

Calendar No. 130

73D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 114

NATIONAL INDUSTRIAL RECOVERY BILL

MAY 29 (calendar day, JUNE 5), 1933.—Ordered to be printed

Mr. HARRISON, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 5755]

The Committee on Finance, to whom was referred the bill (H.R. 5755) to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that as amended the bill do pass.

The bill is divided into three titles, briefly summarized in the report of the House Committee on Ways and Means (H.Rept. No. 159, 73d Cong., 1st sess.), as follows:

Title I of this bill provides a program of industrial recovery through removal of obstructions to the free flow of interstate commerce, promotion of cooperative action among trade groups and between labor and management, elimination of unfair competition, and relief of unemployment, all under adequate governmental sanctions and supervision in order to protect the public interest.

Title II creates an emergency administration of public works to plan and execute a comprehensive program of construction under which millions of workers now idle may be reemployed directly or indirectly through the expenditure of \$3,300,000,000 in useful public projects.

Title III contains miscellaneous provisions, including amendments of the Reconstruction Finance Corporation Act.

The bill reported by your committee retains the principal features of the House bill, a detailed analysis of which will be found in the House report, included at the end of this report. However, your committee has made a number of substantial changes in the bill which are hereafter discussed.

TITLE I. INDUSTRIAL RECOVERY

Section 1 of the bill, defining the policy, has been enlarged to include the promotion of the fullest possible utilization of the present productive capacity of industries in order to avoid undue restriction

of production, for the purpose of providing a return upon idle invested capital or otherwise (except that overproduction may be temporarily prevented if necessary to carry out the purposes of the title), and the increase in consumption of industrial and agricultural products by increasing purchasing power.

The reported bill contains a provision in section 2 (a) to the effect that no officer or employee shall be appointed or designated for the administration of the industrial program at a salary in excess of \$5,000 per annum except with the advice and consent of the Senate. It is provided, however, that the provisions of section 1761 of the Revised Statutes preventing payment of salaries to recess appointees appointed to fill vacancies which exist while the Senate was in session, until the appointee has been confirmed by the Senate, shall not apply to such officers or employees.

There has been incorporated in section 3 (a) of the bill a provision that where any code or codes affect the services and welfare of those engaged in other steps of the economic process, they shall not be deprived of the right to be heard prior to approval of a code or codes of fair competition.

The provision in section 3 (b) making a violation of any provision of a code of fair competition a misdemeanor has been retained in a modified form as section 3 (f). The provisions in section 3 for enforcement by proceedings under the Federal Trade Commission Act, and by injunction proceedings in the Federal courts, have been retained as found in the House bill.

The committee has added a provision (section 3 (e)) to the effect that upon complaint to the President that articles are being imported into the United States to the detriment of any industry with respect to which a code of fair competition is in effect, resulting in unfair methods of competition in the United States, the President may cause an investigation to be made. If after public notice and hearing the existence of unfair methods of competition shall be found, the President may exclude the articles concerned from entry into the United States, and the decision of the President is to be conclusive. The refusal of entry is to continue until the President finds that the conditions which led to the refusal no longer exist.

The House bill (section 4 (b)) gave the President authority to license business enterprises whenever he should find it necessary in order to make effective a code of fair competition or an agreement or otherwise to effectuate the policy of the title. These licenses were subject to revocation after due notice and opportunity for hearing in the event of violations and the violation of a condition of a license or operation without a license was made an offense punishable by fine or imprisonment. The licensing provisions have been retained in the bill as reported to the Senate, but the licensing power is to be exercised only if the President finds that destructive wage or price cutting or other activities contrary to the policy of the title are being practiced in any geographical area or in any subdivision of any trade or industry, and is limited to 1 year.

Section 7 of the bill sets forth certain conditions that must be contained in each code of fair competition or agreement. Among these is the condition that employees shall have the right of organization and collective bargaining through representatives of their own choosing and shall be free from interference, restraint, or coercion of

employers of labor or their agents in designating representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Your committee has inserted a proviso in section 7 (a) indicating that it is not intended to compel a change in existing satisfactory relationships between employees and employers. A further condition has been imposed that no employee and no one seeking employment shall be required as a condition of employment to refrain from organizing or assisting a labor organization of his own choosing. The House bill is limited to refraining from "joining" a labor organization of his own choosing. A definition of the terms "interstate and foreign commerce" and "interstate or foreign commerce" is included as a part of section 7 (d) and the provisions of the title are extended generally to foreign as well as to interstate commerce.

Section 8 of the House bill provided that nothing in the industrial program should be construed to repeal or modify any of the provisions of the act of May 12, 1933, commonly known as the "Agricultural Adjustment Act." The committee has rewritten this section with a view to eliminating possible conflicts in administering the industrial program and the Agricultural Adjustment Act. It is provided that the President may, in his discretion, in order to avoid such conflicts, delegate any of his functions and powers under the industrial program with respect to trades or industries which are engaged in handling agricultural commodities or products, or competing commodities or products, to the Secretary of Agriculture.

A new section 9 has been inserted designed to better regulate the oil industry. It is provided, first, that the President is authorized to initiate before the Interstate Commerce Commission proceedings necessary to prescribe regulations to control the operations of oil pipe lines and to fix reasonable compensatory rates for the transportation of petroleum and its products by pipe lines; second, that the President is authorized to institute proceedings to divorce from holding companies pipe lines controlled by the holding company if the pipe line by unfair practices or exorbitant rates in the transportation of petroleum or its products tends to create a monopoly; and, third, that the President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder by any duly authorized State agency.

