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QUALITY MARKING OF GOLD AND SILVER ARTICLES

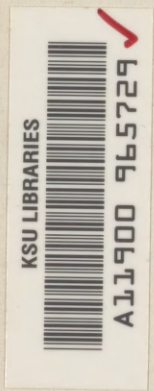
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HEARING
BEFORE THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
EIGHTY-SEVENTH CONGRESS
FIRST SESSION
ON
S. 1186

TO FACILITATE THE PROTECTION OF CONSUMERS OF
ARTICLES OF MERCHANDISE COMPOSED IN WHOLE OR IN
PART OF GOLD OR SILVER FROM FRAUDULENT MISREP-
RESENTATION CONCERNING THE QUALITY THEREOF, AND
FOR OTHER PURPOSES

AUGUST 16, 1961

Printed for the use of the Committee on Commerce



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III



QUALITY MARKING OF GOLD AND SILVER ARTICLES

WEDNESDAY, AUGUST 16, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 5110, New Senate Office Building, the Honorable John O. Pastore presiding.

Senator PASTORE. This morning we are opening our hearing on S. 1186.

Under existing law there is a prohibition, among other things, on the importation, exportation, or movement in interstate commerce of falsely stamped articles of merchandise made of gold or silver, or of alloys of either such metals. The phrase "articles of merchandise" is defined as "any goods, wares, works of art, commodity, or other thing which may be lawfully kept or offered for sale."

In other words, these articles are marked to indicate their quality. The Federal Trade Commission has published Trade Practice Rules for the Jewelry Industry, and the industry itself is active in investigating false stamping and advertising, and in many cases has presented evidence to the proper law enforcement agencies.

The bill before us, this morning, would amend existing law so that whenever an article was marked for quality, the mark of the manufacturer, or importer must also be applied.

The executive departments have some suggested amendments, which I will mention during the course of the day during the progress of the hearing.

This bill was introduced by the chairman of the committee, Mr. Magnuson. I was honored to be a cosponsor on the bill, and that was principally for the reason that we in Rhode Island are quite a jewelry manufacturing center, and we are quite disturbed, of course, over this matter.

The purpose of our being here and conducting these hearings is not only to better explain the bill and the reasons for it, it is also to explore and to exploit all of the objections to it to find out whether or not it would be in the public interest to require the stamping of these precious metals over and above what is now required by law.

I will ask that the bill be made a part of the record at this point.

(The bill follows:)

NOTE.—Staff counsel assigned to this hearing: Harold I. Baynton.

[S. 1186, 87th Cong., 1st sess.]

A BILL To facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Act entitled "An Act forbidding the importation, exportation, or carriage in interstate commerce of falsely stamped articles of merchandise made of gold or silver or their alloys, and for other purposes", approved June 13, 1906 (34 Stat. 261; 15 U.S.C. 297), is amended by—

(1) inserting therein, immediately after the section number "Sec. 4.", the subsection designation "(a)"; and

(2) adding at the end thereof the following new subsection:

"(b) Whenever any person, firm, corporation, or association—

"(1) applies or causes to be applied to any article of merchandise intended for sale or customarily sold as a complete product to consumers within the United States or any of its possessions, by stamping, branding, engraving, or otherwise, any quality mark or stamp indicating or purporting to indicate that such article is made in whole or in part of gold or silver or of an alloy of either such metal; or

"(2) imports into the United States or any of its possessions any such article of merchandise bearing any such quality mark or stamp which indicates or purports to indicate that such article is made in whole or in part of gold or silver or of an alloy of either such metal,

such person, firm, corporation, or association shall before depositing such article in the United States mails or causing such article to be distributed within the United States or any of its possessions—

"(A) apply or cause to be applied to that article a trademark of such person, firm, corporation, or association duly registered or applied for within thirty days after an article bearing the trademark is placed in commerce or imported under the laws of the United States or the name of such person, firm, corporation, or association; and

"(B) if such article of merchandise is composed of two or more parts which are complete in themselves but which are not identical in quality, and any one of such parts bears such a quality mark or stamp, apply or cause to be applied to each other part of that article of merchandise a quality mark or stamp of like pattern and size disclosing the quality of that other part.

Each identifying trademark or name applied to any article of merchandise in compliance with clause (A) of this section shall be applied to that article by the same means as that used in applying the quality mark or stamp appearing thereon, in type or lettering at least as large as that used in such quality mark or stamp, and in a position as close as possible to that quality mark or stamp."

(b) The amendments made by this Act shall take effect on the first day of the third month beginning after the date of enactment of this Act.

Senator PASTORE. We are honored this morning to have with us Mr. P. Irving Grinberg, executive vice chairman of the Jewelers Vigilance Committee, Inc., and you may now proceed, Mr. Grinberg, in any way you desire.

STATEMENT OF P. IRVING GRINBERG, EXECUTIVE VICE CHAIRMAN, JEWELERS VIGILANCE COMMITTEE, INC., NEW YORK CITY; ACCOMPANIED BY ROBERT M. KREMENTZ, KREMENTZ & CO., NEWARK, N.J.

Mr. GRINBERG. My name is P. Irving Grinberg.

My position is that of executive vice chairman of the Jewelers Vigilance Committee, with offices at 15 West 44th Street, New York City.

I am appearing in behalf of S. 1186 which was introduced by Senator Warren G. Magnuson and cosponsored by Senator John O. Pastore.

The committee, which was founded in 1913, represents the entire jewelry industry, including manufacturers, importers, wholesalers, and retailers throughout the country who produce and deal in all types of jewelry, watches, silverware, and so forth, and their component parts. One of its most important functions is to protect the buying public by endeavoring to keep representations as to merchandise true and not misleading.

In its efforts to accomplish this end, the Jewelers Vigilance Committee works closely with the Federal Trade Commission. Comments of the various Government agencies have interposed no objection to the proposed amendment; those immediately concerned have expressed approval.

This petition is being presented in behalf of the Jewelers Vigilance Committee and is joined specifically by the Manufacturing Jewelers & Silversmiths of America, Retail Jewelers of America, National Wholesale Jewelers' Association, American Gem Society and the Sterling Silversmiths' Guild, the leading national associations in the jewelry industry.

My remarks are directed to United States Code, title 15, chapter 8, sections 294-300, which became effective on June 13, 1906, commercially known as the Federal stamping law.

This law pertains to the stamping of quality marks on articles made of gold and silver, and states the required percentages of the precious metals and corresponding descriptive terms, and so forth. The law does not require that articles must be stamped with a quality mark nor does it require that if a quality mark is applied, it must be accompanied by a trademark or other identification of the manufacturer or distributor, responsible for the stated quality.

