

TAXATION OF MARIHUANA

HEARING

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

SEVENTY-FIFTH CONGRESS

FIRST SESSION

ON

H. R. 6906

AN ACT TO IMPOSE AN OCCUPATIONAL EXCISE TAX
UPON CERTAIN DEALERS IN MARIHUANA, TO IMPOSE
A TRANSFER TAX UPON CERTAIN DEALINGS IN MARI-
HUANA, AND TO SAFEGUARD THE REVENUE THERE-
FROM BY REGISTRY AND RECORDING

JULY 12, 1937

Printed for the use of the Committee on Finance



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CONTENTS

Statement of—	Page
Anslinger, H. J., Commissioner of Narcotics, Treasury Department.....	10
Hester, C. M., Assistant General Counsel, Treasury Department.....	5
Johnson, Royal C., Washington, D. C., representing Chempsco, Inc., Winona, Minn., and Hemp Chemical Corporation, Mankato, Minn.	29
Mokenes, M. G., Danville, Ill., representing the Amhempeco Corpora- tion.....	27
Olman, O. C., Juneau, Wis., representing the Juneau Fibre Co.....	32
Rens, Matt, Brandon, Wis., representing the Rens Hemp Co.....	21
Woodward, Dr. W. C., American Medical Association, Chicago, Ill., letter from.....	38

TAXATION OF MARIHUANA

MONDAY, JULY 12, 1937

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

The subcommittee met, pursuant to call, at 10 a. m., in the Senate Finance Committee room, Senate Office Building, Senator Prentiss M. Brown presiding.

Present: Senators Brown (chairman), Herring, and Davis.

(The subcommittee had under consideration H. R. 6906, which is as follows:)

[H. R. 6906, 75th Cong. 1st sess.]

AN ACT To impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act--

(a) The term "person" means an individual, a partnership, trust, association, company, or corporation and includes an officer or employee of a trust, association, company, or corporation, or a member or employee of a partnership, who as such officer, employee, or member, is under a duty to perform any act in respect of which any violation of this Act occurs.

(b) The term "marihuana" means all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, oil or cake made from the seeds of such plant, any compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(c) The term "producer" means any person who (1) plants, cultivates, or in any way facilitates the natural growth of marihuana; or (2) harvests and transfers or makes use of marihuana.

(d) The term "Secretary" means the Secretary of the Treasury and the term "collector" means collector of internal revenue.

(e) The term "transfer" or "transferred" means any type of disposition resulting in a change of possession but shall not include a transfer to a common carrier for the purpose of transporting marihuana.

SEC. 2. (a) Every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana shall (1) within fifteen days after the effective date of this Act, or (2) before engaging after the expiration of such fifteen-day period in any of the above-mentioned activities, and (3) thereafter, on or before July 1 of each year, pay the following special taxes respectively:

(1) Importers, manufacturers, and compounders of marihuana, \$24 per year.

(2) Producers of marihuana (except those included within subdivision (4) of this subsection), \$5 per year.

(3) Physicians, dentists, veterinary surgeons, and other practitioners who distribute, dispense, give away, administer, or prescribe marihuana to patients upon whom they in the course of their professional practice are in attendance, \$1 per year or fraction thereof during which they engage in any of such activities.

(4) Any person not registered as an importer, manufacturer, producer, or compounder who obtains and uses marihuana in a laboratory for the purpose of re-

search, instruction, or analysis, or who produces marihuana for any such purpose, \$1 per year, or fraction thereof, during which he engages in such activities.

(5) Any person who is not a physician, dentist, veterinary surgeon, or other practitioner and who deals in, dispenses, or gives away marihuana, \$3 per year: *Provided*, That any person who has registered and paid the special tax as an importer, manufacturer, compounder, or producer, as required by subdivisions (1) and (2) of this subsection, may deal in, dispense, or give away marihuana imported, manufactured, compounded, or produced by him without further payment of the tax imposed by this section.

(b) Where a tax under subdivision (1), (2), or (5) is payable on July 1 of any year it shall be computed for one year; where any such tax is payable on any other day it shall be computed proportionately from the first day of the month in which the liability for the tax accrued to the following July 1.

(c) In the event that any person subject to a tax imposed by this section engages in any of the activities enumerated in subsection (a) of this section at more than one place, such person shall pay the tax with respect to each such place.

(d) Except as otherwise provided, whenever more than one of the activities enumerated in subsection (a) of this section is carried on by the same person at the same time, such person shall pay the tax for each such activity, according to the respective rates prescribed.

(e) Any person subject to the tax imposed by this section shall, upon payment of such tax, register his name or style and his place or places of business with the collector of the district in which such place or places of business are located.

(f) Collectors are authorized to furnish, upon written request, to any person a certified copy of the names of any or all persons who may be listed in their respective collection districts as special taxpayers under this section, upon payment of a fee of \$1 for each one hundred of such names or fraction thereof upon such copy so requested.

Sec. 3. (a) No employee of any person who has paid the special tax and registered, as required by section 2 of this Act, acting within the scope of his employment, shall be required to register and pay such special tax.

(b) An officer or employee of the United States, any State, Territory, the District of Columbia, or insular possession, or political subdivision, who, in the exercise of his official duties, engages in any of the activities enumerated in section 2 of this Act shall not be required to register or pay the special tax, but his right to this exemption shall be evidenced in such manner as the Secretary may by regulations prescribe.

Sec. 4. (a) It shall be unlawful for any person required to register and pay the special tax under the provisions of section 2 to import, manufacture, produce, compound, sell, deal in, dispense, distribute, prescribe, administer, or give away marihuana without having so registered and paid such tax.

(b) In any suit or proceeding to enforce the liability imposed by this section or section 2, if proof is made that marihuana was at any time growing upon land under the control of the defendant, such proof shall be presumptive evidence that at such time the defendant was a producer and liable under this section as well as under section 2.

Sec. 5. It shall be unlawful for any person who shall not have paid the special tax and registered, as required by section 2, to send, ship, carry, transport, or deliver any marihuana within any Territory, the District of Columbia, any insular possession, or the Canal Zone, or from any State, Territory, the District of Columbia, any insular possession of the United States, or the Canal Zone, into any other State, Territory, the District of Columbia, insular possession of the United States, or the Canal Zone: *Provided*, That nothing contained in this section shall apply to any common carrier engaged in transporting marihuana; or to any employee of any person who shall have registered and paid the special tax as required by section 2 while acting within the scope of his employment; or to any person who shall deliver marihuana which has been prescribed or dispensed by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2, who has been employed to prescribe for the particular patient receiving such marihuana; or to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties.

Sec. 6. (a) It shall be unlawful for any person, whether or not required to pay a special tax and register under section 2, to transfer marihuana, except in pursuance of a written order of the person to whom such marihuana is transferred, on a form to be issued in blank for that purpose by the Secretary.

(b) Subject to such regulations as the Secretary may prescribe, nothing contained in this section shall apply—

(1) To a transfer of marihuana to a patient by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2, in the course of his professional practice only: *Provided*, That such physician, dentist, veterinary surgeon, or other practitioner shall keep a record of all such marihuana transferred, showing the amount transferred and the name and address of the patient to whom such marihuana is transferred, and such record shall be kept for a period of two years from the date of the transfer of such marihuana, and subject to inspection as provided in section 11.

(2) To a transfer of marihuana, made in good faith by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2: *Provided*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, veterinary surgeon, or other practitioner who issues the same: *Provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled so as to be readily accessible for inspection by the officers, agents, employees, and officials mentioned in section 11.

(3) To the sale, exportation, shipment, or delivery of marihuana by any person within the United States, any Territory, the District of Columbia, any of the insular possessions of the United States or the Canal Zone, to any person in any foreign country regulating the entry of marihuana, if such sale, shipment, or delivery of marihuana is made in accordance with such regulations for importation into such foreign country as are prescribed by such foreign country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(4) To a transfer of marihuana to any officer or employee of the United States Government or of any State, Territorial, District, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, District, county, or municipal or insular hospitals or prisons.

(5) To a transfer of any seeds of the plant *Cannabis sativa L.* to a person, registered as a producer under section 2, for use by such person for the further production of such plant, or to a person, registered under section 2 as a manufacturer, importer, or compounder, for use by such person for the manufacture of birdseed or for the manufacture of seed oil, seed cake, or any compound, manufacture, salt, derivative, mixture, or preparation of such oil or cake.

(c) The Secretary shall cause suitable forms to be prepared for the purposes before mentioned and shall cause them to be distributed to collectors for sale. The price at which such forms shall be sold by said collectors shall be fixed by the Secretary, but shall not exceed 2 cents each. Whenever any collector shall sell any of such forms he shall cause the date of sale, the name and address of the proposed vendor, the name and address of the purchaser, and the amount of marihuana ordered to be plainly written or stamped thereon before delivering the same.

(d) Each such order form sold by a collector shall be prepared by him and shall include an original and two copies, any one of which shall be admissible in evidence as an original. The original and one copy shall be given by the collector to the purchaser thereof. The original shall in turn be given by the purchaser thereof to any person who shall, in pursuance thereof, transfer marihuana to him and shall be preserved by such person for a period of two years so as to be readily accessible for inspection by any officer, agent, or employee mentioned in section 11. The copy given to the purchaser by the collector shall be retained by the purchaser and preserved for a period of two years so as to be readily accessible to inspection by any officer, agent, or employee mentioned in section 11. The second copy shall be preserved in the records of the collector.

SEC. 7. (a) There shall be levied, collected, and paid upon all transfers of marihuana which are required by section 6 to be carried out in pursuance of written order forms taxes at the following rates:

(1) Upon each transfer to any person who has paid the special tax and registered under section 2 of this Act, \$1 per ounce of marihuana or fraction thereof.

(2) Upon each transfer to any person who has not paid the special tax and registered under section 2 of this Act, \$100 per ounce of marihuana or fraction thereof.

(b) Such tax shall be paid by the transferee at the time of securing each order form and shall be in addition to the price of such form. Such transferee shall be liable for the tax imposed by this section but in the event that the transfer is made in violation of section 6 without an order form and without payment of the transfer tax imposed by this section, the transferor shall also be liable for such tax.

(c) Payment of the tax herein provided shall be represented by appropriate stamps to be provided by the Secretary and said stamps shall be affixed by the collector or his representative to the original order form.

(d) All provisions of law relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal-revenue laws shall, insofar as applicable and not inconsistent with this Act be extended and made to apply to stamps provided for in this section.

(e) All provisions of law (including penalties) applicable in respect of the taxes imposed by the Act of December 17, 1914 (38 Stat. 785; U. S. C., 1934 ed., title 20, secs. 1040-1061, 1383-1391), as amended, shall, insofar as not inconsistent with this Act, be applicable in respect of the taxes imposed by this Act.

Sec. 8. (a) It shall be unlawful for any person who is a transferee required to pay the transfer tax imposed by section 7 to acquire or otherwise obtain any marihuana without having paid such tax; and proof that any person shall have had in his possession any marihuana and shall have failed, after reasonable notice and demand by the collector, to produce the order form required by section 6 to be retained by him, shall be presumptive evidence of guilt under this section and of liability for the tax imposed by section 7.

(b) No liability shall be imposed by virtue of this section upon any duly authorized officer of the Treasury Department engaged in the enforcement of this Act or upon any duly authorized officer of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United States, who shall be engaged in the enforcement of any law or municipal ordinance dealing with the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana.

Sec. 9. (a) Any marihuana which has been imported, manufactured, compounded, transferred, or produced in violation of any of the provisions of this Act shall be subject to seizure and forfeiture and, except as inconsistent with the provisions of this Act, all the provisions of internal-revenue laws relating to searches, seizures, and forfeitures are extended to include marihuana.

