

EXECUTIVE SESSION

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H.R. 13385, DEBT LIMIT BILL; S. 3279, AIRCRAFT AND AIRPORT NOISE REDUCTION ACT OF 1978; AND VARIOUS MINOR REVENUE BILLS.

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THURSDAY, JULY 27, 1978

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United States Senate,
Committee on Finance,
Washington, D. C.

The committee met, pursuant to notice, at 11:32 a.m., in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long, (Chairman of the Committee) presiding.

Present: Senators Long, Talmadge, Byrd, Nelson, Bentsen, Matsunaga, Curtis, Dole, Packwood and Danforth.

The Chairman. I am going to ask if we can move some of these tax bills. Senator Byrd has been holding some hearings and doing a good job for us.

First, let's look at the debt limit bill. I want to ask this question for Senator Byrd and the others. In view of the fact we are going to have to pass a debt limit bill since if we can't pay our Government debts, the Government is going to have to come to halt. This bill is limited, it would only carry them through until about March of next year, March 31st. Should we put this bill on out and put it on the calendar?

Senator Byrd. That would be my suggestion, Mr. Chairman.

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2 1 My suggestion would be we report that bill out. I would like to
2 reserve the judgment as to whether I might have an amendment which
3 does not deal with any of these figures. But other than that, I
4 would recommend this committee report this bill out.

5 Senator Dole. I move it be reported.

6 The Chairman. All in favor say "aye".

7 (Chorous of ayes.)

8 The Chairman. Opposed, "no".

9 (No response.)

10 The Chairman. The ayes have it.

11 Let's take the next one, which is aircraft and noise. We
12 have a lot of other bills. Let me ask you, if we take enough
13 time to hold a hearing on our part of this measure, would we have
14 time to take care of this matter during this session? How is
15 the House going to participate on it?

16 Mr. Shaprio. Mr. Chairman, the House Ways and Means Committee
17 and the House Public Works Committee each voted out their portion
18 of the bill. It has been sent to the Rules Committee and the
19 Rules Committee held a hearing on it and has not acted and indicated
20 that it would not do so at the presen time and is waiting for the
21 two committees to come back to it.

22 So, it is not pending for action yet in the House.

23 In the Senate, the Senate Commerce Committee has reported out
24 its bill and has referred it to this committee for action. As I
25 indicated, the House has not passed its bill, and there are no

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3 1 present plans for the bill to come to the House Floor. So, if
2 the Finance Committee would like to hold a hearing on the bill,
3 there would appear to be time from the standpoint of a House
4 bill coming over.

5 It is not clear to me as to whether there is any pressure on the
6 Senate to have to take up this bill. In any event, the House-
7 passed bill does not appear to be coming over any time soon, or
8 at least, it is not scheduled.

9 The Chairman. I am going to suggest that we hold this one over
10 and see if we can schedule a hearing to obtain more information
11 before we report it.

12 If there is no objection, we will move on to the matter of the
13 revenue bill.

14 Senator Byrd. Senator Cannon is anxious to get that bill
15 through as quickly as possible.

16 The Chairman. I am not proposing we delay it to the extent
17 it can't become law in this session. I am not killing the bill.
18 I would like to hold a hearing on that aspect of it. It does
19 involve a significant tax item.

20 Senator Bentsen. I agree with that, Mr. Chairman. And in
21 addition, I think time is of the essence because of what is happen-
22 ing on aircraft and replacement of aircraft and we have to take
23 advantage of the new engines in replacement aircraft that would
24 substantially reduce the amount of noise.

25 I share with Senator Byrd and Senator Cannon the desire, and

4 1 I am sure that we will have an early hearing on this so we can give
2 consideration.

3 The Chairman. We will do it very soon. I have no intention
4 of delaying this bill to the extent it prevents the bill from
5 coming up.

6 Let's turn to the next matter.

7 Mr. Shapiro. The next item on your agenda are a series of
8 bills that have passed the House and on which Senator Byrd's Sub-
9 committee on Taxation and Debt Management held a hearing on June
10 19th. The staff pamphlet before you has a listing of those
11 bills. Senator Byrd would like to have the last bill, item
12 number 12, go out first and then just go in order after that.

13 Although I will say H.R. 8811, revocability of election to
14 receive the Tax Court judge retired pay is a House-passed bill
15 which provides --

16 Senator Bentsen. Bob, tell us where you are.

17 Mr. Shapiro. There is a pamphlet right here, staff pamphlet,
18 and I was reading from the summary of that pamphlet, the first
19 page, which has a table of contents which has a list of 12 bills
20 on which Senator Byrd held a hearing in his subcommittee, and
21 he would like for number 12 on that list to be the first one
22 brought up.

23 The Chairman. Let me just suggest this: We are going to need
24 some revenue bills, just numbers, House numbers that we could
25 use, vehicles to act on the legislative proposals in the revenue

1 area during the remainder of this session. We used the technique
2 of bunching some of these bills together and then saving those
3 numbers to take care of the various other bills that had to be
4 passed. For example, we made available four of our bills to
5 serve as the horse for those riders that came out of the Energy
6 Committee so that they could have a bill on which they could attach
7 theirs.

8 So, we are running short of bills that we could use to put
9 our legislation. I would suggest we first agree on the substance
10 of these measures, if we so want to agree, and then we can bunch
11 them together so we report about three bills and keep the remainder
12 of them here in this committee so we can have something we can
13 offer our own legislative proposals, and anything else the
14 Senators want to offer.

15 I suggest, first, we just approve the substance of these
16 measures and then we will decide in what fashion we will report
17 them.

18 Let's look at number 12. Is there any objection to that?

19 Senator Curtis. That is the Russ Train matter? Why don't
20 we pass it and go on to something else?

21 The Chairman. Without objection, we will agree to that.

22 Senator Byrd. In connection with that, Judge Quealy, of the
23 Tax Court, would like to be considered as an amendment to that
24 bill. Do you have that information?

25 Mr. Shapiro. Yes, Mr. Quealy, who is presently a sitting

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judge in the Tax Court, has written to Senator Byrd in connection with this particular bill, in effect, asking for the reverse treatment provided in this bill for Russell Train. The Russell Train situation was that he was appointed to the Tax Court, having had Civil Service years, and he elected to retire as a Tax Court judge, and that is an irreparable election.

He subsequently went from the Tax Court to another Government job in the administration and does not qualify to retire under the Tax Court, and this bill gives him the election to revoke his election to Tax Court and come under retirement of the Civil Service. That has been accepted by the House and approved by the Civil Service Commission and supported.

The Judge Quealy situation is the reverse of that, meaning this: He has a significant amount of Civil Service time and he has been in a Tax Court. Tax Court rules require you to serve 15 years in order to be eligible to retire as a Tax Court judge.

What Judge Quealy would like to do is to count some of his Civil Service years for the Tax Court in order to elect the retirement under the Tax Court retirement program, which is a much more beneficial program, and retire as a Tax Court judge. Under a full retirement, you get the full salary as your retirement, which presently is \$54,500.

