

TAXATION OF DISTILLED SPIRITS

HEARING

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

SEVENTY-FOURTH CONGRESS

FIRST SESSION

ON

PROPOSED AMENDMENT RELATING TO
TAXATION OF DISTILLED SPIRITS

JULY 23, 1935

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TAXATION OF DISTILLED SPIRITS

TUESDAY, JULY 23, 1935

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

The subcommittee met pursuant to call at 2:15 p. m., in the committee room of the Committee on Privileges and Elections, Capitol Building, Senator David I. Walsh presiding.

Members: Senators George (chairman), Hastings, and Walsh.

Present: Senator Walsh (presiding).

Senator WALSH. In the absence of the chairman of the subcommittee, Senator George, I will call the meeting of the committee to order, and will ask to have inserted in the record the following documents:

First, Public Act No. 83, Seventy-third Congress, an act to raise revenue by taxing certain intoxicating liquors, and for other purposes.

[PUBLIC—No. 83—73D CONGRESS]

[H. R. 6131]

AN ACT To raise revenue by taxing certain intoxicating liquors, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 1. This Act may be cited as the "Liquor Taxing Act of 1934."

SEC. 2. Paragraphs (3) and (4) of subdivision (a) of section 600 of the Revenue Act of 1918, as amended (relating to the tax on distilled spirits generally and the tax on distilled spirits diverted for beverage purposes) (U. S. C., Sup. VI, title 26, sec. 1150 (a) (1) and (2)), are amended to read as follows:

"(3) On and after January 1, 1928, and until the effective date of Title I of the Liquor Taxing Act of 1934, \$1.10 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon; and

"(4) On and after the effective date of Title I of the Liquor Taxing Act of 1934, \$2.00 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon."

SEC. 3. Subdivision (c) of section 600 of the Revenue Act of 1918 (relating to the internal-revenue tax on imported perfumes containing distilled spirit) (U. S. C., Sup. VI, title 26, sec. 1150 (a) (4)), is amended by striking out "\$1.10 per wine gallon" and inserting in lieu thereof "\$2.00 per wine gallon."

SEC. 4. In lieu of the rate of drawback provided in section 3329 of the Revised Statutes, as amended (U. S. C., Sup. VI, title 26, sec. 1239), the rate of drawback allowed upon the exportation of distilled spirits exported on or after the effective date of this title shall be equal to the rate of the internal-revenue tax paid in respect of the distilled spirits exported but shall not exceed a rate of \$2.00 per proof gallon.

SEC. 5. Section 3309 of the Revised Statutes, as amended (relating to the tax on deficiencies in distilled spirits production) (U. S. C., Sup. VI, title 26, sec. 1197), is amended by striking out "at the rate of \$1.10" wherever such phrase appears and inserting in lieu thereof "at the rate of tax imposed by law".

SEC. 6. So much of section 611 of the Revenue Act of 1918, as amended (relating to the tax on still wines) (U. S. C., Sup. VI, title 26, sec. 1300 (a) (1)), as reads:

"On wines containing not more than 14 per centum of absolute alcohol, 4 cents per wine gallon, the per centum of alcohol taxable under this section to be reckoned by volume and not by weight;

"On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 10 cents per wine gallon;

"On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 25 cents per wine gallon;

"All such wines containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall pay tax accordingly."

is amended to read as follows:

"On wines containing not more than 14 per centum of absolute alcohol, 10 cents per wine gallon, the per centum of alcohol under this section to be reckoned by volume and not by weight;

"In wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 20 cents per wine gallon;

"On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 40 cents per wine gallon;

"All such wines containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall be taxed accordingly."

SEC. 7. So much of section 613 of the Revenue Act of 1918 (U. S. C., Sup. VI, title 26, sec. 1300 (a) (2)) as reads:

"On each bottle or other container of champagne or sparkling wine, 12 cents on each one-half pint or fraction thereof;

"One each bottle or other container of artificially carbonated wine, 6 cents on each one-half pint or fraction thereof;

"On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine fortified with grape brandy, 6 cents on each one-half pint or fraction thereof."

is amended to read as follows:

"On each bottle or other container of champagne or sparkling wine, 5 cents on each one-half pint or fraction thereof;

"On each bottle or other container of artificially carbonated wine, 2½ cents on each one-half pint or fraction thereof;

"On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine fortified with grape brandy, 2½ cents on each one-half pint or fraction thereof;

"Any of the foregoing articles containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall be taxed accordingly."

SEC. 8. Section 612 of the Revenue Act of 1918, as amended (relating to the tax on grape brandy and wine spirits withdrawn and used in the fortification of wines) (U. S. C., Sup. VI, title 26, sec. 1301), is amended by striking out "10 cents per proof gallon" and inserting in lieu thereof "20 cents per proof gallon".

SEC. 9. (a) Section 608 of the Revenue Act of 1918, as amended (relating to the tax on malt liquors) (U. S. C., Sup. VI, title 26, sec. 1330 (a)), is amended by striking out "a tax of \$6.00" and inserting in lieu thereof "a tax of \$5.00".

(b) Subsection (a) of section 1 of the Act entitled "An Act to provide revenue by the taxation of certain nonintoxicating liquor, and for other purposes", approved March 22, 1933, is hereby repealed.

(c) Paragraph "First" of section 3244 of the Revised Statutes, as amended, is amended to read as follows:

"First. Brewers shall pay \$100 in respect of each brewery: *Provided*, That any brewer of less than 500 barrels a year shall pay the sum of \$50. Every person who manufactures fermented liquors of any name or description for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer."

SEC. 10. (a) Upon all distilled spirits produced in or imported into the United States upon which the internal-revenue tax imposed by law has been paid, and which, on the day this title takes effect, are held by any person and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be levied, assessed, collected, and paid a floor tax equal to the amount if any, by which the tax provided for under this title exceeds the tax so paid, not including in the computation of the tax so paid the 30-cent tax imposed by section 605 of the Revenue Act of 1918.

(b) Upon all articles specified in section 6 or 7 of this title produced in or imported into the United States upon which the internal-revenue tax imposed by law has been paid, and which, on the day this title takes effect, are held by any person and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be levied, assessed, collected, and paid a floor tax equal to the amount, if any, by which the tax provided for under such sections of this title exceeds the tax so paid, not including in the computation of the tax so paid the 30-cent tax imposed by section 605 of the Revenue Act of 1918.

(c) Upon all wines held by the producer thereof upon the day this title takes effect and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be levied, assessed, collected, and paid a floor tax equal to the amount, if any, by which the tax provided for under section 8 of this title exceeds the tax paid upon the grape brandy or wine spirits used in the fortification of such wine.

(d) The person required by this section to pay any floor tax shall, within thirty days after the effective date of this title, make return under oath in such form and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months after the effective date of this title, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. All provisions of law (including penalties) applicable in respect of internal-revenue taxes on distilled spirits or wines shall, in so far as applicable and not inconsistent with this section, be applicable in respect of the taxes imposed by this section.

(e) As used in this section and in Title II, the term "person" includes an individual, a partnership, an association, and a corporation; and the term "distilled spirits" includes products produced in such manner that the person producing them is a rectifier within the meaning of section 3244 of the Revised Statutes, as amended.

SEC. 11. As used in this Act, the term "internal-revenue taxes" does not include taxes imposed under the Agricultural Adjustment Act.

SEC. 12. That section 5 of the Act entitled "An Act making appropriations for the Post Office Department for the year ending June 30, 1918", approved March 3, 1917, as amended, is amended to read as follows:

"SEC. 5. Whoever shall order, purchase, or cause intoxicating liquors to be transported in interstate commerce, except for scientific, sacramental, medicinal, and mechanical purposes, into any State, Territory, or the District of Columbia, the laws of which prohibit the manufacture or sale therein of intoxicating liquors for beverage purposes, shall be fined not more than \$1,000 or imprisoned not more than six months, or both; and for any subsequent offense shall be imprisoned not more than one year."

Nothing in this Act shall be construed to amend or repeal any provision of section 1110 of the Revenue Act of 1917.

SEC. 13. This title shall take effect on the day following its enactment.

