

TARIFF SCHEDULES

HEARINGS BEFORE AND BRIEFS

FILED WITH THE

SUBCOMMITTEE OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

SIXTY-THIRD CONGRESS

FIRST SESSION

ON

PARAGRAPH 254½. PURE SWEET WINES, ETC., H. R. 3321, AN
ACT TO REDUCE TARIFF DUTIES AND TO PROVIDE
REVENUE FOR THE GOVERNMENT, AND
FOR OTHER PURPOSES

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COMMITTEE ON FINANCE.

UNITED STATES SENATE.

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SUBCOMMITTEES.

Subcommittee No. 1.—Senators Stone, Thomas, James, and Simmons (ex officio).

Schedules assigned to Subcommittee No. 1: Schedule C, metals, and manufactures of; Schedule B, earthenware, and glassware; Schedule K, wool, and manufactures of; Schedule L, silks and silk goods; free list not connected with any particular schedule or schedules.

Subcommittee No. 2.—Senators Williams, Shively, Gore, and Simmons (ex officio).

Schedules assigned to Subcommittee No. 2: Schedule E, sugar; Schedule G, agricultural products; Schedule J, flax, linens, and other vegetable fibers; section 2, incomes; sections 3 and 4, administration.

Subcommittee No. 3.—Senators Johnson, Smith of Georgia, Hughes, and Simmons (ex officio).

Schedules assigned to Subcommittee No. 3: Schedule A, chemicals; Schedule I, cotton manufactures; Schedule D, wood, and manufactures of; Schedule M, pulp, papers, and books; Schedule N, sundries not connected with any particular schedule or schedules.

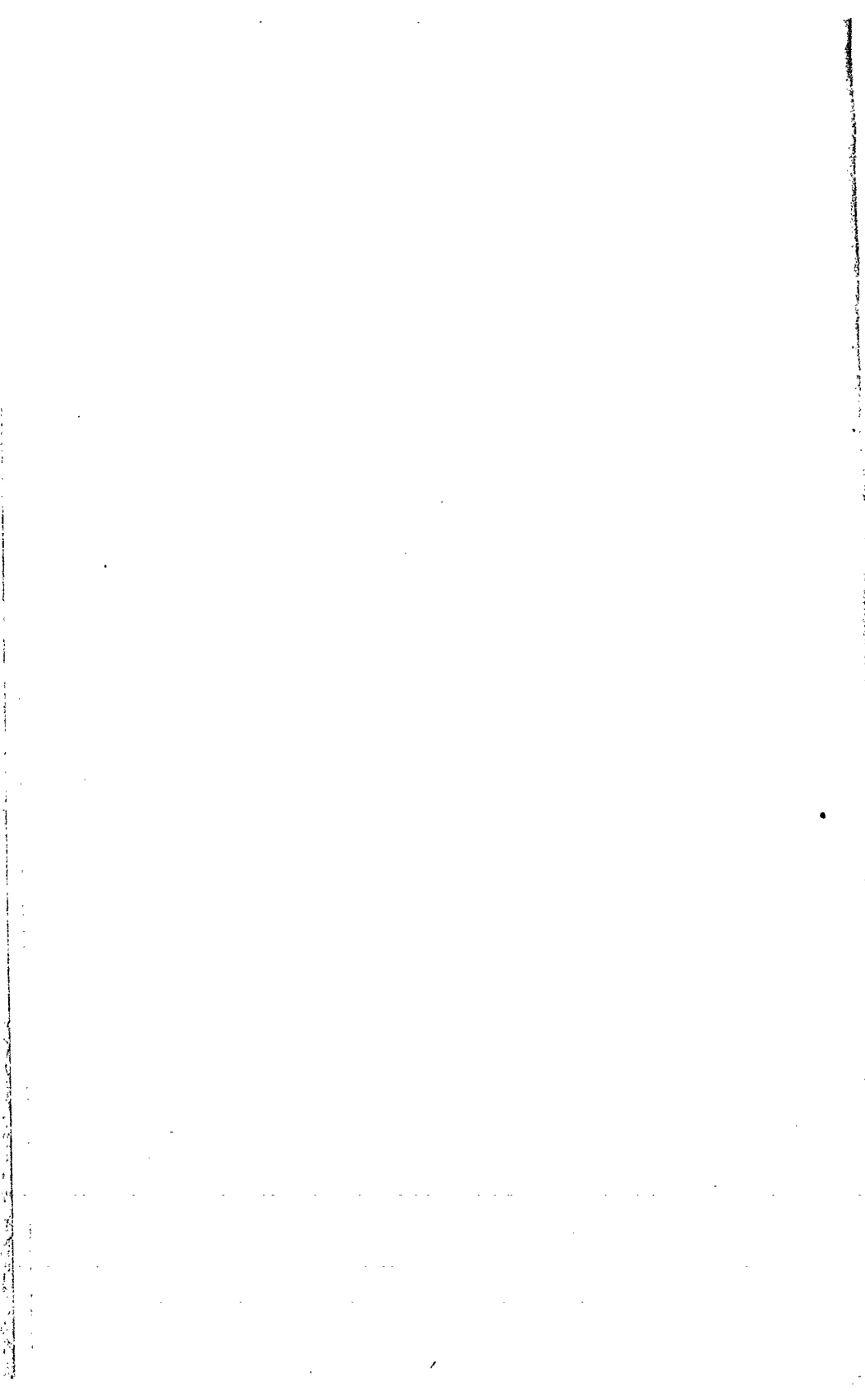
Schedule F, tobacco and cigars, and Schedule H, wines and liquors, were not assigned to any subcommittee.

INDEX.

	Page.
Statement of Mr. Thomas E. Lannen.....	5, 38
Mr. O. G. Stark.....	19
Mr. Walter E. Hildreth.....	24
Mr. M. F. Tarpey.....	25
Mr. Theodore A. Bell.....	35, 40

BRIEFS BY.

Rebuttal arguments for eastern wine makers.....	74
Rebuttal argument by O. G. Stark for the Missouri wine growers.....	80
Eastern wine makers.....	54
Thomas E. Lannen, attorney for eastern wine makers.....	54
Wine growers of the East, by W. E. Hildreth, Urbana, N. Y.; Paul Garrett, Norfolk, Va.; and Sol Bear & Co., Wilmington, N. C.....	20
W. E. Hildreth, president Urbana Wine Co., Urbana, N. Y., and Sol Bear & Co., Wilmington, N. C.....	55
Proposed amendment by eastern wine growers.....	57
Protest and brief of grape growers and wine makers of State of California.....	84
Wine industry of California, by Louis Wetmore.....	58



WINES.

FRIDAY, AUGUST 15, 1913.

UNITED STATES SENATE, COMMITTEE ON FINANCE.

The committee met at 10 o'clock a. m.

Present: Senators Simmons (chairman), Stone, Williams, Smith, James, Thomas, and Hughes.

There were present also: Senator Theodore E. Burton, of Ohio; Senator Atlee Pomerene, of Ohio; Representative William Kent, of California; Representative E. A. Hayes, of California; Hon. James C. Needham, of California; Representative Julius Kahn, of California; Representative John E. Raker, of California; Hon. A. Caminetti, of California; Hon. Royal E. Cabell, Richmond, Va.; Mr. Louis S. Wetmore, Stockton, Cal.; Mr. Paul Garrett, Norfolk, Va.; Mr. Isadore Bear, Wilmington, N. C.; Mr. O. G. Stark, St. Louis, Mo.; Mr. Thomas E. Lannen, Chicago, Ill.; Mr. W. H. Reinhart, Mr. John G. Dorn, and Mr. A. Royer, of Sandusky, Ohio; Mr. J. J. Schuster, Cleveland, Ohio; Mr. A. C. Krudwig, Sandusky, Ohio; Mr. William Culnan, New York City; Mr. L. W. Southwick, New York City; Mr. J. A. Barlotti, Los Angeles, Cal.; Mr. Louis Landsberger, San Francisco, Cal.; Mr. Theodore A. Bell, San Francisco, Cal.; and Mr. M. F. Tarpey, Fresno, Cal.

STATEMENT OF MR. THOMAS E. LANNEN, OF CHICAGO, ILL.

Mr. LANNEN. Mr. Chairman and gentlemen of the committee, I represent the Ohio-Missouri wine makers and some of the wine makers of New York, Virginia, North Carolina, and Illinois. These wine-making industries of the East are the oldest wine-making industries in America. The oldest Missouri member in the Ohio-Missouri Association has been in business since 1847, and the oldest Ohio member has been in business since 1856. The wine business was established in the East long before these dates. The amount of money involved in the wineries and the grape yards is estimated at about \$100,000,000.

In order to explain the amendment, which we suggest to the committee, to the law in question, I want to say that wines to suit the American trade can not be too sour. They can not, in fact, be too sour anywhere. Furthermore, they must contain a certain amount of sugar in order to produce a certain amount of alcohol or they will not keep. They will go into vinegar. Our wines east of the Rocky Mountains are always too high in acids and usually too low in sugar. For that reason there has been a practice in this country ever since the first wine was made in America east of the Rocky Mountains of ameliorating that wine with water to cut down the acid and to bring up the sugar content so as to make a sufficient amount of alcohol.

to keep the wine. That is a practice which exists all over the world wherever wines are made in northern climates. Our wines are made from native American grapes that were grown here from the seeds. Those grapevines are of such a nature that they can withstand the terrible frosts that we have in the North. They can stand a temperature of 22° below zero and still survive, and we have such temperatures in Illinois and sometimes in Ohio. It also gets very cold at times in Missouri. In New York the temperature is very low. These grapes, being native of America, can survive these frosts. It is the only grape that we can grow in this country. We have tried to import the vines from California and grow the grapes here, but they will not grow in the northern part of this country. In California the vines are not American vines. They are vines imported from the southern part of Europe, and they flourish in California. They are entirely different from our vine.

In order to get at this thing intelligently, I want to quote some authorities to show that this is not our argument about these wines. In the first place, one of the leading authorities in America, Mr. George Husmann, in his book entitled "American Grape Growing and Wine Making," 1907 edition, published by The Orange Judd Co., says:

A normal must, to suit the prevailing taste here, should contain about four thousandths parts of acids, while in Europe it varies from four and a half to seven thousandths as the taste there is generally in favor of more acid wines.

And again he says:

All wines, without exception, to be of good and agreeable taste, must contain from four and a half to seven thousandths part of free acids, and each must containing more than seven thousandths part of free acids may be considered as having too little water and sugar in proportion to its acids.

Senator THOMAS. That is in a total of how much?

Mr. LANNEN. In the grape juice, Senator, as it is pressed from the grape—

Senator THOMAS. But what is your unit? If you had said 40 per cent I would have understood it, but you say four thousandth parts.

Mr. LANNEN. There are four parts in a thousand, Senator. Mr. Husmann says—

All wines, without exception, to be of good and agreeable taste, must contain from four and a half to seven thousandths part of free acids, and each must containing more than seven thousandths part of free acids must be considered as having too little water and sugar in proportion to its acids.

We can not make such wine in the Eastern States, year in and year out, east of the Rocky Mountains without using something to cure that condition, and I want to cite as an authority on that point the Universal Encyclopedia of 1900, which, in an article by E. W. Hilgard on "Wine and wine making," says:

The wines of the States east of the Rocky Mountains made from American grapes only, differ from those of Europe and all other countries in mostly possessing more or less of the (foxy) aroma of the berries. As in Europe, the must often fails to acquire, north of the Potomac, the desirable amount of sugar.

My investigations made among southern gentlemen who are here to-day have shown that the same condition prevails south of the Potomac as north of the Potomac, and so I make the statement that this condition exists anywhere in the United States east of the Rocky Mountains.

The way we deal with this matter in this country is this: When we press out our grape juice, we test it to see how much acid it has when the grapes come in in the fall from the farmers. After ascertaining the amount of acid that is there we add enough water to cut that acid down to about five parts in a thousand. The acid will deteriorate some in standing, and so we cut it down to about six parts in a thousand, and then add enough sugar to bring the alcohol contents up to about 13 per cent. That is the way it is done in this country; that is the way it always has been done and that is the way it always must be done in the northern part of Illinois or the northern part of the United States east of the Rocky Mountains, and I am informed that it must be done that way also in the southern part east of the Rocky Mountains.

The bill in question would put all the wine makers in this country east of the Rocky Mountains out of business. I want to show you why. It says here on page 71:

That upon all wines or liquors known or denominated as wines (other than distilled spirits) not made exclusively from fresh grapes, berries, or fruits, and upon all wines to which have been added spirits distilled from any material other than grapes, berries, or fruits exclusively, except pure neutral alcohol there shall be levied, collected, and paid before removal from the place of manufacture a tax of 25 cents on each and every wine gallon where the alcoholic strength of such wine does not exceed 21 per cent, by volume, and upon all such wines or liquors containing an alcoholic strength of over 21 per cent, by volume, there shall be levied, collected, and paid a tax at the same rate as imposed by law on distilled spirits.

That says to us gentlemen in the eastern part of the United States that we must make our dry wines exclusively from the juice of the grape or pay a tax of 25 cents a gallon on each and every gallon. That relates to dry wines, and I presume that you gentlemen know a great deal about wine making. A dry wine is a wine that is completely fermented, all the sugar having been turned into alcohol. The part of the bill which I have just quoted deals then with our dry wine made from grapes and blackberries in this country and provides that we must make that dry wine from the straight, unaltered grape juice or pay a tax of 25 cents a gallon on it. We can not do it. There is no disputing that. You have put in a proviso here which you say will enable us to meet that difficulty. You say—or some one has said to us, presumably through this proviso—that you give us 20 per cent of sugar and water. The proviso says:

That the tax herein imposed shall not be held to apply to pure sweet wine made exclusively from fresh grapes, berries, or other fruits to which has been added before or during fermentation, sugar, pure boiled or condensed grape must, or water not exceeding in either case 20 per cent of the weight of such wine.

Now, the way in which wines are made in the eastern part of the United States is this: We take the grape juice and ferment it into a dry wine, because our grape juice is not sweet enough to make wine in any other way. Even our housewives and farmers' wives have to sweeten the grape juice, and if the grape juice is not sweet enough to suit the taste, how can you ferment any sugar out of it and say you have a sweet wine? The grape juice is not always sweet enough to drink in the northern part of the United States without its being sweetened with cane sugar. So we take the grape juice and make a dry wine out of it and then we sweeten it with cane sugar, just the same as you would sweeten a cup of coffee. If we want to make a gallon of sweet wine we take a gallon of dry wine out of our barrel

and sweeten it with sugar. But bear in mind that that dry wine has been completely fermented. It is a fermented wine, and yet you say to us in this proviso "that the tax herein imposed shall not be held to apply to pure sweet wine." You do not give us any relief on our dry wine at all. You say it shall not be held to apply to pure sweet wine made exclusively from fresh grapes, berries, or other fruits to which have been added, before or during fermentation, sugar, pure boiled or condensed grape must or water not exceeding in either case 20 per cent of the weight of such wine. We do not add sugar to our sweet wine during or before fermentation in this country. We add it after fermentation, and so this bill puts us absolutely out of business in the eastern parts of the United States as regards our dry wines and our sweet wines also. It fits conditions in California, because that is the way they make their wines in that State. Their grapes contain so much sugar that they can ferment part of the sugar out of them and then leave enough in there so that their wines will still be sweet. They arrest the fermentation by putting in free brandy which they have had all these years. That bill was drawn to fit their conditions, not our conditions, and it would put us here entirely out of business.

Even though you were to change that word "sweet" to "dry wines," it would not meet our conditions here year in and year out. If the principle of making a merchantable wine out of what would otherwise be an unmerchantable wine is a correct principle, then you should permit us to make our wine, and if 20 per cent is not enough, we should have what is required. In the amendment which we have offered we are not asking for any percentage. We are asking for a bill which will permit us to cut our acid down to five parts per thousand, which is the lowest that we can cut it down to and still have a good wine. We must bring our alcohol up to 13 per cent in order to keep it. In some years we may have to add only a little water. If our acid is eight parts of a thousand, we have to cut it down.

The CHAIRMAN. You do not put any alcohol in your dry wines?

Mr. LANNEN. No, indeed; we do not.

The CHAIRMAN. You are contending that you ought not to pay any tax upon any of your wines, are you?

Mr. LANNEN. We are contending that we ought not to pay any tax on any of our wines that are made here only by such additions as will make them merchantable wines.

The CHAIRMAN. Are you not contending that there should be no tax on any wines that you make in which you do not put alcohol?

Mr. LANNEN. That is our contention.

The CHAIRMAN. Do you use any chemical compound?

Mr. LANNEN. We do not.

The CHAIRMAN. What do you say with regard to the wines in which they use chemical compounds?

Mr. LANNEN. I do not know what you mean by "chemical compounds."

The CHAIRMAN. It has been represented to us that what are called spurious wines are made by the use of certain chemical compounds in the place of alcohol for the purpose of fortification.

Mr. LANNEN. The free-brandy law gave California an advantage of \$1.07 a gallon over our eastern wine makers. Our eastern members could not take advantage of the free-brandy law. They could not

get the brandy free of tax in the East, because the law was drawn in such a way that they could not produce the brandy. That necessitated our eastern men making what you call the spurious wines. We have offered an amendment to stop the use of this pomace wine, as it is called. It would stop the use of pomace wine, stop the use of chemicals, and stop the use of everything that is complained of here. All that we are asking of you gentlemen is to permit us to make a merchantable wine under our climatic conditions that will not be taxed. All we are asking is to be placed on an equal basis with California.

Senator THOMAS. Is it your position that we should tax California wines and not tax your wines?

Mr. LANNEN. No; we are asking for equality. California has the same conditions that we have. Their acid is too low. In order to make a merchantable wine they have to add acid, and if the principle as applied to them to make a merchantable wine is a correct one, we ought to have the same principle here to make a merchantable wine.

Senator SMITH. Do you have to reduce the acid?

Mr. LANNEN. We have to reduce acid by adding water.

Senator SMITH. They add acid and you reduce acid?

Mr. LANNEN. Yes, sir.

Senator STONE. Do I understand your position, then, to be that you favor striking out of the bill all of this California wine and the eastern wine?

Mr. LANNEN. No. This part of the bill beginning at the top of page 71 was drawn to place a tax on spurious wines themselves. I am not talking now about the tax of \$1.10 a gallon.

Senator SMITH. Do you leave us any tax on the balance?

Mr. LANNEN. On the spurious wines?

Senator SMITH. No; I understood you to say that you would be put out of existence. How much revenue do you propose to leave us on the balance?

Mr. LANNEN. The revenue we have been paying is \$1.10 a gallon. So far as we are concerned, on that point we ask you to be as reasonable as you can. Some of our eastern people would be very glad to have you reduce the tax to a point as low as you could make it. Now, I am talking here about the tax on the brandy and the alcohol that is used to fortify.

Senator STONE. You say you pay \$1.10 a gallon?

Mr. LANNEN. We have paid \$1.10 a gallon all these years.

Senator STONE. For what?

Mr. LANNEN. For alcohol to fortify our sweet wines with.

Senator JAMES. It is the same as the whisky tax?

Mr. LANNEN. The same as the whisky tax; yes, sir.

Senator STONE. Do you use alcohol in your dry wine?

Mr. LANNEN. Only when we make sweet wine out of it. We add the cane sugar to the dry wine and then we add alcohol to fortify that cane sugar to keep it from going back to alcohol and the sweet wine from becoming dry wine again.

Senator STONE. Why do you not make brandy out of your grapes for use in fortifying?

Mr. LANNEN. Because the law would not permit us to do so. In the first place, it provided that the man who would do that must be a distiller and he must have his winery at his vineyard.

Furthermore, it provided that the wine must be pure grape juice before you could fortify them and take advantage of the laws. I have just explained that our wines are not made from straight grape juice in this country.

Senator JAMES. You are asking us to reduce the tax on whisky or alcohol, if we can. If we reduce it for you, we would have to reduce it for everyone else, and that would affect our revenue, would it not?

Mr. LANNEN. I suppose it would.

Senator SMITH. I do not suppose you ask us seriously to reduce the tax on alcohol?

Mr. LANNEN. You have asked us what the wine makers would like, and that is what they would like. I have here a number of copies of our proposed amendment which I will leave for the various members of the committee.

The CHAIRMAN. The point Mr. Lannen is making is this, as I understand it: He has to buy all his alcohol and pay a tax of \$1.10 on it, while his competitor in California is permitted under this law to manufacture that alcohol and he pays only 3 cents a gallon tax on it. That is your point, is it not, Mr. Lannen?

Mr. LANNEN. That is my point.

Senator SMITH. You have not stated why you can not manufacture your own alcohol.

The CHAIRMAN. He said that it was because the law required the distillery to be at the winery. However, I can not see why the distillery could not be at the winery in your section of the country, Mr. Lannen, as well as it can in California.

Senator SMITH. He has not stated the conditions that make that feasible in California and not feasible in the East.

Mr. LANNEN. Here are the conditions. The wine makers in the Eastern States can not take advantage of the law for the following reasons: First, the high price of the eastern grapes makes it far cheaper for the eastern wine maker to buy the tax-paid spirits and pay the distiller's profit, in addition to the tax of \$1.10, than it would be for him to produce his own spirits from the high-priced grapes he is required to use. Our grapes here cost us at the lowest price \$30 a ton, and the price runs as high as \$80 or \$100 a ton. In California the price ranges from \$5 to \$15 a ton.

Senator SMITH. The point you wish to make is that the people in California are able to produce grapes cheaper than you are in this part of the country?

Mr. LANNEN. Yes; that is a fact.

Senator SMITH. That would be an advantage that they would be entitled to, of course?

Mr. LANNEN. It is customary in California to have the vineyard at the winery and in the East it is customary for the wine maker to have his winery in the cities or towns, while the grapes are grown by the farmers in the country. In California wine growing is controlled by a monopoly. Our grapes are gathered from the small farmers throughout the country for 20 miles distant from the winery, and, further than that, they must be hauled in wagons and shipped in cars.

The CHAIRMAN. You mean that the cost of the distillery would be so great that a man making a small amount of wine could not afford to have a distillery at his vineyard, and that the vineyards are not

assembled in your section of the country like they are in California, so that there could be one winery for a number of adjacent vineyards?

Mr. LANNEN. I do not know that I understand exactly what you mean. In the East the conditions have been this way: The wine makers have established themselves in the towns, while the vineyards are in the country. The grapes are grown by individual farmers throughout the country. Our wine makers are wine makers and not grape growers.

Senator THOMAS. It is your contention that in California they are both wine makers and grape growers?

Mr. LANNEN. Yes, sir.

Third. Tax-free spirits may only be used at a vineyard, and as before shown, the eastern wineries are not located at the vineyards.

Fourth. Grapes produced in Eastern States do not always contain a sufficient amount of sugar and produce the standard of saccharine required by this law, and frequently the eastern grapes are so high in acid that the wine made from them must be ameliorated with water and sugar and thus rendered ineligible under this fortifying law.

The CHAIRMAN. The law requires the distillery to be at the vineyard, but the law does not prevent the owner of that vineyard from buying other grapes and manufacturing them at that vineyard, does it? I have a vineyard and I have a distillery; I have complied with the law. Now, my vineyard is not sufficiently large to justify me in going to the expense of putting up a distillery, but can I not, as an owner of that vineyard and that distillery, buy grapes from my neighbors and do the distilling, thereby bringing myself within the terms of the law?

Mr. LANNEN. A strict reading of the law would hardly justify that interpretation.

Senator JAMES. Could they not take the alcohol out of a bonded warehouse?

Mr. LANNEN. Yes. Furthermore, the brandy produced from eastern grapes is too high in acid flavor to use in fortifying wines, as I understand it.

The CHAIRMAN. Now is that so? That is a reason, if it is so.

Mr. LANNEN. I will ask some of these gentlemen here who are wine makers. I will ask Mr. Starke.

Mr. STARK. Our brandy is too high in flavor and gives a brandy taste instead of a wine taste.

Mr. LANNEN. Furthermore, as I said before, one part of the law provides that we can not fortify a galled wine. A wine that has any water to it can not be fortified.

Senator STONE. How much tax can your wine stand?

Mr. LANNEN. That I do not know.

Senator STONE. You say 25 cents a gallon is too much. Could it stand 15 cents a gallon?

Mr. LANNEN. Every 15 cents would be 15 cents on us.

Senator THOMAS. If you fortify your spurious wines with neutral alcohol, you do not pay 25 cents under the bill as it is drawn, do you?

Mr. LANNEN. Yes; that is the point I am making.

Senator THOMAS. The bill provides that—

upon all wines or liquors known or denominated as wines (other than distilled spirits) not made exclusively from fresh grapes, berries, or fruit, and upon all wines to which have been added spirits distilled from any material other than grapes, berries, or

fruits exclusively, except pure neutral alcohol, there shall be levied, collected, and paid before removal from the place of manufacture, a tax of 25 cents on each and every wine gallon, etc.

Now, suppose you fortify your wines with neutral alcohol, do you pay any tax at all?

Mr. LANNEN. I do not construe it that way. As an attorney I could not agree with that construction. California wanted to compel us to use brandy; so they say, "You can not add for fortifying purposes spirits distilled from any material other than grapes, berries, or fruits exclusively, except pure neutral alcohol. If you use anything else you will have to pay a tax."

Senator JAMES. What else do you wish to use?

Mr. LANNEN. We do not wish to use anything else. It is a fact that we have to add water and sugar to our wines here in the East.

Senator THOMAS. You mean to your pure wines?

Mr. LANNEN. Yes; to our pure wines.

Senator JAMES. You stated a moment ago that a man who owned a vineyard and did not own a distillery could not go to a bonded warehouse to fortify his wines. Were you not mistaken about that?

Senator SMITH. He said he could, but that he would have to pay a tax.

Senator JAMES. But I mean without paying a tax on it.

Mr. LANNEN. I do not construe it that way.

Senator JAMES. Here is the law:

That under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wine as defined by this act may withdraw wine spirits from any special bonded warehouse free of tax, in original packages, in any quantity, not less than 80 wine gallons, and may use so much of the same as may be required by him, under such regulation, and after the filing of such notices and bonds, and the keeping of such records, and the rendition of such reports as to materials and products and the distribution of the same as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the pure sweet wines made by him, and for no other purpose.

Mr. LANNEN. Now, Senator, a law must be read altogether.

Senator THOMAS. It seems to me that this is a matter of too great importance to be confined within the limits of an hour's discussion, and I would suggest that these gentlemen who are now presenting their views to the committee be given all of this morning, and that we meet again to-morrow morning at 10 o'clock and give the gentlemen on the other side from 10 until 11 o'clock to present their views.

The CHAIRMAN. If there is no objection on the part of the committee, that will be done.

Senator SMITH. Mr. Lannen, is it your point that you have to put in sugar and water, and the effect of putting that in takes away from you the privilege of withdrawing the alcohol from the bonded warehouses free of charge?

Mr. LANNEN. That is one point.

Mr. TARPEY. We are under the same obligation, Senator Smith.

Senator SMITH. I was not referring to California; I was asking particularly with regard to the East.

Senator WILLIAMS. What you want to do is to take in the must, the hulls, and add water and sugar and alcohol and then sell the material that is left as wine?

Mr. LANNEN. I say that our people have abandoned that practice entirely. In the first place, it has been misrepresented to you gentlemen down here as to what pomace wine is.

In order to clear up this situation, we have appeared here before your committee and are offering an amendment which would absolutely prohibit the manufacture of that wine.

The CHAIRMAN. The manufacture of pomace wine?

Mr. LANNEN. Yes; the manufacture of pomace wine.

The CHAIRMAN. That is the only wine in which they put these chemicals, is it?

Mr. LANNEN. Yes. Therefore that eliminates coloring matter and chemicals and leaves us only what we absolutely have to have.

Senator WILLIAMS. I did not ask you about that. I asked you if what you wanted to do was to take the must, the hulls, and add water and sugar and alcohol and make out of it something you call wine and sell it as such, without any coloring matter or chemicals?

Mr. LANNEN. Do you mean that the juice that has been pressed out of the hull at that time?

Senator WILLIAMS. Most of it; yes. And let it soak in the water and sugar and alcohol and then sell it as wine?

Mr. LANNEN. That is just what we do not want to do, Senator. That is pomace wine.

