Liquor Tax Administration Act
Taxes on Wines

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON FINANCE UNITED STATES SENATE

SEVENTY-FOURTH CONGRESS

SECOND SESSION

ON

H. R. 191

RELATING TO TAXES ON WINES

AND

H. R. 9185

AN ACT TO INSURE THE COLLECTION OF THE REVENUE ON INTOXICATING LIQUOR, TO PROVIDE FOR THE MORE EFFICIENT AND ECONOMICAL ADMINISTRATION AND ENFORCEMENT OF THE LAWS RELATING TO THE TAXATION OF INTOXICATING LIQUOR, AND FOR OTHER PURPOSES

PART 2

FEBRUARY 12, 1936

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LIQUOR TAX ADMINISTRATION ACT

TAXES ON WINES

WEDNESDAY, FEBRUARY 12, 1936

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

The subcommittee met, pursuant to call, at 10 a. m., in room 310, Senate Office Building, Senator William H. King presiding.

Present: Senators King (chairman), Bailey, and Clark.

Also present: C. M. Hester, O. Norman Forrest, and Dr. O. V. Emery, of the Treasury Department; and L. H. Parker, chief of staff, Joint Committee on Internal Revenue Taxation.

Senator KING. The committee will be in order. Mr. Spiess, do you care to be heard?

STATEMENT OF L. A. SPIESS, REPRESENTING THE MANUFACTURERS OF STEEL BARRELS

Mr. SPIESS. Mr. Chairman, I would like to have reinserted in H. R. 9185 that portion of H. R. 8001, begining on page 23 of the latter bill, reading as follows:

SEC. 17. Section 3339 of the revised statutes as amended (26 U. S. C., secs. 506–507; U. S. C., Supp. 7, title 26, sec. 1330–a) is further amended by adding a new paragraph at the end thereof, reading as follows:

"The Secretary of the Treasury is authorized to fix by regulations to be issued from time to time, the maximum and minimum limits of tolerance within which the capacity of hogsheads, barrels, and fractional parts of barrels may vary from the capacity prescribed by law: *Provided*, That in fixing the limits of tolerance there shall be as many hogsheads, barrels, and fractional parts of barrels exceeding the prescribed capacity as there are containing less than the prescribed capacity."

That passed the House, and for some reason was eliminated from H. R. 9185, now under consideration.

Senator KING. Did you submit this proposed amendment to the Treasury officials?

Mr. SPIESS. I did to Mr. Berkshire of the Alcohol Division.

This came up late yesterday, Senator, and I have just apprised Mr. Hester of it, but I am satisfied neither one of them have had ample time to give the committee an expression from the Department.

The situation is this: The Department has no authority, under the law, to fix the tolerance under or above for beer containers.

At the hearings had on the House bill it was clearly demonstrated that tolerance over and above must be allowed, because it is a physi-

cal impossibility to make a container that will carry the exact amount; in other words, if a container is a gill over, the brewer is subject to a tax of $2.50. The inside of these barrels are pitched from time to time. If the Treasury had authority under an act of Congress to fix the tolerance, then we could work together with them, and work out what is a reasonable tolerance above and below, for the benefit of the industry as well as the Government.

Senator KING. That is the full significance of the amendment?

Mr. SPIESS. That is.

Senator KING. Will you submit a copy of your proposed amendment immediately to the Treasury Department?

Mr. SPIESS. I will.

Senator KING. Mr. Walsh, do you desire to supplement the statement of Mr. Spiess?

Mr. WALSH. I think that is all we have, sir.

Senator KING. Mr. O'Neal, do you have a statement to make?

Mr. O'NEAL. Yes, sir.

STATEMENT OF EDWARD A. O'NEAL, REPRESENTING THE AMERICAN FARM BUREAU FEDERATION

Mr. O'NEAL. The farmers of this country are very much interested in this amendment which has been offered, because they think it protects the use of American grain in distillation. That is based on my experience here, not any technical thing, but we think that the American market should be given to the American farmer.

Senator KING. The amendment referred to is as follows:

Amendment intended to be proposed by Mr. Murphy to the bill (H. R. 9185) to insure the collection of the revenue on intoxicating liquor, to provide for the more efficient and economic administration and enforcement of the laws relating to the taxation of intoxicating liquor, and for other purposes, viz: At the proper place insert the following:

"SEC. —. (a) For the purposes of the Federal Alcohol Administration Act, the Food and Drugs Act, as amended, and of any act of Congress amendatory of or in substitution for either of said acts, no product shall be labeled or advertised or designated as neutral spirits, whisky, or gin, or any type thereof, for nonindustrial use, if distilled from materials other than grain, or if the neutral spirits contained therein are produced from materials other than grain. The term 'neutral spirits' includes ethyl alcohol.

"(b) The fifth paragraph of section 605 of the Revenue Act of 1918 is hereby repealed."

As I understand it this amendment would have the effect of preventing the use of imported molasses for the distillation of liquors.

Mr. O'NEAL. That is right. That is our total interest in it.

Senator KING. Would it prevent the use of domestic molasses?

Mr. O'NEAL. As I understand, it would. I went over to the Treasury and talked to the officials over there that Mr. Morgenthau told me to go to see, and I understand that they have a very good market for the sugar beets, and can have a very good local market for their products, and there would be practically no trouble there, as I understand it.

Senator KING. Does molasses make as good liquor as grain?

Mr. O'NEAL. Well, personally, I would say no, Senator.

I have not been a prohibitionist, and will say frankly I think the American people think whisky means whisky. In other words, the

interpretation of whisky, according to the dictionary is alcohol made out of grain.

I have always said it is a fraud on the public if they mark a thing whisky and it really was not whisky. That is just a layman's interpretation.

I might say, Senator, that the farmers, after the Supreme Court decision, were called down by Secretary Wallace in the discussion of the farm problem, and the American farmers, and all of the farm organizations have agreed generally in a resolution that says it should be for the American farmer in whatever market he can get.

I have talked to Senator Murphy, and we are wholeheartedly in favor of his amendment.

Senator KING. The committee will consider that amendment. Does anybody else desire to be heard?

Judge DeVries, we will hear you.

STATEMENT OF JUDGE MARION DE VRIES, REPRESENTING THE WINE INSTITUTE

Judge DEVRIES. Mr. Chairman, following the direction of the chairman, since the last meeting, as representative of the Wine Institute, I have had several conferences with the Treasury on the several amendments offered in behalf of the Wine Institute.

They will be found in my remarks in the earlier hearings at pages 90 to 93. I will say as to these, that there has been practically an agreement upon all, except with reference to the reduction of taxes.

I want to mention particularly the Wine Institute's proposed amendment 8, at page 91, which extends the time for the payment of the fortification tax from 10 to 18 months. The Treasury, I believe, agrees, provided a bond is provided for, which is agreeable to the Wine Institute.

The next one of importance is suggested amendment no. 9, at page 92, which takes out of rectifying definition the clarifying of wines. That amendment the Treasury agrees to with some modification of language which I am assured will be presented by the Treasury.

Amendment no. 10 is a provision to take care of and destroy singlings. A substitute provision has been worked out satisfactorily with the Treasury and the Wine Institute.

On page 93 it is proposed to carry into H. R. 9185 a repeal to an extent of Criminal Code section 239.

That amendment suggested by the Wine Institute is a provision of a bill which has already been reported to the House. There is necessity for that provision, and it properly belongs in the Liquor Enforcement Code.

It is simply to the effect that banks may present wine bills of lading and collect moneys. As here drawn, it is taken from the House bill and applies to wet States, but does not apply to dry States, and is therefore within the twenty-first amendment.

I understand the Treasury has no objection to its inclusion in this bill.

Senator KING. Let me inquire, Mr. Hester, could there be any objection?

Mr. HESTER. No, I do not think so. It is perfectly agreeable to the Treasury.

Judge DEVRIES. Then we come to the Johnson amendments to H. R. 9185. The first of these is to abate in case of the reduction of the fortifying tax that tax upon wine in bonded wineries and storerooms. I cannot speak for the attitude of the Treasury upon that. That is a tax reduction matter.

Mr. HESTER. Our reply to that is that the proposed amendment (e) is regarded as wholly impracticable from an administrative viewpoint, since it is impossible from the records and returns in the Treasury to check claims of this nature. Some of these assessments were made at the rate of 10 cents per proof gallon and some at the rate of 20 cents per proof gallon, at various times and in varying proportions.

When wines are fortified they may contain anywhere from 1 to 13 percent natural alcohol, and from 3 to 20 percent brandy may be added. No two lots of wine will have added thereto in fortifying precisely the same percentage of brandy. This is especially true at different wineries. When the wines are fortified they are subsequently blended with other wine, both fortified and nonfortified, with the result that, after the wines have been on storage awhile, it is impossible to determine, through the records, just what percentage or quantity of brandy the wines may contain.

Many wineries, of course, now have on storage wines fortified prior to January 12, 1934, and wines fortified subsequent to that date, on which different rates of fortifying tax were paid and which have been blended together to a more or less extent, rendering it further impractical to determine what refund should be made on such wines beneath the proposed amendment.

A provision was contained in section 37, title II, of the National Prohibition Act, for the refund of fortifying tax on wines used for the production of beverages containing less than one-half of 1 percent of alcohol by volume. The Treasury found it impractical to administer this provision of law.

Judge DEVRIES. In reply to that statement of the Treasury, I want to state in 1934 when the tax was raised it was applied to wines in stock. A formula was worked out between the Treasury and the parties in interest, whereby that tax was estimated. If it could be worked out when the tax was raised, it could be worked out likewise when the tax is reduced.

The next amendment is the 200-gallon proposition, about which there is no uniformity of opinion. I have made the suggestion in my memorandum for the Wine Institute that a severe penalty be attached, and I want to submit that for the consideration of the committee.

There is a difference between the wine people, there is a difference between the Treasury thought, and between all of those who have approached this very serious problem. It is a question of how we are going to control the 23,000,000 gallons of wine made now under the pretense of wine being made for home use.

Senator KING. Have you considered that matter with the Treasury?

Judge DEVRIES. They make no recommendation upon it.

Mr. HESTER. The Treasury offers no objection to it.

Judge DEVRIES. Either in the matter of the Johnson amendment or what I have suggested.

Mr. HESTER. The question of policy is what we have in mind. A severe penalty, we think, is already provided in another statute, but if you want a severe penalty provided for in this bill we have no objection.

Senator KING. You can take that matter up with the Treasury Department and discuss it further, Judge DeVries.

Judge DEVRIES. The next proposition is the use of names of foreign origin in wines in this country, and as a matter of policy that is submitted to the committee for their consideration.

I want to say now, Mr. Chairman, that the great difference between the Wine Institute and the Treasury is on the question of the reduction of these taxes. On behalf of the Wine Institute I will say that, so far as these other amendments are concerned, we have received very fair and courteous treatment by the Treasury, and we think we have made very decided progress in the interest of pure wines in this country.

I have prepared a rather elaborate statement in answer to questions asked by the committee the last time, which will touch the real question of the wine tax, the quantities of wine produced, how this tax bears upon the wine industry, wherein, I am quite sure, after full consideration of it this committee must conclude, that in view of the demonstrated facts and figures showing that the Government gets more tax out of wine than the vintner gets net return—there should be a reduction of these taxes.

I am not going to take the time of the committee to present that at this time, but I am going to ask if I cannot have it printed in the record in a form as though delivered and thus conserve the time of the committee.

Senator KING. That permission will be granted.

Mr. HESTER. Mr. Chairman, may I also insert in the record in the same manner a memorandum which has been prepared by the Treasury Department as the Treasury Department's attitude on the proposal to reduce the tax on wines?

Senator KING. Yes; that permission will be granted.

Is there any reconcilable difference between the Wine Institute and the Treasury Department on the reduction in taxes on wine?

Mr. HESTER. No; I am sorry to say there is not. It is not reconcilable.

Judge DEVRIES. It is just a question that the Government wants all of the profit in wine on the one hand, and on the other hand the vinters would like to have half of it.

There is one other Johnson amendment which Mr. Hester calls my attention to, which I appreciate, that of making vermouth in the winery. We have an amendment in that respect, and we have agreed upon a substitute.

Mr. HESTER. That is right.

Senator KING. Congressman Buck, we will hear from you if you have a statement to make.

STATEMENT OF HON. FRANK H. BUCK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BUCK. I think the statement Judge DeVries is filing will fully cover all of the contentions made by us before the House Ways and Means Committee, and in inducing the House to pass this bill reducing the taxes.

(At this point the memorandum offered by Judge DeVries is inserted in the record, as follows:)

SUPPLEMENTAL STATEMENT OF JUDGE MARION DEVRIES, REPRESENTING THE WINE INDUSTRY

Mr. Chairman and gentlemen of the committee: Because certain data vitally affecting the wine-tax situation called for by members of this committee were not at the last hearing accurately supplied and in order to fully answer certain questions then asked by members of the committee, such data will here be furnished and questions answered for the more complete information of the committee. In the interest of the welfare of that great industry I express its appreciation for the opportunity of placing before the committee accurate data as to all matters.