TITLE II

SEC. 201. No person shall (except as provided in section 202) transport, possess, buy, sell, or transfer any distilled spirits, unless the immediate container thereof has affixed thereto a stamp denoting the quantity of distilled spirits contained therein and evidencing payment of all internal-revenue taxes imposed on such spirits. The provisions of this title shall not apply to—

(a) Distilled spirits placed in a container for immediate consumption on the premises or for preparation for such consumption;

(b) Distilled spirits in bond or in customs custody;

(c) Distilled spirits in immediate containers required to be stamped under existing law;

(d) Distilled spirits in actual process of rectification, blending, or bottling, or in actual use in processes of manufacture;

(e) Distilled spirits on which no internal-revenue tax is required to be paid;

(f) Distilled spirits not intended for sale or for use in the manufacture or production of any article intended for sale; or

(g) Any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

SEC. 202. Every person who, on the effective date of this title, holds for sale (or use in the manufacture or production of an article intended for sale) any distilled spirits in containers required to be stamped by section 201, on which all internal-revenue taxes have been paid, may possess such spirits, but shall, not later than the tenth day after such date, apply for, and shall be sold (in accordance with section 203) the requisite stamps. Such stamps shall be promptly affixed to the immediate containers of such spirits, except that when such spirits contained in bottles in closed cases are held for sale or sold otherwise than at retail, such stamps need not be affixed until the cases are opened or sold at retail, when such stamps shall be immediately affixed to the bottles, but such stamps shall be sold or transferred in connection with any sale or transfer of such spirits and the person in possession of such spirits shall be in possession of such stamps therefor.

SEC. 203. Any person placing or intending to place any distilled spirits upon which all internal-revenue taxes have been paid into any container upon which a stamp is required by this title, or withdrawing or intending to withdraw any imported spirits in such containers from customs custody, shall be entitled to purchase sufficient stamps for stamping such containers. Such stamps shall be issued by the Commissioner of Internal Revenue to each Collector of Internal Revenue, upon his requisition, in such numbers as may be necessary in his district, and shall be sold by the Collectors to persons entitled thereto upon application therefor and compliance with regulations under this title, at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one half pint the price shall be one quarter of 1 cent for each stamp. When in his judgment there is no danger to the revenue, and upon the giving of such bonds or other security as he may deem necessary, the Commissioner may authorize (1) the sale prior to the effective date of this title of such stamps and (2) the sale of such stamps to importers for stamping containers in the country from which imported.

SEC. 204. Every person emptying any container stamped under the provisions of this title shall at the time of emptying such container destroy the stamp thereon.

SEC. 205. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying stamps required by this title, the form and denominations of such stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps, and (b) such other regulations as he shall deem necessary for the enforcement of this title.

SEC. 206. All distilled spirits found in any container required to bear a stamp by this title, which container is not stamped in compliance with this title and regulations issued thereunder, shall be forfeited to the United States. Distilled spirits placed in such containers prior to the effective date of this title shall not be subject to this section until the expiration of 10 days after the effective date of this title, nor (when it is established that application for stamps therefor was made within the proper time) until such stamps are received by the applicant.

SEC. 207. Any person who violates any provision of this title, or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under this title, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or any stamp required to be destroyed by this title, or who makes, uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such stamp, or who reuses any stamp required to be destroyed by this title, or who places any distilled spirits in any bottle which has been filled and stamped under this title without destroying the stamp previously affixed to such bottle, or who affixes any stamp issued under this title to any container of distilled spirits on which any tax due is unpaid, or who makes any false statement in any application for stamps under this title, or who has in his possession any such stamps obtained by him otherwise than as provided in sections 202 and 203, or who sells or transfers any such stamp otherwise than as provided in section 202, shall on conviction be punished by a fine not exceeding \$1,000, or by imprisonment at hard labor not exceeding five years, or by both. Any officer authorized to enforce any provisions of law relating to internal revenue stamps is authorized to enforce the provisions of this section and the provisions of section 7 of the Act of March 3, 1897, relating to the bottling of distilled spirits in bond.

SEC. 208. This shall take effect on the thirtieth day following the date of the enactment of this Act, except that if on or before the twentieth day following the date of the enactment of this Act the Secretary of the Treasury finds that it is impracticable to put this title into effect on the thirtieth day following the date of the enactment of this Act and so proclaims, specifying the date, not later than the sixtieth day following the date of the enactment of this Act, on which it will be practicable to put this title into effect, this title shall take effect on the date specified in such proclamation. Notwithstanding the previous provisions of this section, this section and sections 202, 203, and 205 shall take effect on the date of the enactment of this Act.

Approved, January 11, 1934, 11.50 p. m.

Second, the amendment presented by Senator Copeland to the Senate, intended to be offered by him to H. R. 8870, now pending before the House of Representatives.

(And the same is as follows:)

Amendment intended to be proposed by Mr. Copeland to the bill (H. R. 8870) to further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes, viz: On page 3, between lines 5 and 6, insert the following:

(c) Title II of the Liquor Taxing Act of 1934 is amended to read as follows:

"**SEC. 201.** (a) There shall be levied, collected, and paid upon all distilled spirits sold at retail a tax of \$2 on each proof-gallon or wine-gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof- or wine-gallon.

"(b) No tax shall be imposed upon any distiller or importer under paragraph (4) of subdivision (a) of section 600 as amended, of the Revenue Act of 1918, in respect to any distilled spirits taxable under this section.

"**SEC. 202.** The internal-revenue tax imposed by the preceding section upon distilled spirits shall be collected from retailers, who shall affix to every bottle or other container of distilled spirits at the time of its first retail sale or retail transfer unopened in a container for on- or off-premise consumption, and to every bottle or other container of distilled spirits out of which any part of the contents is removed for the purpose of retail sale, transfer, or use on or off the premises, before such container is opened, a stamp or stamps indelibly canceled, denoting the quantity of distilled spirits contained therein and evidencing payment of all internal-revenue taxes imposed on such spirits, and in the case of imported spirits, of all customs duties imposed thereon.

"**SEC. 203.** Any licensed retailer possessing or coming into possession of distilled spirits upon which all internal-revenue taxes and customs duties imposed by law shall have been paid, shall be entitled to purchase such stamps as are necessary for stamping the containers of distilled spirits in the manner required by the preceding section. Stamps for this purpose may be purchased by such retailer only from the collector of internal revenue for the revenue district in which such retailer's place or places of business for retail sales shall be located. Such retailer shall present satisfactory proof to such collector of internal revenue that such tax and customs duties on such distilled spirits have been paid. Such stamps shall be sold by the collector to such retailer at a price of 1 cent for each stamp, except that in case of stamps for containers of less than one-half pint, the price shall be one-fourth of 1 cent for each stamp.

"**SEC. 204.** No person shall manufacture, distill, rectify, import, transfer, or sell at wholesale or at retail any distilled spirits unless such person shall have furnished a surety-company bond given by a company, companies, or syndicate of companies approved by the Commissioner of Internal Revenue and guaranteeing the payment of all taxes and customs duties imposed by law on such distilled spirits, with such terms and conditions and in such penal sum as may be approved by said Commissioner. The provisions of this section shall not apply to any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

"**SEC. 205.** The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and canceling stamps required by this title, the form and denominations of such stamps, proof that applicants are entitled to such stamps, and the method of accounting, for receipts from the sale of such

stamps; and (b) such other regulations as he shall deem necessary for the enforcement of this title.

"SEC. 206. All distilled spirits found in any container required to bear a stamp by this title, which container is not stamped in compliance with this title and regulations issued thereunder, shall be forfeited to the United States.

"SEC. 207. Any person who violates any provision of this title, or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under this title, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or any stamp required to be canceled by this title, or who makes uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such stamp, or who reuses any stamp required by this title to be canceled, or who affixes any stamp issued under this title to any container of distilled spirits on which any tax is unpaid, or who makes any false statements in any application for stamps under this title, or who has in his possession any such stamps obtained by him otherwise than as provided in this title, or who sells or transfers any such stamp otherwise than as provided in this title, shall on conviction be punished by a fine not exceeding \$1,000 or by imprisonment at hard labor not exceeding five years or by both. Any officer authorized to enforce any provisions of law relating to internal-revenue stamps is authorized to enforce the provisions of this section and the provisions of section 7 of the Act of March 3, 1897, relating to the bottling of distilled spirits in bond."