Senator SMITH. You want an amendment that will allow you, to the normal juice, to add water and sugar, and get the alcohol you need free?

Mr. LANNEN. To get the alcohol we want free.

Senator SMITH. From the bonded warehouses without paying a tax on it?

Mr. LANNEN. We want that if California is given free brandy. That would place the East on a par with the West.

The CHAIRMAN. But if California is not given free brandy, you do not ask that?

Senator SMITH. Then you want to pay for all your alcohol that you use?

Mr. LANNEN. We want to pay for it, and we ask you to be as reasonable as you can with it.

Senator JAMES. Have you ever read this section 45 of the internal-revenue law?

Mr. LANNEN. I have. I was just going to say that section 42 of the law states that any producer of pure sweet wines, who is also a distiller, authorized to separate from fermented grape juice, under internal-revenue laws wine spirits, may use, free of tax, in the preparation of such sweet wines, under such regulations and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, so much of such wine spirits so separated by him as may be necessary to fortify the wine for the preservation of the saccharin matter contained therein. The effect of it is that he may use wine spirits free of brandy to fortify his own wines. That paragraph that you read said that he might withdraw a certain amount of that brandy, but I say that that means that the man who puts it in there may withdraw it, and it must be read in

connection with section 42, which says that he must produce his own brandy.

Senator JAMES. I do not see how you can place that construction upon it, when it says that he may withdraw wines and spirits from any bonded warehouse free of tax.

Senator WILLIAMS. I want to call your attention to this proviso here in the pending bill. I understand the complaint to be that you can not add water. Here is the proviso:

Provided, That the tax herein imposed shall not be held to apply to pure sweet wine made exclusively from fresh grapes, berries, or fruits, and upon all wines to which have been added before or during fermentation sugar, pure boiled or condensed grape must, or water not exceeding in either case 20 per cent of the weight of such wine.

Mr. LANNEN. Senator Williams, we have to add sugar and water to our dry wines in the East, and we make more dry wines than sweet wines. As I said before, that proviso relates entirely to sweet wines. How can we make dry wines? We could not add a drop of water to a dry wine in the East without paying the tax of 25 cents.

Senator SMITH. The bulk of your manufacture is dry wine?

Mr. LANNEN. Yes; the bulk of it is dry wine.

Senator HUGHES. You want to be permitted to do with dry wine what this permits you to do with sweet wine?

Mr. LANNEN. The same thing.

Senator WILLIAMS. What do you mean by dry wine—a sour wine that has not been artificially sweetened?

Mr. LANNEN. Yes, sir.

Senator WILLIAMS. This merely relates to the sweet wines. The reason why you are allowed to use the water with the sweet wine is because you use the sugar. If there is any prohibition against your using water in connection with the dry wine, I would like you to call attention to it.

Mr. LANNEN (roading):

That upon all wines or liquors known or denominated as wine (other than distilled spirits) not made exclusively from fresh grapes, berries, or fruit, and upon all wines to which have been added spirits distilled from any material other than grapes, berries, or fruits exclusively, except pure neutral alcohol, there shall be levied, collected, and paid before removal from the place of manufacture a tax of 25 cents on each and every wine gallon.

Senator WILLIAMS. That applies only to wines that are not made from fresh berries or fruit. What do you want to make wine out of?

Mr. LANNEN. We have to put in water and sugar.

Senator WILLIAMS. This says that upon all wines not made exclusively from these grapes and fruits there shall be provided this tax, provided, however, that you may add water and sugar to the sweet wines.

Senator SMITH. He wants to add water and sugar for a dry wine, too.

Mr. LANNEN. Furthermore, in the East here, in making our dry wine, we have to make a merchantable dry wine first, and then it takes about 10 per cent of sugar to sweeten it. Therefore you see that, while this appears to be 20 per cent here, even though it applies to all wines, dry and sweet, it allows us only 10 per cent of sugar and water for purposes of perfecting our dry wine. That is not enough. It might be enough in some years, but not enough in other years. Therefore we simply ask that your committee allow us to reduce the

acid down to that point where the wine will not be too sour—that is, five parts per thousand—and permit us to add enough sugar to make the alcohol content up to such a point that the wine will not ferment and go into vinegar. In some years we have to add more than others. I do not think that I could give you a limit for it. The point is that we add enough to make a merchantable wine out of it. There is no use in giving us any permission unless you give us that permission. If you say that we can add some sugar and water and that is not enough to make a merchantable wine, we might as well not have any permission at all. You can ask any of these wine makers here from the East if it is not true that that condition exists. Mr. Garrett is the largest maker of Scuppernong wine in this country. You have to add sugar and water, do you not, Mr. Garrett?

Mr. GARRETT. Yes, sir; in some years.

Senator WILLIAMS. Do you have to add over 10 per cent?

Mr. GARRETT. In some years; yes, sir.

Senator WILLIAMS. I have found the trouble with Scuppernong wine to be that the juice was too sweet. Instead of needing sugar, I think it needs something to reduce the sugar content.

Mr. GARRETT. The Scuppernong grape will run from 8 to 9 per mill acid in the average years. The wine exceeds 7 per mill acid. When it exceeds 7 per mill we have to add sugar to cover up, to some extent, the excess acid.

Mr. LANNEN. This is what we suggest: On page 71, line 18, after the word "wine," insert the following:

And provided further, That the tax here imposed shall not be held to apply to a dry wine made by fermentation of crushed grapes, berries, or fruit or juice of the same.

Wines are sometimes made by pressing out the juice of the grapes and fermenting that, and sometimes the grapes are put in the vats whole.

The CHAIRMAN. If that were adopted, then the tax of 25 cents that we have imposed would apply to what?

Mr. LANNEN. To spurious wine.

The CHAIRMAN. Nothing but spurious wines?

Mr. LANNEN. To nothing but spurious wines.

And provided further, That the tax herein imposed shall not be held to apply to a dry wine made by fermentation of crushed grapes, berries, or fruit or juice of the same under proper cellar treatment and corrected by the addition of a solution of refined cane, beet, or dextrose sugar to the crushed grapes, berries, fruits, or juice of the same before or during fermentation, so that the resultant product does not contain less than five parts per thousand acid and not more than 13 per cent of alcohol by volume after fermentation: *Provided,* That grape juice from which such a dry wine is made shall show a reading of not less than 10 on Balling's saccharometer at a temperature of 60° F. before such sugar solution is added as aforesaid.

That is to prevent green grapes from being used. A reading of 10° shows that the grapes contain a certain amount of sugar, so that green grapes can not be used. Ripe grapes must be used. If green grapes were used, there would be more acid. So we are compelling the wine makers to use ripe grapes.

Nor shall said tax apply to a dry wine made as stated in this proviso and sweetened with sugar which does not increase the volume of the wine more than 15 per cent and fortified so that the total alcoholic content of such wine does not exceed 24 per cent of alcohol by volume, and such wine shall be regarded as a pure sweet wine within the meaning of this act. Wines not taxable under this act may be blended without the blend being subject to the tax provided for in the act.

Now you will see that in adding the sugar and water we simply ask that we be permitted to add enough water to reduce the acid to not less than five parts per thousand. Therefore you can not cut your acid down more than that. That controls the addition of water. Suppose we have 18 per cent of sugar. We know that that grape juice would produce only 9 per cent of alcohol by the fermentation, and we add enough sugar so that the alcohol in the wine would be about 11 or 12 per cent; not enough sugar to produce more than 13 per cent; but 9 per cent of alcohol is not enough to keep the wine. That is all we are asking you for, and then we say that, having made our dry wine, we should be permitted to add a sufficient amount of sugar to sweeten that dry wine and make a sweet wine out of it. I say 15 per cent here for the reason that a great many of our eastern wine makers make blackberry wine, and while the grape wine may be sweetened with 10 per cent of sugar, the same is not true of the blackberry wine. I understand from those who make the blackberry wine that they require at least 15 per cent of sugar to sweeten it.

Senator STONE. Have you stated this morning any reason why you can not pay this tax of 25 cents per gallon and do business?

Mr. LANNEN. I had not considered that feature of the matter, Senator. I have considered the feature that under this law we were compelled to pay 25 cents per gallon on our wine, while California was not compelled to pay that amount. I am not prepared to answer your question other than by saying it is a burden on business.

Senator WILLIAMS. Do you mean that under the pending bill California would not be compelled to pay this tax on the grape brandy that she uses?

Senator SMITH. But he says she would not have to pay 25 cents per gallon on the wine, while the people he represents would pay not only for the alcohol, but 25 cents per gallon on the wine, and California would simply pay on her brandy and not on the wine.

Senator STONE. What is the average price of these eastern wines?

Mr. STARKE. Eighteen and a half cents to 75 cents.

Senator WILLIAMS. If California did make the same sort of wine you are talking about, she would have to pay the 25 cents, would she not?

Mr. LANNEN. Yes, sir; but her natural conditions are such that she does not have to make that kind of wine.

Senator SMITH. You say that her natural conditions are such that she does not have to make that wine, and there is nothing about your wine more than any other wine that should subject it to 25 cents a gallon?

Mr. LANNEN. Not a bit. Our wines are more truly wines after adding sugar and water to them than any wines produced in this country. Our grape juices here, even after they have sugar added to them, and after they are cut down with water, are more truly grape juices and taste more of grapes than those produced anywhere else.

Senator STONE. What is the average price of Ohio wines per gallon?

Mr. LANNEN. Dry wine or sweet wine?

Senator STONE. Well, both.

Mr. LANNEN. Mr. Reinhart, will you say what the average price is of dry wine?

Mr. REINHART. A dry wine, that is what we call wine under the specifications considered here, not to be below 5 per mill acid, would be 32½ cents to 75 cents, if sold as soon as bottle ripe.

Senator SMITH. A gallon?

Mr. REINHART. A gallon. That is, if it is sold when it is bottle ripe. If it is carried, the first year it makes a difference of about 20 per cent, and then the price goes on up.

Senator STONE. What about the sweet wines?

Mr. REINHART. If you have to pay \$1.10 for brandy, the sweet wines made under this act would be higher. If you wanted to sweeten a 32½-cent wine, you would add the sugar and wine spirits which you would use in fortifying it.

Senator STONE. Can you not state a figure that would be an average selling price?

Mr. REINHART. An average selling price would be probably 60 cents.

Mr. LANNEN. What has been the price of your sweet wines?

Mr. REINHART. They sell at various prices, but as high as a dollar.

Senator STONE. Can you tell me anything about the price per gallon of the competing wines made in California?

Mr. REINHART. In February the California port, with 20 per cent alcohol, sold at 12½ cents per gallon, and Angelica and Muscatel were sold at 18 cents to 20 cents.

Senator THOMAS. In San Francisco or in the East?

Mr. REINHART. That is in San Francisco, and you would have to add 7½ cents freight and the price of cratage.

Mr. LANNEN. That contained 20 or 22 per cent of alcohol, while our wine never contained near as much.

The CHAIRMAN. As you gentlemen who have spoken this afternoon have not had quite an hour, you may have 5 or 10 minutes more to-morrow morning. We will give you that additional time in order to equalize the amount of time between the two sides.

Mr. LANNEN. We would like to have it.

The CHAIRMAN. The committee will then adjourn until 10 o'clock to-morrow morning.

(Thereupon, at 11 o'clock a. m., the committee adjourned until 10 o'clock a. m., Saturday, August 16, 1913.)

SATURDAY, AUGUST 16, 1913.

UNITED STATES SENATE,
COMMITTEE ON FINANCE.

The committee met at 10 o'clock a. m.

Present: Senators Simmons (chairman), Smith, Thomas, Hughes, and James.

There were also present: Senator Atlee Pomerene, of Ohio; Hon. James C. Needham, of California; Hon. Royal E. Cabell, Richmond, Va.; Mr. Louis S. Wetmore, Stockton, Cal.; Mr. Paul Garrett, Norfolk, Va.; Mr. Isadore Bear, Wilmington, N. C.; Mr. O. C. Stark, St. Louis, Mo.; Mr. Thomas E. Bannon, Chicago, Ill.; Mr. W. H. Reinhart, Mr. John G. Dorn, and Mr. A. Royer, of Sandusky, Ohio; Mr. J. J. Schuster, Cleveland, Ohio; Mr. A. C. Krudwig, Sandusky, Ohio;

Mr. William Culnan, New York City; Mr. L. W. Southwick, New York City; Mr. J. A. Barlotti, Los Angeles, Cal.; Mr. Louis Landsberger, San Francisco, Cal.; Mr. Theodore A. Bell, San Francisco, Cal.; Mr. M. F. Tarpey, Fresno, Cal.; Mr. W. R. Porter, of California; and Walter E. Hildreth, of New York.

STATEMENT OF MR. THOMAS E. LANNEN, OF CHICAGO, ILL.—Continued.

Mr. LANNEN. Mr. Chairman, in order to place this matter before you in a concrete form, I will just read this statement which I have prepared and which will take me only a few minutes.

Our position on the bill is as follows:

In reference to paragraph 2544, lines 3 to 25, inclusive, where you propose to put a tax of \$1.10 on each proof gallon of wine spirits, grape brandy, or neutral alcohol used for fortifying sweet wines, we have no recommendations to offer, except that you be as lenient as possible regarding the amount of the tax.

Page 71, lines 1 to 13, inclusive, in which you propose to place a tax of 25 cents a gallon on spurious wines, we are heartily in favor of taxing spurious wines. But this part of the paragraph should be so amended as not to include standard commercial wines made east of the Rocky Mountains. As the paragraph in these lines particularly states that wine should be made exclusively from fresh grapes, berries, etc.—

The CHAIRMAN. We can not in a tariff bill say "Wines made in a particular section of the country." You will have to find some other way of differentiating. See if you can not frame some provision that would carry out your thought without undertaking to apply one law to one section of the country and a different law to other sections.

Senator THOMAS. I do not understand that you want that section in the statute, but that you want a law that will operate impartially throughout the country.

Mr. LANNEN (reading):

As the paragraph in these lines particularly states that wine should be made exclusively from fresh grapes, berries, etc., and as our wines contain an addition of water added to ameliorate the excessive acidity, but which does not reduce the acid below five parts in a thousand, and have an addition of sugar to produce alcohol not to exceed 13 per cent in the finished product, this paragraph on spurious wines would tax not only spurious wines, but also our standard commercial wines. Hence the amendment which we offered yesterday, in which all we ask for is to be allowed to add water to reduce the natural acidity in the grape juice down to not less than five parts in a thousand and add sugar enough to produce alcohol, not to exceed 13 per cent in the finished dry wine. This will standardize the eastern wines for all years, favorable years as well as unfavorable ones. This is a safer standard than to limit the amount of sugar and water to a certain per cent, because our standard would limit the amount of water and sugar in favorable years, when the acidity is low and the natural sugar high, to the amount actually necessary, and in all years would limit the amount of water and sugar to actual necessity.

Water is added to our wines to reduce the excessive acid and sugar is added for the purpose of making up the deficiency in natural sugar contained in the grapes, as the amount of natural sugar contained in the grapes is generally deficient. This amount of sugar and water does not lower the quality of our wines, but, on the contrary, improves them, because our grapes have an abundance of flavor and character.

The sugar added for making dry wines produces only a small amount of the total alcohol in the finished dry wine, and the total amount of alcohol created by both the natural sugar and added sugar never exceeds 13 per cent in dry wine, which is the maximum of alcohol ever contained in our standard dry wines.

SWEET WINES.

Our sweet wines are made from our standard dry wines by simply adding sugar to the standard dry wines not to exceed 15 per cent by volume. This sugar is added for sweetening purposes only. Ten per cent of sugar for sweetening purposes is

sufficient in most instances, except for the Scuppernon wine and blackberry wine of North Carolina and Virginia, which requires 15 per cent by volume. Our sweet wine, after having the sugar added to it for sweetening purposes, is then fortified with wine spirits, grape brandy, or neutral alcohol, and after clarification is a standard sweet wine. Our sweet wines are made as occasion demands during the year from such dry wines as we have on hand.

By inserting in our amendment that the grape juice must show a reading of not less than 10 on Balling's saccharometer we guard against the use of unripe grapes, which have an excessive acidity, thus throwing every possible safeguard around the standard proposed, so that only that amount of sugar and water actually necessary may be used.

Only under the standard we have asked for can we produce merchantable wines in the Eastern States.

We have one member here from Missouri who would like to say just a word to the committee.

The CHAIRMAN. We have not much time to give you now. I would like to ask the gentlemen representing the other side if they would have any objection to our giving five minutes to the Missouri member, and if that would leave the other side sufficient time within which to present their views? As there seems to be no objection, the gentleman from Missouri may now proceed.

STATEMENT OF MR. O. G. STARK, OF ST. LOUIS, MO., REPRESENTING THE MISSOURI WINE INDUSTRY.

Mr. STARK. Referring to bill H. R. 3321, paragraph 254½, I beg leave to submit the following requests for your kind consideration:

When the sweet-wine law of 1890 was enacted, it was so worded by its sponsors, the Californians, as to bar us in Missouri and the East from its privileges. They built a fence around it and locked us out. It expressly forbids the use of spirits free of tax for fortifying sweet wines such as we are compelled to make under our climatic conditions.

We make only dry or commonly called sour wines during vintage season. We add sugar and water to the crushed grapes, including all the juice thereof, and we add enough to reduce the fruit acid to 5 or 6 per mill and to fix the alcoholic strength at 11 to 12½ per cent. Later in the season when this dry wine is sound and ripe, then we make sweet wine out of it by sweetening it with sugar and preserving it with spirits. We can not make wines any different in Missouri nor in the East.

We want our wines recognized and we object to having same classed as spurious. We are satisfied to have spurious wines taxed out of existence.

We claim that other good wines, such as we make, or any good wine made anywhere in the United States, can not stand any taxing whatsoever.

We believe that a small tax on any spirits will not be a hardship if same are used for fortifying.

We want to be enabled by law to use fortifying spirits in our class of sweet wines on the same basis as Californians do, no matter what the tax on it may be.

If we are burdened with a tax on our pure dry and sweet wines, such as we are obliged to make, and the Californians are not taxed likewise, then they will crowd us out of the market and we will all be out of business in a very short time.

Bona fide sweet-wine makers should be permitted to buy and use other distillers' brandies and spirits for fortifying their sweet wines, but we do not want to be limited to buy only California brandy spirits and be put at their mercy to sell us or not sell us and to charge us what they please.

Senator THOMAS. You have been making wines in Missouri since 1890, have you not?

Mr. STARK. Since 1847.

Senator THOMAS. How is it that the law that has been in force since that time has not crowded you out?

Mr. STARK. We are doing very little in sweet wines just for that reason. We are using tax-paid brandies and making a little sweet wine, but we have to sell it at a big price to people who like the particular taste of Missouri wine. We can not compete with California sweet wines at all.

The CHAIRMAN. Is it not a matter of fact that in the East—and by that you mean all that Missouri central west country, do you not?

Mr. STARK. Yes, sir; everything east of the Rocky Mountains.

The CHAIRMAN. In the East is this brandy made under conditions that allow you to use it free of tax in the fortification of your wines? Is it made at all?

Mr. STARK. We can make brandy.

The CHAIRMAN. I know that; but do you make it under conditions that allow you, under the law, to use it free of tax?

Mr. STARK. No, sir. No matter where it is made, or by whom it is made, we can not use it, because our wines are sweetened.

The CHAIRMAN. I understand that; but the question I am asking you is whether or not, as a matter of fact, to any extent whatsoever, and if so to what extent, this brandy is made in the East under conditions that allow you to use it in fortifying your wines?

Mr. STARK. We are allowed to use it, but we have to pay a tax on it of \$1.10.

The CHAIRMAN. Yes; I understand that; but if it is made in compliance with this law you can use it without paying the tax?

Mr. STARK. No; we can not. We surely would if we could.

The CHAIRMAN. You do not do it, and that is sufficient evidence that you can not do it under the law in that section?

Mr. STARK. Yes, sir.

The CHAIRMAN. Mr. Garrett asked me if he could be heard for five minutes. I do not know which side he is connected with, and I would like to know if there is any objection to his having five minutes?

Mr. GARRETT. I want only a minute or so to introduce a brief.

Mr. TARPEY. As long as we have time to present our case, we do not object.

Senator THOMAS. You have until 11 o'clock, but no longer.

Mr. GARRETT. I simply want the privilege of introducing my brief.

The CHAIRMAN. All right, it will be printed in the hearings.

The brief referred to reads as follows:

IN RE PROPOSED TAX ON SPIRITS USED IN SWEET WINES.

To the honorable Finance Committee, United States Senate:

Since the wonderful development of the grape industry in California between 1880 and 1890, there has been waged an unfortunate controversy as to the comparative merits of the methods of wine making in the East and West, which has found its culmination in a proposal to tax the spirits used in preserving sweet wines.

The eastern practice since the earliest times has been and is to ferment the grape sugar into spirits and sweeten with refined sugar, as against the California method of preserving the grape sugar with spirits, or fermentation, versus preservation.

With familiarity with both situations acquired by 35 years of participation in both sections as wine merchant and producer, I beg, in behalf of the grape growers and wine makers, considerate treatment at the hands of your honorable committee and of Congress.

We eliminate from the discussion what are known as pomace wines; that is, wines made by the addition of sugar and water to more or less dried grape skins. All are agreed that this line of work should be eliminated and, as I understand it, pomace wines are eliminated.

Taking up some of the conditions confronting eastern wine makers, we find that the grapes adapted to the soil and climate are native to America, there being no wholly successful attempt to cultivate, for commercial purposes, European grapes in the East. We have the Catawba, Concord, Delaware, Nortons, Scuppernong, Flowers, and an infinite variety of others, many of them with distinct characteristics.

Dealing in generalities, the characteristics of eastern grapes, as compared with European varieties, growing in California, are light in percentages of sugar, high per cent of acid, and pronounced flavors and aromas, which in some subtle way seem to be identified with the acids.

It is well enough to say that "wine is fermented grape juice exclusively." Few wines in this country or abroad come under this classification. Additions, modifications, and other manipulations under the general term "cellar treatment" are practiced everywhere. Just where these corrections are legitimate and fair to start or stop is hard to define on any "two and two is four" rule; for certainly, if it should be determined that "wine is fermented grape juice exclusively," it does not follow that all fermented grape juice is good wine, nor does it condemn entirely wines preserved by the addition of spirits.

This controversy has centered about the correction of acids by the addition of sugar and water. In a wine containing excess of natural acids, there are several ways in which the fault may be corrected. It can be chilled—precipitated by cold. To utilize the seasons is not always practicable or altogether satisfactory. To chill by artificial refrigeration requires a plant so expensive to construct and operate that it is out of reach of the small producer. Another method of reducing acids is by "plastering"—using marble dust, charcoal, etc.—but this has been so universally condemned as to be unworthy of consideration. It is impracticable, and always forbidden in the ethics of good wine makers. Highly acid wine can be blended with a wine low in acids, provided both wines are otherwise sound, and will blend or "marry," producing a result that is satisfactory in improving the wine. While this method is to be heartily approved if successful, it is not infrequently attended by disappointing results.

Among other recognized methods of reducing acids is adding water or "covering up" the acid with sugar. To make a sweet wine, the last suggestion alone may be sometimes resorted to, as in making blackberry. To add water to blackberry reduces the color, so that it is considered better to cover up the acid by adding greater quantities of sugar, and this is made practicable from the fact that for years consumers have been accustomed to blackberry as a cordial rather than a wine. And, as its use is chiefly medicinal, taken in small quantities and not as a beverage, the excess sugar is not objectionable.

Let us, on the other hand, consider scuppernong. In many seasons the scuppernong will develop 8 (or even 9 in a very bad season) in acid. I am informed that other eastern grapes run even higher in acids in bad seasons, though of this I have no personal knowledge. A wine showing 8 in acid is unpalatable, especially when the flavor of the grape is as pronounced as is the scuppernong. To cloak the acid with sugar calls for more sugar than is palatable or digestible. But you can reduce this excess acid by adding water, each 10 per cent of water reducing the acid about 1 degree. A sweet scuppernong, testing 7 acid, 8 or 9 sugar, and 13 per cent spirit, is a most delectable beverage and highly esteemed. If the acid remains 8, you must cloak it with more sugar, or complaint comes that the wine is "sour." Until restrained by the fortifying regulations to a maximum addition of 10 per cent water, it was customary to reduce the acid $\frac{1}{2}$ or 7 per cent, less sugar being then required to establish a satisfactory equilibrium in the finished wine.

With varying seasons and at different periods of the same season, there is a variation in the per cent of sugar carried in the fresh grape. An essential factor in establishing a trade is to secure uniformity year after year. In a State like California, with much of its large area planted to grapes, many varieties of which blend perfectly, percentages of acids and sugar can be much more easily regulated by blending than in the East, where the varieties of grapes are not so extensive, and where the area available to

draw from is so much smaller. Even if California is available to draw from, the types of wines made there do not always blend harmoniously with eastern wines. Some wines are materially improved by blending the wines from both sections, but there are others, such as the scuppernong, which do not blend successfully with California wine. Are we then to be debarred from utilizing such grapes as the scuppernong, because they will not blend, or are we to be permitted within reasonable limitations to correct excess of acids and supplement deficiency of sugar by adding refined cane sugar (granulated) without the charge of making spurious wine?

Using specific illustration, suppose we have a year in which the sugar in the Catawba grape is 18 and the acid 8. If we make a dry wine from this without corrections, we have a spirit content of 9 per cent, acid 8 per mill. This is not palatable wine to the consumer. It would be a much more desirable wine with 10 per cent spirit and 6 or 6½ acid. Shall we freeze it or "plaster" it or reduce it with water? To get the additional 1 per cent spirit shall we add corn spirit, or grape spirit, or ferment it by adding refined cane sugar, which, during fermentation, is "inverted" and becomes grape sugar, and is then turned into, not rum, but grape spirit through nature's laboratory?

With reference to sweet wines, the practice in the East differs from that in California in this respect: In the East prior to the time of free fortification we fermented everything "dry," converting the grape sugar into spirits, and then sweeten with refined sugar. The contention was that this gave a cleaner, more brilliant, and more easily clarified wine than by the California method of arresting fermentation by the addition of spirits. The fortifying regulations require fermentation arrested while there is still not less than 4 per cent fermentable sugar still in the wine. To make sweet wine the requisite sugar is added to the partially dry (formerly wholly dry) wine to suit the taste of the trade, and to prevent further fermentation, a small percentage of spirits is added. If the wine is intended for bottling, from which the air is excluded until opened for use, a very small percentage of the spirits, not over 2 or 3 per cent, is needed. If the wine is to be shipped in barrels, which may, while being sold, remain for indefinite periods partially filled, and frequently kept in semitropical temperatures, it requires a little more alcohol or spirits to make it safe against spoiling. On the other hand, to clarify many California wines it is frequently necessary to add with the gelatin, etc., a small percentage of tannic acid to make the wines hold clear.

In California (where we now make more wine than in the East) suppose the must shows 26° sugar, Balling scale. This sugar, if fermented entirely, will make 13 per cent spirit; but wishing to retain 6° of the grape sugar in the finished wine we stop fermentation when the scale shows about 12° sugar. At this stage we have fermented 14° of sugar into 7 per cent spirit, and have 12 actual sugar left. If a standard 20 per cent spirits wine is wanted, we add 13 per cent spirit and have a standard 20 by 6 California port. (I have purposely omitted confusing statements as to "apparent" and "actual" sugar.)

Now comes an apparently contradictory condition: Time and again we have tried the California method of producing a sweet wine in the East and the resultant type of wine is so different as to be hardly recognizable. We would have to create an entirely new market for Scuppernong made by the California method of arresting fermentation, and, on the contrary, we have been keenly disappointed in our efforts to make California sweet wines by the eastern plan of fermenting "dry" and sweetening with refined cane sugar. Each method seems best suited to the product of the respective sections. A California muscatel or sherry may show as low as 4 in natural acid and be "standard."

Coming to the question directly at issue, the tax on spirits used in fortifying, to assess a tax of \$1.10 per gallon on the spirits used adds to the cost of production 30 cents (or 150 per cent added cost) per gallon for standard port made by the California method. Can the industry stand such an added burden, especially one which has not paid dividends for seven years past?