There was present at the last hearing, Mr. H. R. Weller, of New York. Mr. Weller is not only a thoroughly experienced wine producer but has for many years had charge of the sales of one of the largest units of the Wine Institute, to wit, Fruit Industries, which probably sells the largest quantities of wines per annum of any unit of the institute and makes such sales in every State in the Union. He is, therefore, a highly qualified witness to speak upon all of the here pertinent subjects, including the current sales prices of wines throughout the United States. He has for the use of the committee transmitted a statement in writing.

In considering quantitative statements and prices of wines, it should be borne in mind that a case of wine usually consists of 12 bottles of so-called "fifths" or one-fifth of a gallon each or 2.4 gallons per case.

Mr. Weller's statement follows:

FRUIT INDUSTRIES, LTD.,
MANUFACTURERS OF GRAPE PRODUCTS,
January 16, 1936.

Judge MARION DEVRIES,
Washington, D. C.

DEAR MARION: The issue with the committee on Wednesday in our case when the statement was made that prices on wines ran from $7.50 to $12.50 a case was highly inaccurate. Those are the prices of very exceptionally high-priced bottled and not the usual run of domestic wines sold in our markets.

Now, actually the selling price from the manufacturer to the retail package shop in Greater New York runs from $2.95 per case of 1 dozen 5's to $3.75 per case of sweet wine. If you take an average of this and set it just a little bit higher, say $3.50 a case, it figures back as follows:

Out of this $3.50 a case, there is New York State tax of 24 cents a case, and Federal tax of 48 cents a case, which is respectively 10 cents a gallon State tax and 20 cents a gallon Federal tax, which leaves $2.78.

Now, granting that this wine is shipped here in bulk from California and bottled by the manufacturer here, the freight is 10 cents a gallon, so, as a case of 5's contains 2.4 gallons, this is 24 cents freight. The wine cannot possibly be handled, that is, transferred from the bulk package that it comes in from

California, either barrel or tank car, clarified, filtered, and put into bottles for less than 5 cents a gallon, and in the majority of cases this doesn't even cover, but figuring this at 5 cents a gallon, this takes for a case of 2.4 gallons an additional 12 cents off, bringing the price down to $2.42.

The actual cost of the bottles, cases, labels, caps, corks, etc., necessary to put up a case of this wine, including the actual labor of putting into bottles, is $1 a case. This brings it down to $1.42. Now, actually, the overhead expenses of maintaining an office, keeping the necessary records, selling commission, delivery charges, etc., will run over 20 percent, in most cases, of the selling price, but suppose we take 20 percent as a fair average; 20 percent of $3.50, the selling price, is 70 cents, and 70 cents from $1.42 above, leaves 72 cents for 2.4 gallons on a case of wine, or 30 cents a gallon, and this doesn't allow for unavoidable losses, etc., and in our actual experience the losses from evaporation and cellar treatment runs over 5 percent.

Now then, 30 cents a gallon for sweet wine, as you know, doesn't give the grower much over around $5 or $6 a ton for his grapes, if it gives him that much. He will average 80 gallons from a ton of grapes, and at 30 cents a gallon that is $24. His fortifying tax to fortify his wine runs into considerable money. He cannot take the grapes in his plant and process them and carry the wine for the necessary period of time for it to be ready for the market for less than around $10 a ton, so you can see where they all get off on this, grower and vintner.

Now, taking the other side of the picture, from the price paid to the retailer of $3.50 on to the price to the consumer.

The retail package shop in New York City has to pay his Federal occupational tax of $25. He has to pay the State license which runs around $1,200, and his rent, overhead, and all that, so that for him to make a living, and it isn't a fancy living at that, he needs a 40 percent mark-up over the $3.50 price which is $1.40 added to the $3.50 makes $4.90 a case of 12 bottles, which is 41 cents a bottle.

The average price around town at which a bottle of California sweet wine can be bought by the consumer is from 40 to 50 cents. I have seen some advertisements of the retailers offering three bottle for a dollar. I am trying to get some of these advertisements for you and will watch it, but you can go in any store around town and buy a bottle of California sweet wine for less than 50 cents.

Now, on dry wines the price runs from $2.50 to $3 a case, but suppose we take $3, which is nearer the top figure than the average figure, and work it back the same way. Three dollars, less the State tax of 10 cents a gallon or 24 cents a case of 2.4 gallons, the State tax being the same on dry and sweet wines, brings it down to $2.76, and then with the Federal tax of 24 cents off that brings it down to $2.52. The freight and handling is just as much on a gallon of dry wine as it is on a gallon of sweet wine, so that the freight and handling will be 36 cents a case, which brings it down to $2.16.

The cost of bottles, cases, labels, etc., is just as much for a case of dry wine as it is for sweet wine, or $1 a case, bringing it down to $1.16. The overhead is just the same, or 20 percent of $3, is 60 cents, bringing it to 56 cents for a case of 2.4 gallons, or about 20 cents a gallon, and here again there is no allowance for shrinkage or loss in cellar treatment, or anything of that kind, and dry wines are freely offered in the retail market here in New York to the consumer at three bottles for $1.

This is rather a far cry from a price list ranging from $7.50 to $12.50 a case, which was the basis of the committee's questioning on Wednesday. Those prices are, as stated, for a case of very exceptionally high-priced wine and not the usual run of wine sales.

Now, I am not as fully posted as the Californian might be as to quotations for wines in bulk, naked on the coast. I am told, however, that dry wines can be bought out there rather freely at from 11 to 14 cents a gallon, and sweet wines at from 28 to 35 cents a gallon. This is a naked price, in bond, f. o. b. winery and as most of the wineries, as you know, are located inshore, this wine will have to carry an extra freight from the inland point to the coast shipping point and then the regular freight from there around here and this is for new wine, untreated.

I hope this will give you some information on which to base your arguments. It would seem to me that if you would bear down heavy on the fact as brought out in your statement, that those States which had a very light tax on wines showed by far the greatest consumption proportionately that it is a

very logical argument for the reduction in price, and besides with the statement that only $6,000,000 was collected as tax on wine for the past fiscal year, we aren't asking any great reduction from the Government if this is cut in half.

The statement that the consumption of dry and sweet wine was about equal is a little bit off; based on our experiences here and I imagine it is pretty much the same over the country, I would say that the sales would run about two-thirds sweet wine and one-third dry wines.

Very truly yours,

RAY WELLER.

On January 17, 1936, Mr. Weller writes as follows:

One of our very good customers here in New York, for whom we do all their private label bottling, called us up this morning and said he had just been offered by a California house, dry wines, packed in cases of 12 fifths, delivered to the store, $2.13 a case, all taxes paid.

Concretely, Mr. Weller's statement shows the current wholesale prices of wines throughout the United States averages $3 per case for dry and $3.50 per case for sweet wines, f. o. b. New York and eastern markets, all taxes, State and Federal, paid. A synopsis thereof as to sweet and dry wines separately for ready reference follows:

Sweet wines—Wholesale (bottled in New York)

Price per case delivered in New York		$3.50
Deductions:		
Freight, handling, and labor, California winery to New York, per case	$0.24	
Bottling, clarifying, etc., per case	.12	
Cases, bottles, caps, labels, and labor, per case	1.00	
Overhead, including sales commissions, advertising, keeping of records, Government, State, and merchandising, estimated at 20 percent of sales price	.70	
New York State tax of 10 cents per gallon, 2.4 gallons in case	.24	
Federal tax of 20 cents per gallon, 2.4 gallons in case	.48	
		2.78
Net return on vintner per case or 2.4 gallons of wine		.72
Government's tax shares, Federal and State, per case of 2.4 gallons		.72
Add to Government's share 6 cents per gallon fortifying tax previously collected on 2.4 gallons		.144
Total Government's tax share on 2.4 gallons or case of sweet wine		.864

Dry wines—Wholesale (bottled in New York)

Price per case delivered in New York		$3.00
Deductions:		
Freight, handling, and labor, California winery to New York, per case	$0.24	
Bottling, clarifying, etc., per case	.12	
Cases, bottles, caps, labels, and labor, per case	1.00	
Overhead, including sales commissions, advertising, keeping records—Government, State, and merchandising—estimated at 20 percent of sales price	.60	
New York State tax of 10 cents per gallon, 2.4 gallons in case	.24	
Federal tax of 10 cents per gallon, 2.4 gallons in case	.24	
		2.44
Net return to vintner per case of 2.4 gallons of wine		.56
Government's tax shares, Federal and State, per case of 2.4 gallons dry wine		.58

In corroboration of the accuracy of the foregoing statement of prices by Mr. Weller and in proof that the retail price of 75 cents

per fifth bottle for dry or sweet wines discussed by the committee at the first hearing is far above the usual retail prices to consumers of either dry or sweet wines, is shown by numerous advertisements in current New York and Washington newspapers. Several of these advertisements will be filed with the committee for examination if desired in corroboration of the statements here made.

The foregoing tabulations synopsizing Mr. Weller's statement are based upon shipments of wine in bulk from California to New York and there bottled.

On the other hand, if the vintner bottles, cases, and labels his wines in California and ships them to New York in the cases, the cost of production and delivery in New York is increased above the prices stated in Mr. Weller's calculations and in the foregoing tables, wherefore the net return is less to the vintner.

Thus, the freight rate on case wines from California to New York are, on less-than-carload shipments, $1,55 per case; on carload lots of 30,000 pounds, 58 cents per case; on carload lots of 40,000 pounds, 57 cents per case; and on carload lots of 50,000 pounds, 47 cents per case. By Panama Canal the freight rate on case wines in carload lots of 24,000 pounds or over is 29 cents per case.

So that, if Mr. Weller's estimations had been based upon wine bottled in California and shipped to the eastern markets that would decrease the net return to the vintners and growers below the aforesaid calculations which are based upon shipping wine east in bulk and bottling and selling it in New York or other eastern markets.

Adverting for the moment to the retail-wine situation as set forth in Mr. Weller's statement, we find that the retailer in New York has to pay his Federal occupational tax of $25 per annum, his State license tax, which runs around $1,200 per annum, his rent, overhead, and other incidental items; wherefore, it is necessary for him, in order to make any appreciable profit to mark up his retail prices at least 40 percent, which increases the sweet-wine retail price to consumers from $3.50 to $4.90 per case, or a selling price of 41 cents per bottle, and dry wines from $3 to $4.20 a case, or a retail selling price of 35 cents per bottle. That this is the exact trade situation and that Mr. Weller's calculations wholesale and retail to consumers are well within the limits of existing trade conditions is demonstrated by numerous current advertisements of wines in New York and Washington, D. C.

For example: There will be filed with the committee, advertisements of retail prices of bottled wines to consumers in New York papers during the week of January 13, 1936. Personal close following of these quotations for more than a year enables me to make the statement to this committee without reservation that these prices are not exceptions to the usual published prices of the past year. Thus, in New York, Newman advertises California dry wines of all classes at 54 cents per half gallon and 98 cents per gallon, and sweet wines at from 83 cents per half gallon to $1.55 per gallon. Liggett advertises California dry and sweet wines of 4 full pints of 16 ounces each for $1 or 25 cents per pint. Kramer advertises port, sherry, muscatel, and tokay, all sweet wines, at 59 cents per half gallon and 98 cents per gallon, and other brands at 49 cents per half gallon and 95 cents per gallon. Archibald & Martin advertise dry wines

at 59 cents per half gallon and $1.08 per gallon, sweet wines at 95 cents per half gallon and $1.69 per gallon. Friedland (Brooklyn) advertises California wines, full gallon jug, 98 cents; Italian-Swiss Colony California wines, sweet, one-fifth gallon jug for 54 cents and full gallon for $1.96.

Friedman (also of Brooklyn) advertises Hillcrest wine by Fruit Industries at 49 cents per fifth. Lemma & Arrecco advertise pure California dry wines at 93 cents per gallon. Goldberg advertises El Goldero California wines at 49 cents per fifth, two bottles for 94 cents. There is also filed with the committee a page from Courrier des Etats-Unis of December 18, 1935, a French journal published in New York, wherein is advertised in French many kinds and classes of California wines at 88 cents, 98 cents, and $1 per gallon.

That such are not exceptional sales prices in New York, there is also filed with the committee advertisements of bottled wines from Washington, D. C., papers of Friday, January 17, 1936, as follows: Sexton-Rhodes advertises Old Mission wines 4 years old at 49 cents per fifth, Ney Distributing Co. advertises 5-year-old California San Fernando wines at 49 cents per fifth. Family Liquor Store advertises Plymouth California wines, 21 percent alcohol by volume, at 49 cents per fifth; Private Stock wines, vintage 1930, 14-percent alcohol by volume, at 99 cents per gallon. Liggett's California port and sherry, 19 to 21 percent, 4-pint bottles, $1; single pints, 29 cents. The Star Liquor Co. advertises California port, sherry, muscatel, 20 percent, at 39 cents per fifth. Many current Washington advertisements are of native California sweet wines, all types, port sherry, tokay, muscatel, at around 99 cents per gallon.

Wherefore, Mr. Weller's statement that bottled sweet wines are readily available in our markets at from 40 to 50 cents per fifth is fully confirmed by numerous current advertisements. Indeed, they are so available at 39 cents per fifth and 25 cents per pint. It is equally shown by the aforesaid advertisements that such wines are readily available in our markets by the gallon at much less than $1. Dry wines uniformly sell at lesser prices and, as shown by current advertisements, fifths in bottles at 35 cents and in pints at 25 cents are available.

