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HARDWOOD LABELING ACT

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HEARING BEFORE THE COMMITTEE ON COMMERCE UNITED STATES SENATE EIGHTY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1724

A BILL TO PROTECT CONSUMERS AND OTHERS AGAINST
MISBRANDING AND FALSE ADVERTISING OF DECORATIVE
HARDWOOD OR SIMULATED HARDWOOD PRODUCTS

APRIL 5, 1962

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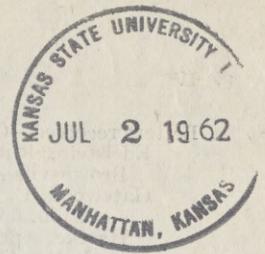
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HARDWOOD LABELING ACT

THURSDAY, APRIL 5, 1962

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, Hon. Vance Hartke presiding.

Senator HARTKE. The committee will come to order.

This hearing concerns S. 1724. This bill was introduced by my colleague, Senator Capehart, and myself, and proposes to protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products.

The legislation is in the general pattern of the various labeling acts this committee has been responsible for over the years—wool, fur, textiles, and hazardous substances, all aimed at protecting the consumer.

Speaking broadly, the bill would make unlawful, and an unfair method of competition, the introduction into commerce of any misbranded decorative hardwood or simulated hardwood products.

We will, without objection, place the text of the bill in the record at this point.

(The bill follows:)

[S. 1724, 87th Cong., 1st sess.]

A BILL To protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Decorative Hardwood or Simulated Hardwood Products Labeling Act".

SEC. 2. As used in this Act—

(a) the term "person" means an individual, partnership, corporation, association, business trust, or any organized group of any of the foregoing;

(b) the term "hardwood" means any timber product originating from deciduous trees which retains its natural growth structure after being converted into veneer and lumber;

(c) the term "simulated hardwood" shall mean any material, including, but not restricted to, wood, fiberboard, plastic metal, gypsum, paper, and film, to which there has been applied (by printing or any other process) an imitation of any hardwood grain, figure, or growth character;

(d) the term "decorative hardwood" shall mean hardwood veneer, plywood, flooring, and lumber, the wood face of which has been varnished, shellacked, lacquered, stained, or otherwise finished to display the natural wood grain, figure, or growth character;

(e) the term "decorative hardwood or simulated hardwood products" means any article of furnishing or structure surface covering in which all or part of the exposed surface area is decorative hardwood or simulated hardwood, or both;

Staff member assigned to this hearing: Harold I. Baynton.

(f) the term "exposed surface area", as used in the definition of "decorative hardwood or simulated hardwood products", means any exterior surface which is exposed to view when the product is installed or placed in normal position;

(g) the term "furnishing" as used in the definition of "decorative hardwood or simulated hardwood products" means any article of furniture, or musical instruments, or cabinets, the exposed surface of which is made in whole or in part of decorative hardwood or simulated hardwood, including but not limited to furniture, cabinets for radio, television, phonograph, high fidelity, and for kitchens;

(h) the term "structure surface covering", as used in the definition of "decorative hardwood or simulated hardwood products", means wall paneling, partitions, ceiling paneling, floor covering, doors, and prebuilt and finished ready to install (except for cutting and fitting) cabinets of all kinds, the exposed surface of which is made in whole or in part of decorative hardwood or simulated hardwood;

(i) the term "veneered construction" means that all or part of the exposed surfaces of the article so described are in fact genuine hardwood veneer.

(j) the term "Commission" means the Federal Trade Commission;

(k) the term "Federal Trade Commission Act" means the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended;

(l) the term "commerce" means commerce between any State, or possession of the United States, or Puerto Rico, or the District of Columbia, and any place outside thereof; or between points within the same State, Puerto Rico, or possession, or the District of Columbia, but through any place outside thereof; or within any possession, or Puerto Rico, or the District of Columbia; and

(m) the term "United States" means the several States, the District of Columbia, Puerto Rico, and possessions of the United States.

MISBRANDING AND FALSE ADVERTISING DECLARED UNLAWFUL

Sec. 3. (a) The introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any decorative hardwood or simulated hardwood product which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations prescribed under section 6(b), is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act.

(b) The sale, advertising, offering for sale, transportation, or distribution, of any decorative hardwood or simulated hardwood product which has been shipped and received in commerce, and which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations prescribed under section 6(b), is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act.

(c) The introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any decorative hardwood or simulated hardwood product which is falsely or deceptively advertised, within the meaning of this Act or the rules and regulations prescribed under section 6(b), is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act.

(d) Except as provided in subsection (e) of this section, it shall be unlawful to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any decorative hardwood or simulated hardwood product is sold and delivered to the ultimate consumer, any label required by this Act to be affixed to such decorative hardwood or simulated hardwood product, and any person violating this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce under the Federal Trade Commission Act.

(e) Any person introducing, selling, advertising, or offering for sale, in commerce, or processing for commerce, a decorative hardwood or simulated hardwood product, or any person selling, advertising, offering for sale, or processing a decorative hardwood or simulated hardwood product which has been

shipped and received in commerce, may substitute for the label affixed to such product pursuant to section 4 of this Act, a label conforming to the requirements of such section. Any person substituting a label shall keep such records as will show the information set forth on the label that he removed and the name or names of the person or persons from whom such decorative hardwood or simulated hardwood product was received, and shall preserve such records for at least three years. Neglect or refusal to maintain and preserve such records is unlawful, and any person who shall fail to maintain and preserve such records shall forfeit to the United States the sum of \$100 for each day of such failure, which shall accrue to the United States and be recoverable by a civil action. Any person substituting a label who shall fail to keep and preserve such records, or who shall by such substitution misbrand a decorative hardwood or simulated hardwood product, shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce under the Federal Trade Commission Act.

(f) Subsections (a), (b), and (c) of this section shall not apply to any common carrier, contract carrier, or freight forwarder in respect of a decorative hardwood or simulated hardwood product shipped, transported, or delivered for shipment in commerce in the ordinary course of business.

MISBRANDING DECORATIVE HARDWOOD OR SIMULATED HARDWOOD PRODUCTS

SEC. 4. For the purposes of this Act, a decorative hardwood product shall be considered to be misbranded—

(1) if it is falsely or deceptively labeled or otherwise falsely or deceptively identified, or if the label contains any form of misrepresentation or deception, directly or by implication, with respect to such decorative hardwood or simulated hardwood product;

(2) if there is not affixed to each decorative hardwood or simulated hardwood product (flooring may be labeled by the package, or bundle) a label showing in words and figures plainly legible the labeling information required by this law.

(a) Any decorative hardwood product must be labeled either by the correct common name (excepting trade names and trademarks) of the hardwood actually used for the exposed surface area of the decorative hardwood product or by the words "genuine hardwood", and any veneered exposed surfaces shall be clearly indicated by the additional word "veneers" or "plywood". In addition, if other hardwood species names are also used to describe color, the imitated species name must be immediately preceded by the word "simulated"; as for example: a table with walnut veneered top and other species legs would be labeled either "walnut veneers (or plywood) and other genuine hardwood solids", "walnut veneers (or plywood) and (name of species) solids", or "walnut veneered (or plywood) top and simulated walnut solids", or simply "genuine hardwood veneered (or plywood) construction".

(b) Trade names, or trademarks, may be used on decorative hardwood products where such names and marks do not incorporate a common hardwood name or a derivative thereof and provided such trade name or mark is registered with the Federal Trade Commission together with the botanical name of the decorative hardwood on which such name or mark is to be used exclusively.

(c) Any material, including wood, fiberboard, plastic, metal, gypsum, paper, and film, when there is applied thereto a printed or engraved surface to simulate the appearance of any hardwood grain, figure, or growth character shall be clearly named on the label (trade names not sufficient) and adequately described and the simulated hardwood graining shall be specifically disclosed; as for example: "fiberboard, simulated walnut grain", or "plastic, simulated maple grain", or "elm veneered (or plywood) construction, simulated teak grain", or "hardwood veneered (or plywood) construction, simulated teak grain".

FALSE ADVERTISING OF DECORATIVE HARDWOOD OR SIMULATED HARDWOOD PRODUCTS

SEC. 5. For the purposes of this Act, a decorative hardwood or simulated hardwood product shall be considered to be falsely or deceptively advertised if any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist directly or indirectly in the sale or offering for sale of such decorative hardwood or simulated hardwood product uses the name of any hardwood species, in describing the exposed surfaces of such product,

when, in fact, such surfaces are not made of that hardwood species, unless such species name be immediately preceded by the word "simulated" in type of equal size and legibility.

ENFORCEMENT OF THE ACT

Sec. 6. (a) (1) Except as otherwise specifically provided in this Act, sections 3 and 9(b) of this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

(2) The Commission is authorized and directed to prevent any person from violating the provisions of sections 3 and 9(b) of this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 or 9(b) of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(b) The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act, and such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act. The Commission is granted authority to exclude from the provisions of this legislation any decorative hardwood or simulated hardwood products, disclosure concerning which is not necessary for the protection of the ultimate consumer.

(c) The Commission is authorized (1) to cause inspections, analyses, tests, and examinations to be made of any decorative hardwood or simulated hardwood product subject to this Act; and (2) to cooperate, on matters related to the purposes of this Act, with any department or agency of the Government; with any State, Puerto Rico, or possession, or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

(d) (1) Every manufacturer or dealer in decorative hardwood or simulated hardwood products shall maintain proper records showing the information required by this Act with respect to all decorative hardwood or simulated hardwood products handled by him, and shall preserve such records for at least three years.

(2) The neglect or refusal to maintain and preserve such records is unlawful, and any such manufacturer or dealer who neglects or refuses to maintain and preserve such records shall forfeit to the United States the sum of \$100 for each day of such failure which shall accrue to the United States and be recoverable by a civil action.

CONDEMNATION AND INJUNCTION PROCEEDINGS

Sec. 7. (a) (1) Any decorative hardwood or simulated hardwood product shall be liable to be proceeded against in the district court of the United States for the district in which found, and to be seized for confiscation by process of libel for condemnation, if the Commission has reasonable cause to believe such decorative hardwood or simulated hardwood product is being manufactured or held for shipment or shipped, or held for sale or exchange after shipment, in commerce, in violation of the provisions of this Act, and if after notice from the Commission the provisions of this Act with respect to such decorative hardwood or simulated hardwood product are not shown to be complied with. Proceedings in such libel cases shall conform as nearly as may be to suits in rem in admiralty, and may be brought by the Commission.

(2) If such decorative hardwood or simulated hardwood products are condemned by the court, they shall be disposed of, in the discretion of the court, by destruction, by sale, by delivery to the owner or claimant thereof upon payment of legal costs and charges and upon execution of good and sufficient bond to the effect that such decorative hardwood or simulated hardwood products will not be disposed of until properly marked and advertised as required under the provisions of this Act, or by such charitable disposition as the court may deem proper. If such decorative hardwood or simulated hardwood products are disposed of by sale, the proceeds, less legal costs and charges, shall be paid into the Treasury of the United States as miscellaneous receipts.

(b) Whenever the Commission has reason to believe that—

(1) any person is violating, or is about to violate, section 3 or 9(b) of this Act; and

(2) it would be to the public interest to enjoin such violation until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint dismissed by the Commission or set aside by the court on review, or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act, the Commission may bring suit in the district court of the United States or in the United States court of Puerto Rico, for the district or Puerto Rico in which such person resides or transacts business, to enjoin such violation, and upon proper showing a temporary injunction or restraining order shall be granted without bond.

GUARANTEE

SEC. 8. (a) No person shall be guilty under section 3 if he establishes a guarantee received in good faith signed by and containing the name and address of the person residing in the United States by whom the decorative hardwood or simulated hardwood product guaranteed was manufactured or from whom it was received, that said decorative hardwood or simulated hardwood product is not misbranded or that said decorative hardwood or simulated hardwood product is not falsely advertised under the provisions of this Act. Such guarantee shall be either (1) a separate guarantee specifically designating the decorative hardwood or simulated hardwood product guaranteed, in which case it may be on the invoice or other paper relating to such decorative hardwood or simulated hardwood product; or (2) a continuing guarantee filed with the Commission applicable to any decorative hardwood or simulated hardwood product handled by a guarantor, in such form as the Commission by rules and regulations may prescribe.

(b) It shall be unlawful for any person to furnish with respect to any decorative hardwood or simulated hardwood product, a false guarantee (except a person relying upon a guarantee to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the decorative hardwood or simulated hardwood product guaranteed was manufactured or from whom it was received) with reason to believe the decorative hardwood or simulated hardwood product falsely guaranteed may be introduced, sold, transported, or distributed in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

SEC. 9. (a) Any person who willfully violates section 3 or 9(b) of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000, or be imprisoned not more than one year, or both, in the discretion of the court.

(b) Whenever the Commission has reason to believe any person is guilty of a misdemeanor under this section, it shall certify all pertinent facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

APPLICATION OF EXISTING LAWS

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of Congress.

SEPARABILITY OF PROVISIONS

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its enactment.

Senator HARTKE. We will also place in the record at this point a statement by my colleague, Senator Capehart, who is unable to be here for this hearing.

(The statement follows:)

STATEMENT OF HON. HOMER E. CAPEHART, A U.S. SENATOR FROM THE STATE OF INDIANA

It is my pleasure to cosponsor again with the distinguished chairman, S. 1724, the decorative hardwood or simulated hardwood products labeling bill.

Briefly, Mr. Chairman, we cosponsored similar legislation and have appeared before this same committee in the last session of Congress.

After the hearings, the bill was favorably reported, but due to the lateness of the session no action was taken on the floor of the Senate.

Since that time both of us have felt the need for this law and therefore have again joined in this effort.

The hardwood producers in Indiana and throughout the country, through the Fine Hardwoods Association, are united in their efforts to provide a guarantee that each consumer of hardwood products be fully informed as to the exact nature of the products on the market.

It is in this spirit that I appear and urge a favorable report on this bill.

This principle of enacting legislation to prevent false advertising or deception is not new. It is contained in the Pure Food, Drug, and Cosmetic Act, the Wool Labeling Act, the Fur Labeling Act, and the Textile Fabrics Labeling Act.

The people of this industry feel that they need similar legislation to protect the consumer and to improve competitive conditions in the industry.

The fine hardwood manufacturers, who make up this association, have adopted a seal of quality which enhances their product. However, they need the full assistance of the Federal Government to guarantee that each piece of furniture bears a proper label indicating whether the piece is genuine or simulated material.

Quality standards such as this has improved the lot of all consumers everywhere. I believe we need it for this industry. I urge the bill be favorably reported.

Senator HARTKE. Enforcement, if this measure becomes law, would be by the Federal Trade Commission. They have representatives here to testify. I understand they have suggested amendments which they will explain, as well as the Commission's position on the bill.

We will hear from them after Congressman William Bray, if he is present. Is he here?

He is on his way. We will go to the other witnesses, then.

Congressman Utt?

STATEMENT OF HON. JAMES B. UTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Senator HARTKE. Good morning, sir. We are delighted to have you here with us.

Mr. UTT. Thank you, Senator. I am very happy to be here. I have a brief statement and I would like to read it into the record.

I am James B. Utt, Member of Congress, 28th District of California. I appreciate this opportunity of making known my views in opposition to S. 1724.

This bill would create a vast new scheme of Federal Government regulation covering millions of sales transactions annually of furniture, wall and ceiling paneling, floor covering, radio and TV sets,

musical instruments, and other products with decorative wood pattern and color finishes. I am concerned not only over the cost of such a scheme, but also at the principles underlying the legislation.

This bill is designed to protect the producers of one kind of decorative materials against the inroads of other materials and finishes, and not necessarily the consumers.

This is readily apparent from the one-sided application of the bill in requiring labeling of materials other than fine hardwood veneer and virtually exempting it, in mandatorily applying an "imitation" label to one, and a "genuine hardwoods" label to the other—in appropriating to the latter all hardwood names even when used to describe "finish" and "color," and in being concerned only with hardwoods and not also softwoods.

These are strange features to benefit consumers and will lead to numerous other industries championing legislation favoring their own and requiring labeling of competitive materials.

If this bill that is carefully tailored to fit the supposed competitive needs of one segment of the hardwood industry is profitable, so would be numerous other bills and prospective bills covering tens and even hundreds of other competitive situations.

I believe it unwise to extend the Federal Government's regulatory powers down to local retailing, whether it be of furniture or other products. Local laws and courts have not been shown to be inadequate to cope with the problem here any more than in connection with many other products.

Moreover, the Federal Trade Commission has ample authority under the FTC Act to prevent deception and misrepresentation, and has done a creditable job of administering that law.

Moreover, such a bill as this should deal fairly with all products and materials affected. If any are to be labeled, all should be labeled.

If consumers are concerned with the composition of materials in products, they should be told uniformly the composition of all.

I believe it unwise for the Congress to discriminate for or against any materials. It has not done so in the earlier labeling acts and should not do so now.

I have had no requests from my district, from the manufacturers, that this law be enacted. I have had no requests from the dealers in my district that this law should be enacted. I have had no requests from the consumers in my district that this law be enacted, and above all I have had no requests from Governor Brown's consumers council, whom he appointed a couple of years ago to protect the consumers, and surely if this was an area of interest to the consumers in California, Governor Brown's very competent consumers council would be inquiring about it.

Of course, now the President is asking for a consumers council. And I would say this would be a proper area for that council to examine and see what recommendations they would come back with.

That, Mr. Chairman, concludes my statement.

Senator HARTKE. Thank you, Congressman. We appreciate your coming over this morning.

Senator Ervin.

**STATEMENT OF HON. SAM J. ERVIN, JR., U.S. SENATOR FROM THE
STATE OF NORTH CAROLINA**

Senator ERVIN. I have no prepared statement, but I can state my position on this bill briefly.

Senator HARTKE. I would like to call attention to the fact that Senator Ervin is a former member of this committee and possesses what I believe to be one of the finest legal minds in the U.S. Senate.

Senator ERVIN. Thank you.

I am opposed to this bill for three fundamental reasons. The first is that this bill proceeds upon the theory that there should be some kind of a Federal guardianship for all American citizens who are desirous of purchasing any furniture.

The second reason I oppose it is that there are sufficient local laws now to provide for the punishment, both civilly and criminally, of all furniture dealers and manufacturers who are practicing the frauds or false pretenses in any transactions relating to furniture, the sale of furniture.

The third reason is that this bill undertakes to regulate the labeling of furniture until it is sold and delivered to the ultimate consumer. It therefore invades the area of local transactions and goes far beyond the scope of the interstate commerce clause as it is now interpreted up to this date. Of course, I will not say what interpretation may be made tomorrow, but as a result of bills of this character, and of the expansion of the judicial power of the United States and other things, I sometimes think that the old statement that the Constitution was designed in all of its provisions to create an indestructible union composed of indestructible States has vanished from our legal scene.

I thank the committee for permitting me to make this statement.

Senator HARTKE. We thank you for coming, and I still think you have one of the finest legal minds in the U.S. Senate, even though you oppose the bill.

Mr. Henry Miller.

**STATEMENT OF HENRY MILLER, ASSISTANT TO THE GENERAL
COUNSEL; ACCOMPANIED BY FLETCHER COHN, ASSISTANT TO
GENERAL COUNSEL IN CHARGE OF LEGISLATION; AND WILLIAM
B. SNOW, JR., ASSISTANT DIRECTOR OF BUREAU OF INDUSTRY
GUIDANCE, FEDERAL TRADE COMMISSION**

Mr. MILLER. Mr. Chairman, this is Mr. Cohn, Assistant General Counsel, Federal Trade Commission, and Mr. Snow, Assistant Director of the Bureau of Industry Guidance.

My name is Henry Miller, and I am assistant to the General Counsel.

Mr. Chairman, I have a prepared statement and I would like to hand that to the reporter.

The views of the Commission on the proposed legislation have been expressed in its report of March 14, 1962, to the chairman of this committee. I have embodied these views in my statement.

The bill in general outline is designed to be a Labeling Act, and follows the approach of the Textile, Fur, and Wool Products Labeling Acts, which the Commission presently administers.

By its experience in the enforcement of such statutes, the Federal Trade Commission is sympathetic to labeling legislation, in needed situations, which requires disclosure of the essential truth about the composition of an article, in order that the public may be correctly informed when making purchases and may be shielded from misleading information, deceptive appearances, and false or deceptive advertising claims.

The Commission has general authority under existing law to issue cease-and-desist orders to prevent consumer deception in the purchase of products. That is, in individual cases, the Commission, under the provisions of the Federal Trade Commission Act, can enjoin the continuation of deceptive acts and practices.

However, there are circumstances where additional legislation could serve a useful purpose by spelling out, so to speak, definite labeling disclosures. An example of this has been the Wool, Fur, and Textile Labeling Acts which have done much to clarify business responsibility and to strengthen and facilitate the Commission's efforts to prevent deception.

As I have stated, the proposed legislation apparently seeks to emulate this procedure with reference to decorative hardwood and simulated hardwood products. Therefore, the problem before Congress is to determine the necessity for such additional legislation and, if needed, the extent and manner in which it should be administered.

It is felt, however, that there are a number of deficiencies in the bill which, for the purpose of administration and enforceability, should be corrected if it is to afford appropriate disclosure of the content of decorative wood products by truthfully informing the public as to its purchases of such products, thereby protecting consumers from misunderstanding, confusion, and deception.

Therefore, I would like to point out certain areas as to which we feel changes should be made for the improvement of the proposed legislation.

(1) ONLY PARTIAL COVERAGE PROVIDED IN THE BILL

By its limitation to hardwoods and their imitations, the bill leaves uncovered the entire class of softwoods, including many which are used in decorative wood products.

Softwoods include a large number in common use, such as cypress, yew, redwood, cedar, hemlock, fir, ponderosa, spruce, and others.

According to Department of Agriculture publication No. 217, January 1936, page 3, there are 810 species of native trees in the United States. These include scores which fall into the botanical class of softwoods.

Excluding of softwood products, as in this bill, presents a serious gap. In our opinion, it should be amended to apply to both classes of woods; namely, to "decorative wood and simulated wood products."

Consumer deception may be quite as fraudulent or unfair with respect to so-called softwood products as in the case of hardwoods. To require by law the labeling of one and not the other is likely to be highly confusing in retail outlets, particularly where articles such as furniture, cabinets, and so forth, are intermingled in display to prospective purchasers.

It may also be said that, unless so amended, enforcement would be rendered most costly to the Government by reason of the necessity of differentiating between one product and another, depending upon whether the basis wood is a hardwood or a softwood.

Deception of the public is equally objectionable, irrespective of whether the product may be classified as hardwood or softwood.

Under the bill, expert witnesses would undoubtedly have to be marshaled in order to prove that the alleged unlabeled or mislabeled product was in fact from a particular class of trees known as hardwoods.

Production of scientific evidence on the point may be costly and time consuming, with little or no bearing on the question of public deception.

(2) OPTIONAL LABELING, WHICH, IN OUR JUDGMENT, WOULD DESTROY THE VALUE OF THE BILL

It is provided in section 4, paragraph A, of the bill, that the product must be labeled "either by the correct common name" of the hardwood actually used for the "exposed surface area or by the words 'genuine hardwood' * * *"

Thus, those required to label will be accorded the option of either naming the hardwood used in the product or simply marking it "genuine hardwood."

The requirement to reveal the name of the wood constituting the exposed surface, which is the heart of the measure, appears completely nullified by this provision.

Hardwoods produced in this country alone are reported as totaling 596 species (Department of Agriculture Bulletin No. 217). In addition, many are imported from foreign countries.

Each wood has its own properties, qualities, and merit, and as between the different species the qualities, merits, and usefulness differ materially. Choosing the alternative marking, however, all one need do is to mark it with the promotional phrase "genuine hardwood." The mere designation of the finished product as "genuine hardwood," authorized as an alternative mark, can be of little or no value for purposes of informing members of the public what wood they are actually getting for their money. It does not require any law to permit one to use the phrase on his hardwood products. Its use affords no substantial advantage from the standpoint of consumer labeling.

We strongly recommend that this optional labeling provision be eliminated from the bill.

(3) FAILURE TO REQUIRE INVOICE DISCLOSURE WEAKENS BILL

Unlike previous bills for labeling, S. 1724 omits entirely any requirement for invoice disclosure of the true name of the wood used in the product. This tends to weaken the measure and to render administration more difficult. Proper invoice disclosure of the wood in question affords a record to guide distributors and dealers. It provides the enforcing authority with a means of checking correctness of labels and of tracing the source back to the manufacturer.

Switching of labels is minimized. Properly marked invoices facilitate replacing lost labels. Honest merchants are provided through invoice disclosure with means whereby they may protect themselves respecting questioned labels or advertisements.

Purchase of cabinets and articles of furniture for testing purposes is expensive. Testing usually mars the product or destroys its salability. A requirement for proper disclosure in invoices of the wood content would obviate much of such testing work; consequently, considerable expense would be avoided.

We feel that if labeling legislation is to be enacted, it should also require that disclosure of the true name of the wood be set forth in invoices, as is required in the Fur Products Labeling Act for fur products, where fur products are required to have their content information disclosed in the invoice.

Section 6 of that act is the provision.

(4) WOOD PRODUCTS NAME GUIDE NEEDED

It is deemed highly important for labeling purposes that the correct name be used, and that manufacturers, distributors, and retailers have a reliable guide to follow.

Woods used in decorative products are of great variety, and sometimes there is substantial doubt as to the proper name to be used. Existence of an official name guide affords classification and assurance of the proper name to be applied.

We feel this committee should give consideration to the desirability of including provisions for an official name guide similar in principle to that contained in the Fur Products Labeling Act of 1951 (sec. 7).

OTHER CHANGES RECOMMENDED

Section 2(b) defines hardwood—

as any timber product originating from deciduous trees which retains its natural growth structure after being converted into veneer and lumber.

The last clause—

which retains its natural growth structure after being converted into veneer and lumber—

is unnecessary to the definition of hardwood. We recommend that the committee consider its elimination because it needlessly would present difficulties in enforcement.

It would require proof not only that the product is hardwood, but also that the finished wood in its prefabricated state, when the veneer or lumber was originally cut, did thereafter retain its natural growth structure.

Highly technical questions could be raised on which expert testimony may be required to establish not only that the product is a hardwood, but that such hardwood is of a type that has retained its natural growth structure in the finished state.

Again, subsection (d) of section 2 would appear to require that the hardwood be finished "to display the natural wood grain, figure, or growth character." This, in my opinion, is unnecessarily restrictive. One hardwood may be finished not to display its own grain or figure,

but the grain or figure of another wood, thereby being excluded from the scope of the definition.

For example, gunwood, a hardwood, may and frequently is finished to display the grain and figure of walnut, mahogany, or some hardwood other than gum. The phrase "to display the natural wood grain, figure, or growth character," unless eliminated, would undoubtedly create a serious loophole in the law.

With respect to veneered products, it appears that consumers are likely to be misled and deceived should the labeling fail to disclose the kind of wood which is under the top layer of veneer and upon which the durability and strength depend.

Merely to call the product veneer of a certain hardwood would disclose only the $\frac{1}{16}$ -inch or $\frac{1}{32}$ -inch top layer.

Ninety percent or more of an entirely different wood of which the piece is composed would be concealed and undisclosed, no matter how inferior such wood may be. While certain veneered products are laminated to high quality plies, in many instances very cheap or low quality plies are used and concealed by the thin top layer or veneer. Unless the hidden plies are disclosed, the purchaser has no means of knowing what he is getting.

In section 4(a), illustrations of required markings are given, including in lines 10 and 11 an alternative, reading:

or simply "genuine hardwood veneered (or plywood) construction."

It is provided that this permissible alternative marking shall apply to an article containing "simulated walnut solids."

The alternative marking would therefore be untrue. If allowed to remain in the legislation, the effect would be to have a false type of marking authorized by law.

We recommend that the committee consider its excision from this bill.

Apparently, the proposed legislation would classify hardboard or Masonite as "nonwood" products, along with "plastic, metal, gypsum, paper, and film." There is a very serious question as to whether such a classification is proper and, because of the nature and composition of hardboard or Masonite, we would suggest intensive study by this committee before reaching a final determination.

We believe that should the various suggestions I have made be incorporated into the subject bill, the proposed Wood Products Labeling Act probably would be administratively feasible and enforceable. I do not feel that the Federal Trade Commission is in a position to express any views on whether such a labeling statute should be enacted. That is a prerogative of the Congress and our statement must be limited to our opinion as to how the bill may be improved if Congress should decide to enact it.

The Commission has had some experience in the matter of deception of the public through lack of proper disclosure of wood or purported wood products in items of household furniture, cabinets, paneling, and the like.

In view of the great development of the art of finishing wood and imitation wood products, it frequently has become almost impossible for the members of the general consuming public to know from observation what kind of wood or material is used in the product or to be able to distinguish between wood and purported wood materials.

Consumers should be fully protected from being misled or deceived as to what they are purchasing.

Let me cite a few instances where the Commission has had to take action to protect the consuming public from false and deceptive claims as to wood products. In *Colony Furniture Co. et al.* (54 FTC 1312 (1958)), the respondents, which had advertised that its furniture was made entirely of mahogany, oak, maple, walnut, or fruitwood, were directed to cease misrepresenting in any manner, or by any means, directly or indirectly, the kind or nature of the wood or other materials used in the manufacture of their furniture.

Kochton Plywood and Veneer Co. (55 FTC 870 (1958)) involved a consent order requiring Chicago sellers of plywood paneling imported from Japan and grained or finished in the United States which was not made from either walnut or oak, to cease representing the paneling by distributing to retailers samples identified as "blond walnut," "silver oak," "natural walnut," and so forth, and also to require such distributor to clearly disclose that the paneling was made in Japan.

Perhaps the best known of this type of case is *Haskelite Manufacturing Corporation v. FTC* (127 F. 2d 765 (1942)). In that case, the Commission charged a manufacturer of a line of buffet or lap trays with having advertised them as manufactured of hardwood and of hardwood surface, whereas in fact the surface was made of processed, lithographed paper, so as to stimulate walnut and Mexican capomo wood.

The Commission issued an order to cease and desist such practices. And this was appealed to the circuit court of appeals.

The court, in upholding the Commission's order, stated as follows, in part:

The process used by the petitioner to simulate woods does great credit to the ingenuity of the petitioner, and is so skillfully carried out that the physical exhibits shown us in court were distinguishable from the real wooden trays only after the most careful scrutiny. The trays themselves were the best evidence of the possibility of confusion. Without some warning, the trays of themselves are almost certain to deceive the buying public. The Commission had a right to consider this fact, so forcefully apparent upon an examination of the physical exhibits. We think this is all * * * the Commission's order attempts to meet.

In 1959-60, the Commission also instituted action against a large number of radio and television manufacturers in the use of such terms as "mahogany grained finish" and "limed oak grained finish" as descriptive of radio and television cabinets composed of hardboard or metal.

These actions resulted in stipulations being entered into by nine such manufacturers, agreeing to cease and desist from using such terms, unless in immediate conjunction therewith there appear other words or descriptions which clearly disclose the material of which said cabinets are really made.

In addition, the Commission's staff is presently in the process of drafting proposed trade-practice rules for the furniture industry, which it is hoped will be promulgated sometime during the summer or by June 1, 1962.

It is contemplated that these rules will include provisions requiring the disclosure of the type of wood in furniture where the finished product would be deceptive unless such disclosure is made. For example, if the finished product looks like walnut, but is made of gum, such fact must be disclosed. When such rules become effective, in all probability they will attempt to prevent deception of that type as well as misrepresentations as to the use of wood names, origin, and the like.

Should this committee and the Congress, however, feel that additional legislation could serve a useful purpose, it is suggested that such legislation be patterned after the Wool, Fur, and Textile Acts, with which this committee unquestionably is familiar.

The Federal Trade Commission has taken justifiable pride in the gratifying results that have arisen in the enforcement of those acts in affording protection to the honest merchants who sell those products and to the consumers who purchase them.

I have not attempted to enumerate all of the changes which I believe would make the proposed legislation more enforceable. In my opinion, there are other instances where changes and adjustments should be made to accomplish this purpose. However, for the most part, they would be more or less in the nature of editorial changes.

The staff of the Commission is, as always, available to the committee for any assistance it may be able to render.

We appreciate the privilege of appearing before you today.

Thank you very much.

Senator HARTKE. Thank you, Mr. Miller.

Do either one of the other gentlemen have anything to say?

(No response.)

Senator HARTKE. The Senator from Texas?

Senator YARBOROUGH. Mr. Miller, I was active as a member of this committee in support of the Textile Labeling Act, and the opponents of that legislation said it would be unworkable, it would be so expensive that it would break the manufacturers, and various other objections which you doubtless heard.

Now, since that bill was enacted into law and is being applied now, has there come to your knowledge any instance of any manufacturer having to discontinue manufacturing cotton goods because of the Textile Labeling Act?

Mr. MILLER. No, there has not, Senator.

Senator YARBOROUGH. Is the bill unworkable?

We know from past experience that the Wool Labeling Act had proved workable. Has the Textile Labeling Act proven any more difficult in application than the Wool Labeling Act?

Mr. MILLER. No, sir, it has not, generally speaking. We have worked out rules and regulations which spell out the various provisions and the requirements for labeling in a way that we feel is very helpful.

As a matter of fact, those regulations were worked out largely in conference and cooperation with the industry and we feel that all the hard spots have been adjusted in a way that substantial and effective compliance is achieved, without undue hardship.

Now, in the Wool Act, the Fur Act, and so on, you are always going to find somebody that does not like the legislation. But we have had very little complaint. And wherever a complaint has come in, we have given it attention, and gone to the bottom of it, and found that either

there was a misunderstanding of the regulations, or a misunderstanding of the act, or something of that sort.

Of course, some complaints may bring up questions that simply the man does not want to comply. But overall the compliance has been gratifyingly successful and is working very well.

Senator YARBOROUGH. Of course, to prevent undue hardship, we had a grandfather clause in that law to give people time to dispose of the stocks they had already manufactured and then there was a provision for a promulgation of tentative regulations, so many months for the industry to file objections and so on.

You have, because of all those safeguards, given the industry an opportunity to change over and you have had no great difficulties in securing the proper branding of textile products.

Mr. MILLER. No. The act did exempt products that were on hand and in the market. It also allowed a whole year for people to get ready and for regulations to be worked out before the act became effective. And we have had men out in the field aiming to educate the manufacturers, in complying and, all this taken together, we feel that any real hardship has been avoided.

Senator YARBOROUGH. Thank you.

Senator HARTKE. Mr. Miller, I take from your statement that you feel this act is not properly written? You enumerated quite a few deficiencies and after you did so, you came up with the statement that should this committee and Congress feel that additional legislation would serve a useful purpose, you suggest we follow the Wool Act and Fur Act and Textile Act.

Is that, in substance, your objection basically to the way the bill is written?

Is that right? Is there something besides the enumeration which you made here that is different basically from those acts?

Mr. MILLER. Well, there are certain changes that should be made, and I stated they were of an editorial nature, adjustments which would undoubtedly have to be worked out with the staff.

Now, the objections I mentioned here specifically, we think are basic.

Senator HARTKE. What I was trying to find out, you made specific objections and then came on with the general statement which in substance implies that even with these objections clarified and changed, as you have recommended, there still is substantial difference between this act and the Wool, Textile, and the Fur Acts. Is that true?

Mr. MILLER. Well, there are certain, as I indicated, editorial changes, because of the definitions—

Senator HARTKE. I am not speaking of editorial changes, I am talking about substantive changes.

Mr. MILLER. No; I do not think there are any that would rise to the dignity of being the subject of change, other than what I have specifically mentioned.

Senator HARTKE. In other words, basically, with these changes, which you feel would make it easier and better to administer, on behalf of the Commission and on behalf of the public, in substance this bill is identical, in its basic approach, to the other acts, which are now law. Is that true?

Mr. MILLER. That is right.

Senator HARTKE. I will say this, that I don't know how you could have protected yourselves more, from what I consider unfortunately a bureaucratic language, which frequently reaps public condemnation of people who are trying basically to do a good job, than the statement on page 12 when you said:

When such rules become effective, in all probability they will attempt to prevent deception of that type, et cetera.

I can see there certainly is room for any type of evasion of responsibility to the fullest extent and I would hope that such language would not be put in regulations in an attempt to make effective any legislation which might be enacted.

Mr. MILLER. Mr. Chairman, I might say, judging from the course we followed in these other labeling acts, that our regulations would be worked out with the view of not only requiring the act to be substantively adhered to, but also in a way that would make it easiest for manufacturers, dealers, and distributors to carry it out.

Senator HARTKE. I would assume also from your statement at the last, regarding the fact that you are attempting to establish, to draft proposed trade practice rules for the furniture industry, that basically you do recognize there is at the present time a gap which needs to be filled. Is that true? And the difference of approach is that you are saying in substance that whether it should be filled administratively or legislatively is the basic determination to be made here?

Mr. MILLER. Yes; the basic determination must be made.

Now on this trade practice rule, we have had furniture rules promulgated many years ago. They have been found to be inadequate and the present procedure involves a revision and bringing those rules up to date, as well as undertaking to take care of new problems.

Senator HARTKE. So what the Commission in effect feels is that there is an abuse here which needs to be corrected, and the question, as far as the Commission is concerned, is whether it is to be done administratively or legislatively?

Mr. MILLER. I think you could conclude that, Mr. Chairman.

I am in the position here—the Federal Trade Commission itself has not taken any official stand as to whether this legislation is needed or is not.

We feel that is a matter of—

Senator HARTKE. I am not talking about whether legislation is needed. I am talking about whether or not corrective action is needed.

Mr. MILLER. Oh, I think definitely that is true.

Senator HARKE. In other words, after the decision is made, if it is made, that corrective action is needed, then whether it is to be done by the Commission under its administrative procedure authority, as presently constituted, or whether it is to be done by further legislative action, with administrative interpretation and regulation, is another different matter, which will have to be decided, possibly by these hearings.

Mr. MILLER. Yes. I might throw in my personal observation. I have been in this labeling business for a long time and I am definitely of the opinion that the problems can best be handled by across-the-board labeling, such as this bill and the other labeling acts provide for.

Widespread problems could undoubtedly be handled through mandatory labeling legislation more effectively than they can in the case-by-case system which basically is the Federal Trade Commission's procedure.

Senator HARTKE. All right.

But the point still remains that you do not have that type of labeling legislation at the moment?

Mr. MILLER. Not in wood, we do not.

Senator HARTKE. In wood, that is right.

I have no further questions.

Thank you, Mr. Miller, and your associates, for being here with us this morning.

Congressman Bray?

STATEMENT OF HON. WILLIAM G. BRAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Senator HARTKE. We welcome our colleague from Indiana.

Mr. BRAY. I would appreciate it if the counsel would remain here, if he has time.

Senator HARTKE. We will certainly ask him to do so.

Mr. BRAY. Mr. Chairman, I am appreciative of this opportunity to appear before you and speak in behalf of legislation to require truthful labeling and advertising of hardwood products.

I sponsored legislation for this purpose in the 85th Congress and in the 86th Congress. I am glad to report that there has been increasing interest expressed in it, and these hearings before this committee at this time give us an adequate opportunity to report and enact this legislation during the 87th Congress.

I just finished listening to the testimony of, I believe, the chief counsel of the Federal Trade Commission and the reason I asked him to remain is that several times in the past we have had the Federal Trade Commission appear here on this legislation and without any criticism at all, because I did not mean it that way, I have found that they always explain how the things should not be done, yet have been reluctant to explain how it should be done. I believe we call that Washington bureaucracy.

What I mean is I do not say this legislation is perfect. It happens it was modeled on, to my personal knowledge, on the Fur Labeling Act. And I would personally like for the Commission to show what changes they believe should be made in this legislation. That has been requested several times in the past.

It is so easy to say how a thing should not be done, but nothing is ever accomplished if you merely take how things should not be done.

We should also explain, if it is necessary, and I believe it is, what changes should be made in the legislation to assist them, if finally enacted, in properly enforcing and making proper regulations.

As I have stated before, it is the purpose of this legislation to provide needed protection to the consumer so that he will not be deceived as to the nature of wood or wood-appearing products which he purchases. Today we can buy products with the appearance of wood which may be only a printed design on fiberboard, metal, or plastic.

We have no way of knowing the true composition of the products and in many instances the merchant himself does not know.

Now there are many simulated wood products which are very good products. They serve a variety of purposes and in some instances the consumer may prefer to have a metal table or cabinet to one made of wood. I do not propose that his choice in any way be limited or that simulated wood products be prohibited; I merely propose that his choice be made meaningful by advising him of what he is, in fact, choosing.

A number of techniques have been perfected to give the appearance of fine woods to other wood or nonwood surfaces. Simulated, machine-stamped veneers resembling genuine grain finishes are being applied to solid lumber, hardboard, metal, and plastics, and even to cheaper veneers, and sold as the genuine article. The deception is not noticeable to the average buyer.

Why, you may ask, are we so concerned about a deception which is apparently so good that it cannot be easily detected? The appearance may be very similar but the underlying quality is not. I have used the example before of a piece of glass with many facets which may catch the light like a diamond and be indistinguishable at a distance, but if it splinters from a fall to the ground, we know it lacks the durability and strength which is the diamond's greatness. And we would not be very happy if we had paid a diamond's price for a piece of glass.

If a metal or wood surface that has been printed and finished to resemble a fine hardwood is scratched or damaged, the grain appearance that was there is destroyed and cannot be restored. To many consumers this has been the first knowledge that the product was not "the real McCoy."

That there is a need for consumer protection in such instances has been recognized by the Congress in the enactment of the Fur Products Labeling Act, the Wool Act, and the Textile Fiber Products Identification Act. Such legislation was in mind when this bill was drafted. On the basis of these laws, consumers have been protected by energetic enforcement.

As you know, President Kennedy sent to the Congress on March 15 his message concerning consumer protection. This specific legislation was not mentioned in his message, but it is, I believe, typical of the attempts being made to afford adequate protection to the consumer, without in any way hindering effective competition.

The President does state in his message that consumers "have the right to know what is in the package they buy." To some extent a wood cabinet is analogous to the package in which goods are bought, and should not be misrepresented.

Witnesses from this industry will relate to you instances of deception in the furniture and decorative hardwood fields. Enactment of this legislation will do much to restore public confidence in this industry and will serve indirectly to raise ethical practices in related areas.

My attention to this subject was directed by some of the hardwood producers of my district. Johnson County, Ind., is the home of some of the Nation's finest veneer manufacturers. Indiana, and our neighbor, Louisville, Ky., together produce more than one-half of all of the face veneers manufactured in the United States.

This industry asks no protection from competition; it is confident that the natural beauty and durable quality of fine hardwoods will continue to sell their products. It will, however, be encouraged by the enactment of legislation to require the producers of imitations to label them as simulated products.

Furthermore, the consumers of America, of which a goodly number reside in my district, will be given adequate information on which to base their selection of products if this legislation is enacted. It is in their behalf and I request the earnest consideration of this committee to the testimony and statements which are being presented to you and which will, I hope, result in favorable action on this bill.

Senator HARTKE. Thank you, Mr. Bray.

Senator YARBOROUGH?

Senator YARBOROUGH. Congressman Bray, I believe I saw you at a National Rifle Association meeting yesterday.

Mr. BRAY. You did.

Senator YARBOROUGH. I guess as an old rifleman, you have drawn the bead here and are squeezing for a bull's-eye.

Mr. BRAY. That is what I am trying to do.

Senator YARBOROUGH. I have no questions.

Mr. BRAY. I do want to add this, I am very sincere in wanting the Federal Trade Commission, their attorneys—and I realize in the end if this is passed, they must enforce it—I do want incorporated in the bill and the one I have introduced in the House the changes that they believe should be made, because I believe they must be in favor of adequate protection to the buyer public, or they wouldn't be in the Federal Trade Commission. And President Kennedy has emphasized this, that these people must be, the goods must be fairly and adequately labeled.

And I do sincerely want them, if they are still here, to point out what the mistakes are and what can be done about them. Any of us can find fault and I say that with all friendliness, I am as guilty as anyone else, but I want something positive as to what changes can be made to make this meet your approval.

Of course, three times this bill has been up. Wherefore have you said what can be done to make it better? You fellows are experts in this field. We know the public is justified in having adequate labeling, and if this legislation, or the one introduced in the House, doesn't carry that out, we want your constructive, positive statements rather than just errors that you believe are in the bill.

We know there are errors, because we are not experts. But you people are and you are representing the public and I think you have been doing a good job of it. I want you to do a little better job of it.

Senator HARTKE. Thank you, Congressman.

At this time the statement of Congressman Moulder, of Montana, will be made a part of the record, without objection.

STATEMENT OF HON. MORGAN M. MOULDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman and committee members, I am pleased to appear before you in behalf of the wood labeling legislation. My sincere interest in these proposals is attested to by the fact that in the 86th

Congress I introduced H.R. 9349 and again in the present 87th Congress I introduced H.R. 1949, which is a companion bill to S. 1724.

There are many reasons why I introduced these measures and why I am hoping that this committee and the Congress will enact this legislation into law. In the first place, you will note the title of the bill: "To protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products." It is our duty to provide protection for the consumer.

In the second place, during the seven Congresses that I have been privileged to serve, I have assisted in and voted for several labeling bills. The wood labeling, fur labeling, and textile fiber labeling are three of these important measures that I supported and, may I add, as the years pass by, I grow increasingly proud of the fact that I was able to assist in this worthy legislation.

All of these labeling measures have done more than protect the consumers. It is true that now the purchaser knows what he is buying when he pays for food, drugs, cosmetic products, fabrics, and furs. There has been a restored confidence in the products manufactured and retailed in each of these industries that has helped to increase sales and improve conditions.

I am hoping that the manufacturers will support this legislation. You will notice that the title of the bill states that it is to protect consumers and "others." The "others" refers to the manufacturer and retailer. I have a feeling that the only opposition might come—as it did in our hearings on the other labeling bills—from a very few individuals or firms who want to "get by" or deceive the purchaser with a cheaper product that has been made to look like a more expensive genuine product. Thus, this bill protects the many other reliable manufacturers against unfair trade practices.

A simple label such as is required by this bill also will protect and assist the retailer. It will eliminate the guesswork that too often is needed when a prospective purchaser asks what kind of wood or finish is on the piece of furniture.

There are several modifications or changes in the bill presented for this 87th Congress. The word "simulated" is used instead of "imitation" in the thought that it was more descriptive. The requirement that the species of the hardwood be on the label has been eliminated. Instead, the words "simulated hardwood" or "simulated walnut finish" and so on may be used. The original descriptive requirement on invoices has been eliminated. In short, the bill has been designed to work no hardship on any manufacturer or retailer. Instead, it is designed to be helpful to the entire industry and to protect the millions of consumers.

Incidentally, I also am interested in the producers of products coming from the soil. There is considerable softwood in the district that I am privileged to represent. It is a good location for pulpmills. At the same time, some hardwood comes from Missouri and the producers of these fine hardwoods are justly proud of their product. They, too, are entitled to protection.

I strongly urge your favorable action on this legislation.

Senator HARTKE. Now, ladies and gentlemen, we have a long list of witnesses on this legislation, and it is my intention to finish this hearing today.

Accordingly, let me read existing law on this ever-present problem of getting through the testimony. Section 133(e) of the Reorganization Act provides:

(e) Each such standing committee shall, so far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument.

Let us try to follow that, and I am sure we will be surprised at the progress we will be able to make today.

The next witness is a former Member of Congress, the Honorable John Beamer, from Wabash, Ind.

STATEMENT OF HON. JOHN V. BEAMER, WABASH, IND.

Senator HARTKE. Good morning, sir; we are delighted to have you with us this morning.

Mr. BEAMER. With your permission, Mr. Chairman, I would like to follow your request and have the record indicate my complete statement and I shall condense it quite materially.

Senator HARTKE. Without objection, it is so ordered.

Mr. BEAMER. I considered it a privilege to be a member of the House Interstate and Foreign Commerce Committee when I served in the other body. This great committee, as its name indicates, has jurisdiction over a very wide variety of consumer, retailer, and manufacturer interests. As a result, its judicious consideration of legislation has developed and presented protective measures for the investor, the producer, the salesman, and the ultimate consumer. To recount the illustrious accomplishments of this committee might sound boastful, but I am making this reference to emphasize the reputation that it has established and the tradition that helps to set its guidelines.

I feel confident that all of us will agree that the consumer has a right to know. In the olden days—and not too many years ago because I can recall those times—tonics and elixirs in bottles were sold at fairs and other large gatherings as a cure-all for nearly every illness or ailment. In some cases, the contents of each bottle was a harmless ingredient with a pronounced flavor, usually bitter, added to plain water. There was little actual remedial property in most of these fake medicines and many had no serious effects or results; neither did they produce any beneficial results except to line the pockets of the producer or fakirs with money.

Our interpretation and development of the protective functions of government have progressed admirably since those days. Today, none of us would purchase or consume a bottle of tonic or cough syrup or any medicine from the druggist unless the product were in a bottle with a correct descriptive label on it. The customer knows that the label is not spurious or misleading because there is a Federal Food, Drug, and Cosmetic Act that prescribes the type of label, and there are strong arms of the Federal Government—the Federal Trade Commission and the Food and Drug Administration—that vigorously enforce the provisions of this act and further assist in the testing and inspection of products and producing plants in order to protect the consumer. This important legislation originated in this committee.

There are a multitude of food, drug, and cosmetic products that have been brought to a high standard as a result of these laws and regulations. One illustrative example could be shown in the flavoring extracts. An imitation vanilla flavoring extract must have the word "imitation" printed in the same size letters as the word "vanilla." It also must list the ingredients used in the manufacture of an imitation vanilla flavoring extract. Pure vanilla is made from the vanilla bean and is labeled as "pure vanilla." You can ask any flavoring extract manufacturer—and I was one once upon a time—and I shall venture a statement that he will tell you that the use of the word "imitation" on a vanilla extract bottle has helped his business. He will tell you that the customer has a right to know.

It was only a few years ago that the average consumer did not know that a "hudson seal" furpiece did not originate from the fur of a seal. Too often, too, a rabbit fur was sold as muskrat, or a muskrat fur was sold as a mink. Deceptive names and processes were produced so rapidly and cleverly that even many honest fur dealers had difficulty in identifying furs by the names assigned to them. The consumer who purchased furs had even less protection against this misnaming.

All of this deception in the fur industry has been corrected by the Fur Products Labeling Act approved by the 82d Congress. The purchaser of a fur coat, stole, or any fur product is certain that she will receive a mink product if it is so labeled. The consumer now has confidence in a product that rightfully was questioned some 12 or 15 years ago. The fur industry also reports improved business as a result of this restored confidence and they also agree that the consumer has a right to know.

In this manner, your committee has done much to keep the consumer from being deceived in the field of foods, drugs, cosmetics, wool, furs, textiles, and a few other products. S. 1724, the wood labeling bill, will provide this further protection for the consumer. I would like to ask whether or not you have shopped recently for furniture or TV or similar cabinets? I had a fairly recent experience when we were shopping for some occasional furniture. I saw a beautiful walnut table that was labeled "Hardwood—Walnut." I also saw some other pieces that looked like walnut but there was no other identification on it. I asked the salesman whether or not this piece was genuine walnut and he answered honestly that he did not know. Very close examination revealed that the exposed surfaces had been printed to imitate genuine walnut grain.

These imitations are made by testing a piece of fiberboard, pressed wood, cheaper wood, plastic, and even metal and printing by the skillfully developed photographic process on it an imitation of a species of fine hardwood. No wonder that the salesman did not know what kind of hardwood his store was offering. Here, too, the consumer has a right to know.

The Federal Trade Commission has recognized this situation. It has held conferences on deceptive trade practices in an effort to secure a voluntary solution from the various industries involved. It is recognized not only as a means of deceiving the consumer but also as an unfair trade practice. In a release of December 15, 1960, the Federal Trade Commission announced that nine major manufacturers of tele-

visions, radios, and phonographs had signed stipulations agreeing to disclose clearly the true nature of the cabinet materials finished to simulate wood. Information that has come to me indicates that this consent arrangement has not been sufficiently effective. Also, early in 1961, the Federal Trade Commission sponsored and held hearings on trade practice rules for the household furniture industry. These are moves to correct some of the apparent evil practices, but labeling legislation is needed to control the intrastate retailer and to keep the consumer from being hoodwinked or, perhaps it should be said, to protect the consumer from being "woodwinked."

I want to add most emphatically that I am opposed to undue Government intervention in business. I shall state in the same breath that a rightful function of our Government is to protect its people. This may be by police to help safeguard our cities and our highways, by our Armed Forces to protect us from foreign enemies, and by legislation to control those in our own society who would deceive with the wares they sell.

President Kennedy in his message to the Congress on March 15 spoke on "Consumer Interests," House Document No. 364. One of his strongest points was his reference to consumer information—and consumer representation in Government. He said:

Government can help consumers to help themselves by developing and making available reliable information.

This sounds to me like an endorsement of the principles of the wood labeling bill.

The President makes repeated references to the "rights of the consumer." He very properly criticizes "misleading, fraudulent, or unhelpful practices," and he concludes with the greatest truth in the business world when he said, "Fair competition aids both business and consumer."