(b) Any marihuana which may be seized by the United States Government from any person or persons charged with any violation of this Act shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States.

(c) Any marihuana seized or coming into the possession of the United States in the enforcement of this Act, the owner or owners of which are unknown, shall be confiscated by and forfeited to the United States.

(d) The Secretary is hereby directed to destroy any marihuana confiscated by and forfeited to the United States under this section or to deliver such marihuana to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as may be prescribed by the Secretary.

Sec. 10. (a) Every person liable to any tax imposed by this Act shall keep such books and records, render under oath such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

(b) Any person who shall be registered under the provisions of section 2 in any internal-revenue district shall, whenever required so to do by the collector of the district, render to the collector a true and correct statement or return, verified by affidavits, setting forth the quantity of marihuana received or harvested by him during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine. If such person is not solely a producer, he shall set forth in such statement or return the names of the persons from whom said marihuana was received, the quantity in each instance received from such persons, and the date when received.

Sec. 11. The order forms and copies thereof and the prescriptions and records required to be preserved under the provisions of section 6, and the statements or returns filed in the office of the collector of the district under the provisions of section 10 (b) shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose, and such officers of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United States as shall be charged with the enforcement of any law or municipal ordinance regulating the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana. Each collector shall be authorized to furnish, upon written request, copies of any of the said statement or returns filed in his office to any of such officials of any State or Territory, or political subdivision thereof, or the District of Columbia, or any insular possession of the United States as shall be entitled to inspect the said

statements or returns filed in the office of the said collector, upon the payment of a fee of \$1 for each 100 words or fraction thereof in the copy or copies so requested.

Sec. 12. Any person who is convicted of a violation of any provision of this Act shall be fined not more than \$2,000 or imprisoned not more than five years, or both, in the discretion of the court.

Sec. 13. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of evidence by the defendant that he has complied with the provisions of section 2 relating to registration or that he has complied with the provisions of section 6 relating to order forms, he shall be presumed not to have complied with such provisions of such sections, as the case may be.

Sec. 14. The Secretary is authorized to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions of this Act and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

Sec. 15. The provisions of this Act shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, and the insular possessions of the United States, except the Philippine Islands. In Puerto Rico the administration of this Act, the collection of the special taxes and transfer taxes, and the issuance of the order forms provided for in section 6 shall be performed by the appropriate internal-revenue officers of that government, and all revenues collected under this Act in Puerto Rico shall accrue intact to the general government thereof. The President is hereby authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone and the Virgin Islands the intent and purpose of this Act by providing for the registration with appropriate officers and the imposition of the special and transfer taxes upon all persons in the Canal Zone and the Virgin Islands who import, manufacture, produce, compound, sell, deal in, dispense, prescribe, administer, or give away marihuana.

Sec. 16. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 17. This Act shall take effect on the first day of the second month after the month during which it is enacted.

Sec. 18. This Act may be cited as the "Marihuana Tax Act of 1937."

Passed the House of Representatives June 14, 1937.

Attest:

SOUTH TRIMBLE, *Clerk.*

Senator BROWN. The committee will be in order. The hearing is on H. R. 6006. We will first hear from Mr. Hester, the Assistant General Counsel of the Treasury Department.

STATEMENT OF CLINTON M. HESTER, ASSISTANT GENERAL COUNSEL, TREASURY DEPARTMENT

Mr. HESTER. The purpose, Mr. Chairman, of H. R. 6006 is to employ the Federal taxing power to raise revenue by imposing occupational and transfer taxes upon dealings in marihuana and to discourage the widespread use of the drug by smokers and drug addicts.

The flowering tops, leaves, and seeds of the hemp plant contain a dangerous drug known as marihuana. The drug is used only to a negligible extent by the medical profession. In fact, last year only 4 out of every 10,000 prescriptions contained marihuana. The drug is prescribed as a sedative, but it is used very rarely by the medical profession because the effect of the drug is so variable that a physician cannot tell how his patient will react to the drug and because there are so many better substitutes.

The plant also has many industrial uses. From the mature stalk fiber is produced which in turn is manufactured into twine, and oth-

fiber products. From the seeds, oil is extracted which is used in the manufacture of such products as paint, varnish, linoleum, and soap. From hempseed cake, the residue of the seed after the oil has been extracted, cattle feed and fertilizer are manufactured. In addition the seed is used as special feed for pigeons.

Marihuana is also used illicitly by smoking it in crudely prepared cigarettes, which are readily procurable in almost all parts of the country at prices ranging from 10 to 25 cents each. Under the influence of this drug the will is destroyed and all power of directing and controlling thought is lost.

Senator DAVIS. Do you mean that the cigarettes cost 25 cents each?

Mr. HESTER. They are manufactured illicitly, and that is the price that the peddlers generally get for them.

Senator DAVIS. That is per cigarette, and not per package?

Mr. HESTER. That is per cigarette.

Senator DAVIS. For one cigarette?

Mr. HESTER. That is right.

Inhibitions are released. As a result of these effects, many violent crimes have been and are being committed by persons under the influence of this drug. Not only is marihuana used by hardened criminals to steel them to commit violent crimes, but it is also being placed in the hands of high-school children in the form of marihuana cigarettes by unscrupulous peddlers. Its continued use results many times in impotency and insanity.

Two objectives have dictated the form of H. R. 6906, first, the development of a plan of taxation which will raise revenue and at the same time render extremely difficult the acquisition of marihuana by persons who desire it for illicit uses, and second, the development of an adequate means of publicizing dealings in marihuana in order to tax and control the traffic effectively.

This bill is modeled upon both the Harrison Narcotic Act and the National Firearms Act, which were designed to accomplish these same general objectives with respect to opium and coca leaves, and firearms, respectively.

Under the provisions of this bill all legitimate handlers of marihuana are required to pay occupational taxes as follows: Manufacturers, compounders, and importers, \$24 per year; producers, \$5 per year; dealers, \$3 per year; practitioners (doctors, dentists, veterinarians, and other of like character), and persons who use marihuana for experimental purposes, \$1 per year. These persons, in addition to paying the occupational tax, must register with the collector of internal revenue and file information returns as to their dealings in marihuana.

However, as an additional means of bringing the traffic in marihuana into the open, the bill requires all transfers of marihuana to be made in pursuance of official order forms issued by the Secretary of the Treasury, upon which the details of the transaction are set forth. In order to raise additional revenue and to prevent transfers to persons who would use marihuana for undesirable purposes, a transfer tax is imposed upon each transfer of marihuana. Upon transfers to registered persons, this tax is \$1 per ounce, while, upon transfers to non-registered person, who under ordinary circumstances will be the illicit users of marihuana, a heavy tax of \$100 per ounce is imposed. Heavy criminal penalties are provided for manufacturing, producing, or dealing in marihuana without registering and paying the special taxes, for

transferring marihuana not in pursuance of an order form, and for acquiring marihuana without payment of the transfer tax.

Thus, the bill is designed, through the occupational tax and the order form procedure, to publicize legitimate dealings in marihuana and through the \$100 transfer tax to prevent the drug from coming into the hands of those who will put it to illicit uses.

The production and sale of hemp and its products for industrial purposes will not be adversely affected by this bill. In general, the term "marihuana" is defined in the bill so as to include only the flowering tops, leaves, and seeds of the hemp plant and to exclude the mature stalk, oil, and meal obtained from the seeds of the plant, and sterilized seed, incapable of germination.

Under this definition of "marihuana" the hemp producer will pay a small occupational tax but his fiber products will be entirely exempt from the provisions of the bill, including the order form and transfer tax provisions.

Senator BROWN. That means the farmer will pay \$5?

Mr. HESTER. That is right.

Senator BROWN. That is all he will have to pay?

Mr. HESTER. That is all he will have to pay.

Senator BROWN. And it makes no difference how extensive his acreage is?

Mr. HESTER. No; \$5 is the limit.

Senator BROWN. It is \$5 whether he cultivates an acre or 10 acres?

Mr. HESTER. That is right.

The same is true of seed produced by the hemp grower for sale for the further production of the plant, for the manufacture of oil or for birdseed, except that such transfers will be made subject to regulations designed to prevent diversion of the seed for illegal uses.

Similarly, the manufacturers of oil and the byproducts of seed, such as hemp seed cake and meal, will pay an occupational tax, but their purchases of seed and sales of such oil, cake, and meal will be entirely exempt from the provisions of the bill except that purchases of such seed will be subject to regulations designed to prevent diversion.

Manufacturers of birdseed will also pay an occupational tax, but their purchases of seed will be exempt from the transfer tax and order form provisions of the bill, if carried out in accordance with regulations. Further, under the definition of marihuana, the bill will not apply to their sales of birdseed, if the hemp seed contained therein is sterilized so as to be incapable of germination.

I might say at this point that this provision with respect to the birdseed was worked out with the birdseed people, and those who appeared before the Ways and Means Committee approved that provision.

Now, this is an important provision, this particular provision right here that we are discussing.

Notwithstanding, as already shown, that under the bill the producers of hemp will only pay a small occupational tax and make their purchases and sales of seed subject to regulations, some suggestion has been made that the producers be entirely eliminated from the bill. Such an exemption, however, is believed to be impossible.

The imposition of an occupational tax enables the Government constitutionally to make it illegal to engage in the occupation without payment of the tax. Thus, unless the Congress in this bill imposes

an occupational tax upon the producers of hemp, Congress cannot make the production of hemp for illicit purposes illegal. Hence, if the occupational tax is not imposed upon producers, marihuana may be legally produced for illicit purposes. Furthermore, the imposition of an occupational tax enables the Government to require the taxpayer to furnish information in connection with the business taxed. This would permit the Government to ascertain where the legitimate production of hemp is being carried on, and, having this information, it can stamp out the illicit production more effectively. Obviously, therefore, the legitimate producers of hemp cannot be further exempted from the provisions of the bill. Otherwise, the bill cannot be enforced.

Aside from the reasons stated as to why it is believed to be impossible to further exempt the producers of hemp from the provisions of the bill, attention is invited to the fact that the primary purpose of this legislation is to raise revenue.

That completes my statement, and we have witnesses present.

Senator DAVIS. Do I understand you to say that the primary purpose of the bill is to raise revenue?

Mr. HESTER. The primary purpose of this legislation must be to raise revenue, because we are resorting to the taxing clause of the Constitution and the rule is that if on the face of the bill it appears to be a revenue bill, the courts will not inquire into any other motives that the Congress may have had in enacting this legislation.

This bill is modeled on the Harrison Narcotics Act and the National Firearms Act. The Harrison Narcotics Act has been sustained by the Supreme Court, the first time by a 5-to-4 decision, and a second time by a 6-to-3 decision. The Supreme Court in March of this year sustained the constitutionality of the National Firearms Act, insofar as it related to the occupational tax.

Senator DAVIS. The Harrison Narcotics Act you say was before the Supreme Court twice. Was there a change in the judges between the time of the first decision and the time of the second decision?

Mr. HESTER. I do not know whether there was a new judge placed upon the bench at that time or not, but the vote was 6 to 3 the second time. That was some years later.

Senator DAVIS. What was the date of the 6-to-3 decision?

Mr. HESTER. 1927.

Senator DAVIS. Justice Stone went on the Court at that time?

Mr. HESTER. He went on the Court in the Coolidge administration.

Senator DAVIS. That is right.

Mr. HESTER. Yes; he was on.

Senator DAVIS. When was the first decision?

Mr. HESTER. The first decision was about 1918. I think it was about that time.

Senator BROWN. Mr. Hester, will you give us a summary of the history of State legislation respecting marihuana?

Mr. HESTER. Every State in the Union has legislation regulating the traffic in marihuana.

Senator BROWN. Is there fairly uniform law on the subject among the States?