All of these published advertisements fully corroborate the statements by Mr. Weller as to wine-sales prices in the United States.

Wherefore Mr. Weller's statement may be taken as a true basis of current market sales prices of cased and bottled wines generally throughout the United States for all purposes including establishing fair and just taxes, State and Federal, to wit: $3 per case for dry and $3.50 per case for sweet wines delivered, taxes, State and Federal paid, in Eastern markets.

While it is undoubtedly true that many retailers, hotels, restaurants and particularly railroad dining cars, exact much higher retail prices for bottled wines than those hereinbefore indicated, the prices of the great mass movement of bottled wines in the commerce of the United States is fairly stated by Mr. Weller.

At the earlier hearing the question was frequently propounded by members of the committee:

Since it costs 75 cents per fifth to purchase wines (whether dry or sweet, not stated, obviously sweet wine) in the retail market today and the proportionate share of the present wine tax entering into that bottle of wine is but 2 cents or 4 cents (according as it is dry or sweet wine), what justification is there for the further requested reduction of taxes upon wines?

While, as we have shown, 75 cents per fifth is an exceptionally high price for a fifth bottle, even of sweet wine, 50 cents or less being the readily available retail price, we will proceed on the 75-cent basis, the tax which is paid by and the net return to the vintner-grower being the same regardless of the retail price.

The reason therefor is clear. The tax laid upon wines is not upon the retail selling price in retail stores, restaurants, or hotels of the country where is purchased a single bottle or a case of wines, but upon the gallonage thereof at the bonded wineries or bonded wine storerooms, which tax must be paid at the time and before the wines are delivered out of the bonded winery or bonded storeroom, and therefore becomes a part of the purchase price of the wine. It is not a retailer's sales tax but a producer's gallonage tax.

The problems suggested by the inquiries made present other problems and not this tax problem, to wit: Is the retail price of wines in excess of what is fairly justified? And is any part of this retail price collected without passing back to the vintner and grape grower their just proportions of that retail price?

These are problems not in this inquiry? They are problems the solution of which this administration has expended millions of dollars to solve. This 75-cent retail sales price does not all nor does any considerable par thereof go back into the vintner's pocket as his property nor is that retail sales price the statutory basis of the wine tax.

Mr. Weller's calculations, the accuracy of which is proven, show that no considerable part of the stated 75 cents per bottle, taking that above average figure as the basis of calculation, goes back to the vintner who, and who only, pays the tax of the Government. And it seems trite to say that all thereof that might or does go back to the vintner is passed on to the Government as its tax share.

This 75 cents goes back chiefly to the carriers for freight; the bottle manufacturers for bottles; the label manufacturers for labels and printing; the lumbermen for cases; the cork manufacturers for corks; the nail manufacturers for nails; the laborers concerned with converting all these into bottles and cases for wines; the bottling and delivery thereof into eastern markets; expenses, commissions, and license fees for retailers therein; and taxes, municipal, State, and Federal. The actual portion thereof that goes back to the vintner as his net return, if sweet wine, is 30 cents per gallon, or 6 cents per bottle; and if dry wine is 23⅓ cents per gallon, or 4⅔ cents per bottle.

At the same time while the vintner thus receives 30 cents per gallon net return for his sweet and 23⅓ cents per gallon net return for his dry wine delivered cased and bottled tax paid in New York; the Government's share, received before he can deliver the same, State and Federal (including 6 cents per gallon fortification tax), is 46 cents per gallon for the sweet and 20 cents per gallon for the dry wine, or 9.2 cents per bottle on sweet and 4 cents per bottle on dry wines. And this, be it remembered, is upon sales in New York State, the

greatest eastern wine market, wherein State taxes are less than in many other States.

So that the fair average comparable figures of present wine taxes are not 2 cents out of the retail price of 75 cents per bottle; but, the vintner receives a net of 6 cents for a bottle of sweet wine and the Government receives 9.2 cents, and the vintner receives 4⅔ cents for a bottle of dry wine and the Government receives 4 cents.

The foregoing relates to bottled wines, 12 bottles, fifths or smaller, per case. Upon a careful estimate submitted by Mr. Harry A. Caddow, secretary-manager of the Wine Institute, far more than one-half of the wines consumed in the United States may fairly be said to be bulk sales, that is to say wines sold by the barrel, half barrel, or less. Much is sold in gallon jugs, the jugs in the great majority of cases being filled by retailers from barrels into their containers or into containers furnished by consumers.

If the tremendous wine stock of the United States of approximately 90,000,000 gallons as against a present annual consumption of 35,-000,000 gallons, is to be marketed, even after deducting a due reserve for aging, it will not be through the channels of bottled wines only but more through the channels of bulk sales. By far the greater proportion of the wine-consuming population of the United States are not able to pay the high prices of cased and bottled wines. This is one of the reasons why more than 23,000,000 of so-called bootleg or home-made nontax-paid wine is annually consumed in the United States.

I cannot emphasize too strongly that if we are to solve this great agricultural problem, in which effort the Government has and is now expending millions of dollars, it must be by the marketing of far more bulk wines, thereby bringing home to our vast wine-consuming populace now consuming bootleg home-made wine, potable tax-paid wines at prices comparable with those at which they can make or purchase the so-called home-made wines. Unless the vintner is to receive less than cost, this can only be done by reducing taxes.

The major natural wine-consuming portions of our people, their tastes and ability to purchase, are of bulk and not bottled wines. And for these insuperable reasons the great wine-consuming portion of our people cannot be reached with the higher-priced bottled wines. The major wine-consuming public can be reached solely by sales of less aged, far cheaper bulk wines within the means and the peculiar tastes of the poorer, and necessarily more economical, portion of our people, such wines being accessible of purchase to the women of the home as other foods. That is true of all great wine-consuming countries, and the reason why their per capita wine consumption so far exceeds ours. The sooner this economic truth is recognized and wine taxes and avenues of wine distribution accordingly liberalized, the sooner will our per capita wine consumption expand to all its natural fruitful fields of consumption and our national commerce be extended.

Thus and thus only the Government's revenues will be augmented, this great bootleg consumption invaded by better tax-paid wines, and the great pressure of a tremendous wine surplus removed from competition with wines more suitable for bottling by the former seeking an unnatural outlet through the far more narrow limits of the bottled-wine demands.

I stated at the first hearing that bulk wines were selling at wholesale in California in great quantities dry at 11 cents a gallon, and sweet at 28 cents a gallon naked in the winery. I stated to the committee at that time that these were liquidation prices at which, however, great quantities thereof could be purchased presently in California. Thereafter I wired Mr. Harry A. Caddow, secretary-manager of the Wine Institute in San Francisco for a statement on authority of the institute of the fair average selling prices of wines, dry and sweet, naked in the winery in California. In response thereto I was by him advised that the current fair average sales price of dry wines in California is 15 cents a gallon, and of sweet wines 35 cents a gallon naked in the bonded winery or storeroom.

Since the tax must be paid before the wines can be delivered from the bonded winery or storeroom it is obvious that the average market value of, or sales price paid for, bulk wines in California today deliverable in trade and commerce is 15 cents naked in the winery plus 10 cents Federal and 2 cents State tax or 27 cents per gallon. And for sweet wines 35 cents naked in the winery plus 20 cents Federal and 2 cents State tax or 57 cents per gallon.

The actual situation therefore is as follows: The tax is laid upon the wine whether in bulk or in the case at a gallonage rate upon each gallon as it leaves the bonded winery or storeroom. It must be paid before the wine can be delivered out of the bonded winery or storeroom. It is an integral part of the sales price which the purchaser must pay in order to take possession of and move the wines in trade and commerce. The determination of the tax burden upon the vintner who actually pays the tax is arrived at by comparing the tax so paid by him with the price obtained by him for the wine at the door of the bonded winery or storeroom and not by comparing the tax the vintner pays with the retail price received long thereafter by the retailer in the retail markets of the United States. At the door of the bonded winery or storeroom stands the tax collector, so to speak, to collect the tax laid by the gallon upon every wine sale before it is delivered out of the bonded winery or storeroom.

Bulk wines of which the vast majority of sales consist, if dry, are sold on an average of 27 cents a gallon deliverable at the winery. When therefore a buyer comes to the winery and wants to buy dry wines and is willing to pay therefore 27 cents per gallon, the vintner selling the same at that price receives for himself 15 cents only and must pay to the Government 12 cents.

The same is true of the vendor of bulk sweet wines. The State tax in California is 2 cents per gallon upon all wines. The Federal tax is 20 cents per gallon upon sweet wines. The average open-market sales price, therefore, is 57 cents per gallon, deliverable at the winery. So that when a customer comes to the winery in California prepared to pay for sweet wines 57 cents per gallon, out of that 57 cents received therefor by the vintner he retains but 35 cents for himself and must immediately pay to his partners, the Government, 20 cents Federal tax and 2 cents State tax, or 22 cents. But the vintner of sweet wine has already paid or must pay the Federal Government 6 cents per gallon fortifying tax. So whenever the California vintner receives 35 cents for 1 gallon of sweet wine, the Government actually receives 28 cents and the vintner 35 less 6 cents, or 29 cents. The Government nets 28 cents, the vintner receives 29 cents.

And the vintner must receive these prices and must pay these taxes in order to receive out of his aforesaid open-market sales prices for his own use 15 cents per gallon for his dry and 35 cents per gallon for his sweet wines.

Nor, as we have seen, is there any escape from this situation or this tax gatherer by the vintner-grower shipping his wines to the great wine mart of the United States in bulk and there bottling it instead of bottling at his own winery in California. And, owing to the difference in freight rates if he should bottle, case, and label his wines in his own plant in California and in that condition ship the same east the Government and the State of New York would still receive therefrom 86.4 cents before the vintner-grower would receive less than 72 cents net per case of 2.4 gallons for his sweet, and 58 cents per case before the vintner-grower would receive 56 cents net for his case of 2.4 gallons of dry wine.

In this situation it will be observed that the Government without any responsibility of production, without any regard to costs of production, without any of the risks so attendant or of bad credits, and, without any labor or anxiety, stands at the door of every winery and bonded storeroom in the country the major benefitting partner in the fruits of the grower and vintner.

We must remember it is neither costs of production nor taxes that in the last analysis fix market values or sales prices however much they may be factors thereof. It is the inexorable rule of supply and demand, a rule that knows no financial stress, pays no heed to unconscionable taxes and has no mercy or consideration for the producer's needs or the public welfare. The tremendous surplus of wines in this country and the extreme financial distress of most of our growers and vintners, due largely to 15 years of prohibition outlawing their trade, for the reason that supply and demand regulate market values and sales prices, forces them to sell at the low prices stated, the net of which to the vintner after tax payments, all informed know are near if not below the cost of his bulk wines. These are liquidation or at least only recoupment operating prices. They are not reasonable profit prices after such tax payments.

After most comprehensive investigations, C. H. West of the Giannini Foundation of the University of California and Gerald G. Pearce, economist for the Federal Land Bank of Berkeley, Calif, the accuracy of the statistical abilities of whom are recognized and accepted by the Departments of Agriculture and Commerce of the United States and the wine trade generally, reported on the 5th day of October 1934 the average 1933 wine costs of production in California were 18.15 cents per gallon for dry and 35.50 cents per gallon for sweet wines. These figures were for wines naked in the winery and did not include any profit to the vintner nor any expense of aging, insurance, warehousing, and so forth. The details thereof as by them submitted are set forth in the table which follows:

Comparative costs of producing dry and sweet wine in California, by districts, 1933

District	Dry wine				
	Total	Manufacturing			Juice [1]
		Total	Overhead and general manufacturing	Labor	
	(1)	(2)	(3)	(4)	(5)
	Cents	*Cents*	*Cents*	*Cents*	*Cents*
North coast section (includes only Napa, Sonoma, and Mendocino)	26.08	8.01	6.04	1.97	18.07
Central Valley (includes only Lodi section)	14.69	6.69	5.47	1.22	8.00
San Joaquin Valley (includes only Fresno section)	15.47	6.47	4.97	1.50	9.00
Southern district (territory south of Tehachapi)	16.36	6.19	4.53	1.66	10.17
Average cost production per gallon, California dry wines	18.15				

District	Sweet wine						Average cost of grapes (per ton)
	Total	Manufacturing			Juice [1]	Tax (fortifying)	
		Total	Overhead and general manufacturing	Labor			
	6	7	8	9	10	11	12
North coast section (includes only Napa, Sonoma, and Mendocino)	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	$29.17
Central Valley (includes only Lodi section)	29.71	9.73	8.22	1.51	15.00	4.98	12.00
San Joaquin Valley (includes only Fresno section)	31.09	8.55	7.37	1.18	16.90	5.64	13.52
Southern district (territory south of Tehachapi)	33.98	8.25	7.04	1.21	20.91	4.82	15.27
Average cost production per gallon California sweet wines (cents)	31.59⅓						

[1] Juice determined by conversion factor of 150 gallons of dry wine crushed from one ton of grapes and 80 gallons of sweet wine from one ton of grapes.

Source of data: Recapitulation of cost figures compiled by B. C. Squires.

In this connection it will be borne in mind that while Mr. Weller's figures relate to cost of marketing the wine as and after it leaves the bonded winery or storeroom, the foregoing figures of Messrs. West and Pearce cover the cost necessary to produce the wine naked in the winery. Therefrom it is shown that when the vintner-grower receives net 15 cents per gallon for his dry wine he receives less than its actual cost to him naked in the winery, and when he receives net 35 cents per gallon for his sweet wines naked in the winery he receives less than 3 percent if that, above actual cost.

