

Congressional Record

PROCEEDINGS AND DEBATES

OF THE

SECOND SESSION OF THE
SEVENTY-THIRD CONGRESS

OF

THE UNITED STATES
OF AMERICA

VOLUME 78—PART 10

JUNE 2, 1934, to JUNE 13, 1934

(Pages 10297 to 11426)



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934

by reason of the Government's entering into the silver market to acquire silver. The principle of the tax is to assess what amounts to an unearned increment.

Persons regularly engaged in the business of furnishing silver for industrial, professional, and artistic purposes may profit by the increase in the market price of silver and such profit should be taxed. These persons, however, make a small additional profit attributable not to changes in the market price of silver but to the service they render, as, for instance, the service of a wholesaler in acquiring silver in large amounts and selling it in smaller lots to factories which use silver for different industrial purposes, the service of selecting silver from particular mines which has slight intermixture of other metals, making it valuable for certain specific purposes and the service of alloying with the silver certain metals necessary for particular industrial purposes. This profit proceeds from the efforts of the person engaged in this business and does not result from governmental action. This profit is subject to the regular income tax but should not be subject to the special transfer tax established under the Silver Purchase Act. The first part of the amendment provides for an abatement or refund of tax attributable to the special-service profits.

A number of persons furnishing silver for industrial, professional, or artistic uses are obliged to take a market position in silver during the period ranging from a few weeks to several months during which the silver is being refined or otherwise processed. Many of these refiners or processors seek to avoid speculating in silver by hedging against the market position they have been obliged to take. For instance, a refiner buys a million ounces of silver in crude silver-bearing materials. He calculates it will take 2 months to refine this. To avoid a market risk on the day he purchases the silver he sells an equivalent amount of silver out of inventory maintained for the purpose, or he enters into a contract for the delivery of silver at the time when he thinks the refining will be completed at a price fixed in the contract. The person who buys the silver for future delivery may be speculating in silver, and his profit should be taxed, but the refiner or processor, who sells silver is hedging. If the refiner or processor in the course of these hedging transactions makes a profit on one transaction he will make a corresponding loss on another transaction. It is this balancing of profit and loss which enables him to avoid speculating in silver. His net position shows no profit nor loss by reason of the changes in the market price of silver bullion. It would seem unfair in such transactions to tax the refiner on those profits which are offset by corresponding losses in related hedging transactions. The last part of the amendment authorizes the abatement or refund of that portion of the tax which is attributable to those profits against which there have been corresponding losses in hedging transactions.

In general the effect of the amendment will be to discourage speculation in silver by persons furnishing silver for industrial, professional, and artistic use by permitting regulatory provisions to make certain that a tax is paid on all speculative profits but not on business profits which arise independently of market changes or because of hedging transactions to prevent profit or loss from such market changes.

On page 8, line 19, strike out the comma and the words "and before the tax under this subdivision takes effect."

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, during the course of the consideration of the so-called "silver bill" in the House, I made some criticisms of the general counsel to the Secretary of the Treasury, and it was based on what I conceive to be a lack of knowledge on the general subject of the silver question. He was the only source of information that the Ways and Means Committee had, and I, for one, thought, as far as silver was concerned, that it was very weak information. We did have, as I stated then, information from a House Member, the gentleman from Texas [Mr. DIES], but so far as the Department itself is concerned, there was nothing of any constructive nature brought to the committee. I have, however, a higher regard for Mr. Oliphant as a lawyer than as an expert on silver, and here is what he says in a letter to Senator PITTMAN in connection with amendment numbered 1:

DEAR SENATOR PITTMAN: Section 5 of the silver bill directs the Secretary of the Treasury to issue silver certificates to an amount not less than the cost of the silver purchased under section 3. The legal effect under existing law of the words "to issue" silver certificates is that they must be not merely printed but also put into circulation.

Very truly yours,

HERMAN OLIPHANT,
General Counsel to the Secretary.

Accordingly this first amendment is absolutely unnecessary. The ruling of the Department is that the bills are actually in circulation. Therefore, why add this language? But if it will appease the feelings of the Senate or any Member of that body to do so, let them have it.

