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DECORATIVE WOOD LABELING AND USE OF TERM "MAHOGANY"

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 1998, H.R. 6226

BILLS TO PROTECT CONSUMERS AND OTHERS AGAINST MISBRANDING, FALSE INVOICING, AND FALSE ADVERTISING OF DECORATIVE WOOD AND SIMULATED WOOD PRODUCTS

H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, H.R. 6604, H.R. 6911

BILLS TO AMEND THE FEDERAL TRADE COMMISSION ACT TO PROHIBIT THE USE OF THE TERM "MAHOGANY" IN CONNECTION WITH WOODS AND OTHER PRODUCTS WHICH ARE NOT IN FACT MAHOGANY

JUNE 18, 19, 20, 21, AND NOVEMBER 5, 1963

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DECORATIVE WOOD LABELING AND USE OF TERM "MAHOGANY"

TUESDAY, JUNE 18, 1963

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE AND FINANCE
OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 1334, Longworth Building, Hon. Harley O. Staggers (chairman of the subcommittee) presiding.

Mr. STAGGERS. The committee will come to order.

This subcommittee is beginning public hearings this morning on eight pending bills, H.R. 1998 by Mr. Bray, of Indiana; a similar bill, H.R. 6226 by our colleague on this committee, Mr. Rhodes of Pennsylvania; H.R. 5669 by our colleague on this committee, Mr. Keith, of Massachusetts; and the following bills similar to H.R. 5669, H.R. 6210 by our colleague on this committee, Mr. Long of Louisiana, H.R. 6365 by Mr. Sikes, of Florida, H.R. 6370 by Mr. Matthews, of Florda; H.R. 6604 by Mr. Boggs, of Louisiana; and H.R. 6911 by Mr. Collier, of Illinois.

H.R. 1998 and H.R. 6226 are bills to protect consumers and others against misbranding and false advertising of decorative hardwood or simulated hardwood products.

These bills would make it unlawful, and an unfair method of competition, and an unfair and deceptive act or practice in commerce, under the Federal Trade Commission Act, to introduce, sell, advertise, offer for sale, transport, or distribute in commerce any decorative hardwood or simulated hardwood product which is misbranded or falsely or deceptively advertised within the meaning of these bills.

These two bills, which are modeled after the Wool Products Labeling Act of 1939, and the Textile Fiber Products Identification Act are quite similiar to several bills on which this subcommittee held hearings in June 1960 (H.R. 9310, H.R. 9349, and H.R. 10653—86th Congress), and in August 1961 (H.R. 1141 and H.R. 1949—87th Congress).

The other six bills (H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, H.R. 6604, and H.R. 6911) would make it an unfair method of competition and an unfair or deceptive act or practice in commerce within the meaning of section 5 of the Federal Trade Commission Act for any person to manufacture for sale, sell, or offer for sale, in commerce, or to import, or to introduce, deliver for introduction, transport, or cause to be transported in commerce or for the purpose of sale or delivery after sale in commerce, any wood or portion of an article made in whole or in part of wood described as "mahogany" if such

wood is not in fact from a tree of the mahogany of Meliaceae family.

A copy of these bills together with agency reports thereon will be made a part of the record at this point.

(The bills and reports referred to follow:)

[H.R. 1998, 88th Cong., 1st sess.]

A BILL To protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood 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 Wood and Simulated Wood 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 "wood" means any timber product retaining its natural growth structure;

(c) the term "simulated wood product" means any product or part of a product made wholly or substantially of any material other than wood, and includes, but is not restricted to, wood fiber, glass, vegetable fiber, plaster, metal, paper, film, and molded or extruded material, which in its finished, treated, or processed state has the appearance or is in imitation of, or purports to be wood; this term also includes products made of wood, the exposed surface of which has been printed or otherwise treated to provide the appearance of a figure pattern other than the natural growth structure;

(d) the term "decorative wood" means any wood or wood product whether in the form of veneer, plywood, flooring, lumber, manufactured product, or other form, the face of which has been varnished, shellacked, lacquered, stained, or otherwise finished or processed to display the natural wood grain, figure, or growth character;

(e) the term "exposed surface" or "exposed parts", as applied to a decorative wood and simulated wood product, means those parts of the product which are exposed to view when the product is installed or placed in normal position;

(f) the term "label" or "labeling" means any label, stamp, tag, mark, brand or other identification affixed to a decorative wood or simulated wood product or article or to the immediate packaging of such product or article;

(g) the term "invoice" means a written account, memorandum, list, catalog, sales slip, or invoice, which is issued in connection with any commercial dealing or transaction in decorative wood or simulated wood product transported or delivered to a purchaser, consignee, factor, bailee, correspondent, or agent;

(h) 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;

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

MISBRANDING, FALSE ADVERTISING, OR FALSE INVOICING DECLARED UNLAWFUL

SEC. 3. (a) The introduction or manufacture for introduction into commerce, or the sale, advertising, promoting, or offering for sale in commerce, or the transportation or distribution in commerce, of any decorative wood or simulated wood product which is misbranded, or falsely or deceptively advertised, or falsely or deceptively invoiced (excepting sales slips or invoices issued by retail stores), within the meaning of this Act or the rules and regulations prescribed under section 8, 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 wood or simulated wood product which has been shipped and received in commerce, and which is misbranded or falsely or deceptively advertised, or falsely or deceptively invoiced (excepting sales slips or invoices issued

by retail stores), within the meaning of this Act or the rules and regulations prescribed under section 8, 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) Except as provided in subsection (d) of this section, it shall be unlawful to remove or mutilate, or cause or participate in the removal of mutilation of, prior to the time any decorative wood and simulated wood product is sold and thereafter delivered to the ultimate purchasing consumer, any label required by this Act to be affixed to such decorative wood or simulated wood 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.

(d) Any person introducing, selling, advertising, or offering for sale, in commerce, or processing for commerce, a decorative wood or simulated wood product, or any person selling, advertising, offering for sale, or processing a decorative wood or simulated wood 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 wood or simulated wood 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 wood or simulated wood 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.

(e) Subsections (a) and (b) of this section shall not apply to any common carrier, contract carrier, or freight forwarder with respect to a decorative wood or simulated wood product handled and shipped, transported, or delivered by it in commece in the ordinary course of business.

MISBRANDING DECORATIVE WOOD AND SIMULATED WOOD PRODUCTS

SEC. 4. For the purposes of this Act, a decorative wood or simulated wood product shall be deemed 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 wood or simulated wood product, or is misleading in any respect; or

(2) if there is not affixed to each decorative wood and simulated wood product a label (flooring and molding may be labeled by the bundle or package) showing in words and figures plainly legible the labeling information required by this law, including the true common name of the wood actually contained in the exposed surfaces of the decorative wood product, or the true name or composition of the simulated wood product comprising the exposed surfaces of the product: *Provided*, That where the exposed surface is made of veneer, laminate, or plywood construction, such exposed surface construction shall be clearly indicated by such additional words showing that it is veneer, laminate, or of plywood construction, as the case may be: *Provided further*, That where the exposed surface has been printed or otherwise treated to reveal an artificial wood grain or figure pattern this fact shall be clearly indicated; or

(3) if the label contains the name or names of any wood or purported wood not contained in the product, unless accompanied by language clearly indicating that the figure pattern is stimulated; or

(4) if the label does not show the name or the identification number issued and registered by the Commission of the person or persons who manufactured such decorative wood or simulated wood product.

FALSE ADVERTISING AND INVOICING OF DECORATIVE WOOD AND SIMULATED WOOD PRODUCTS

SEC. 5. (a) For the purposes of this Act, a decorative wood and simulated wood product shall be deemed to be falsely or deceptively advertised if any advertisement, representation, public anouncement, or notice which is intended to or does aid, promote, or assist, directly or indirectly, in the sale of offering for sale or marketing of such decorative wood or simulated wood product (1) shows wood species names not actually present on the exposed surface of the decorative wood of simulated wood product, unless accompanied by language clearly indicating that the figure pattern is simulated, or (2) indicates either veneer or solid construction where such is not the case, or (3) shows other than the true name or names and true composition of the exposed parts of the simulated wood product, or (4) is false, deceptive, or misleading in any respect.

(b) For the purposes of this Act, a decorative wood and simulated wood product shall be deemed to be falsely or deceptively invoiced (excepting sales slips or invoices issued by retail stores) if no invoice is issued, or if issued, such invoice (1) does not show the true name or names of the wood forming the exposed surface of the wood product, or (2) does not reveal that the exposed surfaces of such product are of veneer, laminate, or plywood construction, or (3) does not reveal the true name or composition of the simulated wood product forming the exposed parts of the product or article, or (4) does not reveal the presence of any printed or otherwise processed artifical wood grain or figure pattern, or (5) in false, deceptive, or misleading in any respect.

EXCLUSION OF MISBRANDED OR FALSELY INVOICED DECORATIVE WOOD AND SIMULATED WOOD PRODUCTS

SEC. 6. (a) Decorative wood and simulated wood products imported into the United States shall be labeled so as not to be misbranded within the meaning of section 4 of this Act; and all invoices of such products required under title IV of the Tariff Act of 1930, as amended, shall set forth, in addition to the matters therein specified, information conforming with the requirements of section 5(b) of this Act, which information shall be included in the invoices prior to their certification under the Tariff Act of 1930, as amended.

(b) The falsification of, or failure to set forth, said information in said invoices, or the falsification of perjury of the consignee's declaration provided for in the Tariff Act of 1930, as amended, insofar as it relates to said information, shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or fails to set forth, said information in said invoices, or who falsifies or perjures said consignee's declaration insofar as it relates to said information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any decorative wood or simulated wood product into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said product, and any duty thereon, conditioned upon compliance with the provisions of this section.

(c) A verified statement from the manufacturer, producer of, or dealer in, imported decorative wood or simulated wood products showing information required under the provisions of this Act may be required under regulations prescribed by the Secretary of the Treasury.

DECORATIVE WOOD NAME GUIDE

SEC. 7. (a) The Commission shall within nine months from the date of enactment of this Act, after holding public hearings, issue a register setting forth the names of decorative woods, which register shall be known as the Decorative Wood Name Guide. The names used shall be the true English names for the respective wood: *Provided, however*, That in the absence of a true English name for a wood or where a wood has for at least twenty-five years been known generically in the market of the United States by a commercial or trade name, the Commission may use such name when deemed by the Commission to properly identify the wood in the United States, with or without qualifying or explanatory terms.

(b) The Commission may, from time to time, after holding public hearings, add to or delete from such register the name or names of any wood.

(c) When the name of any wood connotes a geographical origin or significance other than the true country or place of origin, the Commission may require whenever the name is used to also carry such qualifying or explanatory words or statement as it may deem necessary to prevent the likelihood of confusion or deception.

(d) The name or names of the decorative wood used in the label required under section 4 of this Act shall be such as are set forth in the Decorative Wood Name Guide provided for under this section.

ENFORCEMENT OF THE ACT

SEC. 8. (a)(1) Except as otherwise specifically provided or required herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for pursuant to the Federal Trade Commission Act.

(2) The Commission is authorized and directed to prevent any person from violating the provisions of sections 3, 4, 5, and 10(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 said sections 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 authorized to exclude from the provisions of this Act any specific types or kinds of decorative wood or simulated wood products because of their being of such small size or inconsequential character as not of public interest or not necessary to be covered for protection of the purchasing public.

(c) The Commission is authorized (1) to cause inspections, analyses, tests, and examinations to be made of any decorative wood products or of any simulated wood products 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, territory, 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 importer of decorative wood products or simulated wood products shall maintain proper records showing the information required by this Act with respect to all decorative wood products and simulated wood 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 importer 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. 9. (a)(1) Any decorative wood or simulated wood 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 reason to believe such decorative wood or simulated wood products are 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 wood or simulated wood products 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 wood or simulated wood 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 products will not be disposed of until properly marked, advertised, and

invoiced as required under the provisions of this Act, or by such charitable disposition as the court may deem proper. If such decorative wood or simulated wood 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, sections 3, 4, 5, or 10(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 for the district 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.

GUARANTY

SEC. 10. (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the decorative wood or simulated wood product guaranteed was manufactured or by whom it was imported, that said product is not misbranded or that it is not falsely advertised or invoiced under the provisions of this Act. Such guaranty shall be either (1) a separate guaranty specifically designating the decorative wood or simulated wood product guaranteed, in which case it may be on the invoice or other paper relating to such decorative wood or simulated wood product; or (2) a continuing guaranty filed with the Commission applicable to any decorative wood and simulated wood products manufactured or imported by said 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 wood or simulated wood product, a false or deceptive guaranty (except a person relying upon a guaranty 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 wood or simulated wood product guaranteed was manufactured or by whom it was imported) with reason to believe the decorative wood or simulated wood product falsely or deceptively 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 and an unfair or deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

SEC. 11. (a) Any person who willfully violates sections 3, 4, 5, or 10(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. 12. 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. 13. 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. 14. This Act shall take effect one year after the date of its enactment.

(NOTE.—H.R. 6226, introduced by Mr. Rhodes of Pennsylvania, is identical to H.R. 1998.)

[H.R. 5669, 88th Cong., 1st sess.]

A BILL To amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact mahogany

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Trade Commission Act is amended by redesignating sections 17 and 18 thereof as sections 18 and 19, respectively, and by adding immediately after section 16 thereof the following new section:

"SEC. 17. The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any wood or portion of an article made in whole or in part of wood described as 'mahogany' if such wood or the portion of such article which is so described is not in fact from a tree or trees of the mahogany or Meliaceae family and defined botanically as Swietenia or khaya shall be an unfair method of competition and an unfair or deceptive act or practice in commerce within the meaning of section 5 of this Act."

(NOTE.—Identical bills were introduced as follows: H.R. 6210 by Mr. Long of Louisiana; H.R. 6365 by Mr. Sikes of Florida; H.R. 6370 by Mr. Matthews of Florida; H.R. 6604 by Mr. Boggs of Louisiana; and H.R. 6911 by Mr. Collier of Illinois.)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 2, 1963.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for views of the Bureau of the Budget on H.R. 1998, a bill to protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood products.

The purpose of the bill is to provide for truthful labeling of decorative and simulated wood products to reveal the kind of wood or material that constitute the exposed parts of the finished product. The bill follows the general pattern of the Wool, Fur, and Textile Product Labeling Acts that are administered by the Federal Trade Commission.

The Bureau of the Budget believes that extensive regulation and burdensome labeling and recordkeeping requirements upon the industry should be avoided unless a specific need exists. In the past such affirmative policing was urgently needed in the wool and fur industries, and the results under the labeling acts in those fields have been gratifying. However, in the absence of such need, the protection afforded under section 5 of the Federal Trade Commission Act can be applied, as pointed out by the Federal Trade Commission in its testimony before your committee on H.R. 1998. In the same testimony, the Commission also mentioned that it is now considering certain trade practice conference rules with reference to household furniture, which are designed to foster and promote the maintenance of fair competitive conditions.

In view of the above, and in the light of FTC comments on the legislation, the Bureau of the Budget does not favor enactment of H.R. 1998 at the present time.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FEDERAL TRADE COMMISSION,
Washington, D.C., July 5, 1963.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for report with comment on H.R. 1998, 88th Congress, 1st session, a bill to protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood products. It is to be known as the Decorative Wood and Simulated Wood Products Labeling Act. Its purpose is to provide for truthful informative marking of decorative and simulated wood products to reveal the kind of wood or material constituting the exposed parts of the product. The bill follows in general outline the Textile, Fur, and Wool Products Labeling Acts which are administered by this Commission.

The art of finishing wood and imitation wood products has developed to such degree as to render it largely impossible for members of the general consuming public to know from observation what kind of wood or materials the product is made of or readily to distinguish between different woods and between wood an purported wood materials. In such circumstances informative labeling, truthfully revealing the type of wood or materials comprising the article, becomes important from the standpoint of affording consumers significant information on which to base their choice when making purchases. H.R. 1998 is directed toward requiring such truthful disclosure.

Description of the contents of the bill may briefly be stated as follows.

Section 2 is devoted to definitions of key terms used in the bill and includes reference to the Federal Trade Commission Act as the enforcing authority. It also contains a definition of the term "commerce" which confines operation of the measure within the scope of the commerce clause of the Constitution.

Section 3 states precisely what shall be regarded as unlawful in respect to misbranding, false advertising, and false invoicing. In general, it covers the introduction, manufacture for introduction into commerce, or the sale, advertising, promoting, or offering for sale in commerce, or the transportation or distribution in commerce of any decorative wood or simulated wood product which is misbranded, falsely or deceptively advertised, or invoiced. It likewise covers, under section 3(b), products which have been "shipped and received in commerce." Removal or mutilation of the required label prior to sale and delivery to the "ultimate purchasing consumer" is made unlawful, subject, of course, to subsection (d) under which substitution of labels is permitted. Provisions are also made respecting practices rendered unlawful in that they are not to apply to "any common carrier, contract carrier, or freight forwarder" who may handle or ship the article "in commerce in the ordinary course of business."

These several provisions in section 3 conform, generally, to the specifications found in the other labeling acts referred to; with one exception however. That exception is contained in subsections (a) and (b) of section 3, and in subsection (b) of section 5, reading as follows: "(Excepting sales slips or invoices issued by retail stores)." These words, inserted in the subsections mentioned, serve to lift from retail stores the requirement for disclosure in invoices or sales slips. We feel that this exemption is unwarranted, and renders ineffective the intended protection of consumers against false sales slips and false invoices by retail stores. Mail-order houses and many retailers throughout the country sell furniture and other wood and simulated wood products in interstate commerce. It appears that their sales slips or invoices to consumers should reveal the truthful information specified, as is required of manufacturers and distributors. Otherwise, such exemption of retailers, although engaged in commerce, would undoubtedly render the measure largely ineffective from the standpoint of affording protection to consumers and scrupulous competitors.

Section 4 defines specifically the information which the mark or label is required to reveal and consequently specifies that which shall constitute misbranding. The label is, of course, not to carry any form of misrepresentation. It is to reveal the true common name of the wood actually contained in the exposed surface of the decorative wood product, and the true name or composition of the material in the exposed surface of the simulated wood product. If the exposed surface is of veneer, laminate, or of plywood construction, this fact is likewise to be revealed and it shall also be indicated if the exposed surface has been printed or otherwise treated to reveal an artificial wood

grain or figure pattern. If a certain wood or purported wood is not contained in the product, the name thereof shall not appear on the label except when accompanied by language indicating that the figure pattern is simulated. The name of the manufacturer or the registered identification number of such manufacturer is also to be shown on the label.

Under section 5 the true name of the exposed surface of the product and the indication that the product is veneered shall also be shown, and shall not be "false, deceptive, or misleading in any respect." Somewhat similar provision is made for the disclosure in invoices, contained in subsection (b) of section 5, as well as information disclosing an artificial wood grain or figure pattern. This subsection likewise contains the exception of "sales slips or invoices issued by retail stores" which, as pointed out above, we deem to be an objectionable exemption. It should be noted that while veneer, laminate, or plywood is to be disclosed as such, no provision is made for revealing the names of the wood constituting the underneath plies used in the construction of the surface material. Such concealed plies may be of low quality, but no disclosure of the wood used therefor is required.

Under section 6 provision is made for exclusion of misbranded or falsely invoiced wood or simulated wood products and for requiring the giving of bond prescribed by the Secretary of the Treasury for continued importation in instances where misbranding or false invoicing has been indulged in respecting such importation. These provisions found in section 6 are similar to those in the other labeling acts referred to and are deemed appropriate for controlling the misbranding or false invoicing of imports.

In section 7 provision is made for the issuance by the enforcing authority; namely, the Federal Trade Commission, of a "Decorative Wood Name Guide." The guide is to be issued after holding public hearings, and shall contain the true English name of the respective woods, which names members of the industry may use as a proper designation to appear on their labels. In view of the many hundreds of woods that may be used in the manufacture of decorative wood products, the availability to the members of the industry of a "Decorative Wood Name Guide," as provided in the bill, should greatly facilitate and render clarifying assistance to industry in meeting the labeling requirements of the measure.

Section 8 specifies the enforcement of the act by the Federal Trade Commission which is authorized to use the civil cease and desist order procedure specified in the Federal Trade Commission Act. The Commission is also authorized to issue rules and regulations governing the manner and form of disclosing the required information and to make inspections, analyses, tests, and examinations of products subject to the act as well as to cooperate with other departments and agencies. Provision is further made for the manufacturer to maintain proper records showing the information for his products required by the act and to keep such records for at least 3 years. Forfeiture of $100 per day for the failure so to do is also provided. These enforcement provisions contained in section 8 are similar to the enforcement provisions in the other labeling acts referred to.

Section 9 provides for condemnation and injunction proceedings in the district courts where, in the case of condemnation proceedings, the products were manufactured or held for shipment, in violation of the act, and where, in case of injunction, the Commission has reason to believe violation is being indulged in and that "it would be to the public interest to enjoin such violation" until complaint has been processed before the Commission. Here again the provision parallels similar authority specified in the other labeling acts now on the books, as stated above.

Section 10 authorizes manufacturers to issue guarantees to the trade to the effect that their products are properly labeled. The guarantee may be in the form of a separate document or in the form of a continuing guarantee filed with the Commission and made applicable to all products of the manufacturer. The use of a false guarantee is subject to the provisions of the Federal Trade Commission Act respecting unfair methods of competition and unfair acts or practices. The guarantee provisions of section 10 are parallel to similar provisions in the other labeling acts referred to.

A misdemeanor provision covering willful violations is contained in section 11 and is subject to prosecution by the Attorney General upon report of the facts made to him by the Commission. The remaining sections; namely, 12, provide that the measure is to be an addition to and not in substitution of any other act

of Congress; section 13 is the usual separability provision, and section 14 specifies the effective date as 1 year after the date of enactment.

The text of the bill is such as to afford an appropriation basis for consideration of labeling legislation, and we believe that, subject to minor editorial changes and the exclusion of the exemption with reference to false sales slips or invoices issued by retail stores, the bill appears to be administratively feasible and enforcible.

The Commission is always sympathetic to legislation which affords due protection to the consuming public. The Commission, under the authority granted it by section 5 of the Federal Trade Commission Act, has carried on considerable activity where it has jurisdiction in connection with the prevention of deceptive acts and practices in the sale of wood and purported wood products.

Also, there is now pending before the Commission, for final consideration, the issuance of trade practice rules with reference to household furniture. These proposed rules are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public.

The trade practices embraced in said rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

Such rules provide that disclosure be made respecting the true composition of household furniture which is deceptive in appearance because it is of nonwood material which simulates the appearance of wood, or because it is composed of a different kind of wood than it purports to contain. Also, such rules provide that there be a proper disclosure if furniture is veneered but has the appearance of being solid wood.

The Commission has not had sufficient activities in areas other than household furniture which would afford it a satisfactory basis to determine the nature of the practices to which the bill is directed.

In view of such circumstances, it is believed that such practices should be made the subject of inquiries and hearings before a final determination is made regarding the need for the proposed legislation.

The Fur, Wool, and Textile Labeling Acts are examples where Congress granted the Commission such additional authority.

As to cost of administering and enforcing this proposed legislation, in the light of expenditures required in respect to the other labeling legislation which we administer, and in view of the fact the work involved possibly could be partially integrated therewith at minimum cost, it is estimated that initially we would need a minimum of $500,000 to defray the required cost of promulgating the rules and other preliminary work necessary to initiate the program contemplated. We would then be in a better position to determine the required costs of enforcing this legislation.

By direction of the Commission.

PAUL RAND DIXON, *Chairman.*

N.B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on June 24, 1963, and on June 27, 1963, the Bureau of the Budget advised that there is no objection to the submission of this report from the standpoint of the administration's program.

JOSEPH W. SHEA, *Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 16, 1963.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your letter of February 14, 1963, requesting a report on H.R. 1998, a bill to protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood products.

This Department makes no recommendation regarding enactment because the bill affects primarily the functions of the Federal Trade Commission.

The bill would prohibit misbranding, false advertising, or false invoicing of decorative wood or simulated wood products for sale or shipment in commerce.

Enforcement of the provisions would be carried out under rules, regulations, and procedures provided for in the Federal Trade Commission Act. Penalties for noncompliance are specified in the bill. Issuance of a register entitled "Decorative Wood Name Guide" which would contain the true English names of decorative woods also would be required.

The bill is designed chiefly to insure the customer against falsifications regarding the surface appearance of the product. In general, we believe this to be a desirable objective. However, properties other 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 may vary considerably, depending upon the material which is covered by the surface material.

If favorable consideration is given this bill and if assistance is requested, this Department will be glad to cooperate with the Federal Trade Commission in composing a Decorative Wood Name Guide.

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

Sincerely yours,

CHARLES S. MURPHY, *Acting Secretary.*

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., July 30, 1963.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request for the views of this Department with respect to H.R. 1998, a bill to protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood products.

H.R. 1998 would cause the introduction or manufacture for introduction into commerce, or the sale, advertising, promoting or offering for sale in commerce, or the transportation or distribution in commerce, of any decorative wood or simulated wood product which is misbranded, or falsely or deceptively advertised, or falsely or deceptively invoiced within the meaning of the proposed enactment, to be unlawful and an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act.

The bill provides that a decorative wood or simulated wood product shall be deemed to be misbranded if it is falsely or deceptively labeled or identified or if there is not affixed to each of these products a label, identifying by true common name of the wood or true name of composition of the simulated wood product comprising the exposed surface of the product. It is further provided that where the exposed surface is made of veneer, laminate, or plywood construction, the label shall clearly indicate this. Likewise, the label must state that the exposed surface has been painted or otherwise treated to reveal an artificial wood grain or pattern, if such is the case.

The Federal Trade Commission is required, after holding hearings, to issue a register to be known as the Decorative Wood Name Guide. The decorative wood is required to be labeled in accordance with the guide. Labels must show the name or the identification number issued and registered by the Commission of the manufacturers. Imported decorative wood and simulated wood products are also required to be labeled under the act.

False advertising and invoicing is covered by the bill. Under the false invoicing provisions, a detailed invoice would be mandatory. The invoice must carry wood or simulated wood product identification as required under the misbranding provisions, except that the manufacturer's registry number is unnecessary. Sales slips and invoices issued by retail stores are excluded. Manufacturers and importers are required to keep records on the products for at least 3 years. The bill provides for the issuance of rules, regulations, and procedures to enforce the legislation. Violators of the provisions of the act are subject to imprisonment for not more than 1 year, fine of not more than $5,000, or both. Distributors would not be deemed guilty of misbranding, of false advertising or invoicing, if they were acting on a signed guarantee received in good faith from a manufacturer or U.S. importer.

The introduction of this bill appears to have grown out of the development of new processes which give nonhardwood materials the surface appearance of a hardwood. We understand the Federal Trade Commission has successfully prosecuted cases which involved misrepresentation of products as manufactures of hardwood or of hardwood surface, and expects soon to promulgate proposed trade practice rules for the furniture industry, including provisions requiring disclosure of the type of wood in furniture, where the finished product would be deceptive unless such disclosure is made.

We know of no evidence of widespread consumer deception nor of need for the labeling of all decorative woods or simulated wood products. The promulgation of the Federal Trade Commission rules should assure adequate protection for the consumer. Rather than impose on the industry a considerable burden, without evidence of an urgent need for additional Federal legislation, we would recommend against favorable action on the bill, preferring to see the aims of the bill accomplished under existing law by means of the proposed trade practice rules of the Federal Trade Commission.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

LAWRENCE JONES
(For Robert E. Giles).

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 8, 1963.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for views of the Bureau of the Budget on H.R. 5669, a bill to amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact mahogany.

The bill would prohibit use of the term "Philippine mahogany" and would authorize the sale of khaya as true or genuine mahogany without the qualifying word "African." It would have the effect of reversing decisions of the Federal Trade Commission in the early 1930's on both products. As a result of those decisions, which are cited in the report of the Federal Trade Commission on H.R. 5669, the present labeling pattern has been in effect over 30 years. The Commission concludes that it is not justified in reversing its historical position and states that if any change should be made at all it should be by the Congress.

The State Department, in its enclosed views letter, reports that it is unable to endorse the bill in view of the possible impairment of the relations of the U.S. Government with the Philippines.

The Commerce Department in its report makes reference to a recent survey indicating that consumers may well be confused or misled by these terms and goes on to register no objection to H.R. 5669 if Congress determines that the consumer is being seriously misled. The Department then suggests that a transition period be provided to permit Philippine exporters to establish a new and distinct trade name while preserving the identity of their product.

In the light of these considerations, if the Congress finds that the consumer is being seriously misled by the use of the term "Philippine mahogany," the Bureau of the Budget believes that legislation along the lines of H.R. 5669, qualified as suggested by the Department of Commerce, would be appropriate.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 9, 1963.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request of April 15, 1963, for a report on H.R. 5669, a bill to amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact mahogany.

The Department makes no recommendation regarding enactment because the bill affects primarily the functions of the Federal Trade Commission.

The bill would make it an unfair method of competition and an unfair or deceptive act or practice in commerce within the meaning of section 5 of the Federal Trade Commission Act to describe as "mahogany," any wood or portion of an article, if such wood or the portion of such article which is so described is not in fact from a tree or trees of the mahogany or Meliaceae family and defined botanically as *Swietenia* or *Khaya*. The above restriction would apply to manufacture, sale, offering for sale, in commerce; or the importation, introduction, delivery for introduction, transportation, causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce in the United States.

The bill is clear as to the exact woods which would be permitted to be labeled "mahogany;" however, from a technical standpoint the word "*Khaya*" in line 6, page 2 should be capitalized.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administraion's program.

Sincerely yours,

CHARLES S. MURPHY,
Acting Secretary.

FEDERAL TRADE COMMISSION,
Washington, D.C., August 9, 1963.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for report, with comment, on H.R. 5669, 88th Congress, 1st session, a bill to amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact mahogany. The bill would prohibit use of the term "Philippine mahogany" and would authorize the sale of *Khaya* as true or genuine mahogany although it is not of the genus *Swietenia* which has been judicially defined as the only source of true or genuine mahogany.

The term "Philippine mahogany" has been used as a trade designation for over 50 years. Its adoption was encouraged by the War Department when the Philippines were under jurisdiction of that Department prior to becoming an independent nation. In 1932, by decision of the U.S. Court of Appeals, Second Circuit, use of the designation "Philippine mahogany" was judicially permitted (*Indiana Quartered Oak Co.* v. *Federal Trade Commission*, 58 F. 2d 182 (1932)). Such decision has been continuously followed by the Federal Trade Commission concerning the Philippine woods sold as "Philippine mahogany." Similar decisions were entered of record in the Eighth Circuit (*Thomas E. Powe Lumber Co.*, June 10, 1932) and the Ninth Circuit (*Hammond Lumber Co., Kirschmann Hardware Co., Robert Dollar Co.*, June 7, 1932).

Much of the economy of the Philippine Islands, it appears, is based on the logging and manufacturing of such "Philippine mahogany." The wood is of fine cabinet quality and has had wide acceptance in the United States during more than a half century of its importation.

Secondly, the bill, H.R. 5669, would sanction and approve sale of Khaya of Africa as true mahogany, although it is not *Swietenia*, which has been held by the court to be the only source of true or genuine mahogany (*Indiana Quartered Oak Co.* v. *Federal Trade Commission, supra*, 1932).

Khaya has long been sold in the United States as "African mahogany." Under the decisions of the Commission it has not been permissible to sell the product as "mahogany" without the qualifying word "African." Among the early cases to this effect is that of Docket 1746, *Ichabod T. Williams and Sons* (16 F.T.C. 536 (1932)). The qualified designation "African mahogany" has been accepted although the wood is not *Swietenia* or true mahogany. The bill, however, would elevate the product to the status of true mahogany.

On November 29, 1962, the Commission has occasion to report on the subject as it was then involved in H.R. 8358 of the 87th Congress. At that time we stated our view as follows:

"In view of the history of the 'Philippine mahogany' question, the Commission feels it is not justified in reversing its position and could not successfully do so before a court. Therefore, if any change should be made at all, it should be by the Congress."

The Commission is presently of the same view.

Commissioner Anderson does not fully concur with the Combmission's report in that he is of the opinion that the Commission should reverse its position, but he does feel that it would be more appropriate for Congress to act in this matter.

By direction of the Commission, Commissioner MacIntyre not participating.

PAUL RAND DIXON, *Chairman.*

N.B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on June 12, 1963, and on August 8, 1963, the Bureau of the Budget advised that there is no objection to the submission of this report from the standpoint of the administration's program.

JOSEPH W. SHEA, *Secretary.*

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., September 10, 1963.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in further reply to your request for the views of this Department with respect to H.R. 5669, a bill to amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact mahogany.

This bill would make the sale, advertising, introduction, et cetera, of any wood or portion of an article made in whole or in part of wood described as "mahogany" in commerce, or imported into the United States, an unfair or deceptive act or practice under the Federal Trade Commission Act unless the wood is in fact from trees of the mahogany or Meliaceae family and defined botanically as *Swietenia* or *Khaya*.

The highlights of the complicated situation which this bill seeks to relieve are as follows:

The name "mahogany" was first applied formally to a tropical American wood in 1754. Its scientific generic name *Swietenia* was first described in 1760. A closely related tropical African wood was described botanically in the same genus in 1789. In 1830, the related African woods were renamed botanically in a new genus *Khaya*. Both of these genera belong to the mahogany family, Meliaceae, and their woods have become world famed as precious furniture woods under the common name "mahogany." The total U.S. imports of mahogany in 1962 in the forms of logs and lumber approximated 44 million board feet valued at $7.8 million.

In the early 1900's, American importers began to use the term "mahogany" for an indefinite number of Philippine hardwoods belonging botanically to several genera of the family Dipterocarpaceae, which is not at all related to the Meliaceae or mahogany family. The woods of the family Dipterocarpaceae are also known as lauan.

From 1925 to 1931, the Federal Trade Commission position in extensive litigation was to prohibit the use of the name "mahogany," with or without a prefix, for these Philippine woods. In November 1931, FTC reversed itself on this position, permitting use of the term "mahogany" if modified by the term "Philippine."

In recent years, imports of the so-called Philippine mahoganies have increased greatly, coming not only from the Philippines but from some half dozen other southeastern Asian countries, with the same or very closely related kinds of Dipterocarpaceae. In 1962, U.S. imports of such woods in the form of logs and lumber approximated 104 million board feet valued at about $14.4 million. In addition, some 1,079 million square feet of plywood valued at $62 million, and 322 million spare feet of veneer valued at $6 million, of these Philippine woods entered the United States.

The term "Philippine mahogany" has been in use for over 30 years. There is good reason, therefore, for reluctance to endorse legislation which may influence the decisions of consumers in the marketplace. A recent study by the National Better Business Bureau, Inc., however, strongly suggests that the term "Philippine mahogany" is taken by a large segment of consumers to mean mahogany wood. If Congress is of the opinion that the consumer is being seriously misled by the use of the term "Philippine mahogany," therefore, this Department would not object to the enactment of legislation for the purpose of H.R. 5669. However, if such legislation is favorably considered, the bill should make clear that for a transition period, advertising or other forms of representation of lauan wood may also include a statement that lauan wood was formerly known as Philippine mahogany. A 3-year transition period would in our opinion be appropriate. We believe such action would be helpful in avoiding any degree of consumer confusion.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

DEPARTMENT OF STATE,
Washington, July 22, 1963.

Hon. KERMIT GORDON,
Director, Bureau of the Budget.

DEAR MR. GORDON: I am writing in response to your request for the views of this Department on H.R. 5669, to amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact mahogany.

This bill would limit use of the term "mahogany" to wood "from a tree or trees of the mahogany or Meliaceae family and defined botanically as Swietenia or Khaya."

Therefore the Khaya wood which is currently sold in the United States as "African mahogany" could, like Swietenia, be sold as mahogany. In this respect the Department strongly supports the bill.

This bill would, however, prohibit continued designation of lauans and similar Philippine woods as "Philippine mahogany." To do this could significantly impair U.S. relations with the Philippines.

The Philippine Embassy on August 4, 1961, sent to the Department of State a note protesting against this bill. At the request of the Philippine Embassy, the Department on August 15, 1961, transmitted this note to the chairman of the House Committee on Interstate and Foreign Commerce. The Philippine Embassy on August 22, 1961, sent to the Department a note making similar points in protest against H.R. 1949 and H.R. 1411. At the request of the Embassy, the Department on September 12, 1961, sent this note also to the chairman of the same House committee, as well as the Chairman of the Federal Trade Commission.

The Philippine Secretary of Commerce and Industry, during a visit to Washington in June of this year, reiterated to the Department his Government's concern regarding possible prohibition of the use of the term "Philippine mahogany."

We question whether the arguments for prohibiting use of the term "Philippine mahogany" are so compelling as to warrant risking damage to our relations with the Philippines.

Since "mahogany" is a common name rather than a technical term capable of botanical definition, it is not botanically erroneous to designate lauans and similar Philippine words "Philippine mahogany."

It is now more than 50 years since the term "Philippine mahogany" began to be used in this country, and more than 30 years since the Federal Trade Commission's decision upholding use of that term.

Generally speaking, "Philippine mahogany," because of its different qualities and normally lower price, is bought for purposes different from those for which "mahogany" or "genuine mahogany" is bought.

The argument is made that potential purchasers frequently refrain from purchasing genuine mahogany furniture because they equate that wood with "Philippine mahogany" bought much more cheaply for basement paneling or kitchen cabinets. Without more facts than are currently available, and given the other reasons purchasers may refrain from buying genuine mahogany furniture, plus the many years of American exposure to "Philippine mahogany," we consider this too speculative an argument on which to base legislation of potentially injurious foreign relations consequences.

In discussing this and similar bills with us, proponents recurrently complain that Philippine mahogany is being advertised without the prefix "Philippine." Such a practice seems palpably deceptive and wrong. We would hope that it could be corrected. We would endorse legislation to achieve that aim if the necessary measures cannot be taken by the Federal Trade Commission under existing legislation.

Effective control of such deceptive advertising, plus the clearer differentiation of "Philippine mahogany" from "mahogany" or "genuine mahogany" that would be achieved by enabling "African mahogany" to be called "mahogany" or "genuine mahogany," should do much to solve the problems to which H.R. 5669 is addressed.

Considering the possible impairment of United States-Philippine relations, and taking full account of the interest of other countries in this matter, the Department of State is unable to endorse this bill.

We would be willing to consider the matter further on the basis of firmer evidence than is currently available to support the contention that continued use of the long-permitted term "Philippine mahogany" constitutes unfair or deceptive competition.

Sincerely yours,

FREDERICK G. DUTTON,
Assistant Secretary.

Mr. STAGGERS. We have quite a list of witnesses and we will proceed first with our congressional colleagues. Is Mr. Hemphill, of South Carolina here? If not we will hear from Congressman Gillis Long of Louisiana, the author of one of the bills.

STATEMENT OF HON. GILLIS W. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. LONG. Mr. Chairman, H.R. 6210, one of the five identical bills to protect the name of mahogany which are pending before this subcommittee, was introduced by me.

Needless to say, it has my personal endorsement, and I am very glad that my honorable Democratic colleagues Messrs. Boggs, Matthews, and Sikes have also introduced bills.

Also, it is most appropriate that the Honorable Hastings Keith, Republican, of Massachusetts, has introduced H.R. 5669, for this is neither a sectional nor a partisan issue.

The proposed legislation would protect the name "mahogany" from use by nonmahogany woods thus eliminating an unfair practice which has continued for much too long and also eliminate confusion in the minds of consumers.

My remarks upon introducing H.R. 6210 were extended in the Congressional Record, and I ask permission to have them included as a part of the record of this subcommittee's considerations.

Mr. STAGGERS. Without objection it is so ordered.

(The material referred to follows:)

THE FAIR NAME OF MAHOGANY

Speech of Hon. Gillis W. Long, of Louisiana, in the House of Representatives, Thursday, May 9, 1963

Mr. LONG of Louisiana. Mr. Speaker, today I have introduced a bill designed to amend the Federal Trade Commission Act so as to prohibit use in interstate commerce of the word "mahogany" to describe woods which are not in fact mahogany. This is not a labeling act and should not be confused with the various wood labeling measures now pending in the Congress. Its primary direction is toward false advertising in any form.

My colleague, the Honorable Hastings Keith, Republican Congressman from Massachusetts, has introduced an identical bill under the number H.R. 5669. And it is entirely appropriate that this matter should be introduced by both parties—this is not a partisan political issue.

This short bill is for the purpose of protecting the age-old name of a fine cabinet wood against use by nonmahogany woods. Mahogany has been known and used for fine furniture in this country since the earliest colonial times. It was used by European cabinetmakers from about 1500. At first the wood came from tropical American sources, but later as Africa was explored, mahogany flowed into trade from that continent. For many years the South American and African mahogany was classified botanically under the same name, but later these two members of the Meliceae tree family were reclassified as Swietenia, which is the tropical American variety; and Khaya, which comes from Africa. These two woods of the mahogany family are almost indistinguishable in the form of lumber, and they are the only woods which ethically are entitled to use the name "mahogany."

In the early 1900's began the importation of hardwoods from the Philippines, such as lauan and tanguile. These are excellent hardwoods and highly desirable for many purposes. But they are not mahogany in any sense and are not entitled to use the name. Nevertheless, for competitive purposes, the honorable title of mahogany—"Philippine mahogany" was attached to them.

Starting in 1925, a bitter fight has been waged in the Federal Trade Commission to suppress this unethical use. In 1927, the Commission ruled that the term "mahogany" could not be applied to these nonmahogany woods. Later, after a series of motions and proceedings the FTC acquiesced to the use by the Philippine woods so long as the geographical prefix was also used. This is hardly the issue since the wood so described is not mahogany no matter where it originated. Both FTC actions were affirmed by the Federal courts on the procedural ground of administrative discretion.

The fight has continued in FTC down to today, but it now seems quite clear the relief through Federal Trade Commission is not available, and legislation is the only appropriate course of action. The case of mahogany is completely unique—the names of all other woods are carefully protected. Federal Trade Commission has taken successful action to protect walnut against terms such as "African walnut," "Oriental walnut," and "Canadian walnut" to describe woods not of the genuine walnut family. Quite recently, eucalyptus imported from Australia was prevented from being described as "Tasmanian oak" or Australian oak."

It has been argued by some that since the term "Philippine mahogany" has been used for many years its use should be allowed to continue. Such an argument cannot withstand analysis. This is to say that the robber may keep his spoils if he eludes capture for sufficient time. Equity requires that the fruits of wrongdoing be returned. Others say that the consumer is no longer deceived and knows that Philippine mahogany is not genuine mahogany. Studies show this is not accurate and that consumers believe Philippine mahogany is genuine mahogany grown in the Philippines.

Lauan and the other Philippine hardwoods are known in all other parts of the world by their native names and not as mahogany. In fact within the United States for purposes of customs duties and freight rates they are described by their true names.

I do not mean to imply that lauan is not a good wood for many purposes. Indeed, it is so good and so inexpensive that there is little doubt that it will continue its very high sales volume under its true name. It does not need to ride on the coattails of any other wood. Within the past 10 or more years millions of dollars worth of lauan has been sold to American consumers in the form of plywood wall paneling, flush doors, and kitchen cabinets all under the misleading name of "Philippine mahogany" and often even the qualifying word "Philippine" has been omitted. On the other hand, the importers and sellers of genuine mahogany, several of which are from my own State of Louisiana, have not fared so well. Sales volumes have fallen to an extremely low point and many well-known mahogany firms have been liquidated, such as Friberg Co. of New Orleans—once the world's largest manufacturer of mahogany.

Of course all of this harm cannot be directly traced to the unfair use of the term "mahogany." But it must be admitted that a housewife who has purchased cabinets for her kitchen known as "mahogany" does not purchase furniture, which in her mind is made of the same wood, for her living room.

Nor is the harm limited to the importers and millers of mahogany; furniture manufacturers, retailers, and, indeed, every furniture buyer has a valid interest in this measure. This Congress should take action to correct this wrong. I shall do my best to assure that it does.

Mr. STAGGERS. At this time we have another colleague of ours who is a member of this committee of the House and he has to go to another committee hearing, Mr. Rhodes of Pennsylvania. If you will come forward, we will hear from you now, and any statement you care to make you can put into the record and summarize it if you wish, Mr. Rhodes.

STATEMENT OF HON. GEORGE M. RHODES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. RHODES. Thank you, Mr. Chairman. I appreciate the opportunity to appear before your subcommittee this morning and to testify on the legislation which I have introduced.

I am pleased to lend my support to the wood labeling bills which I consider very properly titled, "To Protect the Consumers and Others Against Misbranding, False Invoicing, and False Advertising of Decorative Wood and Simulated Wood Products," for several reasons.

In introducing my bill, H.R. 6226, I have joined with my distinguished colleague from Indiana, Mr. Bray, who introduced H.R. 1998.

First of all, I have always believed in and have supported bills for the protection of the consumer—pure food, drugs and cosmetics, wool, fur, textile fabrics—to mention several that have been enacted into law and have been serving an admirable purpose for years.

From personal experience alone, I realize that the average family invests quite heavily in furniture and cabinets which they hope, in most instances, will last most of their lifetime. There should be no deceit practiced in either selling, invoicing, or advertising products that require such permanence. The consumers are entitled to know whether or not they are purchasing a genuine or a simulated piece of merchandise.

Frankly, I have no objection to most of the imitation wood products, most of which undoubtedly serve an excellent purpose. In fact, many manufacturers of this kind of furniture or cabinets are proud enough of their products to so advertise it.

However, it does not seem fair and honest to me to have descriptive names applied to this merchandise that would lead the public to believe that they were buying genuine hardwood.

It was a surprise to me to learn some time ago that cheap veneers and even hardboard and plastic can be printed so skillfully and realistically that the average person could not distinguish it from genuine hardwood. When the first scratch or mar comes to this kind of furniture or cabinet, the consumer learns that the natural grain of the wood does not appear below the printed surface, and repairs are impossible to make.

I repeat that I sincerely feel that the consumer should know what he is buying and that the Congress has a duty to perform in protecting these consumers who have no truly organized groups to speak for them as a body.

I also have the privilege of representing a district in the State of Pennsylvania and Pennsylvania is proud of its hardwoods. A large amount of cherry and other beautiful hardwoods come from our State and we are proud of these and other good things that come from the Keystone State.

I also feel that the enactment of this legislation will benefit the industry. Surely the salesman in the retail stores will be better able to identify their products if true and informative labels are attached.

The bill does not require that the retail stores keep any records of their merchandise sold—unless they remove the name that was on the furniture when it came from the factory and substitute one of their own.

In the case only of this substitution will the retailer be required to keep records of such sales for 3 years—see section 3(d).

Briefly, the bill (1) does not include wood or other materials on which no finishing material, printing, or other treatments of, or imitation of, natural wood have been applied— section 2(d).

(2) Does not include any finished product which is wood or has the appearance of wood.

(3) Makes it a misdemeanor to manufacture, advertise, or sell any product as described in above sentence if it has been mislabeled, not labeled, or falsely or deceptively advertised or invoiced under the terms of this act—section 3 (a) and (b).

(4) Provides that the label indicate the presence of printed wood grain on the exposed surface of any product and the true name of the material or wood species actually used for such exposed surfaces—section 4.

(5) The label on genuine wood products must reveal the common name of the wood species used for the exposed surfaces, and whether the construction is plywood or solid—section 5 (a) and (b).

(6) Prohibits in advertising the use of wood species, names not actually present on the exposed surface of products, unless there is some language that clearly indicates that the figure pattern is simulated—(decorative wood name guide, section 7 (a) (b) (c) and (d).

(7) Excepting retail invoices, requires invoices to reveal wood species names and other material used on exposed surfaces, plywood or solid construction, and presence of printed grain—section 3(a).

(8) Provides relief for an innocent distributor or purchaser who has received a written guarantee from the manufacturer of the product that it is not mislabeled or falsely or deceptively advertised or invoiced—section 10(b).

Since the several bills pertaining to the use of the word "mahogany" have been introduced, I join other proponents of my wood labeling bill in recommending that the second sentence in section 7(a) be omitted—on page 10, line 21, starting with "The names used shall be"—and continuing through line 4 on page 11.

This deletion will have the effect of further strengthening the decorative wood name guide to be issued by the Federal Trade Commission. To be really honest, the true intent of the "mahogany" bills introduced by me and several of my colleagues is to avoid deceit and to require the correct labeling of that species.

I ask your support of H.R. 6226 for this reason as well as for the previously outlined reasons.

Mr. CHAIRMAN. I request that my complete statement be printed in the record.

Mr. STAGGERS. Without objection it is so ordered.

Mr. RHODES. Thank you, Mr. Chairman.

Mr. STAGGERS. I would like to, at this time if I might, ascertain how many witnesses in the Chamber here are for the mahogany bill. Just 1 minute, Mr. Bray. Could I ascertain from them how many here wish to testify before this committee in behalf of the mahogany bill? Thank you.

We have another colleague of ours in the Congress here this morning and we will hear from him at this time, Congressman Bray of Indiana.

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

Mr. BRAY. Mr. Chairman and gentlemen, it has been my privilege to introduce wood labeling bills in previous Congresses—H.R. 5778 in the 85th Congress; H.R. 9310 in the 86th Congress; H.R. 1141 in the 87th Congress, and H.R. 1998 in the present and 88th Congress. So, at least I have been persistent.

I am proud of these proposals and my persistency certainly attests to my sincerity in urging enactment of this legislation. To me it is a bit difficult to understand the basis for any opposition to the principles of this legislation. It is designed primarily to protect the consumer against deceitful practices in the industry that repeatedly have come to my attention.

I am also proud of this bill because it is supported by important segments of the woodworking industry—the Fine Hardwoods Association, Hardwood Plywood Institute, Maple Flooring Association, Mahogany Association, Wood Office Furniture Institute, American Walnut Association—to name only a few.

I have found consumer group organizations wholeheartedly supporting the measure and many retail furniture stores as well as numerous furniture manufacturers individually approve. I feel equally confident that this type of legislation will be of great value and benefit to all furniture and cabinet manufacturers by restoring public confidence in their products.

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 the 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.

In fact, I personally have purchased products other than wood when I felt that they would serve my needs better, but regardless of that fact, I believe I do have the right to always know what I am purchasing.

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.

A rabbit fur no longer is labeled muskrat, and a muskrat is no longer labeled a mink fur piece. I feel that the consumer has this same right to know the exposed surfaces of furniture and cabinets that he buys. The same is true of textile fabrics, or wood products, or of drugs, foods, and cosmetics.

Some of the older members of this committee may have recognized that originally the wood labeling bill followed the pattern of the fur labeling bill. To me it was interesting in previous hearings to note that representatives of the Federal Trade Commission supported the principle of this legislation, but they usually stated that there should be further additions.

Finally, I asked the members of the Federal Trade Commission and their representatives to write a bill that would meet the demands which they said should be met. They did so and I have used it almost in its entirety and I confess that I like it.

To proceed further on this matter, I want to point out that the last two times that this bill came up, especially the last time, representatives of the Federal Trade Commission agreed that there was need for such legislation as this, but they objected to the form it took and certain facets of the legislation.

As I pointed out a moment ago, this bill then was rewritten to meet exactly, as near as humanly possible—I think exactly as far as that is concerned—what they stated was needed in this field.

I suggest, however, that it will be much to the advantage of the industry to use the moderate effects of this bill instead of waiting for more stringent regulations that that group could formulate and believe should be passed.

Actually, there are three principal changes in this bill from those that I introduced in previous sessions.

(1) Soft woods are included.

(2) Veneer construction is defined and must be identified.

(3) Section 7(a) provides that the FTC prepare a register known as the Decorative Wood Name Guide.

It was gratifying to have my colleague and friend, Congressman Rhodes, introduce this measure, which is entitled to bipartisan support. It also was gratifying to me to note that five of our colleagues have introduced the bill to amend the Federal Trade Commission Act in regard to the use of the wood "mahogany". It seems that the purpose of this measure is to avoid deceiving the public.

For this reason I would like to refer to section 7(a) and recommend that the second sentence be omitted. This starts on page 10, line 21: "The names used * * *" and includes the first four lines on page 11.

The exclusion of this sentence would make it possible for the Federal Trade Commission to make such corrections when it prepares the species wood name guide.

I sincerely urge your support in enacting this needed legislation during this 88th Congress.

I would be happy to try to answer any questions in this field.

Mr. STAGGERS. Thank you, Mr. Bray. I appreciate your coming over. Mr. Long, do you have any questions?

Mr. LONG. No questions.

Mr. STAGGERS. Do any other members?

Mr. CURTAIN. No questions.

Mr. STAGGERS. Thank you very kindly.

Mr. BRAY. Thank you.

Mr. STAGGERS. At this time we will hear from our colleague from Massachusetts, Mr. Hastings Keith.

STATEMENT OF HON. HASTINGS KEITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. KEITH. Mr. Chairman, I am Hastings Keith, representing the 12th Congressional District of Massachusetts.

My appearance before you today is in support of H.R. 5669. I introduced this bill before the Easter recess, and I have since been joined by several colleagues in bringing this matter to the attention of Congress.

Early in this session, I was visited in my office by a Mr. Robert Gerrish who is the sales manager of Palmer & Parker Co., the oldest mahogany importers in the United States.

He brought to my attention a situation which seems to be inequitable and which this proposed legislation is intended to correct.

For many years, importers have been bringing certain nonmahogany woods into this country and calling them "mahogany." There have been several efforts made to cause the FTC to terminate this practice, but they have been unsuccessful.

The FTC now has taken the position that they will not alter their views and that if there is to be any remedy for the mahogany importer, it must be legislative.

It is the contention of Mr. Gerrish and his associates, and I agree with them, that the woods inaccurately designated as mahogany are not, in fact, mahogany.

Further, that the practice of calling them "mahogany" is damaging to the value of true mahogany and that the buying public is being misled.

The bill would amend the Federal Trade Commission Act and make it an unfair act or practice to use the term "mahogany" to describe woods other than those of the genera Swietena or Khaya.

During this hearing you will hear testimony bearing out these allegations, and I therefore urge the committee to give this matter its customary careful and sympathetic attention.

Mr. STAGGERS. That is the extent of your statement?

Mr. KEITH. That is the extent of my statement.

Mr. STAGGERS. I thank my colleague for a clear and concise point of view in his statement. Mr. Long, do you have any questions?

Mr. LONG. No questions.

Mr. STAGGERS. Mr. Glenn?

Mr. GLENN. No questions.

Mr. STAGGERS. Mr. Curtin?

Mr. CURTIN. No questions.

Mr. STAGGERS. Thank you very kindly.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. STAGGERS. The next witness is our distinguished colleague from Illinois and a former member of this committee, the Honorable Harold R. Collier. Mr. Collier, welcome back to the committee.

STATEMENT OF HON. HAROLD R. COLLIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. COLLIER. Mr. Chairman, I appreciate this opportunity to appear before your subcommittee to testify in behalf of H.R. 6911, which I introduced on June 11, which legislation would amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in advertising for the purpose of the sale of wood or wood products which simply are not, in fact mahogany.

Perhaps I had better explain very briefly just how and why I introduced this bill. About a year ago several people in the industry and an officer of the Mahogany Association from my home State of Illinois came to me with a problem which certainly warranted action at some level to rectify a deceptive practice. This legislation is not by any means, however, designed to serve the interest of the industry but certainly that of the American consumer, whom I believe is entitled to know just what he or she is buying. I should like to make it very clear to this committee that I drafted this legislation and, of course, had the legislative counsel's office perfect it for introduction. It was not drawn by any association or group, notwithstanding the fact that the heads of strong industry groups familiar with this problem are supporting it.

At the present time a Luaun hardwood which originates in the islands is widely advertised and sold as Philippine mahogany. However, the fact of the matter is, and no botanical expert will state otherwise, that all genuine mahogany is of the *Meliaceae* family. The so-called Philippine mahogany is of the botanical family *Dipterocarpace*, which no expert in the field can dispute. This being the case, and subject to the verification of the botanical definitions and identifications set forth in this statement, I fail to understand why there should be any question as to the propriety of the bill which is before you today. After all, gentlemen, I do not believe I

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am being presumptuous in believing that no member of this committee would condone the practice of permitting a furrier to advertise muskrat as mink, or a grocer to represent margarine as butter, or a jeweler to masquerade a zircon as a diamond in his advertisements.

I would like to make it eminently clear at this time that neither this legislation nor any testimony I have presented in its behalf in previous Congresses should be construed in any way by this committee or anyone else as a reflection upon the quality and high serviceability of the Luaun hardwoods which are improperly advertised as Philippine mahogany. It is entirely possible that your wife or mine might prefer a zircon ring to a diamond, but I do think that she is entitled to know which she is buying through its proper and honest identification. With so many products on the market today of reasonably similar appearance, improper identification, labeling, or advertising simply opens the door to deceptions that are not in the best interests of the consumer.

It will probably come to the attention of the members of this committee during the hearings on this legislation that the Mahogany Association has sought relief through the Federal Trade Commission without success. Since I presume the FTC will testify in connection with this legislation, it seems proper that the reasoning behind its position be presented at that time rather than by me, although this facet of the problem may be discussed by other witnesses as well.

I should point out, however, that there is most certainly a precedent for a favorable ruling in this matter by the FTC. It is one that goes back to 1934, when the Federal Trade Commission accorded this protection to white pine against yellow pine. Again, in 1960, the FTC issued a cease-and-desist order against the nonoak woods sold in the United States as Australian oak and Tasmanian oak. My bill simply seeks the same protection for mahogany which has not been provided by the Commission.

In conclusion, let me state that while I certainly do not profess to be an expert in the field of botany or hardwoods, I have studied the problem which prompted this legislation and sincerely believe passage of this bill will rectify the misuse of the term "mahogany."

Mr. STAGGERS. Are there any questions? If not, we thank you, Mr. Collier.

Mr. COLLIER. Thank you, Mr. Chairman.

Mr. STAGGERS. The next witness is our distinguished colleague from Louisiana, the Honorable Hale Boggs. Mr. Boggs, we will be glad to hear you at this time.

STATEMENT OF HON. HALE BOGGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. BOGGS. It is indeed a pleasure for me to have this opportunity to address the members of this subcommittee of the Committee on Interstate and Foreign Commerce, and to direct their attention to an inequity which can be corrected simply by the enactment of companion legislation sponsored by me and my colleagues in the House, Congressman Gillis Long of Louisiana and Hastings Keith of Massachusetts.

I refer to H.R. 5669 (Mr. Keith), H.R. 6210 (Mr. Long), and H.R. 6604 (my bill) which would amend the Federal Trade Commission Act, to "prohibit the use of the term 'mahogany' in connection with woods and other products which are not, in fact, mahogany."

I would begin by saying that I have always been a great admirer and a good friend of the Republic of the Philippines. I have supported the Philippine Islands in their desire for independence, and I have always had great respect for the courage which the Philippine people showed in their unyielding resistance to Japan in World War II. The Philippine Islands are one of America's closest and stanchest allies in the Far East today.

Furthermore, in my 18 years in the Congress, I have worked for legislation which would open America's markets to the countries of the free world and would encourage freer trade among the nations of the world.

However, I do not believe that freer trade should encroach on the sanctity of genuine products which have their traditional homes in certain countries and which are marketed throughout the world.

For more than 30 years now, certain nonmahogany woods imported into our country have been allowed to be sold in the States of our Nation under the trade name "Philippine Mahogany." The use of this false term has confused American consumers for a long time; they have been purchasing what they believe to be genuine mahogany (despite the prefix "Philippine") to the detriment of our Nation's long-established mahogany firms and those of nations in Latin America and Africa.

In fact, Mr. Chairman and members of this subcommittee, it is only in the United States that the nonmahogany woods from the Philippines are permitted to utilize the term "Philippine Mahogany" when advertising their woods for sale, and then selling them in American markets.

In the past, south Louisiana has been the leading center in our country where the finest and strongest firms have processed tropical mahogany logs and veneers for the U.S. market. New Orleans has long enjoyed the reputation as the mahogany port of our Nation. However, in recent years, the number of mahogany importers who participate in processing the semimanufactured woods for distribution and sale in our markets, has declined. In fact, I would point out that during my own lifetime, I have seen four large mahogany companies in south Louisiana go out of business and bring unemployment in my area to lumber workers. The closure of these companies was caused by the disadvantageous position in which American mahogany firms were placed by Philippine lumber companies which have had access to our country's mahogany markets with woods which are not mahogany.

Furthermore, more mahogany companies in America and other countries are threatened with going out of business by the unfair competition provided by firms using the trade name "Philippine Mahogany" for woods that are not mahogany.

Commonsense and justice, it seems to me, dictates that the time-honored trade name of "Mahogany" should receive the same protection by our courts and regulatory agencies that is given to so many other trade name products.

Therefore, I urge this subcommittee, and the full committee, to report out this legislation favorably to the House, so that Members can have the opportunity to rectify a long-standing inequity and provide our American manufacturers of genuine mahogany with the equal protection which is rightfully theirs.

I urge the enactment of this legislation; it has my full endorsement and sponsorship, and if enacted, it will correct a mistake made many years ago by the Federal Trade Commission, and will do so not only for the benefit of our American mahogany companies but also for the benefit of the American consumer.

Mr. STAGGERS. Are there any questions? If not, we thank you for your testimony, Mr. Boggs.

Mr. BOGGS. Thank you for the opportunity, Mr. Chairman.

Mr. STAGGERS. The next witness is our colleague from Ohio, the Honorable Frank T. Bow. Mr. Bow, we welcome you to the committee.

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

Mr. Bow. I am Frank T. Bow, a Member of Congress, from the 16th District of Ohio. While it is a departure from my usual custom to appear before a legislative committee, I feel very strongly regarding H.R. 1998, and wish to state my opposition to that legislation.

This bill purposes to protect consumers who purchase furniture, paneling, floor covering, and other products having decorative wood pattern and color finishes. However, it would do so by giving the manufacturers of furniture decorated with hardwood veneers the right to label their product by the name of the surface veneer only, while requiring manufacturers of similar products to label every material used even under the surface if it "simulates" such veneer finishes.

I think that this legislation, like its predecessors in the last two Congresses, is clearly designed to protect the manufacturers of fine hardwood veneer from competitive products and to give them a sales advantage or protection against competition that they do not now possess. I certainly do not think that this legislation would protect the consumer.

There is in my judgment a serious question as to 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. Moreover, it has spent several years in preparing and, I understand, is about to issue trade practice rules for the household furniture industry that would cover almost the same areas. There is no showing that the Commission has been unable to control this type of problem, even assuming there is one.

I, therefore, find no advantage in the proposal and many disadvantages including the effort to have Congress confer a competitive advantage on a particular product to the detriment of many other fine products. This, I believe, is special legislation and not consumer legislation.

I am reinforced in my belief by the fact that in the 4 or 5 years that this legislation has been promoted, I have yet to learn from any constituent or consumer that he had a desire to see it enacted.

That completes my statement, Mr. Chairman.

Mr. STAGGERS. Are there any questions from members of the committee? If not, thank you kindly, Mr. Bow.

Mr. Bow. Thank you, Mr. Chairman.

Mr. STAGGERS. The next witness is the distinguished Senator from the State of Indiana, the Honorable Vance Hartke. Senator, it is a pleasure to welcome you to the committee.

STATEMENT OF HON. VANCE HARTKE, A U.S. SENATOR FROM THE STATE OF INDIANA

Senator HARTKE. Mr. Chairman, I always have supported legislation that is designed to protect the consumer. In fact, I was pleased to cosponsor the wood labeling bill in the Senate in each of the three Congresses that I have been privileged to represent the great State of Indiana. Our State has various types of fine hardwoods which are widely used in the manufacture of furniture and cabinets. It seems fair that both the consumer and the reliable manufacturers of furniture should be protected against even a few who deceive with products printed or processed and advertised as genuine hardwoods.

The bills introduced in the House are identical with the one that Senator Bayh and I cosponsored in the Senate. I learned that I was not the only person who had received complaints about this abuse. In fact, the Federal Trade Commission, alert as it always is, was conscious of these deceptive practices. The FTC quite some time ago prepared a set of rules governing by consent of nine television cabinet manufacturers the correct labeling of the material used in these cabinets.

This move was one step in the proper direction. It was for this reason that I urged the FTC to rewrite last year's bill in order to more nearly meet their standards. I was pleased with their suggestions, and this is the bill you have before you now and which we are hoping to bring to the consideration of the Senate in a short time.

The principal changes are three—

(1) Inclusion of soft woods;

(2) The requirement of a hardwood species guide; and

(3) The definition and requirement of indicating a veneer when it is used.

I would like to recommend to this committee, as I shall recommend to the Senate Commerce Committee, that one sentence be deleted. This is in section 7(a), page 10, starting in line 21, "The names used shall be," continuing through line 4 on page 11. This deletion will have the effect of postponing until such time as the FTC holds public hearings within 9 months after passage of this wood labeling act with reference to the establishment of a wood name guide. Such a name guide would properly classify woods, for example, that are not mahogany and thus settle this old issue and thus remove another means of deceit.

I assure you that I sincerely support this bill in the interest of protecting the consumer and in removing unfair trade practices.

Mr. STAGGERS. Are there any questions? If not, we thank you for your appearance and testimony, Senator.

Senator HARTKE. It was a pleasure, Mr. Chairman.

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Mr. STAGGERS. And now we have the honor to welcome the junior Senator from Indiana, the Honorable Birch Bayh. Senator, we will be glad to hear from you at this time.

STATEMENT OF HON. BIRCH BAYH, A U.S. SENATOR FROM THE STATE OF INDIANA

Senator BAYH. I am particularly happy to speak in support of H.R. 1998 and H.R. 6226, because Senator Hartke and I have cosponsored an identical bill in the Senate, S. 1249.

These bills—called the decorative-wood and simulated-wood labeling bills—will protect both the wood industry and the consumer from deceptive labeling and advertising in much the same way that past Congresses have seen fit to give the consumer protection in foods, drugs, cosmetics, woolen products, flammable goods, furs, textiles, fabrics, and even jewelry.

Because modern printing processes have made it possible to photographically reproduce a fine hardwood finish, some furniture and cabinet manufacturers have used imitation or simulated finishes on plastic, metal, fiberboard, and other woods; and have labeled, advertised, and sold these products under the name of an expensive hardwood.

The fault, obviously, is not with the photographic process, but with the fact that the manufacturer is not required to label his product. As a result, the buying public has lost confidence in furniture products.

Many of these synthetic products are excellent in their own right and I would venture a guess that all of us have some in our own home. But it seems only fair that such products should be sold under their own names instead of attempting to leave the impression that they are of a hardwood species through the use of misleading labels.

A very large segment of the woodworking industry supports these bills. But, what is more important is that these labeling bills will protect the consumer. When an individual or family purchases furniture or cabinets for their television sets, radios, or record players, they make a substantial investment which they expect to last for most or all of their lifetime. These consumers are entitled to know—they have a right to know—whether they are buying genuine or imitation products.

Many of these synthetic products are excellent and can stand on their own merits. But, it is only fair that they be asked to compete in a market free of the confusions and deceptions which H.R. 6226 would eliminate.

Mr. STAGGERS. We appreciate your appearance and testimony, Senator.

Senator BAYH. Thank you for the opportunity, Mr. Chairman.

Mr. STAGGERS. Do we have any other colleagues from the Congress that want to testify on the bill? Is Mr. Dixon here? We will hear from Paul Rand Dixon, Chairman of the Federal Trade Commission, in behalf of both of these bills. Will you identify yourself for the record?

STATEMENT OF HON. PAUL RAND DIXON, CHAIRMAN, FEDERAL TRADE COMMISSION; ACCOMPANIED BY FLETCHER G. COHN, ASSISTANT GENERAL COUNSEL, LEGISLATION; AND H. PAUL BUTZ, CHIEF, DIVISION OF TRADE REGULATION RULES, BUREAU OF INDUSTRY GUIDANCE

Mr. DIXON. Mr. Chairman and gentlemen, thank you for inviting the Commission to testify on this legislation. May I introduce Mr. Fletcher Cohn on my right, who is Assistant General Counsel for Legislation of the Commission.

It is a pleasure to appear before you and discuss the several pending bills before Congress which relate to wood labeling and the use of the word "mahogany." My remarks as to proposed wood labeling legislation will be with reference to H.R. 1998, a bill to protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood products, which I understand is similar to other legislation before this committee on this subject.

The purpose of this bill, as I read it, is to provide for truthful, informative labeling of decorative and simulated wood products so as to reveal the name of the wood or material constituting the exposed surface of the article. This, of course, is for the benefit of the ultimate purchaser.

The bill follows, in general, the outline of the textile, fur and wool products labeling statutes which are administered by the Federal Trade Commission. Incidentally, we, at the Commission, are very proud of the excellent results of such administration by the Commission.

In the matter of decorative wood and imitation wood products it appears that the art of finishing these articles into desirable and attractive consumer merchandise has been developed with such high degree of skill as to make it virtually impossible for the lay consumer to distinguish between different kinds of wood and between wood and purported wood materials. In such circumstances, since a buyer should be able to know, informative labeling revealing the type of wood or material comprising the article becomes a matter of considerable importance.

I believe it would be of benefit to the committee if I made a brief reference to the provisions of the measure.

Section 2 is devoted to definitions of key terms, including reference to the Federal Trade Commission Act, under which the enforcing authority is provided. The term "commerce" is defined and has the effect of confining operation of the bill within the scope of the Commerce Clause of the Constitution.

Section 3 states in rather precise terms what shall be regarded as unlawful in respect to misbranding, false advertising, and false invoicing. In general, it would make illegal the introduction into commerce or the sale, advertising or promoting in commerce of any of the products which are misbranded or falsely or deceptively advertised or invoiced. It likewise brings within the scope of the legislation, products which have been "shipped and received in commerce" (see Section 3(b)). Removal or mutilation of the required label before delivery to the ultimate purchasing consumer is likewise made unlaw-

ful subject, however, to the right to use a substitute label under the provisions set forth in the bill. The provisions against unlawful practices are not to apply to common carriers, contract carriers or freight forwarders handling or shipping the articles "in commerce in the ordinary course of business." These are accorded an exemption.

The information which the label is required to reveal is set out in section 4. It is, of course, made illegal for the label to contain any form of misrepresentation. The label is to reveal the true common name or the true composition of the material forming the exposed surface of the article. The name of the manufacturer or his registered identification number is likewise required to be shown.

If the exposed surface is composed of veneer, laminate, or is of plywood construction, the label is to show this fact. In this connection it should be noted that the label under the provisions contained in the bill would not be required to reveal the kind of wood of which the plies under the veneered or plywood surface are composed. These underneath plies may be inferior or low quality wood. Yet, under the provision of the bill, as now drawn, the label would not reveal what such underplies are, but would merely show what the surface of the veneer or plywood article is. In view of the fact that the top ply in veneer or plywood articles may be only, and usually is, 1/8- or 1/16-inch thick, the label, which the bill requires, would not reveal the character of the underplies on which much of the quality of the wood depends.

It would appear that proper consumer labeling should disclose the true composition of the underplies of wood having a veneer, laminate, or plywood surface. I would suggest that the committee consider an amendment requiring such disclosure.

Section 5, particularly in subsection (b), as well as subsections (a) and (b) of section 3, exempts retail stores from the provisions requiring disclosure of the composition of the wood in "sales slips" or "invoices," whereas manufacturers or distributors are required to make such disclosure. These exclusionary provisions have the effect of exempting retail stores from being required to make the necessary disclosure in invoices or sales slips.

It would appear to me that this exemption of retail stores is unwarranted. It could have the possible effect of making less effective the intended protection of consumers against misrepresentations in the purchase of the wood products covered by the bill. Mail-order houses and many retailers throughout the country sell furniture and other wood and simulated wood products in interstate commerce. Failure to require the sales slips or invoices of such retailers to reveal the information required by manufacturers and others would constitute an omission that could make it difficult for the consumer to establish a retailer's liability for any misrepresentation which might appear on the manufacturer's or distributor's label or any other misrepresentations by the retailer. Therefore, I suggest that the committee consider the closing of this loophole.

We feel that such exemption of retail stores and the failure of the bill to require disclosure of the concealed plies in the case of veneer, are matters that merit careful consideration by the committee.

Coming now to the further sections of the bill, section 6 covers the provision for preventing the importation of misbranded or falsely invoiced products. This section requires the giving of bond, prescribed

by the Secretary of the Treasury, for continued importation where there have been instances of misbranding or false invoicing by the importer. These provisions are similar to those found in the labeling acts which are administered by the Commission.

Section 7 provides for the issuance by the enforcing authority, namely, the Federal Trade Commission, of a decorative wood name guide. It is to be issued after holding public hearings and shall contain the true English name of the respective woods. These may be used by members of the industry as proper designation to appear on their labels. Many different woods may be used in the manufacture of decorative wood products and the availability to the members of the industry of a decorative wood name guide containing the proper names to be applied in each instance should greatly facilitate, and render clarifying assistance to industry members, in meeting the labeling requirements of the bill. Woods grown in different parts of the world may have different local names and the manufacturer often may find himself in a quandary as to what name he may use on his label. The wood name guide would indicate the respective name deemed proper in the United States.

Under section 8 we find the enforcement provisions of the bill. Enforcement is to be by the Federal Trade Commission under the applicable provisions of the Federal Trade Commission Act which authorize use of the civil cease-and-desist order procedure as set forth in that statute. The Commission also is authorized to issue rules and regulations, to make inspections and tests of the products subject to the act, as well as to cooperate with other departments and agencies in carrying out the purposes of the legislation.

Provision is made for manufacturers to maintain proper records regarding their products and to keep such records for at least 3 years, subject to forfeiture of $100 per day for failure so to do. These various enforcement provisions contained in section 8 are similar to those found in the other labeling acts to which I have referred.

Provisions for condemnation and injunction proceedings in U.S. district courts are provided in section 9. Injunction proceedings may be instituted by the Commission wherever the Commission has reason to believe violation is being indulged in and that "it would be to the public interest to enjoin such violation temporarily until complaint has been processed before the Commission." Similar provisions appear in the labeling acts which the Commission now administers.

Under section 10 manufacturers are authorized to issue guarantees to the trade to the effect that their products are properly labeled. It may be in the form of a separate guarantee or of a continuing guarantee filed with the Commission. Use of a false guarantee is subject to a cease-and-desist order under the provisions of the Federal Trade Commission Act.

Section 11 provides that willful violations of the requirements of the legislation are subject to prosecution by the Attorney General as misdemeanors upon the filing with him of a report of the facts by the Commission.

Section 12 provides that the measure is to be in addition to, and not in substitution for any other act of Congress. The usual separability provision is contained in section 13 and the effective date of the act, 1 year after the date of enactment, is specified in section 14, the final section.

The Commission is always sympathetic to legislation which affords due protection to the consuming public. The Commission, under the authority granted it by section 5 of the Federal Trade Commission Act, has carried on considerable activity where it has jurisdiction in connection with the prevention of deceptive acts and practices in the sale of wood and purported wood products.

Also, there is now pending before the Commission for final consideration the issuance of trade practice rules with reference to household furniture. These proposed rules are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public.

The trade practices embraced in said rules are considered to be unfair methods of competition, unfair or deceptive acts or practices or other illegal practices, prohibited under laws administered by the Federal Trade Commission, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

Such rules provide that disclosure be made respecting the true composition of household furniture which is deceptive in appearance because it is of nonwood material which simulates the appearance of wood, or because it is composed of a different kind of wood than it purports to contain. Also, such rules provide that there be a proper disclosure if furniture is veneered but has the appearance of being solid wood.

At this point, Mr. Chairman, let me state individually that it has always been the practice of the Commission to try to give as much guidance to the businessman as possible, but in issuing a trade practice rule, such as I have described as being under consideration at the Commission now, is only for guidance. A violation of a trade practice rule necessitates the bringing of an action and proof of actual deception.

The bill which you have before you, has an enabling section in it which enables the Federal Trade Commission as a legislative arm of the Congress, after public hearings, to enunciate a guide of terms, we will say. Once that is done, a violation of those rules is a violation of law. There is quite a bit of difference between the trade practice rules which we issue for guides and a rule that says, "This shall violate the law," because that would be the same thing as if Congress should take it upon themselves to try to define all of these intricate terms. I think wisely Congress has followed the pattern employed in the past in relation to the Wool and Fur Products Labeling Acts, and Flammable Fabrics Act, and the Textile Fiber Products Identification Act of putting this job down on the Federal Trade Commission, which is an arm of the Congress. And in a sence the Commission always has before it this duty, when it is in the public interest, to add to or change a guide.

It would be very difficult to change something by legislation every time new knowledge came about, but it is not so difficult to change it when that grant is down there at the commission whenever it can be shown by record that the rule is in the public interest and it isn't arbitrary.

Continuing sir, the Commission has not had sufficient activities in areas other than household furniture which would afford it a satis-

factory basis to determine the nature of the practices to which the bill is directed.

In view of such circumstances, it is believed that such practices should be made the subject of inquiries and hearings before a final determination is made regarding the need for the proposed legislation.

Of course, that is exactly what this Committee is doing, as I would understand it.

The Fur, Wool and Textile Labeling Acts are examples where Congress granted the Commission such additional authority.

As to the cost of administering and enforcing this proposed legislation, it is estimated that initially we would need a minimum of $500,000 to defray the required cost of promulgating the rules and taking the other necessary steps to initiate the program contemplated. This estimate is given in the light of expenditures required respecting the other labeling legislation which we administer. Likewise, it is given in view of the fact that the work involved could be partially integrated at minimum cost with the established program we now have functioning under existing labeling laws.

I come now to the so-called mahogany bills, several of which are pending before the committee. We have reported to the committee on H.R. 5669 which is in the form of an amendment to the Federal Trade Commission Act and is "to prohibit the use of the term 'mahogany' in connection with woods and other products which are not in fact mahogany."

It is my understanding that these mahogany bills are the same as this bill. The enactment of H.R. 5669 would have two effects. First, it would prohibit use of the long established trade designation "Philippine mahogany," and secondly, it would authorize the marketing in the United States of Khaya, which is grown in Africa, as true or genuine mahogany. Incidentally, I would call your attention to the fact that Khaya is not of the genus *Swientenia* which is recognized as the only source of true mahogany.

Although very short, undoubtedly, in my opinion, the bill could have far-reaching economic effects not only in this country but also in the Philippine Islands.

The name of "Philippine mahogany," adopted over 50 years ago for the fine cabinet woods of the islands, was said to have been initiated prior to 1910 by the U.S. War Department when the Philippines were under the jurisdiction of that Department. This was before the islands became an independent nation. The name was developed as a trade designation for the cabinet woods produced in the Philippines.

Propriety of the term "Philippine mahogany" in the markets of the United States became a subject of litigation before the Federal Trade Commission as long ago as 1925. In that year, and immediately prior thereto, six cases, including the *Indiana Quartered Oak Company* case, were instituted by the Commission. After trial of these proceedings, briefs and oral arguments were submitted, and thereafter the Commission, on July 15, 1926, issued cease and desist orders enjoining use of the term "Philippine mahogany" for the Philippine woods. These decisions are reported in 10 FTC 300 and 11 FTC 248, 271, 293, 313, and 314.

Appeals were taken to the U.S. Circuit Court of Appeals for the Second Circuit. That court in its first decision on the question af-

firmed the Commission's cease and desist order (26 F. 2d 340, May 14, 1928). Similar decisions affirming the Commission's order were, in the first instance, entered by the Ninth Circuit and the Eighth Circuit Courts of Appeals under agreement of the parties (ninth circuit, *Hammond, Kirschmann* and *Robert Dower Lumber Companies*, June 7, 1932; and in the eighth circuit, *Thomas E. Powe Lumber Co.*, June 10, 1932 (unreported)).

Shortly thereafter, in 1929, the Commission issued complaints against a number of parties engaged in the furniture industry alleging the term "mahogany" was being used improperly by the members of that industry. These are known as the *Gillespie* series of cases, which included 15 complaints.

Extensive hearings were held in all of these cases and after briefs and oral argument before the Commission, they were dismissed on November 7, 1931. The dismissal was entered upon the basis of stipulation with the respondents that they would no longer use the word "mahogany" without the modified term "Philippine." Commissioner McCullough dissented (15 FTC 443). Meanwhile, the Indiana Quartered Oak Co. in the original series of cases, petitioned the circuit court of appeals to reopen the original cease and desist order which that court had affirmed. The second circuit granted such motion and reopened the case rendering its second decision on May 9, 1932 (58 F. 2d 182).

In this second decision the court of appeals modified its original decree to the extent of permitting use of the term "Philippine mahogany." By agreement, similar modified decrees were entered in the ninth circuit, June 7, 1932, and in the eighth circuit, June 10, 1932. In the original decision in the case of *Indiana Quartered Oak Company* (26 F. 2d 340, 341) the second circuit held:

> It is established that not all trees, shrubs, or bushes belonging to the Meliaceae, the mahogany tree family, produce mahogany lumber. But there is ample expert testimony establishing that no wood is mahogany unless it is wood from the tree of the mahogany tree family, and no wood is true mahogany unless it is of the genus *Swietenia* of that family.

In the second decision of the second circuit in this case, when the court reopened its original decree, it granted permission to use the term "Philippine mahogany" stating as follows:

> An order will therefore be entered by this court modifying the order of affirmance directing the petitioner to cease and desist, so that petitioner will be permitted to use the term "Philippine mahogany" consistent with the provisions of the order of the Commission entered on November 7, 1931, as against other named respondents and petitioners in the trade of the petitioner (58 F. 2d 182, 184).

This decision by the court to permit use of the term "Philippine mahogany" was likewise entered in the eighth circuit in the case of *Thomas E. Powe Lumber Company*, June 10, 1932, and in the ninth circuit in the cases of *Hammond Lumber Co., Kirschmann Hardware Company* and *Robert Dollar Company*, June 7, 1932 (unreported).

Such judicial decisions permitting the use of the term "Philippine mahogany" have been followed thereafter in cases involving the term in question.

Subsequently, the *Gillespie* series of cases in the furniture industry were reopened before the Commission. Further trial was had and extensive evidence was again taken throughout the country in those

cases. Final decision was entered, after briefs and oral argument, on May 2, 1947.

The Commission again closed the reopened cases and issued in connection therewith a statement to the effect that its policy is to proceed against use of the designation "mahogany" for the Philippine woods when not qualified by the word "Philippine" (43 FTC 711, 712). The ruling therefore followed the decision of the Second Circuit Court of Appeals in the *Indiana Quartered Oak Company* case whereby judicial permission was decreed for use of the term "Philippine mahogany."

Thus, the Philippine mahogany question had undergone three separate trials before the Commission in which evidence was taken totaling in excess of 16,000 pages. Exhibits were received in evidence also to the extent of more than 1,100. In the litigation the War Department intervened in the proceedings and counsel for the Philippine Government took part as amicus curiae. The proceedings contained over 40 briefs, running in excess of 2,000 pages. All in all, the litigation before the Commission over the question of "Philippine mahogany" resulted in one of the longest and most involved proceedings ever undertaken by the Commission.

With respect to the term "African mahogany," the Commission has recognized for many years this term as a proper designation, permitting use of the term "mahogany" when qualified by the word "African." One of the early decisions in this respect was instituted on December 20, 1929, in the case of *Ichabod T. Williams & Sons*, Docket 1746. That case was concluded without trial but upon a stipulation entered into with the respondents in the case, whereby they agreed that they would not employ the word "mahogany" alone or in connection with other words without the qualifying word or adjective "African" (May 3, 1932; 16 FTC 536). This stipulation remains in effect as expressing the view of the Commission respecting use of the term "mahogany" for the wood grown in Africa of the genus *Khaya*. While *Khaya* wood is not true or genuine mahogany, the long and extensive use of the term "African mahogany" has been recognized. That is, it may be designated by this term the same as the wood from the Philippine may be called "Philippine mahogany" although neither is *Swietenia* or true, genuine mahogany.

In its report on H.R. 5669, the Commission reiterated the views it had expressed regarding similar bills in previous Congresses stating:

> In view of the history of the "Philippine mahogany" question, the Commission feels it is not justified in reversing its position and could not successfully do so before a court. Therefore if any change should be made at all it should be by the Congress.

A word of explanation on that, gentlemen. A lot of water has gone over the dam since these proceedings were held by a Commission that was in being when I was still a boy. These terms have been sanctioned by a court decree. I am not so sure but that if a mistake was made, it has not now taken on an established secondary meaning. I do not think that, perhaps it could be approached through the Commission on a reopening of the proceeding even if evidence were presented indicating it was entirely in the public interest for the Commission to reverse itself. I think, therefore, that what we have tried to say to the Congress before and what we are saying here today is that it will obviously, in our opinion, take an act of the Congress to reverse this thing if it should be reversed.

I am authorized to state that Commissioner Anderson does not fully concur with the Commission's report in that he is of the opinion that the Commission should reverse its position—stating that succinctly, Commissioner Anderson thinks that, perhaps, the Commission should undo its own doing—but he does feel that it would be more appropriate for Congress to act in this matter. Furthermore, when the report of the Commission was made, Commissioner MacIntyre was noted as "not participating."

Now, the report he is talking about was our report on the bill. With respect to this statement I am reading now, Commissioner MacIntyre is in full agreement.

Please accept my appreciation, as well as that of the Commission, for having had this opportunity to discuss with you this important legislation.

Mr. STAGGERS. Thank you, Mr. Chairman. I would like to ask you one question in connection with the statement of Congressman Rhodes, our colleague, in relation to H.R. 6226.

He suggested that it be amended by deleting the sentence beginning on page 10, line 21.

Mr. DIXON. I can very well understand his statement because if that language is left in there the Philippine mahogany stays, because it has been used for over 25 years, and I would assume that by deleting that language with whatever history would come from the Congress in the passage of this act, the Commission will be bound to follow the views expressed in the report that comes along with any bill if the bill is so passed.

Mr. STAGGERS. If both bills were passed as they now are written, they would be conflicting bills.

Mr. DIXON. In that respect they would be, sir. Yes, sir.

Mr. STAGGERS. In following your testimony, Mr. Chairman, I don't know whether I got a clear-cut view of whether you are for H.R. 5669 or not.

Mr. DIXON. Which one is that one?

Mr. STAGGERS. That is the mahognay bill of Mr. Long and Mr. Keith.

Mr. DIXON. 16,000 pages of testimony have been received by the Commission, and one of the gentlemen behind me, Mr. Henry Miller, is now 70 years of age and he spent a great deal of his time wrestling with this problem and many others at the Commission have wrestled with it.

There seems to me to be two problems involved in this bill, sir. If the Congress wants to define a wood as "mahogany," they can so write a definition and it will be law. That is the power of the Congress.

We have the Philippine mahogany, on the one side, and African mahogany, on the other. Neither one of them is strictly, botanically speaking, within the genus family Swietena. They are a form of mahogany.

If you get into one of these botanical things you can go crazy quickly with the expert.

Mr. KEITH. May I ask a question at this point?

Mr. DIXON. I would be very happy to answer it.

Mr. KEITH. I don't want to add many more thousands of words to the thousands of pages that have been written on this subject, but

I do think from my research that Philippine mahogany is far removed from the true mahogany family and that African mahogany is considered by some experts to be of a very similar nature to Sweitena. I don't like to see African and Philippine grouped together.

Mr. DIXON. I think maybe I used the word too inclusively. I think that your statement could be borne out, sir. There are many different types of woods, as I would understand it, under the broader definition of Philippine mahogany. How many there are in the African family I am not quite certain.

Perhaps, if we were going to stay in the botanical family entirely and be very exacting, if we had to stay there, neither one would qualify.

Maybe one would qualify more nearly than the other is what I would assume you are saying.

Mr. KEITH. I will let your interpretation stand for the moment. I would like to ask one other question if I may, Mr. Chairman.

Mr. STAGGERS. Yes.

Mr. KEITH. Why, if the Philippine mahogany importers are allowed to call it Philippine mahogany, do they not pay an import tariff on it as mahogany?

Mr. DIXON. I have no knowledge on this point, sir.

Mr. KEITH. That is all, Mr. Chairman.

Mr. STAGGERS. Following my question to you in relation to the two bills by Mr. Long and by Mr. Keith, I believe I gathered that you are going to leave it up to the Congress as to what we feel should be done, that the Commission has made their expression through the years with what law has been before them.

Mr. DIXON. I think the Commission in the past has scrambled the problem enough. I think maybe we have scrambled it to a point where we can't unscramble it, which is one way to say it, sir.

Mr. STAGGERS. I can understand that. Thank you, sir.

Mr. Long, do you have any questions?

Mr. LONG. Mr. Dixon, I enjoyed your comprehensive statement. It has given me a lot of fill-in. I have read *In the Matter of Edwin Lisk, doing Business as E. Lisk, et al.*

This, by the way, is the *Tasmanian Oak* case. Do you have someone familiar with it?

Mr. DIXON. There is Mr. Butts, gentlemen, who is the Chief of our Division of Trade Regulation Rules. Oh, I remember, sir. I am familiar with it.

Mr. LONG. The decision appears to be inconsistent with the position of the Commission with respect to mahogany and I wondered if we might have a few remarks on it.

Mr. DIXON. This involved eucalyptus wood, which they call Tasmanian oak. I agree with you, sir, it is inconsistent if you lay them down side by side. We do not have the historical background running with this one as with the other, but I am not going to sit up here and try to read what was in the minds of five Commissioners that sat down there in 1925 and in the 1930's and in the 1940's.

Had I been sitting there, sir, I may have made a different decision, but the point is they made this decision. It was made and it was sanctioned by the court, and a long period of time has taken place and very often under the law a secondary meaning can be attached

to a thing, especially with some degree of court sanction, and it gives you a difficult problem.

I think the underlying problem here is the American consumer being misled. That is the real underlying problem. We wrestle with many problems that are very difficult. We just last week held two hearings where we invited the whole business community and consuming representatives to come before us and discuss quite frankly the use of the word "free" or "fictitious pricing," but the use of the word "free" illustrates the problem we had.

Certainly something is free or it isn't free. That is all there is to it. You can say, "Come in my store and I will give you a lollypop," but if you say, "Come in my store and I will give you a lollypop if you buy a piece of candy," is it free?

The Commission is presently trying to determine what is in the public interest and still protect the public in connection with the use of the word "free" and we are committed to where this word can be used so that equally conspicuous in connection with it, the terms and conditions for getting something "free" are clearly revealed to the public; as, for example, two for one. Buy two we give you one.

Everybody in America likes these kinds of sales and it is a part of salesmanship.

The business community says, "You will destroy the business incentive if you take a strained position," so when you come to words like "Philippine mahogany" and go back and try to reconstruct what the Commission was listening to then, to the Secretary of War, an ambassador, with briefs everywhere, with no great uprising of the public saying they were being misled, but a fight within the competitive family, one having true mahogany and the other wanting to bring something in and perhaps ride along on the coattails, the Commission tried to hew down the middle when they said, "I guess we will let them call it mahogany" if they will identify it as "Philippine."

Next came Africa; maybe, as Congressman Keith says, a little closer, but still not all the way, and so they then adopted the wisdom or ill wisdom of saying, "Call that one African mahogany."

What does the consumer understand by African and Philippine mahogany? There are all kinds of conflicting views on this. On this Philippine mahogany, does it have the same wearing characteristics as the real mahogany? Does African mahogany have that? Certainly as I grew up a a boy, and as we all grew up, I think of what mahogany was to our mothers.

When you went in and bought something in mahogany that was it. You paid for it, and I guess you expected to be buried with it and for your great-grandchildren to be buried with it. There are so many terms.

Once they get established in the commercial life there is no doubt experience teaches us that others would like to get in and kind of ride along on it. They should not perhaps be allowed to ride along on it unless it is of top quality.

Mr. LONG. The development of this historically, I understand, and as you lay it out very succinctly it is completely understandable.

Have you at the Commission within the past few years received any complaints with respect to the use of the term and the perhaps deceitful aspects of it?

Mr. DIXON. Only from the representatives of the Mahogany Association. They have been there many, many times, sir, and I can understand why they are there, too, sir.

Many national advertisements have been called to our attention, some of them that have not lived up to even the decree where we have had to call attention to and straighten them out, but we have not received any abundance out of the consuming public.

Mr. LONG. That is all, Mr. Chairman.

Mr. STAGGERS. Mr. Glenn?

Mr. GLENN. No questions, Mr. Chairman.

Mr. DIXON. I might point out to you, sir, on this bill which is important in your considerations. The jurisdictional elements in this bill are well conceived and with the suggestions we have made to you perhaps you should go to the ultimate step, because the consumer, mind you, really gets his deception right down at that retail level.

In the Wool and Fur Acts, Congress saw fit to extend our jurisdiction all the way practically, all the way, and if you really have this consumer in mind, and I think we certainly should never forget him, because the consumer ultimately picks up the tab for everything in America; if you really have him in mind, and you are going to pass this, too, then let us pass the best one we can pass so that we can do the best job for you that we can do, sir.

Mr. STAGGERS. Mr. Keith?

Mr. KEITH. No questions.

Mr. STAGGERS. Mr. Curtin?

Mr. CURTIN. I was listening with much interest to your remarks, which certainly were a good general statement. However, I am not quite clear as to whether you are for the bills represented by H.R. 1998, which is the general wood labeling bill, or whether you are against it.

You explain the various provisions and suggested amendments, but are you personally in favor of such legislation or not?

Mr. DIXON. In the statement I have given you I join with the other four Commissioners.

I think experience has taught us enough to know that we have to approach problems of deception in one of two ways. Congress passed the broad Federal Trade Commission Act giving us the right to move against unfair and deceptive acts and practices.

Historically we have tried to carry out this job at the Commission as the complaints came to us or as matters came before us to challenge them individually, and now we are raising our sights a bit to where even under our general authority we are trying to do it on a broader basis so that we don't have just one law abider in a competitive industry.

It was for that reason that the Commission came to what was called trade practice rules, and then the next logical step was to guides, and now we have for the last year tried to introduce a new type of rule very similar to trade practice rules but for procedural purposes. It is provided that after we give the guidance upon a record, if someone violates the rule, we can perhaps bring it to a faster determination on challenge. One is guidance with no teeth in it, and the only teeth we now have in the law is procedural, for we must still act with reference to each individual challenge.

This bill that is proposed here is similar to the wool, fur, and flammable fabrics, and textile bills. Once these groups of rules and the regulations are all promulgated, they have the force and effect of law and if someone doesn't take that guidance, then let us say he gets a very quick trial, sir.

In other words, all we have to prove is "The law says this. You did that. We rest." We don't have to bring in all the consumer interests and all the competitive interests to say why it is bad competition, why it is injuring someone, or why it is deceiving the public. That step is passed when you pass this type of legislation.

Mr. CURTIN. That again is a very good general statement, but it is not yes or no. Are you personally in favor of this legislation or not?

Mr. DIXON. I, as an individual, am in favor of any legislation well conceived to protect the consuming public. I so think this bill has that purpose, sir.

Mr. CURTIN. You think this is good legislation?

Mr. DIXON. I do, sir.

Mr. CURTIN. Would you say that is the opinion of the whole Commission, or is that your own individual viewpoint?

Mr. DIXON. The Commission did not come to that step. They said that this is an ultimate decision for the Congress. In fact, the letter which we have sent up commenting on the bill has not as yet cleared the Budget Bureau. What I am saying here today is separate and apart from that, and this is meet and proper.

Mr. CURTIN. Then, so far, the Commission has not taken a position one way or the other on this legislation?

Mr. DIXON. This is a rather delicate place for you to put a Commission in, in a way, sir.

Mr. CURTIN. You are here to testify.

Mr. DIXON. We come charging up here to you and we say to you, "You ought to pass this kind of legislation," and you tell me, "Look Shorty, you are down there to carry out our orders." Then we come up here as experts, which we are supposed to be, and then we say to you, "Is this legislation in proper form? This section does this, and perhaps you would want to consider changing this language in this section."

The ultimate decision is yours. If you want me to say to you what I would do if I were sitting in your place, I would vote for it.

Mr. CURTIN. I am not promising to be bound by your feeling on the matter, but I certainly would like to know what the position of the Commission is in reference to this proposed legislation. Does the Commission feel it is good legislation or not?

Mr. DIXON. On page 10 of this statement, and I think this is what caused you to ask the question, this appears:

> The Commission has not had sufficient activities in areas other than household furniture which would afford it a satisfactory basis to determine the nature of the practices to which the bill is directed.

This bill is a lot broader than household furniture. It cuts across the whole decorative wood field, as was recited here by one of the Congressmen. I made a little rundown of some of them: Wall panels, musical instruments, flooring, molding, picture frames, boats, lumber, truck bodies, office furniture, bar equipment, and kitchen equipment.

This is a truly decorative wood bill that we are talking about. We have had some experience over in here and we can give you the benefit of that experience by saying to you it was enough of a problem that we are trying to solve it with our present tools by guidance through issuance of trade practice rules, which we have not done as yet.

It is still pending, but that is only for household furniture.

Mr. CURTIN. Your Commission has had some experience in this field as, for example——

Mr. DIXON. As to household furniture.

Mr. CURTIN. Well, with the fur labeling bill. In view of the experience that the Commission has had there and also labeling legislation in other fields, would you say that this is the type of legislation which is going to be beneficial to the American buying public?

Mr. DIXON. I would say so and it is the same statement I made when I was called over by Senator Hart's subcommittee on what he calls truth in packaging and before Senator Douglas on truth in lending.

When we reach the stage in America where it is harmful to tell the truth we are in bad shape. In my opinion, any piece of legislation that is so defined, that is not oppressive or is not idly conceived, would be beneficial to the consuming public.

Mr. CURTIN. Getting to the mahogany labeling bills, I would like to have the benefit of your thinking on that subject. In view of your experience, do you think the American buying public needs this legislation on mahogany labeling as represented by the bill being considered?

Mr. DIXON. Speaking individually again, sir, if I understand the history of the mahogany legislation, if we are going to restrict the term to just one mahogany it has to be restricted to the true mahogany; and it takes care of Africa along with the Philippines, so you have a double-barreled problem there.

If you want to let one be called that you are going to have a problem of what are you going to do with the other one, because we have lived with that problem for a long time down there.

Mr. CURTIN. Again, sir, you have not answered my question. Are you or are you not in favor of such legislation?

Mr. DIXON. I am going to pass on that, I am sorry, sir, and leave that problem to you. We have consistently said that we don't think it is worth upsetting what we have done before, and I think that it may be a wise decision.

Mr. CURTIN. From that, can I assume that you are not in favor of such proposed legislation?

Mr. DIXON. I would want to learn a lot more about it before I would come to that flat statement.

Mr. CURTIN. Then you do not wish to especially——

Mr. DIXON. I do not wish to at this time say yes or no.

Mr. CURTIN. Does that, so far as you know, represent the feeling of the other Commissioners on the Federal Trade Commission as to the mahogany labeling bills?