If Judge Quealy does not get this treatment, he would get the \$23,572, which is the Civil Service retirement. Since he served many years in the Civil Service, he would like to count Civil Service

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7 1 retirement for his Tax Court judgeship period in order to account
2 for the full 15 years.

3 For Judge Quealy to serve on the Tax Court and get the
4 15 years, may require him to be reappointed. This would allow him
5 to retire presently, or within the next several years before his
6 period terminates, and get the full retirement, but by counting his
7 Civil Service years.

8 He would leave in the Civil Service retirement fund the
9 money he has already contributed.

10 Senator Nelson. Would the Tax Court service time be counted
11 for computation of his Civil Service retirement in years?

12 Mr. Shapiro. I am not sure of that. I am sorry, that is cor-
13 rect. Bill Morris is familiar with that case. He reminds me he
14 would. He is presently making his contribution to that fund and
15 it does count.

16 Senator Nelson. His Tax Court contributions would --

17 Mr. Shapiro. Would count toward Civil Service retirement,
18 but the Civil Service retirement would not give him as much as his
19 Tax Court retirement, but it is counted.

20 Senator Nelson. I have great reservations of converting in
21 that fashion, myself. That is a different issue from the Train --

22 Mr. Shapiro. It is a different type of issue. I was saying
23 it is the reverse situation, but a different type of issue.

24 Senator Nelson. Do I understand Judge Train did not serve
25 long enough in the Tax Court to be eligible for any retirement at all.

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1 Mr. Shapiro. Judge Train is in a situation where he was in
2 Civil Service and served many years. Then, he went to the Tax
3 Court and made an irreparable election and did not serve the mini-
4 mum period of time. Although he has over 30 years of combined
5 service, Tax Court and Civil Service, he would get no Federal
6 retirement.

7 Senator Nelson. That is quite a different situation.

8 Mr. Shapiro. That is correct.

9 Senator Nelson. From using your Federal Civil Service years
10 in order to qualify you for eligibility for a higher pension plan
11 in the Tax Court.

12 Mr. Shapiro. That is correct. What I meant by the reverse,
13 only he is trying to count Civil Service years for Tax Court
14 in the Judge Quealy situation.

15 Senator Nelson. The judge can count the Tax Court for Civil
16 Service retirement?

17 Mr. Shapiro. That is correct. He is not foreclosed of a
18 pension like Judge Train would have been.

19 Senator Nelson. I would oppose that amendment. He is eligible
20 to use all of his years for his Federal Civil Service. To turn around
21 around and convert the Civil Service to Federal Tax Court, for
22 purposes of giving him a higher pension, I don't think it is justi-
23 fiable.

24 Senator Byrd. He has served nine years. As I understand it,
25 if he served another six years, he will be eligible for full

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9 1 retirement under the Tax Court.

2 Mr. Shapiro. That is correct. He was serving in 1969 when the
3 rules were changed. In 1969, Congress revised the retirement pro-
4 gram and you required a 15-year term, where previously, it was a
5 12-year term. The way this amendment would work is that it would
6 only apply to sitting judges in 1969, when the rules were changed.

7 I think it is appropriate to mention for the record that this
8 amendment would also cover the chief judge of the Tax Court right
9 now, Judge Featherston, who does not want to be associated with the
10 amendment because, being chief judge, he would benefit. Although
11 he is covered under the amendment because it would apply to his
12 case, he is not posing an amendment on his own behalf.

13 Senator Nelson. May I raise a question, Mr. Chairman? At
14 first impression, I would be opposed to that. Although, it is
15 first impression, let's go ahead with the House bill and leave
16 this other question for subsequent consideration. I don't like
17 to make an off-the-top-of-my-head judgment.

18 The Chairman. Okay, then we will do that.

19 Back to one.

20 Mr. Shapiro. We can skip the first two bills. The
21 substance of that was added as an amendment to another bill. There
22 were hearings held in response to a question on the Senate Floor.
23 It has already been dealt with by the committee.

24 Item two, there was no testimony at the hearings. As I
25 understand, Senator Byrd --

10 1 The Chairman. You say item one, are you suggesting we skip
2 over that?

3 Mr. Shapiro. The Finance Committee has already added the
4 substance of that to another bill.

5 Senator Packwood. Which one do you mean, H.R. 1337?

6 Mr. Shapiro. S. 3134.

7 Item two on the list, there was no one to testify at the
8 hearings. As I understand it, Senator Byrd would like to pass that
9 over now and go to item three on the list.

10 The Chairman. All right.

11 Mr. Shapiro. Item three is H.R. 1337. It is constructive
12 sale price for excise tax on certain articles. This was a bill that
13 was passed in the House which deals with a situation where you would
14 have excise tax on parts and you have a case where you have a
15 manufacturer selling the parts directly to a retail dealer and
16 alternatively, where he sells it directly to a retail consumer.

17 An excise tax on the trucks would depend on, in the case of
18 the consumer, there is no middle person in it, it is a manufacturer's
19 excise tax. You have to have a constructive sales price, other-
20 wise you would have situations in equities between the retail
21 dealer and consumer, because different retail dealers would
22 have to tax at one level and the consumer would have to pay another
23 tax and you would have different excise taxes.

24 So, consumers would be treated differently whether they purchase
25 the trucks directly from the manufacturer or whether they purchased

1 the truck from a retail dealer.

2 The House bill corrects that situation by providing the manu-
3 facturer's excise tax in the situation of a constructive sales
4 price at the retail level and this would provide an equitable
5 situation across the board.

6 Previously, Internal Revenue Service would say you need to pay
7 a constructive sales price or a higher wholesale price.

8 Senator Nelson. In other words, you pay 75 percent, but if
9 the cost of production was higher, you paid the higher --

10 Mr. Shapiro. You paid that higher cost if that cost was
11 higher. And this bill corrects that, providing a uniform, separate
12 sales price across the board in that case.

13 Senator Curtis. This is the one that has passed the House
14 and is favored generally by the industry?

15 Mr. Shapiro. Yes, it is.

16 Senator Byrd. And Treasury does not oppose it, I understand.

17 Mr. Shapiro. No, they don't. I want to point out you have
18 another piece of paper put together by the staff of the Finance
19 Committee and Joint Tax Committee, which includes the summary of
20 testimony of witnesses before the subcommittee, which indicated
21 some of the points they would like to be considered.

22 On this particular bill, there are two statements that were
23 presented to the subcommittee. One was an interpretation of the
24 House bill, which required a committee report statement. There is
25 a question as to whether or not the language in the House bill

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1 would require a constructive sales price only in the case where all
2 sales were retail sales and whether it would require manufacturers
3 meaning to only sell at retail without having to sell to wholesalers
4 or retail dealers.

5 That was not the intent of the House bill. I think it would
6 be appropriate to have the committee report language and the
7 Finance Committee to correct that interpretation.

8 Senator Talmadge (presiding). Is there any objection
9 to reporting the bill?

10 Senator Byrd. I understand someone on the committee might
11 want to bring up the question of intercity buses as an amendment
12 to this bill. Are you familiar with that?