Mr. HESTER. Yes; it is fairly uniform. In some States they prohibit entirely all production of marihuana. I think there are six States that prohibit the production of marihuana, and it probably could be constitutionally done by the Congress.

Senator BROWN. That is, there could be a prohibition?

Mr. HESTER. That is right. But you would have to prohibit it entirely, and of course you would put all of these legitimate industries out of business. The Supreme Court has held that where on the face of act it appears to be a taxing measure, the fact that it happens to be prohibitive in character will not affect the constitutionality of it. But we have tried throughout this measure not to interfere materially with the production of marihuana, but to permit it, and to do it in a manner which will enable the Government to stamp out this illicit traffic in the sale of it.

Senator BROWN. Say you are in this situation: You have a plant that produces several articles that are valuable commercially.

Mr. HESTER. That is right.

Senator BROWN. At the same time, as a byproduct the leaves and the seeds can be used for marihuana?

Mr. HESTER. That is right.

Senator BROWN. That is the deleterious part of it.

Mr. HESTER. That is correct.

Senator BROWN. As Senator Davis suggests, I think it would be valuable if you would summarize the state legislation, first informing us as to what the fairly uniform general legislation is upon the subject, and then giving us the names of the States that have prohibited the use of marihuana.

Mr. HESTER. May we prepare a memorandum for inclusion in the record on that because we really do not have that at the moment?

Senator BROWN. Yes.

(Mr. Hester later prepared and submitted for the record the following memorandum summarizing legislation upon the subject of marihuana among the States:)

State laws relating to marihuana

Controls (or licenses) production	Controls possession	Controls sale
Alabama. ¹	Alabama.	Alabama.
Arizona. ¹	Arizona.	Arizona.
Arkansas. ²	Arkansas.	Arkansas.
	California.	California.
Colorado. ¹	Colorado.	Colorado.
Connecticut. ¹	Connecticut.	Connecticut.
Delaware. ¹	Delaware.	Delaware.
Florida. ¹	Florida.	Florida.
Georgia. ¹	Georgia.	Georgia.
Idaho. ¹	Idaho.	Idaho.
Illinois. ¹	Illinois.	Illinois.
Indiana. ¹	Indiana.	Indiana.
Iowa. ¹	Iowa.	Iowa.
Kansas. ¹	Kansas.	Kansas.
	Kentucky.	Kentucky.
Louisiana. ¹	Louisiana.	Louisiana.
	Maine.	Maine.
Maryland. ¹	Maryland.	Maryland.
Massachusetts.	Massachusetts.	Massachusetts.
Michigan.	Michigan.	Michigan.
Minnesota.	Minnesota.	Minnesota.
Mississippi. ¹	Mississippi.	Mississippi.
Missouri. ¹	Missouri.	Missouri.
Montana. ¹	Montana.	Montana.
Nebraska. ²	Nebraska.	Nebraska.
Nevada. ¹	Nevada.	Nevada.
	New Hampshire.	New Hampshire.
New Jersey. ¹	New Jersey.	New Jersey.
New Mexico. ¹	New Mexico.	New Mexico.
New York. ¹	New York.	New York.
North Carolina. ¹	North Carolina.	North Carolina.
	North Dakota.	North Dakota.

¹ Denotes States which control marihuana under the uniform narcotic drug law.

² Denotes State which prohibit cultivation of marihuana.

TAXATION OF MARIHUANA

State laws relating to marihuana—Continued

Controls (or licenses) production	Controls possession	Controls sale
Ohio. ¹ Oklahoma. ² Oregon. ¹	Ohio. Oklahoma. Oregon. Pennsylvania. Rhode Island. South Carolina. South Dakota. Tennessee. Texas. ¹ Utah. ¹	Ohio. Oklahoma. Oregon. Pennsylvania. Rhode Island. South Carolina. South Dakota. Tennessee. Texas. Utah. Vermont. Virginia. Washington. West Virginia. Wisconsin. Wyoming.
Rhode Island. ¹ South Carolina. ¹ South Dakota. ¹	Virginia. Washington.	
Texas. ¹ Utah. ¹	Wisconsin. Wyoming.	
Virginia. ²		
Wisconsin. ¹ Wyoming. ¹		

¹ Denotes States which control marihuana under the uniform narcotic drug law.
² Denotes State which prohibit cultivation of marihuana.

Mr. HESTER. We have with us this morning Commissioner Anslinger, of the Bureau of Narcotics, who is in charge of the enforcement of the Harrison Narcotics Act, and who will have charge of the enforcement of this act if this legislation should be enacted into law. He is prepared to testify on the necessity of the legislation and the practical situation.

Senator BROWN. All right. Thank you, Mr. Hester. We will hear Mr. Anslinger.

STATEMENT OF H. J. ANSLINGER, COMMISSIONER OF NARCOTICS, BUREAU OF NARCOTICS OF THE TREASURY DEPARTMENT

Mr. ANSLINGER. Mr. Chairman and distinguished members of the committee, we are having a great deal of difficulty. Last year there were some 338 seizures of marihuana in some 31 States involving several hundred tons of growing plants, bulk marihuana and cigarettes.

The States are asking for help. We are trying to give it to them, but we are rather limited in our ability at the present time.

I have made a statement before the Ways and Means Committee, which is in the record, but since that time I want to point out to the committee an incident which occurred on June 28 at Abingdon, Va. There was a marihuana farm at that point, and the man who was growing those plants had been connected with a family that was engaged in smuggling narcotic drugs into Atlanta Penitentiary some years ago. When we heard Dewey Doss was engaged in the production of marihuana, we went after him, and we got the State officers to make a case against him. We could not do anything about that, although the information came to us first.

A month or so ago, down in Texas, a man was arrested on a Missouri Pacific train going north with a quantity of cannabis, and another man was arrested in the vicinity of this place, called Raymondsville, Tex. They both had stripped the plants on a hemp farm.

Senator BROWN. You mean they had taken the leaves off?

Mr. ANSLINGER. They had taken the leaves off and the flowering tops.

I received this letter from an attorney at Houston, Tex., just the other day. That case involves a murder in which he alleges that his client, a boy 19 years old, had been addicted to the use of marihuana.

Senator BROWN. Shall we have this read into the record?

Mr. ANSLINGER. Yes, sir; I shall be very glad if you will.

(The letter is as follows:)

HOUSTON, TEX., July 7, 1937.

H. J. ANSLINGER,
*United States Commissioner of Narcotics,
Washington, D. C.*

DEAR SIR: Your article on Marihuana appearing in the July issue of the American is very useful as well as interesting.

This subject strikes close to home because of a client I have who not so long ago murdered in a brutal way a man who had befriended him in giving him a ride. This client is a boy 20 years of age and he explained to me he had been smoking marihuana for several years. I would like to have about 15 copies of your article, and will gladly pay any necessary charges. I would appreciate an early reply.

Yours truly,

SIDNEY BENBOW.

Mr. ANSLINGER. I have another letter from the prosecutor at a place in New Jersey.

It is as follows:

THE INTERSTATE COMMISSION ON CRIME,
March 18, 1937.

CHARLES SCHWARZ,
Washington, D. C.

MY DEAR Mr. SCHWARZ: That I fully appreciate the need for action, you may judge from the fact that last January I tried a murder case for several days, of a particularly brutal character in which one colored young man killed another, literally smashing his face and head to a pulp, as the enclosed photograph demonstrates. One of the defenses was that the defendant's intellect was so prostrated from his smoking marihuana cigarettes that he did not know what he was doing. The defendant was found guilty and sentenced to a long term of years. I am convinced that marihuana had been indulged in, that the smoking had occurred, and the brutality of the murder was accounted for by the narcotic, though the defendant's intellect had not been totally prostrated, so the verdict was legally correct. It seems to me that this instance might be of value to you in your campaign.

Sincerely yours,

RICARD HARTSHORNE.

Mr. Hartshorne is a member of the Interstate Commission on Crime.

We have many cases of this kind.

Senator BROWN. It affects them that way?

Mr. ANSLINGER. Yes.

Senator DAVIS (viewing a photograph presented by Mr. Anslinger). Was there in this case a blood or skin disease caused by marihuana?

Mr. ANSLINGER. No; this is a photograph of the murdered man, Senator. It shows the fury of the murderer.

Senator BROWN. That is terrible.

Mr. ANSLINGER. That is one of the worst cases that has come to my attention, and it is to show you its relation to crime that I am putting those two letters in the record.

Senator BROWN. The first letter is also very interesting.

Mr. ANSLINGER. This first letter was from an attorney at Houston. In June of this year, at Geneva, an international committee of experts in going over the reports received from all over the world said that the reports thus far indicate that the medical value of the cannabis

derivatives is very doubtful. There is another report here from Dr. Paul Nicholas Leech—

Senator BROWN. That is, to make it perfectly clear, its medical value is not very great, and there are many other drugs that may be used in place of it that are fully as good if not better?

Mr. ANSLINGER. Yes, sir; it is not indispensable.

Senator BROWN. I think some medical men say that if we had no such drug at all the medical profession would not be very greatly handicapped. That is, medical science would not be very greatly handicapped.

Mr. ANSLINGER. I think they are pretty generally in agreement that its use could be abandoned without any suffering.

I have a few cases here that I would just like to tell the committee about. In Alamosa, Colo., they seem to be having a lot of difficulty. The citizens petitioned Congress for help, in addition to the help that is given them under the State law. In Kansas and New Mexico also we have had a great deal of trouble.

Here is a typical illustration: A 15-year-old boy, found mentally deranged from smoking marihuana cigarettes, furnished enough information to the police officers to lead to the seizure of 15 pounds of marihuana. That was seized in a garage in an Ohio town. These boys had been getting marihuana at a playground, and the supervisors there had been peddling it to children, but they got rather alarmed when they saw these boys developing the habit, and particularly when this boy began to go insane.

In Florida some years ago we had the case of a 20-year-old boy who killed his brothers, a sister, and his parents while under the influence of marihuana.

Recently, in Ohio, there was a gang of very young men, all under 20 years of age, every one of whom confessed that they had committed some 38 holdups while under the influence of the drug.

In another place in Ohio a young man shot the hotel clerk while trying to hold him up. His defense was that he was under the influence of marihuana.

Senator BROWN. When a person smokes the cigarette, how long does the influence of the drug continue?

Mr. ANSLINGER. From reports coming to me, I think it might last as long as 48 hours before the effects of the drug fully wear off.

Senator BROWN. I do not know whether it was your article I read, or an article from some other source, but I understand that experiments have been conducted, in which the persons smoking the marihuana have been kept under control after taking the drug. Do you know whether or not that demonstrated how long the effect would be felt?

Mr. ANSLINGER. As I remember it, the effects in those cases were something like 48 hours, before they fully returned to their normal senses.

Here is a case in Baltimore, where a young man committed rape while under the influence of marihuana. He was hanged for it. Last fall, about September, we uncovered a field of several acres, growing right outside the city limits of Baltimore. Those men were selling it to New York, sending it all over the country, at \$20 a pound.

Senator DAVIS. And how many pounds to the acre?

Mr. ANSLINGER. That all would depend, Senator. If they just took the flowering tops the yield would not be so big, but some of them strip off the leaves and the flowering tops and grind them up.

Senator DAVIS. Do the leaves have the same effect as the flowering top?

Mr. ANSLINGER. Yes, sir; one of the Treasury's chemists is here, who can verify that, sir. It has been proved by experts in other countries, who have analyzed the leaves. They find that the resin is also present in the leaf. Our experiments have not shown the presence of any drug in the mature stalk, though. At one time we thought that the dangerous principle was only in the flowering top, but that is not true. What led us to the study as to whether there was resin in the leaves was the fact that we had seen so much of this stuff rolled up. In some cases only the leaves had been crushed, and they seemed to be giving the effect. In New Mexico officers sent us about 4 or 5 pounds of nothing but leaves, and some of that particular shipment had been the cause of the killing of a police officer, and also the killing of a man within the ring. Every day we have such seizures reported.