S. 1724—this wood labeling bill—will aid both business and the consumer. It is difficult for me to understand how or why any furniture or cabinet manufacturer can do other than heartily support the measure. His customers will reap the first benefits, but he will have the lasting benefit of a restored confidence in this very important industry. My personal experience of many years in the manufacturing business provides me with this sincere conviction. The consumer has a right to know.

Senator HARTKE. Thank you, Mr. Beamer, for a fine statement.

Mr. Gatewood.

STATEMENT OF HOWARD GATEWOOD, EXECUTIVE VICE PRESIDENT, FINE HARDWOODS ASSOCIATION, CHICAGO, ILL.

Senator HARTKE. Good morning, Mr. Gatewood.

Mr. GATEWOOD. Mr. Chairman and gentlemen of the committee, my name is Howard Gatewood. I am executive vice president of the Fine Hardwoods Association, 666 Lake Shore Drive, Chicago. Our membership consists of 36 manufacturers of genuine hardwood veneers and lumber throughout the United States who employ about 5,000 people. Our product is made from hardwood logs, about 80 percent of which are bought from American farmers and woodlot owners and the balance is in species which must be imported.

The genuine hardwood veneer and lumber produced by our members is sold to manufacturers of furniture, paneling, radio and television cabinets, and other products. I have been employed for the past 15 years in the hardwood industry.

I am delighted to have the privilege of submitting, on behalf of our entire membership, testimony which I trust will establish to the satisfaction of this distinguished committee the urgent need for enactment of the "Decorative Hardwood or Simulated Hardwood Products Labeling Act."

This bill is patterned very closely after the Fur Products Labeling Act, as enacted by the 82d Congress, which has been so successful in eliminating deceptive practices previously rampant in that industry and which, I believe, deserves at least part of the credit for the increase in the sale of fur products since public confidence has been restored in the fur industry. Other precedents for this bill are the Wool Labeling Act and the more recent Textile Fiber Labeling Act.

Gentlemen, I submit the deceptive labeling and advertising of finished hardwood and imitation hardwood products to be seen everywhere on the present market is considerably more widespread and more serious than those in the fur industry which made the Fur Products Labeling Act necessary. I am equally sure that passage of the Decorative Hardwood or Simulated Hardwood Products Labeling Act will bring about the same proportion of benefit to the consumer and to the legitimate manufacturer and dealer of furniture, paneling, cabinets, and other related products.

The President of the United States has recently called for Federal legislation to insure against deceiving the consumer in the marketplace. In his message to the Congress on March 15, 1962, he included in his "bill of rights" for consumers the following:

The right to be informed—to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make an informed choice.

There can be no question that the bill you are considering today provides the consumer protection the President calls for, with respect to furniture, phonograph and television cabinets, paneling and other major expenditure items which it affects.

The truth-in-lending bill will have accomplished little by requiring the seller to reveal credit terms if the seller still may falsely describe the composition—and therefore, the value—of the big ticket items covered by this bill.

Since the time of the Pharaohs, 1,500 years before Christ, people have used and appreciated products made from genuine hardwoods. Our association and, in fact, the entire hardwoods industry spends considerable sums of money each year to keep before the public the traditionally hallowed names of our hardwood species—mahogany, American walnut, cherry, maple, oak, and many others. This phase of our job is an easy one, because human beings everywhere feel a deep appreciation of, and a kinship with, the natural warmth, beauty, and friendliness of products made from real genuine hardwoods.

In recent years, however, we have seen an ever-increasing flood of products such as furniture, hi-fi and TV cabinets, and wall paneling—products which have traditionally been made of hardwood—but made

of fiberboard, metal, plastic, and even cheaper hardwoods and softwoods, but bearing on their surfaces a photographic printed imitation of our beautiful hardwood figure patterns.

Our industry has no objection to these substitute materials copying the appearance of our material. We ask for no help from the Government in meeting the competition of other materials, which we feel we can do strictly on a basis of merit.

But, when these imitation products have gone so far as to use also the established common names of our hardwood species in their advertisements and labels, leading the American consumer to believe he is getting genuine hardwoods instead of a fake, then we think it is high time the Federal Government steps in to require manufacturers and retailers to tell their customers the truth about what they are getting for their money. We don't say they should stop copying the appearance of hardwoods—just that they should stop pretending that these fakes are hardwoods.

A simple description on labels and in advertisements as required in this bill stating, for example, "Fiberboard, Processed To Simulate Walnut," would put an end to this widespread deception of the American people, a tremendous portion of whom have bought such products labeled "In Mahogany," or "In Walnut," and have not discovered the fraud until ordinary wear or an accidental scratch reveals that the "wood grain" is only as deep as a coat of ink.

We feel it would not be entirely fair on our part to come to the Congress with a bill requiring that our competitors be honest but ignoring certain deceptive practices sometimes resorted to in connection with genuine hardwood products. This occurs when a manufacturer of an article made in whole or in part from an inexpensive hardwood but stained to resemble the color of a more expensive hardwood uses the name of the more expensive wood in his description. The bill also prohibits any finished genuine hardwood product being labeled or advertised by any species name other than that actually used for the exposed surface of that product, unless prefaced by the word "simulated."

I have taken the liberty of having placed before you samples of three different kinds of surfaces currently available on products of this kind.

The sample numbered "1" is made of fiberboard, sometimes called "hardboard." It is a composition material made from wood fibers. The surface of this material has been imprinted with a photographic imitation of the appearance of genuine cherry. We have sanded off the printing at the bottom of the sample to reveal the true nature of the product. When wear or damage has removed part of the printing, it is virtually impossible for the owner of the product to restore the original appearance. Television and phonograph cabinets, wall paneling, furniture, and other products made from this material are advertised, labeled, and sold to the trusting consumer under such deceptive terms as "in cherry," "cherry finish," "cherry grain," or simply "cherry," to use that species as illustration.

Sample No. 2 is made of Lauan, a relatively inexpensive hardwood, the surface of which also have been imprinted with a photographic imitation of the appearance of cherry. The same uses on products,

deceptive terms, and the same shortcomings apply to this sample as those described under sample No. 1.

Sample No. 3 is genuine cherry plywood. Again we have sanded through the finish at the bottom to show that the authentic grain exists deep into the wood.

Sample No. 4 is genuine cherry veneer. This is included to prove that veneered surfaces have substance and consist of an actual slice of the cabinet wood named. Printed surfaces, on the other hand, have no substance other than a layer of ink and have no right to the use of the hardwood species name which they imitate.

Another example of materials using a simulated printed hardwood appearance would be high pressure plastic laminates such as formica, micarta, et cetera. I have not provided a sample of these, because I believe all of you are familiar with them. Frankly, most plastic products are clearly marked as plastic. However, plastic products often use hardwood species names in a way which could be termed deceptive, and certainly should be included under this act to avoid consumer confusion.

Gentlemen, the display boards I have placed here in the room contain actual clippings of advertisements of products which are not in fact made of the hardwood species which they name. I hope that each of you will take the time to examine these displays during the hearings. These represent just a small sample of the deceptions currently being practiced. Almost any daily newspaper you might pick up will contain ads offering products under genuine hardwood names which are not used in those products.

The manufacturer of products coming under this bill normally sells to persons who are well-informed buyers in retail organizations. The manufacturer generally makes no attempt to deceive the retailer regarding what his product is made of, although he sometimes furnishes advertising material for the retailer's use which employs hardwood species names in a deceptive way. The great majority of the deceptions begin at the retail level, and I am willing to believe that much of it there is due to ignorance rather than fraudulent intent on the part of the person composing ads and particularly on the part of the retail salesman.

Our association has conducted sales training clinics in the past 3 years in 78 major cities across the country for retail furniture salesmen. In each of these meetings, we have asked whether the labels called for in this bill would be welcomed or resisted by the retail furniture salesmen. Practically all of the 4,528 salesmen attending these meetings have held up their hands as favorable to the bill. Their spokesmen have told us, in substance, "We don't want to guess, bluff, and lie when asked about species and materials on furniture, but some of these imitations closely resemble the genuine and we can't tell the difference. Such labels would enable us to do an accurate and more effective selling job."

The deception that is most harmful is the one which takes place on the retail floor when the sale is made. Regardless of the honesty or intent on the part of the retail salesman, a label on the article clearly setting forth whether it is genuine or an imitation would effectively insure that Mrs. Housewife would receive exactly what she thought she was buying. Similarly, the accurate advertising of products in-

cluded under this bill would further insure against misunderstandings and deceptions, intentional or otherwise.

Gentlemen, the provisions of this bill are simple ones, requiring only that the consumer be informed on what he is getting for his money through the use of honest labels and advertisements.

(1) This bill includes any finished article of furnishings—furniture, TV sets, et cetera—and any finished structure surface covering—wall paneling, floorings, et cetera—that has: (a) a wholly or partially exposed surface of imitation hardwood grain or pattern, (b) a wholly or partially exposed surface of genuine hardwood that is finished so as to reveal the natural grain or growth characteristics, or (c) a wholly or partially exposed surface that is a combination of genuine and imitation hardwood.

(2) It make it a misdemeanor to manufacture, promote, advertise, sell, or distribute any product as described under provision 2 above if it has been mislabeled, not labeled, or falsely or deceptively advertised under the terms of the act.

(3) It provides that the label on simulated hardwood products shall reveal the true generic name of the material actually used and the common name of the hardwood species imitated. For example, "Fiberboard, Processed To Simulate Walnut."

(4) It provides that the label on genuine hardwood products shall reveal either the common name of the hardwood species used for the exposed surfaces, or at least that it is "genuine hardwoods," and the presence of veneered construction. If other hardwood names are used to describe color, the imitated species name must be immediately preceded by the word "simulated." For example, a table with walnut top and gum legs would be labeled either "Walnut Veneer and Other Genuine Hardwood Solids," "Walnut Veneer and Gum Solids," "Walnut Veneer and Simulated Walnut Solids," or "Genuine Hardwoods, Veneered Construction."

(5) It provides that any decorative hardwood or imitation hardwood product will be considered deceptively advertised if the advertisement uses the name of any hardwood species in describing the exposed surfaces of such product when they are not actually made of that species, unless such species name be immediately preceded by the word "simulated."

Although these provisions are simple ones calling only for simple basic honesty, at previous hearings opposition has been raised by manufacturers and retailers of furniture and their representatives and by manufacturers of materials used to simulate hardwoods. The opposition has come entirely from this special-interest group, whereas support for the passage of this legislation has been placed on the record and will be again today by such consumer organizations as the National Consumers League, the General Federation of Women's Clubs, the Cooperative League of the U.S.A., the Consumers Conference of Greater Cincinnati, the AFL-CIO, The National Grange, the American Farm Bureau Federation, and the National Farmers Union. The excuses used by the special-interest opposition group are many, but they all boil down to the facts that the furniture manufacturer just doesn't want to be bothered with labeling, the National Retail Furniture Association has a horrible fear of having its members considered in interstate commerce, and the manufacturers of materials

used to simulate hardwoods apparently feel their business would suffer if they had to admit to the consumer that these materials actually are not the hardwood species they imitate. I would like to examine with you for a moment the validity of some of the objections used by the opposition.

The first is "another example of Government interfering with private business." It is the proper province of Government to prevent and punish larceny. I submit that selling some nonwood material as wood and selling one wood species as another constitutes larceny.

Another contention I have heard is that labeling would be burdensome on the manufacturers. Furniture manufacturers have bought and paid for 22 million "Mahogany" labels from the Mahogany Association in the past 25 years. They have bought over 8 million "Walnut" labels from the American Walnut Manufacturers Association in the past 20 years. They have bought over 5 million "Genuine Hardwoods" labels from the Fine Hardwoods Association in the past 5 years. Since all of these 35 million labels were voluntarily purchased by the furniture manufacturers and placed on their products, labeling would not appear to be the burden that some claim. It is interesting to note that some of the negative testimony in the Fur Labeling Act hearings contended that the labeling of furs would be unworkably burdensome, but that industry has apparently been able to comply without undue hardship.

It is also interesting to note that the National Association of Furniture Manufacturers, which has testified at previous hearings that this bill is not needed and that labeling is burdensome, has recently announced its own program to sell "seals of integrity" to furniture manufacturers for placement on their products. Their program, according to releases, is—

aimed at bolstering consumer confidence in furniture construction and building better business relations between manufacturers and their dealers and customers—

an obvious admission that such bolstering and building is needed and labeling is not so burdensome after all. We certainly applaud these objectives, since they are precisely those of this bill. The NAFM seal program can certainly do no harm and may even do some good. The big shortcoming is that it is a voluntary program and can have no effect of causing persons currently engaged in deceptive practices to volunteer to stop them. Upon the passage of this bill, such persons will be required to stop deceptive practices.

At previous hearings opponents stated that a few furniture manufacturers purchase mixed carloads of hardwood lumber and never know just what species each board is. To take care of situations like this the bill was changed to permit, if desired, the use on labels of the term "Genuine Hardwoods" in lieu of naming the species. Others will undoubtedly prefer the sales advantage of actually using the name of the species used.

Some persons negative to this legislation claim that no deceptions take place in the marketing of hardwood and imitation hardwood products. If this were true, the preparation of the display boards in this room would be impossible.

At least one prominent furniture manufacturer admits that all is not on the up and up in the mind of the furniture-buying public. Mr. Kenneth Kroehler, executive vice president, Kroehler Manufacturing Co.—the largest furniture manufacturer in the country—stated in an article in the June 1961 issue of *Furniture Manufacturer* magazine:

Manufacturers with integrity should unite to build a strong image of quality and reliability of homefurnishings to dispel consumer fears concerning our products.

Mr. Chairman, here is a small folding table sold with the manufacturer's label on it stating that it is made of "Genuine Solid Walnut." Examination reveals there is no walnut on it, solid or otherwise. The legs are made of beech and I have sanded through the stain here to show you that it is not walnut, but beech. It is not solid, incidentally, it is plywood. The top layer is made of plastic, which has been imprinted with a photographic imitation of walnut. The underneath or back sheet is made of fiberboard. There is not one iota of walnut, solid or otherwise, in the construction of this table. I submit that as one example of the type of deceptions current in the industry, and the type of deceptions which this bill will eliminate.

The first two paragraphs of an article appearing in the March 1, 1962, issue of *Home Furnishings Daily* read as follows:

Inquiries and complaints about business practices in this area reached a peak last year, with home furnishings categories accounting for a large share of the record total, the Better Business Bureau of Metropolitan New York has reported.

Of the top 10 categories in total requests for services during 1961, furniture and homefurnishings queries exceeded 18,000; home appliance requests topped 14,000; TV-radio sales and services exceeded 10,000, and floor coverings inquiries were about 4,000.

This would clearly indicate that complaints on furniture to Better Business Bureaus are substantial, using the Metropolitan New York area as a sample.

A widely read oracle of the furniture industry is Mr. Raymond S. Reed, who writes a daily column in *Home Furnishings Daily* entitled "Rambling with Ray." In his column of March 26, 1962, Mr. Reed discussed the need for more informative labels on furniture and includes these paragraphs:

How many times have you heard customers ask your floor salespeople, "What kind of wood is this?" And how many times have they given a sloppy, inadequate, or even wrong answer?

In no other home goods classification is the customer provided with so little information as in furniture. Basic facts remain a complete secret, to be hidden or revealed, depending upon the judgment, daily temperament, or inclination, of the individual salesperson. An air of mystery and mumbo-jumbo surrounds what should be a simple straightforward transaction.

Is it any wonder that so many surveys indicate the average homemaker approaches the purchase of furniture in a combination of confusion, apprehension, and distrust?

In the interests of time, I would like to submit the entire article for the record.

Senator HARTKE. Without objection, the article will be included in the record by reference.

Mr. GATEWOOD. In resisting this simple and workable Federal bill to insure fairness and honesty in the marketplace, manufacturers and retailers have apparently failed to recognize the improved business levels for products of all materials requiring proper labeling and

advertising under this bill which would surely result from the restored public confidence in the industry and its products. These opponent witnesses may not be aware that the States of New York, Massachusetts, California, Illinois, Connecticut, and New Jersey have all set up bureaus of consumer fraud in recognition of the widespread type of deceptive practices which this bill will eliminate. Surely these opponents would rather operate under one simple and non-burdensome Federal bill than under 50 different sets of rules from as many States governing the labeling and advertising of their products.

Opponents have stated in previous hearings that the Federal Trade Commission already has authority to control this type of misrepresentation. I have already established that most of these misrepresentations are perpetrated by the intrastate retailer who is beyond the control of the FTC. Hon. Earl W. Kintner, then Chairman of the FTC, in submitting testimony on this bill on August 10, 1959, before this committee, stated:

To the extent possible, the Commission has sought to effect correction of deception in the sale of decorative wood or imitation wood products by the application of its present authority. This authority, however, does not extend to requiring general labeling which it may well be argued the situation demands * * *. While these efforts in the Commission recognize the need or desirability of labeling to adequately protect the buying public and fair practices in competition, nevertheless it should be pointed out that mandatory authority to impose such requirement upon recalcitrant competitors is lacking, particularly in the area of sales to the ultimate consumer * * *. Labeling legislation, however, of the type involved in S. 1724, would obviate this difficulty of enforcement as has been accomplished in the case of the labeling provisions of the Wood Products Labeling Act of 1939 and the Fur Products Labeling Act of 1951.

That the Chicago Better Business Bureau recognizes the seriousness of these deceptions is indicated by an article appearing in their official publication, the Report, under date of September 9, 1957. This article is entitled "Wood Descriptions Must Be Accurate," and reads in part:

Hardboard and plastic surfaces are often treated to resemble popular furniture woods and have been falsely described by the use of the name of the wood they resemble.

In the interests of time, I would like to submit the complete article for the record, rather than reading it.

Senator HARTKE. Without objection, it will be incorporated by reference.

Mr. GATEWOOD. That the public has lost confidence in the furniture industry was indicated rather conclusively by a consumer survey conducted by the Minneapolis Star and Tribune among 600 homemakers in May 1958, and reported in the October 31, 1958, issue of the Home Furnishings Daily under the heading "Furniture Ads Rated as Least Truthful." The article states in part:

A survey by the Minneapolis Star & Tribune Co. has revealed that an alarming proportion of Hennepin County homemakers rate furniture advertising as the least truthful of newspaper ads, as well as the least helpful * * *. Twenty-three percent answered "Yes" to the question, "Have you ever had the experience of shopping at a furniture store in the Minneapolis area and of finding the merchandise not as advertised?"

That the Federal Trade Commission recognizes the existence of the deceptive practices which this bill will eliminate is established by this quotation from the original staff draft of their proposed new household furniture trade practice rules:

RULE 2—DECEPTION AS TO COMPOSITION

I. In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to represent or imply that an industry product or part thereof is in whole or in part of a certain composition when such is not the case, or to fail to disclose that such product or part thereof having the appearance of being of a different composition is not of the composition it resembles.

II. Wood and wood imitations:

(1) Representing or implying by the use of trade names, trademarks, or otherwise, that an industry product, or any part thereof, is wood, or of a named wood, when such is not the fact.

NOTE 1.—Hardboard shall not be unqualifiedly represented as "wood," but may be designated as "hardboard," "synthetic wood," "fiberboard," "made from wood fiber" (when such is the case), or by such other designation or descriptive terms as adequately and nondeceptively makes known the general nature of its composition.

Another example of the recognition by the FTC that these deceptive practices exist in the television and phonograph industry was the FTC news release dated December 15, 1960, announcing that nine major TV and hi-fi manufacturers had signed stipulations—

agreeing to disclose clearly the true nature of cabinet materials finished to simulate wood.

Unfortunately, most of these deceptions are practiced by the retailer rather than the manufacturer and these stipulations like the FTC trade practice rules referred to, will have no effect on the retailer. Only a Federal labeling bill such as this one can control the marketing practices of the retailer.

An objection to this bill voiced by the National Retail Furniture Association in their Trendicators bulletin of October 9, 1958, states:

By unanimous vote, the board put NRFA on record as opposed to wood products labeling legislation on grounds that such legislation would not materially protect consumers and would tend to retard use of new materials in furniture construction.

By their selection of the word "materially," NRFA apparently concedes that the bill would give some degree of protection to the consumer. But it is the balance of the sentence—

and would tend to retard the use of new materials in furniture construction—which is of particular significance. Since the bill would have no effect whatsoever on materials not masquerading under the appearance and name of hardwood, NRFA thus admits that having to reveal to the consumer that imitations are not real hardwood would retard their sales.

The fiberboard interests at these hearings may claim that the bill discriminates against them by requiring that the labels reveal the existence of fiberboard under the printing ink constituting the fake hardwood grain unless the bill also requires that products made of genuine hardwood plywood spell out the species used for each layer or ply. This is not a true objection but merely an attempt to cloud the issue.

This bill applies to exposed surfaces only. Products made of printed fiberboard utilize the fiberboard on the exposed surface and merely print on it to make it resemble a genuine hardwood species and apply the usual clear finishing materials. You might wish to refer again to sample panel No. 1 to refresh your memory on the nature of this material.

Products made from genuine hardwoods, on the other hand, either plywood or solid—offer the true authentic beauty and depth of real hardwood grain on the exposed surfaces, as indicated by samples Nos. 3 and 4.

Mr. Chairman, many proponent witnesses had planned to appear at this hearing, but in view of the limited time short proponent oral testimony is being presented by only a cross section consisting of one former Congressman, one hardwood association spokesman, three representatives of consumer organizations, one furniture manufacturer, one furniture retailer, and one furniture sales agent. The others have agreed to file written statements either directly with the committee or through me.

I would like to request permission to submit for the record the prepared statements of—

Mr. C. P. Setter, vice president, U.S. Plywood Corp., New York, N. Y.

Mr. J. T. Jennings, association director, the Cooperative League of the U.S.A., Washington, D.C.

Mr. Burdett Green, hardwood consultant, Los Gatos, Calif.

Mr. C. W. Robinson, president, Mahogany Association, Chicago, Ill.

Mr. Joseph Magliacano, business manager, Furniture, Bedding & Allied Trades Workers Union Local No. 92—CIO, Newark, N.J.

Mr. L. M. Clady, secretary-manager, Maple Flooring Manufacturers Association, Chicago, Ill.

Mr. R. A. Spelman, executive director, Wood Office Furniture Institute, Washington, D.C.

Mr. Donald H. Gott, secretary-manager, American Walnut Manufacturers Association, Chicago, Ill.

Mr. William M. Haas, contract manager, Marshall Field & Co., Chicago, Ill.

Senator HARTKE. Without objection, all of these statements will be made a part of the record.

(The statements referred to follow:)

U.S. PLYWOOD CORP.,
New York, March 29, 1962.

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

SIR: This letter is written in support of bill S. 1724, Decorative Hardwood or Simulated Products Labeling Act.

Our company operates 150 plywood distributing warehouses, 15 softwood plywood manufacturing plants, and 4 hardwood plywood manufacturing plants. We manufacture hardwood plywood for sale in a natural or unfinished condition; we also manufacture for sale prefinished hardwood plywood and we manufacture for sale hardwood plywood with a simulated or imitation printed wood grain.

Hardwood plywood is manufactured under the commercial standards issued by the Bureau of Standards. Hardwood plywood is usually manufactured with three layers or five layers of wood veneer and is known in the trade by the species

of the exterior layer. It is also known under the commercial standards in this same manner. For example, hardwood plywood made with an outside layer of walnut is known as walnut plywood; with an outside layer of birch as birch plywood.

Printed plywood is made by taking hardwood plywood and printing on it an imitation of the grain of a different species of hardwood. The printed grain normally reproduced is one of the more valuable and decorative species or what is known in the trade as the "cabinet" hardwoods. After the grain is printed on the plywood, coats of lacquer or other finishing materials are applied in a process similar to the prefinishing of unprinted hardwood plywood. The printed plywood is an imitation or simulation of prefinished genuine hardwood plywood.

Our company labels its printed hardwood plywood with a disclosure of the printed grain.

For the past several years a serious problem of maintaining the integrity of its product has been created for the hardwood plywood manufacturing industry by the indiscriminate and improper use of wood names on materials to which there has been applied a simulated wood grain. I refer to simulated wood grain on wood, plywood, hardboard, plastic, paper, metal, and other materials. These materials are excellent simulations of the genuine wood grain so that a purchaser is frequently deceived into accepting the product as genuine.

The public knows genuine wood by its color and grain appearance; seeing the imitation, the consumer, deceived by appearance, accepts the imitation as the genuine wood. The visual deception is exploited by the use of wood names on the imitation products.

Our company believes the manufacturer, dealer, or distributor owes the public the duty not to deceive them either overtly or by withholding information. Today many people are being misled. The public has some knowledge of the fine hardwoods and it values these hardwoods in its purchasing of hardwood plywood paneling.

"Cabinet" woods are more valuable than some other woods because of the inherent quality in the wood and the beauty of the grain character of the species.

When wood grain is imitated by the application of a printed grain then the public is rightfully entitled to be told that what he sees is not natural wood grain but a processed material made to look like genuine wood. The buyer should be allowed to decide whether or not he wants an imitation. It is our view that because of the visual deception it is necessary for an affirmative disclosure to be made so that the buyer will know when he buys material used to simulate genuine hardwood plywood.

Through the use of our brand names and the special labels our company uses, our genuine hardwood plywood and our simulated products are identified in accordance with the proposed bill. This has long been our policy. However, we do not think it necessary that all producers of genuine hardwood plywood be required to label their genuine products. Genuine hardwood plywood is fully covered by the commercial standards issued by the Bureau of Standards. These have been in effect for many years and no further labeling of the genuine products would seem necessary. It is our belief that the labeling of the simulation will be sufficient.

The bill, as drafted, would appear to require that the word, "simulation" be used in describing an imitation of wood grain. We feel that the word, "simulation" would not be considered derogatory and it is our opinion that much of this simulated material is of good quality.

The enactment of this legislation is required in order to prevent deception of the public by the improper use of wood names to describe the simulation of wood grain and figure. We respectfully request a favorable report on this bill by your committee.

Very truly yours,

C. P. SETTER, *Vice President.*

THE COOPERATIVE LEAGUE OF THE U.S.A.,
Washington, D.C., March 30, 1962.

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

DEAR SENATOR MAGNUSON: The Cooperative League of the U.S.A. has traditionally supported the interests of consumers in many fields through resolution and through legislative action. Some 14 million families are members of one

or more types of cooperatives making up the membership of the Cooperative League.

Cooperatives have repeatedly advocated informative labeling. They pioneered in this field by inaugurating grade labels to canned foods, full analyses labels to fertilizer, "open formula" labels to livestock feeds, etc.

We wish to express to you and the committee our full support of the bill, as currently revised (S. 1724), "Decorative Hardwood or Simulated Hardwood Products Labeling Act."

One of America's common pastimes is refinishing furniture. It is not uncommon for the present day do-it-yourselfers to tackle the job of taking the old mars and scratches off the surface of household furnishings in order to renew their appearance and extend their usefulness.

A common problem with these self-appointed furniture fixers is that too often the hardwood grain is a printed imitation only and disappears with the sanding. This can also happen through ordinary wear or accident. There is little to be done with furniture of this type once the surface is removed.

We strongly favor provisions in the proposed legislation which would require the information needed for consumers. Modern facilities can produce surfaces that strongly resemble expensive woods—and often they are better for particular uses. But we believe it is important for the purchaser of such imitations to know exactly what he is buying.

We commend some manufacturers who voluntarily label the product on the inside of a drawer, on the underside of a table, or in an otherwise inconspicuous place, giving such information for the benefit of consumers and refinishers. We believe the industry should follow this lead in providing facts about the wood or simulated wood parts that make up the article. Thus the purchaser would know which are plastic, veneer, plywood, hardboard, or a mixture. With this knowledge, purchasers would know how to preserve the product and make it last longer.

We believe the legislation would clearly provide that—

- (1) Furniture and other wood products be honestly labeled, and
- (2) Misrepresentation in any way be punishable.

We strongly support the bill and request this letter be made a part of the hearing record.

Sincerely,

JACK T. JENNINGS,
Association Director, Washington Office.

LOS GATOS, CALIF., *March 29, 1962.*

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

DEAR SENATOR MAGNUSON: My name is Burdett Green, of Los Gatos, Calif. I am a consultant and widely recognized authority on hardwoods.

I respectfully request that this statement on behalf of the Decorative Hardwood or Simulated Hardwood Products Labeling Act (S. 1724) be incorporated in the record of the hearings on this bill which your committee will conduct on April 5, 1962.

My interest in this bill stems from a long-recognized need for a name for the woods labeling act. This seems to be the only effective means of correcting widespread misrepresentation since both the Federal Trade Commission and the Better Business Bureau have actually failed to do much toward correcting a bad situation which has grown increasingly worse during the past few years since printed and other imitations of fine woods have become widely used in furniture, television cabinets, and even wall paneling.

My experience with the general problem of misrepresentation of fine woods and the many products normally made of them begins even before 1930 when I helped with an FTC Trade Practice Conference on Name the Woods, mainly on walnut, which conference, sponsored by the industry with which I was associated, did much to clean up bad practices both within our industry and without.

On innumerable occasions I have been called upon by the Federal Trade Commission, the various Better Business Bureaus, and individual firms to testify as an expert witness in court cases or in the case of the Better Business Bureaus, to do actual shopping for them, and to train their employees to recognize the

fraudulently advertised and/or sold merchandise, and in cooperation with the Associations of Furniture Retailers, to help break up practices that misled the purchasers or prospective purchasers of household furniture and appliances. Over these many years, we have worked and cooperated with all of these agencies, including the National Better Business Bureau and the National Association of Better Business Bureaus.

Without any reflection upon the good of these organizations and their general effectiveness in fields other than furniture and TV cabinets, I must point out that they have made but minor inroads toward stamping out widespread misrepresentation in connection with the names of fine woods as applied to furniture, television cabinets, etc. This same admission of ineffectiveness, if not downright failure, also applies to my own work over nearly 30 years for the agencies named above and for both the American Walnut Manufacturers' Association, the Veneer Association, and the Fine Hardwoods Association. The purpose of establishing these facts and especially in pointing out these weaknesses is not to be critical of our own work or of the work of these other agencies but is to show the real need for this legislation. Surely the fact that widespread deception, intentional or otherwise, still exists after all of those efforts, clearly indicates the urgent need for proper additional legislation. An act of Congress, many of these agencies have admitted for some time, appears to be the only answer.

Other methods have been tried. Over the past 30 to 35 years many and varied efforts have been attempted to clean up this problem. First, the FTC Trade Practice Conference approach was tried and it did a good job as far as manufacturers of cabinet woods, lumber, veneers, and other wood products were concerned. Considerable good resulted with various agencies, such as those associations I represented during these years, doing much of the policing (i.e., after careful checking, pointing out the malpractices to the FTC, BBB), or usually just by calling his mistake to the attention of the transgressing manufacturer, after which usually he would correct his mistakes willingly. The *Haskelite* case was an exception.

But by the time these wood substitutes and imitations were made into furniture, etc., and the finished products reached the retailers, some confusion existed because manufacturers did not clearly label their products. Confusion still existed even when they did properly invoice such products (which by and large the furniture manufacturers did and now do correctly). Also, some dealers found it to their advantage not to have their salespeople know too much.

In order to give an added selling help to walnut, we originated the "genuine walnut" and "solid walnut" merchandising tags. These would identify the real, and by inference, we hoped, too, would help warn consumers when substitute woods or imitations were being used on products that did not carry the tags. Even though more than 50 percent or at times up to 90 percent of all exposed surfaces of a piece of furniture was faced with walnut, it was the association's policy to deny the use of the "genuine" or "solid walnut" tags until the product was 100 percent walnut on these visible, wearing surfaces.

Mahogany, maple, and other tags were later provided by the interested associations or at times by the individual furniture or TV manufacturers. In spite of the fact that many millions of these species tags and labels have been used, there still was an absence of proper description on products employing either imitations of woods or substitutes for fine woods which were finished to resemble the quality products. Then, in an attempt to get the genuine hardwood products before the consumer in at least a half fair manner, the Fine Hardwoods Association in about 1953 brought out the "genuine hardwoods" tags and seals for use on all qualifying products. They, too, have been a big help but are inadequate when the imitations and substitutes are permitted to be sold right alongside the genuine with either of these "unfair" and misleading practices taking place:

- (a) The products using imitations or substitutes, by visual deception, and no further claims, mislead the buyer; or
- (b) Merchandising tags, advertising, and the spoken word of the retail salesman clearly misrepresent the products to be of some named and highly regarded fine hardwood. The latter practice is, unfortunately, all too frequently the case where misrepresentation does occur.

Please understand that I have not said in the above that all dealers misrepresent, either intentionally or otherwise, for many are very scrupulous and accurate, but the seriousness of the misrepresentations or misleading sales talk

will be established in what is to follow in this statement. For the protection of all scrupulous dealers, passage of this bill is essential.

We again come to the conclusion that a Federal law is necessary to provide for the proper labeling of both the genuine as well as the imitations. This labeling must be so applied that it will carry on through the distributors and dealers to the ultimate consumer, for in the final sale to the consumer most of the misrepresentation takes place, and the consumer, not being as well trained or experienced as is the dealer, is easy prey.

This is especially important since you will be reminded by dealers and their associations that most Federal laws and FTC rules cannot be enforced on the average dealer not engaged in interstate commerce. You may ask why all of the existing agencies and the existing "name the woods" rules have not been effective. I believe that it can easily be explained if it were necessary or would be helpful. But since you are now considering a needed, effective, corrective measure, this statement will attempt to clearly establish just one more pertinent fact; that is, the seriousness of the misrepresentations and deceptions in our market today. Millions of people are being fooled.

I recently invited the head of the Better Business Bureau of Phoenix, Ariz., to attend a sales meeting on fine hardwoods, including information on how to sell and how to recognize the imitations and substitutes and how to effectively and honestly label and advertise both the real and the imitation. This Better Business Bureau head told me that would be a waste of time, for Phoenix had no problem, that the furniture dealers there were all in the clear, and that there were no complaints from consumers. I offered to do a little shopping and report to him. The next morning he called me before our meeting began, withdrew his previous statements, and reported that he himself had been the victim of a real hoax. He had bought a brand name television as "housed in a cherry cabinet," "a fine piece of cabinetry, and so forth," whereas his careful inspection the night before (after my talk with him) disclosed that it contained no cherry and little or no hardwoods but all of the large flat areas were of fiberboard on which the picture of cherry wood had been printed. He and his family were sure they had a cherry television cabinet because both the brand name manufacturer and a very reliable dealer "had hold us so." He, knowing how to proceed, is reporting this case to the FTC for whatever slow and doubtful action they give it. But what could the average consumer do?

First, the average citizen may never learn the facts and that is the insidious angle to this whole problem. It is a bit like having TB or cancer and not finding it out until too late. But fortunately there are at least a couple of people along the line (of distribution) who know and could disclose the facts if it became their duty (through this bill) to do so. They are first, the manufacturer, and second, the dealer.

You may assume the above example in Phoenix to be an isolated case. But it is not. For example, between 6 p.m. and 7 p.m. that previous afternoon I did the shopping promised. Five articles were shopped in two stores, one being "one of the best in town." Four of the five were seriously and flagrantly misrepresented, and in three cases in writing, when I requested it. When I asked, "is the 'walnut' console real walnut wood like the walnut furniture in our house?" I was assured that it was when, in fact, it was just a printed picture of walnut on one-quarter inch thick pressed fiber panel.

Recently, I have repeated the above "tests" in all of the larger cities west of Denver, with about the same results and experiences. In some instances the salesmen, given encouragement to disclose the full truth by my repeated questions, did say "simulated grain" or mahogany finish," but rarely did he disclose on what material the mahogany grain printed picture was applied.

In some cases where, before leaving, I disclosed that I knew what the product really was, the salesmen explained that they were planning to tell me, but the facts are that, during 15 minutes or more that it took me to shop the item, I had not been told.

Both newspaper advertising and the dealers' tags on merchandise contain descriptions which persons in authority have a chance to see and approve or correct, whereas the individual salesman does have more freedom. The word "finish" on the tags is often used as a smokescreen.

Speaking generally, as I have done largely through this statement, most retailer tags contain, along with the name of the article, price, code for manufacturers' identity, etc., a single line marked "Fin." or "Finish" after which "mahogany," "cherry," or the name of some fine cabinet wood is written or

typed in. Very rarely does the tag have a line labeled "Wood species." We have been unsuccessful in getting the dealer association, which prepares these tags, to add a line marked "Wood species."

I have recently asked hundreds of dealers what the line on their tags headed by the word "finish" really means when they write in "mahogany." The answers are somewhat varied, but most say "it means color." When shown a piece of genuine mahogany wood they admit that this furniture so labeled is usually not the color of mahogany. Some few say it means "the protective coating" that is put on the wood but almost never does one find "varnish" or "lacquer" after the word "finish."

When I point to their tags that say "Finish: Solid maple," they usually say, "Oh, that is really solid maple." A rather small percent tell us that the fill-ins (walnut, mahogany, etc.) on their tags after the word "finish" really means the wood of which the piece is made. Not as much as 10 percent of the several hundred queried these past 2 months have answered "the wood."

Please understand that when I "shop" I am usually checking up on some doubtful advertising which I have read (e.g., "Magnificent newly designed camphorwood bedroom group, \$349.50"). In the case of this recent Salt Lake City advertisement, they soon admitted there was no camphorwood used in the suites.

Many fine stores do a generally accurate job of advertising and labeling. A few, especially department stores, do not make any written claims on their tags. In a good majority of these retail stores of the United States, tags are like the previous example "Finish: Mahogany" and the piece may either be all or partially of mahogany or no mahogany at all.

While this does not mean that more than half of all the pieces of furniture, TV cabinets, desks, and the like that are sold are misrepresented, nevertheless I am confident that the cases of the various types of misrepresentations run into the millions each year.

Since this bill was introduced, I have had further experience in connection with the need for the labeling of products made of fine woods and I am pleased to note that during the past year or two during which such legislation has been advocated, merchants and furniture dealers are more interested in good sound legislation of the type recommended.

All too little is being done to help the consumer know what he is getting for his money. The consumer could get much needed protection and be given a chance to make his own choice if accurate labeling and advertising were required as stipulated in this bill.

And do the consumers care? Do they want to know? A recent national authoritative survey made at the expense of the National Association of Furniture Manufacturers proved that to the consumer the second most important buying motivation is "What wood is it?" The consumers do want to know and have a right to know what wood or what material is being offered them, just as they now know what fur they are buying, thanks to the enactment of the Fur Products Labeling Act. The consumers should be given equal assurance in the case of hardwood and imitation hardwood products through this bill.

I respectfully solicit the favorable action of the Senate Interstate and Foreign Commerce Committee on this urgently needed legislation.

Very truly yours,

BURDETT GREEN.

MAHOGANY ASSOCIATION, INC.,
Chicago, Ill., March 26, 1962.

COMMERCE COMMITTEE,
U.S. Senate, Washington, D.C.

GENTLEMEN: The directors of the Mahogany Association, Inc., voted unanimously to support the efforts of the Fine Hardwood Association and others toward effecting passage of this bill.

For many years, the Mahogany Association, Inc., has under specific contracts with furniture manufacturers furnished Mahogany Association tags and labels for the use of retailers marketing furniture made of genuine mahogany. These tags and labels, to some extent, have helped the American consumer in distinguishing between true mahogany furniture and the many cheap imitations.

Today, there are all types of materials being marketed in an attempt to imitate true woods, including some actual hardwoods encroaching upon the name of established fine hardwoods in an effort to deceive the buying public. Our position is that the American public deserves help from its Government to aid in distinguishing the real article from the many imitations that have come in the market today.

The Wood Labeling Act is a step in the right direction as we see it.

Yours very truly,

C. W. ROBINSON, *President.*

FURNITURE, BEDDING & ALLIED TRADES
WORKERS UNION, LOCAL 92,
Newark, N.J., March 28, 1962.

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

DEAR SENATOR MAGNUSON: This is to advise you that the members of the local union are very much concerned and are in full support of the proposed bill, "Decorative Hardwood or Simulated Hardwood Products Labeling Act," S. 1724.

This bill not only protects the interest of our consumer members as consumers, but also those of our members who are employed in the manufacture of hardwood and hardwood products. They have suffered from the invasion of these fields by substitute products which are deceptively represented to be genuine hardwood.

We refer particularly but not exclusively to the radio and TV industry, but also the field of institutional furniture.

We feel that legislation to correct this practice is urgently needed.

Very truly yours,

JOSEPH MAGLIACANO,
Business Manager.

MAPLE FLOORING MANUFACTURERS ASSOCIATION,
Chicago, Ill., March 26, 1962.

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

DEAR SIR: I am secretary-manager of the Maple Flooring Manufacturers Association, a trade association representing 11 manufacturers of northern hard maple, beech, and birch flooring.

I respectfully request that the statement in this letter on behalf of the Decorative Hardwood or Imitation Hardwood Products Labeling Act (S. 1724) be incorporated in the record of the hearings which your committee will conduct on this bill on April 5.

The northern manufacturers are very much concerned by the influx on the market in recent years of flooring products made of asphalt tile, vinyl tile, and similar synthetic materials. These composition floorings have imitation hardwood graining and are labeled, advertised, and sold so as to give the misleading impression to the public that they are genuine hardwood species of flooring. The advertising and promotion of these synthetic products often refer to such hardwood species as maple, beech, oak, walnut, birch, etc.

It is also true that sometimes one species of genuine hardwood flooring is represented to be another more expensive species.

We feel that these materials have a definite capacity of deceiving the purchaser, and we are convinced that the advertising and labeling provision of Senate bill S. 1724 would succeed in eliminating this possibility. It is our opinion that ethical manufacturers of products coming under the jurisdiction of this legislation can have no objection to its requirements. Therefore, I most urgently entreat this distinguished committee to report out this bill favorably.

Yours very truly,

L. M. CLADY, *Secretary-Manager.*

WOOD OFFICE FURNITURE INSTITUTE,
Washington, D.C., March 28, 1962.

HON. SENATOR WARREN G. MAGNUSON,
Senate Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: With your permission, Senator, I would like to file the attached statement with the Interstate and Foreign Commerce Committee in behalf of S. 1724, the Decorative Hardwood or Simulated Hardwood Products Labeling Act.

This attached statement represents the views of the members of the Wood Office Furniture Institute, a manufacturers' trade association.

I would be grateful if you would enter the statement into the record. It is my understanding that hearings are scheduled on April 5, 1962.

Sincerely,

ROBERT A. SPELMAN.

STATEMENT OF ROBERT A. SPELMAN

Mr. Chairman, my name is Robert A. Spelman. I am executive director of the Wood Office Furniture Institute, the trade association of the manufacturers of the wood office furniture industry, with offices located at 1414 I Street NW., Washington, D.C. The 12 members in the institute are located in North Carolina, Indiana, and Iowa. They employ approximately 3,000 people.

I have been instructed by the membership of the Wood Office Furniture Institute, to present the association's views in favor of the proposed Decorative Hardwood or Simulated Hardwood Products Labeling Act.

Our membership is interested in seeing that its products are properly merchandized. A label on each piece of furniture will insure its being honestly represented to the consumer.

The finishing of one wood species to look like another is probably as old as the furniture industry itself. The practice of printing hardwood figures on materials other than wood has also gone on for many years. When metal office furniture first entered the market, it was common practice to print wood grain patterns on desks and filing cabinets. This was done to match the wood furniture being used in most offices during that period. This practice was not instituted to misrepresent the metal product as hardwood. The same thing cannot be said today for the printing of hardwood grain patterns on fiberboard and other nonwood materials, which may be easily misrepresented to an uneducated consumer, or even to an unindoctrinated retail salesman.

A label setting forth the materials contained on any one furniture piece would serve to insure the consumer against deception and to assist the dealer to represent the product honestly. As a matter of fact, the label will aid in the sales education efforts to which the manufacturer members of the Wood Office Furniture Institute are dedicated.

If the proposed label would set forth the materials used, in the case of imitation, and the wood species or "genuine hardwoods" in the case of genuine, it would be helpful to the manufacturer and the dealer, most of whom are interested in representing their products honestly. Mainly, however, it would assist the consumer in knowing what he is buying.

Unfortunately, every industry will have a few individuals who will misrepresent if they can get away with the practice. Passing of the Labeling Act would make it virtually impossible to hoodwink a consumer.

Because most wood office furniture today goes into executive offices, it is naturally of higher quality than some of the other furniture used in offices. For this reason, the printing of hardwood figures on hardboard has not been a major problem in the office furniture industry. Recently, however, one office furniture manufacturer has marketed a printed desk, sold at a low price. It is possible that others will follow. The proposed label would keep such manufacturers honest.

Many manufacturers, including some of our members, make desk and chairs of one species but finished to look like another. Their pricelists and literature clearly state the species used. For example, a chair made of birch and finished walnut is priced lower than one made of genuine walnut. The retailer is aware of the content and the price, as usually an identical designed model will be made by both methods. It would be possible for a dishonest retailer to sell the lower priced model, in this instance, for the higher priced one to an uneducated consumer. The label would help him resist the temptation.

There is a type of desk, credenza, or table made of several species in which the top and panels will be made of genuine walnut, while some of the other exposed surfaces may be made of birch, pecan, or some other less expensive hardwood species. This desk will be sold by the manufacturer to the retailer as a combination walnut piece. The retailer is aware of the species content of the piece. He should not represent the exposed surfaces to the consumer-purchaser as genuine walnut, which can and is being done at the present time.

Because the manufacturer members of the Wood Office Furniture Institute are interested in having their products represented honestly in the marketplace, they feel the Decorative Hardwood or Simulated Hardwood Products Labeling Act should be favorably considered by your committee. I would like to point out that the printing and preparation of the label will be an additional expense to the manufacturers but one they will willingly bear to insure the honest merchandising of their wood furniture products.

It is the sincere hope of our member manufacturers, whose products are sold in every State of the Union, that you will favorably consider passage of this bill.

STATEMENT OF DONALD H. GOTT, SECRETARY-MANAGER, AMERICAN WALNUT MANUFACTURERS' ASSOCIATION

On behalf of the American Walnut Manufacturer's Association, an organization of walnut lumber and veneer manufacturers, I am grateful for the opportunity to reiterate our support for the enactment of the Decorative Hardwood or Simulated Hardwood Products Labeling Act.

Many years of experience in the hardwood industry has enabled me to observe firsthand a wide range of hardwood and imitation hardwood products and how they are offered to the public. This experience has convinced me there is a real need for the legislation which your committee is considering.

Not only will this legislation be in the best interest of the consumer but it will also benefit the many important and ethical hardwood product manufacturers who are forced to compete with less conscientious firms who have shown no hesitancy about misrepresenting their products. It will also enable the retailer to describe honestly his furniture, paneling, and many other products.

America has a great variety of hardwoods with a wide range of valuable properties. These hardwoods do many jobs well. It is my positive belief that no wood really needs to be used or offered in a product disguised as something which it is not. Wood is our most versatile renewable raw material and to misrepresent any kind of genuine hardwood is an injustice to the wood and to the producer of the finished hardwood product.

In the broad range of consumer products made of hardwoods there exists what I believe to be an erroneous idea on the part of some manufacturers and retailers that to make certain hardwood species acceptable to the public they must be disguised or subtly represented as one of the better known and more expensive hardwoods. All furniture manufacturers do not agree with this philosophy of misrepresentation, however. Some furniture manufacturers do a satisfactory job of revealing the woods used. They have not suffered because of this practice, even though much of their competition may be less ethical. Favorable action by your committee on the legislation now being considered will definitely place all hardwood product manufacturers in the same competitive position regarding the true identification of woods and other materials used.

From the standpoint of the ultimate consumer, the need for safeguards against the ever-increasing tide of substituting imitation materials for genuine hardwoods is even more urgent.

Any daily newspaper contains furniture advertisements which illustrate the kind of gross misrepresentation which is being directed at the public all over the country. The practice is so widespread and deliberate that only proper legislation can put a stop to this falsification.

The genuine hardwood manufacturers do not question the right of a manufacturer to use any type of material in his product. However, when these non-wood materials and cheaper woods are processed to imitate fine cabinet woods and are labeled and advertised falsely by the species name of the fine cabinet wood they imitate; then there can be little doubt that misrepresentation is intended. If it is not intended, then proper identification should be acceptable.

In summary, it is believed that proper labeling will eliminate the widespread practice of misleading the public about the true composition of hardwood and imitation hardwood products. All manufacturers would be placed on an equal and straightforward basis in describing the important surface components of their products. Finally, this legislation would prove that all genuine hardwoods are useful, practical, and acceptable for a myriad of products and do not need to be represented as something other than what they are.

The members of my association join with me in respectfully soliciting your favorable action on this legislation.

EVANSTON, ILL., *March 26, 1962.*

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

DEAR SENATOR MAGNUSON: I am writing to you in support of S. 1724.

I have engaged in the retail and contract office furniture and institutional furniture business continuously for over 20 years interrupted only by World War II service. Currently I am employed by Marshall Field & Co., Chicago, as manager of its contract division.

My experience in merchandising office furniture and institutional furniture indicates to me that only the larger consumers (who frequently employ professional purchasing officers and/or hire the services of experts) are reasonably able to protect themselves against misleading descriptions pertaining to furniture. The smaller purchaser must rely on that which the salesman tells him and what little he can learn from the tags, if any, on the piece of furniture.

For many years case goods manufacturers have used such expressions in labeling and cataloging as "combination walnut" or "combination mahogany." To one manufacturer this may mean that all exterior parts except minor ones are genuine walnut or mahogany and that only small parts; i.e., legs and rails, are of another material and finished to resemble genuine walnut or mahogany. Other manufacturers, for example, may provide genuine walnut on the top only, furnish other woods for all other parts finished to resemble walnut, but also call his piece "combination walnut."

Office and institutional chairs are frequently manufactured of birch and stained to resemble walnut or mahogany and are generally described as "walnut finish" or "mahogany finish." It is my opinion that the consumer is very often confused and misled by these terms.

There is no reason in my opinion that various materials should not be used for practical and economical reasons and finished in any manner desired. However, honest labeling, or "fiberboard processed to simulate walnut," would seem to provide a needed measure of protection to the consumer and would certainly cause no hardship to the conscientious merchant or manufacturer.

I respectfully urge your committee to report out favorably the Decorative Hardwood or Simulated Hardwood Products Labeling Act.

Very truly yours,

WILLIAM M. HAAS.

Mr. GATEWOOD. In summary, gentlemen, the Fine Hardwoods Association respectfully urges a favorable report on this bill. We are convinced that the enactment of this legislation will put a stop to the deceptions presently being perpetrated on the American consumer and that the resultant restored public confidence will bring about a stronger and more stable industry at all levels among the products it affects.

That concludes my statement, Mr. Chairman.

Senator HARTKE. I have no questions. Thank you, Mr. Gatewood, for your statement.

The next witness will be Mr. Angus McDonald, assistant director, National Farmers Union.

STATEMENT OF ANGUS McDONALD, ASSISTANT DIRECTOR, LEGISLATIVE SERVICES DIVISION, NATIONAL FARMERS UNION

Mr. McDONALD. Mr. Chairman, in view of the shortness in time, I would like to express our full support of this legislation, in a brief oral statement, and file this brief written statement with the committee.

Senator HARTKE. Without objection, the statement will be made a part of the record.

Mr. McDONALD. Let me add, I represent about 600,000 farm men and women, residing in the Missouri and Mississippi River Valleys. I appreciate the opportunity to appear here.

Senator HARTKE. Thank you for being here and for your courtesy in making it possible for us to expedite the hearings.

(The statement of Mr. McDonald follows:)

STATEMENT OF ANGUS McDONALD, ASSISTANT DIRECTOR, LEGISLATIVE SERVICES DIVISION, NATIONAL FARMERS UNION

Mr. Chairman and members of the committee, I am appearing here in support of the Hardwood Products Labeling Act which would require decorative or simulated hardwood to be properly labeled. It is our understanding that hardwood labeling does not constitute a precedent, since a number of other laws pertaining to wool, fur, and textile products protect the consumer by requiring proper labeling. The some 600,000 members of the National Farmers Union, residing mainly in the Mississippi and Missouri River Valleys, do have an interest in the legislation both as producers and consumers.

We feel strongly that this legislation should be enacted without further delay. Never in the history of civilization have consumers been subjected to so much deception. Modern technology has made it possible to deceive and hoodwink consumers on a large scale. Television and other visual means of advertising make use of modern technology to misinform the consumer. The deception that is carried on by means of television and other media is a national scandal and has even been investigated by the Congress and executive agencies. This legislation not only will protect the consumer at the retail level but honest merchants may be deceived at the wholesale level.

In 1959 hearings were held before this committee on similar legislation. It was reported at that time that many salesmen were favorable to the legislation. One of the witnesses reported that the spokesman for the salesman said, and I quote:

"We don't want to guess, bluff and lie, when asked about species and materials on furniture, but some of these imitations closely resemble the genuine and we just can't tell the difference. Such labels would enable us to do an accurate and more effective selling job" (hearings, Aug. 10-11, 1959, before Senate Interstate and Foreign Commerce Committee, p. 24).

We do not feel that this legislation would work a hardship on anyone in the industry. We hope that the committee will find it possible to report this legislation favorably. As indicated, it is of vital interest to all consumers who purchase hardwood products. It will protect millions of housewives and will also protect those in the trade who seek to carry on a legitimate business.