13 Mr. Shapiro. Yes, I am, sir.

14 Senator Byrd. That legislation, as I understand it, has already
15 passed the Senate several times.

16 Mr. Shapiro. It has passed the Senate. It is previously
17 in conference on the energy tax bill, which would take the excise
18 taxes off buses, off bus parts, off tires and, in effect, eliminates
19 all excise taxes related to buses and its related parts and tires.
20 That is presently in the energy bill.

21 It is not clear as to the status of the energy bill right
22 now in conference. However, I know there is a great deal of
23 interest among a number of Senators and Congressmen that if the
24 energy tax bill should not be agreed to, that there are a number
25 of provisions in that tax bill that may be separately considered,

1 such as this provision, as well as some of the insulation credits
2 and some of the other various provisions.

3 As to whether to deal with that measure at this point is
4 something the committee can decide. I think you are going to have
5 that issue on many of the provisions in the tax bill.

6 Senator Talmadge. Do you propose that amendment, Senator
7 Byrd?

8 Senator Byrd. That proposal has already passed the Senate?
9 Mr. Shapiro. It has already passed the Senate.

10 Senator Byrd. I say no objection to putting it on this bill
11 if it has already passed the Senate anyway.

12 Senator Dole. Are we going to have a lot of other things to
13 add on?

14 Mr. Shapiro. I think what the committee may want to address
15 itself to would be taking a number of provisions out of the tax
16 bill and putting it on separately. If the energy tax bill is not
17 going to be pursued, I think there will be a time when there will
18 be a great deal of interest of taking the provisions off --

19 Senator Byrd. Why don't we let it be.

20 Senator Talmadge. There is a letter from Senator Haskell
21 in the matter of H.R. 3500 and H.R. 1337, that is the
22 bill now under consideration.

23 "Please vote by proxy in support of this legislation. In the
24 matter of H.R. 1337, could you please ask the Joint Committee on
25 Taxation whether the cost floor concept is a creation of the Internal

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14 1 Revenue and the Treasury and not a part of Section 4216(b) of
2 the Internal Revenue Code of 1954. The answer is in the affirma-
3 tive, that is, the cost floor concept is a creation of IRS. Would
4 you please direct that language stating that H.R. 1337 is a restatement
5 of the present law in regard to cost floor concept be included
6 in the committee report".

7 Will you respond to that?

8 Mr. Shapiro. That is the basic purpose of the bill, to eliminate
9 that cost floor concept, and what this bill does is provide the
10 constructive sales price across the board previously under the
11 ruling that Senator Haskell has reference to.

12 You have a constructive sales price or wholesale cost, which
13 is the cost floor, whichever was higher. In IRS, many times, they
14 go to the actual cost, that cost floor and the House bill eliminates
15 a proportion and provides a constructive sales price as the only
16 method of proposing excise tax.

17 Senator Talmadge. Is there any objection to reporting the
18 bill?

19 Senator Nelson. I notice the committee report's suggested
20 date.

21 Mr. Shapiro. Senator, this bill has a date on which the
22 House initially considered the bill. It would cause some problems
23 from the problem of a retroactive fact because of the sales that
24 may have already been made. The typical provision you have in the
25 excise tax bill before the committee is to make it effective in

15 1 the first calendar quarter beginning more than 30 days after the
2 date of enactment.

3 You generally use that effective date for excise tax bills.

4 Senator Nelson. Are you suggesting the Treasury date of
5 September 1?

6 Mr. Shapiro. The Treasury just wants to make a prospective.
7 What I am saying, this is a prospective date which is the one you
8 usually have. Treasury just moved it up one year to September 30,
9 1978. It is possible this bill may not be passed by then, which
10 would present the same problem.

11 In addition, after you pass an excise tax bill, there needs
12 to be a period of time to have these adjustments made. In the
13 past, almost all the excise tax bills do have this first quarter,
14 30 days after the date of enactment for effective date and one
15 you may want to adopt.

16 Senator Talmadge. What are you suggesting, 30 days after --
17 Mr. Talmadge. First calendar quarter, beginning more than 30
18 days after date of enactment.

19 Senator Talmadge. Is there any objection? Without objection,
20 the bill is so modified.

21 Is there any objection to reporting the bill as modified?
22 Without objection, it will be reported.

23 Senator Bentsen. Mr. Chairman, let me comment on what Senator
24 Byrd has alluded to and Senator Dole, on the excise tax on inter-
25 city buses and the energy aspects of it.

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1 I don't want us to get involved in a brinksmanship here.
2 I am also concerned of what Senator Dole talked of, in starting to
3 dismantle that bill. I would hope the staff really keeps a close
4 watch on this. At some point, if we don't make progress on the
5 other, we are going to have to start doing that to save some of
6 these measures we think we are reporting for energy purposes.

7 Senator Byrd. You are on that committee.

8 Senator Bentsen. Yes.

9 Senator Byrd. Do you feel this might be a little early?

10 Senator Bentsen. I don't know where we stop if we start
11 pulling this out. At some point, we are going to have to make some
12 progress.

13 Mr. Shapiro. The next bill is H.R. 1920, which provides for
14 the repayment of alcohol taxes and duties after a loss due to
15 disaster or damage.

16 Under present law, there is an excise tax on alcohol which is
17 imposed before the products leave the site of the production to
18 marketing channels. If the products are subsequently sold or
19 otherwise made unmarketable or condemned before their sale, it is
20 possible that they can get a refund of these taxes that they have
21 paid only if there is a major disaster.

22 In other words, in this case, you pay the excise tax before
23 they are sold, while the alcohol is on the premises. You can only
24 get a refund if there is a major disaster that causes the damage
25 of the alcohol beverages. The House-passed bill expands the

17 1 definition of the circumstances under which these distilled
2 spirits, wines, beer and so forth, are eligible to get a refund
3 of their taxes, and this expansion covers periods of loss from
4 fire, flood, casualty or other disaster or from damage, not
5 including theft, resulting from vandalism and malicious mischief.

6 It was believed that if these items are not sold, that the
7 Federal Government should not be able to collect a tax on it. That
8 was the concept under the House bill. I should point out that the
9 Treasury Department opposes this bill. Maybe they should comment
10 on it.

11 Very briefly, they argue this would provide an insurance, the
12 Federal Government be an insurer with respect to these taxes. If
13 the products are sold and they get their tax money back that they
14 would not have to go out and get as much insurance.

15 Senator Packwood. This kind of exception doesn't apply to any
16 other pre-paid excise or custom taxes, does it?

17 Mr. Shapiro. We are talking about cases of manufacturers'
18 excise tax. In the case of the automobile, when you pay the tax,
19 I assume the car isn't sold --

20 Senator Packwood. Any excise tax paid at the point of
21 manufactur would not be recoverable if the item is damaged or lost.

22 Mr. Shapiro. I think the purpose of the House bill is in the
23 case of alcohol beverages, the tax is very high. In fact, in some
24 cases, the tax is more than the cost of the product. If the pro-
25 duct is not sold, it is actually destroyed or damaged, the Federal

18 1 Government should not collect a tax on something there was no
2 profit on.