(d) This section shall take effect 60 days after the date of enactment of this Act.

Senator WALSH. The committee should read in connection with this proposed amendment of Senator Copeland, H. R. 8870 and the report (H. Rept. No. 1542) of the Committee on Ways and Means, substituted by Mr. Cullen, recommending the passage of H. R. 8870.

Senator WALSH. Next we will have inserted in the record a letter addressed by the Secretary of the Treasury to the Chairman of the Finance Committee which concludes with this paragraph:

It is my view that the proposed amendment would render the administration of law very difficult, and the collection of the revenue on distilled spirits impracticable, if not impossible, and it is urgently recommended that the amendment be not adopted.

The letter in full is as follows:

JULY 22, 1935.

HON. PAT HARRISON,

Chairman Committee on Finance, United States Senate.

MY DEAR MR. CHAIRMAN: Receipt is acknowledged of your letter of July 19, 1935, submitted a copy of an amendment intended to be proposed by Senator Copeland to H. R. 8870, which would provide for the collection of the tax on distilled spirits from the retailer the payment to be manifested by stamps to be affixed to the container of the spirits, and would relieve the distiller and importer of the duty of tax payment imposed by section 600 (a) of the Revenue Act of 1918, as amended.

This proposal is very objectionable, since it would render the administration of law in connection with the collection of the revenues very difficult, if not impossible, besides heavily increasing the cost of administration. Experience has demonstrated that it is more economical to collect taxes on such commodities as intoxicating liquors from the manufacturers or importers, of whom there are relatively few, and whose operations can with comparative ease be supervised by Government officers for the purposes of accounting for the liquors produced or imported, and otherwise insuring the payment of the tax.

By section 2 of the act entitled "An act to increase the internal revenue, and for other purposes", approved October 22, 1914, provision was made for the payment of the tax on wine by means of affixing a stamp to the bottle or other container when sold to the consumer. Great difficulty was experienced in the enforcement of this act, and it was found to be impracticable to collect the taxes imposed thereby, since the saloonkeeper or retailer frequently, sold bottled wines to consumers without affixing the stamps in payment of the tax and the purchasers promptly removed the wines to their dwellings, and it was thereafter impossible

under the fourth amendment to the Constitution to enter the dwellings to ascertain whether or not the tax had been paid.

As a result of the difficulties experienced in the enforcement of this act, and the ease with which the taxes could be evaded, Congress passed an act approved September 8, 1916, which imposed the tax on the producer or wine maker as in the case of distillers and brewers. This condition has continued since, and has been found to be much more satisfactory from an administrative and tax-collection viewpoint than the method prescribed under the act of October 22, 1914.

Since there are relatively few importers and distillers their activities can be more readily controlled, and at less expense, by the collector of customs and the internal revenue officers than would be tax payment upon sales at retail. Since there are over 200,000 retail dealers in distilled spirits in the United States, it would be impracticable to assign officers to these establishments to insure payment of the tax, and even inspection at intervals would entail heavy expense and detection of fraud would be largely by chance.

It is not perceived what protection, if any, would be afforded by a bond of an importer or distiller to insure payment of tax by a retailer. An action against the obligors on the retailer's bond could only be instituted in case of tax evasion by the latter, which would necessarily have to be established by the Government in a court of competent jurisdiction.

Since sales at retail are not defined, it is not apparent whether the amendment applies only to those persons qualified as retail liquor dealers under the provisions of section 3244 Revised Statutes, as amended, or to those licensed by the States or municipalities.

Another serious objection to the bill arises from the fact that great quantities of distilled spirits are sold in bulk, and after removal of the spirits from customs custody or the internal-revenue bonded warehouse, the Treasury Department has no means of knowing what portion of such liquors will be sold at retail and what portion will be used in manufacturing either beverage or nonbeverage products. Consequently, it will be impossible to determine whether or not the tax should be collected from the distiller or importer as provided in section 201 (b).

Section 203 of the proposed amendment provides that a "licensed" retailer (presumably one holding a municipal or State license) who has possession or comes into the possession of imported or domestic distilled spirits on which the tax has been paid, shall be entitled to purchase stamps from the collector of internal revenue of his district upon proving to the collector that the liquors have been taxpaid by the importer or distiller. This provision is not understood unless it is intended that the retailer who has possession or comes into possession of spirits upon which customs duty and internal revenue taxes have been paid prior to the effective date of this act, if adopted, shall be authorized to purchase protective stamps for his floor stock in the manner and at the rates indicated. This seems to be wholly impracticable, since the retailer may not know by whom the liquors were imported or produced and could not, therefore, establish the fact that the tax had been paid.

It is my view that the proposed amendment would render the administration of law very difficult, and the collection of the revenue on distilled spirits impracticable, if not impossible, and it is urgently recommended that the amendment be not adopted.

Very truly yours,

H. MORGENTHAU, Jr.,
Secretary of the Treasury.

Senator WALSH. The committee will hear the witnesses.

STATEMENT OF EUGENE GREENHUT

Senator WALSH. Your residence?

Mr. GREENHUT. New York City, sir.

Senator WALSH. Your profession?

Mr. GREENHUT. I am a member of the executive council of the National Civic Federation.

Senator WALSH. In whose interest are you appearing before this committee?

Mr. GREENHUT. National Civic Federation.

Senator WALSH. Will you tell us something about that organization?

Mr. GREENHUT. The National Civic Federation, composed of representatives of capital, labor, and the public, was organized in 1900, as an educational movement seeking the solution of some of the great problems related to social and industrial progress. It provides especially for the discussion of questions of national import, aids in the crystallization of an enlightened public opinion, and promotes legislation when desirable.

The federation's presidents have been successively, Marcus A. Hanna, August Belmont, Seth Low, V. Everit Macy, and Alton B. Parker. Samuel Gompers was the first vice president for 25 years.

The present executive council comprises the following: Elihu Root, honorary president; Matthew Woll, acting president; Ralph M. Easley, chairman executive council; Samuel McRoberts, treasurer; Chester M. Wright, secretary; Archibald E. Stevenson, general counsel; Joseph P. Ryan, chairman committee on Russian affairs; John Hays Hammond, chairman, department on active citizenship; William R. Willcox, chairman industrial welfare department; Miss Maude Wetmore, chairman woman's department; Gertrude Beeks Easley, secretary executive council; Mrs. Coffin Van Rensselaer, executive secretary woman's department; Eugene Greenhut, special adviser on liquor survey, which is myself.

Senator WALSH. You are in favor of Senator Copeland's amendment, which I supposed was introduced at your request?

Mr. GREENHUT. We suggested that he introduce it.

Senator WALSH. Is this proposal original with your organization?

Mr. GREENHUT. Yes, sir.

Senator WALSH. You proposed to repeal the present law insofar as it relates to taxing distilled spirits?

Mr. GREENHUT. Yes, sir.

Senator WALSH. And substitute a new system of taxation?

Mr. GREENHUT. Yes, sir.

Senator WALSH. Does the House bill, H. R. 8870, make any changes in the tax provisions for distilled spirits?

Mr. GREENHUT. Of the present Revenue Act of 1934?

Senator WALSH. Yes.

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

Senator WALSH. It deals with another aspect of this question?

Mr. GREENHUT. Another aspect of control.

Senator WALSH. Will you present your arguments in favor of this proposal which is set forth in the Copeland amendment?

Mr. GREENHUT. In June 1934 the executive council of the National Civic Federation passed the following resolution—may I say off the record, I think, Mr. Chairman, that if you will allow me to go on here with this prepared statement, this is as brief, I think, as it possibly could be made, and gives our position, and then I would be very happy to have you ask me any questions which occur to you.

Senator WALSH. Will it take long?

Mr. GREENHUT. No, sir; I think it should take no more than 20 minutes, and I think we can cover more ground in that way than in any other way.

Senator WALSH. I think so, too.