TITLE II. PUBLIC WORKS AND CONSTRUCTION PROJECTS

Under the House bill the powers of the Federal Emergency Administrator of Public Works were to be exercised by an Administrator. In lieu of an Administrator, section 201 of the bill as reported by the committee authorizes the creation of a Federal Emergency Board of Public Works to consist of three members appointed by the President, by and with the advice and consent of the Senate. It is further provided that no officer or employee receiving a salary in excess of \$5,000 per annum shall be appointed or designated by the President, except with the advice and consent of the Senate, and that the Board shall not fix the compensation of any expert officer or

employee appointed by it at a rate in excess of \$5,000 per annum. A provision has been inserted similar to that incorporated in title I designed to insure the payment of salaries to any recess appointees.

The committee has included certain additional projects within the construction program provided for in section 202. These are sewage-disposal plants, naval aircraft (in addition to aircraft required for vessels constructed under the London Naval Treaty), Army aircraft, and reservoirs and pumping plants.

The House bill provided that the aggregate amount expended on Federal-aid highways should not exceed \$400,000,000. The committee recommends that \$400,000,000 be the minimum for this type of project. The highway grants under the House bill were to be apportioned three fourths in accordance with the provisions of the Federal Highway Act (on the basis of population, area, and mileage of rural and star routes), and one fourth on the basis of population. The bill reported by the committee provides that these grants shall be made to the State highway departments as agencies of the Federal Government and shall be apportioned wholly in accordance with the provisions of the Federal Highway Act. The District of Columbia is also included within the benefits of the \$400,000,000 fund allotted for highways.

The committee has also added a provision (sec. 204 (g)) to the effect that in the administration of the Federal Highway Act the limitation that highways shall be free from tolls shall not apply to publicly owned toll bridges or approaches thereto operated by a State highway department if the tolls received, less actual cost of operation and maintenance, are applied to the repayment of the cost of construction or acquisition, and if such bridge is to be maintained and operated as a free bridge after such construction or acquisition costs are fully repaid. The effect of this provision is to permit the expenditure of Federal funds on approach roads to bridges acquired by the State, although not constructed by the State.

The committee has also added a new section 205 providing for a fund of \$50,000,000 to be allotted for national forest highways, national forest roads, trails, bridges, and related projects, national park roads and trails, roads on Indian reservations, and roads through public lands. The section also provides that the President may allot funds over and above the \$400,000,000 Federal-aid highway fund made available by the bill for the construction of public highways in Alaska, Puerto Rico, and the Virgin Islands. In this connection, it should be noted that funds may be allotted over and above the \$50,000,000 and \$400,000,000 funds above provided, for highway projects such as highways in the national cemeteries.

A provision (sec. 206 (b)) has been inserted, designed to insure the payment of adequate wages on work performed under Government contract. It is provided that all contracts for Federal construction projects shall contain provisions for minimum rates of wages, to be predetermined by the awarding authorities, which contractors shall pay to skilled or unskilled labor, and that such rates shall be stated in the invitation for bids and shall be included in the proposals for bids for the work. These predetermined wages may be revised by the awarding official if changed conditions so justify. In the event the rate is increased an amount equal to the amount of such increase is required to be paid to the contractor by the United States,

and in the event of a decrease the contract price is decreased by the amount of the decrease, in each case upon a satisfactory showing by the contractor.

The House bill (sec. 205 (b)) contained a provision that no articles, materials, or supplies shall be acquired for public use or for use upon or in State, municipal, or private projects financed in whole or in part by Federal funds under this or other acts of Congress unless such articles, materials, or supplies have been manufactured in the United States, or articles, materials, or supplies mined or produced in the United States, if available at a reasonable cost. The committee has stricken out this provision. At least so far as it relates to articles acquired by the Federal Government and its instrumentalities, and contractors therewith, the provision deals with the same subject matter covered by title III of the Treasury-Post Office Appropriation Act for the fiscal year 1934 (Public, No. 428, 72d Cong.) and would perhaps be construed pro tanto to repeal that statute, which is of general application and applies to construction work under this as well as other acts of Congress.

To aid in the redistribution of the overbalance of population section 207 of the bill as reported to the Senate makes available to the President \$25,000,000, to be used by him for making loans for and otherwise aiding in the purchase of subsistence homesteads. Moneys collected as repayment of the loans are to be covered into a revolving fund to be administered as directed by the President for the purposes set forth.

Sections 210 to 218, inclusive, cover the taxes necessary to raise \$220,000,000. This amount is sufficient to pay interest and sinking fund charges on the total appropriation of \$3,300,000,000 provided for in section 219. These sections include a few amendments to the Revenue Act of 1932 for equitable purposes rather than for revenue raising purposes. These sections represent a complete revision of the taxes proposed in section 208 of the House bill, although some of the provisions are similar to those proposed by the House.