Senator HARTKE. Mrs. Margaret Dana.

STATEMENT OF MRS. MARGARET DANA, CONSUMER RELATIONS COUNSEL AND CONSULTANT

Senator HARTKE. Good morning, Madam.

Mrs. DANA. Good morning.

I know that your time is short, so I would like to file my statement and then speak briefly from notes, if I may.

Senator HARTKE. We would be delighted to have you do that. Your statement will be made a part of the record.

(The statement of Mrs. Dana follows:)

STATEMENT OF MARGARET DANA, CONSUMER RELATIONS COUNSEL AND
CONSULTANT

Mr. Chairman and gentlemen of this committee, my name is Margaret Dana and my current address is 500 Granite Spring Road, Richmond, Va. I am an independent consultant to industry, business and others including government agencies, on consumer attitudes and trends, and also as a public service, act as adviser to educators and women's organizations interested in studying consumer problems. Please note I do not represent a "council" but am rather a counsel in the way a lawyer is.

I appreciate this opportunity to present to you what I believe to be an authentic viewpoint of an important consumer cross-section regarding the aims of this bill, S. 1724, to label hardwoods and other materials which have been made to look like hardwoods, accurately and fully. From a background of many years of intensive experience in contact with manufacturers, retailers, and consumers, I can state emphatically that this legislation is an urgently needed step toward the protection of both the consumer and fair and honest competition.

My primary concern here is to establish to your satisfaction that the consumer does need this protection, and that, once aware of the widening area of confusion, to say nothing of the opportunities for downright dishonesty, the consumer wants this protection. It has been stated at previous hearings before various committees as well as in industry conferences, that consumers don't need this legislation, don't want it, and if they were given the facts the law proposes, consumers would only be bewildered or would fail to use the facts properly in intelligent evaluation of wood products and simulated wood products. For 25 years or more I have listened to various segments of industry say exactly these same things every time a proposal is made to add to the practical buying information of consumers.

To provide you with grounds for accepting the validity of my findings, I should like briefly to give you a quick outline of how I get my information about consumer attitudes. What I say to you rests on intensive research, going back to the 1930's. A book and more than a hundred articles I have written about my findings have been published. I have been called by the FTC to provide advisory opinion on consumer attitudes. I advise with teachers, advertisers, and the Better Business Bureau. This all is based on personal firsthand research. I use the project plan as a framework, going to one section of the country after another to live as part of each community, studying it in depth. I set up cross-section reporting panels of women of all ages, income levels and educational backgrounds. I watch and listen to women as they shop—for everything from food to furniture. They come to me with their buying problems, and for help in setting up consumer education programs. I answer their questions, and record their opinions.

To verify these findings, I spot check other sections of the country in various ways. When all these findings tally, I am able to report a rising trend. It is just such a rising trend I am here to report to you today.

For example, the marketing area of Greater Richmond, Va., has been my most recent research laboratory. For several years I have been in personal contact with some 3,000 consumers—women who come from many other States, as well as from Virginia itself. I am asked to talk to groups on an average of four times a month, and often it becomes four times a week. The subject most requested is, "How can we buy more intelligently?" In the past 4 years there have been more questions about how to buy and identify the hardwoods in consumer products than about any one other subject except textiles. As you know, the Textile Fibers Identification Act has done for identification of fibers what the proposed act, S. 1724, could do for hardwood and simulated hardwood.

With this much for background, I state that there is a steadily growing national dissatisfaction, distrust, and disillusionment among consumers regarding the furniture and other hardwood or wood products they buy. They usually do not know all about the items which provide "visual deception," that is, look alike but are actually different in character. But the word is being passed up and down this country that "you can't trust the woods you buy, to be what you think they are." This uneasy distrust often holds back much buying of furniture and other items, even homes, where paneling and cabinet woods may be used. It is often reflected in an "unexplainable" drop in sales volume.

There is also an ominous note that should be included here. Distrust of one kind of merchandise or service spills over among consumers into an across-the-board distrust and suspicion toward all kinds of goods and services. American business today is suffering from a cynicism toward it on the part of consumers.

But this bill you are considering could correct one area of this distrust and cynicism. It is not of course a magic cure for all that is wrong, or to make all men and women wise buyers. But it would be a start. Obviously not all consumers are alert and sophisticated; many are blindly trusting, or ignorant, or, like some men, simply silly. But surely we should adopt as a standard the best of our ideals, not the worst. We do want a consumer public that is responsible, informed, and able to distinguish good products from bad, and differences between even the good ones. This law would reinforce the inquiring consumer's desire to buy wisely, and spend with intelligence to get what the family needs.

Someone has mentioned at hearings on the version of this bill before the House, that if there were any real need for consumer protection, consumers themselves would be storming the gates of Congress, asking to be heard at these hearings, and complaining to the Federal Trade Commission, and the Better Business Bureaus. The implication is that since there has been no "storm" of consumer complaint, there must be no consumer need. The fact is, of course, that a comparative few consumers are in a position to know to whom to go to complain, or to ask for redress or help in their buying problems. If it were left to consumers to come forward and complain about the faults they find in their drugs, the American public would be in great jeopardy.

When I began studying this problem of labeling hardwoods and simulated hardwoods about 4 years ago, a group of women came to me to ask help in setting up a study seminar which would explore this subject thoroughly. With the cooperation of local and national manufacturers, retailers, technical men, the better business bureau and the Federal Trade Commission, we dug deeply into the problem. Earl W. Kintner, who was then Chairman of the FTC, and with whom I have had the pleasure of working for consumer protection, considered the occasion important enough to grant my request for two expert and informed specialists from the FTC staff to sit in with the group and discuss labeling, and the activities of the FTC in this field. Mr. Paul Butz, of the Division of Trade Practice Conferences, who has been personally in charge of the trade practice conferences for the home furnishing industry, and Mr. Henry Miller, Assistant to the General Counsel, and an authority on the Commission's policies on labeling, both came. Two hundred women were concrete evidence that this is a question of deep and lively interest to consumers.

As part of this seminar, women collected and brought to me hundreds of furniture advertisements. Their comments were written across the faces of the ads. Most said: "We can't tell what this wood is from what they say." Their conclusion was that the only practical solution, to protect the honest makers and sellers, as well as consumers, was for a law to be enacted requiring the accurate labeling of hardwood simulations; and they emphasized hardwood rather than all kinds of woods, because it is the hardwoods, the fine cabinet woods which are copied. There is an intrinsic difference in values here, which means that it pays to copy the costlier rarer woods, but not the common and inexpensive softwoods.

In May last year I organized, at the request of the Federal Trade Commission, a group of women as consumer representatives to attend a trade practice conference for the home furnishings industry. They were there to offer the consumer viewpoint on advertising, labeling, and selling of furniture. After listening to industry representatives, and others speaking for allied industries and retailing, the women were bewildered and angry. One of them turned to me and said, "But don't we have a right to know what we're buying?"

They stated to me afterward that it had seemed to them the leadership and spokesmen for the interested industries either considered women unable to understand and evaluate facts, or else were swayed by the idea that it was more profitable not to tell the truth. Their conclusion was that although voluntary self-regulation, such as the better business bureaus urge on business, is helpful, there come times when the only protection for consumers lies in the help Congress can give with a law. The law you are considering today is what consumers believe will provide this help.

There is another and very new factor in this whole matter which is important and is not generally recognized. This is the fact of the amount of furniture buying that teenagers do today. Often they earn money themselves so they can come in to a store, set up a budget plan, and buy new bedroom furniture, or a new desk or hi-fi, etc. They are careful, wary buyers. Retailers tell me they ask many questions, hunt for labels with information on them, and try to understand the differences. Perhaps a label telling what kind of material is being bought, may seem to you a small thing to influence the attitudes of teenagers. I know, however, from my work with teenagers that they are hungry for things they can trust and respect; a label that isn't just fancy words, but stands up and tells the truth plainly and simply, arouses their interest and admiration. This is the kind of label this proposed bill, S. 1724, would require. An American industry can do with building goodwill for itself among future important consumers.

My final point, Mr. Chairman and gentlemen of the committee, is this: We are living in a fast-moving era of constantly changing new things, new inventions, new materials. "Visual deception" has become a steady problem, for so many of the new things look exactly like older ones, or other new ones, nobody, even experts, can tell by looking at them which is which. This was the real basis for the Wool Products Labeling Act, the Fur Labeling Act, and the Textile Fibers Identification Act, all of which projects for consumer protection I am glad to have had a part in. In each case, though a good deal of the industry concerned bitterly fought the legislation, when passed it proved to be highly profitable for all businesses concerned.

I have asked a good many important people for an answer to the question, "Have consumers a right to know what they're buying?" From the office of the U.S. Attorney General came this answer:

"The purchaser has traditionally been required to examine, judge, and test the goods for himself, being bound to discover any obvious defects or imperfections."

But, Mr. Chairman, it is not the obvious defects we are talking about but rather those hidden matters of the "look alikes" which worry consumers today. If a woman buying furniture is confronted by half a dozen finishes all looking like a familiar hardwood, but varying from solid hardwood to a photograph in ink on fiberboard or almost anything, it seems to the consumer she has the right to ask for accurate labeling as to what each is.

I believe the solution of this problem, since voluntary labeling has failed to do the job, is this law you are considering. The letter from the Attorney General's office seems to suggest this in saying: "Any broadening of consumer rights is largely within the discretion of Congress, and the list of areas where Congress has acted with this intent is a large one. * * *"

For troubled consumers all over this country, I urge this committee to report favorably on this legislation to reinforce the consumer's right to know exactly what she is buying.

Thank you for listening to these facts.

Mrs. DANA. I wonder if I might speak informally to you in trying to give you a picture that perhaps isn't very often had of what women really think and feel about this. I thought for a change you would like to know what women think and feel.

Senator HARTKE. We will be delighted.

Mrs. DANA. My name is Margaret Dana. My current address is 500 Granite Spring Road, Richmond, Va. I am an independent consultant to industry, to educators, to Federal Trade Commission, Government agencies, who want to know what consumers are thinking, what their attitudes are and how they may be changing.

It seemed to me that—I might interpose here for a moment, that I am a counsel, which is spelled c-o-u-n-s-e-l, and not a representative of a c-o-u-n-c-i-l. I belong to no organization.

I thought I would clarify that. It seemed to me that perhaps the most useful thing I could do for you today is to provide two things, the validity of my opinion to what consumers think, and secondly, why they are feeling as they do about this bill and other labeling bills.

For 1 or 2 minutes, I want to give you a picture of how I go about finding out what consumers think.

For more than 25 years I have been doing this. I listen and watch, in the stores, in their homes, in the meetings that they ask me to come to. I listen to their questions, I try to find answers to their problems and I record what the changing attitude is of buyers. And after all, women are buying 90 percent of the wood products that we are talking about today. They are the people who are going to spend the money. What they think is important. What is even more important, I find and have found for a good many years is that what happens to the blindly trusting consumer, who doesn't have sophistication, who doesn't have information, must go and trust somebody at the point of sale, is the one who most desperately needs the help and protection of a law, when voluntary protection falls down.

Now, I go to different sections of the country and I don't do door-bell ringing and add up the yeses and noes to questions. I try to get behind the surface and find out why are women unhappy about the things they bought, what is it that would help them, what do they want, really. And by talking with them in cross-section panels, and in investigating how they feel in their homes about what they bought, I can come up with answers at the grassroots, behind the scenes of let's say the official comments. And I have found in the last few years that questions about wood products, about furniture, what things are made up in the furniture line, predominate, next to textile questions.

The textile identification problem has been solved, thanks to a good law. Now these questions reflect a trend, all across this country, of a growing distrust of wood and simulated wood products, anything that looks like wood, a cynicism, a disillusion, which is not good for American business. It creates that militant consumerism, which can be destructive of goodwill for industry, manufacturers and retailers alike.

Now, when consumers really understand this business of labeling, of what ought to be done, to protect them in buying woods and wood products, they don't want punitive legislation, they recognize that a good manufacturer is an honest man, a good retailer means to be honest, but they are caught in a kind of crossfire of competition. And sort of like a bad western, nobody wants to lay down his gun, until everybody lays down his gun at the same time. They realize that.

You know the reason discount houses have grown in popularity around this country is a direct result of this growing cynicism about the value of things, what things really are. When a woman finds that she can't trust what is told here about a product, and that what she has bought turns out to be something else, her first reaction and her permanent reaction is: "Then I should go where I can pay the least possible amount of money, and make sure I am getting—I am not going to be cheated for a lot of money."

That is not a healthy attitude either for our business community. You see, if we could cut the high cost of advertising, which is high now, because of lack of credibility, we would find that we could afford to do informative labeling.

I hear people say to put labels on things would add to the cost and the consumers wouldn't pay for that. I know, through my clients, that the cost of advertising, to reach people and get a response, has

grown so enormously in the last 15 years that they are spending millions more to reach the same number of people than they used to.

If we could make advertising believable, if we could restore the confidence of people in what we are saying at the point of sale, advertising costs would go down and I think a good honest label is one of the most important tools to bring back the credibility of that advertising.

I think the important thing that I would like to get across to you here—now, I worked with the Federal Trade Commission for years; Mr. Henry Miller, who testified before you this morning, is a great friend of consumers and all consumers feel the FTC does a magnificent job. But we know where there is a limit, that they can go so far and no further.

Chairman Dixon said to me yesterday afternoon: "You know, so far as the disclosure goes, the Federal Trade Commission is not empowered to require affirmative disclosure, except as Congress gives us special enactments like the wood bill" which I think I helped to put across; the textile fiber identification law and the fur law.

Now look, every one of those bills, as you gentlemen I know realize, was based on the fact that there is visual deception today for us to worry about. There are so many new products, new materials, so many new things that look alike, whether it is wool or textiles or furs, or plastics or wood or finishes, it doesn't matter, visual deception is possible at the point of sale, because nobody can take a thing apart there and find out what it is really made of.

There is only one person who knows and that is the man who made it. It is this visual deception that is bothering consumers today and they report that to me.

I wonder if you know, too, that teenagers deception, deception of teenagers at the point of sale, is an important matter. Teenagers buy furniture. They earn their own money and they buy that furniture and they would like labels. It would be the best goodwill gesture of an industry toward its future consumers to put those labels on for young teenagers who want to trust.

Now I have heard and I have been pleased to hear this morning my favorite phrase that I use wherever I am asked to talk to consumer groups who want to know how to be intelligent buyers. They say to me, "Look, haven't we a right to know what we are buying?"

Well, I asked the Attorney General of the United States that question. His answer was, traditionally, a consumer is supposed to find out for himself at the point of sale all of the defects, all of the things that are wrong. But, look, we aren't talking about defects. The visual defects. We are talking about the hidden things, that you can't possibly tell by sight.

So perhaps I might read his last sentence in that letter. To me it points the way to an answer:

Any broadening of consumer rights is largely within the discretion of Congress and the list of areas where Congress has acted with this intent is a large one.

It seems to me that here is a great opportunity to provide the consumer public of this country with a feeling that Congress is with them, Congress knows the problems of buying today, and without wanting the punitive legislation toward any group, all we ask is that we know what we are buying.

And in the name of a good many troubled consumers, I urge you to report this out favorably.

Thank you.

Senator HARTKE. Thank you, Mrs. Dana.

At this time we will recess until 1:30, since I have an urgent call to attend a meeting of the Finance Committee.

(Thereupon, at 11:45 a.m., the committee was recessed, to reconvene at 1:30 p.m. this same date.)

AFTERNOON SESSION

Senator HARTKE. The committee will come to order.

This is a continuation of the hearings on S. 1724.

The next witness is Mr. Jules M. Bachrach, president of the Huntington Furniture Corp., of Huntington, W. Va.

STATEMENT OF JULES M. BACHRACH, PRESIDENT, HUNTINGTON FURNITURE CORP. AND GEORGETOWN GALLERIES, HUNTINGTON, W. VA., AND LINCOLNTON, N.C.

Senator HARTKE. We are delighted to have you with us.

Mr. BACHRACH. Thank you, Senator; I am glad to be here.

I am going to shorten this brief a little bit. I will be glad to answer any questions you may wish.

My name is Jules M. Bachrach. I am president of the Huntington Furniture Corp. and of Georgetown Galleries, of Huntington, W. Va., and Lincolnton, N.C. We are engaged in the manufacture of household and institutional furniture, selling through independent retailers, and we employ 350 people.

I have been in the furniture business for 39 years and president of Huntington Furniture Corp. for 14 years.

I very much appreciate the opportunity of appearing before this distinguished committee to voice my views in support of the Decorative Hardwood or Simulated Hardwood Products Labeling Act.

The success of our companies has been built on a strict policy of honest and fair representation of our products. Like most furniture manufacturers, we offer some range in price groupings, and to remain competitive have adopted new materials and techniques as they have come along. However, our sales representative and our printed material strive to give complete factual information to the retail store executive or buyer of furniture. I believe this is true with a great many of the more responsible furniture manufacturers.

As you gentlemen know, furniture may be made (1) with all exposed surfaces in a fine wood like mahogany, to use that species for example, (2) with flat surfaces in mahogany and other surfaces in a less expensive wood stained to resemble mahogany or walnut, (3) entirely in a less expensive wood stained or printed to resemble mahogany, or (4) in some nonwood material printed to resemble mahogany or walnut or some other fine hardwood.

There is nothing basically wrong with any of these techniques as long as Mrs. Housewife is told what she is getting for her money and makes her decision based on this knowledge. The surface appearance of each is quite similar and it is difficult for the layman to distinguish the genuine from the imitation.

In the conducting of my business I have occasion to visit on the floors of hundreds of furniture retail stores. Although most retail furniture salesmen are fine, honest people, the lack of knowledge of many of them on woods and imitation woods is an appalling thing to behold. I have seen many cases of these salesmen describing furniture as "genuine walnut, mahogany, oak, cherry," and so forth, when it actually contains not 1 inch of these woods.

I might add it has been alleged that some of these salesmen knowing differently have also made the same statements.

I believe that most of these misrepresentations are due to lack of knowledge and to guesswork rather than to willful intent to deceive and I believe the retail furniture salesmen of America would rejoice to have all furniture on their floor labeled as called for by this bill, clearly setting forth the wood species or other material used for the exposed surfaces.

I understand that some furniture manufacturers are opposed to this bill and as a reason for their opposition they point to the amount of work involved in having their labels and advertisements reveal the true name of the woods or other materials they are using. We believe that the work involved would certainly be justified from the consumer's standpoint.

I might say that these manufacturers are also purchasers themselves and would certainly like to have what they are buying properly labeled in other materials such as clothing, and so forth.

I believe the enactment of this legislation would increase the sale of furniture of all kinds because it would restore the public confidence lost by this industry through the deceptive practices which this bill would eliminate.

As I have said, I believe that both the manufacturer and retailer of furniture would benefit from this bill. But the main beneficiary would be our 50 million American families who would be able to shop for furniture without fear of deception or confusion as to what they get for their money.

Therefore, on behalf of the good old-fashioned principle of honesty and on behalf of the American consumer, I respectfully urge this committee to report this bill favorably to the Senate floor for enactment.

Thank you, Mr. Chairman.

Senator HARTKE. Thank you, sir.

Mr. Webster Wright, furniture sales agent, Indianapolis, Ind.

Good afternoon, Mr. Wright. We are certainly delighted to see a Hoosier.

**STATEMENT OF WEBSTER M. WRIGHT, FURNITURE SALES AGENT,
INDIANAPOLIS, IND.**

Mr. WRIGHT. My young midshipman son, from the Academy, who paid you a visit in your office the other day, tells me what a nice reception you gave him and I appreciate that very much.

Senator HARTKE. We think very highly of him, sir.

Mr. WRIGHT. My name is Webster M. Wright, 4235 Broadway, Indianapolis 5, Ind.

I am pleased to have this opportunity to appear before this committee to state my favorable views on the Decorative Hardwood or Simulated Hardwood Products Labeling Act.

I am a furniture manufacturers sales representative. For 14 years I have made almost daily calls upon executives and buyers for home-furnishings dealers and department stores throughout Indiana and northern Kentucky. During this period I estimate I have sold in excess of 135,000 occasional tables, desks, wood dinette sets, cabinets, fine chairs, et cetera. From close association with these products, I have naturally learned something of the materials used in their construction and the methods used by retail dealers in selling them.

The retail dealer customarily displays and sells furniture offering many types of surfaces. At the top of the quality range, he may display furniture having flat surfaces in genuine walnut plywood with exposed structural parts, such as the legs, in solid walnut, to use that species as an example. The next lower quality range may be the same as the first except that the legs and other exposed parts may be of gum, or some other less expensive hardwood stained to resemble the walnut used on the flat surfaces.

The retail dealer also offers items with all exposed surfaces in lower grade hardwood stained to simulate walnut. He also displays and sells items in other categories made of inexpensive woods, or of non-wood materials such as fiberboard, plastic, or metal, but showing an imitation walnut or other fine hardwood grain on the surfaces.

Every one of these different types and different quality ranges of furniture is currently being advertised and sold as "walnut," sometimes as "walnut finish," "in walnut," "walnut grain," "combination walnut" or similar terms applying to other fine hardwoods. These terms falsely indicate to the consumer and even to the uninformed retail floor salesman and dealer that the furniture is in fact made of walnut hardwood or other fine hardwood, which it may or may not be.

We have reputable dealers and unethical dealers in the retail furniture business. The reputable dealer always attempts to represent the furniture he sells for exactly what it is. He attempts to educate his sales personnel in this respect. However, the similarity of surface appearance of imitations to genuine hardwood is such that even ethical retail organizations often unknowingly represent them as genuine. The unethical dealer frequently buys low-priced furniture, made of printed or stained cheap woods and substitute materials, and directly or by inference in his anxiety to make the sale, sells it under genuine fine cabinet wood names. His floor salesmen, not having been properly informed, in many instances do not realize they are selling imitations. Printing and staining can cover a multitude of sins.

The legislation before us has been proposed to correct the evils mentioned in the foregoing. It should definitely be compulsory that retail furniture dealers advertise and sell exposed portions of hardwood and imitation hardwood furniture for exactly what they are. Certainly our ladies would not permit jewelry store salesmen to sell them sterling silver items which were not plainly stamped "Sterling," and you certainly would not accept the salesman's word for the fact that a watch you were interested in really was gold unless it was stamped

"14 carat," or "10 carat," or whatever the weight happened to be. You will remember that such items are always stamped. A result, I presume, of some such legislation as is now proposed before this committee.

In my opinion, the labeling and advertising sections of this legislation would insure this result and would put an end to many of the misleading statements and advertisements now being used by some manufacturers and retailers.

In view of the foregoing facts, it would appear that reputable furniture dealers should have the protection afforded by this legislation. It would give them confidence in the marketing of their merchandise. All homefurnishings manufacturers should be legally required, by the use of appropriate labels, as called for in this bill, to specify the hardwoods or imitation hardwoods used in products they manufacture.

Dealers should be restrained by law from removing these labels. Advertising by both manufacturer and dealer should be restricted to stating the facts about their products, and they should be restrained from using fine hardwood species names, either directly or by inference, unless the product involved is manufactured from the species referred to.

I know from long experience that the consumer gets confused, and in many cases deceived, by the practices mentioned above. It is my opinion that the provisions of this bill would successfully eliminate these practices and create a stronger and better homefurnishings industry. After an adjustment period had passed, manufacturers and retailers alike would discover that items of similar nature would automatically have fallen into those price brackets commensurate with the materials and labor costs used in their making.

The cost to the Government of enforcing this legislation would be lessened due to the fact that local better business bureaus and other community bodies would in themselves become unofficial enforcement agencies. Knowing that they were backed by the laws of the land, they could put "teeth" into their investigation of complaints by consumers.

I respectfully suggest that this committee take favorable action on this legislation.

Senator HARTKE. Thank you, Mr. Wright, and thank you for coming.

Mr. John W. Miller, Miller Furniture Co., Wabash, Ind.

STATEMENT OF JOHN W. MILLER, PARTNER, MILLER FURNITURE CO., WABASH, IND.

Mr. MILLER. Senator Hartke.

Senator HARTKE. We are delighted to have you here, Mr. Miller.

Mr. MILLER. I am John W. Miller, a partner in the Miller Furniture Co. in my hometown of Wabash, Ind. I am here to testify favorably on the Decorative Hardwood or Simulated Hardwood Products Labeling Act as a retail merchant and as a consumer.

Dr. Arthur Weimer, of the Indiana University Graduate School of Business, says:

Most businessmen fail to enter politics because of the fear of making a decision in a goldfish bowl.

As we all know, your decisions are placed before the public and oftentimes there are as many opponents as proponents to a bill. However, in the case of S. 1724, I feel there will be few who will look down on approval of this bill.

The plastics industry is passing up a marriage with the wood industry which could have only success as an end result. Too often the simulated finishes are not identified as such on furniture, or a doubt is left in the consumer's mind relative to the question, "Is it wood or plastic?" The trade names Formica, Nevamar, Micarta, Textolite, et cetera, have become bywords in the selling of furniture. Simulated wood manufacturers should be proud of these names.

I was reading an article recently by a leading syndicated psychologist. He was counseling a young college girl about the ways she could best attract a husband. He told her, "It is charm, not sheer beauty, that wins husbands." Gentlemen, I say the simulated finishes properly labeled and properly identified on furniture is the "charm" we on the selling floor in the stores across the country can use to "win" sales in our business.

My associates and I favor the labeling of both real and simulated wood products and we are interested in this bill because we believe it will help both.

Surely, the Fur Labeling Act did not destroy the sale of imitation furpieces. I have even heard women boast about the small investment made in an imitation furcoat and how much it looks like the real thing. As I see it, if this coat were not properly labeled this poor young lady would be left with her conscience as to whether she should admit it is an imitation or try to "pass it off" as the real thing.

This, then, is the same story being repeated daily on the sales floors throughout America. The one question a salesman must ask himself is, "Should I tell her it's an imitation or let her think it is the real thing?" The salesman, of course, has a moral obligation to tell his customer the true story, assuming that the salesman can tell the difference. But then, why should his integrity be tested if the manufacturer of the simulated finish isn't positive enough of the product to have it properly labeled? Let's label it.

Other labeling bills such as the Pure Food and Drug Act have more than justified themselves through the years. I am sure a box of cookies made and labeled "imitation vanilla" or "imitation flavoring" do not go for want of a customer because of the word "imitation." Carpets in our carpeting department are labeled for the customers' convenience so they can determine the content of the carpet of choice. This also creates confidence in our customers about our store.

I can see only advantages from the retail standpoint of this legislation and ask your support of this bill.

Senator HARTKE. Thank you, Mr. Miller. Thank you for coming from Wabash.

Mr. MILLER. Yes, sir. Mayor Whitten said "Hello."

Senator HARTKE. I was just going to ask you to give my regards to the mayor.

At this time, without objection, the statement of Congressman Frank T. Bow will be entered into the record.

(The statement follows:)

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 4, 1962.

HON. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: It was my intention to ask for time to appear before your committee on S. 1724, the hardwood labeling bill.

I find that my schedule does not permit, and I hope that the enclosed statement may be included in the record of your hearings.

Sincerely yours,

FRANK T. BOW,
Member of Congress.

STATEMENT OF HON. FRANK T. BOW, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF OHIO

I am Frank T. Bow, a Member of Congress from the 16th District of Ohio.

It is a departure from my usual custom to appear before a legislative committee, but I feel very strongly regarding S. 1724, and wish to express my opposition to the legislation.

This bill purports to protect consumers who purchase furniture, paneling, floor covering, radio and television sets having decorative wood pattern and color finishes. It would do so by giving manufacturers of hardwood veneers the right to label their product as "genuine hardwood" while requiring manufacturers of all other products to label their products as "imitations" or "simulated."

I think it does not protect consumers. I think it is designed to protect the manufacturers of hardwood veneer from competitive products and give them a sales advantage they do not now possess.

One of my constituents who will testify here is Victor R. Marsh, executive vice president of the Marsh Wall Products, Inc., manufacturers of Marlite and related panelings. I have examined this product on many occasions. It gives the appearance of highly polished fine wood, but no purchaser who is shopping for paneling examines a panel of Marlite, feels it and looks at the back of it would think it was natural wood. No attempt is made to deceive or misrepresent. No advantage would accrue from such an attempt for the manufacturer and millions of consumers believe it to be a superior product for paneling, not competitive with wood.

I doubt seriously that consumers are deceived with regard to other products that have an appearance of wood.

Going beyond these practical considerations, I would like to comment on the necessity of legislation with regard to a particular product of this kind.

It seems to me that the Federal Trade Commission already has ample authority in the law to protect consumers from deception or misrepresentation. Further, I believe the Commission has done an excellent job in this regard. There is no showing that the FTC has been unable to control labeling in this area. In short, I find no advantage in the proposal and many disadvantages including the attempt to have Congress confer a competitive advantage on a particular product to the detriment of many others.

That completes my statement, Mr. Chairman.

Senator HARTKE. Mr. Robert Carter, vice president, National Retail Furniture Association, Washington, D.C.

Good afternoon, sir.

STATEMENT OF ROBERT E. CARTER, VICE PRESIDENT, NATIONAL RETAIL FURNITURE ASSOCIATION; ACCOMPANIED BY MR. BROOKS OF THE STAFF OF THE NATIONAL RETAIL FURNITURE ASSOCIATION

Mr. CARTER. How do you do? This is Mr. Brooks, our staff man of National Retail Furniture.

I would like to have him sit here.

I would first like to have our statement entered as we submitted it. Senator HARTKE. Without objection, it will be put into the record. (The statement in full is as follows:)

STATEMENT OF NATIONAL RETAIL FURNITURE ASSOCIATION, PRESENTED BY ROBERT E. CARTER, VICE PRESIDENT AT LARGE AND CHAIRMAN, GOVERNMENTAL AFFAIRS COMMITTEE

I am Robert E. Carter. I operate two retail furniture stores, one in Baltimore and the other in Towson, Md. Ours is a family-owned business, established in 1906 by my father.

I make this statement as chairman of the Governmental Affairs Committee, National Retail Furniture Association, founded in 1921. It is submitted in behalf of the 8,500 mostly family-owned furniture stores who comprise our membership.

To give some idea of the place of our industry in the national economy, I might say that the Census Bureau reports more than a quarter of a million employed in retail furniture and homefurnishings stores. Annual retail sales exceed \$5 billion, and almost 6 cents of each consumer dollar goes for homefurnishings.

The board of directors of the National Retail Furniture Association has always supported the voluntary standards of the Association of Better Business Bureaus for furniture wood retail advertising and selling. They will favor, I am sure, voluntary nondeceptive labeling of furniture materials.

We strongly oppose S. 1724, the proposed Decorative Hardwood Labeling Act, for the following reasons:

We believe most emphatically that wood surface labeling should be a voluntary industry trade practice followed as a matter of enlightened self-interest in serving the American homemaker. We do not think it should be a compulsory legal requirement established for the purpose of giving economic relief to certain raw material producers experiencing competition from new, and often superior materials.

Therefore, we oppose any proposals for congressional action or legislation ostensibly aimed at deception but also designed to serve the special interest of some 38 lumber producers in 2 or 3 States, which would unfairly and unjustly burden thousands of manufacturers and retailers in all 50 States.

The bills proceed from the assumption that hardwood is the prime material, the one and only material for furniture surfaces, and that any other material used for furniture surfaces, whether it be metal, plastic, hardboard, or softwood must be characterized in terms of the hardwood it resembles, by being called simulated hardwood.

As retailers, we do not concede that hardwood surfaces on furniture occupy such a unique position, and that somehow or other all other surface materials are in some way or other inferior.

Practically all wood furniture pieces are manufactured of a variety of woods which in the discretion of the engineers, designers, and manufacturers are best suited for the exposed surface construction and beauty possibilities of that particular piece of furniture.

Eye appeal, style, fashion, color, and wearability are the prime factors which create an attractive piece of furniture. Almost always this requires more than one type of wood or wood finish. Many of these would not fall in the category of hardwoods.

Actually, many of the new materials, particularly the plastics, are superior to hardwood in resistance to scratching, marking, denting, warping, straining, cigarette burns, and other damaging accidents that can ruin a hardwood surface or a laminated plywood surface with hardwood veneer.

The proponents of these bills seem to want to protect the public from a piece of plywood covered with plastic laminate, but do not seem to feel any need to inform the public that a hardwood veneer surface is itself only one twenty-eighth of an inch thick.

These bills would require the very smallest retail furniture store on the Main Streets of every town and village in America to work under a new Federal law which would subject them to real hardship in trying to comply.

In my own store I would have to spend time making sure that every piece of wood furniture is always labeled in a legally correct way to show the true names of the hardwoods used for the surfaces or which they resemble.

When I wish to give my customer additional information and I substitute my own label for the manufacturer's label I would have to set up records showing the information on the manufacturer's label and keep these records for 3 years. I could be fined \$100 a day for every day I "neglect" to keep such a record, whether intentional or not.

I object to being exposed to the risk of having to forfeit \$100 a day because of any failure to keep a simple record. This clause is unduly punitive. Do you realize what a penalty of \$100 a day means in relation to the sales of the average small furniture store?

Because the proposed law covers "any representation" intended to sell furniture, I would have to train all my salespeople to give the legally required information orally. They would be violating the law if they did not mention all the required information every time they referred to the exposed surfaces of a piece of furniture in talking with a customer.

I would be required to keep for 3 years records of the data on which any ads are based. Keeping the ads themselves is not difficult, but the hard part is keeping the record of the information on which the ad is based. Here again, I could be forced to forfeit \$100 a day for every day I "neglect" to keep these records. I think such a penalty is unduly punitive.

It is our opinion that this proposed law will place an onerous and unreasonable burden on furniture retailers, without compensating benefit to consumers.

The burden will fall hardest on the small owner-manager stores which experience the greatest difficulty in accommodating themselves to Government controls and regulations and the paperwork and record keeping which always accompany such regulations. These new rules would be piled on top of all the load of reports, forms, rules, regulations of the Federal, State, and local governments under which the small retailer is already staggering. If you want to give the small retailer another push downhill by adding to the burdens of operating his business, this is the way to do it.

The burden of the law would also fall hardest on the retailer because of the multiplicity and variety of items he carries and the large number of sources from which he buys.

A manufacturer produces only a relatively small variety of items in his line, making his labeling problem proportionately less than the retailer's. But a retailer carries literally hundreds of items in stock, many pieces just one of a kind, and because of this wide variety, his job of keeping track of the labeling and advertising requirements for each is multiplied proportionately.

Because the provisions of these bills apply to goods which have been shipped and received in commerce, the effect will be to put purely local, intrastate retail stores under Federal control. Every furniture store will be open to Federal investigators on a "fishing expedition" for violations. This will be so even if all of the retailer's sales and advertising are within his own State.

Operating under the proposed law will create infinite confusion for the retailer because it would apply only to hardwood surfaces or surfaces that resemble a hardwood. This seems to me to be purely "special interest" legislation designed for the purposes of one small segment of our industry.

Softwood surfaces or surfaces which resemble softwoods or which resemble marble or any other furniture surface materials would not have to be labeled. This would mean that only part of a retailer's stock would have to be labeled under the law, and part would not have to be labeled. Think of the confusion this could create in a consumer's mind.

Although the sponsors of these bills may not have intended it, section 4(a) (1) on page 7, lines 7 to 14 is capable of being interpreted to cover any form of misrepresentation or deception on a label, not merely misrepresentation or deception with respect to the exposed surface area of hardwood or resembling hardwood. For instance, it could apply to misrepresentation with respect to

price. This ambiguity would be removed if the words in lines 13 and 14, "such decorative hardwood or simulated hardwood product" are removed and replaced with the words, "the exposed surface area."

We feel sure that the sponsors did not intend to extend Federal Trade Commission jurisdiction to every local retail store in intrastate commerce with respect to any form of false or deceptive statement such as price, guarantee, terms of sale on any item of furniture made of decorative hardwood or simulated hardwood. But in our opinion there is no doubt that the provision as written could be so interpreted by some future FTC attorney.

Voluntary informative labeling which is properly designed to help the consumer buy intelligently is something I think we can all support. In fact, most of the manufacturers of fine lines of furniture do give information which does help the consumer.

Any informative labeling program should adhere to certain practical, basic principles:

(1) It should be solidly based on voluntary action, not Federal law. Law is just not the answer.

(2) It should provide the information most needed by and helpful to the customer—not information designed to serve the competitive interests of the makers of a certain class of furniture surface materials.

(3) It should be a forward-looking program designed to promote consumer satisfaction.

(4) It should not be restrictive in its intent, as these bills are. The approach should be positive, not negative; informative, not confusing.

We believe these bills will tend to discourage the use of new and better materials in furniture. New materials should be allowed to stand on their own merits. They should not have to be described in terms of the older materials they supersede.

Retailers are purchasing agents for their customers. If new and improved materials for the exposed surfaces of furniture have to be described in terms of the older, less satisfactory materials they replace, the use of the newer materials will be discouraged by such a psychological barrier. The standard of comparison should not be merely hardwoods.

To borrow an example from another field, you will recall that rayon, now a widely used synthetic fiber, got nowhere with the public while called "artificial silk." When this was dropped and the name rayon coined, public acceptance began to climb.

If these bills become law, the experience retailers have had under the Textile Fibers Identification Act shows that they can expect a set of complex, detailed, and hard-to-understand FTC rules and regulations. These are extremely difficult for the average small retailer to understand, and will be one more handicap for the small, independent businessman in his fight to survive and to make a profit.

Finally we draw to your attention that these bills extend FTC jurisdiction to intrastate commerce at the local retail level. This is accomplished in section 3(b) by making the furniture retailer subject to the law if the furniture he sells has been shipped and received from another State.

This is a substantial extension of FTC jurisdiction over intrastate furniture retailing, and goes beyond the jurisdiction of FTC under the Federal Trade Commission Act itself.

Our directors and members are opposed, as a basic principle, to Federal intervention in retailing because of its local, intrastate character. We believe that whatever regulation of retailing, if any, is needed should be enacted at the State or municipal, not Federal level.

For these reasons we respectfully urge your committee not to approve these proposals.

Mr. CARTER. I did want to identify myself for the record.

I am Robert E. Carter. I operate two retail furniture stores, one in Baltimore and the other in Towson, Md.

Of course ours is a family owned business, established in 1906 by my father. I own it and operate both stores, for the benefit of my family.

We have testified before the House committee on this bill and have been keeping in close touch with the particular piece of legislation. And our National Retail Furniture Association, which is some 8,000

retailers across the Nation, feel that this is a bill which would require us to label a piece of furniture that which it is not. Or an imitation of some other wood. And our main objection is that we feel that this is a voluntary, should be a voluntary action, and should not be a Federal law.

We don't feel that law is the answer to this problem. We feel that the information supplied should be important to the customer, helpful to the customer, and needed by the customer; but should not be information designed to serve as the competitive interests of the makers of a certain class of furniture surface materials.

We think it should be a forward-looking program and promote consumer satisfaction and it should not be restrictive in its intent, such as these particular bills are. The approach should be positive, not negative. It should be informative and not confusing. We can give many examples. In fact, many of the examples have been given here today under the assumption that the bill would correct them.

This is not so, because the bill only covers hardwoods, it does not cover softwoods, it does not cover finishes of many different kinds, such as plastics and other finishes.

We strongly urge, as members of the National Retail Furniture Association, that the committee report this bill unfavorably.

Senator HARTKE. Let me ask you a question here.

As I understand you, you say this is not an answer to the problem. You do feel, then, that a problem exists?

Mr. CARTER. No; I don't feel that the problem is as acute as it has been pointed up. Whenever a piece of merchandise is offered for sale, the opportunity to misrepresent is prevalent among certain types of dealers. If there is a problem, it would be in the minority of those dealers.

Senator HARTKE. For the information of the group here, that buzzer you just heard is a call for a vote in the Senate. Let me ask you another question. The point that I was getting to was that you said this has to be a voluntary thing.

You can't have a voluntary action to meet a problem unless there is a problem.

Mr. CARTER. Well, let's take it by example. For instance, many of the so-called substitute finishes, if you want to call them that, I don't believe they are substitute, but Formica is a good example, all Formica merchandise is stamped "Formica."

This is done, I am sure, to advertise both the product itself and the fact to let the consumer know this is a piece of plastic, because it very genuinely looks like wood.

But I don't think the misrepresentation among the vast majority of retailers warrants Federal legislation in this particular area, for this very minute problem, if there is a problem.

Senator HARTKE. Secondly, you mentioned the fact it did not include some of the woods and other finishes.

Would you be in favor of legislation if it did include some of the woods and other finishes?

Mr. CARTER. No, sir.

Senator HARTKE. Then that part of your statement is rather insignificant, isn't it?

Mr. CARTER. Let me put this this way: You asked me if I would be in favor. My basic principle is that the more you legislate, the more that you regulate by Federal law, the less freedom, the less—or the more—problems you create in a retailer's establishment. And you do not accomplish—in other words, I don't think for 1 minute that because Congress passes a law the retailers who, if they are misrepresenting, would stop misrepresenting.

I don't think this is the answer to it. Therefore, I don't think—

Senator HARTKE. What is the answer? I mean, this is the point. You say this is not the answer to it, which indicates there is a problem.

What problem are you referring to, if there is not a problem of a substantial nature?

Mr. CARTER. Let me put this another way then. This is a special-interest piece of legislation; this is hardwood manufacturers, or processors of hardwood, who want to have their product labeled "genuine hardwood."

Now anything else that is not genuine hardwood, for if it has a pine leg or a birch leg or maple leg, they want this to be told.

Senator HARTKE. Is there any reason it should not be?

Mr. CARTER. No; there is no reason in the world it should not be. But by the same token there are very, very few pieces of furniture completely of one wood.

In the question of tables, yes, you have birch legs. But when you get into cast pieces, bedroom, dining room, there are many kinds of woods involved and traditionally have been so.

Senator HARTKE. Suppose we put labels of what is contained in it, then would you be in favor of the bill?

Mr. CARTER. What is contained?

Senator HARTKE. Suppose you would include everything that is contained in the piece of furniture?

This occurs on medicines; I know it occurs in even soft drinks; I drink one now, called Trim. It tells you what is in it, it says, "No sugar."

What about that?

Mr. CARTER. Well, I suppose it would work.

Senator HARTKE. Pardon?

Mr. CARTER. I suppose it would be possible to do it, but—

Senator HARTKE. Don't you think there is a right for the people to know what they are buying in furniture, as well as other products?

Mr. CARTER. Yes, sir.

Senator HARTKE. As much as they do when you buy a suit and they put on this how much wool or dacron is in it?

Mr. CARTER. Yes, sir; I believe that there is an area that labeling can be informative. But I don't think the Federal law is going to make the difference.

Senator HARTKE. Do you have any other suggestion?

You see here is my point: You keep on saying it is not going to make a difference.

Now if no problems exist, then there is no requirement for this positive and informative action we are talking about. If there is a problem, then I think it is incumbent upon you to come up with something which is a solution to that problem, evidently which has not been suggested or put into effect up to this time.

Mr. CARTER. Yes; but you are asking a question that is almost impossible to answer.

Senator HARTKE. Not impossible for me; only for you.

Mr. CARTER. No; I don't think you could label every piece of furniture with all of its contents.

Senator HARTKE. I will have to adjourn and go vote at this time.

We will now recess until 3:30, because at 2:30 I am scheduled to be in the Finance Committee, I am sorry, and that is a tax measure and Senator Byrd is not excusing me from that either.

Mr. CARTER. Would you like me to wait for your return?

Senator HARTKE. No; not necessarily.

Thank you.

Mr. CARTER. Thank you very much.

(The committee was recessed at 2 p.m., to reconvene at 3:30 p.m.)

(Whereupon, at 4:05 p.m., the hearing was resumed.)

Senator HARTKE. The committee will come to order.

I want to apologize for being late.

Mr. O. W. Frost, director of research and development, Masonite Corp., Chicago, Ill.

Mr. KECK. Mr. Chairman, Mr. Frost, in view of the long list of witnesses and 1 day, requests that his statement be submitted for the record without him appearing.

Senator HARTKE. Without objection, it is so ordered.

(Statement of Mr. Frost follows:)

STATEMENT OF O. W. FROST

I am O. W. Frost. I am the director of research and development and a director of the Masonite Corp., 111 West Washington Street, Chicago 2, Ill. I appear in opposition to S. 1724.

Masonite Corp. is the largest and oldest producer of hardboard in the United States, having initiated the production of hardboard in this country in 1926, as the assignee of the basic hardboard patents of William H. Mason. Its principal trade name for its hardboard over these years has been Presdwood, a registered trademark.

While my company has manufactured and sold a vast quantity of hardboard since 1926, it has finished very little of it with simulated wood grain patterns until recent years, although hardboard has been finished with wood grained patterns and designs for many years by furniture manufacturers and other industrial applicators. It now manufactures and sells a line of hardboard panels with wood grain finishes known as the Masonite Royalcote line. These wood grain patterned panels, that are factory finished on Masonite hardboard, come in six Royalcote decorator colors of cherry and walnut wood grain patterns, in random grooved, ungrooved, and perforated styles. Our advertising and sales promotional literature has always pointed out that these are factory finished panels of our hardboard.

We oppose the pending bill for a number of reasons:

1. It is special legislation designed solely for the private benefit of the producing members of the Fine Hardwoods Association, and not for the benefit of ultimate consumers. This was frankly recognized by the then Chairman of the Federal Trade Commission, in testifying on similar Senate bills in 1959, who said:

"* * * it is special legislation. It deals with a special industry, and in those circumstances I think the Congress should be very careful about adopting such legislation on principle" (Senate report, p. 20).

2. The bill ignores consumer protection not only as to softwoods but also virtually exempts hardwood veneers. Softwoods, though commonly used for decorative purposes in furniture and on interiors, are ignored by the bill entirely, except that where a hardwood grain is simulated on a softwood the species of the softwood must be named. On the other hand, if an inexpensive hardwood

vener such as gum or aspen is on the surface, it can be called merely "genuine hardwood veneers" or "plywood" even though other plies may be nonhardwood. Moreover, if that gum or aspen hardwood veneer is printed to resemble another species, it need not be identified by specie but merely by "hardwood veneered construction."

3. The bill, unlike prior labeling acts, puts a stigma of "imitation," or "simulation" by mandatory label, on nonhardwood furniture surfaces, and thus stigmatizes such new and improved surfaces as inferior or shoddy. This, in effect, would be a congressional setting of product quality standards.

4. The bill would greatly extend the regulatory powers of the Federal Trade Commission to the retail level in connection with the products covered, not only as to deception with respect to materials used on exposed surfaces, but also as to misrepresentation relating to price, quality, terms of sale and other trade practices. Such a far-reaching extension of the Commission's power should be considered on its own merits as to all products sold at retail, and not obliquely in connection with a labeling bill covering just hardwood products.

5. No compelling need for this drastic regulation has been shown, which consumer need should be particularly clear and forthright in view of the special legislation features and the expensive regulatory bureaucracy this bill would require.

6. The Federal Trade Commission already has adequate power which it has been exercising to prevent practices that deceive the consumer, so no further legislation is necessary.

There is an additional and special objection which my company has to the bill that pertains to hardboard, i.e., that sections 2(c) and 4(c) of the bill would erroneously classify hardboard as a "nonwood" material along with plastic, metal, gypsum, paper and film, as something other than "wood." This gross misconception about the nature of hardboard has been circulated by the fine hardwood veneer spokesmen who sponsor this bill, in their efforts to use Congress in furthering their own interests in competing with hardboard as a furniture and wall paneling material.

I should preface my remarks about why hardboard is "wood," and is not a "nonwood" or composition board product, by pointing out that I have spent 39 years in the development and research, manufacture and sale of forest products made from treewood. I received a bachelor of science degree in forestry from the University of Minnesota in 1923. I have since been employed successively by the Wood Conversion Co., Cloquet, Minn., a company owned by the Weyerhaeuser timber interests; by the United States Gypsum Co., as superintendent and works manager of its wood products plant in Greenville, Miss., and later as supervisor of the wood fiber products research work of that company; by Forest Fiber Products Co., for whom I designed, supervised the construction of, put into operation, and operated its hardboard plant at Forest Grove, Oreg., a company affiliated with Stimson Lumber Co., a producer of Douglas-fir lumber; again by Oregon Fibre Products Co., as general manager of its Pilot Rock, Oreg., wood products plant; and for the last few years as director of research and development of Masonite.

Hardboard is a generic term for the products of my company and industry. As such, it has long been used to describe such materials by consumers, industrial users, distributors, etc. In fact, Mr. William H. Mason, the inventor of hardboard, used that term to describe it over 30 years ago, to differentiate hardboard from softwood fiber products such as insulation board. Hardboard and not "fiberboard" is a much more accurate word to describe the products I am concerned with, that are used so extensively in the furniture and wall paneling fields with which these bills are concerned. In fact "fiberboard" is such a broad, loose term that it would include soft insulation boards, boards composed of fibers other than wood, and also boards of wood fiber that are not held together by lignin as is natural wood and hardboard. For many years magazines, newspapers, trade literature and the like have used the term "hardboard" to describe the products which my company makes.

Moreover, hardboard is "wood" as clearly as are the various veneers, plywoods, etc., which are to be "protected" by this legislation.

The spokesman for the hardwood veneer group has indicated his complete lack of understanding of the nature of hardboard by telling a House committee that it is a "composition material made from wood fibers and adhesive" (committee report of hearings on H.R. 9310, 86th Cong., 2d sess., p. 11) and by

writing this committee that "fiberboard could be called wood only if it were agreed that paper could also be called wood" (report, p. 168).

Any confusion he may have injected can be readily clarified by a better understanding of the words "wood" and "hardboard."

(a) *Meaning of "wood"*

"Wood" is a very broad term. Webster's New International Dictionary gives 11 definitions of "wood." Its 1st definition is "something made from a tree or trees"; its 5th definition is "the hard fibrous substance which makes up the greater part of the stems and branches of trees or shrubs beneath the bark;" its 8th definition is "something made from wood"; its 11th, last, and an obsolete meaning, is: "The arrangement of fibers in wood; grain. Obs."

In *Steinhardt & Bros. et al. v. U.S.*, 9 Ct. Cust. Appls. 62 (1919), the word "wood" was defined as follows (p. 64):

"* * * in common parlance wood is the tough, hard substance of all trees and shrubs, and it includes not only the hard fiber bundles of trees and shrubs in general but also the tougher fibrous components of some herbaceous plants. * * * We think that lexicographers and common knowledge warrant us in saying that wood is a very broad term and includes not only material obtained from exogenous plants, but also substances obtained from palms, from bamboo, which is a giant grass, and from some ferns which are herbaceous plants."

This same meaning was enunciated again in *Calif-Asia Co., Ltd. v. U.S.*, 39 C.C.P.A. (Customs) 133 (1952).

This same definition of "wood" was adopted in *Masonite Corp. v. Celotex Co.*, 66 F. 2d 451 (6th Cir. 1933), app. dism. 290 U.S. 708, which was the culmination of patent litigation over the basic hardboard patents. There, the court was considering whether a Celotex hardboard made of bagasse (the stalk of sugarcane) infringed Masonite's patent claim dealing with "lignocellulose materials, such as wood, and the like." It said (p. 455):

"The expression 'lignocellulose material, such as wood,' we think, means natural wood, tree wood. The expression 'and the like' obviously means something else, yet something 'like' wood with its lignocellulose quality. And so the word 'wood' in the claims means one thing, 'natural wood,' which in turn means tree wood. Then the term 'or woody material' must mean something other than tree wood, yet something which like tree wood has fiber in quantity and quality that will produce the product of the patent by its process. These critical expressions deal with fiber of fixed requirements to be obtained, however, from two sources, wood material and woody material. There is no showing in the record that use of fiber from one source involves any essentially different principle or mode of operation than use of fiber from the other source. It follows that, although the resultant product is the same, the word 'wood' and the term 'woody material' cannot mean the same fiber source, and that, being in the claims, the two cannot have the same meaning. Each has a meaning of its own; and to each, properly defined, the patentee is entitled. * * *

"We find, on the evidence and on its own demonstration, that bagasse is such a woody material."

Neither dictionaries nor judicial decisions support the narrow, obsolete "hardwood grain, figure, or growth characters" definition of "wood" inherent in sections 2(c) and 4(c) of the pending bills. Rather, they define "wood" as the tough, hard substance of trees. That substance is lignocellulose fibers, not just a group of such fibers in the form of 2 inches by 4 inches by 10 feet, or a paper-thin sheet of veneer. That is to say, "wood" is still "wood" whether in the form of a tree, a shingle, a board, plywood (thin plies), veneer (paper-thin ply), hardboard (fibers rearranged), particle board (wood particles held together by resin), or wood flour (fine particles). Wood is still wood whether the log is cut into boards, cut on a lathe into veneer, carved into a shape, broken into particles, or exploded into constituent fibers and reassembled, just as steel is still steel whether in the form of a beam, wire, or casting, or shavings.

(b) *What is "hardboard"?*

"Hardboard" is the generic term for a hard, dense board, composed of wood, having high tensile strength and density, and low water absorption. "Hardboard" as a name has been used to describe the product for over 35 years. Inventor William H. Mason, in his basic hardboard patent filed in 1925 and in his early

writings used the term "hardboard" to characterize his invention and to distinguish it from soft or insulation board as I have stated.