Wherefore, it is perfectly apparent under competent statistical authority that when the vintner receives a net of but 15 cents for his dry and 35 cents for his sweet wines, the average market value

or sales prices today, he is receiving at not more than, if so much as, the cost of production of his bulk wines.

Of course, the actual market values and sales prices in trade and commerce of wines selling at 15 and 35 cents per gallon naked in the winery are those prices plus the taxes necessary for their release out of the bonded winery or storeroom into the open market, which prices may be well termed their open-market values or sales prices. In that status the Government obviously is taking all the open-market price of bulk wines over and above the vintner's cost of production. It being ascertained that these sales prices naked at the winery are costs to the vintner, the only possible way for the vintner to make a profit under these conditions is for the Government to share with him the part of that sales price paid the Government for taxes.

Is it fair or just to a great agricultural industry or in the interest of the public welfare for the Government in such market status to exact all over cost as in the case of bulk and more than half the vintner's net return in case of bottled wines?

Nor is it any answer to or defense of this unconscionable tax upon this agricultural product to say that it is passed on to the consumer.

What difference does reimbursement make to the vintner if he is compelled to pay over to the Government all that he is reimbursed by the consumer or his vendee? In the last analysis the vintner's actual return for his own use for bulk wines is but his cost and for his bottled wines one-half or less of his net sales price. Such tax reimbursement does not go to the vintner for his use but is passed on to the Government. The vintner, because he must pay the tax, is simply out that portion of his sales price consisting of taxes. Without these taxes which he must pay he would retain for his own use that increment of his sales price paid for taxes to the Government. If this tax were cut in half, one-half of his sales price going to the Government would remain with the vintner-grower.

That is what H. R. 191 exacts. And, is not one-fourth of the net income of any agricultural sales price a sufficient tax to be paid by an agricultural industry for the resuscitation of which the Government has advenced over $32,000,000 and is daily advancing many hundreds of thousands of dollars? The gross unfairness of these wine taxes is the more apparent when we take into consideration that the tax upon the great corporations of the country is but 13¾ percent of their net income. That before half of the net income of the other residents is taken for taxes they must have a net income of $402,500, leaving them yet the tremendous net income of over $200,000. What then is the justification for taxing the vintner-grower, important agriculturists, the tremendous sum in the case of bulk wines all and in the case of bottled wines more than 50 percent of their net wine incomes?

The inevitable is that in order to live and maintain their properties these tremendous taxes must be pressed back upon the grower until as at present the Government and the banks are compelled to advance them vast sums of money in order to continue operations with the inevitable finality that thousands of vineyards, products, and life work of these good people and their families are rapidly passing into the hands of the banks and the Government. Wherefore we respectfully submit that H. R. 191 should in the interests

of the public welfare as well as increased revenues receive the approval of this honorable committee and the Senate as it did the unanimous approval of the House.

Reconstruction Finance Corporation loans to the grape, raisin, and wine industries

Amount authorized	$2,930,769.65
Amount withdrawn or canceled	926,075.78
Amount disbursed	1,954,693.87
Amount repaid	1,706,504.87

Federal Farm Board and the Farm Credit Administration loans from the revolving fund established under the Agricultural Marketing Act of 1929, and loans made by the Central Bank for Cooperatives to cooperative marketing organization in California for the handling of grape, raisin, and wine operations:

Calendar year	Loan advances	Repayments	Balance outstanding at end of year
1929	$2,724,620.00	$170,000.00	$2,554,620.00
1930	16,298,831.74	3,363,200.28	15,490,251.46
1931	5,784,977.00	8,109,329.50	13,165,898.96
1932	381,859.65	2,275,568.47	11,272,190.14
1933	547,345.09	895,269.85	10,924,265.38
1934	655,649.03	1,825,827.24	9,754,087.17
1935	2,939,315.15	803,573.77	11,889,828.55
Total	29,332,597.66	17,442,769.11	11,889,828.55

THE FORTIFYING TAX

The least defensible of all taxes laid by the Federal Government is the excessive tax upon wine spirits or grape brandy used in the fortifying of wines.

In our earlier wine history there was no tax upon fortifying spirits. The first such was a provision of the Underwood-Simmons Tariff Act of 1914 intended to compensate in part for the reduction of import taxes in that act. Since that time there has been a recognition of the extreme injustice of such a tax, and, save in times of great national war peril, it has been gradually reduced. Presently, however, it is higher than the war-time rate. If the philosophy of its levy that it is to compensate for fortifying inspection is followed, and section 318 of H. R. 9185 is enacted whereby there need be no Government inspection of the fortification of wines, then this tax should be entirely repealed.

In any event the plain unquestioned justice of the situation demands not the reduction of this tax from 20 cents to 10 cents per proof-gallon, as provided in section 331 of H. R. 9185, but, as can be mathematically demonstrated, it should be reduced to no more than 3 cents instead of 10 cents per proof-gallon which would be sufficient to pay any inspection expense.

Let us analyze the exact situation with reference to this tax. Of the seven-hundred-and-fifty-odd wineries in California but about 60 thereof manufacture or produce their own fortifying grape spirits. It is distilled from their own grape products or wine. When distilled and taken from the winery distillery, which is a separate com-

partment of the winery, to fortify their wine the vintner's own product, one of the elements necessary in the course of production of sweet wine is only transferred from one department to another of the winery whereupon there must be paid the fortifying tax upon this part of sweet wine. This tax becomes a fixed charge upon the vintner and must be paid as now provided in 10 months regardless of whether or not the wine so fortified is sold and regardless of the price at which the wine of which it becomes a part may be sold.

Since 1930, when section 814 of the tariff act became a law whereby wine spirits or brandy thus manufactured might be manufactured and sold for commercial as well as used for fortifying purposes, these winery distilleries are at times employed in the production of brandy for sale. The consequent accumulation of brandy for commercial purposes exceeds 3,000,000 gallons. When sold commercially it pays a tax of $2 per gallon and brings a tax-paid price of approximately $4 per gallon. The brandy, however, which the vintner uses to fortify his wines pays a tax of 20 cents per proof-gallon. That is according to its alcoholic strength.

In this situation we meet the comment, "Since thereby you escape the $2 tax on brandy when sold commercially and pay only 20 cents per proof-gallon when used in fortifying, what justifies any reduction of the tax on brandy used for fortifying wine"? The answer seems conclusive.

When brandy is withdrawn from the bonded wine distillery and used to fortify wines, it loses its character and value as brandy for commercial and all other purposes. It thereby becomes a wine and of a wine value only. When the wine is sold and this increment thereof sold therewith as an integral part thereof, it does not bring $2 per gallon plus $2 tax, or $4 per gallon, which it would if sold as brandy, but it brings, as before stated, the sweet-wine value of 35 cents per gallon as sweet wine. It is one of those remarkable cases wherein a more valuable product enters into the production of a less valuable product wherein its original identity, character, and value are destroyed, and its sales value very greatly depreciated.

While it is true, and should be taken into consideration, that in actual operations in those wineries which produce as part of their operations fortifying spirits or brandy. The cost of the brandy increment which is used in fortifying wine, instead of being produced and marketed as commercial brandy, should in these considerations be estimated at a less value than commercial brandy, nevertheless it is true that by so using his grape brandy for fortifying the vintner sustains a very definite loss.

Not only does the fortifying brandy which is destroyed as such when used for fortifying pay the same tax per increment of quantity of the wine of which it becomes a part when the wine is sold, yet such use not only incurs the fortifying tax but increases the tax upon the remaining portion of the wine so fortified. It raises the tax on the wine so fortified from the classification of dry to sweet wine and increases the wine tax from 10 to 20 cents per gallon. Fortification not only per se is taxed but it also doubles the wine tax.

Not only is this true as to the Federal tax but it likewise increases the tax upon this product in all States levying a higher tax upon sweet than upon dry wines.

Taking into consideration that the fortifying of wines increases the average market price therefor from 15 cents per gallon to 35 cents per gallon as sweet wine and at the same time increases the Federal tax thereupon 10 cents per gallon in addition to payment of the fortifying tax, it will be seen that the net return to the vintner-grower in the production and sale of sweet wine by fortifying is no more if not less than that which should be realized by the sale of his original dry wine. About the only advantage to the grower-vintner is that he reaches a more extended and different market demand for sweet wines by developing his dry into sweet wines and so marketing them. The absurdity, however, of augmenting the vintner's probable intrinsic loss by laying a tax upon a disappearing product is obvious.

The foregoing considerations are based, however, upon the cost to the vintner who is also a distiller and who distills from his own wine his own fortifying spirits or brandy. It will be readily understood without extending these considerations that the very much greater number of vintners who do not distill their own fortifying spirits but who purchase them in the open market are suffering greater losses than the foregoing in the purchase and use of brandy in the open market in the manufacture of fortified wines.

At the hearings the taxes laid upon cigarettes and gasoline were discussed as comparable with the tax laid upon wines. It is true that all are extremely heavy. They, however, in many particulars, are far different. Passing by the obvious answer that two or more wrongs do not make a single right, in this determination, we must bear in mind that for 15 years the wineries of our country were closed by prohibition. There were relatively, therefore, few avenues of sale. Their properties were practically destroyed; their technical labor scattered and lost. It cost from $30 to $50 per acre per annum to keep the vineyards in bearing healthy condition, with no wine sales outlet. There was no such embargo laid against tobacco or cigarettes from which they suffered loss and decay and had to recover after repeal. There was no such burden laid upon gasoline and its production. In their struggle for recovery after repeal the vintner-growers necessarily have been compelled to borrow heavily, thereby adding greatly to their current liabilities for interest and curtailments of debt and are accordingly less able to bear the burdens of excess taxation.

It is, however, exceedingly instructive to compare the taxes upon these subjects. A comparable tax to the fortifying tax upon wine is the tax laid on cigarette paper entering into the manufacture of cigarettes.

Section 402 of the Revenue Act of 1934 provides that when cigarette papers are sold on the open market they pay a tax but when used in the manufacture of cigarettes that tax is exempted. That section reads:

SEC. 402. There shall be levied, collected, and paid in lieu of the taxes imposed by section 402 of the Revenue Act of 1924 upon cigarette paper made up into packages, books, sets, or tubes made up or imported into the United States and hereafter sold by the manufacturer or importer to any person (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes), the following taxes, to be paid by the manufacturer or importer.

So the tax laid upon gasoline of certain types or classes when used in the manufacture of gasoline of another type or class is exempted from tax.

Section 603 (b) of the Revenue Act of 1934 provides:

(a) There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 1 cent a gallon, except that under regulations prescribed by the Commissioner with the approval of the Secretary the tax shall not apply in the case of sales to a producer of gasoline.

(b) If a producer or importer uses (otherwise than in the production of gasoline) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purpose of this title be considered a sale. Any person to whom gasoline is sold tax-free under this section on or after the effective date of the Revenue Act of 1932 shall be considered the producer of such gasoline.

Why then should not the tax upon fortifying wine spirits or brandy be exempted by the Government when used in the manufacture of a different product, wine, of far less value? In its new status it pays the same tax and brings the same price only as all other like commodities. Why, therefore, tax an article for what it was in some previous existence and in addition in its final form as sold?

Moreover, the taxes upon tobacco, cigarettes, and gasoline are sales taxes payable when the finished product is sold and not paid if not sold, whereas many wine taxes such as fortifying taxes are production taxes payable in course of production and not recouped if the wine so produced is not sold. In many wineries these advancements run into hundreds of thousands of dollars and their payment often forces immature wines upon the market at great losses.

To levy and collect a production tax such as this fortifying tax upon a material used in the manufacture of another product which material when so used loses its character and value and which therein has no greater value than any other part of said finished product, and which, when sold as a part of the finished product, pays a tax equal to all other parts of said finished product, has no justification in fact or in logic. There is no precedent of which I am advised, save in rare exceptions, for peculiar reasons under any tax system of the United States. That this is contrary to the established policy of Congress is indicated by section 620 of the Revenue Act of 1932, yet an unrepealed law, which reads:

REVENUE ACT 1932, TITLE 4—MANUFACTURER'S EXCISE TAX. SECTION 620—SALE OF ARTICLES FOR FURTHER MANUFACTURE

Under the regulations prescribed by the Commissioner, with the approval of the Secretary, no tax under this title shall be imposed upon any article (other than a tire or inner tube, or an article taxable under sec. 604, relating to the tax on furs) sold for use as material in the manufacture or for use by a component part of, an article to be manufactured or produced by the vendee which will be taxable under this title or sold free of tax by virtue of this section. If the vendee resells an article sold to him free of tax under this section, then, for the purposes of this title he shall be considered the manufacturer or producer of such article.

Wherefore it is respectfully submitted that there is no justification in law, logic, or economic progress justifying any tax whatsoever upon wine spirits or brandy used for fortifying wines other than the tax it bears as an integral part of the wine of which it becomes an integral part and of no different commercial value.

