That is up to 1898?

Mr. SERR. That's right.

Senator MALONE. Did they increase it in 1898?

Mr. SERR. I think they increased it to about \$1.

Senator MALONE. I call attention of the committee that from 1898 it was increased until now it is \$10.50. Then the storage period was

limited to 1 year. It apparently didn't make very much difference because it was well under a dollar a gallon. In 1898 it was 6 years and the \$1 a gallon was an appreciable amount at that time. But, I call attention of the witness that \$10.50 a gallon is a large amount. If there were only a \$1 a gallon tax now, and this bill were introduced, what would you say about that.

Mr. AVIS. I think that would naturally follow.

Senator MALONE. In other words, \$10.50 a gallon is an appreciable amount and when you are talking about 10,000 barrels of whisky, it is a lot of money, whereas if it were less than \$1 a gallon, it probably wouldn't be enough to bother with.

Mr. AVIS. That's right.

Senator MALONE. I would like to ask, too, that the table of taxes on whisky starting well before 1898, when it was just a few cents a gallon, be submitted for the record.

The CHAIRMAN. Will you put it in the record?

(See letter and enclosures, p. 31.)

Mr. AVIS. I might say that the tax was first increased to \$2 a gallon after repeal of prohibition.

Senator MALONE. Will you produce that table for the committee? (See letter and enclosures, p. 31.)

Mr. AVIS. I will resume my statement. Yearend stocks in bonded warehouses increased from 307 million tax gallons for the fiscal year 1945 to 730 million tax gallons for the fiscal year 1953.

I might say that stocks were reduced to about 716 million tax gallons by the calendar yearend of 1953.

Senator KERR. Would you tell the committee how many gallons now in storage would, in the ordinary course of events, without the passage of this act, be subject to taxation this year?

Mr. AVIS. Now, you are talking about whisky and neutral spirits?

Senator KERR. I am talking about whatever it is that you are seeking relief for.

Mr. AVIS. This bill relates primarily to whisky. It covers all distilled spirits.

The CHAIRMAN. How many gallons of 9-or-more-year whisky are there in storage at the present time?

Senator KERR. I don't believe that is quite his question.

The CHAIRMAN. Do you mind if we get that in? Then we will come back to the question.

Senator KERR. Oh, all right.

Mr. SERR. As of December 31, 1953, there were 16,504,137 tax gallons of whisky which would have to come out before December 31, 1954. It will have to come out during this calendar year.

The CHAIRMAN. Is that gallons?

Mr. SERR. Gallons.

Senator KERR. How much will come out in the ordinary transaction of their business?

Mr. AVIS. Of 8-year-old whisky?

Senator KERR. Of this 16 million gallons.

Mr. SERR. How much will come out in the ordinary course?

Senator JOHNSON. Normally.

Senator KERR. In the normal course of business.

Mr. SERR. Well, you are going to have to guess to a certain extent, because this business is flexible. This past year they took out 13

million gallons and had considerable difficulty getting it out. I am only talking about that which is forced out which reaches the eighth year and, therefore, must be taxed during that year.

Senator KERR. Maybe you can help me to find out how much in terms of gallons, and, therefore, in terms of dollars and cents, we are talking about. From what you have said about \$10.50 a gallon, we are talking about \$175 million for 1954 on the basis of \$10.50 a gallon for 16,500,000 gallons.

Mr. SERR. Yes.

Senator KERR. The purpose of my question is to ascertain, if I can, how much of that will be saved to the distillers in the event we pass this bill.

Mr. SERR. You mean how many gallons will not be taxpaid as a result of this bill?

Senator KERR. You have told me that the 16,504,000 gallons that are now 8 years old and under the law has to have the tax paid on it—

Mr. SERR. They will have to be taxpaid before December 31 this year.

Senator KERR. As I understand it, there is no question but what they are willing to pay the tax on that which they take out and sell.

Mr. SERR. Right.

Senator KERR. Therefore, I was trying to find out how much of this would, under the normal course of operations, come out and be sold and with reference to which there would be no question and then, how much the remainder is that can substitute the distress factor that I think the witness is addressing himself to.

Mr. AVIS. I have tried to cover that situation, I believe, a little later.

Senator KERR. I have read all of your statements and I assure you that it is not covered in a way that gives me the information and if you don't want to, or can't give me the information, say so.

The CHAIRMAN. If you can't answer the questions, please say so.

Mr. SERR. We have a chart which involves some estimates as to what this situation will probably develop into year by year in the absence of this legislation.

Senator KERR. That is very fine and I am sure you are prepared to present it in the way that you want to, but with the multitudinous subjects that come before me, and with the many problems involved, I have to pursue a way which is determined by my limitations in order to get the information that I want. As of now, the information that you have given me is that there are 16½ million gallons affected this year. How many gallons will be 8 years old at the end of this year, and with references to which the tax would have to be paid in 1955?

Mr. SERR. 26,276,000 gallons.

Senator KERR. How much are we talking about that will become 8 years old in 1955, and with reference to which the tax will have to be paid in 1956.

Mr. SERR. Then it goes to 88,843,000 gallons.

Senator KERR. So, what we are talking about is \$175 million this year and \$275 million next year and a billion and a quarter dollars the next year.

Mr. SERR. That's right, if none of these spirits are taxpaid in the meantime.

The CHAIRMAN. I would like to ask a question. How much would come out normally, irrespective of this law?

Mr. SERR. Normally about 70 to 75 million gallons will be taxpaid each year. There are, in addition, some 25 or 30 million gallons which are written off as losses because of leakage and evaporation. So, the total quantity that has to be accounted for each year runs in the neighborhood of 100 or 105 million gallons.

Senator KERR. But, that is of all ages, as I understand it.

The CHAIRMAN. I am asking you how much normally comes out 8 years and older.

Mr. SERR. This past year it was around 13 million gallons and, as I said, they had difficulty in doing that. You have to remember that this is a comparatively new industry.

Senator KERR. The whisky business is comparatively new?

Mr. SERR. Insofar as the present industry is concerned, it started with repeal in 1933. There was a period of prohibition when they were out of business. So when repeal came along they started from scratch. At that time they had to build their plants, build up inventories, try to get whisky in warehouses so it could age and be properly marketed. They went into it without knowing exactly what the market was going to be. By 1939, or 1940, they found themselves in a stage of overproduction. They had overestimated their market. However, the war came along and bailed them out. With the war, further production was stopped and they were fortunate they had those excessive stocks. It carried them through. Then, after the war, they tried to get back into business again and build up their stocks. Again, they went through a period of excessive production. In 1948 and 1949, they brought their production down considerably, but when the Korean situation came along it frightened them into starting up again and they produced 205 million gallons in that 1 year, which was twice as much as they needed. Last year, the production was down to 65 million gallons.

The CHAIRMAN. Let me ask this again. How much of this 8-year-old or older whisky passes into circulation normally a year?

Mr. SERR. Normally, I would say, looking back over the past 10 years, it will run between 5 and 10 million gallons.

The CHAIRMAN. And how much is stored at the present time of that type of whisky?

Mr. SERR. There will come out this 1 year, 16½ million gallons.

The CHAIRMAN. I am talking about 8-year-old whisky, or older.

Mr. SERR. You understand, Senator, whisky that was put into storage back in 1946 becomes 8 years old in 1954.

The CHAIRMAN. That is a mathematical calculation.

Mr. SERR. There are 16½ million gallons.

The CHAIRMAN. I am asking you for the net result. How much stands in the warehouses 8 years or older, and how much is taken out each year normally?

Mr. SERR. I think I misunderstood the point. Normally, as I said, between 5 and 10 million gallons of 8-year-old whisky.

The CHAIRMAN. How much of that type of whisky is standing in the warehouses?

Mr. SERR. Under the law, no whisky may remain in there beyond the 8 years, so that today the only whisky—

The CHAIRMAN. How much is it?

Mr. SERR. 16½ million will become 8 years old this year.

The CHAIRMAN. I think I am still confused. What is the total stock in storage of 8-year-old whisky, or older?

Mr. SERR. Actually, there is none because the law does not permit it to go over 8 years. There is a small quantity—to qualify that a little bit—that on December 31, 1953, about 350,000 gallons, which they could not tax-pay—

The CHAIRMAN. We'll pass the small quantity for the present time. Roughly speaking, now, there are no stocks 8 years or older?

Mr. SERR. Except those that were not taxpaid and are being forced out.

The CHAIRMAN. How much does that amount to?

Mr. SERR. I don't have the figure as of today.

The CHAIRMAN. Well, give me a rough figure.

Mr. SERR. I don't think it runs more than a half million gallons.

The CHAIRMAN. And at the same time you are passing normally how many million gallons of that type of whisky?

Mr. SERR. Normally between 5 to 10 million gallons a year, but they have 16½ million gallons of that type of whisky which must come out this year. That is their problem, about 2 to 3 times their normal consumption of 8-year-old whisky has to come out this year.

The CHAIRMAN. All right.

Mr. SERR. Three or four years from now it will be much greater than that.

Senator MALONE. You say 13 million last year. Why do you say 5 to 10 million normally?

Mr. AVIS. That was abnormal.

Mr. SERR. I was talking about average. This 13 million was already to a large extent the result of the 8-year force-out.

Senator MALONE. How much of it was forced out that wouldn't normally come out last year?

Mr. SERR. That is a difficult question to answer.

Senator MALONE. Let's put it this way: How much of that 13 million that was forced out is still on some retailer's shelves that would come under a refund here in case this bill passes? It looks like we ought to know that.

Mr. SERR. We do not get complete reports, except from distillers, rectifiers, and wholesalers.

Senator MALONE. Let's say the average is 5 to 10 and it would be 7 million that would come out, or 6 million, that they have not paid tax on, that is still on the shelves some place, according to your statement.

Mr. SERR. Not necessarily. I said that more was forced out last year than ordinarily comes out of the 8-year category.

Senator MALONE. Do you have any idea how much of this 13 million that was forced out due to the fact that they had to pay the tax is still ready for sale someplace, but has not gone into the hands of the consumer?

The CHAIRMAN. Couldn't you deduct what went out the year before from what went out last year and get a rough figure?

Mr. SERR. I didn't hear that.

The CHAIRMAN. Couldn't you deduct what went out the year before from what went out last year and thus get a rough figure on the whisky forced out?

Mr. SERR. I think you will find that actually, of this 13½ million gallons, at least half of it was forced out before the proprietor was ready for it.

Senator KERR. Pursuing the chairman's question, did you ask him what came out in 1952?

The CHAIRMAN. I didn't ask him that figure. I asked him to do the digging. I may be all wrong, but it seems to me if you deduct what went out the year before and what went out last year, you have some idea of the force-out.

Mr. SERR. Would you care to listen to a few figures?

Senator KERR. I would like him to tell us how much came out in 1946, 1947, 1948, 1949, 1950, 1951, and 1952.

The CHAIRMAN. Let's get into that later. Just give me that simple figure of how much was forced out last year by deducting what went out the preceding year from what went out last year. I assume there is no great increase in whisky consumption. Is there any great increase?

Senator MALONE. Well, there may have been, Mr. Chairman. We opened a lot of stills when we raised the tax to 10½, so the whisky consumption may have increased.

Mr. AVIS. The industry had the biggest year last year that they have ever had, with the exception of 1946.

The CHAIRMAN. Then is whisky consumption per capita increasing?

Mr. AVIS. Tax payments have increased. 1946 was a big year and that was a year in which the gadgets were not yet available for the public to buy. Last year was the biggest year that they have ever had with the exception of 1946.

The CHAIRMAN. Give us the two figures of what went out last year and what went out the preceding year.

Mr. SERR. I have some figures here which are really fiscal year figures.

The CHAIRMAN. All right.

Mr. SERR. The fiscal year 1953 was 2,215,000 gallons that went out in the 8-year category.

Senator KERR. That is, there was that much 8-year old whisky that went out?

Mr. SERR. Yes, in the 8-year-old category. In the fiscal year 1952 it was only 1,363 gallons. In the fiscal year 1951 it was 1,501,000.

The CHAIRMAN. How do you account for the difference between a million and a thousand?

Mr. SERR. That is the result of the war shutdown.

The CHAIRMAN. I see.

Mr. SERR. In 1943 and 1944 they were not able to make whisky so there was no force-out whisky in 1952.

The CHAIRMAN. Those 2 years, then, do not give you a fair figure if you deduct one from the other. Then, let's get at it on an average.

Mr. SERR. That is why I went back over a period of years.

The CHAIRMAN. All right; give me a period of years.

Mr. SERR. 1950, 12,733,000; 1949, 12,221,000; 1948, 7,327,000; 1947, 4,760,000; 1946, 3,424,000.

The CHAIRMAN. Then there has been a rapid increase in consumption of that type of whisky; is that right?

Mr. SERR. That's right. There has been an enforced swing toward the older whisky.

The CHAIRMAN. And that was unaffected in the earlier years by this problem?

Mr. SERR. That's right.

Senator JOHNSON. Mr. Chairman, may I ask this question? I don't understand the switch from the calendar year to the fiscal year when, as I understand it, the tax is payable on a calendar-year basis. You have been talking about the deadline on December 31 of each year. Is that right?

Mr. SERR. We tried to give the latest figures available in making our calculations. The last age statement we had is as of December 31, 1953, so our calculations were, therefore, based upon periods tied into the close of the calendar year. Normally, our books are set up on a fiscal-year basis.

The CHAIRMAN. When you depart from fiscal years, will you always say so, so we know what you are talking about?

Mr. SERR. Yes.

Senator JOHNSON. Why have you been talking here about the amount that has to get out in the calendar year of 1954, 16 million, as though December 31 were the deadline?

Mr. SERR. Actually, no particular date like that is of any significance, because the way the law reads, the whisky must come out of bond 8 years from the time it is put in. So if it is put in on the 3d of March, 8 years after the 3d of March 1954 it must come out.

Senator JOHNSON. Then why do you speak of the calendar year, or why didn't you stay with it? What is the object of going to a fiscal year? If it can come out of there on the 10th of November, or the 10th of March, or the 10th of April, why don't you stay with the calendar year so we don't get all balled up with the 2 years?

Mr. SERR. I'm sorry. As I said, our figures and our reports, the commissioner's annual reports, are issued on a fiscal-year basis which ends June 30. Therefore, normally our figures are set up on June 30 of each year. However, because of the particular situation here, we tried to get the latest inventory figure, which was December 31.

Senator JOHNSON. It seems to me you would have to stay with the calendar year. If it is variable all through the year, it seems to me you would have to base all your statements on the calendar year.

Mr. SERR. Well, we'll be glad to provide you with figures on either basis.

Mr. AVIS. Or on both.

Mr. SERR. Although the fiscal-year figures are more readily available to us—

Senator JOHNSON. The fiscal-year figures will be distorted. They won't give us the information that we need and they won't be realistic if there are withdrawals all through the year. We had better stay with the calendar year because otherwise we are going to get mixed up if we are trying to understand the question.

I have another question that I would like to ask this witness sometime, and perhaps this is as good a time as any.

We talk about the distilling industry as though it were one component part. There are many parts to it like the big distillers and the little distillers and the medium-sized distillers, and my question is, Who has caused this overproduction? Has it been the big distillers or the little distillers or the medium-sized distillers? Congress has been dealing with surpluses. It is not an easy subject to deal with, but

we have had it with us a long time and we'll have it with us a long time from now. One of the remedies that we have for that is allocations. Is there any proposal here that if the big distillers caused all of this difficulty, that we are going to hold them down to a certain production? If you treat it all as one industry, and a—say—very large distiller, can't he throw the whole thing out of kilter by a very extended production and injure the little distiller? It seems to me that he might. I know it is the feeling of Congress that we want to help the small-business man, because he has a more difficult time operating. I think the spirit of the committee would be—not to get it mixed with the spirits that you are talking about—to assist the smaller distiller in every way that we could. But, without some kind of a plan of allocation to correct this problem in the future, it seems to me that we are working at cross purposes. One big distiller could make it very difficult for a whole dozen little distillers if you just go blind and treat them all as one industry, without any breakdown. Is the purpose to have a breakdown, to find out who is the fellow who has caused this very huge and unassimilated surplus?

Mr. AVIS. We can furnish production figures for the various plants. (See letter and enclosures, p. 31.)

Senator JOHNSON. Do you know offhand who it is that has caused the great difficulty? Has it been equal, percentagewise?

Mr. AVIS. There has been overproduction.

Senator JOHNSON. Yes; overproduction by the industry, but I am talking about who in the industry has been causing this trouble.

Mr. AVIS. I think they are more or less all involved. Some of them have overestimated their ability to market—

Senator JOHNSON. Sure, they are all involved. There is no question of them being all involved in it, as long as you consider the single industry.

Mr. AVIS. We'll be glad to supply to the committee the information concerning the production of the various plants and the stocks held in their warehouses.

Senator JOHNSON. I would like to find out if there is a villain here, who the villain is so we can handle the thing in some justice and with equality in mind.

Mr. AVIS. May I proceed, Mr. Chairman?

Senator MALONE. Mr. Chairman, couldn't we have this table to which the witness has often referred inserted in the record?

The CHAIRMAN. Is there any reason why it shouldn't go in the record?

Mr. SERR. No reason.

The CHAIRMAN. Put it in the record.

(See letter and enclosures, p. 31.)

Senator KERR. That is the information which I thought the Chairman ruled he would give us in executive session.

The CHAIRMAN. That is a different type of information.

Mr. SERR. This table is based on yearly figures and does not involve individual plants.

Senator KERR. Pardon me.

Mr. AVIS. May I resume? Regardless of the reasons which led to the accumulation of the present whisky stocks or the justification therefor, the facts are that the whisky surplus coupled with the force-outs and threatened force-outs of whisky reaching the limit of

the bonded period has so depressed the bulk whisky market that bourbon whisky between 4 and 8 years old is being offered at cost of production, plus carrying charges, or less. Rye whisky of the same ages is being offered at substantially below cost.

Senator KERR. Is it the purpose of the Treasury to relieve that situation?

Mr. AVIS. It is certainly the purpose of the industry and the Treasury has indicated its support of the bill.

Senator KERR. Then would this bill appropriately be designated as one in substituting a system of support prices for whisky?

Mr. AVIS. I don't think so, Senator.

Senator KERR. You have addressed yourself to the distressed conditions created by surpluses which are compelling the sale of whisky at cost or below cost as part of your recommendation for the passage of this bill, I take it.

Mr. AVIS. Yes, I think that's correct, Senator.

Senator KERR. I just wanted to ask you how it was that the Treasury was so interested in securing the passage of a bill for substituting support prices for whisky and the Department of Agriculture doing all it could to prevent the passage of a bill to provide support prices for agriculture.

Mr. AVIS. Well, that is a difficult question since I just said I don't think this a price-support bill.

Senator KERR. I thought it was a difficult question, but I would like to have an answer.

Mr. AVIS. You can draw your own conclusions, Senator.

Senator KERR. I am going to do that, and you can either answer or decline to answer.

Mr. AVIS. I don't want to be disrespectful.

Senator KERR. You don't need to be to answer a question. I don't care what respect, or lack of it you have for me.

Mr. AVIS. I have a great deal, sir.

Senator KERR. When you come here for testimony, you had better come here prepared to answer questions

The CHAIRMAN. I don't think the witness need answer contrasting the policies of two departments.

Senator MALONE. Mr. Chairman.

The CHAIRMAN. Senator Malone.