The principal taxes imposed in the House bill were three in number and consisted of (1) an increase in the normal rates of income tax, (2) the subjecting of dividends to the normal rates of tax, and (3) an increase in the present excise tax on gasoline of three fourths of a cent per gallon. Your committee recommends in lieu of these taxes: first, a capital-stock tax of \$1 for each \$1,000 of the declared value of the capital stock of corporations; second, an excess-profits tax of 5 percent on the portion of the net income of corporations which is in excess of 12½ percent of their declared capital stock value; third, an additional gasoline tax of one half cent per gallon; and fourth, a 5 percent tax on dividends to be deducted at the source by corporations but to be borne by the stockholder. Your committee also recommends certain administrative changes which are designed to secure a larger tax from private bankers and partnerships, these changes having been made in view of the recent disclosures before the Senate Committee on Banking and Currency. A conference report on a bill (H.R. 5040) to extend the gasoline tax for 1 year, to modify postage rates on mail matter, and for other purposes, is now pending before the Congress, and your committee is reporting this bill without certain changes provided for in H.R. 5040. Your committee realizes that committee amendments may be necessary in this bill depending on the

disposition of H.R. 5040. The taxing provisions and amendments to the Revenue Act of 1932 will now be described in detail.

Section 210 provides for an additional tax of $\frac{1}{2}$ cent per gallon on gasoline in lieu of the additional tax of $\frac{1}{4}$ of a cent carried in the House bill. The present tax on gasoline is 1 cent per gallon. The gasoline tax is extended to July 1, 1935 under the bill, but the additional $\frac{1}{2}$ cent will be removed sooner if the eighteenth amendment is repealed or the operating revenues of the Government exceed operating expenditures. The estimated revenue from the additional tax recommended by your committee is 62 million dollars for a full year of operation. A minor amendment carried in this section exempts from tax, benzol sold for industrial and not motor fuel use.

Section 211 extends the various excise taxes imposed by the Revenue Act of 1932 for 1 year, or up to July 1, 1935. This was provided for in the House bill.

Section 212 imposes an excise tax of 5 percent upon the receipt of dividends, such tax to be withheld at the source and paid to the Government by the corporation. In order to prevent pyramiding, dividends received by a domestic corporation are exempt from this tax. This tax is in lieu of the provision in the House bill subjecting dividends to the normal tax. It is estimated that the tax proposed by your committee will return \$70,000,000 for a full year of operation.

Section 213 amends section 104 of the Revenue Act of 1932, which penalizes accumulation of earnings to avoid surtaxes, so that it will also penalize accumulations of earnings to avoid payment of the excise tax on dividends.

Section 214 provides for a new tax similar in principle to the capital stock tax which was levied from 1916 to 1926. In order to avoid controversy as to the value of the capital stock, the tax is imposed on the value declared by the corporation. A reasonable value is, however, assured by means of an excess-profits tax imposed by section 215 and based on the relation of the net income of the corporation to such declared value. A value for the capital stock once having been declared, such value may not be subsequently changed except for bona fide changes in the capital structure. The rate of this tax is very low, \$1 per \$1,000 of the declared value. The estimated annual yield is \$80,000,000 in connection with the excess-profits tax imposed by section 215.

Section 215 imposes an excess-profits tax on corporations. The primary object of this tax is to induce corporations automatically to declare a fair value for their corporate stock under section 214. The rate is 5 percent on the portion of the net income in excess of $12\frac{1}{2}$ percent of the adjusted declared value of the stock of the corporation. The secondary object of the tax is to subject to a somewhat higher rate of tax abnormal profits which are out of proportion to the capital of the corporation.

Section 216 provides for the discontinuance of the tax on dividends, the additional one half cent a gallon on gasoline, and the capital-stock and excess-profit taxes in the event that the eighteenth amendment is repealed or the operating receipts of the Government exceed its operating expenditures. The date of the earlier of these events is to be proclaimed by the President. The repeal of the tax on dividends and the additional one half cent on gasoline is made effective as of January 1 next following the date so proclaimed. No capital-

stock tax will be imposed subsequent to the date so proclaimed, while the excess-profits tax will not apply in respect of any taxable year beginning after that date.

Subsection (a) of section 217 removes the privilege granted under existing law to a taxpayer of carrying over a net loss in reduction of his net income for the subsequent year. A similar provision is contained in the House bill.

Subsection (b) repeals the provision of existing law permitting a taxpayer to carry over losses from the sale of stock and bonds held less than 2 years against gains from such sales in the next year.

Subsection (c) removes the exemption allowed to private banks from the stock loss limitation provided under existing law. Under this limitation, losses from sales of stocks or bonds held less than 2 years can only be applied against gains from similar transactions, and cannot be used to reduce income from other sources.

Subsection (d) amends the partnership provisions of existing law. Under existing law the individual members of a partnership are entitled to reduce their individual net incomes by their distributive shares of a net loss incurred by the partnership. Your committee amendment denies this deduction to the extent that the net loss is attributable to a loss from the sale or other disposition of stocks and bonds.

The effect of subsection (e) is to increase the additional corporate income-tax rate of three fourths of 1 percent provided for in existing law in the case of consolidated returns for the taxable year 1933 to 1 percent and to extend such additional rate to the taxable years 1934 and 1935.

Subsection (f) provides that interest on such part of any amount determined as a deficiency as is attributable solely to the amendments made to the Revenue Act of 1932 by this act shall not commence to run until September 15, 1933. Some of the amendments apply to returns already filed, and it seems fair to give taxpayers a reasonable time to make the additional payments required by the amendments before interest applies.

Subsection (g) provides that where the effect of the retroactive amendments to the income tax provisions is to require a return for a fiscal year ending prior to the last of this month, which return was not required under existing law, the taxpayer shall have until September 15 to file his return.