WINE AND FORTIFYING TAX REVENUES

An important inquiry here is what will be the effect upon the revenues of the United States by the proposed reduction in the tax rates upon wines? If we are to follow the expressed wisdom of many wine States, wherein tax rates upon wines have been very greatly reduced and distribution restrictions liberalized with the tremendous resultant increase in wine sales, the reduction of wine-tax rates here requested is justified and an increase in revenues reasonably assumed.

In the earlier presentation of the matter to the committee, on pages 80 to 83 of the printed hearings, it was shown that of those certain States having a tax rate on an average of 5 cents upon light and 10 cents upon sweet wines per gallon, with a population of over 20,000,000 people, consumed over 11,000,000 gallons of wine in the first 10 months of 1935; while an equal number of States, having a like population of 20,000,000 people but with wine-tax rates from 25 cents to $1 per gallon, consumed but 1,733,000 gallons of wine in the same period. It is likewise there set forth that another group of States having a population of 17,500,000 people, little short of the foregoing populations, and tax rates running around 10 cents on light and from 20 to 40 cents upon sweet wines, consumed but 1,835,000 gallons of wine. Therefrom it would seem to be mathematically demonstrated that the American consumption of wine is in a great measure dependent upon the wine-tax rates.

Since said hearings efforts have been made and statistics collected, insofar as possible by telegraph, to ascertain the exact increase of wine sales before and after tax reductions in the States. It must be obvious that on account of the different dates of tax reductions in the different States that task was difficult, owing to the necessarily incomplete statistical information available. Nevertheless, some striking developments were shown.

Thus, the State of Missouri, effective May 9, 1935, reduced wine taxes per gallon from 40 cents on sweet and 10 cents on dry to 20 cents on sweet and 2 cents on dry wines. The department of liquor control of that State reports that from January 1 to May 9, 1935—4 months—under the 20-cent rate but 50,000 gallons of dry wines were sold, whereas from May 9, 1935, to January 1, 1936—8 months—under the reduced 2-cent rate 594,164 gallons of such wine were consumed. The report further continues that, of fortified wines, not over 80,000 gallons were consumed during 1935 under the 40-cent and 20-cent tax the exact reverse of usual relative dry and sweet wine consumption.

In the State of Wisconsin, during all of 1934 and the first 7 months of 1935—January to July—the wine-tax rate was 25 cents per gallon. During the whole year 1934 there were 308,000 gallons of wine sold in that State. During the first 7 months of 1935 there were 128,000 gallons of wine sold, all under the 25-cent tax rate. In the month of July 1935 the tax rate upon wines in Wisconsin was reduced from 25 cents per gallon to 10 cents on sweet and 5 cents on dry wines, with the result that in the last 5 months of 1935 there were sold 362,168 gallons of wine, or more in 5 months under the low rate than in any year under the higher rate.

In the State of Iowa, moved by the same wisdom that reduced tax rates, means increased wine consumption and State revenues,

the Iowa Liquor Control Commission reported that during the last 6 months of 1934 with a write-up of 36 cents per gallon, 15,000 gallons of wine were sold for $68,000. During the first 6 months of 1935 under a write-up of 35 cents per gallon, 17,000 gallons of wine were sold for $64,000, that thereafter the Commission stated "most drastic cuts were made during the last 6 months" of 1935, during which time 28,000 gallons of wine were sold for $90,000. Wherefrom it is shown that a reduction of the State write-up or tax rate in the State of Iowa constantly increased the State revenues practically doubling the same after drastic cuts during the last 6 months of 1935.

The States of Pennsylvania and Virginia report that drastic cuts in their mark-ups of wines sold in the respective States are being made in order to increase sales.

Withal it may be said that by far the greater number of States of the United States are speedily and drastically reducing the State tax rates to the level of 5 and 10 cents per gallon, many below those rates, in the wise conclusion demonstrated by their experiences that commerce in wines will thereby tremendously increase, that the State revenues will not suffer but on the contrary will probably eventually be increased.

That experience and wisdom of the States we offer here as a practical mathematical argument that a reduction of the United States wine tax rates from the present greater than war-time rates to the peace-time rates of 5 and 10 cents per gallon on a par with that of most States will result in a tremendous increase in commerce between the States and throughout the United States and ultimate revenues at least equal to those today obtained from taxes upon wines.

It should be noted that those States wherein wine sales substantially increased in 1935 without any change of the tax rate were States of low-wine tax rates such as New York with a tax rate of 10 cents per gallon upon all wines. It is respectfully submitted that statistics fairly considered uncontrovertedly support the conclusion that a reduction of the wine tax rates will tremendously increase wine consumption without appreciable or any diminution of the public revenues.

That a reduction of wine taxes, State and Federal, together with a liberalization of wine distribution methods, particularly the right to sell wines in bulk as a food in places accessible to the housewife and servant in containers of the vendor or of the consumer as provided in the State of California and other States and is being rapidly enacted by law in many States, will tremendously extend the consumption of wines and the wine tax basis is conclusively shown by a statement of the wine situation of the United States as set forth in a telegram from Mr. Harry A. Gaddow, Secretary-Manager of the Wine Institute as follows:

SAN FRANCISCO, CALIF.,
January 28, 1936.

JUDGE MARION DEVRIES,
Wardman Park Hotel, Washington, D. C.

Explanation wine sales in California, Oregon, State of Washington, and all States those included in bulk and bottled. Wine sales movements are divided into three classes to wit: First, wine sold in containers of one quart or less filled by producer or distributor; second, wines sold in gallon jugs filled by producer or distributor, and third, wines received by retailers in bulk which

he may bottle himself or sell in consumers' containers. The Washington State Liquor Board report indicates 1935 Washington State wine consumption was 1,600,000 gallons and shows 80 percent or 855,000 gallons thereof was of said second class and 213,000 gallons of said first class. Sales of said third class are not permitted in Washington State. California 1935 sales or consumption preliminary estimates were 20,189,000 gallons. Trade information indicates 85 percent or 17,000,000 gallons thereof was of said third class, to wit, wines sold to consumers in bulk; 5 percent or 1,000,000 gallons of said first class, to wit, wines sold in bottles of one quart or less and 10 percent or 2,000,000 gallons of said second class, to wit, wines sold in 1-gallon jugs. California retailers distributed said third-class wines consumed in said State one-half or 8½ million gallons in customers' containers, often demijohns, kegs, and even barrels, and the other half in retailers' own bottling including gallon jugs. It is interesting to note that the California consumer is able to buy a year's supply at once at favorable prices storing same for family use. The Oregon 1935 consumption was one-half million gallons. The trade information is that three-fourths or 375,000 gallons thereof was of said second class, to wit, in jugs of one gallon and the remainder of said sales of said first class, to wit, in bottles of one quart or less. However, effective January 1, 1936, said third class of sales will also be permitted in Oregon wherever a retailer holds a bottling license. Other States that recently legalized wholesalers or retailers to receive wines in bulk and sell at retail to consumer out of the containers thereof are Illinois, Florida, Ohio, and Wisconsin. The total consumption of wines in United States in 1935 was as follows: Total consumption according to our estimate for 1935 was 41,000,000 gallons of which 18,000,000 gallons was of said third class, to wit, wines sold in bulk to consumers, 15,500,000 gallons of said second class, to wit, wine sold in gallon jugs or bottles and 7,500,000 of said first class, to wit, wines sold in bottles of one quart or less.

WINE INSTITUTE,
H. A. CADDOW, *Secretary-Manager.*

In all estimations of wine consumption by the Treasury, and to a less extent by the Wine Institute, it must be borne in mind that the only available and the adopted basic figures are withdrawals from bonded wineries and storerooms. All know that of these withdrawals vast quantities thereof are not actually consumed but remain in stock with wholesalers, retailers, and particularly State monopoly stores. In the latter alone there are now millions of gallons of wine some of which can only be moved at great financial sacrifice by reason of early high purchase prices. Wherefore it may be doubted if the actual consumption of domestic wines in 1935 reached 35,000,000 gallons.

In this particular, it is respectfully submitted that not alone will there be no substantial diminution of the actual revenues collected upon wines from those presently thereupon collected, but that an important agricultural industry of the United States now obviously throttled in its development by excessive taxes will be developed into one of the Nation's most important. It will add tremendously to the business of all the industries and varieties of labor in any degree thereupon dependent which are equal if not greater than those of any other similar industry in the United States and substantially contribute to the development of the public welfare.

VERMOUTH

The legislative and administrative history and present vermouth wine tax status is as follows:

Vermouth wine is made from fortified or sweet wine steeped in or which is flavored by certain herbs. There is first entered into its cost of production therefore the tax upon the grape brandy or

wine spirits used to fortify the sweet wine from which it is made as provided by section 612 of the Revenue Act of 1918 as amended.

This tax must be paid by the wine producer as a production and not as a sales tax. On sweet wines used to make vermouth it is about 6 cents per gallon. It enters into the cost of production and must be paid whether or not the wine or vermouth is sold. Under existing law and regulations fortified wine used to make vermouth must be withdrawn from the "bonded winery" and taken to a "rectification" plant at least 600 feet distant. In order to produce vermouth, a fortified wine must be withdrawn from the bonded winery and the fortified wine taxes thereupon paid before it can be transferred to the rectification plant 600 feet away for rectification as provided by section 611 of the Revenue Act of 1912.

The Bureau of Internal Revenue holds that the manufacture of vermouth constitutes rectification and that the product is therefore subject to a rectification tax of 30 cents per proof gallon as provided by section 605 of the Revenue Act of 1919, approved February 24, 1919.

Sections 142, 143, and 150, as amended, of Internal Revenue Regulations 15 "Governing the rectification of spirits and wines" require the rectification tax of 30 cents per proof gallon to be paid before the vermouth wine is bottled. This tax also therefore is a production and not a sales tax. It must be paid regardless of whether or not the vermouth is sold.

The rectification tax being according to the proof gallon or alcoholic content it amounts, when assessed upon the rectification of vermouth according to the Government's estimates, to 12 cents per wine gallon.

There is; in addition, upon the vermouth "when sold or removed for consumption or sale" a second or wine tax of 20 cents per gallon as provided by section 611, as amended. This is a production gallonage tax as a fortified wine it being so classed by Congress.

There are therefore pyramided upon domestic vermouth from the inception of its production to the time it is sold 60 cents per gallon in taxes. Of these the 6, 20, and 14 cents, or a total of 40 cents per gallon, are production taxes and must be paid during manufacture, advanced in cash by the vintner-grower, whether or not the vermouth is sold.

The extent of these production taxes upon vermouth wine, 40 cents per gallon, in addition to the 20 cents per gallon additional when sold, will be appreciated when we consider that to produce 100,000 gallons of vermouth wine, the vintner must advance in cash $40,000 in taxes alone, which will be recouped only when his vermouth is marketed.

The argument as to vermouth that if the import duty plus 20 cents sales tax, which must be paid by the importer, equals the domestic internal production taxes which are not paid by the importer, such is due protection to a domestic industry, presents a new economic theory, to wit, that import duties are and should be solely to equalize internal taxes.

Such does not take into consideration differences in other costs of production and reasonable profits, which is the accepted political doctrine of all parties. Said costs are as follows:

Cost of containers for withdrawal from the winery, cost of transportation 600 feet away into another plant, the cost of rectification, the cost of storing in this additional plant with added costs and profits therefor to the rectifier, the cost of bottling after rectification, possible storage outside the bonded winery, delivery into our eastern markets, overhead, and costs of marketing.

All these require an outlay of cash whether or not sales of vermouth are ever made.

All these taxes are reflected back to and borne by the vintner-grower. They must be paid in cash or bear interest at 1 percent a month whether or not the vermouth wine is sold, thereby rendering financing by the vintner-grower difficult. Hence little domestic vermouth is made. It is all these prepaid production costs and taxes that have driven the manufacturer of vermouth out of business in this country as will be shown by statistics requested and herein produced.

In compliance with the request of a member of the committee, Senator Barkley, to place in the record the relative costs, delivered in New York of foreign and domestic vermouth and the consumption thereof by our markets, in response to a wire to a well-informed New York wine merchant, Mr. Victor Repetto, I am advised that foreign vermouth is by four importers quoted delivered in New York to the retail trade, Federal and State taxes paid, at from $6.75 to $8 per case (3 gallons) and that it is sold naked at dock in Italy at $3 per case (3 gallons). There are two classes of exceptionally well-known imported vermouth sold at $12 and $15.28 per case, delivered New York, all taxes, Federal and State, paid.

The competitive foreign price therefore in New York, duty and Federal and State taxes paid, may be taken to be $6.75 per case of 12 bottles or 3 gallons.

The same authority states three manufacturers of domestic vermouth sell the same in New York to wholesalers, all taxes, Federal and State, paid, at $6.75, $7.20, and $7.50 per like case.

Obviously, the domestic price is adjusted to meet the lower prices of foreign vermouth, the latter having the market advantage of the lure of the word "imported." When we so consider that there are domestic taxes entering into the cost of every case of domestic vermouth (3 gallons) of 6 plus 20 plus 12 plus 20 cents, or 60 cents a gallon or $1.80 a case, plus costs of bottling and crating of at least $2 per case, making $3.80 per case, plus cost of material, production, freight to New York, and so forth, when sold at from $6.75 to $7.65 per case in order to compete with foreign prices, the following figures of relative sales of domestic and foreign vermouth in our markets may be understood.