Senator MALONE. In fairness to the distillers, I think we should call attention to the fact that there probably would be less revenue collected by the Government if we do not pass the bill. I don't say I think that. You can draw that assumption and I am not stating it as a truth. But, if you force this out, the alternative is that they redistill the liquor and then it has to go 8 years again before you can force the tax to be collected. Then they can export this liquor, or just across the line some place in some foreign country, like Canada, and store it and you could not collect it. Then, in his testimony he says there were 357,000 tax gallons produced in 1945, but they were unable to make arrangements to pay, so they just left it there. As a matter of fact, I think the whole point is being overlooked, that the Government is not going to profit by this particular forceout. It is very likely that it will be exported for storage, redistilled, or just left for the Treasury to do the best it can with it.

I think we are overlooking that point.

The CHAIRMAN. Proceed, Mr. Witness.

Mr. AVIS. During the last 6 months of 1953, 2,450,000 tax gallons of whisky were transferred to customs manufacturing bonded warehouses ostensibly for export. This is 10 times the average annual quantity heretofore transferred. During the same period of time at least 250,000 tax gallons were redistilled in order to avoid the immediate payment of excise taxes.

The CHAIRMAN. Let me ask you what happens when a distiller transfers a gallon of whisky to a customs bonded warehouse.

Mr. AVIS. That whisky must be ultimately exported. It cannot go back into internal-revenue bond.

The CHAIRMAN. And what is the tax significance?

Mr. AVIS. There is no tax. It is exported tax-free.

Senator MALONE. That was my point, Mr. Chairman, that you can put it in a bonded warehouse for export and not pay it at all and redistill it or abandon it.

The CHAIRMAN. Is there any limit on the amount of whisky that can be put in one of those exporting warehouses?

Mr. AVIS. No; there is no limit.

The CHAIRMAN. Do they have to get a license to operate the exporting warehouse?

Mr. AVIS. It has to be qualified and applications must be made for transfer.

The CHAIRMAN. Would it be possible for the industry to simply transfer this stuff that is distressing them into this kind of a warehouse and let it rest there?

Mr. AVIS. That, in my opinion, is what has been done, Mr. Chairman. There might be a point beyond which the Treasury might take action to preclude that.

The CHAIRMAN. What action could it take under the law?

Mr. AVIS. Well, it could refuse to approve the applications, but the people that have transferred this whisky have stated that it is for export and we believe that in the final analysis they must export it.

The CHAIRMAN. Under the law, have you the power to say, "No, this is phony. It is not really for export. You are trying to evade the tax"?

Mr. AVIS. I think we would probably have the power; yes, sir.

The CHAIRMAN. I am not talking about the power, but the right.

Mr. AVIS. The right.

The CHAIRMAN. Under the law?

Mr. AVIS. Yes.

Senator KERR. Might you even have the duty to do that?

Mr. AVIS. I think if we became convinced this was not actually going to be exported, we would; yes, sir.

Senator KERR. In view of the fact that it was—did you say it was 10 times the ordinary amount?

Mr. AVIS. That's right.

Senator KERR. How many years would it go on before you would become convinced that it was not actually for export, but was an evasion of tax and that you did have a duty to prevent further transfer?

Mr. AVIS. We are exploring that now, Senator.

Senator JOHNSON. Does the problem you are facing there have anything to do with the recommendation of the Treasury that Samoa and

the Virgin Islands and Guam and some other places be considered as export countries where you can send this liquor without tax?

Mr. AVIS. I don't think so; no, sir.

Senator BENNETT. Mr. Chairman, I would like to ask the witness a question.

Senator JOHNSON. What was the answer?

Mr. AVIS. No, sir.

Senator BENNETT. Once this whisky is transferred into a customs manufacturing bonded warehouse, it can go nowhere except into export.

Mr. AVIS. That's right, sir.

Senator BENNETT. There are no conditions under which the seller or the transferor can recover it and bring it back into the domestic market, so he has either got to export it or abandon it.

Senator JOHNSON. Or send it to Guam, Senator.

Senator BENNETT. Or Puerto Rico.

Senator KERR. He can send it to Puerto Rico, Guam, Samoa, Panama, or the Virgin Islands, under the bill that was introduced.

The CHAIRMAN. It didn't pass, Senator.

Senator BENNETT. It shall not pass.

The CHAIRMAN. What does it cost to redistill a gallon of aged whisky?

Mr. AVIS. I don't know. The industry has taken the position, I understand, that it involves about a 90-percent loss. That includes carrying charges and everything.

The CHAIRMAN. Do you know anything about that?

Mr. SERR. The actual cost of redistillation, the physical running of it through the still, is fairly cheap. Five or ten cents a gallon will take care of that. But, if the whisky is aged to 8 years and has a potential value, let us say, of \$2 or \$3 a gallon, when it is redistilled it loses all of its age and comes out as new whisky or new spirits again. So, by the process of redistillation they lose all of that value.

Senator KERR. They lose the value, but not the cost?

Mr. SERR. That's right, not the cost of the materials which were originally used.

The CHAIRMAN. Proceed, Mr. Witness.

Mr. AVIS. The owners of 357,000 tax gallons produced in 1945 were unable to make arrangements to pay the tax on the whisky and, therefore, left it in bonded warehouses subject to assessment and penalties.

The CHAIRMAN. What are the penalties?

Mr. AVIS. Five percent.

The CHAIRMAN. Per year, or per month?

Mr. AVIS. Only one 5-percent penalty attaches.

Senator KERR. Does that constitute a liability against the company or just a lien of the whisky?

Mr. AVIS. Against the company, the producer. The Government holds the original distiller, regardless of who the owner is. There is also a lien against the whisky.

The CHAIRMAN. Go ahead.

Mr. AVIS. Mr. Chairman, this is just the beginning. As time goes on larger quantities of whisky will reach the 8-year limitation and be forced out of bond for which there is no foreseeable firm market.

Mr. Chairman, H. R. 5407 constitutes no permanent solution to the industry's whisky surplus problem. This can only be accomplished by adjusting production to conform to existing stocks and future trade requirements. The bill, would, however, relieve the present distress situation in the industry and provide the industry with an opportunity to arrange for the disposition of the older whisky stocks in a more orderly manner.

The CHAIRMAN. Are there any questions?

Senator BENNETT. Mr. Chairman.

The CHAIRMAN. Senator Bennett.

Senator BENNETT. One more. As I understand it, the bill would extend the period for 4 years on which the whisky might be kept in stock without payment of the tax. Yet, the production tables show the worst peak of overproduction was in the year 1951, which will come to a force-out situation 5 years from now. So, we are not solving the problem even with a 4-year program.

Mr. SERR. The bill applies to any whisky that is now in warehouses. The 1951 production referred to in your question is in warehouses and would be covered by this bill.

Senator KERR. It would go 4 years beyond the 8 years, which is presently the termination period of any whisky now in storage.

Senator BENNETT. I see. It is not for calendar years from this date? I'm glad to get that straightened out.

Senator JOHNSON. I have a question, Mr. Chairman.

The CHAIRMAN. Senator Johnson.

Senator JOHNSON. Is there any practical way, may I ask the Treasury, of placing this distressed whisky in a separate category that has to be carried over the 4-year extra period and charge that back to the fellow that cused the surplus? In other words, the amount that you put in that extra 4-year category, if that is charged up against the fellow who put it in there, we might let him cut down the amount that he puts in thereafter until he straightens out his own balance sheet.

Mr. AVIS. I don't believe that would be practical at all, Senator. You have the problem of the ability to market whisky, as far as the individual companies are concerned. In other words, some of these companies didn't produce any more than they needed to meet their own requirements. Furthermore, some of their businesses increased more rapidly than others. I just don't see how you could devise any such approach as that.

Senator JOHNSON. The trouble, of course, is that you are treating it all as an industry problem instead of an individual problem. I can see where that would be much easier for the Treasury, but I am just wondering if there is any way of extending this relief on an individual basis and then requiring him to put less whisky in storage until he works out his balance.

Senator KERR. I asked them a question this morning.

Senator JOHNSON. Did you ask him that?

Mr. AVIS. Yes, he dealt with that.

Senator KERR. I asked if it was possible to come up with information as to what an average small distiller would have in effected stocks and if the Treasury would be willing for an amendment to this bill so that the relief would be given to the average small distiller and not to others, and he said he didn't know what their position would be.

Mr. AVIS. Exactly.

Senator JOHNSON. But that he would advise the committee.

Senator KERR. That is not the same thing you are addressing yourself to.

Senator JOHNSON. It is not the same thing, but it is the same purpose and objective. Speaking personally, as one member of this committee, I would like to see some method worked out whereby we could relieve the small distiller from the burden that he is under. One of the reasons that I want to give him relief is that he is at a disadvantage under our fair-trade laws of disposing of his product. The big fellow under the fair-trade practice laws of the different States can dispose of his product, while the little fellow is having much more difficulty.

Personally, I would like to see something worked out to give him relief. I think we owe it to him. Otherwise he will be forced to the wall. I don't think we want to see any businesses destroyed in this country. Whether we like the business or not is another question. As between the big distiller and the little distiller, I am very much in the little distiller's corner. I would like to have the Treasury come up with some kind of a plan whereby we could give him assistance without giving the big monopolists the assistance.

The CHAIRMAN. Are you through?

Mr. AVIS. Senator, I am not in a position to say whether that is possible at this time, or not.

The CHAIRMAN. Are there any further questions of the witness?

Senator JOHNSON. Will you think about it?

Mr. AVIS. I certainly will, and I will consult my superiors in the Treasury.

Senator MALONE. Mr. Chairman.

The CHAIRMAN. Senator Malone.

Senator MALONE. They have with them, I understand, a list of distillers that have been forced to discontinue during the last year or two. I wonder if we could have that made a part of the record.

The CHAIRMAN. Have you a list of distillers that have been discontinued?

Mr. AVIS. We are having such a list prepared, Senator. I understand it is here, Mr. Serr.

Mr. SERR. Yes.

Senator MALONE. May it be made a part of the record?

The CHAIRMAN. Will you submit it as a part of the record, please?

Thank you very much, Mr. Avis.

(The following letter and enclosures were subsequently received for the record:)

UNITED STATES TREASURY DEPARTMENT,
COMMISSIONER OF INTERNAL REVENUE,
Washington 25, March 3, 1954.

HON. EUGENE D. MILLIKIN,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: In order to complete my testimony before your committee at the public hearing on H. R. 5407, "An act to amend section 2879 (b) of the Internal Revenue Code," I am enclosing at the committee's request the following material for insertion in the record of the hearing on February 24, 1954, at the pages noted:

(1) Record, page 39. A table showing the rates of excise taxes on distilled spirits from August 1, 1862, to the present.

(2) Record, page 55. A table showing total whisky production, taxpaid withdrawals, disappearances, and stocks, by calendar years 1934 through 1953.

(3) Record, page 55. Tables showing whisky stocks and disappearances by age classes for fiscal years 1934 through 1953.

(4) Record, page 67. A list of registered distilleries discontinued since January 1, 1953.

I am also returning herewith the corrected copy of the record of my oral testimony at the hearing. I would like to express my thanks for the opportunity furnished me to review my statement.

In the course of my statement before the committee I was requested (record, p. 9) to furnish references to the provisions of law authorizing internal revenue officers to visit and inspect distillery premises and warehouses operated in connection therewith. A memorandum on this point is enclosed.

With reference to the proposal (record, p. 32) to restrict the application of the bill, the Treasury Department is not in a position to comment on the general principle of legislation for limited or special relief, but will be glad to comment on any specific proposal which may be developed.

As I stated at the hearing (record, p. 12), I am prepared to advise your committee in executive session of the existing stocks, by ages, of whisky held in each internal revenue bonded warehouse.

Very truly yours,

DWIGHT E. AVIS,
Director, Alcohol and Tobacco Tax Division.

TABLE 123.—Rates of taxes: Excise taxes

Effective dates		Distilled spirits (tax gallons) ¹	Wines ¹			Cordials and liqueurs	Fermented malt liquors (barrels)	Act
From—	Through—		Kind	Container	Rate			
Aug. 1, 1862	Mar. 3, 1863	\$0.20	Wine made of grapes		\$0.05 per gallon		\$1.00	July 1, 1862
Mar. 4, 1863	Mar. 7, 1864	.20	do.		do.		.60	Mar. 3, 1863
Mar. 8, 1864	Mar. 31, 1864	.60	do.		do.		.60	Mar. 7, 1864
Apr. 1, 1864	June 30, 1864	.60	do.		do.		1.00	July 1, 1862
July 1, 1864	Dec. 31, 1864	² 1.50	do.		do.		1.00	June 30, 1864
			Wines made of materials other than grapes, currants, rhubarb, or berries. ³		\$0.50 per gallon			
Jan. 1, 1865	Mar. 31, 1865	² 2.00	do.		do.		1.00	Dec. 22, 1864
Apr. 1, 1865	July 31, 1866	⁴ 2.00	do.		do.		1.00	Mar. 3, 1865
Aug. 1, 1866	Mar. 2, 1867	2.00	do. ⁵		do.		1.00	July 13, 1866
			Wines made in imitation of sparkling wine or champagne and bottled in imitation of imported wine. ³	Not more than 1 pint	\$3 per dozen containers			
				More than 1 pint, not more than 1 quart.	\$6 per dozen containers			
Mar. 3, 1867	July 20, 1868	² 2.00	do.	do.	do.		1.00	Mar. 2, 1867
July 21, 1868	July 31, 1872	.50	Wine made in imitation of sparkling wine or champagne, but not from domestic grapes, and certain other wine products. ³	Not more than 1 pint	\$3 per dozen containers		1.00	July 20, 1868
				More than 1 pint, not more than 1 quart.	\$6 per dozen containers			
Aug. 1, 1872	Mar. 3, 1875	.70	Wines made in imitation of sparkling wine or champagne, and certain other wine products. ³	Not more than 1 pint	\$0.10 per container		1.00	June 6, 1872
				More than 1 pint, not more than 1 quart.	\$0.20 per container			
Mar. 4, 1875	Aug. 27, 1894	.90	Wines made in imitation of sparkling wine, etc. ⁶	do. ⁶	do. ⁶		1.00	Mar. 3, 1875
Aug. 28, 1894	June 13, 1898	⁷ 1.10	do. ⁶	do. ⁶	do. ⁶		1.00	Aug. 27, 1894
June 14, 1898	June 30, 1898	1.10	do. ⁶	do. ⁶	do. ⁶		2.00	June 13, 1898
July 1, 1898	June 30, 1901	1.10	do. ⁶	do. ⁶	do. ⁶		2.00	Do.

See footnotes at end of table, p. 34.

TABLE 123.—Rates of taxes: Excise taxes—Continued

Effective dates		Distilled spirits (tax gallons) ¹	Wines ¹				Cordials and Liqueurs	Fermented malt liquors (barrels)	Act
From—	Through—		Kind	Container	Rate				
July 1, 1901	June 30, 1902	\$1.10	Sparkling or other wines ²	{ 1 pint or less.....	\$0.01 per container		\$1.60	Mar. 2, 1901	
July 1, 1902	Oct. 22, 1914	1.10	Wines made in imitation of sparkling wine, etc. ³	{ More than 1 pint.....	\$0.02 per container		1.00	Apr. 12, 1902	
Oct. 23, 1914	Sept. 8, 1916	1.10	do. ⁴	do. ⁵	do. ⁶	(⁶)	1.50	Oct. 22, 1914	
			Still wines		Sparkling and artificially carbonated wines				
			Container	Rate	Container	Rate			
			¼ pint or less.....	\$0.00¼	¼ pint or less.....	\$0.05	(⁶)		
			More than ¼ pint, not more than ½ pint.	\$0.00½	More than ½ pint, not more than 1 pint.	\$0.10	(⁶)		
			More than ½ pint, not more than 1 pint.	\$0.01	More than 1 pint, not more than 1 quart.	\$0.20	(⁶)		
			More than 1 pint, not more than 1 quart.	\$0.02	Other.....	\$0.20 per quart.	(⁶)		
			Other.....	\$0.08 per gallon.					

¹ See below for statement on brandy used in the fortification of wine.

² Spirits distilled from grapes, \$0.25.

³ See below for detailed description.

⁴ Spirits distilled from grapes, \$0.50; spirits distilled from apples or peaches, \$1.50.

⁵ Spirits distilled from grapes, \$1.

⁶ Same as provided by the act of June 6, 1872, effective Aug. 1, 1872. These taxes con-

tinued in effect until superseded by taxes imposed by the act of Sept. 8, 1916, and were specifically repealed by an act of Mar. 3, 1933.

⁷ A provision for refund of the tax to manufacturers using alcohol in the arts, or in any medicinal or other like compound, was effective until repealed on June 3, 1896.

⁸ Container and rates: ¼ pint or less, \$0.01¼; more than ¼ pint, not more than 1 pint, \$0.03; more than 1 pint, not more than 1 quart, \$0.06; other, \$0.24 per gallon.

Detailed descriptions of certain wines and related products are quoted below from the acts which imposed taxes upon them:

Act	Product taxes	Size of container	Rate
June 30, 1864	"All * * * wines [other than wine made of grapes] or liquors known or denominated as wine, not made from currants, rhubarb, or berries, produced by being rectified or mixed with other spirits, or into which any matter whatever may be infused to be sold as wine, or by any other name."	-----	\$0.50 per gallon.
July 13, 1866	"All liquors known or denominated as wine, not made from grapes, currants, rhubarb, or berries, produced by being rectified or mixed with other spirits, or into which any matter whatever may be infused to be sold as wine, or by any other name."	-----	Do.
	"All wines, liquors, or compounds known or denominated as wine, made in imitation of sparkling wine or champagne, and put up in bottles in imitation of any imported wine, or with the pretense of being imported wine, or wine of foreign growth or manufacture."	Not more than 1 pint.. More than 1 pint, not more than 1 quart.	\$3 per dozen. \$6 per dozen.
July 20, 1868	"All wines, liquors, or compounds known or denominated as wine, and made in imitation of sparkling wine or champagne, but not from grapes grown in the United States, and * * * all liquors not made from grapes, currants, rhubarb, or berries grown in the United States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine or by any other name."		Not more than 1 pint.. More than 1 pint, not more than 1 quart.
June 6, 1872	"All wines, liquors, or compounds known or denominated as wine, and made in imitation of sparkling wine or champagne, but not made from grapes grown in the United States, and * * * all liquors, not made from grapes, currants, rhubarb, or berries grown in the United States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine, or as a substitute for wine."	Not more than 1 pint.. More than 1 pint, not more than 1 quart.	\$0.10. ² \$0.20. ²

¹ "And at the same rate for any quantity of such merchandise, however the same may be put up or whatever be the package."

² "And at the same rate for any larger quantity of such merchandise, however the same may be put up or whatever be the package."