Mr. GREENHUT. The resolution is as follows:

Whereas it has become apparent that our public welfare is menaced by a marked increase in bootlegging and racketeering with resulting losses to both Federal and State Governments in revenue from taxes; be it

Resolved, That the executive council of the National Civic Federation authorizes a comprehensive survey of present conditions with a view to ascertaining what, if any, remedy of a practical nature may be recommended.

In compliance with that resolution a comprehensive, Nation-wide survey was conducted of every phase of liquor control, taxation, administration, illicit sale, and the relation of all these to the public welfare. The survey required more than 1 year for its completion; it was conducted at great expense and resulted in the accumulation of what is probably the most voluminous, authentic, and unbiased compilation of data and information assembled by any unprejudiced, independent public-minded organization on the subject of liquor control and taxation.

The federation will be pleased to make all this data and information available to your committee.

The study definitely demonstrated that there is one primary factor which in itself results in losses in collectible revenue of hundreds of millions of dollars to the Federal and State Governments, and at the same time causes retail prices to the consumer to be at least 50 percent higher than necessary.

The primary factor is the present method of collecting at the source the \$2 Federal excise tax and the \$5 import duty due on spirituous liquor sold in the United States.

Because these taxes are collected at the source before spirituous liquors have been put into distributive channels, there results a pyramiding of overhead and profit, not only on the manufacturer's cost of the merchandise, but more importantly on the tax and duty which each successive distributor automatically considers part of his base cost upon which he computes his operating mark-up. Hence, each successive handler adds his operating profit not only to the manufacturing value of the goods, but additionally he adds his normal percentage of profit to the taxes and duties as well. The net result of this pyramiding practice is that for each dollar of tax or duty collected by the Federal Government, the consumer pays approximately \$1.90.

Therefore, a high tax-paid market is created which allows the large margin necessary for bootleggers, rum runners, and all other illicit sellers to continue their operations on a highly profitable basis; it deprives the Federal and State Governments of millions of dollars of revenue now provided by law; it places an unnecessary price burden upon the consumer with no compensating advantages; but most important of all it encourages the continuation of a disregard for law and order, and provides the principal source of financing for bootleggers, racketeers, kidnapers, and all other elements of the underworld.

The National Civic Federation contends that if the method of collecting excise taxes and import duties now required by law to be paid on spirituous liquors was to be reversed so that these taxes and duties

could be paid at the point of retail sale instead of at the source of production, the definite results would be threefold:

1. Bootlegging would be reduced to so great an extent that large organized groups of illicit sellers could not continue to operate at a profit, because all liquor sold through regular licensed channels of trade inevitably would be tax paid.

2. Since the reversal of taxes would compel the payment of all revenue due the Government on all liquor consumed, the income of the Federal and State Governments, collectively, would be increased by that amount which is now illicitly sold estimated by Federal and State authorities and other competent observers to approximate 100,000,000 gallons, or in excess of \$300,000,000 of taxes annually.

3. The increased sales of tax-paid liquor by licensed agencies resulting from the elimination of the bootlegger and the substantial reduction in presently applied operating margins, which are now pyramided on prepaid taxes by distillers, rectifiers, importers, wholesalers, and retailers, automatically will result in a reduction of retail prices to the consumer of from 25 percent to 40 percent without making it necessary to reduce the present \$2 excise tax or the \$5 import duty.

At this point I believe it important to submit for your consideration another vital observation disclosed by the federation's survey, namely, that the present method of collecting taxes by the Treasury, no matter how efficiently administered, is impractical because it is a method which was designed to collect taxes when the major portion of spirituous liquor was sold in barrels and not in bottles, as is the legally required method of today.

Up to the time of national prohibition perhaps 80 percent of all spirituous liquor sold by distillers, rectifiers, and importers was transferred to the point of actual consumer sale in barrels. Wholesalers, retailers and on-premises consumption licensees, such as restaurants, hotels, and clubs, could buy barrelled whisky. The on-premise licensee bought his bar whisky in barrels; the wholesaler or chain retailer bought barreled whisky and bottled it himself for his local consumer trade, mostly under his own label. Today in most States there is a State regulation which requires that a distiller cannot sell in bulk and that all whisky must be sold in bottles by the distiller to a wholesaler, who in turn sells to the on-premises licensee. Previously, as a barrel was taken out of bond the importation of the tax upon the contents of the barrel did not lend itself to the amount of pyramiding as is compelled by the present system of distribution as prescribed by the various State laws.

Furthermore, there was little, if any, opportunity for tax evasion because the amount of tax on each barrel was evidenced by a canceled revenue stamp which, immediately previous to the period of prohibition, amounted to \$55. Hence the initial bookkeeping record required to trace and control a barrel of liquor was a unit involving \$55 and covered 50 gallons of tax-paid liquor.

Today, however, the primary bookkeeping record, which would have to be used were the same system of control to be followed, is one pint of liquor, as more pints are sold than any other unit. This involves a tax payment to the Government of 25 cents. Even so, this tax payment is not evidenced by a 25-cent Federal tax stamp being pasted on the pint bottle and canceled, but by what is known

as a "strip stamp" which costs 1 cent, and which in the past has been readily obtainable by illicit sources, as well as the legitimate distiller, rectifier, or importer.

The importance of this element is that whereas previously one stamp had to be paid for, used, and recorded, which covered 200 pints and cost \$55, today 200 individual records, each involving 1 cent (or at least 25 cents were a prepaid tax stamp to be affixed) would have to be kept in order that the same amount of control might be exercised. Mathematically, today records would have to be kept on perhaps 1,000,000,000 units of sale annually, whereas the number of units of sale before prohibition on which proper records were to be kept, would not have exceeded 2,000,000 to cover the barrel sales, which represented 80 percent of the total traffic.

It is admitted that there was practically no illicit selling in those days. The percentage of the traffic which could have evaded taxation was so small and prices were so low as to make illicit selling unattractive and unprofitable.

We submit with great positiveness that the present method of tax collection can never result in the elimination of illicit selling, even if the appropriations for strict enforcement are greatly increased.

Furthermore, we contend that retail prices to the consumer under the present method of tax collection cannot be substantially reduced regardless of normal price reductions from severe competition among distillers, wholesalers, or retailers.

Also we emphasize that a continuation of present methods of excise tax collection makes the sale of illicit liquor extremely attractive and profitable to the underworld, who quite apparently have solved the problem of evading the law almost with impunity.

On the other hand, the plan proposed by the federation in its operation affords a legal instrumentality which will probably be the largest contributing factor in the stamping out of all illicit selling. This legal instrumentality has been carefully studied by Paul Shipman Andrews, Esq., dean of the law school of Syracuse University, who offers the opinion that this plan makes it possible to enforce existing law which provides that a buyer who wilfully and knowingly purchases non-tax-paid liquor becomes a party to a conspiracy with the seller to defraud the United States Government of its lawful taxes and therefore the Attorney General may prosecute all parties in liquor tax violation cases as conspirators engaged in an effort to defraud the United States Government.

With the passage of the twenty-first amendment, and the subsequent passage of liquor-control laws under this amendment in the respective States where the sale of liquor is now legal, a Federal tax on spirituous liquor of \$2 per gallon is due on every gallon of liquor manufactured in the country.

If the proposed system is put into operation, an individual wilfully and knowingly buying liquor without each bottle having affixed to it the proper canceled tax stamps, by that purchase enters into a conspiracy with the bootlegger to defraud the United States Government.

A retailer purchasing liquor from a bootlegger for the refilling of previously used bottles, likewise, by such purchases, enters into a conspiracy with the seller to defraud the United States Government, because he is refilling a bottle bearing canceled Federal stamps.

The retailer selling for off-premise consumption would be unlikely to sell individual bottles without canceled stamps thereon because such sales would be proof conclusive of tax evasion if the sale were made to an agent of the Government.

Obviously then because of the severe penalties which existing laws require to be imposed, the public and all retail liquor dealers would refrain from purchasing liquor from illicit sources. This should automatically disable the bootlegger, because bootleggers cannot exist if they have no customers.