It is estimated that the amendments made in this section should result in approximately \$15,000,000 in annual revenue.

Section 218 amends section 500 (a) (1) of the Revenue Act of 1926, as amended, which imposes the tax on admissions. Under existing law a person granted a free admission must pay a tax based on the established price. The amendment proposed by your committee grants an exemption from the tax in the case of free admissions to the legitimate spoken drama.

TITLE III. AMENDMENTS TO EMERGENCY RELIEF AND CONSTRUCTION ACT AND MISCELLANEOUS PROVISIONS

Under the House bill (sec. 302) the borrowing power of the Reconstruction Finance Corporation is decreased by \$1,200,000,000. In the bill as reported by the committee the amount is decreased by

\$400,000,000. The reason for decreasing the borrowing power of the Corporation is that under the bill the authority of the Corporation to make loans for self-liquidating public works is discontinued, this function being taken over by the Public Works Administration.

A new section (303) has been inserted authorizing the Reconstruction Finance Corporation to make adequately secured loans, based on mineral acreage and self-liquidating in character, to managing agencies of farmers' cooperative mineral rights pools not engaged in drilling or mining operations, such loans to be made for the purpose of defraying the cost of organizing such pools.

The following is the Report of the House Committee on Ways and Means on the bill:

[House Report No. 159, Seventy-third Congress, first session]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5755) to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes, having considered the same, report favorably thereon with a recommendation that it do pass.

This bill is designed to meet the needs of the present national emergency which, in the language of section 1, is "productive of wide-spread unemployment and disorganization of industry, which burdens interstate commerce, affects the public welfare, and undermines the standards of living of the American people."

In his message to the Congress of May 17, 1933, the President recommended "two further steps in our national campaign to put people to work." He said:

"My first request is that the Congress provide for the machinery necessary for a great cooperative movement throughout all industry in order to obtain wide reemployment, to shorten the working week, to pay a decent wage for the shorter week, and to prevent unfair competition and disastrous overproduction.

"Employers cannot do this singly or even in organized groups, because such action increases costs and thus permits cutthroat underselling by selfish competitors unwilling to join in such a public-spirited endeavor.

"One of the great restrictions upon such cooperative efforts up to this time has been our antitrust laws. They were properly designed as the means to cure the great evils of monopolistic price fixing. They should certainly be retained as a permanent assurance that the old evils of unfair competition shall never return. But the public interest will be served if, with the authority and under the guidance of Government, private industries are permitted to make agreements and codes insuring fair competition. However, it is necessary, if we thus limit the operation of antitrust laws to their original purpose, to provide a rigorous licensing power in order to meet rare cases of noncooperation and abuse. Such a safeguard is indispensable.

"The other proposal gives the Executive full power to start a large program of direct employment. A careful survey convinces me that approximately \$3,300,000,000 can be invested in useful and necessary public construction, and at the same time put the largest possible number of people to work.

"Provision should be made to permit States, counties, and municipalities to undertake useful public works, subject, however, to the most effective possible means of eliminating favoritism and wasteful expenditures on unwarranted and uneconomic projects.

"We must, by prompt and vigorous action, override unnecessary obstructions which in the past have delayed the starting of public-works programs. This can be accomplished by simple and direct procedure."

Title I of this bill provides a program of industrial recovery through removal of obstructions to the free flow of interstate commerce, promotion of cooperative action among trade groups and between labor and management, elimination of unfair competition, and relief of unemployment, all under adequate governmental sanctions and supervision in order to protect the public interest.

Title II creates an emergency administration of public works to plan and execute a comprehensive program of construction under which millions of workers now idle may be reemployed directly or indirectly through the expenditure of \$3,300,000,000 in useful public projects.

Title III contains miscellaneous provisions, including amendments of the Reconstruction Finance Corporation Act.

TITLE I. INDUSTRIAL RECOVERY

Section 1 defines the policy setting forth the existing national emergency which has produced widespread unemployment and disorganization of industry, and which has resulted in undermining the standards of living in this country. This section also establishes the constitutional basis for this legislation, which is predicated upon both the interstate commerce clause and the general welfare clause of the Constitution.

Section 2 of the bill gives the President the authority to establish suitable agencies to carry out the policy declared in section 1. He is given authority to set up the necessary machinery, without regard to the provisions of the civil service laws or the Classification Act. The civil service and classification requirements are waived, due to the emergency character of the bill, the short-time employment, and the necessity for prompt action. The President is also authorized to establish an industrial planning and research agency to aid in carrying out his functions under this title. The powers granted under the title terminate at the expiration of two years after the enactment of the bill, and sooner if the President shall proclaim, or Congress by joint resolution shall declare, that the emergency has ended. The bill provides the following methods for putting into effect the policy outlined in section 1:

1. Voluntary codes of fair competition.
2. Mandatory codes.
3. Trade agreements.
4. Labor agreements.
5. Limited labor codes.
6. Licensing.

The voluntary codes of air competition are provided for in section 3 (a) of the bill. Under this section, any trade or industrial association or group is authorized to prepare and submit to the President for approval a code of fair competition, which will regulate the competition practices within the industry or trade represented. This gives each trade or industry an opportunity to adjust itself. The President is authorized to approve such a code only if he finds the following:

(1) That the association or group admits equitably to membership all who are engaged in the same trade or industry.

(2) That the association or group is truly representative of the trade or industry for which it speaks.

(3) That the code presented will not promote a monopoly.