Amendment no. 2 is one that is a protection to industry, as designating between industry and speculation. It does protect the industrial use of silver from the tax provided for in the bill. The first portion of it, therefore, to my mind, is of value. The second part of it I am not so clear about, and I do not think any very definite explanation has been made of it, namely, the possibility of purchasing silver for hedging purposes from foreign countries. I am not going to offer any objection to it, but I am not at all certain that it is worth while.

With all due respect to my colleague from Washington, Mr. SAMUEL B. HILL, I really failed to grasp his explanation of the last amendment. The matter was considered in the Committee on Ways and Means this morning, and the expert drafting representative acknowledged that he did not know what it meant. If he did not know, I do not see how we can be expected to, and we might just as well take this amendment as we took the whole silver bill, swallow it whole, and let it go along just as it is. Therefore I hope that the amendments will be concurred in en bloc, as moved by the chairman of the committee.

Mr. McFADDEN. Will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. McFADDEN. I notice in the morning press a continuation of the maneuvers looking toward cancelation of the war debts. The suggestion is definitely made by Secretary of State Hull to the British that we accept payment of the June 15 amount due from Great Britain in kind. "In kind", of course, means British goods. It means silver, as is already discussed in London today. I wish to ask the gentleman if it is contemplated by the administration to accept silver in payment of the war debts? I recall when we passed the tariff bill the other day the gentleman from Tennessee [Mr. COOPER] advised me that there was a provision in the tariff bill which would forbid discussion by the President of the purchase of merchandise or the mixing of the tariff question with the war debts, that the President was specifically forbidden to mix his tariff negotiations with war debts. Hardly before the ink is dry on the Tariff Act we find the Secretary of State mixing trade and war debts.

The SPEAKER. The time of the gentleman from Massachusetts [Mr. TREADWAY] has expired.

Mr. McFADDEN. I was asking the gentleman from North Carolina whether or not the administration's policy is to now take silver as merchandise as part of the settlement in kind as suggested by the Secretary of State today in his note to the British Government?

Mr. DOUGHTON. I do not understand that inquiry to be at all pertinent to the matter under consideration now. If we go into speculation as to what might be in the mind of somebody, without knowledge or without any expression from the administration, we would be here until daylight tomorrow morning. The gentleman can form his own conclusions as far as that is concerned.

Mr. Speaker, I think the fact that the Senate made no substantial or material amendment to this bill, none but what we can readily accept, is a compliment to the work of the House in respect to this legislation. I think, furthermore, the fact that the gentleman from Massachusetts [Mr. TREADWAY] has no objection to these amendments is also a compliment.

Therefore, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

A motion to reconsider the vote by which the Senate amendments were agreed to was laid on the table.

TAXATION OF MANUFACTURERS, IMPORTERS, AND DEALERS IN CERTAIN FIREARMS AND MACHINE GUNS

Mr. DOUGHTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9741) to provide for the taxation of manufacturers, importers, and dealers in certain firearms and machine guns, to tax the sale or other disposal

of such weapons, and to restrict importation and regulate interstate transportation thereof.

The Clerk read as follows:

Be it enacted, etc., That for the purposes of this act—

(a) The term "firearm" means a shotgun or rifle having a barrel of less than 18 inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition.

(b) The term "machine gun" means any weapon which shoots, or is designed to shoot, automatically or semi-automatically, more than one shot, without manual reloading, by a single function of the trigger.

(c) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

(d) The term "continental United States" means the States of the United States and the District of Columbia.

(e) The term "importer" means any person who imports or brings firearms into the continental United States for sale.

(f) The term "manufacturer" means any person who is engaged within the continental United States in the manufacture of firearms, or who otherwise produces therein any firearm for sale or disposition.

(g) The term "dealer" means any person not a manufacturer or importer engaged within the continental United States in the business of selling firearms. The term "dealer" shall include wholesalers, pawnbrokers, and dealers in used firearms.

(h) The term "interstate commerce" means transportation from any State or Territory or District, or any insular possession of the United States (including the Philippine Islands), to any other State or to the District of Columbia.

(i) The term "Commissioner" means the Commissioner of Internal Revenue.

(j) The term "Secretary" means the Secretary of the Treasury.

(k) The term "to transfer" or "transferred" shall include to sell, assign, pledge, lease, loan, give away, or otherwise dispose of.

