

● P.S.F. Bills in Congress (1933-1939)

Subject File

Box 118

PSF

"All personal"

Proposed Bills  
in Congress

F. A. C. A.	- 1	2	✓	✓
Social Security	- 2	1	✓	✓
Banking	- 3	1	✓	✓
Hygiene	- 4	1	✓	✓
Smoking	- 5	2	✓	✓
H. A. A.	- 6	2	✓	✓
Oil	- 7	2	✓	✓
T. V. A.	- 8	1	✓	✓
Utilities	- 9	1	✓	✓
Transportation	- 10	2	✓	✓
Tax	- 11	2	✓	✓
Bankhead	- 12	2	✓	✓

THE WHITE HOUSE  
WASHINGTON

June 4, 1935.

In view of the much larger things that I must get this session of the Congress:

1. TVA
2. AAA AMENDMENTS
3. BANKING BILL
4. HOLDING COMPANY BILL
5. WAGNER LABOR BILL
6. GUFFEY COAL BILL
7. TAX BILL
8. SOCIAL SECURITY
9. OIL BILL

I do not know whether I should try to get the Transportation Bill this session. I have already addressed the Congress on the subject of aviation legislation; and also on the subject of shipping. A Buses and Trucks Bill has already passed the Senate. A Water Carriers' Bill has been introduced, and measures have been introduced to reorganize the Interstate Commerce Commission to fit it, to take complete charge of all transportation - air, land and water. I realize the complexities of this subject. It can be dealt with by separate measures but it is my thought that the centralization of supervision should be in the hands of one body, for the very simple reason that every form of transportation - air, land and water-- is to a certain extent competitive with and related to every other form of transportation.

(a) The Coordinator of Transportation was appointed pursuant with action of the Congress, two years ago. His office expires on June 16, 1936.



PSF

QUESTION OF ADJOURNMENT

1. Although there has been considerable talk in both Houses of adjournment early next week, this situation can easily be controlled by holding up the conference report on the Tax Bill until all other vitally important bills are disposed of. Chairman Doughton has given his assurance that he will endeavor to arrange the conference report on the tax bill so as to keep the date of adjournment under control.

2. The Vice-President and Senator Robinson for the Senate, and the Speaker, Mr. Boland and Mr. Taylor for the House, have given assurances that they will cooperate to oppose any move for adjournment until the "must" bills are passed.

3. It is, however, highly advisable that at the conference Sunday night an agreement be definitely confirmed by the Congressional leaders present that adjournment should not be had until all vitally important bills are disposed of and that the conference report on the tax bill should be made the last order of business.

- |                              |                                  |
|------------------------------|----------------------------------|
| 12. Flood Control            | ✓ 11. Loans from moratorium bill |
| ✓ 1. Gold clause -           | ✓ 6. D. I. Bill                  |
| ✓ 2. Walsh Bill -            | ✓ 7. R.R. Bankruptcy             |
| ✓ 3. Shipping Bill -         | ✓ 8. R.R. Retirement             |
| <del>4. Power Fund -</del>   | ✓ 9. TVA.                        |
| ✓ 5. Power Conference Report | <del>11. Log night</del>         |
| ✓ 6. More money for loans -  | <del>12. Int. Debt Bill</del>    |
|                              | 12. Stone Cooper Bankruptcy      |

### TAX BILL

(1) The Conferees have been named and will meet Saturday morning for a preliminary survey. No formal action on the differences will be taken until next week.

(2) The vital differences between the two bills are

- (a) as to the steps of increased surtaxes between the House and Senate proposals;
- (b) as to the inheritance taxes proposed by the House for which the Senate substituted increase in State taxes;
- (c) as to the range of graduated corporation tax between House and Senate;
- (d) as to the Senate proposals for intercorporate dividends.

(3) The aims of the Administration are

- (a) the House provisions for surtaxes;
- (b) the House inheritance taxes with a compromise of \$200,000 as a starter;
- (c) the Senate provision for graduated corporation tax;
- (d) the Senate provision for intercorporate dividends.

(4) Specifically, that means that Doughton should insist on the House surtax provisions, on the House proposals for inheritance taxes beginning at \$200,000, but should yield to the Senate on the rates for graduated corporation tax and as to intercorporate dividends.

(5) I have communicated these Administration views to Doughton and he has agreed to cooperate in securing their adoption, although he was reluctant about intercorporate dividends. I was unable to see Senator Harrison. In view of Doughton's agreement, Pat Harrison's concurrence should be secured at the Sunday night conference.

T. V. A.

(1) The bill is deadlocked in conference. Norris speaks for all three Senate conferees. The House conferees are split -- Lister Hill (Alabama) favoring Norris' position, McSwain and Montet (Louisiana) holding out for limitations on T. V. A. in the House bill.

(2) There are two fundamental differences:

(a) The first difference is the Buchanan amendment to the House Bill. This requires T. V. A. to pay into the Treasury as miscellaneous receipts all T. V. A.'s gross revenues from power and any other revenue producing activities so that operating expenses for all T. V. A. activities will have to be provided for by specific annual Congressional appropriations. Substantially, this risks the T. V. A. program to changes from year to year in size and detail. Without the Buchanan amendment, T. V. A. could use its recurring receipts as a revolving fund to finance operations within its powers in the discretion of its own directors.

Norris has proposed a compromise that without Congressional appropriation T. V. A. may use any revenues to pay operating expenses of its business of generating and distributing power, but must pay into the Treasury surplus revenues over such power expenses and depend on specific Congressional appropriations to finance T. V. A. activities other than power activities.

(b) The second difference is the Senate provision empowering T. V. A. to issue 100 millions of T. V. A. bonds to purchase distribution systems (which T. V. A. may hold not exceeding five years). There is no comparable provision in the House Bill.

(3) Senator Norris attributes the refusal of McSwain and Montet to accede to his compromise on the revenue provision and to the Senate clause on the purchase of distribution systems to the Speaker's interference and threatens to make public such a charge. The Speaker is apparently troubled by this charge.

(4) The next conference meeting will be held on two o'clock, Monday. At the Sunday night conference the Speaker should be urged to use his persuasiveness to bring McSwain and Montet into agreement with Norris.

ALCOHOL CONTROL BILL

(1) The bill is in conference with three real differences between House and Senate.

- (a) The Senate is urging an independent board of three while the House is insistent on lodging the administration in the Treasury in charge of an administrator with two assistants.
- (b) The House (supported by the Treasury) is insistent against the authorization of bulk sales as proposed by the Senate.
- (c) In accordance with the views of the Treasury, the Senate is urging the licensing of brewers. The House is opposing.

(2) We are aiming at the following resolution of these differences:

- (a) a board of three, technically within the Treasury;
- (b) non-allowance of bulk sales;
- (c) licensing of brewers does not seem to be of sufficient importance for Presidential concern.

(3) To this end I recommend that in your Sunday night conference you secure agreement on a board of three merely technically within the Treasury and a recession by the Senate on its bulk sales stand.

INVESTIGATION OF LOUISIANA SITUATION

(1) The Anti-Long members of the House are pushing for a resolution of inquiry as to the existence of "a republican form of government" in Louisiana.

The same objective is contemplated by the suggestion of a resolution of inquiry into the observance of the Constitutional guarantee of a republican form of government generally among the States.

Finally, inquiry into Louisiana affairs is proposed to be made a new subject of inquiry by the Black lobbying committee through a broadening of the powers of that committee.

(2) By whatever mode the purpose of inquiry into Louisiana affairs is to be accomplished, the wisdom of doing it is opposed to the unanimous judgment of the leaders of the party in both House and Senate whom I have consulted.

Specifically the Vice-President, Senator Robinson and Senator Harrison, the Speaker, Chairman Doughton and Floor Leader Taylor unite in counselling against taking any such step.

(3) In light of this expert political advice, I assume the matter is to be dropped.

### HOLDING COMPANY BILL

- (1) The bill is deadlocked in conference.

The crux of the difference is whether a holding company may control more than one integrated system of operating companies (Section 11).

Huddleston (with two Republicans in his pocket) is irreconcilable and wants to water down even the House bill's recognition of one system as a norm.

Rayburn, anxious for some bill, talks of a compromise permitting a holding company to control two operating systems of any size whatever -- impossible from your point of view because it leaves Willkie's Commonwealth & Southern and U.G.I., the two most powerful giant companies, completely intact.

The Senate conferees have formally offered a substantial concession -- not merely face-saving language -- permitting a holding company to control more than one operating system provided that the operating units are in the same locality, small in size and incapable of separate economical operation.

- (2) Conference agreement is hopeless unless (a) the Senate conferees capitulate or are ordered to capitulate to Huddleston, or (b) the House makes a somersault and gives new instructions to Huddleston or appoints new conferees.

The latter alternative seems precluded. Therefore, yielding by the Senate would mean complete surrender to Huddleston.

- (3) To avoid capitulation by the Senate either (a) the Senate conferees would have to be discharged without the appointment of successors, and the legislation be allowed to die, or (b) the Congress should adjourn with the bill left in conference.

There is everything to gain and nothing to lose in keeping the bill in conference until January. On their return home members may learn, as Senator Barkley and some Congressmen have learned, that the sentiment of their constituents is in favor of your holding company policy. There is, in addition, a real possibility that (a) Associated Gas will fail before then and accelerate the growing sentiment in favor of the Senate Bill, (b) the personal antagonisms among the House leaders which have been such a tremendous factor in the House stubbornness on the "death sentence" and in Huddleston's position of control may be smoothed out before next January.

- (4) To keep the bill in conference, it is necessary to prevent a successful motion in the Senate to instruct the Senate conferees to yield to the House. Therefore, Administration leaders should be advised that it is your desire that the bill remain in conference until January if an adequate compromise cannot be reached and that you do not regard the House Bill as adequate.

It is also desirable, in order to still rumors circulating in the cloakroom that you are for any kind of a bill to make a statement at your next conference something along the lines of the attached.

In my message to Congress and in my statement since, I made entirely clear why the legitimate private interests in utility enterprises no less than the national interest require that we put proper limits upon the employment of the holding company in the utility field. The further light we are continually getting upon this subject has only reinforced in my mind the necessity for translating this idea into effective action.

Now, of course, I do not suggest, nor have I at any time suggested, that there can be only one form of words by which this policy can be translated into legislation. Since there is agreement between the Senate and the House in their professed objectives, I should think and I hope that ways may be found of carrying those objectives into effect which will commend themselves to all of us. But I shall certainly not be a party to any legislation which does not include specific and effective provisions for the elimination of the kind of corporate monstrosities which permit ten or eleven powerful groups to control practically all the operating utility companies in the United States. Nor do I consider it a candid solution of this holding company abuse if the problem is simply stated by Congress and its solution shifted to a commission -- a commission which will have to bear the burden of the same pressures which are now being borne by Congress -- without Congress having charted a clear and specific course for the commission to follow.

OIL

(1) The Connally amendment to the Thomas Bill has passed the Senate. This makes provision for the ratification of the interstate oil compact, for import restrictions, and for continuation of the allotment provisions in the original Connally Act. When this reaches the House, Rayburn and Cole will offer the Cole Bill for an independent oil board.

(2) Secretary Ickes urges, of course, that any board dealing with oil should technically be within the Department of the Interior which now has, and for long has had, fact-finding agencies as to oil.

(3) On this subject, legislative nature should be allowed to take its course.

GUFFEY BILL

(1) The bill was given the rule which was passed with only ninety-odd votes against it. General debate will take place Friday night and vote on the bill is assured.

(2) Robinson and Guffey state that if the House bill reaches the Senate by Monday, it will promptly be taken up.

Guffey believes that he has enough votes in the Senate and Robinson concurs.

(3) On this bill, too, no further action seems to be required.

Friday, 10 P.M.

Dear Miss Le Hand:

Please be good enough to hand to the President the enclosed memorandum on the state of the various legislative situations as of the time of writing.

The views express our collective wisdom, and Charlie West will, of course, communicate any drastic changes to-morrow.

I'm week-ending in Washington - my bosses, Charlie and Tommy, thought I'd better stay on the job.

It's good to know that the President has a partial relief, for two days, from the steady demands on him here. And I hope a good, very good, time is being had by all four parties.

Very cordially  
John Dancygale

MEMORANDUM FOR THE PRESIDENT.

1. **THE GOVERNMENT CONTRACTS BILL.** The Walsh bill has passed the Senate and is now before SUMNERS' committee in the House. To get action it must come out of this committee and get a rule. THE SPEAKER and O'CONNOR must be behind it. Some pressure must be put upon SUMNERS too but the Speaker can do this.
2. **THE T. V. A. COMPROMISE ON THE BUCHANAN AMENDMENT.** The language which has been proposed as a substitute for the Buchanan amendment is attached herewith. The words "soil erosion, flood control and navigation" should be added. McSWAIN agrees to this but says that Montet may not accept. The Speaker is the key to this situation and assurance from him that he will back it will no doubt secure its adoption.
3. **THE COPYRIGHT BILL.** This has passed the Senate and is now before the House Patents Committee. Sirovitch is opposed to the bill and does not want to bring it out of the committee. The Speaker and O'Conner should be urged to get behind it if passage is desired.
4. **THE RAILROAD RETIREMENT BILL.** Crosser has succeeded in securing a rule for one part of the measure and will get this before the House Monday. Doughton is reluctant to report out the tax feature of the bill. Crosser has a great deal of support in the house and assurance that it will be put on the list in the Senate for passage.
5. **THE DEPARTMENT OF INTERIOR BILL.** This bill came up on the consent calendar in the Senate Friday but Smith, Bankhead and Borah objected. Robinson has given Lewis assurance that he will recognize him for a motion the first of the week. There is likely to be trouble however. In the House Gasque says it will be necessary to have direct word from the President before his committee will report it out.
6. **BILL FOR RELIEVING C.W.A. DISBURSING OFFICERS FROM PERSONAL LIABILITY.** This is H. R. 151 which relieves C.W.A. disbursing officers from personal liability for over charges except in case of fraud. It is supported by W.P.A., Veterans Administration, Treasury and McCarl. The Speaker, O'Conner and Gasque as well as Robinson must be reminded of its importance. Hopkins says it is essential.
7. **THE MERCHANT MARINE BILL.** Secretary Roper says that the Commerce Department and the Post Office Department are together on recommendations for a revised bill but insist that it is necessary to have pressure put upon Robinson and Copeland if the bill is to go through. If this legislation is desired it is highly important that action be taken quickly.

Commencing July 1, 1936, the proceeds for each fiscal year derived by the Board from the sale of power from any of the products manufactured by the corporation, and from any other activities of the corporation, shall be available to the corporation for any and all expenses of the corporation in conducting the operations authorized by law; provided, however, that any surplus over and above these requirements shall be paid into the Treasury of the United States; and provided that no part of such proceeds shall be expended by the corporation in conducting its business for any new plant or activity, the total cost of which shall exceed the sum of \$10,000,000, without the prior approval of the Congress.

WHAT SENATE SUB-COMMITTEE'S REVISION OF THE BANKING BILL DOES TO THE  
FOUR ESSENTIAL LEVERS THAT REGULATE THE VALUE OF MONEY

PSF  
Billson  
Banking Congress

1. Control of rediscount rates.
2. Open market operations in government securities.
3. Power to vary ratio of reserves to bank deposits.
4. Control over price of monetary metals.

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Gov. Eccles sought in House bill to centralise control of rediscount rates, open market operations, and reserve ratio in reconstituted Federal Reserve Board.

Gov. Eccles ignored fourth lever of monetary control, over price of monetary metals, believing that to be unessential, and therefore being content to leave that control in the Treasury, subject to Presidential direction.

But, price of gold (gold content of currency) exerts a decisive influence upon price level, acting directly and almost immediately upon basic commodities, and more slowly upon general price level. Therefore major National Farm Organizations and many business men consider this fourth lever more important than the other controls to agriculture and to all basic producers.

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Senate Committee's revision of Title II of Banking Bill disposes of --

1. REDISCOUNT RATES: Leaves control in Federal Reserve Banks, with each of twelve regional banks free to initiate and establish any rate it sees fit, subject to confirmation by Federal Reserve Board.

2. OPEN MARKET OPERATIONS: House bill provides that Federal Reserve Board (six appointed members, Secretary of Treasury and Controller of Currency ex-officio) shall constitute the OPEN MARKET COMMITTEE, with power to initiate, establish and enforce open market policy for the System, subject only to consultation with an Advisory Committee of five Federal Reserve bankers, who would have no vote.

Senate revision drops the two ex-officio members, increases appointed members of Board from six to seven, of whom not less than two must be bankers. This Board, and five Federal Reserve bankers, would constitute the OPEN MARKET COMMITTEE. This would make Open Market Committee consist always of at least SEVEN BANKERS against not more than FIVE OTHERS representing Agriculture, Commerce and Industry.

3. RESERVE RATIO: Power to vary reserve ratio is an emergency brake on runaway inflation or deflation. Senate revision sets a dead-stop on this essential lever, no matter what the emergency. House bill sets no limit. Senate revision permits Federal Reserve Board (but only by vote of five of its seven members) to raise reserve ratios from present limits of 7%, 10% and 13%, to maximum of 14%, 20% and 26%.

4. PRICE OF MONETARY METALS: Both House and Senate bills ignore importance of centering all four essential levers of currency and credit control in one place. Great Britain is demonstrating that purchasing power of money can be kept stable by a variable price of gold, fixed daily in London's open gold market. This makes it unnecessary to disrupt base of all business by changes in discount rates.

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CONSTITUTIONALITY: Both bills delegate to Federal Reserve Board the constitutional function and duty of Congress to regulate the value of money. Neither bill limits that delegation of power, hence BOTH ARE OF DOUBTFUL CONSTITUTIONALITY.

BF  
Bills in  
Congress

File Bills  
Drawer 2 -

Contingent fee bill.

1. Bill finished and approved as to form by Agriculture, Treasury, and Justice.

2. Representatives of Treasury likely to object inclusion of this in tax bill will weight down tax bill too heavily legislatively because of lobbying ~~abilities~~ abilities of lawyers and natural sympathy of lawyer members of Congress with lawyer fees. Conversely, present sentiment against lawyers fees on recoveries against government may not come again for a long while and with a good message and adroit capitalization of that sentiment can get this anti-lawyer bill through now and perhaps never again. If it proves too heavy it can be cut off as a separate bill after it has been sent up as part of the tax bill with a paragraph in the message.

3. Suggested paragraph for message attached.

4. Robert Jackson, now Assistant Attorney General, agreeable to carry the burden of justifying the bill before Congressional committees on basis of his experience as General Counsel, Bureau of Internal Revenue.



THIS DOCUMENT IS THE BEST  
AVAILABLE. EVERY TECHNICAL  
EFFORT HAS BEEN TAKEN TO  
INSURE LEGIBILITY.

1987

CONGRESSIONAL RECORD—SENATE

12009

*PSF*  
*Bills in Congress*

The PRESIDENT pro Tempore. The report will be read. The Chief Clerk read the conference report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7097) to regulate commerce among the several States, with the Territories and possessions of the United States, and with foreign countries; to protect the welfare of consumers of sugars and of those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1. That the House recede from its disagreement to the amendments of the Senate numbered 4, 5, and 6, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "and in order that the regulation of commerce provided for under this Act shall not result in excessive prices to consumers, the Secretary may make such additional allowances as he may deem necessary in the amount of sugar determined to be needed to meet the requirements of consumers, so that the supply of sugar made available under this Act shall not result in average prices to consumers in excess of those necessary to maintain the domestic sugar industry as a whole, and the amounts of such additional allowances shall be such that in no event will the amount of the total supply be less than the quantity of sugar required to give consumers of sugar in the continental United States a per capita consumption equal to that of the average of the two year period 1935-1937, and the Senate agree to the same."

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 207. (a) Not more than twenty-nine thousand six hundred and sixteen short tons, raw value, of the quota for Hawaii for each of the calendar years 1937, 1938, and 1939 may be filled by direct-consumption sugar; and not more than four thousand nine hundred and thirty-two short tons, raw value, of the quota for Hawaii for the calendar year 1940 may be filled, during the first two months of such year, by direct-consumption sugar.

"(b) Not more than one hundred and twenty-six thousand and thirty-three short tons, raw value, of the quota for Puerto Rico for each of the calendar years 1937, 1938, and 1939 may be filled by direct-consumption sugar; and not more than twenty-one thousand and six short tons, raw value, of the quota for Puerto Rico for the calendar year 1940 may be filled, during the first two months of such year, by direct-consumption sugar.

"(c) None of the quotas for the Virgin Islands for any calendar year may be filled by direct-consumption sugar.

"(d) Not more than eighty thousand two hundred and fourteen short tons, raw value, of the quota for the Commonwealth of the Philippine Islands for any calendar year may be filled by direct-consumption sugar.

"(e) Not more than three hundred and seventy-five thousand short tons, raw value, of the quota for Cuba for any calendar year may be filled by direct-consumption sugar.

"(f) This section shall not apply with respect to the quotas established under section 203 for marketing for local consumption in Hawaii and Puerto Rico."

And the Senate agree to the same.

PAT HARRISON,  
WILLIAM H. KING,  
WALTER P. GEORGE,  
FRANKTON M. BROWN,  
ROBERT M. LA FOLLETTE,  
ARTHUR CAPPER,  
Managers on the part of the Senate.  
MARTIN JONES,  
WALL DOXEY,  
J. R. MITCHELL,  
CLIFFORD R. HOPE,  
J. BOLAND KINGS,  
Managers on the part of the House.

Mr. HARRISON. Mr. President, for the information of the Senate, I will state briefly just what was done by the conferees, and what is contained in the conference report.

There were only three questions in conference on the sugar bill. One was with respect to the so-called Brown-La Follette amendment, which dealt with the price of sugar to the consumer. A substitute was adopted, simpler in language, without change in purpose.

The second proposition in conference was the tax on blackstrap molasses. An amendment, known as the Lucas amendment, was adopted in the House, which the Senate rejected. The House conferees receded on that amendment; so that amendment is out of the bill.

The other amendment, and the most important one, was that which dealt with quotas on refined sugar from Puerto Rico and Hawaii. It will be recalled that in section 207 the House bill permitted about 29,000 tons of refined sugar to come in annually from Hawaii, and permitted about 126,000 tons to come in annually from Puerto Rico. The Senate committee, as Senators will recall, in order to remove the charge that we were discriminating in favor of the American refiner as against the Puerto Rican or the Hawaiian, struck out all of section 207 of the House bill with reference to the quota or limitation on refined sugar from Puerto Rico and Hawaii, and inserted a new section. We did not change the amount of refined sugar that might come in from Puerto Rico or Hawaii in the House bill, but we did say that we would freeze that limitation on the amount that might come in from those two islands, and that was at the height of production of refined sugar in Puerto Rico and in Hawaii. They had never produced more refined sugar in those islands than the amount carried in the House bill, and also carried in the Senate bill. We arrived at the figures of what the highest production of refined sugar had been in continental United States, and we placed that amount in the Senate amendment.

So in the conference there was quite a discussion as to limiting the amount of refined sugar coming in from Puerto Rico and Hawaii. Various suggestions were made—1 year, 1½ years, and so on. We finally agreed in the conference that the section permitting refined sugar to come in from Puerto Rico and Hawaii could continue until March 1, 1940.

Senators will understand that as to the limitation on the importation of raw sugar, the bill goes out of existence December 31, 1940; but as to refined sugar we permit in 1940 one-sixth of that year's quota—which would be, in the case of Puerto Rico, one-sixth of the 126,000 tons—to come in during the months of January and February, up to March 1, 1940. We thought that was a fair basis of compromise, and so that is what is carried in the report.

As to the quotas on raw sugar, there is no change at all in that respect. The major change carried in the report is on refined sugar from Puerto Rico and Hawaii.

Mr. AUSTIN. Mr. President, will the Senator yield for a question?

Mr. HARRISON. I yield.

Mr. AUSTIN. I should like to ask whether that one-sixth represents a reduction of quota or an increase of quotas.

Mr. HARRISON. No; the figure one-sixth represents 2 months of the 12 months. One-sixth of the amount may come in during those 2 months. That is one-sixth of the quota determined by the Secretary of Agriculture for the whole year. Practically speaking, it would be, in the case of Puerto Rico, one-sixth of approximately 126,000 tons.

Mr. ADAMS. Mr. President, will the Senator yield for a question?

Mr. HARRISON. I yield.

Mr. ADAMS. There was nothing within the jurisdiction of the conference committee which could have affected the quotas on raw sugar? There was no difference between the conferees on that?

Mr. HARRISON. No difference at all on that.

While I am on that point I may say that I have heard it intimated, Mr. President, that a point of order may be made to this report. I do not suppose any proposal has been made in Congress that has been more difficult to solve, and which involved more varied interests than the sugar bill. There are the refiners with their suggestions and requests. Then we have the sugar-beet area, which, of course, desires an increased quota. Then we have the sugarcane area, which suggests a little more. There sits my friend from Florida [Mr. PERRY]. I have never in my life heard a more eloquent argument than the one he presented before the Finance Committee on behalf of the people of Florida and the sugar area down there. Sincerity was in his every utterance. I have a considerable amount of sympathy with his argument. I could not vote with him because it would

have torn up the whole structure which we have been working here for months and months to build; but he made a great fight, which is to his credit, and his constituents should appreciate it.