Mr. DIXON. I think they came pretty close to that in the statement which I was authorized to read, sir. Commissioner Anderson, of course, said that he—he is one of the five Commissioners:

> Does not fully concur with the Commission's report in that he is of the opinion that the Commission should reverse its position, but he does feel that it would be more appropriate for Congress to act in this matter.

In other words, I must assume there that Commissioner Anderson must feel that previous Commissioners made a mistake when they permitted the use of the word "mahogany" properly qualified with the word "Philippine."

Mr. CURTIN. That is all, Mr. Chairman.

Thank you, Mr. Dixon.

Mr. STAGGERS. Mr. Glenn has a question, Mr. Chairman.

Mr. GLENN. Mr. Chairman, I noticed that you state that you would need a minimum of $500,000 to promulgate the rules and take other necessary steps to initiate the program. That seems like a lot of money, and does this include new personnel for the administration, and if so, how many and what will their salaries be?

Mr. DIXON. Mr. Glenn, we have found with housekeeping functions that go with any personnel additions that roughly you could figure about $10,000 per employee. You must understand this:

If you pass this legislation it is a different type of legislation from much of the traditional work of the Commission. We have inspectors out in the field. We have field officers at 10 places in the United States where we have inspectors and we have many more than these inspectors in other places where we don't have field offices.

In order to protect the consuming public these men periodically must regularly call upon the manufacturer and go down into the retail trade. We give a great deal of service to American business in the form of education, and to the retailer, and very often when we first find some things that are questionable, we are able to straighten them out because there had been a lack of understanding, but when it again comes to our attention then, of course, we are forced to sue.

This entails, of course, highly skilled talent in order to conduct the hearings, in order to promulgate the rules and the guides that would come here under this enabling section. It would also include the enforcement section.

I will have to add to my lawyers there. Upon the report of an application for complaint that comes in and says that, "One of my competitors is not abiding by this new act of Congress," then I have to go back down and have it investigated formally with highly skilled people that understand how to obtain evidence and how to preserve it, how to obtain statements, and how to preserve them.

Then they must come back and then they must be tried fully under due process through the hearing examiner, up through the Commission, on to the courts, so when I say to you $500,000 for this, I am saying to you, that you will get a very cheap buy at $500,000.

Mr. GLENN. But your appropriation request if this bill were passed would have to be increased by $500,000 in the first year?

Mr. DIXON. I would say that we should have that amount very quickly, sir, because if we don't have it we have to borrow from somewhere else, and so many times Congress passes new laws and they add them to our functions, and if I rattled off all the laws that you have passed that we are charged with, with 1,150 employees, your hair would stand up, sir.

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

Mr. STAGGERS. Thank you very kindly, Mr. Chairman. We appreciate your taking the time to come up and make your statement.

Mr. DIXON. Thank you, Mr. Chairman.

Mr. STAGGERS. At this time we will hear from a former colleague of ours in the Congress and a former member of this committee, Mr. John V. Beamer of Indiana.

Mr. LONG (presiding). You may proceed, Mr. Beamer. Will you identify yourself for the record?

STATEMENT OF JOHN V. BEAMER, WABASH, IND.

Mr. BEAMER. I am John Beamer of Wabash, Ind., a former Member from the Fifth Congressional District of Indiana. I want to explain that mimeographed copies had been sent in advance and apparently have been detained down at the express office.

They are on the way up. Otherwise we would have copies for you. With that understanding, I will read my statement that I have prepared and present it in that manner.

I always consider it a privilege to appear before the Interstate and Foreign Commerce Committee. I had the privilege of serving on this committee and specifically on this subcommittee during the years that I represented the Fifth District of Indiana in the Congress. Quite naturally, I have many memories which I cherish.

Frankly, there also are some memories that I continue to find rather difficult to understand. For example, one of my first experiences in hearings was the fur labeling bill which I learned had been submitted in at least five or six previous Congresses.

It was shocking to me that there was so much deception in this business. I saw the list of deceptive names presented to the committee and it revealed to me that my own mother-in-law had been deceived when she purchased a Hudson Seal furcoat. It was not seal fur and it did not come from the Hudson Bay area as the name might indicate.

It came from plain old muskrat and we have plenty of muskrats back home in Indiana. Even so, her coat was a good one and it should have been considering the price that she paid for it, but it was not the fur that the name indicated. That was my first alarm.

My next concern was the fact that the principal opposition to the fur labeling bills came from the manufacturers of fur pieces. Actually, not all of these manufacturers were objecting because many, and perhaps even most of them, were honestly labeling their products without any possible deceit.

I recall that some of these honest folks were hopeful that they could be protected from the deceitful practices of a few maufacturers. I personally had been in the manufacturing business for many years before coming to the Congress and I always was associated with businessmen who truly wanted to make a good product and sell it under its true labels and honest advertising.

For example, on one of the factories in which I was interested we made two kinds of vanilla flavoring. One was pure vanilla that was extracted from the genuine vanilla beans and properly processed. Another was produced from synthetics and it had a marvelous aroma and bountiful flavoring qualities.

However, we labeled the one "pure vanilla" and the other "imitation vanilla" and the sale of one supplemented the sale of the other. We did not need to consider the practice of deceit.

Of course, there was a Pure Food, Drug, and Cosmetic Act of some years previous that had come from this committee and we lived by

the regulations of that act and we found it was good. It protected us from some others who might have been tempted to label the much cheaper imitation flavoring product as pure vanilla.

There was another situation that I personally had to resolve back there when I was a member of this committee. I felt then and I continue to feel that we must not permit a centralized Government to wrap us in its tenacles. I was fearful of the trend that appeared worldwise for concentration of authority in the federal governments and I did not want this to happen to us.

In short, I strongly believed in the private enterprise system and the motive of individual initiative. Here, however, I found myself asking the Federal Government to take additional powers—or was I asking for this?

I began to feel then and today I am convinced that if there is any one thing that will cause the downfall of the free enterprise system it will be from those free enterprisers who insist upon and continue to practice deceit in even the mildest forms.

We are all aware of the fact that every government has certain functions and one of the most important one is to protect the public. We willingly pay taxes to support policemen in order that our cities may have some protection and in the rural areas we willingly support a constabulary.

We do many things to protect the consumer against mislabeled food, drug, and cosmetic products, and none of us would want to repeal or remove this law which has done so much for all of us.

We have found the value of the Wool Labeling Act, the Fur Labeling Act, the Textile Fabrics Labeling Act, and so on. We even find that those manufacturers who originally opposed the enactment of this legislation now are its most ardent boosters.

They have learned that the competition from the few who practiced deceit has been removed and now they can sell their product on its real merit without employing confusing or misleading descriptions that were considered sales gimmicks.

Briefly, this statement brings me up to date in the development of my personal philosophy on this subject. I continue to be a firm supporter of the so-called free enterprise system and I do not want our Federal Government to take over functions that properly belong to the States, nor do I want it to become a police state looking into every move that any of us might make or consider making.

However, I do want our Government to continue in its role of protecting its citizens and providing for the common welfare.

Actually speaking, I married into a woodworking family. My father-in-law spent his entire life in a furniture and cabinet factory, retiring as its president a few years ago.

I believe that I know the simple rudiments of this industry and sadly I learned that there are some, perhaps only a very few, who would try to sell an imitation product as genuine wood. More recently there has been developed a photographic-printing process that most skillfully reproduces the appearance of fine hardwood grains on cheaper woods, fiberboard, or even on plastic or on metal.

It is against the unfair trade practices of these few in representing these products as genuine wood that I have taken this assignment of trying to assist those in the woodworking industry who want to and who do make genuine wood products.

May I emphasize that it is to the credit of the woodworking industry that a very important section of this industry has taken the lead in proposing and supporting this legislation.

To me it is difficult to understand why or how any legitimate manufacturer of wood furniture or cabinets can oppose this kind of legislation.

Frankly, I do not believe that the large majority of them oppose it because it will rebound to their benefit by eliminating the deceptive practices of the few imitation manufacturers who presently are trying to sell synthetics as the genuine product.

I have seen, and perhaps many of you have seen, in furniture stores and in advertisements the names "misty walnut," "natura cherry," and hundreds of similar names for furniture. I have had the experience of shopping with Mrs. Beamer for furniture and it was shocking to learn how little some of the new retail salesmen knew about their product.

In many instances they did not have identifying information to indicate whether or not the table or cabinet was genuine or simulated. One honest salesman said to me in answer to my query about the kind of wood on the exposed surface, "Darned if I know."

A survey of retail furniture salesmen has revealed that practically all of them would appreciate a labeling provision in order that they honestly would be able to tell their prospective customers the truth about the composition of the furniture or cabinets that they are trying to sell.

The industry will be benefited by the passage of this bill, but more important, the public has a right to know. The buyer has a right to know whether or not the exposed surface of, for example, a television cabinet is genuine walnut or a simulated walnut printed on a less expensive wood or even on fiberboard or plastic.

I feel confidently that many of these substitute products are excellent in their own name and need not carry a false label in order to be sold. In fact, I would venture a guess that all of us have some of these other products in our homes.

However, the consumer has a right to know whether or not he is buying a genuine wood or a simulated wood product. He, or she, has secured that right with the fur labeling bill, with foods, drugs, and cosmetics, and numerous other products.

The average family invests heavily in their furniture which they expect to last most of them for most of their lifetime. Almost facetiously, we could guess that if they ate their furniture, they would want to know whether or not it was the genuine product or some simulated merchandise. Seriously, this consumer has a right to know and a label on the piece of furniture would help him and the salesman to know.

I make no apology for this personal point of view presentation because I sincerely feel that I am trying to help you to help the people who need protection. Many of you know me well enough to realize that I would not have consented to represent these honest folks in this industry unless they honestly were honest. I urge your favorable action on the wood labeling bill.

Mr. LONG. Thank you, Mr. Beamer.

Mr. Van Deerlin?

Mr. VAN DEERLIN. No questions.

Mr. LONG. Mr. Glenn?

Mr. GLENN. Mr. Beamer, may I say it is very nice to have you back before the committee and to see you back in Washington. You submitted a very good statement and I am sure it is going to be of great aid to the members of the committee.

Mr. BEAMER. Thank you, Mr. Glenn.

Mr. LONG. Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman.

I, too, appreciate your efforts to enlighten the committee on the details of this legislation. It is a very comprehensive statement.

Mr. BEAMER. Thank you.

Mr. LONG. Mr. Curtin?

Mr. CURTIN. I also am glad to see you back with us today, Mr. Beamer, and I presume that your interest is chiefly in the straight wood labeling legislation. You have no particular views on the so-called mahogany legislation?

Mr. BEAMER. I am recommending, of course, the wood labeling bill and I must confess that I am not as thoroughly familiar with the mahogany bill as I am with the wood labeling bill. I do, however, represent those people, and my own personal opinion is that we do not dare have any deceit. That might say that I would support the mahogany bill without too much knowledge of it.

Mr. Chairman, I would like to have the permission to insert, if I may, without taking your time, an additional personal statement, and I want to make this candid remark instead of reading all of the statement, and it is again my personal philosophy for which I make no apology.

I too had certain interests when I came to the Congress. I served many more years in business than I served in politics, so I have had an opportunity to serve in this dual role.

However, even with some diversified interests of myself and my own family I felt that my concern was with the nearly one half million in the Fifth Congressional District of Indiana rather than with any one specific organization, manufacturer, or retailer that might want to think otherwise.

I tried to look through the collective eyes of those several hundred thousand people in the district, and that is the reason I am suggesting to you and I want to bequeath that same philosophy and same recollection to you.

In the few years that I have been out of the Congress I have retired, or semiretired at least. Often sitting in front of my fireplace it is pleasant to look back upon the votes that I made, and I am going to confess to you proudly, I have no regrets for any of those votes because at the time I cast the vote I did what I thought was right rather than what some particular friend of mine insisted I should do, so with that comment, I would like to insert my additional remarks as a matter of record.

Mr. LONG. Without objection they will be entered into and made a part of the record.

(The remarks referred to follow:)

ADDITIONAL REMARKS OF JOHN V. BEAMER

These are times when I wish there were some central group or agency that could speak specifically for the consumer. I understand that in this Congress, there are proposals for some such governmental agency. I do not know the details of this legislation but if some nonprofit organization could poll the millions of consumers in this country, I would venture a guess that they would be practically unanimous in their support of labeling legislation.

The constant barrage of clever advertising by manufacturers, retailers, and organized business associations is designed to sell products to consumers. These groups quite naturally represent their personal interests and, in doing so, often overemphasize or overglamorize their sales and advertising efforts.

So, if more consumer groups were available, the consumers would be in a better position to know the truth in packaging, in advertising, and in invoicing. There are organizations that presently represent various groups of manufacturers and retailers and they render a specific service to their respective groups. There are farm organizations that concern themselves principally with agricultural legislation, labor groups who are interested primarily in labor legislation, and so on. But, who speaks for the consumer? Has it been the Department of Commerce, the Department of Labor, the Federal Trade Commission, or any other agency that speaks solely for the consumer?

The agricultural and labor groups represented by the three large farm organizations and various labor unions have done much to speak for the consumers. In fact, they have supported the past labeling bills and support the present labeling bills.

May I add my personal political philosophy. Perhaps the Founding Fathers of our country felt that they were caring for the consumer when they wrote the Constitution and started it with three significant words: "We, the people * * *." Surely every elected Representative and Senator is a representative of all of the people—the consumers, because all of us are consumers—instead of representing only perhaps the special interest of some local and vocal manufacturer or retailer or organization that may be located in their district.

I was in the manufacturing business many more years than I was in politics and thus I speak—as can many of you—with this dual experience. During the years that I sat on this committee and served in the House of Representatives, I attempted to look at all legislation through the collective eyes of the several hundred thousand people that I was elected to represent instead of considering it from the viewpoint of a friend or even my own family which has diversified interests. This policy has been rich in rewards for me especially since my partial retirement.

In moments of contemplation I recall the many votes that I cast and I have no regrets because I felt at the time I cast my vote that it was for the best interest of "We, the people * * *," and not for a specific group. I want to bequeath to you, my former colleagues, the same happy inheritance.

This bill is a consumer bill and it also will protect the woodworking industry against unfair trade practices.

Mr. LONG. I would like to join in the remarks of your former colleagues, Mr. Beamer, and say we appreciate your very frank and personal statement before the committee. I think it has been of a great deal of assistance to us.

Mr. BEAMER. This is a great committee. I considered it a great privilege to be on the committee and I consider it a privilege to return.

Mr. LONG. Thank you.

Mr. BEAMER. Thank you.

Mr. LONG. The next witness will be Mr. E. Howard Gatewood, executive vice president, Fine Hardwoods Association, Chicago, Ill. Mr. Gatewood, will you identify yourself for the record and then proceed in your own manner, please?

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

Mr. GATEWOOD. Thank you, Mr. Chairman.

Good morning, gentlemen of the committee. My name is Howard Gatewood. I am executive vice president of the Fine Hardwoods Association, of Chicago, Ill. 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 16 years in the hardwood industry.

I appreciate 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 Wood or Simulated Wood Products Labeling Act.

As major proponents of this bill, we would like to request the amendment to which Congressman Rhodes and Congressman Bray referred to. We respectfully request that the second sentence of section 7(a) be stricken. This sentence would have the effect of authorizing the FTC to permit the continued use of the term "Philippine mahogany," and is in apparent conflict with the mahogany bill which you are also considering at these hearings.

We believe you will agree that that issue should be resolved by the mahogany bill. It can also be met at the time the FTC holds public hearings on the "Common Wood Name Guide" within 9 months after passage of the Wood Labeling Act.

In their testimony this morning, as I said, Congressman Bray and Rhodes also endorsed this amendment.

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, deceptive labeling and advertising of finished wood and imitation wood 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 Wood Act or Simulated Wood 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.

Rather than ask you to accept my word for the degree and frequency of these deceptions, I will ask that this stack of advertisements be placed in front of you and I hope that you will take the time to leaf through them.

All of these products have been shopped and found not to contain any of the woods whose species names are used in the ads. This is just a very small sample of such deceptions, which our small staff has had a chance to shop.

It is a very rare issue of a daily newspaper in any city in the United States which does not contain at least one ad offering products containing none of the wood whose species name is used in the ad, I think one of the first at this time.

In the sheaf is an ad which appeared in the May 1963 issue of Better Homes and Gardens which carries the headline, "Elm Is Elegant," and "Teak Is Chic." We certainly agree that they are. However, the unfortunate thing is that the product which is advertised there has not 1 ounce of elm or teak in it but it is printed fiberboard.

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, rosewood, 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 the 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 wood species in their advertisements and labels, leading the American consumer to believe he is getting genuine wood 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 wood—just that they should stop pretending that these fakes are wood. A simple description on labels and in advertisements as required in this bill stating, for example, "fiberboard, printed wood grain," 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 and tear or an accidental scratch reveals that the wood grain" is only as deep as a coat of ink.

We feel it would be not 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 wood products.

This occurs when a manufacturer of an article made in whole or in part from an inexpensive wood but stained to resemble the color of a more expensive wood in his description.

The bill also requires that all finished genuine wood products be labeled by the common species name actually used for the exposed surfaces. In the cases of both real and artificial wood products, no species name not actually used may be employed on labels, advertisements, or invoices, unless prefaced by the word "simulated."

It is important that I bring out if no wood-expressed name is used, the word "simulation" need not be used.

I would like also to place before you samples of three different kinds of surfaces currently available on furtniture, paneling, hi-fi, TV cabinets, and similar products.

Mr. LONG. Are you going into the question of underplies which was discussed by Mr. Dixon of the Federal Trade Commission? If not, I would like to ask a question about that.

Mr. GATEWOOD. I touch upon it, but please ask me the question, Congressman.

Mr. LONG. I well understand the point that you are making with respect to simulation, but where there are underplies and the underplies are of an inferior type of wood product, would you be in favor of legislation that would require the disclosure of that product?

Mr. GATEWOOD. No, sir; I would not for the reasons that it is unrealistic, it is completely unenforcible, and it is unimportant to the consumer.

Once plywood has been put together it is a permanent bond made of modern adhesives and no power on earth will separate that bond at the glue line. You get what you would call "wood failure." The wood will come apart before the glue would. So for all practical purposes plywood is permanently bonded together.

I would call your attention to the wide range of species used for underply, and there are hundreds of species which could be used. Many plywood tops have 11 plies, for example, and the species would vary quite widely. I also particularly call your attention to the rapidly increasing use of a product known as chipboard.

Chipboard is made from factory scrap, from portions of trees formerly left in the woods, and any square foot of chipboard might contain chips from 30 species of wood.

It is a very popular material used for the inner core of plywood and I don't know how anybody is ever going to go about identifying the species of each chip in chipboard.

Mr. LONG. I am sure you heard Mr. Dixon advocate that this be included?

Mr. GATEWOOD. Yes, sir; he did. And it would not inconvenience any of the members of the Fine Hardwoods Association any way at all. It would be a terrible burden on the manufacturer of furniture.

Many of the furniture manufacturers are opposed to the bill as it is and with that provision in it I am sure they would be even more strongly opposed to the bill. I believe it is needlessly burdensome, Congressman.

You will note, gentlemen, that the sample No. 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. 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.

Mr. LONG. What is the process by which they do this, just for my information? I think Mr. Keith is interested, too.

Mr. GATEWOOD. Well, it is, in a way, reconstituted wood. Fiberboard is made from wood fibers. The wood is broken down to its fiber content and it is reassembled under tremendous heat and pressure. No adhesive is used, and the lignum in the wood itself forms the bond and makes a very hard product which has many utilities, and we certainly don't want to take anything away from hardboard of fiberboard. We just say that the consumer has a right to know that this over here is fiberboard printed to imitiate walnut and it costs so much and this over here is genuine walnut and it costs so much; which do you want?

Mr. LONG. How do they make this look like cherry?

Mr. GATEWOOD. They buy one panel of cherry. They photograph that panel. That photograph is transferred to a printing roller and it is printed on the surface of the fiberboard.

Mr. LONG. Right on the surface of the fiberboard itself?

Mr. GATEWOOD. Yes, sir.

Mr. LONG. Thank you.

Mr. GATEWOOD. The sample No. 2 is made of gum, a relatively inexpensive hardwood, the surface of which also has 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 which is permanently bonded to scientifically constructed plywood. 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, etc. 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 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. Similar bills were introduced in the 86th and 87th Congresses. The bill you are considering today follows very closely the revision prepared by the Federal Trade Commission of the former wood labeling bills at the request of the Senate Committee on Commerce last year.

The major provisions of this act are:

1. Does not include wood or other materials on which no finishing material, printing, or other treatments of, or imitations of, natural wood have been applied.

2. Does include any finished product which is wood or has the appearance of wood.

3. Makes 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 or invoiced under the terms of the act.

4. Provides that the label clearly indicates the presence of printed wood grain on the exposed surface of any product and the true name of the material or wood species actually used for such exposed surfaces.

5. Provides that the label on genuine wood products shall reveal the common name of the wood species used for the exposed surfaces, and also whether the construction is veneered or solid.

6. Prohibits in advertising the use of wood species names not actually present on the exposed surface of products, whether the product is made of wood or simulated wood, unless accompanied by language clearly indicating that the figure pattern is simulated.

7. Excepting retail invoices, requires invoices to reveal wood species names or other material used on exposed surfaces, whether plywood or solid construction has been used, and presence of printed grain.

8. Provides relief for an innocent distributor or purchaser who has received a written guarantee from the manufacturer of the product that it is not mislabeled, or falsely or deceptively advertised or invoiced.

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 larcency. I submit that selling some nonwood material as wood and selling one wood species as another constitutes larcency.

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 7 million genuine hardwoods labels from the Fine Hardwoods Association in the past 7 years. Since all of these 37 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.

As a matter of fact, copies distributed at industry and public hearings on them would indicate that the soon-to-be-announced new FTC household furniture trade practice rules will require that the furniture manufacturer perform every function of accurate labeling, advertising, and invoicing which this bill will require of him. Therefore, it is not logical for a furniture manufacturer to object to this Federal bill which only requires him to do that which he will already be required to do under the FTC trade practice rules. The unfortunate thing about the trade practice rules, and this didn't come out too clearly this morning, is that they will have no jurisdiction over the intrastate retailer, which, as I have already noted, is the level at which most of these deceptions occur, whereas a Federal bill such as this one will extend its protection all the way to the consumer.

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 inaugurated its own program to sell "seals of integrity" to furniture manufacturers for placement on their products. Their program,

according to their 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.

We certainly applaud these objectives, since they are precisely those of this bill. Guaranteeing only against defects in workmanship and materials, the NAFM seal program does not attempt to inform the consumer that an article is only a printed imitation of the wood it resembles, and thus may give false assurance. The big shortcoming, though, 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 the deceptive practices it covers.

Some persons negative to this legislation claim that no deceptions take place in the marketing of hardwood and imitation hardwood products. The advertisements I have placed before you negate this claim.

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 home furnishings to dispel consumer fears concerning our products.

The first two paragraphs of an article appearing in the March 1, 1962, issue of Home Furnishings Daily, the trade publication of the furniture industry, 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 home furnishings 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 discusses 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 resisting this simple and workable Federal bill to insure fairness and honesty in the marketplace, manufacturers and retailers have ap-

parently 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 nonburdensome 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 the Senate Commerce 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—

which was the Senate number of the bill at that time—

> would obviate this difficulty (of enforcement) as has been accomplished in the case of the labeling provisions of the Wool 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.

Mr. LONG. Without objection, that may be inserted.

(The material referred to follows:)

[From the Report, Chicago Better Business Bureau, Sept. 9, 1957]

WOOD DESCRIPTIONS MUST BE ACCURATE

Well-known wood names, such as mahogany, walnut, etc., when used to describe furniture, are deceptive and misleading, unless the products to which they refer are actually made of those woods, or unless such descriptions are fully qualified.

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.

Such words as "mahogany" alone, or in connection with such words as "grained," "finish," or "color," etc., are deceptive to describe plastic, or hardboard, printed or stained to resemble such woods. Correct description would be "mahogany printed plastic," "mahogany colored plastic," "mahogany printed paper on hardboard."

Color or finish: Such descriptions as "walnut," "walnut color," "walnut finish," etc., are deceptive unless the article is made of the wood named, or unless the wood on which the color or finish is applied is also named. Correct description, for example, would be "walnut finish on gum," "walnut color on gum"—or, if the wood is not known—"walnut finish on hardwood," or (cabinet woods).

Veneer in headlines: A dining room set composed, for example, of walnut veneering on flat surfaces and having gum posts, legs, stretchers, etc., may not be described in the headline as "walnut," or "walnut veneer." Such headline should contain the name of the other wood, as for example "walnut veneer and gum"—or, if the other wood is not known—"walnut veneer and other cabinet woods."

Solid wood may, of course, be described by the name of the wood.

When in doubt as to the wood or other substance of which the article is made, omit the material description entirely.

Mr. GATEWOOD. I would also appreciate the privilege, if I may, of submitting for the record an article appearing in the June 1963 issue of Wood Working Digest entitled "Wood Labeling Is Protection Without Burden."

Mr. LONG. Without objection, that may be inserted.

(The material referred to follows:)

[Hitchcock's Wood Working Digest, June 1963]

WOOD LABELING IS PROTECTION WITHOUT BURDEN

The proposed decorative wood or simulated wood products legislation should be of vital interest to every woodworker, whether his operation is large or small. Here, the executive vice presidnt of one of the industry's best-known associations explains why his organization has proposed the new legislation.

By E. Howard Gatewood, executive vice president, Fine Hardwoods Association

The April editorial, "Can We Label to Protect the Public," was sensible and courageous in discussing the need and the benefits which would accrue to the industry through the enactment of the "Decorative Wood and Simulated Wood Products Labeling Act."

The only small point on which we are not in agreement is in naming "what is bonded in the core." Although the Federal Trade Commission is in favor of having labels spell out the species of every layer of veneer contained in plywood, we feel that this would be needlessly burdensome on the manufacturer and meaningless to the consumer. Therefore, this requirement is not contained in the bill and we are prepared to resist any attempts to include such a requirement.

The opponents to this bill have claimed in the four congressional hearings held that no deceptions as to wood species or simulations thereof occur in the marketplace and in the same breath have criticized the bill as "special interest legislation" to help manufacturers of lumber, plywood, and veneer. It is difficult to reconcile these claims, since if no deceptions are occurring the opponents have nothing to lose from telling the truth about their products and the proponents of the bill apparently have nothing to gain.

PUBLIC TOO OFTEN FOOLED

Yet, anyone who has shopped for furniture, TV or hi-fi cabinets, or similar products in recent years knows that the product advertised and labeled by such terms as "in walnut," "walnut finished," or simply "walnut," to use that species as an example, very often turns out to be not only made of walnut but not made of wood at all but of some other material bearing a printed imitation of the figure pattern of walnut. In other cases, the product is made of

a less expensive wood and stained or printed to imitate the species it is labeled and advertised to be.

We proponents of this legislation cheerfully agree that no species can claim any proprietorship over a color and voice no objection even to imitating the appearance of wood species via the printing press. However, we insist that the consumer, as well as the retail salesman, has a right to know what he is buying or selling and this seems to us to be a reasonable position.

The provisions of this act are simple ones and should not create burdens for anyone. They are based largely on the Fur Products Labeling Act, which has been quite successful in eliminating deceptions and restoring public confidence in the fur products industry and has assured the purchaser that when she asks for mink she will receive mink rather than rabbit dyed to give the appearance of mink. Other precedents for this bill were the Wool Products Labeling Act and the Fiber Products Labeling Act.

The bill applies only to products made from wood which have received some type of finish, and products of other materials, the surface of which has been treated to simulate the appearance of wood. It requires that such products be affixed with a label revealing, in the case of genuine wood products, the name of the species used for the exposed surfaces and whether the construction is veneered or solid and, in the case of simulated wood products, the generic name of the material used and the fact that the wood grain has been artificially achieved.

It also provides that advertisements of such products may not use wood species names not actually present on the exposed wood surfaces unless it is clearly indicated that the figure pattern is simulated. The same information required on labels is also required on invoices, except that no requirements are made for sales slips or invoices issued by retail stores.

Opponents representing the furniture manufacturing industry have claimed that the species of wood used is not really very important and that wood species names merely indicate to the consumer the color or the texture of the article. If this were true, one wonders why furniture manufacturers pay more for some species than others.

THINKING NOT CONSISTENT

One also wonders whether a furniture manufacturer would be perfectly well satisfied if he ordered a carload of walnut lumber and received a carload of gum lumber which was purported to have a color and texture similar to walnut. Yet, some of these same opponents feel that furniture retailers should have a perfect right to sell products of nonwood materials or less expensive woods as being made of mahogany, teak, walnut, rosewood, or any other species they happen to resemble.

The organizations in support of this legislation feel that its passage will go a long way toward restoring public confidence in the furniture industry. It will be welcomed by the vast majority of retail salesmen who want to do an accurate and helpful job of selling and who recognize that this would be facilitated by accurate labels. They feel that every wood species has a beauty and utility of its own and that there is no need or actual long-term advantage in resorting to the deceptive practice of claiming that one wood species is another.

We want to do everything possible to help the manufacturer of furniture and other wood products build a better market and we insist that this legislation is another project which will help to accomplish this objective.

The clincher argument for the supporters of this legislation probably lies in the new Federal Trade Commission household furniture trade practice rules, which are expected to be announced at a very early date. These rules are expected to require a manufacturer to perform all of the functions of accurate labeling, advertising, and invoicing which are required by the wood labeling bill.

Therefore, manufacturers of products coming under the bill cannot reasonably have any objection to a Federal bill which requires them to do that which these trade practice rules will already require them to do. The big difference is that the trade practice rules will have no jurisdiction over intrastate retailers, who may tear off the labels and say anything they please in their advertisements and floor selling regarding the wood content of the article.

Conversely, under a Federal bill such as the wood labeling bill, it would be an illegal act for anyone to remove the informative label until the product has completed its commercial journey to the ultimate consumer. Thus, this legislation would correct a bad situation at the retail level where most of these deceptive practices originate either through ignorance or willful intent, and at no additional burden on the part of the manufacturer of furniture and other products.

WE ALL WANT TO BE FAIR

It seems to me that everyone in the woodworking industry, and this includes case goods manufacturers with their tremendous investments in woodworking tools and know-how and retailers who want their salesmen to do a fair and helpful sales job, should work for passage of the wood labeling act to oppose the widespread practice of selling nonwood products as wood products and also as a means of insuring that both wood and nonwood products will be honestly and accurately sold at all levels of distribution and not subject to deceptive competitive practices.

DIGEST OF DECORATIVE WOOD OR SIMULATED WOOD PRODUCTS LABELING ACT, H.R. 1998, 88TH CONGRESS

The major provisions of this act are:

1. Does not include wood or other materials on which no finishing material, printing, or other treatments of, or imitations of, natural wood have been applied.
2. Does include any finished product which is wood or has the appearance of wood.
3. Makes 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 or invoiced under the terms of the act.
4. Provides that the label clearly indicate the presence of printed wood grain on the exposed surface of any product and the true name of the material or wood species actually used for such exposed surfaces.
5. Provides that the label on genuine wood products shall reveal the common name of the wood species used for the exposed surfaces, and whether the construction is plywood or solid.
6. Prohibits in advertising the use of wood species names not actually present on the exposed surface of products, unless accompanied by language clearly indicating that the figure pattern is simulated.
7. Excepting retail invoices, requires invoices to reveal wood species names or other material used on exposed surfaces, plywood or solid construction, and presence of printed grain.
8. Provides relief for an innocent distributor or purchaser who has received a written guarantee from the manufacturer of the product that it is not mislabeled, or falsely or deceptively advertised or invoiced.

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 & Tribune among 600 homemakers in May 1958, and reported in the October 31, 1958, issue of "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 their proposed new household furniture trade practice rules.

I believe that Chairman Dixon brought that out in his testimony also this morning.

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 will have no effect on the retailer. Only a Federal labeling bill such as this one can assure accurate description at the retail level.

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 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, in our opinion.

This bill applies to exposed surfaces only and makes no attempt to burden manufacturers with complicated descriptions of inner construction. Products made of 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, and the fact that these hearings conflict with the furniture market in Chicago, short proponent oral testimony is being presented by only a cross section consisting of one former Congressman, two hardwood association spokesmen, one furniture manufacturer association spokesman, three representatives of consumer organizations, one furniture manufacturer, and one plywood manufacturer. The others have agreed to file written statements either directly with the committee or through me.

I would like to request permission if I may, to submit for the record the prepared statements of:

Alex Mosely, Alex Mosely Furniture Co., Pine Bluff, Ark.

Burdett Green, hardwood consultant, Los Gatos, Calif.

Mrs. A. D. St. John, president, Consumer Conference of Greater Cincinnati, 318 Terrace Avenue, Cincinnati, Ohio.

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

28-162—64——5

Webster Wright, furniture manufacturers' sales representative, Indianapolis, Ind.
Donald H. Gott, secretary-manager, American Walnut Manufacturers Association, Chicago, Ill.
Philip Farnsworth, executive vice president, California Redwood Association, 617 Montgomery Street, San Francisco, Calif.
John W. Miller, president, Miller Furniture Co., Wabash, Ind.
Clyne Crawford, president, Crawford Furniture Manufacturing Corp., Jamestown, N.Y.
Joseph Magliacano, business manager, Furniture, Bedding & Allied Trades Workers Union Local No. 92, C.I.O., Newark, N.J.

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.

Mr. LONG. Thank you, Mr. Gatewood. Mr. Keith, do you have any questions?

Mr. KEITH. No questions, Mr. Chairman.

Mr. LONG. On page 12 of your statement, Mr. Gatewood, you point out that certain States have set up bureaus of consumer fraud in recognition of the widespread type of deceptive practices which this bill will eliminate.

Have these been operative?

Mr. GATEWOOD. I am not entirely familiar with that area, Congressman. I believe that some of them are quite operative and others are somewhat inactive.

Mr. LONG. It would seem to me, if the members of your association were really concerned about this matter, that they would have employed, to the fullest extent available, such bureaus.

Mr. GATEWOOD. Well, our hopes are pinned to the passage of the Federal bill which would apply in all States of the Union and would save our customers, the furniture manufacturers, from having to live under 50 different ideas of how furniture should be labeled and advertised.

Mr. LONG. I don't argue that as a long-range objective. In going over the advertisements that you submitted for our consideration, I gathered that some of them are from the Chicago area.

Mr. GATEWOOD. Yes, sir.

Mr. LONG. I noticed that Illinois was one of these States that has established one of these bureaus. Has any action been taken by members of your association to prosecute under the bureau of, say, the State of Illinois?

Mr. GATEWOOD. I shall have to tell you, sir, that we have not attempted to report any of those cases to the Bureau of Consumer Fraud of Illinois. In some cases we do report to the better business bureau in that city. Representatives of the better business bureau shop the product and determine for themselves that it is deceptively advertised and simply ask the retailer to discontinue such practices.

Mr. LONG. Would you comment for me on a quote I am taking from a letter that I received from a lumber company in my district. It says:

> If this legislation is enacted you can readily see that the furniture people could only use one wood for solids or interior and label it with one species of solids and one species of veneer, whereas oftentimes, a combination of species are being used and it would be an impossibility to label each piece with the various species used. This could very well prohibit the sale of some of the minor woods that make up a portion of the timber growing and being cut in Louisiana.

Mr. GATEWOOD. I believe, what he is referring to, Congressman Long, is the fairly frequent practice of making, let us say, a desk with flat surfaces in walnut plywood, and with the exposed solids, the legs, perhaps in gum, and then staining the gum to tie in with the color of the walnut and labeling the whole piece and advertising it as walnut. As I said in my statement, that is a practice that has only to do with hardwoods, and we are just as interested in gum as we are in walnut, but we don't feel it is right to call gum walnut. We don't feel that it is necessary. We feel that any wood species can stand on its own name and its own merits.

Under this bill, the label would have to reveal all of the woods used on the exposed surface, so the label in this case would say, "Gum solids, walnut flat surfaces." I would assume in the rules and regulations which would be promulgated by the FTC within 1 year after passage of the bill that there would be certain realistic rules adopted with reference to the percentage of the area of the piece occupied by any particular species. For example, there might be a very small piece of, let us say, teak inlaid into the top at someplace and it might contain, oh, 10 or 12 species in a beautiful parquetry effect or inlaid effect on the piece, and I would think that the FTC would realistically make rules to avoid being burdensome in that area.

Mr. LONG. You don't think that would constitute an undue burden?

Mr. GATEWOOD. I think it might if they had to name 10 or 12 species, but that almost never happens. In most cases it is one species and in other cases it is two species. Where you get into inlays, as I say, I would think that the FTC would not require naming every little square inch of area covered by a particular species.

Mr. LONG. I have another letter in which a man made a comment on which I would like your views, Mr. Gatewood. He says:

> Wood suitable for use as core stock or interior parts to be covered with a veneer finish are many. The South has been blessed with some 28 species of hardwood. The furniture industry might very well limit its manufacture to a few of these species, simply because of the confusion involved in labeling the many species of core stock that goes into its furniture. This could very well work a hardship upon the manufacturers of furniture lumber and would also present a problem to the individual who is growing timber.

Do you agree with that?

Mr. GATEWOOD. I do in part, Congressman. If it should have the effect of leading a furniture manufacturer to use just one species for his inner ply, there is no reason why his lumber supplier shouldn't supply that species as well as some other. I don't believe it would constitute any hardship on any lumber manufacturer, but, as I said previously, I think it would constitute a real hardship on the furniture manufacturer, and our association is opposed to the requirement suggested by FTC, that every layer of wood used in the plywood sand-

wich be named in the label. Then you are getting into something that is burdensome.

Mr. LONG. But the bill as now written does not require this type of disclosure.

Mr. GATEWOOD. That is right.

Mr. LONG. Thank you very much, Mr. Gatewood.

Mr. GATEWOOD. Thank you, sir.

(The statements referred to in Mr. Gatewood's testimony are as follows:)

ALEX MOSELEY FURNITURE CO.,
Pine Bluff, Ark., June 10, 1963.

Hon. OREN HARRIS,
House Office Building,
Washington, D.C.

DEAR MR. HARRIS: We are interested in the enactment of Decorative Wood or Simulated Wood Products Labeling Act (H.R. 1998 and H.R. 6226).

It seems to me that this is a very fine piece of legislation for all concerned—the furniture manufacturer, the furniture retailer, and the purchaser of furniture.

I am told that hearings will be held shortly on this bill before the House Interstate and Foreign Commerce Committee and I will sincerely appreciate your efforts toward the passage of this legislation.

Yours very truly,

ALEX MOSELEY.

LOS GATOS, CALIF., *June 14, 1963.*

Hon. OREN HARRIS,
House Interstate and Foreign Commerce Committee,
Washington, D.C.

DEAR MR. HARRIS: 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 Wood and Simulated Wood Products Labeling Act H.R. 1998 and H.R. 6226 be incorporated in the record of the hearings on this bill which your committee will conduct on June 18, 1963.

My interest in this bill stems from a long-recognized need for a name 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 33 years, I 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 connetcion 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 30 years with 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 Federal Trade Commission, Better Business Bureau), or usually just by calling his mistake to the attention of the transgressing manufacturer, after which usually he would correct his mistakes willingly.

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 advantages 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 salesmen 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 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. The 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, etc.," where 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 told 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 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 ¼-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 in 1962 have answered "the wood."

Please understand when I say "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 campherwood 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 wood and imitation wood products through this bill.

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

Very truly yours,

BURDETT GREEN.

THE CONSUMER CONFERENCE OF GREATER CINCINNATI,
Cincinnati, Ohio, June 17, 1963.

HON. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce,
Washington, D.C.

DEAR SIR: Since I am not able to be present at hearings on H.R. 1998 and H.R. 6226, may I submit my testimony in writing for the record?

I am president of the Consumer Conference of Greater Cincinnati, which was organized in 1934. It 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 a membership over 500 representing active and contributing members, cooperating clubs and business firms. Through its educational work and support of legislation in the interests of consumers, it supplies information on qualities, distribution, care, price, and marketing of commodities. Its monthly meetings, news bulletins and industrial visits keep its members abreast of current happenings in the marketplace.

I appreciate the privilege of recording the support of our organization for the Decorative Wood or Simulated Wood Products Labeling Act.

I have given you a brief résumé of our objectives and work so that you can understand why we generally favor legislation of this type, benefiting the consumer. We particularly favor this specific bill because we believe it will successfully correct a widespread area of deception 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 cabinetwood 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 cabinetwood which they thought they were getting. Such deceptions would be very effectively stamped out by the informative labels and accurate

advertising which we have always advocated, and which are called for by this bill.

On behalf of not only our own members but of the 50 million homes throughout the country, I earnestly entreat this distinguished committee to do everything possible to see that the Decorative Hardwood or Simulated Products Labeling Act is passed into law at the earliest possible date.

Respectively submitted.

JEANETTE C. ST. JOHN
Mrs. A. D. St. John.

MAPLE FLOORING MANUFACTURERS ASSOCIATION,
Chicago, Ill., June 10, 1963.

Hon. OREN HARRIS,
Chairman, House Interstate and Foreign Commerce Committee,
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 Wood or Simulated Wood Products Labeling Act (H.R. 1998 and H.R. 6226) be incorporated in the record of the hearings which your committee will conduct on this bill on June 18, 19, and 20.

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 these bills (H.R. 1998 and H.R. 6226) 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.

INDIANAPOLIS, IND., *June 12, 1963.*

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: I would appreciate your making this statement a part of the hearings of the Commerce and Finance Subcommittee of the House Interstate and Foreign Commerce Committee on June 18 on the Decorative Wood or Simulated Wood Products Labeling Act (H.R. 1998 and H.R. 6226).

I am a furniture manufacturer's sales representative. For 15 years I have made almost daily calls upon executives and buyers for homefurnishings 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, etc. 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 hardwoods stained to resemble the walnut used on the flat surfaces. The retail dealer also offers items with all

exposed surfaces in lower grade woods stained to simulate walnut. He also displays and sells items in other categories made of inexpensive woods, or of nonwood materials such as fiberwood, plastic, or metal, but showing an imitation walnut or other fine hardwood grain printed 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 uniformed retail floor salesman that the furniture is, in fact, made of walnut 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 cabinetwood 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.

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 woods or imitation woods used in products they manufacture. Dealers should be restrained by law from removing these labels. Advertising by both manufacturer and dealer should be restrained from using fine wood species names, either directly or by inference, unless the product involved is manufactured from the species referred to, or the word "simulated" is used.

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 has passed, manufacturers and retailers alike will discover that items of similar nature have fallen into 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.

Respectfully yours,

WEBSTER M. WRIGHT.

STATEMENT ON H.R. 1998 AND H.R. 6226 BY DONALD H. GOTT, SECRETARY-MANAGER, AMERICAN WALNUT MANUFACTURERS' ASSOCIATION

On behalf of the American Walnut Manufacturers 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 Wood or Simulated Wood Products Labeling Act.

Many years of experience in the wood industry has enabled me to observe first-hand a wide range of wood and imitation wood 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 wood 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 wood species with a wide range of valuable properties. These woods do many jobs well. It is my positive belief that no wood really needs to be used or offered in a product disguished as something which it is not. Wood is our most versatile renewable raw material and to misrepresent any kind of genuine wood is an injustice to the wood and to the producer of the finished wood product.

In the broad range of consumer products made of woods there exists what I believe to be an erroneous idea on the part of some manufacturers and retailers that to make certain wood species acceptable to the public they must be disguished or subtly represented as one of the better known and more expensive woods. 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 wood product manufacturers in the same competitive position regarding the true identification of woods and other materials used.

From the standpoint of the ultimate cansumer, the need for safeguards against the ever-increasing tide of substituting imitation materials for genuine woods 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 wood manufacturers do not question the right of a manufacturer to use any type of material in his product. However, when these nonwood 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 wood and imitation wood 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 woods 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.

CALIFORNIA REDWOOD ASSOCIATION,
San Francisco, Calif., June 14, 1963.

Re: Lumber products labeling bill.

COMMERCE AND FINANCE SUBCOMMITTEE OF THE HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE, *Washington, D.C.*

GENTLEMEN: We have had the opportunity of receiving the proposed Decorative Wood and Simulated Wood Products Labeling Act.

It is our considered opinion that, as written, the act would afford real protection for the consumer of wood products and would also serve to encourage honest producers of such products.

Our representatives have on many occasions found products offered for sale labeled as being redwood, which on investigation turned out actually to be of other woods, and in at least one case, aluminum.

We have chosen to blame errors of this sort on poor information rather than on deliberate misrepresentation—but in any case, the proposed act would be of real service.

As more and more factory finished materials, such as prepainted sidings, appear on the market it might be helpful if consumers could be assured of the species of wood under the paint. As you may know, the same paint can have life as much as 2½ years shorter or longer depending upon the species of wood to which it is applied. (See U.S. Department of Agriculture Wood Handbook.) We feel, therefore, that the act would be strengthened if obscure finishes were specifically mentioned in the act in the same manner that transparent are at present.

Sincerely,

PHILIP T. FARNSWORTH,
Executive Vice President.

MILLER FURNITURE CO.,
Wabash, Ind., June 14, 1963.

To the House of Representatives Committee on Interstate and Foreign Commerce:

Mr. CHAIRMAN: I regret that these hearings come at the same time as the Furniture Mart in Chicago because I wanted to appear again in behalf of the wood labeling bill. I sincerely feel that the enactment of this measure would be of great value to the entire furniture business and especially to those of us who are in the retail end of it.

As I stated before this committee in August 1961, I own and operate a retail furniture store in a small city of approximately 15,000 people. The sales area is a bit larger but this area is contained to a large degree by the proximity of larger cities. In my home city we live practically as next door neighbors to our customers and we would not try to deceive them. This situation often is not true in larger cities.

In our store we have been carrying several grades or quality of furniture and often have these pieces sitting next to each other. Often the customer will select the imitation or simulated finish, but we always explain to our customers what is in that particular piece of furniture. We want to do this because we want to build and maintain a reputation for selling quality furniture and being honest in telling whether or not it is genuine hardwood, or simulated wood, fiberboard, or plastic or metal. We even have discovered that some salesmen—even some with considerable experience—find it difficult to distinguish between some of these simulated products. Think how much more difficult it would be for the average customer inexperienced in woods to tell one from the other.

We know, for example, that if an inexpensive wood veneer is photographically printed to resemble a genuine hardwood is scratched or damaged that it cannot be repaired in the same manner that a genuine hardwood can be repaired. I referred to this fact in previous testimony and I must repeat the fact that we feel that the customer and the furniture salesmen are entitled to know more about their merchandise that they are buying or selling. Surely, the manufacturer could help us to help our salesmen and inform our customers by including this desired information on labels that should be on each piece of furniture.

In the past we have heard about the excellent effect that the previous labeling bills have had on the sale and consumption of foods, drugs, cosmetics, furs, textile fabrics, and so on. In the case of furs, I report a statement I made to the Senate committee in a previous hearing. I even have heard women boast about buying an imitation fur that "looked like the real thing." I have heard it said that the fur business improved after the confidence was restored in that industry. Now, a woman knows what kind of fur she is buying. I would like to have the people really know what kind of furniture and cabinets they are buying. That is the reason I see only advantages accruing to the retailer if this legislation is passed by this Congress. It would protect us from unfair trade practices whether these unfair practices come from either the manufacturer or the retailers with whom we compete.

I urge the favorable action on this measure.

Sincerely yours,

JOHN W. MILLER.

CRAWFORD FURNITURE MANUFACTURING CORP.,
Jamestown, N.Y., June 13, 1963.

HON. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: The purpose of this letter is to record my endorsement of the Decorative Wood or Simulated Wood Products Labeling Act (H.R. 1998 and H.R. 6226). It is my understanding that hearings on these identical bills will be held before the Commerce and Finance Subcommittee of the Interstate and Foreign Commerce Committee on June 18, 19, and 20, 1963. Since these dates conflict with those of the June furniture market, I am unable to attend the hearings in person and will appreciate your making this statement a part of the record of these hearings.

We are manufacturers of household furniture and employ about 250 persons. We pride ourselves on the high quality of our solid construction and also on the accuracy of our labeling and advertising of our products.

However, we have no quarrel with the right of manufacturers and retailers to offer furniture made of less expensive woods, of veneered construction rather than solid, or even to employ the use of printed grain, as long as such products are not represented to be of a wood species which they are not or of a type of construction which has not been used. We feel that the consumer should be able to choose among those various types of furniture, but with full knowledge as to which are genuine and which are imitation and which offer veneered and solid construction. The labels and the accurate advertising called for by this bill would accomplish that purpose and in a nonburdensome manner.

Of course, it is the consumer who will reap the greatest benefit from this legislation, but it is my opinion that all elements of the furniture industry will also benefit from the restored public confidence which it will bring about.

I respectfully urge your distinguished committee to take favorable action on this bill as relating to wood furniture and to report it out on the earliest possible date. We do not manufacture upholstered furniture so am not endorsing those specifications.

Sincerely yours,

CLYNE CRAWFORD, *President.*

FURNITURE, BEDDING & ALLIED TRADES WORKERS UNION, LOCAL NO. 92,
Newark, N.J., June 12, 1963.

HON. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives, Washington, D.C.

DEAR SENATOR HARRIS: 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 Wood or Simulated Wood Products Labeling Act, H.R. 1998 and H.R. 6226.

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 wood and wood 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.

Mr. LONG. It is my understanding that Mr. J. M. Bachrach was interested in making a presentation. Mr. Bachrach, the House is now in session and if you would like to submit your statement and perhaps make a short oral statement, the Chair will be glad to entertain it.

STATEMENT OF J. M. BACHRACH, PRESIDENT, KENOVA HARDWOOD LUMBER CO., KENOVA, W. VA.

Mr. BACHRACH. Thank you, sir. This statement is very short, Mr. Chairman.

Mr. LONG. Identify yourself for the record, please.

Mr. BACHRACH. My name is J. M. Bachrach. I am president of Kenova Hardwood Lumber Co., of Kenova, W. Va., and we are wholesale distributors of lumber. I was in the furniture business for 38 years and served for 15 years as president of Huntington Furniture Corp., manufacturers of household and institutional furniture.

This experience has gained for me an intimate knowledge of both the furniture and lumber industry. I believe that passage of the Decorative Wood or Simulated Wood Products Labeling Act would be a very fine thing for the furniture business, the lumber business, and particularly for the consumer.

As you may 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, (3) entirely in a less expensive wood stained or printed to resemble mahogany, or (4) in some nonwood material printed to resemble mahogany 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 throughout the country. 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 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.

I do not believe that the majority of the manufacturers so feel. I have been manufacturing furniture for many years. I know quite a few of them. They are all people who are also purchasers themselves and would certainly like to know that what they are buying is 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.

Thank you, Mr. Chairman.

Mr. LONG. Thank you, Mr. Bachrach. On page 2 of your statement you refer to a question that I raised with Mr. Gatewood, and that is whether or not this might tend to promote the use of a single wood in a finished product rather than following the usual practice of using, perhaps, a cheaper wood for certain parts of a finished product.

Mr. BACHRACH. Mr. Long, even if it did promote the use of a single wood, there is enough business in America and there is enough demand from the consumers so that every manufacturer could choose the wood he wanted and every grower of timber and every manufacturer of lumber would have a customer.

Mr. LONG. But would this not impose a hardship for those lumbermen and timbermen dealing in the less desirable species of hardwood?

Mr. BACHRACH. Not so. We have no least desirable or less desirable species of hardwood. Every species of hardwood grown in this country has certain admirable features and if the manufacturer will take the time to acquaint the consumer with the features of these hardwoods they all have a market. For instance, in your State, there is a lot of gum produced, tupelo produced. They are very fine hardwoods. I have used them in the manufacture of furniture. There is no reason why a manufacturer should not be proud of the fact that tupelo and gum is being used in his furniture and label it accordingly.

Mr. LONG. It would, though, cause some dislocation of the present uses?

Mr. BACHRACH. Well, let me put it to you this way, Mr. Long. Every new product that comes on the market has to have some promotion. For instance, the Chairman of the Federal Trade Commission suggests that included in the bill should be the labeling of the surfaces under the veneers. I agree with that. I also agree with the fact that chipboard is a very excellent product, has many merits of its own, and if the chipboard manufacturers would go to the consumers and tell them what they have, there is no reason why chipboard should not be just as acceptable as some of our hardwoods under the veneers.

Mr. LONG. Mr. Keith.

Mr. KEITH. No questions.

Mr. LONG. Thank you, Mr. Bachrach.

Mr. BACHRACH. I want to thank you, sir, for your courtesy.

Mr. LONG. Before I recess the committee, I wondered if any of the witnesses that are present in the room do have a statement that they would like to have made a part of the record. If any of you are in a hurry to get out of town and desire pursuing that course, the Chair would entertain it.

Hearing no response, the committee will recess until 10 a.m. on Wednesday.

(Whereupon, at 12:30 p.m., the hearing in the above-entitled matter was recessed, to reconvene at 10 a.m., Wednesday, June 19, 1963.)

DECORATIVE WOOD LABELING AND USE OF TERM "MAHOGANY"

WEDNESDAY, JUNE 19, 1963

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE AND FINANCE OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 1334, Longworth Building, Hon. Harley O. Staggers, chairman of the subcommittee, presiding.

Mr. STAGGERS. The subcommittee will please come to order.

The hearings on the wood labeling will continue and as our first witness today we will have our distinguished colleague from the State of South Carolina, Mr. Robert Hemphill.

It is a real pleasure to have you with us, a member of the committee, and we will be happy at this time to have your testimony.

STATEMENT OF HON. ROBERT W. HEMPHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. HEMPHILL. Mr. Chairman, thank you so much for your courtesy. I thank my distinguished friend from West Virginia. My purpose today is to file a statement with the committee. I will file my statement and unless the committee has some questions, excuse myself.

Mr. STAGGERS. I would just like to ask the distinguished gentleman from South Carolina, are you for the bill?

Mr. HEMPHILL. I am not.

Mr. STAGGERS. You are not?

Mr. HEMPHILL. I am not. I find, Mr. Chairman, that the hardships which this will cause on certain industries in my particular part of the country would be economically distressing and therefore I am against the legislation.

Mr. STAGGERS. Thank you very kindly. Do you have any questions?

Mr. LONG. Mr. Hemphill, are you taking a position on our mahogany bill, or is your statement relating to the Wood Labeling Act?

Mr. HEMPHILL. My statement relates only to the Wood Labeling Act in general. I have no feeling about the mahogany bill one way or another.

Mr. LONG. I would be happy to talk to you about it.

Mr. HEMPHILL. I would be happy to talk to my friend and hope to see him in Baton Rouge at the time of his inauguration as Governor of Louisiana.

Mr. STAGGERS. Mr. Curtin?

Mr. CURTIN. No questions.

Mr. STAGGERS. Thank you very kindly for your interesting testimony.

Mr. HEMPHILL. Thank you.

(Statement of Hon. Robert W. Hemphill follows:)

STATEMENT OF CONGRESSMAN ROBERT W. HEMPHILL, FIFTH CONGRESSIONAL DISTRICT OF SOUTH CAROLINA

Mr. Chairman and members of the subcommittee, it has been my privilege to have served as a member of this distinguished subcommittee during the time that it has considered this same kind of legislation in the past two Congresses. As one of your colleagues, I participated in two hearings that considered many ramifications of bills similar to H.R. 1998 and H.R. 6226.

From that experience, my concern first is with the lack of a demonstrated public need for legislation of this type. I cannot recall that at the previous hearings any witness was ever able to demonstrate that he or she had been misled or deceived in buying furniture at retail and nedd this kind of protection from the Congress that would regiment and control thousands of furniture and other manufacturers in required labeling of their products. Moreover, during these same years, I have never been contacted as a Member of Congress by any constituents demanding such laws. Rather, it has been my experience that my constituents are far more desirous of inducing Congress to lower taxes so that they can buy a few more products regardless of their "decorative" or "simulated" finish, than in seeking more Government regulation over industry.

Contrarywise, I recall that the proponents of these bills over the years have been those interested in furthering the sale and use of a particular kind of decorative finish; namely, fine hardwood veneer. Every such bill I have seen, including those under consideration, has been designed to require labeling of all other kinds of materials having certain decorative finishes, but to practically exempt veneers and laminated constructions from all labeling except the name of the one twenty-eighth-inch top decorative layer. Indeed, this is disclosed by the very title of the legislation when it speaks of "decorative wood and simulated wood products."

It seems to me that, unlike the other labeling laws that we have, this legislation seeks not a labeling of "wood" but rather of a "decorative" finish, and that it confuses a surface design or finish with the product itself.

In reflecting on this legislation now for several years, I have become convinced that the basic question involved is whether it sincerly has the purpose of protecting the consumer public, or whether it has the purpose of protecting the business interests of a small segment of a broad industry against the competitive onslaught of research and new materials.

Some have come here to question the regulatory powers used, and sometimes abused, by the Federal Government, and it is my considered opinion if we used our regulatory powers to carry out this legislation, if enacted, it would be a great hardship to the hardwood industry. You get what you pay for in furniture just like you do in the purchase of any other consumer goods.

I oppose the enactment of the legislation.

Mr. STAGGERS. Our next witness is another colleague of ours, the distinguished Billy Matthews of Florida. Mr. Matthews, would you come up and give us the benefit of your views? It is a pleasure to have you with us.

STATEMENT OF HON. D. R. (BILLY) MATTHEWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MATTHEWS. Mr. Chairman and gentlemen of the committee, I want to thank you for this privilege and I want to file a statement, but my statement is for the bill concerning the use of the word "mahogany."

As I understand, this same legislation has been introduced by the distinguished gentleman from Louisiana, Mr. Long, by Mr. Keith of Massachusetts, Mr. Sikes of Florida, and Mr. Boggs of Louisiana.

I am in favor of this legislation and let me say again that my bill is similar to the bills introduced by these gentlemen concerning mahogany. Let me emphasize, Mr. Chairman, it is the mahogany bill, and not the wood labeling bill.

The purpose of the legislation that I have introduced, if you were to say it very briefly, just merely says that woods may not be described as "mahogany" unless they are, in fact, such.

Sir, with your permission, I would like to file this statement and I would be delighted to try to answer any questions if the committee would care to ask any.

Mr. STAGGERS. Your statement will be filed with the committee. Thank you for your statement and the briefness of it, and your usual pleasant smile. Mr. Long, any questions?

Mr. LONG. It is a pleasure to have you here, Mr. Matthews. No questions.

Mr. STAGGERS. Mr. Glenn?

Mr. GLENN. No questions. It is a pleasure to have you with us.

Mr. STAGGERS. Mr. Curtin?

Mr. CURTIN. No questions. We are always glad to have you with us, Mr. Matthews.

Mr. MATTHEWS. Thank you, sir.

Mr. STAGGERS. Thank you.

Mr. MATTHEWS. Thank you.

(The statement referred to follows:)

STATEMENT IN SUPPORT OF H.R. 6370 BY CONGRESSMAN D. R. (BILLY) MATTHEWS, EIGHTH DISTRICT, FLORIDA

Mr. Chairman, I appreciate this opportunity to testify in support of H.R. 6370, a bill which I have introduced, to amend the Federal Trade Commission Act to prohibit the use of the term "mahogany" in connection with woods and other products which are not in fact truly mahogany.

This proposed legislation would restrict the use of the term "mahogany" in the manufacture for sale, or the offering for sale in commerce, or in the introduction, transportation, or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any wood or portion of an article made in whole or in part of wood described as mahogany if such wood or portion of such article so described is not in fact derived from a tree or trees of the botanical genus *Sweitenia*, indigenous for the most part to the West Indies, Central and South America and the botanical genus *Khaya*, indigenous to Africa, principally West Africa, both being of the *Meliaceae* (mahogany) family.

Tropical hardwood species in these two botanical designations have long been among the most cherished of cabinet woods in the world. The genus *Sweitenia* covers what are known as the true mahoganies, and species of the genus *Khaya*, being very closely related, also serve to provide the beautiful cabinet woods that have been a significant factor in the mahogany trade for many years.

The popularity of fine mahogany with Europeans dates back to the early 16th century. The Cathedral of St. Domingo (West Indies), completed in 1550, contains much of the finest in carved mahogany. This carved woodwork is still in splendid condition after four centuries of use in the tropics.

The true mahoganies are noted for their working properties.

"Mahogany is one of the easiest and most satisfactory of all woods to work with either machine or hand tools and has very little dulling effect on cutting edges. In fact mahogany is often a 'standard of perfection' for rating the machining qualities of other woods * * * and finishes to an exceptionally smooth lustrous surface.

"* * * Its uses are generally confined to the more expensive type of furniture and cabinetmaking, interior trim, paneling, and other uses where a high-grade attractive wood is required.

"It is also used extensively in shipbuilding for paneling and interior work in both large passenger vessels and small boats. Because of its durability, stability

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in use, and good weathering properties, the timber is used for planking on yachts and small boats and also for shells of racing or speedboats. It is employed also for several types of musical instruments, particularly pianos." [1]

An indication of the esteem held by the mahoganies in the woodworking field throughout the world is evidenced by the number of timbers that in recent years have been passed off on the public under the name "mahogany." Some such woods at best are but superficially similar while others bear virtually no resemblance to the real mahoganies. By adopting the long established trade name of mahogany, sales of these lesser timbers have been promoted to the detriment of the fine mahoganies of the *Meliaceae* (mahogany) botanical family.

Unfortunately, however, as a result of this commercialization the significance of the name "mahogany" as a symbol of rarity, value and quality has been diluted and damaged. Consequently, buyers of fine furniture, a major outlet for mahogany, have been turned away from fine furniture made of mahogany. Importers and manufacturers of mahogany lumber and veneers have correspondingly suffered declining sales over the years since these lesser timbers have been marketed as mahogany.

Whereas fine mahoganies were once in first place they now constitute but 5.6 percent of the total furniture market. Total dollar sales are currently less than half that of the year 1930. Consequently, a number of substantial American mahogany firms have been forced out of business.

While the unfair use of the name "mahogany" in marketing competing products, which are obviously not equal to mahogany either in rarity or quality, is not the sole cause of the decline in marketing products made from the real mahoganies, it is a very strong factor.

Relief through the Federal Trade Commission is obviously not available and that is why specific legislation such as my bill, H.R. 6370, is necessary to correct this inequity in trade practice. In 1927 the FTC held the phrase "Philippine mahogany" could not be used but in 1932 the FTC reversed itself and permitted its use.

Court decisions have upheld both rulings on the ground of administrative discretion. Notwithstanding the strongest urgings last year the FTC refused to take action even on flagrant cases in which a number of species of Philippine woods, none of which are botanically in the mahogany family, were advertised as "mahogany" with no qualifying prefix whatever.

These newer, common, and lesser quality woods should not be permitted to further exploit and ultimately destroy the fine reputation which the true mahoganies built up over centuries of time. The lauan timbers, of which there are many species now being marketed from the Philippines, are the softer members of th Dipterocarp family. These are by no means of the quality and character of the true mahoganies.

H.R. 6370 would prevent the complete deterioration of the market for the fine and more costly mahoganies of time-honored quality. It would terminate the parasitical practice of using "mahogany" in the marketing of nonmahogany products such as those of the red and white lauans of Philippine origin. I urge that you support the proposed legislation (H.R. 6370) which will close the door on this unjust assumption of a product name (mahogany) denoting time-honored standards of uniqueness, high value, and superlative quality.

Mr. STAGGERS. Mr. Sikes, we will hear from you now, please. It is a pleasure to have you with us, Mr. Sikes, and would you proceed?

STATEMENT OF HON. ROBERT L. F. SIKES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. SIKES. Mr. Chairman, it is very generous of you and the witness who immediately preceded me to allow me to have a very brief few minutes.

As you know, I do have a committee meeting of my own now in progress which I must get to as soon as I can. However, I have a great deal of interest in this subject and I am pleased to appear before

[1] "Present and Potential Commercial Timbers of the Caribbean." The U.S. Forest Service in Agriculture Handbook No. 207.

your distinguished committee to discuss H.R. 6365. This is one of five identical bills pending before the subcommittee.

I am glad to find myself in such distinguished company from both sides of the aisle in sponsoring this legislation.

This bill is intended to protect the name of a great cabinet wood, mahogany, from being used for nonmahogany woods. Weis-Fricker, the world's largest manufacturer of genuine mahogany, is located in Pensacola, Fla., in my district and, therefore, I know something about the problem.

I know that it is a legitimate one. But my concern for this legislation is directed also toward the furniture buyers and other consumers who are confused by the use of the term "Philippine mahogany" as applied to a wood which is not in truth mahogany.

Our father's generation knew mahogany. To them it was the wood used for the very best furniture. Today, because of the trading on this once honorable name, consumers are no longer sure what will be delivered when mahogany is ordered.

I have been told that Mr. Dixon of FTC in oral testimony before this committee said that his mother bought mahogany furniture expecting to have it last forever.

Thus, I cannot understand why at page 12 of his testimony the Philippine woods are referred to as "fine cabinet woods." These woods have many virtues, but not for furniture for cabinet purposes. They are soft, relatively coarse-grained, and unstable.

Genuine mahogany takes and holds a fine finish. It is so stable that it is used for musical instruments and machine shop patterns as well as the finest furniture.

There are uses, of course, for the other woods which are now referred to as "Philippine mahogany," but I do not believe it proper for them to masquerade under a name which indicates that these woods have the same qualities as genuine mahogany.

The American consumer is deceived in the process. Long ago I recall buying furniture which I was assured was "Philippine mahogany." It was years before I knew that I didn't really have mahogany, but I soon learned the quality wasn't there. This is not a good situation. There is deception which should not be permitted. I am sure that the average American consumer would want this legislation enacted.

Therefore, Mr. Chairman, I urge that this subcommittee give its usual careful consideration to this bill and report it favorably.

Mr. Chairman, if I might transgress upon the time and generosity of the committee, Mr. Mahlon Weis, of Pensacola, who is one of those most expert in this field, is here with me.

He is scheduled to appear before you. He has just learned that there is serious illness in his family. He is very anxious to get back home just as quickly as he can. Would it be permissible for him, sir, to make a very brief statement to you and then file the remainder of his statement in the record?

Mr. STAGGERS. Yes, Mr. Sikes, that will be satisfactory.

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

Mr. Chairman, I am glad to introduce to you Mr. Mahlon Weis, of Pensacola, of Weis-Fricker.

Mr. STAGGERS. Mr. Weis, would you have a seat and would you identify yourself for the record? I might say it is a pleasure to have you

with us. You were introduced by one of our most distinguished colleagues and we are glad to have you file your statement and to summarize it as you see fit.

STATEMENT OF H. M. WEIS, PRESIDENT, WEIS-FRICKER MAHOGANY CO.

Mr. WEIS. I am H. M. Weis, president of the Weis-Fricker Mahogany Co., Pensacola, Fla. This is my statement; there are additional copies that will be made available for everyone. I do not have them with me, but they will be available today and distributed so that everybody can go over it thoroughly.

The thing that I am particularly concerned with is the present-day trend toward these "look-alikes" when people make purchases expecting to get one thing and due to the external finishes and appearances what you think you may be buying is something else, that looks just as good, and then time reveals it to be otherwise.

Mahogany is famous as an enduring product because of the numerous antiques that are still in circulation. You might say a gold ring and a brass ring can be made to look exactly alike when they are new, but when you buy a gold ring you expect it to last, and if somebody sold you a brass ring under the name of Long Island Gold, I believe you would be just a little bit irritated when a few months transpired and it started tarnishing on you.

Philippine mahogany has a geographical prefix and that might be the excuse for it being a little bit different, but simply a geographical prefix is not enough to designate the difference in the mind. You have Honduras mahogany, Mexican mahogany, Brazilian mahogany, and then Philippine mahogany, and how is Mr. Average Purchaser to know when the geographical prefix suddenly means it is or it is not mahogany?

They are just not educated and they should be protected so when they spend their money they know what they are getting. Since I have just been asked for a brief oral statement I will leave this written statement with you. It may be that I will not be called out of town.

It happens to be a suspected case of two daughters with meningitis maybe, and I will know by noontime more about it, and I will be only too happy for anybody to cross-question me in any way that he wishes. We only want an honest presentation of products for the material content rather than superficiality.

Thank you, Mr. Chairman, for these few minutes.

Mr. STAGGERS. Mr. Weis, we are happy to have your statement and I will say we are very sorry about this affliction in your family. We hope it is not serious and you will find it is not that way.

Mr. WEIS. I hope so, too.

Mr. STAGGERS. I have no question; I just wondered if anybody else did.

Mr. LONG. No questions.

Mr. GLENN. No questions.

Mr. CURTIN. No questions.

Mr. STAGGERS. Thank you very kindly.

Mr. WEIS. I may be available in the future, but if I am not available it is not a lack of interest. It is one of those things that is beyond your control. I think you gentlemen can understand that.

Mr. STAGGERS. We understand that.

Mr. WEIS. Thank you. There will be other copies available. Thank you again, Mr. Chairman.

(The statement referred follows:)

STATEMENT OF H. M. WEIS, PRESIDENT, WEIS-FRICKER MAHOGANY CO.

In conversations with men who served in the Pacific theater during the war frequently they have made remarks about using mahogany for docks and buildings. They always spoke about the unlimited supply. In not one single instance did they understand the wood they were using was lauan or tanguele and not mahogany. This type of misapplication as to the meaning of the word is almost universal with the general public.

This is a day of "look alikes" and sales by external appearance rather than an accurate description of the material which is being offered. All of us would be highly incensed if we purchased a ring that was labeled gold and it turned out to be brass. Just because it had a geographical prefix in the label that could not be a reason to suspect it was not gold. Likewise a piece of wood might be called Mexican, Honduras, or a number of other geographical prefixes and still denote genuine mahogany. Then suddenly when the term Philippine is applied Mr. Average Purchaser is supposed to know this means something entirely different. Why and how is he supposed to know?

We purchase a gold ring not on appearance alone but because the word gold implies a certain lasting quality to the material content of the product purchased. Likewise, when someone purchases a product labeled mahogany with or without a prefix they have a right to expect this same quality of material content. Mahogany, too, is generally well known for its lasting quality through the numerous antiques that were made of genuine mahogany that are in circulation today. There is no reason for any person purchasing furniture, doors, interior trim, etc., which carry the name mahogany in conjunction with the sales literature not to expect equal long life and soundness of investment that has occurred with the genuine product in the past. This unfortunately because of the technical difference between the substitute woods and genuine mahogany is not the case.

As an example genuine mahogany is extensively used in the manufacture of musical instruments, machine shop patterns, and such technical applications as submarine signaling devices. To begin with we must recognize all woods are hydrostatic by nature and adjust themselves in moisture content to the moisture in the air surrounding them. In other words, under extreme conditions in the wintertime with artificial heat the moisture content in the room may drop to 10 to 15 percent; the moisture content in the wood in that room also drops appreciably. In this same room in the summertime, the humidity may be as high as 70- to 80-percent content, at which time the wood products increase their moisture contents accordingly. Shrinkage or expansion in a musical instrument such as the mandolin or guitar would affect its tonal quality appreciably. Machine shop patterns that are stored in hot dry places and then packed in wet sand in producing molds, if made from an unstable wood, would make the casting unusable or require a tremendous amount of extra machining. In submarine signaling devices mahogany is used to support an induction coil approximately 5 feet in diameter in which there is mounted in the center certain instruments which must maintain a very definite relationship with the field of magnetism set up by this coil. Slight variations cannot be tolerated and in the extremely humid conditions of a submarine mahogany has been found to be the most practical answer.

Since the general public is certainly not interested in the purchase of machine shop patterns or submarine signaling devices what is the significance of this? It simply means that in architectural applications where invariably there are large dimensions, excessive shrinkage and expansions create cracks and open joints on an exaggerated scale. Obviously the more stable the product applied the less of this difficulty that would be encountered. In furniture where there are close, tight, glued joints and the wood grains running in various directions, materials stresses mean an eventual breakdown at these points far earlier than if the furniture were constructed of genuine mahogany with its inherent stability.

Too often look alikes when new become disappointments with time. Perhaps in furniture with relatively small dimensions involved some would think that this is "nit picking" or straining at a point. As an illustration of the forces

involved, the ancient Egyptians quarrying the huge blocks of stone for the pyramids drilled numerous holes in a straight line. They would then drive wooden pegs into these holes and pour water on the pegs. The wood expanding would split the stone. While the movement is small it is extremely powerful and destructive. In a table on the coefficient of expansion for woods per percent of moisture change published by the Forest Products Laboratory, of Madison, Wis., genuine mahogany is the most stable.

Another feature of genuine mahogany is its strength-to-weight ratio. Its toughness in this respect is well known. During the last war it was used for invasion gliders in spite of the fact that at that time it was carrying higher priority than aluminum. It was also used for engine beds on PT boats and in plywood for landing craft. This weight strength ratio is important particularly with regard to the manufacture of furniture. Strong durable furniture may be made from the genuine mahogany without it being excessively heavy. I am sure this is a feature that all men appreciate when their wives decide to rearrange the furniture.

There is no other species of wood with a combination of qualities that even approaches genuine mahogany. It has been used successfully for airframes, propellers, mockups, patterns, boats, technical work, furniture, millwork, in the air, on the land, on the water, under the water it has shown outstanding qualities which contribute to the value received by the public. They buy the name and they are entitled to it.

Those who oppose this bill recognize the value of the name and verify this knowledge by their actions. Their excuse, familiarity of the name "mahogany." I have yet to hear of a Rolls Royce dealer using a Ford label just because the public was more familiar with the name.

Mr. STAGGERS. Now, Mrs. Dana, if you would care to take the witness chair.

STATEMENT OF MRS. MARGARET DANA, CONSUMER RELATIONS COUNSEL, CRANBURY, N.J.

Mrs. DANA. Mr. Chairman and gentlemen, my name is Mrs. Margaret Dana. My current address is Cranbury, N.J. Mr. Chairman, I have submitted this statement in writing. May I simply speak to you from notes and let the statement go into the record and speak informally instead of reading it?

Mr. STAGGERS. We would certainly be indebted to you if you do that.

Mrs. DANA. I can cover it more rapidly if I speak informally and I am very anxious to give you this picture as accurately and as emphatically as I can.

Mr. STAGGERS Proceed.

Mrs. DANA. I am an independent consultant to business, industry, and Government agencies, on consumer attitudes and trends. This is based on a continuing study which has now been going on for nearly 30 years, on what women think and feel as they buy all over this country.

I, as a public service, help them to set up consumer study seminars and programs. I am trying to find solutions to their problems and I get questions sent to me from women all over this country, from every State in this Union, every month of the year, asking why this can't be done or why this happens as they buy or why this shouldn't be corrected.

My particular concern here today is to establish to your satisfaction that the consumer does need the protection of these wood labeling bills and the simulated wood products labeling, and that, although not every woman always knows that she doesn't receive exactly what she

thinks she buys, once she is aware of that, she both wants and demands corrective action with a great deal of vigor.

The fact of the matter is that it isn't only a matter of confusion. It is a matter of downright dishonesty some of the time.

For 25 years I have been coming not only to congressional hearings, but to Federal Trade Commission hearings, to state consumer viewpoints and the consumer problems and I have consistently heard opponents of such labeling or identification, back as far as the identification of rayon versus silk, of wool products, and so forth, say that women can't really handle this information.

"It is only going to be confusing to them." To tell them the truth would apparently be too much for a feeble woman's mind to take when she is buying.

I want to tell you that women resent this attitude. They look to Congress now for correction of the situation. I would like to provide you with grounds for accepting the validity of what I say to you today because again it is going to be questioned that consumers really do ask for this.

What I say to you rests on intensive research. I have written a book and more than a hundred articles that have been published about what I have found about what women think and feel and what their problems are in buying.

I have been called by the Federal Trade Commission and asked to point out consumers' viewpoints. I advise with educational groups, with advertisers—who have integrity—and with the better business bureau, and I would like to stress this is based on firsthand research.

I don't use questionnaires and I don't use doorbell ringers. I live in a community for a length of time until I know what the women feel and think, and they come to me with their problems so I am sure of what they think.

I set up cross section reporting panels where I go, and that covers women of all income levels, all educational backgrounds, all ages. To verify these findings that are intensive in one area I spotcheck in different parts of the country.

They report back to me if the same things are happening and if the same attitudes are rising in their areas too, and then I see a trend and I report a trend. It is that kind of trend that I am here to report to you today.

The last time that I talked to this committee I was just finishing a long study at my base in Richmond, Va., and that covered the States of Virginia, North and South Carolina, Maryland, and West Virginia.

I was able to set up a consumers' conference in Virginia, in Chesterfield County, which became the rallying point for a great many women. At the last meeting that I had a year ago before leaving that area, I found that in my audiences were women from all of the contiguous States. There were women from Maryland, North and South Carolina, West Virginia, Pennsylvania, and Washington, D.C., expressing their views.

A year ago I shifted the center of my research in this matter to New Jersey and for a year my headquarters have been near Princeton, N.J., at my address as shown and I have set up again a consumer conference there of central New Jersey.

Last Tuesday, there was a conference meeting in Princeton and a discussion took place on what we have called the consumer protection legislation. The hardwood labeling bill as well as the mahogany labeling bill both came up for penetrating discussion.

That was only one of about 20 groups that I have talked to in this area from New York to Philadelphia in the last year. I want to show you how—I am sure, Mr. Glenn, you will be interested in this—in spite of income differences the opinion coming out of these groups is just exactly the same.

For instance, a couple of months ago the Social Service Council, Committee on Aging, of Trenton asked me to come down and talk to a group of about a hundred senior citizens in that very fine new apartment house which has been built there for senior citizens, the Louis Josephson Apartments. The conversation got on to legislation to protect consumers, and the hardwood labeling bill, the bill to label woods and simulated woods, was one of the items that they became very much interested in.

These were people of low incomes, but they were still buying some furniture for their apartments, buying other wood products, and some of the men there were also amateur cabinet workers interested in wood. At the end of my talk with them repeatedly they said, "How can we make our views known to this congressional committee? We can't go down there." I told them they could write, but a good many of them felt hesitant about letters so they said, "Will you tell them we want woods and simulated woods labeled accurately? We want to know what we are buying. Will you tell them?"

I am telling you.

In addition, the Consumer Conference of Central New Jersey has asked me to present to the committee a statement, which is signed by the chairman of the conference and their membership chairman, asking vigorously that the wood labeling bill be approved by this committee and voted on as soon as possible.

I have a typewritten list of 36 women whom I personally called after the consumer conference meeting last Tuesday and with whom I discussed this bill after they had had a chance to study it. In contrast to the senior citizen group mentioned, this Princeton area is a well-known high-level income section.

I said, "How do you feel? What should I tell them?" It was a completely unanimous approval. I couldn't reach all of the 70 members because I didn't have time between being notified of this hearing and the time that I was to be here.

They have asked me to have this entered into the record as the expression of opinion of a cross section of women of New Jersey. May I do so?

Mr. STAGGERS. You may.

(The material referred to follows:)

CENTRAL NEW JERSEY CONSUMERS CONFERENCE,
PRINCETON DIVISION.

Re H.R. 1998 and H.R. 6226 to label decorative hardwood and simulated wood products.

Hon. HARLEY O. STAGGERS,
Chairman, Commerce and Finance Subcommittee,
House Office Building, Washington, D.C.

DEAR SIR: At our meeting held on June 11, 1963, in Princeton, N.J., we discussed the above.

There was unanimous approval, asking favorable consideration to report these out of committee. Further that this be brought to a vote as soon as possible.

The names herewith are of women in this area who urge passage of this bill.

Sincerely,

Mrs. GERALD LOCKYER,
Chairman, Princeton Consumers Conference.
Mrs. EDWARD L. MCCALL,
Membership Chairman.

Consumer members of the Central New Jersey Consumers Conference and interviewed consumers of the Greater Princeton area, who urge that the Decorative Wood and Simulated Wood Products Labeling Act, H.R. 1998 and H.R. 6226, be reported on favorably by this committee, and approved by vote of the Congress:

Mrs. Scott Arnott, 88 Magnolia Drive, Princeton, N.J.
Mrs. William C. Barnes, Box 329, Kingston, N.J.
Mrs. R. A. Braden, 34 Littlebrook Road, Princeton, N.J.
Mrs. Sylvan G. Bushey, 68 Randall Road, Princeton, N.J.
Mrs. E. L. Claridge, 222 Shady Brook Lane, Princeton, N.J.
Mrs. Reuben Cohen, 165 Clover Lane, Princeton, N.J.
Mrs. John E. Carnell, 33 Monroe Street, Princeton, N.J.
Mrs. Edwin Cox, 45 Park Place, Princeton, N.J.
Mrs. Edward Faroe, 44 Kendall Road, Franklin Park, N.J.
Mrs. Melvin C. Firmin, 201 Varsity Avenue, Penns Neck, N.J.
Mrs. Eli Firth, 11 Piedmont Avenue, R.D. No. 1, Cranbury, N.J.
Mrs. Charles C. Foster, 118 Snowden Lane, Princeton, N.J.
Mrs. Walter B. Foster, 16 Hawthorne Avenue, Princeton, N.J.
Mrs. Stewart Frisbie, Seabrooke Lane, Princeton, N.J.
Mrs. Joseph Hirschberg, 25 White Pine Lane, Princeton, N.J.
Mrs. Foster Jemison, 631 Lake Drive, Princeton, N.J.
Mrs. Melvin Karns, 672 Prospect Avenue, Princeton, N.J.
Mrs. Ray Kell, 487 Jefferson Road, Princeton, N.J.
Mrs. Gertrude Kendall, 514 Prospect Avenue, Princeton, N.J.
Mrs. David Knowles, 149 Randall Road, Princeton, N.J.
Mrs. Dorothy Koral, Highway 130, Box 230, Hightstown, N.J.
Mrs. Eugene Langhans, 5 Dillan Road, Kendall Park, N.J.
Mrs. Irving Ness, 5 Overbrook Drive, Princeton, N.J.
Mrs. Joseph Nini, 90 Clearview Avenue, Princeton, N.J.
Mrs. David Lloyd, 36 Dorann Avenue, Princeton, N.J.
Mrs. Gerald Lockyer, 16 Magnolia Lane, Princeton, N.J.
Mrs. E. L. McCall, 34 White Pine Lane, Princeton, N.J.
Mrs. O. E. Merkt, 360 Jefferson Road, Princeton, N.J.
Mrs. Kenneth Ostheim, 229 Shady Brook Lane, Princeton, N.J.
Mrs. E. Ribnick, 16 Cambridge Road, Kendall Park, Princeton, N.J.
Mrs. John D. Rockwell, 32 Dogwood Lane, Princeton, N.J.
Mrs. S. Skillman, 98 Magnolia Lane, Princeton, N.J.
Mrs. Warren Wagner, 12 Piedmont Drive, R.D. No. 1, Cranbury, N.J.
Mrs. Walter Williams, 57 Southern Way, Princeton, N.J.
Mrs. Guy Woodward, 239 Riverside Drive, Princeton, N.J.
Mrs. William Hoffman, Main Street, Cranbury, N.J.

(Other members of the consumer conference could not be reached at this time to be included in this report of individual conclusions, but the unanimous opinion of all conference group meetings was that support of this legislation was their emphatic wish.)

(A number of members volunteered to write personally to this committee and to their Congressmen to urge approval of this legislation.)

Mrs. DANA. This is what I think is interesting about their feeling They know that I have been fighting for a great many years to develop new criteria, dependable criteria, by which women can buy safely. Women have been saying to me, "Our big trouble", as one of your witnesses just said, "is the look-alikes." We are in an era of the "look-alikes", when it is often impossible for the layman to identify what one thing is, in comparison with a competing product because they look alike.

As you know, that was the basis for the wool labeling bill. It has been the basis for the Federal Trade Commission's attitude on identifying rayon versus silk and so on. It was the reason the fiber identification bill was passed, the reason the fur labeling bill was passed. Things that look alike pose a fearful problem for the consumer-buyer because their natures and values are different.

Yet it isn't a matter, you see, of whether one thing is better than another. That has really nothing to do with it. We are saying, have we a right to know what we are buying? Just that very simple question: Have we a right to know?

The trouble is with these puzzle pictures for consumers, women don't always know until long after that they have bought the wrong thing because they couldn't tell at the beginning and this makes a serious situation. I think you gentlemen will see how serious it can be. It creates an antagonism, a bitterness, that comes boiling up and flows over everything. It is across the board, so that they become angry at all industry, all business, all advertising.

They say, "You can't trust any advertising. You can't trust any label. You can't trust any retailers or manufacturers." That isn't fair, perhaps, but it is a very human thing. When you have been bitterly disappointed and fooled, you blame everybody, and that is exactly the reason for the growth of a very militant and often a very radical voice among some consumers.

I think when you hear one of our economists say, "The economy is waiting for the consumers. Why isn't the consumer buying?" When you dig behind that, you find a feeling of unsureness, of confusion.

There are too many consumers saying, "Maybe I won't buy just now, because I don't feel sure." It could have a very serious effect on our general economy.

I don't know if you gentlemen saw last night's Evening Star which has a story on the Washington Better Business Bureau meeting. In that was a report of all the complaints that the Washington Better Business Bureau got during the past year, in the amount of some 6,000.

They list most frequent complaints. It goes down through radio and television service complaints, and so forth, to furniture buying, 335, as compared, for instance, with home improvements, 402 complaints. Furniture buying complaints were fifth in the list of 119 highest number of complaints received by the Better Business Bureau in the past year.

Now, the Federal Trade Commission has jurisdiction over Washington. But they are not cutting down the complaints in Washington quite obviously.

Again the problem is that nobody really feels consumers are concerned about this.

I have heard both in the Federal Trade Commission Trade Practice Conferences, and in congressional committee hearings, members say, "If women cared about this matter, wouldn't they be down here? Wouldn't they come down and tell us in person?"

Now, most of you men must be married. You know it isn't an easy thing for a woman to pick up, leave her home, her children, her family affairs, and come down here. They want you to know, but over and over again they say to me, "We can't go. Could you be our voice? Will you take it to the committee?"

What I am telling you today is the reported voice of hundreds and hundreds of consumers with whom I have been in contact for years.

Two particular items about this bill have come out in discussions with consumers.

I don't know whether you have the same copy that I have. This is H.R. 6226, and I am going to quote from it, on page 10, line 21. Women say the bill we are pleased with, except for this:

> The names used shall be the true English names for the respective wood: *Provided, however*, That in the absence of a true English name for a wood or where a wood has for at least 25 years been known generically in the market of the United States by a commercial or trade name, the Commission may use such name—

and so forth.

I have been saying for years, that condones a fraud, a lie. To say that a dishonest term becomes respectable, a lie becomes respectable, because it has been hanging around for 25 years, doesn't please women. I want also to express myself, if I may, at this moment, on the kindred subject of the mahogany labeling bill.

I didn't know about the mahogany bill in time to ask to be heard on it. May I insert what women would like to have me say about the mahogany bill at this time?

Mr. STAGGERS. You have the floor, Mrs. Dana.

Mrs. DANA. Thank you. It is simply this: Women feel that this is so simple a problem that it is amazing there should be any question about it. I want to point out that at the Federal Trade Commission hearings for the furniture industry I have brought groups of consumers to testify and this is the way it looks to a consumer; a lie is being rationalized.

I have worked with the Federal Trade Commission for many years. I respect and admire them. They are, I think, the greatest protector of the consumer's "right to know" that there is in this country. I think, however, they make mistakes and I think that this is a mistake that they are stuck with and only an act of Congress probably will get them out of it.

They are on the horns of a dilemma. But in those rules this is the way a consumer reads it: The Commission says with a great deal of sternness, about calling woods by their correct names:

> You may not call anything walnut unless it is truly walnut;
> You may not call anything mahogany unless it is truly mahogany, except that any one of seven native woods from the Philippines, which are not even remotely

related to mahogany and do not have its characteristics, any one of those seven you may call Philippine mahogany because it has been going on so long.

In other words, the lie has become respectable in the course of years. Women simply look at that and say, "A lie is a lie. It is not the truth. You have not been telling us the truth. Why must it go on? Why do we have to put up with a lie?"

It isn't a question of whether Philippine mahogany, so-called, is good or not. It is simply a question of what is truthful. I say to you that not 1 woman I have personally interviewed, of the more than 3,000 in the past 5 years, not 1 woman, has realized that Philippine mahogany is not mahogany when I asked them to define it. When they found that it was not, they were infuriated to feel that they had been duped all these years, and nobody—nobody—will help them.

I am here today to ask your help.

May I go on now about the hardwood bill? A very important thing has come into the picture in recent years which you may not be aware. It is the large number of teenagers that are now buying furniture and other products made of wood and simulated wood.

This is a $9 billion market annually, and these kids would like to know what they are buying. I watch them in stores and listen to them. They hunt for labels all the time. They feel a label means somebody is proud enough of that product to tell the truth about it. They like to know what kind of woods they are buying when they are spending their own money.

There are other items in the bill I have been asked to mention. For instance, I would like to mention that women feel it isn't important to have a sales ticket at the point of sale carry the name of the wood or the wood product if it is on the product itself, and this bill would require that that label must carry through to the point of sale just as our fiber identification tags do. They feel that covers it.

There is one last point I would like to bring to your attention. I have been asking all kinds of people in important places, "Do you think consumers have a right to know what they are buying?" The fact of the matter is, gentlemen, they don't, not unless you give it to them. Let me read you a line from a letter I got from the U.S. Attorney General's Office in reply to that question. He said:

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

Obvious defects. But we have just said that you can't tell the difference in these products today, you cannot yourself judge by looking. But he concludes this way:

> In the light of historical development of the law in this area any broadening of consumer rights is largely within the direction of the Congress and, as you know, the list of areas where Congress has acted with this intent is a large one.

Gentlemen, we have to ask your help. Women want the wood labeling and simulated wood labeling bill approved and passed quickly. They want mahogany to be labeled accurately and we are asking you to help us by reporting this out with your approval. Thank you for listening to me.

Mr. STAGGERS. Thank you, Mrs. Dana. Any questions?

Mr. LONG. No questions, Mr. Chairman.

Mr. STAGGERS. Mr. Glenn?

Mr. GLENN. No questions. I compliment you in making a very fine statement.

Mrs. DANA. Thank you.

Mr. STAGGERS. Mr. Curtin?

Mr. CURTIN. No questions, Mr. Chairman, although we are glad to have you with us, Mrs. Dana.

Mr. STAGGERS. May I echo my colleagues' remarks? I am pleased to have your expression of the women's views on this matter.

Mrs. DANA. Thank you.

(The statement referred to follows:)

STATEMENT BY MARGARET DANA, CONSUMER RELATIONS COUNSEL AND CONSULTANT

Mr. Chairman and gentlemen of this committee, my name is Margaret Dana and my current address is Cranbury, N.J. 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.

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.

In testifying previously before this committee I described the gathering of opinions from women as to their need for correct labels identifying woods and products which look like those woods. For a number of years the State of Virginia was my laboratory, and as a result of the growing interest of consumers there in better labeling, advertising, and selling, the Chesterfield County Consumer Conference was organized under my advisory direction. The evidence which I received directly from these women—some 3,000 in the course of the past 5 years—is simple and plain. They want woods labeled correctly, and they want things which look like woods, labeled correctly.

A year ago I shifted the geographic base of my work and began an intensive study of consumer attitudes in the area between Philadelphia and New York. Already I have interviewed in depth about 300 women, and last March again organized a consumer conference—this time for central New Jersey. The same unanimous opinion has been shown very clearly so far in this study. Like Virginia women, these consumers in New Jersey want woods labeled, and thing which look like woods, labeled correctly.

On June 11 a meeting of this Central New Jersey Consumer Conference took place in Princeton, N.J., sponsored by the Princeton division. The bills being discussed here today were also discussed there by consumers. A number of them plan to write this committee and their own New Jersey Congressmen directly to express their emphatic opinion that the bills H.R. 1998 and H.R. 6226 would provide the labeling they want and to which they feel they are entitled.

The key words in that paragraph are "look like." We are in an era when the "look-alikes" are causing increasing disorientation among consumers. Science and art and imagination, along with human greed and dishonesty on too frequent occasions, are creating continual "puzzle pictures" for consumers. Many new products appear to be identical in nature and value because so often they are identical in surface looks. Sometimes this results in women paying more for things than they should; sometimes it results in their getting the wrong things for the specific purposes they have in mind. But whether one of the "look-alikes" is as good in quality or value as another of them, is not the point. The real point is that for a consumer not to know accurately which is which, is like urging her to "Open her purse and shut her eyes."

This has created among women, regardless of their income level, education, or experience, an uneasy feeling of distrust toward retailing in general, and toward industry and business of all kinds. It is a provable psychological fact that 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. Consumers who buy a piece of furniture believing it to be one thing, and finding it to be quite another are apt to feel all advertising, labeling and selling in all fields is suspect. So when economists state that the "consumer is lagging behind in spending," Congresmen should, I think, recognize that consumer hesitation rests on consumer distrust.

But at previous hearings I have heard opponents of these bills say that obviously consumers do not want or need them because if they did they would be thundering at the gates of this committee to express their views. This is both unrealistic and naive. Women, whatever their opinions and convictions, cannot take off from homes and children with carefree assurance to come to Washington to speak their minds. Often they know nothing about proposed legislation, still less about how citizens can make their voices heard, and if they did, they can't get babysitters to hold the fort while they storm the walls of Congress. But I have for many years faithfully reported their responsible opinions to congressional committees, and I think you can safely believe what I say.

Another new factor has entered the consumer buying picture in recent years. This is the fast-growing teenage consumer market. I find boys and girls buying their own furniture for their rooms, buying accessories for their homes and meetingplaces, and trying to buy carefully. Often they have earned the money for this buying themselves. This teenage market has a $9 billion annual volume. And furniture retailers tell me these kids using their credit buy a lot of furniture. They look for labels. I've watched them in many a store. They want to know what things are made of. And a label is to them an ambassador from industry, suggesting pride in the product, integrity of the maker and seller, and confidence in the intelligence of the buyer. But let that label prove misleading or false, or the implications of the seller prove incorrect, and industry has made enemies of the next generation of adult buyers. Any industry, such as those which use woods or products which are made to look like woods, would be both wise and shrewd to use the kind of labeling provided by the bills we are considering, to make loyal friends of the coming generation.

The point which repeatedly I find consumers emphasizing, is that they want the right to choose what they are buying, and to choose on a basis of dependable facts. I have put to a number of important people the simple question, "Do you think consumers have a right to know what they're buying?" Most laymen unhesitatingly answer "Yes." But the fact is, no matter how much we believe a consumer has the "moral and ethical right to the facts on which to base intelligent buying decisions," there is no such right until you in Congress define and support it for consumers. A letter from the Office of the U.S. Attorney General in answering my question shows plainly that consumers must turn to you in this committee and in the Congress for this help. Let me quote from this letter: "The purchaser has traditionally been required to examine, judge, and test (the goods) for himself, being bound to discover any obvious defects or imperfections * * *. In the light of historical development of the law in this area, any broadening of consumer rights is largely within the discretion of

Congress, and as you know, the list of areas where Congress has acted with this intent is a large one."

Mr. Chairman and members of this committee, I urge you in the name of consumers who cannot speak for themselves today, to report out this legislation favorably, to "broaden the area" where consumers can know what they are buying.

Mr. STAGGERS. Mr. Robert Katz, would you take the witness stand and identify yourself for the record please and whom you represent?

STATEMENT OF ROBERT N. KATZ, GENERAL COUNSEL, HARDWOOD PLYWOOD INSTITUTE

Mr. KATZ. Thank you.

Mr. Chairman and members of the committee, my name is Robert N. Katz, attorney with offices at 1001 15th Street, Washington. I am general counsel of the Hardwood Plywood Institute, the national trade association for producers of hardwood plywood.

Initially, I would like to deviate from my written statement and address myself to a letter which Congressman Long cited yesterday from one of his constituents. I was quite impressed with that letter because it pointed up the difficulties inherent in the recommendation of Mr. Dixon that each inner ply of plywood be labeled.

As I recall, Mr. Long's constituent said, "Won't this injure or impair the sales of certain woods that are native to the State of Louisiana"?

My feeling is that the labeling of each ply would perhaps do this. There are additional reasons why the labeling of each ply in a piece of plywood would be detrimental to the enforcement of and compliance with this bill. A piece of furniture has several different surfaces. For example, a desk has the top surface, the drawer, inner panels, and legs.

Because of the various purposes or functions of these surfaces different inner ply might be used. It would be extremely difficult for any enforcement agency to check each and every inner surface to check whether the labeling of each inner ply was disclosed and it would be extremely difficult for the furniture manufacturers or the plywood manufacturers to comply with a bill which would require the labeling of each and every ply in a piece of wood.

As Mr. Gatewood mentioned yesterday, some pieces of plywood have as many as 11 plies. I have here with me this morning a piece of plywood that I would like to leave with the committee. It is composed of seven plies: two outer plies, an underlay of aluminum foil, and three inner plies, one of which is a fiber or particle board.

The labeling of all this would tend to be somewhat misleading to the consumer. Rather than having too few facts as at present, he would then have too many facts and would be faced with an almost impossible decision as to which is better and what all these various plies mean.

He would tend to be quite confused and in that situation misled, so we feel that disclosing the nature of the surface composition or the exposed surface of plywood protects the consumer and protects fair competition. The only deception that really occurs in this industry is when the veneer or face of a ply is either not labeled or mislabeled. That is where the deception occurs.

If, as this bill requires, the manufacturer is required to disclose that this is a veneer, then the consumer knows that there is something else underneath and he is on notice that he is not getting a piece of solid wood and he knows that the underply may be made of something else.

Hardwood plywood is a laminated panel made of plies of wood, of which the face veneer or the exposed surface is of hardwood. Hardwood plywoods are described by the species name of the wood used in the face veneer. For instance, mahogany plywood has a face veneer of mahogany. Walnut plywood has a face veneer of walnut, and so forth.

Our membership consists of producers of hardwood plywood in the white, or the natural wood state, which is sold as such to consumers, who in most instances finish it by applying lacquer or like finishing materials.

In addition, our producers also manufacture prefinished and printed plywood. The first is plywood in the white to which has been applied a finishing material giving it a lacquered surface similar to that seen on most furniture.

The latter type, printed plywood, is hardwood plywood to which, by a printing process, an imitation or simulation of wood grain has been applied.

The Hardwood Plywood Institute is composed of 58 members in an industry having approximately 35,000 employees with an annual payroll of over $120 million. Emphatically we are here today to support H.R. 1998. Our members have voted to support this legislation because of the fact that it is well established that the American public attaches considerable value to wood names and to the grain appearances of beautiful wood used in paneling furniture, cabinets, and radio-TV consoles.

Wall paneling of genuine wood, and the products made of genuine mahogany, cherry, walnut, and other cabinet woods are recognized as having an intrinsic value.

Within the past 10 years there have sprung up a number of processes for imitating or simulating wood grain. These imitations are applied to materials which have no decorative value to upgrade such materials, and to increase their price and salability; thus obtain a higher price and, needless to say, a greater profit.