It would be wise upon the inauguration of the proposed change in the method of tax collection to have the general public and all wholesale and retail dealers notified of the seriousness of the offense of knowingly buying from illicit sources.

Perhaps the most forceful demonstration of the probable efficiency of the Federation's plan is furnished by the method of tax collection which is now in operation in the District of Columbia. This affords your committee an exact comparison between the results obtained by a method similar to the one proposed by the Federation and the proportionate amount of tax collection by the Federal Government throughout the country. The District of Columbia requires an excise tax of 50 cents per gallon to be imposed. When the retailer puts newly bought merchandise into his stock, he affixes to each bottle a District of Columbia beverage tax stamp, which has been indelibly canceled by being stamped with the retailer's license number.

A comparison of gallonage tax collections by the District of Columbia Board and by the United States Department of Internal Revenue seems to indicate that when tax stamps are affixed by the retailer at the time of sale, greater revenue accrues than if taxes are paid at the source.

For instance, during the month of January 1935, Federal excise taxes were paid at about 5½ million gallons of distilled spirits. According to Mr. Graves and Mr. Mellot of the Treasury Department, there are approximately 225,000 outlets throughout the United States which are licensed to sell liquor. Hence, each outlet averaged tax payments on about 20 gallons of liquor for the month of January 1935.

In the District of Columbia there were 653 outlets paying the 50 cents per gallon District of Columbia tax by affixing a canceled tax stamp on each bottle. During the same period January 1935 the District A. B. C. Board collected taxes on about 130,000 gallons, or almost 200 gallons per outlet.

Therefore, during a corresponding period the District of Columbia taxes paid by stamp at point of retail sale were approximately 10 times the Federal excise taxes collected at the source.

Furthermore, the last year's per capita tax paid consumption in wet States was less than seven-tenths of a gallon, whereas the District of Columbia tax-paid consumption is running at a rate exceeding 2¾ gallons per capita, or four times the national average. This would seem to indicate that the District of Columbia, through its method of tax collection at the point of retail sale, is obtaining results more nearly approximating the actual legal consumption of its population, or else it would indicate that the per capita consumption in the District is four times the national average in the wet States.

Senator WALSH. Just what is the method proposed here? That the Internal Revenue Department will sell stamps to the retailers and the retailers will affix a revenue stamp to each package of distilled spirits, a different stamp for pints, quarts, and gallons; is that right?

Mr. GREENHUT. No liquor is sold in gallons; only half pints, pints, quarts, and fifths.

Senator WALSH. What method do you suggest being used to follow up the retailers to see if they actually affix these stamps?

Mr. GREENHUT. In the case of the retailer, the retailer must buy stamps, whether he sells for on-premises consumption or off-premises consumption. Either he has a package store or restaurant or hotel, and he must buy his stamps and they must be bought either from the Commissioner of Internal Revenue in his district or from some agent of the internal-revenue collector or a bank. We suggest a bank because it makes it simple to create a perfect check up. If there are 225,000 retailers (which are the figures given by Mr. Mellot and Mr. Graves before the House Ways and Means Committee on the same bill, which is included in the report which you have put into the record), then it must be obvious that a retailer cannot continue in business who sells liquor to the amount of 20 gallons per month, which approximates \$200 a month gross income, and keep that store, when you consider that in the average State in the Union, the cost of a license is from \$750 to \$1200 a year, and that the rent would be anywhere from \$100 to \$250 a month. The gross profit that he could make on \$200 of sales could never exceed, Mr. Chairman, \$50 a month.

We contend, as based upon our findings, that the licensee both wholesale and retail, is using his license as a coverage for the sale of far more illicit liquors than he sells legitimately. Mathematically it must prove itself out. You could never go behind those figures, because there are the facts.

I have here with me the report of the Internal Revenue Department for the full year. The figures are slightly higher. They would run to about 300 gallons per year per outlet, which in itself I think you will admit could not possibly continue unless somebody was making an additional profit on the outside.

Senator WALSH. Was this proposal presented to the House of Representatives by the Ways and Means Committee?

Mr. GREENHUT. This proposal was submitted at a hearing on this bill before the House Ways and Means Committee. The chairman of the committee says that in his opinion the matter was not germane to this bill.

We claim that the matter is germane to this bill, because the bill as reported by that committee is to protect the Federal revenue and protect the revenue derived from distilled spirits, wine and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, and to enforce the twenty-first amendment.

Senator WALSH. One objection to this bill appears to be that the number of opportunities to defraud the Government would be greatly increased because the number of importers and distillers is comparatively few, while the number of retail dealers is over 225,000 as you have indicated, therefore there would be a very much larger number of people who could if they were so disposed, defraud the Government.

Mr. GREENHUT. On the face of it, Mr. Chairman, that would seem to be a very logical criticism. However, I contend that the Treasury Department is not collecting its tax because spirits are introduced into trade and into traffic after the Treasury Department has ceased collecting its money from those who are now supplying the Federal revenue tax on liquor; in other words, they confine all of their tax-collection effort to the distiller, importer, and rectifier.

We contend that when the wholesaler comes into the picture and the retailer comes into the picture, that is where your tax evasion takes place. You tax evasion does not take place at the distillery where you have a Government agent watching every minute of the day all of your operations.

It probably starts where a retailer buys a legitimate case from a distiller and then has 10 cases to cover that illegitimately, which he buys from a bootlegger.

I do not want to crowd too much at one time, but there is no means by which any Federal agent can walk into a retail store and declare that this or that or any other bottle of liquor there is bootleg or otherwise.

Senator WALSH. At the present time?

Mr. GREENHUT. Under the present system, because there is nothing on that bottle which evidences the full tax payment. All that there is is what we call the strip stamp, which costs 1 penny.

Now, Mr. Chairman, if you will follow me for a moment on a case of imported Scotch liquor, which we all know is being consumed quite voluminously in this country—at the present time you can buy a case of Scotch liquor, any of the ordinary brands like the well-known brand of Haig & Haig, or Johnny Walker, at a world price of 50 shillings, which would be about \$12 of American money.

Senator WALSH. Per case?

Mr. GREENHUT. Per case. The import duties on that liquor plus the Federal taxes that are to be imposed before it goes into retail selling and before it takes on the State tax or the District tax is approximately \$20.40.

That is where you are setting up your big margin, where the tax is disproportionate to the cost, not to the selling price. We contend (and we think we are the only people who are at all interested in this matter, except the Secretary of the Treasury) that it is absolutely unnecessary to reduce taxes to stamp out the bootlegger, and it is absolutely unnecessary to reduce the import duties to stamp out the bootlegger. We contend that the disproportionate amount of the excise taxes and the Federal duty on the imported liquor is low if anything, and still you can effect, by this method, a reduction of the price to the consumer to such a figure that even were you to reduce the taxes to \$1.10 a gallon and \$2.50 tax on import duty, you still would not get the low figure that we can meet by the introduction of this method.

Senator WALSH. What would you say would be possible to sell to the consumer, a case of Scotch?

Mr. GREENHUT. The average price in the city of Washington, where the District tax is only 50 cents a quart, which is 10 cents on a bottle, of Scotch whisky, is \$3.75 for a fifth. That means \$45 a case.

Senator WALSH. That is pretty cheap for Scotch whisky. I think you have stated the price lower than it actually is here.

Mr. GREENHUT. I think you will find in most stores that would cost \$4 or \$4.25, yes.

Senator WALSH. What reduction would come on this \$45 price per case of Scotch if your method was put into operation?

Mr. GREENHUT. This is an example which I will give the stenographer to put into the record. On a case of cheap Scotch whisky which costs \$9 in Glasgow, the price of that Scotch whisky to the consumer under the present method of a \$5 import duty and \$2 tax is \$46.93. That is under the present method. That is a little bit less than \$4 a bottle.

Where the tax to be reduced from \$2 a gallon to \$1.10, the price to the consumer under the present method of taxation and distribution would be \$43.59.

Under the method which we propose, allowing the import duty to remain at \$5 and the excise tax to remain at \$2, the price to the consumer would be \$34.03. These figures can be accepted as absolute fact, because the various associations of wholesalers and retailers had, up to the time of the printing of this book, agreed upon the mark-ups; in other words, the percentages of mark-up and the computation here is made for you step by step including every element of cost that enters into the cost of that liquor.