The question has been asked, What tax do the wine men recommend? Few industries ask to be taxed, but as a guide we attach to the original copy of this brief a blank form of contract of J. B. Bradford & Co. with grape growers, which form of contract is in general use between grape growers and wine makers, and indicates that a tax in any greater sum than 10 cents per gallon on the spirits will automatically cancel such contracts. These contracts are generally made for periods of 5 to 10 years.

To raise the present tax of 3 cents per gallon to 10 cents per gallon will add approximately 15 per cent to the initial cost of production (20 cents), or about 3 cents per gallon. If a manufacturing enterprise has not earned 20 per cent on its actual investment for several years past how can it stand an added expense to its initial cost of 15 per cent and exist?

Can the tax be passed on to the consumer without materially curtailing consumption? It has been remarked that in the difference between an initial cost of 20 cents for new unfinished wine and a selling price of 75 cents per quart bottle or \$3 per gallon, there seems to be a sufficient margin to stand the proposed tax of 30 cents a gallon.

Very little California wine sells to the consumer for over \$1 per gallon. Add to the first cost of 20 cents the carrying and shrinkage charge of 20 per cent per annum (24 cents), which is not more than sufficient to cover actual expense, and the uniform price to the wholesaler for 1-year-old port of 27½ cents per gallon is not more than a fair profit. The wholesaler pays a cooperage and freight charge of 14 cents, which brings the wine to his door in car lots at 41½ cents. He sells it to the retailer in small lots at 50 to 60 cents, and the major portion is sold by the retailer to the consumer (chiefly foreigners) at from 15 to 25 cents per quart.

Our laws do not permit wines sold even in bottles for home consumption, except in licensed retail liquor stores, whose percentage of profit is necessarily high to cover the license, in addition to rentals and other expenses.

The proportion of California wine sold to the consumer at 75 cents per bottle is negligible, less than 1 per cent. Can 150 per cent be added to our first cost, and our present rate of consumption, now only four-tenths of a gallon per capita (the lowest of any civilized nation), be maintained? Production is already ahead of consumption. It takes from 5 to 10 years to bring a good vineyard into profitable bearing. Shall those vineyards now growing, the sole dependence of their owners, and representing many years of labor and their total investment, be torn out, or encouragement given to plant more?

One other point we wish to touch on: With all respect to the suggestion of bonding the wine for taxes, we do not think the suggestion can be worked out successfully. Wines must be under constant supervision, racking, blending, refilling, so that their identity is constantly being merged with other wines. Failure to do this work punctually is to ruin the quality and destroy all the value. Will any bonding company issue a bond covering such conditions, when the bond is twice the tax (30 cents) and three times (60 cents) the initial cost of the wine itself (20 cents)? The proposition seems to resolve itself into the financial ability to pay the tax promptly, and how such a tax can be financed by any but the biggest organizations, if even by them, seems impossible.

Respectfully submitted.

PAUL GARRETT,
Norfolk, Va.

Concurred in by—

W. E. HILDRETH,

President American Wine Growers Association, Hammondsport, N. Y.

SOL BEAR & Co.,

Wilmington, N. C.

This agreement, made and entered into this _____ day of _____, 191—, between J. B. Bradford & Sons, a copartnership, whose principal place of business is Bruceville, Cal., the first party, and _____, of _____, county of _____, State of California, _____ heirs, successors, or assigns, the second part—,

Witnesseth, that the first party hereby buys and agrees to receive from the second part—, and the second part— hereby sell— and agree— to deliver to the first party, all of the wine grapes produced on the vineyard owned by the second part—, during the seasons of 1912 to _____, both inclusive, the said vineyard being more particularly described as follows, to wit:

Approximately _____ acres, situate _____ in the county of _____, State of California.

Varieties as follows: _____.

The second part— agree— to deliver the said grapes free on board cars at _____ or at any other point equally distant and accessible to the said vineyard, as the first party may direct. Such grapes at the time of delivery to be free from mildew, ripe and sound and in good condition for wine making, and to contain not less than 23 per cent of sugar, Balling scale, at 60° F. temperature.

The first party agrees to pay for all such grapes the sum or price of \$10 per ton, in the following manner: One-half cash, payable as the grapes are delivered, and one-half on the 1st day of April following delivery.

For any of said grapes containing less than 23-per cent of sugar, Balling scale, at 60° F. temperature, proportionate deductions shall be made from said price of \$10 per ton.

All cars for the delivery of grapes to be furnished by the first party, but the first party is not to be held liable for loss or damage to grapes from delays beyond its control in furnishing cars. The first party has the right to limit, by notice in writing to the second part— the amount of grapes to be delivered daily, but shall not limit the second part— to daily deliveries equal to less than $\frac{1}{10}$ of ——— entire crop.

In the event that laws are passed relating to prohibition, which will render the making or marketing of wines in the State of California illegal, this contract may, at the option of the first party, be canceled by it by giving written notice of such cancellation to the second part—.

In the event of fire, earthquake, or other damage occurring at the winery or wineries to which the grapes are being shipped, the first party shall have at least 10 days either to make repairs to such winery or to make other arrangements for crushing such grapes without being held liable for damages to the second part— for not receiving grapes during such 10 days, and the second part— may sell or otherwise dispose of any grapes not so received by the first party.

Should the United States laws be modified so that the tax on the brandy used in fortifying be greater than 10 cents per proof gallon, or should they be otherwise modified so that it would, in the judgment of the first party, materially affect the wine industry, then the first party may, at its option, cancel this contract by giving written notice of such cancellation to the second part—.

The second part— agree— to sell to the first party all Tokay grapes which ——— may grow on ——— vineyard, and may not ship as table grapes, at \$7.50 per ton, delivery and terms as above.

In witness whereof, on the day and year first above written, the parties of this contract have executed the same.

STATE OF CALIFORNIA,
County of ———, ss:

On this ——— day of ———, in the year one thousand nine hundred and ———, before me, ———, a notary public in and for said county, personally appeared ———, known to me to be the ———, and ——— known to me to be the ——— of the ——— that executed the within instrument on behalf of the ——— therein named, and acknowledged to me that such ——— executed the same.

In witness whereof I have hereunto set my hand and affixed my official seal in said county, the day and year in this certificate first above written.

Notary Public in and for the County of ———, State of California.

Witness:

J. B. Bradford & Sons, a copartnership,
By _____
By _____
_____ [SEAL.]
_____ [SEAL.]

The CHAIRMAN. We will now hear from Mr. Hildreth.

STATEMENT OF MR. WALTER E. HILDRETH, OF URBANA, N. Y.

MR. HILDRETH. I am the president of the American Wine Growers' Association and am also president of the Urbana Wine Co., of New York State. I have read Mr. Garrett's brief and am perfectly willing to subscribe to it, but, furthermore, I want to say that if all were honest and sincere in wishing to do away with the pomace wine, and the California people are sincere in regard to allowing us the proper amelioration of our wine, there will be no difficulty. Last spring, with the aid of the Pure Food and Drugs Bureau and the Internal Revenue Bureau, we framed up a bill which is known as House bill 4982, the Underhill bill. This Underhill bill does not include the tax. It left the old sweet wine bill just as it was. But if there is any disposition to tax pomace wine, I think this bill is a proper one to take as a foundation for that tax. The bill was framed after studying the

Australian, Swiss, French, and Italian wine bills. Some of the California people were opposed to it. We afterwards took the matter up and the great mass of the California people joined us in the bill, and a great many of the eastern people also joined us. I think that you will find that this bill will define it as closely as desirable. If it is a question of a tax, if we have to pay it we will agree to pay it.

The CHAIRMAN. We will now hear from the people who are representing the California side.

STATEMENT OF MR. M. F. TARPEY, OF FRESNO, CAL.

Mr. TARPEY. Mr. Chairman and gentlemen, the gentleman who presented the case on the part of the eastern wine growers yesterday told you whom he represented, etc. I come here in representation of the grape growers in California in distinction from the wine makers. I live in the central part of the State of California and in the center of the sweet-wine-growing district of that State. I listened with some satisfaction to the eulogies the gentleman paid to the indigenous grape of the country, the wild grape of the United States, and the aspersion which it more or less conveyed of that vagrant grape from Europe which we have succeeded in domesticating in California, and which has been the admitted wine-producing grape of the world for centuries.

I do not believe there is any idea lingering in the minds of the gentlemen of this committee that California has had any advantage over any other portion of the United States in relation to the wine bills of the past, with the exception of the advantage that God gave it in climate, soil, latitude, etc.

When the wine bill of 1890 was passed it was the first pure-food enactment of this Government. The pure-food enactments have taken the attention of the people of the United States, and I doubt to-day if the gentlemen of this committee, or any lawmakers in this country, are disposed to contravene the laws that have already been passed, but, on the contrary, they are disposed to make more specific and impose more drastic provisions upon persons who make what we call spurious articles of food.

Senator SMITH. Does the law require them to be labeled to show that they are artificially made and spurious?

Mr. TARPEY. The law of 1890 does not, but I hold in my hand a decision rendered by Dr. Wiley, F. L. Dunlap, and George B. McCabe, of the Board of Food and Drug Inspection, which was approved by Mr. W. M. Hays, Acting Secretary of Agriculture. It is dated Washington, D. C., August 21, 1909, and is entitled "Food Inspection Decision 109. The Labeling of Wines."

(The decision referred to reads as follows:)

On June 30, 1909, a hearing was held before the Secretary of Agriculture and the Board of Food and Drug Inspection on the labeling of Ohio and Missouri wines. After giving full consideration to the data submitted, the board is of the opinion that the term "wine" without modification is an appropriate name solely for the product made from the normal alcoholic fermentation of the juice of sound ripe grapes, without addition or abstraction, either prior or subsequent to fermentation, except as such may occur in the usual cellar treatment for clarifying and aging. The addition of water or sugar, or both, to the must prior to fermentation is considered improper.

and a product so treated should not be called "wine" without further characterizing it. A fermented beverage prepared from grape must by addition of sugar would properly be called a "sugar wine," or the product may be labeled in such a fashion as to clearly indicate that it is not made from the untreated grape must, but with the addition of sugar. The consumer is, under the food and drugs act, entitled to know the character of the product he buys.

Senator SMITH. You do not contend that the addition of water and sugar makes it a drug wine?

Mr. TARPEY. We say that it is not entitled to the name of wine as expressed in the rulings of the Department of Agriculture; that it ought to be specified what kind of wine it is.

Senator SMITH. Have they not made wines that they put real drugs in?

Mr. TARPEY. Yes; all kinds of wines have been made. We of California who are grape growers are particularly interested in having wine made from grapes. Our people have been following that industry for years. The gentleman who previously spoke said that they have been 50 or 60 years engaged in that enterprise. It is only necessary to recall to the minds of you gentlemen that since the time of the advent of the missionaries, 200 years ago, they have been growing grapes in California. We have the wild grape in California as well as they have in this part of the country, and the missionaries found, before our time, that good wine could not be made from it. They sent abroad, and went to tremendous labor in time and great expense, and eventually they found grapevines that were proper for producing sound wine in California. They domesticated those vines in California, and they have been there from that day to this. We do not pretend to make any use of the wild grapes for wine making.

The decision to which I previously referred continues as follows:

Evidence was offered on the preparation of "wine" from the marc. In these cases it appeared customary to add both water and sugar to the marc and sometimes to use saccharin, coloring matter, preservatives, etc., to make a salable article.

In the opinion of the board no beverage can be made from the marc of grapes which is entitled to be called "wine," however further characterized, unless it be by the word "imitation." The words "pomace wine" are not satisfactory, since the product is not a wine in any sense, but only an "imitation wine," and should be so labeled.

Senator SMITH. Was not that order or decision set aside by another order that allowed them to be simply called Ohio wines and Missouri wines?

Mr. TARPEY. In what is known as the circular of the three Secretaries—the Secretary of Agriculture, the Secretary of Commerce and Labor, and the Secretary of the Treasury—a ruling was made which we hold and contend was absolutely in contravention of the pure-food act, and we are going to take up that matter before the department here before we leave and request a rehearing, with the expectation of having a decision that will comply with the pure-food regulations as they are written into the statute.

I do not think that we of California have any excuse to make to the gentlemen of the East because we produce a better grade than they do. As Senator Smith very justly said yesterday, when Mr. Lannon was speaking, "that was a natural, God-given benefit, which you do not want to take away from them, do you"? And I thought it was extremely pertinent and to the point. Our method of making wine differs somewhat from theirs, as I will explain to you as briefly as possible. They tell you that their grapes in the first instance do

not contain sufficient sugar to enable them to make any wine, dry or sweet, and when they crush their grapes, in order to ferment them at all, they are obliged to add sugar immediately to the must. That is No. 1. Now, you gentlemen will take into consideration that every unit of sugar means a half unit of alcohol, and every unit of sugar they use means a half unit of alcohol they are using, and they have been paying no tax upon it. They then ferment down the solution of grape juice and sugar.

In his opening statement yesterday the gentleman from Chicago stated—I am going to use his language, because I can not as graphically describe it as he did himself—“In order to explain the amendment, which we suggest to the committee, to the law in question, I want to say that wines to suit the American trade can not be too sour. They can not, in fact, be too sour anywhere.” Now, they say, “Our wines, even after the introduction of the sugar, are too high in acid, and we must add water in order to reduce the acid contents,” and so they then add water.

Senator HUGHES. He meant they must not be too sour, not that they could not be too sour. The impression that he made on me was that the wine must not be too sour.

Mr. TARPEY. Of course it must not be too sour. It can not be too sour or it will not be potable.

Senator HUGHES. I did not understand the gentleman to state that the wine could not be too sour. He said that it must not be too sour or it would not suit the trade.

Mr. TARPEY. Perhaps I took the wrong view of it. In any event, they always have the sugar barrel at one side of the vat and they have the hose at the other side of the vat.

Senator SMITH. That does not make an impure wine. It does not make a wine that hurts the system if you drink it. It may not make as good a wine as you make, but it is not anything that the law ought to stop if the people like part water, part sugar, and part grape juice.

Mr. TARPEY. Dr. Wiley has expressed himself upon that subject, and I presume he receives credit from the people of America for his talents and capacity to decide such questions as that, and he holds the view that they are unwholesome and injurious.

The CHAIRMAN. That putting water in the wine makes it unwholesome?

Mr. TARPEY. Yes, sir; and injurious.

Senator SMITH. Some people think if you do not have anything but the water and the sugar in it, it would be more wholesome.

Mr. TARPEY. In any event, they now have that so-called wine, as I have just described it, and they are fermenting it. By the way, they get this alcohol into the wine through that sugar. I want to impress that upon you gentlemen. The manner in which that alcohol is in that wine after it is fermented is through the sugar that they have put in it having undergone fermentation. The sugar thus is converted into alcohol, and they say we now have a dry wine with 13 per cent of alcohol. We have reached that stage and then there is a landing. Then they say they desire to turn that dry wine into sweet wine, and in order to turn it into sweet wine they again use further sugar to bring it up to a condition which will meet the taste of the consumer as to sweetness.

The CHAIRMAN. Before that sugar was put in, how much alcohol was there in the grapes?

Mr. TARPEY. If the gentlemen from Ohio will tell us what their grape contains in saccharine when they crush it, we can immediately determine that. I think their grapes contain 14 per cent sugar at the time of crushing, do they not, gentlemen?

(Addressing the gentlemen from Ohio; there was no reply.)

Mr. TARPEY. I think we are entitled to an answer.

Mr. LANNEN. Twenty per cent; that is the maximum.

Mr. TARPEY. Here they say 20 per cent. When they are talking to us they say about 12 per cent, and that they require from 20 to 40 per cent more sugar for the purpose of amelioration to provide for the lack of sugar in their grapes.

Senator HUGHES. Is the sugar content the only thing that contains alcohol?

Mr. TARPEY. Yes, sir. Supposing they had 20 per cent sugar in the grapes, they could produce at the outside but 10 per cent alcohol by fermentation, so at the very lowest estimate—and I think the gentlemen are giving themselves fully as good a reputation for their grapes as they can—when they say 20 per cent, I have very serious doubt; but that does not concern any of us here at present. They have certainly added to it at the very least 3 per cent alcohol on which they have been paying no tax. We think they have been adding 5 to 7 per cent alcohol, but they have certainly added 3 per cent, according to their own admission.

The CHAIRMAN. By the use of sugar?

Mr. TARPEY. By the use of sugar. They are paying no tax upon that. As I said before, we are at the landing, and we desire to change this dry wine—

The CHAIRMAN. But you would not then contend that alcohol was subject to any tax under any law in the world?

Mr. TARPEY. We are not permitted to put one pound of sugar in ours unless we turn it into a commercial product and pay a tax.

Senator SMITH. Any act that we adopt with reference to sugar would apply to you just as much as it would to them, and you would have the same right as to sugar and water that they would have, but you do not need as much. You have a grape that does not require anything like as much sugar.

Mr. TARPEY. I do not know whether we quite understand it alike. For instance, if we put sugar or water into our wines through the hose, or in any other way—any kind of sugar—we can use it only for distilling purposes; for the purpose of making wine. When we add water to our grape juice for further fermentation—we never to my knowledge add sugar—the material produced therefrom can only be used for distillation. The Government official is standing there. He is in charge all the time. We have not had a word with the Government officials in years while this matter has been under Government control, and while it is under Government control we have no annoyance or bother whatever. Everybody is made to respect the laws, and that is what we desire. As grape growers we do not want any man conducting a winery anywhere to be able to do things outside of that law, because if he does he disturbs the whole foundation of the business.

They say that they then take that wine and sweeten it. They sweeten it up to so much per cent, whatever per cent it is, and they

want now to make this 13 per cent of dry wine into sweet wine. They want to add additional sugar enough to make that sweet wine so that it will become palatable and the people can use it. When they do that—that is, again add sugar—they are again adding brandy, and every pound of sugar that is used in making wine should just as well pay a brandy tax as every unit of brandy, because every unit of sugar will make a half unit of brandy, and sugar ought to pay accordingly.

Senator SMITH. It is your contention that the alcohol in the wine is produced artificially by the use of outside products?

Mr. TARPEY. Yes, sir. They say that we of California have an advantage. The chairman of the committee very properly said yesterday that the committee could not make laws to meet the demands of the people east of the Rocky Mountains alone; that the committee is making laws for the Nation; that the laws under which we are all now working were made for the Nation.

Senator SMITH. But in making them we ought to make them for the whole country?

Mr. TARPEY. Yes, sir.

Senator THOMAS. You are stating that as a theory. In the past it has often been observed as much in the breach as in the observance.

Mr. TARPEY. I am endeavoring to confine myself to the fundamentals, as nearly as I can. We of California have had our hardships, I assure you. I was astounded yesterday when the gentleman told you that their so-called wines sold for 60 cents to \$1 a gallon. Their wine—and I have a tremendous question mark after that word "wine"—and we are selling our pure product, and have been distributing it to the people of America, pure and from the juice of the grape, at less than 30 cents a gallon, including every dollar's worth of wine that was sold in bottles. Our bulk wines have been selling certainly for not above 20 cents a gallon, and then to compete we have to pay freight of 7½ cents per gallon to this part of the country.

I believe that the pure-food requirement is a grave charge upon the Government; that it is the duty of the Government to see that the housewife or laboring man or wage earner gets a dollar's worth of honest goods, in weight, in quality, and in purity, for every dollar he expends for food. Who has any opportunity of testing the foods that he buys? Why, it is only through the chemistry department of this Government that we are able to reach any idea of what is being done. The health of the citizen is the wealth of the Nation, and while the Nation guards its money with the most zealous care, while there is the most tremendous penalty for counterfeiting that money, and while there is also a tremendous penalty for a man getting another man's property by forgery, why is it not equally reprehensible for a man to get the people's money under false pretense that he is selling an article that is not fit, or at least is not honest, is not what it is represented to be? I stand upon the result of the inquiry and study made by the gentlemen of the pure-food bureau, and we of California beg you to adhere as closely as possible to the pure-food laws, because they are the greatest safeguard of both our health and our wealth.

The CHAIRMAN. Mr. Tarpey, I am afraid that you are getting off a little on lines that are not quite pertinent to the purposes of this inquiry. We want to get at facts.

Originally, as I understand it—and if I am not correct I wish you would correct me—this law with reference to the use of brandy wines for fortification purposes allowed any producer of sweet wine to use this brandy for purposes of fortification without paying tax, did it not?

Mr. TARPEY. Yes, sir; it did and it does.

The CHAIRMAN. Then it was changed so as to require the distillery to be at the vineyard, was it not?

Mr. TARPEY. Yes, sir.

The CHAIRMAN. Can you tell me who did that and what it was done for? Originally anybody producing sweet wines in this country was permitted to use this brandy wine to fortify them without paying a tax; then somebody came here and got that law amended so that nobody could use that brandy wine for fortifying sweet wines unless the distillery was at the vineyard.

Mr. TARPEY. No; that is not exactly the law. It said only vineyardists.

The CHAIRMAN. Now, who got that changed and what was the purpose of that change?

Mr. TARPEY. I do not know who got the change, but the purpose is very plain. We were struggling against what we understand and call and what is generally known as the "Brick vineyard."

Mr. WETMORE. The gentleman from Missouri and the gentleman from Ohio know that they made misstatements when they said that these eastern people could not legally use this California brandy free of tax.

Senator SMITH. I make the point that no witness has a right to say that another knows he made a mistake. He can correct the statement and give us the facts and we will be glad to have them. I would not allow them to say, Mr. Wetmore, that you had intentionally made a mistake.

Mr. WETMORE. I stand corrected. I would like to ask Mr. Hildreth this question: If D. H. Maxfield, of Naples, N. Y., did not withdraw brandy directly from special bonded warehouse No. 3, in the first district of California, and ship it to Naples, N. Y., and fortify wine with it, free of tax, except for the charge of 3 cents a gallon; also if approximately 1,000 barrels of high-proof California grape brandy were not shipped to special bonded warehouse No. 2, at Rheims, in the twenty-eighth district of New York, and withdrawn from there by wine makers of New York State and used in the fortification of wine, free of tax, except for the charge of 3 cents?

Mr. TARPEY. You gentlemen of the wine side of the matter have had your time for argument, and if you will be kind enough to allow me, a poor grape grower, to finish my statement, I would appreciate it.

The chairman asked the question as to why the law was changed. The reason was that they were making wine, though not from grapes, in what we call the "brick vineyard." That was the vineyard that those gentlemen established in the cities; brick vineyards where they did not require any grapes.

A formula of the Ohio wine-makers' methods of making wine can be found filed in the office of the Internal-Revenue Department here. The formula was brought out through a lawsuit and is unquestioned. The formula is as follows:

They first take a mass of the old grape skins, resulting from repeated fermentations and containing nothing but the skin of the grape, which they press into a cake to prevent it entirely rotting and which they denominate as a cheese; and they dump 450 pounds of that into a vat and then throw in 1,250 pounds of sugar and then add 650 gallons of water, and that mass they ferment down, and the resultant liquid they dignify with the name of "wine." This process they continued indefinitely, and it was because of this process and this "brick vineyard" that it became necessary to have the Congress of the United States make that alteration in the law, because the law was originally made to protect the producer of grapes.

Senator SMITH. You add the term "vineyard" as a matter of sarcasm; it is not a vineyard at all?

Mr. TARPEY. Certainly not; they had a brick house, and they made more wine in a brick house than we could raise in vineyards extending as far as the eye could reach.

I am here endeavoring to convince you gentlemen that it is the industry of the tiller of the soil that should be entitled to protection before all the wine manufacturers in the world. We have introduced immigration to California from all over the world. Small families have settled there. They have small holdings of land. They have a small patch on which they raise a few chickens and support a cow, and the balance of the land is devoted to vine culture, which lands are cultivated intensively. They are settlers located there, and they are good American citizens, raising families, and enriching the Commonwealth, and they are entitled to the first consideration of this body before any "brick vineyard" institution.

Senator SMITH. What I would like to hear from you is whether or not it would be proper for us to tax all kinds of artificial brandy that goes into wine? That is the real question.

Mr. TARPEY. We think so. We think all artificial brandy should be taxed, and all artificial food of every character should be taxed.

Senator SMITH. Why is not wine brandy an artificial stimulant just as well as any other alcohol that goes into wine?

Mr. TARPEY. Wine brandy is a natural stimulant, and as I have the greatest respect for the discernment and wisdom of the gentlemen of this committee, I believe that when they finally determine this matter, if they impose any tax at all on natural brandy, it will be such a moderate tax as will bring the Government a revenue, which this proposed tax most certainly will not bring, and at the same time will not wipe out the grape-growing industry. I have convincing hope and faith that you gentlemen will do that.

Senator THOMAS. I assumed, perhaps erroneously, that you gentlemen were opposing that part of the paragraph that proposed to repeal the act of 1890?

Mr. TARPEY. We are most certainly opposing it; but as I am admonished that my time has elapsed, Mr. Bell will answer that. We of California, I think, without any difference of opinion whatever, favor the law of 1890.

[By permission of the committee, Monday, August 18.]

When my remarks were brought to an end on Saturday by the rising of the committee, I was endeavoring to show how the Ohioans made their wine, and I will now resume that part of my argument.

From the opening statement of Mr. Lannen, representative of the eastern wine makers, I extract the following language:

The way we deal with this matter (of making wines) in this country is this: When we take our grape juice, we test it to see how much acid it has when it comes in in the fall from the farmer. After ascertaining the amount of acid that there is there, we add enough water to cut that acid down to about five parts in a thousand * * * and then add enough sugar to bring the alcohol contents up to about thirteen per cent.

From this it plainly appears that their grapes are unfitted to make wine at all, and the amount of water they add to cut the acid and the amount of sugar they add to produce 13 per cent alcohol they do not disclose; but it is plainly evident that without the addition of the water and the sugar they could not make any of their so-called wine.

It requires no argument to show that if a sugar barrel and a hose may be employed in making wine the necessity for growing grapes becomes a nonessential, or at least inconsequential as to the quantity of grapes produced, for with a small amount of grapes, by the addition of water and sugar, the juice of a few grapes may be stretched to such an extent that any attempted competition with such a "brick vineyard" by the farmers of the country who produce grapes would become and be a ghastly joke.

The original sweet-wine bill of 1890—the first pure-food enactment of the Government—was passed in the interests of the farmer, the producer of grapes, and the grape farmer to-day bears the same relation to the "brick-vineyard" producer as does the honest butter producer to the oleomargarine manufacturer, and it was only after lengthy consideration by Congress and repeated rehearings comprehending a close fundamental study of the matter that the oleomargarine producers were brought within the scope of the law and their product placed under the supervision of the Internal-Revenue Department.

The cases of the grape growers and the butter producers are analogous, and even aside from the consideration of the moral aspect of the subject or the necessity for supervision over spurious and unhealthful products, the tiller of the soil should be and, I believe, is first in consideration of the lawmakers of the country. The cry is "back to the land," but the tendency of modern life is to center in cities, and to induce people to enter into the production of raw products is the problem of the day; and surely that problem can not be advanced or benefited by enabling spurious products to be produced by sophistication and spurious manufacture where the raw product, healthful and honest, may be raised from the land.

As to the argument advanced by Mr. Lannen upon behalf of his clients that they can not procure grape brandy for the fortification of their wines, refraining from using a harsher term, I state that that is not a fact. The fact is that the California grape grower and distiller has always made all of the pure grape brandy necessary to fortify all the pure sweet wine of the East, whenever the same was ordered from or their requirements made known to the California distiller. Every year pure grape brandy is made in California for eastern customers, who receive the same in bond, and if, under the law, they are making really pure wines, they may use that brandy to fortify their wines without the payment of any other tax than the

3 cents per gallon which the Government exacts to repay it for supervision, and which the California grape grower and distiller is obliged to pay equally with everybody else. The records of the Internal-Revenue Department will prove the truth of this statement, as will the records of two internal-revenue bonded warehouses in New York, the internal-revenue bonded warehouse at Rheims, N. Y., Sibley's internal-revenue bonded warehouse in Chicago, and others; and as a further proof of the fact I state that I myself, through the company of which I am president, the La Paloma Winery & Distillery, sold to Garrett & Co., of Norfolk, Va., in 1912, 500 barrels of pure California grape brandy, containing some 46,000 or 47,000 gallons, and that the same was shipped to destination in bond, and that it is assumed the same was used in the fortification of wine, and that if the wine to be fortified thereby was pure sweet wine as denominated in the statute, all of the said brandy was used without the payment of any other tax than the 3 cents per gallon which we of California, as well as everybody else, have to pay.