(4) That the code will not oppress or discriminate against small enterprises.

(5) That employees will have the right to organize and bargain collectively, through representatives of their own choosing (sec. 7 (a)).

(6) That no employee will be required as a condition of employment to sign an antiunion contract. This outlaws the so-called "yellow dog" contract (sec. 7 (a)).

(7) That employers will comply with the maximum hours of labor and minimum wage of pay and standards for other working conditions approved by the President (sec. 7 (a)).

(8) That the code will tend to effectuate the policy of this title.

After the President has approved a voluntary code, it becomes effective for the entire trade, industry, or subdivision thereof to which it applies. Thereupon operations in conformity with the code provisions become exempt from the provisions of the antitrust laws of the United States. If anyone engaged in interstate commerce or in business affecting interstate commerce violates any of the provisions of the code, such a violation constitutes an act of unfair competition. The code is enforced by several methods: (1) Proceedings to prevent unfair competition under the Federal Trade Commission Act. (2) A violation of any of code provisions constitutes a misdemeanor punishable by a fine of \$500. (3) Violations may be prevented by an injunction proceeding in the Federal courts. (4) The code may also be made effective through the licensing provisions provided for under section 4 (b). If codes, agreements, or licenses prove faulty, the power is reserved to the President, under section 9 (b), to cancel or modify any order, approval, license, rule, or regulation issued under this title.

Section 3 (d) gives the President authority on his own motion, or upon complaint that abuses exist in any trade or industry or subdivision thereof, to prepare and approve, after holding hearings, a mandatory code of fair competition for such trade, industry, or subdivision thereof. Such a code has the same effect as a voluntary code of fair competition and is subject to the same provisions and penalties. Under this subsection, if any trade or industry cannot or will not cooperate in the preparation of a voluntary code, the President may prescribe a mandatory code.

Section 4 (a) authorizes the President to make or approve voluntary agreements between and among individuals, labor, trade, and industrial organizations which will aid in effectuating the policy of this title and will be consistent with the requirements of a code of fair competition. Whereas a code of fair competition will be made for an entire trade or industry and must be made by those truly representative of the trade or industry, these voluntary agreements can be entered into by parties in an industry or in more than one industry. The code binds all persons engaged in a trade or industry, but an agreement binds only those entering into it. Thus the provisions for codes and agreements supplement each other and provide a thoroughly flexible machinery of industrial operations.

Section 4 (b) gives the President authority to license business enterprises whenever he finds it necessary in order to make effective a code of fair competition or an agreement or otherwise to effectuate the policy of this title. This is a vigorous emergency power which, it is assumed, will not be exercised except where necessary to prevent unfair competition, to remove obstructions to interstate commerce, and otherwise to carry out the purposes of this title. Licenses would be subject to revocation after due notice and opportunity for hearing in the event of violations, and a violation of a condition of a license or operation without a license is made an offense punishable by fine or imprisonment.

Section 5 exempts from the provisions of the antitrust laws of the United States any business operations carried on in compliance with the provisions of a code, agreement, or license approved, prescribed, or issued under this title and during the effective period of this title, which is not more than 2 years plus 60 days after the emergency period.

Section 6 (a) requires trade and industrial groups to furnish the President with such information as shall be required by regulation.

Section 6 (b) authorizes rules and regulations and penalties for violation, and section 6 (c) empowers the Federal Trade Commission to make investigations in aid of the enforcement of this title.

Section 7 (a) requires that every code of fair competition or agreement or license approved or issued under this title contain the conditions that (1) employees shall have the right of organization and collective bargaining, that (2) no employee shall be required as a condition of employment to join a company union or refrain from joining a labor organization, and that (3) employers shall comply with the maximum hours, minimum wages, and other working conditions approved or prescribed by the President.

Section 7 (b) authorizes the President to give every opportunity to employers and employees to establish, by mutual agreement, standards of maximum hours, minimum rates of pay, and other working conditions necessary to carry out the policy of this title. Such agreements, when approved by the President, have the same effect as a code of fair competition.

Under section 7 (c), if no such mutual agreement has been approved by the President, he may after due investigation prescribe a limited code of fair competition, fixing the maximum hours, minimum wages, and other working conditions necessary to effectuate the policy of this title.

Section 8 is a saving clause, providing that this title shall not be construed to repeal or modify any of the provisions of the Farm Relief Act, approved May 12, 1933.

Section 9 (a) provides for rules and regulations, and (b) provides, as heretofore stated, for the cancellation or modification of any order, approval, license, rule, or regulation issued under this title.

TITLE II. PUBLIC WORKS AND CONSTRUCTION PROJECTS

Section 201 (a) authorizes the President to create a Federal emergency administration of public works, all the powers of which are to be exercised by an administrator, and to establish such other agencies and use such services of State and Federal officers as may be available, without regard to Civil Service laws or the Classification Act—this title being, again, an emergency measure through which only short-time employment is afforded and flexibility of administration highly desirable. The President may delegate any of his functions under this title to such officers, agents, and employees as he may appoint.

Under section 201 (b) the administrator may appoint and fix the compensation of the necessary experts, officers, and employees, and make the expenditures necessary to carry out the provisions of the title.

Under section 201 (c) all such expenses are paid out of the funds made available by the act.

Under section 201 (d) the act expires within 2 years, unless sooner by Presidential proclamation, but under agreements previously entered into funds may be issued to a borrower thereafter up to January 23, 1939.