It is requested that the law be amended to require that whenever a quality mark is applied or affixed to an article now covered by the Federal stamping law, such quality mark must be accompanied by the trademark or other means of identification of the domestic manufacturer or distributor.

Senator PASTORE. Now, at this point, Mr. Grinberg, if I may interrupt you.

Mr. GRINBERG. Yes.

Senator PASTORE. You say here that the quality mark is not required by law.

Mr. GRINBERG. That is right.

Senator PASTORE. Now, if you tie up the identification of the manufacturer or the importer with the quality mark which is not required, won't that be an excuse not to put either on?

Mr. GRINBERG. No. The practice has been in the industry for the—I use the words “better class” advisedly—better class manufacturers to desire to identify their merchandise, their merchandise being of good quality, and it is an advantage to them when a piece of jewelry is shown for sale, that it is known as the product of a recognized manufacturer and, as a matter of fact, the better manufacturers today all do apply both a quality mark and an identification trademark or name.

I was going to introduce later Mr. Robert Krementz, who is here accompanying me this morning, who is one of the members of the firm of Krementz, one of the leading manufacturers, who from practical experience as a manufacturer and importer and exporter—

Senator PASTORE. Will somebody on the staff get that United States Code, title 15, and let me see it.

Mr. BAYNTON. It is right here, Senator.

Mr. GRINBERG (continuing). Who is here to answer any technical questions.

Senator PASTORE. Why doesn't he step forward and identify himself and let's get this in proper context.

Just identify yourself for the record, please.

Mr. KREMENTZ. My name is Robert M. Krementz, Krementz & Co., in Newark, N.J., manufacturing jewelers; also importers and exporters.

Senator PASTORE. Now, section 294 of title 15 of the United States Code reads as follows:

It shall be unlawful for any person, firm, corporation, or association, being a manufacturer of or wholesale or retail dealer in gold or silver jewelry or gold ware, silver goods or silver ware, or for any officer, manager, director, or agent of such firm, corporation, or association to import or export or cause to be imported into or exported from the United States for the purpose of selling or disposing of the same, or to deposit or cause to be deposited in the United States mails for transmission thereby, or to deliver or cause to be delivered to any common carrier for transportation from one state, territory, or possession, of the United States, or the District of Columbia, to any other state, territory, or possession of the United States, or to said District, in interstate commerce, or to transport or cause to be transported from one state, territory, or possession of the United States, or from the District of Columbia, to any other State, territory, or possession of the United States, or to said District, in interstate commerce, any article of merchandise manufactured after June 13, 1907, and made in whole or in part of gold or silver, or any alloy of either of said metals, and having stamped, branded, engraved, or printed thereon, or upon any tag, card, or label, attached thereto, or upon any box, package, cover, or wrapper, in which said article is encased or inclosed, any mark or word indicating or designed or intended to indicate that the gold or silver or alloy of either of said metals in such article is of greater degree of fineness than the actual fineness or quality of such gold, silver, or alloy, according to the standards and subject to the classification set forth in Section 295 and 296 of this Title.

Now, that means that there is a prohibition here, that you can't say that it is 18 carat when in fact it is 14.

Mr. GRINBERG. That is correct.

Senator PASTORE. That is a limitation that you can't go above the actual quality.

Mr. KREMENTZ. Below the actual quality, I believe.

Senator PASTORE. You can't mark it being finer than it actually is, that is what I mean.

Mr. GRINBERG. Yes, sir.

Senator PASTORE. Now, what is the section that pertains to what we are concerned with? 297, that is correct.

In the case of articles of merchandise made in whole or in part of an inferior metal, having deposited or plated thereon or brazed or otherwise affixed thereto a plating covering, or sheet composed of gold or silver, or of an alloy of either of said metals, and known in the market as rolled gold plate, gold plate, gold filled, silver plate, or gold or silver electroplate, or by any similar designation, so imported into or exported from the United States, or so deposited in the U.S. mails for transmission, or so delivered to any common carrier, or so transported or caused to be transported as specified in section 294 of this title, no

such article, nor any tag, card, or label attached thereto, nor any box, package, cover, or wrapper in which such article is encased or enclosed, shall be stamped, branded, engraved, or imprinted with any word or mark usually employed to indicate the fineness of gold, unless such word or mark be accompanied by other words, plainly indicating that such article or part thereof is made of rolled gold plate, gold plate, or gold electroplate, or is gold filled, as the case may be, and no such article, nor any tag, card, or label attached thereto, nor any box, package, cover, or wrapper in which such article is encased or enclosed shall be stamped, branded, engraved, or imprinted with the word "sterling" or the word "coin," either alone or in conjunction with other words or marks.

Now, your argument, Mr. Grinberg, is that there is no compulsion under the law that they put anything on it?

MR. GRINBERG. But the law provides that if the articles are stamped with a quality mark either of gold or certain carat finess or sterling or coin those articles must contain the specified amount of gold as set forth in the law and specified, in the case of silver, that there is no requirement that the article be stamped, but that in most instances when it is made of carat gold there is a carat gold mark applied for sales purposes.

SENATOR PASTORE. But the point I make is this, Mr. Grinberg, if it is true that there is no compulsion under the law that these precious metals be marked at any rate, then why is it not a matter of protection to the public to add this manufacturers identification?

If he is doing it willingly why doesn't he go the whole way willingly, why does he have to be so reminded by law?

MR. GRINBERG. That is a simple question for us to answer, from experience.

SENATOR PASTORE. All right.

MR. GRINBERG. We find that the reputable manufacturers not alone stamp their products with the quality mark but also with an identification mark.

Secondly, we find that there are unfortunately in our industry numbers of individuals who are ready to make what we call the quick dollar and they have no compunction in stamping an article with a higher quality mark than the article is entitled to be stamped.

In other words, they don't hesitate to put 14 carat on a 10-carat item, nor do they hesitate to put 10 carat on an item which is not even composed of sufficient gold to call it gold.

SENATOR PASTORE. Are these people foreign exporters or manufacturers or are they local, national manufacturers?

MR. GRINBERG. Many are local manufacturers. As a matter of fact, up to last year, the New York law was not in line with the Federal law. We had it changed to conform. A manufacturer in New York could produce an article and stamp it 14-carat gold which would be under the quality as required in the Federal law.

SENATOR PASTORE. In other words, what you are saying is whether the law is compulsory or not that it be marked to the quality of the gold or silver, the fact of the matter is the manufacturers know that before anyone will buy it, if a person wants to buy something that is 14 carat he wants to see 14 carat on there.