EXTENSION OF BONDING PERIOD ON LIQUOR

Beginning on October 2, 1890, certain brandy or wine spirits used in the fortification of wines were exempted from the excise taxes imposed upon distilled spirits and were taxed as follows:

Effective dates		Rate of tax	Description	Act
From—	Through—			
Oct. 2, 1890	June 7, 1906	-----	Grape brandy or wine spirits used by a winemaker (which he, as a distiller, produced) to fortify grape wine, during months from August through April, to alcoholic strength no greater than 14 percent by volume.	Oct. 1, 1890.
June 8, 1906	Oct. 22, 1914	\$0.03 per tax gallon. ¹	do-----	June 7, 1906.
Oct. 23, 1914	Sept. 8, 1916	\$0.55 per tax gallon.	Grape brandy or wine spirits used by a winemaker to fortify grape wine.	Oct. 22, 1914.
Sept. 9, 1916	Oct. 3, 1917	\$0.10 per proof gallon.	do-----	Sept. 8, 1916.
Oct. 4, 1917	Feb. 24, 1919	\$0.30 per proof gallon.	do-----	Revenue Act of 1917.
Feb. 25, 1919	June 29, 1928	\$0.60 per proof gallon.	do-----	Revenue Act of 1918.
June 30, 1928	Jan. 11, 1934	\$0.10 per proof gallon.	do-----	Revenue Act of 1928.
Jan. 12, 1934	Aug. 29, 1935	\$0.20 per proof gallon.	do-----	Liquor Tax Act of 1934.
Aug. 30, 1935	June 26, 1936	do-----	Same except for inclusion, in addition, of citrus-fruit brandy used to fortify citrus-fruit wine.	Aug. 29, 1935.
June 27, 1936	June 30, 1940	\$0.10 per proof gallon.	Same except for inclusion, in addition, of peach, cherry, berry, apricot, and apple brandy used to fortify the respective kinds of wine.	Liquor Tax Administration Act of 1936.
July 1, 1940	-----	-----	Same except for inclusion of prune, plum, and pear brandy or wine spirits, in addition to the above kinds of brandy or wine spirits, used to fortify the respective kinds of wine.	June 24, 1940.

¹ A charge to cover the expenses of the Government in furnishing supervision at wineries.

TABLE 123.—Rates of taxes: Excise taxes

Effective dates		Distilled spirits (tax gallons)		Still wines ¹			Sparkling wines (½-pint units)	Artificially carbonated wines (½-pint units)	Cordials and liqueurs (½-pint units)	Fermented malt liquors (barrels)	Act
		Beverage ²	Nonbeverage	14 percent (wine gallons)	14 to 21 percent (wine gallons)	21 to 24 percent (wine gallons)					
(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
FROM—	THROUGH—										
Sept. 9, 1916	Oct. 3, 1917	\$1.10	\$1.10	\$0.04	\$0.10	\$0.25	\$0.03	\$0.01½	\$0.01½	\$1.50	Sept. 8, 1916.
Oct. 4, 1917	Feb. 24, 1919	3.20	2.20	.08	.20	.50	.06	.03	.03	3.00	Revenue Act of 1917.
Feb. 25, 1919	Dec. 31, 1926	6.40	2.20	.16	.40	1.00	.12	.06	.06	6.00	Revenue Act of 1918.
Jan. 1, 1927	Dec. 31, 1927	6.40	1.65	.16	.40	1.00	.12	.06	.06	6.00	Revenue Act of 1926.
Jan. 1, 1928	June 29, 1928	6.40	1.10	.16	.40	1.00	.12	.06	.06	6.00	Do.
June 30, 1928	Jan. 11, 1934	6.40	1.10	.04	.10	.25	.12	.06	.06	6.00	Revenue Act of 1928.
Apr. 7, 1933	do			5.00						5.00	Act of Mar. 22, 1933.
Jan. 12, 1934	June 26, 1936	2.00	2.00	.10	.20	.40	.05	.02½	.02½	5.00	Liquor Tax Act, 1934.
June 27, 1936	June 30, 1938	2.00	2.00	.05	.10	.20	.02½	.01½	.01½	5.00	Liquor Tax Administration Act of 1936.
July 1, 1938	June 30, 1940	2.25	2.25	.05	.10	.20	.02½	.01½	.01½	5.00	Revenue Act of 1938.
July 1, 1940	Sept. 30, 1941	3.00	3.00	.06	.18	.30	.03	.01½	.01½	6.00	Revenue Act of 1940.
Oct. 1, 1941	Oct. 31, 1942	4.00	4.00	.08	.30	.65	.07	.03½	.03½	6.00	Revenue Act of 1941.
Nov. 1, 1942	Mar. 31, 1944	6.00	7.00	.10	.40	1.00	.10	.05	.06	7.00	Revenue Act of 1942.
Apr. 1, 1944	Oct. 31, 1951	9.00	9.00	.15	.60	2.00	.15	.10	.10	8.00	Revenue Act of 1943.
Nov. 1, 1951	-----	10.50	10.50	.17	.67	2.25	.17	.12	.12	9.00	Revenue Act of 1951.

¹ See back of preceding sheet for statement on brandy used in the fortification of wine.

² From Dec. 6, 1933, through Jan. 11, 1934, the \$1.10 rate was applied.

³ On wine and fermented malt liquor containing ½ of 1 percent or more of alcohol by volume and not more than 3.2 percent of alcohol by weight, on every barrel containing not more than 31 gallons.

⁴ 1-pint unit.

⁵ Rate on brandy, \$2.

⁶ Rate on brandy, \$2.75.

⁷ Drawback on designated nonbeverage products, \$3.75.

⁸ Drawback on designated nonbeverage products, \$6.

⁹ Pursuant to Treasury Decisions 5694, effective May 1, 1949, the rate on imported liqueurs, cordials, flavored wine, compounds, and preparations was (1) the distilled spirits rate if the products contained distilled spirits, or (2) the wine rate appropriate to the alcoholic content if the products contained fortified or unfortified wine, but no distilled spirits, and were sold as wine.

¹⁰ Pursuant to an act of June 30, 1948, effective Aug. 1, 1948, the rate on fermented malt liquors became applicable to imported products, which formerly had not been subject to such rate.

¹¹ Drawback on designated nonbeverage products, \$9.50.

EXTENSION OF BONDING PERIOD ON LIQUOR

Whisky: Production, tax-paid withdrawals, and total disappearances during each calendar year from 1934 through 1953, and stocks Dec. 31

[Tax gallons]

Calendar year	Production	Tax-paid withdrawals	Total dis- appearances	Stocks, Dec. 31
1934	107,900,758	38,423,225	42,121,254	91,629,512
1935	184,865,267	61,873,777	69,381,245	207,113,534
1936	245,477,487	72,473,910	78,123,658	374,467,363
1937	155,673,840	70,332,858	77,742,250	452,398,953
1938	95,220,687	69,270,790	80,834,909	466,784,731
1939	87,360,232	75,046,098	89,120,252	465,024,711
1940	111,699,337	80,689,727	97,621,838	479,102,210
1941	135,182,325	83,833,425	103,353,985	510,930,550
1942	76,570,406	91,961,541	118,166,685	469,334,271
1943	-----	65,485,399	83,994,520	385,339,751
1944	14,378,849	64,024,256	82,305,806	317,412,794
1945	101,626,925	60,480,795	77,804,661	341,235,058
1946	134,359,102	63,996,364	83,997,243	391,596,917
1947	141,316,199	57,713,846	76,549,746	456,363,370
1948	170,686,087	50,454,297	67,227,094	559,822,363
1949	123,207,032	56,071,998	72,688,859	610,340,536
1950	174,817,250	70,810,369	90,948,763	694,209,023
1951	156,858,823	70,191,954	90,265,076	780,802,770
1952	68,706,404	66,393,353	94,336,559	735,172,615
1953 ¹	91,430,581	75,542,386	110,165,432	716,437,764

¹ Preliminary.

Prepared by Statistical Unit, Planning and Procedure Section, Alcohol and Tobacco Tax Division, Internal Revenue Service, Feb. 26, 1954.

Whisky: Stocks and disappearances, by age classes

[Original-entry tax gallons]

STOCKS AT END OF YEAR

Fiscal year ended June 30—	Age classes (in years)									Total	
	0 to 1	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	7 to 8	Over 8		
1934.....	47,682,447	3,156,299	1,236,598	1,890,960	1,014,029	498,693	-----	-----	-----	2,737,329	57,717,662
1935.....	120,180,703	25,395,263	2,592,651	1,164,471	1,478,263	-----	-----	-----	-----	1,496,291	152,807,235
1936.....	204,342,466	75,142,265	16,252,371	2,330,161	940,463	326,164	-----	-----	-----	800,529	300,658,508
1937.....	219,009,988	163,669,344	46,879,936	13,880,214	1,246,444	163,846	224,089	-----	-----	331,995	445,285,663
1938.....	99,499,016	201,528,837	126,125,350	35,358,061	7,767,692	569,422	28,518	75,378	-----	223,068	471,159,539
1939.....	91,130,136	90,662,721	173,062,040	99,239,930	20,396,138	3,898,356	75,481	12,592	-----	157,785	478,899,618
1940.....	97,206,007	88,055,035	78,043,561	145,566,608	58,959,359	10,470,973	322,411	31,101	-----	119,673	480,937,609
1941.....	120,139,642	96,206,609	79,177,773	66,875,050	99,050,249	35,586,212	6,100,630	859,076	-----	85,450	504,080,691
1942.....	117,771,693	118,301,310	86,041,623	73,078,493	41,569,114	64,651,617	22,276,904	3,156,270	-----	71,863	516,918,887
1943.....	18,730,305	115,871,321	113,688,842	82,472,904	45,012,774	21,685,863	21,963,747	5,362,719	-----	26,491	424,824,966
1944.....	-----	18,383,787	112,654,374	108,765,645	63,061,827	25,567,791	11,567,665	8,621,871	-----	23,421	348,646,381
1945.....	38,508,851	-----	17,839,014	-----	108,499,269	89,925,375	39,073,195	3,422,194	-----	20,046	307,587,545
1946.....	139,226,293	38,356,394	-----	17,499,398	94,465,712	61,227,183	18,520,661	4,759,220	-----	15,194	374,072,065
1947.....	165,445,612	138,059,854	37,241,104	-----	14,841,209	69,733,979	32,659,061	7,327,368	-----	17,118	464,825,305
1948.....	129,305,656	164,687,880	136,334,157	36,425,944	-----	9,072,677	34,185,178	12,231,793	-----	16,871	522,260,766
1949.....	149,538,580	129,131,686	163,648,508	127,446,891	17,275,593	-----	3,137,963	12,719,941	-----	26,690	602,925,861
1950.....	118,412,700	148,485,016	127,999,628	157,235,064	80,012,652	9,621,157	-----	1,500,082	-----	13,212	643,279,511
1951.....	205,512,166	118,292,268	147,663,996	124,200,582	101,174,340	49,770,803	4,607,084	-----	-----	11,989	751,233,178
1952.....	102,977,466	205,328,033	117,688,337	145,174,607	93,160,708	64,020,936	36,982,409	2,214,855	-----	10,626	767,557,977
1953.....	66,604,605	102,978,460	204,855,590	116,800,941	116,819,343	61,662,077	38,612,329	22,576,214	-----	9,612	730,919,161

Whisky: Stocks and disappearances, by age classes—Continued
DISAPPEARANCES CLASSIFIED ACCORDING TO AGE AT BEGINNING OF YEAR

Fiscal year ended June 30—	Disappearances from current year's production	Age classes (in years)								Total	
		0 to 1	1 to 2	2 to 3	3 to 4	4 to 5	5 to 6	6 to 7	Over 7		
1935	28,932,220	22,287,184	568,748	72,127	411,697	515,336				1,241,038	54,023,350
1936	19,317,073	45,038,438	8,842,892	262,390	224,008	1,153,099	274,604			695,762	75,808,266
1937	4,447,862	40,673,122	28,268,329	2,072,157	1,083,717	776,617	297,646	148,711		468,534	78,830,695
1938	3,396,856	17,481,151	37,543,994	11,521,855	6,112,522	677,022	88,365	15,926		184,305	77,021,996
1939	1,873,781	8,836,295	28,466,797	26,885,420	14,962,943	3,869,336	247,011	44,360		77,875	85,263,838
1940	1,787,296	3,075,101	12,619,160	27,486,432	40,280,571	9,924,165	1,560,742	143,652		69,213	96,955,312
1941	1,712,341	999,398	8,877,262	11,168,511	46,516,369	23,373,147	4,370,543	1,478,538		213,002	98,708,901
1942	2,485,731	1,838,332	10,164,986	6,099,280	25,305,936	44,398,632	13,309,308	2,944,360		872,663	107,419,228
1943	799,393	1,900,372	4,612,468	3,568,719	28,065,719	19,873,251	32,667,870	16,914,185		3,201,642	111,683,019
1944	346,518	3,216,947	4,923,197	4,155,105	18,840,270	19,444,983	10,128,198	13,341,876		5,305,789	76,118,585
1945	3,083,452	544,773	4,155,105	339,616	14,033,567	28,986,632	8,145,471	8,625,246		82,621,139	80,980,066
1946	8,299,293	152,457	339,616		3,188,189	28,698,192	20,552,634	5,540,381		3,424,046	77,241,555
1947	2,549,193	1,118,290	1,118,290			24,731,733	28,568,122	11,183,293		4,760,296	72,161,616
1948	291,411	757,732	1,726,097	815,160		5,268,532	35,648,501	20,427,268		7,327,615	68,980,134
1949	56,659	173,970	1,089,372	8,887,866	10,150,351		5,034,714	21,465,237		12,221,965	78,406,837
1950	347,787	1,053,564	1,132,058	6,413,444	47,434,239	7,654,436		2,637,881		1,501,305	97,748,793
1951	160,294	120,432	821,020	3,709,046	56,060,724	30,241,849		5,014,123		1,363	87,219,154
1952	566,487	184,133	608,931	2,489,389	31,089,874	37,153,404	12,788,394	2,392,179			103,404,265
1953	160,844	984	472,443	887,396	28,355,264	31,498,631	25,408,607	14,406,195			

NOTE.—Data showing stocks by ages, as of the close of the calendar year, did not become available until Dec. 31, 1952.

Prepared by Statistical Unit, Planning and Procedure Section, Alcohol and Tobacco Tax Division, Internal Revenue Service, Feb. 26, 1954.

Registered distilleries discontinued since Jan. 1, 1953

Name and address	Registry No.	Date of discontinuance
Carstairs Bros. Distilling Co., Inc., Bedford, Ohio.....	3	Mar. 10, 1953
National Distillers Products Corp., Baltimore, Md.....	27	Mar. 11, 1953
Old Cummins Distillery Corp., Louisville, Ky.....	54	Mar. 12, 1953
Trenton Chemical Co., Trenton, Mich.....	1	Apr. 30, 1953
National Distillers Products Corp., Large, Pa.....	5	Do.
W. B. Gambill Distilling Co., Crandon, Wis.....	1	Do.
Blair Distilling Co., St. Francis, Ky.....	21	May 1, 1953
F. V. Goldsborough Distilling Corp., Baltimore, Md.....	7	May 29, 1953
Joseph S. Finch & Co., Baltimore, Md.....	13	Nov. 6, 1953
Central States Corp., Omaha, Nebr.....	1	Dec. 4, 1953
Joseph S. Finch & Co., Logansport, Pa.....	6	Jan. 31, 1954

SUMMARY OF PROVISIONS OF INTERNAL REVENUE CODE AUTHORIZING VISITATION OF DISTILLERY PREMISES BY GOVERNMENT OFFICERS, AND OF THE DELEGATION OF AUTHORITY TO THE DIRECTOR, ALCOHOL AND TOBACCO TAX DIVISION

Section 3601 (a) (1) provides general authority for internal revenue agents to enter, in the daytime, any building or place where any taxable articles are made, produced or kept, so far as may be necessary for the purpose of examining said articles, and provides a penalty for refusing admission.

Section 2817 provides that the Commissioner may designate an officer or agent to make surveys or resurveys of distilleries.

Section 2827 provides that it shall be lawful for any revenue officer at all times to enter, by force if necessary, any distillery or building used in connection therewith for storage or other purposes, and provides for a forfeiture of \$1,000 for obstructing or hindering such entry.

Section 2841 (b) provides that the books of every distiller shall always be kept at the distillery and be always open to the inspection of any revenue officer.

Section 2857 provides that the records required of rectifiers and wholesale liquor dealers shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer, and provides for a civil penalty as well as a fine and imprisonment for hindering or obstructing such inspection.

Section 2859 provides that the daily records required of distillers of spirits disposed of shall, for 4 years, at all times be available during business hours, for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer, and provides for a civil penalty as well as fine and imprisonment for hindering or obstructing such inspection.

Sections 2872 and 2873 authorize the Commissioner to establish internal revenue bonded warehouses, the supervision over which shall be under regulations prescribed by the Commissioner with the approval of the Secretary.

All functions of all officers and employees of the Department and all functions of agencies thereof were, with certain exceptions, transferred to the Secretary with power vested in him to authorize their performance by any of such officers and employees, by 1950 Reorganization Plan No. 26 (64 Stat. 1280, 5 U. S. C. 241 note). By Treasury orders 120, of July 31, 1950, and 150, of March 15, 1952, the Commissioner was authorized to continue to perform the functions previously performed by him.

By Commissioner's Reorganization Order No. Hdg. 1, of August 11, 1952, the administration and enforcement of the internal revenue laws with respect to liquor was delegated to the Assistant Commissioner, Operations. This power was further delegated on August 11, 1952, by Operations Reorganization Order No. 1, to the Head, Alcohol and Tobacco Tax Division, to be exercised under the direction and supervision of the Assistant Commissioner, Operations. Commissioner's Reorganization Order No. 28 of October 29, 1953, affirmed the above-described delegation.

By Commissioner's Reorganization Order No. 17, of July 7, 1953, the title Head, Alcohol and Tobacco Tax Division, was changed to Director, Alcohol and Tobacco Tax Division. The holder of this office is an internal revenue officer and is charged with the powers and duties pertaining to it.

The CHAIRMAN. It is very apparent we will have to meet this afternoon if the Senate will allow us to. I hope that all of the witnesses will look over their remarks again so that we can get through. We must get through today because we have another hearing tomorrow.

Mr. McClure, will you come forward, please?

**STATEMENT OF C. K. McCLURE, SECRETARY AND TREASURER,
STITZEL-WELLER DISTILLERY, SHIVELY, KY.**

Mr. McCLURE. My name is C. K. McClure. I am secretary and treasurer of Stitzel Weller Distillery located at Shively, Jefferson County, Ky. Our firm has been in business continuously since 1849.

The CHAIRMAN. What kind of whisky do you make?

Mr. McCLURE. Straight bourbon whisky.

Today I am appearing on behalf of the entire distilling industry including the members of the Distilled Spirits Institute, the members of the Kentucky Distillers Association and a number of independent companies.

The CHAIRMAN. Tell us something about the Distilled Spirits Institute.

Mr. McCLURE. The Distilled Spirits Institute is a trade association made up of a group of distillers, large, medium sized, and small.

The CHAIRMAN. Do almost all of the medium sized distillers belong to it?

Mr. McCLURE. Between that and the Kentucky Distillers Association, it would probably cover better than 90 percent of the industry.

The CHAIRMAN. Are all of the large ones in the Distilled Spirits Institute?

Mr. McCLURE. Yes, sir.

I understand that this committee has requested that the number of witnesses to be heard on this bill be kept to a minimum, and I will do my best to present the position of the industry as a whole. However, representatives of other industry members are present in the room and are ready to make statements as to their own individual problems, should the committee so desire.

At the outset, I wish to emphasize that the entire industry is now unified behind H. R. 5407. The committee is aware that at the last session of Congress, an earlier bill to extend the bonding period had been opposed by some members of the industry including my own firm. This opposition was only because they were concerned with the consequences to their business of having whisky on the market labeled more than 8 years old. Following the hearings on the earlier bill before the House Ways and Means Committee, the various members of the industry met at the suggestion of the House committee, compromised their differences and agreed to support a new bill which would contain safeguards against competitive advantages.