In 1933, in a third circuit court of appeals decision involving hardboard patents, *Masonite Corp v. Celotex Co., supra*, the court said (p. 452) :

"The product here in question is known to the trade and in this litigation as 'hard board,' the sole substance of which is wood fiber."

It called hardboard "a hardwood board with the major woody characteristics retained, certain undesirable ones left out and new characteristics added." It is wood in a rearranged or restored form.

Hardboard is made in a four-step mechanical and nonchemical process :

1. *Wood defibration.*—The tree wood raw material is mechanically reduced to chips and then to whole wood fibers or bundles of fibers, by an explosion or other defibrating process.

2. *Refining.*—The resulting bundles of fibers are then mechanically refined into more uniform wood fiber bundles or constituent fibers. They are not beaten or treated chemically.

3. *Forming.*—Next, the wood fibers and fiber bundles are formed into sheets by one of two methods: in some processes by means of water; in other processes by an airstream.

4. *Hot pressing.*—The mat or lap is then conveyed into a giant, multiple opening, hot press, which is constructed so as to make hardboard under (a) mechanical pressure exerted hydraulically up to many hundred pounds per square inch, and (b) heat-producing temperatures in the wood up to 400° F. There, in the combined presence of carefully controlled heat and pressure the hardboard is made, the lignin in the wood fibers and fiber bundles welding or binding them together in about the same manner as they were bound together in the original wood. The hardboard stays in the hot press until bone dry, following which it is humidified to restore some moisture content, is sometimes treated or tempered in an oil polymerization process to increase strength, is cut to various sizes, and is wrapped and stored or shipped.

There are two basic types of hardboard: "untreated" or "standard" hardboard; and "tempered" hardboard. The latter type is given a supplemental process of impregnation with drying oils and baking to oxidize or polymerize the oils, thereby making it more resistant to moisture and abrasion, increasing its breaking strength nearly twice, and giving it other desirable properties for exacting, heavy duty uses. Both types are made in thicknesses of one-tenth, one-eighth, three-sixteenths, one-quarter, and five-sixteenths inches, and in stock or standard size boards 4 feet (sometimes 5 feet) wide and 6 to 16 feet (occasionally 18 feet) long. Much hardboard has one extremely smooth surface and a "screenback," although several companies produce a smooth two-side (S-2-S) hardboard.

The hardboard industry dates from a simple origin in a laboratory 35 years ago, as a way to use lumber sawmill slab waste and edgings. It began with William H. Mason, an engineer and former associate of Thomas A. Edison, who in a two-step process became its inventor. In 1924 he found a method of quickly separating wood fibers without destroying their physical properties, by exploding wood chips by high pressure steam; in 1925, he found a method of making reconstituted wood, without some of the defects in the original wood form, by subjecting his gun fiber to consolidating heat and pressure, calling the product hardboard, which his company has always described by the trade name Presdwood. Mr. Mason was granted several patents, both on hardboard and the process of making it, the basic patent, U.S. Patent No. 1,663,505, being granted March 20, 1928. A company bearing his name, financed by lumbermen, began production of hardboard in September 1926 in Laurel, Miss., adjacent to a large sawmill.

From the beginning, hardboard has been devoted primarily to functions previously performed by lumber and plywood. Significantly, Masonite's first car-load shipment of hardboard was to an industrial customer for use in making visors, door panels, and kick plates in the automobile industry. In 1928, Masonite established special sales divisions to promote the then rapidly growing use of hardboard for concrete form faces and truck cab tops. The first national hardboard advertising of Masonite, in the Saturday Evening Post, showed hardboard being used in speedboat hulls, shipping cases, outdoor signs, aquatic recreational equipment, concrete forms, incubators, trucks, iceboxes, and store

fixtures. In May 1930, Robert M. Boehm, director of research of Masonite, wrote in *Industrial & Engineering Chemistry* that:

"Presdwood is advertised as 'grainless wood.' As such it has possibilities of use in every place where wood is now used. Because every sheet is grainless A-grade lumber, wastage is reduced to a minimum and labor costs are low."

The basic hardboard patent (No. 1,663,505) contains 14 product claims which refer either to "a coherent, grainless, homogeneous, hard, stiff, and strong body of wood or woody material," "a grainless, hard board composed of wood," "a grainless wood product," "a hot pressed grainless ligno-cellulose product," or "a hard, dry fiber product containing substantially all of the lignins and other constituents of wood."

The validity of this basic hardboard patent, on which a worldwide hardboard manufacturing industry has been built, was upheld in *Masonite Corporation v. Celotex Co.*, that I have referred to, which described hardboard as "*** a hard-wood board with the major woody characteristics retained, certain undesirable ones left out and new characteristics added" (p. 452).

The raw materials used are tree wood in many forms. Hardboard is made from sawmill slab waste and edgings; from plywood log cores and trimmings; from sound wood fibers in logs unsuited to the manufacture of lumber; from small diameter, second growth cordwood; from little used species like aspen, lodgepole pine, etc.; and from snags and debris from logging operations. The only requirement is that the raw material, regardless of form or shape, contain sound wood fiber. Hardboard is not made from sawdust, shavings, or other mascerated particles of wood, as are the so-called particle boards which are bound together by a synthetic resin binder.

(c) *Reasons why hardboard is wood*

Being solely made of wood that has been taken apart and put back together, having a wood-type bond between its component fibers obtained from the natural ligneous constituents of wood fibers, having high wet strength when wet and other physical properties similar to those of other forms of wood, being workable with tools used for fabricating wood, being commonly used where the unique properties of wood have been found most useful, and being commonly referred to as a wood product, hardboard is wood.

(1) *Hardboard is made of wood and retains all structural elements of the original wood.*—In the first place, hardboard is a wood product because it is made from tree wood by a manufacturing process in which all of the structural elements of the original wood are retained. The process converts small pieces of raw wood into large, wide, dense boards retaining natural wood characteristics, there being no reduction of the lignin or other structural elements of the wood by chemical digestion.

Hardboard is not a composition board held together with an adhesive. That is to say, not only is hardboard made from tree wood (its wood content being from 97 to 100 percent, being even higher than plywood), but in its manufacture all the structural elements of the wood must be retained. In upholding the validity of the basic hardboard patent, the third circuit court of appeals, in the *Masonite-Celotex* litigation, said:

"To retain in a board everything that is good in wood, Mason thought he should put back all he took out. This included lignins. What he proposed to do was to depart abruptly from the arts and avoid chemically digested fiber and chemical action anywhere and resort to the wholly novel practice of tearing wood to shreds, that is, separating out its fibers, and putting them back again physically, without adding any element to weld or bind them together" (p. 452).

Especially important are the lignins which act as the binding agent in hardboard just as in natural wood.

(2) *Hardboard is bonded together with a "wood-type" bond by lignin, the natural cementing material that binds all wood together.*—The significance of lignin retention in hardboard manufacture is that the preserved lignin is put to work to reweld the wood fibers giving hardboard what is commonly called a "wood-type" bond, a bond that is characterized by high strength in both the dry and wet condition. The most unique or outstanding characteristic of wood, including hardboard, is the property of having nearly as great hardness, stiffness and strength when wet as when dry—a characteristic making it an excellent structural material.

In hardboard, this wood-type bond is achieved in the unique hardboard hot press by the simultaneous action of great heat and consolidating (i.e., following up) pressure.

The March 1955 U.S. Tariff Commission report on hardboard states (pp. 18-19):

"The pressure of several hundred pounds per square inch with temperatures as high as 400 degrees Fahrenheit or more plasticizes the natural bonding properties of the wood fibers so as to bind the fibers together."

Hardboard is the only wood fiberboard made in which the lignin or natural binding material present in the original wood is used as a binder to give it a "wood-type" bond. Once this binding action of the lignin in hardboard has taken place, the process cannot be reversed. Thus, hardboard will not revert back to wood fibers in the presence of water, for like natural wood it has high wet strength.

This "wood type" bond gives hardboard, like raw or natural wood, the characteristic of high wet strength—that enables it to retain the greater portion of its strength even when water soaked; enables millions of feet of hardboard to be used as exterior siding on buildings, in outdoor signs, to line the seawalls at Chicago's Century of Progress in 1933-34 and still be structurally sound when removed after two seasons of exposure to weather and waves, to be used as dies in forming and shaping metals, to line concrete forms, for truck body paneling, in boat hulls, as flooring and desk chair mats, or workbench tops, etc., and has always enabled hardboard to withstand great exposures and rigorous usage.

"* * * whatever it is that holds together the fibers in the hardboard, *they are, as a matter of fact and without regard to theory, bound and held together by some wood element restored.* * * * the fact is *the wood fibers*, put back as the patent teaches, *do in some way grasp their fellows and hold them fast.* That they could be made to do this was a challenge to nature. And it was new" (66 F. 2d at pp. 452-53). [Emphasis added.]

This "wood-type" bond makes hardboard into wood rearranged in a wider, thinner form—and gives hardboard its unique qualities and uses.

(3) *Hardboard has physical characteristics similar to other forms of wood.*—Hardboard has the following characteristics of raw or natural wood:

Both have a lignin or wood-type bond.

Both have high wet strength and similar durability to weather.

Both are somewhat hygroscopic and will absorb some moisture.

Both will expand and contract somewhat. Hardboard does so in all directions and less than natural wood across the grain.

Both are composed of ligno-cellulosic fibers and therefore have substantially the same chemical composition.

Both are readily worked with the same woodworking tools and techniques.

Both are finished (glued, painted, stained, etc.) in the same manner.

Both are warm to the touch.

Hardboard is similar in character and physical properties to lumber and plywood, and by nature quite unlike other composition boards. This is dramatically shown in a study by Robert M. Boehm, until recently director of research, Masonite Corp., of the comparative physical properties of 1/8-inch untreated hardboard and lumber and plywood, on the one hand, and paperboard, pulpboard, and wallboards, on the other, a copy of which is attached hereto.

There can be no more graphic evidence of the essential nature and characteristics of hardboard than as shown by common recognized tests Mr. Boehm made.¹ That exhibit shows that the physical properties of hardboard are similar to those of lumber and plywood, hardboard being actually stronger in most tests than plywood, and about on a par with lumber. It shows up strikingly well to those

¹The common tests of physical properties which Mr. Boehm made, that can be reproduced in any laboratory, were of (a) weight, thickness, and specific gravity; (b) dry and wet modulus of rupture (i.e., its breaking strength), and the residual strength; (c) modulus of elasticity (i.e., its stiffness); (d) bond strength (i.e., its resistance to being pulled apart internally); (e) tensile strength (i.e., its resistance to being pulled apart longitudinally); (f) water absorption; and (g) abrasion resistance.

other forms of wood in tests having to do with resistance to moisture or wet strength properties. For example:

	½-inch untreated hardboard	1-inch southern yellow pine	¼-inch Douglas- fir plywood	¼-inch gum plywood
Residual strength:				
After 1 hour in H ₂ O.....	81 percent strength left....	82 percent.	67 percent.	53 percent.
After 24 hours in H ₂ O.....	53 percent strength left....	60 percent.	53 percent.	54 percent.
Water absorption (percent):				
Uptake, 1 hour.....	3.5 percent by weight.....	9.5 per- cent.	19.6 per- cent.	18.7 per- cent.
Uptake, 5 hours.....	7.3 percent by weight.....	16.5 per- cent.	26.3 per- cent.	29.5 per- cent.
Uptake, 24 hours.....	19.2 percent by weight.....	30.5 per- cent.	35.6 per- cent.	57.6 per- cent.
Swell, 1 hour.....	1.0 percent by thickness...	1.2 per- cent.	3.3 per- cent.	1.6 per- cent.
Swell, 5 hours.....	4.2 percent by thickness...	2.1 per- cent.	5.3 per- cent.	2.4 per- cent.
Swell, 24 hours.....	10.0 percent by thickness...	3.7 per- cent.	6.9 per- cent.	4.3 per- cent.
Taber abrasion resistance:				
Dry (CCS loss).....	0.73.....	0.49.....	0.44.....	0.48.
Wet (CCS loss).....	1.43.....	2.25.....	1.72.....	1.90.

Its breaking strength, stiffness, tensile strength, and bond strength are in the same general order as lumber and plywood. This similarity in quality and texture of hardboard to wood has been pointed out continually in the trade literature on hardboard over the past 30 years: It has been pointed out that hardboard "can be sawn, machined like wood," "works like wood," "can be easily worked with ordinary carpentry tools," "can be glued like any other wood board," "wood stains can be applied * * * using the same techniques used for staining wood."

On the other hand, the physical properties of the hardboard are quite unlike those of the other boards Mr. Boehm tested, as shown in the attached exhibit. In a dry condition, one-eighth inch untreated hardboard has vastly different characteristics than such other boards; it is much more dense. It has from 2 to 17 times more breaking strength (modulus of rupture), from 2 to 28 times the stiffness (modulus of elasticity), from 3 to 27 times the bond strength, up to 18 times the tensile strength and from 3 to 35 times the resistance to abrasion.

In a wet condition the disparity is even greater. Paperboards have such little wet strength that they cannot even be given several tests such as residual strength. In other tests they also show up very poorly. For example:

	1/8-inch untreated hardboard	Paperboard range
Water absorption (percent):	<i>Percent by weight</i>	<i>Percent</i>
Uptake, 1 hour.....	3.5	73.7-147.0
Uptake, 5 hours.....	7.3	92.3-162.2
Uptake, 24 hours.....	19.2	115.2-177.2
Swelling, 1 hour.....	1.0	44.8-50.0
Swelling, 5 hours.....	4.2	48.3-53.6
Swelling, 24 hours.....	10.0	51.7-57.2

The wallboards and insulation boards do only slightly better:

	1/8-inch untreated hardboard	Fiber wallboard	Insulation board
Residual strength (percent):		<i>Percent</i>	<i>Percent</i>
After 1 hour.....	81 percent strength left.....	4.0-37.0	4.3-69.0
After 24 hours.....	53 percent strength left.....	2.0-15.0	20.0-38.0
Water absorption (percent):			
Uptake, 1 hour.....	3.5 percent by weight.....	26.8-154.1	6.6-87.4
Uptake, 5 hours.....	7.3 percent by weight.....	60.0-191.8	11.9-235.0
Uptake, 24 hours.....	19.2 percent by weight.....	113.0-204.0	22.7-263.0
Swelling, 1 hour.....	1 percent by thickness.....	12.2-33.3	1.1-3.7
Swelling, 5 hours.....	4.2 percent by thickness.....	18.9-47.2	3.0-11.7
Swelling, 24 hours.....	10 percent by thickness.....	30.5-55.6	6.1-15.1

Thus, the U.S. Tariff Commission, in its March 1955 report on hardboard, found that:

"Hardboard is characterized by a hardness and density greater than that of the wood from which it is made and by high tensile strength, high wet strength, and high resistance to water and abrasion (p. 12).

* * * * *

"In such properties as dry and wet strength, elasticity, bond strength, tensile strength, water absorption, and abrasion resistance, hardboard closely resembles southern yellow pine lumber and gum plywood, and does not at all resemble the various types of paperboard and other fiber building boards" (p. 25).

While hardboard has the major characteristics of wood it is unique in that many of the disadvantageous characteristics of wood have been eliminated. Hardboard will not split, check, or warp. There are no knots or raised grain in hardboard. Hardboard, being grainless, in that the fibers are dispersed in a random manner, has equal strength in all surface directions and is free from the weakness across the grain of natural wood. Hardboard expands and contracts evenly in all surface directions and less than natural wood across the grain.

Hardboard also has unique characteristics of its own. It is more dense than natural wood, that density being uniform unlike that of raw wood. It can be made into thin boards of great width, with improved water resistance. It has great surface hardness and smoothness. It is a light weight, thin material. It has different and distinctive characteristics from those originally possessed by the wood from which made, and in that sense is unlike any other product made from wood. Because of its superior characteristics, hardboard can be used in fields where other forms of wood cannot be used, or if used, are less effective. Thus, in many uses, hardboard is used with, or in lieu of, and directly competes with sheet metals, ceramics, glass, and other materials.

Hardboard is, therefore, definitely not an inferior or shoddy material. It is not synthetic wood. It is rearranged wood, having the major wood characteristics, but being without some of the disadvantages of wood and having many

unique characteristics of its own. To a very considerable extent, the great expansion of hardboard use in cabinets, in furniture, and many other fields covered by these bills is due to the fact that its unique characteristics make for better quality products.

(4) *Hardwood is used with or in place of other forms of wood.*—Because of its characteristics that resemble those of other wood products, hardboard is similar in uses and can be and is used widely in many fields where forms of wood like lumber and plywood are used. As the U.S. Tariff Commission found (March 1955 report, p. 13) :

“Hardboard shares the market with plywood and lumber in a large and growing variety of uses, including * * * (with lithographed simulated wood grain) in flush doors and television cabinets.”

Thus, hardboard is and always has been used like lumber and plywood, as concrete form faces, in outdoor signs, as exterior siding on buildings, in furniture, store fixtures and cabinetwork, as flooring and in boat hulls, in incubators, brooders, shipping containers, telephone booths and as shingles, in baby carriages, and caskets, and in countless other uses where lumber and plywood have also been used. It is regularly used in some of the finest TV and radio cabinets and furniture that is made.

(5) *Hardboard has always been described as a form of wood.*—One of the first Masonite salesmen, and later its vice president in charge of sales, has testified under oath :

“When I first went into the field to sell hardboard, I found that the best approach to selling hardboard to lumber dealers was to present it to him as another dimension and thickness of lumber itself * * *. It was used in practically every way that lumber was used in those days. In other words, it took its place along with lumber with the consumer.”

Hardboard, in essence, is grainless A-grade lumber—“manufactured lumber,” as an early wholesaler advertised it. It has always been used with, or in lieu of, and directly competes with, lumber and plywood. A piece of pre-1930 hardboard in existence is labeled “Tough, Nonwarping, Moisture-Resisting Wood Board.”

In Government circles hardboard is also recognized to be wood. The Army and Navy Munitions Board list of prohibited items for construction work, issued November 8, 1943, under the heading “Wood,” prohibited use of hardboard, except for bench tops for assembly of precision instruments, prefab buildings used outside the United States, reflectors, and hospital wainscoting. In the War Production Board’s schedule A to its controlled materials regulation 6, which during World War II in limiting construction, prohibited use of critical materials in construction, under the heading “Lumber and Lumber Products,” it prohibited the use of hardboard. The Defense Production Authority’s expansion goal No. 96, issued May 13, 1952, provided a \$50-million expansion program for the “lumber and wood products” industry, which included hardboard.

Since it was first made in 1926 hardboard has always been and now is merchandised and sold as a “wood” product, by the use of such expressions as “made from wood,” “wood made better,” “the better, wonder wood,” “grainless wood,” “wood that improves on nature’s best,” “the wonder wood of a thousand uses,” and the like.

The basic patent describes hardboard as a “coherent, grainless, homogeneous, hard, stiff, and strong body of wood,” “a grainless, hard board composed of wood,” “a grainless wood product,” etc.

Hardboard has always been and is sold under such names and registered trademarks as Allwood (Hines Lumber), Presdwood (Masonite), Superwood (Superwood), Lustrewood, Ridgewood, Panelwood, and Leatherwood (Masonite).

Under these circumstances, where hardboard has been characterized as “wood” uniformly by technicians, consumers, dealers, courts, Government agencies and producers, the proposed bills are grossly in error in classifying hardboard as a “nonwood” material. The prejudice to hardwood that can flow from such a legislative misclassification is especially severe, because of the widespread adverse effect it would have on hardboard in many fields of use.

	Wallboard						Insulation					
	Cornell Litho board	Cornell Chippewa board	Upson 3/8-in. board	3/4-in. 4-ply beaver-board	Cornell super board	U.S. Gypsum 3/8-in. sheet-rock	U.S. Gypsum 1/2-in. sheet-rock	Johns-Manville 3/8-in. service board	Homasote 3/8-in. veined textured insulating board	Homasote 3/4-in. striated panel	Homasote 1 1/2-in. insulating board	Celotex 1/2-in. building board No. 11
Weight (pounds per square foot).....	3.220	2,880	2,380	2,430	2,440	1,343	1,180	465	696	672	764	321
Caliper (inches).....	0.104	0.105	0.107	0.107	0.265	0.385	0.500	0.378	0.428	0.452	0.459	0.790
Specific gravity.....	0.61	.057	0.64	0.57	0.53	0.79	0.83	0.31	0.44	0.42	0.41	0.31
Dry M. O. R. (per square inch):												
With.....	3,200	2,850	2,350	2,410	2,450	1,418	1,350	465	691	644	710	336
Across.....	3,500	1,850	1,310	1,410	1,450	1,418	1,350	326	691	644	710	336
Average.....	2,560	2,115	1,945	1,920	1,945	881	765	396	694	658	737	329
Wet M. O. R. (per square inch):												
With (1 hour in H ₂ O).....	480	1,060	462	186	270	322	235	200	534	512	523	223
With (24 hours in H ₂ O).....	220	183	365	82	180	255	231	91	242	230	290	108
After 1 hour in H ₂ O.....	15	37	19	8	11	24	20	43	77	76	68	69
After 24 hours in H ₂ O.....	7	6	15	4	7	19	20	20	35	34	38	34
Residual strength (percent):												
With.....	324,000	321,000	418,000	286,000	292,000	217,000	326,000	47,600	45,100	51,200	69,000	20,000
Across.....	78,600	154,000	307,000	102,000	82,500	156,000	95,000	29,200	53,400	42,200	62,600	20,000
Average.....	201,300	237,500	312,500	194,000	187,300	186,500	210,500	38,400	49,300	46,700	65,800	21,000
Bond strength (per square inch):												
With.....	2,950	3,220	2,920	2,730	2,670	594	398	297	430	455	580	180
Across.....	1,190	1,120	1,035	1,075	1,060	130	148	184	453	470	480	253
Average.....	2,070	2,170	1,978	1,900	1,865	362	273	241	442	463	530	217
Water absorption (percent):												
plate 1 hour.....	44.7	26.8	113.1	135.0	113.0	47.4	43.8	87.4	7.4	6.7	6.6	21.1
Swell 1 hour.....	24.5	12.2	29.4	26.8	22.3	3.3	2.0	3.0	2.1	1.6	1.1	3.7
plate 3 hours.....	62.4	60.0	128.0	187.4	153.2	49.2	44.2	285.0	14.2	12.7	11.9	38.0
Swell 3 hours.....	47.2	18.9	34.7	41.1	26.8	3.6	2.5	11.7	7.2	4.9	3.0	7.7
plate 24 hours.....	115.0	113.0	130.0	204.0	167.0	50.4	45.9	263.0	34.8	34.8	22.7	65.0
Swell 24 hours.....	55.6	30.5	37.1	45.0	29.0	4.1	2.5	12.8	15.2	12.2	7.0	15.1
Tabular abrasion resistance:												
Dry (CCS loss per thousand cycles).....	3.13	2.82	4.13	2.8	4.9	8.72	5.46	4.19	2.96	2.41	3.64	5.02
Wet (CCS loss per thousand cycles).....	31.90	33.60	52.0	72.0	62.0	82.2	85.4	209.0	73.8	53.90	62.2	90.1

Senator HARTKE. Mr. S. M. Hunn, National Electrical Manufacturers Association, New York.
Good afternoon, sir.

STATEMENT OF S. M. HUNN, SECRETARY, DECORATIVE LAMINATE SECTION OF THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION

Mr. HUNN. I have filed a statement and would like to have that entered into the record.

Senator HARTKE. Without objection, it is so ordered.

Mr. HUNN. My name is S. M. Hunn.

This statement is filed in opposition to S. 1724 and in behalf of the Decorative Laminate Section of the National Electrical Manufacturers Association. The members of this section are shown on the attached list with their trade names.

(The list and the statment follow:)

Member companies of Decorative Laminate Section of National Electrical Manufacturers Association

	<i>Trade name</i>
The BoMyte Co., Green St., Silverdale, Pa.....	Bo-Myte.
Consoweld Corp., 700 Hooker St., Wisconsin Rapids, Wis.....	Consoweld.
Decar Plastic Corp., 2309 North Manheim Rd., Melrose Park, Ill....	Decarlite.
Dural Division of Caradco, Inc., 1098 Jackson St., Dubuque, Iowa.	
Fabricon Products, a division of the Eagle-Picher Co., 1721 West Pleasant Ave., River Rouge 18, Mich.	Lamin-Art.
Formica Corp. (a wholly owned subsidiary of American Cyanamid), 4600 Spring Grove Ave., Cincinnati 32, Ohio.	Formica.
General Electric Co., Coshocton, Ohio.....	Textolite.
McNeff Industries, Inc., 2414 Vinson St., Dallas, Tex. Mail address: Post Office Box 10626, Dallas 7, Tex.	McNeff.
National Plastic Products Co., Inc., Odenton, Md.....	Nevamar.
Northern Plastics Corp., 1002 Front St., La Crosse, Wis.	
Panelyte Division, St. Regis Paper Co., 2403 South Burdick St., Kalamazoo, Mich.	Panelyte.
Parkwood Laminates, Inc., 134 Water St., Wakefield, Mass....	Parkwood.
Pioneer Plastics Corp., Pioneer Ave., Sanford, Maine.....	Pionite.
Reiss Associates, Inc., Reiss Ave., Lowell, Mass.....	Railite.
Virco Manufacturing Corp., 15134 South Vermont St., Post Office Box 44846, Hancock Station, Los Angeles 44, Calif.	
Westinghouse Electric Corp., Hampton, S.C.....	Micarta.
Ralph Wilson Plastics, Inc., 600 General Bruce Dr., Temple, Tex. Mail address: Post Office Box 3507, Temple, Tex.	Wilson Art.

STATEMENT OF THE DECORATIVE LAMINATE SECTION OF THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION, NEW YORK, N.Y., S. M. HUNN, SECRETARY

This statement is filed in opposition to S. 1724 and in behalf of the Decorative Laminate Section of the National Electrical Manufacturers Association. The members of this section are shown on the attached list with their trade names.

These companies manufacture high-pressure decorative laminated plastics, a product which is well known to committee members. It is that product which they have in their own homes, covering sink and vanity tops in bathrooms and bedrooms, kitchen work surfaces, and kitchen tabletops. This product is also used extensively in the home as a surface material for fine furniture and wall paneling. It is used for similar applications in restaurants and other public places.

Under no circumstance would this product, decorative laminated plastics, ever be used to deceive the public as an imitation of hardwood.

The fine qualities of hardwood are well known, but decorative laminated plastics have certain superior qualities, particularly in surface characteristics. These include hardness and resistance to abrasion, stains, heat, and cigarette burns. It is qualities such as these that enable decorative laminated plastics to be used successfully where hardwoods cannot. Therefore, it would be detrimental to our interests to advertise or to sell to the public on the basis that decorative laminated plastics are simulated hardwood.

Decorative laminated plastics have achieved their extensive markets and acceptance by the public because of their many superior qualities, and peculiar fitness for certain applications, not because they are a simulated or substitute product.

The public is not fooled. It well knows and demands these superior characteristics.

We affirm, therefore, that decorative laminated plastics are not misbranded, nor falsely advertised, nor falsely invoiced, and that the public is not presently deceived.

On the other hand, we believe that the public would be deceived and confused if S. 1724 were passed.

Decorative laminated plastics can be produced with a great many surface finishes. Beside wood grains these include linen, pearl, sand, crystal, marble, charcoal, and oyster shell.

If this bill is passed for the benefit of hardwood producers, we believe it would not be long before other special interests would ask for similar legislation.

In fact, suggestion has already been made that similar legislation be passed in behalf of softwood manufacturers.

In summary, we believe that this proposed bill is unnecessary, misleading, and confusing to the public, and is in effect "class legislation," favoring one line of product over all others. This bill would be seriously detrimental to decorative laminated plastics which the public readily recognizes and demands in preference to other kinds of surfacing material.

If the committee feels that some legislation along these lines is needed, we respectfully request that decorative laminated plastics be specifically excluded and that the word "simulated" be deleted. Also, we recommend that the following be added in an appropriate place: "The name of any hardwood species may be used to describe the surface appearance of a product which is otherwise clearly identified as to its composition."

This foregoing recommendation is in accord with testimony made by the Fine Hardwood Association before the U.S. Senate that manufacturers should not be prohibited from copying the appearance of hardwood; i.e., the grain effects.

Mr. HUNN. These companies manufacture high-pressure decorative laminated plastics, a product which is well known to committee members. It is that product which they have in their own homes, covering sink and vanity tops in bathrooms and bedrooms, kitchen work surfaces, and kitchen tabletops. This product is also used extensively in the home as a surface material for fine furniture and wall paneling. It is used for similar applications in restaurants and other public places.

Now, Senator, when you or your wife selected the material for your own home, I don't believe you picked it out on the basis of the fact that it was a simulated hardwood. You picked it out because it had certain fine qualities, far superior to hardwood. Therefore, this product, laminated pastics—high-pressure laminated plastics—would never be advertised or sold on the basis that it was as good as or as simulated hardwood.

The public knows the qualities of laminated plastics and therefore they seek it, in preference to hardwood products.

Under no circumstances would this product, decorative laminated plastics, ever be used to deceive the public as an imitation of hardwood.

The fine qualities of hardwood are well known, but decorative laminated plastics have certain superior qualities, particularly in surface characteristics. These include hardness and resistance to abrasion, stains, heat, and cigarette burns. It is qualities such as these that enable decorative laminated plastics to be used successfully where hardwoods cannot. Therefore, it would be detrimental to our interests to advertise or to sell to the public on the basis that decorative laminated plastics are simulated hardwood.

Decorative laminated plastics have achieved their extensive markets and acceptance by the public because of their many superior qualities, and peculiar fitness for certain applications, not because they are a simulated or substitute product.

The public is not fooled. It well knows and demands these superior characteristics.

We affirm, therefore, that decorative laminated plastics are not misbranded, nor falsely advertised, nor falsely invoiced, and that the public is not presently deceived.

On the other hand, we believe that the public would be deceived and confused if S. 1724 were passed.

Senator HARTKE. Mr. HUNN, I am sorry to interrupt. That noise you heard is the bell for a vote on the amendment to the United Nations bond issue and I will have to return to the floor. I am willing personally to return as soon as I can from the floor. If there are witnesses who do want to be heard in person—I make that inquiry because I have no assurance what time I may be able to return.

Mr. KECK. Mr. Chairman, there are two of us at least that would like to be heard, if we may.

Senator HARTKE. At this time the committee will recess, subject to call by the chairman.

(Thereupon the committee took a recess from 4:10 p.m. to 4:25 p.m.)

Senator HARTKE. We will resume the hearings on S. 1724.

Mr. HUNN?

Mr. HUNN. Because of the fact that laminated plastics is a superior product, we would like to see the word "simulated" deleted from this bill, because it implies a simulated product is an inferior product.

Secondly, we would like to see added to the bill, in an appropriate place, the following statement:

The name of any hardwood species may be used to describe the surface appearance of a product which is otherwise clearly identified as to its composition.

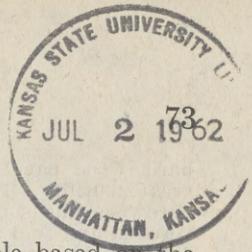
Lastly, Senator, we request the need for this legislation in view of the fact that we believe the Federal Trade Commission has adequate powers now to proceed against anybody misbranding furniture.

Senator HARTKE. Are you in favor of the general provisions, if these changes are made to the bill?

Mr. HUNN. We are in favor of proper labeling, which we think our product has now. The need for additional labeling for other purposes, other than for laminated plastics is something I am not familiar with. But we would like to see laminated plastics specifically excluded from the requirements of this bill.

Senator HARTKE. As I recall, I think the top of this desk here is a plastic surface.

Mr. HUNN. Quite possibly.



Senator HARTKE. Formica.

Mr. HUNN. Yes, sir.

Senator HARTKE. Yet it has the appearance of wood.

Mr. HUNN. But you would not purchase this table based on the fact that it looks like hardwood. You would purchase this table because it has resistance to staining, resistance to cigarette burns. That is what the consumer has in mind when he purchases this table.

Senator HARTKE. I am not arguing that point with you or discussing that point with you. The idea is that to the ordinary person, however, this, on observation, is not distinguishable without some type of identification.

Mr. HUNN. It would have a label on it: "laminated plastic."

Senator HARTKE. I asked for a dictionary when you said "simulated" implied something inferior. The dictionary I have is Webster's New Collegiate Dictionary. It was not my understanding of the word. "Simulate" is "to assume the appearance of, without the reality." I would think that is a fair and accurate definition of what is involved here.

It assumes the appearance of wood, without the reality of wood.

Mr. HUNN. That is the dictionary definition, but the definition in the mind of the public, when they see the word "simulated" is it is an inferior product, hardwood is better, therefore this is something inferior.

It is that moment's decision on the part of the consumer, when he sees that word, that he immediately does not want it.

Senator HARTKE. I am not going to argue with your opinion of what the opinion of others may be.

Thank you, sir.

The next witness is Mr. Keck, Robert C. Keck, counsel for the American Hardboard Association of Chicago.

**STATEMENT OF ROBERT C. KECK, REPRESENTING THE AMERICAN
HARDBOARD ASSOCIATION, CHICAGO, ILL.**

Mr. KECK. Mr. Chairman, I have a prepared statement which in accordance with your admonition this morning, I would be pleased if it were put into the record.

Senator HARTKE. Without objection, the entire statement will be made a part of the record at this time.

(The statement referred to follows:)

STATEMENT OF ROBERT C. KECK

I am Robert C. Keck, of Chicago. I appear on behalf of the American Hardboard Association, 205 West Wacker Drive, Chicago 6, Ill., an association of hardboard manufacturers, in opposition to the decorative hardwood and simulated hardwood products labeling bill, S. 1724.

Thirty-six years ago hardboard became an American invention of a lumberman of a way to use sawmill slab waste and edgings in lumber mills around Laurel, Miss. I emphasize that Mr. William H. Mason and his associates were "lumbermen" concerned with lumber and wood products, for that has been the story of hardboard and its producers to this day.

Hardboard is a dramatic improvement on nature's way of making wood. It is made in an ingenious manufacturing process in which the desirable qualities of the wood are accentuated, the undesirable tendencies are eliminated, and new desirable characteristics are added. The resulting product is a wide, thin,

hard, wood panel material, that is actually good wood made better, having greater utility. It is rearranged wood, being made from treewood of both hardwood and softwood species. For over 30 years, hardboard has been advertised and sold as wood made better that will not split, splinter, or crack. I dwell on the nature of hardboard because of obvious misconceptions about it held by proponents of the pending bills.

I call the committee's attention to the fact that what consumers know and are constantly being told about hardboard is visually represented in panels in the hearing room. We invite the committee to examine the Marlite Panel which is an all-wood panel of Marlite and the folder containing typical advertisements of that fine product appearing in the leading women's magazine as well as in trade journals, organs, etc. Panels 1, 2, and 3 contain literally hundreds of representative newspaper and magazine stories about hardboard, appearing in the last year in media from coast to coast and border to border. They illustrate what hardboard is, that it is a wood product, that it is commonly woodgrained, and that it is an excellent material for paneling, remodeling, furniture, and the like. Panel 5 is a display of unsolicited furniture ads in leading cities across the country, in which hardboard is advertised.

The hardboard industry is proud of its products and of the even greater part they play in furniture, cabinetry, wall paneling, and even floor covering, that would be affected by this legislation. It does not condone misrepresentation or deception regarding the products in which hardboard is used. On the other hand, it is opposed to this special legislation for the benefit of the few, and as representing a dangerous and unnecessary invasion of private enterprise.

The far-reaching effects of this bill can be appreciated when it is realized that conservatively it would control and affect at least 100 million sales transactions a year: 60 million furniture sales; about 8 million radio and television sales; and an estimated 32 million sales annually of wall paneling, partitions, ceiling paneling, floor covering, doors, prebuilt cabinets, pianos, organs, violins, juke boxes, and other musical instruments and the other products involved. That is 6,600 sales a minute—320,000 every business day—the year round. An entire new brigade of FTC investigators would be required to police the products regulated.

Specifically, the hardboard industry is opposed to this bill, and to the vast, new regulatory scheme envisaged, for several basic reasons:

- A. *This bill is a form of special legislation aimed at protecting the producers of hardwood veneer against competition from other materials and finishes used in furniture, wall and ceiling paneling, floor covering and the other products covered*

This fact is not denied:

An executive of that veneer group told this committee in 1959 and also a House committee in 1960, in hearings on similar legislation, that "The hardwood industry certainly expects this bill to help their sales * * *" (Senate committee report, p. 36, House committee report, p. 168).

The furniture industry trade press has stated:

"These are bills to promote a competitive advantage for a supplier group at the expense of the furniture industry, and not for the protection of the customer as the preamble indicates. We are the customers, and the proponents of the bills want to regulate our buying and do so by requiring us to label our products. * * * the ultimate consumers, Mrs. America, doesn't demand lumber in her furniture from the XYZ Lumber Co. or veneer plant. She wants, demands, buys Baker, Tomlinson, Kroehler, Drexel, Heritage, Baumritter, etc., and not some integral part of the whole" (Furniture Production, June 1959, p. 94).

A Federal Trade Commission Chairman, in his 1959 testimony regarding Senate versions of this same bill, characterized it as "* * * special legislation beyond a doubt * * *".

"* * * it is special legislation. It deals with a special industry, and in those instances I think the Congress should be very careful about adopting such legislation on principle" (Senate committee report, pp. 19-20).

This same special interest conclusion was apparent in proponents' testimony in the House committee's June 1960 hearings. Wanting other materials labeled, one said:

"We do not believe that it is essential for the act to provide for labeling of decorative hardwood products made of genuine hardwoods" (committee report, p. 43).

Another said:

"We do not think it is necessary that all producers of genuine hardwood be required to label their products" (committee report, p. 39).

At 1961 hearings before the same House committee, a proponent insisted on "full and honest disclosure," and at the same time testified that:

"We do not think it necessary that all producers of genuine hardwood be required to label their genuine products" (House committee report, pp. 73, 76).

Each of these diverse interests at different times reached the same conclusion of special interest legislation, undoubtedly because of the highly unusual and discriminating features of the bill, to which we take exception:

1. *The bill deals only with hardwood; it leaves uncovered the softwoods that are used extensively in decorative wood products.*—Confusion and deception of the buying public may be quite as fraudulent or unfair with respect to softwood products as in the case of hardwoods. Certainly the Federal Trade Commission so believes (1960 hearings, report p. 70; 1961 hearings, report, p. 11). Both hardwood and softwood grain patterns are commonly simulated for decorative purposes. Softwoods in common use include cyprus, pine, redwood, yew, hemlock, cedar, fir, ponderosa, spruce, and others. There is no demonstrated need for a distinction of requiring labeling of hardwood items and items that simulate hardwoods, and not applying the same labeling requirements to decorative softwood products and their imitations. Proponents say that the bill omits softwoods because a substantial majority of the softwood people do not want to be included (1960 hearings, report, p. 31)—a reason having little or no persuasiveness in determining whether there is a sound distinction between softwoods and hardwoods.

Neither logic nor experience supports such a distinction, particularly where the line of distinction between whether a particular tree should be classified as a hardwood or a softwood, and also whether a particular simulation is a simulation of a hardwood species and not a softwood species, often involves controversies difficult to resolve.

2. *The bill would illogically require that simulation products be labeled not only what they are but also the particular species of hardwood simulated.*—Such a double-barreled mandatory labeling requirement not only finds no counterpart in existing labeling laws (that require only labeling of what the product is), but leads to an impossibility of proving in many cases that the particular simulated "grain, figure, or growth characteristics" are of a specific species of hardwood. This follows from the fact that every single piece of hardwood veneer is unique and different, and there are hundreds of different hardwood species—not just walnut, mahogany, and cherry.

3. *Moreover, the bill does not consistently apply even that test alike to hardwoods and to other materials.*—Today, over 90 percent of wood furniture and paneling is said to be made from plywood. The top surface hardwood veneer is but one sixty-fourth inch or one twenty-eighth inch thick covering other plies of much less valuable hardwoods, softwoods, or other materials. Typical furniture core constructions are shown on panel 6 at the rear of the hearing room. There are at least 695 species of hardwoods of widely varying quality and value (Department of Agriculture, Publication No. 217, January 1936, p. 3). Despite these conceded facts, this bill does not require any labeling or product identification when there is a top, paper-thin layer of hardwood other than that "genuine hardwood veneer" or "plywood." Thus, if the bill was enacted as written, the law itself might well impose a species of deception upon the public, in misleading the purchaser into the erroneous belief that the product or even parts of it was all hardwood when in fact the undisclosed wood plies contained little or no hardwood excepting the thin layer covering the outer surface. Moreover, to label hardwood veneers simply "genuine hardwood," or even "genuine hardwood veneers," is of no value in informing the public even the surface wood they are getting for their money, let alone the identity of the underlying layers. Certainly, the public should be told that a gum, maple or aspen veneer, and not a walnut or mahogany one, is involved, and that the underlying plies are of other species or materials, when that is the fact.

In fact, this fact is the Achilles heel of the proponents of this special interest legislation. Why isn't the public to be told by labels, what is under that one twenty-eighth-inch-thick veneer of hardwood?

4. *The bill applies the regulatory labeling yoke only skin deep when the proponents' one sixty-fourth to one twenty-eighth of an inch thick hardwood veneer is involved, but all the way down into the underlying materials when competitive*

materials are involved.—In practical effect, the veneer people would be freed from labeling their underlying materials other than “genuine,” while their competitors would have to identify their underlying materials by labeling. This double standard means that, on the one hand, if the surface is a material other than hardwood veneer or solid hardwood that surface and the underlying materials must be labeled not only what they are but also the hardwood species simulated, even though the simulation finish is on a plastic or high-pressure laminate cover and, on the other, if the top surface is one sixty-fourth of an inch of hardwood veneer, other underlying materials need not be identified even though in trade usage, we are told they may carry the name of the surface veneer, and the surface need only be called a “genuine hardwood veneer.”

Such veneration (the proponents say “traditionally hallowed,” 1961 hearings, report, p. 39) of hardwood veneers—even those such as aspen and gum—is of course, the rankest hypocrisy.

5. *The bill, by legislative fiat, would downgrade all competitive materials containing simulated wood grain finishes.*—It would require them to be labeled “simulated,” and permit all hardwood veneers (which are themselves but decorative finishes applied to feign that the entire assembly is better than it is) to be called “genuine,” a practice finding no counterpart whatsoever in prior labeling statutes. We appreciate that the word “simulated” is less odious than “imitation” that appeared in prior bills, especially in light of the proponents’ testimony to the House committee that “no other words is quite so expressive or conveys to the consumer the truth of the matter as well as ‘imitation’” (1960 report, pp. 34, 169).

In their testimony in 1961, proponents again used the words “imitation” and “fake” in their testimony. We nevertheless strenuously object to part of a class being called “simulated,” and a part “genuine,” when the distinction is not valid. Perhaps this terminology change was prompted by the vulnerability of the veneer people to an “imitation” of solid wood by placing their playing-card-thin sheet over a base core, as was pointed out by the Federal Trade Commission in the 1960 and 1961 hearings.

6. *Underlying this bill is the erroneous assumption that all simulated hardwood grain or pattern finishes, now commonly seen on hundreds of products, from station wagons, cash registers and restaurant tables to picnic plates, wall-paper and matchbook covers, are intended to palm off such products as hardwood.*—On the contrary, simulated wood grain finishes are so widely used today on so many products simply because they provide a warm, attractive finish or color to blend in with other furnishings and not to imitate veneer, which itself is but a small, playing-card-thin sample of the solid wood of that species. I call your attention to panel 7, to your right, where we exhibit representative articles given a wood grained finish, including asphalt floor tile, cigarette boxes, tobacco pouches, picnic plates, gypsum boards, etc.

This bill would ignore the common descriptions given in advertising, pointing out that simulated wood grain finishes are only “finishes” or “colors,” or are improved, durable, plastic finishes. In this respect, this bill misconceives the intelligence of the American people. It would have the Government enter the competitive fray of materials one sidedly for the benefit of the hardwood veneers, protecting customers paternalistically whom the proponents believe cannot or will not read.

The basic philosophy of this type of legislation can only lead to innumerable other labeling bills for marble, flowers, rubber, tobacco, and innumerable other decorative and other articles that are commonly simulated.

These six reasons illustrate the “special interest” features that are characteristic of the pending bill, of discriminating in favor of decorative hardwood veneers and against all competitive materials. The chief beneficiaries of this bill openly state that it would be meaningless to the consumer to know what is underneath a layer of the one sixty-fourth inch to one twenty-eighth inch thick top veneer on furniture, wall coverings, and so forth, even when the underlying material is a competitive material, but that where such a veneer is absent the consumer must by law be told by labels what is “underneath.” Quite obviously, to the extent this bill is consumer oriented, if there is to be any mandatory labeling of decorative hardwood products, then all should be made to disclose the true composition of the “underneath layer” in a nondiscriminatory manner.

Where such a top surface veneer may be as little as 2 or 3 percent by weight or volume of the furniture or wall panel top or assembly, the presence of that 2 or 3 percent, pretending by decorative appearance that the other 97 to 98 per-

cent is of the same material, should not preclude the consumer being given the facts. If we are to have labeling, let it be fair and impartial labeling as to all materials.

But the discriminatory labeling features of the bill brought about by the special interest character of the legislation are not its only infirmities:

B. The bill omits important features needed to insure effective enforcement

1. *Unlike earlier bills, this bill omits entirely any provision for a wood products name guide, that would provide a reliable guide for manufacturers for correct terminology.*—What standards are FTC to apply? What names are a manufacturer to apply—particularly when he is simply trying to present a pleasing design or an artistic rendition of wood graining?

2. *The pending bill similarly omits any requirement for correct name disclosure in invoices.*—This omission, the Federal Trade Commission has made clear (1961 hearings, report, p. 12), weakens the bill and makes its enforcement more difficult. This omission is particularly ironic in light of the proponent's continued misrepresentation in this and prior hearings of the facts concerning supposed "invoices" of a plastic coated hardboard product known as Marlite, which the committee now knows were but warehouse packing slips. The true facts on those particular "invoices" afford a means, and an important means, whereby an honest merchant can protect himself with respect to questioned labels.

C. Where, as here, the proposal is patently special legislation, that would create a vast, new and exceedingly expensive bureaucracy to enforce, it can be justified only by the most compelling need to protect the consuming public

As a former Federal Trade Commission Chairman put it:

"* * * the Commission favors specific labeling legislation of the type proposed only in those areas where there has been demonstrated a strong consumer need. Based on presently available information, we are not aware of the extent of the need for this type of legislation.

* * * the Commission, basically * * * has felt that the record should be made here before the Congress showing the compelling necessity for the legislation" (1959 Senate committee report, pp. 14, 18).

Yet, no such compelling need has been shown. If this type of legislation were needed for consumer protection, one would have expected consumers and consumer groups to have besieged this committee for a chance to be heard. Yet, most of those present represent material and product producers and distributors, and even they are in sharp disagreement as to the need for this legislation. The veneer people (the Fine Hardwoods Association) favor the bill, and others (the National Oak Flooring Manufacturers Association, the National Association of Furniture Manufacturers, the Southern Furniture Manufacturers Association, the Southern Hardwood Producers, Inc., American Hardboard Association, Gypsum Association, and so forth), oppose it here and before the House.

D. This bill would fallaciously classify hardboard as a "nonwood" material, the competitive consequences of which can be most serious for hardboard

The bill seeks to accomplish this by referring to hardboard as "fiberboard," and then by listing it as other than "wood" along with "plastic, metal, gypsum, paper and film" (secs. 2(c), 4(c)).

This anomaly could only have resulted from a determined misunderstanding of hardboard in light of the fact that for over 30 years it has been a generic term for the products of the industry I represent. (See app. 1 and panels 2, 3, 4, and 7 in the hearing room.) Thus, a veneer spokesman said in both the 1959 and 1960 hearings:

"The sample numbered 1 (hardboard) is made of fiberboard, sometimes called 'hardboard.' It is a composition material made from wood fibers and adhesive" (Senate committee report, p. 23; House committee report, p. 11).

He said the same thing in the 1961 hearing (p. 40), except that he omitted the words "and adhesive." He apparently now knows that there is no adhesive in the hardboard. Other proponents referred in the 1960 and 1961 hearings to "some nonwood material such as fiberboard," and another to "fiberboard and other nonwood materials."

We have news for those proponents of the bill—hardboard is every bit as much wood as hardwood veneer, and is emphatically not a "composition" material held together by an "adhesive." There is more wood in hardboard

of a given thickness than there is in plywood of the same thickness, having in mind the glues and adhesives in the latter.

The fact that hardboard is a generic term for a wood product is so obvious that the August 1961 Reader's Digest so refers to it (p. 152) in describing the "Healing of the Tillamook Burn in Oregon."

Because it is so vital to our industry that the Congress understand what hardboard is and avoid finding legislatively that it is a nonwood product, which it is not, O. W. Frost, director of research and development of Masonite Corp., who has had 39 years of experience in hardboard and the wood business, and is considered the dean of that industry, will give the facts in a separate statement. Suffice it to say, hardboard is wood and a wood product, being made of wood and retaining all structural elements of the original wood; being bonded together with a wood-type bond by lignin, the natural cementing material that binds all wood together; and having always been described as a form of wood. It cannot so easily be read out of the "wood" family.

E. This bill is the antithesis of the competitive ends sought by the antitrust laws

The late Harry A. Babcock, Executive Director of the Federal Trade Commission, and a distinguished antitrust lawyer, has said:

"I would call your attention to the fact that a trader is no longer free to conduct an honest and reputable business in wool, in furs, or manmade fibers. He may sell an excellent product, he may describe it honestly and indulge no deceptive, fraudulent, or immoral practice, yet he becomes a law violator in so doing if he does not place upon his products labels of a certain size containing certain information. In this connection, the product, of course, is not one which is related to public health, safety, or other characteristics which attach a special public interest.

"Now I take it justification for this type of legislation, generally styled 'consumer legislation,' is to be found in the conviction of the Congress that it is protecting the public and that this type of legislation is essential to that end. This may be true. I only point out that it is at variance with the concepts of former antitrust legislation" (The Antitrust Bulletin, January-February 1960, p. 31).

What Mr. Babcock meant is that this kind of legislation bears no relation to the traditional ends of the police power, public health (under which, for example, foods must be labeled); public safety (under which stop-and-go lights are justified); public morals and the public welfare. Witnesses speculate about this legislation that "if furniture were eaten" a pure food and drug type of regulation would be justified. However, unlike the Pure Food and Drug Act that is justified as a regulation in the interests of public health, furniture and wall paneling has no relation to either public health, public safety, public morals or the public welfare. On principle, there is no more need or justification for this kind of regulation than that for labeling any other product. If this is passed, then Pandora's box is opened wide.

F. If FTC is to be given power to concern itself with intrastate retailing, such a vast extension of its power should be separately considered on its merits and not obliquely in labeling legislation

If FTC should be given such broad power, that power should not be limited to just the products affected by this bill. It is an extraordinary step to empower the Commission, as would section 4(1) of these bills, to concern itself not only with deception but also with misrepresentation regarding price, terms of sale, quality, etc., in local retailing.

Many of our objections to this bill can be corrected if there is a will to be fair. In order that I may not be misunderstood, I propose the following amendments:

AMENDMENT 1—TO REMOVE THE BILL FROM CATEGORY OF SPECIAL LEGISLATION

The pending bill is designed to require disclosure by labeling, and to control misbranding, of products with simulated wood grain patterns of all underlying materials excepting only hardwood veneers, which, regardless of species, can be labeled simply "genuine hardwood veneers" or "hardwood veneered construction, simulated teak grain." This surprisingly discriminatory result has been explained by the veneer spokesman as follows:

"Hardwood plywood is always identified by the face species and the hardwood industry agrees with furniture manufacturers and retailers that requiring that labels spell out the species of each underneath layer would be meaningless to the consumer and would create an unnecessary burden on the manufacturer."

In other words, the chief beneficiary of this bill believes that it would "be meaningless to the consumer" to know what is underneath a layer of the one-twenty-eighth-inch to one-sixty-fourth-inch top veneer on furniture, wall coverings, etc., but that where that veneer is absent the consumer must by law be told by labels what is "underneath." If there is to be labeling of decorative hardwood products and simulated hardwood products then the true composition of the "underneath layer" in all cases should be disclosed.

This inequitable result can be corrected by amending section 2(f) of the bill to read as follows:

"(f) The term 'exposed surface area,' as used in the definition of 'decorative hardwood or simulated hardwood products,' means any exterior surface, including such surface to a depth of one inch, which is exposed to view when the product is installed or placed in normal position."

Section 2(h) defining "structure surface covering" should be similarly amended. This same result could also be accomplished by amending the bill to require the disclosure of the composition of all furniture, wall paneling, floor covering, etc., that is or resembles hardwood or that has a hardwood grain finish.

AMENDMENT 2—RECOGNITION OF HARDBOARD AND NOT FIBERBOARD AS A GENERIC TERM

Sections 2(c) and 4(c) use the word "fiberboard" as descriptive of hardboard, and the proponents of this bill speak of it as "composition board."

Actually, hardboard is a generic term for the type of hard, dense wood board the hardboard industry produces. (See app. 1.)