Senator BROWN. Is the cigarette that is made from the flowering top more potent than the one made from the leaves?

Mr. ANSLINGER. Yes, sir; it would be, because the tops have the resin concentrated.

Senator BROWN. Do I understand that the seed is ground up, too, and used to any extent?

Mr. ANSLINGER. Well, we have heard of them smoking the seed.

Senator BROWN. Does it produce the same effect?

Mr. ANSLINGER. I am not qualified to say. We have not made any experiments as to that, but we do know that the seed has been smoked. I think that the proposition of the seed people sterilizing the seed by heat and moisture will certainly do a lot to kill this traffic. I think that that one thing might cut this traffic in half, because much of the trouble we encounter is due to the trafficker going to a feed store and buying the birdseed and planting cannabis, and also due to birdseed being scattered during the winter. Hempseed is thrown out in the garden or in the vacant lot. The following year you have a growth of cannabis. That is what happened in Baltimore, and particularly in Philadelphia. I know of a case there where the State officers got over 200,000 pounds of growing plants, as the result of dissemination by birdseeds. A lot of that growth was being used illicitly. The traffickers knew where to get it. The plant reseeded itself.

The action that will be taken under this bill by the birdseed people in sterilizing the seed should have a remarkable effect in killing this traffic.

Senator BROWN. The sterilized seed will not reproduce?

Mr. ANSLINGER. It will re-seed itself.

Senator BROWN. I am referring to the birdseed. What are they going to do to the birdseed?

Mr. ANSLINGER. They are going to kill the germinating power.

Senator BROWN. When the seed is then thrown out, what will happen?

Mr. ANSLINGER. Nothing will happen.

Senator DAVIS. Will it be of any use as a birdseed?

Mr. ANSLINGER. Oh, yes. It will still have food properties.

Senator BROWN. The birds will sing just the same?

Mr. ANSLINGER. There is some question about that. Sterilization is a voluntary action by the birdseed people.

Senator BROWN. That is not in this bill?

Mr. ANSLINGER. It is not in there. They voluntarily agreed to do that under this act.

Mr. HESTER. Yes, it is in the bill.

Senator BROWN. I want to bring out one fact that you have not touched upon yet. As I understand it marihuana is not a habit-producing drug, at least to the same extent that opium is, for instance. It is somewhat easier to break the habit in the case of marihuana than it is in the case of opium smoking?

Mr. ANSLINGER. Yes, you have stated that correctly, Senator. It is a very difficult matter to break the opium habit. However, this habit can be broken. There is some evidence that it is habit-forming. The experts have not gone very far on that.

Senator BROWN. There is the impression that it is stimulating to a certain extent? It is used by criminals when they want to go out and perform some deed that they would not commit in their ordinary frame of mind?

Mr. ANSLINGER. That was demonstrated by these seven boys, who said they did not know what they were doing after they smoked marihuana. They conceived the series of crimes while in a state of marihuana intoxication.

Senator DAVIS. How many cigarettes would you have to smoke before you got this vicious mental attitude toward your neighbor?

Mr. ANSLINGER. I believe in some cases one cigarette might develop a homicidal mania, probably to kill his brother. It depends on the physical characteristics of the individual. Every individual reacts differently to the drug. It stimulates some and others it depresses. It is impossible to say just what the action of the drug will be on a given individual, or the amount. Probably some people could smoke five before it would take effect, but all the experts agree that the continued use leads to insanity. There are many cases of insanity.

Senator HERRING. Is it every type of hemp that contains this drug, or is it just some particular type?

Mr. ANSLINGER. There is only one species.

Senator HERRING. There is only one species of hemp?

Mr. ANSLINGER. Yes, sir; there are different forms, but only one species.

Senator BROWN. This thought has impressed me: I read with care the supplemental statement which you placed in the record before the Ways and Means Committee, in which you brought out quite clearly that the use, which will be "illicit" if we may describe it that way, in the event this bill becomes a law, has been known to the peoples of Europe and Mexico and the United States for centuries.

Mr. ANSLINGER. That is right.

Senator BROWN. Do you think that the recent great increase in the use of it that has taken place in the United States is probably due to the heavy hand of the law, in its effect upon the use of other drugs, and that persons who desire a stimulant are turning to this because of enforcement of the Harrison Narcotics Act and the State laws?

Mr. ANSLINGER. We do not know of any cases where the opium user has transferred to marihuana. There is an entirely new class of

people using marihuana. The opium user is around 35 to 40 years old. These users are 20 years old, and know nothing of heroin or morphine.

Senator BROWN. What has caused the new dissemination of it? We did not hear anything of it until the last year or so.

Mr. ANSLINGER. I do not think that the war against opium has very much bearing upon the situation. That same question has been discussed in other countries; in Egypt particularly, where a great deal of hashcosh is used, they tried to show that the marihuana user went to heroin, and when heroin got short he jumped back to hashcosh, but that is not true. This is an entirely different class.

I do not know just why the abuse of marihuana has spread like wildfire in the last 4 or 5 years.

Senator BROWN. Could you give us any estimate of the number of persons that are engaged in this illicit traffic? Please state that as nearly as you can.

Mr. ANSLINGER. I can only give you what our records show, Senator. There were about 400 arrests throughout the States in the year.

Senator BROWN. That is for violations of State law?

Mr. ANSLINGER. For violations of State law. That would not include the arrests in California, where I understand they have several hundred a year; but the figure I am giving you of 400 arrests would be about the average number that are being picked up now, under just a noncoordinated enforcement policy, every State doing its own work, and bringing us in occasionally. When they run into "dope" we go down and say, "It is marihuana and you take the case."

The State of Ohio recently seized what we call a "plant." It was a seizure of marihuana. These people had a mailing list of 8,000 customers scattered throughout the States.

Senator DAVIS. How were they dispensing it?

Mr. ANSLINGER. They were selling it in lots from a pound down, just selling it by mail.

Senator BROWN. There was nothing in the law to prevent a man in Columbus, Ohio, using the mail in selling it to a person in Louisville, Kentucky?

Mr. ANSLINGER. No; they are doing it every day.

Senator DAVIS. Is there anything in the present bill to prevent them using the mail?

Mr. ANSLINGER. Under this bill it would have to be tax-paid, and all of that would be illicit, sir.

Senator HERRING. You say there are several hundred arrests in California alone, and about that same number throughout the rest of the United States?

Mr. ANSLINGER. There are about that same number in the rest of the United States.

Senator HERRING. How do you account for that? Is it because of their State law?

Mr. ANSLINGER. It is because they have a State enforcement agency there. They vigorously enforce the law. I might say that Pennsylvania is doing important work also.

Senator HERRING. It might be just as prevalent in other States, but for the fact that we do not have the law enforced as efficiently?

Mr. ANSLINGER. I would not say it is as prevalent, but certainly the use has increased in the last few years. In Pennsylvania the enforcement people are very active today, particularly at Pittsburgh and Philadelphia, and they are constantly calling upon us.

Senator DAVIS. Are they enforcing the Harrison Narcotics Act in a manner satisfactory to you?

Mr. ANSLINGER. Yes, sir; that is satisfactory, but they are asking us for help every now and then when they run into a rather large situation.

Senator BROWN. I think that while you are on that point you had better make clear the need for Federal legislation. You say the States have asked you to do that. I presume it is because of the freedom of interstate traffic that the States require this legislation?

Mr. ANSLINGER. We have had requests from States to step in because they claimed it was not growing in that State, but that it was coming in from another State.

Senator BROWN. And they could not touch that?

Mr. ANSLINGER. And they could not touch it and we could not touch it.

There is need for coordinated effort. We are required to report to the League of Nations, under a treaty arrangement, all of the seizures of marihuana made throughout the United States. It is rather difficult to get, I would say, half of them. One particular reason and one primary reason for this is—usually these complaints come to us first—that there is “dope” being used in a certain place, and that there is a supply of it on a certain street. Our men go and investigate it, and they find it is marihuana. Well, we have to call in the State officers, and there is a lot of lost effort. Very often by the time the State officer comes the case is gone. I would say in most of these cases we get the information first and turn it over to the State officer. Now, we want to coordinate all of that work throughout the States. By State and Federal cooperation we can make a good dent in this traffic.

For instance, all States had narcotic laws before the enactment of the Harrison Narcotics Act, but until the Federal Government stepped in no substantial progress was made.

Senator BROWN. What have you to say about the extent of the production of hemp? May it be produced in practically any State in the Union?

Mr. ANSLINGER. Yes, sir; it can be produced.

Senator BROWN. There is climatically no reason why it could not be produced everywhere in the United States?

Mr. ANSLINGER. No.

Senator BROWN. Growing as a weed, could take place anywhere?

Mr. ANSLINGER. Anywhere; yes, sir. That has been demonstrated.

Senator DAVIS. A moment ago I asked you what was the yield per acre, and you then told me so much of the flower and so much of the leaves. What is the combined yield per acre of both the flower and the leaves?

Mr. ANSLINGER. I would not be able to say, sir. That would be impossible.

Senator DAVIS. Is there any way of getting that information?

Mr. ANSLINGER. We are growing an experimental crop over here on the Agricultural Farm. We can find out that way, or we can take

a plant and strip the leaves and the flowers, and find out how many plants there were to the acre and multiply it. I think that would give a reasonably accurate estimate. I think I can find that out.

Senator DAVIS. I wish you would.

Senator BROWN. Now, Commissioner Anslinger, I do not know whether you are the best man to answer this question, or Mr. Hester. What dangers, if any, does this bill have for the persons engaged in the legitimate uses of the hemp plant?

Mr. ANSLINGER. I would say they are not only amply protected under this act, but they can go ahead and raise hemp just as they have always done it.

Senator BROWN. It has been represented to me that the farmer might hesitate to grow hemp when he is not only subjected to a \$5 tax but also to the supervision by the Government, or what you might call the "nosing" of the Government into his business. What have you to say as to that proposition?

Mr. ANSLINGER. Well, I would say the answer to that is the fact that they are already controlled under State legislation.

Senator BROWN. In practically every State in the Union.

Mr. ANSLINGER. Not all the States, but certainly in a lot of hemp-growing States they are controlled. In most of the States cultivation is prohibited, but in some States they are regulated by license.

Senator BROWN. Administratively, it seems you have charge of the administration of the tax and the collection of the tax?

Mr. ANSLINGER. Yes, sir.

Senator BROWN. Just what would happen? We will take a farmer living the other side of Alexandria, over in Virginia. Just what would happen to him if he wanted to grow 2 acres of hemp? What would he have to do?

Mr. ANSLINGER. He would go down to the collector of internal revenue and put down his \$5 and get a registration, a stamp tax. That would permit him to grow under the act, and at the end of the year—

Senator BROWN. That is a stamp tax similar to the one a doctor gets who uses a narcotic?

Mr. ANSLINGER. Yes, sir; the same kind of a tax.

Senator BROWN. He would hang that up in his house?

Mr. ANSLINGER. Yes, sir. At the end of the year we would just ask him how much he grow.

Senator BROWN. Would you not go down and look his field over, to ascertain whether or not he was making any illicit use of the otherwise worthless byproduct? As I understand it, there is no legislation about the use of the petals or the flower or of these leaves.

Mr. ANSLINGER. So far very few of these hemp people have been involved. Well, they have not been involved in the illicit traffic at all. This case in Texas is the only case I know of. We were not going to supervise his crop. It would not be possible.