Selecting the only comparable dates, to wit, the first 10 months of 1935, the imports of vermouth into the United States amounted to 742,666 gallons. The only available figure indicative of the quantity of domestic vermouth consumed in the United States during that period are the internal-revenue records of the amount of such rectified from wine. They show a total of only 48,942 gallons. Therefore, it is indicated that the imported vermouth consumption in the United States during the first 10 months of 1935 was 15 times more than the domestic vermouth consumption.

These figures become the more significant when compared with relative consumption of other wines, imported and domestic. As to the latter up to a recent date the United States consumption of imported wines was but 15 percent of our total wine consumption. With vermouth wine we have almost the reverse. The United States consumption of domestic vermouth wine is but 6½ percent of the total consumption.

The demonstrated truth is that while prior to prohibition there was a flourishing business in vermouth wine in this country, presently, by reason of internal taxes that render financing dangerous if not impossible and competition with foreign imports unprofitable, the vermouth wine outlet which earlier was and now should normally consume at least 1,000,000 gallons of domestic wines consumes only about 50,000 gallons.

How much bootleg domestic vermouth wine on account of these tremendous taxes, perfectly idle rectification requirements, and the simplicity of vermouth manufacture goes to the trade is a matter of pure conjecture.

SWEET VERSUS DRY WINES

The program of the Wine Institute is not confined to any particular geographic area nor the development of any particular class of wines. It is a grower-vintner organization embracing within its membership many cooperative wineries. In its program of consuming the grape surplus and development of wine markets it has confined its attentions to no particular State but has extended efforts into every State of the Union. Convinced that wine sales were greatly retarded by high taxes and restrictions upon the methods of wine sales, it has endeavored at great expense to secure reduced taxes and liberalized wine sales regulations in all States.

These results accrue to the benefit of every vintner and grape grower in the United States, regardless of the State wherein located. Indeed, naturally they benefit the resident State vintner more than the nonresident. The Wine Institute has not attempted to enlarge sales or modify taxes or regulations as to sweet more than dry wines nor vice versa. It neither recognizes nor tolerates geographic or wine class discriminations in the great cause it espouses.

While it is true that before prohibition there was practically three times as much light wine consumed as sweet wine and since prohibition there is about three times as much sweet wine consumed as light wine, that is a condition to be practically met by production and marketing of wines to the end that the vintner and grape grower may profit most by meeting present trade demands. The members of the Institute long since learned that the public taste and demands cannot be changed by legislation.

Any program which contemplates relief of the condition of life-wine producers by reducing taxes without correspondingly reducing the taxes of sweet-wine producers is directly inimical to the interests of the grape growers.

It takes 2 acres of grapes of the same production to produce the same gallonage of sweet wines as 1 in the production of dry wines. An acre of grapes ordinarily produces approximately 80 gallons of sweet wine whereas the same acre of grapes would produce approxi-

mately 150 gallons of dry wine. And since there are twice as much sweet wine sold as dry, if we promote legislation which advances the cause of dry wines only in neglect of sweet wines, it is obvious that we are thereby benefiting only about one-sixth of the vintners of the United States and neglecting five-sixths. Such a program therefore is inimical to the interests of the grape grower and is not within the program of the Wine Institute.

It was no doubt due to the campaign of the Wine Institute that wine taxes have been reduced and the wine distribution laws relaxed in so many States wherefore there has resulted extensive increased sales of wine.

Imported wines and wines produced in every State of the Union have enjoyed to the fullest extent this work of the Wine Institute without discrimination and without other purpose than the common cause of the growers and vintners of the United States.

The doctrine is sound that wine is a food and should not be taxed. The doctrine applies equally to sweet and dry wines, particularly in the cause of temperance.

Sweet wines being less than one-half the alcoholic content of gin and other decoctions, their alcoholic content being fermented in a relatively much greater solution of nutritious and dietetic grape juices are not only potable but nourishing to the human system, and, when sipped and not gulped in the home with meals, their usual place of consumption, are more likely to satisfy the present day appetite. When so used a long step toward temperance will have been achieved and definite progress made in the case of the universal use of wines.

Students of the trend of post-war wine consumption agree that it is not sweet wines that have driven dry wines out of major consumption. That consumption still exists but perforce the conditions created by prohibition it is satisfied by the tremendous quantity of non-tax-paid home-made wines largely produced under the guise of the 200 gallon home privilege, all of which naturally are dry wines. That annual consumption persists and with the tax-paid dry wines is no doubt far greater than the present sweet-wine consumption.

Some idea of this tremendous non-tax-paid dry wine production and consumption in the United States is had by advertence to Report No. 90 of the United States Tariff Commission (Whiskey, Wine, Beer, and other Alcoholic Beverages, and the Tariff), 1935, at pages 58 and 59, wherein it is stated:

> During the prohibition period, the legal commercial production of wine for medicinal and sacramental use and for other purposes allowed ranged from 3,000,000 to 11,000,000 gallons annually. In addition, there was considerable illegal commercial production and production in homes for personal use. Wine-making in homes from grapes, raisins, grape juice in kegs, and grape concentrates became general. On the basis of the quantity of grapes available for wine-making the Bureau of Prohibition estimated that the total production from 1920 to 1929 averaged annually 111,000,000 gallons and reached a peak of 154,000,000 gallons in 1928.

The major wine problem is: Can we reach and absorb a substantial portion of that great non-tax-paid dry wine consumption by potable tax-paid dry wines of better quality at the same cost?

We can never do this by multiplying or maintenance of the present exorbitant taxes upon wines.

The dominant forces of the Wine Institute particularly in its early history which have moved this universal campaign in the interest of pure wine as a food in the homes by reducing taxes and liberalizing distribution were chiefly the dry-wine producers of California. They, therefore, cannot be accused of selfish interests in the campaign for reduction of taxes and expenses of sale for sweet wines as well as dry wines.

Moreover if all wine now produced were dry and dumped on the limited tax paid dry wine market the latter would be demoralized.

The truth is, we must meet market conditions and public demands and tastes as we find them if the industry is going to progress. No doubt, owing to the consumption of strong alcoholic drinks in the home, the present public taste craves beverages of the stronger alcoholic content. Nothing, however, would more conduce to the correction of that taste than the substitution therefor of beverages of less than one-half the alcoholic strength of the accustomed gin decoctions consumed in the home. Thereby we are on the road to temperance when we advocate the development of more extended sweet- as well as the dry-wine consumption in the home. We are not unmindful that in the great wine countries of Europe, cognac and brandy were universal in the home as well as the lighter wines. They, however, like wines, are sipped and not gulped and usually taken with food.

THE FOOD AND TONIC VALUES OF WINE

At the hearing, inquiry was frequently made, particularly by Senator Bailey, as to the food value of wine and what scientific authority thereupon was available. At the instance of the Wine Institute, the appropriate agricultural departments of the University of California are conducting extensive experiments with a view of answering in detail that inquiry. Available at present is an article by Mr. P. H. Richert, of the Fruit Products Laboratory of the University of California, which, with the permission of the committee, will be herewith submitted with a view of furnishing the committee all of the available information upon the important subject of wine as a food. It follows:

FOOD VALUE OF THE GRAPE AND WINES

(By P. H. Richert, Fruit Products Laboratory, University of California)

The food value of grapes is contained almost entirely in their sugar and protein. California grapes contain from 16 to 30 percent sugar and are higher in this respect than any of the other common fruits, these varying from 8 to 15 percent in sugar in most cases. The sugar content is the basis on which the calories per pound figure of foods is calculated for fruits. A disadvantage of this high sugar content is found in grape juice, which when taken without dilution is almost too sweet to be palatable.

The protein content of grapes is about the same or less than that of other fruit. It amounts to about 1 percent on the average. This is, however, an appreciable quantity, since the protein requirement for the body is only about 10 percent in the normal diet.

The vitamin content of the grape is not particularly significant, being considerably less than in citrus fruits, although the fresh grapes and juice are of some value for combating scurvy. The constituents of the ash of the grape

and the proportion to which they are present are rather unique in some respects.

Acidosis is one of the conditions of the body that fruits in general have the power to counteract. Acidosis is a result of an excess of the acid over basic constituents in the diet. These acid and basic constituents are chiefly mineral in nature, the basic constituents being represented by the alkali and alkaline earth metals, principally potassium, sodium, calcium, and magnesium. The acid constituents are chiefly phosphates, sulphates, and chlorides for the mineral part, and certain organic acids which cannot be broken down in the body. Some fruits contain these harmful acids, but as far as is known grapes do not. Those organic acids which are present in grapes leave no acid residue.

Grapes contain a higher content of phosphates and sulphates than practically all other fruits but in addition contain far more than enough of the basic metals to entirely overbalance the phosphoric acid and leave very distinctly basic ash, which is desirable. Phosphates are needed by the body for building bone tissue and in the blood so the phosphate content need in no way be considered a disadvantage. Phosphates also aid greatly in the assimiliation of sugars and are necessary constituents of certain essential proteins.

Potassium is present in great abundance in grapes. It is a necessary constituent of the blood and is believed to be of great importance in control of heart action.

The iron content of grapes is higher than in most other fruits and is probably of value as a tonic. This fact has already been made use of in advertising raisins. Whether the iron content is actually sufficiently high to warrant the use of grapes as a source of this element is considered somewhat doubtful.

Possibly other constituents are present in grapes which are beneficial but are not determined by ordinary methods of analysis. Further work on the vitamins in grapes should be done. The preceding discussion of the value of the constituents of grapes has been from data obtained in the literature, much of it kindly furnished by G. A. Pitman, of this laboratory.

Composition of concentrates.—Sometime ago certain problems arose concerning the behavior of grape products and made necessary a better knowledge of the substances present in the juice. We were particularly interested in the extent of metallic contamination during the manufacturing process in relation to the darkening problem. Analyses were also made of some of the substances normally present in grapes, such as calcium, phosphates, iron, nitrogen, sulphur, etc.

Calcium.—The calcium content was found to be less than would be expected in most instances, although in some samples it was higher than expected, probably because of the fact that the juice was stored in concrete tanks. Being acid in nature, it dissolved some of the calcium from the sides of the tank. If some is dissolved in the way, it certainly would have no harmful effect but would be somewhat beneficial, calcium being one very important, useful element. The percentage found in concentrates made from normal juice was 0.03 to 0.08 percent, average 0.06 percent.

Phosphorous.—One striking fact was brought out when comparing these analyses with those of fresh grapes. The content of each of these constituents, except the iron and sulphur, was considerably less than that given for grapes in the published data at hand. An example is that of P_2O_5 which was found in concentrates to the extent of 0.1 to 0.2 percent and is reported as 0.12 percent in grapes. During concentration grape juice is concentrated about three to three and a half times, and it would be expected that the content of these constituents should be correspondingly concentrated. An explanation of this lack of increase may be that considerable of the ash is retained in the pomace after the juice is extracted. If these figures are true, the juice of grapes is less valuable than the whole grape as a source of P_2O_5. The problem, of course, needs considerable further study before these findings can be definitely established as facts.

Iron.—Another interesting point was brought out in the iron analyses. About 10 times as much iron was found in these concentrates as should be present from the grapes themselves. This is not so surprising when one considers the manufacturing process which these products undergo. In even the best grape-product plants, where extreme care is taken with the containers, machin-

ery, and piping to avoid contact with metal in handling of the final product, the grapes are still handled with iron equipment prior to the extraction of the juice and clarifying, etc. The increased iron content may be an advantage; but this is doubtful, as the iron is probably not in proper combination with organic substances for utilization by the body.

Sulphur. The sulphur content was found to be about 0.1 percent; that is about as would be expected from the sulphur content of grapes. In the case of concentrate from sulphured juice the sulphur content was about 0.2 percent. This increased percentage is not sufficient to appreciably change the basic character of the ash. As a matter of fact the sulphur content in concentrate from unsulphured juice may be largely due to residue from sulphur spray of grapes. This matter again, of course, needs further investigation.

SUMMARY

1. The percentages of phosphorous and calcium present in the ash of grapes is somewhat less in concentrate than would be expected from the composition of grapes.
2. These differences may be due to these elments being retained in the solid portions (seeds and skins, etc.)
3. Two other constituents, iron and sulphur, are increased in the manufacture of juice and concentrates under the present methods.
4. The principal food value of grapes lies in their sugar content.
5. The potash content of grapes, raisins, and grape products is high. This is a very valuable element to the body.
6. Because of their large basic residue grapes and grape products are of great value in combating acidosis.

(At this point there is inserted the memorandum offered on behalf of the Treasury Department by Mr. Hester, as follows:)

Attitude of Treasury Department on Proposed Reduction of Wine and Fortifying Brandy Taxes

The Treasury Department estimates that, at present rates, internal revenue collections from wine will amount to $12,340,000 for the fiscal year 1937. Bill H. R. 191 proposes a flat reduction of 50 percent in the excise taxes now imposed on wine. As the result of such a reduction, it is estimated that there would be an increase of not more than 25 to 30 percent in the consumption of domestic wine, an increase quite insufficient to compensate for the reduction in the rates of tax. The proposed reduction in the excise tax, moreover, would not materially increase the consumption of imported wine, since the proposed reduction is relatively small in comparison with the present duty on imported wine. Therefore, it is estimated that under the proposed rates the revenue from wine for the fiscal year 1937 would not exceed $7,750,000, representing a loss of $4,590,000, in comparison with the estimated revenue for that year at present rates. In view of the loss of revenue which would result, it is recommended that H. R. 191 be not enacted.