Actually, also, hardboard is wood, for the reasons I have stated.

It is suggested that the term "fiberboard" in sections 2(c) and 4(1)(C) either be changed to "hardboard," or to "wood products." If the bill is to apply to hardboard it should say so accurately.

AMENDMENT 3—ARBITRARILY LIMITING BILL TO "HARDWOOD" AND NOT ALSO TO "SOFTWOOD"

This bill is carefully limited to "hardwood" and does not cover "softwood." Therefore, it would only reach the furniture, wall coverings, etc., in a room to the extent that they involved hardwood grain patterns. Thus, the knotty pine paneling on a wall and pine cabinets and furniture would not be covered by the bill, even though intermixed in the same room with decorative "hardwood" furniture.

It is suggested that the word "hardwood," wherever used in the title and text of this bill, be changed to the word "wood," and that the term "wood" be made a defined term in section 2 of the bill as meaning "any product originating from trees which retains its whole natural fibers, after being converted into a finished product."

AMENDMENT 4—REGULATION OF IMPORTS

The Treasury Department, in agency comments on similar bills, has pointed out quite properly that it is not clear from the bill whether the Customs Service should deny entry to misbranded decorative hardwoods. That is to say, unlike other labeling acts; i.e., Textile Fiber Products Identification Act (15 U.S.C. 70g) and Fur Products Labeling Act (15 U.S.C. 69f), that are expressly applicable to imports, this bill is silent on the subject. If there is a compelling need for regulation of domestic products, it would appear that that need would be equally applicable to imported products.

We suggest that a new section be added to the bill that is the equivalent to 15 U.S.C. 69(f), 70(g).

AMENDMENT 5—DELETION OF CONDEMNATION REMEDY

Section 7 of the pending bill provides for the extreme remedy of confiscation by process of libel for condemnation of misbranded and mislabeled products, in addition to the remedies of injunction and criminal penalties. This unnecessarily harsh remedy would greatly increase the present regulatory powers of the Federal Trade Commission now applicable to the branding and labeling of

such products in the form of cease and desist orders for violation of section 5 of the Federal Trade Commission Act to include seizures and condemnation, with the attendant submission of manufacturers to litigation in innumerable jurisdictions wherever their product is sold.

We urge that section 7, insofar as it relates to confiscation by process of libel in condemnation, be deleted.

AMENDMENT 6—ALL, NOT PART, OF THE SIMULATED FINISHES

Although section 2(c) of this bill, in defining "simulated hardwood," refers to the imitation of any wood grain, figure, or growth character applied "by printing or any other process," section 4(c) refers to a "printed or engraved surface" which for inexplicable reasons would exclude the common method of applying simulated wood grain finishes by a preformed decalomania process and by other processes. Thus, a simulated wood grain finish on plastic must be labeled if the finish is "printed or engraved," but not if by the use of a preformed lacquer decalomania.

Moreover, in the manufacture of furniture and paneling involving the use of hardwood veneer, often a lower quality veneer is upgraded through the use of a decalomania that contains grain and figure marks.

We urge that section 4 be amended to spell out that the labeling should describe fully the kind of finish applied where either hardwood grain, figure, or growth character, or color, or both, are artificially induced.

AMENDMENT 7—INVOICING

The bill should be amended to include a requirement for disclosure of the correct names in invoices as does the Fur Products Labeling Act. The omission of such a requirement from the pending bill certainly weakens it and makes enforcement more difficult.

AMENDMENT 8—WOOD PRODUCTS NAME GUIDE

This bill, unlike its predecessors in the 86th Congress omits entirely the provision for establishing a wood products name guide. If wood labeling legislation is to be passed requiring disclosure of the correct common name of the wood in a product or a simulated finish, it should contain a provision for establishment of an official name guide, as was done in section 7 of the Fur Products Labeling Act of 1951.

APPENDIX TO R. C. KECK STATEMENT

"HARDBOARD" AS A GENERIC TERM

Over the last 36 years, "hardboard" has become and is well recognized as a generic term used to describe a hard, wide, thin, dense wood board, composed of wood fibers, having a high tensile strength and density and low water absorption, in which the wood lignins serve as the binder to reweld the wood fibers into a compact mass which in essence is reconstituted wood. It is a term that not only connotes that type of board but which differentiates other kinds of boards such as soft or insulation board, particle boards that have a synthetic resin binder, gypsum boards, wallboards, etc.

Mr. William H. Mason, the inventor of Masonite Presdwood (a registered trademark and brand name for Masonite's hardboard), first used the term "hardboard" 35 years ago in the claims of his basic hardboard patent. See U.S. patent No. 1,663,505, product claims 9, 10, 22,¹ applied for September 18, 1925. He also commonly used the term "hardboard" in referring to his company's Presdwood in the years that followed. See, for example, the February 24, 1927, issue of Paper Trade Journal, page 134; i.e., "Hard Board—Presdwood."

¹ "9. A grainless hardboard composed of wood which has been disintegrated into substantially fibrous state, and which is denser than and comprises substantially all the substance of the original wood, and practically completely freed from moisture in the making.

"10. A grainless hardboard composed of wood which has been transformed by explosion into substantially fibrous state, and which comprises substantially all the substance of the original wood, and has a specific gravity of approximately one.

"11. The process for making grainless hardboard of wood which includes the steps of disintegrating wood into substantially fibrous state, and which comprises substantially all the substance of the original wood, and practically completely freed from moisture in the making.

When, in 1933, this same patent was involved in infringement litigation, and was adjudicated to be valid, in *Masonite Corporation v. The Celotex Company et al.*, 166 F. 2d 451, the Third Court of Appeals said:

"The product here in question is known to the trade and in this litigation as 'hardboard', the sole substance of which is wood fiber."

In *United States v. Masonite Corporation*, 40 F. Supp. 852, 854 (S.D.N.Y. 1941), the court said:

"The term 'hardboard' is widely understood to mean the patented product manufactured by Masonite Corp. under the basic Mason patent, No. 1,663,505, issued March 20, 1928; this product is to be distinguished from insulation board, which is a softer board produced in different ways by various manufacturers, and not directly involved in the present litigation."

On appeal, the U.S. Supreme Court said in *United States v. Masonite Corporation*, 316 U.S. 258, 267-68 (1942):

"* * * Masonite is a manufacturer and distributor of hardboard. * * * It has a high tensile strength, low water absorption and a density that ranges from 30 to 60 lbs. per cubic foot. It is used in the building industry as wall-board, paneling, flooring, ceilings, and forms into which concrete is poured. It also has numerous industrial uses. Masonite began its production of hardboard in 1926 and distributed it through its own selling organization."

See also "hardboard" referred to in *F. S. Whelan and Sons v. U.S.*, 34 Cust. Ct. 208 (1955); *F. S. Whelan and Sons v. U.S.*, 40 Cust. Ct. 192 (1958); and *Elof Hansson, Inc. v. U.S.*, 41 Cust. Ct. 519 (1958); and *U.S. v. Elof Hansson, Inc.*, Treasury Decisions, ARD 114 (Ct. Cust. and Pat. Appls. Dec. 1960).

During World War II, Government agencies regulating the use of critically short products regularly used "hardboard" as a generic term for the Masonite type of hardboard. The WPB Suggested Conservation Guide for Hardboard, issued June 1, 1943, said:

"Increasing scarcities of many commonly used materials such as metal, lumber, and plywood have largely increased the demand for hardboard. This demand is now in excess of the production capacity of the hardboard industry.

"Hardboard is manufactured by only two producers, the United States Gypsum Co. and the Masonite Corp. These manufacturers market their products under the trade names Duron, Weatherwood, Presdwood, and Tempered Presdwood."

The Army and Navy Munitions Board, in its list of prohibited items for construction work, issued November 8, 1943, referred to "hardboard (such as Masonite and Weatherwood)."

During the Korean crisis, the Defense Production Authority in its Expansion Goal No. 96 for Lumber and Wood Products, issued May 13, 1952, provided aid for "hardboard" plants.

In Report No. D1928 of the Forest Products Laboratory, U.S. Department of Agriculture, entitled "Hardboard Processes, Properties, Potentials," issued in September 1952, it is stated:

"The term 'hardboard' originally coined by the Masonite Corp. of Laurel, Miss., has now become generic and describes a cellulosic-fibrous product made in one of three ways (wet, semidry, or dry processes), having a specific gravity from 0.8 to 1.2 and surfaces either wire marked on one side or smooth on two sides (S-2-S)."

On August 26, 1954, the Secretary of the Treasury made a finding of dumping with respect to "hardboard" from Sweden (T.D. 53567).

Since the early 1950's, the Bureau of Census has been gathering import statistics on "hardboard."

In Report No. 2265 of the House Ways and Means Committee, 83d Congress, 2d session, in reporting H.R. 9666 on July 15, 1954, it was said:

"The term 'hardboard' was originally coined by one manufacturer in the industry. However, it has now become generic and is used in domestic commerce to describe a board usually smooth surfaced on one side and screen marked on the other side. This board is manufactured from (ligno) cellulosic fibers in thicknesses generally from one-eighth to five-sixteenths of an inch and in densities ranging from approximately 50 to 75 pounds per cubic foot."

The U.S. Tariff Commission, in its March 1955 report on hardboard, pursuant to a Senate Finance Committee resolution, said:

"Hardboard is a term that has come to be pretty generally accepted in the language of commerce to identify a hard, dense board made from wood fibers inter-felted and compressed under heat and pressure.

* * * * *

"The term 'hardboard' was first employed by the Masonite Corp. when production was started in 1926. The term was adopted by other producers in later years. It is not a copyrighted or proprietary name, and has become generic as the commercial designation of a type of dense board now widely made both in the United States and abroad."

There are numerous other well-recognized definitions of "hardboard" to the same effect:

The articles of association of the American Hardboard Association, a trade association of domestic hardboard manufacturers formed in 1952, defines "hardboard" as "a board comprised of interfelted ligno-cellulosic wood fibers consolidated under heat and pressure into a board characterized by a natural ligneous bond."

Commercial Standard CS176-58, is entitled "Prefinished Hardboard Wall Panels."

Federal Specification LLL-H-35 entitled "Hardboard Fibrous-Felted (Fiberboard)," states that the product covered by the specification shall be "comprised of interfelted ligno-cellulosic fibers" and "be characterized by a natural ligneous bond."

In the May 1960 notice of public hearings prepared by the Interdepartmental Trade Agreements Organization, of negotiations under the Trade Agreements Act of 1934, under paragraph 1413, "hardboard" is excepted.

In the November 1960 final report of the U.S. Tariff Commission, under the Customs Simplification Act of 1954, the Commission expressly recommended classifying hardboard *eo nomine* (pp. 62, 66-67). See its January 1962 first supplemental report for a discussion of "hardboard."

In 1961, American Forest Products Industries, Inc., published a booklet entitled "The Story of Hardboard."

Typical technical writings using "hardboard" as above defined, include the following:

By Mr. Robert M. Boehm, director of research, Masonite Corp. (1929-58):

"The Masonite Process," Industrial & Engineering Chemistry, May 1930.

"Manufacture of Insulation Board and Presdwood by the Masonite Process," Journal of Chemical Education, October 1930.

"A Note on Exploded Wood for Insulating and Structural Material," American Institute of Chemical Engineers, December, 1930.

"Lignin Plastics," Modern Plastics, October 1937.

"Plastics and Chemicals from Wood," Paper Trade Journal, vol. 110, No. 18 (1940).

"Developments in the Manufacture of Structural Products From Hydrolyzed Wood," Paper Trade Journal, vol. 118, No. 13 (1944).

"Fiber Bonus," Chemical Industries, August 1947.

"Development of New Plastic Panels From Wood," Society of Plastic Engineers, April 1949.

"Notes on Wood, Plywood, and Hardboard," Forest Research Society, May 1949.

"Application of Hardboard in Composite Veneered Panels," Forest Products Research Society, September 1951.

By Armin Elmendorf, internationally known wood technologist, engineer, and consultant (now heads Elmendorf Research, Inc., Palo Alto, Calif.):

"Hard Facts on Hardboard, Part 1," Wood (Chicago), vol. 4, No. 12, December 1949.

"Hard Facts on Hardboard, Part 2," Wood (Chicago), vol. 5, No. 1, January 1950.

"The Use of Hardboard in the Furniture Industry," Forest Products Research Society, September 1951.

"Economics of Hardboard Manufacture," American Society of Mechanical Engineers, November 1951.

The term "hardboard" has been extensively used for 30 years in magazine articles and newspaper stories circulated throughout the United States. Representative magazine articles using the term "hardboard" that have appeared in the last year or two include:

Reader's Digest, August 1961, page 152.

The Lumberman, July 1961, page 21.

Building Supply News, July 1961, page 94.

Popular Science, June 1961, page 149.

Kitchen Business, June 1961, page 18.

NCR Factory News, June 1961, page 43.

Home Life, May-June 1961, page 12.
 Own-A-Home, May 1961, page 9.
 Mississippi Valley Lumberman, May 1961, page 5.
 Building Supply News, May 1961, page 149.
 Good Living, May 1961, page 3.
 Supermarket Equipment, April 1961, page 12.
 House and Garden, March 1961.
 Mississippi Valley Lumberman, March 17, 1961, page 8.
 Furniture Manufacturer, March 1961, page 18.
 Western Furniture Manufacturing, March 1961, page 8.
 Publishers' Auxiliary, February 1961.
 Thrift and Home, February 1961, page 3.
 The Home Craftsman, February 1961, page 17.
 Good Living, February 1961, page 3.
 Building Product Dealer, January 1961, page 11.
 Good Living, January 1961, page 3.
 Architectural Record Houses of 1961, page 172.
 Wood and Wood Products, December 1960, pages 48, 50.
 Popular Science, Home Improvement Ideas, Fall 1960, pages 167-68.
 American Builder, November 1960, page 53.
 Science and Mechanics, October 1960, page 149.
 Wood and Wood Products, October 1960, page 54.
 American Lumberman, September 1960, page 30.
 Wood and Wood Products, July 1960, page 42.
 Hitchcock's Wood Working Digest, July 1960, page 46.
 Funspot, June 1960, page 26.
 Furniture Design and Manufacturing, June 1960, page 61.
 Furniture and Woodworking, May 1960, page 14.
 Mississippi Valley Builder, April 1960, pages 4, 6.
 Practical Builder, October 1959, page 82.
 New Homes Guide, 45th ed., pages 108-110.
 Home Maintenance and Improvement, page 30.

Newspaper stories using the generic term "hardboard," and not "fiberboard," appearing in recent months in every section of the United States are displayed on two panels in the hearing room.

Mr. KECK. I would like to identify myself with the distinctly Hoosier atmosphere of the hearing and the bill.

Senator HARTKE. I would say that, sir, has no effect upon the decision, but certainly a welcome note to the temperament of the chairman.

Mr. KECK. I attended Indiana University and was formerly a resident of the chairman's hometown, Evansville.

In describing briefly what hardboard is, in view of what has been said heretofore today, I would like to quote from the Edward Hines Lumber Co., a hardboard producer, briefly how that producer describes its hardboard.

Its trade name is "All-wood," and that company says:

All-wood is all wood. It is wood in its purest, most workable form, dense, without grain and uniformly strong, durable, and smooth. All-wood is made from pure wood fibers, pressed into panels under hundreds of thousands of pounds of pressure. All-wood can be sawed, nailed, drilled, bent, perforated, and laminated with ease.

You can buy it in practically any width or thickness you wish. Available plain or in many new and imaginative patterns. One hundred percent wood taxes any kind of paint, beautifully smooth, surfaces need no sanding or filling and cannot split, splinter, or crack.

Hardboard is a wide, thin hard board. It has been made in this country for 36 years. It is a product in extremely wide use, including furniture. We are—the people I represent—are a supplier of a material that is misunderstood, completely, by the proponents of this bill.

In the four hearings that have been held, this being the fourth, two before this committee and two before a House committee, the same words come out each time, we are called a fiberboard, a word that would be broad enough to denote things as farfetched as soft insulation board, tablet backs, and so forth.

I am pleased to say the Federal Trade Commission, in testimony this morning, had no difficulty finding and using the generic term hardboard and I call your attention to the fact and to the author of the bill. We have attached, as an appendix, the list of the use of hardboard as a generic term which includes such widespread publications as Reader's Digest and so forth.

It appears on pages 19 and so forth in my statement. The producers of hardboard whom I represent oppose this bill for briefly these reasons: First, the bill is a form of special legislation, promoted by the makers of one type of material, aimed at protecting the producers of hardwood veneer against competition from other materials and finishes used in furniture, wall and ceiling paneling, floor covering and other products.

In support of that fact, I would like to point out that the bill deals only with hardwood, it leaves uncovered the softwoods that are also used extensively in decorative wood products.

The bill would illogically require that simulation products be labeled not only what they are, but also the particular specie of hardwood simulated.

Moreover, the bill does not consistently apply even that test alike to hardwoods and to other materials.

The bill applies the regulatory labeling yoke only skindeep when the proponents' one-sixty-fourth to one-twenty-eighth of an inch thick hardwood veneer is involved but all the way down into the underlying materials, when competitive materials are involved.

The bill by legislative fiat would downgrade all competitive materials containing simulated wood grain finishes. In connection with the recent colloquy regarding the word simulation, I point out this morning proponents used the synonyms imitation, fake, larceny, national scandal; those were the words used in this hearing thus far to describe the word "simulation."

Now underlying the bill is the assumption, erroneous we submit, that all simulated hardwood grain or pattern finishes now commonly seen on hundreds of products from station wagons to cash registers to restaurant tables, to picnic plates, wall paper, matchbook covers, cigarette cartons, are intended to palm off such products as hardwood.

We submit that is not the case. If we are to have labeling, we submit it should be fair and impartial labeling, applying equally to all materials as do the predecessor bills, the fur products, wool products, and textile fiber products.

Now secondly, we believe the bill omits important features needed to insure effective enforcement.

In the first place, unlike earlier bills, this bill omits entirely any provision for a wood products name guide.

The pending bill similarly omits any requirement for correct name disclosure on invoices.

Now in the third place—

Senator HARTKE. Let me ask you, sir, if those were included, would you be in favor of the bill?

Mr. KECK. I would with the addition of the amendments, which I will come to in a moment, and I would like to embrace fully the points made this morning by the FTC, as to deficiencies, supposed deficiencies, in the bill.

With those amendments, we are not in favor or against labeling. Our principal objective is to point out, however, that this particular bill, the way it goes about it, is discriminatory in application against hardboard as one of several materials.

The need for the bill is of course for Congress to decide. I do not purport to be an expert on consumer needs. However, there have not been very many consumers here today to speak in favor of the bill.

Now in the third place, whereas here the proposal is special legislation, that would create a vast new and exceedingly expensive bureaucracy to enforce, it can be justified only by the most compelling need to protect the consuming public.

We estimate that the sales that would be subject to this act are made at the rate of 6,600 sales per minute, 320,000 sales per business day throughout the year.

In the fourth place, this bill would, we believe, fallaciously classify hardboard as a nonwood material, the competitive consequences of which can be more serious for hardboard.

Hardboard is every bit as much wood as hardwood veneer, and is emphatically not a composition material held together by an adhesive.

Moreover, this bill is the antithesis of the competitive ends sought by the antitrust laws.

The late Harry Babcock, executive director of the Federal Trade Commission, and a distinguished antitrust lawyer, has said:

I call your attention to the fact that a trader is no longer free to conduct an honest or reputable business in wool or furs or manmade fibers. He may sell an excellent product, he may describe it honestly and indulge in no deceptive, fraudulent or immoral practice, yet he becomes a law violator in doing so if he does not place upon his products labels of a certain size containing certain information.

In this connection the product of course is not one which is related to public health, safety, or other characteristics which attach a special public interest.

Now, I take it, justification for this type of legislation generally styled consumer legislation, is to be found in the conviction of the Congress that it is protecting the public and that this type of legislation is essential to that end. This may be true. I only point out that it is at variance with the concepts of former antitrust legislation.

What Mr. Babcock meant is that this kind of legislation bears no relation to the traditional ends of the police power. For example, public health under which for example foods are labeled, public safety, under which a stop-and-go light is justified, public morals and public welfare.

Senator HARTKE. Sir, what is public welfare?

Mr. KECK. Public welfare is a broad category under which many types of legislation is justified.

Examples could be given, moratorium on mortgages for example, during the late depression. State laws regulating the amount of interest that can be charged on loans. But the word public welfare in the Constitution does not mean any and everything that anyone might think the Government should regulate.

Senator HARTKE. You do not feel then that it includes the protection of the public in regard to—I was trying to take the words out of Mr. Babcock here—protection of the public.

You do not feel that public welfare includes protection of the public?

Mr. KECK. It does, broadly speaking. But Mr. Babcock's point is that "Pandora's box" is open, when special legislation like this is passed.

For tomorrow, every other producer will be here with a bill and you will end up with a hundred labeling bills, none of which bear any relationship to the traditional ends or reasons why the State imposes regulations which are public health, public safety, public morals, and public welfare.

Public welfare is not construed this broadly.

Senator HARTKE. By whom?

Mr. KECK. The courts. I speak as a lawyer.

Senator HARTKE. Well, you would conclude that wool is under which one of these, public health, public safety, public morals, public welfare?

Mr. KECK. No; Mr. Babcock's point was that wool is not affected by any one of these ends of the police power.

His very point was that these three bills that he mentions were an innovation which has in a sense opened "Pandora's box."

Senator HARTKE. Yes; I am not discussing with you at the moment whether or not we disagree or agree with Mr. Babcock, but I was wondering in which one of these four categories you place the legislation concerning wool, fur, textiles, and jewelry, which do have such regulation under legislative fiat.

Mr. KECK. Well, the only possible connection they could have is by some connection to public welfare. They do not affect public safety, health, or morals.

And I believe with Mr. Babcock that they have a very questionable connection with the public welfare.

Senator HARTKE. In other words, Mr. Babcock, by your interpretation of what you think he might say, which I am not in disagreement with—

Mr. KECK. I happen to have known the gentleman and discussed this with him on various occasions.

Senator HARTKE. I don't know the gentleman, but I respect his right to his opinion, but on the basis of your discussions then I would assume that he would also feel that those regulations concerning wool and fur and textiles would also be outside of the proper purview of legislation and unconstitutional in the traditional view.

Mr. KECK. Well, I don't know I can say that. He did, as Executive Director of the Commission, enforce them. His point was that they were the antithesis of competition, that is the end of the antitrust law and that is the point to which my original remark was directed and that would equally be true of this legislation.

Do I make myself clear on that point?

Senator HARTKE. I understand what you say. I am not convinced, however.

I don't think the courts are convinced or they would have ruled unconstitutional.

Mr. KECK. I am not sure the mere fact they have not been declared unconstitutional means this bill is constitutional.

Senator HARTKE. Those bills are constitutional, at least as far as the enforcement is concerned, until such time as appropriate action is taken by the courts to declare them unconstitutional.

Mr. KECK. They would be presumably constitutional.

Senator HARTKE. That is right.

So in substance what we are saying, back to the whole thing, is you disagree with the principle of including these probably within the purview of the so-called public welfare law yourself, and so probably would Mr. Babcock, but up to this point the Supreme Court or Federal judiciary have not seen fit to adopt the position Mr. Babcock expressed.

Mr. KECK. Mr. Chairman, those are words that you are trying to put into my mouth and I would prefer—

Senator HARTKE. Let me make it very clear, I am not trying to do that. Let me make that as a statement and you don't have to make any statement whatsoever. I don't want to put any words in your mouth.

Mr. KECK. Thank you. I do believe, though, that this—and this I would like to state and it is in my statement, that this type of legislation with respect to this kind of product that bears as little relationship to the end of the police power as I believe it does, goes awfully far in protecting one industry against another. The Government stepping in and doing it, instead of letting that take place in the marketplace—

Senator HARTKE. I just don't see, sir, and this is the point I fail to see, how you can say this is aimed to protect against competition. I don't see how labeling of an article would be any restriction on competition, if there is not something which is not presently available to the public without the legislation.

Mr. KECK. Well, it would by reason of the fact that the U.S. Congress, in doing this, would label in a sense all products other than fine hardwood veneer that go into furniture as inferior and in that sense would tend to retard sales and in that sense would protect fine hardwood veneer.

Senator HARTKE. But where is there in the bill something that says they are inferior?

Mr. KECK. The word "simulated," sir, is one, and I have pointed out this morning that the proponents of the bill believe that means, and I think the laymen believe that also, inferior, or fake. And we do not believe that products into which hardwood board go are fake or imitation in any sense.

Senator HARTKE. With due respect, sir, to my Formica friend, whatever happened to him, I like that. I see nothing wrong with it. I just wouldn't want to buy a Formica top on a piece of furniture and find out after I got it home that when I put the detergent on top of it all of a sudden I had a big spot. I would be very unhappy. I don't think this is any disrespect to his product. The fact is that I respect the trade name on it and I respect the fact it is labeled for what it is.

Mr. KECK. Well, almost without exception the products are labeled what they are. This bill would mandatorily require it, though.

Senator HARTKE. This is what it reads. I fail to see how anything detrimental can be read into these terms:

The term "simulated hardwood" shall mean any material including but not restricted to wood, fiberboard, plastic * * * to which there has been applied by printing or any process an imitation of any hardwood grain * * *.

Now, if you think those words aren't appropriate and it would be appropriate to come up with some other words, I think that would be in order.

Mr. KECK. Mr. Chairman, the other precedent bills, laws, that have been referred to do not use the words "simulation" or "imitation," they merely require the maker of the product to describe what is in it, the percent of wool or the percent of particular fibers, without condemning by words or innuendo any of the products that are in it, whereas this one would put one kind of material on a pedestal and all of the rest are of another class. In that sense this is discriminatory.

Senator HARTKE. To this extent, sir, and I feel this is a natural conclusion of the statement, you make really by inference, or you infer at least that there is something absolutely which is better about hardwood than other products.

Mr. KECK. I haven't intended to imply that.

Senator HARTKE. Well, you say that it creates the impression there is an inferiority by virtue of the fact they would not be labeled as wood.

Mr. KECK. No, the very fact that the Congress would pass a law like this would infer that. But I respect fine hardwood veneer, of course, but I do not believe it is superlative nor do I believe that the Congress of the United States should preempt species names to that competitive industry. I don't think they own the word "walnut" that I see on many of the products, as a generic term, and yet this bill has that implication. I think the bill would be the thing that damns these products, not their inherent characteristics.

Senator HARTKE. The table that was presented here, do you think that is proper?

Mr. KECK. The conference table I am at here?

Senator HARTKE. No, the one they showed us this morning that said "genuine walnut" and there wasn't any walnut in the thing, whatsoever. I know I would have thought it was genuine walnut.

Mr. KECK. Sir, I have not seen the table to which you refer.

Senator HARTKE. It is here. I will be glad to show it to you.

I do think there is a right for the consumer to know that is not so, don't you?

Mr. KECK. Well—

Senator HARTKE. No matter whether it is better material or worse, I think he is entitled to know, have at least a fair presentation of what he is buying.

Mr. KECK. I am not sure that the Federal Government should do that by the force of statutes, that unfairly treat one material as against another.

I am not against informative labeling. Our products are described. Understand, we do not make furniture as such. We supply materials and I am here primarily in response to that.

Senator HARTKE. I understand that, and personally I know nothing inferior about your products. I think it is a fine product. I have been hammering on one of the pedestals here that is masonite. I didn't object to it.

Mr. KECK. It is just as good. It is all wood, Mr. Chairman.

Senator HARTKE. You can examine that now. You will have plenty of time, because I have to answer another vote. But proceed for a minute or two at this time.

Mr. KECK. Yes, sir.

On page 14, I would like to call the chairman's attention to the fact that if the Commission is to be given power to concern itself with intrastate retailing, as this bill would permit, such a vast extension of its power should be separately considered on its merits and not in labeling legislation with respect to a class of products such as furniture.

Now, our objections to this bill, and we put this in deliberately to be affirmative, can be corrected if there is a will to be fair. In order that I may not be misunderstood, I propose these amendments. I only wish to list them:

- (1) To remove the bill from the category of special legislation.
- (2) To recognize hardboard and not fiberboard as a generic term.
- (3) To arbitrarily limit the bill to hardwood and not also to softwood.
- (4) The bill omits any regulation of imports, and yet some of the antecedent bills specifically do control imports or apply the regulatory yoke to imports.

We believe that the condemnation remedy is extraordinary and should be deleted, and we believe that the bill should be made to apply to all and not to part of the simulated finishes.

It should control invoicing. It should provide for a wood products name guide.

I have not had a chance to inspect that table. I would like very much to do so and, with your permission, would like to supplement my statement in that regard after I have seen it.

Thank you, Mr. Chairman.

Senator HARTKE. Yes, we would like to have that, sir.

(The supplemental statement follows:)

MACLEISH, SPRAY, PRICE & UNDERWOOD,
Chicago, April 10, 1962.

HON. VANCE HARTKE,
U.S. Senator, Senate Committee on Interstate and Foreign Commerce,
Washington, D.C.

MY DEAR SENATOR HARTKE: On April 5, at the conclusion of my testimony regarding the decorative hardwood and simulated hardwood products labeling bill, S. 1724, you asked me some questions about, and authorized my supplementing my testimony regarding, a small, snap leg, snack table that had been placed before the committee by Mr. Gatewood of the Fine Hardwoods Association, which bore a small sticker containing the phrase "Hand crafted genuine solid walnut." It will be recalled that Mr. Gatewood described it to the committee in these words:

"Here is a small folding table sold with the manufacturer's label on it stating that it is made of 'Genuine solid walnut.' Examination reveals there is no walnut on it, solid or otherwise * * * This is a typical example of the type of deceptions now being perpetrated on the American consumer and which will be eliminated by the enactment of this bill."

It was obvious from visual inspection no part of the snack table was solid or veneered walnut, and that the label on it had been placed there through error or inadvertence.

I have since contacted the alleged manufacturer, the Vernon Co., Newton, Iowa, and attach for the committee's information a letter dated April 9, 1962, from W. F. Vernon, Sr., president of that company.

Several facts will be noted from that letter:

- (1) The alleged manufacturer, the Vernon Co., Newton, Iowa, is not the manufacturer of the table. Rather, the Vernon Co., is engaged in selling business gifts to business firms.

(2) The snack table, although inadvertently mislabeled by another firm, has never entered retail trade channels. Therefore, no deception was "perpetrated on the American consumer." And, more importantly, the pending bill, in seeking to prevent deception of "the consumer in the marketplace," would not reach this snack table in any way.

(3) This table was not, therefore, contrary to the clear but erroneous implication of Mr. Gatewood's testimony, illustrative in any way of "deception * * * which takes place on the retail floor when the sale is made," that he visualized.

(4) This table was definitely not a "typical example" of deception supposedly being perpetrated on the American consumer.

Mr. Gatewood failed to advise the committee that the supposedly deceptive example of furniture he presented to the committee was, in fact, a business gift to or by Hill Bros. Veneer Co., Inc., Edinburg, Ind., a producer of hardwood veneer, and a Mr. George Demuth, Columbus, Ind., from whom Mr. Gatewood received it.

I would appreciate your making this and the enclosed letter a part of the record of the hearing on S. 1724.

Very truly yours,

ROBERT C. KECK.

THE VERNON CO.,
Newton, Iowa, April 9, 1962.

Mr. ROBERT C. KECK,
Chicago, Ill.

DEAR MR. KECK: It is our understanding that on Thursday, April 5, 1962, reference was made in hearings before the Senate Commerce Committee in Washington to our snap leg table by a Mr. Howard Gatewood of the Fine Hardwood Veneer Association.

Through error, a label was attached to the bottom of our snap leg table bearing the inscription "Hand crafted genuine solid walnut—gunstock gifts, washable, the Vernon Co., Newton, Iowa.

This item is manufactured for us by R. R. Scheibe Co. of Brockton, Mass. We have instructed them to immediately discontinue the use of this label.

For a number of years we have distributed a line of solid walnut items manufactured for us by several different woodworking firms; items such as walnut salad bowls, snack trays, etc. We have labeled this line the "Gunstock Line." All of these items with the exception of the snap leg table are made of solid walnut, and since we sell this item in a very limited quantity, apparently one shipping department thought it would be more economical to use our standard Gunstock label on the bottom of the table rather than make up a special label.

The R. R. Scheibe Co. also manufactures for us a solid walnut ash tray on which we are using the Gunstock label. Since we have built up a reputation in our industry featuring our Gunstock name on solid walnut items we certainly would not want to use this label on any item that is not made of solid walnut. We intend to police this very carefully in the future.

Although this label has been placed on the snap leg table in error I do not feel that the buying public was misled since none of our items are sold for retail. They are distributed by business firms strictly as business gifts.

If there is any additional information you desire do not hesitate to get in touch with us. You have our permission to forward this letter to the Senate committee.

Sincerely,

W. F. VERNON, SR., *President.*

Senator HARTKE. At this time the committee will again recess, at the call of the chair.

(Thereupon, at 4:55 p.m., a recess was taken until 5:30 p.m.)

Senator HARTKE. The committee will come to order. We will resume proceedings on S. 1724.

Mr. Victor R. Marsh?

**STATEMENT OF VICTOR R. MARSH, EXECUTIVE VICE PRESIDENT
AND GENERAL MANAGER, MARSH WALL PRODUCTS, INC., DOVER,
OHIO**

MR. MARSH. Senator Hartke, I want to say we are glad you have a good pair of legs. You certainly work pretty fast on these last two trips. And I am glad that you are blessed with a lot of patience. We appreciate the privilege of appearing here and on this statement of mine, I would like to have the whole thing included in the record.

Senator HARTKE. Without objection, it is so ordered.

MR. MARSH. In keeping with your request this morning, I am going to delete quite a few of the pages here. There is one small correction that I want to make and I will mention that when I get to it. I might as well clear it up now.

On page 3 in the third paragraph, where it says "was by a witness in hearings before a Senate committee" it should be "before this committee and a House committee", eliminating a "Senate" and the word "this".

Furthermore there is reference in here to some exhibits which we say are in the room but we decided because of the time element, we would not bring them in.

Senator HARTKE. Let me point out that I did not limit the hearings for any special reason for this legislation but the tax legislation which is of vital concern is scheduled for continuous hearings day after day until May 3, with anticipated 3 weeks of executive sessions following. I am vitally interested in that. I have several amendments before them.

The Commerce Committee has been hearing legislation on other matters, in addition to the regular activity on the floor, and we had hoped in view of the past material which had been submitted in prior hearings, that we could receive a condensation in one hearing.

I think most of the statements have done a fine job of exposing us to both the pros and cons.

MR. MARSH. That is right, and we will be no exception to that. We understand your position. Of course, there are some things that we do have to get before you and I would go ahead now.

Senator HARTKE. Fine.

MR. MARSH. I am Victor R. Marsh, executive vice president and general manager of Marsh Wall Products, Inc., of Dover, Ohio. I appear on behalf of my company in opposition to S. 1724, the so-called decorative hardwood or simulated hardwood products labeling bill.

My company grew out of the Marsh Lumber Co., of Dover, Ohio, a producer of hardwood lumber and lumber products. The Marsh Lumber Co. has been in business for 47 years. It is today one of the largest hardwood lumber producers in Ohio. My brothers and I are still corporate officers of Marsh Lumber Co., Inc.

Our plastic finished panel business began in 1931 as a division of the Marsh Lumber Co. In 1937 it was incorporated under the name Marsh Wall Products, Inc. Since 1948 it has been a subsidiary of Masonite Corp.

Marsh Wall Products, Inc. manufactures exclusively plastic finished panels and accessories. Our panels consist of Masonite hardboard panels processed by my company in a variety of decorative designed

panels, with a high heat baked, melamine-type plastic finish, which gives the product an attractive, soilproof, durable, easy to clean surface.

The base material of our panels has always been a Masonite hardboard which is an all-wood panel product.

I might say in addition that the base of our material is a masonite duralux which is in all hardwood fiber board, not just the wood fiber.

Our products are sold through industrial, commercial and lumber and building material channels. They are used in wall and other paneling in private residences, commercial stores and establishments, public buildings, military construction, and are incorporated in a great variety of products, including furniture, cabinets, tables, rail passenger cars, boats, buses, movable partitions, and so forth.

Since 1935, my company has used the registered trademark "Marlite" as descriptive of its plastic finished panels of all patterns and designs. This registered trademark has been widely and consistently advertised and is known throughout the world as a name connoting the type of plastic finished panels which we manufacture.

Our line of plastic finished panels includes a great many kinds of decorative designs, such as star patterns, butterfly patterns, abstract patterns, patterns of various kinds of marbles, fabric, wood grains, stone, and solid colors. The number of different patterns which we have manufactured is almost endless and would be in the thousands. Our general catalog, copy of which I have furnished you, illustrates many of these basic kinds of patterns, of which the wood grain patterns are considerably in the minority.

For your convenience I have given you a little set of these hot pads, showing—you can use them to examine them and take them home and have your wife put some hot dishes and things on them to protect your table.

Senator HARTKE. I have hot coffee on it right now.

Mr. MARSH. OK. For over 25 years we have used wood grain patterns on some of our panels, and have described them in various ways. Beginning in 1935, we used the registered trade name of "Marshwood" to describe the wood grain patterns on our wood design panels, which were produced by a decalcomania process. For over 10 years we have used the trade name "Woodpanel" to describe our line of plastic finished panels with wood grain designs.

This is a coined word, which we have used in connection with several hundred different wood grain patterns; many special wood grain patterns were developed for and used by specific furniture and other manufacturers, while others were sold to the general trade.

We have also used the registered trademark "Mirrowwood" for the last several years to describe a high polished, mirror like type of plastic finished panel with a wood grain design, used for table and furniture tops.

More recently, we have used the registered trademark "Trendwood" to describe a relatively few new wood grain patterns which, together with many other designs, colors, and patterns, we have developed through the cooperation of American Color Trends, a firm of color and design experts.

We have also used Raymond Loewy Associates and other design and color experts to help us establish acceptable designs and colors for our Marlite. They have evaluated and suggested many colors, pat-

terns, and designs for our decorative Marlite surfaces, among which were some wood grain patterns and colors.

All of these plastic finished panels, whether of star, butterfly, abstract, marble fabric, wood grain, stone, or other designs, are exactly the same functionally, being made of a Masonite hardboard base with a malamine type plastic design and finish.

Our panels and our Marlite trade name are known throughout the world. Our advertising, promotion materials and other descriptive literature, for trade factors, consumers, and others, examples of which you have, have always been carefully designed to accurately describe the nature of our products and our trade names are well known and identified with the products we manufacture.

This is quite significant here. Perhaps the best evidence of complete lack of any deception or misrepresentation with respect to our products that bear wood grain designs is the fact that in 25 years of producing wood grain design Marlite panels, involving many millions of square feet of materials and hundreds of thousands of transactions, we have never, to my knowledge, had any customer complaints or lawsuits with respect to purchasers and users being deceived into believing that they were receiving products other than what we have represented.

To my knowledge, the same statements would hold true for other prefinished hardboard panel products which are competitive with Marlite.

In fact, the only public suggestion of misrepresentation of our products that has come to my attention was by a witness in hearings before this committee and a House committee on this same legislation in the 86th Congress.

Senator HARTKE. Let me ask you a question.

In this here [indicating] simulated in my understanding of the word.

Mr. MARSH. It is a wood design, that is right.

Senator HARTKE. That is right. And this says it is a sample of a plastic finish Marlite, Trendwood, for creating beautiful interiors. Under this all you would have to do is say "simulated American walnut," and it would be within the purview of the bill?

Mr. MARSH. Yes, but you see, that is the thing we feel—of course, Mr. Hunt of the Decorative Laminates brought out the fact that there is a stigma attached to simulated or imitation.

Now, you know in the prior bills it was called "imitation" and now they have changed it to "simulated."

Well, in one case the thing stinks and in the next it smells. I mean—

Senator HARTKE. Really, though, I mean there is no intent to convey the impression that that is really American walnut, is there?

Mr. MARSH. No, we are selling a Marlite, piece of Marlite, with a wood design on it, that is right. But we don't think that the fine hardwood veneer people should have any corner on the generic terms. I touch on that a little later, that it covers everything and even—I went to the extent of, you know, of buying some candy called "Walnettos." Right on the same rack, I found this [indicating] what do you think that is? It says "Walnuto" there, but that is tobacco. And I imagine that would leave a little dark brown taste in the mouth

of the fine veneer people but you cannot keep them from calling that walnut. But that is what happens. There are a lot of other things that are called walnut, walnut stain, or whatnot.

In hearings before the committee in the 86th Congress, on S. 1787, a hardwood products labeling bill comparable to the bill now before this committee, held in August 1959, a witness for the Fine Hardwoods Association submitted to this committee what he contended was an invoice of my company, a sample of our products bearing a "natural walnut" design, and one of our advertising folders describing our Random Plank.

While he implied strongly that the alleged "invoice" of our product, sample, and our advertising folder were deceptive, I note that the bill subsequently reported by this committee omitted any invoicing requirements, with the full consent and accord of that particular witness shown on page 50 of the committee reprint. The pending bill before your committee now also omits regulation of invoicing.

Nevertheless, I should like to take this opportunity to point out the errors into which that witness inadvertently fell concerning the exhibits he presented.

In the first place, the so-called invoice W74027 which he presented was not an invoice, but a (W) warehouse packing slip given the man who picked up the merchandise at our Chicago warehouse.

I have with me a copy of the actual invoice in question, our invoicing being done from our main office in Dover, Ohio. The particular transaction involved a single Marlite plastic-finished panel denoted by our trade name "Woodpanel," finished in "No. 100 natural walnut" design and color. Our customer was David Plywood, a plywood products dealer, located in Skokie, Ill. We have sold David Plywood for a number of years and are continuing to sell them to this day without any complaint, to my knowledge, on its part as to the nature of the products which it has purchased from us. The packing slip shows that the customer of David Plywood was one John Walsh, who, our investigation discloses, is a salesman employed by the R. C. Bacon Veneer Co., 4702 West Augusta Boulevard, Chicago, Ill., a company engaged in manufacturing and selling fine hardwood veneers and hardwood products.

Our customer was David Plywood, 8228 North McCormick, Skokie, Ill. We did not sell to John Walsh, who is apparently a customer of David Plywood. That is to say, our invoice from Dover, Ohio, went to David Plywood and was paid by that company.

In any event, it is apparent that both David Plywood and John Walsh are professional wood veneer people and obviously knew what they were buying, for, to my knowledge, we have had no complaints from either of them. I mention this because David Plywood purchased Marlite plastic-finished wall panels in various designs and patterns before, and continuously since August 1959, for other of their customers.

The particular packing slip reproduced on page 47 of the Senate committee reprint of the August 1959 hearing, clearly points out that we are the "exclusive manufacturers of Marlite plastic-finished wall panels," and that is what David Plywood picked up pursuant to the packing slip in question, and on which it was subsequently invoiced for \$7.56.

The sample undoubtedly bore the words "Woodpanel—natural walnut," but also bore further descriptions of the nature of our product which the record does not show.

I have with me a standard sample of that product, which is labeled "This is a sample of plastic-finished Marlite Woodpanel for creating beautiful interiors. Natural walnut No. 100," which is the number of that particular design and color combination.

The advertising folder which he presented shows our Marlite trademark, refers to the "baked malamine plastic finish" on our product, points out that the new Trendwood finishes had been styled exclusively for us by American Color Trends, and lists each of the names we have used to identify the new designs and colors.

For example, the same walnut grain design is furnished in two colors called American and Swiss, and the same cherry grain design is furnished in two colors, called Italian and Swedish.

When I appeared before a subcommittee of the House Commerce Committee in June 1960, I pointed out that David Plywood had in May 1960 made two "token purchases" of one panel each of trade name Marlite plastic-finished Woodpanel, indicating the name of the same John Walsh as its customer.

At that time, I predicted that that committee might also be hearing about those purchases. I was correct in that point for the same witness again presented another "invoice" covering that May 24, 1960, purchase, his testimony being on page 17 and the so-called invoice being reproduced on page 29 of that committee's reprint of the June 1960 hearings.

Again, the so-called invoice W18475, which he presented to that committee, was not an invoice, but again was simply a (W) warehouse packing slip, as plainly printed on the slip itself, which was given the man who picked up the merchandise at our Chicago warehouse.

Again, I have with me a copy of the true invoice in question, sent out from our Dover office, the particular transaction involving a single Marlite plastic-finished wall panel denoted by our trade name "Woodpanel," finished in "No. 100 natural walnut" design and color. Again our customer was David Plywood of Skokie, Ill. Again its customer was John Walsh of the R. C. Bacon Veneer Co. Again the true invoice indicated that we were the "exclusive manufacturers of Marlite plastic-finished wall panels."

Again the price paid was \$7.56.

These two token purchases referred to by the witness in these two hearings indicate a deliberate misrepresentation of facts and an attempt to throw dust in the eyes of the committee and the House committee.

In each case the purchasers were professional buyers of and thoroughly familiar with veneers, plywood, and other wood product panels such as Marlite.

In neither case was there the slightest misrepresentation or deception, or complaints to my company.

While the witness may have been confused, the buyer in question and the public is not confused by our sample and advertising set forth in the Senate and House committee reprints. In fact, what the consumer understands is the nature of our product, and the meaning of our trademarks can perhaps best be determined by an analysis of the ad-

vertisements of well-known department and furniture stores across the country in describing furniture incorporating our Marlite plastic-finished panels.

I append to my statement an analysis of such advertisements which we regularly receive from a clipping service that has appeared in newspapers across the country during the past 24 months and which ads are displayed on the walls of the hearing room.

If you will just refer back, you can examine these more carefully, but these are fine stores: Gimbel's; Burdines in Miami, Fla.; Macy's, and Sterling Lindner, Cleveland. What do they say?

It says, "Portable bar, serving cart and stack tables," and "Shelves of walnut-grained marproof Marlite. Walnut-finished wood with white mar-proof Marlite tops."

Many times we have, and you have got copies of our advertisements there—we don't even mention the word "wood."

We are selling a plastic panel. And of course it so happens a wood design is incorporated in some of them. In this Macy's ad of January 21, 1962:

Tough, walnut- or maple-grained Marlite plastic top resists scratching and stains—

and so on, on through; we have a great many of them.

If you would like to examine them a little closer, I have full-size, full-scale advertisements, a shelf of them you can look at.

Senator HARTKE. We will incorporate them by reference in the record.

Mr. MARSH. There are a lot of them and they are large ads.

I wish it to be clearly understood that the advertising copy on all these ads in every case was written by the store or by its advertising agency without our knowledge or participation. We had nothing to do with it, until we got this from them.

These consumer ads of furniture with wood-grain designs and colors incorporating our products reflects what the consumer reads about our products written by those who sell it at the retail level. I repeat that we had no knowledge of the writing, preparation, or publication of these ads until we received copies of the actual ads; moreover, we have no program of cooperative advertising.

That is a significant fact—that we have no program of cooperative advertisting.

Through the same clipping service, my company receives voluminous quantities of newspaper stories from cities all over this country, which newspaper stories are telling the story of Marlite and prefinished wall panels for use in homes, office buildings, food and variety stores, buses, movable partitions, and the many other uses to which prefinished panels in variety of design and colors can be adapted.

These news stories are descriptive of products incorporating hard-board with various patterns including wood-grain designs, such as our Marlite plastic-finished wood panels, which clippings I have not reproduced here for the committee, but have displayed on the walls of the hearing room for your inspection. The point of it, in my judgment, is that the consumer is being told in plain, understandable

language by advertising, news stories, and by many other media, the true nature of the product which he is buying, which brings us to the basic objection to mandatory labeling instead of permitting voluntary labeling to go on.

We feel that voluntary labeling is much more effective and informative, as is indicated by our efforts to thoroughly acquaint the public of the true nature of our products and their properties. We have furnished millions of descriptive labels to manufacturers who use our plastic-finished designs, wood grain, and colors in their products to place on their manufactured articles. These labels read as follows—and there is a copy you can see on page 7:

Beautiful—Durable—Easy-to-Clean. Marlite plastic surfaces. Heat-resistant melamine plastic finish unharmed by alcohol, juices, boiling water. Takes years of wear, minutes of care!

No one reading this label could possibly be confused or misled into thinking he is getting other than Marlite plastic-finished design panels, regardless of the pattern.

All of the above clearly indicates that there is no need for any legislation such as the bills pending before this committee.

Senator HARTKE. Sir, let me ask you—I didn't intend to ask any more questions, but what do you do about that table now? You say there is no need for it, but what about that table we have here?

Mr. MARSH. Listen, there is no doubt but what there are abuses of anything that you want to talk about. But this is the thing that we can't—that table, I don't know who in the world ever dreamed up a label like that, to start with. There isn't—I am pretty familiar with wood; there is almost anything but walnut on that table. Now what you have got—if you want me to tell you a little bit about it—

Senator HARTKE. I heard about it this morning.

Mr. MARSH. This is a plastic laminate, there is a piece of hardboard on the back, this is a frame of a softwood around it, that gives you the framing. This looks almost like beech legs on it and this looks like a piece of poplar here, and this is a piece of maple. So there is anything but walnut on it.

But any reputable person would be crazy to stick—and we don't know, that sticker may have been put on by somebody else—I mean the manufacturer may have been absolutely in the dark, he may not even have known. They may have sent him—they could have sent him—which is done quite frequently and would be done under any labeling act you want to trot out here, you send 10,000 labels to a person and he will get a request from somebody else to ship him 50 labels, and maybe he expects that those 50 labels will be put on a solid walnut table.

But suppose one does, some fellow in the warehouse takes those labels and sticks them on any doggone table along the line. Well, I don't know. I say that is a supposition of what can happen. And that could have happened in this case, because I don't think anybody, Senator Hartke, in his right mind would put a solid-walnut label on a piece of furniture or anything else that doesn't even have one piece

of walnut on it. I think it is ridiculous to think that. I think you will agree that no reputable person would permit that.

Senator HARTKE. I understand, but it does have a walnut laminated finish. Does it not have on its top a walnut laminated finish?

Mr. MARSH. No; it is so-called plastic laminate, walnut design; that is right.

Senator HARTKE. But it is an imitation walnut?

Mr. MARSH. But you see here in our House hearings Representative Kearns asked this witness, he said: "Do you mean to tell me that if you have a one-twenty-eighth or a one-thirty-second or one-sixty-fourth of an inch of walnut on top of a table, you can call that a walnut table?" Just like there is a one-twenty-eighth or one-thirty-second of an inch on this here.

In other words, if you put a one-thirty-second or a one-twenty-eighth of an inch of walnut veneer on top of this article here, Senator, I don't see how in the world you could call that a walnut table.

Senator HARTKE. I understand, but you would call it a walnut—

Mr. MARSH. You wouldn't hardly have enough room for a label big enough to tell you all of the kinds of wood in that thing, if you really wanted to label it. But here, Representative Kearns, this man says "Yes; that would be called a walnut table," just if it had one-twenty-eighth of an inch on top of a desk, and that means that, listen, you could put one-twenty-eighth of an inch of walnut on top of a piece of cheese and call it a walnut desk. That is silly. That is what the bill says, too, pretty much.

Anyway, this fellow here, either they got the labels mixed or he certainly didn't know what the score was.

In order that there may be no question about how we advertise, and have been advertising our products, I have with me a file for each of the committee containing representative advertisements and descriptive literature that will bear out what I have said, many of which are displayed on the walls of the hearing room.

My company was a pioneer in the development of plastic finished panels, which are not only attractive and beautiful, but can be easily erected, cleaned, and maintained. Our business on all designs of Marlite has grown tremendously because there is a great public demand for attractive, durable, easy to clean surfaces, all of which are provided by Marlite panels.

Our products are widely used and find great acceptance in homes, stores, public buildings, furniture and other manufactured and fabricated products in every city of the United States, and are specified by leading architects and designers. Marlite is made in accordance with commercial standards CS 176-58, covering prefinished hardboard wall panels.

Testimony and exhibits presented to this committee have been focused on our products and our company. Under these circumstances, and considering the facts and exhibits which I have presented, it is surprising to me that anyone would try repeatedly to justify the need for this type of bill based upon our products or our advertising or our packing slips.

As a producer of plastic finished panels and also being closely associated as a producer of hardwood lumber and even fine hardwood veneer logs, I am opposed to the pending bill for a number of other reasons:

In the first place, I am opposed to any legislation for the benefit of any special group which uses the Government to hobble its competitors and impede technological progress. This bill, in my opinion, is designed to protect only the business of the producers of fine hardwood veneers in their competitive struggle with other more acceptable materials in the furniture and wall paneling field. It would compel any material with a simulated wood grain design or color to be labeled not simply what it is, but as "simulated" hardwood. This is, of course, a wide departure from any prior labeling acts that I know of, and would confine the use of the names and designations pertaining to any hardwood as the exclusive property of the fine hardwood veneer people. It would be absurd and unfair to the public to permit the one special interest group to build a fence around generic terms, such as walnut, cherry, olive, or gum, which are often used to denote a color or texture.

Moreover, this bill would discriminate against all materials other than fine hardwood veneer by compelling them to be labeled as to composition, but would exempt the same materials when they are camouflaged by a thin one-sixty-fourth inch or one-twenty-eighth inch hardwood veneer which serves as a decorative cover.