The imitation hardwood paneling and other products so closely resemble in appearance the grain and figure of genuine wood that at a distance experts on wood technology are deceived. This visual deception is compounded by the use of wood names to describe the imitation hardwood, such as "misty walnut" used on hardboard; "walnut finish" used on Japanese lauan plywood, and so forth.

Consumers, having no technical knowledge, can only rely on appearance of the product and thus are at the mercy of the producers and sellers of imitation hardwoods.

We feel the consumer has a right to know the true nature of the item which he is purchasing and in view of the ease of deception of the consumer today, legislation such as H.R. 1998 is essential. Prior proposed legislation had some deficiencies which are corrected in the current proposed legislation.

This legislation provides the Federal Trade Commission with an affirmative and certain basis upon which to enforce the law and the intent of this Congress to protect the consumer, the businessman, and our competitive system.

In prior hearings mention has been made that there is no deceptive advertising of simulated products. However, as Mr. Gatewood pointed out, deception does exist. We do not infer that such deception is intentional.

However, legislation such as this would provide the manufacturer with a certain basis upon which he could act, eliminating any question of falsity or deception.

No manufacturer should have any objection whatever to stating the true nature of the face or veneer or solidity of the product which he manufactures unless he in fact does intend or desire to mislead. There is no stigma attached to a simulation when such simulation is disclosed.

If it is a printed panel, why not say it is a printed panel? We feel a desire to cloak a simulation would appear to establish a desire to mislead or deceive.

Accordingly, it is clear that, either accidentally or intentionally, the consumer may be deceived or misled in the absence of labels stating the true nature of the exposed surfaces of wood products.

This would clearly constitute unfair trade practice. However, we know that with the workload of the Federal Trade Commission, and with the time delays involved in any enforcement action, many consumers and competitors may be hurt before corrective action is effectuated.

Therefore, a majority of our members favor enactment of H.R. 1998 in order to increase confidence in the wood and wood product industries.

Thank you, gentlemen.

Mr. LONG (presiding). Thank you, Mr. Katz. Any questions? Mr. Glenn?

Mr. GLENN. I have some questions, Mr. Chairman. Mr. Katz, you say that your plywood is called mahogany plywood. Is that right?

Mr. KATZ. Some are; yes, sir. If the face ply is made of mahogany it would be called mahogany plywood.

Mr. GLENN. How do you name your printed plywood?

Mr. KATZ. Various of the manufacturers use different names for this. They do indicate on this that it is a different processing. For example, we have here, and I will leave this with the committee, a piece of plywood that I don't know just what that natural wood would be.

It has been treated to resemble walnut and on the back of it it has a name to indicate imitation walnut, so that people would know that it is not a true walnut. Other manufacturers label "printed grain" on the label that goes on the plywood.

Mr. GLENN. What do you suggest, representing your industry?

Mr. KATZ. My own personal opinion would be that if it is an inferior wood to which a print has been applied, a label such as "printed walnut grain" or "printed mahogany finish" would be certainly adequate, or "simulated mahogany grain" or "imitation mahogany grain."

There is nothing wrong with an imitation or simulation. There are certain areas in which an imitation or simulation has a very valid use and purpose and quite often that use and purpose is to give the consumer something for less than he would have to pay for the natural item.

He realizes that he is getting an imitation and is willing to pay less for it.

Mr. GLENN. Is that sample that you held up in front of you there plywood?

Mr. KATZ. Yes, sir, it is. The exposed surface is a natural wood. The subsurface is an aluminum foil which, as I understand it, disperses heat that is on the wood surface. Underneath that there is a hardboard and the center core is a fiberboard of a sort.

Mr. GLENN. What is the comparative strength of this type of plywood with regular hardwood?

Mr. KATZ. Mr. Glenn, that I wouldn't know as I'm not an expert in this technical area, but I would say it is stronger. I recall the statement of Mr. Gatewood or someone yesterday that when glues are applied they add tremendous strength to the item in question.

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

Mr. LONG. Mr. Curtin?

Mr. CURTIN. No questions.

Mr. LONG. Mr. Katz, we appreciate your statement. I wondered what the position of your institute was on H.R. 6210 and the other mahogany bills?

Mr. KATZ. The association has not taken any position on those bills.

Mr. LONG. Do you have any views on it you would like to express?

Mr. KATZ. No, sir. I have not given any consideration to the mahogany bills.

Mr. LONG. Thank you very kindly. We appreciate your coming.

Mr. KATZ. Thank you.

Mr. LONG. Our next witness will be Mr. William P. MacCracken, Jr.

Mr. MacCracken, it is a pleasure to have you with us. I know over the years you have appeared and testified before this committee many times. I guess it is going on close to 35 or 40 years, isn't it?

STATEMENT OF WILLIAM P. MacCRACKEN, JR., UNITED STATES PLYWOOD CORP.

Mr. MACCRACKEN. It is 41 years last February that I first appeared before the Interstate and Foreign Commerce Committee of the House.

Mr. LONG. Your appearances, I know from the Members I have talked to who have been here longer than I have, have been very helpful in the past and your testimony today, I am sure, will also prove helpful and we are glad to have you.

If you would identify yourself for the record you may proceed in your own manner.

Mr. MACCRACKEN. My name is William P. MacCracken, Jr. I am an attorney at law with offices at 1000 Connecticut Avenue. The late Robert N. Hawes and I were associated at the time of his death in October of last year.

For some time Mr. Hawes had represented the United States Plywood Corp. as special counsel in Washington and since then I have

carried on the work he was doing for that client. It is in that capacity that I appear before you this morning in support of the passage of the "Decorative Wood and Simulated Wood Product Labeling Act."

The United States Plywood Corp. operates 155 plywood distributing warehouses, 18 softwood plywood manufacturing plants, and 4 hardwood plywood manufacturing plants.

The United States Plywood Corp. manufactures hardwood plywood for sale in a natural or unfinished condition; also prefinished hardwood plywood and hardwood plywood with a simulated or imitation printed wood grain.

Their hardwood plywood is manufactured to comply with the commerical standards issued by the Bureau of Standards. It is usually manufactured with three 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. United States Plywood Corp. labels its printed hardwood 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 imitation 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 for the genuine. The visual deception is exploited by the use of wood names on the imitation products.

United States Plywood Corp. 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. 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 brand names and special labels which United States Plywood Corp. uses, its genuine hardwood plywood and its simulated products are identified in accordance with the proposed bills.

This has long been the company's policy. However, it would seem unnecessary to label genuine hardwood plywood as the genuine products are 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. The labeling of the simulation products will be sufficient.

While much of this simulated material is of good quality, purchasers are entitled to know what they are buying and to be protected from those who would adhere to the old rule: "Let the buyer beware."

Thank you very much, Mr. Chairman, and if there are any questions I will be happy to answer them.

Mr. LONG. Thank you, Mr. MacCracken. It is an excellent statement. Mr. Glenn?

Mr. GLENN. No, I have no questions, Mr. MacCracken, except to note that the United States Plywood Corp., I see, does mark its simulated or imitation plywood which is made by labeling it as printed plywood.

Mr. MACCRACKEN. That is correct, sir, the printed grain.

Mr. GLENN. Thank you very much.

Mr. LONG. Mr. Curtin?

Mr. CURTIN. No questions.

Mr. LONG. Mr. MacCracken, on page 2 at the bottom of the second paragraph you say:

> The printed plywood is an imitation or simulation of prefinished genuine hardwood plywood. United States Plywood Corp. labels its printed hardwood with a disclosure of the printed grain.

I interpret that to mean, as I believe Mr. Glenn does, that it sets forth that it is a printed grain. Is that correct?

Mr. MACCRACKEN. That is right. That is my understanding of it, Mr. Chairman. They make a full disclosure of what the product is.

Mr. LONG. How adequate are the laws and the resulting rules and regulations concerning the disclosure of the use of plywood as distinguished from a solid wood?

Mr. MACCRACKEN. I know that the United States Plywood Corp. always discloses that it is a plywood. It isn't a solid wood. I guess all of their product is plywood, under the United States Plywood label. They are very proud of the fact and they are glad to advertise it.

Mr. LONG. You don't know offhand, either by actual legislation or by rules and regulations of the Federal Trade Commission, what requirements there are in this line?

Mr. MACCRACKEN. They have the commercial standards which I think have been established by the Bureau of Standards, and also I think approved by the U.S. Department of Commerce.

They have helped to police the industry somewhat, but the primary responsibility, as I understand, is with the Federal Trade Commission.

Mr. LONG. Fine. Thank you again, Mr. MacCracken. You are most helpful.

Mr. MACCRACKEN. You are entirely welcome. Thank you very much.

Mr. LONG. The next witness is Mr. C. H. Henkel, president of the Henkel-Harris Co., of Winchester, Va. Will you come forward, Mr. Henkel? We are glad to have you, sir.

Identify yourself for the record and proceed in your own order, please.

STATEMENT OF C. H. HENKEL, PRESIDENT, THE HENKEL-HARRIS CO., INC., WINCHESTER, VA.

Mr. HENKEL. Mr. Chairman and gentlemen of the committee, my name is Carroll H. Henkel. I am president of the Henkel-Harris Co., Inc., Winchester, Va.

I am in favor of both of these bills. Our company employs approximately 100 people in the manufacture and distribution of relatively expensive household furniture made from solid cherry, mahogany, or walnut.

I am a graduate engineer and have had 18 years of experience at this particular business. In our field, Henkel-Harris is considered to be in the top bracket of quality.

I appreciate the privilege of appearing before this distinguished committee to offer my endorsement of the Decorative Wood or Simulated Wood Products Labeling Act.

I believe that the majority of people at all levels in the furniture industry are honest and fairminded. However, in recent years, technological advances have brought about certain deceptive practices with reference to wood and simulated wood furniture, which are to the detriment of the furniture industry.

Many of these practices, primarily at the retail level, undoubtedly are caused by lack of knowledge rather than willful intent to deceive.

Furniture made of nonwood materials or of less expensive wood species is often printed and colored to give the appearance of a particular fine cabinet wood and the species name of the fine cabinet wood is used in merchandising to identify that furniture.

In other cases, less expensive woods are stained and colored to resemble better woods and the more expensive species name is used.

Many times furniture of veneered construction is offered as solid. These deceptions are often so good that an expert must pay particular attention to indentify the new furniture. This same furniture after use will be easy to identify after wear, because the differences are then quite apparent due to wide variation in ability to withstand abuse.

I would like to depart here at this point from my prepared script and point out that the physical properties of wood substitutes may vary quite widely.

Sometimes the appearances of the simulated products are identical, but it is only when the articles are put into use that the difference is shown up. It is at a later date, sometimes months, sometimes several years, and it is then that the purchaser realizes he has been deceived.

I am convinced that the labels and accurate advertising called for by this bill will successfully put a stop to such practices, which have surely caused confusion, disappointment, and loss of confidence on the part of the consumer. I feel that the furniture industry will be stronger after such practices are eliminated.

I believe that the provisions of this legislation will be welcomed by the vast majority of retail salesmen who want to do an accurate and helpful job of selling and who recognize that this would be facilitated by accurate labels.

In my opinion, every wood species has a beauty and utility of its own. There is no need or actual long-term advantage in resorting to the deceptive practice of claiming that one wood species is another. Relatively new technological advances in the arts of photography, graining, and finishing have brought about these conditions.

My company heartily endorses this bill and we will appreciate your favorable consideration of it.

In addition to this, my company is also in favor of the mahogany bill. In the furniture industry we know that the physical properties of the so-called Philippine mahogany are quite inferior to true mahogany for furniture and construction.

This is because Philippine mahogany is soft, light in weight, difficult to finish, and dimentionally quite unstable as compared to a true species of mahogany.

So, I am in favor of the mahogany bill. I want to thank you for appearing before you, and I believe I am the only furniture manufacturer here. If you have any questions in regard to furniture manufacturing I will be glad to try to answer them for you if I can.

Mr. LONG. Thank you, Mr. Henkel. They tell me that many of the furniture manufacturers are at Chicago at the Trade Mart at this particular time and perhaps at a later date we might hear some of those if they desire to be heard.

Mr. HENKEL. They are. My company doesn't show in Chicago and that is the reason why I am not there.

Mr. LONG. Did you hear the question I asked Mr. MacCracken about the designation of a particular product as being of veneer?

Mr. HENKEL. Specifically what do you want to know?

Mr. LONG. What is the law as it presently exists with respect to the designation of a furniture item being made of plywood as distinguished from, such as your company manufacturers, solid wood?

Mr. HENKEL. The only basis for that has been a tag that the Mahogany Association used to put out and still puts out regarding solid mahogany and veneer mahoganies, and the furniture industry has sort of based their explanation of what is solid and what is veneer from the terms used on this hang tag. The same terms have been used on woods other than mahogany.

The mahogany labeling is clear to those in the furniture industry, but it is really not clear even to a retail salesman on the floor. Quite a bit of retail furniture is sold by retail employees who are not long-time employees in the retailing of furniture, so that they are not exactly sure as to what they are selling.

Mr. LONG. This labeling came about as a result of an industry practice as distinguished from a legal requirement?

Mr. HENKEL. Yes. There is no legal requirement to it at all. You can put anything at all you want in a piece of furniture, and if you are shooting for a certain price bracket and find that you can use a printed product or a substituted product there is nothing at all to restrict you from doing it.

Mr. LONG. Do you feel that this legislation would require it with respect to the designation of it being of plywood as distinguished from a solid wood?

Mr. HENKEL. Yes. I think this is good thinking. Just like when I go buy a shirt, if I can look at the label and see that it is all cotton or so much cotton and dacron, I like that and I think that there are a lot of buyers of furniture that would like to know just what they are buying.

Mr. LONG. Under the industry practice of labeling it as, let us say, solid mahogany in your example, what mahoganies did you include in that designation?

Mr. HENKEL. Well, those people who use those mahogany tags are working with real mahogany. You see, those tags are obtained from the Mahogany Association and the manufacturer would be making a big misstatement if he said that he was using a true mahogany and in fact he was using Philippine mahogany.

It is quite a deceptive term. In furniture manufacturing you will see a lot of drawer bottoms that are advertised as mahogany drawer bottoms.

Well, in fact, they are Philippine mahogany and the two woods are quite different in physical properties.

Mr. LONG. Thank you, Mr. Henkel. Mr. Glenn?

Mr. GLENN. Mr. Henkel, are there any variations in the color of solid cherry, solid mahogany, and solid walnut?

Mr. HENKEL. Yes, indeed. Solid walnut can be anywhere from an almost white color to an almost black color. In the same log, if you look at a walnut log, if you have a walnut log 22 inches in diameter the dark inside core of it will be about 17 inches in diameter and on the outside you will have a ring of wood about 2½ inches wide that is an altogether different color; so you cannot tell by the color of any piece of wood what it is.

You can only tell by looking at the grain, and it takes an expert to look at the grain and tell. When I first came in this room today I thought I was sitting in a mahogany chair. It turned out to be walnut.

Mr. GLENN. That is just why I asked that question. When you look at furniture these days you see something that is called cherry, or perhaps walnut, and yet there are all variations of colors in the type of furniture that you are looking at, and I was wondering whether there is any specific color that would be the actual solid cherry or solid walnut?

Mr. HENKEL. No. I would like to point this out: That as wood ages it changes in color, so that if I made a piece of furniture and finished it with clear lacquer today, it would be one color, and if I finished the identical piece a month from now after it had aged, it would be an altogether different color, and then the finishing materials that are put on wood are not stable.

They change color too. You might buy a piano that will be a light colored mahogany now and when you turn it over to your grandchildren it will be a very dark mahogany because the finish has changed color.

The wood itself has changed color due to action of the atmosphere. Ultraviolet light changes it. I have gone in furniture stores and heard a woman say, "Well, this is not mahogany. Mahogany is a dark red color." And certainly it was genuine mahogany, but it was finished in an altogether different color.

You see, furniture is a style business. You can't look at a man's suit and say because this is dark blue this is wool and you can't look at a piece of mahogany and say that because this is a certain color this is mahogany, because usually the first operation in finishing wood will be to stain it, and if the wood is too dark to start out with and you want a finish in a lighter color, you will bleach the wood first and then follow up with the stain.

When I finish a piece of mahogany I will use as many as 12 different color coats on a piece of mahogany in order to arrive at the effect that I want and I won't put the same color all over the wood.

I finish furniture like a woman putting makeup on in the morning. She puts red here, and black here, and blue here, and another color some place else.

Because some wood is pretty and some isn't, I have to work on it in order to make a quality piece of furniture.

Mr. GLENN. Then how can you tell that that is solid mahogany if you put so much paint on it?

Mr. HENKEL. Only by looking at the grain, and you have to be an expert to tell whether it is mahogany, or walnut, or what it is because some woods have grains that look very much alike.

Mr. LONG. Thank you very much.

Mr. HENKEL. Thank you, Mr. Chairman.

Mr. LONG. Mr. Keith?

Mr. KEITH. No questions, Mr. Chairman.

Mr. LONG. Mr. Curtain?

Mr. CURTIN. Thank you, Mr. Chairman. Is there any real mahogany grown in the Philippines, any true mahogany?

Mr. HENKEL. I am no expert on mahogany. You would have to ask somebody who knows more about it than I do, but from my understanding of mahogany, I think there is no true mahogany grown in the Philippines.

It is only grown in North and South America in the tropical zones, and in Africa, and, of course, in all the islands around in that region. Cuban mahogany is a very fine mahogany but it cannot be imported.

Mahogany is a wood in the Tropics which resists the attacks of certain wood-cutting insects and as a result in some areas they like to retain all the mahogany in that country and use it for building purposes.

Mr. CURTAIN. In your furniture do you use any plywood at all?

Mr. HENKEL. Oh, yes. We use plywood in drawer bottoms, and chinabacks, and hutchbacks, and things like that, and some people believe that furniture made of nothing but solid woods is far superior to furniture that is made of plywood, but such is not the case.

Each type of wood has its certain advantages. If you want to make a bowed front and put a highly figured wood on it, it must be plywood. That is because it would be very, very difficult to use figured wood and make it solid. It would be almost out of the question, very expensive, and quite difficult.

Mr. CURTIN. I understand that your furniture is chiefly made of solid woods.

Mr. HENKEL. We use solid wood on all of the exposed surface except where we have a hutchback which is exposed. We will make that out of plywood. If we made it out of solid wood the solid wood would have so much expansion and contraction that it would give our customers trouble, so we don't use solid there.

Another place that we use a piece of built-up wood is on the legs of our cases where there is a bracket-type of foot. We use plywood there because in the crossbanding we get a lot more strength and we don't get legs broken off in transit, and where furniture sits over a hot air duct in a home it doesn't shrink in the winter months and crack, so that there are times when you want to use plywood and times when you want to use solid wood.

If we are making a turned leg on a table or a tapered leg on a table, there it would be very difficult to use plywood because you would expose all those surfaces, so there you want to use a solid wood.

Mr. CURTIN. To what extent do you think that labeling should apply? Do you think it should say solid walnut, for example, on exposed surfaces, plywood in the back, and plywood on the legs? How far do you think we should go with this labeling?

Mr. HENKEL. I don't think it would be too difficult to just tell the people the truth, tell them exactly what it is. I don't think that would be too difficult. There are some cases where manufacturers are using a variety of woods in a lower quality product.

I think in a case like that it might be wise to indicate that certain parts might be made out of so-and-so, so-and-so, or so-and-so, where they do buy a mixture of woods, and in their quality any of the three or four woods would be satisfactory.

Mr. CURTIN. I presume that even the choice woods like walnut and mahogany come in different grades, that is, when you buy your logs you can get cheap walnut logs or very expensive walnut logs. Is that true?

Is there a different quality among the expensive woods?

Mr. HENKEL. I don't buy walnut logs so I couldn't tell you about that but I do buy a lot of walnut lumber and I can buy a board a foot wide and 12 feet long and pay one price for it or another board exactly the same size at a much higher price, but the reason why I pay a higher price for the one board is because it will be a perfectly clear board in which there are no knots and defects that I have to rip out, so that if I want long cuttings, say 6 or 8 feet long, I must buy a high-quality board, and if I want short cuts, I could use a lower quality board, but it ends up that you pay just approximately the same price per square foot whether you are buying a low grade or a high grade. It is based on what you can get out of it.

Mr. CURTIN. What I am trying to ascertain is whether or not there is high-grade walnut and low-grade walnut in the solid furniture, and if so, should that be so marked on a label?

Mr. HENKEL. No, I don't think you find that, no. If you have a lower grade walnut in this tabletop here you can easily see that it is a lower grade walnut because it will have knots and defects in it that just naturally occur in the walnut.

Mr. CURTIN. In your opinion, to what extent should this labeling go? Just how specific should it be?

Mr. HENKEL. I don't see anything wrong with the proposed bill.

Mr. CURTIN. Do you trade name your wood? For example, walnut is in different colors, as you say, from dark to very light. Do you have different trade names for the different shades of walnut?

Mr. HENKEL. It is just like women's clothes. You might have a suntan orange or an aqua blue, and things of that sort, and you run into various names of walnut finishes, but I don't think that is important.

Those are just styles. I think it is whether it is walnut or whether it is something that looks like walnut, and what I have been trying to point out here is that you can't tell by looking at these things as to the color of it or what the grain looks like because recent technological advances will fool your eyes.

My competitors can make a piece of furniture that will look exactly like mine, but when you go to use it, that is when you find out the difference, and it may be in a week and it may be in 6 years.

Mr. CURTIN. That is all. Thank you, Mr. Chairman.

Mr. LONG. Thank you kindly, Mr. Henkel. We appreciate your attendance.

Mr. HENKEL. Thank you.

Mr. LONG. Is Mr. R. A. Spelman in the committee room? Mr. Angus McDonald? Mr. Dwight Townsend? Mr. W. R. Davis?

STATEMENT OF W. R. DAVIS, DIRECTOR, MARKETING DIVISION OF PLYWALL PRODUCTS CO., INC.

Mr. DAVIS. Yes, sir.

Mr. LONG. Mr. Davis, would you come forward please? Will you identify yourself for the record and proceed in your own style please?

Mr. DAVIS. Certainly. My name is W. R. Davis. I am marketing manager of Plywall Products Co., a subsidiary of Evans Products Co. It is a great pleasure to appear before this committee to express my company's viewpoints relative to this proposed legislation. I reside in California and have made a special trip to express our views on this bill, H.R. 1998.

Before proceeding to give you my specific views on this legislation, I would like to give you some background information on my company, Plywall Products, and our product, Poly-Clad Plywall. Plywall is the original printed processed plywood wall panel.

The product has been marketed throughout the United States and Canada since 1955. We have two manufacturing plants; one at Fort Wayne, Ind., and the other at Corona, Calif. Between the two plants, we employ over 350 people. Poly-Clad Plywall is distributed through some 225 wholesale building materials distributors.

I think it would be useful to briefly explain the manufacturing process to the committee, since the plywall process is more-or-less illustrative of the methods used by the entire plywood paneling printing industry.

I know there have been several questions yesterday and today relative to just what the process is and I think it warrants time to give a little attention to this.

Very briefly, the process begins with an unfinished Philippine mahogany panel. We put a protective coating onto this panel to prevent checking of the face veneer. We are now building a surface of this particular panel, this being a sample of plywall.

Checking is the term used to describe the opening up of the grain structure of the surface ply. In other words, a more or less splintering effect can come about with time and exposure to light and just to the atmosphere.

Next we put a filler coat onto the panel which fills in the grain structure of the top ply. We apply a second filler coat and then sand the panel smooth.

Two applications of ground coat paint are applied to the smooth panel to put on the basic undercoat. The panel is then run through a printing process which actually prints a wood grain onto the panel.

A wide variety of different grains and colors are utilized, resulting in all cases in a unique decorative effect. After printing, the panel receives, what we call, the Poly-Clad protective finish which makes the panel stain resistant and mar and scuff resistant.

For example, we often demonstrate the quality of our product by applying a coat of black lacquer to the surface and then removing it with the universal solvent-lacquer thinner, and I think most of you are familiar with lacquer thinner.

Being a universal solvent it will, to use paint terminology, practically cut any surface. After removal of the black lacquer the panel is unaffected. I have applied a black lacquer to a light surface. This is a plywall surfacing on a different type panel which I will explain in a minute, since my main sample has been passed to the committee.

I now have lacquer thinner which I will put onto a rag, and once again there is your wet black lacquer, and I will apply this lacquer thinner once again, the universal solvent, and I have removed from the surface all of the black lacquer and this panel is unaffected, and I would like to pass this, if I may, to the committee for their inspection.

Proceeding, plywall has other advantages over natural wood. It will not check. The printed grain is uniform in color and design and surface quality. In addition, the panel will not fade as will natural wood when exposed to direct or indirect light.

Just as an aside here, I see many technical difficulties to labeling and one of them is not a problem that we as the so-called printed industry would have, but natural wood or plywood, if it is to be labeled and the label is to be affixed to the surface, as we have just had testimony from the previous witness, will fade and they will have a definite problem nationwide with fading all around the label.

I am not speaking detrimentally. I am speaking of a problem that is an actual problem and one that would be confronted with the mechanics of such an act.

We manufacture a similar product on a hardboard base rather than a Philippine mahogany base which is called Duro-Grain. This is the sample that I have just passed to the committee. This product has many of the same qualities and characteristics of Plywall.

I have gone into this detail to fully explain to the committee the product with which we are concerned. The important point I want to

make in regard to this product, is that in the 6 years I have been associated with Plywall Products Co., including the position of sales manager, we have never received a single complaint from one of our distributors or from any customer or ultimate end user that our product was misbranded, falsely or deceptively advertised, or falsely or deceptively invoiced.

In accordance with Federal Trade Commission practice, we use the term "finish" and you have the two samples up there, as you can see, on the labeling of our product, such as Adirondack birch finish and Nordic walnut finish. This has proved to be an adequate safeguard against any misunderstanding.

Based on my experience in the paneling industry, there is no need nor popular demand for legislation such as H.R. 1998. If this legislation is enacted, it would impose many burdensome and unfair requirements on my company.

As a prime example, I would like to submit some Plywall advertising brochures to the committee which I have here and I have underscored with a pen where we use the words "Wood Grain Finishes." The green one is for Plywall and the one with the red coloring is for Duro-Grain.

In my opinion, there is nothing misleading in this advertising. But if H.R. 1998 were enacted, our advertising would have to be completely reoriented and redone. If we are forced to inject the word "simulated" in our advertising of this quality product, we are of the opinion that it will be a definite deterrent to sales.

If this bill is enacted, I can foresee many practical difficulties in regard to labeling, nomenclature, invoicing, sampling, and recordkeeping.

In other words, we have been in this business since 1955 and we have samples and sets of samples out to some 10,000 lumber dealers and other customers. It would be a physical impossibility to offer our consumer samples and relabel them regardless of the 1-year grace period.

I recognize the committee's interest is much broader than the wall paneling field. I am not qualified to comment on the situation in other areas, such as the furniture industry. Should the committee decide that legislation, such as H.R. 1998, is necessary to protect consumers and others against misbranding in these fields and industries, then I strongly recommend that the committee exclude wall paneling from the requirements of the act.

I say this because any consumer going to the lumberyard can actually see the panel or the product that he or she is going to buy and knows if it is on plywood and will know because of the labeling and also being able to visually see it if it is on hardboard.

I would like to thank the committee very much for the opportunity to appear and present the views of my company, and I would be very happy to answer any questions that may come from you. Thank you.

Mr. VAN DEERLIN (presiding). Thank you, Mr. Davis. Your testimony had all the earmarks of a well-produced TV commercial, complete with the visual demonstration.

Mr. DAVIS. This is a graphic aid, but there is nothing more effective than to show what we have done to the panel.

Mr. VAN DEERLIN. Mr. Glenn?

Mr. GLENN. Yes. I notice in this one advertisement on the first page you say, "New wonders in wood."

Mr. DAVIS. Yes.

Mr. GLENN. It isn't wood, or is it?

Mr. DAVIS. Yes. On that particular item, that is your first sample, and that is on plywood. If you will notice, that is on Philippine mahogany.

Mr. GLENN. You said plywood, not wood.

Mr. DAVIS. I think that here we are in a matter of semantics as far as the business is concerned. I think that it generally would be called wood. I could be mistaken on this.

Mr. GLENN. Then I note too on the inside of the brochure where you give pictures of the various panelings with their names, and you have Williamsburg cherry, English walnut, and rock maple, you just indicate that these are woods presumably and not some other material composed of what you call plywood?

Mr. DAVIS. Mr. Glenn, we have already referred to them in the copy as wood grain finishes and on our samples that will also be seen at the lumber dealer or wherever this is purchased the word "finish" appears on the sample in accordance with the Federal Trade Commission.

Mr. GLENN. In your statement on page 3 you say:

> If we are forced to inject the word "simulated" in our advertising of this quality product, we are of the opinion that it will be a definite deterrent to sales.

Do you think it will be a deterrent to sales if you say what the product really is?

Mr. DAVIS. First, the word I think that the proponents of this bill attempted to put in a couple of years ago was the word "imitation" and they watered that down, and that is what we consider it to be, strictly a watered-down version of the word "imitation" by the word "simulated" and the point I am trying to make in this statement is that we have gone to great length in manufacturing a quality product.

It is paradoxical to put the word "simulated" in our advertising after we have gone to the expense of producing this product. I would also like to point out that there are many natural woods such as in birch that cost considerably less prefinished than does the product plywall in its present state.

Mr. GLENN. In other words, if you had in this stamp on this sample here "Nordic Simulated Walnut Finish," you feel that woud hurt your sales?

Mr. DAVIS. Definitely. I see no need for it. The finish that we put on this panel is in most cases three times the buildup and in mill thickness that is on natural wood finishes, and this is where we definitely object. We have been in business since 1955. We were the originator of this.

We are very proud of that product and to have to put the word "simulated" in there, we cannot see it and I have come from California to say that we cannot see it. As to mechanics of this, once the FTC gets in this I think it will open a Pandora's box as far as trying to enforce this.

Your main problem is the furniture industry. It is not the paneling industry, but if this is put through, the paneling industry is going to suffer.

Mr. GLENN. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman. Somewhere in this advertising material you indicated, and here it is, "Wear-free" and "Care-free."

Is this characteristic the same for outside paneling as well as inside?

Mr. DAVIS. No. We do not recommend this for outside paneling. That finish is good enough. It will take it. I come from California. It would take it there, but we do not recommend it.

We get into technical ties. It is a type 2 glue. It is an interior glue that the panel is made of, too.

Mr. KEITH. Thank you.

Mr. VAN DEERLIN. Thank you.

Mr. DAVIS. Thank you. Once again, I appreciate being able to testify.

Mr. VAN DEERLIN. Mr. Myron Solter. Will you identify yourself and present your testimony, Mr. Solter?

STATEMENT OF MYRON SOLTER, IMPORTED HARDWOOD PLYWOOD ASSOCIATION, INC.

Mr. SOLTER. Thank you, Mr. Chairman.

Mr. Chairman, gentlemen of the committee, by name is Myron Solter. I am a member of the law firm of Sharp & Bogan, and I appear today on behalf of the Imported Hardwood Plywood Association, Inc., for whom Sharp & Bogan is Washington legal counsel.

The Imported Hardwood Plywood Association, which I will refer to as IHPA, is a trade association whose membership embraces as regular members 28 American firms engaged in the importation of hardwood plywood and 42 associate members which are chiefly industrial firms engaged in processing or utilizing hardwood plywood as a primary material.

The regular membership collectively account for approximately 75 percent of the hardwood plywood imported into the United States, which is supplied principally by Japan, Taiwan, and the Philippines, with smaller quantities coming from Korea, Okinawa, Canada, Scandinavia, Europe, Africa, and South America. According to the Department of Commerce, hardwood plywood imports in 1962 were valued at some $100 million ($99,532,571).

The IHPA wishes to make known to the committee its opposition to H.R. 1998. It opposes the bill generally, and specifically it opposes the provisions of section 6, which place additional burdens on importers of wood and simulated wood products over and above the requirements applying to others engaged in this line of commerce.

The committee has heard numerous representative witnesses in opposition to this and similar proposed legislation in the present and past Congresses, and the principal objections have been stated a number of times.

I will not take the committee's valuable time to restate these points in detail here. Rather I wish to concentrate on the application of the proposed act to those engaged in the hardwood plywood import trade, particularly the effect of section 6, and in so doing I hope that I can present some considerations which have not before been called to the committee's attention.

First, however, I do want to indicate the IHPA's support of the two most important general objections which are raised against this legislation.

First, H.R. 1998 is special interest legislation which appears to be motivated more than anything else by the desire of some of the hardwood veneer manufacturers to interpose the Federal Government into the changing competitive balance between hardwood products and plastic and other nonwood products which employ decorative woodgrain effects.

Second, H.R. 1998 would represent a direct projection of the Federal authority, in the embodiment of the Federal Trade Commission, into the minutae of the wood and simulated wood products industries.

We suggest that such an extraordinary amplification of the concept of section 5 of the Federal Trade Commission Act, which grants a general authority to protect consumers from false and deceptive practices, should not be made in the absence of overwhelming public necessity.

Until it should clearly appear that a significant part of the consuming public demands to be so protected in its choice of wood and simulated wood products, or that specific and detailed identification of such products is imperative to the public health and physical welfare, there is not in our opinion sufficient justification for imposing on industry such a burden as H.R. 1998.

This is particularly so since the Federal Trade Commission has the authority under existing legislation to control whatever misleading and deceptive practices may exist in this area of commerce.

We commend these general objections to the committee's judgment.

Most particularly, we ask the committee to consider the specific impact which this proposed legislation would have on the importer of hardwood plywood and on the trade itself. First, however, I should like to describe briefly the nature of this line of commerce in order to clarify that impact.

The bulk of imported hardwood plywood enters the United States as either doorskins or stock panels. Doorskins, as the name implies, are used as the covering surfaces in the manufacture of flush doors, which in recent years have been the type of door most commonly used in residential and commercial construction.

The doorskin panel is imported cut to size and is usually one-eighth inch in thickness. Stock panels are manufactured in varying thicknesses and dimensions and are used as decorative wall coverings in residential and commercial structures. A small amount of imported hardwood plywood is used in furniture manufacture, usually as drawer bottoms and in other concealed functions.

Presently, most imported hardwood plywood enters the country "in the white", that is with the surface veneers in the natural wood state, sanded smooth, of course, but without any finishes or treatment. Virtually all of this plywood is further processed in the United States, some by clear finishing, that is by coating the surface with filters, stains, and varnish or lacquer, which allows the natural grain of the wood to show through.

Other plywood imported in the white is given a surface finish by printing, that is by covering the surface with a neutral prime coat on which is then printed or embossed a wood grain pattern which may or may not represent the same species as the underlying veneer.

The witness who preceded me demonstrated most dramatically what printing consists of in printed plywood.

Still other imported hardwood plywood is processed with surface overlays of paper, plastic, or metal, which may display a woodlike or indeed any other desired pattern.

Although most imported hardwood plywood thus enters in unfinished form, it should be noted that there is a growing tendency in the industry to import prefinished, printed, and laminated panels, which tendency is being accelerated by the growing scarcity of good quality Philippine mahogany logs.

I might add here that approximately 80 percent of the imported hardwood plywood is of the Philippine mahogany wood.

Now, against this background I would like to give an appreciation of the magnitude of the burden which the Congress is being asked to impose on those who import, process, remanufacture, distribute, and commercially utilize hardwood plywood.

By the terms of the act, all its requirements would apply to prefinished, printed, or laminated plywood at the moment it enters the country. As regards plywood imported in the white, while it is technically not within the act's coverage at the time of its importation, it should nevertheless be understood that by the usual operation of the guarantee provision of the act, the importer's civil liability would be equally as great, and in practical effect plywood imported in the white must be regarded as covered at the time of its entry even though technically it becomes covered only when it is processed into some final surface finish.

However, under the application of the guarantee provisions, section 10 of the bill, in effect the buyers from the importers would attempt and would succeed, of course, by contractually passing back the greater part of their liability for any violations or misrepresentations, inadvertent or intentional, which could be charged to them under the act.

So I think generally speaking we may consider that imported hardwood plywood is covered by the act either specifically or by indirect operation of the act at the time it enters the country.

Now, the imported hardwood plywood would violate the act and create liabilities in the persons involved if it were misbranded, that is, if each panel did not display a label containing the complex information required by the act and the regulations which would be issued under it, or if the label should use the name of a wood or purported wood product not contained in the product, as defined by the Federal Trade Commission, or if the label should not state the name or registered number of the manufacturer, or if the label were false or deceptive or misleading in any way.

Violations and liabilities would also be created if the imported hardwood plywood were falsely advertised, that is, if any writing intended to aid its sale or marketing at any level of distribution should state a wood species name not actually present on the exposed surface, unless the word "simulated" is used, or should indicate either solid or veneer construction when such is not the case, or state other than the true name of the exposed part, again under regulations to be promulgated, or were false, deceptive, or misleading in any respect.

Violations and liabilities would also occur when any shipment of imported hardwood plywood should be falsely invoiced, that is, when any invoice, which by definition would embrace a great many documents, including catalogs, should fail to indicate the true name of the exposed surface of a wood product, or fail to reveal the true name of a simulated wood product forming the exposed surface, or fail to reveal that the exposed surface is of veneer, laminated, or plywood construction, or fail to reveal the presence of any printed or otherwise processed artificial wood grain or figure pattern, or were false, deceptive, or misleading in any respect.

Beyond the general false invoicing provisions, section 6 of the bill would impose an additional liability specifically on importers for failing to set forth the required information on all invoices, which by definition means all documents required by the Tariff Act of 1930 to be filed with the Bureau of Customs upon entering merchandise into the country.

In the instance of hardwood plywood, the enforcement of these many requirements, most of which impose liability without fault, would weigh onerously on this segment of the industry, even on the importer who makes his very best effort to comply with the act.

I will attempt to clarify how that operates. For example, most imported hardwood plywood is processed or remanufactured two, three, or more times before it reaches the ultimate purchasing consumer.

The prefinisher prefinishes, or the printer prints, the door manufacturer fabricates it into doors, the constructor builds it into houses, buildings, mobile homes, and so on.

Virtually every one of these processes would remove or mutilate face labels, and the relabeling and recordkeeping burden would thus cumulate at every stage.

Plywood is advertised within the meaning of the act at every stage, thus multiplying the hazard of mistakes and inadvertence which could be violations. Similarly, plywood is invoiced at every stage to the same burdensome effect.

These are some of the encumbrances upon the hardwood plywood segment of the industry which may be fairly foreseen to flow from the proposed legislation. Referring now specially to the importer of hardwood plywood, I should like to direct the committee's attention to the fact that the operation of the guarantee provision would cumulate most of these liabilities on the importer, who in a great many cases would have little or no control over the events generating violations.

The provisions of section 10 of the bill mean that the ultimate guarantors of compliance with the act's requirements would be either the manufacturer if the product is produced in the United States, or the importer if it is manufactured by a foreign producer.

In that respect, however, the importer's position is rather more difficult than that of the domestic manufacturer. The manufacturer is obviously the person best qualified to know precisely what woods or simulated woods make up his product and is thus in the best position to guarantee compliance.

The importer, however, is not in the ordinary course of trade in a position to control the components of the product he buys, nor even to know if such imported products are in fact misbranded, falsely

advertised, or falsely invoiced, since the given shipment usually has already entered the country before he has an opportunity to inspect it.

In the case, too, it is only the manufacturer who has that control necessary fairly to support the enormous potential liabilities of the guarantee, with the difference that a foreign manufacturer would not be an acceptable guarantor within the terms of the act.

I do not want to imply that any oversea manufacturer or exporter of hardwood plywood is likely to indulge in deceptive or misleading practices. The committee knows from past testimony on this and similar bills, that whatever deception exists in this industry occurs principally at the retail level, and, if one does not wish to ascribe integrity to those persons engaged in manufacturing, processing, and distributing these products, then for no other reason than the fact that such people are well educated to the nature and properties of these products and would not be deceived.

I am sure the committee would not find any calculated deception at the importer or foreign manufacturer or exporter levels. In fact, speaking of the many manufacturers and exporters of hardwood plywood in Japan and several in Taiwan with whom I am personally acquainted, I can assure that these gentlemen are men of integrity who are proud of the good quality of their products and of their earned reputations, men who would not knowingly practice deception.

What constitutes the extraordinary hazard to the importer is the fact that to mitigate his exposure the importer must rely on the foreign manufacturer to comply with the complex labeling, advertising, and invoicing requirements of the act.

Unless one is experienced in foreign trade it is difficult to believe the extent to which mistakes, inadvertent omissions, confusion, and misunderstandings can occur all in good faith as a result of distance, language barriers, differing attitudes toward the conduct of business, and so on.

As one example of the possibilities for confusion and mistakes inherent in these requirements, I might recall to the committee that it has been advised that the Department of Agriculture lists 695 different species of hardwood.

Precisely how many of these are important to commerce I do not know, but I do know that a very substantial number are traded, and the names which the Federal Trade Commission would ultimately list in its guide I am sure would insist on differences not always acknowledged in commerce, particularly overseas.

Compound the species names with the numerous constructions of plywood and other veneer products, alone and in combination with plastics, metals, and other nonwood materials, and the possible combinations can approach infinity. The industry proponents of H.R. 1998 and predecessor bills analogize to such precedent acts as the Textile Fiber Products Identification Act.

For example, one witness this morning mentioned the desirability when he buys a shirt to look at the label to see whether it is cotton, how much dacron, and so forth. It must be noted, however, that the Textile Fiber Products Identification Act requires only the identification of the type of fiber or fibers in the fabric, of which the Federal Trade Commission identifies only 16 manufactured fibers plus the small number of natural fibers such as cotton and wool, and

does not require specification of such compounding complexities as the construction of the fabric, that is, identifying it as gingham, soft-filled sheeting, and so forth.

This is not a very complex roster of labeling names which have to be applied. However, in the wood products field I think if we think about it a moment we will see that there are infinite possibilities of combinations of labeling names which would have to be used.

The Department of Agriculture has indicated that there are at least 695 different species of hardwoods. Not all of those are traded in commerce. I don't know precisely how many, but the number is substantial.

Add the softwoods, add the different constructions of woods, such as plywood, veneer assembly, solid, and all of the various others, and add to that the nonwood products—I am saying add; really it is multiplying the nonwood products—which would be simulating all these, and I think we might get into the hundreds, if not perhaps into the thousands, in the possible labeling combinations which could be required and generating room for confusion, mistakes, and inadvertence, which would lead to violations.

Moreover, I cannot refrain from nothing that printed plywood, which is composed entirely of wood except for the glue that binds the veneers and a little paint on the surface, would have to be identified as a "simulated wood product." If the objective is to avoid confusion of the consuming public, this is an utter non sequitur.

As to the confusion of foreign manufacturers and exporters, who may not have the facility for following such inverted logic, this is serious, and as regards the importer's exposure to liability without fault, serious indeed.

The complete catalog of hardships which H.R. 1998 would heap upon the importer of hardwood plywood extends considerably beyond the points I have iterated. I will not dwell further on these, except for one of the more objectionable provisions of section 6 of the bill.

This provides that should an importer violate the act, whether intentionally or inadvertently, the Federal Trade Commission may bar him "thenceforth," which I presume means forever, although surely there should be some provision for revoking such an order once entered from participating in the importation of any wood or simulated product from any source, except by posting with the Secretary of the Treasury a compliance bond for double the value of the merchandise involved plus duty.

Given the multitudinous violations which inhere in the act, I expect that the cost of such bonds would be rather high, and knowing personally the relatively small profit margin customary in this industry, the cost of the bonds could eat up most or even all of the profit, and I mean that seriously.

Beyond that, the continuing onus of such an order would tend to imply to buyers, whether rightly or wrongly, that the importer is not to be trusted in matters relating to compliance, with possible resulting liability to the buyer. Thus, section 6 makes it probable that the importer could be effectively put out of business as a result of the acts or omissions of others over whom he has no control.

In fact, the conclusion must be that H.R. 1998 as a whole would subject the importer of hardwood plywood, and indeed of all other wood and simulated wood products, to extraordinary hazards deriving from the inherent probability of unintended violations, over which the importer would have little or no control, but for which he would nevertheless be punishable.

I have spoken at length about the burden which this proposed labeling legislation would place upon a substantial segment of American industry. We are mindful that the real question before the committee is not whether to impose such burdens, but rather to weigh the burden against the public interest which would be served.

The members of the Imported Hardwood Plywood Association are not unconcerned with the public interest. They are interested in rooting out any calculated deception in the industry and will give their active support to the Federal Trade Commission through trade practice rules or otherwise to that end.

We do not believe, however, that the public interest is so seriously threatened, or the public welfare so clearly endangered, or deception so widely practiced, as to call for saddling the industry with the rigors of H.R. 1998. To do so would be much the case of using an elephant gun to dispose of a gnat.

Accordingly, we ask the committee to weigh carefully the burden as against the public need for this extraordinary regulatory legislation, and if you should conclude that there is some need to protect the consuming public in wood and simulated wood products, to recommend its accomplishment within the framework of existing laws and Federal Trade Commission procedures, rather than to clamp on to the industry legal restraints so grossly out of proportion to the importance of the practices sought to be corrected or if the committee should conclude that there is a necessity in some branches of the wood and simulated wood product industry such as furniture for such legislation, then to consider most carefully excluding the plywood wall paneling and door industry from the scope of that legislation because I think investigation would thoroughly bear out that there is little or no calculated deception practiced in this segment of the industry of which I am speaking.

Just before concluding, Mr. Chairman, I want to say just a word about H.R. 5669, the Philippine mahogany bill. IHPA desires to go on record as being opposed, in addition, to that bill, the Philippine mahogany bill, and I will not go into the various aspects of that other than to say the IHPA considers it to be again special interest legislation.

The manufacturers and dealers in the South American and African mahoganies have admittedly a competitive situation vis-a-vis the Philippine hardwoods which are commonly known in the trade as Philippine mahogany and in effect are requesting the Federal Government to step into the ring on their side and punch the competition in the nose.

That essentially is the IHPA position on that question.

I want to thank the committee on behalf of the IHPA for the opportunity to appear before you and to give this testimony.

Mr. VAN DEERLIN. Thank you, Mr. Solter. Mr. Glenn?

Mr. GLENN. No questions.

Mr. VAN DEERLIN. Mr. Keith?

Mr. KEITH. With reference to the special interests that you referred to, could it not be said that there is some special interest on the part of the importers of Philippine woods, mahogany in particular?

Mr. SOLTER. Yes, sir. There is a special interest, which prompts, of course, my appearance today, which would be vitally affected by this legislation. However, the position is reversed, I rather think, because the IHPA members are not in the position of asking for or advocating restrictive legislation, but rather of opposing it in their self interest, and, as I stated, they are not unmindful of the public interest, but do inform the committee that there is little or no deception in the plywood wall paneling and flush door industry and for that reason they do not believe that the burden which would be imposed by this legislation on their industry is in the public interest.

Mr. KEITH. Once again on the mahogany question, this Philippine mahogany is grown in other parts of the world; is it not?

Mr. SOLTER. I am trying to recall the botanical names for the six or seven Philippine hardwoods which collectively are known commercially, and have been for many years, as Philippine mahogany.

Commercially they come mostly from the Philippines. Similar species or identical species also grow in certain other parts of tropical Asia, such as Borneo, the Malay Archipelago, and those areas.

They are not presently utilized commercially to any extent.

Mr. KEITH. Perhaps one of the reasons that they are not commercially used is that they couldn't be imported into this country under the name of "Philippine mahogany?"

Mr. SOLTER. Presently?

Mr. KEITH. Yes.

Mr. SOLTER. It is my understanding that they can, that there is a Federal Trade Commission ruling which says the word "mahogany" may be used in connection with these hardwods if the descriptive adjective "Philippine" precedes it.

Mr. KEITH. Even though it comes from Borneo?

Mr. SOLTER. I am not familiar with Borneo as a place of origin.

Mr. KEITH. Or these other countries where it is raised?

Mr. SOLTER. I am sorry, I do not know the answer to that, Mr. Keith. I would find out if you should wish.

Mr. KEITH. I would like to have the answer to that.

Do you happen to know whether or not this wood that is imported as Philippine mahogany pays an import duty?

Mr. SOLTER. If it is imported as plywood it pays an import duty of 20 percent, Mr. Keith. If it is imported as lumber I believe it pays an import duty of 1½ cents per board foot.

Mr. KEITH. Isn't that the same that the true mahogany pays?

Mr. SOLTER. I don't know of any true mahogany which is imported in the form of plywood.

Mr. KEITH. No. I don't mean in the form of plywood. If you imported Philippine mahogany would there be an import duty levied on it or an import tariff?

Mr. SOLTER. There is a specific duty on Philippine mahogany lumber.

Mr. KEITH. Is it levied as though it were mahogany?

Mr. SOLTER. That I do not know, Mr. Keith. I will find that out for you if you wish.

Mr. KEITH. I would like to know whether or not it is treated for import tariff purposes as mahogany.

Mr. SOLTER. All right.

(The material to be furnished follows:)

SHARP & BOGAN,
Washington, D.C., June 24, 1963.

Hon. HASTINGS KEITH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KEITH: I have the pleasure to supply herewith the additional information which you requested of me during my testimony on June 18, 1963, before the subcommittee of the Committee on Interstate and Foreign Commerce on H.R. 1998 and H.R. 5668 and related bills.

The two questions raised were: (1) Whether hardwood lumber of species similar or identical to those grown in the Philippines and known commercially as Philippine mahogany could be imported into the United States under the name of Philippine mahogany, even though originating in such geographic areas as Borneo and Malay; (2) whether Philippine mahogany is treated as mahogany for import tariff purposes.

With regard to question No. 1, a Federal Trade Commission ruling presently in effect permits the use of the term "Philippine mahogany" to describe seven species of Philippine hardwoods, viz. Tanguile, Red Lauan, White Lauan, Tiaong, Almon, Mayapis, and Bagtikan. I am informed by the staff of the Federal Trade Commission that the Commission has never treated the specific question of whether the term "Philippine mahogany" can be used to describe identical or similar hardwoods produced in geographic areas other than the Philippine Islands, but that the staff members charged with the administration of the ruling would probably take the position that the term could not be so used.

The proposed trade practice rules for the household furniture industry, now being considered by the Federal Trade Commission and the members of that industry, would, in effect, limit the use of Philippine mahogany to the seven above-named woods only if grown in the Philippine Islands.

Accordingly, at this time it is not altogether clear whether related species of non-Philippine origin may or may not be lawfully described as Philippine mahogany.

It is clear that so to describe such woods would not contravene any customs or tariff classification. The tariff treatment of Philippine mahogany is covered below.

Regarding question No. 2, the Tariff Act of 1930, as amended, does not expressly distinguish Philippine mahogany from mahogany, although the Customs Bureau and the Bureau of the Census have distinguished "Philippine-type hardwoods" for statistical reporting purposes.

"Mahogany" lumber, that is, originating from South and Central America and Africa, is assessed customs duty under two paragraphs of the Tariff Act of 1930; the first is paragraph 404:

"Wood in the form of sawed boards, deals, planks, and all other forms not further manufactured than sawed, and flooring:

"Mahogany: 4 percent (plus 64 cents million board foot IRC)."

Relatively little mahogany is entered under this paragraph. Department of Commerce data (FT-110) show 58,000 board feet valued at $13,942 during 1962. Most mahogany lumber enters in a semidressed state under paragraph 1803(1), which provides:

"Lumber and timber, sawed, not further manufactured than planed and tongued and grooved; * * *

"Mahogany (except Philippine type): Free (plus $1.50 million board foot IRC)."

The classification "Mahogany (except Philippine type)" is not contained in the Tariff Act, but has been added by the Bureau of the Census as a statistical classification. The quantity of mahogany lumber entered under this dutiable provision during 1962 was 27,288,000 board feet valued at $5,392,856.

The woods described as Philippine mahogany are dutiable under the same provision of paragraph 1803(1), above, under the statistical classification:

"Philippine type hardwoods (include Philippine mahogany, Lauan, Meranti, Tanguile (Bataan), and Almon) except of Philippine origin: Free (plus $1.50 million board foot IRC)."

"If product of Cuba, or if of Philippine origin: Free (plus $1.20 million board foot IRC)."

The specific import tax results from Internal Revenue Code section 4551(1) of the Tariff Act of 1930. The lower import tax rate for Philippine-type hardwoods of Philippine origin results from the operation of the Philippine Trade Act of 1946, as revised.

Total imports of "Philippine-type hardwood" lumber into the United States during 1962 were 98,072,000 board feet valued at $13,393,340. The country-of-origin breakdown indicates 1,709,000 board feet from the Malay Federation, 1,289,000 board feet from Singapore, and 20,000 board feet from Indonesia (Borneo). It is not possible to determine whether these were shipments of Philippine-type lumber grown in those countries or transshipped Philippine growth.

I trust that the above adequately answers the questions posed. Should you require any further information I will be happy to comply.

Yours faithfully,

MYRON SOLTER.

Mr. KEITH. That is all, Mr. Chairman. Those are all the questions that I have.

Mr. VAN DEERLIN. Thank you, Mr. Solter.

I think that winds it up for today.

We will convene again at 10 a.m. tomorrow.

(Whereupon, at 12:10 p.m., the subcommittee recessed, to reconvene at 10 a.m., Thursday, June 20, 1963.)

DECORATIVE WOOD LABELING AND USE OF TERM "MAHOGANY"

THURSDAY, JUNE 20, 1963

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE AND FINANCE
OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 1333, Longworth Building, Hon. Lionel Van Deerlin presiding.

Mr. VAN DEERLIN. The subcommittee will come to order for continued hearings on wood labeling and the use of the term "mahogany."

Our first witness this morning I am especially glad to greet because he comes from a district adjoining my own, the Honorable James B. Utt, of California.

Mr. Utt, we are, of course, pleased to have you with us and I believe that your interest this morning is in H.R. 1998 and H.R. 6226. Isn't that correct?

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

Mr. UTT. Right.

Mr. VAN DEERLIN. Will you please proceed then? Consider yourself already identified.

Mr. UTT. Thank you, Mr. Chairman.

I filed a statement and I will not digress from it, and it is a very short statement.

I am James B. Utt, Member of Congress, 35th District of California. I appreciate this opportunity of making known my views in opposition to H.R. 1998 and H.R. 6226 that would propose a so-called Decorative Wood and Simulated Wood Products Labeling Act.

These bills would create a vast new scheme of Federal Government regulation covering millions of sales transactions annually of furniture, wall and ceiling paneling, floor covering, and other products with decorative wood pattern and color finishes. My concern is not only over the cost of such a scheme, but also at the principles underlying the legislation.

This legislation 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 bills in requiring labeling of underlying materials other than the fine veneers and virtually exempting it and in appropriating to the latter

all decorative wood names even when used to describe "finish" and "color."

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 such legislation that is carefully tailored to fit the supposed competitive needs of one segment of a broad industry is profitable, so would be the numerous other bills and prospective bills influencing 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. Certainly local laws and courts have not been shown to be inadequate to cope with the problem here any more than in connection with any other products.

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 uniformily the composition of all.

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

Although I have followed this legislation now through five sessions of Congress, I have had no requests from any district from the manufacturers that this legislation be enacted. I have had no request from dealers in any district that this law be passed. I have had no request from consumers in any district that such a law be enacted nor have I had any requests from Governor Brown's consumer council who he appointed a couple of year ago to protect the consumer.

That, Mr. Chairman, concludes my statement, with the exception that the important thing to me is that we have had, as you know, in California a consumer's council appointed by Governor Brown and if there is a consumer problem in the labeling or misleading of wood finishes such as outlined in this bill, certainly I would have heard from them because I made practically this same statement a year ago and invited comment from the California Consumer's Council and none has been forthcoming.

Mr. VAN DEERLIN. Very significant. Mr. Curtin, do you have any questions?

Mr. CURTIN. No questions, except I am glad to have our colleague here with us this morning.

Mr. UTT. Thank you.

Mr. VAN DEERLIN. Congressman Long?

Mr. LONG. No, thank you, Mr. Chairman. Thank you, Mr. Utt.

Mr. UTT. Thank you.

Mr. VAN DEERLIN. I guess you are a free agent. Thanks for coming.

We are going to hear next from Alan D. Hutchison of Sharp & Bogan law firm. Do I identify you correctly, Mr. Huchison?

STATEMENT OF ALAN D. HUTCHISON, ESQ., SHARP & BOGAN, WASHINGTON, D.C.

Mr. HUTCHISON. Yes.

Mr. Chairman and members of the committee, my name is Alan D. Hutchison. I am a member of the law firm of Sharp & Bogan of Washington, D.C. I appear today on behalf of Elof Hansson, Inc., of New York; Pagel, Horton & Co., Inc., of New York; and Robinson Export-Import Corp., of Alexandria, Va., in opposition to H.R. 1998. The firms mentioned and others we represent are all substantial importers of hardboard, primarily from Sweden, and in some cases also from Finland, Norway, South Africa, and France, which countries are all substantial exporters of hardboard.

Having followed these hearings for the past 2 days, I believe there is a certain amount of misunderstanding concerning what are classified as "simulated wood products" under H.R. 1998.

Hardboard would be one of the products which would be classified as a simulated wood product. I would like to submit a sample of standard hardboard to the members of the committee to examine.

Hardboard is a wood product manufactured from wood fibers. The wood fibers are bound together by the natural adhesive found in all wood, lignum. There are no synthetic adhesives used in the manufacture of hardboard.

It is a manufactured wood product having many of the characteristics of wood and a number of advantages over natural wood. For example, it generally will not split, splinter, or crack.

You notice on that sample I had cut off the corners. I had used this as an exhibit previously to show the composition of the board, but ordinarily it is a very workable material used in a wide variety of uses—in home construction, cabinets, furniture, and wall paneling.

Hardboard is often face-finished. This is a term used in the trade to designate hardboard which has been surface treated with paint, lacquer, varnish, overlaid with plastic or paper, printed, or laminated.

H.R. 1998 would classify hardboard, which is an all wood product, as a "simulated wood product." From my reading of the definition in section 2(c), it appears that only hardboard which "has the appearance or is in imitation of, or purports to be wood" would be covered by H.R. 1998, although I might add that I am not completely sure of this interpretation because if you examine the standard hardboard you will notice some of the fibers of the wood are still on the surface.

Whether some inspector from the Federal Trade Commission would consider this to be an imitation or purport to be wood when it, in fact, is a wood product, I don't know and we do have some concern that standard hardboard might be included in this act.

However, I think it is a very reasonable interpretation considering the intention of the legislation and the normal language that only the finished hardboard which gives the appearance of a wood grain would be covered by the provisions of the act.

This involves primarily "printed wood grained hardboard" since many of the other face-finish hardboards do not have the appearance of wood grain, but are finished in a variety of decorative effects. Some are just painted. Some have the appearance of wall paper. Some have little stars, clouds, anything that would be decorative.

Printed wood grained hardboard is used for wall paneling.

I have two samples of a Swedish printed hardboard and I would like to submit one of them at this time to the committee, if I may.

From my knowledge of the industry and based on my conferences with the firms I represent, I know of no case where any customer or ultimate end user of printed wood grained hardboard complained that the product was misbranded, falsely or deceptively advertised, or falsely or deceptively invoiced. This product is commonly sold through retail lumberyards, and it is quite apparent to the purchaser, by a mere examination of the product, that he is buying a finished hardboard panel.

If you turn the panel over you will see that the Swedish manufacturer has labeled it hardboard. The hardboard generally has a screen finish on the back.

When the various fibers are processed, a great deal of heat is applied in a press. Generally there is a screen back in the press, so anyone familiar with the product, who sees the screen back and also the composition of the board, knows without any question or doubt that he is purchasing hardboard and not wood, because you normally don't have a natural wood product with a screen back, and just about all of the printed hardboard is on a screen back panel.

I will submit this sample to the committee.

The enactment of H.R. 1998, as you heard from the Chairman of the Federal Trade Commission, would require an increase in their annual budget of at least a half million dollars.

I do not know if the committee has requested the advice of the Bureau of Customs on this bill. But I am of the opinion that section 6 would impose additional duties and expenses on the customs service to carefully examine all decorative wood and simulated wood products, as well as all the documents that accompany these products to determine if there is compliance with the provisions of this bill if enacted.

The imported merchandise is subject to inspection as soon as it enters the United States, while domestic merchandise is subject only to the general police power of the FTC. Thus, in my opinion, much of the major impact of the bill is on imported merchandise.

Certainly there should be a strong public need before the Congress enacts legislation which will require an increase in the Federal budget, an expansion of the civil service, and the further intrusion of the Federal Government into private business affairs which are adequately protected by present law.

I would like to point out to the members of the committee that section 6 of the bill imposes unusually harsh penalties on a U.S. importer who has been cited with a violation of the act.

Such an importer would be prohibited from importing such products except upon filing a special bond with the Secretary of the Treasury in a sum double the value of the product, including duty. I think this would be a prohibitive expense and would put most people out of the importing business as far as face-finish hardboard is concerned.

Furthermore, in section 6, subsection (c), the Secretary of the Treasury may require certain verified statements from the foreign manufacturers or foreign producers of such wood products.

I feel quite certain that there would be substantial misunderstanding abroad of these regulations, particularly, when you consider some of

the difficulties domestic manufacturers have in making technical compliance with Federal regulations written into the well-known bureaucratic style.

I am sure these requirements would be the subject of discussion at the next GATT conference on nontariff barriers to trade and would make more difficult the job of the President's Special Representative for Trade Negotiations, Gov. Christian A. Herter.

I think the committee should request the advice of Mr. Herter's office on the effect of this legislation on the President's trade expansion program, if you have not already done so.

The bill, in my opinion, is special interest legislation for the benefit of a few hardwood veneer manufacturers, which would permit them to label a walnut or cherry veneer, one-twenty-eighth of an inch thick, as genuine walnut or cherry veneer, without disclosing the composition of the core material.

There is certainly no popular demand nor need for legislation such as H.R. 1998 in the paneling industry. Should the committee decide, however, that this legislation is necessary to protect consumers against misbranding in other fields and industries, then I strongly recommend that the committee exclude wall paneling from the requirements of the act.

The enactment of H.R. 1998 is going to impose burdensome requirements on the U.S. hardboard industry, the U.S. manufacturers of printed plywood, the U.S. furniture manufacturing industry, the U.S. door manufacturing industry, and the importers of wood-grained hardboard and printed plywood, as well, in my opinion, as the President's trade expansion program, and the U.S. taxpayer.

Gentlemen, thank you very much for the opportunity to appear before you and to present the views of the companies I represent. That concludes my prepared statement.

Mr. VAN DEERLIN. Thank you, Mr. Hutchinson. Mr. Glenn?

Mr. GLENN. Thank you, Mr. Chairman. How do you think the President's trade expansion program is working?

Mr. HUTCHISON. We are having considerable difficulties. However, I think they are going to be worked out. I am in fairly close touch with many of Mr. Herter's staff on behalf of a number of my foreign clients who are interested in further reductions. We have several problem items that we are concerned with; such as blue mold cheese which is under quota, and Wilton carpets from Belgium which have an outstanding escape clause decision against them. In my experience in working with the President's staff on this and following the negotiations very closely, while we have had considerable problems from the French, I think we find a great deal of cooperation among the other five members of the EEC and certainly among all of the other nations in the free world toward increasing international trade by lowering tariff and nontariff barriers.

Mr. GLENN. You are in favor of lowering tariffs?

Mr. HUTCHISON. Excuse me.

Mr. GLENN. You are in favor of lowering tariffs?

Mr. HUTCHISON. Yes, I am.

Mr. GLENN. What do you expect the effect is going to be on American labor if we lower the tariffs on a lot of imports coming in which is in competition with them?

Mr. HUTCHISON. When we lower our tariffs we in turn should receive reciprocal agreements from other members of the GATT which would permit the United States to expand its exports and it will be worked out in such a way that this will be truly reciprocal so that in the export industry there will be an expansion of jobs. Under the Trade Expansion Act of 1962 any labor group which is hurt by imports can request assistance from the Federal Government.

Mr. GLENN. Yes, I am very familiar with that. They want to pick them up and move them to other sections of the country and give them unemployment aid while they don't have any work, and this is particularly very harmful to my district where we have glass manufacturing and we are already feeling the effect of it by unemployment in the glass industry.

Mr. HUTCHISON. Is this sheet glass?

Mr. GLENN. No, this is a regular glass manufacturer of the pharmaceutical glasses and the glasses which are also made in Communist countries; Czechoslovakia and some of the other satellites which we are competing with, and can't compete with, with the lower tariffs for them coming into this country.

Mr. HUTCHISON. Of course any glassware coming from Czechoslovakia, which is considered a Communist-dominated country, generally does not receive the most-favored-nation treatment under the reciprocal trade agreements. An agreement made in GATT would not extend to a Communist-dominated country so they would not get the benefit of any lowering of U.S. tariffs.

Mr. KEITH. Mr. Chairman, do you know of any aid that has been given to an industry that has been hurt by imports.

Mr. HUTCHISON. No. So far I believe there have been seven requests by either industry groups, individual firms, or worker groups to the Tariff Commission and they have all been turned down because of the basic criteria written into the Trade Expansion Act by the Congress last year. That is, in order to be eligible for the assistance you have to prove first that the increased imports are caused in major part by trade concessions, and in all seven cases, while there have been increased imports, the Tariff Commission decided this increase was not created by a trade concession, but was created by changes in technology and a number of other reasons.

I think in the next year or so when the last of the Dillon round concessions go into effect, and certainly if concessions are made during the so-called Kennedy round, we will find some increased imports which will be caused by the trade concessions, and in those cases I would expect the Tariff Commission would grant the aid, provided it meets the criteria of the act, which means that first you have to have increased imports, those increased imports have to be caused by trade concessions, there has to be injury in the industry, and the injury has to be caused in major part by the imports, which seems only fair.

Mr. VAN DEERLIN. Any further questions?

Mr. KEITH. I have one further question. Do you happen to know if the Philippine mahogany is taxed or pays a tariff or duty, whatever the proper term is, in the same way as true mahogany?

Mr. HUTCHISON. I am not overly familiar with that. Mr. Solter, who is a member of our firm, appeared yesterday on behalf of the plywood importers. The Philippine mahogany, which is often called the lauan, a great deal of it——

Mr. KEITH. You mean lauan which is often called Philippine mahogany.

Mr. HUTCHISON. Both. Both are used interchangeably in the trade. The lauan or Philippine mahogany pays a rate of duty on plywood of 20 percent. I don't know what the lumber pays, but I know Mr. Solter will have this information for you.

Mr. KEITH. Doesn't it seem fair that if it is going to come in under the name "mahogany" it should pay as though it were mahogany?

Mr. HUTCHISON. No, I don't think so, because there is a long history going back to 1910 on mahogany and a history of litigation and promulgation of rules of the Federal Trade Commission holding that it is a perfectly fair trade practice to use the term "mahogany" so long as it is used in conjunction with the term "Philippine." I know there are very strong feelings in the Philippines about this.

The Filipinos do not want their product called just plain mahogany. They are very proud of the term "Philippine mahogany," and from my experience in the forestry products field and the import field I know of no case where Philippine mahogany is marketed as mahogany. It is always called Philippine mahogany or lauan.

Mr. KEITH. I have just been advised by counsel as to the tariff situation or duty on this and true mahogany has to be planed in order to obtain the same composite tariff rate as lauan. There are some advantages apparently for lauan to be known as lauan, so far as import procedures are concerned, and there are some advantages in it being sold as mahogany after it is over here. The Philippine mahogany importers seem to be having their cake and eating it too.

I recognize the fact that there has been a long history of dealing in this problem and that it might be difficult to undo what has been done, as was said by the Federal Trade Commission in their testimony offered by Mr. Dixon, but at the same time there are some injustices, it seems to me, in the present course of action as well.

Mr. HUTCHISON. Mr. Keith, I am not appearing here today in favor or in opposition to that particular bill, but as a tariff and customs lawyer, I would say to the committee that when you study the entire tariff schedules of the United States, which are considered about the most complicated in the world, you will find throughout the entire schedules certain benefits specifically given to the Philippines and to Cuba because they traditionally have been very, very close to the United States.

Of course since the Castro regime has taken over in Cuba, most of these special benefits for Cuban products have been eliminated, but you will still find certain benefits given to the Philippines because of the close association we have with them.

Mr. KEITH. You say most of the benefits accruing to Cuba have been eliminated. What haven't been eliminated?

Mr. HUTCHISON. I don't know of any. I would have to qualify that. As far as I know all the benefits on sugar have been eliminated, and a number of other Cuban products which had a lower rate of duty.

Mr. KEITH. Do you want to let the record stand that most of them have been eliminated, or to the best of your knowledge all of them have been eliminated.

Mr. HUTCHISON. To the best of my knowledge all of them have been eliminated.

Mr. KEITH. That is all, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Glenn, were you through questioning?

Mr. GLENN. Yes.

Mr. VAN DEERLIN. Mr. Long.

Mr. KEITH. My apologies, Mr. Glenn.

Mr. LONG. Mr. Hutchison, your statement is very interesting. However, I can't see one example where you pointed out the treatment that would be required of the labeling on, for example, this product would impose any additional burden on your clients that what the present law imposes.

Mr. HUTCHISON. Let me add to that. When we have the requirement that the imported hardboard would have to be labeled in the exporting country in order to enter the United States, I foresee difficulties in that it would also impose certain liabilities on the importer. One, if through inadvertence, unintentionally, the exporter violated the act and the material came in mislabeled and not in compliance with the act, under section 6 the importer would be penalized and, it says, would henceforth no longer be permitted to import the product unless he posted bond in double the amount of the value of the items plus the duty.

Mr. LONG. Is this a major departure from usual penalties imposed in such situations?

Mr. HUTCHISON. I know of none others offhand where all of the penalties are on the importer, especially when it is unintentional. There are cases under the Tariff Act of 1930 where if the importer himself makes a fraudulent statement to the customs, his goods are confiscated, which is the normal practice. But in that case the importer has to make the statement and he is liable, and should be liable, if he has falsified intentionally a document to the U.S. customs service. But in this case he can be liable without fault if the foreign manufacturer, through misunderstanding, has not complied with the act. In my experience in dealing with foreign manufacturers there is a great deal of misunderstanding of American regulations and legislation.

Mr. LONG. Just as, conversely, Americans have of the foreign regulations in this regard.

Mr. HUTCHISON. To some extent, although I think we will find U.S. regulations in the international trade field are quite complicated.

Mr. LONG. To the best of your knowledge none of the people you represent either import or manufacture and ship a product similar to this with an oak print on it, let us say, and then call the oak hardboard?

Mr. HUTCHISON. No. Generally in accordance with Federal Trade Commission practice they do put the word "finish" on, "oak finish," and, of course, the back of it is always labeled "hardboard." Of course, anyone who picks up this sample can tell by an examination that it is hardboard.

Mr. LONG. But the sample you presented to the committee has no designation of a particular type of finish at all.

Mr. HUTCHISON. That is true.

Mr. LONG. Do the clients that you represent furnish products that are printed in a particular grain and are represented to some extent as being that grain?

Mr. HUTCHISON. Yes; there are a few, and in those cases if it is an oak it would be "oak finish."

Mr. LONG. These are really the ones that you are here trying to protect today then and not the ones that manufacture this product, isn't that right?

Mr. HUTCHISON. No; this would be included because that would be required to be labeled.

Mr. LONG. Yes; but this is not set forth as a particular grain of a particular wood.

Mr. HUTCHISON. I don't know what grain that represents, but under the act, as I interpret it, you have to have a label on the exposed surface, say "simulated ash on hardboard." I would like to make one other comment; if I may, because I noticed the witness for the fine hardwoods association repeatedly referred to this product as fiberboard.

Fiberboard is a very broad generic term that includes all types of composition boards, both of low density and high density. Flaxboard, for instance, made of flax fiber is a low density board.

Hardboard, made of wood fiber, is a high density board. It is known in the Brussels nomenclature as hardboard, under the Federal standards issued by BDSA of the Department of Commerce, and all the specifications of the Department of Defense use the term hardboard.

I think there is a connotation when you use the term "fiberboard" that there is a cheaper material that does not have the firmness and the hardness of hardboard, so we are certainly in favor, if this would be enacted, that the term hardboard be used rather than fiberboard.

Mr. LONG. A more appropriate exhibit insofar as the particular case at point is concerned would be a piece of hardboard of this type imprinted with the grain of a particular wood manufactured by one of the clients that you represent, is that correct?

Mr. HUTCHISON. I represent the importers, the U.S. importers. That is manufactured by a Swedish mill.

Mr. LONG. Let us say then imported by the clients that you represent.

Mr. HUTCHISON. Yes.

Mr. LONG. And they do import similar pieces of hardboard imprinted with a specific grain on them and represented to some extent or another as being that type of grain?

Mr. HUTCHISON. Yes, an oak or a walnut finish.

Mr. LONG. Thank you.

Mr. HUTCHISON. I might add that at this time the international trade in the face-finished hardboard is quite small, but the trend in the industry, and this is particularly true of Sweden, is toward greater and greater finishing. That is why this is so important to us, because it would create a number of difficulties in international trade.

I expect you will hear from domestic associations and manufacturers that this is going to impose a number of burdens on their domestic operations so far as labeling, invoicing, advertising, et cetera.

Mr. LONG. What prompted the question was that in reading your statement and looking at the piece that you submitted for our consideration I could see very little further action that would be required by anyone to protect himself and comply with the terms of the act insofar as this piece of wood was concerned.

Mr. HUTCHISON. That won't comply under the act even though we have labeled it as "hardboard" on the back. We would have to put on the exposed surface "simulated wood grain" on hardboard.

Mr. LONG. You indicate some question in your mind as to whether or not the act would apply to you at all, this not being a simulated wood product.

Mr. HUTCHISON. No, there is no question in my mind the act would apply to that face-finished wood grain hardboard. The point I made is there is some question in my mind as to whether it would apply to standard hardboard, because this is a wood product and if you look at the sample you can see some of the fibers, and it looks like wood.

Mr. LONG. Of course. Also if a piece of wood were treated in this same way under the act it would be required to be labeled exactly as you described it and exactly as this piece of hardwood would be labeled, with the exception it would say "on a piece of wood" instead of "on a piece of hardboard."

Mr. HUTCHISON. Yes, if it were a piece of plywood that was printed with another piece of grain, it would have to be "simulated walnut on plywood."

Mr. LONG. Thank you.

Mr. VAN DEERLIN. Any further questions or comments for Mr. Hutchison? Thank you very much, Mr. Hutchison.

Mr. HUTCHISON. Mr. Chairman, thank you very much.

Mr. VAN DEERLIN. We will hear next from the president of the National Better Business Bureau, Mr. Kenneth B. Willson.

STATEMENT OF KENNETH B. WILLSON, PRESIDENT, NATIONAL BETTER BUSINESS BUREAU, INC.

Mr. WILLSON. Thank you, Mr. Chairman. May I first express appreciation on behalf of my organization for the privilege of attending this hearing and testifying. Although our organization does not customarily express views on proposed legislation, it does welcome this opportunity to go on record once more in regard to the propriety of the term "Philippine mahogany."

I have been employed by the National Better Business Bureau continuously since April 1, 1925, during which period I have served variously as a member of the executive staff, manager of the merchandise division, operating manager, executive vice president, and, since 1952, president.

The National Better Business Bureau is an agency of business which was created in 1912 for the primary purpose of promoting truth and accuracy in national advertising and selling. We are affiliated with 125 local better business bureaus in the principal cities of the United States and Canada and with individual bureaus in Mexico, Venezuela, and Israel.

The purpose of the local bureaus is to promote truth in advertising at the community level. All of the better business bureaus are financed by membership subscriptions from business and all are governed by boards of directors composed of businessmen who serve without pay.

In the pursuit of our objective, we receive many complaints from business and the public with respect to alleged inaccuracies in advertising and selling, and if, after investigation, we find that the

complaints are well founded, we seek the voluntary cooperation of the advertiser involved in eliminating the causes of such complaints.

We also initiate inquiries into the accuracy of advertising agencies and media to prevent publication of deceptive advertising. Informative bulletins are published regularly on a wide variety of subjects relating to the integrity of advertising and a monthly loose leaf service called "Do's and Don'ts in Advertising Copy" is published to keep our membership informed of rules, regulations, and recommendations governing honest advertising practices.

Thus, our total function is not only to protect the public from fraud and deception in advertising and selling, but to encourage and aid American business to establish principles and policies of fair dealing and to define them in guides to sound practice.

From the very beginning of my employment with the National Better Business Bureau, in 1925, I have been aware of the controversy involving use of the term "Philippine mahogany" to describe or designate certain woods originating in the Philippine Islands.

It was only a matter of a few weeks after I embarked upon my career in furthering business ethics, that the Federal Trade Commission, on May 21, 1925, issued a complaint against the Indiana Quartered Oak Co. and five other respondents, charging them with deception in use of the term "mahogany" or "Philippine mahogany" to designate lauan, tanguile, and certain other woods grown in the Philippine Islands.

About 2 years later, on August 16, 1927, after a trial of the charges, the Commission made a finding of fact that the Philippine hardwoods in question are not of the mahogany family. It thereupon ordered the respondents to cease and desist use of the term "mahogany" or "Philippine mahogany" to designate the Philippine hardwoods, tanguile, lauan, almon, and others not derived from the mahogany family.

When the Commission's order to cease and desist was appealed by the respondent to the U.S. Circuit Court of Appeals for the Second Circuit, the National Better Business Bureau filed a brief as "amicus curiae." In that brief filed in 1927, we took a firm stand in support of the Federal Trade Commission's then position of prohibiting use of the term "mahogany" or "Philippine mahogany," to designate certain hardwoods imported from the Philippine Islands which are not botanically of the mahogany family.

The respondent's petition for a review of the Commission's order in the U.S. Circuit Court of Appeals for the Second Circuit in the *Indiana Quartered Oak Co.* case resulted in affirmation of the Commission's order and the U.S. Supreme Court subsequently refused to review the case on appeal.

For all intents and purposes it seemed at the time that the final word had been said and that no business concern would thereafter be permitted to sell as "mahogany" or "Philippine mahogany" wood which was not of the mahogany family.

When, in 1929, the Federal Trade Commission issued a complaint against the Gillespie Furniture Co. and numerous other firms charging them with deception in use of the identical practices which the Indian Quartered Oak Company, et al., had been ordered to abandon, it was anticipated that an order would issue as a matter of course.

Inexplicably, however, in 1931 the Commission dismissed its own complaint when it accepted the following stipulation from each of the respondents:

> Respondent hereby stipulates and agrees that in its sale description and advertisement of the wood of the Philippine Islands which it has heretofore designated and described as "Philippine mahogany," and articles of commerce made therewith, will not employ the word "mahogany" in connection with the sale of said wood without the modifying term "Philippine."

The effect of this action was to reverse the previous Commission rulings which had been affirmed by the courts and to permit the description "Philippine mahogany" to be used in the marketing of these Philippine hardwoods not of the mahogany family.

In the light of these 1931 stipulations, the Indiana Quartered Oak Co. and the five other respondents barred from calling the same woods "Philippine mahogany" petitioned the U.S. Circuit Court of Appeals for the Second Circuit to modify its decree affirming the Commission's order in their cases.

Shortly thereafter, the court modified its former decree, as requested in the petition, thereby permitting the Indiana Quartered Oak Co. and the others and for all practical purposes, anyone else to describe the Philippine woods in question as "Philippine mahogany."

The National Better Business Bureau believes that the Federal Trade Commission made a grievous error in 1931 in permitting use of the term "Philippine mahogany" to designate certain hardwoods which are not, in fact, of the mahogany family. We believed at the time and we continue to believe that the term "Philippine mahogany" has the tendency and capacity to cause many members of the public to understand that woods so designated are botanically mahogany originating in the Philippine Islands.

We also believe then, and continue to believe now, that since use of the term "Philippine mahogany" to designate hardwood not, in fact, of the mahogany family has the tendency and capacity to deceive the public, it has a similar capacity to divert trade and, therefore, results in unfair competition with those selling mahogany wood.

Proponents of the term "Philippine mahogany" apparently believe that if the modifying prefix "Philippine" is used in conjunction with the word "mahogany," the public is adequately informed or warned that the wood so designated is not botanical mahogany.

It may be that some knowledgeable people are aware of the fact that the Philippine hardwoods in question are not mahogany. We believe there are many, many others however who would logically infer that when an advertiser designates a product as "mahogany" it is botanical mahogany, whether modified by any geographical designation, be it African, Cuban, Honduran, Peruvian, Mexican, or Philippine.

This is the crux of the matter. Does use of the word "Philippine" protect the public or does it have the tendency and capacity to mislead and deceive?

On two occasions, we have endeavored to find out what the facts are with respect to the element of deception. In 1936, for example, we sent a letter of inquiry to 1,000 persons who had previously made inquiry of our organization on some subject other than that of "Philippine mahogany."

We asked these inquirers, in essence, to tell us what the term "Philippine mahogany" meant to them. A copy of our letter of inquiry is appended hereto, marked "Exhibit I." Replies were received from 589 of the persons addressed, 223 of whom, or approximately 38 percent, said they understood the term "Philippine mahogany" to designate mahogany that grows in the Philippines, or they would assume, guess, or infer that the term describes mahogany coming from the Philippines.

Forty-six others expressed a similar view. They said that the believed or would infer that "Philippine mahogany" is mahogany coming from the Philippines, or a grade or specie of mahogany growing in the Philippines or elsewhere. Thus, a total of 269, or 44 percent said they though "Philippine mahogany" is mahogany.

Only 69, or approximately 12 percent, said they believed "Philippine mahogany" is not mahogany. Sixteen others said they thought "Philippine mahogany" resembled mahogany; implying disbelief in its genuineness. A total then of 85, or 14 percent indicated awareness of the fact that the woods involved are not mahogany. An analysis of the replies received to our 1936 survey also is appended hereto, marked "Exhibit II."

Another survey was conducted within the past few weeks to find out whether, after a lapse of more than 25 years, the public now understands the meaning of the term "Philippine mahogany." Letters were addressed on our behalf by R. L. Polk & Co. to 200 addressees in each of 12 leading cities of the United States.

The names were selected at random from R. L. Polk city directories. Again, our letter of inquiry, a copy of which is included as a part of exhibit III was designed to ascertain the meaning of the term "Philippine mahogany" to the public.

Replies have been received from 665 as of June 18. Of those responding 292 or 43.91 percent, expressed the view that the term "Philippine mahogany" designates mahogany.

The second largest group of answers was from 202 persons of 30.37 percent who did not mention the name of any wood in stating what the term "Philippine mahogany" meant to them. Eighty-two persons, or 12.33 percent stated that they did not know what the term meant. Only 76, or 11.43 percent, stated or clearly implied, that they knew "Philippine mahogany" was not genuine mahogany.

Thirteen of the answers, or 1.96 percent, were not responsive. A full copy of the report on the survey is appended hereto, marked "Exhibit III."

These studies, pilot in character though they may be, give very clear indication in our opinion that a very substantial percentage of the American public is not effectively protected by the prefix "Philippine." If projected in depth, we believe that they would indicate that millions of consumers believe the Philippine hardwoods involved are mahogany. Since they are not, the public is being fooled and continued use of the designation is not, in our judgment, in the public interest.

Thank you very much for your courtesy in permitting me to present these views. I hope that they will prove helpful to you in your consideration of the problem and its solution.

(Exhibits follow:)

EXHIBIT I

NATIONAL BETTER BUSINESS BUREAU, INC.,
New York, N.Y., April 22, 1936.

(Name, street address, city, State.)

DEAR MR. _____:

I wonder if you will be willing to give us just a moment of your time to help us with a question in which we are interested?

We want to find out what the public's understanding of the term "Philippine mahogany" is. We are enclosing a return addressed postal card for your convenience in giving us your opinion if you will be so kind as to do so.

In considering our inquiry will you please understand that we do not wish to imply that there is anything questionable about the term. We are not trying to develop information to prove that the term "Philippine mahogany" is misleading or deceptive. We mention this because you might otherwise assume that there must be something questionable about the term to account for our inquiry.

We merely are trying to find out what this term means to you when you see it used in furniture advertising.

Please give us your frank opinion, just as if we asked you personally, without consulting reference books or authorities on the subject of woods.

We will be extremely grateful to you for your assistance.

Cordially,

(Signed) EDWARD L. GREEN,
General Manager.

EXHIBIT II

ANALYSIS OF REPLIES: SURVEY TO DETERMINE THE PUBLIC'S UNDERSTANDING OF THE TERM "PHILIPPINE MAHOGANY," MAY 18, 1936

A. Persons in this group stated that their understanding was that Philippine mahogany is mahogany that grows in the Philippines, or that they would assume, guess, or infer that the term describes mahogany coming from or growing in the Philippines. Total	223
B. Persons in this group made replies which imply that they believe, or infer, or guess that Philippine mahogany is mahogany coming from or growing in the Philippine Islands, or a grade or specie of mahogany growing in the Philippine Islands or elsewhere. Total	46
C. Persons in this group stated that Philippine mahogany is a hardwood growing in the Philippine Islands which resembles mahogany in its characteristics and ability to take a finish. Some replies are included in this group because the writers imply rather than state that this is their answer. Total	16
D. Persons in this group stated they did not believe that Philippine mahogany was mahogany, or that they did believe it was an imitation or substitute mahogany, or a nonmahogany finished to resemble genuine mahogany and sold under the trade name Philippine mahogany. Total	69
E. Persons in this group stated or implied that they thought Philippine mahogany was a special grade or kind of wood, or wood coming from the Philippines or elsewhere. There is no inference to be drawn as to what they think the botanical nature of the wood is. Total	46
F. Persons in this group gave two or more interpretations, or gave opinions of others besides themselves, or gave unresponsive replies or replies which did not state a clear opinion. Total	68
G. Persons in this group stated they did not know what the expression meant, or had never heard of it, or had no opinion regarding it. Total	121
Total	589

EXHIBIT III

NATIONAL BETTER BUSINESS BUREAU, INC.,
New York, N.Y., June 18, 1963.

SURVEY TO ASCERTAIN PUBLIC UNDERSTANDING OF THE TERM "PHILIPPINE MAHOGANY"

On May 3, 1963, R. L. Polk & Co. mailed the attached letter of inquiry on our behalf to 200 addressees in each of the following principal cities of the United States: Atlanta, Boston, Dallas, Des Moines, Houston, Kansas City, Milwaukee, Phoenix, San Diego, San Francisco, Seattle, Washington.

The addressees were selected at random from R. L. Polk & Co.'s city directories for the cities designated from streets classified by that company as "group B," meaning that they are in upper middle-class neighborhoods with residents having annual incomes estimated at from approximately $15,000 to $25,000.

Our letter of inquiry a copy of which is attached hereto was designed to ascertain what the term "Philippine mahogany" means to the public when used in homebuilding, boatbuilding, lumber dealer, and trailer advertising.

Analysis of replies

Letters of inquiry mailed	2,400
Letters returned as undeliverable	101
Replies received as of June 18, 1963	665
The answers received fall into the following groupings:	
Group 1:	
Believe "Philippine mahogany" is mahogany	292
Percentage of replies received	43.91
Group 2:	
Did not state from what wood "Philippine mahogany" is derived	202
Percentage of replies received	30.37
Group 3:	
"Philippine mahogany" is not mahogany	76
Percentage of replies received	11.43
Group 4:	
Replied "Philippine mahogany" meant nothing to them, or they didn't know what it meant	82
Percentage of replies received	12.33
Group 5:	
Not responsive	13
Percentage of replies received	1.96

CONCLUSIONS

This pilot survey clearly indicates in our opinion that the term "Philippine mahogany" identifies a mahogany wood to a very substantial segment of the public. If projected in depth we believe it would indicate that the term "Philippine mahogany" means mahogany wood to millions of people. Since the wood so described is admittedly not of the mahogany family, the National Better Business Bureau believes that the term "Philippine mahogany" is inaccurate, deceptive, and unfair and that its continued use in advertising and selling is not in the public interest.

K. B. WILLSON,
President, National Better Business Bureau, Inc.

NATIONAL BETTER BUSINESS BUREAU, INC.,
OFFICE OF THE PRESIDENT,
230 Park Avenue, New York 17, N.Y., May 3, 1963.

Name _____
Street _____
City _____
Dear _____:

I wonder if you will be willing to give us just a moment of your time to help us with a question in which we and your local Better Business Bureau are interested?

We want to find out what the public's understanding is of the term "Philippine mahogany." We are enclosing a return addressed postal card for your convenience in giving us your opinion, if you will be so kind as to do so.

In considering our request, will you please understand that the sole purpose of our inquiry is to find out what this term means to the public when it is used in homebuilding, boatbuilding, lumber dealer, and trailer advertising.

Will you please give us your frank opinion, just as if we asked you personally, without consulting reference books or authorities on the subject of woods.

We will be extremely grateful to you for your assistance as promptly as possible.

Sincerely yours,

K. B. WILLSON.

Mr. VAN DEERLIN. Thank you, Mr. Willson. Mr. Curtin, do you have any questions for Mr. Willson?

Mr. CURTIN. Just one question, Mr. Chairman. Mr. Wilson, is there any real mahogany grown in the Philippines?

Mr. WILLSON. May I first say that I do not come here as a wood expert. I have never heard of any genuine mahogany coming from the Philippines. The wood that is involved in my statement is not of the mahogany family, and this is admitted I believe by the exporters of the wood in question.

Mr. CURTIN. How about in Africa? Is there any genuine mahogany wood grown in Africa?

Mr. WILLSON. It is my understanding that the wood called African mahogany is of the mahogany family.

Mr. CURTIN. So your objection would not be to the use of the term "African mahogany"?

Mr. WILLSON. No.

Mr. CURTIN. It is just to the use of the term "Philippine mahogany."

Mr. WILLSON. It is directed solely at wood which is not of the mahogany family.

Mr. CURTIN. That is all. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Long?

Mr. LONG. Mr. Willson, I compliment you on a fine statement. You have done an excellent job of documenting the case that the vast majority of the people in the United States, consumers particularly, are being misled as to what the products they buy really are when they are identified as "Philippine mahogany."

Mr. WILLSON. Thank you, sir.

Mr. LONG. I also appreciate the fact that I know you took time out of a busy schedule to make this study and the public interest that you show in doing it and coming forth to Congress with it. I know that it has been a great deal of assistance to me and I am sure that it has been and will be to the entire committee.

Mr. WILLSON. Thank you very much, sir.

Mr. VAN DEERLIN. Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman. I too would like to compliment you on your statement and say that your representative in Boston has taken similar courageous stands in the past and is very highly regarded in Boston business circles. I would like to know, however, how you resolve the problem of many good competent, and conscientious members of your organization, who, in view of the Commission ruling, have been proceeding in good faith to tell their clientele, the people who knowingly use Philippine mahogany, that it isn't true mahogany, but nevertheless have been required to sell it as that as a result of the Commission's ruling.

What about their position in all of this?

Mr. WILLSON. It is a very difficult position for me to resolve. I think the members of the Better Business Bureau who are in the lumber business who have been using the term "Philippine mahogany" have been using it with the sanction of the U.S. Government as represented by the Federal Trade Commission and it has been virtually impossible for the Better Business Bureaus of the country to do anything about it.

Any question that would be raised with an advertiser in regard to the use of the term would be referred to the rulings of the Federal Trade Commission, having the effect of sanctioning this terminology, and we, of course, are in no position to state that the Federal Trade Commission order must be disobeyed.

Mr. KEITH. It is a very difficult position for your organization and for the Congress in view of the many years of practice where this has been sanctioned.

Mr. WILLSON. We have, however, consistently inveighed against the use of the term "mahogany" in our bulletins and our recommendations. We have necessarily, however, recognized the fact of life, that being that the Federal Trade Commission permits it.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Willson, I know that most of the complaints coming to the BBB have to do with bait advertising and shoddy merchandise, and false claims.

I would be interested in knowing, in general, whether the complaints regarding wood labeling or lack of wood labeling are numerous in comparison with most of the complaints you get, and, secondly, whether the majority of complaints comes from dealers or from the consuming public.

Mr. WILLSON. I am not in the position to give you any reliable statistics on the relative volume of complaints on wood labeling as opposed to other merchandise, but I can state that over the years there has been a vast volume of complaint to the Better Business Bureau on misdescription of wood, and particularly of furniture wood.

Mr. VAN DEERLIN. Would it be your guess that most of it comes from dealers?

Mr. WILLSON. It would be my guess that most of it comes from business and, as a matter of fact, most of the complaints involving business practices to the Better Business Bureau come from business.

The consumer complaints are, as a rule, of a different nature. They involve dissatisfaction or unhappiness because of lack of it or the wrong size, the wrong color, or it came too late, or they changed their mind, or something of that sort.

A person who has bought a television set and thinks that the cabinet is made of mahogany wood may never know that it is made of one of these boards with a simulated mahogany grain, or that it has a plastic mahogany veneer and therefore, would never complain to us about it.

Mr. VAN DEERLIN. Thank you very much.

Mr. WILLSON. Thank you.

Mr. VAN DEERLIN. Our next witness will be Mr. Robert S. Gerrish, president of the Mahogany Association, with headquarters in Chicago.

STATEMENT OF ROBERT S. GERRISH, PRESIDENT, MAHOGANY ASSOCIATION, INC.

Mr. GERRISH. Mr. Chairman and honorable committee members, I appear here as president of the Mahogany Association. As you say, my name is Robert Gerrish. I am director and sales manager of Palmer & Parker Co., in Boston, Mass.

I have a written statement which with your permission I shall submit for the record, but I would like to summarize it and also add a few oral remarks as I go along.

First I would like to explain what the association is and its purpose. The Mahogany Association is made up of a group of American business concerns who have for many years been engaged in the importation, manufacture, and distribution of genuine mahogany lumber and veneer in the United States.

We number among our members some of the oldest lumber companies in the country. Since the formation of the association some 40 years ago, its sole purpose has been to promote the greater use of genuine mahogany in the United States.

We sincerely welcome this opportunity to appear before the committee and state our case. Although the Collier bill, which was H.R. 8358, was introduced in the 87th Congress, we didn't have a chance for full public hearings due to the time, I guess, and the lateness of the session.

The mahogany bill, which we sponsor, I would like to point out, is not a labeling bill. Its requirements are short and simple—only that if a wood is described as mahogany it must, in fact, be mahogany, that is, of the Meliaceae family, and I am not too good on pronunciation of some of those botanical terms, but further of the same subfamily and of the two genera, *Khaya* and *Swietenia*.

I have a copy of Mr. Dixon's statement to this committee and his oral remarks have been reported to me. There are a few things which I would like to correct.

Mr. Dixon distinguishes between genuine mahogany, *Swietenia*, which is also known as a tropical American mahogany, and African mahogany (*Khaya*), leaving the impression that since neither African mahogany, *Khaya*, nor the Philippine lauan, or any of the other specific species is *Swietenia*, neither is entitled to use the unqualified name "mahogany."

First, it should be understood that true or genuine in the botanical sense means first discovered. Both *Swietenia* (tropical American mahogany) and *Khaya* (African mahogany) are of the same tree family Meliaceae, and of the same subfamily. Philippine lauan is from an entirely different family—Dipterocarpaceae family.

To answer a question that I believe Mr. Glenn asked yesterday, there is no so-called genuine mahogany of either *Khaya* or *Swietenia*, or of the Meliaceae family that grows on the Philippine Islands or in that area of the world to the best of our knowledge.

Mr. CURTIN. Mr. Chairman, would you permit me to ask a question at that point?

Mr. VAN DEERLIN. Yes.

Mr. CURTIN. How about Africa? Are there any genuine mahogany woods grown in Africa?

Mr. GERRISH. Of the *Swietenia* family?

Mr. CURTIN. Well, what you would classify as genuine mahogany woods.

Mr. GERRISH. Of course, it is our position that both *Khaya* and *Swietenia* mahogany are genuine mahogany so therefore the answer to your question would be yes, if you take our interpretation of it.

Khaya and *Swietenia* were both referred to as mahogany for many, many years. Back as early as the 18th century mahogany coming from both the tropical climate of tropical America and Africa has been known throughout the world as mahogany, and it is significant to state that I believe that the only place that the term "Philippine mahogany" is used is in the sale of the Philippine hardwoods in this country.

The mahogany sales market has slipped from its once predominant position in the furniture and other markets to now where we are at a place far down the sales ladder. Of course, all of it can't be attributed to the importation of the Philippine hardwoods and the fact that they are sold as Philippine, but one of the main causes is the use of the word "mahogany," to describe these nonmahogany woods.

The FTC has been quite alert to protect the consuming public from deception and the names of woods other than "mahogany" have been given sympathetic attention.

This is evidenced in the recent ruling that:

> The eucalyptus of Australia no longer could be sold in the United States as "Tasmanian oak" or "Australian oak" after 40 years of this practice, because they are not of a *Quercus* or oak family.

The charge has been made that this is special interest legislation. Yes, this is special interest legislation if that term can be applied to—

(1) Legislation that seeks to protect the American public from deception by asking that a product be sold for what it is. Thus, John Jones doesn't buy boats, paneling, kitchen cabinets, trim, or doors thinking that he is buying genuine mahogany.

(2) Legislation seeking to protect from greater damage the export markets of many African, Central and South American countries.

(3) Legislation seeking to correct a wrong done an old and respected trade name.

(4) Legislation to protect the market of the manufacturers, wholesalers, and retailers of genuine mahogany who are affected by the prejudice of the public against the genuine wood by its purchase of some of the nonmahogany woods not possessing the good characteristics of genuine mahogany.

Special interest legislation benefits a few. We feel the proposed bill benefits all. The public should be protected in this case as in many others which have set a precedent.

In conclusion, let me point out that the "mahogany" bills are not concerned with physical labeling, thus differing from H.R. 1998. We seek only to prohibit the appropriation of the trade name by other wholly different products and to end deception of the public and to correct an injustice done to the name "mahogany".

(The statement referred to follows:)

STATEMENT OF ROBERT S. GERRISH, PRESIDENT, MAHOGANY ASSOCIATION, INC.

Gentlemen, please accept the following statement to be included in the record of the hearings relative to H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, and H.R. 6604 under consideration by your committee.

As president of the Mahogany Association, I would like to explain what the association is and its purpose and our position on the bills under consideration.

The Mahogany Association is made up of a group of American business concerns who have for many years been engaged in the importation, manufacture, and distribution of genuine mahogany lumber and veneer in the United States. We number among our members some of the oldest lumber companies in the country. Since the formation of the association some 40 years ago, its sole purpose has been to promote the greater use of genuine mahogany in the United States.

Despite the expenditure of a great deal of money and time in this promotion, we have seen genuine mahogany fall from its once large and predominant position in the hardwood sales market to today's place far down the sales ladder. Obviously, there are many causes for this fall from former glory, such as market trends, development of substitute products for mahogany where the wood was used because of its physical characteristics, etc., but one of the most important causes can be traced to the dilution of the name and the damage to the market of genuine mahogany from the use of the name by nonmahogany woods. Chief among the offenders have been the Philippine woods, although in the past some 30 or more woods attempted to trade on the name of mahogany.