Respecting the clause in the Pomerene bill now before this committee, permitting the use of pure neutral alcohol, I state positively that if permission be granted to use such spirits, no pure grape brandy will be made, because pure neutral alcohol can be made so much more cheaply from a multitude of other things much less costly than grapes; for instance, can be made from the cannery refuse, from the sugarhouse refuse, from the refuse of pineapples from the Sandwich Islands, of which a large, if not unlimited, quantity may be landed upon the Pacific coast at a very low cost, and even from sawdust and shavings, for, as you know, the distillation of wood alcohol has been so advanced that latterly potable alcohol, acceptable as such to the pure food department of the Government, has been made from refuse wood products, sawdust, shavings, slabs, etc., and that there already are in the country several factories producing that product commercially.

Therefore, the result of the adoption of that clause in the bill would be to induce all wine makers to use that character of pure neutral alcohol, which can be produced for some 6 to 8 cents per proof gallon, as against about 40 cents per proof gallon, the cost of pure brandy distilled from grapes in the place where grapes are most cheaply produced, namely, California.

I therefore submit that it would be a misfortune to adopt those words allowing the use of "pure neutral alcohol" in the bill, as the result would be to induce everybody to make spurious wines.

So there may be no misunderstanding of the term "proof gallon" as adopted by the Government, permit me to state that according to Government standards absolute alcohol is 200° proof, and that the Government's "proof gallon" is alcohol of 100° proof, and therefore the Government gallon of proof alcohol or spirits is 50 per cent alcohol and 50 per cent water. Sugar produces one-half a unit of absolute alcohol for every whole unit of sugar, and therefore, according to Government standards of one-half alcohol and one-half water, every pound of sugar will produce 1 pound of 100° proof alcohol, and therefore every pound of sugar used in the manufacture of so-called wines produces 1 pound of proof alcohol and should pay the same tax as brandy or spirits of the same proof.

Upon the revenue phase of the matter I desire to state that the revenue of \$1.10 per proof gallon proposed to be taxed upon the user of pure grape brandy, and expected to produce a revenue of from \$5,000,000 to \$7,000,000 annually to the Government, would prove destructive of the grape industry of California and would not—and upon this point I am positive, absolutely so—produce the revenue expected, nor any material revenue, because, first, the grower of grapes and the manufacturer of wines therefrom could not pay that revenue; they could not raise the money in any way, for the sum would be so out of proportion to the value of their vineyards and their wineries as to make the borrowing of money impossible. As an example, I will state that, for instance, a man paid, under the 3-cent tax under which we have been operating, \$5,000. Under the Pomereene bill he would be obliged to pay \$185,000, which would be several times the total value of his vineyard and his winery and all of its belongings. Furthermore, the banks and monetary institutions would not loan money on wine because of its unstable character as a commodity, as they do not know what day local or State or national laws may be passed declaring that product either as contraband or not constituting property. The instance above cited of the \$5,000 previous tax and \$185,000 proposed tax operates in ratio up and down to the few large producers and the multitude of small producers, and the effect is the same upon all in ratio to their holdings and productions.

Second, the imposition of that \$1.10 tax would impel all producers to seek every known and ascertainable means of producing wines without the addition of grape brandy, and those methods would be adopted by all producers and would tend to absolutely wipe out the production of really pure wine as it is made in California to-day.

The California representative of the grape and wine industry of California now in Washington prepared a brief upon this whole subject matter, which I now take pleasure in filing with this statement as an elucidation of the subject, and I hope that brief will receive the serious consideration of the gentlemen of this committee.

The modification of the sweet-wine law of 1890, that was mentioned during my appearance before you on Saturday last and which is known as "The Three Secretaries' Decision," was an administrative repeal of a certain extremely important section of the pure-food law, and was promulgated without the knowledge of any of our people, and presumably without the knowledge of the people concerned in pure-food regulations. It is regrettable that administrative departments should take upon themselves legislative or legal interpretation of statute requirements; and, therefore, as I stated on Saturday last, that "Three Secretaries" promulgation will be formally taken up with the Secretaries of the three departments which issued it under a former administration for the purpose of having it recalled and permitting the statute law to obtain in its pristine purity.

I thank you, gentlemen, for the kind attention which has been given and the courtesies extended to us during the present hearing, and beg to announce that we shall be very glad indeed to be of any further service to the committee that we may be able to render.

STATEMENT OF MR. THEODORE A. BELL, OF SAN FRANCISCO, CAL.

Mr. BELL. Mr. Chairman and gentlemen, we certainly appreciate the courtesy that has been extended to the representatives from California. We have been in Washington some three weeks, and expect to remain here until this matter reaches a final disposition. I have been delegated to perform a task upon the part of the grape growers of California and the wine men of that State, and I feel, Mr. Chairman, that it is utterly impossible for me to present California's cause in the time that now remains, because you are considering a subject that involves \$150,000,000 worth of property in California and that affects the welfare of 15,000 families in that State. I ask, Mr. Chairman, that I may be given, if possible, 30 minutes before this committee, because I have some ideas that do not entirely coincide with either the expressions that have been made by the gentlemen from the East or my colleagues from the West. I know that this committee desires to reach a proper solution of this very important question.

The CHAIRMAN. Mr. Bell, we will give you half an hour more on Monday morning, if you wish it.

Mr. BELL. I thank you very much, Mr. Chairman.

The CHAIRMAN. Before you go further into your statement, I want to get one matter cleared up in my mind. My understanding is that under the present law anybody who has a vineyard can use this untaxed brandy for the purposes of fortification.

Mr. BELL. Yes, sir.

The CHAIRMAN. But anybody who is making sweet wines away from a vineyard, who has no vineyard and is making sweet wines, can not do it?

Mr. BELL. He enjoys the same privilege. The Commissioner of Internal Revenue has so held, and it is actually being done by some of the gentlemen now in this room.

The CHAIRMAN. Suppose he is making wines in the city of Washington and has no connection with a vineyard, but buys his grapes and makes his wine here? Can he use this untaxed brandy for fortifying that wine?

Mr. BELL. I do not know of any instance in which that question has arisen and been determined, but I think we could ascertain the facts about it from the Department of Internal Revenue. But, Mr. Chairman, if that were true, it would simply involve a slight modification of the law of 1890, because there is no disposition upon the part of the grape growers or the wine makers of California to deprive their eastern brethren of the same equal rights and opportunities.

The CHAIRMAN. My understanding was that that was originally true, but that somebody came here and got an amendment which only allowed a man who had a vineyard to use this untaxed brandy. Is that so?

Mr. BELL. I am unable to answer that question at present.

Senator THOMAS. This wine spirits, as it is called, is manufactured in California exclusively, is it not?

Mr. BELL. I presume the bulk of it is at this time.

Senator THOMAS. Do the distillers there manufacture anything more than is necessary for their own consumption?

Mr. BELL. About five-sixths of the grape brandy that is now manufactured in California is used for the purpose of fortifying sweet wines; the other sixth is a commercial grape brandy that is sold in the market.

Senator THOMAS. Then there is no supply for those who do not have these distilleries in connection with their vineyards?

Mr. BELL. The supply will increase with the demand.

Senator THOMAS. But you have had the law for perhaps 20 years.

Mr. BELL. For 23 years. Of course the demand for pure grape brandy, wine spirits, as it is designated in the law of 1890, has steadily increased in California on account of the vast increase in the making of sweet wine.

The CHAIRMAN. I understand that you gentlemen representing the Pacific coast have no sort of an objection to a repeal of that amendment, so that this privilege of using untaxed brandy for purposes of fortification may be used by anybody that makes sweet wine?

Mr. BELL. That is our attitude exactly. We have no desire to deny them a single privilege that is to-day enjoyed by any wine maker in California so far as the use of wine spirits is concerned, because our position is "wine is wine," purity is purity, and whenever you leave that line 15 or 20 per cent you get into the realm of adulteration, and we wish to impress upon the committee that the Congress of the United States can not in this particular instance afford to deviate from the pure-food standards that have been promulgated by the department. We know the defects of pure-food legislation in this country. The men who were in charge of that great department at the time solemnly protested when the Congress wrote a modification into that law of 1890 permitting the use of 10 per cent of sugar and 10 per cent of water. They got that, and California consented to it at the time, and now they want to stretch it further. To do so would open the doors to fraud, not upon the part of these honorable gentlemen who are here, but upon the part of the counterfeiter. There is a counterfeiter in every State who is looking for a crevice or crack through which to get in, and just the moment that you write upon your statute books anything that will permit the making of wine or any other articles except along the lines of standard of purity you open the doors to the counterfeiters, and it will be the counterfeiters who will come back and haunt the gentlemen here who are asking for this legislation.

Senator SMITH. What I want to know is, why brandy is not brandy everywhere, and just as we tax apple brandy and peach brandy, why we ought not to tax the wine brandy; and if the wine brandy is used to fortify, why it should not be taxed? That is what we have had in our minds especially, and that is what we have heard least about. The real question that we want to know about is why we can not increase our revenues by taxing all sorts of brandy.

Mr. BELL. Those are the points that I will direct my attention to during the time that has been allotted me. In California here is one ton of grapes and here is another ton of grapes. This ton of grapes is crushed and used for purposes of making pure sweet wine. This ton of grapes goes to the distillery. Instead of adding that ton of grapes to the juice of this ton of grapes, we send that ton of grapes to the distillery and we extract the wine spirits and put it in there

to make wine, not spirits. I know that gentlemen are confused on this question of spirits. By our tariff laws we say that any wine produced that exceeds 4 per cent alcohol shall be classed as spirits and not pay the taxes that are imposed upon spirits.

By our tariff laws we say that any wine produced that exceeds 4 per cent alcohol shall be classed as spirits and shall pay the taxes that are imposed upon spirits. Under our internal-revenue laws, and the one now under consideration, whenever the spirits in that wine exceeds 24 per cent, it is no longer wine; it is spirits. Now, it should not be taxed because it is simply used as one of the ingredients for making pure sweet wine. You can not make a fortified sweet wine without fortification any more than you can have rainfall without moisture. You do not permit grapes to be fermented dry and make a sweet wine, but you arrest the fermentation, and that also acts as a preservative. There is no reason in the world why the American people in the production of a pure wine should contravene the policies that have governed every country in the world. Every country in the world where wine is made has incurred this very thing. Why? France has tried to drive out the hard drinkers and encourage them to drink wine, and here is a healthful, wholesome and delicious drink.

Senator THOMAS. We are liable to go on a grape-juice basis in this country.

Mr. BELL. Not as long as we have personal liberty and a man may choose his diet; as long as he does not injure somebody else.

The CHAIRMAN. You take a ton of apples and you make cider out of that one ton, just as you can make wine out of one ton of your grapes. You take another ton and you can make apple brandy out of it. Now, the law does not tax the cider that you make out of those apples, but it does tax the brandy that you make out of them. If you take the brandy that you made out of those apples and put it into the cider you would have to pay a tax on it?

Mr. BELL. We probably would.

The CHAIRMAN. Why?

Mr. BELL. I want to say, Mr. Chairman, that I am not as familiar with the cider trade. My forefathers used to make it in good old Connecticut, but we do not make much of it in our country. I was raised in the dry wine district of California. I will endeavor to-morrow to look up some of these intricacies regarding cider and report to the committee on Monday.

The CHAIRMAN. How many gallons of pure grape wine will a gallon of grape brandy fortify?

Mr. BELL. It is about 1 part in 4.

The CHAIRMAN. One gallon of grape brandy will fortify 4 gallons of sweet wine?

Mr. BELL. I think that is correct.

Senator THOMAS. Then it is one-fourth alcohol?

Mr. BELL. No; that would make about a fifth. Our ports and sheries run about 20 per cent. But I desire, Mr. Chairman, and I thank the committee very much for the courtesy that is extended, to take up some other branches of this matter on Monday, looking to what I believe to be a proper solution of the entire question.

Mr. CABELL. As to your question regarding changing the law, Mr. Chairman, I would say that there was no change in the law with respect to limiting the bill to a distiller.

In the original bill three classes of persons were provided for: First, the man who owned a distillery. In order to obviate the general provisions of the internal-revenue law which required brandy to go to a warehouse, the law was modified so that it could be taken directly to the winery, if he made both wine and brandy himself. The second was the man at the vineyard who wanted to get brandy when he did not make any himself. He could withdraw it from any special bonded warehouse free of tax. The third was the exporter. The original law required a person entitled to the privilege of free brandy to be a vineyardist. No change was made in that, so far as I am advised. The amended draft of 1894 and the final draft of 1906 all, so far as I have ever heard, contained the provision that a man must be a vineyardist. That was so construed that a very small number of grapes was considered as a vineyard. The change was on the amount of sugar and water.

(Thereupon, at 11 o'clock a. m., the committee adjourned to meet on Monday morning, August 18, 1913, at 10 o'clock.)

MONDAY, AUGUST 18, 1913.

UNITED STATES SENATE,
COMMITTEE ON FINANCE.

The committee met at 10 o'clock a. m.

Present: Senators Simmons (chairman), Williams, Johnson, Thomas, and Shively.

There were also present: Senator Atlee Pomerene, of Ohio; Hon. James C. Needham, of California; Hon. E. S. Underhill, of New York; Hon. Royal E. Cabell, of Richmond, Va.; Mr. Louis S. Wetmore, Stockton, Cal.; Mr. Thomas E. Lannen, Chicago, Ill.; Mr. J. A. Barlotti, Los Angeles, Cal.; Mr. Louis Landsberger, San Francisco, Cal.; Mr. Theodore A. Bell, San Francisco, Cal.; Mr. M. F. Tarpey, Fresno, Cal.; Mr. W. R. Porter, of California, and Mr. Walter E. Hildreth, of New York.

STATEMENT OF MR. THOMAS E. LANNEN, OF CHICAGO, ILL.

Mr. LANNEN. Mr. Chairman, and gentlemen of the committee, on the point as to whether any producer of pure sweet wine may withdraw brandy from any bonded warehouse free of tax, I desire to say: I understand that under the internal-revenue laws only a distiller or his attorney in fact can withdraw such brandy. Just the same as when a man puts money in a bank, he alone can withdraw it. A sweet-wine maker can not withdraw such brandy unless he distilled it himself and put it in the warehouse. But I understand that there has been a practice of permitting a sweet-wine maker to go to a bonded warehouse anywhere and withdraw the brandy in the name of the distiller upon filing a power of attorney from the distiller. Then such sweet-wine maker would use that brandy free of tax. But you will observe that such sweet-wine maker did not withdraw as a wine maker. He signed the name of the distiller to the papers. Consequently, it was the distiller who withdrew the brandy while the sweet-wine maker used it. By this practice it has been possible to traffic in free brandy at a large profit to the distiller, while the Government supervised the various operations both at the distillery and

at different warehouses at a great expense for which it received no returns, the 3 cents a gallon on the brandy covering only, as I understand it, the supervision of the sweet-wine maker's fortifying room. The Government no doubt has a record of all such transactions. Now, from a standpoint of raising revenue, it seems to me the query should be whether or not the construction I place on the law is correct, and if it is correct, whether it is too late to recover from the distillers the full tax on the brandy thus merchandised.

Mr. TARPEY. Mr. Chairman, in consideration of the fact that on Saturday last the little time that was allotted to me was by courtesy extended to the other gentleman, and then that the balance was all consumed in answering questions, I ask the privilege of doing what the other gentlemen have done, extending my remarks to cover what I expected to say, and filing it with your secretary, in order to have it included in the record.

The CHAIRMAN. You simply want to write it out?

Mr. TARPEY. Yes, sir.

The CHAIRMAN. That is all right.

Mr. TARPEY. I thank you, sir.

FOOD INSPECTION DECISION 120.

LABELING OF OHIO AND MISSOURI WINES.

The question has arisen whether fermented beverages made in the States of Ohio and Missouri by the addition of a solution of sugar and water to the natural juice of grapes before fermentation may be labeled, under the food and drugs act, as "Ohio wine," or "Missouri wine," respectively, without further qualification. In Food Inspection Decision 109 it was announced that the term "wine" without qualification is properly applied only to the product made from the normal alcoholic fermentation of the juice of sound, ripe grapes without addition or abstraction, except such as may occur in the usual cellar treatment for clarifying and aging.

It has been decided after a careful review that the previous announcement is correct and that the term "wine" without further characterization must be restricted to products made from untreated must without other addition or abstraction than that which may occur in the usual cellar treatment for clarifying and aging. However, it has been found that it is impracticable, on account of natural conditions of soil and climate, to produce a merchantable wine in the States of Ohio and Missouri without the addition of a sugar solution to the grape must before fermentation. This condition has recognition in the laws of the State of Ohio, by which wine is defined to mean the fermented juice of undried grapes, and it is provided that the addition, within certain limits, of pure white or crystalized sugar to perfect the wine or the use of the necessary things to clarify and refine the wine, which are not injurious to health, shall not be construed as adulterations and that the resultant product may be sold under the name "wine." Furthermore, it is permitted in some of the leading wine-producing countries of Europe to add sugar to the grape juice and wine, under restrictions, to remedy the natural deficiency in sugar or alcohol, or an excess of acidity, to such an extent as to make the quality correspond to that of wine produced, without any admixture, from grapes of the same kind and vintage in good years. It is conceived that there is no difference in principle in the adding of sugar to must in poor years to improve the quality of the wine than in the adding of sugar to the must every year for the same purpose in localities where the grapes are always deficient.

In view of this practice, and having regard to the fact that fermented beverages have been produced in the States of Ohio and Missouri by the addition of a sugar solution to grape must before fermentation and sold and labeled as "Ohio wine" and "Missouri wine," respectively, for a period of over 60 years, it is held a compliance with the terms of Food Inspection Decision 109 if the product made from Ohio and Missouri grapes by complete fermentation of the must under proper cellar treatment, and corrected by the addition of a sugar solution to the must before fermentation so that the resultant product does not contain less than five parts per thousand acid and not more than 13 per cent of alcohol after complete fermentation, are labeled as "Ohio wine" or "Missouri wine," as the case may be, qualified by the name of the particular kind or type to which it belongs.

An Ohio or Missouri dry still wine made as above stated and sweetened with a sugar solution which does not increase the volume of the wine more than 10 per cent and fortified with tax-paid spirits, may be labeled as "Ohio sweet wine" or "Missouri sweet wine," as the case may be, qualified by the name of the particular kind or type to which it belongs.

The product made in Ohio and Missouri by the addition of water and sugar to the pomace of grapes from which the juice has been partially expressed, and by fermenting the mixture until a fermented beverage is produced, may be labeled as "Ohio pomace wine" or "Missouri pomace wine," as the case may be. If a sugar solution be added to such products for the purpose of sweetening after fermentation, they should be characterized as "Sweet pomace wines." The addition to such products of any artificial coloring matter or sweetening or preservative other than sugar must be declared plainly on the label to render such products free from exception under the food and drugs act.

FRANKLIN MACVEAGH,
Secretary of the Treasury.

JAMES WILSON,
Secretary of Agriculture.

CHARLES NAGEL,
Secretary of Commerce and Labor.

WASHINGTON, D. C., May 13, 1910.

STATEMENT OF MR. THEODORE A. BELL, OF SAN FRANCISCO,
CAL.—Continued.

The CHAIRMAN. Now, Mr. Bell, I think you had the floor.

Mr. BELL. Mr. Chairman and gentlemen, there are undoubtedly a number of questions that have arisen in the Department of Internal Revenue with regard to the construction and the practical operation of the law of 1890 and its amendments which can best be determined by this committee by an inquiry from the Internal Revenue Department, because it is very apparent that we will not be able to agree with some of the statements that have been made by our opponents before this committee. But I believe, gentlemen, that an inquiry in that department will disclose the fact that the actual practical operation of this pure sweet wine law of 1890 and its subsequent amendments has been equal and just and equally open to all of the makers of sweet wine in this country.

That law was formulated with three things in view, or three classes of men under consideration: First, the man who was a wine maker and also a distiller; secondly, the man who made sweet wines, but was not a distiller; and the exporter. There never has been a time when the maker of pure sweet fortified wines has not been able to obtain all of the grape brandy that he needed in his business without paying the full charge of \$1.10. The records of the office of the Commissioner of Internal Revenue disclose the fact that California brandies in 1911 and prior thereto, and I assume the same in 1913, were shipped into eight or nine States east of the Rocky Mountains, and it was only last year that Mr. Tarpey himself shipped from Fresno, Cal., to Mr. Garrett, of Virginia, 500 barrels of grape brandy which Mr. Garrett desired to use in the fortification of his sweet wine.

Senator THOMAS. You say there never was a time when the maker of sweet wines had to pay the full price of \$1.10. Has he had to pay anything?

Mr. BELL. The 3 cents charge that is placed under the terms of the law to cover the Government expenses of supervision.

Senator THOMAS. Three cents a gallon?

Mr. BELL. Three cents a gallon only, and that is in the nature of a charge, expressly so declared by the law itself, and is not in the nature of a tax. Mr. Tarpey shipped those 500 barrels of grape brandy to Mr. Garrett, selling it to him f. o. b. Fresno at 25 cents a gallon, which I am informed was about cost, if not just a little below cost.

The CHAIRMAN. I suppose Mr. Garrett has a vineyard?

Mr. BELL. Yes, sir.

The CHAIRMAN. Suppose Mr. Garrett had no vineyard, no pretense of a vineyard, then could he have gotten it?

Mr. BELL. Under the strict and technical construction of the last amendment to that act he could not have availed himself of the privileges of the act.

The CHAIRMAN. I understood Mr. Cabell to say the other day that if he had just a few vines planted, whether he made any wine or not, he could get it. I wanted to ask Mr. Cabell if the department had ever resorted to that sort of a subterfuge in the construction of the law?

Mr. CABELL. I will answer that by saying that for 30 years the construction has been that the purpose of limiting it to the vineyardists was to prevent this tax-free brandy from going on the premises of the rectifier, where it could be used for all sorts of purposes, and could not be traced. A rectifier can not ferment anything on his premises. So it was not a subterfuge. He had to have some grapes of his own, crush them, and ferment them. Then, under the general provisions of the internal-revenue law, he could not have a rectifying house within 600 feet of that place. So the Government was safe in the knowledge that that would not go on the rectifying premises. Therefore, as I understand it, from the date of the extension of the law even a part of a city block in vines, so that he could not have a rectifying place within 600 feet of that place, was considered a sufficient compliance with the law.

The CHAIRMAN. I was not concerned so much with the reason of the Government for making that construction, but I wanted to know, as a matter of fact, whether, when a man who was not entitled to use free, untaxed spirits because he did not have a vineyard, planted a few vines out there from which he got practically no grapes, but which was a subterfuge for a vineyard, the department had been construing the law to give him that privilege?

Mr. CABELL. It prohibited him from being a rectifier if he fermented some of his grapes on the place. He could not then, under the general law, have a rectifying plant within 600 feet of that place where he fermented any of his own grapes. So that the size of the vineyard has not been considered at all material, merely that he had a few vines from which he got a small quantity of grapes, and fermented them himself, so that he was a wine maker and not a rectifier. That has been the point of difference that has troubled for the 30 years of the life of the tax, I am advised, and I think it is correct.

Mr. BELL. Mr. Chairman, I am informed that that particular limitation was written into the amendment of the law of 1890, not so much at the behest of the wine makers of California, or at all in accordance with their desire, but was written there as an administrative precaution, which Mr. Cabell has already explained, and I want to say on behalf of the grape growers and the wine makers of California that we

have not the slightest objection to the removal of that limitation, because we believe it to be purely a matter of department administration, and whenever the Internal Revenue Department believes that with the removal of that one restriction and limitation they will be able to administer the laws of this country with respect to the tax upon distilled liquors, California certainly will have no objection to the removal of that limitation.

Now, Mr. Chairman and gentlemen, this law of 1890, by mere calculation of time, was enacted 23 years ago. There has never been an attack upon that law; there has never come any criticism of that law from the advocates of pure-food legislation in the country; there has never been any attack upon that law by those who are interested in raising sufficient revenues to administer the affairs of our country; but that attack has come from the most unexpected quarter, and that attack upon the pure-wine law is a flank movement, as it were, upon the part of the competitors of California wine makers. They are not so much concerned with the amount of revenue that this administration raises; they are not so much concerned whether it be 3 cents a gallon, or \$1.10 a gallon, but they are simply endeavoring, in my judgment—and I do not wish to do them any injustice, and will not, if I can help it—to jam and crowd California on this tax in order that they may obtain from California a concession of their definition of wine. That is the ultimate object and motive, not behind the honorable gentleman who is the author of this amendment—not at all; but I mean among the people out in the State of Ohio, the wine makers of that State, who are not concerned with the question of revenue, but they believe that if they can embarrass, hamper, burden, and drive, perhaps, out of existence some of the sweet-wine makers of the State of California, then California, in a spirit of self-preservation and protection, will come to them and say, "Gentlemen, we will yield to you. You may make wine out of sugar and water, which is called 'piquette' in the old country; you can make that which is called piquette in the old country and sell it to our people as wine, upon a plane with the pure wine of California."

That is the exact situation with regard to that law of 1890. There has not arisen any man, or any considerable number of men, in this country who has ever challenged the wisdom of that law, because I think it was the very first pure-food legislation placed upon the statute books of this country, and the attack now comes in a veiled form, not for the purpose of revenue, but for the purpose of compelling California, almost by coercion, from a legislative standpoint, to stand for their definition of wine.

Senator WILLIAMS. We do not care about any agreements that you and the men from Ohio make.

Mr. BELL. I am glad you suggest that.

Senator WILLIAMS. We are not paying any attention to agreements between delegations.

Mr. BELL. I intended to say that at the outset of my remarks. If it were possible, gentlemen, for all the wine makers of this country, East and West, to compose their differences and to agree upon the definition of wine and to stand for amelioration or unlimited addition of sugar and water and all sorts of artificial fermentations and additions, it would not, in my judgment, weigh, and ought not to weigh in the minds of this committee or the Congress of the United States,

in determining this question, because the question is one that concerns the public of this country, and the sentiment of America is solidly and soundly behind the pure-food legislation of this country. There never has been anything that has been done in recent years that has been so popular, for the simple reason that it reaches down into the very homes of the people, as the pure-food legislation and the standards that have been established. I hold in my hand a list of the standards of purity for food products that was issued by the Secretary of Agriculture on June 26, 1906, and to-day is the law of this country, and this very amendment which is proposed by the gentleman from Ohio would annul and would repeal the standards that are fixed here and have been in force for the last seven years. What do they say? They say that wine is the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes and the usual cellar treatment. That is the definition, which is the basic, foundational definition of wine; and all of the standard definitions of dry wine, fortified dry wine, sweet wine, fortified sweet wine, modified wine, sparkling wine, ameliorated wine, and corrected wine are predicated upon that basic definition of what wine is; and that is what wine is, and that is what wine has always been in all the history of the world, just as it has been defined by this great Government of ours; and now they would, with this amendment, set aside and annul and repeal this law.

Why do they want to do that? They come before this committee and they say that they can not produce a wine that meets the requirements of these standards of purity; that their climate is such and their soil is of such a character that they can not produce that kind of wine, and so they want to entirely pervert the definition of wine and make that which is not wine, but is rum. When you add sugar and water together and ferment it you make rum; you do not make wine. They may add some pomace or some grape must to give it color or to give it flavor; but, as a matter of fact, it is rum they are making whenever they ferment this sugar with the water.

It seems to me their whole case is a confession, and besides involving them involves the whole principle that is here at stake. It is true, gentlemen, that in California we can and do make a pure wine. Personally I imagine it is because of our climate, because the Japan current warms the shores of California and creates there a climatic condition somewhat similar to the climate of southern Europe, where the hot winds blow over the Mediterranean and warm all that section of country, because we are producing in California the same kinds of wine that they are producing in the southern countries of Europe, because we are growing the same grape. It is an exotic, but it flourishes in California. We are cultivating the very same grape in California that they are cultivating in Europe—in Italy, France, Spain, Portugal, and portions of Germany. And why? Because, gentlemen, the Franciscan Fathers, when they went into California, brought, I imagine, a variety from Spain which they planted, cut out its old name, and called it the "Mission," and they raised these grapes around the missions there in California and made a good, sound, palatable wine.