3 Senator Packwood. But the loss is insurable?

4 Mr. Shapiro. That is correct. That is the argument on the
5 other side and it was debated.

6 Senator Dole. How much money are we talking about?

7 Senator Nelson. \$500,000 a year.

8 Senator Byrd. Another aspect, I think, that should be
9 mentioned is, this is being sought, for the most part, by those,
10 what, 20 States, 20-odd States that have an alcoholic beverage
11 control system.

12 Mr. Shapiro. There are more than 15, Senator.

13 Senator Byrd. Fifteen to 20 States. Those States with an
14 alcoholic beverage control system are interested in this legislation.
15 I think it would be very helpful to the States.

16 Senator Bentsen. Apparently, my State has one. I understand
17 it is supported and they make the point that you have made, Bobby,
18 that a very high proportion of the cost of the alcoholic products
19 is in the excise tax as compared to other types of products.

20 So, we have a loss, a very substantial portion of it is in pre-
21 paid tax, itself.

22 The Chairman (presiding). Let me mention one thing that
23 happened while I was out of the room. Harry Byrd mentioned the
24 tax on buses, which we voted to repeal on the energy bill. Has
25 the House also voted to repeal that excise tax on buses?

19 1 Mr. Shapiro. I think it isn't a House-passed bill, but I
2 think the Senate expanded that in some respects. I can't
3 recall exactly. My impression is there may be the same provisions
4 in both bills.

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5 The Chairman. My thought was it would be good to have a
6 Floor amendment standing by that could be offered on one of these
7 revenue bills to take care of that. That will be taken care of if
8 we can ever pass that energy tax bill, but the way it stands right
9 now, Chairman Ullman is standing in the door and taking the view
10 he is not going to let in crude oil equalization. If that crude
11 oil equalization can't be passed, then we ought to be sending over
12 things which can pass on their own merits and enact as many of them
13 as we can.

14 I think it would be good to have one or two of these items
15 standing by, maybe later on one about the insulation of homes that
16 we can get on through so that in the event that bill should fail
17 to become law in this Congress we could at least take care of
18 the best items. That is the non-controversial items.

19 Mr. Shapiro. That particular one is clearly not a contro-
20 versial one. The staff will have an amendment prepared at the
21 appropriate time it could be offered on the Floor.

22 The Chairman. I suggest we do that, Harry. Anybody can
23 offer it, but that is a non-controversial thing. We probably
24 will slide on through.

25 There may be a few others. Do you want to vote on the

1 alcohol thing?

2 Senator Byrd. We ought to hear Treasury's position.

3 Mr. Halperin. As Bobby mentioned, we think this is an
4 exception to other provisions. It gives free insurance for this
5 portion of the cost of inventory and treats people who pay other
6 excise taxes differently than people who pay liquor taxes. It also
7 can be difficult to administer because the exception applies to
8 losses by vandalism or malicious mischief, but it doesn't apply
9 if the loss is by theft only if somebody has the liquor out there
10 drinking it. So the tax should be paid, and it doesn't apply to
11 losses caused by mishandling. That creates a problem in trying to
12 draw a line, particularly in some kind of disaster or civil dis-
13 order.

14 Senator Bentsen. Mr. Chairman, if I might respond on the
15 position of the administration of it and the possible problems,
16 as I understand it, it would not be a spirit problem, because the
17 Bureau of Alcohol, Tobacco and Fire Arms has promulgated regula-
18 tions regarding the proof of loss under existing refund provisions
19 and those regulations fully protect the Revenue and the Govern-
20 ment's interest in it.

21 So if this was enacted, the appropriate regulations would be
22 issued, I would think, by that agency that accomplished both the
23 purposes.

24 Senator Dole. Vote.

25 The Chairman. All in favor say aye: opposed, no.

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Mr. Shapiro. The next bill is Item No. 5, which is H.R. 2028. This provides an excise tax of home producers of beer or wine. This is identical to S. 2930 pending before the Senate.

Briefly, a couple of years ago the Congress passed a provision which permits the head of any family after registering with the Revenue to produce up to 200 gallons of wine per year for family use without paying a tax. The problem occurred that a single individual who is not head of a family would not be covered by the exemption. The House reviewed this and expanded the definition to delete that rule that requires a head of a family to produce the wine, and thus the bill would say you could produce 200 gallons of tax-free production of wine in a year even if there were two or more adults as long as they are 18 or older in the household.

Senator Curtis. Would you yield right there.

I think when we had the testimony on that it was agreed instead of having the 18-year-old age there, which would change the law in some States, that we just have state law prevail.

Mr. Shapiro. That was the suggestion. Senator Curtis recommended to delete age 18 and say whatever the age, and it would be the appropriate age in the State to which this would apply.

The Chairman. All in favor say aye; opposed, no.

Senator Curtis. Is the amendment approved?

The Chairman. It is approved.

Mr. Shapiro. The next bill is No. 6 on the list, which is

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1 2852, which is credit or refund of fuel excise taxes for aerial
2 applicators. It has been referred to in the past as the crop
3 duster amendment. What this does under present law, there is a
4 refund or credit to a farmer when a crop duster uses the airplane
5 for his field. In many cases it was found the farmer doesn't take
6 advantage of it and the crop duster would like to have the credit
7 or refund.

8 What the provision would do would allow the crop duster to
9 take the credit instead of the farmer. Presumably that means it
10 would be reflected in the price. The farmer would pay less.

11 Senator Dole. Does the Treasury have a suggested amendment
12 to that?

13 Mr. Shapiro. The Treasury has an amendment which is listed
14 on page 2 of your sheet which suggests that the farmer must waive
15 his right of credit to the crop duster. I think the purpose of
16 that is to make sure the farmer is aware of the credit, and it
17 would be reflected in the price because the farmer would pay less
18 because of the credit.

19 Senator Talmadge. I move the adoption of the Treasury amend-
20 ment.

21 The Chairman. Without objection, agreed.

22 Senator Dole. I move the bill be reported.

23 The Chairman. All in favor say aye; opposed, no.

24 The ayes have it.

25 Mr. Shapiro. Item 7 is 2984, which deals with exemption from

1 excise tax for farm, horse, or livestock trailers and semi-
2 trailers. Under present law there is a 10 percent excise tax on
3 trucks and trailers and so forth.

4 There is an exemption of that provision under present law for
5 so-called light duty trucks. They must be less than 10,000 pounds.
6 This bill that passed the House provides an additional exemption
7 if the trailer or semi-trailer is used for farm, horse, or live-
8 stock, meaning that it dose not have to be less than 10,000 pounds.

9 The Treasury has presented a question with regard to this
10 particular bill feeling that it was inequitable to discriminate
11 between a single unit trailer. For example, you can have a one-
12 unit trailer which would not be exemot because it is not less than
13 10,000, but a semi-trailer would be exemnt even if it was more
14 than 10,000 pounds.

15 Senator Byrd. This is only for farm use.

16 Mr. Shapiro. Only for farm use. It is specified.

17 The Chairman. Is there any objection?

18 Without objection, the bill will be reported.

19 Mr. Shapiro. The next bill is No. 8, which is H.R. 3050,
20 which deals with the tax treatment of returns of magazines, paper-
21 backs and records.