Mr. President, I have heard it suggested that someone might raise a point of order to this conference report. I cannot see in what respect the conferees have exceeded their authority. We were very careful. It will be recalled that when this matter was debated in the Senate the Senator from Idaho (Mr. Forax) suggested that the provisions with respect to refined sugar be allowed to operate for only 1 year, thinking that that would help in solving this difficult situation. Then the question came up whether in conference it could be considered. We were so careful, for it was important that it should be considered, that we talked in the parliamentary experts. It was stated on the floor by several of us that it was our opinion, as it was the opinion of the experts, that it would be open to amendment in conference, and that that would be one of the questions that would be in conference. It is one of the questions that was in conference, because the House fixed a certain amount that might come in under section 207 of direct-consumption sugar. It was not fixed in percentages at all; it was not fixed any more than that so many tons might come in, and then it was left to the discretion of the Secretary of Agriculture, who was to take into consideration certain conditions laid down in the bill.

The Senate struck that whole section out and put in a new one, and drafted it upon an altogether different basis. It did not stipulate how many tons of direct-consumption sugar might come in, but provided a percentage method of determining the quantity of such sugar that might come in, and then "froze" the amount of refined sugar that could be brought into the United States at the peak of production in the United States. So the whole matter was in controversy; and it seems to us without question, acting upon the advice of the parliamentary experts and others, that the amendment which has been finally adopted is entirely proper and in accordance with the rule. So I hope that no point of order will be raised; but if a point of order should be raised, of course, I know that the good judgment of the Presiding Officer (the President pro tempore in the chair), who is an expert in technical parliamentary matters, will impel him immediately to overrule the point of order so that we may get this very important piece of legislation out of the way.

Now, one further matter. It is said that the President might veto this bill. Well, I do not know as to that, and I hardly think anyone else knows, but I cannot, for the life of me, understand how the President could veto sugar legislation of this character. It will be recalled that some 3 years ago the Jones-Costigan bill, of which the bill now before us is merely a continuation, was passed. In my opinion, it was one of the most constructive pieces of legislation which have been enacted during my experience in the Senate. It brought wholesome results to the sugar-beet area of the United States; it brought beneficial results to the sugarcane area of the United States. It is one of the most popular measures in those areas that have ever been enacted by the Congress of the United States. When that legislation expired by limitation it was continued by another act of Congress. Both the Jones-Costigan Act and the continuing measure contained a limitation upon direct-consumption sugar imported from Puerto Rico and Hawaii.

When we write into this proposed legislation for the third time a similar provision, putting a limitation upon direct-consumption sugar from Puerto Rico and Hawaii, how can it be said that the measure will be vetoed?

Why should the previous bills have been signed when this bill in nowise changes the principle, but, on the other hand, makes no provision after March 1, 1940 for any limitation? To that extent in this bill we differentiate between the importations of raw sugar from our offshore possessions and from foreign countries and the importation of direct-consumption sugar into the United States.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. HARRISON. I will yield in a moment. I want in that connection to say, while I signed the conference report, as did others of the conferees, which makes a differential as to the time the bill shall operate on direct-consumption sugar imported into the United States as contrasted with raw sugars coming into the United States, that it is not because in the future I shall be for leaving the gates wide open and letting refined sugar come in from Puerto Rico or from Hawaii. We fixed the date March 1, 1940, in the hope that when the Congress meets in 1940 we will at least have 2 months during the session of Congress, which will begin in January, to pass legislation that will take care of this situation.

I want the Record to show now my attitude. If some American investors want to go into Puerto Rico and into Hawaii, build more refineries and give employment to labor there, that will disrupt the employment situation in the refineries in this country, when we come to consider legislation in 1940 touching that question, and they appear before my committee or any other committee and say "we were invited to go there and build up and invest our money in the view that after March 4, 1940, we could ship refined sugar without limitation into the United States", I do not want them to make any investments in the belief that I am going to vote a continuation of any policy without a restriction on refined sugars from those possessions or anywhere else coming into this country. They may make that argument, but they will not get anywhere with it.

Mr. President, I hope this conference report will be approved. It was not an easy matter to get all these conflicting interests together. I believe it is a splendid piece of legislation, and will work great benefits to many areas and many industries and many laboring people of this country.

Mr. PEPPER. Mr. President, if our conduct in this body were the result purely of our sentiments and affection, I dare say that in most instances it would be different from what it is. I am sure that if I were to follow the sentiments of my heart in any matter in which the Senator from Mississippi (Mr. HARRISON) were involved I should be in accord with his views. No one in this Chamber has any doubt but that recently when the Senator from Mississippi was involved, my action and my sentiments came to a common accord as to him because he was my friend. But, Mr. President, I feel that the conferees should have regarded the matter of terminating this whole proposed law at the same time they terminated the restrictions which are mentioned in the conference report, namely, on March 1, 1940.

May I point out the situation as I see it? Section 207 (a) —

Mr. HARRISON. Mr. President, will the Senator yield? Mr. PEPPER. I yield.

Mr. HARRISON. I may say to the Senator that that phase of the question was not in conference and the conferees would have been powerless to have put a limitation of a year on this proposed law.

Mr. PEPPER. That is the question to which I am going to address myself. May I begin by saying that section 207 (a) as it was embodied in the House bill provided the number of tons of refined sugar which could come into the United States for so-called direct-consumption purposes? This section provided that—

(a) Not more than 29,516 short tons, raw value, of the quota for Hawaii for any calendar year may be filled by direct-consumption sugar.

(b) Not more than 126,033 short tons, raw value, of the quota for Puerto Rico for any calendar year may be filled by direct-consumption sugar.

(c) None of the quota for the Virgin Islands for any calendar year may be filled by direct-consumption sugar.

(d) Not more than 60,314 short tons, raw value, of the quota for the Commonwealth of the Philippine Islands for any calendar year may be filled by direct-consumption sugar.

Mr. President, the Senate adopted a substitute for section 207. The Senate substitute provided:

For the Commonwealth of the Philippine Islands, not to exceed 60,314 short tons raw value.

I ask the chairman of the committee to ascertain whether or not that number of tons is any different from the num-

ber of tons provided in House section 207. He will find the number to be exactly the same in both sections.

In the second place, in Senate section 207 it was provided that Cuba's quota should not exceed 375,000 short tons raw value. Looking at House section 207 it will be found that not more than 375,000 short tons raw value shall be the quota for Cuba in any calendar year. So there is an identical number of tons for Cuba contained in House section 207 and in Senate section 207. On those two points there is no difference between the two Houses.

In addition to that, on page 16 of the bill as it passed the Senate, the quota for Hawaii and Puerto Rico, instead of being stated in tonnage as it was in House section 207, is expressed in terms of percentage; but I assume that no Senator will assert that there was any difference in the number of tons allowed Hawaii and Puerto Rico in House section 207 and the number of tons allowed them in Senate section 207, except that in the Senate provision it was expressed in percentage instead of in tons.

Therefore with respect to Cuba, the Philippines, Hawaii, and Puerto Rico, there are the exact number of tons involved both in Senate section 207 and House section 207. There is no difference between the House and Senate provisions with respect to tonnage of sugar coming into this country for direct consumption.

That was the difference between House section 207 and Senate section 207? It was in the provision that there should be a limitation upon the amount of sugar for direct-consumption purposes in continental United States. That was the new provision in the Senate bill. As evidence that that same provision is entertained by another authority, I read from page 1248 of the Congressional Record, where is set forth the message of the President of the United States to the chairman of the Finance Committee, which the chairman of the Finance Committee had incorporated in the Record. The President said:

The amendment to H. R. 7667 adopted yesterday by the Senate Finance Committee has just been brought to my attention.

I am delighted to note that the committee recognizes that our Territories and island possessions are integral parts of the United States and cannot be discriminated against, and that the restrictions upon refining in those Territories contained in H. R. 7667 constitute such a discrimination.

I regret that an examination of the committee's amendment shows that it not only does not eliminate the discrimination, but introduces a new and highly objectionable feature. The discrimination contained in H. R. 7667 is that sugar producers in Hawaii, Puerto Rico, and the Virgin Islands are prohibited from refining there the sugar which they are permitted to produce under the quota, while there is no similar prohibition on the other areas in the United States. The amendment, which places a refining quota on continental United States at a figure far in excess of the largest quantity of sugar grown there, merely perpetuates this discrimination.

The amendment proposes to limit by law the quantity of sugar that may be refined in various geographical parts of the United States. This introduces a principle of geographical limitations on manufacturing in our country which has no economic or social justification in this instance and would constitute a dangerous precedent.

Agricultural legislation, so desired by our farmers, should not be further delayed by the insertion in an otherwise acceptable agricultural bill of manufacturing restrictions. Their elimination would serve the best interests of our agricultural producers, who desire legislation at this session. If interested parties think there should be manufacturing restrictions on sugar refining, that can be embodied in a separate bill and be considered separately.

Mr. President, what was the new matter? What was the difference between the two Houses? It was whether or not there should be a limitation upon the quantity of sugar that may be refined in continental United States, that, and that alone. If, therefore, the conferees desired to adjust the differences between the two bodies, they had ample opportunity to do so by adjusting that difference, because that is the only difference there was.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Wyoming?

Mr. PEPPER. I yield.

Mr. O'MAHONEY. Am I to understand the Senator from Florida to say that the only difference between the two pro-

visions was that the Senate provision places the quota upon the basis of consumption in the United States?

Mr. PEPPER. The Senator understands me correctly except that in the House bill the tonnages were expressed in tons instead of in percentages as in the Senate bill.

Mr. O'MAHONEY. Does not the Senator understand that the percentages written into the Senate bill authorize an increase from year to year as the consumption increases?

Mr. PEPPER. I understand the percentages and the tonnages are substantially the same, though there may be a slight variation.

Mr. O'MAHONEY. The Senator is a great student of the sugar question and sugar legislation. Does he not realize that the consumption of sugar has been steadily increasing? Does he not understand that the provision in the Senate bill was a distinct concession to those who believe that the importation of refined sugar from the islands might increase?

Mr. PEPPER. I understand that under the terms of the House bill the same result in the way of an increase would have accrued.

Mr. O'MAHONEY. But the Senator is mistaken in that. The House bill fixed a definite and specific amount which could not be increased under any circumstances. The Senate provision authorized an increase upon a percentage basis, and it was upon that disagreement between the two Houses that the conferees came to an agreement.

Mr. PEPPER. If that be the situation, why was it the conference report did not relate primarily to that matter but to the effective date of the restrictions? What difference in date was there between the two Houses?

Mr. O'MAHONEY. That is a perfectly simple matter to explain to the Senator from Florida. It was because there was a strong movement for the elimination of all restrictions upon refined sugar from the islands. In order to compromise the disagreement there that provision was finally eliminated.

Mr. PEPPER. I hope the Senator will attend this statement which I am about to make. The House and the Senate both provided that the restrictions upon the direct consumption quota, namely, the restrictions upon the refinement of raw sugar, should as to time be coextensive with the operation of all other restrictions carried in the bill. The Senate and the House both provided that this bill should expire on December 31, 1940, section 513, reading as follows:

No tax shall be imposed on the manufacture, use, or importation of sugar after June 30, 1941; and the power vested in the Secretary under this act shall terminate on December 31, 1940—

With an exception that is immaterial.

Mr. President, the Senate did not say that there was to be any difference in time in the expiration of the restrictions on raw sugar and the expiration of the restrictions on refined sugar. There was no disagreement as to date between the Senate and the House with regard to section 207. I have stated that there was one difference. The Senator from Wyoming (Mr. O'Mahoney) says there was another difference. Let us assume that the Senator from Wyoming is correct. Then did the conferees confine themselves to those two points of difference? On the contrary, they receded from the Senate amendment increasing the quota for the importation of refined sugar from Hawaii and Puerto Rico, if there was an increase in the Senate amendment, and they receded from the Senate provision that there should be a limitation on refined sugar in continental United States; but they did not stop there. They put in some new matter upon which neither House had acted, namely, that the date of expiration of section 207 should be March 1, 1940, and that the remainder of the bill should continue to operate until December 31, 1940—a difference of that fraction of a year between March 1 and December 31.

What was the difference between the two bodies in respect to a matter of date? Each one of the Houses said, "As a matter of policy, we do not desire to discriminate or to distinguish between the time when we will impose a restriction on the quotas of raw sugar and a restriction on the refining

of sugar." The conferees have injected a new point of discrimination. They have said, "Not only will we impose these objectionable quotas on the importation of raw sugar, but we will segregate the refined-sugar provision and the raw-quota restriction, allowing one to expire March 1, 1940, and the other December 31, 1940, respectively."

If the Senate had said "December 31, 1940", and the House said "January 1, 1939", and the conferees had fixed the date at December 31, 1939—a date between the two extremes—that would have been a matter in disagreement between the Houses with respect to which the conference committee could have functioned; but I say that these conferees have done the same thing as if they had said, in so many words, "We are not in favor of these restrictions operating contemporaneously. We think they should be segregated, that the restrictions on refined sugar should be limited to a shorter time than the restrictions on the quotas of raw sugar."

I ask the Senator from Wyoming, what was the difference in date between the Senate and the House?

Mr. O'MAHONEY. I shall be very glad to answer the Senator from Florida. The difference is simply that in the House bill the provision definitely and specifically, year in and year out, limited the amount of refined sugar that could come in. The Senate passed a bill which allowed an increase of that amount year by year. It strikes me that since the Senate allowed an increase of the amount of refined sugar that could come in in 1938 over that coming in in 1937, and an increase in 1939 over that coming in in 1938, and an increase in 1940 over that coming in in 1939, it was a perfectly proper compromise, a perfectly proper action of the conferees, to agree that the increase should be complete by the first of January or the first of March, 1940, and embrace the whole field.

Mr. PEPPER. Will the Senator yield for a question?

Mr. O'MAHONEY. Am I to understand that the Senator from Wyoming has the floor?

Mr. PEPPER. No. I thought perhaps the Senator might be interested in making a response to a question; namely, whether both Houses did not desire that the same limitation imposed upon the quota importation as to time should be imposed upon the refining restriction, and whether that part of the year from March 1 to December 31, with respect to which both Houses had spoken, was entirely ignored by the conference report.

In conclusion, Mr. President, I have only this to say: Evidently, the conferees thought it would be a hardship on someone to continue these restrictions from March 1 to December 31. Therefore, the conferees desired to alleviate that hardship and burden upon the one so affected. I submit that somebody is burdened by the quotas of raw sugar which are fixed by the terms of this bill. Would it not, therefore, have been more consonant with their desire to alleviate all burdens imposed by this bill to say that when the restrictions upon the refinement of sugar expire, so shall the restrictions upon raw quotas of sugar expire?

I ask, therefore, with reference to my State, for example, are we forever to be put in a strait jacket, and to have no hope of ever getting out of the class of those discriminated against; or are we to be able to hope that as soon as possible these ironclad restrictions will be removed, and we shall have the right to produce sugar according to our natural right? I say, why do not the conferees give us the same benefit of the nearness of the termination of this bill that they gave the interests that were the beneficiaries of the conference report? Are we less worthy than they? Whether it be Puerto Rico and Hawaii that were the beneficiaries of the date up to March 1, 1940, or whether it be the refiners of the United States, I contend that we are as good and as deserving as either one of them. That is indicative of the lack of concern which has been manifested for us who suffer under the sugar regulations which have been put in effect by the Congress of the United States.

I did, in all humility, want to submit that the only right and fair thing would be to let the whole bill expire on March

1, 1940. At least, it seems to me that that is the least the conferees could have given us. That would save us at least 10 months of the year. That would make the condition a little bit better for us. I ask, Mr. President, if they could move up the date of the effectiveness of the bill as to section 207 from December 31 to March 1, why could they not have moved up the effective expiration of the whole bill from December 31 to March 1, and let all of us get the benefit of the earlier expiration, and then have the new quotas fixed at that earlier time, when in the season of one year we might have been able to make plantings, perhaps, if somebody had been so good and charitable to us as to allow us a little enlargement in our quota for Florida?

So I had intended to make the point of order that the conferees had inserted new matter in the bill which was outside the scope of their authority, and I had intended respectfully to call that matter to the attention of the Chair. Instead of making the technical point of order, however, if I am in order, I move that the conferees be directed to consider this matter further, and so to report as to make the termination of all parts of the bill the same time.

I make that motion, if it is proper to make it at this time. The PRESIDENT pro tempore. The Chair is of the opinion that the motion is too late. The report has been made by the committee, and is now under consideration by the Senate.

Mr. PEPPER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. PEPPER. The conference report is before the Senate at this time, and, of course, has not been acted upon. The Senate has it completely within its power to give to the conferees any direction it may choose to give, and it is perfectly proper for the Senate to reject or to suspend the consideration of this report for the time being, and to direct the conferees to return to the conference and see if it is not possible that the date of the expiration of the whole bill be March 1, 1940, or a date which is the same as the expiration date of section 207. I make that motion.

The PRESIDENT pro tempore. Let the Chair answer the parliamentary inquiry. The Chair has already stated that in his opinion it is too late to make such a motion. The rule on the subject of instructions to conferees is that in an order to instruct conferees, and the resolution of instruction should be offered after the Senate has voted to insist on its amendments and ask a conference, and before the conferees have been appointed.

The only recourse the Chair knows of in a case of this kind would be to reject the conference report and ask for another conference, and instruct the conferees, when they were appointed, in any manner the Senate saw fit to instruct them. In this case the Senator did not ask that the conferees be instructed, and took no action in the matter until after the conference was agreed on, and a report made and offered for consideration.

Mr. PEPPER. Mr. President, a further parliamentary inquiry. Would a motion be in order in substantially this language, that the Senate reject the conference report until a time has elapsed within which it is possible for the conferees to have conferred with the managers on the part of the House to ascertain whether or not it is possible that the expiration date for the whole bill may be made March 1, 1940, or such date as is fixed for the expiration of section 207?

The PRESIDENT pro tempore. There is only one question before the Senate at the present time, there being a complete report, a report which has already been adopted by the House of Representatives. The question is whether the Senate will accept or reject the report. It would be in order, however, for the Senator to make a point of order, and if the point of order were sustained, it would have the effect of rejecting the conference report.

Mr. PEPPER. If I may make a further parliamentary inquiry, are the conferees discharged until the conference report is adopted?

The PRESIDENT pro tempore. The matter not having been acted on by the House, in a manner they are still functioning.

Mr. CONNALLY. Mr. President, until the Senate adopts the report and discharges the conferees, of course, they are still conferees, they have not completed their duties.

Mr. PEPPER. That is what I thought. If the managers on the part of the Senate are still in office, as it were, and still capable of discharging their functions, is it not in order, then, for the Senate temporarily to delay the reception of the report, and to instruct the conferees to return to the conference with the managers on the part of the House to seek to ascertain whether or not the expiration date of section 207 and all other parts of the bill may not be made the same?

The PRESIDENT pro tempore. If a motion to recommit, having the same effect as a motion to disagree, were adopted, then the Senate would have a right to instruct the conferees. But while the matter is in the status in which it is now, of course, no instructions can be given.

Mr. CONNALLY. When the conferees make a report, it is a completed job, and it is up to the Senate to adopt or reject the report. If the Senate rejects it, that has the effect of what the Senator from Florida wants to do, the Senate reappoints the conferees, and they go back and reconsider. But the Senate cannot amend the report, nor do anything except vote it up or vote it down.

Mr. PEPPER. I am quite well aware of that. I am not trying to delay the legislation. I certainly am not disposed of filibuster, or anything like that. My suggestion would be to give until the meeting of the Senate tomorrow noon to see if or not the conferees could not make the periods <sup>to</sup> ~~live~~ <sup>live</sup>.

I want to make one other inquiry. May instructions be added to a motion to recommit?

The PRESIDENT pro tempore. A motion to recommit may carry with it instructions to the conferees.

Mr. PEPPER. I move that the conference report be recommitted to the conferees, the present managers to continue to act on the part of the Senate, with instructions from the Senate to report back at the convening of the Senate tomorrow, whatever the time may be, and to advise the Senate whether or not it is possible for them to get an agreement with the House conferees that the same expiration date shall apply to all parts of the bill, whatever the expiration date may be.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Florida.

The motion was rejected.

The PRESIDENT pro tempore. The question now is on agreeing to the conference report.

The conference report was agreed to.

#### REGULATION OF PRODUCTION AND MARKETING OF SUGAR

Mr. THOMAS of Utah. Mr. President, as in executive session, on behalf of the Committee on Foreign Relations, I report for the calendar Executive T, Seventy-fifth Congress, first session, an international agreement regarding the regulation of production and marketing of sugar, and an annexed protocol concerning transitional measures, signed at London on May 6, 1937, with a reservation, and I submit a report (Ex. Rept. No. 20) thereon.

I make this report at this time merely that the agreement may be placed upon the calendar in anticipation of an early adjournment of Congress, with the understanding that the Senate will not be called upon to act upon the agreement unless and until the pending sugar bill shall be approved.

The PRESIDENT pro tempore. The report will be received and the treaty will be placed upon the Executive Calendar.

#### FLORIDA O. McLAIN—CONFERENCE REPORT

Mr. HUGHES submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2229) for the relief of Florida O. McLain, widow of Calvin E. McLain, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 2.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same.

JAMES T. HUGHES,  
ARTHUR CAYTON,  
Managers on the part of the Senate,  
AMBROSE J. KENNEDY,  
JOHN M. COFFEE,  
FRANCIS CASE,  
Managers on the part of the House.

The report was agreed to.

#### CONSTRUCTION OF SMALL RESERVOIRS—CONFERENCE REPORT

Mr. O'MAHONEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2512) to authorize an appropriation for the construction of small reservoirs under the Federal reclamation laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

ALVA B. ADAMS,  
JOSEPH C. O'MAHONEY,  
GERALD F. NYE,  
Managers on the part of the Senate,  
COMPTON I. WHITE,  
JOHN J. DEMPSEY,  
PAUL H. CRANFORD,  
FRANCIS CASE,  
Managers on the part of the House.

Mr. AUSTIN. Mr. President, I ask the Senator from Wyoming whether, under the terms of the conference report, any funds are called for?

Mr. O'MAHONEY. The House bill provided that the appropriation should be made from the reclamation fund. The Senate bill provided that the appropriation should be made from the relief fund. The conferees were of the opinion that in the circumstances it would be better to have the appropriation from the reclamation fund, and that is the sum and substance of the report.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

#### DAMAGES FOR TRESPASS ON LANDS OF THE UNITED STATES

Mr. KING. Mr. President, during the call of the calendar I interposed an objection to the consideration of Senate bill 2553, involving trespass on timber and other products upon lands of the United States.

The Senator from Montana (Mr. MURRAY) happened to be out of the Chamber at the time the bill was called, and I desired to confer with him in regard to the measure. Since that time I have conferred with the Senator, and I have no objection to the consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 2553) to provide a measure of damages for trespass involving timber and other forest products upon lands of the United States, which had been reported from the Committee on Public Lands and Surveys with amendments, on page 2, line 8, after the words "liable for" to strike out the word "double"; and on page 3, line 1, to strike out the word "compromise" and insert the word "compromise", so as to make the bill read:

Be it enacted, etc., That from and after the passage of this act, whenever any person, firm, or corporation shall willfully, fraudulently, negligently, or without lawful authority, damage, sever, or remove, or cause to be damaged, severed, or removed, any timber, tree, shrub, or other forest product upon any lands of the United States, including ceded Indian lands, and lands within the former Oregon & California Railroad grant or the Goose Bay Wagon Road grant, title to which is in the United States, or upon any lands embraced in unperfected claims held under any of the public-land laws, such person, firm, or corporation, or any person, firm, or corporation receiving or purchasing such timber or other forest product, shall be liable for damages to the United States for such timber or other forest product, as hereinafter provided.

1. In the case of an unintentional or mistaken trespass, the trespasser, or any purchaser of the timber or other forest product, shall be liable for the standing value of the timber or other products.

2. In the case of a willful trespass, the trespasser, or any willful purchaser of the timber or other forest product, shall be liable for

single such value, but an incident purchase shall be liable for only double such value.

Sec. 2. Nothing in this act shall prevent any miner or agriculturist from clearing his land in the ordinary working of his valid mining claim or in the preparation of his farm for tillage or from taking the timber necessary for his improvements or for other domestic use upon his claim. And nothing in this act shall interfere with or take away any right, authority, or privilege under any existing law of the United States to cut or remove timber from any public lands, nor shall this act apply to cases of turpentine trespass.

Sec. 3. The head of the department or agency having jurisdiction over the lands is hereby authorized, before such to compromise any claim arising under the foregoing provisions where, in his opinion, the acceptance of an amount less than the penalty prescribed herein is in the public interest.

Sec. 4. No action for damages accruing under this act shall be maintained unless it is commenced within 5 years from the time the cause of action arises.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### DISPOSAL OF PUBLIC LANDS IN WYOMING

Mr. O'MAHONEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill (H. R. 7947) to amend section 11 of the act of Congress approved July 10, 1890 (26 Stat. ch. 664), relating to the admission into the Union of the State of Wyoming.

The bill provides that the State of Wyoming may dispose of public lands conveyed by the State of Wyoming at the rate of \$5 an acre instead of \$10 an acre. The bill has been passed by the House.

The PRESIDENT pro tempore. Is there objection?

There being no objection the bill was considered, ordered to a third reading, read the third time, and passed.

#### SPRINGFIELD-GREENVILLE MEMORIAL COMMISSION

Mr. BULKLEY. Mr. President, from the Committee on the Library I report back favorably without amendment Senate Joint Resolution 211, and ask for its immediate consideration.