Section 202 directs the preparation of a comprehensive program of public works, which is defined so as to include within that term practically all varieties of public construction by the Federal Government, States, municipalities, or other public bodies, this definition carrying within it the comprehensive inclusion of "any projects of the character heretofore constructed or carried on, either directly by public authority, or with public aid to serve the interests of the general public." Also, in clause (e) of this section is included within the definition of public works any project "of a character heretofore eligible for loans under subsection (a) of section 201 of the Emergency Relief and Construction Act of 1932, as amended; "thereby comprehending within the definition of public works all the projects made eligible for loans under subsection (a) of that act, whether essentially of a public or private character. Within this public-works definition are also included certain naval and Army construction which the President is empowered to suspend in the event of an international agreement for the further limitation of armament. This suspension does not apply to the construction of Army housing projects, also here authorized.

Section 203 (a) provides, for the purpose of quickly increasing employment, for the construction or financing of any public-works project included within the program prepared under section 202, upon such terms as the President shall prescribe, which may include grants to States, municipalities, or other public bodies not in excess of 30 percent of the cost of labor and materials employed on such project. This will permit either the loan of the entire cost of a project or the loan of a part and an outright grant not in excess of the 30 percent described. This section also provides authority to acquire real or personal property and to sell any such property or any security acquired, with the provision that all moneys received from such sale or lease or repayment of the loan shall be used to retire obligations issued under this act. A provision is also included for aiding the financing of such railroad maintenance and equipment as the Interstate Commerce Commission may determine is desirable for the improvement of transportation facilities. The discretion as to aid in financing rests with the President, the Commission only determining whether the railroad maintenance or equipment is desirable for the improvement of transportation facilities. There is a further proviso that in extending any aid or grant to a State or subdivision, the President may consider whether action is in process or in good faith assured which is designed to balance the budget of such a borrower. The provisions of sections 202 and 203 extend to public works in the several States, Hawaii, Alaska, the District of Columbia, Puerto Rico, and the Virgin Islands.

Subsection (b) of this section provides for payment of expenditures and employment of personal services, and subsection (c) makes applicable to the acquisition of any land for the construction of buildings, the provisions of sections 305 and 306 of the Emergency Relief and Construction Act of 1932, as amended. These provisions relate to the method of acquisition.

Section 204 (a) authorizes the President to make grants to the several States (not to exceed \$400,000,000 in aggregate amount) for emergency construction of public highways and related projects. These are further defined in paragraph (1) to include expenditures on the Federal-aid highway system and extensions thereof into and through municipalities, and expenditures for the elimination of hazards to highway traffic, such as grade crossings, the widening of narrow bridges and roadways, and any other construction to provide safe facilities for pedestrian or vehicular traffic. The State highway department is constituted an agency of the Federal Government to eliminate traffic hazards in connection with railroad grade crossings. Under paragraph (2), provision is made for expenditure in emergency construction on secondary or feeder roads, to be agreed upon by the State highway department and the Secretary of Agriculture, including in the cost of such construction the cost of surveys and plans.

Under section 204 (b), any amounts allocated for grants under subsection (a) are to be apportioned among the several States in accordance with the provisions of section 21 of the Federal Highway Act, approved November 9, 1921, but no part of the funds apportioned to any State need be matched by the State.

Subsection (c) provides that all contracts involving the expenditure of such grants shall contain minimum rates of wages, predetermined by the State highway department.

Subsection (d) provides that the limitations of the Federal Highway Act upon highway construction within municipalities and upon payments per mile which may be made from Federal funds shall not apply.

Subsection (e) includes within the term "State" the Territory of Hawaii, and the term "highway" is defined to include main parkways designated by the State and approved by the Secretary of Agriculture as part of the Federal-aid highway system.

Section 205 (a) provides that all contracts let for construction projects and all loans and grants pursuant to this title shall contain such provisions as are necessary to insure (1) that no convict labor be directly employed; (2) that (except for executives) no individual directly employed shall be permitted to work more than 30 hours in any one week; (3) that all employees shall be paid just and reasonable wages sufficient to provide a standard of living in decency and comfort; and (4) that preference in the employment of labor shall be given, first, to ex-service men with dependents; second, to citizen residents of the political subdivision or county in which the work is to be performed; and, third, to citizen residents of the State, Territory, or district in which the work is to be performed. It is also provided that these preferences apply only where such labor is available and qualified to perform the work to which the employment relates, and that the maximum of human labor be used wherever practicable in lieu of machinery.

Subsection (b) provides that materials and supplies used on public or publicly-financed projects shall be those manufactured in the United States of materials produced in the United States if available at a reasonable cost.

Section 206 authorizes rules and regulations necessary to carry out the purposes of the title, with penalties for the violation thereof.

Section 207 (a) authorizes the Secretary of the Treasury to borrow such amounts as may be necessary to meet the expenditures authorized by the act or to refund obligations issued thereunder, and subsection (b) provides for a sinking fund in the amount of 2½ percent of the aggregate amount of the expenditures made out of appropriations authorized under this act, this in addition to the sinking fund provided by section 6 of the Victory Liberty Loan Act.

Section 208 of the bill provides for the taxes necessary to raise \$220,000,000. This amount is sufficient to pay interest and sinking fund charges on the total appropriation of \$3,300,000,000 provided for in section 209.