22 This deals with a question of a problem of the accrual and
23 cash base method of accounting. I can give you a simple example
24 because there are several amendments proposed to the committee
25 for that.

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1 You occasionally have magazines which are sold at the end of
2 the year from the distributor to the newsstands. Many times the
3 way this works, it is advertised. The more magazines you can get
4 on the stand, the more shelf space. It is more likely someone is
5 going to buy your particular magazines. They distribute a great
6 number of magazines and get as many as they can on the shelf,
7 knowing clearly at the end of the expiration date of that maga-
8 zine, many are going to come back.

9 The way it works, under the tax laws, they are taxed on the
10 income of all the sales they actually make to the newsstands even
11 though it is known that at the end -- this is in December, I assume
12 in December, you sell twice as many magazines. In January,
13 February and March half of them come back. Since the calendar
14 year, for tax purposes, it is December 31, you can be taxed on
15 twice as many magazines as you actually are going to sell because
16 later in the next year you are going to get a return.

17 What this provision does is allow you to get a credit for
18 the magazines that come back.

19 Senator Curtis. The House has passed this bill?

20 Mr. Shapiro. The House has passed it.

21 Senator Curtis. In its present form it covers the problem
22 for the industry?

23 Mr. Shapiro. For which industry?

24 Senator Curtis. The industry approves this?

25 Mr. Shapiro. The industry that is affected by the magazines'

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1 profit. The initial issue came up because of magazines. Subse-
2 quently before the House, before the bill was enacted, paperbacks
3 and records were added. Instead of giving them this election
4 write-off they were given a suspense account which means when you
5 make a change in accounting methods, which they would require,
6 instead of allowing them to deduct half the magazines right away,
7 it would suspend it because that would be alle deduction in one
8 year. The proposal agreed to in the House was to have them
9 suspend that on deduction and put that in a suspense account where
10 they would only get it when their business ended. But then they
11 changed their accounting method in the future.

12 They would like to get something of the same treatment that
13 the magazines got in the House bill.

14 what they are asking to do instead of just having this
15 suspense account, which suspends that first year deduction, that
16 is the big revenue loss, the first year deduction, and then after
17 that it would be what you have each year, the first year the big-
18 gest one. They would like to have that amortized over a 5-year to
19 10-year period. I think they requested 5 at the hearings, but they
20 would at least like a 10-year amortization which means you suspend
21 that first year deduction, but then they can take it piecemeal,
22 either over a 5-year or 10-year period.

23 As I understand from staff members who have talked with them,
24 if it would make it easier for the committee to agree to it, they
25 would defer the taking of that suspension period possibly to 1980.

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1 They would like to be able to get on a more current basis of
2 deductions matching their expenses against their income, but then
3 suspending their taking deductions over a 5-year or 10-year
4 period.

5 The Chairman. What does Treasury think about the matter?
6 Mr. Halperin. There is no argument here about what the

7 rules ought to be for the future. We have all agreed to that. The
8 problem that comes up is they paid more taxes in prior years under
9 the rules as they now exist than they would have paid under the
10 law rules, and the question is when do they get that back, when
11 do they get a refund of the excise tax.

12 Senator Curtis. By "they" do you mean all of them or just the
13 paperbacks and records?

14 Mr. Halperin. All the industries that are involved here and
15 the suspense account procedure delays that until they actually
16 go out of business, instead of giving it back right away, or over
17 a 5-year period. That is the problem that the committee has been
18 dealing with really for 25 years, back in 1954 when you extended
19 this kind of treatment to all industries across the board.

20 A couple of years later it was realized there is a tremendous
21 potential revenue loss, and it was repealed retroactively. We
22 have been going around and around on debating whether they can
23 get the correct accounting treatment, if we can agree on what
24 the correct accounting treatment is, can we afford it. The
25 suspense account was adopted, it was used with respect to

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1 accrued violation pay as a way of getting on a correct system and
2 getting away from the argument of the Revenue implication.

3 It is not necessarily fair to give it back, because if they
4 overpaid an amount of taxes over, say, the last 20 or 25 years,
5 that has been reflected in the prices. It has been reflected in
6 the take-home of the people who owned the company at that time.
7 I don't think there is any strong equity argument we have to
8 correct the taxes for prior years right now. We prefer the
9 suspense account, and it enables us to look at the issue on the
10 merits without regard to the revenue. We would, therefore,
11 suggest that everybody, including magazines, be given the suspense
12 account treatment. The House chose to give magazines a more favor-
13 able treatment than books and records. I think there was a feeling
14 it has a somewhat stronger case, somewhat an easier case to
15 measure. When you ship out magazines in December, you can tell
16 they are not going to be sold once the January issue is on sale.

17 With record and books, it is not necessarily so clear but
18 those are pretty fine distinctions. We would prefer the suspense
19 account across the board.

20 Senator Talmadge. Members of the Food industry have
21 approached me, or they give coupon incentives and they operate,
22 the way I understand it, under internal Revenue Regulations that
23 are 50 years old.

24 Senator Matsunaga. Sixty.

25 Senator Talmadge. Since 1918. They know actuarially what

1 percentage of these coupons will be redeemed. They have been
2 paying their taxes accordingly. Now the IRS has suddenly, with-
3 out changing the law, changed the regulation. They are complain-
4 ing about that and want it fixed like it was.

5 Mr. Shapiro. We are aware of that situation, Senator. They
6 testified in the hearings as well. It is a case where the S&H
7 green stamps have a situation where they are covered with their
8 stamps or other situations with their coupons where they have
9 estimated costs if they redeem the stamps.

10 For example, they sell their stamps and they have income
11 because they have sold their stamps, but they know this. You
12 tax all the income from the stamps but don't let them deduct the
13 cost of the goods they purchase, which the consumers are going
14 to redeem those stamps for, there will be a mismatch of income and
15 cost. They will be paying much more taxes on the sale of the
16 stamps, and later on when the stamps are redeemed the expense will
17 be higher. So there is that lag.

18 There is a ruling which covers them that allows them to
19 estimate the cost of redemption of the stamps and merchandise to
20 be sold so they can offset that income. That is existing law, and
21 applies for trading stamps and coupons. The problem you have
22 reference to is one that is related to which deals with the cost.

23 For example, in newspaper ads we have the media and you see
24 cents off coupons in the newspapers that say 5 cents off the
25 product or you get a box of a cereal and in the bottom there is a

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1 coupon that says if you buy another brand of cereal you get 10
2 cents off. They would like to have that same type of treatment.

3 The internal Revenue Service has issued two rulings in 1933
4 and 1978 which, in effect, says that when you have the situations
5 of cents off on these coupons or in the newspaper ads, so forth,
6 they would not be treated as deducting that amount from their
7 income for that year.

8 In effect they would like to have the revenue rulings
9 reversed in that case. It is a related issue. It is related to
10 the green stamps and the coupon situation that are presently in
11 the regulations, and it is related to this, you, this mismatching
12 of income and deductions.

13 As I said, they would like it dealt with irregardless of how
14 you deal with the other issues. I think, as the Treasury has
15 indicated with regard to precedent, it is clearly a problem.
16 And that is, each industry that has this situation will come in
17 and ask for identical treatment.