That aroused the interest of others, and after California became a State, 11 years after it was admitted to the Union, in 1861, our legislature appointed Col. Arpad Harazathy to go over to Europe on a

tour of investigation in regard to viticulture, and he returned with 100,000 cuttings, representing 1,400 different varieties of grapes, those grapes were planted, and our legislature established in the University of California, and has maintained for years, a scientific department for the study of this question. We have investigated the question in that State and planted 350,000 acres in grapes. What kind of principle would it be if we should take away the natural advantages, the things that nature has given to California in soil and climate, and attempt to equalize them by legislation? I think we are through in this country, gentlemen, with anything that looks like a hothouse proposition; we are through with those things that have to be fostered, protected, vitalized, and kept alive by artificial means; and because they are not on an equality with us, because they are not raising the same grape, they come to the United States Congress and say, "You shall reduce 96 per cent of the pure wines of the country to the level of the other 4 per cent," degrading, debasing, in my judgment, and trying to equalize by law the things that are not equal in nature. They talk about amelioration, and that is a good word indeed. It has an alluring and a seductive sound. Our answer to that is "ameliorate your grapevine."

You can not gather grapes of thorns or figs of thistles, and you can not make wine out of anything else but a wine grape. Some of their varieties here in the East are table grapes, fit for other purposes undoubtedly, but not fit for wine making. It is simply a proposition, if they can, of ameliorating the grapevine itself by a process of selection to get those varieties and add the stocks that are hardy enough and strong enough to stand the climate of the Eastern States and at the same time make a good wine. They are doing it in northern Germany; they are doing it in southern Russia, I understand, at present. The work of California has been a selective process. It has become a scientific question in California, the selection of proper stocks, the proper varieties, etc. Some thrive there and some will not; some make good wine and some will not make good wine.

They have also said here that they have to pay \$30 a ton for grapes and that out in California grapes can be produced for \$10 a ton. Well and good. Then they argue, at least the inference logically flows from the statement, that they must get three times as much juice out of the same ton of grapes as we do in order to make up the difference in price. There is the whole thing, gentlemen. This is a movement, without question, to stretch and to increase the production of 1 ton of grapes. We are content in California to get 160 gallons of juice out of a ton of grapes. Here in the East what do they want to do? They want to squeeze out two-thirds of the juice, make it into champagne or grape juice, leaving the acid and the skin; and the acid lies very close to the skin, held in a small sack next to the skin. They take out the pulp and the meat, out of which they can make a wine, and then they take one-third of the juice, with the skin and acid, and come here and say it is too high in acid.

They also ask, in this amendment, that if their grapes contain 10 per cent of sugar, they may then be permitted to add unlimited amounts of sugar and water, provided they do not increase the alcoholic strength more than 13 per cent. I want to tell you, gentlemen, that a grape that contains only 10 per cent of sugar is not fit for making wine, and that the people of this country ought to be

protected in their health, if not in their choice, from being tendered a wine of that character. A grape containing 10 per cent of sugar is a green grape, and this law says wine is the product made from the juice of sound, ripe grapes. That is the reason why Dr. Wiley says that that sort of a liquor—I will not dignify it by calling it wine—is not fit for consumption by the people of this country, not so much on account of the addition of pure sugar, or so much on account of the addition of water, but from the fact that the very reason why they add sugar and water is because of the fruit itself upon which they pour the sugar and water, and that renders the thing not only unpalatable, but, as Dr. Wiley said, absolutely unwholesome and unhealthful for the American people to drink.

I desire to call your attention to this thing, gentlemen, which came to my attention last night. Over in Europe, after the first fermentation, after they make their dry wines, red or white, they go through what they call a second fermentation, by taking the pomace that is left, and pouring a sugar solution upon it. But when that goes out, they do not permit it to be called wine. They give to that the name "piquette," which indicates in itself just exactly what it is, that it is a pomace wine, and they do not make any pretenses of calling it a pure wine.

These gentlemen have entertained the committee, and I was entertained also, by their brief history of the wine industry in the East. Gentlemen, I want to say to you this, and this will apply the same to the cotton fields of the South, the great cornfields of the Middle West, or the wheat fields of the Northwest. You can not understand what the people of that State have suffered, the trials and the privations and the hardships which they have undergone unless you have been raised upon a vineyard or among the vineyards of that State. In my own case, my father went up into the mountains, being a mechanic, and cleared 30 or 40 acres of land. I was 4 years of age at that time and continued to live there until I went out for myself in my profession. They go out upon the mountain sides, and it requires a vast amount of labor; it requires that they live frugally, that they live economically, that they save every nickel they can, and they clear away the pine, the fir, the madrona, and the manzanita, and they plant a few acres of grapes. Then it is four years before they get any kind of a crop; it is seven years before those vines come into full bearing. There is one thing about the wine industry that, in my judgment, distinguishes it from every other industry of the soil in this or any other country, and that is the amount of employment of a good, clean, outdoor, wholesome character that it gives to labor, because there is something to do in a vineyard the whole year round.

Senator THOMAS. What is the character of your labor out there—Japanese?

Mr. BELL. No; what few we have we want to get rid of.

Senator THOMAS. I understand that.

Mr. BELL. The Japanese are employed here and there, the Hindus are employed, and the Chinese are employed. But up in my part of the country, up in the Coast Range north of San Francisco, when the vintage comes along—it lasts about six weeks—all the schools take a vacation, and the boys and girls and the women take part in the work. I have seen my mother and my sister, as well as all

the other women in the neighborhood, go out into the vineyard with their knives and pick the grapes. It is not a difficult task. It is outdoors, in the warm sunshine, and is generally considered not only good for the health, but for the pocketbook.

Senator THOMAS. Do not those conditions apply to viticulture everywhere?

Mr. BELL. Yes. But I am speaking now generally on the proposition of the wisdom of placing this tax.

Again, take the history of viticulture in California, because I want to lead up to and show you, if I can, the grave results that are bound to follow in that State if any kind of tax be imposed on the wines of California. The history of viticulture is divided into two periods, commencing with the vines planted by the Franciscan missionaries, and then up to the eighties or nineties, when a great scourge struck California—an insect that simply wiped out all the vineyards of California—and men who were considered well-to-do, men who were building homes and improving their property, simply went down the path of foreclosure, many of them to paupers' graves, because this pest left nothing but the black, dead stumps of a vineyard. They had to be pulled up, or dug out, and then the people of that State went to work once more, with an energy that they have, replanting those vines. They got the Riparia, and they planted that, and then they got the resistant stocks from the old country and planted them, and then grafted on the different varieties, making the root absolutely resistant, either grafted in the ground, or bench grafted, grafted before the cutting or the rooting was planted.

It took a good many years for them to get back on their feet, and the wine business in California since 1906 has been in a precarious condition. You have the figures before you showing that it costs about \$10 or \$10.50 a ton to produce grapes, including the interest on the investment, because it costs in the neighborhood of \$300 to bring an acre of grapes into bearing. It costs \$10 or \$10.50, and the prices there to-day are ranging from \$10 to \$11 or \$12 a ton, just about enough for the vineyardist to get a fair return from his labor—most of them work in the vineyards themselves—and also a fair interest on the invested capital. But occasionally the frost hits them. I have gotten up, myself, many a time in the middle of the night, when the thermometer got down to about 32, and lighted fires all over the vineyard to create warmth and to create a cloud of smoke so that when the sun came up it would not blast the vines. If they get \$10 or \$11 or \$12 a ton for their grapes they are about able to make a fair return on their labor and a fair interest on their capital invested.

If you put a tax on these pure sweet wines, I do not care whether it be 1 cent or \$1.10, in my judgment it first violates the principle that there is no industry of the soil that ought to be taxed. We ought to invite the people of this country to live upon the farms, and we ought to try to create a liking for the farm. But my judgment is that a tax levied upon any industry of the soil amounts to a command to abandon the farm for the city life; and that industry will not stand it. That industry can not stand a tax.

I am not pleading here merely as an advocate. My father is a wine maker. I am here as one who understands that business, and

I have seen too much of the privation and too much of the suffering and too much of the worry that has carried many a good man and woman down to their grave in that State, and I know that you can not impose a tax upon that industry without working immense and tremendous hardship to the people of that State, for this simple reason. Where will that tax fall? It will fall, we say, partially upon the consumer, but it will surely fall also upon the small grape growers of that State. Every man who has a vineyard in California has not a wine cellar, a vineyard of 5, 10, 15, or 20 acre tract—the average vineyard in California contains less than 25 acres. Some of them with 25 or 30 acres have their wine cellars, but most of the smaller growers are compelled to take their grapes to the markets that the wine cellars afford.

They depend upon all branches of the industry to take care of the products of the State. We have 340,000 or 350,000 acres of vineyard. About one-half of that total acreage is planted now in grapes that are used exclusively for wine, the other half divided among table and raisin grapes; but the raisin men and the table grape men in California have been aided by the making of sweet wines. They have been able to live, for the simple reason that they have been able to take their inferior bunches, which they would have sent to the trays for drying, or sent into the markets as raisins or table grapes, and particularly their second crops—because the cold weather comes on and they do not ripen, they do not get the color, they do not get the sugar—and send them to the distilleries. The distilleries in California are taking care of now about 150,000 tons of grapes annually. If either of these amendments, the original amendment, proposed by the committee, or the other amendment, proposed by the gentleman from Ohio, is adopted, we have no doubt that it will destroy the market in that State for 135,500 tons of grapes that now go to the brandy distilleries, and next year those grapes, gentlemen, will simply rot upon the vines, and it will represent a loss of over \$1,000,000 alone, those 135,500 tons.

But, more than that, the dry-wine districts of California, up where I live, in Napa and Sonoma Counties, are going to suffer, too, because there will be an overproduction of dry wines. Just the moment you put a tax on the sweet wines of that State, you force a lot of grapes now used for making sweet wines into the dry-wine market, and that creates an overproduction.

The question was raised here, and I realize that from a revenue standpoint it is probably the most serious question that has been asked of us during this hearing, why should the spirits that go into the fortified pure wines be exempt from tax any more than any other spirit, and I will answer that, because it has to be answered. For the simple reason that they are not marketed as spirits, and, as a matter of fact, they are not spirits. Unless the wine is fortified above 24°, it does not come under the definition of distilled spirits, it is not affected by the tariff laws, and it is not affected by the law you have under consideration. That pure grape brandy that is used for the fortifying of those wines comes from the grapa itself, comes right out of the same vineyard, you might say, or an adjoining vineyard, because there is the sugar in the grape, and you want to bear in mind also, gentlemen, that sugar is potential alcohol, because it can be converted into alcohol, 2° of sugar making 1° of alcohol.

What process does a man go through who wants to fortify his sweet wines with this grape brandy? He has a ton of sweet grapes, which he crushes in a vat for the purpose of making sweet wine. He has another ton, and he decides he will extract the alcohol from that for the purpose of fortifying the juice of this other ton, and he simply sends it to his own little distillery on his place, or to some other distillery, for the purpose of converting the sugar in this ton of grapes into alcohol, and then adding it to the pure juice of the other ton of grapes. It looks to me as though it becomes clearly an ingredient. It is an ingredient in the wine. The finished article is wine, and not spirits, and that is the reason why the tax should not be imposed upon the spirits that go into those wines, the same as the tax is imposed upon other spirits.

Let me call your attention to this fact—and it is to be borne in mind when a great, radical change like this is contemplated—that the year following the passage of this law of 1890 there were produced in California 1,080,000 gallons of fortified sweet wines. Under the operation of that pure-wine bill that industry has been built up to 20,000,000 of gallons, and men and women have been encouraged to devote their lives to grape planting in that State. They have made their investments, they have built up their industry, upon the theory and the assumption that the Government of this country had put upon its statute books a pure-wine bill, and they had a right to believe that that pure-wine bill would remain intact.

Senator THOMAS. That is exactly the argument that every protected industry has made before this committee.

Mr. BELL. I know that it would be subject to that criticism, if this were a protected industry. But these gentlemen who are in here from the Eastern States, when they ask for the imposition of a tax upon these pure wines, are asking for a perverted protection, or an inverted protection. They simply say that, instead of putting a tax upon the wines that come in from the old country, as there is now, and a tariff to protect them, you should go out there and penalize their California competitors. They are asking for an interstate protection rather than an international protection. I know it is the argument of every protectionist. But this is not in the nature of a protective tariff, this is not in the nature of a discrimination or a special privilege; the law was made simply for the purpose of encouraging in this country the making of an absolutely pure wine, fortified with nothing else but the pure juice of the grape.

The CHAIRMAN. How does the foreign producer of these same wines fortify them?

Mr. BELL. I think very much in the same way. Mr. Barlotti is very much better acquainted with that question than I.

Mr. BARLOTTI. About the same way, I should say, as in this country, with the exception that they fortify them to a smaller degree; and, furthermore, in Europe they do not use as much sweet wine as we do in this country, because they prefer the dry wines.

Senator WILLIAMS. That brings me to something that I want to ask, whether we do not, as a rule, fortify our wines too much, and whether this exemption from tax on the grape brandy is not one of the causes that led to that?

Mr. BELL. I am inclined to believe that when a tax is imposed, the final result of the fortification may be less than it is now. It is about

an average of 20 per cent, but, at the same time, there are gentlemen here who have a more scientific knowledge of this subject than I have, and their briefs will be filed, and some of them have already been filed, which will show to you gentlemen that, so far as your hopes to raise any considerable revenue from this tax on pure wines are concerned, they are very likely to be blighted.

Senator WILLIAMS. I am talking about the tax upon the grape brandy.

Mr. BELL. Yes. By a different method of fermentation, by fermenting these sweet grapes—we will say there are 26° of sugar—by fermenting them dry, they will have 13° of alcohol, where now they ferment them down to 7½, and leave part of the natural sugar in the wine. But if you are going to tax them on their alcohol, the natural thing to do will be to ferment the sugar that is in the grape until it is wholly converted into alcohol. So you start with 13°, and then, if they add 3 or 4 more degrees, or if they add 7, you have cut your tax about three-fifths already.

Senator WILLIAMS. And you have a healthier and a better wine?

Mr. BELL. I would not say that you would have a healthier or a better wine; and I am not prepared to admit that the imposition of this tax will lead to the reduction of that fortification, for the simple reason, again—and that is a thing that this committee must be most careful about—you must consider the introduction of pure neutral alcohol, because if that be written into this law, the men who are fortifying their pure sweet wines in California to-day with pure grape brandy, which costs them 40 cents a gallon, with grapes at \$10 a ton, will not use any more grape brandy, that is a certainty, because they will be able to get their pure neutral alcohol for 6 or 8 cents a gallon.

I want to make one more remark, and then I desire to give the committee a chance to ask questions. I want to say this, and I suppose every time a Californian appears before a committee he has something to say upon this subject, but I think this is material at this time, at least. I was raised up in a district in California where a number of Swiss and Italians came in and cleared up our hillsides and planted them to the grape, and I want to say to you this, that our immigration problems are going to increase upon the Pacific coast. We want to close our doors absolutely, if we can, to immigrants from the Orient, and assimilate and absorb as many of the white people of the world as we can. With the opening of the canal, we are going to have an immigration problem upon our hands in California, and there is no industry that attracts those people so much as the raising of grapes. It is estimated we have more land in California that can be planted to the grape than the entire area of France. Those people, instead of remaining in the big cities and hanging around, go out into the mountains, on the hillsides, and clear up those places. I have seen their wives go out and grub up the trees, and plant the vines. There is no better way, in my judgment, because I have lived right in the midst of them, of assimilating and absorbing those people, than to permit them to go out and have their own vines and fig trees, give them a feeling of independence, and they will become attached to our Government and our institutions.

One other point is this, and a very important point. There is a great amount of imported wine drunk in this country. These people from Ohio, New York, and other Eastern States, can not compete with those imported wines, because they are not making the same wine.

Senator THOMAS. I do not think anybody can. If a man wants to drink imported wine he will pay a double price for it, just for the sake of calling it imported.

Mr. BELL. It is a matter of education and taste. We do not say that people should be compelled to drink wine or any other intoxicating beverage. But we say that when a man chooses to drink a wine he should be given an absolutely pure article. We are entering into competition with these imported wines; we are endeavoring, in California, to obtain the home market of this country for the home products of this country, and we can compete with these people, because we are making a wine from the same kind of grape they are. If you include in this bill a provision that allows this additional water and sugar, I say that you will absolutely destroy the reputation, the standard, as well as the actual character of the wines that are produced in this country. You will absolutely drag down and debase the wines of California, which are now winning a place for themselves in competition with these imported brands, and you will reduce them to the common level; you will take 96 per cent and reduce them to the level of 4 per cent.

The CHAIRMAN. Can you tell the committee whether foreign countries producing wines that will likely come in competition with your wine impose any internal-revenue or other tax upon spirits used in their fortification?

Mr. WETMORE. I think the only foreign country that imposes a tax on the spirits used in fortifying wine is France. That is because they are in a northern country there, and a dry-wine-raising country. The southern countries, Spain, Portugal, Italy, and Algeria, encourage the small fortification of wine. They fortify their wines to a less degree of alcohol than we do, because under our law we are compelled to have 4 per cent of sugar, and it takes 20 per cent of alcohol to preserve that sugar. The present law states that if the wine is eligible for fortification it must contain at least 4° of saccharine matter. If you were drawing up a new law, we would suggest you cut that out, and that would permit us to drop back to about 17 per cent of alcohol. We can not make amontillado sherry here because it is dry, and it is fortified to about 17 per cent.

The CHAIRMAN. What country do you fear most as a competitor?

Mr. WETMORE. Spain and Portugal.

The CHAIRMAN. You do not fear France at all?

Mr. WETMORE. No; France is a dry-wine-producing country. They compete with our dry wines.

The CHAIRMAN. I understand you that Spain and Portugal impose no tax of any kind upon spirits used for fortifying dry wines?

Mr. WETMORE. I think the commissioner could answer that better than I could.

The CHAIRMAN. Are you simply giving an impression, or have you information?

Mr. WETMORE. I am just giving an impression.

The CHAIRMAN. You had better look that up and see if you can not ascertain for us.

Mr. WETMORE. I think that ought to be answered; I think the committee ought to satisfy itself. In 1879 the Senate Finance Committee had a report upon that very subject made to them, but what changes in the European laws have been made since then I do not know. England permits the fortification of ports on the docks. On arrival in that country they permit them to be fortified.

Senator WILLIAMS. I would like to have you drop a note to the chairman of the committee, for the use of the committee, telling us the provisions of our law, and how it compels the addition of 5 per cent of sugar, and what amendment, in your opinion, would get rid of that compulsion.

Mr. BELL. We will do that, Senator.

Mr. WETMORE. It is right here. It says:

And such wines shall contain not more than 4 per cent of saccharine matter, which saccharine strength may be determined by testing with a Balling's saccharometer or must scale.

Mr. BELL. I understood you to say that it required 20 per cent to preserve that amount of sugar?

Mr. WETMORE. Otherwise it will ferment.

The CHAIRMAN. In case this tax is placed, suppose you should resort to other methods of fortifying, as I understood you to say a little while ago you might do. Would you not, in that way, impair the character of your wines very much?

Mr. BELL. I would assume so, myself. I believe that a wine is a better wine by being fortified with grape brandy, which is made from the pure juice of the grape. But if the doors are opened to the use of pure neutral alcohol, it will be used in this eastern country for the purpose of fortifying wines, and it comes down to a question of dollars and cents in California. Of course, the wine maker in California is going to use the cheapest thing he can, and he can save money by using pure neutral alcohol, because this can be made very cheaply in California. They are shipping in now the pineapple refuse from the Hawaiian Islands, and even alcohol made from sawdust and shavings has passed muster with the Department of Agriculture, and is declared fit for consumption. They would not save the tax, but they would save on the price it cost.

The CHAIRMAN. They would lose in the quality. I understood you to say that you were very anxious to maintain the quality of your wine?

Mr. BELL. Oh, yes. I think undoubtedly it would lose in quality. I rather rebel at the thought of adding pure neutral alcohol from peaches, pineapples, sawdust, etc., to wine, and calling that wine.

The CHAIRMAN. You do not really think that would happen, do you?

Mr. BELL. I know it would happen.

The CHAIRMAN. You would sacrifice quality to expense?

Mr. BELL. We have gentlemen in this country who are looking to quantity.

The CHAIRMAN. Why do you not do that now? You can get that neutral spirits cheaper than you can the other.

Mr. BELL. You can not use it free. This 3 per cent applies now to the grape brandy only, and does not apply to any other fortification agent at all.

Senator WILLIAMS. As a matter of fact, do the eastern people buy much of your grape brandy for the purpose of fortifying?

Mr. BELL. Yes; they are buying a good deal.

Senator WILLIAMS. Do they get it with or without the tax?

Mr. BELL. They get it without the tax, and it is being supplied to them now substantially at the cost of production.

Senator WILLIAMS. The market price less the tax?

Mr. BELL. No; less than the market price.

Senator THOMAS. Has that been the case right along, or since this bill has been pending?

Mr. BELL. Right along. Mr. Tarpey shipped 500 barrels to Mr. Garrett last year. But these gentlemen are not worried about that. That is not keeping them awake a minute. That is not worrying them in the slightest degree.

The CHAIRMAN. I want to find out what you are worried about. Are you worried about foreign competition, or are you worried about the probability that an increase in the cost of your product may lessen consumption? Which are you worried about?

Mr. BELL. We are worried about a number of things. But I was speaking principally about their worries. These gentlemen are not worried about the brandy question. What they are endeavoring to do is to force us into a concession in the matter of the definition of wine. They can get all the grape brandy they want.

Senator WILLIAMS. They can not force you into any concession. If they did, that would have nothing to do with this committee. We would pay not a particle of attention to your mutual concessions. We want to get at the legislation as clearly as we can, for the general public and not for you.

Mr. BELL. If you put a tax on this grape brandy that is used out there, I want to say to you that, outside of perhaps the California Wine Association, and possibly one or two more powerful companies and individuals, I do not know a pure-wine maker in California who will be able to finance his business, because you can not take the warehouse receipts for wine and put them up in the banks of this country as collateral, as do the men who are engaged in the whisky or the tobacco business. You can not do that. The wine business has reached that precarious state where the wine itself or the warehouse receipt is not taken as collateral security by the banking institutions, or the people who loan money, and I want to say you will crush out every one of the independents—and California to-day is producing 27,000,000 of sweet and dry wine by independents. The charge was made that it was produced by monopoly. I must correct those gentlemen. There are 27,000,000 gallons produced by independents. The whole State of California is full of independent operators.

The CHAIRMAN. What is the price of your wine as compared with the price of like wines shipped from abroad to this country?

Mr. BELL. I have made no comparison, except, perhaps, up on the Raleigh roof garden, or some place where I would have to pay for it.

The CHAIRMAN. After the foreign wine pays the tariff duties, which range from 45 to 60 per cent, do not those wines command much higher prices than yours?

Mr. BELL. I think they do. They retail here at a much higher price.

The CHAIRMAN. I understood you to say the other day that these eastern wines sold at a higher price than your wines.

Mr. BELL. I imagine they do.

The CHAIRMAN. Then yours is the lowest priced wine in this country?

Mr. BELL. Yes; because we can produce them.

The CHAIRMAN. And the consumption of those wines in this country depends upon your cultivating the taste of the people for them?

Mr. BELL. Yes. The average price of sweet wines in California in bulk, when shipped from California, is 29½ cents a gallon, and they have been able, by putting their wines out at that price, to bring those wines within the reach of most of the people. There are a great many people who are not given to the drinking of alcoholic drinks at all, but who drink ports and sherries for medicinal purposes, and then they buy small barrels or small kegs for household purposes, and keep them at their homes. We have been able to bring these wines within reach of the people of this country, and a pure wine at that.

Senator SHIVELY. When I came in you were saying this whole industry substantially was built up on this act of 1890.

Mr. BELL. Yes, sir.

Senator SHIVELY. And that the reimposition of this tax would have a tendency to put the cost of these wines above a reasonably competing point as compared with the wines of other countries.

Mr. BELL. Some one is going to suffer very much indeed, and ultimately the man who has his little vineyard in California it will crush, and it will result in the tearing up of the vineyards and the general demoralization of the wine industry of our State if any tax be imposed.

Senator SHIVELY. This is the case of the imposition of a tax that you object to, and not the case of the ordinary protectionist who insists on imposing a tax?

Mr. BELL. It is quite the opposite in its practical operation.

Mr. WETMORE. If the committee is still in session, I would like to apologize to this committee for getting angry the other day in criticizing my opponents, and I wish also to apologize to them, and if I have the consent of the committee, I would like to withdraw my remarks from the record.

Senator BURTON. Mr. Lannen and others would like the privilege of filing briefs.

Mr. WETMORE. I would suggest that we have a hearing another day, when the committee may take the important part and we be witnesses, answering such questions as they may wish to ask. We have taken the floor and monopolized it.

Senator WILLIAMS. I would suggest that the various briefs be referred to the proper subcommittee, and we can take them up in regular order there.

Senator POMERENE. Let me suggest that you designate a time within which they should be filed.

Senator WILLIAMS. We can not do that now. As they come in they will be filed with the others.

Senator POMERENE. This testimony will be printed, I take it?

Senator WILLIAMS. If anybody wants it printed. I see no necessity of that, however.

Mr. LANNEN. Senator Williams, I would like to have the record show, in connection with Dr. Wiley's decision on Ohio wines, a copy of Food Inspection Decision 120 repealing that decision.

Senator WILLIAMS. We take for granted you will put in your briefs everything of that sort.

(Thereupon, at 11.05 o'clock a. m., the committee adjourned.)

BRIEFS FILED WITH THE SUBCOMMITTEE ON FINANCE.

The honorable Committee on Finance, United States Senate:

In addition to what we have already stated, we desire to say:

Our position on the bill is as follows:

In reference to paragraph 254 $\frac{1}{2}$, lines 3 to 25 inclusive, where you propose to put a tax of \$1.10 on each proof gallon of wine spirits, grape brandy, or neutral alcohol used for fortifying sweet wines, we have no recommendations to offer, except that you be as lenient as possible regarding the amount of the tax.

Page 71, lines 1 to 18, inclusive, in which you propose to place a tax of 25 cents a gallon on spurious wines—we are heartily in favor of taxing spurious wines. But this part of the paragraph should be so amended as not to include standard commercial wines made east of the Rocky Mountains. As the paragraph in these lines particularly states that wines should be made exclusively from fresh grapes, berries, etc., and as our wines contain an addition of water added to ameliorate the excessive acidity, but which does not reduce the acid below five parts in a thousand, and have an addition of sugar to produce alcohol not to exceed 13 per cent in the finished product, this paragraph on spurious wines would tax, not only spurious wines but also our standard commercial wines. Hence the amendment which we offered yesterday, in which all we ask for is to be allowed to add water to reduce the natural acidity in the grape juice down to not less than five parts in a thousand and add sugar enough to produce alcohol, not to exceed 13 per cent in the finished dry wine. This will standardize the eastern wines for all years, favorable years as well as unfavorable ones. This is a safer standard than to limit the amount of sugar and water to a certain per cent, because our standard would limit the amount of water and sugar in favorable years, when the acidity is low and the natural sugar high, to the amount actually necessary, and in all years would limit the amount of water and sugar to actual necessity.

Water is added to our wines to reduce the excessive acid and sugar is added for the purpose of making up the deficiency in natural sugar contained in the grapes, as the amount of natural sugar contained in the grapes is generally deficient. This amount of sugar and water does not lower the quality of our wines, but on the contrary improves them, because our grapes have an abundance of flavor and character.

The sugar added for making dry wines produces only a small amount of the total alcohol in the finished dry wine, and the total

amount of alcohol created by both the natural sugar and added sugar never exceeds 13 per cent in dry wine, which is the maximum of alcohol ever contained in our standard dry wines.

SWEET WINES.

Our sweet wines are made from our standard dry wines by simply adding sugar to the standard dry wines not to exceed 15 per cent by volume. This sugar is added for sweetening purposes only. Ten per cent of sugar for sweetening purposes is sufficient in most instances, except for the Scuppernong wine and blackberry wine of North Carolina and Virginia, which require 15 per cent by volume. Our sweet wine, after having the sugar added to it for sweetening purposes, is then fortified with wine spirits, grape brandy, or neutral alcohol, and after clarification is a standard sweet wine. Our sweet wines are made as occasion demands during the year from such dry wines as we have on hand.