Mr. AUSTIN. Mr. President, does the joint resolution carry an appropriation?

Mr. BULKLEY. It authorizes a small appropriation of \$2,500.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Ohio?

There being no objection the joint resolution (S. J. Res. 211) establishing a Springfield-Greenville Memorial Commission to formulate plans for the construction of Memorial Common, Springfield, Ohio, of a monument to commemorate the Battle of Piqua, and for the construction of a memorial building to commemorate the Treaty of Greenville at Greenville, Ohio, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved, etc., That there is hereby established a Commission, to be known as the "Springfield-Greenville Memorial Commission", and to be composed of nine Commissioners, three to be appointed by the President of the United States, three Senators to be appointed by the President of the Senate, and three Members of the House of Representatives to be appointed by the Speaker of the House. Such Commission shall consider and formulate plans for designing and constructing a permanent memorial to George Rogers Clark in Springfield, Ohio, and for designing and constructing a memorial building at Greenville, Ohio.

Sec. 2. Such Commission may, in its discretion, accept from any source, public or private, money or property to be used for the purpose of making surveys and investigations, formulating, preparing, and considering plans for the construction of such memorial, or other expenses incurred, or to be incurred, in carrying out the provisions of this joint resolution.

Sec. 3. The Commission shall report its recommendations to Congress as soon as practicable.

Sec. 4. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$2,500, which shall be available to defray the necessary expenses of the Commission for the performance of their duties hereinafter prescribed. Disbursement of sums herein authorized to be appropriated shall be made upon vouchers approved by the Chairman of the Commission.

The preamble was agreed to.

JOHN E. T. CLARK

Mr. HUGHES. Mr. President, I ask unanimous consent for the immediate consideration of House Bill 7458, Being Calendar No. 1280, for the relief of John E. T. Clark.

The PRESIDENT pro tempore. Is there objection? There being no objection, the bill (H. R. 7458) for the relief of John E. T. Clark was considered, ordered to a third reading, read the third time, and passed.

#### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

#### THE JUDICIAL POWER

Mr. ABBURST. Mr. President, for discussing a subject not at this time before the Senate I make due apology.

Mr. President, a number of persons, respectable in character, have complained against the exercise of the power of the courts of the United States to declare acts passed by Congress unconstitutional. Some of the complainants take the view that since we derived our legal procedure from England and that inasmuch as the British courts did not exercise the power to declare an act of Parliament void, it was, therefore, unprecedented and unauthorized for courts of the United States to explore an act of Congress with a view of ascertaining if such act was within the power of the National Legislature.

It will be remembered that the colonial government America were granted from the King and were connected Great Britain through the medium of the Crown and through Parliament. The colonial charters were in fact constitutions, and the words "our constitution" in the Declaration of Independence have particular reference to the colonial charters or grants. These charters differed somewhat as to the powers granted or denied, but they all appear to have contained the provision that local legislation enacted by the Colonies should not be contrary to the laws of England; hence the colonial laws were frequently tested by the charter or by the law of England, and some acts of colonial assemblies were annulled because they did not stand the test as to whether they were in accord with the Constitution; that is to say, with the colonial charter—the grant. Thus the American colonists became familiar with that system and practice.

In tyrannical governments the supreme magistracy, or the making, construing, and enforcing the law, is vested in one and the same man or one and the same body of men.

In a government where one and the same magistracy makes, construes, and enforces the law, whether such magistracy be lodged in one man or in a body of men, there can be no public liberty.

It is true that in Great Britain the courts at the time of the formation of our Constitution, recognized the supremacy of acts of Parliament. Such recognition, however, did not flow from any legislative immunity from review but flowed from the fact that Parliament acted in a double capacity—that is to say, as legislature and as court. Parliament possessed legislative and judicial power. Parliament was a court, the old *curia regis* or *aula regis*—a court established in England by William the Conqueror in his own hall—long before Parliament possessed the legislative power. In other words, when our American Government was formed there were reposing in Parliament both legislative and judicial power; hence, an act of Parliament was both supremely legislative and supremely judicial.

In this connection it must be remembered that when our Constitution was formed much care was taken to see to it that the three powers of government—to wit, the judicial, the executive, and the legislative—should be lodged in different magistracies—different officials—and that these powers should not be permitted to repose in or be exercised by one and the same magistracy.

The Constitution of the United States (art. II, sec. 1)

SAYS:

1  
*"bill personal"*

*PSF  
Bills in Congress*

**BILLS TO BE PASSED -- DISCUSSED AT CONFERENCE WITH THE PRESIDENT  
SUNDAY EVENING, AUGUST 18, 1935 -- PRESENT:**

**THE VICE PRESIDENT  
SENATOR ROBINSON  
SENATOR HARRISON  
SENATOR BARKLEY**

**THE SPEAKER  
MAJORITY LEADER TAYLOR  
CONGRESSMAN DOUGHTON  
CONGRESSMAN O'CONNOR**

1. TAX BILL
2. FEDERAL ALCOHOL CONTROL BILL
3. HOLDING COMPANY BILL
4. GUFFEY COAL BILL
5. GOLD CLAUSE BILL
6. WALSH GOVERNMENT CONTRACT BILL
7. WORLD POWER CONFERENCE RESOLUTION
8. LEMPKE FARM MORATORIUM BILL
9. RAILROAD BANKRUPTCY BILL
10. TWO RAILROAD RETIREMENT BILLS
11. TVA BILL
- 12 (?) BANKHEAD SHARE CROPPER BILL

11-

PSF  
Bills in Congress

make a  
Current folder  
for Bonus bill -

STATEMENT

ESTIMATES AS OF JUNE 15, 1936.

Maturity Value of outstanding certificates	\$3,456,000,000.00
Value Adjusted Service Certificate Fund	<u>1,432,000,000.00</u>
Additional amount required	<u>\$1,974,000,000.00</u>
Estimated worth of bond issue at date of issue, June 15, 1936	\$1,628,080,237.50
Estimated amount of cash payment to veterans	32,919,762.50
Amount due U. S. Government Life Insurance Fund	507,000,000.00
Amount due banks	<u>60,000,000.00</u>
	<u>\$2,228,000,000.00</u>

January 7, 1936.

RECEIVED BY THE HOUSE FEB 1935  
STATEMENT

*to be  
inserted  
in the  
bill*

**A BILL**

To provide for the immediate payment to veterans of the face value of their adjusted-service certificates and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 501 of the World War Adjusted Compensation Act, as amended, is hereby further amended to read as follows:

Sec. 501 (a). The Administrator of Veterans' Affairs, upon certification from the Secretary of War or the Secretary of the Navy, as provided in section 303, is hereby directed to issue without cost to the veteran designated therein a non-participating adjusted-service certificate (hereinafter in this title referred to as a "certificate") of a face value equal to the amount in dollars of 20-year endowment insurance that the amount of his adjusted-service credit increased by 25 per centum would purchase, at his age on his birthday nearest the date of the certificate, if applied as a net single premium, calculated in accordance with accepted actuarial principles and based upon the American Experience Table of Mortality and interest at 4 per centum per annum, compounded annually. The certificate shall be dated, and all rights conferred under the provisions of this title shall take effect as of the 1st day of the month in which the application is filed, but in no case before January 1, 1925. The veteran shall name the beneficiary of the certificate and may from time to time, with the approval of the Administrator of Veterans' Affairs, change such beneficiary. The amount of the face value of the certificate (except as provided in subdivisions (c), (d), (e), and (f) of section 502) shall be

THE ADJUSTED-SERVICE CERTIFICATE MAY NOT BE USED FOR THE PURPOSES OF THE ACT  
NO PROVISION FOR THE IMMEDIATE PAYMENT TO BENEFICIARY OF THE

V VIII

payable out of the fund created by section 505 (1) to the veteran on June 15, 1936, or any time thereafter upon an application filed by the veteran, or (2) upon the death of the veteran (prior to filing application for payment of face value of his adjusted-service certificate) to the beneficiary named; except that if such beneficiary dies before the veteran and no new beneficiary is named, or if the beneficiary in the first instance has not yet been named, the amount of the face value of the certificate shall be paid to the estate of the veteran. If the veteran dies after making application under section 302, but before January 1, 1925, then the amount of the face value of the certificate shall be paid in the same manner as if his death had occurred after January 1, 1925.

(b) The Secretary of the Treasury is authorized and directed in making settlements to the veteran during the lifetime of the veteran to issue United States Savings Bonds dated June 15, 1936 with a worth of any multiple of \$18.75 contained in the total amount payable and to pay the remaining difference by check drawn on the Treasurer of the United States.

(c) Settlement under the provisions of this Act, as amended, will be made upon the application of any veteran to whom there has been lawfully issued an adjusted-service certificate under the provisions of this Act, as amended, and upon the complete surrender of such adjusted-service certificate together with all rights and privileges thereunder (with or without the consent of the beneficiary thereof) of the amount due upon the certificate at the date of settlement less any indebtedness of the veteran on account of any loan or loans made under the provisions of this Act and interest upon said loan or loans, if any, accrued to June 15, 1936 or to the date settlement is made, whichever is the earlier date.

... of the certificate (prior to filing the  
1932' or any time thereafter upon an application filed  
before the date of the loan created by section 202 (1) so

(d) No payment shall be made under the provisions of this Act, as amended, until the certificate is in the possession of the Administrator of Veterans' Affairs and until all obligations for which the certificate was held as security have been paid or otherwise discharged.

(e) If at the time of application to the Administrator of Veterans' Affairs for settlement under this Act, as amended, the principal and interest on or in respect of any loan upon the certificate have not been paid in full (whether or not the loan has matured), then the Administrator of Veterans' Affairs shall (1) pay or otherwise discharge such unpaid principal and so much of the unpaid interest (accrued or to accrue) as is necessary to make the certificate available for payment under this Act, as amended, and (2) deduct from the amount of such settlement the amount of such principal with all interest to date of settlement under the provisions of this Act, as amended: Provided, That as to any loan on an adjusted-service certificate, properly made, which is unpaid and held by a bank at the time of filing an application under this section, the bank holding the note and certificate shall, upon notice from the Administrator of Veterans' Affairs, present them to the Administrator of Veterans' Affairs for payment to the bank in full satisfaction of its claim for the amount of unpaid principal and unpaid interest; except that if the bank, after such notice, fails to present the certificate and note to the Administrator of Veterans' Affairs within fifteen days after the mailing of the notice, such interest shall be paid only up to the fifteenth day after the mailing of such notice.

... must be certified to in the possession of  
(3) To determine what to make under the provisions

(f) A veteran may receive the benefits of this section by application therefor filed with the Administrator of Veterans' Affairs during the lifetime of the veteran. Such application may be made and filed at any time (1) personally by the veteran or (2) in case physical or mental incapacity prevents the filing of a personal application, then by such representative of the veteran and in such manner as may be by regulations prescribed by the Administrator of Veterans' Affairs. Application made by a person other than the veteran or a representative authorized by such regulations shall be held void.

(g) If the veteran dies after the application has been filed, the settlement authorized under the provisions of this section shall be made to the estate of the veteran.

(h) The Secretary of the Treasury is authorized and directed to redeem from the United States Government Life Insurance Fund all adjusted-service certificates held by that Fund on account of loans made thereon, and to pay to the United States Government Life Insurance Fund the amount of the outstanding liens against such certificates, including all interest due or accrued, together with such amounts as may be due under subdivision (m) of section 502, as amended. The Secretary of the Treasury is authorized and directed to make such payment by issuing to the United States Government Life Insurance Fund bonds of the United States which shall bear interest at the rate of  $4\frac{1}{2}$  per centum per annum, and no such bonds shall mature or be callable until the expiration of a period of at least ten years from date of issue, provided that such bonds shall be redeemed by the Secretary of the Treasury and the principal and accrued

interest thereon paid to the United States Government Life Insurance Fund at any time upon certification by the Administrator of Veterans' Affairs that the amount represented by the bonds is required to meet current liabilities.

(1) Bonds issued for the purpose of this section shall be issued under the Second Liberty Bond Act, as amended, subject to the provisions of this section.

Sec. 2. Section 507 of the World War Adjusted Compensation Act, as amended, is hereby further amended to read as follows:

Sec. 507. All amounts in the Fund shall be available for payment by the Administrator of Veterans' Affairs of adjusted-service certificates upon their maturity or the prior death of the veterans; for payment under this Act to banks on account of loans to veterans; for the repayment of loans made by the Administrator of Veterans' Affairs out of the United States Government Life Insurance Fund on security of adjusted-service certificates, in which case the Administrator of Veterans' Affairs shall pay interest to such Fund to date of maturity of the loan at the rate such Fund is authorized to receive under the provisions of subdivision (m) of section 502, as amended, and for any other payments authorized by this Act.

Sec. 3. There is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of \$ \_\_\_\_\_, or so much thereof as may be necessary, to carry out the provisions of this Act.

Sec. 4. If any provision, sentence, or clause of this Act or the application thereof to any person or circumstances, is held invalid, the

that the amount obligated by the above is reduced to the  
at any time when collection of the administrator of the  
interest thereon held to the United States Government will

- 2 -

- 5 -

remainder of this Act, and the application of such provision to other  
persons or circumstances, shall not be affected thereby.

Banking  
Bill

1  
Situation changed by Senate  
Bill - House Bill was O.K.  
Now an independent board -  
not political

PSF  
Bills in  
Congress

Amendment to be proposed  
to H. R. 7617

Page 146, line 8, after the word "district", insert "and none of whom shall be appointed after reaching the age of sixty-five".

Explanation.

In view of the fourteen year terms provided by the bill, it is important to prevent men of advanced age from being appointed. A person over sixty-five when appointed would be over seventy-nine before his term expired and two-thirds or more of his term would be served after he had passed the age of seventy.

*Bills in Congress* PSF  
THE WHITE HOUSE  
WASHINGTON

February 4, 1937.

Memorandum for the President

Enclosed are the two bills relating to wages, hours and child labor suggested by Berry's Council for Industrial Relations.

I have asked the Department of Justice to prepare summaries of each one which are attached to the bills respectively.

As per your memorandum, we have filed the rest of the matter where it is handy.

Respectfully submitted,

*J. R.*  
J. R.

ADDRESS REPLY TO  
"THE ATTORNEY GENERAL"  
AND REFER TO  
DETAILS AND NUMBER

DEPARTMENT OF JUSTICE  
WASHINGTON, D. C.

PSF  
Bills in long pass

February 3, 1937

SUMMARY OF A BILL "TO PREVENT UNFAIR METHODS OF COMPETITION  
IN COMMERCE, TO AMEND THE FEDERAL TRADE COMMISSION ACT, AND  
FOR OTHER PURPOSES."

This bill declares it to be the policy and purpose of Congress to protect and promote interstate commerce by preventing unfair or deceptive acts and practices, restraints or burdens upon or interferences with such commerce. It contains findings by Congress to the effect that in many industries and trades wages, hours, and child labor represent that substantial portion of the cost of the article produced or distributed in which competition is largely centered; that the movement of raw materials in such industries between states from the time of production to the time of distribution is directly affected by the payment of low wages, employment for long hours, and employment of child labor; that in many industries and trades engaged in interstate commerce the use of low wages, long hours, and child labor by some of the employers constitutes unfair methods of competition in commerce against other employers; that a substantial quantity of articles produced or distributed by employers using such practices enters into interstate commerce in competition with similar articles produced or distributed by employers who do not engage in such practices, and that such competition lessens and diverts the flow of interstate commerce and directly burdens such commerce.

Unfair methods of competition in commerce and unfair or deceptive acts and practices in commerce are declared unlawful, and the Commission is authorized and directed to prevent persons from using such methods, acts, and practices through the issuance of cease and desist orders made after notice and hearing. Any person to whom such an order is directed is permitted to obtain a review of the order by filing in a Circuit Court of Appeals within sixty days a petition praying that the order be set aside. The procedure provided is substantially the same as that prescribed in the Federal Trade Commission Act for similar suits. Failure to comply with any order as to which review is not sought as provided in the bill is punishable by a penalty of \$1,000 for each day such failure continues.

The bill defines the term "unfair methods of competition" to include, in addition to certain acts and trade practices set out therein, the payment of wages below the "stated minimum wage" in an

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DEPARTMENT OF JUSTICE

industry or trade, the employment of a worker in excess of the "stated maximum hours per week" for an industry or trade, and the employment of a minor below the "stated minimum age" for an industry or trade.

The Federal Trade Commission is authorized and directed to investigate any industry or trade in order to determine whether the wages paid therein, the hours of labor, and the employment of child labor have a direct effect upon the free flow of interstate commerce. It is further authorized and directed to investigate, hold hearings, and determine whether in the industry or trade the use of low wages, long hours, or child labor constitutes unfair methods of competition. Where the Commission finds that any or all of these practices constitute unfair methods of competition, it is authorized and directed to fix and determine for such industry or trade the "stated minimum wage" to be paid, the "stated maximum hours per week" to be worked, and the "stated minimum age" at which minors may be employed. Certain standards to guide in these determinations are set out in the bill. Furthermore, notice and hearing in all such proceedings is required. After the Commission publishes its findings as to these determinations, the payment of a wage less than the stated minimum, the employment of persons in excess of the stated maximum hours per week, or the employment of minors younger than the stated age shall constitute an unfair method of competition.

It is further provided that wherever a state law or order imposes more stringent requirements with respect to minimum wages, maximum hours, child labor, or other conditions of employment, than is prescribed in this bill or any order of the Commission made thereunder, the state law is to govern.

Upon written application of any interested person, the Commission is authorized and directed to determine whether any proposed act of the applicant is contrary to the provisions of any of the antitrust laws, as amended. If the Commission finds that the proposed act will not contravene any of the provisions of those laws, such findings shall bar prosecution under those laws for any such act committed after the publication of the findings and prior to their modification or revocation.

Also, upon application by any person the Commission may inquire as to the business of the applicant and if it finds that such business is exclusively intrastate and does not affect interstate commerce, such applicant shall be exempt from the provisions of this bill.

The bill also provides that nothing contained therein or in the antitrust laws shall render illegal agreements prescribing minimum prices or other conditions for the resale of a commodity which bears the trade-

mark, brand, or name of the producer or distributor and which is in free competition with commodities of the same general class produced or distributed by others.

(NOTE: While the Act described above is proposed as an entirety, there also is a proposal that the following be added as a second title.)

This title contains findings to the effect that employees as a class are not on a level of equality with their employers in negotiating the terms of their employment; that minorities of members of industries pay low wages, work their employees long hours, and employ child labor; that competition between such minorities and other members of the respective industries produces a lowering of standards for the entire industry, breeds disease and crime, and causes the spread of evil and harm to the general public; and that this renders it imperative in the interest of the public that the transportation of articles in interstate commerce be regulated to the end that the use of such commerce in furtherance of such competition may be prohibited. It also contains findings that a number of states have enacted laws fixing minimum wages and maximum hours, and prohibiting child labor, and that the importation into such states of articles produced or manufactured in states which have not enacted similar laws prevents the first named states from effectuating their policies as declared by such laws. It contains a further finding to the effect that the sale in commerce of articles produced or manufactured with the aid of persons paid low wages or working long hours, or of child labor, and competition between articles so produced or manufactured and articles not so produced or manufactured are evils affecting the public interest.

The Federal Trade Commission is authorized and directed to investigate and conduct proceedings to ascertain whether employees in any industry or trade are paid wages less than are sufficient to maintain the health, morals, and efficiency of such employees, and to fix and determine the minimum wages to be paid in any such industry or trade. Certain standards to guide in these determinations are provided in the Act. The minimum wages so fixed may vary geographically where the Commission finds that diversities of conditions render such variations necessary, and that the variations will not result in discrimination, or burden or affect interstate commerce. The minimum wages fixed hereunder are to be based upon a certain maximum number of hours per day and per week, and all hours of labor in excess of the maximum are to be compensated at a rate greater than the minimum wage rates so fixed. The bill contains provisions for notice and hearing in all proceedings of the Commission under this section. It is to be noted

also that this title contemplates the insertion in Title I of the bill, which has been summarized previously herein, of a proviso to the effect that the "stated minimum wage" determined by the Commission under the provisions of that title shall not be greater than the minimum wage fixed under the provisions of this title.

The introduction into interstate or foreign commerce of any article produced, manufactured, distributed, or sold by or with the aid of the labor of any person paid less than the minimum wage fixed by the Commission under the provisions of this title, or persons employed for hours in excess of the maximum determined by the Commission under Title I, or persons younger than the age fixed by the Commission under Title I, is made unlawful. Any person violating any of the provisions of this title is to be punished by fine and by forfeiture of the goods.

A BILL

To prevent unfair methods of competition in  
commerce, to amend the Federal Trade Commission Act,  
and for other purposes.

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

That it is hereby declared to be the policy and purpose of Congress to foster, protect, and promote the development of, commerce among the several States and with foreign nations by preventing unfair or deceptive acts or practices, restraints or burdens upon or interferences with such commerce.

Sec. 2. The Congress of the United States, as a matter of legislative determination, hereby finds the following facts:

- (a) that there is a social and economic distinction between labor costs and other items that enter into the cost of production, manufacture and distribution;
- (b) that in many industries and trades, wages, hours and child labor represent that substantial portion of the cost of the article produced, manufactured or distributed in which competition is largely centered;

- (c) that the movement of raw materials in such industries from the States in which they are produced to the States in which they are manufactured, and then to the States in which they are distributed, is directly affected by the payment of unreasonably low wages, by the working of employees for unreasonably long hours, and by the employment of children of tender age;
- (d) that in many industries and trades engaged in interstate commerce the payment of unreasonably low wages, the working of employees for unreasonably long hours, and the employment of children of tender age by a portion of the members of such industries and trades constitute unfair methods of competition in commerce against the other members of those industries and trades;

(e) that in many industries and trades a substantial quantity of articles produced, manufactured, and distributed by and with the labor of persons paid unreasonably low wages and persons worked for unreasonably long hours and children of tender age enter into interstate commerce in competition with similar articles produced, manufactured, and distributed by and with the labor of persons to whom reasonable wages were paid, whose hours of labor were reasonable, and who were not children of tender age, and that such competition lessens the flow of commerce, diverts large volumes of commerce from certain States to other States, and foments strikes and industrial unrest, thereby further lessening the flow of commerce between the

States and creating a direct burden  
and hindrance upon such commerce.

Sec. 3. Section 4 of the act entitled "An Act  
to create a Federal Trade Commission, to define its  
powers and duties, and for other purposes" approved  
September 26, 1914, as amended, is hereby amended  
by adding at the end thereof the following new para-  
graphs:

"The term 'unfair methods of competi-  
tion' shall be held to include, but without  
limitation, (a) all acts, methods, or practices,  
constituting unfair competition or unfair  
methods of competition under the common law or  
existing statutes; (b) all unfair or destruct-  
ive practices or methods tending in their  
effect to create monopoly, or to injure or  
prevent competition; (c) the payment of wages  
below the stated minimum wage in an industry  
or trade; (d) the employment of a worker in ex-  
cess of the stated maximum of hours per week

for an industry or trade; (e) the employment of a minor below the stated minimum age for an industry or trade; (f) inducing or attempting to induce the breach of existing contract between a competitor and his customers or source of supply, or interfering with or obstructing the performance of any such contract; (g) the sale, or offer to sell, of any article below cost, when made for the purpose or with the effect of injuring a competitor or misleading the public, except sales plainly described as such, made under order of a court of record, or because of imminent deterioration of perishable goods, or because of imminent obsolescence of reasonable goods, or made in good faith with the intention of discontinuing business in such articles; (h) offering or giving, directly or indirectly, anything of value to any employee, agent, or representative of a competitor or of a purchaser (with or without the knowledge of the employer of such employee or the principal of such

agent or representative) with the intent or effect of influencing or rewarding any action on the part of such employee, agent, or representative concerning the business of his employer or principal.

"The term 'stated minimum wage' shall mean the lowest wage that may be paid in a particular industry or trade, determined as provided in Sec. 6 (b) hereof.

"The term 'stated maximum hours per week' shall mean the maximum hours per week that any employee may be employed in a particular industry or trade, determined as provided in Sec. 6 (b) hereof.

"The term 'stated minimum age' shall mean the lowest age at which a minor may be employed in a particular industry or trade, determined as provided in Sec. 6 (b) hereof.

"The terms 'affect commerce', or 'affecting commerce' shall mean affect or tend to affect the free flow of commerce or the amount thereof; burden or restrain commerce; restrict or tend to restrict competition therein; give or

tend to give an unfair competitive advantage in commerce; or discriminate or tend to discriminate unfairly in favor of some persons or localities against others.

Whenever the existence of an effect upon commerce, as defined herein, depends upon facts, the finding of the Commission that commerce is directly and substantially affected, if supported by evidence, shall be conclusive.

"The term 'person' shall mean an individual, partnership, or corporation."

Sec. 4. Upon the expiration of sixty days after the date of approval of this Act, the Federal Trade Commission (hereinafter referred to as the "Commission") shall consist of nine commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. The members of the Commission as now constituted shall serve the remainders of their terms. Not more than five of the entire number of commissioners shall be members of the same political party. Two of

the additional commissioners shall be representatives of employers, and two shall be representatives of employees. The first two vacancies occurring in the membership of the Commission as now constituted, shall be filled in the manner as provided above. Thereafter, the Commission shall consist of three members representing employers, three members representing employees, and three selected from the general public. The terms of the additional commissioners first appointed after approval of this Act shall be for 6, 7, 8, and 9 years, but the terms of their successors and the successors of the present commissioners shall be for 9 years each. Any appointment made to fill an unexpired term shall be for the remainder of the unexpired term. Each additional commissioner appointed under this section shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the Judges of the Courts of the United States.