That is what I mean by this thing. Actually, these thin veneers are primarily a decoration, as they are a very fragile piece of merchandise and must be handled carefully in fabrication. As far as adding anything to the stability of the product on which they are placed, a veneer of any kind contributes little and leaves a lot to be desired. It requires special care in handling and fabrication, not to injure or damage the fragile veneer face.

To a great extent, the one-sixty-fourth inch or one-twenty-eighth inch hardwood veneers are nothing more than an expensive decorative surface which requires a stable, and usually low-cost base to support it.

We cannot understand why the fine hardwood veneer people want to place their product on a pedestal as something superior, while actually it is almost useless without a backing, and constitutes nothing more than a surfacing material which lends design and appearance to the material on which it is applied. The veneer is only "skindeep" and requires further finishing to protect and help preserve it; in fact, it must be further finished and stained or colored to give it public acceptance. Some walnut is bleached almost white or stained and painted black to where, in some cases, the original character and grain is beyond recognition.

Here we are. You take a look. I just bought, and I will show you the office, this is a picture of my office, and I will pass it to you in a minute.

They told me this is walnut [indicating]. I didn't buy it for walnut, I wanted this decor. The walls on this office are Marlite, so you will get a notion of that. But you couldn't, or no one could tell that this—who would know this is walnut? It looks like either a piece of roofing or an old rubber boot or something like that. But it has no semblance of walnut.

Here is another thing I just want to demonstrate here. Maybe we ought to call the fire department, I don't know. [Witness burning samples with match.] You see, Senator, it burned the black piece of walnut veneer, but there was no harm done to the Marlite walnut design.

Senator HARTKE. I don't think anybody has implied your material is inferior, sir. I tried it out here and it worked very well.

I have no choice, sir, I have to go and vote, and they won't wait. I almost missed the last vote.

Now we are faced with a choice, gentlemen. I am not coming back. I can either hold these hearings open until a future date, or——

Mr. MARSH. I am wound up without anything further, if you read what is said here. We do think that it is a bill that would be very hard to police. I don't think it is possible to. But at the same time, we certainly hope that the committee will take all of these things into consideration and we do want to thank you for listening, and I am sorry that—I have got some very enlightening things I would have liked to have gotten across to you.

Senator HARTKE. All right.

(The balance of Mr. Marsh's prepared statement is as follows:)

In other words, color becomes more important than the grain, substantiating our position that even a fine hardwood veneer, regardless of name, is only a paper-thin decorative surface in which the true appearance and texture often is distorted beyond recognition. These same decorative effects are available in other fine materials, such as our Marlite patterns and finishes, which have better properties, require no additional finishing, cost less, and do the public a lot more good. Why should the public be influenced against the advantages of these technological advancements simply because one special-interest group wants to take generic, descriptive words out of our English language for their own private use?

It is incomprehensible to me how the sponsors of this bill, the special (fine hardwood veneer) group, can expect the Congress to discriminate against all other materials used in the furniture and wall paneling field by compelling others to disclose by label the composition of all underlying materials, but to virtually

exempt the same underlying materials, if covered by their product (a playing-card thin one sixty-fourth inch thick sheet of "fine hardwood veneer"); otherwise stated, the presence of a thin hardwood veneer, which, by its very name, covers a poorer underlying material, should not circumvent the necessity for disclosure of either the species of veneer or the underlying material. I want to emphasize that any labeling bill in the hardwoods field should treat all materials and all underlying materials in the same manner.

It is equally incomprehensible to me why softwood is exempted from this bill. Does this mean that a subsequent bill will cover softwood? Or does this mean that the softwood manufacturers are not interested in such a bill? Or, does it mean that a simulated softwood finish is not deceptive, whereas a simulated hardwood finish is? This omission, in my opinion, is a basic fallacy in this bill.

A further indication that this legislation is designed for the benefit of a special group is evidenced by the very important fact that many, and perhaps all, major manufacturers' and merchants' organizations who will be affected by this legislation have registered strong opposition to the passage of this bill; namely, the Southern Hardwood Producers, Hardwood Dimension Manufacturers Association, Southern Furniture Manufacturers Association, National Association of Furniture Manufacturers, Furniture Manufacturers Association, National Oak Flooring Manufacturers Association, American Hardboard Association, National Retail Furniture Association, National Wholesale Furniture Association, Furniture Manufacturers Association of Grand Rapids, and a host of other manufacturers' wholesale and retail associations, all of whom would stand to be burdened tremendously by the implications and provisions of this bill just for the sake of appeasing the "fine hardwoods" group who may or may not be supplying one sixty-fourth inch or one twenty-eighth inch fine hardwood veneers as a decorative covering for materials these manufacturers will be using in the products they make or sell. Practically all of these substantial manufacturers and retailers who are opposed to this legislation are important large potential consumers of fine hardwood veneers, and in the interests of good will and good selling, we cannot understand why the veneer people would antagonize this important segment of their business by pressing to impose such a burden as the Labeling Act carries with it—and this would be forever, unless the law would be repealed.

Moreover, I do not see how it would be physically possible to effectively police such a law because of the almost endless number of articles being made with a wood-grain design from book covers to vacuum cleaners, as well as wall panels. The best estimates from the Federal Trade Commission indicate an enforcement budget of approximately \$1 million a year, to enforce this unnecessary legislation. I think taxpayers generally would rebel if they knew they were being asked to carry such a burden.

This bill, besides reflecting a paternalistic governmental attitude, actually tends to insult the intelligence of the American buying public, as the evidence shows the public can be, and is being, properly and adequately informed by voluntary advertising and labeling; that the public is not being misled, and that they do understand what they are buying; therefore, the proposed "labeling" bill would, in reality, tend to confuse the issue rather than clarify it.

I want to thank this committee for your attention and for the privilege of appearing before you.

APPENDIX TO VICTOR R. MARSH STATEMENT

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design obtained through newspaper clipping service during the last 24 months

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Feb. 18, 1962, Mirror, New York City.	Gimbel's—Portable bar, serving cart and stack tables.	Walnut-finished bar has heat and stain-resistant Marlite shelves. Shelves of walnut grained mar-proof Marlite. Walnut finished wood with white mar-proof Marlite tops.
Feb. 16, 1962, Herald, Miami, Fla.	Burdine's—Stack tables.	Practical "Marlite" tops. "Confetti" with ebony legs. White onyx with walnut legs; walnut with walnut legs and black and gold Marlite with ebony legs.
Feb. 4, 1962, Times, New York City.	Gimbel's—Stack tables.	They're designed of walnut finished wood with white mar-proof Marlite tops.
Jan. 21, 1962, Daily News, New York City.	Macy's—Students desk, mar-resistant walnut or maple finish.	Tough, walnut or maple grained Marlite plastic top resists scratching and stains.
Jan. 7, 1962, Daily News, New York City.	Gimbel's—Desk with stain-proof 20x45 Marlite top.	The beautiful wood grained Marlite plastic top won't stain or scratch; cleans easily.
Jan. 3, 1962, Plain Dealer, Cleveland, Ohio.	Sterling Lindner—tables.	Marlite plastic tops that are scratch- and stain-resistant. Blond, walnut or mahogany finish.
Dec. 11, 1961, Press and News, Cleveland, Ohio.	Sterling Lindner—student desks.	Marlite no-mar top takes plenty of use. Walnut or limed oak finish.
Dec. 10, 1961, Mirror, New York City.	Macy's—Desk	Tough, walnut or maple grained Marlite plastic top resists scratching and stains.
Dec. 10, 1961, Post and Times Herald, Washington, D.C.	Lansburgh's—Desk	Has heat- and stain-resistant Marlite top plus versatile wood grain finish in either walnut or maple.
Dec. 10, 1961, Washington Post and Times Herald, Washington, D.C.	Lansburgh's—Desk ensemble.	With stainproof plastic top of beige wood grain.
Dec. 10, 1961, Post and Times Herald, Washington, D.C.	Lansburgh's—Desk	Wood grain Marlite—top resists scratches, stains; even alcohol. The finish is available in walnut, limed oak, or maple color.
Dec. 10, 1961, Journal-Constitution, Atlanta, Ga.	Rich's—Desk	Washable wood-grained Marlite writing surface.
Dec. 10, 1961, Bulletin, Philadelphia, Pa.	Stern's—Desk	Marlite wood-grained plastic top.
Dec. 8, 1961, Journal, Flint, Mich.	The Fair—44-inch desk.	Wood-grained Marlite top resists scratches, stains, alcohol. Walnut-limed oak, or mahogany finish.
Do	The Fair—Bookcase	Wood-grained mar-resistant top resists scratches, stains, and alcohol. Choose modern walnut, mahogany, or limed oak finish.
Dec. 6, 1961, Item, Lynn, Mass.	Goldberg's—Modern tables.	They're fine tables with Marlite plastic tops that resist stains or scratches. Blonde, mahogany, or walnut finish.
Nov. 20, 1961, Press, Grand Rapids, Mich.	Wurzburg's—Marlite top desk.	Marlite top resists wear, stains. Walnut, blonde, or mahogany finish.
Nov. 19, 1961, Post and Times Herald, Washington, D.C.	The Hecht Co.—Student desk.	45-inch 2-drawer desk with a rich wood-grained, mar-resistant Marlite top. The top has been treated to resist scratches, stains, even alcohol. Simulated walnut or limed oak finish.
Nov. 19, 1961, Plain Dealer, Cleveland, Ohio.	The Higbee Co.—Student desk.	Wood-grained student desk has long-wearing Marlite finish top. Blond or walnut-grained finish.
Nov. 19, 1961, Times, New York City.	Alfred Dunhill—Reversible lap desk.	Marlite side for writing, felt-backed side for cards. White Marlite edged with brown leather trim or black with red.
Do	Alfred Dunhill—Clipboard.	Red Marlite base trimmed in black leather or white trimmed in brown.
Nov. 12, 1961, Star, Washington, D.C.	The Hecht Co.—2-drawer desk with stain, mar-resistant Marlite top.	Wood grained Marlite top resists scratches, stains, even alcohol. Simulated walnut or limed finish.
Do	The Hecht Co.—47-inch 4-drawer desk with heat and stain resistant Marlite top.	Walnut or limed oak finish.
Nov. 5, 1961, Enquirer, Cincinnati, Ohio.	Shilito's—Students desks.	Practical students desks with damage-proof Marlite tops. Genuine Marlite wood-grained tops are marproof, chipproof, stainproof, burnproof. Available in blond or walnut finish.
Oct. 29, 1961, Bulletin, Philadelphia, Pa.	Snellenburg's—Desk	Mar-resistant wood-grained Marlite top.
Oct. 26, 1961, News, Washington, D.C.	York Furniture—Tables.	Beautiful Marlite plastic tops—easy-to-clean—unharmd by juices, alcohol or boiling water. Your choice of walnut, mahogany, or sandwich finish.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design obtained through newspaper clipping service during the last 24 months—Continued

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Oct. 11, 1961, Mirror, New York City.	Macy's—Knee-hole desk and matching bookcase.	Colonial maple finish. Both styles with scratch-stain-and mar-resistant Marlite surface. Walnut or maple finish has smooth, hand-rubbed finish, Marlite top which resists scratches and stains.
Oct. 1, 1961, Daily News, New York City.	Gimble's—Stainproof Marlite top.	Tough, wood-grained Marlite plastic won't stain, scratch; cleans easily. Walnut, maple, or limed oak finish.
Oct. 1, 1961, Post and Times Herald, Washington, D.C.	The Hecht Co.—2-drawer with stain mar-resistant Marlite top.	Wood grained Marlite top resists scratches, stains, even alcohol. Simulated wanit or limed oak finish.
June 25, 1961, Vindicator, Youngstown, Ohio.	Strouss Hirschberg's—Pedestal tables with Marlite top.	Blond, mahogany or walnut finish.
June 22, 1961, Advance, Cromwell, Ind.	Atz Furniture Co.—Table tops.	Marlite plastic tops that defy chips, mars, stains.
June 22, 1961, Iberville, South Plaquemine, La.	Morgan & Lindsey—Marlite tables.	All with plastic coated Marlite finish resistant to water and beverage stains.
June 22, 1961, Herald, Maywood, Ill.	Newberry's—Occasional brass table.	Stain-resistant Marlite top. Floral-on-white or walnut grain.
Do-----	Newberry's—Lamp table.	Top and shelf Marlite plastic in floral-on-white, or walnut grain. Stain proof.
May 21, 1961, Times, New York City.	B. Altman Co.—Snack table sets.	Golden Greek key design enhances these black, white or teak-colored snack tables. Square shape, with Marlite tops that are stain and alcohol resistant.
Mar. 19, 1961, Star, Washington, D.C.	The Hecht Co.—Desk.	45-inch big 2-drawer attractive desk has stain-resistant Marlite top. Wood-grained Marlite top resists scratches, stains, alcohol. Simulated walnut or limed oak finish.
Mar. 22, 1961, Telegram, Bridgeport, Conn.	Read's Bridgeport—Desk.	Big 40-inch mar-resist-Marlite-top desk. Handsome styling, practical easy-care wood-grained Marlite top resists scratches, stains, alcohol. Walnut or blond finish wood with brass-tipped legs.
Mar. 27, 1961, Star, Washington, D.C.	The Hecht Co.—Desk.	Big 40-inch mar-resistant-top desk in choice of 2 handsome finishes. Handsome styling. Practical easy-care wood-grained desks. Marlite top resists scratches, stains, alcohol. Ideal piece of furniture for your study, hall, den. Walnut or blonde finish, brass-tipped legs.
Apr. 24, 1961, Pioneer-Press, St. Paul, Minn.	Golden Rule—Marlite student desk.	Plasticized finish Marlite wood-grain top resists acids, coffee, heat, scratches, stains. Blond or walnut finish.
May 8, 1961, News, Philadelphia, Pa.	Lit's—Mar-resist desk.	Wood-grain Marlite top resists stains, etc. Walnut or blond finish.
May 17, 1961, Register Guard, Eugene, Ore.	Rubenstein's—Knee-hole desk.	Wood-grained Marlite top resists scratches, stains, alcohol. Walnut or limed oak finish, brass-tipped ferrules.
Mar. 19, 1961, Bulletin, Philadelphia, Pa.	Snellenburg's—Desk.	Big 40-inch modern slim-line. Mar-proof plastic resists scratches, stains, alcohol. Marlite-top desk. Practical, easy-care wood-grained Marlite top resists scratches, stains, alcohol; is practically impervious to cigarette burns. Walnut or blond with brass-tipped legs.
Mar. 1, 1961, News, Washington, D.C.	Lansburgh's—Student desk.	Marlite-top student desk. Gleaming wood-grained Marlite top resists scratches and stains; takes a lot of use. Simulated walnut or limed finish.
Feb. 27, 1961, Tribune, Minneapolis, Minn.	Donaldson's—Student desk.	Marlite-top student desk. Limed oak or walnut look. Marlite top resists scratches, stains. Plasticized finish Marlite wood-grain top resists acids, coffee, heat, scratches, stains; wipes clean with damp cloth.
Feb. 26, 1961, Inquirer, Philadelphia, Pa.	Lit's—Modern desk.	40-inch mar-resistant Marlite-top modern desk. Wood-grained Marlite top resists scratches, stains and beverages. Walnut or blond finish.
Feb. 26, 1961, Mirror, New York, N.Y.	Gimbel's—Student desk.	Student desk with mar-proof top, 2 large drawers, Beautiful wood-grained Marlite plastic top won't scratch or stain. Choice of walnut or limed oak finish.
Feb. 22, 1961, Dispatch, Columbus, Ohio.	Morehouse Fashion—Desk.	Big 40-inch mar-resistant desk with Marlite top. Practical, easy-care wood-grained Marlite top resists scratches, stains and alcohol. Blond, mahogany or walnut finish with brass-tipped legs.
Feb. 19, 1961, Journal-American, New York, N.Y.	Stern's—Desk.	Big 40-inch mar-resistant Marlite-top desk. Handsome styling. Practical, easy-care wood-grained Marlite top resists scratches, stains, alcohol. Walnut or blond finish with brass-tipped legs.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design obtained through newspaper clipping service during the last 24 months—Continued

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Feb. 19, 1961, Beacon Journal, Akron, Ohio.	Oneil's—Occasional tables.	Marlite tables. Wonderful Marlite tables with heat-, scratch-, and stain-resistant tops. In lovely walnut or blonde finish.
Feb. 12, 1961, News, Dallas, Tex.	Titche's—Student desk.	Student desk with Marlite top that resists heat and stain. Special purchase savings on blond, mahogany or walnut finish.
Feb. 12, 1961, Mirror, New York, N.Y.	Stern's—Desk.....	Big 40-inch mar-resistant Marlite-top desk. Practical, easy-care wood-grained Marlite top resists scratches, stains, alcohol. Walnut or blonde finish with brass-tipped legs.
Jan. 29, 1961, Herald Tribune, New York, N.Y.	Gimbel's—Student desk.	20-inch by 45-inch mar-proof Marlite top, wood-grained, Marlite plastic top is stain resistant, too. Walnut or limed oak finish.
Jan. 29, 1961, Times, New York, N.Y.	Stern's—Desk.....	Big 40-inch mar-resistant Marlite-top desk. Practical, easy-care wood-grained Marlite top resists scratches, stains, alcohol. Walnut or blond finish with brass-tipped legs.
Jan. 17, 1961, Oregonian, Portland, Oreg.	Meier & Frank Co.—Desk.	Modern style desk. 45-inch by 20-inch wood-grained Marlite top resists scratches and stains. Mahogany or walnut finish.
Jan. 12, 1961, Long Island Press, Jamaica, N.Y.	Newberry's—Occasional tables.	Modern tables with no-mar tops. Sleek, contemporary-design tables with mar-proof Marlite wood-grained tops. Blonde, mahogany or walnut finish.
Jan. 11, 1961, Post, New York, N.Y.	Gimbel's—Desk.....	20-inch by 45-inch Marlite-top student desk. Wood-grained Marlite plastic top won't stain or scratch. In walnut or limed oak finish.
Jan. 8, 1961, Enquirer, Cincinnati, Ohio.	Rollman's—Occasional tables.	Stain-proof, heat-proof, Marlite-top tables. Occasional table with wood-grain finish in walnut or limed oak. Marlite tops resist heat, scratches, alcohol.
Jan. 2, 1961, Beacon Journal, Akron, Ohio.	Polsky's—Desk.....	No-mar Marlite-top desk. Order walnut or limed oak finish. Alcohol, stain, scratch resistant. Sturdy desk 40 by 18 by 29 inches. Wood-grain Marlite top that resists staining and scratching. Walnut or limed oak finishes.
Jan. 1, 1961, Herald Tribune, New York, N.Y.	Gimbel's—Desk.....	Large student desk has scratch-proof Marlite top. Wood-grained Marlite plastic top won't stain or scratch, provides plenty of work space. In walnut or limed oak finish.
Dec. 14, 1960, Press, Birmingham, N.Y.	Fowler's—Desk.....	Marlite-top modern desk. Genuine Marlite wood-grained top. In blond or walnut finish.
Dec. 13, 1960, Beacon Journal, Akron, Ohio.	Oneil's—Desk.....	Modern desk with Marlite top. Walnut or limed oak finish with rich hardware, brass-tipped tapered legs, and scuff-resistant, wood-grained Marlite top.
Dec. 11, 1960, Post and Times Herald, Washington, D.C.	The Hecht Co.—Desk.	45-inch giant 2-drawer desk with stain-resistant Marlite top. Wood-grained Marlite top resists scratches, stains, alcohol. Simulated walnut or limed oak finish.
Dec. 4, 1960, American, Baltimore, Md.do.....	Marlite top desk. Simulated walnut. Wood grained Marlite top is scratch-and-stain resistant.
Dec. 2, 1960, Citizen Patriot, Jackson, Mich.	Stillman's—Bookcase.	Room divider bookcase. Wood-grained mar-resistant top resists scratches and stains. Choose modern walnut, mahogany, or limed oak finish.
Nov. 13, 1960, Inquirer, Philadelphia, Pa.	Lit Brothers—Desk...	Full-size desk with gleaming mar-proof Marlite top and handy reversible drawer. Genuine Marlite high-gloss wood-grained top is mar-proof. Blond or walnut finish.
Nov. 3, 1960, News & Times-Post, Port Washington, N.Y.	Newberry's—Occasional tables.	Modern occasional tables. Sleek contemporary design. Mar-proof Marlite wood-grained tops. Blond, mahogany, or walnut finish.
Nov. 2, 1960, Newsday, Garden City, N.Y.do.....	Modern occasional tables. Sleek contemporary design. Mar-proof Marlite wood-grained tops. Blond, mahogany, or walnut finish.
Oct. 30, 1960, Post and Times Herald, Washington, D.C.	The Hecht Co.—Desk.	47-inch huge 4-drawer desk with stain-resistant Marlite top. Handsome wood-grained Marlite top resists stains, scratches, alcohol. Walnut and limed oak finishes.
Oct. 26, 1960, Journal-American, New York, N.Y.	Gimbel's—Desk.....	Student desk, wood-grained, mar-proof Marlite top, 2 drawers. Contemporary design in walnut or limed oak finish, brass trim and no-mar top.
Oct. 24, 1960, Capital Journal, Salem, Oreg.	Meier & Frank Co.—Desk.	Modern-style desk. Wood-grained Marlite top resists scratches, scuffs and stains. Available in maple, walnut, limed oak or mahogany color.
Oct. 23, 1960, Mirror, New York, N.Y.	Gimbel's—Desk.....	Student desk has mar-proof top, 2 large drawers. Wood-grained Marlite top, walnut or limed oak finish.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design obtained through newspaper clipping service during the last 24 months—Continued

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Oct. 16, 1960, Mirror, New York, N.Y.	Gimbel's Desk.....	Giant 47-inch-wide desk has scratch-resistant Marlite top. Has handsome wood-grained top and new drawer arrangement. Walnut or limed oak finish.
Do.....	Record cabinet.....	Has scratch-resistant Marlite top. In mahogany, walnut or oak finish.
Oct. 13, 1960, Sunybrook Sun, Oreland, Pa.	Snellenburg's—Desk..	Wooden Marlite-top desk resists stains. Wood-grained top of Marlite resists average abuse, keeps its shiny look for years. Limed oak or walnut.
Oct. 3, 1960, Plain Dealer, Cleveland, Ohio.	Sterling Lindner—Desk.	Mar-resistant Marlite 2-drawer desk only. Wood-grained top resists stains and scratches. Limed oak or walnut finish.
Oct. 3, 1960, Daily News, New York, N.Y.	Gimbel's—Desk.....	Versatile desk is extra sturdy. Has Marlite top, 2 big drawers. Wood-grained, mar-resistant top; walnut or limed oak finish.
July 10, 1960, Daily News, New York, N.Y.	Stern's—Desk.....	Giant 47-inch mar-resistant Marlite-top desk. Handsome styling. Practical easy-care wood-grained Marlite top resists scratches, stains, alcohol. Walnut or limed oak finish.
July 10, 1960, Star, Washington, D.C.	The Hecht Co.—Desk.	45-inch giant 2-drawer desk with stain-resistant Marlite top. With wood-grained Marlite top which resists scratches, stains, alcohol, etc. Simulated walnut or limed oak finish.
July 5, 1960, World-Telegram and Sun, New York, N.Y.	Stern's—Occasional tables.	Marlite-top tables. Wood-grained walnut or limed oak finish can take plenty of wear, but little care. Marlite resists heat, alcohol, juice, scratches, boiling water—it's child-proof.
June 5, 1960, Bulletin, Philadelphia, Pa.do.....	Modern limed oak tables. Genuine Marlite top tables in modern limed oak finish.
May 30, 1960, News, Dayton, Ohio.	Booth's—Desk.....	With Marlite top. Big 47-inch desk. Handsome wood-grained top resists stains, scratches, etc. etc. Walnut or limed oak.
Apr. 11, 1960, Plain Dealer, Cleveland, Ohio.	Sterling-Lindner—Occasional tables.	No-mar tops. Tables for beauty and duty. Smartly styled in blonde, walnut or mahogany finishes. Marlite plastic tops resist scratching and staining.
Apr. 10, 1960, Daily News, New York, N.Y.	Stern's—Desk.....	Mar-resistant Marlite-top desk. Practical, easy-care wood-grained Marlite top resists scratches, stains alcohol.
Apr. 3, 1960, Daily News, New York, N.Y.	Gimbel's—Desk.....	Versatile desk has mar-proof top. Has wood-grained Marlite top; walnut or limed oak finish.
Apr. 2, 1960, Express & News, San Antonio, Tex.	Karatkin's—Occasional tables.	Danish walnut tables with Marlite plastic tops. Graceful tables in soft beautiful Danish walnut with stain- and burn-resistant Marlite plastic tops.
Mar. 27, 1960, Daily News, New York, N.Y.	Stern's—Desk.....	Mar-resistant Marlite-top desk. Practical, easy-care wood-grained Marlite top resists scratches, stains, alcohol. Walnut or limed oak finish with brass-tipped legs.
Mar. 24, 1960, Advance, Lynchburg, Va.	Guggenheimer's—Occasional tables.	Marlite-top tables. Superb Marlite tops. Fine furniture wood-grain finish. Meets every decorating need. Marlite tops resist stains, scratches, heat, alcohol—almost indestructible. As practical as they are handsome.
Mar. 20, 1960, Bulletin, Philadelphia, Pa.	Stern's—Modern or traditional tables.	Marlite plastic surfaces. Traditional tables in mahogany finish. Mar-proof, Marlite tops, shelves.
Mar. 20, 1960, Inquirer, Philadelphia, Pa.	Snellenburg's—Desks..	Marlite-top 2-drawer desk. Handsome all-wood-frame desk with 2 spacious drawers, brass-tipped legs and handles. Wood-grained Marlite top resists scuffs, scratches, stains. Limed oak or walnut finish.
Mar. 20, 1960, Long Island Press, Jamaica, N.Y.	Newberry's—Occasional tables.	Modern tables with no-mar tops. Another great Newberry value. Sleek contemporary-design tables with marproof Marlite wood-grained tops. Blonde, mahogany, or walnut finish.
Mar. 20, 1960, Daily News, New York, N.Y.	Gimbel's—Desk.....	Versatile desk is extra sturdy; has mar-proof top, 2 spacious drawers. Has wood-grained Marlite top. Choice of walnut or limed-oak finish.
Mar. 16, 1960, Times-Herald, Dallas, Tex.	Titche's—Student desk.	Roomy Marlite-topped student desks. Our student desk has a big, 760-square-inch top that's Marlite covered to resist stains, scratches, and burns. 29 inches high in walnut, mahogany, or blonde finish.
Mar. 13, 1960, Inquirer, Philadelphia, Pa.	Snellenburg's—Desks..	Big 2-drawer, wood-frame desks, with scuff-resistant Marlite top. Wood-grained top resists stains, scuffs. Keeps its shiny look. Wood-grained Marlite top resists scuffs, scratches, stain; keeps its shiny look. Limed oak or walnut finish.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design obtained through newspaper clipping service during the last 24 months—Continued

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Mar. 12, 1960, News-Virginian, Waynesboro, Va.	Newberry's—Modern tables.	Modern tables with no-mar tops. Another great Newberry value. Sleek contemporary-design tables with mar-proof Marlite wood-grained tops. Blonde, mahogany, or walnut finish.
Mar. 6, 1960, Bulletin, Philadelphia, Pa.	Stern's—Modern tables.	Marlite-top modern tables. Scratchproof, alcohol-resistant Marlite-top tables in modern limed oak finish.
Mar. 4, 1960, Star-Gazette, Elmira, N. Y.	Iszard's—Modern tables.	Yes, genuine Marlite stainless top modern tables. Won't stain. Won't scratch. Wipes clean. 3 supergrain finishes: mahogany, limed oak. Solid brass ferrule tips on tapered hardwood legs. Marlite tops resist heat, scratches, alcohols.
Mar. 2, 1960, Plain Dealer, Cleveland, Ohio.	Sterling Lindner—Occasional tables.	Look. Tables with no-mar tops. Smartly styled with Marlite plastic tops that resist scratching and stains. Blonde, walnut, or mahogany finishes.
Mar. 1, 1960, Rocky Mountain News, Denver, Colo.	American Furniture Co.—Desk.	Limed oak finish. 47-inch giant-size 4-drawer desk with mar-resistant Marlite top. Marlite top offers wonderful working space—resists scratches, stains, and alcohol.
Feb. 29, 1960, Southern Illinoisan, Carbondale, Ill.	Illinois Brokerage—Desk.	Dunhill desk and chair ensemble with Marlite plastic desk top. Choice of 2 popular finishes, beige-tone and walnut. Marlite exclusive feature for years of wear with minimum care. Marlite resists heat, Marlite resists boiling water, Marlite resists impact, Marlite resists fruit juices, Marlite resists alcohol.
Feb. 28, 1960, Post and Times Herald, Washington, D. C.	The Hecht Co.—Desk.	Big 45-inch Marlite-top desk. Practical Marlite top in limed oak or walnut finish resists juices, stains, scratches.
Feb. 21, 1960, Daily News, New York, N. Y.	Stern's—Occasional tables.	Durable. Low prices. Mar-resistant Marlite-top tables. Fine furniture, wood-grained, warm-tone walnut or limed oak finishes that take years of wear, yet just minutes of care. Heat-resistant Marlite finish is unharmed by alcohol, juices, boiling water, scratches.
Feb. 17, 1960, Record, Wooster, Ohio.	Newberry's—Occasional tables.	Modern tables with no-mar tops. Another great Newberry value. Sleek, contemporary-design tables with mar-proof Marlite wood-grained tops. Blonde, mahogany or walnut finish.
Feb. 7, 1960, Daily News, New York, N. Y.	Stern's—Desk.	Giant 47-inch mar-resistant Marlite-top desk. Handsome wood-grained, Marlite-top resists scratches, stains, alcohol, etc., keeps its shiny new look. Walnut and limed oak finishes.
Feb. 7, 1960, Daily News, Dallas, Tex.	Newberry's—Occasional tables.	Modern tables with no-mar tops. Another great Newberry value. Sleek, contemporary-design tables with mar-proof Marlite wood-grained tops. Blonde, mahogany or walnut finish.
Feb. 7, 1960, Bulletin, Philadelphia, Pa.	Snellenburg's—Desks.	Giant 4-drawer wood desks, 47 inches long. Marlite top resists stains, scuffs. Handsome all-wood-frame desk boasts 4 spacious drawers plus shiny brass-tipped legs. Wood-grained Marlite-top resists scuffs, scratches, stains, keeps its shiny look. Limed oak or walnut finish.
Feb. 2, 1960, Bulletin, Philadelphia, Pa.	Lit Brothers—Desk.	Stain-proof Marlite-top desk and chair set. Top and shelf mar-proof Marlite in limed oak finish. Ends marring, heat or alcohol damage.
Jan. 31, 1960, Advertiser, Boston, Mass.	Jordan Marsh Co.—Occasional tables.	Stain-proof Marlite-top occasional tables. Superb finishes with a fine wood grain in your choice of mahogany, limed oak or walnut. Sturdy hardwood frames and legs. Marlite tops that resist heat, alcohol, scratches.
Jan. 26, 1960, Telegram, Bridgeport, Conn.	Read's—Desk.	Big 45- by 20-inch Marlite top. Limed oak or walnut finish. Wood-grained Marlite top: won't scratch, stain, or burn.
Jan. 26, 1960, Bulletin, Philadelphia, Pa.	Gimbel's—Bookcase.	Full 3-foot-long wood bookcase with 2 sliding glass doors. Marlite top resists stains. Mar-resistant Marlite top, 2 sliding glass doors. Mahogany, limed oak or walnut finish.
Jan. 21, 1960, News-Virginian, Waynesboro, Va.	Newberry's—Occasional tables.	Modern tables with no-mar tops. Another great Newberry value. Sleek contemporary design tables with marproof Marlite wood-grained tops. Blond, mahogany or walnut finish.
Jan. 17, 1960, Express & News, San Antonio, Tex.	Joske's—Occasional tables.	Low, low price on mar-resistant, Marlite-top occasional tables. Wood-grained, warm-toned walnut or gleaming limed oak finishes with heat-resistant Marlite tops that are unharmed by alcohol, juices, boiling water, scratches.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design obtained through newspaper clipping service during the last 24 months—Continued

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Jan. 17, 1960, Inquirer, Philadelphia, Pa.	Snellenburg's—Desk	2-drawer mar-proof desk topped with Marlite. Resists scuffs and scratches. Lined oak or walnut finish in sturdy all-wood frame. Wood-grained Marlite desk top.
Jan. 10, 1960, Mirror, New York, N. Y.	Stern's—Desk	Giant 47-inch mar-resistant Marlite top desk. Handsome, wood-grained Marlite top resists scratches, stains, alcohol, etc.; keeps its shiny new look. Walnut and lined oak finishes.
Jan. 10, 1960, Plain Dealer, Cleveland, Ohio.	Sterling-Lindner—Desk.	Full-size mar-resistant top, 2-drawer desk. Smartly styled with wood-grained, Marlite top. Resists stains, burns, scratches. Lined oak, mahogany or walnut finishes.
Jan. 10, 1960, Times, New York, N. Y.	Gimbel's—Desk	Versatile desk is extra sturdy, has mar-proof top, 2 spacious drawers. Has wood-grained Marlite top. Choice of walnut or lined oak finish.
Jan. 10, 1960, Post and Times Herald, Washington, D. C.	The Hecht Co.—Desk.	Big 47-inch Marlite-top desk that's scratch, stain resistant. Handsomely styled, wood-grained Marlite-top desk that resists scratches, stains, alcohol. Walnut or lined oak finish.
Jan. 10, 1960, Long Island Press, Jamaica, N. Y.	Gertz—Desk	Spacious 47-inch desk with mar-proof wood-grained plastic top. Plastic top resists burns. Stain proof, scratchproof. Won't chip or peel. Choice of lined oak, mahogany or walnut finish.
Jan. 10, 1960, Inquirer, Philadelphia, Pa.	Gimbel's—Desk	Sturdy wood desk with fully enclosed drawer. Our most popular student's desk has mar-resistant Marlite top. Lined oak, walnut, or mahogany finish.
Jan. 6, 1960, Plain Dealer, Cleveland, Ohio.	Sterling-Lindner—Occasional tables.	No-mar tops. Tables for beauty and duty. Smartly styled with Marlite plastic tops that are scratch and stain resistant. Blond, walnut or mahogany finish.
Jan. 5, 1960, Daily News, New York, N. Y.	Macy's—Desk	Macy's Marlite-topped desk. Wood-grained. Marlite topped; resists scratching, alcohol stains and burns. Lined oak, mahogany or fruitwood finish.
Jan. 3, 1960, Enquirer, Cincinnati, Ohio.	Rollman's—Occasional tables, desk.	Stainproof, heatproof, Marlite-top tables. Smart occasional table with wood-grain finish in mahogany or lined oak. Hardwood frames and legs. Marlite tops that resist heat, scratches, alcohol. Marlite top, 2-drawer student desk. Wood-grained, Marlite top and deep drawers, 20 by 45 by 29 inches, in lined oak or walnut finish.

STATEMENT OF SEYMOUR SHERIFF, SOUTHERN FURNITURE MANUFACTURERS ASSOCIATION, HIGH POINT, N. C.

Mr. SHERIFF. Senator, I am Seymour Sheriff of Southern Furniture Manufacturers Association, High Point, N. C.

It has been suggested here, Senator, that this table is a reason for this legislation.

Senator HARTKE. No, I did not. I just asked about it.

Mr. SHERIFF. Mr. Gatewood suggested it. I think it is incontrovertible that this table is a clear violation of the Federal Trade Commission Act, and if this were brought to the attention of the Federal Trade Commission they would proceed against them. This is a misrepresentation of the contents of this table and this legislation is not needed for this purpose at all.

Senator HARTKE. Mr. Ryan's statement will be included in the record.

(Statement of the Southern Furniture Manufacturers Association follows:)

STATEMENT OF JAMES T. RYAN, EXECUTIVE VICE PRESIDENT, SOUTHERN FURNITURE MANUFACTURERS' ASSOCIATION, HIGH POINT, N.C.

Mr. Chairman and members of the committee, my name is James T. Ryan. I am appearing here today in the capacity of executive vice president of the Southern Furniture Manufacturers' Association to oppose the enactment of S. 1724, the so-called Decorative Hardwood or Simulated Hardwood Products Labeling Act. My association represents more than 260 manufacturers of furniture in 14 Southeastern and Southwestern States, whose production represents approximately 40 percent of nationwide wood and upholstered household furniture production.

This is my fourth appearance before congressional committees to oppose enactment of this or similar bills. Most of the comments I made in my earlier appearances (and particularly the comments I made before the House Committee on Interstate and Foreign Commerce on August 16, 1961) are equally applicable to the bill now under consideration. The basic nature and purpose of this proposed legislation has not changed since 1959, when the first hearings were held by this committee.

This proposed legislation, in my judgment, is still solely special interest legislation. Its purpose is to improve the competitive position of hardwood veneer products at the expense of competitive products.

The Southern Furniture Manufacturers' Association also opposes this bill on the ground the alleged evils sought to be corrected by it can be adequately handled under present laws. This bill goes far beyond the correction of such evils.

Finally, we oppose this bill on the ground that the extraordinary requirement of compulsory labeling should not be extended to new areas except in case of overwhelming consumer need. No such need has been demonstrated here.

I

The guiding force behind this bill is the Fine Hardwoods Association, a trade association whose members produce hardwood veneers and lumber. Mr. E. Howard Gatewood, executive vice president of the Fine Hardwoods Association, has made a number of trips to address consumer and retailer groups in an effort to obtain support for this proposed legislation. When committee hearings have been held on similar bills in each of the last 3 years, Mr. Gatewood has always been the principal proponent of the legislation. Despite the protestation of the Fine Hardwoods Association that it is acting on behalf of the public at large, the real reason this trade association has drafted, proposed, and consistently fought for this legislation for the last 3 years is that this bill is designed primarily to improve the competitive position of the members of the Fine Hardwoods Association.

The harvest which the Fine Hardwoods Association hopes its members will reap if this bill is enacted can be traced to the type of labeling required by it. Under this bill, products which are competitive with hardwood veneers must be described as "simulated" or "imitation". I want to emphasize that this bill would make it an unfair method of competition and an unfair and deceptive act or practice in commerce to label, for example, a plastic-topped table with a walnut grained finish as simply "plastic". This bill requires such a label to contain the additional phrase "simulated walnut grain". In other words, this bill requires products which are competitive with hardwood products to be described as "simulated", thereby implying they are inferior, while hardwood products may be described as "genuine", thereby implying they are superior. The Federal Trade Commission in its letter to the House committee last year correctly described the nature of such proposed labeling as "promotional."

I know of no precedent in any labeling legislation previously passed by Congress which contains a requirement which so obviously attempts to disparage one competitive product to the advantage of another. I know of no precedent for compulsory labeling which so obviously is designed to extol the virtues of one particular product.

For a number of years the Fine Hardwoods Association, the Mahogany Association, and the American Walnut Manufacturers Association have encouraged the use of "genuine hardwoods" labels, "genuine mahogany" labels, and so forth. Perhaps not satisfied with the voluntary use of such labels, the Fine Hardwoods Association now proposes, in effect, to make the use of such labels compulsory, and to require the Federal Trade Commission to make sure that such advertising of hardwood products appears on all hardwood furniture.

The special interest nature of this proposed legislation to my mind is sufficient reason for rejecting these bills out of hand.

II

I would now like to turn to the argument made by the Fine Hardwoods Association as to why this legislation is necessary. This argument is based entirely on instances of actual misrepresentation—instances when a product has been described as something that it is not. For example, Mr. Gatewood testified last year before the House committee that his association has no objection to substitute materials copying the appearance of wood, “but, when these imitation products have gone so far as to use also the established common names of our hardwood species in their advertisements and labels, leading the American consumer to believe he is getting genuine hardwood instead of a fake,” it is necessary for the Government to do something.

The hidden premise in this argument is that the Government is powerless to prevent such practices on the basis of legislation already on the books. This premise seems to me to be clearly incorrect. Therefore, even if it is assumed that actual misrepresentation in the furniture industry is as prevalent as described by Mr. Gatewood—an assumption with which I certainly do not agree—these instances of actual misrepresentation do not present a valid reason for the enactment of the compulsory labeling requirements of the proposed legislation.

The Federal Trade Commission Act now prohibits false and deceptive advertising in commerce. This extremely broad provision gives the Federal Trade Commission ample power to prevent actual misrepresentations. For example, in the 1959 and 1960 hearings on this proposed legislation, the Fine Hardwoods Association cited numerous instances of alleged misrepresentation in the advertising of TV cabinets as illustrative of practices which could be prohibited only by the enactment of hardwood labeling legislation. Yet on December 15, 1960, the Federal Trade Commission announced that the major television producers had signed stipulations agreeing to discontinue these practices. The draft of trade practice rules currently proposed by the Federal Trade Commission staff for the furniture industry specifically provides that “it is an unfair trade practice to represent or imply that an industry product or part thereof is in whole or in part of a certain composition when such is not the case.” Clearly the Commission believes it has ample power under present law to prevent the misrepresentations which have been cited here.

Mr. Gatewood has consistently testified that he is not accusing the furniture manufacturer of deceiving his customers. He has argued, however, that the deception begins at the retail level, and that the Commission cannot control this level of commerce. By the device of mandatory labeling, he proposes to extend the jurisdiction of the Federal Trade Commission to every retail furniture dealer in this country, even those who clearly are only in intrastate commerce. In my judgment, such an extension is fundamentally unwise. The annual number of intrastate retail furniture transactions is staggeringly large. More fundamentally, there seems to me to be no reason why this bill should single out the retail furniture industry for such special treatment. If this legislation is necessary for furniture retailers, similar legislation would be equally necessary for most other retailers as well. The argument made by Mr. Gatewood could equally well be made to justify the enactment of a mandatory labeling bill for manufactured products of every kind, and it seems to me to be unfair to apply special labeling burdens to this industry. However, even if it is decided that this special extension of jurisdiction to furniture retailers is desirable, these purely intrastate retail furniture stores could be easily brought within the Federal Trade Commission Act without imposing any requirement of compulsory labeling at all. The mere enactment of the substance of section 3 of the proposed bill would of itself extend the prohibitions against false advertising to all intrastate retailers who would be covered by the proposed legislation; the enactment of the compulsory labeling requirements contained in section 4 is not necessary to prohibit such false advertising by intrastate retailers.

Why then has section 4 been included in the proposed bill? A person who puts his product on the market without any reference to the name of a wood species obviously is not engaging in any of the practices complained of by the Fine Hardwoods Association—yet under section 4 he is required to label his product. This again illustrates that the basic purpose of this bill is an attempt by the producers of hardwoods to require their competitors to label their products as inferior.

III

I have shown that the compulsory labeling provisions of this bill are not necessary to deal with the false advertising which has been cited here. The only other possible justification for the enactment of this bill is that compulsory labeling of furniture is necessary to protect the consumer. However, within the last month, President Kennedy submitted a special message to Congress exclusively devoted to protecting the consumer interest. In this message the President asked for adoption of several controversial pending bills relating to drugs, "truth in lending," "truth in packaging," and other matters affecting the consumer. Conspicuously absent from this list is the present proposed legislation. Apparently, the President did not consider the enactment of this particular legislation to be necessary to protect the consumer interest.

In addition, the comments of the interested agencies of the executive branch on this proposed legislation last session were all unfavorable. The Department of Commerce recommended against enactment of the bill since it did "not believe that any benefit to consumers which might result from enactment of this legislation would warrant the detailed regulation of furniture manufacturers which enactment of the measure would entail." The Department of Agriculture, while making no formal recommendation with respect to the proposed legislation, commented that "other properties than surface appearance often are of greater importance in determining the suitability of a product for a specific use. For example, strength, hardness, dimensional stability, and weight will vary considerably, depending upon the material which is covered by the surface material." And the Federal Trade Commission raised, in the words of the Bureau of the Budget, "a number of objections * * * to enactment of this bill in its present form." The Bureau of the Budget added that it "believes the defects set out by the Commission would detract significantly from the measure's efficacy as labeling legislation." In evaluating the pleas by proponents of this bill that this legislation is necessary to protect the consumer, it is quite significant in my judgment that not a single executive department or agency has recommended enactment of this legislation in its present form.

Implicit in the comment of the Department of Commerce is the fact that any compulsory labeling legislation involves detailed regulation of an industry and of sizable segments of intrastate commerce. Therefore, proponents of such legislation should be required to demonstrate the overwhelming necessity of such legislation before it is enacted.

There has been no such demonstration here. Indeed, the disclosure of the composition of the exposed surface area of furniture would not benefit the consumer at all. Such disclosure would not assist the consumer in selecting better quality furniture over poorer quality furniture. As a matter of fact, the labeling called for by the present bill may often lead the consumer to believe that the poorer quality product is superior to the better quality product.

It is true that Congress has extended the requirement of affirmative labeling in the fields of textiles and furs. The disclosure required in the textile area, however, relates to the basic quality of the product—its fiber composition. In contrast, the present bill requires disclosure of decorative or other aspects of a product which have practically no relationship to the inherent quality of the product.

The surface appearance or composition of the exterior surface is not a reliable indication of the quality of the product. As pointed out by the Department of Agriculture, surface appearance often is not the most important determining factor of quality. Not uncommonly, a piece of furniture with a printed finish is of better quality than a piece of furniture with a hardwood veneer. A piece of veneered furniture may be of higher quality than a piece of solid furniture. Properly constructed, a veneered piece of furniture is stronger and more resistant to cracking and warping; veneering also helps to conserve limited supplies of certain types of hardwoods. The basic point is that quality is determined by such things as workmanship, strength, and quality of materials used and the dimensional stability of the design, not by the factors required to be disclosed by this bill which relate basically to surface appearance, a decorative addition to furniture products.

It seems to me, therefore, that the information called for by this bill will not be of particular assistance in helping the consumer choose good furniture over bad. As a matter of fact, the bill as presently drafted might well cause many customers to reject a higher quality "simulated walnut" plastic table in favor of a poor quality "genuine hardwood plywood" veneered table.

Because this bill would provide little if any benefit to the consumer, and actually may encourage deception, we feel it unreasonable to impose the burdens of this bill on the furniture industry. This bill does not provide a system of guarantees by which a furniture manufacturer (as contrasted with a retailer) could rely on the statements of the manufacturers of veneer and other raw materials, so that the hardwood producers receive all the benefits and bear none of the burdens of the proposed legislation. Even if this were corrected by amendment, this bill would nevertheless be burdensome to the furniture industry. The American furniture industry is a highly competitive industry composed primarily of many small companies and plants. In 1958 there were more than 5,000 separate furniture manufacturing establishments located in practically every State in the Union. Most of these plants are small, family-type affairs employing fewer than 20 workers. Of the 5,297 plants manufacturing household furniture of all types in 1958, 3,378, or 63.8 percent, employed fewer than 20 workers. More than 1,800 of these small concerns manufacture wood furniture. In an industry such as this, compliance with this bill will be a serious matter, particularly to the smaller companies. The bill, for example, calls for the retention of records of a type normally not kept; it requires affirmative labeling in many cases where no labels of any kind are now used, and so forth. It is impossible to estimate this additional cost, though in most instances it would not be prohibitive. However, in some small operations, the employment of a single additional nonproduction employee (which might be required in order to insure compliance with this bill) could easily spell the difference between a profit and a loss. It is also probably true that the relative cost of compliance would be greater for the smaller producer than for the larger who already has accurate control and accounting procedures in operation. I am not suggesting that these additional costs are of themselves a sufficient reason for not enacting this legislation if it were necessary to protect the consumer. However, since this bill gives little or no benefit to the consumer, I do not believe the imposition of these extra costs on the furniture industry can be justified.

In summary, we believe the enactment of this bill would principally benefit one industry at the expense of another and would not benefit the consumer or be in the public interest. This is special interest legislation, pure and simple, and there has not been the strong showing of overwhelming necessity which should be made before such special interest legislation is enacted and before Federal regulation is extended to new areas. We believe, therefore, that the proposed legislation should not be enacted.

This concludes my statement. Thank you.

**STATEMENT OF THADDEUS S. SNELL, GYPSUM ASSOCIATION,
CHICAGO, ILL.**

Mr. SNELL. Senator, my name is Thaddeus Snell, representing the Gypsum Association, and I would be happy to have my statement included without attempting to read it or summarize it. I know you are very sincerely interested in the gypsum industry because of its location in your State, and I would like to commend it to you for your consideration, and I won't attempt to say more, because I realize your time is pressing.

Senator HARTKE. I do realize that, know where they are, and have driven through the country many times.

Mr. SNELL. We are opposed to this bill in its form and I think the statement covers our position.

Senator HARTKE. I will be glad to read your statement, and it will be included at this place in the record.

(The statement follows:)

STATEMENT OF THADDEUS S. SNELL ON BEHALF OF THE GYPSUM ASSOCIATION

Mr. Chairman, members of the committee, my name is Thaddeus S. Snell. I am a lawyer, practicing at 134 South LaSalle Street, Chicago, Ill. I am counsel for the Gypsum Association, a voluntary trade association with offices at 201 North Wells Street, Chicago, Ill., on behalf of whose members I appear today.

Members of the Gypsum Association, representing over 90 percent of this country's gypsum production, are grateful for the courtesy extended by this committee in affording an opportunity to our industry to present our views on S. 1724, the Decorative Hardwood or Simulated Hardwood Products Labeling Act.

The gypsum industry opposes this legislation in general, the present form of this bill and its specific application to the gypsum industry.

To understand the full import of our position, some knowledge of gypsum and its processing and use would be useful.

Gypsum occurs in rock form in various places throughout the country. This nonmetallic mineral is processed, usually near the place it is mined or quarried, into such building products as plaster, gypsum wallboard, lath, sheathing, and gypsum block. Each of you has been exposed to this product many times. It is used in some form in nearly every permanent building in this country.

The only gypsum product affected by this bill is gypsum wallboard. In simple terms, gypsum wallboard is a core of plaster between two layers of a special type paper. The paper is firmly bonded to the plaster by the adhesive qualities of the gypsum. Gypsum wallboard is more widely used than any other building material for finishing walls and ceilings in single and multifamily residences. It is used in homes in all price ranges.

Gypsum is one of the few truly fireproof materials. It will neither burn nor support combustion, and its great popularity in building construction in the form of both plaster and prefabricated board products is to a great extent attributable to its unusual ability to confine fire.

One of the gypsum board products offered consumers today by the gypsum industry is a board having a predecorated finish. Several samples of such boards manufactured by various companies have been supplied the committee for its examination. These samples are representative in appearance and construction of a product which each manufacturer offers its customers. The predecoration appears on the paper surface of one side which becomes the exposed side when installed. The appearance of some of these products is described in terms of wood names, both softwood and hardwood. Note, for example, "knotty pine," "fawn mahogany," and "cherrywood." Similar products are also described with coined words or plant names, such as "wheat," "heather," "tumblewood," "sablewood," and "silverbark." Although these products are all competitive, one with another, the proposed legislation would apply only to those using a hardwood name.

S. 1724 states that its purpose is "to protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products." Thus, the caption itself raises three basic questions which I will relate to predecorated gypsum board, the special interest of our industry:

(1) Is predecorated gypsum board misbranded and falsely advertised?

(2) Is the consuming public deceived by the labeling on such products?

(3) Does S. 1724 in fact offer the consuming public protection against deception?

Our industry's answer to each of these questions is an emphatic "No."

Before enactment of legislation of this type can be justified, a clear and compelling public need for such legislation should be demonstrated. For several years those who can see special advantage to their industry through enactment of this legislation have attempted to demonstrate a public need. In the various hearings heretofore held no persuasive argument has been forthcoming in support of the legislation. On the contrary, it has become increasingly apparent that the hardwood industry is simply attempting to distort the legislative process for their own competitive advantage—a desire to which the Congress wisely has shown no inclination to accede.

Predecorated gypsum board is not misbranded or falsely advertised. An examination of the samples furnished the committee and typical pieces of literature demonstrate the total absence of any misleading statements. You will find that this product is consistently described as "gypsum wallboard." Actually, this:

industry is not interested in the slightest in creating the impression that its product is wood. Our industry is not ashamed of its product, but proud of it. It is the qualities of gypsum which sell gypsum wallboard, not any claim that the product is made of wood.

The Federal Trade Commission Act already proscribes false and misleading advertising. The Federal Trade Commission already has full power to proceed against those who disregard its requirements.

Since no evidence has been offered that the gypsum industry is guilty of falsifying or misrepresenting or misbranding its products, and since even if such practices did exist they are in violation of existing law, the need for additional legislation is open to serious question. If compliance with existing law is the problem, more effective enforcement, rather than additional legislation, would seem to be a better answer.

We recognize that the proponents of this legislation would say in reply that the affirmative labeling requirements of the act provide a significant difference from present law. This we will discuss at some length in a moment. Suffice it to say here that in our opinion the present legislation does not offer any significant protection to the consumer.

Even if a product were misbranded or falsely advertised as a matter of fact, unless someone is deceived the necessity of legislation with all of the resulting expense cannot be justified. It is almost impossible to conceive of anyone being deceived into thinking that predecorated gypsum board with a "walnut" or "mahogany" finish is wood and not gypsum.