Now, sometimes they put that on and sometimes they put it on showing a grade finer than it actually is. And your argument is that there is no way of reaching these people unless we also require them to identify themselves, and the mere fact that they are compelled to identify themselves in itself will be a stimulus to observe the law.

Mr. GRINBERG. I bring that out further in the statement.

The fact that a manufacturer—it is a criminal law—the fact that a manufacturer now is open to do what he will, and it is difficult to trace who is responsible for the mark, the fact that he must put his trademark on will act as a deterrent to such manufacturer and, secondly, will protect the buying public because when the stamp is on, the quality stamp, and it is accompanied by an identification, it makes it much simpler.

Senator PASTORE. Now, let's get a little bit into it.

You see the State Department has raised some question here, not so much as an objection to the bill, but the inconvenience that it might cause to some of the foreign exporters and they claim that this, of course, will be an added burden upon them, and it is not necessary because we don't have many cases of falsification.

Now, what do you have to say to that?

Mr. GRINBERG. Now, we have this to say: In the first place, I intend to ask that a reply to the State Department report, which we sent to the Department, be made part of this record.

Senator PASTORE. Well, you mean that you are already familiar with the objections that have been raised by the State Department?

Mr. GRINBERG. Yes, sir.

Senator PASTORE. Well, at this point we shall include for the purpose of the record the statement of the State Department or the position of the State Department with reference to this legislation and the answer of the Jewelers Vigilance Committee to the State Department.

(The letters follow:)

DEPARTMENT OF STATE, July 12, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate.

DEAR MR. CHAIRMAN: This report on S. 1186, a bill, to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes, is submitted in response to your letter of June 27, 1961, which was acknowledged by my letter of June 29, 1961.

This bill would require that articles of gold or silver, or alloys of those metals, bearing a quality mark, also carry either the trademark, duly registered or applied for in the United States, or the name of the person, firm, corporation, or association applying a quality mark to the article or importing the article bearing the quality mark.

Although the Department is in sympathy with the intent of S. 1186 to protect purchasers of gold or silver articles from fraudulent or deceptive use of quality marks, it questions the need for the additional marking requirements contained in this bill. It is the Department's understanding that few cases arise involving fraudulent quality marks, and in those cases which do arise, the problem of identifying the person or firm applying the fraudulent mark has been negligible.

The Department opposes unnecessary marking requirements which may act to hinder or limit international trade. This is in accord with the U.S. policy of seeking to promote and facilitate international trade through such means as the simplification of administrative requirements which may indirectly hinder trade. This policy has been implemented through such legislation as the Customs Simplification Acts of 1953, 1954, and 1956. Article IX (4) of the General Agreement on Tariffs and Trade (GATT), to which the United States is a party, states that marking requirements for imported products shall be such as to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost.

In certain cases, S. 1186 could be inconsistent with this policy. An importer buying readymade, quality-marked gold or silver articles abroad would be required to apply a trademark or trade name to the article at an additional cost,

making the imported article less competitive with domestic articles in price. In certain cases the application of a trademark, and still more the trade name of a person, firm, corporation, or association, in type or lettering at least as large as that used in the quality stamp might be impractical or impossible because of the size or nature of the article.

Further, it would appear that under this bill a firm which only wanted to use a trademark and not a trade name on quality-marked articles would be prevented from distributing such articles if (1) it applied for registration of its trademark and the application were refused, or (2) after having obtained a trademark registration, the registration was subsequently canceled or revoked by the Patent Office or the courts.

As the Department understands the bill, a U.S. importer of quality-marked articles would be required to apply its trademark or name to the article even though the trademark or name of the foreign manufacturer might already have been applied to the article. This appears to be a burdensome, unnecessary requirement which might also be considered inconsistent with article III of the GATT. Article III(4) obligates the contracting parties to accord imported articles "treatment no less favorable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use." It could be maintained that the requirements of S. 1186 constitute less favorable treatment for an imported article in view of the second identification which would be required in cases where a foreign manufacturer had applied an appropriate identification to the article.

The Department notes that in paragraph (b) (A) of the bill, as drafted, it is not clear that the phrase "under the laws of the United States" applies to the registration of or application for a trademark, and suggests the insertion of a comma after the word "for" in line 1 of page 3 and after the word "imported" on line 3 of page 3 in order to make this certain.

The Department does not believe that the legislation is either necessary or desirable but will not oppose its enactment.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

BROOKS HAYS, *Assistant Secretary*
(For the Secretary of State).

JEWELERS VIGILANCE COMMITTEE, INC.,
New York, N.Y., July 24, 1961.

HON. BROOKS HAYS,
Assistant Secretary, Department of State, Washington, D.C.

SIR: Your attention is called to certain statements contained in the report of the Department of State, dated July 12, 1961, concerning S. 1186 and identical bill H.R. 5442.

Paragraph 3: Both the Manufacturing Jewelers & Silversmiths of America and the Jewelers Vigilance Committee (one of whose important functions is to protect the buying public) have been faced with numerous baffling problems in connection with identifying the manufacturer or distributor of items which, when tested, have been found to be under the quality stamped on the article. Close cooperation is maintained with the Federal Trade Commission, which states in its report on these bills, dated April 28, 1961:

"The Commission believes * * * that the presence on a product of the trademark or name of the person responsible for representations as to gold and silver quality of the product, would be useful from an investigation standpoint to furnish a ready means of identifying such person. It might also have the effect of deterring some persons who otherwise would be disposed to misbranding of such articles."

Paragraph 4: The requirements of the United Kingdom, Switzerland, France, Canada, and Mexico are respectfully brought to your attention (attached hereto). Also herewith is statement of Mr. H. D. Simpson of Kremenz & Co (large jewelry manufacturers) who, with other jewelers recently visited a number of European markets. Please note that in all cases the requirements on imports into those countries are more stringent than those contained in the proposed amendment.

In addition to the above statement with regard to paragraph 3, it should be noted that in no way do the provisions of the proposed amendment differentiate between foreign and domestically produced articles. Quoting from report on these bills by the Department of Commerce, dated June 23, 1961:

"It is the common practice with domestic manufacturers of these types of articles to indelibly stamp or engrave quality marks, and a large percentage of manufacturers now identify their products either with trademarks or company name. It would not appear to impose substantial hardship for the companies that do not do so now, to identify themselves along with the quality mark in the future, as proposed.

"In the import trade, jewelry and articles having a high gold or silver content are usually made up on a special order basis, and it would appear that the name or trademark of the U.S. importer or distributor could be stamped or affixed to the article abroad in the course of manufacture."