Senator BROWN. I do not mean that, but suppose that some fellow comes along and says, "I will give you \$100 to let me go in and strip your leaves and top flowers from your hemp crop." How would you cover that? How would you meet a situation of that kind?

Mr. ANSLINGER. Certainly under the act, if the farmer agreed to that, they would both be guilty of conspiracy to violate the act.

Senator BROWN. But you would exercise no particular supervision over the growing of that crop?

Mr. ANSLINGER. The exercise would be in this way: If we see Mr. Dewey Doss, the photograph of whose place I showed you, go in and pay \$5 to the collector, we would watch that. We would be very careful to see what disposition he made of that, but we would certainly know the sheep from the goats without any close general supervision.

Senator BROWN. I do not think you would have any trouble with legitimate manufacturers, because they are dealing with the Government; but the farmer himself might be a little disposed not to grow the hemp, knowing of the illicit use that might be made of a part of his crop.

Mr. ANSLINGER. It is just an information return. That is all we would be interested in, unless he would conspire with someone else to have the crop stripped. But one saving feature about this whole thing so far as the farmer is concerned is that the crop is cut before the resin reaches the nth state.

Senator BROWN. Before it reaches its greatest potency?

Mr. ANSLINGER. In other words, before it reaches its greatest potency. There is some resin that comes up through the plant, but if he is a legitimate hemp producer he will cut it down before the resin makes its appearance.

Senator BROWN. You had before the Ways and Means Committee two samples of the plant. Do you happen to have any of those samples here?

Mr. HESTER. We do not have them here this morning. We can get those samples for you.

Mr. ANSLINGER. The plant which I have in my hand now can be easily distinguished as you are going along the road.

Senator DAVIS. You can see that along all the highways of the country.

Mr. ANSLINGER. Well, Senator Davis, that will grow up 16 feet.

Senator DAVIS. How high?

Mr. ANSLINGER. Sixteen feet.

Senator DAVIS. Sixteen feet?

Mr. ANSLINGER. Sixteen feet. Of course, when they are small like that you cannot distinguish them.

Senator BROWN. At what height are they usually harvested?

Mr. ANSLINGER. About 14 or 16 feet.

Senator BROWN. At that height?

Mr. ANSLINGER. Not for hemp production. That is for resin.

Senator BROWN. I mean for hemp production.

Mr. ANSLINGER. Oh, for hemp production, I would say around 10, 12, 14 feet; but it is certainly before the resin gets up there to do the damage.

Senator BROWN. Are there any other questions that any member wants to ask Mr. Anslinger?

Mr. ANSLINGER. What is the return to the farmer per acre?

Mr. ANSLINGER. I do not know. The hemp people here could tell you what the return is, but I understand it is around \$30.

Senator BROWN. Does it require intensive cultivation?

Mr. ANSLINGER. I do not think so.

Senator HERRING. It is a reed that will grow, is it not?

Mr. ANSLINGER. It will grow without any trouble. In fact, a lot of these illicit traffickers will try to hide their field with corn. They will grow corn all around it. Well, the hemp will shoot right up above the corn, and will grow 4 or 5 feet higher.

Mr. HESTER. Before we complete our case I think we ought to say one word on the regulations, if I may?

Senator BROWN. Yes; we shall be glad to have that.

Mr. HESTER. From time immemorial it has been the policy of Congress in imposing taxes and in providing for exemptions under certain conditions from the imposition of those taxes, to provide that the exemptions will be made under regulations to be prescribed by the Commissioner of Internal Revenue.

Take for example in this particular case, in the Revenue Act of 1932 they provided that automobile parts and accessories should be exempt from taxes if the manufacturer sells them to a manufacturer who is going to make a complete automobile or truck.

In order to get that exemption the manufacturer who is going to sell that part of an automobile or truck to the other manufacturer, who is going to make a completed truck, cannot get that exemption except under regulations to be prescribed by the Commissioner of Internal Revenue.

The Commissioner merely requires him to obtain a certificate from the other manufacturer that this part is to be used in the manufacture of a completed truck.

In this particular we have exactly the same situation here, and we are simply following the practice, I say, that Congress has followed for time immemorial in revenue acts. The farmer here will not even have to go to the Collector's office. All he will have to do will be merely to mail in his \$5, and they will send him the stamp tax and the registration. At the end of the year he will make an information return as to how much land he has under cultivation and what disposition he has made of it.

When he wants to sell his crop of seeds all he will have to do under the regulations of the Treasury Department will be to obtain some evidence from the person to whom he sells it, that that person is entitled to the exemption.

That is the situation with respect to the seed, which is the important item involved here so far as the domestic interests are concerned. Of course the fiber products are entirely out of the bill.

That completes our case.

Senator BROWN. Mr. Hester, what are you going to do with respect to the large number of farmers who are not going to know about this law in its earlier stages of enforcement? It seems to me that with the lack of dissemination of information, a great many of them are going to engage perhaps in a legitimate production of it, not knowing of this law. Are you rather harsh toward those fellows, or can you be reasonable and generous toward them?

Mr. HESTER. No, the bill will not become effective for 60 days, and there are not a great many of these hemp producers in the United States. Of course the Treasury Department would do everything it possibly could to notify these people. There would be no hardship imposed upon them. This would be administered exactly as any other revenue act is administered, and frequently there are excise taxes imposed where the ordinary individual does not know anything about it.

Senator BROWN. What legitimate uses are now made of the hemp plant in the United States. That is, what causes the farmer to raise it?

Mr. HESTER. Some raise it for seeds.

Senator BROWN. Do you mean birdseeds?

Mr. HESTER. Yes. They raise the seeds for use in the manufacture of birdseed. They make oil out of it. Most of the seed, however, that is used in the manufacture of oil is imported from Manchuria, but it may develop in this country.

Then after the seed is used for the making of oil, they take that seed and crush it, and make meal and meal cake, and that is sold to cattle raisers.

The oil is used in the manufacture of varnish and paint and soap and linoleum, and then in the case of the mature stalk they use that for making fiber and fiber products. Of course, they are entirely outside the bill.

Senator DAVIS. While primarily you are placing a tax, it is for the sole purpose of getting an enforcement of the law, and getting a plan for enforcing it?

Mr. HESTER. That is correct.

Senator DAVIS. If it should be \$1, what difference would that make?

Mr. HESTER. Well, the situation is simply this—

Senator DAVIS. I am only talking now of the farmer's point of view, of charging him \$1 instead of \$5.

Mr. HESTER. I am glad you raised that point, Senator Davis. When the Harrison Act was first before the Supreme Court the occupational tax was only \$1; and the vote was 5 to 4. In other words, the Supreme Court said, "This is a revenue measure", although the tax was only \$1. But the vote was 5 to 4. After that Congress raised the occupational tax and then when the case came before the Supreme Court the vote was 6 to 3, and the Court said, "We now have more reason to sustain the constitutionality of this act than we had before, because it is more of a revenue act than it was then."

In the case of producers, under the Harrison Narcotics Act, although there are no poppies grown in this country, there is a classification in the Harrison Narcotics Act for producers. The rate is \$24. If farmers raise poppies in this country, if they could develop it so that they could raise poppies, so that they could get opium from it, the farmer would have to pay \$24; but in this case the producer only pays \$5.

We have left the practitioner at \$1, because that was the situation of the Harrison Narcotics Act, and that is the real reason why the figures are set in this bill at \$24, \$5, \$3, and \$1, so that we can have a real revenue-raising measure.

Senator DAVIS. You charge \$5 an acre under this?

Mr. HESTER. Oh, no—a year.

Senator DAVIS. I meant to say this: You charge \$5, whether he produces on 1 acre or on 1,000 acres?

Mr. HESTER. That is right.

Senator BROWN. Have you worked out the Canal Zone matter with the Department?

Mr. HESTER. We have. They wish to be exempted, and they have agreed not to propose their amendment providing for direct regulation of marihuana in the zone because as I pointed out to you the other day it might indicate on the face of the bill that it is a regulatory measure, but they wish to be exempted, and we have no objection. We are preparing to change that.

Senator BROWN. Just one or two more matters. Why should they be exempted?

Mr. HESTER. There is no legitimate business in the Canal Zone, and they say that they have sufficient control over the marihuana problem in the zone at this time under existing legislation, and they object to general legislation being applied.

Senator BROWN. It would probably be considerable duplication of effort down there.

Mr. HESTER. There might be some. The Harrison Narcotics Act applies to the Canal Zone, and that is the reason why it was included in this bill. But the Treasury Department has no objection if the Canal Zone goes out.

Senator BROWN. Will this entail any considerable increase in personnel for the Department?

Mr. HESTER. No, I do not think so.

Mr. ANSLINGER. No, sir.

Senator BROWN. I understand this measure has the approval of the Treasury Department.

Mr. HESTER. Yes. Oh, yes; it is strongly recommended by the Treasury Department.

Senator BROWN. Is there anything further from the Government? Do you desire to have a chemist testify?

Mr. HESTER. I think we have finished our case.

Senator BROWN. Very well. Thank you, Mr. Hester and Commissioner Anslinger.

The next witness on my list is Mr. Rens, of the Rens Hemp Co., of Brandon, Wis. We would be glad to hear from him.

STATEMENT OF MATT RENS, REPRESENTING RENS HEMP CO., BRANDON, WIS.

Mr. RENS. We have no objection whatever to controlling narcotics. Personally I am a producer, a farmer, and also a mill owner, a hemp mill owner, and we grow this hemp solely for the purpose of fiber. It is American hemp, which we sell to the Navy and to other industrials in the East, the spinning companies.

We have prepared an interpretation of this bill as we see it, and also a general summary of the discussion and suggested changes and reasons for these changes. This is quite lengthy. I do not know as you want to take the time for me to read it. We might have it in the record and give it to you folks.

Senator BROWN. We would be glad to have you present the statement and put it in the record.

(The memorandum presented by Mr. Rens is as follows:)

INTERPRETATION OF H. R. 6906—MARIHUANA (HEMP) BILL

This attempt to interpret H. R. 6906 is intended to help legitimate hemp producers and processors to understand those provisions in H. R. 6906 that directly affect them.

RELATION TO PRODUCERS

There are in the United States two rather distinct classes of hemp producers; one produces hemp for seed; and the other produces hemp for the fiber that is in the stalks. The same person may produce for both purposes, yet the usual situation is for persons to produce for one or the other purpose only. The bill, H. R. 6906, affects each class of producers alike so far as taxes and registrations are concerned.

Occupational registration of producers: Each producer of hemp, regardless of whether he is producing for seed or for fiber, is required to register with the internal revenue collector in the district in which the producer is located. While the specific procedure is not stated in the bill, it is assumed that the producer will obtain the required forms for occupational registration, and that he will execute these forms and deliver them to the collector of internal revenue; that when this is done and the required tax is paid, the producer is then registered (see, 2a-5b).

There is nothing in H. R. 6906 to indicate the exact procedure; such as whether the forms must be purchased; whether the producer himself must make application for the forms; whether they may be obtained by mail; or whether they must be obtained in person. Neither is there any indication of the specific information that must be supplied; such as acreage grown, or to be grown; intended disposition of the harvested crop; or the like.

Transfer registration of producers: The producer of hemp seed can transfer the seed which he produced to any other registered producer without additional registration or tax, or without an order from the purchaser (see, 6b-5). The producer of hemp seed can also transfer to any nonproducer, who is a registered dealer, upon the presentation of an official (written) order form; or he may sell to an unregistered dealer on the presentation of a properly executed official order form (see, 6a).

The producer can deliver his mature hemp straw (stalks) to any person without any additional registration or tax and without any order on an official form from the purchaser of the straw (stalks) (see, 1b).

Producer's taxes: Any person who grows hemp plants, regardless of the purpose for which they are grown—whether for seed or for fiber—must pay a tax (see, 2a-2).