It seems quite clear that the public continues to be confused by the phrase "Philippine mahogany" and recognizes no real distinction between it and genuine mahogany. Thus the Philippine woods are purchased under a misunderstanding and assuming that dollars are being saved. Genuine mahogany has been virtually foreclosed from the large housing and boating industries. Thus, one of the main efforts in the association promotion policy has been our attempt to prohibit the use of the name "mahogany" to the "nonmahogany" woods. With the exception of "Philippine mahogany" we have been fairly successful.

In 1925 a complaint was filed with the Federal Trade Commission contesting the use of the word "mahogany" by the Philippine hardwoods, none of which are of the mahogany (or Meliaceae) family. After extensive hearings, the FTC ruled in 1927 that these woods could not use the name "mahogany," but subsequently in 1931 revised itself and, upon mere stipulation with the defendants, allowed seven species of the Dipterocarpaceae family to use the term "mahogany," provided that "Philippine" is used as a prefix. Many attempts to have the FTC revert to its original decision have proved unsuccessful.

"Philippine mahogany" is recognized by all botanists, and the FTC itself, to be unrelated to the mahogany or Meliaceae family. Thus, if "Philippine mahogany" is nonmahogany wood, the use of the term in connection with the Philippine hardwoods is clearly a deception.

However, it has been argued that because of the long usage of the term, "Philippine mahogany" is recognized by most of the general public to be a trade name and know it not to be mahogany. As I have said, we believe this is demonstrably untrue as particularly indicated by a recent survey of the National Better Business Bureau, Inc. This survey will be presented by another witness.

The FTC has been quite alert to protect the consuming public from deception, and the names of woods other than "mahogany" have been given sympathetic attention. This is evidenced in the recent ruling that "the Eucalyptus of Australia no longer could be sold in the United States as "Tasmanian oak" or "Australian oak" after 40 years of this practice, because they are not of the Quercus or oak family."

Thus, faced with (1) the continual refusal by the FTC of relief and protection afforded other woods, (2) despite the FTC ruling many times, the Philippine woods are represented as mahogany without the qualifying prefix, as evidenced by around 800 complaints filed with the FTC, and (3) that the public is clearly being deceived, our association's only recourse is to seek legislation to correct what we consider a grievous wrong.

The charge has been made that this is "special interest" legislation. Yes, this is "special interest" legislation if that term can be applied to:

(1) Legislation that seeks to protect the American public from deception by asking that a product be sold for what it is. Thus, John Jones doesn't buy boats,

paneling, kitchen cabinets, trim, or doors thinking that he is buying genuine mahogany.

(2) Legislation seeking to protect from greater damage the export markets of many African, Central, and South American countries.

(3) Legislation seeking to correct a wrong done an old and respected trade name.

(4) Legislation to protect the market of the manufacturers, wholesalers, and retailers of genuine mahogany who are affected by the prejudice of the public against the genuine wood by its purchase of some of the nonmahogany woods not possessing the good characteristics of genuine mahogany.

"Special interest" legislation benefits a few. We feel the proposed bill benefits all. The public should be protected in this case as in many others which have set a precedent.

In conclusion, let me point out that the "mahogany" bills are not concerned with physical labeling, thus differing from H.R. 1998. We seek only to prohibit the appropriation of the trade name by other wholly different products and to end deception of the public and to correct an injustice done to the name "mahogany."

Mr. VAN DEERLIN. Thank you, Mr. Gerrish. I guess the transcript reporter will be happy when he gets on to a subject with fewer botanical references.

Mr. Curtin, do you have a question?

Mr. CURTIN. No questions.

Mr. VAN DEERLIN. Mr. Long?

Mr. LONG. Yes; Mr. Gerrish, you remarked that genuine mahogany market had over the years been depressed. You stated that to some extent this was due to the use of the hardwood called "Philippine mahogany." What are the other causes of this depression?

Mr. GERRISH. Well, there are fashion trends which they have for different woods, meaning we might have the public preferring cherry this year, walnut next year, and mahogany the year after.

There have also been developments of substitute materials, for instance, I will take one industry. We used to sell a lot of mahogany caskets. They have developed a lot of metal caskets, which has been a development which has lessened the sale of mahogany to this particular industry.

For instance, in making wood patterns, they have developed other products to make their wood patterns out of and formerly most of the good patterns used to be made out of genuine mahogany.

Mr. LONG. Is there an adequate supply of genuine mahogany in the world today, assuming you could really boost this market?

Mr. GERRISH. I would say that there was an adequate supply. I think it is a matter of dollars and cents, however. It is an economic matter of dollars and cents.

Under the present market or the price that we can pay for our lumber, it is becoming increasingly difficult to buy logs, but if this price goes up, of course, the supply seems to be able to take care of it because I have heard for many years the story that the walnut in this country was running out.

It seems to me every year there has been plenty of walnut veneer and lumber produced in this country.

Mr. LONG. It is funny how that turns out. When I was a child growing up in Louisiana my father used to tell me every year, "If we keep on going out and getting the pine knots in another 3 or 4 years there won't be any more," and they are still getting them.

I don't know where they come from. Looking at the other side of this market situation, what are the principal uses today of the genuine mahogany?

Mr. GERRISH. Well, they are used in furniture, caskets, and fine cabinetry work. I mean a lot of the banks and the fine office buildings. There is mahogany used in the boat building industry to some extent.

Mr. LONG. Is it still used in the boat industry?

Mr. GERRISH. To some extent, and to some extent it is still used in most of the other traditional markets.

Mr. LONG. The wall paneling?

Mr. GERRISH. It is used sometimes in wall paneling, sold to the discriminatory buyer where he realizes and wants the genuine mahogany.

Mr. LONG. The genuine mahogany is the Cadillac of the woodworking business. Isn't it?

Mr. GERRISH. We like to consider it so. Yes, sir.

Mr. LONG. Has your association ever made any effort to promote mahogany from the standpoint of describing it as a genuine mahogany?

Mr. GERRISH. Yes.

Mr. LONG. To combat the use of the Philippine mahogany and these others?

Mr. GERRISH. Yes. That is our policy.

Mr. LONG. That is all, Mr. Chairman. Thank you.

Mr. VAN DEERLIN. Mr. Keith?

Mr. KEITH. No questions, Mr. Chairman.

I would like just to compliment Mr. Gerrish for his excellent statement, and I think that the questions of my colleagues have adequately summarized the situation.

Mr. VAN DEERLIN. Mr. Gerrish, from the standpoint of durability and strength would you say that African mahogany is virtually identical to mahogany grown in the Americas?

Mr. GERRISH. Yes. As a matter of fact, there is some opinion that African in some cases exceeds the qualities of tropical American. Of course, I must explain for the record that our company does deal primarily in African mahogany, so that I have a slight prejudice in favor of African mahogany over tropical American, although we deal in all species.

Mr. VAN DEERLIN. Thank you. I guess that does it.

Mr. GERRISH. Thank you.

Mr. VAN DEERLIN. We will hear next from the executive director of the Mahogany Association, Mr. Teel Williams.

STATEMENT OF TEEL WILLIAMS, EXECUTIVE DIRECTOR, MAHOGANY ASSOCIATION, INC.

Mr. WILLIAMS. Mr. Chairman and gentlemen of the committee, I appreciate this opportunity. My name is Teel Williams. I am director of the Mahogany Association which represents the principal importers and manufacturers of mahogany lumber and veneers in the United States.

I have a prepared statement which I would like to make a matter of the record. Then I would like to make myself available for a few remarks and to answer questions if I may, in the interest of time and those that are behind me that would like to testify, and I would like to have testify.

At this point I should say that we are appending as part of the record here the answer, I believe in every form that you might want it for reference, technical or otherwise, to questions that can be raised at these hearings.

It is a complete appendix that we put here on each phase of the problem. I just wish to call attention to that.

One question that I think could be answered a little more specifically was is there plenty of mahogany? You recall the testimony yesterday of Mr. Weis of the Weis-Fricker Co.? I was discussing with him this morning the availability of mahogany. He said, "My heavens, there is more mahogany in the world than we can ever get out, I think."

He was referring to the fact that, and I quote:

> A world authority within recent weeks came in my own office, Dr. Bruce Lamb, one of the foremost wood technologists living, who is now on a world trip surveying the future supplies of hardwood, said that it could be safely said that there are approximately 100 times as much mahogany in the world as there is, say, walnut.

That doesn't mean it is all quickly available and, as was explained by Mr. Gerrish, the marketplace, the price, and so on, would determine whether it would be profitable to bring them out, whether they would be available.

However, they are there, and in view of a survey made by the U.S. Forestry Products Laboratory and reported extensively in the press following their 100th anniversary 2 years ago, they question and predict that there won't be more than 25 percent of the needs of this country in domestic hardwoods, and I only mention this because of the importance of the survival of the hardwoods of the world, including even the Philippine woods.

We have no objection or criticism of the woods as such. We need the mahogany for fine furniture and I would like to make this clear: That obviously the fine furniture is the end product, the natural end product, of mahogany. It does fluctuate in its use with fashion, not so much styles in wood as in actual fashions of design.

Style fashions will change. For many years mahogany was known as a redwood. It has no relation to color at all except that when they started Chippendale had very crude materials to work with and he could only bring out the undertone, primarily of brown, which is red, and that followed and followed so for 250 years red was the dominant color and it became known as a redwood and people would say it is a mahogany finish.

Well, that is not so. It is brown. The same way with walnut, one of our great woods. If they call us the Cadillacs, certainly they would be the Lincolns or vice versa of the hardwoods. They are thought to be brown.

Well, I think some of the testimony yesterday was to the effect that they can be white to almost black. Certainly after cutting they are a lavender gray with sap streaks that are white and to almost black, purple streaks, and it was a skillful achievement of modern finishing to give that gorgeous brown that they get, and because that is the best finish you can put on walnut and it is gorgeous, it is known as a brown wood.

Now, we come down to why all of this use and kicking around of the name "mahogany" by woods, which Chairman Dixon mistakenly de-

scribed as cabinet woods, from the Philippine Islands hurts us, and it isn't because the use of Philippine mahogany in the furniture industry is just a trace today.

That is not due to any inferior tie of the wood for its own purposes, but for its purposes in furniture, and one of the tables that is appended to this report that I am filing with the record will show the forestry products listing of the character of the principal operations in cabinetry of woodworking and it classes the woods No. 1 in this class, No. 2 or 3, and so on.

If you plotted a curve you would have a straight line for mahogany. All the others are jagged this way, and you can determine that very quickly. Mahogany has through the centuries stood on its reputation as "the world's greatest cabinet wood."

You can find it historically clear back to Sir Walter Raleigh, its fine characteristics as a cabinet wood. You say, "How was this all accomplished?"

Certainly one thing was our labels. We believe in informative labels. We had to defend ourselves against the use of substitute names.

It is said that over 60 other woods have tried to use the name "mahogany," but they have always broken down on one thing and that is that all of the woods, either *Swietenia* or *Khaya*, which was known for 40 years as a *Swietenia*, which legally and botanically still is *Swietenia* if you want to use it, but to distinguish today it is recognized by the genera name *Khaya*, those woods, the *Swietena* and the *Khaya*, are very different in their physical characteristics from the cell structure right straight through, so much so that these 60 names or 60 other woods that are said to have been named and called mahogany in the American market have fallen by the wayside because they could not maintain these distinctions.

The only one accepted is that of the Philippine woods and they have maintained it through this ruling of the Federal Trade Commission permitting the qualifying prefix "Philippine."

Our labels took a definition of the Federal Trade Commission itself dated in 1922, which says—and I sat in on those hearings myself originally; I was then with the Berkey & Gay Co. of Grand Rapids as a manufacturer of furniture—that a piece of furniture, so far as the public deception is concerned, should be described as genuine walnut, cherry, mahogany, or what have you, if all of the exposed surfaces, when the piece of furniture is in position of normal use, may be described as genuine.

We have two labels. One we call genuine mahogany and has to do with plywood. If we describe it as genuine, then the all solid parts and every visible thing, when the piece is in normal use, must be mahogany.

If, on the other hand, there is a variation we don't give our label at all. These labels are voluntary. They have to be bought. They carry a heavy penalty for misuse. That has been one of the things that has helped to save us the one last market, furniture, in which we can ever hope to compete with the Philippine woods.

There was a tremendous boom in housing and fashioned a big part in it. Paneling came to the fore, and this paneling has gone into all

surfaces of rumpus rooms, and kitchens, and so on, and unfortunately millions of American people have gotten the idea of what genuine mahogany is from these woods.

The standard American veneer furniture cut is one twenty-eighth of an inch. Some of these from the Philippines they call the skins of flush doors, for example, have been measured out with a micrometer at least one-eightieth.

They can be scuffed through. Many of these panels are finished by June. I mean painters. I have been in hundreds of houses myself, different priced houses, where with the paneling certainly you wouldn't have any furniture made of that wood.

That is what you thought was mahogany.

I did want to confuse our stenographer here with a few botanical facts, to get back to this question of African mahogany because it is all brought into discussion whenever we challenge Philippine mahogany, and I will read from my recorded statement.

Tropical American mahogany *Swietenia* and African mahogany *Khaya* are both genera within the Meliaceae, which is the so-called mahogany tree family. The Philippine woods are members of the distinct and separate Dipterocarpaceae family. They call them terocarps for short.

Bontanical authorities recognize both *Swietenia* and *Khaya* as mahogany but not lauan or other Philippine woods. "Timbers of the New World" by Samuel J. Record and R. W. Hess, page 359, and see appendix which I have with complete technical assistance.

Mr. VAN DEERLIN. And you are offering this for inclusion in the record?

Mr. WILLIAMS. That is all part of what I offer for the record.

For many years before 1900 both Latin American and African mahogany were known by the same botanical name. The name "mahogany" was well known before a botanical designation was assigned in about 1760.

The cell structure and other physical characteristics of *Khaya* and *Swietenia* have set them apart as the mahogany members of the Meliaceae family and certainly distinguish them from lauan and other woods of the Dipterocarpaceae family. The first are funiture woods and the latter are not.

It is this furniture market which we are so seriously concerned about. The biggest market for funiture are homeowners and that market is being prejudiced against the purchase of fine furniture, and I have proven it, have gone right out on retail floors and listened to the stories.

Mr. LONG. Mr. Chairman. Mr. Williams, I understand what you are worried about more than anything else—perhaps it is an oversimplification—is the ruining of the mahogany name?

Mr. WILLIAMS. Mahogany?

Mr. LONG. Yes. Your statement has been most helpful and I wish to compliment you on it. As soon as I have an opportunity I will study it over.

Mr. WILLIAMS. Thank you.

Mr. VAN DEERLIN. Mr. Keith?

Mr. KEITH. A lot has been said about our relationships with the Philippines and the extent of their industry that serves our lumbering industry in this country. What about the relative volume of imports

of true mahogany from Africa and South American where we also would be interested in encouraging the local economy?

Mr. WILLIAMS. Mr. Keith, let me say this. There is enough mahogany in some of these Central American countries, Alliance for Progress, that it could be way up close to coffee in their economy.

It would be true in Guatemala, certainly true in Brazil, where there is more mahogany left than any other center in the world, and there are untouched areas of African mahogany yet that will be gotten out.

Mr. KEITH. What is the current value of the mahogany products shipped into this country from Africa and South America as contrasted with what is known as Philippine mahogany?

Mr. WILLIAMS. We feel like the gnat on the elephant. I can give you those figures. The figure is approximately $12,577,000, the total mahogany imports in 1947 whereas last year they were $7,560,000, or so, and $7,550,000.

Mr. KEITH. I want to know the relative difference between imports in dollar volume of lauan as contrasted with mahogany.

Mr. WILLIAMS. In lauan last year the total imports, and if I may refer to notes I think I can make it pretty accurate for you——

Mr. KEITH. Just round figures.

Mr. WILLIAMS. $25 million from the Philippine Islands.

Mr. KEITH. $25 million of lauan and how much of mahogany?

Mr. WILLIAMS. $7,500,000.

Mr. KEITH. What was it 30 years ago?

Mr. WILLIAMS. Thirty years ago it was approximately $25 million, the dollar of that day. In other words, we had at that time the dollar volume of today. They are laying the figures right before me.

Mr. KEITH. I am just trying to get the relative importance of these two markets to this country.

Mr. WILLIAMS. The Philippine mahogany shipments to this country last year from the Philippine Islands as distinguished from other parts of the Far East, $25,099,000.77.

Mr. KEITH. And mahogany roughly $7 million?

Mr. WILLIAMS. $7½ million.

Mr. KEITH. What was it 25 years ago?

Mr. WILLIAMS. It was the reverse of that. In 1947 Philippine woods were less than $2 million.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. VAN DEERLIN. Thank you, Mr. Williams.

Mr. WILLIAMS. Thank you.

(The material referred to follows:)

STATEMENT OF TEEL WILLIAMS, EXECUTIVE DIRECTOR, MAHOGANY ASSOCIATION, INC.

Mr. Chairman, members of the Committee on Foreign and Domestic Commerce, gentlemen: My name is Teel Williams. I am the executive director of the Mahogany Association, Inc. This association is comprised of the principal importers and manufacturers of genuine mahogany lumber and veneers in the United States.

My purpose in this presentation is (1) to give an accurate but brief historical chronology and explanation of the so-called Philippine mahogany case, and (2) to cite the merchandising or marketing significance of the legalization by the Federal Trade Commission of the term "Philippine mahogany."

At the outset, it should be understood that we have come to the Congress of the United States for legislative relief only after 38 years of continuous protest, litigation, and pleadings before the Federal Trade Commission. We have ex-

hausted every form of appeal to them, and expended well over $100,000 in legal fees alone.

Despairing of action by the Federal Trade Commission and appalled at the idea of further litigation, we consulted the Hon. Oren Harris, chairman of the Foreign and Domestic Commerce Committee. On recountal of our experience, Mr. Harris suggested that we seek legislation.

The first version of our bill was presented in 1961 by the Hon. Harold Collier, the Congressman on your committee at that time representing my own district in Illinois. The Congress adjournal before specific hearings on the bill.

The main issues we ask you to consider are simple. Use of the name "mahogany," if qualified with the prefix "Philippine," was legalized by the Federal Trade Commission for seven woods imported from the Philippine Islands by ruling in 1931. This reversed previous rulings in 1926 and 1927 based upon recognition that none of the seven named woods are mahogany.

The fact is that none of the specific seven, or of the many more woods of the same botanical family from both the Philippine Islands and from other areas of vast southeast Asia, sold in the American market as mahogany under this Federal Trade Commission ruling, had ever been known to commerce as mahogany for more than 250 years prior to the coining of the term "Philippine mahogany" or in about 1916.

Essentially the defense for this coined and wholly untrue term "Philippine mahogany" has been based upon the obvious misrepresentation that these woods are mahogany. Also, it has been sought to establish a right through long usage and the establishment of a secondary meaning.

In spite of the U.S. Supreme Court decision in 1934, in the famous *White Pine* case, subsequent rulings of the Federal Trade Commission have perpetuated the term "Philippine mahogany" on the basis of long usage, as follows: (FTC Bulletin of 1957.)

"The phrase 'Philippine mahogany,' for 25 years or more has also been used in this country as a trade designation for certain woods of the Philippine Islands, namely tanguile, red lauan, white lauan, tiaong, almon, mayapis, and bagtikan, of the genera *Shorea, Parashorea, or Pentacme.* They are nonmahogany woods belonging to the Dipterocarpaceae family of trees, unrelated to the Meliaceae tree family or the genus *Swietenia* from which true mahogany is derived.

"However, within the stated exception, the Philippine woods named may continue to be designated by the complete phase 'Philippine mahogany,' owing to the long-standing usage of the term."

Mildly contradictory and a bit confusing, to say the least. But all other claims or defenses apparently are abandoned. The one exception is the one of long usage. No alleged scientific or other technical argument, which has filled Federal Trade Commission files is advanced. The Philippine woods are unequivocally declared to be nonmahogany."

It is not denied that the term "Philippine mahogany" to most people means just what it says, mahogany from the Philippines, and the fact is ignored that the qualifying prefix "Philippine" has been dropped completely in much advertising, sales literature, and personal selling from one end of America to the other, in total disregard of the ruling of the Federal Trade Commission.

Original proceedings in this famous case were instituted by the Mahogany Association with complaints filed with the Federal Trade Commission in 1925. Extensive arguments were heard by the FTC in 1925 and 1926 and a cease and desist order entered in July of 1926, and again in August 1927.

However, after intercedence by the U.S. War Department, the Philippine Government and extensive lumber interests, a fact since acknowledged by the General Counsel of the Federal Trade Commission, the Commission reversed itself in 1931. (Letter to Mahogany Association, July 12, 1960, signed Daniel J. McCauley, General Counsel.)

Reaffirming its original decision that the Philippine woods are not mahogany, the Commission nevertheless granted the indulgence of the name, but only, however, upon the signing of stipulations by all respondents that at no time mahogany be used "* * * in advertising, describing or otherwise designating or offering for sale or selling in commerce with foreign nations or among the States of the United States, or in the District of Columbia * * * unless said term is accompanied by the modifying term 'Philippine.'" Subsequently, the circuit courts of appeal upheld the Commission on the basis of administrative discretion.

We have attempted only to give the highlights of this extraordinary case. Full chronological documentation for the period from 1925 to 1942 is contained in the appendix to this statement.

The Mahogany Association has attempted to protect its primary market in fine furniture by the issuance of its famous tags and labels certifying to genuine mahogany. These are voluntary, purchased by the manufacturer under a contract providing a $1,500 penalty for misuse. Records of approximately 30 million pieces of mahogany furniture, so certified, are in the archives of this association and we have been asked to bequeath them to the Library of Congress.

The effectiveness of these voluntary tags and labels may be judged by recent estimates that not more than one-half of 1 percent of the woods today actually used in the manufacture of furniture are these Philippine Island woods. More potent than any tags and labels, however, has been the recognized fact that the Philippine hardwoods are in no way comparable to mahogany as cabinet woods.

Nevertheless, the volume of mahogany sales in the United States has steadily declined in the last decade. We present in the appendix a chart which graphically demonstrates the sharp decline of mahogany imports.

In late 1957, the Mahogany Association started on the long and difficult trail back to leadership with a promotion effort which has been intensified and carried on unremittingly against most discouraging odds. Without the considerable funds required for national advertising, efforts have had to be confined largely to the modernizing of mahogany finishes to the many shades of brown of popular fashion demand. Red had become synonymous for mahogany, but mahogany is naturally a sherry or amber brown. Red is the primary of brown which is a secondary color and this red undertone was all that could be produced by the berry stains, oils, and crude techniques available to Thomas Chippendale in the early 18th century.

On the other hand, our friendly competitor, walnut, when cut is a lavender gray, but seldom is finished anything but brown and its really delightful modern versions sprang to a well deserved leadership from which they never since have been entirely displaced, even by the so-called new look mahogany.

Our finish and design developments, however, have been singularly successful. Single design numbers have broken all recorded sales of furniture in any wood, such as the now famous mahogany Triune Collection of the Drexel Furniture Co., which in the past 3 years have exceeded $40 million in sales. While the volume drop in furniture has been halted, the fall has continued in boats, caskets, patterns, fine paneling, novelties, and a myriad of other products in which mahogany once led all other materials. Philippine woods have literally taken over the wood supply to the old but rapidly expanding boatbuilding industry. Only luxury craft, like the America Cup contenders and others, remain to genuine mahogany in an industry it once dominated.

About 7 years ago, a fashion fad for wood wall paneling in homes swept the country and has continued to gain momentum until imports of plywood, for the most part prefabricated in Japan, of the Philippine hardwoods have flooded this country, all sold as mahogany and seldom as Philippine mahogany.

For the most part this paneling has gone to homeowners in every part of the Nation and to a burgeoning new trailer-home market, at prices of from 6 to 11 cents per square foot as against barest manufacturing costs for hardwood plywoods in this country ranging from 8 to 18 cents per square foot. Unfortunately for genuine mahogany, much of this is of low grade and substandard specifications. Surface veneers, for example, on flush panel doors often are a paper-thin one-fortieth of an inch to one-eightieth of an inch, against the standard American twenty-eighth of an inch. Against comparable ¼-inch 3-ply American plywood, these Japanese panels come as thin as an eighth of an inch. Also thinly finished, in cheap mercurochrome shades of the old mahogany reds, these can be easily scuffed through, and on rumpus room walls, kitchens, hallways, even living rooms, they are to be found in many variations in shades of pink and brown, in literally several million new American homes, to say nothing of older homes. A housewife with such material called mahogany in her kitchen can hardly be expected to want mahogany for her dining room furniture.

As an indication of how these have been sold, the reprint of an advertisement is enclosed in the appendix. It is 1 of approximately 5,000 clippings gathered in a few weeks by a national clipping service which estimated the return as probably less than 10 percent of the total of such advertising run in that period. We cannot say it is typical, but it is one flagrant example. We checked these houses in the field and many others from coast to coast. Over 90 percent of the ads made no pretense of using the required prefix "Philippine." We sorted these into several hundred each of lumber dealers, homebuilders, and of both, which appeared in the District of Columbia, and Metropolitan Washington. Selecting the apparently most responsible advertisers among them, we processed,

and some 2 years ago filed 800 formal complaints with the Commission, accompanied with approximately 2,000 ads as prima facie evidence of the violation of the Commission's own ruling. No action has been taken.

On the other hand, cease and desist orders were issued by the FTC stopping the sale of species of the eucalyptus from Australia as "Tasmanian oak" or or "Australian oak." This had been a practice in the United States for 40 years or longer.

We anticipate that those who seek to defend use of the term "Philippine mahogany" will again bring up the argument that only tropical American mahogany is entitled to be called genuine and thus African mahogany is no more genuine than Philippine mahogany. This is an obviously specious argument.

1. Tropical American mahogany (*Swietenia*) and African mahogany (*Khaya*) both are genera within the Meliaceae (mahogany) tree family. The Philippine woods are members of the distinct and separate Dipterocarpaceae family.

2. Botanical authorities recognize both *Swietenia* and *Khaya* as mahogany but not lauan or other Philippine woods. ("Timbers of the New World" by S. J. Record and R. W. Hess, pp. 359, and see appendix: "The True Botany of Mahogany.")

3. For many years before 1900 both Latin American and African mahogany were known by the same botanical name.

4. The name "mahogany" was well known before a botanical designation was assigned in about 1760.

5. The cell structure and other physical characteristics of *Khaya* and *Swietenia* have set them apart as the mahogany members of the Meliaceae family and certainly distinguish them from lauan and other woods of the Dipterocarpaceae family. The first are furniture woods and the latter are not.

In conclusion, gentlemen, please consider the following major reasons and need for the passage of this legislation. Mahogany, "wood of the ages" often, through the centuries, has been described as "the world's finest cabinet wood." That there still is merit to this high compliment is indicated by the chart we now append with this testimony. It was made by the U.S. Forestry Products Laboratory at Madison, Wis. It shows mahogany as the only cabinet or hardwood which ranks first in each principal category of woodworking or cabinetry.

From this it will be understood that fine furniture is mahogany's greatest and natural end product; in fact, it is its one remaining and biggest potential market, which cannot conceivably ever be dominated by the Philippine woods.

Thus, one anxious concern should be understood over the unrestricted sale of the Philippine woods to millions of American homeowners. It takes no great imagination to realize that there already have been two strikes against the beautiful advertisement or promotion of mahogany furniture directed to potential customers, whose sole knowledge of mahogany has been gained from rumpus room, kitchen, or other paneling of the Philippine woods.

Gentlemen, not only do we think that we know, but we do know that this deception and unfair trade practice is of vital importance, not only to us of the mahogany industry, but also that it is of serious import to every furniture manufacturer and retailer who individually may be numbered among your constituents, and that this is true whether they yet realize this fact or not.

Thank you for your courtesy and patience in listening to this testimony.

MAHOGANY BILLS—H.R. 5669, H.R. 6210, H.R. 6370, H.R. 6365 AND H.R. 6604

PROBLEM

For some years lumber dealers, homebuilders, boat and trailer manufacturers, and others have been advertising and selling lumber and wood products of lauan and other Philippine woods as "Philippine mahogany," or even as "mahogany" without qualification. Lauan plywood generally is the cheapest paneling available. (On spot markets today genuine mahogany lumber is sometimes cheaper than lauan.)

HARM

The name "mahogany" has been diluted and damaged. Buyers of fine furniture are turned away from "mahogany." U.S. importers and manufacturers of "mahogany" lumber and veneers have sold decreasing amounts over the years, and have been virtually foreclosed from the housing, boatbuilding, and other

markets. Mahogany now supplies only 5.6 percent of the total furniture market, in contrast to its former first place. Total dollar sales are now less than half of the 1930 level, and within the past 5 years substantial American mahogany firms have gone out of business (including Stewart Smythe Mahogany Co., of Philadelphia, the Mengel Co., of Louisville, Ky., and the Freidberg Mahogany Co., of New Orleans). The unfair use of the name "Philippine mahogany" obviously is not the sole cause, but it is a strong factor.

BOTANICAL

The Meliaceae tree family contains two genera which comprise the mahogany group: *Swietenia*, orginating in tropical America, and *Khaya*, from the West Coast of Africa. They are botanically very closely related, and for many years were classified as the same. They are distinguishable in the wood only by an expert.

The Dipterocarpaceae family, which contains numerous Philippine woods; including red lauan, white lauan, tanguile, bagtikan, almon, etc., is not botanically related to the Meliaceae family.

FTC

Relief through the FTC is not available. In 1927 the FTC held that the phrase "Philippine mahogany" could not be used. In 1932, after a lengthy series of motions but without consideration on the merits, the FTC reversed itself and entered into a stipulation allowing the phrase. The courts upheld both decisions on the ground of administrative discretion.

In spite of urgings as late as August 1962, FTC has refused action even on cases in which lauan (common family name for more than 23 species) was advertised as "mahogany" without the prefix. The FTC Secretary advised on August 9, 1962, that all action would be suspended pending consideration of H.R. 8358 (the 1962 Collier bill).

SOLUTION

Enactment of the legislation introduced by Mr. Hastings Keith and Mr. Gillis Long (H.R. 5669 and H.R. 6210); Mr. D. R. Matthews (H.R. 6370); Mr. R. L. F. Sikes (H.R. 6365)and Mr. Hale Boggs (H.R. 6604).

BILL PURPOSE

These bills are not to be confused with the Wood Products Labeling Act (H.R. 1998). The mahogany bill does not refer to any physical labeling; it merely says that woods may not be described as mahogany unless they are in fact such. H.R. 1998 will not solve the mahogany problem, but will compound it.

THE PHILIPPINE MAHOGANY CASE

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

DOCKETS NOS. 1916, 1736, 1738, 1740, 1741, 1743, 1744, 1751

IN THE MATTER OF GILLESPIE FURNITURE COMPANY, AND FURNITURE CORPORATION OF AMERICA, BLACK & YATES, INC., FRANK PAXTON LUMBER COMPANY, E. J. STANTON & SON, CARL WENDELSTEIN, TRADING AS CARL WENDELSTEIN & COMPANY, WESTERN HARDWOOD LUMBER COMPANY, CADWALLADER-GIBSON COMPANY, INC., THE MATTHEWS COMPANY, INC.

MEMORANDUM ON REHEARING

I. PRELIMINARY NOTE

This proceeding has been before the Commission almost continuously for twenty years. The issue is "passing off" or substitution of materials. It is the very type of case wherein the judicial process failed (*American Washboard Co.* v. *Saginaw Mfg. Co.*, 103 Fed. 281) to control "the charlantanry of the deceiver" (The Consumer and Federal Regulation of Advertising, 53, Harvard L. R. 828), and which lead to the creation of this Commission (*Royal Baking Powder Co.* v. *Comm.*, 261 Fed. 744; *F.T.C.* v. *Raladam Co.*, 316 U.S. 149; *Algoma Lumber Co.* v. *F.T.C.*, 291 U.S. 67; *F.T.C.* v. *Winsted Hosiery Co.*, 258 U.S. 483;

Henderson on the Federal Trade Commission, page 179; Norwood "Trade Practice and Price Law", Summary of Rulings, page 191, et. seq.).

Congress charged the Commission with exclusive responsibility* for the protection of the public and for raising the standards of fair trade (the *Algoma* case, *supra; F.T.C.* v. *Keppel*, 291 U.S. 304).

It hoped that the effect might be prophylatic (*Fashion Originators Guild* v. *F.T.C.*, 312 U.S. 457). It gave it adequate power to discharge that responsibility (*Algoma Lumber Company*, supra). It freed it from the limitations of the common law concept of "unfair competition" by substituting the "broader and more flexible phrase 'unfair methods of competition'" (*F.T.C.* v. *Keppel*, supra), and made its findings. If supported by substantial evidence, final (*Algoma Lumber Company* and other authorities, ante). But even more significant, Congress recognized that trade practices were dynamic and required continuous supervision. Therefore, by Section 5 of the Act it authorized the Commission *at any time* to review and revise any order or determination, free of the restraint of the common law principles of "*res adjudicata*" or estoppel (*American Chain & Cable Co.* v. *F.T.C.*, 142 Fed. 939, approved in *International Union* v. *Eagle-Pisher Mining Co.*, 89 L. Ed. 1163, May 28, 1945; *F.T.C.* v. *Raladam Co.*, 316 U.S. 149).

This power to reopen has been exercised by the Commission twice at the instance of Respondents (compare 10 F.T.C. 300 and 11 F.T.C. 271, and the 1931 proceedings). The present application is to consider additional evidence and change in law to guide the Commission in determining if the action taken by it in 1931 should be revised or affirmed in the public interest. Full opportunity to be heard has been given to Respondents. There can be no doubt as to the power of the Commission to exercise its continuing jurisdiction; it rests on the statute itself.

II. THE ISSUES

The issues are fully covered in our Main Brief, and will not be considered in detail.

Essentially they are very simple:

Respondents import from the Philippine Islands various kinds of hardwood under their separate and established common names of red lauan, white lauan, tanguile, narra, apiton bataan, lamao, orion, batang, bagaac, batak and balachacan (*Indiana Quartered Oak Co.* v. *F.T.C.*, 26 Fed. (2d) 340).

These woods are not identical; each has its own characteristics, such as cell structure, color, weight, utility, etc. Tanguile, for example, is clearly the best of these woods and sells at a higher price (Main Brief, page 32, sub-division VI), so there is a separate unfair trade practice in substituting lauan or mayapis (still another variety) for tanguile.

All of these Philippine woods have this in common—that none of them is mahogany as known to commerce for 250 years. Mahogany is, of course, the wood of the distinctive mahogany tree, which has its own characteristics of cell structure, grown by nature in the tree, and which has given the lumber a unique reputation as the premier cabinet wood, used by the master craftsmen (*Indiana Quartered Oak Company*, 11 F.T.C. 271, 26 Fed. (2d) 340; Main Brief, Items IV, V and VI). These Philippine woods bear a superficial resemblance to genuine mahogany in the same way that red birch, gumwood and other nonmahogany woods do, in that they are reddish or brown in color, and, especially when artfully finished, are susceptible of passing off for mahogany (Main Brief, Item VIII).

Respondents have sold all of these Philippine woods under the deceptive and generic secondary term "Philippine Mahogany", coined by them, or upon the plain misrepresentation that the woods are mahogany. Over the course of twenty years, they have never been able to sustain a single consistent basis in justification of this practice. From the beginning, the defense has been characterized by ever shifting and inconsistent theories, progressively advanced and abandoned.

Essentially the defense has necessarily been an attempt to establish a secondary usage, either for Mahogany or for "Philippine Mahogany", and this was the whole basis of their defense until the *Algoma* case destroyed it (Main Brief,

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*NOTE 1.—*F.T.C.* v. *Klesner*, 280 U.S. 19.
The Commission acts, in *parens patriae*. While a complaint may be brought to its attention, it has exclusive power to determine if it shall proceed. If it does, it is a public proceeding and the complaining witness is not a party. Thus, if the complaint is dismissed, there can be no review of the Commission's action except through proceedings initiated by the Commission to review its determination.

Item III). Now they abandon this, their only defense, as no longer tenable, and yet advance arguments relevant only to such a defense.

The reality is that the Respondents can no longer maintain any defense on the merits. Nothing remains to them but technicalities. In essence, their claim is that they have out-maneuvered the Commission so that it is powerless to exercise its functions. They give the Commission clear notice that they do not consider themselves bound any longer by their stipulation of 1931, or by the modified decree in the *Indiana Quartered Oak* case (58 Fed. (2) 182); and that unless an order to cease and desist is issued, they will sell these Philippine woods as mahogany, and represent to the public that they do so by the authority of the Federal Trade Commission. They seek, by legal legerdemain, to claim a vested right to use a deceptive secondary term. They seek to establish this position by misconstruction of isolated parts of the record. The complete answer will be found in a consideration of the entire "History of the Case," which we submit herewith.

Federal Trade Commission v. *Gillespie Lumber Co., et al.—The Philippine Mahogany Case*

III. HISTORY OF THE CASE

I. Original Proceedings

1925

Identical complaints issued against a group of companies dealing in these Philippine woods, including: Thomas E. Powe Lumber Company (Docket 1261); Indiana Quartered Oak Co. (Docket 1316); Black & Yates, Inc. (Docket 1736).

Complaint: Unfair methods of competition, by misrepresenting red lauan, white lauan, tanguile, and other woods as genuine Mahogany.

1925–1926

By agreement, Indiana Quartered Oak Co. case selected as the test case. A vast quantity of testimony taken by the Commission. Trial Examiner's report.

1926 (June)

Indiana Quartered Oak Co. case argued before the Commission.

Respondents argued (a) that there was a secondary useage of the term "Mahogany" broad enough to include their woods; and (b) that the secondary term coined by them of "Philippine Mahogany" had been sufficiently established.

1926 (July)

Commission found against Respondents and entered orders to cease and desist (*Indiana Quartered Oak Co.*, Docket 1316, 10 F.T.C. 300; *Powe Lumber Co.*, Docket 1281, 10 F.T.C. 280).

1926 (December)

Commission grants application of Respondents for further hearing.

1927

Additional testimony taken.

1927 (June)

Proceeding reargued before the Commission.

1927 (August)

Commission makes final findings (*Indiana Quartered Oak Co.*, Docket 1316, 11 F.T.C. 271; *Powe Lumber Co.*, Docket 1281, 11 F.T.C. 248; see particularly finding No. 39).

Order to cease and desist entered; Second Circuit Court of Appeals designated to hear appeal.

1927 (October)

Appeal heard.

1928 (May 14)

Second Circuit Court affirms order of Commission. 26 Fed (2d) 340.

1928 (October)

Application of Respondents for certiorari denied (278 U.S. 623).

NOTE.—The action of the Commission was in accordance with its established policy of restraining the practice of "palming off," particularly by the misuse of

so-called secondary terms; it was consistent with all previous decisions; it was right. As applied specifically to lumber, it was in accordance with the rule thereafter established by the *Algoma* case.

1929 (June)

Order affirmed, Ninth Circuit, Docket 1324 in *F.T.C.* v. *Hammond Lumber Co.;* and in *F.T.C.* v. *Kirschman Lumber Co.;* and *Robert Dollar Lumber Co.*

1929 (June 28)

Order affirmed in *F.T.C.* v. *Powe Lumber Co.;* Eighth Circuit, 35 Fed. (2d) 1017.

1929 (September)

Insular Lumber Co., of which Scrim is President, agrees with Philippine interests to finance a new case (supplement to Respondents' Brief, page 320). Objective, by indirection, to reopen *Indiana Quartered Oak Company* decree of the Second Circuit, which it was assumed could not be done directly. Commission consents.

1929 (December 14)

Complaints issued; identical with the original complaints, against several Respondents, not including Insular Lumber Company, Dockets 1736–1741, 1743, 1744, 1751. One Respondent, designated Gillespie Furniture Co., a partnership (Docket 1739) ansewrs, representing it as a partnership.

1930

Docket 1739 selected as test case. Fact, not discovered until June 3, 1930, that partnership dissolved in 1928 and business taken over by Gillespie Furniture Co., a corporation.

1931 (February)

New case entered against Gillespie Furniture Co., a corporation (Docket 1916).

1931 (June 24)

Stipulation, to adopt testimony in Docket 1739 as applying to 1916.

NOTE.—Apparently Docket 1739, against a nonexistent Respondent was not dismissed.

1930–1931

Testimony taken, The scientific testimony in the *Indiana Quartered* case was stipulated.

1931 (June 10)

Proceeding argued before Commission under Docket 1739.

1931 (June 30)

Order entered dismissing complaint in Docket 1739 without stating reasons; two members dissenting; one of whom filed a memorandum opinion. No action taken on the other proceedings, including Docket 1916.

1931 (September 24)

Petition filed by Mahogany Association, American Walnut Association and Hardwood Manufacturers Institute for leave to intervene in Docket 1739 and 1916 (Trial Examiner's Report, page 7).

1931 (September 29)

Petition filed by other respondents to dismiss remaining complaints; including Docket 1916.

1931 (October 7)

Memorandum by Chief Counsel.

1931 (October 12)

Commission requests Chief Counsel to report if any of the Respondents described their lumber as Mahogany without the use of the adjective Philippine (Examiner's Report, page 7).

1931 (October 13)

Chief Counsel reports that the complaints so charge.

1931 (October 23)

Chief Counsel suggests that complaint should be dismissed only if the Respondents sign a Stipulation not to represent woods as Mahogany, and Commission directs that if such a Stipulation is executed, then the proceeding against any Respondent who signs a stipulation shall be dismissed.

1931 (October 28)

Stipulations signed by all Respondents, including specifically Gillespie Furniture Co. (Docket 1916).

1931 (November 7)

Order of dismissal in Docket 1916 on basis of the Stipulation.

NOTE.—These subsequent actions show that the Commission adhered to its original decision to the effect that (a) Lauan, tanguile, etc., where not Mahogany and (b) there was no secondary use of the term Mahogany which would permit these Philippine woods to be sold as Mahogany; but they did reconsider the use of the secondary term "Philippine Mahogany" and indulged the Respondents in its use upon their stipulation. Such, up to very recently, has been the position of the Respondents, and their efforts have been limited to attempting to retain their immunity from prosecution in the use of the secondary term "Philippine Mahogany". At the time the Commission accepted the stipulation, the law of secondary use as applied to lumber had not been settled and was in doubt. The policy of the Commission to restrain misnaming of lumber had also been declared in the *White Pine* case. The acceptance of the stipulation left the first group of Respondents at a competitive disadvantage. All Respondents were restrained from the use of the word "Mahogany"; the first group were also restrained from the use of the secondary term "Philippine Mahogany". This required correction.

11. Proceedings in the Circuit Courts of Appeal in the First Group of Cases

1932 (May 9)

Indiana Quartered Oak Co. petitions Second Circuit; does not request modification of original decision holding that their woods are not Mahogany and that there was no secondary term which would permit them to sell as Mahogany; recites subsequent proceedings before the Commission and alleges that they are at a competitive disadvantage with the second group; asks only that they be allowed to use the secondary term "Philippine Mahogany" under the terms of the stipulation.

1932 (May)

Second Circuit, with consent of Commission, grants application only to the extent requested (58 Fed. (2d) 182).

1932 (June 10)

Power Lumber Co. applies to Eighth Circuit for similar limited relief. Eighth Circuit, with consent of Commission, modifies order to read as follows:

"It is hereby ordered * * * that * * * Thomas E. Powe Lumber Company * * * forthwith cease and desist from advertising, describing or otherwise designating or offering for sale or selling in commerce with foreign nations or among the states of the United States or in the District of Columbia, under the term 'Mahogany', or any other term of similar import, woods known under the common or trade names 'Red Lauan', 'White Lauan', and 'Tanguile' (all three of which are also sometimes called Battan and Lamao), unless said term is accompanied by the modifying term 'Philippine.' "

III. The Algoma Case

1931 (June 15)

Decision of the Commission in the *White Pine* case.

1933

White Pine case reversed by the Ninth Circuit.

1934

Supreme Court reverses Ninth Circuit, and for the first time states the law as to secondary use with respect to lumber, and upholds the principle that the science of botany may be restored to identify the trees, which alone can produce a particular kind of lumber; sustains original finding of Commission in *Philippine Mahogany* case.

IV. Proceedings to Review Acceptance of Stipulation

1935

Petition by Lumber Associations to have Commission review advisability of order of November 7, 1931, accepting stipulation, in light of *Algoma* decision by the Supreme Court.

Protest statement by Counsel for Respondents, page 4:

"Fourteen of the interested parties for whom I speak entered into stipulations with the Commission under which the name Philippine Mahogany was confirmed. These stipulations were solemn compacts, entered into in good faith. I believe they amount to a declaration by the Commission to the trade and public that the name Philippine Mahogany is the recognized, common and accepted term for our wood, and that *a secondary meaning is thus acknowledged.* Is the Commission of 1935 to now say that parties dealing with the Commission of 1931 did so at their peril?"

Brief of intervenor asks that petition be dismissed without oral argument because it is made too late; no offer to present testimony.

Brief presented by Petitioner.

NOTE.—Apparently the Commission took no action on this Petition.

1937

October 29th. Ex parte motion by Counsel for Commission; recites stipulation and order of November 7, 1931, in Docket 1916 and other cases, but not in Docket 1739; refers to *Algoma* decision by Supreme Court; asks for a "show cause" order to be served on Respondents so Commission may consider advisability or reopening proceedings to extent necessary to ascertain if Commission should modify the order of November 7, 1931.

Same day, order to show cause granted; provision made for service on Respondents; only effect to bring the matter before the Commission.

1937 (Apparently in November)

Respondents appear specially; move to vacate order of October 29, 1937 and deny motion for no jurisdiction because (a) application for reopening not filed in time; (b) proceedings finally determined in 1931; (c) no cause shown, and (d) no notice of application.

1937–1938

Briefs filed by Commission's Counsel and by Respondents; reply by Commission's Counsel answering arguments as to res adjudicata, equitable estoppel, etc., cites the Wheeler-Lea Act enlarging power to reopen; supplemental brief of Counsel for Commission showing (page 25) that when Respondents asked the Commission to reopen the case in 1931, it was on the basis that the Commission had power because there had been a change in the law of secondary meaning to case of *Ohio Leather Co.* v. *F.T.C.* 45 Fed. (2d) 39 "The *Kaffor-Kid* Case"; so same rule must apply due to further change of law in the *Algoma* case.

NOTE.—The "*Kaffor-Kid* case", considered in detail, post.

1939 (January 3)

Order granting motion of Chief Counsel; cases reopened to determine whether Commission should modify or reaffirm the action of 1931; reopening limited to the issue of secondary use of "Philippine Mahogany"; evidence to be taken before a Trial Examiner (giving Respondents opportunity to be heard); and after trial, the Commission will proceed to determine whether its acceptance of the stipulations "should be rescinded or affirmed".

1939 (September)

Motion by Respondents to dismiss, and to vacate order of January 3, 1939, on ground of res adjudicata and equitable estoppel. Do not ask to be allowed to present evidence.

1939 (September 19)

Motion denied, without prejudice.

1940 (January 25)

Order dismissing certain cases because Respondents have gone out of business, without prejudice to right to reopen.

1940 (January 26)

Order to consolidate cases.

1940 (June 24)

Order allowing testimony on comparative qualities of Philippine woods and those produced from trees of genus *Swietenia*; does not reopen scientific testimony.

1940–1941

Hearings before Trial Examiner Ballinger.

1941 (August 1)

Report by Trial Examiner Ballinger.

1941 (August-September)

Brief by Counsel for Commission with appendix; briefs of Respondents; Reply Brief and Second Reply Brief of Counsel for Commission.

1942 (January 29)

Oral argument (see stenographic record).

Mr. Nims (page 84) finally rests his whole case on the "*Kaffor-Kid*" case (*Ohio Leather Co.* v. *F.T.C.*, 45 Fed. (2d) 39), *which involves secondary use of trade name*, permitted only if accompanied by descriptive language legibly showing that the sustance (Calfakin) was not genuine kid.

Col Munson (page 56): "We are all agreed that the secondary meaning is out of the window; we have burned our bridges behind us."

NOTE.—See analysis of *Kaffor-Kid* case, post.

1944

Reargument directed.

V. Black & Yates, Inc., et al., v. *Mahogany Association*

A. United States District Court, Delaware:

1939 (October 24)

Complaint filed by Black & Yates, Inc. (Respondents in Docket 1736), Powe Lumber Company (party or original proceedings, 11 F.T.C. 248) and Scrim (President of Insular Lumber Co., which finances the Federal Trade Commission proceedings for all Respondents; Supplement to Respondents' Brief, page 320) vs. Mahogany Association, Thompson Lumber Co.

Started while present proceedings pending. Objective, to restrain Association from stating that the woods sold under the name of "Philippine Mahogany" were not genuine Mahogany.

Alleges in substance:

Plaintiffs sell "hardwood" (not alleged to be Mahogany) known as Philippine Mahogany.

Described 1935 proceedings before the Commission.

On November 7, 1931, complaints against Black & Yates dismissed on stipulations signed by each Respondent.

In July 1932, on petitions of Commission and Powe, the Eighth Circuit modified the former decree; Second Circuit took similar action; the only restraint on the use of Mahogany is the requirement that the term "Philippine" always be used in connection therewith.

Respondents have conducted their business *in obedience* to the stipulations and decree.

Grievance; that the 1931 proceedings have been reopened; that it is a trade libel for the Association to deny the right of Respondents to use the term "Philippine Mahogany."

Bill of Particulars developed that the "hardwoods" were the same lauan, tanguile, etc. involved in the *Philippine Mahogany* case.

1940 (August 1)

Complaint dismissed without answer or trial. Opinion recognizes that plaintiffs claim only "secondary use"; that the indulgence is being reviewed by the Commission; that until the matter is finally decided, it is not a trade libel to contest the validity of a secondary term; that there is no equitable right to enjoin a trade libel.

B. Third Circuit Court of Appeals:

1940 (December)

Plaintiff's appeal. Their briefs change position in court below; now allege that they are not bound by the stipulations of 1931; they confuse Dockets 1739 with 1916; claim that Commission reversed itself, found that lauan, tanguile, etc. were really Mahogany; that they have a right to sell them under that name and neither the stipulation nor the modified decree means anything.

1941 (June 30)

Opinion of Third Circuit; finds that the sole question is as to whether Respondents have been granted the right to use the *secondary term* "Philippine Mahogany"; recognizes that Commission is right, in view of the *Algoma* case, to review the indulgence, and has right to reopen the case; rules that until the approval of the stipulation is revised, Respondents may use the secondary term and it should not be attacked; holds that Delaware Court had jurisdiction; reverses on pleading alone and direct defendant to answer.

1941 (August 14)

Third Circuit grants rehearing.

1941 (December)

Respondents request Third Circuit Court of Appeals to modify its opinion so as to eliminate reference to "secondary meaning". Motion denied.

1942 (June)

Motion to amend opinion denied; opinion on rehearing; makes no change relevant here.

1932 (December 17)

Before defendants' time to answer expired, plaintiffs, ex parte, dismissed their own complaint.

NOTE.—The law of the case was that the only issue concerned the use of the secondary term. After this decision for the first time Respondents abandoned defense of a secondary term either for Mahogany or Philippine Mahogany.

IV. HISTORY OF THE CASE CONSIDERED

The foregoing history demonstrates:

(1) Since the beginning, these proceedings have taken the classic pattern of substitution cases. They have presented two issues: (a) identity and (b) "secondary use."

(*a*) *First issue—Identity*

It was common knowledge that for over 250 years a certain lumber had been sold in commerce under the name "Mahogany," just as other lumbers were known as oak, maple, birch, gumwood, etc.; and as mahogany had acquired, over the centuries, the highest reputation as the "premier cabinet wood of the world" (Trial Examiner's Report, page 9) unscrupulous traders deceived the public by substituting red birch, gumwood or similar woods which could be finished to look like mahogany, and misrepresented furniture made from these substitutes as mahogany. These Philippine woods had not been introduced into the United States until at least 1905. They were sold as mahogany or, under the term coined by the Respondents, "Philippine Mahogany." The first issue was to determine the identity of the substance known exclusively to commerce as "Mahogany" for 250 years; and then to ascertain if these Philippine woods, or any of them, were that identical substance. If they were, that would be an end to the case. If they were something different, it would obviously be an "unfair method of competition" to misbrand them.

In 1925 the Commission identified genuine mahogany and established the criteria whereby it is known to everyone, with or without technical training. Botanical science was resorted to only as a further infallible test. In like manner, it established the identification and the common names of each of the several woods sold by Respondents, and demonstrated that none of them was mahogany, but a substance wholly foreign thereto, bearing only a superficial resemblance to the genuine because of color, etc.—equally true of birch or gumwood (see 10 F.T.C. 300; 11 F.T.C. 271; "History" item 1). It, therefore, found that the public interest required that these woods should not be sold upon misrepresentation that they were the genuine.

The law of the case (26 Fed. (2d) 425) is that these findings were sustained by substantial evidence. All the Respondents are restrained from making this misrepresentation; the first group by the decree of May 14, 1928 (not modified in this respect by the decree in 58 Fed. (2d) 182); the second group by the stipulation and order of November 7, 1931.

The subsequent evidence confirms these findings (Report by Trial Examiner Ballinger; Main Brief, IV and V); they are strengthened by the new testimony of the chemists.

The first issue is, therefore, finally disposed of. The ruling was in accordance with the consistent policy of the Commission, in the *Algoma* case, and in the many instances cited in *Henderson* at page 182 and *Norwood* at page 191. This policy is specifically approved by the Supreme Court in the *Algoma* case.

(*b*) *Second issue—"Secondary Use"*

The defense of secondary use concedes that the challenged substance is not the original; it contends that the term "Mahogany" or "Philippine Mahogany" has two distinct meanings: that they have been universally accepted, and are no longer deceptive.

The claim of a secondary use for the term "Mahogany" requires no consideration. It could be sustained only by proving that over the centuries some other particular wood had established "equal title to legitimacy by force of common acception" (the *Algoma* case); and further, that this ancient substitute was lauan or tanguile. As this hopeless contention is now abandoned (see History, January 29, 1942; Reply Brief, page 3, the case is reduced to the only question under review—as to the legitimacy of the coined phrase "Philippine Mahogany." The position of Respondents on this is equally untenable (See Main Brief, item VIII; History, January 29, 1942; Reply Brief, page 3).

(2) In 1935, Respondents, now financed by Insular Lumber Company (see History, September 1929; Supplement to Respondents Brief, page 320), secured a reopening of the case on the plea that there had been a change in the law of secondary use as affecting the coined phrase "Philippine Mahogany." At that time there had been no authoritative decision as to the standard of proof required to establish secondary use in lumber nomenclature; this was not settled until the *Algoma* decision to 1934. Apparently based on the "*Kaffor-Kid*" case, the Commission granted an indulgence for the secondary term "Philippine Mahogany," on the faith of *representations that this term had lost its power to deceive* and would be controlled to the consumer level by Respondents. The Commission granted the indulgence conditionally (not permanently). It required the stipulation (see History, October 28, 1931) that the former restraint on the use of the term "Mahogany" be continued; and, of course, this indulgence was subject to continuing control.

(3) This indulgence left the first group under a competitive disadvantage with other dealers in these Philippine woods. The Commission sought to give equal treatment to all. Respondents applied to the Second Circuit, disclaiming that their woods were mahogany and consenting to the continuance of the injunction on the first issue. So limited, the Commission did not oppose the application. On the faith of these representations to the Court, the Second Circuit granted the same indulgence (58 Fed. (2d) 182). This is made even clearer by the form of order in the *Powe case* (see History, June 10, 1932) which specifically continued the former injunction. The original decision on the first issue (26 Fed. (2d) 340) is still cited by the Second Circuit as a controlling authority (see, e.g., *National Silver Co.* v. *F.T.C.* 88 Fed (2d) 425, 1937).

(4) The *Algoma* case in 1934, for the first time clarified the law of secondary use, and made it proper for the Commission to reconsider its tolerance of that term (*Black & Yates* v. *Mahogany Assoc.*, 129 Fed. (2d) 227, June 30, 1941).

The Commission did not reopen the case or set aside the stipulation. That is the question before it now. It merely took proceedings to reconsider its former action, Respondents objected (see History, item IV, 1935) that this was unfair because "these stipulations were solemn compacts," and established the "secondary meaning."

(5) Not until the Third Circuit had ruled that the only question was one of secondary meaning, of "Philippine Mahogany," and indicated plainly that in the light of the *Algoma* case Respondents could not establish it, did the Respondents abandon their defense of secondary meaning (see History, January 28, 1942; Main Brief, Item III, starting at page 15). Yet, even this final shift was changed again on the oral argument (see History, January 28, 1942) and respondents are

back to their original reliance on the "*Kaffor-Kid*" case, which is one of secondary use, archaic in the light of the *Algoma* case.

(6) Thus, all of the defenses are abandoned. There remains only the technical defenses that an order of the Commission becomes final after ninety days and cannot be reconsidered even though the public interest so requires; or other phases of this argument, such as *res adjudicata* or equitable estoppel. These dilatory pleas are an admission of lack of merit; they are contrary to the statute itself, Section 5(a), to the authority of the Supreme Court, and inconsistent with their plea in the 1921 proceedings.

V. THE CONTINUING POWER OF THE COMMISSION

The disposition of the case in 1931 was by stipulation. No petition for review was filed. Section 5 provides in such case that the Commission "may * * * at any time * * * reopen and alter, modify or set aside * * * any report or order * * * *whenever in the opinion of the Commission conditions of fact* or of *law* have so changed as to require such action, or if the public interest shall so require."

It has never been doubted that Congress intended that the Federal Trade Commission should exercise a continuing jurisdiction, so as *to mould its actions to the dynamic changes* of conditions in commerce, or the expanding concept of the law as to the public interest.

The only question has been as to whether this power continues after an order of the Commission has been affirmed by a Circuit Court. This problem we are not concerned with here. In the *Indiana Quartered Oak* case, the Commission reopened the proceedings at the instance of Respondents, by indirection. They might have done it directly. After the acceptance of the stipulations, they cooperated with the Respondents in the *Indiana Quartered Oak* case and in the *Powe* case, by consenting to limited modifications by the Circuit Courts.

However, it is been settled very recently that this was not necessary, and that the continuing power was not even affected by an affirmance (*American Chain & Cable Co.* v. *F.T.C.*, 142 Fed. (2d) 939, decided May 29, 1944, C.C.A., Fourth Circuit).

As the Court said: "Orders of the Commission * * * ordinarily have relation to the future and not to the past; and *with the passage of time their provisions may be rendered inappropriate* by changing conditions. In such cases provision is made that the orders may be modified or vacated" (citing Section 5 of the Federal Trade Commission Act).

The rule of this case has been specifically approved by the Supreme Court in *International Union* v. *Eagle-Picher Mining Co.*, 89 L. Ed. 1163, decided May 28, 1945. This settles for all time all questions of power.

It is consistent with the case of *Brougham* v. *Blanton Mfg. Co.*, 249 U.S. 725, which involved the powers of the Department of Agriculture. There the Secretary of Agriculture had approved the trademark "Creamo" for oleomargarine. Seven years later the action was rescinded. The plea was *res adjudicata*. It was held that "the power necessarily is a continuing one". The former approval was held only *an indulgence* and it was the duty of the Secretary to review it.

In F.T.C. v. *Raladam Co.*, 285 U.S. 643 (1931), the Supreme Court, following the restrictive rule then prevailing respecting administrative tribunals, reversed the Commission's order to cease and desist. The Commission filed a new complaint and issued a new order. *In F.T.C.* v. *Raladam Co.*, 316 U.S. 149, decided 1942, the Commission was sustained and the old rule, of which the "*Kaffor-Kid*" case is an example, was discarded. A plea of *res adjudicata* on which Respondents rely here was held to be one applicable only to the judicial process and not binding in an administrative proceeding.

Nor is there anything to the contrary in *American Drug Co.*, v. *F.T.C.*, Eighth Circuit. This sustains the continuing jurisdiction. It merely provides that before the Commission actually rescinds its former order, it should give respondent an opportunity to be heard. In that case the Commission summarily cancelled its former order and refused to hear any evidence.

In the present case the former order has not been cancelled, but the very purpose of this proceeding is to consider after evidence if it should be reopened, modified, or confirmed. In opposition (see IV, History, 1935 and September 1939), Respondents did not offer to present evidence and did not even wish to have an oral argument; they relied solely upon the judicial doctrines of *res adjudicata* and equitable estoppel. Still the Commission, in precise conformity

with the statute and the *American Drug Company* case, gave them every opportunity to be heard, and to present briefs and oral argument. The *American Chain & Cable Company* case agrees that "the statute clearly gives the Commission the power at any time to take this action."

Respondents secured a rehearing in 1931 on the plea that the law as to secondary use of coined terms had been changed by the "*Kaffor-Kid*" case. The present proceedings are justified for many reasons, one of which is a real change of law by the *Algoma Lumber Company* case, cited to the Commission on the application (see History, IV, 1935). The order of January 3, 1939, specifically provided for a rehearing on the question of secondary use.

In their brief, Respondents abandoned this issue. One of them confirmed his position on the argument (Colonel Munson, page 56); but with characteristic inconsistency, Mr. Nims (page 84) finally rested his whole case on the "*Kaffor-Kid*" decision. The "*Kaffor-Kid*" case involved secondary use of a coined trade name and nothing else, and was permitted only if accompanied by descriptive language showing the true nature of the material. Therefore, it is of no aid to the Respondents even if it had any remnant of authority. The Respondents' reliance thereon is important as showing that their true defense is one of secondary use of the term "Philippine Mahogany". We will consider the *Kaffor-Kid* case again after placing it in its historical setting.

VI. THE POWERS AND FUNCTIONS OF THE FEDERAL TRADE COMMISSION AS DEFINED BY MODERN DECISIONS, WITH A BRIEF REFERENCE TO HISTORY

The right of Congress to select the administrative, rather than the judicial process in the execution of public policy, and to vest authority and responsibility in such administrative bodies free of restraints inherent in the judicial system, has been slow of recognition by the courts, but has now been thoroughly established (*Federal Communications* v. *Pottsville*, 309 U.S. 134; *Fashion Originators Guild* v. *F.T.C.*, 312 U.S. 437; *Corn Products Refining Co.*, 89 L. Ed. 977; *International Union* v. *Eagle-Picher Co.*, 89 L. Ed. 1163; *American Chain & Cable Co.* v. *F.T.C.*, 142 Fed. (2d) 939; *Algoma Lumber Co.* v. *Saginaw*, 291 U.S. 67; the *Second Raladam Case*, 316 U.S. 149).

It is now universally recognized that there has been a complete reversal by the Courts of their early tendency to regard administrative tribunals as intruders, to assimilate principles applicable only to judicial process, and to pay only "lip service" (*Algoma* case) to the mandate of Congress, so as to deny to these tribunals the powers and functions vested in them by Congress and to render their work ineffective.

The Federal Trade Commission was particularly the victim of this antagonistic attitude. But happily this is all changed now. The law has grown to maturity, and the Commission is no longer denied its powers (see e.g., *F.T.C.* v. *Pottsville Broadcasting Co.*, 309 U.S. 134; *Algoma*, and other cases ante; *Norwood*, ante; 53 *Harvard L.R.* 228).

As noted by Norwood on Trade Practice, page 39, this period of restriction started in 1920 with the *Gratz* case (253 U.S. 421) and continued until the *Kepple* case (291 U.S. 304) in 1934. It reached its full development in the *Algoma* case in 1934.

It can no longer be denied that 1934 marks a definite change in law. Therefore, all the decisions prior to 1934, such as the First *Raladam* case (42 Fed. (2d) 430; 285 U.S. 643) and the "*Kaffer-Kid*" case (*Ohio Leather Co.*, 45 Fed. (2d) 39) are archaic and only of historical interest. This is most dramatically illustrated by comparing the First and the Second *Raladam* cases.

Specifically, ths change of viewpoint on the precise problem of the continuing power of the Commission to reopen and reconsider its former rulings, is given by the Second *Raladam* case in 316 U.S. 149, where the plea of the respondents of *res adjudicata* and equitable estoppel was effectively disposed of; and by the approval of the Supreme Court in the *International Union* case (142 Fed. (2d) 939). Neither, as we have seen, is there anything in the *American Drug Corporation* case (No. 13064, Eighth Circuit, June 8, 1945) to the contrary.

Not all of the Circuit Courts followed this early tendency, but there was confusion between the Circuits, now settled in favor of the Commission by the Supreme Court; and on the specific subject matter here, by the *Algoma* case.

Thus, in the early day, the Second Circuit forecast and applied the modern rule in the very case of *Indiana Quartered Oak Co.* in 26 Fed. (2d) 425, which they still cite as controlling law, Respondents to the contrary (*National Silver Co.* v. *F.T.C.*, 88 Fed. (2d) 425; 1937; citing also the *Algoma* case, and clearly

indicating that the Algoma decision confirms the *Indiana Quartered Oak* case).

So, too, the Second Circuit in *Florence Mfg. Co.* v. *Dowd*, 178 Fed. 73, and in *F.T.C.* v. *Balme*, 23 Fed. (2d) 615, laid down the rule which was later adopted in the *Algoma* case and which is the guiding rule today, as follows:

"The law is not made for the protection of experts, but for the public—that vast multitude which includes the ignorant, the unthinking and the credulous, who, in making purchases do not stop to analyze but are governed by appearances and general impressions."

And for this sound principle they cite *Nims on Unfair Competition*, 2d edition, page 117.

In the *Balme* case, the Court also forecast the rule of the *Algoma* case to the effect that a deliberate attempt to deceive is not required, nor is it necessary to show actual deception or that any competitor of respondent has been damaged.

On the other hand, the Sixth Circuit, in conflict with the Second, was the exponent of the contrary and restrictive rule. In a series of cases (the First *Raladam* case, 42 Fed. (2d) 430; the *L. B. Silver* case, 289 Fed. 985; the *Good Grape* case, 45 Fed. (2d) 42, and many others; *Ohio Leather Co.*, 45 Fed. (2d) 39, the *"Kaffor-Kid"* case), they evolved a policy which applied the rules of the *American Washboard* case, and of the judicial process so as effectively to destroy the basic policy of the Federal Trade Commission Act. The *"Kaffor-Kid"* case was simply one of this group.

Among other things, the Sixth Circuit evolved the doctrine that it was necessary to show actual deception and actual loss to a competitor, and further that the particular trade was conducted in accordance with the standard of ethics established by the Court; the public interest and the rights of the consumer were forgotten. In addition, as the Court said in the *Algoma* case, they paid only "lip service" to the rule that the findings of the Commission were final if there was substantial evidence to sustain them, and constituted themselves a supervising administrative agency, passing upon the findings on the principle of "preponderance of evidence".

The First *Raladam* case, to some extent, followed the Sixth Circuit. As a result, the law was confused until it was clarified by the *Algoma* case.

All this is now only a matter of academic interest. These restrictive decisions of the Sixth Circuit are in effect reversed (see e.g., the Second *Raladam* case), and the principles of the Second Circuit with its leading case of *Indiana Quartered Oak Co.* are now confirmed by the *Algoma* and other modern cases cited ante.

In this setting, we may consider the *"Kaffor-Kid"* case which Mr. Nims now states is his final reliance, although he did not refer to it in his brief (see History of Case, January 29, 1942; Oral Argument, page 84).

In the case of *Ohio Leather Co.* v. *F.T.C.*, (45 Fed. (2d) s9, November 12, 1930) the respondents placed on the market a brand of leather under the trade name "Kaffor-Kid" the name was said to be developed through "calf-for-kid". It was really calfskin. On its display cards, it was further described as a "distinctive calf leather". It was a pure case of secondary meaning. The Commission found that this deceived the public into believing that the material was genuine kid. As was said in the *Algoma* case, the Court paid "lip service" to the principle that the findings of the Commission must be sustained if supported by substantial evidence; and yet as a practical matter the Court reviewed these findings. The real basis of its decision seemed to be that the Court found that this deception was so prevalent in the trade that any attempt to restrain it, so far as this respondent was concerned, would only add a greater volume of misleading practice by the rest of the trade. This, of course, is precisely contrary to the *Algoma* case, where it was stated the "The careless and the unscrupulous must rise to the standards of the scrupulous and the diligent. The Commission was not organized to drag the standards down * * *. The public is entitled to get what it chooses, though the choice may be dictated by caprice or by fashion or perhaps by ignorance".

But even under the erroneous viewpoint of the law and of the powers of the Commission, the Sixth Circuit did not approve the use of the term "Kaffor-Kid" except with the qualification that this term be followed by effective disclaimer of identity with the original.

It is quite clear that the *"Kaffor-Kid"* case was never a leading authority, such as the *Indiana Quartered Oak Co.* case, and since the change of law in 1934, it has disappeared.

We have followed the citations of the "*Kaffor-Kid*" case in *Shepard's Citations*. The only citations we have are as follows:

In *Royal Milling Co.* v. *F.T.C.* 58 Fed. (2d) 581, Sixth Circuit, it is grouped with the First *Raladam* case, the *Silver* case and the *Good Grape* case, with the comment that the meaning of the Act has frequently been considered by that Court.

In *F.T.C.* v. *Royal Milling Co.*, 288 U.S. 17, we find this reference: "We are of the opinion that the public is entitled to be protected against that specie of deception * * *". (*F.T.C.* v. *Balme*, 23 Fed. (2d) 615; compare *F.T.C.* v. *Winsted Hosiery Co.*, 258 U.S. 583; *Ohio Leather Co.* v. *F.T.C.*, 45 Fed. (2d) 39). In other words, the Supreme Court indicates that the "*Kaffor-Kid*" case is in conflict with the *Winsted* case.

We do not find that it has ever been cited by anyone even the Sixth Circuit for the proposition now advanced.

From 288 U.S. 17 (in the year 1932), the "*Kaffor-Kid*" case disappeared. It was not even cited to the Supreme Court in the *Algoma case*. It remains in the limbo of the archaic.

Thus it is clear the neither the "*Kaffor Kid*" case nor any other authority even faintly suggests that the Commission is not free to take whatever action it deems to be right; and the *Algoma* case and all the modern authorities indicate what that action should be. The Courts stand ready to uphold the action of the Commission; and leave to it the responsibility.

VII. CONCLUSION

The proper disposition of the proceeding:

The proceeding is before the Commission, and it has the right and the power to protect the public interest unrestrained by technical pleas. The decision is for the Commission.

We respectfully submit that the change of law, and the public interest require that the action taken in 1931 be annulled and that an order to cease and desist be issued in accordance with the original order of August 1927.

This would be in accordance with the consistent policy of the Commission and the comment in 52 Harvard Law Review, page 828 and 841, "A marked consumer-conscious characterizes recent Federal activity, both legislative and administrative".

In this way the Commission will raise the standards and protect the consumer against the "charlatanry of the deceiver" (id., at page 828.) No harm can come to the Respondents by such a determination; for they have the right of review.

If this action is not taken, the public is left without protection for "there can be no review of the Commission's action except through proceedings initiated by the Commission to review its determination" (*F.T.C.* v. *Kiessner*, 280, U.S. 19).

Even more compelling reasons for an order to cease and desist, and for the annullment of the indulgence of 1921, are found in the present position of Respondents with respect to their stipulation. In 1935, they gained this indulgence on the faith of a stipulation which they referred to (History, 1934) as a "solemn compact", establishing a secondary meaning.

Now Respondents repudiate even this obligation (see History, *Black & Yates* Case, December 1940, December 1941, June 30, 1942). Their position now is that neither the stipulation nor their "solemn compact" with the Commission and with the Second and Ninth Circuits has or ever had any validity. They serve clear notice on the Commission that they intend to invalidate the conditions under which they received this indulgence; and not only to advertise and sell to an unwitting public as "Mahogany" any wood that bears a superficial resemblance thereto, or which can be finished to look like mahogany, but to represent to the public that they have a franchise from the Federal Trade Commission to do so. They have taken this action already with respect to the secondary term "Philippine Mahogany" and sought to enjoin a revelation of the truth (see History, *Black & Yates* v. *Mahogany Association*).

If they are permitted to do so, it will result in chaos in the lumber and furniture trade. Ethical dealers lauan, tanguile, etc., will be forced to descend to the same practices (the *Algoma* case). This will form a precedent which will offer dealers in genuine mahogany, some of whom also deal in these Philippine woods, a tempting opportunity to make like substitution. The ones who will be injured are the dealers in mahogany or in these Philippine woods who refuse to descend to this practice—and also, of course, the public.

Further, it will establish, rightly or wrongly, in the minds of the unscrupulous the impression that the Federal Trade Commission has reversed all of its policies with respect to the substitution of material. No one can foresee what the effect of that would be. This is the age of synthetic substitues (e.g., synthetic rubbber for natural rubber), many of them legitimate, but still the public is entitled to get what it wants (the *Algoma* case).

One of the basic considerations for the acceptance of the stipulation was that these Respondents would control the use of the term "Philippine Mahogany" to the consumer level. The evidence is that they have not done so; and they cannot. All of the evidence is that permission to use the term by lumber dealers is deemed to authorize its use by manufacturers; that as it goes through the channels of trade the adjective "Philippine" is lost; that when it comes to the consumer, the goods are represented as of genuine mahogany; and that the customer is not told that it is Philippine Mahogany unless "he presses for details" (Supplement to Respondents' Brief, pages 186, 187); and even where the manufacturers know the truth, they are, to put it charitably, "lax" in their advertisements and they advertise and sell the articles as genuine mahogany (i.d., page 192), so that, even if the Respondents were still willing to obey the stipulation, it is wholly ineffective; it is a sword and not a shield to the public; and now the Respondents have taken the final position that their "solemn compact" does not impose upon them even a moral obligation.

This is a serious challenge by Respondents to the authority of the Commission. We are quite sure that the Commission will know how to deal with it.

Respectfully submitted.

MAHOGANY ASSOCIATION, INC.

Dated August 29, 1945.

[From Hardwood Record, Chicago, October 1935]

THE TRUE BOTANY OF MAHOGANY

BEING AN IMPARTIAL RESEARCH BASED UPON THE DETERMINATIONS OF WORLD-RENOWNED AUTHORITIES

There has been received a consistently growing request for authentic, impartial interpretation of the botanical status of various species or groups of species of the woods reaching American markets as mahogany. The demand for this interpretation has been so insistent that Hardwood Record undertook to present such an analysis in the following paragraphs. The material is derived from authoritative scientific sources of international prestige, such as "The Mahoganies: Are Khayas Mahoganies?" by Jean Collardet, technical director of the National Committee for Colonial Forests (French) (being a free translation from Actes & Comptes Rendus de l'Association Colonies-Sciences 6: 64, 197–209, October 1930), the Field Museum of Chicago, and others. The sources of the illustrations are indicated.

Because white men knew little of the west coast of Africa until the past century the discovery of African mahogany came long after the discovery of mahogany on the Western Hemisphere and after it had attained wide use in Europe and America.

The first African mahogany was described by Desrousseaux in 1789 and named *Swietenia senegalensis* because of its close resemblance to tropical American mahogany. For 41 years *Swietenia* continued to be the only scientific generic name for African mahogany, as it still is the scientific name of "new world" mahogany.

In 1830 Jussieu observed that in certain specimens, the flowers were of the 4-type rather than the 5-type, typical of *Swietenia* and on this distinction applied a new generic name *Khaya* to African mahogany. However, as further specimens became available it was found that the 5-type and mixed 4- and 5-type flowers occurred in the African specimens. This, of course, nullified the original distinction on which the African genus was separated from *Swietenia*. However, in the meantime, it had been observed that there was a consistent difference in the seed of tropical American and African mahogany. The African seed capsules, while of the same structure as the tropical American, were shorter and more rounded and the seeds of African were winged all the way around while in the Western species the wing was principally at one end of the seed. As late as 1884 Charles S. Sargent in his "Manual of the Trees of North America," classified Florida mahogany as identical with *Swietenia senegalensis* of Desrousseaux.

AFRICAN MAHOGANY (Khaya ivorensis).

AFRICAN MAHOGANY (Khaya ivorensis)

A. Leaf (Compound with leaflets like an ash leaf).
B. Flower cluster (Few survive, but grow into large pod with many seeds).
C. Fruit (Similar in structure to Swietenia but shorter and more rounded).
D. Seed (Flattened but winged all the way around).
E. Flower (Similar in structure to Swietenia).

TANGUILLE (Shorea polysperma).

TANGUILLE (Shorea polysperma)*

A. Leaf (Simple, in appearance a large elm leaf).
B. Flower cluster (Flowers mostly survive and each develops into single seeds).
C. Fruit (The pod or capsule as in Mahogany entirely missing).
D. Seed (Single, rounded with several terminal wings in a cluster not unlike a cluster of ash or maple seed).
E. Flower (Structurally different from Swietenia and Khaya).
G. Bark (Not ridged).

HONDURAS MAHOGANY (Swietenia macrophylla).

HONDURAS MAHOGANY (Swietenia macrophylla)

A. Leaf (Compound with leaflets like an ash leaf).
B. Flower cluster (Few survive, grow into large pod with many seeds).
C. Fruit (A pod larger than an egg that splits open liberating many seeds).
D. Seed (Flattened with wing mostly at one end).
E. Flower (In cross section).
G. Bark (Heavily ridged).

Tanguile Bark—Illustration from "The Forests of the Philippines—Part II," by H. N. Whitford, Ph.D. forester, Chief of Division of Investigation.

The differences between the African and tropical American forms of mahogany are distinctly secondary and not greater than that which is often to be found between different species of the same genus. Most botanists have been inclined to continue the name *Khaya* as the genus for the African species because of the distinct geographical ranges of the respective groups. However, if originally the name *Swietenia* had been continued for both the tropical American and the African groups, then the case would have closely paralleled that of the oaks. In the oaks, one genus, *Quercus*, includes both the white oaks and the red oaks. These two groups are as botanically distinctive as are the western and the African mahoganies. If, early in the development of scientific classification, *Quercus* had been reserved as the generic name of the white oaks and the red oaks had been set aside under a new generic name, the situation would have been exactly similar to the situation that prevails in the present use of the names *Swietenia* and *Khaya* for the tropical American and African species of mahogany.

A comparable case is to be found in the pines, which are all classified in a single genus, *Pinus*. Under this genus are two distinct groups, the white pines and the yellow pines. These two groups are closely related but can always be distinguished by secondary differences.

There are several species of *Khaya* in Africa but the name "African mahogany" in France has now been reserved to *Khaya ivorensis* alone. In practice, at least, if not officially, in the United States also the name African mahogany is confined to *Khaya ivorensis*.

The Meliaceae family in which mahogany belongs is a very large family which is divided into three subfamilies or tribes: Meliodeae (Chinaberry tribe); Cedreloideae (Spanish cedar tribe); Swietenioideae (Mahogany tribe). The woods of the first two tribes have never been given mahogany names, although the Spanish cedar and mahogany tribes botanically appear to be more closely related to each other than to the chinaberry tribe.

In the mahogany tribe the following are of commercial importance: *Swietenia* (Tropical American mahogany); *Khaya* (African mahogany); *Lovoa* (Tigerwood—once called African walnut); *Entandrophragma* (Sapeli—once called Sapeli mahogany).

In the trade today there are three species botanically accepted as mahogany: *Swietenia mahogani*, (West Indian—Cuban, San Domingo, Haiti, San Jago, Spanish); *Swietenia macrophylla*, (Tropical American—Mexican, Tabasco, Honduras, Peruvian, and Amazon); *Khaya ivorensis* (African—Gold Coast, Ivory Coast, Nigeria). In all three of these mahogany species there is a great similarity of wood structure and all three have the occasional dark glistening deposits in the pores known as oleoresin, which are visible to the naked eye. The tropical American species usually may be distinguished from African by the fine, light-colored parenchyma lines that appear as growth rings, and by the more distinctly "storied" rays. The growth lines are visible in the cross section without the aid of the lens and the storied rays are faintly visible. Both come out clearly with the aid of the hand lens, the parenchyma lines in the cross section and the storied rays in the tangential.

While West Indian mahogany averages somewhat heavier, harder and finer textured than the mainland mahogany wood, technologists do not undertake to distinguish them by microscopic examination of the wood. In fact a careful microscopic study fails to discover secondary differences in the wood of *Swietenia mahogani* and *Swietenia macrophylla* and for that matter, except for parenchyma lines and storied rays, there appears to be little anatomical difference between *Swietenia* and *Khay*. The size, shape, and arrangement of the very smallest details such as the pits, for example, do not permit anything but assumptions—never a certainty.

The mahoganies are almost homogeneous as to structure and texture and apparently vary principally according to growth conditions, such as soil, moisture, and altitude, rather than because of inherent generic or specific differences. In other words there is apt to be less difference between two species grown under similar conditions than there is between specimens of the same species grown under widely different conditions.

Firms with long experience in the tropics have recognized this fact and have learned in a very expensive way that wood of excellent quality may come from certain localities and producers, while that of other localities is inferior. Slow growth upland wood is always better, just like it is in hardwoods of this country, but such wood is always the least accessible and the most costly to bring to market.

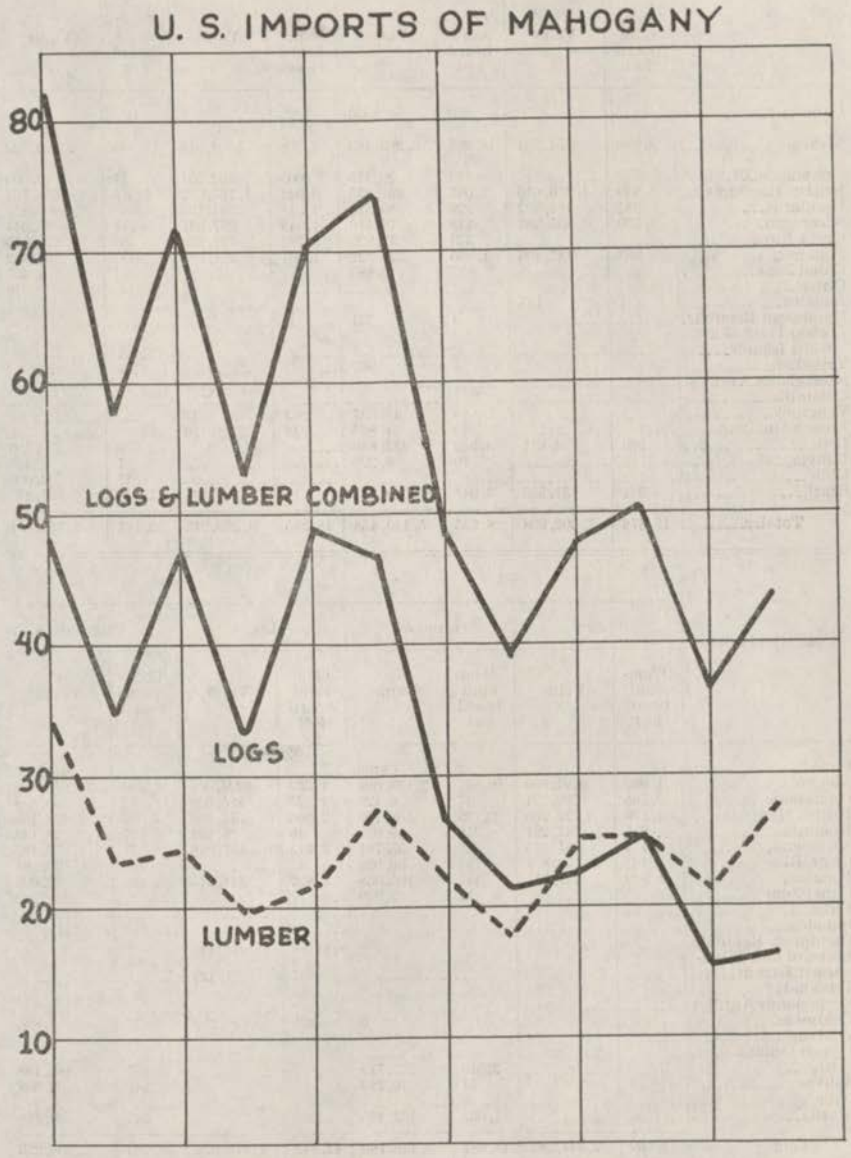
Typical Bark of the Tanguile (Shorea Polysperma), of the Philippines

Typical Bark of the Swietenia of Tropical America

The origin of the name "mahogany" has apparently been lost, but it is generally believed it is an anglicized form of a native name for mahogany, probably a Central or South American aboriginal Indian name. It is not at all impossible, however, that the name mahogany is of African origin. When England took Jamaica from Spain, in 1655, it was soon found that English laborers did not survive and by 1660 more than 1,500 West African Negroes had been imported. As the English had no previous knowledge of mahogany trees, it is not amiss to surmise that the name mahogany came from the Negro name for the tree with which they were familiar in their native Africa. In support of this theory, the Gold Coast word "mahana" means "the largest tree," or "the king of the forest" and may well be the word that gave rise to the name mahogany. The word is spelled "mahogena" in Brampton's "Man of Taste" in 1762, which may hark back to an earlier spelling now unknown to us.

The accompanying sketches based on Engler & Prantl, "Die Naturlichen Pflanzen Familien," one of the great works on plant classification, show clearly the botanical affiliation between African and tropical American mahogany. Likewise, it is appropriate from the scientific viewpoint to use a sketch from the same source illustrating the different botanical characteristics of the only other group of woods which reach the American markets under the name "mahogany," the Dipterocarps from the Philippine Islands. The tree illustrated is the tan-

guile which with others such as the lauaan, almon, etc., comes to this country as "Philippine mahogany," a privilege which has been in controversy for many years, and which is now before the Federal Trade Commission for final decision in a new petition instituted several months ago by the Mahogany Association, Inc., supported by the National Better Business Bureau and certain other of the hardwood associations.



U.S. imports of American mahogany logs and lumber, 1951–62

Country of origin	1951				1952			
	Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
Canada			2	$856			(1)	$5
Mexico	3,280	$651,561	16,359	3,263,483	(2) 2,708	(2) $594,915	(2) 13,834	(2) 2,660,622
Guatemala			(2) 140	(2) 29,475	605	102,501	54	10,000
British Honduras	6,939	1,370,016	2,083	491,255	9,041	1,757,072	1,275	258,167
Honduras	884	164,352	225	45,513	1,318	201,135	46	7,857
Nicaragua	2,620	305,362	148	18,516	1,948	237,347	648	80,044
Costa Rica			323	37,629	782	121,670	80	10,615
Panama	993	135,406	1,080	224,322	1,861	241,972	622	91,332
Canal Zone			35	6,885			45	4,497
Cuba							(1)	16
Jamaica	1	135						
Dominican Republic			3	451				
Leeward and Windward Islands								
Trinidad			4	967				
Netherlands Antilles								
Colombia								
Venezuela			86	11,837	2	247		
French Guiana			19	1,885	14	1,150		
Peru	380	34,611	4,352	423,848			2,338	235,783
Bolivia			19	4,299			7	1,463
Chile							11	4,000
Brazil	281	31,555	3,347	549,237	16	1,234	1,181	195,250
Total	15,378	2,692,998	28,225	5,110,458	18,295	3,259,243	20,141	3,559,651

Country of origin	1953				1954			
	Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
Canada			2	$469				
Mexico	1,902	$394,896	10,845	2,179,091	1,259	$224,366	5,494	$1,053,553
Guatamala	2,795	509,924	47	9,429	1,525	285,059	43	8,888
British Honduras	[2] 4,176	[2] 722,236	2,799	568,702	2,965	572,686	2,582	493,153
Honduras	856	147,261	310	69,084	46	8,934	105	23,143
Nicaragua	2,474	285,343	315	35,791	3,513	452,840	371	39,495
Costa Rica	307	36,874	193	30,924			538	120,665
Panama	1,999	247,751	442	105,058	2,802	344,515	402	93,999
Canal Zone			14	2,996				
Cuba								
Jamaica								
Dominican Republic			1	133			1	275
Leeward and Windward Islands					7	1,429		
Trinidad								
Netherlands Antilles								
Columbia			(1)	9	325	29,250	77	9,896
Venezuela								
French Guiana								
Peru			2,810	272,719			3,897	389,138
Bolivia			51	10,289			140	30,658
Chile								
Brazil			1,052	163,486			345	43,360
Total	14,509	2,344,285	18,881	3,448,180	12,442	1,919,079	13,995	2,306,223

See footnotes at end of table, p. 164.

U.S. imports of American mahogany logs and timber, 1951–62

Country of origin	1955				1956			
	Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
Canada								
Mexico	727	133,339	5,297	1,112,105	2,141	422,294	3,788	746,007
Guatemala	2,809	524,077	52	8,214	1,146	229,174	60	13,506
British Honduras	5,772	1,146,285	4,287	779,711	6,230	1,316,059	6,352	1,212,014
Honduras	539	91,277	179	36,468	356	68,999	614	112,059
Nicaragua	1,646	206,097	726	75,290	1,391	168,160	970	167,124
Costa Rica			322	63,649			560	137,673
Panama	2,034	254,307	690	162,341	1,634	204,659	312	70,186
Canal Zone			12	1,971			10	1,778
Cuba								
Jamaica								
Dominican Republic			2	590				
Leeward and Windward Islands								
Trinidad								
Netherlands Antilles			38	8,724				
Colombia			70	8,101			645	170,370
Venezuela								
French Guiana								
Peru			2,348	224,350			1,954	209,264
Bolivia			60	9,081			53	10,371
Chile							56	11,638
Brazil			53	9,319			90	10,698
Total	13,527	2,355,382	14,136	2,499,914	12,898	2,409,345	15,464	2,872,688

Country of origin	1957				1958			
	Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
Canada			2	$723			8	$2,259
Mexico	2,098	$419,131	4,783	951,901	867	$173,466	4,254	846,309
Guatemala	684	142,044	483	40,708	30	1,227	96	13,663
British Honduras	3,800	775,398	3,767	792,535	489	102,931	3,331	689,789
Honduras	102	18,000	1,325	275,525			614	128,671
Nicaragua	1,576	178,128	3,605	755,194	1,122	147,681	3,250	615,914
Costa Rica			302	67,680				
Panama	1,874	234,392	197	29,090	1,075	134,430	153	40,423
Canal Zone							18	4,719
Cuba								
Jamaica								
Dominican Republic	333	73,035						
Leeward and Windward Islands								
Trinidad								
Netherlands Antilles								
Colombia			1,239	251,183			1,395	231,560
Venezuela								
French Guiana								
Peru			2,471	311,496	72	7,989	811	119,203
Bolivia			130	23,401	1	134		
Chile			12	2,444				
Brazil	11	1,684	3	450	606	63,147	201	30,306
Total	10,478	1,841,812	18,319	3,502,330	4,262	631,005	14,131	2,722,816

See footnotes at end of table, p. 164.

U.S. imports of American mahogany logs and timber, 1951–62

Country of origin	1959				1960			
	Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
Canada								
Mexico	[2] 2	[2] $206	3,356	$666,596			4,683	$1,054,371
Guatemala	80	16,009	204	46,677	37	$9,691	329	87,082
British Honduras	[2] 166	[2] 32,393	4,814	821,854	252	52,780	4,056	720,938
Honduras			1,760	358,670	642	128,345	884	181,269
Nicaragua	2,071	248,917	4,704	973,048	1,822	197,969	4,863	966,201
Costa Rica			9	2,491	299	63,906	654	117,189
Panama	1,170	147,987	300	59,175	951	118,931	344	75,753
Canal Zone			21	4,883				
Cuba								
Jamaica								
Dominican Republic								
Leeward and Windward Islands								
Trinidad								
Netherlands Antilles								
Colombia			1,312	197,628			1,745	290,274
Venezuela								
French Guiana								
Peru			946	140,343	40	2,970	2,136	263,830
Bolivia			32	5,386			32	7,067
Chile			34	7,448			12	1,800
Brazil	515	58,078	4	243	1,471	354,874	538	107,123
Total	[2] 4,004	503,590	17,496	3,284,442	5,514	929,466	20,276	3,872,897

Country of origin	1961				1962			
	Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
Canada			1	$124				
Mexico	20	$7,004	4,796	1,085,691	42	$14,560	7,428	$1,647,157
Guatemala			315	47,859	831	166,702	255	61,783
British Honduras	429	89,030	3,738	922,134	20	6,538	4,402	940,343
Honduras	1,190	260,193	899	198,523	604	131,878	725	171,250
Nicaragua	3,487	451,357	4,384	749,366	2,633	262,247	5,580	996,227
Costa Rica			110	19,599	471	90,000	24	5,229
Panama	953	119,210	166	40,771	1,288	193,451	139	34,657
Canal Zone			27	7,146			44	11,184
Cuba								
Jamaica								
Dominican Republic			6	2,397				
Leeward and Windward Islands								
Trinidad								
Netherlands Antilles								
Colombia			1,792	263,588			305	55,033
Venezuela	50	13,250			72	23,475	189	55,299
Surinam							5	756
French Guiana								
Peru			1,252	176,747			2,008	292,311
Bolivia			37	9,068			155	36,638
Chile							70	18,044
Brazil	240	55,000	471	85,186	1,410	326,592	804	190,059
Total	6,369	995,044	17,944	3,608,199	7,371	1,215,443	22,133	4,515,970

[1] Under 500 board feet.
[2] Revised.

U.S. imports of African mahogany logs and lumber, and mahogany totals, 1951–62

Source	1951				1952				1953			
	Logs		Lumber		Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
United Kingdom [1]												
France [1]									21	$4,658		
Morocco [1]												
Cameroon	75	$11,472			62	$12,010			78	12,269		
West Equatorial Africa, n.e.c.	231	29,094	40	$4,574	1,145	149,874			254	25,451		
West Africa, n.e.c.	3,257	578,299			1,011	121,134	6	$1,108	11,391	1,096,066		
Ghana	26,847	4,329,105	6,023	1,321,019	[3] 13,949	[3] 1,950,493	3,025	558,567	[3] 19,962	[3] 3,283,050	5,316	$906,602
Nigeria	1,571	215,889			102	20,789			621	100,586	40	6,142
British West Africa and Sierra Leone	526	101,583	384	64,041	77	12,835	90	13,467	329	66,119	189	28,856
Angola	10	1,581										
Liberia	118	23,018			2	800						
Republic of Congo	224	46,334			53	9,313	8	1,459				
British East Africa and Tanganyika	2	119							31	7,225	29	5,101
Mozambique											5	869
Malagasy Republic	6	2,951										
Republic of South Africa [1]	135	24,504									60	9,908
Total *Khaya*	33,002	5,363,949	6,447	1,389,634	16,401	2,277,248	3,129	574,601	32,687	4,595,424	5,639	957,478
Total *Sivietenia*	15,378	2,692,998	[2] 28,225	[2] 5,110,458	[2] 18,295	[2] 3,259,243	[2] 20,141	[2] 3,559,651	[2] 14,509	[2] 2,344,285	18,881	3,448,180
Total mahogany	48,380	8,056,947	[2] 34,672	[2] 6,500,092	[2] 34,696	[2] 5,536,491	[2] 23,270	[2] 4,134,252	[2] 47,196	[2] 6,939,704	24,520	4,405,658
Amounts excluded			[4] 2	[4] 392			[5] 5	[5] 875			[6] 1,531	[6] 207,218

See footnote at end of table.

Source	1954				1955				1956			
	Logs		Lumber		Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
United Kingdom [1]	11	1,971										
France [1]			16	2,940								
Morocco [1]									[2] 0	[2] 0	30	6,049
Cameroon	25	4,325	5	984			19	3,028	29	3,761	362	70,583
West Equatorial Africa, not elsewhere classified	7	1,242	159	29,075	52	9,107	145	25,361	[11] 416	174,713	626	117,075
West Africa, not elsewhere classified	[2] 6,731	[2] 945,577	4	770	[2] [3] 19,823	[2] 1,337,692	107	19,255	12,792	1,497,703	713	142,122
Ghana	[2] 13,720	[2] 1,973,271	[2] 5,341	[2] 937,798	14,335	1,951,796	7,074	1,261,451	17,190	2,166,714	9,642	1,755,115
Nigeria	113	19,606			[2] 836	95,733	28	5,204	3,033	324,977	461	89,697
British West Africa and Sierra Leone	118	18,478	32	6,300	78	8,357	36	6,882	201	20,382	233	42,965
Angola												
Liberia									14	2,100		
Republic of the Congo			8	1,480			10	1,871			47	8,051
British East Africa and Tanganyika			20	2,602	30	5,371						
Mozambique												
Malagasy Republic												
Republic of South Africa [1]	[2] 0	[2] 0	[2] 0	[2] 0			51	7,731				
Total *Khaya*	[2] 20,725	[2] 2,964,470	5,585	981,949	[2] 35,154	[2] 3,408,056	7,470	1,330,783	33,675	4,190,350	12,114	2,231,657
Total *Swietenia*	12,442	1,919,079	13,995	2,306,223	13,527	2,355,382	14,136	2,499,914	12,898	2,409,345	15,464	2,872,688
Total mahogany	33,167	[2] 4,883,549	19,580	3,288,172	[2] 48,681 ([5] [7])	[2] 5,763,438 [2] 122	21,606	3,830,697 [2] [10] 24,442	46,573	6,599,695 [12] 5,073	27,578 [6] 22	5,104,345 [6] 3,910
Amounts excluded							[2] 136		30			

Source	1957				1958				1959			
	Logs		Lumber		Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
United Kingdom [1]									[2] 89	[2] 5, 979		
France [1]	16	5, 565										
Morocco [1]												
Cameroon	103	8, 406	195	35, 625			157	28, 638	1, 635	189, 218	313	50, 873
West Equatcral Africa, n.e.c.	67	8, 255	175	24, 424			84	14, 960	330	39, 057	231	33, 513
West Africa, n.e.c.	[2] 9, 654	[2] 141, 079	344	63, 664	9, 432	952, 778	222	38, 327	[2] 10, 731	[2] 994, 059	888	147, 130
Ghana	5, 228	695, 969	2, 877	516, 279	7, 380	737, 670	3, 119	518, 310	5, 245	630, 690	5, 656	889, 894
Nigeria	[2] 775	136, 053	44	9, 773	156	12, 946	49	9, 333	411	32, 462	420	57, 449
British West Africa and Sierra Leona			76	21, 182			17	1, 945			8	1, 498
Angola												
Liberia	[2] 0	[2] 0										
Republic of Congo			20	4, 042							124	22, 406
British East Africa and Tanganyika					20	2, 348			10	1, 882		
Mozambique												
Malagasy Republic												
Republic of South Africa [1]	39	8, 181	26	2, 703			10	1, 919			54	9, 819
Total *Khaya*	[2] 15, 882	[2] 1, 803, 508	3, 757	677, 692	16, 988	1, 705, 742	3, 658	613, 432	18, 451	1, 893, 347	7, 694	1, 216, 582
Total *Swietenia*	10, 478	1, 841, 812	18, 319	3, 502, 330	4, 262	631, 005	14, 131	2, 722, 816	[2] 4, 004	503, 590	17, 496	3, 284, 442
Total mahogany	[2] 26, 360	[2] 3, 645, 320	22, 076	4, 180, 022	21, 250	2, 336, 747	17, 789	3, 336, 248	[2] 22, 455	2, 396, 937	25, 190	4, 501, 024
Amounts excluded	[2] 0	[2] 0	[13] 23	[13] 2, 205			[14] 372	[14] 49, 858			[13] 1, 453	[13] 861, 187

See footnote at end of table.