Paragraph 5: Referring to the impracticability of stamping trademark, etc. "because of the size or nature of the article":

"As to 'these requirements may impose a substantial burden on importers * * *' the Manufacturing Jewelers & Silversmiths of America states: 'The association recognizes that, in rare instances, the size and form of some articles will make them difficult, but not impossible, to stamp. We recognize that, because of some merchandising practices within the industry, new arrangements must be made between the maker and distributor in regard to stamped identification; in rare instances this may involve some inconvenience. It is the considered judgment of the association, after close examination of the proposed amendment and its practicality, that the benefits far outweigh the rare instances of slight inconvenience and expense that a few manufacturers, importers or distributors may incur.'

"The proposed requirements would not 'impose an unreasonable burden' on the importer nor would it give the domestic manufacturer any advantage. The buying public should be as fully protected as possible. The present opportunity for fraud should be minimized, and restraint should be put upon those firms who now mark their merchandise with higher gold or silver content than the articles actually contain."

Paragraph 6: To prevent protection of the buying public because a trademark may be refused or canceled (assuming refusal or cancellation was for good and sufficient reason) seems to be lending aid to possibility of fraud.

Paragraph 7: See comments relative to paragraph 4.

If the trademark or other means of identification on articles stamped with a quality mark is that of a foreign manufacturer or distributor, there would be no redress. Again, in order to protect the buying public, the responsibility for stamping must be placed on a manufacturer or importer of the United States.

It is appreciated that while the State Department does not believe that the legislation is either necessary or desirable it will not oppose its enactment.

Sincerely,

Executive Vice Chairman.

UNITED KINGDOM

Following is taken from pamphlet of the World Trade Information Service, U.S. Department of Commerce, entitled "Marking and Labeling Requirements of the United Kingdom," which was prepared by Deane M. Black, British Commonwealth Division, Office of Economic Affairs, dated July 1957:

"Articles of gold and silver: A large number of goods made of gold and silver are required by law to be assayed and hallmarked on importation, and a considerable number of other gold and silver articles are by custom sent to the assay offices voluntarily in order to establish and maintain a reputation for high quality."

SWITZERLAND

Following is statement furnished by the Department of Commerce, Bureau of Foreign Commerce, European Division, dated May 5, 1960:

"Swiss law requires that imported precious metal products meet the legal precious metal content standard applicable to the sale of the same products on the domestic market. Precious metals must carry an indication of the proportion of the metal to the alloy and must be hallmarked by the 'Bureau Fédéral de Matières d'or et d'Argent,' Bern."

FRANCE

Following is statement furnished by Department of Commerce, Bureau of Foreign Commerce, European Division, dated July 1, 1960:

"The French Customs Code indicates that articles of gold and silver may be imported into France only when they meet the legal requirements of standard content required for similar articles of French manufacture intended for domestic use. The proportion of gold metal to alloy must be 920, 840, or 750 (tolerance: 3 milliemes); for silver 950 and 800 milliemes (tolerance: 10 milliemes). Following customs clearance, such articles must be sent under seal and bond to the 'Service de la Garantie des Matieres d'or, de Platine et d'Argent,' 14 rue Peree, Paris, to be assayed and stamped. Upon payment of the assay fees the articles are then turned over to the importer."

CANADA

Excerpt from letter of Department of Trade and Commerce, Canada, dated February 19, 1959, addressed to Manufacturing Jewelers & Silversmiths of America, Providence, R.I.:

"We are very interested in the proposed amendment to the National Stamping Act as the principle involved is one of the main bases of our own act. I enclose a copy of this and direct your attention to section 6(3).

"As you will read, all quality marks must be accompanied by a trademark which is registered, or applied for, in Canada. This places the responsibility for the stated quality upon the party who is registered as the owner of the trademark. It should be noted that a firm name (unless registered as a trademark) is not sufficient identification because of the possibility of confusing similar firm names that may be found in various parts of the country.

"This provision has not placed any particular difficulty or hardship upon the Canadian manufacturer, but has been of great benefit to the ethical firms by assuring the maintenance of the quality as stamped."

Excerpts from Canadian stamping law:

"Chapter 215. An Act respecting the Marking of Articles containing Gold, Silver or Platinum, 1946.

"3. (1) This Act applies to gold articles, silver articles, platinum articles, palladium articles and plated articles made or sold in Canada or imported or otherwise brought into Canada by dealers.

"Chapter 22. An Act to amend the Precious Metals Marking Act, 1955.

"1. Subsection (3) of section 6 of the Precious Metals Marking Act, chapter 215 of the Revised Statutes of Canada, is repealed and the following substituted therefor:

"(3) A gold article, silver article, platinum article or palladium article that has applied to it a quality mark shall also have applied to it a trademark registered under the Unfair Competition Act or registered under the Trademarks Act, or a trademark in respect of which application for registration has been made under either of the said Acts, and, where the quality mark is stamped, branded, engraved or imprinted upon the article, such trademark shall also be stamped, branded, engraved or imprinted upon the article."

MEXICO

Statement contained in June 15, 1960, issue of The Jewelers' Outlook (a trade publication): "The Mexican Ministry of Industry & Commerce appointed a committee in 1959 to administer a decree which had been issued to regulate production and enforce trademark regulations for silver articles. One objective of this decree: to prevent articles of doubtful quality from being offered on the market."

[From American Jewelry Manufacturer, June 1961]

The English system of hallmarking jewelry and silverware was singled out for mention by H. D. Simpson of Kremenz & Co., Newark, N.J. He explained that any article of precious metal to be hallmarked is assayed for quality by the Government (this takes about a day) and then returned to the manufacturer for

finishing. He pointed out that this system, which is also compulsory for all foreign goods of precious metal brought into England, acts to inhibit imports. "Few would want to ship an item to England for hallmarking, have it returned for finishing and then reship the order," he said.

Mr. GRINBERG. If I may take a moment's time, I would like to read you one paragraph.

Senator PASTORE. I want you to go into detail, but I want to get this in the record at this point. I merely want to get it in the record in its entirety. Now, you can go the whole gambit.

Mr. GRINBERG. But I would like to say this briefly, that in connection with paragraph 4 of the State Department letter wherein they raise the question of requirements of other countries, we have said, and we have for your information, Senator, we have had several conferences with representatives of the State Department at which time we brought in material to their notice, and we were rather surprised at their comments in connection with the requirements of foreign countries in relation to our requirements and the effect it might have on exports and imports.

Senator PASTORE. In other words, if we compel American manufacturers to do it it is no imposition to compel others to do it as well?

Mr. GRINBERG. And not alone that but the requirements of foreign countries are very, very much more restricted than our proposed requirements.