18 Mr. Matsunaga. Mr. Chairman, if I may ask a question here.

19 As a matter of fact, the cents off coupons were being treated
20 the same way as the green stamps until the ruling by the Revenue
21 Service.

22 Mr. Shapiro. That is correct, Senator.

23 Senator Matsunaga. And this practice was in effect for
24 sixty years.

25 Mr. Shapiro. The ruling has been in effect, as I understand

11

1 it, from 1918.

2 Senator Matsunaga. The earlier ruling?

3 Mr. Shapiro. The earlier ruling.

4 The Chairman. Would they seek a change in the ruling?

5 Mr. Shapiro. They, in effect, would like to be treated like
6 their situation before the rulings.

7 Let me give you a case where a good manufacturer has a
8 box of cereal and they sell it to, let's assume, a grocery store
9 and they get the full price from the grocery store. The grocery
10 store sells it to a consumer who opens the cereal box up and takes
11 out a 5 cents off coupon. Later that coupon is going to be redee
12 redeemed back at the grocery store and the manufacturer of the
13 cereal is going to have to pay that five cents.

14 What they would like to do is take estimates of the redemption
15 of the price and reduce the income that they made when they sold
16 that cereal to the grocery store.

17 Senator Matsunaga. And the estimates have been very accurate
18 in past years so that the Internal Revenue Service has had no
19 problem about making the collection on or making the deductions on
20 the estimated amount.

21 Mr. Shapiro. That is what they say.

22 The Chairman. What does the Treasury feel about that?

23 Mr. Halperin. Senator, we agree this is a similar problem in
24 the sense it is a question of proper measurement of income and
25 that under the revenue rulings that came out in 1933 and 1978 I

1 think the industry has an argument their income is not being
2 measured correctly. It is, again, the issue of being allowed to
3 take reserves for estimated expenses. This is a big problem. We
4 hear about it from product liability, we hear about it from black
5 lung, we hear about it from dealer warranties. We have been
6 meeting with the industry. I think we have an open mind on how
7 this matter should be treated. We haven't been able to agree
8 as of yet that they should get the same treatment as the magazines.

9 It is difficult in the sense they are asking for a reserve
10 for estimated expenses. They are not measuring actual returns
11 which is being measured in the magazines, and in the books and
12 records.

13 We think we need more time to study this issue and see what
14 its implications are in a great many other areas.

15 The Chairman. Gentlemen, Frankly I don't like the whole
16 thing. I don't like the whole cents off business. I think it is
17 kind of a racket and the green stamps is kind of a racket. I go in
18 a store and go buy something, I assume the green stamps is 3 per-
19 cent. Well, obviously somebody has to pay for the three percent,
20 and I don't fool around with the fool green stamps so I have to
21 pay more for the stuff so somebody else will be induced to go take
22 the blamed green stamps and go paste them in a book and bring them
23 back in, All this kind of foolishness. So by the time you get
24 through with all that trouble and all that mess, you are back
25 where you would have been had they given you a 3 percent discount

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1 to begin with.

2 I knew some fellow that had a tough time making it with his
3 little filling station. The company, I am not sure the oil company
4 or the company owned the filling station, required you to have
5 the green stamps. Well, he began to have a tough time making it.
6 He stopped all the green stamps and just cut the price to the
7 public. You wind up paying more for all this junk. I talked
8 to some of these green stamp people and some of their representa-
9 tives on what this thing is all about. All the people like it.
10 They like to go home and the little children sit there and paste
11 the green stamps in the book and all this kind of mess. I don't
12 like it.

13 To me it is a great big pain in the neck and it costs me
14 money. I don't know why people can't understand it. You pay more
15 because you get the fool green stamps. Nobody is doing you a favor
16 to come back and save the coupon and all that.

17 Senator Curtis. They are not asking you to --

18 The Chairman. If they get the break, I would like to take
19 it away. I don't want to give them anything, they don't benefit
20 me and they don't benefit those people so as far as I am
21 concerned, I am out. Count me out.

22 Senator Matsunaga. Mr. Chairman, I felt the same way you
23 did, As a matter of fact, when I was in the Hawaiian legislature
24 I introduced a bill to abolish all stamps, green stamps and so on,
25 but then I lost. I had to live with it, but here, since we are

14

1 allowing the green stamps that privilege, I think it is discrim-
 2 inatory that we don't allow the cents off coupons the same privilege,
 3 and they did enjoy that privilege for the past 60 years, and all of
 4 a sudden the IRS -- I don't know, maybe there is a person making
 5 a ruling like you, Mr. Chairman, who didn't like the cents off
 6 coupon. It is discriminatory, that is the thing.

7 The Chairman. If the committee wants to do it, I will go
 8 along with the committee. I won't filibuster against the bill.
 9 I just want to let it be understood all this thing looks like a
 10 big bother to me, and it looks to me as if it is anti-consumerism,
 11 because it does cost the consumer money, but if you want to vote it
 12 on out --

13 Senator Matsunaga. On that one point, too, I think the cents
 14 off coupons are for the consumer, really.

15 The Chairman. For the consumer?
 16 Senator Matsunaga. The consumer gets the discount. For
 17 example, if you permit the manufacturers to reduce the price to
 18 the distributors and the distributors to the retailers, the
 19 retailers don't pass it on to the customer. In this case, the
 20 consumer himself actually gets that 15 cents and 10 cents because

21 The Chairman. You don't get anything. I have been in these
 22 stores.

23 Senator Matsunaga. The green stamps, yes. I am talking about
 24 the cents off thing.

25 The Chairman. They send to the retailer, let's say, this pot

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1 of coffee and on the thing it says 5 cents off, 5 cents off. Now
2 then the fellow at the store decided how much money he wants to
3 make. So he puts \$1.98 down there and just stamps that on there.
4 So now presumably he has decided he is going to charge you \$2.03
5 and he took five cents off to arrive at \$1.98. He didn't think
6 about it. He stamped \$1.98 and that is what you are going to pay,
7 and you have been told you have 5 cents off. Off of what? Off
8 of what he would have charged when he heard you were going to take
9 the 5 cents off. So he hiked it up 5 cents so he can give you
10 5 cents back.

11 The Commerce Committee had some kind of consumer bill and we
12 thought our greatest achievement would be to outlaw some of these
13 cents off things to quit deceiving and misleading some of our
14 wives, but now it looks like he is going to give them a tax
15 advantage for the cents off thing.

16 I would like to go to the store and just have them tell me
17 what the fool thing costs, don't tell me you are doing me a favor
18 when you are charging me a lower price. If you fellows want to
19 do that, I will go along with it with this understanding, I did
20 not vote for it. You fellows voted for it.

21 Mr. Shapiro. Let me raise another point I think you should
22 know. I understand some of the cases may be under audit right
23 now with some of the companies. In the past you have not done
24 anything retroactive in some cases, I want you to be aware, there
25 are some cases that I understand may be in audit. You could do

1 one of two things. If the committee wanted to change the rule
2 retroactive, I think you should know that. Alternatively, what
3 you could do if the Treasury wants more time to work this out,
4 you could suspend the revenue rulings for two or three years to
5 allow the Treasury time to work something out with the industry and
6 say nothing about the past to let the Treasury deal with the audit.