The tax is paid to the collector of internal revenue of the district in which the crop is grown and the amount as now provided in the bill is \$5 per year for each producer (see, 2a-2).

RELATION TO DEALERS

There are several classes of dealers, including registered producer-dealers, registered dealers, who are not producers, and dealers who are neither registered as producers nor registered as dealers. Also there are dealers in seed, and dealers in hemp straw (mature stalks). Dealers in hempseed will be affected by the proposed legislation, while dealers in hemp straw (mature stalks) are exempted.

Occupational registration of dealers: A dealer in hempseed who is also a registered producer of hempseed, is not required to register (re-register) as a dealer (see, 2a-5). Those not registered as producers, who wish to deal in hempseed, must register as a dealer (see, 2a-5).

Transfer registration of dealers: All dealers who purchase hempseed, except registered producers, are required to use official order forms (register each purchase) (see, 6b-5).

The foregoing means that if anyone, who is not a registered producer, wishes to purchase seed, he must execute an official blank for each purchase which he makes (and pay a tax in each case). This applies, regardless of whether or not the person from whom the seed is purchased is a registered producer. The official forms (order blanks) are bought from the collector of internal revenue and must be prepared (filled out) by the collector (not by the dealer) (see, 6d).

The foregoing indicates that dealers, not registered as producers, who wish to purchase hempseed, must visit the internal-revenue collector, supply him with whatever information is required, and the collector must enter this information on the order form.

Dealer's occupational tax: Any person dealing in hempseed, who is not a registered producer, must pay an occupational tax of \$3 per year. This is paid in connection with his registration (see, 2-5).

Dealer's transfer tax: Any person who deals in hempseed and who is not a registered producer pays a transfer tax. This is in addition to his occupational tax. The amount of the transfer tax is \$1 per ounce.

The foregoing means that anyone, who is not a registered producer and who wishes to purchase (transfer) hempseed, is required to pay a tax of \$1 per ounce.

It is also provided in the bill that any person, who is not registered either as a producer or as a dealer, can purchase hempseed from a registered producer or dealer by presenting an official and properly executed order form, and by paying a tax of \$100 per ounce.

GENERAL SUMMARY AND DISCUSSION

The utilization of hemp for fiber is an old, well established, and legitimate industry in the United States. Every person engaged in the hemp industry would

be affected by the proposed legislation. The farmer-producer of hemp for fiber—the person who plants, grows, and harvests the fiber crops—would be obliged to register as a producer and to pay the producer's occupational tax. He would probably register and pay the tax at the time he obtains the seed. The seed would be distributed to him by the hemp milling company. The producer of hemp for fiber would be obliged to submit to no other registration, nor pay any additional tax, in order to distribute all of his hemp straw (mature stalks) to the hemp company; thus the procedure for growing and handling the crop for fiber is reasonably clear cut and understandable.

Hemp companies in order to obtain the seed and distribute it to the farmer-growers would be obliged either to qualify as a producer or as a dealer. To qualify as a producer, the hemp company would be obliged to grow hemp on its own account and to register as such and to pay the producer's occupational tax. To qualify as a dealer, a hemp company would be obliged to register and pay the dealer's occupational tax, and in addition sell only against properly executed order forms.

Relative to the requirements concerned with producing, distributing, and purchasing hempseed, the proposals in the bill are decidedly complicated and involved. In an attempt to trace the procedure from the producer of hempseed to the final consumer, who plants the seed for fiber purposes, we arrive at the following: The person who grew hempseed would be obliged to register and pay an occupational tax of \$5. As a registered producer, he could sell seed to any other registered producer without any further registration, or payment of taxes for the crop year concerned. If he were to sell to any person other than a registered producer, then the person to whom he sells would be obliged to present a properly executed order form (a form filled out by the collector of internal revenue). This purchaser would have to register and pay a dealer's occupational tax of \$3, and in addition pay a tax of \$1 per ounce for the seed purchased. This of course means that no one, except those registered as producers, could do business in hempseed. In other words, this means that the only persons, who could buy and sell hempseed, would be those registered as producers; thus a registered fiber hemp grower in Illinois or Wisconsin would be obliged to buy his hempseed from a registered hempseed grower in Kentucky. This would exclude all legitimate dealers in hempseed other than those who are producers as well as dealers. It would also exclude hemp milling companies from acting as dealers unless they were to qualify as producers.

Relative to the proposed tax on producers, there appears to be no good reason why the amount should be \$5 per year for each producer. Such a tax would force all small producers out of business of growing hemp and the proportion of small producers is considerable. The tax should not be more than \$1 per year for each grower.

SUGGESTED CHANGES IN H. R. 6006

These suggestions are proposed in the interests of those persons only who are connected with the legitimate hemp industry in the United States, including hemp fiber milling and processing companies, farmers who produce hempseed, and farmers who produce hemp for fiber.

1. In every instance in which the term "marihuana" is used in H. R. 6006, the term "Cannabis" should be substituted.

2. Viable hempseed should be excluded from the definition of Cannabis (marihuana); thus excluding all transfers of hempseed, but not excluding producer of hemp for seed (see. 1b).

3. The definition of "producer" should be clarified so that there can be no misunderstanding as to what persons are producers (see. 1c).

4. The occupational tax for producers should be reduced from \$5 per year to \$1 per year (see. 2-2).

REASONS FOR PROPOSED CHANGES

1. As used in the bill (H. R. 6006) the term "marihuana" is synonymous with true hemp, the scientific name of which is *Cannabis sativa L.* The chemical substance found in hemp which produces the narcotic effect has been officially termed "Cannabis indica", and is known throughout the world as Cannabis indica. Since botanists now recognize hemp as consisting of only one specie, the term "indica" should be discontinued; thus in referring to hemp in a narcotic sense, the term "Cannabis" is most appropriate and more universally understood. There can be no good reason for using the term marihuana, which is purely a localized term of Mexican (Indian) origin, and has no more general significance

and is no more universally recognized than "bhong", "hashish", and similar local terms. Furthermore, in all national narcotic acts and in all State narcotic acts the term *Cannabis* is used. Also in the Senate bill (S. 325), introduced in the Seventy-fifth Congress on January 25, 1937, the term "*Cannabis*" is used.

2. By excluding hemp seed from the definition of *cannabis* (marihuana) no registration or tax will be necessary by those who transfer, import, or otherwise deal in either viable or sterilized hemp seed. No evidence has been obtained, either by scientific investigation or by practical observation to indicate that hemp seed, as handled in the trade, contains an appreciable proportion of the chemical substances which cause the narcotic effect. The substances producing the narcotic effect have never been specifically isolated or discovered. No one knows what specific chemical compound or compounds produce the narcotic effect. Biological tests on experimental animals are therefore necessary. A recent and thorough-going inquiry indicates that there are no biological tests or other researches which show that narcotic-producing substances are present in the seeds themselves in a sufficient proportion to be harmful, in fact, there is nothing that shows that true seeds cause any of the narcotic effects.

The technical evidence given in the hearings on H. R. 6385 shows that the seed does not contain an appreciable proportion of the narcotic substances. The hearings also show that the seed was considered so harmless as to warrant omitting sterilized hemp seed from the definition of marihuana; thus in H. R. 6906 sterilized hemp seed is excluded (compare sec. 1 b, H. R. 6385 with sec. 1 b, H. R. 6906). There is also no evidence, either practical or technical, to show that hemp seed has ever been used to produce the drug effect.

All the foregoing indicates very clearly that hemp seed as such is not a source of marihuana. The requiring of registration and tax payment by producers who transfer hemp or dealers who trade in hemp seed must be construed as for the sole purpose of obtaining information concerning where and by whom hemp as a plant is being grown. It seems reasonable to assume that little or nothing would be accomplished by registering and taxing the transfer of hemp seed; that seed that would thus be registered and taxed is not the source from which illegitimate producers or handlers would obtain their supply; that those who use hemp for illicit use would not report transactions nor is it likely that any transactions that such persons would make would be detectable through the registering and taxing of legitimate dealers in hemp seed. Illicit producers and handlers either carry over the seed from year to year, or obtain it from others who deal in the same traffic, or obtain it from plants that grow in a wild state in practically all sections of the United States. Another thing, hemp plants are noticeably conspicuous. They are large and readily observable, and thus wild patches and all other areas can be rather easily detected if any attempt is made to do so, and it seems reasonable to assume that the use of *Cannabis* as an illicit drug will not be controlled unless there is a thorough-going surveillance of the growing plant.

In consideration of the foregoing, it is sincerely contended that any tax or registration required of those who transfer or deal in hemp seed to be used for legitimate purposes would not reduce to any extent whatever the use of hemp for producing *Cannabis* (marihuana).

3. The term "producer" as defined in H. R. 6906 includes both the persons who cultivate and grow the plants as a crop, and also those who transfer (sell or deal in) use, compound, process, or consume *Cannabis* (marihuana).

In the definition there is no distinction between a true producer and a dealer, yet the tax on a producer is different than that on a dealer and the whole set-up of the bill rather definitely distinguishes between the producer and the dealer.

It is urged therefore that the term "producer" be limited to include only those persons who plant, cultivate, harvest, or in any way facilitate the natural growth of marihuana. There should be no mention in connection with the term "producer" of such functions as transferring, or making use of the plant. If it seems proper to include volunteer hemp (which grows without planting), then the definition should specifically include such hemp (sec. 4 b).

4. In H. R. 6906 it is proposed to tax each producer of hemp (*Cannabis* or marihuana) \$5 per year. The tax proposed for dealers is \$3 per year, and the tax proposed for physicians, dentists, and the like is \$1 per year. Now there does not seem to be any good reason why a producer should be taxed any more than a physician, dentist, and the like. It cannot be contended that a tax of \$5 would be necessary in order to finance the enforcement of the bill because the income obtained, if producers were taxed \$5 per year, would not be greater than \$3,500 per year. A reasonably accurate estimate of the number of producers in the United States in 1937 shows that there are approximately 300 in Illinois, 120 in Wisconsin, 50 in Minnesota, 200 in Kentucky, and 10 in Texas—a total of 680,

which if taxed \$5 each, would provide an annual revenue of \$3,400. Now, this clearly indicates that, as a source of revenue, a tax of \$5 per grower would be of little consequence. On the other hand, individual growers would in many cases be severely taxed, for in some sections it is common practice for farmers to grow very small acreages.

In the Kentucky river bottoms, where hemp is grown for seed, an acreage per grower of less than 1 acre, and as little as one-fourth acre, is not unusual. Also in Wisconsin, where hemp is grown for fiber only, farmers may grow as little as 1 acre and they frequently grow as little as 4 acres. For such small growers, the tax would amount to from \$1.25 per acre to as much as \$20 per acre. Thus this bill, if enacted, would eliminate all small growers. Thus it seems reasonable, fair, and in every way in keeping with the intention of the proposed legislation that the occupations tax for producers of hemp should not be more than \$1 per year per individual producer.

CONCLUDING STATEMENT

It is maintained that the foregoing proposed changes would in nowise defeat the purpose of the bill or weaken its effectiveness. Sufficient authority is contained in section 10a to allow the Treasury Department to prescribe legislation covering reports, records, and the like. In addition the proposed changes if made would permit those now engaged in the legitimate phases of the hemp industry to continue as heretofore without any serious disturbance.

Senator BROWN. With the general purposes of the bill you are in agreement?

Mr. RENS. Yes.

Senator BROWN. You suggest a few modifications to it?

Mr. RENS. Yes, sir.

Senator BROWN. Have you discussed that with Mr. Hester or anyone in the Treasury Department?

Mr. RENS. We have written to Mr. Anslinger, and we have sent a copy of this to Mr. Edwards, of the Division of Cotton and Other Fibers, of the Bureau of Standards. He has a copy of this also.