Senator PASTORE. Now, when you say other foreign countries, can you name a few of them?

Mr. GRINBERG. Yes, I can.

The requirements of the United Kingdom, Switzerland, France, Canada and Mexico are respectfully brought to your attention, attached hereto. Also herewith is statement of Mr. H. D. Simpson of Krementz & Co., large jewelry manufacturers, who, with other jewelers recently visited a number of European markets. Please note that in all cases the requirements on imports into those countries are more stringent than those contained in the proposed amendment.

Now, the compliance with these other countries—

Senator PASTORE. Now, in what way are they more stringent? This is a conclusion.

Mr. GRINBERG. As an illustration, in this country the requirements would permit a manufacturer to stamp his own product without having a metal assay done and he is responsible for that quality as stamped.

In England you must send your article to the assay office where the Government assays the piece of jewelry and places the hallmark on the jewelry, and then as Mr. Simpson said in his comments which will illustrate it very forcefully:

The English system of hallmarking jewelry and silverware was singled out for mention by H. D. Simpson of Krementz & Co., Newark, N.J. He explained that any article of precious metal to be hallmarked is assayed for quality by the Government—this takes about a day—and then returned to the manufacturer for finishing.

He pointed out that this system, which is also compulsory for all foreign goods of precious metal brought into England, acts to inhibit imports. Few would want to ship an item to England for hallmarking, have it returned for finishing and then reship the order.

In other words, in the United States the manufacturer may stamp his own product, to put his trademark on it, whereas in England the mark is placed on the article by the government.

Senator PASTORE. In other words, if you were selling a gold article or a silver article to England what would you have to do actually?

Mr. GRINBERG. You would actually have to send it to the assay office of gold.

Senator PASTORE. Of which government?

Mr. GRINBERG. Of the English government. And they would want—

Senator PASTORE. Are you sure about that?

Mr. KREMENTZ. Yes, sir. I inquired of Mr. Simpson again yesterday before I left the office and he assured me that they had spent quite some time investigating this problem when he was in Great Britain.

Mr. GRINBERG. Let me give you what France requires. This is a statement furnished by the Department of Commerce, Bureau of Foreign Commerce, European Division, dated July 1, 1960.

Senator PASTORE. Now, this is France?

Mr. GRINBERG. Yes, sir.

The French Customs Code indicates that articles of gold and silver may be imported into France only when they meet the legal requirements of standard content required for similar articles of French manufacture intended for domestic use. The proportion of gold metal to alloy must be 920, 840, or 750 (tolerance: 3 milliemmes) : for silver 950 and 800 milliemmes (tolerance: 10 milliemmes). Following customs clearance, such articles must be sent under seal and bond to the Service de la Garantie des Matieres d'or, de Platine et d'Argent', 14 rue Peree, Paris, to be assayed and stamped. Upon payment of the assay fees the articles are then turned over to the importer.

So you see for an American exporter to send items into France or into England he must have them assayed by the government who places the proper quality mark on same and only then is he permitted to place them into commerce.

Senator PASTORE. How much American exports do we have in gold and silverware and to what countries principally?

Now if you can't answer this question I was wondering if these figures are obtainable and whether we can put them in the record. In other words, the objection here chiefly on the part of the State Department is that this is going to inconvenience foreign manufacturers from selling their goods in international trade and thereby limit, you see, the traffic of trade.

Now, you have just raised two questions with reference to England and France. I am wondering to whom we are selling and from whom we are buying?

Mr. KREMENTZ. Senator Pastore, if I might mention, I inferred from the State Department's remarks that they are more concerned with the import of foreign goods to this country and I think that is where most of the interchange of trade comes in jewelry. It is mostly exported by European countries to this country.

Senator PASTORE. What are the countries that do the exporting to us?

Mr. KREMENTZ. The countries are Italy, France, and Germany.

Senator PASTORE. All right, now give me the situation in Germany and Italy.

Mr. KREMENTZ. I have here—there is no requirement as we have said for goods being imported into this country to be marked with the quality mark for—

Senator PASTORE. But I am talking about the Italian situation and I am talking about the German situation insofar as their requirements in their own countries are concerned. I mean to obviate this argument that they are going to make it tougher on them. Let's see how much we are going to make it tougher on our own. Now I want Germany and I want Italy.

Mr. KREMENTZ. In Italy there is no tolerance allowed at all.

Senator PASTORE. What does that mean?

Mr. KREMENTZ. If a piece of jewelry is stamped 750, which is equivalent to 18 carat, it must assay 18 carat. And those manufacturers are licensed by the Government.

Senator PASTORE. In other words, the people who manufacture gold in Italy are licensed by the Government to do so and under their supervision?

Mr. KREMENTZ. That is right.

Senator PASTORE. Do they have to put the identification on the stamp or are you prepared to answer that?

Mr. KREMENTZ. I am not prepared to answer that.

Senator PASTORE. Could you find out for us and inform this committee?

Mr. KREMENTZ. Surely.

Senator PASTORE. Now, let's get to Germany.

Mr. KREMENTZ. Germany is very much the same problem and I would have to look into that further to find out what the local requirements are.

I might make this comment, however, Senator. We have over the years, 4 or 5 years past, our company has imported into this country quite a quantity of finished jewelry made in Italy and in Germany, both in carat gold and in sterling silver. We have voluntarily taken the position that the goods must contain our hallmark or trademark when they are sold in this country.

I have here an example of a pair of 18-carat earrings that not only, as required by law, contains the country of origin but also contains the quality mark and our own domestic trademark. There is no hardship.

Senator PASTORE. There is no hardship, and I want to get into that question.

How much of a hardship will this create upon American retailers or manufacturers or distributors, wholesalers, what have you, of these articles of precious metal in adding their hallmark as well as the quality mark?

Mr. KREMENTZ. Our experience has shown us that we have had no difficulty whatsoever in ordering the goods abroad. We have indicated that they will not be accepted unless they contain our hallmark and the mark of country of origin. No order has ever been turned down or refused to be accepted for that reason.

Senator PASTORE. Now, let's look at the bill. Do you have the bill in front of you?

Mr. KREMENTZ. Yes.

Mr. GRINBERG. May I add to that the statement that the laws in Germany are more stringent in many respects in regard to jewelry items than we have here.

Senator PASTORE. All right, but I would like for you to spell it out.

Mr. GRINBERG. Specifically in relation to a case which is now pend-

ing before the Federal Trade Commission in regard to synthetic emeralds, we have no law which requires the use of the term synthetic.

Germany, however, has in its law a requirement of where a synthetic stone is offered for sale it must be so described with the word "synthetic."