The CHAIRMAN. Is there an average age of whisky on the market, bourbon and rye?

Mr. McCLURE. Very little whisky is marketed today under 4 years of age.

The CHAIRMAN. Where does the bulk of it run?

Mr. McCLURE. I would say 4 to 6.

The CHAIRMAN. Does that go for both bourbon and rye?

Mr. McCLURE. I'm not an expert on rye, coming from Kentucky, but I would say yes.

The CHAIRMAN. Once in a while a bottle of rye gets into that State by itself sneaking itself in, sort of.

Mr. McCLURE. Not many of them. The present bill, H. R. 5407, was then introduced and quickly passed by the House with the support of the entire industry.

Briefly stated, H. R. 5407 permits an extension of the bonding period for distilled spirits from 8 years to 12 years. It is a temporary emergency measure and applies only to distilled spirits now in bonded warehouses.

The CHAIRMAN. Do you think there has been enough correction of industry practice so that if the extension were granted we would not have the same problem 4 years from now?

Mr. McCLURE. Yes, sir, I do. I think further along in my brief I will give you the reasons why.

The CHAIRMAN. Go ahead.

Mr. McCLURE. In order to clarify exactly what H. R. 5407 is intended to accomplish, I would like to take the liberty of telling you a little about the background of the problem.

Currently, very little whisky is sold before it has been aged for at least 4 years and distillers must, therefore, anticipate their whisky requirements from 4 to 8 years in advance of sales. Once whisky is produced it is stored in a bonded warehouse until properly aged. Then, when an order is received from trade channels, the quantity of spirits necessary to fill the order is determined, the tax is paid in cash or by certified check and the spirits are then removed from the bonded warehouse, bottled and shipped to the customer. Each bonded warehouse is covered by a surety bond in favor of the Government and no distilled spirits may be withdrawn until the tax is paid. Under existing law, distilled spirits must be removed from the warehouse and the tax paid at the end of 8 years whether or not they can be sold. The distilling industry is the only industry in the country which is forced by the Government to pay an excise tax on goods at the end of a stated period regardless of whether a market for the goods is then available. No limitation on the bonding period exists in any other country in the world.

The bonding period has been 8 years ever since 1894. In that year Congress had increased the distilled spirits tax from 90 cents a gallon to \$1 a gallon. Congress recognized that the 10-cent-a-gallon increase would place additional burdens on the industry resulting in inventory problems and therefore increased the bonding period from 3 to 8 years. Today after 60 years the bonding period is still 8 years, although the tax is now more than 10 times what it was in 1894.

As a result of several factors, which I will discuss shortly, the industry is now faced with the situation where more spirits are being forced out of bonded warehouses because of the 8-year limitation than can be absorbed in trade channels. Since a forceout of only 3,000 barrels of 8-year-old spirits involves a tax liability of about \$1 million, it is evident that no distiller can afford to taxpay any substantial quantity of distilled spirits and wait for months or years for orders from trade channels while not only his spirits, but also his tax dollars are evaporating into thin air. Just to give you an illustration as to the rate of loss by evaporation, I may add that a barrel

containing 50 original proof gallons of distilled spirits will lose about one-third of its contents during an 8-year period.

There are several possibilities open to a distiller faced with a force-out problem.

First, he can export his spirits if he can find a foreign market. Since the tax is not payable on exports the Government will lose the revenue on these sales.

The CHAIRMAN. How much whisky do we export a year?

Mr. McCLURE. I don't have that figure. I'll be glad to submit it.

The CHAIRMAN. Is it substantial?

Mr. McCLURE. It is growing. I don't have the figure. I will be glad to furnish that.

The CHAIRMAN. Does anyone in the room know how much we export?

Mr. SERR. About a million and a half gallons.

Senator MALONE. Could I ask a question there, Mr. Chairman?

The CHAIRMAN. Yes.

Senator MALONE. You can also export this liquor and store it in a foreign country whether or not there is a market for it, can you not?

Mr. McCLURE. Yes, sir.

Senator MALONE. The Government would then lose the revenue entirely.

Mr. McCLURE. That's right, sir.

Senator BENNETT. May I ask a question?

Mr. McCLURE. Yes, sir.

Senator BENNETT. If that whisky is again imported into the United States, the Government collects tariff on it, does it not? Does liquor come into the United States free of charge?

Mr. McCLURE. Imports pay a tariff, but I don't believe this whisky could come back.

The CHAIRMAN. What is the answer to that?

Mr. McCLURE. It would not be permitted to come back, would it?

Mr. AVIS. I don't believe so. If it did, they would have to pay the \$2.50 first.

Mr. SERR. It can't be reimported as whisky as such.

Mr. AVIS. They would have to change the character of that.

Senator BENNETT. Thank you. I'm glad to get that clear.

Senator MARTIN. A question there, Mr. Chairman. Would there only, then, be a charge of \$2.50 if it were reimported?

Mr. McCLURE. Oh, no, if it were permitted to come back, you would pay the import duty of \$2.50 a gallon, plus the \$10.50 internal-revenue tax.

Senator MARTIN. That is what I thought. I would like to ask, Mr. Chairman, is there any whisky stored in foreign warehouses, any American whisky?

Mr. McCLURE. Yes, sir; I would say there is now.

Senator MARTIN. How much?

Mr. McCLURE. I don't know, sir.

The CHAIRMAN. Does anybody know?

Mr. AVIS. We don't know.

The CHAIRMAN. How much American whisky is stored abroad?

Mr. AVIS. We don't know, sir.

Senator MALONE. When foreign bourbon is imported, it would pay the duty of \$2.50 a gallon and then have to pay the tax in addition; is that right?

Mr. McCLURE. Yes, sir.

Senator BENNETT. May I just clear my own thinking? Does whisky manufactured in another country pay the \$10.50 plus the tariff?

Mr. McCLURE. If it is imported into this country, yes, sir.

Senator BENNETT. All right, thank you.

Mr. McCLURE. So, the distiller's first out is exportation. Second, he can move his product to a customs manufacturing warehouse for export, without paying the tax, while he tries to establish a foreign market, and it is significant to note that in the year 1953, and I am referring to the calendar year, there were 2,632,811 gallons moved into such customs warehouses as compared to 329,605 gallons in the year 1952.

The CHAIRMAN. They can't get that out of a warehouse for domestic consumption, it must be exported?

Mr. McCLURE. You must export it. The gallons moving into that type of warehouse, which is evidence of this distressed whisky being forced out, jumped from 329,000 in 1952 to 2,600,000 in 1953.

Senator MALONE. Is it your conclusion from that fact that they take a chance on getting a foreign market, rather than paying the tax and holding it here, even though there is quite a chance they will not have the foreign market?

Mr. McCLURE. Yes, sir. If a man is in a fix where he has to come up with \$10.50 to tack on to his \$1.50 item to try to get rid of it and he is not sure he can get rid of it, he is best off to move it where he doesn't have to put up the additional \$10.50.

Senator MALONE. And take a chance on the foreign market?

Mr. McCLURE. Yes, sir.

Third, the distiller may, under the law, redistill his spirits for other uses. Here again the Government will lose the revenue on the redistilled spirits. As it approaches 8 years of age.

The CHAIRMAN. What does he do with it then?

Mr. McCLURE. He can redistill it into beverage spirits or commercial alcohol.

Senator MARTIN. It then starts at zero as far as age is concerned?

Mr. McCLURE. Yes, sir.

The CHAIRMAN. Are there any commercial products that he can distill it into?

Mr. McCLURE. I assume that I am right that a distiller could apply for a permit to distill it into industrial alcohol.

The CHAIRMAN. Is that correct, Mr. Avis?

Mr. AVIS. Yes, sir.

The CHAIRMAN. Go ahead.

Mr. McCLURE. Here, again, the Government would lose, or put off 8 more years, the revenue on the redistilled spirits. We estimate, moreover, since a distiller loses about 90 percent of his investment when he redistills, redistillation will cause great losses which in turn will seriously hurt income-tax revenue.

The CHAIRMAN. He loses the original cost of making the stuff and he loses the cost of storing it?

Mr. McCLURE. And warehousing and insurance, and State, county, city, and school taxes that are assessed annually for 8 years, all of what we call carrying charges.

The CHAIRMAN. Are States where this stuff is stored accustomed to taxing it in the warehouse?

Mr. McCLURE. I think every one of them. So, it is evident that the passage of the bill will help the Government from a revenue standpoint while the defeat of the bill will hurt not only the industry but Government finances as well. I believe that the Treasury Department will bear me out on this point.

Senator Bennett, while I am on the subject of Government revenue, I listened to your question when Mr. Avis was on the stand, and maybe this will give you what you are looking for. While I'm on the subject of Government revenue, I want to say flatly that this bill has no hidden tax benefits for the industry. We are all aware that in the absence of new legislation the tax on distilled spirits is scheduled to be restored to \$9 a gallon on April 1 from the present \$10.50 level.

Whether the tax is reduced or not—that is, whether that \$1.50 tax is reduced from \$10.50 to \$9—does not have the slightest relation to H. R. 5407. Under the Internal Revenue Code, if the tax is reduced on April 1 a refund of \$1.50 will have to be paid on every gallon of taxpaid distilled spirits whether it is in barrels or bottles, or whether it is owned by a distiller, wholesaler, or retailer. In other words, a refund will be paid on every gallon previously taxpaid and held for sale. Now, there is nothing unusual or surprising about this because at the time the tax increase was put into effect, the tax increase was assessed against every gallon of distilled spirits on which the tax had previously been paid, whether owned by a distiller, wholesaler, or retailer, and whether in barrels or in bottles. So even if distilled spirits are forced out of the warehouse and taxpaid before the date of any tax reduction, a refund will have to be paid after the reduction goes into effect on the entire quantity already taxpaid and held for sale.

I should like to correct my typed statement there. I note that I say, "and taxpaid before the date of any tax reduction." In view of Mr. Avis' testimony, I realize that statement is in error. It would only apply to this \$1.50 unless, when a further tax reduction law were written, it were included in the law to provide for the rebate.

In other words, the Government will receive only the rate of tax applicable at the time the goods are sold to the consumer and only on the quantity of goods sold to the consumer.

I would like to go on now to show how all segments of the industry need relief from the 8-year bonding law.

Speaking now as a smaller independent Kentucky distiller, I can tell you that the present emergency is hurting the smaller independent members of the industry as much and probably more than its larger members.

The basic sales operation of this group has been that of selling bulk whisky. This sales method is quite different from that employed by our larger competitors. The larger companies finance their own inventories of aging whisky in bond and sell same to wholesale distributors as taxpaid bottled goods under trade brand names when the whisky has reached the desired maturity.

We, on the other hand sell warehouse receipts representing whisky in bond. Some of us sell these receipts exclusively to wholesalers, some of us exclusively to larger distillers or brokers, and some of us to both.

The CHAIRMAN. Let me understand that. Give me an example of it.

Mr. McCLURE. Well, we could issue a warehouse receipt certificate for 1 barrel or 100 barrels, or 50 barrels, and it would be on the original tax gallons that went into the barrel the day it was filled.

The CHAIRMAN. Then, what does the man who buys that certificate do with it?

Mr. McCLURE. He holds it. It is a negotiable instrument. If he wants to finance the purchase of whisky, banks will customarily loan money on a warehouse receipt until the whisky ages to whatever stage is desired. Then he turns the receipt over to the warehouseman who issued it and in most instances he instructs the warehouseman to bottle it and ship it to him under his brand.

The CHAIRMAN. It is not to be sold in bottles?

Mr. McCLURE. Not to be sold in bottles to the consumer. The only people in our industry who are licensed to have a barrel of whisky in their possession is a distiller in his warehouses, a warehouseman and a firm with a rectifying permit where they blend whiskies and neutral spirits.

The CHAIRMAN. That is not for sale?

Mr. McCLURE. No; they must bottle it before they sell it.

The CHAIRMAN. All right.

Mr. McCLURE. The distilling business is in a major sense a banking business because of the length of time that inventories must be carried, so the small independent follows the bulk-sales plan in order to finance his inventory. However, the mere sale of the warehouse receipt to someone else in the trade does not relieve the distiller of the Federal tax liability on that specific lot of whisky when it becomes 8 years of age. The Government may look to him for the payment of the tax when the 8-year period is up. For many small distillers the financial burden of having to raise the money to pay the tax on a few thousand or even a few hundred barrels of whisky for which there is no market is becoming an unbearable burden.

The CHAIRMAN. Does the certificate contain the provisions protecting it against taxes? Does the certificate state who pays the tax?

Mr. McCLURE. Under normal circumstances the owner of the warehouse receipt would advance the tax to the warehouseman who pays the Government, assuming that you knew who the owner was.

The CHAIRMAN. You sell a certificate to X out in the State of Nevada.

Mr. McCLURE. Yes, sir.

The CHAIRMAN. Now, who pays the tax?

Mr. McCLURE. The Government looks to the warehouseman for the tax, but he in turn attempts to collect it from X.

The CHAIRMAN. And he has added that to the cost of the whisky?

Mr. McCLURE. Not when he sold it to him. The tax is not included. It is on an original tax-gallon basis and the tax is not due and payable until the whisky is withdrawn.

The CHAIRMAN. But, when he demands the liquor and gets it out of bond, that is when he pays the tax, unless there is some other private arrangement?

Mr. McClure. Yes, sir; unless I wanted to pay the tax first.

Senator Malone. After the 8 years expire, then it must be paid?

Mr. McClure. It must be paid on the eighth birthday.

The Chairman. I am talking about the small distiller who has sold these certificates around. Coming 8 years, assuming no change in the law, does the certificate holder have to pay his tax if he wants the whisky?

Mr. McClure. If he wants the whisky; yes, sir. But, if he is leery about putting up \$10.50 good money after \$1.50 bad money, he may abandon the whisky.

The Chairman. The distiller pays it; is that right?

Mr. McClure. Yes, sir. The Government looks to the distiller. As I mentioned a while ago, a force-out of only 3,000 barrels runs into over \$1 million, so it amounts up rapidly. The sales method of my own firm is that of the sale of our product on warehouse receipts as it is made to licensed independent wholesale distributors throughout the country. These small independent businessmen finance these products until they reach an age suitable for bottling, at which time they instruct us to withdraw their products from bond, taxpay it, bottle it, and ship it to them for distribution and sale to the retail trade.

The Chairman. Do they pay for the warehousing in the meantime?

Mr. McClure. Yes, sir; they pay for the warehousing.

The Chairman. There is a fee for that?

Mr. McClure. Yes, sir; a monthly charge for caring for the barrels of whisky.

The Chairman. The legal title is in the fellow who has the certificate? You are just storing it for him?

Mr. McClure. Yes; we are the warehouseman.

The Chairman. Thank you very much.

Mr. McClure. This program enables us to operate on a national basis with limited capitalization. However, we can only continue to operate so long as our customers finance for us, the major portion of our aging inventory and advance to us at time of bottling \$10.50 per gallon to pay the distilled-spirits tax as the product is withdrawn from bond for bottling.

The Chairman. What is the normal differential in ordering so many bottles of whisky and buying a certificate? There must be some sales advantage or some differential.

Mr. McClure. That's right. The small distiller goes this bulk route because he doesn't have sufficient money to carry his own inventory. So, he sort of goes into partnership with his customers. He sells the customer the bulk whisky and the customer assumes the risk for fluctuations in market conditions and he finances it. For that risk, plus the financing he has done, he is entitled to additional profit, which OPA defined for us during war years as a processor's profit. That is a profit over and above his normal wholesale profit.

The Chairman. And that is a matter of opinion, I suppose.

Mr. McClure. Yes, sir.

These wholesale distributors all over this country are just as vitally concerned as any distiller, because they own an inventory of whisky in bond just as a distiller does. As a matter of fact, they are in a more hazardous position than the distiller, because by State laws, they are licensed to sell bottled liquors only in 1 State, whereas the distiller is permitted to sell in 46 States and the District of Columbia.

With your permission, I should like to place in the record the firm name, location, and authorizing officials of some 54 wholesale companies located in some 27 States and the District of Columbia, who have authorized me to represent them in favor of H. R. 5407.

The CHAIRMAN. Hand it to the reporter and it will be put in the record.

(The information referred to follows:)

State or Territory	Firm name	Location	Authorizing official
Alaska.....	Anchorage Cold Storage Co.	Anchorage, Alaska.....	M. W. Odom.
Arizona.....	Arizona Distributing Co.	Phoenix, Ariz.....	C. J. Minning, treasurer.
Arkansas.....	Moon Distributing Co.	Little Rock, Ark.....	Harry L. Hastings.
California.....	Ralph Montali, Inc.	San Francisco, Calif.....	Ralph Montali, president.
	Rainbow Liquor Co.	Sacramento, Calif.....	E. S. Lazzarone.
	Don W. Snyder Co.	Los Angeles, Calif.....	Don W. Snyder, president.
Colorado.....	Reuler-Lewin & Co.	Denver, Colo.....	G. C. Reuler, president.
Connecticut.....	Austin, Nichols & Co.	West Haven, Conn.....	J. J. Heaphy, manager.
Delaware.....	Delaware Importers, Inc.	Wilmington, Del.....	Van R. Coats, president.
District of Columbia.....	Try-Me Bottling Co.	Washington, D. C.....	Jack A. Pappadeas, secretary-treasurer.
Florida.....	South Florida Liquor Distributors.	Miami, Fla.....	C. A. O'Neil, Jr., president.
Georgia.....	Augusta Distributing Co.	Augusta, Ga.....	Charles A. Schafer.
	Dixie Distributing Co.	Columbus, Ga.....	D. C. Thompson, manager.
	Dodd Distributing Co.	Atlanta, Ga.....	Hugh J. Schneider, president.
Illinois.....	Fred Harvey	Chicago, Ill.....	B. S. Harvey, Jr., president.
	John Knobel & Son	Freeport, Ill.....	Russell J. Knobel, president.
	Van Pickerill & Sons, Inc.	Springfield, Ill.....	Van Pickerill, president.
	Southern Illinois Wholesale Co.	Herrin, Ill.....	John B. Gualdoni, president.
	Union Liquor Co.	Chicago, Ill.....	J. S. Leavitt, secretary.
	William J. Wagner Distributor, Inc.	do.....	W. Earl Wagner, president.
Indiana.....	Schuetz Liquor Co.	Morton Grove, Ill.....	Michael Schuetz.
	General Liquors, Inc.	South Bend, Ind.....	H. R. Stout, vice president.
	National Liquor Corp.	Indianapolis, Ind.....	M. M. Lasky, vice president and treasurer.
	Southern Liquors, Inc.	Jeffersonville, Ind.....	Merton A. Johnston, president.
Kentucky.....	Gateway Distributing Co.	Louisville, Ky.....	J. W. Robinson, manager.
	Harlan Bourbon & Wine Co.	Harlan, Ky.....	Wm. L. Tucker, president.
	Lexington Distributing Co.	Lexington, Ky.....	J. H. Leech, secretary-treasurer.
	Maloney-Davidson Co.	Louisville, Ky.....	David Erie Maloney, president.
Louisiana.....	Magnolia Liquor Co.	New Orleans, La.....	Stephen Goldring, president.
	Pan American Import Co.	do.....	Lloyd Azcona, president.
Maryland.....	Kemp-Boone Co., Inc.	Baltimore, Md.....	George O'D. Boone, president.
Massachusetts.....	Pastene Wine & Spirits Co.	Boston, Mass.....	F. Gianfranchi, vice president.
Minnesota.....	Grigs, Cooper & Co.	St. Paul, Minn.....	M. W. Griggs, president.
Missouri.....	Peter Hauptmann Co.	St. Louis, Mo.....	Erwin Harms, vice president.
Nebraska.....	Western Wine & Liquor Co.	Omaha, Nebr.....	Paul C. Gallagher, president.
New Jersey.....	Fleming & McCaig, Inc.	Jersey City, N. J.....	Donald McCaig, president.
New Mexico.....	Southwest Distributing Co.	Albuquerque, N. Mex.....	Carlos Bachechi, president.
New York.....	Bonny Distributing Co.	Syracuse, N. Y.....	A. V. Mazza, president.
	Henry Kelly Importing & Distributing, Co.	New York, N. Y.....	James S. Hamlin, vice president.
	Mullen & Gunn, Inc.	Buffalo, N. Y.....	Gordon H. Gunn, secretary.
	Service Liquor Distributors, Inc.	Schenectady, N. Y.....	Irving Handelman, secretary.
Rhode Island.....	Alexander R. Fritz, Inc.	Providence, R. I.....	Alexander R. Fritz, president.