Sec. 5. Section 5 of such Act is hereby amended to read as follows:

\*Sec. 5. Unfair methods of competition in commerce and unfair or deceptive acts and practices in commerce are hereby declared unlawful. The Commission is hereby authorized and directed to prevent persons, except banks, and common carriers subject to the Acts to regulate commerce, from using unfair methods of competition in commerce and unfair or deceptive acts and practices in commerce.

Whenever the Commission shall have reason to believe that any person has been or is using any unfair method of competition in commerce, or has been or is engaging in any unfair or deceptive act or practice in commerce, the Commission shall issue and serve upon such person a complaint, stating its charges in that respect, and shall summon such person, to appear before the Commission at a place and time (not less than thirty nor more than sixty days after service of such summons)

fixed by the Commission in its summons. The person so summoned shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person to cease and desist from the violation of the law so charged in the said complaint. Any person may make application and upon good cause shown, may be allowed by the Commission, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served upon such person, an order requiring such person to cease and desist from

using such method of competition or engaging in such act or practice. Any person required by such order of the Commission to cease and desist from using such method of competition or engaging in such act or practice, may obtain a review of such order by filing with the Circuit Court of Appeals for the circuit within which such person resides or carries on business, or with the United States Court of Appeals of the District of Columbia, within sixty days after the issuance of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be served forthwith upon the Commission. The Commission shall thereupon certify and file with the Circuit Court of Appeals of the United States for such circuit, or the United States Court of Appeals of the District of Columbia, as the case may be, a transcript of the entire record in the proceeding, including all of the testimony taken and the report and order of the Commission.

Such Circuit Court of Appeals, or the United States Court of Appeals of the District of Columbia, thereupon, shall have jurisdiction of the proceedings and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission. The findings of the Commission as to facts, if supported by testimony, shall be conclusive. If either party shall apply to the Court for leave to adduce additional evidence, and shall show to the satisfaction of the Court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the Commission, the Court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such

terms and conditions as to the Court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the Court shall be final, except that the same shall be subject to review by the Supreme Court, as provided in Sections 239 and 240 of the Judicial Code, as amended. Failure of any person to comply with any judgment or decree of such Circuit Court of Appeals, or the United States Court of Appeals of the District of Columbia, affirming in whole or in part any order of the Commission shall be punishable as a contempt of such Court. Failure of any person to comply with any order of the Commission as to which a review is not sought within the time and

in the manner herein provided shall be punishable by a civil penalty of \$1,000 for each day such failure continues, but such penalty may be remitted or mitigated by the Commission.

"The jurisdiction of the Circuit Court of Appeals of the United States, or the United States Court of Appeals of the District of Columbia, to enforce, set aside, or modify orders of the Commission shall be exclusive.

"Such proceedings in the Circuit Court of Appeals, or the United States Court of Appeals of the District of Columbia, shall be given precedence over other cases pending therein, and shall be in every way expedited. No such order of the Commission or judgment of the Court to enforce the same shall in any wise relieve or absolve any person from any liability under the anti-trust Acts.

"Complaints, orders, and other processes of the Commission under this section may be served

by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the President, Secretary, or other executive officer, or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same."

Sec. 6 (a). The Federal Trade Commission is authorized and directed to investigate any industry, trade, or subdivision thereof, in order to determine

whether the wages paid therein, the hours of labor therein, and the employment of children of tender age therein, have a direct effect upon the free flow of commerce between the several States. The Federal Trade Commission is further authorized and directed to investigate, hold hearings, and determine whether in the said industry, trade, or subdivision thereof, the payment of unreasonably low wages, the working of employees for excessive hours per week by any member or members in such industry, or trade, the employment of children of a tender age, constitute unfair methods of competition.

(b) Where the Commission finds that any or all of the aforesaid constitute unfair methods of competition the Commission is authorized and directed to fix and determine for such industry, trade, or subdivision thereof, (1) the stated minimum wage to be paid (said stated minimum wage to be based upon the prevailing minimum wage paid in establishments employing a substantial number of the persons employed

and receiving the higher minimum rate in the industry or trade); (2) the stated maximum hours per week to be worked (said stated maximum hours per week to be based upon the prevailing maximum hour week worked in those establishments employing, for the lowest number of hours per week regularly established by such establishments, a substantial number of the persons employed in the industry or trade); and (3) the stated minimum age at which minors may be employed (said stated minimum age at which minors shall be employed shall be based upon the prevailing minimum age at which minors are employed in establishments employing minors, the age of a substantial number of whom is nearest to 16 years, and employing a substantial number of the persons employed in the industry or trade); whichever the findings will warrant to be in the public interest.

(c) An employee whose earning capacity is limited because of advanced age, physical, or mental handicaps, or other infirmity, may, subject to the rules and regulations made by the Commission, be employed at a wage below the stated minimum established:

Provided, That the employer obtains from the Commission a certificate specifying the wage. Such reduced wage shall be based on the relative efficiency of such employee.

(d) Wherever a State law, or order issued thereunder, imposes more stringent requirements with respect to minimum wages, maximum hours, child labor, or any other term or condition of employment, than is prescribed in this Act or any rule or regulation or order of the Commission issued hereunder, the State law or order shall prevail.

(e) The Commission may make such rules and regulations concerning the conduct of proceedings under this Act as it may deem necessary; Provided, That (1) no such proceeding shall be commenced until at least thirty days after publication of notice in the Federal Register, (2) all testimony heard at such proceedings shall be reduced to writing, and (3) any interested party shall be afforded the opportunity to appear in person or by representative to present pertinent facts or information in any such proceeding. Within

days after the hearing of testimony, the Commission shall publish its findings. Thereafter, in such industry, trade, or subdivision thereof, the payment to any employee of wages less than the stated minimum, or the employment of persons in excess of the stated maximum hours per week, or the employment of minors less than the stated age, shall constitute an unfair method of competition.

(f) Any finding or findings made by the Commission with respect to any industry, trade, or subdivision thereof, shall include a finding with respect to what constitutes such industry, trade, or subdivision thereof. The Commission is further empowered to determine whether any person is engaged in, or is part of any particular industry, trade, or subdivision thereof.

Sec. 7. Upon written application of any interested person or persons, the Commission is authorized and directed to determine whether any act or acts proposed to be undertaken by the applicant is contrary

to the provisions of any of the anti-trust laws, as amended. Such applications shall be in such form, and shall contain such data as the Commission shall require. If the Commission finds that the proposed act or acts, in their original or modified form, will not contravene any of the provisions of any of the anti-trust laws, such findings, until modified or revoked, shall bar prosecution under the anti-trust laws for any such act committed after the publication of such findings and prior to the modification or revocation of such finding.

Sec. 8. Any findings made by the Commission under sections 6 or 7 hereof may be modified or revoked after proceedings instituted and conducted in manner and form similar to the proceeding which resulted in the finding.

Sec. 9. Nothing contained herein and nothing contained in the anti-trust Acts shall render illegal contracts or agreements prescribing minimum prices or other conditions for the resale of a commodity which

bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others.

Sec. 10. Upon application by any person the Commission may inquire as to the character of the business of such applicant, and if the Commission finds that such business is exclusively of an intrastate character and does not affect interstate commerce, such applicant shall be exempt from the provisions of this Act.

Sec. 11. None of the provisions of this Act shall apply to any person employing less than employees.

Sec. 12. 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.

While the foregoing has been proposed as an entirety, there also has been a proposal that the following be added as a second title. Title II, in addition to its own provisions, contemplates the insertion in section 6 (b) of a proviso to the effect that minimum wages determined under section 6 (b) shall not be more than those fixed under section 202 (b).

TITLE II

SEC. 201. The Congress of the United States, as a matter of legislative determination, hereby finds the following facts:

(a) That minorities of the members of each of the several industries and trades pay their employees wages which are unreasonably low and wholly incommensurate with the value of the services rendered by such employees, require their employees to work unreasonably long hours, and employ children of tender age; that all of such employees as a class are not on a level of equality with their employers in negotiating the terms of their employment, but are peculiarly subject to the overreaching of inefficient, harsh or ignorant employers, and because of their necessitous circumstances, accept whatever terms might be offered, all to such an extent that "freedom of contract" as applied to such negotiations is non-existent; that competition for employment, in the absence of statutory regulation of

minimum wages, maximum hours and minimum age of employees results in the constant lowering of wages and lengthening of hours by unconscionable minorities of employers; that competition between such minorities and other members of the respective industries and trades produces a lowering of standards for the entire industry or trade, breeds disease, undernourishment, immorality and crime, and causes the spread of evil and harm to the general public; all of which render imperative in the interest of the public the exercise of the power to regulate the transportation of articles in interstate commerce to the end that the use of such commerce in furtherance of such competition may be prohibited.

(b) That States have enacted laws fixing minimum wages at which women may be employed in industries and trades; that States have enacted laws fixing minimum wages at which men may be employed in industries and trades; that States have enacted laws governing the maximum hours for which women may be employed in industries and trades;

that States have enacted laws governing the maximum hours for which men may be employed in industries and trades; that States have enacted laws governing the maximum hours for which workers may be employed in particular industries and trades; that States have enacted laws limiting the age at which children may be employed in industries and trades; that the importation into such States of articles produced or manufactured in States which have not enacted such laws hinders and prevents such first named States from effectuating their policies as declared or implied by such laws.

(c) That the sale in commerce of articles produced or manufactured with the aid of persons paid unreasonably low wages or employed for unreasonably long hours, or of children of tender age, and competition between articles so produced or manufactured and articles produced or manufactured without the aid of persons so paid or employed, or of such children, are evils affecting the public interest, proof of which will be found in the record of the hearings on this bill.

SEC. 202. (a) The introduction into interstate or foreign commerce of any article produced, manufactured, distributed or sold by, or with the aid of, the labor of any person paid a wage less than the minimum provided in sub-section (b) of this section, or persons employed for hours in excess of those fixed and determined under section 6 (b) of Title I hereof, or persons younger than the age fixed and determined under section 6 (b) of Title I hereof, is hereby declared to be unlawful, and is prohibited.

(b) The Federal Trade Commission is authorized and directed to make such investigation, conduct such proceedings as may be necessary to ascertain as to any industry or trade whether employees in such industry or trade are paid wages less than sufficient to maintain the health, morals and efficiency of such employees, and to fix and determine the minimum rate of wage to be paid in any industry, trade or sub-division thereof.

In the conduct of such investigations and proceedings, and in the fixing and determining of such

minimum rates of wage, the Commission shall give consideration to and shall be guided by:

(1) The type and value of the services rendered by the employee;

(2) The same considerations which would guide a court in a suit for the reasonable value of services rendered by one party at the request of another party but without prior agreement as to the amount to be paid for such services;

(3) The rates of wage paid in the particular industry or trade for services of like or comparable character by employers who voluntarily maintain fair and reasonable standards of minimum rates of wage.

The minimum rates of wage so fixed and determined by the Commission may vary geographically where the Commission finds from such investigations and proceedings that diversities of conditions render such variations necessary and proper and that such variations reasonably may be expected not to result in discriminations or to burden or affect commerce. Minimum rates of wage, different from those fixed and

determined as heretofore in this section provided, may be fixed by the Commission for learners and apprentices, where, from such investigations and proceedings, the Commission finds that such different rates are necessary and proper. Minimum rates of wage fixed and determined under this sub-section shall be based upon weekly hours not in excess of \_\_\_\_\_ and daily hours not in excess of \_\_\_\_\_, and \_\_\_\_\_ times such minimum rates shall be paid for all hours of labor in excess of \_\_\_\_\_ per week or \_\_\_\_\_ per day.

(c) The Commission may make such rules and regulations concerning the conduct of proceedings under this section as it may deem necessary; Provided that: (1) no such proceeding shall be commenced until at least thirty days after publication of notice in the Federal Register, (2) all testimony heard at such proceedings shall be reduced to writing, and, (3) any interested party shall be afforded the opportunity to appear in person or by representative to present pertinent facts or informa-

tion in any such proceeding. Within        days  
after the hearing of testimony, the Commission shall  
publish its findings and determinations.

SEC. 203. Any person violating any provision  
of this Title shall for each offense, upon conviction  
thereof, be punished by a fine of not more than \$1,000.,  
and such goods, wares, and merchandise shall be for-  
feited to the United States, and may be seized and  
condemned by like proceedings as those provided by  
law for the seizure and forfeiture of property  
imported into the United States contrary to law.

SEC. 204. Any violation of this Act may be  
prosecuted in the District Court of the United States  
for the district in which such violation was committed,  
or for any district from which or into which any  
article concerned in such violation may have been  
carried or transported contrary to the provisions of  
this Title.

ADDRESS REPLY TO  
"THE ATTORNEY GENERAL"  
AND REFER TO  
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE  
WASHINGTON, D. C.

February 3, 1937.

Summary of "A Bill to Prohibit and Pre-  
vent Unfair Competition and to Amend  
the Antitrust Acts" Suggested by the  
Council for Industrial Relations

The Council for Industrial Progress has suggested a bill in the form of an amendment to the existing antitrust laws. The essence of the scheme is to abolish unreasonably low wages, unreasonably long hours and child labor by treating them as unfair competitive practices. Three different methods are set up to accomplish this aim:

- (1) Either the Attorney General or any person aggrieved by the use of such unfair practices may apply to the Federal Courts or the Federal Trade Commission for relief against persons using such practices in interstate commerce or in competition with goods shipped in interstate commerce.
- (2) Groups representing a trade or industry may, on approval of the President or an agency designated by him, enter into agreements fixing wages, hours and other conditions within the industry, which agreement shall be binding on the parties thereto and enforceable in Federal Courts.
- (3) The several states are authorized to pass laws relating to such fair trade practices within the state and to prohibit goods manufactured elsewhere under conditions not permitted within the state from entering the state. In support of such laws, the shipment of goods into a state in violation of the law of that state is prohibited.

The proposed bill is drafted as a general piece of legislation dealing with unfair competitive practices. Findings are made that the present laws are insufficient to eliminate unfair competition and practices such as price cutting, sales below cost, price discrimination and maintenance of unfair and unjust labor conditions which ethical and humane business concerns refuse to maintain. It is declared to be the policy of Congress to prevent persons from gaining competitive

advantages by such unfair means which burden interstate commerce and to promote similar state legislation by forbidding the use of the channels of interstate commerce for the purpose of evading state laws.

The bill contains the usual definitions of terms. The only one worthy of note is "unjust or unreasonable labor conditions" which is defined as meaning payment or employment of labor at unjust or unreasonably low wages or the exaction of unjust or unreasonably long hours of service.

The first substantive provision declares that it shall be unlawful to use any unfair or deceptive act, method or practice (1) in interstate commerce or (2) in competition with any other person engaged in interstate commerce when such practice prejudicially affects the competitive business. Certain forbidden practices are expressly described. The two important ones are (1) selling goods produced under unfair or unreasonable labor conditions in competition with goods not so produced, (2) selling goods produced by child labor in competition with goods not so produced. The descriptive list is also intended to include all unfair competitive practices recognized by the common law and the existing antitrust laws.

Enforcement of the foregoing provision is entrusted to the Attorney General or the private parties aggrieved by such unfair competition. They are authorized to sue in equity in the Federal Courts to restrain violations of law and provision is made for recovery of damages by private litigants. The details of the procedure are set out and are not unusual except that it is provided that the suit may be representative either as to parties plaintiff or parties defendant. The same persons are also authorized to initiate enforcement proceedings before the Federal Trade Commission which is given concurrent jurisdiction with the Federal Courts. The Commission hearing is intended to be a proceeding between adverse parties although the author of the bill suggests the possibility of allowing the Commission to initiate proceedings on its own motion. The procedure outlined for the Commission is similar to its present procedure. However, the Commission's jurisdiction may be invoked by showing a party has violated, is violating, or is about to violate this statute. The Commission is also authorized to enter orders by consent and provision is made that trade agreements shall operate as consent orders when properly filed with the Commission.

The second substantive part of the bill is that part authorizing voluntary agreements between members of trade or industry. Such agree-

ments are subject to the approval of the President or an Agency established by him. The approval may be given on finding that the group proposing the agreement represents a preponderant percentage of the trade or industry, that the agreement will not tend to create a monopoly or to oppress small enterprises, and that the agreement will further the purposes of the statute. The Agency is authorized to impose conditions for the protection of consumers, competitors, employees and the public. The Agency may also grant exemptions from the statute.

The Agency is required to notify the trade and hold hearings before approving any agreement. However, after approval the agreement is binding and is enforceable as between the parties thereto.

By the terms of the bill all such agreements are restricted to unfair competitive practices. Whenever the agreement relates to labor conditions it is required to contain provisions that employees may bargain collectively, that employees shall be free to join any union, and that the employers will abide by the minimum wages, maximum hours, and conditions of labor fixed in the agreement. Such agreements are exempted from the operation of the antitrust laws.

The third substantive part of the proposal is in aid of state legislation. The states are permitted to adopt statutes of a similar nature prohibiting unfair competitive practices within the state. After proclamation by the President that the state law is in accord with the policy of this statute, shipment of goods into the state contrary to the laws of the state is prohibited. It is also provided that all goods produced outside of a particular state which could not be sold in the state if produced in the same manner within its borders shall be subject to the laws of the state.

In aid of the major provisions of this proposal, two devices are employed to fix fair, just and reasonable competitive practices. First, all approved agreements entered into by the trade or industry are made presumptive evidence of fairness, justness and reasonableness of the practices covered by the agreement in all proceedings before the courts or the Federal Trade Commission. Second, the Federal Trade Commission is authorized to institute investigations into the competitive practices in trades and industries. After due notice and hearing, the Commission is to issue a formal report containing findings as to what are fair, just and reasonable practices for the given trade or industry. This report is made presumptive evidence as to the fairness, justness and

reasonableness of all practices covered by it in all proceedings before the courts or the Commission.

The details of enforcement and judicial review of court and commission orders have not been worked out by the author of this proposal.

A BILL

To prohibit and prevent unfair competition  
and to amend the Anti-Trust Acts.

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

FINDINGS AND POLICY

Section 1. The Congress of the United  
States as a matter of legislative determination  
hereby finds the following facts:

Interstate and foreign commerce generally  
have for many years been substantially bur-  
dened and restrained and otherwise prejudicial-  
ly affected by various acts, practices and  
methods committed or adopted by persons en-  
gaged in interstate or foreign commerce in the  
course thereof or in the course of competition

in or with interstate or foreign commerce. To prohibit or prevent certain of these acts, methods and practices legislation has from time to time been enacted such as the Anti-Trust Laws and the amendments and supplements thereto, but the legal history of this legislation shows that it is not sufficiently comprehensive or efficacious generally to eliminate competitive acts, practices and methods which are truly unfair according to modern economic and commercial standards and which constitute a real burden and restraint upon interstate and foreign commerce. Among many such unfair competitive practices and methods are destructive price cutting, sales below cost for the purpose of injuring competitors, unfair and unjust price discriminations, piracy of design and the maintenance of unjust or unreasonable labor conditions which give to persons maintaining such

unjust or unreasonable labor conditions undue competitive advantages in commerce as against those who are unwilling or unable to conduct their business operations by the denial of decent living and working conditions to the labor they employ and which result in injury to or destruction of competition in interstate or foreign commerce. Such business concerns which because of ethical and humane business principles are unable or refuse to participate in such methods and practices are threatened with substantial injury and in many cases with bankruptcy (with a resultant diminution in interstate and foreign commerce) because of their inability or unwillingness to meet the undue competitive advantages secured by the persons engaged in such methods and practices.

Section 2. It is therefore hereby declared to be the policy of Congress to enlarge the field of legally prohibited unfair competition in interstate and foreign commerce, to discourage and prevent the gaining of competitive advantages in such commerce by unconscionable means, to prevent and eliminate those factors in competition which burden or restrain or injuriously affect interstate or foreign commerce and in lieu of separate statutory enactments dealing with isolated abuses to adopt a general legislative plan, supplementary to existing regulation, for the elimination of such unfair competition.

It is hereby further declared to be the policy of Congress to foster, promote and encourage State legislation consistent with and tending to effectuate the purposes of this Act and to extend and afford to all persons within such States, and complying with the laws thereof in relation to fair competition, adequate legal protection against the

use of the instrumentalities of interstate or foreign commerce to evade or violate the policy of such State legislation.

#### DEFINITIONS

Section 3. As used herein

(1) The term "corporation" shall mean any company or association incorporated or unincorporated which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association incorporated or unincorporated, without shares of capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

(2) The term "person" shall include one or more individuals, partnerships, corporations, associations and the legal representatives, trustees, trustees in bankruptcy, receivers, or assignees for the benefit of creditors thereof, but shall not include banks or common carriers.

(3) The term "commerce" or "interstate commerce" shall mean trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any other Territory or the District of Columbia or any foreign country.

(4) The term "sale" shall mean any transfer, exchange or barter in any manner or by any means whatever for a consideration and by any person, whether principal, proprietor, agent, broker, subsidiary, selling agent, servant or employee and shall include solicitation and receipt of orders for sale or purchase and the keeping, advertising and exposing for sale and transportation and delivery of articles sold.

(5) The term "commission" shall mean the Federal Trade Commission.

(6) The term "child labor" shall mean the labor of children under \_\_\_\_\_ years of age in any occupation, the labor of children under \_\_\_\_\_ years of age in hazardous occupations and the labor of any children under \_\_\_\_\_ years of age more than eight (8) hours in any day or more than six (6) days in any week, or after \_\_\_\_\_ P. M. or before \_\_\_\_\_ A. M. in any day.

(7) The term "unjust or unreasonable labor conditions" shall mean the payment or employment of labor at unjust or unreasonably low wages or the exaction of unjust or unreasonably long hours of service.

(8) The term "anti-trust laws" shall mean

(9) The term "documentary evidence" shall mean all documents, papers, books, records, accounts and correspondence in existence at or after the passage of this Act.

#### UNFAIR COMPETITION

Section 4. It shall be unlawful for any person to commit or engage in any unfair or deceptive act, method or practice (1) in commerce or (2) in competition with any other person engaged in commerce and prejudicially affecting or calculated or the natural tendency of which is to cause a prejudicial effect competitively on such other person's transactions or business in commerce. The unfair and deceptive acts, methods and practices prohibited herein, sometimes herein collectively referred to as "unfair competition", shall include without limitation the following:

- (1) All acts, methods and practices

constituting unfair competition or unfair methods of competition under the common law or the anti-trust laws as heretofore or hereafter construed.

(2) All acts, methods and practices, whether or not affecting competitors, calculated to deceive the public in connection with the purchase of any goods, wares, merchandise or services.

(3) Offering or giving, directly or indirectly, anything of value to any employee, agent or representative of a competitor or of a purchaser (whether with or without the knowledge of the employer) with the intent or effect of influencing or rewarding any action on the part of such employee, agent or representative concerning the business of his employer.

(4) Inducing or attempting to induce

the breach of an existing contract between a competitor and his customers; or interference with or obstruction of the performance of any such contract; or, by any false or deceptive means, for the purpose or with the effect of hampering, injuring or embarrassing a competitor in his business, inducing or attempting to induce customers or prospective customers not to enter into contracts with such competitors.

(5) The sale of any goods, wares or merchandise manufactured, produced, or sold in whole or in part by child labor in competition with goods, wares or merchandise not manufactured, produced or sold in whole or in part by child labor.

(6) The sale of any good, wares or merchandise manufactured, produced or sold under unjust or unreasonable labor conditions in

competition with goods, wares or merchandise manufactured, produced or sold under just and reasonable labor conditions.

(7) The sale of any goods, wares or merchandise below cost, when made for the purpose or with the effect of injuring a competitor or misleading the public, except sales, plainly described as such, made in response to changing conditions affecting the market for, or the marketability of, the goods concerned such as, without limitation, actual or imminent deterioration of perishable goods, obsolescence or seasonal goods, distress sales under court process or sales in good faith in discontinuance of business in the goods concerned.

(8) All unfair, wasteful or destructive competitive practices or methods of competition, not hereinabove specifically defined or referred

to, tending in their effect to create a monopoly or to burden or restrain or injuriously affect commerce, or to injure, prevent or destroy competitors, or to oppress small enterprises engaged in commerce, or to reduce involuntarily the number of independent competitors in commerce.

The enumeration herein of specific acts, methods or practices as unfair competition shall not be held to limit or restrict the general meaning of said term and said term shall be broadly and flexibly construed without limitation to the common law interpretation of any specific acts enumerated herein or of said term, but to give full effect to the intent hereof.

#### PROCEEDINGS

Section 5. (1) Upon application to the President or such agency as shall be established by

him (hereinafter called the "Agency") by one or more trade or industrial associations or groups, the Agency may approve any trade practice agreement for the trade or industry or subdivision thereof represented by the applicant or applicants, if the Agency finds (1) that such associations or groups constitute or represent a preponderant percentage of such trade, industry or subdivision thereof, (2) that such agreement is not designed to promote a monopoly or to eliminate or oppress small enterprises and (3) that such agreement will not operate to discriminate against them, will tend to effectuate the policy of this Act and is consistent with the provisions hereof: provided that where any such agreement affects the services and welfare of persons engaged, the Agency may, as a condition of its approval of any such agreement, impose such conditions for the protection of consumers, competitors, employees and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of this Act,

as the Agency deems necessary to effectuate the policy herein declared.