Senator PASTORE. How about gold and silver?

Mr. GRINBERG. That I can't say.

Senator PASTORE. That is what I would like to get in the record.

Mr. GRINBERG. May I also put into the record the Canadian requirements?

This is an excerpt from the letter of the Department of Trade and Commerce from Canada, dated February 19, 1959, addressed to Manufacturing Jewelers & Silversmiths of America, Providence, R.I.

We are very interested in the proposed amendment to the National Stamping Act as the principle involved is one of the main bases of our own act. Copy is enclosed.

As you will read, all quality marks must be accompanied by a trademark which is registered, or applied for, in Canada. This places the responsibility for the stated quality upon the party who is registered as the owner of the trademark. It should be noted that a firm name, unless registered as a trademark, is not sufficient identification because of the possibility of confusing similar firm names that may be found in various parts of the country.

This provision has not placed any particular difficulty or hardship upon the Canadian manufacturer, but has been of great benefit to the ethical firms by assuring the maintenance of the quality stamped.

And then there is an excerpt from the law itself.

Senator PASTORE. Let me ask you, is S. 1186 patterned after the Canadian law?

Mr. GRINBERG. Not to its entire degree because 1186 permits the use of the manufacturer's name as well as—or a registered trademark where in Canada the mark must be a registered mark.

Senator PASTORE. For the purpose of the record, Mr. Grinberg, how much of an inconvenience is it to register the trademark?

Mr. GRINBERG. There is no inconvenience at all provided you present the proper requirements. But I have heard of no one who has been denied the registering of a trademark unless there is good and sufficient reason, unless there is a copy of some other trademark or some such, but where it has the proper classification, where the described material is presented, I have heard of no case where the trademark is denied.

Senator PASTORE. How many members are there in your organization?

Mr. GRINBERG. We have approximately 1,200.

Senator PASTORE. 1,200 members?

Mr. GRINBERG. Yes, sir.

Senator PASTORE. And the Manufacturing Jewelers & Silversmiths?

Mr. KREMENTZ. We have approximately 500.

Senator PASTORE. And both of these organizations are in favor of this law?

Mr. KREMENTZ. Yes, sir.

Mr. GRINBERG. Yes, sir.

I would like to put one other country on record and that is Mexico. Statement contained in the June 15, 1960, issue of the Jewelers Outlook:

The Mexican Ministry of Industry and Commerce appointed a committee in 1959 to administer a decree which had been issued to regulate production and enforce trademark regulations for silver articles. One objective of this decree: to prevent articles of doubtful quality from being offered on the market.

(The letter follows:)

JEWELERS VIGILANCE COMMITTEE,
New York, N.Y., August 17, 1961.

SENATE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

GENTLEMEN: As required by Senator Pastore at your committee's hearing on S. 1186 on August 16, 1961, with reference to German and Italian requirements for the marking of gold and silver articles, we enclose herewith memorandums giving this information:

A. Foreign Service dispatch dated June 24, 1960, from Rome to the Department of State for Commerce, Washington, in response to that Department's request, dated May 12, 1960. Subject: Italian hallmarking requirements. The first paragraph reads as follows: "Foreign goldware is required to be marked by the local importer to show the identifying mark of the importer and the degree of fineness of the gold. The identifying mark of the importer is composed of the mark and progressive number assigned by each Italian Province (there are 90 Provinces in Italy) to each manufacturer and importer of goldware within its jurisdiction."

B. A résumé of the German law, dated July 16, 1884, which, up to April 1960 (except for a revision of the penal provisions in 1934) had not been changed.

This information was received in the following manner. On inquiry at the Department of Commerce, advices were obtained that the applicable German laws, referred to as RGBL I 1884, page 120 and RGBL I 1934, page 240, were probably available at the Library of Congress. A conference was held with Mr. Yann of the Foreign Law Division at the Congressional Library who translated the above mentioned laws.

For your further information we have conferred with Mr. Howard Baynton, in regard to accomplishing the minor changes suggested in the report on the bill by the Department of Justice.

Very truly yours,

P. IRVING GRINBERG, *Executive Vice Chairman.*

FOREIGN SERVICE DISPATCH

JUNE 24, 1960.

From: Rome.

To: The Department of State, Washington, for Commerce.

Reference: Department of State Instruction A-326, May 12, 1960.

Subject: Italian hallmarking requirements.

"Foreign goldware is required to be marked by the local importer to show the identifying mark of the importer and the degree of fineness of the gold. The identifying mark of the importer is composed of the mark and progressive number assigned by each Italian Province (there are 90 Provinces in Italy) to each manufacturer and importer of goldware within its jurisdiction."

The figure indicating the degree of fineness is expressed in thousandths of pure gold. Italian legal standards which are required to be used in marking gold of any color are 750, 585, 500, and 333 representing, respectively, $\frac{750}{1000}$, $\frac{585}{1000}$, $\frac{500}{1000}$, and $\frac{333}{1000}$ of pure gold. Allowed tolerance is $\frac{3}{1000}$ less than the indicated degree of fineness. Goldware with a degree of fineness greater than $\frac{75}{1000}$ is allowed to be marked with the figure indicating the actual degree of fineness.

Italian law prohibits markings of the degree of fineness as indicated above on other than precious metals, even if they are gold plated or gold filled. This prohibition applies also to goldware inside of which there is lead or "mastiche" (a pasty cement).

The identifying mark which is required to be shown on goldware is assigned upon application by the interested importer to Ufficio Metrico e del Saggio e Marchio dei Metalli Preziosi (office of measure and weights and for assaying and marking of precious metals) of the Province having jurisdiction over the place where such importer is domiciled. The stamp allowed for marking goldware as above is solely that which is made and furnished by the state mint. The state mint keeps the matrix of each stamp so that replicas of such a stamp can be obtained at any time.

There are no other special regulations governing the advertising or description of gold-bearing products except general principles of Italian law prohibiting fraudulent descriptions and markings of merchandise.

Sources for the above information were:

Ufficio Metrico e del Saggio e Marchio dei Metalli Preziosi, Rome;

Law No. 306 of February 5, 1954;

Decree-Law No. 2393 of December 27, 1934; and

Articles 515 and 517 of the Italian Penal Code.

For the Ambassador:

GEORGE T. ELLIMAN,
Commercial Attaché.

Approved.

VINCENT M. BARNETT, Jr.,
Counselor of Embassy for Economic Affairs.