Senator WALSH. Let me ask you one more question and that will finish my inquiries. What about the necessity of a large army of Federal agents, under your proposal, to watch and detect violations of the law or the failure to comply with it upon the part of this large army of retailers?

Mr. GREENHUT. In my opinion, and my opinion is based upon having made this survey for the Federation over a period of more than a year, I believe that the army that would have to be in the Treasury Department would not be greater than is necessary to bring about the amount of enforcement which we have today. I believe the army is far greater than would be necessary to check up on the retailers who are now in business.

Under this amendment, there is a provision that each retailer is to be bonded with a penalty bond indemnifying the Government against any possible loss should he be fined or in any other way obligated to the Government to pay taxes which have been due but which have not been paid. The surety companies that would write those bonds, since they would be penalty bonds and where the premiums would probably not cost more than 2 or 3 percent, would not be satisfied to have such penalties imposed against them unless they themselves established a check-up.

In discussing this matter with a group of surety companies headed by the American Surety Co. of New York, they agreed that they would set up a central control organization which would assume the responsibility of tracing the shipments of goods from the point of origin to the point of retail sale, so that an accurate record could be kept not only on merely what you would see if you walked into the store, but that very definite evidence on each single bottle of liquor that had been shipped, would always be under control.

In my opinion, the simplest and easiest way to check up here would be to require, as this bill now requires, and as another bill which is coming over, requires that the retailers would keep records of what is commonly known in retailing as a "running inventory", and you would be able, by the simple checking up of their stamp purchases each month, quickly to determine those retailers who were cheating and those who were not cheating; in other words, the increased sales, Mr. Chairman, would have to be from 25 gallons a month to about 300 gallons a month for a retailer to break even.

Senator WALSH. Do you provide a penalty if they cheat?

Mr. GREENHUT. In this act there is a penalty, and likewise in other existing acts. In the liquor tax act of 1934, it required the penalty of \$1,000 for tax evasion. The same thing is repeated in this bill, that wherever there is an evasion of the tax, that penalty must be paid.

Senator WALSH. Is there any State which has incorporated this method of collecting this State tax?

Mr. GREENHUT. Yes, sir.

Senator WALSH. Which States?

Mr. GREENHUT. You have the District of Columbia, primarily, as the best example, which is right close to home. I think you might get a very worthwhile piece of information from the chairman of the District of Columbia Board.

I would like to put into the record, with your permission, Mr. Chairman, that Mr. Parker, who is the chief of staff of the Joint Committee on Internal Revenue, was called in by Senator Harrison originally when this matter was first discussed with Senator Harrison. He gave Senator Harrison a report on this matter. I think he thinks well of it. I do not feel that I am privileged to speak for him.

Senator WALSH. If that report is available, the clerk will put it in the record, please.

Mr. GREENHUT. There are a number of States that have this method. The State of Wisconsin, I believe, has adopted it. The State of Louisiana, I think, has recently adopted this method of tax collection.

Senator WALSH. Have you seen the letter from the Secretary of the Treasury?

Mr. GREENHUT. I have not.

Senator WALSH. You may see that letter or have a copy, and send any reply for the record that you see fit.

Mr. GREENHUT. I have here if you want them, the report of the Federation, a copy for each member of this subcommittee.

Senator WALSH. Thank you very much.

Mr. GREENHUT. I should like to insert into the record these figures which I stated I would give to the stenographer.

(The same are as follows:)

Imported Scotch whisky, 86 proof (fifths)

	Present method, \$2 tax	Proposed system, \$2 tax	Present method, \$1.10 tax
American importers' price f. o. b. Glasgow for case of 12 fifths.....	\$9.00	\$9.00	\$9.00
Freight.....	.50	.50	.50
Import duty.....	10.32	-----	10.32
Excise tax and stamps.....	4.25	-----	2.39
Cost to importer.....	24.07	9.50	22.21
Importer adds 15 percent.....	3.61	1.43	3.33
Cost to wholesaler.....	27.68	10.93	25.54
State tax.....	2.40	-----	2.40
Wholesaler adds 20 percent.....	30.08	-----	27.94
	6.02	2.19	5.59
Cost to retailer.....	36.10	13.12	33.53
Retailer adds 30 percent.....	10.83	3.94	10.06
Duty.....	-----	17.06	-----
Excise tax and stamps.....	-----	10.32	-----
State tax.....	-----	4.25	-----
	-----	2.40	-----
Cost to consumer.....	46.93	34.03	43.59
Percent of consumer dollar received in taxes by Federal Government.....	31	43	20

The preceding tables clearly indicate possible consumer saving under the proposed tax system even if taxes were reduced to \$1.10 per gallon from the present \$2 per gallon.

Domestic blend of rye whisky, 90 proof (fifths)

[4-year-old rye is imported from Canada and is blended in this country by a rectifier]

	Present method, \$2 tax	Proposed system, \$2 tax	Present method, \$1.10 tax
Price f. o. b. Brooklyn for case of 12 fifths (includes 25 percent mark-up or 20 percent profit for distiller):			
Cost \$11.60.....	-----	-----	9.66
Sells.....	14.50	¹ 5.35	-----
State tax.....	2.40	-----	2.40
Wholesaler pays.....	16.90	5.35	14.47
Wholesaler adds 20 percent mark-up.....	3.38	1.07	2.89
Cost to retailer.....	20.28	6.42	17.36
Retailer adds 30 percent mark-up.....	6.08	1.93	5.21
Federal tax.....	-----	8.35	-----
5 duty on Canadian whisky.....	-----	4.44	-----
Rectifying tax.....	-----	2.16	-----
State tax.....	-----	.72	-----
	-----	2.40	-----
Cost to consumer.....	26.36	18.07	22.57
Percent of consumer dollar received in taxes by Federal Government.....	28	40	24

¹ Sells \$12.07.

TAXATION OF DISTILLED SPIRITS

Straight rum whisky 100 proof (fifths)

	Present method, \$2 tax	Proposed system, \$2 tax	Present method, \$1.10 tax
Price per case at distillery (f. o. b. Philadelphia, Pa.).....	\$8. 50	\$3. 68	\$6. 41
Freight.....	. 18	. 18	. 18
Wholesaler's cost delivered.....	8. 68	3. 86	6. 59
State tax.....	2. 40	-----	2. 40
Wholesaler's cost tax paid.....	11. 08	-----	8. 99
Wholesaler adds 20-percent mark-up.....	2. 22	. 77	1. 80
Retailer's cost.....	13. 30	4. 63	10. 79
Retailer adds 30-percent mark-up.....	3. 99	1. 39	3. 59
Federal tax.....	-----	6. 02	-----
State tax.....	-----	4. 92	-----
	-----	2. 40	-----
Price to consumer.....	17. 29	13. 34	14. 38
Percent of consumer dollar received in taxes by Federal Government.....	29	37	19

Matured straight whisky, 100 proof (quarts)

	Present method, \$2 tax	Proposed system, \$2 tax	Present system \$1.10 tax
Straight whisky bottled by distiller for wholesaler (distiller's profit included in sales price of \$2 per gallon):			
\$2 per gallon for 3 gallons.....	\$6. 00	\$6. 00	\$6. 00
Bottling and cashing.....	1. 00	1. 00	1. 00
Federal tax.....	6. 00	-----	3. 30
Federal strips.....	. 12	-----	. 12
	6. 12	-----	3. 42
Plus 20 percent for outlay.....	1. 22	-----	. 68
	7. 34	-----	4. 10
Cost to wholesaler.....	14. 34	7. 00	11. 10
Freight.....	. 21	. 21	. 21
State tax.....	3. 00	-----	3. 00
	17. 55	7. 21	14. 31
Wholesaler adds 20 percent mark-up.....	3. 51	1. 44	2. 86
Cost to retailer.....	21. 06	8. 65	17. 17
Retailer adds 30 percent mark-up.....	6. 32	2. 60	5. 15
	-----	11. 25	-----
Federal and State tax.....	-----	9. 12	-----
Cost to consumer.....	27. 38	20. 37	22. 32
Percent of consumer dollar received in taxes by Federal Government.....	22	30	16

(Following is the letter from Mr. L. H. Parker, chief of staff, Joint Committee on Internal Revenue Taxation, referred to by Mr. Greenhut:)

MARCH 25, 1935.