(2) Each such agreement shall be restricted to matters relating to unfair competition in commerce as herein defined and, where such agreement relates to labor conditions, shall contain the following provisions:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint or coercion of employers of labor or their agents in the designation of such representatives, or in self-organization, or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee, and no one seeking employment, shall be required as a condition of

employment to join any company union or to refrain from joining, organizing or assisting a labor organization of his own choosing; and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay and other conditions of employment, if any, contained in said agreement and approved by the Agency.

(3) Before approving any such trade or industrial agreement the Agency shall, upon due notice to the trade, industry, division or subdivision thereof affected and to the employees therein, hold a hearing, the testimony of which shall be reduced to writing.

(4) If the Agency finds that the proposed agreement, or any modification thereof adopted in the course of the proceeding, is consistent with the provisions of this Act and tends to effectuate the policy

thereof, it shall issue and publish a formal order of approval, and thereupon in any action or proceeding, either in the District Courts or before the Commission, the provisions of said agreement so approved shall be presumptive evidence of the justness, fairness and the legality of the acts, practices and methods therein stipulated.

Nothing contained in the Anti-Trust Laws shall be construed as declaring to be illegal for any purpose, any agreement so approved or any act performed pursuant to such approved agreement, until, unless and to the extent that such approval be vacated, modified or amended as hereinafter provided; and as long as and to the extent that such approval remains in force and is not vacated, modified or amended, any such approved agreement shall be a valid agreement and enforceable as such in all appropriate actions and proceedings involving any of the parties to such approved agreement in all courts of the United States of competent jurisdiction.

The Agency may from time to time upon hearing and notice vacate, modify and amend any approval theretofore made.

Section 6. (1) The Attorney-General or any person aggrieved by any act, practice or method prohibited under Section 4 hereof, or any association representing any such aggrieved persons, may commence, maintain and prosecute an action or proceeding in equity to prevent or restrain such violation and to recover damages therefor, and the several District Courts of the United States are hereby vested with jurisdiction thereof. Such jurisdiction shall not be exclusive. It shall not be necessary in any such equitable action or proceeding for the complainant to establish the danger or imminence of irreparable damage as a condition of the granting of injunctive relief.

(2) Where the question in any such action or proceeding is one of a common and general interest

of many persons, or where the persons who might be made parties are very numerous and it may be impracticable to bring them all before the court, one or more may sue or defend for the benefit of all, but in each such case the court shall have power to include within its process and to bring in as parties at any stage of the action all persons interested in the controversy, whether or not resident within the territorial jurisdiction of the court, or the court may direct that notice be otherwise given to such persons. In any such proceeding the process of the Court or any notice to be given as herein provided may be served or given, if the Court shall so direct, by registered mail or by leaving a copy thereof at the residence, principal office or place of business of the person required to be served.

(3) If at any stage of any such action it shall appear to the Court that another proceeding pending before the Commission under the provisions of

this Act involves the same issues and affects the same parties the Court shall, after due notice and hearing, make such order staying either of such proceedings, either absolutely or upon conditions, as shall seem to the Court to promote the public interest and the rights of the parties having regard for the expeditious determination of the controversy without multiplicity of actions.

(4) On the application of any party or on its own motion the Court may at any time consolidate actions or proceedings involving substantially the same issues, and in the interests of justice or for the convenience of a preponderant percentage of the persons interested in any issues or for the purpose of avoiding multiplicity of any litigation may change the venue of any action or proceeding and order the same removed to any other district. Upon the application of any person interested in the questions involved in any action or proceeding, the Court may

upon such conditions, if any, as shall be just, permit such person to intervene and appear in said proceeding.

Section 7. (1) Concurrently with the jurisdiction of the District Courts, the Commission is hereby authorized, empowered and directed, subject to the provisions hereinafter set forth, to hear all complaints of violation of any of the provisions of Section 4 of this Act and to restrain all persons from continuing such violations.

(2) The Attorney-General or any person aggrieved by any act, practice or method prohibited under Section 4 hereof, or any association representing any such aggrieved person may commence, maintain or prosecute proceedings before the Commission for the prevention of any such act, practice or method. The Commission may also commence, maintain and prosecute proceedings on its own motion (?).

(3) Upon the filing of a complaint by the Attorney-General or by any such person or association charging that any other person has violated, is violating or is about to violate any provision of Section 4 of this Act, (or on its own motion whenever the Commission has reason to believe that any such violation has occurred, is occurring or is about to occur?), the Commission shall issue and serve upon such person a copy of such complaint and an order requiring him to appear at the time and place therein designated and show cause why an order should not be entered preventing and restraining the violation charged in the complaint. Each such complaint shall contain a brief and concise statement specifying the facts alleged to constitute the charge of violation therein made.

The person so charged shall file with the Commission a return to the complaint setting forth specifically his answers or objections to the matters charged in the complaint. Upon the filing of such return or upon the expiration of the time allowed

therefor, the Commission shall set the cause for hearing upon the complaint or upon the issues raised. If upon consideration of the complaint and any evidence adduced at the hearing, which evidence shall be reduced to writing, the Commission shall be of the opinion that such person has violated, is violating or is about to violate the provisions in question, it shall make a report in writing in which it shall state its findings of fact and conclusions of law and shall issue and cause to be served upon such person an order prohibiting and restraining such violation.

(4) If upon any complaint filed hereunder the Commission has reason to believe that any irreparable injury is likely to result from any violation charged therein unless such violation complained of is prohibited during the pendency of the proceeding, the Commission shall upon making such finding issue a temporary order prohibiting such violation either unconditionally or upon the filing of a bond, undertaking

or other security by the complainant in a sum sufficient to indemnify and save harmless the person so restrained from any loss or damage that he may sustain through the issuance of such temporary restraining order. The bond, undertaking or other security shall be subject to the approval of the Commission and all questions pertaining to the amount payable under such bond, undertaking or security shall be determined by the Commission in the same proceeding.

(5) In any proceeding before the Commission which involves a question of common and general interest to many persons or where the persons who might be made parties thereto are very numerous and it may be impracticable to bring them all before the Commission, one or more may sue or defend for the benefit of all but in each such case the Commission shall have power at any stage of the proceedings to bring in as parties all persons interested in the controversy and to serve notice thereof on such parties by registered mail or by leaving a

copy thereof at the residence, principal office or place of business of the person required to be served. Upon proper application in writing, the Commission shall have power to permit any person interested in the controversy to appear as a party therein. The Commission shall have power to consolidate proceedings involving substantially similar questions whenever the Commission may determine such consolidation will promote a just and expeditious determination of the issues involved.

(6) The Commission may at any time and from time to time on its own motion or on the application of any interested person vacate, modify or amend any report or order theretofore made.

(7) In proceedings before the Commission the Commission shall be guided by equitable as well as legal considerations and in making its determinations due regard shall be had to the effect of such determination upon the entire trade, industry or subdivision thereof involved and to all pertinent economic and commercial

factors affecting such trade, industry or subdivision thereof and also other trades, industries or subdivisions thereof which may be affected by any action of the Commission; and any members or properly qualified representatives of any such other trades, industries or subdivisions thereof may upon application be permitted to intervene in any such proceeding.

(8) Upon agreement of the parties to any proceeding, the Commission shall have power to enter a consent order which shall have the same effect and be enforced in the same manner as other orders of the Commission. Any agreement referred to in Section 5 hereof shall, upon approval thereof, operate as a consent order if filed with the Commission by all the parties thereto or if filed by one of the parties thereto where the contract provides that it shall be filed with the Commission.

(9) All proceedings before the Commission shall be dealt with expeditiously to the end that

prompt and efficacious remedies be afforded to prohibit and prevent unfair competition when and as it may occur.

(10) The Commission is authorized and empowered to adopt and prescribe rules and regulations consistent with the provisions of this Act for the conduct of all proceedings before it.

Section 8. The Commission shall from time to time, whether in connection with contested proceedings before it or independent proceedings, make studies of the economic and commercial conditions prevailing in the various trades and industries or subdivisions thereof, and the trade practices therein including competition therein between goods produced or manufactured under different or diverse labor conditions and after due notice and hearing at which all interested parties shall be heard and the testimony reduced to writing, the Commission may as to any one or more trades or industries or subdivisions thereof, file a formal report stating its findings as to the justness, fairness and

reasonableness of any stated trade or competitive practices, including without limitation the competition of goods manufactured or produced under different or diverse conditions. After the Commission shall have filed any such formal report as to any trade or industry or subdivision thereof, the findings in such report as to the justness, fairness or reasonableness of any stated trade or competitive practice as hereinabove provided shall thereafter in any proceeding before the Commission or in the District Courts hereunder be presumptive evidence as to the justice, fairness and reasonableness of the trade or competitive practice so stated in said report.

No such report shall be effective for such purpose for a period of more than after the same shall have been filed, but the Commission may from time to time republish any such report with such amendments or modifications, if any, as, after notice and hearing, it may find to be just; and upon such republication such report shall be effective for the purpose

of this Section for a further period of

#### JUDICIAL REVIEW AND ENFORCEMENT

Section 9. (There shall here be included detailed provisions stipulating penalties for violations of orders of the Court or the Commission and prescribing procedure for appeals to the Circuit Court of Appeals (1) tightening the existing procedure so as to provide against any stay of the Commission's orders pending appeal except upon good cause shown (2) making the findings of the Commission conclusive if supported by evidence and (3) for expediting the determination of such appeals. It may later be advisable to substitute here a provision for the establishment of an administrative appeals court and providing it shall have exclusive jurisdiction over orders of the Commission.)

STATE LEGISLATION

Section 10. In the event of the adoption by any State by due legislative enactment of any laws designed to prohibit and prevent unfair competition, and upon proclamation by the President that a State has duly enacted a law to prevent and prohibit unfair competition consistent with and tending to effectuate a policy similar to that of this Act and containing provisions substantially similar to the provisions of this Act in so far as applicable to such State, and upon the expiration of thirty (30) days after the making of such proclamation and the publication thereof, the shipment or transportation in commerce in any manner or by any means whatsoever of any article or commodity intended by any person interested therein to be received, possessed, sold or in any manner used either in the original package, or otherwise, in violation of any such State law, is hereby prohibited; and any article or commodity shipped, transported or sold in

violation of any of the provisions of this Act or any order of the Commission and any article manufactured, produced or sold under such conditions as would constitute a violation of the provisions of such State law if manufactured, produced or sold within the State, shall, upon arrival or delivery in any such State, be subject to the operation and effect of the laws of such State to the same extent and in the same manner as though such article or commodity had been manufactured, possessed or sold in such State, and it shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

#### SEPARABILITY

Section 11. It is the unqualified intent of the Congress that the provisions of this Act shall be regarded as separable, and that no provisions or any application thereof shall be held invalid because of the invalidity of any other provision or any other

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

#### AMENDMENTS

Section 12. Here should be included provisions for amending the Anti-Trust Laws to the extent necessary to avoid conflict between them and this law.

PSF  
Bills in Cong

75TH CONGRESS  
1ST SESSION

# H. R. 7667

IN THE SENATE OF THE UNITED STATES

JULY 22 (calendar day, AUGUST 6), 1937

Read twice and referred to the Committee on Finance

## AN ACT

To regulate commerce among the several States, with the Territories and possessions of the United States, and with foreign countries; to protect the welfare of consumers of sugars and of those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; to raise revenue; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the Sugar Act of 1937.

### TITLE I—DEFINITIONS

4  
5 SECTION 101. For the purposes of this Act, except  
6 title IV—

7 (a) The term "person" means an individual, partner-  
8 ship, corporation, or association.

1 (b) The term "sugars" means any grade or type of  
2 saccharine product derived from sugarcane or sugar beets,  
3 which contains sucrose, dextrose, or levulose.

4 (c) The term "sugar" means raw sugar or direct-  
5 consumption sugar.

6 (d) The term "raw sugar" means any sugars which  
7 are principally of crystalline structure and which are to be  
8 further refined or improved in quality, and any sugars which  
9 are principally not of crystalline structure but which are to  
10 be further refined or otherwise improved in quality to pro-  
11 duce any sugars principally of crystalline structure.

12 (e) The term "direct-consumption sugar" means any  
13 sugars which are principally of crystalline structure and which  
14 are not to be further refined or otherwise improved in  
15 quality.

16 (f) The term "liquid sugar" means any sugars (ex-  
17 clusive of syrup of cane juice produced from sugarcane grown  
18 in continental United States) which are principally not of  
19 crystalline structure and which contain, or which are to be  
20 used for the production of any sugars principally not of  
21 crystalline structure which contain, soluble nonsugar solids  
22 (excluding any foreign substances that may have been  
23 added) equal to 6 per centum or less of the total soluble  
24 solids.

1 (g) Sugars in dry amorphous form shall be considered  
2 to be principally of crystalline structure.

3 (h) The "raw value" of any quantity of sugars means  
4 its equivalent in terms of ordinary commercial raw sugar  
5 testing ninety-six sugar degrees by the polariscope, deter-  
6 mined in accordance with regulations to be issued by the  
7 Secretary. The principal grades and types of sugar and  
8 liquid sugar shall be translated into terms of raw value in  
9 the following manner:

10 (1) For direct-consumption sugar, derived from  
11 sugar beets and testing ninety-two or more sugar de-  
12 grees by the polariscope, by multiplying the number of  
13 pounds thereof by 1.07;

14 (2) For sugar, derived from sugarcane and testing  
15 ninety-two sugar degrees by the polariscope, by multi-  
16 plying the number of pounds thereof by 0.93;

17 (3) For sugar, derived from sugarcane and testing  
18 more than ninety-two sugar degrees by the polariscope,  
19 by multiplying the number of pounds thereof by the  
20 figure obtained by adding to 0.93 the result of multiply-  
21 ing 0.0175 by the number of degrees and fractions of a  
22 degree of polarization above ninety-two degrees;

23 (4) For sugar and liquid sugar, testing less than  
24 ninety-two sugar degrees by the polariscope, by dividing

1 the number of pounds of the "total sugar content"  
2 thereof by 0.972.

3 (5) The Secretary may establish rates for trans-  
4 lating sugar and liquid sugar into terms of raw value for  
5 (a) any grade or type of sugar or liquid sugar not pro-  
6 vided for in the foregoing and (b) any special grade  
7 or type of sugar or liquid sugar for which he determines  
8 that the raw value cannot be measured adequately under  
9 the provisions of paragraphs (1) to (4), inclusive, of  
10 this subsection (h).

11 (i) The term "total sugar content" means the sum of  
12 the sucrose (Clerget) and reducing or invert sugars con-  
13 tained in any grade or type of sugar or liquid sugar.

14 (j) The term "quota", depending upon the context,  
15 means (1) that quantity of sugar or liquid sugar which may  
16 be brought or imported into the continental United States,  
17 for consumption therein, during any calendar year, from  
18 the Territory of Hawaii, Puerto Rico, the Virgin Islands,  
19 the Commonwealth of the Philippine Islands, or a foreign  
20 country or group of foreign countries; (2) that quantity  
21 of sugar or liquid sugar produced from sugar beets or sugar-  
22 cane grown in the continental United States which, during  
23 any calendar year, may be shipped, transported, or marketed  
24 in interstate commerce, or in competition with sugar or  
25 liquid sugar shipped, transported, or marketed in interstate

1 or foreign commerce; or (3) that quantity of sugar or  
2 liquid sugar which may be marketed in the Territory of  
3 Hawaii or in Puerto Rico, for consumption therein, during  
4 any calendar year.

5 (k) The term "producer" means a person who is the  
6 legal owner, at the time of harvest or abandonment, of a  
7 portion or all of a crop of sugar beets or sugarcane grown  
8 on a farm for the extraction of sugar or liquid sugar.

9 (l) The terms "including" and "include" shall not be  
10 deemed to exclude anything not mentioned but otherwise  
11 within the meaning of the term defined.

12 (m) The term "Secretary" means the Secretary of  
13 Agriculture.

#### 14 TITLE II—QUOTA PROVISIONS

15 SEC. 201. The Secretary shall determine for each  
16 calendar year the amount of sugar needed to meet the re-  
17 quirements of consumers in the continental United States;  
18 such determinations shall be made during the month of  
19 December in each year for the succeeding calendar year and  
20 at such other times during such calendar year as the Secre-  
21 tary may deem necessary to meet such requirements. In  
22 making such determinations the Secretary shall use as a basis  
23 the quantity of direct-consumption sugar distributed for  
24 consumption, as indicated by official statistics of the Depart-  
25 ment of Agriculture, during the twelve-month period ending

1 October 31 next preceding the calendar year for which the  
2 determination is being made, and shall make allowances for  
3 a deficiency or surplus in inventories of sugar, and changes  
4 in consumption, as computed from statistics published by  
5 agencies of the Federal Government with respect to inven-  
6 tories of sugar, population, and demand conditions; and in  
7 order that the regulation of commerce provided for under  
8 this Act shall not result in excessive prices to consumers, the  
9 Secretary shall make such additional allowances as he may  
10 deem necessary in the amount of sugar determined to be  
11 needed to meet the requirements of consumers, so that the  
12 supply of sugar made available under this Act shall not  
13 result in average prices to consumers in excess of those  
14 necessary to make the production of sugar beets and sugar-  
15 cane as profitable on the average, per dollar of total gross  
16 income, as the production of the five principal (measured  
17 on the basis of acreage) agricultural cash crops in the United  
18 States.

19 SEC. 202. Whenever a determination is made, pursuant  
20 to section 201, of the amount of sugar needed to meet the re-  
21 quirements of consumers, the Secretary shall establish quotas,  
22 or revise existing quotas—

23 (a) For domestic sugar-producing areas by prorating  
24 among such areas 55.59 per centum of such amount of sugar

1 (but not less than 3,715,000 short tons) on the following  
2 basis:

Area	Per centum
Domestic beet sugar.....	41.72
Mainland cane sugar.....	11.81
Hawaii.....	25.25
Puerto Rico.....	21.48
Virgin Islands.....	.24

3 (b) For foreign countries, and the Commonwealth of  
4 the Philippine Islands, by prorating 44.41 per centum of  
5 such amount of sugar (except, if such amount of sugar is  
6 less than 6,682,670 short tons, the excess of such amount  
7 over 3,715,000 short tons) on the following basis:

Area	Per centum
Commonwealth of the Philippine Islands.....	34.70
Cuba.....	64.41
Foreign countries other than Cuba.....	.89

8 In no case shall the quota for the Commonwealth of the  
9 Philippine Islands be less than the duty-free quota now  
10 established by the provisions of the Philippine Independence  
11 Act.

12 The quota for foreign countries other than Cuba shall be  
13 prorated among such countries on the basis of the division of  
14 the quota for such countries made in General Sugar Quota  
15 Regulations, Series 4, Number 1, issued December 12, 1936,  
16 pursuant to the Agricultural Adjustment Act, as amended.

17 SEC. 203. In accordance with the applicable provisions  
18 of section 201, the Secretary shall also determine the amount  
19 of sugar needed to meet the requirements of consumers in  
20 the Territory of Hawaii, and in Puerto Rico, and shall estab-

1 lish quotas for the amounts of sugar which may be marketed  
2 for local consumption in such areas equal to the amounts  
3 determined to be needed to meet the requirements of con-  
4 sumers therein.

5 SEC. 204. (a) The Secretary shall, as he deems neces-  
6 sary during the calendar year, determine whether, in view  
7 of the current inventories of sugar, the estimated production  
8 from the acreage of sugarcane or sugar beets planted, the  
9 normal marketings within a calendar year of new-crop sugar,  
10 and other pertinent factors, any domestic area, the Common-  
11 wealth of the Philippine Islands, or Cuba, will be unable to  
12 market the quota for such area. If the Secretary finds that  
13 any domestic area or Cuba will be unable to market the  
14 quota for such area for the calendar year then current, he  
15 shall revise the quotas for the domestic areas and Cuba by  
16 prorating an amount of sugar equal to the deficit so deter-  
17 mined to the other such areas, on the basis of the quotas  
18 then in effect. Any portion of such sugar which the Secre-  
19 tary determines cannot be supplied by domestic areas and  
20 Cuba shall be prorated to foreign countries other than Cuba  
21 on the basis of the prorations of the quota then in effect  
22 for such foreign countries. If the Secretary finds that the  
23 Commonwealth of the Philippine Islands will be unable to  
24 market the quota for such area for the calendar year then  
25 current, he shall revise the quota for foreign countries other

1 than Cuba by prorating an amount of sugar equal to the  
2 deficit so determined to such foreign countries, on the basis  
3 of the prorations of the quota then in effect for such countries:  
4 *Provided, however,* That the quota for any domestic area,  
5 the Commonwealth of the Philippine Islands, or Cuba or  
6 other foreign countries, shall not be reduced by reason of  
7 any determination made pursuant to the provisions of this  
8 subsection.

9 (b) If, on the 1st day of September in any calendar  
10 year, any part or all of the proration to any foreign country  
11 of the quota in effect on the 1st day of July in the same  
12 calendar year for foreign countries other than Cuba, has  
13 not been filled, the Secretary may revise the proration of  
14 such quota among such foreign countries, by prorating an  
15 amount of sugar equal to such unfilled proration to all other  
16 such foreign countries which have filled their prorations of  
17 such quota by such date, on the basis of the prorations then  
18 in effect.

19 SEC. 205 (a) Whenever the Secretary finds that the  
20 allotment of any quota, or proration thereof, established for  
21 any area pursuant to the provisions of this Act, is necessary  
22 to assure an orderly and adequate flow of sugar or liquid  
23 sugar in the channels of interstate or foreign commerce, or  
24 to prevent disorderly marketing or importation of sugar or  
25 liquid sugar, or to maintain a continuous and stable supply

1 of sugar or liquid sugar, or to afford all interested persons  
2 an equitable opportunity to market sugar or liquid sugar  
3 within any area's quota, after such hearing and upon such  
4 notice as he may by regulations prescribe, he shall make  
5 allotments of such quota or proration thereof by allotting  
6 to persons who market or import sugar or liquid sugar, for  
7 such periods as he may designate, the quantities of sugar  
8 or liquid sugar which each such person may market in con-  
9 tinental United States, the Territory of Hawaii, or Puerto  
10 Rico, or may import or bring into continental United States,  
11 for consumption therein. Allotments shall be made in such  
12 manner and in such amounts as to provide a fair, efficient,  
13 and equitable distribution of such quota or proration thereof,  
14 by taking into consideration the processings of sugar or  
15 liquid sugar from sugar beets or sugarcane to which pro-  
16 portionate shares, determined pursuant to the provisions of  
17 subsection (b) of section 302, pertained; the past market-  
18 ings or importations of each such person; or the ability of  
19 such person to market or import that portion of such quota  
20 or proration thereof allotted to him. The Secretary may  
21 also, upon such hearing and notice as he may by regula-  
22 tions prescribe, revise or amend any such allotment upon  
23 the same basis as the initial allotment was made.

24 (b) An appeal may be taken, in the manner hereinafter  
25 provided, from any decision making such allotments, or

1 revision thereof, to the United States Court of Appeals for  
2 the District of Columbia in any of the following cases:

3 (1) By any applicant for an allotment whose appli-  
4 cation shall have been denied.

5 (2) By any person aggrieved by reason of any  
6 decision of the Secretary granting or revising any allot-  
7 ment made to him.

8 (c) Such appeal shall be taken by filing with said court  
9 within twenty days after the decision complained of is effec-  
10 tive, notice in writing of said appeal and a statement of the  
11 reasons therefor, together with proof of service of a true copy  
12 of said notice and statement upon the Secretary. Unless a  
13 later date is specified by the Secretary as part of his deci-  
14 sion, the decision complained of shall be considered to be  
15 effective as of the date on which public announcement of the  
16 decision is made at the office of the Secretary in the city of  
17 Washington. The Secretary shall thereupon, and in any  
18 event not later than ten days from the date of such service  
19 upon him, mail or otherwise deliver a copy of said notice of  
20 appeal to each person shown by the records of the Secre-  
21 tary to be interested in such appeal and to have a right to  
22 intervene therein under the provisions of this section, and  
23 shall at all times thereafter permit any such person to inspect  
24 and make copies of appellants' reasons for said appeal at the  
25 office of the Secretary in the city of Washington. Within

1 thirty days after the filing of said appeal the Secretary shall  
2 file with the court the originals or certified copies of all  
3 papers and evidence presented to him upon the hearing in-  
4 volved and also a like copy of his decision thereon and shall  
5 within thirty days thereafter file a full statement in writing  
6 of the facts and grounds for his decision as found and given  
7 by him and a list of all interested persons to whom he has  
8 mailed or otherwise delivered a copy of said notice of appeal.

9 (d) Within thirty days after the filing of said appeal  
10 any interested person may intervene and participate in the  
11 proceedings had upon said appeal by filing with the court a  
12 notice of intention to intervene and a verified statement show-  
13 ing the nature of the interest of such party together with  
14 proof of service of true copies of said notice and statement,  
15 both upon the appellant and upon the Secretary. Any per-  
16 son who would be aggrieved or whose interests would be  
17 adversely affected by reversal or modification of the decision  
18 of the Secretary complained of shall be considered an inter-  
19 ested party.