Senator BROWN. Mr. Rens, unless you have something else to present, you are excused and we thank you.

Mr. RENS. No, not particularly. I think this covers it. As a farmer I am interested.

Senator BROWN. We will take this into consideration.

Mr. RENS. The reason I would state for reducing this fee from \$5 to \$1 is this, that there are so many farmers in Kentucky especially that grow this. That is where we get our seed, in Kentucky. They have perhaps one-eighth or a quarter of an acre. It would discourage those farmers from growing hemp.

Senator BROWN. How much would they get say from an eighth of an acre, by way of total return?

Mr. RENS. Perhaps 12 or 14 bushels.

Senator BROWN. What would that be worth?

Mr. RENS. They may get \$2 or \$3 a bushel. I do not think they get more. We have to pay more. We have to pay the man over there, the dealer.

Senator BROWN. That is all he would get at his farm?

Mr. RENS. Yes. And another thing, the fiber, our farmers will hesitate. It will hurt us in getting the acreage for the mill. We have 600 acres, personally; that is, the mill has; and we have some 60 growers. Now, the tax I think we will have to pay for the grower will come to one man. The grower will hesitate.

Senator BROWN. Mr. Hester, do you hear what he says to the effect that farmers in Kentucky that produce for his mill, some of them grow as small an amount as one-eighth of an acre, and their total return at the farm would be somewhere from \$12 to \$15?

Mr. RENS. Bushels—bushels per acre.

Senator BROWN. How much in dollars?

Mr. RENS. Sometimes the yield will be less—maybe from \$20 to \$30.

Senator BROWN. \$20 to \$30?

Mr. RENS. An acre; yes.

Senator BROWN. Well, of course, taking \$5 out of \$20—is a high percentage.

Mr. HESTER. They would just have to add that \$5 tax onto the price that this gentleman would pay for it.

Mr. RENS. Then you have first the price of the seed, and then you have your transfer again. Another thing is the transfer of this. If the man that buys it from Kentucky is a dealer, and not a producer, that will mean \$1 an ounce. That man is out of business.

Senator BROWN. I do not follow you there.

Mr. RENS. As we see this bill, the interpretation of that is that the dealer, who is not a producer—

Mr. HESTER. Let me say this. I think I can save the committee time on that. We did not know until you have just made the statement there, and I think Mr. Johnson brought it to our attention, that there are some dealers in this country who act as a broker for seeds. Now, we have no objection to an amendment in this that would take care of that situation.

Senator BROWN. Exempting them?

Mr. HESTER. Yes, so there will not be any transfer tax.

Senator BROWN. Will you take care of that?

Mr. HESTER. Yes. We will take care of that so they will save that.

Mr. RENS. I see no reason why growers should be charged \$5 and the dentists or the doctors \$1. They use the drug which you are trying to prohibit, which you are trying to control.

Now, we harvest our hemp in the State when it is still green, with no seed in it, and we field-wet it. All these leaves are gone. There is no marihuana drug there, in the way we handle it in Wisconsin, and still the grower must pay. We often have growers that only have, say two or three acres of hemp.

Senator BROWN. Do you think, Mr. Hester, an arrangement whereby you would cut that \$5 down \$1 for fractions of an acre would be any serious impediment?

Mr. HESTER. Just how do you mean, Senator Brown?

Senator BROWN. Suppose you made it \$5 for an acre or more, or something like that, and \$1 for fractional parts of an acre.

Mr. HESTER. The question would arise then as to whether that would be a proper classification under the due process clause of the Constitution.

Senator BROWN. Will you give that consideration?

Mr. HESTER. We will be very glad to look into that.

Senator BROWN. I can see something in your point there.

Mr. RENS. Personally I have grown 100 acres or better. Well, that is \$5. But I have men that have 2 acres or 3 acres.

Senator BROWN. If is the fellow as you said who has a quarter or one-eighth of an acre, who has a small amount, who will have to bear a proportionately heavier burden.

Mr. RENS. The real purpose of this bill is not to raise money, is it?

Senator BROWN. Well, we are sticking to the proposition, that it is,

Mr. RENS. It will cost a million.

Senator BROWN. We thank you, Mr. Rens.

The next witness will be M. G. Moksnes.

STATEMENT OF M. G. MOKSNES, REPRESENTING THE AMHEMPCO CORPORATION, DANVILLE, ILL.

Mr. MOKSNES. I happen to be the superintendent of the Amhempc Corporation, at Danville, Ill.

Senator BROWN. I want to say that Congressman Meeks wrote me about your problem.

Mr. MOKSNES. This company was organized 3 years ago by Bell Bros., of Muncie, Ind., and the Sloan Interests, who are textile people in New York. They had in mind developing a process whereby a fiber that is now being used for rope and cordage could be further processed to go into textiles, and also that the hurd or the woody part could be processed and made into plastics. Three years ago we planted 4,200 acres, last year 1,200 acres, and this year 7,000 acres, and we are in operation. The capacity of the plant is 15,000 acres.

We have to contract our seed from the growers in Kentucky, that was covered by Mr. Rens, and their acreage runs anywhere from a quarter of an acre up, and we have no objection to the bill. In fact, any attempt to prevent the passage of a bill to protect the narcotic traffic would be unethical and un-American. That is not the point, but we do believe that a tax of \$5 is going to be prohibitive for the small dealer as well as the man that grows the hemp; not only the seed dealer, but the man that grows the crop, because he will average—I do not know what the average will be, but they raise as little as 2 acres.

Senator BROWN. As I understand it, Mr. Hester can take care of the dealer.

Mr. HESTER. The dealer; yes.

Senator BROWN. That will be generally agreed, that he will be exempted from that tax.

Mr. HESTER. From the transfer tax. He will be exempted from the transfer tax.

Mr. MOKSNES. That is the deal. That is the transfer tax, but how about the grower of seed?

Senator HERRING. The man who only grows one-eighth of an acre with a \$20 or \$25 crop cannot be harmed much. He does not have much at stake.

Mr. HESTER. He would just have to add the occupational tax on to the price that he sells to the dealer in the city.

Senator HERRING. Of course, that would make it pretty difficult for him to compete with the producer who had 10 or 15 acres.

Mr. MOKSNES. You see we are dependent on the small growers down in the Kentucky River bottoms to furnish our seed. They are small growers who probably do not have over 10 or 15 acres of land, distributed among several crops. If he has to pay \$5 an acre——

Mr. HESTER. Not \$5 an acre—\$5 a year.

Mr. MOKSNES. I mean \$5 a year, and he only has a quarter or half an acre, that tax is going to be prohibitive, we are going to lose the small growers, and it is the combination of growers that we have to depend on.

Senator BROWN. According to my understanding the Treasury will endeavor to see if they can cover that problem, and we will do our best about it. We are not certain what we can do about it, but we will do the best we can.

Mr. MOKSNES. That is fine. Now, on the other hand, the grower of the stalk—well, with 15,000 acres that is \$7,500.

Senator HERRING. How is that? It is \$5 and no more, no matter what the acreage is.

Mr. MOKSNES. I mean 7,500 acres. We have to have about 600 growers. That is the way it will average up. That is \$3,000. I am quite sure that we are going to have trouble getting the farmer to pay a \$5 tax. We will have to stand that ourselves.

Another point is, where are we classed as mill men? We are not classed as producers. In fact, we have no classification.

Mr. HESTER. What is your business? How do you operate?

Mr. MOKSNES. We contract the seed from the seed grower on contract. He raises so much. We pay him so much per bushel. We in turn take that seed and sell it to the hemp grower, the grower of the straw, at cost, on a book charge, and it is deducted in the fall when he delivers his crop.

Mr. HESTER. It seems to me you would be a seed dealer.

Mr. MOKSNES. A seed dealer?

Mr. HESTER. A seed dealer.

Senator BROWN. You are also a manufacturer?

Mr. MOKSNES. We are also a manufacturer.

Senator BROWN. As I view it under section 2 you would pay one \$24 tax only.

Mr. MOKSNES. As a seed dealer?

Mr. HESTER. As a manufacturer.

Senator BROWN. As a manufacturer, and as one who sells, deals in the product.

Mr. MOKSNES. The \$24 would cover——

Senator BROWN. The \$24?

Mr. MOKSNES. Yes; the \$24 would cover our——

Senator BROWN. That is a hasty summary upon my part. Is that right, Mr. Hester?

Mr. HESTER. That is right.

Mr. MOKSNES. That is right.

Senator BROWN. I think on page 2, section 2, in subdivisions (a) and (a-1) you would be covered.

Mr. MOKSNES. That point has been in question with us, as to where we would fit in the picture, so far as a millman is concerned. We did not want to be expected to——

Senator BROWN. That section reads:

Every person who imports, manufactures, produces, compounds, sells, deals in, * * *

It would seem to me that you would pay one \$24 tax.

Well, we will do our best to meet those problems.

Mr. MOKSNES. As we interpret this bill, of course, not knowing where we were classified, we did not know whether we would expect to pay \$1 an ounce for the seed or \$100 an ounce.

Mr. HESTER. I think we might save the time of the committee if this gentleman would let us sit down with him and explain the bill to him. We have not had an opportunity to do that. I think we would save the time of the committee by doing that.

Mr. MOKSNES. That will be fine.

Senator BROWN. You will do that sometime today?

Mr. HESTER. Yes, we will be glad to, immediately after the committee adjourns.

Senator BROWN. Is there anything else that you want to present at this time?

Mr. MOKSNES. Nothing else.

Senator BROWN. Mr. Johnson.

STATEMENT OF ROYAL C. JOHNSON, ATTORNEY, WASHINGTON, D. C., REPRESENTING CHEMPSCO, INC., OF WINONA, MINN., AND HEMP CHEMICAL CORPORATION, OF MANKATO, MINN.

Mr. JOHNSON. Mr. Chairman and members of the committee, I am representing ChempSCO, Inc., of Winona, Minn., and the Hemp Chemical Corporation, of Mankato, Minn.

These people and those associated with them in Minnesota had 2,200 acres of hemp last year, and they use only the fiber and the stalk. I want to say in the beginning that they are heartily in favor of this bill. They think the use of marihuana ought to be prohibited and they feel further that these legitimate industries dealing with hemp and the stalk owe a duty to the Government and to the Treasury to cooperate in every way. I would even go so far as to say that if they do not cooperate they could readily visualize themselves as entirely out of the hemp business, because no industry, legitimate or otherwise, has any right in their viewpoint and in mine to be so conducted in the United States as to aid in the dissemination of any narcotics of any kind.

We have no dispute whatever with Mr. Hester and Mr. Anslinger, or the Government. We have gone over the testimony carefully, and we find that the testimony of Mr. Hester and others shows rather definitely that there is no deleterious matter or property in the stalk or the fiber. As I showed the chairman the other day, the leaves and the seeds are the parts of the plant that contain marihuana.

The fiber, stalk, or hurd has nothing in it, and the fiber in which we are interested is an important part of the industry. It is used in the making of fine papers, condenser tissues, carbon paper, Bible paper, and all other types of fine papers, including cigarette papers.

As there is no marihuana and no resin in the stalk, we think the phraseology should be changed in the bill to some degree, not to change the merits of the bill, but the phraseology, so that it can be made clear that there is no deleterious property in the stalk or in the fiber. Very great industries can be worked up in this country. I can readily visualize without much difficulty 25,000 or 30,000 or 40,000 acres of hemp, with 200,000 acres of flax being used in the paper industry and in the plastic industry, concerning which the gentleman just testified.