Sec. 2. (a) Within 15 days after the effective date of this act, or upon first engaging in business, and thereafter on or before the 1st day of July of each year, every importer, manufacturer, and dealer in firearms shall register with the collector of internal revenue for each district in which such business is to be carried on his name or style, principal place of business, and places of business in such district, and pay a special tax at the following rates: Importers or manufacturers, \$1,000 a year; dealers, other than pawnbrokers, \$200 a year; pawnbrokers, \$300 a year. Where the tax is payable on the 1st day of July in any year it shall be computed for 1 year; where the tax is payable on any other day it shall be computed proportionately from the 1st day of the month in which the liability to the tax accrued to the 1st day of July following.

(b) It shall be unlawful for any person required to register under the provisions of this section to import, manufacture, or deal in firearms without having registered and paid the tax imposed by this section.

Sec. 3. (a) There shall be levied, collected, and paid upon firearms transferred in the continental United States a tax at the rate of \$200 for each firearm, such tax to be paid by the transferor, and to be represented by appropriate stamps to be provided by the Commissioner, with the approval of the Secretary; and the stamps herein provided shall be affixed to the order for such firearm, hereinafter provided for. The tax imposed by this section shall be in addition to any import duty imposed on such firearm.

(b) All provisions of law (including those relating to special taxes, to the assessment, collection, remission, and refund of internal-revenue taxes, to the engraving, issuance, sale, accountability, cancellation, and distribution of tax-paid stamps provided for in the internal-revenue laws, and to penalties) applicable with respect to the taxes imposed by section 1 of the act of December 17, 1914, as amended (U.S.C., supp. VII, title 26, secs. 1040 and 1383), and all other provisions of the internal-revenue laws shall, insofar as not inconsistent with the provisions of this act, be applicable with respect to the taxes imposed by this act.

Sec. 4. (a) It shall be unlawful for any person to transfer a firearm except in pursuance of a written order from the person seeking to obtain such article, on an application form issued in blank in duplicate for that purpose by the Commissioner. Such order shall identify the applicant by such means of identification as may be prescribed by regulations under this act: *Provided*, That, if the applicant is an individual, such identification shall include fingerprints and a photograph thereof.

(b) The Commissioner, with the approval of the Secretary, shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors of internal revenue.

(c) Every person so transferring a firearm shall set forth in each copy of such order the manufacturer's number or other mark identifying such firearm, and shall forward a copy of such order to the Commissioner. The original thereof with stamps affixed, shall be returned to the applicant.

(d) No person shall transfer a firearm which has previously been transferred on or after the effective date of this act, unless such person, in addition to complying with subsection (c), transfers therewith the stamp-affixed order provided for in this section

for each such prior transfer, in compliance with such regulations as may be prescribed under this act for proof of payment of all taxes on such firearms.

(e) If the transfer of a firearm is exempted from the provisions of this act as provided in section 13 hereof, the person transferring such firearm shall notify the Commissioner of the name and address of the applicant, the number or other mark identifying such firearm, and the date of its transfer, and shall file with the Commissioner such documents in proof thereof as the Commissioner may by regulations prescribe.

(f) Importers, manufacturers, and dealers who have registered and paid the tax as provided for in section 2 (a) of this act shall not be required to conform to the provisions of this section with respect to transactions in firearms with dealers or manufacturers if such dealers or manufacturers have registered and have paid such tax, but shall keep such records and make such reports regarding such transactions as may be prescribed by regulations under this act.

Sec. 5. (a) Within 60 days after the effective date of this act every person possessing a firearm shall register, with the collector of the district in which he resides, the number or other mark identifying such firearm, together with his name, address, place where such firearm is usually kept, and place of business or employment, and, if such person is other than a natural person, the name and home address of an executive officer thereof: *Provided*, That no person shall be required to register under this section with respect to any firearm acquired after the effective date of, and in conformity with the provisions of, this act.

(b) Whenever on trial for a violation of section 6 hereof the defendant is shown to have or to have had possession of such firearm at any time after such period of 60 days without having registered as required by this section, such possession shall create a presumption that such firearm came into the possession of the defendant subsequent to the effective date of this act, but this presumption shall not be conclusive.

Sec. 6. It shall be unlawful for any person to receive or possess any firearm which has at any time been transferred in violation of section 3 or 4 of this act.