By inserting in our amendment that the grape juice must show a reading of not less than 10 on Balling's saccharometer we guard against the use of unripe grapes, which have an excessive acidity, thus throwing every possible safeguard around the standard proposed, so that only that amount of sugar and water actually necessary may be used.

Only under the standard we have asked for can we produce merchantable wines in the Eastern States.

Respectfully submitted.

THOMAS E. LANNEN,
Attorney for Eastern Wine Makers.

WASHINGTON, D. C., August 16, 1913.

SUGGESTIONS REGARDING PROVISIONS OF SWEET-WINE AMENDMENTS MADE BY THE SENATE TO H. R. 3321, AS PRESENTED BY W. E. HILDRETH, PRESIDENT URBANA WINE CO., URBANA, N. Y.; SOL BEAR & CO., WILMINGTON, N. C.

To the honorable Finance Committee, United States Senate:

The question of fortifying and preserving pure sweet wines by the use of grape brandy, free of tax, is one that has been investigated and canvassed by every wine-producing country in the world, and the result has, up to the present time, been uniformly in favor of allowing the makers of pure sweet wines to so fortify and preserve their wines. The imposition of any tax on the brandy so used would of necessity so curtail the manufacture of legitimate sweet wines as to practically prohibit their use to a large extent. Much of the sweet wines made in this country are used, with very beneficial results, in the preparation of certain medicines, cordials, and tonics, the manufacturers of which if ultimately obliged to pay the tax on the fortifying brandy would turn to the cheaper forms of ethyl alcohol derived from corn, molasses, fruit parings, black scrap, and even wood or pulp for obtaining the alcohol necessary in their manufacture. The result would be that under such a tax there would be but a small demand for legitimate sweet wines, and the necessary

increase in the cost of such sweet wines would further curtail their use with the masses as a beverage and light tonic and drive the poor people to the use of the cheaper strong spirits as a beverage and tonic. These facts we feel would undoubtedly curtail the manufacture of pure sweet wines to such an extent that the Government would derive but little benefit from the tax as a revenue measure, and without a corresponding tax on the imitation wines preserved by the use of chemicals would practically prohibit the manufacture of pure sweet wines altogether, a fact which we are firmly convinced will be borne out by an inquiry at the Pure Food Department. If, however, your honorable body, despite our views in the matter and that of all other wine-producing countries, feel that such a tax could be levied without practically destroying the property of the vineyardists and all producers of such sweet wines, and feel that the provisions of the tariff bill as set forth at present in section 254½ should be enacted into the law, certain parts of that section ought to be corrected or the result would be almost prohibitory to the manufacture of pure dry wine.

Page 71, lines 1 to 13, of the tariff bill provides for a tax of 25 cents per gallon on so-called pomace or imitation wine, the definition of which is not sufficiently clear as to classification. There is before the House at present a pure-wine bill, H. R. 4982, which is the result of a conference of the reasonable pure-wine makers of California and the East, collaborating with the Pure Food Department and the Internal-Revenue Department, and based upon the wine laws of all other wine-producing countries, which define what shall be an imitation wine and what should be allowed as ordinary cellar treatment of pure wine, and we feel that such definitions should be attached to the tax enactment on imitation wines instead of the exempting clause, as defined in lines 13 to 18 of page 71.

If, however, these definitions, in your judgment, would be too cumbersome to be enacted into the revenue bill, the word "sweet" on line 14, before wines, should be stricken out or the result would be a tax on pure dry wines with an exemption on pure sweet wines, corrected as proposed. Also on line 18, page 71, the words "in either case" should be replaced by "in all," or the correction allowed for untaxable wine would be an addition of 20 per cent of sugar, 20 per cent of grape must, and 20 per cent of water, or, in all, a correction of 60 per cent, which we feel is not what the committee contemplated as defining a pure wine. The last paragraph on page 73, lines 4 to 6 included, provide that wines may be fortified under the old sweet-wine law up to January 1, 1914.

Under this provision, I take it, it was designed to allow the fortification of sweet wines produced in 1913 under the old sweet law. In the northern sections of New York and Ohio this would be practically impossible, as our grapes are not all harvested until the first part of November, and it would be practically impossible to obtain the brandy or the Government supervision for the fortifying of these wines before January 1 even if the wines could be perfected for such fortification before that date, for which reason if all sections of the country are to be treated in a uniform manner I would suggest that after the words "January 1, 1914," be added "but shall not include any finished wines or wines in process of manufacture at that time." These corrections are vital to all pure-wine manufacturers; but, as a whole, believing as

we do, that the imposition of this tax would prove such a serious menace to the sweet-wine manufacturer of all the country both east and west, and at the same time would be so uncertain of producing any revenue to the Government, that it would be most desirable that the matter might be laid over until such time as with the aid of the Pure Food Department, the Internal-Revenue Department, and the legitimate wine manufacturers a pure-wine bill could be enacted so as to meet all of the legitimate demands both of the Government and manufacturer.

Respectfully submitted.

W. E. HILDRETH,
President Urbana Wine Co., Urbana, Steuben County, N. Y.
SOL BEAR & CO.

To the honorable Committee on Finance, United States Senate:

The following amendment is submitted by the eastern wine makers as an amendment absolutely necessary to be made to enable them to overcome climatic conditions and produce merchantable wines east of the Rocky Mountains which will not be subject to the tax of 25 cents a gallon. If this amendment is not made, all wines made east of the Rocky Mountains will have to stand a tax of 25 cents a gallon while wines made in California will not have to stand such tax.

Amend paragraph 254½ of H. R. 3321, as reported from the Committee on Finance in the Senate as follows:

Page 71, line 18, insert after the word "wine" the following:

And provided further, That the tax herein imposed shall not be held to apply to a dry wine made by fermentation of crushed grapes, berries, or fruit or juice of the same under proper cellar treatment and corrected by the addition of a solution of refined cane, beet, or dextrose sugar to the crushed grapes, berries, fruits or juice of the same before or during fermentation so that the resultant product does not contain less than five parts per thousand acid and not more than 13 per cent of alcohol by volume after fermentation, provided that grape juice from which such a dry wine is made shall show a reading of not less than 10 on Balling's saccharometer at a temperature of 60° F. before such sugar solution is added as aforesaid; nor shall said tax apply to a dry wine made as stated in this proviso and sweetened with sugar which does not increase the volume of the wine more than 15 per cent and fortified so that the total alcoholic content of such wine does not exceed 24 per cent of alcohol by volume, and such wine shall be regarded as a pure sweet wine within the meaning of this act. Wines not taxable under this act may be blended without the blend being subject to the tax provided for in this act.

Page 73, line 6, insert after the letters "teen" a comma and the words "but shall not apply to wines made prior to or in process of manufacture on that date."

The following amendments are suggested as advisable and worthy of the careful consideration of the committee:

Page 72, line 7, strike out the comma after the word "produce" and insert in lieu thereof the word "and."

Page 72, line 11, strike out the words "and shall" and insert in lieu thereof the words "or may."

Page 73, line 5, strike out the words "January first" and insert in lieu thereof the words "April first."

BRIEF OF THE WINE INDUSTRY OF CALIFORNIA, SUBMITTED BY
 LOUIS S. WETMORE AUGUST 18, 1913, RELATING TO SECTION 254½,
 H. R. 3321.

Hon. F. M. SIMMONS,

Chairman Finance Committee, United States Senate.

SIR: I beg to have submitted my brief to you in the form of questions and answers, which probably puts all of the questions that have come up during the hearing with definite answers to them, as I think it would be very easy for you to refer to any particular question and you would find an explanation of it.

Respectfully,

LOUIS S. WETMORE,

President Stockton Chamber of Commerce, Stockton, Cal.

AUGUST 18, 1913.

Question. What is the object of section 254½, an amendment of House bill 3321?

Answer. For the purpose of raising revenue.

Question. How was this revenue to be derived?

Answer. By a tax levied on the brandy or wine spirits now used in fortifying pure sweet wines.

Question. How much brandy is used in fortifying pure sweet wine?

Answer. An average of the past three years would be about 5,000,000 proof gallons. The maximum ever reached was 6,000,000 proof gallons.

Question. What tax is proposed on this brandy used in fortifying?

Answer. A tax of \$1.10 per proof gallon.

Question. What is a proof gallon?

Answer. A proof gallon is a liquid or wine gallon of brandy containing 50 per cent alcohol; therefore, the tax of \$1.10 per proof gallon is a tax of \$2.20 for each gallon of absolute alcohol.

Question. Is this the same tax that is collected on other distilled spirits?

Answer. It is a greater tax, because the tax of \$1.10 per proof gallon is collected on distilled spirits after they are withdrawn from bond. Distilled spirits are allowed to be carried in bond for eight years. It is safe to say that there is about 25 per cent of evaporation, and the consumer is only required to pay the tax on the amount of spirits withdrawn. Therefore, the tax on brandy used in fortifying as proposed is 25 per cent greater than the tax on distilled spirits, because the producer of sweet wines is required to pay the tax on the original gauge and all losses from evaporation have to be stood by the producer.

Question. How much sweet wine is produced?

Answer. The average of the past three years would be 20,000,000 gallons.

Question. How much brandy is used to produce 1 gallon of sweet wine?

Answer. The reports of the Commissioner of Internal Revenue show that 5,000,000 proof gallons were used in producing 20,000,000 gallons of sweet wine; therefore, it took 1 proof gallon of brandy in 5 gallons of finished wine.

Question. What amount of revenue was originally anticipated or suggested as being possible to collect under this amendment?

Answer. Somewhere between \$5,700,000 and \$7,000,000, being \$1.10 per proof gallon on the present amount of brandy used in fortifying.

Question. Is there any reason to believe that with the present production of pure sweet wines, which average about 20,000,000 gallons per annum, that other methods could be used by which the same results could be accomplished and less brandy used and consequently less revenue obtained?

Answer. Yes; the present method of fortifying wine is to ferment only a part of the natural sugar percentage of the grape juice into alcohol (2° of sugar will ferment into 1° of alcohol). The present average sugar percentage of California grapes is from 23 to 26 per cent. This is allowed to ferment long enough to produce 7½ per cent of alcohol, leaving approximately 10 per cent of sugar in the grape juice. To this, then, is added 12½° of grape brandy, bringing the wine up to approximately 20 per cent of alcohol, which is the percentage required to stop further fermentation and preserve the balance of the natural sugar of the grape. Different wines of different types are fermented to different degrees, but 7½ per cent is an average. This is the present method, which results in the use of approximately 5,000,000 gallons of grape brandy in producing 20,000,000 gallons of pure sweet wine.

The other method is to ferment all of the natural sugar of the grape into alcohol and by adding concentrated grape juice a result can be obtained by natural fermentation of 15 per cent of alcohol. (Laboratory experiments have even gone so far as to develop 17 per cent of alcohol by natural fermentation.) The wine is then practically dry, without any sugar percentage, and more condensed grape juice can be added to sweeten the wine to suit the taste of the consumer. Then it is only necessary to add 5° of alcohol in place of 12½° to have a resulting wine at 20 per cent alcoholic strength. In other words, the wine maker can very easily change his methods of wine making so as to use only 40 per cent of the present amount of grape brandy now used. The only reason that he does not use this method at the present time is that the brandy is free of tax and the quality of wine produced is superior to that which could be produced by the method suggested. By this method the revenue derived would only be 40 per cent of the amount originally anticipated, or less than \$2,500,000.

Question. Why do you think people would use this new method?

Answer. Because these wine producers are men of commercial instincts and will naturally produce their wines at the smallest possible cost to themselves.

Question. Are there any further conditions which would still further reduce the amount of revenue that apparently could be collected by this amendment?

Answer. Yes. Only about 3 per cent of the wine is sold in glass bottles under brand names, the remaining 97 per cent is sold in bulk (casks containing from 27 to 50 gallons) to the working or middle classes of our people. The amount of wine so consumed is directly in proportion to the wages or income of these people, and if the price of wine is increased the amount they can purchase will be decreased.

in direct proportion. Therefore, under the present method, the cost of the wine would be increased at least 150 per cent and the consumption consequently decreased 50 per cent, hence the revenue which can be actually calculated as forthcoming would not exceed \$1,000,000.

Question. Does it not seem then that this amendment defeats its own purpose, that of producing revenue?

Answer. Yes. It appears that the tax proposed of \$1.10 would defeat its own purpose; that is, to the extent of revenue anticipated. I have shown that I really do not think that more than \$1,000,000 can be raised with a tax placed on brandy of \$1.10.

Question. Are not the sweet wines that are imported into this country lower in alcohol than California sweet wines?

Answer. Yes. I believe that it is true, especially of the Spanish sherries, but Spanish sherries, especially the "Amontillado," are dry; that is, they are not sweet and naturally do not require a large amount of alcohol to perfect them. We can not make these kinds of sherries under the act of 1890, because the act requires us to have at least 4 per cent of sugar before we can fortify our wines.

Question. To what part of the act of 1890 do you refer?

Answer. I refer to section 43, which reads "and such sweet wines shall contain not less than 4 per cent of sacharino matter."

Question. Then you can not very well compete against these Spanish sherries.

Answer. Not exactly, because the sherries that we make are sweet, and the consumer who prefers a dry sherry has to buy the Spanish sherry.

Question. But why is it necessary to fortify your wines so high?

Answer. In order to preserve the grape sugar. To explain further, I would say that the California port wine contains about 10 per cent grape sugar (Balling's test after dealcoholization). Now, if these wines were not fortified up to 20 or 22 per cent alcohol, this sugar would go on and ferment.

Fermentation can take place up as high as 18 per cent, though it is very hard naturally to ferment above 15 per cent; still if a wine was fermented up as far as possible in alcohol in one climate and the wine was a sweet wine, it might stand all right while it was in the original cellar and probably just during the winter; then as soon as the temperature changed in the spring there would be new fermentation set up. These fermentations are very difficult matters to understand, because there are so many different forms of fermentation, the desired one being that which results in the production of alcohol by dividing the sugar into alcohol and carbonic-acid gas. The undesirable fermentation is when a fermentation starts in under undesirable conditions which is complicated with other bacteria and results in producing acetic acid or vinegar. That is the result which you will get if sweet wines were not fortified high enough in alcohol to prevent an unfavorable fermentation taking place.

Now, here is the proposition: The analysis of even imported ports into this country might show cells 18 or 19 per cent of alcohol, but these are wines that have been matured and aged. When wines are first fortified, in order to have them in a commercial shipping condition, the wine must contain 20 per cent of alcohol before shipment. Now, an allowance has got to be made for filtering and handling wines

in the cellars. There is a loss of alcohol in filtering wine, but there is a greater loss in alcohol by evaporation. While the combined evaporation of both the moisture and alcohol all runs all the way from 3 to 10 per cent per year, the alcohol evaporates faster than the moisture. It is the opposite of distilled spirits, because distilled spirits sometimes increase in proof while in bonded warehouses, during which time the volume of the spirit may have decreased by evaporation, but the volume of the wine is complicated by all the elements of fruit juices, and the added brandy to the wine is the most unstable or uncombined portion of that wine, especially during its first year. The process of aging wine contemplates the complete assimilation of the brandy until such a time as the brandy is actually a component part of the wine. During all these processes the alcoholic strength of the wine has been decreasing.

Commencing again, then, with wine at 20 per cent alcohol, finished and ready for shipment from California: This is put in a new oak barrel and, either by the affinity of oak for the spirit rather than for the wine or some unknown cause, which would be very difficult to attempt to explain, when that wine arrives in New York it has lost a half degree in alcohol, and by the time that wine has been handled from New York back to the jobbers in the neighboring States and from them to the retail dealers and from them to the consumer it would be pretty safe to say that the alcoholic strength of the wine reaching the consumer is somewhere around 18½ to 19 per cent of alcohol.

Therefore the alcoholic strength of wine from the time it was originally fortified until it has reached the consumer has dropped all the way from 2° to 3° in alcohol. And after the wine has been thoroughly and completely aged and matured and handled the danger of getting a new fermentation started up is not near as great as it is during the first two years after it is fortified.

The higher the saccharine content of the finished wine the higher the alcohol has to be in order to preserve it up to a certain limit—that is, to the limit of practically sirup when sugar itself becomes anti-septic.

Our method of making sheries to-day requires us to fortify them up to about 23 per cent of alcohol, because they are heated for a period of six months in a warm room at a temperature of about 140°, and the loss of alcohol in these sherry ovens is very great, and the producer must contemplate getting his wine out of the oven at a little better than 20 per cent, so that he will be sure to have 20 per cent when the wine is shipped.

Question. How was it, then, that the limit was put at 24 per cent of alcohol?

Answer. This limit of 24 per cent is the limit of alcoholic strength to which wines can be imported into this country as wine; above that strength they are designated as distilled spirits. I refer you to paragraph 249 of H. R. 3321, on page 67, which reads:

Provided, That any wines, ginger cordial, or vermouth imported containing more than 24 per cent of alcohol shall be classed as spirits and paid out accordingly.

This is what determines the strength of wine, because the people of this country are entitled to produce any article that is permitted to be imported into the country, and if fortified wines are permitted to be imported into this country up to a limit of 24 per cent of alcohol,

that is the limit that is to be put in a bill regulating the production of wine within this country. This limit might be reduced a half degree or so, but it is not an important matter and the abuses are very small.

There has always been a contention, or feeling, rather, that California wines were being used by manufacturing chemists solely for the purpose of getting the benefit of the alcoholic strength of those wines. Now, this may be true in a very few cases, as you will always find some abuse of anything that you try to do. However, the amount of wine sold to the manufacturing chemists by the California producers during the year 1912 was under 700,000 gallons. I believe that more than two-thirds of this was used legitimately in making medicines, where the medicinal values of the wines were a very important part of the medicine. If the other third was used for illegitimate purposes or for the purpose of avoiding a tax on distilled spirits there could be other methods suggested to stop this abuse without jeopardizing the whole 20,000,000 gallons of sweet wines that are made in California. I do not believe that a California producer should be held responsible because some little chemist in the East uses his wine for an illegitimate purpose.

Question. Is there not some provision in that law at the present time in regard to rectifying with fortified wines that would prevent any abuse on the part of the manufacturing chemist?

Answer. Yes; in the act of 1890 there is an amendment dated June 7, 1906, known as section 6, part of which reads as follows:

That any person * * * who shall rectify, mix, or compound with other distilled spirits such fortified wines * * * shall, on conviction, be punished for each such offense by a fine of not less than \$200 nor more than \$1,000.

Now, the object of this section was directly to prevent any abuse in the use of wines fortified with brandy free of tax. Before this amendment was passed some of these manufacturing chemists used to take California fortified wines and add other spirits to them, making up a medicinal compound sometimes as high as 35 and often 46 per cent of alcohol; but this section prevents all of that, and you find to-day on all of these chemical compounds on the labels of the bottles that the alcoholic strength is somewhere around 18 to 20 per cent, so that this amendment of June 7, 1906, has evidently accomplished its purpose and the abuses which this amendment are expected to abate have been reduced to the minimum.

Question. What is the cost of producing a vineyard?

Answer.

Cost of land per acre.....	\$150. 00
Roots, planting, and care first year.....	24. 00
Interest, taxes, first year.....	14. 00
<hr/>	
Total cost first year.....	188. 00
Second year, grape stakes.....	17. 00
Care and cultivation.....	15. 00
Interest and taxes.....	16. 00
<hr/>	
Total cost of first and second years.....	236. 00
Third year, pruning and care.....	15. 00
Interest and taxes.....	17. 00
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Total cost for the three years.....	268. 00

Question. What is the cost of growing a ton of grapes?

Answer (based on our average of 4 tons per acre).

Cost of pruning and cultivation, 1 acre.....	\$15. 00
Interest and taxes.....	17. 00
Picking 4 tons, at \$1.75 per ton.....	7. 00
Hauling and delivering, at 75 cents per ton.....	3. 00
	42. 00

Which equals \$10.50 per ton.

Question. How much brandy is made from a ton of grapes?

Answer. A ton of grapes contains on the average 160 gallons of juice; 25 per cent sugar equals 4,000° of sugar; now fermented dry—160 gallons of wine 12½ per cent alcohol equals 2,000° alcohol; 2,000° of alcohol equals 4,000 proof degrees of alcohol; 1 proof gallon is 1 gallon of 100° proof brandy; therefore, 40 proof gallons of brandy can be made from a ton of grapes.

Question. How much sweet wine can be made from a ton of grapes?

Answer. A gallon of sweet wine averages 20 per cent alcohol and 10 per cent sugar (balling scale after dealcoholization); 2° of sugar equals 1° of alcohol; therefore, a gallon of wine contains the equal of 25° of alcohol. As shown, there are 2,000° of alcohol in 1 ton of grapes; 2,000° divided by 25 is 80; therefore, 80 gallons of sweet wine can be made from a ton of grapes.

Question. What is the cost, then, of a gallon of sweet wine?

Answer. The cost of raising the grapes, as shown, is \$10.50 per ton. This varies with different varieties, and in the sweet-wine districts contracts for grapes are made from \$10 to \$12 per ton, averaging approximately \$10.50.

Purchase price of grapes.....	\$10. 50
Freight to wineries (average).....	1. 00
First cost of crushing grapes.....	1. 25
Interest on winery.....	1. 00
Insurance and taxes.....	. 50
Cost of maturing and aging per year.....	1. 25
Charge of 3 cents for brandy used in fortifying.....	. 72
Total	16. 22

Eighty gallons cost \$16.72, hence, 1 gallon costs 20 cents.

Question. What is the average selling price of sweet wines?

Answer. The average selling price for the past five years f. o. b. cars California, has been 29½ cents per gallon (not including the barrel). This is the average for all varieties and all grades.

Question. Is the difference between the cost and selling price all profit?

Answer. No; after wines are made they are concentrated at distributing points in order to furnish mixed carloads of wines of different types to the trade and for blending wines produced in different parts of the State to established standards. This concentration costs on an average 2 cents per gallon freight, and the care of the concentrating cellars 2 cents more. Then there is the selling expense, maintaining of eastern branch houses, and commissions to salesmen. The margin of profit is quite small. None of the California wine houses have made any money since the earthquake of 1906. Some of the largest have not resumed the payment of dividends since that time, and their stock is listed at the San Francisco Stock Exchange at 50

per cent of par value, while this same stock, previous to the earthquake, was selling at from 80 to 86 per cent of par value.

Question. What is the purpose of the present charge of 3 cents per proof gallon on brandy used in fortifying?

Answer. This is merely to reimburse the Government for its expense in gauging the brandy and regulating the wineries producing pure sweet wines, and is amply sufficient for its purpose. It is not considered a tax, either by the Internal-Revenue Department or by the producer.

Question. What is the proportion of pure sweet wine made in California to the total amount of wine made in the United States?

Answer. California produces 97 per cent of the pure sweet wines produced in the United States. All the other States put together produce only 3 per cent.

Question. What other States have used brandy free of tax in producing pure sweet wines?

Answer. I find among the reports of the Commissioner of Internal Revenue that the records show that the following States and Territories have used brandy free of tax for fortifying wine during the years that this law has been effective—that is, between 1890 and July, 1911: New York, New Jersey, North Carolina, Virginia, Alabama, New Mexico, Ohio, Missouri, Hawaiian Islands.

Question. Would it not appear then that these other States had the same opportunities that California had?

Answer. It certainly appears to me they have and there has never been any contention on this point until the present time. Section 43 of the act of 1890 provides that when a producer of pure sweet wine is also a distiller, he can withdraw his brandy direct from the distillery. Now, I always understood this to be a matter of bookkeeping. Where the same man has given a distillery bond as well as a wine maker's bond, there is no confusion in bookkeeping by the transfer of the brandy from his distillery to his winery; but where a distiller has operated in one man's name and the winery in another it is necessary, in order to keep the records clear on these separate bonds, that one of them terminate, and that so far as bookkeeping is concerned the first man is required to deposit the brandy in a special bonded warehouse. Then the second man, the producer, on his bond, starts in fresh again and withdraws the brandy for use in his winery under the provisions of section 46. I understand, however, that a new system has been devised in the Internal-Revenue Department whereby that can accomplish the purposes of their records and permit brandy to be withdrawn from a distiller operated in one man's name and transferred direct to a winery operated in another man's name without confusing the records; therefore, in drafting your new law, it would be well to provide for such a method and I am sure the officials of the Internal-Revenue Department could explain just how to word such an amendment to accomplish this purpose.

Question. But does not the law make it necessary for a producer of pure sweet wine to have what is called a bona fide vineyard?

Answer. Yes. The intention of this was to keep these wineries from being organized or operated in the large cities. A great deal of trouble had been experienced in locating the fraud in the cities. The natural place for a winery is in the district where the grapes are grown, which naturally insures that the wines be made from fresh

grapes and not from half-dried grapes or raisins. The intention of this provision is simply this: That the winery must be in the grape-growing district. It is the desire of the committee to eliminate this feature. There is no very serious objection to eliminating it, as it is nothing to the producer, but simply would probably put harder labors on the Internal-Revenue Department in tracing down fraud and violations of any act that you might pass. I would suggest that you require that the winery must be located in the grape-growing districts, speaking generally, and making your provision so that the Commissioner of Internal-Revenue, in his discretion, could permit a winery to be operated in an adjacent city.

Question. Did you not just state that California produced 97 per cent of the pure sweet wines?

Answer. Yes, and I think for that reason that very careful consideration should be given California in weighing the arguments presented by other States. California has a natural climate adapted to growing grapevines and can produce pure sweet wines without the use of sugar, and to legislate against 97 per cent of an industry, in favor of 3 per cent, would be like an attempt to create artificial conditions, which is precisely what I understand that the administration does not desire to do and is for that purpose working out a scheme to remove the features of protection from the tariff, thereby letting products grow in their natural climates and under surroundings that the Lord intended them to grow in and allowing the consumer to ultimately reap the benefit.

Question. What is the acreage of grapes in California?

Answer.

	Acres.
Wine grapes exclusively.....	168,500
Raisin grapes.....	110,500
Table grapes.....	61,000
Total.....	340,000

Question. What is the acreage of grapes in the Eastern States?

Answer. I believe that in the United States east of the Rocky Mountains the total acreage of grapes will not exceed 80,000 acres, and that at least one-third of these grapes are grown in the State of New York.

Question. What is the amount of money represented by the industry in California?

Answer. Total investment in vineyards and wineries in California is over \$150,000,000.

Question. Your valuation seems to be small when compared to the valuation as stated on the first day of our hearing, in which the eastern industry was placed as an investment at \$100,000,000.

Answer. Yes. The figures that I have given you represent simply the vineyards and wineries. Probably the eastern gentlemen intended to include in their figures the allied trades, such as the cooper shops and the acreage in Arkansas where barrel staves are grown, but these features are just as much attributable to the California industry as to the eastern. I do not like to criticize their figures, but if only the wineries and vineyards were to be considered it would appear as though his valuations for his vineyards exceeded \$1,000 an acre, whereas I have always been under the impression that land

values east of the Rocky Mountains were really very much lower in value than what they are held in California.

Question. What is the number of families engaged in grape growing in California?

Answer. There are 15,000 heads of families who have vineyards in California, and averaging each family at five people would be 75,000 persons.

Question. What is the annual production of wines and brandy in California?

Answer. In 1912 California produced—

	Gallons.
Pure dry wines.....	24, 000, 000
Pure sweet wines.....	17, 797, 718
Pure commercial grape brandy.....	1, 700, 000
Total.....	43, 497, 718

Amount grape brandy used in making pure sweet wines, 4,648,842 gallons.

Question. What did you mean in your statement by pure commercial grape brandy?

Answer. That is the brandy that is distilled and sold to be consumed as brandy. It is deposited in special bonded warehouses and a tax paid when withdrawn and used at the same rate of tax and under practically the same regulations as other distilled spirits.

Question. What is the difference between dry and sweet wine?

Answer. Pure dry wines are made by allowing all of the sugar in the pure grape juice to ferment into alcohol. Pure sweet wines are made by arresting the fermentation while the juice is still partially sweet by the addition of pure grape brandy, which preserves such sweetness, and no pure sweet wine can be made in any other way for the simple reason that pure sweet wine contains nothing but the pure juice of the grape and pure grape brandy.