7 The Treasury could work something out with the audit and
8 may not have to come back for anything..

9 The Chairman. Let's just suspend it for two years. Would
10 that be all right?

11 Mr. Halperin. Does that have the same impact of changing the
12 cases that are now under audit?

13 Mr. Shapiro. No, this is prospective. What it would mean,
14 you are suspending it for the next two years with no inference on
15 the past.

16 Senator Curtis. You are talking about the proposed amendment?

17 Mr. Shapiro. I am talking about the amendment you are talk-
18 ing about with regard to the cents off.

19 Senator Curtis. But not the House bill?

20 Mr. Shapiro. Not the House bill.

21 Senator Curtis. Why don't we approve the House bill and take
22 that suspension?

23 Senator Matsunaga. I would go along with that. Of course,
24 Senator Talmadge is the one who is offering the amendment.

25 Senator Talmadge. What they objected to is changing the law

1 that has been in effect for 60 years by decision of the Revenue
2 and not by the Congress. I somewhat subscribe to that view,
3 suspend it for two years and if the Treasury Department wants to
4 make a change, come in and made a recommendation to Congress and
5 we will consider it.

6 The Chairman. Why don't we then just say we will suspend it
7 for two years, but leave it the way it has always been.

8 Senator Matsunaga. Wouldn't the amendment 3050 be necessary
9 to take effect?

10 Mr. Shapiro. To your suspension it would, Senator.

11 Senator Matsunaga. If we make your amendment to that effect--

12 The Chairman. Without objection.

13 Senator Danforth. Wait a second. What is Treasury's position
14 on this?

15 Mr. Halperin. I am just trying to think it through. The
16 regulations have not been changed. What came out is the revenue
17 ruling which is just the IRS's interpretation of what the regula-
18 tions mean. The cases are now in audit. If rhe taxpayers can
19 convince the court otherwise, they will, obviously, succeed. If
20 you suspend it for the future I guess those cases still go into
21 litigation.

22 I am trying to figure out what the implication of that is if
23 the IRS was to win those cases, then they have the law established
24 for prior years and we have to kind of switch back from the next
25 two years.

1 Mr. Shapiro. In the cases where you had this issue with other
2 matters, you would not want it to affect cases in audit or the
3 pending litigation, so you have changed the law for the future
4 without any inference for the past.

5 You say that is how you decide the law should be for the
6 future. As for the past, there may be a question and you let
7 the IRS and the courts decide that. This is a procedure we are
8 suggesting that is consistent with what you have done with other
9 cases in the past. There are situations where you did not like
10 the result done in the past interpreted by the IRS, you went
11 ahead and changed the law.

12 Most of the times you have not. We are suggesting here,
13 in view of the cases in audit, you might want to say the next
14 two years you are suspending the application of revenue rulings
15 and you have not inference with the past. You are letting the
16 Internal Revenue Service continue its audit, work it out with
17 the taxpayers. If the taxpayers do not like how the Internal
18 Revenue Service held, they can go to court on that.

19 Within these two years the Internal Revenue Service can work
20 with the taxpayers and change the rules in the future, or Congress
21 can come back at the end of two years and decide, again, what you
22 want to do.

23 Senator Dole. Vote.

24 The Chairman. All in favor say aye; opposed, no.

25 The ayes have it.

1 Mr. Shapiro. As I understand, you are making no change to
2 the House passed bill other than adding this suspension period
3 we are talking about.

4 The next bill on the list is No. 9, H.R. 5103, which deals
5 with excise taxes on tires and tread rubber. What essentially
6 this does is to provide a clarifying treatment of credits or
7 refunds of the manufacturer's excise tax on new or retreaded tires
8 where the sales are later adjusted as a result of warranties or
9 guaranties.

10 Senator Curtis. Mr. Chairman, may I ask a question.

11 This again is a House passed bill.

12 Mr. Shapiro. Yes, it is.

13 Senator Curtis. There was some talk afrom Treasury Depart-
14 ment about the need for something in the Committee Report to
15 take care of the situation where there were private brands.

16 Mr. Shapiro. In two cases there is a private brand tire
17 group that recommended a cCommittee Report statement that there is
18 no inference intended when the warranty adjustments are made where
19 the tire manufacturer does not extend a warranty or guaranty to
20 the ultimate consumer but reduces the price to the dealer to
21 reflect the anticipated warranty or guaranteed expenses which the
22 dealer may incur.

23 It is a clarifying type statement in that regard and someone
24 on the staff has worked it out with them.

25 Senator Curtis. That will take care of the situation where

1 Sears sells under their own brand.

2 Mr. Shapiro. There are two cases; one is private tire brands
3 group. The second is Sears & Roebuck where they want to have
4 Committee Report language that also deals with the case where
5 they receive a private brand and they give the warranty themselves.
6 We don't see any problem with either one of those.

7 Senator Curtis. You say you have no objection to either one.
8 If this is approved, you can take care of that language?

9 Mr. Halperin. We had recommended the language that Sears has
10 asked, a clarification of the Committee Report. We, I think,
11 don't interpret the bill to have the same meaning with respect to
12 the private brand tire group. They are, we thought, not covered
13 by this bill at all. Therefore, they are not entitled to any
14 warranty adjustments.

15 Mr. Shapiro. All we are suggesting here is there is no
16 inference with respect to --

17 Senator Curtis. Would you glance at this language here.

18 Mr. Shapiro. Senator, the specific reference you have here,
19 there is no problem in your case. This is included in the report.

20 Senator Curtis. Thank you.

21 Mr. Halperin. The private brand people have asked for the
22 extension of the bill to cover their cases. What we had suggested
23 in talking to the industry and in our testimony on this bill, the
24 whole problem of dealer warranties on tires is really an incredible
25 administrative problem for both the service and the industry, and

21

1 we probably would be all better off if we reduced the initial
2 taxes so that the total collections remained unchanged and we for-
3 got the warranty collection, the warranty adjustments altogether,
4 because we certainly will be back in trying to solve this problem,
5 and I suspect the private pland people would be back in asking
6 for additional legislation to solve this problem and maybe when
7 that comes up we can try to see if we can work out a simpler system
8 with just an initial reduction in the tax and without all this
9 paperwork.

10 The Chairman. My reaction is why don't we do that? Why
11 don't we just reduce the taxes and not fool around with all this?

12 Mr. Shapiro. I think that makes sense to us.

13 The Chairman. Can you prepare an amendment to do that? It
14 seems to me with all the people involved -- just reduce the tax.

15 Mr. Halperin. So far the industry has seen technical problems
16 with it. We have not been able to work out a combination that is
17 satisfactory to everybody. We are hoping to encourage them to take
18 that approach. We appreciate any support along those lines.