Source	1960				1961				1962			
	Logs		Lumber		Logs		Lumber		Logs		Lumber	
	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value	Thousand board feet	Value
United Kingdom [1]					11	2,262						
Sweden [1]											1	317
France [1]												
West Germany [1]											([7])	373
Morocco [1]												
Cameroon	761	45,498	321	53,285			360	67,925	924	84,106	388	74,000
West Equatorial Africa, n.e.c.	293	34,065	160	29,109	96	9,183	45	8,518	84	8,190	36	7,092
West Africa, n.e.c.	14,114	1,238,285	413	66,489	5,548	528,210	159	29,769	4,663	424,262	324	60,177
Ghana	4,063	536,421	3,933	643,738	3,509	460,657	2,727	472,427	3,525	426,744	4,338	727,209
Nigeria	409	31,279	39	9,091	15	1,351			26	3,972	46	9,411
British West Africa and Sierra Leone			53	8,433							7	1,722
Angola												
Liberia							2	315	29	3,835		
Republic of the Congo												
British East Africa and Tanganyika												
Mozambique												
Malagasy Republic												
Republic of South Africa [1]			112	15,251							73	10,527
Total, *Khaya*	19,640	1,885,548	5,031	825,396	9,179	1,001,663	3,293	578,954	9,251	951,109	5,213	890,828
Total, *Swietenia*	5,514	929,466	20,276	3,872,897	6,369	995,044	17,944	3,608,199	7,371	1,215,443	22,133	4,515,970
Total mahogany	25,154	2,815,014	25,307	4,698,293	15,548	1,996,707	21,237	4,187,153	16,622	2,166,552	27,346	5,406,798
Amounts excluded			[16] 957	[16] 169,186			[17] 10	[17] 1,873				

[1] If otherwise correct, this is country of shipment, not of source, at least for logs.
[2] Revised from published figure.
[3] Of which 549,000 valued at $56,806 was from Ghana as "Country of shipment (country of origin unknown)."
[4] Source Japan, probably misclassified and not mahogany.
[5] Source Australia, may not be mahogany.
[6] Source Japan, probably misclassified and not mahogany.
[7] Less than 500 board feet.
[8] Source Burma, probably misclassified and not mahogany.
[9] Despite some revision downward this quantity is suspiciously large on an average value basis; in error, would affect totals also.
[10] Includes sources: Belgium (5,000—$917), British Malaya (57,000 revised—$10,118 revised); Indonesia (69,000—$12,232); and Taiwan (5,000—$1,175); not normal sources of mahogany lumber, entries may be misclassified.
[11] Quantity appears understated in relation to reported value; if in error, would affect totals also.
[12] Source India, probably misclassified and not mahogany.
[13] Includes sources: Malaya (12,000—$360) and Japan (11,000—$1,845); not normal sources of mahogany lumber, entries probably misclassified.
[14] Includes sources: Japan (341,000—$46,343) and Singapore (31,000—$3,515), probably misclassified and not mahogany.
[15] Includes sources: Japan (1,435,000—$258,739) and Philippines (18,000—$2,448), probably misclassified and not mahogany.
[16] Sources: Japan (835,000—$150,124), Taiwan (50,000—$7,625), and Philippines (72,000—$11,437); not normal sources of mahogany lumber, entries misclassified. (Note: most of these entries have been transferred to another class in corrections announced by census.)
[17] Sources: Thailand (1,000—$300) and Cambodia (9,000—$573); not normal sources of mahogany lumber, entries probably misclassified.

Source: Forest Products Division, BDSA, Commerce, July 1962.

THIS IS NOT MAHOGANY AT ALL ..... BUT UNRELATED HARDWOODS FROM THE PHILIPPINE ISLANDS. ANOTHER EXAMPLE OF THE PLUNDERING OF THE NAME, "MAHOGANY," OCCURRING IN EVERY SECTION OF AMERICA.

The Phoenix Gazette — MONDAY, JANUARY 2, 1961 — Section 1 PAGE 15

Choose a new John F. Long home and you surround yourself with the special richness and warmth of fine mahogany -- just one of many custom features included in John F. Long homes, at no extra cost.

LIVE WITH ALL THE LUXURY of MAHOGANY

It's So Easy To Care For! Gives Lasting Beauty!

- Velvety-smooth mahogany paneling
- Natural mahogany trim
- Custom-crafted mahogany wardrobe chests
- Built-in mahogany kitchen cabinets
- Lustrous mahogany bookcase and china closet
- Rich mahogany doors

VETS:

NO DOWN PAYMENT

the coronet

New, luxurious 2-bedroom compact home. Monthly payments as low as $71. Full price

$9,400

Comparative veneer costs

	Gross cost per square foot (1956 average)	Yield (percent)	Net cost per square foot
Cherry	$0.0381	37.5	$0.102
Walnut	.0387	37.5	.103
White oak	.0380	30.0	.127
Honduras mahogany, also less labor	.0365	60.0	.061
African mahogany, also less labor	.0265	60.0	.044

Hardwoods	Percentage of shrinkage in volume	Percentage of radial shrinkage	Percentage of tangential shrinkage
Mahogany, Cuban	6.0	2.7	3.3
Mahogany, Central American	7.7	3.5	4.8
Mahogany, African	8.8	4.1	5.8
Walnut	11.3	5.2	7.1
Yellow poplar	11.4	4.1	6.9
Cherry	11.5	3.7	7.1
Maple, silver	12.0	3.0	7.2
Ash, white	12.6	4.3	6.4
Willow	13.3	2.2	8.2
Maple, sugar	14.4	4.9	9.1
Elm, American	14.4	4.2	9.5
Gum, red	15.0	5.2	9.9
White oak	16.0	4.8	9.2
Hickory, shagbark	16.0	6.5	10.2
Pecan	16.0	4.9	8.9
Southern red oak	16.3	4.5	8.7
Beech	16.5	4.6	10.5
Birch, yellow	17.0	7.9	9.0

Source: U.S. Forest Products Laboratory.

AVERAGE PHYSICAL AND MECHANICAL PROPERTIES OF GREEN AND AIR-SEASONED MAHOGANY

Based on Tests of Small, Clear Specimens Two by Two Inches in Cross-section Bending 28-inch Span

(U. S. Forest Products Laboratory)

Species: Common and Botanical Name, Locality Where Grown	(Khaya sp.) (Africa)	(Swietenia sp.) (Mexico)	(Swietenia sp.) (Northern Cuba)
Number of Trees	6	9	1
Note: Values for green timber on first line, for air dry on second line.			
Moisture Content — %	55 **12**	58 **12**	48 **12**
Specific Gravity Oven Dry Based On:			
Volume when tested	.43 **.45**	.45 **.46**	.57 **.59**
Volume when oven dry	.47 —	.50 —	.61 —
Shrinkage Green to Oven Dry Condition — %			
In volume	8.8 —	7.7 —	6.0 —
Radial	4.1 —	3.5 —	2.7 —
Tangential	5.8 —	4.8 —	3.3 —
Static Bending			
Fiber Stress lbs. per sq. in.	5,050 **7,890**	6,120 **8,830**	4,560 **7,100**
Modulus of rupture lbs. per sq. in.	7,600 **10,690**	9,240 **11,220**	8,250 **9,600**
Modulus of elasticity (1000 lbs. per sq. in.)	1,180 **1,480**	1,290 **1,430**	1,070 **1,190**
Work to max. load (inch lbs. per cu. in.)	8.5 **7.8**	10.2 **6.8**	8.6 **6.2**
Impact Bending — 50-pound hammer Height of Drop to Cause Complete Failure (Inches)	26 **22**	27 **22**	23 —
Compression Parallel to Grain Crushing Strength (Pounds per sq. in.)	3,670 **5,700**	4,540 **6,420**	4,170 **6,250**
Compression Perpendicular to Grain, Fiber Stress at Proportional Limit (Pounds per sq. in.)	650 **980**	710 **1,210**	980 **1,760**
Hardness: — Load required to imbed a 0.444-inch ball to one-half its diameter (Pounds)			
End	570 **1,080**	750 **880**	990 **1,350**
Side	510 **790**	650 **760**	980 **1,350**
Shearing Strength Parallel to Grain (Pounds per sq. in.)	1,270 **1,340**	1,310 **1,060**	1,540 **1,480**

Note: We have printed air dry figures in heavy type.

CERTAIN MACHINING AND RELATED PROPERTIES OF HARDWOODS.
(Preliminary arrangement subject to revision as additional data are obtained)

Mortising	Boring	Planing: Average of 6 runs	Planing: Best of 6 runs	Shrinkage tangential: green to 6% moist, cont:	Warping	Shaping	Turning
			GROUP I				
Birch	Ash	Ash	Ash	Ash	Ash	Ash	Beech
Hackberry	Birch	Chestnut	Basswood	Chestnut	Basswood	Birch	Chestnut
Hickory	Elm	Hackberry	Birch	Cottonwood	Birch	Gum,black & Tupelo	Gum, red
MAHOGANY	Hackberry	MAHOGANY	Chestnut	Gum,black	Chestnut	Hickory	Hickory
Maple,hard	Hickory	Oaks	Hackberry	Hackberry	Hackberry	MAHOGANY	MAHOGANY
Oaks	MAHOGANY	Pecan	Magnolia	Magnolia	MAHOGANY	Maple,hard	Maple,hard
Pecan	Maple,hard		MAHOGANY	MAHOGANY	Oaks	Oak,white	Oak,chestnut
Walnut	Oaks		Oaks	Maple,soft	Pecan	Pecan	Oak, red
	Pecan		Pecan	Pecan	Walnut	Walnut	Oak, white
			Poplar, yellow	Poplar, yellow	Willow		Pecan
			Walnut	Sycamore			Sycamore
				Tupelo			Walnut
				Walnut			
				Willow			
			GROUP II				
Ash	Beech	Basswood	Gum,red	Basswood	Cotton-wood	Beech	Ash
Beech	Chestnut	Birch	Mple,hard	Birch		Chestnut	Birch
Chestnut	Gum,red	Gum,red	" soft	Elm	Beech	Gum,red	Gum,black & Tupelo
Elm	Sycamore	Magnolia	Willow	Hickory	Elm	Hickory	
Gum,black	Walnut	Mple,hard		Mple,hard	Hickory	Magnolia	Hackberry
Sycamore	Willow	Poplar, yellow			Magnolia	Mple,soft	Magnolia
		Walnut			Maples	Oak,chest-nut	Maple,soft
		Willow			Poplar, yellow	Oak,red	Poplar, yellow
			GROUP III				
Basswood	Basswood	Cotton-wood	Cotton-wood	Beech	Gum,blck ,red	Basswood	Basswood
Cotton-wood	Cotton-wood	Elm	Elm	Gum, red	Buckeye	Buckeye	
Gum,red	Gum,black	Gum,black	Gum black	Oaks	Sycamore	Cottonwd	Cottonwood
Magnolia	Magnolia	Maple, soft	Sycamore		Tupelo	Elm,soft-Hackberry	Elm,soft
Maple, soft	Maple, soft	Sycamore	Tupelo			Poplar, yellow	Willow
Poplar, yellow	Poplar, Yellow	Tupelo				Sycamore	
Tupelo	Tupelo					Willow	
Willow							

Forest products Laboratory,
Madison, Wisconsin
December 11, 1937.
Shaping and Turning Tests
May 10, 1939

Note: Group I is the best group, Group II intermediate, and Group III poorest in every instance. Groups are divided where relatively wide breaks between species occur rather than into groups of equal size.

Mr. VAN DEERLIN. Is Mr. Robinson here? We will take Mr. Robinson, president of the Robinson Lumber Co. of New Orleans. Do you wish to introduce Mr. Robinson, Mr. Long?

Mr. LONG. I would like to say how happy we are to have him here. Mr. Robinson has been very active in this matter. The fact is he brought it to my attention, which I appreciate his doing. Mr. Robinson, welcome to the committee and we will be glad to hear your testimony.

STATEMENT OF CHARLES W. ROBINSON, ROBINSON LUMBER CO., NEW ORLEANS, LA.

Mr. ROBINSON. Thank you, Mr. Long. Mr. Chairman, members of the committee, my name is Charles W. Robinson, and I am a member of the third generation of a family which has been active in all phases of the lumber business.

Our company has not and does not today limit its activities solely to mahogany, but deals in construction lumber and timbers, other hardwoods, and even in some instances lauan from the Philippines.

Having resided in tropical America for 5 years, I feel qualified to express an opinion not only gained from marketing knowledge in the United States, but also from a good part of the areas producing true mahogany.

If I may leave the written statement at this point I would like to answer a question that was asked of the gentleman that passed out the hardboard samples awhile ago. He was asked if there was any other product that was imported under the current customs regulations which would penalize the importer and his answer was no, not to his knowledge.

That was not correct, because genuine mahogany is required in lumber to have one edge planed. Philippine so-called mahogany, does not have that requirement. If the importer receives genuine mahogany without having one edge at least planed, he is required to pay an ad valorem duty which runs 7½ percent or over $40 on highest grades versus $1.50 on the planed surface; so the Philippine woods have the advantage over genuine mahogany even on the tariff level.

Mr. KEITH. Is that going to be changed this coming fall, do you know?

Mr. ROBINSON. The duty on Honduras mahogany in the 1962 Customs Tariff Act was increased to $1.60 per thousand feet, and it is in the law. The law has not been put into effect.

Mr. KEITH. But after that law is put into effect true mahogany, rough or otherwise, will be $1.60, is that correct?

Mr. ROBINSON. Yes, sir.

Mr. KEITH. And lauan, rough or otherwise, would be $1.50.

Mr. ROBINSON. I think lauan will remain the same, $1.50, yes.

Mr. KEITH. So your competitive position will be improved, or I should say the mahogany position will be improved, when that new act goes into effect.

Mr. ROBINSON. Actually, we will pay a higher duty, but they will eliminate this requirement of planing one edge, which is costly. Any time a mistake is made by the shipper the importer is stuck for a sizable dollar value due to the error. Is that all?

Mr. KEITH. Yes. That is very helpful. Thank you.

Mr. ROBINSON. We will get back to the dilemma of mahogany. In fact, it was while residing in Central America after World War II that I first became interested in this situation. I had always thought of mahogany as a trade name, but had been exposed to the marketing practices in the States to the extent that I considered mahogany a category of wood, applicable to any specie with certain appearances; so long as the name mahogany was used with a prefix of origin.

One of my associates in the tropics at that time attempted to introduce into the U.S. market a wood of the mahogany or Meliaceae family known as Cedro Macho using for marketing purposes in this country the name "Costa Rican Mahogany."

Much to my surprise he was advised that his actions were illegal; that Cedro Macho was not mahogany; and that he could not use the trade name "mahogany" even with the prefix of origin.

This incident aroused my curiosity as to the benefit and fairness of government control over industry since every authority to whom I referred confirmed my belief without a doubt substantiating that Cedro Macho was a member of the mahogany or Meliaceae family, but that the seven hardwoods legally permitted use of the name mahogany with prefix are of the Dipterocarpaceae family which is not even a poor cousin of the mahogany family.

Ever since this time, I have endeavored to find a logical explanation to justify my government's position on this issue.

If for no other reason, I have continued my efforts to find a justification of the current FTC position in hope of satisfying my thinking. With the possibility that the various authorities on this subject to whom I referred were out of date, I addressed the two highest authorities on the subject which I could find.

These authorities are the Yale School of Forestry and the U.S. Department of Agriculture, Forest Products Laboratory, Madison, Wis. I have in my possession letters from both replying to my request for up-to-date opinions on the subject.

Due to the short notice of these hearings, I have not requested permission from either authority to submit their letters as part of the record, but with this committee's permission, having full knowledge of the facts, I would like to quote from these letters. I shall request the writers' permission to submit the full texts of the letters. The originals of those letters are right here and are available for inspection.

The first of these letters is signed by Graeme P. Berlyn, assistant professor of wood anatomy, Yale University, School of Forestry, under date of December 21, 1962, and reads in part:

> The Meliaceae family is a large family, but only two genera (*Swietenia* and *Khaya*) comprise the mahogany group * * * there are many woods such as mahogany, but there is only one true mahogany—the produce of the genus *Swietenia*. The product of the genus *Khaya* is the only true African mahogany.

The second letter is signed by B. Francis Kukachka, in charge of wood identification research, Forest Products Laboratory, Madison, Wis., and is dated December 28, 1962, from which I quote in part:

> The use of the term "mahogany" in connection with the Philippine specie is perhaps stretching the point since they are botanically and atomically very different from *Swietenia*. Of the seven Philippine species cited by the FTC, two occur in adjacent Borneo and since the name "Borneo mahogany" may not be used, then the alternative name "Philippine mahogany" could presumably be used.

For the record I would like to state that I have been told that the name "Borneo mahogany" would be illegal, and the name "Philippine mahogany" could not be legally applied since these same species grew in Borneo.

After digesting the above letters, my thinking was beginning to clear to the extent that there actually was a mahogany Meliaceae family which had as members two recognized mahoganies, *Swietenia* growing in tropical America, and *Khaya* in tropical Africa.

A slight doubt remained as to the authenticity of the African family branch, but, being in the business and not being able to tell the difference between *Khaya* and *Swietenia* myself, I attributed this seeming uncertainty to the technical desire to split hairs.

Feeling very good at this point, I determined to check with the governing authority in the hope that FTC would concur in my clear thinking. With the committee's permission, I would like to submit for the record the FTC's clear answer to my request per letter dated January 14, 1963, and signed by Lawrence E. Gray, attorney. Even though more confused than ever, I comment on this letter by quoting the last paragraph:

> It is our opinion at the staff level that any use of the word "mahogany" to designate a wood other than *Swietenia* or those hardwoods grouped as African mahogany and Philippine mahogany would be deceptive and violative of section 5 of the Federal Trade Commission Act.

The original letter is right here and I would like to submit it for the record.

(The letter referred to follows:)

FEDERAL TRADE COMMISSION,
BUREAU OF INDUSTRY GUIDANCE,
Washington, D.C., January 14, 1963.

Mr. C. W. ROBINSON,
Robinson Lumber Co.,
New Orleans, La.

DEAR MR. ROBINSON: This is in acknowledgement of your letter of December 19.

It is the Commission's view that, with the exceptions noted in the press release of February 22, 1957, the designation of wood as "mahogany" is appropriate only to the genus *Swietenia*. It is our opinion at the staff level that any use of the word "mahogany" to designate a wood other than *Swietenia* or those hardwoods grouped as African mahogany and Philippine mahogany would be deceptive and violative of section 5 of the Federal Trade Commission Act.

Very truly yours,

LAWRENCE E. GRAY,
Attorney.

I have already learned from Dr. Berlyn's letter that there are several species of *Swietenia* and several species of *Khaya*, all recognized to be in the mahogany family. How can I now convince myself that it is not deceptive to use the mahogany name when referring to certain specified nonmahogany woods from the Philippines?

It seems that the question to be decided is whether or not "mahogany" is a trade name and due the protection that other trade names are granted; or whether or not it is a botanical name that can be applied to many assorted hardwoods without being misleading or deceptive.

When I say misleading and deceptive, I do not refer to these factors affecting members of the wood industry. Most, if not all, importers do not use the name "mahogany" for nonmahogany woods. This name is not used in the lumber trade between importer, wholesaler, or retailer since in practically all cases people in the industry know what they want and what they get.

It is at the consumer level that the multiple varieties of mahogany, usually without any benefit of prefix, confuse the buying public to the extent that, rather than be wrong, they steer clear of any type of mahogany.

The consumer's dilemma on mahogany has grown to the extent that passage of this legislation can only help all types of mahogany,

the true as well as the so-called mahogany. Actually, there are very few fields in which the two, mahogany and so-called mahogany, compete.

There is practically no so-called mahogany used in the furniture industry which has used extensively and still uses to some degree, the true mahoganies, *Khaya* and *Swietenia*. To my knowledge many furniture plants have come out with new lines in genuine mahogany only to learn that mahogany furniture will not sell.

This is undoubtedly due to the consumers' confusion over the name "mahogany" and possibly the fact that the lady next door has her den paneled in some type of mahogany which was obtained at the cheapest price of all paneling available.

To support that statement, I have an ad that fell into my hands yesterday morning at breakfast and is from the Boston Sunday Herald, dated June 9, 1963. It shows that there is a big sale on and it lists the woods and the other items that are on sale.

At the top of the entire list is "Philippine mahogany, 10 cents." It is the cheapest. Mahogany associated with the prefix "Philippine" or not is being advertised to the public and the public is being told that this is the cheapest you can buy.

True mahogany, on the other hand, is more costly; is a fine cabinet wood; but is a high priced wood. It requires a substantial price from the manufacturer to consumer because it costs quite a bit to get out. I might add that this ad is sort of funny because they have down here prefinished African *Khaya*. Poor *Khaya* didn't even get the name "mahogany" in this ad.

Last week I discussed at length this situation with Mr. L. P. Best, owner and operator of Craftique, Inc., of Mebane, N.C., the only production line furniture plant which has never used any wood but genuine mahogany.

He has given me permission to state for the record that he supports this legislation and concurs with my thinking in that sales of fine mahogany furniture are being resisted due to consumers confusion over the name "mahogany."

Even the churchgoers are being misled and deceived by the current ruling. With the author's permission, I offer a letter dated January 17, 1963, addressed to me and signed by Mr. J. J. Moltz, president, Endicott Church Furniture, Warsaw, Ind. With the committee's permission, I would like to have this letter be made a part of the record in its entirety, and quote paragraphs 2, 3, and 4 herewith.

The original of this letter is here and the copy has been attached to my statement.

Mr. VAN DEERLIN. We will accept it for consideration and possibly to enter it in the record.

(The letter referred to follows:)

ENDICOTT CHURCH FURNITURE,
GENERAL OFFICES,
Warsaw, Ind., January 17, 1963.

Mr. C. W. ROBINSON,
Robinson Lumber Co., New Orleans, La.

DEAR MR. ROBINSON: Thank you very sincerely for your letter of January 15, regarding the problem that I discussed with Fran Fentress.

However, I do not believe Fran presented the problem as it actually is. In the sale of church furniture, I do not know of a single instance where the manufacturer affixes a descriptive tag of any nature. The unethical practice that we

are combating is that many competitive salesmen sell a product as mahogany which is in truth, not mahogany. Many describe lauan as mahogany or describe Philippine mahogany as being a genuine mahogany or offer sepela as a mahogany.

We are the second largest manufacturer in the industry and have only gained our stature through our ethical approach to the various problems. We have sold a number of jobs in African mahogany as well as a number of jobs in Honduras mahogany. On many occasions, these jobs were bid on AIA specifications and contracts. In several instances our competitors have bid against us bidding either Philippine mahogany or sepela and referring to either or both items as genuine mahogany. Naturally, in these instances their bids have been lower than ours and certainly on occasion low bidder gets the job. In other words, we furnish exactly the item that we bid on while competition in some cases furnishes a substitute rather than the item or lumber actually specified.

I hasten to add that not all of our competition resorts to these tactics. Two companies in particular are the offenders and where possible we describe to the architect, the committee or the minister their necessity in obtaining the genuine product rather than the substitute product. We can, of course, advise them of the questionable manufacturers by name. In some instances, we are successful in convincing the buyer that these tactics are being used. In not all instances, however, are we successful in convincing the buyer that competition is misrepresenting when they refer to lauan or sepela as mahogany.

Some years ago, I was in the household furniture industry, in fact, have purchased lumber from your concern through Fran and engaged in the sale of genuine mahogany occasional tables. At that time we had available to us various pamphlets and booklets describing the various woods and setting forth just what woods could be referred to as mahogany and those woods that were not actually in the mahogany family. I am wondering if these booklets or pamphlets are still available so that our sales force might use these as factual proof of the statements that they have made regarding deceptive practices used by less ethical concerns. We have 30 men on our sales force and would, of course, need this information for each man. If these booklets are available we would, of course, be most happy to purchase this quantity and in the event that the association does have the pamphlet available, you may use this letter as your authority to have his quantity directed to my attention by your executive director, billing us for them.

We appreciate the interest that you have taken in our problem and will be most appreciative of any assistance that you might give us.

Cordially yours,

J. J. MOLTZ.

Mr. ROBINSON (reading):

However, I do not believe Fran presented the problem as it actually is. In the sale of church furniture, I do not know of a single instance where the manufacturer affixes a descriptive tag of any nature. The unethical practice that we are combating is that many competitive salesmen sell a product as mahogany which is in truth, not mahogany. Many describe lauan as mahogany or describe Philippine mahogany as being a genuine mahogany or offer sepela as a mahogany.

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This legislation will affect a lot more people when we think that the people that put their money in the church plate to buy and build new churches and buy pews for those churches are affected by a misleading term like this.

Both of the above referred-to gentlemen play a major part in two phases of the furniture industry. Both have asked me to express their support of this legislation and their regret that previous commitments makes their presence here impossible.

Although still somewhat confused by the FTC's position, I can fully understand the true facts encompassed in this legislation. The purpose of this bill is neither helping nor hurting any specific industry, but is merely an attempt to correct the politically inspired FTC ruling which has for many years misled the American consumer to the extent that she prefers buying no classification of mahogany rather than risk the embarrassment of displaying ignorance in choosing price instead of true mahogany.

The American people deserve relief from this legalized deception. I therefore urge this committee to act favorably on this bill.

I thank you for your patience and for the opportunity of appearing here to present the above statement.

Mr. VAN DEERLIN. Thank you, Mr. Robinson. Mr. Long, I wonder if you have any questions for the witness?

Mr. LONG. Mr. Chairman, I would like to say for the record that Mr. Robinson made out his case well. Also he presented it very clearly. I don't know of any questions that remain to be asked. I do compliment Mr. Robinson on his excellent statement.

Mr. ROBINSON. Thank you.

Mr. VAN DEERLIN. Thank you, Mr. Robinson.

Mr. ROBINSON. Thank you.

(Mr. Robinson later submitted the following additional information:)

Prior to July 1, 1962, duty on genuine mahogany lumber was 7½ percent ad valorem plus $1.50 per thousand feet surtax. I was informed by the Tariff Commission that no change could be made in 1962 due to the Tariff Reclassification Act which still isn't in effect. Hence, I had no knowledge of the July 1, 1962, reduction to 4 percent.

Mr. VAN DEERLIN. I should think we can take one more witness this morning. Is there anyone who has any problems in regard to schedule or transportation?

Mr. SCRIM. What is your schedule for the committee today?

Mr. VAN DEERLIN. It won't be possible for the subcommittee to meet this afternoon. Presumably we will meet in the morning to dispose of the testimony.

STATEMENT OF GEORGE D. SCRIM, EXECUTIVE SECRETARY, PHILIPPINE MAHOGANY ASSOCIATION, INC.

Mr. SCRIM. Mr. Chairman, I do have a schedule problem. I am from California. You may have heard of the State. And I have a very firm commitment to get back. I would appreciate if I could get on today. I am George D. Scrim.

Mr. VAN DEERLIN. You are from South Pasadena?

Mr. SCRIM. That is correct. Mr. Thompson, who is the other witness from our side of the case, if I may use that term, will be able to stay over for tomorrow if hearings are scheduled.

Mr. VAN DEERLIN. I see. If there is no objection to showing this consideration for a witness who has come from so far, I will call Mr. Scrim to testify now. Do you think, say 20 minutes will take care of you?

Mr. SCRIM. No more, I promise you. Mr. Chairman, my name is George D. Scrim. I am executive secretary of the Philippine Mahogany Association, South Pasadena, Calif. First I would like to express my appreciation also to the other witnesses for giving me an opportunity to get on today as I do definitely have to leave and will not be available tomorrow.

In the interest of expediting the course of this hearing I would like to submit my prepared statement for the record and would take just a few minutes time for my oral presentation.

I am here testifying in opposition to H.R. 5669 and the other similar bills under consideration. The passage of this legislation would work a definite hardship on our industry and is not in the public interest.

It is special interest legislation sponsored by the Mahogany Association without any interest whatsoever in the consumers or anyone else other than themselves. This legislation would do two things, and I think this is extremely important. It would ban the use of the name "Philippine mahogany," which name has been legitimately used in this country for many years. Beyond this, it would legalize the calling of the so-called African mahogany merely "mahogany." Actually it would go farther than that, as it would permit calling all 15 species of Khaya, "mahogany." A pig in a poke approach, in my opinion.

Chairman Dixon of the Federal Trade Commission in his testimony on Tuesday touched on the history of the litigation, which we incidentally called "One of the longest and most involved proceedings ever undertaken by the Commission." His history of the FTC hearings stopped, however, with May 1947, as have most of the presentations of the other witnesses we have heard today. So that there is no feeling that nothing has taken place in the intervening 16 years I would like to point out to this subcommittee that Federal Trade Commission hearings were held in 1952 on the possible establishment of a wood name guide in which the so-called mahogany question was involved, to the point where it took up probably 80 to 85 percent of a rather volumnous record.

In 1957 following these hearings the Federal Trade Commission reaffirmed its findings. In 1960 the matter was subjected to administrative review by the Federal Trade Commission.

In 1961 the question was raised during hearings on proposed trade practice rules for the household furniture industry. The draft submitted for final consideration, although it has not gone into effect as yet, supported again the Federal Trade Commission position.

Details of these actions will be found in my prepared statement. The Federal Trade Commission through their chairman, Mr. Dixon, has stated here that they have no grounds for reversing this long standing ruling. The Philippine mahogany industry has relied upon this ruling, has complied with this ruling, and supports this ruling. Now the Mahogany Association comes before you asking that the rules developed by the Federal Trade Commission and affirmed by the courts be ignored.

5 MAR 1964

Several witnesses have testified that Philippine mahogany is soft, unstable, hard to finish. This is not substantiated by the facts; neither are the charges that African and American mahogany are longer lasting because there are antiques made of it. There are antiques in the Philippines made of Philippine mahogany. I think one good example of the lasting ability of Philippine mahogany is its extensive use in boatwork.

In the statement made to the trade by Mr. Teel Williams, executive director of the Mahogany Association, urging that "they write, wire, or telephone" their support of this legislation, he states that "mahogany," and I am sure he is referring to both American and African mahogany, although as usual he fails to distinguish between the two, "supplies only 5.6 percent of the total furniture market in contrast to its former first place."

He says that the name "Philippine mahogany" is a "strong factor in this decline."

The amount of Philippine mahogany used in furniture is infinitesimal, as was testified to by some of the witnesses for the Mahogany Association.

If the proponents of this legislation were to face up to the fact they would know that the decline in use is in no way connected with Philippine mahogany, but is a result of a change in public tastes and preferences, the development of lower cost furniture, the efforts of the furniture industry to place their industry on the same basis as the automobile industry whereby people will be changing their models of furniture as frequently, almost, they hope, as they change their models of automobiles.

I am very sorry that Mr. Keith had to leave because he has raised the question a number of times regarding the duty status of Philippine mahogany. Under the present provisions of the Tariff Act, the following rates apply:

On lumber, mahogany: sawed lumber and timber is dutiable at a rate of 4 percent ad valorem plus 64 cents per thousand feet excise tax. Mahogany, sawed lumber and timber not further manufactured than planed, and so forth, not including flooring, is not dutiable, but carries an excise tax of $1.50 per thousand feet board measure.

As to mahogany in the first classification; that is, not planed, the interpretation placed on the word "planed" by the Customs is that there are four sides to a piece of lumber, and usually one side or edge is planed at the time of manufacture or at the time of preparation for shipment. The mahogany that comes in on which this higher rate applies accounted for less than two-tenths of 1 percent of total imports of so-called American and African mahogany last year.

The average duty and excise tax is estimated at $1.60 per thousand feet board measure on mahogany lumber in the two classifications.

I would say that this estimate is taken from the first supplemental report to the Tariff Commission's report on the Tariff Simplification Act and I presume came from the figures of the mahogany association. Looking over 1962's imports I would think it might be less than that, because of the very small volume of unplaned lumber coming in.

Philippine mahogany is not dutiable, but carries an excise tax of $1.50 or $1.20 per thousand feet. The $1.50 rate applies to Philippine mahogany manufactured in other countries than the Philippines. The

$1.20 rate currently applies to that manufactured in the Philippines and under the Laurel-Langley Trade Agreement this excise tax is applied at 20 percent or 24 cents per thousand feet, but with a gradual increase to 100 percent of the rate by 1974.

Using as a basis import figures for 1962, African and American mahogany lumber paid an average duty of $1.60 per thousand feet, as I stated before. Philippine mahogany lumber paid an average duty of $1.04 per thousand feet board measure, a difference of some 54 cents per thousand feet, not, I don't believe, with the nature of the product that we are offering, a significant difference.

As to plywood and veneer, and this is an important fact, African, American, and Philippine mahogany carries the duty rate at 20 percent ad valorem. Again, at the present time, plywood manufactured in the Philippines under the Laurel-Langley Agreement pays only 20 percent of this rate—or 4 percent.

The average rate of duty on Philippine mahogany plywood from all countries, taking this 4-percent rate into consideration, was 15.3 percent in 1962.

As a matter of fact, according to our figures the total duty paid in 1962 by African and American mahogany products amounted to about $50,000. That is the total duty that was assessed on these two woods by the Customs Service. The total duty paid by Philippine mahogany products amounted to nearly $10 million. I point out that the $50,000 total duty paid by the African and American mahogany amounts to only 10 percent of the amount requested to implement the wood labeling bill.

Not only is the taxpayer not being deceived by the use of the term "Philippine mahogany," not only does this wood contribute greatly to employment all over the country, but it produces in revenue from duty and excise taxes a fairly significant sum, $10 million, as I said.

Chairman Dixon stated in response to questions from this committee that not one single consumer complaint had been filed with the Federal Trade Commission, that the only complaints were those submitted by the Mahogany Association.

In my prepared statement, which I trust the subcommittee will have an opportunity to read and study, I have reiterated our many offers to cooperate with the Mahogany Association if they have any complaints.

We would be glad to cooperate with the Better Business Bureau, with any organization, because we are proud of the name "Philippine mahogany."

There were a couple of items mentioned this morning that I would like to point out to you, the primary one being the question asked as to the dollar value of imports of Philippine mahogany into the United States.

The answer given, if I recall it correctly, was $25 million. I am not sure whether I recall that correctly or not. The corect answer to that question as to the dollar amount of Philippine mahogany brought into this country—in which I include logs, lumber, plywood, and veneer—amounted to over $95 million, $95,206,000 in round figures. That is considerably different from $25 million.

As to the real crux of this legislation, and I think some of the statements today pointed it up as well as I can, this legislation seeks to do two things:

Deprive Philippine mahogany of the use of a respected name that is well known, a product that exceeds in volume, many, many times that of the other two woods under consideration. At the same time it completely ignores the question of African mahogany being called genuine mahogany as is being done now at the present time.

The Mahogany Association may or may not have had a legitimate complaint for the last 36 years on this question of Philippine mahogany. However, we have the rulings of the Federal Trade Commission. We have the rulings of the courts. We have followed them. The Mahogany Association because they don't like to follow them has chosen to completely ignore the stipulations with respect to African mahogany and call it genuine mahogany, sell labels to the furniture industry bearing the words "genuine mahogany," when it is not genuine mahogany. It is African mahogany.

I don't think that it is necessary for me at the present time to take up any more of your time. The hour grows late. Mr. Henry Thompson, who is vice president of our association, and is president of one of the largest manufacturing firms in the Philippines, as I said, will be available tomorrow if hearings are held and will certainly deal with other items that I haven't been able to deal with because I have been anxious to complete this for the benefit of the subcommittee.

Mr. VAN DEERLIN. Thank you, Mr. Scrim, and we will accept the full prepared statement for inclusion in the record.

(The statement follows:)

STATEMENT OF GEORGE D. SCRIM

I am George D. Scrim, executive secretary of the Philippine Mahogany Association, Inc., South Pasadena, Calif. I appear here today on behalf of my association opposing enactment of H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, and H.R. 6604.

The Philippine Mahogany Association is a nonprofit trade association and numbers as its members the majority of the leading importers of Philippine woods into the United States. The primary purpose of our association is to promote the sale and use of Philippine mahogany, however, we have, during a number of times in the past, been called upon to protect the name of our product as I am doing today.

I should like to emphasize at the outset of my statement that when I refer to the proponents of this legislation, as I will be doing from time to time, I intend to refer to the real proponents of this legislation—the Mahogany Association—not to the five Members of Congress, two of whom sit as members of this subcommittee, all of whom, I am sure, introduced this legislation on the basis of facts made available to them by the Mahogany Association and its nine members.

This legislation attempts to do two things: First, it would, in effect, legislatively reverse the long-standing decisions of the Federal Trade Commission and the courts which recognize the propriety of the use of the term "Philippine mahogany" by seven specifically named species of woods native to the Republic of the Philippines. Secondly, this legislation, if enacted, would apply the name "mahogany"—again legislatively—to the African genera of *Khaya*. It is not my intention, in this statement, to deal extensively with the various botanical arguments in connection with the use of the term "mahogany." This matter, with all its complexities, will be covered in some detail by another witness before this subcommittee.

However, I can think of no better way to illustrate the inconsistency of the proposal before you than the following quotation from letter dated September 5, 1952, from the U.S. Department of Agriculture, Forest Service, Southern Forest Experiment Station, New Orleans, La., signed by Mark M. Lehrbas, Chief Forest Utilization Service:[1]

[1] P. 233, Official Report of Proceedings Before the Federal Trade Commission in the Matter of Proper Use of the Word "Mahogany" in Designations of Wood and Wood Products, Sept. 16, 1952.

"I was extremely interested to learn that the mahogany industry would be willing to accept African mahogany, *Khaya*, along with the genus *Swietenia*, but would not accept the Philippine mahoganies. *This inconsistency will be a little bit hard to put across* and I doubt that they will be successful in doing so." [Italic supplied.]

The proponents of this legislation, then, want one set of rules to apply to a wood they control, *Khaya*, but want to deny it to Philippine mahogany. In other words, they want to have their cake and eat it too. It is hard for me to believe that this unilateral trade dispute properly should be expending the time of our Congress or that the taxpayer's money should be used to attempt to put across this "inconsistency."

With your permission, I will attempt to present to you, as concisely as I can—keeping in mind that the harassment of our industry by the proponents has continued for some 34 years and that the printed record in the various proceedings exceeds 20,000 pages—the facts involved.

I. PRESENT STATUS OF THE USE OF THE TERM "MAHOGANY"

The following quoted letter from the Federal Trade Commission, dated December 21, 1960, and signed by the then Chairman, Mr. Earl W. Kintner, clearly sets forth the stand of the Federal Trade Commission on the question of the use of the term "mahogany": [2]

"In reference to your letter of November 7 and my reply of December 7, 1960, the Federal Trade Commission has now completed its additional administrative review of the request presented informally by Mr. Teel Williams, executive director, Mahogany Association, to the effect that the Commission take action to prohibit application of the term 'Philippine mahogany' to certain woods grown in the Philippine Islands and that the Commission reverse its position with respect to so-called 'African mahogany' by permitting wood of the genus *Khaya* grown in Africa to be sold as 'mahogany' without the qualifying word 'African.'

"After review and administrative reconsideration of the subject, the Commission has denied such request by Mr. Williams.

"All matters relating to the mahogany question have been considered, including the decision of the U.S. Circuit Court of Appeals in *Indiana Quartered Oak Co.* v. *Federal Trade Commission* (58 F. 2d 182 (2d Cir. 1932)). The court freed the Philippine product from the restrictions in that case against use of the term 'Philippine mahogany.'

"Consideration was also given to the decision of the Supreme Court in *Federal Trade Commission* v. *Algoma Lumber Co.* (291 U.S. 67 (1934)), concerning the term 'California white pine,' to which Mr. Williams referred.

"With respect to the term 'African mahogany,' the Commission proceedings of the past have also received consideration, including, in particular, the case of Ichabod T. Williams & Sons, Docket 1746, which was terminated upon stipulations by the respondent parties not to employ the word 'mahogany' for the African wood without the modifying word or adjective 'African.' (16 FTC Decisions 536, 1932.)

"By direction of the Commission.

"EARL W. KINTNER, *Chairman*."

It is interesting to note that the decision of the Federal Trade Commission to maintain the status quo of "Philippine mahogany" and "African mahogany" was only made after "administrative review," "administrative reconsideration," and "consideration." In other words, this was not a decision that was arrived at in an offhand manner.

The most recent pronouncement that we have knowledge of by the Federal Trade Commission is contained in Proposed Trade Practice Rules for the Household Furniture Industry. These proposals were developed after a series of three hearings throughout the country: Los Angeles, Calif.; Chicago, Ill.; and, High Point, N.C. Both Mr. Williams of the Mahogany Association and myself presented opposing views at these hearings. The decision of the Federal Trade Commission, as contained in the proposal, was as follows: [3]

"The word 'mahogany' shall not be used unqualifiedly as the name or designation of wood unless the wood so described is genuine mahogany (*Swietenia*).

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[2] Letter from Federal Trade Commission addressed to Philippine Mahogany Association, Inc., dated Dec. 21, 1960.

[3] P. 5, "Proposed Trade Practice Rules for the Household Furniture Industry," as released Oct. 30, 1962, for hearing Nov. 28, 1962.

In naming or designating the Philippine woods Tanguile, Red Lauan, White Lauan, Tiaong, Almon, Mayapis, and Bagtikan, the word 'mahogany' may be used but only when prefixed by the word 'Philippine' (e.g., 'Philippine mahogany table'). Examples of improper use of the word 'mahogany' under this rule would include reference to Red Lauan as 'Lauan mahogany' or White Lauan as 'Blonde Lauan mahogany.' Such woods, however, may be described unqualifiedly as 'Red Lauan' or 'Lauan' or 'White Lauan,' respectively.

"The word 'mahogany' may be used to name or designate wood of the genus *Khaya*, but only when prefixed by the word 'African' (e.g., 'African mahogany desk').

"The word 'mahogany,' with or without qualification, shall not be used to name or designate any wood except as provided above.

"(NOTE.—The term 'Philippine mahogany' will be accepted as a name or designation of the seven Philippine woods named above. Such term shall not be applied to any other wood, whether or not grown on the Philippine Islands.)"

We might add, parenthetically, that our association and its members wholeheartedly endorse the restrictions imposed by the above proposal.

II. PHILIPPINE MAHOGANY LITIGATION SINCE 1925

As I have already indicated, litigation and hearings on the question of the use of the term "Phillipine mahogany" have been extensive. It is not my intention to dwell on this point in any great detail. First, I am not an attorney and secondly, the record is public and is available for a full review of the facts.

Briefly, it can be said that the Circuit Courts of Appeals for the Second, Eighth, and Ninth Circuits over a period of more than 30 years have approved the use of the term "Philippine mahogany," in connection with certain specified woods of the Philippines[4] and the Federal Trade Commission itself has no less than three times considered the use of the term "Philippine mahogany" to be nondeceptive and in the public interest.

The right to use the term was first litigated in 1925 by the Federal Trade Commission (10 FTC Decisions 301 (1926)). However, in a test case of a second series of Federal Trade Commission proceedings brought in 1929 on the rulings in the 1925 cases additional facts were adduced with the result that the earlier rulings against the right to use the term "Philippine mahogany" were reversed by the Federal Trade Commission (15 FTC 439 (1929)). This action was approved in 1932 by the Court of Appeals for the Second Circuit (58 F. 2d 182), and the decrees of the Eighth and Ninth Circuit Courts of Appeals affirming the action of the Federal Trade Commission in the earlier cases were thereupon modified so as to reflect the true and complete facts as brought out in the second series of proceedings.

Despite the fact that the Federal Trade Commission and the courts of appeals for three circuits twice had this matter under consideration, and as a result, the use of the term "Philippine mahogany" for certain named woods of the Philippines was approved, nevertheless, after the Supreme Court decision in the *White Pine* case in 1934 (291 U.S. 67), new petitions were filed with the Federal Trade Commission for the reopening and rehearing of the cases. In action taken in 1937 and 1939, the Philippine mahogany cases were reopened by the Commission for a second time to determine whether the use of the term "Philippine mahogany" was deceptive. Again, after protracted proceedings, the decision was reached on consideration of the facts by the Federal Trade Commission that the use of the term "Philippine mahogany" was justified and not deceptive (43 FTC Dec. 711 (1947)).

In 1957, following public hearings in 1952 on the possible establishment of a wood name guide, the Federal Trade Commission, in a staff statement released to the public, again recognized the propriety of the term "Philippine mahogany."

In 1960, the Federal Trade Commission for a third time was requested, informally, to reopen the matter and again considered the propriety of the use of the term "Philippine mahogany." After due consideration of the facts as presented, the request for such action was denied as was indicated by the letter from Chairman Kintner as quoted earlier.

During 1961, as was stated earlier, a series of three trade practice conferences on the household furniture industry were held. The proponents of this legislation interjected the "mahogany" question into these proceedings, but the draft for

[4] Tanguile, Red Lauan, White Lauan, Tiaong, Almon, Mayapis, and Bagtikan.

final consideration left unchanged the basic Commission stand on the use of the term "Philippine mahogany."

During the 87th Congress a House bill, 8358, was introduced, and the author of this legislation, the Honorable Harold Collier, of Illinois, presented a statement on this legislation before this very same committee. This proposal, which was essentially the same as those before you today, was never reported out of committee.

The reason for this lengthy recital of past action of the Federal Trade Commission, the courts, and Congress on the question of the propriety of the use of the term "Philippine mahogany" is to refute the implied stand of the proponents of this legislation that they have been denied an opportunity to be heard on this matter.

Frankly, I doubt that there ever has been a matter before the Federal Trade Commission that has received, at least in proportion to its importance, any more of a hearing. The printed record of the Federal Trade Commission formal action exceeds 20,000 pages. Two hundred and thirty-six members of the public testified during the litigation. One hundred and thirty expert witnesses were heard on the subject. Hearings ranged from the east coast to the west coast and from the South to the North.

III. COMPLIANCE WITH THE RULINGS OF THE FEDERAL TRADE COMMISSION

The proponents of this legislation have indicated through the public press that one of their concerns in seeking this legislation is the protection of the public. The Philippine Mahogany Association, also, is interested in seeing to it that Philippine mahogany is properly described. Our association has expended a considerable amount of money on advertising and promoting our product. This was particularly true in the years immediately following World War II when we were faced with the task of reintroducing this wood after an absence of many years. Our advertisements have always used the correct nomenclature. This is in direct opposition to the promotion work of the proponents who have consistently grouped the African and American wood as "genuine mahogany."

I cannot, of course, deny that there have not been some instances where a retailer has not misconstrued the Commission's rulings and has left out the word "Philippine" in an advertisement. I cannot deny this any more than the Mahogany Association can deny that from time to time the required "African" is eliminated. The difference is that our industry has, is, and will continue to see that the current Federal Trade Commission rulings are followed on every level of trade.

To see to it that there is 100-percent compliance with the regulations dealing with the use of the term "Philippine mahogany" we have done three main things. Two of our efforts have been extremely successful; one area, however, has been void of any results.

To speak of our failure first. We have a number of times in correspondence and publicly[5] offered to cooperate with the Mahogany Association in seeing to it that the rulings of the Federal Trade Commission are carried out in every respect. We regret to report that the Mahogany Association has always ignored our sincerely proffered offers of cooperation. We cannot help but question, under the circumstances, whether the Mahogany Association is sincerely interested in the protection of the public. We are led, instead, to the conclusion that they are more interested in building up a case than they are in the public interest. They would much rather dramatically, as they have done from time to time, introduce a number of alleged violations than cooperate with us in our efforts.

I mentioned that two of our programs had been successful. One has been a periodic publicity program through the trade press reminding the trade of proper nomenclature required. One of these programs, recently, saw the publications of almost every one of the many retail lumber associations in the United States carrying a story from our office on the proper nomenclature to be applied to advertising of Philippine mahogany.

Our second program which has also been most useful in securing full compliance with existing regulations is called our self-enforcement program. The mechanics of this program are quite simple. We instruct one of the press

[5] P. 317 of "Official Transcript of Proceedings in the Matter of Household Furniture Industry," Mar. 21, 1961, to cite one instance.

clipping services to supply us with clippings of advertisements in which the word "mahogany" appears, with or without any qualifying term. Because of the magnitude of clippings if we were to order this for the entire country at once, we select 10 or 12 widely separated areas at a time. As the clippings are received we analyze them in an effort to pick out any in which there might be any question as to whether the material is properly described. We then send the small number of questionable advertisers a copy of the advertisement in question, a form letter pointing out the requirements of the Federal Trade Commission and a copy of the Federal Trade Commission press release of February 22, 1957 (as corrected March 6, 1957) which sets forth the required nomenclature. As a result of this program we can state that those errors that are made are the result of honest mistakes on the part of the advertisers and are immediately corrected. We are proud of this program—financed by our association—and, again, would extend an invitation to the Mahogany Association to cooperate.

I would therefore submit that the record of compliance with the existing regulations dealing with the use of the term "Philippine mahogany" is excellent. If there are any instances of deliberate failure to comply with the rules, the Federal Trade Commission, as I understand it, has the right to see to it that steps are taken to insure compliance. Again, it is the intention of the association I represent, insofar as it is humanly possible, to see to it that Philippine mahogany is always properly described.

To our knowledge, there has never been one legitimate consumer complaint that he has been misled in a purchase he has made of Philippine mahogany. On the contrary, the consumer is receiving an outstanding product at a competitive price that gives him value received. I make this statement in full knowledge that there are professional consumers, as I term them, who attempt to stir up feelings of discontent by saying that Philippine mahogany is not the original mahogany. There is only one original mahogany—the *Swietenia mahagoni* of the New World which, today, for commercial purposes, is almost extinct.

Compliance with existing rulings is excellent and any attempt to raise the question of noncompliance as an issue in an attempt to further the present proposals before this respected body is an example of the tactics used by the proponents in the past.

IV. COMPARATIVE IMPORTS OF AMERICAN, AFRICAN AND PHILIPPINE MAHOGANY

The following table gives information on the importation of American, African, and Philippine mahogany in lumber and log form for the years 1947 through 1962:

[Figures in 1,000 feet board measure]

Year	American	African	Philippine	Percent of total Philippine
1947	45,885	31,808	None	0
1948	42,408	40,167	12,700	13
1949	29,689	12,863	30,916	42
1950	44,034	40,731	55,584	39
1951	43,645	39,274	76,775	48
1952	38,577	19,492	66,698	53
1953	34,054	38,133	80,644	52
1954	26,641	30,704	88,636	61
1955	28,121	44,434	120,106	62
1956	30,093	44,056	135,897	65
1957	29,549	20,154	106,781	68
1958	18,897	20,173	105,319	73
1959	23,060	24,560	142,781	75
1960	25,790	24,671	104,980	68
1961	24,313	12,482	82,551	69
1962	29,505	14,463	104,427	70

Sources: American & African Log imports—1947–62 FT 110, U.S. Department of Commerce (annual); American and African lumber imports—1947–59 "U.S. Lumber Imports, 1947–59," U.S. Department of Commerce, August 1960; 1960–62 FT 110, U.S. Department of Commerce (annual); Philippine log imports—1948–52 Philippine Bureau of Forestry; 1953–59 Philippine Lumber Producers' Association Circular 2488; 1960–62 FT 110, U.S. Department of Commerce (annual); Philippine lumber imports—1947–53 Philippine Bureau of Forestry and Japanese Customs, 1954–59 "U.S. Lumber Imports, 1947–59," U.S. Department of Commerce, August 1960; 1960–62 FT 110, U.S. Department of Commerce (annual).

So there is no misunderstanding, I should again point out that the above figures are just for lumber and log imports. I should also tell you that there is a small percentage of non-Philippine mahogany wood included under the Philippine

classification. The majority of this non-Philippine mahogany is Apitong which is marketed and sold under that name and not as Philippine mahogany. It probably accounts for not more than 1 to 2 percent of the total.

It will be noted from the foregoing table that imports of Philippine mahogany have ranged from zero in 1947 when there was an embargo on the exportation of either logs or lumber from the Philippines, and the African and American woods had a clear field in the United States, and had so for 6 or 7 years, to a high of 75 percent of the total imports in 1959. Since 1954 the percentage share of the market has been, generally, in the 60- to 70-percent range. You will notice that there has been a considerable dropoff in imports of lumber and logs from Africa in 1961 and 1962. The proponents of this legislation might attempt to use these figures as an indication of the distress they are allegedly suffering from imports of Philippine mahogany. The fact is, and I am not telling this subcommittee anything they do not know, that the political and economic difficulties of that area are the reason and all the legislation in the world on nomenclature is not going to change this situation. One of the prime reasons for the growing importation of Philippine mahogany is the stability in the exporting countries and the favorable climate for both investment and trade.

One of the justifications that has been advanced for this legislation is that some firms dealing in African and American mahoganies have gone out of business. This is regretful and I am truly sorry, but the same thing could be said of the Philippine mahogany industry which has seen many oldtime firms go out of business, for one reason or another, during the postwar years. No evidence can be produced showing that any firm, handling either American, African, or Philippine mahogany, has gone out of business because of competition from one of the other woods. The major reason for liquidations has been either a loss of supply or the normal changes taking place in every business classification in these days of rapid technological change.

I would respectfully suggest to those Members of Congress who may be concerned, and rightfully so, at an old established firm going out of the American or African mahogany business that they should take into consideration the fact that the importation of Philippine mahogany contributes greatly to the economic well-being of their district or State.

I would also point out to the proponents of this legislation that they should be grateful to the industry I represent for "holding the fort" while the difficulties they face in their supplying areas are resolved, as they must evenutally be. I would submit that if it was not for the supply of Philippine mahogany keeping alive the demand for decorative hardwood in this country then it could be easily lost to the substitute materials that are continually taking a larger and larger share of the market. It may well be, as a larger and larger degree of economic and political stability is achieved in the prime supplying areas, that in the not too far distant future the percentage figures I cited earlier may be completely reversed. However, this is not going to be accomplished by the legislation under consideration but instead by the final realization by the proponents of this legislation that any problems they may face are not the result of this dead issue that is periodically brought out for an airing but go much deeper. A number of members of the Mahogany Association, I think, realize this as do the majority of the nonmembers.

In the above figures on importations I did not give any information on plywood and veneer imports. I assure you that this omission was not intentional, but in the figures available to me, I have no comparative data on this type of imports. I can say, from the material I have, that the vast bulk of plywood and veneer imports in the Philippine versus American and African category have been in the Philippine category. I can also report to you that there is a growing interest in the Americas, and in Africa in the expansion of the plywood and veneer industries, as reported in the press. The success or failure of these enterprises is in no way conditioned upon the nomenclature dispute you have before you, but on the traditional competitive nature of our economy.

V. USE OF PHILIPPINE MAHOGANY

One of the arguments advanced by those who support this bill is that in some mysterious way the ready availability of Philippine mahogany products reduces the demand for products made out of American and African mahogany. While I must admit to a not unbiased interest in this controversy, I just cannot understand how this argument can be accepted as a valid one.

The major markets for Philippine mahogany are trim, including moldings, doors and wall paneling; cabinet work; and in the boat industry. Philippine mahogany is popular in these various fields because of such diverse reasons as availability of supply, excellent average widths and lengths, high grading standards, ease of finishing, etc. These are all factors that a manufacturer must take into consideration, as well as public acceptance of the product. Another factor influencing the use of Philippine mahogany is the fact that it is available at a competitive price. This competitive position springs from two main factors: First, the tropical rain forests of the Philippines are unique, as compared to those of the Americas and Africa, generally speaking, in that the trees grow in stands of from 20,000 to 40,000 feet per acre. This is different from most forests producing African and American mahogany where an average of two trees to the acre is considered a very good stand.[6] These concentrated stands mean that the area can be logged in an efficient manner using all of the modern logging techniques with their resultant savings in cost. Secondly, the marketing of Philippine mahogany is, and always has been, a very competitive business. A vast supply of raw material available at reasonable production costs, coupled with encouragement on the part of the Philippine Government and American occupation before the present independent nation of development of the forest industry, has meant that the importation of Philippine mahogany has never been confined in the hands of a few individuals and it has never been possible for the industry to attempt to control availability and price. The popularity of Philippine mahogany is a prime example of what can be done with a product readily available and one that is offered freely and competitively.

The ready availability and many channels of distribution available has continually spurred our industry on in the development of new products and uses for Philippine mahogany. The increased use of plywood, the growth of the flush door industry, development of modern molding patterns to fit today's architectural treatment are all examples of the forward looking approach that our industry has taken. For example, as Philippine mahogany was reintroduced into this country after the close of World War II, it became apparent that the demand for the traditional finishes was on the wane so the Philippine Mahogany Association, in cooperation with some of the leading paint manufacturers of the country, developed new finishes ranging from the almost white bleached effects to the pickled effects that are popular for some applications. We were not content to sit back and talk about the "golden years" or Chippendale or Sheraton.

One of the arguments that the proponents of this legislation advance is that the alleged loss in the share of the furniture market that African and American mahogany has suffered, and we say "alleged" because we have no knowledge of any figures on this point, has been due to the ready availability of Philippine mahogany. This is just an attempt at rationalization on the part of the industry as public preferences have changed. The fact that a housewife may have Philippine mahogany kitchen cabinets in no way influences her decision when it comes to buying furniture. Today's housewife is going to be influenced by what the leading interior designers tell her, by today's architectural treatments, by her own likes and dislikes. As a matter of fact, if the proponents of this legislation were to be really honest in their approach to this question, they should admit that the availability of Philippine mahogany should help them rather than hinder them if they were to concentrate their efforts in a real promotion program rather than expend their time and effort on this intraindustry battle. Frankly, I think that the mahogany association is ignoring the sophistication of today's housewife and her knowledge and pays her a distinct disservice.

The importation of African and American mahogany is geographically limited to a few specific areas along the Atlantic and gulf coasts. On the other hand, Philippine mahogany is imported through almost every port on the coastline of the United States. A great many of the importers, where they are available, handle all three because of the differing requirements of their customers.

VI. CONCLUSION

While this has been a rather lengthy report, I feel that its length has been justified because of the importance of this matter to our industry and because of the complexity of the matter. As it is, I have not touched on two very important points: the botanical question and the effect of any change in current

[6] P. 11, "The Mahogany Book," 7th ed.

regulations on our supplying countries. We have another witness who will touch upon the question of botany. I am sure, also, that our supplying countries will make their views known to you.

I would, in conclusion, like to leave the following points for your consideration:

1. This is special interest legislation proposed by a small group of importers who have, apparently, been unable to compete in a situation of free supply and prices.

2. The current rulings regarding the use of the term "mahogany" by the Federal Trade Commission and the courts have been in effect for many years.

3. These rules are fair and workable and are the result of extensive and exhaustive hearings.

4. Compliance with these rulings has been excellent, insofar as Philippine mahogany is concerned.

5. The Federal Trade Commission has the power to move against violaters.

6. This legislation attempts to do two things: (a) legislatively change nomenclature with respect to Philippine mahogany; (b) permit African mahogany to drop the prefix in contradiction of the considered rulings of the Federal Trade Commission.

7. The Philippine Mahogany Association has consistently, and without exception, followed Federal Trade Commission rules. The mahogany association has generally chosen to ignore the Federal Trade Commission stand on African mahogany.

8. One of the many reasons for the acceptance of Philippine mahogany has been the forward-looking approach of our industry as contrasted with the "Golden Days" approach of the proponents.

9. The nature of the Philippine forests and the competitive aspect of the business among importers have made Philippine mahogany available to the American consumer at competitive prices.

10. No basis exists to support any charge that the American and African mahogany business suffers because of the widespread availability of Philippine mahogany. In most instances the woods are put to noncompetitive uses, depending on the particular need of the customer.

11. The enactment of this legislation would not be in the public interest but would only be in the interest of a handful of importers who have never been able to accept the considered judgment of the Federal Trade Commission and the courts.

The Philippine mahogany industry respectfully requests the opposition of this subcommittee to this legislation. We also thank you on behalf of the many tens of thousands dependent on the health and growth of our industry for their livelihood, for this opportunity to be heard.

Mr. VAN DEERLIN. Concerning tomorrow's session, I think two things are possible. If you wish to be heard, we will surely convene again at 10. If for your convenience you would rather put a statement into the record, any of you who are among the three remaining to be heard, and not come back tomorrow, this will, of coures, be combined with the testimony that is already available for consideration by the subcommittee and the full committee and Members of Congress—or we could schedule the completion at a later time.

Mr. Williamson, do you think there will be further hearings?

Mr. WILLIAMSON. Yes. The chairman has indicated to all of those who have been tied up in the futurniture markets at Chicago and other places that a day would be given to them later on in order to hear their testimony.

Mr. VAN DEERLIN. Let me see. We have Mr. I. T. Williams; we have Mr. Henry Thompson; and Mr. Robert Spelman. I see that one is from Chicago and one from Philadelphia and one from Washington.

What would be your pleasure in the matter?

Mr. I. T. WILLIAMS. Mr. Chairman, I come from New York, but I prefer to stay over and if there is a possibility of putting in my testimony tomorrow morning, I would be glad to testify.

Mr. THOMPSON. I am in the same position with the added complication, Mr. Chairman, that I will be out of the country for 6 weeks after next week so that I am afraid I would miss any later date.

Mr. VAN DEERLIN. All right. We will recess now to reconvene at 10 a.m., and I thank you very much for extending.

Mr. GATEWOOD. Mr. Chairman, Mr. Spelman had to leave and it won't be possible for him to be here tomorrow morning, so I would like to submit his statement for the record.

Mr. VAN DEERLIN. Thank you. Will you please leave it with the reporter?

(The statement referred to follows:)

STATEMENT OF ROBERT A. SPELMAN, EXECUTIVE DIRECTOR, WOOD OFFICE FURNITURE INSTITUTE

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 11 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 Wood or Simulated Wood Products Labeling Act.

Our membership is interested in seeing that its products are properly merchandised. 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 by 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 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 price lists 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 Wood or Simulated Wood 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.

Mr. VAN DEERLIN. We will recess until tomorrow morning. Thank you for being here.

(Whereupon, at 12:10 p.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, June 21, 1963.)

DECORATIVE WOOD LABELING AND USE OF TERM "MAHOGANY"

FRIDAY, JUNE 21, 1963

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE AND FINANCE OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 1333, Longworth Building, Hon. Lionel Van Deerlin presiding.

Mr. VAN DEERLIN. The subcommittee will come to order.

The hearings on wood labeling and the use of the term "mahogany" will continue. Our first witness this morning is Mr. Henry S. Thompson, who is president of the Insular Lumber Co. in Philadelphia. Mr. Thompson, will you identify yourself for the record and proceed.

STATEMENT OF HENRY S. THOMPSON, PRESIDENT, INSULAR LUMBER CO., PHILADELPHIA, PA.

Mr. THOMPSON. Yes, sir. Thank you, sir. Mr. Chairman and members of the committee, my name is Henry S. Thompson. I am president of the Insular Lumber Co., a New York State corporation engaged in the manufacture of Philippine mahogany since 1904. I am also vice president of the Philippine Mahogany Association.

I have been in the Philippine mahogany business for 29 years and have throughout that period followed closely developments in the long series of unsuccessful attacks on the name of Philippine mahogany undertaken by a small group of importers, whose primary interest is in Central and South American mahogany and African mahogany.

Insular Lumber Co. has been importing Philippine mahogany into the United States States since the year 1912 and has over the years invested well over $1 million in the promotion of Philippine mahogany in full reliance upon rulings of the Federal Trade Commission and of the U.S. Federal courts confirming the propriety of this trade name.

I would like, rather than go over my written statement which you will all have available to you, to make some specific comments on what I feel to be the central issue.

In the first place, I think the central issue revolves around the place of botany in commercial nomenclature. These are two separate and distinct items. Many botanical names are entirely different from commercial wood names. In the long hearings before the Federal Trade Commission there has been a very considerable amount of testimony on this matter.

Botanists themselves are not in agreement on this. Some botanists agree that the botany should rule commercial nomenclature. Others believe that commercial nomenclature when it has been accepted and is understood by public should be used.

I feel that the central issue in this case is the confusion which this bill creates in erasing the distinction between botanical and commercial nomenclature in order to try to include in one group woods which do not meet the requirements for both of these standards.

The bill, I might say, which was introduced in the last session of Congress to a similar end was slightly different in that this would have given, as I recall it, to all members of the Meliaceae family, title to the name of "mahogany."

I would just like to read a quotation from one of the outstanding plant anatomists and wood technologists on this subject. This is David A. Kribs, professor of plant anatomy and wood technology at Pennsylvania State University from his book on "Comparative Anatomy of the Woods of the Meliaceae":

> The results of the present investigation show, as the family now stands, great variations in both physical and anatomical characters. In fact, they vary to such an extent that the writer has been unable to find a set of characters which will distinguish Meliaceae as a whole, from other Dicotyledonous families.

Dicotyledonous families, I might add, include most hardwoods and most softwoods of all types. Meliaceae, therefore, which has been referred to in previous testimony as the mahogany family, is actually a very broad classification of over 800 different species, of which *Khaya* and *Swietenia* are two. There is no question, I think, in anyone's mind that the *Swietenia* are the original and true mahogany and are entitled to be called true and genuine mahogany.

The problem comes when we get to the point of saying that are we going to then say that *Khaya* is also entitled to this. This bill would establish a botanical standard, but it does not follow botanical practice.

The overwhelming majority of botanists do not agree that true mahogany or genuine mahogany should be applicable to African mahogany which is of the *Khaya* genus. As a matter of fact, a witness quoted Mr. B. F. Kukachka, who is Chief of the Wood Identification Division of the Forest Products Laboratory in Madison, Wis.

I would like to quote from comments which Mr. Kukachka made for the record in proceedings before the Federal Trade Commission in 1962:

> In answer to the questions presented for discussion specifically, we recommend that the name "mahogany" should be permitted to be applied only to woods of the genus *Swietenia*.

He also says:

> The use of the name "mahogany" should not be permitted for other woods not of the same genus *Swietenia* in the same countries. Furthermore, the use of the term "mahogany" should be forbidden in connection with wood from Eastern Hemisphere sources—

which would apply to both the African and Philippine.

I may seem to be destroying my own case, but I think where this leads to is the distinction which Commissioner Dixon very justly made in his own personal comments following his testimony before this committee when he stated that he did not see how, if "mahogany" was

permitted to be used by any woods other than those of the *Swietenia* genus, they could be applied to African and not to Philippine.

In other words, once you go beyond the *Swietenias*, which were without question the original true mahoganies, then you are treating mahogany as a trade name, not as a botanical designation.

Therefore, the effect of this bill would be to, under the guise of using a botanical distinction, actually erase that botantical distinction with a special exception for African mahogany, but distinctly excluding Philippine mahogany.

I have also in my written statement a number of quotes from leading authorities of forest products, botany, plant anatomy, and wood technology which do stress the wide variation even within the *Swietenias*.

There is no such thing as a single type of botanical designation which produces wood of uniform quality. U.S. Department of Agriculture Bulletin No. 474 entitled "True Mahogany," by C. D. Mell states:

> Of all the cabinet woods now on the market, however, mahogany shows the greatest variation in quality. Even woods from the same locality do not grade alike.

I would also like to quote as to African mahogany from a publication of the Mahogany Association itself, the eighth edition of "The Mahogany Book," by George N. Lamb, under the heading "African Mahogany (*Khaya ivoronsis A. Chev*)." which is a particular species of the *Khaya* family. He states:

> * * * the African wood is more decided salmon pink than West Indian or American mahogany, but this color, after exposure to air and light, changes to a pale, reddish brown. The wood has a milder texture and slightly larger pores than other mahogany.

I feel that it is important to point out that in the over 20,000 pages of recorded testimony before the Federal Trade Commission on this matter there is extensive testimony from botanists, from wood technologists, from experts in every field.

The decision of the Federal Trade Commission is based upon that evidence. This is an extremely complex field. I would have no intention of claiming myself to be an expert on this.

The only thing I can do is to quote what the experts say, and the experts do say time and time again botanical classifications for wood names as far as mahogany is concerned require that the name be restricted to the members of the *Swietenia* family.

If commercial nomenclature is to be accepted, then African and Philippine mahogany have equal title.

I would like to also mention what the record judicial view on this matter is. This is an opinion of 1928 of Senior Circuit Judge Thomas W. Swan, then circuit judge of the Second Circuit Court of Appeals:

> The purchasing public knows little, and cares less, I think, about the botanical characteristics of mahogany. The Philippine Government, our own Departments of War, Commerce, and Agriculture, and the Interstate Commerce Commission have been accustomed for years to refer to the woods in question as "Philippine mahogany."
>
> The National Hardwood Lumber Association has, since 1916, established rules for grading "Philippine mahogany." This term is used in foreign countries also. Combined with the word "Philippine," "mahogany" is used in its commercial, as distinguished from its botanical, sense.

Such usage is common in the lumber industry. Witness: Douglas-fir or Oregon pine, which is a false hemlock; redcedar, which is juniper; and many other instances which might be cited.

I might note that this 1928 opinion by Senior Circuit Judge Thomas W. Swan states specifically that this name is used in foreign countries. Previous witnesses have said it is not used in foreign countries.

My own company sells Philippine mahogany in England, Scotland, Ireland, Denmark, other Scandinavian countries, Holland, Belgium, Germany, Australia, South Africa, and in every one of those countries it is sold and named in the trade as "Philippine mahogany."

There are technical publications available in many of those countries which list it as such. I have here a publication of the British Forest Products Research Department entitled "Commercial Mahoganies and Allied Timbers," which was copyrighted in 1938 and which lists Philippine mahogany as a commercial mahogany.

I know of other publications which I actually saw in a recent trip in Europe in Denmark, which are printed in Danish and the only words I could read in them were "Philippine mahogany," and I know it was listed there.

I would like to mention another item which was brought up in previous testimony. I believe Mr. Robinson submitted an advertisement advertising Philippine mahogany plywood at 10 cents. I do not believe that the time has yet come when providing solid goods to the American public at a low price is a crime or a reason for restrictive legislation.

He also made mention of the fact that African mahogany in the same advertisement was referred to as African *Khaya*. Why did this happen? It happened specifically because the Mahogany Association has not conformed to the Federal Trade Commission rulings on the fact that African mahogany should be so designated.

They have and do at the present time distribute widely publications, one of which I have here in my hand, reprinted in 1962, which states:

What is genuine mahogany? It is mahogany wood that comes only from tropical America and tropical Africa, and only from trees of the botanical genus *Swietenia* in America and the genus *Khaya* in Africa.

The mahogany labels which were brought in the testimony by other witnesses state on those labels:

Genuine mahogany grows only in west Africa, tropical America, and east coast Africa.

Therefore, they are inviting the trade to call African mahogany genuine mahogany, which they have done consistently in the face of the Federal Trade Commission rulings and releases which state that African mahogany should be used only with the prefix "African."

I think the individual who placed that ad was doing the best he could in the face of the fact that he undoubtedly was familiar with the rulings of the Federal Trade Commission.

He has seen these publications. He doesn't know, therefore, what he should do, so he reports to something that he knows is safe. He refers to it as *Khaya*. I don't think this calls for any sympathy on behalf of the African mahogany importers.

I think this is a situation which they have created themselves and for which they are responsible.

I would like to point out that the Philippine Mahogany Association has had for many years, and still does have, an active compliance program which samples advertising all over the country.

An advertisement which was submitted with Mr. Teel Williams' testimony yesterday was a violation of the use of the name "Philippine mahogany" without the prefix "Philippine." I would like to add something to that testimony. I believe that advertisement appeared in 1961. It was picked up in our normal compliance campaign.

The Federal Trade Commission rulings were called to the attention of the advertiser. As is always done in these cases, a continuing check was kept on advertising from that source and there were no further violations.

No such program has or is being carried on by the Mahogany Association in connection with African mahogany. I would like also to point out in connection with this price question, the 10-cent material that was mentioned yesterday is, I believe, plywood for wall paneling.

This is a form of material which, to the best of my knowledge, is not manufactured in volume from African and American mahoganies. This is a manufacturing procedure which is well known in which the logs are peeled in a rotary fashion, which is less expensive. It does provide a product which, quite frankly, I, as a solid lumber manufacturer, do not like as well as solid material, but it is certainly entitled to be called by the same name and the fact that a manufacturing process is used which enables it to be given to the public at a low price is certainly not a cause for penalties or for legislation.

I might also mention on the price question that grade for grade I can today buy in Philadelphia, where my office is located, the equivalent grade of African mahogany for a lower price than I can buy the same grade of Philippine mahogany in solid lumber.

This is not an unusual situation. Prices have varied. There have been times in recent years when firsts and seconds African mahogany have been slightly higher than Philippine. There have been times when Philippine mahogany in the same grade has been slightly higher than African mahogany.

Honduras mahogany, which I think most people consider to be the No. 1 American or genuine mahogany at the present time, which is available in volume, does run normally substantially higher in price than either African or Philippine mahogany and, as I have indicated before, is fully entitled to be sold as genuine or true mahogany.

Mr. GLENN. May I ask a question there?

Mr. THOMPSON. Yes, you certainly may, sir.

Mr. GLENN. You say the only true mahogany is from Honduras?

Mr. THOMPSON. No. I say Honduras mahogany, of the various types of American mahogany, the *Swietenia* family, I think is generally considered to be the best. There is quite a bit of difference by locale between Honduras mahogany, Mexican mahogany, Brazilian mahogany, and Peruvian mahogany. All of these are of the *Swietenia* family and are entitled to be called genuine mahogany.

Mr. GLENN. *Swietenia mahagoni?*

Mr. THOMPSON. No, it is not *Swietenia mahagoni. Swietenia mahagoni* was the original and only, you might say, mahogany, which was discoverd by the Spanish in West Indies. San Domingan and Cuban are the primary forms of *Swietenia mahagoni.* This has not

been available in significant commercial quantities for the last 30 or 40 years. There are still small amounts of it that come through, but it is not a significant commercial factor.

As the supplies of *Swietenia mahagoni* were exhausted, then the other *Swietenias* came in. *Swietenia macrophylla*, *Swietenia humilis*, and *Swietenia king* are the three primary members of the Meliaceae family. I get confused with these botanical terms. As to the genus *Swietenia* those particular ones are the ones which grow in the various countries of South and Central America and there are general wide variations in the quality. If I may add a quote there from the "Timbers of Tropical America" by Samuel J. Record, professor of forest products, Yale University, and this is only American timbers:

Mahogany timber exhibits a considerable range of variation in its physical and mechanical properties, depending upon the character of the soil and the general conditions of growth as well as upon the species. The difference between woods from various regions is often so marked that experts can distinguish them almost at a glance and the kinds of mahogany on the market are designated according to country producing them and sometimes with reference to the port of shipment.

Does that clarify the matter?

Mr. GLENN. Thank you.

Mr. THOMPSON. I would like to mention one thing further on this rather complex question of botany. I want to call to your attention that botanical classifications are according to the shape and size of the flower, the seed, and the leaf of the trees. The character, quality, and utility of the wood is neither examined nor considered by botanists. Botanical classifications, hence, have no connection with the value and utility of wood products.

I feel, therefore, that on the record the objective of the importers of African and American mahoganies is neither compliance with Federal Trade Commission and circuit court rulings nor acceptance of world-wide trade practice and public understanding of the use of the word "mahogany." I think the record does indicate that their objective is to establish by legislative fiat that in the United States the word "mahogany" should be placed in their own private preserve on their own terms.

I might mention that when the Spaniards first came to the Philippines—Magellan, I believe, landed in 1521—the Spaniard referred to Philippine mahogany as "caoba des Philippinas," which is the Spanish term for "mahogany of the Philippines."

This term, "Philippine mahogany," therefore, has a history of over 400 years in the world. It has a history of continued usage and acceptance in the United States of over 50 years.

I feel this is a complex matter. I don't pretend to be entirely objective on it, but I do believe that the quotations from the experts which I have submitted to you do show that there is no justification for the type of classification which is being proposed in the present legislation. Thank you very much.

(The statement of Mr. Thompson follows:)

STATEMENT OF HENRY S. THOMPSON, PRESIDENT, INSULAR LUMBER CO.

My name is Henry S. Thompson, president of the Insular Lumber Co., a New York State corporation engaged in the manufacture of Philippine mahogany since 1904. I am also vice president of the Philippine Mahogany Association. I have been in the Philippine mahogany business for 29 years and have through-

out that period followed closely developments in the long series of unsuccessful attacks on the name of Philippine mahogany undertaken by a small group of importers, whose primary interest is in Central and South American mahogany and African mahogany.

Insular Lumber Co. has been importing Philippine mahogany into the United States since the year 1912 and has over the years invested well over $1 million in the promotion of Philippine mahogany in full reliance upon rulings of the Federal Trade Commission and of the U.S. Federal courts confirming the propriety of this trade name.

The mahogany bills—H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, and H.R. 6604—now under consideration would attempt a truly extraordinary extension of the legislative function into the field of commercial wood nomenclature with two primary effects. First would be the destruction of a name and reputation of over 50 years' standing in the timber trades and the public mind. The second effect would be the sanctioning of an unprecedented usage of the name "mahogany" as applied to African timbers of the *Khaya* species. Both of these results would be to the detriment of the public interest and common equity, and would benefit only private parties.

The bill purports to protect the name "mahogany." Proper usage as defined by the Federal Trade Commission permits the name "genuine mahogany" to the *Swietenias*, requires the use of the prefix "African" for the *Khayas*, and the use of the prefix "Philippine" for seven designated species of Philippine woods. This usage is in accordance with longstanding worldwide commercial practice, with U.S. circuit court decisions, and with public understanding.

In fact, these bills, rather than protecting the term "genuine mahogany" as applied to *Swietenia*, makes the real change in the removal of all restrictions from the application of the name of "genuine mahogany" to the *Khayas*. Through the fog of controversy, the truly significant fact is then that this bill would bestow a completely new status on African mahogany, a unique legislative sanction for a change in trade practice to the exclusive benefit of a small band of importers. This feature alone offers a fair measure of the extent to which public interest would be served by the proposed legislation and it is, therefore, not surprising that the bill would incidentally destroy a reputable trade name, that of Philippine mahogany, which has been firmly established in the United States for over 50 years on its own merits.

From the 20,000 pages of record testimony before the Federal Trade Commission on these issues—testimony which included foresters, botanists, manufacturers, consumers, importers, and others—there are certain basic facts apparent as to the relationship of the botanical classification and wood nomenclature:

1. Botanists classify plants, bushes, trees, etc., according to the shape and size of the flower, seed, and leaf. The character, quality and utility of the wood is neither examined nor considered by botanists. Botanical classification, hence, has no connection with the value and utility of wood products.
2. Botanical classification has never controlled commercial nomenclature nor determined public usage; e.g., the wood universally known as cedar, is not botanically cedar.
3. Botanists are not in agreement as to what woods should be permitted the name "mahogany" and with what qualifications.
4. The "one and only" original mahogany (San Domingan) came from trees of the botanical classification *Swietenia mahagoni*. *Swietenia mahagoni* has not been available in significant commercial quantities since the turn of the century.

What is the judicial view on this subject? A quotation follows from an opinion in 1928 of Senior Circuit Judge Thomas W. Swan, then circuit judge of the Second Circuit Court of Appeals:[1]

"The purchasing public knows little, and cares less, I think about the botanical characteristics of mahogany. The Philippine Government, our own Departments of War, Commerce, and Agriculture, and the Interstate Commerce Commission have been accustomed for years to refer to the woods in question as 'Philippine Mahogany.' The National Hardwood Lumber Association has, since 1916, established rules for grading 'Philippine mahogany.' This term is used in foreign

[1] *Indiana Quartered Oak Co.* v. *Federal Trade Commission*, 26 F. 2d 340 (C.C.A. 1928); 58 F. 2d 182 (C.C.A. 1932).

countries also. Combined with the word 'Philippine,' 'mahogany' is used in its commercial, as distinguished from its botanical, sense. Such usage is common in the lumber industry. Witness: Douglas fir or Oregon pine, which is a false hemlock; red cedar, which is juniper; and many other instances which might be cited."

For a technical view in another country, we quote from the publication "Commercial Mahoganies and Allied Timbers" of the British Forest Products Research Laboratory:

"In the following pages the term 'true mahogany' refers to the product of *Swietenia*, the original mahogany of the West Indies and Central America, as distinct from those timbers of the same botanical family which are commonly known by the name of mahogany suitably qualified to indicate the country of origin."

How does a leading American authority on botanical and wood technology treat the nomenclature question? We refer to "Commercial Foreign Woods on the American Market" by David A. Kribs, professor of plant anatomy and wood technology at the Pennsylvania State University. In this comprehensive 1959 publication three varieties of *Swietenia* (p. 113) are listed as "Mahogany, genuine"; five *Khayas* (pp. 111–112) are listed as "African mahogany"; and seven *Shoreas* (pp. 34, 35, 36, 37) are listed as "Philippine mahogany."

Finally, for the dispassionate view of the executive director of the mahogany association, when the Federal Trade Commission in accordance with prior rulings stated that African mahogany is not "genuine" mahogany by botanical standards or otherwise, we quote his widely circulated words:

"We consider the dragging in of the question of African mahogany in your latest communication as wholly irrelevant, immaterial, an ill-disguised threat and a red herring to conceal the real issue."

Other testimony will illuminate the active program carried out by the Philippine Mahogany Association in correcting any cases of misusage of the name "Philippine mahogany." This program is in sharp contrast to the record of the mahogany association, which has consistently ignored both the Federal Trade Commission rulings on "African mahogany" and the standing offer of the Philippine Mahogany Association to cooperate with them in insuring proper usage of both names.

On the record it is only too clear that neither compliance with Federal Trade Commission and circuit court rulings or acceptance of worldwide trade practice and public understanding of the use of the word "mahogany" are among the objectives of the Mahogany Association. Their objective is to establish by legislative fiat that in the United States, the word "mahogany" shall be placed in their own private preserve on their own terms.

This is a long and complex trade controversy with the usual two sides. I believe that the distinguished Members of Congress who are sponsoring the proposed legislation have heretofore had the opportunity to know the views of only one side. We are confident that the Congress of the United States will not take action for which there is no sound foundation in fact and in equity. When private interests seeking private benefit turn to the Congress, having failed to attain their aims before the Federal Trade Commission or the courts, there can be only one result. As Gen. Carlos P. Romulo, then Philippine Ambassador to the United States, pointed out in a statement in 1961, the Spaniards first called these woods "caoba des Philippinas" in the 16th century after the discovery of the islands by Magellan. This term translated into English means "mahogany of the Philippines." This name has for 400 years grown in use and reputation and will, we are sure, continue to do so.

PERTINENT QUOTATIONS FROM PUBLICATIONS ON "MAHOGANY"

1. "The results of the present investigation show, as the family now stands, great variations in both physical and anatomical characters. In fact they vary to such an extent that the writer has been unable to find a set of characters which will distinguish Meliaceae, as a whole, from other dicotyledonous families"—from "Comparative Anatomy of the Woods of the Meliaceae" by David A. Kribs, professor of plant anatomy and wood technology, Pennsylvania State University.

2. "Of all the cabinet woods now on the market, however, mahogany shows the greatest variation in quality. Even woods from the same locality do not

grade alike"—from U.S. Department of Agriculture Bulletin No. 474, "True Mahogany," by C. D. Mell.

3. "Mahogany timber exhibits a considerable range of variation in its physical and mechanical properties, depending upon the character of the soil and general conditions of growth as well as upon the species. The difference between woods from various regions is often so marked that experts can distinguish them almost at a glance and the kinds of mahogany on the market are designated according to country producing them and sometimes with reference to the port of shipment"—from "Timbers of Tropical America," by Samuel J. Record, professor of forest products, Yale University, and C. D. Mell, tropical forester.

4. "Mahogany wood ranges in color from very light pink to a dark reddish-brown, and possesses a pronounced satiny or golden luster. That of *S. mahogani* is generally darker, heavier, and more highly figured than timber from the species growing on the mainland. The lightest and softest wood from the mainland is known in the trade as baywood mahogany. It is said to be produced by S. macrophylla, while the harder and more colored variety is thought to be a product of S. humilis"—from "Comparative Anatomy of the Woods of the Meliaceae, Sub-family Swietenioideae," by A. S. Panshin, professor of wood technology, Michigan State College.

5. "African mahogany (*Khaya ivoronsis A. Chev.*) African mahogany, the principal sources of which are on the Gold Coast, Ivory Coast and Nigeria, is obtainable in exceptionally large sizes. The logs measure from 14 to 36 feet in length, from 3 to 5 feet in thickness and yield longer and wider cuttings than any other type of mahogany.

"When freshly cut, the African wood is a more decided salmon pink than West Indian or American mahogany, but this color, after exposure to air and light, changes to a pale, reddish brown. The wood has a milder texture and slightly larger pores than other mahogany"—from "The Mahogany Book" (8th edition), by George N. Lamb, of the Mahogany Association, Inc.

Mr. VAN DEERLIN. Thank you, Mr. Thompson. Did you have any further questioning, Mr. Glenn?

Mr. GLENN. I would just like to make a comment, Mr. Chairman, that Mr. Thompson has given a very scholarly dissertation and I am glad to see that you have given us the derivation, I presume, of the word "mahogany," that comes from the botanical name *Swietenia mahagoni*. Is that correct?

Mr. THOMPSON. That, I frankly don't know. I believe the previous testimony indicates that the name of "mahogany" was known before the *Swietenia mahagoni* was actually given its botanical designation. Possibly Mr. Teel Williams might be able to answer that, but I don't know which one came first. I think one of the critical questions, however, is whether "mahogany" over the years means to the public a wood from a particular botanical classification or whether it means a wood of a particular type and particular characteristic which has long been known to the public as "mahogany," and this, I think, is one of the distinctions: Is mahogany a trade name, or is it a botanical name? I feel, in all these things, when you ask one question, it is like opening a "Pandora's box," and you are getting into a large sequence of expert matters, and you flatter me by calling this a scholarly presentation.

Again, it is a question of quotations and I frankly don't have the training or the background knowledge on my own to be able to go beyond what I can directly quote from the experts.

Mr. GLENN. Of course, in your statement, you do say that the one and only original mahogany, San Domingan, is now practically out of existence commercially.

Mr. THOMPSON. That is correct, sir.

Mr. GLENN. So, therefore, the name, "mahogany," as we use it today doesn't refer to the original mahogany, as you have indicated.

Mr. THOMPSON. That is correct. It refers to other members of the genus *Swietenia*, but not to *Swietenia mahagoni;* which, as I indicated, is available in very small present quantities.

I would like to just make one more comment. As far as volume is concerned, I would like to point out that statistics previously cited have gone to the postwar period. In the prewar period also, Philippine mahogany was imported in substantially larger quantities than African and American mahoganies. This is no change. I do simply point out also that I am sure an unintentionally misleading statistic was given as to the very small quantity of Philippine mahogany imported in the year 1947 as compared to present figures. Immediately after the war, the period 1947, 1948, and 1949, there was a formal embargo by the Philippine Government on the export of Philippine mahogany lumber or in any form other than log exports because there was a tremendous destruction in the Philippines. They felt that everything that could be manufactured should be kept in the Philippines. Therefore, the statistics on Philippine mahogany are not significant until after 1950 when the export embargo was lifted.

Mr. GLENN. I have no further question, Mr. Chairman.

Mr. VAN DEERLIN. Thank you, Mr. Glenn, and thank you, Mr. Thompson.

Mr. THOMPSON. Thank you, sir.

Mr. VAN DEERLIN. Is Mr. Williams here?

STATEMENT OF ICHABOD T. WILLIAMS, ICHABOD T. WILLIAMS & SONS, NEW YORK, N.Y., AND GEORGE D. EMERY CO., NEW YORK, N.Y.

Mr. WILLIAMS. Yes, sir.

Mr. VAN DEERLIN. Fine. Mr. I. T. Williams, president of the Ichabod T. Williams Co. in New York. Thank you for staying over for today's session.

Mr. WILLIAMS. Thank you, Mr. Chairman. My position before this committee is as representative of two concerns in New York and also as a witness for the Mahogany Association of Chicago, of which one of these concerns is a charter member.

My name is Ichabod T. Williams and I am a resident of the village of Lawrence, county of Nassau, State of New York, and I respectfully request that the following statement in support of the subject legislation be incorporated in the record of these hearings.

During my entire business life of a little over 33 years, I have been associated with the firm of Ichabod T. Williams & Sons, of New York City, who, since the year 1838, have been engaged in the importation, manufacture, and distribution of cabinet woods.

For more than 20 years, I have likewise been associated with the George D. Emery Co., also of New York City, as a director, secretary, and, for the past year, president. I am therefore at this time representing both of these companies.

Ichabod T. Williams & Sons, has historically been an important factor in the mahogany business in the United States and in foreign countries. It operates a large sawmill, veneer plant, dry kiln and lumberyard, located at Carteret, N.J. It also has a wholly owned subsidiary, which operates another sawmill on the Amazon River, near

Iquitos, Peru, where there is produced mahogany lumber, the bulk of which is shipped to the United States for sale through Williams' organization in the American market.

Williams also maintains an office in Takoradi, Ghana, for the acquisition of mahogany from the West Coast of Africa, and resident agent in Belieze, British Honduras.

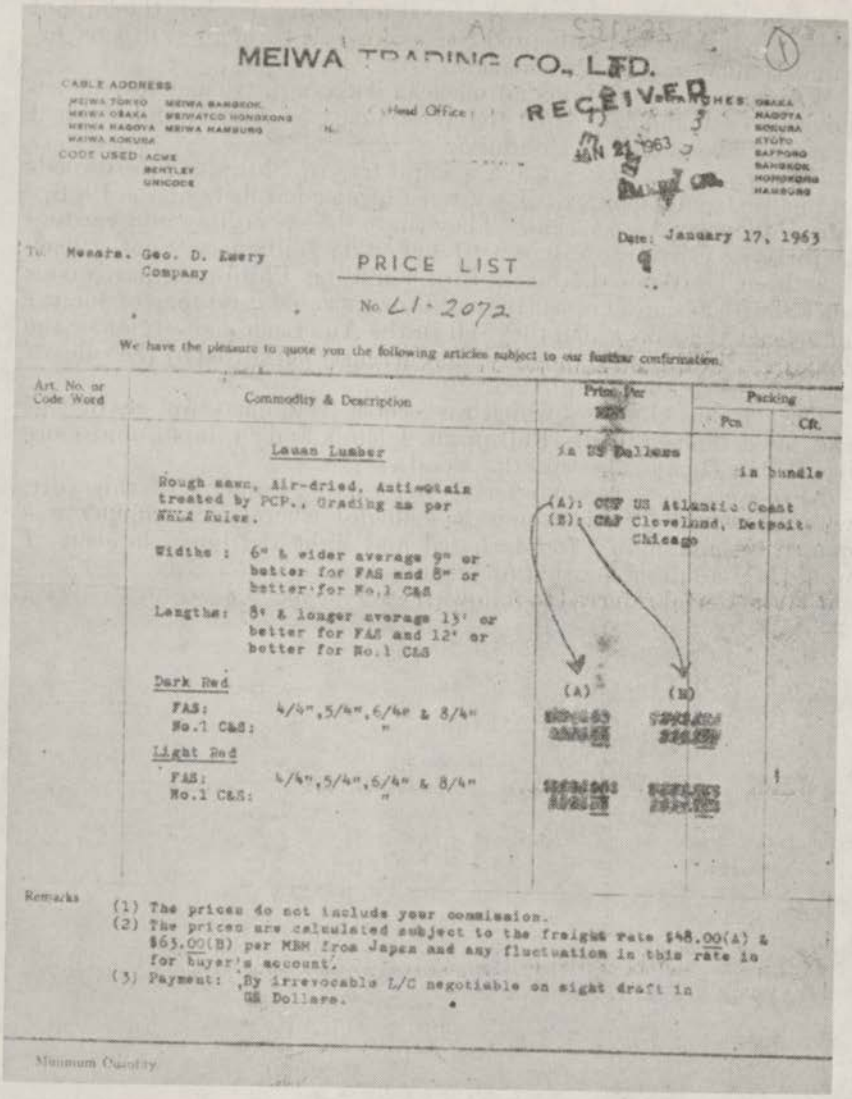
The George D. Emery Co. are importers of Philippine hardwoods and balsa from Equador. They were former members of the Philippine Mahogany Association. They share the sawmilling and yarding facilities at Carteret, N.J., with Ichabod T. Williams & Sons. They have been active in the business of handling Philippine hardwoods since the 1930's and currently maintain a sizable inventory of lumber and sliced veneers ,which they sell in the American market, under the name of "Philippine Mahogany," as currently permitted by the rules of the Federal Trade Commission.

The purchase invoices which we receive from our suppliers of logs and sawn lumber in the Philippine Islands and in Japan and more recently in Taiwan, describe this wood as "lauan."

Also, we have a recent offering here, dated January of this year, which I would like to submit in evidence where our company was quoted on an inquiry for dark red and light red lauan lumber. I would be glad to submit that for examination.

(The material referred to follows:)

28-162—64——14



MEIWA TRADING CO., LTD.

CABLE ADDRESS
MEIWA TOKYO MEIWA BANGKOK
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Head Office:

BRANCHES: OSAKA NAGOYA KOKURA KYOTO SAPPORO BANGKOK HONGKONG HAMBURG

RECEIVED
JAN 21 1963

Date: January 17, 1963

To: Messrs. Geo. D. Emery Company

PRICE LIST

No. 61-2072.

We have the pleasure to quote you the following articles subject to our further confirmation.

Art. No. or Code Word	Commodity & Description	Price Per	Packing Pcs	Packing CR.
	Lauan Lumber	in US Dollars		in bundle
	Rough sawn, Air-dried, Anti-stain treated by PCP., Grading as per WMLA Rules.		(A): CIF US Atlantic Coast (B): C&F Cleveland, Detroit, Chicago	
	Widths : 6" & wider average 9" or better for FAS and 8" or better for No.1 C&S			
	Lengths: 8' & longer average 13' or better for FAS and 12' or better for No.1 C&S			
	Dark Red		(A) (B)	
	FAS: 4/4",5/4",6/4" & 8/4"			
	No.1 C&S: "			
	Light Red			
	FAS: 4/4",5/4",6/4" & 8/4"			
	No.1 C&S: "			

Remarks
(1) The prices do not include your commission.
(2) The prices are calculated subject to the freight rate $48.00(A) & $63.00(B) per MBM from Japan and any fluctuation in this rate is for buyer's account.
(3) Payment: By irrevocable L/C negotiable on sight draft in US Dollars.

Minimum Quantity

Mr. WILLIAMS. It is true that in recent years we have also received offers and invoices for this same wood using the name "Philippine Mahogany," but we see no reason why the change of the name should affect the sale of this wood in the United States. As far as our company is concerned, we would be perfectly content if the regulations of the Federal Trade Commission permitted this wood or required it to be sold under the name "launa" rather than "Philippine mahogany." I should like to point out that the present regulations of the Federal Trade Commission did not permit the use of the name "Philippine Mahogany" in connection with lumber of the exact same species originating outside of the limits of the Philippine Islands. This raises

the question as to the value of the name as a designation of a species since it applies only to the production from a limited area.

The wood name "mahogany" has, for centuries, been recognized as the designation of one of the world's finest hardwoods, not only in this country but throughout the civilized world.

The timber trade throughout the world has historically recognized that woods referred to under this name of "mahogany" belong to the family of *Meliaceae*, and of the species thereof, *Swietenia* and *Khaya*.

The *Khaya* species occurs only in Africa and the *Swietenia* species is limited to Central and South America and the West Indian Islands. Neither species occurs in the Philippine Islands or elsewhere in the world except for an occasional tree which may be found in the Florida Everglades, but which doesn't represent any commercial value.

The Federal Trade Commission has repeatedly recognized that only wood from the *Swietenia* species of the Meliaceae family, can be sold in the United States as mahogany, without other qualifying adjective. They have likewise issued an interpretation that wood from the *Khaya* species can be sold as mahogany, with the prefix African.

I will interpolate here that our company was cited some years back and by a consent decree has agreed that it shall advertise and offer and invoice wood from the *Khaya* species as African mahogany. Likewise, without any requirements, we designate on our price lists, stock lists, offerings, and invoices, wood from the *Swietenia* family as either Honduras or Central American mahogany, or Peruvian mahogany, which we do for the purpose of clarifying our own records and those of our customers.

When these woods from the Philippine Islands first came into our market, and my recollection on this is that they were first offered by the Cadwallader Lumber Co. some time prior to 1904, they came as Bataan wood, later Bataan mahogany and eventually acquired the name "Philippine Mahogany." The reason for this development of the name, if it is accurate, would seem to be based solely on the fact that the wood itself had a resemblance to the woods known on the American market as genuine mahogany.

That this practice resulted in misunderstandings and deception is evident in that the Federal Trade Commission itself, issued a ruling to the effect that these woods from the Philippines were not mahoganies and therefore they could not trade upon the name of mahogany.

A few years later, in 1932, the Commission reversed itself and permitted these admittedly nonmahogany woods to be sold under the name of mahogany, provided it was prefixed with the word "Philippine," and the position of the Federal Trade Commission from that time to this day, has been that this title of Philippine mahogany is justified by long usage in this market.

I submit that there is ample evidence to the contrary and many attempts have been made to obtain action by the Federal Trade Commission itself, to correct its position. So far these attempts have met with no success.

It may be stated by those in opposition to this bill, that an attempt to adopt botanical standards to common trade usage, is unrealistic. I do not agree with this position; in fact the entire purpose of a set of botanical standards is to provide some universal method of identification of plants and their wood products. It is evident that the

Federal Trade Commission concurs in this position as witnessed by their rulings: First, in the *Algoma Lumber Co.* case where producers of ponderosa pine, were forbidden to sell it as white pine after more than 30 years of usage, and more recently importers of Australian eucalyptus, were forbidden selling the wood in this country as Australian oak, or Tasmanian, or Australian silky oak, a name which had also gathered considerable historic usage in our market.

I must therefore conclude that the argument of historic usage as well as the argument of the fallacy of adopting botanical standards to common trade usage, are both totally invalid.

Neither genuine mahogany nor the so-called Philippine mahoganies are native to the United States in commercial quantities. There is, therefore, no question of protection of a native product involved here.

There is, however, involved very definitely, the question of unfair competition from one wood, which for many years sold at a much lower price and could be produced at a much lower cost, which was trading on the name of a more valuable and more costly wood. For years in the past, these Philippine woods, which were sold under the title of Philippine mahogany, carried a price tag considerably lower than the cheapest of the genuine mahoganies. Today, however, due to increasing scarcity of good quality timber in the Philippine Islands, plus the increasing cost of manufacturing lumber, veneer, and plywood, in both the Philippine Islands and Japan, the spread of price between red lauan and khaya, has been greatly narrowed, but price isn't the only answer.