20 (e) At the earliest convenient time the court shall hear  
21 and determine the appeal upon the record before it, and shall  
22 have power, upon such record, to enter a judgment affirming  
23 or reversing the decision, and if it enters an order reversing  
24 the decision of the Secretary it shall remand the case to the

1 Secretary to carry out the judgment of the court: *Provided,*  
2 *however,* That the review by the court shall be limited to  
3 questions of law and that findings of fact by the Secretary,  
4 if supported by substantial evidence, shall be conclusive  
5 unless it shall clearly appear that the findings of the Secre-  
6 tary are arbitrary or capricious. The court's judgment shall  
7 be final, subject, however, to review by the Supreme Court  
8 of the United States, upon writ of certiorari on petition  
9 therefor, under section 240 of the Judicial Code, as amended  
10 (U. S. C., 1934 ed., title 28, sec. 347), by appellant, by  
11 the Secretary, or by any interested party intervening in the  
12 appeal.

13 (f) The court may, in its discretion, enter judgment  
14 for costs in favor of or against an appellant, and other  
15 interested parties intervening in said appeal, but not against  
16 the Secretary, depending upon the nature of the issues  
17 involved in such appeal and the outcome thereof.

18 (g) The Government of the Commonwealth of the  
19 Philippine Islands shall make allotments of any quota estab-  
20 lished for it pursuant to the provisions of this Act on the  
21 basis specified in section 6 (d) of Public Law Numbered  
22 127, approved March 24, 1934.

23 SEC. 206. Until sugar quotas are established pursuant  
24 to this Act for the calendar year 1937, which shall be within

1 sixty days after its enactment, the quotas determined by  
2 the Secretary in General Sugar Quota Regulations, Series 4,  
3 Number 1, issued December 12, 1936, pursuant to the  
4 provisions of the Agricultural Adjustment Act, as amended,  
5 shall remain in full force and effect.

6       SEC. 207. (a) Not more than twenty-nine thousand six  
7 hundred and sixteen short tons, raw value, of the quota for  
8 Hawaii for any calendar year may be filled by direct-con-  
9 sumption sugar.

10       (b) Not more than one hundred and twenty-six thou-  
11 sand and thirty-three short tons, raw value, of the quota for  
12 Puerto Rico for any calendar year may be filled by direct-  
13 consumption sugar.

14       (c) None of the quota for the Virgin Islands for any  
15 calendar year may be filled by direct-consumption sugar.

16       (d) Not more than eighty thousand two hundred and  
17 fourteen short tons, raw value, of the quota for the Common-  
18 wealth of the Philippine Islands for any calendar year may  
19 be filled by direct-consumption sugar.

20       (e) Not more than three hundred and seventy-five  
21 thousand short tons, raw value, of the quota for Cuba for  
22 any calendar year may be filled by direct-consumption sugar.

23       (f) This section shall not apply with respect to the  
24 quotas established under section 203 for marketing for local  
25 consumption in Hawaii and Puerto Rico.

1 SEC. 208. Quotas for liquid sugar for foreign countries  
 2 for each calendar year are hereby established as follows:

Country	In terms of wine gallons of 72% total-sugar content
3 Cuba.....	7,970,558
4 Dominican Republic.....	830,894
5 Other foreign countries.....	0

6 The quantities of liquid sugar imported into the continen-  
 7 tal United States during the calendar year 1937, prior to the  
 8 enactment of this Act, shall be charged against the quotas  
 9 for the calendar year 1937 established by this section.

10 SEC. 209. All persons are hereby prohibited—

11 (a) From bringing or importing into the continental  
 12 United States from the Territory of Hawaii, Puerto Rico,  
 13 the Virgin Islands, the Commonwealth of the Philippine  
 14 Islands, or foreign countries, any sugar or liquid sugar after  
 15 the quota for such area, or the proration of any such quota,  
 16 has been filled;

17 (b) From shipping, transporting, or marketing in inter-  
 18 state commerce, or in competition with sugar or liquid sugar  
 19 shipped, transported, or marketed in interstate or foreign  
 20 commerce, any sugar or liquid sugar produced from sugar  
 21 beets or sugarcane grown in either the domestic-beet-sugar  
 22 area or the mainland-cane-sugar area after the quota for  
 23 such area has been filled;

24 (c) From marketing in either the Territory of Hawaii  
 25 or Puerto Rico, for consumption therein, any sugar or liquid  
 26 sugar after the quota therefor has been filled;

1 (d) From exceeding allotments of any quota or pro-  
2 ration thereof made to them pursuant to the provisions of  
3 this Act.

4 SEC. 210. (a) The determinations provided for in sec-  
5 tions ~~201 and 203,~~ and all quotas, prorations, and allot-  
6 ments, except quotas established pursuant to the provisions  
7 of section 208, shall be made or established in terms of  
8 raw value.

9 (b) For the purposes of this title, liquid sugar, except  
10 that imported from foreign countries, shall be included with  
11 sugar in making the determinations provided for in sections  
12 201 and 203 and in the establishment or revision of quotas,  
13 prorations, and allotments.

14 SEC. 211. (a) The raw-value equivalent of any sugar  
15 or liquid sugar in any form, including sugar or liquid sugar  
16 in manufactured products, exported from the continental  
17 United States under the provisions of section 313 of the Tariff  
18 Act of 1930 shall be credited against any charges which shall  
19 have been made in respect to the applicable quota or pro-  
20 ration for the country of origin. The country of origin of  
21 sugar or liquid sugar in respect to which any credit shall be  
22 established shall be that country in respect to importation  
23 from which drawback of the exported sugar or liquid sugar  
24 has been claimed. Sugar or liquid sugar entered into the con-  
25 tinental United States under an applicable bond established

1 pursuant to orders or regulations issued by the Secretary, for  
2 the express purpose of subsequently exporting the equivalent  
3 quantity of sugar or liquid sugar as such, or in manufactured  
4 articles, shall not be charged against the applicable quota or  
5 proration for the country of origin.

6 (b) Exportation within the meaning of sections 309  
7 and 313 of the Tariff Act of 1930 shall be considered to  
8 be exportation within the meaning of this section.

9 (c) The quota established for any domestic sugar pro-  
10 ducing area may be filled only with sugar or liquid sugar  
11 produced from sugar beets or sugarcane grown in such area:  
12 *Provided, however,* That any sugar or liquid sugar admitted  
13 free of duty from the Virgin Islands under the Act of Con-  
14 gress, approved March 3, 1917 (39 Stat. 1133), may be  
15 admitted within the quota for the Virgin Islands.

16 SEC. 212. The provisions of this title shall not apply  
17 to (1) the first ten short tons, raw value, of sugar or liquid  
18 sugar imported from any foreign country, other than Cuba,  
19 in any calendar year; (2) the first ten short tons, raw value,  
20 of sugar or liquid sugar imported from any foreign country,  
21 other than Cuba, in any calendar year for religious, sacra-  
22 mental, educational, or experimental purposes; (3) liquid  
23 sugar imported from any foreign country, other than Cuba,  
24 in individual sealed containers of such capacity as the Secre-  
25 tary may determine, not in excess of one and one-tenth gal-

1 lons each; or (4) any sugar or liquid sugar imported,  
2 brought into, or produced or manufactured in the United  
3 States for the distillation of alcohol, or for livestock feed, or  
4 for the production of livestock feed.

5 TITLE III—CONDITIONAL-PAYMENT PROVISIONS

6 SEC. 301. The Secretary is authorized to make pay-  
7 ments on the following conditions with respect to sugar or  
8 liquid sugar commercially recoverable from the sugar beets  
9 or sugarcane grown on a farm for the extraction of sugar  
10 or liquid sugar:

11 (a) That no child under the age of fourteen years shall  
12 have been employed or permitted to work on the farm,  
13 whether for gain to such child or any other person, in the  
14 production, cultivation, or harvesting of a crop of sugar beets  
15 or sugarcane with respect to which application for payment  
16 is made, except a member of the immediate family of a  
17 person who was the legal owner of not less than 40 per  
18 centum of the crop at the time such work was performed;  
19 and that no child between the ages of fourteen and sixteen  
20 years shall have been employed or permitted to do such  
21 work, whether for gain to such child or any other person,  
22 for a longer period than eight hours in any one day, except  
23 a member of the immediate family of a person who was the  
24 legal owner of not less than 40 per centum of the crop at  
25 the time such work was performed.

1           (b) That all persons employed on the farm in the pro-  
2   duction, cultivation, or harvesting of sugar beets or sugar-  
3   cane with respect to which an application for payment is  
4   made shall have been paid in full for all such work, and shall  
5   have been paid wages therefor at rates not less than those  
6   that may be determined by the Secretary to be fair and  
7   reasonable after investigation and due notice and opportu-  
8   nity for public hearing; and in making such determinations  
9   the Secretary shall take into consideration the standards  
10  therefor formerly established by him under the Agricultural  
11  Adjustment Act, as amended, and the differences in condi-  
12  tions among various producing areas: *Provided, however,*  
13  That a payment which would be payable except for the fore-  
14  going provisions of this subsection may be made, as the  
15  Secretary may determine, in such manner that the laborer  
16  will receive an amount, insofar as such payment will suffice,  
17  equal to the amount of the accrued unpaid wages for such  
18  work, and that the producer will receive the remainder, if  
19  any, of such payment.

20           (c) That there shall not have been marketed (or pro-  
21  cessed) an amount (in terms of planted acreage, weight,  
22  or recoverable sugar content) of sugar beets or sugarcane  
23  grown on the farm and used for the production of sugar or  
24  liquid sugar to be marketed in, or so as to compete with or  
25  otherwise directly affect interstate or foreign commerce, in

1 excess of the proportionate share for the farm, as determined  
2 by the Secretary pursuant to the provisions of section 302,  
3 of the total quantity of sugar beets or sugarcane required  
4 to be processed to enable the area in which such sugar beets  
5 or sugarcane are produced to meet the quota (and provide  
6 a normal carry-over inventory) as estimated by the Secre-  
7 tary for such area for the calendar year during which the  
8 larger part of the sugar or liquid sugar from such crop  
9 normally would be marketed.

10 (d) That the producer on the farm who is also, directly  
11 or indirectly, a processor of sugar beets or sugarcane, as  
12 may be determined by the Secretary, shall have paid, or  
13 contracted to pay under either purchase or toll agreements,  
14 for any sugar beets or sugarcane grown by other producers  
15 and processed by him at rates not less than those that may  
16 be determined by the Secretary to be fair and reasonable  
17 after investigation and due notice and opportunity for public  
18 hearing.

19 (e) That there shall have been carried out on the farm  
20 such farming practices in connection with the production of  
21 sugar beets and sugarcane during the year in which the  
22 crop was harvested with respect to which a payment is  
23 applied for, as the Secretary may determine, pursuant to  
24 this subsection, for preserving and improving fertility of  
25 the soil and for preventing soil erosion, such practices to be

1 consistent with the reasonable standards of the farming com-  
2 munity in which the farm is situated.

3 The conditions provided in subsection (a) and in sub-  
4 section (b) with respect to wage rates, of this section shall  
5 not apply to work performed prior to the enactment of this  
6 Act; and the condition provided in subsection (c) of this  
7 section shall not apply to the marketing of the first crop  
8 harvested after the enactment of this Act from sugar beets  
9 or sugarcane planted prior to such enactment.

10 SEC. 302. (a) The amount of sugar or liquid sugar  
11 with respect to which payment may be made shall be the  
12 amount of sugar or liquid sugar commercially recoverable, as  
13 determined by the Secretary, from the sugar beets or sugar-  
14 cane grown on the farm and marketed (or processed by the  
15 producer) not in excess of the proportionate share for the  
16 farm, as determined by the Secretary, of the quantity of  
17 sugar beets or sugarcane for the extraction of sugar or liquid  
18 sugar required to be processed to enable the producing area  
19 in which the crop of sugar beets or sugarcane is grown to  
20 meet the quota (and provide a normal carryover inventory)  
21 estimated by the Secretary for such area for the calendar  
22 year during which the larger part of the sugar or liquid  
23 sugar from such crop normally would be marketed.

24 (b) In determining the proportionate shares with re-  
25 spect to a farm, the Secretary may take into consideration

1 the past production on the farm of sugar beets and sugarcane  
2 marketed (or processed) for the extraction of sugar or liquid  
3 sugar and the ability to produce such sugar beets or sugar-  
4 cane, and the Secretary shall, insofar as practicable, protect  
5 the interests of new producers and small producers and the  
6 interests of producers who are cash tenants, share-tenants,  
7 adherent planters, or share-croppers.

8 (c) Payments shall be effective with respect to sugar  
9 or liquid sugar commercially recoverable from sugar beets  
10 and sugarcane grown on a farm and which shall have been  
11 marketed (or processed by the producer) on and after July  
12 1, 1937.

13 SEC. 303. In addition to the amount of sugar or liquid  
14 sugar with respect to which payments are authorized under  
15 subsection (a) of section 302, the Secretary is also author-  
16 ized to make payments, on the conditions provided in section  
17 301, with respect to bona-fide abandonment of planted acre-  
18 age and crop deficiencies of harvested acreage, resulting  
19 from drought, flood, storm, freeze, disease, or insects, which  
20 cause such damage to all or a substantial part of the  
21 crop of sugar beets or sugarcane in the same factory  
22 district (as established by the Secretary), county, parish,  
23 municipality, or local producing area, as determined in  
24 accordance with regulations issued by the Secretary, on the

1 following quantities of sugar or liquid sugar: (1) With  
2 respect to such bona-fide abandonment of each planted acre  
3 of sugar beets or sugarcane, one-third of the normal yield  
4 of commercially recoverable sugar or liquid sugar per acre  
5 for the farm, as determined by the Secretary; and (2) with  
6 respect to such crop deficiencies of harvested acreage of  
7 sugar beets or sugarcane, the excess of 80 per centum of  
8 the normal yield of commercially recoverable sugar or liquid  
9 sugar for such acreage for the farm, as determined by the  
10 Secretary, over the actual yield.

11       SEC. 304. (a) The amount of the base rate of payment  
12 shall be 60 cents per hundred pounds of sugar or liquid  
13 sugar, raw value.

14       (b) All payments shall be calculated with respect to a  
15 farm which, for the purposes of this Act, shall be a farming  
16 unit as determined in accordance with regulations issued  
17 by the Secretary, and in making such determinations, the  
18 Secretary shall take into consideration the use of common  
19 work stock, equipment, labor, management, and other per-  
20 tinent factors.

21       (c) The total payment with respect to a farm shall  
22 be the product of the base rate specified in subsection (a)  
23 of this section multiplied by the amount of sugar and  
24 liquid sugar, raw value, with respect to which payment

- 1 is to be made, except that reductions shall be made from  
 2 such total payment in accordance with the following scale  
 3 of reductions:

That portion of the quantity of sugar and liquid sugar which is included within the following intervals of short tons, raw value:	Reduction in the base rate of payment per hundred-weight of such portion
500 to 1,500.....	\$0.050
1,500 to 6,000.....	.075
6,000 to 12,000.....	.100
12,000 to 30,000.....	.125
More than 30,000.....	.300

- 4 (d) Application for payment shall be made by, and  
 5 payments shall be made to, the producer or, in the event  
 6 of his death, disappearance, or incompetency, his legal repre-  
 7 sentative, or heirs: *Provided, however,* That all producers  
 8 on the farm shall signify in the application for payment the  
 9 per centum of the total payment with respect to the farm  
 10 to be made to each producer: *And provided further,* That  
 11 payments may be made, (1) in the event of the death, dis-  
 12 appearance, or incompetency of a producer, to such bene-  
 13 ficiary as the producer may designate in the application for  
 14 payment; (2) to one producer of a group of two or more  
 15 producers, provided all producers on the farm designate such  
 16 producer in the application for payment as sole recipient for  
 17 their benefit of the payment with respect to the farm; or (3)  
 18 to a person who is not a producer, provided such person con-  
 19 trols the land included within the farm with respect to which  
 20 the application for payment is made and is designated by  
 21 the sole producer (or all producers) on the farm, as sole

1 recipient for his or their benefit, of the payment with respect  
2 to the farm.

3       SEC. 305. In carrying out the provisions of titles II and  
4 III of this Act, the Secretary is authorized to utilize local  
5 committees of sugar beet or sugarcane producers, State and  
6 county agricultural conservation committees, or the Agri-  
7 cultural Extension Service and other agencies, and the Secre-  
8 tary may prescribe that all or a part of the expenses of such  
9 committees may be deducted from the payments herein  
10 authorized.

11       SEC. 306. The facts constituting the basis for any pay-  
12 ment, or the amount thereof authorized to be made under  
13 this title, officially determined in conformity with rules or  
14 regulations prescribed by the Secretary, shall be reviewable  
15 only by the Secretary, and his determinations with respect  
16 thereto shall be final and conclusive.

17       SEC. 307. This title shall apply to the continental United  
18 States, the Territory of Hawaii, and Puerto Rico.

19 TITLE IV—EXCISE TAXES WITH RESPECT TO  
20 SUGAR

21 DEFINITIONS

22       SEC. 401. For the purposes of this title—

23       (a) The term "person" means an individual, partner-  
24 ship, corporation, or association.

1 (b) The term "manufactured sugar" means any sugar  
2 derived from sugar beets or sugarcane, which is not to be,  
3 and which shall not be, further refined or otherwise im-  
4 proved in quality; except sugar in liquid form which con-  
5 tains nonsugar solids (excluding any foreign substance that  
6 may have been added) equal to more than 6 per centum of  
7 the total soluble solids, and except also sirup of cane juice  
8 produced from sugarcane grown in continental United States.  
9 Notwithstanding the foregoing exceptions, sugar in liquid  
10 form (regardless of its nonsugar solid content) which is to  
11 be used in the distillation of alcohol shall be considered manu-  
12 factured sugar.

13 The grades or types of sugar within the meaning of this  
14 definition shall include, but shall not be limited to, granulated  
15 sugar, lump sugar, cube sugar, powdered sugar, sugar in the  
16 form of blocks, cones, or molded shapes, confectioners' sugar,  
17 washed sugar, centrifugal sugar, clarified sugar, turbinado  
18 sugar, plantation white sugar, muscovado sugar, refiners' soft  
19 sugar, invert sugar mush, raw sugar, sirups, molasses, and  
20 sugar mixtures.

21 (c) The term "total sugars" means the total amount  
22 of the sucrose (Clerget) and of the reducing or invert sugars.  
23 The total sugars contained in any grade or type of manu-  
24 factured sugar shall be ascertained in the manner prescribed

1 in paragraphs 758, 759, 762, and 763 of the United States  
2 Customs Regulations (1931 edition).

3 (d) The term "United States" shall be deemed to in-  
4 clude the States, the Territories of Hawaii and Alaska, the  
5 District of Columbia, and Puerto Rico.

6 TAX ON THE MANUFACTURE OF SUGAR

7 SEC. 402. (a) Upon manufactured sugar manufactured  
8 in the United States, there shall be levied, collected and paid  
9 a tax, to be paid by the manufacturer at the following rates:

10 (1) On all manufactured sugar testing by the  
11 polariscope ninety-two sugar degrees, 0.465 cent per  
12 pound, and for each additional sugar degree shown by  
13 the polariscopic test, 0.00875 cent per pound additional,  
14 and fractions of a degree in proportion;

15 (2) On all manufactured sugar testing by the  
16 polariscope less than ninety-two sugar degrees, 0.5144  
17 cent per pound of the total sugars therein.

18 (b) Any person who acquires any sugar which is to  
19 be manufactured into manufactured sugar but who, without  
20 further refining or otherwise improving it in quality, sells  
21 such sugar as manufactured sugar or uses such sugar as  
22 manufactured sugar in the production of other articles for  
23 sale shall be considered for the purposes of this section the  
24 manufacturer of manufactured sugar and, as such, liable for  
25 the tax hereunder with respect thereto.

1 (c) The manufacturer shall file on the last day of each  
2 month a return and pay the tax with respect to manufactured  
3 sugar manufactured after the effective date of this title (1)  
4 which has been sold, or used in the production of other  
5 articles, by the manufacturer during the preceding month  
6 (if the tax has not already been paid) and (2) which has  
7 not been so sold or used within twelve months ending during  
8 the preceding calendar month, after it was manufactured (if  
9 the tax has not already been paid): *Provided*, That the  
10 first return and payment of the tax shall not be due until the  
11 last day of the second month following the month in which  
12 this title takes effect.

13 For the purpose of determining whether sugar has been  
14 sold or used within twelve months after it was manufactured  
15 sugar shall be considered to have been sold or used in the  
16 order in which it was manufactured.

17 (d) No tax shall be required to be paid upon the manu-  
18 facture of manufactured sugar by, or for, the producer of  
19 the sugar beets or sugarcane from which such manufactured  
20 sugar was derived, for consumption by the producer's own  
21 family, employees, or household.

22 IMPORT COMPENSATING TAX

23 SEC. 403. (a) In addition to any other tax or duty  
24 imposed by law, there shall be imposed, under such regula-  
25 tions as the Commissioner of Customs shall prescribe, with

1 the approval of the Secretary of the Treasury, a tax upon  
2 articles imported or brought into the United States as  
3 follows:

4 (1) On all manufactured sugar testing by the  
5 polariscope ninety-two sugar degrees, 0.465 cent per  
6 pound, and for each additional sugar degree shown by  
7 the polariscopic test, 0.00875 cent per pound additional,  
8 and fractions of a degree in proportion;

9 (2) On all manufactured sugar testing by the  
10 polariscope less than ninety-two sugar degrees 0.5144  
11 cent per pound of the total sugars therein;

12 (3) On all articles composed in chief value of  
13 manufactured sugar 0.5144 cent per pound of the total  
14 sugars therein.

15 (b) Such tax shall be levied, assessed, collected, and  
16 paid in the same manner as a duty imposed by the Tariff  
17 Act of 1930, and shall be treated for the purposes of all  
18 provisions of law relating to the customs revenue as a duty  
19 imposed by such Act, except that for the purposes of sections  
20 336 and 350 of such Act (the so-called flexible-tariff and  
21 trade-agreements provisions) such tax shall not be considered  
22 a duty or import restriction, and except that no preference  
23 with respect to such tax shall be accorded any articles im-  
24 ported or brought into the United States.

## EXPORTATION AND LIVESTOCK FEED

1  
2       SEC. 404. (a) Upon the exportation from the United  
3 States to a foreign country, or the shipment from the United  
4 States to any possession of the United States except Puerto  
5 Rico, of any manufactured sugar, or any article manufactured  
6 wholly or partly from manufactured sugar, with respect to  
7 which tax under the provisions of section 402 has been paid,  
8 the amount of such tax shall be paid by the Commissioner  
9 of Internal Revenue to the consignor named in the bill of  
10 lading under which the article was exported or shipped to a  
11 possession, or to the shipper, if the consignor waives any  
12 claim thereto in favor of such shipper: *Provided*, That no  
13 such payment shall be allowed with respect to any manu-  
14 factured sugar, or article, upon which, through substitution  
15 or otherwise, a drawback of any tax paid under section 403  
16 has been or is to be claimed under any provisions of law  
17 made applicable by section 403.

18       (b) Upon the use of any manufactured sugar, or article  
19 manufactured therefrom, as livestock feed, or in the produc-  
20 tion of livestock feed, there shall be paid by the Commissioner  
21 of Internal Revenue to the person so using such manufactured  
22 sugar, or article manufactured therefrom, the amount of any  
23 tax paid under section 402 with respect thereto.

24       (c) No payment shall be allowed under this section  
25 unless within one year after the right to such payment has



## 1 EFFECTIVE DATE

2 SEC. 406. The provisions of this title shall become  
3 effective on the date of enactment of this Act.

## 4 TITLE V—GENERAL PROVISIONS

5 SEC. 501. For the purposes of this Act, except title IV,  
6 the Secretary shall—

7 (a) Appoint and fix the compensation of such officers  
8 and employees as he may deem necessary in administering  
9 the provisions of this Act: *Provided*, That all such officers  
10 and employees, except attorneys, economists, experts, and  
11 persons in the employ of the Department of Agriculture  
12 on the date of the enactment of this Act, shall be subject  
13 to the provisions of the civil-service laws and the Classifica-  
14 tion Act of 1923, as amended: *And provided further*, That  
15 no salary in excess of \$10,000 per annum shall be paid  
16 to any such person.

17 (b) Make such expenditures as he deems necessary to  
18 carry out the provisions of this Act, including personal  
19 services and rents in the District of Columbia and elsewhere,  
20 traveling expenses (including the purchase, maintenance,  
21 and repair of passenger-carrying vehicles), supplies and  
22 equipment, law books, books of referencē, directories,  
23 periodicals, and newspapers.

24 SEC. 502. (a) There is hereby authorized to be appro-  
25 priated for each fiscal year for the purposes and administra-

1 tion of this Act, except for allotments in the Philippine  
2 Islands as provided in subsection (g) of section 205, a sum  
3 not to exceed \$55,000,000.

4 (b) All funds available for carrying out this Act shall  
5 be available for allotment to the bureaus and offices of the  
6 Department of Agriculture and for transfer to such other  
7 agencies of the Federal Government as the Secretary may  
8 request to cooperate or assist in carrying out the provisions  
9 of this Act.