19 The Chairman. I would like to do it that way. If you don't
20 have it worked out, I guess we pass what we have.

21 All in favor say aye; opposed, no.

22 The ayes have it.

23 Mr. Shapiro. You have clearly the Committee report language
24 that Senator Curtis referred to, but the other language that was
25 suggested to the committee that Treasury has a concern for would

1 not have any statement in the report. The House bill says it does
2 not include them. I think at this point it may say not go in the
3 Committee Report about that other situation.

4 The next bill you have is H.R. 6635, which deals with the
5 interest rate adjustments on retirement savings bonds. Under
6 present law there is interest rate on the individual retirement
7 bonds which is issued by the Treasury Department or retirement
8 plan bonds issued by the Treasury Department which remains the
9 same from the date the bonds are issued until the bonds are
10 redeemed. This bill, H.R. 6635, would authorize the Treasury
11 Department to make upward adjustments in the interest rate on
12 outstanding bonds so that the bond will earn an interest at a
13 rate consistent with the rate that is established for Series E
14 Savings Bonds. This is just say if the Series E Bonds are
15 increased, then those rates should be increased as well. The
16 Treasury Department has suggested a change to that effect. Instead
17 of tying the interest rate to the Series E Bonds, you should tie
18 the interest rate to retirement bonds, which means that when a
19 new retirement bond comes out with a higher interest rate, then
20 the existing retirement bonds would have that same rate.

21 So what all this means is you have an interest rate tied
22 directly to retirement bonds on new issues there. I think it may
23 be an appropriate change because then you are having the interest
24 rates on the same types of bonds reflected.

25 So the old retirement bonds would have the same interest

1 rates as the new retirement bonds.

2 The Chairman. Is there any objection?

3 Mr. Shapiro. They changed the effective date to make it
4 accrue.

5 The Chairman. Without objection, it will be done.

6 Mr. Shapiro. The last bill you have here is No. 11 on the
7 list. We have already done 12. It is H.R. 8535, which deals
8 with the child care credit for amounts paid to certain relatives.
9 Under the Tax Reform Act there is a provision which dealt with ch
10 child care credit, and it would make available to relatives of the
11 taxpayer only if that relative was treated as in employment for
12 Social Security tax purposes.

13 Subsequent to the passage of that bill it is determined that
14 the definition of employment for Social Security prohibits a lot
15 of grandparents from qualifying for child care credit. That would
16 change the definition to allow those to come under the bill. The
17 only point I understand may be raised with this is that Senator
18 Dole has an identical bill in. The only difference is the effect-
19 ive date. Senator Dole's bill would go back one year earlier than
20 the House passed bill. The House passed bill is effective after
21 December 31, 1977, which means it would apply for this year.

22 Senator Dole, your bill would apply after 1978, which I think
23 is the effective date. It may be when you introduced the bill
24 a while back. I think the House passed bill is consistent with
25 exactly your bill. It is being updated because it is being

1 passed a little bit later.

2 Senator Dole. That is correct.

3 The Chairman. Without objection; agreed.

4 Senator Curtis. Mr. Chairman, some time ago this committee
5 approved an amendment relating to the individual retirement. It
6 involved the case where an unconscionable penalty would have
7 been levied. An individual complied with the law and made a mis-
8 take and there was a penalty affecting the entire transaction.
9 The committee approved the idea. Since then the language has
10 been submitted to our staff, the joint staff and the Treasury
11 staff, and they have all agreed, including the Treasury, and I
12 would like to have this new language approved.

13 We have already approved the idea, and then I would like to
14 have it attached to one of these bills, whichever one you,
15 Mr. Chairman, might designate.

16 The Chairman. Is there any objection to that? Does Treasury
17 object to it?

18 There is no objection. Agreed.

19 How would you suggest that we bunch these bills up?

20 Mr. Stern. Mr. Chairman, I have been keeping track as we
21 went along. I think you might take them in the order you took
22 them up. The first bill was H.R. 8811. Then the next two bills,
23 1537 and 1920, would be amendments to that. So you report out
24 8811 with those two others.

25 The Chairman. I guess just by way of packaging you might

1 want to take the title that appears. Why don't you take 1357 and
2 put the other two numbers on it?

3 Senator Curtis. 1337.

4 The Chairman. Constructive sales price for excise tax on
5 certain articles.

6 Senator Curtis. You put what on there?

7 Mr. Stern. 8811, which is the Tax Court provision, and 1920,
8 which is the repayment of alcohol taxes.

9 Senator Curtis. Is the Treasury supporting all of those?

10 Mr. Stern. They do not support H.R. 1920, the repayment of
11 alcohol taxes.

12 Senator Curtis. The repayment of what?

13 Mr. Stern. Alcohol taxes and duties due to loss or damage,
14 Item No. 4.

15 Senator Curtis. I don't want to jeopardize some of these
16 things.

17 The Chairman. Let me ask, what do we have the Treasury is
18 not supporting?

19 Mr. Stern. Item 4, that is H.R. 1920, and Item 7, which is
20 H.R. 2984.

21 The Chairman. Why don't we put those two together. Treasury
22 objection won't have the effect of defeating the other bills.

23 Senator Curtis. Are Treasury supporting 6 and 9?

24 Mr. Stern. I don't know about support. Those are the two
25 Treasury actually opposed. No, Items 4 and 7, the Chairman

1 referred to earlier, they opposed. I don't know if they support
2 the others.

3 Mr. Shapiro. 6 and 9 have no objection or support. They do
4 support both 6 and 9.

5 Senator Curtis. They do support No. 6?

6 Mr. Shapiro. Yes.

7 Senator Curtis. I would ask unanimous consent that my
8 IRA amendment then go to one of those bills since they support that
9 also.

10 The Chairman. If you are going to put, let's say, Items 2,
11 3, and 5 together --

12 Mr. Stern. Item 2 you passed over, Mr. Chairman. So the
13 items you approved here are Items 3 through 12.

14 The Chairman. Item 3, 5, 6 together. But for title pur-
15 poses, use No. 3 for the principal bill in which the other two
16 amendments go.

17 Senator Curtis. Could you add the IRA amendment to that?

18 The Chairman. It will be all right with me.

19 Without objection, you will add that one.

20 Then you take items on the paper back, take Item 3050, that
21 is 6. Either add Items 9 and 10 and then Item 11 -- you might
22 as well add it to that one, I guess. Just add those four
23 together.

24 Senator Curtis. I think we should leave No. 12 alone.

25 Mr. Stern. As a separate bill.

1 Senator Curtis. Yes. I think No. 12 should be separate.

2 Mr. Stern. You are reporting out then 4 bills, under the
3 numbers of H.R. 1337, Item 3; H.R. 1920, Item 4; Item 3, which
4 is H.R. 3050, and then separately H. R. 8811, which is No. 12.

5 And No. 3 would go Items 5 and 6. On Item 3 would go 9,
6 10, and 11. And Senator Curtis' memo would go on Item 3, the
7 constructive sales price or excise tax on certain articles which
8 has with it home producers of beer, wine and aerial applicators.

9 Senator Curtis. Mr. Chairman, there are two or three other
10 items. The hour is late. We don't have very many members here.
11 There will be another meeting?

12 The Chairman. Yes.

13 Thank you.

14 (Whereupon, at 12:34 p.m. the committee was recessed.)
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