From my personal experience, I have gone into the homes of friends who have complained that the mahogany flush doors and mahogany wall paneling which they have had installed, does not resemble the wood which they have in their genuine mahogany antique furniture. The reason, of course, is obvious: their flush doors and paneling were not genuine mahogany—they were Philippine mahogany. In some instances my friends indicated that they knew that this was Philippine mahogany but thought that it was genuine mahogany from the Philippine Islands. The public, as a rule, does not recognize that genuine mahogany does not grow in the Philippine Islands.

This, gentlemen, is where the deception occurs, and even if the regulations of the Federal Trade Commission on the subject are fully adhered to, there will still be misunderstanding on the part of ultimate consumers. Unfortunately, all to frequently, these regulations are not adhered to and somewhere along the line the qualifying word "Philippine" gets lost.

I have purposely refrained in getting into statistics as to footage and dollar volume of business, because all of this material is available in the records of the Department of Commerce and a good deal of it will probably be cited by other witnesses.

Suffice it to say, that a large porportion of the imported plywood, which has plagued our domestic plywood manufacturing industry, was of Philippine maghogany. Also a large part of the imported lumber, some of which the George D. Emery Co. has handled, is of this species.

It is my opinion that these Philippine hardwoods could be sold in our market, now that they have been firmly established here and are recognized, under their own proper local names, such as lauan.

The George D. Emery Co. is quite prepared to adopt this practice, as soon as the rest of the lumber industry in this country does so.

On behalf of Ichabod T. Williams & Sons, whose principal business is in genuine mahogany, I must say that we have keenly felt price competition from red lauan primarily, especially in the boatbuilding field.

We note that on invitations for bids for boat planking and decking issued by the armed services the invitations lumped together genuine mahogany and Philippine mahogany. This has had the effect of practically eliminating bids on genuine mahogany because of the economic advantage and lower price of Philippine mahogany.

It is interesting to note, however, that in a survey form issued by the U.S. Tariff Commission within the past 30 days, requesting statistical information, two separate categories are set up—"Mahogany (true), *Khaya* or *Swietenia*" and second "Philippine mahogany (lauan, and so forth)."

I have before me this form which I should be glad to submit. I should like to have it back because we haven't had an opportunity to complete it and send it into the Tariff Commission.

(The document referred to follows:)

U.S. TARIFF COMMISSION,
Washington, D.C., May 29, 1963.

Mr. T. R. WILLIAMS,
President, Ichabod T. Williams & Son,
New York, N.Y.

DEAR MR. WILLIAMS: The Tariff Commission is presently collecting data for digests of tariff information which it prepares from time to time for the information of Congress, other Government agencies, and other interested parties. These digests contain information with respect to domestic production, imports, and exports. Where possible we use data prepared by the Bureau of the Census and industry publications of the trade associations. When data are not available in sufficient detail, the Commission attempts to obtain such information directly from the industry.

In this connection we would appreciate your supplying us with information, as outlined on the enclosed forms, regarding shipments and exports of hardwood lumber sawed in the United States from imported logs. If the information requested is not readily available from your records, please furnish carefully prepared estimates and designate them as such. The Commission will not publish the information supplied by you in connection with this request in a manner that would reveal the individual operations of your concern.

Two copies of each form are enclosed. The Commission will appreciate your cooperation in completing the forms and returning one copy of each at your early convenience. An addressed envelope which requires no postage is enclosed for this purpose.

Sincerely yours,

DONN N. BENT, *Secretary.*

Enclosures.

9. Report Form (Page 1 of 2).

HARDWOOD LUMBER

SECTION A–1.—*Shipments of hardwood lumber sawed from imported logs: Report, as indicated below, your shipments, f.o.b. plant, including shipments for export, of hardwood lumber of your manufacture sawed in the United States from imported logs, cants, or flitches*

Line No.	Species	Countries of origin	1961		1962	
			Quantity	Value	Quantity	Value
			MBF		*MBF*	
1	Balsa					
2	Boxwood					
3	Ebony					
4	Japanese maple					
5	Japanese white oak					
6	Lancewood					
7	Lignumvitae					
8	Mahogany (true) (*Khaya* or *Swietenia*).					
9	Philippine mahogany (lauan, etc.).					
10	Spanish cedar					
11	Teak					
12	Other hardwood [1]					
13	Total					

[1] List principal species in this category and their respective countries of origin: ---

SECTION A–2.—*Shipments of hardwood lumber sawed from imported logs: Report, as indicated below, your shipments, f.o.b. plant, including shipments for export, of hardwood lumber of your manufacture sawed in the United States from imported logs, cants, or flitches. The data provided below for the years 1959 and 1960 should correspond to data reported for the years 1961 and 1962 in line 13 of section A–1 above*

Line No.	Item	1959		1960	
		Quantity	Value	Quantity	Value
14	Total shipments, all hardwood species	*MBF*	$	*MBF*	$

This indicates that the Tariff Commission at least recognizes a difference here and more important it considers *Khaya* and *Swietenia* to be in the same classification.

In conclusion, as a representative of a business concerned largely with the importation of lauan, which it sells under the name of Philippine mahogany, and also on the other hand as a representative of a firm engaged in the business of importing and selling genuine mahogany and other cabinet woods, I favor the proposed bill, because it will provide a means to correct a situation which I believe to have been inequitable and restore itself to a position in which it is protecting the public from the possibility of deception, at the same time eliminating an unfair trade practice. Furthermore, I do not believe that the adoption of this bill would result in any significant reduction in the volume of business done in these Philippine hardwoods and therefore strongly urge its passage.

That terminates my formal statement, Mr. Chairman. If I may have the permission of the committee, I should like to briefly comment

on the summary reached in the testimony of Mr. Scrim yesterday, touching on a few of the items there for emphasis.

No. 1, the statement is made that this is special interest legislation proposed by a small group of importers who have apparently been unable to compete in a situation of free supply and prices.

It occurs to me that perhaps the special interest involved here is the producers of the Philippine woods who are striving to retain the use of a trade name which prior to 1932 was illegal.

In connection with the second point, that the current ruling regarding the use of the term "mahogany" by the Federal Trade Commission has been in effect for many years, I should like to point out that the Supreme Court has held that long-term usage does not justify error and that prior to 1931 the usage of the term "Philippine mahogany" was clearly illegal.

In connection with his fourth point that compliance with the rulings of the Federal Trade Commission has been excellent insofar as Philippine mahogany is concerned, I should only like to comment that it doesn't seem to have been the fact in view of more than 800 examples which the Mahogany Association has submitted to the Federal Trade Commission where advertising omits their required prefixed "Philippine."

In connection with the fifth point, that the Federal Trade Commission has the power to move against violators, if so, why has nothing been done about these?

Mr. Scrim also made the point in his sixth item that the legislative attempts to do two things: change the nomenclature with respect to Philippine mahogany, and permit African mahogany to drop the prefix in contradiction of the considered rulings.

I do not feel that this sixth point is of importance here because I am quite convinced that the importers of African mahogany are perfectly content to continue the use of "African" as a prefix in describing that wood. It is true, however, that we do attempt to legislatively change the nomenclature with respect to Philippine mahogany.

In connection with the seventh point, that the Philippine Mahogany Association has consistently, and without exception, followed Federal Trade Commission rules and that the Mahogany Association, on the other hand, has generally chosen to ignore the Federal Trade Commission stand on African mahogany, we disagree. We say it is not so. We disagree with the principle adopted by the Federal Trade Commission, but we are complying as far as the actual sales and advertisements are concerned.

I don't think that there is anything further in these particular notes that require specific comment.

In connection with the imports of lauan from all sources, I believe Mr. Scrim quoted a figure yesterday of approximately $95 million for the year 1962. I don't know the source of his information, but according to information we obtained directly from the Department of Commerce figures the total imports of lauan from all sources all over the world, not just from the Philippine Islands, totaled last year $82 million, $82,651,327, of which the direct imports from the Philippine Islands were reported as $25,099,077, which substantiates the previous testimony of Mr. Teel Williams.

It is also perhaps of interest to note that the imports of these woods from Japan during 1962 amounted to $40,195,038, and the imports from Taiwan $11,141,004. It is interesting to note that of the $82 million of imports, $62,060,150 were composed of plywood, which is a very substantial proportion.

The imports of sawn lumber amounted to a little over $13 million of this. There is no way of determining the actual origin of the wood used in making this plywood, and a certain proportion of the lumber, from the Department of Commerce records.

Therefore, it is quite possible that a proportion, and I should say a substantial proportion, of these imports sold in this country as Philippine mahogany is not entitled to the use of that name under the existing rules of the Federal Trade Commission.

I should like now to summarize, if I may, in four points, the position of the Mahogany Association and the other people who have testified in favor of the bill to this point. We as proponents are: (1) Not motivated by fear of fair competition.

(2) Had the Federal Trade Commission ruling of 1927, which was sustained by the circuit court of appeals be permitted to stand, there would be no necessity for this legislation.

(3) It has been clearly established that the present Federal Trade Commission regulations permit deception of consumers and unfair competition, both entirely contrary to the purposes for which the Federal Trade Commission was created, and since efforts of the past 31 years to have the Commission itself correct this situation arising from its reversal in 1929, approved by the Court in 1932, have proved fruitless, there is need for congressional intervention in the form of this bill.

(4) To quote the Chairman of the Federal Trade Commission himself, Mr. Paul Rand Dixon, in his testimony 2 days ago, "This country is in bad shape when we can't afford to tell the truth."

Thank you, gentlemen.

Mr. VAN DEERLIN. Thank you, Mr. Williams. Mr. Glenn.

Mr. GLENN. I have no questions, Mr. Chairman.

Mr. VAN DEERLIN. Mr. Williams, about what percentage of the imports handled by your company consist of Philippine hardwoods?

Mr. WILLIAMS. As far as the George D. Emery Co. is concerned, we occupy ourselves only with Philippine mahogany lumber. We do buy occasionally from, should I say, the witness here, the Insular Lumber Co., some flitches which we manufacture into veneers, and I can't tell you offhand what the volume of it is, but I would imagine we do a business of, oh, between 1 million and 2 million board feet a year.

I. T. Williams & Sons does not handle the wood at all. Is that the answer?

Mr. VAN DEERLIN. Is that your larger operation?

Mr. WILLIAMS. I. T. Williams & Sons is the larger operation. The George D. Emery Co. is a totally separate corporation, stock of which is controlled by the Williams family, but not the Williams Corp. It has been controlled by the Williams family for well over 50 years.

Mr. VAN DEERLIN. Thank you, Mr. Williams. That completes the testimony for this morning's session and we will adjourn the subcommittee pending the call of the Chair.

(Whereupon, at 10:50 a.m., the subcommittee was recessed, subject to call.)

DECORATIVE WOOD LABELING AND USE OF TERM "MAHOGANY"

TUESDAY, NOVEMBER 5, 1963

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE AND FINANCE OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to recess, in room 1334, Longworth Building, Hon. John D. Dingell presiding.

Mr. DINGELL. The Subcommittee on Commerce and Finance will come to order.

The Chair notes the presence of a quorum.

The first witness is Mr. Henry S. Thompson, president, Philippine Mahogany Association, Inc. Mr. Thompson, I understand you wanted 10 minutes to speak to the committee on the subject of this legislation. The Chair is happy to recognize you.

STATEMENT OF HENRY S. THOMPSON, PRESIDENT, PHILIPPINE MAHOGANY ASSOCIATION, INC.—Resumed

Mr. THOMPSON. Yes, sir.

Mr. Chairman and members of the committee, my name is Henry S. Thompson and I am president of the Philippine Mahogany Association, a nonprofit trade organization, representing 22 American business firms engaged in the sale of Philippine mahogany.

I am appearing on behalf of my membership and might simply specify there that the majority of our members are located on the west coast and hence it is very difficult for them to get back to Washington.

I apologize for the fact that my written statement is rather long. Unfortunately, I think in that matter the whole truth tends to be somewhat more complicated than a part of it. This written statement consists of a summary of the issues with a series of quotations from American authorities illuminating what we feel to be the key points.

Also included are two studies on the meaning and American usage of the word "mahogany" prepared by Dr. Kemp Malone, of the Johns Hopkins University. These are perhaps the only authoritative works on this subject. It happens that recently a paper was prepared by Mr. F. Bruce Lamb in cooperation with the Mahogany Association which attacks Dr. Malone's findings quite violently. One of Dr. Malone's papers takes up the points raised by Mr. Lamb and I think very conclusively refutes them.

In fact, I think no objective observer could read both these articles and come from that reading with any question as to who knows what he is talking about. I feel this exemplifies the fact that on the critical issues in the mahogany bill the facts do show that the bill is not properly drawn and is not based on sound reasoning.

First of all, the bills rest upon the assumption that membership in Meliaceae family makes genuine mahogany of African mahogany. No American botanist of any reputation has ever agreed to this. To the best of my knowledge none agree now.

If membership in the Meliaceae family makes the genus *Khaya* the same as the genus *Swietenia*, then membership in the rose family makes a rose out of an apple.

Membership in the potato family makes a potato out of tobacco. This botanical thing is a complex proposition when it comes to general nomenclature. It is of some interest in connection with this bill that this botanical family rule would deny its name to sweet potatoes which, oddly enough, belong to the morning glory family.

Turning this same principle to wood, this principle would say that oak and chestnut are the same thing as beech, that butternut and walnut are the same thing. By this rule Douglas-fir would have to be sold as false hemlock and there would no longer be such a wood as cedar in this country. Eastern red cedar is a juniper of the pine family, Alaskan cedar a false cypress, and oddly enough, cigarbox-cedar is a member of our good friend, the so-called mahogany family.

I think as further illustration of the point that the facts in the matter support the views of the Philippine Mahogany Association in opposition to this bill is the type of material which the Mahogany Association has put out in connection with this matter.

I have in my hand a booklet from the Mahogany Association which states that the difference in botanical classification between *Swietenia* and *Khaya* was made primarily on the basis of geography. This is not the truth. The record shows that the standard botanical criteria: leaf, flower, fruit, and seed, all show that there is full basis for distinction between these two genera.

Further, wood technology shows inescapable distinctions and differences between the wood and cell structures of the *Khaya* and *Swietenia*.

The group which supports this bill has engaged professional public relations assistance in order to try to build pressure in Congress on behalf of these bills. I would like to call your attention to a couple of the items that they have put out.

One of these is a release put out to various radio stations over the letterhead of the Mahogany Association and distributed by a public relations firm in Chicago. The statement is made in this release that genuine mahogany grows in tropical America and Africa. Genuine mahogany does not grow in Africa. If, as this release specifically requests, those hearing this account write to their Congressman supporting these bills they do so in the belief that they have heard the truth. I don't think they have.

Next I have another Mahogany Association press release reprinted by the Commercial Bulletin of Boston on October 29. Let me quote the first two paragraphs.

The heading says: "An imposter in the woods."

The first two paragraphs read:

President and Mrs. Kennedy, Premier Khrushchev, Premier Castro, and President George Washington met at luncheon to consider the merits of a piece of mahogany paneling. The gimmick? All of the notable persons at the gathering were imposters, and so was the "mahogany" panel, though it had been advertised and sold as the real thing.

With that release was this picture which I have here which shows various individuals and masks, including masks of Khrushchev and Castro. I don't think I need to spell out the implications of this approach.

If the case for these bills requires by its proponents the substitution of this kind of propaganda for facts, then the unsound core beneath the surface veneer is only too apparent.

Furniture manufacturers, boat manufacturers, cabinetmakers, skilled craftsmen in every field, have known Philippine mahogany for its quality, purchased it, used it, sold it, and purchased it again. The pleasure-boat industry is among the country's largest users of mahogany of all kinds, and the boat buyer is one of our most knowledgeable consumers. The Chris Craft Corp., for one, uses millions of feet of Philippine mahogany each year, currently paying prices higher than they would pay for African mahogany. They use Philippine mahogany for quality in many cases in preference to Honduras mahogany.

In connection with this press release which I have discussed from the Mahogany Association, it specifies therein that small samples of what is supposed to be Philippine mahogany plywood were sent to the various members of this committee.

I don't think any lumberman who really knows his trade will try to draw any conclusions from hand samples. At the Federal Trade Commission hearings there were probably a carload of samples of every type of material before the Commission and no expert who appeared at that time was willing to take the risk of trying to distinguish between the various types of mahogany from these samples. The Federal Trade Commission record shows the specific statement that the record has proved that from a quality viewpoint Philippine mahogany, African mahogany, and American mahoganies are in the same classification.

One other point has been made, reduction in volume of imports of African and American mahogany. I would like to set the record straight on that.

Since 1958 imports into this country of mahogany from Central and South America have increased rather substantially; imports of Philippine and African mahogany have declined.

True, African mahogany has declined the most sharply. There is a specific reason for this not in any way connected with these bills. The sources of supply in Africa in the past 5 years have been greatly disrupted by the political changes and by economic instability in that area. Europe has historically and is still now much the larger buyer of African mahoganies.

With disruptions in smaller supplies, Europe has gotten the lion's share. There has been less coming into this country. This has nothing to do with the nomenclature controversy.

Finally, I would just like to make one comment. As far as the deception issue is concerned, the Philippine Mahogany Association

has, and there is testimony on the record to this effect, always carried out a full campaign of education and compliance. True, there have been occasional violations where through ignorance a distributor or a manufacturer has failed to use the geographical prefix "Philippine." I think I can say with complete confidence that the overwhelming majority of these instances, which are small in number have been picked up, corrected, and watched by the Philippine Mahogany Association.

No such campaign of compliance has ever been carried out on behalf of African mahogany. I feel that essentially, as far as deception is concerned, the issue is clear. If on a scientific basis or a commercial basis Philippine mahogany is deceptive, then African mahogany is deceptive. If African mahogany is a correct name, then Philippine mahogany is a correct name.

In this bill botanical standards would be invoked to bar Philippine mahogany and then in the very same breath they would be rejected in order to sanction African mahogany.

I do not feel that this is a type of bill which is going to clarify the situation. I think it can only lead to greater deception.

Thank you, gentlemen. If there are any questions, I would be glad to answer them.

(Mr. Thompson's prepared statement follows:)

STATEMENT OF HENRY S. THOMPSON, PRESIDENT, PHILIPPINE MAHOGANY ASSOCIATION

Mr. Chairman, members of the Interstate and Foreign Commerce Committee, my name is Henry S. Thompson and I am president of the Philippine Mahogany Association, a nonprofit trade organization, representing 22 American business firms engaged in the sale of Philippine mahogany. The livelihood and the business reputation of our membership is at stake in the proposed legislation concerning mahogany and we wish to record, dispassionately and accurately, the reasons why we consider these bills to be clearly contrary to the public interest.

The proposed legislation would: First, prohibit further use of the long-established name of Philippine mahogany; and secondly, it would sanction the sale of African *Khaya* as true or genuine mahogany, despite the fact that the *Khaya* is not of the genus *Swietenia* which is universally recognized as the only soure of true mahogany. In so doing, the proposed legislation would reverse the findings of the very agency which the Congress itself has established to protect the public interest in such matters.

The Congress is entitled to hard facts as directly stated by unprejudiced authorities in order to judge these issues. The arguments in support of this legislation put forth by the tight little group of foreign wood importers who would benefit from it, are replete with distortions, inaccuracies, and misrepresentations. The proof of this is best provided, not by our interpretation of the authorities, but by verbatim reproduction of their recorded testimony. We are, accordingly, submitting to this committee a series of directly pertinent statements on the issues from American authorities in the key fields—fair trade, botany, wood technology, forestry, and language usage.

There are certain inescapable conclusions arising from this record as follows:

1. The only botanical mahoganies are the members of the genus *Swietenia*.
2. *Khaya* is not true or genuine mahogany, nor does membership in the Meliaceae family (sometimes referred to as the mahogany family) have any scientific significance.
3. African mahogany and Philippine mahogany are appropriate names for these woods, not by botanical classification, but on the basis of public understanding and commercial usage of the word "mahogany."
4. Authorization for *Khaya* to masquerade as true mahogany will breed confusion and deception.
5. The botanical standard misused in these bills would require that Douglas fir, cedar, poplar, and many other American woods be given totally different names.

If this legislation is to be based on scientific botanical standards, then it must provide that only the *Swietenias* be called mahogany. If public understanding and commercial usage are the standard, then both African mahogany and Philippine mahogany have the same right to their name, subject to their adherence to the worldwide practice of using the geographical classifying adjective which distinguishes them from the *Swietenias*.

In short, if Philippine mahogany is deceptive, then African mahogany is deceptive. If African mahogany is proper, then Philippine mahogany is proper.

This legislation would invoke the botanical standard to bar Philippine mahogany, and in the same breath would reject that same standard in order to sanction African mahogany. Only private interest, not public interest, can attempt to justify this paradox. Only public deception and private benefit can result therefrom.

The whole truth re the mahogany controversy is contained in the statements which are herewith submitted for the record as follows:

1. A summary, prepared by the Philippine Mahogany Association, of quotations from American authorities, entitled "The Facts About the Mahogany Bills."

2. A treatise entitled "On Defining Mahogany," published in 1940 in the Journal of the Linguistic Society of America, by Dr. Kemp Malone, generally recognized as our country's most distinguished language expert.

3. A new treatise, completed in October 1963, by Dr. Malone entitled "Notes on the Word 'Mahogany'," bringing his findings up to date and conclusively refuting an attack recently prepared by a Mr. F. Bruce Lamb in cooperation with the mahogany association, which attacks Dr. Malone's findings.

On behalf of the membership of the Philippine Mahogany Association, may I express our appreciation for the opportunity to appear before this committee.

THE FACTS ABOUT THE MAHOGANY BILLS—H.R. 5669, 6210, 6365, 6370, 6604, 6911, S. 1690

WHAT IS THE ISSUE?

A small trade group of foreign wood importers want the word "mahogany" for their own private use. This group, the "Mahogany Association," hope that the Congress of the United States will accomplish their aim through legislation which would violate scientific standards, public understanding, and trade practice. This group would thereby reverse Federal Trade Commission rulings and Federal court decisions supporting the name "Philippine mahogany," which rulings and decisions are based upon a mass of specific evidence taken from every pertinent public and expert source. This group has engaged a public relations firm to build pressures on Congress for this purpose.

Is the above an accurate summary of the issue fully supported by objective facts and by record testimony from qualified sources? Let us take a look at the record.

WHAT WOULD THE EFFECTS OF THIS BILL BE?

Paul Rand Dixon, chairman of the Federal Trade Commission, has testified in regard to these bills as follows:

"The enactment of H.R. 5669 would have two effects. First, it would prohibit use of the long established trade designation 'Philippine mahogany,' and secondly, it would authorize the marketing in the United States of *Khaya*, which is grown in Africa, as true or genuine mahogany. Incidentally, I would call your attention to the fact that *Khaya* is not of the genus *Swietenia* which is recognized as the only source of true mahogany.

"Although very short, undoubtedly, in my opinion, the bill could have far-reaching economic effects not only in this country but also in the Philippine Islands."

IS PUBLIC INTEREST OR CONSUMER DECEPTION A REAL ISSUE?

In 1926, Federal Trade Commissioner W. E. Humphrey, stated on the record:

"No public interest appears in this case. The reason of complaint herein is not because the user does not know what he is buying but because he does know. It is a controversy entirely between the Mahogany Association and the users of Philippine mahogany. There is no substantial evidence in the record that any ultimate consumer of Philippine mahogany has either been deceived or has complained that he has been defrauded."

In 1963, 37 years later, Federal Trade Commission Chairman Dixon, when asked whether the Commission within the past few years had received any complaints about the use of the term "Philippine mahogany," replied, "Only from representatives of the Mahogany Association."

WHAT IS THE VIEW OF LEADING AMERICAN AUTHORITIES IN THE FIELD OF FOREST PRODUCTS AND WOOD TECHNOLOGY?

Dr. A. J. Panshin, head of the Department of Forest Products of Michigan State College, states on the record:

"In view of long usage, extending over 50 years or more, and wide and general acceptance of both the African and Philippine mahoganies, it does not appear reasonable or realistic to prevent the use of these terms in the future. Neither does it appear fair or realistic to allow the use of one and not the other. Both groups of these woods possess general characteristics and utility which have established them in the eyes of industry and the consuming public alike as mahoganies. It would be a great injustice, in my opinion, to one segment of the lumber industry, if one group were allowed the use of the term 'mahogany,' while the other was prohibited its use."

H. P. Brown, professor of wood technology at the New York State College of Forestry, puts it this way:

"Either we should use the term 'mahogany' for the wood *Swietenia mahagoni* alone, or we should permit the use of the term 'mahogany' to these other woods, providing a modifying adjective denoting source is used; in other words, the door must be open or it must be shut, in order to be fair."

DO AMERICAN BOTANISTS AGREE THAT AFRICAN KHAYA IS MAHAGONY?

Dr. Henry H. Rusby, professor of botany, Columbia University, has summarized the scientific view on this issue in the following recorded testimony:

"Question. Well, speaking botanically, does the fact of the apparently closer relationship of *Khaya* to *Swietenia* arising out of the fact that they are in the same family, to wit, the Meliaceae family, entitle *Khaya* to be called 'African mahogany,' whereas we would deny to any genus of the *Shorea*, which belongs to the Dipterocarpous family the name of 'Philippine mahogany'?

"Dr. RUSBY. The name 'mahogany' does not go over to anything else, that is, go backward. You can't say that because mahogany is a *Swietenia*, therefore *Swietenia* is mahogany; much less can you say that because mahogany is in the Meliaceae, therefore Meliaceaes are mahoganies.

"Question. Well, speaking botanically, is there or is there not, as much justification for the use of the term 'Philippine mahogany' as there is for the term 'African mahogany?'

"Dr. RUSBY. There aren't any scientific grounds in either case. None whatever. So instead of saying just as much, I would say just as little. If these things are used they are used because of the commercial reason, and they are commercial names and there is nothing of a scientific nature about it."

Dr. W. D. Brush, botanist and wood technologist, with the U.S. Forest Service for over 30 years, confirms this:

"Question. Dr. Brush, do you consider that Philippine mahogany and African mahogany are in the same status with respect to the use of the word 'mahogany' as a proper name?

"Dr. BRUSH. Yes, I do. They are not members of the genus *Swietenia* and, therefore, if one is not entitled to the name 'mahogany,' the other is not entitled to the name 'mahogany.'"

WHAT DO THE AUTHORITIES ON AMERICAN LANGUAGE USAGE SAY "MAHOGANY" MEANS TO THE PUBLIC?

Dr. Kemp Malone, of Johns Hopkins University, probably the most eminent living American philologist, has written in his treatise "On Defining Mahogany":

"In popular use 'mahogany' has always had a generic sense, and has from an early date been applied not so much to a particular species of trees as to wood (whatever its origin or botanical classification) that exhibits certain general characteristics.'

And further:

"The general public knows little and cares less about the botanical classification of the various kinds of mahogany wood, but it is interested in the place of origin of the wood, and associates specific kinds of mahogany with the specific places of origin."

ARE WOODS—AND OTHER PRODUCTS—ALWAYS KNOWN TO THE PUBLIC BY THEIR BOTANICAL NAMES OR RELATIONSHIPS?

The Mahogany Association claims that the use of the name Philippine mahogany is not proper because it is not botanically mahogany—a fact they conveniently overlook with respect to African *Khaya*.

From the record, Dr. A. J. Panshin, previously quoted, states:

"As a scientist I may wish that every known wood could have one exclusive common name to correspond with the equally exclusive botanical name of the tree which produces it. But there are many valid reasons why such a goal is not attainable. First of all, botanists classify plants by their leaves, flowers, and fruit and pay no attention to the wood. But as a matter of fact, wood of botanically very closely related species may be very dissimilar, and conversely, wood of botanically unrelated species may be very similar in properties and uses. This establishes a very important point: namely, that since in developing botanical classifications wood was not considered, botanical relationships cannot be safely used as a basis for judging wood.

"* * * The point is that botanical classifications, indispensable as they are, are by no means infallible. The classification of plants is not static but on the contrary is subject to continuous revision as new facts become known or as ideas on botanical relationships undergo a change.

"* * * There is no such thing as a botanical or scientific common name."

The record is replete with examples of the futility of attempting to substitute botanical names and relationships for common commercial names:

The white potato and tobacco both belong to the same family.

Figs, rubber trees, and hops are all related by family.

The lily and the onion are of the same family.

Sweet potatoes and the morning glory belong to the same family.

Coffee and gardenias are of the same botanical family.

White cedar, red cedar, Alaskan cedar and incense cedar are not members of the cedar family and do not, as a matter of fact, have a family relationship to each other.

The name "poplar" is acceptable to designate trees belonging to completely unrelated species.

Basswood is cut from the linden tree.

Mountain ash is not of the botanical ash family.

Water elm does not belong to the elm family.

Douglas fir, probably the most plentiful wood in our country, is really a false hemlock.

SUMMARY

The undisputable facts as stated by the above authorities and by many others are therefore:

1. No true mahogany comes from Africa, nor can legislation make it so.
2. African mahogany and Philippine mahogany are appropriate names for these woods, not by botanical classification, but on the basis of public understanding and usage of the word "mahogany."
3. The definition of "mahogany" set forth in these bills cannot be justified either by equity, by law, by science, or by public usage.

[From "Language" Journal of the Linguistic Society of America, Vol. 16: 1940]

On Defining Mahogany

(By Kemp Malone, the Johns Hopkins University)

(Only on the basis of a large collection of actually occurring examples is it possible to set up a precise and adequate definition of mahogany (or any similar word), as it is used in present day colloquial American English. The definition so arrived at is contrasted with a typical dictionary based on secondary sources.)

The meaning or meanings of a word are determined by usage. That is to say, if we want to know what a word means, we must find out by studying concrete cases in which the word is actually used by speakers and writers. The objective scientific investigator of the meaning of a word must, in practice, depend chiefly on written material. One's memory of past conversations is

notoriously unreliable, and the practical difficulties involved in taking conversations down verbatim make it needful to fall back on printed matter as the chief source for the concrete cases which must be studied. Luckily there is available for study a vast mass of printed material, and this material yields an abundance of concrete cases in which the word under study occurs. Indeed, a word in general use (like "mahogany") occurs in print so often that the investigator is overwhelmed by the abundance of his material, unless he limits himself to a selection: He can study only a small proportion of the total number of occurrences of the word under investigation. Thus, the word "mahogany" must have appeared in print several million times during the present century alone, and no investigator or group of investigators could find the time or the money needed to study all these occurrences of the word. This difficulty is a familiar one in scientific research. The method of investigation used in such cases is that of sampling at random. One collects, at random, as many concrete cases as one can handle, and then proceeds to study the cases that have been collected, making the assumption that the cases collected are representative of the whole body of pertinent material. This is a reasonably safe assumption if the number of samples collected is large and if the samples have been taken from a great variety of sources. When I undertook the present investigation, I set for myself as a goal the collection of about 1,000 passages in which the word "mahogany" appeared; I considered that this would give me a body of material large enough to make a sound basis for a scientifically accurate definition of the word. In fact, since I was aided by a small group of paid helpers, I have in my files some 1,500 passages. These passages have come for the most part from newspapers and popular mazaines.[1] They represent current American usage. I have made no attempt to investigate British, South African, or Australian current usage, but all available information leads me to think that those parts of the English speaking world use the word "mahogany" very much as we do, namely, as a generic term, applied to many woods.

Nearly all definitions of mahogany earlier than my own are those made by editors of dictionaries. Of these dictionary definitions, it may be said with certainty that they are based on collections much smaller than my file of passages. Indeed, in most cases the dictionary makers cannot and do not claim that their definitions are based on primary evidence; that is to say, on collections such as mine. Most dictionaries are made in a less scientific manner, and this for the very good reason that a rigorously scientific procedure would cost too much. There are some 500,000 words in the English language. If 1,000 passages were collected for each word, the total number of passages would come to 500 million, and the task of copying, filing, classifying, and studying 500 million quotations would involve prohibitive expense. Most makers of dictionaries therefore rely chiefly on the labors of their predecessors in framing their definitions. In other words, they depend chiefly on secondary, not primary, sources of information. The greatest of English dictionaries, the so-called Oxford, is based on collections of quotations, not on secondary suorces, but these collections were made possible by heavy subsidies, and could not have been gathered if the work had been undertaken as a commercial proposition. Even so, only about 5 million quotations were gathered, or an average of 10 quotations per word. In the "Dictionary of American English," now underway at the University of Chicago, the number of quotations on hand for the word "mahogany" is 45; the editors have very kindly sent me copies of these 45 quotations, and I have made use of them in my study of the meaning of the word. It will be seen, however, that my own

[1] In preparing this definition various secondary sources of information were consulted; a number of dictionaries, a few botanical works like G. B. Sudworth's "Nomenclature of the Arborescent Flora of the United States," A. Koehler's "Identification of True Mahogany" * * *, and Sudworth and Mell's "Colombian Mahogany"; also encyclopedia articles. My definition of mahogany, however, is based on primary sources, except as indicated in the definition itself. I have profited greatly by my study of C. D. Mell's "Biography of the Word 'Mahogany,'" but have relied on my own collections in drawing up my definition. The quotations collected from publications of the 20th century have been taken from the following sources: (a) newspapers—New York Times, San Francisco Chronicle, and Los Angeles Times; (b) popular and trade journals—House Beautiful, Ladies' Home Journal, Family Circle, Asia, National Geographic magazine, Motor Boating, American Lumberman, Wood Products, Popular Homecraft, Hardwood Record, Southern Lumberman, Veneers and Plywoods, New York Trade Lumber Journal; and (c) novels—Winston Churchill's "Crisis" and David Garnett's "Pocahontas." For the usage of earlier centuries, I have relied chiefly on the 45 quotations kindly supplied to me by the editors of the "Dictionary of American English" (this dictionary is restricted to the 17th, 18th, and 19th centuries), but I have been able to add a few early quotations of my own finding.

collections give me some 30 times as much material to work on as is available to the editors of the "Dictionary of American English." It does not follow, of course, that my definition will be 30 times as accurate as that of the dictionary makers. But the relative fullness of my material obviously gives me a great advantage in making a definition which shall be objective and authoritative. In particular, I have been able to distinguish between the degrees of frequency of the various meanings with an accuracy impossible heretofore. It is of great importance to know which meanings of mahogany are common, usual, and which meanings are uncommon, unusual. But without a large collection of examples, the frequencies of the various meanings cannot be determined; they can only be guessed at. My collections have given me a sound statistical basis for determining frequencies; previous investigators, since they had small collections of examples or no collections at all, could come to no conclusions as regards frequencies and, therefore, were compelled to list the various meanings of mahogany without regard to their relative frequency of occurrence. The order which the dictionary makers adopted was based not on frequency but on chronology. Instead of putting the most common meaning first, they put the oldest meaning first. This procedure is, of course, quite proper in a historical dictionary; that is, a dictionary which traces the history of a word from the time of its first occurrence, say, 1,000 years ago, down to the present day.

The Oxford is a historical dictionary, and as such it follows, quite properly, the chronological principle in arranging its definitions. Thus, it gives 14 different meanings for the adjective "nice"; of these, the ordinary current meaning comes last in the list, because this meaning did not develop until the 18th century. In a dictionary of current English, however, the ordinary meaning of a word ought to come first, and unusual meanings ought to be put down at the bottom of the list. Some dictionaries try to do this, but in so doing they are greatly handicapped by lack of accurate statistical information as to relative frequencies of occurrence of the various meanings, and most dictionaries, even if primarily devoted to current speech, take the easiest way out and order their definitions chronologically. For this procedure one cannot blame them too severely, in view of the expense involved in getting at the facts of usage. One can blame them, however, or some of them for using ambiguous terms. I refer particularly to the terms "primary" and "secondary" as applied not to evidence but to the meanings of words. When a lexicographer speaks of the primary meaning of a word he means merely that this meaning is the first in point of time; that is, the oldest meaning. Thus, the primary meaning of nice is "stupid, foolish." But the ordinary man quite naturally thinks that the lexicographer means by primary something else altogether; namely, the chief or principal meaning of the word so marked. In fact, of course, the primary meaning, as the lexicographer understands it, is often no longer current at all, as in the case of nice. And if the primary meaning happens to be still current, not infrequently it has become a rare or relatively unimportant meaning. In other words, the term "primary," although the lexicographer may use it in perfectly good faith, gives the layman a wrong impression, and should therefore be avoided by the expert, as should its companion term "secondary."

Let me illustrate the weaknesses of the lexicographers by taking up the definitions of mahogany given in the latest edition (1934) of the New International Dictionary, commonly known as Webster's. It gives seven meaning of mahogany, as follows:

"1. The valuable hardwood of a tree, the traditional mahogany (sense 2), used extensively for furniture and cabinetwork. It varies in color from a deep reddish brown to brownish yellow, and is susceptible of a high polish.

"2. A tropical American tree (*Swietenia mahogoni*), largely confined to the West Indies, yielding mahogany (sense 1).

"3. Any of several trees of continental tropical America of the genus *Swietenia*, as *S. macrophylla*, etc.; also, their wood.

"4. Any of many trees related to, or resembling, the mahogany, as, in Australia, species of *Eucalyptus;* in India, various trees of the genera *Soymida*, *Chukrasia* and *Toona;* in Africa, *Khaya ivorensis* and related species of African mahogany; in the Philippines, various trees (see Philippine mahogany); in California, the mountain mahogany. See African mahogany, bastard mahogany, etc.

"5. With *the* or a possessive, a table of mahogany; hence a dining table. Colloq.

"6. A mixture of brandy and water; also, in Cornwall, one of gin and treacle. Chiefly slang.

"7. The average color of mahogany wood, reddish red-yellow in hue, of medium saturation and low brilliance. Called also acajou, laurel oak, mahogany brown, mahogany red. Cf. color."

This group of definitions gives every indication of careful, conscientious study. If nevertheless we get from it a false picture of current (or indeed of past) usage, the explanation is evident; the editor responsible for this particular entry made little use of primary sources of information, namely, documents which exemplify everyday, ordinary English speech. He relied almost wholly, it would seem, on documents of a very different kind, that is, earlier editions of his own and other dictionaries, treatises on dendrology and the like. Such secondary sources of information are not to be scorned, of course. They have great value as controls, and may even give a certain amount of information not otherwise to be had. But they cannot take the place of primary evidence. The English language, like every other living language, is democratic in its form of government. The meaning of a word in general use, like mahogany, is determined, not by pundits, still less by official action of any kind, but by the people. It is the duty of the professional linguist to find out, by investigation, what the usage of the people is, in this particuar matter, and to record his findings. This cannot be done by resort to botanical treatises. The investigator must go straight to the primary source of information.

The first criticism to be made of the Webster definition is a very serious criticism indeed. This definition, by the terms in which it is cast, excludes the generic sense of mahogany, although the word is ordinarily used as a generic, not as specific name. A man who uses mahogany in Webster's sense 1 has in mind the wood of *Swietenia mahagoni;* a man who uses it in sense 3 has in mind the wood of *Swietenia macrophylla* or some species of *Swietenia* other than *Swietenia mahagoni.* But what of the man who speaks of mahogany wood without having in mind any particular botanical species or genus? Webster's ignores this use of the word "mahogany," although it is by far the most common. Webster's sense 1 and sense 3 both occur, but they are both extremely rare, and this for the very simple reason that if a man is thinking of some particular kind of mahogany he will qualify the word accordingly; thus, he will speak of Cuban or Mexican or Philippine mahogany. The word "mahogany," used without qualification, regularly has a generic sense, and does not specify the origin or the botanical classification of the wood. Sometimes, it is true, mahogany appears without formal qualification but nevertheless with a specific rather than a generic meaning. Thus, if Cuban mahogany is the subject of conversation, and and the fact that it is the Cuban variety is clearly understood, the qualifying term "Cuban" becomes superfluous and may be dropped. In such cases mahogany is obviously an abbreviation, and the qualifying word is understood even though not expressed. It makes little or no practical difference whether the qualification is formal or merely contextual. But, in the absence of qualification, mahogany is a generic term in current speech, and the failure of Webster's to recognize it as such shows clearly enough that the Webster definition was framed with little regard to the facts of ordinary English usage.

The Webster definition not only fails to include the generic sense of mahogany; it also fails to bring out how the various specific senses of the word are expressed. Thus, Webster's sense 1, in ordinary English usage (but not in this dictionary), is indicated by one of the following qualifiers: West Indian, Spanish, San Domingo (or Dominican), Cuban, Jamaican. Only in botanical treatises and in dictionaries have I found this sense marked by the use of *Swietenia mahagoni* as a qualifier. In other words, current popular speech uses geographical, not botanical qualifiers. The reason for this is obvious: the general public knows little and cares less about the botanical classification of the various kinds of mahogany wood, but it is interested in the place of origin of the wood, and associates specific kinds of mahogany with specific places of origin. It must be added that Webster's refers the reader to three other entries in the dictionary, namely, African mahogany, bastard mahogany, and Philippine mahogany, and by its "etc." implies that still more entries exist in which specific kinds of mahogany are defined, but the system by which the generic term is made specific in ordinary speech is nowhere explained, and only a few of the specific names were actually entered in the dictionary. Further weaknesses of the Webster definition might be mentioned, but what I have said will be enough to show that this definition cannot hold water.

Without further preamble I will now give my own definition of the word "mahogany" in current American speech:

1. A more or less hard and heavy wood derived from various related and unrelated tropical trees; the wood usually has interlocked or crossed grain, varies in color between reddish brown and brownish yellow, seasons well, and takes a high polish; it is much used for fine cabinet work and in making other articles of luxury or superior quality, as yachts and fine furniture.

NOTE.—This sense occurs in about 70 percent of the quotations collected.

2. A particular variety of this wood; the variety meant is usually indicated by prefixing the name of its place of origin, as African mahogany, Philippine mahogany, West Indian mahogany.

NOTE.—(*a*) This sense occurs in about 18 percent of the quotations collected. (*b*) West Indian mahogany is sometimes referred to (chiefly in dictionaries and botanical treatises)as true or genuine mahogany, since the tree from which it is derived bears the scientific name *Swietenia mahagoni*, and some dendrologists apply the same adjectives to mahogany wood derived from other species of *Swietenia;* in ordinary speech, however, these adjectives are used in a different sense; namely, as the opposite of imitation; thus, a piece of furniture is said to be genuine mahogany if made of mahogany wood (whatever the variety), while it is said to be imitation mahogany if made of some other wood colored or treated so as to look like mahogany. (*c*) The varieties specified in the quotations collected are listed below, together with the botanical names (if known) of the trees from which they are derived:

Real, true, or genuine mahogany (16 quotations), *Swietenia* (?)
Spanish mahogany (3 quotations), *Swietenia mahagoni*
San Domingo mahogany (9 quotations), *Swietenia mahagoni*
Cuban mahogany (12 quotations), *Swietenia mahagoni*
Jamaican mahogany (1 quotation), *Swietenia mahagoni*
West Indian mahogany (2 quotations), *Swietenia mahagoni*
Mexican mahogany (12 quotations), *Swietenia*
Tobasco (Mexico) mahogany (2 quotations), *Swietenia*
Honduras mahogany (34 quotations), *Swietenia macrophylla*
Nicaragua mahogany (5 quotations), *Swietenia macrophylla*
Costa Rica mahogany (5 quotations), *Swietenia macrophylla* (?)
Panama mahogany (4 quotations), *Swietenia macrophylla* (?)
Central American mahogany (4 quotations), *Swietenia macrophylla* (?)
South American mahogany (2 quotations), ??
Colombia mahogany (3 quotations), *Cariniana pyriformis*
Peruvian mahogany (3 quotations), ??
Brazilian mahogany (3 quotations), *Carapa guianensis* (crabwood)
Tropical American mahogany (1 quotation), ??
Philippine mahogany (75 quotations), *Shorea* (3 species)
African mahogany (54 quotations), usually *Khaya* (several species)
Liberville mahogany (1 quotation), *Boswellia klaineana*
White mahogany (6 quotations), *Tabebuia donnell-smithii* (primavera).

3. A color, so named because it approximates the average color of mahogany wood.

NOTE.—This sense occurs in about 10 percent of the quotations collected.

4. A tree that yields mahogany wood.

NOTE.—This sense occurs in about 1 percent of the quotations collected.

5. Furniture made of mahogany; specifically, a dining table.

NOTE.—This sense occurs in about 1 percent of the quotations collected.

6. Any of several nontropical trees native to the United States, as the coffeetree (*Gymnocladus dioicus*), the sweet birch (*Betula lenta*), and the mountain mahogany (*Cercocarpus ledifolius* and *parvifolius*).

NOTE.—This sense does not occur in the quotations collected, and as a current sense it is known to me from secondary sources only. It seems to be a local, not a national use, and, except for the mountain mahogany, seems to be on the wane, if not indeed on the verge of obsolescence. The application of the name mahogany to the coffeetree goes back to the 18th century; its application to the sweet birch goes back with certainty to the early 19th century, and in all likelihood to the 18th century.

7. A kind of strong drink, so called from its color.

NOTE.—This sense is known to me from secondary sources only.

8. Salt beef.

NOTE.—This (slang) sense is known to me from secondary sources only.

EXAMPLES OF SENSE 1

"I.C.C. today authorized railroads to increase freight rates on mahogany and other fine foreign woods 10 percent." (New York Times, Dec. 11, 1938, sec. III, p. 3.)

"The increase in the beauty of the grain of woods that seems to be a development of recent years is doubtless one reason why mahogany in fine furniture today is receiving high appreciation. The accidents of growth give parts of some logs a beautiful marking as 'figure.'" (Ibid., Jan. 1, 1928, sec. V, p. 13.)

"The server may be most effectively made of either walnut or mahogany. When the article is made of either walnut or mahogany, the craftsman should remember that such woods are employed primarily to introduce some degree of sophistication." (Popular Homecraft 9.99, July–August 1938.)

"To insure stiffness the boat is double planked with mahogany." (Motor Boating 24.20, December 1920.)

"A grandfather clock * * * in solid mahogany case." (Los Angeles Times, Nov. 27, 1938, pt. VII, p. 5.)

"Wax is especially suited for oak, mahogany and walnut and will give any wood the appearance of an antique finish." (Ladies' Home Journal, September 1927, p. 150.)

EXAMPLES OF SENSE 2

"Since the introduction of bright finished runabouts, the use of all mahogany woods in boatbuilding has been increased. There are numerous varieties of mahogany woods. The principal ones are Honduras, African, and Philippine." (Motor Boating 57.282, February 1936.)

"The bunks, shelves, motor box, toilet room partitions, and lockers will be made from ½-inch material. Mahogany of the Philippine variety is about the best wood for this purpose." (Ibid., 53.110, June 1934.)

"West Indian mahogany—this is the hardest, heaviest, and closest textured of all the mahoganies and is susceptible of a finer finish. The size of the timber is much smaller than the African, Central American, and Mexican mahoganies." (Ibid., February 1930, p. 478.)

"Today Colombia is selling to the United States such exports as * * * mahogany." (National Geographic magazine 17.707, December 1906.)

EXAMPLES OF SENSE 3

"Frieze Broadloom (rugs) * * * choice of 10 colors * * * champagne beige, mahogany, light maple * * *." (Los Angeles Times, Sept. 5, 1938, pt. I, pp. 12–13.)

"Solid birch, finished in mahogany color." (New York Times, Aug. 22, 1927, sec. I, p. 19.)

"Henderson's Tulips—all the tulip colors—rose, purple, * * * mahogany." (Ibid., Oct. 30, 1938, sec. II, p. 12.)

EXAMPLES OF SENSE 4

"A branch of the Rio Congo, Republic of Panama, is called Mahogany Creek because of its great number of mahogany trees." (Southern Lumberman, Jan. 15, 1939, p. 31, col. 3.)

"The mahogany and cedar are imposing trees." (National Geographic magazine 19.486, July 1908.)

"As I climbed, I found the trees in colonies—first, eucalyptus and the fragrant yellow acacia; higher, the koa or Hawaiian mahogany." (Asia 25.931, November 1925.)

EXAMPLES OF SENSE 5

"Historic mahogany—buy reproductions from a store that has been selling fine furniture for 98 years." (New York Times, Oct. 14, 1938, p. 9.)

"And when tables were set in the bar itself—alongside the brass-railed monumental mahogany backed by its mirrors and flanked by the free lunch counters on the other side—these tables were for gentlemen." (Ibid., June 11, 1933, sec. vi, p. 12.)

"Young Barker swore he wouldn't put his feet under the same mahogany with such a very contemptible scoundrel." (Bret Harte, "Luck of Roaring Camp and Other Sketches," 134, 1871.)

EXAMPLES OF SENSE 6

"I have lately received several seeds from Kentucky, supposed to be of this tree, where it is said to grow plenty, and is called the coffee or mahogany tree." (H. Marshall, American Grove, 56, 1785.)

"Sweet birch * * * or mahogany birch." (H. Muhlenberg, "Cataloged Plants," 88, 1813.)

"In North America several small trees of the genus *Cercocarpus* * * *, with very hard, fine-grained, reddish wood, are called mountain mahogany. * * * The small-leaf mountain mahogany (*C. parviflorus*) is a common shrub of the chaparral (q.v.) throughout the Sierra Nevada and coast ranges of California. The dry wood of the trunk is so extremely dense that it is difficult to drive ordinary nails into it, whence the name hardtack given to this shrub by mountaineers." (Encyclopaedia Britannica 14.680.)

"Mahogany * * * The name has been extended with various specific epithets, to one or more species of several genera of trees, such as *Betula*, *Gymnocladus*, *Persea*, *Cercocarpus*, *Catalpa* and *Rhus*." (W. R. Gerard, in Garden and Forest 9.282, 1896.)

Our investigation has shown that in current usage mahogany is a generic term, applied to the wood of many trees. How far back can we trace this generic sense of the word? The quotation of 1896, the last quotation given above, implies that once upon a time mahogany was not a generic but rather a specific term, a name which has been "extended" from one species to another. The evidence, however, indicates that in popular use mahogany has always had a generic sense, and has from an early date been applied not so much to particular species of trees as to wood (whatever its origin or botanical classification) that exhibits certain general characteristics (defined above in my sense 1).

The evidence for this is clear enough in the 19th century and the latter part of the 18th, as Clayton D. Mell, the well known dendrologist, has brought out in his important paper, "Biography of the Word 'Mahogany'" (first printed serially in the Timberman of October, November, and December 1930). The evidence from the 17th and early 18th centuries is too scanty to warrant any positive conclusions. The word first appears in print in 1671, in John Ogilvy's "Account of America." Here it is the name given to a "curious and rich" wood of the island of Jamaica. The earliest mention of a tree yielding mahogany wood dates from the year 1731; that is, 60 years later. This tree was first described in 1743; from the description it seems clear that the tree in question was the *Swietenia mahagoni* of modern botanists. In the 18th century, then, if not earlier, this species of *Swietenia* might be called mahogany (whence the botanical name "mahagoni" coined for it in 1759). Then as now, however, this particular tree might be (and was) called by other names as well, while other trees, some related and some not related to *Swietenia mahagoni*, might be (and were) called mahogany. More important still (since mahogany means, first of all, a wood rather than a tree), woods derived from various trees were marketed in the 18th century as mahogany. This has continued to be the case ever since, as everybody knows; in other words, mahogany from early times to the present day has regularly been a generic term. It therefore seems plausible to presume that it was a generic term in origin.

Unluckily this presumption cannot be either proved or disproved, as the etymology of mahogany has never been determined, and probably never will be, for want of evidence. Nevertheless, we do have a piece of evidence which points to a very definite etymological meaning for the word "mahogany." From the earliest times of which we have record down to the present day, mahogany has been called not mahogany but madeira in the Bahamas. This word "madeira" is generally recognized to be nothing more than the Spanish madera "wood," somewhat unorthodox in spelling and pronunciation. Why did the early Spanish settlers call mahogany by such a general name? I suggest that "madera" is merely a translation of a native term "mahogany" and that this native term means simply "wood." On the Bahama Islands mahogany was the wood par excellence, and for that reason it would be natural enough for the natives to refer to it by means of a generic term. The same cannot be said of the Spaniards, however, and their use of madera "wood" is most readily explained on the hypothesis that in so doing they were simply following the example set by the natives. Although this hypothesis cannot be proved (since the native dialect has not survived), it has the merit of accounting for the facts, and in my opinion deserves serious consideration.

Notes on the Word "Mahogany"

(By Kemp Malone)

These notes were inspired by a paper of F. Bruce Lamb's called "On Further Defining Mahogany" and published in Economic Botany 17,3 (July–September 1963). Mr. Lamb devotes some of his space to an attack on what I say in a paper of like title, "On Defining Mahogany," which came out in 1940 in the journal Language 16,4 (pp. 308–318).

In my paper I had said "the etymology of mahogany has never been determined, and probably never will be, for want of evidence." Mr. Lamb found these words of mine an intriguing challenge and he proceeded to give an etymology. But first let me quote more fully from my own paper (p. 317f):

"The word first appears in print in 1671, in John Ogilvy's Account of America. Here it is the name given to a 'curious and rich' wood of the island of Jamaica. The earliest mention of a tree yielding mahogany wood dates from the year 1731; that is, 60 years later. This tree was first described in 1743. From the description it seems clear that the tree in question was the *Swietenia mahagoni* of modern botanists. In the 18th century, then, if not earlier, this species of *Swietenia* might be called mahogany (whence the botanical name mahagoni coined for it in 1759). Then as now, however, this particular tree might be (and was) called by other names as well, while other trees, some related and some not related to *Swietenia mahagoni*, might be (and were) called mahogany. More important still (since mahogany means first of all a wood rather than a tree), woods derived from various trees were marketed in the 18th century as mahogany. This has continued to be the case ever since, as everybody knows; in other words, mahogany from early times to the present day has regularly been a generic term. It therefore seems plausible to presume that it was a generic term in origin.

"Unluckily this presumption cannot be either proved or disproved, as the etymology of mahogany has never been determined, and probably never will be, for want of evidence. Nevertheless, we do have a piece of evidence which points to a very definite etymological meaning for the word 'mahogany.' From the earliest times of which we have record down to the present day, mahogany has been called not mahogany but madeira in the Bahamas. This word 'madeira' is generally recognized to be nothing more than the Spanish madera 'wood,' somewhat unorthodox in spelling and pronunciation. Why did the early Spanish settlers call mahogany by such a general name? I suggest that madera is merely a translation of a native term mahogany and that this native term meant simply 'wood.' On the Bahama Islands mahogany was the wood par excellence and for that reason it would be natural enough for the natives to refer to it by means of a generic term. The same cannot be said of the Spaniards, however, and their use of madera 'wood' is most readily explained on the hypothesis that in so doing they were simply following the example set by the natives. Although this hypothesis cannot be proved (since the native dialect has not survived), it has the merit of accounting for the facts and in my opinion deserves serious consideration."

Here I simply took it to be generally recognized that the form "maderia" was an alteration of an earlier "madera" and I therefore presented no evidence on the point. Since Mr. Lamb contends otherwise, I will present some evidence. I give three quotations, one from the 17th, two from the 18th century:

1663: Sir Balthazar Gerbier, counsel and advice to all builders * * * p. 108: "Precious woods are to be had in the West Indies, some * * * hard as marble; besides rare madera, and other variously figured."

1736: Mark Catesby and Dr. Mortimer (secretary of the Royal Society), in the Philosophical Transactions of the Royal Society, volume 39 (No. 441), page 254, top: "Acacia. * * * This tree affords an excellent wood for joyners work. It is, mistakenly, called mahogany by the Bahamans; it is next in beauty to what is here called madera, which is the mahogany of Jamaica."

1748: Mark Catesby, The Natural History of Carolina, Florida, and the Bahama Islands, etc., volume II, page 42: "*Acacia Buxi foliis rotundi-oribus, floribus albis, filiqua lata compressa.* These trees grow very high, with large straight trunks, some being above 3 feet diameter, with very large spreading limbs, the exterior branches of the tree are very small and pliant, thick set with pinnated leaves. The flowers are pappous, white and globular, and are succeeded by flat thin pods, an inch broad, and almost five long, and are usually twisted, enclosing many flat brown seeds. This is an excellent wood, and next to what is here called madera

(which is the mahogany of Jamaica) is the best wood these islands afford, much of it being brought from thence to England for joiner's work. The grain is not altogether so close as that of the madera, yet excels it in a variable shining, like watered satin, and is mistakenly called mahogany by the Bahamians."

The form "madeira" seems to have come into use in the 19th century; at any rate, I have found no occurrences of it earlier than that century. Mr. Lamb is clearly mistaken in saying that this form "was brought to the Bahamas by Portuguese pirates and buccaneers. * * *" In fact, it is a late British alteration of "madera," by confusion with the proper name Madeira, familiar to the British as the name of a wine and as the name of a group of islands. The form madeira is of course Portuguese and means "wood," like its Spanish cognate madera. The Portuguese so named the Madeira Islands because these were heavily wooded when settled by the Portuguese colonists. Compare English names like Wood Island.

The acacia (i.e., locust tree, *Hymenaea courbaril*) mentioned in the quotations of 1736 and 1748 went by the name "mahogany" in the Bahamas, if Catesby and Mortimer are right. They obviously disapproved of the terminology there current but bear witness to its currency. The Bahaman usage is easy to understand if "mahogany" in origin was a generic term, a native word meaning "wood." As such it could with equal propriety be applied to the wood yielded by the locust tree and to that yielded by the caoban tree (caoban or caobano was a native West Indian name of *Swietenia mahagoni*). The Spaniards brought with them to America the word "madera" (wood) and presumably this was at first used in the Bahamas, as elsewhere, in its usual sense; that is, it was applied without distinction to the wood yielded by both trees. In time, however, "mahogany" and "madera" underwent differentiation in Bahaman English, "mahogany" becoming restricted to the wood of the locust tree, "madera" to that of the caoban tree. Differentiation of synonyms is commonplace in speech history and need not be dwelt upon here. I must however repeat that the course of events outlined above is hypothetical only. Since our written records give us no passage in which "mahogany" means simply "wood," we cannot be sure that this was in fact its original sense. The facts of Bahaman usage are most simply explained on the theory that "mahogany" once meant "wood" but this meaning is not recorded in any surviving document and therefore cannot be reckoned certain.

On Jamaica the linguistic evolution proceeded otherwise, and this brings us to Mr. Lamb's etymology of mahogany. To quote:

"The Yoruba and Ibo tribes of southern Nigeria, who comprised a considerable proportion of the slaves brought to Jamaica, furnished the root for the word from their nomenclature for Nigerian forest trees."

With commendable caution Mr. Lamb avoids saying that these African tribes gave us the word itself; he says they "furnished the root." To quote further:

"As far back as the tribal language can be traced, the term 'oganwo,' with the modifications 'oganwu,' 'ogwango,' 'oguanco,' and 'M'oganwo,' was used for the tree of the genus *Khaya*, now known as African mahogany. The word 'oganwo' is derived from the Yoruba verbal root 'ga' which means to be tall or high. Yoruba nouns are formed from verbs * * *. Thus, 'oga' means that which is tall or high * * *. The noun 'oga' can then be modified by means of another verb used as a suffix. The Ewe group of forest-dwelling Yorubas use the verb 'wu,' meaning to surpass, as a suffix to express the comparative form, Thus, with the euphonic addition of the letter 'n' to render the nasalized vowel 'a' in 'oga,' we have 'oganwu' or 'oganwo' which means one which is the tallest or most high."

At this point Mr. Lamb (who seems to have felt uncertain of the rightness of of his explanation for the "n") inserts a quotation from Abraham's Yoruba dictionary, giving the word "ogo-n-go" (ostrich). This form is very like "ogwango" (one of the modifications of oganwo) and certainly the ostrich is a big bird, but Mr. Lamb does not say that the two words are akin. He resumes as follows:

"Oga-n-wo would seem to be a similar example. To convey the idea of things present in large numbers, collectively or in the abstract, the prefix 'N'' or 'M'' is used. The expression 'M' oganwo' thus emerges meaning 'abundant oganwo trees.'"

According to this etymology, "oganwo' is a descriptive, generic term, applicable to anything of great height. Its derivative "M'oganwo," then, if Mr. Lamb is right in calling "M'" a prefix with collective force, would have the etymological meaning "group made up of many objects 'of great height.'" But he mentions another possibility: the prefixed "M'" may make the sense abstract. If this function applies here, "M'oganwo" means "abundance of objects of great height."

In the foregoing I have taken Mr. Lamb's statements, all but one, at their face value. I am not an authority on Yoruba speech and I must leave it to others to point our any mistakes he may have made in manipulating that speech, except for what I have just said about "M'oganwo," which if we go by Mr. Lamb's own words, cannot have the etymological meaning "abundant oganwo trees" (i.e., abundant *Khaya* trees) which he ascribes to it. Let me add that Mr. Lamb's presentation of the linguistic material is not made as one would expect a professional linguist to make it, and I doubt if he would himself claim to be linguistically expert. His amateurishness comes out even more markedly later on. To quote:

"The term went through a logical linguistic metamorphosis in the late 17th and early 18th century from 'm'ogano' to 'mogano' (mogono, mogno), 'moganeel,' 'muhagnee,' 'mehogana,' 'mohogony,' 'mohogeney,' 'mahogony,' 'mohogan' to reach its present form of 'mahogany.' This transition from m'oganwo to mahogany is obvious when consideration is given to the fact that the 'm' prefix is actually pronounced by the Yoruba more as if written 'ma,'' and that the vowel 'o' is not a common nounending in English."

Few would agree with Mr. Lamb in calling the "linguistic metamorphosis" of which he speaks "logical" or "obvious," and his point about the vowel "o" as as a noun-ending in English is not well taken: he ignores the fact that "mahogany" belongs to a very special group of English nouns; namely, nouns that got into English, directly or indirectly, from tropical America. Such nouns have a way of ending in "o" whether this was original or not. Thus, "potato" and "tomato" end in "o" although the corresponding Spanish forms end in "a" and "e" respectively.

Mr. Lamb's etymology would be more convincing if he did not have to turn his "oganwo" (the Yoruba name of the *Khaya* tree) into a collective or abstract "M'oganwo" in order to get a form that begins with "m," and if he did not then have to turn his "M'oganwo" into "mahogany" by an obscure process of 'linguistic metamorphosis." He thinks he has established the origin of our English word, but his confidence will not be shared by professional etymologists, whose studies have made them aware that in the absence of early forms most etymologies are merely speculative, without probative value.

Let me be more specific. Mr. Lamb tells us that "as far back as the tribal language can be traced, the term "oganwo" * * * was used for the tree of the genus *Khaya*." How far back can this meaning of "oganwo" be traced in the Yoruba tongue Mr. Lamb does not tell us, and his silence indicates that the meaning he gives cannot be traced very far back. But he then proceeds on the assumption that the word had this meaning as early as the 16th century, although if his etymology is right the original sense of the word was no specific but generic: "something very tall." If this word or its derivative "M'oganwo" was actually brought to America by Yoruba slaves in the 16th century, as Mr. Lamb thinks, what meaning did it have at that time or in the 17th century? Mr. Lamb himself gives us an item of information that bears on the point, though he seems unaware of its significance. He tells us that the Great River of Jamaica "appears as 'Rio Mogno' or 'Mogano'" on a map of circa 1661. It strikes one as rather odd that the river name should appear in two forms on this map, but since the map is not accessible to me I shall have to take Mr. Lamb's word for this variation in form. The English name "Great River" may reasonably be explained (though not, of course, with certainty) as a translation of the earlier name of the river, "Rio Mog(a)no," the "Mog(a)no" of which Mr. Lamb identifies with his Yoruba "M'oganwo." He goes on to conjecture that the river was so named by African slaves, and that they gave it this name "because of the abundance of oganwo trees along its banks." If so, what did the slaves mean by "oganwo trees"? The English translation of the river name gives us the answer: The slaves meant simply "big trees," not trees of a particular botanical genus or species.

Let us now go back to the Bahama Islands. If Mr. Lamb's etymology is right, we can see why Yoruba salves in the Bahamas or elsewhere in the West Indies might have given the name "mahogany," or its precursor in their speech, to the West Indian locust tree *Hymenaea courbaril*, called acacia by Catesby. (The British also gave the name acacia to the locust tree of the Eastern United States, the *Robinia pseudacacia* of the botanists.) According to Record and Hess, "Timbers of the New Word" (New Haven, 1943), page 281:

"*Hymenaea* * * * has its center of distribution in the Brazilian Amazon region, with one species, *H. courbaril L.*, extending from Bolivia to Mexico and the West Indies * * * The leaves are pninnate, with a single pair of rather large thick and

glossy leaflets; the flowers are generally large, white or purplish, and borne in panicles; the legumes are large, rough, dark brown, woody, and indesiscent and contain few to several large seeds imbedded in a sweet and edible pulp. The best known species, *Hymenaea courbaril*, is commonly called locust in British America. * * * It prefers well-drained soil and attains a height of 100 feet or more, with a lofty spreading crown supported by an immense trunk which sometimes is more than 6 feet in diameter. * * * The timber is of good quality and is used for carpentry, construction of all kinds, ship and boat building, treenails, furniture, cabinet work, felloes of wheels, and many other purposes. * * * It was formerly will known in the European markets but is less common now. * * * It is suitable for the same purpose as black locust (*Robinia*). * * *"

Clearly the evidence from the Bahamas supports that from Jamaica, and if we accept Mr. Lamb's etymology we have good reason to conclude that our word, though already restricted to trees, still had a descriptive, generic sense; namely, "big tree, tall tree," when the African slaves brought it to America and it could therefore be applied to trees belonging to various botanical genera and species.

This broadness of application has never been given up. Mr. Lamb tells is, it is true, that:

"For a period of approximately 200 years (1700 to 1900), there was no question regarding the reference of the term 'mahogany.' * * * The name mahogany was universally accepted, with the exception of the Spanish-speaking countries, as referring to a specific type of tree and the wood of this tree. * * *"

In this passage he does not give the botanical classification of the tree he has in mind, but presumably he is referring to trees of the genus *Swietenia*. I will now show how wrong he is.

We have already seen that in Bahama English the name "mahogany" was applied to the locust tree as early as 1736, a usage that may well go back to the preceding century, since "madera" in its specific Bahama sense is recorded in a book of 1663 and by that time the Bahama sense of "mahogany," too, may have been current. It is noteworthy, besides, that in the 18th century the name "mahogany" was applied to the coffee tree of the Mississippi valley and elsewhere, the *Gymnocladus dioicus* (formerly canadensis) of the botanists. In earliest mention we have of this tree, that of Col. William Fleming in his "Journal of Travels in Kentucky," we are told that it is "called by some mahogany" (I quote from M. M. Mathews, "Dictionary of Americanisms" page 1016; the quotation is dated 1780). Humphrey Marshall, in his "Arbustrum Americanum"; the "American Grove," or, an "Alphabetical Catalogue of Forest Trees and Shrubs" (Philadelphia, 1785), also lists this tree and tells us that it "is called the coffee or mahogany tree." According to Record and Hess, "Timbers of the New World," page 276, it "attains a maximum height of about 120 feet and a trunk diameter of 4 feet," and J. R. Bartlett in the second edition (1859) of his "Dictionary of Americanisms," page 227, describes it as "a large tree, resembling the locust tree." If we go by Mr. Lamb's etymology, "mahogany" is a highly suitable name for this tree.

Another mahogany wood of the 18th century is the wood of Persea (formerly Laurus) indica, which is called Madeira mahogany in the year 1796, in P. A. Nemnich's "Polyglotten-Lexicon V," 955. This wood, which came from the Madeira and Canary islands, is also known as Canary wood. It must not be confused with the Madera (*Swietenia mahagoni*) of the Bahamas, whose name, as we have seen, is attested over 130 years earlier. Madeira mahogany was so called throughout the 19th century and the name may still be in use; certainly the dictionaries do not mark it obsolete.

The name "mountain mahogany" for the sweet birch (Betula lenta) is first recorded, so far as I know, in 1810, in F. A. Michaux's "Histoire des arbres forestiers de l'Amerique septentrionale" (History of North American Forest Trees); the name was doubtless current in the 18th century even though it did not win written record until early in the 19th. In the latter part of the 19th century the same name was applied to various trees and shrubs of the North American west: manzanita (*Arctostaphylos*), madrona (*Arbutus*), the Pacific yew (*Taxus brevifolia*), and *Cercocarpus ledifolius* and *parvifolius;* this last, apart from the jocular "hardtack," has no English name other than "mountain mahogany." The following from a book of 1874, J. S. Hittell's "Resources of California," page 365, indicates why the mahogany name came to be thought suitable for manzanita:

"The mountain mahogany is an evergreen found on the eastern slopes of the Sierra Nevada, at an elevation of 6,000 feet above the sea. The leaves

are bright and glossy, the growth low, the trunk crooked, the wood red, very even in grain, hard, heavy, and susceptible of high polish."

Evidently it was the color and qualities of the wood that gave name to this shrub, and "mountain" was prefixed as an obviously appropriate qualifier which would distinguish it from the tropical mahoganies.

The earliest quotation I have seen with the name African mahogany (*Khaya senegalensis*) is dated 1842, though the name was in use earlier, no doubt. The name "mahogany," with and without qualification, was also early given to the Jarrah and other trees of Australia, mainly trees of the genus *Eucalyptus*; the earliest quotations in the big Oxford dictionary are dated 1846. Here is one of 1875, from Thomas Laslett's book, "Timber and Timber Trees": "The Jarrah or mahogany tree * * * is also found in western Australia" (p. 189). The wood of primavera, the *Cybistax* (formerly *Tabebuia*) *donnellsmithii* of the botanists, has long been called white mahogany. No longer in use, it would seem, but current in the 19th century, are the names "East India mahogany" (*Soymida febrifuga*) and "Indian mahogany" (*Cedrela Toona*). I have by no means exhausted the list of woods that went by the mahogany name before 1900, but I have said enough to show that Mr. Lamb's statement (quoted above) is not backed up by the facts of usage. In sum, there can be little doubt that "mahogany" was a generic term in origin and no doubt at all that it has been a generic term throughout its recorded history in the English language.

Mr. Lamb in the second paragraph of his paper quotes me as saying, "mahogany * * * has from an early date been applied not so much to a particular species of tree as to wood whatever its origin or botanical classification."

Let me compare this quotation with what I actually wrote in my paper of 1940 (p. 317):

"Our investigation has shown that in current usage 'mahogany' is a generic term, applied to the wood of many trees. How far back can we trace this generic sense of the word? The quotation of 1896, the last quotation given above, implies that once upon a time 'mahogany' was not a generic but rather a specific term, a name which has been extended from one species to another. The evidence, however, indicates that in popular use 'mahogany' has always had a generic sense, and has from an early date been applied not so much to particular species of trees as to wood (whatever its origin or botanical classification) that exhibits certain general characteristics" (defined above in my sense 1).

Mr. Lamb chose for quotation the last sentence of this passage, but not in its entirety; he mutilated it, leaving out its beginning and end, and removing my marks of parenthesis. By altering the text in this way he was able to put in my mouth a statement which he then called obviously erroneous. His procedure here does not inspire one with confidence in his scrupulousness or scientific accuracy. Later on in his paper he quotes the same sentence again; this time he includes the beginning of the sentence, but he suppresses my parentheses once more and again leaves out the final clause, thus altering the meaning much as before.

Misrepresentation goes even further in a later paragraph, the first sentence of which I will quote:

"In a summary, Malone (p. 315) cites 115 quotations of present-day usage referring to *Swietenia* (mahogany), 54 referring to *Khaya* (African mahogany), and 75 referring to so-called Philippine mahogany (*Dipterocarps*), to support his contention that the term 'mahogany' in popular usage has always had a generic sense."

The following comments are in order here: (1) The passage to which Mr. Lamb refers is not a summary; (2) it is on page 314 (not 315) of my paper; (3) the quotations dealt with in the passage are those in which mahogany wood of a particular variety is singled out, not those in which mahogany wood is spoken of generically; (4) not 115 but 80 of my quotations refer with certainty to wood yielded by trees of the genus *Swietenia*, and 29 more may refer to this wood (in my paper these are distinguished from the others by a question mark), making a possible total of 109 quotations that refer to wood yielded by trees of this genus; (5) since the authors quoted felt it needful to make the word "mahogany" specific by qualifying it in some way (e.g., as Honduras mahogany, for which I have 34 quotations in my files), their usage obviously lends support to my conclusion that in popular use "mahogany" has always had a generic sense, but this conclusion of mine is based chiefly on quotations in which "mahogany" occurs without such qualifiers; these quotations, amounting to some 70 percent of the total number, Mr. Lamb simply ignores.

By leaving out of the picture the bulk of my 1,500 quotations (those dealt with on p. 313 of my paper), Mr. Lamb is able to conclude that "the data presented are either intentionally or unintentionally completely misrepresented." He goes on to speak of a "similar random sampling" of his own, in which he gleaned quotations from "current periodicals to appraise the meaning of the word in its present day usage." Since he does not tell us which periodicals he used for this purpose, one has no way of knowing how random the sampling really was, but his gleanings "totaled 175 items, in the following categories: 128 mahogany, 5 African mahogany, 29 mahogany finish, 7 Philippine mahogany, 6 doubtful—or a 23 to 1 frequency favoring true mahogany." One must suspect that many if not most of the 128 examples of an unqualified mahogany exemplify its generic sense, but Mr. Lamb evidently reckons them all examples of mahogany in the restricted sense "wood yielded by trees of the genus *Swietenia*" and since he quotes none of his examples one can only record one's skepticism.

Let me now sum up. In my paper of 1940, I suggested that "mahogany" might have been a generic term in origin (basing my suggestion on Bahama usage), but I had no etymology of the word to offer. Mr. Lamb does give an etymology and if this is right our word was a generic term in origin. In our earliest recorded examples of its use, it is applied to two very different trees: the locust tree in the Bahamas, the caoba or caoban tree in Jamaica. Later in the 18th century, we find it applied to the coffee tree in American speech, to Canary wood in British speech. Since that time "mahogany" has been applied to a great variety of woods and trees, some botanically related, others unrelated.

This broadness of application was normal in the 18th century and has remained so ever since. In consequence, it is customary to qualify the word in some way when one wishes to specify a particular kind of mahogany wood. Thus, wood yielded by *Swietenia mahagoni* may be called Spanish or San Domingo or Cuban or Jamaican or West Indian mahogany, and wood yielded by *Aucoumea klaineana* or *Canarium schweinfurthii* may be called Gaboon mahogany. The system of qualifying in terms of the locality (or language area) from which the wood came goes back to the very beginning of our records: our earliest mention of mahogany wood qualifies it as Jamaican. Qualification in botanical terms is almost wholly restricted to botanists and other scientists. As I said in my paper of 1940 (p. 311 f.):

"The English language, like every other living language, is democratic in its form of government. The meaning of a word in general use, like 'mahogany,' is determined, not by pundits, still less by official action of any kind, but by the people."

My study of mahogany as used in everyday, ordinary English has shown that it is a generic term, applicable to a great variety of woods. This was the conclusion I came to in 1940 and renewed study in 1963 has only confirmed this conclusion. Mr. Lamb's contrary views fly in the face of the evidence and cannot reasonably be maintained.

Mr. STAGGERS. Thank you, Mr. Thompson, Do you have any questions?

Mr. DINGELL. No questions.

Mr. STAGGERS. Mr. Keith?

Mr. KEITH. No questions.

Mr. STAGGERS. Mr. Van Deerlin?

Mr. VAN DEERLIN. No thank you, Mr. Chairman.

Mr. STAGGERS. Thank you very kindly for coming to the committee and being with us, and certainly your testimony will be given every consideration in executive session.

Mr. THOMPSON. Thank you.

Mr. STAGGERS. Mr. I. T. Williams.

Mr. Williams, welcome to the committee, and would you give your name for the record.

STATEMENT OF I. T. WILLIAMS, SECRETARY, ICHABOD T. WILLIAMS CO.—Resumed

Mr. WILLIAMS. Thank you, Mr. Chairman.

My name is Ichabod T. Williams. I appear here in favor of the bill. I am secretary of Ichabod T. Wiliams & Sons of New York who are importers and manufacturers of genuine mahogany. I am also president of the George D. Emery Co. of New York, which is an importer of Philippine mahogany.

I appeared previously before this committee and had no intention of appearing here today until recently when I was advised that my good friend, Mr. Thompson, was going to appear and I, therefore, came over this morning just to keep him company. He has made some statements here this morning which I was quite interested in and he referred, among other things, to the article written by Mr. F. Bruce Lamb and published in Economic Botany in the July–September issue of this year, in which Mr. Lamb takes a rather strong position that *Khaya* is just as much entitled to the name mahogany as is *Swietenia*, and he states, if I may quote just one paragraph from that article, as follows. This refers to Dr. Malone, who Mr. Thompson also mentioned:

> Dr. Malone's assertion that "the etymology of the word mahogany * * * has never been determined and probably never will be for want of evidence" proved to be an intriguing challenge. His further, obviously erroneous, statement that the term "mahogany * * * has from an early date been applied not so much to a particular species of tree as to wood whatever its origin or botanical clasification" required correction, since reference works such as dictionaries and encyclopedias may repeat and compound his error.

This is the statement of the reason for writing the article and I should like to make it clear on the record that the Mahogany Association did not cooperate with Dr. Lamb except insofar as they answered certain questions which he asked of them in the preparation of the article, but it was not sponsored by the Mahogany Association.

I happen to know Dr. Lamb personally and he told me about this article after he had already started to write it. I gathered from the remarks of Mr. Thompson this morning that his primary argument in his testimony that he has now presented before this committee is that if *Khaya*, known as African mahogany, is entitled to use the name African mahogany, then the various Philippine hardwoods should be entitled to use the name Philippine mahogany.

I have stated in my previous testimony that as far as my company was concerned, and I believe this went for the rest of the importers, we would have no objection to continuing our present practice of advertising, selling, and invoicing wood of the specis *Khaya* as African mahogany. We have done so for at least 30 years. Likewise, we also designated wood of the mahogany species of *Swietenia*, which we import from South America, in this case Peru, and sell it, and advertise it as Peruvian mahogany.

However, we do not think that this is germane to the question as to whether a group of woods which belong to an entirely different botanical family, the *Dipterocarps*, and which come from the Philippine Islands largely, although some come from outside the Philippine Islands, should have the same right to use the name mahogany which has become the equivalent of sterling in silver.

I feel that what we are really talking about here is not a question of whether African should be entitled to be called mahogany or not. I think what we are talking about is whether these Philippine hardwoods are entitled to use the name of a wood which doesn't grow there.

Neither *Swietenia* nor *Khaya* from Africa are found in the Philippine Islands. I think Mr. Thompson will consent to that.

Now, the whole purpose of this legislation is to try to prevent deception of the public by virtue of the fact that these Philippine woods resemble the true mahoganies, regardless of whether it be Central American or African. I should like to quote briefly from a letter which I just received dated October 24 which was addressed to Mr. Kenneth Wilson, president of the Better Business Bureau in New York City, by Mr. Burdett Green, who was for many years secretary of the American Walnut Manufacturers Association and is now retired and is acting as a wood consultant.

I just quote a couple of paragraphs here to indicate that deception still continues. I would be glad to submit the letter to be incorporated in my testimony. [Reads:]

> In most of the Western States that I cover—as far east as Denver—I shop the lumberyards and particularly the retail furniture stores regularly. In the case of mahogany, I have had some bad experiences right here in our own home area of San Jose and Santa Clara. I talk with enough people to know the experience I relate here is typical and that it is occurring many times every day.
>
> I saw an advertisement for mahogany paneling, ¼ inch, 4 by 8 feet, etc., $ * * *. I went in to buy some of these panels, in fact did buy a few even though they were not mahogany but were white lauan and in general a low-grade product. The wood was so stringy and bad that it made a very bad impression as far as the word "plywood" goes and particularly as far as the specific name "mahogany" goes.
>
> The salesman sold this as "mahogany" and wrote up the invoice the same way. On a later trip I learned that he knew this was not mahogany but that it was a Philippine hardwood. I believe a letter went to these people from the Federal Trade Commission, for I recall that Sears replied that they were very much surprised that this mistake had happened.
>
> Within a few months I was back in that store and had similar experiences and they are going on today. This applies also to Albright Plywood and others in this area.
>
> On the evening of the first day of this month I delivered a 2½-hour lecture, including a question and answer period, to 605 architects, interior decorators, teachers, and consumers. The subject was "Fine Hardwoods for Architectural Woodwork, Furniture and Interiors."
>
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>
> This, it seems to me, prove rather clearly a contention I have heard among a number of more honest merchandisers who say their sales of mahogany have been hurt because of the widespread use of that same name to apply to the inferior woods from the Philippines.
>
> I see a number of the Philippine distributors and importers out here and I know how they feel. They can see the damage being done to genuine mahogany but they are naturally going to raise every objection possible to keep from being honest and accurate about the use of that term "mahogany."

I think that is the gist of the letter and I would submit it herewith for inclusion in my testimony.

(The statement referred to follows:)

LOS GATOS, CALIF., *October 24, 1963.*

Mr. KENNETH WILLSON,
Better Business Bureau,
New York, N.Y.

DEAR MR. WILSON: This week Mr. I. T. Williams asked me to relate to you some of the experiences in connection with wood nomenclature that I have had during the past 5 years that I have worked here on the Pacific coast.

There have been some people in the Federal Trade Commission and, in fact, some connected with better business bureaus, who from time to time maintain that the misleading advertising and misrepresentation in selling hardwood products are no serious matter, seldom happen, and so forth. You may recall that the head of the Better Business Bureau in Phoenix or Tucson told me when I invited him to a meeting we were holding there, jointly with the furniture industry, that his furniture dealers were "clean." In 1 hour between 5 and 6 o'clock, I shopped four stores and tentatively bought six items, five of which were very seriously misrepresented and these were from the best stores I could find in the neighborhood of my hotel, two being ones that he considered the best. At home that same night he followed a suggestion I made and called me the next morning before I could give him my report. He told me he had been "taken" by one of his own member stores who sold him a nationally advertised television set as genuine cherry, whereas it was actually a printer's ink picture of cherry on a thin fiberboard.

In most of the Western States that I covered—as far east as Denver—I shop the lumber yards and particularly the retail furniture stores regularly. In the case of mahogany, I have had some bad experiences right here in our own home area of San Jose and Santa Clara. I talk with enough people to know the experience I relate here is typical and that it is occurring many times every day. I saw an advertisement for "Mahogany paneling, one-quarter inch, 4 by 8 feet, etc." . . . I went in to buy some of these panels, in fact did buy a few even though they were not mahogany but were white lauan and in general a low-grade product. The wood was so stringy and bad that it made a very bad impression as far as the word "plywood" goes and particularly as far as the specific name "mahogany" goes. The salesman sold this as "mahogany" and wrote up the invoice the same way. On a later trip I learned that he knew this was not mahogany but that it was a Philippine hardwood. I believe a letter went to these people from the Federal Trade Commission, for I recall that Sears replied that they were very much surprised that this mistake had happened. Within a few months I was back in that store and had similar experiences and they are going on today. This applies also to Albright Plywood and others in this area.

On the evening of the first day of this month I delivered a 2½-hour lecture, including a question-and-answer period, to 605 architects, interior decorators, teachers, and consumers. The subject was "Fine Hardwoods for Architectural Woodwork, Furniture, and Interiors." At these lectures I am often asked to explain why the mahogany out here is so much inferior to that which they used to get in the East. It always turns out that they have been sold Philippine hardwoods during recent years here on the coast, and as a result very little mahogany could get into this market.

This, it seems to me, proves rather clearly a contention I have heard among a number of more honest merchandisers who say their sales of mahogany have been hurt because of the widespread use of that same name to apply to the inferior woods from the Philippines. That must certainly be the case for I find that quite a bit of another wood from the Philippines and Indonesia, namely, Narra, is rather widely used here now—especially in furniture of Far East design, and some of which is actually made in Hong Kong. This wood sometimes gets sold as teakwood and rosewood, and no one seems let down when it is learned that it is actually Narra, for Narra is a very fine cabinet wood. But that is not true, as shown above, when the product bought as mahogany is furnished in an inferior wood—white or red lauan.

One can't argue that the public doesn't want the better woods, that they simply want the cheapest thing they can get, for the sale of walnut out here is excellent, even in low-priced novelty items, as well as furniture. And, as stated above, genuine teak, as well as Narra often sold as rosewood or teak, are all very popular.

I see a number of the Philippine distributors and importers out here and I know how they feel. They can see the damage being done to genuine mahogany but they are naturally going to raise every objection possibly to keep from being honest and accurate about the use of the term "mahogany."

Let us look back to 1930 when we had an FTC trade practice conference. It was agreed by our industry that all firms would cease and desist from applying the term "walnut" to woods other than walnut (*Juglans* species, particularly a wood then widely distributed as Oriental walnut. There had been considerable misuse of the term "walnut" prior to that, whereas during the 33 years that have followed, only rarely has that type of misrepresentation been common. It is true, of course, that many dealers have referred to Formica tops, imitation printed grain, and even gumwood stained walnut, as "walnut" but that is another subject.

Inasmuch as you and your office, as well as a number of other bureaus such as Mr. Johnson in Chicago, have been most helpful in trying to protect the public's interest regardless of where the chips fell in one industry or another, I would like to do anything I can to furnish you with the facts that will keep you headed in this same straight-for-the-truth direction. I have been told that some contend that the term "mahogany" is not being abused these days and that harm to the real mahogany, whether from the Central Americas or Africa, does not occur. Such people are unquestionably either outright dishonest, they are meagerly informed, or they are prejudiced to the extreme and see only that their welfare and profits might be hampered some if the true names for these woods were used by all, rather than just a few who choose to be honest.

Sincerely,

BURDETT GREEN.

Mr. WILLIAMS. Gentlemen, I think that the whole purpose of this bill is simply to try to get the people to tell the truth. That I believe is the intent of the Federal Trade Commission Act. Unfortunately, through regulations issued by the Federal Trade Commission the objective is not being accomplished.

The purpose of this bill is to amend the act, which is in effect the charter of the Federal Trade Commission, and in a few brief words simply require that the truth be told and that mahogany be limited to the wood which has historically been accepted as such for over 300 years.

Thank you, Mr. Chairman.

Mr. STAGGERS. Thank you. Any questions?

Mr. DINGELL. No questions.

Mr. STAGGERS. Mr. Keith?

Mr. KEITH. No questions, Mr. Chairman.

Mr. STAGGERS. Mr. Van Deerlin?

Mr. VAN DEERLIN. No questions.

Mr. KEITH. I think that clarifies the situation. I think he did a good job.

Mr. STAGGERS. Thank you very kindly for coming, Mr. Williams. I would like to ask this:

You refer to Mr. Green's letter, which you put in the record and I get an impression from the letter that perhaps other than the custom wood had been called Philippine mahogany, other hardwoods coming from the Philippines.

Was this the gist of the letter, that there were other types of woods called Philippine mahogany, more than one type.

Mr. WILLIAMS. There are I think seven or eight different woods that are sold in this country under the name Philippine mahogany. Generally speaking, they are divided into two classifications, the dark red and the light, and there may be several woods in each one of those. It is simply a color differentiation.

Mr. STAGGERS. I understood you to say that Mr. Green had bought some light-colored mahogany.

Mr. WILLIAMS. That is right, light lauan. He refers to it in here. That is one of those woods sold as Philippine mahogany.

Mr. STAGGERS. Thank you very kindly for coming to appear before the committee, and certainly your testimony will be considered in the executive session.

Mr. WILLIAMS. Thank you sir.

Mr. STAGGERS. Is Mr. Carter present?

Mr. Carter, welcome to the committee. Will you identify yourself for the record and proceed?

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

Mr. CARTER. Thank you, sir.

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 home furnishings stores. Annual retail sales exceed $5 billion, and almost 6 cents of each consumer dollar goes for home furnishings.

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

For the record, Mr. Chairman, I have brought along the furniture rules of the Better Business Bureau and would like to submit them as part of the record of my testimony. They are quite long. I do not think it is necessary to read them, but if you will allow us to submit them we would like to do so.

Mr. STAGGERS. Certainly. That shall be done and I think it is wise. Thank you.

(The statement referred to follows:)

FURNITURE

(General principles outlined in part I also apply)

578 WOOD FURNITURE

The principle governing the description of wooden furniture, as outlined in rules approved by the Federal Trade Commission, January 7, 1926, is that wood description shall refer to exposed surface, and when any wood on exposed surface is named, all the principal woods on exposed surfaces should be named.

The FTC did not require that these rules be applied to antique furniture, but the better business bureaus recommend that they be applied, wherever failure to so describe would result in deception. The bureaus also recommend that

these rules be adopted as a guide for the description of other articles such as musical instruments, pianos, clocks. (See No. 938–F for description of radio-TV cabinets.)

The two fundamental rules as approved by the FTC are as follows:

Rule 1. Furniture in which exposed surfaces are of one wood shall be designated by the name of that wood.

Rule 2. Furniture in which the exposed surfaces are of more than one kind of wood shall be designated by the names of the principal woods used.

Interpretation of rules:

"Exposed surfaces" means those parts of a piece of furniture which are exposed to view when the piece is placed in the generally accepted position for use.

Exceptions (A and B):

A. A wood popularly regarded as of lesser value if its use is essential to construction, and if less than a substantial amount is used for exposed surfaces, shall not be considered as a principal good used and need not be named.

For instance: A windsor chair composed of mahogany but with the curved back strip of ash or some other pliable wood may be described as a mahogany chair and the other wood need not be named. Mahogany will not bend efficiently and in some instances another wood may be considered essential to construction.

To describe properly a dresser or other piece of furniture of walnut veneer fronts, top, and end panels, with legs, apron, mirror standards, frame, etc., of gumwood, both woods should be named, e.g., "walnut veneer and gumwood dresser."

B. A wood popularly regarded as of higher value, if an insubstantial amount is used for exposed surfaces, shall not be considered as a principal wood and shall not be named, except in cases of such wood being used for decorations and then it may be named as decoration only.

For instance: A chair composed of gumwood but with a small medalion of butt walnut veneer upon its back should be described as a gumwood chair. Mention of the other wood may be made if it is clearly set forth that this wood is used solely for decorative purposes.

NOTE.—At the time of publishing this Guide, none of the above rules had been rescinded by the Federal Trade Commission. Unless and until rescinded or changed, they should be followed. For further interpretation and application, see "FTC Rules for Radio-Television Industry."

EXAMPLES OF PROPER APPLICATION

The wood description of furniture, in the caption or body of an ad or wherever stated, should, in each instance, be proper and complete, without the necessity of qualification elsewhere in the advertisement. For example, furniture should not be described as "mahogany" in the heading of an ad with qualification elsewhere that it is veneered or merely "mahogany finish."

The rules for furniture description are easy to follow:

1. Use the true name of the wood in all description. This applies to all exposed surfaces (all surfaces normally visible as piece is viewed on display).

2. Examples:

Solid wood on all exposed surfaces. May be described by the name of the wood, e.g., "mahogany bedroom set."

Veneer on all exposed surfaces. Should be described as veneered, e.g. "mahogany-veneered bedroom set."

Veneered woods and other woods on exposed surfaces. Should be described as veneered, and other wood on exposed surfaces named, e.g., "mahogany veneer and gumwood" (or whatever the wood is, if not gumwood).

Woods finished to resemble other woods. True name of wood should be used—preceded by description of finish, e.g., "mahogany-finished gumwood," (or whatever the wood is, if not gumwood).

Such terms as "combination mahogany" to describe an article composed in part of mahogany and other woods or mahogany veneered and other woods are incorrect and misleading.

When the true name of the wood in an article of furniture is not known to or cannot be readily ascertained by the advertiser, advertising may refer to it as

"hardwood" or "cabinet wood," if such is the fact. For example, when the name of the solid portions of the wood is unknown in a dining suite containing walnut veneers on the flat surfaces, or where there are several different woods used, it is permissible to describe the suite as walnut veneer and hardwood or walnut veneer and other cabinet woods.

579 SOLID

No furniture should be described as of solid wood unless all exposed surfaces are of the solid wood represented; and exposed surfaces represented as solid shall be of solid wood of the kind designated.

580 VENEERED

Veneered furniture should be described as such. It is not necessary to name the wood under the veneer.

Veneered furniture parts are now generally made of plywood construction. This is usually of five or seven layers or plies of wood including face and back veneers. These plies are laminated or bonded together under high pressure. This construction may be described as mahogany veneered plywood. When an article of furniture is made of solid mahogany in certain exposed parts and mahogany veneered plywood in other exposed parts, it might be described as, genuine mahogany in all exposed solid parts and mahogany face veneers on plywood parts. For plywood see No. 1083.

In FTC 1880, the Commission prohibited such phrases as "rich oriental wood and butt walnut veneers," or "veneered with butt walnut," or "walnut veneers" to describe products not wholly covered with veneers, unless the other woods on exposed surfaces were named.

These rules should be followed in spirit as well as in fact. For example, the words "mahogany" or "walnut" should not be played up prominently with the qualification that it is veneered buried inconspicuously in the advertisement or in small type so that it might not be readily noticed, etc. The wood description should be proper and complete wherever used, without the necessity of qualification or clarification elsewhere; i.e., if described in the heading, the wood description should be complete there; or if described in the body of the advertisement, the wood description should be complete there.

Sometime prior to 1930, the FTC issued an order to 26 furniture manufacturers that veneered furniture should be described as such, not merely as mahogany or walnut. The manufacturers appealed the order and the U.S. Circuit Court of Appeals refused to uphold the FTC order. The decision shows that these cases involved the description of furniture as between manufacturers and dealers; that the dealers were not deceived; that the court found no unfair competition because of the alleged practice, as between dealers and manufacturers; that the order was unsupported by the evidence and inappropriate to remedy the alleged evil.

In 1938, the FTC Act was amended so as to apply also to unfair or deceptive practices. Under this extension of jurisdiction to unfair or deceptive practices, the FTC in 1944 announced the following stipulation:

(The unqualified word "mahogany" should not be used to describe an article with mahogany veneered surface or composed in part of mahogany and in part of gumwood or other wood, whether or not any explanation be added that furniture is not full mahogany. FTC S–3938, Dec. 1944.) This stipulation confirms the principle that veneer should be described as such, e.g., "mahogany veneer and gumwood."

Because (1) the Federal Trade Commission has not rescinded the rule regarding veneered furniture; (2) it is common practice among reputable retailers to describe veneered furniture as such; (3) consumer opinion indicates that furniture should be described as veneered when such is a fact; (4) under the present law the FTC is not confined to matters of unfair competition and may act against unfair or deceptive acts in commerce, the Better Business Bureaus recommend that in advertising and selling direct to the public, furniture which is veneered should be described as veneered, in accordance with the rules previously stated.

The FTC Rules for the Radio-TV Industry, promulgated June 1955, require that in the description of wood cabinets, veneered parts be described as such.

581 FINISH

The word "finish" to designate color should only be used as a description followed by the true name of the wood used; e.g., "mahogany-finished birch," etc., not merely "mahogany finish."

When the true name of the wood to which the "finish" is applied is not known or cannot be readily ascertained, a description such as the following might be used—"mahogany-finished hardwood," "mahogany-finished cabinet woods."

582 COVERED FURNITURE, ETC.

If furniture is covered with plastic or other material imitating wood or any other type of finish, it should be described clearly to show it is an imitation. For example, for such a product, the description "walnut veneer" or "walnut grain" or "walnut finish" would not be correct. An appropriate description would be "walnut-printed plastic" or "covered with walnut-printed paper," etc.

583 MAPLE

The term "maple" has been loosely and inaccurately applied to birch, or other wood. The term "maple" in describing furniture should mean maple wood. It does not mean respecting use of the term "mahogany." This project has not been concluded.

Extensive legal proceedings over a period of years have involved the term "Philippine mahogany" for woods not of the mahogany" for woods not of the mahogany or meliaceae family. The compromising result, unless and until changed, was that the FTC would proceed aaginst selling Philippine hardwoods as mahogany unless the qualifying term "Philippine" is used; e.g., "Philippine mahogany."

584 WALNUT

False use of the term "walnut," either alone or in conjunction with other words, as applied to wood other than the wood of the tree of the botanical walnut family, or the genus *Juglans*, with the tendency and capacity to deceive or mislead purchasers or prospective purchasers, is an unfair trade practice. (FTC.)

Various types of walnut are as follows: "American" or "black" walnut (*Juglans nigra*); "white walnut" or "butternut" (*Juglans cinera*); "royal" or "Persian walnut" (*Juglans regia*); "English walnut," "French walnut," "Italian walnut," "Turkish walnut," "Russian (or Causasian or Circassian) walnut," "Spanish walnut," all *Juglans regia*, from the countries or locations indicated; "Japanese walnut" (*Juglans sieboldiana*); "Bolivian walnut" (*Juglans boliviana*).

"Furniture, Its Selection and Use," issued by the U.S. Department of Commerce, states "a wood which has been called variously 'oriental walnut,' 'Australian walnut,' 'walnut bean' or 'Queensland walnut,' is a member of the laurel family, and is not a true walnut. 'African walnut' is not a member of the true walnut family."

The word "walnut" either independently or in connection with the words "African," "Canadian," "oriental" or with other words, to imply falsely that the wood is from the tree of the walnut family, should not be used. (FTC 1554, 1632, 1774, 2589.)

585 "ALL MAHOGANY"

Such description as "all mahogany" (describing a table, for example), should mean that all exposed parts are all of mahogany. An article whose flat surfaces are of mahogany veneer and whose other exposed parts are of solid mahogany may be described as "All exposed flat surfaces are mahogany veneer with other exposed parts of solid mahogany" or "mahogany veneer and solid mahogany."

586 MAHOGANY

The term "mahogany" is correctly applied to wood derived from trees of the mahogany, genus *Swietenia* of the meliaceae family. It has been loosely or incorrectly applied to many kinds of wood from trees of different botanical classifications and geographical origin. In 1952 the FPC initiated procedures to determine the correct application of the term "mahogany" botanically, with or without geographical words of qualification, and to specify its improper use; and to consider formulation of a wood name guide color, unless indicated as such; e.g., "maple-colored birch," "maple-finished birch," etc. (See also FTC S–3277.)

587 EXAMPLES-VIOLATIONS FTC RULES

Improper descriptions of furniture are frequently of the following nature: (1) Incomplete headings—use of a term such as "mahogany" or "maple" in a heading with qualification elsewhere in the ad that the article is "veneered" or "maple finish." The headings are misleading because not complete, or false. (2) Failure to specify veneer. (3) Incorrect description of "finish." An expression such as "mahogany finish," "maple finish," is incorrect because incomplete. The proper method would be "mahogany-finished gumwood," "maple-finished birch," etc. (3) Naming wood under a veneer, e.g., "walnut veneer on gumwood" instead of "walnut veneer and gumwood," naming the principal woods on exposed surfaces whatever they may be.