Increase in revenue from taxes on domestic wines and fortifying brandy: The collections of internal revenue from wine for the fiscal years 1934, 1935 and the first half of the fiscal year 1936 show substantial increases from the excise taxes on domestic wine and the tax on fortifying brandy, but relatively little change in the revenue from the excise tax on imported wine. This is shown in the following table:

Internal revenue from wine

[In millions of dollars]

Source	Fiscal years		First 6 months of fiscal years	
	1934	1935	1935	1936
Imported, excise taxes	$0.96	$0.67	$0.40	$0.39
Domestic, excise taxes	2.43	6.11	3.15	4.51
Fortifying brandy	.23	.56	.35	1.16
Total	3.62	7.34	3.90	6.06

Type of wine consumed: Wine stamps are all of one type. It is not possible to ascertain from collection figures the relative amounts of revenue obtained from the different rates of tax on wine. In the case of domestic wine, however, the quantities taxable at the different rates are obtainable from reports rendered by wineries. The amount of domestic sparkling wine consumed is small, and the revenue from this source represented only 1 to 2 percent of the excise collections on domestic wine in the fiscal year 1935. Consumption of domestic still wines in the fiscal year 1935 was divided approximately one-third under 14 percent and two-thirds in the class 14 to 21 percent, taxable at 10 and 20 cents per gallon, respectively. The tax-paid withdrawals of still wine in the 21 to 24 percent bracket amounted to less than 1,000 gallons. In view of the fact that the rate on sweet wine is twice the rate on dry wine, approximately five-sixths of the domestic excise collections are obtained from the former and one-sixth from the latter.

Since the present consumption of sweet wine is approximately twice as large as the consumption of dry wine, it would appear that wine is being used more generally for its alcoholic content than as a food.

Estimated loss in revenue under the reduced rates, proposed in H. R. 191, fiscal year 1937: For the fiscal year 1937 the Treasury estimates that under the rates proposed in H. R. 191 the revenue from wine would amount to $7,750,000 compared with $12,340,000 if present rates are retained, a loss of $4,590,000. The Treasury's estimate of revenue from wine for the fiscal years 1936 and 1937 under present rates and for the fiscal year 1937 under the reduced rates proposed in H. R. 191 are shown in the following table:

Estimated internal revenue from wine for fiscal years

[In millions of dollars]

Source	Under present rates		Under rates proposed in H. R. 191
	1936	1937	1937
Imported, excise	$0.64	$0.70	$0.35
Domestic, excise	8.40	10.00	6.40
Fortifying brandy	1.38	1.64	1.00
	10.42	12.34	7.75

Lower wine tax rates would result in higher administration costs per $100 of revenue: The cost of supervision of wineries and fruit distilleries for the fiscal year 1936 is estimated at approximately $225,000. This estimate covers only the direct cost for clerks, storekeeper gagers, and inspectors, including the allotted travel cost for the latter. No allowance has been made for overhead expenses of the Alcohol Tax Unit or expenses of the offices of the collectors of internal revenue. It is believed that a reasonable allowance for such expenses would increase the estimate of cost by 100 percent or more. The estimated direct cost alone is equivalent to $2.30 for $100 of the estimated revenue, exclusive of imported wine, for the fiscal year 1936. As the volume of wine consumed would be larger under the reduced rates, it is presumed that the cost of supervision would increase also, so that it is not possible to estimate with any degree of accuracy the cost per $100 of estimated revenue under the reduced rates. However, it is certain that the increase in administrative cost per $100 of revenue would be substantial and that the unit cost for wine would materially exceed the unit cost of collecting all liquor taxes. It is estimated that the cost of collecting all liquor taxes will average about $2.40 for each $100 of revenue in the fiscal year 1936.

Federal taxes on wine are lighter than the Federal taxes on spirits and beer: The present Federal taxes on distilled spirits and fermented malt liquors are higher than the Federal taxes on wine, whether considered as a percentage of the retail price, or computed on the basis of the alcoholic content of the beverage taxed, or compared with State taxes upon alcoholic beverages.

Federal tax on wine as a percentage of retail price is less than the Federal tax on spirits or beer: When Federal tax rates are compared with retail prices it is found that the tax is a smaller element in the price of wine than it is in the price of either distilled spirits or beer. Although the Bureau of Labor Statistics has not resumed the publication of liquor-price statistics since repeal of the eighteenth amendment, published price lists of State monopolies, taken in conjunction with quantity sales, afford a reliable index to prices. The following table shows that the Federal tax in relation to average retail prices amounts to 4 4/9 percent for dry wine, 10 percent for sweet wine, 25 percent for whisky, and 16 2/3 percent for beer.

Federal tax rates in relation to retail prices

	Retail prices [1]			Federal tax, percent of retail price	
	Low	Average	Rate	Low	Average
Wine:					
Dry (wine gallon)	$1.00	$2.25	$0.10	10	4 4/9
Sweet (wine gallon)	1.50	2.50	[2] .25	16 2/3	10
Whisky (proof gallon)	6.00	8.00	2.00	33	25
Beer (barrel)	(1)	30.00	5.00	....	16 2/3

[1] All prices taken from State store price lists with the exception of the price for beer, which is computed from the standard retail price of 10 cents per bottle or glass. The size of the 10-cent glass of beer varies greatly and in some outlets 5-cent glasses are sold. Therefore, a minimum price has not been computed. Whisky prices have been converted to a proof-gallon basis for comparison with the tax rate.

[2] There has been added the tax on one-fourth gallon of brandy, the average amount used in fortifying 1 gallon of wine.

It should be noted that the average price shown for wine is more properly the eastern price. The geographical variation in wine prices is much greater than similar variations in the price of beer and whisky. The low prices shown in the above table more nearly reflect what the west-coast consumer pays for wine. They are the lowest prices quoted on gallon containers in the Washington State stores and probably are as low as the average California retail price. Even in relation to these low prices, however, Federal wine taxes are less burdensome than the whisky tax is in relation to the average price for whisky.

Federal tax on wine for each percent of alcoholic content is less than the Federal tax on spirits and beer. The Federal tax on wine also is less burdensome in relation to the alcoholic content than it is in the case of either beer or distilled spirits. The Federal tax for each 1 percent of alcoholic content is equivalent to 1 cent on dry wine, 1¼ cents on sweet wine, 3½ cents on beer, and 4 cents on distilled spirits. This is shown in the following table:

Federal tax in relation to alcoholic content

	Alcoholic content	Federal tax	Federal tax for each percent of alcohol
	Percent	*Gallon*	*Cents*
Dry wine	10	$0.10	1
Sweet wine	20	.25[1]	1¼
Beer	4.5	.16	3½
Distilled spirits	50	2.00	4

[1] Including tax on ¼ gallon of brandy, the average amount used in fortifying 1 gallon of wine.

The Federal tax on wine in relation to the State tax on wine is less than the Federal tax on either spirits or beer in relation to State taxes on spirits or beer. An incomplete list of State tax rates shows an average of 12 cents per gallon on wine under 14 percent and 15 cents on 14 to 21 percent wine. The difference between the average of State rates on the dry and sweet wines is not as great as the difference in the Federal rates, because a number of States have a flat tax on wine. On dry wines the average of State tax rates exceeds the Federal rate, but on sweet wines the Federal rate is one and one-half times the average State rate. In the case of distilled spirits the Federal rate of $2 is nearly three times the average of State rates, while the $5 per barrel Federal tax on beer compares with an average State rate, roughly one-fourth as great.[2] A comparison of Federal tax rates and the average of State tax rates on alcoholic beverages is made in the following table:

[2] Generally speaking, the mark-up by State monopoly systems allows for a profit as large as the average of State taxes under the license system.

	Federal tax rate	Average of State tax rates	Federal tax as a percentage of average State tax
Dry wine (per gallon)	$0.10	$0.12	83
Sweet wine (per gallon)	.20	.15	133
Sweet wine, adding tax on ½ gallon fortifying brandy	.25	.15	167
Distilled spirits (per gallon)	2.00	.75	267 [1]
Beer (per barrel)	5.00	1.35	370

[1] Since the Federal tax is on the proof gallon and State taxes generally on the wine gallon, the real ratio is in the neighborhood of 230 percent.

Retail prices of wine in the East are affected more by high distribution costs than by Federal taxes. As has been brought out in these hearings,[2] it is the cost of distribution rather than the Federal tax which is the chief factor in the retail price of wine in the East. To illustrate: At the winery in California dry wines may be purchased for 15 cents per gallon, and sweet wines for 35 cents per gallon. Bought at retail in the District of Columbia these wines (usually sold in fifths), cost the equivalent of $2.25 and $2.50 per gallon, respectively. The spread between the winery and the retail price is $2.10 on dry wine and only $2.15 on sweet wine. After taxes have been taken into consideration, the spread on dry wine is greater than the spread on sweet wine. The District imposes a tax of 10 cents per gallon on sweet wines, but no tax on dry wines. Therefore, the combined Federal and District tax load to be subtracted is 10 cents for dry wine and 30 cents for sweet. Deduction of taxes leaves a spread amounting to $2 per gallon for dry wine and $1.85 per gallon for sweet wine to cover the cost of distribution. One might say that in the case of dry wine the Federal tax becomes lost in the welter of mark-ups. This illustration appears to justify the conclusion that the retail price is not materially affected by the Federal tax imposed on wine, and that the cost of distribution is of itself a much more important factor than the tax in the determination of the price to the consumer.

The prospects for a substantial expansion of the wine market would seem to be closely related to three factors: (1) lower costs of distribution, (2) a change in the habits of liquor consumers, and (3) improved business conditions. Both as a food to the consumer and as a market for the agricultural producer, wine competes with such other alcoholic beverages as beer. It is the experience of European countries that high per capita consumption of one type of alcoholic beverage usually is accompanied by relatively low per capita consumption of other types.

Under the present tax rates the total consumption of wine has increased to approximately 100 percent of the pre-war average when wine was not taxed. In comparison the total consumption of distilled spirits and of beer in each instance has reached only about 75 percent of the pre-war average. It is clear, when population growth is taken into consideration, that the per capita consumption of tax-paid wine and also of the other alcoholic beverages has fallen sub-

[2] Senate hearings on H. R. 191 and H. R. 9185, pt. I, pp. 130 and 140.

stantially below pre-war consumption. This decline is less marked, however, for wine than for either spirits or beer.

For the reasons stated herein the Treasury Department is opposed to any reduction of the taxes now imposed by law on wines and fortifying brandy.

Senator KING. Are there any other witnesses who desire to be heard? Is Mr. McCabe here?

Mr. McCABE. Yes, sir.

Senator KING. Mr. McCabe, at the last meeting of the committee some question was raised as to wastage of beer in breweries for which taxes were imposed, and the claim was made that there ought to be a reasonable reduction, or some plan evolved under which the brewers would not be taxed for beer which was not put into commercial use, and it was suggested that the Treasury and those representing the brewers confer with a view to agreeing upon some plan that would be just and fair to the Government as well as the brewers.

Mr. McCABE. Yes, sir.

Senator KING. What is the result?

Mr. McCABE. I do not know.

Senator KING. I understood from Mr. Hester just now that there had been an agreement.

STATEMENT OF GEORGE P. McCABE, REPRESENTING THE AMERICAN BREWERS ASSOCIATION

Mr. McCABE. I want to elaborate on that a little bit, Mr. Chairman. The conference was held with the Treasury Department, but the Treasury Department objected very strongly to the full 3-percent reduction which had been proposed by the brewers, indicating, however, they would entertain a proposition which would result in giving power to the Treasury to determine the actual loss, then issue regulations under which refunds could be made.

They asked the lawyers representing the two associations, the independents not being present, to draft language that would accomplish the result.

That language was drafted and submitted to the Treasury Department. The Treasury took some days for consideration, then called another conference at which the signers of the proposition were present and the Treasury officials submitted some language of their own, which to my mind exactly carried out the proposition which had been made by the brewers, and which I instantly accepted as being satisfactory to the 100 brewers I represent.

However, the representative of the other association who was present, said he did not feel at liberty at that time to accept that language and he would later advise the Treasury Department what position he took on that.

I do not know what his position is, but as far as the brewers I represent are concerned, the language is absolutely just, fair, and acceptable to everybody concerned.

STATEMENT OF GEORGE R. BENEMAN, REPRESENTING THE UNITED STATES BREWERS ASSOCIATION

Mr. BENEMAN. Mr. Chairman, speaking for Mr. Blanchard, who spoke for the brewers at the last hearing, we have been over that language and it is satisfactory to us.

As a matter of fact, with the Treasury, we have been over all of the suggestions Mr. Blanchard made at the last hearing, and language has been devised which I understand is acceptable to the Treasury and agreeable to the people for whom we speak. While I am here, I would like to call attention to one thing, the amendment that was suggested by the first speaker this morning, with respect to tolerance on beer barrels.

That was discussed before the Ways and Means Committee, and those brewers for whom I speak find objection to at least that portion of the amendment which requires there be as many barrels above tolerance as below tolerance, because we find it is physically impossible to keep the barrels so uniform that there will be an exact number above and below, and I would like leave to file a memorandum on that.

(The memo referred to is as follows:)

WASHINGTON, D. C., *February 12, 1936*.