Sec. 7. (a) Any firearm which has at any time been transferred in violation of the provisions of this act shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal-revenue laws relating to searches, seizures, and forfeiture of unstamped articles are extended to and made to apply to the articles taxed under this act, and the persons to whom this act applies.

(b) In the case of the forfeiture of any firearm by reason of a violation of this act: No notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is in the possession of any officer of the United States except the Secretary, such officer shall deliver the firearm to the Secretary; and the Secretary may order such firearm destroyed or may sell such firearm to any State, Territory, or possession (including the Philippine Islands), or political subdivisions thereof, or the District of Columbia, or retain it for the use of the Treasury Department or transfer it without charge to any executive department or independent establishment of the Government for use by it.

Sec. 8 (a) Each manufacturer and importer of a firearm shall identify it with a number or other identification mark approved by the Commissioner, such number or mark to be stamped or otherwise placed thereon in a manner approved by the Commissioner.

(b) It shall be unlawful for anyone to obliterate, remove, change, or alter such number or other identification mark. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any firearm upon which such number or mark shall have been obliterated, removed, changed, or altered, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such possession to the satisfaction of the jury.

Sec. 9. Importers, manufacturers, and dealers shall keep such books and records and render such returns in relation to the transactions in firearms specified in this act as the Commissioner, with the approval of the Secretary, may by regulations require.

Sec. 10. (a) No firearm shall be imported or brought into the United States or any Territory under its control or jurisdiction (including the Philippine Islands), except that, under regulations prescribed by the Secretary, any firearm may be so imported or brought in when (1) the purpose thereof is shown to be lawful and (2) such firearm is unique or of a type which cannot be obtained within the United States or such Territory.

(b) It shall be unlawful (1) fraudulently or knowingly to import or bring any firearm into the United States or any Territory under its control or jurisdiction (including the Philippine Islands), in violation of the provisions of this act; or (2) knowingly to assist in so doing; or (3) to receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of any such firearm after being imported or brought in, knowing the same to have been imported or brought in contrary to law. Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of such firearm, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains such possession to the satisfaction of the jury.

Sec. 11. It shall be unlawful for any person who is required to register as provided in section 5 hereof and who shall not have so registered, or any other person who has not in his possession a

stamp-affixed order as provided in section 4 hereof, to ship, carry, or deliver any firearm in interstate commerce.

Sec. 12. The Commissioner, with the approval of the Secretary, shall prescribe such rules and regulations as may be necessary for carrying the provisions of this act into effect.

Sec. 13. This act shall not apply to the transfer of firearms (1) to the United States Government, any State, Territory, or possession of the United States, or to any political subdivision thereof, or to the District of Columbia; (2) to any peace officer or any Federal officer designated by regulations of the Commissioner; (3) to the transfer of any firearm which is unserviceable and which is transferred as a curiosity or ornament.

Sec. 14. Any person who violates or fails to comply with any of the requirements of this act shall, upon conviction, be fined not more than \$2,000 or be imprisoned for not more than 5 years, or both, in the discretion of the court.

Sec. 15. The taxes imposed by paragraph (a) of section 600 of the Revenue Act of 1926 (U.S.C., supp. VII, title 26, sec. 1120) and by section 610 of the Revenue Act of 1932 (47 Stat. 169, 264), shall not apply to any firearm on which the tax provided by section 3 of this act has been paid.

Sec. 16. 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.

Sec. 17. This act shall take effect on the thirtieth day after the date of its enactment.

Sec. 18. This act may be cited as the "National Firearms Act."

The SPEAKER. Is a second demanded?

Mr. McFADDEN. Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. McFADDEN. I am.

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina [Mr. DOUGHTON]?

There was no objection.

The SPEAKER. The gentleman from North Carolina is recognized for 20 minutes and the gentleman from Pennsylvania [Mr. McFADDEN] is recognized for 20 minutes.

Mr. DOUGHTON. Mr. Speaker, this bill is sponsored by the Department of Justice and has a unanimous report from the Committee on Ways and Means.