588 MATERIALS IMITATING WOOD

Cabinets or other articles of furniture which are composed of plastic, metal or any material other than wood, and which are made to look like wood, should not be described by the name of a wood or in any other manner so as to imply that they are wood. Disclosure of the fact that they are not wood should be made whenever failure to so disclose would be deceptive. If the name of a wood is used in describing such products, the true name of the material should be used; e.g. "mahogany-finished metal," etc. If illustrations of such products might deceptively imply that they are wood, the true nature of the material or finish should be disclosed.

CEDAR CHESTS

(See No. 251.)

589 MARQUETRY, PARQUETRY, INLAY

These terms should not be used for any decoration applied externally to the wood or veneer forming the actual surface of the finished piece, whether by transfer, painting, staining or other like process.

590 GRAINING

These terms should be used only when the figuring or graining is natural to the wood, not when they have been applied by any artificial means, unless so described.

Mr. CARTER. Thank you, sir.

However, we strongly oppose H.R. 1998, the proposed Decorative and Simulated Wood Products Labeling Act. We also oppose H.R. 5669, the bill to restrict the use of the term "mahogany."

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 think that there is no demonstrated popular demand from consumers for Federal legislation in this area, nor is there any issue of public health and safety or hazardous or deleterious materials involved to justify it.

Furthermore, it is our opinion there are sufficient local laws now to provide for the punishment, both civilly and criminally of those practicing frauds or false pretences in any transactions relating to furniture.

The bill, H.R. 1998, proceeds from the assumption that wood 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, or hardboard must be characterized in terms of the wood it resembles, by being called "simulated."

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

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

This bill 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 stores 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 woods 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 fail 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?

At this point I particularly want to draw to your attention that this bill, as drawn, gives a huge extension of power over intrastate retailing to the Federal Trade Commission.

I draw your attention specifically to the language of section 4(1) which says a product will be deemed to be misbranded "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 wood or simulated wood product, or is misleading in any respect."

In our opinion, this language is so broad that it would give the FTC power to send investigators into any retail store in the country to see if the label the retailer has on furniture which comes from another State "contains any form of misrepresentation or deception"—"or is misleading in any respect."

This means that anything said on the label with respect to price, former price, quality, construction, quantity available, guarantee, terms of sale, etc., of the furniture item would be under FTC jurisdiction, even though the retailer sells only in intrastate commerce.

Thus the bill hands to the Federal Trade Commission an enormous increase in jurisdiction over furniture retailers, which goes far beyond power over wood-surface descriptions.

The Federal Trade Commission itself has already recognized this. FTC Chairman Paul Rand Dixon testifying last June before this committee on this bill declared: "It is, of course, made illegal (by sec. 4 of the bill) for the label to contain any form of misrepresentation."

Similar big extensions of FTC power are given by the last clause in section 5(a)(4) "is false, deceptive, or misleading in any respect" and also by the last clause in section 5(b)(5) "is false, deceptive, or misleading in any respect."

We protest as vigorously as we know how this use of a wood-labeling bill to give to the FTC power over anything any retailer anywhere

in the country may say on a label attached to a piece of furniture that came from another State, even though he sells only intrastate.

We recommend that section 4(1), section 5(a)(4), and section 5(b)(5) be struck from the bill as unjustified extension of FTC power.

I would also 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 of the law would 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.

Surfaces which resemble marble, or other furniture surface materials not wood, 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.

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.

We believe this bill 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. To have to do so would be a deterrent to sales.

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.

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.

As to H.R. 5669 placing restrictions on the use of the term "mahogany," our opposition flows from our basic belief that the Federal Government should not intervene in local, intrastate retail trade practice matters. Whatever laws or rules may be needed should be enacted at the State or local level, not by the Federal Government.

Furthermore, we believe that although the concept expressed in H.R. 5669 is simple, the bill is likely to become more complicated as it undergoes congressional scrutiny—and if it should be enacted, we

are sure it will be accompanied by many complex Federal Trade Commission rules for its enforcement.

This will add further burdens to the furniture retailer of the type we picture would result from H.R. 1998.

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

Thank you very much, sir.

Mr. STAGGERS. Thank you, Mr. Carter.

Do you have any questions, Mr. Dingell?

Mr. DINGELL. No questions, Mr. Chairman.

Mr. STAGGERS. Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman.

Is it not true that the Federal Government already is involved insofar as the mahogany bill is concerned?

Mr. CARTER. How?

Mr. KEITH. By the decision of the FTC of some 25 or 30 years ago.

Mr. CARTER. The policy of FTC on mahogany I am not thoroughly familiar with per se. I mean I can't quote it. I was not aware that it was as stringent as this proposal that is now before you.

Mr. KEITH. It isn't a question of stringency, in my opinion. It is a question of the inception of a doctrine that, in my opinion, doesn't stand the test of botany. That is what prompted my sponsoring this legislation.

Mr. CARTER. Well, you are in a field which I am not thoroughly familiar with, but I am familiar wtih this: That the FTC does not have any jurisdiction over me as retailer as long as I operate intrastate. There is no restriction or regulation by the Federal Trade Commission over a purely intrastate retailer at this point.

The National Retail Furniture Association has contended this position for many many years. Now, what it is at the manufacturer's level and the handling of the word "mahogany" I would have to research that.

Mr. KEITH. Do you think, generally speaking, that the problem of labeling of goods sold solely in intrastate commerce should be the sole responsibility of the retailer?

Mr. CARTER. I think that the voluntary method is much more satisfactory than Federal regulation. We learned this lesson the hard way really during the war when we had OPA, and inventory control, and many of the other regulations which we were forced to and willfully submitted to, but there was no practical gain in any of those regulations that we, looking back, can tell simply because we were overburdened with regulations which we could not conform. There are many, many retailers who would be under this law, that could not conform to this particular provision unless it were supplied to them from their source of supply in some way, which would require them to just pass it on. There is no facility for this.

Mr. KEITH. In what State do you do business?

Mr. CARTER. Maryland.

Mr. KEITH. What is Maryland law with reference to truth in advertising?

Mr. CARTER. The Maryland law is a simple law which was supported and put in the legislature I think in——

Mr. KEITH. What is the law as pertains to truth in advertising in Maryland?

Mr. CARTER. It is practically the Better Business Bureau truth in advertising law as written by the Better Business Bureau of 1939.

Mr. KEITH. Do you belong to the Better Business Bureau?

Mr. CARTER. Yes, sir.

Mr. KEITH. Do you know that they are in accord with this proposed legislation?

Mr. CARTER. I have been told so, yes, but this does not alter my opinion.

Mr. KEITH. I understand. Thank you, Mr. Chairman.

Mr. STAGGERS. Thank you Mr. Carter.

Mr. CARTER. You are quite welcome.

Mr. STAGGERS. Would you identify yourself.

STATEMENT OF SEYMOUR SHERIFF, REPRESENTING SOUTHERN FURNITURE MANUFACTURERS ASSOCIATION

Mr. SHERIFF. My name is Seymour Sheriff. I am pinch-hitting for Mr. Ryan. He is executive vice president of the Southern Furniture Manufacturers' Association. I am their counsel. Because of a prior engagement scheduled before the announcement of these hearings he regrets that he was unable to be here. With the permission of the committee, in order to conserve its time, I would like to ask that Mr. Ryan's statement, which is some 15 pages long, be inserted in the record and I will try to summarize the highlights in the hope of doing that.

Mr. STAGGERS. I am sure the committee will be in complete agreement with that.

Mr. SHERIFF. The Southern Furniture Manufacturers' Association is a trade association comprised of some 260 members whose production represents approximately 40 percent of the total furniture produced in this country.

We oppose this bill and we oppose it strongly.

Mr. STAGGERS. Which bill are you talking about.

Mr. SHERIFF. I am sorry. I am talking about the basic wood labeling bill. We take no position one way or the other on the mahogany bill. I am sorry. I should have made that clear.

The reason for our opposition to this bill I think can be made clear by stating fairly succinctly what it is this bill does.

Under the Federal Trade Commission Act as it now stands misrepresentation in interstate commerce is prohibited. All of our manufacturers are engaged in interstate commerce. They are also subject to the prohibitions of the Federal Trade Commission Act, so as the law now stands none of our members can sell a maple table as a walnut table or engage in any other type of deception.

That is outlawed by law and the Federal Trade Commission is in position to enforce that and has enforced it. What this bill does now and which we strenuously object to is to add a new dimension. Even though our manufacturers do nothing at all in the way of misrepresentation, even though they say nothing which is untrue in any respect, even though they put out furniture which is not deceptive because of its appearance in any way, they are still going to be required

to label every piece of furniture they produce and to show on that label the surface woods which are embodied in that piece of furniture and to show the same items of information on their invoices.

Our reasons for opposing this legislation I think were summarized very well by the Bureau of the Budget in a letter to this committee dated July 2, 1963, and the Bureau of the Budget, which represents the opinion of this administration, as I understand, said this: It is very short:

> The Bureau of the Budget believes that extensive regulation and burdensome labeling and recordkeeping requirements upon the industry should be avoided unless a specific need exists. In the past such affirmative policing was urgently needed in the wool and fur industries and the results under the labeling acts in these fields have been gratifying.
>
> However, in the absence of such need the protection afforded under section 5 of the Federal Trade Commission Act—

and interjecting at this point, this is the section I refer to which outlaws misrepresentation in interstate commerce—

> can be applied, as pointed out by the FTC in its testimony before your committee on H. R. 1998. In the same testimony the Commission also mentioned that it is now considering certain trade practice conference rules with respect to household furniture which are designed to foster and promote the maintenance of fair competitive conditions.
>
> In view of the above and in light of FTC comments on the legislation, the Bureau of the Budget does not favor enactment of H.R. 1998 at the present time.

I think it is signicant, gentlemen, that in this bill, this bill which allegedly is put forth in the interest of consumers, there is no Government agency which has endorsed or sponsored it. The Bureau of the Budget is flatly against it. The Department of Commerce is flatly against it. The Federal Trade Commission doesn't take any position at all. It describes the legislation and says that more information is needed and more hearings should be held on it.

This is in great contrast to the position the Federal Trade Commission takes when legislation is proposed which it feels is really needed in the interest of the consumer.

Lastly, the Department of Agriculture, which takes no position because this bill is primarily within the purview of the Federal Trade Commission, points out that the information which this bill would require be disclosed; namely, the skin or the surface of furniture, is information which has very little relation to the quality of furniture, that the quality of furniture is determined by such factors as workmanship, dimensional stability, quality of underlying materials, glues, and so on.

With this position of the Government, what is the moving force behind this legislation? There is no secret on that. This is the fifth year this bill has been up. This is the third time we have appeared before this committee, and the moving force has always been the Fine Hardwoods Association which is an association of veneer producers, which is one of the materials which we use in our furniture, and a veneer, as you gentlemen know, is the skin of the furniture, is a piece of wood $\frac{1}{32}$ of an inch thick which goes on the outside of the furniture.

This bill would require the disclosure of just what that skin consists of. It wouldn't require the disclosure of anything else. That more than anything else in my mind dramatizes the special interest nature of this legislation.

It is designed to make the furniture manufacturers and the retailers engage in free advertising for the veneer producers who produce something which constitutes 1/32 of an inch thick going on the outside of the furniture, and they are not content to stop there. They not only require that we say just what is in the veneer, but if something is not veneer, if it is plastic or Formica, which is well known to you gentlemen, which is an affirmative selling point used in selling furniture where you have a table with a Formica top or plastic top or something which doesn't stain, our manufacturers exploit that and emphasize that. We won't be able under this bill to say Formica top or plastic top. We will have to say "plastic top, imitation wood finish," or something of the sort. We can't say what it is. We have to say what it isn't.

I think I have indicated why this bill is special interest in nature. Apart from that, this bill will create very, very serious and burdensome problems to us and that is why we basically oppose it.

Those serious problems arise in the field of raw material control, manufacturing practice, and inventory control with respect to our finished products. Here is why, in oversimplified form, these bills will create very serious problems to us. In the first place, under these bills as a practical matter it is going to be impossible, or virtually impossible, to ues certain types of raw materials, certain types of woods.

Let me give you two illustrations of that: The woods pecan and hickory are woods which are virtually identical. They so resemble each other that even experts can't tell them apart. When the manufacturer orders a carload of hickory he may get a carload of pecan or hickory wood or a combination of both, with no way on earth to know what he is getting.

Under this bill if he sells a piece of furniture and labels that piece of furniture as pecan, he is in danger of misrepresentation if it turns out that there is some hickory in there. What is going to happen is that he is thereafter going to abandon the use of pecan and hickory and use other woods.

Let me give you another illustration which applies primarily to our small manufacturers and also to the small wood producers. The small manufacturers who have very little or no storage capacity for lumber customarily buy their lumber from hand to mouth from small sawmill operators who in turn get their lumber by making a contract with the farmer promising to cut down all the timber on the farmer's tract. This is all cut and it consists of four or five or a half dozen different species. No attempt is made to sort it. It is sold to a furniture manufacturer as mixed hardwoods.

The small furniture manufacturer makes no attempt to sort out those various species. He doesn't care. He doesn't sell his furniture as being composed of particular types of woods. It makes no difference. They are hardwoods and they all serve the purpose.

If this bill goes through he has two alternatives. One is to stop buying those mixed hardwoods from the small sawmill operator and buy them from larger operators at a larger cost, which in turn will have to be passed on the consumer.

The other alternative is to get into a very difficult sorting operation and a very difficult inventory operation and attempt to ascertain just what those various species are and attempt in the production process to keep them earmarked and separated, again a very expensive process.

More fundamentally than that, even if we know the wood we are buying, this bill creates virtually impossible problems for us. The average piece of furniture probably contains three, four, or five different kinds of woods. Some contain as many as 10 different kinds of woods.

You take a simple chair which is produced by a furniture manufacturer. The furniture manufacturer may use in this chair, just to take an illustration, oak and beech, and maple. He will buy those woods, in this illustration, asuming that he knows what they are. He doesn't buy them as mixed hardwoods. He buys them as identified species.

However, he may use that oak and that beech and that maple in any one of three or four different parts of the chair. Sometimes he will have oak in process; sometimes he will have beech in process; sometimes maple in process, sometimes a combination of all those, and as to the particular chair that comes out after it has been finished, there is absolutely no way of telling just what that chair is composed of.

The result of this bill is going to be that these manufacturers are going to have to put in operation, and it is really going to be extremely difficult, if not impossible, a system, one, of inventory control whereby they separate the oak from the beech, from the maple, and other raw materials and then as each piece of furniture is being manufactured and goes through process it is going to have to be labeled or tagged in some way so that when the finished piece emerges you are going to have to be able to try to find out just what that is composed of by virtue of the tags or labels which are put on in the process.

It is going to be a mess, and an expensive one, and as if that isn't enough, we are not only going to have to put on the labels, but when we ship these goods out to furniture retailers, who will have the benefit of these labels, we are going to have to prepare invoices which contain the same information as those labels do, and those invoices will go to retailers, they don't even go to the consumer; and to prepare those invoices instead of, when we get an order to ship out six bedroom suites, as we do now, we ship out as a particular pattern, we are now going to have to send someone down into the factory and that invoice is going to have to be hand prepared and each piece of furniture, they are going to have to take the information from the label and copy it on the invoice as the only way of knowing just what it is they ship out.

As for people putting in automation and billing on IBM machines and so on, they are going to need to use a separate card for every piece of furniture. This is going to be a terrible problem.

Why are we being asked to undergo all this? We are asked to undergo all this at the selfish behest of these fine hardwood producers so they hopefully can sell more of their product.

No Government agency is behind this bill. None has endorsed it; the most important ones have opposed it. I think more fundamentally so far as the public interest is concerned, and apart from the hardship which we are going to suffer and the consumer is going to suffer because of having to pay higher prices, there are these two points which I think you gentlemen should earnestly consider: One, by requiring that every piece of furniture bear this information; namely, what the skin is composed of, the Federal Government has sort of put its sanction, its imprimatur, on these as being significant so far as the quality of furniture is concerned.

If this legislation should ever take effect and the consumer sees that each label tells you what is on the surface of every piece of furniture, the consumer when told by the retailer that the Federal Government requires this couldn't help but think that this is the important thing so far as quality is concerned, whereas actually it is probably the least important thing so far as quality is concerned.

The result will be that the manufacturers who are making furniture of well-made quality, which use good underlying materials, which do use good glues, and so on, will be at the mercy of those who are making cheap pieces of furniture who will decide to use exotic woods on the outside with the thought that the consumer will thereby think that she is getting a good piece of merchandise.

One last point and then I will terminate this statement, and that is this: The Federal Trade Commission would be given authority to enforce this law. I think it is well known that the Federal Trade Commission has a lot of laws on the books now, such as the Federal Trade Commission Act, the Robinson-Patman Act, and many others, which it is enforcing and at best only in a fragmentary way.

It is doing it on a hit-or-miss basis, and this is no criticism of the Commission. It just doesn't have the funds to have any meaningful enforcement.

The Federal Trade Commission came up before the Appropriations Committee of this House earlier in the year and asked for additional money because it was doing such a job which was sporadic and so skeleton, and the most money that it asked for was for additional money for its Labeling Division which enforces the Textile and Fur Labeling Acts.

Half of the additional personnel they requested was requested for that division, and the reason for their request, as indicated in their testimony, was that they were only scratching the surface in attempting to enforce the labeling act and they pointed out the huge difficulties in attempting to enforce any act which has to be enforced at the retailing level all over the country.

In this case they have indicated that it would cost them $500,000 to get this law operating. They have made no statement as to what it would cost to enforce this law after it goes into effect, but it is perfectly clear based upon the history of the Textile and Fur Labeling Act that it is going to cost more and more money each year to enforce this act, if any attempt is to be made to enforce it, and I respectfully submit that, with all the difficulties the FTC is having in getting money out of the Congress, if it is to get any money, it would be much more in the national interest to apply that money to enforce the laws of basic, meaningful, national jurisdiction such as the Federal Trade Commission Act rather than to fritter it away on things of this type which won't do the consumer any good and which are only going to help special interests.

Mr. STAGGERS. Thank you, Mr. Sheriff. Is that the end of your statement?

Mr. SHERIFF. That is the end.

Mr. STAGGERS. Mr. Dingell, do you have any questions?

Mr. DINGELL. No questions.

Mr. STAGGERS. Mr. Keith?

Mr. KEITH. No questions, Mr. Chairman.

Mr. STAGGERS. Mr. Van Deerlin?

Mr. VAN DEERLIN. No thank you.

Mr. STAGGERS. I would like to ask one question.

I noticed you grouped oak, beech, and maple together in manufacture. Are all three of those hardwoods?

Mr. SHERIFF. Yes.

Mr. STAGGERS. Beech is considered a hardwood?

Mr. SHERIFF. Yes. That was simply an illustration. I could have used any three other woods.

Mr. STAGGERS. Thank you.

(Mr. Ryan's statement 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 H.R. 1998 and H.R. 6226, the so-called Decorative Wood and Simulated Wood Products Labeling Act. I do not propose to speak on the five bills which relate to the use of the term "mahogany" since my association has not taken any position with respect to them.

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. We strongly oppose the enactment of these wood labeling bills.

This is my fifth appearance before congressional committees in 5 years to oppose enactment of wood-labeling legislation. In the course of these 5 years these bills have come nearly full circle. The present bills are much more similar to the bills on which hearings were held in the 86th Congress in 1959 and 1960 (S. 1787, H.R. 9310, H.R. 9349, and H.R. 10653) than the bills on which hearings were held in the 87th Congress in 1961 and 1962 (S. 1724, H.R. 1141, and H.R. 1949). The changes made in these bills during the last Congress were designed to eliminate some of the practical difficulties which the earlier bills created. The present bills are therefore a regression toward legislation which is even more restrictive and creates more difficult problems for my industry and others than the bills that were considered during the last Congress.

These bills have been presented under the mantle of "protection of consumers." Support of these bills is supposed to be support of fairness and justice; opposition to these bills, on the other hand, is pictured as a vote in favor of sin. Nothing could be further from the truth. The objectionable portions of these bills are not the prohibitions of deception and mislabeling which are unnecessary since they merely restate section 5 of the Federal Trade Commission Act; the objectionable portions are those which require affirmative and detailed labels and invoices on innumerable products. We oppose fraud, deception, and mislabeling; and yet we also oppose enactment of these bills.

We oppose these bills on the following specific grounds:

(*a*) These bills are special-interest legislation designed to assist the large producers of hardwood veneers and hardwood lumbers in their competitive struggles with nonwood products.

(*b*) These bills if enacted would cause a major upheaval in furniture manufacturing practices, raw material utilization, and inventory control and would necessarily cause an increase in costs and prices.

(*c*) These bills are unnecessary to protect the consumer and are unsound as a matter of principle.

1. Despite the trappings of consumer interest, these bills are special-interest legislation designed to improve the competitive status of the large producers of hardwood veneers and hardwood lumber. The trade association which represents these producers, the Fine Hardwoods Association, is the principal proponent of this legislation.

The basic purpose of these bills, as in the case of earlier versions of these bills, is to require certain materials which are competitive with fine hardwoods to be disparaged on required labels. Many of my members make tabletops, dresser tops and the like out of high-quality plastic laminates. These laminates

are advertised as an affirmative selling point. They are often described as "plastic tops" on labels and in advertising. But, since the tops are wood grained, the last proviso of section 4(2) of these bills would require the additional phrase "simulated grain," "imitation grain" or the like to be added to the label. It is evident that in such situations, since the word "plastic" is used, there is no deception, and the requirement that the word "imitation" or "simulated" be added is intended solely to improve the competitive position of the producers of fine hardwood veneers.

While on the subject of the special interest nature of this legislation, I would like to make one further observation. These bills relate only to the labeling and invoicing of the decorative "skin" on furniture products where the veneers produced by members of the Fine Hardwoods Association are used. There is general agreement that basic quality is not determinable on the basis of the information required to be disclosed by these bills. In this respect, therefore, these bills differ from the textile and fur labeling acts and emphasize the special interest the Fine Hardwoods Association has in having attention focused on the "skin." These bills clearly constitute special interest legislation and should be rejected for that reason. I am sure all of you will agree that Congress should not legislate to penalize a product and favor other competitive products.

2. The burden these bills would place on the furniture manufacturers was dismissed lightly by proponents of the bills.

In his testimony on these bills on June 18, 1963, Mr. E. Howard Gatewood, executive vice president of the Fine Hardwoods Association, stated that he felt these bills might "constitute an undue burden" if the furniture manufacturer "had to name 10 or 12 species and that almost never happens. In most cases it is one species and in other cases it is two species. When you get into inlay * * * I would think that the FTC would not require naming every little square inch of area covered by it." Of course, the burden would not fall on the veneer producers if the Federal Trade Commission ignored Mr. Gatewood's suggestion and refused to exempt wood inlays from the requirements of the act, thus imposing on furniture manufacturers the "undue burden" of labeling 10 or 12 species of wood in some situations. Nor is it possible to take seriously the suggestion of Mr. J. M. Bachrach of the Kenova Hardwood Lumber Co. who testified that "it would be quite simple for [furniture manufacturers] to use [only] one kind of wood in the manufacture of their product."

Neither of these witnesses faces up to the real problems these bills would create for most manufacturers. These bills would require numerous changes in current furniture manufacturing practices relating to the utilization of raw materials and inventory control procedures. The apparently innocuous requirement that each piece of furniture be labeled and invoiced to show the true common name "of the wood actually contained in the exposed surfaces of the decorative wood product" is in fact the imposition of a heavy burden on furniture manufacturers and would create numerous practical problems for them.

One result of this requirement will be to limit manufacturers in some situations in the types of raw materials they may use. Examples of this arise in part because some species of wood are practically indistinguishable from others. Pecan and hickory, for example, are identical in appearance, grain, and color. A carload of "pecan" often actually is a mixture of pecan and hickory. These bills would probably eliminate entirely the use of these desirable furniture woods because of the problems of distinguishing between them. A manufacturer could not use these woods in exposed surfaces in furniture unless it had a guarantee from its supplier; however, the supplier would almost certainly refuse to issue a guarantee that the wood was entirely pecan since a visual test would not disclose the presence of hickory. Other examples involve the current widespread use of "mixed hardwoods" in furniture production. Substantial quantities of locally produced lumber are bought from small sawmill operators who cut at one time all the hardwoods on small tracts owned by farmers or others without designating (or knowing) the particular species of each piece of lumber. Some manufacturers now use mixed hardwoods in exposed surfaces of furniture (particularly in the frames and back legs of upholstered products) without attempting to sort the lumber by species; this practice would be absolutely prohibited by these bills. In such situations, the costs of grading, sorting, and inventorying such lumber may make it more economical in the future to buy known species of lumber from larger sources. Thus one other effect of these bills will be to encourage the sales of the larger lumber and veneer producers at the expense of the relatively small and defenseless "mixed hardwoods" producer. Indeed, when Congressman Long at the hearings earlier this year asked one of the proponents

of this legislation whether it would adversely affect certain lumber producers, the only reply was, "There is enough business in America * * * so that every grower of timber * * * would have a customer."

I might add that the FTC could not handle such problems by the use of the exemptive power contained in these bills. The exemptive power in section 8(b) of these bills is limited to situations involving the "small size or inconsequential character" of the decorative wood or simulated wood product. However, in the above examples the amount of each type of unknown wood may be substantial and the exemption would therefore not be available.

Even where the species of woods being used are known these bills will raise serious problems for virtually every furniture manufacturer I know of. Furniture is a complex product. As Mr. Gatewood testified, as many as 10 different woods may be used in a single piece of furniture and the use of several different types of wood is customary. In much furniture produced today solid woods of differing species are used for such exposed surfaces as corner posts, drawer dividing rails, legs, braces, etc. These solid parts are all stained a single color and will create the greatest difficulties under these bills. For example, in some cases a manufacturer of inexpensive chairs may use exclusively oak, beech, and hard maple lumber but not differentiate between them in the manufacturing process. In a single production run a single part of a chair may be made out of any one of the three woods and specific chairs may contain varying combinations of the three woods. Again, the species of woods used in the solid parts will commonly vary from cutting to cutting or within a single cutting. A manufacturer, for example, may not have enough pecan on hand for an entire cutting and will use pecan in part of the cutting and hackberry in the remainder. Or, in one entire cutting, pecan will be used and hackberry in the next. These changes in wood species are irrelevant after staining and finishing and no differentiation is made between them.

The result is that manufacturers may have apparently identical pieces in inventory which in fact have varying wood compositions in the exposed solid parts. While it might be physically possible to keep track of the exact wood compositions of each piece of furniture made, the problem of labeling would be substantial and the problem of invoicing almost insurmountable. Insofar as labeling is concerned, a flexible tagging procedure would have to be developed so that each piece of wood is labeled before finishing and individual labels would probably have to be hand prepared when the piece is completed.

Preparation of proper invoices would be even more difficult. Additional records would have to be maintained showing the exact composition of each piece of furniture in inventory. An entirely new procedure would have to be set up to identify which specific piece is being shipped to fill each specific order. The number of records and the expense of maintaining complete records may be increased manifold. If tabulating equipment is used, it might be necessary to maintain a separate card on each piece of furniture in inventory. These additional costs would be called for even though the invoice requirements of these bills on their face appear to serve no purpose. These bills would require the furniture manufacturer to include on each of its invoices the same information that appears on the required labels on the product itself. However, the ultimate consumer will never see these invoices, and retail invoices are not required to contain the same information. No explanation has been offered by proponents of these bills as to why detailed invoices are necessary if they are never going to be seen by the ultimate consumer.

3. I would like to turn now to a discussion of the apparent "need" for this legislation. I believe that these bills are not needed to protect the consumer. I will consider first the views of the governmental agencies concerned, and second, the arguments presented by the active proponents of the legislation.

It is significant that not a single Federal agency or department is supporting this legislation. In particular, the Bureau of the Budget, which has responsibility for coordinating the views of the various executive agencies, has stated that it does not favor enactment of H.R. 1998 since "extensive regulation and burdensome labeling and recordkeeping requirements upon the industry should be avoided unless a specific need exists."

The Federal Trade Commission is the Federal agency directly concerned with preventing deceptive practices to consumers in interstate commerce under section 5 of the Federal Trade Commission Act. A reading of Chairman Dixon's testimony relating to these bills on June 18, and the Commission's letter to the committee dated July 5, 1963, make it clear that the Commission is not convinced of the need for this legislation. Chairman Dixon's prepared statement and the

Commission's letter make no recommendation at all with respect to these bills other than a statement that "it is believed that such practices (in the nonfurniture field) should be made the subject of inquiries and hearings before a final determination is made regarding the need for the proposed legislation." This is hardly the firm unequivocal support which the FTC gives to bills which it considers clearly necessary to protect the public interest. When pressed by Congressman Curtin, Chairman Dixon expressed his own personal approval of the bills, but stated in substance that he feels that any mandatory labeling legislation "that is not oppressive or is not idly conceived, would be beneficial to the consuming public." Specifically, Mr. Dixon put these bills in the same category as the "truth-in-packing" and "truth-in-lending" bills. Chairman Dixon's reference to the question whether these bills would be oppressive should be considered in the light of my previous comments.

It is significant also, I think, that the other Government agencies commenting on these bills either oppose these bills or take no position with respect to them. For example, the Department of Commerce in its letter of July 30, 1963, opposes this legislation on the ground that "we know of no evidence of widespread consumer deception nor of need for the labeling of all decorative woods or simulated wood products. * * * Rather than impose on the industry a considerable burden, without evidence of an urgent need for additional Federal legislation, we would recommend against favorable action on the bill * * *." The Department of Agriculture, while making no recommendation on the bill in its letter of July 16, 1963, comments that "properties other than surface appearance often are of greater importance in determining the suitability of a product for a specific use."

Several proponents of these bills also quoted from President Kennedy's special message to Congress last year dealing with the protection of the consumer interest as showing a need for this legislation. In my mind this message strongly supports the contrary view that this legislation is not necessary. In this message the President asked for adoption of several controversial bills pending at the time relating to drugs, "truth in lending," "truth in packaging" and other matters affecting the consumer. Conspicuously absent from this list were the wood-labeling bills which were also pending at the time. Apparently, the President did not consider the enactment of this particular legislation to be necessary to protect the consumer interest. The opposition of the Bureau of the Budget to this legislation also demonstrates that the administration does not think that this legislation is necessary to protect the consumer.

Finally, the position of the better business bureaus is of interest. At the hearings held in June on these bills, Mr. Kenneth B. Willson, president of the National Better Business Bureau, testified exclusively on the mahogany bills. Apparently the National Better Business Bureau does not consider the wood labeling bills to be necessary to promote truth in advertising. In the same connection, a witness favoring the bill referred to an article in the June 18 Washington Evening Star which stated that in terms of business complaints in the District of Columbia, the furniture industry ranked sixth, behind radio and television sales and servicing, magazine sales, apparel, home improvements, and appliance sales and service. There is no reason to believe that the furniture complaints referred to relate to deception as to the surface composition; as a matter of fact, in my experience most of such complaints usually relate to price, quality, credit terms, and the like. And even if it were assumed that the complaints came within the purview of this bill, at best this report would indicate that there are at least five other industries with more serious consumer complaint problems than the furniture industry. This report also indicates that labeling legislation does not solve consumer complaint problems since the apparel industry which is third on the list is already subject to the textile and fur labeling legislation.

I would like to turn now to the arguments made by the active proponents of the bills. In my judgment, these proponents have also failed entirely to show any need for this legislation. Most of their testimony and the retail ads submitted by them consist of actual misrepresentations of the product. Similarly, before the Senate committee last year, the proponents used as their principal exhibit a small piece of furniture containing no walnut which was falsely labeled "solid walnut." I deplore such deception and such ads as much as anyone, but such deception to the extent it exists provides no real basis for support of this legislation. The Federal Trade Commission has ample authority to prevent actual mislabeling in interstate commerce.

The Commission is now in the process of promulgating trade practice rules under its present authority relating to the same subject as this proposed legislation, and even the proponents of these bills agree that these rules cover much the same ground as the proposed legislation. Perhaps in anticipation of this comment, the proponents stated that these bills were necessary since most of this deception begins at the retail level and the FTC has no jurisdiction at this level. Of course, this argument could be applied to every other industry as well as to the furniture industry and would thus justify a labeling bill covering the entire economy. Further, State organizations do exist to prevent consumer fraud. In response to questions from Congressman Long, Mr. Gatewood admitted at the hearings last June that the Fine Hardwoods Association has never attempted to utilize such agencies but has "pinned their hopes on passage of the Federal bill." This statement places the proponents in the somewhat difficult position of arguing that deception at the local level cannot be prevented except by these bills and yet admitting that they have never attempted to have State organizations created for precisely this purpose, try to prevent such deception.

Nor can the need for this legislation be shown on the theory expressed by some proponents that the disclosure of the information called for by these bills is helpful to the consumer. In the first place, the required labels are going to be extremely complex and probably not particularly understandable or helpful to consumers. More basically, quality in furniture is determined by such things as workmanship, quality of materials used and the dimensional stability of the design, not by the factors required to be disclosed by these bills. As a matter of fact, the emphasis placed on the skin of the product by these bills may cause a consumer to mistake lower quality furniture for higher quality furniture. I do not think the Government should require the labeling of part of a product which bears little or no relation to quality, as these bills propose to do.

Indeed, it would take the most compelling show of public need to justify enactment of legislation which would require the labeling of every piece of furniture sold in this country in accordance with specific rules and future regulations of the FTC. These bills extend the reach of the Federal Trade Commission down to the smallest "mom and pop" retail furniture store in the Nation. As a matter of fact, one of the suggested FTC amendments to these bills would dictate the precise information required to be on the retail invoice or sales slip on most of the 60 million retail furniture transactions which take place every year in the United States.

There is a serious question whether such a broad power should be granted to any Federal agency. It is true that the Federal Trade Commission now has such power in the case of textiles and furs; but should such broad power be extended? The passage of the wool-labeling act and the fur-labeling act were cited as precedents for the general-textile-labeling act. These acts are now being cited as precedents for the wood-labeling act. Undoubtedly tomorrow, if these bills were enacted today, this legislation will be cited as a precedent for other mandatory labeling bills—perhaps shoes, automobiles, appliances, and who knows what else.

I would think that good sense would dictate that this trend should cease at some point. There is a tendency now to look always to the Federal Government to solve all problems. This tendency necessarily has the effect of causing State and private agencies, which otherwise might be able to meet the problem being complained of, to wither away. Perhaps an indication of this trend is Mr. Gatewood's statement that the proponents of this legislation have pinned their hopes on the passage of this legislation and have ignored the possibility of meeting the deception complained of by utilizing the State-created consumer fraud bureaus. Certainly, this trend should not be extended to an industry such as this where—as here—there has not been a showing of a strong and compelling need for this legislation.

This is particularly true when the Federal Trade Commission lacks the personnel to enforce effectively the laws it already administers. It is well known that the Commission has a huge backlog even though its enforcement endeavors under existing laws are sporadic and fragmentary. The substantial additional personnel required to enforce this bill could much better serve the public interest if utilized to enforce the laws already on the books.

The Federal Trade Commission itself has estimated that the cost of administering these bills would be $500,000 in the first year alone. I have serious doubts that such an expenditure would result in a significant compliance with these bills.

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. There were almost 30,000 retail furniture establishments. Most of the 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. In an industry such as this, full compliance with these bills will certainly not be automatic or easy to obtain.

Experience indicates that labeling laws are not self-enforcing but require a substantial and ever-increasing staff if they are to be enforced. At the present time the Commission is seeking increased personnel for the Bureau of Textiles and Furs for stepped-up enforcement of the labeling laws. Of the 71 new nonenforcement personnel requested by the FTC, 35 are to be assigned to this Bureau. If this proposed legislation were adopted, a similar pattern of staff increases could be expected.

I believe my testimony has shown that these bills are not needed; they are not sound; they should not be enacted.

This concludes my statement. Thank you.

Mr. STAGGERS. Mr. Victor R. Marsh. Mr. Marsh, it looks as though you came well armed. Will you identify yourself for the record and proceed?

STATEMENT OF VICTOR R. MARSH, VICE PRESIDENT IN CHARGE OF MARSH WALL PRODUCTS DIVISION, MASONITE CORP., DOVER, OHIO

Mr. MARSH. Chairman Staggers, Mr. Van Deerlin, Mr. Dingell, all Congressmen, and Congressman Keith, I am Victor R. Marsh. I am vice president in charge of the Marsh Wall Products Division of Masonite Corp., Dover, Ohio, and I appear on behalf of my company in opposition to H.R. 1998 and related bills, the so-called decorative wood and simulated wood products labeling legislation.

First of all, my statement isn't as long as it seems to you. Half of it is an appendage that will not be read, but I would like to have it included.

Mr. STAGGERS. Fine.

Mr. KEITH. When you talk about related bills, are you referring to H.R. 5669?

Mr. MARSH. We are primarily interested in H.R. 1998 and the so-called decorative wood and simulated wood products. That is our principal interest. To help you understand our products and advertising, literature, and catalogs, I have some samples here of the products that we are talking about.

These are hot pads, and after you use them for your purpose you can take them home and give them to your wife to put on the table to save the furniture.

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 owner 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 Masonite 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.

Masonite now manufactures and sells a line of hardboard panels with wood-grain finishes known as the Masonite Royalcote line. These wood-grain patterened panels, that are factory finished on Masonite hardboard, come in a number of decorator colors of cherry, walnut, and other wood-grain patterns, in random grooved, ungrooved, and perforated styles. Its advertising and sales promotional literature has always pointed out that these are factory-finished panels of hardboard.

The Marsh Wall Products Division grew out of the Marsh Lumber Co. of Dover, Ohio, a producer of hardboard lumber and lumber products. The Marsh Lumber Co. has been in business for 48 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. This year it was merged into Masonite.

Marsh Wall Products manufactures exclusively plastic-finished panels and accessories. Our panels consist of Masonite hardboard panels processed by my division in a variety of decorative designed panels, with a high-heat-baked, melamine-type plastic finsh, which gives the product an attractive, soilproof, durable, easy-to-clean surface.

The base materials of our panels has always been a Masonite hardboard which is an all-wood-panel product. 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 which we manufacure.

Our line of plastic-finished panels includes a great many kinds of decorative designs, such as star patterns, butterfly patterns, a sample of which you have here, abstract patterns, patterns of various kinds of marbles, a sample of which you have in your kit, 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, a copy of which you have, illustrates many of these basic kinds of patterns, of which the wood-grain patterns are considerably in the minority.

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 "Mirrowood" for the last several years to describe a high polished, mirrorlike type of plastic-finished panel with a wood-grain design, used for table and furniture tops.

More recently, we have used the registered trademark "Trend-wood" 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 four our Marlite.

They have evaluated and suggested many colors, patterns 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 baked-on melamine-type plastic design and finish.

We have been unable to use fine hardwood veneers in our process because they will not stand the baking. 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, 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.

Perhaps the best evidence of the complete lack of any deception or misrepresentation with respect to our products that bear wood-grain designs is the fact that in 26 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.

The proponents of this legislation, that perennially espouse its need to protect the public, invariably present advertisements proposedly showing that the public is deceived by advertising claims regarding furniture that does not contain fine hardwood veneers.

I am pleased to again show this committee the kind of advertisements that the general public across the country sees regarding furniture embodying our product.

This advertising demonstrates beyond doubt that no buyer or member of the public is confused over what he is buying. In fact, what the consumer understands is the nature of our product, and the meaning of our trademarks can perhaps best be determined by continuing the analysis of the advertisements of well-known department and furniture stores across the country in describing furniture incorporating our Marlite plastic-finished panels that I have referred to in my prior testimony before this committee.

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 several years, and I will just read a few to bring it up to date.

February 27, 1963, Joske's in the Light, San Antonio, Tex., a fine store:

Two-drawer desk with Marlite top in walnut or blond wood grain finish or steel frame.

Another on October 3, 1963, from the Plain Dealer, Cleveland, Ohio:

Sterling Lindner tables. No-mar-top table value. Smartly styled with Marlite plastic tops; scratch and stain-resistant. Blonde, walnut or mahogany finish with brass-tipped legs.

From the Los Angeles Times, December 7, 1962, Bullock's tables.

Brass-plated hostess cart, with 2 Marlite alcohol-proof shelves in walnut finish.

From Gimbels, Herald Tribune of December 9, 1962, New York City:

Modern student desk has big 20 by 40 stain-proof Marlite top. The smart wood-grained top won't stain or scratch, will clean easily with a damp cloth.

Another one from the Times in New York City, T. 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.

And there is a whole bunch of them here that you can read over that have appeared in these papers.

And this is very important. 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 in any way.

These consumer ads of furniture with wood-grain designs and colors incorporating our products reflect 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 of publication of these ads until we received copies of the actual ads. Moreover, we have no program of cooperative advertising. They pay the entire cost of the ads.

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 hardboard with various patterns including wood-grain designs, such as our Marlite plastic-finished wood panels, which clippings I have available for the committee's 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:

> 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.

In order that there may be no questions 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, and for your convenience I have underscored the literature and the catalogs showing where reference has been made to the wood and wood design and how we have explained it.

My company was a pioneer in the development of plastic-finished panels, which are not only attraction and beautiful, but can be easily erected, cleaned and maintained. Our business of 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 standings, CS 176–58, covering prefinished hardboard wall panels.

Testimony and exhibits presented to this committee in the past concerning this legislation have been focused on our products and our company. That is why I am making specific reference to our products.

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.

While this bill purports to be different from prior wood-labeling legislation and to follow a draft of bill prepared by the Federal Trade Commission, significantly it contains the same basic discrimination in favor of fine hardwood veneer and against other furniture materials as did the preceding bills.

This is graphically shown in the fact that the bills would not require the label to reveal the kind of wood involved in the plys under the veneered or plywood surface.

That is to say, as the bill is now drawn there is no requirement that the underplys be revealed, although in all other instances the character of the underlying material would be required in the label.

Nor would it require that invoices at the retail level—where the supposed deception takes place—as does the existing labeling law, and as the Federal Trade Commission believes is necessary for effective enforcement.

As a producer of plastic finished panels and also being closely associated as a principal owner and officer of one of the largest hardwood-lumber-producing companies in Ohio which also produces 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" wood.

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 wood as the exclusive property of the fine hardwood veneer people.

It would be absurd and unfair to the public to permit this 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 like its predecessors would discriminate against all materials other than fine hardwood veneer and softwoods by compelling them to be labeled as to composition, but would exempt the same materials when they are camouflaged by a paper thin $\frac{1}{64}$- or $\frac{1}{28}$ inch hardwood veneer which serves as a decorative cover.

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 1/64- or 1/28-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.

Many in this room will recall the fact that when veneers were first used in furniture and similar products they were considered to be a camouflage or coverup of inferior materials—to superficially change the complexion of the real article. Even now Webster's defines veneer to mean:

> A thin sheet of a material; a layer of valuable or beautiful material for overlaying an inferior one, especially such a thin leaf of wood to be glued to a cheaper wood. * * * superficial or meretricious show; gloss.

Historically, those using veneers have been actually deceiving the public by making something appear to be what it is not. For example,

at the prior hearings before this committee on this legislation the veneer people have contended that anything on which a paper-thin walnut veneer is placed can be adverstised and sold as a walnut desk. What a terrible example of misrepresentation.

And these are the very people who would lead this committee to believe that the public is being fooled or misled to the extent that Congress should step in and take action against all other competitive materials which might replace veneer as a surfacing material. This would be a cruel hoax.

I mentioned at our prior hearing Congressman Curtin asked a manufacturer:

If you would place a 1/28- or 1/64-inch piece of veneer on any kind of a piece of wood structure you could call it a walnut desk?

And the man said, "Yes." That would mean that you could place a 1/28– or 1/64-inch piece of walnut veneer over a piece of cheese and call it a walnut desk. That is how ridiculous this is.

The veneer is only "skin deep" and required 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.

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.

I would like to show you what I mean there. With your permission, I would like to have you look at this and tell me what it is. This could be, to look at it, a piece of roofing or a piece of an old boot or what not.

It is black. They said that it was walnut, because I bought it and it was manufactured by Stowe-Davis. I bought it to put in my office and here is a picture of my office, incidentally, with the black furniture. It is suppose to be covered with this.

The walls, of course, are Marlite trimmed wood, but this is a sample of what they call walnut that I say they distorted, and I am putting a match to it. You will see on that that the finish is completely ruined.

They sold that to me for walnut and I am sure it is walnut. I burned my fingers, but I am willing to do that if it will show you what we are talking about. I will put a match to a piece of our Marlite with no effect. You will see by the two samples this is fine hardwood veneer that was sold to me for a piece of walnut.

As I say, it has been distorted beyond recognition. You would not know it is a piece of wood at all, so, after all, that might be a sin, too, if you take a fine piece of wood and then change the complexion like that.

These same decorative effects are available in other fine materials, such as our Marlite patterns and finishes, samples of which you have, 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 underlaying materials, but to virtually exempt the same underlying materials. if covered by their product—a playing-card-thin, 1/64-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.

A further indication that this legislation is designed for the benfit 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, the National Association of Retail Lumber Dealers, and a host of other manufacturers, wholesale, and retail associations, all of whom themselves, and in turn the public, 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 1/64-inch or 1/28-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.

I couldn't help but think while Mr. Sheriff was talking about this terrific burdensome labeling, if you would put everything on that furniture label, Mr. Sheriff, that you would need to tell what was in it, you could wrap your furniture in it. That might be an advantage. I am not so sure about that.

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 bookcovers to vacuum cleaners, as well as wall panels.

The best estimates from the Federal Trade Commission indicate a cost of $500,000 to get the program of enforcement underway, and $1 million a year thereafter to enforce this unnecessary legislation. I think taxpayers generally would rebel if they knew they were being asked to carry such an unnecessary 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.

This is the sixth hearing of House and Senate committees on this type of legislation, only one of which to date has ever resulted in a bill reported out of committee, and no floor action was ever taken on that Senate bill.

Many of the opponents of that legislation were unaware that such a hearing was being held and had no opportunity to be heard. The question which these circumstances raise in the minds of many is why important congressional committees should be called upon repeatedly and apparently endlessly to spend their valuable time considering such trivial and unnecessary legislation as this bill represents.

And I think this is very important, gentlemen, and I want to start this paragraph again. The question which these circumstances raise in the minds of many is why important congressional committees should be called upon to repeatedly and apparently endlessly to spend their valuable time considering such trivial and unnecessary legislation as this bill represents, when our country has so many weighty problems needing the undivided attention of you important Representatives who are expected to guide the destinies of our great Nation.

Mr. DINGELL. Mr. Marsh, let me agree with you right there.

Mr. MARSH. I hope you agree with a lot of the things. This is extremely important not only to this group, but to the country at large that we follow different policy.

Another thing, if we manufacturers and merchants and businessmen are kept busy preparing for and attending hearings in Washington or sticking labels on our products, who is going to tend the store to create the tax money to support all of the more important bills you Congressmen must pass?

I think it is ridiculous. So many people have to come down here on things that are unimportant and make great preparation and then appear before committees on things that are so unnecessary.

This bill, H.R. 1998, is unnecessary and expensive. I do not think the taxpayers would appreciate being handed another $1-million-a-year bill tax just to see the whims of one special-interest group. There is no need for this bill and we hope this committee will issue an unfavorable report.

I do want to thank this committee for their attention and for the privilege of appearing before your committee.

(The appendix referred to follows:)

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 services]

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Feb. 20, 1963: Record, Hackensack, N.J.	Hostess House: Tables	Marlite top folding tables: White marble pattern table tops resist alcohol and all stains.
Feb. 27, 1963: Light, San Antonio, Tex.	Joske's: Desk	2-drawer desk with Marlite top in walnut or blond wood grain finish over steel frame.
Mar. 10, 1963: Star, Washington, D.C.	Woodward & Lothrop: Tables.	Folding tables: Tables have a black matte finish and an array of striking designs to complement your room setting. All have stain and alcohol resistant Marlite tops.
Apr. 2, 1963: Daily News, New York City.	Sachs Quality: Chairs	7-piece lounge group: 3 plastic-topped walnut-finished tables, and pole lamp with attached Marlite plastic top table complete this 7 piece group.
June 18, 1963: Newsday, Long Island.	Abraham & Straus: Tables.	5-piece tray table set in decorative eagle design: On teak or black finish. Set includes 4 tables with wipe,clean Marlite tops. Choose handsome eagle motif in rich gold color on mahogany or black finish.
Aug. 6, 1963: New York World-Telegram, New York City.	Fortunoff's: Desks	Desks with Marlite tops: Marlite plastic surface resists alcohol, heat, juices . . . takes years of wear, minutes of care. Wood grain finish over rigid steel frame.
Sept. 29, 1963: Herald Tribune, New York City.	Bloomingdale's: Tables	Hostess folding tables: In black or teak finish with gold-color-line bordered Marlite top that wipes clean, is alcohol resistant.
Oct. 3, 1963: Plain Dealer, Cleveland, Ohio.	Sterling Lindner: Tables.	No-mar top table value: Smartly styled with Marlite plastic tops: scratch and stain resistant. Blond, walnut, or mahogany finish with brass-tipped legs.
Oct. 10, 1962: Mirror, New York City.	Macy's: Desk, bookcase.	Extra large walnut-finish desk with mar-resistant surface: Walnut-finished Marlite plastic top resists stains and scratches; useful from grade school through college in any room. Sliding glass door bookcase: Sturdy Marlite plastic top resists scratches and stains.
Oct. 26, 1962, Times Herald, Dallas, Tex.	Titche's: Desk	Plastic top table desk: Practical scratch-resistant and stain-resistant Marlite plastic top. Blond or walnut finish.
Nov. 11, 1962, Mirror, New York City.	Abraham & Straus: Desk.	Oversize double desk: Plastic Marlite surface is extra sturdy, resists stains, heat, chips . . . and it looks like hand-rubbed walnut.
Nov. 25, 1962: Chronicle, Houston, Tex.	Battelsteins: Tables	Foldup tables with marblelike tops: Topped in beautifully realistic, marble-patterned Marlite that's heat and spill proof.
Nov. 26, 1962: Times-Union, Rochester, N.Y.	Edwards: Desk	Giant 47-inch Marlite top desk: A practical Marlite plastic surface that resists stains, and takes years of wear with a minimum of care.
Dec. 7, 1962: Times, Los Angeles, Calif.	Bullock's: Table	Brass-plated hostess cart: With 2 Marlite alcohol-proof shelves in walnut finish.
Dec. 9, 1962: Herald Tribune, New York City.	Gimbels: Desk	Modern student desk has big 20 by 40 stainproof Marlite top: The smart wood-grained top won't stain or scratch; will clean easily with a damp cloth.
Dec. 10, 1962: Daily News, Washington, D.C.	Woodward & Lothrop: Tables.	Set of 4 handcrafted folding tables with wooden stand and Marlite tops: Greek key gold color border design on black. Set of 4 decorator-designed folding tables with wooden stand and Marlite tops: Fleece patterns, gold color marble style veining on white, with black racks.
Feb. 10, 1963: Star, Washington, D.C.	Woodward & Lothrop: Record table.	New record storage: Walnut color Marlite finish resists burns and stains.
Feb. 17, 1963: Long Island Press, Jamaica, N.Y.	Gertz: Desk	Giant 47-inch desk: Marlite plastic surface resists alcohol, heat, juices . . . takes years of wear, minutes of care.
Sept. 16, 1962: Daily News, New York City.	do	Full 45-inch desk: Marlite plastic surfaces that resists alcohol, heat, juices, and takes years of wear, minutes of care.
Oct. 3, 1962: Daily News, New York City.	Gimbels: Desk	Student desk with 20- by 40-inch stainproof Marlite top: Beautiful wood-grained top won't stain or scratch; cleans easily with damp cloth.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design—Continued

[Obtained through newspaper clipping services]

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Apr. 2, 1963: Kentucky New Era, Hopkinsville, Ky.	Jordan's: Tables	Smart new tables with wear and burn-resistant Marlite tops: Finished with durable Marlite that seals out dirt, grease, and moisture for a lifetime of beauty and wear . . . a beautiful and practical surface. Resistant to scuffs, scratches, burns, stains.
May 6, 1962: Times, New York City.	Gimbels: Tables	Snack tables: White and gold marbleized design. Heat, stain, and alcohol resistant Marlite top.
Aug. 26, 1962: Daily News, New York City.	Gertz: Desk	Giant 47-inch desk . . . Marlite top: Marlite plastic surface resists alcohol, heat, juices . . . takes years of wear, minutes of care.
Aug. 19, 1962: Star, Washington, D.C.	The Hecht Co.: Desk	2-drawer desk with stain, mar resistant Marlite top: Wood-grained Marlite top that resists scratches, stains, even alcohol.
Aug. 28, 1962: News, Philadelphia, Pa.	Gimbels: Desk	Metal desk with no-mar wood-grained Marlite top: Desk top looks like walnut, yet can't scratch, stain, scorch.
Sept. 2, 1962: The New York Times, New York City.	B. Altman & Co.: Tables.	Artex snack tables: Party and serving tables with hardwood frames and legs, decorated tops of alcohol-resistant Marlite wipe clean with a cloth. Black with gold border.
Sept. 6, 1962: Washington Post, Washington, D.C.	The Hub: Desk	Marlite plastic top desk: Heat and stain resistant Marlite top in attractive walnut color.
Sept. 9, 1962: Daily News, New York City.	Macy's: Desk	Macy's deluxe desk: Simulated walnut finish with Marlite top. Resists scratches and stains.
Sept. 11, 1962: Plain Dealer, Cleveland, Ohio.	Sterling Lindner: Tables	No-mar top table: Marlite plastic tops that are scratch and stain resistant.
Feb. 12, 1962: Plain Dealer, Cleveland, Ohio.	do	No-mar top tables: Marlite plastic tops that are scratch and stain resistant. Blond, walnut, or mahogany finish.
Mar. 4, 1962: Daily News, New York City.	Gimbels: Tables	Space-saving tables: Walnut finished wood with white marproof Marlite tops.
Apr. 1, 1962: Herald-Tribune, New York City.	B. Altman & Co.: Artex snack tables.	Artex snack tables: Party and serving tables . . . alcohol resistant Marlite tops, in lustrous black or mahogany finish.
Feb. 18, 1962: Mirror, New York City.	Gimbels: Portable bar, serving and stack tables.	Walnut-finished bar has heat and stain resistant Marlite shelves. Shelves of walnut grained marproof Marlite. Walnut finished wood with white marproof Marlite tops.
Feb. 16, 1962: Herald, Miami, Fla.	Burdines: 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.	Gimbels: Stack tables	They're designed of walnut-finished wood with white marproof Marlite tops.
Jan. 21, 1962: Daily News, New York City.	Macy's: Student's desk; mar-resistant walnut or maple finish.	Tough, walnut- or maple-grained Marlite. Marlite plastic top resists scratching and stains.
Jan. 7, 1962: Daily News, New York City.	Gimbels: Desk with stainproof 20 by 45 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.	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 & 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.
Do	Lansburgh's: Desk ensemble.	With stainproof plastic top of beige wood grain.
Do	Lansburgh's: Desk	Wood grain Marlite top resists scratches, stains; even alcohol. The finish is avaliable 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.	Sterns: 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.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design—Continued

[Obtained through newspaper clipping services]

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Dec. 6, 1961: Item, Lynn, Mass.	Goldbergs: Modern tables.	They're fine tables with Marlite plastic tops that resist stains or scratches. Blond, mahogany, or walnut finish.
Nov. 20, 1961: Press, Grand Rapids, Mich.	Wurzburgs: Marlite top desk.	Marlite top resists wear, stains. Walnut, blond, 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 oak 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.	Shillito'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.	Snellenburgs: Desk	Mar-resistant wood-grained Marlite top.
Oct. 26, 1961: News, Washington, D.C.	York Furniture: Tables	Beautiful Marlite plastic tops. Easy to clean; unharmed by juices, alcohol, or boiling water. Your choice of walnut, mahogany, or sandwich finish.
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.	Gimbels: Stainproof Marlite top.	Tough, wood-grained Marlite plastic won't stain, scratch: cleans easily. Walnut, maple or limed oak finish.
Oct. 1, 1961: Post & Times Herald, Washington, D.C.	The Hecht Co.: 2-drawer desk with stain- and mar-resistant Marlite top.	Wood-grained Marlite top resists scratches, stains, even alcohol. Simulated walnut or limed oak finish.
June 25, 1961: Vindicator, Youngstown, Ohio.	Strouss Hirshbergs: Pedestal tables with Marlite tops.	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.	Marlite tables: Morgan & Lindsey.	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. Stainproof.
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 blond finish, 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—Continued

[Obtained through newspaper clipping services]

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
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.	Lits: Mar-resist desk	Wood-grain Marlite top resists stains, etc. Walnut or blond finish.
May 17, 1961: Register Guard, Eugene, Oreg.	Rubensteins': 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. Marproof 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.	Lits: 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.	Gimbels: Student desk	Student desk with marproof 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.
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 blond 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 blond finish with brass-tipped legs.
Jan. 29, 1961: Herald Tribune, New York, N.Y.	Gimbels: Student desk	20- by 45-inch marproof 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- by 20-inch wood-grained Marlite top resists scratches and stains. Mahogany or walnut finish.
Jan. 12, 1961: Long Island Press, Jamaica, N.Y.	Newberrys: Occasional tables.	Modern tables with no-mar tops: Sleek contemporary design tables with marproof Marlite wood-grained tops. Blond, mahogany, or walnut finish.
Jan. 11, 1961: Post, New York, N.Y.	Gimbels: Desk	20- 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: Inquirer, Cincinnati, Ohio.	Rollman's: Occasional tables.	Stainproof, heatproof, 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.	Gimbels: Desk	Large student desk has scratchproof Marlite top Wood-grained Marlite plastic top won't stain or scratch. Provides plenty of work space. In 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—Continued

[Obtained through newspaper clipping services]

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
Dec. 14, 1960: Press, Binghamton, 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 Bros.: Desk	Full-size desk with gleaming marproof Marlite top and handy reversible drawer: Genuine Marlite high gloss wood-grained top is marproof. Blond or walnut finish.
Nov. 3, 1960: News & Times-Post, Port Washington, N.Y.	Newberrys: Occasional tables.	Modern occasional tables: Sleek contemporary design. Marproof Marlite wood-grained tops. Blond, mahogany, or walnut finish.
Nov. 2, 1960: Newsday, Garden City, N.Y.	do	Do.
Oct. 30, 1960: Post & 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.	Gimbels: Desk	Student desk, wood-grained marproof Marlite top, 2 drawers: Contemporary design in walnut or limed oak finish, brass trim and no-mar top.
Mar. 20, 1960: Bulletin, Philadelphia, Pa.	Stern's: Modern or traditional tables.	Marlite plastic surfaces: Traditional tables in mahogany finish. Marproof 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. Blond, mahogany, or walnut finish.
Mar. 20, 1960: Daily News, New York, N.Y.	Gimbles: Desk	Versatile desk is extra sturdy. Has marproof 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 blond finish.
Mar. 13, 1960: Inquirer, Philadelphia, Pa.	Snellenburgs: 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.
Mar. 12, 1960: News-Virginian, Waynesboro, Va.	Newberrys: Modern 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.
Mar. 6, 1960: Bulletin, Philadelphia, Pa.	Stern's: Modern tables	Marlite top modern tables: Scratch proof, 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. Blond, 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.

Direct quotations from representative advertisements of department and furniture stores of wood-grained furniture and articles using Marlite wood pattern or design—Continued

[Obtained through newspaper clipping services]

Date, newspaper, and city	Advertiser and article advertised	Description in text of advertisement
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.
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 limed oak finish.
Jan. 10, 1960: Long Island Press, Jamaica, N.Y.	Gertz: Desk.....	Spacious 47-inch desk with marproof wood-grained plastic top: Plastic top resists burns. Stainproof, scratchproof. Won't chip or peel. Choice of limed 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. Limed 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. Limed oak, mahogany, or fruitwood finish.
Jan. 3, 1960: Inquirer, Cincinnati, Ohio.	Rollman's: Occasional tables, desk.	Stainproof, heatproof Marlite top tables: Smart occasional table with wood-grain finish in mahogany or limed 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 limed oak or walnut finish.

Mr. STAGGERS. Thank you, Mr. Marsh.

Do you have any questions, Mr. Dingell?

Mr. DINGELL. No questions, Mr. Chairman.

Mr. STAGGERS. Mr. Van Deerlin?

Mr. VAN DEERLIN. No. I think we should inform the witness that we have conducted our own separate trial by fire up here and your tests have held up.

Mr. STAGGERS. Mr. Marsh, I want to ask you this. When you sell this Marlite you have to have it identified, do you not?

Mr. MARSH. Yes. It is identified. We put the name on the back of it and we identify the samples and a lot of the material with labels as you see them on these little hot pads which you have.

Mr. STAGGERS. I understand that. When it is sold as furniture, though, doesn't it say on there that it has a Marlite top on it?

Mr. MARSH. Not necessarily. We furnish, as I said in my testimony, millions of labels to those who wish to place the label on the furniture, and they do, but it isn't mandatory that they do so. It is up to the manufacturer.

Mr. STAGGERS. Could you tell me the comparison in cost now of this Marlite and this, as you say, walnut?

Mr. MARSH. Well, did you look at the picture of my office?

Mr. STAGGERS. Yes.

Mr. MARSH. I will tell you I had to hold on to the chair with both hands when I got the bill for that furniture that was finished with this so-called walnut. I didn't know it was walnut. Well, I knew it was walnut because they told me so, but it was considerably more expensive.

Now our products, Marlite products, serve a different function and they need no finishing when they are put on the wall, which would entail, of course, building more costs into the product; but, strangely, as it works out our products are very competitive with anything of this nature in the way of a fine hardwood veneer surface against our Marlite surface.

In furniture it represents a considerable saving to the manufacturer because of the flexibility and the ease of handling, and then when it goes on to the consumer it represents a terrific advantage because the consumer doesn't need to worry about setting a liquor glass on it, dropping a cigarette on it, or what not. It just wipes off. Yet, it sells a lot cheaper.

Mr. STAGGERS. Shouldn't a consumer be told what he is getting?

Mr. MARSH. He is being told. In my testimony, Congressman Staggers, I mentioned what the consumer is being told by these stores in these advertisements. This whole appendage is about 15 pages, covering from 1960 on, and every one of these descriptions are lifted right from large ads.

Mr. STAGGERS. You wouldn't have any objection then if Marlite would be put on every piece of this being sold, would you?

Mr. MARSH. I wouldn't have a bit of objection; I would encourage it.

Mr. STAGGERS. You think that the consumer shouldn't be told if it is Marlite; that it is a better product.

Mr. MARSH. We have absolutely no objection and that is why we furnish these millions of labels to the manufacturers to place on the pieces if they so desire.

Mr. STAGGERS. I am not expressing myself one way or another, for this bill or against, because we have to weigh all the evidence, but if I go to the store and expect to buy some oak furniture and I get some pine or some poplar, then shouldn't I have a legitimate kick?

Mr. MARSH. You certainly would have if you were being misled, but in reputable stores I have yet to find the first one that would mislead a good customer on what he was getting.

To answer your question, a customer that comes in generally is interested not in what the table is made of particularly. It is the design, it is the general appearance, and what it will do.

If it won't stand liquor, won't stand cigarettes, and so on, they would like to know that, and you would like to know it. Maybe you don't serve liquor in your home, but maybe for someone who does it would be damaging to that table to have them set a glass on the table, not on a Marlite table, so they tell them this is Marlite, plastic-finish table, in a walnut design, and they tell it right here in all of these. You can review all of these examples that were lifted right from ads, and some of these ads were as large as a half a page in a metropolitan paper.

Mr. STAGGERS. I would think, not meaning to interrupt, the ads would have to be literally honest, yes; but what about a clerk who wants to make a sale and he is somewhat anxious to make it. Maybe he doesn't know. Maybe he just does it to agree with a customer that is a good piece of furniture.

Mr. MARSH. In the first place, we try to inform all of the people that we sell to of all the merits and the demerits and what the material is composed of as far as Marlite is concerned. We even go so far as in many, many instances to go in and educate the people on the sales floor about the material and telling them what the properties are and what it will do and what it won't do, as against other things, so I will sum it up like this: Our company and our people operate various companies and I am interested in quite a few of them. We will not tolerate, for 1 minute, misrepresentation of any kind.

First of all, you don't build a business on misrepresentation. You try to tell all of the facts and if the people know the facts the material is either good enough for them or it isn't good enough for them and they buy it on what you tell them. That has been one of the very important things that we have stressed all through, and I think if you read any of our ads, and you will see some of them in the packet that you have before you there, in Better Homes and Gardens, and American Home, and so on, that packet that has these things in it, Mr. Staggers, and it is all underlined there, you will see that we have really overstepped ourselves to try to get the facts before people so they will understand what they are buying.

Mr. STAGGERS. I will agree with you on that. You say what you do, and I am sure you do this.

What about the objections to others who do not do it?

Mr. MARSH. Actually, Mr. Staggers, you know there are shysters in all businesses. We can't police them ourselves. We have laws that will police them, but I think that this is simply an excuse that the fine hardwood veneer people are crawling behind, because, after all, with the very small amount of materials that are sold by those particular shyster types, you know, they don't last long.

People catch up with them before long, so they don't sell much, so why should you police all of the people that are good because of what a few stinkers do?

Mr. STAGGERS. I would say to you that it is because of the shysters in any profession that are doing this that we have to pass laws, not for the good people like you, but for the ones that will evade the law, and there happen to be people in America and everywhere in the world that do evade the laws and just don't do this on a morale basis.

Mr. MARSH. That is right.

Mr. STAGGERS. I don't want to argue against this, but when you say maybe we shouldn't have any labeling or shouldn't try to control anybody that is a shyster or a criminal, I reply I believe we have to have those laws to control them.

Mr. MARSH. I think you are right in your contention. The only thing is, you know that this Marlite is a fine material. I have demonstrated some of the things that it will do, as against others, and they want us to call that an imitation.

We are not talking about imitation. We are talking about a design, and whether you call it imitation, or simulated, or what not, the

one smells and the other stinks. I think that we have the machinery of the Federal Trade Commission, and so on, to properly police this thing as it is, and to put through a bill like we are talking about here, this H.R. 1998, isn't going to cure anything.

You are just going to create problems, and the FTC itself has indicated that they don't go far enough. They pick out of what the FTC has suggested what they like and put that into this bill and forget about the rest of it, and I think that is wrong. I hope that we are not saddled with this together with this terrific tax bill that is going to cost to police this, if it would become a law. A million dollars a year is too much.

Mr. STAGGERS. I would say this to you. I think your Marlite is nationally understood as a good product. I don't think you have to apologize for it. I don't see, perhaps, some of your argument on some of the other things.

Of course that will come up in executive session. You talk about Marlite. My wife has inquired at times about finish for furniture, about taking away scratches or keeping them down to a minimum. I think it, perhaps, is a good product, but in talking about some of your others I would say this to you: That Germany today is paying excessively high prices to get walnut. A common ordinary log shipped out of this country to Germany today brings $200 or $300 and some of the people, and I guess maybe some of the manufacturers, are trying to prohibit some of this that is being shipped out.

They must like walnut for some reason. I don't know why; but they are paying a high price for it.

So every question has two sides to it. I can agree with you on your Marlite; I think it is a competent product.

Thank you, very kindly, for your testimony.

Mr. MARSH. Thank you.

Mr. STAGGERS. Mr. Snell. Welcome, Mr. Snell, give your name for the record and you may proceed.

STATEMENT OF THADDEUS S. SNELL ON BEHALF OF THE GYPSUM ASSOCIATION

Mr. SNELL. Mr. Chairman and members of the committee, my name is Thaddeus S. Snell. I am appearing today as counsel for the Gypsum Association, a voluntary trade association with offices at 201 North Wells Street, Chicago, Ill., in opposition to H.R. 1998.

I am a lawyer and my office is at 134 South LaSalle Street, Chicago, Ill.

This is the fifth time in the last 5 years that the Gypsum Association has felt compelled to request of a committee of Congress an opportunity to be heard in opposition to legislation which would require special labeling of products the surface of which had the appearance of wood.

Members of the association appreciate the committee's courtesy in extending this opportunity. The industry, of course, does regret the fact that through the persistence of special interests seeking competitive advantage through special legislation the time of this committee must again be devoted to this purpose.

It was our impression from the testimony submitted at hearings in the past on similar legislation that the problem at which the proposed legislation was aimed—assuming that the affair can properly be raised even to the level of being a "problem"—related to household furniture.

We were hopeful that the activity of the Federal Trade Commission in seeking revision of the trade practice rules for household furniture and furnishings would place the matter in proper perspective and point up the total lack of need for legislation of the type being considered today.

Apparently our hopes were erroneous, as again we are back considering another attempt to solve competitive problems by labeling.

The gypsum industry cannot be included as part of the furniture industry. Members of the Gypsum Association, representing over 95 percent of this country's gypsum production, do not produce a product from gypsum suitable for use in furniture.

Gypsum is a rock, which occurs in various places in this country and abroad. This nonmetallic mineral is mined or quarried and then processed primarily into building products, such as plaster, gypsum wallboard, lath, sheathing, and gypsum block.

In some form it is used in nearly every permanent building being constructed today in this country.

Of the many products made from gypsum, the only one affected by this bill is a certain type of gypsum wallboard, generally referred to as a predecorated board.

Gypsum wallboards are generally similar in that they consist of a core of gypsum between two layers of a special type of paper. The paper may be plain and thus suitable for painting or wallpaper, or it may be predecorated with any one of a variety of finishes, some of which have the appearance of wood. The latter in effect is a plaster wall prefabricated and predecorated at the mill.

Several samples of such predecorated gypsum wallboard have been supplied the committee for its examination. These samples are representative in appearance and construction of a predecorated product which each gypsum manufacturer offers its customers.

The exact pattern, of course, varies from time to time and from company to company. Only one side of the board is predecorated, this side becoming the exposed side when the product is installed on the wall.

You will note that some of these products are described by such words as walnut, teak, cherry, and knotty pine, and even mahogany.

Others are described by coined words or phrases which either relate to no product or which relate to some nonwood product.

As with prior bills, the labeling required under H.R. 1998 applies only to a product which has "the appearance or is an imitation of, or purports to be wood * * *," although such products are competitive with other types of gypsum wallboard with respect to which special labeling is not required.

H.R. 1998 is somewhat different from previous bills on which hearings have been held. Some of the changes were made to reflect objections, including some objections by the gypsum industry, to previous bills.

Some of the changes are indeed puzzling, as, for example, substitution of the word "plaster" in section 2(c) for the word "gypsum" which was previously used.

However, basic objections previously submitted by the gypsum industry to such legislation as it applies to gypsum products have not been met by this bill.

As in prior legislation, the favored products, manufactured by the sponsors of this bill, are placed in one category, while all other products are placed in another category. The favored products are described with the pleasing phrase, "decorative wood." All other products are subjected to the disparaging phrase, "simulated wood product."

The basis for the distinction between these categories, as in prior bills, is superficial, inconsequential, and totally meaningless.

The difference is based upon the form of material constituting the veneer on the product. If the veneer is a natural wood, the appearance of which is preserved, it is a "decorative wood." Otherwise, regardless of the material, irrespective of its quality, and without realistic concern for the significance of such a distinction, the product is classified as a "simulated wood product." As with previous proposed legislation, this bill is directed at appearance rather than substance. The labeling required by the act is limited to the surface material only. The material or materials forming underneath plies or layers need not be described.

Apparently the legislation takes the position that as long as the wood which the exposed surface resembles is accurately described according to the "Decorative Wood Name Guide," the consumer will be protected. The thinking behind such an assumption has no greater depth than the surface to which it refers.

It is difficult to understand what benefit is achieved if the "simulated" wood appearance is properly described by the name of the wood which it resembles, if the subsurface materials are not properly described.

The only conceivable harm that can result from a misunderstanding as to the surface material is that the customer will think that he is buying a product that has the properties of wood. So far as the esthetic value of the surface is concerned, this is a matter of taste rather than of label. If the customer likes the appearance, it makes little difference whether the proper name of the wood to which the material relates is used in its description or not.

As to deception concerning the properties of the product, this of course is a different question. If the customer is anticipating that the product will perform as though it were "walnut," when in fact it is something less, he certainly has been misled. But the important thing is the nature and composition of the product itself, and not the name of a wood species, the appearance of which has been reproduced.

To suggest that any performance consistency or predictability can be found between products with a walnut surface, 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 the basic assumption upon which this legislation is predicated.

The fallacy of the assumption destroys the significance of the legislation. It then becomes exposed in its true color as an attempt to achieve by legislation a competitive advantage for a product with a natural wood exposed surface, regardless of the underlying material or type of construction.

If there exists a desire to "protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood products," H.R. 1998 wholly fails to accomplish the objective.

No protection of significance will be afforded the consumer unless a complete description of the product, including all underlying materials, methods of construction, and other significant data, is included in the label.

It would be far more logical if the "Madison Avenue" adjectives, "simulated" and "decorative," were eliminated and products simply described for what they are as "wood," "gypsum," "plastic," "metal," and so forth.

We submit legislation should not specify the adjectives to be used in describing the product but at most should simply prohibit misbranding or mislabeling. Such legislation would prevent the characterization of a gypsum product as a wood product, and vice versa.

If legislation additionally required a description as to the underlying material beneath the surface, there would be no real need for worrying about how the surface was described.

Of course such requirements are adequately covered by the requirements of section 5 of the Federal Trade Commission Act and no additional legislation would seem to be necessary to accomplish this objective. The only justification for special legislation of the type exemplified by H.R. 1998, would seem to be the existence of a significant number of complaints and practices which the Federal Trade Commission at present lacks authority to combat.

Over the years that this legislation has been on congressional calendars, the one, single, striking fact has been the lack of any demonstrated need for such legislation. The consumers—the class which the bill purports to be protecting—have shown no compelling interest in such legislation.

The moving factor has been a small segment of industry which, perhaps, has seen its market dwindle by customer preference for competitive materials and is seeking a way to combat that preference through legalized disparagement of competitive products.

We are aware of no complaint that has ever been filed with the Federal Trade Commission or with this committee or with any Federal, State or local government, complaining that gypsum wallboard has been misrepresented and a customer deceived into believing gypsum wallboard was actually a wood product. Apparently this is borne out by the prepared statement of Chairman Dixon who said that—

> The Commission has not had sufficient activities in areas other than household furniture which would afford it a satisfactory basis to determine the nature of the practices to which the bill is directed.

The gypsum industry is proud of its product and, as its literature shows, emphasizes the special characteristics which are not obtainable with wood, as, for example, incombustibility.

I have here several samples of representative literature which describes this type of product. It is characterized as "a classic reproduction of the most expensive select woods," "over 'a solid base'; a wood wall was never like this."

I submit that this is not misrepresentation which needs legislation to correct. Wood is involved in this product only because of a long-standing consumer preference for the appearance of wood. The representations made by the gypsum industry clearly indicate that only the appearance of wood has been incorporated in the product, and not the wood itself.

Consumer acceptance of predecorated products offering the appearance of wood in lieu of natural wood products is the best testimony that it is the appearance of wood and not its quality on which the public places prime value.

The very nature of predecorated gypsum products precludes deception. Gypsum board comes in sheets, typically 4 feet wide and up to 12 feet long. The ends are not covered as the samples which you have indicate. The paper-enclosed core can readily be seen when the product is purchased from the retailer.

It is obvious that no customer looking at a piece of gypsum board could be deceived into believing that it was 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 something other than wood.

Even a cursory examination of the samples before the committee should be amply persuasive that deception is virtually impossible.

This product is used only in building construction. In some cases the purchaser of predecorated gypsum board from the retailer may not be the homeowner himself. This material may be selected by a speculative builder who intends to resell the house he is building. After a home has been completed and the gypsum board installed, of course the ends of the gypsum can no longer be seen. The product is then sold as part of the home.

Is it the purchaser of the home that this bill is designed to protect from deception? This is doubtful. However, if this is the objective, the bill would require that labels be pasted to the face of each board and remain there until the house has been sold.

It is not clear whether the labels must be reapplied before the house is sold the second, third, and fourth time. If there is a possibility of deception on the first sale, then such a possibility is equally present on subsequent sales.

In these days of proposed tax reduction and economy in Government operation, is this an activity which is so vital to the well-being of the people of this country that it should be added to the list of services of the Federal Government? We seriously doubt it.

SPECIFIC SUGGESTIONS

While H.R. 1998 has made some changes over prior bills, this bill, in the opinion of the gypsum industry, is both unnecessary and inadequate.

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 wood should be eliminated.

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.

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;
3. No one is being deceived in invoices for gypsum products; and
4. 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 "true English name" of the wood whose appearance is portrayed will not prevent such deception; and
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.

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.

Mr. STAGGERS. Thank you, Mr. Snell. Mr. Van Deerlin, do you have any questions?

Mr. VAN DEERLIN. No questions.

Mr. STAGGERS. I know in your next to last paragraph there you said:

If a need for legislation in this field is found, the gypsum industry urges this committee to adopt objective, nondiscriminatory, comprehensive legislation.

You mean to go into all phases of labeling, everything that is in the product, or what do you mean?

Mr. SNELL. Yes, Mr. Chairman, we think the product in its entirety should be labeled and not just the appearance. We think the legislation to require labeling of appearance will accomplish no useful purpose.

Mr. STAGGERS. All right, sir. Thank you very kindly for coming and giving us the benefit of your views.

Mr. SNELL. Thank you, Mr. Chairman.

Mr. STAGGERS. Mr. Rishell, will you come forward, please? I would say if you have a prepared statement and wish to present it and summarize it, that would be all right, too.

STATEMENT OF CARL A. RISHELL

Mr. RISHELL. Mr. Chairman, I have a prepared statement. Unfortunately, I did not have time to make 45 copies. I will give it to the court stenographer and I would ask that it be made a part of the record.

Mr. STAGGERS. That will be done.

(The statement referred to follows:)

STATEMENT OF CARL A. RISHELL

GENERAL

For the past quarter century a controversy with respect to nomenclature for several species of wood, resembling mahogany has continued without cease. These species, Philippine mahogany and African mahogany, though neither are true mahogany have earned the right to the names through long and accepted usage. All the species in these groups should be differentiated from each other and from genuine mahogany with a prefix or adjective that is descriptive of the differences. The Federal Trade Commission has therefore justifiably required the species originating in the Philippines to be so labeled, likewise those from Africa must be labeled with the prefix of origin. Only the species of the genus *Swietenia* are permitted to be sold without a prefix. If this ruling is complied with, there is not the slightest reason for the consumer of any of the species to be confused or imposed upon. However, if the ruling is not complied with by the parties concerned, confusion can exist and the consumer can be imposed upon.

During this long interval of time over which the controversy has continued, many thousand pages of testimony and opinions have been rendered. Most of this information has been compiled by experts in the field of nomenclature, botany, and wood technology. The testimony by the vast majority of these experts is to the effect that from the strict botanical definition, no species of wood except those of the genus *Swietenia* can be considered as true mahogany. Neither African or Philippine mahogany species meet this requirement.

The manufacturers of Philippine mahogany have as a rule been satisfied with the restrictions placed on them, but the African mahogany group has not been satisfied with the restriction placed on them, nor have they been happy that the Philippine species are permitted to use the term "mahogany" even with the restrictions which they themselves consider to be restrictive to their markets.

The case for or against the use of the terms "Philippine" and "African mahogany" has been truly and fairly summed up by the Federal Trade Commission.

Since this committee has had ample opportunity to study the testimony presented to the Commission and has heard the testimony of the Commission as to the reasons for its rulings, i.e., that both the terms "Philippine" and "African mahogany" are legitimate trade names, there is little use in my belaboring the points of nomenclature, except as needed to illustrate points in the following testimony.

The important things which I desire to be brought out and which may not have come to the attention of this committee have to do with:

(*a*) The wording of the proposed bill, which in my opinion is misleading and technically inaccurate.

(*b*) The reasons for the bitter controversy which has been a festering sore within the industry.

(*c*) Compliance with Interstate Commerce Commission rulings by both factions to the controversy.

(*d*) My opinion with respect to several solutions that may resolve the problem.

1. THE WORDING OF THE PROPOSED BILL

Discussion

Page 2, line 5, mentions "mahogany or Meliaceae" as the descriptive terms which may be used to define the Meliaceae family. The only accurate name for the family is Meliaceae. In this family there are over 50 genera and 1,000 species. *Swietenia* or true mahogany is only 1 of the 50 genera and persumably any 1 of the names of the 50 genera are as well entitled to be used as a common name for the family as is mahogany. For convenience in ordinary conversations, the term "mahogany family" is sometimes used. But in such usage there is no thought, at least by those that have some knowledge of tree classification, that the entire family is composed only of mahogany species. The important point to be understood by this use of terminology is that the Congress is being asked to make the terms "mahogany" and Meliaceae" synonymous and that such definition will become the law of the land.

To illustrate, both *Swietenia* and *Khaya* are members or genera within the family. However, under this conception, there are many other genera that would have equal right to be called mahogany. Most people who live in the South are familiar with the chinaberry tree, it belongs to the genus *Melia*, a word that can be closely associated with its family name Meliaceae, but it is no more a mahogany, either in technical or common usage than is the white oak of our Appalachian region.

Other species in the same category are the Spanish cedars, sometimes called cigarbox wood, the genus to which these species belong has the technical name *Cedrela*, a genus in the Meliaceae family and exactly as close a relation to *Swietenia* as *Khaya*, but so far as I know, we in this country have never considered it as a mahogany, nor in my opinion would the trade accept it as such.

The fact which I desire to bring home by these statements is that *Khaya* is a mahogany only in the sense that the name has become common in usage by the timber trade and to call it African mahogany is not misleading to the public. But the same reasoning is applicable to the species which are known in our trade as Philippine mahogany. However to call either of these species genuine or simply mahogany, is misleading.

One further point on this subject, if the Congress should accept this bill in its present form, it could justifiably be asked to change and regulate the nomenclature of many of our most important domestic species.

For example, our own beloved southern cypress is not a true cypress, in fact it has no relationship to it, but it does have a family relationship to redwood. Think this over and decide whether the implications here justify endangering the names of two fine species.

In the Appalachian Mountains a tree known as yellow poplar has become of great importance to the furniture industry. From this tree, panelboards over 40 inches wide have been produced, but yet this tree is not a true poplar. Would you want to change the name of this species to one that is not familiar to the trade?

The Douglas-fir tree of the Pacific Northwest is one of the most widely used timber trees in the world. The harvesting and manufacturing of the species into lumber is the basic economy for large areas of the West. But it is not a fir tree. I do not know what you would want to call it, but certainly if the Congress wants to be consistent in changing tree names, something would have to be done about this one.

Gentlemen, if you adopt the principle incorporated in this bill, you may with justification be asked, by self-interest groups, to make further changes in popularly accepted nomenclature.

The Philippine production of lumber is but a pigmy among giants when compared with lumber production in this country, but to open one avenue by legislation for one faction over another, is to pry the lid off Pandora's box for dozens of other more serious disputes.

2. REASONS FOR THE CONTROVERSY

Discussion

The timber trade, including both foreign and domestic species, has from the earliest years been highly competitive. Fortunately many of the oldtime animosities between species groups have died out to such an extent that the industry is learning to approach many of its problems with a unified front. Research and other modern facilities have required unification of resources and have been responsible for the improvement. Unfortunately that which can be said for the majority of the industry is not true for the fringe areas. The dispute between the groups that manufacture and sell Philippine mahogany on the one hand and African mahogany on the other seems to have intensified.

Probably over the long period of the dispute both factions have been at fault in magnifying the difficulties out of all proportion to their importance. However, in recent years, individuals rather than the groups concerned are probably more responsible for the continued bickering. But in any event the motive is nothing more or less than obtaining market control for one particular group. The passage of this bill will, of course, not accomplish that objective, but it is thought by the group concerned with African mahogany that it will give them some advantage as indeed it would. It would mean that the Philippine mahogany producers would have to use large sums of money to establish a new and accepted name for their products. This would take a considerable period of time. It would mean temporary loss of prestige and would create confusion within the trade.

Insofar as I know the Philippine mahogany industry has no intent or desire to inaugurate retaliatory measures against their opponents, hence this struggle between the groups has been one of defense on one side and offense on the other. Such restrictions have been brought on the African group as the requirement by the Federal Trade Commission in requiring the prefix "African" is entirely of that groups own doing. Because in this case it seemed to be good business, the Philippine group is willing to live and let live. All it wants of this committee is equitable treatment, it does not need nor does it want a bill that would be harmful to the African group. But it would like to see this issue settled once and for all.

Unfortunately the controversy, has on the one side at least, reached the stage of "mudslinging" that can be harmful to both groups. Such activities are perhaps beyond the scope of this committee to correct, but the members should at least be aware of it, for it has a bearing on the problems that must be considered. In making this statement I want to make it plain, that in my opinion, the majority of the firms in the African trade, most of whom are my friends, would not condone such tactics. The wider cross section of the industry, if for no other reason than multiple interests would reject such activities as being harmful to them.

It is my belief that if this bill and others like it are rejected, the two groups will find common ground on which to settle their disputes and that amicable adjustment will be made between them. I sincerely hope this will come to pass for it will be to everyone's benefit, including the consumers of the several species.

3. COMPLIANCE WITH FEDERAL TRADE COMMISSION RULINGS

Discussion

An indication of the sincerity of both groups to this controversy is the acceptance by either of them of the rulings of the Federal Trade Commission. It will be recalled that the gist of the most recent ruling is to the effect that the Philippine group must use the prefix Philippine in connection with the further name "mahogany." The African group was required to use the prefix "African."

I cannot say positively how the African group has abided by this decision, but there seems to be evidence that there has been something lacking in the compliance. I believe this committee should take into consideration, how both groups have acted in this matter and it should inquire of them what they have done. For surely if there has been laxity in conforming to the rulings, then there is lack of sincerity by the faulty group.

As will be shown by another during this hearing, the Philippine Mahogany Association has taken a considerable interest in urging its members to comply with the ruling. It has also warned sellers of products in which Philippine mahogany has been used that in their advertising the prefix "Philippine" must appear. That considerable compliance has been attained through these efforts is quite evident in the advertising by the boating industry. Chris-Craft and Owens are two outstanding examples although there are many others.

4. OPINION WITH RESPECT TO POSSIBLE SOLUTIONS

Discussion

In the writer's opinion, the present bill has no technical basis of fact for the nomenclature and related syntax. That this bill in its present form can be made into law is of course not controversial, but this is the only way in which the group sponsoring the bill can attain its ends. The solution offered in the bill has already been rejected by the Federal Trade Commission and the majority of technical people who have testified. Even though the bill becomes law, it is doubtful whether either industry or the public will be well served.

An equitable alternative to the present bill, which neither industry can with justification claim as biased, is for Congress to pass a bill that would prohibit both Philippine and African species from using the name "mahogany." Neither of the groups to the controversy would like such a law for it would be harmful to both factors. However, it does have the virtue of being fair to both groups. A disadvantage would be to place this committee in a position where it might have to consider the legality of nomenclature for a very large number of local timber trees.

A second alternative and one that would be least harmful of all would be to pass a rewritten bill that would be in conformity with the recent Federal Trade Commission ruling. Such a bill would not be satisfactory to the proponents of the present bill, for it would leave them exactly where they are now, with the exception there would be more teeth in the requirement. It would have the virtue of technical accuracy, it would be in accord with present trade practices. It might settle this controversial question for all time. And perhaps, as important as any other consideration, a bill of this kind would not be an incentive for all other comers who desire to upset longstanding and well-understood trade practices.

Mr. RISHELL. Thank you, sir. Mr. Chairman, I would like to digress very shortly from my prepared statement. I have had the opportunity of and privilege of listening to some of the former witnesses. Mr. Williams, whom I have known of for many years, put into the record a letter by Mr. Burdett Green.

I have also known Mr. Green for many years and I would like to make a comment on the recorded letter.

Mr. STAGGERS. Proceed.

Mr. RISHELL. Two years ago when I was preparing to go to the Philippines, Mr. Green wrote to me and asked me if I would obtain for him one of the most beautiful pieces of wood in the world.

He wanted it for his own home. He is a woodworker himself. He said that he wanted a piece of Philippine mahogany burl.

Mr. STAGGERS. I didn't catch the last word.

Mr. RISHELL. Philippine mahogany burl.

Mr. STAGGERS. B-u-r-l?

Mr. RISHELL. Yes. I obtained a piece of such a burl for him. There was inference in the letter to Mr. Williams that Philippine mahogany is not a beautiful wood.

These burls if purchased in this country would cost about $200 to $500 and they are perhaps as beautiful as any piece of wood that was ever produced.

At our mills in the Philippines we throw them away because we don't have time to manufacture them into suitable lumber. I merely wanted to bring that out as a sidelight on the beauty of Philippine mahogany.

Mr. STAGGERS. May I ask you a question right there? Is there any particular piece of hardwood that this comes from to identify it?

Mr. RISHELL. It comes from red lauan.

Mr. STAGGERS. Red lauan?

Mr. RISHELL. One of the Philippine mahoganies.

Mr. STAGGERS. That is the only type of hardwood that this burl comes from?

Mr. RISHELL. No. You could obtain burls from other species. They would not be the same color, perhaps not the same texture—from white lauan, which is also a Philippine mahogany.

Mr. STAGGERS. Any other?

Mr. RISHELL. Yes. You could obtain burls from the five other species of Philippine mahogany.

Mr. STAGGERS. But you are particularly talking about the red lauan?

Mr. RISHELL. I am talking about the red lauan with respect to this particular burl.

Mr. STAGGERS. And in your individual judgment you think that is the prettiest?

Mr. RISHELL. Oh, not necessarily.

By the way I have not introduced myself. I am a wood technologist. I have been in this business for 40 years and I am a director for the Insular Lumber Co.

I am opposed to the bill and as a wood technologist I would like to say to you, sir, that practically any wood, if it is properly machined, is a very beautiful thing.

One can take a piece of pine and by working it properly make it as beautiful as any piece of mahogany. Or a piece of cypress and make it as beautiful as any kind of wood, depending on how you cut it, sir, and what your preference is for it.

I recall that several years ago quite a large veneer manufacturer in Maryland got track of some Lombardy poplar trees that had been planted many years ago. Poplar is not a material that is usually considered as a fine furniture wood.

This company purchased the trees and manufactured them into veneers. The veneers produced, proved to be as valuable as any we have known in this country, and yet they were produced from a species that is seldom used for furniture and is not considered to be a very fine wood.

Mr. Chairman, I am digressing from my prepared statement and I do want to keep this down to 10 minutes.

Mr. STAGGERS. Go right ahead.

Mr. RISHELL. This controversy has been going on for about a quarter of a century, a controversy over Philippine and African mahogany. There is only one genuine mahogany and that is *Swietenia*.

The scientific name is *Swietenia*. All other materials which are called mahogany, and that includes African mahogany and Philippine mahogany, should have the adjective or prefix indicating the country of origin.

If the proper adjective precedes the word "mahogany" and it is known to the purchaser, that it is Philippine or it is African, there is no excuse for him to become confused or to be imposed upon.

That was the basis for the Federal Trade Commission ruling, I think, of 1961. Mr. Chairman, I don't want to belabor the question of technical nomenclature. There are tens of thousands of pages on that subject, that have been given to this committee and to the Federal Trade Commission, and I only want to use nomenclature as it may affect the statement which I am about to make.

In the first place, I believe, the wording of the proposed bill is technically inaccurate. Secondly, I wish to describe the reasons for this bitter controversy between two groups within our industry.

Thirdly, I would like to discuss the compliance which the Interstate Commerce Commission has obtained in its rulings. Fourth, I would like to express my opinion as to the solutions that are possible in this problem.

I will address myself first to the wording of the proposed bill. On page 2, line 5, mention is made of mahogany or Meliaceae.

Mr. Chairman, in the Meliaceae family there are 50 genera and there are 1,000 or more species. Among these 50 or 1,000 is the genus *Melia*.

You gentlemen from the South will know this tree by the name of chinaberry. If this committee wants a name, for this very large family that is close to Meliaceae, you could pick out *Melia*, or chinaberry but certainly the wood from *Melia* or chinaberry has no resemblance to mahogany.

Therefore, in my opinion, and I believe the opinion of the majority of wood technologists, to use mahogany and Meliaceae in syntax is not accurate.

There is no such thing as a mahogany family. Mahogany is but 1 of 50 genera. If you want your bill to be technically accurate you have to confine it to the single word "Meliaceae." I can point out another member of this big family, and it has been used tremendously; perhaps it is almost as well known as mahogany. This species is *Cedrela*, commonly known in this country as Spanish cedar or cigarbox wood.

I don't think anyone in their common senses would try to foist on the public, Spanish cedar as mahogany, but yet if your bill retains the term "mahogany" in syntax with "Meliaceae," lumber manufacturers are as much entitled to call cigarbox wood or chinaberry by the name mahogany as they are the species known as African mahogany.

Mr. STAGGERS. Where do you find the word "Meliaceae" in the bill?

Mr. RISHELL. On page 2, line 5, in H.R. 5669, sir.

Mr. STAGGERS. This is the mahogany bill?

Mr. RISHELL. That is correct.

Mr. STAGGERS. I thought you were on the other bill; all right.

Mr. RISHELL. Shall I proceed, Mr. Chairman?

Mr. STAGGERS. On page 2, line 5?

Mr. RICHELL. Line 5, sir.

Mr. STAGGERS. All right, sir; go ahead.

Mr. RISHELL. I would like to indicate to the committee some of the things that might happen if this bill is passed, and it would be much more serious than settling an argument as to whether Philippine mahogany and African mahogany should be allowed to use the terminology "mahogany."

Our own Southern cypress, one of the finest trees in the world, a tree we all love, but it is not a cypress. Now, any other domestic producer of a competitive species would have as must justification coming to this committee to ask the name of Southern cypress be changed as there is justification for changing the words "Philippine mahogany" or "African mahogany" to other less known names.

I would like to point out another species, one that grows in the Appalachian Mountains and one that has perhaps meant more to the furniture industry than any other species ever grown. Its common or trade name is yellow poplar.

While we all know it by the name yellow poplar, it isn't poplar and has no relationship to the true poplars. But yet if you get into this maze of nomenclature you could justifiably be asked to change the common name, perhaps to such an uncommon name as *Liriodendron tulipifera.*

Mr. STAGGERS. May I ask you what is the wood, yellow poplar?

Mr. RISHELL. It is a *Magnoliaceae* sometimes called tulip tree. It belongs to *Magnoliaceae* family. It is related to the magnolia.

Mr. STAGGERS. Tulip or magnolia tree?

Mr. RISHELL. They are two species of the same family.

Mr. STAGGERS. Are tulip and magnolia trees different trees or not?

Mr. RISHELL. Yes; tulip and magnolia are often confused as the same tree, but yellow poplar is known as tulip poplar and it is closely related to the magnolia.

Mr. STAGGERS. They grow principally in the South, do they not?

Mr. RISHELL. Yellow poplar or tulip trees grow in the Appalachian region and down through the mountains perhaps to the northern limits of Georgia. Magnolia grows throughout the South.

We also have yellow poplar in this area. You will see many hundreds of them near Washington.

Mr. STAGGERS. I might ask you what is the real name of this southern cypress that you talk about.

Mr. RISHELL. That is *Taxodium disticum*, it belongs to the same family as redwood.

Mr. STAGGERS. To the redwood family?

Mr. RISHELL. That is right, sir. I would like to point out another species, and there are many others in our own domestic species that are misnamed and that is Douglas-fir. Douglas-fir is not a fir. Practically a third of our Northwest economy depends upon the growing and harvesting of Douglas-fir which you know, and I know, and we all know has been sold all over the world under that name, but yet it is not a fir. But technically, if extreme accuracy is required, this committee could be requested to change that name to something else.

Mr. STAGGERS. What would it be changed to?

Mr. RISHELL. Well, it belongs to the pine family, *Pinaceae*, so you would probably give it some pine name, but I don't think the Southern people would want Douglas-fir called pine and certainly the Douglas-fir people wouldn't want their material called pine.

Neither one would like it, but you could have a controversy between two sectors to try to gain some commercial advantage.

Now, Mr. Chairman, regarding the reasons for the controversy: Competition within the lumber industry, and particularly in the earlier days, was such that the animosity between various species groups grew to large proportions. There are about 17 groups in this country, and most have at one time or another fought each other tooth and nail.

That bad situation has been lessening over the past quarter of a century and it has been lessening because of research and modern developments which require that the lumber industry unify and conserve its resources for further research and to improve its product.

Unfortunately, in this controversy over Philippine and African mahogany we are on a fringe, for these two groups have not yet modernized wherein they will cooperate with one another.

I believe Mr. Thompson brought out certain phases of advertising. It approached undignified mudslinging by the African mahogany people in their condemnation of Philippine mahogany.

I would also like to say that in the Federal Trade Commission's most recent ruling the prefix or adjective "African" or "Philippine" was required to be prefixed to the species that came from those countries before it could be sold into the United States. The Philippine group doesn't care one iota whether the African people use that prefix.

We think it is justifiable, but we don't care. The African group does not like it, but, Mr. Chairman, that has been of their own doing. They have brought this upon their head by insisting on continuing the controversy.

If they will live and let live, then I believe we can have unification in our industry, and if this bill is rejected and other bills like it, I firmly believe that the two groups will get together and solve their own problems.

That brings me to the last point that I wish to make and that is my opinion with respect to possible solutions. One solution, of course, is the present bill in its present form. It is unfair to the Philippine group, and it would open the way for change in the names of many domestic species which I have indicated would be possible.

I don't believe this bill is a good one. I believe it has been brought out for the specific benefit of one group in this country and that it will be a detriment to the other groups and it would be a deterent to all lumber that is sold in this country.

You have a second alternative. That is for this Congress to prohibit the use of the name "mahogany" for any species except *Swietenia*. That would make it necessary for the African mahogany people to find a new name.

They might use *Khaya*. And it would also make it necessary for the Philippine mahogany people to have a new name. I don't believe that either of the groups wants this because it would cost a great deal of money on both sides to change the nomenclature so that the buying public in this country would accept scientific terms or other term which is not known to them. But, nevertheless, that is an alternative and if you must pass a bill restricting the use of the name "mahogany," then, I beg you to pass a bill that will prohibit the use of mahogany to both groups. That is specifically African and Philippine. We will live by it and I presume they would have to.

Such a bill would be fair to both groups, but, as I pointed out, it would not be desirable to anyone.

The third alternative is to write a new bill using the Federal Trade Commission's ruling whereby the prefix must be used for both of these species which, though not real mahogany, have a close resemblance to it, and are known in the trade as Philippine and African mahogany.

I have consumed my 10 minutes, Mr. Chairman. I would be very happy to answer questions. If not, I thank you very much.

Mr. STAGGERS. Thank you very kindly. Mr. Van Deerlin, do you have any questions?

Mr. VAN DEERLIN. No, thank you, Mr. Chairman.