Predecorated gypsum board comes in sheets typically 4 feet wide and up to 12 feet long. The ends are not covered. The paper-enclosed core can readily be seen when the product is purchased from the retailer. It is hardly worth stating that no customer who has purchased wood could be sold gypsum board without knowing that the product he receives is not wood. He would have to be both blind and naive to the point of incompetency not to be able to tell that the product he had before him was gypsum.

The bill is seeking to protect consumers. If the consumer is the purchaser from the retailer, your cursory examination of these samples should be amply persuasive that deception is virtually impossible.

This product is used only in building construction. In some cases the purchaser from the retailer may not be the homeowner himself who personally selects material for remodeling or for new construction. Material may be purchased by a speculative builder who certainly knows the composition of the material he is installing.

Who, then, are these bills trying to benefit? The only conceivable possibility is the purchaser of a completed home, purchased new from a speculative builder. By then the walls are finished and the ends of the gypsum board can no longer be seen. Only under such circumstances could it even be suggested that a predecorated gypsum board might deceive the consumer into believing he was obtaining a wood product. I hazard a guess that no one has submitted to this committee any substantial evidence that such deception occurs.

The gypsum industry, the dealers handling its products, and the homebuilder using its products are proud of gypsum wallboard. Neither the manufacturer nor the retailer nor the builder attempts to sell the product as wood. Each knows that gypsum wallboard has many qualities far superior to wood in any form for many construction purposes, with one possible exception—appearance.

Gypsum wallboard is designed for further decoration. It can be painted or papered, or it can be covered with a variety of other finish materials, or it can be purchased in a predecorated form.

The American public has always shown an esthetic preference for the appearance of wood in interior decoration. It is often appropriate or desirable that walls themselves have the appearance of wood to harmonize with the room decor.

Undoubtedly the hardwood interests would suggest that such a preference should be satisfied with the use of "genuine" wood products. Some customers agree. But this is a matter of personal taste, not of Federal legislation. There are special features offered by gypsum which cannot be attained with wood. Gypsum board is fireproof and dimensionally stable. It is less expensive. It will not rot and is not subject to termites or other vermin. These are real and substantial reasons why so many people today prefer gypsum board to any other type of interior finish. It is to recapture the market they are losing on quality that the hardwood people would like to see a sticker on the face of as many

competitive products as possible, including predecorated gypsum wallboard, labeling it a "simulation," "an imitation," an inferior product, by act of Congress. That such is the real purpose behind this legislation is clearly demonstrated by a study of the bill itself which can only lead to the conclusion that the bill fails to provide the protection it purports to offer.

The caption itself is misleading. This bill is not concerned with "misbranding or false advertising of products," only with the appearance of products. It does not protect the public from deception but by legislation forces deception on the public by adding congressional sanction to the erroneous concept that hardwood is superior to any competitive product. If there is in fact an evil which needs correcting this legislation does not accomplish the purpose.

This bill offers neither the breadth of coverage nor the depth of control which would be required if the basic premise of great public injury were true. The scope of the bill is narrow. It is limited to hardwood. Why hardwood and not softwood? If it is deceptive to label a product "fawn mahogany" when it is a predecorated gypsum board, why isn't it equally deceptive to label a similar product "knotty pine"? While attempting to benefit the hardwood industry, such legislation creates a new type of deception. If a product bearing a hardwood name bears a label indicating it is an imitation or a simulation and not real hardwood, and if a product bearing a softwood appearance is not required to bear such a label, isn't it likely that the consumer will assume that the product not so labeled is in fact "genuine"? What can a buyer of a new home be expected to think who sees one wall covered with stickers saying in effect, "This product is not what it appears to be, it isn't really wood, it is gypsum," and in the next room sees a wall with a knotty pine finish and no such labels? Not only is the bill so narrow in scope that it creates more confusion than it resolves, but it is so shallow in depth that it literally does not scratch the surface. It is concerned solely with appearance. It ignores the fact, if a problem exists at all, that it is not the appearance but the quality of the product itself that causes the problem. It is difficult for anyone to say that a first-class photographic reproduction of a carefully selected specimen of wood is not as pleasing in appearance as the actual wood itself. This, again, is a matter of personal taste. The complaint results from the conclusion to which the assumption as to appearance is likely to lead. If the product has the appearance of walnut, then it is argued that the consumer will assume that the product has the qualities and characteristics of walnut. If it does not, then the customer is deceived.

Assuming the premise the argument may be logical and logically one would expect the proposed legislation to strike at the heart of this problem with corrective measures.

The legislation accomplishes no such purpose.

All that the bill really requires is that the appearance of the product itself be accurately described. Section 4(a) requires that any decorative hardwood product must be labeled "either by the correct common name * * * of the hardwood actually used for the exposed surface area of the decorative hardwood product or by the words 'genuine hardwood' * * *". It also provides that any veneered, exposed surface shall be clearly indicated by the additional word "veneers" or "plywood." This much refers to a product having real wood on the exterior surface. There is no requirement in the act that the composition, qualities, characteristics, or constituent materials going into the subsurface materials be accurately described. In other words, anything goes as long as the surface is properly described.

Section 4(c) requires that any material, including gypsum, which is specifically named, has applied to its surface a printing or engraving simulating the appearance of any hardwood, shall accurately describe the type of hardwood simulated, adding, of course, the word "simulated." It is difficult to understand what difference it makes whether the "simulated" wood appearance is properly described if the subsurface materials are not properly described. To suggest that any performance consistency or predictability can be found between products with a walnut exterior, for example, regardless of the underlying material, is entirely erroneous. To assume that an accurate description of the actual wood, the appearance of which is simulated, will somehow convey to the consumer the quality and performance characteristics of the underlying material, in the absence of an adequate description of that underlying material, is without justification in logic or fact. Yet this is what this legislation suggests by the basic assumption upon which it is predicated, "that if you know the correct common name" of the wood, which in reality or by reproduction covers the surface, you will not be deceived in what you buy.

The fallacy of this assumption destroys the significance of the legislation. It is exposed as a skin-deep cure for an internal ailment. The real purpose behind the bill is revealed by the arbitrary, discriminatory and wholly unnecessary distinction suggested between "simulated" and "decorative" hardwood.

The appealing phrase "decorative hardwood" covers only those products the exposed surface area of which is covered with wood. The derogatory term "simulated" is reserved for all competitive finishes where the appearance of wood is reproduced or achieved in some other way.

No substantial evidence has been submitted so far as we know at any of the hearings that the subsurface materials of those who use "decorative hardwood" surface materials is of a quality or has a performance history at all superior to competitive products using a simulated wood exterior.

SPECIFIC SUGGESTIONS

The gypsum industry suggests that there is no evidence of a need for labeling legislation affecting its products and therefore that its products be specifically excluded from this legislation.

If the committee is convinced from the entire record that there is deception in this field which needs remedial legislation, then we urge that the labeling be comprehensive, objective, and impartial, rather than superficial, subjective, and discriminatory. The distinction between simulated and decorative hardwood should be eliminated, and the scope of the bill broadened to include all products having an external appearance of, similar to or intending to suggest any wood. The definition should be broad enough to include coined names which imply the appearance of any wood. All such products should be classified in one category, except where they are made entirely of solid wood.

We further suggest that the labeling requirements be directed at the base material rather than at appearance, requiring description in terms understandable to the consuming public involved. Only by labels disclosing significant details as to the base material, its composition, and its construction, can any prevalent deception of the public be eliminated.

We further suggest that details as to the labels required be left to the discretion of the Federal Trade Commission and that the Commission be directed to require complete disclosure of the principal component materials, including adhesives and production methods, or in the alternative manufacturing in accordance with recognized, responsible standards with the label so indicating.

The title of the bill could then be changed to "Decorative Wood Labeling Act."

SUMMARY

In summary, the gypsum industry believes this bill, as applied to predecorated gypsum wallboard, is unnecessary because—

- (1) The ultimate consumer, whoever he may be, is not being deceived in the appearance of gypsum wallboard;
- (2) The public is not being deceived in advertising with respect to gypsum wallboard; and
- (3) The Federal Trade Commission has adequate authority under existing law to protect the public from future false and deceptive advertising, and the necessity of labeling as an additional protection for the public buying gypsum wallboard has not been established.

If legislation is deemed necessary, the gypsum industry believes that this legislation is improper and inadequate in that—

- (1) The only proper purpose for such legislation is to prevent deception as to performance characteristics of a product. Labeling the appearance of the surface by the "correct common name" of the wood whose appearance is portrayed will not prevent such deception;
- (2) The effect of the legislation is to imply a superiority of a product having a genuine wood exterior, regardless of the underlying material and construction, over competitive products when such superiority in fact does not exist; and
- (3) The scope of the legislation is too limited in covering only hardwoods and should be broadened to include softwood and competitive finishes.

If a need for legislation in this field is found, the gypsum industry urges this committee to adopt objective, nondiscriminatory, comprehensive legislation, designed to prevent deception as to the performance characteristics of the products covered.

However, after careful, objective consideration of all aspects of this bill, we sincerely hope that this committee will find no need for this legislation.

I thank you on behalf of the members of the Gypsum Association for the opportunity of presenting this testimony.

Senator HARTKE. With that, I shall go and vote. This hearing is adjourned, but the record is open for 2 weeks.

(Whereupon, at 6:01 p.m., the committee was adjourned.)

(Material submitted for the record, including reports from the various agencies of Government, follows:)

STATEMENT PRESENTED ON BEHALF OF FURNITURE MANUFACTURERS ASSOCIATION OF GRAND RAPIDS, MICH., BY ITS BOARD OF DIRECTORS¹

I. INTRODUCTION

The Furniture Manufacturers Association of Grand Rapids, Mich., on behalf of 47 manufacturers of quality furniture in its area, files this statement in opposition to the proposed hardwood labeling legislation, thereby joining scores of businesses and associations who likewise have opposed this legislation at the present hearing and on the previous occasions in recent years when committees of both Senate and House of Representatives have considered substantially the same bill as that now pending. A listing of these individuals and organizations reflects the breadth of this opposition and the potential impact of these bills upon the business community.

We should make clear at the outset that we are not obstructionists, nor are we dedicated to oppose new ideas because they are new. As responsible business people our members are unalterably opposed to fraud, deception, and misrepresentation in any form. They further are aware that one of the duties of government is to guard innocent people against such conduct through legislation and appropriate regulations. There are, however, outer limits to well-conceived governmental action. We believe, for instance, that the Federal Government (1) should not act in the absence of a public need, (2) should not require free enterprise to subsidize product education it deems uneconomic, (3) should not disturb a free marketing situation by favoring certain supplier interest groups or manufacturers of a certain type of industry product, (4) should not promote consumer misunderstanding by requiring appeals to preconceived public notions of value, however misguided, and, (5) should not hamper the free development of less expensive or more satisfactory substitutes in a given industry.

S. 1724 favors the hardwood industry to the detriment of the consumer, because it adds to the cost of the finished product without disclosing to the consumer the real worth of the product in terms of quality, performance, or durability.

¹ J. G. Griswold, Jr. (president), Widdicomb-Mueller Corp., Grand Rapids, Mich.; R. H. Bennett, Jr. (secretary-treasurer), Stow & Davis Furniture Co., Grand Rapids, Mich.; Hollis M. Baker, Jr., Baker Furniture, Inc., Holland, Mich.; J. M. Brower, Brower Furniture Co., Grand Rapids, Mich.; Charles W. Doezema, Mastercraft Furniture Co., Grand Rapids, Mich.; Earl Johnson, Johnson Furniture Co., Grand Rapids, Mich.; C. M. Kindel, Kindel Furniture Co., Grand Rapids, Mich.; Richard P. Markoff, Barnard & Simonds Co., Inc., Grand Rapids, Mich.; Adrain VandenBout Hekman Furniture Co., Grand Rapids, Mich.; W. R. Fitzgerald, West Michigan Furniture Co., Holland, Mich.; Kenneth Bergsma, Imperial Furniture Co., Grand Rapids, Mich.; Egbert Fisher, Bissell, Inc., Grand Rapids, Mich.

II. THERE HAS BEEN NO SHOWING OF PUBLIC INTEREST—ACTIVE DECEPTION IS NOW CONTROLLED

It is axiomatic that proponents of remedial-type legislation bear the burden of showing a present public need therefor. This has not been done in this instance. In a statement before your committee when it was considering the same legislation in 1960, a spokesman for the Federal Trade Commission said:

“* * * as a general principle the Commission favors specific labeling legislation of the type proposed *only in those areas where there has been demonstrated a strong consumer need*. Based on presently available information, *we are not aware of the extent of the need for this type of legislation*.” [Emphasis supplied.]

The situation thus described has not changed.

We can state with certainty that our members are not engaged in deceptive labeling, invoicing, or advertising. Neither are they, as manufacturers of high-quality merchandise, aware of the use of deceptive labels by competitive manufacturers. In view of Grand Rapids' reputation as a producer of the Nation's finest furniture we are sure you will agree that our point of view is not conditioned by any desire to use inferior substitute or second-grade materials.

However, if a dominant need existed to curb deception by some in the industry, it is known that the Federal Trade Commission, with firm statutory support, serves as “public watchdog” over the furniture industry. It presently has all necessary authority to attack and eliminate misrepresentation of product by manufacturers.

Thus if a furniture manufacturer were to misbrand it would be a violation of present law and the established trade practice rules for the furniture industry. The deception would be immediately attacked and eliminated.

Should some showing later be made of widespread misrepresentation at the retail level this can and should be handed by Government regulation or voluntary arrangement at that level and without unnecessary involvement of the Federal Government or of manufacturers who do not participate in the wrongdoing. The Federal Trade Commission has not asked for these additional authorities and responsibilities which are provided for it in S. 1724; nor could it operate effectively in the retail area.

III. PUBLIC RECOGNITION OF QUALITY IS NOT RELATED TO THE LABELING REQUIRED BY THESE BILLS

The makers of Grand Rapids furniture enjoy a national reputation for quality and have much to gain by public enlightenment specifically on matters of furniture quality. However, this is not a valid reason for us to embrace proposals which are unsuited to accomplish this purpose and would add yet another cost to every piece of furniture manufactured and sold in the United States. Public education is a program for gradual development by usual marketing procedures. It ought not to be attempted by legislation—certainly not by restricted purpose legislation of this sort. We simply do not believe Federal legislation can or should be substituted for the fair and flexible sales promotion programs of our furniture manufacturers.

Dr. Donald R. G. Cowan of the School of Business Administration at the University of Michigan agreed with this conclusion in recent testimony before the Federal Trade Commission trade practice conference for the household furniture industry. He pointed out that the type of single-standard, incomplete labeling here under discussion could “stifle progress among furniture manufacturers in developing materials which are stronger, harder, and more serviceable to consumers in many respects than solid woods, and at the same time may be cheaper * * *”. Labeling of the nature suggested may contribute to greater conservatism.”

Dr. Cowan concluded that voluntary labeling designed by manufacturers and retailers to supply significant and meaningful information about the entire product and its use, thereby increasing the satisfaction of consumers, was far preferable to a law label program such as the one here suggested.

IV. SUGGESTED LABELS WOULD BE DECEPTIVE

Not only will the labels specified in these hardwood labeling bills fail to educate the public in a meaningful way, they will themselves promote public deception and appeal to misguided prejudice.

Labels on furniture to identify the specie of wood used would invite public attention and emphasis to a single component and completely ignore vastly more important elements such as construction, design, and finish. Two items of furniture made of the same wood, with comparable dimensions, frequently have a sizable retail price spread—one might well cost 10 times as much as the other. Mandatory labeling, as proposed, would require the same label on each of these items, thereby erroneously indicating to the consumer that the two items are of equal quality.

Dr. A. J. Panshin, one of the country's foremost wood technologists and presently the head of the Department of Forest Products at Michigan State University, spoke of the deception inherent in such labeling in testimony before the Federal Trade Commission in the aforementioned trade practice conference. He said:

"Wholly unwarranted emphasis on solid wood construction tends to draw attention away from the real quality concepts, that of design, workmanship, as well as of materials used, to a purely fictitious quality standard based on a misconception that solid wood construction is automatically superior to any other kind.

"The implication that 'solid wood' construction is the prime criterion of quality ignores technological progress and esthetic considerations brought about through the use of improved materials, employed not to mislead the buyer but to enhance the quality of a product and frequently without raising the cost. In fact, should the proposed rules be adopted they would very likely tend to freeze practices and concepts, that have no justification in the light of new technological developments, or present-day economics, by offering a premium for their perpetuation.

"As an example, substantial evidence exists that core stock for table and desk tops, made of some forms of wood particle boards, is not only more economical but, in fact, is at least the equal and quite possibly superior to the core stock made of solid wood. To suggest or to imply that such construction is inferior, and hence should be labeled for protection of buying public, is to do a real disservice to reputable and progressive manufacturers.

"Furthermore, this implication that the solid wood core stock, for instance, is inherently a quality product, simply because it is made of solid wood, is a risky assumption. In no way does it protect the buyer from an inferior product, and it may create a sense of false security, based on the comforting but totally unreliable concept that if it is made of 'solid wood' it must be good. In the final analysis there is no substitute for the integrity of the producer, and his willingness to stake his reputation on the performance of his product. Quality of a piece of furniture cannot be legislated by a set of Government rules, and especially when these rules are based not on facts but on popular misconceptions.

"Finally, it is quite impractical to describe the component parts of a piece of furniture that might consist of several kinds of wood and several different compositions of materials. For instance, how would a piece of furniture be described that has birch legs, maple top, and bleached mahogany panels. The legs are of solid wood, the top is a veneered construction, probably with flake board core, and the side and front panels are plywood with bleached mahogany faces. It certainly can be done, but for what purpose? Where is there any evidence that this rather complicated but excellent construction was meant to deceive anyone?

"The best safeguard against fraudulent misrepresentations is the integrity of the manufacturer, industry-sponsored standards, and competition. Labeling, along the lines suggested by the proposed rules, will not guarantee quality. It may confuse the public; it may quite conceivably give advantage to those who wish to capitalize on the presumed superiority of solid wood construction implied in the proposed rules; it may tend to discriminate against the more progressive manufacturers willing to experiment with new materials and new technologies and certainly it would add to the cost of the product to consumer."

Congress saw fit to exclude fabric covers of upholstered furniture from the Textile Fiber Products Identification Act because fiber content of these covers is completely unrelated to the true quality of the fabric. This identical point must be made of the species used in wood furniture. Material component has the least to do with true quality.

We are not opposed to public education. We are opposed to this bill and its requirement that purposeless labels be used that would promote the sale of hardwood products over competitive materials merely on an appeal to prejudice. This situation would be compounded if cost of holding the hardwood products umbrella aloft is to be borne by the furniture manufacturers of this Nation.

Even if the labeling covered all matters of quality and all the confusion, deception, and prejudice which are inherent in the proposed program could be eliminated, this proposal should nevertheless be judged an economic waste of vast proportions.

V. THE COST OF MANDATORY LABELING UNDER S. 1724 WOULD BE PROHIBITIVE

If it were possible to legislate a wood-labeling program which would educate rather than confuse the public, we are certain that this body would give due consideration to the costs involved. We can speak with some authority on the matter of labeling costs since our manufacturers of upholstered furniture now prepare, print, and affix the labels required by most States as health measures.

Grand Rapids furniture manufacturers normally introduce new patterns twice each year. It is not exceptional for a Grand Rapids manufacturer to introduce over 100 new designs at a market. Many combinations of woods are used in these new products and under S. 1724 each combination would require a special label. A manufacturer may use a total of 10 species in the exposed surfaces of the pieces in his line and this might involve upwards of 35 different labels for the entire line. Of course, a market analysis would be necessary before wood or style changes were made in order to anticipate consumer reaction to give wood and material descriptions. To repeat this procedure every 6 months would be prohibitive, especially in light of the doubtful value obtained.

We estimate that this will cost the average manufacturer in Grand Rapids \$3,500 annually, to say nothing of the expense of penalties for honest errors and the huge cost to the Federal Government to administer this proposed law. We believe the voluntary labeling (which cannot misrepresent) and consumer education activities which now predominate in the industry will continue to provide the best, most economical answer.

CONCLUSION

This matter of hardwood labeling was before the Senate in 1959 and 1960 (S. 1787, 86th Cong.). The bill did not pass the Senate. Contrary to some reports, the present bill contains no changes of substance; it is not a true "redraft" nor have industry objections been met.

Industrial proponents of the bill are persistent, even though misinformed. They have carried their fight for this special-interest legislation to the House of Representatives and to the Federal Trade Commission without success. They seek this governmental protection against inroads on the market they long ago fenced off for hardwood producers without heed to the arguments of their own customers and the public who must bear the burden imposed. We are not concerned that the logic of their position might prevail. Rather, our concern is that perennial harassment might result in legislative action from the default of a tiring opposition.

For this reason, the members of Furniture Manufacturers Association of Grand Rapids, Mich., acting through their association, again add their voices to the host of others opposing S. 1724 and its predecessor bills. We appreciate the opportunity to add our remarks to the record in the proceeding.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION BY JOHN C. LYNN, LEGISLATIVE DIRECTOR

We appreciate the opportunity of presenting the views of the American Farm Bureau Federation on the proposed legislation to provide for the labeling of hardwood and simulated hardwood products. The Farm Bureau has had a longstanding policy supporting proper labeling of various products offered consumers. It is our feeling that the consumer is entitled to know the contents of an article that is being purchased. This can best be accomplished through proper labeling.

Farm Bureau policies for 1961 contain the following statement on labeling: "We insist that appropriate action be taken to require and enforce the proper labeling of foods and fibers. All products offered to the public in imitation of, or as a substitute for, or in the adulteration of, any farm products or any items processed from a farm product should be labeled to include the names and percentages of all ingredients."

For many years the Farm Bureau has supported legislation designed to provide for proper labeling of foods and fibers. For example, we actively supported the Textile Fiber Products Labeling Act which was passed several years ago.

As we understand it, the legislation under consideration would require the manufacturer of finished hardwood or simulated hardwood products to apply a label to each product indicating the name of wood or other material used and the type of construction involved. This legislation is designed to protect consumers and others against misbranding, false advertising, and false labeling of various hardwoods and simulated hardwood products.

We believe that the provisions of S. 1724 provide adequate protection to consumers of hardwood and hardwood products and would not impose any unreasonable burden on manufacturers of these products.

We support the enactment of this legislation and hope that the committee will give early consideration to its favorable passage.

THE SOCIETY OF THE PLASTICS INDUSTRY, INC.,
New York, N.Y., May 4, 1962.

CLERK,
Senate Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SIR: Enclosed are 10 copies of the statement of the Society of the Plastics Industry, Inc., in opposition to Senate bill 1724.

I would appreciate this statement's being included in the record of the hearings on this bill.

Thank you for your assistance.

Very truly yours,

JOSEPH T. MORRIS.

STATEMENT OF THE SOCIETY OF THE PLASTICS INDUSTRY, INC., NEW YORK, N.Y.,
BY JOSEPH T. MORRIS, COUNSEL

The following statement is filed in opposition to Senate bill 1724 on behalf of the Society of the Plastics Industry, Inc. The society is composed of over 2,400 companies and individuals responsible for approximately 85 percent of the plastics industry sales, dollarwise and volumewise.

We are vitally concerned with the instant proposal because many of our members produce products or plastic components employing artificial grain effects simulating those of various hardwoods. These products are not produced with the slightest intention of creating the impression that the product is actually wood, or a wood product. The sole purpose of applying a decorative finish to the product is to meet the desire of the consumer to purchase products which will harmonize with existing decor but have the wearability characteristics of more durable finishes. Plastic products are for the same reason produced with finishes designed to resemble and blend in with stone, cloth, metal, and other well-known materials. Illustrative of plastic products produced with decorative finishes are the high pressure laminates used for counter tops, wall paneling, and furniture surfaces. Also illustrative are the vinyl and other plastic sheetings made with embossed finishes for use as wall coverings, as coverings for appliances, and for other similar decorative applications.

Plastic products have achieved wide public acceptance because of their superior qualities. These superior qualities include surface characteristics such as easy cleaning, hardness, and resistance to heat, abrasion, and stain. The consumer is not only aware of the above-mentioned qualities, but usually requests the laminated products because of them. The manufacturer of quality plastic products are well aware of the market interest in their product. They are by no means interested in attempting to deceive the public into believing that the materials are made of hardwood or "simulated" hardwood. There

is no deception of the public involved in advertising or labeling, and the industry certainly does not wish to create a deception which can have no effect other than an adverse one upon itself.

The society principally objects to the negative approach of Senate bill 1724. Should the instant bill be enacted into law it would characterize nonhardwood materials, with hardwood decorative finishes, as an inferior product by an act of Congress. As Mr. Henry Miller, the Assistant to the General Counsel of the Federal Trade Commission, pointed out in his testimony before the committee on April 5, 1962, "there is a very serious question as to whether the classification [of plastics, metals, etc., as 'nonwood products'] is proper."

The society's members would voice no objection whatsoever to legislation taking a positive approach which would prohibit deceptive labeling of nonhardwood products as "hardwoods" as such legislation is truly deemed necessary. In all candor, it seems to us that any labeling which tends to deceive the public as to the nature of a hardwoods product would be a violation of existing law and that the Federal Trade Commission has adequate substantive power to proceed in such cases. For this reason, it is difficult for us to understand the need for the presently proposed legislation.

On the other hand, it is our sincere belief that any legislation which looks toward requiring labeling of a negative variety on products is wholly inappropriate except in those circumstances where some threat to the public health or safety is presented. To the best of our knowledge, the Federal Government has never before considered requiring labeling of this variety on products unless public health or safety considerations were involved; e. g., the Federal Hazardous Substances Labeling Act. To depart from this standard and move in the direction of requiring negative labeling for purely competitive reasons is an approach the consequences of which should be considered most carefully.

Upon such careful consideration, it is respectfully submitted that the only rational conclusion which may be drawn is that it would not be proper for the Government to enter the competitive arena by adopting special interest legislation to advance the competitive position of one industry as against others. In summary, it is the position of the Society of the Plastic Industry that the legislation now contemplated is unnecessary, unrealistic, and contrary to the fundamental concepts of the free enterprise system.

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., April 5, 1962.

Hon. WARREN MAGNUSON,
*Chairman, Senate Committee on Commerce,
Senate Office Building,
Washington, D.C.*
(Attention: Mr. Harold Baynton.)

DEAR CHAIRMAN MAGNUSON: Please include this communication as a part of the record of hearings on S. 1724.

Thank you for this courtesy.

With best wishes.

Sincerely,

GEORGE D. RILEY,
Legislative Representative, AFL-CIO.

In line with our continual overall concern for consumer interests, and further in keeping with President Kennedy's consumer interest message, we endorse the purposes of S. 1724, a bill intended to require disclosure of the nature of materials in simulated wood products.

The bill is in line with other measures approved or pending in the Congress to cause the truth to be divulged in representing wares in the marketplace. They include the truth-in-lending bill, the Poison Labeling Act of 1961 to set up protections in household use, and other proposals.

Increasingly, we find that plastic materials overlaid with a film are being printed to resemble "the real thing," leading the customer to believe that the "wood" is cherry, walnut, oak, maple, or any of the other substances which delight the ultimate buyer.

A damp season or brief wear often betray such purchases as not worth the price of cheaper woods or even the cost of the material which he has been misled into acquiring.

We ask that S. 1724 in meaningful form be reported to promote truth in commerce.

STATEMENT OF THE NATIONAL ASSOCIATION OF FURNITURE MANUFACTURERS BY
JOHN M. SNOW, EXECUTIVE VICE PRESIDENT

On behalf of household furniture manufacturers whom we represent, we want to go on record in opposition to this proposed legislation.

I would like to establish certain facts that are of fundamental importance to our position. The furniture industry is not guilty of misrepresentation or deception. On a completely free and voluntary basis, the furniture manufacturer is doing a commendable job of truthfully describing his products.

In both the House and Senate hearings, Howard Gatewood, executive vice president of the Fine Hardwoods Association, acknowledged this when he said and I quote:

"The manufacturer's products coming under this bill, furniture manufacturers, are selling to persons who are well-informed buyers and retail organizations. The manufacturer of furniture, by and large, makes no attempt to deceive the retail buyer regarding what his product is made of and probably could not get by with it if he tried."

In view of the research which Mr. Gatewood has made into this problem, we bring to your attention his unsolicited opinion that furniture manufacturers are not and could not be guilty of deception.

The furniture industry is ready to compare its record of integrity with all other consumer goods industries that are currently free from national labeling legislation.

As further evidence of this, we draw your attention to statements made by Mr. Earl Kintner, former chairman of the Federal Trade Commission, when he testified in 1959 at the previous Senate committee hearings on wood labeling legislation.

Mr. Kintner said and I quote:

"The Commission favors specific legislation of the type proposed only in those cases where there has been demonstrated a strong consumer need. Based on the presently available information, we are not aware of the extent of the need for this type of legislation."

If the FTC doesn't know of the need, isn't it strange that a "special interest" group like the Fine Hardwoods Association claims that it does?

Yet, I daresay, that one consumer in a million does not know that the Fine Hardwoods Association exists. Doesn't it seem to you that it would be quite unlikely that consumers would write to Fine Hardwoods Association indicating that there was a problem? Would you think of writing to them if you encountered a problem?

By a strong consumer need, Mr. Kintner did not mean a strong need for the fine hardwood producers to protect themselves against competition from other products, but that a true consumer need must be demonstrated for it.

I think it would be much more likely to think that consumer problems, if they had them, would be showing up either before the Federal Trade Commission or the Better Business Bureaus throughout the country.

I have in my possession, a letter from the Federal Trade Commission dated August 7, 1961, signed by Daniel J. Murphy, Director, Bureau of Deceptive Practices.

It is addressed to the Honorable Elmer Hoffman, because he made an inquiry regarding wood deception cases handled by the FTC. He sought to find out what kind of cases the Federal Trade Commission had been confronted with over the past several years. It develops that the FTC has had five cases in total and in looking at them we note one deals with an importer of plywood and veneer, one deals with a wood-flooring importer, two deal with furniture manufacturers, one picture frame manufacturer and they have nine stipulations against the radio and TV field.

Now, I think when you look at the record, we could say in all fairness that 2 cases against the furniture industry in 3 years is a very moderate amount (there are between 4,000 and 5,000 furniture manufacturers in our industry).

If the Federal Trade Commission felt that wood deception in furniture was so serious I would think that they would have made a strong statement on behalf of the need. Up to now they have had three opportunities to do so but, as yet, they have taken a "show me" attitude.

Let us look at the record and see what the proponents have offered to prove that there is a strong consumer need for hardwood labeling. They verbally suggest that the conditions preceding the wool and fur labeling were comparable to the present situation in furniture, yet, no testimony of comparative facts or statistics, no actual surveys have ever been submitted. Nothing has been entered into the record to show that these two situations are actually comparable.

They merely say, in effect, we say it is so, take our word for it and approve the legislation. In the previous Senate hearings, August 10 and 11, 1959, in my testimony, I asked the Fine Hardwoods Association to submit, quote: "Documented statistics from the following cities which account for 33 $\frac{1}{3}$ percent of our industry's total volume," and the cities I asked for were New York, Los Angeles, Chicago, Detroit, Philadelphia, San Francisco, Pittsburgh, Boston, St. Louis, Cleveland, and Minneapolis.

Now, where are these facts? Could it be that the facts when developed did not support this mirage created by the Fine Hardwoods Association?

Let us take a quick look at Chicago since in the previous House hearings the Fine Hardwoods Association introduced a major piece of evidence, an article entitled "Wood Descriptions Must Be Accurate," published in 1957.

I obtained some information from the Chicago Better Business Bureau and it indicates they have statistics relative to both the local and national picture, and according to this, furniture has improved its position with the public according to a booklet entitled "Truth in Advertising," a statistical analysis of Better Business Bureau activities in 1960.

In 1959, furniture was the 7th ranking industry in instances of service; in 1960, it was 10th. The order was affected slightly by separating furniture and floor covering. Furniture accounted for only 2 $\frac{1}{2}$ percent of all the instances of services and I would like you to bear in mind that a request for service can be either an inquiry or a complaint.

The better business bureau received nearly 3 million calls in 1960 and had almost a quarter of a million instances of service. The bureau believes the statistics presented in their 1960 analysis attest to the public's reaction to the policies and practices of any given industry's advertising and selling methods.

To cite just four of the various other fields reported on, home improvement had over four times the instances of services as furniture; automotive had almost three times the instances of service, home appliances had about 2 $\frac{1}{2}$ times the instances of services, TV and radio sales had 50 percent more times of instances of services recorded. Has Congress enacted labeling legislation affecting these fields?

Now, for the years 1959-60 a number of better business bureaus have been using a special form for recording and processing consumer complaints.

It enables the bureau, they say, to quickly spot basic areas and causes of consumer dissatisfaction, thereby enabling them to more intelligently assist business in eliminating troublesome areas and problems.

Last year just prior to the House hearing on this proposed legislation, I took the trouble to call the Chicago Better Business Bureau and I talked to a man by the name of Ben Yugelow; one of his functions is to look after the furniture industry.

I said to him, "Would you tell me how many complaints regarding wood deception in furniture you have received?" He said, "We do not keep our complaints separately." I said, "Well I am told that the situation today in wood deception in furniture is such that it is comparable to the position of the fur industry preceding fur labeling." I said, "Surely, if you had a situation like that, I should think you would have a completely separate file." He said, "Actually, we do not."

I said, "Can't you tell me the number of cases you have had in any reasonable time?" He said, "As a matter of fact, I can only recall one case of a furniture dealer who advertised a wood in an improper way in any recent time."

I would like to feel that "any recent time" might be since the beginning of the year, and my telephone call was made in early August 1961.

I also talked to the head of the Chicago Better Business Bureau and asked him much the same questions as to whether the situation in wood deception could be comparable with the situation that led to fur labeling. He said he hardly thought there was any basis on which anyone could make that comparison. He felt it would be difficult to figure out how to actually make the comparison, and he said that actually the Fine Hardwoods Association had asked the bureau to write a letter of full endorsement of this proposed legislation.

Now, I am not permitted to quote the position of the Chicago Better Business Bureau. I can only say from having sat in on meetings at which the Chicago Better Business Bureau has appeared, they, I do not believe, concur with the idea that any manufacturer's products should be labeled with the adjectives "simulated" or "imitated."

I think they stand for all things good in labeling. I think they feel if anything is done, it certainly ought to be done on an affirmative basis, not in the manner proposed by the Fine Hardwoods Association.

At previous hearings the Fine Hardwoods Association has presented some visual displays. The clippings dated back to 1959 and earlier. The last time there were 11 furniture ads depicted, 2 we couldn't be sure of, but 9 of them came from stores that we feel quite confident are engaged in interstate commerce and therefore under the jurisdiction of the FTC.

We pointed out at two previous hearings that if the Fine Hardwoods Association was sincerely concerned with the consumers' problem in this area that this could be taken up with the Federal Trade Commission. To my knowledge no action has been instituted.

Yet the problems they cite can be taken care of by existing legislation.

In the past quite a number and a very sizable part of their display has dealt with radio and TV cabinets. At the previous hearing before the House committee, Mr. Gatewood depreciated the value of the radio and TV stipulations issued by the Federal Trade Commission in December 1960, and I do not think that this is exactly proper or fair.

He claimed that these stipulations would not be really effective at the retail level. Yet, in looking at one of the stipulations, and these were issued against all of the major concerns in the radio and TV field, I notice that one of the things the radio and TV companies agreed to do, and I want to quote here part B on page 2, the one I am looking at which happens to deal with the Admiral Corp.

Part B says, it will forswear and desist from "failing to attach to any such products having cabinets made of hardboard or other similar material finished with a surface which simulates or has the appearance of wood in such a manner that it cannot readily be removed or of such a nature as to remain on the product until it reaches the ultimate purchaser, a tag, label, or other notice clearly informing the consumer-purchaser, as to the material of which such cabinets are made."

Now, the Federal Trade Commission evidently knows they have the power to do this. These companies have agreed to comply. We had some representatives visit the music show in Chicago last year. They looked quite carefully at the products that were on display there and found all merchandise properly tagged.

It is clearly evident that these companies are complying with their agreement. On the basis of that, you could readily rule out the whole problem of TV and radio cabinets from this area of wood deception.

I cannot conceive that companies of this size and stature would make an agreement of this type and not sincerely intend to comply with it.

I would like to also point out that if you check previous testimony by Mr. Kintner of the Federal Trade Commission and Mr. Bray, a sponsor of one of these bills, you will see that in their testimony they indicated their major concern was wood deception in the radio and TV field and they placed no emphasis on furniture as such.

If we accept these stipulations as effective and worthwhile, then I think we can accept that the major cause for concern in wood deception has been eliminated.

The question now arises, why go further? why burden Congress with a relatively insignificant problem?

Now, according to the record, only two furniture manufacturers have testified as to the need for this legislation, compare this with the fact we have from 4,000 to 5,000 furniture manufacturers in our industry.

The furniture associations who oppose this legislation represent over 75 percent of the industry's total volume.

I think we are curious as to why the proponents would not have gone to the Federal Trade Commission for action and built a sizable case file on their behalf or could it be that the size of the problem is more a myth than a fact? Does the record contain tangible convincing evidence of a serious national problem requiring congressional action, or is Congress and the committee supposed to, on blind faith, accept that the problem is as serious as indicated in unsupported oral testimony?

Are you supposed to accept the testimony of professional consumer groups who jump on the bandwagon because it's the thing to do, but under the surface they have no real basis of fact for supporting this legislation.

The Fine Hardwoods Association's primary motivation was not due to any sincere concern over the consumer. This is a pure rationalization for enlisting the support of a popular cause. Mr. Kintner, of the Federal Trade Commission, in his testimony before the Senate committee at the previous hearing on wood labeling, had this to say:

"It is special legislation; it deals with a special industry. Congress should be very careful about adopting such legislation on principle."

In another instance he said, and I quote:

"If the record is made which would justify labeling, this is special legislation beyond a doubt, and I personally, if I am pressed on this point, am opposed in principle to special legislation. I think that there ought to be a demonstrated necessity for it or else the overriding principles against special legislation should prevail."

This is a valuable and important reminder to the committee from Mr. Kintner. The Fine Hardwoods Association wants Congress to give it a competitive advantage over other legitimate products by requiring them to use the sales term of "simulated" rather than allow an affirmative description. On page 36 of the previous Senate hearings on hardwood labeling, under item 15, Howard Gatewood said, and I quote: "The hardwood industry certainly expects this bill to help their sales because we know there are thousands of instances every day in which non-hardwood products are printed to imitate hardwoods," and so forth.

According to Mr. Kintner of the Federal Trade Commission, again from his testimony before the Senate committee, he said, and I quote, "This legislation will limit competition."

I would like to ask the committee, what is the difference between hardwood and genuine hardwood. Nothing except that one is a strong, more effective selling term and the fine hardwoods group wants to make "genuine hardwood" mandatory, so as Howard Gatewood says, their sales will be helped or improved by national legislation.

Let us look at this in the perspective of having Congress require their competitors to use the word "simulated." Everyone in selling knows, as does the fine hardwood group, and apparently the Chicago Better Business Bureau, that the word "simulated" would have a very adverse reaction at the retail level. If this is not special interest legislation, why not permit an affirmative selling description? Must we assume that the average buyer is stupid?

On the one hand they tell us you can say it is a mahogany veneer and all of a sudden this term has great clarity to the consumer.

On the other hand, if you say mahogany finish, all of a sudden this is a deceptive term and the consumer does not know what the word "finish" means but he does know apparently all the technical implications conveyed in the word "veneer."

We recognize the nature of the hardwood industry's problem but fail to see why the furniture manufacturer should be saddled with a costly complex method of labeling designed to help the hardwood manufacturers to sell more of their product and limit the sale of competitive products.

We are against misrepresentation and deception but do not believe Congress should take it upon themselves to force a producer to label this product with a sure-death stigma of simulated for a group that is competitive.

Incidentally, the change from the use of the word "imitation" used in the original legislation, over to the word "simulated" reveals, I think a kind of curious twist in the Fine Hardwoods Association's position.

In previous hearings, Mr. Gatewood said, and I quote:

"No word other than 'imitation' would be more clearly understood by the consumer and that no other word so aptly describes the surface which has been created by photographing a genuine hardwood panel of a specific species and then

reproducing that appearance by printed method on some other material or cheaper wood and then using the name of the imitated species on the label and in advertising."

Now, if this were so, why does the current bill use the word "simulated" instead of "imitation"? Could it be that it is a more sugar-coated way of getting a special interest bill passed by Congress?

It is interesting to me, too, and I think it might be to you, to compare one aspect of Textile Fiber Products Identification Act with certain facts that apply to this proposed hardwood legislation.

In the Textile Act under rule 3, fibers, as present in amounts of 5 percent or less, the act says:

"In disclosing the constituent fibers and required information, no fiber present in the amount of 5 per centum or less of the total fiber weight shall be designated by its generic name or fiber trademark but shall be designated as 'other fiber'."

For example, if, for decorative reasons, it were possible for me to put a thin coat of less than 5 percent nylon fiber on the outer face of a fabric, I would not, by law, be permitted to include any nylon on the descriptive tag. In fact, under the way the FTC operates, I could be accused of deceiving the consumer and could be subject to prosecution if I made any claim concerning the nylon content.

Not too long ago I had occasion to send certain labels to the Federal Trade Commission and ask them if they would give me their opinion concerning their validity.

One said in very bold, broad letters, "100 Percent Nylon Pile." Now, I indicated to the Federal Trade Commission when I made the inquiry that we knew the furniture industry had an exemption under the law but I wanted to find out whether the Federal Trade Commission would feel this was an appropriate label.

The answer that came back was that it would not.

Now, I think you could substitute the words "100 percent walnut veneer" and under the law that is being proposed here it would be accepted as legal, but if the Federal Trade Commission were to remain consistent they would have to regard it as improper labeling.

It may not be completely germane but it is interesting to note that in the production of a piece of furniture, using the veneering process, the amount of decorative hardwood veneer used on the outer surfaces constitutes far less than 5 percent of the total wood in the finished product. The proponents of the hardwood labeling law now want Congress to hold the opposite or small end of the labeling stick by asking for labeling legislation that, in many instances, would apply to a relatively minor portion of the total wood used.

It is apparent that proponents of this legislation are trying to find ways to expand the jurisdictional reach of the Federal Trade Commission beyond its present scope so they can combat certain deceptive practices that occur in retail advertising.

We think this is a safe assumption since the Fine Hardwoods Association, in cooperation with the Federal Trade Commission, was instrumental in the writing of trade practice rules for the radio and television industry.

Since these rules cover wood description practices and the results obtained apparently were not satisfactory to the fine hardwoods group, it seems evident they are seeking to establish a precedent for expanding the powers of enforcement of the FTC to include the retail field.

We see no reason for the Federal Government to encroach further on the rights and responsibilities of the individual States.

If the objectionable practices referred to are beyond the scope of either the FTC or existing law—and this we doubt—it would seem reasonable that the individual States could deal with the problem in an appropriate manner.

I think it was interesting to see, in the August 8, 1961, issue of the Chicago Daily Tribune, an article with the heading "Wisconsin Retail Ad Control Bill Signed Into Law":

"Gov. Gaylord Nelson today signed a bill banning the use of such misleading terms as 'wholesale,' in retail advertising to protect consumers.

"The new law prohibits misrepresentation in the names of businesses or in the advertising of merchandise by terms such as 'wholesale,' 'factory,' or 'manufacture' unless such names truly represent the facts."

This is a case of a State taking action because they felt they had a problem. If the major point behind all of this is that the Federal Trade Commission lacks the power to push so-called flagrant cases of deception in retail selling and advertising, we believe the problem should be approached straightforwardly.

I might say, too, that people in our industry feel that the Federal Trade Commission has been doing a very effective job in cleaning up deceptive advertising as a result of an intensive campaign which they are waging.

We think that Congress should be asked to evaluate the total need and to act in accordance with its own wisdom and judgment. It should not be done on a piecemeal basis. Certainly, if deceptive retail advertising exists in furniture it is safe to say it exists in all consumer goods products. In this respect we hope Congress would give careful consideration to the "bureaucratic octopus" which would be born, not to mention the added burden.

We believe that there is sufficient legislation already on the books to deal with most, if not all, of the fraud, misrepresentation, and deception suggested here. I would think that, in view of corrective action taken by the FTC in their stipulations against radio, TV, and the hi-fi field, it would give you cause to question whether an initial cost for this legislation of a half million dollars or more is justified.

Mr. Kintner testified at a House hearing that this would be the possible cost. He said:

"Initially, we would need \$500,000 and this only we could determine on the basis of experience what the program would cost. It would take \$500,000 to set up initially the rules and regulations and get some experience with respect to cost of operations in the future."

He also indicated it would take 50 or 60 employees and then finally said 75 in all categories.

I say to you, does the record justify Congress thinking in terms of a half million or a million dollars or more in light of the evidence presented here?

In the case of furniture we see no indication that a large majority of consumers either want or have demanded the type of labeling proposed.

We conclude by repeating that the proponents of this legislation have voluntarily stated that the furniture manufacturer is not guilty of deception. We believe the problem should be evaluated from the view that our industry has 60 million retail furniture transactions a year and this should be compared with any official record of deception and not against the assumption that all transactions are deceptive. We don't know of any better referendum for our products and methods.

If, on the record presented here by the proponents, the scope of the deception in furniture warrants a national labeling law, that, indeed, a strong consumer need has been proven, then we suggest that in the interest of being fair you would be required to enact a labeling law applying to all consumer goods products.

This concludes my statement.

NATIONAL LUMBER MANUFACTURERS ASSOCIATION,
Washington, D.C., April 4, 1962.

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

DEAR SENATOR MAGNUSON: The National Lumber Manufacturers Association, a federation of 16 regional associations representing lumber manufacturers throughout the United States, favors the enactment of enforceable legislation designed to protect consumers against deception involved in the sale of products which are represented, contrary to fact, as wood.

In recent years there has been considerable misrepresentation of nonwood products as wood. Such misrepresentation generally occurs in the form of superimposing a printed reproduction of a wood grain and color on the surface of various materials so as to imitate a wood grain, figure, or growth characteristic. It is quite understandable why the manufacturers of certain nonwood products should wish to enhance the beauty of their products by adding a print of a natural wood finish. But the art of reproduction has advanced to a stage where the novice or the uninformed may not be able to distinguish the imitation from the genuine on mere visual examination. We urge, therefore, that

out of fairness, the seller be required to apprise his customers of the simulated nature of the wood finish, so that an honest choice of purchase may be made on the basis of the actual quality of the product.

Misrepresentation occurs largely at the retail level. Under the present law the Federal Trade Commission is not able to pursue the products involved, moving in interstate commerce, down to the retail level. Therefore, we favor legislation which would give the Commission authority to enforce the use of a proper identification label on those nonwood products which have had a simulated wood finish applied. Accordingly, we support that part of S. 1724 with respect to the labeling and advertising on nonwood products that are represented, in their finishing, to be wood.

No substantial need has been demonstrated for the positive labeling of genuine wood products to which an added decorative wood finish has been applied without modification of the natural grain or growth characteristics. Few instances of misrepresentation have been charged in this area. The classification and labeling of the exact type of wood species contained in such a product would be unduly costly and unnecessarily burdensome and would involve the FTC in the regulation of an entirely new area of product competition. Consequently, we urge that any labeling legislation be limited to two requirements: (1) A label to be affixed to nonwood products that are represented, in their finishing, to be wood; and (2) a label to be affixed to any products, including wood products, on which an imitation wood grain has been superimposed.

Honest and forthright competition from products that are competitive with wood is expected and is to be welcomed in our competitive enterprise system. However, unfair competitive practices cannot be justified and it is our belief that nonwood items should be accepted or rejected on their merits and not be merchandised under a deceptive guise.

To the extent the bill currently under discussion, S. 1724, goes beyond the necessities of the situation and requires labeling where no misrepresentation is involved, we are unable to support it in its present form.

We would appreciate it if you would make this letter a part of the printed record of the hearings before your subcommittee.

Sincerely,

HENRY BAHR,
Vice President and General Manager.

BROYHILL FURNITURE FACTORIES,
Lenoir, N.C., April 3, 1962.

HON. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: There are presently pending bills in both Houses of Congress known as Decorative Hardwood or Simulated Hardwood Products Labeling Act, S. 1724, H.R. 1141, and H.R. 1949.

We are very much opposed to this proposed legislation. Its value to the consumer is completely meaningless, and it will impose upon manufacturers and dealers a tremendous administrative burden, which is unnecessary.

As we understand it, the proponents of the bill imply that if a piece of furniture is made out of, for instance, solid mahogany or solid pecan, this indicates superior quality.

Actually much low-priced inferior quality furniture is made out of solid mahogany, solid pecan, etc. On the other hand, some of the very finest furniture is made with exposed parts of gum, so-called cheap wood. The hardwood that is used does not necessarily determine the quality of the product.

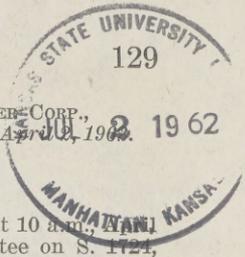
This being the case, why subject the manufacturer and dealer to needless labeling and administrative procedures when we are already overburdened with governmental paperwork?

Sincerely yours,

J. E. BROYHILL.

HARDWOOD LABELING ACT

MITCHELL VENEER CORP.,
Greensburg, Ind., April 2, 1962



HON. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SIR: It is our understanding that hearings are to begin at 10 a.m. on April 5, before the Senate Interstate and Foreign Commerce Committee on S. 1724, the Decorative Hardwood or Simulated Hardwood Products Labeling Act.

As time is short and you are so busy we will not go into a long dissertation giving all the reasons why this bill S. 1724 should be passed. Certainly the consuming public needs to be protected against false advertising and false labeling of imitation or simulated hardwood products.

As you know similar protection has already been given fur, wool, and others. Protection for the purchasers of hardwood products is long past due.

Please give this bill your careful consideration. Thank you.

Cordially yours,

C. E. COCHRAN.

B. S. COURTNEY & SON,
Williamston, N.C., September 4, 1961.

HON. SAM J. ERVIN, JR.,
Senate, Washington, D.C.

DEAR MR. ERVIN: Regarding S. 1724, compulsory wood labeling bill.

This bill came up once before and we wrote you and expressed our opposition. This we do again.

We can see no valid reason for such a bill. On all of the better furniture, the maker is glad to state and brag about the wood, or veneer, or plastic used.

On the cheaper merchandise, the maker, the seller are glad to tell the buyer what is used, hoping to sell them nicer furniture.

The whole idea goes back to a small group that feel competition can be lessened by forcing the above bill. Just leave things as they are; the sellers will voluntarily explain the contents of their merchandise, and thus save another law on the books.

With best wishes, I am,

Yours very truly,

BEN D. COURTNEY.

EDELSTEIN'S,
Brownsville, Tex., September 17, 1961.

HON. JOHN TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: Reference is made to S. 1724 by Senator Vance Hartke which is pending in the Senate Commerce Committee.

We would appreciate your passing our views to members of this committee.

The majority of retail furniture stores support the voluntary standards of the Association of Better Business Bureaus for furniture wood retail advertising and selling. We feel strongly that wood surface labeling should be a voluntary industry practice to serve the American homemaker.

Compulsory legal requirements should not be established for the purpose of giving economic relief to certain raw material producers experiencing competition from new and often superior materials. We oppose legislation aimed at deception but primarily intended to serve the special interests of some 38 lumber producers in two or three States. This proposed legislation would unfairly and unjustly burden thousands of manufacturers and retailers in all 50 States.

These bills would require the very smallest retail furniture store to work under a Federal law which would subject them to severe and undue hardships in having to comply.

We strongly urge you to favorably consider opposition to this proposed legislation.

Very truly yours,

RUBEN EDELSTEIN, Vice President.

FINE HARDWOODS ASSOCIATION,
Chicago, Ill., April 16, 1962.

HON. VANCE HARTKE,
U.S. Senate,
Committee on Commerce,
Washington, D.C.

DEAR SENATOR HARTKE: Please accept our appreciation for the very fair and competent manner in which you and your colleagues conducted the hearings on April 5 on the Decorative Hardwood or Simulated Hardwood Products Labeling Act (S. 1724).

It is my understanding that the record of these hearings is being left open a few days for additional statements concerning this legislation. Therefore, it will be greatly appreciated if this statement will be made a part of the record of these hearings.

It should be considered highly significant by your committee that the only persons voicing opposition to this legislation were manufacturers and retailers (or trade associations or attorneys thereof) who manufacture or sell products which would have to be labeled and advertised honestly under this bill. It should certainly cause no surprise in any quarters that such persons do not wish the Federal Government to require them to label and advertise their products correctly, even though it is my belief that the passage of this legislation will bring great benefits to these opponents through the restored public confidence which it will bring about. On the other hand, the proponents of this bill who submitted either oral or written statements included such consumer organizations as the National Consumers League; the AFL-CIO; the American Farm Bureau Federation; Mrs. Margaret Dana, consumer relations counsel, the Cooperative League of the U.S.A.; the National Grange; the National Farmers Union; the Furniture, Bedding & Allied Trade Workers Union; and the Wood Office Furniture Institute. None of these consumer organizations have any reason to support this legislation other than their desire to put a stop to deceptions currently being perpetrated on the consumer of decorative hardwood or imitation hardwood products. These consumer organizations are pleading for this legislation on behalf of 50 million American homes, who have a right to know what they are getting for their money. Surely their testimony will bear considerably more weight with your distinguished committee than will that of the spokesmen of the small group of opponents with a selfish interest in not being required to label and advertise their merchandise in a nondeceptive way.