State or Territory	Firm name	Location	Authorizing official
South Carolina.....	Richland Wholesale Liquors, Inc.	Columbia, S. C.....	E. M. Smith, president.
South Dakota.....	Sioux Falls Wholesale Co.	Sioux Falls, S. Dak.....	C. A. Matteson, president.
	Western Wholesale Liquor Co.	Rapid City, S. Dak.....	J. W. Burns, vice-president and manager.
Tennessee.....	Tennessee Wine & Spirits Co.	Nashville, Tenn.....	R. W. Hooper, general manager.
	United Liquors Corp.....	Memphis, Tenn.....	Sidney Perlberg.
Texas.....	Independent Liquor Co.	Forth Worth, Tex.....	J. Y. Bratcher, vice-president and general manager.
Washington.....	Odom Co.....	Seattle, Wash.....	M. W. Odom, president.
Wisconsin.....	Frank Liquor Co.	Madison, Wis.....	Sol Frank.
	Jennerjahn Beverage Co.	Oshkosh, Wis.....	H. L. Levitas, president.
	Metropolitan Liquor Co.	Milwaukee, Wis.....	Harry L. Epstein.
	Monarch Distributing Co.	Sheboygan, Wis.....	Clem Bartzan, secretary and treasurer.
	Oneida Wholesale Liquor House.	Rhineland, Wis.....	Joseph Witas, partner.
	Saratoga Liquor Co., Inc.	Superior, Wis.....	G. M. Smith, president.

Mr. McClure. When you consider there are 46 States and the District of Columbia where the sale of liquor is legal; and when you consider that there are 18 States where the sale of bulk whisky under our plan is not permitted, you will see that this group of independent businessmen are domiciled in 27 out of the possible 28 States.

Senator Malone. What are the two States that you mentioned where it is illegal?

Mr. McClure. Mississippi and Oklahoma.

A most serious emergency in the industry exists right now. Quantities of whisky have been exported; quantities of whisky have already been redistilled; other quantities have moved into customs warehouses. Some distillers have already been compelled to sell stocks of aged spirits at distress prices and at great loss in order to shift the tax liability to their financially stronger competitors. As months go by this problem will become greater.

Some in the industry may not have an inventory problem at this moment, some may have no problem for several months, and some not for a year or so. But, when stocks of 8-year-old whisky are thrown on the market at distress prices, it is impossible for us to sell our spirits to our regular customers at normal prices. The situation affects everyone in the industry now, directly or indirectly.

The Chairman. Let me ask you about the trade custom. What do you call the gentleman who buys your certificates?

Mr. McClure. He might be a wholesale liquor dealer.

The Chairman. Let's call him a wholesaler. I suppose he buys according to brands and the reputations of different distilleries?

Mr. McClure. Different distillers operate different ways. In our own operation, we sell him a franchise. He has the use of our labels.

The Chairman. May I ask what is your brand name?

Mr. McClure. Old Fitzgerald.

The Chairman. We have had testimony about that here before.

Mr. McClure. That's right, sir.

The situation of the warehouseman deserves some comment. Under our laws the proprietor of a bonded warehouse is responsible for the tax on spirits in his warehouse, whether he is the owner of the goods or not. Ownership of spirits in a bonded warehouse is usually represented by a warehouse receipt which is usually negotiable so that a

warehouseman may not know the actual owner of any particular lot of whisky. Because of the present crisis in the industry, the owner of whisky may find it preferable to abandon whisky rather than pay the tax.

The CHAIRMAN. As a matter of commercial practice, do they put those certificates up for loans at the bank?

Mr. McCLURE. Yes, sir; it is customary to do so.

Instances have already occurred where the owners of spirits in bonded warehouses have abandoned the goods leaving the warehouseman with the problem of paying the \$10.50 a gallon tax on spirits which he didn't produce and didn't own in addition to having to absorb unpaid warehouse charges.

The CHAIRMAN. Does the man who owns the certificate have a claim to a definite lot of whisky?

Mr. McCLURE. Yes, sir; by serial number of the barrel.

The CHAIRMAN. Thank you. And the matter of taxes fixes itself upon a fixed barrel, does it?

Mr. McCLURE. We are now permitted to commingle barrels to determine the tax.

The CHAIRMAN. But, if a man has a certificate he can call on you for a definite barrel and that barrel takes a definite tax, is that right?

Mr. McCLURE. That's right, in accordance with the number of tax gallons in the barrel at the time we dump it.

The passage of this bill will not result in any advantage to any particular distiller, large or small, over any other distillers. Actually the failure to pass this bill may very well result in some companies being able to buy up quantities of distressed spirits at advantage to themselves and financial disaster to the sellers. In other words, the failure to pass this bill may help some at the expense of others.

The present emergency in our industry has been hurting others outside of the industry.

The CHAIRMAN. I assume that transactions in whisky are common banking business in Kentucky. What is the attitude of the bankers down there toward this thing?

Mr. McCLURE. A banker is not very anxious to loan money today on whisky that is approaching 8 years of age.

The CHAIRMAN. When you say they are not very anxious, do you mean they are tightening and saying no?

Mr. McCLURE. Yes, sir.

The CHAIRMAN. What, then, does the resourceful distiller do?

Mr. McCLURE. He comes to Congress with the Saylor bill, I guess.

As long as the present critical situation continues, distillers will avoid producing new whisky except to the minimum extent necessary to keep some continuity in inventory. As a result, the cooperage industry which produces barrels for distillers has been in the doldrums. Layoffs in this industry have been so extended that men who have spent their lives making barrels have had to seek employment in other industries.

The CHAIRMAN. Where are the centers for making barrels?

Mr. McCLURE. Louisville, Terra Haute, and Baltimore.

The CHAIRMAN. What kind of wood do you use?

Mr. McCLURE. White oak. No other wood can be used by regulation. The purchasing of grain has been reduced as we have reduced

our production and as time goes on the farmer may feel the effects of the emergency in our industry. It goes without saying that when any domestic industry suffers harm, the rest of the economy suffers.

We come now to the factors which created the emergency, and I feel these are very important. Anyone familiar with the industry knows that the current emergency was created by circumstances which could not be reasonably anticipated and over which the industry had no control.

The first factor was the succession of emergencies during and after World War II. During World War II the facilities of the entire distilling industry were converted to the production of industrial alcohol for the war program.

I have those figures here, if you are interested.

The CHAIRMAN. I think it would be interesting. Put them in the record.

Mr. McCLURE. The distilling industry produced 685 million gallons of industrial alcohol for the Government for the production of synthetic rubber, alone, in addition to the substantial quantities produced for other war purposes. During these war years, practically no whisky was produced by American distillers, except for a small quantity during a few brief periods when beverage distilling was permitted.

As a result, inventories were drastically depleted and whisky had to be produced in large quantities after the war to replenish the shortages. After the war, there was another distillery shutdown and thereafter there were repeated threats of shutdown by reason of successive national emergencies up to and including the Korean war.

These conditions led to peak production during certain periods in the years following World War II, as distillers sought to build up stocks necessary to take care of all possible contingencies. It is more accurate to describe the present problem as one of unbalanced, rather than excess, inventories.

Senator BENNETT. Mr. McClure, I have read through the balance of your statement. You don't think there is any factor in here of the industry's attempt to take advantage of a market situation and provide an unusually high rate of profit for itself when it forces the year-end stocks up approximately double what they were at the end of the war?

You say in your statement that all of these factors were beyond your control. Don't you think there are some elements of prudence involved when an industry deliberately creates an inventory which is double its previous inventory experience?

Mr. McCLURE. I think undoubtedly so. I would like to check those figures with you, if I may. We were blessed with a very hectic time, if you will pardon my saying so.

I know other industries were, too, during the war and the postwar period.

Senator BENNETT. Mr. Avis has already testified that you were in a terrible inventory situation and that you were saved by the war, that you had already overproduced and that if it had not been for the war, this condition would have come a great deal earlier than it has.

But in spite of that lesson, apparently as soon as the war was over, you went back into the same situation and built up your inventories. The turn came in 1945, when you had a low of 307,000 against a pre-

vious high, when the war began, of 504,000. You have now built it up to 767,000, at the end of 1952. It seems to me it is a little self-righteous to say that all of these factors were beyond your control.

It seems to me that represents a definite overreaching of the industry.

Mr. McClure. I haven't quite finished with these factors that I feel have affected it.

Senator Bennett. I have read the rest and I don't see any other reference to that particular factor. There is a reference to the tax on spirits.

Mr. McClure. And there is a reference to the type that the public desires, which was a factor that we didn't have much control over. That was my point.

Senator Bennett. Do you think if that change of pattern had not occurred that 767 million gallons would have been a safe inventory at the present time?

Mr. McClure. It might be a little high. I think I heard one of Mr. Avis' assistants say here that he thought 105 million per year, on a 6-year basis, 630 basis, would be all right. It would depend on the individual company. Some companies market older whiskies and some market it straight.

Senator Bennett. I was interested in the statement of 105 million. Yet, only 2 years since 1936 has there been a total disappearance anywhere near approaching that.

Mr. McClure. The 105 million are original gallons, and they shrink 20 or 25 percent before you withdraw.

Senator Bennett. Are your year-end stocks original proof gallons?

Mr. McClure. Yes, sir.

Senator Bennett. How could you operate the business successfully on 3 to 5 million gallons prewar and yet it has crept up now to about 750 million gallons and you don't think that is an excess?

Mr. McClure. To get you confused again, my figures are calendar years and yours are fiscal years, but your low point, I believe, was in the calendar year 1943, which would be your fiscal year 1942, I guess. No; it would be the fiscal year 1944.

Senator Bennett. The low point on the table on page 58 of the hearings before the House was in fiscal 1945, showing a year-end stock of 307,587,545 gallons. The low point is of no particular concern to me.

Mr. McClure. I was going to try to explain to you that when our inventories were at their lowest was when we were not in production.

We were making Government alcohol. Eighty-nine percent, or thereabouts, of the bottles of whisky sold to the consumers was what we call spirit blend. They had 30 or 35 percent whisky in them and the balance was neutral grain spirits. That trend is taken up in my factor No. 3. That was the change in consumer habits. The sales of blended whisky predominated, going up to about 89 percent, as I recall it.

The Chairman. Does the price have anything to do with the distillers requiring a longer time to market their inventories?

Mr. McClure. No, sir; you have straight whiskies today selling cheaper than spirit blends.

Senator Bennett. I want to ask a hypothetical question. What would you consider to be a safe and normal year-end carryover of a size which would not tend to create recurrences of this present problem?

Mr. McClure. At our present tax rate, sir?

Senator Bennett. Yes.

Mr. McClure. I would say between 600 and 700 million gallons.

Senator Bennett. Then you actually believe that the present carryover is not very abnormal?

Mr. McClure. It is not an overproduction, sir. It is lumps in our inventory.

The Chairman. What was your answer?

Mr. McClure. It is unbalance. It is an unbalanced inventory. I said it was lumpy. We had too much at certain seasons. Now, look at the fall of 1950. Korea started in June of 1950. In the fall of 1950 and the spring of 1951 they just turned on full speed, because they had every indication that they were going to be put back into alcohol production. When we get to that, that is going to be something to digest. It is a whopper. The same thing happened, Senator, at another period.

In August of 1944 the WPB released facilities for the production of beverage spirits, but prohibited the use of corn. In January 1945 they authorized the use of corn of any grade provided the quantity did not exceed the quantity of 50 percent of the total grain bill, including malt, or 40,000 bushels of corn.

In July 1945 the WPB authorized release of facilities to the production of spirits for beverage purposes. There were no grain restrictions at that time. Then we get into the war orders.

Senator Bennett. I don't think it is necessary to put all of those in the record.

Mr. McClure. No, sir. But they didn't say, now, you are going to have so many days this month and so many next month. You didn't know until the 1st of the month what you could produce. So every time you were turned loose, you made everything you absolutely could. That same thing applied to the Korean scare in the fall of 1950, and then when the Chinese moved into the Korean situation in the spring of 1951. My own company did it and we all did it. We had been through this wringer once. We had seen our straight whisky business go from 60 percent or 65 percent of the overall business down to 11 percent, because we didn't have the whisky to put in.

Senator Bennett. While you were looking at the immediate problem, you didn't look forward 8 years to see the lumps you were creating for yourself.

Mr. McClure. That is right. As an industry, we didn't. Some individual companies did, and they are in beautiful shape. Some companies are buying whisky today. They don't have as much as they need. Others are out of proportion.

All we are trying to show you gentlemen is that it won't cost the Government a penny's worth of revenue. If you can extend this from 8 to 12 years just on whiskies already made, that is all we are asking.

Senator Bennett. Do you think the industry has had enough experience to avoid this kind of problem in the future?

Mr. McClure. Yes, sir; I do. Of course, we never can guess right all the time. My second factor here is that we were led to believe that 6 months after the cessation of hostilities, our Federal tax was going from \$9 to \$6, and we planned our sales program accordingly. Instead of going from \$9 to \$6, it went from \$9 to \$10.50.

Senator BENNETT. Did that have a marked effect on the consumption of whisky at that time?

Mr. McCLURE. It certainly had, sir. It depends upon what you mean by a "marked effect on consumption," of course. For example, if we use 1942 as a level year, in the year 1952, after this \$10.50 tax, our population was up 10.4 percent, our personal income up 100 percent, our commodity sales 200 percent, but tax-paid, legal liquor sales were right where they were 10 years before. Nobody is going to convince me that personal income can double, the population can go up 13 percent, and commodity sales 200 percent, and people not consume more whisky. They are consuming it, but they are consuming it illegally, and you people are not getting your revenue.

Senator BENNETT. When you say whisky was exactly where it was, were you speaking of dollars or gallons?

Mr. McCLURE. The dollars were up when you kept jumping the tax, of course. The tax in 1942 was \$4.

Senator BENNETT. When you say general sales were up 200 percent, that is obviously dollars. Are you saying that whisky sales in dollars were static?

Mr. McCLURE. No, I am talking about gallons. We are talking about per capita consumption.

Senator BENNETT. But when general prices went up 200 percent, that didn't mean that the number of articles sold went up 200 percent. We had an inflation situation. So you can't compare gallons and dollars.

The CHAIRMAN. In terms of gallonage, what was it per capita consumption in the periods of time that you are contrasting?

Mr. McCLURE. I don't have my figures all the way back to 1942 here. Yes, I have them, but again, they are calendar years. These are in millions of gallons of withdrawals. In the year 1942 it was, in round figures, 92 million gallons. In the year 1952 it was 66 million gallons.

I am talking about just whisky, now. I know people are consuming more if the economy is up and I just think when we laid out our inventory plans on the promise of the \$6 tax and we got a \$10.50 tax, it just put a lid on us.

The CHAIRMAN. Doesn't the quality of your judgment, looking back on it, leave you with the feeling that you would have made some different decisions if you had it to do over again?

Mr. McCLURE. Yes, I wouldn't have produced like I did for Korea, but like everyone else, no one knew what was going to happen.

The CHAIRMAN. Has been consumption gone up in this country?

Mr. McCLURE. Beer and wine have both gone up. I don't have the figures.

The CHAIRMAN. Substantially?

Mr. SERR. No, not substantially.

Senator BENNETT. That is all, Mr. Chairman.

The CHAIRMAN. Go ahead, Mr. McClure.

Mr. McCLURE. The second factor is the taxes on distilled spirits. The various increases in the tax since the start of World War II have adversely affected legal sales, although they have stimulated illegal or bootleg sales, on which no excise tax is paid. This tax was \$4 a gallon at the beginning of the war, was successively increased to \$6, \$9, and finally to \$10.50, at a time when the distilling industry had been

assured and had confidently expected that it would be reduced to \$6. Distillers anticipated a lowered tax, and producing accordingly, found themselves with inventories piling up as legal sales were held down by high taxes and bootleg competition.

Factor 3 was the change in consumer habits. Before World War II, about two-thirds of the whisky sold was straight whisky. During the war, because of shortages, the pattern changed so that sales of blended whisky predominated. At the end of the war, distillers anticipated a return to prewar consumer habits as whisky became more plentiful and based their production in 1946 and 1947 on that assumption.

But the prewar pattern did not return, and today sales of straight whiskies account for only one-half as much as before the war. Distillers, therefore, require a longer time to market their inventories.

In the light of these conditions, it must be apparent that the present emergency in the industry was brought about by factors completely beyond the control of the industry.

I had written that, sir, before I talked with you.

Senator BENNETT. That was the trigger that set me off.

Mr. McCLURE. I think it is clear that H. R. 5407 involves no wet or dry issues.

This bill can be conscientiously supported by all, whether they have wet or dry views. With your permission, I would like to quote the statement made last summer before the House by Representative Daniel A. Reed, chairman of the House Ways and Means Committee:

I come from a dry district and have been elected as a dry all these years. * * * This is not a tax relief for the distilled-spirits industry or for the relief of anyone else. * * * All the revenues will be collected which would be collected under the law now. The only question presented here is whether or not the people engaged in this industry shall have this additional period of time to so adjust and regulate the affairs of their business that they can market their product in a more orderly manner and thereby not suffer the tremendous financial losses which it appears they will sustain if this product is forced out on the market at this time.

Representative Thomas A. Jenkins of Ohio, a member of the same committee, told the House, in speaking in support of the bill:

The only real question involved here is whether there will be a loss of revenue, that is, internal revenue. That matter was discussed fully in the committee. Some of us who have always been on the side of temperance held out against the bill until it was clearly shown that there would be no loss of taxes * * * here is a business that I do not indulge in and I am not for, as far as that is concerned, and I do not patronize it * * *. However, it is a legitimate business in the country and we will not lose any taxes, I say again.

On behalf of the entire distilling industry, we earnestly request that the Senate Finance Committee report this bill out favorably as soon as possible.

The CHAIRMAN. Are there any questions?

Senator BENNETT. No questions.

The CHAIRMAN. Thank you very much for your testimony.

We have scheduled this afternoon Mr. Billik, Mr. Freedman, Mr. Gunson, Mr. Thomson, Jr., Mr. Flashman, Mr. Kinnaird, and Mr. Sam Manly.

Are any of you gentlemen willing to rest on the presentation which this gentleman has made?