10 SEC. 503. There is authorized to be appropriated an  
11 amount equal to the amount of the taxes collected or accrued  
12 under title IV on sugars produced from sugarcane grown  
13 in the Commonwealth of the Philippine Islands which are  
14 manufactured in or brought into the United States on or  
15 prior to June 30, 1941, minus the costs of collecting  
16 such taxes and the estimates of amounts of refunds required  
17 to be made with respect to such taxes, for transfer to the  
18 Government of the Commonwealth of the Philippines for  
19 the purpose of financing a program of economic adjust-  
20 ment in the Philippines, the transfer to be made under such  
21 terms and conditions as the President of the United States  
22 may prescribe: *Provided*, That no part of the appropriations  
23 herein authorized shall be paid directly or indirectly for  
24 the production or processing of sugarcane in the Philippine  
25 Islands.

1       SEC. 504. The Secretary is authorized to make such  
2 orders or regulations, which shall have the force and effect of  
3 law, as may be necessary to carry out the powers vested in  
4 him by this Act. Any person knowingly violating any  
5 order or regulation of the Secretary issued pursuant to this  
6 Act shall, upon conviction, be punished by a fine of not  
7 more than \$100 for each such violation.

8       SEC. 505. The several district courts of the United  
9 States are hereby vested with jurisdiction specifically to  
10 enforce, and to prevent and restrain any person from violat-  
11 ing, the provisions of this Act or of any order or regulation  
12 made or issued pursuant to this Act. If and when the  
13 Secretary shall so request, it shall be the duty of the several  
14 district attorneys of the United States, in their respective  
15 districts, to institute proceedings to enforce the remedies  
16 and to collect the penalties and forfeitures provided for in  
17 this Act. The remedies provided for in this Act shall be  
18 in addition to, and not exclusive of, any of the remedies or  
19 penalties existing at law or in equity.

20       SEC. 506. Any person who knowingly violates, or  
21 attempts to violate, or who knowingly participates or aids  
22 in the violation of, any of the provisions of section 209, or  
23 any person who brings or imports into the continental  
24 United States direct-consumption sugar after the quantities  
25 specified in section 207 have been filled, shall forfeit to the

1 United States the sum equal to three times the market value,  
2 at the time of the commission of any such, (a) of that  
3 quantity of sugar or liquid sugar by which any quota, pro-  
4 ration, or allotment is exceeded, or (b) of that quantity  
5 brought or imported into the continental United States after  
6 the quantities specified in section 207 have been filled, which  
7 forfeiture shall be recoverable in a civil suit brought in the  
8 name of the United States.

9       Sec. 507. All persons engaged in the manufacturing,  
10 marketing, or transportation of sugar or liquid sugar, and  
11 having information which the Secretary deems necessary  
12 to enable him to administer the provisions of this Act, shall,  
13 upon the request of the Secretary, furnish him with such  
14 information. Any person willfully failing or refusing to  
15 furnish such information, or furnishing willfully any false  
16 information, shall upon conviction be subject to a penalty of  
17 not more than \$1,000 for each such violation.

18       Sec. 508. No person shall, while acting in any official  
19 capacity in the administration of this Act, invest or speculate  
20 in sugar or liquid sugar, contracts relating thereto, or the  
21 stock or membership interests of any association or corpora-  
22 tion engaged in the production or manufacturing of sugar or  
23 liquid sugar. Any person violating this section shall upon  
24 conviction thereof be fined not more than \$10,000 or im-  
25 prisoned not more than two years, or both.

1        SEC. 509. Whenever the President finds and proclaims  
2 that a national economic or other emergency exists with  
3 respect to sugar or liquid sugar, he shall by proclamation  
4 suspend the operation of title II or III above, which he  
5 determines, on the basis of such findings, should be sus-  
6 pended, and, thereafter, the operation of any such title shall  
7 continue in suspense until the President finds and proclaims  
8 that the facts which occasioned such suspension no longer  
9 exist. The Secretary shall make such investigations and  
10 reports thereon to the President as may be necessary to aid  
11 him in carrying out the provisions of this section.

12        SEC. 510. The provisions of the Agricultural Adjust-  
13 ment Act, as amended, shall cease to apply to sugar upon  
14 the enactment of this Act, and the provisions of Public Reso-  
15 lution Numbered 109, Seventy-fourth Congress, approved  
16 June 19, 1936, are hereby repealed.

17        SEC. 511. In order to facilitate the effectuation of the  
18 purposes of this Act, the Secretary is authorized to make  
19 surveys, investigations, including the holding of public hear-  
20 ings, and to make recommendations with respect to (a) the  
21 terms and conditions of contracts between the producers and  
22 processors of sugar beets and sugarcane and (b) the terms  
23 and conditions of contracts between laborers and producers  
24 of sugar beets and sugarcane.

1        SEC. 512. The Secretary is authorized to conduct sur-  
2 veys, investigations, and research relating to the conditions  
3 and factors affecting the methods of accomplishing most  
4 effectively the purposes of this Act and for the benefit of  
5 agriculture generally in any area. Notwithstanding any pro-  
6 vision of existing law, the Secretary is authorized to make  
7 public such information as he deems necessary to carry out  
8 the provisions of this Act.

9        SEC. 513. No tax shall be imposed on the manufacture,  
10 use, or importation of sugar after June 30, 1941, and the  
11 powers vested in the Secretary under this Act shall terminate  
12 on December 31, 1940, except that the Secretary shall have  
13 power to make payments under Title III under programs  
14 applicable to the crop year 1940 and previous crop years.

Passed the House of Representatives August 6, 1937.

Attest:

SOUTH TRIMBLE,

*Clerk.*

15TH CONGRESS }  
1ST SESSION }

## H. R. 7667

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### AN ACT

To regulate commerce among the several States, with the Territories and possessions of the United States, and with foreign countries; to protect the welfare of consumers of sugars and of those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; to raise revenue; and for other purposes.

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JULY 22 (calendar day, AUGUST 6), 1837

Read twice and referred to the Committee on Finance

6/23/39

Please put on my desk  
when I return.

F. D. R.

Draft bill for Self-liquidating Projects Act of 1939

June 23, 1939 - CONFIDENTIAL

*PST*  
*Bill in Congress*

A BILL

To provide for the construction and financing of self-liquidating projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Self-liquidating Projects Act of 1939."

TITLE I

United States Works and Finance Authority

SEC. 1. A board, to consist of the Secretary of the Treasury, the Secretary of Agriculture, the Federal Works Administrator, and the Federal Loan Administrator, is hereby created as a body corporate of perpetual duration to be known as the United States Works and Finance Authority (herein called the "Authority"), which shall be an agency and instrumentality of the United States with its office in the District of Columbia and with power to function in any place. The board shall appoint an officer to be known as the managing director of the Authority. The managing director shall receive a salary of \$10,000 a year to be paid by the Authority and shall exercise all powers of the Authority not delegated by this Title to any other officer.

General Corporate Powers

SEC. 2. Subject to the provisions of this Title, the Authority shall have power:

- (a) To sue and be sued in its corporate name and in this connection sue in the appropriate district court of the United States for the recovery of damages pursuant to the provisions of Section 7 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; and whenever the Authority shows in such suit that any bidder has submitted a bid or bids identical with bids submitted by any competitor in response to a particular invitation for bids, such bids or such prices shall be presumed to have been a result of or in furtherance of an agreement to fix prices, and the existence of such agreement shall for purposes of such civil suit be regarded as proved, unless the non-existence thereof is established to the satisfaction of the trier of fact;
- (b) To adopt, alter, and use a corporate seal, which shall be judicially noticed;

- (c) To use the United States Mails in like manner as the executive departments of the Government;
- (d) To acquire by gift, purchase, exchange, or by the exercise of the power of eminent domain, or otherwise, and to hold, lease (as lessor or as lessee), use, sell, exchange or otherwise dispose of real property necessary or convenient for carrying out any of its functions hereunder;
- (e) To acquire, hold, and dispose of personal property for any corporate purpose, including the power to purchase prospective or tentative awards in connection with the taking of real property by the exercise of the power of eminent domain;
- (f) To enter on any lands and premises for the purpose of making surveys and examinations;
- (g) To make contracts and to execute all instruments necessary or convenient to carry out any corporate purpose;
- (h) With the approval of the Secretary of the Treasury, to incur indebtedness, to borrow money and to issue debentures, bonds or other obligations, including interim receipts and certificates,

as hereinafter provided (any of the foregoing instruments being herein called the "bonds"), to provide for the payment of the bonds and the interest thereon and to provide for the rights of the holders thereof;

- (i) With the approval of the Secretary of the Treasury, to sell or otherwise dispose of any securities acquired on behalf of the Authority, and in connection with any such sale to make such contracts and agreements, including covenants and conditions for the repurchase at par of any such securities in the event of a default in the payment of the interest thereon or principal thereof, as seem advisable;
- (j) To utilize the services of federal, state and local agencies and their employees and, notwithstanding any other provision of law, to reimburse such agencies and their employees for services rendered for such purposes;
- (k) To organize under the laws of the District of Columbia or of any State or Territory and to make loans and advances to a corporation or corporations (herein called "operating corporations") to aid the Authority in carrying out its corporate purposes;

- (1) To use its moneys from whatever source derived for any corporate purpose;
- (2) To perform all acts and to do all things necessary or convenient or desirable to carry out the powers now or hereafter conferred by law.

Specific Powers as to Post-road Improvements

SEC. 3. Subject to the provisions of this Title, the Commissioner

of Public Roads on behalf of the Authority shall have power:

- (a) To construct, reconstruct, alter, better, extend, improve, repair, maintain, and operate post-roads, highways, grade-crossings, parkways, bridges, viaducts, tunnels, airports, traffic terminals, and other transportation facilities, including works, undertakings or projects incidental thereto or to encourage the use thereof, with a view to promoting interstate commerce, aiding in the national defense, facilitating the use of the mails, or promoting the general welfare (all or any part of any of the foregoing and appurtenances thereto, such as land, rights in land, water rights, buildings, equipment, and machinery, being herein called a "post-road improvement");
- (b) To fix, maintain, and collect tolls and other charges for the use of any post-road improvement

which shall be sufficient (after making reasonable allowances for operation and maintenance expenses, for the amortization of the cost of such post-road improvement, and interest thereon, and for depreciation to the extent not provided for by amortization, and contingencies, to provide for the payment of such amount of bonds and interest thereon as may have been issued to provide funds for the post-road improvement.

- (c) To acquire, make, produce, buy, and sell building materials, supplies, and equipment, and use or lease the same so far as necessary to carry out its corporate purposes;
- (d) To use the tolls and other charges collected by it for further post-road improvements to the extent the same are not needed by the Authority in the judgment of the managing director to meet reasonable allowances for operation and maintenance expenses or for the amortization of the cost of post-road improvements, and interest thereon, or for depreciation to the extent not provided for by amortization and contingencies;
- (e) To adopt rules and regulations for the management and operation of post-road improvements.

Specific Limitations on Post-road Improvements

SEC. 4. The Commissioner of Public Roads shall not construct any post-road improvement, unless (a) he has submitted to the managing director an analysis indicating the estimated annual earnings of such post-road improvement from all sources will amount to over a reasonable period of time, having due regard to the possibility of a margin of error on the estimated revenues and expenses, making due allowance for operation and maintenance expenses and for depreciation to the extent not provided by amortization, and contingencies; and (b) the Commissioner of Public Roads and the managing director of the Authority are of the opinion that on the basis of such analysis the bonds proposed to be issued to finance the post-road improvement, together with interest thereon, may reasonably be expected to be paid out of such earnings.

Specific Powers as to Non-Federal Public Works

SEC. 5. Subject to the provisions of this Title, the Commissioner of Public Works on behalf of the Authority shall have power:

- (a) To make loans at an interest cost to the borrower not to exceed two percent per annum, payable semiannually, to finance or aid in financing the construction, reconstruction, extension, or improvement of projects of the character heretofore financed by loan or grant or both by the Federal Emergency Administration of Public Works (such projects being herein called "non-federal public works");
- (b) To purchase securities to evidence loans for non-federal public works, and to exchange such securities for other securities if the Commissioner of Public Works shall determine that such exchange is advisable to assure repayment of any loan made hereunder or interest thereon;
- (c) To provide funds sufficient for the temporary operation of any non-federal public works for such period as it shall deem reasonable, if the Commissioner of Public Works shall determine that the same is advisable for the security of any securities acquired by it under this Act;

- (d) To use the proceeds realized from the sale of any securities acquired by it under this Title or any other law for the making of further loans for non-federal public works to the extent such proceeds are not needed by the Authority in the judgment of the managing director to maintain the loans for non-federal public works on a self-liquidating basis.

Specific Limitations on Non-Federal Public Works

SEC. 7. The Commissioner of Public Works shall not finance or aid in financing any non-federal public works, unless (a) the Commissioner of Public Works has found and determined that the non-federal public works is economically sound and socially desirable, and (b) the Commissioner of Public Works and the managing director of the Authority are of the opinion that the loan which the Commissioner will make to finance or aid in financing such non-federal public works may reasonably be expected to be repaid, together with interest thereon, as the same shall become due.

Specific Powers as to Railroad Equipment

SEC. 8. Subject to the provisions of this Title, the Reconstruction Finance Corporation on behalf of the Authority shall have power:

- (a) To prepare plans and designs for the construction, rebuilding, or repair of engines, locomotives, tenders, freight and passenger cars of all types and classes,

or parts thereof or appurtenances thereto (any or all of the foregoing being herein referred to as "rolling stock");

- (b) To enter into contracts for the construction, rebuilding, repair, or scrapping of any rolling stock upon such terms and conditions as may be agreed upon pursuant to public bidding or private negotiation;
- (c) To lease, with or without option to purchase, or to sell at home or abroad, upon such terms and conditions as it shall prescribe, any such rolling stock so acquired;
- (d) To enter into contracts for the purchase of old rolling stock for the purpose of lease or resale in its existing state or for the purpose of rebuilding, repairing, or scrapping the same for lease or resale.

Specific Limitation on Powers Relating to Railroad Equipment

SEC. 9. The Reconstruction Finance Corporation shall exercise its powers with regard to rolling stock with a view to recovering the cost to the Authority of such rolling stock with interest sufficient to reimburse the Authority for the cost to it of the capital required for such operations.

Specific Powers as to Rural Electrification Projects

SEC. 10. The Rural Electrification Administrator on behalf of the Authority shall have power:

- (a) To make loans to finance or aid in financing projects of the character heretofore financed by the Rural Electrification Administration (such projects being herein called "rural electrification projects");
- (b) To purchase securities to evidence loans made by it and use the proceeds realized from the sale of any securities acquired under this Title and, to the extent not otherwise pledged, under any other law for the making of further loans for rural electrification projects to the extent such proceeds are not needed by the Authority, in the judgment of the managing director, to maintain the loans for rural electrification on a self-liquidating basis;
- (c) To exercise the powers granted by this Title without regard to the provisions of subdivisions (b), (c) and (d) of section 3 and the last sentence of section 5 of the Rural Electrification Act of 1936.

Specific Limitations on Rural Electrification Projects

SEC. 11. The Rural Electrification Administrator shall not finance or aid in financing any rural electrification project, unless (a) the Rural Electrification Administrator has found and determined that the rural electrification project will furnish electric energy to persons in rural areas who are not now receiving central station service and (b) the Rural Electrification Administrator and the managing director of the Authority are of the opinion that the loan which the Administrator will make to finance or aid in financing such rural electrification project may reasonably be expected to be repaid, together with interest thereon, as the same shall become due.

Powers as to Rural Security Projects

SEC. 12. The Secretary of Agriculture on behalf of the Authority shall have power:

- (a) To make loans and otherwise to finance and furnish facilities for share croppers, and other individuals who obtain, or who have in the past obtained, the major portion of their income from farm operations, including rural rehabilitation loans, projects for the provision of additional water facilities, and farm tenant loans as provided for in Title I of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (any or all of the foregoing being herein called "rural security projects");
- (b) To purchase securities to evidence such loans and to use the proceeds realized from their sale for the making of further loans for rural security projects to the extent such proceeds are not needed by the Authority, in the judgment of the managing director, to maintain the loans for rural security projects on a self-liquidating basis;
- (c) To allot and transfer sums available to the Secretary of Agriculture under this title to the bureaus and offices of the Department of Agriculture which the Secretary of Agriculture may call upon to assist or

cooperate in carrying out purposes of the Authority or for services rendered or to be rendered in connection therewith.

Limitation as to Rural Security Projects

SEC. 13. The Secretary of Agriculture shall exercise his powers to make loans for rural security projects with a view to recovering the principal of the loans made with interest sufficient to reimburse the Authority for the cost to it of the capital required for such operations.

Bonds of the Authority

SEC. 14. Subject to the provisions of this Title, the Secretary of the Treasury on behalf of the Authority shall have power:

- (a) To issue bonds of the Authority from time to time in one or more series, bearing such date or dates, maturing at such time or times, bearing interest at such rate or rates payable at such time or times, in such denomination or denominations, in such form, carrying such registration, conversion, or interchangeability privileges, subject to such terms of redemption, with or without premium, payable at such place or places, providing for the replacement of mutilated, destroyed, stolen, or lost bonds, executed and delivered in such manner, and containing and subject to such terms, covenants, and conditions as the Secretary of the Treasury may prescribe;

- (b) To market bonds of the Authority, utilizing all the facilities of the Department of the Treasury now or hereafter authorized by law for the marketing of obligations of the United States and to sell the same at such price or prices as he deems in its best interests;
- (c) To issue bonds of the Authority in exchange for, or to retire from the proceeds thereof, any of its bonds then outstanding;
- (d) To purchase bonds of the Authority for investment or collection and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, the purposes for which securities may be issued under said Act, as amended, being hereby extended to include issuing such securities for the purpose of purchasing bonds of the Authority, or in exchange for bonds of the Authority as provided herein; and at any time sell any bonds acquired by him for investment under this section;
- (e) To treat as public debt transactions of the United States all retirements or purchases of, or dealings by, the Secretary of the Treasury in bonds of the Authority;

- (f) To prepare such forms, including engraved plates, dies, bed pieces, and other materials as shall be suitable for bonds of the Authority, and for any expenses incurred in the preparation, custody, and delivery of bonds the Authority shall reimburse the Secretary of the Treasury.

Specific Limitations on Issuance of Bonds

SEC. 15. The Authority shall at no time apply the proceeds of outstanding bonds in amounts exceeding the following sums for the following purposes, in addition to sums available for such purposes from tolls, charges, and the sale of securities acquired in carrying out its functions hereunder:

- (a) \$750,000,000 for the purpose of carrying out post-road improvements;
- (b) \$350,000,000 for the purpose of aiding in financing the construction of non-federal public works;
- (c) \$500,000,000 for the purpose of providing funds for the acquisition of rolling stock for railroad common carriers;
- (d) \$460,000,000 for rural electrification projects;
- (e) \$500,000,000 for rural security projects.

Security of Bonds

SEC. 16(a) The bonds of the Authority shall be direct and general obligations of the Authority, fully and unconditionally guaranteed, as to both principal and interest by the United States, and such guaranty shall be expressed on the face thereof. In the event that the Authority shall be unable to pay upon demand, when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury shall submit annually to the Bureau of the Budget an estimate of the amount which may be needed for such purpose during the succeeding fiscal year and shall include in his annual report the amount so paid by him.

Purchase of Bonds

SEC. 17. (a) The bonds shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers or agency or agencies thereof.

(b) With the approval of the Secretary of the Treasury, the Authority may purchase out of any funds available therefor any obligations of the United States including its own bonds at any price and may sell such obligations at any time. If the Authority purchases its own bonds it may hold the same for investment or retire and cancel them, as it shall determine to be in its best interests.

Moneys of the Authority

SEC. 16. Moneys of the Authority from whatever source derived shall be deposited by it with the Treasurer of the United States or with any Federal Reserve Bank. The said Treasurer and the Federal Reserve Banks are hereby authorized to receive and hold the same in a special account or accounts in the name of the Authority and to disburse the same without further appropriation upon the check or other order of the Authority. Vouchers approved by the managing director for expenditures from such accounts shall be final and conclusive upon all officers of the Government, but, except as provided in this Title as to the fiscal year 1940, (a) no funds made available for administrative expenses of the Authority shall be obligated or expended unless and until an appropriate appropriation account shall have been established therefor pursuant to an appropriation warrant or a covering warrant, and all such expenditures for administrative expenses shall be accounted for and audited in accordance with the terms and provisions of the Budget and Accounting Act of 1921, as amended, and (b) all financial transactions of the Authority shall be examined by the Comptroller General of the United States at such times and in such manner as he shall prescribe for the sole purpose of making a report to the Congress of any supposed departure from the provisions of this Act, together with his specific recommendations with respect thereto. The Federal Reserve Banks shall also act as fiscal agents or custodians for the Authority upon such terms as may be agreed upon with the Authority.

Mode for Exercise of Eminent Domain

SEC. 19. (a) The Authority may exercise the power of eminent domain in any way the United States is authorized to condemn real property, including, but without limitation, the mode or method of procedure provided by an act entitled, "An Act To expedite the construction of public buildings and works outside of the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain", approved February 26, 1931, as amended.

(b) In any case in which the Authority has taken possession of any real property or interest therein during the course of condemnation proceedings and in advance of final judgment therein, it shall be lawful to expend moneys for the particular purpose for which the proceedings are instituted in demolishing existing structures on the land, improving the same, or in constructing new improvements thereon, notwithstanding the provisions of section 355 of the Revised Statutes (U.S.C. title 34, sec. 520), or any other law restricting the expenditure of public moneys upon land, the title to which has been acquired by the United States.

Reports

SEC. 20. The Authority shall submit to the President and to Congress, in January of each year, a financial statement and complete report of the Authority for the preceding governmental fiscal year.

The Authority shall at all times keep complete and accurate accounts of all its operations, including all funds expended or received for the account of the Authority.

Penal Provisions

SEC. 24. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or improper handling, retention, use or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Authority and to moneys and properties of the United States entrusted to it, and all laws for the prevention of counterfeiting, whether penal or otherwise, shall apply to the bonds of the Authority.

(b) It shall be unlawful for any person to do any act or thing, or to enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Authority or wrongfully or unlawfully to defeat its purposes. It shall be unlawful for any individual, association, partnership, trust, or corporation to use the words "United States Work and Finance Authority", or any combination of these six words, as the name, or part of a name, under which he or it shall do business. Any person who violates any provision of this subsection shall be guilty of an offense against the United States, and, upon conviction thereof, shall be subject to a fine not more than \$10,000 or imprisonment not exceeding ten years, or both.

Appropriations

SEC. 2<sup>1/2</sup>. (a) There is hereby authorized to be appropriated from time to time such sums as may be necessary to carry out the provisions of this Act.

(b) The President is hereby authorized to transfer not to exceed \$100,000,000 to the Authority from such portion of all unexpended balances of sums heretofore appropriated to the Secretary of Agriculture to enable him to carry out the provisions of Title I of the Bankhead-Jones Farm Tenant Act, the Emergency Relief Appropriation Act of 1938, or the Work Relief and Public Works Appropriation Act of 1939 which the President, in his discretion, shall deem desirable in order to enable the Secretary of Agriculture to carry out the functions to be exercised by him on behalf of the Authority under this Title.

(c) Administrative expenses of the Authority for the fiscal year ending June 30, 1940 shall be paid from such amounts as may with the approval of the Director of the Bureau of the Budget be reserved from the proceeds realized from the sale of bonds of the Authority for the payment thereof, any provision in this or any other law to the contrary notwithstanding.

(d) The amount of administrative expenses so paid from the proceeds of such bonds shall be reported to Congress by the Director of the Bureau of the Budget and included in the budget estimates for the Authority for the fiscal year 1941, in order to enable the Authority to maintain unimpaired the self-liquidating basis of its operations.

TITLE III

Export-Import Bank of Washington

SEC. 201. Section 9 of the Act approved January 31, 1935 (49 Stat. 4), as amended, is hereby <sup>amended</sup> to read as follows: "Notwithstanding any other provision of law, the Export-Import Bank of Washington, a banking corporation organized under the laws of the District of Columbia as an agency of the United States, pursuant to an Executive order of the President, shall continue, until February 11, 1944, or such earlier date as may be fixed by the President by Executive order, to be an agency of the United States, and in addition to existing charter powers, and without limitation as to the total amount of obligations thereto of any borrower, endorser, acceptor, obligor, or guarantor at any time outstanding, said banking corporation is hereby authorized and empowered to discount notes, drafts, bills of exchange, and other evidences of debt for the purpose of aiding in industrial development or rehabilitation in foreign countries not in default on their obligations to the United States or its agencies, and aiding in the financing and facilitating exports and imports and the exchange of commodities between the United States and any of its territories and insular possessions and any foreign country or the agencies or nationals thereof, and, with the approval of the Secretary of the Treasury, to borrow money and rediscount notes, drafts, bills of exchange, and other evidences of debt for the purposes aforesaid. During the continuance of such agency, the Secretary of State and the Secretary of Commerce are authorized and directed to continue, for the use and benefit

of the United States, the present investment in the capital stock of said banking corporation, and they are hereby authorized to use all of its assets, including capital and net earnings therefrom, except such earnings as may be required from time to time to pay dividends upon its preferred capital stock, and to use all moneys which have been or may hereafter be allocated to or borrowed by it, in the exercise of its functions as such agency. Provided further, That the Export-Import Bank of Washington shall not have outstanding at any one time loans or other obligations to it in excess of \$600,000,000, the capital for which the Reconstruction Finance Corporation, when requested by the Secretary of the Treasury with the approval of the President, may continue to supply from time to time through loans or by subscription to preferred stock. Not more than \$100,000,000 shall be loaned or advanced to any foreign country under the authority granted in this section, or under the charter authority of the Export-Import Bank of Washington.