HON. PAT HARRISON,
United States Senate, Washington, D. C.

MY DEAR SENATOR: As per your request, I have given such time as has been available to a preliminary study of the proposition of collecting the present gallonage taxes on liquor by means of stamps purchased and affixed by the retailers instead of collecting same from the distillers.

The receipts from the \$2 per gallon internal-revenue tax on distilled spirits have been disappointing. Such receipts amounted to \$157,496,603 for the calendar year 1934, indicating tax payments on approximately 78 million gallons

of distilled spirits. Prewar consumption averaged between 135 and 140 million gallons per annum, and taking into account present conditions and increased population I do not believe actual consumption in 1934 was less than pre-war consumption. If this be true we are losing at least 114 million dollars annually through the illegal sale of liquor upon which the \$2 tax has not been paid. Many persons of judgment in such matters believe that we are losing a much larger sum.

It appears probable that the great majority of the American public desire to buy legal liquor. The trouble with the present system is that the consumer cannot tell whether he is buying legal tax-paid liquor or not. He may think he is buying tax-paid liquor because the bottle bears the strip stamp, but this is no proof that the \$2 per gallon tax has been paid. The bottle may contain bootleg liquor and the only tax paid is the 1 cent for the strip stamp.

In my testimony before your committee on December 11, 1933, I pointed out that existing liquor laws covered some 30 pages of the United States Code and needed revision and rewriting. These laws are cumbersome not only in form but are ill adapted for use in connection with present-day methods. The liquor business, in the days when these laws were originally written, was carried on largely by sales in barrels; now it is carried on almost exclusively sales in bottles.

I have been given a copy of an amendment to title II of the Liquor Taxing Act of 1934 which I understand Senator Copeland proposes to introduce. This bill provides briefly as follows:

- (1) Rates of tax to be as at present.
- (2) No gallonage taxes shall be imposed on the distiller or importer.
- (3) Gallonage taxes shall be collected from the retailer by stamp affixed at time of sale.
- (4) Protection against illegal practices by distiller, importer, or wholesaler accomplished by bond guaranteeing, in addition, payment of gallonage taxes.

The following advantages claimed for the new plan are worthy of consideration:

- (1) Pyramiding of tax by adding a profit on tax would be prevented.
- (2) Consumer would be able to tell when he is buying tax-paid liquor.
- (3) Unnecessary tying-up of capital in liquor inventories would be eliminated.
- (4) Prices to consumer would be reduced without reducing tax rate.
- (5) Revenue of Government would be substantially increased, through reduction in amount of tax evasion.

Time has not been available in which to do more than survey the general aspects of the plan. From a preliminary examination, it appears that the plan is worthy of consideration and should be the subject of investigation or hearings by the appropriate committees.

Very respectfully,

L. H. PARKER, *Chief of Staff.*

(Mr. Greenhut subsequently submitted the following letter in answer to the report signed by the Secretary of the Treasury:)

EXECUTIVE COUNCIL OF THE NATIONAL CIVIC FEDERATION,
New York City, July 24, 1935.

HON. PAT HARRISON,
Chairman Committee on Finance, United States Senate,
Washington, D. C.

MY DEAR MR. CHAIRMAN: Yesterday I appeared on behalf of the National Civic Federation before Senator Walsh who acted as chairman of the subcommittee you appointed to consider the proposed Copeland amendment to H. R. 8870. Senator Walsh had entered into the record a letter from the Secretary of the Treasury, in which the Secretary strongly opposed the adoption of Senator Copeland's amendment. Senator Walsh was good enough to give me a copy of the Secretary's letter in order that I might furnish your committee with our views on the Secretary's objections.

Concretely the Secretary takes the view that—
"this proposal is very objectionable, since it would render the administration of law in connection with the collection of the revenues very difficult, if not impossible, besides heavily increasing the cost of administration. * * * Experience has demonstrated that it is more economical to collect taxes on such commodities as intoxicating liquors from the manufacturers or importers of whom there are relatively few and whose operations can with comparative ease be supervised by Government officers for the purposes of accounting for the liquors produced or imported and otherwise insuring the payment of the tax."

All other details of the Secretary's letter are in support of the above quoted conclusion.

The Secretary concludes with the following paragraph:

"It is my view that the proposed amendment would render the administration of law very difficult, and the collection of revenue of distilled spirits impracticable if not impossible and it is urgently recommended that the amendment be not adopted."

On the other hand, we earnestly request that the Secretary's urgent recommendation to your committee should be disregarded for the following specific reasons:

(1) Bootlegging, rum running, and illicit selling are depriving the Federal and State Governments of more than 300 million dollars annually in collectible revenues. That today's illicit traffic establishes so huge a loss of revenue is substantiated by published statements made by Secretary Morgenthau, Under-Secretary Coolidge, the F. A. C. A. Administrator Choate, New York State Tax Commissioner Graves, New Jersey Tax Commissioner Burnett and Delaware's Liquor Commissioner Pierre S. duPont. These statements are given below:

"We now have facts from which the reasonable inference is * * * that bootleg production continues on so huge a scale as to constrain us to the conclusion that our people must now be consuming greater quantities of spirits than they did in preprohibition days. * * * The Government is losing more taxes than it gets. A colossal criminal industry, necessarily highly organized, still exists. * * * If any progress is ever to be made in either control or temperance, if ever the expected revenue is to be realized, this criminal industry must be destroyed."—Joseph H. Choate, Jr., in the public press on April 29, 1934.

"In the State of Delaware, our legal sales of alcohol are approximately one-half of the per-capita consumption in 1914 * * * 50 percent of the alcohol consumed in our State is of bootleg variety, 50 percent legal."—From a letter to the National Civic Federation, dated August 10, 1934, from Hon. Pierre S. duPont, liquor commissioner for the State of Delaware.

"D. Frederick Burnett, State commissioner of alcoholic beverage control, said in a review of the first year of repeal, that 50 percent of the liquor now being consumed in New Jersey is illicit and the State if being flooded with bootleg liquor."—New York World-Telegram, November 30, 1934.

"New York State Tax Commissioner Mark Graves, has estimated that the State was actually consuming as much as 25 million gallons with tax being paid on an estimated 6,200,000 only."—Washington (D. C.) Post, December 2, 1934.

"In the national capital bootleggers are delivering liquor in case lots to hotel rooms. During the discussions with distillers and bottle makers, it was disclosed that 90 percent of the business in one well-known type of rum was bootlegged; that only 15 percent of the business of one popular brand of rye was legitimate."—Secretary of the Treasury Morgenthau at a press conference, June 21, 1934.

"Thomas Jefferson Coolidge, Acting Secretary of the Treasury, stated that despite repeal 'There appears to be an increase in liquor smuggling along the northeastern coast.' Mr. Coolidge said, 'The Department had been informed of at least 14 smuggling vessels along the seaboard from Delaware to Maine.'"—New York Herald Tribune, July 24, 1934.

"Rum fleet grows," says Morgenthau. Testifying on March 8, 1935, before the House Ways and Means Committee, Mr. Morgenthau said that in the last 4 months of 1934, known alcohol smugglers had started more than 750,000 gallons of alcohol to the United States. At this rate, he asserted, the annual internal-revenue loss would be \$8,625,981; the loss in customs duties would be \$21,564,952, a total loss of \$30,190,933. Mr. Morgenthau recalled that before repeal it had been expected liquor smuggling would be reduced * * * but commencing with the spring of 1934 liquor smugglers again appeared along our coasts and their operations have now increased to alarming proportions; 39 foreign vessels are presently known to the Coast Guard to be engaged in the traffic. Inasmuch as these vessels are hovering beyond our customs' waters, they are not subject to seizure under existing laws and hence they carry on their smuggling operations almost with impunity.—New York Evening Sun, March 8, 1935.