Question. Why are the raisin grape growers interested in having this amendment withdrawn?

Answer. The Muscat and other raisin grapes have two crops, the first of which is put on trays in September, the second becoming ripe late in October and too late in the season for drying on account of rains; thus the raisin grower has to depend solely on the winery to take care of his second crop.

Question. Why are the table-grape growers interested in having this amendment withdrawn?

Answer. Only the best bunches, containing the best grapes, are fit for shipment to market as table grapes. The cost of transportation across the continent precludes the shipment of any bunches of grapes that are not the very best, and the table-grape grower has to depend on the winery to take care of the culls. In usual seasons the wineries take about one-third of the table grapes, but often in years where early rains occur the wineries handle one-half and sometimes two-thirds of the grapes grown by the table-grape grower.

Question. Why are the dry-wine men interested in the proposed amendment (sec. 254½)?

Answer. Because, first, it involves, and very seriously, the standard of purity of California dry wines. They are also interested in the question of taxes on the brandy used in fortifying the sweet wines, because if that industry should be impaired by the

amount of that tax, there would be an effort on the part of the sweet-wine producers to make a large part of their grapes into dry wines, and as it is hard to market the present quantity of dry wines produced, it would seriously impair their markets.

Question. Does not this amendment (sec. 254½) agree with the pure-food bureau in its definitions of what pure wines are?

Answer. No. It disagrees in many respects, by permitting any alcohol other than grapes being used in fortifying wines, and in the addition of 20 per cent sugar and water.

Question. What other alcohol could be used?

Answer. Pure neutral alcohol, as described in the amendment, can be obtained from grain, refuse of canneries, refuse from pineapples, refuse from sugar refineries, and even from sawdust and shavings and wood pulp. The Classen Chemical Co., of Seattle, Wash., are producing a pure neutral potable alcohol from wood, sawdust, and shavings, which, under the amendment as written, could not be excluded in the making of wine.

Question. Why would producers of wine use other alcohol, if given the opportunity?

Answer. These neutral alcohols can be produced very cheaply. Those from pineapple refuse and sugar-refinery refuse can be produced as low as 10 cents per proof gallon. Pure grape brandy costs about 40 cents per proof gallon, when grapes are purchased for \$10.50 per ton, hence it would be 30 cents a gallon cheaper to use other alcohol than grape brandy.

Question. What would be the result if producers of sweet wine used other alcohol?

Answer. At the present time it requires a distillation of the product of 1 ton of grapes to fortify the product in wine made from another ton, hence if other alcohol could be used the producer would not have to purchase the ton of grapes now distilled.

Question. If the producer did not purchase the ton of grapes now distilled for this alcohol, what then would become of them?

Answer. First, the grower would naturally try to find other uses for his grapes. Probably he would try to make some dry wine, but as at the present time more dry wine is being produced than can be marketed at a profit, therefore his outlet in this direction would soon cease, and if he attempted to make them into grape juice he would find his market still more limited. The final result being that he would find it more profitable to suffer his loss and destroy his vineyard, and in time go into other agricultural pursuits. The loss would be very great, because his vineyard has taken five or six years to bring into bearing and many lands on which grapevines are grown are not suitable for other purposes. This is especially true of grapes grown on hillsides which would not be used for alfalfa. It is also true that many growers have borrowed money, pledging and mortgaging their vineyards for loans in excess of the market value of the bare land, and in the destruction of the vineyard would lose all they possess.

Question. Is there anything unwholesome about these other neutral alcohols you speak of?

Answer. I think that Dr. Wiley could answer that question better than I could. Probably they are just as wholesome, but I should think that those produced from sawdust and shavings would, in time, present an odor or resemblance to turpentine. You see they are not

produced as absolutely alcohol, there being from 5 to 10 per cent of material which carries with it the element of the product from which it is derived. It is for this very reason that as grape brandy carries with it the element of the grape it will add very much to the quality of the wine, because in maturing the boquet the essential part of the grape derived in this manner develops wonderfully.

Question. Is it not working a hardship on the eastern wine maker to compel him to use grape brandy?

Answer. No; it is just the other way. If these eastern wine makers would use grape brandy, there would be a demand for twice the acreage of vineyard that there is here in the East, and by that very fact you would develop the eastern grape-growing industry by insisting that they do use grape brandy. The cost of California grape brandy, which they can always buy plus the freight, I should think would be about the same as the cost of eastern brandy produced from grapes which might cost a little more to produce, but not having any freight I am under the impression that the eastern man would be on an equality, especially if he would ferment out his pomace with what natural juice is left in there, after drawing off his wine, and he distilled that for his grape brandy. He would have a great deal more legitimate use for his pomace than he would in making the imitation wines out of them.

Question. Does not section 3255 of the act of June 3, 1896, as amended March 2, 1911, provide that the wine maker can add sugar and water to this pomace and distill it for grape brandy?

Answer. No. That provision has been interpreted to mean that, if he has originally added sugar and water to his wine, that he can distill either the wine or the residuum of pomace for brandy, but he can add no more sugar. I believe this amendment is a fraud because any ferment of sugar and water produces what I have always called rum and not brandy. I do not believe, however, that this amendment is a serious menace as long as the present interpretation is put on it, but it is a very vague piece of legislation and should certainly be repealed.

Question. Does not what is known as "Decision 120" permit wines being made out of pomace and sugar and water?

Answer. I might say a good deal of my opinion as to the method by which this decision was obtained, but it is one of the purposes of our visit here to ask for a rehearing on this decision because this decision is exactly in contravention of the pure food law itself. There is nothing in the term pomace wine to indicate to the consumer that he is drinking the fermented product of sugar and water that has been the fermentation of an old skin of a grape that may have been used several times previously for the same purpose. Neither is there any indication in the term "Ohio wine," or "Missouri wine" that would indicate to the consumer that he is drinking a product that may be four-fifths a solution of sugar and water. Because there is no regulation surrounding this decision that would prevent fraud by allowing manufacturing, and by fraud I mean the manufacturer adding 40 pounds of tartaric acid to each 1,000 gallons of liquid so that his resulting test would conform with the decision.

Question. For what purposes is sugar added to wines?

Answer. Sugar is desired when grapes ripen below the normal per cent of sugar they should contain. The addition of sugar has always

been to compromise the condition of wine making in the Eastern States or for the benefit of the 3 per cent of wines made outside of the State of California. There are no reasons for the addition of sugar, because the same results can be obtained by condensation or by the addition of pure boiled or condensed grape juice, so that the finished product is entirely made from grapes. However, custom has established this compromise to the extent that a maximum of 10 per cent of sugar by weight is now allowed without discrediting the wine under the act of 1890 as amended. The proposed amendment proposes to increase this to 20 per cent, which would be a direct violation of the pure-food law.

Question. For what purpose is water added to wine?

Answer. The manufacturers of wine desire to use water, and a very little water is necessary, only for mechanical purposes, so as to handle grapes along conveyors and with modern machinery. It is also desired when grapes are too sweet and the wine maker desires to produce a wine that is low in alcohol, but never more than 2° should be reduced. Prof. Bioletti, who is an international expert on wine making and who at one time was sent to South Africa by the British Government to develop their wine industry in that country, and who is now head of the wine making scientific department of the University of California, states in his Bulletin No. 213, a copy of which I present to you, that wine makers should be very careful about the use of water, and that if more than 2° of sugar have to be reduced it is better to crush some greener grapes in with the riper ones or blend the wine with other wines that might be lower in alcohol. You understand that to reduce 2° of sugar when grapes test 20 per cent requires an addition equal to 10 per cent of the volume. That is where we get at the limit which this violation of the pure food laws can be placed so that the violation is not a serious menace.

Remember, that the consumer is entitled in buying wines to all of the fruit properties of the grape or other fruit from which the wine is derived, as well as the sugar and alcohol, and when a reduction is made with water or an addition made with sugar, the consumer is being cheated out of just that per cent of the other fruit properties, and when it goes beyond a certain limit we might as well give up wine making and let the consumer drink distilled spirits reduced with water.

Question. Is there any necessity of using both sugar and water?

Answer. Absolutely none; they are used for absolutely opposite purposes, one being when the grapes are too high in sugar and the other when grapes are too low in sugar, the addition of both being only for the purposes of stretching and adulterating the wine.

It is contended that the addition of both is for the purpose of reducing the amount of acid natural to the grape juice, but there is something wrong when this contention is made, because a comparison of the tests made by Dr. Elwood will show that the acid contained in the natural grape juice is not excessive except in one or two varieties of seedlings, such varieties being unfit for wine-making purposes as a few varieties which are even grown in California, and which varieties in California are used for the production of grape brandy for fortifying the better varieties.

You see, a lot of these eastern wines are not really made out of wine grapes at all. Just as there are table grapes and raisin grapes

in California, there are table grapes and wine grapes here in the East. I do not mean to say that some varieties of table grapes will not give wines and might be classed as wine grapes, and that there are some varieties of raisin grapes that might be classed as either table grapes or wine grapes, but there are some varieties of grapes under each of these classifications that are absolutely unfit for the purposes of the other classification. I want to make the assertion that the scuppernong grape is not a wine grape, never was, and never will be. A very palatable "liqueur" may be concocted from this grape, just as a very nice glass of lemonade can be made out of a very sour lemon, but I would distinctly class such wines with lemonade. You might call them wineades or grapeades or even scuppernongades.

It seems queer that some of these eastern wine makers have not been trying to develop some of the very fine varieties of grapes raised in Germany, where conditions are very similar to those here in the Eastern States, and where other conditions in Germany may be even worse than they are here, and I think if these eastern wine makers can work along these lines they would soon be making a wine here that was entitled to the name of wine. I think their energies could be very much better placed in these directions than in trying to concoct admixtures with grapes which are absolutely unfit for wine-making purposes.

I believe that it is true that some eastern wine makers draw off about half of the natural juice of the grape for making white wines and champagnes. The color in a Concord grape is not in the juice, but all directly under the skin, and this juice can be drawn off perfectly white. Now, the acid of the grape is combined with the coloring matter of the grape more than it is with the saccharine matters, and when they have drawn off this first two-thirds they have drawn off the juice containing the highest percentage of sugar in the grape and the lowest percentage of acid. The remaining liquor is higher in acid and lower in sugar. Now, I believe it is for the purpose of ameliorating or correcting these remaining juices that the wine maker really desires to impress upon you the great need of having unlimited rights to add sugar and water. There are several ways of reducing this acid without stretching the wine with sugar and water.

Question. What are these methods of reducing this acid?

Answer. I will explain by mentioning four ways, and I presume that there are some others:

1. The acid can be reduced by neutralizing it with lime or other alkalies. This is very objectionable, however, because it leaves a taste in the wine, the taste coming from a combination of the volatile acids in the wine which are soluble.

2. By the sugar and water process which I have mentioned before, but this is very objectionable, because they allow this sugar and water to ferment, and when sugar and water is fermented it produces alcohol or rum, so that they might just as well have added alcohol and water.

3. By blending these wines with wines made from Delaware grapes or other grapes which are lower in acid. This is the most practical way.

4. By refrigeration; that is, by chilling or subjecting the wines to cold, which will precipitate the acid. This can be accomplished very easily in the Eastern States by simply opening the cellar doors and

letting the temperature of the room chill the wine. By this method you have a very practical and perfect way of removing the acid. Eastern wine makers claim that this method would change the character of their wines, but are they not directly asking you to allow them to change the character of their wines by the addition of sugar and water? This refrigerating process leaves all the natural fruit properties intact.

Question. You stated that when sugar and water were added and fermented, that it was the same as adding alcohol and water. Have they not, then, really fortified their wine with alcohol?

Answer. Yes; absolutely so. And it does not differ in the least bit as to the final result any more than when we add brandy in California to our wines.

Question. Then if we tax brandy, should we not tax the sugar?

Answer. Yes. One pound of sugar will produce 1 pound of proof spirits, and as there are 8 pounds to a gallon, the tax on sugar should be one-eighth of the tax per proof gallon on brandy used in fortifying. If you contemplated the maximum of \$1.10, these eastern people, to be on the same basis as California, should be taxed 12½ cents a pound for sugar and, if a preferential is given to California, they should have a preferential, so that their tax per pound, as stated, is one-eighth of the brandy tax per proof gallon.

Question. Well, now, that you have explained this, to what extreme would you go in it?

Answer. I would make a marked difference between the addition of sugar to the normal juice of a grape when not added in excess of 10 per cent of weight of the liquid and when absolutely no water has been used. I think that the worst grapes here have at least 15 per cent of sugar, and the addition of 10 per cent would increase them to 25 per cent, which is the average per cent of sugar contained in California grapes.

I would make this distinction, in that when water was added also then the sugar should be taxed; that is, when sugar is added alone, I would not tax it, or when water is added alone I should not tax it, because I do not think these violations of our pure-food laws are really a serious menace, but when both sugar and water are added I certainly would tax the sugar unless it is restricted to a very limited increase in the volume of the wine, and the addition is made under direct supervision of officers of the Internal-Revenue Department.

Question. Is there any occasion to add acid to any wine?

Answer. My remarks in regard to sugar and water apply to acid. Acid is only added in wine—and then it is not free acid, but mostly cream of tartar (tartaric potash)—in order to promote the activity of either the wild or cultivated yeast used in fermentation and to assist in the vindication of the wines. This is what we call "cellar treatment."

Question. What is meant by the "usual cellar treatment"?

Answer. Usual cellar treatment means simply this: That in order to aid the fermentation and vinification of wine, tannin (tannic acid) is used to help the wild or cultivated yeast cultures and to preserve and prevent other fermentation than the fermentation from sugar to alcohol taking place during the fermentation of the wine, such other fermentations being the formation of acetic acid, or vinegar, which is very objectionable and occurs quite frequently. Sulphurous acid is

also used for the same purpose. Prof. Bioletti, the international expert I spoke of, has published an exhaustive treatise on the benefits derived from the use of sulphurous acid, especially in the form of metabisulphite of potash, his study being along the lines of methods used in Algeria. I present you with Prof. Bioletti's bulletin, No. 230. Yeast cultures have been developed in a low medium of sulphurous acid that have been powerful enough to create by fermentations from 15 to 17 per cent of alcohol naturally. Small amounts of cream of tartar (which is directly a by-product of the grape itself) is used also to aid fermentation and vinification of wine. Egg albumen and gelatin are used to fine and clarify wines. These precipitate themselves and do not remain in the wine. None of these cellar treatments increase the volume of wine at all. Some eastern wine makers try to compare the use of sugar and water with the use of materials in cellar treatment, but they can not sustain their arguments because their additions of sugar and water stretch and increase the volume of wine, while the usual cellar treatment does not. The limits of cellar treatment are all provided for in our pure-food regulations.

Question. Does not the present amendment contemplate a tax of 25 cents per gallon on adulterated wines?

Answer. Yes; but 90 per cent of the adulterated wines as manufactured now are defined in the proposed amendment to be pure wine, and the Government is thereby asked to give its stamp of approval to such as wine and to omit them from the tax of 25 cents. The present printed amendment even goes so far as to take a wine not made from grapes at all, and by fortifying it with neutral spirits, other than grape brandy, exempt it from the tax of 25 cents. It does not provide for taxing wines which are preserved by benzoate of soda, benzoic acid, salicylic acid, and fluorides, it being only necessary to mark the package.

Question. Do you believe this tax of 25 cents sufficient if the amendment were properly corrected?

Answer. Not entirely. The tax on imitation wines which are derived from a fermentation of sugar and water more than anything else are nothing more than distilled spirits except that they have not been distilled, and they should be taxed in accordance with the maximum amount of alcohol that can be obtained by a fermentation of natural or cultivated yeast, say on an average 15 per cent of alcohol, which represents 30 per cent proof spirits, which, at \$1.10, would be 33 cents per gallon; therefore, it might be considered better to put this figure at 35 cents, though I do not doubt but what 25 cents would accomplish the purposes of placing these spurious wines practically beyond competition with pure wines, but they are not out of competition with regular pure distilled spirits which are entitled to protection from this method of obtaining alcohol as well as the pure wine makers. I think Senator James, of Kentucky, will appreciate this point.

Question. Will there be any incentive to make pure wines and preserve them with benzoate of soda?

Answer. Yes; because by doing so the producer will escape all the tax on the brandy that would have been necessary to have preserved his wine, it being a well-known fact that the label on a bottle of tomato catsup, indicating that it is preserved with benzoate of soda,

does not in any way retard its sale. Consumers are not chemists and do not know these things.

Question. If wines can be preserved with benzoate of soda, will not the revenue anticipated by this section be entirely lost?

Answer. Yes; absolutely so. The present printed amendment defeats its own purpose, besides destroying our standards of pure food and undermining the health of the public.

Question. Now, aside from these matters of pure foods and neutral alcohol and the tax, do you believe that the present printed amendment is practical?

Answer. I do not think the present printed amendment is practical for the following reason: That a winery could not possibly operate under it, nor could the Department of Internal Revenue administrate without actually making regulations beyond the law which would lead to lawsuits and contentions that such regulations were not contemplated by the act.

Question. What part of it is not practical?

Answer. Well, first, the second paragraph of section 254½, in which only so much of the old sweet-wine law as may be inconsistent is repealed. To this extent one is naturally led to believe that all the necessary restrictions, tests, and requirements of the old law would be still left in full force, and it being only contemplated in the printed amendment to tax the spirits so used.

These restrictions, tests, and regulations were made necessary only because the brandy was used free of tax, so that the composition of the wine so fortified could not possibly come in contact with the use of distilled spirits and for the general purposes of rectification. The minute the spirits are taxed—even though the tax is limited to a differential based on the cost of production, and for reasons hereinafter mentioned—these restrictions, tests, and regulations all fall away and can not further be required of a wine maker as the relative cost of his material precludes the necessity of any of those provisions.

The danger of losses from fire or other casualties require provisions protecting a wine maker similar to the provisions that now protect the owner of distilled spirits which may be on hand at his distillery, in transit, or in special bonded warehouses. It is not to be presumed that any act would compel a tax to be paid on any articles subsequently destroyed by fire or other casualties; therefore, it is necessary in writing an act of this nature to provide for such contingencies.

In a like manner it is necessary to provide for the recovery of spirits used in the fortification of wine. Also for the refunding of taxes on the spirits used where wines are actually exported.

The third paragraph of section 254½ is very confusing and can even be read to convey the idea that where adulterated wines are fortified with pure neutral alcohol (other than wine spirits) such wines would be exempt from not only the tax of 25 cents per gallon, but also the tax on the distilled spirits. It seems to read very plainly so as to convey the idea that where adulterated wines (wines not made exclusively from grapes) are fortified with pure neutral alcohol, that they are exempt from a tax of 25 cents per gallon. Therefore a producer of spurious or imitation wine could escape the tax of 25 cents by slightly fortifying his product with neutral alcohol.

The proviso contained in paragraph 3 of this section seems to indicate that wines which have been fully fermented could not in any way

be sweetened so as to become sweet wine. That they must first be sweet wine, and if so, then this proviso seems to indicate that the manufacturer could add 20 per cent of sugar, 20 per cent of condensed grape must, and 20 per cent of water. The act providing the limit of 24 per cent of neutral alcohol would permit a formula for making sweet wines, which would, under this act, be defined as pure wine, containing 20 per cent water, 20 per cent sugar, 24 per cent neutral alcohol, and only the remainder, or 36 per cent, would have to be derived from grapes. The confusion in this proviso would seem to indicate the urgent need of its being rewritten.

In paragraph 4 the idea might be conveyed that these sweet wines would have to be stamped. Wines can not be handled like distilled spirits, which contain no solids, while wines during the first two years precipitate very heavy sediment and require frequent changing from one package to another, filtering, and blending. Where this section applies to spurious or imitation wines, if these tax-paid stamps referred to only apply to the tax of 25 cents, that provision can be accomplished, because the act contemplates the stamping of these packages at the time the wines are removed from the place of production, which would give the manufacturer all the freedom necessary for racking, blending, and filtering his wines before they were finally transferred to the shipping package, which would be stamped.

We have no comment especially to make on the fifth paragraph, except that the constant contention of those portions of the old sweet-wine law applying to this act would probably lead to constant lawsuits, the justice of which would be entirely assumed by the private opinion and interpretation of the court as to the relation of this printed amendment to the old law.

The sixth paragraph would satisfy only possibly the consumer in having knowledge of the preservative used, but it is not operative under the Treasury Department, as it is not definitely stated that wines preserved with chemicals are to be taxed. The intention of this paragraph should be included in the provisions of paragraph 3 if any control of the use of such chemicals is to be placed in the hands of the Internal Revenue Commissioner. The last paragraph is in good order, as it stands to reason that the final passage of this entire bill, with the approval of the President, will not take place until the coming vintage, or wine season, is in actual progress; that it would be almost impossible for regulations to be changed during a vintage season. In addition to this, there would hardly be time for the commissioner to actually prescribe the necessary regulations, as so complete a change in administration would require an exhaustive study of the conditions which would be involved in the new act.

Therefore, we call your especial attention to the urgent need of rewriting this entire section, in order to make its operation practical.

REBUTAL ARGUMENT FOR EASTERN WINE MAKERS.

Honorable Committee on Finance, United States Senate:

1. We request that Food Inspection Decision No 120, of the United States Department of Agriculture (filed with the committee), be inserted in the record with an explanation that it supersedes Food Inspection Decision No. 109 of the same department, and also supersedes the standards for wines read by Mr. Tarpey.

2. The eastern wine makers do not subscribe to the Underhill bill submitted by Mr. Hildreth. This bill may be acceptable to Mr. Hildreth, because he is a champagne maker and could live under it. The same may be true of certain other eastern wine makers. Mr. Hildreth is president of the American Wine Association, which has a few members in the East, but having the large majority of its members among the California wine makers. It can not be said to be an association truly representing the East. The Ohio, Missouri, and other eastern wine makers were not consulted about this bill when it was drafted.

3. Mr. Tarpey indicated that the sugar we add to our dry wines to sweeten them for sweet-wine purposes turns into alcohol. This is not a fact. The sugar remains in our sweet wine as sugar, because the very purpose of adding spirits is to preserve the sugar and keep it from turning into alcohol.

4. Mr. Bell indicated that free brandy is always made from grapes in California. This no doubt is true in some instances, but the information we have received is that much of the brandy is distilled from grape pomace containing water added to facilitate distillation. (See sec. 43 of the sweet-wine law and note the words "from grapes or their residues.") We set out section 43 of the sweet-wine law, showing amendments, so that you may see what foreign substances may be added:

SEC. 43. That the wine spirits mentioned in section forty-two of this act is the product resulting from the distillation of fermented grape juice (act of 1906) TO WHICH WATER MAY HAVE BEEN ADDED PRIOR TO, DURING, OR AFTER FERMENTATION, FOR THE SOLE PURPOSE OF FACILITATING THE FERMENTATION AND ECONOMICAL DISTILLATION THEREOF, and shall be held to include the product (act of 1906) FROM GRAPES OR THEIR RESIDUES, commonly known as grape brandy; and the pure sweet wine, which may be fortified free of tax, as provided in said section, is fermented grape juice only, and shall contain no other substance whatever introduced before, at the time of, or after fermentation (act of 1906) EXCEPT AS HEREIN EXPRESSLY PROVIDED; and such sweet wine shall contain not less than four per centum of saccharine matter, which saccharine strength may be determined by testing with Balling's saccharometer or must scale, such sweet wine, after the evaporation of the spirits contained therein, and restoring the sample tested to the original volume by addition of water: (act of 1894) *Provided, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar (act of 1906) OR PURE ANHYDROUS SUGAR (act of 1894) to the pure grape juice aforesaid, or the fermented product of such grape juice prior to the fortification provided by this act for the sole purpose of perfecting sweet wines according to commercial standard, (act of 1906) OR THE ADDITION OF WATER IN SUCH QUANTITIES ONLY AS MAY BE NECESSARY IN THE MECHANICAL OPERATION OF GRAPE CONVEYORS, CRUSHERS, AND PIPES LEADING TO FERMENTING TANKS, (act of 1894) shall not be excluded by the definition of pure sweet wine aforesaid: Provided, however, That the cane or beet sugar, (act of 1906) OR PURE ANHYDROUS SUGAR OR WATER, (act of 1894) so used shall (act of 1906) NOT IN EITHER (act of 1894) case be in excess of ten per centum of the weight of the wine to be fortified under this act: (act of 1906) AND PROVIDED FURTHER, THAT THE ADDITION OF WATER HEREIN AUTHORIZED SHALL BE UNDER SUCH REGULATIONS AND LIMITATIONS AS THE COMMISSIONER OF INTERNAL REVENUE, WITH THE APPROVAL OF THE SECRETARY OF THE TREASURY, MAY FROM TIME TO TIME PRESCRIBE; BUT IN NO CASE SHALL SUCH WINES TO WHICH WATER HAS BEEN ADDED BE ELIGIBLE FOR FORTIFICATION UNDER THE PROVISIONS OF THIS ACT WHERE THE SAME, AFTER FERMENTATION AND BEFORE FORTIFICATION, HAVE AN ALCOHOLIC STRENGTH OF LESS THAN FIVE PER CENTUM OF THEIR VOLUME.*

5. Mr. Bell made a plea for California grape growers. We have grape growers to protect as well as the Californians. We do protect our grape growers by charging for our wines a price that will enable us to pay our grape growers a fair compensation for their grapes. We pay for our grapes from \$30 to \$80 and sometimes \$100 per ton.

The average price of grapes in California is about \$8 per ton. Our grape growers are not complaining, while their grape growers are. In California the wine makers pay the grape growers such a small price for the grapes that they practically crush the grape growers as hard as they crush their grapes, in order that they may sell wines at a price which they voluntarily make so low that no one can compete with them. As a matter of fact, they have no competition on such wines so far as price goes, and no reason why they should have such prices if their wines are of the quality they claim for them. They can not complain that our wines compete with theirs so far as price is concerned, because the cost price of our wines is higher than the selling price of the California wines. Furthermore, our answer to Mr. Bell's plea for sympathy for his thrifty immigrants is that our German grape growers of the Eastern States are just as thrifty as any class of people on earth, and from the oldest to the youngest of the family are able to work and all do work. They are entitled to at least the same consideration at the hands of Congress as the immigrant families referred to by Mr. Bell.

6. Our motive in defending ourselves and demanding equality before the law of the land has been assailed. It has been stated that we are fighting California in order to force them to help us standardize our eastern wines. We can settle that point very shortly by stating here to your committee that it will be entirely satisfactory to us to have you amend the present bill by striking out all of paragraph 254½ of Schedule H, after the word "repealed," in line 25 of page 70 of the bill. But we assure you that this will not be satisfactory to the Californians. They have had an advantage over us of about 25 cents a gallon on all sweet wines during the years the free-brandy law has been in effect. Now that they fear they are going to lose this particular advantage, they desire to have a tax of 25 cents a gallon placed on *all* of our eastern wines, dry and sweet. Hence that part of the bill which begins at the top of page 71 (par. 254½) and continues to the end of Schedule H. It is true that this particular part of the bill would tax spurious wines, but it goes so far that it would also tax our standard commercial wines; and while as to the former we have no complaint to make, as to the latter we vigorously protest. The Californians, while strongly intimating that we have been endeavoring to force them in some manner not clearly explained, have yet failed to assert that they were not in any way connected with the drafting of that part of paragraph 254½ of Schedule H, which begins at the top of page 71 of the printed bill, and continues to the end of the paragraph, and which would put us in the East out of business. We believe the fact to be that through that part of the bill they have endeavored to force us to help them kill the whole of the paragraph 254½, because it should be remembered that that part was not in the bill as originally introduced.

7. Mr. Bell complained of the reference made by Mr. Lannen to a "monopoly" in California, and described the thousands of small farmers scattered over the State raising grapes on small patches of land, on the hillsides, etc., and apparently depriving themselves of many of the ordinary comforts of life to succeed in their ambition to raise grapes. But Mr. Bell overlooked the fact that the reference made by Mr. Lannen was to the "wine growers." A wine grower is a person who not only grows grapes, but also conducts a winery, while a grape

grower is only a grower of grapes. We know the conditions in California with respect to the grape growers, not as well as does Mr. Bell, but well enough to extend to them our heartfelt sympathy, for while we have learned from Mr. Bell some of the hardships they suffer, we have learned from other sources that the root of this evil is to be found in the wine growers of California, who have those poor grape growers at their mercy and who are merciless, if reports we get are true.