I feel confident that proponent testimony during the hearings established beyond doubt that deceptions of the consumer within the area covered by this bill are very prevalent and widespread and that the Federal Trade Commission is unable to take effective action under present law. However, in an apparent attempt to defend their desire to continue to deceive the public by labeling and advertising nonwood products by hardwood species names and by labeling and advertising products bearing exposed surfaces in whole or in part of an inexpensive wood species by more expensive hardwood species names, the testimony of the opponents of this legislation made a number of allegations on which we appreciate the privilege of offering additional comment. The names following each allegation refer to the person making the statement.

(1) Two opponent witnesses quoted from my testimony before your committee on August 10, 1959, out of context, thereby completely distorting the meaning (Mr. Keck and Mr. Snow).

Mr. Keck reported my statement as, "The hardwood industry certainly expects this bill to help their sales * * *". Mr. Snow reported my statement as, "The hardwood industry certainly expects this bill to help their sales because we know there are thousands of instances every day in which nonhardwood products are printed to imitate hardwoods." My complete statement on this subject was as follows: "For opposition witnesses to state that this bill will help the hardwood industry is to admit that imitation hardwood products are apparently being palmed off on consumers under the disguise of genuine hardwood products. The hardwood industry certainly expects this bill to help their sales because we know that there are thousands of instances every day in which nonhardwood products printed to imitate hardwoods and masquerading under hardwood species names are sold to consumers who are led to believe they are getting genuine hardwood products. However, the true and major beneficiary of this legislation will be the consumer who will have the privilege, for the first time, of selecting either a genuine hardwood product or an imitation hardwood product with the full knowl-

edge of what he is receiving for his money, as a result of the accurate description on the label." I assume that the members of your committee will not appreciate this obvious attempt to deceive the committee on the part of these two opponent witnesses.

(2) Opposing witnesses testified that this was "special" legislation aimed at benefiting the producers of hardwood veneer and lumber (Mr. Keck, Mr. Marsh, Mr. Frost, Mr. Snow, and Mr. Ryan).

This testimony conflicts with the testimony of opposing witnesses to the effect that imitation hardwood products are not being sold to consumers who are made to believe they are receiving genuine hardwood products. The only conceivable possible way in which this bill can help the genuine hardwoods industry will be through the assurance that the consumer who asks for and believes he is receiving a genuine hardwood product is not deceived into accepting an imitation hardwood product. Also see my complete statement under (1) above.

(3) Four opposition witnesses raised the question as to why softwood and imitation softwood products were not included in the bill (Mr. Keck, Mr. Marsh, Mr. Frost, and Mr. Carter).

Softwoods are marketed almost entirely in the building construction field. The amount of softwoods used for finished furniture, prefinished paneling, and other products coming under the scope of this bill is negligible. It is true that in a very few instances softwood products are printed to imitate hardwood figure patterns, but these would come under the bill as imitation hardwoods. We feel that no problem exists in connection with softwood and imitation softwood products. However, as the members of this association are not concerned with softwood products one way or the other, by all means, if the opposition to this legislation would be happier with softwood and imitation softwood products included, let us include them.

(4) Three opposition witnesses indicated confusion as to why products made with genuine hardwood-veneered construction were not deceptive in the same manner as printed imitations of hardwood grain on nonwood materials and cheaper woods (Mr. Keck, Mr. Carter, and Mr. Snell).

Hardwood veneer has substance and it is an authentic slice of wood from the species of tree named. Hardwood plywood has many advantages over solid hardwood in that it is more dimensionally stable, more beautiful, and less expensive. Under laboratory shear tests, the veneer slices in the hardwood plywood "sandwich" will part long before the glue lines. On the other hand, printed imitations consist of nothing more than a photographic printed imitation of hardwood figure patterns applied to the exposed surface of a cheaper wood or a nonwood material. When manufacturers of products printed to imitate the appearance of genuine hardwoods go to the trouble and expense of buying one panel of hardwood plywood, photographing it, preparing a printing plate and applying this appearance to other materials or cheaper woods, the result cannot be construed by any fairminded person as anything other than an "imitation" or a "simulation."

(5) Mr. Keck included in his statement, "Underlying these bills is the erroneous assumption that all simulated hardwood grain or pattern finishes, now commonly seen on hundreds of products, from station wagons, cash registers, and restaurant tables to picnic plates, wallpaper, and matchbook covers, are intended to palm off such products as hardwood."

Since station wagons, cash registers, picnic plates, and matchbook covers are not articles of furnishings or structural surface coverings, this bill would not apply to them and his testimony in this regard is not pertinent. Conversely, articles of furnishings or structural surface covering are products which the public is accustomed to seeing in genuine hardwoods. When these products are shown in an imitation photographic printed surface on a nonwood material and genuine hardwood species names are used on their labels and advertising, it is quite a different thing, and these products not only have a capacity to deceive, they are deceiving the consumer in great numbers every day.

(6) Mr. Marsh testified that the Southern Hardwood Producers, the Hardwood Dimension Manufacturers Association, and the National Oak Flooring Manufacturers Association were opposed to this legislation.

It is true that these three associations were at one time opposed to the bill in its original form. However, they have withdrawn their objections since various changes have been made in the bill.

(7) Mr. Keck and Mr. Frost attempted to persuade the committee that fiberboard (or hardboard) is wood.

It is true that fiberboard has wood fiber as its chief ingredient, but then so has paper, and fiberboard could be called wood only if it were agreed that paper could also be called wood. Actually, this is an academic question only, since any material, including wood itself, would be classified as an "imitation hardwood" under this act if it contained an imitation hardwood grain on its surface. If a fiberboard product contained no printed hardwood grain, it would not come under the bill at all. For the sake of the record, the terms "fiberboard" and "hardboard" are synonymous. We prefer the term "fiberboard," since "hardboard" sounds a great deal like "hardwood" and could lead to deceptions or misunderstandings.

(8) Mr. Frost testified that, "The bills would greatly extend the regulatory powers of the Federal Trade Commission * * *" and similar statements were made by Mr. Carter, Mr. Snow, and Mr. Ryan.

This allegation was contradicted by the statement of Mr. Earl Kintner, then Chairman of the Federal Trade Commission, in testimony on August 10, 1959, before the Senate Commerce Committee on this bill, who said, "Labeling legislation, however, of the kind involved in S. 1787, would obviate this difficulty (of enforcement) as has been accomplished in the case of the labeling provision of the Wool Products Labeling Act of 1939 and the Fur Products Labeling Act of 1951." Mr. Kintner might also have mentioned the Fiber Products Labeling Act. In all three of these previous bills, the Congress has given the Federal Trade Commission the authority to require the manufacturer to apply affirmative labels to his product and to forbid their removal by anyone until the product has completed its commercial journey to the ultimate consumer. Thus, this legislation does not attempt to extend the authority of the Federal Trade Commission into new areas, but merely to apply its already established authority to the decorative hardwood or simulated hardwood products industry, where it is badly needed.

(9) In conflict with his statement above, Mr. Frost testified that the Federal Trade Commission already has adequate power to prevent practices such as those which would be eliminated by the passage of this legislation, and this statement was supported by Mr. Ryan, Mr. Snow, and Mr. Snell.

This testimony was refuted by that of Hon. Earl W. Kintner, then Chairman of the Federal Trade Commission, who stated at the hearings on this legislation before the House Committee on Interstate and Foreign Commerce on June 7, 1960, "Experience, however, shows that deception of the buying public is often effected by sales through retail stores. Often such matters are difficult, if not impossible, to handle under existing law because of lack of jurisdictional reach. It has been held by the courts that where Congress has required a label on articles as they start their interstate journey from the manufacturer, Congress has the further authority to provide that the required label be or remain on the product until it has completed its commercial journey and reached the ultimate consumer. Congress may prohibit the removal or concealment of the label before delivery to the consumer * * *. Within the scope of the facilities available to it, the Commission has sought to effect correction of such deception in the sale of decorative wood or imitation wood products that it has encountered by the application of its present authority. This authority, however, does not extend to requiring general labeling effective at the retail level."

(10) Mr. Carter, in opposing mandatory labeling in behalf of the National Retail Furniture Association, stated that his association would favor "Voluntary and nondeceptive labeling of furniture materials."

He did not reveal his reasons for feeling that a required label is any less helpful to a consumer than a voluntary one. Informative labeling on a voluntary basis means that those who wish to label accurately can do so and those who do not wish to label accurately will not do so.

Honest dealers who are already labeling accurately on a voluntary basis could have no objection to a law which requires them to do that which they are already doing. It would appear that only dishonest persons who are not labeling their goods accurately on a voluntary basis would resist being required to do so by Federal law.

(11) Mr. Carter claimed in his testimony that this legislation would create burdens for the furniture retailer.

Actually, the labels required by this bill would make it a lot easier for the retailer who wishes to do an honest job of representation. The retailer is only required to refrain from removing the labels applied by the manufacturer and these labels insure that his salesmen and his ads will describe the furniture

accurately. Mr. Carter refers to the shortsighted and somewhat unethical practice of some retailers who hide the identity of the manufacturer of the furniture by removing the manufacturer's label and substituting their own store label for it. This is done for the purpose of making it difficult for the consumer who wishes to shop around to try to find identical items at a lower price. This bill permits such substitution of labels but in these cases it is only necessary that the retailer copy down on his label the same descriptive information as given on the manufacturer's label and to retain the information contained on the manufacturer's label for a period of 3 years. The labels supplied on the furniture by the manufacturer as required in this bill would be the best possible insurance that representations by the dealers and his salesmen to consumers were accurate and free of deception. This bill will make the honest furniture retailer's job an easier one.

(12) Mr. Marsh testified that hardwood species names are "generic terms which are often used to denote a color or a texture."

Thus, the opposition admits that they are using the names of hardwoods species in the labeling and advertising of products not made of those species and they use as their excuse that these hardwood species names are used to denote "color or texture" rather than that the product is made from that particular wood. When a consumer sees a bedroom suite advertised as "in walnut," he believes, and has a right to believe, that it is made of wood from the walnut tree and has no way of knowing that the bedroom suite is actually made of fiberboard printed in an imitation of the appearance of walnut and that the manufacturer and retailer only meant the "color or texture" when they used the term on their advertising and labels, "in walnut."

(13) Mr. Snow testified, "If the Federal Trade Commission felt that wood deception was so serious I would think that they would have made a strong statement on behalf of the need."

In all four hearings on this bill, Federal Trade Commission spokesmen have made it clear that it is the policy of the Commission to refrain from either urging or discouraging Congress to enact any bill on any subject. However, Mr. Henry Miller, Assistant to the General Counsel of FTC, did testify at this hearing, "The Commission has had some experience in the matter of deception of the public through lack of proper disclosure of wood or purported wood products in items of household furniture, cabinets, paneling and the like. In view of the great development of the art of finishing wood and imitation wood products, it frequently has become almost impossible for the members of the general consuming public to know from observation what kind of wood or material is used in the product or to be able to distinguish between wood and purported wood materials. Consumers should be fully protected from being misled or deceived as to what they are purchasing." Please also refer to paragraphs 8 and 9 above.

I very much appreciate the privilege of submitting this additional statement. The proponents of this act have every confidence that the distinguished members of your committee will report this bill out favorably on the earliest practicable date in order to give the consumer badly needed protection against the deceptive practices which this legislation will eliminate.

Respectfully yours,

E. HOWARD GATEWOOD.

JOHNSON-CARPER FURNITURE CO., INC.,
Roanoke, Va., April 3, 1962.

HON. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SIR: We would like to register our opposition to the Decorative Hardwood or Simulated Hardwood Products Labeling Act, bill S. 1724.

It seems to us that this bill is definitely framed in language that would be injurious to quality furniture manufacturers. It does not recognize the fact that there are many materials used today in the place of wood veneer that are superior in performance to wood products. It would certainly be unreasonable, in our opinion, to label these products as "imitation" when the manufacturer today describes these materials to the dealer as exactly what they are, and the dealer himself describes them to the public in his advertisements as exactly what they are.

As a matter of fact, our company uses high pressure laminated plastic tops on all of our dressers and chests because we feel the top surface is then considerably more serviceable than wood veneered tops. These tops are more expensive

to use, and therefore, the price is somewhat higher to the public. We describe these tops as "matching high pressure laminated plastic tops," and they are so described in the advertisements of our dealers.

The minute we are forced to label these tops as "imitation" of wood or wood veneer, we have immediately cast doubt in the minds of the consumers as to the quality of the top.

We believe that most of the manufacturers in the furniture industry are opposed to the bill mentioned above. We cannot see where the public will be protected by it, and we do not believe such a bill is at all necessary. We certainly hope that you will use your influence to see that the bill is defeated.

Sincerely yours,

J. HARDIN HILL.

PIERSON-HOLLOWELL Co., INC.,
Indianapolis, Ind., June 14, 1961.

Senator WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Among the proposed legislation introduced in the 87th Congress is an important consumer measure, Senate bill S. 1724, the Decorative Hardwood or Simulated Hardwood Products Labeling Act. I would like to urge your attention to this bill, with the hope that you will recognize its importance for the protection of the buying public, and that you will do everything possible to secure hearings before your Senate Committee on Interstate and Foreign Commerce.

Our industry and our company naturally have a personal interest in S. 1724, but only to the extent that we seek fair and honest competition rather than the deception that has been practiced by many unethical furniture, panel, and cabinetmakers.

The benefits of labeling have been recognized in legislation passed for the fur, wool, textile, and food and drug industries. These earlier bills have greatly increased public confidence in the affected products and have been applauded by manufacturers and consumers alike.

Many large consumer groups have gone on record in favor of the hardwood labeling bill. Their support is a reaction to the widespread deception prevailing in all segments of the hardwood products industry. This deception hurts all parties who supply, produce, and want to buy the genuine hardwood product. The small effort necessary to comply with the provisions of S. 1724 would bring great benefits not only to the public but to the many reliable and conscientious manufacturers of hardwood articles.

We realize that there are many pieces of legislation before you that demand your immediate attention because of their impact on crucial foreign and domestic affairs. We only ask your consideration of S. 1724, and think you will agree that it ranks high among domestic proposals. We hope that hearings will be set soon, so that final action can be taken in the 87th Congress. A brochure on the bill is enclosed for your reference.

Respectfully yours,

ROBERT E. HOLLOWELL, Jr.

THE DEAN Co.,
Portsmouth, Va., March 26, 1962.

Senator WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: We are sure that you are familiar with the Decorative Hardwood or Simulated Hardwood Products Labeling Act (S. 1724), that is to be set before a hearing on April 5, at 10 a.m. We are extremely interested in this bill and would like to go on record at this time as urging you to please report the bill out of committee favorably as soon as possible after the hearing. We feel that it is very vital to our industry and would certainly appreciate your doing all that you can to see that this hearing acts favorably upon this bill.

Thanking you, we are,
Yours very truly,

EDWARD V. HORTON, Assistant Treasurer.

THE COOPERATIVE LEAGUE OF THE USA,
Washington, D.C., March 30, 1962.

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

DEAR SENATOR MAGNUSON: The Cooperative League of the USA has traditionally supported the interests of consumers in many fields through resolution and through legislative action. Some 14 million families are members of one or more types of cooperatives making up the membership of the Cooperative League. Cooperatives have repeatedly advocated informative labeling. They pioneered in this field by inaugurating grade labels to canned foods, full analyses labels to fertilizer, "open formula" labels to livestock feeds, etc.

We wish to express to you and the committee our full support of the bill, as currently revised (S. 1724), Decorative Hardwood or Simulated Hardwood Products Labeling Act.

One of America's common pastimes is refinishing furniture. It is not uncommon for the present-day do it yourselfers to tackle the job of taking the old mar and scratches off the surface of household furnishings in order to renew their appearance and extend their usefulness.

A common problem with these self-appointed furniture fixers is that too often the "hardwood grain" is a printed imitation only and disappears with the sanding. This can also happen through ordinary wear or accident. There is little to be done with furniture of this type once the surface is removed.

We strongly favor provisions in the proposed legislation which would require the information needed for consumers. Modern facilities can produce surfaces that strongly resemble expensive woods, and often they are better for particular uses. But we believe it is important for the purchaser of such imitations to know exactly what he is buying.

We commend some manufacturers who voluntarily label the product on the inside of a drawer, on the underside of a table, or in an otherwise inconspicuous place, giving such information for the benefit of consumers and refinishers. We believe the industry should follow this lead in providing facts about the wood or simulated wood parts that make up the article. Thus the purchaser would know which are plastic, veneer, plywood, hardboard, or a mixture. With this knowledge, purchasers would know how to preserve the product and make it last longer.

We believe the legislation would clearly provide that—

- (1) Furniture and other wood products be honestly labeled; and
- (2) Misrepresentation in any way be punishable.

We strongly support the bill and request this letter be made a part of the hearing record.

Sincerely,

JACK T. JENNINGS,
Association Director, Washington Office.

JOHNSON-CARPER FURNITURE CO., INC.,
Roanoke, Va., March 29, 1962.

HON. WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

SENATOR MAGNUSON: Our company, and I believe a great majority of the furniture industry, is definitely opposed to the Decorative Hardwood or Simulated Hardwood Products Labeling Act, S. 1724. In our opinion, the bill offers no protection to the public and is extremely unnecessary.

The furniture industry is highly competitive and must constantly search for materials that will reduce cost and at the same time maintain quality. The buying public is receiving one of the best values in furniture today of any commodity on the market. This bill would work a further hardship on the furniture industry and would not, in our opinion, benefit the public in any way.

We hope you will oppose this bill and use your influence to see that another very unnecessary bill is defeated when it is brought out for action.

Kind regards,

D. L. JORDAN.

KEMP SPECIALTY FURNITURE Co.,
Goldsboro, N.C., March 27, 1961.

Hon. SAM ERVIN,
U.S. Senate, Washington, D.C.

DEAR SENATOR: There have been introduced in the House H.R. 1949 by Representative Moulder, of Missouri, and H.R. 1141 by Representative Bray, of Indiana, identical bills known as "Decorative Hardwood or Simulated Hardwood Products Labeling Act."

These bills are sponsored by the Fine Hardwoods Association of Chicago which would require furniture manufacturers to label wood furniture, specifying the woods used in the outer surfaces, and also specifying if the surfaces are solid wood or veneered.

Similar bills were introduced in the past two sessions of Congress. Hearings were held on the bills at the last session of Congress, at which representatives of furniture manufacturers strongly opposed this legislation on the grounds that it is special-interest legislation designed to protect manufacturers of veneers from competition with other materials. The bills would place heavy penalties upon the furniture manufacturers for failure to comply with rules and regulations issued by the Federal Trade Commission. It is alleged by the proponents of the bills that much furniture is falsely described in advertising and at the retail level and that consumers should be protected from misrepresentation by Federal regulations.

The Federal Trade Commission Act prohibits false advertising and misrepresentation and it would seem that additional legislation would not be necessary.

We are strongly opposed to this legislation on the grounds that it will place undue burden on furniture manufacturers and also that it will not be helpful to consumers.

We are hopeful that you will oppose the pending bills.

Sincerely,

PHILIP S. KEMP, *Vice President.*

STERCHI BROS. STORES, INC.,
Atlanta, Ga., September 1, 1961.

Senator HERMAN TALMADGE,
*Senate Office Building,
 Washington, D.C.*

DEAR SENATOR TALMADGE: Your opposition to bill S. 1724, which is the Senate compulsory wood labeling bill is asked and we would appreciate it if you would pass along our views to your friends who are on the Senate Committee on Commerce, advising them of our opposition to the bill which we feel is not needed and which addresses itself to a condition which concerns a special interest of only a few lumber producers in two or three States.

The bill proceeds on the assumption that hardwood is a fine material and the one and only material for furniture surfaces and it asks that any other wood, regardless of how expensive or how unusual shall be called "simulated hardwood."

As you know all wood furniture is manufactured with many varieties of wood. The most beautiful surfaces are saved for the exposed surface and that wood may be entirely different from other woods. The eye appeal, the style and fashion and whether or not the furniture is constructed correctly is of prime importance a lot more so than whether the piece is all hardwood or not hardwood, even though some of the veneer of hardwood may be only one-twenty-eighth of an inch thick. So, to show a label is going to work unnecessary hardship on the manufacturer and entails an unnecessary penalty upon us, the retailer, if we neglect to keep the records necessary to avoid penalties.

We have enough governmental intervention as it is and we would like to express our objection to this bill as just another regulation which will bring more and more taxes upon the public for an unneeded service expensive to maintain.

Won't you please contact the members of the Senate Committee on Commerce and express our deep concern and opposition to this measure?

Cordially yours,

GRADY A. LEE, *Manager.*

KORN INDUSTRIES, INC.,
Sumter, S.C., May 5, 1961

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

DEAR MR. MAGNUSON: Some legislation is necessary, some proposed laws waste millions of our hard-won tax payments.

We as small but good furniture manufacturers do not object to bills S. 1724, or H.R. 1949 and H.R. 1141 concerning the labeling of simulated hardwood, so far as it protects us and other "clean" furniture manufacturers.

However, we are having such a time maintaining a sufficient volume of sale, and keeping our 300 employees at work, that any extra expense would increase the squeeze near the breaking point, especially now that they have increased the wages we have to pay.

What we hope can be eliminated from the three bills in question is the compulsory labeling of each single piece of furniture.

May we suggest that such labeling be required only when the exposed surfaces on tops and fronts and bed panels are not as advertised or as sold to the dealers.

We make all our furniture in solid oak, tupelo, and maple, in all tops and fronts. The interiors are also genuine fine hardwoods, and all finished to show the natural grain of these fine woods.

So we have nothing to hide, and should not have the extra expense of labeling imposed on us.

We, therefore, urgently request that any bills passed to eliminate bad competition, include an amendment to let us and others like us continue on our way, doing a fine job of keeping our people fully employed, and satisfying our customers with high quality merchandise at fair prices.

A copy of this letter is going to each of your other 16 committee members.

If you have time, tell us what you think of our suggestion.

Kind regards.

J. E. LOGAN, *Secretary.*

SWORDS-MORTON VENEER & LUMBER CO.,
Rock Island, Ill., March 30, 1962.

The Honorable WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SIR: We are very pleased to hear that there will be hearings before the Senate Interstate and Foreign Commerce Committee on April 5 regarding the Decorative Hardwood or Simulated Hardwood Products Labeling Act (S. 1724). We believe that there is a need for the legislation proposed, and we urge that you attend these committee hearings as we are sure you will agree with us. We would be very grateful if you would report this bill out favorably as soon as possible after the hearings.

Yours very truly,

DANIEL MACK, *Vice President.*

NATIONAL ASSOCIATION OF MANUFACTURERS
OF THE UNITED STATES OF AMERICA,
New York, N.Y., April 6, 1962.

The Honorable WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee, Senate Office Building, Washington,
D.C.

DEAR SENATOR MAGNUSON: On behalf of the National Association of Manufacturers, with which I serve as chairman of its marketing committee, I wish to express the opposition of industrial enterprise broadly to proposals for the mandatory labeling of decorative hardwood or simulated hardwood products, as contained in S. 1724 by Senator Hartke.

Our association heretofore on August 13, 1959, submitted a comprehensive statement on this proposal to your committee and subsequently before other committees of the Congress, detailing our views on legislation of this type, and I will not at this time repeat the documentation of our position. In brief, however, industry members hope that your committee will recognize that such legislation would directly involve the Congress in a crosscurrent of competitive

conflicts between manufacturers of different product lines, and between different sections of the country. Also, we believe that the law would influence the consumer in his choice of goods, without contributing to the wisdom of his choice, and, in some instances, will serve to deceive the consumer as to product values. We believe that Federal control over marketing operations in this particular segment of one industry sets up a needless piece of legal machinery, duplicating many existing laws, including those administered by the Federal Trade Commission and, further, will discourage voluntary programs to correct any competitive abuses.

On the latter point, it is well known that the Federal Trade Commission at this moment is engaged in public hearings looking toward trade practice rules for the furniture industry and including sections dealing particularly with the intraindustry controversy involved here. Trade practice rules have worked effectively in many situations more serious than this and it would seem only wise to permit this established procedure to correct any problem in the traditional voluntary way without the compulsion of statute.

We would appreciate indeed your consideration of the opinions of this broad cross section of American industry, and the inclusion of our letter in the records of your proceedings.

Sincerely yours,

D. BERYL MANISCHEWITZ,
Chairman, NAM Marketing Committee.

TOMLINSON,
High Point, N.C., April 3, 1962.

Senator WARREN G. MAGNUSON,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR MAGNUSON: We understand you are chairman of a Senate Commerce Committee which will hold hearings soon on Senate bill 1724, the Decorative Hardwood or Simultaneous Hardwood Products Labeling Act.

Hearings were held by a House of Representatives committee on June 8, 1960, on identical bills, H.R. 9310, H.R. 9349, and H.R. 10653 after which hearings the bill was killed and we had hoped that would be the last of it.

We would recommend that you call for the information developed at that House committee hearing. If not convenient, if you will request it, I will be glad to furnish a copy of a substantial portion of testimony given at that hearing which clearly indicated that legislation such as proposed in Senate bill 1724 is not necessary and would not benefit consumers but, at the same time, would be a serious burden placed upon furniture manufacturers in paper and record work which is already excessively burdensome.

One main point called for in the bill is to prevent incorrect or deceitful labeling and it is a well-known fact that there are plenty and sufficient laws already on the books that would prevent incorrect or deceitful labeling, and we respectfully request that you use your good offices and influence to defeat this proposed legislation and call on our Senators to assist you in any way they may be able to.

Respectfully,

P. J. NEAL, *Treasurer.*

NATIONAL CONSUMERS LEAGUE,
Washington, D.C., April 3, 1962.

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

DEAR SENATOR MAGNUSON: The National Consumers League wishes to take this opportunity to urge favorable consideration of S. 1724, a bill to provide protection against misbranding and false advertising of decorative hardwood or simulated hardwood products.

In our increasingly complex economy, the consumer has fewer and fewer means of determining the real nature of products which he purchases. Products made of new, artificial materials are difficult to distinguish from the genuine materials. Many of the new products carefully simulate characteristics of the more traditional materials, sometimes adding new qualities of endurance which were not formerly available.

We think this variety and abundance is very desirable and useful. The only problem is to inform the purchaser of the exact nature of the product he is buying. This is important so that the consumer can intelligently make his choice on the basis of an informed opinion. Otherwise, he is wide open to deliberate deception by unscrupulous dealers. The importance of a purchase to the individual and to our economy as a whole makes it particularly important that the decision be rationally made.

One of the most effective and straightforward means of helping the consumer is through the use of labels which carefully denote the nature of the materials the consumer purchases. This is the basis for such valuable legislation as the Wool and Textile Labeling Acts. In purchasing cloth and clothing, the consumer now can know the exact percentage used of the different fibers.

This type of legislation would be particularly helpful in the area of hardwood and simulated hardwood products. Many important household items of furniture and items of home construction, amounting to substantial percentages of the family budget, are constructed of these materials. However, consumers are often confused and misled by misbranding or inadequate labeling of such items. To be able to invest in these materials as wisely as possible, the consumer should be informed through clear labeling as to whether the item is solid wood, veneered wood, etc. Under modern production techniques, it is impossible for the average consumer to make these determinations for himself. We therefore support S. 1724, which will require honest and adequate labeling of hardwood or simulated hardwood products.

We would like to request that this letter be made a part of the official hearing record.

Sincerely yours,

SARAH H. NEWMAN, *General Secretary.*

NATIONAL GRANGE,
Washington, D.C., April 2, 1962.

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

DEAR MR. CHAIRMAN: The Grange supports S. 1724 as it did H.R. 1141 and H.R. 1949. These bills were introduced to protect consumers and others against misbranding and false advertising of decorative hardwood products.

The National Grange supports S. 1724 because this legislation will amend the Federal Trade Commission Act so as to make unlawful deceptive practices in marketing substitute products for fine hardwoods.

Respectfully,

HERSCHEL D. NEWSOM, *Master.*

THE CONSUMER CONFERENCE
OF GREATER CINCINNATI,
April 2, 1962.

HON. WARREN G. MAGNUSON,
*U.S. Senate,
Washington, D.C.*

SIR: I understand that hearings will be conducted before your committee on April 5 on the Decorative Hardwood or Simulated Hardwood Products Labeling Act, S. 1724, and it will be greatly appreciated if you will accept this statement of the Consumer Conference of Greater Cincinnati as a part of the record of these hearings.

The Consumer Conference of Greater Cincinnati was organized in 1934 and is sponsored by the School of Home Economics, Teachers College, University of Cincinnati. It is the oldest and largest consumer group in the country, with 591 members, representing over 1,000 Cincinnati women. The membership includes active and contributing members, women's clubs, and business firms. It is nationally known for its educational work and support of legislation in the interest of consumers. It supplies information on qualities, distribution, care, price, and marketing of commodities.

I have given you a brief résumé of our objectives and work so that you can understand why we generally favor legislation benefiting the consumer of this type. We particularly favor this specific bill, because we believe it will successfully correct a widespread area of deceptions being practiced on the consumer.

Numerous instances have been reported to us in which unsuspecting housewives have purchased articles such as furniture, television sets, etc., which were labeled and advertised by respected genuine cabinet wood species names, but which later turned out to be made of some nonwood material such as fiberboard or of a cheaper wood species merely printed or stained to imitate the appearance of the cabinet wood they thought they were getting. Such deceptions would be very effectively stamped out by the informative labels and accurate advertising called for by this bill.

On behalf of not only our own members but of 50 million homes throughout the country, I earnestly entreat this distinguished committee to do everything possible to see that the Decorative Hardwood or Simulated Hardwood Products Labeling Act is passed into law at the earliest possible date.

Sincerely,

JEANETTE ST. JOHN.

THE COOPERATIVE LEAGUE
OF THE U.S.A.,
Washington, D.C., June 8, 1961.

HON. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: We are very much interested in the bills titled "Decorated Hardwood or Simulated Hardwood Labeling Act." As you recall, we supported this legislation in the last congressional session (S. 1724—Hartke-Capehart).

The Cooperative League, whose membership numbers some 15 million families, feels that there should not be deception in the representation of furniture finishes any more than there should be deception in other product promotion. Consumers should be able to buy hardwood products with confidence.

While we support the present measures, we feel it would not be unreasonable to require manufacturers to permanently identify finishes of furniture. Many of the larger manufacturers are already doing this. Since furniture often is handed down from one family to another or resold in the market, it seems to us that a permanent identification is necessary for the benefit of those who may not have access to original labels.

We hope that you will make every effort to provide early hearings and assure you of our full support.

Sincerely yours,

DWIGHT D. TOWNSEND,
Director, Washington Office.

FORMICA CORP.,
Cincinnati, Ohio, April 3, 1962.

HON. W. G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Our attention has been drawn to bill, S. 1724, the Decorative Hardwood or Imitation Hardwood Products Labeling Act, now in the hands of the Senate Committee on Commerce. Our position in this matter is as follows and we would appreciate its incorporation in the record of your hearings.

While we are in accord with legislation which is intended to protect consumers and others against misbranding, false advertising, and false invoicing, we cannot agree that there is any necessity for such legislation to encompass decorative laminated plastics. It seems to us that the present bill is intended to curtail competition with the hardwood industry rather than to protect the consumer against deception. Products of the decorative laminated plastics industry are marketed in such a manner that no one should be deceived as to the character of the products. The emphasis in marketing decorative laminates is to set forth the advantages of such products over hardwood or other materials rather

than to represent such laminated plastics as hardwood, an imitation of hardwood, or substitute therefor.

The Formica line of laminated plastics includes 16 wood grain patterns. We also produce numerous other wood grains on a special order basis.

Formica laminated plastic is made by impregnating paper and/or other fibrous materials with a synthetic resin which is subsequently rendered infusible by the application of heat under high pressure. The result is a product having a highly impervious surface which is resistant to water, alcohol, and fruit juices, and also is heat resistant. As a result, our product is useful in places where hardwood is rarely used, as, for example, in counter tops in kitchens and in bathrooms where hardwood and similar products would rarely be used because of the lack of resistance to liquids. While Formica laminated plastic, as well as competitive brands of laminated plastics, are also used as tops for bars and tables as well as for decorative purposes on walls, the advantages of the laminated plastic are used for selling it in preference to hardwood.

There is, therefore, no reason for anyone to be deceived in purchasing laminated plastics since, in order to sell such products, it is necessary to emphasize the advantages of the laminated plastic as compared to other products. And, in our 27, or so, years in the making and marketing of Formica laminated plastics, we have come across nobody who claims to have been thus deceived.

Our advertising and promotion of laminated plastics are adapted to clearly set forth the nature and characteristics of our products. Consistent advertising and promotion of our product as a superior one having special characteristics for more than 20 years have led to the complete appreciation by the consumer of what our product is from a practical point of view and that it is not a hardwood material even though it may have wood grain appearance. We have made ample reference to the generic name of our material and have done nothing which would mislead anyone into believing our product was hardwood since to do so would be against our interests.

We have made our brand name so well-known that any product bearing the label Formica laminated plastic is recognized as a product distinctly different from hardwood.

This bill, if enacted, would apparently require us to indicate that our plastic laminates which have a design simulating wood grain are processed to imitate a hardwood. Whereas our surface is intended to imitate the grain of wood, it is clearly not intended to imitate wood since we are marketing a product having properties superior to wood in many respects and it is by virtue of such properties that we are able to promote and sell our products. Our Formica trademark, which is always used in connection with our decorative laminates, including those having a wood grain appearance, would clearly indicate to anyone that the product was not an imitation of hardwood and, accordingly, it would be actually untrue to say that our product was processed to imitate hardwood.

It is our belief that the proposed legislation is discriminatory against a well-established, legitimate field of business insofar as it relates in any way to the decorative laminated plastic field.

Instead of protecting consumers, this bill would inflict unwarranted and unjustified financial hardships on the decorative laminated plastic industry. We believe that it would reflect unfairly on one of the best known and respected brand names on the American scene; namely, Formica.

It is our sincere trust that you will regard S. 1724 in this light, at the appropriate time.

Sincerely,

F. C. WALTER.

AMERICAN RETAIL FEDERATION,
Washington, D.C., April 6, 1962.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
New Senate Office Building,
Washington, D.C.

DEAR MR. MAGNUSON: The American Retail Federation strongly opposes enactment of S. 1724, a bill designed to require labeling of hardwood and simulated hardwood products.

The American Retail Federation is a federation of 31 national retail associations and 42 statewide associations of retailers. Through its association membership, the federation represents more than 800,000 retail outlets, many of which

are engaged in the sale of the products which would be covered by the two bills now under consideration by your committee.

The history of labeling legislation, wool, furs, textile products, etc., shows that the Congress has been careful in its use of its power to require informative labeling throughout the process of manufacturing and distribution. This history also shows that when the Congress has decided to exercise this power, it has done it over a broad base, making the requirements generally applicable to the entire industry or to all type of the product or products involved.

This is not the case with the present bill. It is designed to promote and protect the interests of a particular group of producers, the hardwood veneer producers, as against the economic interests of competing groups. This is special legislation. It is highly dubious whether the Congress should exercise its broad powers in the field of labeling for the benefit of a special group. Certainly the Congress should scrutinize carefully all aspects of such proposed legislation before taking any action. There should be a strong demonstration of consumer need. No such demonstration has been made.

In this connection, it might be advisable to refer to the testimony of Mr. Earl Kintner, then Chairman of the Federal Trade Commission, on a similar bill considered in the 86th Congress. Mr. Kintner said:

"If the record is made which would justify labeling, this is special legislation beyond a doubt and I personally, if I am pressed on the point, am opposed in principle to special legislation. I think that there ought to be a demonstrated necessity for it or else the overriding principle against special legislation should prevail."

And a little later he said:

"As a general principle, the Commission favors specific labeling legislation of the type proposed only in those areas where there has been demonstrated a strong consumer need. Based on presently available information, we are not aware of the extent of the need for this legislation."

The need for this legislation, its effects upon other segments of industry, and the amount, if any, of consumer protection which it will afford, therefore, should be very carefully appraised by this committee, and by the Congress before taking any final action.

The bill under consideration is concerned only with hardwood and simulated hardwood products. It ignores the fact that there are many items made from softwoods such as pine, cypress, redwood, rattan, etc. If the purpose of the bill is for consumer protection, and not the advancement of special interests, and if any protection is needed in this field, it should be inclusive. The guise of consumer protection should not be used to promote the special interests of a small group at the expense of competing groups.

The bill also ignores consumer interests in another aspect. Articles made from fiberboard, plastic, metal gypsum, etc., with a simulated wood grain finish must be labeled to show not only what the material is, but also the specific wood species simulated. However, if the article has a hardwood surface, the label need not say more than "genuine hardwood," or if veneered, "veneered," without disclosing the kind of wood actually employed, etc.

For these reasons the members of the American Retail Federation oppose any attempts to impose mandatory labeling requirements on hardwood and simulated hardwood products.

We ask that this statement be made a part of the record.

Respectfully submitted.

DONALD F. WHITE,
Director-Counsel, Governmental Relations.

R. S. BACON VENEER Co.,
Chicago, March 28, 1962.

HON. WARREN G. MAGNUSON,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR: It has come to our attention that hearings are scheduled before your Interstate and Foreign Commerce Committee on "Decorative Hardwood or Simulated Hardwood Products Labeling Act (S. 1724)."

The basic provisions of this proposed legislation are in the simplest form and controversy can only stem from reluctance on the part of someone to properly label a piece of merchandise for the consumer. Such an objection obviously reflects an attitude to be questioned.

The very people who have most vehemently deplored the prospect of this legislation previously (the furniture manufacturers themselves) are now widely declaiming the institution of some sort of seal of integrity label. We are led to wonder why if they saw no need for the "Decorative Hardwood or Simulated Hardwood Products Labeling Act," they should suddenly now need a label to show "integrity."

The President himself has seen fit to enter into this general field of interest and S. 1724 would automatically eliminate one of the problems which is "of concern" to him.

We take the liberty of urging your best attention to these hearings and request that the bill be reported out favorably as soon as possible therefore.

Thank you for your attention.

Sincerely,

GEORGE F. WILHELM, *Vice President.*

ICHABOD T. WILLIAMS & SONS, INC.,
New York, N.Y., June 27, 1961.

HON. WARREN G. MAGNUSON,
*Senate Office Building,
Washington, D.C.*

MY DEAR SENATOR: I am writing to ask you to support the legislation which has been sponsored by the Fine Hardwoods Association of Chicago and introduced in Congress under the title of "The Decorative Hardwood or Simulated Hardwood Labeling Act" (Senate bill, S. 1724, and House bills, H.R. 1141 and H.R. 1949).

I enclose a little pamphlet which summarizes the needs for the legislation, what it is intended to do and who is supporting it. I would only like to add to this, that as one who has spent 30 years in the hardwood business, I can assure you that there is a very definite need for some legislation, since no voluntary practices have been successful in preventing deception of the public in the matter of fine hardwoods and simulations thereof. This is the crux of the question and the legislation is simply designed to require that the consumer be advised in instances where substitute materials are used in place of fine hardwoods.

May I strongly urge your support of this legislation.

Yours very truly,

ICHABOD T. WILLIAMS.

DEPARTMENTAL REPORTS

The Department of Commerce report is adverse. They do not believe any benefit to the consumer would result from the detailed regulation of furniture manufacturers this bill would entail. The report points out that deceptive labeling of goods in interstate commerce is presently subject to Federal action.

The Department of Justice makes no recommendation, but does offer the following comments:

Use of trademarks or tradenames be permitted only in addition to the common name labels described in the bill (sec. 4).

The term "commerce" should contain the phrase of "foreign nations" to make clear the coverage of foreign commerce (sec. 2(i)).

Commerce within the Commonwealth of Puerto Rico should not be subject to any greater Federal regulation than commerce within a State (sec. 2(i)).

Section 7(a) (1) should be amended into a workable and effective seizure and condemnation statute.

Further, the Department suggests all labeling acts be rewritten into one statute.

The Federal Trade Commission actually fails to recommend either for or against the bill, but their report has seven pages of recommended changes to strengthen the measure.

The Comptroller General has no recommendation to offer.

HARDWOOD LABELING ACT

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, May 10, 1961.

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

DEAR MR. CHAIRMAN: Your letter of April 28, 1961, acknowledged May 1, requests our comments on S. 1724, a bill to protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products.

We have no particular information concerning the need for the proposed legislation and, if enacted, it would not affect our auditing and accounting responsibilities. Accordingly, we have no recommendation to offer regarding the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., August 16, 1961.

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

DEAR MR. CHAIRMAN: This letter is in further reply to your request for the views of this Department with respect to S. 1724, a bill to protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products.

This bill is a revision of earlier bills, introduced in the 86th Congress, to require the branding, labeling, and advertising of decorative hardwood or imitation hardwood products in accordance with their true composition. Products covered would be deemed misbranded, or falsely or deceptively advertised under the Federal Trade Commission Act if placed in commerce not in conformance with the requirements of the bill.

The Department of Commerce recommends against enactment of S. 1724.

Introduction of this proposed legislation grew out of the development of various new processes which give the surface appearance of hardwood to a number of nonhardwood materials. It is believed that such finishes may deceive or misrepresent to the consumer that the wood of which the article is made is in fact all hardwood.

Manufacturers of quality goods may truthfully extol their products and thus distinguish competitive products. Deceptive labeling of goods in commerce is presently subject to Federal action. We do not believe that any benefit to consumers which might result from enactment of this legislation would warrant the detailed regulation of furniture manufacturers which enactment of the measure would entail.

Under the circumstances, there would appear to be no need for special legislation to deal with this problem.

The Bureau of the Budget advises that there would be no objection to the transmission of this report to the Congress from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

U.S. DEPARTMENT OF JUSTICE,
 OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., December 6, 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 concerning S. 1724, to protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products.

This legislation would provide for a labeling act similar in purpose and approach to the Wool Products Labeling Act of 1939 (15 U.S.C. 68-68j), the Fur Products Labeling Act (15 U.S.C. 69-69j), and the Textile Fiber Products Identification Act (15 U.S.C. 70-70k). As stated in its title, its purpose is to protect consumers and others against mislabeling and false advertising of decorative hardwood or simulated hardwood products. It would provide civil and criminal sanctions for introducing into the channels of commerce, as defined, or offering for sale or advertising for sale in commerce, of any decorative hardwood or simulated hardwood product which is mislabeled or falsely or deceptively advertised within the meaning of the measure or the rules and regulations issued thereunder by the Federal Trade Commission.

Whether legislation of this type should be enacted involves questions not primarily within the area of Justice Department activities, for which reason we prefer to make no recommendation. However, there are a number of considerations, which are of concern to this Department, to which the committee's attention is invited.

Section 4 of the bill appears to permit the use of trademarks and trade names in place of descriptive names of wood materials used in hardwood products. Such use of trademarks would seem to be objectionable. It is our view that the use of trademarks or trade names should be permitted, if nondeceptive, but only in addition to the common name labels prescribed in the bills.

The definition of the term "commerce" in section 2(1) of the bill could make clearer its apparent coverage of foreign commerce by actually using the phrase "foreign nations." See section 2(k) of the Textile Fiber Products Identification Act (15 U.S.C. 70(k)).

It is also noted that section 2(1) of the bill would provide for coverage by the bill of commerce entirely within the island of Puerto Rico. This Department is of the view that, consistent with the Commonwealth structure of Puerto Rico, as provided for in Public Law 600, 81st Congress, 64 Stat. 319 (1950) and the acts following, commerce within the Commonwealth of Puerto Rico should not be subject to any greater Federal regulation than commerce within a State. Accordingly, it is recommended that the provision be amended to obviate the possibility of the bill's applying to commerce within the Commonwealth of Puerto Rico. Other references to "Puerto Rico," while unobjectionable, might be preceded by the words "Commonwealth of." In addition, since the term "possession" does not include Guam and the Virgin Islands, reference ought also to be made in section 2(1) to "territories."

Under section 7(a)(1) condemnation proceedings would be authorized if (1) the Federal Trade Commission had reasonable cause to believe that the product was being held, shipped, etc., in violation of the act, and (2) if, after notice from the Federal Trade Commission, the provisions of the act had not been complied with. The effect of this provision would be that no libel proceedings looking toward condemnation could be maintained unless a violator were given notice by the Commission of the violations and then did not comply. The impracticality and inadequacy of this provision are self-evident, especially since the bill deals with commodities which may be in actual transit and rapidly changing hands until reaching the ultimate consumer. It is suggested that for a proved, workable, and effective seizure and condemnation statute, language similar to that in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334), be adopted.

Finally, the Department queries whether it is desirable to have piecemeal legislation dealing with product labeling, for example, the statutes covering interstate transactions in furs, woolen products, and flammable materials, when one single statute would probably suffice and would avoid inconsistency and confusion. The advantage of a single act would be to facilitate familiarity with the law and to make compliance easier, particularly for those who manufacture or deal in more than one of the products now specifically covered by the law.

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.

FEDERAL TRADE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., March 14, 1962.

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

DEAR MR. CHAIRMAN: This is in response to your request of April 28, 1961, for comment on S. 1724, 87th Congress, 1st session, a bill "to protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products." It provided that the act may be cited as the "Decorative Hardwood or Simulated Hardwood Products Labeling Act."

In general outline, it follows the Textile, Fur, and Wool Products Labeling Acts which the Commission administers. Although conforming to the approach followed in these acts, S. 1724 contains substantial differences from the standpoint of affording appropriate disclosure of content of decorative wood products for purposes of truthfully informing the public and protecting consumers, as well as fair competition, from misunderstanding, confusion, and deception.

The Commission has had considerable experience in the matter of deception of the public through lack of proper disclosure of wood or purported wood products in items of household furniture, cabinets, paneling, and the like. In view of the great development of the art of finishing wood and imitation wood products, it has become almost impossible for the members of the general consuming public to know from observation what kind of wood or material is used in the product or to be able to distinguish between wood and purported wood materials. In such circumstances, labeling to disclose truthfully the true content becomes highly important. Without such, the door appears to be left wide open for consumers to be misled or deceived and competitive business to be seriously burdened.

The Commission is sympathetic to labeling legislation, in needed situations, which requires disclosure of the essential truth about the composition of the article, in order that the public may be correctly informed when making purchases and may be shielded from misleading information and deceptive appearances.

Our examination of the text of S. 1724, however, reveals various points of serious question which we feel need to be resolved in order to make the measure effective as labeling legislation. These points are indicated below.

(1) ONLY PARTIAL COVERAGE PROVIDED IN THE BILL

By its limitation to hardwoods and their imitations, the bill leaves uncovered the entire class of softwoods, including many which are used in decorative wood products. Softwoods include a large number in common use, such as cypress, yew, redwood, cedar, hemlock, fir, ponderosa, spruce, and others. According to Department of Agriculture Publication No. 217, January 1936 (p. 3) there are "810 species of native trees in the United States." These include scores which fall into the botanical class of softwoods.

Excluding of softwood products, as in this bill, presents a serious gap. In our opinion, it should be amended to apply to both classes of woods; namely, to "decorative wood and simulated wood products." Consumer deception may be quite as fraudulent or unfair with respect to so-called softwood products as in the case of hardwoods. To require by law the labeling of one and not the other is likely to be highly confusing in retail outlets, particularly where articles such as furniture, cabinets, etc., are intermingled in display to prospective purchasers.

It may also be said that unless so amended, enforcement would be rendered more costly to the Government by reason of the necessity of differentiating between one product and another, depending upon whether the basic wood is a hardwood or a softwood. Deception of the public is equally objectionable irrespective of whether the product is a hardwood or a softwood.

Under the bill, expert witnesses would undoubtedly have to be marshaled in order to prove that the alleged unlabeled or mislabeled product was in fact from a particular class of trees known as hardwoods. Production of scientific evidence on the point may be costly and time consuming, with little or no bearing on the question of public deception.

(2) OPTIONAL LABELING DESTROYS VALUE OF MEASURE

It is provided in section 4, paragraph A, of the bill, that the product must be labeled "either by the correct common name" of the hardwood actually used for the "exposed surface area or by words 'genuine hardwood' * * *." [Emphasis supplied.] Thus, those required to label will be accorded the option of either naming the hardwood used in the product or simply marking it "genuine hardwood." The requirement to reveal the name of the wood constituting the exposed surface, which is the heart of the measure, appears completely nullified by this provision.

Hardwoods produced in this country alone are reported as totaling 596 species.¹ In addition, many are imported from foreign countries. Each wood has its own properties, qualities, and merit, and as between the different species the qualities, merits, and usefulness differ materially. Choosing the alternative marking, however, all one need to do is to mark it with the promotional phrase "genuine hardwood." The mere designation of the finished product as "genuine hardwood," authorized as an alternative mark, can be of little or no value for purposes of informing members of the public what wood they are actually getting for their money. It does not require any law to permit one to use the phrase on his hardwood products. Its use affords no substantial advantage from the standpoint of consumer labeling.

We strongly recommend that this optional labeling provision be eliminated from the bill.

(3) FAILURE TO REQUIRE INVOICE DISCLOSURE WEAKENS BILL

Unlike previous bills for wood labeling, S. 1724 omits entirely any requirement for invoice disclosure of the true name of the wood used in the product. This tends to weaken the measure and to render administration more difficult. Proper invoice disclosure of the wood in question affords a record to guide distributors and dealers. It provides the enforcing authority with a means of checking correctness of labels and of tracing the source back to the manufacturer. Switching of labels is minimized. Properly marked invoices facilitates replacing lost labels. Honest merchants are provided through invoice disclosure with means whereby they may protect themselves respecting questioned labels or advertisements.

Purchase of cabinets and articles of furniture for testing purposes is expensive. Testing usually mars the product or destroys its salability. A requirement for proper disclosure in invoices of the wood content would obviate much of such testing work; consequently considerable expense would be avoided.

We feel that labeling legislation for adequate and effective disclosure of the true name of the wood should contain invoice coverage, as is required in the Fur Products Labeling Act for fur products (sec. 6 of that act).

(4) WOOD PRODUCTS NAME GUIDE NEEDED

It is deemed highly important for labeling purposes that the correct name be used, and that manufacturers, distributors, and retailers have a reliable guide to follow. Woods used in decorative products are of great variety, and sometimes there is substantial doubt as to the proper name to be used. Existence of an official name guide affords clarification and assurance of the proper name to be applied. We feel consideration should be given to the desirability of including provisions for an official name guide similar in principle to that contained in the Fur Products Labeling Act of 1951 (sec. 7).

¹ Department of Agriculture Bulletin No. 217.

(5) OTHER CHANGES RECOMMENDED

(a) Section 2(b) defines "hardwood" "as any timber product originating from deciduous trees *which retains its natural growth structure after being converted into veneer and lumber.*" [Emphasis supplied.]

The italicized clause is unnecessary to the definition of "hardwood." We recommend it be eliminated because it needlessly would present difficulties in enforcement. It would require proof not only that the product is hardwood, but also that the finished wood in its prefabricated state, when the veneer or lumber was originally cut, did thereafter retain its natural growth structure. Highly technical questions could be raised on which expert testimony may be required to establish not only that the product is a "hardwood," but that such hardwood is of a type that has retained its natural growth structure in the finished state.

(b) Again, subsection (d) of section 2 would appear to require that the hardwood be finished "to display the natural wood grain, figure, or growth character." This is unnecessarily restrictive. One hardwood may be finished not to display its own grain or figure, but the grain or figure of another wood, thereby being excluded from the scope of the definition. For example, gum wood, a hardwood, may and frequently is finished to display the grain and figure of walnut, mahogany, or some hardwood other than gum. The phrase "to display the natural wood grain, figure, or growth character," unless eliminated, would undoubtedly create a serious loophole in the law.

(c) With respect to veneered products, it appears that consumers are likely to be misled and deceived if the labeling fails to disclose the kind of wood which is under the top layer of veneer and upon which the durability and strength depend. Merely to call the product veneer of a certain hardwood would disclose only the one-sixteenth inch or one-thirty-second inch top layer. Ninety percent or more of an entirely different wood of which the piece is composed would be concealed and undisclosed, no matter how inferior such wood may be. While certain veneered products are laminated to high-quality plies, in many instances very cheap or low-quality plies are used and concealed by the thin top layer or veneer. Unless the hidden plies are disclosed, the purchaser has no means of knowing what he is getting.

(d) In section 4(a) illustrations of required markings are given, including in lines 10 and 11 an alternative, reading: "or simply 'genuine hardwood veneered (or plywood) construction.'" It is provided that this permissible alternative marking shall apply to an article containing "simulated walnut solids." The alternative marking would therefore be untrue. If allowed to remain in the legislation the effect would be to have a false type of marking authorized by law. It excision is recommended.

(e) Other instances of needed change may be found upon careful study to assure completeness of the measure and harmonious interrelationship between its several sections. We shall be glad upon request to have experienced members of our staff work with your representatives to perfect the proposed legislation before it leaves the committee.

By direction of the Commission:

PAUL RAND DIXON, *Chairman.*