Mr. STAGGERS. I just wanted to ask one question. In our area of the country we have three fairly distinct woods that are used and I wonder if they are used under other names—maple, oak, and walnut.

Mr. RISHELL. No, sir. There is no controversy over that. However, with maple, there are two distinct groups. One is hard maple and the other soft maple. Sometimes maple is sold just as maple, but if that is done, Mr. Chairman, the purchaser may get into trouble because soft maple which grows in your part of the country is a wood that is in uses comparable to the yellow poplar, of which I have spoken, whereas hard maple is used for places where the need is for exceptionally hard wood.

Mr. STAGGERS. Oak?

Mr. RISHELL. With respect to oak, I can't say offhand how many species there are, but the oak group is broken up into two specific groups, red and white.

There is quite a distinction between them, but I have manufactured both species into lumber and I am a wood technologist and I would say on occasion that is difficult, if not impossible, to distinguish between red and white oak groups.

And that illustrates an important point. Identification is all too frequently not an exact science. And if I may take just one more second, I would like to illustrate the point. I do consulting work for the Smithsonian Institution, and in that work, in acquiring new exhibits I wanted to get samples of every commercially available species.

I had those species sent in and the people at Smithsonian lost or otherwise failed to get the names off of the package. We had 96 unidentified species.

Even their own botanist couldn't determine the exact names of all the species. I had to import a technologist, especially well known in this country. But when it came to the identification of the mahoganies, there was lack of assurance. The species involved were true mahogany, Philippine and African mahogany.

Thank you.

Mr. STAGGERS. Will you state your name and proceed, sir.

STATEMENT OF ROBERT C. KECK, ON BEHALF OF AMERICAN HARDBOARD ASSOCIATION

Mr. KECK. Yes, sir. I am Robert C. Keck of Chicago. I appear on behalf of the American Hardboard Association, 20 North Wacker Drive, Chicago 6, Ill., an association of hardboard manufacturers, in opposition to the decorative wood and simulated wood products labeling bill, H.R. 1998, and related bills.

We take no position on the mahogany bills. We are not familiar with that controversy.

Thirty-seven years ago hardboard became the American invention of a lumberman of a way to use sawmill slab waste and edgings in lumber mills around Laurel, Miss., in making a new form of wood. 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.

One of the ironies of this legislation is that hardboard would be a "simulated" wood product and yet would be made by such com-

panies, well-known national lumber companies, as Edward Hines Lumber Co., Georgia Pacific Corp., Weyerhaeuser Co., U.S. Plywood, Superwood Corp., all hardboard producers.

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 bill.

The hardboard industry is proud of its products and of the ever 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.

For 5 years now—through parts of four different Congresses—the fine hardwood veneer industry has been promoting legislation that would require one sided mandatory labeling of so-called decorative hardwood products. Only one report has ever been issued by a congressional committee, and none of the bills has reached the floor of either the House or Senate.

The latest draft, H.R. 1998, purports to be a facsimile of the form of bill transmitted by the Chairman of the Federal Trade Commission to the chairman of the Senate Commerce Committee in June 1962, after its hearings on S. 1724 there in April 1962.

In some respects, H.R. 1998 differs from its predecessors: It deals with "wood" and not just "hardwood"; it requires that "simulated wood products" be labeled when they are finished to have the appearance or purport to be "wood"; it provides for a decorative wood name guide; it would partially require correct name disclosures on invoices (but not at the retail level as Federal Trade Commission recommended); it purports to regulate imports; and it contains the remedies of condemnation, injunction, and criminal penalties set forth in the Commission draft.

However, H.R. 1998 not only contains the infirmities inherent in the Commission draft but departs from the Commission draft in certain major respects, and thereby preserves a double standard of labeling for veneers and for other products.

First it is false and unrealistic to call hardboard a simulated wood product.

The bill, by unusual definitions, would legislate hardboard, that is clearly a wood product, into a "simulated" wood product. It would accomplish that result first by defining the word "wood" narrowly to mean a "timber product retaining its natural growth structure," supposedly even if in the form of veneer only one sixty-fourth of an inch

thick, and secondly by defining the term "simulated wood product" to mean—

> any product * * * made wholly or substantially of any material other than wood, and includes * * wood fiber, glass, vegetable fiber, plaster, plastic, metal, paper, film, and molded or extruded material * * *.

This is an ironic result since the bill overlooks an important step in the history that led the Federal Trade Commission to prepare a draft of bill promptly after the April 1962 hearings before the Senate Finance Committee on S. 1724 (87th Cong., 1st sess.).

That bill similarly sought to convert hardboard into a nonwood product by legislative fiat. However, at that time the Federal Trade Commission spokesman pointed out:

> 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. (Committee reprint, p. 12.)

The very serious question referred to arises from the facts that hardboard is simply tough, dense wood taken apart and reformed mechanically into large, wide, hard boards; and that hardboard is bonded together by lignin, the natural cohesive substance in wood.

That is to say, hardboard is made from wood and retains all structural elements of the original wood; it is bonded together with a wood-type bond by lignin, the natural cementing material that binds all wood together; it has physical characteristics similar to other forms of wood; it is used with or in place of other forms of wood, such as plywood, lumber, and veneers; and it has always been described as a form of wood.

For example, in the new Tariff Schedules of the United States, effective August 31, 1963, a headnote to part 1, entitled "Wood and Wood Product," schedule 2, states:

> For the purposes of subparts D (wooden containers), E (miscelaneous products of wood), and F (articles not specially provided for, of wood) of this part, hardboard shall be deemed to be wood.

Hardboard is as much wood, and is no more simulated wood than is plywood—and has no glue lines that the latter contains. It is, therefore, as inaccurate to label hardboard a simulated wood product as to so label a veneered construction. Neither material is the way that nature made it; each is engineered to achieve certain benefits in use; and each is a form of wood.

I attach to my statement, Mr. Chairman, appendix 1, an appendix that goes into the subject more deeply of hardboard being a wood product. I ask leave for that to be made a part of my statement without it being read.

Mr. STAGGERS. Very well.

Mr. KECK. The absurdity of the highly restrictive definition of wood in the proposed bills, as it applies to hardboard, is shown by the following:

The Technical Committee on Standard Industrial Classification, Executive Office of the President, Bureau of the Budget, has transferred hardboard under the Standard Industrial Classification of the United States, from industry 2661, dealing with building paper and

building board mills, to industry 2499, dealing with wood products not elsewhere classified. In its March 1955 Report on Hardboard, a majority of the U.S. Tariff Commission held that—

> Hardboard is more closely related, in texture and use to ordinary wood, plywood, or lumber than to wallboard or paperboard, and a specific enumeration of hardboard would be more appropriate in the tariff schedule covering wood products than either the tariff schedule covering paper products or any other tariff schedule.

If this is an attempt to simulate hardboard out of the wood family, with the attendant serious competitive consequences for hardboard, it is a despicable one that belies the stated purposes of the legislation. For 5 years now, in each and every occasion that the veneer group's spokesman have referred to hardboard they have studiously referred to it as fiberboard—with the occasional concession that it is sometimes called hardboard.

That this effort to deride hardboard by calling it fiberboard (that embraces the soft insulation boards and even beer mat board) is apparently a conscious one by the proponents, is clearly shown by the August 15, 1963, transcript of the Senate Finance Committee hearing (their last such statement on the subject) where the veneer spokesmen always referred to hardboard as fiberboard (see pp. 48, 50–52, 69, 77, 79, 89, 95, 99) and where others invariably used the generic term "hardboard" in referring to it (see pp. 38–40, 44, 135, 141, 144).

That hardboard has been the generic term for the products of the industry I represent is shown in appendix 2 to my statement listing representative uses of the term in all walks of life.

Mr. Chairman, I ask that appendix 2 be made a part of my statement without it being read.

Mr. STAGGERS. Very well.

Mr. KECK. It is also shown in the fact that the term "hardboard" is defined in Webster's "Third International Dictionary" and in Webster's "Seventh New Collegiate Dictionary." In response to a recent inquiry to G. & C. Merriam Co., publisher of Webster's dictionaries, its official stated—

> When terms become as widespread in usage as hardboard did, they are automatically considered for entry in the dictionary

This consistent refusal of the sponsors of this legislation to use the generic term "hardboard," and their attempt to semantically downgrade hardboard, is understandable in light of their calling it an imitation and substitute material, an artificial wood product, and these fakes.

Such an emotional verbal attack upon a well-known versatile product is hardly conducive to a dispassionate consideration of the consumer's need for such legislation.

2. This is special-interest legislation that is not in the public interest.

H.R. 1998 is concededly special-interest legislation for the benefit of 36 manufacturers of hardwood veneers, whose spokesmen have described themselves as the major proponents of this bill.

According to one spokesman, H.R. 1998 is a bill requiring that our competitors be honest, that would cause the Federal Government to intrude itself in and supervise local, private business affairs.

However, this special-interest legislation is of a most unique type having some extraordinary features:

In the first place, it is peculiarly discriminatory and one sided in its application. Unlike the existing labeling acts that impartially require labeling of all ingredients or components of the product, after which H.R. 1998 is said to be patterned, the proposed bill would require the labeling of all ingredients only of those products made by or incorporating the competitors' materials, but would permit labeling only of the surface of such products when the proponents' veneers are on that surface.

The bill thus seeks to create a competitive incentive to use hardwood veneers. Federal Trade Commission Chairman Dixon, in his testimony before this committee, in like manner as Federal Trade Commission have at each of the earlier hearings on similar legislation, pointed out that since the top veneer ply might be only $\frac{1}{8}$- or $\frac{1}{16}$-inch thick (actually it is often only $\frac{1}{28}$- to $\frac{1}{64}$-inch thick) proper consumer labeling should disclose the true composition of the underplies of wood having a veneer surface.

However, thereafter, a spokesman for the proponents testified before the Senate committee last August that—

> We would not be in favor of this legislation if such provisions as Mr. Dixon has suggested were included in amendments to the bill.

That spokesman could hardly have put the proponents' true motive more baldly. So long as the special-interest proponents of this legislation can hobble their competitors by mandatory labeling under this bill, without having to comply themselves with the same labeling requirements, they are for and favor H.R. 1998.

However, if this bill were to be amended to read (as the Federal Trade Commission believes that it should be amended) like the present labeling laws, to treat all products and materials alike, then the proponents by their own words "would not be in favor of" such legislation.

Can such a partial application of required labeling have as its basic purpose that of protecting consumers? Or is it designed purely and simply to protect hardwoods veneer producers?

Similarly, after Chairman Dixon had made the same suggestion to this committee in the June 18, 1963, hearings on this bill, a veneer spokesman said:

> My feeling is that the labeling of each ply would perhaps (injure or impair the sale of certain woods) * * * The labeling of all this (all plys) would tend to be somewhat misleading to the consumer. Rather than having too few facts as at present, he would then have too many facts and would be faced with an almost impossible decision as to which is better and what all these various plys mean.

While the proponents of this legislation are oblivious to injuring or impairing the sale of other materials by this legislation they are particularly sensitive to the adverse economic effects of labeling their own underplys—and therefore argue, in maintaining a double standard of labeling, that such labeling of underplys would be confusing in giving "too many facts".

H.R. 1998 is peculiar in another respect. The proponents concede that the bill seeks to regulate intrastate activities that are not now subject to Federal regulation.

In that respect the legislation represents a great extension over purely local activities; that is to say, the hardwood veneer manufacturer "proponents" of this legislation candidly admit that their "competitors," that they wish Congress to hamstring by mandatory labeling, are not really the "bad guys" after all.

Admittedly, these "competitors" sell to "well-informed buyers." Moreover, they generally make no attempt to deceive. Rather, the real "bad guys" are salesmen in local retail furniture stores, who "through ignorance rather than fraudulent intent" do not know, supposedly absent congressionally required labels, what the furniture they sell is made of.

Since the Federal Trade Commission cannot now reach the allegedly deceptive practices of such local retail salesmen under the interstate commerce based on the Federal Trade Commission Act after the interstate movement of that furniture, the proponents urge that Congress should, nonetheless, indirectly control those retail store salesmen by imposing a mandatory labeling yoke on the manufacturer before the interstate shipment of the furniture.

Thus, a single stone would kill two birds—it would cure fancied deception at the local retail store level, and at the same time hobble or punish producers of competitive materials used in furniture.

This special-interest legislation is unique in still a third respect. Though the supposed evil that the proponents see is at the retail salesman level, they have carefully drawn the legislation (unlike other labeling acts) to exempt retail stores from being required to make the necessary disclosure of the ingredients or components of the decorative wood products in their invoices and on their sales slips.

Chairman Dixon of the Federal Trade Commission, when he testified, called that exemption "unwarranted," and urged that this committee close that "loophole" if the intended protection of consumers is to be effective. He pointed out that in that respect this bill differs from the earlier labeling acts.

But again, the proponents of H.R. 1998 have shown their true purpose by testifying publicly that they would not "favor this legislation if such provisions as Mr. Dixon has suggested were included in amendments to the bill." And though a "professional" consumer consultant testified in support of the bill, she conveniently said—

> It isn't important to have a sales ticket at the point of sale carry the name of the wood or the wood product.

It is, therefore, abundantly clear that if this legislation were in fact patterned after the earlier labeling bills, as it purports to be, the proponents would not support it, and that it has their support only if it applies one-sidedly to furniture made of materials other than veneers and does not incur the wrath of retailers.

Thus, it is clear that this bill is a blatant 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 has not been denied over the years.

An executive of that veneer group told this committee in 1960 and also a Senate committee in 1959, in hearings on similar legislation, that—

> The hardwood industry certainly expects this bill to help their sales * * *

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 consumer, 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.)

Then Federal Trade Commission Chairman Kintner, in his 1959 testimony regarding Senate verisons 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 this 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 this 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 reprint, 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:

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, wallpaper 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.

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 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 1/64- to 1/28-inch-thick top veneer on furniture, wall coverings, et cetera, 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 or 98 percent 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.

3. Where the proposal is patently special-interest legislation that would create a vast and expensive bureaucracy to enforce, it can be justified only by a most compelling need to protect the consuming public.

Federal Trade Commission Chairman Dixon testified on August 15, 1963, about this same legislation before the Senate Finance Committee that—

> The Commission's experience in this field has been limited to household furniture, and the Commission does not feel that this is sufficient to enable it to express an opinion as to the need for enactment of the subject bill. (Transcript p. 14.)

He told this committee that—

> The Commission has not had sufficient activities in areas other than household furniture which would afford it a satisfactory basis to determine the nature of the practices to which the bill is directed. (Transcript, p. 46.)

He also testified that the Commission would need a minimum of $500,000 to defray the required cost of promulgating the rules and taking the necessary steps to initiate the program contemplated (p. 14). The continuing administrative cost would come on top of that initial cost.

His predecessor told that committee in 1959—

> * * * 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 ever been shown in any of the hearings. If this type of legislation were needed for consumer pro-

tection, 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.

In conclusion, we submit that the present bill is vulnerable to each of the following objections that have been made to its predecessors:

1. It would create a vast new scheme of Federal regulation covering millions of sales annually of furniture, wall and ceiling paneling, floor covering, radio and TV sets, musical instruments, and other products with decorative wood pattern finishes.

2. To the extent that the bill concerns itself only with the surface of veneer, laminate, or plywood constructions, the bill is designed to and would protect the producers of one kind of decorative materials against inroads of other materials and finishes, and not the consumers. It would unfairly apply the regulatory yoke only skindeep to free veneer construction from labeling the underlying materials, but would compel labeling of underneath construction of other surface materials.

3. It would extend Federal Government regulatory powers down to local retailing.

4. It should deal fairly with all products and materials affected, to the end that if any are to be labeled, all should be labeled in the same manner.

5. Although the supposed evil sought to be regulated is admittedly at the local retail store level, the bill would regulate and sharply increase costs of material suppliers and furniture manufacturers.

6. FTC has completed its hearing procedures and is about to issue revised trade practice rules for the household furniture industry, which in large part would do away with the need, if any, for this legislation.

I thank you for the opportunity to appear.

Mr. STAGGERS. Thank you, Mr. Keck, for your appearance.

Mr. Van Deerlin, do you have any questions?

Mr. VAN DEERLIN. No thank you, Mr. Chairman.

Mr. STAGGERS. Thank you, again.

Mr. KECK. Thank you.

(The appendix referred to follows:)

APPENDIX 1. HARDBOARD—A WOOD PRODUCT

MEANING OF "WOOD"

H.R. 1998 and related bills seek to define "wood" to mean only a timber product retaining its natural growth structure. Any product made from natural wood would therefore become a simulated wood product which would be defined to mean any product * * * made wholly or substantially of any material other than wood, and includes * * * wood fiber, glass, vegetable fiber, plaster, plastic, metal, paper, film, and molded or extruded material * * *.

But "wood" is a very broad term. Webster's "New International Dictionary" gives 11 definitions of "wood." Its first definition is "something made from a tree or trees"; its fifth 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 eighth 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 given 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 Corporation* 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 "timber product retaining its natural growth structure" definition of "wood" in 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 woodflour (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.

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 'hardboard,' the sole substance of which is wood fiber."

It called hardboard "a hard wood 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 air stream.

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 1/10 inch, ⅛ inch, 3/16 inch, ¼ inch and 5/16 inch, and in stock or standard size boards 4 feet (sometimes 5 feet) wide and 6 feet to 16 feet (occasionally 18 feet) long. Much hardboard has one extremely smooth surface and a "screenback," although several companies produce a smooth two-sided (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 carload shipment of hardboard was to an industrial customer for use in making visors, door panels, and kickplates 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 and 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, hardboard 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 particleboards which are bound together by a synthetic resin binder.

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 anything 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° F. 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 lignocellulosic 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 a director of research of Masonite Corp., of the comparative physical properties of ⅛-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 is no more graphic evidence of the essential nature and characteristics of hardboard than is shown by the common recognized tests involved in this study.[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 other forms of food in tests having to do with resistance to moisture or wet strength properties. For example:

	⅛ inch untreated hardboard	1 inch southern yellow pine	¼ inch Douglas-fir plywood	¼ inch gum plywood
Residual strength:	*Percent*	*Percent*	*Percent*	*Percent*
After 1 hour in water, strength left	81.0	82.0	67.0	53.0
After 24 hours in water, strength left	53.0	60.0	53.0	54.0
Water absorption:				
Uptake, 1 hour, by weight	3.5	9.5	19.6	18.7
Uptake, 5 hours, by weight	7.3	16.5	26.3	29.5
Uptake, 24 hours, by weight	19.2	30.5	35.6	57.6
Swell, 1 hour, by thickness	1.0	1.2	3.3	1.6
Swell, 5 hours, by thickness	4.2	2.1	5.3	2.4
Swell, 24 hours, by thickness	10.0	3.7	6.9	4.3
Taber abrasion resistance:				
Dry (CCS loss)	.73	.49	.44	.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

[1] The common tests of physical properties which were 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 longtitudinally); (f) water absorption; and (g) abrasion resistance.

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 hardboard are quite unlike those of the other boards tested, as shown in the attached exhibit. In a dry condition, ⅛-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:

	⅛-inch untreated hardboard	Paperboard range
Water absorption:	*Percent*	*Percent*
Uptake, 1 hour, by weight	3.5	73.7–147.0
Uptake, 5 hours, by weight	7.3	92.3–162.2
Uptake, 24 hours, by weight	19.2	115.2–177.2
Swelling, 1 hour, by weight	1.0	44.8– 50.0
Swelling, 5 hours, by weight	4.2	48.3– 53.6
Swelling, 24 hours, by weight	10.0	51.7– 57.2

The wallboards and insulation boards do only slightly better:

	⅛-inch untreated hardboard	Fiber wallboard	Insulation board
Residual strength:	*Percent*	*Percent*	*Percent*
After 1 hour, in water, strength left	81.0	4.0–37.0	4.3–69.0
After 24 hours, in water, strength left	53.0	2.0–15.0	20.0–38.0
Water absorption:			
Uptake, 1 hour, by weight	3.5	26.8–154.1	6.6–87.4
Uptake, 5 hours, by weight	7.3	60.0–191.8	11.9–235.0
Uptake, 24 hours, by weight	19.2	113.0–204.0	22.7–263.0
Swelling, 1 hour, by thickness	1.0	12.2–33.3	1.1–3.7
Swelling, 5 hours, by thickness	4.2	18.9–47.2	3.0–11.7
Swelling, 24 hours, by thickness	10.0	30.5–55.6	6.1–15.1

It was on the strength of such data that 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 certainly 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) *Hardboard 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 cabinet work, 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 thicknes 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 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 & 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 "simulated wood product." The prejudice to hardboard 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.

Comparative physical properties of various materials

	Hardboard		Wood	Plywood		Paperboard					
	Masonite, ⅛-inch standard pressed-wood	Masonite, HD 128	1-inch southern yellow pine	¼-inch Douglas-fir plywood	¼-inch gum plywood	Cornell Chippewa liners	Cornell Chippewa fillers	Cornell liners	Cornell fillers	Cornell white book match board	Cornell single-bleached lined bottle cap board
Weight (pounds per square foot)	0.708	0.852	2.863	0.872	0.681	0.099	0.122	0.109	0.137	0.145	0.156
Caliper (inches)	0.134	0.122	0.791	0.251	0.248	0.028	0.049	0.034	0.062	0.041	0.042
Specific gravity	1.01	1.34	0.70	0.67	0.53	0.68	0.48	0.62	0.42	0.68	0.71
Dry modulus of rupture (pounds per square inch):											
With	6,380	14,330	13,000	10,500	9,960						
Across	6,370	14,000	625	3,480	5,340						
Average	6,375	14,165	6,813	6,990	7,650						
Wet modulus of rupture (pounds per square inch):											
With (1 hour in H_2O)	5,880	12,730	11,400	7,020	5,240						
With (24 hours in H_2O)	3,680	7,920	8,540	5,590	5,340						
Residual strength (percent):											
After 1 hour in H_2O	92	89	88	67	53						
After 24 hours in H_2O	58	55	66	53	54						
Modulus of elasticity (pounds per square inch):											
With	564,000	1,570,000	1,310,000	910,000	932,000						
Across	492,000	1,460,000	99,200	176,500	415,000						
Average	528,000	1,515,000	704,600	543,300	673,500						
Bond strength (pounds per square inch)	252	930	542	199	194	87	95	61	95	53	77
Tensile strength (pounds per square inch):											
With	4,150	7,560	15,050	4,040	2,900	4,180	4,450	2,860	2,360	4,760	6,420
Across	3,730	8,140	395	4,700	5,140	1,430	1,460	1,080	968	1,610	1,460
Average	3,940	7,850	7,723	4,370	4,020	2,805	2,955	1,970	1,664	3,186	3,940
Water absorption (percent):											
Uptake, 1 hour	3.3	1.5	10.1	19.0	18.2	73.7	74.4	107.3	86.0	147.0	24.2
Swell, 1 hour	1.5	0.8	1.3	3.3	1.6	44.8	50.0	51.4	15.0	47.6	20.9
Uptake, 5 hours	6.5	3.1	17.0	26.3	29.5	100.0	92.3	127.5	118.0	162.2	35.5
Swell, 5 hours	3.7	3.3	2.5	5.3	2.4	48.3	53.6	51.4	16.7	50.0	32.6
Uptake, 24 hours	16.7	8.3	28.4	35.6	57.6	123.7	115.2	155.0	144.0	177.2	38.7
Swell, 24 hours	10.4	8.2	4.6	6.9	4.3	51.7	57.2	54.2	16.7	52.4	34.9
Taber abrasion resistance:											
Dry (cubic centimeters loss per 1,000 cycles)	0.60	0.11	0.41	0.44	0.48	2.94	2.49	3.43	3.26	1.48	1.80
Wet (cubic centimeters loss per 1,000 cycles)	1.48	0.62	3.13	1.72	1.90	25.60	23.50	33.60	35.9	31.70	18.78

	Wallboard							Insulation				
	Cornell litho board	Cornell Chippewa board	Upson 3/16-inch upson board	3/16-inch 4-ply beaver board	Cornell super board	United States Gypsum 3/8-inch sheetrock	United States Gypsum 1/2-inch sheetrock	John Manville 3/8-inch service board	Homasote 3/8-inch wood textured insulating board	Homasote 3/8-inch striated panel	Homasote 15/32-inch insulating and building board	Celotex 1/2-inch building board No. 11
Weight (pounds per square foot)	0.328	0.486	9.556	0.558	0.736	1.592	2.169	0.615	0.965	0.993	0.991	0.790
Caliper (inches)	0.104	0.165	0.167	0.187	0.265	0.385	0.500	0.378	0.428	0.452	0.459	0.488
Specific gravity	0.61	0.57	0.64	0.57	0.53	0.79	0.83	0.31	0.44	0.42	0.41	0.31
Dry modulus of rupture (pounds per square inch):												
With	3,220	2,880	2,380	2,430	2,440	1,343	1,180	465	696	672	764	321
Across	1,900	1,350	1,510	1,410	1,450	418	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 modulus of rupture (pounds per square inch):												
With (1 hour in H_2O)	480	1,060	462	186	270	322	235	200	534	512	523	223
With (24 hours in H_2O)	220	183	365	82	180	256	231	91	242	230	290	108
Residual strength (percent):												
After 1 hour in H_2O	15	37	19	8	11	24	20	43	77	76	68	69
After 24 hours in H_2O	7	6	15	4	7	19	20	20	35	34	38	34
Modulus of elasticity (pounds per square inch):												
With	324,000	321,000	418,000	286,000	292,000	217,000	326,000	47,600	45,100	51,200	69,000	22,000
Across	78,600	154,000	207,000	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 (pounds per quare inch)	44	53	44	38	38	33	36	14	24	27	38	9
Tensile strength (pounds 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):												
Uptake, 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
Uptake, 5 hours	92.4	60.0	128.0	187.4	153.2	49.2	44.2	235.0	14.2	12.7	11.9	38.0
Swell, 5 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
Uptake, 24 hours	115.0	113.0	139.0	204.0	167.0	50.4	45.9	263.0	34.3	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
Taber abrasion resistance:												
Dry (cubic centimeters loss per 1,000 cycles)	3.13	2.82	4.13	2.8	4.9	8.72	5.46	41.9	2.96	2.41	3.64	5.02
Wet (cubic centimeters loss per 1,000 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

APPENDIX 2. "HARDBOARD" AS A GENERIC TERM

Over the last 38 years, "hardboard" has become and is well recognized as a generic term 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 board such as soft or insulation board, particle boards that have a synthetic resin binder, gypsum boards, wallboards, and so forth.

The term "hardboard" is defined in Webster's Third International and in Webster's Seventh Collegiate Dictionaries.

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., "Hardboard—Presdwood."

When, in 1933, this same patent was involved in infringement litigation, and was adjudicated to be valid, in *Masonite Corp.* v. *The Celotex Co., 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 Corp.*, 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 Corp.*, 316 U.S. 258, 267–268 (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 pounds per cubic foot. It is used in the building industry as wallboard, 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.

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[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 1.

"22. The process of making grainless hardboard of wood, which includes * * *."

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 the 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 the 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 interfelted 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 lignocellulosic wood fibers consolidated under heat and pressure into a board characterized by a natural ligneous bond."
>
> Commercial standard CS251–63, is entitled "Hardboard."
>
> 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 lignocellulosic fibers" and "be characterized by a natural ligneous bond."

On April 15, 1963, Frank A. Cisar, Chairman, Technical Committee on Standard Industrial Classification, of the Bureau of the Budget, Executive Office of the President, wrote the American Hardboard Association as follows:

"We wish to advise that favorable action has been taken on your recommendation relative to the standard industrial classification of establishments primarily engaged in manufacturing hardboard. This action will result in correcting the code for the index item, 'Hardboard, tempered or nontempered' from industry 2661—building paper and building board mills, to industry 2499—wood products, not elsewhere classified."

In the May 1960 Notices 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.

Hardboard is classified under that generic term in the new tariff schedules effective August 31, 1963, pursuant to the Tariff Classification Act of 1962.

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 Indulation Board and Presdwood by the Masonite Process," Journal of Chemical Education, October 1930.
"Lignin Plastics," Modern Plastics, October 1937.
"Plastics and Chemicals from Wood," Paper Trade Journal, volume 110, No. 18 (1940).
"Developments in the Manufacture of Structural Products from Hydrolyzed Wood," Paper Trade Journal, volume 118, No. 13 (1944).
"Fiber Bonus," Chemical Industries, August 1947.
"Development of New Plastic Panels From Wood," Society of Plastics 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 I," Wood (Chicago), volume 4, No. 12, December 1949.
"Hard Facts on Hardboard, Part 2," Wood (Chicago) volume 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 & Garden, March 1961.
Mississippi Valley Lumberman, March 17, 1961, page 8.
Furniture Manufacturer, March 1961, page 18.
Publishers' Auxiliary, February 1961.
Thrift & Home, February 1961, page 3.
The Home Craftsman, February 1951, 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 & Wood Products, December 1960, pages 48, 50.
American Builder, November 1960, page 53.
Popular Science, Home Improvement Ideas, 1960, pages 167–168.
Science & Mechanics, October 1960, page 149.
Wood & Wood Products, October 1960, page 54.
American Lumberman, September 1960, page 30.
Wood & Wood Products, July 1960, page 42.
Practical Builder, October 1959, page 82.
New Homes Guide, 45th edition, pages 108–110.
Home Maintenance & Improvement, 1960, page 30.

Mr. STAGGERS. Mr. Soriano. Will you state your name and proceed with your statement?

STATEMENT OF JOSE M. SORIANO, AMERICAN INTERNATIONAL HARDWOOD CO.

Mr. SORIANO. Mr. Chairman and Mr. Van Deerlin, members of the committee, I am Jose Soriano, a resident of Greenwich, Conn., and a general partner in the American International Hardwood Co., of New York. I appear here today on behalf of my company in opposition to the enactment of H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, and H.R. 6604.

My associates and myself have been importing hardwoods for well over 10 years. At present we import hardwoods from the Philippines, Taiwan, and Africa. Of course, our principal imports are from the Philippines.

I shall not take your valuable time to dwell on the wonderful special relations that have existed between the Philippines and the United States for the last 60-odd years. I am certain you are keenly aware of the mutual advantages both countries have gained by their close friendship and association in developing and protecting the ideals of democracy in war and peace.

The hardwood industry in the Philippines is extremely vital to the economy of that country. In 1962 it represented some $2 million out of total exports of over $554.5 million. These foreign exchange earnings have helped make it possible for the Philippines to import, in the year 1962, over $586 million worth of consumer needs, raw materials, and capital equipment to meet the requirements of this fast growing island country.

I believe it is important to note that over $251 million of Philippine imports came from U.S. farmers and manufacturers. This represents 43.1 percent of the total imports. No other nation has even 50 percent of the U.S. share of the Philippine market.

I am sure you have heard considerable testimony that Philippine hardwoods have been known as Philippine mahogany for over 50 years and that that terminology has been approved by the Federal Trade Commission and by a number of court actions.

In all these hearings it has been established by expert testimony, not only by scientists from universities and the private sector but also from Federal Government, that pure mahogany is *Swietenia mahogani* and comes basically from a small area of Central America and the Dominican Republic.

Swietenia has been allowed to be marketed under the name mahogany. At the same time the hardwoods from the Philippines, which is a close botanical relation, have been marketed under the name of Philippine mahogany.

Likewise, the hardwoods from the African tree *Kahya*, also a close botanical relation of *Swietenia*, have been marketed under the name of African mahogany. This has been acceptable for a number of decades.

In reviewing the testimony in hearings before the Federal Trade Commission many years ago and in the research that has been carried on recently, we can find no evidence that wood or wood products are marketed in the United States under their strict botanical name. In fact, the opposite seems to be the case.

Douglas fir, which is certainly one of the best known woods from the Northwest of the United States, is really Faise hemlock; red cedar shingles are nationally known but they come from a tree known as juniper and a lumber which is used considerably on the east coast of the United States called poplar is really tulip.

These facts were brought out in 1927 at the hearing before the Federal Trade Commission and they are just as true today.

Under this proposed legislation it would seem that only one wood is being selected to be treated in a special way. One wood, Philippine hardwood, would have to be marketed a different way than other import hardwoods. The African hardwood, which is in the identical same position, would be permitted the use of the word "mahogany."

This in my opinion, would be a tremendous discrimination against one product from one country.

I believe that testimony has shown that the records of the Federal Trade Commission do not report consumer complaints against Philippine mahogany with the exception of those complaints which have been registered by the mahogany association. That association represents a few African and Central American importers.

I am also a director of the Philippine Mahogany Association and as a member of that association I was deeply disturbed at the testimony of the president of the National Better Business Bureau on a survey conducted by that organization on public opinion on what is Philippine mahogany.

I am not an expert in the technical profession of carrying out a market or public opinion survey, nor am I technically proficient in the development of the conclusions after the survey has been completed.

However, after reading the conclusions of the National Better Business Bureau survey and the methods under which the survey was conducted, I was in full agreement with the Philippine Mahogany Association when they retained an outstanding professional in the field to study the Better Business Bureau survey and evaluate the conclusions that were reported.

I have with me copies of that report as prepared by Bennett-Chaikin, Inc., and would like to submit them to this committee with the attached short curriculum vitae on Mr. Chaikin and his company.

In the light of these facts and the many other statements of expert testimony over the years, I do hope you will agree with me that this proposed legislation has no merit.

I want to thank you very much for giving me the opportunity of presenting our point of view.

(The appraisal follows:)

AN APPRAISAL OF THE METHODS, PROCEDURES, AND FINDINGS OF THE 1963 NATIONAL BETTER BUSINESS BUREAU STUDY ON PHILIPPINE MAHOGANY

Prepared for the Philippine Mahogany Association by Bennett-Chaikin, Inc., October 1963

This is to advise you that we have reviewed the statement of Mr. Kenneth B. Willson, president of the National Better Business Bureau, as submitted to the Interstate and Foreign Commerce Committee on June 2, 1963, in which the survey findings developed from the mail study processed by R. L. Polk were introduced to support the contention that the application of the term "Philippine" in connection with the word "mahogany" was deceptive, misleading, and that its continued use would not be in the public interest.

We have made a careful evaluation of both the research methods and procedures used in this survey as well as the inferences drawn from the data and it is our considered opinion that the study undertaken by the National Better Business Bureau is not a sufficiently valid basis for the conclusions made in its presentation to the Interstate and Foreign Commerce Committee.

It is surprising in our view that the National Better Business Bureau would go to the firing line with so little ammunition. It would seem to us that with so much at stake more exhaustive efforts would have been made by the National Better Business Bureau to develop its case. The only place where any degree of precision was exercised was in carrying the percentages to an extra decimal point—where it matters least. No one is questioning the percentages per se but we have serious reservations about the manner in which the information was obtained and upon which these percentages were computed.

Let's take each aspect of the National Better Business Bureau consumer study individually:

1. Who designed and conducted the study?

The responsibility for the design and conduct of an inquiry of this nature is usually left in the hands of an independent research organization. Such was not the case in this situation since R. L. Polk, retained by the National Better Business Bureau, is not a marketing or opinion research firm. All Polk was asked to do was to draw a survey sample at random from their own area listings and mail out the questionnaires. No reference is given as to who designed the questionnaire. Apparently this important responsibility was taken from R. L. Polk and instead handled by National Better Business Bureau personnel.

2. Who tabulated the questionnaires and analyzed the survey findings?

There is no clear indication as to who was assigned to tabulating the questionnaires. No reference is made in the presentments as to the extent of R. L. Polk's participation in this important facet of the study. Since the replies to an open-end question are subject to interpretation, was the analysis based on an unbiased reading of the responses?

Apparently, the idea of having R. L. Polk involved on the assignment was to give the study some aura of independence, but from the evidence it appears that the course of the study was chartered by the sponsor.

3. The introductory letter and the National Better Business Bureau auspices

While the presentments suggest that an independent study was made through the facilities of R. L. Polk, the fact is that the questionnaire went out under the National Better Business Bureau letterhead. This action in itself tends to inject a note of bias into the conduct of the survey and this is further compounded by the nature of the introductory letter which seems to suggest the existence of a controversy on Philippine mahogany.

4. The questionnaire itself

Apparently no actual questionnaire form was used but instead a blank card was enclosed with space for the individual to write in the information requested in the introductory letter. This is an unusual departure from the standard research procedure in which a questionnaire with the exact wording is almost always used.

Specifically, the second paragraph of the introductory letter states, "We want to find out what the public's understanding is of the term "Philippine mahogany." We are enclosing a return addressed postal card for your convenience in giving us your opinion, if you will be so kind as to do so."

There seems to be some confusion as to whether the letter calls for a definition of, or an opinion of, Philippine mahogany. It's hard to tell which from the explanatory letter used to persuade the respondent to cooperate in the survey.

The letter goes on further to explain that the sole purpose of the inquiry is to find out what this term, "Philippine mahogany," means when used in home building, boat building, lumber dealers and trailer advertising. This kind of phraseology is a dead giveaway since the answer is virtually suggested in the question itself; namely, "Mahogany that comes from the Philippines." It's like asking a person, "Who is buried in Grant's tomb?"

Finally, the respondent was asked to give a frank opinion without consulting reference sources. We'll never know but this request would never have been necessary in personal interview.

5. The mail survey technique and the low rate of response

Mail surveys have definite limitations and generally have a low level of acceptance among the research cognoscenti, especially when the rate of return falls below expectations. The National Better Business Bureau-R. L. Polk study on public comprehension of the term "Philippine mahogany" in connection with home building, boats, and lumber, produced an unsatisfactory response, with only 28 percent taking the trouble to answer the questionnaire. Conversely, this means that 72 percent of the people contacted did not answer it. There is no proof or indication that the answers of nonrespondents would have followed the same pattern of those who replied to the questionnaire. In other words, the purpose of a survey sample of a given universe is to be representative of that particular universe. With the low response rate, we have no way of knowing that it is, and the degree to which the replies of the nonrespondents might have affected the total findings. There is reason to believe that many did not answer the questionnaire either because the stimulus was inadequate or they didn't know anything on the subject of Philippine mahogany or perhaps didn't clearly understand the wording of the questionnaire.

The low response is especially disappointing since the purpose of sending the questionnaire under the respected aegis of the National Better Business Bureau, a public service organization, would create a sense of urgency or responsibility and thereby induce a high rate of return. In this respect, the study apparently made a minimal impression on the public.

It is our opinion that a personal interview survey among a representaive cross section of the better educated segments of the population would have been a much more productive method of getting definitive and reliable information on the subject of Philippine mahogany. No doubt budget considerations had a bearing on the decision to conduct the survey in this inexpensive manner.

6. The findings

In view of the fact that the response to the questionnaire was relatively low, and that the questionnaire framework itself left much to be desired, it is difficult to evaluate the survey results. The key finding is that 43.9 percent (of the 27.8 percent or 14.2 of all persons contacted) have been classified as believers that Philippine mahogany is mahogany. This is subject to interpretation of the question, "What does Philippine mahogany mean to you?" and doubtlessly includes those who played back the response, "Mahogany that comes from the Philippines." Another 30.37 percent were grouped into those who did not state from what wood "Philippine mahogany" was derived. Was the source specifically asked for? Apparently not, and few people could be expected to know this anyway.

It is significant that 11.43 percent volunteered that Philippine mahogany is not mahogany and 12.33 percent admitted that the term meant nothing to them. With respect to the latter percentage, the true ignorance figure is unknown since we have no idea how many there are in this category among those who didn't answer the questionnaire.

One glaring omission in the presentation of the findings was the absence of verbatim comments. Was there any evidence at all that the public feels it was being duped? Did anyone answering the question take the opportunity to register a complaint? If so, it doesn't appear in the presentation. Apparently the consumer couldn't care less.

7. Summing up

The survey conducted by the National Better Business Bureau purports to be pilot in nature according to Mr. Willson's own admission, yet the study sought the opinions of 2,400 people—hardly a pilot sampling as understood in the accepted research sense of the word. Only the fractional response could be characterized as "pilot" for the findings are most inconclusive.

The study is vulnerable on virtually all research counts—auspices, sample design, questionnaire framework, analysis, and interpretation. To reiterate the observation made at the outset, the survey undertaken by the National Better Business Bureau is not a valid basis for the projections and conclusions made in its presentation to the Interstate Foreign Commerce Committee.

CY CHAIKIN, PRESIDENT, BENNETT-CHAIKIN, INC., NEW YORK, N.Y.

Cy Chaikin, head of Bennett-Chaikin, the well-known marketing and opinion research organization, is widely recognized as one of the outstanding creative men in the commercial research business. The respect in which he is held by his colleagues was further attested by his election as president of the American Marketing Association in 1960–61.

Cy Chaikin has made notable contributions to industry in many areas of marketing and his company has been retained by some of the Nation's leading corporations: American Can, General Foods, Union Carbide, Du Pont, Colgate-Palmolive, Proctor & Gamble, Chesebrough-Pond's, Revlon, and Chrysler, to mention a few.

The range of problems handled by Bennett-Chaikin include new product testing in both the conceptual and prototype phases: the naming of an automobile (Valiant); successful application of research as admissible evidence in legal and Federal Trade Commission decisions; copy research in developing advertisements in both audio and print media; psychological research into consumer motivations; political opinion research (President Eisenhower and Governor Scranton, of Pennsylvania); research as basis for magazine articles ("What Americans Don't Know About Russia," Harrison Salisbury); international marketing—introduction of products into this country; store location studies (departments, stores, and supermarkets); creative research in marketing Chinese foods (Chun King Foods Corp.).

Bennett-Chaikin's facilities are national and international in scope with field interviewing personnel in markets of all sizes and dimensions. Since being in business in 1951, the firm has interviewed over three-quarters of a million people at both the consumer and executive and trade levels.

Prior to becoming president of Bennett-Chaikin, Mr. Chaikin was research director of Grey Advertising before he was 28 years old. He was also director of research planning for the New York Herald Tribune, both New York and Paris editions of the paper.

He has also been guest lecturer at Columbia, City College, Fordham, and Manhattan College. His home is in Mount Kisco, N.Y.

Mr. STAGGERS. Thank you, Mr. Soriano. Mr. Van Deerlin?

Mr. VAN DEERLIN. No thank you Mr. Chairman.

Mr. STAGGERS. And you wish to present this statement or appraisal of the better business bureau for the record?

Mr. SORIANO. Yes, Mr. Chairman.

Mr. STAGGERS. It shall be so ordered. Thank you very much for coming and giving us the benefit of your views.

Mr. SORIANO. Thank you for your time.

Mr. STAGGERS. That concludes our hearings today and the committee will resume tomorrow on another bill.

Thank you all very kindly.

The committee is adjourned.

(The following material was submitted for the record:)

STATEMENT BY THE NATIONAL ASSOCIATION OF FURNITURE MANUFACTURERS

The record is already overcrowded with technical statements for and against H.R. 1998. Since it is unlikely that many people will take the time to review this long and conflicting record, we thought that at this time it would be helpful to pose a series of important questions, based on the record develop the answer to these questions and thereby bring the whole question into focus.

Question. Was this legislation originally developed to protect the consumer?

Answer. To date no testimony can be found to show that this legislation was in truth originally inspired by either a consumer need or a consumer demand. Neither the Federal Trade Commission, the better business bureau, nor any recognized agency has submitted evidence to justify the Fine Hardwood Association's fallacious and exaggerated claim that the deception in wood labeling parallels the conditions preceding fur labeling. This is a convenient catch phrase used to hoodwink and deceive busy Congressmen. The truth of the matter is this legislation is motivated to secure preferential treatment for the business interests of the membership of the Fine Hardwood Association.

Question. Does the FTC endorse the present bill and do they want it enacted?

Answer. Simply stated the answer is "No." The FTC has repeatedly testified they have no record of complaints against the furniture industry that would justify their seeking such legislation. The FTC has specifically stated that this legislation is inadequate as drafted and in previous hearings, FTC representatives have said that it has aspects of "special interests" legislation.

Question. Why did the Fine Hardwood Association use the words "simulated" or "imitated" to describe nonwood products in previous bills on this subject and then withdraw them?

Answer. The use of these "sales killing" terms reveal to even the most casual observer the selfish "special interests" of the sponsors of this legislation. Only after adverse testimony and some embarrassing questions by congressional committeemen it became apparent to them that this "skulduggery" could not be "sold" so a watered down version is now being presented in the hopes that somehow it will go through.

Question. Was there an area in deceptive wood labeling that needed to be corrected?

Answer. Yes, there was. Several years ago in the radio, TV, and hi-fi field cabinets made with plastic and metal were labeled with hardwood names. The FTC recognized that this was a deceptive practice and not in the best interests of the consumer. Without requesting special legislation since our laws already rule against deception, the FTC issued stipulations requiring all major radio, hi-fi, and TV manufacturers to desist and, moreover, required them to affix a tag affirmatively describing the products which, by law, has to remain on the product until it reaches the consumer. This action has effectively cleared up the situation.

Question. Was this the only major area of wood deception?

Answer. Representatives of the Fine Hardwood Association testified several times that it was the area of prime concern and have indicated in both written and oral testimony that furniture manufacturers are not guilty of deception in wood descriptions.

Question. Why hasn't the Fine Hardwood Association responded to our challenge and presented provable facts from the FTC, Better Business Bureau, etc., to support their contention that a serious situation of consumer deception exists and, therefore, legislation is needed?

Answer. The reasons are obvious. This legislation is selfishly motivated and the facts do not support their premise; consequently, the Fine Hardwood Association and other supporters talk in broad generalities. They view with alarm and hope that the pressure of congressional business will make it unlikely for anyone to probe below the surface and discover the shallowness of their case.

Question. Why hasn't the Fine Hardwood Association asked the FTC to prosecute specific cases of wood deception contained in visual exhibitions which they presented at previous hearings?

Answer. It has been repeatedly pointed out that the examples of deceptive advertising contained in their own exhibit came within the jurisdiction of the FTC. The Fine Hardwood Association has failed to ask for action because it would largely destroy their plea on the need for new legislation to deal with the problem. The facts are that the FTC already has the power under existing law to stop the cases of deception shown. We might observe that if the Fine Hardwood Association were truly concerned regarding consumer deception, they would have acted—significantly, they have not.

Question. Is the small businessman the real target of the Fine Hardwood Association?

Answer. Apparently the Fine Hardwood Association is not satisfied with the broad reach now within the power of the FTC. They would like to broaden and expand FTC's sphere of influence so that they can reach down into the individual States and bring their weight to bear on the small businessman who operates completely within a State. The Fine Hardwood Association apparently wants to do this to cure a problem which they are unable to prove exists.

Since participating in these hearings, I have had impressed upon me the democratic processes of our Government. This present, unneeded legislation has had lengthy and innumerable hearings before both the House and Senate committees. At no time has the evidence presented by the proponents ever been conclusive or convincing enough to warrant either the Senate or House committees

to take affirmative action, yet the simple persistence of the proponents to perpetually reintroduce this bill makes it possible for the subject to be discussed and rediscussed on ad infinitum. One really cannot deplore the democratic process but one could hope that someday soon the rights of other individuals and the cost of defending their rights might take a paramount position in the minds of Senators and Representatives and this proposed legislation be dropped completely.

JOHN M. SNOW,
Executive Vice President.

STATEMENT OF THE PHILIPPINE AMERICAN CHAMBER OF COMMERCE, INC.

The Philippine American Chamber of Commerce greatly appreciates the opportunity to offer a statement in opposition to identical bills H.R. 5669, 6210, 6365, 6370, and 6640, now before your committee for public hearings. We believe that aforesaid legislation reflects an attack upon the long-established vested rights in the name "Philippine mahogany."

By way of identifying the Philippine American Chamber of Commerce, it is a nonprofit organization of 134 member companies in the United States and the Philippines. It was incorporated in New York in 1920. Most of the members are in the New York area while others are in the midwest and on the west coast. Our purpose is to promote and encourage mutual trade between the two countries and to foster the good will that has prevailed in Philippine-American relations for so long a time.

Our membership includes firms engaged in producing and marketing Philippine hardwoods who feel strongly that deception of the public is not a true issue in the trade use of the term "Philippine mahogany." Records of the Federal Trade Commission in previous hearings on this same matter fully support their view.

The production, manufacturing, and importation of Philippine mahogany involves the investment of millions of dollars of American capital and wide-scale employment in both countries. The attempt on the part of private interests to secure passage of this legislation would result in great damage to an established industrial complex and, equally important, would result in nullifying the action of the administrative agency created by Congress to deal with questions of nomenclature and to protect the public against deception.

Extensive hearings before the Federal Trade Commission clearly show through the testimony of more than 200 witnesses that the name "Philippine mahogany" does not cause confusion or deception. These witnesses showed plainly that they were not concerned with the scientific origin of the wood in question but with the texture, grain, color, and other qualities which they identified with the Philippine product. Thus, within the nonscientific framework of their understanding, "Philippine mahogany" meant to them, generally, a familiar wood from the Philippines without regard to leaves, blossoms, or botanical names.

Numerous branches of our Federal Government since the beginning of the century have encouraged the production and manufacturing of lumber in the Philippines for importation into the United States. Such lumber has been known and accepted for over 60 years as "Philippine mahogany" without a single complaint except from the proponents of this legislation.

To deprive Philippine producers of the use of this long-established label in the American market would be unfair in the extreme sense. It would benefit a special group of producers to the detriment of another group in the Philippines which in a very material way is helping the economy of a friendly developing country.

We wish to repeat our expression of appreciation to the committee for the privilege of offering the above for your consideration.

A. D. CALHOUN,
President, Philippine American Chamber of Commerce.

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5 MAR 1964
MANHATTAN, KANSAS

STATEMENT IN OPPOSITION TO H.R. 1998 AND RELATED BILLS (WOOD LABELING) PRESENTED ON BEHALF OF FURNITURE MANUFACTURERS ASSOCIATION, OF GRAND RAPIDS, MICH.

By its board of directors:

R. H. Bennett, Jr., president, Stow & Davis Furniture Co., Grand Rapids, Mich.
Kenneth Bergsma, secretary-treasurer, Imperial Furniture Co., Grand Rapids, Mich.
C. W. Dozema, Mastercraft Furniture Co., Grand Rapids, Mich.
Richard P. Markoff, Barnard & Simonds Co., Inc., Grand Rapids, Mich.
George F. Ball, Bissell, Inc., Grand Rapids, Mich.
John M. Brower, Brower Furniture Co., Grand Rapids, Mich.
Adrian VandenBout, Hekman Furniture Co., Grand Rapids, Mich.
William W. Irwin, Irwin Seating Co., Grand Rapids, Mich.
C. M. Kindel, Kindel Furniture Co., Grand Rapids, Mich.
Robert L. Miller, Robinson Furniture Co., Grand Rapids, Mich.
Hollis M. Baker, Baker Furniture, Inc., Holland, Mich.
W. R. Fitzgerald, West Michigan Furniture Co., Holland, Mich.

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 have opposed this or similar 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 proposal 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.

The hardwood industry has tried, without success, to obtain legislation similar to this for a long time, either in the form of statutory enactment or amended rules by a governmental agency (i.e. Federal Trade Commission). That it is indeed "special interest" legislation is apparent. Disclosures required by this proposal (kind of wood and kind of fabric) have little to do with quality, performance, and durability. Yet statements of consumer representatives before the FTC demonstrate clearly that labeling is helpful only to the extent it relates to quality, performance, and durability.

The kind of hardwood just doesn't indicate quality. No knowledgeable person believes for a moment that an oak table is better than another table—just because it is oak. What counts is the design, the quality of joinery, its general construction, the artistry, and durability of its finish.

Parts of the statement which follow repeat arguments against mandatory labeling that have been presented in our previous statements to our legislative representatives and the Federal Trade Commission. This repetition of essential points, if noted, may also serve to emphasize the harassment to which the furniture industry has been subjected by the bill's proponents in recent years.

II. THERE HAS BEEN NO SHOWING OF PUBLIC INTEREST

In a statement before a Senate committee when it was considering wood labeling 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.]

However, if a dominant need existed to curb deception by some in the industry, the Federal Trade Commission presently has all necessary authority to attack and eliminate misrepresentation of product by manufacturers.

Thus, if a furniture manufacturer were to misbrand, its action 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.

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 sale promotion programs of our furniture manufacturers.

Dr. Donald R. G. Cowan of the School of Business Administration of the University of Michigan in recent testimony before the Federal Trade Commission trade practice conference for the household furniture industry stated 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 species 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 conferences. 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 consideration 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 the 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.

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 on economic waste of vast proportions.

V. THE COST OF MANDATORY LABELING 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 this bill 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. To devise special labels for all pieces with different combinations of woods in accordance with the regulations, will be a not inconsiderable job. It will require, too, a multitude of detailed instructions for ordering, printing, and affixing proper labels to each item manufactured.

Members of the Furniture Manufacturers Association of Grand Rapids, Mich., acting through their association, again add their voices to the host of others opposing H.R. 1998 and related bills. We appreciate the opportunity to submit our remarks for the record of the proceeding.

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 Decorative Wood or Simulated Wood 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 who may be deceived at the wholesale level.

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.

STATEMENT OF FORMICA CORP., CINCINNATI, OHIO

The following statement by Formica Corp. outlines that company's position regarding H.R. 1998, the Decorative Wood Products Labeling Act, now in the hands of the Interstate and Foreign Commerce Committee.

This position also applies to all other bills relating to decorative wood products labeling, insofar as these could be interpreted to cover laminated plastic materials. These other bills include H.R. 6226, 6210, 6365, 6370, 6604, and 5669, the last named referring only to "mahogany."

STATEMENT

The Formica line of laminated plastics includes 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 a 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 this proposed legislation would, as now written, be discriminatory against a well-established legitimate field of business, insofar as it relates in any way to the decorative laminated plastic industry.

It is our belief, based on the above background, that bills H.R. 1998, 6226, 6210, 6365, 6370, 6604, and 5669 should each be amended to include the following:

"Nothing in this Act shall be construed to include high pressure laminated plastic and high pressure laminated plastic shall be excluded."

Without such an amendment H.R. 1998 and other similar bills would inflict unwarranted and unjustifiable financial hardship on the laminated plastic industry. In particular it would reflect unfairly on a highly respected brand name, Formica.

Sincerely,

WALTER A. SMITH, *President.*

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., June 14, 1963.

HON. HARLEY O. STAGGERS,
House of Representatives,
Washington, D.C.

DEAR HARLEY: The attached statement dealing with H.R. 1198 and H.R. 6228, to provide for the proper labeling of decorative hardwood or simulated hardwood products, expresses the views of the farm bureau with regard to this legislation.

I would appreciate it very much if you would file this for the record.

Sincerely yours,

JOHN C. LYNN, *Legislative Director.*

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.

Farm bureau has favored proper labeling of products offered consumers for many years. We believe consumers are entitled to know the character of products offered for their purchase.

Farm bureau policies for 1963 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 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 such product indicating the name of the wood or other material of which it is made.

We believe that the provisions of H.R. 1198 and H.R. 6228 provide adequate protection to consumers of hardwoods 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.

STATEMENT OF THE LAMINATED PRODUCTS DEPARTMENT, GENERAL ELECTRIC CO.

This statement in opposition to H.R. 1998 is filed by the Laminated Products Department of General Electric Co., located in Coshocton, Ohio, which is a manufacturer of industrial and decorative laminated products which it sells under the trademark Textolite.

H.R. 1998 is entitled "A bill to protect consumers and others against misbranding, false invoicing, and false advertising of decorative wood and simulated wood products."

This statement is to demonstrate, first, that there is no need for legislation to accomplish the purposes of this bill and, secondly, that this bill goes far beyond the purpose expressed in the title.

1. No need for legislation

Even if the public requires protection against misbranding and false advertising of decorative or industrial laminated products, there is no need for additional legislation. The public already is adequately protected by section 5 of the Federal Trade Commission.[1] That section makes unlawful "unfair methods of competition * * * and unfair or deceptive acts or practices * * *" and there are numerous proceedings brought by the Federal Trade Commission that make it abundantly clear that this language prohibits misrepresentation of the composition, quality, or character of a product. Thus, there already exists sufficient legislation to protect the public in the respects set forth in the title of H.R. 1998.

If, despite the existence of adequate legislation, it be deemed necessary that more detailed rules be established for labeling and advertising laminated products, there already exists under the rules of practice of the Federal Trade Commission a procedure for establishing trade practice conference rules to eliminate or prevent unfair methods of competition, unfair or deceptive acts or practices and other illegal trade practices. Such rules have greater flexibility than does legislation and it is submitted that promulgation of a trade practice conference practices rule would adequately protect the public—if any such protection is required. And in fact the Federal Trade Commission has issued (Oct. 10, 1962) "Proposed Trade Practice Rules for the Household Furniture Industry." These proposed rules cover "wood and wood imitations" and "deceptive use of wood names."

It is further submitted that such protection is not required in view of the activities of the National Better Business Bureau and its local agencies. This private bureau, financed by businessmen, works ceaselessly against misrepresentation through publicity, consultation, and persuasion.

Your attention is respectfully invited to the fact that the Federal Trade Commission on at least two occasions has stated that "the Commission * * * is not aware of * * * the need for this type of legislation." (S. Rept. 1405, 86th Cong. 2d Sess., May 23, 1960).

It has not been demonstrated that the Federal Trade Commission Act, the trade practice conference rules or the activities of the Better Business Bureau are inadequate to protect the public. In the absence of such a demonstration, H.R. 1998 should not be enacted.

2. Even if legislation should be desired, H.R. 1998 goes far beyond the purposes expressed in its title

As stated above, the expressed purpose of H.R. 1998 is "to protect consumers and others against misbranding, false invoicing, and false advertising." If—which the undersigned denies—legislation is required to accomplish this purpose, the legislation should be limited to that purpose and should not go beyond. Thus, the prohibitions of subsection (a) of section 3 of H.R. 1998 should suffice since they would prevent misbranding, false or deceptive advertising, and false or deceptive invoicing.

However, H.R. 1998 goes far beyond this purpose. In addition to the stated prohibitions, this bill (sec. 4(2)) makes mandatory the affixing of a prescribed label to "each decorative wood and simulated wood product." It is submitted that mandatory labeling is undesirable and, in fact, it is further submitted that it should be brought to the attention of Congress that it is physically impracticable to affix a label to each piece of laminated product.

Furthermore, labeling of contents is of little value to the consumer (except where clearly related to health and safety.) A laminated product is only one factor in a completed, fabricated article. Even if the consumer is specifically informed of the contents of the fabricated article, he is not informed of the quality of workmanship, durability, or adaptability to a particular use, factors which are as important as the identification of the materials content of the article.

3. Opposition to the use of the term "simulated"

As stated above, the undersigned is unalterably opposed to legislation on the subject of mandatory labeling. If, despite this opposition, the Congress should see fit to legislate mandatory labeling, it is submitted that such legislation should not be as extreme and prejudicial as is H.R. 1998.

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[1] Act of Sept. 26, 1944, ch. 311, 38 Stat. 717, as amended, an act to create a Federal Trade Commission, to define its powers and duties, and for other purposes.

The Congress has previously enacted the Wool Products Labeling Act of 1929, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act. These laws require that labels correctly identified the contents of the respective products. H.R. 1998 would go further. It would require that the label of a laminated product in a wood grain pattern indicate that the pattern is simulated. It is submitted that the requirement of designating a product as a simulated product is prejudicial. The word "simulated" connotes inferiority and would adversely affect the marketability of any product with which it is identified.

By way of explanation, decorative laminates have shown, on the basis of laboratory tests and extensive use of hundreds of millions of square feet, marked superiority over hardwoods in scratch and wear resistance, heat and cigarette resistance, stain resistance, and so forth. Moreover, the general public has recognized and acknowledged these advantages and demanded decorative laminated products where these characteristics are important. General Electric Co. is a reputable organization that clearly identifies its laminated products as such. It also states in its advertising and sales promotional material that its laminated wood grain patterns are patterns; it does not state that they are wood. It is submitted that General Electric Co. and other manufacturers of laminated products should not be penalized by a legislative enactment requiring that labels indicate that the product is simulated.

We recommend that a provision be added to H.R. 1998 reading like that contained in the Federal Trade Commission's proposed trade practice rules for the household furniture industry.

"Nothing in this Act shall be construed as prohibiting the nondeceptive use of wood names to describe the color, finish or appearance of a product."

4. Summary

In summary, it is submitted that there is no need for legislation of the type of H.R. 1998. The existing Federal Trade Commission Act is sufficient. The proposed Federal Trade Commission trade practice rules for the household furniture industry are available, and the activities of the better business bureau are available for voluntary self-regulation. If legislation is desired, it should be limited to a prohibition against misbranding and false advertising; it should not go further and require a statement of contents. Further, even if a statement of contents would be required, there should not be a requirement that the label indicate that the product is simulated, since this word has an inherent inference of inferiority.

Respectfully submitted.

D. A. HOPPER,
General Manager, Laminated Products Department, General Electric Co.

STATEMENT OF GENERAL FEDERATION OF WOMEN'S CLUBS, WASHINGTON, D.C.

The General Federation of Women's Clubs is the largest organization of women in the world and its members as a part of the consumer public urge this committee to correct what we feel is a needless deception.

Genuine mahogany is a fine old wood—just as there are many other fine woods for many purposes. It does seem unfair and deceptive to allow any wood other than mahogany to be called mahogany. Even if the word "mahogany" is prefixed by a geographical location such as Philippine or East Indian or Colombian, if it isn't genuine mahogany—then there is deception. And unless the wood described by the phrase "mahogany finish" is actually genuine mahogany, then there, too, is deception.

Our support of this legislation is based on the following resolution which was adopted by the General Federation of Women's Clubs in 1962:

"MISREPRESENTATION IN ADVERTISING AND MARKETING (CONVENTION, 1962)

"Whereas the General Federation of Women's Clubs has consistently worked for the protection of the consumer; and

"Whereas the General Federation of Women's Clubs opposes any misrepresentation in advertising, labeling, and all forms of marketing for public consumption: Therefore be it

"*Resolved*, That the Congress of the United States be petitioned to enact legislation needed to fully protect the consumer; and be it further

"*Resolved*, That the General Federation of Women's Clubs urges its members to promote programs of education, action and cooperation with law enforcement to insure consumer safety."

FINE HARDWOODS ASSOCIATION,
Chicago, Ill., November 11, 1963.

HON. HARLEY O. STAGGERS,
Chairman, Commerce and Finance Subcommittee, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. STAGGERS: Please accept our appreciation for the very fair and competent manner in which you and your colleagues conducted the hearings on June 18, 19, and 20 and November 5, 1963, on the Decorative Wood or Simulated Wood Products Labeling Act (H.R. 1998 and H.R. 6226).

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 have included such consumer organizations as the General Federation of Women's Clubs; the Consumer Conference of Greater Cincinnati; 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 wood or imitation wood 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.

For the benefit of the record, the Consumer Advisory Council in its report to the President of the United States dated October 1, 1963, included a recommendation that this bill be enacted into law.

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 wood species names and by labeling and advertising products bearing exposed surfaces in whole or in part of an inexpensive wood species by more expensive wood 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. Mr. Keck quoted from my testimony before your committee in 1960 out of context, thereby completely distorting the meaning.

Mr. Keck reported my statement as, "The hardwood industry certainly expects this bill to help their sales. * * *" 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 spe-

cies 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 knowledge 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.

2. Opposing witnesses testified that this was "special" legislation aimed at benefiting the producers of hardwood veneer and lumber (Mr. Keck, Mr. Solter, Mr. Marsh, Mr. Snell, 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 hardwoods product is not deceived into accepting an imitation hardwood product. Also see my complete statement under No. 1 above.

3. Three opposing witnesses claimed the deceptions which this bill will eliminate do not occur frequently enough to cause concern. (Mr. Keck, Mr. Ryan, and Mr. Snell.)

The testimony of proponent witnesses refutes this claim. No less an expert in this field than Mr. Kenneth B. Willson, president of the National Better Business Bureau, testified before your committee on June 18, 1963, "over the years there has been a vast volume of misrepresenting of wood and products made from wood." From the opposition itself also comes confirmation of the need for this bill. The November 8, 1963, issue of "Home Furnishings Daily" quotes Mr. J. Raymond Gerken, president of the National Association of Furniture Manufacturers, as stating at a recent industry meeting, "When our products are sold without tags or some form of identifying information we are making a sale more and more difficult and in my opinion this is resulting in a postponement of purchase. All of which adds to the detriment of the industry."

4. Three opposition witnesses indicated confusion as to why products made with genuine wood veneered construction were not deceptive in the same manner as printed imitations of wood grain on nonwood materials and cheaper woods (Mr. Keck, Mr. Ryan, and Mr. Snell).

Wood veneer has substance and it is an authentic slice of wood from the spicies 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 wood 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 woods go to the trouble and expense of buying one panel of plywood, photographing it, preparing a printing plate and applying this appearance to other materials or cheaper woods, the result cannot be construed by any fair-minded person as anything other than an "imitation" or a "simulation." However, the bill requires the use of these words only when wood species names are used to describe the imitation product.

5. Mr. Keck 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 wood under this act if it contained an imitation wood grain on its surface . If a fiberboard product contained no printed wood 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.

6. Mr. Keck testified that the bill "would extend Federal Government regulatory powers down to local retailing" and similar statements were made by Mr. Carter, Mr. Solter, and Mr. Ryan.

This allegation was contradicted by the statement of the Honorable 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. The Honorable Paul Rand Dixon, present Chairman of the Federal Trade Commission, also confirmed these precedents when he testified before your committee on June 18, 1963, that, "These various enforcement provisions contained in section 8 are similar to those found in the other labeling acts to which I have referred." 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 wood or simulated wood products industry, where it is badly needed.

7. In conflict with the statement above, two opposition witnesses 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. (Mr. Ryan 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 your committee 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."

8. Mr. Carter, in opposing mandatory labeling in behalf of the National Retail Furniture Association, stated that his association would favor "Voluntary informative labeling."

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.

9. 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 dealer and his salesmen to consumers are accurate and free of deception. This bill will make the honest furniture retailer's job an easier

one. Mr. Carter also ignores the fact that section 10 of the bill holds that no person shall be guilty of violation if a guarantee of compliance has been issued by the manufacturer of the article involved.

10. Mr. Marsh testified that hardwood species names are "generic terms which are often used to denote a color or texture."

Thus, the opposition admits that they are using the names of wood species in the labeling and advertising of products not made of those species and they use as their excuse that these wood 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."

11. Two witnesses implied that the Federal Trade Commission was not in favor of this legislation. (Mr. Ryan and Mr. Keck.)

In all six 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." Also, the Honorable Paul Rand Dixon, Chairman of the Federal Trade Commission in testifying before your committee on June 18, 1963, responded to a question from Congressman Curtin by stating, "Mr. Curtin, if I were in your place I would vote for the bill." 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.

HARDWICK FURNITURE CO.,
Camden, Ark., June 10, 1963.

Hon. OREN HARRIS,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HARRIS: Our firm is quite interested in the enactment of the Decorative Wood or Simulated Wood Products Labeling Act (H.R. 1998 and H.R. 6226).

We feel that this legislation will benefit the entire furniture industry as well as the consumer.

We understand that hearings have now been scheduled before your committee and we will greatly appreciate your support of this bill.

Sincerely yours,

B. L. HARDWICK.

MADISON, IND.

Re H.R. 5669, H.R. 6210, H.R. 6365, and H.R. 6370.

Hon. EARL WILSON,
House of Representatives,
Washington, D.C.

DEAR EARL: The Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce is presently holding hearings on the above referenced bills. In substance, these bills would preclude us as Chris-Craft dealers making any reference to Philippine mahogany as construction material in any of our sales, sales literature, etc.

Chris-Craft has used this lumber identified as Philippine mahogany for more than 40 years in the manufacture of high-grade pleasure boats. The mahogany is used in framing, planking and veneering of plywood, so you can readily see that the passage of these bills would be highly detrimental to promoting and selling our products.

We earnestly request your cooperation in opposing to the utmost the approval of these bills in committee.

Very truly yours,

TOM THOMAS,
Madison Marine.

HUNTER TRADING CORP.,
New York, N.Y., July 11, 1963.

Re H.R. 1998.

Representative OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commere,
U.S. House of Representatives, Washington, D.C.

DEAR MR. HARRIS: H.R. 1998, a bill introduced to "protect consumers and others against misbranding, false invoicing and false advertising of decorative wood and simulated wood products" appears to be wholly unnecessary special-interest legislation.

Today, as in many other fields of commerce and industry, the hardwood products trade finds itself faced by changing competition, largely the result of modern technology. Thus, traditional hardwood products are forced to compete with processed hardwood products and nonwood products. These competitive products, including many manufactured of plastic, achieve the desirable, decorative appearance of wood through modern manufacturing and processing techniques. Consequently, it appears that a segment of the hardwood industry is attempting to forestall normal progress and competition through an effort to have the Congress legislate an increase of delegated authority to the Federal Trade Commission.

This proposed legislation would require the Federal Trade Commission to delve into many minute details of the hardwood industry, largely as a result of the desire by certain hardwood manufacturers to place our National Government in a position where it could alter the changing competitive balance between hardwood products and plastic and other nonwood materials which achieve the appearance of decorative wood grains.

The effect of H.R. 1998 would be extremely adverse in its impact upon numerous American manufacturing, processing, and commercial enterprises and their employees, including this concern and its staff, through the bill's complicated requirements for labeling, invoicing, advertising, etc., as applied to imported hardwood plywood.

A study of the proposed legislation quickly reveals that the requirements for labeling, etc., proposed by this bill represent a tremendous burden which could easily force this firm to halt its hardwood plywood importations, the business upon which it depends almost entirely for its existence. While importers, such as we are, would find it most difficult to comply with the requirements, as proposed, the same situation would exist for numerous American firms which utilize and are dependent upon imported hardwood plywood, processors and manufacturers whose businesses and employees would likewise be placed in jeopardy.

Testimony before congressional committees on similar bills has previously brought out the fact that any deception or attempt to mislead with respect to hardwood products has been primarily at the retail level. It seems well established that the manufacturing, processing, wholesale distribution and import levels in hardwood products have not been guilty of attempts to deceive or mislead with respect to these products. Hence, it appears that this proposed legislation, since its burdens would fall on the importers, processors, and manufacturers as well as wholesalers, is unnecessary and is not inspired by a need for protection of the public interest or the public health or welfare.

The complex labeling and/or relabeling requirements (at each stage of manufacturing or reprocessing) and the complexity of the requirements for documents, catalogs, etc., create serious hazards to all the firms concerned. Inadvertent omissions in invoices, again through all stages of remanufacturing or reprocessing, plus the hazards for the importers due to language and distance barriers which make compliance by oversea manufacturers and suppliers extremely difficult plus the fact that inadvertent violations and/or omissions over which

we as importers have no control could bar us from our principal business or put us out of the business.

In view of the lack of necessity for legislation of this nature and the extremely serious hazards and burdens which it would subject us to, we must strenuously oppose its passage.

We would greatly appreciate hearing from you regarding this matter and trust that you will agree with and support our position with respect to H.R. 1998.

Very truly yours,

ROBERT E. LEOPOLD, *Vice President.*

CASTELAZO & ASSOCIATES,
Los Angeles, Calif., July 5, 1963.

Hon. OREN HARRIS,
Committee on Interstate and Foreign Commerce,
U.S. House of Representatives,
Washington, D.C.

SIR: We have reference to H.R. 1998, a bill whose purpose, it is reported, is "To protect consumers and others against misbranding, * * *, and false advertising of decorative wood and simulated wood products."

It is the desire of this office to register a strong protest against this bill, for the reasons hereafter given, and in our firm conviction that the passing of the bill would seriously affect foreign trade.

Our firm operates as a customhouse broker, licensed by the U.S. Treasury Department to act in U.S. customs matters for and on behalf of importers of merchandise from foreign countries.

Among our clients are some 25 active importers of plywood, ranging from small 1-man operations, up to 1 importer/user who employs over 150 people.

Ninety percent of the plywood comes from Japan, Philippines, Taiwan, or Korea. Of the plywood imported the vast majority is of so-called exotic woods, or of the type normally used for decorative purposes.

First, we should like to make a statement of fact: Since World War II, our office has handled in excess of 15,000 import shipments of plywood, and never have we seen any shipment falsely described in relation to the type of wood involved, nor has there ever been any question that the ultimate buyer in the United States received the kind of wood he ordered; i.e., lauan, sen, birch, beech, or maple plywood. We therefore fail to see why the importers should be burdened with these contemplated marking requirements.

Importing is a very difficult field of endeavor; has many hazards; and struggles constantly to remain competitive. Our State Department spends millions of dollars to foster increased trade within the free world, all of which could be damaged by enactment of this type of law.

If the retail sale industry is using false declarations and statements, then here is the area for legislation, not, it seems to us, at the import level which is not involved in misbranding or false declaration.

We would further point out that labeling at the time of import would not in all probability solve the situation, for the vast majority of imported plywood is further processed in the United States. It is reasonable to assume that processing would destroy any marking thereon.

Again, may we state that to the best of our knowledge and long experience no importer of plywood has tried to falsely declare the type of wood or to claim that it was of some special variety.

Finally, we are quite certain that this law would have a tendency to slow down imports of plywood and in some cases perhaps cause them to cease entirely. Thus, since imports are our means of livelihood and that of the 15 employees of this corporation, we strongly urge most careful consideration, and final rejection of what would appear to be an attempt by domestic manufacturers to restrict imports.

Respectfully,

LEONARD Q. WEBSTER, *President.*

KAPLAN FURNITURE CO.
Medford, Mass., June 14, 1963.

Congressman TORBERT H. MACDONALD,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MACDONALD: I wish to call your attention to and urge support of bill H.R. 5669 (one of several bills) recently introduced into the

House by Hastings Keith, of Massachusetts. It is a simple bill that seeks protection of the old and valued name of mahogany from delusion and the damage caused by the sale of other woods, botanically unrelated to genuine mahogany, using the term "mahogany."

As a manufacturer using genuine mahogany, we are well aware of the harm done to the prestige of this fine cabinet wood particularly by Philippine mahogany and the deception of the average American consumer who in most cases believes that he is purchasing genuine mahogany. This legislation would restrict the use of the term "mahogany" to the two historically accepted species of genuine mahogany of the Meliaceae family—Khaya (African mahogany) and Swietenia (tropical American mahogany). It is these species which are found in your mahogany antiques and the fine furniture and other quality products made of mahogany today.

Starting in the early 1900's and increasingly expanding in volume, there has been imported to the United States seven species of the Dipterocareaceae botanically unrelated to genuine mahogany which because of a certain similarity in color and grain have been sold as "Philippine mahogany," taking the term "mahogany" because of the prestige of the name.

After first refusing in 1927 to allow these seven species to use the term "Philippine mahogany," the Federal Trade Commission in 1932 reversed itself and permitted "mahogany" to be used provided it was always prefixed by the word "Philippine." However, practically, this prefix has often been omitted in advertising of Philippine mahogany. Since that date the Federal Trade Commission has refused to disallow the term despite the fact that they did outlaw the use of the work "oak" by importers who had been importing for many years species of eucalyptus and selling these as "Tasmanian oak" and "Australian oak."

While fighting against deception in one case, the Federal Trade Commission has sanctioned it in another largely on the basis that Philippine mahogany has achieved a "secondary meaning" and that the general public knows the woods are not mahogany. We feel that this is untrue and that most people believe Philippine mahogany to be mahogany grown in the Philippine Islands.

Having been unsuccessful with the Federal Trade Commission, the manufacturers and importers of genuine mahogany have had no other recourse but to seek legislation. We backed them in this endeavor and hope that you feel as we do that the bill is worthy of your support.

It is our understanding that hearings have been set on the bills for June 18 through 20 before the House Subcommittee on Foreign and Domestic Commerce and ask that you make known to Chairman Harley Staggers your support of this legislation. By copy of this letter to Congressman Staggers, we are asking that it be included in the records of the hearing.

Very truly yours,

SIMON KAPLAN, *President.*

FRANK E. SESSIONS CO.,
Worcester, Mass., June 14, 1963.

Congressman HAROLD DONOHUE,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DONOHUE: I wish to call your attention to and urge support of bill H.R. 5669 (one of several similar bills) recently introduced into the House by Hastings Keith, of Massachusetts. It is a simple bill that seeks protection of the old and valued name of mahogany from delusion and the damage caused by the sale of other woods, botanically unrelated to genuine mahogany, using the "mahogany."

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Having been unsuccessful with the Federal Trade Commission, the manufacturers and importers of genuine mahogany have had no other recourse but to seek legislation. We back them in this endeavor and hope that you feel as we do that the bill is worthy of your support.

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Very truly yours,

F. E. SESSIONS, *President.*

McWILLIAMS HARDWARE & FURNITURE CO., INC.,
El Dorado, Ark., June 10, 1963.

Hon. OREN HARRIS,
House Office Building,
Washington, D.C.

DEAR MR. HARRIS: I have just learned that hearings have been scheduled before the House Interstate and Foreign Commerce Committee on the Decorative Wood or Simulated Wood Products Labeling Act (H.R. 1998 and H.R. 6226).

I believe the passage of this bill will be a very fine thing for the entire furniture industry. It will help the legitimate furniture retailer by enabling him to sell and advertise his products accurately and it will prevent any who might wish to resort to deceptive practices from doing so. Of course, this bill will be of great benefit to consumers of furniture, as the required labels will inform them as to the species of woods used and the presence of any artificial printed grain.

I will very much appreciate your support of this legislation.

Cordially yours,

JOHN C. WILSON.

SOUTHERN HARDWOOD PRODUCERS, INC.,
Memphis, Tenn., June 13, 1963.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: On March 5, 1963, we wrote to you about H.R. 1998, Decorative Wood and Simulated Wood Products Labeling Act. At that time we provided you with some industry views on the matter but indicated that official action would be considered by the association at a later meeting.

It is understood that public hearings on H.R. 1998 will be held on June 18, 19, and 20, so we want you to know of the recent action which has been taken by this association representing the southern hardwood lumber manufacturing industry.

Considerable discussion of this proposed legislation was held at a general membership meeting on March 21. Representatives of the southern furniture manufacturing industry were present and pointed out the complexities of the proposed legislation insofar as they were concerned. As a result, the following resolution was adopted:

"*Resolved*, That the Southern Hardwood Producers, Inc., actively oppose legislation introduced into the 88th Congress known as the Decorative Wood and Simulated Wood Products Labeling Act, and that the association members be urged to contact their Congressmen, pointing out that such legislation is not only unreasonable and unworkable but unnecessary."

We believe the legislation to be unreasonable because the administrative burden placed on wood products manufacturers by the provisions of the act are completely out of proportion to the small incidence of misleading labeling or identification of wood products which might occur. Earlier testimony has indicated that complaints about improper labeling have been uncommon.

Perhaps the most glaring example of the unreasonable and unworkable nature of the act has to do with the positive identification of all woods used in exposed surfaces. Many moderately priced southern hardwoods are used in a myriad of wood products. In fact, these lesser publicized woods constitute the bulk of the home furnishings industry's hardwood requirements.

These hardwoods are used interchangeably in the production of large quantities of furniture. This flexibility of use is important to the furniture industry because of changing lumber availability patterns and a constant effort to hold costs down.

Quite frankly, we cannot understand why the proponents of this legislation fail to comprehend the complexities of the proposed labeling requirements as they apply to their most important customer group, the furniture industry. We do not support the practice, when it occurs, of representing various less costly hardwoods as walnut, mahogany, etc., but we do believe that when mahogany veneer, for example, is used in combination with other hardwoods for solid parts, it is entirely adequate to identify the item as in "mahogany veneers and hardwood solids." This practice is widely followed by responsible furniture manufacturers and in their advertisements and product literature.

As we pointed out in our earlier letter, to require that a furniture manufacturer spell out the various hardwoods used in a piece of furniture would be comparable to requiring that a shirt manufacturer list the various kinds of fiber lengths of cotton which he might use in a shirt. This so-called effort to protect the consumer can get a little ridiculous and we are certain that Members of Congress cannot be sympathetic to such efforts when much more vital legislation is awaiting their attention.

If you feel we might provide your committee with additional information please tell us.

Yours very truly,

GEORGE C. ROMEISER,
Executive Vice President.

PATENT LAW ASSOCIATION OF LOS ANGELES,
June 6, 1963.

Re Bray bill, H.R. 1998.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives Office Building,
Washington, D.C.

GENTLEMEN: The above-identified bill relates to mislabeling and misadvertising wood and decorative wood and simulated wood products.

The bill was carefuly considered by the legislative committee of the Patent Law Association of Los Angeles and no reason was recognized to give to a particular product of this sort the right to special legislation.

Mislabeling, misleading advertising, unfair competition of all sorts are bad as to all products. Why there should be special legislation with respect to wood products and products which simulate wood products is not understood.

The bill is opposed.

Respectfully,

W. D. SELLERS,
Chairman, Legislative Committee.

[Telegram]

Hon. PAUL G. ROGERS,
Member of Congress,
U.S. House of Representatives,
Washington, D.C.:

The Chris-Craft Corp. and its nationwide dealer organization deplore the attempt to prohibit the use of the name "Philippine mahogany" for wood which has been accepted by the manufacturer and buying public alike for its superior quality as a boatbuilding material. It would be a public disservice to force a change in nomenclature after 40 years of acceptance of the name "Philippine mahogany." The boating industry has invested hundreds of thousands of dollars in creating public confidence and acceptance for Philippine mahogany and we urge that we be permitted to continue the use of the name "Philippine mahogany" in describing the species of wood so important to the future of our industry.

CHARLES R. BURGESS,
Vice President, Marketing, Chris-Craft Corp.

GREENWICH, CONN., *October 29, 1963.*

Congressman ABNER W. SIBAL,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SIBAL: I am deeply interested in H.R. 5669 which is currently pending before your committee. I have been advised by Congressman Oren Harris that new hearings have been scheduled on this bill for November 5.

I am a partner of American International Hardwood Co., who imports hardwood from the Philippines and some from Africa. Under this pending legislation, Philippine hardwoods which have gained great acceptance for nearly half a century will not be able to be marketed as Philippine mahogany. This is in direct opposition to the findings of the Federal Trade Commission and other rulings and decisions by U.S. courts.

I shall not dwell on the special relations that have long existed between the United States and the Philippines, nor on the importance of this prime industry in the Philippines. I would rather acquaint you with my reasons for feeling of the unfairness of this legislation.

Philippine hardwoods have never been called just mahogany. They have been known, and it has been approved by the Federal Trade Commission and the courts, as Philippine mahogany. In all of the hearings it has been established that hardwood from Central America, known as Swietenia mahogani are only allowed to be marketed under the name "mahogany." And speaking strictly botanically, this is true. The class cousin of the Swietenia hardwood tree is African hardwood (Khaya) which has been marketed through the United States as African mahogany; just as the other close cousin, Philippine hardwood (Shoreas), has been marketed as Philippine mahogany.

There seems to be no evidence that in the past, wood or wood products should be marketed in the United States under the straight botanical name. If this were true, our famous Douglas-fir, or Oregon pine, of the Northwest of the United States would have to be called false hemlock. Likewise, red cedar—the shingles are well known—would be known as "juniper." And some of the wood used in construction in the East here is marketed under the name of "poplar." This is really a tree called "tulip."

Back in 1927 Federal Trade Commissioner Humphrey brought all these points out in the hearing at that time.

Under this proposed legislation H.R. 5669, one wood will be selected by the Congress to be treated separately and specially. The Philippine hardwood would have to be marketed under a botanical name. Yet the African hardwood would be permitted to use the word "mahogany."

I feel that this is grossly unfair, and a tremendous discrimination against one product.

I should also like to draw your attention to the fact that in the hearings so far, it has been pointed out that other than the Mahogany Association, which represents a few African and Central American importers, there has never been a consumer complaint to the Federal Trade Commission, and by consumer complaint I mean either an individual who bought a product, or an industrial user

who had purchased the wood and was misled into believing that it was a genuine Swietenia mahogany.

It is indeed extraordinary, in my opinion, that the files and information regarding the findings of many of America's experts, including the U.S. Forestry Service, have not been made available to you, which would go far further than I could in proving my contention, as outlined here.

I can think of no finer organization in the United States than the National Better Business Bureau (my firm is a member), and yet I was deeply disturbed to read the testimony of its president, Mr. Kenneth B. Willson, in your first hearings on this legislation.

What has concerned me has been the conclusions that have been drawn from this National Better Business Bureau survey and the method in which the survey was conducted. I am not an expert in public opinion surveys, so I am taking the liberty of enclosing a copy of a report prepared by one of the eminent professionals in this field who was retained by the Philippine Mahogany Association to study the methods of conducting the survey and to evaluate the conclusions.

Since the first hearings on the bill, the Bureau of the Budget has submitted the opinions of the U.S. Department of State and the Department of Commerce on the proposed legislation. I would be most appreciative if you could ask if these two Departments have any later information on this subject which they might care to add to, or possibly they might wish to revise their first opinions.

In the light of these facts, and the many other statements of expert testimony over the years, I do hope you will agree with me that this proposed legislation has no merit.

Sincerely yours,

JOSE M. SORIANO.

CRUISERS, INC.,
Oconto, Wis., November 5, 1963.

Subject: H.R. 1998, the mahogany bill.

Hon. HARLEY O. STAGGERS,
Chairman, Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce, Longworth House Office Building, Washington, D.C.

GENTLEMEN: The following are this company's views on H.R. 1998, the mahogany bill, which we respectfully request be included in the record of the subcommittee and the mahogany bill.

For many, many years Philippine mahogany has been the dominant wood used in the small boating industry. Very few boat manufacturers have used African mahogany as it is much more difficult to work and machine.

Most boat manufacturers have spelled out the fact that Philippine mahogany is used in their boats, and to deny the use of the name, "Philippine mahogany," would be a grave injustice and considerable time and expense used to educate the public that this fine material was included in the manufacture of wooden boats would be irrevocably lost.

Yours truly,

R. G. EFTEDAHL, *Purchasing Agent.*

MAHOGANY IMPORTING CO.,
South Pasadena, Calif., June 14, 1963.

Re bills H.R. 5669, 6210, 6370, 6640.

Hon. HARLEY O. STAGGERS,
Chairman, Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN STAGGERS: This company has been engaged in the importation of genuine Honduras mahogany, African mahogany, Philippine mahogany, and other imported hardwoods since 1943, and the writer has been active in the importing phase of the lumber business since 1937, with contacts at virtually all levels of trade from the importing end, as our name implies, down to, and including, retail sales.

In all of my experience with such species I have never found anyone, other than a member of the Mahogany Association, currently under the management of executive director, Teel Williams, who has ever felt that there was anything misleading about the term "Philippine mahogany," or for that matter African mahogany, which is just as distinctly removed from the species Swietenia (genuine mahogany) as is Philippine mahogany.

For this reason I am unalterably opposed to the legislation proposed under the above captioned bills. This is obviously legislation suggested by the Mahogany Association and I am certain does not even carry the full support of that group.

The Meliaceae family mentioned in all of these bills is a very broad family consisting, in addition to certain trees, many varieties of shubs and bushes, and further, including many woods of questionable commercial value. Most of the so-called cigarbox wood is one of the endless varieties of Spanish cedar or Kalantas, as it is called in the Philippines, and could under the terms of these bills be marketed as mahogany. In other words, it is obvious that a small group, failing through legal channels, to achieve their special interest ends have now attempted to promote legislation that will disrupt authorized industry practices common since the discovery of the Philippines several hundred years ago.

The Federal Trade Commission and Federal court system have confirmed, and reconfirmed and reconfirmed again, the propriety of the trade usage of the term "Philippine mahogany," and it is a fact, admitted by nearly all leading botanists, that it is unrealistic to attempt to adapt botanical standards to common trade usage.

I daresay that any layman in the street would know exactly what you were talking about if you were to ask his opinion on Philippine mahogany. He might like it, or he might not, but it would be an item he could easily identify with interior paneling, moldings, boat planking, cabinetwork and the like.

Your opposition, and that of your committee, on behalf of the great majority of Americans and our Philippine friends will be appreciated.

Sincerely,

W. A. HOWE, *Vice President.*

MAHOGANY IMPORTING CO.,
South Pasadena, Calif., November 4, 1963.

Re bills H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, H.R. 6604, and H.R. 6911.

Hon. LIONEL VAN DEERLIN,
Member, Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce, Longworth House Office Building, Washington, D.C.

HONORABLE SIR: We have been advised that hearings in connection with the above-captioned bills will be reconvened November 5.

We previously wrote on this matter under date of June 14, to the Honorable Mr. Staggers, chairman of the subcommittee, and I believe that we furnished you a copy of our correspondence at that time. While it was not contained in the letter, we did ask, by separate wire following, that our letter be made a part of the record of the hearing then scheduled for June 18. I believe, therefore, that we are on record with the subcommittee opposing the passage of these bills.

At this time we would like to make some additional comments, also for the record, if you would be so kind.

First, suggesting that if additional hearings beyond the one now scheduled for November 5, are to be held that the Subcommittee on Commerce and Finance consider holding such additional hearings at some convenient location on the west coast. Many of the most interested importers of Philippine mahogany are located in this area and because of the long distance to Washington have been unable, up to this point, to testify in person to their opposition to these bills whereas the importers of African mahogany are virtually all located in the east very close to Washington.

Second, it must already be obvious to the subcommittee that this legislation has been sponsored primarily by importers of African mahogany attempting to gain a competitive advantage for a species no more closely related to genuine mahogany (Swietenia) than such other woods as Spanish cedar (Cedrela), Calantas (Toona or Cedrela), Persian lilac (Melia), and others included in the Meliaceae general family.

In a situation of this kind the public interest could not be served, and, quite the contrary, would be rendered a serious disservice by legislation which would only tend to further the monopolistic aims of a small group of specialized importers.

It is our opinion that if the term "mahogany" must be used in a botanical, as opposed to a commercial sense, then it can apply only to the species *Swietenia mahogani.* If, on the other hand, the word can properly be considered as a commercial trade name to indicate a particular type of wood grain then there can

be no question but that Philippine mahogany has as much right to the use of the term as does African mahogany. As a matter of fact, this is the stated opinion handed down in numerous decisions of the Federal Trade Commission and at least two circuit court rulings of over 30 years standing and is the basis on which we and many other American importers and both Philippine and African manufacturers have made major investments.

We sincerely hope that you will consider seriously our views in this matter and request that you keep us advised of further developments with regard to the above bills as they materialize.

We are enclosing seven extra copies of this letter for whatever help they may be to you.

With kindest regards.

Sincerely,

W. A. HOWE, *Vice President.*

W. P. STARK LUMBER CO., INC.
Kansas City, Kans., November 5, 1963.

Re bills H.R. 5669, H.R. 6210, H.R. 6365, H.R. 6370, H.R. 6604, and H.R. 6911.

Hon. OREN HARRIS,
Chairman, Subcommittee on Commerce and Finance, Committee on Interstate and Foreign Commerce, Longworth House Office Building, Washington, D.C.

DEAR MR. HARRIS: Please refer to the above numbered House bills. The purpose of these bills is to limit the terminology of mahogany to the *Meliaceae* specie. This would have the effect of voiding the proprietary name "Philippine mahogany" as Philippine mahogany is not included in the genera of the species *Meliaceae.*

The right and legality to use the term "Philippine mahogany" has long been established by the Federal Trade Commission and the Federal court. These rulings have been made from the testimony and opinions of professional botanists.

It should be obvious from the context of this matter that the present effort to limit the term "mahogany" to the specie *Meliaceae* is a subtle attempt to prohibit the application of the term "mahogany" to the specie of "Philippine mahogany." The accomplishment of this end would be, in effect, an invalidation of the ruling of the Federal Trade Commission and the U.S. court. As pointed out, said ruling has been based on the testimony of recognized botanists.

It appears that this action is being prompted by certain groups or a group interested in restricting competition of Philippine mahogany by short circuiting the decision already made by the Federal Trade Commssion and the courts. Your observations in this matter would be appreciated.

Please make this letter a matter of record.

Yours very truly,

W. P. STARK, Sr., *Board Chairman.*

L. D. KELLOGG LUMBER CO., INC.,
Alexandria, La., June 15, 1963.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: We understand that H.R. 1998, Decorative Wood and Simulated Wood Products Labeling Act, will be heard before your committee during the coming week.

We certainly hope that you will consider opposing this bill as the majority of the lumbermen in the South feel that such legislation is not only unreasonable and unworkable, but unnecessary.

You are aware of the various species of hardwood lumber produced by lumber manufacturers in the South and sold to the furniture manufacturing industry being used as core stock and interior parts with veneer finish. If this legislation is enacted, you can readily see that the furniture people could only use one wood for solids or interior and label it with one specie of solids and one specie of veneer, whereas oftentimes a combination of species are presently being used and it would be an impossibility to label each piece with the various species used. This could very well prohibit the sale of some of the minor woods that make up a portion of the timber growing and being cut by the southern mills.

We do not support the practice of representing various less costly hardwoods as walnut, mahogany, etc., but we do believe that when walnut or mahogany veneer is used in combination with other hardwoods for solid parts, merely labeling this as mahogany or walnut veneers with hardwood solids is sufficient and this practice is followed by all responsible furniture manufacturers.

Yours very truly,

L. W. GRAVES,
Vice President and Director, Production and Sales.

KELLOGG-GRAVES-MOORHEAD LUMBER CO., INC.,
Alexandria, La., June 15, 1963.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: This letter refers to H.R. 1998, Decorative Wood and Simulated Wood Products Labeling Act, to be considered during the coming week.

We ask that you consider opposing this bill as it can only add to the confusion that already exists in the lumber industry. Woods suitable for use as core stock or interior parts to be covered with a veneer finish are many. The South has been blessed with some 28 species of hardwood. The furniture industry might very well limit its manufacture to a few of these species simply because of the confusion involved in labeling the many species of core stock that goes into its furniture. This could very well work a hardship upon the manufacturers of furniture lumber and would also present a problem to the individual who is growing timber. Much emphasis has been put upon tree farming and the tree farmer has done his best to grow the timber that is best suitable to his land. He certainly should not be penalized by only having a sale for a limited number of species that he is growing.

We certainly do not think that furniture sold on the market should be misrepresented as to the species it contains but since there are so many species suitable for core stock, it seems unreasonable and unnecessary that all species of hardwood be labeled as such. It would also seem to me that this could be confusing to the purchaser of furniture.

I again respectfully ask that you oppose H.R. 1998.

Yours very truly,

D. W. MOORHEAD, *Vice President.*

J. H. HAMLEN & SON, INC.,
Portland, Maine, June 17, 1963.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. HARRIS: As producers of southern hardwoods at Little Rock, Ark., for many years past, and a member of Southern Hardwood Producers, Inc., we naturally are especially interested in H.R. 1998, on which public hearings will be held, I understand, June 18, 19, and 20.

I am very hopeful that you are opposed to this legislation, and that you may successfully urge all members of your committee to oppose it. I sincerely believe such legislation is unnecessary, unreasonable, and entirely unworkable for the very excellent reasons, in my opinion, set forth in our association's letter to you of June 13.

With very kind personal regards.

Sincerely,

J. C. HAMLEN.

J. H. HAMLEN & SON, INC.,
Little Rock, Ark., June 17, 1963.

Re H.R. 1998.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. HARRIS: We understand that the above bill will come up for hearing before your committee this week. We want to go on record as being very much

opposed to the passage of this bill, as we feel it is unreasonable and will work a hardship on the manufacturers of wood products and, furthermore, as the bill is written it is practically impossible to enforce.

We urge you to oppose this bill.

Very truly yours,

JAMES H. HAMLEN.

FABRICON PRODUCTS,
A DIVISION OF THE EAGLE-PICHER CO.,
Los Angeles, Calif., June 17, 1963,

HON. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce,
Washington, D.C.

DEAR CONGRESSMAN HARRIS: The purpose of my letter is to solicit your opposition to H.R. 1998.

This bill is derogatory to the decorative plastic laminating industry in that it will call for deceptive labeling, require burdensome invoicing practices, and is a bill designed for special interests of the wood producers.

We in the decorative plastic laminating industry do not advertise or suggest that our products using a printed wood pattern are anything but a decorative plastic laminate, nor do we attempt to deceive the buying public.

I refer you to the NEMA Statement on H.R. 1998 on file with your clerk, Mr. Williamson.

I respectfully solicit your complete opposition to H.R. 1998, which I understand is out for vote.

Cordially yours,

JOHN T. WATKINS, Jr., *Vice President.*

WHITE PINE SALES CO.,
Detroit, Mich., October 31, 1963.

Re bills H.R. 5669, 6210, 6365, 6370, and 6640.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
Longworth House Office Building, Washington, D.C.

(Attention of Mr. W. E. Williamson, clerk).

DEAR CHAIRMAN: Due to previous commitments, I will be unable to appear in person at the public hearing of the above bills on November 5. However, I wish to go on record as being vigorously opposed to any legislation that would ban the name of "Philippine mahogany."

For the past 17 years our company has been a wholesale distributor of Philippine mahogany moldings, boards, and paneling. We sell and service approximately 525 millwork and retail lumber dealers in central and southwestern Michigan, including the Toledo, Ohio, area. The millwork and retail lumber dealer in turn sells and services the architect, builder, contractor, and consumer.

Due to the advertising and promotional efforts of ourselves and our millwork and retail lumber dealers, Philippine mahogany is used today in many types of building construction including churches, office buildings, medical clinics, restauants, homes, etc. In many cases when these structures are designed and built, provisions are made for future expansion. When this time comes, the products used in the original building are also specified for the expansion program. If the name "Philippine" mahogany is banned due to passage of the above bills, it could cause untold confusion in the building industry.

Again, may I emphasize my opposition to any legislation that would prohibit the term "Philippine" mahogany.

Respectfully yours,

R. L. ANDERSON.

DU BELL LUMBER SALES CO.,
Camden, N.J., October 31, 1963.

HON. OREN HARRIS,
Member of Congress,
Chairman, Committee on Interstate and Foreign Commerce,
Longworth House Office Building, Washington, D.C.

DEAR REPRESENTATIVE HARRIS: I represent Du Bell Lumber Sales Co., 18th and Federal Streets, Camden, N.J., and wish to go on record as opposed to five identical bills before your House committee, namely: H.R. 5669, 6210, 6365, 6370, and 6640.

I will be unable to appear at the hearing Tuesday, November 5, but wish to submit the following statement for the record.

I have been actively engaged for 33 years in the import and sale of various kinds of woods including Philippine, American, and African mahoganies, and have handled many million feet of this material during my business career. I havehad numerous contacts with all types of industrial and commercial users and also with many members of the public who have used the end products.

In all my experience I have never found a user who has considered himself to be deceived by the name "Philippine mahogany" which my experience shows to be a thoroughly understood and accepted term. To ban the name "Philippine mahogany," as this bill would do, would in fact create public confusion and deception where none exists at present and would only benefit a very small group of foreign wood importers who hope they will reduce legitimate competition and place the particular woods in which they are interested in a specially favored position.

Very truly yours,

LESTER B. DU BELL.

(Whereupon, at 1:10 p.m., the committee was adjourned.)

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