RÉSUMÉ OF THE MOST RECENT GERMAN LAW RELATING TO MARKING GOLD AND SILVER WARE, DATED JULY 16, 1884 (REICHSGESETZBLATT I 1884, p. 120)

Section I.. (1) Gold and silver ware may be manufactured or offered for sale in any agree of fineness, only as indicated according to the following conditions.

(2) The degree of fineness of gold articles must be at least 585 parts per thousand (equal to U.S. 14 carat). The degree of fineness of silver articles must be at least 800 parts per thousand (U.S. sterling silver has 925, coin silver 900).

Section II. Refers to permitted tolerances, allowing five parts per thousand in the case of goldware and eight parts per thousand in the case of silverware.

Section III. The indication of the degree of fineness of gold and silver articles shall be made with a stamp showing the fineness in thousandths and the firm name of the concern for which the stamping has been effected. The form of the stamp shall be decided by the Federal Council. (This Federal stamp is akin to national stamps used in a number of countries such as Great Britain and Canada.)

Section IV. Requires that the stamping of gold and silver watch cases shall conform to the requirements of sections II and III (above).

Section V. Refers to ornaments of gold and silver whose fineness shall be indicated in thousandths. The tolerances allowed for these articles are 10 parts per thousand, and because of this greater tolerance the Federal stamp referred to in section III (above) may not be used.

Section VI. Refers to gold and silver articles imported from foreign countries and provides that these articles must have a stamp corresponding to the provisions of this law.

Section VII. Provides that the seller or the person or business for whom the stamping is performed shall be responsible and liable for the fineness as so indicated.

Section VIII. States that the degree of fineness shall not be indicated on gold-filled items, nor those made of gold or silver which are reinforced by other metals. In determining the degree of fineness, all metals differ in appearance from that to be stamped shall be disregarded.

Section IX. Contains the penal provisions.

Mr. GRINBERG. So that our neighbor requires what we are requesting now, that there be an identification where a quality mark is used.

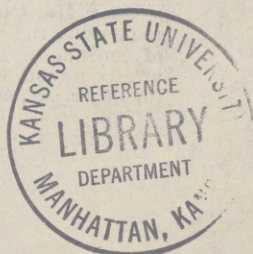
Senator PASTORE. It has been reported to me by the staff that the Federal Trade Commission, while it favors the bill, defers to the Department of Justice. The Treasury Department advises the legislation would present no administrative difficulties.

The Department of Commerce has no objection to it.

The Comptroller General has no comments to offer.

These letters will all be placed in the record.

(The letters follow:)



FEDERAL TRADE COMMISSION,
Washington, D.C., April 28, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of March 3, 1961, for comment upon S. 1186, 87th Congress, 1st session, a bill to facilitate the protection for consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes.

The bill would amend the National Stamping Act (15 U.S.C. 294-300) to require: (1) That any person who applies a quality mark to any article of gold or silver composition, or who imports into the United States any article bearing such a mark, must apply also to the article either his trademark duly registered or applied for, or his name, and (2) that if an article is composed of two or more parts which are complete in themselves, but which are not identical in quality, and any one of the parts bears a quality mark, the other part or parts must also contain a mark or stamp of like pattern and size disclosing the quality of the other part or parts.

The National Stamping Act is in the form of a criminal statute enforceable by the Department of Justice and prescribes the maximum allowable variations of gold or silver content permitted in the case of persons who represent the gold or silver quality of their merchandise.

The Federal Trade Commission, although it does not enforce the National Stamping Act, has proceeded administratively, under its general authority over unfair methods of competition and unfair and deceptive acts and practices, with regard to representations as to the quality of gold and silver products and has, in such matters, applied the tolerances expressed in the National Stamping Act.

The Commission believes, in connection with the first requirement of this bill, that the presence on a product of the trademark or name of the person responsible for representations as to gold and silver quality of the product would be useful from an investigative standpoint to furnish a ready means of identifying such person. It might also have the effect of deterring some persons who otherwise would be disposed to misbranding such articles.

The second requirement, that of stamping different parts of the article with the quality mark, may prevent persons from being deceived into the belief that the mark carries over to, or is descriptive of, another part of the merchandise which differs in quality. Thus, it is consistent with a Commission objective under section 5 of the Federal Trade Commission Act of preventing deception.

We suggest that there may be questions concerning the reasonableness of the proposed requirements on such points as whether the articles involved are always of sufficient size to enable the vendor to place his name thereon and whether the description of the quality of each complete component part of a product can, as a practical matter, be applied to that part by stamp of like pattern and size as the quality mark appearing on any other part.

As already noted, however, the National Stamping Act is enforceable by the Department of Justice. The Commission, therefore, defers to the judgment of that Department as to the desirability of the proposed legislation and with respect to the form of the proposal.

By direction of the Commission.

PAUL RAND DIXON, *Chairman.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, June 16, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter of March 3, 1961, requesting the views of this Department on S. 1186, to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes.

The proposed legislation would amend section 4 of the act entitled, "An act forbidding the importation, exportation, or carriage in interstate commerce of

falsely stamped articles of merchandise made of gold or silver or their alloys, and for other purposes," approved June 13, 1906 (34 Stat. 261; 15 U.S.C. 297), to impose additional marking requirements on dealers in articles composed in whole or part of gold or silver or their alloys.

The new requirements which the bill would impose do not appear to arise in connection with the importation of such articles or affect other matters directly within this Department's jurisdiction. However, to the extent that this Department may be called upon to participate in the enforcement of the bill, if enacted, no unusual administrative difficulties are anticipated.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, *General Counsel.*

THE SECRETARY OF COMMERCE,
Washington, D.C., June 23, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request dated March 3, 1961, for the views of this Department with respect to S. 1186, a bill to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes.

S. 1186 would amend the National Stamping Act of 1906 (15 U.S.C. 297, sec. 4) to require that jewelry and similar articles in interstate commerce, when stamped, branded, engraved, etc., with a quality mark indicating the fineness of gold or silver content, shall also carry a similar identification of the trademark of the party affixing the quality mark. The requirement would apply to both domestic and imported articles.

The Department of Commerce would interpose no objection to favorable consideration of S. 1186.

It is common practice with domestic manufacturers of these types of articles to indelibly stamp or engrave quality marks, and a large percentage of manufacturers now identify their products either with trademarks or company name. It would not appear to impose substantial hardship for the companies that do not do so now, to identify themselves along with the quality mark in the future, as proposed.

In the import trade, jewelry and articles having a high gold or silver content are usually made up on a special order basis, and it would appear that the name or trademark of the U.S. importer or distributor could be stamped or affixed to the article abroad in the course of manufacture.