Mr. GUNSON. I would be very glad to rest on that, sir.

The CHAIRMAN. Will you submit a written statement, please?

Is there anyone else?

Mr. FLASHMAN. I will rest on the testimony given.

The CHAIRMAN. Will you submit a written statement?

Mr. KINNAIRD. I will be willing to rest on that.

The CHAIRMAN. Thank you very much.

Mr. BILLIK. I am willing to rest on Mr. McClure's statement. My own statement has been submitted for the record.

The CHAIRMAN. Thank you very much.

Mr. FREEDMAN. I am Steward Freedman, and I will rest on Mr. McClure's statement. I have submitted a statement.

Mr. MANLY. I am Sam Manly, attorney, of Louisville, Ky. I represent the James Walsh Co., Lawrenceburg, Ind., Old Joe Distilling Co., Lawrenceburg, Ky.; J. T. S. Brown Sons Co., Bardstown, Ky.; Old Rock Distilling Co., Joplin, Mo.; Waterfil & Frazier Distilling Co., Bardstown, Ky.; United Distillers Products Co., Amston, Ky.; Anderson County Distilling Co., Tryon, Ky.; Jack Daniels Distilling Co., Lynchburg, Tenn.; Glencoe Distilling Co., Bardstown, Ky.; Kentucky River Distilling Co., Camp Nelson, Ky.; Double Springs Distillery Co., Bardstown, Ky.; and Kentucky Distilling Co., Earlander, Ky.

They are all small, privately owned distilleries employing about 600 people. They will all subscribe to this statement.

The CHAIRMAN. Then there is W. A. Thomson, Jr.

Mr. THOMSON. I will be glad to rest upon Mr. McClure's statement.

The CHAIRMAN. The following five statements are submitted for the record in lieu of personal appearances:

STATEMENT BY HERMAN E. WIENER, VICE PRESIDENT, NEW ENGLAND DISTILLERS, INC., IN LIEU OF HIS PERSONAL APPEARANCE

The New England Distillers, Inc., Clinton, Mass., is vitally concerned in the immediate passage of the Saylor bill, H. R. 5407. We are a small independent distillery with limited capital and resources. We are also proprietors of a bonded warehouse, United States IRBW No. 2 in Clinton, Mass., which is one of the very few bonded warehouses in this area. The rectifiers in New England have been limited for storage capacity for distilled spirits in bond and we have been providing facilities to them for the storage and handling of their goods.

As warehousemen we are responsible to the Federal Government for taxes involved on the goods stored in our warehouse, and we are in the middle of a serious situation now developing. We compute that the year 1954 will see a grave condition in this area; for conditions have been such that the rectifiers have been unable to dispose of their inventories in bond coming within the 8 years allowed. Furthermore they are unable to pay the taxes which will come due this year, leaving the responsibility for these payments on my company.

Our tax liability on forceouts for the year 1954 will amount to approximately \$300,000. It must be remembered that this is a tax liability which may be forced on us by rectifiers storing in this plant, and due to no lack of foresight of our own.

The situation could be so serious as to jeopardize our ability to remain in business, and while we would naturally take every recourse possible to collect this tax money from the customers they are in no better position than we to pay the taxes on these forceouts.

In the long run the Government would lose no tax revenue by passage of the Saylor bill. Since it involves the very life of many small independent businesses I see no reason why Congress should not be willing to provide the relief necessary by its passage.

STATEMENT ON BEHALF OF MILTON MARKS, PRESIDENT, ESBECO DISTILLING CORP., STAMFORD, CONN., IN LIEU OF HIS PERSONAL APPEARANCE

Esbeco Distilling Corp. of Stamford, Conn., holds basic permits, issued by the United States Government as follows: R-37, rectifier; BR 37, warehousing and bottling; I-489, importers; P-345, wholesaler.

Permit No. R-37 was issued in January 1934, almost immediately after repeal of the 18th amendment, followed soon thereafter by the additional permits listed above.

It is clear from this record that Esbeco Distilling Corp., has been engaged in the business of importing, rectifying, bottling, and distributing its products for 20 years.

During this period Esbeco Distilling Corp. has been able to weather every conceivable storm assailing this industry. We have faced scarcity of goods; fierce price wars; shutting down of all distilleries during World War II. We have known the difficulty of reestablishing distribution of its products after World War II—and the necessity for rebuilding its inventory of bulk goods required to maintain its position in the markets it serves.

Grave as were the periods through which we have passed in the last 20 years, nothing approaches the danger with which we are now confronted. The immense overhang of whiskeys now in bonded warehouse, which must be taxpaid during 1954 and 1955, unless H. R. 5407 receives the approval of your committee and the Senate, threatens the very foundations of our industry.

If the economy of the Nation is weakened by a disaster that strikes—and may well wreck—a single industry, every other industry will feel the impact of such a blow.

Esbeco Distilling Corp. is in a particularly fortunate position from an inventory standpoint. By carefully planned purchases of bulk goods, and equally well-planned distribution through the years, our company enjoys complete freedom from anxiety over enforced tax payments. We sympathize with those independent distillers, rectifiers and wholesalers unfortunate enough to be faced with large inventories of 8-year whiskeys. They need relief from immediate enforced tax payment. They need the extension of the bonding period contemplated by this bill. They need time to work out a proper and orderly method of distributing the known surplus of whiskeys.

It is with this latter phase of this grave problem that we are directly concerned. Esbeco Distilling Corp., has, over the years, established itself in the markets of Connecticut, New Jersey, and New York. We are not a large concern—but we are an important one to thousands and thousands of retailers to whom we supply our products. We distribute directly to retail outlets in the States of Connecticut and New Jersey, and through jobbers in the State of New York.

Should H. R. 5407 fail of approval of your committee, then our very existence will be threatened. The vast flood of whiskeys unloosed upon a market unable to absorb it, will destroy the efforts of years.

Even the so-called standard brands of the great companies will not be able to withstand the terrific impact of "bargain" sales of 8-year-old whiskeys at prices barely above the taxes imposed by the Federal and State Governments.

As an example we were recently offered several hundred barrels of 8-year-old whisky at \$1 a gallon over the Federal tax. The owner faced with an enforced tax payment of approximately \$90,000 was willing to give away his whisky. We turned the offer down. Nowhere in our planned program of future allocations of our whiskeys could such goods be assigned.

But somewhere that goods found a buyer. At such "bargain" prices he could offer it at retail for a price that could not be matched by established and well-regulated companies.

Unless H. R. 5407 receives the approval of your committee, such situations will be multiplied many times. Retailers are holding back waiting for the "distress" sales which are inevitable if the resolution now before your committee fails of approval.

The industry faces the most disruptive period in its 20 years of legalized existence. Before the situation rights itself complete demoralization is a possibility. The loss in revenue to the Treasury is incalculable under such conditions. As one company after another "throws in the sponge" unemployment is bound to increase. Even now, unemployment throughout the Nation is becoming a major problem of Government. Diminished purchasing power among the workers will make itself felt in every line of industry as expenditures for advertising, bottles, paper, lumber are curtailed, and plans for new warehouses and distilleries are abandoned.

For these, and many other reasons which could be advanced, Esbeco Distilling Corp. urges your committee to give favorable consideration to H. R. 5407, and extend the bonding period for whiskies in warehouses from 8 to 12 years.

STATEMENT OF W. M. MORRISON, PRESIDENT OF J. T. S. BROWN'S SON CO.
BARDSTOWN, KY., IN LIEU OF HIS PERSONAL APPEARANCE

W. M. Morrison is the president of J. T. S. Brown's Son Co., an independently owned Kentucky distillery located at Bardstown, Ky. This is one of the smallest plants in the State having a daily production capacity of only 20 barrels. All of our production is held by us until same is old enough for bottling at which time we merchandise it through the medium of case goods to wholesalers and State monopolies. Normally we employ about 40 people all of whom live in the locality of the distillery.

When we produce bulk whisky against our anticipated case-goods requirements, we must necessarily obtain substantial credit from banks to assist us in carrying this whisky until it has reached at least 4 years of age. We have never experienced any particular difficulty in obtaining bank credit until the last 2 years or so and this difficulty was precipitated almost entirely by the weakening in the bulk-whisky market due, in turn, to the threat overhanging the industry of substantial quantities of 8-year-old whisky that would be forced out of bond at a time when there was no market for it.

We, ourselves, do not have any whisky that is 8 years of age and are not confronted at this time with the necessity of raising tax money for such whisky. However, within the next 10 months we will have merchandise that will become 8 years of age and every month thereafter we will be confronted with additional quantities that will become 8 years of age and on which we must advance the tax money. Our banks are aware of this situation and it is becoming increasingly difficult for us to preserve our credit with them in view of this possible force-out of whisky that we own.

We have not produced any whisky at our plant for the past 2 years due to the stringency in credit with banks as set out in the above paragraph. Eventually this situation is going to react against our company in a very harmful way in that we will not have a continuity of goods to continue servicing our customers with the same uniform whisky that we have given them in the past. We are adverse to insisting on additional credit from our banks for the purpose of producing current whisky in view of the necessity of our keeping the banks satisfied as to our ability to pay the taxes of the whisky that will become 8 years old during the next year. The necessity of keeping ourselves in sufficiently liquid position to take care of any whisky that might be forced out on us, is causing a disruption in our program of producing the necessary whisky against our future requirements.

We are strongly in favor of the Saylor bill for the reasons above set out. Not only will it give us sufficient time to market all of our older whiskies in an orderly manner, but by being relieved of any possible embarrassment in that direction, we will be able to obtain additional credit from our banks to produce current whiskies and preserve the continuity of our production. Unless such relief is given to the industry, we feel that the small distillers, such as ourselves, will eventually be forced out of business because of the onerous tax burden that we are forced to assume at a time when the market is such that the whisky cannot be disposed of in an orderly manner. It is only through the enactment of such legislation as the Saylor bill that the small units of the industry can hope to survive.

STATEMENT SUBMITTED BY UNITED DISTILLERS PRODUCTS CORP., AMSTON, CONN.,
IN LIEU OF PERSONAL APPEARANCE

The following independent distiller, privately owned and financed, joins in support of the Saylor bill:

United Distillers Products Corp., Amston, Conn. Distilling capacity 40 barrels per day; bottling capacity 500 cases per day; storage capacity 15,000 barrels; employees on full operating standard 40 persons.

In this business, we must anticipate the potential sales many years in advance. This is a guessing game that is difficult to solve.

We were just recently stuck with a tremendous quantity of whisky that had reached 8 years of age, and it was impossible to finance the taxes on same. The

net results were that we had to export this whisky, and the Government simply lost the taxes entirely.

The Saylor bill will eliminate this loss to the Government, because the taxes they do not collect in 8 years, can be collected during the following years. No other country in the world has a similar tax-due date, without a sale of the product.

When we started, the tax was only \$1.10 per gallon, and now it is \$10.50—10 times as much and that makes a terrific difference in the overall picture.

It will only be a question of time before most small independent distillers are thus forced out of the industry entirely, and then corrective legislation will simply be too late.

LETTER SUBMITTED BY MR. DOANE IN LIEU OF HIS PERSONAL APPEARANCE

OLD ROCK DISTILLING Co.,
Joplin, Mo., February 22, 1954.

Mr. W. H. McMains,
Distilled Spirits Institute,
National Press Building, Washington, D. C.

DEAR MR. McMains: This letter will be your authority to present the contents of same in your hearing before the Ways and Means Committee in regard to the passage of the Saylor bill. I regret that other matters prevented me from personally being there. Our position in the matter is as follows:

We, being a small Missouri distillery, and because of the desire for Kentucky whiskies, our position on merchandising our whiskies which are faced with being forced out of bond, is even more difficult than that of the Kentucky distillers. The following inventory of our whiskies will be forced out of bond during 1954 and unless we are given relief in this matter, the problem of raising the money necessary to tax pay same will completely ruin our institution.

	Barrels		Barrels
April 1946.....	446	November 1946.....	179
May 1946.....	115	December 1946.....	120
June 1946.....	1		
October 1946.....	81	Total.....	942

If the bonded period is extended, we can weather this storm and methodically liquidate this whisky without it causing a financial hazard.

Over and above the above-described whisky, we have the following 1947's which are being depressed because of the whiskies that are now being forced out of bond.

	Barrels
January 1947.....	175
February 1947.....	234
Total.....	409

Over and above these, we have had to liquidate several hundred barrels of 1946 straight bourbon whisky at prices as low, or lower, than the four old whiskies are selling for. This has worked a very great hardship on us.

I sincerely feel that by the passage of the Saylor bill, the relief from it afforded the industry will make it possible for us to survive and work out of a very unhealthy situation.

In closing, I might add that our company has withstood a financial loss, since 1951, in excess of \$400,000 and we have been able to continue only by contribution of capital by our very limited number of stockholders. The passage of the Saylor bill will certainly help put us in a position to recoup some of these losses and if the bill is not passed, our losses will be far greater and will necessitate liquidation of our corporation.

Please feel free to use this letter, if you see fit, at your hearing before the Senate Finance Committee.

Yours very truly,

MARTIN R. DOANE, *President.*

Witness:

LEONA SHETRON, *Secretary.*

The CHAIRMAN. Then that will complete our witnesses.

You are all at liberty to put in written statements. Thank you very much for coming.

(By direction of the chairman the following are made a part of the record:)

STATEMENT FOR FEDERAL LIQUORS, LTD., BOSTON, MASS.

Federal Liquors, Ltd., is the holder of a Federal basic rectifiers permit No. R-94, and operates all of its facilities at 54 Chardon Street, Boston 14, Mass.

As a rectifier, we are permitted to acquire distilled spirits for the purpose of blending or bottling straight alcoholic products which we distribute directly to the retailer in Massachusetts or licensed wholesalers outside of our own State.

As a rectifier and bottler, we purchase bulk whiskies and spirits from distillers. Therefore, we are in the same category as distillers with the relation to the tax-paying of whiskies and spirits.

The extension of the bonding period will permit us to make an orderly liquidation of our surplus inventories paying the excise taxes as our inventory will be withdrawn for consumption.

In order to remain in business and have a continuity of merchandise, we found it necessary to make purchases of brandies, whiskies and spirits in the year of 1946 for future years. We applied the best business sense and judgment in relation to our volume at that time to only buy quantities to care for our requirements.

Our company had disappointing years between 1947 to 1950. Subsequently, we now find ourselves with inventories in a few categories which have been forced out of bond for which taxes had to be paid for same, or goods nearing the 8-year period for which we will be obliged to pay the excise taxes. In many instances either in anticipation of the goods nearing 8 years old or being forced to tax pay at the end of years, we have been compelled to sell below cost resulting in heavy losses.

We found it necessary for the prepayment of these taxes to make large loans from the banks using up our limit credit extensions which moneys should have been used in the ordinary process of business to make profit.

Within the next few months we are faced with taxpaying many thousand gallons of brandies, whiskies, and brandy spirits. As these are not readily salable merchandise to available markets, will mean that in order to avoid the tieup of many thousands of dollars in very slow merchandise that we will have to make arrangements to either export or redistill these items. In either instance, whether we export or redistill, there will be an added cost to the total loss of our inventory. All this loss and unnecessary expense will be avoided by the simple enactment of the H. R. 5407 bill.

In the face of all our arguments it may appear that the large distiller would benefit more by the extension of the bonding period. This is not altogether true, as we who are regarded as a small company by comparison of our competition, would be affected tremendously if the law is not changed. The large distiller with moneys could disrupt the market forcing down prices in order to liquidate their taxpaid inventories forced out of bond. Reduced selling prices would affect our profits resulting in less income taxes to be paid to the Government.

Definite and favorable action is essential on this matter.

LAURENCE M. SINGAL.

STATEMENT ON BEHALF OF POPPER MORSON CO., NEW YORK, N. Y.

Popper Morson Co. holds a Federal basic rectifier's permit. It has its rectifying plant at 48-52 Essex Street, Jersey City, N. J., and sales and executive offices at 630 Fifth Avenue, New York, N. Y.

A rectifier is one who acquires bulk distilled spirits and blends and bottles it into various products, for distribution either directly to licensed retail outlets, as we do in some States, or to licensed wholesalers, as we do in others.

Among the products which we produce and market are blended whiskies, straight whiskies, bonded whiskies and liqueurs. Most of our business is localized in the Northeastern States. In the liquor industry, by comparison, we fall in the category of "small business."

The primary consideration before this committee, of course, is the welfare of the public and then, too, that of the Government, in connection with the collection of excise taxes affecting distilled spirits.

Other proponents of the measure undoubtedly will conclusively show that the passage of the measure will not adversely affect the welfare of the public and that the interest of the Government will be adequately safeguarded.

The purpose of the measure, as we see it, is to give relief to those members of the industry who are faced, through no fault of their own, with dire financial consequences in the event they are required to tax-pay the tremendous quantities of whiskies now in bonded warehouses and which will have been stored therein for 8 years by now and by a limited number of later years.

Not only is the distilling branch of the industry so affected, but we, as a rectifier, find ourselves in the same position.

In 1946 and in the early part of 1947, we had acquired bulk whiskies in quantities which, in relation to our then business, appeared to be normal requirements.

In light of subsequent events, 1946 was a peak year and turned out to be an untrue barometer for our requirements for subsequent years.

We now find ourselves with an inventory of approximately 170,000 regaged proof gallons of whisky running from fall 1945 distillation through spring 1947 distillation. This inventory was acquired by us at about the time of original distillation.

Based on our experience for the past year and with consistent sales effort, we should use up within the next 15 months, in the course of our business, approximately 65,000 regaged proof gallons of the above approximate 170,000 regaged proof gallons.

At various times, between now and March 1955, we will be faced with the dismaying prospect of being required to tax-pay, in addition to our normal requirements, 105,000 regaged proof gallons of distilled spirits which at \$10.50 a proof gallon amounts to \$1,102,500.

For a business such as ours, that is a staggering figure which we will be unable to meet.

Having in mind the 8-year bonding period under present laws, we have been using older whisky in products which ordinarily are marketed with whiskies of less years. We have even used whiskies stored for about 8 years in products which are ordinarily made with neutral grain spirits, without any increase in selling price by reason of the much more expensive ingredient, namely, whisky stored for about 8 years.

We have also tried to ease our situation by taking part of our whiskies which were about to have been stored for 8 years and bottling them in bond. Because of the imminent tax-payment deadline, we bottle much more goods than we could use in the ordinary course of business. We are obliged to incur in a short time the expense of bottling and storing these goods, whereas, ordinarily, the bottling charges would be spread out over a longer period of time and there hardly would be any storage expense.

We have embarked upon an energetic sales campaign to sell these large quantities of bottled-in-bond goods at distress prices. We now have approximately 8,000 cases on hand of bottled-in-bond. It should take about a year for us to sell that inventory, let alone being obliged to bottle more goods as other whiskies of ours become 8 years old.

There is an immediate need for the proposed legislation. We maintain that the need is now.

In our case, the need for extension is immediate as most of our inventories will have been stored in bond 8 years during the spring and fall of 1954 and some have already been stored for 8 years, against which assessments have been levied.

We submit our position as an illustration affecting one small company. Many members of the industry are similarly affected, only multiplied many fold.

Thank you for your kind consideration and courtesy extended.

JOSEPH BILIK.

STATEMENT OF STEWART S. FREEDMAN

I am the president of the Old Joe Distillery Co. of Lawrenceburg, Ky. My office address is 603 First National Bank Building, Cincinnati, Ohio. My father and I own all the capital stock of this company.