The additional taxes are three in number and consist of (1) an increase in the normal rates of the income tax, (2) the subjecting of dividends to the normal rates of tax, and (3) an increase in the present excise tax on gasoline of three fourths of a cent per gallon. In addition, all the excise taxes in titles IV and V of the Revenue Act of 1932 are extended 1 year as a measure of precaution. The three additional taxes named are, however, sufficient to raise the required revenue. These taxes may be briefly described as follows:

(1) *Increases in normal income tax rates.*—The bill proposes to increase the normal rate of tax on the first \$4,000 of net income from 4 percent to 6 percent. On the balance of the net income in excess of \$4,000, it is proposed to increase the normal rate from 8 percent to 10 percent. It is estimated this change will produce \$46,000,000 for a full year of operation. The effect of these normal rate increases may best be seen by the following simple table comparing the tax under present law and under this bill for the case of a married man with no dependents and all income from salary:

Net income (all from salary)	Total tax, present law	Total tax, under this bill
\$2,000		
3,000	\$20	\$30
4,000	60	90
5,000	100	150
6,000	140	210
7,000	210	300
10,000	480	630
14,000	900	1,130
20,000	1,680	2,030
30,000	3,480	4,030
40,000	5,800	6,550
50,000	8,600	9,550
70,000	15,700	17,050
100,000	30,100	32,050
200,000	86,600	90,550
500,000	203,000	273,550
1,000,000	571,100	691,050

While the increased taxes shown above are considerable in amount, it is believed that they can well be borne, in view of the benefits which should be derived by these income-tax payers from the operation of the other provisions of the bill. It will be observed, also, that no changes have been made in the personal exemptions, which still remain at \$1,000 for a single person and at \$2,500 for a married person.

(2) *Dividends subjected to normal tax.*—The bill proposes to apply the normal rates of tax to dividends received by individuals from the stock of domestic corporations. Dividends from foreign corporations are subject to normal tax under existing law. The term "dividends" as used above does not include "stock dividends", which cannot be reached by the income tax under a decision of the Supreme Court of the United States. It is estimated that this provision should result in revenue amounting to \$83,000,000 per full year of operation.

This is not a new proposal. The revenue bill of 1932, as passed by the House, contained a similar provision which was eliminated in the Senate. The effect of subjecting these cash dividends to tax may be seen from the following table comparing the surtax on dividends imposed by existing law with the combined normal and surtax which would be imposed under the bill for the case of a married man with no dependents:

Net income (all from dividends)	Total tax, present law	Total tax, under this bill
\$2,000	-----	-----
3,000	-----	\$30
4,000	-----	90
5,000	-----	150
6,000	-----	210
7,000	\$10	300
10,000	40	630
14,000	140	1,130
20,000	440	2,030
30,000	1,440	4,030
40,000	2,960	6,550
50,000	4,960	9,550
70,000	10,460	17,050
100,000	22,460	32,050
200,000	70,960	90,550
500,000	233,960	273,550
1,000,000	491,460	591,050

At first sight, it would appear that these increases are rather large. However, if the third column in the above table is compared with the third column of the next preceding table, it will be seen that the proposed tax on dividends is precisely the same as the proposed tax on other income such as salaries. Under existing law the individual with \$6,000 of income from dividends pays no tax. It is believed he is well able to pay the \$210 imposed by this bill. This is especially true during this emergency, regardless of theoretical objections based on double taxation, since the man with income from dividends is obviously a man with capital while the man with an equal income from salary may have no capital. Moreover, corporations will derive benefits under the bill which should increase their earnings for dividend purposes.

(3) *Increase in gasoline tax.*—The bill proposes to increase the excise tax on gasoline from 1 cent per gallon to 1¼ cents per gallon. The additional revenue is estimated at \$92,000,000 per annum. The committee adopted this tax with reluctance, but in the existing emergency there appeared to be no other commodity other than foods which would furnish a sufficiently broad base. The benefits of this bill will doubtless accrue largely to the public as a whole. It is felt that by way of the gasoline tax the employed portion of our citizens will bear only a moderate burden, more than compensated for by the benefits received.

The three additional taxes described above are temporary in character and may be eliminated by proclamation by the President when operating revenues exceed operating expenditures or when the repeal of the eighteenth amendment opens a new and ample source of revenue to the Government. The total additional revenue from the three additional taxes is estimated at \$221,000,000.

As a matter of precaution, the excise taxes provided for in the Revenue Act of 1932 are all extended 1 year, or up to July 1, 1935. This will furnish a factor of safety and may also permit the earlier removal of the three additional taxes provided for in this bill. This extension should not be construed as a desire on

the part of the committee to retain these excise taxes longer than is absolutely necessary.

Your committee for ordinary purposes would be reluctant to impose additional taxes at this time. However, the benefits which will undoubtedly result from the general provisions of the bill will affect favorably nearly every man, woman, and child in the United States. In view of this fact, the added tax burden imposed should be cheerfully borne with the consciousness that the benefits to be expected will be many times greater than the inconvenient tax burden. In addition, the taxes are only temporary and will be removed at the first practicable opportunity.

The minority members of the committee desire to have it known that they unanimously voted against the method of taxation that was adopted by the majority.

Our taxing provisions are complicated, especially the income tax, and for convenience in studying the bill the following brief explanations are made as to each subsection included in section 208.