There may be certain situations in which the method proposed, of identifying the originator of the quality mark, would not be practicable. No doubt, hearings on the bill would indicate if there are any such instances which might warrant special consideration.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, March, 27, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Your letter dated March 3, 1961, requests our comments on S. 1186.

The bill would amend section 4 of the act of June 13, 1906, 15 U.S.C. 297, to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof.

We have no information relative to the necessity for this legislation. Consequently, we make no recommendation concerning enactment of the bill.

Sincerely yours,

JOSEPH CAMPBELL,

Comptroller General of the United States.

Senator PASTORE. Now, with regard to the Department of Justice, the Department of Justice has no objection to the bill but suggests that if the quality mark or stamp, page 2, line 12 of the bill, is intended to mean the same mark as is described in 15 U.S.C. 294, the language should be the same.

Do you have any comment on this?

Mr. GRINBERG. We would have no objection.

Senator PASTORE. The Department thinks that the coverage or scope of the legislation should be spelled out as it is in 15 U.S.C. 294.

Do you care to comment on this?

Mr. GRINBERG. No, we have no comment.

Senator PASTORE. Do you have any objections?

Mr. GRINBERG. None.

Senator PASTORE. We will insert in the record the correspondence that we do have from the U.S. Department of Justice, addressed to the Honorable Warren G. Magnuson, chairman of the committee, with regard to this legislation.

(The correspondence follows:)

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 13, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 1186, a bill "To facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes."

The bill would amend section 4 of the act of July 13, 1906 (34 Stat. 261; 15 U.S.C. 297), which in substance prohibits the importation, exportation, or participation in interstate transportation of falsely stamped articles or merchandise made of gold or silver, or alloys of either. It would require that whenever a gold or silver-containing article made domestically or imported into the United States or its possessions and intended for sale or customarily sold as a complete product to consumers is marked to indicate quality, the trademark, duly registered or to be applied for, or the registered name of the manufacturer or importer thereof must be applied to the article. Such application must be by the same means as that used in applying the quality mark, in type or lettering at least as large as that used in the quality mark, and in a position as close as possible to the quality mark. Also, if such an article is composed of two or more parts which are complete in themselves but which are not identical in quality, and any one of such parts bears a quality mark, each other part of that article must contain a quality mark and the trademark or name of the manufacturer.

The Department does not have any objection to enactment of legislation of this type. However, attention is directed to certain features of the bill.

It is assumed that the "quality mark or stamp" referred to in section 4 of the act as proposed to be amended by S. 1186 is intended to mean the same thing as the type of mark referred to in section 1 of the act (15 U.S.C. 294); that is, a mark or word indicating that the gold or silver or alloy of either of the metals in an article is of a certain degree of fineness. If this assumption is correct, it would be preferable to use the same or similar language in both sections, or to refer to section 1 in the amendatory language.

The scope of coverage of S. 1186, where transactions within the United States not involving the use of the mails are concerned, is not certain. Though the

constitutional basis for the legislation (other than the postal power) is apparently the commerce clause, S. 1186 merely refers to articles "intended for sale or customarily sold * * * to consumers within the United States * * *." It would appear that, as set forth in section 1 of the act, it would be desirable to spell out the intended scope of the legislation in terms of relation to interstate commerce.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE, *Deputy Attorney General*.

Senator PASTORE. I would hope that your representatives would sit down with the members of our staff and perfect these suggestions on the part of the Department of Justice.

Is that an inconvenience to you?

Mr. GRINBERG. Not at all.

Mr. KREMENTZ. Not at all.

Senator PASTORE. Do you gentlemen want to add anything further?

Mr. GRINBERG. Shall I continue with the rest of my statement, Senator?

Senator PASTORE. All right, sir.

Mr. GRINBERG. This amendment would be constructive and helpful in identifying those responsible for placing quality marks on such items, thus giving the buying public greater protection against misrepresentation. The requirement of identification should also act as a deterrent to unscrupulous manufacturers and distributors, some of whom do not hesitate under the law as presently in effect to stamp jewelry falsely, indicating far finer quality, such as greater gold content than the article actually contains.

Stamping accompanied by proper identification would aid in eliminating the capacity and tendency of promoting confusion and deception, and also protect the reputable jeweler from unfair competition.

And this I would like to emphasize. The Manufacturing Jewelers & Silversmiths of America and the Jewelers Vigilance Committee have frequently been faced with serious and baffling problems in identifying the manufacturer or distributor of items which on being tested have been found to be under the quality stamped on the article.

You know in our industry all complaints do not go to the Federal Trade Commission. One of the functions of our committee is to try and straighten out problems within the industry dealing with unfair practices, or misrepresentations of one kind or another.

Senator PASTORE. Could you tell us how many cases you have had within your experience of goods falsely marked?

Mr. GRINBERG. Unfortunately, I hesitate to quote numbers, but I can say only 2 years ago we conducted a survey of gold articles in the New York area and we had a considerable percentage of items stamped with quality marks which were under the quality mark.

Senator PASTORE. In other words, there are a lot of people walking around today with rings on their fingers thinking that they are 14 carat when maybe they are brass.

Mr. GRINBERG. They could be brass or 10 carat or 8 carat or something far under the quality.

And I will close by saying that the administration of such an amendment would entail little, if any, expense; to the contrary, it would simplify tracing those responsible for falsely stamped, underquality

merchandise, and should tend to cause unscrupulous manufacturers or dealers to hesitate to place a false stamp on such products.

In view of the above facts, the plea is earnestly made that in order to further fair competition and guard against unscrupulous acts, and even more important, to protect the buying public, this amendment be adopted at the earliest possible moment.

We wish to thank you very much for your attention.

Senator PASTORE. Now, Mr. Krementz, do you want to add anything further? Don't add it just because I asked you.

Mr. KREMENTZ. We have gone into this thing very thoroughly from all of the technical aspects and find no difficulty in abiding by the requirements of this amendment from a technical point of view, from a manufacturer's point of view.

Senator PASTORE. What you are saying here is that under the law no one has to know, or is compelled by law to mark, the quality of the jewelry, but if you are going to assume that privilege in selling your merchandise to the consuming public then you ought to tell them who you are as well?

Mr. KREMENTZ. That is right.

Mr. GRINBERG. That the reputable manufacturers today do in most instances stamp their merchandise with the quality and with their own identification.

Senator PASTORE. Now, is there anyone else in this room who wants to testify for this bill?

(No response.)

Senator PASTORE. Is there anyone in this room who wants to testify against this bill?

(No response.)

Senator PASTORE. The Chair hears none and we will adjourn these hearings.

Thank you very much, gentlemen, for coming.

(Thereupon at 10:45 a.m., the committee adjourned.)