"The Treasury's 'revenue police' carried on vigorously today * * * Reports showed 2,110 persons arrested in what was probably the most productive drive ever made against the underworld * * * In about 24 hours 900 moonshine stills with a daily capacity of 219,866 gallons were gathered in by the Alcohol Tax Unit."—New York Times, March 17, 1935. (The annual capacity of these stills exceeds last year's total tax-paid production.)

"Burnett declared 56 percent of the liquor sold in the State is illicit. He asserted:

"The police are in cahoots with the bootleggers and the State is in the grip of this illicit industry."—Syracuse Journal, April 1, 1935.

Obviously conditions are getting worse, not better. In April 1934 Mr. Choate "feared" that seizure of illicit plants for the first 3 months indicated that the year's total would amount to 7,952 illicit plants with a combined annual capacity of 271,623,080 gallons. Actually the year's total was 10,947, almost 3,000 more than the "incredible" potential.

On July 24, 1934, Acting Secretary of the Treasury Coolidge was "alarmed that rum row off east coast grows to 14 ships." Less than a year later Secretary Morgenthau reported 39 vessels carrying on "their smuggling operations almost with impunity."

(a) Since conditions today are admittedly no better than they were last year, it must be conceded that no less than 50 percent of distilled spirits consumption is not being tax paid. The full fiscal year's internal revenue collections were on approximately 7½ million gallons of imported spirits and 75 million gallons of domestically distilled spirits. If 7½ million gallons of spirits were imported illicitly, the tax loss to the Federal Government on this item alone would represent \$52,500,000; the tax loss on 75 million gallons of illicitly made domestic spirits would be \$150,000,000. Additionally, the State governments would lose approximately \$100,000,000, making a total Federal and State tax loss exceeding 300 million dollars.

(b) In his letter the Secretary does not suggest any method by which this enormous tax loss can be recovered for the Federal and State Governments. His published statements and those of other officials qualified to judge admit that this huge tax loss exists. No plan has been devised by the Treasury which assures that these huge tax evasions can be prevented. We contend that until the Secretary submits a program which will assure collection of this enormous revenue for the Government that the Federation's plan should be adopted meanwhile.

The Secretary contends that the cost of checking up on the 225,000 licensed retail outlets would substantially increase the cost of enforcement. Even were this to be true, were enforcement costs to double and with 300 million dollars additional revenue to result, admittedly it would be worth while. However, we contend that enforcement costs would be considerably less than they are today if our system is adopted. The present Treasury expenditure of 5 million dollars annually, which is being paid to the 2,000 agents engaged to protect the revenue, could be materially reduced and better results obtained.

For instance, in the District of Columbia there are two agents checking 650 retail outlets. The Treasury's 2,000 agents would have to check 225,000 outlets. Hence, each District agent today checks 375 outlets whereas a Federal agent would check approximately 100.

Yet the District is doing a better tax-collection job than is the Federal Government if gallonage-tax collections are the indication, for the District gallonage-tax collections are seven times those of the National Government when computed on a retail outlet basis. This proves conclusively that the District system of collecting at the point of retail sale is seven times as efficient as is the system which the Secretary insists should be continued.

Millions are being spent for enforcement which does not enforce and for tax collection which fails to collect. The fault does not lie with the Secretary's administration but rather in the system which he and his aides urgently recommend must be continued.

(c) The Federation claims that by deferring the payment of excise taxes and import duties until a retail sale is made, all distilled spirits whether illicit or legal would be tax-paid because the evidence of tax payment would be compulsory upon the retailer who makes the sale. A thousand dollar penalty bond would be forfeited if an agent of the Government caught him in the act of selling illicitly. Furthermore, he would be guilty of a conspiracy to defraud the United States Government which is a felony and subject to severe penalty.

Additionally, the Federation's plan provides that the retail licensee would be compelled each month to report the amount of his excise-stamp purchases; also that in his application for a surety bond he would file an initial balance sheet and operating statement. His balance sheet would reflect amount of his cash on hand, investment in inventory, investments in fixtures and equipment, prepaid insurance, other assets.

His operating statement would give terms of his lease, amount of his rent, his monthly pay roll to clerks and messengers, his sales in proof-gallons, his sales in dollar value.

Last year's total tax-paid consumption amounted to less than 83 million gallons. The Treasury reports there are 225,000 licensed retail outlets selling distilled spirits. This means that each retail outlet averaged sales of less than 370 gallons or approximately 30 gallons per month.

Domestic whisky today costs an average of approximately \$1.25 per pint. This would reflect gross sales of about \$300 per month in the average retail liquor store. The retailer's gross profit on this amount, due to competition, could not exceed \$100. Hence, an investigator of the Government in checking a New York City retailer's monthly report against receipts for excise stamp-tax purchases could logically inquire how this retailer could pay \$100 monthly license fee, \$200 monthly rent, \$300 monthly clerk hire, and such incidentals as insurance, lights, advertising, association dues, and last, but not least, upkeep of himself and his family, where \$100 was the gross amount available for such expenditures. Furthermore the illustration would be more glaring because the legitimate licensees' reports would reflect considerably higher tax payments and stamp purchases and, therefore, the illegitimate tax-evading retailer would more quickly be isolated. The surety companies issuing bonds within a very few months to protect themselves against severe penalty losses would be of great assistance in the analysis of these retailers' reports. If, on the other hand, the monthly reports reflected more nearly the amount of tax payments which would be necessary in order that a man's volume would be great enough to keep him in business, the objective for which this plan has been designed would be achieved, namely that the hundreds of millions of dollars now not being paid would be collected by the Federal and State Governments.

(2) High retail prices caused by the pyramiding of overhead and profit on taxes result in a high tax-paid consumer market which encourages illicit selling. No excise tax nor import duty reductions are necessary to bring about low retail prices if the Federation's method of tax collection is adopted because lower retail prices can be attained by tax deferment than could be possible were the present \$2 excise tax to be reduced to \$1.10 and the import duty from \$5 to \$2.50.

The Secretary offers no suggestion as to how the present high retail prices can be reduced, whereas, he will probably admit that there is a definite relationship between high retail prices and large scale illicit selling. Under the present system of tax collection, retail prices cannot substantially be reduced and, therefore, his insistence that the present method be pursued unwittingly is an encouragement to bootleggers and rum runners.

(3) Of primary interest to your committee and the Secretary of the Treasury should be our insistence that the Federation's plan will result in the collection of \$300,000,000 annually of excise taxes and import duties now due but not being collected. This session of Congress is being prolonged because the President wishes a new tax measure to be perfected. Any new tax measure which will result in \$300,000,000 of additional taxes would impose so heavy a burden upon industry in this country as to seriously deter our return to more normal conditions.

Also the \$500,000,000 excise taxes recently reenacted, called the "nuisance taxes", if substantially eliminated would encourage business expansion.

Hence, the present session of Congress affords the ideal opportunity for the enactment of Senator Copeland's amendment, because it makes available a tax collecting instrumentality which can be used either to offset a substantial amount of the present nuisance taxes or make unnecessary new income, inheritance, estate, or corporate taxes, which many of our citizens might consider extremely burdensome at this time.

In conclusion, we should like to offer the suggestion that Senator Copeland's amendment be adopted for a period of 1 year in order that a comparison can be made between the income derived during the last fiscal year under the present method and the income which will result from the inauguration of the proposed Federation plan.

We are confident that the adoption of this plan for a period of 1 year would result in the permanent solution of the present liquor problem because—

(1) Illicit selling would be reduced to so small an amount as to make it impossible for large organized groups of illicit sellers to remain in business.

(2) Federal and State revenues from distilled spirits would increase by more than \$300,000,000 annually.

(3) Retail prices to consumers would be reduced by from 25 to 50 percent.

(4) The need for present nuisance taxes or heavily increased estate, inheritance, income, or corporate taxes would be lessened.

Respectfully submitted.

NATIONAL CIVIC FEDERATION,
By EUGENE GREENHUT,
*Chairman Committee Studying the
American Liquor Problem.*

(Whereupon at 2:45 p. m., the subcommittee adjourned.)