Subsection (a).—This subsection amends section 11 of the Revenue Act of 1932, which imposes on citizens and residents normal rates of 4 percent and 8 percent, so that these rates become 6 percent and 10 percent, respectively. Section 211 of the Revenue Act of 1932, which provides for the normal rates on nonresident alien individuals is also amended so that 4 percent rates become 6 percent and 8 percent rates become 10 percent.

Subsection (b).—This subsection amends section 143 of the Revenue Act of 1932, so that where the existing withholding rate on tax-free covenant bonds is 8 percent a new rate of 10 percent will be substituted therefor.

Subsection (c).—This subsection includes the necessary changes for subjecting dividends to the normal tax.

Paragraph (1) of subsection (c).—This paragraph amends section 25 of the Revenue Act of 1932 by striking out the credit against net income allowed by that act in respect to dividends received from domestic corporations or foreign corporations more than 50 percent of whose income is derived from sources within the United States.

Paragraph (2) of subsection (c).—This paragraph provides for the withholding of a tax on dividends paid to nonresident alien individuals at the rate of 10 percent. Under section 143 (b) of the Revenue Act of 1932 this withholding is not required as the dividends are not taxable under that act.

Paragraph (3) of subsection (c).—This paragraph amends section 163 (a) of the Revenue Act of 1932, which permits of a credit against net income for the purpose of the normal tax of domestic dividends received by an estate or trust.

Paragraph (4) of subsection (c).—This paragraph amends section 163 (b), 165, and 184 of the Revenue Act of 1932. Section 163 (b) allows a beneficiary of an estate or trust a credit against net income for dividends received. Section 165 allows a similar credit in the case of employees' trusts. Section 184 allows a similar credit to members of a partnership. All these credits are eliminated by the bill in conformity with the policy of taxing dividends at normal rates.

Paragraph (5) of subsection (c).—This paragraph further amends 163 (b) of the Revenue Act of 1932 but is merely a clerical change made necessary by the change in paragraph (4).

Subsection (d).—This subsection is made necessary because certain fiscal-year returns for 1933 have already been filed. The tax due on these returns will be increased under this bill on the proportionate part of the income earned since January 1, 1933. The amendments made prevent such increased taxes from being appealed to the Board of Tax Appeals. This is the same rule as now applies to mathematical errors.

Subsection (e).—This section amends section 617 (a) of the Revenue Act of 1932 by changing the rate of the gasoline tax from 1 cent to 1¼ cents per gallon.

Subsection (f).—This subsection provides for the repeal of the additional taxes imposed by this section, when the total operating receipts of the United States exceed the total operating expenditures, or when the eighteenth amendment is repealed, whichever date is earlier.

Subsection (g).—The effect of this amendment is to extend all the excise taxes imposed by the Revenue Act of 1932 in titles IV and V for 1 year, that is, until July 1935. The reference to section 629 of the Revenue Act of 1932 relates to the effective date of the excise taxes under title IV. The reference to section 761 relates to the tax on the use of boats.

Section 209 authorizes the appropriation of \$3,300,000,000 for the purposes of this act. This appropriation is to cover all expenditures for public works and the costs of the administration of the public-works program under title II and the program of industrial recovery provided for in title I.

TITLE III.—AMENDMENTS TO EMERGENCY RELIEF AND CONSTRUCTION ACT AND MISCELLANEOUS PROVISIONS

Section 301 terminates the powers of the Reconstruction Finance Corporation to approve loans under subsection (a) of section 201 of the Emergency Relief and Construction Act of 1932, as amended, except so far as funds are issued to a borrower under the terms of a previous agreement, which funds may be issued up to January 23, 1939. The purpose of this section is to effect a transfer of the operations now carried on under subsection (a) of section 201 of said act to the administration set-up in title II of the present bill. As previously described, such projects are now comprehended within the program to be prepared under section 202 of this bill, and under section 203 authority is given to the newly created administration of public works to construct or aid in the construction of projects, including those heretofore eligible for loan under subsection (a) of section 201 of the Emergency Relief and Construction Act.

Section 302 decreases the borrowing power of the Reconstruction Finance Corporation to the extent of \$1,200,000,000, that borrowing power now being comprehended within the authorization in the present bill, on borrowings to meet the total expenditure of \$3,300,000,000 authorized by the present bill.

Section 303 is the usual separability clause, providing that if any provision of the bill or the application thereof to any person or circumstances is held invalid, the remainder of the bill and its application to other persons or circumstances shall not be affected thereby.

Section 304 provides that the act may be cited as the "National Industrial Recovery Act."

CONCLUSION

The provisions of title I and title II of the National Industrial Recovery Act which have been heretofore described should be considered as providing an inter-related program for the relief of unemployment and a substantial increase in mass purchasing power, through the construction of public works combined with measures for stabilizing private industrial operations. By establishing maximum hours of work and minimum wages we may insure the continued employment of those now employed and furnish work for a substantial percentage of those now idle, and this brings about security of employment for millions of our people at wages sufficient to provide for living in decency and comfort. By raising the standard of labor conditions throughout trade and industry, through voluntary cooperation with the aid of the Government, unfair competition, based upon the employment of underpaid and overworked labor, should be generally eliminated. As a result of such a program, we may confidently expect a further stimulation of industrial operations, greater security of capital, greater security of labor, and a steady increase in the prosperity of the Nation. The public-works program should produce immediate substantial revival of business. The industrial-recovery program should not only add to this stimulation but should insure the permanence of a return to better, healthier, and happier conditions throughout the industries of the Nation.