8. The legal reasons why we can not take advantage of the free-brandy law are as follows:

(a) The conditions of the law are:

(1) That the beneficiary under the law must be a producer of pure sweet wine; (2) that he must also be a distiller; (3) that the use of the wine spirits free of tax shall be begun and completed at the vineyard of the wine grower where the grapes are crushed. These conditions fit California, but do not fit the East, because in the East the wine makers have their wineries in the towns, while the grapes are grown by independent farmers, who haul their grapes to the wineries the same as they haul their oats and other grain to the grain elevator.

The law provides in section 43 that the pure sweet wine that may be fortified is fermented grape juice only. It then makes certain exceptions. But owing to the fact that we make a dry wine first and then sweeten it afterwards, the exceptions are not broad enough to permit us to sweeten and fortify our commercial dry wines and make sweet wines out of them.

(b) There are other reasons why we can not take advantage of this free brandy law, but the two reasons set out above are insurmountable for us in the East, unless we would resort to some subterfuge to avoid the law or take chances and violate the law by adding to our wine the necessary amount of ingredients to perfect them, and which amount would be in excess of the limitations of the law.

9. Mr. Tarpey referred to our native American grapes as "wild grapes," which they did not pretend to use for wine-making purposes in California. It would be well for the committee to understand, and we believe it will suffice for you to understand, that these "wild grapes" are the Concord, Catawba, Delaware, Elvira, Riesling, Ives' Seedling, Norton's Virginia Seedling, Goethe, Niagara, Scuppernon, Virgin, Elizabeth, Worden, Diamond, and other varieties that can be found in the cultivated vineyards of the East, and include our regular table grapes.

10. Mr. Tarpey stated, in effect, that if they in California put sugar or water, any kind of sugar, into their wines, they could use the wine only for distilling purposes. This is not a correct statement of the law. Section 43 of the law does provide that the pure sweet wine which may be fortified is fermented grape juice only and containing no added substance "except as herein expressly provided." By referring to what is expressly provided, you will see that a wine containing pure boiled or condensed grape must, or pure crystallized cane or beet sugar, or pure anhydrous sugar, and also containing water in such quantities only as may be necessary in the mechanical operation of grape conveyers, crushers, etc., "shall not be excluded by the definition of pure sweet wine aforesaid," and consequently may be fortified. Another proviso immediately following says that the amount of sugar and water added shall not "in either case" exceed 10 per cent. This

means that they may add 10 per cent of water and 10 per cent of sugar. If the law had been intended to allow them a total of 10 per cent, the words "in either case" would have read "in the aggregate." In addition to this the law gives them the right to fortify with 14 per cent of added brandy. Thus their wines may contain 34 per cent of foreign substances, namely, 20 per cent of sugar and water and 14 per cent of brandy, and still under this law be considered pure sweet wine. We understand one contention to be that the words "in either case," referred to above, should be construed as if they read "in the aggregate." But even on this construction of the law, they could add at least 10 per cent of the mixture of sugar and water and 14 per cent of brandy, making a total of 24 per cent of added substances. However, since the proviso in lines 13 to 18, page 71, of schedule 254½ of the bill pending before your honorable committee, provides for the addition of 20 per cent of sugar and water or grape must, and as we believe the California people have been in some way connected with the drafting of that proviso we are inclined to believe that our construction of the pure sweet-wine law now in existence is correct, and that they have the right to use 20 per cent of sugar and water and want to continue that right. However, this is only a surmise on our part. But even though the wine contains only 24 per cent of added sugar, water, and brandy, and such a wine is a legal wine under the free-brandy law, it is not a pure wine according to the argument of the Californians that a wine must be entirely a product of the grape. In addition to this permission which they have, to add 34 per cent of foreign ingredients according to our construction of the law, or at least 24 per cent according to the strictest construction of the law, we ask you to consider that we directly asserted in our opening statements to the committee that they in California have to add acid to their wines, and we fail to find any denial in the record on the part of the Californians. Furthermore, by reading the sweet-wine law carefully, you will observe that while provision is made for adding sugar and water or grape must, no provision is made for adding acid.

11. The argument made by the Californians touched on pomace wines. We again reiterate that we are in favor of having the present law before your committee put a tax on pomace wine at the same time it standardizes standard commercial wines for the entire country. All we are asking of your honorable committee is due consideration for our standard commercial wines. We are not asking you to recognize pomace wine or to permit the use of drugs or chemicals.

12. Mr. Bell said, in effect, that it would be impossible to harmonize the different views as to the meaning of certain sections of the free-brandy law. Mr. Lannen had just stated that under a practice which had existed it was possible to traffic in free brandy. Mr. Lannen raised the point that a sweet-wine maker could not withdraw brandy from any bonded warehouse unless such sweet-wine maker had himself distilled that brandy and put it into the warehouse. Mr. Lannen pointed out, however, that there had been a practice, and we understand it still exists, of permitting distillers of brandy to sell the brandy to wine makers and that these wine makers would use the brandy for fortifying wines, while the distiller was given the benefit of having the \$1.10 tax remitted, and in lieu thereof paid only 3 cents a gallon because the brandy was used by the sweet-wine maker for fortifying purposes. We do not see how there is room for any doubt on this

point. The whole law, if read together, leaves no doubt but what it was not intended to create a condition whereby free brandy would be at a premium as a common article of commerce, to be bought and sold the same as any other article of commerce. The law was at best but an effort to foster the grape-growing industry and not to enrich the distillers of brandy or give them an advantage on the open market over other distillers. Neither was it intended that the Government should stand a great expense of supervising the production of such brandy in distilleries, and then keeping track of it in one or two warehouses, wherever the distiller might see fit to ship it in furtherance of a sale of that brandy, without any compensation whatever. The only compensation that the law provides for the Government is 3 cents a gallon on the brandy for supervising the use of the brandy in the sweet-wine-producing room. The Government gets nothing other than this out of such transactions, while the distiller is in a position to and does demand a large profit. He has an advantage, under such a practice, of the difference between 3 cents a gallon and \$1.10 a gallon which must be paid for any other kind of spirits. Surely the law never intended this, and by its plain reading does not so intend.

13. Mr. Tarpey gave you a formula which he claimed to be our formula for making wine. What he gave you was a formula for making the poorest kind of pomace wine. In fact, the product he described would not even be pomace wine. We understand that formula has been circulating around among the Senators a great deal. We want to give you the facts about this matter, as follows:

(1) The Ohio or Missouri or eastern wine makers were not involved in the matter referred to by Mr. Tarpey.

(2) The formula is not the formula of the eastern wine makers.

(3) The matter grew out of a dispute between a rectifier in Cincinnati, Ohio, and the ex-Commissioner (Cabell) of Internal Revenue. The rectifier wanted to produce neutral spirits from a mixture which he designated as "grape pomace" and use the spirits thus obtained, by the fermentation of such mixture, for making compound liquors in place of buying tax-paid alcohol. The commissioner said it was a violation of the law. We understand they agreed on a statement of facts upon which to base a lawsuit, and that in that statement of facts some such formula as Mr. Tarpey sets out was agreed to. We understand the lawsuit never was started. We had nothing to do with the matter one way or another. It was not a wine maker's matter; it was a rectifier's matter. Mr. Tarpey's reflection on us in this behalf we believe to be entirely unjustified, and we believe you also will feel likewise about the matter upon even a superficial investigation of the real facts.

14. We take this occasion to thank your honorable committee for the opportunity you have given us to be heard and for the kind consideration you have extended to us.

Respectfully submitted,

THOMAS E. LANNEN,
Attorney for Eastern Wine Makers.

WASHINGTON, D. C., August 19, 1913.

REBUTTAL ARGUMENT BY O. G. STARK, OF ST. LOUIS, MO., FOR THE MISSOURI WINE GROWERS.

Honorable Committee on Finance, United States Senate:

I will endeavor to present to you some real inside information on the American wine industry which will point out to you why we Missourians and our eastern colleagues are to-day pleading before you for our just cause.

I respectfully submit my request to have my testimony printed into the records.

Reluctantly I must assert that a number of the Californians made statements which are subject to correction.

Mr. Bell, of California, attacked our motive in requesting the repeal of the 1890 free-brandy act. We have no questionable motive at all. We stand before you with clean hands and a just cause. We do not care how much tax your committee sees wise to impose on brandy spirits or any other kind of spirits to be used in fortifying sweet wines, as long as we in Missouri are permitted to use the same various classes of spirits at the same tax to fortify our own class of good sweet wines made in the only manner that same can be made in Missouri in order to be palatable and wholesome. Our thrifty, hard-working German wine growers in Missouri and Ohio who make our dry wines just like they and their fathers used to make same in Germany, got tired of having the Californians produce fortified sweet wines on which they were getting an advantage over us of from 25 cents to 30 cents per each gallon of sweet wine because of their position under existing Federal laws to use the brandy spirits at a nominal tax of 3 cents per each proof gallon instead of paying \$1.10 per each proof gallon, as we have done for many years, and which discriminating congressional act has stifled the progress of the eastern wine industry which was at one time considerably in the lead but which now is by far outgrown by the California wine industry in California, where the wine makers under favorable and discriminating Federal laws have amassed tremendous fortunes, and they can't reconcile themselves to lose such a good thing.

We asked that we be placed on an equality with the Californians; that we either be permitted to fortify our particular class of ameliorated sweet wines with brandy at a tax of 3 cents a gallon or else that the Californians be obliged to pay the same tax of \$1.10 per proof gallon on brandy that we pay.

We demand equality as good American citizens and taxpayers. If the Hon. Senator Pomerene in his wisdom saw it to be in the interest of our great Nation to ask for a tax of \$1.10 per each proof gallon of spirits added to sweet wine for preservation, then such tax is entirely satisfactory to us in Missouri, and we bow our heads to your decision, but when a favorable law is passed which can be enjoyed only by the Californians, then even the peaceful German Missouri wine growers will rise in protest.

There is no revenge in our hearts against the Californians, but we only ask equality. The records will not show one utterance by us against them or their wines at the hearings. We only pleaded for our just and honest cause. On the other hand, the Californians wasted two mornings of your valuable time talking sentiment, praising themselves, criticizing our wines, and Col. Tarpey, of Fresno,

Cal., compared us with counterfeiters, forgers, and moonshiners, while Mr. Wetmore invited our only Missouri member and one of our Ohio members to join the Ananias Club, all of which was unjustified and uncalled for and unbecoming of gentlemen. They did not talk on the pertinent, material points at issue. They only revealed vulgar greed and selfishness on their part. That much to explain our motive.

The Californians are paying 3 cents and we pay \$1.10 tax on spirits used for fortifying. The discrimination is \$1.07 per proof gallon. Under the law 14 per cent, or 28 proof, may be added to the sweet wines. Twenty-eight times \$1.07 per proof gallon makes 30 cents per gallon sweet wine discrimination against us. Don't you think we have cause to "holler"?

The Californians have introduced about all the wine laws in the past, either in the open or through their friends in New York State—a handful of champagne makers. And right here I wish to state that champagne makers should have no voice in still dry-wine and sweet-wine laws. We never were consulted in any one instance. Hereafter we want to have representation and be informed when wine laws are introduced for enactment.

As \$1.10 tax will put us on an equality with Californians, they enlisted the aid of eminent talent such as ex-Commissioners of Internal Revenue Hon. Mr. Cabell and Hon. Mr. Yerkes, and also ex-Congressmen Hon. Mr. Needham and Hon. Mr. Bell, both of California, and others, and some one caused an amendment to be attached to the Pomerene free brandy repeal bill, and that amendment hits us hard and is a "joker." This amendment putting a tax of 25 cents per gallon on spurious wines, which amendment puts our good standard ameliorated wines in the spurious class, not only taxes the sweet wines but also the *dry* wines; hence this amendment now puts us in a worse position than ever; it gives the Californians an advantage over us of 25 cents a gallon on both sweet and dry wines, whereas under existing laws they have an advantage over us only on *sweet* wines of 25 to 30 cents per gallon of sweet wine, and that is not fair.

We ask your honorable committee to either add our amendment submitted, or else strike out the Californians' amendment, and simply enact the repeal of the free brandy act of 1890, and we will take up the matter of securing a standard for our wines at some future time.

Mr. Tarpy says sugar added after fermentation to sweeten the wine will again produce brandy and no tax is paid. I correct that statement that sugar added to dry wine to sweeten it never ferments, because we add spirits to preserve it.

In Missouri we first make a complete and ripe dry *wine*, and later turn this *wine* into a sweet wine by adding sugar and spirits, upon which spirits we pay a tax of \$1.10 per proof gallon. In California the sweet grape juice under the internal-revenue regulations may be watered and sugared and allowed to *partly* ferment, and then be fortified with spirits, upon which a tax of only 3 cents per proof gallon is paid, and this *half* fermented *grape juice* when watered, sugared, and fortified is called *pure wine*. Furthermore, under the same regulations, the California wine maker has the option of completing this sugared and watered sweet wine by fortification, or he may omit the fortification and turn it into a dry wine; hence under the law

the Californians may water and sugar their dry wines before fermentation, and still call same pure.

Mr. Bell said:

They take a ton of grapes and make sweet wine out of it, then they take another ton of grapes and make brandy spirits out of it, then mix the two and produce a sweet wine fortified.

I claim that they take a ton of grapes, add water at the crusher, may add sugar to the crushed grapes in the vat, ferment down to 8 per cent on Balling's saccharometer, draw off the fluid, then add water to the residue called pomace, and which pomace still contains 8 per cent sugar, both natural grape and added cane sugar, then let this stuff ferment and finally run it through the still to extract the spirits, and these spirits from the watered residue is what they use for fortifying their sweet wines, and not pure grape brandy, and I understand always have done it, and in 1905 it was said that the then Commissioner of Internal Revenue investigated the practice in California of using for fortifying sweet wines, brandies that were not in compliance with the law, and that the law was thereupon in June, 1906, amended to permit the use of brandy made from grapes OR THEIR RESIDUE, and use it for fortifying.

Two or three of the large wine corporations in San Francisco practically control the entire wine industry in California, and practically pay for the grapes whatever they please. In an effort to improve their situation, some of the leading grape growers started a winery and made wine out of their grapes. The large corporations, sometimes referred to as the "trust," waged a war on them lasting several years. Both sides sold wines and brandies at times below cost in an effort to break up the other. Port was sold as low as 12 cents per gallon and brandy in bond at 2 cents per gallon. I consider it under cost price in each case. All this was made possible by the 1890 free-brandy act. In the meantime we in the East were not making any sales, as we can not afford to take a hand in such a fight and sell under cost of production.

The so-called "trust" finally put the others out of business, and Mr. Tarpey told me that he sold all his port wine to the large corporation at 10 cents per gallon this spring. The corporation is now selling this port wine at 37½ cents a gallon; an advance, after competition was destroyed, of 27½ cents per gallon, and as the large corporations will have on hand about 50,000,000 gallons of sweet wines by January 1, 1914, and as it is predicted that sweet wines, owing to this pending bill, will advance to 60 cents per gallon, the import duty being 60 cents, therefore the large California corporations will clean up on the 50,000,000 gallons a profit of about \$25,000,000, and after that they need not care what comes.

Considerable speculating is right now going on all over the States in sweet wines.

It is not the poor grape grower that they are worrying about, but it is the profits that they are after.

Mr. Hildroth says:

The American Wine Association "framed up" the Underhill bill (H. R. 4982). The American Wine Association is composed of California wine makers and a few New York State champagne makers. We do not belong to it. It is truly a "frame up." We were not consulted nor were other easterners. We are opposed to the Underhill bill.

Mr. Wetmore states that the reason why the Californians add more alcohol than is necessary to preserve the sugar is that the wine gets cloudy if they do not bring the alcoholic strength up to near 24 per cent, or some similar statement, and if they were permitted to use a wine of less than 4 per cent saccharine strength before fortification, that then they could get along with a lower per cent of alcohol.

He expresses himself at variance with facts.

(1) Port wine must be 6 per cent sugar strength when finished, that being the standard sweetness, and 17 per cent to 18 per cent alcoholic strength suffices to preserve it.

(2) The cloudiness is not caused by 17 per cent alcoholic strength, as that is enough to preserve it; and a higher per cent, I have experienced, will not prevent cloudiness when a wine is not wine, but is half fermented grape juice, fortified to check the fermentation at a time when the fermentation was in fullest progress, and they make sweet wine that way in California. That is not wine at all. That is fortified grape juice partly fermented, and it is not surprising that it should repeatedly turn cloudy, because it never had an opportunity to ferment into a ripe and mature wine. If they would make their sweet wines the only correct way as we do make same, they would have no trouble with cloudiness. We use a ripe dry wine and sweeten and fortify it up to 17 per cent or 18 per cent alcoholic strength, and that sweet wine keeps clear always.

(3) It is true that sherry wine should be very dry and nutty, and I admit that 4 per cent saccharine strength before fortification makes it a little too sweet to suit many people. However, it would open the door to permit the fraudulent use of the brandy in wines of such low saccharine strength more so than now.

Rectifiers and patent-medicine manufacturers are now buying fortified wines as dry and as strong in alcohol as it may be made and use it in making their cordials and liquors, etc., and patent medicines, and if the wine fortified contained still less sweetness, then the fortified wine could be used to still more purposes in articles where sweetness is not desired, and I understand that the Internal Revenue Department ruled that patent-medicine manufacturers may use fortified sweet wines in their medicines and escape the tax on the spirits contained therein. However, I am not positive on this one point.

I thank you for your kind attention.

O. G. STARK,
Representing Missouri Wine Growers.

PROTEST AND BRIEF OF THE GRAPE GROWERS AND WINE MAKERS
OF THE STATE OF CALIFORNIA AGAINST PROPOSED TAX UPON
GRAPE SPIRITS USED IN FORTIFYING PURE SWEET WINES, AS
CONTAINED IN SENATE COMMITTEE AMENDMENT (SEC. 2541) TO
PENDING TARIFF BILL.

THE GRAPE INDUSTRY OF CALIFORNIA.

Acreage.

Wine grapes, exclusively.....	168,500
Raisin grapes.....	110,500
Table grapes.....	61,000
Total.....	340,000

About one-third of the raisin and table grapes go to the wineries and distilleries. This affords a market to the growers of raisin and table grapes for their by-products, the pure grape brandies obtained therefrom being afterwards used in the fortification of pure sweet wines. The average vineyard contains less than 25 acres.

Production, 1912.

	Gallons.
Pure dry wines.....	24,000,000
Pure sweet wines.....	17,797,718
Pure commercial grape brandy.....	1,700,000
Total.....	43,497,718

Amount grape brandy used in making pure sweet wines, 4,648,842 gallons.

DIFFERENCE BETWEEN DRY AND SWEET WINES.

Pure DRY wines are made by allowing all of the sugar in the pure grape juice to ferment into alcohol, 2 degrees of sugar making 1 degree of alcohol.

Pure SWEET wines are made by arresting the fermentation through the addition of pure grape brandy, which acts also as a preservative. NO PURE SWEET WINE CAN BE MADE ANY OTHER WAY, for the simple reason that pure sweet wine contains nothing but the pure juice of the grape.

Total investment in vineyards and wineries.....	\$150,000,000
Number of families engaged in grape growing.....	15,000
Cost of producing 1 acre bearing vines.....	\$300
Total production sweet wines in United States, 1912.....gallons..	18,547,718
Total production sweet wines, California, 1912.....do....	17,797,718
Produced outside of California, 1912.....do.....	750,000
Production pure sweet wines in California, 1890.....do....	1,083,274
Production pure sweet wines in California, 1912.....do....	17,797,718
Increase under operation 1890 sweet-wine law.....do....	16,714,444

This tremendous increase in the production of pure sweet wines in California was due to the 1890 law permitting the use of pure grape spirits, free; since 1906 a payment of 3 cents per proof gallon has been paid on the brandy so used, to reimburse the Government for the cost of supervision in the making of pure sweet wine.

THIS 3-CENT CHARGE HAS NEVER BEEN REGARDED AS A TAX.

Under the provisions of the act of 1890 these pure sweet wines can not contain more than 24 per cent alcohol, which is the dividing line between wines and spirits, according to our tariff laws, as well as the act of 1890. It logically follows that inasmuch as these pure sweet wines can not be classified as spirits, the wine maker is not enjoying any special privilege, but to the contrary, he is working in harmony with the wise governmental policy that encourages the cultivation of the soil in small holdings and the production of a pure food product. Nor can it be claimed that favoritism has been shown to the California wine makers, for the provisions of the 1890 law are equally open to all wine growers in the United States.

The pure-wine law of 1890 was the first pure-food legislation in America, and its fruits have more than justified the hopes of its advocates. In 23 years there has never been a criticism of this law, nor any material changes proposed; furthermore, it has served as a model for other pure-food enactments. Once annul or interrupt the good effects of this law, and the distinct line between pure wines and counterfeit wines in this country will be wiped out, to the irreparable damage of the grape growers and producers of sweet wines and to the certain injury of the consumers of wines.

COST OF PRODUCTION, ETC.

Average cost of producing 1 gallon pure sweet wine, 20 cents.

This includes payment to grower of an average of \$11 per ton for his grapes.

Average selling price in bulk per gallon, 29½ cents.

Increase in cost of producing 1 gallon pure sweet wine under present methods, which are the best, should a \$1.10 tax on grape spirits be imposed, 30 cents, bringing the original cost of producing a gallon of pure sweet wine to 50 cents.

As an example of how the proposed tax will operate we submit the following instance, which applies in the same ratio to every other producer of pure sweet wines in California: In 1912 the Bradford Winery in Sacramento County, an independent concern owned and operated by the Bradford Bros., who buy 10,000 tons of grapes annually from neighboring farms, used 150,000 gallons of grape spirits in the fortification of pure sweet wines, paying 3 cents per gallon to the Government, or \$4,500. Figured at \$1.10 per proof gallon, this one firm would be taxed \$165,000.

It thus appears that if the \$1.10 tax be imposed the cost of production will be increased 150 per cent and the selling price 100 per cent. It is the common people that are now consuming the California pure sweet wines, because the present price is within their reach; but they can not afford to buy it at any material increase. An increased tax means a decrease in the use of pure wines. The market can just about take care of the present production of grapes in California, and a diminished market simply means that the grape growers will not be able to sell their crops, either for wine or brandy purposes. The grapes will be left to rot on the vines for a season until the farmer has time to pull up his vines, which pulling up will impose a cost of some \$15 per acre.

REVENUE.

Those who figure that the revenue received from the imposition of a \$1.10 tax upon grape brandies used in the fortification of pure sweet wines will yield many millions of dollars are laboring under a serious misapprehension. If we ASSUME that the same amount of pure sweet wines will be made and marketed, and then further ASSUME that the same amount of grape spirits will be so used, then of course it resolves itself into a matter of simple multiplication; but unfortunately for any sound fiscal calculations there are too many "assumptions" here. In the first place the sale of pure sweet wine will fall off tremendously; nobody can say exactly how much, but certainly it will not amount to one-fourth of the present consumption. The present steady market that has been created for pure California wines by years of education and hard work will certainly become badly demoralized, and that condition will surely be further demoralized by the undoubted production of sweet wines (?) preserved by neutral spirits, chemicals, and what not. Secondly, the man who makes a sweet wine, if compelled to pay a tax on his spirits, is certainly going to do two things, i. e., use as little alcohol as possible and buy that alcohol as cheaply as he can. In doing this he can not be criticized, for the prudent, economical management of his business will demand it.

Let us now see how this will work out. Instead of arresting fermentation at a point of high saccharine strength, he will let the fermentation proceed until nearly all the natural grape sugar has been converted into alcohol, for every degree of alcohol that he can obtain through the natural fermentation of the grape juice will save him just so much money in the purchase of taxed spirits. For example, the average amount of sugar in sweet wine grapes is 26°, which is equivalent to 13° of alcohol, if the juice be fermented dry. The amount of alcohol in ports and other types of sweet wines ranges from 20° to 23°. Under present methods the sweet wines are fermented until about 7½° alcohol is shown. To this wine is then added about 12½° grape spirits. Taking advantage of the provisions of the pending Pomerene amendment, the wine maker may add 20° sugar, and thus be able to produce 15° of alcohol through natural fermentation, leaving 16 per cent of sugar for the taste of the consumer. He can then rest content with his 15° of alcohol and market his wine under the claim that it is a pure sweet wine without adding a single drop of taxed alcohol, substituting as a preservative benzoate of soda or other permitted chemicals. But suppose he does wish to raise the alcoholic strength of his sweet wines to 20°. This will require him to add only 5° of taxed alcohol, where he now uses 12½° of grape brandy, thus cutting down the amount of alcohol or brandy used 60 per cent. It follows that even if the total amount of sweet wines consumed can be maintained at the present volume the above change of methods alone will reduce the amount of spirits used 60 per cent, and therefore three-fifths of the contemplated revenue must be deducted for this reason. If the wine maker is required to pay a tax on his alcohol, he will naturally buy that which is cheapest. The use of neutral alcohol is permitted by the pending measure. This kind of alcohol can be made from "black strap," cannery refuse, pineapple refuse from the Hawaiian Islands, potatoes, and even from sawdust and shavings, and will be obtainable by the California wine maker at the cost of from 8 to 10

cents per proof gallon. Pure grape brandy costs about 40 cents per proof gallon when grapes are selling at \$11 per ton. The use of cheaper spirits will spell the destruction of five-sixths of the brandy making in California, thereby destroying the market for 137,500 tons of grapes annually. The use of untaxed preservatives will be resorted to in preference to the use of taxed spirits, which further renders it problematical whether the Government will obtain any considerable revenue from tax upon grape spirits used in the making of pure sweet wines; but whether the revenue be large or small it can not possibly justify the wholesale destruction of the grape-growing industry that is bound to follow the levy of any tax upon the grape spirits so used.

SUMMARY.

1. The imposition of a tax on grape spirits used in fortifying pure sweet wines will utterly destroy millions of dollars' worth of property that is now devoted wholly to viticultural purposes in California.

2. The small grape grower will be hurt the most, for he and his family are entirely dependent upon the annual crop of his vineyard, and if the wineries and distilleries can not take his grapes he will be deprived of the sole market for his product.

3. It is the custom of the grape growers and the wine makers to enter into contracts for a term of years at fixed prices for grapes, and the contracts now in force invariably provide that in the event of adverse legislation the wine maker, at his option, may cancel his contract.

4. The imposition of a tax upon a pure sweet wine is in contravention of the announced policy of our Government, backed by strong public sentiment, in favor of purity in foods, drugs, and beverages of all kinds.

5. The imposition of such a tax will inevitably lead to the breaking down of the barriers between pure wine and its many imitations, causing confusion and difficulty in securing a pure article, and leading to temptations to market cheaper adulterated brands in the place of genuine wines, thereby undermining the public health through concealment and fraud practiced upon the consumer.

6. The imposition of the proposed tax will not produce any material increase of revenue. The claims of its proponents will not be realized, but worse than this the attempt to raise additional revenues in this manner will bring disaster to thousands of men and women of high character and good citizenship, thrifty, patriotic, and temperate, who are now engaged in various branches of the grape industry.

7. It is contrary to our avowed policy of encouraging the intensive cultivation of the soil in small holdings and rendering the pursuits of the soil profitable and inviting.

8. California's vineyards are of imported stocks, and that State alone is able to give the people of this country a pure delectable wine in competition with the imported brands.

9. A curtailment of the market for sweet wines will result in an overproduction of dry wines, and such overproduction means that tens of thousands of tons of grapes will not be worth marketing.

10. California's present viticulture is the result of a hundred years of experimentation and development, and the work of a century should not be nullified by the imposition of the proposed tax. It is

the traditional policy of all governments to foster and upbuild this industry.

11. A ton of grapes being used for making the brandy that is now required to fortify the juice of a ton of sweet wine grapes, it is apparent that a tax on such grape brandy will destroy the market for five-sixths of the grapes that now go to the distilleries.

12. The 15,000 heads of families who are now engaged in grape culture and wine making in California earnestly protest against taxing any of the interrelated branches of the grape industry.

Respectfully submitted.

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