I would like to suggest a change in subsection (b) at the top of page 2 in the bill. I do not think the use of the word "marihuana" belongs in this measure, because that is a word that came up from Mexico and attached to these cigarettes. I see no use in it. This is hemp that is being grown, not marihuana. I am going to offer these suggestions. I have handed a copy to Mr. Anslinger, and I wish to read it for the committee. Amend section 1, subsection (b) to read as follows:

The term "marihuana" means such parts of the plant *Cannabis sativa L.*, whether growing or not, which consists of the leaves of the plant, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture,

salt, derivative, mixture; or preparation of such plant, its seeds, or resin; but shall not include—

Senator BROWN. Mr. Johnson, as I understand it the petals of the flower are the most dangerous.

Mr. JOHNSON. Yes; which eventually become the seeds. The flower becomes seed.

Senator BROWN. It is used, as I understand it, as a petal. Is it not ground up?

Mr. JOHNSON. The leaves.

Senator HERRING. Is not the bloom used the same as the leaves?

Mr. HESTER. Oh, yes; the flower on the tops.

Mr. JOHNSON. The flower and the seeds.

Senator BROWN. It seems to me you did not cover the flowers.

Mr. JOHNSON. I tried to copy in detail the words now in the bill. I am copying the bill at this time, except as to the insertion of the word "such" where they say "all" in the first line. They have not said "flowers", so I did not say "flowers."

Senator BROWN. "All parts of the plant" would include the flowers?

Mr. JOHNSON. Then "flowers" could be inserted.

Senator BROWN. I think so.

Mr. JOHNSON. "The leaves or flowers of the plant"; I concede that, because I have wanted to cover it all [reading]:

Such * * * plant, its seeds, or resin; but shall not include oil or cake made from the seeds of such plant, any compound, manufacture, salt, derivative, mixture, or preparation of mature stalk, oil or cake or the sterilized seed which is incapable of germination.

And then for the purpose of clarification I wanted to insert this:

Specifically excluded are mature stalks known as hemp stalks, which contain no resin or harmful properties, which are used for various legitimate commercial purposes, and which are grown by producers under contract with licensed processors or manufacturers.

Now, getting down to the practical part of this measure, no one has any business growing this hemp in any quantity whatever except under contract with someone who is using it for a legitimate business. They have no more business growing it on one-tenth of an acre than I have growing sweetpotatoes on my front lawn. Anyone who uses the seed or who uses the stalk—the hurd—or uses the fiber is a manufacturer, a processor, who will contract to pay a man a good price to grow it for him; and these other people ought to be simply barred, and I am in favor of licensing them. I think the small producer is going to be eliminated, this man that sticks in one-tenth of an acre. And why shouldn't he be? He is doing no good to himself or anybody else. But here is a great industry where men will put in 10, 20, 30, 40, one gentlemen who will put in 100 acres, and the people I represent have planted 2,200 acres and expect to plant 20,000 acres.

This has been experimented with in South Carolina, in Oregon, and all over the country, because these big industries that use the fiber and use the hurd have to take into consideration crop failures, and therefore cannot confine themselves to just Minnesota or to South Carolina or to Oregon. Some of these people have already expended \$300,000 in the last few years, trying to work out in big industries the use of this fiber, and they feel that it should be so stated in the law that the farmer who is growing the stalk and growing the fiber knows definitely that he is not growing anything that has marihuana in it.

He does not want to grow marihuana, and yet we might lose an industry purely by the phraseology of the measure.

I think I have said all I could say on that. I could say much more, but I have stated it in a few words.

Now, on this question of the tax, and the constitutionality of the law, I am firmly convinced that the farmers' can be reduced to \$1 and this law be sustained. This is not the sort of measure that people here are saying it is, a regulatory measure under the guise of a tax measure. We do not need to run around the corner to the hemp industry in order to stop the sale of the flower or of the leaves. It can be taxed like the automobile industry, like the cosmetic industry, like the fur industry, and we do not need to use any legal sophistry in this to sustain this statute because hemp is produced in the United States; and I would say in the presence of this committee that I am sure and would almost guarantee that Mr. Hester and Mr. Tipton could go before the Supreme Court and get a unanimous decision, if they would argue along the lines I am suggesting. This is not like narcotics, where there are no poppies grown, nothing like it. In my judgment a \$1 tax on the farmer is sufficient. To my mind this industry is going to be more affected by the regulations, but I have no doubt Mr. Anslinger and the gentlemen associated with him, with their wide experience and with their desire to do justice, will work out regulations far more important than the law which will be fair to industry and the farmer.

Now, I want to say further a little more on this industry itself. If there are abuses by this legitimate producer——

Senator BROWN. Just let me ask you one question there. You say you want the farmer to be made to realize that he is not growing marihuana?

Mr. JOHNSON. In the stalk and fiber.

Senator BROWN. In the stalk and fiber, but of course he cannot grow the stalk and fiber without growing the resin plant?

Mr. JOHNSON. That is right.

Senator BROWN. How are you going to leave that out? I do not see.

Mr. JOHNSON. Because he is going to have to sell his product. He will have to sell this to a manufacturer. Now, as a matter of fact the people making paper, and the finest grades of paper, which you cannot make in this country without the use of hemp at the present time, and which is being imported—even a great deal of the paper that goes into our money is being imported—must have hemp fiber. It is just a ridiculous situation, because it can be made out of our local products in this country. The paper manufacturer, when he gets the plant, simply blows these leaves away. They disappear when dried. They are gone. As a matter of fact these people in Minnesota did not know until 2 months ago that the hemp which they grew there contained marihuana. Until this agitation came up they did not dream of it, and they were as much surprised as anyone else.

Now, they will have some difficulties, just as the liquor people had some difficulties, eventually, and the man who does not recognize that, the producer or manufacturer, is going to be put out of business in my judgment, because there is a problem with marihuana. I will concede these licenses are right, but I do think that the farmers' license fee ought to be reduced to \$1. I have no fear whatever but

what the law will be declared constitutional. I would like to see such amendments in there.

Senator Brown. Of course, you must have a situation where the farmer is made to realize, it seems to me, just the opposite of what you say. He has got to be made to realize that in growing this legitimate product and fiber it can be put to illegitimate uses. Therefore I think the bill should place in the farmer a knowledge of that fact. Otherwise he will be just as your clients were, ignorant of the fact that he is growing on his farm a decidedly dangerous and deleterious product.

Mr. JOHNSON. Mr. Chairman, do you not think though that that section 2 could be rewritten so it would say definitely that "in the flower, in the leaves", and so forth, there is a harmful product?

Senator Brown. Yes; that is all right.

Mr. JOHNSON. So that it is clear, make it clear to him, then, but also make it clear in the bill that there is no harmful product, which is agreed to by everyone, in the hurd, fiber, and in the stalk. In other words, I do not think we have any difficulty. If we would sit around the table for 5 minutes, I think this could be worked out so we could do exactly what the committee wants to do, and that there would be no opposition whatever to this bill, except a desire on the part of everyone to strengthen it and make it stronger in every possible way against the illegitimate use of this hemp.

Mr. HESTER. If I may say a word there, we will be very happy to sit down with you, Mr. Johnson. I am not sure that if you should ask our recommendation on his amendment that we would agree to recommend it, but we would be very happy to sit down and study it with him.

Senator Brown. Is that all, Mr. Johnson?

Mr. JOHNSON. That is all, and I thank the committee very much.

Senator Brown. We have Mr. Oلمان, I think, as the only remaining witness.

STATEMENT OF O. C. OLMAN, REPRESENTING JUNEAU FIBRE CO., JUNEAU, WIS.

Mr. OLMAN. From what I have heard here, and from what has been remarked by Mr. Hester, I do not know as I shall take any time of the committee at all, because I am in the same boat that Mr. Moksnes is, and Mr. Johnson is.

I would like to mention just one or two things, Mr. Chairman, and that will be all, but I think we can iron it out with Mr. Hester, for instance, the discussion as to what is a mature plant. Now, we cut the plant before that, in the pollen stage. They are not mature according to our understanding.

This is one point I would like to ask Mr. Hester. Another point, of course, is the definition of "producer", so we can qualify as a producer. We are "dealers" under the bill, but we would like to qualify as "producers."

Then another thing is that for instance, a farmer wants to grow 2 acres or 4 acres of hemp, and he has to go before the collector of internal revenue and give such information as is wanted, and then get his permit. Now, I think that can be ironed out. If he has to do that, 60 or 70 of our farmers will have to drive 70 miles to Milwaukee.

Senator BROWN. I think you can work that out.

Mr. HESTER. No; they just write a letter to the collector, that is all.

Mr. OLMAN. And of course we were afraid of the transfer tax, and so on.

I was interested in the question you asked the doctor, Mr. Chairman, and that was with reference to supervision or inspection. I believe that we are in a position to give the Government a great deal of help in supervising and inspecting and reporting the growth of hemp.

Senator BROWN. For your producers?

Mr. OLMAN. In our vicinity. I thank you.

Mr. HESTER. Fine.

Senator BROWN. How long a time will you gentlemen want, to submit to the committee such representations as may be agreed upon? Would Wednesday morning be about right?

Mr. HESTER. That would be fine.

Senator BROWN. Suppose, Senator Herring, we agree on 10 o'clock Wednesday morning for an executive session on this measure, unless there is a serious disagreement. If there is you gentlemen, who are in disagreement, can come in.

Mr. OLMAN. I am sure there will not be.

Mr. HESTER. Thank you very much, Mr. Chairman.

Senator BROWN. Before we adjourn, I desire to place in the record a letter regarding the pending bill addressed to Senator Harrison by Dr. William C. Woodward, of the American Medical Association, Chicago, Ill.

AMERICAN MEDICAL ASSOCIATION,
BUREAU OF LEGAL MEDICINE AND LEGISLATION,
Chicago, July 10, 1937.

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

SIR: I have been instructed by the board of trustees of the American Medical Association to protest on behalf of the association against the enactment in its present form of so much of H. R. 6906 as relates to the medicinal use of cannabis and its preparations and derivatives. The act is entitled, "An Act to impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording."

Cannabis and its preparations and derivatives are covered in the bill by the term "marihuana" as that term is defined in section 1, paragraph (b). There is no evidence, however, that the medicinal use of these drugs has caused or is causing cannabis addiction. As remedial agents they are used to an inconsiderable extent, and the obvious purpose and effect of this bill is to impose so many restrictions on their medicinal use as to prevent such use altogether. Since the medicinal use of cannabis has not caused and is not causing addiction, the prevention of the use of the drug for medicinal purposes can accomplish no good end whatsoever. How far it may serve to deprive the public of the benefits of a drug that on further research may prove to be of substantial value, it is impossible to foresee.

The American Medical Association has no objection to any reasonable regulation of the medicinal use of cannabis and its preparations and derivatives. It does protest, however, against being called on to pay a special tax, to use special order forms in order to procure the drug, to keep special records concerning its professional use and to make special returns to Treasury Department officials, as a condition precedent to the use of cannabis in the practice of medicine in the several States, all separate and apart from the taxes, order forms, records, and reports required under the Harrison Narcotic Act with reference to opium and coca leaves and their preparations and derivatives.

If the medicinal use of cannabis calls for Federal legal regulation further than the legal regulation that now exists, the drug can without difficulty be covered under the provisions of the Harrison Narcotic Act by a suitable amendment. By

such a procedure the professional use of cannabis may readily be controlled as effectively as are the professional uses of opium and coca leaves, with less interference with professional practice and less cost and labor on the part of the Treasury Department. It has been suggested that the incorporation of cannabis into the Harrison Narcotic Act would jeopardize the constitutionality of that act, but that suggestion has been supported by no specific statements of its legal basis or citations of legal authorities.

Respectfully,

Wm. C. Woodward,
Legislative Counsel.

(Whereupon, at 11:35 a. m., Monday, July 12, 1937, the subcommittee adjourned.)