PSF  
Bills in Congress

Proposed "Self-liquidating Projects Act of 1939."

The purpose of this draft bill is to increase employment without increasing the public debt or present appropriations by providing a method for financing on a self-liquidating basis (1) construction of Federal express post-roads, (2) loans for non-Federal public works, (3) construction and leasing of locomotives, freight cars and other railroad rolling stock, (4) loans for rural electrification, (5) loans to farm tenants and for rural rehabilitation, and (6) loans for industrial development in Latin America and elsewhere which will stimulate productive enterprise in the United States.

Title I of the bill creates a non-stock government corporate instrumentality called the United States Works and Finance Authority. The Authority consists of the Secretary of the Treasury, the Secretary of Agriculture, the Federal Works Administrator and the Federal Loan Administrator. These members of the Authority exercise their functions separately on behalf of the Authority. In order to avoid the necessity for action as a Board and to coordinate and supervise the activities of the Authority, provision is made for the appointment by the members of the Authority of a Managing Director. The Managing Director exercises all powers not specifically granted by the bill to other officers in the Government.

The Authority has the following principal functions:

- (1) To construct and operate post-roads, highways, bridges, tunnels and airports for the use of which it is empowered to fix tolls and other charges;
- (2) To make loans to states and municipalities and other public bodies at low interest rates for the construction of non-Federal public works; and
- (3) To make contracts for the construction of rolling stock and to lease with or without the option to purchase such rolling stock;
- (4) To make loans for the purpose of financing rural electrification;
- (5) To make loans and carry out the self-liquidating features of the farm tenancy and rural rehabilitation program contemplated by the Bankhead-Jones Farm Tenant Act.

To provide the Authority with sufficient funds, power is conferred upon it to issue bonds or other obligations guaranteed as to both principal and interest by the United States. Not more than \$750,000,000 of these bonds may be issued for the toll roads and bridges, not more than \$350,000,000 for financing non-Federal public works, not more than \$500,000,000 for the acquisition of rolling stock, not more than \$500,000,000 for the farm tenant program, and not more than \$460,000,000 for the rural electrification program.

As a means of preventing the industries which will benefit from the operations of the Authority entering into unlawful combinations to fix prices, the ability of the Authority to sue for treble damages under the Sherman Act is made clear and unambiguous. In this connection the submission of identical bids is made prima facie evidence of an agreement to fix prices. This carries out a much needed sanction recommended by the President in his message to Congress of April 29, 1938.

The Authority is also given power to organize under the laws of the various states operating corporations to assist it in constructing and operating its enterprises and to utilize such corporations as well as Federal, state and local officials and agencies in carrying out its functions.

No appropriation is made or required by the bill for the Authority which is authorized to use from the proceeds of the sale of its obligations such amounts for administrative expenses as the Director of the Bureau of the Budget is willing to approve.

Title II of the bill extends the power of the Export-Import Bank of Washington and provides it with funds to enable it to make loans not to exceed \$500,000 to any foreign government not in default in the payment of its obligations to the United States. Such loans are intended to aid in the industrial development of such countries and thereby to provide a new market for productive enterprise in the United States with its accompanying advantages. The total amount which may be loaned to any one government may not exceed \$100,000,000.

The method provided for such financing will not require additional appropriations, since available funds of the Reconstruction Finance Corporation are utilized.

Proposed "Self-liquidating Projects Act of 1939."

The purpose of this draft bill is to increase employment without increasing the public debt or present appropriations by providing a method for financing on a self-liquidating basis (1) construction of Federal express post-roads, (2) loans for non-Federal public works, (3) construction and leasing of locomotives, freight cars and other railroad rolling stock, (4) loans for rural electrification, (5) loans to farm tenants, sharecroppers and migratory farmers for the purchase of farms, livestock, seeds and other necessary equipment, and for rural rehabilitation, and (6) loans for industrial development in Latin America and elsewhere which will stimulate productive enterprise in the United States.

I

Title I of the bill creates a non-stock government corporate instrumentality called the United States Works and Finance Authority. The Authority consists of the Secretary of the Treasury, the Secretary of Agriculture, the Federal Works Administrator and the Federal Loan Administrator. These members of the Authority exercise their functions separately on behalf of the Authority. In order to avoid the necessity for action as a Board and to coordinate and supervise the activities of the Authority, provision is made for the appointment by the members of the Authority of a Managing Director. The Managing Director exercises all powers not specifically granted by the bill to other officers in the Government.

The Authority has the following principal functions:

- (1) To construct and operate post-roads, highways, bridges, tunnels and airports for the use of which it is empowered to fix tolls and other charges;
- (2) To make loans to states and municipalities and other public bodies at low interest rates for the construction of non-Federal public works;
- (3) To make contracts for the construction of rolling stock and to lease with or without the option to purchase such rolling stock;
- (4) To make loans for the purpose of financing rural electrification; and
- (5) To make loans and carry out the self-liquidating features of the farm tenancy and rural rehabilitation program contemplated by the Bankhead-Jones Farm Tenant Act.

To provide the Authority with sufficient funds, power is conferred upon it to issue bonds or other obligations guaranteed as to both principal and interest by the United States. The Authority may not have more than

\$750,000,000 of these bonds outstanding at any one time for the toll roads and bridges, not more than \$350,000,000 for financing non-Federal public works, not more than \$500,000,000 for the acquisition of rolling stock, not more than \$500,000,000 for the farm tenant and rural rehabilitation program, and not more than \$460,000,000 for the rural electrification program.

As a means of preventing the industries which will benefit from the operations of the Authority entering into unlawful combinations to fix prices, the ability of the Authority to sue for treble damages under the Sherman Act is made clear and unambiguous. In this connection the submission of identical bids is made prima facie evidence of an agreement to fix prices. This carries out a much needed sanction recommended by the President in his message to Congress of April 29, 1938.

The Authority is also given power to organize under the laws of the various states operating corporations to assist it in constructing and operating its enterprises and to utilize such corporations as well as Federal, state, and local officials and agencies in carrying out its functions.

In connection with the powers of the Authority relating to railroad equipment, it is provided in the bill that the Reconstruction Finance Corporation, on behalf of the Authority, may enter into contracts for the purchase of old rolling stock either for lease or resale in its existing state or for rebuilding, repairing or scrapping the same. This will enable the Authority to aid in disposing of old rolling stock to agencies of the Government such as the War Department which can utilize scrap iron.

The bill eliminates the existing restriction for rural electrification loans which establishes state quotas and which requires an interest rate on such loans equal to the rate on 10 year Federal bonds. Otherwise, it leaves untouched existing legislation relating to rural electrification and to the farm tenancy and rural rehabilitation program. The \$40,000,000 appropriation to the Rural Electrification Administration for the fiscal year 1940 is left available to that Administration.

The President is authorized to transfer not to exceed \$100,000,000 from existing appropriations for the farm tenancy and rural rehabilitation program to the Authority for self-liquidating loans. Of the amount so transferred the Authority may also use for administrative expenses such amounts as the Director of the Bureau of the Budget may approve. The amounts so allowed by the Bureau of the Budget for administrative expenses are to be included in the budget estimates for the fiscal year 1941 so that the Authority may be maintained upon a self-liquidating basis.

The bill contains provisions relative to the use and disposition of moneys of the Authority in such a manner that, after adequate provision has been made to assure the self-liquidating character of the projects constructed and financed by the Authority, its revenues and receipts may be used as a revolving fund for further improvements and loans subject to the limitations of the bill.

The Comptroller General is given power to examine all the financial transactions of the Authority but only for the purpose of reporting to Congress departures from the provisions of the Act.

No appropriation is made or required by the bill for the Authority which is authorized to use from the proceeds of the sale of its obligations such amounts for administrative expenses as the Director of the Bureau of the Budget is willing to approve.

## II

Title II of the bill extends the powers of the Export-Import Bank of Washington and provides it with funds to enable it to make loans not to exceed \$500,000,000 to any foreign government not in default in the payment of its obligations to the United States. Such loans are intended to aid in the industrial development of such countries and thereby to provide a new market for productive enterprise in the United States with its accompanying advantages. The total amount which may be loaned to any one government may not exceed \$100,000,000.

The bill also continues the functions of the Export-Import Bank of Washington until February 11, 1944, this being the expiration date of its charter under the laws of the District of Columbia; by Executive Order, however, the President can terminate its authority prior to such date.

The method provided for such financing will not require additional appropriations, since available funds of the Reconstruction Finance Corporation are utilized.

NECESSITY FOR SUPPLEMENTARY LEGISLATION AS TO  
ALL ASPECTS OF SELF-LIQUIDATING PROGRAM

1. Powers delegated to Commissioner of Public Roads. The existing authority of the Commissioner of Public Roads is derived from the various federal-aid acts pursuant to which the Bureau of Public Roads approves projects submitted by state highway departments and makes grants in aid thereof. Hence, it is necessary that power be conferred upon the Commissioner of Public Roads on behalf of the United States Works and Finance Authority to be created by the proposed Self-liquidating Projects Act of 1939 to construct, operate, and maintain federally owned highways and bridges and charge and collect tolls for the use thereof. Other powers which are necessary in order to carry out the functions of a program of self-liquidating toll roads, bridges, high speed highways and city by-passes are conferred by the bill.

2. Powers delegated to Commissioner of Public Works. Under existing provision of law the Commissioner of Public Works will be limited in his powers to those conferred upon the Federal Emergency Administrator of Public Works by the Work Relief and Public Works Appropriation Act of 1938. This Act contains restrictions relating to the time in which funds can be allotted for projects, the date on which such projects must be completed, and the receipt of applications by public bodies which make it essential for a well-rounded program to confer powers as provided in the proposed Self-liquidating Projects Act of 1939. In addition, certain powers and duties which enable the Commissioner of Public Works to keep the securities which he purchases on a self-liquidating basis are imposed. It is also, of course, necessary to have legislation in order to provide the Commissioner of Public Works with funds to carry out on behalf of the proposed United States Works and Finance Authority any program of non-federal public works as the funds of the Public Works Administration are said to be exhausted.

3. Powers delegated to Reconstruction Finance Corporation as to railroad construction. Existing powers of the Reconstruction Finance Corporation to finance railroads are limited to loans in aid thereof and, consequently, supplementary legislation is necessary to authorize the Reconstruction Finance Corporation on behalf of the United States Works and Finance Authority to enter into contracts for the construction of new rolling stock which can be leased or sold on the installment purchase plan to the railroads or to companies presently engaged in leasing equipment to railroads.

4. Powers delegated to Rural Electrification Administration.

Under existing legislation the program of the Rural Electrification Administration is limited to \$40,000,000 per year for the next seven years. In addition, the Rural Electrification Act contains quota and interest rate restrictions and other limitations which make new legislation advisable. It may be noted that the present program is also limited to the use of funds appropriated by Congress. The bill permits the Rural Electrification Administrator to make loans on behalf of the proposed United States Works and Finance Authority and does not affect the powers of the Administrator.

5. Powers delegated to Secretary of Agriculture. It seems advisable to include in the bill legislation expanding the self-liquidating portion of the Bankhead-Jones Farm Tenant Act rather than to amend that Act. In order that this program may be coordinated with the other phases of the self-liquidating program and because the Act not only provides the Secretary of Agriculture with additional funds but also establishes a revolving fund which is available to the Secretary of Agriculture for loans under the Bankhead-Jones Farm Tenant Act on behalf of the United States Works and Finance Authority.

6. Powers delegated to Reconstruction Finance Corporation in relation to the Export-Import Bank of Washington. Supplementary legislation is also required in order to provide for short and long term loans to foreign governments for development and reconstruction purposes in the foreign country. This is pretty clear.

The Export-Import Bank of Washington is a banking corporation organized under the laws of the District of Columbia (D.C. Code, title 5, sec. 261). It was organized pursuant to Executive Order No. 6581, February 2, 1934. The Certificate of Incorporation, as amended April 3, 1936, provides, in section 2, that the term of existence of the corporation shall be ten years from the date of its incorporation. Therefore, by the force of its own charter, the bank will cease to exist as a corporate entity at the close of business on February 11, 1944.

By section 9 of the Act of January 31, 1935, 49 Stat. 4, the Export-Import Bank of Washington was continued as an agency of the United States until June 16, 1937. By section 2 of the Act of January 26, 1937, 50 Stat. 5, it was continued as an agency of the United States until June 30, 1939. By the Act of March 4, 1939 (Pub. No. 3, 76th Cong.), it is continued as an agency of the United States until June 30, 1941.

By section 9 of the Act of January 31, 1935, 49 Stat. 4, the Export-Import Bank of Washington was given power, in addition to its existing charter powers, and without limitation as to the total amount of obligations thereto of any borrower, to discount notes, drafts, bills of exchange, and other evidence of debt for the purpose of aiding in the financing and facilitating exports and imports and the exchange of commodities between the United States and any foreign country or the agencies or nationals thereof.

In view of the limitation on the power of the Export-Import Bank which is underlined above it is very doubtful whether making a loan to a foreign country with a view to enabling it to develop its industrial activities falls within the scope of the authority which the bank now has.

It also seems necessary to have supplementary legislation in order that sufficient funds will be available to the Export-Import Bank.

The Act of March 4, 1939 (Pub., No. 3, 76th Cong.), added a proviso at the end of section 9 of the Act of January 31, 1935, 49 Stat. 4, which limits the amount of obligations which the Export-Import Bank of Washington may have outstanding at any one time to \$100,000,000. The same proviso authorizes the Reconstruction Finance Corporation to supply the capital for such obligations, when requested by the Secretary of the Treasury, with the approval of the President, through loans or by subscription to preferred stock.

The existing powers of the Reconstruction Finance Corporation are also limited to making loans "in order that the surpluses of agricultural products may not have a depressing effect upon current prices of such products, the corporation is authorized and directed to make loans, in such amounts as may in its judgment be necessary, for the purpose of financing sales of such surpluses in the markets of foreign countries in which such sales cannot be financed in the normal course of commerce; but no such sales shall be financed by the corporation if, in its judgment, such sales will affect adversely the world markets for such products: Provided, however, That no such loan shall be made to finance the sale in the markets of foreign countries of cotton owned by the Federal Farm Board [Name changed to Farm Credit Administration by Executive Order No. 6084, Mar. 27, 1933] or the Cotton Stabilization Corporation." (Reconstruction Finance Corporation Act, Sec. 201 (c)).

Likewise, it would appear that section 5(a) of the Reconstruction Finance Corporation Act in terms and intent permits the Reconstruction Finance Corporation to make foreign loans only in connection with exports and not to further the industrial development and economic reconstruction of any foreign country.

*BF*  
*Bills in Congress*

BILLS APPROVED AND VETOED BY PRESIDENTS HARDING, COOLIDGE,  
HOOVER AND ROOSEVELT.

	APPROVED	VETOED	PERCENTAGE VETOED
HARDING	930	5	.0053 +
COOLIDGE	4137	55	.0131 +
HOOVER	2364	37	.0154 +
ROOSEVELT	3122	227	.0677 +

PSF  
Bills in Congress

"A"

AN ACT

To provide for appearance on behalf of and appeal by the United States in certain cases in which the constitutionality of Acts of Congress is involved.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) whenever in any court of the United States in any suit or proceeding to which the United States or any agency thereof or any officer or employee thereof, as such officer or employee, is not a party, the constitutionality of any statute of the United States is drawn in question, the court having jurisdiction of the suit or proceeding shall certify such fact to the Attorney General if the court is of opinion that a substantial ground exists for questioning the constitutionality of the statute. The court shall afford the United States an opportunity for presentation of evidence (if evidence is otherwise receivable in such suit or proceeding) and argument ~~on behalf of the United States by the Attorney General or counsel designated by him~~. In the suit or proceeding the United States shall, subject to the applicable provisions of law, have the same rights as a party to the extent necessary for a proper presentation of the facts and law relating to the constitutionality of the statute.

(b) ~~In any suit or proceeding in which the decision of a court of the United States is against the constitutionality of any statute of the United States, the United States, by the Attorney General or counsel designated by him, shall have the same right of review of such decision in the proper appellate court, and subject to the same provisions of law relating to appellate jurisdiction, as if the United States were a party to the suit or proceeding. Such review may be had whether or not appearance and argument on behalf of the United States in a lower court has been made under the provisions of subsection (a).~~ In such cases the Attorney General may also in his discretion appeal directly to the Supreme Court, either from a final or interlocutory judgment, decree,

~~or order, or from an intermediate order, and appeals so taken shall have precedence over cases in the Supreme Court in which a substantial question of constitutionality has not been drawn.~~

Sec. 2. Whenever any judgment, decree, or order in any suit or proceeding referred to in Section 1 is based in whole or in part upon a decision that any statute of the United States is unconstitutional as therein applied, the United States, irrespective of whether or not it had previously presented evidence or argument under the provisions of Section 1, shall have the same right to appeal therefrom as any party to the suit or proceeding. Within sixty days after the entry of any such judgment, decree, or order, whether final or interlocutory, the United States may also appeal therefrom directly to the Supreme Court, in which event any appeal or cross-appeal therefrom by any party to the suit or proceeding taken previously or taken within sixty days after notice of the appeal by the United States shall also be or be treated as taken directly to the Supreme Court. Such appeals to the Supreme Court shall, on motion of the United States, be advanced to a speedy hearing. This section shall not confer upon the United States any right of review by the Supreme Court unless a party to the suit or proceeding also takes an appeal.

Sec. 3. Within sixty days after the entry of any judgment, decree, or order referred to in Section 2, the United States, irrespective of whether or not it had previously presented evidence or argument under the provisions of Section 1, may appeal therefrom directly to the Supreme Court. Such appeals will lie if no appeal is taken by any party to the suit or proceeding and such appeals shall, on motion of the United States, be advanced to a speedy hearing. If the United States appeals to the Supreme Court under the provisions of Section 2, but no appeal is taken by any party to the suit or proceeding, the appeal of the United States shall be regarded as an appeal under this section. If this section, or any provision thereof, is held invalid, the remainder of this Act and the other provisions of this section shall not be affected thereby.

(e) Sec. 4. In any suit or proceeding in any court of the United States to which the United States or any agency thereof or any officer or employee thereof, as such officer or employee, is a party, in which the decision is against the constitutionality of any statute of the United States, the United States, within sixty days after the entry of a final or interlocutory judgment, decree, or order, may, in its discretion, in its own name or in the name of such agency, officer, or employee, as the case may be, appeal therefrom directly to the Supreme Court, in which event any appeal or cross-appeal by any party to the suit or proceeding taken previously or taken within sixty days after notice of the appeal by the United States shall also be or be treated as taken directly to the Supreme Court. Such appeals shall, on motion of the United States, be advanced to a speedy hearing. This subsection shall not apply to any judgment, decree, or order of a district court of the United States which may, under existing provisions of law, be appealed directly to the Supreme Court.

(d) Sec. 5. The Attorney General is authorized by himself or by counsel designated by him, to appear and argue in cases described in subsection-(a) Section 1 and to invoke appellate jurisdiction in cases described in subsection-(b) Sections 2, 3 and 4.

(e) Sec. 6. As used in this section Act, the term "court of the United States" means the courts of record of Alaska, Hawaii, and Puerto Rico, the Customs Court, the Court of Customs and Patent Appeals, the Court of Claims, the District Court of the United States for the District of Columbia, any district court of the United States, the United States Court of Appeals for the District of Columbia, any circuit court of appeals, and the Supreme Court.

Sec. 7. 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 provisions to other persons or circumstances shall not be affected thereby.

Be it enacted by the Senate and the House of Representatives  
of the United States of America in Congress assembled, That whenever  
in any court of the United States in any suit or proceeding to which  
the United States, or any agency thereof, or any officer or employee  
thereof in his official capacity, is not a party, any party shall  
draw in question the constitutionality of any statute of the United  
States, such party shall forthwith, and any party may, prepare a  
certificate of such fact, which certificate shall include a copy of  
all pleadings in the suit or proceeding, and shall serve said  
certificate upon the United States and shall file with the clerk  
of the court proof of such service. Such service shall be made by  
serving said certificate upon the Attorney General or by sending  
the same to him by registered mail, in which case he shall acknowledge  
receipt of the certificate and the date of such receipt.

The United States may enter its appearance in any such suit or  
proceeding within 30 days after the Attorney General's receipt of  
said certificate or within such further time as the court may allow.  
In the event that such appearance is entered, the United States shall  
have the same rights as any party to the extent necessary for a proper  
presentation of the facts and the law, including opportunity to present  
evidence (if evidence is otherwise admissible in such suit or  
proceeding) and argument, relating to the constitutionality of the  
statute which is drawn in question and relating to whether such a  
question of constitutionality is properly presented for determination  
or should, in a due exercise of discretion, be determined. If such  
appearance is entered, copies of all pleadings, notices, briefs, and  
other papers thereafter filed shall be served upon the Attorney  
General or counsel designated by him to accept service, and the case  
shall be expedited in every way, but such entry of appearance shall  
not confer upon the court any jurisdiction, either over the cause or  
over the United States, which it otherwise would not have had.

If in any such suit or proceeding any court of the United States shall enter any final or interlocutory judgment, decree, or order based in whole or in part upon a decision that any statute of the United States is unconstitutional as therein applied, and if the certificate required by this section has not been served upon the United States or if less than 30 days have elapsed since the service of such a certificate, the court shall, upon application made by the United States within 30 days after the entry of the judgment, decree, or order, set the same aside and shall afford the United States opportunity to exercise the rights conferred upon it by the preceding paragraph.

Sec. 2. In any suit or proceeding within the provisions of Section 1, the United States, irrespective of whether or not it had entered its appearance therein, shall have the same right as any party to obtain a review of any judgment, decree, or order entered therein based in whole or in part upon a decision that any statute of the United States is unconstitutional as therein applied. The United States may obtain such a review only if a party to the suit or proceeding obtains a review, but it may apply for a review before or after any such party has applied for a review.

Within 30 days after the entry of any such judgment, decree or order, whether final or interlocutory, the Attorney General may file with the clerk of the court a certificate that, in his opinion, the decision upon which such judgment, decree or order is based is of general public importance. Within 10 days after the filing of any such certificate, the United States shall file with the clerk of the court proof of service of a copy of such certificate upon each party to the suit or proceeding, or upon his attorney, and proof of the date of each such service. The filing of such certificate and proof of service shall bar any appellate review of the judgment, decree or order which has been entered, except as hereinafter provided. Any

party adversely affected by such judgment, decree or order may, within 15 days after service of such certificate upon him or his attorney, appeal or take a cross-appeal therefrom directly to the Supreme Court. The United States may, within 15 days after the filing of such certificate, appeal directly to the Supreme Court from such judgment, decree or order, but such appeal by the United States shall be allowed only if an appeal to the Supreme Court by a party to the suit or proceeding is allowed. Cases taken directly to the Supreme Court under the authority of this section shall, on motion of the United States, be advanced to a speedy hearing.

In any appellate proceeding in any court of the United States to which the United States, or any agency thereof, or any officer or employee thereof in his official capacity, is not a party, in which the constitutionality of any statute of the United States is drawn in question and the decision of the court which entered the judgment, decree, or order under review was in favor of the constitutionality of such statute, the United States shall have the same rights as any party appellee or respondent to file briefs and to participate in oral argument.

Sec. 3. Whenever any judgment, decree, or order, whether final or interlocutory, entered by any court of the United States in any suit or proceeding to which the United States, or any agency thereof, or any officer or employee thereof in his official capacity, is a party, is based in whole or in part upon a decision that any statute of the United States is unconstitutional as therein applied, the United States may, within 30 days after the entry of such judgment, decree, or order, appeal therefrom directly to the Supreme Court. Such appeals may be taken in the name of the United States or in the name of such agency, officer, or employee, as the case may be. If such direct appeal to the Supreme Court is taken, the United States and all parties to the cause shall be barred from obtaining any other appellate review of the judgment, decree, or order so appealed from,

but any party may, within 15 days after service upon him or his attorney of the order allowing such an appeal by the United States, likewise appeal, or take a cross-appeal, directly to the Supreme Court. Cases taken directly to the Supreme Court under the authority of this section shall, on motion of the United States, be advanced to a speedy hearing. This section shall not apply to any judgment, decree, or order of a district court of the United States from which appeals may, under existing provisions of law, be taken directly to the Supreme Court.

Sec. 4. Section 1 shall not apply to any suit or proceeding pending at the time of the enactment of this Act. Sections 2 and 3 shall not apply to any judgment, decree, or order entered prior to the enactment of this Act, but shall apply to any judgment, decree, or order subsequently entered in a suit or proceeding pending at the time of said enactment.

Sec. 5. The Attorney General is authorized, by himself or by counsel designated by him, to exercise the rights conferred upon the United States by this Act.

Sec. 6. As used in this Act, the term "court of the United States" means the District Court for the Territory of Alaska, the District Court for the Territory of Hawaii, the District Court of the United States for Puerto Rico, the District Court of the Canal Zone, the District Court of the Virgin Islands, the District Court of the United States for the District of Columbia, any district court of the United States, the Court of Claims, the United States Customs Court, the United States Court of Customs and Patent Appeals, the United States Court of Appeals for the District of Columbia, any circuit court of appeals, and the Supreme Court of the United States.