My father, Samuel Freedman, has been in the whisky business continuously since the turn of the century, except for the prohibition years; he has done business as a distiller, a broker, and a wholesaler. I have been in business with my father since repeal; from 1941 to 1946 we were part owners of Pebbleford Distillery Co. at Wilder, Ky.

In 1947 we bought the plant, warehouse, and bulk inventory of Kings Mill Distilling Co. in Anderson County, Ky. This distillery was built shortly after

repeal and since our acquisition we have invested substantial sums enlarging, improving, and modernizing. Except for the war years the plant has produced whisky each spring and fall season to meet the anticipated needs of the business.

Our plant is fairly typical of the small independent distilleries in Kentucky. We have a distilling capacity of some 50 barrels per day; warehousing capacity of 65,000 barrels; and a bottling capacity of 1,750 cases of fifths per day. We employ 69 employees in the distillery, warehouse, bottling plant, and office, all of whom live in Anderson County. During the year 1953 approximately \$4,350,000 in Federal excise taxes were paid on whisky withdrawn from bond at our plant. In addition, we paid thousands of dollars in State, county, and school taxes.

As a small independent distiller passage of the Saylor bill is of vital importance to us.

As I have stated, in order to maintain a proper supply of whisky to enable us to keep the uniform quality of our brands we must anticipate the whisky market 4 to 6 and 8 years in advance. Because of reasons beyond our control we found ourselves faced in 1952 and 1953 with a whisky market on the downgrade.

When whisky production was resumed after World War II, it was made with the understanding that the war tax of \$9 per gallon which became effective April 1, 1944, would expire at the end of the hostilities and the tax would revert to \$6. It was anticipated that this reduction would spark the market and result in increased sales. With this in view the distilleries produced quantities sufficient to handle such an increase in sales. However, at the end of the war the \$9 tax became permanent, and in 1951 the tax was raised to \$10.50. A sales resistance then developed that slowed up the anticipated sales increase, resulting in greater stocks of legal liquor than was necessary to meet legal demands.

The first whisky production after the Second World War, except for the 1 month holiday in January 1945 was begun in July 1945. In July 1945, and in the fall of that year Government restrictions on grain prevented the use of materials necessary to produce standard Kentucky bourbon whisky. In addition to grain restrictions, independents were unable to procure new white oak charred barrels and had to put that whisky they did make in used cooperage.

This whisky started to arrive at the age of 8 years in July 1953. We, as independents, found ourselves in the position of owning 1945 whisky, which, because of the condition of the market, was not in demand, and yet we were required to pay a Federal excise tax running around \$350 per barrel when and as it reached 8 years. As the 8-year deadline approached this whisky became a greater and greater liability. The banks with whom it was financed were pressing for the disposal of it, and yet there was no market. It could not be given away, nor, under the law, could it be destroyed. When July 1953 came we had 155 barrels that became 8 years old during that month and August. After frantic efforts and after tax on part of the barrels became due we were successful in finding a large company that would take it off our hands for nothing and pay the Federal excise taxes of \$54,000. We not only got nothing for the whisky, but we had to pay a broker a fee for finding someone to take it off our hands. Our own loss of everything we had in this whisky was minor by comparison with the excise tax.

During the summer of 1953 we were successful in disposing of one lot of whisky consisting of 215 barrels maturing variously in the months of July, August, September, and October 1953, at various prices ranging from \$7.50 a barrel to \$25 a barrel depending upon how near the 8-year deadline was to the time of the sale. This was whisky that cost us many times the sale price but we had to dispose of it to avoid the tax liability. The taxes at approximately \$350 a barrel would have amounted to \$75,000.

These are only two instances among many where we had to suffer nearly a total loss of our investment in inventory in order to escape huge tax liabilities that resulted from the arbitrary 8-year period for tax payment. But this is only part of our damage.

The only way an independent can finance its business is by borrowing against the whisky in its inventory and putting it up as collateral. For the past 2 years, however, banks would rarely make loans on 6- and 7-year-old whisky. Our borrowing power was thus cut down to that extent. We have no other means of financing as do the large members of the industry who operate largely on public capital and who can borrow from banks on open loans.

Furthermore, because of the demoralization of the market resulting from the pressure created by the expiration of the 8-year period it has become increasingly difficult to borrow even on current production.

It has been a custom of the trade in the past for independents to sell part of their current production to wholesalers on contracts. The wholesalers contract to take so many barrels a month and they take this whisky to their own banks for financing. As a result of the critical situation, they are finding it impossible to contract for new whisky since they are being squeezed by the pressure of having to meet tax payments on the whisky they bought 7 and 8 years ago. This has destroyed a most important outlet for our whisky.

One of the most serious dangers, however, that we find ourselves in is our liability as warehousemen. A very substantial part of the whisky stored in our warehouses belongs not to us but to outsiders. Some of this is whisky that we sold these outsiders; some of it is whisky they bought from others and moved into our warehouse for ageing. Under the law, we as warehousemen are liable for the tax regardless of who owns the whisky. Of course, we have a lien on the whisky if we have to pay the tax; but a lien on a barrel of whisky that may be worth anywhere from \$50 down to nothing is of little value if we have to pay a tax of \$350 for that barrel. If the owner of 1,000 barrels of whisky stored in our warehouse failed to or was unable to pay the taxes on them at the end of 8 years we, as warehousemen, would be liable for some \$350,000 in taxes on whisky we didn't even own.

In addition to this liability as a warehouseman, we are liable under the law, as a distiller for the Federal excise tax on every gallon of whisky that was made at our distillery regardless of how many owners it has passed through since it was made, regardless of who owns the whisky now, and regardless of where that whisky may be stored.

In view of our liability as warehousemen and as distillers our position is quite precarious unless we get some extension of time. The outlook is that this condition is likely to continue for the foreseeable future; each month that passes more whisky is becoming 8 years old. Our hope of survival as independents lies in our getting time during which our stocks of whisky can be liquidated in an orderly manner. We have long since curtailed our production of new whisky down to the barest minimum consistent with the maintenance of a continuity in our inventory. We believe that the Saylor bill will enable us to continue to exist as an independent in the industry, one of the few left in Kentucky.

STATEMENT OF L. J. GUNSON, PRESIDENT, CONTINENTAL DISTILLING CORP.

I am L. J. Gunson, president of Continental Distilling Corp., and its affiliates, Kinsey Distilling Corp., and 'W. A. Haller' Corp., which are subsidiaries of Publicker Industries, Inc., of Philadelphia, Pa.

I believe that Mr. McClure has very ably described the danger that is threatening the distilling industry today. I know that a number of smaller distillers are already in difficulty either because they cannot afford to pay the tax on the whisky which has reached or is reaching the 8-year limit or because they cannot sell their bulk whisky to their customers in competition with the distress stocks that are being dumped on the market.

During the past few months my company has been offered various lots of whisky at prices which I know must represent only a fraction of their cost. You can readily see how this situation, as Mr. McClure pointed out, will benefit some of the financially stronger companies for the time being. Since some companies may not have to face the inventory problem until next year or the following year, they are in a position to gain from the distress of others. However, I am happy to note that even those few industry members who are in a position to benefit in this emergency are supporting H. R. 5407.

I am frank to admit that my company is one of those acutely affected by the force-out problem now. We have tried to meet the situation by every legal means available. Large quantities have been placed in export channels and selling effort in foreign markets has been greatly intensified. Prices of various brands have been reduced to rock bottom. We have made certain changes in our blended whiskies to use up whisky at a greater rate. The average blended whisky on the market today contains about one-third whisky and two-thirds neutral spirits. Some time ago we began to substitute 7- and 8-year-old whisky for neutral spirits despite the fact that the cost of neutral spirits before excise tax is only a fraction of the cost of whisky before tax. And this increase in quality has been effected with no increase in the price of the product.

The problem gets worse day by day and if no relief is given, redistillation of 8-year-old whisky will be the last alternative. Some quantities of 8-year-old

whisky have already been redistilled with the resultant loss of about 90 percent in value. We have in our warehouses some of the finest aged whiskies in the country. To redistill that whisky will hurt us, will hurt the consumer and will hurt the Government. I don't mean to imply for a moment that we face financial disaster. Fortunately we are strong enough financially to absorb whatever loss may be involved in this drastic step. But I know that others in the industry are not so fortunately situated. In any event, since the Treasury Department has a 52 percent interest in any profits made by a corporation the Government will lose 52 percent of every dollar lost by the industry as a result of the present industry crisis.

I want to emphasize that the problem my company is facing now will be faced sooner or later by almost everyone in the industry. For a few, it is already almost too late for relief. If passage of H. R. 5407 is delayed, the delay will amount to discrimination against those facing the problem now in favor of those who will meet the problem later. Those few who may be favored by delay will be receiving a double benefit first by having gained by the distress of others and second by getting the relief which was not given to their competitors. I know that this committee is opposed to discriminatory legislation and would not want to see competition by legislation.

Gentlemen, the crisis in the industry today, as Mr. McClure pointed out, was caused by several factors beyond the control of the industry. We are not asking for financial or tax relief such as has been given to other domestic industries dislocated by wars and other national emergencies. We ask only for a temporary extension of a restriction imposed by law which extension won't hurt revenue collections but may well increase the revenue.

I would like to repeat again that if relief is delayed it may come too late to be of any value to some in the industry. I respectfully urge your favorable consideration of this bill.

To the Senate Finance Committee:

I am W. A. Thomson, Jr., owner and operator of Kentucky River Distillery, located at Nicholasville, Ky., on the Kentucky River, 20 miles south of Lexington, in the deep country. It is my belief that the passage of H. R. 5407 will momentarily correct a great inequity which now exists in the distilling industry.

There exists at the moment an imbalance of whisky, particularly those whiskies made in 1946, which were made under wartime conditions, and peculiarly enough, there exists a vast imbalance in whisky made in 1950 and 1951. The reason this overproduction exists in 1945's and 1946's is because these whiskies were made under wartime restrictions. The reason that there exists an overproduction in 1950's and 1951's is because the Department of Agriculture caused this industry and its executive heads to be called into the Department of Agriculture building on September 6, 1950, and as I happen to be a member of the committee called by the Department of Agriculture I am conversant with the facts. Officials of the department were in charge of that meeting. At approximately 11:45 the first day that meeting was called the industry was told that because of the Korean situation the industry possibly would be closed down some 18 months, or 2 years, and that no beverage spirits of any kind would be permitted to be manufactured. It was further stated that such a closedown would not happen for a month or two.

The officials called for an hour's recess for lunch at approximately 12:30 on that day, which was Monday. Executives of the industry rushed from that meeting to long distance telephones located in and about the meeting room, got in touch with their various plant superintendents, etc., and ordered a 24-hour per day production, assuming that they would soon be called upon to convert to war industrial purposes.

At that time, if this committee will go back in its memory, everyone in Washington was very undecided as to what course would be pursued in the Korean conflict, and whether such conflict would lead to an all-out worldwide war.

The close down of the beverage spirits industry was not put into effect by the Department of Agriculture, such close-down periods being delayed from month to month by the Department of Agriculture. In the meantime, in preparing for the close-down of the entire distilling industry for 18 months to 2 years the industry was doing its best to accumulate stocks for that period.

Thus, the industry was forced by act of Government to overproduce in the fall of 1950 and spring of 1951.

May I ask the consideration of the committee to look at the following figures: Some distillers are forced to sell a case of 4-year-old bottled in bond whisky

at a price of \$33 f. o. b. distillery. Immediately and prior to the sale of this case of whisky we must hand to the Federal Government \$25. We must further pay a bottling house payroll, ad valorem tax, such ad valorem tax being \$3.50, which is school tax to the State of Kentucky; then, we must meet a payroll for our employees who bottle this whisky, pay the maker of the glass bottles, the carton, etc. Therefore, our total output before we can sell this case of whisky is \$25.20, and \$2.12. It can be seen, therefore, that to get back \$1.60 per gallon which we have in the whisky itself, we must put out \$27.44 and we must put out this amount of money for a period of from 30 to 60 days, as that is the time it takes us to collect for this case of whisky after it is sold. Now in the case of these 16 small distillers, whose enterprises are owned by them, and who do not have access to public moneys in the way of stock and bond issues, you can see that a very difficult problem exists in getting enough money to finance even a small operation. It can be seen then, that because of the tax we have to raise, and because of the force-out at the end of 8 years, the laws have created unsurmountable problems for the small distiller.

Kentucky River Distillery has a tax liability on force-out of 800 barrels or \$400,000 this year. It is impossible for me to raise this money.

We therefore ask you for relief at this time, before all of the little fellows die. Gentlemen, thanking you for your kindness and consideration, and hoping that you will grant the major relief we now request, I remain,

Most respectfully,

KENTUCKY RIVER DISTILLERY, INC.
By WILLIAM A. THOMSON, Jr., *President.*

STATEMENT OF SIDNEY B. FLASHMAN, BOSTON, MASS.

Honorable Chairman and members of the Senate Finance Committee, I am Sidney B. Flashman, a resident of Boston, Mass., and I have been actively engaged in the liquor industry in various capacities since the repeal of prohibition.

At the present time I am the president and principal stockholder of Double Springs Distillers, Inc., of Bardstown, Ky., which corporation is engaged in the distilling, warehousing, and bottling of distilled spirits. I am also the sole proprietor of the Bonded Liquor Co. of Boston, Mass., dealing only in warehouse receipts for bulk whisky.

As this is the only industry that must pay Federal excise taxes on unsold goods at a deadline date, whether or not we have the funds to pay them, it is necessary that we obtain relief through Congress to relieve the present distressed conditions and great prevailing hardships of all the smaller, as well as some of the larger distillers.

As long as any member of this industry is penalized to any degree because of this condition, and since this condition can be corrected by the enactment of the Saylor bill (H. R. 5407) it is my sincere hope that this honorable committee will act favorably to pass this measure in order to immediately correct the inequity of the present law.

Yes, as long as anyone may suffer hardship and financial loss due to the hardship imposed by the present law, this committee should recommend the immediate passage of the Saylor bill (H. R. 5407), especially since its passage in no way is objectionable to any members of this industry or to the Treasury Department.

The failure to change the present law, when this condition was first brought to the attention of Congress in 1952, and again in 1953, has resulted in millions and millions of dollars of loss of capital to the liquor industry, in addition to the great loss to the Treasury of income taxes as well as income-tax refunds which were paid to many concerns.

As for myself, and my companies, we have suffered great losses, both of capital and potential profits. As a distiller and a dealer of bulk whiskies it was normal to carry, purchase, and sell inventories of whisky that were in demand by our customers.

In the years preceding 1952, we bought and sold many thousand barrels of whiskies of 1944 through 1946 inspections of rye, bourbon, and straight whiskies.

As our customers varied from small wholesalers and rectifiers to the largest companies in the industry, and the nature of the business required varied types of inventories it was normal for us to replace sales with additional quantities of similar goods when they were available. Accordingly, when the subject of extending the bonding period was proposed by the introduction of the Eberharter bill in 1952, we had in inventory various lots of whisky of 1944, 1945, and 1946 in-
spec-

tions. These whiskies were left after sales and purchases by us at different times in 1948 through 1950.

When the Everharter bill failed to pass in 1952, conditions in the industry changed. Concerns who normally would purchase their requirements of aged goods in the usual manner, became aware of the evident fact that there would be a rush on the part of both small and large holders of aged whiskies to dispose of their inventories before the Federal excise tax would be imposed upon them. Therefore, instead of a normal market, prices started to tumble on all ages of bulk whiskies.

This situation was further greatly aggravated in 1953 by the failure of the Saylor bill to pass, and as a result large quantities of 1945 whiskies of all types were thrown on the market, both in bulk and in case goods, at almost any price, to either eliminate the payment of the excise taxes by the holders or to dispose of the goods after the taxes were paid.

Not only did this cause us great losses on the 8-year-old, or near 8-year-old whiskies, sold either in bulk or in case goods, but it was almost impossible to find customers at any price, because everyone was afraid that prices would fall still lower and they, therefore, bought only what they actually needed and in very small quantities. This distressed condition on 8-year-old whiskies naturally upset the entire price structure of all ages of bulk and case goods.

To meet competition of case goods and bulk sales, we, as well as other small distillers are forced to sell all ages of our goods at cost or less than cost, without any allowance made for selling or administrative expenses. We further create distressed conditions within our own companies by trying to sell off older goods at prices less than what we should realize for younger goods.

It is the smaller distillers who are forced to make sales, because if they didn't, their inventory cost would climb and the withheld inventories would get older and the problems would get worse later.

Due to the anticipated force-outs of whisky retailers, knowing that the distillers have these problems, and knowing that they too may be subject to severe competition on the 8-year-old whisky, also have been reluctant to handle older whisky for fear of cut-price competition which would eliminate all or part of their profit. In addition, if the retailers feature 8-year-old goods at cut prices, it affects their regular business to the extent that all they would be selling would be the cut-priced 8-year-old goods.

Therefore, when these 8-year-old goods are sold at sacrifice prices it demoralizes the entire price structure. Whereas, if these whiskies are permitted to remain in bond, and are withdrawn in an orderly manner, this distressed condition will not exist.

Since the whiskies which would be permitted to remain in bond over the 8-year period would be restricted to the use of the 8-year age statement, and not claim any additional age, the distillers and bottlers would not have any benefits to derive from this additional storage period. The holders of these 8-year-old whiskies would be subject to increased costs due to an average 6 percent loss of whisky each year as well as additional carrying costs amounting to approximately 10 percent of the cost of the whisky each year.

Therefore, since the extension of time is being requested, in spite of the additional costs that will be incurred and regardless of the fact that no additional age statement will be granted, it is very evident that the request is being made due to the hardships that exists and accordingly this relief in the form of an extension of the bonding period should surely be granted.

Thank you for your kind consideration.

STATEMENT OF WILLIAM H. KINNAIRD, LOUISVILLE PUBLIC WAREHOUSE CO.

Louisville Public Warehouse in reality is not in the whisky business. Our chief source of revenue is derived from the storage and distribution of merchandise. We operate 24 warehouses with approximately 1 million feet of space. In addition to our other operations we have, since 1884, held various licenses and permits to store and bottle whisky. In fact, during prohibition, Louisville Public Warehouse Co. was designated as a concentration warehouse to store and bottle whisky for medicinal purposes. This company stores whisky in bond, taxpaid whisky, and bottles for customers. We do not own any whisky nor do we buy or sell whisky, but simply render a service to the whisky industry.

In storing whisky in bond for our customers, the Government will look to us for the payment of any taxes accruing as a result of this storage. This is some-

what different from any commodity that we warehouse and store. Ordinarily whisky that we store is owned by well-financed customers but somewhere along the line these customers may be in financial stress at the time the whisky is forced out of bond and then the Government would look to us for tax payment, levy upon our bond which guarantees that the tax will be paid at the time of force-out or levy against our property to insure that the taxes are paid. This company could doubtless raise the money to pay the taxes on such whiskies but it would be at a great inconvenience, and it would take time, money, and litigation for us to realize the tax payment and our storage charges.

In this connection we may not know the true owner of the whisky in storage, as the warehouse receipts may have passed to one or more persons after storage, and we might have difficulty in tracing the ownership of the whisky (charges covering storage, warehousing, etc., are paid at the time of withdrawal). Currently our whisky in bond is only about 3,158 barrels and approximately 7,000 cases. Tax payment of this small amount of whisky would amount to over \$2 million which we would have difficulty in raising as stated above. It is for these reasons I urge this committee to favorably report H. R. 5407.