For some time this country has been at the mercy of the gangsters, racketeers, and professional criminals. The rapidity with which they can go across State lines has become a real menace to the law-abiding people of this country. When the bill was first proposed by the Department of Justice it affected pistols and revolvers, but that provision was eliminated from the bill, and it now only relates to machine guns and sawed-off shotguns and rifles, or guns with barrels less than 18 inches in length, and to mufflers, and to silencers.

Mr. TREADWAY. Will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. TREADWAY. Is it not a fact that originally there was considerable opposition felt to this bill owing to the fact that pistols and revolvers were rated in exactly the same way as machine guns or mufflers?

Later on the Ways and Means Committee made the change whereby revolvers and pistols are distinctly exempted from the provisions of the act.

Mr. DOUGHTON. That is true.

Mr. TREADWAY. So that the type of opposition which came up in the first consideration of the bill was entirely removed and the opponents are in favor of the bill at the present time.

Mr. DOUGHTON. Those who opposed the bill as originally submitted to the Committee on Ways and Means by the Department of Justice, have withdrawn their opposition to the bill in its present form.

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. SNELL. Mr. Speaker, will the gentleman instead of telling us what is excepted from the bill tell us what is covered by the bill?

Mr. DOUGHTON. Machine guns, sawed-off shotguns, rifles, silencers, and mufflers.

Mr. SNELL. Is the ordinary sporting rifle included in the bill?

Mr. DOUGHTON. It is not included at all.

Mr. SNELL. Just shotguns and machine guns?

Mr. DOUGHTON. Machine guns, sawed-off shotguns, rifles, silencers, and mufflers.

Mr. MAPES. Mr. Speaker, will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. MAPES. Objections have been raised on the part of prominent women and women's organizations in my district to the action of the Committee on Ways and Means in taking from under the provisions of the bill pistols and revolvers. Will the gentleman tell the House why this was done?

Mr. DOUGHTON. Protests came to the committee from some ladies' organizations throughout the country objecting to the elimination of pistols and revolvers. The majority of the committee were of the opinion, however, that the ordinary, law-abiding citizen who feels that a pistol or a revolver is essential in his home for the protection of himself and his family should not be classed with criminals, racketeers, and gangsters; should not be compelled to register his firearms and have his fingerprints taken and be placed in the same class with gangsters, racketeers, and those who are known as criminals.

Mr. CHRISTIANSON. Mr. Speaker, will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. CHRISTIANSON. Have we the gentleman's assurance that sportsmen's organizations have withdrawn the opposition they formerly expressed to the measure?

Mr. DOUGHTON. They have; and they heartily support the pending bill. The Department of Justice has agreed to an amendment which makes the bill acceptable to sportsmen and sportsmen's organizations. As the bill now stands, so far as I know there is no objection to it.

Mr. TERRELL of Texas. Mr. Speaker, will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. TERRELL of Texas. Does this bill in any way affect the rights of States to tax dealers in firearms?

Mr. DOUGHTON. It puts a tax of \$1,000 on the importer and manufacturer of machine guns; a tax of \$200 on the dealer, and a tax of \$300 on the pawnbroker; and it provides that 60 days after the enactment of the law all those having possession of firearms of the character referred to in this bill, must register the same with the Commissioner of Internal Revenue.

Mr. TERRELL of Texas. Does the bill affect the right of States to deal with this subject?

Mr. DOUGHTON. It does not in any way interfere with the rights of the States.

Mr. TREADWAY. I should like to call the chairman's attention to an evident misprint on page 4, line 5. I think he would like to offer an amendment changing the word "acts" to "tax", which is apparently what it should be.

Mr. DOUGHTON. I understand that mistake was corrected in the last print of the bill.

Mr. MOTT. Mr. Speaker, will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. MOTT. Is there anything in the bill which would affect collectors of firearms; is there any provision which would prevent a collector from possessing weapons of a certain type? I have in mind a man in my district who has several hundred guns in his collection.

Mr. DOUGHTON. I think not; I do not think it would affect them at all.

Mr. CONNERY. Mr. Speaker, will the gentleman yield?

Mr. DOUGHTON. I yield.

Mr. CONNERY. As I understand, the primary purpose of the bill is to stop gangsters from getting hold of machine guns.

Mr. DOUGHTON. That is correct.

The SPEAKER. The question is on the motion of the gentleman from North Carolina to suspend the rules and pass the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed, and a motion to reconsider was laid on the table.