Memorandum for the subcommittee of the Committee on Finance, United States Senate, in connection with the hearings held on H. R. 9185.

On behalf of the United States Brewers' Association, and in accordance with permission granted by the committee on February 12, I respectfully submit for the record the following comment with respect to a proposal made at the hearing by a representative of the steel-barrel industry.

That representative proposed an amendment to H. R. 9185 reading as follows:

"Section 339 of the Revised Statutes, as amended (26 U. S. C., secs. 506, 507; U. S. C., Supp. VII, title 26, sec. 1330 (a)), is further amended by adding a new paragraph at the end thereof reading as follows:

"'The Secretary of the Treasury is authorized to fix by regulations, to be issued from time to time, the maximum and minimum limits of tolerance within which the capacity of hogsheads, barrels, and fractional parts of barrels may vary from the capacity prescribed by law: *Provided, That in fixing the limits of tolerance there shall be as many hogsheads, barrels, and fractional parts of barrels exceeding the prescribed capacity as there are containing less than the prescribed capacity.*'"

We respectfully suggest that if the proposed amendment is to be given consideration there be eliminated therefrom the portion thereof italicized in the above quotation. This suggestion is made for the following reasons:

(1) If the Commissioner is to be permitted to fix tolerances, those tolerances should be based on the facts which he ascertains and there should be no mandatory requirement which the facts do not justify. Eliminating the proviso, as above suggested, the Secretary would be authorized to fix tolerances as he found the facts justified them and without any mandatory requirement that there be as many barrels showing above the prescribed capacity as below it.

(2) It is physically impossible, particularly with respect to wooden barrels, to have as many barrels run uniformly above the prescribed capacity as below it. In the beer business barrels and fractional barrels are delivered to the retail and wholesale trade and when emptied are returned to the brewery and again filled. All barrels must be pitched—i. e., relined as they are reused—and in wooden barrels the hoops must be driven frequently so as to keep the staves from spreading and the barrel tight. It is obvious, therefore, that a barrel continually shrinks in size and on wooden barrels, particularly the new barrels, must be oversize in order that they may go not too far undersize during usage. As the barrel shrinks, from time to time it is recoopered, i. e.,

new staves are put in, but, obviously, this cannot be done each time the barrel is filled and it is impossible to check the barrels physically so as to make sure that at all times there are as many barrels over the prescribed capacity as under it. As supplies of new barrels are received they should run uniformly over the prescribed capacity and then come down as they are used.

(3) A requirement that there be as many packages above the prescribed capacity as below would be impossible of administration, as a great many, if not the majority of the barrels in use at a brewery would, on a given visit of inspection, be in the possession of the wholesale or retail trade and a determination of whether as many of the barrels in use run above the prescribed capacity as below it would not be possible of administration.

Respectfully,

GEO. R. BENEMAN,
General Counsel, United States Brewers' Association.

Senator KING. I think you can confer with Mr. Hester about that matter.

Mr. HESTER. I would like to make one statement in that connection. My understanding of it, is that it requires the collector of internal revenue to investigate and determine whether or not refunds can be made for actual losses, without danger to the revenue. and if the Commissioner so determines, then he must prepare regulations under which such refunds can be made.

I would like to insert in the record at this point a memorandum on the 7½-percent beer allowance made during the Spanish-American War. The memorandum indicates that that allowance was a reduction in the tax and not an allowance for losses sustained as a result of leakage, spoilage, etc., as has been suggested at these hearings.

Senator KING. That memorandum may be included in the record.

(The memorandum is as follows:)

MEMORANDUM RE HISTORY OF 7½-PERCENT DISCOUNT FORMERLY ALLOWED BREWERS UPON THEIR STAMP PURCHASES

Section 52 of the act of July 13, 1866 (14 Stat. 165), for the first time allowed a 7½-percent discount on stamps used to denote tax payment on fermented liquors. The extended debates in the House of Representatives on this act, and, more particularly, section 52 thereof, reveal that the reason for allowing this discount was that a certain proportion of all the beer brewed became sour and, as beer, worthless (Globe, p. 3, 39th Cong., 1st sess., pp. 2846–2847).

Section 52 of the foregoing act was codified as section 3341 of the Revised Statutes. Section 9 of the act of July 24, 1897 (30 Stat. 206) revised section 3341 by abrogating the 7½-percent allowance and, consequently, after that date no discount was allowable on the purchase of beer stamps.

Section 1 of the act of June 13, 1898 (30 Stat. 448), increased the tax on beer from $1 to $2 per barrel and reestablished the discount of 7½ percent. The report of the Committee on Ways and Means on this act (no 1183, 55th Cong., 2d sess.) does not undertake to explain the reason for again allowing the discount, but the reason was revealed in the report of that committee on the act of 1901, discussion of which follows:

Section 1 of the act of March 2, 1901 (31 Stat. 938) reduced the tax per barrel of beer from $2 to $1.60 and the 7½-percent discount was again abrogated. The report of the Committee on Ways and Means on this act (no. 2016, 56th Cong., 2d sess.) dealt at length with the subject of the tax on beer, and several excerpts from this report which are of particular interest and significance are set forth as follows:

"Soon after the close of the Civil War the tax on beer was fixed at $1 per barrel of 31 gallons. It was then claimed that the loss from waste and leakage and spoiling of beer after it was placed in barrels and the stamp put upon it was about 7½ percent of the entire output, and hence a rebate was allowed of 7½ percent. This tax with the rebate was continued down to the enactment of the Tariff Law of 1897. The committee then, upon full consideration and believing from the evidence presented that the loss from these sources

did not exceed 1 percent, reported a paragraph fixing the tax on beer at $1 per barrel of 31 gallons, with no rebate whatever, and such was the tax at the time the war-revenue bill was enacted.

"At that time the committee agreed upon a bill making the tax upon beer $2 per barrel, and afterwards, consented to a rebate of 7½ percent upon this $2. But this rebate was not put upon the same ground as when first enacted shortly after the Civil War, but was intended simply as a reduction of the $2 tax, making an advance under the war-revenue act of but 85 cents per barrel. This 85 cents, then, is the 'war tax' pure and simple." (Italics supplied.)

During the extended debates in the House of Representatives on the act of March 2, 1901, Mr. Payne in speaking for the Committee on Ways and Means (beginning at p. 248, Cong. Rec., 56th Cong., 2d sess.) pointed out that that committee at one time had made considerable investigation into the claim of the brewers that their losses due to the bursting of barrels and the souring of beer amounted to 7½ percent, and that the committee was satisfied that whatever was the loss in 1865 and generally in the sixties, in 1897 it did not amount to 1 percent upon the total amount of beer, because of greatly improved processes of manufacture and methods of refrigeration. He observed that the war-revenue act of 1898, which increased the tax from $1 to $2, reestablished the 7½-percent discount purely as a compromise with those representing the beer interests.

Senator KING. There is one further amendment Senator Copeland has, which has not been acted upon, and with the understanding that if Senator Copeland desires to present his amendment, there will be opportunity afforded for him to do so.

Before adjourning, I desire to submit for the record a letter addressed to Congressman W. L. Fiesinger, of Ohio, by Mr. William H. Reinhart, president, the Sweet Valley Wine Co., Sandusky, Ohio.

(The letter is as follows:)

THE SWEET VALLEY WINE CO.,
Sandusky, Ohio, February 6, 1936.

Hon. WM. L. FIESINGER,
Washington, D. C.

DEAR JUDGE: Just a word regarding revenue on wine. Have not heard much lately about what reduction is being considered but, as stated before, if the Federal Alcohol Administration insists upon the use of the word "light" in connection with port, angelica, madeira, etc., which contains less than 18 percent alcohol, and sherry that contains less than 17 percent alcohol, then the tax on such sweet wines should be no higher than the tax on dry wines that have always been known as light wines. At any rate, the tax should be considerably less than on higher alcoholic wines if we must qualify these wines with the word "light."

I wish you could come to some understanding with the Ways and Means Committee on this subject.

Yours very truly,

WM. H. REINHART, *President.*

Senator KING. The hearing will now be closed.

Subsequently the chairman received the following letter from Hon. Everett M. Dirksen, of Illinois, which was ordered printed in the record.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., February 14, 1936.

Hon. WILLIAM H. KING,
United States Senate, Washington, D. C.

MY DEAR SENATOR KING: In connection with the bill H. R. 9185, which is now pending before your subcommittee and to which Senator Murphy of Iowa offered an amendment, seeking to prevent the labeling of distilled spirits as neutral spirit, whisky, or gin, when not made from grain, I should like to

submit the following for the record of the hearings in connection with that measure.

I shall, with your permission, again set forth the amendment:

[H. R. 9185, 74th Cong., 2d sess.]

"AMENDMENT Intended to be proposed by Mr. Murphy to the bill (H. R. 9185) to insure the collection of the revenue on intoxicating liquor, to provide for the more efficient and economic administration and enforcement of the laws relating to the taxation of intoxicating liquor, and for other purposes, viz: At the proper place insert the following:

"SEC. —. (a) For the purposes of the Federal Alcohol Administration Act, the Food and Drugs Act, as amended, and of any Act of Congress amendatory of or in substitution for either of said Acts, no product shall be labeled or advertised or designated as neutral spirits, whisky, or gin, or any type thereof, for nonindustrial use, if distilled from materials other than grain, or if the neutral spirits contained therein are produced from materials other than grain. The term "neutral spirits" includes ethyl alcohol.

"(b) The fifth paragraph of section 605 of the Revenue Act of 1918 is hereby repealed."

The question of what is whisky was the subject of the opinions of two Attorney Generals and a decision by President Taft. Practically the only point in which these opinions agreed is that whisky is a distillate from a grain base and that a molasses base product is not entitled to the name whisky.

Under the Food and Drugs Act of June 30, 1906, the Department of Agriculture issued a ruling to the effect that a mixture entitled to be called blended whisky was a mixture of whisky and neutral spirits distilled from grain, and that a mixture of whisky and neutral spirits distilled from molasses is not, in fact whisky, but is a compound of whisky and molasses spirits.

Shortly before national prohibition the Revenue Act of 1917 was enacted carrying a provision as follows:

"All distilled spirits or wines taxable under this Section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced."

This language, in practically the identical form, was repeated in the Revenue Act of 1918 (sec. 605) and was construed by the Treasury Department as affecting only the manufacture of whisky and the marking and branding of the original barrels in which contained. The Department of Agriculture continued to enforce the ruling referred to above as to the labels under which products were sold in interstate commerce.

The above legislation was considered by many as a wartime grain conservation measure and it is doubtful if it would have passed if the legislators were not confronted with a desire to conserve grain as distinguished from the present condition where they should be moved by a desire to broaden the market for grain.

No blended whisky was sold during the prohibition period.

When repeal became effective December 5, 1933, codes of fair competition were adopted for the distilling and rectifying industries. These codes provided that whisky was a distillate from grain and that only neutral spirits made from grain could be used in manufacturing blended whisky.

The industries operated under these codes without questioning the above standards until the Schechter decision, May 27, 1935, and voluntarily adhered to such standards following the Schechter decision until the labeling regulations were promulgated by the Federal Alcohol Administration on January 18, 1936.

In promulgating these regulations the Treasury Department followed the advice of its general counsel that section 605 of the Revenue Act of 1918 was controlling upon the labeling of whisky as well as the marking and branding of packages, consequently, provided in such regulations that blended whisky could be made, and sold as such, from neutral spirits distilled from molasses.

The effect of the Murphy admendment can be briefly summarized as follows:

It will preserve to the American farmer the market which he has enjoyed both before and since the prohibition era; it does not seek to create any additional market for him.

It will permit the administration to make good on the oft-repeated campaign promise—that repeal would benefit the farmer.

If the amendment is not adopted the distilling industry will use molasses in place of corn for the neutral spirits which forms the base of blended whisky. Ninety percent of such molasses will, conservatively speaking, be imported. It will not deprive the Louisiana canegrowers of their present market for their molasses because—

(*a*) None of this molasses has up to the present time been used as a base for distilling neutral spirits for blending purposes; (*b*) the amendment does not prohibit the use of molasses for the distillation of industrial alcohol, the use of which, with our returning prosperity, is increasing daily.

Conflicting estimates have been given as to the amount of grain involved in the manufacture of neutral spirits used for blending purposes. The Treasury Department contends that the amendment will affect approximately 1,000,000 bushels of grain. This estimate is obviously incorrect. Mr. Chester Davis has informally estimated that it would affect approximately 5,000,000 bushels of grain. The Treasury Department's estimate is obviously made from statistics obtained from operations since repeal. This period will not reflect the true condition of the blended whisky market for years to come, as the reduced stocks of properly aged whisky obviously retarded the production of blended whisky during that period and accelerated the sale of young straight whisky. As the stocks of aged whisky accumulate the amount of blended whisky sold will increase. Dr. Doran, Administrator of the Distilled Spirits Institute, uses the figures of preprohibition to estimate the full effect of the present Treasury regulation upon the use of grain. Some 71,000,000 gallons of neutral spirits were tax-paid in 1917, practically the entire amount of which was used for blending purposes. It would require approximately 15,000,000 bushels of grain to produce this amount of neutral spirits.

EVERETT M. DIRKSEN, M. C.

(Thereupon, at 11:30 p. m., the hearing was closed.)