STATEMENT OF ALVIN A. GOULD, PRESIDENT, ANDERSON COUNTY DISTILLING CO. INC., TYRONE, ANDERSON COUNTY, KY.

Our distilling capacity is 60 barrels per day

Our bottling capacity is 1,000 cases per day

Our storage capacity is 70,292 barrels

We employ 69 employees

1. In our industry we must plan years ahead of the time when our product is to be sold. If we are to stay in business we must make whisky today to meet consumer demands 4 to 8 years from now. Each year it has been our practice to produce whisky on the expectation that our business will succeed and maintain a consistent growth as a result of our efforts.

2. In 1944, the Federal excise tax was increased from \$6 to \$9 a gallon with the provision that it would be reduced automatically to \$6 6 months after termination of hostilities. The industry looked forward to a jump in sales when the tax reverted to \$6 and produced in quantities sufficient to meet such anticipated sales. Instead, before a declaration terminating hostilities was made, the tax was increased to \$10.50, and the expected jump in sales did not materialize, leaving an oversupply of whisky in the warehouses. This made it necessary to stretch out this overproduction over a longer period of time than was permitted by the 8-year tax law.

3. The existing law requiring tax payment of whisky when it becomes 8 years of age has had a disastrous effect on the independent distillers. It has caused whisky made in 1945 and 1946 to become distress merchandise and has had the result of destroying the bulk market for whisky.

4. As the end of the 8-year period approached, lending agencies put pressure on borrowers; the borrowers had to find purchasers in a hurry; purchasers were scarce and sometimes nonexistent. The effect on the market under these circumstances is obvious.

5. As each month passes another 8-year period closes and another lot of whisky becomes liable for the tax. With taxes running as much as \$350 to \$375 on a barrel of 8-year-old whisky it has on occasion been impossible even to give this whisky away because there was no one who wanted to incur the tax liability that would accrue.

6. The taxes cannot be avoided by destroying the whisky, since the law does not permit destruction for that purpose.

7. The independent has no access to foreign markets; it has not been in a position to develop foreign markets to which it can send its whisky and so it cannot relieve itself of the liability by exporting its whisky.

8. The independent cannot afford to pay the tax and hold the whisky; banks will not lend the amount of the tax. But even if the taxes could be paid there would be no place for an independent to store the whisky since upon tax payment it must be removed from the internal revenue bonded warehouse, and there is generally no adequate space available at the average small distillery to store tax-paid whisky.

9. After the taxes are paid the whisky cannot be bottled in bond, and, therefore, a great deal of its acceptability as aged whisky is lost and its market value is much reduced.

10. It cannot be bottled in bond and then held beyond the 8-year period because in addition to the taxes the bottling costs would have to be tacked on and if the banks won't lend the taxes, they won't lend bottling costs either; and you still have the problem of storing the bottled whisky.

11. Since repeal it has been a practice of the independent distilleries to make contracts with wholesalers for part of their output. Wholesalers purchased bulk whisky in this manner to assure them a uniform continuity of whisky for their private brands. These wholesalers came face to face with many of the problems discussed above and now find themselves in the same distress as the independent distillers.

12. Under the law the distiller is liable (a) for the taxes on all whisky produced by him regardless of who owns it when the tax falls due, if not then paid and (b) for the taxes on all the whisky stored in his warehouse regardless of ownership. Failure on the part of the owner of a substantial lot of whisky in the warehouse of an independent distillery to pay the tax at the end of 8 years could mean disaster for the distiller. At the rate of \$350 per barrel, if the owner of 1 lot of 3,000 barrels failed to pay the tax the distiller could be put out of business very quickly if he did not have the million or more dollars required to pay the tax. Unless the Saylor bill is passed this could well happen to more than one of the independents.

13. Passage of the Saylor bill will give the independent distillers an opportunity to work out of this oversupply by liquidating it in an orderly way; it will give them time to market their whisky and at least recover the Federal tax and possibly a small part of their investment.

14. Passage of the Saylor bill will result in the Government's collecting more taxes than if the bill is not passed. It is readily conceivable that in some instances the owners of distilleries will not be able to raise the funds to pay the taxes if they must be paid at the end of 8 years and the Government will wind up with barrels of whisky instead of tax revenue. Furthermore, the existing law is forcing the exportation of large quantities of whisky that would otherwise be retained and disposed of in this country; this means a loss of revenue.

The result of all this has been that the investment of the independent distillers in whisky inventories has become a total loss as the whisky approaches the 8-year mark. If the trend continues and if the 8-year tax payment period is not extended, disaster will most certainly befall the entire independent distillery industry.

ROBERT GOULD Co.,
Cincinnati, Ohio, July 23, 1953.

HON. EUGENE D. MILLIKIN,
Senate Office Building, Washington, D. C.

DEAR SENATOR MILLIKIN: Please read the attached editorial from this morning's edition of the Cincinnati Enquirer.

One important fact not brought out is that the Saylor bill is in no sense a tax-exemption measure. Taxes on the whiskies in storage will be paid, and the Government will not be out one penny in revenue.

On the other hand, if the bonded period is not extended and this whisky is forced out of bond, a tremendous portion of it will be redistilled for alcohol, exported, or destroyed—with resultant loss of millions of dollars of tax revenue to the Government.

We are small-business men in this industry. In earnestly requesting reconsideration of the Saylor bill we are echoing the plea of many thousands of other small business men. Many of them face ruin if the time-extension provided in the Saylor bill is not granted.

Passage of this bill will help both us and the Government—defeat will benefit only the big interests who are in a position to fatten on the misfortunes of the little fellow.

Your immediate favorable reconsideration of the Saylor bill is earnestly requested and profoundly appreciated. Will you help us?

Very truly yours,

ROBERT GOULD.

THE WRAPE HEADING CO.,
Paragould, Ark., July 18, 1953.

Re H. R. 1215, the Saylor bill

HON. JOHN L. McCLELLAN,
United States Senate, Washington, D. C.

DEAR SENATOR McCLELLAN: We have been advised that the Senate Finance Committee on July 15 postponed indefinitely action on the above bill which so vitally affects our industry.

This bill had received favorable action in the House and it was the industries' hope and expectation that it would receive similar favorable action in the Senate.

We would like to petition you as our Senator to contact this Finance Committee toward the end of their giving this bill a reconsideration so that it might come from this committee to the floor of the Senate for a vote.

The cooperage industry as a whole is in desperate shape as far as business is concerned and the bourbon part of the cooperage business is now the most vital part of our business and the effect of this delay in reporting out the Saylor bill will be adverse to us.

We hope that you will act on our petition and that your action, in concert with others, will bring this bill to the floor of the Senate in the near future.

Yours very truly,

THE WRAPE HEADING CO.
By ROBERT L. WRAPE.

BARDSTOWN, KY., July 20, 1953.

Senator EUGENE D. MILLIKIN,
Senate Office Building:

We are very small distillery in Kentucky and without the relief of the Saylor bill will suffer great and irreparable loss. Urge your committee's reconsideration.

T. W. SAMUELS DISTILLERY,
A. V. HIBBS.

BARDSTOWN, KY., July 20, 1953.

Senator EUGENE D. MILLIKEN,
Senate Office Building, Washington, D. C.:

For the sake of the workers in the distilling industry urgently request your committee's reconsideration of H. R. 5407.

WILLIAM CREPPS,
*Chairman Distillers Workers Union Local No. 23, affiliated with Distillery
Rectifying and Wine Workers International Union (affiliated A. F. of L.).*

BARDSTOWN, KY., July 20, 1953.

HON. EUGENE D. MILLIKIN,
*Chairman, Senate Finance Committee,
Washington, D. C.:*

We earnestly urge that your committee reconsider and recommend passage of the legislation extending the bonded period on distilled spirits.

WILLETT DISTILLERY Co.,
THOMPSON WILLETT, *President.*

WASHINGTON, D. C., July 23, 1953.

HON. EUGENE D. MILLIKIN,
*Chairman, Senate Finance Committee,
United States Capitol:*

We favor the passage of the Saylor bill, H. R. 5407. We deplore the apparent misinterpretation of the purpose of this legislation. It is not a tax relief measure; its purpose is to attain stabilization of conditions in the liquor industry which conditions, if not corrected, will result in disaster to thousands of small businesses.

THE GLOBE DISTRIBUTING Co.,
E. D. LAVITCH, *President.*

GROSSCUTH DISTILLERS, Inc.,
Anchorage, Ky., July 16, 1953.

HON. EUGENE MILLIKIN,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

HONORABLE SIR: As a small Kentucky distiller, we are at a disadvantage and a hardship in attempting the orderly marketing of our merchandise. The bill recently passed by the House of Representatives, which would extend the bonded period of whisky to 12 years, would have granted some small relief to us as well as to all other small distillers. It is our understanding that your committee, yesterday, tabled and apparently intends to take no further action on this bill at this session. Such action comes as a shock and surprise to the entire industry, who are united in their support of the measure. The action of your committee is even more of a disastrous blow to the smaller, less-well-financed units than to those whose companies sell the greater portion of distilled spirits.

If the bill is not passed in the present session of the Congress there will be many small companies forced into bankruptcy because of inability to pay taxes on whisky for which there is no sale.

Regardless of what opinion may have been advanced concerning the benefits granted to the distilling industry, we should like to advise you that the industry will obtain no windfall of profits from the United States Treasury nor will the Government lose one penny of revenue through passage of this measure. In view of this it is difficult to understand how your committee has taken the action which it has.

We strongly urge that your committee reconsider the bill immediately so that it may have an opportunity to be voted upon by the entire Senate in this session.

Respectfully yours,

C. A. GROSSCUTH, *President.*

CINCINNATI, OHIO, July 8, 1953.

HON. EUGENE D. MILLIKIN,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.:

On behalf of the many thousands of distillery workers, members of our union, I urge you and the members of your committee to favorably report H. R. 5407 (Saylor bill), now before the Senate Finance Committee. This legislation will help regulate production and stabilize employment in the distillery industry.

KARL F. FELLER,
General President, International Union of the United Brewery, Flour, Cereal,
Soft Drink, and Distillery Workers of America.

BOSTON, MASS., July 17, 1953.

Senator EUGENE D. MILLIKIN,
Senate Office Building, Washington, D. C.:

Mr. President, let's not have another Boston Tea Party. House bill H. R. 5407 is in no way a tax relief measure. The whisky industry is a legalized business which contributes tremendously to the Treasury of the United States. Why should this industry be penalized to the extent of having to pay the Federal excise tax of \$10.50 per gallon on whisky which is lying dormant in warehouses all over the country. No other industry is forced to pay excise taxes under these conditions. In the liquor industry whisky cannot be considered a finished product ready for sale to the public until it is put up into glass case goods. If this bill is not passed, there will be no increase in the amount of Federal excise taxes collected. The whisky which is forced out of bond now will only take the place of other whiskies which would have been bottled in its place. Much of the whisky ready to be forced out of bond will be either redistilled for industrial alcohol, exported or put on the market at distressed prices. All of which will result in less income tax revenue for the United States Government. A majority of the holders of whisky which will be forced out of bond at this time are looking to you to save them from financial disaster and loss of their business by your support of House bill H. R. 5407 immediately. As a legalized industry in this country the liquor industry is entitled to the lifting of this enforced tax oppression immediately. In all fairness to this industry and without granting any privileges to this industry not already enjoyed by any other industry you must investigate and come to the aid of their cause. Thorough understanding of the circumstances will prove

conclusively that this is not a tax relief measure and if the bill is not passed, the United States Government will be responsible for the losses in income that will follow as a result thereof. This bill does not favor or give any extra benefit to any member of the industry. Bound by the regulations of the Internal Revenue Code, this industry is without means of overcoming their own problems as other industries are unless this bill is passed. In the name of nonpartisanship and fair play to all to which the Republican administration has pledged itself, your support is needed at once.

DOUBLE SPRINGS DISTILLERS, INC.
SIDNEY B. FLASHMAN, *President*.

DISTILLERY WORKERS,
LOCAL UNION No. 266,
Leechburg, Pa., *July 22, 1953.*

HON. EUGENE D. MILLIKIN,
Senate Office Building, Washington, D. C.

DEAR SENATOR MILLIKIN: In behalf of the members of the Distillery Workers, Local Union No. 266, Leechburg, Pa., I want to express to you my disappointment and regrets for not giving proper consideration to the Saylor bill at this time.

At the present time only a small number of our members are working steady and the failure to give due consideration of the bill will certainly not improve the situation. Furthermore, holding up the Saylor bill will work undue hardship on our company and other distilleries that have a large stock of 8-year old whisky.

Already, because of the discriminatory tax load on liquor, we have and are suffering considerably and surely we should be entitled to a little consideration from your committee in order that we can support our families in a decent way.

In behalf of the members of my local union, I sincerely urge the members of the Senate Finance Committee to reconsider the Saylor bill. You certainly will help a lot by doing so.

Respectfully yours,

DOMINIC RAVOTTI,
Secretary-Treasurer.

LOUISVILLE 2, KY., *March 4, 1954.*

Senator EUGENE D. MILLIKIN,
*Senate Office Building,
Washington, D. C.*

DEAR SIR: This will confirm my telegram of March 3, advising you as follows: "Now advised Schenley distillers urging passage of unlimited bonded period for distilled spirits as against their previous support of H. R. 5407. Unable to understand Schenley change unless self-serving. All others of industry continue belief that H. R. 5407 is seriously needed legislation."

The independently owned Kentucky Distillers have in their bonded warehouses 12,652 barrels of whisky that will be forced out of bond during the year of 1954. This will represent nearly \$4,500,000 in taxpayments.

For 1955 maturity these independents have in their warehouses 35,235 barrels of whisky which represents nearly \$11 million in taxpayments.

If half of this whisky is forced out there will be a large number of casualties. Several own over 2,000 barrels that will mature this year.

Your earnest consideration of the small company position is urged.

Very truly yours,

SAM MANLY III.

[Telegram]

NEW YORK, N. Y., *March 2, 1954.*

SENATE FINANCE COMMITTEE,
*United States Senate Office Building,
Washington, D. C.*

H. R. 5407 pending before the Senate Finance Committee contains compromise provisions worked out in May 1953 in an effort to obtain an immediate relaxation of the bonded period limitation for the benefit of those who needed relief at once.

While many in the industry were not in accord with the provisions of the bill they withheld opposition so as not to delay action.

The bill passed the House on July 7, 1953, but instead of winning early Senate approval as had been hoped has remained before the Senate Finance Committee.

At the hearings held by the committee on February 24 it became evident that some members of the committee were prepared to urge certain additional limiting provisions and amendments. It also became evident that other members of the committee held views pointing to the possibility that the compromise provisions reluctantly agreed to in the first place by some members of the industry are questioned in policy and validity and may be amended.

In view of these developments Schenley Industries, Inc., wishes to state its own position on the questions raised at the hearing.

1. In answer to the question "Who will benefit?" may we say that this company does not have any immediate problem.

2. There is no reason for any limitation on the time in which spirits may remain in bond. Canadian and other foreign firms which compete with us in our market are not so restricted either by their own governments (which have had many more years of continuous experience with the problem) or by our Government. We feel that it is in the interest of our Government and the people to have no limitation on the bonding period. We are convinced that the Treasury before long will realize this and will find that to protect the revenue, it will have to advocate an unlimited bonding period.

3. Any provision requiring withholding of the truth from the labeling of a distilled spirits package represents a departure from the system of informative labeling which has been developed in the public interest over the years.

4. We feel therefore that the only proper and sound method to handle this problem which will grow in magnitude within the next few years would be to enact a law providing that all spirits in bulk containers may be kept in Government bonded warehouses as unfinished merchandise since under the law they may not be sold to the American consumer in bulk but may only be sold in bottles. We call your attention to the fact observed by the Ways and Means Committee in its report on a predecessor bill. That "the tax on distilled spirits is unique among excise taxes in that producers are required to pay the tax at the end of a fixed period of time 8 years." Distilled spirits also are the only products on which the Government levies a tax before the product is completely manufactured since spirits are not ready for the consumer by law until they are bottled.

5. Legislation in this matter has been likened before your committee and on the Senate floor to a request for support prices for whisky at a time when the administration is endeavoring to reduce such support for agricultural products. We submit that a fair openminded examination of this situation can result only in the conclusion that we have not asked for this at all. We are asking simply that we be permitted to pay an excise tax on a finished product exactly as all other industries do. Otherwise the tax becomes a property tax rather than an excise. We never have asked and are not now asking Government to pay us anything or to take any surpluses off our hands. We are asking simply for legislation which will make it possible for us to pay the very sizable tax which Congress feels is required.

6. Legislation should be enacted to correct a basic inequity not to extend relief; such legislation is required to assure collection of the tax when it becomes due. Without proper legislation increasingly serious problems will be faced by the Treasury.

Respectfully yours,

SCHENLEY INDUSTRIES, INC.

WEST PALM BEACH, FLA., *March 8, 1954.*

HON. C. E. MILLIKIN,
*Senate Finance Committee,
Senate Office Building, Washington, D. C.:*

Review and analysis of the record of the hearings held by your committee on H. R. 5407 prompts me to amend in some respect my position. When I appeared before your Committee. It is possible that an unlimited bonded period on whisky in bond and to be made would protect the Government, this industry, and the public interest, and that a bill embodying this principle will bring equitable relief to the small distiller. Accordingly I respectfully request that considerations by your committee of the bill be deferred in order to give the small distiller and the other members of the distilled spirits industry an opportunity to work with you to attain equity for all.

Respectfully,

W. A. THOMSON, JR.,
Kentucky River Distillery.

LAWRENCEBURG, Ky., March 5, 1954.

SENATE FINANCE COMMITTEE,
Senate Office Building, Washington, D. C.:

Passage of the H. R. 5407 Saylor bill is seriously needed by the distilling industry. Our distillery is a small one and we are asking for your help.

HOFFMAN DISTILLING Co.,
By EZRA F. RIPPY, President.

LOUISVILLE, Ky., March 4, 1954.

Senator MILLIKIN,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.:

The Whisky Brokers of America, Inc., an organization of brokers and small independent distillers, most urgently favor passage of the Saylor bill, H. R. 5704, in its present form, without amendments, as the only solution to the existing conditions. The association is definitely opposed to an unlimited bonded period as it is against the interests of the small distillers who are unable to finance an unlimited bonded period.

The Whisky Brokers of America, Inc., urge the passage of the Saylor bill, H. R. 5704, in its present form.

THE WHISKY BROKERS OF AMERICA, INC.,
A. W. WILLIAMS, Secretary.

LOUISVILLE, Ky., March 5, 1954.

Senator EUGENE D. MILLIKIN,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.:

Have been advised by Schenley that at a meeting of their board a decision was reached to oppose the Saylor bill. This move came after the hearing before your committee in which I spoke in their behalf at their request. I am at a loss to understand this reversal in their position for they have given me no reason for same. I want you to know that our position and the position of the balance of those I represented in your hearing remains the same. From the inquiries made by certain members of your committee I sensed that some members felt all along that this legislation was entirely for the benefit of one or two large companies. Certainly the Schenley change should remove such opinions as these smaller companies are still urgently advocating that the Saylor bill be reported out favorably by your committee. Regards.

C. K. McCURE,
Secretary-Treasurer, Stitzel Weller Distillery.

(Whereupon, at 1:05 p. m., the committee adjourned, to reconvene at the call of the chairman.)

X